

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Patent Owner.

Patent No. 7,440,559

Wednesday, February 7, 2024

Netflix v. VideoLabs
IPR2023-00630
Netflix Ex. 1025

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Wednesday, February 7, 2024

8:02 a.m. PST

REMOTE DEPOSITION of MICHAEL T.

GOODRICH, PH.D., held in Irvine, California,
pursuant to notice, before MaryJo O'Connor,
Registered Diplomat Reporter, Registered
Merit Reporter and Notary Public in and for
the Commonwealth of Massachusetts.

1 A P P E A R A N C E S:

2

3 ATTORNEYS FOR PETITIONER:

4 (Appearing remotely)

5 WILLKIE FARR & GALLAGHER LLP

6 1875 K Street N.W.

7 Washington, D.C. 20006

8 (202) 303-1092

9 BY: ALIZA CARRANO, ESQ.

10 acarrano@willkie.com

11 DANE SOWERS, ESQ.

12 dsowers@willkie.com

13

14

15 ATTORNEYS FOR PATENT OWNER:

16 (Appearing remotely)

17 REICHMAN JORGENSEN LEHMAN FELDBERG LLP

18 400 Madison Avenue

19 Suite 14D

20 New York, New York 10017

21 (212) 381-1965

22 BY: MICHAEL MATULEWICZ-CROWLEY, ESQ.

23 mmatulewicz-crowley@reichmanjorgensen.com

24

25 * * * * *

1 ----- I N D E X -----

2	EXAMINATION of	PAGE
3	MICHAEL T. GOODRICH, PH. D.	
4	By Ms. Carrano	5

5
6 * * * * *

7 ----- INSTRUCTIONS -----

8	Page	Line	Page	Line
9				
10		(None)		

11 * * * * *

12
13 ----- EXHIBITS -----

14	GOODRICH EXHIBIT	PAGE
15	Exhibit 1001 United States Patent	10
16	No. 7,440,559 B2	
17	Exhibit 1004 United States Patent	27
18	Application Publication	
19	No. 2003/0023427 A1	
20	Exhibit 2002 Document entitled	7
21	"Declaration of Dr. Michael	
22	T. Goodrich"	

23
24 * * * * *

25

1 PROCEEDINGS

3 MICHAEL T. GOODRICH, PH.D.,

4 having been duly sworn by the Notary Public,
5 was examined and testified as follows:

7 MS. CARRANO: This is Aliza George

8 Carrano of Willkie Farr & Gallagher on
9 behalf of Petitioner Netflix. Also with
10 me is associate Dane Sowers who is
11 observing the deposition.

12 MR. MATULEWICZ-CROWLEY: This is

13 Michael Matulewicz-Crowley on behalf of
14 Patent Owner with Reichman Jorgensen
15 Lehman & Feldberg.

17 EXAMINATION

18 BY MS. CARRANO:

19 Q. Good morning, Dr. Goodrich.

20 A. Good morning.

21 Q. Can you please state your full
22 name and location for the record?

23 A. Michael Truman Goodrich in Irvine,
24 California.

25 Q. All right. So we went through

08:03:11 1 this yesterday, but I've got to go through the
08:03:14 2 same drill.

08:03:15 3 So you understand that you are
08:03:17 4 under oath and are required to answer
08:03:19 5 truthfully just as if the Board were in the
08:03:22 6 room with us?

08:03:22 7 A. Yes.

08:03:23 8 Q. Is there any reason why you can't
08:03:24 9 give useful and accurate answers to my
08:03:27 10 questions today?

08:03:27 11 A. No.

08:03:28 12 Q. Other than the Zoom conference
08:03:30 13 that we're on, are you communicating with
08:03:32 14 anyone else in any other way, like through chat
08:03:36 15 or text?

08:03:37 16 A. No.

08:03:38 17 Q. If someone is communicating with
08:03:42 18 you while you're on the record, you'll agree to
08:03:45 19 let me know?

08:03:46 20 A. Yes.

08:03:47 21 Q. Is there anyone else physically
08:03:50 22 present in the room where you're located?

08:03:52 23 A. No.

08:03:52 24 Q. And if that changes, you'll let me
08:03:55 25 know?

08:03:55 1 A. Yes.

08:03:56 2 Q. Did you bring any notes or other

08:03:59 3 materials relevant to this case with you?

08:04:01 4 A. No.

08:04:02 5 Q. Dr. Goodrich, you submitted a

08:04:11 6 declaration for this IPR proceeding, correct?

08:04:13 7 A. Yes.

08:04:16 8 MS. CARRANO: All right. I'm

08:04:17 9 putting in the Chat, like yesterday, for

08:04:19 10 you to download Exhibit 2002 that was

08:04:27 11 submitted in this IPR proceeding. Let

08:04:29 12 me know when you get it.

08:04:31 13 (Document marked for

08:04:39 14 identification as Exhibit 2002)

08:04:39 15 A. I have it.

08:04:39 16 Q. I'm going to refer your expert

08:04:42 17 declaration during this deposition as either

08:04:43 18 "Exhibit 2002," "your expert declaration," or

08:04:46 19 "your declaration"; okay?

08:04:49 20 A. Okay.

08:04:49 21 Q. And on page 73 of your

08:04:54 22 declaration, that's your signature?

08:04:56 23 A. Yes.

08:04:57 24 Q. And the declaration is dated

08:05:01 25 December 22, 2023, right?

08:05:04 1 A. That's right.

08:05:06 2 Q. Will you confirm that Exhibit 2002

08:05:10 3 is the expert declaration that you submitted in

08:05:12 4 this IPR proceeding?

08:05:14 5 A. Yes, it appears to be that

08:05:16 6 declaration.

08:05:17 7 Q. Are you aware of any corrections

08:05:18 8 to your declaration?

08:05:19 9 A. In reviewing my declaration, I did

08:05:24 10 spot a few typos, but I don't think they rise

08:05:27 11 to the level of needing a correction. But if

08:05:30 12 there is something that arises today, I'd be

08:05:32 13 happy to clear that up.

08:05:33 14 Q. Okay. Thank you. And does your

08:05:39 15 declaration have all of your opinions based on

08:05:41 16 the record as of when you signed it?

08:05:43 17 A. Yes.

08:05:44 18 Q. Dr. Goodrich, did you prepare for

08:05:47 19 today's deposition?

08:05:48 20 A. Yes.

08:05:49 21 Q. What did you do to prepare?

08:05:51 22 A. I met with Michael

08:05:54 23 Matulewicz-Crowley on Monday via Zoom.

08:05:59 24 Q. Was Monday the only day in which

08:06:02 25 you met with counsel to prepare for today's

08:06:06 1 deposition?

08:06:07 2 A. Yes.

08:06:08 3 Q. You didn't meet with counsel
08:06:11 4 yesterday?

08:06:12 5 A. I talked to him yesterday on the
08:06:14 6 phone, but it wasn't in preparation for today.

08:06:18 7 Q. How long did you meet with counsel
08:06:21 8 on Monday to prepare for today's deposition?

08:06:24 9 A. It was inclusive of the
08:06:30 10 preparation for yesterday as well, so the total
08:06:33 11 was four to five hours. The portion that was
08:06:36 12 for this deposition was roughly two hours I
08:06:38 13 would say.

08:06:38 14 Q. Did you review any documents
08:06:40 15 outside of what was in the record for this
08:06:45 16 proceeding?

08:06:46 17 A. No.

08:06:46 18 Q. Did you do any additional research
08:06:48 19 in preparation for today's deposition?

08:06:50 20 A. Just reviewing documents that are
08:06:55 21 cited in my declaration. And my declaration
08:07:00 22 itself.

08:07:02 23 MS. CARRANO: I'm going to drop
08:07:03 24 into the Chat Exhibit 1001, which is
08:07:11 25 U.S. Patent Number 7,440,559 and was

08:07:17 1 submitted in this proceeding. Let me
08:07:19 2 know when you have it.

08:07:21 3 (Document marked for
08:07:38 4 identification as Exhibit 1001)

08:07:38 5 A. I have that in front of me.

08:07:40 6 Q. Exhibit 1001 is the '559 patent,
08:07:45 7 correct?

08:07:45 8 A. I agree.

08:07:47 9 Q. So I'll refer to U.S. Patent
08:07:50 10 Number 7,440,559 as either the "'559 patent" or
08:07:57 11 "Exhibit 1001" during this deposition. Is that
08:07:59 12 okay?

08:07:59 13 A. Yes.

08:08:00 14 Q. And you've read the '559 patent,
08:08:07 15 correct?

08:08:07 16 A. That's correct.

08:08:07 17 Q. About how many times would you say
08:08:09 18 that you've read the '559 patent?

08:08:13 19 A. I didn't keep track of the number
08:08:16 20 of times.

08:08:16 21 Q. Any approximate guess?

08:08:18 22 A. I don't feel comfortable
08:08:20 23 speculating.

08:08:21 24 Q. Did you read the '559 patent in
08:08:24 25 preparation for today's deposition?

08:08:25 1 A. I reviewed it. I don't recall
08:08:27 2 reading it cover to cover.

08:08:29 3 Q. The claims of the '559 patent
08:08:39 4 recite the term "content status including
08:08:42 5 terminal status information," right?

08:08:45 6 A. That's correct.

08:08:47 7 Q. Each independent claim has that
08:08:51 8 term; is that correct?

08:08:52 9 A. Yes.

08:09:42 10 Q. The term "terminal" refers to a
08:09:48 11 client or a user of a mobile device, right?

08:09:52 12 MR. MATULEWICZ-CROWLEY: Objection
08:09:53 13 to form.

08:09:53 14 A. I agree in the context of this
08:09:55 15 patent.

08:09:56 16 Q. Can you go to column 10 of the
08:10:06 17 '559 patent at line 60. Let me know when you
08:10:12 18 are there.

08:10:12 19 A. I am there.

08:10:14 20 Q. At column 10 line 60 through
08:10:20 21 column 11 line 2, the '559 discloses the
08:10:22 22 following:

08:10:24 23 "To account for user preferences,
08:10:27 24 capabilities of the terminal 10 and/or
08:10:31 25 previous contents stored by the terminal

08:10:33 1 in the flow of content to the terminal,
08:10:36 2 the terminal of embodiments of the
08:10:40 3 present invention is capable of sending
08:10:41 4 a content status to a network entity,
08:10:44 5 such as an origin server 24, content
08:10:49 6 flow server 25, digital broadcast
08:10:52 7 receiver 25 [sic] or the like, where the
08:10:56 8 content status includes status
08:10:59 9 information regarding the terminal. In
08:11:03 10 this regard, the status information can
08:11:05 11 reflect user preferences, capabilities
08:11:08 12 of the terminal, previous contents
08:11:11 13 stored by the terminal and/or use of
08:11:16 14 such previous contents."

08:11:18 15 Did I read that correctly?

08:11:19 16 A. Yes.

08:11:20 17 Q. Column 10 line 60 through
08:11:26 18 column 11 line 2, it discloses what information
08:11:27 19 can be the claimed content status, including
08:11:30 20 terminal status information, right?

08:11:32 21 MR. MATULEWICZ-CROWLEY:

08:11:33 22 Objection. Form.

08:11:34 23 A. It discloses an embodiment that
08:11:38 24 would satisfy that claim language, if that is
08:11:40 25 your question.

08:11:41 1 Q. So, in other words, column 10 line
08:11:46 2 60 through column 11 line 2 provides examples
08:11:49 3 of what could be terminal status information,
08:11:53 4 right?

08:11:53 5 MR. MATULEWICZ-CROWLEY:

08:11:54 6 Objection. Form.

08:11:54 7 A. It's terminal status information
08:12:01 8 that includes -- wait. Sorry. It's a content
08:12:07 9 status including terminal status information
08:12:09 10 that's the claim language. And then this is
08:12:13 11 describing content status that includes the
08:12:20 12 terminal status information.

08:12:22 13 So, yes, that supports that claim
08:12:24 14 language.

08:12:24 15 Q. So based on that disclosure at
08:12:32 16 column 10 line 60 through column 11 line 2 of
08:12:35 17 the '559 patent, information about the user's
08:12:39 18 preferences can be content status including
08:12:42 19 terminal status information, correct?

08:12:44 20 MR. MATULEWICZ-CROWLEY:

08:12:44 21 Objection. Form.

08:12:46 22 A. That's not exactly what it's
08:13:08 23 saying here. Instead it says "to account for
08:13:10 24 user preferences, capabilities of the terminal
08:13:15 25 10 and/or previous contents stored by the

08:13:17 1 terminal in the flow of content to the
08:13:19 2 terminal," et cetera. It's capable of sending
08:13:26 3 a content status to the network entity. And
08:13:28 4 then it says, "In this regard, the status
08:13:31 5 information can reflect user preferences."

08:13:34 6 So a person of ordinary skill in
08:13:36 7 the art would read this just as it's stating;
08:13:41 8 that, namely, that the terminal -- that the
08:13:44 9 content status that includes terminal status
08:13:46 10 can reflect user preferences, but it's not
08:13:49 11 necessarily merely user preferences.

08:13:52 12 Q. Correct. It can just be user
08:13:55 13 preferences, but it could be also any of the
08:13:58 14 other items listed in basically column 10 line
08:14:09 15 67 through 11 line 2, right?

08:14:16 16 MR. MATULEWICZ-CROWLEY:

08:14:17 17 Objection. Form.

08:14:17 18 A. Again, I would answer that as I
08:14:20 19 did before; that namely, that the terminal
08:14:22 20 status and the content status that includes the
08:14:25 21 terminal status can account for user
08:14:27 22 preferences. But this doesn't say that they
08:14:30 23 include user preferences. Instead, it says
08:14:33 24 that they reflect user preferences.

08:14:36 25 So, namely, it could be data and

08:14:39 1 statuses and capabilities that reflect user
08:14:46 2 preferences but are not necessarily themselves
08:14:50 3 merely user preferences.

08:14:53 4 Q. You said "not necessarily." But
08:14:57 5 the status information can reflect what the
08:15:00 6 user preferences are, correct?

08:15:03 7 MR. MATULEWICZ-CROWLEY:

08:15:03 8 Objection. Form.

08:15:04 9 A. I said that already. So in
08:15:06 10 that -- because the statement says "in this
08:15:09 11 regard." So, namely, with the specific things
08:15:12 12 that it states that it does include as content
08:15:15 13 status that includes a terminal status, it then
08:15:18 14 says "In this regard, the status information
08:15:21 15 can reflect user preferences, capabilities of
08:15:24 16 the terminal, previous contents stored by the
08:15:27 17 terminal and/or use of previous contents."

08:15:35 18 Q. So do you see that term in
08:15:40 19 column 11 line 2 "and/or." So that "and/or"
08:15:43 20 would mean that it could be -- what can be
08:15:46 21 reflected as individually any one of those
08:15:50 22 items listed or all of them collectively
08:15:52 23 together, correct?

08:15:56 24 A. I agree. But, again, with this
08:15:58 25 preamble that's "in this regard." So now this

08:16:01 1 is in preference to the previous sentence that
08:16:04 2 had that long list of things.

08:16:06 3 Q. So referring back to this passage
08:17:26 4 at column 10 line 60 through column 11 line 2,
08:17:31 5 this term that's in there that "the status
08:17:33 6 information can reflect user preferences,
08:17:38 7 capabilities of the terminal, previous contents
08:17:40 8 stored by the terminal and/or use of such
08:17:44 9 previous contents," wouldn't that necessarily
08:17:48 10 mean that that type of information would be in
08:17:53 11 the status information either individually or
08:17:57 12 any combination of those items collectively?

08:18:01 13 MR. MATULEWICZ-CROWLEY:

08:18:01 14 Objection. Form.

08:18:01 15 A. I'm sorry, I don't understand what
08:18:03 16 you mean by "this information."

08:18:14 17 So, for example, there is
08:18:16 18 additional disclosures about content status in
08:18:19 19 column 12 beginning at line 18 and going to
08:18:25 20 line 30 that has additional lists of
08:18:30 21 information that can be included in the content
08:18:32 22 status that also includes terminal status
08:18:36 23 information. And there it does not include
08:18:40 24 user preference information, and does not
08:18:43 25 specify that it reflects user preferences.

08:18:48 1 So, again, a person of ordinary
08:18:50 2 skill in the art reading the passage in
08:18:52 3 column 10 beginning at line 60 through 11 at
08:18:57 4 line 2 would understand the specific
08:18:58 5 information cited in this embodiment to reflect
08:19:01 6 user preferences but not necessarily to include
08:19:05 7 them.

08:19:08 8 Q. But it might include them. It's
08:19:10 9 not limited to including them, but it might.
08:19:15 10 Wouldn't you agree?

08:19:16 11 MR. MATULEWICZ-CROWLEY:

08:19:16 12 Objection. Form.

08:19:17 13 A. It does not disclose that in this
08:19:20 14 passage. If there is another passage in the
08:19:22 15 patent you'd like to point me to, I'd be happy
08:19:25 16 to consider it.

08:19:25 17 Q. So you mentioned there is two
08:19:29 18 passages in the '559 patent. So we've looked
08:19:33 19 at column 10 line 60 through column 11 line 2,
08:19:40 20 and you've also mentioned that at column 12
08:19:58 21 there is also other examples of what could be
08:20:01 22 content status including terminal status
08:20:04 23 information, right?

08:20:05 24 A. I agree.

08:20:06 25 Q. To be clear, we are talking about

08:20:36 1 in the '559 patent column 12 lines 18 through
08:20:40 2 30 of the '559 patent, and then we also
08:20:44 3 referred to column 10 line 60 through column 11
08:20:51 4 line 2 all disclose examples of what could be
08:20:54 5 content status including terminal status
08:20:56 6 information, right?

08:20:57 7 A. I agree that those are embodiments
08:20:59 8 that support that claim language.

08:21:03 9 Q. So looking at column 11 lines 3
08:21:26 10 through 5, the '559 patent also discloses that:

08:21:32 11 "The network entity can then
08:21:35 12 control the flow of content to the
08:21:36 13 terminal, as well as the storage of
08:21:38 14 content in memory of the terminal, based
08:21:42 15 upon the status information."

08:21:44 16 Did I read that correctly?

08:21:46 17 A. Yes.

08:21:47 18 Q. The "status information" referred
08:21:50 19 to in this passage is the content status
08:21:55 20 including terminal status information, right?

08:21:57 21 A. In that embodiment, yes.

08:22:01 22 Q. Based on this disclosure, would
08:22:03 23 you agree that one reason why content status
08:22:09 24 including terminal status information is sent
08:22:11 25 from the terminal to the network entity is to

08:22:14 1 facilitate the delivery of content to the
08:22:17 2 terminal?

08:22:19 3 MR. MATULEWICZ-CROWLEY:

08:22:19 4 Objection. Form.

08:22:20 5 A. I take this passage at its word;
08:22:27 6 that it's talking about controlling the flow of
08:22:30 7 the content to the terminal. That that's -- in
08:22:34 8 terms of -- you know, like, at a high level
08:22:37 9 view, what the '559 patent is about is about
08:22:41 10 controlling the flow of content to the terminal
08:22:47 11 even in the world where at first blush it
08:22:51 12 appears that the terminal is the one doing the
08:22:54 13 pulling of the content.

08:22:56 14 But now by sending instructions to
08:22:58 15 the terminal that the terminal then obeys, that
08:23:04 16 nevertheless in that environment, which you
08:23:07 17 could kind of think as a hybrid between the
08:23:09 18 push and the pull models, the network entity
08:23:12 19 now can control the flow of the content to the
08:23:15 20 terminal device, and even in some embodiments
08:23:22 21 request and then be assured that the terminal
08:23:26 22 will delete content.

08:23:36 23 Q. So the '559 -- I'm sorry. I'll
08:23:51 24 start over.

08:23:51 25 The '559 patent, as you said, is

08:23:55 1 about controlling the flow of content. And so
08:23:58 2 for the terminal to provide content status
08:24:04 3 including terminal status information to the
08:24:07 4 network entity, that's to facilitate the
08:24:12 5 delivery of content to the terminal from the
08:24:16 6 network entity, right?

08:24:17 7 MR. MATULEWICZ-CROWLEY:

08:24:18 8 Objection. Form.

08:24:18 9 A. So I speak to this in my
08:24:22 10 declaration beginning at paragraph 36 and going
08:24:26 11 to paragraph 43 where I give an overview of the
08:24:32 12 '559 patent.

08:24:36 13 So I talk about how at the time of
08:24:39 14 the '559 patent downloading large amounts of
08:24:43 15 data was difficult and time-consuming; that the
08:24:48 16 '559 patent solved the deficiencies of
08:24:51 17 conventional technologies by adding a separate
08:24:54 18 network entity, the content flow manager, to
08:24:57 19 provide instructions to the terminal based on
08:25:00 20 terminal status and server information. And
08:25:08 21 then you get that ability to then have the
08:25:10 22 terminal receive and store content, if that's
08:25:14 23 your question. I speak to that in paragraph
08:25:22 24 42.

08:25:22 25 And then in paragraph 43, I talk

08:25:24 1 about how the content flow manager controls the
08:25:26 2 flow of content to the terminal based on the
08:25:29 3 terminal and server status.

08:25:36 4 Q. I'm not sure that answers my
08:25:37 5 question, so let me try this a little
08:25:39 6 differently.

08:25:40 7 So would you agree that one reason
08:25:46 8 why the terminal sends content status including
08:25:52 9 terminal status information to the network
08:25:55 10 entity is to help facilitate the delivery of
08:26:00 11 content to the terminal from the network
08:26:04 12 entity?

08:26:07 13 A. I'm not understanding your
08:26:09 14 question, then. I thought I had given you a
08:26:11 15 fulsome answer, so I'm clearly not
08:26:15 16 understanding your question. Could you please
08:26:17 17 clarify or reword your question?

08:26:21 18 Q. I'm trying to understand, you
08:26:23 19 know, why the terminal status information is
08:26:26 20 being sent. And so I want to get -- understand
08:26:30 21 what would be one reason why it would do that.

08:26:34 22 So I'm asking you would you agree
08:26:36 23 that one reason why the terminal sends content
08:26:42 24 status including terminal status information to
08:26:47 25 the network entity is that to facilitate the

08:26:51 1 delivery of content to the terminal, generally
08:26:57 2 speaking?

08:26:57 3 A. I don't think I understand what
08:26:58 4 you mean by "facilitate." Because I thought I
08:27:02 5 had given you a fulsome answer.

08:27:04 6 That if by "facilitate" you mean
08:27:07 7 control the flow of content to the terminal,
08:27:09 8 then that's what I was describing and reviewing
08:27:13 9 when I answered your question and pointed to my
08:27:16 10 declaration, paragraphs 36 through 43.

08:27:22 11 If, however, by "facilitate" you
08:27:25 12 mean something else besides control the flow of
08:27:27 13 content to the terminal, then I do not
08:27:29 14 understand your question, and could you please
08:27:33 15 rephrase it.

08:27:35 16 Q. That's helpful to understand that
08:27:37 17 you've had an issue with the term "facilitate."
08:27:40 18 So let me see if I can clarify this.

08:27:43 19 So would you agree that one reason
08:27:46 20 why terminal status information is sent from
08:27:48 21 the terminal to the network entity is to
08:27:50 22 facilitate, which can mean control, delivery of
08:27:54 23 content to the terminal?

08:27:57 24 MR. MATULEWICZ-CROWLEY:

08:27:57 25 Objection. Form.

08:27:58 1 A. I think I answered that already.
08:28:02 2 So, as I mentioned, if by "facilitate" you mean
08:28:06 3 control the flow of content to the terminal,
08:28:08 4 then, yes, I agree that sending the content
08:28:11 5 status that includes the terminal status
08:28:15 6 information to the network entity would
08:28:21 7 facilitate, in this sense, because that's part
08:28:24 8 of what is then recited in the claim, that then
08:28:29 9 comes to control the flow of content to the
08:28:32 10 terminal based upon the terminal status
08:28:36 11 information and the server status information.
08:28:41 12 It's there in the claims.

08:28:43 13 Q. Now, the content status including
08:28:58 14 terminal status information isn't limited to
08:29:00 15 just including a listing of the pieces of
08:29:04 16 content stored in the terminal's memory,
08:29:07 17 correct?

08:29:17 18 A. Correct. It can also include the
08:29:19 19 remaining storage capacity of the memory in the
08:29:21 20 terminal. For example, as we cited in column
08:29:26 21 12 beginning at line 21 to line 22.

08:29:30 22 Q. Right. We went over already that
08:29:35 23 there were several different examples of what
08:29:38 24 could be content status including terminal
08:29:41 25 status information. It's not just limited to a

08:29:44 1 listing of the pieces of content stored in
08:29:46 2 memory, right?

08:29:46 3 A. I would answer that the same way I
08:29:51 4 did before. I'm not understanding how your
08:29:53 5 question is different than the one you just
08:29:55 6 asked.

08:29:56 7 Q. The content status including
08:30:11 8 terminal status information recited in Claim 1
08:30:17 9 is not necessarily required to comprise a
08:30:21 10 listing of at least one piece of content stored
08:30:24 11 in the memory of the terminal, right?

08:30:26 12 MR. MATULEWICZ-CROWLEY:

08:30:27 13 Objection. Form.

08:30:27 14 A. I would answer that the same way I
08:30:32 15 did before. I'm still not understanding how
08:30:34 16 this question is different than the two
08:30:36 17 previous questions you've already asked.

08:30:38 18 Q. Now we're speaking specifically
08:30:40 19 about Claim 1. So I want to --

08:30:42 20 A. Ah, okay.

08:30:44 21 Q. If you want to look at Claim 1,
08:30:47 22 why don't you turn to Claim 1, and then let me
08:30:49 23 know when you are there, and then I can re-ask
08:30:53 24 the question.

08:30:54 25 A. Please do.

08:30:55 1 Q. Are you there?

08:30:55 2 A. Yes.

08:30:56 3 Q. The content status including
08:30:58 4 terminal status information recited in Claim 1,
08:31:00 5 for example, is not required to comprise a
08:31:05 6 listing of at least one piece of content stored
08:31:08 7 in the memory of the terminal, right?

08:31:10 8 A. I agree. It could also, or
08:31:13 9 alternatively, include the remaining storage
08:31:15 10 capacity of the memory of the terminal or a
08:31:22 11 listing of previously viewed content.

08:31:29 12 Q. The '559 patent claims also recite
08:31:33 13 server status information, correct?

08:31:35 14 A. Yes.

08:31:36 15 Q. In the '559 patent, let's go to
08:31:41 16 column 12 line 48. Let me know when you're
08:31:51 17 there.

08:31:52 18 A. I'm there.

08:31:52 19 Q. In the '559 patent at column 12
08:31:59 20 line 48, it discloses:

08:32:02 21 "Irrespective of the source of
08:32:06 22 content and network entity operating the
08:32:08 23 content flow manager 53, the server
08:32:11 24 status information can include, for
08:32:14 25 example, the current time, a listing of

08:32:19 1 one or more pieces of content available
08:32:24 2 from (e.g., stored by) the source of
08:32:30 3 content to the terminal 10."

08:32:34 4 Did I read that correctly?

08:32:36 5 A. Yes.

08:32:37 6 Q. Based on this disclosure at column
08:32:41 7 12 lines 48 through 52, one example of what
08:32:46 8 could be server status information is a listing
08:32:49 9 of one or more pieces of content available from
08:32:53 10 a source of content to the terminal, correct?

08:32:57 11 A. Yes. And then it goes on and
08:33:00 12 lists other things that could also be included
08:33:02 13 in server status information, continuing in
08:33:06 14 column 12 all the way to line 59.

08:33:10 15 Q. Right. So to sum it up, the rest
08:33:13 16 of that paragraph, column 12 lines 52 through
08:33:18 17 59, describe other examples of server status
08:33:21 18 information, right?

08:33:21 19 A. I agree.

08:33:28 20 Q. In your declaration, you provided
08:33:31 21 opinions about U.S. Patent Application Number
08:33:49 22 2003/0023427 A1 to Cassin; is that correct?

08:34:08 23 A. Yes. That's correct.

08:34:09 24 Q. I'll refer to U.S. Application
08:34:11 25 Number 2003/0023427 A1 to Cassin as just

08:34:21 1 "Cassin" or "the Cassin reference" in this
08:34:23 2 deposition, okay?

08:34:24 3 A. That's fine with me.

08:34:26 4 MS. CARRANO: So I'm going to drop
08:34:28 5 into the Chat the Cassin reference,
08:34:30 6 which was submitted as Exhibit 1004 in
08:34:34 7 this proceeding. Can you let me know
08:34:37 8 when you have it?

08:34:38 9 (Document marked for
08:34:41 10 identification as Exhibit 1004)

08:34:41 11 A. I have it in front of me.

08:34:50 12 Q. Have you reviewed the Cassin
08:34:52 13 reference?

08:34:52 14 A. Yes.

08:34:53 15 Q. And you reviewed every single word
08:34:55 16 in Cassin?

08:34:56 17 A. My recollection is that I read the
08:34:58 18 entirety of Cassin.

08:34:59 19 Q. Did you read Cassin in preparation
08:35:07 20 for your deposition today?

08:35:09 21 A. I reviewed it. I don't recall
08:35:11 22 rereading it in its entirety in preparation
08:35:15 23 just for today.

08:35:19 24 Q. In the declaration you submitted
08:35:21 25 for this IPR proceeding, you have included

08:35:25 1 citations to certain portions of Cassin,
08:35:28 2 correct?

08:35:29 3 A. Yes. But my analysis reflects the
08:35:32 4 entirety of Cassin in my opinion.

08:35:35 5 Q. To clarify, those portions of
08:35:58 6 Cassin that you cite in your declaration, those
08:36:01 7 disclosures are the ones that you rely on in
08:36:04 8 formulating your opinions on Cassin?

08:36:07 9 A. Those are exemplary citations, but
08:36:10 10 I rely on the entirety. But then to support
08:36:16 11 specific conclusions, I sometimes focus in on
08:36:20 12 specific citations from Cassin.

08:36:24 13 Q. In your opinion, is there any
08:36:27 14 disclosure in Cassin that you relied on that
08:36:30 15 contradicts any of your opinions on Cassin?

08:36:32 16 A. In my opinion, no.

08:36:33 17 Q. Have you read the file history of
08:36:35 18 Cassin?

08:36:36 19 A. I don't recall having done that,
08:36:37 20 no.

08:36:37 21 Q. So I have some questions to ask
08:36:47 22 you about Cassin. So Cassin generally
08:36:51 23 discloses a system for the distribution of
08:36:54 24 media content, correct?

08:36:56 25 MR. MATULEWICZ-CROWLEY:

08:36:57 1 Objection. Form.

08:37:02 2 A. It discloses a specific invention
08:37:30 3 that relates to the distribution of media
08:37:32 4 content, if that's your question.

08:37:34 5 Q. To confirm, at paragraph 3 of
08:37:41 6 Cassin it says "The present invention relates
08:37:44 7 to the distribution of media content," right?

08:37:44 8 A. That's what I was referring to
08:37:46 9 when I answered your question, in fact.

08:37:52 10 Q. If you could turn to paragraph 164
08:37:56 11 of Cassin. Let me know when you're there.

08:38:02 12 A. I'm there.

08:38:03 13 Q. At paragraph 164 Cassin discloses:
08:38:11 14 "Although generally described
08:38:13 15 above, the client and server computers
08:38:16 16 may interact in accordance with one of
08:38:18 17 two protocols. "

08:38:20 18 Did I read that correctly?

08:38:21 19 A. Yes.

08:38:26 20 Q. And would you agree that the words
08:38:29 21 "Although generally described above" in
08:38:32 22 paragraph 164 means that in some of the
08:38:35 23 preceding paragraphs, like 163 for example,
08:38:39 24 generally describe the system disclosed in
08:38:41 25 Cassin?

08:38:42 1 MR. MATULEWICZ-CROWLEY:

08:38:43 2 Objection. Form.

08:38:43 3 A. I'm not disputing that there is
08:38:49 4 high-level overview in the previous paragraphs.
08:38:52 5 But then when it says "Although generally
08:38:54 6 described above, the client and server
08:38:56 7 computers may interact in accordance with one
08:38:59 8 of two protocols," as it states in
08:39:03 9 paragraph 164, a person of ordinary skill in
08:39:05 10 the art would understand that this is now
08:39:07 11 limiting its embodiments to either the protocol
08:39:12 12 shown in Figure 8, which is the first protocol,
08:39:16 13 or the protocols shown in Figure 9, which is
08:39:19 14 the second protocol.

08:39:23 15 Q. So let me understand this. It's
08:39:25 16 your opinion that the paragraphs preceding 164
08:39:29 17 are general disclosures of the system in
08:39:33 18 Cassin, but then the two protocols that are
08:39:38 19 disclosed limit the disclosure of Cassin system
08:39:42 20 to just those two protocols?

08:39:46 21 A. Not exactly. Instead what I'm
08:39:48 22 saying is that there is general descriptions
08:39:52 23 above that talk about the hardware
08:39:54 24 configuration, the topology of the different
08:39:59 25 components and how they communicate with each

08:40:02 1 other, who's connected to whom, how they
08:40:07 2 communicate, for example.
08:40:08 3 So that's -- that preface that
08:40:10 4 then says "Although generally described above,"
08:40:14 5 to a person of ordinary skill in the art now is
08:40:17 6 saying, you know, the general environment was
08:40:20 7 described above. But now it's talking about
08:40:22 8 the specific ways that the client and server
08:40:25 9 computers may interact with one another. And
08:40:28 10 that interaction is dictated by one of two
08:40:31 11 protocols that are shown respectively in
08:40:34 12 Figures 8 and 9.

08:40:38 13 Q. Just so I understand your opinion,
08:40:39 14 it's your opinion that the system in Cassin
08:40:51 15 must operate in accordance with one of the two
08:40:54 16 protocols that's then subsequently described?

08:40:57 17 A. That's right. In terms of the
08:41:01 18 client server interaction, the language is
08:41:04 19 clear in Cassin to a person of ordinary skill
08:41:10 20 in the art, that there is two protocols and the
08:41:12 21 system must choose one of those two to perform
08:41:16 22 its interactions.

08:41:20 23 And, moreover, as I explain in my
08:41:22 24 declaration, these two protocols are
08:41:25 25 incompatible. You can't do half of one and

08:41:29 1 half the other because of the way the steps are
08:41:31 2 recited. And so you have to choose one or the
08:41:34 3 other. And that's the language of
08:41:35 4 paragraph 164. It's very clear about that.

08:41:41 5 Q. So looking at the first sentence
08:41:42 6 in paragraph 164, it says, "Although generally
08:41:48 7 described above, the client and server
08:41:50 8 computers may interact in accordance with one
08:41:54 9 of two protocols."

08:41:55 10 So are you interpreting the word
08:41:58 11 "may" to mean that it must interact in
08:42:03 12 accordance with one of the two protocols?

08:42:05 13 MR. MATULEWICZ-CROWLEY:

08:42:05 14 Objection. Form.

08:42:07 15 A. No. Instead what I'm saying is
08:42:09 16 that word "may" is modifying the two protocols.
08:42:14 17 So here it must interact. Of course the system
08:42:18 18 must have a client and server interaction, and
08:42:22 19 it may interact either with one or the other.

08:42:30 20 So if you're going to have an
08:42:31 21 interaction at all, you must choose either
08:42:33 22 Protocol 1 or Protocol 2. That's what that
08:42:37 23 would say to a person of ordinary skill in the
08:42:49 24 art.

08:42:49 25 Q. Wouldn't you agree that that term

08:42:52 1 "may" for "may interact in accordance with one
08:42:55 2 of two protocols" mean that the client and
08:43:01 3 server computers may interact with one of these
08:43:03 4 two exemplary protocols?

08:43:07 5 MR. MATULEWICZ-CROWLEY:

08:43:07 6 Objection. Form.

08:43:07 7 A. I read it just the way that a
08:43:09 8 person of ordinary skill would read it exactly
08:43:12 9 as it's written. The "may" in this case
08:43:15 10 modifies the "two." So you may choose one of
08:43:19 11 the two. That's the choice you have. So
08:43:21 12 that's why it's a "may" here.

08:43:25 13 So you have a choice of two. You
08:43:30 14 have to pick one of them. If you want to
08:43:32 15 interact at all. You don't have to interact.
08:43:33 16 You don't have to implement the implementation
08:43:34 17 of this invention. But if you're going to
08:43:36 18 interact, you have to choose one of the two
08:43:38 19 protocols.

08:43:39 20 Q. If that was the intention of this
08:43:45 21 sentence, wouldn't the term "may" be the term
08:43:50 22 "must," because that's essentially what you're
08:43:54 23 saying; that the client and server computers
08:43:57 24 must interact in accordance with one of two
08:44:00 25 protocols?

08:44:00 1 A. No, I disagree. As I mentioned,
08:44:03 2 the system doesn't have to always function.
08:44:09 3 You could just have the setup, and then you
08:44:11 4 don't ever actually download anything. So now
08:44:13 5 you're disclosing that if you do want to
08:44:16 6 download something, you must choose one of
08:44:20 7 these two different protocols. The "may"
08:44:23 8 modifies the "two protocols."

08:44:31 9 Q. I want to focus on the second
08:44:43 10 protocol, which is described in Figure 9 and
08:44:50 11 paragraphs 166 through 167 of Cassin, right?

08:44:59 12 A. I agree that those disclosures are
08:45:02 13 focused on what I call the second -- what the
08:45:04 14 -- what Cassin calls the second protocol.

08:45:11 15 Q. Looking at paragraph 166, Cassin
08:45:15 16 discloses:

08:45:17 17 "In step 900, the client computer
08:45:22 18 contacts the server computer and
08:45:24 19 requests a connection. In step 910, the
08:45:30 20 server computer accepts and establishes
08:45:32 21 the connection. Thereafter, in step
08:45:38 22 920, the client computer sends user
08:45:42 23 information to the server. In step 925,
08:45:48 24 the client computer would request a list
08:45:52 25 of content that should be delivered."

08:45:55 1 Is that right?

08:45:56 2 A. I think you read that correctly.

08:45:58 3 Q. So continuing in paragraph 166,

08:46:04 4 Cassin discloses:

08:46:10 5 "In step 927, the server computer
08:46:15 6 uses the user information to query the
08:46:18 7 database 640. In step 930, the database
08:46:23 8 640 responds with a first list of all
08:46:29 9 content to which that user is entitled,
08:46:34 10 which may be implemented as, for
08:46:37 11 example, XML file."

08:46:41 12 Did I read that correctly?

08:46:42 13 A. Yes.

08:46:44 14 Q. In step 930, this first list of
08:46:49 15 all content to which that user is entitled, is
08:46:55 16 server status information, correct?

08:46:58 17 MR. MATULEWICZ-CROWLEY:

08:46:58 18 Objection. Form.

08:47:59 19 A. So I speak to this in my
08:48:01 20 declaration beginning at paragraph 102 and
08:48:03 21 going to paragraph 105. There is several
08:48:09 22 problems with this I believe. I just have to
08:48:15 23 double-check if this is about -- yes, this is
08:48:17 24 in the context of the second protocol.

08:48:24 25 So here the problem is that the

08:48:30 1 claim language is that you have to receive
08:48:32 2 server status information that comprises a
08:48:36 3 listing of at least one piece of content
08:48:39 4 available from the source.

08:48:40 5 And then what Cassin is disclosing
08:48:43 6 is information that is coming from the database
08:48:48 7 about the database of content, which does not
08:48:56 8 necessarily truly indicate the availability of
08:49:01 9 content from what Mr. Wechselberger is mapping
08:49:05 10 to the source, which in this case of Cassin, he
08:49:09 11 maps to the content repository 645.

08:49:21 12 Q. What you're describing, that the
08:49:44 13 database may not necessarily truly indicate the
08:49:49 14 availability of content, that may not always be
08:49:52 15 the case, right? The database could indicate
08:49:55 16 the availability of the content that's
08:50:00 17 available in the repository, right?

08:50:07 18 MR. MATULEWICZ-CROWLEY:

08:50:07 19 Objection. Form.

08:50:07 20 A. All I'm saying is that that's not
08:50:09 21 disclosed in Cassin. That here
08:50:11 22 Mr. Wechselberger is making a logical leap
08:50:13 23 that's not supported by the specification from
08:50:15 24 Cassin. That's all.

08:50:16 25 Q. How is it not supported by Cassin?

08:50:18 1 A. I just explained that to you.

08:50:21 2 Namely, that what is being reflected is

08:50:23 3 information from the database, not what

08:50:26 4 Mr. Cassin maps to the source. Hence, this is

08:50:32 5 not information about what's available at the

08:50:35 6 source. It's what's available at some other

08:50:39 7 place; in this case, a database.

08:50:42 8 Q. You understand, though, that

08:50:48 9 Cassin discloses that the database must include

08:50:54 10 metadata about the media content available to

08:50:58 11 the system. So it necessarily has information

08:51:02 12 about what media content is available from the

08:51:05 13 source should that be in the content

08:51:07 14 repository, correct?

08:51:13 15 MR. MATULEWICZ-CROWLEY:

08:51:13 16 Objection. Form.

08:51:14 17 A. So in paragraph 146 of Cassin, it

08:51:27 18 discloses that:

08:51:27 19 "The database 640 stores

08:51:32 20 information related to the system in the

08:51:33 21 form of metadata. The information must

08:51:36 22 include metadata about the media content

08:51:38 23 available to the system, including, for

08:51:42 24 example, descriptions of packages,

08:51:45 25 series and episodes."

08:51:48 1 So, again, this is about the
08:51:55 2 system in general.

08:52:01 3 And then it says:
08:52:02 4 "As an alternative, the media
08:52:04 5 files may be stored within a first
08:52:06 6 content repository 645 associated with
08:52:09 7 the server computer system 610. "

08:52:15 8 And it says:
08:52:16 9 "The contents of the first
08:52:17 10 computer [sic] repository 645 may be
08:52:20 11 accessible via the database. "

08:52:23 12 Here now this "may" here is now
08:52:25 13 reflective of alternatives to the storage.
08:52:30 14 Hence, again, Mr. Wechselberger is making a
08:52:32 15 logical leap that's not supported by the
08:52:34 16 specification. Here it specifically
08:52:38 17 discloses the alternative; that, namely, the
08:52:40 18 content repository 645 may not store the
08:52:44 19 information in a perfectly synchronized way
08:52:47 20 to what is in the database 640.

08:52:52 21 Q. Wouldn't you agree, though, that
08:53:20 22 that last sentence of paragraph 146 of Cassin,
08:53:25 23 "The contents of the first content repository
08:53:27 24 645 may be accessible via the database 640, "
08:53:34 25 would mean that it very well could be that the

08:53:37 1 first -- that the media content could very well
08:53:41 2 be accessible via the database from the first
08:53:45 3 content repository?

08:53:47 4 MR. MATULEWICZ-CROWLEY:

08:53:47 5 Objection. Form.

08:53:51 6 A. I'm not disagreeing with that
08:53:54 7 disclosure. Instead, as I state in my
08:53:56 8 declaration, Mr. Wechselberger is making a
08:53:58 9 logical leap that is not supported by the
08:54:00 10 specification; namely, that the database
08:54:03 11 necessarily must be synchronized with the
08:54:06 12 content repository 645. That's simply not the
08:54:10 13 case.

08:54:10 14 Instead, what is returned back in
08:54:13 15 that step shown in that second protocol is
08:54:19 16 information that's available in the database
08:54:21 17 that is not necessarily the same as the data
08:54:24 18 that is available in the content repository.
08:54:27 19 That's clear from the specification, for
08:54:29 20 example, here in paragraph 146.

08:54:47 21 For example, as I explain in my
08:54:49 22 paragraph 105, there is no step disclosed in
08:54:52 23 the protocol for the database 640 querying the
08:54:57 24 content repository 645 to identify the content
08:55:02 25 that is available there when it's making its

08:55:05 1 list. It just sends the list without knowing
08:55:09 2 whether or not it is synchronized and available
08:55:13 3 at the content repository 645.

08:55:16 4 Q. Whether it's synchronized or not,
08:55:21 5 it could still be returning a list of media
08:55:25 6 content items that are available in the first
08:55:28 7 content repository, right?

08:55:30 8 A. That does not follow logically
08:55:35 9 from the specification of Cassin.

08:55:40 10 Q. I'm not sure I understand what you
08:55:42 11 mean. Cassin says that information must
08:55:47 12 include in the database metadata about the
08:55:52 13 content media -- about the media content
08:55:55 14 available to the system. And that if it has
08:56:02 15 metadata about the media content available to
08:56:06 16 the system, knowing what packages, series, and
08:56:12 17 episodes are in the system, it would be able to
08:56:15 18 create a list of content items that are
08:56:19 19 available, wouldn't you agree?

08:56:22 20 MR. MATULEWICZ-CROWLEY:

08:56:22 21 Objection. Form.

08:56:23 22 A. I'm not disputing that the
08:56:25 23 database 640 knows about content available in
08:56:28 24 the system broadly defined. But, instead,
08:56:31 25 Mr. Wechselberger has identified the content

08:56:34 1 repository 645 as the source for the claims.

08:56:39 2 And that is clearly not disclosed here in

08:56:42 3 paragraph 146. The opposite is.

08:56:46 4 Namely, that it may store content

08:56:49 5 that is in that content repository 645, but

08:56:53 6 it's not — it doesn't have to. It could be

08:56:57 7 somewhere else. It could come from some other

08:56:59 8 places. And, likewise, there is no step in the

08:57:02 9 process where it even asks and confirms that

08:57:07 10 the content repository 645 has the content that

08:57:11 11 is now being sent as a list to the client.

08:57:15 12 Q. Wouldn't a person of ordinary

08:57:17 13 skill in the art understand from this

08:57:20 14 disclosure in paragraph 146 of Cassin that if

08:57:25 15 you have a database that includes metadata

08:57:27 16 about the media content available to the

08:57:31 17 system, including, for example, descriptions of

08:57:35 18 packages, series, and episodes, that it would

08:57:39 19 be able to return a list of the media content

08:57:44 20 items available even if those media content

08:57:47 21 items are available via a first content

08:57:53 22 repository?

08:57:55 23 MR. MATULEWICZ-CROWLEY:

08:57:55 24 Objection. Form.

08:57:59 25 A. That's not what's disclosed here.

08:58:16 1 I'm going by the disclosure to a person of
08:58:20 2 ordinary skill in the art. It says very
08:58:22 3 clearly that in paragraph 146 "as an
08:58:27 4 alternative." It prefaced that. It's not just
08:58:35 5 the word "may." It says "an alternative."
08:58:38 6 Because it says "The database need not contain
08:58:41 7 the media files themselves."

08:58:44 8 So, clearly, it also allows for
08:58:44 9 the possibility that at least some of the media
08:58:47 10 files are inside the database. Maybe little
08:58:50 11 trailers. Small commercials. Whatever.

08:58:52 12 And then it says "As an
08:58:53 13 alternative, the media files may be stored
08:58:56 14 within a first content repository 645
08:58:59 15 associated with the server computer system
08:59:01 16 610."

08:59:02 17 So clearly it's not necessary or
08:59:06 18 even required that the content repository 645
08:59:10 19 store any media files.

08:59:12 20 Q. But you would agree that the
08:59:14 21 paragraph 146 of Cassin discloses that the
08:59:17 22 database could actually include media content
08:59:24 23 files themselves.

08:59:26 24 A. Exactly. That's my point. And
08:59:29 25 then that breaks Mr. Wechselberger's mapping

08:59:32 1 completely, because he is mapping the source to
08:59:36 2 the content repository 645, not the database
08:59:41 3 640.

08:59:41 4 Q. All right. So going back to my
08:59:43 5 original question that started this, I wasn't
08:59:49 6 referring to Mr. Wechselberger's analysis. I'm
08:59:51 7 just asking you in general.

08:59:53 8 So in paragraph 166 of Cassin in
09:00:01 9 step 930, the first list of all content which
09:00:05 10 the user is entitled is server status
09:00:07 11 information, correct?

09:00:11 12 MR. MATULEWICZ-CROWLEY:

09:00:11 13 Objection. Form.

09:00:12 14 A. I would answer that the same way I
09:00:14 15 did before. I addressed this in paragraphs 102
09:00:17 16 to 105 of my declaration. Namely -- it's not
09:00:23 17 merely that the claim says "server status
09:00:26 18 information," for example. If we go to
09:00:29 19 Claim 1, it says that you're "configured to
09:00:39 20 receive server status information regarding a
09:00:40 21 source of content, wherein the server status
09:00:44 22 information comprises a listing of at least one
09:00:48 23 piece of content available from the source."

09:00:51 24 So when I hear you say "server
09:00:57 25 status information" in the context of Claim 1,

09:01:00 1 I'm assuming you are also including that
09:01:02 2 requirement that "wherein the server status
09:01:04 3 information comprises a listing of at least one
09:01:07 4 piece of content available from the source."
09:01:09 5 And, in my opinion, that's not disclosed in
09:01:11 6 Cassin.

09:01:18 7 Q. Can we just agree that the
09:01:18 8 database 640 could include the media content
09:01:19 9 items, right?

09:01:19 10 A. I'm not disputing that. But then
09:01:21 11 Mr. Wechselberger does not include that as what
09:01:24 12 he's calling the source. And my opinions are
09:01:27 13 in response, I understood them at least, to be
09:01:30 14 in response to Mr. Wechselberger's opinions.

09:01:32 15 Q. Okay. But we're now in your
09:01:35 16 deposition where I'm just asking you questions
09:01:36 17 about the reference.

09:01:38 18 So putting aside
09:01:39 19 Mr. Wechselberger's opinions, I'm asking you in
09:01:43 20 step 930, the database 640, which could include
09:01:48 21 media content items, corresponds with the first
09:01:52 22 list of all content to which the user is
09:01:54 23 entitled. And that first list of all content
09:01:58 24 to which the user is entitled would be server
09:02:00 25 status information that has information

09:02:06 1 regarding the source of content, correct?

09:02:08 2 MR. MATULEWICZ-CROWLEY:

09:02:09 3 Objection. Form.

09:02:09 4 A. Now if we're going apart from
09:02:13 5 Mr. Wechselberger's opinions, could you please
09:02:16 6 clarify what you mean by -- what you are now
09:02:18 7 mapping in this hypothetical to the source and
09:02:23 8 to the server from Cassin?

09:02:33 9 Q. So from Cassin, which my question
09:02:36 10 said. So if the database 640 -- let's -- we
09:02:39 11 agree that could include media content items.
09:02:45 12 That would be the source. With me so far?

09:02:49 13 A. I'm willing to consider this. It
09:02:51 14 might take some time, though, because I don't
09:02:54 15 recall Mr. Wechselberger doing such a mapping.
09:02:56 16 So now in this mapping you want me
09:02:58 17 to consider the database 640 as the source for
09:03:02 18 Claim 1, correct?

09:03:03 19 Q. Correct.

09:03:05 20 A. Please continue.

09:03:07 21 Q. Thank you. So in paragraph 160 of
09:03:09 22 Cassin in step 930, you have the database 640,
09:03:14 23 the source, responds with a first list of
09:03:18 24 content to which that user is entitled, that is
09:03:25 25 server status information, correct?

09:03:31 1 MR. MATULEWICZ-CROWLEY:
09:03:32 2 Objection. Form.
09:03:32 3 A. Unfortunately, that also breaks
09:04:01 4 but now for a different reason.
09:04:03 5 So if we go back to Figure 9, we
09:04:05 6 see that the client is in communication with
09:04:07 7 the server computer. The server computer
09:04:11 8 accepts the request. The client computer sends
09:04:16 9 the user information to the server computer,
09:04:18 10 and then the server computer uses the user
09:04:21 11 information to query the database. The
09:04:24 12 database responds with this list. But then in
09:04:30 13 step 490, it's the server computer that sends
09:04:34 14 the list to the client computer, not the
09:04:36 15 database.
09:04:37 16 So now if by this new mapping
09:04:40 17 you're mapping the source to the database, then
09:04:44 18 it breaks for a different reason because it's
09:04:46 19 not the database that's sending the information
09:04:49 20 back to the client. It's the server.
09:04:55 21 Q. Okay. Let's --
09:04:59 22 A. Perhaps that's why
09:05:01 23 Mr. Wechselberger didn't consider this
09:05:03 24 alternative mapping.
09:05:04 25 Q. The database 640 is in the server,

09:05:08 1 right?

09:05:14 2 MR. MATULEWICZ-CROWLEY:

09:05:14 3 Objection. Form.

09:05:15 4 A. So if we go to Figure 6, you see
09:05:19 5 the server computer system comprises various
09:05:23 6 modules which includes the database 640. But
09:05:30 7 then in your -- perhaps I didn't understand
09:05:32 8 your alternative mapping that was not included
09:05:35 9 in Mr. Wechselberger's declaration.

09:05:38 10 I understood you to say that in
09:05:39 11 this alternative mapping, we were considering
09:05:42 12 the database 640 to be the source; that is, the
09:05:46 13 server that would have server status
09:05:51 14 information being sent. Are you now revising
09:05:53 15 the mapping that you would like me to consider?

09:05:57 16 Q. I don't think there is a revised
09:05:58 17 mapping. I think when you look at it in the
09:06:00 18 totality, you've got database 640, right?
09:06:03 19 That's in the server, correct?

09:06:05 20 A. I agree.

09:06:07 21 Q. And then in step 90 -- I'm sorry,
09:06:11 22 let me back up.

09:06:12 23 In step 930, as was disclosed in
09:06:16 24 paragraph 166, the database 640, the source,
09:06:21 25 which is in the server, responds with a first

09:06:25 1 list of all content to which that user is
09:06:28 2 entitled. That would be a server status
09:06:36 3 information since it is the server that would
09:06:37 4 be responding with the first list of all
09:06:42 5 content to which the user is entitled, correct?

09:06:44 6 MR. MATULEWICZ-CROWLEY:

09:06:44 7 Objection. Form.

09:06:46 8 A. I'm sorry, I've lost track of your
09:06:49 9 mapping. I was responding to the mapping of
09:06:51 10 Mr. Wechselberger, and I thought I understood
09:06:53 11 your alternative, but clearly I don't.

09:06:56 12 So could you please again explain
09:07:00 13 in this alternative mapping, that is not
09:07:02 14 included in Mr. Wechselberger's declaration,
09:07:05 15 what are you mapping to the server and what are
09:07:09 16 you mapping to the source on Claim 1.

09:07:13 17 Q. Okay. So you've got a database
09:07:17 18 640, right? Which we've established as the
09:07:20 19 source, correct?

09:07:21 20 A. I'm willing to accept your mapping
09:07:23 21 in this hypothetical that you are considering
09:07:27 22 now the database 640 as the source for Claim 1,
09:07:32 23 even though that was not in Mr. Wechselberger's
09:07:34 24 declaration.

09:07:36 25 Q. Okay. So let's just take this

09:07:37 1 piece by piece. So hopefully we can both
09:07:42 2 follow on together.

09:07:43 3 So we've got database 640, that's
09:07:46 4 the source, correct?

09:07:49 5 A. All right. Let me take some notes
09:07:51 6 on this. All right. So you've got database
09:07:54 7 640. And now in this alternative mapping,
09:08:02 8 that's being mapped to the source.

09:08:06 9 All right. Please continue.

09:08:08 10 Q. Database 640 is in the server
09:08:11 11 computer as depicted in Figure 6 of Cassin,
09:08:13 12 correct?

09:08:15 13 A. Wait. Now I don't understand
09:08:16 14 this, either.

09:08:17 15 I've been told by attorneys that
09:08:19 16 claim differentiation requires that when we do
09:08:22 17 mappings like this, that we need to map the
09:08:25 18 different words to different entities. And now
09:08:27 19 it sounds like you just mapped database 640
09:08:31 20 also to the server.

09:08:32 21 Q. That's not -- that's not what I'm
09:08:35 22 doing. I'm saying database is in the server,
09:08:38 23 correct?

09:08:39 24 A. So database 640 is in the server.
09:08:42 25 I agree with that.

09:08:43 1 Q. As depicted in Figure 6, right?

09:08:45 2 A. Yes.

09:08:45 3 Q. Okay. So then we have a database
09:08:50 4 640, which is part of the components of the
09:08:57 5 server, right?

09:08:58 6 A. Yes, I agree.

09:09:03 7 Q. And that responds with a first
09:09:05 8 list of all content to which the user is
09:09:08 9 entitled, correct?

09:09:09 10 A. Yes.

09:09:10 11 Q. And that first list of all content
09:09:13 12 to which the user is entitled would be server
09:09:20 13 status information, right?

09:09:20 14 MR. MATULEWICZ-CROWLEY:

09:09:20 15 Objection. Form.

09:09:22 16 A. I disagree. Now you're making the
09:09:25 17 same mistake that Mr. Wechselberger made but
09:09:29 18 now flipped.

09:09:30 19 So Mr. Wechselberger, as I talk
09:09:31 20 about in my paragraphs 102, starting at 102, he
09:09:35 21 made the mistake of assuming that the list of
09:09:38 22 things coming from the database is equal to the
09:09:40 23 thing that is in the 645 component.

09:09:46 24 Now you're making the same mistake
09:09:49 25 but in reverse. You're assuming now that

09:09:51 1 everything in 640 is all the content. But as
09:09:56 2 it's still also disclosed in paragraph 146,
09:09:59 3 that component 645 can also store some content.

09:10:05 4 So now the list that would be
09:10:07 5 coming from the 640 in your mapping could be
09:10:09 6 missing data that is available in 645. Hence,
09:10:15 7 its list would not be information that is
09:10:17 8 available from the source because you mapped
09:10:20 9 the database 640 to the source.

09:10:22 10 So this also fails for almost the
09:10:25 11 same reason as the mapping that
09:10:27 12 Mr. Wechselberger used, but in reverse.

09:10:32 13 Q. I'm not sure that follows. As you
09:10:34 14 know, the database can contain, as we agreed,
09:10:38 15 the media content files, right?

09:10:41 16 A. Right. But now you're making the
09:10:44 17 same logical mistake that Mr. Wechselberger
09:10:47 18 made. Namely, that the list of information
09:10:49 19 coming from the database necessarily has to be
09:10:51 20 the full list of content that's available in
09:10:55 21 the database. That does not follow from 146.
09:10:59 22 Instead, the list could also include content
09:11:02 23 that's available in that source 645.

09:11:09 24 Q. But the --

09:11:09 25 A. That also breaks. It wouldn't be

09:11:12 1 available in the source, because you mapped
09:11:14 2 database 640 to the source in this alternative.

09:11:17 3 Q. So let's just be clear. So the
09:11:23 4 language, as you said, in paragraph 146 of
09:11:26 5 Cassin said, "As an alternative, media files
09:11:30 6 may be stored in a first content repository."
09:11:34 7 They may not, right? You would agree with
09:11:36 8 that?

09:11:36 9 A. I agree. That's why these things
09:11:39 10 are logical jumps that are not supported by the
09:11:41 11 specification.

09:11:42 12 Q. So putting aside -- let's not go
09:11:44 13 with the alternative that there is anything in
09:11:50 14 the first content repository. The database 640
09:11:53 15 has the media content files. Do you follow
09:11:55 16 that so far?

09:11:56 17 A. That also doesn't follow
09:11:57 18 immediately. There could be other sources for
09:11:59 19 the content.

09:12:02 20 Q. What's your --

09:12:03 21 A. The database is only one
09:12:05 22 possibility.

09:12:05 23 Q. What's your basis for saying that
09:12:07 24 there is other sources of content if it's not
09:12:09 25 in the database?

09:12:11 1 A. It literally says that in
09:12:19 2 paragraph 146: "The database need not contain
09:12:23 3 the media files themselves."

09:12:26 4 Q. Right. Because then it follows
09:12:27 5 that there may be an alternative where it's
09:12:30 6 stored in a first content repository. So that
09:12:34 7 sentence that you referenced connects with the
09:12:38 8 next sentence.

09:12:39 9 So, as I said before, let's not go
09:12:42 10 with the alternative. We're just focusing on
09:12:45 11 the embodiment where it's the database that
09:12:47 12 contains the media files themselves. Does that
09:12:50 13 make sense?

09:12:51 14 A. No. Because the next sentence
09:12:54 15 says "As an alternative, the media files may be
09:12:57 16 stored within a first content repository 645."

09:13:02 17 If, as you are stating, the
09:13:05 18 alternative wasn't necessary, that that's the
09:13:08 19 only other place where they can be stored, then
09:13:11 20 I believe the sentence would read: "As an
09:13:13 21 alternative, the media files would be stored
09:13:17 22 within a first content repository 645." But it
09:13:22 23 doesn't say that. It says "may."

09:13:24 24 Q. That's not exactly what I'm asking
09:13:26 25 here, so if you can listen to the question

09:13:29 1 carefully.

09:13:30 2 We've agreed that the database
09:13:32 3 could be the place, the only place, where the
09:13:35 4 media content files can be stored, right?

09:13:38 5 A. In this mapping that you wanted me
09:13:40 6 to consider where the database 640 was the
09:13:42 7 source.

09:13:44 8 Q. So then that means there is no
09:13:45 9 other sources that have media content files
09:13:49 10 stored, right?

09:13:51 11 MR. MATULEWICZ-CROWLEY:

09:13:51 12 Objection. Form.

09:13:52 13 A. Now, again, this breaks because of
09:13:56 14 the other problem. There could be other places
09:13:58 15 where it's stored. That's clearly being
09:14:03 16 disclosed here in paragraph 146.

09:14:05 17 Q. And that's based on the last --
09:14:09 18 that's based on this language "As an
09:14:10 19 alternative, the media files may be stored
09:14:13 20 within a first content repository."

09:14:15 21 So you're basing your opinion on
09:14:18 22 that sentence, correct?

09:14:19 23 A. In this -- in this hypothetical.
09:14:21 24 But, to be clear, this is not something that
09:14:24 25 Mr. Wechselberger discussed in his declaration,

09:14:29 1 as we both agree. So to fully analyze this
09:14:33 2 alternative would require more time. But so
09:14:37 3 far, based on the paragraph 146, this
09:14:39 4 alternative mapping that you now are proposing
09:14:42 5 would not work.

09:14:45 6 Q. And that's because it's your
09:14:47 7 opinion that there could be other sources of
09:14:51 8 content where media files are stored in Cassin
09:14:55 9 outside of the database and the first content
09:14:59 10 repository; is that right?

09:15:01 11 A. That's what's disclosed here,
09:15:03 12 because it says "the database need not contain
09:15:05 13 the media files," and then "the media files may
09:15:08 14 be stored within the 645." So there could be
09:15:11 15 other locations as well.

09:15:12 16 Q. But you would agree with me that
09:15:14 17 there is an embodiment where it's just the
09:15:16 18 database that contains the media content files,
09:15:19 19 correct?

09:15:20 20 A. I don't see that disclosed here,
09:15:22 21 either. It just said "need not contain." It
09:15:26 22 didn't say that it could contain all of them.

09:15:28 23 Q. You do remember we agreed earlier
09:15:36 24 that it was the -- that the database could
09:15:41 25 contain all of the media content files and then

09:15:44 1 there could be alternative embodiments where it
09:15:46 2 could be stored in other places like the first
09:15:49 3 content repository, correct?

09:15:53 4 A. I would like to revise --

09:15:54 5 MR. MATULEWICZ-CROWLEY:

09:15:54 6 Objection. Form.

09:15:55 7 A. I would like to revise that
09:15:57 8 statement. I don't agree with that. I'm
09:15:59 9 sorry, based on -- again, this was not
09:16:01 10 something that I contemplated earlier. So in
09:16:04 11 this process of us discussing it, it's becoming
09:16:07 12 clear to me that, no, that does not follow.
09:16:10 13 Because it says "The database need not contain
09:16:12 14 the media files themselves." It says that in
09:16:15 15 black and white in paragraph 146.

09:16:17 16 Q. So looking at that sentence, "The
09:16:21 17 database need not," but it could also
09:16:25 18 exclusively contain the media content files,
09:16:28 19 right?

09:16:29 20 A. No, I'm sorry, that does not
09:16:31 21 follow logically. When the statement says "The
09:16:36 22 database need not contain the media files
09:16:39 23 themselves," if we take that as an alternative,
09:16:42 24 that means the database could contain some but
09:16:42 25 it doesn't imply that it contains all. And

09:16:44 1 that's the logical jump that now, in my
09:16:46 2 opinion, both you and Mr. Wechselberger are
09:16:48 3 making when it comes to the claim language,
09:16:51 4 say, of Claim 1. And that logical jump is not
09:16:58 5 supported by the specification of Cassin.

09:17:00 6 Q. And that's in your opinion, right?

09:17:03 7 A. All of my statements that I'm
09:17:05 8 making today and in my declarations are
09:17:08 9 opinions. That's what I've been told by
09:17:11 10 attorneys. I'm not a fact witness. I'm an
09:17:13 11 expert witness.

09:17:14 12 Q. And so the database -- this is
09:17:26 13 your opinion; that the database cannot contain
09:17:30 14 the media content files themselves and be the
09:17:33 15 only source of content in Cassin.

09:17:37 16 MR. MATULEWICZ-CROWLEY: Objection
09:17:39 17 to form.

09:17:39 18 A. Again, just to be clear, we're
09:17:42 19 discussing this in realtime based on my
09:17:46 20 analysis now of 146 of this alternative. It
09:17:51 21 clearly states, "The database need not contain
09:17:53 22 the media files themselves."

09:17:56 23 The alternative to then say, okay,
09:17:58 24 let's take that as an alternative, the media
09:18:01 25 files may be stored within the content

09:18:04 1 repository 645. But that's, again, "may." It
09:18:08 2 didn't say "would." So that still leaves open
09:18:10 3 the possibility that there is other places.
09:18:13 4 Hence, this list that's coming down is not
09:18:15 5 necessarily the list of content available at
09:18:19 6 the source. And, again, you have to be very
09:18:23 7 careful of what you map to the source.

09:18:35 8 Q. So I'm not -- so let's try this,
09:18:37 9 because I understand what Claim 1 says. Now
09:18:41 10 I'm not talking about all the claim language in
09:18:46 11 Claim 1. Now there is a term "server status
09:18:50 12 information." And we know from what we looked
09:18:54 13 at earlier in the '559 patent, that can be a
09:18:58 14 listing of one or more pieces of content
09:19:01 15 available from a source of content to the
09:19:04 16 terminal, right?

09:19:04 17 A. I agree.

09:19:07 18 MR. MATULEWICZ-CROWLEY:

09:19:07 19 Objection. Form.

09:19:07 20 A. I agree. The language of the
09:19:10 21 claim says very clearly "Wherein the server
09:19:13 22 status information comprises a listing of at
09:19:15 23 least one piece of content available from the
09:19:17 24 source." That's what I'm applying; that plain
09:19:22 25 and ordinary understanding of that statement to

09:19:25 1 a person of ordinary skill in the art.

09:19:27 2 Q. And you're not looking at Claim 1
09:19:31 3 when you're referring to that claim language,
09:19:34 4 right? Because Claim 1 doesn't require a
09:19:36 5 listing of one or more pieces of content
09:19:36 6 available from the source of content to the
09:19:39 7 terminal, right?

09:19:39 8 MR. MATULEWICZ-CROWLEY:

09:19:40 9 Objection. Form.

09:19:41 10 A. I literally read that from
09:19:42 11 Claim 1. I don't understand your question.

09:19:53 12 Q. Where in Claim 1 does it require
09:19:56 13 that the server status information is a listing
09:20:04 14 of one or more pieces of content?

09:20:07 15 A. Okay. So if you go in the '559
09:20:17 16 patent to Claim 1, which is in column 15, and
09:20:20 17 then begin reading at line 20, it states, and
09:20:23 18 again I'll read it:

09:20:24 19 "Wherein the server status
09:20:27 20 information comprises a listing of at
09:20:29 21 least one piece of content available
09:20:31 22 from the source."

09:20:33 23 Q. Okay.

09:20:34 24 A. And that is the language that I
09:20:36 25 applied in my analysis.

09:20:37 1 Q. Okay.

09:20:55 2 MS. CARRANO: All right. We've

09:20:56 3 been going on for a little bit, over an

09:20:58 4 hour, shall we take a short break?

09:21:01 5 THE WITNESS: It's fine with me.

09:21:03 6 MR. MATULEWICZ-CROWLEY: It's fine

09:21:05 7 with me.

09:21:06 8 (Proceedings recessed at

09:31:11 9 9:21 a.m., and reconvened at 9:31 a.m.)

09:31:11 10 BY MS. CARRANO:

09:31:13 11 Q. Welcome back, Dr. Goodrich.

09:31:18 12 A. Thank you.

09:31:19 13 Q. So before the break, we were

09:31:21 14 talking about server status information, right?

09:31:25 15 A. I recall that.

09:31:26 16 Q. So looking at Claim 1 of the '559

09:31:30 17 patent, we've got "server status information

09:31:37 18 regarding a source of content wherein the

09:31:42 19 server status information comprises a listing

09:31:46 20 of at least one piece of content available from

09:31:48 21 the source." Do you see that?

09:31:49 22 A. Yes.

09:31:51 23 Q. So Claim 1 does not require

09:31:54 24 that -- let me back up.

09:31:57 25 Claim 1 requires that there be a

09:31:59 1 listing of at least one piece of content

09:32:01 2 available from a source, right?

09:32:02 3 A. I'm not following. Sorry. It

09:32:08 4 says "the source" in the claim language.

09:32:11 5 Q. Correct. So the first time a

09:32:13 6 source of -- so earlier in the claim, the term

09:32:16 7 "a source of content" is introduced, correct?

09:32:20 8 A. I agree. So when it says "the

09:32:23 9 source," a person of ordinary skill in the art

09:32:28 10 would understand that the antecedent basis for

09:32:31 11 that is the "a source of content" that is shown

09:32:33 12 in line 19 in column 15.

09:32:38 13 Q. Right. So we would agree that

09:32:42 14 when it says "at least one piece of content

09:32:44 15 available from the source," it's referring to

09:32:47 16 the earlier phrase "a source of content,"

09:32:51 17 right?

09:32:51 18 A. Yes, I agree.

09:32:52 19 Q. And "a source of content" can mean

09:32:57 20 just one source of content, right?

09:33:02 21 A. I've been told by attorneys that

09:33:03 22 when claim language uses the word "a," it can

09:33:11 23 mean one or more. And that's the plain and

09:33:11 24 ordinary meaning of "a" in this context. So I

09:33:13 25 applied that same language here.

09:33:13 1 Q. So "a," as you said, could mean
09:33:17 2 one or more. So it could just be one source of
09:33:21 3 content, right?

09:33:22 4 A. Yeah, I wouldn't dispute that.

09:33:29 5 Q. So if a source of content can be
09:33:32 6 just one source, then "the server status
09:33:36 7 information regarding a source of content,
09:33:36 8 wherein the server status information comprises
09:33:39 9 a listing of content of at least one piece of
09:33:42 10 content available from the source," that is
09:33:44 11 disclosed in Cassin at step 930 where the
09:33:51 12 database 640 could be the source of content,
09:33:56 13 and then responds with a first list of all
09:33:59 14 content to which the user is entitled, right?

09:34:02 15 MR. MATULEWICZ-CROWLEY:

09:34:02 16 Objection. Form.

09:34:02 17 A. No, I disagree with that.

09:34:06 18 Q. Earlier it seemed that you
09:34:09 19 disagreed with my questions because you were
09:34:15 20 saying there could be other sources of content,
09:34:19 21 not just content available in the database,
09:34:21 22 right?

09:34:22 23 A. That was one of the reasons.

09:34:25 24 Again, I'm doing this in realtime. I in my
09:34:29 25 paragraphs 102 through 105 was responding to

09:34:34 1 opinions of Dr. Wechselberger, or
09:34:37 2 Mr. Wechselberger, and now we're considering an
09:34:40 3 alternative that's being offered by you.
09:34:42 4 Correct?

09:34:44 5 Q. Well, I'm the one asking the
09:34:46 6 questions here. So let me just follow up --

09:34:48 7 A. In that case, I didn't your
09:34:53 8 questions. I was just asking for clarification
09:34:55 9 to your question. So if you're not willing to
09:34:57 10 give me clarification, then I don't understand
09:34:59 11 your questions.

09:35:00 12 Q. I'll give you clarification, but I
09:35:02 13 think, you know, it seems like you have an
09:35:04 14 issue with the fact that I'm asking you
09:35:06 15 something that's not -- that may not, and I
09:35:11 16 don't necessarily agree with this, be tied to
09:35:14 17 Mr. Wechselberger's declaration, right?

09:35:15 18 A. Yes. Because I've been told by
09:35:18 19 attorneys that IPRs are supposed to be in
09:35:22 20 response to a petition that then itself is
09:35:27 21 based on expert declaration. And now it sounds
09:35:29 22 like you're straying outside of
09:35:32 23 Mr. Wechselberger's declaration, perhaps even
09:35:34 24 the petition.

09:35:35 25 So could you please upload a copy

09:35:37 1 of the petition to fully answer your questions?

09:35:42 2 Q. I understand what you're saying.

09:35:44 3 However, we understand that you're to be an

09:35:47 4 expert in this area, right? And you've

09:35:50 5 reviewed the '559 patent and Cassin. So I can

09:35:56 6 ask you questions whether it's tied to

09:35:59 7 Mr. Wechselberger's declaration or not, because

09:36:02 8 I'm trying to understand what your view is as

09:36:05 9 to what a person of ordinary skill in the art

09:36:08 10 would understand certain thing to be.

09:36:11 11 So the questions I'm going to ask

09:36:15 12 you about the server status information, it may

09:36:22 13 sound different to you from what's in

09:36:25 14 Mr. Wechselberger's declaration, but I can ask

09:36:28 15 those questions to understand what the full

09:36:31 16 scope of your opinions are. And so let me try

09:36:36 17 to ask that again. Okay? Does that all make

09:36:41 18 sense?

09:36:41 19 MR. MATULEWICZ-CROWLEY: Objection

09:36:42 20 to form.

09:36:42 21 A. Yes. With the proviso that if

09:36:44 22 you're representing now that this is not in the

09:36:47 23 petition nor in Mr. Wechselberger's

09:36:50 24 declaration, I should highlight I've been

09:36:55 25 willing to engage in this discussion and talk

09:36:59 1 about my understanding of Cassin and the claims
09:37:03 2 in realtime. But to fully answer questions
09:37:06 3 that are not in the scope of my declaration
09:37:09 4 would require more time. So I'd like to revise
09:37:12 5 all of the questions going back to this whole
09:37:16 6 line of questioning, that to fully answer all
09:37:19 7 of those questions, would require more time.

09:37:22 8 Q. So sitting here today, you're not
09:37:24 9 able to answer those types of questions, then?

09:37:26 10 MR. MATULEWICZ-CROWLEY:

09:37:26 11 Objection. Form.

09:37:27 12 A. I can, but it would require me to
09:37:30 13 spend time in analysis on the record.

09:37:34 14 Q. And you're -- let me understand.
09:37:38 15 You're not able to do that now?

09:37:39 16 A. I am.

09:37:40 17 MR. MATULEWICZ-CROWLEY: Objection
09:37:41 18 to form.

09:37:41 19 A. I'm sorry. I am willing to do
09:37:44 20 that. I can do that, but it would require more
09:37:47 21 time than we've already spent just in dialogue.

09:37:50 22 I was only looking, for example,
09:37:50 23 at paragraph 146. To fully answer all of those
09:37:54 24 questions where now you'd be mapping the
09:37:56 25 database 640 to the source, it would require

09:38:00 1 more time on the record for me to do that
09:38:02 2 analysis.
09:38:05 3 So consider all of those previous
09:38:08 4 answers as partial incomplete answers, please.
09:38:11 5 Q. They're incomplete answers. Okay.
09:38:18 6 Which, to just close this out
09:38:21 7 hopefully, with respect to paragraph -- let me
09:38:26 8 start all over.
09:38:26 9 So in Cassin, you have a database
09:38:36 10 that can have media content files, correct?
09:38:40 11 A. It explicitly states in
09:38:44 12 paragraph 146, which we've been discussing,
09:38:47 13 that the database need not contain the media
09:38:52 14 files themselves. That's what is disclosed.
09:38:57 15 Q. Right.
09:38:58 16 A. So now you're asking does that
09:39:00 17 imply that the database does contain media
09:39:03 18 files. I don't agree with that.
09:39:04 19 Q. So now you're changing your
09:39:06 20 opinion from earlier. And you're saying now
09:39:09 21 the database does not contain media content
09:39:12 22 files?
09:39:12 23 A. It's not disclosed here. It
09:39:15 24 doesn't follow immediately from the statement
09:39:18 25 "The database need not contain the media files

09:39:21 1 themselves. "

09:39:22 2 Again, I'm doing this in realtime,
09:39:25 3 and I apologize if some of my earlier answers
09:39:28 4 were too much off-the-cuff. But to fully
09:39:33 5 answer your questions would require more
09:39:35 6 analysis, because I don't require -- I don't
09:39:39 7 recall this coming up before.

09:39:41 8 Q. So sitting here today with respect
09:39:45 9 to paragraph 146, your answer as to whether the
09:39:51 10 database can contain media files is incomplete
09:39:56 11 at best?

09:39:58 12 MR. MATULEWICZ-CROWLEY:

09:39:58 13 Objection. Form.

09:39:59 14 A. Correct. I need more time to do a
09:40:01 15 more thorough analysis for the entire
09:40:04 16 specification of Cassin. Because here in 146
09:40:08 17 it merely states "The database need not contain
09:40:11 18 the media files themselves. "

09:40:14 19 Q. So today you're unable to render
09:40:16 20 an opinion as to whether the database in Cassin
09:40:20 21 contains media content files?

09:40:23 22 MR. MATULEWICZ-CROWLEY:

09:40:23 23 Objection. Form.

09:40:23 24 A. No, that's incorrect. I can do
09:40:26 25 that. It would just require more time on the

09:40:28 1 record. Unless there is a place in my
09:40:30 2 declaration where you feel I've addressed this.
09:40:32 3 Because I was responding to Mr. Wechselberger's
09:40:35 4 opinions.

09:40:43 5 So I'm willing to continue this
09:40:46 6 analysis. Please don't misunderstand what I'm
09:40:48 7 saying. I am willing to continue this
09:40:50 8 analysis. My previous discussions we had were
09:40:52 9 preliminary. I'm willing to continue this
09:40:55 10 discussion and entertain other alternatives
09:40:59 11 that were not proposed in the petition or
09:41:01 12 Mr. Wechselberger's declaration. But to fully
09:41:04 13 answer questions would require more time.

09:41:08 14 Q. And as of right now, you are
09:41:13 15 unable to do that unless you have more time?

09:41:17 16 MR. MATULEWICZ-CROWLEY:

09:41:17 17 Objection. Form.

09:41:17 18 A. Correct. I would need more time.
09:41:20 19 But it could just be a matter of hours, which
09:41:23 20 I'm willing to do on the record. I've done
09:41:25 21 that before in other declarations for other
09:41:28 22 matters.

09:41:28 23 Q. So just looking at paragraph 146,
09:41:33 24 and we've analyzed paragraph 146, you need more
09:41:37 25 time to determine whether or not the database

09:41:42 1 in Cassin -- to determine whether the database
09:41:47 2 in Cassin contains media files, correct?

09:41:50 3 MR. MATULEWICZ-CROWLEY: Objection
09:41:52 4 to form.

09:41:52 5 A. I don't agree that we've fully
09:41:55 6 analyzed paragraph 146. And, in addition, I
09:41:59 7 would want to be able to do more fulsome
09:42:03 8 analysis of the rest of the specification of
09:42:07 9 Cassin to see if there is other disclosures
09:42:09 10 that reflect on what is disclosed in
09:42:12 11 paragraph 146.

09:43:24 12 Yeah, for example, just sitting
09:43:26 13 here now, I'm noticing in paragraph 165 that
09:43:31 14 "the database 640 will return only those items
09:43:34 15 which have not already been downloaded to the
09:43:35 16 client computer, rather than a comprehensive
09:43:38 17 list of all media content items to which a user
09:43:42 18 of the client computer may be entitled."

09:43:45 19 So clearly there is some other
09:43:46 20 specification details that reflect back on what
09:43:50 21 is disclosed in paragraph 146.

09:43:54 22 Q. What paragraph number were you
09:43:59 23 referring to?

09:44:00 24 A. 165. And, again, I'm happy to do
09:44:03 25 this analysis today. It's just I don't recall

09:44:07 1 having addressed this before.

09:44:09 2 Q. All right. So you're not prepared
09:44:11 3 to -- you were not prepared coming into this
09:44:15 4 deposition to answer questions relating to the
09:44:20 5 subject matter disclosed in Cassin?

09:44:25 6 MR. MATULEWICZ-CROWLEY: Objection
09:44:25 7 to form.

09:44:26 8 A. No, I disagree with that
09:44:27 9 characterization. I am prepared. And I
09:44:31 10 prepared a comprehensive declaration responding
09:44:34 11 to opinions of Mr. Wechselberger. And I'm
09:44:37 12 willing -- happy even -- to answer any
09:44:41 13 questions about the scope of the claims of the
09:44:46 14 '559 patent, what is disclosed in Cassin.

09:44:49 15 But if not, we're straying into
09:44:52 16 material that was not addressed either in my
09:44:53 17 declaration or the declaration of
09:44:55 18 Mr. Wechselberger. It might just take a little
09:44:59 19 more time, but I'm willing to spend that time
09:45:01 20 today.

09:45:02 21 Q. Yes, I understand that. But
09:45:05 22 coming into this deposition, as of right now,
09:45:13 23 your analysis on whether the database contains
09:45:16 24 media content files is not complete, right?

09:45:19 25 MR. MATULEWICZ-CROWLEY:

09:45:20 1 Objection. Form. Scope. And
09:45:23 2 relevance.
09:45:24 3 A. I disagree with that
09:45:26 4 characterization. And I just offered in
09:45:29 5 realtime some additional information about what
09:45:32 6 is stored and returned from the database 640,
09:45:37 7 for example, as disclosed in paragraph 165.
09:45:39 8 I'm happy to continue this analysis, if you
09:45:41 9 want to ask me literally any other questions
09:45:45 10 about this.

09:45:46 11 Q. So in 165, as you said, the
09:45:50 12 database 640 will return only those items that
09:45:53 13 have not been downloaded to the client
09:45:55 14 computer. So wouldn't that necessarily mean
09:45:59 15 that there are media content items available in
09:46:02 16 database 640?

09:46:25 17 MR. MATULEWICZ-CROWLEY:
09:46:26 18 Objection. Form. And scope. And I
09:46:28 19 want to be clear that I object to kind
09:46:31 20 of this whole line of questions as
09:46:32 21 outside the scope of the proceeding and
09:46:37 22 his declaration.

09:47:19 23 MS. CARRANO: To respond to your
09:47:20 24 objection, we disagree with that
09:47:21 25 characterization. So let me repeat the

09:47:23 1 question for Dr. Goodrich.

09:47:27 2 Q. In paragraph 165, as you said, the
09:47:29 3 database 640 will return only those items that
09:47:33 4 have not been downloaded to the client
09:47:35 5 computer. Wouldn't that necessarily mean that
09:47:39 6 there are media content items available in
09:47:42 7 database 640?

09:47:44 8 MR. MATULEWICZ-CROWLEY: Same
09:47:45 9 objections.

09:47:48 10 A. No. For example, if you go to
09:47:50 11 Figure 8, which now we're talking about the
09:47:52 12 first protocol, this reference in paragraph 165
09:47:56 13 is a reference back to the step 830 and also
09:48:03 14 the steps 880 and 885.

09:48:07 15 So in step 830, the database
09:48:09 16 responds with a list of all media content items
09:48:12 17 to which the user is entitled. And then it
09:48:18 18 says in step 880 that the client computer
09:48:21 19 accepts the first media content from the server
09:48:23 20 computer if the client does not already have
09:48:25 21 the media content item, and the server computer
09:48:28 22 stores in the database an indication that the
09:48:31 23 first media content item has been successfully
09:48:35 24 delivered to the computer.

09:48:36 25 And then what we were reading in

09:48:37 1 paragraph 165, and is what's coming after that,
09:48:44 2 that now, thus, when the server queries the
09:48:46 3 database about which items to offer for future
09:48:50 4 download to the computer, the database will
09:48:52 5 only return those items that have not already
09:48:54 6 been downloaded.

09:48:57 7 But here when it says "only return
09:48:59 8 those items," in this context a person of
09:49:03 9 ordinary skill in the art would understand that
09:49:05 10 this is returning a list of items, not the
09:49:07 11 literal content itself. So this does not imply
09:49:11 12 from this paragraph that the database contains
09:49:14 13 media content.

09:49:25 14 Q. Let's look at paragraph 167 which
09:49:28 15 has corresponding language pertaining to
09:49:33 16 Protocol 2.

09:49:34 17 A. I am there.

09:49:35 18 Q. So Paragraph 167 provides that:

09:49:41 19 "After the media content items
09:49:45 20 have been successfully delivered, in
09:49:47 21 step 950, the step 960 may be performed
09:49:51 22 as an additional option, in which the
09:49:55 23 server computer stores in the database
09:49:56 24 640 an indication that the media content
09:50:00 25 item has been successfully downloaded to

09:50:02 1 the client computer."

09:50:03 2 Do you follow that so far?

09:50:05 3 A. Yes.

09:50:05 4 Q. So continuing in paragraph 167, it

09:50:08 5 says:

09:50:09 6 "Thus, when the server queries the

09:50:12 7 database about which items to offer for

09:50:15 8 future download to the client computer,

09:50:20 9 the database 640 will return only those

09:50:24 10 items which have not already been

09:50:26 11 downloaded to the client computer,

09:50:29 12 rather than a comprehensive list of all

09:50:33 13 the media content items to which the

09:50:36 14 user of the client computer may be

09:50:38 15 entitled."

09:50:39 16 Did I read that correctly?

09:50:41 17 A. Yes.

09:50:42 18 Q. So in paragraph 167, this pertains

09:50:49 19 to the second protocol, right?

09:50:51 20 A. I agree.

09:50:52 21 Q. And it says that "the database 640

09:50:55 22 will return only those items which have not

09:50:58 23 already been downloaded to the client

09:50:59 24 computer." So wouldn't those items necessarily

09:51:02 25 be media content items that were not already

09:51:05 1 downloaded to the client computer?

09:51:07 2 MR. MATULEWICZ-CROWLEY:

09:51:07 3 Objection. Form.

09:51:08 4 A. No. Because this is now in the
09:51:11 5 context of referring back to step 930 where the
09:51:15 6 database respond to the first list of all
09:51:18 7 content to which the user of the client
09:51:21 8 computer is entitled.

09:51:22 9 And then, likewise, now in step
09:51:27 10 960, the server computer stores in the database
09:51:31 11 an indication that the media content item has
09:51:33 12 been successfully delivered to the client
09:51:35 13 computer.

09:51:36 14 So now, then, again referring back
09:51:40 15 to that step 930, because it talks about how
09:51:43 16 this can repeat, the thing when this is
09:51:46 17 repeated, it will only respond with a list of
09:51:49 18 the media content items that the user is
09:51:55 19 entitled and has not already downloaded. And
09:51:59 20 that's even clear from the sentence that you
09:52:00 21 read that ends at the end of paragraph 167.

09:52:04 22 Q. And where is that list coming
09:52:06 23 from?

09:52:06 24 A. The list comes from the database
09:52:12 25 640.

09:52:13 1 Q. So that list identifies at least
09:52:29 2 one piece of content available from the source,
09:52:32 3 right?

09:52:33 4 MR. MATULEWICZ-CROWLEY:

09:52:34 5 Objection. Form.

09:52:34 6 A. No. No, it does not. Because of
09:52:41 7 that extra limitation "from the source."

09:52:44 8 Q. So where would this list be coming
09:52:46 9 from, then, if it's not coming from the source?

09:52:50 10 A. I -- I -- a person of ordinary
09:52:53 11 skill in the art when reading Claim 1, when it
09:52:57 12 says "Wherein the server status information
09:53:02 13 comprises a listing of at least one piece of
09:53:04 14 content available from the source," would
09:53:07 15 understand that that is referring to content
09:53:09 16 available from the source.

09:53:15 17 They're merely being told the name
09:53:17 18 of a movie is not enough, for example. It
09:53:21 19 would have to know that now that movie is
09:53:23 20 something that is available from the source.

09:53:27 21 Your question was asking just is
09:53:30 22 the list itself sufficient. In my opinion, no.

09:53:34 23 Q. Wouldn't this list that's being
09:53:56 24 returned from the database be indicating what
09:54:00 25 media content items are available from the

09:54:03 1 source?

09:54:06 2 A. No. That's what we've been
09:54:09 3 discussing all day it seems; that, in my
09:54:13 4 opinion, that does not satisfy that language.

09:54:16 5 So, for example, going with the
09:54:18 6 mapping that Mr. Wechselberger made, I respond
09:54:21 7 to that in paragraphs 102 to 105 in my
09:54:24 8 declaration.

09:54:26 9 And, in my opinion, that same
09:54:28 10 analysis appears to apply to the mapping now
09:54:31 11 that you're offering where the database 640 is
09:54:35 12 the source. But to fully answer that question
09:54:38 13 would require a little more time. I'd want to
09:54:40 14 look at some of the other paragraphs in Cassin
09:54:43 15 to verify my preliminary analysis.

09:54:45 16 Q. So let me try to understand your
09:54:46 17 opinion. Your issue is that it's unclear from
09:54:50 18 Cassin whether a source of content is
09:54:59 19 disclosed.

09:55:00 20 MR. MATULEWICZ-CROWLEY: Objection
09:55:00 21 to form.

09:55:01 22 A. I am not saying that. That
09:55:04 23 mischaracterizes what I'm saying.

09:55:11 24 Q. I'm trying to understand your
09:55:12 25 opinion, because it's not very clear.

09:55:14 1 A. I disagree with that
09:55:15 2 characterization.

09:55:16 3 Q. The issue that you have is that,
09:55:19 4 and maybe you can help clarify this, the issue
09:55:23 5 you have is this language regarding a source of
09:55:25 6 content, right? That's in Claim 1, for
09:55:30 7 example.

09:55:31 8 MR. MATULEWICZ-CROWLEY: Objection
09:55:31 9 to form.

09:55:32 10 A. No. I'm not confused by that
09:55:38 11 language, in my opinion.

09:55:39 12 Q. Let me clarify. Your issue with
09:55:42 13 Cassin is that it does not, in your opinion,
09:55:48 14 does not disclose server status information
09:55:53 15 regarding a source of content. The operative
09:55:57 16 language being "source of content" is what you
09:56:00 17 have an issue with; is that right?

09:56:01 18 A. No. That also mischaracterizes
09:56:04 19 what I've been saying.

09:56:08 20 I'm taking issue with the
09:56:11 21 "wherein" clause being disclosed in Cassin:
09:56:15 22 "wherein the server status information
09:56:17 23 comprises a listing of at least one piece of
09:56:19 24 content available from the source."

09:56:27 25 Q. So then you don't have an issue

09:56:29 1 that a source of content -- let me back up.

09:56:32 2 So you don't have an issue that
09:56:35 3 server status information regarding a source of
09:56:38 4 content, that part is disclosed in Cassin with
09:56:41 5 respect to Protocol 2.

09:56:44 6 MR. MATULEWICZ-CROWLEY: Objection
09:56:44 7 to form.

09:56:45 8 A. No, that also mischaracterizes
09:56:47 9 what I'm saying.

09:56:47 10 Instead, what I'm saying is I took
09:56:49 11 the full phrase "server status information
09:56:51 12 regarding a source of content, wherein the
09:56:54 13 server status information comprises a listing
09:56:56 14 of at least one piece of content available from
09:56:59 15 the source."

09:57:02 16 Q. I'm just trying to pinpoint where
09:57:04 17 exactly you have the issue with Cassin in this
09:57:07 18 claim term. So is it the "available from the
09:57:09 19 source" part of it that you have an issue with?

09:57:12 20 A. In a nutshell, yes. That's what
09:57:15 21 I'm speaking to in paragraphs 102 to 105, for
09:57:40 22 example.

09:57:40 23 Q. All right. So let's go back to
09:57:42 24 paragraph 166 of Cassin.

09:57:49 25 A. I am there.

09:57:58 1 Q. So moving on to step 940, Cassin
09:58:03 2 discloses:
09:58:03 3 "In step 940, the server computer
09:58:07 4 sends the first list to the client
09:58:09 5 computer. Thereafter, in step 945, the
09:58:13 6 client computer identifies those media
09:58:15 7 content items on the first list that it
09:58:19 8 does not already have in the local
09:58:21 9 content repository. In step 940 [sic],
09:58:26 10 the client computer would send a second
09:58:29 11 list of only those media content items
09:58:32 12 contained in the first list that it
09:58:34 13 currently does not have stored in the
09:58:37 14 local content repository."

09:58:40 15 Did I read that correctly?

09:58:42 16 A. No.

09:58:43 17 Q. Let me try that again.

09:58:48 18 So paragraph 166 of Cassin
09:58:52 19 discloses, in part:

09:59:02 20 "In step 940, the server computer
09:59:06 21 sends the first list to the client
09:59:08 22 computer. Thereafter, in step 945, the
09:59:12 23 client computer identifies those media
09:59:14 24 content items on the first list that it
09:59:17 25 does not already have in the local

09:59:20 1 content repository 685."

09:59:27 2 Did I read that correctly?

09:59:29 3 A. Yes.

09:59:31 4 Q. So this second list from the
09:59:34 5 client computer to the server is information
09:59:46 6 regarding the terminal, right?

09:59:48 7 A. (Document review.) So I speak to
10:02:05 8 this now in the context of Claim 7, 13, and 19
10:02:10 9 in paragraphs 106 through 114.

10:02:19 10 Q. So I just want to clarify my
10:02:21 11 question so you make sure you're answering my
10:02:23 12 question, not a question that you're wanting --
10:02:26 13 whatever question you want to answer.

10:02:27 14 My question is very simple. I'm
10:02:29 15 just asking the second list sent from the
10:02:32 16 client computer to the server, as disclosed in
10:02:35 17 paragraph 166 of Cassin, is information
10:02:39 18 regarding the terminal, right?

10:02:43 19 MR. MATULEWICZ-CROWLEY:

10:02:44 20 Objection. Form.

10:02:44 21 A. I'm sorry, I was looking at claim
10:02:58 22 language. And what claim language are you
10:03:00 23 referring to now?

10:03:01 24 Q. I'm not referring to any claim
10:03:03 25 language. So I need you to really listen to

10:03:06 1 the question that I'm asking and not looking at
10:03:08 2 things that I'm not pointing you to.

10:03:13 3 I'm just asking you that second
10:03:15 4 list sent from the client computer to the
10:03:18 5 server, as disclosed in 166 of Cassin, is
10:03:22 6 information regarding the client computer, or
10:03:26 7 the terminal, right?

10:03:29 8 MR. MATULEWICZ-CROWLEY:

10:03:29 9 Objection. Form. And, Aliza, I think
10:03:33 10 we can all acknowledge he's doing his
10:03:36 11 best to answer your questions fully and
10:03:37 12 accurately, and I think we're getting a
10:03:41 13 little bit into badgering, so I'd
10:03:42 14 appreciate it if you did not. You can
10:03:46 15 continue.

10:03:46 16 A. I'm sorry, I'm not understanding
10:03:49 17 the context of your question, because
10:03:52 18 "terminal" is a claim term.

10:03:54 19 Q. So let's back up a little bit. So
10:03:58 20 "terminal" could mean a client computer, right?

10:04:01 21 A. I agree.

10:04:02 22 Q. So the second list sent from the
10:04:04 23 client computer to the server, as disclosed in
10:04:07 24 paragraph 166 of Cassin, is information
10:04:12 25 regarding the client computer, right?

10:04:14 1 A. And I'm not understanding the
10:04:18 2 context of your question. It sounded like
10:04:21 3 earlier you were asking this question apart
10:04:23 4 from the claim language. Am I
10:04:25 5 misunderstanding?

10:04:27 6 Q. I've clarified the question. So
10:04:29 7 maybe there was some ambiguity earlier. So I'm
10:04:34 8 trying to ask -- I'm trying to clarify the
10:04:36 9 question; all right? So let's try this again.
10:04:38 10 So there is no specific context. I'm just
10:04:41 11 asking you a question.

10:04:42 12 So the second list sent from the
10:04:45 13 client computer to the server, as disclosed in
10:04:48 14 paragraph 166 of Cassin, is information
10:04:55 15 regarding the client computer, right?

10:05:03 16 MR. MATULEWICZ-CROWLEY: Objection
10:05:04 17 to form.

10:05:04 18 A. So that depends on the context.
10:05:06 19 So if by "information" you mean just zeros and
10:05:10 20 ones, yes, it's zeros and ones.

10:05:12 21 If now you're asking this apart
10:05:14 22 from the claims of the '559 patent, it's
10:05:20 23 information in the information theoretic sense.
10:05:24 24 But it's information about what the client
10:05:27 25 computer does not have.

10:05:29 1 Q. Information that the client
10:05:32 2 computer does not have is still information
10:05:33 3 about the client computer, right?
10:05:35 4 A. That depends on the context.
10:05:41 5 Q. So if the client computer is
10:05:43 6 sending a list identifying content that it
10:05:48 7 doesn't have, that's providing information to
10:05:52 8 the server that here's the content that I don't
10:05:57 9 have, correct?
10:05:59 10 A. That's -- that's a tautology.
10:06:03 11 Yes, I agree with that statement.
10:06:05 12 Q. So the second list sent from the
10:06:08 13 client computer to the server, as disclosed in
10:06:12 14 paragraph 166, to provide context, of Cassin,
10:06:17 15 is simply information regarding the client
10:06:20 16 computer, right?
10:06:20 17 A. That depends on the context of
10:06:24 18 what you mean by "information" and "client
10:06:28 19 computer," whether or not we're asking this in
10:06:30 20 the context of '559 patent, for example.
10:06:34 21 Q. Let me see if this clarification
10:06:36 22 helps. The second list sent from the client
10:06:38 23 computer to the server, as disclosed in
10:06:39 24 paragraph 166 of Cassin, is information about
10:06:45 25 the client computer, right?

10:06:50 1 A. That also depends on the context.
10:06:52 2 If we're talking about information in the
10:06:54 3 context of any of the claim language for the
10:06:59 4 '559 patent, for example, or in a completely
10:07:01 5 different context such as in the Kolmogorov
10:07:06 6 complexity sense.

10:07:08 7 Q. So I'm not using any claim terms
10:07:10 8 here. I mean, of course there are some words
10:07:13 9 in my question that may overlap. But in the
10:07:18 10 plain and ordinary meaning of the words that
10:07:21 11 I'm using is the context in which I'm asking.
10:07:25 12 So this should be a pretty simple question. So
10:07:28 13 I just want to make sure we're on the same
10:07:30 14 page.

10:07:31 15 So the second list sent from the
10:07:33 16 client computer to the server, as disclosed in
10:07:35 17 paragraph 166 of Cassin, is information
10:07:50 18 regarding the client computer, right?

10:07:55 19 I'm not sure what other word to
10:07:57 20 use to describe "information," other than it's
10:08:00 21 just information.

10:08:01 22 A. Are you including --

10:08:02 23 MR. MATULEWICZ-CROWLEY: Objection
10:08:03 24 to form. Just to be clear. Sorry.
10:08:05 25 Continue.

10:08:05 1 A. And just for clarification, are
10:08:07 2 you including in your definition of
10:08:08 3 "information," the full breadth of information
10:08:12 4 theory including Kolmogorov complexity, or are
10:08:16 5 you more narrowly focused on the '559 patent?

10:08:20 6 Q. I'm just using "information" as
10:08:22 7 one would use in normal speak. So we've got
10:08:26 8 information. And so what I'm asking here is
10:08:28 9 that second list of media content items
10:08:36 10 contained -- the second list which identifies
10:08:39 11 only those media content items contained in the
10:08:42 12 first list that it currently does not have
10:08:46 13 stored in the local repository. So that's
10:08:49 14 just -- that's going to be a list of media
10:08:54 15 content items, right?

10:08:55 16 A. Correct. It's things that are not
10:08:58 17 stored on the client computer.

10:09:01 18 Q. So what's --

10:09:02 19 A. So depending on the context. In
10:09:05 20 some context that would not be considered
10:09:07 21 information about the client computer, because
10:09:10 22 it's literally about stuff that's not stored on
10:09:13 23 the client computer. It's not revealing any
10:09:17 24 state information, for example, about the
10:09:19 25 client computer. But perhaps in the Kolmogorov

10:09:22 1 complexity sense, which it sounds like you're
10:09:24 2 not asking about, but I went there, that there
10:09:26 3 may be some other context completely apart from
10:09:29 4 the '559 patent where that would be considered
10:09:35 5 information in the information theory
10:09:38 6 Kolmogorov complexity sense. But it sounds
10:09:39 7 like you're not asking that question, so that
10:09:41 8 probably is off the table.

10:09:43 9 So in that sense, no, it would not
10:09:45 10 be information about the client computer,
10:09:46 11 because it's about things that are not stored
10:09:47 12 on the computer.

10:09:50 13 Q. So let's just back it up. So
10:09:59 14 we've got a second list of only those media
10:10:02 15 content items contained in the first list that
10:10:02 16 the client computer does not have stored in its
10:10:04 17 local repository. So that's going to be a list
10:10:07 18 of -- that could be a list of titles, right?

10:10:10 19 A. I agree.

10:10:11 20 Q. So you've got a list of titles
10:10:15 21 going from the client computer to the server
10:10:20 22 computer, right? That's the second list.

10:10:22 23 A. I agree.

10:10:26 24 Q. And so that list of items in the
10:10:29 25 second -- so that second list that contains

10:10:33 1 items that are not in the client computer would
10:10:40 2 indicate to the server that here's the list of
10:10:45 3 titles that the client computer does not have,
10:10:48 4 right?

10:10:48 5 A. I agree. But that does not
10:10:52 6 necessarily comprise information about the
10:10:54 7 client computer, depending on the context.

10:10:57 8 Q. So you've opined that a person of
10:11:28 9 ordinary skill as of the date of the '559
10:11:32 10 patent could have "at least a bachelor's degree
10:11:35 11 in Computer Science or related area and two
10:11:39 12 years of experience in developing software
10:11:40 13 tools and/or computer systems for use in online
10:11:44 14 content management and provisioning," correct?

10:11:48 15 A. That sounds right. I speak to
10:12:11 16 this in paragraph 62 of my declaration, and
10:12:14 17 then I state:

10:12:15 18 "This description is approximate,
10:12:17 19 and more work experience could
10:12:19 20 compensate for less education or more
10:12:21 21 education could compensate for less work
10:12:24 22 experience. "

10:12:26 23 Q. So if a person of ordinary skill
10:12:42 24 in the art was designing a media content
10:12:44 25 delivery system and had the Cassin reference,

10:12:49 1 you would agree that that person of ordinary
10:12:52 2 skill could easily modify the second protocol,
10:12:56 3 so that instead of identifying those media
10:13:00 4 content items that it does not already have,
10:13:03 5 the client device could determine what media
10:13:06 6 content items it currently has stored, and send
10:13:11 7 to the server a list of those media content
10:13:13 8 items that it does have.

10:13:15 9 MR. MATULEWICZ-CROWLEY:

10:13:16 10 Objection. Form.

10:13:17 11 A. If by "easily" you mean that there
10:13:21 12 would be an expectation of success with such a
10:13:23 13 modification, I disagree.

10:13:25 14 So, for example, the media that a
10:13:29 15 client could already have could be voluminous.
10:13:34 16 Whereas, the media items that now are being
10:13:38 17 sent as a list to the device for possible
10:13:44 18 consideration could be short. Hence, sending
10:13:48 19 the full list of all the media items that it
10:13:51 20 already has could be overwhelming and could
10:13:54 21 break the system.

10:13:55 22 So, in my opinion, it would not be
10:13:58 23 obvious to make that choice, and that there
10:14:01 24 would not be an expectation of success.

10:14:03 25 Q. Where you're saying "voluminous,"

10:14:07 1 I mean, how many files would be voluminous?

10:14:11 2 Because, remember, we're at the time of the

10:14:14 3 '559 patent. This is, you know, back in --

10:14:19 4 back in 2003. How many files would be

10:14:26 5 considered voluminous to a person of ordinary

10:14:32 6 skill in the art?

10:14:32 7 A. That depends on context. So

10:14:35 8 "voluminous," like you said, does depend on the

10:14:37 9 years and the capacity of the devices. So into

10:14:41 10 this hypothetical now would require additional

10:14:44 11 details.

10:14:48 12 Again, this goes to the lack of

10:14:50 13 expectation of success.

10:14:51 14 Q. If the number of files that could

10:14:59 15 be stored in a client device at the time of the

10:15:05 16 '559 patent was not a voluminous amount,

10:15:10 17 wouldn't a person of ordinary skill in the art

10:15:13 18 modify the second protocol, then, in that

10:15:16 19 instance to identify those media content items

10:15:21 20 that it has currently stored instead of those

10:15:24 21 that it doesn't have?

10:15:26 22 MR. MATULEWICZ-CROWLEY:

10:15:26 23 Objection. Form.

10:15:27 24 A. No. Because, additionally, there

10:15:33 25 is also the issue of bandwidth in the

10:15:36 1 communication channel, and that might also be
10:15:39 2 limited.

10:15:39 3 So, for example, a client computer
10:15:42 4 can respond just with individual bits for each
10:15:46 5 of the items in the list of things that were
10:15:49 6 sent to it to say whether or not -- to say that
10:15:53 7 these are the ones that I do not have.

10:15:56 8 Whereas, to then respond with a full list of
10:15:59 9 all the content it does have, could now be a
10:16:03 10 lot with respect to the bandwidth of the
10:16:06 11 communication.

10:16:07 12 Q. But couldn't that consideration go
10:16:09 13 either way? Because, say, if the client
10:16:13 14 computer doesn't have a lot of content in it,
10:16:18 15 and the list of items available to the client
10:16:22 16 computer could be a long list, what's sent back
10:16:31 17 from Cassin in the second protocol to the
10:16:34 18 server would then be a long list of all the
10:16:38 19 content items that it doesn't have. So that
10:16:41 20 consideration was already considered in the
10:16:47 21 design of the second protocol of Cassin,
10:16:49 22 correct?

10:16:50 23 A. No.

10:16:51 24 MR. MATULEWICZ-CROWLEY:

10:16:51 25 Objection. Form.

10:16:52 1 A. No. For example, in the second
10:16:53 2 protocol of Cassin, the server already responds
10:16:57 3 with the first list to the client computer of
10:16:59 4 all the media items that are available to the
10:17:04 5 client. So that's already been set.

10:17:06 6 So this presumes now that both the
10:17:09 7 memory of the client device and the bandwidth
10:17:13 8 of the communication is sufficient to handle
10:17:15 9 that first list. Hence, telling the server
10:17:19 10 computer back even just bits, one bit for each
10:17:26 11 item that it does not have to send back, to say
10:17:28 12 these are the items I do not have would be
10:17:31 13 small and available. That is clearly defined
10:17:35 14 in Figure 9.

10:17:36 15 But now to do the converse and
10:17:39 16 send it all the media items that it does have,
10:17:42 17 would not be obvious and could break the
10:17:44 18 system.

10:17:46 19 Q. So is it your opinion that it
10:18:00 20 wouldn't even be obvious to try to modify
10:18:05 21 Cassin's second protocol to have the client
10:18:11 22 computer send a list of items that it does have
10:18:16 23 as opposed to a list of items that it does
10:18:19 24 have? I'm sorry, a list of -- let me start
10:18:27 25 that over. Scratch that.

10:19:51 1 MS. CARRANO: Let's take a short
10:19:53 2 break.

10:19:53 3 THE WITNESS: Okay.

10:19:55 4 (Proceedings recessed at
10:19:55 5 10:19 a.m., and reconvened at 10:30
10:30:33 6 a.m.)

10:30:33 7 MS. CARRANO: I have no further
10:30:34 8 questions for you, Dr. Goodrich. Pass
10:30:36 9 the witness.

10:30:37 10 THE WITNESS: Thank you.

10:30:38 11 MR. MATULEWICZ-CROWLEY: I have no
10:30:40 12 questions.

10:30:41 13 (Time Noted: 10:30 a.m.)

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C E R T I F I C A T E

I, MICHAEL T. GOODRICH, PH.D., do
hereby certify that I have read the
foregoing transcript of my testimony, and
further certify that it is a true and
accurate record of my testimony (with the
exception of the corrections listed below):

Page	Line	Correction
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Signed under the pains and penalties of
perjury this day of ,
2024.

MICHAEL T. GOODRICH, PH.D.

C E R T I F I C A T E

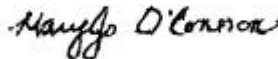
COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

I, MaryJo O'Connor, a Notary Public
in and for the Commonwealth of
Massachusetts, do hereby certify:

That MICHAEL T. GOODRICH, PH.D.,
the witness whose testimony is hereinbefore
set forth, was duly sworn by me and that
such testimony is a true and accurate record
of my stenotype notes taken in the foregoing
matter to the best of my knowledge, skill
and ability.

IN WITNESS WHEREOF, I have hereunto
set my hand and Notarial Seal this 7th day
of February 2024.



MARYJO O'CONNOR, RDR/RMR
Notary Public

My Commission expires:
September 12, 2025