1

2 UNITED STATES PATENT AND TRADEMARK OFFICE

3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4 Case IPR2023-00757

5 Patent No. 8,989,715

6 ----------x

7 NETFLIX, INC.,

8 Petitioner,

9

10 - against -

11

12 GOTV STREAMING, LLC,

13 Patent Owner.

14 ----------x

15 April 2, 2024

16 11:30 a.m.

17

18 Remote video-teleconference

19 deposition via Zoom of STUART LIPOFF,

20 pursuant to Notice, before Jineen Pavesi,

21 a Registered Professional Reporter,

22 Registered Merit Reporter, Certified

23 Realtime Reporter and Notary Public of the

24 State of New York.

25

Netflix v. GoTV
IPR2023-00757
Netflix Ex. 1025

1

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25

1

2 S T U A R T L I P O F F having
3 been first duly sworn remotely upon
4 agreement of all counsel, as hereinafter
5 certified, was examined and testified as
6 follows:
7 EXAMINATION BY
8 MR. MARSHALL:
9 Q. Good morning, Mr. Lipoff.
10 A. Good morning, Mr. Marshall.
11 Q. Can you please state your full
12 name for the record.
13 A. Yes.
14 First name is Stuart,
15 S-T-U-A-R-T, last name Lipoff,
16 L-I-P-O-F-F.
17 Q. What's the city and state of
18 your current residence?
19 A. I am currently in Las Vegas,
20 Nevada.
21 Q. Mr. Lipoff, you've given
22 testimony several times in the past,
23 correct?
24 A. I have, yes.
25 Q. So you probably know the rules

1 LIPOFF
2 of the road here, but do you understand
3 that you're under oath today?
4 A. I do.
5 Q. It's important to give audible
6 answers so the court reporter can take
7 those down, is that all right?
8 A. I understand.
9 Q. It's important that we don't
10 talk over each other, so I will ask you to
11 let me finish my question before you start
12 to answer and I'll wait for you to answer
13 before I start again, understood?
14 A. Understood.
15 Q. If you need to take a break
16 please let me know.
17 But if there is a question
18 pending I'd ask you to finish your answer
19 before requesting a break, okay?
20 A. Okay.
21 Q. If you answer my question, I
22 will assume you've understood my question,
23 all right?
24 A. Okay.
25 Q. Is there any reason you can't

1 LIPOFF
2 give truthful and accurate testimony
3 today?
4 A. Nothing I'm aware of.
5 Q. This is a long question, so
6 bear with me.
7 Do you understand that you're
8 here today to answer questions regarding
9 your declarations that accompanied GoTV's
10 patent-owner responses regarding U.S.
11 Patent No. 8,989,715 in IPR No. IPR
12 2023-00757, U.S. Patent No. 8,478,245 in
13 IPR No. IPR 2023-00758, and U.S. Patent
14 No. 8,103,865 in IPR No. IPR 2023-00759?
15 A. That is my understanding, yes.
16 Q. If I refer to the IPRs in the
17 plural, will you understand that I'm
18 referring to these three proceedings?
19 A. I understand.
20 Q. Did you receive deposition
21 notices for each of the IPRs that you're
22 here today to testify?
23 A. I think it was one document,
24 but, yes, all three were mentioned.
25 Q. Very good, thank you.

1 LIPOFF
2 Do you understand that we're
3 holding this one deposition regarding all
4 three declarations?
5 A. That's my understanding, yes.
6 Q. What did you do to prepare for
7 the deposition today?
8 A. Well, I reviewed my report, my
9 declarations, I should say, I looked at
10 some of the cited exhibits and references,
11 and I spent a significant part of last
12 week doing that and I had a conference
13 call yesterday with Mr. Wyde.
14 Q. Just a little bit of
15 housekeeping here to make sure we're on
16 the same page.
17 If I refer to the '715 patent,
18 will you understand that I'm talking about
19 U.S. Patent 8,989,715?
20 A. Yes.
21 Q. If I refer to the '245 patent,
22 will you understand I'm talking about U.S.
23 Patent 8,478,245?
24 A. Yes.
25 Q. And if I refer to the '865

1 LIPOFF
2 patent, will you understand that I'm
3 talking about U.S. Patent 8,103,865?
4 A. I understand, yes.
5 Q. I'm going to go ahead and mark
6 the '715, it was previously marked Exhibit
7 1001 in the 757 IPR; I've dropped that in
8 the exhibits folder.
9 Can you all see that?
10 A. I need to leave the screen,
11 but, yeah, I see it, sir.
12 Q. Mr. Lipoff, do you recognize
13 the document just entered as the '715
14 patent that you provided a declaration
15 for?
16 A. Yes.
17 If it's okay, let me get the
18 hard copy, it's pretty hard to see on the
19 screen.
20 Q. Of course.
21 (Pause.)
22 Q. And if you have the '245 and
23 '865 patent there, you might grab those as
24 well.
25 A. Okay.

1 LIPOFF
2 They are in different books.
3 Q. Sorry about that.
4 (Pause.)
5 A. Okay, I have hard copies of all
6 three patents here in front of me.
7 Q. Very good, all right.
8 The '715 patent that you've got
9 there, is that the same '715 patent on
10 which you offered some opinions?
11 A. Yes.
12 Q. I am also going to drop into
13 the exhibit folder the '245 patent and
14 that is previously marked Exhibit 1001 in
15 the 758 IPR.
16 A. Yes, I have that as well with
17 that exhibit number.
18 Q. Is that the same '245 patent on
19 which you offered opinions in the
20 proceedings?
21 A. Yes.
22 Q. I'm also going to drop into the
23 exhibit folder the '865 patent, which was
24 previously marked Exhibit 1001 in the 759
25 proceeding.

1 LIPOFF
2 Does the copy that you've got
3 there match the '865 patent on which you
4 offered an opinion in this proceeding?
5 A. Yes, although when I look at
6 that exhibit folder, I only see the '715.
7 Q. I think you may have to hit
8 your F5 key or refresh.
9 A. Oh, okay.
10 (Witness complying.)
11 A. Nothing has changed -- oh,
12 here we go, I see them now.
13 Q. Very good.
14 Marching along through this,
15 you also discuss some prior art references
16 raised by Netflix in your declarations, is
17 that correct?
18 A. Yes, I did.
19 Q. I am going to drop into the
20 exhibit folder what's been previously
21 marked as Exhibit 1006 in the 757 IPR.
22 Mr. Lipoff, that's Hariki, and
23 then we're going to go to Harris next.
24 A. I see the Hariki and the Harris
25 references that are in that marked exhibit

1 LIPOFF
2 folder.
3 Q. Very good.
4 The Hariki reference that you
5 have there, that's the Hariki reference
6 that you discuss in your declaration, is
7 that right?
8 A. That's correct.
9 Q. And then you're one step ahead
10 of me; I also dropped into the exhibit
11 folder what has previously been marked
12 Exhibit 1007 in the 757 IPR.
13 Is that the Harris reference
14 that you discuss in your declarations?
15 A. That's correct.
16 Q. I've already done it, but if I
17 refer to Hariki, will you understand that
18 I'm talking about U.S. Patent Application
19 Publication No. 2007/0150617?
20 A. Yes.
21 Q. If I refer to Harris, will you
22 understand that I'm talking about U.S.
23 Patent Application Publication No.
24 2003/0023755?
25 A. Yes.

1 LIPOFF
2 Q. You discuss Harris in your
3 declarations, is that right?
4 A. That's correct.
5 Q. Did you interpret Harris
6 consistently in each of the declarations?
7 A. I believe so, yes, I tried.
8 Q. You discussed Hariki in each of
9 your declarations as well, is that
10 correct?
11 A. That's correct.
12 Q. Did you interpret Hariki
13 consistently in each of the declarations?
14 A. Yes, I tried to.
15 Q. Very good.
16 One last exhibit for you for
17 now; I'm going to put into our exhibit
18 folder what's previously marked Exhibit
19 2022 in the 757 IPR and that's your '715
20 declaration.
21 A. Okay.
22 Q. After this I won't make you
23 reach for your books for a little while.
24 A. Yes, that's okay, I had that
25 one on top.

1 LIPOFF
2 Q. Of course this Exhibit 2022 in
3 the 757, you recognize that as your '715
4 declaration?
5 A. Yes, Exhibit 2022, yes.
6 Q. If I could ask you to turn to
7 page 56, do you see Section D?
8 A. Yes.
9 Q. Here you address the claim term
10 customized to set application, is that
11 right?
12 A. Yes, that's the title of that
13 section.
14 Q. This addresses certain claim
15 limitations that you identified here,
16 1(b), 9(b) and 17(b), is that right?
17 A. 1(b), 9(b) and 17(b), correct.
18 Q. You're welcome to flip through
19 as needed, but in this section are you
20 saying here that there has to be a
21 one-to-one relationship between the
22 claimed custom configuration and the
23 claimed application?
24 A. Well, I'm not sure what you
25 mean by a one-to-one relationship.

1 LIPOFF
2 What I say here is the
3 application -- the custom configuration
4 means created for the application.
5 Q. Would you say the customized to
6 set application means the custom
7 configuration was created for an
8 application?
9 A. Yes, so the claim limitation is
10 customized to set application, so my
11 understanding is it means, as I say here
12 in paragraph 121, means that the custom
13 configuration was created for the
14 application.
15 Q. Is that to say that the custom
16 configuration has to be unique to a
17 particular application?
18 A. I hadn't really thought about
19 whether -- it's possible that two
20 different applications might have the same
21 custom configuration, it's not something I
22 considered, but at the very least the
23 custom configuration that's the subject of
24 this claim term has to have been created
25 for the application that's running.

1 LIPOFF
2 Q. I am just trying to understand,
3 if it's created for a particular
4 application, does that exclude the
5 possibility that it could be used by a
6 different application?
7 A. I hadn't considered one way or
8 the other whether it's a possibility that
9 some elements of the custom configuration
10 might or might not be also applied with
11 another application.
12 The scope of what I was dealing
13 with was the claim term and the claim term
14 is telling you that the custom
15 configuration was created for the
16 application and so you start with the
17 application and you create the custom
18 configuration, and if there is another
19 application, you would start with the
20 application, you would create the custom
21 configuration for that.
22 Q. I see.
23 So you haven't necessarily
24 opined on whether the custom configuration
25 that's created for one application might

1 LIPOFF
2 be the same as the custom configuration
3 created for another application, it's just
4 that in each instance there has to be a
5 creation step, is that correct?
6 A. I have not considered the
7 possibilities the custom configuration
8 that was created for one application might
9 also have some elements for a completely
10 separate application, there might be some
11 overlap, that's not something I
12 considered.
13 Q. In your declaration you mention
14 that you were at the District Court trial,
15 is that right?
16 A. Yes, I was for most of it; I
17 didn't stay until the very end.
18 Q. Do you recall that GoTV's
19 position was that movie box art, the image
20 from a movie that used to appear on the
21 cover of a DVD or VHS box, do you recall
22 that that is what GoTV relied on for
23 satisfying the custom configuration, from
24 your experience at trial?
25 A. I'm sorry, I don't recall that

1 LIPOFF
2 particular presentation.
3 Q. For the sake of completeness,
4 Mr. Lipoff, I am going to drop into the
5 folder, the exhibit folder, your '245
6 declaration, that was previously marked
7 Exhibit 2022 in the 758 IPR.
8 A. Okay, let me get that out.
9 (Pause.)
10 Q. Do you have the '245
11 declaration?
12 A. I have a copy of it, I haven't
13 seen it yet, let me see if it's in the
14 folder.
15 I don't see it in the folder,
16 but I have a copy of it.
17 Q. Let me try that again.
18 (Pause.)
19 Q. Do you see it in the folder
20 now, just to make sure we have everything
21 in there that should be?
22 A. Let me refresh it and see if
23 it's there.
24 (Pause.)
25 A. Yes, I see both the '715 expert

1 LIPOFF
2 declaration and the '245 expert
3 declaration, Exhibit 2022.
4 Q. Very good.
5 Coming back to our discussion
6 here about customized to set application,
7 you've offered a similar opinion regarding
8 the meaning of this term as it appears in
9 the claims of the '245 patent, is that
10 right?
11 A. I believe I had the same
12 opinion on all of them; if you want to
13 refer me to that section of the '245, I'll
14 take a look to make sure.
15 Q. Sure, yes, I think it's page 42
16 of the '245 declaration.
17 A. Okay.
18 (Witness perusing document.)
19 A. Yes, they're referring to --
20 some of the claims are slightly different,
21 but the concept is the same.
22 '245, it's referring to claims
23 1(b), 12(b) and 23(f).
24 Q. So would you agree that your
25 analysis for those limitations of the '245

1 LIPOFF
2 patent generally track your analysis for
3 1(b), 9(b) and 17(b) of the '715 patent?
4 A. Relative to the term customized
5 to set application, yes, I would agree.
6 Q. Let's turn back to the '715
7 declaration and if you can let me know
8 when you're there, paragraph 122.
9 A. Okay.
10 You directed me to paragraph
11 122, is that correct?
12 Q. Correct.
13 A. I am there.
14 Q. In here, in this paragraph 122,
15 you quote column 3 from lines 9 to 11, do
16 you see that?
17 A. I see that, yes.
18 Q. And you quote from the patent
19 "server may identify a custom
20 configuration to be used."
21 That doesn't say identify the
22 one and only one custom configuration to
23 be used, does it?
24 A. You read that correctly.
25 Q. You'll agree that the

1 LIPOFF
2 quotations that you have in this paragraph
3 122, none of them indicate that there is
4 only one custom configuration that can be
5 used for an application, correct?
6 A. Well, I disagree with your
7 interpretation.
8 As I say here in paragraph 122,
9 the server chooses a custom configuration
10 with the application in mind, the patent
11 issues that each application may have a
12 corresponding custom configuration and I
13 do quote to column 16, 50 to 53, and
14 column 19, 25 to 29.
15 So as I conclude here in
16 paragraph 122, when I read the claim
17 limitations with the specification in mind
18 and understanding of what the patent owner
19 was trying to express, my understanding is
20 a custom configuration is one that was
21 specifically designed with the application
22 in mind.
23 Q. You mention this quotation from
24 column 16, where it says "may have a
25 corresponding custom configuration."

1 LIPOFF
2 Isn't the "may" in that phrase,
3 isn't that somewhat flexible or
4 permissible?
5 A. I don't understand that to be
6 the case; I understand that in light of
7 how the entire claim term is being used,
8 in light of the specification, that the
9 patent is teaching that the custom
10 configuration is one that was customized
11 to the application.
12 The application is first
13 identified and then associated with that
14 is a custom configuration which was
15 created for the application.
16 Q. When you say the application is
17 identified, is that based on the request
18 from the client device?
19 A. It's based upon -- well, claim
20 1(b) is -- states that the custom
21 configuration is associated with an
22 application and so in the '715 patent it
23 would be the application that is currently
24 running, the application that's currently
25 running in the system would be the one

1 LIPOFF
2 that the custom configuration would have
3 been designed for.
4 Q. To be clear -- sorry, go
5 ahead.
6 A. And, again, you have to read
7 the entire claim 1, it says that there is
8 an execution of an application -- the
9 application as it existed in claim 1 is
10 the same application in every one of the
11 claim limitations.
12 So reading the entirety of
13 claim 1, it is telling you that there is
14 an execution -- there is an application
15 which is executing and that application
16 has associated with it a custom
17 configuration which has been customized or
18 designed to render content in a manner
19 customized to the application.
20 Customized and the application
21 are linked together.
22 Q. To be clear, you're not saying
23 that the custom configuration is
24 necessarily created at the first execution
25 or simultaneous to execution of the

1 LIPOFF
2 application, is that right?
3 A. I'm not opining on how a
4 variety of different things happen in the
5 system prior to or after the limitations
6 are in the claim.
7 The claim 1 here at issue is
8 basically identifying and executing
9 application and, read in its entirety, is
10 telling me that that application has
11 associated with it a custom configuration
12 which was created with the application in
13 mind and that when the application is
14 running it's, as other limitations in the
15 claim term say, it's using the rendering
16 blocks that have been configured by the
17 custom configuration as limitation 1(g)
18 indicates.
19 So my understanding of the
20 particular claim 1(b) and the custom
21 configuration is based upon my
22 understanding of the entire claim 1,
23 reading it in light of the specification.
24 Q. You'll agree with me that the
25 '715 patent teaches a situation in which

1 LIPOFF
2 the custom configuration already exists on
3 the client device and at the time of
4 execution of the application there is just
5 an identification of the custom
6 configuration to be used sent back to the
7 client?
8 A. The '715 patent specification,
9 consistent with claim 1, does not say
10 exactly when the custom configuration is
11 installed or configured on the device.
12 But in order to practice the
13 claim as it's written, the custom
14 configuration needs to be there before the
15 application starts sending content to the
16 rendering blocks.
17 So the possibility is the
18 patent allows for the fact that the custom
19 configuration could have been installed on
20 the device before the end user identifies
21 the application or it could be something
22 that's sent, that's configured on the
23 device, after the end user identifies the
24 application.
25 But in any event, before the

1 LIPOFF
2 application starts generating content,
3 which is targeted to the rendering blocks,
4 the custom configuration needs to be
5 resident on the device.
6 Q. Let's turn to paragraph 142 of
7 the declaration, that's page 65.
8 Are you there?
9 A. Page 65, oh, okay, I went too
10 far.
11 (Pause.)
12 A. Okay, I'm there.
13 Q. You've actually said this
14 morning a couple of times, and it's in
15 this paragraph as well, the custom
16 configuration is made with the application
17 in mind.
18 Here in the paragraph 142
19 you're making reference to the Texas
20 Hold'em example, do you see that?
21 A. I see that, yes.
22 Q. When you say that it's made
23 with the application in mind, what do you
24 mean by that, to have it in mind?
25 A. Well, the custom configuration

1 LIPOFF
2 is a -- it configures a plurality of
3 rendering blocks, that's what it does, and
4 the rendering blocks are the things, are
5 the target, of the compiled content.
6 And so the rendering blocks
7 have to be able to support the output of
8 the application.
9 So in my paragraph 142 I
10 identify an example such as Texas Hold'em,
11 which is giving the end user a virtual
12 experience of playing poker and there's
13 various aspects of playing poker that
14 involve displaying graphics, such as suits
15 of cards.
16 So there would be custom
17 configuration rendering blocks that would
18 support the -- configure the suits of
19 cards, spades, clubs, diamonds, hearts,
20 and so forth.
21 Q. You would agree with me, then,
22 that in that Texas Hold'em example, the
23 custom configuration impacts the display
24 on the phone, right, with those suits that
25 you just mentioned, correct?

1 LIPOFF
2 A. The custom configuration not
3 just in this application, the custom
4 configuration, as the patent uses the term
5 and as it appears in claim 1, is resident
6 configured on the actual device and the
7 application that's sending content to that
8 device is sending compiled content to the
9 rendering blocks of the custom
10 configuration to render content on the
11 device.
12 Q. In fairness, Mr. Lipoff, the
13 custom configuration configures the
14 rendering blocks to output the compiled
15 content in a certain manner, is that
16 right?
17 A. The custom configuration
18 consists of the rendering blocks that are
19 associated with that application.
20 Q. So ultimately the custom
21 configuration comes to bear, if you will,
22 in the display shown to the end user on
23 the phone, is that right?
24 A. No, I would not agree with
25 that.

1 LIPOFF
2 The custom configuration can
3 include rendering blocks which are not
4 necessarily limited to display.
5 Q. That's fair, because there are
6 audio files and perhaps others to consider
7 as well, is that what you've got in mind?
8 A. That as well as other
9 rendering blocks allowing for user input
10 and other things.
11 But reading just claim 1(b) by
12 itself, it consistently makes the point
13 that the custom configuration configures a
14 plurality of rendering blocks to render
15 content.
16 So the custom configuration is
17 what is described in the patent as
18 configuring the plurality of rendering
19 blocks.
20 Q. Later in paragraph 142, it's
21 actually the very first line on page --
22 let me start over.
23 At the top of page 66 of your
24 '715 declaration you say, "The UI skin is
25 specific to items executing on the phone,"

1 LIPOFF
2 do you see that?
3 A. I see that, yes, you read that
4 correctly.
5 Q. Would you agree that the UI
6 skin, Hariki, impacts what is displayed on
7 the phone?
8 A. The UI skin can impact, yes,
9 the UI skin can impact what's being
10 displayed on the phone.
11 Q. Is your understanding of the UI
12 skin that it arrives at the phone through
13 one means or another and then layers
14 configuration information onto the phone
15 such that it is then as a display
16 according to that UI skin?
17 A. I want to make sure I
18 understand your question.
19 I think you're asking me when
20 the UI skin is resident on the phone, will
21 it affect display of what's shown on the
22 phone, and I think I answered that; the
23 answer is yes.
24 Q. In the patent you'll agree with
25 me, correct, that the rendering blocks on

1 LIPOFF
2 the phone are not part of the Texas
3 Hold'em application it's executing on the
4 server?
5 A. The rendering blocks are
6 resident on the phone.
7 They have been selected as part
8 of the custom configuration based upon the
9 Texas Hold'em application, but the
10 application referred to in paragraph 142
11 is being executed remotely, not on the
12 phone, and is generating compiled content
13 which is being sent through the phone and
14 the target of the compiled content or
15 rendering blocks.
16 Q. Let's turn to paragraph 144 in
17 your declaration.
18 A. I see that.
19 Q. Is it accurate to say that
20 you're opining here that the UI authoring
21 tool and the web server at least can
22 reside on the same computer in Hariki, do
23 you agree with that?
24 A. I'm sorry, I missed the last
25 part of your question, just repeat that.

1 LIPOFF
2 Q. Would you agree that the UI
3 authoring tool and the web server can at
4 least reside on the same computer in
5 Hariki?
6 A. Well, Hariki provides a couple
7 of different examples of where the web
8 server can exist.
9 It shows one example, just
10 referring to Figure 1 of Hariki, it shows
11 one example of where the authoring tool
12 and the web server can be on the same
13 computer.
14 It shows another example where
15 in Figure 1, item 106, which is a web
16 server, can be on a computer that does not
17 include the user interface tool.
18 But in both cases, both cases
19 in Figure 1, they're addressing the same
20 application that's in application 122
21 which is shown running on the phone in
22 Hariki.
23 Q. In Hariki and in this section
24 of your declaration, you seem to challenge
25 the notion that the UI authoring tool and

1 LIPOFF
2 the web server can work together in any
3 way.
4 Is that a fair
5 characterization?
6 A. Well, you know, I think my
7 words are pretty precise here.
8 I say that just because the two
9 pieces of software reside on the computer
10 doesn't make them part of a suite and
11 there's no disclosure that I can find in
12 Hariki that the web server and authoring
13 tool interact in any way.
14 The authoring tool is
15 associated with creating the UI skin and
16 not associated with the process of the end
17 user requesting content, which comes from
18 the web browser.
19 There's no indication that any
20 of the user interaction with the remote
21 server or the --
22 THE COURT REPORTER: I didn't
23 hear you.
24 A. Let me try that again.
25 There is no indication in

1 LIPOFF
2 Hariki that the web server that's sending
3 content to the web browser in Hariki in
4 any way is requesting anything from the UI
5 content server, which is an item that's
6 shown in Figure 5 of Hariki, they're
7 completely separate systems that don't
8 interact while the application is being
9 employed in Hariki.
10 I should say, to be clearer, to
11 what Netflix identifies as the application
12 in Hariki, which is in some cases
13 identified as the web browser, in some
14 cases identified as web server, but
15 regardless of which one that Netflix
16 identifies as the application in Hariki,
17 the UI authoring tool is operating
18 essentially independently, not interacting
19 in any way.
20 Q. There is some discussion here
21 and perhaps in the petition too, but the
22 word suite, that it's a suite of tools,
23 you seem to take particular issue with
24 that, is that right?
25 A. I do have some discussion here

1 LIPOFF
2 about well-accepted definition of suite,
3 that is correct.
4 Q. It seems to me that you're
5 taking particular issue with the notion
6 that the UI authoring tool and the web
7 server can be part of the same suite, but
8 you're not excluding the possibility that
9 two programs on the same computer can work
10 jointly together without being part of a
11 suite necessarily, is that right?
12 A. No, I don't agree with that.
13 I think I was fairly clear in
14 my paragraph 144 that what a suite means,
15 it means a set of computer programs
16 designed to work together and sold as a
17 single unit.
18 So working together has a
19 variety of different aspects associated
20 with it.
21 What I am saying here in
22 paragraph 144, the fact they happen to
23 reside on the same computer, as one of the
24 embodiments in Hariki shows, does not mean
25 they are a suite, because they would have

1 LIPOFF
2 to work together.
3 Q. Setting aside the notion of a
4 suite, you wouldn't go so far as to say
5 that two programs that are not part of a
6 suite could still work together to
7 accomplish a common task?
8 A. My definition of a suite is
9 that it's a set of computer programs
10 designed to work together and usually sold
11 as a single unit.
12 The word usually there I think
13 allows for some possibilities, but simply
14 being sold as a single unit does not make
15 them a suite.
16 They first of all have to be a
17 set of computer programs that are designed
18 to work together and in this case work
19 together means interaction with respect to
20 the running of the application.
21 Q. I'm sorry to belabor this.
22 What I'm wondering, Mr. Lipoff,
23 you would agree, wouldn't you, that I can
24 have two programs on a computer, not sold
25 together, that can still work together,

1 LIPOFF
2 wouldn't you?
3 A. There is a possibility of
4 having two different programs interact
5 with each other that are not sold
6 together, it's not something that I
7 considered in forming any of my opinions.
8 Q. We are a little under an hour,
9 would you like to take a short break?
10 A. Sure, if this is a convenient
11 time, tell me how long.
12 Q. Five, ten minutes; as long as
13 you would like.
14 A. I have 9:25, do you want to
15 pick up again at 9:30, is that okay?
16 Q. Sure.
17 (Recess taken.)
18 BY MR. MARSHALL:
19 Q. Mr. Lipoff, can I actually have
20 you turn back in your declaration to page
21 45 and do you see Section B there?
22 A. Yes, I'm there.
23 Q. You seem to suggest in this
24 section that the term application should
25 be understood to mean remote application

1 LIPOFF
2 in part because of the concept of
3 transmitting, do you see that?
4 A. I do, but to be clear here,
5 this is referring to the recited
6 application in the '715 patent and I'm not
7 referring to how that term may be used in
8 any of the references.
9 I believe that all the claims
10 in the '715 patent require the recited
11 application.
12 THE COURT REPORTER: I can't
13 hear you.
14 A. What I said was application, as
15 Mr. Marshall has just addressed me to in
16 page 45, refers to the recited application
17 in the '715 patent and does not
18 necessarily refer to how application may
19 be used in any of the references of Hariki
20 or Harris.
21 Q. That's fair, Mr. Lipoff.
22 Perhaps if I clarify my
23 question and said, you know, is it
24 accurate that you are saying the claimed
25 application, application, the term as it

1 LIPOFF
2 appears in the claims, should be
3 understood to mean remote application?
4 A. It means the application that
5 is currently the subject of the claims of
6 the '715.
7 Q. And in this paragraph 98 you
8 reference the concept of transmitting, do
9 you see that?
10 A. Yes, I do.
11 Q. And that seems to inform your
12 understanding of the claim term
13 application, is that right?
14 A. It certainly is one of the
15 things that I cite in this section of my
16 report which inform the recited
17 application needs to run remotely because
18 it needs to transmit the compiled content,
19 which is specific to the first and second
20 page of the application.
21 So that is at least one aspect
22 that's informing me, as limitation 1(c) on
23 this page indicates, transmitting the
24 compiled content means that has to come
25 from somewhere that's outside of the

1 LIPOFF
2 device.
3 Q. Do programs on the same system
4 not send data to each other?
5 A. The programs which are running
6 on a self-contained device of course do
7 have a number of steps that involve
8 reading and writing registers and making
9 operations on those registers.
10 In the context of this
11 particular system, I don't consider that
12 transmission or sending, so I would say in
13 the context of this particular patent I
14 don't consider the operations are wholly
15 contained within a program running on a
16 device to involve the transmission or
17 sending.
18 Q. Just to be clear, you said just
19 a moment ago operations that are wholly
20 contained within a program running on a
21 device.
22 What if I had multiple programs
23 running on a device that are exchanging
24 information, is that also not a
25 transmission in your understanding of the

1 LIPOFF
2 patent?
3 A. The way transmission is used
4 here in the patent is transmission is
5 associated with compiled content, which is
6 sent from an application to the device
7 which is targeting rendering blocks that
8 have been configured by the custom
9 configuration.
10 So, no, I do not believe that
11 the interaction between a program or
12 multiple programs on one device would
13 constitute transmission as it's used here
14 in this claim.
15 Q. Is it your view that one of
16 skill in the art would interpret
17 transmitting in these claims to require
18 crossing some system boundary basically?
19 A. Well, this particular claim
20 term in which the word transmitting
21 appears is transmitting to said wireless
22 device compiled content.
23 The content would by necessity
24 have to be coming from somewhere outside
25 the wireless device, otherwise it couldn't

1 LIPOFF
2 be transmitting to the wireless device.
3 Q. You mentioned the claims a
4 moment ago, feel free to reference the
5 '715 patent, do you have it?
6 A. Let me check -- yes, I'm
7 sorry, I did remove the patents from the
8 binder, I have copies here.
9 Q. I think a few moments ago,
10 Mr. Lipoff, you said that the claims here
11 require the application to transmit
12 compiled content.
13 Looking at claim 1 of the '715
14 patent, where do you see that it is the
15 application that must transmit to the
16 wireless device?
17 (Witness perusing document.)
18 A. So on this particular page 45
19 that you directed me to, I'm referring to
20 claim 1(c) of the patent and claim 1(c)
21 indicates that you're transmitting to the
22 wireless device compiled content and then
23 the claim goes on to say where the
24 compiled content is specific to a first
25 page of the application and a second page

1 LIPOFF
2 of the application, so this is informing
3 me that what's being transmitted is the
4 compiled content which is being generated
5 by the application.
6 Because, although it's not part
7 of 1(c), I also refer on page 45 to 1(d),
8 where it's indicating that the compiled
9 content is generated from the execution of
10 the application.
11 Q. Even accepting that the
12 compiled content is generated in part from
13 execution of the application, is there
14 language in claim 1 that expressly states
15 that the application transmits, that it
16 does the transmission itself?
17 A. Well, I would say looking at
18 claim 1(c) and 1(d) in the entirety tells
19 me that the execution of the application
20 generates compiled content, that's 1(d),
21 and then 1(c) indicates its compiled
22 content is transmitting to the wireless
23 device.
24 So the transmission to the
25 wireless device follows from the

1 LIPOFF
2 application, the application executing or
3 generating the compiled content, which is
4 then transmitted to the wireless device.
5 Q. From that you infer that the
6 application transmits to the client
7 device, is that right?
8 A. I would say that the actual
9 code that may be running within the
10 wireless device that handles
11 communications protocols and so on and so
12 forth, you know, would need to be invoked
13 by the execution of the application.
14 So the result -- in order to
15 create a transmission of the wireless
16 device, you have to create the compiled
17 content and the compiled content is
18 created -- generated from the execution
19 of the application as claims 1(c) and 1(d)
20 indicate.
21 Q. If I could have you jump in
22 your '715 declaration to page 68, it
23 appears you have some additional analysis
24 on the transmission step, is that right?
25 A. Let me just see where that is.

1 LIPOFF
2 (Witness perusing document.)
3 A. So page 68 is addressing claims
4 1(c), 9(c) and 17(c) regarding the web
5 browser.
6 Q. Right, claim limitation 1(c)
7 and related, but now is applied to
8 Netflix's scenario where the web browser
9 is the claimed application, right?
10 A. That's correct, yes, it's one
11 of the -- I guess I would describe it as
12 two theories that Netflix has as to what
13 the claimed application is; in one theory
14 they identify the web browser as being the
15 claimed application.
16 Q. In paragraph 151 you seem to be
17 saying that the board is wrong in its
18 finding that a server transmitting HTML
19 could meet this limitation 1(c), is that
20 right?
21 A. Well, I don't disagree with the
22 first sentence in paragraph 151, because I
23 would agree, and I think the board
24 understands, that a browser can request,
25 can send a request to something remotely

1 LIPOFF
2 such as a server to transmit the HTML
3 files.
4 I don't disagree with it, I'm
5 just saying it's not relevant because
6 that's not what the claim requires.
7 If Netflix is correct that the
8 browser is the application, set
9 application in the claims, and if that's
10 the case, the browser does not transmit
11 HTML files, so I don't disagree with the
12 board's description of how a browser and a
13 server will interact, I just don't believe
14 it's relevant to reading anything on the
15 claim because the claim doesn't require
16 requesting or prompting the transmission,
17 it requires the actual transmission to the
18 extent the HTML, as Netflix identifies, is
19 the compiled content.
20 Q. In your response you reference
21 the request of HTML from the browser, but
22 you also address in that same sentence the
23 server transmitting HTML files.
24 Would you give the same
25 explanation as to that part of the

1 LIPOFF
2 sentence too?
3 A. Well, again, I want to make
4 sure I understand your question.
5 The board's description, as the
6 first sentence in my paragraph 151
7 indicates, is something I agree with, that
8 the web browser may request HTML files
9 from a server, a web server in this case.
10 And in response to the request
11 from the browser, the server, web server,
12 can transmit HTML files to the browser
13 that's running in the device.
14 So I don't disagree with that;
15 it's just not relevant to the claim, which
16 requires that the compiled content is
17 addressing the client and the web browser
18 does not transmit HTML, the web browser,
19 which is resident in the device, is not
20 transmitting anything, it's not
21 transmitting any of the compiled content
22 because Netflix identifies a compiled
23 content as the HTML files and that's not
24 being generated by the web browser, which
25 Netflix identifies as the application, so

1 LIPOFF
2 it doesn't meet the claim limitations.
3 What Netflix identifies as the
4 application, the web browser, and
5 identifies the HTML files as the compiled
6 content, do not correspond to those terms
7 as used in the claim limitation.
8 Q. If I can have you switch over
9 to your '245 declaration and turn to page
10 44 for me.
11 (Witness complying.)
12 A. Okay, I have a hard copy of the
13 '245 declaration in front of me, what page
14 do you want me to go to?
15 Q. Page 44, please.
16 A. Let me get the '245 patent here
17 as well.
18 (Witness complying.)
19 A. I'm on page 44 of the '245.
20 Q. Just to set the stage a little
21 bit, in the big picture the claims of the
22 '715 patent tend to be on the side of
23 things being transmitted to the client
24 device and the '245 patent claims tend to
25 be on the side of receiving, the receiving

1 LIPOFF
2 side of the information.
3 As a general matter would you
4 agree with that?
5 A. Yes, the '245 uses the word
6 receiving with respect to both the custom
7 configuration and the compiled content.
8 Q. Right, whereas the '715 is
9 transmitting custom configuration and
10 compiled content, the '245 is receiving
11 the custom configuration and compiled
12 content, for example?
13 A. Well, to be precise, both
14 patents refer to an identification of the
15 custom configuration.
16 Q. On page 44 of your '245
17 declaration, you're addressing that same
18 opinion about the application, the claimed
19 application needing to run remotely, do
20 you see that?
21 A. I just want to be sure; you're
22 referring to my paragraph 92?
23 Q. Yes, that section, that's
24 right.
25 A. Yes, okay.

1 LIPOFF
2 So in this section of the
3 report I make a parallel argument to what
4 I had in the '715, that the concept of
5 receiving pages at a wireless client
6 requires that content needs to be external
7 to the client before it's sent, that is,
8 it needs to be remote.
9 Q. Just as I asked you about the
10 transmitting limitation in the '715
11 patent, you make a similar argument here
12 that the compiled content has to be
13 received from the claimed application in
14 the '245 patent, claim 1, is that right?
15 A. The opinions that I offer in
16 the '715 and '245 with respect to the
17 reason why the recited application needs
18 to run remotely are parallel to each
19 other.
20 In both cases the compiled
21 content needs to be something that's
22 external to the wireless device, the
23 wireless client, the wireless device,
24 wireless client running and the wireless
25 device, it needs to come from a source

1 LIPOFF
2 that's external in order for it to be
3 transmitted to in the case of '715, or
4 received by in the case of the '245.
5 Q. Looking specifically at claim 1
6 of the '245, is it your opinion that the
7 compiled content, for example, has to be
8 received from the claimed application?
9 A. The compiled content is
10 generated at least in part from the
11 execution of the application and the
12 application is running remotely.
13 So, yes, the compiled content,
14 at least some aspects of the compiled
15 content, need to be coming from the
16 execution of the application.
17 Q. Would you say that claim 1
18 requires the application to transmit
19 compiled content such that it is received
20 by the client device?
21 A. Claim 1 of the '245 requires
22 that the compiled content be received from
23 an external source which is generating it
24 remotely, being received from a remote
25 source which is generating it.

1 LIPOFF
2 Q. And then just to be complete,
3 Mr. Lipoff, in your declaration where you
4 address this, page 68, you're also
5 addressing limitations 9(c) and 17(c) --
6 strike that.
7 To be complete, Mr. Lipoff, in
8 your '245 declaration, where you're
9 addressing this on page 44, you're also
10 applying that same analysis to claims
11 limitations 12(c) and 23(b), correct?
12 A. Yes, 1(c), 12(c) and 23(b),
13 which received -- yes, that's correct.
14 Q. You can set that '245
15 declaration aside again.
16 If I can have you turn back to
17 where we were in your '715 declaration,
18 that was page 68.
19 A. I've got the document, back on
20 the '715.
21 Q. Sorry about that.
22 A. That's okay, I'm there.
23 Q. Page 68, paragraph 148, if
24 you're there.
25 A. I see that, yes.

1 LIPOFF
2 Q. In this paragraph you give a
3 little bit of an overview of HTTP and
4 HTML, is that right?
5 A. I do refer to the operation,
6 why they're different concepts, yes.
7 Q. I think earlier you agreed that
8 a web browser can transmit an HTTP request
9 to a server, right?
10 A. Yes, I don't know if I agreed
11 to it previously, but my paragraph 148
12 does indicate the output of a browser, the
13 interaction of a browser with a server is
14 the browser outputs HTTP request to the
15 server.
16 Q. Presumably the server would
17 respond to the request from the web
18 browser, right?
19 A. If the server is able to answer
20 that query and things are operating
21 properly, it would be generating a
22 response to that request.
23 Q. If the browser requested a
24 static web page, for example, you would
25 expect the server to respond with that

1 LIPOFF
2 static web page if it had it, is that
3 right?
4 A. Yes, a static web page could be
5 the target of a particular HTTP request,
6 yes.
7 Q. Assuming the server had the
8 static web page, the server would respond
9 to the web browser's request for it,
10 right?
11 A. In normal operation, assuming
12 there weren't authentication issues or
13 some other reason for blocking it.
14 Normally an HTTP request would
15 normally cause the web browser -- web
16 server to send a response to the web
17 browser.
18 Q. How about in the instance where
19 the browser requests a dynamic page, how
20 does that work?
21 A. In the way dynamic page is
22 being used in the context of the '715
23 patent, the HTTP request would go to the
24 server, the server would then access part
25 of the information that would be included

1 LIPOFF
2 in the HTML response from other
3 information sources which are not static
4 and would compile them into an HTML
5 message that includes the combination of
6 static backgrounds and dynamic content
7 into a single HTML file and then it would
8 send that file to the web browser.
9 Q. So if I'm understanding you,
10 the server would construct the resulting
11 page in response to the browser requests,
12 is that what you're saying?
13 A. Yes, generally speaking, if
14 things are operating normally, without any
15 privilege or security issues, whatever the
16 browser requests the web server would
17 attempt to construct.
18 The HTML content, from whatever
19 information sources are available to it,
20 typically some combination of static
21 content, and in the case of a dynamic
22 page, some dynamic content that it would
23 retrieve back at the server and at the
24 time the HTML page is being constructed.
25 Q. Could I have you turn to

1 LIPOFF
2 paragraph 162 of the '715 declaration
3 that's on page 74.
4 (Witness complying.)
5 A. Yes, I see that.
6 Q. This begins Section D and I
7 think here you're addressing the layout
8 solver limitation, is that right?
9 A. I believe, yes, 17(c), it's one
10 of the limitations in claim 17, yes.
11 Q. In this section are you saying
12 that the layout solver must be part of the
13 application?
14 (Witness perusing document.)
15 A. Well, the application is
16 generating content and that content is
17 passing -- is being furnished to the
18 layout solver, which is taking that
19 generic content and making it specific to
20 the device.
21 So it's in the pathway between
22 the content being generated by the
23 application and what is then being sent
24 from the remote source to the wireless
25 device.

1 LIPOFF
2 I don't know how you're using
3 the term as being part of the application,
4 I think to be precise it's one of the
5 elements in the patent that's responsible
6 for processing the content that's
7 generated by the application.
8 Q. The layout solver does not
9 necessarily have to be logically contained
10 within the application, is that right?
11 A. Well, how it's actually -- how
12 the code is actually written with respect
13 to what's running on the remote system is
14 not something that I looked at.
15 But the layout solver as it's
16 identified in the patent is something that
17 can accept content from any library of
18 applications, that is, any one
19 application.
20 So the layout solver would not
21 necessarily be specific to an application,
22 it's something that would work as part of
23 the library of applications.
24 Q. I think we're getting to the
25 same place here.

1 LIPOFF
2 I'm looking at Figure 5 in your
3 declaration, you've got it on page 39, I
4 apologize for making you jump back and
5 forth in your declaration, but do you see
6 that, you have an annotated copy.
7 A. I see that, yes.
8 Q. All I'm driving at, Mr. Lipoff,
9 is, would you agree that the layout solver
10 is at least a functionally separate part
11 of the claim system, functionally separate
12 from the application in the claim?
13 A. In Figure 5 of the patent,
14 which is on page 39 of my declaration, the
15 layout solver is shown as a separate block
16 in Figure 5.
17 Q. In the same respect, as you
18 read through the claims as one of skill in
19 the art, you don't necessarily understand
20 the claims to expressly require that the
21 application and layout solver are both
22 part of the same program, is that fair?
23 A. No, I wouldn't describe them in
24 that sense.
25 The server, remote server 90 in

1 LIPOFF
2 Figure 5 may have a single body of
3 software that's responsible for doing
4 everything that's in Figure 5.
5 But I would agree that in
6 Figure 5, the layout solver is shown as a
7 block that's separate from the library of
8 applications.
9 Q. Looking at that limitation
10 17(c), or take claim 17 as a whole --
11 A. I'm sorry, could you give me
12 the page reference that we were on before
13 I turned the page.
14 Q. Certainly, if you could turn
15 back to page 74 of your declaration.
16 (Witness complying.)
17 A. I'm there now, yes.
18 Q. In your reading of claim 17,
19 must the layout solver be a part of the
20 claimed application or could it be part of
21 a separate program so long as the rest of
22 the limitations of the claim are met?
23 A. Well, what would qualify a part
24 of the remote system as being the layout
25 solver would be it has to be something

1 LIPOFF
2 that transmits a compiled content to the
3 wireless device, that's -- the claim
4 itself describes what the layout solver's
5 function is.
6 And if it is involved in
7 accepting generic content coming out of
8 the template in Figure 5 and turning that
9 in the compiled content and then sending
10 it to the wireless device, that would
11 constitute something that's a layout
12 solver.
13 If it doesn't do that, it's not
14 a layout solver.
15 Q. Regardless of whether it is
16 part of the claimed application or not?
17 A. I don't know how to -- I
18 believe your question is ambiguous as to
19 what that means, to be part of the
20 application.
21 Layout solver is performing
22 functions in the remote server associated
23 with processing the compiled content from
24 the application and then transmitting it
25 to the wireless device, that's what the

1 LIPOFF
2 layout solver is, it's a block within the
3 remote server that's interacting with the
4 application which is generating the
5 content.
6 Q. Let's move over, if we could,
7 to your '865 declaration.
8 I will put into our exhibit
9 folder what has been previously marked
10 Exhibit 2005 in the 759 IPR.
11 A. I don't think I removed that
12 from the pile, so let me go retrieve that.
13 Q. Of course.
14 (Witness complying.)
15 A. I've got that here in front of
16 me.
17 Q. Let me ask you to turn to
18 paragraph 109 on page 52.
19 A. I see that, that's in the
20 interpretation of terms section of my
21 report.
22 Q. That's right.
23 Would you agree that this is
24 part of Section D, eliminate means
25 removed, do you see that?

1 LIPOFF
2 A. That's correct.
3 Q. In paragraph 109 you cite the
4 example of audio content being eliminated
5 from the template, is that right?
6 A. Yes, I'm there.
7 In paragraph 109 I cite to a
8 portion of the '865 specification in
9 column 3.
10 Q. As part of the specification,
11 it addresses an example of eliminating
12 audio content from the template, is that
13 right?
14 A. Yes, it says if the server
15 determines the wireless device has no
16 audio capability, the content related to
17 the audio may be eliminated from the
18 template.
19 Q. Expanding on this a little bit,
20 the audio content was included initially
21 in the generic template, is that right?
22 A. Well, I only quoted to a
23 portion of the '865 patent, let me get
24 that out so I can respond to that in
25 context.

1 LIPOFF
2 (Pause.)
3 A. So this portion of the '865
4 patent that I quoted that goes through
5 line 50 talks about the template engine,
6 which is one of the blocks in Figure 5
7 that is creating generic content before
8 it's being passed to the layout solver.
9 This portion of the '865 patent
10 that I quoted indicates that the device
11 profile, which is information shown in
12 Figure 5 that comes into the template
13 engine, is digested by the template engine
14 and the template engine would eliminate
15 from the generic content that it creates
16 any audio that the application had
17 generated, it was being passed to the
18 template engine, it would be removed
19 before it's being sent to the layout
20 solver.
21 Q. I think you've got a depiction
22 of this in paragraph 135, which is page 64
23 of your '865 declaration, is that right?
24 A. That's correct, I'm describing
25 the same column 3 citation that is in

1 LIPOFF
2 paragraph 109, I'm describing it
3 graphically.
4 Q. So maybe merging the two
5 together with the audio example, you start
6 out with the audio in the wireless device
7 generic template, right?
8 A. Yeah, I'm trying to see whether
9 on page 64, whether I actually identify
10 the item that's being eliminated as the
11 audio, so let me just see whether I do.
12 I'm identifying something as,
13 content item B, as being eliminated.
14 Q. And I don't know that you do
15 actually identify it as audio.
16 Ultimately my questions here
17 are just to understand the process and so
18 the audio example was an easy one to use,
19 but if you want to use paragraph 135,
20 that's fine as well.
21 Ultimately the point is that
22 there is, for example, audio content in
23 the wireless device generic template
24 initially, correct?
25 A. I wouldn't say it's in the

1 LIPOFF
2 generic template.
3 I would say that there is audio
4 device -- there is audio information
5 content being sent into the template
6 engine.
7 It would be fair to call it the
8 generic template, yeah, so the application
9 is generating something that I've
10 identified here as a generic template,
11 which the template engine is digesting and
12 it's also digesting the device profile of
13 the wireless device shown in Figure 5 and
14 performing operations to, based upon the
15 wireless device profile, to eliminate any
16 content item that the wireless device
17 profile tells the template engine is not
18 supported by the device and what's coming
19 out of the template engine is the content,
20 item A and C in page 64, but item B, which
21 was not supported, is not coming out.
22 Q. Right, so you have a wireless
23 device generic template, along with the
24 device profile, goes to the template
25 engine and output is a device-specific

1 LIPOFF
2 template, would you agree with that?
3 A. That's what the figure shows,
4 yes.
5 Well, it's device-specific, but
6 still generic, it has not yet passed
7 through the layout solver.
8 So it's specific to the device
9 with respect to not passing content to the
10 device that the device can't render, but
11 at this stage it's still, as the patent
12 describes, generic content.
13 The patent actually calls it
14 device-specific template as opposed to
15 content.
16 Q. The wireless device generic
17 template and the device profile are input
18 into the template engine, output from that
19 is a device-specific template, is that
20 right?
21 A. Correct.
22 Q. So, for example, the way this
23 works, wireless device generic template
24 has an item B, the template engine
25 understands that item B is not supported

1 LIPOFF
2 by this particular device and removes it
3 in outputting the device-specific
4 template.
5 Is that how it works?
6 A. I believe that's correct.
7 Q. Coming back to the notion of
8 elimination, it seems that you're saying
9 in order to eliminate under the claims you
10 have an element that's present in the
11 generic template, that is then ultimately
12 not present in the specific template.
13 Is that your read of
14 elimination?
15 A. I think the concept of
16 elimination as it exists in the patent is
17 that something that the device is
18 incapable of -- that a content item that
19 the device is incapable of rendering is no
20 longer being sent to the device, it is
21 removed or eliminated before it's passed
22 to the layout solver, which then provides
23 the compiled content that actually goes to
24 the device.
25 Q. Fair enough.

1 LIPOFF
2 Prior to getting to the layout
3 solver, it's a matter of being included at
4 the generic template stage, but not
5 included at the device-specific template
6 stage, would you agree?
7 A. I'm sorry, say that again, I
8 was trying to find claim 12, but go ahead,
9 say that again.
10 Q. Sure.
11 Ultimately it's a matter of
12 inclusion in the device-generic template,
13 but no longer being included in the
14 device-specific template based on the
15 device capabilities and so forth?
16 A. Right, but to be clear, the
17 criteria is that it has to be -- what's
18 being eliminated is something that's been
19 determined as no longer compatible with
20 the device capabilities.
21 So the operation of the
22 template engine does not provide for the
23 transformation or mapping of a content
24 item, it provides for the elimination of
25 it based upon the fact that that content

1 LIPOFF
2 item is not compatible as informed by the
3 device profile.
4 Q. Can I ask you to turn to page
5 59 of your '865 declaration, do you see
6 the Section 9 A on this page?
7 A. I'm sorry, I'm there but I'm
8 not sure where you're pointing me to.
9 Q. At the top of page 59 of your
10 declaration is Section XI A.
11 Do you see that?
12 A. Oh, yeah, I'm sorry, Roman
13 Numeral XI, I've got it, yes.
14 Q. In this paragraph 125 you're
15 discussing the UI skin again, but in the
16 context of claim limitation 1(c) and
17 34(a).
18 Do you see that?
19 A. Okay, let me go to 1(c).
20 (Witness perusing document.)
21 A. Okay, you're correct; on page
22 59 in this section I'm addressing claim
23 1(c) and 34(a).
24 Q. In 125 you say, "And there is
25 no teaching that the web server uses or

1 LIPOFF
2 could use the UI skin," do you see that
3 sentence?
4 A. I see that, yes.
5 Q. For clarity, it seems as though
6 you're critiquing the petitioner for
7 failing to show that the web server, under
8 the theory where the web server is the
9 claimed application, uses the UI skin,
10 which I think here would be the proposed
11 custom configuration.
12 A. Was there a question there?
13 Q. Do you follow me so far?
14 A. Could you ask me whatever
15 you're asking in the form of a question so
16 I know what I'm answering.
17 Q. We're talking about that
18 sentence "and there is no teaching" and so
19 forth, right?
20 A. It went out of my head, so
21 could you repeat it again, sorry.
22 Q. Sure.
23 Page 59, paragraph 125, four
24 lines down there is a sentence that starts
25 "and there is no teaching," do you see

1 LIPOFF
2 that?
3 A. I see that, yes.
4 Q. It appears you're discussing
5 petitioner's application of Hariki here,
6 is that right?
7 A. Yes, where petitioner
8 identified the web server as the
9 application program and, referring now to
10 paragraph 124 in my report, my
11 understanding is petitioner identified the
12 UI skin as claim custom configuration and
13 identified the web server as the
14 application program.
15 So what I wrote here in
16 paragraph 125 had in mind my understanding
17 of what petitioner was identifying as the
18 custom configuration in the application.
19 Q. In this sentence that starts
20 "and there is no teaching," you seem to be
21 criticizing the lack of use by the web
22 server of the UI skin, is that right?
23 A. Well, you have to read the
24 paragraph 125 and the rest of my
25 declaration in context, that's one

1 LIPOFF
2 sentence.
3 As I indicate here, because UI
4 skin is not tailored to or written for the
5 web server, and as I indicate elsewhere,
6 it is basically something the web server
7 is unaware of, it cannot meet the criteria
8 for being custom configuration because
9 it's not written to or it's not specific
10 to, not customized to, the application,
11 the web server in this case.
12 Where I say it could not use or
13 could use, it is an indication it's just
14 basically unaware of what the UI skin is;
15 if it's unaware of it, it can't possibly
16 be customized to or written for or be
17 specific to the web server.
18 Q. That's helpful, I just wanted
19 to understand whether you had an
20 additional requirement in mind that the
21 claimed application puts to use for itself
22 the custom configuration on the server.
23 A. Well, '865 patent, irrespective
24 of what the petitioner is claiming, does
25 make use of the custom configuration in

1 LIPOFF
2 rendering what the content of the
3 application generates, it does do that.
4 What the petitioner is
5 identifying as the custom configuration in
6 the application do not correspond to the
7 '865 patent limitations.
8 Q. You wouldn't say that these
9 claims require that the claimed
10 application consumes, you know, uses as
11 input in some fashion the custom
12 configuration, would you?
13 A. The claimed application running
14 remotely is generating content which is
15 targeted to the rendering blocks that were
16 configured by the custom configuration.
17 I think to complete the chain
18 that's how I describe what's happening.
19 MR. MARSHALL: I have no
20 further questions.
21 MR. WYDE: Can I have five
22 minutes to think about this.
23 MR. MARSHALL: Sure.
24 (Recess taken.)
25 EXAMINATION BY

1 LIPOFF
2 MR. WYDE:
3 Q. Mr. Lipoff, would you please
4 turn to page 39 of your '715 declaration,
5 please, and let me know when you get
6 there.
7 Are you there?
8 A. I am there at page 39.
9 Q. Do you see paragraph 82 with a
10 figure below it?
11 A. Yes, I do.
12 Q. What is this figure you have in
13 your declaration generally?
14 A. It's part of the section of my
15 report that describes my understanding of
16 the invention and it's a diagram of the
17 remote system which is generating the
18 compiled content.
19 Q. What do the numbers and circles
20 in the diagram indicate?
21 A. They indicate in the subsequent
22 paragraphs where I refer to a specific
23 block in the diagram.
24 So in the case of paragraph 83
25 I refer to 0.82, the same thing that's in

1 LIPOFF
2 the diagram.
3 Q. For instance, does the
4 magnitude of the number have any meaning,
5 does 1 versus 2 versus 3, is that meant to
6 indicate an order of operation or just
7 designating items in the figure or
8 something else?
9 A. It's just designating items in
10 the figure so that in the subsequent
11 paragraph, where I refer to something like
12 paragraph 85, generic template 3, it makes
13 it clear that the text in my report in
14 paragraph 85 is referring to item 3 on
15 page 39.
16 Q. Do you have an understanding
17 what the arrows in the figure mean?
18 A. I believe I do.
19 They indicate the
20 communications of information from one of
21 the blocks to the other blocks that are in
22 the diagram.
23 Q. Some of the lines have arrows
24 going on one end and some in both ends.
25 Do you have an understanding of

1 LIPOFF
2 what the arrow on one end versus both ends
3 connotes?
4 A. I think generally speaking,
5 although in some systems, some
6 documentation I've looked at, it's not
7 universally observed, but it generally
8 means the arrow that only goes in one
9 direction is only sending information one
10 way; where an arrow that has an arrow head
11 on both ends involves some sort of
12 interchange between the two devices, a
13 two-way interchange, something coming from
14 and something going to.
15 Q. Do you see, in my copy it's
16 pink, a line going from 2 to 7 and it's
17 got a number 5 over it?
18 (Witness perusing document.)
19 A. No, sorry, I'm not sure we're
20 talking about the same thing.
21 Q. It comes out of the top of the
22 box labeled library of applications.
23 A. Oh, yes, I do see that, it's
24 just it's faded so slightly in pink, it's
25 hard to see, yes, I see that.

1 LIPOFF
2 Q. Do you have an understanding of
3 what that line is telling you in this
4 figure?
5 A. Yes.
6 So it's telling the layout
7 solver what the application is that's
8 actually running so that the layout solver
9 will have some information about the
10 application as it conducts its business.
11 Q. And then there is a red line,
12 in my copy it's red, coming out of the
13 bottom of the layout solver, it's going
14 over to client 510, do you see that?
15 A. I see that, yes.
16 Q. Do you have an understanding of
17 what that line would tell a person of
18 ordinary skill in the art?
19 A. Yes, it's -- I labeled it here
20 in fact, I labeled it as the compiled page
21 that's being sent to the client, so it's
22 the output of the layout solver, in this
23 case it's compiled content, and it's being
24 sent to the wireless device in compiled
25 form.

1 LIPOFF
2 Q. Do you see any other pathways
3 from the library of applications over to
4 the layout solver via those arrows?
5 A. Nothing directly.
6 Of course dynamic content and
7 business logic which feed in the template
8 engine do also connect to the layout
9 solver, so the layout solver is receiving
10 -- has three -- actually four different
11 inputs from the library of applications,
12 via 6, which is the static content, and
13 it's also receiving content via No. 6 from
14 the template engine, it's receiving device
15 profiles from the library device profiles
16 and it's receiving information from the
17 decoding system.
18 Q. I didn't mean to limit my
19 question to directly connected.
20 With that understanding, do you
21 see a path from the library of
22 applications to the layout solver?
23 A. Yes, I do.
24 Through the dynamic content
25 from library of applications through the

1 LIPOFF
2 template engine through the layout solver.
3 Q. In paragraph 87, it spans pages
4 40 and 41, you write at the beginning of
5 page 41 that "a compiled page that is sent
6 to the wireless device at 8," do you see
7 that?
8 A. I see that, yes.
9 Q. Who is sending the compiled
10 content, it's using passive voice, do you
11 have an understanding of who is sending
12 that compiled page to the wireless client?
13 A. Yes, it's coming from the
14 layout server.
15 Q. You said layout server, do you
16 mean solver 580?
17 A. Sorry, I called it layout
18 server, I should have called it layout
19 solver 580, yes.
20 Q. Would the layout solver be able
21 to send that compiled content if it didn't
22 receive input from the library of
23 applications?
24 A. No, it has to receive content
25 and so it either can be the static content

1 LIPOFF
2 coming by 5 or it could be the dynamic
3 content combined with the business logic
4 that comes from 2 and 3, but it has to
5 have content that comes into it.
6 MR. WYDE: No further
7 questions.
8 MR. MARSHALL: Nothing further
9 here.
10 (Time noted: 1:51 p.m.)
11
12
13
14 _____
15 STUART LIPOFF
16
17 Subscribed and sworn to before me
18 this ___ day of _____, 2024.
19
20 _____
Notary public
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1
2 C E R T I F I C A T I O N
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5
6 I, Jineen Pavesi, a Registered
7 Professional Reporter, Registered Merit
8 Reporter, Certified Realtime Reporter and
9 a Notary Public, do hereby certify that
10 the foregoing witness, STUART LIPOFF, was
11 duly sworn on the date indicated, and that
12 the foregoing is a true and accurate
13 transcription of my stenographic notes.
14 I further certify that I am not employed
15 by nor related to any party to this
16 action.
17
18 Jineen Pavesi, RPR, RMR
19 JINEEN PAVESI, RPR, RMR, CRR
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Name of Deponent: Stuart Lipoff
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Stuart Lipoff
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23
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24 NOTARY PUBLIC COMMISSION EXPIRES
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