Transcript of Alexander R. Harry

Date: February 27, 2024
Case: Sony Interactive Entertainment LLC -v- Quantum Imaging LLC (PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY INTERACTIVE ENTERTAINMENT LLC,)
Petitioner,)
vs.)
QUANTUM IMAGING LLC,)
Patnet Owner.)

Case No. IPR2023-000995

Patent No. 10,846,941

VIDEOTAPED DEPOSITION OF ALEXANDER R. HARRY

via videoteleconference

Tuesday, February 27, 2024

REPORTED BY: Derek L. Hoagland

CSR No. 13445

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Patent No. 10,846,941

VIDEOTAPED Deposition of ALEXANDER R. HARRY, taken before Derek L. Hoagland, a Certified Shorthand Reporter for the State of California, commencing at 9:03 a.m., Tuesday, February 27, 2024, via videoteleconference.

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E X H I B I T S

EXHIBIT	DESCRIPTION	MARKED
No. 1009	Harry Declaration	12
No. 1008	Phantasy Star Online Video Game Manual	49

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1 9:03 a.m. P R O C E E D I N G S
2
3 THE TECHNICIAN: Thank you to everyone for
4 attending this proceeding remotely, which we anticipate
5 will run smoothly. Please remember to speak smoothly
6 and do your best not to talk over one another. Please
7 be aware we are recording this proceeding for backup
8 purposes. Any off-the-record discussions should be away
9 or in the breakout room. Please remember to mute your
10 mic for those conversations.
11 Please have the video enabled to help the
12 reporter identify who is speaking. If you're unable to
13 connect with video and are connecting via audio only,
14 please identify yourself each time before speaking.
15 I apologize in advance for any technical-related
16 interruptions. Thank you.
17 THE VIDEOGRAPHER: Please stand by for the video
18 read-on.
19 Here begins Media No. 1 in the videotaped
20 deposition of Alexander Harry. This is in the matter of
21 Sony Interactive Entertainment LLC versus Quantum
22 Imaging LLC. This is in the United States patent and
23 trademark office before the Patent Trial and Appeal
24 Board, filed as Case Number IPR2023-00995.
25 Today's date is Tuesday, February 27, 2024. Our

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1 time on the video monitor is 9:03 a.m. Pacific Time.
2 Remote videographer today is Brian Krieger, representing
3 Planet Depos. All parties of this video deposition are
4 attending remotely.
5 If counsel please identify themselves for the
6 record and please state whom they represent.
7 MR. SOROCCO: Sure. I'm Douglas J. Sorocco. I
8 represent the patent owner, Quantum Imaging LLC. With
9 me are Mark Brockhaus and Ann Robl. All of us are with
10 Dunlap Codding, P.C.
11 MR. SQUIRE: And my name is Monté Squire,
12 Counsel for Sony Interactive Entertainment LLC, the
13 petitioner. And I'm joined on the call with my
14 colleague Paul Belnap, and we're from the law firm
15 Duane Morris.
16 THE VIDEOGRAPHER: Our court reporter today is
17 Derek Hoagland, also representing Planet Depos, and the
18 witness will now be sworn.
19 (Whereupon, the deponent is duly sworn by the
20 court reporter.)
21 MR. SOROCCO: Thank you.
22 It's nice to meet you, Mr. Harry.
23 THE DEPONENT: Nice to meet you Mr. Sorocco.
24 MR. SOROCCO: And before we begin, Mr. Squire,
25 Mr. Woo, and I yesterday discussed a couple

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1 stipulations. I think the only one that applies to
2 today's deposition deals with that we agree to allow the
3 use of Mr. Harry's testimony in this IPR proceeding and
4 the other IPR proceedings for content, claim terms,
5 things of that nature that overlap. Is that -- do I
6 have that stipulation correct?
7 MR. SQUIRE: That is correct.
8 MR. SOROCCO: Okay. Thank you, sir.
9
10 ALEXANDER R. HARRY,
11 having first been duly sworn,
12 was examined and testified as follows:
13
14 EXAMINATION
15 BY MR. SOROCCO:
16 Q. Mr. Harry, could you please state your full name
17 and spell it for the record?
18 **A. Yes. It is Alexander Harry, A-l-e-x-a-n-d-e-r,**
19 **H-a-r-r-y.**
20 Q. Wonderful. And could you please give us your
21 address?
22 **A. Home address or business address?**
23 Q. Business address is fine.
24 **A. I believe it is 919 Southwest Taylor Street,**
25 **Suite 900, Portland, Oregon 97205.**

8

1 Q. Okay. And by reading your CV, I presume you
2 have been deposed a number of times before. Is that
3 correct?
4 **A. No.**
5 Q. This is your first time being deposed, then?
6 **A. Correct.**
7 Q. Okay. Well, let's start out with, you
8 understand you were administered an oath, correct?
9 **A. Could you repeat that.**
10 Q. Sure. You understand that you were administered
11 an oath?
12 **A. Yes.**
13 Q. Is that correct?
14 Okay. And you are -- you understand that you
15 are testifying under penalty of perjury today, correct?
16 **A. Correct.**
17 Q. Okay. And I wanted to let you know, if you
18 don't understand my questions, just let me know before
19 you start answering, and I'll clarify and do what I can
20 do to make the question straightforward. I'm not here
21 to try to trick or anything like that. Is that fair?
22 **A. Yes, thank you.**
23 Q. Okay. And if you answer a question, I'm going
24 to assume that you understood the question. Is that
25 also fair?

9

1 **A. Correct.**
2 Q. Okay. And you're going to -- being your first
3 deposition, I -- you're going to wait until I'm done
4 asking, and then you'll respond. Is that fair as well?
5 **A. Fair. Fair enough.**
6 Q. It makes it a little difficult for everybody
7 that technically is having to take this down, the court
8 reporter, if we're talking over one another.
9 And if you need a break, let me know. We can
10 take one as long as there's not a pending question
11 before you.
12 I'll let you know, I recently had a knee
13 replacement. So there might be a time where I need to
14 get up and just break for a few minutes to -- to walk.
15 And if you need to break or, you know, use the restroom
16 or anything like that, just please let me know.
17 **A. Okay.**
18 Q. Okay. Is there any reason why you cannot
19 provide complete, accurate, and truthful testimony
20 today?
21 **A. Not that I know of.**
22 Q. Okay. When were you first contacted about your
23 involvement in this IPR proceeding?
24 **A. Contacted, what do you mean? Do you mean in**
25 **preparation for the IPR or?**

10

1 Q. Well, let me ask you this. When were you first
2 engaged to provide services, your services, on behalf of
3 this IPR proceeding?
4 **A. I believe it was in 2023.**
5 Q. Okay.
6 **A. Early 2023.**
7 Q. Early 2023. That's good enough. And who
8 contacted you, if I may ask?
9 **A. It was through KXT Law.**
10 Q. Okay. And that's a -- I believe, a prior law
11 firm to these proceedings?
12 **A. I believe so.**
13 Q. Okay. And had you heard of the respondent
14 Quantum Imaging LLC before being engaged in these
15 proceedings?
16 **A. I'm trying to remember.**
17 **Yes, I believe so. We did some additional prior**
18 **art searching.**
19 Q. Okay. And have you heard of the inventor or
20 knew the inventor, Mrs. Frances Barbaro?
21 **A. No.**
22 Q. Okay. Have you heard anything about
23 Mrs. Barbaro since being engaged?
24 **A. No.**
25 Q. Okay. And what did you do to prepare for your

11

1 cross-examination today?
2 **A. I reviewed my declarations that I had submitted**
3 **and the patent owner's response.**
4 Q. Okay. And did you speak with anybody?
5 **A. I spoke with Monté.**
6 Q. Can. And I don't want to know any of the
7 conversations. I just want to know who you speak --
8 spoke to.
9 How long do you believe that you prepared for
10 today's deposition?
11 **A. Maybe two hours, two-and-a-half hours.**
12 Q. Okay. And I believe you stated that you had
13 reviewed the petition. Was that it?
14 **A. The preliminary patent owner's response.**
15 Q. The preliminary patent owner's response. Okay.
16 And did you review the -- the PTAB's, the Patent
17 Trial and Appeal Board's, institution decision?
18 **A. I don't believe so.**
19 Q. Okay. Great.
20 Normally, I would say I'm going to hand you an
21 exhibit, but I'm going to bring up Exhibit what has been
22 marked previously by the petitioners as Exhibit 1009 in
23 this proceeding.
24 If Mylene can bring this document up. Okay.
25 And if you could scroll through it for a moment so that

12

1 you can take a look at it, Mr. Harry. Nothing in
2 particular, I just want you to take a look at it in
3 general.
4 (Referencing Exhibit 1009.)
5 BY MR. SOROCCO:
6 Q. And have you seen enough to recognize this
7 document, Mr. Harry?
8 **A. Yes.**
9 Q. Okay. What is this document?
10 **A. It's the declaration that I submitted.**
11 Q. Wonderful. And I will let you know that this is
12 the declaration that Petitioners filed and we downloaded
13 from the PTAB.
14 MR. SOROCCO: If -- Mylene, if you can, I think,
15 present it or publish it to everybody so they can
16 download the link -- from the link.
17 THE TECHNICIAN: Absolutely.
18 MR. SOROCCO: Okay.
19 THE TECHNICIAN: I'll be placing a link in the
20 chat where everyone can download the marked exhibits.
21 Just one moment.
22 The link is in the chat, and you should see a
23 test document and now uploading Exhibit 1008.
24 MR. SOROCCO: 1009.
25 THE TECHNICIAN: I'm sorry. Let me delete that.

13

1 1009. Corrected.
2 MR. SOROCCO: Thank you.
3 THE TECHNICIAN: No problem.
4 BY MR. SOROCCO:
5 Q. Mr. Harry, I believe you said that this is your
6 declaration. If we can look at the first page again.
7 And you see there's the name on there -- well, first of
8 all, there's before the Patent Trial and Appeal Board.
9 That's at the United States Patent and Trademark Office.
10 It's between Sony Interactive Entertainment LLC, which
11 is the petitioner, versus Quantum Imaging, LLC, the
12 patent owner. And then you see the case number there,
13 IPR 2023-00995. Correct?
14 **A. Correct.**
15 Q. Okay. And it relates to US Patent
16 No. 10,846,941. Do you see that information?
17 **A. Yes.**
18 Q. Okay. And I saw on your resumé or CV that
19 you're a patent attorney?
20 **A. Patent agent.**
21 Q. Patent agent. So you understand, then, that the
22 shorthand that we use for referring to patent documents
23 is like the last three digits, so like the nine -- in
24 this case, the '941 patent, correct?
25 **A. Correct.**

14

1 Q. Okay. So if I refer to the '941 patent, you
2 will understand that I'm referring to US Patent
3 No. 10,846,941, correct?
4 **A. Correct.**
5 Q. Okay. And I don't expect you to comment often
6 about that, but I just wanted to make sure that if I do,
7 we -- we have an understanding.
8 If we go to the second page of your
9 declaration -- making sure it's up.
10 MR. SOROCCO: Thank you, Mylene.
11 BY MR. SOROCCO:
12 Q. You state in paragraph 2 that you are an analyst
13 with Global Technology Transfer Group, GT -- quote --
14 paren, quote, GTTN, quote, paren.
15 What does an analyst with Global Technology
16 Transfer Group do?
17 **A. I am a patent analyst. So we work on a variety**
18 **of different patent matters for our clients.**
19 Q. Okay. And could you broaden out a little bit?
20 You said you're a patent analyst. Could you give me
21 some examples of the type of work that are -- that fall
22 within that def -- that -- that term "patent analyst"?
23 **A. Yeah. So we look at various patents, assess**
24 **their strengths, their market applicability and market**
25 **potential transaction value. We also look at and do**

15

1 **validity searching, prior art searching, infringement**
2 **analysis, and a variety of other patent -- patent**
3 **matters.**
4 Q. Okay. Would it be fair to say that that work
5 under the description of a patent analyst does not
6 include patent prosecution activities?
7 **A. We do not do patent prosecution activities,**
8 **since we are not a law firm. But we do advise and help**
9 **develop patent strategies.**
10 Q. Okay. That seems like a pretty cool way to --
11 to work within the -- the patent arena.
12 Okay. And then, you know, there's your -- you
13 state the principal place of business at 919 Southwest
14 Taylor Street, Suite 900. Is that the same address that
15 you gave me in the beginning?
16 **A. I believe so.**
17 Q. Okay. And then when you say analyst, if you --
18 like if we look at paragraph 3, it says, "Over the
19 course of my work as an analyst," and you corrected me
20 and said "patent analyst." And so I'll try to use that
21 in the future, but as we move on, if I just say
22 "analyst," it should be understood that I am -- I'm not
23 meaning to denigrate you in any way, but just I forgot
24 to add "patent" in there.
25 But you go on to say:

16

1 "I've had extensive experience with analyzing
2 prior art references."
3 What do you mean by extensive experience?
4 **A. We've done a number and I've done a number of**
5 **patent prior art searching. And so during that, we look**
6 **at various materials and need to establish a date for**
7 **when those materials were publicly available or**
8 **published, and then compare that to the priority date of**
9 **the patent you're searching on.**
10 Q. Okay. And you said you have done a number or
11 conducted a number of patent prior art searching. What
12 did you -- what do you mean by a number? I mean, more
13 than ten? Less than 20? Over 30? What would you
14 guess?
15 **A. I would have to look back and see. I honestly**
16 **don't recall.**
17 Q. Well, how about just a ballpark guesstimate?
18 **A. I -- it would be hard for me to say.**
19 Q. Okay. And you state that these prior art
20 references, searches included video game material or
21 excuse me, the analysis that you did was on prior art
22 references included video game materials.
23 Do you have a definition of what video game
24 materials means?
25 **A. Yeah. It would include game manuals,**

17

1 **publications about game releases, videos of game play,**
2 **videos ask -- talking about, discussing the game,**
3 **reviewing the game, kind of any materials around a**
4 **potential -- a video game.**
5 Q. Okay. And you go on. I'm going to ask you
6 again on some of these words that we like to put on our
7 resumés, but you use the term "substantial experience"
8 in authenticating printed documents. What did you mean
9 by substantial experience there?
10 **A. Establishing -- or looking at documents that ae**
11 **establishing dates for -- for when they were available.**
12 Q. Okay. And I guess my question was more around,
13 can you qualify for me what substantial experience
14 means?
15 **A. I've done it many times during my prior art and**
16 **other searching, but to quantify it would be hard**
17 **without looking back at my prior work history.**
18 Q. Okay. And earlier in that paragraph 3, you used
19 the term "extensive experience," and then -- with regard
20 to analyzing prior art references. And then you used
21 the term "substantial experience" in authenticating
22 printed documents, and -- and it goes on.
23 Is there a difference between extensive
24 experience and substantial experience?
25 **A. No.**

18

1 Q. Okay. Just use of different words to
2 communicate the same information?
3 **A. Yeah, the same concept.**
4 Q. Okay. How did you establish the date when
5 printed documents -- when you looked at printed
6 documents?
7 **A. In general or in this particular instance?**
8 Q. Yeah, yeah, no, just in general. What is
9 your -- what is the process that you take?
10 MR. SQUIRE: Objection to form.
11 THE DEPONENT: We -- we look at -- or I look
12 at the -- try and find a publication date for when the
13 document was published, either on the document or on a
14 website or reference that references the document, like
15 a citation. I also, you know, if -- if it's a document
16 that's not necessarily marked as a -- having a certain
17 date, I'll look for another indicia of when it was
18 published.
19 BY MR. SOROCCO:
20 Q. Okay. And just to make things easier for
21 Mr. Squire, in between me asking the question and you
22 answering, give him a second or two to object. Just
23 since it's your first deposition I want to make sure to
24 let you know that.
25 You used the -- in the last part of that

19

1 paragraph 3, the term "accessible." Do you see that
2 word there, Mr. Harry?
3 **A. Yes.**
4 Q. Do you have an understanding of what the term
5 "accessible" means?
6 **A. Accessible would be when the document was**
7 **available for public inspection.**
8 Q. Okay. Is that a general understanding of what
9 the -- what accessible means, or does that have some
10 type of particular relevance in the patent field?
11 **A. Just that -- that was a general access --**
12 **accessibility.**
13 Q. Okay. So you weren't referring to a legal
14 definition with regard to accessible there, correct?
15 **A. Correct.**
16 Q. Okay. And then finally, you use the words
17 "ordinarily skilled researchers." Do you see those --
18 that phrase there, Mr. Harry?
19 **A. Yes.**
20 Q. Okay. And did you have an understanding of what
21 the phrase "ordinarily skilled researchers" means?
22 **A. Yes. It -- it meant that something -- a typical**
23 **researcher who has skills in finding documents would be**
24 **able to find that document.**
25 Q. Okay. Let's -- on paragraph 4, you talk about

20

1 your full resumé, and -- and attachment A being your
2 full resumé, excuse me, that is on page 9 of the PDF
3 documents.
4 MR. SOROCCO: Can you go there, Mylene?
5 BY MR. SOROCCO:
6 Q. Okay. Is this your current resumé, Mr. Harry?
7 **A. Yes, at that time that the declaration was**
8 **submitted.**
9 Q. Okay. So at the time the declaration was
10 submitted. And this was your resumé at that time?
11 **A. Correct.**
12 Q. Do I understand it correctly? Okay.
13 And have you updated your resumé since that
14 time?
15 **A. I don't believe so, no.**
16 Q. Okay. And we talked about your experience and
17 work with GTT Group. It looks like you've been a patent
18 analyst, senior patent analyst, there for a period of
19 time. You worked as a patent agent at a couple of, it
20 looks like law firms. Is that correct?
21 **A. Correct.**
22 Q. Okay. And generally, what are the duties or --
23 of a patent agent?
24 **A. To -- to prep and write -- or prep and cross**
25 **patent applications, do prior art searching, assist in**

21

1 **just general patent matters with the attorney that they**
2 **work with.**
3 Q. Okay. Great. Let's go back to page -- let's
4 see. I believe it's page 2 in the previous PDF
5 document.
6 Actually, I didn't ask you to do this. So you
7 identified this document as your declaration that you
8 provided. Is that -- that -- is that correct? Do I
9 have that correct about your earlier testimony?
10 **A. Correct.**
11 Q. Okay.
12 MR. SOROCCO: If you would go to, Mylene,
13 page 8, please.
14 BY MR. SOROCCO:
15 Q. Okay. Is that your signature there on the
16 right-hand side, Mr. Harry?
17 **A. Yes.**
18 Q. Okay. And it looks like it was dated June 1st
19 of 2023. Is that correct?
20 **A. Correct.**
21 Q. Did you write that date?
22 **A. Yes.**
23 Q. Okay. I just wanted to clar -- clean that up,
24 that I had -- I had forgotten to do the -- it was your
25 signature and that you -- you had dated the document.

22

1 MR. SOROCCO: Okay. If we could go back to
2 page 2, Mylene.
3 BY MR. SOROCCO:
4 Q. Okay. So we've talked about your experience,
5 we've talked about your resumé and -- and your -- your
6 duties and responsibilities as a patent agent.
7 Paragraph 5 says:
8 "As an employee of GTT, I have been retained by
9 KXT Law to evaluate, authenticate, and establish the
10 dates of public availability of certain documents in the
11 above-captioned IPR proceeding."
12 Do you see that language, Mr. Harry?
13 **A. Yes.**
14 Q. Okay. What does it mean to -- or do you have an
15 understanding of what it means to evaluate,
16 authenticate, and establish the dates of publicly
17 available -- or public availability of certain
18 documents?
19 **A. Yes. It -- go ahead.**
20 Q. No. You -- well, I was just going to ask, what
21 is your understanding of what it means to evaluate,
22 authenticate, and establish?
23 **A. Yeah. This was to evaluate the contents of a**
24 **document and its relevancy to the work being performed,**
25 **to determine if the document was authentic, and then to**

23

1 **discover or establish the date for when that document**
2 **was available.**
3 Q. Okay. And I don't want to know the contents of
4 any opinions as part of this next question. But were
5 you retained by KXT Law to do any additional work on the
6 IPR?
7 MR. SQUIRE: Objection. Objection. And I'm
8 going to --
9 You can answer.
10 THE DEPONENT: In regards to these IPRs, you're
11 asking?
12 MR. SOROCCO: Yes.
13 THE DEPONENT: No. I believe this was the only
14 thing that I was retained to do.
15 MR. SOROCCO: Okay. And Mr. Squire, what was
16 your objection?
17 MR. SQUIRE: Oh, I was concerned that you were
18 going to ask -- ask for privileged information, but I
19 think that the question as phrased was -- was just fine.
20 MR. SOROCCO: Okay. Thank you.
21 BY MR. SOROCCO:
22 Q. And then it goes down. The work that you do
23 is -- you noted it -- was at a usually -- usual hourly
24 fee of $350 per hour.
25 Do you see that?

24

1 **A. Yes.**
2 Q. Okay. And is there a reason why you used the
3 term "usual"? Is there other fees that you are billed
4 out at?
5 **A. Potentially, we can negotiate different hourly**
6 **fee structures for certain clients.**
7 Q. Okay. Do you negotiate those hourly fee
8 changes?
9 **A. No.**
10 Q. Okay. And you state you have no financial
11 interest in this proceeding.
12 Do you see that language?
13 **A. Yes.**
14 Q. Okay. And is that correct at -- as of today?
15 **A. Yes.**
16 Q. And you say you have no affiliation with the
17 petitioner. Is that still correct as of today?
18 **A. Yes.**
19 Q. Okay. And then you're probably going to
20 anticipate my next question, which is you state that:
21 "My compensation is not dependent upon the
22 outcome of or my testimony in this IPR proceeding."
23 Do you see that language?
24 **A. Yes.**
25 Q. Okay. And is that still correct as of today?

25

1 **A. Yes.**
2 Q. Okay. Do you have -- strike.
3 We look at -- let's into a bit of what you did
4 as part of the work that KXT Law had you do in the scope
5 of this declaration. As I said, I don't want to know
6 about any other work you've done for them.
7 It states that you personally ordered a copy of
8 a video game entitled Phantasy Star Online, PSO, for the
9 Sega Dreamcast gaming console.
10 Do you see that language?
11 **A. Yes.**
12 Q. Okay. Were you aware of Phantasy Star Online,
13 PSO, game prior to being engaged by KXT Law?
14 **A. No.**
15 Q. Okay. Were you aware of the Sega Dreamcast
16 gaming console before being engaged by KXT Law?
17 **A. Yes.**
18 Q. Okay. Where -- what knowledge did you have
19 about the Sega Dreamcast gaming console prior to being
20 engaged by KXT Law?
21 **A. This was right in the middle of kind of my**
22 **gaming heyday.**
23 Q. Okay. And when you say "gaming heyday," what
24 was it -- what was the age range of that time?
25 **A. This would have been from middle school through**

26

1 **college.**
2 Q. Okay. But you had never played Phantasy Star
3 Online. Is that correct?
4 **A. I honestly could not recall.**
5 Q. Lots of games, lots of time, right?
6 **A. Yes.**
7 Q. Okay. You bought -- or excuse me. You ordered
8 a copy of the PSO game. And if I can use PSO to
9 shorthand Phantasy Star Online, is that okay with you?
10 **A. Yes. It's a long -- it's a long title.**
11 Q. It's a long title. It becomes a tongue twister.
12 But you ordered the copy of PSO from an eBay
13 saler -- seller called Matthew's Merch.
14 Do you see that?
15 **A. Yes.**
16 Q. Okay. And Matthew, the seller Matthew's Merch,
17 had -- his address is there. I'm sure he wouldn't be
18 thrilled to know this is in a public document, but we'll
19 go on. And Matthew's Merch goes by the eBay user name,
20 unsurprisingly, quote, Matthew's Merc, M-e-r-c, end
21 quote. I guess he didn't want the "H" on there.
22 Do you know personally the individual that goes
23 by the user name Matthew's Merc?
24 **A. No.**
25 Q. Okay. And did you have any communications other

27

1 than through eBay with Matthew's Merc?
2 **A. No.**
3 Q. Okay. Do you happen to know the actual user's
4 name, legal name or the name they go by, of the user ID
5 Matthew's Merc?
6 **A. I do not recall.**
7 Q. Okay. You do not recall whether you know their
8 name or not?
9 **A. Yeah.**
10 Q. Okay. Let's go to page 11 of your declaration,
11 Exhibit 1009.
12 And I need to get there in a second here. And I
13 believe this be -- should be, if technology is working,
14 a copy of the receipt that you received for an eBay when
15 you purchased the PSO game. Is that correct?
16 **A. I believe that is a copy of the listing showing**
17 **the item is sold.**
18 Q. Okay. I'm looking for the receipt, which I
19 think was in B. May -- yeah. Well, okay. So let's
20 talk about the listing, then. Let's strike about the --
21 the receipt.
22 So this is a copy of the listing as you saw it
23 when you were looking for a copy of the PSO game to
24 order?
25 **A. This is a copy of the listing after I had**

28

1 **purchased the game.**
2 Q. Okay. Is that why it says on page -- the top of
3 page 12 that this item is no longer available?
4 **A. Correct.**
5 Q. Okay. And what is the box under there --
6 under -- or do you see the box under there that has the
7 words "seller's other items" on it?
8 **A. I do not.**
9 Q. Okay.
10 MR. SOROCCO: Yeah, let's go up to page 12,
11 Mylene. I'm sorry.
12 MR. SQUIRE: And counsel, by page, you mean PDF
13 page numbers, right?
14 MR. SOROCCO: Yes, I'm referring to PDF page
15 numbers. Unfortunately, the pages were not Bates
16 labeled, and so I'm going by PDF page numbers.
17 BY MR. SOROCCO:
18 Q. So if we look at page 12 of the PDF of the --
19 your declaration, do you now see where the box is that
20 seller's other items?
21 **A. Yes.**
22 Q. Okay. Do you have an understanding of what
23 would happen if you clicked on that box of seller's
24 other items?
25 **A. Yes.**

29

1 Q. Okay. And what -- what would happen? What do
2 you understand that -- to occur?
3 **A. My understanding is that you would see the other**
4 **items for sale on eBay from that same seller.**
5 Q. Okay. And did you happen to click on that box
6 when you were ordering the PSO game from Matthew's Merc?
7 **A. I do not believe so.**
8 Q. Okay. And it looks like, if we scroll a little
9 bit farther down on PDF page 12, that the "Phantasy Star
10 Online (Sega Dreamcast, 2001) new/sealed *damage."
11 Do you see that language?
12 **A. Yes.**
13 Q. Okay. Do you have an understanding of what the
14 *damage means?
15 **A. I believe in this context, it had to do with the**
16 **shelf wear on the item.**
17 Q. The -- excuse me. Did you say shelf, s-h-e-l-f,
18 wear?
19 **A. Yes.**
20 Q. Okay. What do you mean by the term "shelf
21 wear"?
22 **A. Typically when you're buying new and sealed**
23 **items, they will have been on a retail display for a**
24 **certain period of time and they will just incur scuffs**
25 **and damage from that. And so when you're buying**

30

1 **something new and sealed, most buyers make that**
2 **designation so that the buyer knows that they're not**
3 **buying a pristine copy.**
4 Q. Would that be -- yesterday there was some
5 testimony with another witness that -- that there is a
6 population of people that collect video games. Is that
7 something that you have knowledge of as well?
8 **A. Yes.**
9 Q. Okay. And does that *damage mean anything to
10 those people that collect video games?
11 MR. SQUIRE: Objection.
12 THE DEPONENT: It means that the game is new and
13 sealed, but there will be some cosmetic damage to the
14 product, so it's value may not be as high.
15 MR. SOROCCO: Mr. Squire, did you want to get
16 that objection on the record?
17 MR. SQUIRE: I withdraw that.
18 MR. SOROCCO: Okay.
19 BY MR. SOROCCO:
20 Q. And if we look a couple lines down, there looks
21 to be US dollar 139.99, with free shipping.
22 Do you see that?
23 **A. Yes.**
24 Q. Information?
25 Okay. Is that the price you paid for the PSO

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1 game that you ordered from Matthew's Merc?
2 **A. I believe so.**
3 Q. Okay. And there -- right below that is the word
4 "condition." Do you see the -- that?
5 **A. Yes.**
6 Q. Okay. And it indicates that it was brand new.
7 Is that correct?
8 **A. Correct.**
9 Q. Okay. And you had mentioned shelf wear a little
10 earlier in your testimony. Does shelf wear primar -- do
11 you know whether shelf wear primarily impacts the
12 exterior or the exterior part of a -- of a game?
13 **A. I believe you said "exterior" twice there.**
14 Q. Oh, interior. Exterior or interior. I
15 apologize for that.
16 **A. My understanding is that it typically only**
17 **affects the exterior, that the interior contents are as**
18 **sealed.**
19 Q. Okay. And so that's why it's listed as new,
20 sealed, *damage, correct?
21 **A. Correct.**
22 Q. Okay. If we go down a little bit further, there
23 is an item description for the seller.
24 Do you see that?
25 **A. Yes.**

32

1 Q. Okay. And that's where it says:
2 "Has flaws in cellophane and jewel case as
3 pictured. Brand new."
4 Do you see that language?
5 **A. Yes.**
6 Q. And is that where you -- strike that.
7 Is that description consistent with your
8 understanding of what *damage means?
9 **A. It -- that is consistent with my understanding**
10 **of what one possible cosmetic damage would qualify as.**
11 Q. Okay. And then if we go on to page 13, there is
12 some -- do you see -- or let me ask this.
13 Do you see where it says "seller feedback" about
14 almost the middle of page 13 of the PDF?
15 **A. Yes.**
16 Q. Okay. And do you understand -- have an
17 understanding what seller feedback means?
18 **A. In the context of eBay, my understanding is that**
19 **purchasers of items from that seller could leave**
20 **feedback to show or alert other sell -- other buyers**
21 **from that seller of the potential trustworthiness of**
22 **that seller.**
23 Q. Okay. And did you leave any feedback for
24 Matthew's Merc as part of ordering the PSO game?
25 **A. I do not recall if I did. I believe if I did,**

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1 **it would have just been a rating and not a written**
2 **response.**
3 Q. Okay. So it looks like -- well, you agree with
4 me that it looks like there are three ratings here under
5 "seller feedback." Is that fair?
6 **A. Yes.**
7 Q. Okay. And are any of these three ratings
8 associated with your eBay user name?
9 Or scratch that.
10 Do you have an eBay user name?
11 **A. I do.**
12 Q. Okay. And I won't ask you what your eBay user
13 name is. But are any of the three seller feedbacks that
14 are listed here associated with your user -- eBay user
15 name?
16 **A. Not that I believe.**
17 Q. Okay. Let's go -- if we go back to page 3 of
18 the PDF that is your declaration -- sorry. I'm doing
19 this from a laptop screen so I'm making sure I see the
20 documents correctly.
21 So we're on page 3, paragraph 7. You state that
22 on April 20th, 2023, you received a package from
23 Matthew's Merch which included the PSO, and I assume the
24 PSO game.
25 How did you receive that package from

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1 Matthew's Merch?
2 **A. I believe it came through US mail.**
3 Q. Okay. And you included a picture of the PSO and
4 packaging, per your testimony here in paragraph 7. And
5 if we go -- and you included that as attachment C. If
6 we could --
7 MR. SOROCCO: Mylene, if we could go to page 17
8 of the PDF document. Okay. And if you could go to the
9 next page, please.
10 BY MR. SOROCCO:
11 Q. Is this the picture you referred to of the
12 packaging and the PSO game?
13 **A. Yes.**
14 Q. Okay. And is this a -- other than being opened
15 and -- is this the -- strike that.
16 Other than being opened, is this the -- how the
17 package -- what the package looked like when you
18 received it?
19 **A. Yes. That is what the package looked like and**
20 **the contents that I removed from it.**
21 Q. Okay. And are you aware that eBay has primarily
22 two ways of purchasing products, one way being an
23 auction and another way being just directly purchasing
24 the product for a price?
25 **A. Yes. It's auction and buy it now.**

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1 Q. Okay. And did you buy it now or did you
2 participate in an auction?
3 **A. This was bought directly.**
4 Q. Okay. Let's go to -- again, flipping through
5 these documents on -- on the screen is difficult. But
6 if we go back to page 3 of the PDF of your declaration.
7 And do you see in paragraph 8, you state, as shown in
8 attachment D, that:
9 "The PSO arrived in a sealed package comprising
10 a plastic crystal seat -- or DVD case sealed with clear,
11 heat-sealed cellophane wrap."
12 Do you see that language?
13 **A. Yes.**
14 Q. Okay. And then you go on to say:
15 "Upon visual inspection, although the plastic
16 DVD case had several cracks, the cellophane wrap
17 appeared to be intact and original from the factory."
18 Do you see that language, sir?
19 **A. Yes.**
20 Q. Okay. Let's go to page 19 of the PDF comprising
21 your declaration. And then let's actually move ahead
22 one. I forgot that they inserted slip sheets on each
23 page.
24 Are these the photographs that you talk about
25 that -- that show the unopened DVD of the PSO game in

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1 paragraph 8 of your declaration?
2 **A. I believe so, yes.**
3 Q. Okay. And are -- if we look in -- if Mylene can
4 zoom in on the upper left picture and then zoom in on
5 the upper right corner of the DVD there.
6 Are those -- you testified that there are -- in
7 your declaration, that those contained some cracks in
8 the DVD case. Is that --
9 **A. Yes.**
10 Q. -- correct?
11 Okay. And are those the cracks that are shown
12 there in the upper right-hand corner of the upper
13 left-hand corner pictures? Pictures?
14 **A. Yes.**
15 Q. Excuse me.
16 Okay. And do you believe that those cracks
17 comprise some of the dam -- the *damage that was in the
18 eBay listing title for this PSO game?
19 **A. Yes, based on the description of the item.**
20 Q. Okay. Let's leave this page up, and I'm going
21 to ask you a few questions about the document. It's
22 going to be about these pictures, but it's based upon
23 paragraph 8 of your declaration. So if you want me to
24 have Mylene go back to the declaration, feel free to say
25 something.

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1 You, in your -- in your declaration, you state
2 that the PSO arrived in a sealed package comprising a
3 plastic crystal DVD case. Do you -- is that what is
4 shown in Attachment D, page nine -- page 20 of your --
5 of the PDF there?
6 **A. Yes. That is the DVD case sealed in its**
7 **cellophane wrapper.**
8 Q. Okay. And you -- with respect to the cellophane
9 wrapper, you called it a clear, heat-sealed cellophane
10 wrapper. Do you have an understanding of what a
11 cellophane wrapper is, Mr. Harry?
12 **A. Yes, as a consumer.**
13 Q. Okay. As a consumer. You -- by qualifying your
14 testimony there, as a consumer, is there other ways of
15 understanding heat-sealed cellophane?
16 **A. You could be the manufacturer of the device that**
17 **does the actual heat sealing, so.**
18 Q. Okay. Do you have any knowledge of the device
19 that does heat sealing?
20 **A. Not personally.**
21 Q. Okay. And then you go on in your declaration
22 that:
23 "Upon visual inspection, although the plastic
24 DVD case had several cracks, the cellophane wrap
25 appeared to be intact."

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1 In looking at these pictures on page 20 of
2 your -- of your declaration.
3 MR. SOROCCO: And, Mylene, if you can just zoom
4 back out to the whole page.
5 BY MR. SOROCCO:
6 Q. How did you know that the cellophane -- excuse
7 me. Let me go back. Strike that.
8 That you stated that the cellophane wrap
9 appeared to be intact. What led you to that belief?
10 **A. A visual inspection of the item in the**
11 **cellophane wrapper did not show that there was any cuts**
12 **to the cellophane, and that the tabs on the cellophane**
13 **were still stuck together.**
14 Q. Okay. You anticipated one of my questions,
15 which was, were the tabs at the corners fully intact or
16 were they some -- some type -- some amount less than
17 fully intact?
18 **A. They were intact.**
19 Q. Fully intact.
20 **A. From what I recall.**
21 Q. Okay. And looking at the pictures, it appears
22 that they were fully intact, correct?
23 **A. Correct.**
24 Q. And you finally, in paragraph, state that
25 it's -- well, you appeared that the cellophane wrap

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1 appeared to be intact and original from the factory.
2 What -- why do you -- why did you have the belief that
3 it was original from the factory?
4 **A. The way that the cellophane was sealed was**
5 **typical of how CD cases, DVD cases at that time would**
6 **have been sealed if you purchased them new from a store,**
7 **and the cellophane also had an aged quality about it**
8 **when I did remove it.**
9 Q. Okay. If you don't mind me asking, I believe
10 there's testimony that the PSO game came out around --
11 or it's your testimony that the PSO game that you
12 ordered was from around 2000 or 2001. Is that correct?
13 **A. Yes, I believe so.**
14 Q. Okay. If you don't mind me asking, how old were
15 you in 2000, 2001?
16 **A. 16, 17 years old.**
17 Q. Okay. So your knowledge of DVD cases, then, at
18 that time was related to your experience as a consumer.
19 Is that fair?
20 **A. Yes.**
21 Q. Okay. And you had mentioned with regard -- I
22 believe it was your testimony that you stated with
23 regard to heat-sealed cellophane wrap devices, that you
24 have no personal knowledge of those devices. Is that
25 correct?

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1 MR. SQUIRE: Objection. Misstates the witness's
2 answer.
3 MR. SOROCCO: Okay. Mr. Harry, let me rephrase
4 the question, then.
5 BY MR. SOROCCO:
6 Q. Do you have any personal knowledge of
7 heat-sealed cellophane wrap devices?
8 **A. Not that I can recall, other than knowing they**
9 **exist and how they operate.**
10 Q. Okay. But from your testimony there, I
11 assume -- or is it fair to assume that you've never
12 operated a heat-sealed cellophane wrap device?
13 **A. Correct.**
14 Q. Okay. And you stated, I believe, in your
15 testimony just a moment ago, about that you knew how
16 they operated. Is that correct?
17 **A. Correct.**
18 Q. Okay. What was your -- what is your
19 understanding of how a heat-sealed cellophane wrap
20 device operated?
21 **A. That the cellophane would be wrapped around an**
22 **item and then a hot plate or hot element would be used**
23 **to seal the cellophane to itself.**
24 Q. Okay. Is that an automatic process? A manual
25 process? Do you know?

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1 **A. It could be either.**
2 Q. It could be either. Okay.
3 And have you ever seen a heat-sealed cellophane
4 wrap device in operation?
5 **A. I believe on various YouTube videos of**
6 **industrial practices.**
7 Q. And those YouTube videos is just something that
8 you saw as you were perusing YouTube?
9 **A. Yeah, personal interest as an engineer.**
10 Q. Okay. Wonderful. And that's right, I did gloss
11 over that.
12 You're a mechanical engineer, correct?
13 **A. Correct.**
14 Q. Okay. Congratulations.
15 And why -- you state that orig -- you believed
16 that the DVD case was original from the factory, and I
17 believe it was your testimony that the way it was
18 wrapped and the way it was sealed led you to that
19 opinion. Is that a fair characterization?
20 **A. Correct.**
21 Q. Okay. And have you seen other devices -- or
22 other DVDs that have been wrapped that you know to be
23 original from the factory?
24 **A. You mean other DVDs specifically.**
25 Q. Other -- yeah, I'm sorry, DVDs.

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1 **A. Yes.**
2 Q. Okay. And did the DVD comprising the PSO game
3 look similar to other DVDs that you know -- you knew to
4 be original from the factory?
5 **A. No, because this DVD is in a CD case, not a DVD**
6 **case.**
7 Q. Okay. Could you explain what you mean there?
8 **A. Yeah. A DVD case is typically a plastic**
9 **clamshell that opens up with a DVD in it. This is**
10 **packaged in a CD case, which was, I believe, typical at**
11 **the time for Dreamcast games.**
12 Q. Okay. And why do you have the knowledge -- or
13 why -- how do you have the knowledge that that would be
14 a typical way for Dreamcast games?
15 **A. Based on my prior experience as a gaming --**
16 **gaming consumer.**
17 Q. Okay. Had you received game -- Dreamcast
18 game -- excuse me. Strike that.
19 Have you used Dreamcast -- or played Dreamcast
20 consoles in the past?
21 **A. I cannot recall specifically if I have or not.**
22 **I would imagine I have, given, you know, gaming parties**
23 **with friends and stuff.**
24 Q. Okay. Do you have any present recollection of
25 seeing a Dreamcast DVD previously?

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1 **A. Yes.**
2 Q. Okay. And what is that knowledge that you have
3 of seeing a Dreamcast DVD previously?
4 **A. Through friends who had consoles.**
5 Q. Okay. Looking at paragraph 9, you -- of your
6 declaration. Let's go back up to page -- that is going
7 to be page 3 still.
8 You were very concise in your declaration,
9 Mr. Harry. Thank you.
10 So let's go back up to page 3 of the PDF,
11 paragraph 9. You state that:
12 "I personally removed the cellophane seal and
13 inspected the contents, which was shown in Attachments E
14 through N, including the following."
15 And then you have got some subpoints that you go
16 on, I think talking about all the different views and
17 what was in the DVD. Is that correct, Mr. Harry?
18 **A. Correct.**
19 Q. Okay. And you note that you have Attachments E
20 through N in your declaration, and I don't believe that
21 I was able to find an Attachment N in your declaration.
22 Do you recall having an Attachment N to your
23 declaration, Mr. Harry?
24 **A. I believe there was one, but I do not recall**
25 **specifically if there was.**

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1 Q. Okay.
2 **A. We would have to go through the document.**
3 Q. Sure. Let's do -- what's the easiest way to do?
4 Do you have that link that Mylene sent you?
5 **A. Yes.**
6 Q. Okay. And could you download Exhibit 1009 that
7 she provided to you with that link?
8 **A. Yeah. I already did.**
9 Q. Oh, you already did. Wonderful. Can you open
10 up that PDF?
11 **A. Okay.**
12 Q. And if you would, please take as much time as
13 you need. If you could look and see if there's an
14 Attachment N to your declaration, that would be
15 wonderful.
16 **A. There is.**
17 Q. Okay. Where is that attachment?
18 **A. I believe it's page 58 or 59.**
19 Q. Okay.
20 MR. SOROCCO: If we would go to page 58 of the
21 PDF, that would be great, Mylene. And you're going to
22 get there probably quicker than me.
23 BY MR. SOROCCO:
24 Q. Okay. Attachment N is -- is on page 58, is the
25 slip sheet, what we call a slip sheet. And then the

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1 picture -- are you saying that the pictures on page 59
2 are -- they're Exhibit N?
3 **A. I believe so.**
4 Q. Okay. Let's go back to your declaration for a
5 minute, and go down to paragraph -- well. Okay.
6 Do you happen to -- let's go down to paragraph
7 11 of your declaration on page 4. And this is, I
8 believe, after you've gone through the different
9 pictures that you have in Exhibits E through N. And you
10 talk about Exhibit 1008, which we'll talk about in a
11 minute, and then you talk about Attachment N in
12 paragraph 11. Do you see that, in that second -- the
13 beginning of the second sentence of paragraph 11?
14 **A. Yes.**
15 Q. Okay. And then if we scroll down to
16 paragraph -- well, why don't you look at paragraphs 11,
17 12, and 13, and let me know when you've completed that.
18 MR. SQUIRE: Counsel, just for the record, you'd
19 like for him to read paragraphs 11 through 13.
20 MR. SOROCCO: Yeah. I would draw his attention
21 to paragraphs 11, 12 and 13, and ask him to read them.
22 He does not need to read them into the record.
23 THE DEPONENT: Can we scroll down on the
24 document for the rest of paragraph 13? Thank you.
25 Okay. I have completed reading those paragraphs

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1 11 through 13.
2 BY MR. SOROCCO:
3 Q. Okay. Is -- is Exhibit N described in
4 paragraphs 11 through 13?
5 **A. No.**
6 Q. Okay. And I -- that was where I was going, and
7 I had it backwards at the beginning and I apologize, is
8 that I do not believe in the -- that your declaration
9 that you described what is shown in pictures N -- under
10 Exhibit N?
11 MR. SQUIRE: Objection. Mischaracterizes the
12 document.
13 MR. SOROCCO: Okay. Let me ask the question.
14 BY MR. SOROCCO:
15 Q. Is there -- are there -- other than listing
16 Exhibit N in paragraph 9, is there any other reference
17 to Exhibit N in the body of your declaration?
18 **A. Not in the portions that I have seen so far.**
19 Q. Okay. And would it be helpful if we took a
20 moment -- it's been about an hour -- took a moment for a
21 break and have you review the declaration to confirm
22 that the Exhibit N is not described in the body of your
23 declaration?
24 MR. SQUIRE: I object to the extent you want --
25 if we want to take a break, we can take a break, but to

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1 the extent you would like for him to review the document
2 and then answer your question with respect to the
3 reference to Exhibit N, that should be time on the
4 record, I believe.
5 MR. SOROCCO: Okay. That's fair. We've got
6 plenty -- we've got plenty of time. I'm not worried
7 about that today.
8 The -- if you'd like to take a look at your
9 declaration, then why don't we take a few moments if you
10 want to look through the -- the version that you
11 downloaded. Take as much time as you need. We'll see
12 if there is any reference to Exhibit N in the body of
13 your declaration.
14 MR. SQUIRE: And also, Counsel, it does make
15 sense, perhaps we could take a break after we have
16 completed this question or this line of questioning.
17 MR. SOROCCO: That would be fine.
18 THE DEPONENT: I believe the only mention of
19 Exhibit N is in paragraph 9, with the description
20 attached to it.
21 MR. SOROCCO: Okay. Great. As we discussed,
22 let's take a ten-minute break. And if Mylene would
23 please put the Dunlap Codding folks into the -- a room
24 after we go off the record, that would be great.
25 THE VIDEOGRAPHER: Okay. We are off the record

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1 at 10:03 a.m.
2 (A recess transpires.)
3 THE VIDEOGRAPHER: The time is 10:18 a.m. We
4 are back on the record.
5 MR. SOROCCO: Welcome back, Mr. Crane (sic). I
6 think I only have a few more questions. Hopefully this
7 won't take too long and you can get on with your day,
8 doing hopefully more interesting things.
9 Let's look, at a moment, if --
10 Mylene, can you bring up Exhibit 1008, please?
11 THE TECHNICIAN: 1008 is in the folder and will
12 be on the screen momentarily.
13 MR. SOROCCO: Okay.
14 THE TECHNICIAN: Whoops.
15 MR. SOROCCO: All right. And when you said that
16 it was in the folder, did you mean that it was in the
17 folder that can be downloaded by everyone or?
18 THE TECHNICIAN: Yes. It will be in the link
19 that was shared in the chat.
20 MR. SOROCCO: Okay. Great.
21 BY MR. SOROCCO:
22 Q. Mr. Harry -- well, let's go back real quick for
23 a moment to Exhibit 1009, which is Mr. Harry's
24 declaration. And if we could go to page 4 and scroll
25 down to paragraph 11, please.

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1 All right. Mr. Harry, in paragraph 11, the
2 first sentence:
3 "I have reviewed Exhibit 1008, which is the
4 identical copy of PSO manual described above."
5 Do you have an understanding of -- or is my
6 reading of that sentence correct, sir?
7 **A. I believe so.**
8 Q. Okay. I'm sorry. I kind of butchered it there
9 at the end. So let me start over.
10 So paragraph 11, the first sentence says:
11 "I have reviewed Exhibit Ex-1008, which is the
12 identical copy of PSO manual described above."
13 Is that correct?
14 **A. Correct.**
15 Q. Okay. Great.
16 And if we can go now to Exhibit 1008.
17 (Referencing Exhibit 1008.)
18 BY MR. SOROCCO:
19 Q. And Exhibit 1008 was a document submitted by
20 Petitioners with the petition, I believe, in the IPR
21 proceedings, and it had been previously marked as
22 Exhibit 1008 by the petitioners.
23 Do you recognize Exhibit 1008 as it's on the
24 screen, Mr. Harry?
25 **A. Yes.**

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1 Q. Okay. What is Exhibit 1008?
2 **A. It is the copy of the manual for the Phantasy**
3 **Star Online video game.**
4 Q. Okay. And is it -- is Exhibit 1008 a copy of
5 the actual manual that you received from Matthew's Merc?
6 **A. I believe so.**
7 Q. Okay. And that's -- if we can go back to
8 paragraph 11 of Exhibit 1009, that is -- my question is,
9 is you used the language, "which is the identical copy
10 of PSO manual described above." That -- I just wanted
11 to make sure, again, that the PSO manual in Exhibit 1008
12 is a -- is a copy of the PSO manual that you received
13 from Matthew's Merc.
14 **A. Was that a question?**
15 Q. Yeah. Is that correct?
16 **A. Yes, I believe so.**
17 Q. Okay. Great.
18 MR. SOROCCO: Exhibit -- and Exhibit 1008 can be
19 presented or published to everybody for download. And
20 feel free to do so, Mr. Harry, if you wish.
21 The -- just a housekeeping comment. My
22 colleagues let me know that I have switched up the word
23 "exhibits" and "attachments" when referring to the items
24 attached to your declaration. So I believe there have
25 been a couple times where I've said, like, Exhibit N or

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1 Exhibit D or E. That should be attachment, not exhibit.
2 And I apologize if there was any confusion for that,
3 Mr. Harry.
4 BY MR. SOROCCO:
5 Q. So looking -- let's go at -- let's look at
6 Exhibit 1008 and -- sorry. I just had to see whether or
7 not it was up.
8 And in looking at 1008, if we could scroll -- if
9 we could zoom in a little bit on the left-hand side.
10 Okay. And then if we could kind of pull it up
11 to the upper right-hand corner -- oh, excuse me, upper
12 left-hand corner. I need to learn my left from my
13 right.
14 There appears -- strike.
15 Along the edge, there appears to be some white
16 markings along the black, running intermittently from
17 the top to the bottom. Do you see those white marks,
18 Mr. Harry?
19 **A. Yes.**
20 Q. Okay. And do you have any understanding of what
21 those white marks are?
22 **A. I believe they are artifacts of scanning the**
23 **manual.**
24 Q. Okay. Could they be artifacts of the manual
25 being worn along the edge?

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1 MR. SQUIRE: Objection. Calls for speculation.
2 MR. SOROCCO: Strike the question.
3 BY MR. SOROCCO:
4 Q. Did you have the -- when you had the manuals in
5 your hands -- or when you had the manual, excuse me, in
6 your hands, did you notice any white -- did you notice
7 the -- excuse me, the white ghosting or the white
8 markings along the left-hand edge?
9 **A. I honestly do not recall.**
10 Q. Okay. Let's go to -- back to Exhibit 1009,
11 please. And if we could go to Attachment M, which is
12 page -- I will get there in a moment. I'm sorry. Okay.
13 THE TECHNICIAN: It's page 38, PDF.
14 MR. SOROCCO: 38? And of course my computer, I
15 have -- it did not catch up to my scrolling, so -- it
16 kept going on. Okay. Yes.
17 The slip sheet for Attachment M is page 38 of
18 the PDF of Exhibit 1009, Mr. Harry's declaration. If we
19 go to page 40, and if you could, Mylene, zoom in on the
20 upper left-hand corner. My -- it's actually, I think,
21 the prior page. I apologize. It's the front page of --
22 there we go. Thank you. And if you could zoom in on
23 the upper left-hand corner again.
24 BY MR. SOROCCO:
25 Q. Do you -- do you, Mr. Harry, see similar white

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1 markings along the left-hand edge of the picture shown
2 on page 39 of your declaration?
3 **A. Yes.**
4 Q. Okay. And your -- I believe your testimony was,
5 is it was an arti -- a photocopying artifact in
6 Exhibit 1008. Is that correct?
7 **A. Yes. I believe it was an artifact of the**
8 **scanning process.**
9 Q. Okay. And is this photograph a -- or this --
10 excuse me. Strike.
11 Is this picture the same scanned image as was
12 shown in Exhibit 1008?
13 **A. Without seeing both, I prob -- I can't make that**
14 **determination.**
15 Q. Okay.
16 MR. SOROCCO: Mylene, is there a way to show
17 this -- this page of 1009 and then oppose it with a page
18 from -- the same page from 1008?
19 THE TECHNICIAN: Yes. I can do a side by side.
20 MR. SOROCCO: Oh, that would be great.
21 THE TECHNICIAN: Okay. Just one moment.
22 I'm showing -- I'm not sure how it's arranged on
23 your page, but right here is 1009, and on -- to the
24 right of that is 1008.
25 MR. SOROCCO: Okay. Thank you very much.

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1 BY MR. SOROCCO:
2 Q. Mr. Harry, do you see what's on the screen
3 before you as the very similar zoomed-in magnification
4 of the front cover of the PSO manual from page, it looks
5 to be 39 of 1009 and page 1 of Exhibit 1008?
6 **A. Yes.**
7 Q. Okay. And do you see, as we have been
8 discussing, the white marks on the left-hand side of the
9 manual in 1009, Mr. Harry?
10 **A. Yes.**
11 Q. Okay. And do you see the white marks that we've
12 been discussing on the image shown on the front page of
13 zero -- 1008?
14 **A. Yes.**
15 Q. Okay. And do you have any opinion as to whether
16 these marks are identical?
17 **A. I believe they are.**
18 Q. Okay. And it's your testimony that these are
19 scanning artifacts. Is that correct?
20 **A. Yes, I believe so. Or wear from opening the**
21 **manual after we had received it.**
22 Q. Okay. Can you -- your testimony was opening the
23 manual after you received it, just now. Could it be
24 wear from opening the manual from before you received
25 it?

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1 **A. It might have been wear from when the insert was**
2 **placed into the packaging.**
3 Q. Okay. Okay. Thank you very much.
4 MR. SOROCCO: You can take down the side by
5 side, Mylene.
6 All right. Let's pull up, again, Exhibit -- or
7 excuse me, Exhibit 1009, which is Mr. Harry's
8 declaration. And if you could go to paragraph 13 of the
9 declaration.
10 BY MR. SOROCCO:
11 Q. Do you see paragraph 13 there, Mr. Harry?
12 **A. Yes.**
13 Q. Okay. And do you -- I'm trying to find my
14 place. I'm sorry.
15 And your paragraph 13 starts out with,
16 "Furthermore, based on various video game industry
17 magazine articles, including one from Computer and Video
18 Games," it looks like Gamers -- or "Game Pro, Gamer's
19 Republic, Hyper, NextGen Life. It looks like that's all
20 the articles.
21 That paragraph refers to those articles, does it
22 not?
23 **A. Yes, I believe so.**
24 Q. Okay. And did you own these articles,
25 Mr. Harry, prior to writing and executing this

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1 declaration?
2 **A. Own in what sense?**
3 Q. Yeah. Did you have the physical copies of these
4 magazines in your possession?
5 **A. No.**
6 Q. At the time, okay, of executing your
7 declaration. Okay.
8 Where did you get copies of these declaration --
9 or these articles?
10 MR. SQUIRE: Objection. I think the last
11 question, I think both of you -- the witness was
12 answering, and I think the question was being modified
13 at the same time.
14 Would you like to go over that question again,
15 Mr. Sorocco?
16 MR. SOROCCO: Yeah, I'd be happy to. Thank you
17 for pulling that up -- or making that known.
18 I'm just pulling up the realtime, real quick.
19 BY MR. SOROCCO:
20 Q. And yes, my question was, did you have the
21 physical copies of these magazines in your possession?
22 And I was then qualifying that with, at the time of --
23 or excuse me, prior to writing and executing your
24 declaration.
25 You answered in between -- I'm sorry. I was

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1 looking at the wrong question.
2 My question was, do you have -- I'm sorry. It's
3 bouncing around on me.
4 Did you have physical copies of these magazines
5 in your possession at the time of your execution of your
6 declaration?
7 A. No. They were digital copies.
8 Q. Okay. Let's go back.
9 Where did you obtain these digital copies of
10 these articles?
**11 A. Based on my declaration statement, I believe
12 they came from Sega -- Sega Retro, a website.**
13 Q. Okay. And what is Sega Retro?
**14 A. If I recall, it is a website that archived a
15 bunch of articles regarding various Sega products.**
16 Q. Okay. And prior to being engaged by KXT, were
17 you aware of the Segaretro.org website?
18 A. Not by name, but I honestly don't know.
19 Q. Okay. What did you mean, not by name?
**20 A. It could have been a website that I stumbled
21 upon when looking at information for old games through
22 my personal life, but not -- I don't recognize the --
23 the web address prior to this work.**
24 Q. Okay. And was -- did you come across this --
25 strike.

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1 With regard to this work, being, I assume you
2 mean, the engagement to -- to purchase -- or order and
3 purchase and provide your opinion regarding the PSO
4 manual?
5 MR. SQUIRE: Objection to the extent that
6 statement mischaracterizes the scope of his engagement.
7 MR. SOROCCO: Okay. I'm going to strike that
8 question, then.
9 BY MR. SOROCCO:
10 Q. Oh, the video game magazine articles that you
11 list here in paragraph 13, are they -- are the articles
12 referring to the game, the PSO game, or the PSO manual?
**13 A. I believe to the game, but I would need to
14 review the articles to be able to definitively say that.**
15 Q. If you would like to take the time right now to
16 review those articles, I would be happy for you to do
17 so.
18 A. Okay.
19 Q. Let me know when you're done reviewing those
20 articles, Mr. Harry.
**21 A. All right. I've read the articles. Can you
22 restate your question, or repeat your question, please,
23 Mr. Sorocco.**
24 Q. Yeah, I'm happy to.
25 So the video game magazine articles that you

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1 list here on paragraph 13, do the articles refer to the
2 manual?
**3 A. Not that I could see, but some of the articles
4 or portions of other articles were difficult to read
5 based on the multiple iterations these have gone through
6 additionally.**
7 Q. I understand. Sometimes the scanning and the
8 photocopying and all of that.
9 But to the best of your ability, the -- you did
10 not see the articles mention the manual, did you?
**11 A. In the materials that I was able to review just
12 now, no.**
13 Q. Okay. Thank you very much.
14 Let's go to Exhibit -- back to Exhibit 1009. I
15 guess we're still in that exhibit. Sorry.
16 And let's look at Exhibit H -- or excuse me. I
17 did it again. Attachment H. And that is page 29 of the
18 PDF of your declaration, Mr. Harry.
19 And on page 30 are two photographs. What are
20 these photographs of?
21 A. I believe that is the back page of the manual.
22 Q. Is the manual in the DVD case?
**23 A. In these -- in these photos, yes, it looks like
24 that.**
25 Q. Okay.

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1 MR. SOROCCO: And if we can zoom in on the right
2 side of the upper image. Okay. Can we zoom in a little
3 bit more? There we go.
4 BY MR. SOROCCO:
5 Q. On the right side, to me, there appear to be
6 some white markings going from the top of the manual,
7 down to about -- I don't know, about two-thirds or
8 three-quarters of the way.
9 Do you see those markings, Mr. Harry?
**10 A. Yes, I see what you are characterizing as
11 markings.**
12 Q. Well, or just -- just white -- let's
13 characterize them -- change the characterization, then.
14 Actually, like, how would you characterize those
15 white -- that white along the right edge of the manual?
**16 A. I am not sure if that's -- that could be glare
17 off of the manual when I was taking the photograph, or
18 it could be an artifact on the manual itself.**
19 Q. Okay.
20 MR. SOROCCO: Could you scroll down, Mylene?
21 BY MR. SOROCCO:
22 Q. And this appears to be a bit of a zoomed-n
23 version of the image above. Is that correct, Mr. Harry?
24 A. I believe so.
25 Q. And I believe you're taking this picture -- or

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1 you included this picture, excuse me, if you zoom out,
2 to particularly indicate or -- a copyright notice.
3 Is -- is that correct?
4 **A. I believe so.**
5 Q. Okay.
6 **A. If you scroll to the left, there should be a**
7 **copyright notice there.**
8 Q. Yeah. Yeah. That was my understanding of why
9 you included it in -- and am I -- is it fair to say
10 that's your understanding as well?
11 **A. Yes.**
12 Q. Okay. Let's go back to the right-hand side.
13 And do you see the same or similar white markings along
14 the right-hand edge of the back page of the manual?
15 **A. Yes.**
16 Q. Okay. Would you clar -- or characterize those
17 white markings as glare in this picture as well?
18 **A. It is hard to say, but I would probably say no.**
19 Q. Okay. Why would you probably say no?
20 **A. Just based on the appearance there and how**
21 **zoomed in we are.**
22 Q. Okay. And what would you characterize those
23 white markings to be, then, if it's not glare?
24 **A. It would appear that it is degradation of the**
25 **manual, maybe due to age or -- it would depend. I'd**

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1 **have to look at another photo. It looks like that**
2 **aligns with a staple in the document, and that would**
3 **cause it to wear in its folded state.**
4 Q. Okay. And just a general question.
5 Do you still have the PSO manual in your
6 possession, Mr. Harry?
7 **A. No. That was forwarded to KXT Law.**
8 Q. Okay. And so you presume that if I wanted to
9 see the -- the actual manual, that KXT Law or
10 Duane Morris, the subsequent law firm, would have that.
11 Is that your understanding?
12 **A. I -- that would be my belief, but I have no**
13 **basis for that.**
14 MR. SOROCCO: Okay. I believe I'm about done,
15 but if you could give me just a few moments, I just want
16 to confirm that that's the case.
17 Mr. Squire, do you want to go off the record for
18 just, I don't know, five minutes?
19 MR. SQUIRE: Sure.
20 MR. SOROCCO: Okay.
21 THE VIDEOGRAPHER: And we are off the record at
22 10:48 a.m.
23 (A recess transpires.)
24 THE VIDEOGRAPHER: The time is 10:54 a.m. We
25 are back on the record.

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1 MR. SOROCCO: Okay. Thank you very much,
2 Mr. Harry, for your testimony. I'm done with my
3 cross-examination and tender the witness, Mr. Square.
4 MR. SQUIRE: Thank you Mr. Sorocco.
5 I -- on behalf of petitioner, Sony Interactive
6 Entertainment, we do not have any further questions at
7 this time.
8 THE VIDEOGRAPHER: All right. This concludes
9 the videotaped deposition of Alexander Harry. The time
10 is 10:54 a.m. We are off the record.
11 (Proceeding Concludes at 10:54 a.m.)
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1 REPORTER'S CERTIFICATE
2
3 STATE OF CALIFORNIA) ss.
4 I, DEREK L. HOAGLAND, CSR #13445, State of
5 California, do hereby certify:
6 That ALEXANDER R. HARRY the witness whose
7 deposition is hereinbefore set forth, was duly sworn
8 by me before the commencement of such deposition and
9 that such deposition was taken before me and is a true
10 record of the testimony given by such witness.
11 I further certify that the adverse party,
12 PETITIONER, was represented by counsel at the deposition.
13 I further certify that the deposition of
14 ALEXANDER R. HARRY, occurred virtually,
15 via videoteleconference, commencing at 9:03 a.m. to
16 10:54 a.m.
17 I further certify that I am not related to
18 any of the parties to this action by blood or
19 marriage, I am not employed by or an attorney to any
20 of the parties to this action, and that I am in no way
21 interested, financially or otherwise, in the outcome
22 of this matter.
23
24
25

Quantum Imaging, LLC
Exhibit 2013
IPR2023-00995
Page 17

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1 IN WITNESS WHEREOF, I have hereunto set my
2 hand this 28th day of February, 2024.
3
4 _____
5 DEREK L. HOAGLAND, CSR #13445
6 NOTARY PUBLIC IN AND FOR THE
7 CALIFORNIA
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