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Transcript of Nenad Medvidovic, Ph.D.

Date: May 29, 2024

Case: Sony Interactive Entertainment LLC -v- Quantum Imaging LLC (PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3
4

5 SONY INTERACTIVE)
6 ENTERTAINMENT LLC,)
7)
8 Petitioner,)
9)
10 vs.)
11)
12 QUANTUM IMAGING LLC,)
13)
14 Patent Owner.)
15)

16 CASE NUMBER IPR2023-00954
17 U.S. PATENT NUMBER 8,458,028
18 CASE NUMBER IPR2023-00995
19 U.S. PATENT NUMBER 10,846,941
20 CASE NUMBER IPR2023-00996
21 U.S. PATENT NUMBER 10,991,165

22 VOLUME I

23 VIDEOTAPED DEPOSITION OF:

24 NENAD MEDVIDOVIC, Ph.D.

25 WEDNESDAY, MAY 29, 2024

Reported by:

Kelli C. Norden
CSR No. 7200

1 UNITED STATES PATENT AND TRADEMARK OFFICE
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12 CASE NUMBER IPR2023-00954
13 U.S. PATENT NUMBER 8,458,028
14 CASE NUMBER IPR2023-00995
15 U.S. PATENT NUMBER 10,846,941
16 CASE NUMBER IPR2023-00996
17 U.S. PATENT NUMBER 10,991,165

18 VOLUME I

19 The Videotaped Deposition of NENAD
20 MEDVIDOVIC, Ph.D., taken on behalf of the
21 Petitioner, before Kelli C. Norden, Certified
22 Shorthand Reporter 7200, for the State of
23 California, commencing at 11:49 a.m., Wednesday,
24 May 29, 2024, at SPENCER FANE, 201 Santa Monica
25 Boulevard, Suite 550, Santa Monica, California.

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I N D E X

WITNESS:	EXAMINED BY:	PAGE:
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EXHIBITS FOR IDENTIFICATION:

PETITIONER'S:

EXHIBIT 1013	- NOTICE OF DEPOSITION OF DR. NENAD MEDVIDOVIC, PATENT NUMBER 8,458,028	21
EXHIBIT 1014	- NOTICE OF DEPOSITION OF DR. NENAD MEDVIDOVIC, PATENT NUMBER 10,846,941	21
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4 PETITIONER'S:

5 EXHIBIT 1019 - EXCERPTS FROM "SOFTWARE
6 ARCHITECTURE, FOUNDATION,
THEORY, AND PRACTICE" 87

7 EXHIBIT 1020 - SCREENSHOTS 148

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10
11 EXHIBITS PREVIOUSLY MARKED FOR IDENTIFICATION
12 AND ATTACHED HERETO:

13 1001, 1003, 1007, 2005

14
15
16 QUESTIONS UNANSWERED BY THE WITNESS:

17 (NONE)

18
19
20
21 INFORMATION REQUESTED:

22 (NONE)

23
24
25
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1 SANTA MONICA, CALIFORNIA, WEDNESDAY

2 MAY 29, 2024

3 11:49 A.M.

4
5 THE VIDEOGRAPHER: Here begins media

11:48:30

6 number one in the videotaped deposition of

11:48:41

7 Dr. Nenad Medvidovic in the matter of Sony

11:48:45

8 Interactive Entertainment LLC versus Quantum

11:48:49

9 Imaging LLC in the United States Patent and

11:48:52

10 Trademark Office before the Patent Trial and Appeal

11:48:57

11 Board, case number IPR2023-dash-00954 and

11:48:58

12 dash-00959 and dash-00995 and dash-00996.

11:49:11

13 Today's date is May 29th, 2024.

11:49:18

14 The time on the video monitor is

11:49:22

15 11:49 a.m.

11:49:26

16 The videographer today is Charlie

11:49:27

17 McGrath, representing Planet Depos.

11:49:30

18 This video deposition is taking place at

11:49:32

19 Spencer Fane, 201 Santa Monica Boulevard,

11:49:35

20 Suite 550, Santa Monica, California 90401.

11:49:39

21 Would counsel please voice identify

11:49:42

22 themselves and state whom they represent.

11:49:44

23 MR. BLUMENKOPF: This is Bryan

11:49:46

24 Blumenkopf on behalf of the petitioner, Sony, from

11:49:48

25 Morrison & Foerster.

11:49:48

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1	With me is my colleague, Mehran	11:49:51
2	Arjomand, also from Morrison & Foerster.	11:49:54
3	MR. RAFATIJO: This is Homayoon Rafatijo	11:49:58
4	with the firm of Spencer Fane, representing Quantum	11:50:00
5	Imaging.	11:50:00
6	With me on Zoom is Mr. Patrick Dunn,	11:50:03
7	also from Spencer Fane.	11:50:06
8	And I'd like to clarify that the IPR	11:50:08
9	matter dash-00959 was settled and no longer is in	11:50:12
10	this case. The videographer mentioned that it's	11:50:16
11	actually in the case.	11:50:19
12	THE VIDEOGRAPHER: The court reporter	11:50:23
13	today is Kelli Norden, representing Planet Depos.	11:50:24
14	The witness will now be sworn.	11:50:26
15	/ / /	11:50:26
16	/ / /	11:50:26
17	/ / /	11:50:36
18		
19		
20		
21		
22		
23		
24		
25		

1 NENAD MEDVIDOVIC, Ph.D.,
2 called as a witness and sworn in by
3 the court reporter, was examined
4 and testified as follows:

5
6 THE COURT REPORTER: Would you raise
7 your right hand to be sworn.

8 Do you solemnly affirm that the
9 testimony you are about to give in the following
10 proceedings will be the truth, the whole truth, and
11 nothing but the truth?

12 THE WITNESS: I do.

13 THE COURT REPORTER: Thank you.

14 THE WITNESS: Thanks.

15
16 EXAMINATION

17 BY MR. BLUMENKOPF:

18 Q. Could you please state your full name
19 and address for the record.

11:50:40

11:50:42

20 A. Sure.

11:50:43

21 Nenad Medvidovic. My address is
22 11019 Hortense Street in North Hollywood,
23 California 91602.

11:50:44

11:50:46

11:50:49

24 Q. All right. Thank you, Dr. Medvidovic.

11:50:52

25 My name is Bryan Blumenkopf. I'm an

11:50:54

1 attorney for Sony, petitioner in this proceeding.

11:50:57

2 I'll be taking your deposition today.

11:50:59

3 A. Okay.

11:51:01

4 Q. You understand the IPR proceedings in
5 this case or IPR number is IPR2023-dash-00954,
6 dash-00995, and dash-00996; right?

11:51:01

11:51:03

11:51:08

7 A. Yes.

11:51:13

8 Q. The 954 matter involves U.S. Patent
9 Number 8,458,028; right? Okay.

11:51:13

11:51:17

10 A. Yes, that sounds right.

11:51:20

11 Q. Okay. We can refer to that as the '028
12 Patent.

11:51:21

11:51:21

13 Is that okay?

11:51:26

14 A. Sure.

11:51:26

15 Q. And the 995 matter involves U.S. Patent
16 [unintelligible] --

11:51:26

11:51:29

17 THE COURT REPORTER: I'm sorry? Can you
18 repeat that slower?

11:51:29

11:51:29

19 MR. BLUMENKOPF: Sure. Sorry.

11:51:30

20 BY MR. BLUMENKOPF:

11:51:30

21 Q. The -- the 995 matter involves U.S.
22 Patent Number 10,846,941.

11:51:31

11:51:35

23 Can we refer to that as the '941 patent?

11:51:37

24 A. Sure.

11:51:40

25 Q. And the 996 matter involves U.S. Patent

11:51:41

1 Number 10,991,165.

11:51:45

2 I may refer to that as the '165 patent.

11:51:47

3 A. Makes sense.

11:51:50

4 Q. And I'll examine you in these three
5 proceedings, and after that's completed, patent
6 owner's counsel may examine you on redirect.

11:51:51

11:51:53

11:51:56

7 A. Sounds good.

11:51:59

8 Q. My questions might relate to any of the
9 patents or any of the IPR proceedings, though. So
10 unless my question specifies otherwise, answer the
11 question as if it relates to any or all of the
12 patents or any or all of the IPR proceedings.

11:52:00

11:52:02

11:52:04

11:52:06

11:52:09

13 Does that make sense?

11:52:12

14 A. Okay.

11:52:13

15 Q. If your answer is limited to a
16 particular patent or a particular proceeding, just
17 make that clear in your answer.

11:52:13

11:52:15

11:52:17

18 A. I will try to do that. Yes.

11:52:19

19 Q. Okay. I want to reduce the amount of
20 times I have to ask you the same question
21 repeatedly.

11:52:20

11:52:22

11:52:23

22 A. Okay.

11:52:24

23 THE COURT REPORTER: And, Counsel, can
24 you speak a little slower?

11:52:26

11:52:28

25 MR. BLUMENKOPF: Sure. Sorry. I had,

11:52:29

1	like, three energy drinks this morning. I'll do my	11:52:30
2	best.	11:52:33
3	BY MR. BLUMENKOPF:	11:52:33
4	Q. Yeah. If I speak unclearly or if I ask	11:52:33
5	you a question you don't understand, just feel free	11:52:36
6	to let -- ask me to rephrase. I'm entitled to give	11:52:38
7	you questions you can -- you can understand.	11:52:41
8	A. Sounds good.	11:52:42
9	Q. Have you ever been deposed before?	11:52:44
10	A. I have.	11:52:45
11	Q. Was that for patent cases?	11:52:46
12	A. Yes. Most of them.	11:52:49
13	Q. Okay. How many of those were related to	11:52:50
14	a district court proceeding?	11:52:55
15	THE COURT REPORTER: To -- I'm sorry.	11:52:58
16	What court proceeding?	11:52:59
17	MR. BLUMENKOPF: A district court	11:52:59
18	proceeding.	11:53:00
19	THE COURT REPORTER: Ah, thank you.	11:53:02
20	THE WITNESS: My guess is a majority,	11:53:02
21	some number of IPRs. But I would say the majority	11:53:03
22	would be for district court --	11:53:06
23	(Unreportable cross-talk.)	11:53:07
24	BY MR. BLUMENKOPF:	11:53:08
25	Q. Okay. But how many times have you been	11:53:08

1 deposed in total?

11:53:09

2 A. At this point, I would guess close to a
3 hundred. I stopped counting at fifty, but that was
4 a few years ago.

11:53:10

11:53:13

11:53:16

5 Q. Okay. How many cases would you say
6 you've been involved in?

11:53:17

11:53:19

7 A. Over fifty cases at this point.
8 Somewhere between fifty and sixty, if memory serves
9 me right.

11:53:20

11:53:24

11:53:27

10 Q. Okay. And how many of those would you
11 say were patent cases?

11:53:28

11:53:30

12 A. I think only a small number would have
13 been trade secret, mediation, and/or contract
14 dispute-type cases. So I would guess between
15 forty-five and fifty would be patent cases also
16 including IPRs.

11:53:31

11:53:36

11:53:40

11:53:44

11:53:47

17 Q. Okay. How many [unintelligible] have
18 you been involved in?

11:53:48

11:53:50

19 THE COURT REPORTER: "How many" what?

11:53:50

20 MR. BLUMENKOPF: IPRs.

11:53:52

21 THE COURT REPORTER: Thank you.

11:53:54

22 THE WITNESS: I would not be able to
23 give you an exact number, but if I said around
24 twenty, it probably wouldn't be too far off.

11:53:55

11:53:56

11:54:00

25 / / /

1 BY MR. BLUMENKOPF:

11:54:03

2 Q. Okay. So around twenty IPR cases --

11:54:03

3 A. Right.

11:54:05

4 Q. -- more or less?

11:54:05

5 A. Right.

11:54:05

6 Q. Okay. So as a seasoned witness, I'm

11:54:07

7 gonna try to abbreviate some of the -- the ground

11:54:12

8 rules. But like I said, you know, I need to ask

11:54:15

9 you questions, and if I ask you something unclear,

11:54:19

10 let me know.

11:54:21

11 Obviously, you're -- you're under oath.

11:54:22

12 Let's try not to speak over each other

11:54:24

13 the best we can. Let's try to make things as easy

11:54:27

14 for Kelli as we possibly can.

11:54:29

15 Is there any reason you can't give your

11:54:31

16 best testimony today?

11:54:33

17 A. No reason.

11:54:34

18 Q. Okay. Have you ever been involved in a

11:54:44

19 patent matter involving Sony?

11:54:45

20 A. I believe that this is likely my first

11:54:49

21 patent -- patent matter involving Sony.

11:54:53

22 I -- I've done this for the last fifteen

11:54:55

23 years, give or take, this kind of thing, and my

11:55:01

24 memory might be failing me, but I have not --

11:55:03

25 certainly not testified in a court proceeding

11:55:07

1 involving Sony, and I believe this is the first 11:55:10
2 time I've done anything involving Sony, going -- 11:55:15
3 just going from memory. 11:55:18

4 Q. You say anything "involving Sony." 11:55:19
5 You're speaking about court proceedings, 11:55:20
6 or are you speaking more generally? 11:55:23

7 A. As far as -- as court proceedings are 11:55:25
8 concerned, IPRs, anything of that kind. 11:55:29

9 Q. Okay. You were involved in the 11:55:34
10 Acceleration [unintelligible] -- 11:55:35

11 THE COURT REPORTER: "Acceleration" -- 11:55:37

12 MR. BLUMENKOPF: Acceleration Bay. 11:55:39

13 THE COURT REPORTER: "Bay"? 11:55:39

14 MR. BLUMENKOPF: Right. 11:55:41

15 BY MR. BLUMENKOPF: 11:55:41

16 Q. There's a litigation against 11:55:41
17 [unintelligible] -- 11:55:50

18 THE COURT REPORTER: I'm sorry. I can't 11:55:50
19 hear, and I'm not understanding. If you can just 11:55:50
20 speak up a little. 11:55:50

21 "There's a litigation against" -- 11:55:51

22 MR. BLUMENKOPF: Let me ask the question 11:55:52
23 again. 11:55:53

24 BY MR. BLUMENKOPF: 11:55:53

25 Q. You were involved in a -- a litigation 11:55:54

1	matter involving Acceleration Bay; right?	11:55:55
2	A. Yes.	11:55:58
3	Q. Against Activision?	11:55:59
4	A. The -- that's the recent one that went	11:56:01
5	to trial a couple weeks ago.	11:56:05
6	Q. Okay. What was your role in that case?	11:56:08
7	A. I was the infringement expert.	11:56:10
8	Q. Okay. Did you provide a declaration in	11:56:13
9	that case?	11:56:17
10	A. If it had been involved in an IPR, I	11:56:17
11	would have provided a declaration. I definitely	11:56:24
12	provided an expert report.	11:56:25
13	Q. Okay. Did you testify in that case?	11:56:26
14	A. I did.	11:56:28
15	Q. Did you testify in court?	11:56:29
16	A. Yes.	11:56:30
17	Q. Did you provide deposition testimony?	11:56:31
18	A. Yes.	11:56:33
19	Q. Did you study any electronic games as	11:56:34
20	part of that case?	11:56:37
21	A. I did.	11:56:38
22	Q. Which games?	11:56:41
23	A. That particular case eventually boiled	11:56:42
24	down to two games, which was "Call of Duty," their	11:56:45
25	actual -- a couple of versions of "Call of Duty"	11:56:49

1 and "World of Warcraft" --

11:56:52

2 Q. Okay.

11:56:52

3 A. -- which is a Blizzard Entertainment
4 game, but Activision and Blizzard had merged at
5 some point before I started working on that case.

11:56:53

11:56:56

11:57:01

6 Q. [Unintelligible.]

11:57:06

7 THE COURT REPORTER: I'm sorry?

11:57:07

8 BY MR. BLUMENKOPF:

11:57:07

9 Q. Those are both online games; correct?

11:57:08

10 A. I think it's fair to say that "World of
11 Warcraft" is online. I think that "Call of Duty,"
12 if memory serves me right, can be played online or
13 offline.

11:57:11

11:57:17

11:57:22

11:57:25

14 Q. Okay. So it's an online game with --
15 with an offline mode.

11:57:26

11:57:28

16 Is that fair to say?

11:57:30

17 MR. RAFATIJO: Objection; form.

11:57:31

18 THE WITNESS: Or an offline game with an
19 online mode.

11:57:32

11:57:34

20 I -- I think it's -- it can be played
21 with other players in a sort of online mode, or it
22 can be played as a single-player mode involving
23 only the software that is purchased by a consumer,
24 a customer.

11:57:35

11:57:46

11:57:48

11:57:50

11:58:00

25 / / /

1 BY MR. BLUMENKOPF:

11:58:02

2 Q. What's a "sort of online mode"?

11:58:03

3 A. The online mode that involves other
4 players who may be running "Call of Duty" and may
5 be looking to team up.

11:58:04

11:58:11

11:58:21

6 There could potentially be settings, if
7 memory serves me right, where somebody can play
8 alone without being a member of a team or a -- some
9 kind of a foraging party or whatever who would
10 still be able to view other active players at a
11 given time.

11:58:22

11:58:29

11:58:32

11:58:36

11:58:42

11:58:45

12 But this is just -- just going from
13 memory.

11:58:45

11:58:47

14 Q. Okay. Thank you.

11:58:56

15 Did you review the source code for those
16 games, "Call of Duty," "World of Warcraft"?

11:58:56

11:58:56

17 A. I did.

11:58:56

18 Q. How much time did you spend reviewing
19 the source code?

11:58:56

11:58:57

20 A. I spent a fair bit of time.

11:58:59

21 I cannot give you an exact amount
22 because that all happened in the 2016-2017
23 timeframe, and then there was a long period during
24 which basically nothing was happening in the -- at
25 least from my end as an expert, nothing was

11:59:10

11:59:10

11:59:15

11:59:17

11:59:21

1 happening in the case before it finally -- I was
2 informed that it's going to trial in -- what would
3 that have been? I guess late April, early May of
4 2024.

11:59:26

11:59:30

11:59:34

11:59:40

5 Q. Can you give [unintelligible] --

11:59:40

6 THE COURT REPORTER: "Of 2020-" -- I'm
7 sorry --

11:59:41

11:59:43

8 THE WITNESS: -4. 2024.

11:59:43

9 THE COURT REPORTER: Thank you.

11:59:43

10 BY MR. BLUMENKOPF:

11:59:43

11 Q. Can you give me an estimate how many
12 hours you spent studying each of those games?

11:59:44

11:59:45

13 A. It was a lot.

11:59:48

14 I studied "Call of Duty" at Activision's
15 offices here in Santa Monica, and I drove down a
16 number of time [as spoken] to study "World of
17 Warcraft" at Blizzard Entertainment's offices down
18 in -- in -- I guess southern Irvine, it would be.

11:59:49

11:59:56

12:00:00

12:00:05

12:00:09

19 Q. Can you give me just a ballpark figure
20 number of hours?

12:00:11

12:00:14

21 A. As we sit here, unfortunately, I can't
22 just because it's been so long.

12:00:14

12:00:16

23 Q. Would you say it's over a hundred hours
24 for each of those?

12:00:18

12:00:19

25 A. I certainly worked -- I would say it's

12:00:21

1 fair to say that I worked over a hundred hours on
2 each of those cases. But how it broke down in
3 terms of studying the code or looking at the
4 documentation or writing my reports, at this point
5 I would not be able to say.

6 Q. Is it fair to say you're -- you're very
7 well versed in those games and how they operate?

8 A. Yes. I would say that that's fair,
9 given that I just had to go through the process of
10 getting back up to speed on -- on those two games
11 because of the -- the trial that took place in
12 Delaware a few weeks ago.

13 Q. Okay. Thank you.

14 If I return to that case, I want to be
15 clear I'm not asking for any non-public information
16 in that case.

17 A. Okay.

18 MR. BLUMENKOPF: So I want to mark three
19 exhibits here, Kelli.

20 THE COURT REPORTER: Okay.

21 MR. BLUMENKOPF: So if you could mark
22 this Exhibit 1013.

23 THE COURT REPORTER: 1013.

24 MR. BLUMENKOPF: I've got copies for
25 everyone.

1 THE COURT REPORTER: Let me just report 12:01:46
2 what you said. 12:01:43

3 (Whereupon, Petitioner's Exhibit Number 12:01:43
4 1013 was marked for identification by 12:01:43
5 the deposition officer and is attached 12:01:43
6 hereto.) 12:01:43

7 THE COURT REPORTER: Here you go, 12:01:47
8 Doctor. 12:01:47

9 THE WITNESS: Thank you. 12:01:47

10 THE COURT REPORTER: You're welcome. 12:01:49

11 MR. BLUMENKOPF: Sorry. All four copies 12:01:49
12 are there, if you could take one and then 12:01:51
13 distribute the rest. 12:01:53

14 THE WITNESS: Oh. 12:01:53

15 MR. BLUMENKOPF: Sorry. 12:01:55

16 (Whereupon, a discussion was held 12:02:11
17 off the stenographic record.) 12:02:14

18 MR. BLUMENKOPF: If you could mark this 12:02:14
19 Exhibit 1014. 12:02:15

20 THE COURT REPORTER: Thank you. 12:02:34

21 (Whereupon, Petitioner's Exhibit Number 12:02:34
22 1014 was marked for identification by 12:02:34
23 the deposition officer and is attached 12:02:34
24 hereto.) 12:02:34

25 THE COURT REPORTER: Doctor. 12:02:34

1	THE WITNESS: Thank you.	12:02:34
2	THE COURT REPORTER: You're welcome.	12:02:35
3	MR. BLUMENKOPF: And if you could mark	12:02:40
4	this one Exhibit 1015.	12:02:41
5	THE COURT REPORTER: Okay.	12:03:03
6	(Whereupon, Petitioner's Exhibit Number	12:03:03
7	1015 was marked for identification by	12:03:03
8	the deposition officer and is attached	12:03:03
9	hereto.)	12:03:05
10	THE WITNESS: Thank you.	12:03:05
11	THE COURT REPORTER: You're welcome.	12:03:06
12	BY MR. BLUMENKOPF:	12:03:06
13	Q. Okay. You've been handed what's been	12:03:08
14	marked as Exhibits 1013, 1014, and 1015.	12:03:09
15	These are notices relating to the	12:03:13
16	deposition here today; right?	12:03:14
17	A. That's what it seems to be, yes.	12:03:17
18	Q. And you've seen these before; right?	12:03:19
19	A. Yes.	12:03:21
20	Q. And you understand you're here because	12:03:22
21	of three inter partes review proceedings	12:03:24
22	[unintelligible] --	12:03:29
23	THE COURT REPORTER: I'm sorry? Can you	12:03:29
24	repeat that slower and a little louder?	12:03:29
25	/ / /	

1 BY MR. BLUMENKOPF:

12:03:30

2 Q. You understand we're here because of the
3 three inter partes review proceedings that I
4 mentioned earlier, right, the 954, 995, and 996
5 matters?

12:03:30

12:03:32

12:03:34

12:03:39

6 A. Correct.

12:03:39

7 Q. And are you aware there's a lawsuit
8 pending in the Western District of Texas involving
9 these same three patents?

12:03:42

12:03:44

12:03:47

10 A. Yes. I believe I knew that.

12:03:49

11 Q. Okay. And that's case number
12 6:22-cv-573. I may refer to that today as "the
13 litigation" or "the district court litigation."

12:03:50

12:03:54

12:03:59

14 A. I will have to take your word regarding
15 the case number because I wouldn't have known it,
16 but that sounds fine to me.

12:04:01

12:04:06

12:04:08

17 Q. Okay. What did you do to prepare for
18 your deposition today?

12:04:10

12:04:16

19 A. I read my declarations, reread the
20 patents, looked at the alleged prior art that was
21 asserted by Sony.

12:04:17

12:04:23

12:04:30

22 I looked at the deposition of Sony's --
23 deposition transcript of Sony's expert, a couple of
24 the file histories, et cetera.

12:04:32

12:04:35

12:04:40

25 So I just essentially retraced many of

12:04:42

1 the things that I did at the time at which I was
2 writing the declarations.

3 Q. Did you review any other documents other
4 than the ones you mentioned?

5 A. If any of them, I -- nothing comes to
6 mind, but if something would -- if something comes
7 up as -- as we go through this, I will make sure
8 to -- to point out.

9 I'm just kind of going from memory.
10 Seems pretty complete.

11 Q. Did you meet with anyone to prepare for
12 this deposition?

13 A. I --

14 MR. RAFATIJO: I caution coun- -- I
15 caution the witness not to divulge in any
16 attorney-client information or work product
17 information. But otherwise, you can answer the
18 question.

19 THE WITNESS: I met briefly with Spencer
20 Fane's counsel.

21 BY MR. BLUMENKOPF:

22 Q. Okay. Who specifically did you meet
23 with?

24 A. I met with counsel who's present here
25 and -- actually, both of them because one of them

12:04:46

12:04:50

12:04:52

12:04:54

12:04:58

12:05:03

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12:05:09

12:05:11

12:05:12

12:05:14

12:05:15

12:05:15

12:05:17

12:05:20

12:05:22

12:05:23

12:05:23

12:05:27

12:05:27

12:05:28

12:05:29

12:05:30

12:05:33

1 is on Zoom as well.

12:05:36

2 Q. How long did you meet with them for?

12:05:38

3 A. A total of maybe an hour and a half

12:05:39

4 would be my guess.

12:05:45

5 Q. Is the patent owner compensating you for

12:05:49

6 your work on these matters?

12:05:58

7 THE COURT REPORTER: I'm sorry.

8 "Is the" what "compensating you"?

9 BY MR. BLUMENKOPF:

10 Q. Is -- is the patent owner --

11 THE COURT REPORTER: "Patent owner."

12 BY MR. BLUMENKOPF:

13 Q. -- compensating you for your work on

14 these matters?

12:05:59

15 A. Yes.

12:05:59

16 Q. Okay. How much are they compensating

12:05:59

17 you?

12:06:01

18 A. My rate is 750 dollars an hour.

12:06:01

19 Q. And does that compensation depend in any

12:06:03

20 way on the outcome of the proceedings?

12:06:06

21 A. No.

12:06:07

22 MR. BLUMENKOPF: Okay. Let's mark this

12:06:34

23 Exhibit 1016.

12:06:35

24 THE COURT REPORTER: Thank you.

12:06:53

25 / / /

1	(Whereupon, Petitioner's Exhibit Number	12:06:53
2	1016 was marked for identification by	12:06:53
3	the deposition officer and is attached	12:06:53
4	hereto.)	12:06:58
5	THE COURT REPORTER: There you go.	12:06:58
6	THE WITNESS: Thank you.	12:06:59
7	THE COURT REPORTER: You're welcome.	12:06:59
8	MR. BLUMENKOPF: Sorry. Let me clarify	12:07:01
9	for the record. This exhibit's been premarked as	12:07:02
10	Sony Exhibit 1001.	12:07:05
11	I know I asked you to mark it as	12:07:08
12	Exhibit 1016, but it's also -- also Exhibit 1001.	12:07:10
13	Just want to clarify that for the record.	12:07:14
14	MR. RAFATIJO: Counsel, one clarifying	12:07:19
15	question.	12:07:19
16	Moving forward, are you going to refer	12:07:21
17	to this as 1016 or 1001?	12:07:22
18	MR. BLUMENKOPF: I'll refer to this as	12:07:25
19	1001.	12:07:26
20	MR. RAFATIJO: Okay.	12:07:28
21	MR. BLUMENKOPF: But let's -- let's	12:07:28
22	reserve the --	12:07:30
23	MR. RAFATIJO: Sure.	12:07:30
24	MR. BLUMENKOPF: -- Exhibit 1016 number	12:07:30
25	so we don't reuse it.	12:07:31

1	MR. RAFATIJO: Sure.	12:07:33
2	BY MR. BLUMENKOPF:	12:07:36
3	Q. All right. This is U.S. Patent Number	12:07:36
4	8,458,028; right?	12:07:38
5	A. Correct.	12:07:41
6	Q. Okay. Do you recognize this document?	12:07:42
7	A. I do.	12:07:43
8	Q. Is it a complete and correct copy of the	12:07:44
9	'028 Patent?	12:07:50
10	A. I believe it is. I don't see anything	12:07:50
11	missing off the bat.	12:07:54
12	Q. This is one of the patents you analyzed	12:07:57
13	for this case; right?	12:07:59
14	A. This is correct.	12:08:01
15	Q. And I understand your opinion is that	12:08:03
16	claims one and three through nine of the '028	12:08:05
17	Patent are not obvious in view of the Angles	12:08:08
18	reference; right?	12:08:11
19	A. Correct.	12:08:12
20	Q. I understand your opinion is that those	12:08:16
21	same claims are not obvious in view of the Robinson	12:08:18
22	reference?	12:08:21
23	A. Correct. And in both cases, I would	12:08:21
24	just clarify not obvious and not anticipated by.	12:08:24
25	THE COURT REPORTER: "Not anticipated	12:08:31

1 by"?

12:08:33

2 THE WITNESS: Yes.

12:08:33

3 THE COURT REPORTER: Thank you.

12:08:34

4 BY MR. BLUMENKOPF:

12:08:47

5 Q. I understand your opinion is also that
6 claim six is not obvious in view of Angles,
7 Robinson, and Ginter.

12:08:47

12:08:48

12:08:51

8 Is that right?

12:08:54

9 A. I believe that is correct. I don't have
10 my declaration in front of me, but I -- I think
11 that's the claim.

12:08:57

12:08:59

12:09:01

12 Excuse me.

12:09:11

13 Q. Take a look at the first page of the
14 '028 Patent.

12:09:11

12:09:14

15 A. When you say "first page," you mean the
16 face page?

12:09:14

12:09:16

17 Q. Yes, that's right.

12:09:17

18 A. Okay.

12:09:18

19 Q. Look at the file date in the left column
20 of the face page. It says filed October 16th,
21 2002; right?

12:09:19

12:09:21

12:09:28

22 A. Correct.

12:09:28

23 Q. Is that the priority date for this
24 patent that you applied in your analysis?

12:09:28

12:09:31

25 A. I would have to look at my declaration

12:09:34

1	to confirm that, but going from memory, that sounds	12:09:36
2	right.	12:09:42
3	Q. So if I ask you about the priority date	12:09:44
4	for this patent, I'm talking about that date,	12:09:47
5	October 16th, 2002.	12:09:49
6	Okay?	12:09:52
7	A. Okay.	12:09:52
8	Q. Let's take a look at the claims. They	12:09:52
9	start on page 11 of the patent. It's the page --	12:09:54
10	the columns headings are column seven and column	12:10:01
11	eight.	12:10:04
12	A. Okay.	12:10:08
13	Q. You understand that the scope of a	12:10:08
14	patent is defined by the claims; correct?	12:10:09
15	A. Yes.	12:10:11
16	Q. And here we have independent claim one,	12:10:13
17	and claims two through six depend from claim one;	12:10:15
18	right?	12:10:22
19	A. Technically, four depends on three and	12:10:22
20	six depends on five, which in turn both depend on	12:10:28
21	one. So yes, with that caveat, just to be precise.	12:10:31
22	Q. Okay. So claims two through six	12:10:39
23	incorporate all the limitations of claim one;	12:10:41
24	right?	12:10:44
25	A. That is true.	12:10:44

1 Q. And we also have independent claim seven
2 and dependent claims eight and nine, which depend
3 from independent claim seven; right?

4 A. Correct.

5 Q. So claims eight and nine incorporate the
6 limitations of claim seven; right?

7 A. That is correct.

8 Q. When you performed your analysis, did
9 you apply any special meanings for any of the claim
10 terms?

11 A. I believe that the PTAB did not provide
12 any claim construction order per se, so plain and
13 ordinary -- plain and ordinary meaning as it would
14 have been understood by a person of ordinary skill
15 in the art at the time of the patent's priority
16 date would be the appropriate meaning to apply to
17 the various terms.

18 I believe in the district court case,
19 there may have been a Markman order. I think I
20 talk about it in my declaration.

21 But I would have to look at it to -- to
22 see if it any -- in any way goes against the plain
23 and ordinary meaning for the various terms.

24 Q. When you performed your analysis, did
25 you apply that plain and ordinary meaning for all

12:10:46

12:10:49

12:10:54

12:10:56

12:10:56

12:10:59

12:11:00

12:11:02

12:11:05

12:11:07

12:11:17

12:11:18

12:11:26

12:11:29

12:11:31

12:11:36

12:11:41

12:11:43

12:11:47

12:11:51

12:11:55

12:11:58

12:12:10

12:12:10

12:12:10

1 of these terms?

12:12:12

2 MR. RAFATIJO: Objection. This is not a
3 memory test, Counsel. He needs to see his
4 declaration.

12:12:14

12:12:15

12:12:18

5 MR. BLUMENKOPF: Just asking about his
6 analysis, Counsel.

12:12:18

12:12:19

7 BY MR. BLUMENKOPF:

12:12:21

8 Q. You can answer.

12:12:21

9 A. I -- as -- as I already said, I talk
10 about it in my -- in my declaration, given that
11 as -- as I recall going from memory, there was no
12 definition or claim construction provided by the
13 PTAB, that would have been the correct way of
14 analyzing the -- the claims or an appropriate way
15 of analyzing the claims.

12:12:22

12:12:25

12:12:33

12:12:39

12:12:41

12:12:48

12:12:54

16 But confirming that by looking at my
17 declaration would be helpful.

12:12:56

12:13:01

18 MR. BLUMENKOPF: Counsel, just a side
19 note. As you know, there's no speaking objections
20 allowed here. We're here --

12:13:06

12:13:07

12:13:10

21 (Unreportable cross-talk.)

12:13:11

22 MR. RAFATIJO: I object --

12:13:11

23 MR. BLUMENKOPF: -- on a limited amount
24 of time.

12:13:13

12:13:15

25 MR. RAFATIJO: I object when I see fit.

12:13:15

1 MR. BLUMENKOPF: Right. You're aware of 12:13:16
2 the rules [unintelligible] -- 12:13:21

3 THE COURT REPORTER: I'm sorry. I can't 12:13:21
4 follow. Can you speak louder and a little slower? 12:13:22

5 MR. BLUMENKOPF: Just want to warn 12:13:22
6 counsel we're not going to permit any speaking 12:13:24
7 objections here. We're not afraid to go to the 12:13:26
8 board if needed. 12:13:30

9 MR. RAFATIJO: Sure. If you want to 12:13:30
10 drag it to the board, go ahead. 12:13:32

11 BY MR. BLUMENKOPF: 12:13:35

12 Q. Okay. Let's take a look at claim one. 12:13:36

13 Okay? 12:13:38

14 A. Okay. 12:13:39

15 Q. You see how claim one mentions a "game 12:13:39
16 application"? 12:13:41

17 A. Yes. I see the mention of a "game 12:13:44
18 application." 12:13:46

19 Q. What's an application? 12:13:48

20 A. It's a piece of software that provides 12:13:53
21 some functionality that may be of use to somebody 12:14:02
22 in a general sense. 12:14:06

23 Q. "It's a piece of software that provides 12:14:10
24 some functionality that may be of use to somebody 12:14:11
25 in a general sense." 12:14:14

1	Did I hear you correctly?	12:14:15
2	MR. RAFATIJO: Objection; asked and	12:14:17
3	answered.	12:14:19
4	THE WITNESS: That's what I believe I	12:14:19
5	said. I mean, an application is an application.	12:14:20
6	It's a -- it's a well-known term in the art.	12:14:24
7	So defining it beyond just saying it's	12:14:27
8	an application, it's some piece of software	12:14:30
9	generally, if we're talking about a software	12:14:35
10	application.	12:14:37
11	MR. BLUMENKOPF: Counsel, again, warning	12:14:53
12	about the objections where the Trial Practice Guide	12:14:54
13	constrains how [unintelligible] --	12:14:59
14	MR. RAFATIJO: Objection --	12:15:00
15	THE COURT REPORTER: I'm sorry?	12:15:00
16	MR. RAFATIJO: -- asked and answered is	12:15:00
17	a proper objection.	12:15:02
18	MR. ARJOMAND: Counsel, asked and	12:15:02
19	answered is not a proper --	12:15:04
20	(Unreportable cross-talk.)	12:15:05
21	MR. RAFATIJO: Well --	12:15:05
22	MR. ARJOMAND: -- objection.	12:15:05
23	MR. RAFATIJO: -- the petitioner --	12:15:06
24	MR. ARJOMAND: Take a look --	12:15:07
25	MR. RAFATIJO: Don't raise --	12:15:08

1	MR. ARJOMAND: Please --	12:15:09
2	MR. RAFATIJO: Don't raise your voice,	12:15:09
3	please.	12:15:09
4	MR. ARJOMAND: I'm not raising my voice.	12:15:10
5	MR. RAFATIJO: You are raising your	12:15:10
6	voice.	12:15:11
7	MR. ARJOMAND: I'm not raising my voice.	12:15:11
8	MR. RAFATIJO: Go ahead.	12:15:13
9	MR. ARJOMAND: You -- you interrupted	12:15:14
10	me.	12:15:15
11	MR. RAFATIJO: It's not your deposition.	12:15:17
12	It's his. You're not talking. Sorry.	12:15:19
13	MR. ARJOMAND: This is our --	12:15:19
14	MR. RAFATIJO: He start- -- he started	12:15:21
15	the deposition. He is the one who's taking the	12:15:22
16	deposition. You're not allowed to speak.	12:15:24
17	MR. ARJOMAND: That --	12:15:26
18	(Unreportable cross-talk.)	12:15:27
19	MR. BLUMENKOPF: -- echo -- sorry.	12:15:27
20	I wanted to echo what my colleague said.	12:15:28
21	We're here to hear about the trial practice, guys.	12:15:31
22	MR. RAFATIJO: Well, yeah. And	12:15:33
23	petitioner's former counsel started objecting based	12:15:34
24	on asked and answered, argumentative, all this	12:15:37
25	stuff, and we are doing the same thing.	12:15:39

1	You asked and -- and the witness	12:15:40
2	answered the question, and I just raised an	12:15:42
3	objection.	12:15:44
4	MR. BLUMENKOPF: I don't care what prior	12:15:44
5	counsel did. We're here to follow the rules.	12:15:46
6	(Unreportable cross-talk.)	12:15:47
7	MR. RAFATIJO: We are following the	12:15:47
8	rules. We are following the rules. If you want to	12:15:48
9	take it to the court, take it to the court.	12:15:50
10	MR. ARJOMAND: We will.	12:15:51
11	MR. RAFATIJO: Okay.	12:15:51
12	MR. ARJOMAND: If you continue with	12:15:52
13	these talking objections, we will --	12:15:53
14	(Unreportable cross-talk.)	12:15:54
15	MR. RAFATIJO: It's not a talking	12:15:54
16	objection. Asked and answered is not a talking --	12:15:56
17	it is not a talking objection at all.	12:15:57
18	MR. ARJOMAND: We will send you the	12:16:00
19	Trial Practice Guide so you can --	12:16:01
20	MR. RAFATIJO: I have it.	12:16:03
21	MR. ARJOMAND: -- take a look at that.	12:16:04
22	MR. RAFATIJO: I have it. And please	12:16:06
23	send a copy to the former counsel.	12:16:07
24	BY MR. BLUMENKOPF:	12:16:14
25	Q. The definition you provided for	12:16:14

1 "application," is that what the word "application"
2 means in the context of these claims?

3 A. An application is an application. So to
4 the extent that I would need to broaden or narrow
5 that definition in the context of these claims, I'm
6 happy to do that, but we would have to talk about a
7 specific context.

8 There are nine different claims, and I
9 think your question's just a little too broad.

10 Q. When you said "an application is an
11 application," you mean there's no special meaning
12 of that word in these claims?

13 A. A plain and ordinary meaning of an
14 application is the plain and ordinary meaning.
15 It's used very widely, and a POSITA would know what
16 that term means.

17 So if you have more concrete questions,
18 I'm happy to answer them, but I'm not sure how else
19 I can answer your question.

20 Q. Is that word "application" defined in
21 the '028 Patent anywhere?

22 A. I would happy-- be happy to go through
23 the patent to see whether they defined the word
24 "application."

25 But having said that, my memory suggests

12:16:15

12:16:17

12:16:22

12:16:25

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12:16:45

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12:17:03

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12:17:07

12:17:08

12:17:10

12:17:14

12:17:16

12:17:19

12:17:19

1 that it is not defined, nor would it be necessary
2 to define it because it's a well-understood term in
3 the art.

12:17:30

12:17:33

12:17:36

4 Q. So it would be fair to consult an
5 outside source like a dictionary for guidance as to
6 what that term means; right?

12:17:36

12:17:38

12:17:43

7 A. Fair in what sense?

12:17:44

8 Q. Well, if a person of ordinary skill was
9 looking to understand what that word meant, that's
10 a [unintelligible] --

12:17:45

12:17:48

12:17:50

11 THE COURT REPORTER: I'm sorry.

12:17:56

12 "That's a" --

12:17:56

13 Counsel, can you speak a little louder
14 and slower for me so I can follow?

12:17:56

12:18:03

15 MR. BLUMENKOPF: I'll do my best, Kelli.

12:18:03

16 Thank you.

17 THE COURT REPORTER: Okay. So:

18 (The record was read as follows:

19 Q. If a person of ordinary skills
20 help you understand what that word
21 meant, that's the --)

22 BY MR. BLUMENKOPF:

23 Q. The -- a dictionary is the kind of
24 source a person of ordinary skill might reasonably
25 consult to understand that word; right?

12:18:04

12:18:06

12:18:09

1 A. A person of ordinary skill -- I would be
2 surprised. Maybe you can give me a context where
3 that would be necessary.

4 I would be surprised if a person of
5 ordinary skill in the art needed a dictionary to
6 understand what the word "application" is. Or at
7 least not any more than needing a dictionary to
8 understand what the word "computer" is.

9 These are really well-understood terms
10 in the art. But I might be missing the context of
11 your question, so if you -- if you can clarify, I'm
12 happy to consider it further.

13 Q. Well, let me show you an exhibit. Maybe
14 that will give you a sense of what I'm asking
15 about.

16 Kelli, can you mark this Exhibit 1017.

17 THE COURT REPORTER: Sure.

18 Thank you.

19 MR. RAFATIJO: For the record, patent
20 owner objects to this evidence. This is no
21 evidence, has not been filed with the PTAB.

22 (Whereupon, Petitioner's Exhibit Number
23 1017 was marked for identification by
24 the deposition officer and is attached
25 hereto.)

1	THE COURT REPORTER: There you go.	12:19:33
2	THE WITNESS: Thank you.	12:19:35
3	THE COURT REPORTER: You're welcome.	12:19:36
4	BY MR. BLUMENKOPF:	12:19:36
5	Q. Do you recognize Exhibit 1017,	12:19:37
6	Professor?	12:19:39
7	A. I recognize the front page. It's part	12:19:39
8	of a larger document that, obviously, I wouldn't	12:19:43
9	have memorized entirely.	12:19:48
10	Q. This is the "Microsoft Computer	12:19:49
11	Dictionary, Fifth Edition"; right?	12:19:53
12	A. Correct.	12:19:54
13	Q. I'll represent to you these are excerpts	12:19:55
14	from that publication.	12:19:57
15	A. Sure.	12:19:59
16	Q. Now, that dictionary is one of the	12:20:01
17	sources you consulted in preparing your report;	12:20:03
18	right?	12:20:06
19	A. That sounds familiar; but again, I would	12:20:06
20	have to look at my declaration to confirm.	12:20:10
21	Q. You don't recall consulting this	12:20:12
22	reference in doing your analysis?	12:20:14
23	A. Well --	12:20:17
24	(Unreportable cross-talk.)	12:20:21
25	THE WITNESS: -- this reference is at	12:20:21

1 least 562 pages long. So I consulted specific
2 parts of it.

3 This says it has over 10,000 entries. I
4 did not consult 10,000 entries.

5 THE COURT REPORTER: And excuse me. Did
6 you say something?

7 MR. RAFATIJO: Objection; form.

8 THE COURT REPORTER: Thank you.

9 BY MR. BLUMENKOPF:

10 Q. This excerpt belongs to that same
11 dictionary, though; right? The "Microsoft Computer
12 Dictionary, Fifth Edition"?

13 A. That is possible. Again, I would have
14 to confirm the correct edition by looking in my
15 declaration. But I -- since you're not showing me
16 my declaration, I will take your word for it.

17 Q. Do you recall relying on this dictionary
18 for the meaning of some claim terms in doing your
19 analysis?

20 A. I do recall relying on it for the
21 meaning of a couple of terms. As we sit here, I
22 would not be able to tell you what those terms are
23 because, again, I don't have my declaration in
24 front of me.

25 Q. But in relying on it, you must have

12:20:23

12:20:26

12:20:27

12:20:29

12:20:34

12:20:35

12:20:37

12:20:38

12:20:38

12:20:38

12:20:40

12:20:43

12:20:44

12:20:46

12:20:51

12:20:54

12:20:59

12:21:01

12:21:03

12:21:05

12:21:08

12:21:11

12:21:13

12:21:16

12:21:16

1 found it to be authoritative; correct?

12:21:18

2 MR. RAFATIJO: Objection; form.

12:21:21

3 THE WITNESS: It's Microsoft's computer

12:21:23

4 dictionary. It's a -- it's a well-known computer

12:21:26

5 dictionary. So --

12:21:28

6 BY MR. BLUMENKOPF:

12:21:28

7 Q. Yeah.

12:21:29

8 A. -- I -- I have no -- no reason to

12:21:29

9 question its authoritativeness.

12:21:32

10 Q. You believe it to be relevant in this

12:21:35

11 proceeding?

12:21:38

12 MR. RAFATIJO: Objection; form.

12:21:38

13 THE WITNESS: To -- in the context in

12:21:39

14 which I used it, I believe it was an appropriate

12:21:43

15 way to refer to it.

12:21:46

16 Beyond that, I would not be able to

12:21:48

17 comment.

12:21:50

18 BY MR. BLUMENKOPF:

12:21:50

19 Q. Turn to page 31 in Exhibit 1017.

12:21:53

20 A. I'm there.

12:22:04

21 Q. Do you see there's a definition provided

12:22:05

22 for the word "application"?

12:22:06

23 MR. RAFATIJO: Objection; no evidence.

12:22:08

24 THE WITNESS: I see "application" there.

12:22:11

25 / / /

1 BY MR. BLUMENKOPF:

12:22:15

2 Q. The definition here says:

12:22:16

3 "A program designed to assist

12:22:17

4 in the performance of a specific

12:22:19

5 task, such as word processing,

12:22:21

6 accounting, or inventory

12:22:23

7 management."

12:22:25

8 Do you see that?

12:22:25

9 A. I see that.

12:22:26

10 Q. Do you agree with that definition of

12:22:27

11 "application"?

12:22:29

12 MR. RAFATIJO: Objection; form.

12:22:30

13 THE WITNESS: I -- I would have maybe

12:22:35

14 defined it differently, but it is what it is. I --

12:22:42

15 I think it's -- it's illustrative and it's

12:22:44

16 consistent with how one would understand it. I

12:22:49

17 think that the definition I gave you is probably

12:22:50

18 better because I would not say that accounting is a

12:22:53

19 specific task.

12:22:58

20 Whoever wrote this may have done maybe a

12:23:02

21 better job of -- of clarifying that or providing

12:23:06

22 more meaningful examples.

12:23:12

23 Accounting is a whole category of

12:23:14

24 possibly dozens and dozens of tasks. That's just

12:23:17

25 one example, but that's what it says.

12:23:20

1 BY MR. BLUMENKOPF:

12:23:22

2 Q. Other than the example of accounting, is
3 this consistent with the definition of
4 "application" that you applied --

12:23:22

12:23:25

12:23:27

5 (Unreportable cross-talk.)

12:23:29

6 MR. RAFATIJO: Objection; form.

12:23:29

7 THE WITNESS: It's a program. I --

12:23:33

8 again, I would not say that an application -- of --
9 maybe there is a definition of "specific task."

12:23:39

12:23:45

10 Can you show me that definition?

12:23:49

11 Because it really -- all of it hinges on what they
12 mean by "a specific task."

12:23:50

12:23:53

13 Word processing is not a specific task.

12:23:57

14 It's a large -- to me, a large category of tasks.

12:24:00

15 So just -- it just depends.

12:24:02

16 Maybe you can give me more context

12:24:04

17 there.

12:24:06

18 BY MR. BLUMENKOPF:

12:24:06

19 Q. Would -- would -- would you -- would you
20 agree, though, an application's a kind of software
21 designed to assist in the performance of -- of a
22 task?

12:24:07

12:24:08

12:24:11

12:24:13

23 MR. RAFATIJO: Objection; form.

12:24:14

24 THE WITNESS: It -- again, it depends on

12:24:19

25 what we mean by a "task."

12:24:25

1 BY MR. BLUMENKOPF:

12:24:30

2 Q. Well, what -- what are some examples of
3 tasks that -- that would meet your definition?

12:24:32

12:24:33

4 A. To me, what would a task be?

12:24:34

5 A task would be to print a document.

12:24:36

6 That's a task.

12:24:39

7 Q. So if we -- if we say a task is
8 something that the software can do, would that be
9 consistent with your understanding?

12:24:41

12:24:44

12:24:47

10 A. I would --

12:24:56

11 Q. Let me -- let me ask you a different
12 question.

12:24:56

12:24:58

13 If I say a task is -- is a goal or is
14 something that a computer user wishes to do, would
15 you agree with that?

12:24:59

12:25:00

12:25:04

16 MR. RAFATIJO: Objection; form.

12:25:04

17 THE WITNESS: You would have to be more
18 specific than that, actually, because that -- that
19 is, at best, a very specific kind of task. Because
20 a task would also be, you know, getting water for
21 everybody in this room. Right? Which has nothing
22 to do with -- with a computer.

12:25:13

12:25:15

12:25:16

12:25:19

12:25:27

12:25:29

23 So to me, a -- some kind of a
24 software-based or computer-based or computer-aided
25 or software-aided task may be something along the

12:25:31

12:25:42

12:25:45

1 lines of what you described, but -- but not the way
2 you phrased it.

3 That's much -- in my view, much too
4 broad and -- and open-ended, and I don't think it
5 would -- it's accurate.

6 BY MR. BLUMENKOPF:

7 Q. Is playing a game a type of task?

8 A. You'd have to be more specific. I -- I
9 think playing a game is incredibly broad. Could be
10 a whole range of individual tasks.

11 Q. Okay. Well, is a game an example of a
12 task that an application can perform?

13 MR. RAFATIJO: Objection; form.

14 THE WITNESS: Not in my view, unless you
15 give me a definition of a "task," because a game is
16 a collection of capabilities, typically, that allow
17 players to do any range of things, only some of
18 which could be boiled down to -- to tasks.

19 But to say that a game enables a task, I
20 would have to disagree with that.

21 But again, if -- you know, it -- it
22 might be because we have different world views in
23 mind. So if you -- if you want to provide more
24 context, I'm happy to reconsider this -- this
25 answer.

1 BY MR. BLUMENKOPF:

12:27:06

2 Q. Is a game application an application
3 that plays a game?

12:27:11

12:27:12

4 A. A game application is not an application
5 that plays a game. It's an application that
6 implements a game, possibly.

12:27:22

12:27:24

12:27:28

7 I think generally, divorced of any of
8 these patents that we're talking about today,
9 players would be considered to play a game, not the
10 application itself.

12:27:32

12:27:38

12:27:41

12:27:47

11 Q. Is a game application an application
12 that executes a computer game?

12:27:48

12:27:54

13 A. I would not be able to agree with that.
14 I'm sorry.

12:27:59

12:28:03

15 It's -- a microchip is something that
16 executes code. I -- yeah. I -- I -- without
17 further context, again, I cannot agree with that.

12:28:04

12:28:09

12:28:18

18 Q. Let's go back to the definition on
19 page 31 of Exhibit 1017, which, again, you said was
20 consistent with your understanding of
21 "application," subject to the example of --
22 provided for accounting.

12:28:22

12:28:25

12:28:32

12:28:33

12:28:36

23 A. Well, no. Actually, for the record,
24 I -- it's -- it's much broader than that in the
25 sense that it says it's:

12:28:38

12:28:40

12:28:42

1	"A program designed ... in the	12:28:44
2	performance of a specific task."	12:28:45
3	And I already said that in my	12:28:48
4	understanding, an application -- in my	12:28:50
5	understanding of a task, an application would	12:28:53
6	support a range of tasks.	12:28:56
7	So if we just take word processing, an	12:28:59
8	application would -- that -- such as Microsoft Word	12:29:03
9	would support spell-checking and saving documents	12:29:07
10	and printing documents and change-tracking and a	12:29:11
11	variety of other things that I would consider	12:29:19
12	tasks.	12:29:22
13	So a lot of this is hinging on what the	12:29:23
14	definition of, quote, a specific task, unquote, is.	12:29:27
15	So I think it would be critical for us to define	12:29:33
16	that before we can talk about me agreeing or	12:29:35
17	disagreeing with this definition.	12:29:38
18	Intuitively, an application to me does	12:29:41
19	more than a single specific task.	12:29:45
20	Q. Do you mean all applications do more	12:29:49
21	than a single specific task?	12:29:52
22	MR. RAFATIJO: Objection; form.	12:29:53
23	THE WITNESS: I have not studied all	12:29:55
24	applications, obviously, in preparation for today,	12:29:58
25	but a canonical application, in my understanding,	12:30:00

1 would do more than a specific task.

12:30:06

2 If you have an application in mind that
3 only does one specific task, I'm happy to consider
4 that.

12:30:11

12:30:13

12:30:16

5 BY MR. BLUMENKOPF:

12:30:17

6 Q. Well, if you have a piece of software
7 that only performs one task, is that an
8 application?

12:30:17

12:30:18

12:30:21

9 MR. RAFATIJO: Objection; form.

12:30:21

10 THE WITNESS: Can you give me an example
11 of what you mean by performing a single task?

12:30:24

12:30:25

12 BY MR. BLUMENKOPF:

12:30:29

13 Q. Well, if we have a -- an application
14 that will run a computer game on your computer.

12:30:30

12:30:31

15 Isn't that a task?

12:30:37

16 A. We have already talked about this. A
17 computer game involves a variety of tasks, in my
18 understanding.

12:30:39

12:30:42

12:30:46

19 Q. Well, understanding that a task can have
20 subtasks or associated tasks, are -- isn't a game
21 still a -- a task?

12:30:47

12:30:49

12:30:54

22 MR. RAFATIJO: Objection; form.

12:30:55

23 THE WITNESS: So now you are -- in
24 your -- in your question, you're basically implying
25 a taxonomy that involves this term, "task."

12:30:57

12:30:58

12:31:02

1	So can you give me a definition of a	12:31:05
2	"task," please?	12:31:09
3	BY MR. BLUMENKOPF:	12:31:09
4	Q. Why don't you give me your definition of	12:31:09
5	"task."	12:31:11
6	MR. RAFATIJO: Objection; form.	12:31:11
7	THE WITNESS: I understand that I'm	12:31:13
8	supposed to be answering questions here, but you're	12:31:14
9	the one who is asking me these questions.	12:31:17
10	So a "task" is -- it -- it is something	12:31:20
11	that somebody is asked to perform, and a "specific	12:31:26
12	task" is something specific being asked of somebody	12:31:32
13	to perform.	12:31:35
14	BY MR. BLUMENKOPF:	12:31:40
15	Q. When you say "someone," do you include a	12:31:41
16	computer?	12:31:43
17	A. That depends on what kind of task it is.	12:31:43
18	There are different kinds of tasks.	12:31:46
19	Q. Could it include a computer?	12:31:48
20	A. In a very general sense, yes; but again,	12:31:52
21	a computer is a very complex notion. And if you're	12:31:55
22	just thinking of the bare metal on a computer,	12:32:01
23	sure, it can perform certain tasks.	12:32:06
24	But my guess is that you're implying	12:32:08
25	other capabilities which are provided either by	12:32:09

1 maybe an operating system or middleware or
2 libraries and things like that.

3 So it just depends on what you mean by
4 this, and -- and I feel like we're not being very
5 precise here.

6 Q. Well, using the definition of "task" you
7 provided, is a game application a program designed
8 to assist in the performance of a task?

9 MR. RAFATIJO: Objection; form.

10 THE WITNESS: Based on my understanding
11 of what a task is, a game will enable the
12 performance of a range of tasks.

13 BY MR. BLUMENKOPF:

14 Q. So what's a game application?

15 A. It's an application that implements a
16 game.

17 Q. What do you mean by "implements a game"?

18 A. I'm sorry. I can't give you a -- a more
19 precise answer. That -- that answer is to somebody
20 of ordinary skill in the art. It's a fully
21 self-contained, readily understandable answer.

22 Q. Let's return to claim one from
23 Exhibit 1001, the '028 Patent.

24 You see how it says [unintelligible]?

25 THE COURT REPORTER: I'm sorry. "This"

12:32:12

12:32:15

12:32:16

12:32:19

12:32:22

12:32:23

12:32:25

12:32:28

12:32:29

12:32:31

12:32:33

12:32:38

12:32:41

12:32:41

12:32:45

12:32:47

12:32:49

12:33:00

12:33:00

12:33:00

12:33:05

12:33:07

12:33:11

12:33:16

12:33:18

1	what "game"?	12:33:19
2	BY MR. BLUMENKOPF:	12:33:22
3	Q. I'd like to return to claim one from	12:33:24
4	Exhibit 1001.	12:33:26
5	And you see how claim one recites "game	12:33:29
6	application"?	12:33:32
7	A. Yes.	12:33:34
8	Q. What's the understanding of "game	12:33:37
9	application" that you applied when you analyzed	12:33:39
10	this claim?	12:33:41
11	A. It's an application that is a game.	12:33:45
12	Q. That's your understanding of the term?	12:33:51
13	A. Yes. And if there is another	12:33:54
14	understanding that I'm supposed to have in mind,	12:33:56
15	I'm happy to consider it.	12:33:59
16	But a game application is an application	12:34:00
17	that is a game, and a person of ordinary skill in	12:34:01
18	the art would readily know that.	12:34:05
19	Q. So what's a game?	12:34:10
20	A. A game is a game. It -- it has a	12:34:13
21	well-understood meaning. It's something that	12:34:23
22	involves humans engaging, concepts, ideas, objects,	12:34:27
23	et cetera, in order to have fun.	12:34:37
24	To be frank with you, I never thought	12:34:40
25	somebody would ask me to define a game, but --	12:34:43

1 because I'm not a psychologist or an

12:34:45

2 anthropologist, but that's kind of what a game is.

12:34:47

3 Q. Well, didn't you have to apply the

12:34:50

4 meaning of the word "game" when you performed your

12:34:52

5 analysis?

12:34:54

6 MR. RAFATIJO: Objection; form.

12:34:55

7 THE WITNESS: Being able to apply the

12:34:56

8 meaning of a word does not necessitate that one be

12:34:58

9 able to provide a -- or verbalize a definition of

12:35:02

10 that word.

12:35:08

11 There are some word that are -- words

12:35:08

12 that are absolutely undeniably and unequivocally

12:35:11

13 understood by everybody, and a game is such a word.

12:35:18

14 Children at the youngest age where they

12:35:25

15 can reason understand what a game is.

12:35:28

16 BY MR. BLUMENKOPF:

12:35:40

17 Q. So the word "game" appears in claim one;

12:35:40

18 right? Multiple times?

12:35:40

19 MR. RAFATIJO: Objection; form.

12:35:42

20 THE WITNESS: Yes. It appears more than

12:35:43

21 once in that claim.

12:35:45

22 BY MR. BLUMENKOPF:

12:35:47

23 Q. So there -- there are terms from claim

12:35:47

24 one that you were unable to verbalize when you

12:35:49

25 performed your analysis?

12:35:52

1	MR. RAFATIJO: Objection; form.	12:35:53
2	THE WITNESS: I can verbalize all of	12:36:00
3	these terms.	12:36:02
4	I think you're asking me to -- to define	12:36:03
5	a term that is so foundational to the human	12:36:09
6	experience that -- and I already did provide you a	12:36:13
7	definition, by the way.	12:36:19
8	But it seems to me that you are pushing	12:36:20
9	the kind of analysis that would take place of a	12:36:23
10	claim such as this to really an extreme [as	12:36:28
11	spoken].	12:36:31
12	A person of ordinary skill in the art	12:36:31
13	can know what something means without sitting down	12:36:36
14	and providing a definition of every single one of	12:36:40
15	those terms.	12:36:43
16	So somebody would know what a game is	12:36:45
17	and what a game application is without necessarily	12:36:48
18	sitting down and actually writing out the	12:36:51
19	definition of that term.	12:36:53
20	BY MR. BLUMENKOPF:	12:36:54
21	Q. I'm just trying to understand how you	12:36:54
22	conducted your analysis that led to your opinion --	12:36:56
23	opinions in this case.	12:36:58
24	A. And I've told you that.	12:37:01
25	Q. So you're unable to provide a definition	12:37:06

1 of "game" that you applied during your analysis? 12:37:07

2 MR. RAFATIJO: Objection; asked and 12:37:09
3 answered. 12:37:11

4 THE WITNESS: That is absolutely not 12:37:11
5 true. I gave you a definition of a game. 12:37:12

6 BY MR. BLUMENKOPF: 12:37:20

7 Q. Which other words in claim one were you 12:37:21
8 unable to verbalize in doing your analysis? 12:37:23

9 MR. RAFATIJO: Objection; form. 12:37:27

10 THE WITNESS: I vehemently disagree with 12:37:28
11 the premise of your question. I have been able to 12:37:34
12 verbalize every single term here. 12:37:37

13 However, if you were to ask me to define 12:37:39
14 the word "a" or to define the word "one" or to 12:37:40
15 define the word "that," I may struggle with 12:37:47
16 providing a formal definition of those words. 12:37:50

17 Some words that we use have such 12:37:52
18 ingrained and inherently well-understood meanings, 12:37:56
19 that saying what's the definition of that word is 12:37:58
20 completely superfluous. 12:38:03

21 Having said that, I did give you a 12:38:05
22 definition of what a game is to a human being, 12:38:07
23 and even though I really had not thought of it 12:38:14
24 before, I think it's a pretty good definition and I 12:38:16
25 stand by it. 12:38:19

1 BY MR. BLUMENKOPF:

12:38:23

2 Q. In the context of the '028 Patent, does
3 a game refer to a computer game?

12:38:23

12:38:26

4 MR. RAFATIJO: Objection; form.

12:38:30

5 THE WITNESS: Since it's a game
6 application, I think in a very broad sense, you
7 could say it refers to a computer game. Although,
8 for the record, we have not defined what we mean --
9 or you have not defined what you mean by "computer
10 game."

12:38:35

12:38:39

12:38:41

12:38:46

12:38:48

12:38:51

11 BY MR. BLUMENKOPF:

12:38:56

12 Q. Take a look at Exhibit 1017 again. This
13 is the -- the "Microsoft Computer Dictionary."

12:38:57

12:38:58

14 Take a look at page 119.

12:39:00

15 MR. RAFATIJO: Objection; no evidence.

12:39:04

16 THE WITNESS: Okay.

12:39:10

17 BY MR. BLUMENKOPF:

12:39:10

18 Q. You see there's a definition provided
19 for a computer game?

12:39:11

12:39:12

20 A. I see that.

12:39:13

21 Q. It says:

12:39:14

22 "A class of computer program

12:39:15

23 in which one or more users

12:39:16

24 interacts with a computer as a form

12:39:18

25 of entertainment."

12:39:20

1	Do you agree with that definition?	12:39:22
2	A. Just that first sentence, I think, is	12:39:34
3	overly broad.	12:39:36
4	There are instances of users interacting	12:39:37
5	with a computer as a form of entertainment that I	12:39:45
6	think both you and I would agree are not games.	12:39:47
7	So either we go further in the	12:39:50
8	definition or I would have to say that this is too	12:39:52
9	broad. I -- I cannot agree with -- this definition	12:39:54
10	does capture games in some sense, but it captures	12:39:58
11	other things that, in my view, are not games.	12:40:01
12	Q. Like what?	12:40:03
13	A. Netflix, I think we would agree, is --	12:40:06
14	is not a game. And if I go through the Netflix	12:40:09
15	selection of offerings and pick an episode of	12:40:12
16	"Seinfeld," for example, that is a form of -- I	12:40:17
17	interact with the computer as a form of	12:40:21
18	entertainment, but I'm not playing a game, in my	12:40:24
19	understanding of the word "game."	12:40:26
20	Q. How would you revise this definition to	12:40:32
21	make it correct in your mind?	12:40:33
22	MR. RAFATIJO: Objection; form.	12:40:35
23	THE WITNESS: I would -- well, first I	12:40:37
24	would make sure that we read the whole definition	12:40:39
25	and not just the first sentence.	12:40:42

1	And then if that still doesn't clarify,	12:40:43
2	I would try to be more careful with what kind of	12:40:46
3	entertainment we're talking about here.	12:40:53
4	BY MR. BLUMENKOPF:	12:41:00
5	Q. Would you agree a computer game is a	12:41:00
6	class of computer program?	12:41:02
7	MR. RAFATIJO: Objection; form.	12:41:04
8	THE WITNESS: That's what this thing	12:41:08
9	says.	12:41:10
10	I -- I don't really -- as we sit here,	12:41:11
11	divorced of -- of any context, I don't have a	12:41:12
12	reason to dispute that, but depends on where you'd	12:41:14
13	like to go with it. We can revisit.	12:41:20
14	BY MR. BLUMENKOPF:	12:41:21
15	Q. Would you agree it's a class of computer	12:41:22
16	program in which one or more users interacts with a	12:41:23
17	computer?	12:41:28
18	MR. RAFATIJO: Objection; form.	12:41:28
19	THE WITNESS: That, in and of itself,	12:41:33
20	may be the case, but that also includes tax filing	12:41:37
21	software and flight simulators and shopping	12:41:43
22	software and, you know, Spotify and Netflix and,	12:41:51
23	you know, medical imaging software, et cetera.	12:41:59
24	So there are literally thousands of	12:42:02
25	examples out there that would fall under that	12:42:09

1 portion of the definition that I would say nobody
2 reasonable, and certainly not a POSITA, would
3 consider to be a game.

4 BY MR. BLUMENKOPF:

5 Q. It does describe computer games, though,
6 even if it would describe other types of software;
7 right?

8 MR. RAFATIJO: Objection; form.

9 THE WITNESS: Not in a way where one
10 would be able to say, "Okay. This is a game and
11 this is not a game," for the reason that I already
12 mentioned.

13 If the same definition can apply to --
14 since we talked about it already -- "World of
15 Warcraft" and Netflix, then that is not a good
16 definition because one is considered to be a game
17 and the other one is not.

18 BY MR. BLUMENKOPF:

19 Q. Do you have a test for determining if a
20 piece of software is a game or if it's not a game?

21 MR. RAFATIJO: Objection; form.

22 THE WITNESS: I -- if I see it, I'll be
23 able to tell you. And I can tell you that Netflix
24 is not a game, and I don't think that anybody
25 reasonable would say that Netflix is a game.

1 But they would agree that it is --
2 accessing Netflix is a form of entertainment.

3 BY MR. BLUMENKOPF:

4 Q. Do you have a test for determining if
5 something is a game application or if it's not a
6 game application?

7 A. In the context of my analysis for this
8 case, that was not a relevant question that came
9 up.

10 Q. So you didn't apply any test like that
11 during your analysis; right?

12 MR. RAFATIJO: Objection; form.

13 THE WITNESS: There is a statement in,
14 for example, claim one that it deals with a game
15 application, and I don't think that it was
16 necessary to apply such a test.

17 However, if -- if there is a reason why
18 you think such a test would be necessary, other
19 than to rescue this poorly worded definition that
20 you put in front of me, I'm happy to consider it.

21 BY MR. BLUMENKOPF:

22 Q. So when you applied claim one to the
23 prior art in this case, you didn't have any
24 particular test for determining whether that game
25 application was met.

1	Is that right?	12:44:28
2	MR. RAFATIJO: Objection; form.	12:44:28
3	THE WITNESS: Look, a game is a game. I	12:44:29
4	think anybody in the art -- a person of ordinary	12:44:31
5	skill in the art would know what a game is.	12:44:36
6	The only reason we are having this	12:44:38
7	discussion is because you put in front of me a	12:44:40
8	definition that includes things other than games.	12:44:42
9	I don't think there is any question	12:44:44
10	about what is a game.	12:44:45
11	I think what we're discussing here is	12:44:50
12	what is a form of entertainment, and that is not --	12:44:51
13	I did not analyze what, quote, a form of	12:44:55
14	entertainment, unquote, is because that is not a	12:44:58
15	term that came up in this case.	12:45:00
16	BY MR. BLUMENKOPF:	12:45:04
17	Q. Would you agree a game application is	12:45:04
18	something executed by a computer?	12:45:06
19	MR. RAFATIJO: Objection; form.	12:45:07
20	THE WITNESS: A game application may be	12:45:17
21	executed by a computer.	12:45:17
22	BY MR. BLUMENKOPF:	12:45:17
23	Q. What else could it be executed by?	12:45:18
24	A. Depends on -- again, if we're talking	12:45:20
25	about it in -- in a general sense, if we're	12:45:22

1 divorced of patent '028, a game application is also 12:45:28
2 something that could be executed by humans. 12:45:32

3 Q. What does it mean for a human to execute 12:45:38
4 a game? 12:45:40

5 A. It would be to play the game according 12:45:41
6 to its rules, just like a computer in a computer 12:45:42
7 game would execute the game according to the rules 12:45:45
8 implemented in the computer game. 12:45:51

9 Q. Is there a difference between a game 12:45:57
10 application and a game program? 12:45:59

11 MR. RAFATIJO: Objection; form. 12:46:00

12 THE WITNESS: The term "game program," I 12:46:02
13 don't believe appeared anywhere in the '028 Patent, 12:46:05
14 but if I'm wrong, please point me to it. 12:46:08

15 BY MR. BLUMENKOPF: 12:46:11

16 Q. I'm just asking about your understanding 12:46:11
17 of the term "game program." 12:46:12

18 Do you view it as something different 12:46:15
19 than a game application? 12:46:16

20 A. Again, it's a term that did not come up, 12:46:18
21 so I would need more context. 12:46:21

22 You're ask- -- you're introducing a new 12:46:22
23 term, so I'm just telling you the -- the term "game 12:46:24
24 application" figures prominently in the patent. 12:46:28

25 "Game program" I don't believe shows up. 12:46:31

1 Q. I don't see it in claims. I'm just 12:46:34
2 asking what it means to you and if it's different 12:46:37
3 from a game application. 12:46:39

4 A. It may be the same, or it may be 12:46:40
5 different. It depends on the context and what you 12:46:43
6 mean by it. 12:46:46

7 You -- I -- I don't think it's 12:46:47
8 reasonable to just kind of throw out a term 12:46:48
9 completely divorced of context and then say, "Is 12:46:50
10 this term the same as this other term or not?" 12:46:53

11 Q. Could a game program include more than 12:46:55
12 one game application? 12:46:59

13 MR. RAFATIJO: Objection; form. 12:47:01

14 THE WITNESS: That would depend on the 12:47:01
15 context. I don't know what specifically you have 12:47:03
16 in mind. 12:47:04

17 BY MR. BLUMENKOPF: 12:47:07

18 Q. Could a game application include more 12:47:08
19 than one game program? 12:47:10

20 MR. RAFATIJO: Objection; form. 12:47:17

21 THE WITNESS: Again, can you point me 12:47:17
22 somewhere in this patent where that is discussed so 12:47:17
23 that I can situate it in the context of what I 12:47:18
24 actually analyzed for this case? 12:47:21

25 / / /

1 BY MR. BLUMENKOPF:

12:47:22

2 Q. Just asking for your understanding.

12:47:22

3 A. As I already said, I don't believe that
4 it is appropriate for you to introduce random terms
5 and ask me about my understanding of those terms.
6 Not because in a general sense, it's not fair.

12:47:24

12:47:30

12:47:35

12:47:38

7 We can -- you know, as -- as part of our
8 discourse, we can do all kinds of things. But I
9 don't know what you mean by those terms, and I
10 haven't seen them defined or used.

12:47:41

12:47:42

12:47:47

12:47:49

11 So in a way, saying "game program" and
12 trying to equate it to something else is no
13 different than saying something like "frag" and
14 just completely making up a term.

12:47:53

12:47:59

12:48:08

12:48:08

15 It depends on what specifically -- what
16 meaning we're ascribing to that term and in what
17 context.

12:48:08

12:48:10

12:48:14

18 Q. How would a person of ordinary skill in
19 the art have understood the term "game application"
20 in 2002?

12:48:24

12:48:24

12:48:25

21 MR. RAFATIJO: Objection; form.

12:48:26

22 THE WITNESS: It's an application that
23 implements a game.

12:48:29

12:48:30

24 BY MR. BLUMENKOPF:

12:48:32

25 Q. Can a game have more than one game

12:48:33

1 application? 12:48:36

2 MR. RAFATIJO: Objection; form. 12:48:36

3 THE WITNESS: What do you mean by "a
4 game having more than one game application"? 12:48:48

5 BY MR. BLUMENKOPF: 12:48:48

6 Q. Well, would you agree "World of
7 Warcraft"," for example, is one example of a game? 12:48:48

8 A. Sure. "World of Warcraft" is -- I think 12:48:52
9 it's fair to say that it's a game. 12:48:54

10 Q. Okay. And my understanding is "World of 12:48:56
11 Warcraft" includes a -- a client application; 12:49:00
12 right? 12:49:09

13 A. I am not sure what you mean by "a client 12:49:09
14 application." 12:49:12

15 Q. Well, what does "client application" 12:49:12
16 mean to you? 12:49:14

17 MR. RAFATIJO: Objection; form. 12:49:14

18 THE WITNESS: Again, you introduced the 12:49:16
19 term. It's -- that's -- that's what I'm trying to 12:49:17
20 find out. 12:49:19

21 What do you mean by "client
22 application"? 12:49:21

23 BY MR. BLUMENKOPF: 12:49:22

24 Q. I'm trying to understand what it means 12:49:22
25 to you. 12:49:24

1	MR. RAFATIJO: Objection; form.	12:49:25
2	THE WITNESS: The --	12:49:26
3	BY MR. BLUMENKOPF:	12:49:26
4	Q. Do -- do you have an understanding of	12:49:27
5	the term "client application"?	12:49:28
6	A. In a specific context, I would.	12:49:29
7	So in the case of "World of Warcraft", "	12:49:31
8	if you show me a document that describes what this	12:49:32
9	purported client application is and/or does, I'm	12:49:35
10	happy to consider it.	12:49:38
11	But again, asking me an open-ended	12:49:39
12	question that ties to an incredibly important term	12:49:44
13	in the patents that are in dispute here, I think at	12:49:53
14	the least it would be irresponsible for me to	12:49:53
15	answer without asking for additional detail.	12:49:56
16	Q. Okay. "World of Warcraft"'s an example	12:49:58
17	of a game with a client-server architecture; right?	12:50:01
18	MR. RAFATIJO: Objection; form.	12:50:06
19	THE WITNESS: I would not entirely agree	12:50:08
20	with that. I would actually mostly disagree with	12:50:10
21	it, although there may be renderings of "World of	12:50:17
22	Warcraft" that talk about some sort of a	12:50:22
23	client-server breakdown.	12:50:26
24	I do not recall such renderings as we	12:50:28
25	sit here, but if you have some, I'm happy to take a	12:50:31

1	look.	12:50:34
2	BY MR. BLUMENKOPF:	12:50:34
3	Q. You told me earlier you were -- you	12:50:34
4	spent many hours studying "World of Warcraft."	12:50:37
5	You -- you understand it very well, how	12:50:40
6	that game works; right?	12:50:42
7	A. On some level, yes, but I did not study	12:50:43
8	it in preparation for today.	12:50:47
9	Q. And you're here as an expert in software	12:50:49
10	architecture; right? You've published in that	12:50:51
11	field; you've spent many years in that field?	12:50:53
12	A. That is fair.	12:50:55
13	Q. And you can't tell me whether "World of	12:50:56
14	Warcraft" is a client-server architecture?	12:50:58
15	A. "World of Warcraft" is such an	12:51:03
16	incredibly complex system that just saying it's a,	12:51:04
17	quote, unquote, client-server architecture would,	12:51:09
18	at the least, be irresponsible.	12:51:11
19	Q. Would you agree there's a server	12:51:13
20	component to the game?	12:51:16
21	MR. RAFATIJO: Objection; form.	12:51:16
22	THE WITNESS: There is a set of servers	12:51:17
23	that Blizzard Entertainment uses to implement	12:51:19
24	different facets of "World of Warcraft."	12:51:25
25	Whether that meets your definition of,	12:51:30

1	quote, a server component of the game, unquote, I	12:51:33
2	can't tell because I don't know what you mean.	12:51:36
3	BY MR. BLUMENKOPF:	12:51:38
4	Q. Well, what would a person of ordinary	12:51:38
5	skill in the art have understood a "server	12:51:40
6	component" to mean in 2002?	12:51:42
7	MR. RAFATIJO: Objection; form.	12:51:43
8	THE WITNESS: That would depend on the	12:51:44
9	context. I don't remember seeing the term "server	12:51:46
10	component" in this patent.	12:51:52
11	BY MR. BLUMENKOPF:	12:51:53
12	Q. [Inaudible] --	12:51:54
13	THE COURT REPORTER: I'm sorry. I	12:51:54
14	couldn't hear you.	12:51:55
15	THE VIDEOGRAPHER: Counsel, sorry to	12:51:57
16	interrupt. [Inaudible] --	12:51:57
17	THE COURT REPORTER: I can't hear you,	12:52:00
18	Charlie.	12:52:02
19	THE VIDEOGRAPHER: We just lost the --	12:52:03
20	the Zoom connection with the witness.	12:52:04
21	Would it be all right if we took off --	12:52:06
22	or went off the record for a moment?	12:52:08
23	MR. BLUMENKOPF: Yeah. Let's take a	12:52:11
24	short break.	12:52:13
25	THE VIDEOGRAPHER: All right. We are	12:52:13

1 going off the record at 12:52.

12:52:14

2 (Whereupon, a recess was held

12:52:14

3 from 12:52 p.m. to 1:04 p.m.)

12:52:18

4 THE VIDEOGRAPHER: We are back on the
5 record at 1:04.

13:04:12

13:04:14

6 BY MR. BLUMENKOPF:

13:04:17

7 Q. All right. Great. Thank you.

13:04:17

8 Let's continue.

13:04:18

9 A. Sure.

13:04:19

10 Q. So, Professor, would a person of
11 ordinary skill in the art in 2002 have understood
12 there are at least some game app- -- some games
13 that have a client application and a server
14 application?

13:04:20

13:04:24

13:04:27

13:04:29

13:04:31

15 MR. RAFATIJO: Objection; form.

13:04:32

16 THE WITNESS: We'd have to see what you
17 mean by "client application" and "server
18 application," because we just talked about a "game
19 application," so now we're introducing two other
20 notions of applications.

13:04:37

13:04:39

13:04:41

13:04:44

13:04:50

21 So what do you mean specifically by --
22 we can just pick one -- "client application"?

13:04:50

13:04:52

23 BY MR. BLUMENKOPF:

13:04:53

24 Q. Let me ask you a different question.

13:04:53

25 Would a person of ordinary skill in the

13:04:54

1 art in 2002 have understood at least some games can
2 have a client-server architecture?

13:04:57

13:04:59

3 MR. RAFATIJO: Objection; form.

13:05:01

4 THE WITNESS: That's possible. I
5 wouldn't be surprised if that were the case.

13:05:02

13:05:10

6 BY MR. BLUMENKOPF:

13:05:12

7 Q. You're not aware of -- aware -- are you
8 aware of any games that have a client-server
9 architecture?

13:05:12

13:05:14

13:05:17

10 MR. RAFATIJO: Objection; form.

13:05:17

11 THE WITNESS: I am, but you're asking me
12 about whether a person of ordinary skill in the art
13 would have understood it in 2002, and I am not
14 discounting the possibility, but I haven't
15 performed the analysis of what would readily have
16 been known to a POSITA as of 2002 in terms of
17 specifically client-server architectures as applied
18 to games.

13:05:17

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13:05:35

13:05:38

19 BY MR. BLUMENKOPF:

13:05:38

20 Q. Okay. Well, a person of ordinary skill
21 in the art would know what a client-server
22 architecture is; right?

13:05:39

13:05:41

13:05:44

23 A. With reasonable likelihood, I would say
24 that's -- that's true.

13:05:45

13:05:48

25 Q. And given a piece of software, they

13:05:49

1 would be able to identify whether that piece of
2 software utilizes a client-server architecture;
3 right?

13:05:51

13:05:55

13:05:58

4 MR. RAFATIJO: Objection; form.

13:05:58

5 THE WITNESS: That is a much harder
6 question to answer. So that would depend on a
7 whole bunch of different factors, so I cannot off
8 the bat agree with that.

13:05:59

13:06:00

13:06:02

13:06:05

9 BY MR. BLUMENKOPF:

13:06:06

10 Q. In at least some cases, a person of
11 ordinary skill would be able to analyze a game and
12 determine this game has a client-server
13 architecture; right?

13:06:06

13:06:09

13:06:12

13:06:15

14 MR. RAFATIJO: Objection; form.

13:06:16

15 THE WITNESS: I don't know that
16 that's -- or I don't agree that that's readily
17 true. It would have to depend on a bunch of
18 different factors, which we have not established at
19 this point.

13:06:24

13:06:25

13:06:28

13:06:30

13:06:38

20 So would -- I don't know what you mean,
21 for example, to look at a game.

13:06:38

13:06:39

22 BY MR. BLUMENKOPF:

13:06:41

23 Q. I mean to analyze it, understand how it
24 works.

13:06:42

13:06:44

25 A. Analyze the source code? Analyze the

13:06:51

1 documentation? What -- what are they analyzing?

13:06:53

2 Q. What materials would they need to
3 analyze to understand how the game works?

13:06:57

13:06:59

4 MR. RAFATIJO: Objection; form.

13:07:02

5 THE WITNESS: As of 2002, a person of
6 ordinary skill in the art would probably benefit
7 from all of the above, meaning if there is
8 appropriate documentation, if there is access to
9 the code, if there is access to the game's
10 architects, any -- any of those or all of those
11 things would probably be helpful.

13:07:03

13:07:10

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13:07:33

12 BY MR. BLUMENKOPF:

13:07:35

13 Q. You're -- of at least some games that
14 have a client component and a server component;
15 right?

13:07:36

13:07:39

13:07:42

16 MR. RAFATIJO: Objection; form.

13:07:42

17 THE WITNESS: I have constructed myself
18 games that have had a client component and -- at
19 least one client component and at least one server
20 component, and that, I think, would probably be
21 sufficient to answer your question with a yes.

13:07:43

13:07:45

13:07:50

13:07:58

13:07:59

22 BY MR. BLUMENKOPF:

13:08:01

23 Q. Did you identify "Call of Duty" as
24 having a client component and a server component?

13:08:01

13:08:03

25 MR. RAFATIJO: Objection; form.

13:08:08

1 THE WITNESS: "Call of Duty" is much
2 more complex than that. There are -- for example,
3 the opinion that I provided a couple of weeks ago
4 had to do with peer-to-peer voice-over-IP
5 connections.

6 So there were no clients or servers
7 there. There was a -- specifically, an m-regular
8 network involving a set of peers.

9 BY MR. BLUMENKOPF:

10 Q. I understand that game is complex, but
11 it does include at least a client component and a
12 server component; correct?

13 MR. RAFATIJO: Objection; form.

14 THE WITNESS: If you show me what you
15 mean by "it," I'm happy to consider it. But as I
16 already mentioned, the thing that I opined on was
17 expressly a peer-to-peer architecture, not a
18 client-server architecture.

19 BY MR. BLUMENKOPF:

20 Q. You identified a client-server
21 architecture, "World of Warcraft"," didn't you?

22 MR. RAFATIJO: Objection; form.

23 THE WITNESS: That is not accurate.

24 All I said was that there are notions of
25 servers that Blizzard Entertainment's engineers

13:08:09
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13:08:50
13:08:54
13:08:56
13:08:56
13:08:58
13:08:59
13:09:00
13:09:01
13:09:05

1	introduce into their architecture.	13:09:12
2	But the entire substance of my	13:09:17
3	infringement opinion was that what they call their	13:09:19
4	servers are --	13:09:22
5	BY MR. BLUMENKOPF:	13:09:23
6	Q. I -- I'll just -- I don't mean to	13:09:23
7	interrupt.	13:09:25
8	I don't want to know any non-public	13:09:26
9	information from that case.	13:09:27
10	A. It's public in the sense that anybody	13:09:28
11	could have been in the courtroom to listen to my	13:09:30
12	testimony.	13:09:32
13	It is an m-regular network of servers,	13:09:33
14	what they call servers, but they're really nodes.	13:09:39
15	Q. Okay. And are there -- is there at	13:09:44
16	least one application that runs on those server	13:09:45
17	nodes?	13:09:48
18	MR. RAFATIJO: Objection; form.	13:09:48
19	THE WITNESS: Those server nodes run a	13:09:50
20	range of complex functionality. I don't recall	13:09:55
21	that I ever saw somebody refer to any of that	13:09:57
22	functionality as an application.	13:10:01
23	BY MR. BLUMENKOPF:	13:10:04
24	Q. In implementing "World of Warcraft",	13:10:05
25	it's running at least one application; right?	13:10:07

1 THE COURT REPORTER: "Running one 13:10:11
2 application"? 13:10:13

3 MR. BLUMENKOPF: Running at least one 13:10:13
4 application. 13:10:15

5 THE WITNESS: It is possible that 13:10:15
6 somebody could look at "World of Warcraft" and say, 13:10:18
7 "This is a complex computer-based or software-based 13:10:21
8 system," and somebody else might look at the same 13:10:26
9 thing and say, "Well, to me, that's an 13:10:30
10 n-application." 13:10:33

11 I have not seen such a characterization 13:10:35
12 of -- of -- of the game itself because it's very 13:10:38
13 complex. But if somebody were to characterize it 13:10:41
14 that way, I don't think there would be a 13:10:45
15 revolution. 13:10:47

16 BY MR. BLUMENKOPF: 13:10:48

17 Q. And they're individuals players or 13:10:49
18 clients who connect to those server nodes, right, 13:10:51
19 in playing the game? 13:10:54

20 MR. RAFATIJO: Objection; form. 13:10:55

21 THE WITNESS: I would have to look at 13:10:57
22 the documentation of "World of Warcraft" to see 13:11:01
23 whether anybody ever refers to any of the players 13:11:05
24 who play the game as clients. 13:11:10

25 As we sit here, I don't recall that term 13:11:13

1 being used.

13:11:15

2 BY MR. BLUMENKOPF:

13:11:16

3 Q. You don't recall the term "client" being
4 used in your study of "World of Warcraft"?

13:11:16

13:11:18

5 MR. RAFATIJO: Objection; form.

13:11:20

6 THE WITNESS: It's -- it's been a while.

13:11:21

7 For the record, since I testified in
8 that case, I have testified in another case on a
9 completely unrelated technology.

13:11:23

13:11:26

13:11:29

10 And to boot, I was deposed on yet
11 another case in a completely unrelated technology
12 last week, which means that that was, like --
13 considering that I studied for this one, that was,
14 like, three technology categories ago for me.

13:11:33

13:11:36

13:11:41

13:11:44

13:11:48

15 So I -- as we sit here, I don't recall
16 "client" figuring in any of my analysis -- the term
17 "client" figuring in any of my analysis of "World
18 of Warcraft."

13:11:50

13:11:53

13:11:56

13:11:59

19 BY MR. BLUMENKOPF:

13:11:59

20 Q. Okay. If I'm to play that game on my
21 computer, I'm running an executable program; right?

13:12:00

13:12:02

22 MR. RAFATIJO: Objection; form.

13:12:05

23 THE WITNESS: I don't think you're
24 running an executable program.

13:12:06

13:12:09

25 I think you're opening up a browser and

13:12:11

1 connecting to some "World of Warcraft" server
2 somewhere.

3 BY MR. BLUMENKOPF:

4 Q. Is a browser an executable program?

5 MR. RAFATIJO: Objection; form.

6 THE WITNESS: Sure. If you mean by --
7 by "executable program," if you mean something like
8 a browser, then sure. You're running an executable
9 program, just like you're running, very likely, you
10 know, Microsoft Word or PowerPoint or whatever.

11 But that's not -- that executable
12 program is -- has nothing to do with the game,
13 per se.

14 So I just mis- -- misunderstood your
15 question.

16 Sure. You're running something
17 executable on your computer to run anything on your
18 computer.

19 BY MR. BLUMENKOPF:

20 Q. Is a browser an application?

21 A. A browser, again, if somebody were to
22 term it an "application," I'm happy to consider
23 that notion.

24 I have not seen a browser readily being
25 referred to as an application. I've seen it

1 referred to as an environment.

13:13:18

2 And then, of course, it's just referred
3 to as a browser, which is a term in the art.

13:13:21

13:13:22

4 So recasting a term that's well-known in
5 the art into another term is not really something
6 that happens readily.

13:13:26

13:13:29

13:13:32

7 Q. Well, we -- we talked earlier about a
8 definition of "application." It's a piece of
9 software that assists in performing a task; right?

13:13:33

13:13:35

13:13:38

10 A. That is a definition that I disagreed
11 with.

13:13:41

13:13:44

12 Q. So a browser application is a piece of
13 software that assists in browsing the web.

13:13:45

13:13:48

14 Would you agree with that?

13:13:52

15 MR. RAFATIJO: Objection; form.

13:13:52

16 THE WITNESS: It is a piece of software,
17 and it, among many other things, helps to browse
18 the web. I have no objection to characterizing it
19 that way.

13:13:53

13:13:55

13:14:01

13:14:04

20 BY MR. BLUMENKOPF:

13:14:07

21 Q. Browsing the web is a kind of task;
22 right?

13:14:09

13:14:11

23 A. Browsing the web is a -- possibly a
24 whole plethora of tasks.

13:14:11

13:14:15

25 Again, I think you're trying to tie this

13:14:19

1 to a flawed definition, and I'm just gonna have to
2 keep disagreeing with that.

3 Q. Would a person of skill in the art in
4 2002 have considered at least some web browsers to
5 be game applications?

6 MR. RAFATIJO: Objection; form.

7 THE WITNESS: I would be surprised if
8 anybody considered a web browser a game
9 application.

10 If there is an opinion of that sort, I'm
11 happy to look at it. But I -- as we sit here, that
12 would sound flawed to me.

13 BY MR. BLUMENKOPF:

14 Q. Were there web browsers in 2002 that
15 executed games?

16 MR. RAFATIJO: Objection; form.

17 THE WITNESS: What do you mean by
18 "executed games"?

19 BY MR. BLUMENKOPF:

20 Q. Well, were there web browsers that a --
21 a person could use to perform a game?

22 MR. RAFATIJO: Same objection.

23 THE WITNESS: What do you mean by "to
24 perform a game"?

25 / / /

1 BY MR. BLUMENKOPF:

13:15:19

2 Q. Well, to -- to run a game. Were there
3 web browsers that were able to do that?

13:15:19

13:15:19

4 MR. RAFATIJO: Same objection.

13:15:21

5 THE WITNESS: I don't believe that a web
6 brow- -- that -- that a web browser in 2002 or in
7 2024 is capable of, quote, running a game, unquote,
8 in the plain and ordinary sense of -- of what it
9 means to run something.

13:15:23

13:15:27

13:15:31

13:15:37

13:15:42

10 But you may have something else in mind.

13:15:43

11 BY MR. BLUMENKOPF:

13:15:46

12 Q. It's true that in 2002 there were web
13 browsers that were able to execute computer code;
14 right?

13:15:46

13:15:49

13:15:51

15 MR. RAFATIJO: Objection; form.

13:15:51

16 THE WITNESS: What do you mean by
17 "execute computer code"?

13:15:52

13:15:56

18 BY MR. BLUMENKOPF:

13:15:58

19 Q. What would you mean by "execute computer
20 code"?

13:15:59

13:16:01

21 MR. RAFATIJO: Objection; form.

13:16:01

22 THE WITNESS: To me, a computer executes
23 computer code. A processor executes computer code.
24 So that's why I'm asking what you mean by a web
25 browser executing computer code.

13:16:02

13:16:05

13:16:09

13:16:13

1 BY MR. BLUMENKOPF:

13:16:15

2 Q. Well, weren't there web browsers that
3 would have, for example, an interpreter to execute
4 lines of code?

13:16:15

13:16:17

13:16:20

5 MR. RAFATIJO: Objection; form.

13:16:22

6 THE WITNESS: An interpreter interprets
7 code. He doesn't execute code, per se.

13:16:24

13:16:25

8 BY MR. BLUMENKOPF:

13:16:32

9 Q. What do you view is the difference?

13:16:32

10 A. Well, I guess my question would be what
11 do you view it as a difference?

13:16:35

13:16:38

12 Because it sound- -- it seems to me like
13 by interpreting, you -- by being able to interpret
14 something, you consider that the same as being able
15 to execute something.

13:16:39

13:16:42

13:16:46

13:16:48

16 So to me, a processor executes code. An
17 interpreter interprets things, just like a compiler
18 compiles things.

13:16:50

13:16:53

13:16:56

19 So an interpreter would interpret things
20 into a form that a processor could execute.

13:16:56

13:17:00

21 Q. You're telling me an interpreter doesn't
22 execute code?

13:17:03

13:17:05

23 MR. RAFATIJO: Objection; form.

13:17:06

24 THE WITNESS: That depends on what you
25 mean -- what your definition of "execute code" is.

13:17:08

13:17:09

1 An interpreter interprets code.

13:17:12

2 BY MR. BLUMENKOPF:

13:17:22

3 Q. Okay. I'm going to introduce a new
4 exhibit for you.

13:17:22

13:17:23

5 Kelli, can you mark this 1018,
6 Exhibit 1018.

13:17:32

13:17:34

7 THE COURT REPORTER: Absolutely.

13:17:42

8 MR. RAFATIJO: For the record, I object
9 to the evidence. It's not part of the exhibits
10 filed with the PTAB.

13:17:42

13:17:44

13:17:46

11 MR. BLUMENKOPF: I have the book and I
12 have excerpts from the book, the portions I'm going
13 to ask you about, and I have copies of the experts
14 for everybody.

13:17:46

13:17:47

13:17:49

13:17:51

15 MR. RAFATIJO: Still same objection.

13:17:52

16 (Whereupon, a discussion was held
17 off the stenographic record.)

13:18:21

13:18:21

18 (Whereupon, Petitioner's Exhibit Number
19 1018 was marked for identification by
20 the deposition officer and is attached
21 hereto.)

13:18:23

13:18:23

13:18:23

13:18:24

22 THE COURT REPORTER: Doctor.

13:18:24

23 THE WITNESS: Thank you.

13:18:24

24 THE COURT REPORTER: You're welcome.

13:18:25

25 / / /

1 BY MR. BLUMENKOPF:

13:18:26

2 Q. Do you recognize Exhibit 1018?

13:18:26

3 A. Not from the cover because I haven't

13:18:28

4 seen this before, but it seems like it's a -- on

13:18:29

5 the inside, it's a reprint of my textbook. Maybe

13:18:34

6 not complete, but somewhere in the neighborhood.

13:18:42

7 Q. You're an author of that book; right?

13:18:46

8 A. Of the "Software Architecture:

13:18:52

9 Foundations, Theory, and Practice" book, yet --

13:18:54

10 yes. I don't know -- this says that it's for sale

13:18:56

11 only in India, Bangladesh, Nepal, Pakistan, Sri

13:18:58

12 Lanka --

13:19:02

13 THE COURT REPORTER: I'm sorry.

13:19:02

14 Can you repeat those? I'm sorry.

13:19:02

15 THE WITNESS: Absolutely.

13:19:03

16 THE COURT REPORTER: Thank you.

13:19:03

17 THE WITNESS: It's restricted for sale

13:19:04

18 only in India, Bangladesh, Nepal, Pakistan, Sri

13:19:05

19 Lanka, and Bhutan. And I have not seen this

13:19:13

20 version of the book before.

13:19:16

21 BY MR. BLUMENKOPF:

13:19:20

22 Q. Do you have any reason to believe the

13:19:20

23 book is not a complete and correct copy of your

13:19:22

24 book "Software Architecture" --

13:19:26

25 A. I --

13:19:28

1	Q. -- "Foundations, Theory, and Practice"?	13:19:28
2	A. I have no knowledge of what this	13:19:29
3	particular edition is, so I can't comment on it one	13:19:32
4	way or the other.	13:19:37
5	Q. Will you take a look through the book	13:19:39
6	and confirm whether it looks like your textbook.	13:19:41
7	A. As I said, just by flipping through it,	13:19:46
8	the things that I see look like reproductions of	13:19:50
9	what is in the textbook. But it's a	13:20:01
10	730-some-odd-page book, although in this edition	13:20:03
11	it's 712.	13:20:05
12	So it -- it appears to be the book, but	13:20:07
13	I cannot confirm it without spending way more time	13:20:15
14	than would be appropriate today.	13:20:19
15	Q. Do you have any reason to think it's not	13:20:20
16	the book?	13:20:23
17	A. I've already told you I have never seen	13:20:25
18	this. I don't know what this edition is. And it	13:20:27
19	is not for sale in this country, so I cannot	13:20:31
20	comment on that.	13:20:34
21	Q. Well, you're familiar with the book	13:20:34
22	"Software Architecture: Foundations, Theory, and	13:20:36
23	Practice"; right? As the --	13:20:38
24	(Unreportable cross-talk.)	13:20:39
25	MR. RAFATIJO: Objection; form.	13:20:40

1 THE WITNESS: I am a co-author of the
2 book "Software Architecture: Foundations, Theory
3 and Practice."

4 BY MR. BLUMENKOPF:

5 Q. So you're very familiar with it; right?

6 A. I'm reasonably familiar with it, given
7 that it was written fifteen, sixteen years ago and,
8 as you might imagine, I don't go through it on a
9 regular basis.

10 But I would say I'm -- you know, I
11 remember, by and large, what's in it.

12 Q. And are you aware of any specific reason
13 why this book wouldn't be a true, complete, and
14 correct copy of that book?

15 MR. RAFATIJO: Objection; form.

16 THE WITNESS: Well, I can only tell you
17 that I have never seen this edition before and I,
18 quite frankly, don't understand why you didn't
19 obtain an edition that's readily available in this
20 country.

21 But beyond that, I cannot answer your
22 question one way or the other.

23 BY MR. BLUMENKOPF:

24 Q. Well, you're aware the book is sold in
25 multiple countries in multiple territories; right?

13:20:42

13:20:44

13:20:47

13:20:47

13:20:48

13:20:49

13:20:51

13:20:55

13:20:58

13:20:59

13:21:01

13:21:04

13:21:06

13:21:11

13:21:11

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13:21:22

13:21:24

13:21:26

13:21:27

13:21:28

13:21:29

13:21:30

13:21:32

1	MR. RAFATIJO: Objection; form.	13:21:34
2	THE WITNESS: I am now.	13:21:35
3	BY MR. BLUMENKOPF:	13:21:36
4	Q. Are you aware of any differences in the	13:21:36
5	content of the book -- that -- the version of the	13:21:38
6	book that's sold in different countries?	13:21:40
7	A. I know nothing about this version of the	13:21:42
8	book, other than the fact that it appears to be	13:21:45
9	shorter, page-count-wise, than the U.S. edition of	13:21:47
10	my book. But I can't comment on it beyond that	13:21:53
11	because this is the first time I've seen it.	13:21:56
12	Q. Who's the audience for the book?	13:22:03
13	MR. RAFATIJO: Objection; form.	13:22:05
14	THE WITNESS: Advanced undergraduate and	13:22:06
15	graduate students, as well as practitioners who may	13:22:10
16	be looking to expand their palette of skills in	13:22:17
17	software engineering.	13:22:21
18	BY MR. BLUMENKOPF:	13:22:24
19	Q. That group would include people of	13:22:24
20	ordinary skill in the art; right?	13:22:27
21	A. Ordinary skill in the art as of 2002 as	13:22:28
22	I defined it in my declaration. Such a person may	13:22:32
23	find this book useful.	13:22:47
24	Q. When was your book published?	13:22:47
25	A. It came out in early 2009.	13:22:48

1	Q. When did you start writing the book?	13:22:51
2	A. Sometime in late 2005.	13:22:57
3	Q. Okay. Take a look at the inside cover	13:22:59
4	of that book.	13:23:06
5	MR. RAFATIJO: Are you planning to give	13:23:07
6	me a copy?	13:23:08
7	MR. BLUMENKOPF: Yes. Thank you,	13:23:09
8	Counsel.	13:23:10
9	MR. RAFATIJO: Thank you.	13:23:10
10	MR. BLUMENKOPF: Let me provide excerpts	13:23:11
11	from the -- the text. One second.	13:23:13
12	MR. RAFATIJO: I'm sorry.	13:23:42
13	MR. BLUMENKOPF: Kelli, can you mark	13:23:42
14	this as Exhibit 1019, please.	13:23:44
15	THE COURT REPORTER: Yes.	13:23:46
16	MR. RAFATIJO: I raise my objections.	13:23:46
17	No evidence.	13:23:47
18	THE COURT REPORTER: Thank you.	13:23:50
19	MR. BLUMENKOPF: Counsel, you've been	13:23:58
20	cautioned about the objections.	13:23:59
21	MR. RAFATIJO: Counsel, the trial guide	13:24:01
22	practice says -- I'm going to read it for you:	13:24:02
23	"An objection at the time of	13:24:05
24	examination -- whether to	13:24:07
25	evidence," which is an objection to	13:24:08

1	evidence, "must be noted on the	13:24:09
2	record."	13:24:12
3	And I'm objecting to the evidence.	13:24:12
4	(Whereupon, Petitioner's Exhibit Number	13:24:24
5	1019 was marked for identification by	13:24:24
6	the deposition officer and is attached	13:24:24
7	hereto.)	13:24:24
8	THE COURT REPORTER: Here you are,	13:24:24
9	Doctor.	13:24:26
10	THE WITNESS: Just for the record, is it	13:24:26
11	supposed to be 1019 or 2019?	13:24:41
12	THE COURT REPORTER: How could I have	13:24:41
13	done that?	13:24:43
14	MR. BLUMENKOPF: To be clear, this is	13:24:43
15	Exhibit 1019.	13:24:45
16	THE COURT REPORTER: Yes, that was a	13:24:46
17	bizarre number one.	13:24:47
18	THE WITNESS: Thank you.	13:24:47
19	THE COURT REPORTER: Thank you.	13:24:48
20	BY MR. BLUMENKOPF:	13:24:48
21	Q. Okay. I will -- scratch that.	13:24:49
22	So you have in front of you	13:24:50
23	Exhibit 1019.	13:24:53
24	I'll represent to you this is an excerpt	13:24:53
25	from Exhibit 1018, a photocopy of the pages from	13:24:54

1	Exhibit 1018.	13:24:57
2	A. Okay.	13:24:59
3	Q. Feel free to compare Exhibit 1019 with	13:24:59
4	Exhibit 1018 and confirm that the content of 1019	13:25:02
5	is found in Exhibit 1018.	13:25:07
6	A. To the extent that it makes a difference	13:25:12
7	based on your questions, we can do that. I don't	13:25:14
8	want to waste your time right now. I'll take your	13:25:16
9	word for it.	13:25:19
10	Q. Okay. So the questions I'm asking you	13:25:20
11	about are rel- -- directed to 1019 as the excerpt,	13:25:20
12	but they're also directed to 1018 as the -- the	13:25:24
13	textbook that you authored.	13:25:26
14	A. Okay.	13:25:27
15	Q. Okay. Let's take a look at page 116	13:25:30
16	from Exhibit 1019.	13:25:42
17	A. Okay.	13:25:54
18	Q. Okay. So see in the top margin, it says	13:25:54
19	"Chapter four, Designing Architectures"?	13:25:57
20	A. Yes.	13:25:59
21	Q. Right?	13:25:59
22	Is that a chapter in your book?	13:26:00
23	A. That is -- there is a chapter four in my	13:26:02
24	book. Certainly.	13:26:04
25	Q. Is it fair to say this chapter relates	13:26:06

1 to designing architectures for software? 13:26:07

2 A. Specifically, it relates to 13:26:11
3 architectural styles and patterns. 13:26:13

4 Q. What's an architectural style in this 13:26:16
5 context? 13:26:19

6 A. Well, since I presumably have my book in 13:26:21
7 here, I will go to the book to read the exact 13:26:23
8 definition so I don't paraphrase it. 13:26:32

9 "An architectural style is a 13:27:44
10 named collection of architectural 13:27:46
11 design decisions that are 13:27:48
12 applicable in a given development 13:27:52
13 context, constrain architectural 13:27:53
14 design decisions that are specific 13:27:56
15 to a particular system within that 13:27:57
16 context, and elicit beneficial 13:27:59
17 qualities in each resulting 13:28:03
18 system." 13:28:06

19 Q. That's the definition a person of 13:28:06
20 ordinary skill would apply; correct? 13:28:08

21 A. Well, that's the definition of an -- of 13:28:12
22 a style. So if they were talking about an 13:28:14
23 architectural style, this is the definition they 13:28:21
24 should use. 13:28:23

25 Q. Let's turn to page 115, Exhibit 1019. 13:28:23

1	MR. RAFATIJO: You said 119?	13:28:37
2	MR. BLUMENKOPF: Page 115.	13:28:37
3	MR. RAFATIJO: 115.	13:28:37
4	MR. BLUMENKOPF: Exhibit 1019.	13:28:37
5	BY MR. BLUMENKOPF:	13:28:39
6	Q. You see there's a section called	13:28:39
7	"Interpreter"?	13:28:41
8	A. Yes.	13:28:41
9	Q. And you see in that paragraph, it says:	13:28:42
10	"Interpretation proceeds by	13:28:45
11	starting with an initial execution	13:28:46
12	state, obtaining the first command	13:28:48
13	to execute, possibly by reading	13:28:50
14	some user input, executing the	13:28:52
15	command over the current execution	13:28:54
16	state, thereby modifying that	13:28:55
17	state, then proceeding to execute	13:28:57
18	the next command."	13:28:59
19	Do you see that?	13:29:01
20	A. I do.	13:29:01
21	Q. Do you agree now that an interpreter	13:29:02
22	executes commands?	13:29:05
23	MR. RAFATIJO: Objection; form.	13:29:07
24	THE WITNESS: Again, it really depends	13:29:08
25	on the context of what you're talking about.	13:29:10

1 So when we talked about this before, as
2 I already mentioned, the thing that executes things
3 is a -- the thing that executes code is a
4 processer.

13:29:13

13:29:14

13:29:17

13:29:21

5 Here, we're talking about commands and a
6 higher level abstraction of -- of what we mean by
7 "execution." So the notion of execution is
8 different.

13:29:21

13:29:25

13:29:28

13:29:30

9 So if you want to talk about how an
10 interpret- -- interpreter architectural style
11 functions, then this is absolutely accurate.

13:29:31

13:29:34

13:29:37

12 But before, we were talking about
13 executing code, in my understanding.

13:29:42

13:29:43

14 BY MR. BLUMENKOPF:

13:29:44

15 Q. When you used the word "command" in your
16 textbook, did you mean computer code?

13:29:45

13:29:47

17 MR. RAFATIJO: Objection; form.

13:29:51

18 THE WITNESS: That really depends on a
19 bunch of different factors. There are all kinds of
20 interpreters. I have built interpreters that you
21 may look at and would not recognize the inputs to
22 them as computer code.

13:29:54

13:30:06

13:29:58

13:30:01

13:30:04

23 It really depends on context. So we
24 cannot talk about it in a general sense and provide
25 a definitive answer across the board.

13:30:06

13:30:09

13:30:13

1 BY MR. BLUMENKOPF:

13:30:15

2 Q. So when you said in your book an
3 interpreter executes a command, you weren't talking
4 about interpreter executing computer code?

13:30:15

13:30:17

13:30:19

5 MR. RAFATIJO: Objection; form.

13:30:21

6 THE WITNESS: Again, this is an
7 architectural style. This is not a specific
8 interpreter tool, if you will, or implementation.

13:30:22

13:30:24

13:30:27

9 This is talking about a way of
10 organizing your system's architecture.

13:30:31

13:30:36

11 So this is not necessarily code. That's
12 why it says "Commands."

13:30:39

13:30:41

13 It says:

13:30:43

14 "Commands are explicit

13:30:43

15 statements."

13:30:45

16 And it says:

13:30:47

17 "Possibly encoded in human

13:30:48

18 readable and editable text."

13:30:49

19 BY MR. BLUMENKOPF:

13:30:53

20 Q. Let's look back at page 116 from that
21 same exhibit.

13:30:53

13:30:56

22 And do you see there's a paragraph
23 titled "Mobile Code"?

13:31:02

13:31:03

24 A. Yes.

13:31:05

25 Q. It says:

13:31:06

1	"As the name suggests, mobile	13:31:07
2	code enables" --	13:31:09
3	I'm sorry. Strike that.	13:31:10
4	"As the name suggests, mobile	13:31:11
5	code styles enable code to be	13:31:13
6	transmitted to the remote	13:31:16
7	[unintelligible]" --	13:31:19
8	THE COURT REPORTER: "Transmitted to	13:31:19
9	remote" --	13:31:20
10	BY MR. BLUMENKOPF:	13:31:20
11	Q. (Reading):	13:31:20
12	-- "to a remote host for	13:31:20
13	interpretation. This may be due to	13:31:22
14	a lack of local computing power,	13:31:23
15	lack of resources, or due to large	13:31:25
16	data sets remotely located. Mobile	13:31:27
17	code may be classified as code on	13:31:30
18	demand, remote evaluation, or	13:31:33
19	mobile agent, depending on where	13:31:35
20	the code is being transmitted, who	13:31:37
21	requested the transmission, and	13:31:38
22	where the program state resides."	13:31:40
23	Do you agree with that statement?	13:31:44
24	A. That's what it says.	13:31:55
25	Q. Well, it's your book; right?	13:31:55

1 A. This is -- I -- I think that this part
2 of the book is unadulterated.

3 Q. Okay. You agree with your statement
4 here?

5 A. That's what it says. Yeah. I don't --
6 I mean, in terms of architectural styles, and
7 specifically the mobile code style, this is
8 appropriate -- an appropriate characterization.

9 Q. It continues:

10 "Code on demand is when the
11 initiator has resources
12 [unintelligible]" --

13 THE COURT REPORTER: "Has" -- I'm sorry.
14 You've got to read slower --

15 MR. BLUMENKOPF: All right.

16 THE COURT REPORTER: -- for me.

17 MR. BLUMENKOPF: Let me restart that
18 sentence.

19 BY MR. BLUMENKOPF:

20 Q. (Reading):

21 "Code on demand is when the
22 initiator has resources and state,
23 but downloads code from another
24 site to be executed locally."

25 A. Yes. That's what it says.

1	Q. Yes. And you agree with that?	13:32:34
2	MR. RAFATIJO: Objection; form.	13:32:36
3	THE WITNESS: I don't have any reason to	13:32:46
4	disagree with that sentence in isolation. It just	13:32:46
5	depends on what -- what specifically you want me to	13:32:46
6	opine on there.	13:32:51
7	If you just want to read my book and ask	13:32:52
8	me if I agree with it, divorced of this case, I	13:32:54
9	agree with what the book says. I co-wrote the	13:32:58
10	book.	13:33:01
11	BY MR. BLUMENKOPF:	13:33:01
12	Q. Is there anything in the book you	13:33:01
13	disagree with?	13:33:02
14	MR. RAFATIJO: Objection; form.	13:33:04
15	THE WITNESS: There may well be things	13:33:06
16	that I would disagree with today that -- the book	13:33:08
17	came out over fifteen years ago. Things have	13:33:11
18	changed.	13:33:14
19	We do things differently in software	13:33:14
20	engineering today than we did in -- whenever the --	13:33:16
21	the final touches were put on the book in late	13:33:21
22	2008.	13:33:23
23	BY MR. BLUMENKOPF:	13:33:24
24	Q. Back when you wrote the book, is there	13:33:24
25	anything in the book you disagreed with?	13:33:25

1	A.	It would be highly unlikely.	13:33:28
2	Q.	Take a look at page 102 from this	13:33:31
3		exhibit.	13:33:36
4	A.	102?	13:33:36
5	Q.	Yes.	13:33:37
6		And I see a heading here. It says	13:33:44
7		"4-dot-3-dot-4, Simple Styles."	13:33:47
8		Do you see that?	13:33:50
9	A.	Yes.	13:33:50
10	Q.	And that description of mobile code that	13:33:50
11		we just looked at, that's part of that same section	13:33:52
12		called "Simple Styles"; right?	13:33:55
13	A.	I would be seriously surprised if that	13:33:59
14		were the case, but let me double-check by --	13:34:02
15		Okay. I see what it is.	13:34:22
16		Yes, that would be under the "Simple	13:34:24
17		Styles" heading, but only as a way of	13:34:26
18		distinguishing it.	13:34:30
19		This is why context is incredibly	13:34:31
20		important, only as a way of distinguishing it from	13:34:33
21		more complex styles, such as Representational State	13:34:35
22		Transfer, which is the style of the web for	13:34:38
23		distributed objects, which is a style that was	13:34:42
24		popular in the late 1990s, early 2000s.	13:34:44
25		There is nothing simple about mobile	13:34:52

1 code. I can tell you that much.

13:34:54

2 Q. So by putting mobile code under the
3 "Simple Style" section, though, you're trying to
4 convey it's at least relatively simple compared to
5 other styles; right?

13:34:55

13:34:57

13:35:00

13:35:03

6 A. Only that it is not a -- an
7 agglomeration or combination of other known styles.
8 In that sense, it's simple. But it is not --
9 certainly, it would not be in the same category as
10 main program subroutines, or example.

13:35:04

13:35:11

13:35:14

13:35:24

13:35:24

11 Q. Would the person of ordinary skill in
12 the art have found mobile code relatively
13 straightforward to implement --

13:35:25

13:35:27

13:35:30

14 (Unreportable cross-talk.)

13:35:32

15 MR. RAFATIJO: Objection --

13:35:32

16 BY MR. BLUMENKOPF:

13:35:32

17 Q. -- other styles?

13:35:33

18 MR. RAFATIJO: Objection; form.

13:35:34

19 THE WITNESS: Relatively -- well, first,
20 mobile code is really three different styles. You
21 read about it in a -- in that section a minute ago,
22 so let me find it again.

13:35:35

13:35:37

13:35:39

13:35:45

23 It is code on demand, re- -- remote
24 evaluation, or mobile agents. So those are three
25 different ways of implementing mobile code.

13:35:46

13:35:55

13:35:57

1	Some of them may be easier than others.	13:36:00
2	Mobile agents proved, in fact, in retrospect to be	13:36:09
3	incredibly complicated, and in some ways flawed, to	13:36:12
4	the point where, soon after this book came out,	13:36:17
5	people slowly kind of started walking away from it.	13:36:22
6	So it just depends on which of these,	13:36:25
7	and I think a POSITA would need some training to be	13:36:27
8	able to implement this, but I would not be	13:36:33
9	surprised if they were able to make it happen.	13:36:36
10	There were certainly libraries out there	13:36:38
11	that -- that helped with this kind of thing.	13:36:43
12	BY MR. BLUMENKOPF:	13:36:49
13	Q. So the -- the section that followed the	13:36:49
14	"Simple Styles" section, I don't know if this is in	13:36:51
15	the -- the excerpt. I apologize. But it is in the	13:36:53
16	original book.	13:36:56
17	If you take a look at page -- let's find	13:36:57
18	it quickly.	13:37:00
19	Take a look at page 124 from Exhibit	13:37:12
20	1018.	13:37:19
21	A. Okay.	13:37:20
22	MR. RAFATIJO: Do you have a copy of	13:37:20
23	that?	13:37:21
24	MR. BLUMENKOPF: I don't. I'm sorry.	13:37:22
25	It's in the original book, Exhibit 1018. It's not	13:37:22

1	included in the excerpt.	13:37:25
2	MR. RAFATIJO: Then I need to review it.	13:37:26
3	MR. BLUMENKOPF: You're welcome to	13:37:28
4	take --	13:37:30
5	MR. RAFATIJO: Sure.	13:37:31
6	MR. BLUMENKOPF: -- a look at Exhibit	13:37:31
7	1018.	13:37:33
8	(Whereupon, the witness handed counsel	13:37:36
9	Exhibit 1018.)	13:37:38
10	MR. RAFATIJO: Your question is limited	13:37:50
11	to 124?	13:37:52
12	MR. BLUMENKOPF: I'm about to ask the	13:37:53
13	question.	13:37:55
14	You can --	13:37:55
15	(Unreportable cross-talk.)	13:37:55
16	MR. RAFATIJO: No --	13:37:55
17	MR. BLUMENKOPF: -- the exhibit back,	13:37:56
18	please.	13:37:57
19	MR. RAFATIJO: -- I don't want to	13:37:57
20	interrupt. If you ask -- if you go to some other	13:37:58
21	page, I need to get on that.	13:38:00
22	MR. BLUMENKOPF: I'm about to ask a	13:38:01
23	question about page 124 --	13:38:03
24	MR. RAFATIJO: Sure.	13:38:03
25	Give it back.	13:38:04

1 BY MR. BLUMENKOPF:

13:38:05

2 Q. Professor, there's a heading on page
3 124. It says "4-dot-3-dot-5, More Complex Styles"?

13:38:06

13:38:07

4 A. I see that.

13:38:11

5 Q. All right.

13:38:12

6 MR. RAFATIJO: Objection; evidence.

13:38:12

7 BY MR. BLUMENKOPF:

13:38:14

8 Q. And this section -- this section follows
9 the section "4-dot-3-dot-4, Simple Styles"; right?

13:38:14

13:38:16

10 A. Yes.

13:38:20

11 Q. So you chose not to include the mobile
12 code under "More Complex Styles"; right?

13:38:21

13:38:24

13 A. Well, because of the notion of simple
14 versus complex that was used in organizing this
15 chapter.

13:38:34

13:38:38

13:38:42

16 Q. So that there are more complex styles
17 than the mobile code style; right?

13:38:43

13:38:45

18 MR. RAFATIJO: Objection; form.

13:38:49

19 THE WITNESS: Complex in the sense that
20 there are rules that are borrowed or reused from
21 other styles that I termed -- or whoever wrote this
22 chapter, because I -- at this point, I don't
23 remember. But it's my book, so let's say it was
24 me.

13:38:49

13:38:53

13:38:58

13:39:03

13:39:06

13:39:08

25 If I termed it as "simple style," it's

13:39:08

1 only because it doesn't rest on other styles. More
2 complex styles rest on concepts and rules of what I
3 called "simple styles."

4 So just because something is in the
5 category here listed as "simple styles," it doesn't
6 mean that they're simple.

7 They -- they require some smarts, some
8 of these more than others. But they require some
9 smarts to -- to implement and use properly.

10 BY MR. BLUMENKOPF:

11 Q. Take a look at page 117.

12 This -- this is in Exhibit 1019, the
13 excerpt.

14 MR. RAFATIJO: Same objection.

15 BY MR. BLUMENKOPF:

16 Q. And there is a box at the bottom. And
17 on the right, it says "Style, Mobile Code," and
18 there's a few lines here in that gray box.

19 Do you see that?

20 A. Yes, I do.

21 Q. These are describing the mobile code
22 style; right?

23 A. This is a summary of the mobile code
24 style, using the -- the rubrics that we decided to
25 highlight for each one of the styles in the

1 chapter.

13:40:16

2 Q. You see where it says "Qualities
3 Yielded"?

13:40:18

13:40:20

4 A. I do.

13:40:23

5 Q. This is describing some advantages of
6 the mobile code style; right?

13:40:23

13:40:25

7 MR. RAFATIJO: Objection; form.

13:40:29

8 THE WITNESS: It could be advantages or
9 disadvantages, just depending on -- on the style.

13:40:30

13:40:32

10 BY MR. BLUMENKOPF:

13:40:34

11 Q. It says, under "Qualities Yielded,"
12 "Dynamic Adoptability."

13:40:36

13:40:39

13 See that?

13:40:41

14 A. Yes, I do.

13:40:42

15 Q. Is that an advantage of the mobile code
16 style?

13:40:42

13:40:44

17 MR. RAFATIJO: Well, objection; form.

13:40:44

18 THE WITNESS: It -- it is a quality.
19 Whether it's an advantage is really, in many ways,
20 in the eye of the beholder.

13:40:46

13:40:49

21 I already mentioned that for mobile
22 agents, architectures, dynamic adaptability came at
23 significant cost, which eventually led to their
24 disuse.

13:40:54

13:40:57

13:41:02

13:41:05

25 / / /

1 BY MR. BLUMENKOPF:

13:41:05

2 Q. Well, you said right here:

13:41:06

3 "Takes advantage of the

13:41:07

4 aggregate computing power of

13:41:08

5 available hosts,

13:41:08

6 [unintelligible]" --

13:41:16

7 THE COURT REPORTER: I'm sorry. Can you

13:41:16

8 back up?

13:41:17

9 (The record was read as follows:

13:41:17

10 Q -- advantage of the aggregate

13:41:17

11 computing power of" --)

13:41:17

12 BY MR. BLUMENKOPF:

13:41:17

13 Q. (Reading):

13:41:17

14 "Takes advantage of the

13:41:18

15 aggregate computing power of

13:41:19

16 available hosts, increased

13:41:22

17 dependability through provision of

13:41:24

18 migration to new hosts"?

13:41:25

19 A. I see that.

13:41:29

20 Q. Those are advantages; right?

13:41:30

21 MR. RAFATIJO: Objection; form.

13:41:33

22 THE WITNESS: Sure. They could be

13:41:33

23 looked at as -- as advantages, but first it's

13:41:34

24 obviously an incomplete list.

13:41:38

25 And also, that has nothing to do with --

13:41:39

1 with dynamic adaptability, which came right before
2 it, which can be looked at as an advantage from one
3 perspective, but turns out to be a disadvantage
4 from another perspective.

5 And the same thing with increased
6 dependability. That increased dependability in
7 practice came at the price -- at least of
8 significant security issues with mobile code
9 systems.

10 So again, it's very much in the in
11 the eye of the beholder.

12 BY MR. BLUMENKOPF:

13 Q. Well, is it fair to say increased
14 dependability is an advantage, even if there are
15 also some disadvantages associated with it?

16 MR. RAFATIJO: Objection; form.

17 THE WITNESS: If you're asking me
18 whether making a system more dependable is an
19 advantage in and of itself in a vacuum, making a
20 system more dependable would be an advantage.
21 Nobody wants an undependable system.

22 BY MR. BLUMENKOPF:

23 Q. And that's a characteristic of the
24 mobile code style; right?

25 MR. RAFATIJO: Objection; form.

13:41:42
13:41:45
13:41:48
13:41:50
13:41:52
13:41:55
13:41:58
13:42:01
13:42:10
13:42:10
13:42:13
13:42:14
13:42:14
13:42:16
13:42:19
13:42:21
13:42:22
13:42:29
13:42:29
13:42:32
13:42:34
13:42:38
13:42:39
13:42:41
13:42:42

1 THE WITNESS: That is a characteristic
2 of the mobile code style when looked through a
3 particular lens that ignores a clear disadvantage
4 directly associated with increased dependability.

13:42:43

13:42:48

13:42:51

13:42:56

5 So it's increased dependability,
6 accompanied by significant security, privacy, and
7 data confidentiality disadvantages.

13:43:04

13:43:08

13:43:12

8 MR. BLUMENKOPF: By the way, do you want
9 to take a break for lunch soon?

13:43:22

13:43:23

10 THE WITNESS: That's up to you. I'm not
11 going to be doing lunch --

13:43:25

13:43:27

12 (Unreportable cross-talk.)

13:43:27

13 MR. BLUMENKOPF: Counsel, do you want to
14 take a break for lunch?

13:43:27

13:43:28

15 MR. RAFATIJO: Can we go until 2:00 p.m.
16 and then take a break then?

13:43:29

13:43:32

17 MR. BLUMENKOPF: I think that's okay.

13:43:34

18 MR. RAFATIJO: Thank you.

13:43:38

19 BY MR. BLUMENKOPF:

13:43:38

20 Q. Okay. Take a look at Exhibit 1018.

13:43:39

21 A. Okay.

13:43:45

22 Q. That's the actual book; right?

13:43:46

23 And I want you to take a look at page
24 118.

13:43:48

13:43:50

25 A. Okay.

13:43:53

1	Q. And I'm sorry. It looks like this	13:43:53
2	might -- may not be in the excerpt, Exhibit 1019.	13:43:56
3	MR. RAFATIJO: May I review it first?	13:43:59
4	MR. BLUMENKOPF: Yes.	13:44:01
5	MR. RAFATIJO: Thank you.	13:44:02
6	(Whereupon, the witness handed counsel	13:44:05
7	Exhibit 1018.)	13:44:07
8	(Document reviewed by counsel.)	13:44:10
9	MR. BLUMENKOPF: And, counsel, I'm going	13:44:24
10	to ask about page 118, and also page 119, i you'd	13:44:25
11	like --	13:44:28
12	MR. RAFATIJO: Sure.	13:44:28
13	MR. BLUMENKOPF: -- to look at that as	13:44:29
14	well.	13:44:31
15	MR. RAFATIJO: Sure. Sure. I'm -- give	13:44:31
16	me a minute.	13:44:34
17	Okay. Great. Thank you.	13:44:48
18	BY MR. BLUMENKOPF:	13:44:50
19	Q. Okay. So let's take a look at page 118	13:44:50
20	from Exhibit 1018.	13:44:55
21	A. Okay.	13:44:57
22	Q. And you see the first paragraph there.	13:44:58
23	It's describing Figure 4-dash-19; right?	13:44:58
24	MR. RAFATIJO: Objection; evidence.	13:45:01
25	THE WITNESS: Yes, I see the first full	13:45:02

1 paragraph referring to Figure 4-19.

13:45:04

2 BY MR. BLUMENKOPF:

13:45:07

3 Q. And this paragraph is describing the
4 mobile code style; right?

13:45:07

13:45:10

5 MR. RAFATIJO: Objection; form.

13:45:12

6 THE WITNESS: This is describing a
7 code-on-demand design that one might arrive at
8 specifically for the "Lunar Lander" game applet
9 that is distributed via HTTP.

13:45:16

13:45:20

13:45:29

13:45:37

10 BY MR. BLUMENKOPF:

13:45:41

11 Q. Code on demand is an example of the
12 mobile code style; right?

13:45:41

13:45:43

13 A. Sure. It's one of the -- one of the
14 incarnations of the mobile code style.

13:45:46

13:45:48

15 Q. So Figure 4-dash-19, which is on page
16 119 of Exhibit 1018, that's also describing the
17 mobile code style; right?

13:45:52

13:45:55

13:46:00

18 MR. RAFATIJO: Objection; form.

13:46:01

19 THE WITNESS: It is some static capture
20 of three web browser-based architecture for the
21 "Lunar Lander" game that was used as a simple
22 running example in the textbook.

13:46:07

13:46:13

13:46:26

13:46:31

23 BY MR. BLUMENKOPF:

13:46:34

24 Q. So in that paragraph on top of 118, the
25 first sentence says:

13:46:35

13:46:40

1	"In Figure 4-19, one client	13:46:41
2	web browser downloads code on	13:46:43
3	demand in the form of a 'Lunar	13:46:47
4	Lander' game app-" -- "applet via	13:46:48
5	HTTP."	13:46:48
6	Right?	13:46:50
7	MR. RAFATIJO: Objection; form.	13:46:51
8	THE WITNESS: Yes. That's what -- what	13:46:53
9	it says.	13:46:54
10	BY MR. BLUMENKOPF:	13:47:01
11	Q. And if you turn back to that Figure 4-19	13:47:01
12	on page 119.	13:47:01
13	A. Okay.	13:47:05
14	Q. So Figure 4-19, I see three web	13:47:07
15	browsers; right?	13:47:24
16	A. That is correct.	13:47:24
17	Q. I see a box on the left labeled "Web	13:47:25
18	Browser" and a box on the right labeled "Web	13:47:29
19	Browser," and then there's a third box beneath	13:47:32
20	those labeled "Web Browser"; right?	13:47:35
21	A. Yes.	13:47:37
22	Q. So these are three examples of web	13:47:37
23	browsers?	13:47:41
24	MR. RAFATIJO: Objection; form.	13:47:41
25	THE WITNESS: These are incredibly	13:47:42

1 high-level renderings of -- of the notion of a web
2 browser. I wouldn't call them examples of web
3 browsers.

4 BY MR. BLUMENKOPF:

5 Q. Well, they're each labeled "Web
6 Browser"; right?

7 A. Yes. They're web browser components
8 within this architectural rendering.

9 Q. And in that sentence we just read where
10 it says:

11 "One client web browser
12 downloads code on command in the
13 form of a 'Lunar Lander' game
14 applet."

15 That's referring to the web browser in
16 the upper right in Figure 4-dash-19; right?

17 A. That would seem to be correct.

18 Q. And I see in Figure 4-dash-19, that web
19 browser includes a Java virtual machine; right?

20 A. It does.

21 Q. And within that Java virtual machine,
22 there is the "Lunar Lander" game applet; right?

23 A. That's what's represented or drawn in
24 that box.

25 Q. And you said in the book that that web

1 browser downloads code on demand from that game
2 server we see on the bottom of 4-dash-19; right?

3 A. It doesn't say where it's downloaded
4 from, but one possibility is that it may come from
5 the game server.

6 I have to say that all of the ports
7 point in the other direction, which is why I -- you
8 know, I -- I can't necessarily agree with -- with
9 what you said.

10 But there's just not enough information
11 here.

12 Q. Well, in that paragraph on 118, you said
13 the web browser downloads code on demand via HTTP;
14 right?

15 A. Yes. That -- that's what it says. It:

16 "Downloads code on demand in
17 the form of a 'Lunar Lander' game
18 applet via HTTP."

19 Q. And back to Figure 4-19, we see that web
20 browser. It's connected to a box labeled
21 [unintelligible] --

22 THE COURT REPORTER: Labeled what?

23 MR. BLUMENKOPF: "Remote Procedure
24 Call."

25 / / /

1 BY MR. BLUMENKOPF:

13:49:57

2 Q. And then in that box labeled "Remote
3 Procedure Call," it says "HTTP as Mechanism";
4 right?

13:49:57

13:49:59

13:50:03

5 A. That's what it says.

13:50:03

6 Q. And then we see that connected to a box
7 labeled "Game Server"; right?

13:50:04

13:50:06

8 A. Yes, with the caveat that all of the
9 arrows are pointing in the direction that is
10 opposite o what you are suggesting.

13:50:08

13:50:10

13:50:12

11 So that's why I'm saying, based on just
12 this diagram alone, I cannot agree with what you're
13 suggesting.

13:50:14

13:50:17

13:50:21

14 Q. But in the paragraph on the previous
15 page, it says it:

13:50:21

13:50:24

16 "Downloads code on demand in
17 the form of a "Lunar Lander" game
18 applet via HTTP."

13:50:25

13:50:27

13:50:30

19 Right?

13:50:32

20 A. That -- it says that, but HTTP is used
21 for any interaction of any web browser with
22 anything on the web.

13:50:32

13:50:39

13:50:39

23 So whether the intent here was to have
24 this game server be the -- the right game server
25 for this, I can't tell you.

13:50:39

13:50:46

13:50:49

1 Also, there are three different versions
2 of the code-on-demand instantiation, each one for
3 the different web browsers.

4 And this excerpt here simply doesn't
5 have enough information for me to tell you one way
6 or the other what actually was the intent here.

7 As I said, it's been sixteen years since
8 this happened and I -- this is not -- definitely
9 not one of the styles that I personally worked on,
10 so I cannot comment on exactly what the intent here
11 was.

12 There is a -- an implementation of each
13 one of these architectures that is available in the
14 book's website somewhere that I, again, haven't
15 looked at in over ten years.

16 But that might provide some additional
17 insight into what's happening here.

18 Based on what this short paragraph here
19 says, especially the first sentence, we cannot
20 establish that what you are saying is actually the
21 case.

22 Q. Well, it's true, at least in some cases,
23 a web browser could download code via HTTP; right?

24 MR. RAFATIJO: Objection; form.

25 THE WITNESS: For this style, it's

13:50:52

13:50:54

13:51:02

13:51:04

13:51:07

13:51:09

13:51:11

13:51:13

13:51:15

13:51:17

13:51:21

13:51:22

13:51:26

13:51:28

13:51:31

13:51:33

13:51:37

13:51:39

13:51:41

13:51:44

13:51:46

13:51:46

13:51:49

13:51:53

13:51:54

1 possible that code can be downloaded via HTTP.

13:51:55

2 BY MR. BLUMENKOPF:

13:51:59

3 Q. And the "Lunar Lander" game applet is an
4 example of code that would be downloaded; right?

13:52:00

13:52:02

5 MR. RAFATIJO: Objection; form.

13:52:05

6 THE WITNESS: In -- again, in this
7 example, that's the suggested mechanism, if you
8 will, for getting "Lunar Lander" on to the --
9 "Lunar Lander" applet, rather, onto the right-hand
10 web browser there.

13:52:06

13:52:07

13:52:14

13:52:17

13:52:21

11 BY MR. BLUMENKOPF:

13:52:22

12 Q. Okay. And that web browser runs on a --
13 a computer of some kind; right?

13:52:22

13:52:23

14 A. Presumably.

13:52:25

15 Q. Well, is there anything else a web
16 browser would run on?

13:52:30

13:52:32

17 MR. RAFATIJO: Objection; form.

13:52:33

18 THE WITNESS: I mean, here, this is an
19 example of a notional architecture used to
20 illustrate a style that, admittedly, nobody would
21 implement a game as simple as "Lunar Lander" in,
22 just to demonstrate how you can use a style
23 incorrectly, in a sense, by implementing a much
24 simpler set of notions in that more involved or
25 complex style.

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13:52:56

1 Presumably, a web browser would run on a
2 computer somewhere, but this is just an
3 architectural drawing. It's a high-level
4 architectural drawing. That's all it is.

5 BY MR. BLUMENKOPF:

6 Q. And we see in that Figure 4-dash-19 the
7 web browser includes the Java virtual machine;
8 right?

9 A. Yes. There is a browser engine and it
10 involves a Java virtual machine and there is a set
11 of procedure calls with carefully drawn
12 bi-directional interactions between the browser
13 engine and the JVM.

14 Q. By "JVM," you mean the Java virtual
15 machine?

16 A. Correct.

17 Q. And the Java virtual machine of the web
18 browser executes the code in the "Lunar Lander"
19 game applet; right?

20 MR. RAFATIJO: Objection; form.

21 THE WITNESS: The virtual machine --
22 again, it depends on what you mean by "execute."

23 The processor would execute the code.

24 The virtual machine would take the code
25 that is described in Java and convert it into a set

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13:54:02

1 of byte codes, which would in turn be somehow
2 compiled down to the machine code, which is then
3 executed by the processor.

4 BY MR. BLUMENKOPF:

5 Q. And in 2002, it was common for web
6 browsers to have a Java -- Java virtual machine
7 built in; right?

8 MR. RAFATIJO: Objection; form.

9 THE WITNESS: At least some of the web
10 browsers that I'm amiliar with had a Java virtual
11 machine.

12 BY MR. BLUMENKOPF:

13 Q. Like [unintelligible] --

14 THE COURT REPORTER: I'm sorry.

15 The honking is distracting me. Can you
16 repeat that again?

17 BY MR. BLUMENKOPF:

18 Q. In 2002, was Microsoft Internet Explorer
19 an example of a web browser that included a Java
20 virtual machine?

21 MR. RAFATIJO: Objection; form.

22 THE WITNESS: It -- the Internet
23 Explorer browser may have had Microsoft's own
24 implementation of a JVM in 2002.

25 But as we sit here, I have -- I --

1 I'm -- cannot be entirely sure because it's been 13:55:04
2 over twenty years. And I haven't checked the dates 13:55:07
3 of when Microsoft's virtual -- version of the 13:55:09
4 virtual machine existed within their browser. 13:55:11

5 BY MR. BLUMENKOPF: 13:55:14

6 Q. Wasn't Netscape Navigator an example of 13:55:14
7 a [unintelligible] -- 13:55:19

8 THE COURT REPORTER: I'm sorry. Can you 13:55:19
9 say that slower? 13:55:20

10 BY MR. BLUMENKOPF: 13:55:20

11 Q. Wasn't Netscape Navigator an example of 13:55:20
12 a web browser that included a Java virtual machine? 13:55:23

13 MR. RAFATIJO: Objection; form. 13:55:26

14 THE WITNESS: As my recollection goes, 13:55:27
15 at some point the Navigator had a version of the 13:55:32
16 Java virtual machine. 13:55:39

17 But as we sit here, I do not recall the 13:55:41
18 timeframe when -- when that became available and 13:55:45
19 when it was either discontinued or the Navigator 13:55:49
20 just ceased to be relevant anymore. 13:55:52

21 BY MR. BLUMENKOPF: 13:55:57

22 Q. So the sticker 4-dash-19 is showing an 13:55:57
23 example of a web browser that runs a game 13:56:00
24 application; right? 13:56:02

25 MR. RAFATIJO: Objection; form. 13:56:03

1 THE WITNESS: No, I don't think that we
2 can conclude that based on anything that we have
3 seen or read so far.

4 BY MR. BLUMENKOPF:

5 Q. Turn back to page 116 in Exhibit 1018.
6 Do you see, back in that paragraph,
7 beginning "Mobile Code"?

8 A. I see that.

9 Q. And there's a sentence in that
10 paragraph. It says:

11 "Code on demand is when the
12 initiator has resources and state,
13 but downloads code from another
14 site to be executed locally."

15 Do you see that?

16 A. I do.

17 Q. So this is describing the code-on-demand
18 style where the code is downloaded and then
19 executed locally; right?

20 MR. RAFATIJO: Objection; form.

21 THE WITNESS: I mean, you kind of
22 skipped a few words there.

23 It is the style where the initiator that
24 requests the code has the resources and state.

25 So it has the data. It has the ability

1 to execute the code. It may have the -- it may
2 have a powerful processor, for example. And
3 downloads the code or requests or demands the code
4 from another site, which may not have the state and
5 may not have adequate resources to be able to
6 execute it.

7 BY MR. BLUMENKOPF:

8 Q. Isn't the purpose of this code on demand
9 to have a -- a -- at least in some cases, an
10 application like a web browser execute code because
11 the machine the web browser runs on would have more
12 reasons to execute -- more --

13 MR. RAFATIJO: Objection --

14 BY MR. BLUMENKOPF:

15 Q. Sorry.

16 -- more resources to execute that
17 program?

18 MR. RAFATIJO: Objection; form.

19 THE WITNESS: Well, I don't think I can
20 agree with that because I don't think we've
21 established that a web browser can be readily
22 thought of as an application.

23 Why you may want to use code on demand,
24 it's a -- it's a range of reasons.

25 One of the reasons may be, as I already

1 mentioned, because you have the state locally, so 13:58:40
2 you have the data that needs to be processed and 13:58:43
3 you have the resources. You're just missing the 13:58:47
4 algorithm, in a sense, or the code. 13:58:51

5 So that's -- that's a canonical example 13:58:53
6 of why you would use code on demand. 13:58:57

7 BY MR. BLUMENKOPF: 13:58:59

8 Q. So at least in some examples, the web 13:58:59
9 browser has the game state and then it downloads 13:59:02
10 the game code; right? 13:59:04

11 MR. RAFATIJO: Objection; form. 13:59:05

12 THE WITNESS: Absolutely not. I think 13:59:06
13 that is a completely wrong characterization of 13:59:07
14 what's happening here. 13:59:11

15 I don't -- I have not seen a single 13:59:12
16 example of a web browser having, quote, unquote, 13:59:15
17 game state. I don't even know what that would 13:59:19
18 mean. 13:59:21

19 BY MR. BLUMENKOPF: 13:59:22

20 Q. I -- I thought you just testified that 13:59:22
21 a -- the web browser in this code-on-demand module 13:59:24
22 would -- would have state; right? 13:59:27

23 MR. RAFATIJO: Objection; form. 13:59:30

24 THE WITNESS: Sure. It may have. 13:59:30

25 It's not necessarily the web browser. 13:59:31

1 It's the local device that may have access to the 13:59:33
2 state. 13:59:36

3 It might have a database with all of 13:59:36
4 your receipts from 2023. And if you're looking to 13:59:41
5 file your taxes, you have the ability to run Intuit 13:59:45
6 Software, TurboTax, for example, and you have all 13:59:54
7 of your receipts; you just don't have TurboTax. 13:59:57

8 So you might go to Intuit and say, "Hey, 14:00:01
9 can you please send me TurboTax so I can run it 14:00:04
10 locally." That's what code -- code on demand is. 14:00:07

11 BY MR. BLUMENKOPF: 14:00:08

12 Q. So you gave me an example with TurboTax, 14:00:08
13 but you could have used an example from games; 14:00:11
14 right? 14:00:13

15 MR. RAFATIJO: Objection; form. 14:00:13

16 THE WITNESS: Give me an example that 14:00:14
17 involves a game and I'm happy to consider it. 14:00:15

18 BY MR. BLUMENKOPF: 14:00:18

19 Q. Well, I -- I see one right here. We 14:00:19
20 have the -- the "Lunar Lander" is an example of a 14:00:20
21 game; right? Shown on Figure 4-19? 14:00:22

22 A. "Lunar Lander" is an example of a game, 14:00:27
23 but there's no state here that is described 14:00:29
24 anywhere. 14:00:30

25 So what would -- what would the state be 14:00:31

1 in this case? What is the local state that you are
2 suggesting is being processed on when you're
3 demanding the code?

4 Q. Well, in this Figure 4-19, is there
5 state associated with the "Lunar Lander" game?

6 MR. RAFATIJO: Objection; form.

7 THE WITNESS: That's the whole point of
8 my whole discussion here, is that "Lunar Lander"
9 was used as a running example for each one of these
10 styles.

11 And for many of them, it was used, in a
12 sense, as a -- an anti-pattern, because "Lunar
13 Lander" itself is so simplistic that applying one
14 or more of these styles on it was
15 counter-productive.

16 So there is really -- the game state
17 itself has to do with what's happening while you're
18 running the game, and that is created from the
19 point at which you start executing the game, and it
20 disappears at the point at which you either land or
21 crash.

22 BY MR. BLUMENKOPF:

23 Q. So -- well -- okay. So it -- in this --
24 so there is some game state associated with the
25 "Lunar Lander" game in this example; right?

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14:00:40
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14:01:04
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14:01:07
14:01:10
14:01:14
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14:01:32
14:01:34

1	MR. RAFATIJO: Objection; form.	14:01:36
2	THE WITNESS: The game state, I think	14:01:36
3	it's described elsewhere in -- in this and other	14:01:38
4	chapters.	14:01:46
5	The game state may have things like fuel	14:01:48
6	level, altitude, what's currently displayed on your	14:01:52
7	cockpit.	14:02:05
8	BY MR. BLUMENKOPF:	14:02:05
9	Q. I'm sorry, Professor. Which page are	14:02:05
10	you looking at?	14:02:06
11	A. I'm just -- I'm looking at page 98, but	14:02:07
12	it doesn't -- ultimately, doesn't matter. I'm just	14:02:09
13	kind of going from -- from memory since "Lunar	14:02:12
14	Lander" is a relatively well-known, very simplistic	14:02:14
15	game.	14:02:18
16	But that game state does not exist	14:02:18
17	outside of a single execution of "Lunar Lander."	14:02:21
18	It's -- "Lunar Lander" starts with	14:02:25
19	preset values for how high you are and how much	14:02:28
20	fuel you have and a value for the gravity of the	14:02:33
21	celestial body on which you're trying to land.	14:02:40
22	Essentially, that's where it starts and	14:02:43
23	all those are hard-coded into the game.	14:02:44
24	So there is no such thing as having a	14:02:49
25	host that has the state and thereby would need the	14:02:53

1 code in order to operate on that state. That --
2 in -- in the context of "Lunar Lander," code on
3 demand does not make sense.

4 Q. Yeah.

5 A. And that's kind of the whole point here.

6 Q. You're talking in the context of "Lunar
7 Lander," code on demand doesn't make sense?

8 Did I understand you?

9 MR. RAFATIJO: Objection; form.

10 THE WITNESS: As described in the
11 textbook, that is correct. It's not an
12 architectural style that you would use for "Lunar
13 Lander."

14 In fact, what is shown here is three
15 different instances of "Lunar Lander," each one of
16 which is deployed on a different node. And that's
17 what this paragraph talks about here.

18 THE COURT REPORTER: Excuse me.

19 Did you say "note" or "node"?

20 THE WITNESS: "Node." "Node." Thank
21 you.

22 THE COURT REPORTER: Thank you.

23 BY MR. BLUMENKOPF:

24 Q. Going back to that first paragraph on
25 page 118, it says:

1	"One client web browser	14:03:41
2	downloads code on demand in the	14:03:43
3	form of a 'Lunar Lander' game	14:03:44
4	applet."	14:03:47
5	So this is an example of code on demand,	14:03:47
6	right, involving "Lunar Lander"?	14:03:49
7	A. Yes, that's what this says. It's code	14:03:53
8	on demand in the form of a game applet and it's	14:03:55
9	downloads by the web -- client web browser.	14:03:59
10	Q. Do you see later in that paragraph, it	14:04:05
11	says:	14:04:07
12	"Thus, all the game logic	14:04:07
13	moves to the client machines,	14:04:09
14	freeing the server's competing	14:04:11
15	resources"?	14:04:12
16	A. Yes, I see that.	14:04:12
17	Q. What did you mean by:	14:04:14
18	"All the game logic moves to	14:04:16
19	the client machines"?	14:04:18
20	MR. RAFATIJO: Objection; form.	14:04:18
21	BY MR. BLUMENKOPF:	14:04:20
22	Q. Let me ask you a different question.	14:04:21
23	You meant executable game code moves to	14:04:21
24	the client machines; right?	14:04:26
25	MR. RAFATIJO: Objection; form.	14:04:27

1	THE WITNESS: No, not necessarily.	14:04:27
2	BY MR. BLUMENKOPF:	14:04:30
3	Q. Doesn't game logic include executable	14:04:30
4	game code?	14:04:33
5	A. What do you mean by "executable game	14:04:37
6	code"? Do you think that Java code is executable	14:04:40
7	game code, based on your definition?	14:04:44
8	Q. I'm asking you what you -- you're --	14:04:46
9	you're the one who wrote the book. I'm trying to	14:04:47
10	understand what you meant by the sentence.	14:04:49
11	A. Well, I never said "executable game	14:04:51
12	code." You said that. So I'm trying to understand	14:04:53
13	what you mean.	14:04:54
14	Q. What did you mean by:	14:04:55
15	"All the game logic moves to	14:04:56
16	the client machines"?	14:04:58
17	A. That's the description of code on	14:05:01
18	demand. It means that you take the code that	14:05:04
19	exists somewhere remotely and bring it closer so	14:05:06
20	that you can run that code locally.	14:05:12
21	Q. And we saw on -- on page 116, this is	14:05:14
22	code downloaded from another site to be executed	14:05:19
23	locally; right?	14:05:24
24	A. It says:	14:05:37
25	"Code on demand is when the	14:05:37

1	initiator has resources and state,	14:05:37
2	but downloads code from another	14:05:38
3	site to be executed locally."	14:05:40
4	So it defines precisely what needs to be	14:05:42
5	available on the requestor and the requestee.	14:05:45
6	And in this case, there is something	14:05:50
7	that is absolutely missing from the requestor,	14:05:54
8	which is state. There is no state in any one of	14:05:59
9	the three web browsers.	14:06:08
10	So this is why again, this is not	14:06:08
11	this is not how you would build "Lunar Lander."	14:06:11
12	And, in fact, it's also suggested by the	14:06:15
13	fact that this doesn't describe "Lunar Lander" --	14:06:17
14	it describes three different deployments -- pro- --	14:06:20
15	deployment profiles for three different instances	14:06:23
16	of "Lunar Lander," because it would make no sense	14:06:25
17	to go one level below and show how you actually	14:06:28
18	designed "Lunar Lander" using this style.	14:06:31
19	You -- you couldn't do it.	14:06:33
20	Q. Well, it says right in that paragraph	14:06:35
21	this is code that's executed. Right? I mean, the	14:06:36
22	paragraph labeled "Mobile Code" on page 116.	14:06:41
23	A. Well, it says that it's code to be	14:06:46
24	executed.	14:06:49
25	It doesn't say that it's code that is	14:06:49

1 executed because there are many different steps you
2 may need to take in order to actually execute that
3 code. And that's the whole point of code on
4 demand.

14:06:51

14:06:53

14:06:55

14:06:58

5 Q. The code can be executed, though; right?

14:06:58

6 MR. RAFATIJO: Objection; form.

14:07:01

7 THE WITNESS: Under specific conditions

14:07:02

8 that are captured by the code-on-demand substyle of
9 mobile code, the code can be executed. But those
10 conditions have to be met.

14:07:05

14:07:10

14:07:12

11 BY MR. BLUMENKOPF:

14:07:13

12 Q. And executed locally; right? It says

14:07:14

13 "executed locally."

14:07:16

14 MR. RAFATIJO: Objection; form.

14:07:17

15 THE WITNESS: Again, if you have the

14:07:18

16 resources to execute the code and you have the

14:07:19

17 state that that code needs to run on, so in a

14:07:22

18 sense, you have the oven and you have the recipe --

14:07:25

19 sorry -- you have the ingredients, all this is

14:07:30

20 doing is it's bringing over the recipe to help you,

14:07:33

21 you know, bake your bread or whatever.

14:07:39

22 MR. BLUMENKOPF: Why don't we break for

14:07:41

23 lunch.

14:07:43

24 MR. RAFATIJO: Sure.

14:07:43

25 MR. BLUMENKOPF: Is this a good --

14:07:44

1	MR. RAFATIJO: Absolutely.	14:07:45
2	THE VIDEOGRAPHER: We are going off the	14:07:46
3	record at 2:07.	14:07:48
4	(Whereupon, a luncheon recess was	
5	held from 2:07 p.m. to 2:42 p.m.)	
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1 LOS ANGELES, CALIFORNIA, WEDNESDAY

2 MAY 29, 2023

3 2:42 P.M.

14:42:53

14:42:55

5 THE VIDEOGRAPHER: We are back on the
6 record at 2:42.

14:42:55

14:42:58

14:42:59

8 EXAMINATION (RESUMED)

14:43:00

9 BY MR. BLUMENKOPF:

14:43:00

10 Q. Okay. Great.

14:43:00

11 I want to return to Exhibit 1018 again.

14:43:01

12 A. Okay.

14:43:03

13 Q. That was the textbook.

14:43:04

14 And just turn back to that page 119 we
15 were looking at earlier. It's the one with Figure
16 4-dash-19.

14:43:05

14:43:08

14:43:12

17 A. Okay.

14:43:12

18 Q. So the web browser example we talked
19 about -- so the -- this -- this is executing the
20 "Lunar Lander" game; right?

14:43:13

14:43:15

14:43:22

21 MR. RAFATIJO: Objection; evidence.

14:43:24

22 THE WITNESS: It just says -- this thing
23 only says that it's downloaded -- the code on
24 demand is downloaded by the web browser in the form
25 of a game applet HTTP.

14:43:39

14:43:40

14:43:48

14:43:51

1	Doesn't talk anything about execution.	14:43:54
2	BY MR. BLUMENKOPF:	14:44:02
3	Q. Well, it could be executed, though;	14:44:02
4	right?	14:44:05
5	MR. RAFATIJO: Objection; form.	14:44:05
6	THE WITNESS: What happens from that	14:44:06
7	point on is not something that this talks about	14:44:08
8	because it's beyond what the -- the objective of	14:44:13
9	this discussion is.	14:44:15
10	BY MR. BLUMENKOPF:	14:44:19
11	Q. So that -- that web browser from Figure	14:44:19
12	4-19, that -- that's running on a computer; right?	14:44:21
13	A. Again, that's not what this is talking	14:44:23
14	about, but a web browser may be running on a	14:44:25
15	computer, indeed.	14:44:28
16	Q. Okay. So if the web browser is -- is	14:44:29
17	executing the "Lunar Lander" game, you would say	14:44:31
18	the "Lunar Lander" game is accessible at the	14:44:33
19	computer; right?	14:44:37
20	MR. RAFATIJO: Objection; form.	14:44:37
21	THE WITNESS: The web browser would not	14:44:38
22	be executing the "Lunar Lander" game. There is no	14:44:39
23	indication of that anywhere.	14:44:42
24	BY MR. BLUMENKOPF:	14:44:45
25	Q. Well, the "Lunar Lander" game app was	14:44:46

1 executable code; right?

14:44:48

2 A. No. It's an applet. It's not
3 executable code.

14:44:49

14:44:51

4 As we already talked about, it would
5 have to be interpreted into Java byte codes and
6 then the Java byte codes themselves would have to
7 be compiled into executable code or machine code
8 for a given architecture or given processor that
9 would be running, in a sense, underneath this.

14:44:52

14:44:54

14:44:57

14:45:01

14:45:05

14:45:10

10 So this is one layer. There is a
11 actually, there are multiple layers below this.

14:45:13

14:45:16

12 And one of those layers would be the actual

14:45:19

13 processor that requires executable code in order to
14 be able to, in fact, execute it.

14:45:21

14:45:29

15 Q. Okay. Well, you -- you would say the
16 "Lunar Lander" game applet is accessible on the
17 computer on the web browser --

14:45:30

14:45:32

14:45:36

18 (Unreportable cross-talk.)

14:45:38

19 MR. RAFATIJO: Objection; form.

14:45:38

20 THE WITNESS: Why would I say that?

14:45:38

21 I'm sorry. What does -- what do you
22 mean by I would say that it's accessible on the web
23 browser?

14:45:40

14:45:41

14:45:45

24 It's -- the "Lunar Lander" game has been
25 obtained via code on demand that -- sorry.

14:45:45

14:45:46

1	The "Lunar Lander" game applet is	14:45:48
2	obtained via code on demand from a remote site via	14:45:51
3	HTTP. That's all that this is talking about.	14:45:59
4	BY MR. BLUMENKOPF:	14:46:01
5	Q. Okay. Well, it's got to be accessible,	14:46:01
6	though; right?	14:46:03
7	MR. RAFATIJO: Objection; form.	14:46:03
8	THE WITNESS: What do you mean by	14:46:04
9	"accessible"?	14:46:05
10	BY MR. BLUMENKOPF:	14:46:07
11	Q. Well, it says "accessible on the	14:46:07
12	claims."	14:46:09
13	You apply that -- that term in your	14:46:10
14	analysis; right?	14:46:11
15	A. Sorry. Are we talking about my textbook	14:46:12
16	now or are we talking about the patent?	14:46:14
17	Q. The '028 Patent, claim one, that -- that	14:46:17
18	mentions "accessible"; right?	14:46:19
19	A. So this game has nothing to do with the	14:46:21
20	patent, just for the record.	14:46:24
21	So we can talk about the patent, but	14:46:25
22	this game absolutely has nothing to do with the	14:46:29
23	patent, nor does this game operate in anything that	14:46:32
24	approximates what's taught in the patent.	14:46:37
25	So we can talk about one or the other,	14:46:39

1 but not both.

14:46:41

2 Q. Let's take a look at -- go back to page
3 118. This is from Exhibit 1019.

14:46:43

14:46:45

4 A. Okay.

14:46:50

5 Q. And let's look at the sent- -- second
6 sentence of that first paragraph.

14:46:50

14:46:52

7 It says a -- a second
8 [unintelligible] --

14:46:53

14:46:55

9 THE COURT REPORTER: I'm sorry. What
10 was that?

14:46:55

14:46:56

11 BY MR. BLUMENKOPF:

14:46:57

12 Q. It says:

14:46:57

13 "A second browser loads a
14 JavaScript 'Lunar Lander.'"

14:46:57

14:46:59

15 You see that, Professor?

14:47:02

16 A. Yes.

14:47:04

17 Q. And this is referring to Figure 4-19;
18 right?

14:47:04

14:47:09

19 A. Yes.

14:47:09

20 Q. And that's describing the web browser in
21 the upper left of Figure 4-19; right?

14:47:10

14:47:13

22 A. Yes.

14:47:30

23 Q. And we see from the figure that includes
24 the JavaScript "Lunar Lander" program; right?

14:47:30

14:47:30

25 A. I see that. That's the topmost box.

14:47:34

1	Q. And we see it also includes a JavaScript	14:47:37
2	interpreter?	14:47:41
3	A. I see that as well.	14:47:41
4	Q. And you see this -- this web browser	14:47:42
5	also includes interpreter state?	14:47:44
6	A. Yes. That's the bottommost box.	14:47:46
7	Q. And we see that the JavaScript	14:47:51
8	interpreter, the web browser, is able to access the	14:47:53
9	data of the interpreter state; correct?	14:47:56
10	A. If you mean it uses the data access	14:48:02
11	connector to interact with the interpreter state,	14:48:05
12	that I would agree with.	14:48:07
13	But I don't know what you mean by	14:48:09
14	"access the data of the interpreter state."	14:48:10
15	Q. Go back to page 118 again.	14:48:19
16	A. Okay.	14:48:19
17	Q. And then the second part of that	14:48:19
18	sentence we just looked at, it says:	14:48:20
19	"A third uses some other form	14:48:22
20	that is not detailed."	14:48:24
21	See that?	14:48:27
22	A. I see that. Yes.	14:48:27
23	Q. When it says "a third," that's referring	14:48:28
24	to a third browser; right? A third --	14:48:29
25	A. Yes.	14:48:33

1	Q. -- web browser?	14:48:33
2	A. Yes.	14:48:33
3	Q. Okay. And looking back at Figure 4-19,	14:48:33
4	this is referring to that web browser, kind of a --	14:48:36
5	in the middle of the figure, it says "web browser"	14:48:39
6	and then it says "'Lunar Lander' game code."	14:48:41
7	See that?	14:48:44
8	A. Yes.	14:48:47
9	Q. That's what that portion of the	14:48:47
10	paragraph on page 118 is referring to?	14:48:48
11	A. Yes. I believe that's correct.	14:48:50
12	Q. Okay. So we have three examples of web	14:48:59
13	browsers in Figure 4-19; right?	14:48:59
14	A. I don't know what you mean by "examples	14:49:00
15	of web browsers."	14:49:01
16	There are three web browser instances	14:49:03
17	depicted in -- in the figure. They're components	14:49:07
18	in the architecture that is rendered in Figure	14:49:14
19	4-19.	14:49:24
20	Q. Okay. Let's -- okay. Let's look at the	14:49:24
21	'028 Patent. And this was Exhibit 1001.	14:49:42
22	A. Okay.	14:49:45
23	Q. And can you turn to Figure 1 of Exhibit	14:49:54
24	1001.	14:49:57
25	A. Okay.	14:50:07

1 Q. And we see here, there's a -- there's a
2 user 12; right?

14:50:07

14:50:10

3 A. Yes. I see user 12.

14:50:11

4 Q. And we have user 12. There's a line
5 connecting user 12 to electronic device 14; right?

14:50:13

14:50:16

6 A. Yes. There is a line, yes.

14:50:21

7 Q. That indicates the user is -- is using
8 electronic device 14; right?

14:50:22

14:50:24

9 A. Yeah. I think that's accurate.

14:50:26

10 Q. And we see that electric -- electronic
11 device 14 has a web browser 16; right?

14:50:28

14:50:30

12 A. There is a web browser 16 box inside of
13 electronics device 14 box.

14:50:33

14:50:36

14 Q. And we just looked at some examples of
15 web browsers from your textbook.

14:50:39

14:50:41

16 That web browser 16 could be one of
17 those -- could be a web browser like the ones we
18 looked at; right?

14:50:43

14:50:45

14:50:47

19 MR. RAFATIJO: Objection; form.

14:50:49

20 THE WITNESS: I have no opinion on that.

14:50:49

21 I -- this is, basically -- at this point
22 we're crossing to the realm of connecting apples
23 and oranges, and I don't think there is any reason
24 nor any evidence to do that.

14:50:56

14:50:58

14:51:01

14:51:03

25 A web browser is a web browser, but the

14:51:05

1 web browsers in my textbook are a specific

14:51:08

2 anti-pattern, all three examples of something that

14:51:16

3 you would not do in practice for a video game such

14:51:19

4 as "Lunar Lander."

14:51:25

5 So to the extent that you want to build

14:51:26

6 an example of Figure 1 as something that you should

14:51:28

7 not do in -- in practice, then maybe we could

14:51:31

8 consider that. But otherwise, I don't think that's

14:51:34

9 appropriate.

14:51:37

10 BY MR. BLUMENKOPF:

14:51:39

11 Q. You see there's a network ten connected

14:51:39

12 to electronic device 14; right?

14:51:41

13 A. I do see that.

14:51:44

14 Q. And then we see there's a primary

14:51:45

15 electronic device two connected to network ten?

14:51:47

16 A. I see that.

14:51:50

17 Q. So couldn't the web browser 16 exchange

14:51:53

18 data with a primary electronic device two over

14:51:57

19 network ten?

14:52:01

20 MR. RAFATIJO: Objection; form.

14:52:02

21 THE WITNESS: Are you asking me about --

14:52:03

22 BY MR. BLUMENKOPF:

14:52:03

23 Q. Yeah.

14:52:03

24 A. -- about --

14:52:03

25 Q. Yeah.

14:52:03

1	A. Sorry. Go ahead.	14:52:06
2	Q. That -- that -- that's my question.	14:52:06
3	A. Are you asking me about what the patent	14:52:08
4	teaches or are you asking me in a general sense,	14:52:10
5	divorced from this patent, whether a browser could	14:52:13
6	exchange data -- a browser running on one device	14:52:17
7	could exchange data with another device?	14:52:21
8	Q. Would the person of ordinary skill in	14:52:24
9	the art in 2002 understand the '028 reference to	14:52:26
10	teach that?	14:52:31
11	MR. RAFATIJO: Objection; form.	14:52:32
12	THE WITNESS: Well, a person of ordinary	14:52:33
13	skill in the art would understand '028 to teach	14:52:38
14	what '028 teaches. And they would not just look at	14:52:40
15	a figure.	14:52:44
16	They would read through the spec to	14:52:44
17	understand what the figure actually says. So --	14:52:46
18	and I'm happy to do that if you would like me to,	14:52:47
19	by the way.	14:52:47
20	BY MR. BLUMENKOPF:	14:52:51
21	Q. So in the Figure 4-19 we looked at from	14:52:51
22	your textbook, we saw web browser exchanging	14:52:53
23	executable code over HTTP.	14:52:57
24	(Unreportable cross-talk.)	14:52:59
25	MR. RAFATIJO: Counsel, what exhibit are	14:52:59

1 we?

14:53:00

2 MR. BLUMENKOPF: Excuse me?

14:53:01

3 MR. RAFATIJO: Which exhibit?

14:53:01

4 MR. BLUMENKOPF: That was Figure 4-19

14:53:02

5 from Exhibit 1018.

14:53:04

6 MR. RAFATIJO: Oh, okay.

14:53:06

7 Objection; evidence.

14:53:07

8 THE WITNESS: Also, absolutely not.

14:53:09

9 There is no evidence that any executable code --

14:53:10

10 code was exchanged. We talked about this multiple

14:53:12

11 times. There is no executable code being

14:53:15

12 exchanged.

14:53:17

13 BY MR. BLUMENKOPF:

14:53:19

14 Q. You see in Figure 1, primary electronic
15 device two is a game application four?

14:53:19

14:53:22

16 A. I do see that.

14:53:26

17 Q. Couldn't there be other game
18 applications in these components to figure one
19 besides game application four?

14:53:27

14:53:34

14:53:37

20 MR. RAFATIJO: Objection; form.

14:53:38

21 THE WITNESS: Are you asking me is there
22 another box called "Game Application," something
23 else in addition to game application four?

14:53:38

14:53:40

14:53:42

24 The answer is no.

14:53:44

25 / / /

1 BY MR. BLUMENKOPF:

14:53:45

2 Q. Let me ask you a different question.

14:53:45

3 Is this -- these -- these elements we

14:53:46

4 see here [unintelligible] --

14:53:49

5 THE COURT REPORTER: I'm sorry. Can you

14:53:49

6 slow down?

14:53:49

7 MR. BLUMENKOPF: Sorry.

14:53:50

8 BY MR. BLUMENKOPF:

14:53:51

9 Q. Let me ask a different question.

14:53:51

10 So in Figure 1, we see a number o

14:53:53

11 components. We talked about a few of them; right?

14:53:55

12 A. I mean, yes. We have identified a set

14:53:58

13 of boxes that comprise parts of Figure 1.

14:54:03

14 Q. Do you believe this to be an exhaustive

14:54:06

15 list of components that could be part of Figure 1?

14:54:08

16 MR. RAFATIJO: Objection; form.

14:54:11

17 BY MR. BLUMENKOPF:

14:54:12

18 Q. I'm sorry. That could be part of the

14:54:12

19 system described by Figure 1?

14:54:16

20 MR. RAFATIJO: Same objection.

14:54:17

21 THE WITNESS: When you say "an

14:54:23

22 exhaustive list," what do you mean?

14:54:24

23 BY MR. BLUMENKOPF:

14:54:25

24 Q. Well, are there other -- other -- there

14:54:26

25 could be other components not shown that would be

14:54:27

1 within the scope of the '028 Patent; right?

14:54:29

2 A. Can you give me an example and -- and
3 then let's look at the spec and the claims to see.

14:54:35

4 I mean, there is a claim in '028, claim
5 seven, that talks about a plurality of locally
6 executed applications.

14:54:37

14:54:40

14:54:45

14:54:52

7 But I'm not sure what you specifically
8 mean and whether Figure 1 is an appropriate place
9 to consider an instantiation of Figure 1 that would
10 be different than what Figure 1 shows.

14:54:54

14:54:56

14:54:58

14:55:05

11 So maybe you can help me there.

14:55:07

12 Q. Let me just ask you a different
13 question.

14:55:08

14:55:10

14 So we have game application four from
15 Figure 1. That could include game content; right?

14:55:10

14:55:14

16 A. What do you mean by "game content"?

14:55:17

17 Q. What do you mean by "game content"?

14:55:19

18 What's your understanding of "game
19 content"?

14:55:23

14:55:26

20 A. Counsel, I think that it would be very
21 helpful to me if you did not throw a term at me and
22 then ask me what I mean by it.

14:55:26

14:55:28

14:55:31

23 I don't mean anything by it in the sense
24 that I haven't used the term. So that's why I'm
25 asking you.

14:55:33

14:55:34

14:55:37

1	Is it -- is it a term that's used in the	14:55:37
2	patent?	14:55:39
3	I don't recall it, to be honest with	14:55:39
4	you, but maybe you can help me.	14:55:41
5	Q. Let's take a look at column five --	14:55:44
6	A. Okay. Thank you.	14:55:47
7	Q. -- from Exhibit 1001. And take a look	14:55:48
8	at line 36 from column five.	14:56:00
9	A. I see line 36.	14:56:13
10	Q. Actually, let me ask you to to let	14:56:18
11	me direct your attention to a different portion of	14:56:21
12	this column.	14:56:22
13	Take a look at column five, line 65	14:56:23
14	instead.	14:56:25
15	Do you see that?	14:56:26
16	A. I see line 65.	14:56:28
17	Q. Okay. It says:	14:56:31
18	"The game application four	14:56:32
19	allows the player to access more	14:56:34
20	than task-oriented games."	14:56:35
21	Right?	14:56:37
22	A. I see that.	14:56:38
23	Q. And it continues:	14:56:39
24	"The application can access	14:56:40
25	music sites, chat areas, reading	14:56:42

1	area, educational areas,"	14:56:46
2	et cetera.	14:56:49
3	Right?	14:56:50
4	A. I see that.	14:56:50
5	Q. All right. Would you agree from that	14:56:50
6	there are many different kinds of content that can	14:56:52
7	be represented by game application four?	14:56:56
8	MR. RAFATIJO: Objection; form.	14:56:58
9	THE WITNESS: Is there a particular	14:57:09
10	reason why we moved away from what we -- you	14:57:10
11	pointed out before, which had to do with	14:57:14
12	business-related content, and now we're talking	14:57:16
13	about something that does not have the term	14:57:18
14	"content" associated with it but you are ascribing	14:57:21
15	content to it?	14:57:24
16	This is -- nowhere does this say that	14:57:25
17	this is game content.	14:57:27
18	BY MR. BLUMENKOPF:	14:57:31
19	Q. I -- let me clarify.	14:57:31
20	I wasn't trying to connect it to line	14:57:33
21	36. I had the wrong line in my notes.	14:57:35
22	I'm asking about column five, line 65,	14:57:37
23	and the -- the sentence that -- the passage that	14:57:40
24	follows that line 65.	14:57:43
25	A. Well, line 65 seems to tie this back to	14:57:45

1 business-related content. There is, again, no
2 mention of game content in this patent that I can
3 recall off the top of my head.

4 So this is all business-related content
5 and it says as much by tying this back to things
6 that are exchanged with business sponsors, which is
7 line six, and also ties it back to non-game
8 selections, which is on line seven.

9 So I -- I believe that this is going all
10 the way back to line 24 of column five, which is
11 business-related content.

12 So that doesn't help me with answering
13 your question about game content.

14 Q. Well, line 65 says "the game application
15 four"; right?

16 A. Sure. And it says:

17 "It allows a player to access
18 more than task-oriented games."

19 So the content it's talking about here
20 is described as more than this game-related stuff.

21 Q. Okay. So the content would include
22 task-oriented games and it would include these
23 other types of content as well; right?

24 MR. RAFATIJO: Objection; form.

25 THE WITNESS: No. I think that that's a

1 completely incorrect read of what the patent
2 teaches.

3 I -- again, I would ask you to show me
4 where in the patent it refers to specifically game
5 content.

6 It talks about other kinds of content.
7 BY MR. BLUMENKOPF:

8 Q. Okay. Well, if you look at line 65
9 again, it says:

10 "The game application four
11 allows the player to access more
12 than task-oriented games."

13 Wouldn't you infer from that that the
14 game application four allows the player to access
15 task-oriented games?

16 MR. RAFATIJO: Objection; form.

17 THE WITNESS: But that has nothing to do
18 with game content, quote, unquote.

19 BY MR. BLUMENKOPF:

20 Q. My question wasn't about game content.

21 A. If it says it allows the player to
22 access more than task-oriented games, then it would
23 subsume task-oriented games within what the player
24 can access.

25 Q. So the player can access task-oriented

14:58:59

14:59:02

14:59:02

14:59:04

14:59:08

14:59:08

14:59:10

14:59:11

14:59:13

14:59:13

14:59:15

14:59:17

14:59:20

14:59:22

14:59:24

14:59:26

14:59:30

14:59:31

14:59:34

14:59:34

14:59:37

14:59:39

14:59:45

14:59:48

14:59:49

1 games, and also this additional type of information 14:59:52
2 described in this paragraph; right? For example, 14:59:54
3 music sites, chat areas, et cetera. 14:59:58

4 A. That would be one way of reading this. 15:00:09
5 It's not -- it's not complete and we would have to 15:00:11
6 go all the way through this. 15:00:13

7 But again, this is what I was talking 15:00:14
8 about tying -- all this is tied with information 15:00:16
9 exchanged with business sponsors, which ties all 15:00:19
10 the way back to column five. And that's the 15:00:21
11 business-related content that I was talking about. 15:00:24

12 Q. Let's turn back to Figure 1 from Exhibit 15:00:27
13 1001. 15:00:30

14 Is web browser 16 locally executed with 15:00:44
15 respect to electronic device 14? 15:00:46

16 MR. RAFATIJO: Objection; form. 15:00:48

17 THE WITNESS: The patent spec says that 15:01:15
18 electronic device 14 holds the web browser 16. It 15:01:19
19 doesn't say anything about local execution. It 15:01:24
20 talks about the electronic device holding the web 15:01:27
21 browser. 15:01:27

22 BY MR. BLUMENKOPF: 15:01:33

23 Q. Doesn't electronic device 14 execute at 15:01:33
24 web browser 16? 15:01:37

25 MR. RAFATIJO: Objection; form. 15:01:38

1 THE WITNESS: I am not sure that that's
2 an appropriate way of using the -- the verb "to
3 execute" in this context.

4 The web browser may be running on that
5 electronic device, but the patent is very careful
6 about saying that the electronic device holds the
7 web browser.

8 BY MR. BLUMENKOPF:

9 Q. Is there a difference between running
10 and executing?

11 A. There is a difference between a device
12 executing something and something executing on a
13 device. I think that -- that using it as a
14 transitive verb may not be accurate.

15 But again, you might be using the -- the
16 verbs differently than I do. So you can -- you can
17 certainly help me by clarifying further what you
18 mean.

19 Q. Let me show you a different exhibit.

20 Okay. Can you mark this Exhibit 1020,
21 please.

22 THE COURT REPORTER: Absolutely.

23 Thank you.

24 MR. RAFATIJO: For the record --

25 THE COURT REPORTER: I'm sorry. Just

15:01:54

15:01:54

15:01:55

15:01:58

15:02:02

15:02:05

15:02:07

15:02:09

15:02:10

15:02:11

15:02:14

15:02:17

15:02:18

15:02:24

15:02:27

15:02:29

15:02:32

15:02:38

15:02:38

15:03:12

15:03:15

15:03:16

15:03:31

15:03:31

15:03:32

1 one second. I was marking it.

15:03:33

2 (Whereupon, Petitioner's Exhibit number

15:03:33

3 1020 was marked for identification by

15:03:33

4 the deposition officer and is attached

15:03:33

5 hereto.)

15:03:33

6 THE COURT REPORTER: Okay. Go ahead.

15:03:34

7 MR. RAFATIJO: Sure.

15:03:34

8 For the record, I object to evidence as
9 not being filed as exhibits.

15:03:35

15:03:39

10 THE COURT REPORTER: There you go.

15:03:46

11 THE WITNESS: Thank you.

15:03:47

12 THE COURT REPORTER: You're welcome.

15:03:48

13 BY MR. BLUMENKOPF:

15:03:50

14 Q. Okay. This exhibit is marked Exhibit
15 1020. There's a Bates stamp in the lower right.
16 It begins with BT 00014843.

15:03:50

15:03:52

15:03:56

17 And the last page ends in Bates number
18 BT 00014877; right?

15:04:03

15:04:05

19 A. Mine ends on 878.

15:04:16

20 Q. Oh, yeah. Yeah. That's -- that's --
21 that's correct. There's a -- the last page is BT
22 00014878.

15:04:21

15:04:23

15:04:26

23 And I'll represent this is a document
24 that was produced by Quantum in the district court
25 litigation.

15:04:31

15:04:34

15:04:36

1	Do you recognize this document,	15:04:45
2	Professor?	15:04:48
3	MR. RAFATIJO: Objection; evidence.	15:04:48
4	THE WITNESS: I'm not sure I've seen	15:04:49
5	this document before. Off the top of my head, I	15:04:50
6	cannot recall seeing it before.	15:04:52
7	BY MR. BLUMENKOPF:	15:04:53
8	Q. What does this look like to you?	15:04:53
9	A. It looks like some screenshots from	15:05:04
10	something.	15:05:06
11	Q. Okay. I'm going to refer to each page	15:05:12
12	by the last two digits of the Bates number.	15:05:13
13	Is that okay?	15:05:17
14	So the first page will be page 43.	15:05:17
15	A. Sure.	15:05:20
16	Q. The last page will be page 78.	15:05:20
17	A. Okay.	15:05:22
18	Q. Okay. So take a look at page 43 of the	15:05:23
19	exhibit, the first page.	15:05:24
20	A. Okay.	15:05:26
21	Q. This is a screenshot of Microsoft	15:05:27
22	Internet Explorer; right?	15:05:30
23	MR. RAFATIJO: Objection; form.	15:05:31
24	THE WITNESS: It's very tiny, but it	15:05:37
25	looks like it -- that's what it says in the ribbon	15:05:39

1 on the top.

15:05:43

2 BY MR. BLUMENKOPF:

15:05:50

3 Q. And you understand the ribbon at the top
4 to describe the name of the application; right?

15:05:50

15:05:52

5 MR. RAFATIJO: Objection; form.

15:05:55

6 THE WITNESS: Well, it describes a bunch
7 of different things. And most of them, I can't
8 actually read.

15:05:56

15:05:57

9 And if you had not mentioned that it was
10 Internet Explorer, I would not have caught on to
11 the fact that that's what those three words
12 actually say.

15:05:59

15:06:02

15:06:05

15:06:07

13 The rest of it, I can't read. It says
14 something -- Compaq, maybe? But I -- I cannot read
15 this. This is -- for some reason, this is
16 compressed left to right, so I can't -- it's too
17 small.

15:06:07

15:06:09

15:06:13

15:06:15

15:06:18

18 BY MR. BLUMENKOPF:

15:06:21

19 Q. Does this look like Microsoft Internet
20 Explorer to you?

15:06:21

15:06:24

21 MR. RAFATIJO: Objection; form.

15:06:25

22 THE WITNESS: It -- it may be. But
23 again, it's -- I don't know why it's compressed
24 horizontally like that.

15:06:25

15:06:28

15:06:32

25 It's consistent with Microsoft Explorer.

15:06:33

1	But beyond that, I can't comment on it. I -- as I	15:06:36
2	said, I don't think I've seen this before.	15:06:38
3	BY MR. BLUMENKOPF:	15:06:40
4	Q. And this is a screenshot of that program	15:06:40
5	running on Microsoft Windows; right?	15:06:42
6	MR. RAFATIJO: Objection; form.	15:06:44
7	THE WITNESS: I can't say anything about	15:06:45
8	this because I don't know what this is.	15:06:47
9	BY MR. BLUMENKOPF:	15:06:48
10	Q. Well, you recognize this as Microso t	15:06:49
11	Windows; right?	15:06:51
12	MR. RAFATIJO: Objection; form.	15:06:52
13	THE WITNESS: Yes, I do see something	15:06:56
14	that looks like Windows in the lower right-hand	15:06:57
15	corner. I see the Microsoft start button, but I	15:06:59
16	have no -- yeah. I -- I have literally zero	15:07:05
17	additional information about this.	15:07:14
18	BY MR. BLUMENKOPF:	15:07:16
19	Q. Microsoft Internet Explorer was a web	15:07:16
20	browser; right?	15:07:19
21	A. Sure. Yes.	15:07:19
22	Q. See at the bottom, it says:	15:07:20
23	"Website, visitor access to	15:07:23
24	the site"?	15:07:25
25	MR. RAFATIJO: Objection; form.	15:07:25

1 THE WITNESS: Yes, I see that that's
2 what's written on the bottom.

3 BY MR. BLUMENKOPF:

4 Q. You understand this to be a depiction of
5 a visitor accessing a website with a web browser;
6 right?

7 A. For the record, I have no understanding
8 of what this is. This is -- I -- I can read what
9 it says on the bottom. And that, actually, is one
10 o the things that is written legibly on on this
11 screenshot.

12 But I cannot represent one way or the
13 other what this is or is not. I have not seen this
14 before.

15 Q. Is that because the -- the size of the
16 image on the page is too small or is it because you
17 don't understand the content or some other reason?

18 A. It's because you're showing me a
19 screenshot that I haven't seen before and then --
20 actually, a collection of screenshots.

21 This is some twenty-five or thirty-five
22 pages of screenshots I haven't seen before, and
23 you're asking me to agree or disagree with what
24 this actually represents.

25 I don't know what this is. So in order

1 for me to be able to answer your questions, I would
2 need the context and additional information about
3 what is actually shown here.

15:08:24

15:08:27

15:08:30

4 I have not cite -- cited this in my
5 declarations, to the best of my recollection.

15:08:38

15:08:40

6 Q. You didn't take this into account in
7 preparing your analysis?

15:08:43

15:08:46

8 MR. RAFATIJO: Objection; form.

15:08:48

9 THE WITNESS: I already mentioned that I
10 don't know what this actually is.

15:08:49

15:08:51

11 So I guess the answer is it would -- the
12 answer would be I did not take this into account
13 because this is not something that has come up.

15:08:52

15:08:55

15:08:57

14 If it was part of the -- of Sony's
15 complaint or of Sony's expert's declaration, I'm
16 happy to look at it, but I don't recall seeing this
17 before.

15:09:02

15:09:05

15:09:08

15:09:10

18 BY MR. BLUMENKOPF:

15:09:12

19 Q. Okay. Let me give you another exhibit.

15:09:12

20 Okay. Kelli, if you could mark this
21 Exhibit -- actually, I'm sorry. This is premarked
22 Sony Exhibit 1003.

15:09:37

15:09:39

15:09:41

23 THE COURT REPORTER: Would you like
24 previously marked exhibits attached to this
25 transcript?

15:09:41

15:09:41

15:09:41

1	MR. BLUMENKOPF: Yes, please.	15:09:41
2	THE COURT REPORTER: Okay.	15:10:12
3	(Previously marked Exhibit 1003 attached	15:10:12
4	hereto.)	15:10:19
5	BY MR. BLUMENKOPF:	15:10:19
6	Q. Okay. The exhibit in front of you is	15:10:20
7	marked Exhibit 1003.	15:10:21
8	A. Okay.	15:10:23
9	Q. This is the prosecution history from the	15:10:23
10	'028 Patent.	15:10:26
11	A. Okay.	15:10:26
12	Q. You told me you reviewed the prosecution	15:10:28
13	history in preparing your opinion; right?	15:10:30
14	A. I did.	15:10:32
15	Q. So I added some colored flags here to	15:10:38
16	help us find the right pages.	15:10:41
17	Other than those flags, is there any	15:10:42
18	reason to think this isn't a complete and correct	15:10:44
19	copy of the prosecution history?	15:10:47
20	A. I would think even with those flags,	15:10:48
21	it's a complete and correct copy.	15:10:51
22	But if you're suggesting that the flags	15:10:52
23	themselves somehow resulted in a modification of	15:10:55
24	this, then it would be probably good for me to know	15:10:57
25	that.	15:11:00

1	Q. I'll represent to you I didn't make any	15:11:00
2	modifications, other than attaching the flags to	15:11:02
3	the document.	15:11:04
4	A. Okay. Great. Thank you.	15:11:05
5	Q. Turn to page 122, which is the page with	15:11:07
6	the yellow flag attached to it.	15:11:09
7	A. Okay. The pages I see have 41 and 42 on	15:11:25
8	the bottom. Am I in the right place?	15:11:25
9	Q. I should clarify.	15:11:27
10	Yes, the page says 41 at the bottom, but	15:11:29
11	this is page 122 of the -- the exhibit.	15:11:31
12	A. Great. So as long as we're in the right	15:11:34
13	place, that's good.	15:11:36
14	Q. You see it says "Evidence Appendix"?	15:11:37
15	A. I do see that.	15:11:39
16	Q. Did you review this evidence appendix in	15:11:40
17	preparing your opinion?	15:11:43
18	A. I am sure I've seen this before.	15:11:47
19	Obviously, it's a very large document, so I'd have	15:11:50
20	to go through specific bits and pieces for -- to --	15:11:52
21	to confirm specific things that you may want me to	15:11:55
22	opine on.	15:11:57
23	Q. You can see it says:	15:12:00
24	"Storyboard provided to the	15:12:01
25	examiner during the personal	15:12:02

1	interview of October 8th, 2008."	15:12:03
2	Right?	15:12:06
3	A. I see that.	15:12:06
4	Q. Okay. So look at pages 122 through 131.	15:12:09
5	Those are the pages between the yellow flag and the	15:12:12
6	blue flag.	15:12:15
7	A. Okay. The rendering is really spotty or	15:12:31
8	incomplete. But yes, I see the -- see those pages.	15:12:37
9	Q. The -- these pages are copies of pages	15:12:44
10	from Exhibit 1020, which we just looked at; right?	15:12:47
11	Feel free to compare it to Exhibit 1020.	15:12:50
12	MR. RAFATIJO: Objection; no evidence.	15:12:57
13	THE WITNESS: Sorry.	15:13:04
14	Given the renderings being completely	15:13:30
15	different from one another, I would never have	15:13:33
16	guessed that.	15:13:35
17	But now that you're pointing out that	15:13:35
18	some of the pages from the file history match some	15:13:38
19	of the -- of these horizontally compressed	15:13:42
20	screenshots, I can see that, except that they're	15:13:46
21	not exactly the same.	15:13:57
22	So that would be another reason why I	15:13:58
23	would not have guessed that, because the green text	15:14:00
24	on Exhibit 1020 does not match the text underneath	15:14:02
25	the figures in whatever this is. 1003?	15:14:07

1 So I'll take your word for it, but never
2 in a million years would I have guessed to be
3 matching -- to have even tried to match what's in
4 1003 versus 1020.

5 It just never would have occurred to me
6 if you had not pointed me to it.

7 BY MR. BLUMENKOPF:

8 Q. Take a look at page 45 from Exhibit
9 1020.

10 A. Okay.

11 Q. Does this look like the same image as
12 the page labeled 42 from Exhibit 1021 [sic]?

13 MR. RAFATIJO: Objection; form.

14 BY MR. BLUMENKOPF:

15 Q. The page labeled 42 is actually page 123
16 of the file history.

17 A. Yes. That's the -- that's -- that was
18 my tip-off. When you mentioned that, that's the
19 first thing I looked at. It's -- visually, it
20 doesn't match.

21 But in terms of content, it seems to be
22 close. Completely different fonts. Obviously, the
23 rendering is not anywhere near the same. But I
24 can -- I can see the resemblance.

25 But then there are other screenshots

1 here that -- for which the labels are off.

15:15:39

2 They're -- they do not match.

15:15:36

3 So if you had not pointed me to this, as
4 I said already, I would have zero reason to go
5 through this and go, "Oh, yeah. This is part of
6 the same document that you showed me in 1020."

15:15:40

15:15:42

15:15:44

15:15:47

7 Q. So those pages we just looked at from
8 Exhibit 1021, those are pages 122 to 131.

15:15:50

15:15:53

9 You didn't take those into account in
10 preparing your opinions; correct?

15:15:58

15:16:00

11 MR. RAFATIJO: Objection; form.

15:16:01

12 THE WITNESS: Sorry. 122 and 131?

15:16:03

13 BY MR. BLUMENKOPF:

15:16:06

14 Q. I apologize.

15:16:06

15 The page -- those page numbers don't
16 appear on the document. They're the pages, I'll
17 represent to you, between the yellow flag and the
18 blue flag. The --

15:16:07

15:16:09

15:16:11

15:16:13

19 A. So this is the file history. I looked
20 at the file history and I took it into account in
21 forming my opinion.

15:16:15

15:16:17

15:16:20

22 If that's your question, then the answer
23 to your question is no, that's not correct.

15:16:21

15:16:23

24 Q. Did -- did you take these specific pages
25 into account in preparing your opinion?

15:16:26

15:16:27

1 A. As much as I took all the other pages in
2 preparing my opinion, I -- this did not directly --
3 these pages did not directly figure in either the
4 complaint, as far as I remember, or Sony's expert's
5 opinion, and I was rebutting your expert's opinion.

6 So if this didn't figure prominently
7 there, I am not surprised that it wouldn't have
8 figured prominently in my declaration.

9 But if there are specific questions you
10 want to ask with regard to my opinion as it
11 connects to and pertains to these pages, I'm happy
12 to -- to try to answer whatever those questions may
13 be.

14 Q. Take a look at the page labeled 42 on
15 the bottom.

16 A. Okay.

17 Q. I'll -- I'll represent to you this is
18 page 123 from Exhibit 1003.

19 By the way, for the record, I may have
20 referred to Exhibit 1003 as 1021. Just for
21 clarity, those were intended to refer to the same
22 exhibit.

23 MR. RAFATIJO: Counsel, sorry.

24 1003 and 1021 are the same thing?

25 MR. BLUMENKOPF: That's right.

1	MR. RAFATIJO: Okay.	15:17:38
2	MR. BLUMENKOPF: I apologize for any --	15:17:43
3	MR. RAFATIJO: No.	15:17:44
4	MR. BLUMENKOPF: -- for any confusion.	15:17:45
5	BY MR. BLUMENKOPF:	15:17:46
6	Q. Are you looking at page 123, Professor?	15:17:46
7	A. Yes. I -- I think that's -- this is the	15:17:50
8	page; right (indicating)?	15:17:51
9	Q. Yes.	15:17:52
10	A. The one with 42 on the bottom.	15:17:53
11	Q. It says 42 at the bottom. That's right.	15:17:55
12	And you see at the top, it says	15:17:56
13	"Microsoft Internet Explorer"; correct?	15:17:58
14	A. Yes. I can see that.	15:18:00
15	It says:	15:18:07
16	"Provided by Compaq, working	15:18:24
17	offline."	15:18:24
18	Q. So this is a screenshot of the Microsoft	15:18:24
19	Internet Explorer web browser; correct?	15:18:24
20	A. Based on what's shown here, I will just	15:18:24
21	have to take your word for it, because this looks	15:18:24
22	like -- like it could be a hand-drawn image of	15:18:24
23	something that is intended to show Microsoft	15:18:24
24	Explorer, but it could be literally hand drawn.	15:18:28
25	Q. And do you see this is a -- this is the	15:18:33

1	Microsoft Internet Explorer web browser running on	15:18:36
2	Windows; right?	15:18:38
3	MR. RAFATIJO: Objection; form.	15:18:40
4	THE WITNESS: No, I don't see that. I	15:18:41
5	can't -- as I said, this could be hand drawn for	15:18:43
6	all I know.	15:18:45
7	I mean, honestly, this is such a poor	15:18:46
8	reproduction that I can't tell what this actually	15:18:50
9	is.	15:18:54
10	BY MR. BLUMENKOPF:	15:18:54
11	Q. See at the bottom, it says:	15:18:55
12	"Website, visitor chooses	15:18:56
13	game-slash-genre"?	15:18:59
14	A. Yes, I see that.	15:19:00
15	Q. You understand this to be depicting a --	15:19:01
16	a website viewed --	15:19:04
17	A. Well --	15:19:04
18	Q. -- through the web browser; right?	15:19:05
19	A. This is a storyboard. This storyboard	15:19:06
20	could have been rendered --	15:19:12
21	Q. Okay.	15:19:12
22	A. -- by hand. Could have been rendered	15:19:14
23	using Microsoft Paint, for all we know.	15:19:15
24	So what this actually is depicting, just	15:19:18
25	based on what's shown here, I don't think that we	15:19:23

1 can conclude one way or the other.

15:19:25

2 It shows something that looks like
3 Windows. But whether this is actual Windows or
4 whether it's -- this is somebody storyboarding what
5 something running on Windows might look like, we
6 can't conclude that from this.

15:19:27

15:19:28

15:19:32

15:19:35

15:19:38

7 Q. So let's refer to those same pages. And
8 again, this is pages 122 through 131, Exhibit 1003.
9 This is the pages between the yellow flag and the
10 blue lag in the exhibit.

15:19:54

15:19:54

15:19:55

15:19:58

11 Let's refer to those as the storyboard.

15:20:01

12 Okay?

15:20:03

13 A. That's fine, because that's what -- what
14 the paragraph on page 41 says.

15:20:03

15:20:04

15 Q. Okay.

15:20:04

16 A. Or, rather, the sentence.

15:20:15

17 Q. In your view, does this storyboard
18 embody any of the claims of the '028 Patent?

15:20:16

15:20:21

19 MR. RAFATIJO: Objection; form.

15:20:27

20 THE WITNESS: Sorry.

15:20:28

21 Was the question does the storyboard
22 embody any of the claims?

15:20:29

15:20:31

23 BY MR. BLUMENKOPF:

15:20:32

24 Q. Yes.

15:20:32

25 A. Well, considering that this was done

15:20:36

1 during a personal interview and that, as I already
2 mentioned, it is impossible to see what's happening
3 here because the rendering is so poor, I think, at
4 the least, it would be irresponsible for me to --
5 to try to speculate on that because I -- this is --
6 again, this is not accompanied by a written
7 description.

8 This was done as -- as -- in support of
9 a verbal discussion with the patent examiner,
10 clearly.

11 So if there is more information that
12 describes this, I'm happy to consider that.

13 But it relates to the patent and it's
14 part of the discussion, but the context in which it
15 was discussed and how it relates to the claims, I
16 would need more information than to just look at
17 one of the random -- one of these slides and
18 somehow speculate about how it may relate to the
19 claims.

20 MR. BLUMENKOPF: Is it okay if we take a
21 quick break?

22 MR. RAFATIJO: Sure. Five minutes?

23 MR. BLUMENKOPF: Five minutes.

24 THE VIDEOGRAPHER: We are going off the
25 record at 3:21.

15:20:38
15:20:41
15:20:44
15:20:48
15:20:50
15:20:56
15:20:57
15:20:57
15:20:59
15:21:02
15:21:03
15:21:05
15:21:07
15:21:13
15:21:16
15:21:23
15:21:25
15:21:27
15:21:30
15:21:44
15:21:46
15:21:47
15:21:48
15:21:50
15:21:51

1	(Whereupon, a recess was held	15:21:51
2	from 3:21 p.m. to 3:32 p.m.)	15:21:54
3	THE VIDEOGRAPHER: We are back on the	15:32:59
4	record at 3:32.	15:33:00
5	BY MR. BLUMENKOPF:	15:33:03
6	Q. Okay. Professor, you can put that large	15:33:03
7	prosecution history away. We're done with it for	15:33:05
8	now.	15:33:08
9	A. Okay.	15:33:08
10	Q. Okay. So this next exhibit is	15:33:27
11	premarked. It's Exhibit 1007.	15:33:29
12	(Previously marked Exhibit 1007 attached	15:33:29
13	hereto.)	15:33:49
14	THE COURT REPORTER: Here you go.	15:33:49
15	THE WITNESS: Thank you.	15:33:51
16	THE COURT REPORTER: You're welcome.	15:33:52
17	BY MR. BLUMENKOPF:	15:33:53
18	Q. Okay. Professor, do you recognize	15:33:53
19	Exhibit 1007 as the Angles reference?	15:33:55
20	A. Yes, I do.	15:33:58
21	Q. And this is one of the references you	15:33:59
22	considered in preparing your opinion; right?	15:34:00
23	A. That is correct.	15:34:02
24	Q. Is it a true, complete, and correct copy	15:34:04
25	of Angles?	15:34:07

1 THE COURT REPORTER: Is that "Engles" or
2 "Angles"?

3 MR. BLUMENKOPF: Angles, A-N-G-L-E-S.

4 MR. RAFATIJO: (Indicating.)

5 THE COURT REPORTER: Thank you,
6 everybody.

7 THE WITNESS: It seems to be. I don't
8 have any reason to believe that stuff is missing
9 from it.

10 BY MR. BLUMENKOPF:

11 Q. I have one more document. Give me a
12 moment.

13 Okay. This next exhibit is premarked
14 Exhibit 2005.

15 THE COURT REPORTER: Thank you.

16 (Previously marked Exhibit 2005 attached
17 hereto.)

18 (Document handed to the witness.)

19 THE WITNESS: Thank you.

20 THE COURT REPORTER: You're welcome.

21 MR. RAFATIJO: Counsel, for
22 clarification, other proceedings also have Exhibit
23 2005. So you going to name them differently after
24 you introduce them?

25 MR. BLUMENKOPF: To clarify, this is

1 Exhibit 2005 that was provided in the -- the '028
2 matter.

3 MR. RAFATIJO: Okay.

4 MR. BLUMENKOPF: IPR 2023-954.

5 BY MR. BLUMENKOPF:

6 Q. Professor, do you recognize Exhibit 2005
7 as your report for the '028 Patent?

8 A. My declaration, to be more specific.

9 Q. Yes. Your declaration.

10 Do you recognize it as a -- as a true,
11 complete, and correct copy of that declaration?

12 A. Seems to be.

13 Q. And I realize you prepared multiple
14 declarations. This is the one from the -- the 954
15 matter; correct?

16 A. That is correct.

17 Q. Okay. Turn to page 104, the very last
18 page of Exhibit 2005.

19 A. Okay.

20 Q. That's your signature; right?

21 A. Yes.

22 Q. Do you stand by your statements in this
23 declaration?

24 A. I do.

25 Q. Are there any statements you wish to

1 reconsider based on your testimony today?

15:37:01

2 A. Based on my testimony today, no.

15:37:03

3 I do believe that there are a couple of
4 typos, but we'll -- we may get to them. If we do,
5 I'll -- I'll identify them.

15:37:06

15:37:08

15:37:12

6 Q. Okay. Will you turn to paragraph 93 in
7 your declaration.

15:37:17

15:37:21

8 A. Okay.

15:37:32

9 Q. This is under a section called "Claim
10 Interpretation"; right?

15:37:32

15:37:32

11 A. Yes.

15:37:32

12 Q. And in paragraph 93, you said:

15:37:33

13 "I understand that the terms

15:37:36

14 set form" --

15:37:38

15 I think that's supposed to be "set
16 forth"; right?

15:37:40

15:37:42

17 A. That's one of the typos. Yes.

15:37:42

18 Q. (Reading):

15:37:42

19 "I understand that the terms

15:37:43

20 set forth in the

15:37:44

21 [unintelligible]" --

15:37:47

22 THE COURT REPORTER: In the what claims?

15:37:47

23 BY MR. BLUMENKOPF:

15:37:48

24 Q. (Reading):

15:37:48

25 "I understand that the terms

15:37:48

1	set forth in the patent claims in	15:37:49
2	an IPR are given their broadest	15:37:52
3	reasonable interpretation in light	15:37:53
4	of the specification as it would be	15:37:55
5	interpreted by a person of ordinary	15:37:57
6	skill in the art."	15:37:57
7	Right, Professor?	15:38:04
8	A. That's the first part of the first half	15:38:06
9	of that sentence, yes.	15:38:08
10	Q. And is that your understanding?	15:38:10
11	A. That is my understanding.	15:38:13
12	Q. And is that the interpretation you gave	15:38:15
13	to the terms in the patent claims in the '028	15:38:16
14	matter?	15:38:19
15	MR. RAFATIJO: Objection; form.	15:38:19
16	THE WITNESS: I applied the standard as	15:38:20
17	specified in the entire paragraph 93 and as	15:38:27
18	informed by what's written in paragraphs 94 and 95	15:38:32
19	in my analysis of the '028 Patent.	15:38:37
20	BY MR. BLUMENKOPF:	15:38:41
21	Q. So you applied this broadest reasonable	15:38:41
22	interpretation standard?	15:38:42
23	MR. RAFATIJO: Objection; form.	15:38:43
24	THE WITNESS: In light of the	15:38:46
25	specification as it would be understood and	15:38:47

1 interpreted by one of ordinary skill in the art,
2 and also in light of the prosecution history, and
3 as informed by the fact that the board -- the PTAB
4 in this case -- determined that no express claim
5 construction was necessary for any of the claim
6 terms.

7 BY MR. BLUMENKOPF:

8 Q. Do you agree with the board that no
9 express claim construction was necessary?

10 MR. RAFATIJO: Objection; form.

11 THE WITNESS: In my understanding, it's
12 not for me to agree or disagree. I am to abide by
13 what was provided, or in this case, not provided.
14 And I abided by it.

15 If the PTAB had chosen to construe a
16 term, I would have used the construction -- or one
17 or more terms, I would have used those
18 constructions in my analysis.

19 I -- again, in my understanding of what
20 I'm asked to and supposed to do in a case like
21 this, it's not arbitrary. I am expected to respect
22 the -- the parameters of the case.

23 And in this case, specifically the --
24 any constructions of the claims, I would -- I would
25 have had to apply those.

15:38:50
15:38:53
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15:39:34
15:39:36
15:39:38
15:39:40
15:39:43
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15:39:59
15:40:05
15:40:07

1 BY MR. BLUMENKOPF:

15:40:18

2 Q. Okay. Let's take a look at paragraph 18
3 in your declaration.

15:40:19

15:40:24

4 A. Okay.

15:40:28

5 Q. Here, it says:

15:40:29

6 "I co-authored 'Software

15:40:30

7 Architecture: Foundations, Theory,

15:40:32

8 and Practice,' a widely used

15:40:33

9 textbook in the field of software

15:40:37

10 systems architecture."

15:40:40

11 A. Correct.

15:40:41

12 Q. That's Exhibit 1018 that we discussed
13 earlier; right?

15:40:41

15:40:43

14 MR. RAFATIJO: Objection; form.

15:40:44

15 THE WITNESS: That is a reprint of that
16 exhibit for another region in the world that I was
17 unfamiliar with, but the excerpts that we discussed
18 seem to match what is in the original edition
19 that -- the one that I am familiar with.

15:40:45

15:40:50

15:40:54

15:41:00

15:41:02

20 BY MR. BLUMENKOPF:

15:41:06

21 Q. And you have this included in your
22 declaration under a section called
23 "Qualifications"; right?

15:41:06

15:41:08

15:41:10

24 I see that on page three.

15:41:11

25 A. Yes.

15:41:16

1 Q. Okay. So you believed your authorship
2 of that textbook to be one of your qualifications
3 for opining on the validity of the '028 Patent?

15:41:16

15:41:19

15:41:21

4 A. Well, it's -- it is part of my
5 background, things that I have accomplished and
6 things that demonstrate my knowledge and expertise.

15:41:33

15:41:34

15:41:36

7 So it is -- given that, right, in this
8 particular case I'm opining on that specific
9 patent, it would be relevant to that patent.

15:41:38

15:41:42

15:41:45

10 Excuse me.

15:41:55

11 Q. I'd like you to turn to paragraph 61 in
12 your declaration.

15:42:04

15:42:08

13 A. Okay.

15:42:21

14 Q. And paragraph 61 is referring to claim
15 three; right? From the '028 Patent?

15:42:22

15:42:24

16 A. That is correct.

15:42:28

17 Q. And specifically, it's referring to the
18 claim language:

15:42:30

15:42:33

19 "The game application displays

15:42:35

20 branded business-related content"?

15:42:36

21 A. Yes. That's what list -- what's listed
22 up in the section subheading.

15:42:53

15:42:53

23 Q. And in paragraph 61, it says:

15:42:53

24 "A person of ordinary skill in

15:42:54

25 the art would appreciate that,

15:42:56

1	quote, a game application	15:42:58
2	displaying branded business-related	15:42:59
3	content, end quote, must	15:43:01
4	necessarily mean differently than,	15:43:03
5	quote, integrating business-related	15:43:06
6	content into the game application,"	15:43:08
7	end quote.	15:43:08
8	Right?	15:43:12
9	A. That's what it says.	15:43:12
10	Q. Then when you said those two terms must	15:43:15
11	necessarily mean differently, did you mean that	15:43:18
12	they're -- if you imagine a Venn diagram, how would	15:43:21
13	you describe a Venn diagram of those two terms?	15:43:24
14	MR. RAFATIJO: Objection; form.	15:43:27
15	THE WITNESS: I would not. Those are	15:43:28
16	not terms. Those are limitations of a claim. And	15:43:30
17	I would not draw a Venn diagram with claim	15:43:37
18	limitations.	15:43:42
19	But displaying branded business-related	15:43:42
20	content by a game application is different than	15:43:49
21	integrating it into the game application because,	15:43:55
22	as I already said, in this paragraph, claim three	15:43:58
23	would essentially mean the same thing as claim one,	15:44:02
24	in which case it would be redundant and it would	15:44:07
25	not be a separate part of the invention.	15:44:10

1 BY MR. BLUMENKOPF:

15:44:17

2 Q. So is it your position that if something
3 meets the limitation integrating business-related
4 content into the game application,
5 [unintelligible] --

15:44:17

15:44:19

15:44:22

15:44:26

6 THE COURT REPORTER: I'm sorry. It
7 what?

15:44:26

15:44:27

8 I can read it.

15:44:39

9 (The record was read as follows:

15:44:39

10 Q. So is it your position that if
11 something meets the limitation
12 integrating business-related
13 content into the --)

15:44:17

15:44:18

15:44:20

15:44:22

14 THE COURT REPORTER: That's where I lost
15 it.

15:44:22

15:44:40

16 BY MR. BLUMENKOPF:

15:44:40

17 Q. Lets -- let me ask a different question.

15:44:42

18 So can -- can the same -- the same
19 element meet both of these limitations?

15:44:44

15:44:47

20 MR. RAFATIJO: Objection; form.

15:44:52

21 THE WITNESS: The same element of what?
22 I'm sorry.

15:44:52

15:44:53

23 BY MR. BLUMENKOPF:

15:44:54

24 Q. Of an accused product or a reference or
25 if we're -- if we're considering whether something

15:44:54

15:44:56

1 meets claim one or claim three?

15:44:59

2 MR. RAFATIJO: Objection; form.

15:45:02

3 THE WITNESS: I mean, a product could be
4 very, very broad and have lots of different parts
5 to it. So sure. A product -- just generally
6 speaking, a given product may meet more than one
7 limitation of a claim.

15:45:11

15:45:11

15:45:11

15:45:13

15:45:16

8 So since we talked about it before
9 lunch, "World of Warcraft" is a product sold by
10 Activision Blizzard, and it meets multiple
11 different elements of the asserted claims in the
12 case that I testified in that we mentioned before.

15:45:20

15:45:23

15:45:27

15:45:31

15:45:35

13 I don't think that that's necessarily a
14 surprising finding. So -- yeah. I'll just leave
15 it at that.

15:45:42

15:45:43

15:45:51

16 I mean, these things are different.
17 Claim three would've been struck if it taught the
18 same thing that's already taught in claim one.

15:45:51

15:45:53

15:45:56

19 But can one product meet both claims one
20 and three? That's possible.

15:45:58

15:46:00

21 BY MR. BLUMENKOPF:

15:46:09

22 Q. So as part of your analysis, you
23 considered whether the Angles reference meets the
24 claims of the '028 matter; right?

15:46:09

15:46:09

15:46:09

25 A. I did.

15:46:12

1 Q. And as part of your analysis, did you
2 consider whether the same element in Angles could
3 meet both of these limitations?

15:46:15

15:46:17

15:46:21

4 MR. RAFATIJO: Objection; form.

15:46:22

5 THE WITNESS: What element in Angles
6 would that be, though?

15:46:24

15:46:27

7 My -- the whole point of my analysis is
8 that Angles does not meet the -- what is taught in
9 the claims of '028.

15:46:29

15:46:31

15:46:35

10 So can we talk about a specific element
11 of Angles, and I'm happy to consider it.

15:46:38

15:46:41

12 BY MR. BLUMENKOPF:

15:46:42

13 Q. I'm talking about your process in
14 reaching that conclusion.

15:46:43

15:46:44

15 You considered whether Angles met these
16 two claim limitations; right?

15:46:45

15:46:47

17 A. Specifically, when you say "two claim
18 limitations," it's the -- the one from claim one
19 and then the limitation cited here from claim
20 three.

15:46:58

15:46:58

15:46:58

15:47:02

21 Q. That's right.

15:47:02

22 A. I did.

15:47:03

23 Q. And you also considered the Robinson
24 reference; right?

15:47:07

15:47:13

25 THE COURT REPORTER: "Also considered

15:47:13

1 the Robinson" --

15:47:14

2 BY MR. BLUMENKOPF:

15:47:16

3 Q. Also considered the Robinson reference?

15:47:16

4 A. Yes. I believe that was ground two in
5 my -- referred to as ground two in my report.

15:47:19

6 Let me just double check to -- yes.
7 Ground two on page two.

15:47:22

15:47:25

8 Q. Let's turn to paragraph 67.

15:47:35

9 A. Okay.

15:47:44

10 Q. And this is re erring to the language
11 from claim four:

15:47:45

15:47:46

12 "Said branded business-related

15:47:48

13 content is dynamically updated."

15:47:50

14 Right?

15:47:52

15 A. Yes.

15:47:53

16 Q. Okay. And it says the illustration
17 below was created by you from images you found in
18 the public domain; right?

15:48:02

15:48:02

15:48:02

19 A. Correct.

15:48:03

20 Q. And here we see two images of what looks
21 like a Honda Civic.

15:48:07

15:48:09

22 Is that right?

15:48:12

23 A. That is correct.

15:48:12

24 Q. And you say:

15:48:13

25 "This illustrates an example

15:48:14

1 where the branded business-related 15:48:15

2 content is dynamically updated 15:48:18

3 within the meaning of the '028 15:48:20

4 Patent." 15:48:20

5 Right? 15:48:23

6 A. Yes. 15:48:23

7 Q. Now, when you -- when you said that, did 15:48:23
8 you mean that the -- that the change from the image 15:48:25
9 on the left, which looks like a front view of the 15:48:28
10 Civic, to the image on the right, which looks like 15:48:31
11 a rear view of the Civic, do you mean that the -- 15:48:33
12 the transition between those two static images is 15:48:35
13 an example of the branded business-related content 15:48:38
14 being dynamically updated? 15:48:42

15 A. That would be one way and that would 15:48:46
16 suffice. There could be other ways. There could 15:48:48
17 be a series of intermediate steps in an actual 15:48:51
18 execution. But I couldn't show that, obviously, in 15:48:54
19 a declaration. 15:49:04

20 So these would be either two bookends of 15:49:04
21 multiple intermediate steps of this content being 15:49:06
22 dynamically updated or it could just be a switch 15:49:09
23 from one to the other. 15:49:12

24 In both cases, it would satisfy the -- 15:49:13
25 the requirement of the limitation, the language of 15:49:16

1 the limitation.

15:49:20

2 Q. Okay. So when you -- when you reached
3 that conclusion that this would meet that
4 limitation, what test are you applying?

15:49:20

15:49:22

15:49:24

5 Let -- let me rephrase.

15:49:27

6 What test did you apply in your analysis
7 to reach that conclusion?

15:49:28

15:49:30

8 MR. RAFATIJO: Objection; form.

15:49:32

9 THE WITNESS: When you say what -- what
10 test did I --

15:49:33

15:49:36

11 BY MR. BLUMENKOPF:

15:49:37

12 Q. Let -- let -- let me ask you a different
13 question.

15:49:37

15:49:39

14 If I gave you two images, how would you
15 determine whether those two images represent
16 dynamically updated claim four?

15:49:39

15:49:42

15:49:46

17 A. Well, they would have to be done within
18 the context of the -- the game. So given that
19 claim four goes back to claim three, which goes
20 back to claim one, all of the different elements
21 would have to be present.

15:49:48

15:49:50

15:49:57

15:50:02

15:50:05

22 So you can't just give me two images. I
23 would need -- I would need to know the context.

15:50:06

15:50:08

24 Here, I'm just using this as an
25 illustration because I'm trying to demonstrate the

15:50:10

15:50:12

1 difference between what the pat- -- patent actually
2 requires and what Mr. Crane uses as his read of
3 what that means in his declaration.

4 So this is just done specifically in the
5 context of that discussion.

6 If you and I were just to meet randomly
7 and you show me two images or I show you two
8 images, I don't think we could draw very many
9 conclusions from that.

10 There would need to be more context
11 provided there.

12 Q. So for these two images shown here in
13 paragraph 67, they both have -- have the same
14 brand; right?

15 A. That is correct. That's the same brand.
16 It's Honda.

17 Q. And they're both the same product too;
18 right?

19 A. Yes. They're -- presumably, it's the
20 same car.

21 Q. So what if -- what if one
22 [unintelligible] --

23 THE COURT REPORTER: I'm sorry.

24 "What if one" --

25 / / /

15:50:14

15:50:22

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15:51:03

15:51:03

15:51:06

15:51:07

15:51:11

15:51:11

15:51:12

1 BY MR. BLUMENKOPF:

15:51:13

2 Q. What if one of these two images was a
3 Honda Civic and what if the other image was a Honda
4 Accord, for example? Would that still meet the
5 limitation of claim four?

15:51:13

15:51:15

15:51:19

15:51:21

6 A. That would depend on context. It may,
7 because all that limitation of claim three, which
8 four depends on, says is that the game application
9 displays branded business-related content to said
10 user.

15:51:34

15:51:36

15:51:39

15:51:42

15:51:46

11 And Honda may be displaying to the user
12 their lineup of -- of different sedans, for
13 example. So that would still potentially meet.

15:51:46

15:51:51

15:51:55

14 We would just need to know more about --
15 more details of the scenario, but it is -- it is a
16 qualified yes in this case.

15:51:58

15:52:00

15:52:06

17 Q. I'm asking specifically about this one
18 limitation from claim four.

15:52:07

15:52:09

19 This is the -- the said branded
20 business-related content is dynamically updated
21 limitation.

15:52:10

15:52:13

15:52:17

22 I just want to focus on that limitation
23 for now. And if we had the situation I described
24 where instead of a Civic and a Civic, it's now a
25 Honda Civic and a Honda Accord, would that meet

15:52:17

15:52:19

15:52:23

15:52:24

1 that limitation from claim four?

15:52:27

2 MR. RAFATIJO: Objection; form.

15:52:29

3 THE WITNESS: Well, we can't read four
4 in isolation.

15:52:30

15:52:33

5 I understand that you're asking about
6 dynamic updating, and I am answering with respect
7 to dynamic updating. But branded business-related
8 content is something that's introduced in claim
9 three, which is why I was including it there.

15:52:34

15:52:36

15:52:38

15:52:41

15:52:44

10 And then business related content is
11 something that's introduced in claim one. So one
12 would have to keep the broader context in mind.

15:52:49

15:52:51

15:52:53

13 Having said all that, if we had a
14 scenario where --

15:52:57

15:53:00

15 THE COURT REPORTER: Would you slow
16 down?

15:53:01

15:53:02

17 THE WITNESS: Yes. Thank you.

15:53:03

18 If we had a scenario where Honda chose
19 to display its selection of, let's say, four-door
20 sedans to a user, the content is business-related
21 content and it's branded by Honda, who is the
22 provider of that content.

15:53:04

15:53:08

15:53:15

15:53:20

15:53:26

23 So there is a scenario where I can
24 definitely see that satisfying the limitation
25 expressed in claim four.

15:53:27

15:53:35

15:53:37

1 The reason why I am saying I can see a
2 scenario where that is satisfied is because it is
3 an incomplete scenario.

15:53:44

15:53:46

15:53:51

4 Both your question and then the scenario
5 I gave you in response is incomplete because we
6 would have to nail down a bunch of different things
7 to really make a full determination.

15:53:54

15:53:57

15:54:00

15:54:03

8 But is it possible? The answer is yes.

15:54:05

9 BY MR. BLUMENKOPF:

15:54:08

10 Q. Again, I'm only asking about that one
11 limitation from claim four. I realize there are
12 other limitations. I'm not asking about those.

15:54:08

15:54:11

15:54:13

13 A. It's the same answer because we cannot
14 read the limitation from claim four without
15 understanding where it comes from, because it
16 said -- it states:

15:54:16

15:54:18

15:54:21

15:54:25

17 "Said branded business-related
18 content is dynamically updated."

15:54:26

15:54:28

19 So clearly, the notion of the branded
20 business-related content is introduced elsewhere;
21 in this case, in claim three. And then in claim
22 three, it talks about said game application.

15:54:31

15:54:33

15:54:39

15:54:41

23 So one has to consider the context of
24 claim one.

15:54:46

15:54:48

25 So it would be -- in my view, it would

15:54:48

1 be inappropriate to just look at claim four without
2 considering the bigger picture, because claim four
3 by itself cannot be infringed unless three and one
4 are infringed.

5 Q. Well, suppose they had that bigger
6 picture you're talking about. How would you
7 conclude whether this limitation from claim four is
8 met by two images?

9 MR. RAFATIJO: Objection; form.

10 THE WITNESS: I you just showed me two
11 images and you asked me: Is this claim limitation
12 met?

13 BY MR. BLUMENKOPF:

14 Q. How would you determine that?

15 A. You would have to provide more
16 information: Where the two images are coming from,
17 how they're used in the game, et cetera.

18 So for me, thankfully, I had Mr. Crane's
19 declaration and his assessment of what he considers
20 dynamically updated, so I could build on that and
21 demonstrate why he's wrong.

22 But if I just included two screenshots
23 of a -- of a Honda Civic in my declaration, I think
24 you would be right to come to me and say I can't
25 conclude anything from this without further

1 information.

15:56:00

2 Well, that further information is
3 present in the three claims of '028 that are
4 relevant here in my declaration, as well as
5 Mr. Crane's declaration.

15:56:00

15:56:03

15:56:12

15:56:16

6 So in -- in their totality, they explain
7 what is actually going on here.

15:56:16

15:56:18

8 Q. So you said in your report you found
9 these images from the public domain; right?

15:56:19

15:56:22

10 A. I did.

15:56:24

11 Q. Where specifically did you find them?

15:56:24

12 A. Just Google Image Search.

15:56:29

13 Q. So they had no context; right?

15:56:31

14 A. These images -- by definition, I wanted
15 images that have no context because I wanted to tie
16 them specifically to Mr. Crane's declaration and
17 why I'm convinced that he's wrong, because I also
18 included two other images that provide additional
19 context and additional illustration of why he's
20 wrong.

15:56:37

15:56:39

15:56:42

15:56:45

15:56:49

15:56:53

15:56:55

21 So yes, an image by itself pulled from
22 Google Images may not have context. But the way
23 it's used in my declar- -- declaration, it
24 absolutely has the proper context and it's fully --
25 the explanation is fully self-contained.

15:56:55

15:57:00

15:57:03

15:57:05

15:57:10

1	Q. Self-contained in paragraph 67?	15:57:12
2	A. No. In my declaration. Paragraph 67 is	15:57:14
3	one of the paragraphs. I already, just a second	15:57:17
4	ago, referred to paragraph 68.	15:57:21
5	And, like, five seconds before that, I	15:57:23
6	referred to paragraph 69, where I explained why I	15:57:29
7	disagree with Mr. Crane's characterization.	15:57:31
8	And then there is, you know, a bunch of	15:57:35
9	other stuff that goes before and after the	15:57:37
10	paragraphs in question.	15:57:43
11	Q. Okay. Let's look at the next paragraph,	15:57:51
12	68.	15:57:53
13	And here, I see, again, you have two	15:57:57
14	images, again found in the public domain; right?	15:57:59
15	A. Correct.	15:58:02
16	Q. I see an image of a Honda Civic, and	15:58:02
17	that matches the -- the first image of the Honda	15:58:05
18	Civic from paragraph 67; right?	15:58:08
19	A. Correct.	15:58:09
20	Q. Then to the right, I see an image of a	15:58:10
21	Tesla; right?	15:58:12
22	A. Yes.	15:58:14
23	Q. And your conclusion is that the sequence	15:58:14
24	of static images is not dynamically updated?	15:58:17
25	MR. RAFATIJO: Objection; form.	15:58:27

1 THE WITNESS: Specifically, it is not --
2 the branded business-related content is not
3 dynamically updated, because that is the
4 requirement in claim four.

5 BY MR. BLUMENKOPF:

6 Q. So the -- do both images represent
7 branded business-related content?

8 A. Based on what we see here, we can't
9 conclude that because they might also be car
10 aficionado's images.

11 So somebody who's a fan of -- of family
12 cars, for example, or I think the Tesla is -- this
13 looks like a two-door, perhaps. I can't tell.

14 But they might be -- they might be a fan
15 of four-door sedans. They might be looking to
16 demonstrate the difference between a blue car and a
17 white car.

18 There is no branded business-related
19 content at work here.

20 Q. So in both images, I see a -- I see a
21 logo. I see the Honda logo on the left image and I
22 see the Tesla logo on the right image.

23 Do you agree?

24 A. Yes. That's fair.

25 Q. So it's your position that even if a

15:58:33

15:58:35

15:58:39

15:58:41

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15:59:50

1 company logo is displayed, that's not necessarily
2 branded business-related content?

3 MR. RAFATIJO: Objection; form.

4 THE WITNESS: Well, these are two very
5 different companies. One of them is Japanese and
6 the other one is owned by Elon Musk.

7 So it would not be -- I -- unless there
8 is a scenario that you're suggesting here that I am
9 not getting, this is not branded business-related
10 content. This is two cars from two different car
11 makers.

12 BY MR. BLUMENKOPF:

13 Q. Let's focus on just the image on the
14 left, the Honda Civic, and ignore the Tesla image
15 for the time being.

16 A. Okay.

17 Q. Does that image represent branded
18 business-related content?

19 A. It would depend on context. It would
20 have to match things that are taught in claims one,
21 three and four. But, in fact, it may.

22 The question here is does -- is not does
23 it represent branded business-related content, but
24 is that business-related content -- sorry -- is
25 that branded business-related content dynamically

1 updated.

16:01:01

2 That's what we're talking about here.

16:01:02

3 Q. What -- what I'm asking you about,
4 though, is the branded business-related content
5 part.

16:01:04

16:01:05

16:01:08

6 So sounds like if you have that Honda
7 Civic image, even though you can see the Honda
8 manufacturer's logo, that might be branded
9 business-related content or it might not, depending
10 on context.

16:01:08

16:01:11

16:01:14

16:01:16

16:01:19

11 Do I understand you there?

16:01:20

12 MR. RAFATIJO: Objection; form.

16:01:21

13 THE WITNESS: Well, in -- in order for
14 it to satisfy what's taught in the claims one,
15 three and four, it would have to be part of the
16 game application and it would have to -- give me
17 just a second.

16:01:22

16:01:24

16:01:26

16:01:29

16:01:35

18 It would have to involve automatically
19 integrated business-related content from at least
20 one of said web pages of --

16:01:49

16:01:52

16:01:57

21 THE COURT REPORTER: I'm sorry. Can you
22 repeat that one more time?

16:01:57

16:01:58

23 THE WITNESS: Absolutely.

16:01:59

24 It would have to automatically integrate
25 business-related content from at least one of said

16:02:00

16:02:06

1 web pages of said secondary electronic device into 16:02:10
2 said locally executed game application, et cetera, 16:02:16
3 et cetera. 16:02:21

4 It would have to be actually 16:02:22
5 business-related content, which is what claim three 16:02:28
6 teaches. And then claim four talks about 16:02:30
7 dynamically updated. 16:02:34

8 But if we're just asking is this branded 16:02:35
9 business-related content, claims one and three 16:02:41
10 would have to be satisfied. 16:02:43

11 So we can't just show an image and say 16:02:44
12 does this meet the limitations of those two claims. 16:02:47
13 We would have to figure out where it's represented, 16:02:54
14 how it's shown, et cetera. 16:02:57

15 If -- if it meets the elements of one 16:02:58
16 and three, then it is branded business-related 16:03:01
17 content. 16:03:04

18 BY MR. BLUMENKOPF: 16:03:04

19 Q. I'm only asking about one specific 16:03:05
20 element, and that's the business-related content 16:03:07
21 element. 16:03:09

22 I understand there are additional claim 16:03:09
23 limitations, but I want you to focus on just that 16:03:11
24 one element. 16:03:14

25 A. I -- I think the question you're asking 16:03:16

1 is not an appropriate question here because this
2 is -- branded business-related content is displayed
3 by said game application.

4 So in order for us to understand whether
5 it's actually branded business-related content, we
6 have to understand what actually happens in said
7 application and how, to begin with,
8 business-related content is dealt with by that
9 application.

10 So first it has to be business-related
11 content. It has to meet the elements of claim one.
12 And then it has to be actually branded
13 business-related content, which makes it meet the
14 elements -- or, rather, the claim, dependent claim
15 three.

16 So we can't just pick one term and
17 completely divorce it from its context in this --
18 in the invention. I don't think that's
19 appropriate.

20 Q. It's -- it's a yes or no question,
21 Professor. That [unintelligible] --

22 THE COURT REPORTER: What was that?
23 BY MR. BLUMENKOPF:

24 Q. It's a yes or no question.

25 Is that image on the left branded

16:03:19
16:03:26
16:03:27
16:03:30
16:03:31
16:03:35
16:03:43
16:03:46
16:03:55
16:03:55
16:03:55
16:03:56
16:04:01
16:04:03
16:04:08
16:04:08
16:04:12
16:04:16
16:04:18
16:04:18
16:04:20
16:04:22
16:04:23
16:04:23
16:04:24

1 business-related content or is it not?

16:04:26

2 A. Well, I guess you and I are going to
3 have to disagree because I -- in fact, I vehemently
4 disagree that it's a yes or no question.

16:04:30

16:04:32

16:04:35

5 If somebody were to answer that question
6 with a yes or no without considering the language
7 of claims one and three, that person would be
8 foolhardy.

16:04:37

16:04:39

16:04:44

16:04:48

9 And I will not answer it without
10 considering the language of those claims because
11 that language exists in the context of both those
12 claims.

16:04:49

16:04:51

16:04:53

16:04:56

13 Q. So just to be clear, so given that
14 image, you have no way of answering whether or not
15 it is branded business-related content?

16:05:03

16:05:05

16:05:07

16 A. Given that image in the context in which
17 I'm using it in my declaration, it is branded
18 business-related content.

16:05:09

16:05:11

16:05:15

19 That image just shown up on a random
20 Google Image Search page, we can't tell one way or
21 the other. It probably would not be, in fact,
22 because there would be no game application. It's
23 Google Image Search.

16:05:15

16:05:19

16:05:22

16:05:25

16:05:28

24 So in the context of my declaration,
25 yes, it is branded business-related content. And

16:05:29

16:05:32

1 the whole point there is that in the context of 16:05:35
2 paragraph 68, we do not have dynamically updated 16:05:39
3 branded business-related content because the other 16:05:45
4 image is a Tesla, not a Honda. 16:05:48

5 Q. Just to make sure I understand, so just 16:05:50
6 given a -- an image in the abstract, there's not 16:05:52
7 enough information for you to conclude whether 16:05:56
8 that's branded business-related content. 16:05:57

9 You would need more information than 16:05:59
10 that; right? 16:06:00

11 A. If you just showed me a photo of a car, 16:06:02
12 for example, I don't think that we could conclude 16:06:07
13 one way or the other because we would not know the 16:06:11
14 context within which that photo may or may not 16:06:14
15 exist. 16:06:18

16 And as I already said, the proper 16:06:20
17 analysis of claim three must also include an 16:06:22
18 analysis of the limitations of claim one, because 16:06:28
19 claim three depends on claim one. 16:06:33

20 Q. Okay. Last question on this. Then I 16:06:34
21 want to move on. 16:06:34

22 Just to be clear -- 16:06:37

23 THE COURT REPORTER: I'm sorry. Can you 16:06:37
24 slow down for me? 16:06:38

25 MR. BLUMENKOPF: Yes. 16:06:38

1 BY MR. BLUMENKOPF:

16:06:39

2 Q. One last question on this and then I
3 want to move on.

16:06:39

16:06:41

4 Just to be clear, none of this is
5 specific to cars; right? You picked cars as a
6 representative example, but it's -- your analysis
7 is not limited to --

16:06:42

16:06:43

16:06:45

16:06:47

8 (Unreportable cross-talk.)

16:06:48

9 THE WITNESS: Any kind of branded
10 business-related content that satisfies the
11 language of claims four, three and one would
12 qualify in my analysis and my reasons behind the
13 argument why Mr. Crane is wrong would remain the
14 same, as long as it satisfies the requirements and
15 the limitations of the '028 Patent.

16:06:48

16:06:52

16:07:03

16:07:03

16:07:11

16:07:15

16:07:19

16 Q. Okay. Let me ask you about the next
17 paragraph, 69.

16:07:23

16:07:25

18 So you indicate here you -- you disagree
19 that dynamically updated in the claim is as simple
20 as it changes over time; right?

16:07:26

16:07:29

16:07:32

21 A. That's the -- the first sentence there,
22 and it's specifically in the context of claim four.

16:07:37

16:07:39

23 Q. And you indicate later in that paragraph
24 changes over time would inappropriately broaden the
25 definition of dynamically updated.

16:07:42

16:07:50

16:07:53

1	Is that right?	16:07:55
2	A. In the context in which Mr. Crane is	16:08:16
3	trying to use it and apply it to claim four, yes,	16:08:16
4	he is incorrect and this would be inappropriate.	16:08:17
5	Or it is inappropriate.	16:08:19
6	Q. And you -- you cite some language from	16:08:21
7	the '028 Patent here, where you say that:	16:08:24
8	"Dynamic content is constantly	16:08:26
9	being updated through the use of	16:08:28
10	scripts, Java applets, ActiveX	16:08:30
11	objects" --	16:08:33
12	THE COURT REPORTER: What was that one?	16:08:33
13	MR. BLUMENKOPF: (Reading):	16:08:35
14	"Scripts, Java applets,	16:08:36
15	ActiveX objects or other similar	16:08:39
16	mechanisms."	16:08:41
17	BY MR. BLUMENKOPF:	16:08:43
18	Q. You quoted those examples from the '028	16:08:43
19	specification; right?	16:08:46
20	A. I see that.	16:08:47
21	Q. And you -- you say later in the	16:08:48
22	paragraph:	16:08:50
23	"The person of ordinary skill	16:08:50
24	in the art would recognize that the	16:08:53
25	'028 Patent teaches dynamically	16:08:54

1	updating as doing so in a manner	16:08:56
2	similar to the methods enumerated	16:08:59
3	in the specification."	16:09:00
4	Right?	16:09:01
5	A. Yes.	16:09:05
6	Q. And when you said "the methods	16:09:06
7	enumerated in the specification," you were talking	16:09:08
8	about those scripts, Java applets, ActiveX objects,	16:09:10
9	and similar mechanisms; right?	16:09:13
10	MR. RAFATIJO: Objection; form.	16:09:15
11	THE WITNESS: Those are some examples.	16:09:16
12	Yes, those are some examples. There -- there are	16:09:22
13	other methods discussed in the specification.	16:09:24
14	BY MR. BLUMENKOPF:	16:09:27
15	Q. So you'd agree that dynamically updated	16:09:27
16	in the claims is not limited to those specific	16:09:30
17	examples; right?	16:09:32
18	MR. RAFATIJO: Objection; form.	16:09:37
19	THE WITNESS: Well, it says "other	16:09:37
20	similar mechanisms" in the very language that I	16:09:37
21	cited there.	16:09:41
22	So those are examples. But then others	16:09:42
23	are inherently included by using that -- by -- by	16:09:46
24	including that "or other similar mechanisms"	16:09:51
25	clause.	16:09:54

1 BY MR. BLUMENKOPF:

16:09:54

2 Q. So has to be a script, a Java applet, an
3 ActiveX object, or a similar mechanism?

16:09:54

16:09:57

4 Is that your position?

16:09:59

5 MR. RAFATIJO: Objection; form.

16:10:05

6 THE WITNESS: My position is that it has
7 to be done in the manner that is taught by the '028
8 Patent. And these are some examples that '028
9 discusses. And they are -- or rather, Mr. Crane's
10 declaration is at odds with what '028 teaches.

16:10:05

16:10:08

16:10:12

16:10:15

16:10:20

11 That's -- that is my position.

16:10:24

12 BY MR. BLUMENKOPF:

16:10:36

13 Q. Let me ask you again.

16:10:36

14 Is the '028 Patent limited to generating
15 dynamic content through the use of scripts, Java
16 applets, ActiveX objects, or other similar
17 mechanisms?

16:10:36

16:10:38

16:10:42

16:10:45

18 MR. RAFATIJO: Objection; form.

16:10:46

19 BY MR. BLUMENKOPF:

16:10:46

20 Q. Or does it encompass other ways of
21 generating dynamic content?

16:10:47

16:10:49

22 MR. RAFATIJO: Same objection.

16:10:51

23 THE WITNESS: There -- there is a bunch
24 of different stuff discussed in that section of the
25 patent alone.

16:11:22

16:11:23

16:11:28

1	It talks about that:	16:11:31
2	"The content may be in the	16:11:33
3	form of static web pages.	16:11:34
4	Alternatively, the content may be	16:11:37
5	in the form of web pages, including	16:11:38
6	dynamic content, which is	16:11:41
7	constantly being updated through	16:11:43
8	the use of scripts, Java applets,	16:11:45
9	ActiveX objects, or other similar	16:11:49
10	mechanisms.	16:11:52
11	"An example of this is the	16:11:54
12	display of a news crawl from a	16:11:55
13	sponsoring" --	16:12:00
14	THE COURT REPORTER: Excuse me.	16:12:00
15	"A news" --	16:12:02
16	THE WITNESS: Crawl, C-R-A-W-L.	16:12:03
17	-- "from a sponsoring news	16:12:04
18	channel. Alternatively, the	16:12:07
19	dynamic content may include	16:12:08
20	real-life weather data for the	16:12:10
21	geographic area the player is	16:12:11
22	virtually experiencing in the game.	16:12:15
23	"Network-accessible databases	16:12:19
24	of current weather reports,	16:12:20
25	currency valuations, current	16:12:24

1 events, airline schedules, and 16:12:27
2 similar subjects may be used to 16:12:29
3 provide this information. The 16:12:31
4 content to which the game player is 16:12:33
5 exposed may include video and audio 16:12:35
6 data." 16:12:39

7 And then it clarifies: 16:12:39

8 "The exposure of the player to 16:12:40
9 this data occurs in the context of 16:12:42
10 the game." 16:12:46

11 Which is what I was referring to, back 16:12:46
12 to claim one. So there are a bunch of things 16:12:54
13 disclosed just in that one part of the -- of the 16:12:57
14 patent specification that go beyond the short blurb 16:13:06
15 that I cited in my declaration. 16:13:06

16 Again, the point here is the dynamic 16:13:07
17 content may take a range of different forms, but 16:13:11
18 that Mr. Crane misreads and mischaracterizes what 16:13:16
19 the patent actually teaches. 16:13:19

20 BY MR. BLUMENKOPF: 16:13:26

21 Q. Okay. Let me ask you about paragraph 74 16:13:26
22 from your declaration. 16:13:29

23 And paragraph 74 is re erring to claim 16:13:39
24 five; right? 16:13:41

25 A. Correct. 16:13:42

1 Q. And in particular, it's referring to the 16:13:42
2 limitation: 16:13:44

3 "Executing game-related user 16:13:45
4 reactions in said game application 16:13:47
5 as a result of user choices." 16:13:49

6 Right? 16:13:52

7 A. Yes. 16:13:52

8 Q. Okay. And now, in paragraph 74, you 16:13:54
9 said: 16:13:56

10 "A person of ordinary skill in 16:13:57
11 the art would understand that this 16:14:01
12 limitation is distinct from and 16:14:02
13 covers a different scope than 16:14:03
14 limitation 1-E." 16:14:05

15 THE COURT REPORTER: 1 -- limitation 16:14:07
16 1-E? 16:14:09

17 MR. BLUMENKOPF: 1-E. That's right. 16:14:09

18 THE WITNESS: Okay. 16:15:08

19 BY MR. BLUMENKOPF: 16:15:08

20 Q. But -- 16:15:08

21 A. I -- 16:15:08

22 Q. -- is that right? 16:15:08

23 A. I'm sorry. I wasn't sure 16:15:08

24 (Unreportable cross-talk.) 16:15:08

25 / / /

1 BY MR. BLUMENKOPF:

16:15:11

2 Q. Okay --

16:15:11

3 A. -- wasn't sure whether there was a -- a
4 pending question.

16:15:12

5 Q. No.

16:15:12

6 And just to be clear, so limitation 1-E
7 is executing a user action on said business-related
8 content from said secondary electronic device;
9 right?

16:14:05

16:15:16

16:15:20

16:15:40

10 A. Correct.

16:15:40

11 Q. Okay. And you said in paragraph 74:

16:15:40

12 "Limitation 1-E covers any
13 user action, game-related or not,
14 executed on business-related
15 content."

16:15:45

16:15:48

16:15:50

16:15:52

16 Right?

16:15:52

17 A. That is what 1-E states.

16:16:05

18 Q. Well, it's what you said in paragraph
19 74, though; right?

16:16:07

16:16:09

20 A. Correct. But that's also exactly what
21 you just read from the -- from claim one, element
22 E, in '028. That's literally what it says.

16:16:10

16:16:12

16:16:15

23 It says:

16:16:19

24 "Executing the user action on

16:16:21

25 said business-related content."

16:16:22

1 Q. I'm just clarifying you -- you agree 16:16:24
2 with that. 16:16:26
3 A. That's what -- what my statement here 16:16:36
4 says. I don't -- 16:16:36
5 Q. All right. 16:16:36
6 A. -- see any reason to disagree with it. 16:16:36
7 Q. And then the paragraph then says: 16:16:36
8 "And thus, this limitation" -- 16:16:37
9 Referring to the limitation from claim 16:16:38
10 five, the executing game-related user actions 16:16:39
11 limitation: 16:16:43
12 -- "only addresses 16:16:43
13 game-related user actions that are 16:16:45
14 not" -- 16:16:47
15 THE COURT REPORTER: What? Can you slow 16:16:47
16 down? 16:16:48
17 (The record was read as follows: 16:16:48
18 Q. Claim five, the executing 16:16:39
19 game-related user actions had 16:16:41
20 limitation only addresses 16:16:43
21 game-related user --) 16:16:45
22 BY MR. BLUMENKOPF: 16:17:02
23 Q. Let -- let me ask a different question. 16:17:02
24 Okay? 16:17:05
25 So -- so this is discussing claim five; 16:17:05

1	right?	16:17:07
2	A. Yes.	16:17:07
3	Q. And it's discussing the limitation of	16:17:07
4	claim five, executing game-related user actions and	16:17:08
5	said game application as a result of user choices;	16:17:13
6	right?	16:17:15
7	A. Yes.	16:17:15
8	Q. I'm going to call that "the claim five	16:17:16
9	limitation" for the purpose of this -- this	16:17:18
10	paragraph, just so we can communicate about it.	16:17:20
11	A. Sure.	16:17:26
12	Q. So your view is that user action	16:17:26
13	executed on business-related content is covered by	16:17:29
14	limitation 1-E, but game-related user actions that	16:17:33
15	are not executed on the business-related content	16:17:38
16	are covered by the claim five limitation; right?	16:17:41
17	MR. RAFATIJO: Objection; form.	16:17:46
18	THE WITNESS: Well, any user action,	16:17:56
19	game-related or not, executed on business-related	16:17:58
20	content is covered by 1-E.	16:18:00
21	So five, or what I'm calling 5(A),	16:18:03
22	addresses game-related user actions that are not	16:18:07
23	executed on business-related content of claim one.	16:18:09
24	So claim one covers -- sorry.	16:18:15
25	Claim 1-E, element E, covers user	16:18:17

1 actions executed on business-related content 16:18:21
2 whether they're game-related or not. 16:18:24

3 So to draw a distinction here, I am -- 16:18:26
4 I'm -- what I'm saying here is that user actions 16:18:29
5 not executed on the business-related content are 16:18:33
6 what is taught by 5-A. 16:18:37

7 BY MR. BLUMENKOPF: 16:18:42

8 Q. So to be clear, your view is that user 16:18:42
9 actions that are not executed could meet limitation 16:18:45
10 1-E, or it could also meet the claim five 16:18:49
11 limitation; right? 16:18:50

12 MR. RAFATIJO: Objection; form. 16:18:53

13 THE WITNESS: Sorry. What do you mean 16:18:53
14 by "user actions that are not executed"? 16:18:55

15 BY MR. BLUMENKOPF: 16:18:57

16 Q. I'm sorry. Let -- let -- let 16:18:57
17 me -- let me clarify it. Let me ask a different 16:18:59
18 question. 16:19:01

19 (Brief pause in the proceedings.) 16:19:01

20 BY MR. BLUMENKOPF: 16:19:01

21 Q. Okay. Sorry. I just want to make sure 16:19:33
22 I understand your paragraph here. 16:19:35

23 So any user actions executed on a 16:19:36
24 business-related content meets limitation 1-E; 16:19:40
25 right? 16:19:47

1	A.	That's minus the parenthetical remark.	16:19:47
2	Q.	Right.	16:19:50
3	A.	That's what the first --	16:19:50
4	Q.	Right.	16:19:51
5	A.	-- part of that sentence says.	16:19:51
6	Q.	All right. And this limitation's only	16:19:53
7		for game-related user actions, the claim five	16:19:54
8		limitation?	16:19:57
9	A.	Well, these are -- this is for	16:20:04
10		game-related actions that are not executed on the	16:20:06
11		business-related content of claim one.	16:20:08
12		If it's executed on the business-related	16:20:12
13		content, then that would be covered by claim one.	16:20:15
14		That's what this says.	16:20:17
15	Q.	Can the same thing meet limitation 1-E	16:20:25
16		and also meet the claim five limitation?	16:20:28
17	MR. RAFATIJO:	Objection; form.	16:20:30
18	THE WITNESS:	What do you mean by "the	16:20:39
19		same thing"?	16:20:39
20	BY MR. BLUMENKOPF:		16:20:39
21	Q.	The same user action?	16:20:39
22	MR. RAFATIJO:	Same objection.	16:20:40
23	THE WITNESS:	If the user action is	16:20:50
24		executed on business-related content, then it meets	16:20:52
25		claim one.	16:20:56

1 If you tried to patent claim five by
2 also having the same user action executed on
3 something that you're arguing now is not
4 business-related content, with high probability
5 that would be rejected by the patent examiner.

6 BY MR. BLUMENKOPF:

7 Q. I'm not asking about applying for a
8 patent. I'm not asking about getting a patent.

9 I'm asking about what would meet these
10 limitations.

11 A. Can you give me a specific example of
12 what you mean? Just kind of draw a picture for me
13 and I'll -- I'm happy to try to answer.

14 Q. Well, for example, you considered the
15 Angles reference in your analysis; right?

16 A. I did.

17 Q. Did you consider whether the same user
18 action in Angles could meet limitation 1-E and also
19 meet this limitation from claim five?

20 A. Again, to make it absolutely clear,
21 Angles doesn't meet any of this stuff.

22 So if you want me to look at either
23 figure nine or Figure 1 of Angles and walk through
24 how you think this could be met in Angles, I'm
25 happy to consider it.

1 But in my opinion, Angles, the way it 16:21:58
2 was presented in the complaint and the way that 16:22:01
3 Sony's expert, Mr. Crane, analyzed it in his 16:22:13
4 declaration, it does not meet either one of these 16:22:17
5 two claims. 16:22:19

6 So I think that the premise of your 16:22:20
7 question is flawed. 16:22:22

8 So if -- if you have a specific scenario 16:22:24
9 that you wanted me to consider, I'm happy to do 16:22:28
10 that. But saying that Angles somehow can meet 16:22:29
11 either one of these two is -- is simply not true. 16:22:32

12 Q. It sounds like you didn't specifically 16:22:34
13 consider that, then; right? 16:22:36

14 A. Of course -- 16:22:40

15 MR. RAFATIJO: Objection -- 16:22:40

16 THE WITNESS: -- I did. My -- my entire 16:22:41
17 declaration -- well, not the entire declaration. 16:22:43

18 But my declaration all the way through 16:22:45
19 wherever Robinson is -- so the first seventy-three 16:22:47
20 pages of my declaration are basically about why 16:22:55
21 Angles and arguing that Angles has anything to do 16:22:55
22 with the '028 Patent is wrong. 16:22:57

23 I have seventy-three pages worth of 16:22:59
24 arguments regarding that. 16:23:02

25 / / /

1 BY MR. BLUMENKOPF:

16:23:03

2 Q. I -- I didn't get an answer to my
3 question earlier as to whether the same thing can
4 meet limitation 1-E and also meet this limitation
5 of claim five.

16:23:03

16:23:04

16:23:07

16:23:10

6 MR. RAFATIJO: Objection; form.

16:23:11

7 BY MR. BLUMENKOPF:

16:23:12

8 Q. I'm not asking about a specific.
9 I think I'm asking whether it's
10 possible.

16:23:12

16:23:13

16:23:15

11 MR. RAFATIJO: Same objection.

16:23:15

12 THE WITNESS: Well, I am -- my answer
13 has to be the same.

16:23:17

16:23:19

14 You have to give me a scenario that you
15 think could pass the -- the smell test, so to
16 speak, by the patent examiner where you are
17 essentially exe- -- sorry -- you are inventing the
18 same thing and getting two claims from it.

16:23:20

16:23:22

16:23:31

16:23:33

16:23:36

19 I -- in my understanding of how that
20 works, that is not allowed. In other words, if
21 you --

16:23:38

16:23:40

16:23:43

22 BY MR. BLUMENKOPF:

16:23:43

23 Q. I'm -- I'm -- I'm not talking about
24 obtaining claims. I'm not talking about patent
25 prosecution.

16:23:44

16:23:45

16:23:48

1 I'm asking if a user action can meet
2 both of these limitations.

3 MR. RAFATIJO: Counsel, may I ask,
4 please let him finish his answer.

5 Thank you.

6 THE WITNESS: So you're -- actually,
7 you're asking me very much about whether it would
8 pass the -- what I call the smell test with the
9 patent examiner, because what you're saying is can
10 the same thing satisfy claim limitation 1 E and
11 satisfy a dependent claim that draws from claim
12 where limitation 1-E is described.

13 So in my understanding, that would be
14 enough to reject the dependent claim because that's
15 already invented by the independent claim, but I'm
16 happy to indulge you and answer the question if you
17 have a specific example that you'd like me to
18 consider.

19 I don't think this is possible, so the
20 answer is no unequivocally. But if there is an
21 example that you'd like me to consider, I -- I'm
22 happy -- because we might be talking past each
23 other because you've asked me the same question,
24 like, four times.

25 I'm happy to consider it if there is

1 something you have specifically in mind.

16:24:51

2 Otherwise, my answer is still no.

16:24:53

3 BY MR. BLUMENKOPF:

16:25:00

4 Q. Okay. We can move on.

16:25:00

5 A. Okay.

16:25:00

6 Q. So I'd like to ask you about paragraph

16:25:00

7 76.

16:25:03

8 A. Okay.

16:25:04

9 Q. And this is talking about claim five
10 again. And it's talking about the limitation that
11 says:

16:25:04

16:25:07

16:25:09

12 "Generating a player profile
13 based on said user choices made
14 during said game application."

16:25:10

16:25:11

16:25:14

15 Right?

16:25:18

16 A. Yes.

16:25:18

17 Q. And so your opinion here is that a
18 player profile is generated for the user, as
19 opposed to a user profile; right?

16:25:26

16:25:28

16:25:31

20 A. Yes. That's what I state in the latter
21 part of the first sentence of paragraph 76.

16:25:35

16:25:40

22 Q. What's the relationship between a player
23 profile and a user profile?

16:25:43

16:25:45

24 MR. RAFATIJO: Objection; form.

16:25:48

25 THE WITNESS: A user profile is the

16:25:55

1 profile of a user.

16:26:00

2 A player profile is the profile of
3 whatever the character the player assumes in a
4 given game.

16:26:00

16:26:01

16:26:05

5 BY MR. BLUMENKOPF:

16:26:08

6 Q. Okay. You also mentioned character
7 profiles in this paragraph; right?

16:26:08

16:26:10

8 (No audible response by the witness.)

16:26:10

9 BY MR. BLUMENKOPF:

16:26:10

10 Q. In fact, you cite language from the '028
11 Patent that specifically mentions character
12 profiles.

16:26:23

16:26:49

16:26:49

13 A. Yes. It says exactly what I just said a
14 second ago, just stated slightly differently.

16:26:49

16:26:49

15 "A player profile is tied to a
16 character representing the player,
17 not the actual individual playing
18 the game."

16:26:49

16:26:49

16:26:49

16:26:49

19 So a character representing me in a game
20 could be a dragon.

16:26:49

16:26:49

21 So the player profile would have to do
22 with that dragon, not to me as a human who is
23 actually playing the game.

16:26:49

16:26:50

16:26:50

24 Q. Is the player profile the same thing as
25 a character profile?

16:26:56

16:26:56

1	MR. RAFATIJO: Objection; form.	16:26:56
2	THE WITNESS: I don't believe that the	16:27:00
3	term "character profile" is used in the patent, but	16:27:01
4	if I'm wrong, maybe you could point me to where it	16:27:05
5	is actually used.	16:27:09
6	BY MR. BLUMENKOPF:	16:27:09
7	Q. Well, you use "character profiles" right	16:27:10
8	here in this paragraph; right?	16:27:12
9	A. I did not. Where did I use it?	16:27:20
10	Q. Well, I see it right here in 76. And	16:27:21
11	there's a parenthetical about Exhibit 1001, which	16:27:23
12	is the '028 Patent.	16:27:27
13	A. Okay.	16:27:28
14	Q. You see that? It says "character	16:27:28
15	profiles"?	16:27:31
16	A. Yes. And that's the profile tied to a	16:27:31
17	character representing the player.	16:27:34
18	Q. Okay. So is that a synonym for a player	16:27:38
19	profile?	16:27:42
20	The -- let me clarify.	16:27:45
21	Is -- is "character profile," as you use	16:27:46
22	it here, a synonym for "player profile"?	16:27:48
23	MR. RAFATIJO: Objection; form.	16:27:51
24	THE WITNESS: Given the language in	16:28:40
25	claim 5-B and what this language from the spec	16:28:41

1 states here, character profiles are at least
2 related to player profiles.

3 So a player profile is tied to a
4 character representing the player. And here it
5 says:

6 "Character profile tracks the
7 player's decisions during the
8 course of the game."

9 So the player profile of the claim
10 language is at least related to, if not the same
11 thing as character profile of this portion of the
12 spec.

13 BY MR. BLUMENKOPF:

14 Q. So the player profile or the character
15 profile are at least related is what you said;
16 right?

17 A. Yes. And I say so in my declaration. I
18 say a player profile is tied to a character
19 representing the player.

20 Q. So is "player profile" a synonym for
21 "character profile"?

22 MR. RAFATIJO: Objection; form.

23 THE WITNESS: I already answered that
24 question.

25 They're at least related based on what's

16:28:47

16:28:50

16:28:52

16:28:54

16:28:56

16:29:01

16:29:03

16:29:04

16:29:11

16:29:13

16:29:16

16:29:18

16:29:21

16:29:21

16:29:22

16:29:26

16:29:26

16:29:28

16:29:30

16:29:31

16:29:34

16:29:35

16:29:37

16:29:38

16:29:38

1 provided in claim 5-B, claim element 5-B, and in
2 this portion of the spec.

3 BY MR. BLUMENKOPF:

4 Q. Being at least related is different from
5 being a synonym.

6 I'm asking you whether they're synonyms.

7 MR. RAFATIJO: Objection; form.

8 THE WITNESS: There may be elements of a
9 character profile or a player profile that goes
10 beyond just these -- whatever it is -- seven, eight
11 lines of -- of the spec here.

12 Just by looking at that, saying that
13 they're at least related and that a character
14 profile -- sorry -- a player profile is tied to a
15 character representing the player, I would have to
16 read the entire spec, which I'm guessing you don't
17 want me to do right now, to unequivocally answer
18 that question.

19 BY MR. BLUMENKOPF:

20 Q. So that's no?

21 MR. RAFATIJO: Objection; form.

22 THE WITNESS: That is not a no.

23 That is they're at least related. A
24 player profile is tied to a character representing
25 the player, not the individual playing the game.

16:29:40

16:29:44

16:29:46

16:29:46

16:29:48

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16:29:52

16:29:53

16:29:55

16:29:57

16:30:01

16:30:02

16:30:05

16:30:11

16:30:14

16:30:19

16:30:22

16:30:26

16:30:26

16:30:26

16:30:28

16:30:28

16:30:30

16:30:32

16:30:34

1	Whether they're exactly one and the	16:30:38
2	same, I would have to read the spec to definitively	16:30:40
3	and confidently answer that question.	16:30:45
4	BY MR. BLUMENKOPF:	16:30:47
5	Q. So you can't conclude that they're	16:30:47
6	synonyms? Is that your --	16:30:49
7	MR. RAFATIJO: Objection; form.	16:30:50
8	THE WITNESS: To the -- to my analysis,	16:30:51
9	it made no difference whether they're synonyms or	16:30:53
10	what I'm calling at least related in the way that I	16:30:56
11	describe in paragraph 76.	16:30:59
12	Whether it's important to you whether	16:31:01
13	they're synonyms or at least related, I can't speak	16:31:03
14	to that. But if you want me to answer that	16:31:07
15	question, I would have to read the spec.	16:31:09
16	BY MR. BLUMENKOPF:	16:31:11
17	Q. You said here in this paragraph -- you	16:31:11
18	cited the '028 Patent for providing that character	16:31:12
19	profile as, quote:	16:31:16
20	"May include non-identifying	16:31:17
21	demographic data, end quote, that	16:31:19
22	can be exchanged with business	16:31:21
23	sponsors."	16:31:26
24	Right?	16:31:27
25	THE COURT REPORTER: "With business	16:31:27

1 sponsors"?

16:31:28

2 MR. BLUMENKOPF: "Business sponsors."

16:31:28

3 THE WITNESS: I see that.

16:31:29

4 BY MR. BLUMENKOPF:

16:31:30

5 Q. Does that describe a player profile?

16:31:31

6 MR. RAFATIJO: Objection; form.

16:31:34

7 THE WITNESS: That is a citation from

16:31:41

8 the patent spec that refers to character profiles.

16:31:43

9 BY MR. BLUMENKOPF:

16:31:46

10 Q. So you dont know i it describes a

16:31:46

11 player profile?

16:31:48

12 A. Well, a player -- player -- player

16:31:48

13 profile is tied to a character representing the

16:31:51

14 player. So there is definitely a tie-in there.

16:31:52

15 So depending on what you mean by the

16:31:57

16 word "describe," it may describe a player profile.

16:32:04

17 I just would like to know the -- what you mean by

16:32:04

18 definition, "describe."

16:32:05

19 BY MR. BLUMENKOPF:

16:32:06

20 Q. Well, "character profile" doesn't appear

16:32:07

21 in the claim language; right?

16:32:08

22 A. Not in the language that we just looked

16:32:12

23 at.

16:32:14

24 Q. But "player profile" does appear in the

16:32:14

25 claim language; right?

16:32:17

1	A. It does.	16:32:17
2	Q. So when you applied this claim language	16:32:18
3	to the prior art, Angles and Robinson, you made	16:32:20
4	some conclusion about what the player profile is;	16:32:25
5	right?	16:32:30
6	MR. RAFATIJO: Objection; form.	16:32:30
7	THE WITNESS: Yes. For example, that	16:32:40
8	the player profile is generated based on said user	16:32:40
9	choices made during said game application. That's	16:32:43
10	all expressly stated in the patent.	16:32:47
11	BY MR. BLUMENKOPF:	16:32:50
12	Q. And you concluded that player profile	16:32:51
13	does not identify the user to third parties and	16:32:52
14	does not reveal any identifying demographic data	16:32:55
15	about the user to third parties.	16:32:58
16	And your support for that is the	16:33:00
17	language about character profiles from the '028	16:33:02
18	Patent; right?	16:33:05
19	A. That, and the fact that there is no	16:33:08
20	other indication whatsoever of anything	16:33:10
21	approximating a player profile exposing any of that	16:33:12
22	information to third parties.	16:33:16
23	Q. But you couldn't articulate the	16:33:19
24	relationship between player profile and character	16:33:21
25	profiles sitting here; right?	16:33:23

1	MR. RAFATIJO: Objection; form.	16:33:25
2	THE WITNESS: That is absolutely	16:33:26
3	incorrect. You're mischaracterizing my testimony.	16:33:28
4	BY MR. BLUMENKOPF:	16:33:30
5	Q. I believe you testified they're at least	16:33:30
6	related; right?	16:33:32
7	A. Yes. And I -- I specified how they're	16:33:33
8	related.	16:33:35
9	So a player profile is tied to a	16:33:36
10	character representing the player, not the actual	16:33:37
11	individual playing the game. I say so in the -- in	16:33:40
12	my declaration.	16:33:51
13	Q. But you can't conclude whether or not	16:33:54
14	those two are synonyms; right?	16:33:56
15	MR. RAFATIJO: Objection; form.	16:33:58
16	THE WITNESS: For the purpose of my	16:33:59
17	analysis, it made no difference whether they are	16:34:01
18	synonyms or not.	16:34:04
19	What would matter is what I included in	16:34:05
20	my declaration.	16:34:07
21	And I already said it sounds like to you	16:34:07
22	it matters whether they're synonyms. And I'm happy	16:34:09
23	to answer that question, but it's going to take us	16:34:12
24	a while.	16:34:16
25	/ / /	

1 BY MR. BLUMENKOPF:

16:34:19

2 Q. And in paragraph 67, you didn't cite to
3 any language from the '028 Patent that mentions the
4 player profile specifically; right?

16:34:19

16:34:22

16:34:26

5 A. Well, when it says "the profiles are
6 tied to the character representing the player,"
7 that to a person of ordinary skill in the art would
8 mean a player profile.

16:34:57

16:35:00

16:35:02

16:35:08

9 I don't think there is any doubt,
10 especially when it's followed with "not the actual
11 individual playing the game," which would be user
12 profile, again, to a person of ordinary skill in
13 the art.

16:35:10

16:35:14

16:35:18

16:35:21

16:35:24

14 So, in fact, I disagree with you. I do
15 cite the language from the patent.

16:35:24

16:35:26

16 Q. The language from the patent you cited,
17 though, doesn't say "player profile," does it?

16:35:28

16:35:30

18 A. Well, it says:

16:35:33

19 "Profiles are tied to
20 characters representing the
21 player."

16:35:36

16:35:37

16:35:38

22 So a person of ordinary skill in the art
23 would understand that profile tied to character
24 representing the player would be player profile.

16:35:38

16:35:41

16:35:44

25 Q. Okay.

16:35:47

1	A. I don't think there is any doubt.	16:35:47
2	Q. It doesn't use the phrase "player	16:35:49
3	profile," though; right?	16:35:51
4	MR. RAFATIJO: Objection; form.	16:35:53
5	THE WITNESS: It does not use the words	16:35:53
6	"player" and "profile" next to one another, but it	16:35:56
7	uses them as part of the same phrase.	16:35:59
8	And somebody with sufficient	16:36:03
9	understanding of the English language and having	16:36:05
10	ordinary skill in the art would absolutely	16:36:09
11	understand that's what that means.	16:36:10
12	BY MR. BLUMENKOPF:	16:36:21
13	Q. Okay. Let's look at paragraph 77 from	16:36:21
14	your declaration.	16:36:23
15	So do you see in the middle of the	16:36:35
16	paragraph where you cite to the '028 Patent and you	16:36:37
17	say:	16:36:39
18	"Character profile six are	16:36:40
19	records which track the game	16:36:42
20	choices a player makes while	16:36:43
21	playing the game application four."	16:36:46
22	A. That is correct. And specifically, it	16:37:15
23	is describing what is rendered in -- part of what	16:37:17
24	is rendered in Figure 1.	16:37:23
25	Q. This is providing a definition of	16:37:25

1 character profile six; right?

16:37:27

2 MR. RAFATIJO: Objection; form.

16:37:31

3 THE WITNESS: It characterizes what

16:37:38

4 character profile six contains or what it is. But

16:37:41

5 whether that was intended as a definition, I would

16:37:52

6 have to think about it.

16:37:52

7 I'm not -- I'm not sure that the author

16:37:57

8 of the patent would necessarily agree with you

16:37:55

9 because there are other characters --

16:37:59

10 characterizations of character profiles that we

16:38:05

11 just read which read slightly differently.

16:38:07

12 They're consistent with this, but

16:38:10

13 they're not identical.

16:38:12

14 BY MR. BLUMENKOPF:

16:38:18

15 Q. And is that the definition of a player

16:38:18

16 profile?

16:38:20

17 MR. RAFATIJO: Objection; form.

16:38:20

18 THE WITNESS: This is talking about --

16:38:27

19 this is a characterization of character files with

16:38:28

20 respect to what is rendered in Figure 1.

16:38:34

21 It is connected to a player profile, but

16:38:36

22 I would need more information from you as to why

16:38:41

23 you would think this is a definition of a player

16:38:47

24 profile.

16:38:50

25 We talked about player profiles in

16:38:50

1	context of -- I think it was column five and claim	16:38:51
2	element 5-B for a while just prior to this.	16:38:58
3	BY MR. BLUMENKOPF:	16:39:02
4	Q. You said it's connected to the player	16:39:02
5	profile?	16:39:05
6	MR. RAFATIJO: Objection; form.	16:39:05
7	THE WITNESS: Well, given that the -- we	16:39:08
8	just discussed that player profiles are tied to	16:39:10
9	characters or to a character representing the	16:39:16
10	player, not the individual player playing the game,	16:39:17
11	any time we're talking about a character profile,	16:39:20
12	we have to keep that in mind.	16:39:25
13	It's related to a player profile.	16:39:26
14	BY MR. BLUMENKOPF:	16:39:44
15	Q. And you can't articulate that	16:39:44
16	relationship further than that?	16:39:44
17	MR. RAFATIJO: Objection; form.	16:39:44
18	THE WITNESS: Sounds to me like you're	16:39:44
19	asking me to take the patent specification and, in	16:39:46
20	a sense, freestyle off of it. And I don't think	16:39:48
21	that would be appropriate.	16:39:50
22	The patent speaks for itself.	16:39:52
23	BY MR. BLUMENKOPF:	16:39:53
24	Q. I'm just asking how you interpreted the	16:39:53
25	'028 Patent in the process of your analysis.	16:39:59

1 A. And I'm answering your questions, but
2 you're asking me repeatedly, in my mind, in my
3 view, to go beyond what '028 actually teaches.

4 And there, that's where I'm -- I have to
5 push back and ask you either for clarification or
6 examples, because the patent speaks for itself.
7 And my analysis is based on what is included in the
8 patent and in the intrinsic evidence.

9 MR. BLUMENKOPF: Okay. I'm ready to
10 move on from that paragraph.

11 Maybe this is a good time for another
12 break?

13 MR. RAFATIJO: Can we take a break in
14 five minutes?

15 MR. BLUMENKOPF: Yeah. That's okay.

16 Right?

17 I'm ready to move on to a different part
18 of the --

19 MR. RAFATIJO: Sure.

20 MR. BLUMENKOPF: -- declaration now.

21 BY MR. BLUMENKOPF:

22 Q. Okay. Look at paragraph 81 from your
23 declaration.

24 A. Okay.

25 Q. And this paragraph is describing claim

1	six; right?	16:40:56
2	A. Yes.	16:40:59
3	Q. And in particular, it's describing the	16:41:01
4	limitation and said player profile is disseminated	16:41:04
5	to providers of business-related content used in	16:41:09
6	said game application; right?	16:41:11
7	A. Correct.	16:41:14
8	Q. So you say in paragraph 81:	16:41:15
9	"The person of ordinary skill	16:41:20
10	in the art would recognize that	16:41:22
11	since the player profile is	16:41:23
12	disseminated to the profile" -- "to	16:41:25
13	the providers of the	16:41:27
14	business-related content, it cannot	16:41:28
15	be located in a device belonging to	16:41:31
16	those providers."	16:41:34
17	Right?	16:41:35
18	A. I say that, yes.	16:41:36
19	Q. So do I understand your view to be	16:41:37
20	disseminating in claim six requires moving the	16:41:42
21	player profile from a location off of a device to a	16:41:45
22	location at the device?	16:41:49
23	MR. RAFATIJO: Objection; form.	16:41:57
24	THE WITNESS: Well, I say in paragraph	16:42:10
25	82:	16:42:11

1 "A POSITA reading the '028 16:42:11
2 Patent would understand that by 16:42:13
3 reciting the term 'disseminated 16:42:14
4 to,' the claim requires the player 16:42:17
5 profile to be sent out from the 16:42:19
6 device holding them, player 16:42:20
7 profiles, to providers of 16:42:24
8 business-related content." 16:42:26
9 BY MR. BLUMENKOPF: 16:42:28
10 Q. And when you say "sent out from the 16:42:28
11 device," you mean it's going to a location that's 16:42:30
12 not part of the device; right? 16:42:32
13 A. I think the best way of characterizing 16:43:09
14 that is shown in the top figure on page 32. 16:43:10
15 Q. I'm going to get to that. 16:43:16
16 I want to know what you meant by "sent 16:43:17
17 out" in paragraph 82. 16:43:19
18 A. Well, the -- the label to the figure 16:43:21
19 says exactly what I mean by it. 16:43:25
20 It says: 16:43:26
21 "The device holding the player 16:43:28
22 profile receives requests from 16:43:30
23 providers of business-related 16:43:33
24 content" -- 16:43:33
25 And those are the blocks A, B, C, and D. 16:43:35

1	-- "and in response" -- "in	16:43:38
2	response, sends out the player	16:43:41
3	profile to each of them."	16:43:45
4	And then it explains:	16:43:47
5	"The user of the device has	16:43:48
6	the discretion whether to approve a	16:43:57
7	request or not."	16:43:59
8	Q. Okay. So I'm looking at that top figure	16:43:59
9	on page 32. That's the one you're describing;	16:44:02
10	right?	16:44:04
11	A. Correct.	16:44:04
12	Q. And I see in the center, we have:	16:44:05
13	"Device holding the player	16:44:06
14	profile."	16:44:06
15	And it looks like some kind of a storage	16:44:08
16	device; right?	16:44:11
17	A. Yes. She has it drawn -- drawn just for	16:44:12
18	illustration.	16:44:15
19	Q. And -- and then I see these elements A,	16:44:16
20	B, C, and D; right?	16:44:19
21	A. Those are -- yes. There are four	16:44:22
22	providers of business-related content rendered	16:44:25
23	there and labeled A through D.	16:44:27
24	Q. And you're saying this figure represents	16:44:31
25	that storage device in the center sending out the	16:44:33

1 player profile to each of A, B, C, and D; right?

16:44:36

2 A. If the request is appropriately
3 approved, once the request is received, then the
4 profile is being sent to the devices.

16:44:41

16:44:49

16:44:51

5 Q. So let -- let's take A, for example;
6 right?

16:44:55

16:44:55

7 A. Okay.

16:44:55

8 Q. If -- if A and that storage device in
9 the center are part of the same device, can it
10 still send out the player profile from that storage
11 device to A?

16:45:00

16:45:02

16:45:05

16:45:08

12 MR. RAFATIJO: Objection; form.

16:45:10

13 THE WITNESS: Sorry. What do you mean,
14 they're part of the same storage device?

16:45:14

16:45:15

15 A and the box in the center, the device
16 holding the player profile -- we can call it the
17 main device. The main device and A are clearly
18 separate devices.

16:45:17

16:45:19

16:45:24

16:45:27

19 So if I understood your question
20 correctly, you're asking what happens if the main
21 device and A are one and the same.

16:45:28

16:45:30

16:45:35

22 BY MR. BLUMENKOPF:

16:45:39

23 Q. What -- to be clear, if -- if -- if
24 they're not separate devices, is it still possible
25 for that storage device to send out the player

16:45:39

16:45:41

16:45:44

1	profile?	16:45:47
2	MR. RAFATIJO: Objection; form.	16:45:47
3	THE WITNESS: My guess is your question	16:46:04
4	is about something different. But maybe you will	16:46:04
5	tell me. So I will just answer it this way.	16:46:05
6	But they are separate devices.	16:46:09
7	So what do you mean by if they're not	16:46:10
8	separate devices? What is the scenario there?	16:46:13
9	BY MR. BLUMENKOPF:	16:46:20
10	Q. Well, i you imagine suppose there	16:46:21
11	well, you can imagine two storage units that are	16:46:21
12	part of a cent- -- like, a -- a larger storage	16:46:25
13	unit, for example, if you can imagine some very	16:46:26
14	large, like, cloud storage device.	16:46:29
15	And if you imagine data being sent from,	16:46:31
16	say, one element of that cloud storage device to	16:46:34
17	another element of that same cloud storage device.	16:46:36
18	MR. RAFATIJO: Objection; form.	16:46:40
19	BY MR. BLUMENKOPF:	16:46:40
20	Q. Would that constitute disseminating?	16:46:41
21	MR. RAFATIJO: Same objection.	16:46:45
22	THE WITNESS: I -- I have to apologize.	16:46:55
23	I don't understand your scenario. Your scenario	16:46:55
24	does not make sense to me.	16:46:55
25	I -- I cannot reconcile your scenario	16:46:55

1 with what's being taught in the '028 Patent.

16:46:58

2 BY MR. BLUMENKOPF:

16:47:04

3 Q. You'd agree that you can send data from
4 one element of a device to another element of the
5 same device; right?

16:47:04

16:47:06

16:47:09

6 MR. RAFATIJO: Objection; form.

16:47:12

7 THE WITNESS: In a computer, completely
8 divorced of anything that we're talking about here
9 today, data can be sent from, let's say, one part
10 o the memory to, like, volatile memory to a hard
11 disk.

16:47:13

16:47:15

16:47:17

16:47:22

16:47:28

12 That is possible in a computer, but that
13 has nothing to do with what's being taught in the
14 '028 Patent.

16:47:28

16:47:30

16:47:33

15 BY MR. BLUMENKOPF:

16:47:33

16 Q. Well, in that situation, if you imagine
17 the player profile as storing the vault, the memory
18 that you mentioned, and it's being provided to
19 long-term storage on the same device, is that
20 volatile memory disseminating the player profile?

16:47:34

16:47:37

16:47:40

16:47:50

16:47:45

21 MR. RAFATIJO: Objection; form.

16:47:48

22 THE WITNESS: That right there is
23 ignoring every single thing, basically, that is
24 being taught by claims one, five and six.

16:47:50

16:47:51

16:47:55

25 So it's ignoring, basically, three

16:47:59

1 different claims of this patent to ask a question
2 about whether this could be possible.

3 Not with the notion of player profile
4 that is taught in the '028 Patent.

5 Is it possible to move some random data
6 in some random computer from volatile memory to
7 persistent storage? Of course. That's how
8 computers very often work.

9 But that has nothing to do with what's
10 being taught in the '028 Patent.

11 MR. BLUMENKOPF: Okay. Why don't we
12 take a break here?

13 MR. RAFATIJO: Sure. Absolutely.

14 MR. BLUMENKOPF: Okay.

15 THE VIDEOGRAPHER: We are going off the
16 record at 4:48.

17 (Whereupon, a recess was held
18 from 4:48 p.m. to 5:04 p.m.)

19 THE VIDEOGRAPHER: We are back on the
20 record at 5:04.

21 MR. BLUMENKOPF: All right. Well, we
22 have no further questions for Dr. Medvidovic.

23 We pass the witness and we reserve the
24 right to recross after your redirect.

25 MR. RAFATIJO: Okay. So do you want --

1	can we go off the record for at least ten, fifteen	17:04:28
2	minutes, if possible, so I --	17:04:32
3	MR. BLUMENKOPF: Sure.	17:04:33
4	MR. RAFATIJO: -- can speak?	17:04:34
5	And if we do so, you no longer need	17:04:34
6	Dr. Medvidovic for tomorrow? Is it my	17:04:37
7	understanding that that would conclude your	17:04:38
8	cross-examination? Correct?	17:04:40
9	MR. BLUMENKOPF: Right. Subject to	17:04:42
10	our right to recross --	17:04:44
11	MR. RAFATIJO: No. Of course. I	17:04:44
12	understand that.	17:04:44
13	All right. So let's go off the record	17:04:45
14	for ten, fifteen minutes.	17:04:46
15	THE VIDEOGRAPHER: We are going off the	17:04:50
16	record at 5:04.	17:04:51
17	(Whereupon, a recess was held	17:04:51
18	from 5:04 p.m. to 5:16 p.m.)	17:04:55
19	THE VIDEOGRAPHER: We are back on the	17:24:49
20	record at 5:16.	17:24:49
21	/ / /	17:24:49
22	/ / /	17:24:49
23	/ / /	17:24:49
24		17:24:49
25		

EXAMINATION

BY MR. RAFATIJO:

Q. Okay. So I would like to pull out --
pull up Exhibit 1001. That's '028 Patent. And I
would like direct your attention, Dr. Medvidovic,
to column one, line 4- -- 40, and the sentence that
start with the term "branded."

Would you please read for the record.

A. Give me just a second. Yes.

"The term 'branded' refers to
business-related content which
uniquely identifies the goods and
services of a particular company."

Q. Great. Thank you.

And I would like to pull up Exhibit
2005, which is your declaration for the '028
matter, and paragraph 67, page 28 of the exhibit.

THE COURT REPORTER: And I'm so sorry,
but can we take a second? I am having some sort of
a computer glitch.

MR. RAFATIJO: Sure. Sure. Sure.

THE VIDEOGRAPHER: We are going off the
record at 5:17 p.m.

(Whereupon, a recess was held
from 5:17 p.m. to 5:25 p.m.)

1	THE VIDEOGRAPHER: We are back on the	17:25:04
2	record at 5:25.	17:25:14
3	BY MR. RAFATIJO:	17:25:17
4	Q. Sure. So I would like to direct your	17:25:17
5	attention to paragraph 67.	17:25:19
6	A. Okay.	17:25:23
7	Q. Given the defin- -- and you see the two	17:25:24
8	images on -- on that page; correct?	17:25:27
9	A. Correct.	17:25:29
10	Q. Given the definition that you just	17:25:30
11	recited from Exhibit 1001, that would be '028	17:25:33
12	Patent, would you say that each image represents or	17:25:40
13	illustrate a branded business-related content?	17:25:43
14	MR. BLUMENKOPF: Objection to form;	17:25:47
15	leading.	17:25:49
16	THE WITNESS: Well, the definition or	17:25:50
17	the -- the characterization provided in column one	17:25:51
18	is:	17:25:55
19	"Business-related content	17:25:58
20	which uniquely identifies the goods	17:25:58
21	and services of a particular	17:26:00
22	company."	17:26:03
23	So it would -- the -- in the context	17:26:04
24	of -- of this paragraph and what we discussed	17:26:10
25	before, the images of the Honda Civic would be	17:26:12

1 business-related content which uniquely identifies
2 the goods and services of a particular company; in
3 this case, Honda.

4 MR. RAFATIJO: Okay. I have no further
5 questions.

6 THE VIDEOGRAPHER: This marks the end of
7 the deposition of Dr. Nenad -- oh, my apologies.

8 MR. BLUMENKOPF: Just have a couple of
9 brief questions, Professor.

10 THE WITNESS: Sure.

11
12 EXAMINATION

13 BY MR. BLUMENKOPF:

14 Q. So before the -- the redirect
15 examination right now, did you speak to anybody in
16 the -- in the break between the cross-examination
17 and your redirect?

18 A. Yes. I spoke briefly to the -- to the
19 counsel.

20 Q. Did you speak about the substance of the
21 deposition?

22 A. No, other than the fact that he seems
23 pretty pleased with how it went.

24 Q. So you did speak about the deposition?

25 A. Not the --

1	(Unreportable cross-talk.)	17:27:13
2	MR. RAFATIJO: Objection --	17:27:13
3	THE WITNESS: -- substance of the	17:27:15
4	deposition. It's his impression of how the	17:27:16
5	deposition went.	17:27:19
6	I think the substance of the deposition	17:27:20
7	would be -- at least as I understand the term,	17:27:21
8	would be the actual things we discussed during the	17:27:23
9	deposition.	17:27:25
10	BY MR. BLUMENKOPF:	17:27:25
11	Q. Well, he commented on your testimony;	17:27:25
12	right?	17:27:29
13	A. I suppose you could say that, that, you	17:27:29
14	know, it -- well, it is what it is.	17:27:32
15	It was supposed to go for two days and I	17:27:35
16	was stressing about making my flight tomorrow, and	17:27:38
17	now I don't have to worry about it. So that's --	17:27:40
18	to me, that's pretty good news.	17:27:42
19	Q. Did you speak about branded related	17:27:44
20	content with counsel?	17:27:49
21	A. No.	17:27:49
22	Q. Did counsel suggest anything about your	17:27:50
23	testimony or your questions -- or your answers in	17:27:51
24	any way?	17:27:53
25	A. Well, I think -- well, the -- the short	17:27:55

1 answer is no.

17:27:57

2 The slightly longer answer is he just
3 pointed me to language which I reread three times
4 and commented in the context of what you and I
5 discussed extensively, and there is nothing that I
6 said that I have not already said maybe five
7 different times during the deposition.

17:27:58

17:28:00

17:28:02

17:28:07

17:28:10

17:28:12

8 So the answer is -- you know, I'll --
9 I'll tie it back to the short answer, which is no.

17:28:13

17:28:16

10 Q. And that conversation happened outside
11 of the deposition room in the break before the
12 redirect?

17:28:18

17:28:19

17:28:21

13 A. Sorry. Which -- which conversation?

17:28:23

14 MR. RAFATIJO: Objection; privileged.

17:28:24

15 BY MR. BLUMENKOPF:

17:28:27

16 Q. So just to clarify, you did speak with
17 counsel prior to your redirect examination just
18 now?

17:28:27

17:28:29

17:28:31

19 A. Not about the -- the things that we
20 talked about in this room. None of that was
21 discussed.

17:28:31

17:28:33

17:28:36

22 As I said, he pointed me just a second
23 ago in front of you to specific language of the --
24 of the patent.

17:28:38

17:28:41

17:28:43

25 I reread that language two or three

17:28:44

1 times in my answers, and I only commented on the 17:28:46
2 things that you and I already -- already had 17:28:49
3 discussed. 17:28:51

4 So strategically, I can't even tell you 17:28:51
5 why counsel asked me to repeat what I feel like I 17:28:55
6 already answered pretty well. But that's -- you 17:28:58
7 know, might be for you two to discuss. 17:29:01

8 Q. To be clear, the conversation you're 17:29:03
9 referring to was during your redirect examination 17:29:04
10 right now? 17:29:07

11 A. There was no conversation. 17:29:07

12 There was the questions that I got from 17:29:09
13 him and the fact that he pointed me to read from 17:29:10
14 the patent. 17:29:13

15 There was -- that was not a 17:29:13
16 conversation. Those were two questions that he 17:29:15
17 asked, including also telling me where to look. 17:29:17

18 The only other thing that I mentioned 17:29:19
19 before is the fact that -- well, quite frankly, I'm 17:29:21
20 going to make my flight tomorrow, so I don't have 17:29:26
21 to stress about it, which is good news to me. 17:29:28

22 Q. Okay. There's nothing further discussed 17:29:30
23 with counsel during the break? 17:29:32

24 A. No. 17:29:33

25 Q. Okay. Nothing further, Professor. 17:29:35

1 Thank you.

17:29:38

2 A. Thank you.

17:29:41

3 THE COURT REPORTER: And, Counsel, would
4 you like a copy of the transcript?

17:29:43

5 MR. RAFATIJO: Sure. No rush.

17:29:45

6 Thank you.

17:29:48

7 THE COURT REPORTER: Thank you.

17:29:48

8 THE VIDEOGRAPHER: All right. This
9 marks the end of the deposition of Dr. Rubio Nenad
10 Medvidovic.

17:29:48

17:29:49

17:29:49

11 We are going off the record at 5:29.

17:29:52

12
13 (Whereupon, at the hour of
14 5:29 p.m., the proceedings
15 were concluded.)

16 -o0o-

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at , .
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NENAD MEDVIDOVIC

CERTIFICATE

OF

CERTIFIED SHORTHAND REPORTER

* * * *

I, KELLI C. NORDEN, Certified Reporter and
Notary Public within and for the State of California
do hereby certify:

That NENAD MEDVIDOVIC, Ph.D., the witness whose
deposition is hereinbefore set forth, was duly sworn by
me before the commencement of such deposition and that
such deposition was taken before me and is a true record
of the testimony given by such witness.

I further certify that the adverse party, PATENT
OWNER, was represented by counsel at the deposition.

I further certify that the deposition of NENAD
MEDVIDOVIC, Ph.D., occurred at the offices of SPENCER
FANE, 201 Santa Monica Boulevard, Suite 550, Santa Monica,
California on Wednesday, MAY 29, 2024, commencing at
11:49 a.m. to 5:29 p.m..

I further certify that I am not related to any of
the parties to this action by blood or marriage, I am not
employed by or an attorney to any of the parties to this
action, and that I am in no way interested, financially
or otherwise, in the outcome of this matter.

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5 *Kelli C. Norden*

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ERRATA CORRECTION SHEET FOR THE DEPOSITION OF:
NENAD MEDVIDOVIC, conducted on MAY 29, 2024
Case Name: SONY INTERACTIVE ENTERTAINMENT LLC v.
QUANTUM IMAGING LLC

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