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Transcript of Alexander R. Harry

Date: February 27, 2024

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

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Alexander R. Harry
Conducted on February 27, 2024

1 (1 to 4)

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1	UNITED STATES PATENT AND TRADEMARK OFFICE	1 APPEARANCES:
2	BEFORE THE PATENT TRIAL AND APPEAL BOARD	2 (ALL COUNSEL APPEARING VIA VIDEOTELECONFERENCE)
3	SONY INTERACTIVE ENTERTAINMENT LLC,)	3 COUNSEL FOR PETITIONER
4	Petitioner,)	4 DUANE MORRIS LLP
5	vs.)	4 1201 North Market Street
6	QUANTUM IMAGING LLC,)	5 Suite 501
7	Patnet Owner.)	5 Wilmington, DE 19801
8	-----)	6 BY: MONTE SQUIRE, ESQ.
9		6 mtsquire@duanemorris.com
10		7 -- and --
11	Case No. IPR2023-000995	7 BY: PAUL H. BELNAP, ESQ.
12	Patent No. 10,846,941	8 phbelnap@duanemorris.com
13		9 COUNSEL FOR PATENT OWNER
14	VIDEOTAPED DEPOSITION OF ALEXANDER R. HARRY	9 DUNLAP CODDING
15	via videoteleconference	10 609 W. Sheridan Avenue
16	Tuesday, February 27, 2024	10 Oklahoma City, Oklahoma 73102
17		11 BY: DOUG SOROCO, ESQ.
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		18 BRIAN KRIEGER, VIDEOGRAPHER
		19
		20
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1	UNITED STATES PATENT AND TRADEMARK OFFICE	1 I N D E X
2	BEFORE THE PATENT TRIAL AND APPEAL BOARD	2 WITNESS PAGE
3	SONY INTERACTIVE ENTERTAINMENT LLC,)	3 ALEXANDER R. HARRY
4	Petitioner,)	4 EXAMINATION BY MR. SOROCO 7
5	vs.)	5
6	QUANTUM IMAGING LLC,)	6
7	Patent Owner.)	7
8	-----)	8
9	Case No. IPR2023-000995	9 E X H I B I T S
10	Patent No. 10,846,941	10 EXHIBIT DESCRIPTION MARKED
11		11 No. 1009 Harry Declaration 12
12	VIDEOTAPED Deposition of ALEXANDER R. HARRY, taken	12 No. 1008 Phantasy Star Online Video Game 49
13	before Derek L. Hoagland, a Certified Shorthand Reporter	13 Manual
14	for the State of California, commencing at 9:03 a.m.,	14
15	Tuesday, February 27, 2024, via videoteleconference.	15
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Conducted on February 27, 2024

2 (5 to 8)

5 1 9:03 a.m. PROCEEDINGS 2 3 THE TECHNICIAN: Thank you to everyone for 4 attending this proceeding remotely, which we anticipate 5 will run smoothly. Please remember to speak smoothly 6 and do your best not to talk over one another. Please 7 be aware we are recording this proceeding for backup 8 purposes. Any off-the-record discussions should be away 9 or in the breakout room. Please remember to mute your 10 mic for those conversations. 11 Please have the video enabled to help the 12 reporter identify who is speaking. If you're unable to 13 connect with video and are connecting via audio only, 14 please identify yourself each time before speaking. 15 I apologize in advance for any technical-related 16 interruptions. Thank you. 17 THE VIDEOGRAPHER: Please stand by for the video 18 read-on. 19 Here begins Media No. 1 in the videotaped 20 deposition of Alexander Harry. This is in the matter of 21 Sony Interactive Entertainment LLC versus Quantum 22 Imaging LLC. This is in the United States patent and 23 trademark office before the Patent Trial and Appeal 24 Board, filed as Case Number IPR2023-00995. 25 Today's date is Tuesday, February 27, 2024. Our	7 1 stipulations. I think the only one that applies to 2 today's deposition deals with that we agree to allow the 3 use of Mr. Harry's testimony in this IPR proceeding and 4 the other IPR proceedings for content, claim terms, 5 things of that nature that overlap. Is that -- do I 6 have that stipulation correct? 7 MR. SQUIRE: That is correct. 8 MR. SOROCO: Okay. Thank you, sir. 9 10 ALEXANDER R. HARRY, 11 having first been duly sworn, 12 was examined and testified as follows: 13 14 EXAMINATION 15 BY MR. SOROCO: 16 Q. Mr. Harry, could you please state your full name 17 and spell it for the record? 18 A. Yes. It is Alexander Harry, A-l-e-x-a-n-d-e-r, 19 H-a-r-r-y. 20 Q. Wonderful. And could you please give us your 21 address? 22 A. Home address or business address? 23 Q. Business address is fine. 24 A. I believe it is 919 Southwest Taylor Street, 25 Suite 900, Portland, Oregon 97205.
6 1 time on the video monitor is 9:03 a.m. Pacific Time. 2 Remote videographer today is Brian Krieger, representing 3 Planet Depos. All parties of this video deposition are 4 attending remotely. 5 If counsel please identify themselves for the 6 record and please state whom they represent. 7 MR. SOROCO: Sure. I'm Douglas J. Sorocco. I 8 represent the patent owner, Quantum Imaging LLC. With 9 me are Mark Brockhaus and Ann Robl. All of us are with 10 Dunlap Codding, P.C. 11 MR. SQUIRE: And my name is Monté Squire, 12 Counsel for Sony Interactive Entertainment LLC, the 13 petitioner. And I'm joined on the call with my 14 colleague Paul Belnap, and we're from the law firm 15 Duane Morris. 16 THE VIDEOGRAPHER: Our court reporter today is 17 Derek Hoagland, also representing Planet Depos, and the 18 witness will now be sworn. 19 (Whereupon, the deponent is duly sworn by the 20 court reporter.) 21 MR. SOROCO: Thank you. 22 It's nice to meet you, Mr. Harry. 23 THE DEPONENT: Nice to meet you Mr. Sorocco. 24 MR. SOROCO: And before we begin, Mr. Squire, 25 Mr. Woo, and I yesterday discussed a couple	8 1 Q. Okay. And by reading your CV, I presume you 2 have been deposed a number of times before. Is that 3 correct? 4 A. No. 5 Q. This is your first time being deposed, then? 6 A. Correct. 7 Q. Okay. Well, let's start out with, you 8 understand you were administered an oath, correct? 9 A. Could you repeat that. 10 Q. Sure. You understand that you were administered 11 an oath? 12 A. Yes. 13 Q. Is that correct? 14 Okay. And you are -- you understand that you 15 are testifying under penalty of perjury today, correct? 16 A. Correct. 17 Q. Okay. And I wanted to let you know, if you 18 don't understand my questions, just let me know before 19 you start answering, and I'll clarify and do what I can 20 do to make the question straightforward. I'm not here 21 to try to trick or anything like that. Is that fair? 22 A. Yes, thank you. 23 Q. Okay. And if you answer a question, I'm going 24 to assume that you understood the question. Is that 25 also fair?

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9 1 A. Correct. 2 Q. Okay. And you're going to -- being your first 3 deposition, I -- you're going to wait until I'm done 4 asking, and then you'll respond. Is that fair as well? 5 A. Fair. Fair enough. 6 Q. It makes it a little difficult for everybody 7 that technically is having to take this down, the court 8 reporter, if we're talking over one another. 9 And if you need a break, let me know. We can 10 take one as long as there's not a pending question 11 before you. 12 I'll let you know, I recently had a knee 13 replacement. So there might be a time where I need to 14 get up and just break for a few minutes to -- to walk. 15 And if you need to break or, you know, use the restroom 16 or anything like that, just please let me know. 17 A. Okay. 18 Q. Okay. Is there any reason why you cannot 19 provide complete, accurate, and truthful testimony 20 today? 21 A. Not that I know of. 22 Q. Okay. When were you first contacted about your 23 involvement in this IPR proceeding? 24 A. Contacted, what do you mean? Do you mean in 25 preparation for the IPR or?	11 1 cross-examination today? 2 A. I reviewed my declarations that I had submitted 3 and the patent owner's response. 4 Q. Okay. And did you speak with anybody? 5 A. I spoke with Monté. 6 Q. Can. And I don't want to know any of the 7 conversations. I just want to know who you speak -- 8 spoke to. 9 How long do you believe that you prepared for 10 today's deposition? 11 A. Maybe two hours, two-and-a-half hours. 12 Q. Okay. And I believe you stated that you had 13 reviewed the petition. Was that it? 14 A. The preliminary patent owner's response. 15 Q. The preliminary patent owner's response. Okay. 16 And did you review the -- the PTAB's, the Patent 17 Trial and Appeal Board's, institution decision? 18 A. I don't believe so. 19 Q. Okay. Great. 20 Normally, I would say I'm going to hand you an 21 exhibit, but I'm going to bring up Exhibit what has been 22 marked previously by the petitioners as Exhibit 1009 in 23 this proceeding. 24 If Mylene can bring this document up. Okay. 25 And if you could scroll through it for a moment so that
10 1 Q. Well, let me ask you this. When were you first 2 engaged to provide services, your services, on behalf of 3 this IPR proceeding? 4 A. I believe it was in 2023. 5 Q. Okay. 6 A. Early 2023. 7 Q. Early 2023. That's good enough. And who 8 contacted you, if I may ask? 9 A. It was through KXT Law. 10 Q. Okay. And that's a -- I believe, a prior law 11 firm to these proceedings? 12 A. I believe so. 13 Q. Okay. And had you heard of the respondent 14 Quantum Imaging LLC before being engaged in these 15 proceedings? 16 A. I'm trying to remember. 17 Yes, I believe so. We did some additional prior 18 art searching. 19 Q. Okay. And have you heard of the inventor or 20 knew the inventor, Mrs. Frances Barbaro? 21 A. No. 22 Q. Okay. Have you heard anything about 23 Mrs. Barbaro since being engaged? 24 A. No. 25 Q. Okay. And what did you do to prepare for your	12 1 you can take a look at it, Mr. Harry. Nothing in 2 particular, I just want you to take a look at it in 3 general. 4 (Referencing Exhibit 1009.) 5 BY MR. SOROCCO: 6 Q. And have you seen enough to recognize this 7 document, Mr. Harry? 8 A. Yes. 9 Q. Okay. What is this document? 10 A. It's the declaration that I submitted. 11 Q. Wonderful. And I will let you know that this is 12 the declaration that Petitioners filed and we downloaded 13 from the PTAB. 14 MR. SOROCCO: If -- Mylene, if you can, I think, 15 present it or publish it to everybody so they can 16 download the link -- from the link. 17 THE TECHNICIAN: Absolutely. 18 MR. SOROCCO: Okay. 19 THE TECHNICIAN: I'll be placing a link in the 20 chat where everyone can download the marked exhibits. 21 Just one moment. 22 The link is in the chat, and you should see a 23 test document and now uploading Exhibit 1008. 24 MR. SOROCCO: 1009. 25 THE TECHNICIAN: I'm sorry. Let me delete that.

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1 1009. Corrected. 2 MR. SOROCCO: Thank you. 3 THE TECHNICIAN: No problem. 4 BY MR. SOROCCO: 5 Q. Mr. Harry, I believe you said that this is your 6 declaration. If we can look at the first page again. 7 And you see there's the name on there -- well, first of 8 all, there's before the Patent Trial and Appeal Board. 9 That's at the United States Patent and Trademark Office. 10 It's between Sony Interactive Entertainment LLC, which 11 is the petitioner, versus Quantum Imaging, LLC, the 12 patent owner. And then you see the case number there, 13 IPR 2023-00995. Correct? 14 A. Correct. 15 Q. Okay. And it relates to US Patent 16 No. 10,846,941. Do you see that information? 17 A. Yes. 18 Q. Okay. And I saw on your resumé or CV that 19 you're a patent attorney? 20 A. Patent agent. 21 Q. Patent agent. So you understand, then, that the 22 shorthand that we use for referring to patent documents 23 is like the last three digits, so like the nine -- in 24 this case, the '941 patent, correct? 25 A. Correct.	15 1 validity searching, prior art searching, infringement 2 analysis, and a variety of other patent -- patent 3 matters. 4 Q. Okay. Would it be fair to say that that work 5 under the description of a patent analyst does not 6 include patent prosecution activities? 7 A. We do not do patent prosecution activities, 8 since we are not a law firm. But we do advise and help 9 develop patent strategies. 10 Q. Okay. That seems like a pretty cool way to -- 11 to work within the -- the patent arena. 12 Okay. And then, you know, there's your -- you 13 state the principal place of business at 919 Southwest 14 Taylor Street, Suite 900. Is that the same address that 15 you gave me in the beginning? 16 A. I believe so. 17 Q. Okay. And then when you say analyst, if you -- 18 like if we look at paragraph 3, it says, "Over the 19 course of my work as an analyst," and you corrected me 20 and said "patent analyst." And so I'll try to use that 21 in the future, but as we move on, if I just say 22 "analyst," it should be understood that I am -- I'm not 23 meaning to denigrate you in any way, but just I forgot 24 to add "patent" in there. 25 But you go on to say:
14 1 Q. Okay. So if I refer to the '941 patent, you 2 will understand that I'm referring to US Patent 3 No. 10,846,941, correct? 4 A. Correct. 5 Q. Okay. And I don't expect you to comment often 6 about that, but I just wanted to make sure that if I do, 7 we -- we have an understanding. 8 If we go to the second page of your 9 declaration -- making sure it's up. 10 MR. SOROCCO: Thank you, Mylene. 11 BY MR. SOROCCO: 12 Q. You state in paragraph 2 that you are an analyst 13 with Global Technology Transfer Group, GT -- quote -- 14 paren, quote, GTTN, quote, paren. 15 What does an analyst with Global Technology 16 Transfer Group do? 17 A. I am a patent analyst. So we work on a variety 18 of different patent matters for our clients. 19 Q. Okay. And could you broaden out a little bit? 20 You said you're a patent analyst. Could you give me 21 some examples of the type of work that are -- that fall 22 within that def -- that -- that term "patent analyst"? 23 A. Yeah. So we look at various patents, assess 24 their strengths, their market applicability and market 25 potential transaction value. We also look at and do	16 1 "I've had extensive experience with analyzing 2 prior art references." 3 What do you mean by extensive experience? 4 A. We've done a number and I've done a number of 5 patent prior art searching. And so during that, we look 6 at various materials and need to establish a date for 7 when those materials were publicly available or 8 published, and then compare that to the priority date of 9 the patent you're searching on. 10 Q. Okay. And you said you have done a number or 11 conducted a number of patent prior art searching. What 12 did you -- what do you mean by a number? I mean, more 13 than ten? Less than 20? Over 30? What would you 14 guess? 15 A. I would have to look back and see. I honestly 16 don't recall. 17 Q. Well, how about just a ballpark guesstimate? 18 A. I -- it would be hard for me to say. 19 Q. Okay. And you state that these prior art 20 references, searches included video game material or 21 excuse me, the analysis that you did was on prior art 22 references included video game materials. 23 Do you have a definition of what video game 24 materials means? 25 A. Yeah. It would include game manuals,

17 1 publications about game releases, videos of game play, 2 videos ask -- talking about, discussing the game, 3 reviewing the game, kind of any materials around a 4 potential -- a video game. 5 Q. Okay. And you go on. I'm going to ask you 6 again on some of these words that we like to put on our 7 resumés, but you use the term "substantial experience" 8 in authenticating printed documents. What did you mean 9 by substantial experience there? 10 A. Establishing -- or looking at documents that ae 11 establishing dates for -- for when they were available. 12 Q. Okay. And I guess my question was more around, 13 can you qualify for me what substantial experience 14 means? 15 A. I've done it many times during my prior art and 16 other searching, but to quantify it would be hard 17 without looking back at my prior work history. 18 Q. Okay. And earlier in that paragraph 3, you used 19 the term "extensive experience," and then -- with regard 20 to analyzing prior art references. And then you used 21 the term "substantial experience" in authenticating 22 printed documents, and -- and it goes on. 23 Is there a difference between extensive 24 experience and substantial experience? 25 A. No.	19 1 paragraph 3, the term "accessible." Do you see that 2 word there, Mr. Harry? 3 A. Yes. 4 Q. Do you have an understanding of what the term 5 "accessible" means? 6 A. Accessible would be when the document was 7 available for public inspection. 8 Q. Okay. Is that a general understanding of what 9 the -- what accessible means, or does that have some 10 type of particular relevance in the patent field? 11 A. Just that -- that was a general access -- 12 accessibility. 13 Q. Okay. So you weren't referring to a legal 14 definition with regard to accessible there, correct? 15 A. Correct. 16 Q. Okay. And then finally, you use the words 17 "ordinarily skilled researchers." Do you see those -- 18 that phrase there, Mr. Harry? 19 A. Yes. 20 Q. Okay. And did you have an understanding of what 21 the phrase "ordinarily skilled researchers" means? 22 A. Yes. It -- it meant that something -- a typical 23 researcher who has skills in finding documents would be 24 able to find that document. 25 Q. Okay. Let's -- on paragraph 4, you talk about
18 1 Q. Okay. Just use of different words to 2 communicate the same information? 3 A. Yeah, the same concept. 4 Q. Okay. How did you establish the date when 5 printed documents -- when you looked at printed 6 documents? 7 A. In general or in this particular instance? 8 Q. Yeah, yeah, no, just in general. What is 9 your -- what is the process that you take? 10 MR. SQUIRE: Objection to form. 11 THE DEPONENT: We -- we look at -- or I look 12 at the -- try and find a publication date for when the 13 document was published, either on the document or on a 14 website or reference that references the document, like 15 a citation. I also, you know, if -- if it's a document 16 that's not necessarily marked as a -- having a certain 17 date, I'll look for another indicia of when it was 18 published. 19 BY MR. SOROCO: 20 Q. Okay. And just to make things easier for 21 Mr. Squire, in between me asking the question and you 22 answering, give him a second or two to object. Just 23 since it's your first deposition I want to make sure to 24 let you know that. 25 You used the -- in the last part of that	20 1 your full resumé, and -- and attachment A being your 2 full resumé, excuse me, that is on page 9 of the PDF 3 documents. 4 MR. SOROCO: Can you go there, Mylene? 5 BY MR. SOROCO: 6 Q. Okay. Is this your current resumé, Mr. Harry? 7 A. Yes, at that time that the declaration was 8 submitted. 9 Q. Okay. So at the time the declaration was 10 submitted. And this was your resumé at that time? 11 A. Correct. 12 Q. Do I understand it correctly? Okay. 13 And have you updated your resumé since that 14 time? 15 A. I don't believe so, no. 16 Q. Okay. And we talked about your experience and 17 work with GTT Group. It looks like you've been a patent 18 analyst, senior patent analyst, there for a period of 19 time. You worked as a patent agent at a couple of, it 20 looks like law firms. Is that correct? 21 A. Correct. 22 Q. Okay. And generally, what are the duties or -- 23 of a patent agent? 24 A. To -- to prep and write -- or prep and cross 25 patent applications, do prior art searching, assist in

21 1 just general patent matters with the attorney that they 2 work with. 3 Q. Okay. Great. Let's go back to page -- let's 4 see. I believe it's page 2 in the previous PDF 5 document. 6 Actually, I didn't ask you to do this. So you 7 identified this document as your declaration that you 8 provided. Is that -- that -- is that correct? Do I 9 have that correct about your earlier testimony? 10 A. Correct. 11 Q. Okay. 12 MR. SOROCO: If you would go to, Mylene, 13 page 8, please. 14 BY MR. SOROCO: 15 Q. Okay. Is that your signature there on the 16 right-hand side, Mr. Harry? 17 A. Yes. 18 Q. Okay. And it looks like it was dated June 1st 19 of 2023. Is that correct? 20 A. Correct. 21 Q. Did you write that date? 22 A. Yes. 23 Q. Okay. I just wanted to clar -- clean that up, 24 that I had -- I had forgotten to do the -- it was your 25 signature and that you -- you had dated the document.	23 1 discover or establish the date for when that document 2 was available. 3 Q. Okay. And I don't want to know the contents of 4 any opinions as part of this next question. But were 5 you retained by KXT Law to do any additional work on the 6 IPR? 7 MR. SQUIRE: Objection. Objection. And I'm 8 going to -- 9 You can answer. 10 THE DEPONENT: In regards to these IPRs, you're 11 asking? 12 MR. SOROCO: Yes. 13 THE DEPONENT: No. I believe this was the only 14 thing that I was retained to do. 15 MR. SOROCO: Okay. And Mr. Squire, what was 16 your objection? 17 MR. SQUIRE: Oh, I was concerned that you were 18 going to ask -- ask for privileged information, but I 19 think that the question as phrased was -- was just fine. 20 MR. SOROCO: Okay. Thank you. 21 BY MR. SOROCO: 22 Q. And then it goes down. The work that you do 23 is -- you noted it -- was at a usually -- usual hourly 24 fee of \$350 per hour. 25 Do you see that?
22 1 MR. SOROCO: Okay. If we could go back to 2 page 2, Mylene. 3 BY MR. SOROCO: 4 Q. Okay. So we've talked about your experience, 5 we've talked about your resume and -- and your -- your 6 duties and responsibilities as a patent agent. 7 Paragraph 5 says: 8 "As an employee of GTT, I have been retained by 9 KXT Law to evaluate, authenticate, and establish the 10 dates of public availability of certain documents in the 11 above-captioned IPR proceeding." 12 Do you see that language, Mr. Harry? 13 A. Yes. 14 Q. Okay. What does it mean to -- or do you have an 15 understanding of what it means to evaluate, 16 authenticate, and establish the dates of publicly 17 available -- or public availability of certain 18 documents? 19 A. Yes. It -- go ahead. 20 Q. No. You -- well, I was just going to ask, what 21 is your understanding of what it means to evaluate, 22 authenticate, and establish? 23 A. Yeah. This was to evaluate the contents of a 24 document and its relevancy to the work being performed, 25 to determine if the document was authentic, and then to	24 1 A. Yes. 2 Q. Okay. And is there a reason why you used the 3 term "usual"? Is there other fees that you are billed 4 out at? 5 A. Potentially, we can negotiate different hourly 6 fee structures for certain clients. 7 Q. Okay. Do you negotiate those hourly fee 8 changes? 9 A. No. 10 Q. Okay. And you state you have no financial 11 interest in this proceeding. 12 Do you see that language? 13 A. Yes. 14 Q. Okay. And is that correct at -- as of today? 15 A. Yes. 16 Q. And you say you have no affiliation with the 17 petitioner. Is that still correct as of today? 18 A. Yes. 19 Q. Okay. And then you're probably going to 20 anticipate my next question, which is you state that: 21 "My compensation is not dependent upon the 22 outcome of or my testimony in this IPR proceeding." 23 Do you see that language? 24 A. Yes. 25 Q. Okay. And is that still correct as of today?

25 1 A. Yes. 2 Q. Okay. Do you have -- strike. 3 We look at -- let's into a bit of what you did 4 as part of the work that KXT Law had you do in the scope 5 of this declaration. As I said, I don't want to know 6 about any other work you've done for them. 7 It states that you personally ordered a copy of 8 a video game entitled Phantasy Star Online, PSO, for the 9 Sega Dreamcast gaming console. 10 Do you see that language? 11 A. Yes. 12 Q. Okay. Were you aware of Phantasy Star Online, 13 PSO, game prior to being engaged by KXT Law? 14 A. No. 15 Q. Okay. Were you aware of the Sega Dreamcast 16 gaming console before being engaged by KXT Law? 17 A. Yes. 18 Q. Okay. Where -- what knowledge did you have 19 about the Sega Dreamcast gaming console prior to being 20 engaged by KXT Law? 21 A. This was right in the middle of kind of my 22 gaming heyday. 23 Q. Okay. And when you say "gaming heyday," what 24 was it -- what was the age range of that time? 25 A. This would have been from middle school through	27 1 than through eBay with Matthew's Merc? 2 A. No. 3 Q. Okay. Do you happen to know the actual user's 4 name, legal name or the name they go by, of the user ID 5 Matthew's Merc? 6 A. I do not recall. 7 Q. Okay. You do not recall whether you know their 8 name or not? 9 A. Yeah. 10 Q. Okay. Let's go to page 11 of your declaration, 11 Exhibit 1009. 12 And I need to get there in a second here. And I 13 believe this be -- should be, if technology is working, 14 a copy of the receipt that you received for an eBay when 15 you purchased the PSO game. Is that correct? 16 A. I believe that is a copy of the listing showing 17 the item is sold. 18 Q. Okay. I'm looking for the receipt, which I 19 think was in B. May -- yeah. Well, okay. So let's 20 talk about the listing, then. Let's strike about the -- 21 the receipt. 22 So this is a copy of the listing as you saw it 23 when you were looking for a copy of the PSO game to 24 order? 25 A. This is a copy of the listing after I had
26 1 college. 2 Q. Okay. But you had never played Phantasy Star 3 Online. Is that correct? 4 A. I honestly could not recall. 5 Q. Lots of games, lots of time, right? 6 A. Yes. 7 Q. Okay. You bought -- or excuse me. You ordered 8 a copy of the PSO game. And if I can use PSO to 9 shorthand Phantasy Star Online, is that okay with you? 10 A. Yes. It's a long -- it's a long title. 11 Q. It's a long title. It becomes a tongue twister. 12 But you ordered the copy of PSO from an eBay 13 saler -- seller called Matthew's Merch. 14 Do you see that? 15 A. Yes. 16 Q. Okay. And Matthew, the seller Matthew's Merch, 17 had -- his address is there. I'm sure he wouldn't be 18 thrilled to know this is in a public document, but we'll 19 go on. And Matthew's Merch goes by the eBay user name, 20 unsurprisingly, quote, Matthew's Merc, M-e-r-c, end 21 quote. I guess he didn't want the "H" on there. 22 Do you know personally the individual that goes 23 by the user name Matthew's Merc? 24 A. No. 25 Q. Okay. And did you have any communications other	28 1 purchased the game. 2 Q. Okay. Is that why it says on page -- the top of 3 page 12 that this item is no longer available? 4 A. Correct. 5 Q. Okay. And what is the box under there -- 6 under -- or do you see the box under there that has the 7 words "seller's other items" on it? 8 A. I do not. 9 Q. Okay. 10 MR. SOROCO: Yeah, let's go up to page 12, 11 Mylene. I'm sorry. 12 MR. SQUIRE: And counsel, by page, you mean PDF 13 page numbers, right? 14 MR. SOROCO: Yes, I'm referring to PDF page 15 numbers. Unfortunately, the pages were not Bates 16 labeled, and so I'm going by PDF page numbers. 17 BY MR. SOROCO: 18 Q. So if we look at page 12 of the PDF of the -- 19 your declaration, do you now see where the box is that 20 seller's other items? 21 A. Yes. 22 Q. Okay. Do you have an understanding of what 23 would happen if you clicked on that box of seller's 24 other items? 25 A. Yes.

29 1 Q. Okay. And what -- what would happen? What do 2 you understand that -- to occur? 3 A. My understanding is that you would see the other 4 items for sale on eBay from that same seller. 5 Q. Okay. And did you happen to click on that box 6 when you were ordering the PSO game from Matthew's Merc? 7 A. I do not believe so. 8 Q. Okay. And it looks like, if we scroll a little 9 bit farther down on PDF page 12, that the "Phantasy Star 10 Online (Sega Dreamcast, 2001) new/sealed *damage." 11 Do you see that language? 12 A. Yes. 13 Q. Okay. Do you have an understanding of what the 14 *damage means? 15 A. I believe in this context, it had to do with the 16 shelf wear on the item. 17 Q. The -- excuse me. Did you say shelf, s-h-e-l-f, 18 wear? 19 A. Yes. 20 Q. Okay. What do you mean by the term "shelf 21 wear"? 22 A. Typically when you're buying new and sealed 23 items, they will have been on a retail display for a 24 certain period of time and they will just incur scuffs 25 and damage from that. And so when you're buying	31 1 game that you ordered from Matthew's Merc? 2 A. I believe so. 3 Q. Okay. And there -- right below that is the word 4 "condition." Do you see the -- that? 5 A. Yes. 6 Q. Okay. And it indicates that it was brand new. 7 Is that correct? 8 A. Correct. 9 Q. Okay. And you had mentioned shelf wear a little 10 earlier in your testimony. Does shelf wear primar -- do 11 you know whether shelf wear primarily impacts the 12 exterior or the exterior part of a -- of a game? 13 A. I believe you said "exterior" twice there. 14 Q. Oh, interior. Exterior or interior. I 15 apologize for that. 16 A. My understanding is that it typically only 17 affects the exterior, that the interior contents are as 18 sealed. 19 Q. Okay. And so that's why it's listed as new, 20 sealed, *damage, correct? 21 A. Correct. 22 Q. Okay. If we go down a little bit further, there 23 is an item description for the seller. 24 Do you see that? 25 A. Yes.
30 1 something new and sealed, most buyers make that 2 designation so that the buyer knows that they're not 3 buying a pristine copy. 4 Q. Would that be -- yesterday there was some 5 testimony with another witness that -- that there is a 6 population of people that collect video games. Is that 7 something that you have knowledge of as well? 8 A. Yes. 9 Q. Okay. And does that *damage mean anything to 10 those people that collect video games? 11 MR. SQUIRE: Objection. 12 THE DEPONENT: It means that the game is new and 13 sealed, but there will be some cosmetic damage to the 14 product, so it's value may not be as high. 15 MR. SOROCO: Mr. Squire, did you want to get 16 that objection on the record? 17 MR. SQUIRE: I withdraw that. 18 MR. SOROCO: Okay. 19 BY MR. SOROCO: 20 Q. And if we look a couple lines down, there looks 21 to be US dollar 139.99, with free shipping. 22 Do you see that? 23 A. Yes. 24 Q. Information? 25 Okay. Is that the price you paid for the PSO	32 1 Q. Okay. And that's where it says: 2 "Has flaws in cellophane and jewel case as 3 pictured. Brand new." 4 Do you see that language? 5 A. Yes. 6 Q. And is that where you -- strike that. 7 Is that description consistent with your 8 understanding of what *damage means? 9 A. It -- that is consistent with my understanding 10 of what one possible cosmetic damage would qualify as. 11 Q. Okay. And then if we go on to page 13, there is 12 some -- do you see -- or let me ask this. 13 Do you see where it says "seller feedback" about 14 almost the middle of page 13 of the PDF? 15 A. Yes. 16 Q. Okay. And do you understand -- have an 17 understanding what seller feedback means? 18 A. In the context of eBay, my understanding is that 19 purchasers of items from that seller could leave 20 feedback to show or alert other sell -- other buyers 21 from that seller of the potential trustworthiness of 22 that seller. 23 Q. Okay. And did you leave any feedback for 24 Matthew's Merc as part of ordering the PSO game? 25 A. I do not recall if I did. I believe if I did,

33 1 it would have just been a rating and not a written 2 response. 3 Q. Okay. So it looks like -- well, you agree with 4 me that it looks like there are three ratings here under 5 "seller feedback." Is that fair? 6 A. Yes. 7 Q. Okay. And are any of these three ratings 8 associated with your eBay user name? 9 Or scratch that. 10 Do you have an eBay user name? 11 A. I do. 12 Q. Okay. And I won't ask you what your eBay user 13 name is. But are any of the three seller feedbacks that 14 are listed here associated with your user -- eBay user 15 name? 16 A. Not that I believe. 17 Q. Okay. Let's go -- if we go back to page 3 of 18 the PDF that is your declaration -- sorry. I'm doing 19 this from a laptop screen so I'm making sure I see the 20 documents correctly. 21 So we're on page 3, paragraph 7. You state that 22 on April 20th, 2023, you received a package from 23 Matthew's Merch which included the PSO, and I assume the 24 PSO game. 25 How did you receive that package from	35 1 Q. Okay. And did you buy it now or did you 2 participate in an auction? 3 A. This was bought directly. 4 Q. Okay. Let's go to -- again, flipping through 5 these documents on -- on the screen is difficult. But 6 if we go back to page 3 of the PDF of your declaration. 7 And do you see in paragraph 8, you state, as shown in 8 attachment D, that: 9 "The PSO arrived in a sealed package comprising 10 a plastic crystal seat -- or DVD case sealed with clear, 11 heat-sealed cellophane wrap." 12 Do you see that language? 13 A. Yes. 14 Q. Okay. And then you go on to say: 15 "Upon visual inspection, although the plastic 16 DVD case had several cracks, the cellophane wrap 17 appeared to be intact and original from the factory." 18 Do you see that language, sir? 19 A. Yes. 20 Q. Okay. Let's go to page 19 of the PDF comprising 21 your declaration. And then let's actually move ahead 22 one. I forgot that they inserted slip sheets on each 23 page. 24 Are these the photographs that you talk about 25 that -- that show the unopened DVD of the PSO game in
34 1 Matthew's Merch? 2 A. I believe it came through US mail. 3 Q. Okay. And you included a picture of the PSO and 4 packaging, per your testimony here in paragraph 7. And 5 if we go -- and you included that as attachment C. If 6 we could -- 7 MR. SOROCO: Mylene, if we could go to page 17 8 of the PDF document. Okay. And if you could go to the 9 next page, please. 10 BY MR. SOROCO: 11 Q. Is this the picture you referred to of the 12 packaging and the PSO game? 13 A. Yes. 14 Q. Okay. And is this a -- other than being opened 15 and -- is this the -- strike that. 16 Other than being opened, is this the -- how the 17 package -- what the package looked like when you 18 received it? 19 A. Yes. That is what the package looked like and 20 the contents that I removed from it. 21 Q. Okay. And are you aware that eBay has primarily 22 two ways of purchasing products, one way being an 23 auction and another way being just directly purchasing 24 the product for a price? 25 A. Yes. It's auction and buy it now.	36 1 paragraph 8 of your declaration? 2 A. I believe so, yes. 3 Q. Okay. And are -- if we look in -- if Mylene can 4 zoom in on the upper left picture and then zoom in on 5 the upper right corner of the DVD there. 6 Are those -- you testified that there are -- in 7 your declaration, that those contained some cracks in 8 the DVD case. Is that -- 9 A. Yes. 10 Q. -- correct? 11 Okay. And are those the cracks that are shown 12 there in the upper right-hand corner of the upper 13 left-hand corner pictures? Pictures? 14 A. Yes. 15 Q. Excuse me. 16 Okay. And do you believe that those cracks 17 comprise some of the dam -- the *damage that was in the 18 eBay listing title for this PSO game? 19 A. Yes, based on the description of the item. 20 Q. Okay. Let's leave this page up, and I'm going 21 to ask you a few questions about the document. It's 22 going to be about these pictures, but it's based upon 23 paragraph 8 of your declaration. So if you want me to 24 have Mylene go back to the declaration, feel free to say 25 something.

37 1 You, in your -- in your declaration, you state 2 that the PSO arrived in a sealed package comprising a 3 plastic crystal DVD case. Do you -- is that what is 4 shown in Attachment D, page nine -- page 20 of your -- 5 of the PDF there? 6 A. Yes. That is the DVD case sealed in its 7 cellophane wrapper. 8 Q. Okay. And you -- with respect to the cellophane 9 wrapper, you called it a clear, heat-sealed cellophane 10 wrapper. Do you have an understanding of what a 11 cellophane wrapper is, Mr. Harry? 12 A. Yes, as a consumer. 13 Q. Okay. As a consumer. You -- by qualifying your 14 testimony there, as a consumer, is there other ways of 15 understanding heat-sealed cellophane? 16 A. You could be the manufacturer of the device that 17 does the actual heat sealing, so. 18 Q. Okay. Do you have any knowledge of the device 19 that does heat sealing? 20 A. Not personally. 21 Q. Okay. And then you go on in your declaration 22 that: 23 "Upon visual inspection, although the plastic 24 DVD case had several cracks, the cellophane wrap 25 appeared to be intact."	39 1 appeared to be intact and original from the factory. 2 What -- why do you -- why did you have the belief that 3 it was original from the factory? 4 A. The way that the cellophane was sealed was 5 typical of how CD cases, DVD cases at that time would 6 have been sealed if you purchased them new from a store, 7 and the cellophane also had an aged quality about it 8 when I did remove it. 9 Q. Okay. If you don't mind me asking, I believe 10 there's testimony that the PSO game came out around -- 11 or it's your testimony that the PSO game that you 12 ordered was from around 2000 or 2001. Is that correct? 13 A. Yes, I believe so. 14 Q. Okay. If you don't mind me asking, how old were 15 you in 2000, 2001? 16 A. 16, 17 years old. 17 Q. Okay. So your knowledge of DVD cases, then, at 18 that time was related to your experience as a consumer. 19 Is that fair? 20 A. Yes. 21 Q. Okay. And you had mentioned with regard -- I 22 believe it was your testimony that you stated with 23 regard to heat-sealed cellophane wrap devices, that you 24 have no personal knowledge of those devices. Is that 25 correct?
38 1 In looking at these pictures on page 20 of 2 your -- of your declaration. 3 MR. SOROCO: And, Mylene, if you can just zoom 4 back out to the whole page. 5 BY MR. SOROCO: 6 Q. How did you know that the cellophane -- excuse 7 me. Let me go back. Strike that. 8 That you stated that the cellophane wrap 9 appeared to be intact. What led you to that belief? 10 A. A visual inspection of the item in the 11 cellophane wrapper did not show that there was any cuts 12 to the cellophane, and that the tabs on the cellophane 13 were still stuck together. 14 Q. Okay. You anticipated one of my questions, 15 which was, were the tabs at the corners fully intact or 16 were they some -- some type -- some amount less than 17 fully intact? 18 A. They were intact. 19 Q. Fully intact. 20 A. From what I recall. 21 Q. Okay. And looking at the pictures, it appears 22 that they were fully intact, correct? 23 A. Correct. 24 Q. And you finally, in paragraph, state that 25 it's -- well, you appeared that the cellophane wrap	40 1 MR. SQUIRE: Objection. Misstates the witness's 2 answer. 3 MR. SOROCO: Okay. Mr. Harry, let me rephrase 4 the question, then. 5 BY MR. SOROCO: 6 Q. Do you have any personal knowledge of 7 heat-sealed cellophane wrap devices? 8 A. Not that I can recall, other than knowing they 9 exist and how they operate. 10 Q. Okay. But from your testimony there, I 11 assume -- or is it fair to assume that you've never 12 operated a heat-sealed cellophane wrap device? 13 A. Correct. 14 Q. Okay. And you stated, I believe, in your 15 testimony just a moment ago, about that you knew how 16 they operated. Is that correct? 17 A. Correct. 18 Q. Okay. What was your -- what is your 19 understanding of how a heat-sealed cellophane wrap 20 device operated? 21 A. That the cellophane would be wrapped around an 22 item and then a hot plate or hot element would be used 23 to seal the cellophane to itself. 24 Q. Okay. Is that an automatic process? A manual 25 process? Do you know?

41 1 A. It could be either. 2 Q. It could be either. Okay. 3 And have you ever seen a heat-sealed cellophane 4 wrap device in operation? 5 A. I believe on various YouTube videos of 6 industrial practices. 7 Q. And those YouTube videos is just something that 8 you saw as you were perusing YouTube? 9 A. Yeah, personal interest as an engineer. 10 Q. Okay. Wonderful. And that's right, I did gloss 11 over that. 12 You're a mechanical engineer, correct? 13 A. Correct. 14 Q. Okay. Congratulations. 15 And why -- you state that orig -- you believed 16 that the DVD case was original from the factory, and I 17 believe it was your testimony that the way it was 18 wrapped and the way it was sealed led you to that 19 opinion. Is that a fair characterization? 20 A. Correct. 21 Q. Okay. And have you seen other devices -- or 22 other DVDs that have been wrapped that you know to be 23 original from the factory? 24 A. You mean other DVDs specifically. 25 Q. Other -- yeah, I'm sorry, DVDs.	43 1 A. Yes. 2 Q. Okay. And what is that knowledge that you have 3 of seeing a Dreamcast DVD previously? 4 A. Through friends who had consoles. 5 Q. Okay. Looking at paragraph 9, you -- of your 6 declaration. Let's go back up to page -- that is going 7 to be page 3 still. 8 You were very concise in your declaration, 9 Mr. Harry. Thank you. 10 So let's go back up to page 3 of the PDF, 11 paragraph 9. You state that: 12 "I personally removed the cellophane seal and 13 inspected the contents, which was shown in Attachments E 14 through N, including the following." 15 And then you have got some subpoints that you go 16 on, I think talking about all the different views and 17 what was in the DVD. Is that correct, Mr. Harry? 18 A. Correct. 19 Q. Okay. And you note that you have Attachments E 20 through N in your declaration, and I don't believe that 21 I was able to find an Attachment N in your declaration. 22 Do you recall having an Attachment N to your 23 declaration, Mr. Harry? 24 A. I believe there was one, but I do not recall 25 specifically if there was.
42 1 A. Yes. 2 Q. Okay. And did the DVD comprising the PSO game 3 look similar to other DVDs that you know -- you knew to 4 be original from the factory? 5 A. No, because this DVD is in a CD case, not a DVD 6 case. 7 Q. Okay. Could you explain what you mean there? 8 A. Yeah. A DVD case is typically a plastic 9 clamshell that opens up with a DVD in it. This is 10 packaged in a CD case, which was, I believe, typical at 11 the time for Dreamcast games. 12 Q. Okay. And why do you have the knowledge -- or 13 why -- how do you have the knowledge that that would be 14 a typical way for Dreamcast games? 15 A. Based on my prior experience as a gaming -- 16 gaming consumer. 17 Q. Okay. Had you received game -- Dreamcast 18 game -- excuse me. Strike that. 19 Have you used Dreamcast -- or played Dreamcast 20 consoles in the past? 21 A. I cannot recall specifically if I have or not. 22 I would imagine I have, given, you know, gaming parties 23 with friends and stuff. 24 Q. Okay. Do you have any present recollection of 25 seeing a Dreamcast DVD previously?	44 1 Q. Okay. 2 A. We would have to go through the document. 3 Q. Sure. Let's do -- what's the easiest way to do? 4 Do you have that link that Mylene sent you? 5 A. Yes. 6 Q. Okay. And could you download Exhibit 1009 that 7 she provided to you with that link? 8 A. Yeah. I already did. 9 Q. Oh, you already did. Wonderful. Can you open 10 up that PDF? 11 A. Okay. 12 Q. And if you would, please take as much time as 13 you need. If you could look and see if there's an 14 Attachment N to your declaration, that would be 15 wonderful. 16 A. There is. 17 Q. Okay. Where is that attachment? 18 A. I believe it's page 58 or 59. 19 Q. Okay. 20 MR. SOROCO: If we would go to page 58 of the 21 PDF, that would be great, Mylene. And you're going to 22 get there probably quicker than me. 23 BY MR. SOROCO: 24 Q. Okay. Attachment N is -- is on page 58, is the 25 slip sheet, what we call a slip sheet. And then the

45 1 picture -- are you saying that the pictures on page 59 2 are -- they're Exhibit N? 3 A. I believe so. 4 Q. Okay. Let's go back to your declaration for a 5 minute, and go down to paragraph -- well. Okay. 6 Do you happen to -- let's go down to paragraph 7 11 of your declaration on page 4. And this is, I 8 believe, after you've gone through the different 9 pictures that you have in Exhibits E through N. And you 10 talk about Exhibit 1008, which we'll talk about in a 11 minute, and then you talk about Attachment N in 12 paragraph 11. Do you see that, in that second -- the 13 beginning of the second sentence of paragraph 11? 14 A. Yes. 15 Q. Okay. And then if we scroll down to 16 paragraph -- well, why don't you look at paragraphs 11, 17 12, and 13, and let me know when you've completed that. 18 MR. SQUIRE: Counsel, just for the record, you'd 19 like for him to read paragraphs 11 through 13. 20 MR. SOROCO: Yeah. I would draw his attention 21 to paragraphs 11, 12 and 13, and ask him to read them. 22 He does not need to read them into the record. 23 THE DEPONENT: Can we scroll down on the 24 document for the rest of paragraph 13? Thank you. 25 Okay. I have completed reading those paragraphs	47 1 the extent you would like for him to review the document 2 and then answer your question with respect to the 3 reference to Exhibit N, that should be time on the 4 record, I believe. 5 MR. SOROCO: Okay. That's fair. We've got 6 plenty -- we've got plenty of time. I'm not worried 7 about that today. 8 The -- if you'd like to take a look at your 9 declaration, then why don't we take a few moments if you 10 want to look through the -- the version that you 11 downloaded. Take as much time as you need. We'll see 12 if there is any reference to Exhibit N in the body of 13 your declaration. 14 MR. SQUIRE: And also, Counsel, it does make 15 sense, perhaps we could take a break after we have 16 completed this question or this line of questioning. 17 MR. SOROCO: That would be fine. 18 THE DEPONENT: I believe the only mention of 19 Exhibit N is in paragraph 9, with the description 20 attached to it. 21 MR. SOROCO: Okay. Great. As we discussed, 22 let's take a ten-minute break. And if Mylene would 23 please put the Dunlap Codding folks into the -- a room 24 after we go off the record, that would be great. 25 THE VIDEOGRAPHER: Okay. We are off the record
46 1 11 through 13. 2 BY MR. SOROCO: 3 Q. Okay. Is -- is Exhibit N described in 4 paragraphs 11 through 13? 5 A. No. 6 Q. Okay. And I -- that was where I was going, and 7 I had it backwards at the beginning and I apologize, is 8 that I do not believe in the -- that your declaration 9 that you described what is shown in pictures N -- under 10 Exhibit N? 11 MR. SQUIRE: Objection. Mischaracterizes the 12 document. 13 MR. SOROCO: Okay. Let me ask the question. 14 BY MR. SOROCO: 15 Q. Is there -- are there -- other than listing 16 Exhibit N in paragraph 9, is there any other reference 17 to Exhibit N in the body of your declaration? 18 A. Not in the portions that I have seen so far. 19 Q. Okay. And would it be helpful if we took a 20 moment -- it's been about an hour -- took a moment for a 21 break and have you review the declaration to confirm 22 that the Exhibit N is not described in the body of your 23 declaration? 24 MR. SQUIRE: I object to the extent you want -- 25 if we want to take a break, we can take a break, but to	48 1 at 10:03 a.m. 2 (A recess transpires.) 3 THE VIDEOGRAPHER: The time is 10:18 a.m. We 4 are back on the record. 5 MR. SOROCO: Welcome back, Mr. Crane (sic). I 6 think I only have a few more questions. Hopefully this 7 won't take too long and you can get on with your day, 8 doing hopefully more interesting things. 9 Let's look, at a moment, if -- 10 Mylene, can you bring up Exhibit 1008, please? 11 THE TECHNICIAN: 1008 is in the folder and will 12 be on the screen momentarily. 13 MR. SOROCO: Okay. 14 THE TECHNICIAN: Whoops. 15 MR. SOROCO: All right. And when you said that 16 it was in the folder, did you mean that it was in the 17 folder that can be downloaded by everyone or? 18 THE TECHNICIAN: Yes. It will be in the link 19 that was shared in the chat. 20 MR. SOROCO: Okay. Great. 21 BY MR. SOROCO: 22 Q. Mr. Harry -- well, let's go back real quick for 23 a moment to Exhibit 1009, which is Mr. Harry's 24 declaration. And if we could go to page 4 and scroll 25 down to paragraph 11, please.

Transcript of Alexander R. Harry
Conducted on February 27, 2024

13 (49 to 52)

49 1 All right. Mr. Harry, in paragraph 11, the 2 first sentence: 3 "I have reviewed Exhibit 1008, which is the 4 identical copy of PSO manual described above." 5 Do you have an understanding of -- or is my 6 reading of that sentence correct, sir? 7 A. I believe so. 8 Q. Okay. I'm sorry. I kind of butchered it there 9 at the end. So let me start over. 10 So paragraph 11, the first sentence says: 11 "I have reviewed Exhibit Ex-1008, which is the 12 identical copy of PSO manual described above." 13 Is that correct? 14 A. Correct. 15 Q. Okay. Great. 16 And if we can go now to Exhibit 1008. 17 (Referencing Exhibit 1008.) 18 BY MR. SOROCCO: 19 Q. And Exhibit 1008 was a document submitted by 20 Petitioners with the petition, I believe, in the IPR 21 proceedings, and it had been previously marked as 22 Exhibit 1008 by the petitioners. 23 Do you recognize Exhibit 1008 as it's on the 24 screen, Mr. Harry? 25 A. Yes.	51 1 Exhibit D or E. That should be attachment, not exhibit. 2 And I apologize if there was any confusion for that, 3 Mr. Harry. 4 BY MR. SOROCCO: 5 Q. So looking -- let's go at -- let's look at 6 Exhibit 1008 and -- sorry. I just had to see whether or 7 not it was up. 8 And in looking at 1008, if we could scroll -- if 9 we could zoom in a little bit on the left-hand side. 10 Okay. And then if we could kind of pull it up 11 to the upper right-hand corner -- oh, excuse me, upper 12 left-hand corner. I need to learn my left from my 13 right. 14 There appears -- strike. 15 Along the edge, there appears to be some white 16 markings along the black, running intermittently from 17 the top to the bottom. Do you see those white marks, 18 Mr. Harry? 19 A. Yes. 20 Q. Okay. And do you have any understanding of what 21 those white marks are? 22 A. I believe they are artifacts of scanning the 23 manual. 24 Q. Okay. Could they be artifacts of the manual 25 being worn along the edge?
50 1 Q. Okay. What is Exhibit 1008? 2 A. It is the copy of the manual for the Phantasy 3 Star Online video game. 4 Q. Okay. And is it -- is Exhibit 1008 a copy of 5 the actual manual that you received from Matthew's Merc? 6 A. I believe so. 7 Q. Okay. And that's -- if we can go back to 8 paragraph 11 of Exhibit 1009, that is -- my question is, 9 is you used the language, "which is the identical copy 10 of PSO manual described above." That -- I just wanted 11 to make sure, again, that the PSO manual in Exhibit 1008 12 is a -- is a copy of the PSO manual that you received 13 from Matthew's Merc. 14 A. Was that a question? 15 Q. Yeah. Is that correct? 16 A. Yes, I believe so. 17 Q. Okay. Great. 18 MR. SOROCCO: Exhibit -- and Exhibit 1008 can be 19 presented or published to everybody for download. And 20 feel free to do so, Mr. Harry, if you wish. 21 The -- just a housekeeping comment. My 22 colleagues let me know that I have switched up the word 23 "exhibits" and "attachments" when referring to the items 24 attached to your declaration. So I believe there have 25 been a couple times where I've said, like, Exhibit N or	52 1 MR. SQUIRE: Objection. Calls for speculation. 2 MR. SOROCCO: Strike the question. 3 BY MR. SOROCCO: 4 Q. Did you have the -- when you had the manuals in 5 your hands -- or when you had the manual, excuse me, in 6 your hands, did you notice any white -- did you notice 7 the -- excuse me, the white ghosting or the white 8 markings along the left-hand edge? 9 A. I honestly do not recall. 10 Q. Okay. Let's go to -- back to Exhibit 1009, 11 please. And if we could go to Attachment M, which is 12 page -- I will get there in a moment. I'm sorry. Okay. 13 THE TECHNICIAN: It's page 38, PDF. 14 MR. SOROCCO: 38? And of course my computer, I 15 have -- it did not catch up to my scrolling, so -- it 16 kept going on. Okay. Yes. 17 The slip sheet for Attachment M is page 38 of 18 the PDF of Exhibit 1009, Mr. Harry's declaration. If we 19 go to page 40, and if you could, Mylene, zoom in on the 20 upper left-hand corner. My -- it's actually, I think, 21 the prior page. I apologize. It's the front page of -- 22 there we go. Thank you. And if you could zoom in on 23 the upper left-hand corner again. 24 BY MR. SOROCCO: 25 Q. Do you -- do you, Mr. Harry, see similar white

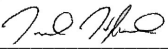
53 1 markings along the left-hand edge of the picture shown 2 on page 39 of your declaration? 3 A. Yes. 4 Q. Okay. And your -- I believe your testimony was, 5 is it was an arti -- a photocopying artifact in 6 Exhibit 1008. Is that correct? 7 A. Yes. I believe it was an artifact of the 8 scanning process. 9 Q. Okay. And is this photograph a -- or this -- 10 excuse me. Strike. 11 Is this picture the same scanned image as was 12 shown in Exhibit 1008? 13 A. Without seeing both, I prob -- I can't make that 14 determination. 15 Q. Okay. 16 MR. SOROCO: Mylene, is there a way to show 17 this -- this page of 1009 and then oppose it with a page 18 from -- the same page from 1008? 19 THE TECHNICIAN: Yes. I can do a side by side. 20 MR. SOROCO: Oh, that would be great. 21 THE TECHNICIAN: Okay. Just one moment. 22 I'm showing -- I'm not sure how it's arranged on 23 your page, but right here is 1009, and on -- to the 24 right of that is 1008. 25 MR. SOROCO: Okay. Thank you very much.	55 1 A. It might have been wear from when the insert was 2 placed into the packaging. 3 Q. Okay. Okay. Thank you very much. 4 MR. SOROCO: You can take down the side by 5 side, Mylene. 6 All right. Let's pull up, again, Exhibit -- or 7 excuse me, Exhibit 1009, which is Mr. Harry's 8 declaration. And if you could go to paragraph 13 of the 9 declaration. 10 BY MR. SOROCO: 11 Q. Do you see paragraph 13 there, Mr. Harry? 12 A. Yes. 13 Q. Okay. And do you -- I'm trying to find my 14 place. I'm sorry. 15 And your paragraph 13 starts out with, 16 "Furthermore, based on various video game industry 17 magazine articles, including one from Computer and Video 18 Games," it looks like Gamers -- or "Game Pro, Gamer's 19 Republic, Hyper, NextGen Life. It looks like that's all 20 the articles. 21 That paragraph refers to those articles, does it 22 not? 23 A. Yes, I believe so. 24 Q. Okay. And did you own these articles, 25 Mr. Harry, prior to writing and executing this
54 1 BY MR. SOROCO: 2 Q. Mr. Harry, do you see what's on the screen 3 before you as the very similar zoomed-in magnification 4 of the front cover of the PSO manual from page, it looks 5 to be 39 of 1009 and page 1 of Exhibit 1008? 6 A. Yes. 7 Q. Okay. And do you see, as we have been 8 discussing, the white marks on the left-hand side of the 9 manual in 1009, Mr. Harry? 10 A. Yes. 11 Q. Okay. And do you see the white marks that we've 12 been discussing on the image shown on the front page of 13 zero -- 1008? 14 A. Yes. 15 Q. Okay. And do you have any opinion as to whether 16 these marks are identical? 17 A. I believe they are. 18 Q. Okay. And it's your testimony that these are 19 scanning artifacts. Is that correct? 20 A. Yes, I believe so. Or wear from opening the 21 manual after we had received it. 22 Q. Okay. Can you -- your testimony was opening the 23 manual after you received it, just now. Could it be 24 wear from opening the manual from before you received 25 it?	56 1 declaration? 2 A. Own in what sense? 3 Q. Yeah. Did you have the physical copies of these 4 magazines in your possession? 5 A. No. 6 Q. At the time, okay, of executing your 7 declaration. Okay. 8 Where did you get copies of these declaration -- 9 or these articles? 10 MR. SQUIRE: Objection. I think the last 11 question, I think both of you -- the witness was 12 answering, and I think the question was being modified 13 at the same time. 14 Would you like to go over that question again, 15 Mr. Sorocco? 16 MR. SOROCO: Yeah, I'd be happy to. Thank you 17 for pulling that up -- or making that known. 18 I'm just pulling up the realtime, real quick. 19 BY MR. SOROCO: 20 Q. And yes, my question was, did you have the 21 physical copies of these magazines in your possession? 22 And I was then qualifying that with, at the time of -- 23 or excuse me, prior to writing and executing your 24 declaration. 25 You answered in between -- I'm sorry. I was

57 1 looking at the wrong question. 2 My question was, do you have -- I'm sorry. It's 3 bouncing around on me. 4 Did you have physical copies of these magazines 5 in your possession at the time of your execution of your 6 declaration? 7 A. No. They were digital copies. 8 Q. Okay. Let's go back. 9 Where did you obtain these digital copies of 10 these articles? 11 A. Based on my declaration statement, I believe 12 they came from Sega -- Sega Retro, a website. 13 Q. Okay. And what is Sega Retro? 14 A. If I recall, it is a website that archived a 15 bunch of articles regarding various Sega products. 16 Q. Okay. And prior to being engaged by KXT, were 17 you aware of the Segaretro.org website? 18 A. Not by name, but I honestly don't know. 19 Q. Okay. What did you mean, not by name? 20 A. It could have been a website that I stumbled 21 upon when looking at information for old games through 22 my personal life, but not -- I don't recognize the -- 23 the web address prior to this work. 24 Q. Okay. And was -- did you come across this -- 25 strike.	59 1 list here on paragraph 13, do the articles refer to the 2 manual? 3 A. Not that I could see, but some of the articles 4 or portions of other articles were difficult to read 5 based on the multiple iterations these have gone through 6 additionally. 7 Q. I understand. Sometimes the scanning and the 8 photocopying and all of that. 9 But to the best of your ability, the -- you did 10 not see the articles mention the manual, did you? 11 A. In the materials that I was able to review just 12 now, no. 13 Q. Okay. Thank you very much. 14 Let's go to Exhibit -- back to Exhibit 1009. I 15 guess we're still in that exhibit. Sorry. 16 And let's look at Exhibit H -- or excuse me. I 17 did it again. Attachment H. And that is page 29 of the 18 PDF of your declaration, Mr. Harry. 19 And on page 30 are two photographs. What are 20 these photographs of? 21 A. I believe that is the back page of the manual. 22 Q. Is the manual in the DVD case? 23 A. In these -- in these photos, yes, it looks like 24 that. 25 Q. Okay.
58 1 With regard to this work, being, I assume you 2 mean, the engagement to -- to purchase -- or order and 3 purchase and provide your opinion regarding the PSO 4 manual? 5 MR. SQUIRE: Objection to the extent that 6 statement mischaracterizes the scope of his engagement. 7 MR. SOROCO: Okay. I'm going to strike that 8 question, then. 9 BY MR. SOROCO: 10 Q. Oh, the video game magazine articles that you 11 list here in paragraph 13, are they -- are the articles 12 referring to the game, the PSO game, or the PSO manual? 13 A. I believe to the game, but I would need to 14 review the articles to be able to definitively say that. 15 Q. If you would like to take the time right now to 16 review those articles, I would be happy for you to do 17 so. 18 A. Okay. 19 Q. Let me know when you're done reviewing those 20 articles, Mr. Harry. 21 A. All right. I've read the articles. Can you 22 restate your question, or repeat your question, please, 23 Mr. Sorocco. 24 Q. Yeah, I'm happy to. 25 So the video game magazine articles that you	60 1 MR. SOROCO: And if we can zoom in on the right 2 side of the upper image. Okay. Can we zoom in a little 3 bit more? There we go. 4 BY MR. SOROCO: 5 Q. On the right side, to me, there appear to be 6 some white markings going from the top of the manual, 7 down to about -- I don't know, about two-thirds or 8 three-quarters of the way. 9 Do you see those markings, Mr. Harry? 10 A. Yes, I see what you are characterizing as 11 markings. 12 Q. Well, or just -- just white -- let's 13 characterize them -- change the characterization, then. 14 Actually, like, how would you characterize those 15 white -- that white along the right edge of the manual? 16 A. I am not sure if that's -- that could be glare 17 off of the manual when I was taking the photograph, or 18 it could be an artifact on the manual itself. 19 Q. Okay. 20 MR. SOROCO: Could you scroll down, Mylene? 21 BY MR. SOROCO: 22 Q. And this appears to be a bit of a zoomed-in 23 version of the image above. Is that correct, Mr. Harry? 24 A. I believe so. 25 Q. And I believe you're taking this picture -- or

61 1 you included this picture, excuse me, if you zoom out, 2 to particularly indicate or -- a copyright notice. 3 Is -- is that correct? 4 A. I believe so. 5 Q. Okay. 6 A. If you scroll to the left, there should be a 7 copyright notice there. 8 Q. Yeah. Yeah. That was my understanding of why 9 you included it in -- and am I -- is it fair to say 10 that's your understanding as well? 11 A. Yes. 12 Q. Okay. Let's go back to the right-hand side. 13 And do you see the same or similar white markings along 14 the right-hand edge of the back page of the manual? 15 A. Yes. 16 Q. Okay. Would you clar -- or characterize those 17 white markings as glare in this picture as well? 18 A. It is hard to say, but I would probably say no. 19 Q. Okay. Why would you probably say no? 20 A. Just based on the appearance there and how 21 zoomed in we are. 22 Q. Okay. And what would you characterize those 23 white markings to be, then, if it's not glare? 24 A. It would appear that it is degradation of the 25 manual, maybe due to age or -- it would depend. I'd	63 1 MR. SOROCO: Okay. Thank you very much, 2 Mr. Harry, for your testimony. I'm done with my 3 cross-examination and tender the witness, Mr. Square. 4 MR. SQUIRE: Thank you Mr. Sorocco. 5 I -- on behalf of petitioner, Sony Interactive 6 Entertainment, we do not have any further questions at 7 this time. 8 THE VIDEOGRAPHER: All right. This concludes 9 the videotaped deposition of Alexander Harry. The time 10 is 10:54 a.m. We are off the record. 11 (Proceeding Concludes at 10:54 a.m.) 12 13 14 15 16 17 18 19 20 21 22 23 24 25
62 1 have to look at another photo. It looks like that 2 aligns with a staple in the document, and that would 3 cause it to wear in its folded state. 4 Q. Okay. And just a general question. 5 Do you still have the PSO manual in your 6 possession, Mr. Harry? 7 A. No. That was forwarded to KXT Law. 8 Q. Okay. And so you presume that if I wanted to 9 see the -- the actual manual, that KXT Law or 10 Duane Morris, the subsequent law firm, would have that. 11 Is that your understanding? 12 A. I -- that would be my belief, but I have no 13 basis for that. 14 MR. SOROCO: Okay. I believe I'm about done, 15 but if you could give me just a few moments, I just want 16 to confirm that that's the case. 17 Mr. Squire, do you want to go off the record for 18 just, I don't know, five minutes? 19 MR. SQUIRE: Sure. 20 MR. SOROCO: Okay. 21 THE VIDEOGRAPHER: And we are off the record at 22 10:48 a.m. 23 (A recess transpires.) 24 THE VIDEOGRAPHER: The time is 10:54 a.m. We 25 are back on the record.	64 1 REPORTER'S CERTIFICATE 2 3 STATE OF CALIFORNIA) ss. 4 I, DEREK L. HOAGLAND, CSR #13445, State of 5 California, do hereby certify: 6 That ALEXANDER R. HARRY the witness whose 7 deposition is hereinbefore set forth, was duly sworn 8 by me before the commencement of such deposition and 9 that such deposition was taken before me and is a true 10 record of the testimony given by such witness. 11 I further certify that the adverse party, 12 PETITIONER, was represented by counsel at the deposition. 13 I further certify that the deposition of 14 ALEXANDER R. HARRY, occurred virtually, 15 via videoteleconference, commencing at 9:03 a.m. to 16 10:54 a.m. 17 I further certify that I am not related to 18 any of the parties to this action by blood or 19 marriage, I am not employed by or an attorney to any 20 of the parties to this action, and that I am in no way 21 interested, financially or otherwise, in the outcome 22 of this matter. 23 24 25

Transcript of Alexander R. Harry
Conducted on February 27, 2024

17 (65 to 68)

1	IN WITNESS WHEREOF, I have hereunto set my	65
2	hand this 28th day of February, 2024.	
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5	DEREK L. HOAGLAND, CSR #13445	
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