

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

3
4 -----X

5 WHATFIX INC.,

6 Petitioner,

7 - against -

8 WALKME LTD.,

9 Patent Owner.

10 Patent No. 10,819,644

11 Inter Partes Review No. IPR2023-01368

12 -----X

13
14 CONTINUED VIDEOTAPED DEPOSITION OF

15 IVAN ZATKOVICH, VOLUME II

16 New York, New York

17 October 8, 2024

18
19
20 Reported By:

21 ERIC J. FINZ

22 Shorthand Reporter and Notary Public

23 JOB No. 6918963

24
25 PAGES 176 - 242

Page 176

Continued Videotaped Deposition of
IVAN ZATKOVICH, taken by Petitioner, pursuant
to Notice, at the offices of Morrison &
Foerster LLP, 250 West 55th Street, New
York, New York, before ERIC J. FINZ, a
Shorthand Reporter and Notary Public
within and for the State of New York,
commencing at 9:38 a.m., October 8, 2024.

Page 177

1 A P P E A R A N C E S: (All Via Remote)

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Page 178

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I N D E X

WITNESS	PAGE
IVAN ZATKOVICH	
By Ms. Nguyen	181
By Mr. Macedo	201

1	IVAN ZATKOVICH	
2	THE VIDEOGRAPHER: We are now	09:37:49
3	on the record on October 8, 2024 at	09:37:50
4	9:38 a.m.	09:37:55
5	This is media unit 1 of the	09:37:57
6	continuation of the deposition of	09:38:00
7	Ivan Zatkovich, in the matter	09:38:03
8	Whatfix, Inc. v. WalkMe Ltd., in	09:38:08
9	the United States Patent and	09:38:12
10	Trademark Office, No. IPR	09:38:15
11	2023-01368.	09:38:20
12	The deposition is being held	09:38:21
13	at 250 West 55th Street, New York,	09:38:23
14	New York.	09:38:27
15	My name is Matthew Chin-Quee	09:38:28
16	representing Veritext. And the	09:38:30
17	court reporter -- I'm the	09:38:32
18	videographer. And the court	09:38:35
19	reporter is Eric Finz from the firm	09:38:36
20	Veritext.	09:38:38
21	The witness has been sworn in.	09:38:39
22	And you may proceed with the	09:38:45
23	deposition.	09:38:46
24	MS. NGUYEN: Before we begin,	09:38:49
25	I just wanted to make it part of	09:38:50

Page 180

1	IVAN ZATKOVICH	
2	the record that this deposition is	09:38:53
3	also for IPR 2023-01379 and IPR	09:38:54
4	2024-00065.	09:39:02
5	IVAN ZATKOVICH,	
6	resumed, having been previously duly	
7	sworn, was examined and testified further	
8	as follows:	
9	CONTINUED EXAMINATION	
10	BY MS. NGUYEN:	09:39:09
11	Q. Good morning, Mr. Zatkovich.	09:39:09
12	A. Good morning.	09:39:11
13	Q. You understand that you're	09:39:11
14	still under oath?	09:39:12
15	A. I do.	09:39:13
16	Q. And since yesterday's	09:39:13
17	deposition, did you consult or	09:39:15
18	communicate with counsel regarding the	09:39:19
19	substance of the proceeding or the	09:39:21
20	deposition?	09:39:23
21	A. No.	09:39:23
22	Q. Yesterday we were discussing	09:39:28
23	the litigation that you had done. Do you	09:39:30
24	recall that?	09:39:32
25	A. I do.	09:39:33

Page 181

1	IVAN ZATKOVICH	
2	Q. And do you recall that you had	09:39:33
3	mentioned for some of the litigation	09:39:34
4	cases that you had worked on databases.	09:39:36
5	Do you recall that?	09:39:42
6	A. Correct.	09:39:42
7	Q. What is a database?	09:39:43
8	A. A database is an organized	09:39:44
9	collection of data.	09:39:45
10	Q. Okay. And what is the purpose	09:39:47
11	of a database?	09:39:49
12	A. A database, is the ability to	09:39:50
13	store and retrieve data in an organized	09:39:55
14	fashion.	09:39:58
15	Q. So a database is used to store	09:39:59
16	data.	09:40:06
17	A. Yes.	09:40:09
18	Q. What is the difference between	09:40:09
19	a database and a user interface?	09:40:11
20	A. A database stores data. A	09:40:15
21	user interface transmits data back and	09:40:17
22	forth.	09:40:20
23	Q. If I could have you take a	09:40:22
24	look at the '664 patent, Exhibit 1001 in	09:40:26
25	the '664 IPR.	09:40:31

Page 182

1	IVAN ZATKOVICH	
2	A. What are you looking at? The	09:40:37
3	patent?	09:40:39
4	Q. Yes, the '664 patent.	09:40:40
5	And if I could have you turn	09:40:49
6	to column 8. Line 24.	09:40:51
7	A. I have that.	09:41:06
8	Q. Okay. And column 8, line 24	09:41:06
9	of the '664 patent states, "As yet	09:41:10
10	another example, a third-party messaging	09:41:12
11	service" can be used -- sorry, "may be	09:41:15
12	used to converse with a chatbot service."	09:41:19
13	Do you see that?	09:41:22
14	A. I do.	09:41:22
15	Q. How do we know that column 8,	09:41:23
16	line 24 to 25 is talking about a	09:41:29
17	third-party chatbot?	09:41:31
18	MR. MACEDO: Objection to	09:41:34
19	form.	09:41:57
20	A. Well, at the bottom of column	09:41:57
21	7, I guess we'll start at line 61, "one	09:41:59
22	technical problem dealt with by the	09:42:07
23	disclosed subject matter is to provide	09:42:09
24	user-friendly manner of defining	09:42:10
25	functionality of chatbots. In	09:42:13

Page 183

1	IVAN ZATKOVICH	
2	particular, defining automation processes	09:42:15
3	to be invoked by chatbots, either	09:42:18
4	dedicated chatbots, such as implemented	09:42:20
5	on the target system where the	09:42:23
6	functionality is invoked, or even using	09:42:24
7	third-party services, such as Facebook	09:42:26
8	Messenger."	09:42:30
9	So the subject we're	09:42:32
10	discussing is the ability to invoke	09:42:33
11	chatbots. And one method of doing that	09:42:35
12	is using third-party messaging services.	09:42:38
13	Q. And that is because column 7,	09:43:00
14	line 67, says, "third-party services."	09:43:05
15	Is that right?	09:43:12
16	A. Correct. And it gives an	09:43:12
17	example of a messenger service. And then	09:43:14
18	it continues to discuss chatbot	09:43:16
19	interfaces. And then it provides another	09:43:18
20	example of another third-party -- another	09:43:20
21	third-party messaging service such as	09:43:23
22	Facebook Messenger, to be used to	09:43:25
23	converse with the chatbot service.	09:43:27
24	Q. And what would be a reason for	09:43:31
25	using a third-party chatbot?	09:43:33

Page 184

1	IVAN ZATKOVICH	
2	A. Basically it would be a shared	09:43:47
3	service. It's a common functionality to	09:43:49
4	distribute services. That's why the	09:43:52
5	internet, the web was invented, so that	09:43:53
6	you can share common services. So rather	09:43:58
7	than implement a separate service, you	09:44:01
8	can implement a shared service.	09:44:03
9	Q. What are the downsides to	09:44:16
10	implementing a separate service?	09:44:18
11	A. You have to, in some cases,	09:44:23
12	purchase it. You may have to maintain	09:44:26
13	it. You may have to configure it	09:44:28
14	yourself. As opposed to a common shared	09:44:30
15	service, which would be maintained and	09:44:33
16	configured as a common service.	09:44:37
17	Q. So purchasing it, maintaining	09:44:42
18	it and configuring it, does that mean a	09:44:45
19	separate chatbot service would be more	09:44:53
20	expensive?	09:44:57
21	A. In some cases, yes.	09:44:59
22	Q. Okay. And does that also mean	09:45:01
23	purchasing it, maintaining, configuring	09:45:05
24	it, a separate chatbot service would be	09:45:08
25	more complicated?	09:45:12

Page 185

1	IVAN ZATKOVICH	
2	A. It could be.	09:45:14
3	Q. Okay. So would it be fair to	09:45:14
4	say that there are some benefits to	09:45:19
5	third-party chatbot services such as it's	09:45:23
6	cheaper and less complicated?	09:45:26
7	MR. MACEDO: Objection to	09:45:29
8	form.	09:45:30
9	A. It could be cheaper and it	09:45:31
10	could be less complicated to maintain.	09:45:32
11	Q. To maintain. Okay.	09:45:34
12	And earlier you said, a	09:45:47
13	third-party chatbot was a common	09:45:50
14	functionality to distribute services.	09:45:55
15	A. I'm sorry, could you repeat	09:45:59
16	that?	09:46:01
17	Q. Yeah. So I asked you what	09:46:01
18	would be a reason for using a third-party	09:46:03
19	chatbot. And you commented that it's a	09:46:05
20	common functionality to distribute	09:46:10
21	services.	09:46:12
22	A. Correct.	09:46:13
23	Q. Do you know as of when a	09:46:14
24	third-party chatbot was known?	09:46:18
25	MR. MACEDO: Objection.	09:46:22

Page 186

1 IVAN ZATKOVICH

2 A. Well, I know IBM started 09:46:27

3 developing, for example, common voice 09:46:32

4 recognition services and chat reply 09:46:36

5 services as early as the late '90s. 09:46:40

6 Q. Mm-hmm. Is IBM a third-party 09:46:45

7 chatbot service? 09:46:50

8 A. If you can establish it in 09:46:51

9 that fashion, yes. Again, if it's set up 09:46:55

10 as a common -- it's intended -- IBM 09:46:58

11 intended their voice server to be a 09:47:01

12 common service. 09:47:05

13 Q. And by "common service," do 09:47:10

14 you mean a third-party chatbot service? 09:47:12

15 A. Correct. 09:47:14

16 Q. If I could have you turn to 09:47:16

17 column 11 of the '664 patent. Line 9. 09:47:18

18 A. I see that. 09:47:37

19 Q. Okay. So it reads, "Exposing 09:47:37

20 an API maybe a time-consuming task in 09:47:40

21 some cases, but in many cases it may not 09:47:43

22 be feasible as the target system may be 09:47:45

23 owned by a third-party who may not wish 09:47:49

24 to expose an API and who may not wish to 09:47:53

25 allow external automation." 09:47:57

Page 187

1	IVAN ZATKOVICH	
2	Do you agree with that	09:48:00
3	sentence, starting at column 11, line 9	09:48:02
4	of the '664 patent?	09:48:04
5	A. Yes, I do.	09:48:11
6	Q. Okay. And then moving on,	09:48:12
7	same column 11, line 15 of the '664	09:48:16
8	patent, it says, "With API calls, there	09:48:23
9	may be potential security issues if the	09:48:27
10	API is manipulated."	09:48:29
11	And then it continues with	09:48:31
12	column 11, line 18, "No additional	09:48:33
13	security issues are created due to the	09:48:36
14	use of the disclosed subject matter as	09:48:39
15	opposed to potential vulnerabilities that	09:48:42
16	may be introduced when an API is	09:48:44
17	published and made available."	09:48:46
18	MR. MACEDO: Objection to	09:48:50
19	form.	09:48:52
20	Q. Do you agree with that	09:48:52
21	sentence included in column 11, line 15	09:48:53
22	of the '664 patent paragraph?	09:48:58
23	MR. MACEDO: Objection to	09:49:01
24	form. You read two sentences.	09:49:02
25	A. I agree with what you said in	09:49:07

Page 188

1	IVAN ZATKOVICH	
2	general. There would be exceptions to	09:49:09
3	that. But in general I would say it's a	09:49:11
4	true statement.	09:49:14
5	Q. Let me hand to you Exhibit	09:49:16
6	1011 in the '664 IPR, '732 IPR and '317	09:49:29
7	IPR proceedings.	09:49:40
8	Mr. Zatkovich, do you	09:49:44
9	recognize this document?	09:49:45
10	A. I do.	09:49:46
11	Q. Okay. What is it?	09:49:47
12	A. It's what I'm referring to as	09:49:48
13	the Williams product.	09:49:50
14	Q. And how much time did you	09:49:57
15	spend reviewing Williams?	09:49:59
16	A. Several hours.	09:50:01
17	Q. Did you read Williams in its	09:50:03
18	entirety?	09:50:06
19	A. I did.	09:50:06
20	Q. And is there anything in	09:50:07
21	Williams that you do not understand?	09:50:09
22	A. I don't think so.	09:50:12
23	Q. If I could have you turn to	09:50:12
24	page 4 of Exhibit 1011, Williams. And on	09:50:15
25	page 4 there are two columns. If I could	09:50:27

Page 189

1	IVAN ZATKOVICH	
2	have you look at the right column. The	09:50:29
3	first -- sorry, the second paragraph.	09:50:32
4	And the sixth line of the second	09:50:39
5	paragraph, right column. It starts with	09:50:42
6	"the text."	09:50:47
7	Do you see that?	09:50:49
8	A. I see that.	09:50:49
9	Q. And that sentence, again,	09:50:49
10	right-hand column, sixth line says, "The	09:50:52
11	text in bold is an editable text for the	09:50:57
12	policy, which can be changed by simply	09:51:00
13	logging into WPML as an administrator and	09:51:02
14	editing the field with the new	09:51:07
15	information."	09:51:09
16	MR. MACEDO: Objection to	09:51:12
17	form; beyond the scope.	09:51:13
18	Q. In your opinion, would a	09:51:15
19	POSITA have understood an administrator	09:51:18
20	logging in and editing the field as	09:51:21
21	involving a graphical user interface?	09:51:25
22	MR. MACEDO: Objection to	09:51:27
23	form; beyond the scope.	09:51:28
24	A. Well, generally the text	09:51:33
25	policy is for editing the field, for	09:51:36

Page 190

1	IVAN ZATKOVICH	
2	example, making it alphanumeric versus	09:51:41
3	numeric or making it formatted as a	09:51:45
4	telephone number. It would modify the	09:51:48
5	type of information that can be	09:51:54
6	collected.	09:51:58
7	I'm not sure I would consider	09:51:59
8	that as modifying the GUI. I don't think	09:52:00
9	there would be any visible changes due to	09:52:04
10	that.	09:52:06
11	Q. Would editing the field as	09:52:10
12	stated in Williams involve viewing a	09:52:14
13	graphical user interface?	09:52:22
14	MR. MACEDO: Objection to	09:52:26
15	form; beyond the scope.	09:52:27
16	A. No. As I mentioned, I don't	09:52:29
17	think editing the policy would	09:52:38
18	necessarily make any visible changes in	09:52:40
19	the interface.	09:52:42
20	Q. Would the administrator who is	09:52:44
21	editing the policy be able to see the	09:52:52
22	graphical user interface?	09:52:57
23	MR. MACEDO: Objection to	09:52:59
24	form.	09:53:00
25	A. It doesn't say.	09:53:01

Page 191

1	IVAN ZATKOVICH	
2	Q. Would a POSITA believe reading	09:53:03
3	Williams that the administrator who is	09:53:07
4	editing the field is able to see the	09:53:10
5	graphical user interface?	09:53:17
6	MR. MACEDO: Objection to	09:53:20
7	form.	09:53:21
8	A. Generally when you're editing	09:53:21
9	policies and text you're not editing the	09:53:23
10	user interface, graphical user interface.	09:53:25
11	You're generally visually looking at the	09:53:29
12	displayed user interface. You'd be	09:53:33
13	editing the information behind the	09:53:36
14	scenes.	09:53:39
15	Q. How does an administrator edit	09:53:40
16	information behind the scenes?	09:53:42
17	MR. MACEDO: Objection to	09:53:44
18	form; beyond the scope.	09:53:45
19	A. Same thing you would edit the	09:53:45
20	HTML of a web page, you would edit the	09:53:47
21	HTML. You're not editing -- you're not	09:53:52
22	moving graphics on the screen, you're	09:53:54
23	editing text behind the scenes.	09:53:56
24	Q. And in editing the text behind	09:54:40
25	the scenes, is it your opinion that the	09:54:42

Page 192

1	IVAN ZATKOVICH	
2	administrator would not be looking at a	09:54:44
3	graphical user interface?	09:54:46
4	MR. MACEDO: Objection to	09:54:47
5	form; scope.	09:54:48
6	A. Generally not while they're	09:54:49
7	editing the rules or the policies.	09:54:51
8	Q. How would the administrator be	09:54:56
9	able to edit rules or policies without	09:54:57
10	being able to see a graphical user	09:55:00
11	interface?	09:55:02
12	MR. MACEDO: Objection to	09:55:03
13	form; scope.	09:55:04
14	A. The rules and policies are	09:55:04
15	defined in text. They're not defined by	09:55:06
16	graphics or any display. They're defined	09:55:10
17	by text. So you could be editing the	09:55:12
18	text of the rules or the policies.	09:55:14
19	Q. So in your opinion, an	09:55:22
20	administrator cannot view text?	09:55:25
21	MR. MACEDO: Objection to	09:55:28
22	form; scope.	09:55:29
23	A. No, I believe I said the	09:55:30
24	opposite. The administrator would be	09:55:32
25	editing the text of the rules and the	09:55:33

Page 193

1	IVAN ZATKOVICH	
2	policy.	09:55:36
3	Q. That the administrator could	09:55:38
4	view?	09:55:40
5	A. Correct.	09:55:40
6	MS. NGUYEN: Let's take a	09:55:56
7	break.	09:55:57
8	THE VIDEOGRAPHER: We're going	09:55:58
9	off the record at 9:56 a.m.	09:55:59
10	(A recess was taken.)	09:56:02
11	THE VIDEOGRAPHER: We're back	10:30:12
12	on the record at 10:31 a.m.	10:30:16
13	BY MS. NGUYEN:	10:30:20
14	Q. Mr. Zatkovich, if you could	10:30:20
15	please take a look at Exhibit 2002 to the	10:30:21
16	'664 IPR, the '732 IPR and '317 IPR.	10:30:27
17	MR. MACEDO: Objection to	10:30:31
18	form.	10:30:33
19	Q. It's your CV.	10:30:33
20	A. Sure.	10:30:35
21	Q. And, Mr. Zatkovich, if you	10:30:41
22	could turn, please, to page 7 of Exhibit	10:30:46
23	2002.	10:30:55
24	A. I have that.	10:30:56
25	Q. Okay. And this is the	10:30:57

Page 194

1	IVAN ZATKOVICH	
2	beginning of your case history. Do you	10:30:59
3	see that, on page 7?	10:31:02
4	A. I do.	10:31:03
5	Q. Can we please go through this	10:31:04
6	list again and have you identify the	10:31:08
7	cases with which you worked with Amster	10:31:11
8	Rothstein?	10:31:15
9	A. Sure.	10:31:15
10	MR. MACEDO: Objection to	10:31:18
11	form; asked and answered.	10:31:19
12	A. So on page 10, we have three	10:31:48
13	IPRs right in the middle, Askeladden LLC,	10:31:57
14	all three of those IPRs were done through	10:32:02
15	Amster Rothstein.	10:32:04
16	On page 16, in the middle,	10:33:16
17	Island Intellectual Property LLC versus	10:33:20
18	TD Ameritrade.	10:33:24
19	Then on the bottom of page 17,	10:33:41
20	there is five Askeladden IPRs, those were	10:33:44
21	all done through Amster Rothstein.	10:33:50
22	And then three on top of page	10:33:52
23	18, Askeladden LLC.	10:33:54
24	Then at the bottom of page 18,	10:34:07
25	Island Intellectual Property LLC versus	10:34:11
		Page 195

1	IVAN ZATKOVICH	
2	Lids Capital, that was an Amster	10:34:15
3	Rothstein case.	10:34:20
4	And then at the top of page	10:34:26
5	19, XpertUniverse versus Cisco, that was	10:34:29
6	a patent re-exam that I was engaged	10:34:33
7	through Amster Rothstein.	10:34:37
8	I believe that's it.	10:34:41
9	Q. So you just identified eleven	10:34:59
10	cases with which you've worked with	10:35:02
11	Amster Rothstein. Is that correct?	10:35:05
12	A. Yeah, if we want to refer to	10:35:08
13	IPRs as cases, yes.	10:35:12
14	Q. And these eleven exclude the	10:35:14
15	current proceeding?	10:35:18
16	A. Correct.	10:35:19
17	Q. To which you're --	10:35:20
18	A. Correct.	10:35:22
19	Q. And how many hours have you	10:35:30
20	spent towards each case?	10:35:31
21	A. For the IPRs in general, 30 to	10:35:33
22	50 hours per IPR. For the litigation, it	10:35:35
23	would vary.	10:35:39
24	Q. So on page 16, the Island	10:35:51
25	Intellectual Property litigation, how	10:35:57

Page 196

1	IVAN ZATKOVICH	
2	many hours did you spend working on this	10:36:00
3	case?	10:36:05
4	A. That was over a hundred hours.	10:36:06
5	Q. And then for the Island	10:36:09
6	Intellectual Property case on page 18 of	10:36:16
7	your CV, how many hours did you spend	10:36:19
8	working on that case?	10:36:22
9	A. Same, about over a hundred	10:36:23
10	hours.	10:36:26
11	Q. And your current consulting	10:36:33
12	rate is \$525 per hour. Is that right?	10:36:48
13	A. Correct.	10:36:52
14	Q. Has that rate changed over the	10:36:52
15	years, since you started working with	10:36:55
16	Amster?	10:36:59
17	A. Yes, I'm sure it was lower	10:37:00
18	several years ago. And -- yeah. So I	10:37:02
19	would assume it would probably range	10:37:07
20	between 400 and 525 for those particular	10:37:09
21	matters.	10:37:13
22	Q. So since you started working	10:37:17
23	with Amster Rothstein, your rate started	10:37:19
24	around \$400 up to \$525 per hour today.	10:37:23
25	A. Yeah, that sounds about right.	10:37:29

Page 197

1	IVAN ZATKOVICH	
2	Q. All right.	10:37:30
3	And then having refreshed your	10:37:30
4	memory by looking at this case list	10:37:32
5	yesterday, you testified that there were	10:37:36
6	cases where your testimony was excluded.	10:37:43
7	Do you recall which of the cases in the	10:37:49
8	case list were cases where your testimony	10:37:51
9	has been excluded?	10:37:54
10	A. Again, those --	10:37:55
11	MR. MACEDO: Objection to	10:37:57
12	form.	10:37:57
13	A. Those both occurred prior to	10:37:57
14	ten years ago. I don't necessarily list	10:37:59
15	cases older than ten years old in my	10:38:03
16	list.	10:38:06
17	Q. Okay. And then from this list	10:38:06
18	of the case history provided in Exhibit	10:38:09
19	2002, can you point out which cases	10:38:12
20	involved testimony which has been	10:38:17
21	criticized by the decision-maker?	10:38:20
22	MR. MACEDO: Objection to	10:38:23
23	form.	10:38:24
24	A. What do you mean by	10:38:24
25	"criticized"?	10:38:26

Page 198

1	IVAN ZATKOVICH	
2	Q. Yeah. So yesterday you had	10:38:28
3	testified that your testimony has	10:38:29
4	either -- there have been cases where	10:38:33
5	your testimony has either been excluded	10:38:34
6	or criticized. Do you recall that?	10:38:36
7	A. I don't recall using the word	10:38:38
8	"criticized."	10:38:40
9	Q. Okay. Do you recall whether	10:38:41
10	there have been any cases where your	10:38:43
11	testimony has been criticized by the	10:38:45
12	decision-maker?	10:38:46
13	A. I'm not sure exactly what that	10:38:47
14	means. I mean, every case that I work on	10:38:49
15	as an expert witness generally involves	10:38:51
16	an opposing expert witness who would	10:38:54
17	criticize my testimony.	10:38:56
18	Q. Mm-hmm.	10:39:00
19	A. So that would be relevant for	10:39:02
20	almost all the cases that I've worked on.	10:39:06
21	Q. Okay. And what about cases	10:39:08
22	where the decision-maker has criticized	10:39:09
23	your testimony?	10:39:11
24	A. You mean like the judge or the	10:39:12
25	arbitrator?	10:39:14

Page 199

1	IVAN ZATKOVICH	
2	Q. Correct.	10:39:15
3	A. Yeah, I'm not sure exactly	10:39:17
4	what that means. Do you mean if they	10:39:22
5	don't agree with me?	10:39:24
6	Q. That's one example of	10:39:25
7	criticism, yes.	10:39:26
8	A. I would say there would be a	10:39:28
9	fair percentage of cases where the judge	10:39:31
10	would not agree with me.	10:39:34
11	Q. Okay.	10:39:35
12	A. Otherwise I would be on the	10:39:36
13	winning side of all the cases, which is	10:39:39
14	not possible.	10:39:41
15	Q. Okay. And in the cases where	10:39:41
16	the judges did not agree with you, do you	10:39:45
17	recall why they did not agree with you?	10:39:47
18	A. Not specifically in any	10:39:49
19	particular instance, no.	10:39:53
20	Q. So just to be clear, of the	10:41:06
21	cases included in Exhibit 2002, none of	10:41:11
22	them involve your testimony having been	10:41:17
23	excluded. Is that right?	10:41:22
24	MR. MACEDO: Objection to	10:41:24
25	form.	10:41:26

Page 200

1	IVAN ZATKOVICH	
2	A. Not that I recall.	10:41:26
3	MS. NGUYEN: Okay. We can	10:41:37
4	pass the witness. But I'd like to	10:41:40
5	reserve our rights for recross	10:41:42
6	should patent owner's counsel do	10:41:44
7	redirect.	10:41:47
8	MR. MACEDO: Certainly within	10:41:48
9	the scope of whatever I do on	10:41:50
10	redirect. We'll take a break now?	10:41:52
11	MS. NGUYEN: Yeah.	10:41:55
12	THE VIDEOGRAPHER: We are	10:41:56
13	going off the record at 10:42 a.m.	10:41:57
14	(A recess was taken.)	10:42:00
15	THE VIDEOGRAPHER: We are back	11:02:54
16	on the record at 11:03 a.m.	11:02:59
17	EXAMINATION BY	11:03:03
18	MR. MACEDO:	11:03:04
19	Q. Mr. Zatkovich, are you ready	11:03:05
20	to continue?	11:03:06
21	A. I am.	11:03:07
22	Q. As you know, my name is	11:03:07
23	Charlie Macedo, and I'm from Amster	11:03:09
24	Rothstein Ebenstein, and our firm engaged	11:03:13
25	you on behalf of WalkMe for this case.	11:03:17

Page 201

1	IVAN ZATKOVICH	
2	Right?	11:03:21
3	A. That's my understanding, yes.	11:03:21
4	Q. We were looking at your CV,	11:03:22
5	which is a copy provided from IPR	11:03:25
6	2023-0368 as Exhibit 2002 in front of	11:03:29
7	you.	11:03:31
8	A. I have that.	11:03:32
9	MS. NGUYEN: Objection; form.	11:03:33
10	MR. MACEDO: What's your	11:03:35
11	objection?	11:03:36
12	MS. NGUYEN: You have the IPR	11:03:37
13	number wrong.	11:03:39
14	MR. MACEDO: Okay. Let's try	11:03:40
15	again.	11:03:42
16	Q. If you look at Exhibit 2002	11:03:42
17	from IPR 2023-01368, you have a copy of	11:03:46
18	that in front of you. Right?	11:03:51
19	A. I do.	11:03:53
20	Q. Can you turn to page 12 of 19	11:03:54
21	in your resumé.	11:03:58
22	A. I have that.	11:04:05
23	Q. Do you see the last case	11:04:06
24	listed, Paid Easy Corp.?	11:04:08
25	A. I do.	11:04:11

Page 202

1 IVAN ZATKOVICH

2 Q. Do you know if I was involved 11:04:12

3 in that case? 11:04:13

4 A. I'm sorry, I don't -- I 11:04:19

5 honestly don't remember that particular 11:04:30

6 matter. 11:04:33

7 MR. MACEDO: Okay. I will 11:04:33

8 represent for the record that I was 11:04:35

9 involved in that case. 11:04:37

10 THE WITNESS: Okay. 11:04:39

11 MR. MACEDO: And I had 11:04:40

12 recommended you to the lead 11:04:41

13 counsel. 11:04:44

14 THE WITNESS: Okay. 11:04:44

15 Q. Other than that case and the 11:04:46

16 ones you identified before, are there any 11:04:47

17 other cases that you're aware of which I 11:04:50

18 was involved with that you were engaged? 11:04:52

19 A. Not that I recall. 11:04:55

20 Q. And if you could count the 11:04:56

21 number of pages of cases that you have 11:04:59

22 listed in your resumé. 11:05:02

23 A. I think 14 full pages. 11:05:23

24 Q. And in those 14 pages of 11:05:26

25 cases, would you say that you were 11:05:29

Page 203

1	IVAN ZATKOVICH	
2	working with me on a majority of your	11:05:32
3	cases?	11:05:34
4	A. No. It would probably be less	11:05:35
5	than 10 percent of them.	11:05:37
6	Q. And does that mean that 90	11:05:39
7	percent of the cases you didn't work with	11:05:40
8	me?	11:05:43
9	A. Correct.	11:05:43
10	Q. And that would be true of my	11:05:43
11	law firm too; correct?	11:05:45
12	A. Correct.	11:05:47
13	Q. And that means that all the	11:05:47
14	time that you spent on those 90 percent	11:05:51
15	of other cases did not involve time which	11:05:53
16	I was involved with. Is that correct?	11:05:56
17	A. That's correct.	11:05:58
18	Q. Okay. Thank you.	11:05:58
19	Now, if you could pull out	11:06:05
20	what was marked as Exhibit 1001, with	11:06:07
21	U.S. Patent No. 10,819,664.	11:06:12
22	A. I have that.	11:06:18
23	Q. And I believe yesterday you	11:06:19
24	indicated that you were familiar with	11:06:20
25	this document?	11:06:21

Page 204

1	IVAN ZATKOVICH	
2	A. Yes.	11:06:22
3	Q. And if you turn to Claim 1 in	11:06:23
4	column 25 of that exhibit.	11:06:27
5	A. Column 25?	11:06:32
6	Q. Yes.	11:06:33
7	A. I have column 25.	11:06:35
8	Q. So do you recall that	11:06:39
9	yesterday you were asked to compare Claim	11:06:41
10	1 of the '664 to Claim 1 of the '732	11:06:45
11	patent?	11:06:49
12	A. I do.	11:06:49
13	Q. And you were also asked to	11:06:49
14	compare Claim 1 of the '664 to the '317	11:06:51
15	patent. Correct?	11:06:55
16	A. That's correct.	11:06:56
17	Q. And in walking through those	11:06:56
18	comparisons, you identified features that	11:06:58
19	you saw that were present in Claim 1 of	11:07:00
20	the '664 patent that were not present in	11:07:03
21	the other patents.	11:07:05
22	A. Correct.	11:07:07
23	MS. NGUYEN: Objection; form.	11:07:08
24	MR. MACEDO: What's your	11:07:10
25	objection?	11:07:11

Page 205

1	IVAN ZATKOVICH	
2	MS. NGUYEN: It's vague and	11:07:11
3	unclear.	11:07:13
4	Q. Did you understand my	11:07:14
5	question, Mr. Zatkovich?	11:07:16
6	A. Yes, I did.	11:07:17
7	Q. Okay. So you also identified	11:07:18
8	elements that were in common between	11:07:28
9	Claim 1 in the '664 patent and the '732	11:07:31
10	patent. Correct?	11:07:33
11	A. I did.	11:07:34
12	Q. And you identified elements of	11:07:34
13	the '664 patent that were in common with	11:07:36
14	the Claim 1 of the '317 patent. Right?	11:07:38
15	A. I did.	11:07:41
16	Q. And when you were talking	11:07:41
17	about the '664 patent, some of the unique	11:07:42
18	features that you pointed to came from	11:07:47
19	the first element where it says "using a	11:07:49
20	natural language interface."	11:07:56
21	A. Correct.	11:07:57
22	MS. NGUYEN: Objection to	11:07:58
23	form.	11:07:59
24	Q. Let me rephrase that.	11:08:01
25	Some of the elements that you	11:08:02

Page 206

1	IVAN ZATKOVICH	
2	referred to from Claim 1 of the '664	11:08:04
3	patent that you identified as different	11:08:06
4	than in the other two Claim 1s, included	11:08:08
5	elements that are present in the "using a	11:08:12
6	natural language interface" portion of	11:08:17
7	the claim. Correct?	11:08:18
8	MS. NGUYEN: Objection; form.	11:08:20
9	A. That's correct.	11:08:22
10	Q. And you referred to a first	11:08:22
11	natural language input. Correct?	11:08:27
12	A. I did.	11:08:30
13	Q. And that's a first natural	11:08:31
14	language input from the user. Correct?	11:08:33
15	A. That's correct.	11:08:34
16	Q. And you also referred to a	11:08:34
17	second natural language input from the	11:08:38
18	user. Correct?	11:08:40
19	A. That's correct.	11:08:41
20	Q. In between those two elements	11:08:42
21	it also says the natural language	11:08:44
22	feedback on the first natural language	11:08:46
23	input from the first natural language	11:08:49
24	interface.	11:08:51
25	Do you see that?	11:08:52

Page 207

1	IVAN ZATKOVICH	
2	MS. NGUYEN: Objection; form.	11:08:53
3	A. I do see that.	11:08:54
4	Q. Okay. Do you see that that is	11:08:56
5	necessarily required in Claim 1 of the	11:09:03
6	'732 patent?	11:09:08
7	MS. NGUYEN: Objection; form.	11:09:09
8	A. I'm referring to Claim 1 of	11:09:20
9	the '732.	11:09:22
10	MS. NGUYEN: Leading as well.	11:09:31
11	A. Yes, that particular	11:09:51
12	limitation, natural language feedback on	11:09:53
13	the first natural language input, is not	11:09:56
14	present in Claim 1 of the '732.	11:09:59
15	Q. Is that limitation present in	11:10:03
16	Claim 1 of the '317 patent?	11:10:06
17	A. No, that limitation is not	11:10:32
18	present in the '317 patent, Claim 1.	11:10:34
19	Q. And that limitation of natural	11:10:38
20	language feedback on a first natural	11:10:41
21	language input from the natural language	11:10:43
22	interface would be an additional	11:10:44
23	distinction between Claim 1 of the '664	11:10:46
24	patent and Claim 1 of the '732 patent.	11:10:49
25	Correct?	11:10:52

Page 208

1	IVAN ZATKOVICH	
2	A. Correct.	11:10:52
3	MS. NGUYEN: Leading.	11:10:53
4	Q. And it would be an additional	11:10:54
5	distinction between Claim 1 of the '664	11:10:56
6	patent and Claim 1 of the '317 patent.	11:10:58
7	Correct?	11:11:01
8	MS. NGUYEN: Objection; form	11:11:01
9	and leading.	11:11:02
10	A. Correct.	11:11:04
11	Q. Do you remember yesterday when	11:11:06
12	you were talking about your background	11:11:09
13	and experience with IVRs?	11:11:12
14	A. I do.	11:11:14
15	Q. And you were discussing	11:11:14
16	different kinds of ways that IVRs could	11:11:18
17	work. For example, you talked about a	11:11:22
18	numeric response or keyword or phrase?	11:11:25
19	A. Correct.	11:11:28
20	MS. NGUYEN: Objection; form.	11:11:28
21	Q. And you also talked about a	11:11:30
22	level of intelligence?	11:11:35
23	A. I recall that, yes.	11:11:37
24	MS. NGUYEN: Objection; form.	11:11:38
25	Q. Is the use of a numeric	11:11:40

Page 209

1	IVAN ZATKOVICH	
2	response or keyword or phrase a form of	11:11:45
3	natural language processing?	11:11:50
4	MS. NGUYEN: Objection; form.	11:11:53
5	A. No. Those are examples of	11:11:54
6	IVRs or chatbots which would not -- which	11:11:56
7	do not utilize natural language input,	11:12:01
8	since they are specifically scripted to	11:12:04
9	recognize simply keywords as opposed to	11:12:10
10	grammatical structure.	11:12:14
11	Q. So when you were talking about	11:12:16
12	your prior experience with IVRs, you were	11:12:25
13	not intending to include in the concept	11:12:31
14	of natural language processing numeric	11:12:34
15	responses or keywords or phrases?	11:12:37
16	MS. NGUYEN: Objection; form	11:12:40
17	and leading.	11:12:41
18	A. Correct. My experience	11:12:42
19	indicates that just simply doing keyword	11:12:45
20	recognition is not a type of natural	11:12:48
21	language processing. It's similar to	11:12:52
22	what Krishnan does, which is, again, just	11:12:57
23	recognizes keywords or key phrases	11:13:00
24	without any grammatical analysis.	11:13:03
25	Q. What about buttons, would	11:13:05

Page 210

1	IVAN ZATKOVICH	
2	buttons constitute natural language	11:13:08
3	processing?	11:13:11
4	MS. NGUYEN: Objection; form.	11:13:12
5	A. No, it does not. Dr. Beigi	11:13:13
6	and I agree on that, that simply being	11:13:15
7	provided a set of selections which you	11:13:19
8	choose from would not be considered	11:13:22
9	natural language processing or natural	11:13:24
10	language input.	11:13:26
11	Q. So in the deposition	11:13:27
12	yesterday, the rough transcript reflects	11:13:32
13	the question, "so you would consider	11:13:34
14	these automated incoming customer service	11:13:36
15	requests an automation process?"	11:13:40
16	And your answer was, "yes,"	11:13:43
17	over my objection to form.	11:13:45
18	When you responded "yes," it	11:13:46
19	was an automation process, did you mean	11:13:48
20	an automation process in the same sense	11:13:50
21	as the claims of the three patents in	11:13:52
22	suit?	11:13:54
23	MS. NGUYEN: Objection; form	11:13:54
24	and leading.	11:13:55
25	A. In -- as I recall, in that	11:13:57

Page 211

1	IVAN ZATKOVICH	
2	particular scenario, I was simply	11:14:00
3	referring to a process that was automated	11:14:03
4	as opposed to the automation process of	11:14:06
5	the claims in any of the three patents.	11:14:09
6	Q. So at this point I'd like for	11:14:15
7	you to turn to your expert report	11:14:25
8	involving the '664 patent. Which is in	11:14:27
9	your binder for IPR 2023-01368. And the	11:14:30
10	report was marked as Exhibit 2001 in that	11:14:38
11	IPR.	11:14:43
12	A. I have that.	11:14:45
13	Q. Okay. And I'd like for you to	11:14:46
14	turn to paragraph 15. I'm sorry,	11:14:48
15	paragraph 14 on page 15.	11:14:56
16	A. Yes, I have that.	11:15:01
17	Q. I'd like for you to read the	11:15:02
18	preamble of paragraph 14 and the	11:15:05
19	subparagraph C into the record.	11:15:08
20	A. "To render my analysis, I have	11:15:12
21	been informed about the legal standards	11:15:17
22	for patent invalidity, specifically I am	11:15:19
23	informed that in an IPR proceeding, A,	11:15:23
24	the petitioner must prove patent	11:15:28
25	invalidity by a preponderance of the	11:15:30

Page 212

1	IVAN ZATKOVICH	
2	evidence; B, there is no presumption of	11:15:34
3	validity; C, claim terms should generally	11:15:37
4	be given their ordinary and customary	11:15:41
5	meaning as would be understood by a	11:15:44
6	person of ordinary skill in the art at	11:15:45
7	the time of the invention (POSITA,	11:15:49
8	P-O-S-I-T-A) in the context of the	11:15:55
9	specification, the prosecution history,	11:15:59
10	other claims and even extrinsic evidence,	11:16:01
11	including expert and inventor testimony,	11:16:05
12	dictionaries and learned treaties.	11:16:08
13	However, extrinsic evidence is less	11:16:12
14	significant than the intrinsic record."	11:16:14
15	Q. And go on to element D.	11:16:17
16	MS. NGUYEN: Objection; form.	11:16:20
17	A. And D, "The claim terms may be	11:16:22
18	construed differently when the patentee	11:16:25
19	sets out a definition and acts as his or	11:16:27
20	her own lexicographer and when a patentee	11:16:31
21	disavows the full scope of a claim term,	11:16:38
22	either in the specification or during	11:16:41
23	prosecution. If an inventor acts as his	11:16:42
24	or her own lexicographer, the definition	11:16:47
25	must be set forth in the specification	11:16:50

Page 213

1	IVAN ZATKOVICH	
2	with reasonable clarity, deliberateness	11:16:53
3	and precision."	11:16:56
4	Q. And those were the principles	11:16:58
5	that you attempted to apply in performing	11:16:59
6	your analysis in each of these expert	11:17:02
7	reports; correct?	11:17:04
8	MS. NGUYEN: Objection; form,	11:17:05
9	leading.	11:17:07
10	A. Yes, I did.	11:17:08
11	Q. And if you look at element C,	11:17:09
12	it says, "Claim terms should be given	11:17:12
13	their ordinary and customary meaning as	11:17:15
14	would be understood by a person of	11:17:17
15	ordinary skill in the art at the time of	11:17:19
16	the invention in the context of the	11:17:21
17	specification, prosecution history and	11:17:25
18	other claims," and continues. Correct?	11:17:26
19	A. Correct.	11:17:30
20	Q. And did you try to interpret	11:17:30
21	claim terms based upon your understanding	11:17:33
22	of what a person of ordinary skill in the	11:17:36
23	art would understand the ordinary and	11:17:38
24	customary meaning of those terms were in	11:17:40
25	the context of the specification,	11:17:43

Page 214

1 IVAN ZATKOVICH
2 prosecution history and other claims? 11:17:46
3 MS. NGUYEN: Objection; form 11:17:47
4 and leading. 11:17:49
5 A. Yes, that was my intention. 11:17:49
6 Q. Okay. We see in D that there 11:17:51
7 are times where you do something 11:17:53
8 different. Correct? 11:17:55
9 A. Correct. 11:17:56
10 MS. NGUYEN: Objection; form 11:17:57
11 and leading. 11:17:58
12 Q. And what's your understanding 11:17:58
13 of the times when you do something 11:18:00
14 different according to D? 11:18:01
15 MS. NGUYEN: Objection; form. 11:18:03
16 A. Well, aside from a term's 11:18:04
17 ordinary and customary meaning, the 11:18:11
18 claims or the specification may identify 11:18:13
19 a specific usage, specific limitations, 11:18:18
20 potentially a broader scope or a narrower 11:18:22
21 scope than the ordinary and customary 11:18:25
22 meaning of a term. So in those specific 11:18:29
23 cases, I reviewed both the patent 11:18:32
24 specification and the patent claims. And 11:18:37
25 in my mind came up with the appropriate 11:18:42

Page 215

1	IVAN ZATKOVICH	
2	construction of what -- how I believe	11:18:45
3	that term is being used in that context.	11:18:47
4	Q. Or the context of a person of	11:18:49
5	ordinary skill in the art at the time of	11:18:54
6	the invention. Is that correct?	11:18:56
7	MS. NGUYEN: Objection;	11:18:57
8	leading.	11:18:58
9	A. Correct.	11:18:59
10	Q. And when it says that the	11:19:00
11	inventor can act as his or her own	11:19:01
12	lexicographer, that could be the inventor	11:19:05
13	providing a specific definition for some	11:19:08
14	claim term. Correct?	11:19:10
15	MS. NGUYEN: Objection; form	11:19:11
16	and leading.	11:19:12
17	Q. As you understand it.	11:19:13
18	MS. NGUYEN: Same objection.	11:19:15
19	A. Correct. I mean, for example,	11:19:15
20	in all three of the patents in this	11:19:17
21	matter, the inventor identified the	11:19:21
22	definition of the term "chatbot." Which	11:19:28
23	would differ from what I would consider	11:19:33
24	the plain and ordinary meaning.	11:19:35
25	And in fact, the inventor goes	11:19:37

Page 216

1	IVAN ZATKOVICH	
2	on to describe how he intends that word	11:19:40
3	to mean as opposed to other meanings that	11:19:43
4	might be construed in the industry.	11:19:48
5	Q. Can you turn to paragraph 91	11:19:50
6	of the same declaration. It's on page	11:19:53
7	45.	11:20:10
8	A. I have that.	11:20:10
9	Q. Can you read paragraph 191	11:20:11
10	into the record, please.	11:20:13
11	A. Paragraph 91, "I have been	11:20:14
12	informed that the claim terms should	11:20:17
13	generally be given their ordinary and	11:20:20
14	customary meaning as would be understood	11:20:21
15	by a person with ordinary skill in the	11:20:24
16	art at the time of the invention (POSITA,	11:20:26
17	P-O-S-I-T-A) in the context of the	11:20:30
18	specification, the prosecution, other	11:20:34
19	claims and even extrinsic evidence,	11:20:37
20	including expert and inventor testimony,	11:20:40
21	dictionaries and learned treaties. I	11:20:44
22	have also been informed that the claim	11:20:48
23	terms may be construed differently when a	11:20:52
24	patentee sets out a definition and acts	11:20:54
25	as his or her own lexicographer and when	11:20:57

Page 217

1	IVAN ZATKOVICH	
2	a patentee disavows the full scope of the	11:21:00
3	claim term, either in the specification	11:21:04
4	or during prosecution."	11:21:06
5	Q. And that's the principle that	11:21:08
6	you attempted to apply in the context of	11:21:09
7	all three IPRs for the claim	11:21:11
8	construction. Is that correct?	11:21:14
9	MS. NGUYEN: Objection; form,	11:21:14
10	leading.	11:21:16
11	A. Yes.	11:21:16
12	Q. And that principle is the same	11:21:16
13	as what was set forth earlier in	11:21:19
14	paragraph 14, paragraphs C and D, as far	11:21:21
15	as you understand it?	11:21:24
16	A. Yes, the reference is	11:21:25
17	equivalent.	11:21:28
18	Q. If you look at paragraph 94,	11:21:29
19	you are offering a special meaning of	11:21:32
20	computer program. Correct?	11:21:36
21	A. That's correct.	11:21:37
22	Q. And you turn to Exhibit 1001,	11:21:37
23	column 8, lines 9 through 16, for a	11:21:44
24	passage where you adopted that special	11:21:47
25	meaning. Is that correct?	11:21:49

Page 218

1	IVAN ZATKOVICH	
2	A. That is correct.	11:21:50
3	Q. And would you say that that is	11:21:51
4	involved in the principle where the	11:21:55
5	patentee acts as its own lexicographer	11:22:00
6	and that's why it was a special meaning?	11:22:03
7	MS. NGUYEN: Objection; form.	11:22:04
8	A. Yes, I would say that's an	11:22:06
9	example.	11:22:07
10	MS. NGUYEN: Leading.	11:22:08
11	Q. I will come back to this one,	11:22:08
12	but I want you to go to the '732 expert	11:22:17
13	deck. And I want you to look at	11:22:21
14	paragraphs 12-C and D. This is your	11:22:25
15	declaration from IPR 2023-01379, Exhibit	11:22:31
16	2001. Let me know when you have the copy	11:22:39
17	in front of you and are looking at	11:22:44
18	paragraph 12-C and D.	11:22:46
19	A. I have that.	11:22:49
20	Q. And 12-C and D in your	11:22:50
21	declaration involving the '732 patent	11:22:52
22	correspond to what you read before. Is	11:22:56
23	that correct?	11:22:59
24	MS. NGUYEN: Objection; form,	11:22:59
25	leading.	11:23:01

Page 219

1	IVAN ZATKOVICH	
2	A. Yes, they appear to be	11:23:01
3	identical.	11:23:03
4	Q. Okay. And if you look at	11:23:04
5	paragraph 98 under the claim construction	11:23:05
6	section of your expert declaration from	11:23:09
7	the '732 patent proceeding.	11:23:13
8	A. Yes, I have that.	11:23:19
9	Q. And does that also correspond	11:23:20
10	to the same principles that we've been	11:23:24
11	discussing from the '664 patent	11:23:27
12	proceeding?	11:23:30
13	MS. NGUYEN: Objection; form.	11:23:30
14	A. Yes, paragraph 98 seems to be	11:23:32
15	identical to the paragraph in the '664	11:23:34
16	declaration.	11:23:38
17	Q. So in paragraph 100 you refer	11:23:40
18	to several terms having a specific	11:23:43
19	meaning. Correct?	11:23:45
20	A. Correct.	11:23:46
21	Q. And one of those, for example,	11:23:47
22	would be the defining term. Correct?	11:23:50
23	A. Correct.	11:23:53
24	Q. And when you talk about the	11:23:53
25	defining term, if you could turn to	11:23:56

Page 220

1	IVAN ZATKOVICH	
2	paragraph 102.	11:23:57
3	A. I have that.	11:24:05
4	Q. If you could read paragraph	11:24:06
5	102 into the record and confirm whether	11:24:09
6	that is your understanding of how you	11:24:12
7	interpreted "defining."	11:24:16
8	MS. NGUYEN: Objection; form	11:24:19
9	and leading.	11:24:20
10	A. Paragraph 102, "In the	11:24:20
11	abstract, disconnected from the	11:24:22
12	specification of the '732 patent, the	11:24:24
13	concept of 'defining' either an	11:24:28
14	automation process or a conversation	11:24:32
15	would generally entail a user operating a	11:24:35
16	computer program to set out either the	11:24:38
17	sequence of events that make up the	11:24:40
18	automation process or the questions and	11:24:42
19	the branching logic that would be used by	11:24:45
20	a natural language interface of a chatbot	11:24:48
21	in a conversation. However, as discussed	11:24:50
22	in detail in Section V Supra, the '732	11:24:53
23	patent is not directed towards a method	11:25:01
24	of defining an automation process or	11:25:03
25	conversation in such a generic manner,	11:25:05

Page 221

1	IVAN ZATKOVICH	
2	but is meant to address problems present	11:25:08
3	in the prior art which inhibit users	11:25:10
4	attempting to set up automation processes	11:25:13
5	in conversation flow."	11:25:17
6	Q. Can you explain what you mean?	11:25:18
7	MS. NGUYEN: Objection; form.	11:25:21
8	A. Sure. So basically without	11:25:22
9	any context, a person of ordinary skill	11:25:36
10	in the art would understand that defining	11:25:39
11	an automation process or defining a	11:25:43
12	conversation could occur in any number of	11:25:45
13	ways. Such as providing code, provide	11:25:48
14	interface integrating with APIs. Again,	11:25:52
15	any number of methods.	11:25:58
16	But the 372 patent --	11:25:59
17	Q. '732.	11:26:03
18	A. I'm sorry, the '732 patent is	11:26:04
19	specifically focused on a particular	11:26:06
20	method of defining both an automation	11:26:11
21	process and a conversation in which	11:26:14
22	neither an API nor a specific software	11:26:18
23	coding is required. And can be	11:26:22
24	implemented either by a non-programmer or	11:26:25
25	a novice user that is not trained in	11:26:29

Page 222

1	IVAN ZATKOVICH	
2	user-defining automation processes or	11:26:33
3	conversations.	11:26:36
4	Q. And you obtained that special	11:26:36
5	definition because of the context in	11:26:39
6	which the defining is explained in the	11:26:41
7	disclosure of the '732 patent. Is that	11:26:46
8	correct?	11:26:49
9	MS. NGUYEN: Objection; form	11:26:49
10	and leading.	11:26:50
11	A. Yes, I would say that's	11:26:51
12	accurate.	11:26:52
13	Q. If you look at paragraph 104.	11:26:53
14	Can you explain the point that you were	11:26:57
15	trying to get at in that paragraph?	11:27:00
16	MS. NGUYEN: Objection; form	11:27:02
17	and leading.	11:27:03
18	A. Yes. In paragraph 104, I am	11:27:21
19	basically summarizing what I believe the	11:27:26
20	intent of the 372 patent is.	11:27:30
21	Q. '732.	11:27:33
22	A. '732 patent is for the concept	11:27:36
23	of defining.	11:27:38
24	As I mentioned earlier, one of	11:27:39
25	the intentions of the '732 patent is to	11:27:42

Page 223

1	IVAN ZATKOVICH	
2	allow a non-programmer or novice user to	11:27:46
3	define those. And that's specifically	11:27:51
4	the problem that the invention attempts	11:27:53
5	to address. As opposed to requiring	11:27:57
6	software programming or the use of APIs.	11:28:01
7	Q. If you look at paragraph 105,	11:28:10
8	that's where you set forth your proposed	11:28:13
9	construction of the word "defining." Is	11:28:16
10	that correct?	11:28:19
11	MS. NGUYEN: Objection; form	11:28:19
12	and leading.	11:28:20
13	A. Yes, that's correct.	11:28:32
14	Q. At the end of your	11:28:33
15	construction, it says, "In a manner	11:28:35
16	practical by novices and non-programmers	11:28:39
17	without needing to use dedicated APIs,	11:28:42
18	programming languages and the like."	11:28:45
19	Do you see that?	11:28:48
20	MS. NGUYEN: Objection; form.	11:28:48
21	A. Or the like, yes.	11:28:49
22	Q. Or the like, correct.	11:28:51
23	And yesterday counsel spent	11:28:52
24	some time talking to you about her	11:28:55
25	proposals of how you should modify that	11:28:58

Page 224

1	IVAN ZATKOVICH	
2	construction. Do you recall?	11:29:00
3	MS. NGUYEN: Objection; form.	11:29:02
4	A. I do recall that.	11:29:05
5	Q. So she was talking about APIs	11:29:06
6	that were different than a dedicated API.	11:29:10
7	Do you recall that?	11:29:13
8	A. I do.	11:29:14
9	Q. Would you say that a	11:29:14
10	nondedicated API would be the like in the	11:29:16
11	context of this definition?	11:29:20
12	MS. NGUYEN: Objection; form	11:29:22
13	and leading.	11:29:23
14	A. Yes, I would say they would	11:29:25
15	fall under that category.	11:29:26
16	Q. So her proposed modification	11:29:27
17	of the claim construction that you	11:29:30
18	proffered would not need to be modified	11:29:33
19	to encompass without needing to use other	11:29:35
20	kinds of APIs. Is that correct?	11:29:39
21	MS. NGUYEN: Objection; form,	11:29:40
22	leading, mischaracterizes my	11:29:42
23	questions.	11:29:43
24	A. Correct. And as I believe I	11:29:44
25	indicated in my previous testimony, I	11:29:47

Page 225

1	IVAN ZATKOVICH	
2	don't believe even given the examples	11:29:51
3	from opposing counsel, that it was	11:29:53
4	necessary to modify my construction.	11:29:55
5	Q. So I'd like for you to go back	11:30:04
6	to the '664 expert declaration that we	11:30:06
7	were looking at before. That's Exhibit	11:30:08
8	1002 from IPR 2023-01368.	11:30:12
9	And I want you to leave it on	11:30:22
10	paragraph 110. That's where you have	11:30:25
11	your timeline.	11:30:30
12	A. Okay.	11:30:32
13	MS. NGUYEN: Objection; form,	11:30:33
14	leading.	11:30:34
15	Q. And just leave it open for	11:30:35
16	now.	11:30:37
17	A. Okay.	11:30:37
18	Q. And then I want you to grab	11:30:37
19	Exhibit 1008, which was Senne Symons'	11:30:39
20	declaration.	11:30:46
21	A. I have that.	11:30:52
22	Q. Okay. Yesterday counsel had	11:30:52
23	been talking to you about the amount of	11:30:55
24	time it took to generate the video	11:30:58
25	demonstration that Mr. Symons posted on	11:31:05

Page 226

1	IVAN ZATKOVICH	
2	media. Do you recall that?	11:31:09
3	A. I do.	11:31:10
4	Q. If you look at paragraph 2,	11:31:11
5	where it says, "From October 2017 to	11:31:15
6	January 2021, I was a robotic process	11:31:18
7	automation, RPA, developer and business	11:31:22
8	analyst at RoboRana."	11:31:24
9	Do you see that?	11:31:28
10	A. I do.	11:31:28
11	Q. Is it your understanding --	11:31:28
12	what was your understanding of when	11:31:32
13	Mr. Symons began working at RoboRana?	11:31:33
14	A. My understanding is that	11:31:41
15	Mr. Symons began working at RoboRana in	11:31:42
16	October of 2017.	11:31:47
17	Q. If I informed you that October	11:31:48
18	1, 2017 was a Sunday, what would be your	11:31:50
19	expectation on the day that Mr. Symons	11:31:53
20	would have began at the earliest working	11:31:55
21	at RoboRana?	11:31:58
22	MS. NGUYEN: Objection; form,	11:32:00
23	leading.	11:32:02
24	A. I believe it would be	11:32:02
25	reasonable to assume that the earliest	11:32:03

Page 227

1	IVAN ZATKOVICH	
2	that he could have started would have	11:32:04
3	been October 2nd, which would have been a	11:32:06
4	Monday.	11:32:08
5	Q. Now, if you turn to paragraph	11:32:11
6	6.	11:32:13
7	A. I see that.	11:32:20
8	MS. NGUYEN: Objection; form.	11:32:21
9	Q. In paragraph 6, can you read	11:32:22
10	the last sentence into the record.	11:32:24
11	A. "To the best of my knowledge,	11:32:26
12	my blog post has been available on	11:32:27
13	mediums' website since I posted it on	11:32:30
14	October 19, 2017."	11:32:33
15	Q. Based upon the fact that it	11:32:36
16	was posted, according to Mr. Symons, on	11:32:37
17	October 19, 2017, do you have an opinion	11:32:42
18	as to the latest date in which that video	11:32:46
19	was created?	11:32:49
20	MS. NGUYEN: Objection; form,	11:32:49
21	leading.	11:32:51
22	A. Yes. That would probably	11:32:52
23	clarify my math when I came up with the	11:32:54
24	17 days. So starting on October 2nd and	11:32:59
25	having it posted -- in other words, it	11:33:03

Page 228

1	IVAN ZATKOVICH	
2	was completed by October 19th, that would	11:33:05
3	be, assuming that he worked weekends,	11:33:08
4	would have given him 17 days to prepare	11:33:11
5	both the article and the video to be	11:33:18
6	posted.	11:33:20
7	Q. So if you look at paragraph 7,	11:33:20
8	can you read the second sentence into the	11:33:21
9	record.	11:33:23
10	A. The second sentence of	11:33:24
11	paragraph 7 says, "I created the video	11:33:27
12	from my laptop computer. The video was	11:33:30
13	published and made publicly available	11:33:33
14	online at HTTPS:Vimeo.com 238927879, at	11:33:35
15	least as early as October 19, 2017."	11:33:51
16	Q. That's enough.	11:33:55
17	A. Okay.	11:33:55
18	Q. So the first sentence you read	11:33:56
19	said "I created the video from my laptop	11:33:58
20	computer." Correct?	11:34:01
21	A. Correct.	11:34:01
22	Q. How does that sentence inform	11:34:02
23	your understanding as to who created the	11:34:05
24	video that was posted?	11:34:08
25	MS. NGUYEN: Objection; form.	11:34:09

Page 229

1 IVAN ZATKOVICH

2 A. My understanding would be that 11:34:10

3 Mr. Symons created the video. 11:34:11

4 Q. If you look at paragraph 9 in 11:34:15

5 Mr. Symons' declaration and read the last 11:34:17

6 sentence into the record. 11:34:20

7 A. "My job was to implement the 11:34:22

8 RPA bot to automatically generate the 11:34:27

9 email signature without using an 11:34:29

10 application programming interface." 11:34:32

11 Q. Based upon that sentence, 11:34:35

12 would it be your understanding as a 11:34:36

13 POSITA or as an expert that someone other 11:34:40

14 than Mr. Symons generated -- implemented 11:34:43

15 the RPA bot that was demonstrated? 11:34:47

16 MS. NGUYEN: Objection; form 11:34:50

17 and leading. 11:34:51

18 A. That sentence is fairly clear. 11:34:52

19 Either he was the only contributor or he 11:34:57

20 was the primary contributor to that 11:34:59

21 project. 11:35:01

22 Q. Would it be fair to assume 11:35:02

23 that the creation of that RPA bot did not 11:35:05

24 occur before he started working there, 11:35:11

25 since it was his job to implement it? 11:35:14

Page 230

1	IVAN ZATKOVICH	
2	MS. NGUYEN: Objection; form,	11:35:17
3	leading.	11:35:18
4	A. That was my interpretation of	11:35:19
5	the sentence, yes. That that project	11:35:22
6	began when he started, it was one of his	11:35:26
7	first duties to implement the RPA bot.	11:35:29
8	Q. If you could look at pages 29	11:35:31
9	and 30 of Exhibit 1008.	11:35:36
10	A. I have that.	11:35:48
11	Q. Can you explain what is	11:35:49
12	occurring on those two slides?	11:35:52
13	MS. NGUYEN: Objection; form.	11:35:54
14	A. This is an email that's being	11:35:56
15	received by Vincent De Bie from	11:35:59
16	Mr. Symons.	11:36:09
17	Q. And can you tell, as difficult	11:36:10
18	as it is, what the date of this email is?	11:36:13
19	A. It would be October 18, 2017.	11:36:17
20	Q. So would it be your	11:36:21
21	understanding that the process would need	11:36:23
22	to have been completed by October 18,	11:36:27
23	2017 for this email to have been sent?	11:36:29
24	MS. NGUYEN: Objection; form,	11:36:32
25	leading.	11:36:33

Page 231

1	IVAN ZATKOVICH	
2	A. Yes, that would be my	11:36:34
3	understanding.	11:36:35
4	Q. So based upon the different	11:36:36
5	aspects of Mr. Symons' declaration that	11:36:40
6	we just went over, can you explain what	11:36:43
7	conclusions, if any, you have as to the	11:36:45
8	timing of the generation of the showcase	11:36:50
9	that was shown in this video?	11:36:56
10	A. Well, basically that, as	11:37:06
11	Mr. Symons explained, it was his job to	11:37:09
12	implement this process. He could not	11:37:12
13	have started prior to October 2nd, 2017,	11:37:15
14	and he is demonstrating the use of the	11:37:23
15	chatbot and the RPA bot on October 18.	11:37:28
16	Therefore, I believe that's how I came up	11:37:38
17	with my calculation of 17 days. He would	11:37:42
18	have had no more than 17 days to	11:37:45
19	implement the process, video -- create a	11:37:49
20	video of that process, and write the	11:37:57
21	article to be posted.	11:38:00
22	Q. If you look at the article	11:38:01
23	which is attached at page 6.	11:38:03
24	A. I have that.	11:38:19
25	Q. Who is listed as the author?	11:38:19

Page 232

1	IVAN ZATKOVICH	
2	A. Mr. Symons.	11:38:21
3	Q. Have you seen any evidence in	11:38:28
4	the record that someone else was the	11:38:29
5	author of this article?	11:38:31
6	MS. NGUYEN: Objection; form,	11:38:32
7	leading.	11:38:34
8	A. No, I've seen no indication	11:38:34
9	that there were no other contributors or	11:38:35
10	any other authors to this particular	11:38:40
11	article.	11:38:42
12	Q. Have you seen any evidence	11:38:42
13	presented by petitioner that someone	11:38:43
14	other than Mr. Symons was involved in	11:38:46
15	programming what was purported to be the	11:38:47
16	RPA process demonstrated in the showcase?	11:38:50
17	MS. NGUYEN: Objection; form.	11:38:53
18	A. No, I saw no information	11:38:54
19	indicating that anyone other than	11:38:56
20	Mr. Symons was involved in implementing	11:38:58
21	the process and preparing the demo.	11:39:02
22	Q. In your deposition yesterday,	11:39:10
23	according to the draft transcript we	11:39:12
24	received, you were asked the following	11:39:15
25	line of questions: "For the Symons	11:39:17

Page 233

1	IVAN ZATKOVICH	
2	chatbot RPA, in your opinion is the	11:39:22
3	chatbot separate from the RPA?	11:39:25
4	"Answer: Yes, it's my	11:39:28
5	understanding.	11:39:28
6	"Question: Okay. And why is	11:39:29
7	it your opinion is that the chatbot is	11:39:32
8	separate from the RPA?	11:39:35
9	"Answer: Because they're	11:39:38
10	performed on two separate computers."	11:39:39
11	And then counsel asked, "okay.	11:39:42
12	In your opinion, the chatbot is separate	11:39:45
13	from an RPA server. Is that right?	11:39:47
14	"Answer: Yes."	11:39:47
15	Do you recall that discussion?	11:39:58
16	A. I do.	11:39:58
17	MS. NGUYEN: Objection.	11:39:58
18	Q. Do you ever refer to an RPA	11:39:59
19	server in the opinions that you advance	11:40:02
20	with respect to the Symons prior art?	11:40:04
21	MS. NGUYEN: Objection; form.	11:40:06
22	A. I primarily refer to it as an	11:40:09
23	RPA bot. I don't recall specifically	11:40:12
24	referring to it as an RPA server.	11:40:14
25	Q. And that's not a term that	11:40:16

Page 234

1	IVAN ZATKOVICH	
2	you've brought into this proceedings. Is	11:40:17
3	that correct?	11:40:21
4	A. Correct.	11:40:21
5	MS. NGUYEN: Objection; form,	11:40:22
6	leading.	11:40:23
7	Q. If you look at paragraph 110,	11:40:29
8	which you have open in front of you, from	11:40:33
9	the '664 expert report.	11:40:36
10	A. Yes, I have that.	11:40:39
11	Q. Do you stand by your	11:40:40
12	description of what is occurring in the	11:40:44
13	timeline that you set forth?	11:40:49
14	MS. NGUYEN: Objection; form,	11:40:51
15	leading.	11:40:53
16	A. Yes, I do.	11:40:54
17	Q. Is there any opinions or	11:40:56
18	factual statements that you've made in	11:40:59
19	any of your three reports that you wish	11:41:03
20	to change as a result of the	11:41:06
21	cross-examination by counsel?	11:41:08
22	MS. NGUYEN: Objection; form.	11:41:11
23	A. No, I don't believe it's	11:41:15
24	necessary to modify anything in my	11:41:18
25	declarations.	11:41:21

Page 235

1	IVAN ZATKOVICH	
2	MR. MACEDO: If we can take a	11:41:22
3	five minute break.	11:41:23
4	THE VIDEOGRAPHER: We are	11:41:25
5	going off the record at 11:42 a.m.	11:41:25
6	(A recess was taken.)	11:41:28
7	THE VIDEOGRAPHER: We're back	11:58:58
8	on the record at 11:59 a.m.	11:58:59
9	BY MR. MACEDO:	11:59:03
10	Q. Mr. Zatkovich?	11:59:04
11	A. Yes.	11:59:07
12	Q. Since the deposition commenced	11:59:07
13	yesterday, did you and I discuss off the	11:59:10
14	record the substance of the testimony	11:59:12
15	that you provided in response to my	11:59:15
16	questions today on the record?	11:59:18
17	A. No.	11:59:19
18	MS. NGUYEN: Objection; form.	11:59:20
19	Q. Did you discuss it with anyone	11:59:21
20	else from my team?	11:59:23
21	A. No.	11:59:24
22	MS. NGUYEN: Objection; form.	11:59:24
23	Q. Did you discuss it with Ziv?	11:59:26
24	A. No.	11:59:28
25	MS. NGUYEN: Objection; form.	11:59:29

Page 236

1	IVAN ZATKOVICH	
2	MR. MACEDO: No more	11:59:32
3	questions. I tender the witness	11:59:33
4	back to you, counsel.	11:59:35
5	MS. NGUYEN: Take a break.	11:59:37
6	THE VIDEOGRAPHER: We're going	11:59:38
7	off the record at 12 p.m.	11:59:39
8	(A recess was taken.)	12:06:04
9	THE VIDEOGRAPHER: We're back	12:06:05
10	on the record at 12:06 p.m.	12:06:06
11	MS. NGUYEN: We have no	12:06:10
12	questions.	12:06:11
13	MR. MACEDO: The deposition is	12:06:12
14	over?	12:06:13
15	MS. NGUYEN: The deposition is	12:06:14
16	over.	12:06:14
17	MR. MACEDO: Thank you.	12:06:15
18	THE VIDEOGRAPHER: This marks	12:06:16
19	the end of the deposition. We're	12:06:16
20	going off the record at 12:07 p.m.	12:06:18
21	(Time noted: 12:07 p.m.)	12:06:22
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IVAN ZATKOVICH
C E R T I F I C A T E

I, ERIC J. FINZ, a Shorthand
Reporter and Notary Public within and for
the State of New York, do hereby certify:

That IVAN ZATKOVICH, the witness
whose deposition is hereinbefore set
forth, was duly sworn by me and that such
deposition is a true record of the
testimony given by the witness.

I further certify that I am not
related to any of the parties to this
action by blood or marriage, and that I
am in no way interested in the outcome of
this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 11th day of October, 2024.
2024.



ERIC J. FINZ

1 CHARLES R. MACEDO, ESQ.

2 cmacedo@arelaw.com

3 October 11, 2024

4 RE: Whatfix, Inc. v. Walkme, Ltd.

5 10/7/2024, Expert Ivan Zatkovich (#6918955)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 (production-ca@veritext.com).

16 Return completed errata within 30 days from
17 receipt of testimony.

18 If the witness fails to do so within the time
19 allotted, the transcript may be used as if signed.

20
21
22 Yours,

23 Veritext Legal Solutions
24
25

Page 239

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IVAN ZATKOVICH
INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

1 Whatfix, Inc. v. Walkme, Ltd.

2 Expert Ivan Zatkovich (#6918963)

3
4 E R R A T A S H E E T

5 PAGE_____ LINE_____ CHANGE_____

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24 _____
25 Expert Ivan Zatkovich

_____ Date

Page 241

Whatfix, Inc. v. Walkme, Ltd.
Expert Ivan Zatkovich (#6918963)

ACKNOWLEDGEMENT OF DEPONENT

I, Expert Ivan Zatkovich, do hereby declare that I have read the foregoing transcript, I have made any corrections, additions, or changes I deemed necessary as noted above to be appended hereto, and that the same is a true, correct and complete transcript of the testimony given by me.

Expert Ivan Zatkovich

Date

*If notary is required

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____ DAY OF _____, 20____.

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&	110 226:10 235:7	1s 207:4	250 177:4 180:13
& 177:3 178:3 178:12	11:03 201:16 11:42 236:5 11:59 236:8 11th 238:18	2	29 231:8 2nd 228:3,24 232:13
1	12 202:20 219:14,18,20 237:7 12:06 237:10 12:07 237:20 237:21	2 227:4 20 242:19 2001 212:10 219:16 2002 194:15,23 198:19 200:21 202:6,16 201 179:6 2017 227:5,16 227:18 228:14 228:17 229:15 231:19,23 232:13 2021 227:6 2023-01368 180:11 202:17 212:9 226:8 2023-01379 181:3 219:15 2023-0368 202:6 2024 176:17 177:8 180:3 238:18,19 239:3 2024-00065 181:4 238927879 229:14 24 183:6,8,16 242 176:25 25 183:16 205:4,5,7	3 30 196:21 231:9 239:16 240:17 317 189:6 194:16 205:14 206:14 208:16 208:18 209:6 372 222:16 223:20
1 180:5 205:3 205:10,10,14 205:19 206:9 206:14 207:2 208:5,8,14,16 208:18,23,24 209:5,6 227:18	14 203:23,24 212:15,18 218:14 15 188:7,21 212:14,15 16 195:16 196:24 218:23 16975 238:23 17 195:19 228:24 229:4 232:17,18 176 176:25 18 188:12 195:23,24 197:6 231:19 231:22 232:15 181 179:5 19 196:5 202:20 228:14 228:17 229:15 191 217:9 19th 229:2	4 4 189:24,25 400 197:20,24 405 178:14 45 217:7	4 4 189:24,25 400 197:20,24 405 178:14 45 217:7
10 195:12 204:5 10,819,644 176:10 10,819,664 204:21 10/7/2024 239:5 100 220:17 1001 182:24 204:20 218:22 1002 226:8 1008 226:19 231:9 1011 189:6,24 10174 178:15 102 221:2,5,10 104 223:13,18 105 224:7 10:31 194:12 10:42 201:13 11 187:17 188:3,7,12,21 239:3	5 50 196:22 525 197:12,20 197:24 55th 177:4 180:13	5 50 196:22 525 197:12,20 197:24 55th 177:4 180:13	5 50 196:22 525 197:12,20 197:24 55th 177:4 180:13
		6 6 228:6,9 232:23 61 183:21 664 182:24,25 183:4,9 187:17 188:4,7,22 189:6 194:16	6 6 228:6,9 232:23 61 183:21 664 182:24,25 183:4,9 187:17 188:4,7,22 189:6 194:16

205:10,14,20 206:9,13,17 207:2 208:23 209:5 212:8 220:11,15 226:6 235:9 67 184:14 6918955 239:5 6918963 176:23 241:2 242:2	90s 187:5 91 217:5,11 94 218:18 98 220:5,14 9:38 177:8 180:4 9:56 194:9	address 222:2 224:5 administrator 190:13,19 191:20 192:3 192:15 193:2,8 193:20,24 194:3 adopted 218:24 advance 234:19 ago 197:18 198:14 agree 188:2,20 188:25 200:5 200:10,16,17 211:6 allotted 239:19 allow 187:25 224:2 alphanumeric 191:2 ameritrade 195:18 amount 226:23 amster 178:12 195:7,15,21 196:2,7,11 197:16,23 201:23 analysis 210:24 212:20 214:6 analyst 227:8 angeles 178:6 answer 211:16 234:4,9,14	answered 195:11 api 187:20,24 188:8,10,16 222:22 225:6 225:10 apis 222:14 224:6,17 225:5 225:20 appeal 176:2 appear 220:2 appended 242:9 applicable 239:8 application 230:10 apply 214:5 218:6 appropriate 215:25 240:7 arbitrator 199:25 arelaw.com 178:17,19 239:2 arjomand 178:9 art 213:6 214:15,23 216:5 217:16 222:3,10 234:20 article 229:5 232:21,22
7	a		
7 183:21 184:13 194:22 195:3 229:7,11 707 178:5 732 189:6 194:16 205:10 206:9 208:6,9 208:14,24 219:12,21 220:7 221:12 221:22 222:17 222:18 223:7 223:21,22,25	a.m. 177:8 180:4 194:9,12 201:13,16 236:5,8 ability 182:12 184:10 able 191:21 192:4 193:9,10 above 239:6 242:9 abstract 221:11 accuracy 239:9 accurate 223:12 240:21 acknowledge... 242:4 acknowledg... 239:12 act 216:11 action 238:14 acts 213:19,23 217:24 219:5 additional 188:12 208:22 209:4 additions 242:8		
8			
8 176:17 177:8 180:3 183:6,8 183:15 218:23			
9			
9 187:17 188:3 218:23 230:4 90 204:6,14 90017 178:6			

233:5,11 aside 215:16 asked 186:17 195:11 205:9 205:13 233:24 234:11 askeladden 195:13,20,23 aspects 232:5 assume 197:19 227:25 230:22 assuming 229:3 attached 232:23 239:11 240:13 attempted 214:5 218:6 attempting 222:4 attempts 224:4 attorney 239:13 240:17 attorneys 178:4 178:13 author 232:25 233:5 authors 233:10 automated 211:14 212:3 automatically 230:8 automation 184:2 187:25 211:15,19,20 212:4 221:14	221:18,24 222:4,11,20 223:2 227:7 available 188:17 228:12 229:13 239:6 avenue 178:14 aware 203:17	benefits 186:4 best 228:11 beyond 190:17 190:23 191:15 192:18 bie 231:15 binder 212:9 blog 228:12 blood 238:14 board 176:2 bold 190:11 bot 230:8,15,23 231:7 232:15 234:23 bottom 183:20 195:19,24 boulevard 178:5 branching 221:19 break 194:7 201:10 236:3 237:5 broader 215:20 brought 235:2 business 227:7 buttons 210:25 211:2	ca 239:15 calculation 232:17 california 178:6 calls 188:8 capital 196:2 carefully 240:5 case 195:2 196:3,20 197:3 197:6,8 198:4 198:8,18 199:14 201:25 202:23 203:3,9 203:15 cases 182:4 185:11,21 187:21,21 195:7 196:10 196:13 198:6,7 198:8,15,19 199:4,10,20,21 200:9,13,15,21 203:17,21,25 204:3,7,15 215:23 category 225:15 certainly 201:8 certify 238:6,12 change 235:20 241:5,8,11,14 241:17,20 changed 190:12 197:14	
	b	b 213:2 back 182:21 194:11 201:15 219:11 226:5 236:7 237:4,9 background 209:12 based 214:21 228:15 230:11 232:4 basically 185:2 222:8 223:19 232:10 began 227:13 227:15,20 231:6 beginning 195:2 behalf 201:25 beigi 211:5 believe 192:2 193:23 196:8 204:23 216:2 223:19 225:24 226:2 227:24 232:16 235:23	c	
		c 178:1 212:19 213:3 214:11 218:14 219:14 219:18,20 238:2,2		

[changes - continues]

changes 191:9 191:18 239:10 240:12 242:8 charles 178:16 239:1 charlie 201:23 chat 187:4 chatbot 183:12 183:17 184:18 184:23,25 185:19,24 186:5,13,19,24 187:7,14 216:22 221:20 232:15 234:2,3 234:7,12 chatbots 183:25 184:3,4 184:11 210:6 cheaper 186:6 186:9 chin 178:22 180:15 choose 211:8 cisco 196:5 claim 205:3,9 205:10,14,19 206:9,14 207:2 207:4,7 208:5 208:8,14,16,18 208:23,24 209:5,6 213:3 213:17,21 214:12,21 216:14 217:12	217:22 218:3,7 220:5 225:17 claims 211:21 212:5 213:10 214:18 215:2 215:18,24 217:19 clarify 228:23 clarity 214:2 clear 200:20 230:18 cmacedo 178:17 239:2 code 222:13 coding 222:23 collected 191:6 collection 182:9 column 183:6,8 183:15,20 184:13 187:17 188:3,7,12,21 190:2,5,10 205:4,5,7 218:23 columns 189:25 come 219:11 commenced 236:12 commencing 177:8 commented 186:19	common 185:3 185:6,14,16 186:13,20 187:3,10,12,13 206:8,13 communicate 181:18 compare 205:9 205:14 comparisons 205:18 complete 242:10 completed 229:2 231:22 239:16 complicated 185:25 186:6 186:10 computer 218:20 221:16 229:12,20 computers 234:10 concept 210:13 221:13 223:22 conclusions 232:7 configure 185:13 configured 185:16 configuring 185:18,23	confirm 221:5 consider 191:7 211:13 216:23 considered 211:8 constitute 211:2 construction 216:2 218:8 220:5 224:9,15 225:2,17 226:4 construed 213:18 217:4 217:23 consult 181:17 consulting 197:11 consuming 187:20 context 213:8 214:16,25 216:3,4 217:17 218:6 222:9 223:5 225:11 continuation 180:6 continue 201:20 continued 176:14 177:1 181:9 continues 184:18 188:11 214:18
---	--	--	---

[contributor - demonstration]

contributor 230:19,20	220:23 223:8 224:10,13,22	215:21 217:14	226:20 230:5
contributors 233:9	225:20,24 229:20,21	customer 211:14	232:5
conversation 221:14,21,25 222:5,12,21	235:3,4 242:10	cv 194:19 197:7 202:4	declarations 235:25
conversations 223:3	corrections 240:6,8 242:8	d	declare 242:6
converse 183:12 184:23	correspond 219:22 220:9	d 179:1 213:15 213:17 215:6 215:14 218:14 219:14,18,20	dedicated 184:4 224:17 225:6
copies 239:14	counsel 181:18 201:6 203:13	data 182:9,13 182:16,20,21	deemed 240:20 242:8
copy 202:5,17 219:16	224:23 226:3 226:22 234:11 235:21 237:4 239:14	database 182:7 182:8,11,12,15 182:19,20	define 224:3
corp 202:24	count 203:20	databases 182:4	defined 193:15 193:15,16
correct 182:6 184:16 186:22 187:15 194:5 196:11,16,18 197:13 200:2 204:9,11,12,16 204:17 205:15 205:16,22 206:10,21 207:7,9,11,14 207:15,18,19 208:25 209:2,7 209:10,19 210:18 214:7 214:18,19 215:8,9 216:6 216:9,14,19 218:8,20,21,25 219:2,23 220:19,20,22	court 180:17,18 240:21	date 228:18 231:18 240:10 241:25 242:14	defining 183:24 184:2 220:22 220:25 221:7 221:13,24 222:10,11,20 223:2,6,23 224:9
	create 232:19	day 227:19 238:18 242:19	definition 213:19,24 216:13,22 217:24 223:5 225:11
	created 188:13 228:19 229:11 229:19,23 230:3	days 228:24 229:4 232:17 232:18 239:16 240:17	deliberateness 214:2
	creation 230:23	de 231:15	demo 233:21
	criticism 200:7	dealt 183:22	demonstrated 230:15 233:16
	criticize 199:17	decision 198:21 199:12,22	demonstrating 232:14
	criticized 198:21,25 199:6,8,11,22	deck 219:13	demonstration 226:25
	cross 235:21	declaration 217:6 219:15 219:21 220:6 220:16 226:6	
	current 196:15 197:11		
	customary 213:4 214:13 214:24 215:17		

[deponent - example]

deponent 239:13 242:4	disavows 213:21 218:2	duly 181:6 238:9	eleven 196:9,14
deposing 239:13 240:17	disclosed 183:23 188:14	duties 231:7	email 230:9 231:14,18,23
deposition 176:14 177:1 180:6,12,23 181:2,17,20 211:11 233:22 236:12 237:13 237:15,19 238:8,10 240:4 240:14,18,20	disclosure 223:7	e	encompass 225:19
describe 217:2	disconnected 221:11	e 178:1,1 179:1 238:2,2 241:4 241:4,4	engaged 196:6 201:24 203:18
description 235:12	discuss 184:18 236:13,19,23	earlier 186:12 218:13 223:24	entail 221:15
detail 221:22	discussed 221:21	earliest 227:20 227:25	entirety 189:18
developer 227:7	discussing 181:22 184:10 209:15 220:11	early 187:5 229:15	equivalent 218:17
developing 187:3	discussion 234:15	easy 202:24	eric 176:21 177:5 180:19 238:4,24
dictionaries 213:12 217:21	display 193:16	ebenstein 178:12 201:24	errata 239:11 239:13,16 240:7,10,13,16
differ 216:23	displayed 192:12	edit 192:15,19 192:20 193:9	esq 178:7,9,16 178:18 239:1
difference 182:18	distinction 208:23 209:5	editable 190:11	establish 187:8
different 207:3 209:16 215:8 215:14 225:6 232:4	distribute 185:4 186:14 186:20	editing 190:14 190:20,25 191:11,17,21 192:4,8,9,13,21 192:23,24 193:7,17,25	events 221:17
differently 213:18 217:23	document 189:9 204:25	either 184:3 199:4,5 213:22 218:3 221:13 221:16 222:24 230:19	evidence 213:2 213:10,13 217:19 233:3 233:12
difficult 231:17	doing 184:11 210:19 240:9	element 206:19 213:15 214:11	exactly 199:13 200:3
directed 221:23	downsides 185:9	elements 206:8 206:12,25 207:5,20	exam 196:6
	dr 211:5		examination 181:9 201:17 235:21
	draft 233:23		examined 181:7
	due 188:13 191:9		example 183:10 184:17

[example - functionality]

184:20 187:3 191:2 200:6 209:17 216:19 219:9 220:21 examples 210:5 226:2 exceptions 189:2 exclude 196:14 excluded 198:6 198:9 199:5 200:23 exhibit 182:24 189:5,24 194:15,22 198:18 200:21 202:6,16 204:20 205:4 212:10 218:22 219:15 226:7 226:19 231:9 expectation 227:19 expensive 185:20 experience 209:13 210:12 210:18 expert 199:15 199:16 212:7 213:11 214:6 217:20 219:12 220:6 226:6 230:13 235:9 239:5 241:2,25	242:2,6,14 explain 222:6 223:14 231:11 232:6 explained 223:6 232:11 expose 187:24 exposing 187:19 external 187:25 extrinsic 213:10,13 217:19 f f 238:2 facebook 184:7 184:22 fact 216:25 228:15 factual 235:18 fail 240:19 fails 239:18 fair 186:3 200:9 230:22 fairly 230:18 fall 225:15 familiar 204:24 far 218:14 fashion 182:14 187:9 feasible 187:22 features 205:18 206:18 feedback 207:22 208:12	208:20 field 190:14,20 190:25 191:11 192:4 finz 176:21 177:5 180:19 238:4,24 firm 180:19 201:24 204:11 first 190:3 206:19 207:10 207:13,22,23 208:13,20 229:18 231:7 five 195:20 236:3 flow 222:5 focused 222:19 foerster 177:4 178:3 following 233:24 follows 181:8 foregoing 242:7 form 183:19 186:8 188:19 188:24 190:17 190:23 191:15 191:24 192:7 192:18 193:5 193:13,22 194:18 195:11 198:12,23 200:25 202:9	205:23 206:23 207:8 208:2,7 209:8,20,24 210:2,4,16 211:4,17,23 213:16 214:8 215:3,10,15 216:15 218:9 219:7,24 220:13 221:8 222:7 223:9,16 224:11,20 225:3,12,21 226:13 227:22 228:8,20 229:25 230:16 231:2,13,24 233:6,17 234:21 235:5 235:14,22 236:18,22,25 formatted 191:3 forth 182:22 213:25 218:13 224:8 235:13 238:9 friendly 183:24 front 202:6,18 219:17 235:8 full 203:23 213:21 218:2 functionality 183:25 184:6 185:3 186:14
---	---	--	--

[functionality - intends]

186:20 further 181:7 238:12	graphical 190:21 191:13 191:22 192:5 192:10 193:3 193:10	i	indicating 233:19
g	graphics 192:22 193:16	ibm 187:2,6,10	indication 233:8
general 189:2,3 196:21	guess 183:21	identical 220:3 220:15	industry 217:4
generally 190:24 192:8 192:11 193:6 199:15 213:3 217:13 221:15	gui 191:8	identified 196:9 203:16 205:18 206:7 206:12 207:3 216:21	inform 229:22
generate 226:24 230:8	h	identify 195:6 215:18	information 190:15 191:5 192:13,16 233:18
generated 230:14	h 241:4	ii 176:15	informed 212:21,23 217:12,22 227:17
generation 232:8	hand 189:5 190:10 238:18	imperative 240:15	inhibit 222:3
generic 221:25	hart 178:18	implement 185:7,8 230:7 230:25 231:7 232:12,19	input 207:11 207:14,17,23 208:13,21 210:7 211:10
given 213:4 214:12 217:13 226:2 229:4 238:11 242:11	held 180:12	implemented 184:4 222:24 230:14	instance 200:19
gives 184:16	hereinbefore 238:8	implementing 185:10 233:20	instructions 240:2
go 195:5 213:15 219:12 226:5	hereto 242:9	include 210:13	integrating 222:14
goes 216:25	hereunto 238:17	included 188:21 200:21 207:4	intellectual 195:17,25 196:25 197:6
going 194:8 201:13 236:5 237:6,20	history 195:2 198:18 213:9 214:17 215:2	including 213:11 217:20	intelligence 209:22
good 181:11,12	hmm 187:6 199:18	incoming 211:14	intended 187:10,11
grab 226:18	honestly 203:5	indicated 204:24 225:25	intending 210:13
grammatical 210:10,24	hour 197:12,24	indicates 210:19	intends 217:2
	hours 189:16 196:19,22 197:2,4,7,10		
	html 192:20,21		
	https 229:14		
	hundred 197:4 197:9		

intent 223:20	217:16 224:4	issues 188:9,13	242:6,14
intention 215:5	inventor	ivan 176:15	ivrs 209:13,16
intentions	213:11,23	177:2 179:4	210:6,12
223:25	216:11,12,21	180:1,7 181:1	j
inter 176:11	216:25 217:20	181:5 182:1	j 176:21 177:5
interested	invoke 184:10	183:1 184:1	238:4,24
238:15	invoked 184:3	185:1 186:1	january 227:6
interface	184:6	187:1 188:1	jean 178:7
182:19,21	involve 191:12	189:1 190:1	jnguyen 178:8
190:21 191:13	200:22 204:15	191:1 192:1	job 176:23
191:19,22	involved	193:1 194:1	230:7,25
192:5,10,10,12	198:20 203:2,9	195:1 196:1	232:11
193:3,11	203:18 204:16	197:1 198:1	judge 199:24
206:20 207:6	219:4 233:14	199:1 200:1	200:9
207:24 208:22	233:20	201:1 202:1	judges 200:16
221:20 222:14	involves 199:15	203:1 204:1	k
230:10	involving	205:1 206:1	key 210:23
interfaces	190:21 212:8	207:1 208:1	keyword
184:19	219:21	209:1 210:1	209:18 210:2
internet 185:5	ipr 180:10	211:1 212:1	210:19
interpret	181:3,3 182:25	213:1 214:1	keywords
214:20	189:6,6,7	215:1 216:1	210:9,15,23
interpretation	194:16,16,16	217:1 218:1	kinds 209:16
231:4	196:22 202:5	219:1 220:1	225:20
interpreted	202:12,17	221:1 222:1	know 183:15
221:7	212:9,11,23	223:1 224:1	186:23 187:2
intrinsic	219:15 226:8	225:1 226:1	201:22 203:2
213:14	ipr2023-01368	227:1 228:1	219:16
introduced	176:11	229:1 230:1	knowledge
188:16	iprs 195:13,14	231:1 232:1	228:11
invalidity	195:20 196:13	233:1 234:1	known 186:24
212:22,25	196:21 218:7	235:1 236:1	krishnan
invented 185:5	island 195:17	237:1 238:1,7	210:22
invention 213:7	195:25 196:24	239:5 240:1	
214:16 216:6	197:5	241:2,25 242:2	

[language - matter]

l	legal 212:21 239:23 level 209:22 lexicographer 213:20,24 216:12 217:25 219:5 lexington 178:14 lids 196:2 limitation 208:12,15,17 208:19 limitations 215:19 line 183:6,8,16 183:21 184:14 187:17 188:3,7 188:12,21 190:4,10 233:25 241:5,8 241:11,14,17 241:20 lines 218:23 list 195:6 198:4 198:8,14,16,17 listed 202:24 203:22 232:25 litigation 181:23 182:3 196:22,25 llc 195:13,17,23 195:25 llp 177:4 178:3 178:12	logging 190:13 190:20 logic 221:19 look 182:24 190:2 194:15 202:16 214:11 218:18 219:13 220:4 223:13 224:7 227:4 229:7 230:4 231:8 232:22 235:7 looking 183:2 192:11 193:2 198:4 202:4 219:17 226:7 los 178:6 lower 197:17	239:1 made 188:17 229:13 235:18 240:8 242:7 maintain 185:12 186:10 186:11 maintained 185:15 maintaining 185:17,23 majority 204:2 make 180:25 191:18 221:17 240:5 maker 198:21 199:12,22 making 191:2,3 manipulated 188:10 manner 183:24 221:25 224:15 marked 204:20 212:10 marks 237:18 marojomand 178:10 marriage 238:14 math 228:23 matter 180:7 183:23 188:14 203:6 216:21 238:16
	m macedo 178:16 179:6 183:18 186:7,25 188:18,23 190:16,22 191:14,23 192:6,17 193:4 193:12,21 194:17 195:10 198:11,22 200:24 201:8 201:18,23 202:10,14 203:7,11 205:24 236:2,9 237:2,13,17		

[matters - novices]

matters 197:21 matthew 178:22 180:15 mean 185:18 185:22 187:14 198:24 199:14 199:24 200:4 204:6 211:19 216:19 217:3 222:6 meaning 213:5 214:13,24 215:17,22 216:24 217:14 218:19,25 219:6 220:19 meanings 217:3 means 199:14 200:4 204:13 meant 222:2 media 180:5 227:2 mediums 228:13 mehran 178:9 memory 198:4 mentioned 182:3 191:16 223:24 messaging 183:10 184:12 184:21 messenger 184:8,17,22	method 184:11 221:23 222:20 methods 222:15 middle 195:13 195:16 mind 215:25 minute 236:3 mischaracteri... 225:22 mm 187:6 199:18 modification 225:16 modified 225:18 modify 191:4 224:25 226:4 235:24 modifying 191:8 mofo.com 178:8,10 monday 228:4 morning 181:11,12 morrison 177:3 178:3 moving 188:6 192:22 n n 178:1 179:1 name 180:15 201:22	narrower 215:20 natural 206:20 207:6,11,13,17 207:21,22,23 208:12,13,19 208:20,21 210:3,7,14,20 211:2,9,9 221:20 necessarily 191:18 198:14 208:5 necessary 226:4 235:24 240:5 242:8 need 225:18 231:21 needing 224:17 225:19 neither 222:22 new 176:16,16 177:4,5,7 178:15,15 180:13,14 190:14 238:6 nguyen 178:7 179:5 180:24 181:10 194:6 194:13 201:3 201:11 202:9 202:12 205:23 206:2,22 207:8 208:2,7,10 209:3,8,20,24	210:4,16 211:4 211:23 213:16 214:8 215:3,10 215:15 216:7 216:15,18 218:9 219:7,10 219:24 220:13 221:8 222:7 223:9,16 224:11,20 225:3,12,21 226:13 227:22 228:8,20 229:25 230:16 231:2,13,24 233:6,17 234:17,21 235:5,14,22 236:18,22,25 237:5,11,15 non 222:24 224:2,16 nondedicated 225:10 notary 176:22 177:6 238:5 242:16,23 note 239:10 noted 237:21 240:12 242:9 notice 177:3 novice 222:25 224:2 novices 224:16
---	--	--	--

[number - paragraph]

number 191:4 202:13 203:21 222:12,15 numeric 191:3 209:18,25 210:14	228:8,20 229:25 230:16 231:2,13,24 233:6,17 234:17,21 235:5,14,22 236:18,22,25	203:10,14 204:18 206:7 208:4 212:13 215:6 220:4 226:12,17,22 229:17 234:6 234:11	222:9 organized 182:8,13 original 240:16 outcome 238:15 own 213:20,24 216:11 217:25 219:5 owned 187:23 owner 176:9 178:13 owner's 201:6
o	obtained 223:4 occur 222:12 230:24 occurred 198:13 occurring 231:12 235:12 october 176:17 177:8 180:3 227:5,16,17 228:3,14,17,24 229:2,15 231:19,22 232:13,15 238:18 239:3 offering 218:19 office 176:1 180:10 offices 177:3 okay 182:10 183:8 185:22 186:3,11 187:19 188:6 189:11 194:25 198:17 199:9 199:21 200:11 200:15 201:3 202:14 203:7	old 198:15 older 198:15 ones 203:16 online 229:14 open 226:15 235:8 operating 221:15 opinion 190:18 192:25 193:19 228:17 234:2,7 234:12 opinions 234:19 235:17 opposed 185:14 188:15 210:9 212:4 217:3 224:5 opposing 199:16 226:3 opposite 193:24 ordinary 213:4 213:6 214:13 214:15,22,23 215:17,21 216:5,24 217:13,15	p
o 213:8 217:17 oath 181:14 objection 183:18 186:7 186:25 188:18 188:23 190:16 190:22 191:14 191:23 192:6 192:17 193:4 193:12,21 194:17 195:10 198:11,22 200:24 202:9 202:11 205:23 205:25 206:22 207:8 208:2,7 209:8,20,24 210:4,16 211:4 211:17,23 213:16 214:8 215:3,10,15 216:7,15,18 218:9 219:7,24 220:13 221:8 222:7 223:9,16 224:11,20 225:3,12,21 226:13 227:22			p 178:1,1 213:8 217:17 p.m. 237:7,10 237:20,21 page 179:3 189:24,25 192:20 194:22 195:3,12,16,19 195:22,24 196:4,24 197:6 202:20 212:15 217:6 232:23 241:5,8,11,14 241:17,20 pages 176:25 203:21,23,24 231:8 paid 202:24 paragraph 188:22 190:3,5 212:14,15,18

[paragraph - problem]

217:5,9,11 218:14,18 219:18 220:5 220:14,15,17 221:2,4,10 223:13,15,18 224:7 226:10 227:4 228:5,9 229:7,11 230:4 235:7 paragraphs 218:14 219:14 part 180:25 partes 176:11 particular 184:2 197:20 200:19 203:5 208:11 212:2 222:19 233:10 parties 238:13 party 183:10 183:17 184:7 184:12,14,20 184:21,25 186:5,13,18,24 187:6,14,23 pass 201:4 passage 218:24 patent 176:1,2 176:9,10 178:13 180:9 182:24 183:3,4 183:9 187:17 188:4,8,22 196:6 201:6	204:21 205:11 205:15,20 206:9,10,13,14 206:17 207:3 208:6,16,18,24 208:24 209:6,6 212:8,22,24 215:23,24 219:21 220:7 220:11 221:12 221:23 222:16 222:18 223:7 223:20,22,25 patentee 213:18,20 217:24 218:2 219:5 patents 205:21 211:21 212:5 216:20 percent 204:5,7 204:14 percentage 200:9 performed 234:10 performing 214:5 person 213:6 214:14,22 216:4 217:15 222:9 petitioner 176:6 177:2 178:4 212:24	233:13 phrase 209:18 210:2 phrases 210:15 210:23 plain 216:24 please 194:15 194:22 195:5 217:10 240:4,9 point 198:19 212:6 223:14 pointed 206:18 policies 192:9 193:7,9,14,18 policy 190:12 190:25 191:17 191:21 194:2 portion 207:6 posita 190:19 192:2 213:7 217:16 230:13 possible 200:14 post 228:12 posted 226:25 228:13,16,25 229:6,24 232:21 potential 188:9 188:15 potentially 215:20 practical 224:16 preamble 212:18	precision 214:3 prepare 229:4 preparing 233:21 preponderance 212:25 present 178:21 205:19,20 207:5 208:14 208:15,18 222:2 presented 233:13 presumption 213:2 previous 225:25 previously 181:6 primarily 234:22 primary 230:20 principle 218:5 218:12 219:4 principles 214:4 220:10 prior 198:13 210:12 222:3 232:13 234:20 probably 197:19 204:4 228:22 problem 183:22 224:4
---	---	---	--

[problems - record]

problems 222:2 proceed 180:22 proceeding 181:19 196:15 212:23 220:7 220:12 proceedings 189:7 235:2 process 211:15 211:19,20 212:3,4 221:14 221:18,24 222:11,21 227:6 231:21 232:12,19,20 233:16,21 processes 184:2 222:4 223:2 processing 210:3,14,21 211:3,9 product 189:13 production 239:15 proffered 225:18 program 218:20 221:16 programmer 222:24 224:2 programmers 224:16 programming 224:6,18 230:10 233:15	project 230:21 231:5 property 195:17,25 196:25 197:6 proposals 224:25 proposed 224:8 225:16 prosecution 213:9,23 214:17 215:2 217:18 218:4 prove 212:24 provide 183:23 222:13 provided 198:18 202:5 211:7 236:15 provides 184:19 providing 216:13 222:13 public 176:22 177:6 238:5 242:23 publicly 229:13 published 188:17 229:13 pull 204:19 purchase 185:12 purchasing 185:17,23	purported 233:15 purpose 182:10 pursuant 177:2 q quee 178:22 180:15 question 206:5 211:13 234:6 questions 221:18 225:23 233:25 236:16 237:3,12 r r 178:1,16 238:2 239:1 241:4,4 range 197:19 rate 197:12,14 197:23 rather 185:6 read 188:24 189:17 212:17 217:9 219:22 221:4 228:9 229:8,18 230:5 239:9 240:4 242:7 reading 192:2 reads 187:19 ready 201:19 reason 184:24 186:18 239:11 240:6 241:7,10	241:13,16,19 241:22 reasonable 214:2 227:25 recall 181:24 182:2,5 198:7 199:6,7,9 200:17 201:2 203:19 205:8 209:23 211:25 225:2,4,7 227:2 234:15 234:23 receipt 239:17 240:18 received 231:15 233:24 recess 194:10 201:14 236:6 237:8 recognition 187:4 210:20 recognize 189:9 210:9 recognizes 210:23 recommended 203:12 record 180:3 181:2 194:9,12 201:13,16 203:8 212:19 213:14 217:10 221:5 228:10 229:9 230:6
---	---	--	---

[record - see]

233:4 236:5,8 236:14,16 237:7,10,20 238:10 recross 201:5 redirect 201:7 201:10 refer 196:12 220:17 234:18 234:22 reference 218:16 referenced 239:6 referred 207:2 207:10,16 referring 189:12 208:8 212:3 234:24 reflects 211:12 refreshed 198:3 regarding 181:18 related 238:13 relevant 199:19 remember 203:5 209:11 remote 178:1 render 212:20 repeat 186:15 rephrase 206:24 reply 187:4	report 212:7,10 235:9 reported 176:20 reporter 176:22 177:6 180:17,19 238:5 reports 214:7 235:19 represent 203:8 representing 180:16 requests 211:15 required 208:5 222:23 242:16 requiring 224:5 reserve 201:5 respect 234:20 responded 211:18 response 209:18 210:2 236:15 responses 210:15 result 235:20 resumed 181:6 resumé 202:21 203:22 retrieve 182:13	return 239:13 239:16 240:16 review 176:11 239:7 reviewed 215:23 reviewing 189:15 right 184:15 190:2,5,10 195:13 197:12 197:25 198:2 200:23 202:2 202:18 206:14 234:13 rights 201:5 roborana 227:8 227:13,15,21 robotic 227:6 rothstein 178:12 195:8 195:15,21 196:3,7,11 197:23 201:24 rough 211:12 rpa 227:7 230:8,15,23 231:7 232:15 233:16 234:2,3 234:8,13,18,23 234:24 rules 193:7,9 193:14,18,25	s s 178:1 213:8 217:17 241:4 saw 205:19 233:18 says 184:14 188:8 190:10 206:19 207:21 214:12 216:10 224:15 227:5 229:11 scenario 212:2 scenes 192:14 192:16,23,25 scope 190:17 190:23 191:15 192:18 193:5 193:13,22 201:9 213:21 215:20,21 218:2 screen 192:22 scripted 210:8 second 190:3,4 207:17 229:8 229:10 section 220:6 221:22 security 188:9 188:13 see 183:13 187:18 190:7,8 191:21 192:4 193:10 195:3 202:23 207:25
---	---	--	--

[see - subparagraph]

208:3,4 215:6 224:19 227:9 228:7 seems 220:14 seen 233:3,8,12 selections 211:7 senne 226:19 sense 211:20 sent 231:23 239:14 sentence 188:3 188:21 190:9 228:10 229:8 229:10,18,22 230:6,11,18 231:5 sentences 188:24 separate 185:7 185:10,19,24 234:3,8,10,12 sequence 221:17 server 187:11 234:13,19,24 service 183:11 183:12 184:17 184:21,23 185:3,7,8,10,15 185:16,19,24 187:7,12,13,14 211:14 services 184:7 184:12,14	185:4,6 186:5 186:14,21 187:4,5 set 187:9 211:7 213:25 218:13 221:16 222:4 224:8 235:13 238:8,18 sets 213:19 217:24 several 189:16 197:18 220:18 share 185:6 shared 185:2,8 185:14 sheet 239:11 240:8,13,16 shorthand 176:22 177:6 238:4 showcase 232:8 233:16 shown 232:9 side 200:13 sign 239:12 240:9 signature 230:9 238:23 signed 239:19 significant 213:14 signing 240:11 similar 210:21 simply 190:12 210:9,19 211:6	212:2 sixth 190:4,10 skill 213:6 214:15,22 216:5 217:15 222:9 slides 231:12 software 222:22 224:6 solutions 239:23 sorry 183:11 186:15 190:3 203:4 212:14 222:18 sounds 197:25 space 240:7 special 218:19 218:24 219:6 223:4 specific 215:19 215:19,22 216:13 220:18 222:22 specifically 200:18 210:8 212:22 222:19 224:3 234:23 specification 213:9,22,25 214:17,25 215:18,24 217:18 218:3 221:12	spend 189:15 197:2,7 spent 196:20 204:14 224:23 stand 235:11 standards 212:21 start 183:21 started 187:2 197:15,22,23 228:2 230:24 231:6 232:13 starting 188:3 228:24 starts 190:5 state 177:7 238:6 240:6 stated 191:12 statement 189:4 statements 235:18 states 176:1 180:9 183:9 store 182:13,15 stores 182:20 street 177:4 180:13 structure 210:10 subject 183:23 184:9 188:14 240:11 subparagraph 212:19
---	--	---	--

subscribed 242:18 substance 181:19 236:14 suit 211:22 summarizing 223:19 sunday 227:18 supra 221:22 sure 191:7 194:20 195:9 197:17 199:13 200:3 222:8 sworn 180:21 181:7 238:9 242:18 symons 226:19 226:25 227:13 227:15,19 228:16 230:3,5 230:14 231:16 232:5,11 233:2 233:14,20,25 234:20 system 184:5 187:22	taken 177:2 194:10 201:14 236:6 237:8 talk 220:24 talked 209:17 209:21 talking 183:16 206:16 209:12 210:11 224:24 225:5 226:23 target 184:5 187:22 task 187:20 td 195:18 team 236:20 technical 183:22 telephone 191:4 tell 231:17 ten 198:14,15 tender 237:3 term 213:21 215:22 216:3 216:14,22 218:3 220:22 220:25 234:25 term's 215:16 terms 213:3,17 214:12,21,24 217:12,23 220:18 testified 181:7 198:5 199:3	testimony 198:6,8,20 199:3,5,11,17 199:23 200:22 213:11 217:20 225:25 236:14 238:11 239:9 239:17 242:10 text 190:6,11 190:11,24 192:9,23,24 193:15,17,18 193:20,25 thank 204:18 237:17 thart 178:19 thing 192:19 think 189:22 191:8,17 203:23 third 183:10,17 184:7,12,14,20 184:21,25 186:5,13,18,24 187:6,14,23 thirty 240:17 thomas 178:18 three 195:12,14 195:22 211:21 212:5 216:20 218:7 235:19 time 187:20 189:14 204:14 204:15 213:7 214:15 216:5	217:16 224:24 226:24 237:21 239:18 timeframe 239:8 timeline 226:11 235:13 times 215:7,13 timing 232:8 today 197:24 236:16 took 226:24 top 195:22 196:4 towards 196:20 221:23 trademark 176:1 180:10 trained 222:25 transcript 211:12 233:23 239:6,19 240:18,20 242:7,10 transmits 182:21 treaties 213:12 217:21 trial 176:2 true 189:4 204:10 238:10 242:10 try 202:14 214:20
t			
t 213:8 217:17 238:2,2 241:4 241:4 take 182:23 194:6,15 201:10 236:2 237:5			

[trying - wish]

trying 223:15 turn 183:5 187:16 189:23 194:22 202:20 205:3 212:7,14 217:5 218:22 220:25 228:5 two 188:24 189:25 207:4 207:20 231:12 234:10 type 191:5 210:20	unit 180:5 united 176:1 180:9 usage 215:19 use 188:14 209:25 224:6 224:17 225:19 232:14 used 182:15 183:11,12 184:22 216:3 221:19 239:19 240:21 user 182:19,21 183:24 190:21 191:13,22 192:5,10,10,12 193:3,10 207:14,18 221:15 222:25 223:2 224:2 users 222:3 using 184:6,12 184:25 186:18 199:7 206:19 207:5 230:9 utilize 210:7	verify 239:9 veritext 180:16 180:20 239:14 239:23 veritext.com 239:15 versus 191:2 195:17,25 196:5 video 226:24 228:18 229:5 229:11,12,19 229:24 230:3 232:9,19,20 videographer 178:22 180:2 180:18 194:8 194:11 201:12 201:15 236:4,7 237:6,9,18 videotaped 176:14 177:1 view 193:20 194:4 viewing 191:12 vimeo.com 229:14 vincent 231:15 visible 191:9,18 visually 192:11 voice 187:3,11 volume 176:15 vulnerabilities 188:15	w walking 205:17 walkme 176:8 180:8 201:25 239:4 241:1 242:1 want 196:12 219:12,13 226:9,18 wanted 180:25 way 238:15 ways 209:16 222:13 we've 220:10 web 185:5 192:20 website 228:13 weekends 229:3 went 232:6 west 177:4 180:13 whatfix 176:5 180:8 239:4 241:1 242:1 whereof 238:17 williams 189:13,15,17 189:21,24 191:12 192:3 wilshire 178:5 winning 200:13 wish 187:23,24 235:19
u	user 182:19,21 183:24 190:21 191:13,22 192:5,10,10,12 193:3,10 207:14,18 221:15 222:25 223:2 224:2 users 222:3 using 184:6,12 184:25 186:18 199:7 206:19 207:5 230:9 utilize 210:7		
u.s. 204:21 unclear 206:3 under 181:14 220:5 225:15 understand 181:13 189:21 206:4 214:23 216:17 218:15 222:10 understanding 202:3 214:21 215:12 221:6 227:11,12,14 229:23 230:2 230:12 231:21 232:3 234:5 understood 190:19 213:5 214:14 217:14 unique 206:17	v v 180:8 221:22 239:4 241:1 242:1 vague 206:2 validity 213:3 vary 196:23		

[witness - ziv]

witness 179:3 180:21 199:15 199:16 201:4 203:10,14 237:3 238:7,11 238:17 239:8 239:10,12,18 240:2	years 197:15,18 198:14,15 yesterday 181:22 198:5 199:2 204:23 205:9 209:11 211:12 224:23 226:22 233:22 236:13	209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1,10 237:1 238:1,7 239:5 240:1 241:2,25 242:2 242:6,14
word 199:7 217:2 224:9	yesterday's 181:16	ziv 236:23
words 228:25	york 176:16,16 177:5,5,7 178:15,15 180:13,14 238:6	
work 199:14 204:7 209:17		
worked 182:4 195:7 196:10 199:20 229:3		
working 197:2 197:8,15,22 204:2 227:13 227:15,20 230:24	z	
wpml 190:13	zatkovich 176:15 177:2 179:4 180:1,7 181:1,5,11 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1,8 190:1 191:1 192:1 193:1 194:1,14,21 195:1 196:1 197:1 198:1 199:1 200:1 201:1,19 202:1 203:1 204:1 205:1 206:1,5 207:1 208:1	
write 232:20		
wrong 202:13		
x		
x 176:4,12 179:1		
xpertuniverse 196:5		
y		
yeah 186:17 196:12 197:18 197:25 199:2 200:3 201:11		