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P R O C E E D I N G S

THE COURTROOM DEPUTY: Agile Journeys v. The Walt Disney Company, et al., Case No. 6:22-cv-2272.

Counsel, please state your appearances for the record, starting with the Plaintiff.

MR. KESAN: Jay Kesan for Agile Journeys.

MR. WRIGHT: Andrew Wright also for Agile Journeys.

MR. KOEPPPEL: Steve Koeppele also for Agile Journeys.

THE COURT: All right. Good morning, everyone.

MS. CROWSON: Good morning, Your Honor.

MR. KESAN: Good morning, Your Honor.

MS. CROWSON: I'm Celine Jimenez Crowson with the law firm of Hogan Lovells for Defendant Disney, and with me are my law partners, Mark Cheskin from Florida offices, and Damon Lewis. And we also have our client here as well, Mr. Anders Fjellsted.

THE COURT: All right. Good morning, everyone.

So we're here for a technology tutorial, and I'm going to invite the Plaintiffs to begin, if they wish to do so.

MR. KESAN: Good morning, Your Honor.

THE COURT: Good morning.

MR. KESAN: We're here to discuss --

THE COURT: Give me just a second. I need my screen turned on over here. All right. Go on ahead. I can watch

1 from over here.

2 **MR. KESAN:** We're here to discuss U.S. patent
3 No. 7,212,983, which I shall refer to as the '983 patent in
4 this presentation. This patent was filed May 15, 2001, more
5 than 22-plus years ago, and the patent is directed to a method
6 and apparatus for providing visitors with a personalized
7 itinerary and also for managing access to various attractions
8 in a facility.

9 The inventors were William Redmann and Michael Eaton.
10 As you know, Your Honor, we have Mr. Redmann in the courtroom
11 here today. And Mr. Redmann is a creative technologist who has
12 extensive experience in computer engineering, particularly in
13 interactive entertainment, and he's developed games and
14 attraction systems and is the inventor on 86 issued patents,
15 and he was recognized for his work as a fellow of the Society
16 of Motion Pictures and Television Engineers and, of course, has
17 the requisite technical background, bachelor's and master's
18 degrees in computer engineering from UCLA.

19 The other inventor is Michael Eaton, who is a product
20 development and marketing expert, and he developed a number of
21 consumer-engaging solutions, first in the tourism world and now
22 in the healthcare world. And he sort of pioneered this
23 digital-first "patient journeys" in healthcare, and many of his
24 ideas have made a lasting impact in the healthcare industry.

25 Moving on to a sort of overview of how I've organized

1 my presentation --

2 **THE COURT:** Keep going. We're having a few challenges
3 here, but there are several ways to do this. Go on ahead.
4 Feel free to proceed.

5 **MR. KESAN:** So just an outline of my presentation.
6 I'll begin with the problem statement, and really the problem
7 as Redmann and Eaton saw it and what deficiencies they saw in
8 the technologies at the time and the kind of improvements that
9 they made to the technology that was the focus of the inventive
10 concepts and the teachings of the '983 patent, and I just focus
11 on six of them.

12 So in the world as they saw it at the time in
13 2000/2001, visitors had a tremendous amount of unnecessary
14 anxiety. And I've put nine excerpts here in rectangles. For
15 example, at the top left: There's no time to stop if we want
16 to get it all in. On the right, at the very top: I feel like
17 I have to research my next move all day and it takes time away
18 for me to focus on my family. On the bottom left: I wish I
19 had known in advance all of this, and now my kids will be
20 disappointed. And so that's the kind of anxiety that visitors
21 were facing at that time.

22 So Redmann and Eaton engaged in this thought
23 experiment. What if we could visit a theme park and experience
24 exactly what we want, what attractions we're interested in
25 going to, times when we want to take a lunch break or go

1 shopping and exactly when we want it, and, most importantly,
2 without any wait time.

3 So the thought experiment that they engaged in was, at
4 the end of the day, we see our tickets and we see that we had
5 went for a ride at 10, another ride at one, another ride at
6 four, and then we spent all our time crisscrossing the park and
7 going here and going there. And is there a way for us to avoid
8 that so that they spent their time efficiently? And that is
9 really what they tried to do.

10 Next slide.

11 Specifically, some of the deficiencies in the prior
12 art they saw are outlined in the next four slides, beginning
13 with the park-provided materials. On the left there are a
14 bunch of materials around the year 2000 that was handed out to
15 visitors, and you can see it's just an overwhelming amount of
16 information there in those handouts that these parks provided,
17 and it overloaded the guests and particularly people who are
18 not familiar, first time users or foreign guests and so on.
19 But just way too much information.

20 Next slide.

21 They had tours for visitors and you had guided tours,
22 but the problem with those were that the facilities were
23 actually a challenge to assemble and maintain because you had
24 to have this pool of qualified guides, and yet the utilization
25 of these guides was all over the place. It would fluctuate

1 daily, seasonally, so on. And so the guided tours didn't work
2 that well.

3 The self-guided tours would, of course, give each
4 visitor the exact same experience, and so there was no
5 customization at all for that particular group.

6 You also had interactive tours at that time, and, of
7 course, once again, you were left with those guests who came to
8 a location, and they would interact with it, but you really
9 were not directing the guests to go to a particular attraction,
10 and you simply dealt with the people who showed up at that
11 attraction.

12 Next slide.

13 There were various ways to manage access to various
14 attractions. So you did have access controls at that time, and
15 you had express return passes. And, you know, we're familiar
16 with these things. Express return passes are typically
17 dispensed by a kiosk near the attraction, but the guest had to
18 know that he had to visit that attraction first, and then he
19 would have to claim a spot in the virtual queue and then would
20 have to backtrack and go all the way back at the appointed time
21 to the facility. And so you had a tremendous amount of waste
22 of your time with these express return passes.

23 You had ID-based reservations, where you could select
24 these at a shared kiosk, and that made things a little bit
25 easier. But, once again, it required the guests to know which

1 attractions to select and where they're located; otherwise,
2 once again, you keep going through the facility multiple times.

3 More importantly, these kinds of access control
4 systems did not mitigate the problem of unequal demand. And so
5 the moment the park opened, the reservations for the most
6 popular attractions were dispensed within an hour, and so you
7 had the same unequal demand problem, and, of course, the kiosks
8 themselves had their own physical lines and queues.

9 Next slide.

10 We did have itinerary generation technology at that
11 time. So you did have a route planning and navigation system
12 available, but what that meant was that you still had to have a
13 list of attractions and then the visitor would be routed
14 through those lists of attractions. And so in that sense, they
15 were quite deficient, even though, of course, they were
16 portable and wireless in the year 2000.

17 In addition, if a party really did not know a
18 priority, what is the attractions they had to go to, then they
19 were at a significant disadvantage because they had to spend a
20 lot of time to determine, you know, which attractions were
21 suitable for their needs and their limitations -- and, of
22 course, we had the same problem with inefficient distributions
23 because the guests would stroll around, and they would go in
24 some arbitrary order, and that meant that there was no
25 efficient distribution, and loading became a key factor for the

1 operators of that facility.

2 So with that in mind, I want to talk about six
3 features that we focused on. There's obviously many more
4 features and inventive concepts in the patents, but these are
5 six that I'll focus on, beginning with the software-selected
6 itineraries. So what the software-selected itineraries do is,
7 it creates an itinerary that is selected by the system, by the
8 software, taking into account the guests' interests.

9 Well, you know, they're interested in roller coasters.
10 They're interested in thrills. They're not interested in
11 getting wet -- whatever it is.

12 And their abilities. We have grandpa, and we have a
13 10-year-old, and so we've got to take the wheelchair into
14 account.

15 And combine that with temporal, current information
16 about the loading in each and every attraction: Which is down,
17 where is there a mechanical problem, where have you already
18 sent a large number of visitors, so on and so forth.

19 And then take all of that information into account and
20 then create a customized, appropriate itinerary, that then
21 allows you to alleviate some of the guest anxiety that I talked
22 about.

23 And, more importantly, it also allowed you to
24 dynamically adjust your itinerary. So, for example, okay,
25 we've taken 30 minutes more for lunch than expected. We need

1 to generate a new itinerary. And so we need to dynamically
2 change the itinerary. And the system allows you to do that.

3 Next slide.

4 This method for software generated itinerary is
5 illustrated in Figure 7 in the '983 patent specification and is
6 actually the method that is cited in claim 3, which is shown in
7 my next slide.

8 Next slide.

9 So on the left here is the actual method in claim 3
10 and the six steps that are involved. An itinerary, in
11 accordance with this patent, is composed of events, and an
12 event is typically a visit to an attraction. It might also be
13 something like lunch, but it's a visit to an attraction at a
14 scheduled time, and you'll see this when I present an example
15 itinerary to you in accordance with this patent. It is not
16 necessarily a reservation, but as I shall show you, it can be.
17 We can work through reservation computers to make that happen.

18 Next slide.

19 So the method begins by gathering and obtaining data
20 about a first set of attractions, so currently where we are
21 with respect to these attractions, and that is the first step
22 in the process, that you obtain that data.

23 Next slide.

24 And then after that, in the next two steps, you gather
25 information about the visitor and the first step -- the next

1 slide -- you obtain secure information, and that is
2 authoritative information about the admission privileges that
3 are enjoyed by this group, like maybe there's a group of four
4 people, and so this can be done by reading a bar code or it can
5 be done by a facility employee, and so you obtain the secure
6 data about that group.

7 Next slide.

8 Then you obtain information from the party by asking
9 them to fill out a query form. This is in the patent. As an
10 example, we have query form 200 that asks the party to enter in
11 a bunch of information. I'll just show you in a demonstration
12 of this in just a few slides how that information is gathered.
13 Let's go to the next slide.

14 And then we have a computer that takes all that data
15 about the attractions and about the parties, and then that is
16 used by the computer to generate a second set of attractions,
17 and that is done through a selection step.

18 The next slide.

19 And the selection step involves the use of a specific
20 algorithm. The one that is described in the patent is a
21 width-first algorithm, and the width first, sometimes it's
22 called breadth first. And it's one of the early AI algorithms,
23 where you start with the first set of attractions, and you
24 apply information that you have about the attractions and about
25 the parties, and you look for substantial match, and then when

1 you find the first attraction where there's a substantial
2 match, you take that out, and then you, once again, execute the
3 same algorithm. And that is shown in Figure 14 there on the
4 right. It's the process 1400 in the patent.

5 And so the width-first algorithm is executed over and
6 over again until you have a set of attractions that match the
7 conditions and the party profiles and until you've basically
8 run out of time. And so that sort of itinerary generation
9 method is one of the core features of this patent.

10 Next slide.

11 And then the user, of course, has some sort of
12 presentation means. They may have a smartphone. They may have
13 an iPad and so on. But they can receive that itinerary.

14 And the next slide.

15 That itinerary is then presented through that
16 presentation means and is customized and delivered to the
17 party.

18 Next slide.

19 So Redmann and Eaton actually developed a prototype in
20 the year 2000 in a Palm IIIc device, which is this old device
21 that I have up here in my hands. And this Palm IIIc device is
22 where they built their prototype, and they made it work, and,
23 in fact, Figures 1 through 6 in the patent are actually
24 screenshots from this implementation where they developed a
25 prototype.

1 What I have here is a small video walk-through of the
2 prototype application, and it's a couple of minutes, and I'll
3 show you how the actual program works.

4 So, here, we have the Palm IIIC, and we turn it on,
5 and there's a little icon there for the Assistant prototype
6 0.2, and you begin with the first step, and I've gone through
7 the steps to the process and put them right there into the
8 Palm. And the first step involves gathering data about the
9 attractions.

10 **THE COURTROOM DEPUTY:** Mr. Kesan, we need you by the
11 microphone.

12 **MR. KESAN:** I'm sorry.

13 The first step involves getting data about the
14 attractions.

15 And then it asks how many people there are in the
16 party, and it says four.

17 And then it asks you what kind of admission passes.
18 Well, we have a VIP pass. So you pick that.

19 And then it asks you, Well, do you have a wheelchair?
20 You know, do you have a young child? Do you have an infant?
21 Do you need a stroller? And you can check those boxes and
22 decide what you want. And, here, I've checked wheelchair, and
23 I have checked young child. And so you collect all of that
24 information.

25 And then it asks you, Well, you have a wheelchair.

1 Then are you going to be able to take the wheelchair and put it
2 on a ride vehicle with somebody's assistance?

3 You know, you have an infant, and are you willing to
4 take turns so that one adult stays with the infant? Are you
5 willing to do that? Yes, I'm willing to take turns.

6 What is it that I want to avoid? Well, I want to
7 avoid getting wet. And so that's what I marked there. That's
8 done.

9 And so now, Well, when do you want to leave? Well,
10 you can pick the time you want to leave. Say you want to leave
11 at, say, 6:00 p.m., and so you take that into account.

12 And then you put all that in there, and then voila,
13 there you have the itinerary, and you have the specific
14 attractions that you're going to, and you also have built in
15 time for things like shopping, lunch, et cetera.

16 And, here, for example, the first one is The Mummy
17 Returns: The Chamber is the first attraction, and you can have
18 a reservation pass here with a real bar code, and you can
19 actually scan and recognize the bar code, and it actually
20 recognizes the bar code, and it's a real bar code that works
21 and allows you -- admits you into the facility.

22 After that, you know, you can see in the itinerary
23 there is a 43-minute break, and at that point the system
24 recognizes that there's an upcoming break, and they may present
25 you with some options, you know, that may be related to the

1 break. For example, Hey, there's a diner there and then, here,
2 there's maybe a little discount pass, or you might want to go
3 get some souvenirs and go souvenir shopping, and so at that
4 time you can build all that in.

5 And then, finally, you've generated the itinerary, and
6 that's the end of the demonstration application, and it says
7 here, of course, contact Redmann with his phone number there.

8 So this is the kind of itinerary generation technology
9 that was the focus in the software generated itineraries.

10 Next slide.

11 The second feature that I want to focus on is
12 measuring directed demand. Directed demand is actually defined
13 in the patent as the number of visitors directed to an
14 attraction by the itineraries produced by this invention. In
15 other words, you keep track of the people you've sent to
16 various attractions. You send so many people to attraction AA,
17 send so many people to attraction BB, send so many people to
18 attraction CC, and that you keep track of and you measure, and
19 that then allows for the kind of feedback control. I already
20 know I've sent this much. So I can get that feedback and
21 control how many people I'm going to send later on. And so
22 that is a very important part of the control loop that you can
23 establish.

24 In addition, we have certain self-smoothing
25 techniques, like, for example, the patent describes a synthetic

1 aversion factor. So it allows you to assign a factor to an
2 attraction, and if that synthetic aversion factor increases, it
3 lowers the desirability of an attraction and then it basically,
4 as the synthetic aversion factor increases, the attraction is
5 less likely to be picked by the software algorithm and
6 ultimately to a point where it becomes utterly undesirable, as
7 the patent describes.

8 Next slide.

9 This method is described in claim 20 and it discusses
10 measuring directed demand that is induced by an itinerary for a
11 particular party.

12 The directed demand and the information about people
13 you've sent to various attractions can be stored, and the
14 specific storage that's acceptable to the computer to keep
15 track of demand.

16 Next slide.

17 The third feature that I want to focus on is
18 intelligent redistribution. Intelligent -- next slide --
19 redistribution refers to this feature where you redistribute
20 demand for various attractions efficiently, and this efficient
21 distribution and loading is an absolutely key factor for
22 someone who is operating the facility. It allows you to
23 moderate demand for very popular attractions and it allows you
24 to create demand for other underutilized attractions, so that
25 way you can address some of the imbalances. You can lower the

1 likelihood of an attraction being selected, as I just
2 mentioned, and so you can moderate demand and you can direct
3 demand.

4 And, finally, and this is one of the very interesting
5 features actually about this patent, is that it breaks up the
6 clumping of parties. So you can have two parties and both of
7 them have basically the same profile, a couple with, say, two
8 young children and they come into the park at the same time and
9 they have very similar profiles, and yet their itineraries,
10 even though they're similar profiles at the same time, they
11 might look different.

12 And how do we do that? We do that -- next slide --
13 through the use of something called a perturbation function.
14 That is shown in Figure 13, and is recited in claim 22. And
15 you have these perturbation functions that are -- that go to
16 work on the choices that the party has, and, for instance,
17 there are a number of ways this perturbation function can be
18 implemented, but the patent talks about you do -- you have
19 Equation 1 that focuses on diffusion. That is a random number
20 generator. And Equation 2 where you have demand mitigation
21 being accomplished through that equation.

22 Next slide.

23 Figure 13 here shows that entire perturbation function
24 being applied in a particular situation. Here, we have three
25 attractions, AA, BB, CC. And we have two groups of visitors,

1 one with a profile A and one with a profile B. And as you can
2 see, both visitors A and B their top choice is attraction CC,
3 but notice that the visitor group under profile A has a higher
4 preference for attraction BB versus AA.

5 And go to the next slide.

6 And the visitor group under profile B prefers AA to
7 BB. And so if you were to have an unperturbed situation, then
8 the most desirable attraction that you would send people to
9 would be CC because both of them have picked CC to be the
10 highest choice.

11 Next slide.

12 Now, if we apply the perturbation function, we can now
13 see that we have now modulated the demand for attraction CC,
14 and we take a certain set of those visitors and send them to BB
15 and AA, and, of course, notice we're sending them to BB because
16 that happens to be their second choice. So we're taking into
17 account their preferences, and we're sending them -- a certain
18 segment of them to attraction BB.

19 And then we do the same thing for the visitor group
20 with profile A -- or profile B, I'm sorry, and we send a group
21 of them to attraction AA, and so the end result is that almost
22 about a quarter of the demand in this particular example, a
23 quarter of the demand for attraction CC has been distributed to
24 BB and AA in accordance with the preferences of those two
25 groups with profiles A and B.

1 Next slide.

2 The fourth feature that I want to focus on is access
3 control. Access control systems existed before the '983
4 patent, and what the '983 patent teaches is that itinerary
5 generation system, the itinerary making system of this patent,
6 can work in conjunction with attraction access control systems
7 that already exist.

8 For instance, a portion of the virtual queue can be
9 set aside for visitors who are engaged in the itinerary making
10 system. And so their positions can be held in this virtual
11 queue and so no backtrack may be required in that situation.
12 And it also allows you to improve the operation of the existing
13 access control system. So in other words, current ways of
14 doing access control can be improved through the itinerary
15 generation.

16 Next slide.

17 There are two ways the patent describes in Figure 6,
18 where you have a machine-readable authentication code, or you
19 have a database record that is tied to the guest-borne
20 identification that they have, and the method for doing this,
21 combining access control with itinerary generation, is actually
22 recited in claim 13.

23 So in this example you can see that it's possible to
24 use this invention with these kinds of then-existing access
25 control systems.

1 Next slide shows a bar code embodiment. The next
2 slide is where you use a bar code as an admission criteria.

3 And then it also shows you another example where you
4 have a database record, an ID embodiment, that also can work as
5 an access control system, and it can work in connection, and
6 the itinerary generation can be inserted as records in the
7 access control databases, and all this is claimed in claim 13.

8 Next slide.

9 The fifth feature that I want to focus on is reservation
10 computers. Now, reservation computers allows you to create an
11 additional capability when generating itineraries. So it
12 allows a visitor that is unfamiliar with the facility to create
13 some viable set of reservations to access attractions and gives
14 them a little bit of confidence that they got it right.

15 The reservation computers also allows you to do things
16 like -- let us suppose an attraction has gone down and there's
17 a mechanical problem or an attraction is for some reason
18 unavailable because of some sort of unscheduled inoperability
19 issues, then the balance of the itinerary can be recomputed,
20 and so this dynamic recovery becomes possible using these
21 mechanisms.

22 In addition, it also allows you to improve the precision of
23 trying to allocate capacity when capacity is not quite as soft.
24 So for example, imagine that you have a tram tour where you
25 have only exactly 10 seats and one wheelchair and that's

1 exactly what you can accommodate in that tram tour, then you
2 can actually preallocate a limited number of reservations for
3 certain events and schedule them at a very precise particular
4 time window. And so this itinerary is built with this
5 knowledge of when these events are available and then reserve
6 for them.

7 So the reservation computers, which is claimed in claim 18
8 and shown in Figures 7 and 14, it shows how you can use this
9 reservation computers to improve the precision of the
10 software-selected itineraries for a particular party.

11 Next slide.

12 And this is basically showing Figure 7 and 14 that claims
13 the reservation computers.

14 **THE COURT:** You've reached the 30-minute mark. Just
15 wanted to let you know where you are on time.

16 **MR. KESAN:** Thank you, Your Honor. I only need --
17 another couple of minutes is all I need.

18 The sixth feature is message placement.

19 Next slide.

20 Message placement allows the facility operator to
21 present marketing messages or special offers, and they can be
22 presented at an appropriate time and/or under appropriate
23 conditions. So you can have a situation where you might
24 provide an opportunity and tell a visitor, Hey, there's an
25 opportunity for you to go shopping right next to that

1 attraction that you just finished or there's an opportunity for
2 a photo op right there. Take it. And it allows the groups to
3 be spontaneous, but be spontaneous stress-free, knowing they're
4 not going to fall behind. It's built in. They've got a little
5 time to do that.

6 Similarly, you can anticipate needs and say, Hey, we
7 think lunch is coming up on your itinerary. So let's make the
8 user aware of a particular discount offer or make a
9 recommendation for a particular type of restaurant which they
10 think might appeal to this particular group. And so it can
11 anticipate needs and present messages.

12 Next slide.

13 This is shown in Figure 5 in the patent, and is
14 recited in claim 23 where you can have timely and pertinent
15 messages be inserted and that is -- you can see an example
16 itinerary up there and you can see that there is an opportunity
17 for lunch and there's other opportunities for shopping and so
18 on. And at that time or slightly before, you can present these
19 messages to the visitor and allow them to sort of have a few
20 more options and at the same time be spontaneous.

21 Next slide.

22 I'm just highlighting there the two opportunities for
23 lunch and shopping that I just mentioned in that slide.

24 Next slide.

25 So in summary, these are just some of the features

1 that the '983 patent focuses on, and these are the key
2 technology's teachings and inventive features.

3 Do you have any questions, Your Honor?

4 **THE COURT:** I do not, and I certainly will consult
5 with your submission here as I deliberate and consider this
6 matter. Thank you for your presentation. I appreciate that.

7 Would the defense like to make their presentation at
8 this time?

9 **MR. KESAN:** Thank you, Your Honor.

10 **MS. CROWSON:** Yes, Your Honor. Good morning again,
11 Your Honor.

12 **THE COURT:** Good morning.

13 **MS. CROWSON:** Celine Crowson representing Disney. I'm
14 going to present our side of the technology tutorial, and my
15 presentation is organized -- first, I'm going to talk about the
16 '983 patent, and then I'm going to talk a little bit about the
17 technology, sort of the state of the art, the technology that
18 was around at the time that the patent was filed in 2001.

19 So we heard that the '983 patent was filed in May of
20 2001 by Mr. Redmann and Mr. Eaton. Both were previously
21 employed by Disney. Mr. Redmann had left Disney in 2000,
22 within only a year of filing the patent. Mr. Redmann and
23 Mr. Eaton, apparently, prosecuted the '983 patent before the
24 PTO pro se. They prosecuted it themselves, and it took them a
25 while to get the patent allowed. It was filed in 2001, and it

1 didn't issue until 2007. So it took about six years to get the
2 patent allowed.

3 And so we wanted to talk about the problem that the
4 '983 patent is trying to solve, and we heard about this in
5 Plaintiff's presentation. And, really, it boils down to the
6 patent says that a need exists to provide a party who is
7 unfamiliar with the facility with a selected list of
8 attractions suited to the parties' taste. We see that, for
9 example, in the patent at column 5, lines 15 through 19: "A
10 party visiting a facility who is unfamiliar is at a
11 disadvantage. A significant effort must be expended to
12 determine which attractions are suitable."

13 Again, column 5, lines 31 to 33: "A system is needed
14 that allows an unfamiliar visitor to receive an experience
15 which is suited to his or her tastes."

16 Also column 9, merely by way of example, lines 3
17 through 6: "By application of this invention, systems can be
18 employed to create satisfying itineraries for guests not
19 familiar with the facility's detailed offerings."

20 And so that's the problem overall that the '983 patent
21 is trying to solve. When guests are unfamiliar with the
22 facility, they need the system, here the software, to select
23 attractions suited to their tastes.

24 So let's talk about how does the '983 patent -- how
25 does it solve the problem of creating customized itineraries

1 when visitors are unfamiliar with the facility? The '983
2 patent provides itineraries, as we heard, using, for example, a
3 handheld computer with software that, one, it looks at both
4 party information, such as their interests, taste, whether
5 there are kids in the party; and data about the facility
6 attractions, such as is the attraction a thrill ride, is there
7 a line length, height requirement. Right? So it looks at
8 party information and attraction data, and then it selects
9 attractions for which the party information substantially
10 matches the attraction data.

11 And it does this all without the party selecting any
12 attractions themselves. It's the software that selects the
13 attractions. And then it selects attraction, attraction,
14 attraction, and that's how it builds the customized itinerary.

15 And so I want to show how these basic features appear
16 in the claims of the '983 patent. And this is Claim 1. It's
17 one of three independent claims. Only two independent claims
18 are asserted, Claim 1 and Claim 3. And Claim 1 we're looking
19 at here.

20 This is a system claim, and you can see the features
21 that I've mentioned. We've color coded it for ease. And so it
22 starts off, right, we've got: "A system for providing an
23 itinerary to a party from sets of attractions."

24 And then the first feature is the data about the
25 facility attractions. That's shown in the red highlight and,

1 again, the data about the attractions: Is it a thrill ride,
2 the line length, et cetera.

3 And then next in the claim we can see the feature I
4 mentioned, the "information about the party." That's in blue,
5 such as the parties' interests, taste, whether there are kids
6 in the party.

7 And then we have the computer. That's shown in green,
8 and it has software that selects attractions. That's the
9 yellow part, and it selects attractions, the software does,
10 where the attraction data substantially matches the party
11 information. That's the yellow portion of the claim.

12 And then the last main feature is the presentation
13 means. That's in purple. That's in communication with the
14 computer, and it's able to receive the itinerary from the
15 computer as presented to the party.

16 And then after the attractions are selected, matching
17 the party information with the attraction data, the customized
18 itinerary is provided to the party on the presentation means.

19 In Claim 3, which is the method claim, you'll see is
20 almost identical to Claim 1. We have the data about the
21 facility attractions; that's in the red. We have the
22 information about the party; that's in the blue. We have the
23 computer in green. And the software that selects attractions
24 where the attraction data substantially matches the party
25 information; that's the yellow. And then the presentation

1 means there in purple.

2 Now, I would like to go through each of these
3 technology features one by one. So, first, starting with the
4 data about the various attractions. That's what we had colored
5 in red. The patent describes that. It shows it, for example,
6 in Figure 10.

7 And the computer, we heard earlier, it's the
8 computer -- it already has this attraction data on it. It has
9 the data about the various attractions, and the data can be,
10 for example, the attraction name and description. We see that
11 sort of on the left side of this Figure 10. We have an
12 attraction name, like a water park, under the column.

13 And then attraction data can also be things like, for
14 example on the right, the column headers "Scheduling Factors."
15 That's data regarding the schedule ability of an attraction,
16 such as: Location, show times, duration, ride capacity.

17 And another type of attraction data that the patent
18 talks about are acceptance factors, which are attributions
19 about the attraction, such as: Is it loud? Is it kid
20 friendly? Is it a water ride? Is there a height requirement?
21 And this is described, for example, in the patent at column 26,
22 lines 23 through 32 and 49 to 50, and shown in Figure 10.

23 So let's talk about the next technology feature in the
24 '983 patent, and that's the information about the visitor's
25 party, right? When a party is visiting a facility, they're

1 provided with a computer that collects information about the
2 party. The party actually inputs the information into the
3 computer, and this can be things like: How long the party
4 plans to be at the facility; whether the party includes infants
5 or a wheelchair; the party's likes and dislikes, such as
6 violence.

7 This is shown, for example, in Figure 12 of the
8 patent. Those profile elements there, that's the party
9 information. It's also described in the patent at column 6,
10 lines 23 through 48.

11 And then next we have the computer, the computer with the
12 software that's going to select the attractions, and we heard
13 that the patent embodies its claims, for example, in a portable
14 handheld computer, like a Palm Pilot.

15 Now something that's interesting to maybe think back, is
16 that at the time the patent was filed in 2001, this was before
17 connected smartphones, like even a Blackberry, much less an
18 iPhone. A Palm Pilot wasn't connected to the Internet. So the
19 portable computer, the computer of the claims, it had to do
20 it -- it had to do it all.

21 So in the patent, the computer already contains the
22 attraction data; it collects the party information; and then
23 the software on the computer selects the attractions. It also
24 has the presentation and a display. So it's going to present
25 the itinerary of the selected attractions to the party. The

1 computer has got to do it all.

2 I wanted to talk a little bit more about the software that
3 selects aspect of the claim, this part of the technology. So
4 you recall that once the party information is collected by the
5 computer, the preloaded software in the computer which already
6 has the attraction data in there, it proceeds to select
7 attractions for the party's itinerary. And it's going to do
8 the selection by going along and substantially matching the
9 party information.

10 We can see that, for example, in Figure 12. The party
11 information is highlighted in blue. That's the profile
12 element. So it's going to match the party information with the
13 attraction data. That's the red column there, the acceptance
14 factors, for example. So it's going to do that matching, and
15 you see that in Figure 12.

16 And, importantly, it does this matching of party
17 information with attraction data, it does it all with the
18 software. The party doesn't select any attractions itself.
19 And this was important to the patent because, again, remember,
20 visitors were unfamiliar with the facility. That's the problem
21 that was trying to be solved. And this is the
22 software-selected itinerary that was mentioned in Plaintiff's
23 tutorial.

24 We also saw in Plaintiff's tutorial Figure 14. This is a
25 bit more about the selecting and matching step. Again, the

1 patent is generating the itinerary from the attraction data and
2 the party information, and the patent shows in Figure 14 how
3 the attraction selection and the matching is done. I think
4 Plaintiff referred to it as a width-first algorithm.

5 And basically how it works is that the algorithm reviews
6 all of the unassigned attractions, and it places the attraction
7 that makes the best possible match to the party's profile, the
8 party information, and puts that in the next time slot, and it
9 repeats picking the best available attractions until all time
10 slots are full. So in the patent, the software selecting
11 attractions one by one, matching with the party's information,
12 doing this in serial and building an itinerary from the
13 serial selection of attractions.

14 And you recall that I've said in the '983 patent that it's
15 the software that does the selection without the party, the
16 person visiting the facility, selecting any of the attractions
17 themselves, and this is a very important part of the technology
18 because, again, the visitors are unfamiliar with the facility;
19 they don't know what attractions to select; and so the '983
20 patent, it's the software that does the selection.

21 And the importance of this technology is also significantly
22 reflected in the file history of the '983 patent where
23 Mr. Redmann and Mr. Eaton told the patent office in order to
24 get their patent allowed that it's the software that selects
25 the attractions, not the party visiting the facility. And we

1 can see this, for example, in the July 28, 2006, office action
2 where the applicants told the patent office: "It is the
3 function of the present invention to proceed from the list of
4 attractions to the itinerary without requiring any intermediate
5 step of manual selection by the patron."

6 We can see at the top, for example, that the applicants
7 went so far as to say manual selection has, quote, "no
8 correspondence in the invention." It defeats the purpose of a
9 customized itinerary, and manual selection was described by the
10 applicants as, quote, "antithetical" to the purpose of the
11 alleged invention.

12 The last main feature of the claims technology, just to
13 round it out, of course, is the presentation means. Again, the
14 computer does it all, and the presentation means is in
15 communication with the computer. It's on the computer. It's
16 also the same computer that's generating the itinerary. So in
17 the '983 patent, the same computer that generates the itinerary
18 also presents the itinerary to the party.

19 Now, I mentioned I wanted to say a few words about the
20 state of the art in 2001, and really it's the state of
21 itinerary customization in 2001 when the patent was filed. By
22 2001 several entities had patented or commercialized or
23 invented using computers to select attractions for customized
24 itineraries. I'm going to highlight just a few of the
25 technologies. The systems range from software created touring

1 plans itineraries, in the Walt Disney World Unofficial Guides
2 publications, to Disney's own FastPass system invented by an
3 individual named Mr. Laval, to systems at Six Flags that were
4 provided by a company called Lo-Q.

5 First, the TouringPlans.com, the Unofficial Guides.
6 TouringPlans.com used software to create customized itineraries
7 at least as far back as the early 2000s. They started printing
8 the publication in 1985, but in the early 2000s they began
9 using software to create those customized itineraries, and
10 those itineraries are still printed today and published.
11 They're customized in Disney guidebooks. They're created by
12 software, however.

13 FastPass was first installed at Walt Disney and included in
14 a patent application in 1999. We heard Plaintiff talk about
15 access control existing before their patent was filed.
16 Mr. Laval invented access control, among other things, and it
17 was included in the FastPass system. FastPass was a customized
18 itinerary generator, and it was done with a computer, a
19 computerized customized itinerary generator.

20 In FastPass, a party visits a FastPass kiosk at
21 attractions, receives printed tickets with recommended return
22 times to visit the attractions, and then the parties can then
23 pursue their itinerary, returning to attractions at the
24 recommended time.

25 I mentioned a system called Lo-Q. It was first installed

1 in the U.S. at Six Flags over Georgia, at least as early as
2 February 2001. A related patent was filed by inventor Mr. Sim
3 even earlier in 1985.

4 And in Lo-Q, users rent a portable computing device, like
5 the one that's shown here, has a display scene to present the
6 itinerary to the user. And parties would go from attraction to
7 attraction, touching the device to access points, which would
8 reserve a spot for those attractions, and parties could then be
9 elsewhere in the park and return at specified times to the
10 itineraries that they had been developing. This system was
11 eventually used at other Six Flags and at Universal parks as
12 well.

13 I also want to mention Palmtop Productions and a patent
14 that was filed by an individual named Mr. Waytena. Palmtop
15 Productions was his company. His patent was filed in 1997, and
16 it disclosed a system where parties were provided a handheld
17 device to schedule a time at which the party could visit an
18 attraction. The device collected information about the parties
19 and presented a list of attractions and an itinerary matching
20 the party's preferences. The Waytena patent actually was later
21 purchased by Lo-Q in 2006.

22 Now, Agile may try to distinguish its patented technology
23 in the '983 over these earlier systems by saying that the
24 systems involve manual selection; and when they do that,
25 though, they need to be held to that alleged distinction.

1 Thank you, Your Honor, for listening.

2 **THE COURT:** All right. Thank you.

3 Is there anything further from the Plaintiff at this
4 time?

5 **MR. KESAN:** No, Your Honor.

6 **THE COURT:** All right. Anything further from the
7 defense?

8 **MS. CROWSON:** No, Your Honor.

9 **THE COURT:** All right. Maria, are we set to return
10 anytime soon on this case? Where are we at?

11 **THE COURTROOM DEPUTY:** We do have a claim construction
12 hearing scheduled, Judge. Just one moment. Let me look.

13 **THE COURT:** Well, let's reconfirm that.

14 **THE COURTROOM DEPUTY:** It's scheduled for November 15
15 at 9:00 a.m.

16 **THE COURT:** All right. Did you say 15th?

17 **THE COURTROOM DEPUTY:** Fifteenth, yes.

18 **THE COURT:** All right, at 9:00 a.m. Thank you. Have
19 a good morning, everyone. I will take all of these matters
20 under advisement.

21 (WHEREUPON, this matter was concluded at 10:06 a.m.)

22 * * *

23 **CERTIFICATE OF REPORTER**

24 I certify that the foregoing is a correct transcript of the
25 record of proceedings in the above-titled matter.

24 s/Suzanne L. Trimble
Suzanne L. Trimble, RPR, WACCR, CRR
25 U.S. Official Court Reporter

8/16/23
Date