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

----------x
WHATFIX INC.,
Petitioner,
-against-
WALKME LTD.,
Patent Owner.
Patent No. 10,819,644
Inter Partes Review No. IPR2023-01368
----------x

CONTINUED VIDEOTAPED DEPOSITION OF
IVAN ZATKOVICH, VOLUME II
New York, New York
October 8, 2024

Reported By:
ERIC J. FINZ
Shorthand Reporter and Notary Public
JOB No. 6918963

PAGES 176 - 242

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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.

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

MORRISON & FOERSTER LLP
Attorneys for Petitioner
707 Wilshire Boulevard
Los Angeles, California 90017
BY: JEAN NGUYEN, ESQ.
jnguyen@mofo.com
MEHRAN ARJOMAND, ESQ.
marojomand@mofo.com

AMSTER ROTHSTEIN & EBENSTEIN LLP
Attorneys for Patent Owner
405 Lexington Avenue
New York, New York 10174
BY: CHARLES R. MACEDO, ESQ.
cmacedo@arelaw.com
THOMAS HART, ESQ.
thart@arelaw.com

ALSO PRESENT:
MATTHEW CHIN-QUEE, Videographer

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THE VIDEOGRAPHER: We are now on the record on October 8, 2024 at 9:38 a.m. 09:37:49 09:37:50 09:37:55

This is media unit 1 of the continuation of the deposition of Ivan Zatkovich, in the matter Whatfix, Inc. v. WalkMe Ltd., in the United States Patent and Trademark Office, No. IPR 2023-01368. 09:37:57 09:38:00 09:38:03 09:38:08 09:38:12 09:38:15 09:38:20

The deposition is being held at 250 West 55th Street, New York, New York. 09:38:21 09:38:23 09:38:27

My name is Matthew Chin-Quee representing Veritext. And the court reporter -- I'm the videographer. And the court reporter is Eric Finz from the firm Veritext. 09:38:28 09:38:30 09:38:32 09:38:35 09:38:36 09:38:38

The witness has been sworn in. And you may proceed with the deposition. 09:38:39 09:38:45 09:38:46

MS. NGUYEN: Before we begin, I just wanted to make it part of 09:38:49 09:38:50

the record that this deposition is 09:38:53
also for IPR 2023-01379 and IPR 09:38:54
2024-00065. 09:39:02

IVAN ZATKOVICH,
resumed, having been previously duly
sworn, was examined and testified further
as follows:

CONTINUED EXAMINATION
BY MS. NGUYEN: 09:39:09

Q. Good morning, Mr. Zatkovich. 09:39:09
A. Good morning. 09:39:11
Q. You understand that you're 09:39:11
still under oath? 09:39:12
A. I do. 09:39:13
Q. And since yesterday's 09:39:13
deposition, did you consult or 09:39:15
communicate with counsel regarding the 09:39:19
substance of the proceeding or the 09:39:21
deposition? 09:39:23
A. No. 09:39:23
Q. Yesterday we were discussing 09:39:28
the litigation that you had done. Do you 09:39:30
recall that? 09:39:32
A. I do. 09:39:33

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

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

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

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

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

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A. Well, I know IBM started 09:46:27
developing, for example, common voice 09:46:32
recognition services and chat reply 09:46:36
services as early as the late '90s. 09:46:40
Q. Mm-hmm. Is IBM a third-party 09:46:45
chatbot service? 09:46:50
A. If you can establish it in 09:46:51
that fashion, yes. Again, if it's set up 09:46:55
as a common -- it's intended -- IBM 09:46:58
intended their voice server to be a 09:47:01
common service. 09:47:05
Q. And by "common service," do 09:47:10
you mean a third-party chatbot service? 09:47:12
A. Correct. 09:47:14
Q. If I could have you turn to 09:47:16
column 11 of the '664 patent. Line 9. 09:47:18
A. I see that. 09:47:37
Q. Okay. So it reads, "Exposing 09:47:37
an API maybe a time-consuming task in 09:47:40
some cases, but in many cases it may not 09:47:43
be feasible as the target system may be 09:47:45
owned by a third-party who may not wish 09:47:49
to expose an API and who may not wish to 09:47:53
allow external automation." 09:47:57

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. Do you know if I was involved 11:04:12
in that case? 11:04:13
A. I'm sorry, I don't -- I 11:04:19
honestly don't remember that particular 11:04:30
matter. 11:04:33
MR. MACEDO: Okay. I will 11:04:33
represent for the record that I was 11:04:35
involved in that case. 11:04:37
THE WITNESS: Okay. 11:04:39
MR. MACEDO: And I had 11:04:40
recommended you to the lead 11:04:41
counsel. 11:04:44
THE WITNESS: Okay. 11:04:44
Q. Other than that case and the 11:04:46
ones you identified before, are there any 11:04:47
other cases that you're aware of which I 11:04:50
was involved with that you were engaged? 11:04:52
A. Not that I recall. 11:04:55
Q. And if you could count the 11:04:56
number of pages of cases that you have 11:04:59
listed in your resumé. 11:05:02
A. I think 14 full pages. 11:05:23
Q. And in those 14 pages of 11:05:26
cases, would you say that you were 11:05:29

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

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

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

referred to from Claim 1 of the '664 patent that you identified as different than in the other two Claim 1s, included elements that are present in the "using a natural language interface" portion of the claim. Correct? 11:08:04 11:08:06 11:08:08 11:08:12 11:08:17 11:08:18

MS. NGUYEN: Objection; form. 11:08:20

A. That's correct. 11:08:22

Q. And you referred to a first natural language input. Correct? 11:08:22 11:08:27

A. I did. 11:08:30

Q. And that's a first natural language input from the user. Correct? 11:08:31 11:08:33

A. That's correct. 11:08:34

Q. And you also referred to a second natural language input from the user. Correct? 11:08:34 11:08:38 11:08:40

A. That's correct. 11:08:41

Q. In between those two elements it also says the natural language feedback on the first natural language input from the first natural language interface. 11:08:42 11:08:44 11:08:46 11:08:49 11:08:51

Do you see that? 11:08:52

MS. NGUYEN: Objection; form. 11:08:53
A. I do see that. 11:08:54
Q. Okay. Do you see that that is 11:08:56
necessarily required in Claim 1 of the 11:09:03
'732 patent? 11:09:08
MS. NGUYEN: Objection; form. 11:09:09
A. I'm referring to Claim 1 of 11:09:20
the '732. 11:09:22
MS. NGUYEN: Leading as well. 11:09:31
A. Yes, that particular 11:09:51
limitation, natural language feedback on 11:09:53
the first natural language input, is not 11:09:56
present in Claim 1 of the '732. 11:09:59
Q. Is that limitation present in 11:10:03
Claim 1 of the '317 patent? 11:10:06
A. No, that limitation is not 11:10:32
present in the '317 patent, Claim 1. 11:10:34
Q. And that limitation of natural 11:10:38
language feedback on a first natural 11:10:41
language input from the natural language 11:10:43
interface would be an additional 11:10:44
distinction between Claim 1 of the '664 11:10:46
patent and Claim 1 of the '732 patent. 11:10:49
Correct? 11:10:52

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

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

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

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

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

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

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

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

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

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

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

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

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

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

user-defining automation processes or 11:26:33
conversations. 11:26:36
Q. And you obtained that special 11:26:36
definition because of the context in 11:26:39
which the defining is explained in the 11:26:41
disclosure of the '732 patent. Is that 11:26:46
correct? 11:26:49
MS. NGUYEN: Objection; form 11:26:49
and leading. 11:26:50
A. Yes, I would say that's 11:26:51
accurate. 11:26:52
Q. If you look at paragraph 104. 11:26:53
Can you explain the point that you were 11:26:57
trying to get at in that paragraph? 11:27:00
MS. NGUYEN: Objection; form 11:27:02
and leading. 11:27:03
A. Yes. In paragraph 104, I am 11:27:21
basically summarizing what I believe the 11:27:26
intent of the 372 patent is. 11:27:30
Q. '732. 11:27:33
A. '732 patent is for the concept 11:27:36
of defining. 11:27:38
As I mentioned earlier, one of 11:27:39
the intentions of the '732 patent is to 11:27:42

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

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

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

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

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

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

A. My understanding would be that 11:34:10
Mr. Symons created the video. 11:34:11
Q. If you look at paragraph 9 in 11:34:15
Mr. Symons' declaration and read the last 11:34:17
sentence into the record. 11:34:20
A. "My job was to implement the 11:34:22
RPA bot to automatically generate the 11:34:27
email signature without using an 11:34:29
application programming interface." 11:34:32
Q. Based upon that sentence, 11:34:35
would it be your understanding as a 11:34:36
POSITA or as an expert that someone other 11:34:40
than Mr. Symons generated -- implemented 11:34:43
the RPA bot that was demonstrated? 11:34:47
MS. NGUYEN: Objection; form 11:34:50
and leading. 11:34:51
A. That sentence is fairly clear. 11:34:52
Either he was the only contributor or he 11:34:57
was the primary contributor to that 11:34:59
project. 11:35:01
Q. Would it be fair to assume 11:35:02
that the creation of that RPA bot did not 11:35:05
occur before he started working there, 11:35:11
since it was his job to implement it? 11:35:14

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

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

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

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

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

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

MR. MACEDO: No more 11:59:32
questions. I tender the witness 11:59:33
back to you, counsel. 11:59:35
MS. NGUYEN: Take a break. 11:59:37
THE VIDEOGRAPHER: We're going 11:59:38
off the record at 12 p.m. 11:59:39
(A recess was taken.) 12:06:04
THE VIDEOGRAPHER: We're back 12:06:05
on the record at 12:06 p.m. 12:06:06
MS. NGUYEN: We have no 12:06:10
questions. 12:06:11
MR. MACEDO: The deposition is 12:06:12
over? 12:06:13
MS. NGUYEN: The deposition is 12:06:14
over. 12:06:14
MR. MACEDO: Thank you. 12:06:15
THE VIDEOGRAPHER: This marks 12:06:16
the end of the deposition. We're 12:06:16
going off the record at 12:07 p.m. 12:06:18
(Time noted: 12:07 p.m.) 12:06:22

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

CHARLES R. MACEDO, ESQ.
cmacedo@arelaw.com

October 11, 2024

RE: Whatfix, Inc. v. Walkme, Ltd.
10/7/2024, Expert Ivan Zatkovich (#6918955)

The above-referenced transcript is available for review.

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

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

Return completed errata within 30 days from receipt of testimony.

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

Yours,
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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.

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

E R R A T A S H E E T

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_____ _____
Expert Ivan Zatkovich Date

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.

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Expert Ivan Zatkovich Date

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