1 UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD
2 IPR 2024-00078 - Patent No. 8,473,478
IPR 2024-00079 - Patent No. 9,218,348
3 IPR 2024-00080 - Patent No. 10,585,850

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5 _____
)
6 DROPBOX INC. and MICROSOFT CORPORATION,)
)
7 Petitioners,)
)
8 v.)
)
9 DATANET LLC,)
)
10 Patent Owners.)
_____)
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15 DEPOSITION UNDER ORAL EXAMINATION OF

16 DAVID MAIER, PH.D.

17 DATE: July 18, 2024

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24 REPORTED BY: MICHAEL FRIEDMAN, CCR

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8 TRANSCRIPT of the deposition of the
9 DAVID MAIER, PH.D., called for Oral Examination in the
10 above-captioned matter, said deposition being taken
11 by and before MICHAEL FRIEDMAN, a Notary Public and
12 Certified Court Reporter of the State of New Jersey,
13 located at ZOOM VTC, all parties remote, on July 18,
14 2024, commencing at approximately 11:00 a.m. in the
15 morning.
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1 A P P E A R A N C E S:

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9 Attorneys for Patent Owner

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3 WITNESS NAME PAGE
4 DAVID MAIER, PH.D.
5 By Mr. Jaffess 7
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11 EXHIBIT NO. PAGE
12 (None marked.)
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2 Deposition Support Index

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7 None

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9 Request for production of documents

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13 Questions marked

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1 THE COURT REPORTER: My name is
2 Michael Friedman, a Certified Shorthand
3 Reporter. This deposition is being held
4 via videoconferencing equipment.
5 The witness and reporter are not in
6 the same room. The witness will be sworn
7 in remotely, pursuant to agreement of
8 all parties. The parties stipulate that
9 the testimony is being given as if the
10 witness was sworn in person.
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1 D A V I D M A I E R, PH.D.,
2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
4
5 EXAMINATION BY MR. JAFFESS:
6 Q Good morning, Dr. Maier.
7 Is it okay if I call you Dr. Maier?
8 A That's fine, yeah.
9 Q I just want to go over ground rules
10 for the deposition.
11 You're under oath and so I'm going
12 to be asking questions you can answer. I
13 want to make sure that we don't talk over
14 each other so there's a clean record.
15 There's no recording today of the
16 video or audio. The record is the
17 stenographic taken by Mike F. who is on the
18 phone call here today.
19 If you need me -- if you don't
20 understand something, please ask and I will
21 clarify, happy to do so.
22 But if you answer a question, that
23 means you understood the question.
24 Is that fair?
25 A That's fair.

1 Q We can take breaks whenever needed.
2 I will just ask if there's a question
3 pending, that we don't take a break during
4 that.
5 A I'm taking -- you know, I'll
6 probably want a break about every hour and a
7 half.
8 Q Okay. That's fine.
9 I usually break about every hour,
10 so maybe we will try and keep it somewhere in
11 the middle, if that's okay.
12 A Yeah, I'm homing the total elapsed
13 time doesn't go past 5~o'clock our time,
14 so...
15 Q I don't believe that's going to be
16 an issue.
17 A Okay.
18 Q I understand the time constraints.
19 Is there any reason that you can't
20 testify truthfully and completely today?
21 A I know of no such reason.
22 Q We are doing this via Zoom.
23 Is there anybody in the room with
24 you?
25 A No, I'm here by myself and -- in

1 what they call a hotel room.
2 Q Do you have any chat windows,
3 messaging programs that are accessible to
4 you?
5 A The only thing would be Zoom chat
6 but apart from that, I don't have my phone.
7 The only windows open on the laptop I'm using
8 are the Zoom window and File Browser.
9 Q And we talked before we went on the
10 record, you have printout copies of your
11 declarations in the three cases. Correct?
12 A Correct. I have those three
13 declarations printed out and their appendices
14 where they exist.
15 Q And you have selected exhibits from
16 the three cases printed out as well?
17 A Yes. Those are in a couple
18 binders.
19 Q And all those materials are clean,
20 meaning there's no notes or highlighting in
21 any of those?
22 A The only additional thing is binder
23 tabs so I can find them quickly.
24 Q Great. Okay.
25 And obviously if an exhibit comes

1 up that you don't have access to, I know that
2 you also have copies on the laptop that's in
3 front of you or I can put them into the chat
4 so we can work through that if and when it
5 comes up.
6 A Yeah, I have electronic copies,
7 too.
8 Q I want to just briefly go through
9 your background.
10 Who is your current employer?
11 A Currently, I have no employer.
12 I am -- I do have an appointment
13 with Portland State University as emeritus
14 faculty and I maintain an office there but
15 no -- nobody is paying Social Security on me.
16 Q And how long has this been for?
17 A Are you asking about my association
18 of Portland State or as an emeritus
19 professor?
20 Q As an emeritus professor.
21 A I moved to emeritus ranks, I
22 believe it was probably January of 2023. I
23 retired in November of 2022.
24 Q Okay. Can you open your
25 declaration in the 78 case. This is IPR

1 2024, 00078.
2 A Okay. I have that.
3 Q And can you go to Appendix A?
4 A Appendix A, which is my vita?
5 Q Correct.
6 A Vita, V-I-T-A.
7 Q I just -- I -- I don't want to
8 belabor the point, but that in Appendix A,
9 I -- I see the positions held as 2004 to
10 present at the Department of Computer Science
11 in Portland State.
12 You're saying that changed in 2023?
13 A Yes, it did.
14 If you look on page 5 of my --
15 paragraph 6, there I clarify that I am
16 currently professor emeritus although I do
17 not give the year when that change took
18 place.
19 Q Okay. And just from Appendix A,
20 the third position held in 2009, what company
21 was that for?
22 A The 2009, the visiting research
23 position is with Microsoft Corporation.
24 Q And the position prior to that was
25 also with Microsoft Corporation. Correct?

1 A (Witness reviewing.)
2 Yes, the prior position was with
3 Microsoft Corporation.
4 During those times I did not give
5 out my appointment at Portland State.
6 Q Approximately, how much time did
7 you spend working for Microsoft in those
8 periods in 2007, 2008, 2009? Strike that.
9 I see in Exhibit A, it notes
10 approximately seven months in which you
11 worked for Microsoft, total, between the two
12 appointments.
13 Is that correct?
14 A (Witness reviewing.)
15 That's correct, during those times
16 I was -- I believe I was there about half
17 time. I know during the second appointment,
18 I was there every other week.
19 Q You would say it's approximately
20 half time that you worked for Microsoft
21 during those periods?
22 A Yes. I took a -- I took a
23 half-time leave from the University in order
24 to pursue those appointments.
25 Q Have you done any other work for

1 Microsoft besides these two appointments
2 noted in Exhibit A of your declaration?
3 A Yes. I have done other work for
4 Microsoft, though as a consultant, not as an
5 employee.
6 (Witness reviewing.)
7 I did some consulting in -- for
8 them in the '95 to '97 time frame, and I
9 think post the 2009 date, I may have had a
10 handful of days of consulting.
11 Q Have you done any work for Dropbox?
12 A No, I've never worked for or been
13 engaged by Dropbox in my capacity as a
14 computer science researcher.
15 Q You're aware that Dropbox and
16 Microsoft are the petitioners in these three
17 cases. Correct?
18 A I am aware of that.
19 Q In addition to the noted positions
20 in Exhibit A at Microsoft and you said the
21 few other times that you worked for them, you
22 were named as an inventor on patents assigned
23 to Microsoft. Correct?
24 A That is correct. I believe there
25 are three such patents.

1 Q Generally in the field of database
2 technology. Correct?
3 A Yes, they're in the area of
4 database technology. They're chiefly --
5 well, they're directed at work that came out
6 of work on datastream systems.
7 Q In total, other than your
8 consulting work in these IPRs, approximately
9 how much compensation have you received from
10 Microsoft Corporation for your consulting
11 work for them?
12 A Are you asking about just the
13 consulting work or also the visiting
14 positions?
15 Q All of the positions other than as
16 relates to the three IPRs that we're talking
17 about today, do you have an approximate total
18 of compensation that you've received from
19 Microsoft Corporation for technical work?
20 A I don't have that off the top of my
21 head.
22 The consulting portion, they paid
23 considerably less than my normal consulting
24 rate. I would guess the consulting part
25 would be on the order of $10,000. I have to

1 think about my compensation for when I was an
2 employee there, visiting temporary employee.
3 A rough estimate is somewhere on
4 the order of a hundred thousand dollars.
5 Q And this is, again, for
6 approximately seven months of approximately
7 half-time work. Correct?
8 A Right. For that amount of work. I
9 don't actually recall my pay rate there.
10 My guess is based on the fact that
11 they were probably paying me more than my
12 salary rate from the university. You know, a
13 hundred thousand might be on the high side
14 but that seems the correct order of
15 magnitude, could be 50 percent down from
16 that, perhaps.
17 Q Just to tie that up, you mean it
18 could be 50,000 to 200,000, approximately,
19 you think?
20 A No. 50 percent lower would be
21 50,000. 50 percent higher would be 150,000.
22 Q Thank you.
23 You've appeared as an expert in
24 IPRs before. Correct?
25 A Yes. I've been involved in IPRs

1 before.
2 I believe I was deposed in that
3 context, but I'm not recollecting the details
4 of that deposition.
5 Q And approximately, how many IPRs
6 have you submitted a declaration in, besides
7 the three that we're talking about today?
8 A I believe I was only in one
9 previous IPR matter.
10 I don't recall offhand whether
11 there was one or two patents at issue in
12 that -- in that matter.
13 Q And which side did you represent in
14 that matter, the patent holder or the
15 petitioner?
16 A As I recall, I represented the
17 petitioner.
18 Q So you've never appeared on behalf
19 of a patent holder, correct, for an IPR?
20 A I don't -- I don't recollect
21 appearing on behalf of a patent holder in an
22 IPR proceedings.
23 Q Have you testified as an expert or
24 given an expert declaration or an expert
25 report in patent litigations before?

1 A Yes, I have. I have done that -- I
2 have done so multiple times.
3 Q Have you ever been deposed in any
4 of those cases?
5 A Yes. I imagine I have given --
6 been deposed somewhere between 8 and 12
7 times.
8 Q Have you ever testified at trial?
9 A I have testified at trial.
10 Q How many times?
11 A I testified twice. It was the same
12 case.
13 I testified -- there was a jury
14 trial portion where I testified and there was
15 a bench trial portion where I testified.
16 Q What was the name of that case, do
17 you recall?
18 A It was a case about online college
19 application processing.
20 I believe the name of the company I
21 was appearing on behalf of was CollegeNET,
22 and I think there were several opposing
23 parties.
24 The one that comes to mind was
25 called XAP.

1 Q Are you aware -- do you remember
2 where the litigation was, what court it was
3 in?
4 A It was the Federal District Court
5 here in Portland. I believe the judge was
6 Judge Anna Brown.
7 Q Do you remember which side you
8 testified on behalf of; the accused infringer
9 or the patent holder?
10 A I believe CollegeNET was the patent
11 holder and I was appearing on their behalf.
12 It's probably been more than ten
13 years now, so it's not a real fresh matter in
14 my mind.
15 Q Okay. You submitted declarations
16 in each of the three cases we're talking
17 about today. Correct?
18 A Yes, I submitted declarations for
19 the '850 patent, '348 patent and the '478
20 patent.
21 I think those are the right
22 numbers. Yes.
23 Q And the -- strike that.
24 The '478 patent and the '348
25 patent, the declarations overlap

1 significantly. Correct?
2 A Yes, the declarations for those two
3 patents have portions in common.
4 Q We're going to talk today mostly
5 about those two declarations, and for the
6 most part, the '478 patent declaration,
7 because the portions in common are going to
8 be what we talk about most.
9 It's Exhibit 1003 in case IPR 2024
10 00078.
11 If you can get that declaration in
12 front of you, please.
13 A Exhibit 1003, right?
14 Q Your declaration.
15 A The '478 declaration. Okay, yeah.
16 Q Yes, 00078. We're combining all
17 three cases on the record today, trying to
18 keep it as clear as possible what declaration
19 and what exhibit we're talking about
20 throughout.
21 Approximately, how much time total
22 did you spend working on the three
23 declarations?
24 A (Witness reviewing.)
25 I don't think I added it up.

1 Thinking back, certainly tens of
2 hours. Probably fewer than 50 hours, but I
3 would not be able to answer that without
4 looking back at my billing records.
5 Q An approximate is fine.
6 And did you prepare for today's
7 deposition at all?
8 A Yes, I did prepare for today's
9 deposition.
10 Q And how did you prepare for today's
11 deposition?
12 And I'll just caution you, assuming
13 you spoke with counsel, please do not reveal
14 the content of any communications you had
15 with counsel.
16 Just in general, how did you
17 prepare?
18 A So there were essentially two parts
19 of my preparation. One was reviewing
20 materials and that involved reading my
21 declarations over again and consulting
22 exhibits for those declarations.
23 The other part was meetings with
24 counsel, and there were several of those, the
25 most recently this past Tuesday.

1 Q Did you review exhibits during the
2 meetings with counsel?
3 A I wouldn't recognize it as review.
4 We would consult them in cases for our
5 discussion, but it wasn't like a methodical,
6 let's go through this exhibit. It was
7 more --
8 Q I don't want you to actually
9 characterize it.
10 A Okay.
11 Q I don't want to get into
12 attorney/client privileged material at all.
13 A Okay.
14 Q So -- but I appreciate that.
15 Is there any exhibit that you
16 recall that you reviewed in discussion during
17 the preparation with counsel?
18 A Yes, I do remember some of the
19 exhibits we consulted during preparation for
20 deposition.
21 Q Can you tell me which ones you
22 remember?
23 A Are we talking for the '478 at this
24 moment?
25 Q Yes, the '478.

1 A Yes. So we consulted Exhibit 1001,
2 which was the patent itself.
3 We consulted Exhibit 1004, which is
4 the long patent.
5 We consulted Exhibit 1005, which
6 was the Cabrera patent.
7 We consulted Exhibit 1007, which
8 was the Farley patent.
9 We consulted Exhibit 1020, the
10 Schneider International Patent Application.
11 Those are the ones I remember that
12 we referred to during our preparations.
13 Q And is the answer the same for the
14 79 case?
15 A The 79 case being the '348 patent?
16 Q Yes, sir.
17 A Yes, that would be the same
18 exhibits.
19 Q So turning now to Exhibit 1003,
20 your declaration in the 78 case -- I'm sorry,
21 I'm going to keep referring -- hopefully it
22 doesn't confuse you.
23 I think I'm going to misspeak on
24 the three digits, so if I talk about the 78
25 case, tell me if you need clarifications.

1 Turning to Exhibit 1003 your
2 declaration in the 78 case, can we turn to
3 paragraph 38, please.
4 A I'm at paragraph 38 in that
5 exhibit.
6 Q Bear with me one second. I'm just
7 trying to boost the microphone here.
8 (Whereupon a discussion was held
9 off the record.)
10 Q So in paragraph 38, you make a
11 statement about the 1990s, Network File
12 Systems.
13 Do you see that?
14 A Yes, I make that statement at the
15 beginning of paragraph 38.
16 Q You say, "They erased any
17 differences between how users access local
18 and remote files."
19 Is that correct?
20 A (Witness reviewing.)
21 Yes, I speak of how Network File
22 Systems erase any difference between access
23 to local and remote files.
24 Q There would be differences between
25 the two different kinds of access, right,

1 local and remote?
2 MR. MASON: Objection, form.
3 A (Witness reviewing.)
4 The remote that I'm talking here
5 about, from the perspective of backup restore
6 applications.
7 And in terms of whether one was
8 accessing a file that was local or accessing
9 a file that was remote, those two types of
10 file systems would appear the same in
11 structure and capabilities to a user, and you
12 would use the same set of file system calls
13 and commands to deal with them.
14 Q There are timing differences
15 between the two, correct, local and remote
16 access?
17 MR. MASON: Objection, form.
18 A There could be timing differences.
19 I'm getting feedback sometimes.
20 Okay, it's not there.
21 There may be timing differences.
22 The local might be faster, the remote might
23 be faster. It would also depend on how
24 much -- how much data is being manipulated.
25 Q It -- there would be availability

1 differences between local and remote access.
2 Correct?
3 MR. MASON: Objection, form.
4 A (Witness reviewing.)
5 There could be availability
6 differences.
7 Q There could be reliability
8 differences?
9 A No, I didn't finish my answer
10 because there was feedback.
11 (Whereupon a discussion was held
12 off the record.)
13 Q Back on the record.
14 I can start fresh with my prior
15 question.
16 There could be availability
17 differences between local and remote access.
18 Correct?
19 MR. MASON: Objection, form.
20 A In this context of backup restore
21 applications, there could be at any given
22 instance differences in availability between
23 local and remote access, just as there could
24 be differences in availability between two
25 local disks.

1 Q Can we go to paragraph 41 of your
2 78 declaration, please.
3 A I'm at paragraph 41.
4 Q The last sentence of paragraph 41
5 states that "Kenley teaches a relational
6 database for maintaining and providing
7 transparent access to file attribute and
8 location data."
9 Is that correct?
10 A (Witness reviewing.)
11 Yes, that's what my report states,
12 my declaration states.
13 Q I would like to go to the noted
14 portions or the cited portions of Kenley,
15 please.
16 Kenley is exhibit --
17 A 1014.
18 Q 1014.
19 A So the first is column 3, starting
20 at line 17.
21 Okay. I'm at that first cited
22 section of Kenley.
23 Q Okay. Where does it disclose that
24 location data is stored?
25 MR. MASON: Objection, form.

1 A (Witness reviewing.)
2 Well, I think it is obvious to a
3 person of ordinary skill in the art that, for
4 example --
5 (Whereupon a discussion was held
6 off the record.)
7 A A person of ordinary skill in the
8 art, I believe, would realize that when the
9 patent says for maintaining the cataloged
10 file -- after the data -- the -- a person of
11 ordinary skill in the art -- let me just make
12 sure it's not -- my microphone is not trying
13 to suppress background information or
14 background sounds.
15 (Whereupon a discussion was held
16 off the record.)
17 A I believe that someone of ordinary
18 skill of the art at the time of the patent --
19 reading the passage in column 3 about
20 maintaining the cataloged file attribute data
21 after the data contained in the selected data
22 files have been migrated to the backing
23 store -- in order to maintain that data about
24 files on the backing store, they would have
25 had to identify the backing store copies of

1 those files. So that would be location data
2 also.
3 Also, in the cited excerpt at
4 column 6, line 36, Kenley is describing the
5 system administration database, which is a
6 relational database that stores digital
7 information representing backup templates and
8 backup catalogers, such as listed all files
9 copied to specific backup save sets.
10 And so that information about lists
11 of files copied to specific backup save sets
12 would be location information.
13 Q Sorry.
14 So from the column 3 disclosure,
15 you said it would be obvious but in your
16 declaration, you said it taught.
17 Is there a distinction between
18 those two to you, the teaching and obvious
19 disclosure?
20 A (Witness reviewing.)
21 The column 6 reference explicitly
22 talks about information about files within --
23 where -- where certain files are backed up.
24 (Witness reviewing.)
25 In the column 3 material...

1 The teaching of location data I
2 think is still there. It's in perhaps a more
3 implicit form but a person of ordinary skill
4 in the art would have gathered necessarily --
5 that since you're storing data about files
6 that can be in one of many places, that he
7 would need to denote those places.
8 Since you could have the same file
9 in multiple places in order to store
10 information about it, you would have to
11 designate the copy of the file in which
12 place.
13 Q So column 3 talks about attributes.
14 Correct?
15 A (Witness reviewing.)
16 Column 3, at the cited area, cited
17 section talks about file attributes.
18 Q It does not use the word
19 "location." Correct?
20 MR. MASON: Objection to form.
21 A (Witness reviewing.)
22 Does not use the word "location"
23 but it implies multiple locations in that it
24 talks about, at the end, whether the file is
25 stored in the secondary storage element or

1 has been previously migrated from the
2 secondary storage element.
3 So the cited section is talking
4 about multiple locations for a file even
5 though it doesn't use the word "location."
6 Q It doesn't relate the attributes to
7 the location, other than saying the
8 attributes are stored independent of where
9 files are stored. Correct?
10 MR. MASON: Objection, form.
11 A (Witness reviewing.)
12 I believe a person of ordinary
13 skill in the art, this paragraph would
14 suggest location data. Because it's talking
15 about that those attributes would include
16 location data because it's -- it talks about
17 attributes of the data file and maintaining
18 the cataloged file attribute data after the
19 data contained in the selected files has been
20 migrated to backing store.
21 And so that attribute data, I think
22 a person of ordinary skill would assume has
23 changed because of the movement -- because of
24 migration to backing store and so I believe
25 it would have been obvious to a person of

1 ordinary skill in the art that you would be
2 maintaining information or attribute data
3 about the files movement to backing store.
4 Q You're saying it's implicit.
5 Correct?
6 MR. MASON: Objection, form.
7 A Well, I believe it would be obvious
8 to a person of ordinary skill in the art that
9 you would have file attribute data of that
10 form.
11 Q And the column 6 disclosure of
12 Kenley that you cite, column 6, lines 36 to
13 40 of Kenley, it talks about storing save set
14 data. Correct?
15 MR. MASON: Objection, form.
16 A (Witness reviewing.)
17 Can you give me a line number? I'm
18 just not finding it.
19 Q Sure. Column 6, lines 36 to 40 of
20 Kenley. It's the second of the two cited
21 portions --
22 A Oh, I see it now.
23 Q -- into paragraph 41.
24 A (Witness reviewing.)
25 Yes, I see -- I see the mention of

1 save sets.
2 Q It literally says, line 39 to 40 in
3 column 6 of Kenley; "I.E., lists of all files
4 copied to specific backup save sets."
5 Correct?
6 A I see the, "I.E., list of all files
7 copied to specific backup save sets."
8 Q Kenley does not explicitly state
9 that the location of those save sets is
10 stored in this column 6 disclosure of Kenley.
11 Correct?
12 MR. MASON: Objection to form.
13 A (Witness reviewing.)
14 I would disagree with that because
15 it talks about specific backup save sets, a
16 specific backup save set is a location so
17 that would seem to be location information.
18 Q Couldn't a save set be a label
19 rather than a location?
20 MR. MASON: Objection to form.
21 A (Witness reviewing.)
22 The specific save set, specific
23 backup save set will be identified in some
24 form and that identifier serves to identify
25 the location.

1 So I think it's -- that is a
2 location.
3 Q You read save set as location?
4 MR. MASON: Objection, form.
5 A Yes. Much the same way that I say
6 I'm Portland, even though Portland is only a
7 label for the piece of the earth surface area
8 in which I'm sitting, Portland is still a
9 location.
10 So how -- the identifier for the
11 backup save set is a location.
12 Q Portland is a specific location of
13 that identifier. Correct?
14 Meaning there's a distinction
15 between a label such as Portland, Oregon and
16 a label such as save set 1, for example?
17 MR. MASON: Objection, form.
18 A (Witness reviewing.)
19 I don't see any significant
20 difference in the context of what I'm
21 describing in my report.
22 I don't really think there is a
23 difference. We have some designation of a --
24 of a backup location, a backup save set, and
25 that is -- that is location. Certainly you

1 wouldn't store something there that's not
2 clearly designating a location, because
3 otherwise it would be worthless information.
4 Q So in the column 6 disclosure that
5 you cite, paragraph 41 of your declaration,
6 column 6, lines 36 to 40 of Kenley, is it
7 fair to say that the location disclosure is
8 implicit as well?
9 A No, it's not fair to say that the
10 disclosure is implicit because it's -- it
11 says, "List of files copied to specific
12 backup save sets," so it discloses specific
13 backup save set in a specific backup save set
14 location.
15 Q Let's go to paragraph 53 of your
16 declaration, please.
17 A Same declaration?
18 Q Same declaration, staying in the 78
19 case.
20 A I'm at paragraph 53.
21 Q At the bottom of paragraph 53, you
22 again talk about Kenley's alleged disclosure
23 of location. Correct?
24 A (Witness reviewing.)
25 Q Starting at, "As Kenley explains"?

1 A Yes, I'm looking at that.
2 (Witness reviewing.)
3 So that sentence does say Kenley
4 explains using file attributes to track the
5 backup location of files.
6 Q And those are your words to track
7 the backup location of files, correct, that's
8 not a quote from Kenley?
9 A I'm not offering a quote at that
10 point.
11 Q You quote Kenley in other portions
12 of that sentence. Correct?
13 A (Witness reviewing.)
14 I do quote Kenley in other portions
15 of that sentence.
16 Q But not for the word "location."
17 Correct?
18 MR. MASON: Objection, form.
19 A (Witness reviewing.)
20 So back in 41, I have opined that
21 Kenley provides information on file
22 attribution location data, so that point has
23 been discussed and at this point I'm really
24 referring back to that discussion in
25 paragraph 41.

1 Q Okay. What about paragraph 76 of
2 this declaration, for the 78 case?
3 A So I'm at paragraph 76.
4 Q You refer to the same disclosures
5 of Kenley as you had in previous paragraphs.
6 Correct? Column 3, column 6, and then
7 there's two additional citations beyond those
8 we've discussed?
9 A (Witness reviewing.)
10 Yes, there's two additional
11 citations.
12 Q There's a citation in column 8 and
13 a citation in Column 2, in addition?
14 A Yes, there are those two additional
15 citations.
16 Q Do either of those use the word
17 "location" being stored by Kenley for files?
18 A (Witness reviewing.)
19 Those citations don't explicitly
20 use the word "location" but they identify
21 locations such as offline.
22 Q This is in Column 2 disclosure that
23 you're talking about?
24 A There, it's talking about the lack
25 of cataloging for information stored offline,

1 offline is -- refers to location separate
2 from those of the online files.
3 Q This is talking about in Column 2
4 of Kenley, tape storage, for example.
5 Correct?
6 A (Witness reviewing.)
7 The offline storage might be in
8 other archival storage media, column 1, line
9 54.
10 Q But Kenley's first paragraph of
11 Column 2 talks about the difficulty in
12 storing and managing offline tape libraries.
13 Correct?
14 MR. MASON: Objection, form.
15 A (Witness reviewing.)
16 In Column 2, there is mention that
17 tape libraries in the context of offline
18 storage but then we have, secondly, which, to
19 me, is introducing a further thought.
20 And there it just says -- talking
21 about operating systems not keeping track of
22 cataloging information or not -- not having a
23 means for cataloging information stored
24 offline, so there it's just saying offline.
25 And -- so looking -- looking back

1 in the specification, in column 1, line 5 --
2 54, we're talking about offline, including
3 magnetic tape or other archival storage
4 media.
5 So when we're talking about this
6 lack of cataloging information for data
7 stored offline, that does not read to me or
8 would it to a person of ordinary skill in the
9 art as being solely talking about tape
10 storage.
11 Q You interpret that cataloging of
12 information to necessarily include location
13 data of the files?
14 A (Witness reviewing.)
15 Well, we're talking here in the
16 context of the Kenley-Long combination, and
17 what it would render obvious based on their
18 teachings and those in the knowledge of a
19 person of ordinary skill in the art.
20 And that in order to store
21 information about backup copies, you would
22 have to say -- you would have to say which
23 copies you're talking about, which would --
24 which would have to say where those -- where
25 those files are located.

1 Q So you're using the knowledge of a
2 person of ordinary skill in the art in
3 combination with the literal disclosure of
4 Kenley to reach this. Correct?
5 MR. MASON: Objection, form.
6 A Can you tell me what you mean by
7 "this"?
8 Q Sorry. Thank you for asking.
9 Strike the prior question.
10 When you say that Kenley discloses
11 the storage of location data of backup data,
12 you're using the ordinary skill in the art to
13 supplement the literal disclosure of Kenley.
14 Correct?
15 MR. MASON: Objection, form.
16 A Well, we were last talking about
17 paragraph 76, and talking about that step,
18 talking about Kenley-Long rendering this
19 obvious at this -- I am basing that opinion
20 on the combination of Kenley-Long, along with
21 the knowledge of a person of ordinary skill
22 in the art.
23 So this -- but the point of
24 Kenley-Long rendering this stuff obvious, I'm
25 not solely relying on material from Kenley.

1 Q So it's a combination of
2 Kenley-Long and the knowledge of a person of
3 ordinary skill in the art that leads you to
4 understand that Kenley discloses saving
5 location data for backup data. Correct?
6 MR. MASON: Objection, form.
7 A I'm relying on the Kenley-Long
8 combination. I'm relying on the Kenley and
9 Long references and the -- what I judge to be
10 the knowledge and capabilities of a person of
11 ordinary skill in the art.
12 I talk about Kenley's information
13 but I also talk about Long's audit headers
14 that are updated to reflect different
15 locations of the data when that data moves
16 between different places in the audit
17 subsystem.
18 Q Okay. I'm just -- when I ask
19 questions about what you say Kenley says, and
20 then you divert and say, well, it's a
21 combination, with skill in the art in forming
22 it, we need to lock down better when I
23 question you on what you say Kenley says, I
24 need to understand what you actually say
25 Kenley says.

1 If you're okay to take a break now,
2 I think this is a good breaking point.
3 (Brief recess taken.)
4 Q Dr. Maier, I forgot to caution you
5 beforehand, but I need to ask, did you talk
6 about the substance of these matters with
7 anybody during the break?
8 A No, I did not talk about the
9 substance of matters during the break.
10 Q So we're still sticking with the 78
11 case.
12 And the first combination includes
13 Long and Kenley in that case. Correct?
14 A Yes, the Kenley-Long combination is
15 the first ground I offer.
16 Q And Long, which is Exhibit 1004,
17 sorry, in the 78 and 79 cases, does not
18 discuss data stored in files. Correct?
19 MR. MASON: Objection, form.
20 MR. JAFFESS: Sorry, Andy, can you
21 state the nature of the objection?
22 MR. MASON: I think you're talking
23 about -- it's vague because you're
24 referring to two different cases.
25 MR. JAFFESS: I'm referring to

1 Long.
2 MR. MASON: Mike, can you repeat
3 the question?
4 (Whereupon the record was read back
5 by the reporter.)
6 A (Witness reviewing.)
7 MR. JAFFESS: Andy, do you maintain
8 your objection on this?
9 MR. MASON: Yeah, I do maintain the
10 objection, yeah.
11 MR. JAFFESS: I have some concerns,
12 that it seems almost every question of
13 substance is a form objection.
14 MR. MASON: I wouldn't -- I would
15 disagree with that, but it's -- we are
16 preserving objections for the record.
17 I think in this instance, when
18 you're talking about whether -- what
19 Long does or does not discuss, in
20 general, the document speaks for itself.
21 I mean, I can continue to
22 articulate the basis of form objections
23 if you want, Ari.
24 MR. JAFFESS: I don't want to have
25 speaking objections but I don't want to

1 have form objections to everything.
2 The document doesn't -- we're here
3 to talk about the document, how he
4 interprets the document. That's the
5 whole purpose of this.
6 You say the basis of the objection
7 as being an issue is referring to the
8 two cases but it's actually just
9 referring to Long, one document.
10 And now you're saying it's about
11 some sort of technical characterization
12 which is changing it. I'm concerned
13 about that. I want a clean record.
14 That's all I'm saying.
15 MR. MASON: Okay. Understood.
16 MR. JAFFESS: Mike, read back the
17 question.
18 (Whereupon the record was read back
19 by the reporter.)
20 A (Witness reviewing.)
21 I believe that characterization
22 isn't completely accurate, although Long does
23 not mention the term "files."
24 It was well-known to a person of
25 ordinary skill in the art that files are

1 normally implemented at or disk files are
2 normally implemented by means of sectors.
3 And so even though Long doesn't use
4 the term "files," I think a person of
5 ordinary skill in the art would have
6 understood that Long's disk sectors would be,
7 in all likelihood, storing file data.
8 Q Long does not use the term "files."
9 Correct?
10 A (Witness reviewing.)
11 Long does not contain the word
12 "file" nor the word "files," to my knowledge.
13 Q Long is concerned with hardware.
14 Correct?
15 MR. MASON: Objection, form.
16 A No. Long is talking about --
17 largely about disk resident data, but it's
18 talking about methods, software, to work with
19 that disk resident data, both in memory and
20 on disk and on external storage.
21 Q Long concerns software methods?
22 A (Witness reviewing.)
23 MR. JAFFESS: I want to note for
24 the record that four minutes have
25 elapsed since I posed the question.

1 Q Now your answer, sir?
2 MR. MASON: Can you repeat the
3 question?
4 (Whereupon the record was read back
5 by the reporter.)
6 A (Witness reviewing.)
7 I will clarify that answer. Long
8 talks about methods. And it does not
9 explicitly say, I don't believe, that those
10 are software methods.
11 I think it would have been obvious
12 to someone with skill in the art that you
13 could implement those methods in software.
14 Q Long discusses the methods in the
15 context of hardware. Correct?
16 MR. MASON: Objection to form.
17 A (Witness reviewing.)
18 Long teaches methods. They're
19 obviously in the context of hardware because
20 they're talking about disk drives.
21 They're...
22 But I believe the elements of the
23 method are not dependent on them being
24 realized solely in hardware.
25 Q Long discusses capturing sector

1 rights. Correct?
2 A (Witness reviewing.)
3 MR. MASON: Objection, form.
4 A (Witness reviewing.)
5 Q Strike the question. Strike the
6 question. That's fine.
7 Let's move on to paragraph 58 of
8 your declaration in the 78 case.
9 Bullet 1 of paragraph 58 of Dr.
10 Maier's Declaration in the 78 case.
11 A Okay. I'm at that first bullet.
12 Q You say that you "could generate a
13 modification request as taught by Long
14 anytime the operating system or a user
15 application needed to modify the contents of
16 a file stored on the hard disk."
17 Is that correct?
18 A (Witness reviewing.)
19 Yes, that's the first sentence of
20 that bullet.
21 Q Does Long have communication with
22 the operating system itself?
23 A (Witness reviewing.)
24 MR. MASON: Objection, form.
25 A (Witness reviewing.)

1 I believe that...
2 Long is -- indicates interaction
3 with the operating system.
4 Q When the operating system modifies
5 the content of a file.
6 Is that correct?
7 A (Witness reviewing.)
8 So Long talks about a modification
9 request from an application to modify the
10 contents of hard disk.
11 Typically when an application wants
12 to modify hard disk, it does so through calls
13 to the operating system's file system.
14 Q And Long is at a lower level,
15 correct, at the hardware level?
16 MR. MASON: Objection to form.
17 A One of the embodiments of Long...
18 (Witness reviewing.)
19 Long is... is concerned with the
20 hardware level, certainly. It is interposing
21 itself between application programs and that
22 hardware level.
23 The methods it describes for
24 managing sector data, I believe, would be, to
25 a person of ordinary skill in the art, be

1 equally applicable to managing file page
2 data.
3 Q Long does not detect the operating
4 system's command itself. Correct?
5 A (Witness reviewing.)
6 MR. MASON: Objection, form.
7 A (Witness reviewing.)
8 I believe Long would detect
9 file-based operations, file-modification
10 operations emanating from the operating
11 system or a user program because those file
12 modifications ultimately get down to the
13 level where you are writing disk.
14 I think for the purposes of this
15 combination, the important thing is that it's
16 possible to recognize it would not be hard
17 for a POSITA to come up with a number of ways
18 to recognize that file modification requests
19 were emanating from application programs or
20 the operating system.
21 Q Long sees when the calls ultimately
22 get down to the level where you are writing
23 on a disk. Correct?
24 A (Witness reviewing.)
25 I don't think Long necessarily

1 restricts itself to operating at that level.
2 Long claim 31 talks about the
3 method and talks about detecting access
4 requests to alter data on a device comprising
5 a plurality of locations for the storage of
6 data.
7 So Long, itself, claims to be
8 broader than simply monitoring sector
9 operations.
10 Q The basis for your statement that
11 it's broader than sector operations is claim
12 31 of Long?
13 A I believe I'm at claim 31.
14 MR. MASON: Objection, form.
15 A So this is not something that I've
16 dealt with in my report.
17 But just saying that for someone --
18 a person of ordinary skill in the art, Long
19 is defining a method where update requests
20 are -- are being detected and on the basis of
21 that backup information, is starting to
22 migrate through -- through other levels of
23 storage to support -- or to other locations
24 of storage to support future backup requests
25 or restoration requests.

1 Q So your claim is that Long
2 captures -- strike that.
3 You claim that Long gets a
4 modification request at any time the
5 operating system or a user application needs
6 to modify the contents of a file stored on a
7 disk. Correct?
8 MR. MASON: Objection to form.
9 A (Witness reviewing.)
10 Q Straight out of paragraph 58,
11 bullet 1.
12 A Okay. So in paragraph 58, bullet
13 1, and those bullets are talking about the
14 Kenley-Long system, and they start by saying,
15 okay, we have this modification request, Long
16 talks about modification requests and then
17 the combination would generate such a
18 modification request when the operating
19 system or user application needs to modify
20 the contents of a file.
21 Q I'm trying to get the basis of this
22 statement, that Long would capture it on a
23 sector write level.
24 Is that correct?
25 MR. MASON: Objection, form.

1 A Where do I make the statement that
2 "one would capture it on a sector write
3 level."
4 Q I'm asking you about Long itself.
5 I'm trying to distinguish an
6 operating system call from the result of the
7 operating system call, which could end up
8 being a sector write.
9 Long is concerned with the sector
10 write. Correct?
11 A As I explained before, the method
12 of Long -- I believe the preferred embodiment
13 is expressed in terms of sector writes, but
14 that's when embodiment and the claims claim
15 something broader that is simply modification
16 requests.
17 And so the important thing is
18 that -- and what's of the essence here is
19 that the backup subsystem not miss any file
20 modifications.
21 And so, you know, is that
22 modification request -- I believe it's
23 obvious to a person of ordinary skill in the
24 art at the time -- just needs to happen
25 someplace between when the request comes from

1 the application or the operating system and
2 before the time that contents of the hard
3 drive of a disk drive is actually changed.
4 Q And Long comes after the operating
5 system and before the write to the hard
6 drive. Correct?
7 That's all I'm trying to get at
8 with this whole line of questioning.
9 A (Witness reviewing.)
10 Long does not restrict itself to be
11 after the operating system.
12 Long, in its most general
13 description of the method, simply says --
14 it's taking access requests to alter data on
15 one or more said locations of the storage
16 device and it's just talking about a
17 plurality of locations for storing data.
18 It doesn't, in that most general
19 form, restrict where that detection is
20 happening.
21 Q In the more detailed descriptions,
22 all of them have to do with sectors.
23 Correct?
24 MR. MASON: Objection to form.
25 Q In Long?

1 A Well, it would take me a moment to
2 determine whether in every place Long always
3 uses the word "sector."
4 Q Okay. Strike that.
5 Is Long integrated into the
6 operating system?
7 MR. MASON: Objection, form.
8 A Long describes a method involving
9 detecting modification requests.
10 In its most general form, I think
11 it provides -- it makes sense to or a POSITA
12 would realize that request could be detected
13 in a number of places.
14 There's -- you know, we have to
15 realize that the file system and the
16 operating system, you know, spans between the
17 user call level and requests for disk
18 manipulations.
19 I think, first, a person of
20 ordinary skill in the art would realize
21 Long's method when -- you know, in
22 combination with Kenley's file-based methods,
23 could detect that modification request at a
24 certain number of obvious points.
25 Q Okay. I think I understand your

1 contention there.
2 Long, on its own, could Long
3 capture file opens, request to open a file?
4 MR. MASON: Objection to form.
5 A (Witness reviewing.)
6 For some file systems, I believe
7 Long would capture requests to open a file
8 because in most file systems I've dealt with,
9 there is a lapsed access time that's stored
10 about the file and that file attribute
11 information is typically stored on disk.
12 So I think in the operating systems
13 I'm familiar with, Long would be able to
14 detect an open request because it's updating
15 file metadata.
16 Q Okay. Can we go in Long, which is
17 Exhibit 1004, case 78, go to column 7, lines
18 37 to 43.
19 A (Witness reviewing.)
20 Yes, I'm there.
21 Q Do you agree that Long copies each
22 written sector one at a time to the memory
23 buffer?
24 A (Witness reviewing.)
25 At this point in Long, in column 7

1 where you directed me, this embodiment of
2 Long is describing copying sectors to the
3 audit -- audit buffer.
4 (Witness reviewing.)
5 But in his broadest description of
6 the method, it does not refer to that data as
7 specifically being sectors.
8 Q Where is the broadest description
9 of the method that you're referring to?
10 A Well, claim 31, for example, it's
11 describing -- Long is describing the method
12 and is not referring to sector writes at all
13 in describing the method.
14 Q Do you cite to claim 31 at all in
15 your report, sir?
16 A (Witness reviewing.)
17 I don't believe I cite to that
18 claim, but, for example, I do cite to Figure
19 5, which also describes a method.
20 In that figure, it's not using --
21 it's not using the term "sector."
22 Q Can you go to the description of
23 Figure 5 in column 7 of Long.
24 Do you agree that repeatedly it
25 says sector in column 7, lines 37 through 43

1 in discussing Figure 5 of Long?
2 A (Witness reviewing.)
3 So in the description of Figure 5,
4 it does mention sectors. I believe someone
5 of order -- a person of ordinary skill in the
6 art at the time of the patent would have
7 easily been able to understand the method
8 would operate with other units of data other
9 than sectors, as I cite in paragraph 57 of
10 my -- of this -- of the declaration of the
11 '478 patent.
12 Schneider looks at the Long method
13 and immediately recognizes that it's
14 applicable to files, and, you know, that's --
15 I think that's evidence that someone reading
16 Long would understand there's a method there
17 that can be applied, certainly, with file
18 sectors but with other -- or with disk
19 sectors, but also with other forms of file
20 elements.
21 Q Just going in a bit of a circle.
22 So I want to be clear. Long, itself,
23 discusses sectors in column 7 in reference to
24 Figure 5. Correct? Not beyond it, not other
25 references. Long itself discusses

1 modification to sectors in column 7 regarding
2 Figure 5.
3 Yes or no?
4 MR. MASON: Objection, form.
5 A (Witness reviewing.)
6 So in describing Figure 5, Long
7 is -- in column 7, Long is talking about an
8 embodiment where the audit subsystem is
9 manipulating sectors.
10 Q You pointed to Figure 5 to say
11 something more generally about Long.
12 Correct?
13 A I did.
14 Q Do you wish to maintain that or do
15 you wish to retract that characterization of
16 Figure 5 of Long being broader than sectors?
17 A I believe that someone of -- a
18 person of ordinary skill in the art, looking
19 at figure 5 and reading it on its face, would
20 realize that it's describing a method that
21 can be applied more broadly than sectors,
22 even though Long, in describing Figure 5,
23 illustrates it with the preferred embodiment
24 that does use sectors.
25 Q Can you go to bullet point 3 in

1 paragraph 58 of your report, which is, again,
2 still on the 78 case.
3 A Paragraph -- what is the paragraph
4 again?
5 Q Paragraph 58.
6 A Okay.
7 Q Bullet point 3.
8 A So the one that starts "Maintain"?
9 Q Correct.
10 A I'm at that point.
11 Q Okay. Your contention is that
12 combination one, in this case, the 78 case,
13 as well as the 79 case -- strike that.
14 Your contention is that combination
15 one of Kenley-Long would maintain audit
16 header information as taught by Long in a
17 backup catalogue in a relational database as
18 taught by Kenley. Correct?
19 A Yes, that's my opinion.
20 Q So that's the location information
21 from Long audit header in the database of
22 Kenley. Correct?
23 A (Witness reviewing.)
24 Yes, I'm describing that in this
25 combination, that the audit header

1 information taught by Long would reside in a
2 database catalogue as taught by Kenley.
3 Q I would like to delve through now
4 what is actually in the header of Long.
5 Let's turn to paragraph 77 of your
6 report, please. Again, still Exhibit 1003,
7 the 78 case.
8 A I am at paragraph 77.
9 Q Paragraph 77 and the following
10 annotated table 1 from Long discuss the
11 contents of the audit header of Long.
12 Correct?
13 A (Witness reviewing.)
14 That's what this paragraph is
15 talking about, the audit header information
16 for Long.
17 Q Okay. You've highlighted certain
18 aspects of the audit header of Long.
19 Correct?
20 A I have highlighted certain aspects.
21 Q I would like to briefly talk
22 through those, please.
23 The label loc, L-O-C, the audit
24 header of Long, what does that disclose or
25 what does that store?

1 A (Witness reviewing.)
2 It's storing the location of the
3 label on disk in the audit header.
4 Q The next item, the Bufloc
5 B-U-F-L-O-C, is the location of the beginning
6 of the audit buffer of the disk. Correct?
7 A Yes, that's how Bufloc is described
8 in this table.
9 Q And cache loc, C-A-C-H-E, L-O-C, is
10 the location of the audit buffer in the disk
11 cache. Correct?
12 A That's correct.
13 Q C loc, which is C-L-O-C, is the
14 physical location of the last data in the
15 buffer. Correct?
16 A It says, The physical location of
17 the last date in the buffer, the next update
18 of the buffer will begin at this address.
19 This is on a sector by sector basis.
20 Q And then the first markerloc, all
21 one word, first marker L-O-C, that's the
22 location of the first marker in the audit
23 buffer. Correct?
24 A That's correct, that's what the
25 table says.

1 Q And the last markerloc, all one
2 word, last marker L-O-C, is the last marker
3 location in the audit buffer. Correct?
4 A Yes, that's what the table says.
5 Q So Long's audit header tracks the
6 first and the last markers. Correct?
7 A (Witness reviewing.)
8 It tracks that among other
9 information.
10 Q Fair.
11 It does not track the markers in
12 between the first marker and the last marker,
13 correct, the audit header?
14 MR. MASON: Objection to form.
15 A (Witness reviewing.)
16 The audit header is showing where
17 particular markers are. The marker header
18 information makes it possible to access -- to
19 locate all the markers currently in the
20 buffer.
21 Q That's not an answer to the
22 question.
23 The audit header tracks the first
24 and the last marker and not any in between.
25 Yes or no?

1 A (Witness reviewing.)
2 MR. MASON: Objection, form.
3 A (Witness reviewing.)
4 The audit header is tracking a
5 range of markers by keeping track of where
6 the first and last markers are.
7 Q It does not track the audit header?
8 Does not track markers in between the first
9 and the last marker.
10 Yes or no?
11 A I would disagree with that because
12 it's tracking a range of markers. It knows
13 all the markers that are within that. So it
14 is tracking all the markers by -- because
15 they're stored contiguously.
16 So it's sufficient for it to have
17 the first and last marker in order to be able
18 to track all the markers.
19 Q Using the audit header itself, how
20 would I get the location of the say second
21 marker out of three?
22 A (Witness reviewing.)
23 Well, in this section of my report,
24 I'm talking about Kenley-Long combination and
25 that Long teaches an audit header.

1 I've also talked about how, when
2 there are updates to the audit header, those
3 are captured into the database of Kenley.
4 So as in the process of placing all
5 of those -- in the combination in the process
6 of placing all those markers into the audit
7 buffer, Long would be repeatedly updating, so
8 it -- let me step back.
9 At some point that second marker
10 was the last marker in the audit buffer.
11 In the combination, we are tracking
12 whenever there are changes to the audit
13 buffer in the catalogue database of
14 Kenley-Long -- of Kenley, talking about
15 Kenley, and so since when that particular
16 marker went into the audit buffer, there was
17 an update to the audit buffer that we caught
18 and put in the database.
19 Our database will have a record of
20 the location of all the markers because at
21 some point every marker was the last marker
22 in the audit buffer.
23 Q We just went over paragraph 58,
24 bullet point 3.
25 A Yes.

1 Q Where you say, Maintain the audit
2 header information as taught by Long in a
3 backup catalogue in a relational database as
4 taught by Kenley.
5 A I -- let me just stick a thing on
6 53. Okay.
7 Q You just talked about the second
8 would have been the last and that would be
9 captured, where is that expressed in your
10 report, sir?
11 MR. MASON: Objection, form.
12 A (Witness reviewing.)
13 In paragraph 77, I talk about right
14 at the beginning that Long teaches an audit
15 buffer that's updated, reflect changes in the
16 storage location.
17 (Witness reviewing.)
18 So I talk about, in paragraph 77,
19 how this audit buffer information is updated
20 when there are changes to the audit buffer.
21 And so then I talk about, in
22 paragraph 78 -- paragraph 78, Thus in view of
23 these complementary teachings, a POSITA would
24 be -- thus in view of these complementary
25 teachings, a POSITA would have been motivated

1 with a reasonable expectation of success to
2 implement Kenley-Long, such that information
3 on current locations of different backup
4 files, including the relevant audit header
5 information taught by Long, was stored in the
6 relational database catalogue taught by --
7 taught by Kenley.
8 And so I've talked about the audit
9 header being updated. I've been talking
10 about file location data from the audit
11 header being stored in -- in the database of
12 Kenley.
13 It's -- it would be obvious to a
14 POSITA that that audit header information is
15 changing over time as data is being moved
16 about. When those changes are made, we will
17 capture the new audit buffer information in
18 Kenley's database. There's -- you know, in
19 this combination, we know that the audit --
20 the audit header is changing over time and we
21 are copying the information that shows up at
22 various times in the audit buffer.
23 Q Where does it say in your report
24 anything about this various times?
25 A Well, in paragraph 77, it talks

1 about the audit header being updated to
2 reflect changes, so that says that the audit
3 -- that -- then we know that the audit
4 buffer -- the audit header is a changing
5 collection of information because it's
6 updated.
7 Q But the audit header itself only
8 tracks the first and the last marker.
9 Correct?
10 MR. MASON: Objection, form.
11 Q Let me rephrase that.
12 As far as marker locations, the
13 audit header itself only tracks the first and
14 the last. Correct?
15 MR. MASON: Same objection.
16 A (Witness reviewing.)
17 So I talk about, in paragraph 78,
18 including relevant audit header information
19 taught by Long.
20 I'm not -- that doesn't -- and I
21 talked about the audit header changing.
22 So relevant audit header
23 information would be -- include location of
24 markers, any marker of which is, at some
25 point in the life of the audit header,

1 recorded in the audit header.
2 And so I'm not -- you seem to be
3 wanting me to restrict audit header
4 information to be the information in the
5 audit header as frozen at some point of time.
6 But as I make clear in paragraph
7 77, we're talking about the audit header
8 being updated in the process of moving data
9 around.
10 And so, you know, we have all those
11 updates to the audit header. Those are audit
12 header information. We store those in the
13 catalogue of Kenley Brown -- Kenley-Long.
14 Q You noted in your report that
15 there's a mislabel in Long, correct, in
16 paragraph 73?
17 A Yes, I noted a mislabeling.
18 Q Did you notice any other
19 mislabeling in Long, besides that noted in
20 paragraph 73 of your report, in the 78 case?
21 A (Witness reviewing.)
22 I heard some sound in the
23 background.
24 Q It's okay, just background --
25 A Okay.

1 (Witness reviewing.)
2 I believe that's the only place
3 I've indicated what I believe is a
4 typographical error in Long.
5 Q Go back to paragraph 77, please.
6 A Okay.
7 Q Paragraph 77 of your report. And
8 towards the bottom of that paragraph, Long
9 discloses constructing the audit header for a
10 marker after storage of the data in the
11 memory buffer in the marker.
12 Do you see that?
13 A (Witness reviewing.)
14 I see that.
15 Q If we go to the relevant disclosure
16 of Long, this is in column 7, line 59.
17 A (Witness reviewing.)
18 Q It actually starts at line 65 of
19 column 7 of Long, which you quoted,
20 constructing the audit header.
21 A Okay. So at line 65, I see the
22 system constructs the audit header.
23 Q From the type of marker, if you can
24 read forward there, it talks about the CRC,
25 the current system time, the location that

1 the sector data is from on the hard disk.
2 Do you see those attributes?
3 A I see some of those, yes.
4 Q If you refer to column -- sorry.
5 If you refer to table 2, which is
6 in column 5 of Long.
7 A Marker header fields.
8 Q These are the fields for the marker
9 header. Correct?
10 A (Witness reviewing.)
11 These are a list of fields in the
12 marker header.
13 Q And as disclosed at the bottom of
14 column 7, they include CRC, current system
15 time, the location, type of marker. Correct?
16 A Those are included in the marker
17 header.
18 Q And not the audit header. Correct?
19 MR. MASON: Objection, form.
20 A (Witness reviewing.)
21 So looking at this part of Long
22 again, on previous readings I believe I've
23 understood that this was talking about the
24 initial construction of the audit header,
25 based on the first marker on a more careful

1 reading.
2 Now it would seem like this is also
3 a possible typo in Long where it perhaps
4 would have made more sense that this was
5 talking about the marker header because it's
6 reciting elements of the marker header.
7 MR. JAFFESS: We can stop there.
8 (Brief recess taken.)
9 Q Back on the record.
10 Dr. Maier, can you open the '478
11 patent, Exhibit 1001, and -- in the 78 case?
12 A Yes. Okay, I'm at the Roche, et
13 al. patent.
14 Q Can you go to column 8, which is in
15 the claims, claim 1, line 48.
16 It recites, Searching the first
17 temporary storage location for the archive
18 file.
19 Do you see that?
20 A I see that claim element.
21 Q What does "searching" mean to you?
22 Strike that.
23 How did you use the searching --
24 strike that.
25 In your report, concerning the '478

1 patent, Exhibit 1003 in the 78 case, what
2 definition of searching were you using?
3 MR. MASON: Objection, form.
4 Scope.
5 A (Witness reviewing.)
6 So reading searching here, you
7 know, I discuss this claim element as 1.4,
8 paragraphs 66, and Long.
9 (Witness reviewing.)
10 So using searching in the sense of
11 when we have a collection of information
12 locating -- let's say...
13 Yeah. Let's say identifying an
14 element of that collection.
15 Q In identifying that element, it's
16 an element that you're looking for ahead of
17 time. Right? Strike that.
18 You're looking for that one element
19 in the group. Correct?
20 MR. MASON: Objection to form.
21 A (Witness reviewing.)
22 Q Do you know what -- strike that.
23 Can we go to paragraph 124 of your
24 declaration, in case 78. It's Exhibit 1003.
25 A The paragraph that starts "Cabrera

1 describes"?
2 Q Correct.
3 So Cabrera discloses that data
4 should be copied on a periodic basis or when
5 sufficient data is available to backup.
6 Correct?
7 A (Witness reviewing.)
8 Yeah, Cabrera describes...
9 Beginning the backup archive, when
10 sufficient data exists on local chip storage,
11 or on a periodic basis.
12 Q Shifting to paragraph 135 -- I will
13 start again.
14 Shifting to paragraph 135 in the
15 same report, 78 case.
16 A I'm at paragraph 135.
17 Q Sorry, I'm trying to locate my
18 question.
19 So on the first line of page 77 --
20 A Okay.
21 Q -- it starts, The POSITA reading
22 Cabrera -- it states, The POSITA reading
23 Cabrera would have known that the location of
24 a backup archive copy needed to be tracked in
25 order to facilitate access.

1 Do you see that?
2 A I see that.
3 Q This is something that is stated in
4 Cabrera or this is something in addition to
5 Cabrera itself?
6 A (Witness reviewing.)
7 What I'm saying here is a person of
8 ordinary skill in the art, looking at
9 Cabrera, would have known of the need to
10 track location of backup archive data in
11 order to access the backup archive copy.
12 Q And so this combination looks to
13 Whiting to do that. Correct?
14 MR. MASON: Objection to form.
15 A (Witness reviewing.)
16 In my combination, I give Whiting
17 as an example of other backup prior art for
18 teachings about recording or tracking the
19 location of backup and archive files.
20 But one way to do that, so a POSITA
21 would have been able to identify at least
22 one -- one way to track the locations of
23 backup archive copies, as using Cabrera, is
24 using the global directory index that -- that
25 Whiting describes.

1 Q Okay. I just want to understand,
2 are you saying here that Cabrera itself is
3 incomplete, that Whiting is needed in order
4 to implement it?
5 MR. MASON: Objection to form.
6 A (Witness reviewing.)
7 I am not asserting that Cabrera is
8 incomplete.
9 I think it would be obvious to a
10 person of ordinary skill in the art that, you
11 know, if you're moving data around, you have
12 to keep track of where it is.
13 So I think Cabrera makes it obvious
14 that you will need to track backup data.
15 Whiting discloses a particular place you can
16 track that backup data.
17 Q Does Cabrera disclose any place
18 that you can track that backup data?
19 A (Witness reviewing.)
20 Cabrera discloses an archive system
21 such as is shown in figure 2 that's
22 reproduced in my report.
23 This archive system is responsible
24 for taking the actions that move data around
25 into the staging area and that's to remote

1 storage.
2 So in order to perform these
3 movements, the archive system would have
4 access to information about locations of data
5 items.
6 So I think Cabrera discloses the
7 archive system that would have -- would have
8 tracked locations of various archive backup
9 data.
10 MR. MASON: Ari, before I said I'd
11 let you know, lunch is here on our end
12 now, just so you know.
13 MR. JAFFESS: Yeah, I want to go
14 through this line a little bit more.
15 Q At paragraphs 146 and 147, it talks
16 about limitation 1.6 in your declaration.
17 I just want to know what you point
18 to in Cabrera that suggests locations are
19 saved.
20 I'm not limiting you to 146 or 147,
21 if there's other places in your report.
22 A (Witness reviewing.)
23 As I've described in my report and
24 talking about the combination, Cabrera
25 Schneider Whiting, that a POSITA reading

1 Cabrera would know that the -- the method
2 there would have to know about location of
3 backup archive data in order to do the
4 activity -- the activities of backing up
5 archiving.
6 And that Whiting provides a -- an
7 example of a database is a place to -- where
8 you can collect such information.
9 So I believe it's obvious over
10 those teachings of Cabrera and Whiting that
11 when you move a file to the staging area and
12 that database information, that directory
13 file taught by Whiting would be updated to
14 indicate that that backup data is now in the
15 staging area.
16 Q But Cabrera itself does not
17 disclose that location data is stored for
18 backup files. Correct? You're saying it
19 would have to be?
20 MR. MASON: Objection, form.
21 A (Witness reviewing.)
22 Well, I've not been offering
23 opinions on -- I take that back.
24 I am -- I do believe that a POSITA
25 reading Cabrera would have known that you

1 have to have locations of the backup archive
2 copy. It talks about moving that backup copy
3 to a staging area, and then it's to remote
4 storage.
5 It would have been obvious to a
6 person of ordinary skill in the art that if
7 Cabrera had no information on location of
8 files, it would have been unable to do so.
9 It's not -- yeah.
10 Q You're saying Cabrera needs to
11 store location data somehow to work?
12 A (Witness reviewing.)
13 I believe that Cabrera needs to --
14 I believe that it's obvious that in combining
15 Cabrera with Whiting, the teachings of
16 Whiting, it would have been obvious for a
17 POSITA to track location of data as practiced
18 in the Cabrera method in this backup
19 directory file database that Whiting teaches.
20 Q So you said the location data as
21 practiced in the Cabrera method. That's what
22 I'm trying to get at.
23 Where is location data as practiced
24 in the Cabrera --
25 A I don't -- I didn't -- I don't

1 believe I said location data. I believe I
2 said -- I thought I said location of data.
3 Q Location of data, pardon me.
4 So you're saying the fact that data
5 moves in Cabrera would mean that its location
6 has to be tracked by Cabrera somehow?
7 MR. MASON: Objection to form.
8 A Yeah. I mean, I state that in
9 paragraph 135.
10 I think that a POSITA reading
11 Cabrera would have known that the location of
12 a backup archive copy needed to be tracked in
13 order to access that backup archive copy.
14 So I am saying that, you know, a
15 POSITA reading Cabrera would have known that
16 locations of these copies needed to be
17 tracked.
18 MR. JAFFESS: I think, if it's okay
19 with everybody, we can stop now for a
20 lunch break, if that's all right.
21 THE WITNESS: That's good on this
22 end.
23 THE COURT REPORTER: Mr. Mason,
24 before the lunch, do you want a copy?
25 MR. MASON: Yes, unless I tell you

1 otherwise, regular is fine. I don't
2 need it rushed.
3 (Lunch recess taken.)
4 Q Dr. Maier, welcome back.
5 Again, I just want to confirm that
6 during none of the breaks you talked about
7 none of the substance of the matters with
8 anybody.
9 Is that correct?
10 A That's correct. Our lunch talk was
11 mainly about the great remembering of houses
12 in Portland.
13 Q I was going to try and stop you
14 from any discussions but I don't think that
15 falls under any issue of privilege.
16 We're sticking with the 78 case.
17 If you can turn to paragraph 141 of
18 your declaration.
19 A Okay. I'm at paragraph 141.
20 Q The second line on page 80, can you
21 read that sentence starting with, "The
22 staging," into the record?
23 A The staging filer staging area --
24 excuse me -- is adapted for temporarily
25 staging the data citation, stage the

1 information in a temporary storage area.
2 Q So the staging file of Cabrera -- I
3 just want to confirm, the staging area and
4 the staging file of Cabrera are the same
5 thing?
6 A (Witness reviewing.)
7 Cabrera uses both the terms
8 "staging area" and "staging file," both
9 indicating a place that data is temporarily
10 staged on the way to remote storage.
11 (Witness reviewing.)
12 The staging file certainly
13 resides -- at least resides in the staging
14 area.
15 I have not opined on whether
16 Cabrera used the staging file as co-extensive
17 with the staging area or not.
18 Q I mean, this sentence appears to
19 equate the two, "the staging file or staging
20 area," so I'm just trying to understand if
21 that's the case.
22 MR. MASON: Objection to form.
23 A (Witness reviewing.)
24 In my report, I'm, I guess, not
25 specifically arguing for the equivalence of

1 those two terms.
2 I have understood if -- if data
3 is -- if copying a file from local storage to
4 the staging file, that that data would
5 necessarily end up into the staging area.
6 So I guess that I've -- I've taken
7 the staging file as being something in the
8 staging area. And I think in my analyses
9 it's -- if I have seen some place that
10 Cabrera talks about moving something to the
11 staging file, then I believe it's a
12 reasonable conclusion that that information
13 is -- is in the staging area.
14 Q The staging file contains data from
15 multiple backup files. Correct?
16 A (Witness reviewing.)
17 Q I can point you to parts of
18 Cabrera, if it would be helpful.
19 A Yes.
20 Q So towards the bottom of column 10,
21 let's say line 48, line 48 of Cabrera column
22 10, it's Exhibit 1005.
23 A Okay.
24 Q It talks about staging data to,
25 quote, "the staging file."

1 A (Witness reviewing.)
2 Q Line 60, column 10, Cabrera --
3 A Sixty, okay.
4 Q -- these are multiple. It talks
5 about data is copied from local storage to
6 the staging file.
7 A (Witness reviewing.)
8 Q It's -- it's not to a staging file
9 for the data, it's to the staging file for
10 the system.
11 Would you agree with that?
12 A (Witness reviewing.)
13 I would have to look more before I
14 offered an opinion on that because I would --
15 offhand, I don't know the antecedent to the
16 staging file.
17 You know, for purposes of my
18 report, the really important part is that
19 Cabrera teaches data moving to a temporary --
20 a first temporary staging area before moving
21 on to remote storage.
22 Q Moving onto paragraph 102 of your
23 declaration.
24 A Okay. I'm there.
25 Q At the start of paragraph 142, you

1 say that "A POSITA wouldn't have found it
2 obvious to create the copy of the file
3 temporarily proximate to the operation being
4 performed so that a logically consistent
5 backup copy is created.
6 Is that correct?
7 A (Witness reviewing.)
8 Yes, that's the beginning of the
9 first sentence in paragraph 142.
10 Q So as far as Cabrera is concerned,
11 you cite to not allowing the file or volume
12 to change during the backup procedure as a
13 reason for this obviousness. Correct?
14 A (Witness reviewing.)
15 Well, in this paragraph, I'm
16 talking about the need to create a backup
17 copy updated before that data changes, but
18 it's not -- I cite to several other sources
19 talking about creating a backup copy of data
20 before it's modified.
21 So there's -- I think a POSITA had
22 knowledge that -- you know, that it's -- you
23 want to create this backup file before you
24 perform any changes on the original.
25 Q There are ways to do that by

1 blocking a write, for example, correct?
2 MR. MASON: Objection, form.
3 A (Witness reviewing.)
4 So at this point I am talking about
5 specific claims in the context of the Cabrera
6 Schneider Whiting combination, and among
7 other things, the Schneider reference, I
8 believe it is Exhibit 120, talks about the
9 technology, the present invention seeks to
10 eliminate the need to pause and make backups
11 or decide which files should be backed up in
12 the context of short-term information
13 recovery.
14 So in combining Cabrera and
15 Schneider, Schneider teaches away from
16 walking and pausing.
17 Q Where is that -- that cited here in
18 your paragraph 142 or in the section?
19 A (Witness reviewing.)
20 That is discussed back in section
21 D, starting at page 73, where I'm talking
22 about the combination of Cabrera and
23 Schneider and Whiting.
24 And so the place I quoted is
25 about -- I don't know -- two thirds of the

1 way down the page.
2 "The technology of the present
3 invention seeks to eliminate the need to
4 pause and make backups or decide which files
5 should be backed up in the context of
6 short-term information recovery."
7 So what I cited is in context for
8 the paragraph we're discussing.
9 Q Understood.
10 Does Cabrera have any exposure in
11 itself of temporal proximity?
12 A (Witness reviewing.)
13 Well, Cabrera discloses that any
14 triggering event may be used to trigger the
15 backup archival process.
16 So any triggering event, I believe,
17 to a POSITA would encompass a triggering
18 event that is based on a file modification
19 request.
20 Q Well, the specific triggers in
21 Cabrera are a defined amount of data or a
22 particular amount of time having elapsed.
23 Correct?
24 A (Witness reviewing.)
25 MR. MASON: Objection to form.

1 A No, that's not correct.
2 I mean, they specifically suggest
3 at least the accumulation of a given amount
4 of data, the expiration of a given time delay
5 or the receipt of a command to stage data.
6 Q Okay. At least the first two
7 defined amount of data or amount of time are
8 not any sort of temporally approximate back
9 of the data, correct, the writing?
10 They're literally waiting for an
11 amount of time or an amount of data.
12 Correct?
13 A (Witness reviewing.)
14 Or the receipt of a command to
15 stage data.
16 I mean, Cabrera is, you know,
17 disclosing any triggering event.
18 As I said, maybe there are some
19 that have a time delay but he's not
20 restricting that there be others that are
21 events that are triggered by other means.
22 And -- you know, I am -- my basis
23 is on the basis of Cabrera Schneider Whiting
24 and so a person of ordinary skill in the art
25 having Schneider and Whiting together or

1 Cabrera -- sorry -- Cabrera and Schneider
2 together would see, well, you know, Schneider
3 says it's a bad idea to pause to make
4 backups, so let's, you know, take Schneider's
5 advice and avoid pauses and, you know, using
6 modification requests as the triggering event
7 that Cabrera mentions.
8 Q Okay. Can you go to page 86 of
9 your declaration. It's still in the 78 case.
10 A Eighty-six?
11 Q Yes. This is figure 2 of Cabrera
12 in your declaration.
13 A Okay. I am looking at figure 2 of
14 Cabrera.
15 Q In figure 2 of Cabrera, they're
16 shown a data file, multiple data files,
17 actually, 64. Correct?
18 A (Witness reviewing.)
19 Actually, the language of Cabrera
20 is -- talks about data file 64.
21 Data file 64 represents a local --
22 represents a local storage area used by a
23 data producer 60 to store data it produces.
24 Q So the data producer 60 produces
25 the data 64. Correct?

1 A (Witness reviewing.)
2 Yeah. What I -- what I believe is
3 being depicted here is one or more data
4 producers producing data files.
5 Q And then, what is depicted by 68 in
6 figure 2 of Cabrera?
7 A (Witness reviewing.)
8 Well, I don't know if I have opined
9 on what 68 depicts.
10 But I know that Cabrera describes
11 movement of data from data files produced by
12 producer to the data staging area. Exactly
13 what Cabrera defines 68 as with the
14 terminology used, I can look up but I haven't
15 found it necessary to know what the name --
16 to know the name of it here.
17 Q That's fine.
18 You said data is produced by the
19 producers and moved to the staging area.
20 Correct?
21 MR. MASON: Objection, form.
22 A (Witness reviewing.)
23 So data is being moved from data
24 file 64 to a data staging area.
25 Q And in Cabrera, unmodified by the

1 combination, the data is produced by the
2 producer before it is moved to the staging
3 area. Correct?
4 A (Witness reviewing.)
5 Yeah, it would seem very hard to
6 transfer the data before it exists.
7 So the data producer produces the
8 data that the archive system then moves to
9 the staging area.
10 Q If you can go back to the staging
11 file in Cabrera -- by the way, do you happen
12 to know Mr. Cabrera or Mr. Steiner, on this
13 patent, from the halls of Microsoft?
14 A (Witness reviewing.)
15 Neither of those -- I'm looking at
16 their full names now. Neither of those ring
17 any bells for me. I don't believe I've met
18 them.
19 Q I expect there's a couple of people
20 that work at Microsoft. Okay. I just
21 thought I'd ask.
22 If we can go back to the staging
23 file, it's discussed in columns 10, 11 and 12
24 of Cabrera.
25 I know -- I had asked about the

1 staging file, which is how it seems to always
2 be referenced and never a staging file.
3 I'm hoping you can look through
4 this and confirm that the staging file of
5 Cabrera contains data from multiple data
6 files, 64.
7 A (Witness reviewing.)
8 MR. MASON: Objection to form.
9 A Well, even without looking at that,
10 it's not necessary that the data staging file
11 contain -- or the staging area contain data
12 from -- always contain data from multiple
13 files.
14 Because if there's -- you know,
15 just one -- one file currently under -- being
16 operated by the data producer, we're only
17 migrating that data into the data staging
18 area.
19 So I don't think it's necessarily
20 the case that the data staging file or data
21 staging area must contain data from multiple
22 files.
23 Q Assuming more than one data file is
24 staged, the -- will the staging file contain
25 data from multiple data files?

1 A (Witness reviewing.)
2 MR. MASON: Objection to form.
3 A I'm going to look at the sections
4 you drew my attention to of the Cabrera
5 patent.
6 (Witness reviewing.)
7 The last I heard, we were looking
8 at figure 2. It is showing information that
9 appears to be coming from one data file going
10 through the archive system into the data
11 staging sparse file. This is a particular
12 embodiment of Cabrera that uses a data
13 staging sparse file as a way of organizing
14 its data staging area.
15 (Witness reviewing.)
16 I have not offered an opinion at
17 this point in my report about if that sparse
18 file has information from multiple data files
19 but I will point out that Cabrera doesn't
20 even require the use of a data staging sparse
21 file in practicing its method of moving file
22 data to a staging area and then to a remote
23 storage location.
24 Q Barring any cleanup after like a
25 short break, we're done with this particular

1 declaration.
2 We can move on to the 80 case,
3 which is the '850 patent.
4 A Okay. We're going to take a short
5 break here?
6 Q Yeah, I'm happy to or happy to
7 continue, whichever is better for you?
8 A Like if we just took a break 'til
9 like the top of the hour.
10 Q Sure.
11 A Then I can shuffle my notebooks
12 around.
13 Q Yeah, I think we have probably
14 about a half hour left, but --
15 A Okay.
16 (Brief recess taken.)
17 Q Dr. Maier, are you good?
18 A I'm good.
19 Q Okay. Back on the record.
20 So Dr. Maier, as I mentioned before
21 the break, we're turning now to the case on
22 the '850 patent, which is case number 80, IPR
23 202400080.
24 A Yes, okay.
25 Q So asking some questions about

1 Schneider.
2 So Schneider, in this case, the 80
3 case, is Exhibit 1005.
4 This is the International
5 Publication of PCP of Schneider.
6 A Yes, 1005 in this case.
7 Q Would you agree that Schneider
8 teaches the use of an external disk for
9 redundancy purposes in the event of failure
10 of any sort of the user's local drive?
11 A (Witness reviewing.)
12 I wouldn't characterize that as the
13 only thing Schneider teaches. Schneider does
14 discuss recovering in cases of problems with
15 the local drive, but it describes other
16 capabilities, such as viewing selected
17 versions of a file.
18 Q Okay. Referring -- so let me refer
19 you to -- actually, to the '850 patent
20 disclosure, paragraph 38 of your declaration.
21 It's Exhibit 1004 in the 80 case.
22 A So you're -- paragraph 38, you're
23 talking about or --
24 Q Yes, paragraph 38.
25 A And it's talking about the '850

1 patent Morton-Park, the 221 provisional by
2 reference.
3 Q Yes.
4 So in connection with the
5 disclosure of the '850 patent, you make
6 reference to a user's ability to, quote,
7 "Right click on the file he's been working,
8 with then select AccuSafe, which restores
9 function -- then select AccuSafe -- which is
10 capital A-C-C-U capital SAFE apostrophe S --
11 restore function to retrieve the lost
12 versions."
13 Do you see that in paragraph 38?
14 A I see that in paragraph 38.
15 Q What is meant by "lost versions"?
16 A (Witness reviewing.)
17 One of the things that a lost
18 version might mean is a previous version of
19 the file prior to it being overwritten.
20 Q Now, referring to paragraph 39 of
21 your report.
22 A Okay.
23 Q You state "AccuSafe product
24 displays a list of captured revisions of the
25 desired file."

1 Do you see that?
2 A (Witness reviewing.)
3 I see that in paragraph 39.
4 Q What are captured revisions?
5 A (Witness reviewing.)
6 Well, based on the slide, it
7 says -- the slide actually says that I'm
8 referring to from the provisional -- I'm
9 referring to it as a slide because it appears
10 to be from a slide deck.
11 The AccuSafe displays a list of
12 revisions that is captured.
13 So captured revision is one that
14 AccuSafe is able to display and let the user
15 select from.
16 Q Do the captured revisions have a
17 chronological order?
18 MR. MASON: Objection, form.
19 A (Witness reviewing.)
20 I haven't really thought about that
21 question.
22 The versions have time. The -- but
23 the -- for example, claim 1 just talks about
24 presenting information for collection of one
25 or more previous versions of the file.

1 So I didn't see anything in the
2 claims that required a particular order.
3 Obviously, if you display a list,
4 it must have some order but where that order
5 comes from, at least it's not disclosed in
6 the -- I don't believe it's disclosed in the
7 portions of the 221 provisional prior art
8 that I'm referring to in my report.
9 Q Is there a sense of when the prior
10 revisions were captured?
11 MR. MASON: Objection, form.
12 A (Witness reviewing.)
13 Q If it helps, the top slide on page
14 22.
15 A I'm aware of that slide. I'm
16 checking something else.
17 (Witness reviewing.)
18 So the top of figure 22, talking
19 about this AccuSafe system, it is showing --
20 it has a column labeled "date time backed up"
21 but I don't believe the -- at least the
22 independent claim 1... requires specifically
23 time stamp information. It just talks about
24 presenting information for collection of one
25 or more previous versions of the file.

1 Q Okay. Referring to paragraph 53 of
2 your report, Exhibit 1004 in case IPR
3 202400080.
4 A Okay. Paragraph 53 of my report.
5 Q You refer to page 130 of Schneider,
6 beginning at line 10.
7 A (Witness reviewing.)
8 Q This is, I believe, the last
9 citation of paragraph 53 of your report.
10 You state --
11 A Yeah, I see where you're referring
12 to now. So I see a citation to page 130 of
13 all these IDs, yeah, so --
14 (Witness reviewing.)
15 Yeah, I believe at that point I'm
16 referring to Exhibit 1005.
17 Q Yeah, I believe paragraph 49 is
18 the -- we called that Exhibit 1005.
19 A Yeah, that's what I found.
20 Okay. So page 130 of Schneider
21 Exhibit 1005.
22 Q Correct.
23 And the parenthetical, you refer to
24 it as disclosing application, quote,
25 "Supplementing the directory and file

1 presentation means of an OS, and allowing the
2 user to view a list of earlier versions of a
3 file. A selection can be made from the list
4 and the recovered file either replaces the
5 current version or is copied to a new file."
6 Do you see that?
7 A I -- that reflects what is in
8 paragraph 53.
9 Q And what do you mean here by
10 "application"?
11 A (Witness reviewing.)
12 So what I'm referring to at this
13 point by application...
14 (Witness reviewing.)
15 If -- on the bottom of Page 129 of
16 the Schneider reference we've been talking
17 about, it starts, "In summary, some of the
18 major practical applications of the present
19 invention are described above in performing
20 the following functions."
21 This is one of those functions --
22 this quotes from one of those functions
23 listed, so it's saying that the practical
24 application of the teachings of Schneider
25 discloses supplementing the directory and

1 file presentation means of an OS, et cetera.
2 Q Bear with me just one moment.
3 What does "OS" mean?
4 A Can you talk about where you're
5 referring to, what usage of OS you're
6 referring to?
7 Q Right here on Schneider page 130,
8 line 11.
9 A (Witness reviewing.)
10 Well, at this point, this line 10
11 of page 130, we're in the context of hooking
12 into or supplementing the directory and file
13 presentation means of an OS and allowing the
14 user to view a list of earlier versions of
15 the file.
16 So I, in this context, I take it to
17 mean software that, among other things,
18 supports a directory and file presentation of
19 data on a computer.
20 Q That's how you take OS to mean the
21 functions described around the wording?
22 MR. MASON: Objection, form.
23 A I haven't said that's the only
24 thing I take it to mean.
25 I'm saying that in -- you know,

1 analyzing Schneider, we -- what is important
2 here about an OS, it's not necessary for me
3 to know everything about what an OS might do
4 in order to understand the direct and file
5 presentation means of an OS.
6 Schneider earlier talks about an
7 extension to Microsoft Explorer wherein the
8 user can right click on a specific file and
9 have the option to view a list of old
10 versions of the file.
11 So Schneider contemplates having
12 this version capability accessible from, say,
13 of a tool such as Microsoft -- or Microsoft
14 Explorer where there's a file list that a
15 user can select from.
16 So, you know, what's important here
17 is the interface, Schneider describes it as
18 being the directing -- the directing
19 presentation means of an OS, you know, I
20 believe at that time of the writing Explorer
21 was something that came -- came as part of
22 Microsoft Windows and was a feature of that
23 operating system.
24 Q In paragraph 73 of your report,
25 again, Exhibit 1004, in IPR 202400080, you

1 say, "Schneider automatically launches the
2 appropriate application to view the file."
3 Do you see that?
4 A (Witness reviewing.)
5 I see that.
6 Q What do you mean by "application"
7 here?
8 A (Witness reviewing.)
9 By application here, I intend a
10 computer program that is able to present a
11 view of at least some kind of file.
12 Q And what do you mean by "Schneider
13 launches"?
14 A (Witness reviewing.)
15 Well, Schneider -- I mean launch
16 is -- is Schneider's word.
17 Q And -- and this application --
18 sorry.
19 What do you mean by saying that
20 Schneider launches it?
21 A (Witness reviewing.)
22 MR. MASON: Objection, form.
23 A Well, by Schneider, what I'm really
24 using that as, you know, for shorthand is the
25 method disclosed by Schneider.

1 (Witness reviewing.)
2 What Schneider is describing is --
3 (Witness reviewing.)
4 Is providing -- getting the
5 application running with a particular -- get
6 a particular application running. And with
7 this prior version, the user is selected open
8 in the application.
9 Q Bear with me just one moment.
10 MR. JAFFESS: Can we have just a
11 five-minute break to make sure there's
12 nothing more from us?
13 THE WITNESS: No problem. Okay
14 with you, Andy?
15 MR. MASON: That's fine by me.
16 (Brief recess taken.)
17 MR. JAFFESS: Back on the record.
18 I don't have any further questions at
19 this time. Thank you.
20 MR. MASON: You're done with cross,
21 just to be clear, on all three matters.
22 MR. JAFFESS: Yes.
23 MR. MASON: Can you give us like
24 five minutes real quick, Ari?
25 MR. JAFFESS: On the record, I want

1 to talk, if we can agree, to waive
2 reading and signing.
3 MR. MASON: We can discuss that
4 once we get back on the record.
5 (Brief recess taken.)
6 MR. MASON: I have no questions on
7 redirect and the witness would like to
8 read and sign.
9 MR. JAFFESS: Okay.
10 (Whereupon a discussion was held
11 off the record.)
12 THE COURT REPORTER: So Ari, it's
13 three days on the final now?
14 MR. JAFFESS: Yes, Mike, correct.
15 (Whereupon the deposition was
16 concluded at 4:45 p.m.)
17 (Witness was excused.)
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25

1 C E R T I F I C A T E
2 I, MICHAEL FRIEDMAN, a Certified Court
3 Reporter and Notary Public, qualified in and for
4 the State of New Jersey do hereby certify that
5 prior to the commencement of the examination DAVID
6 MAIER, PH.D. was duly sworn by me to testify to the
7 truth the whole truth and nothing but the truth.
8 I DO FURTHER CERTIFY that the foregoing
9 is a true and accurate transcript of the testimony
10 as taken stenographically by and before me at the
11 time, place and on the date hereinbefore set forth.
12 I DO FURTHER certify that I am neither a
13 relative of nor employee nor attorney nor counsel
14 for any of the parties to this action, and that I
15 am neither a relative nor employee of such attorney
16 or counsel, and that I am not financially
17 interested in the action.
18
19
20
21 _____
22 MICHAEL FRIEDMAN, CCR of the
23 State of New Jersey
24 License No: 30XI00228600
25 Date: July 19, 2024

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: Dropbox Inc. and Microsoft Corporation v. Datanet LLC
Case Number: IPR2024-00078; IPR2024-00079; and IPR2024-00080
Deposition Date: July 18, 2024
Deponent: David Maier, Ph.D.

CORRECTIONS:

Page #	Line #	Now Reads:	Should Read:	Reason for Change:
8	12	homing	hoping	Mistranscription
12	5	up	out	Mistranscription
16	17	petitioner	patent holder	Incorrect recollection
21	3	recognize	characterize	Mistranscription
28	8	catalogers	catalogs	Mistranscription
28	8	listed	lists of	Mistranscription
33	6	I'm Portland	I'm in Portland	Mistranscription
51	14	when	one	Mistranscription
54	9	lapsed	last	Mistranscription
69	25	based on the first marker on a more careful reading. Now it would seem	based on the first marker. On a more careful reading now, it would seem	Incorrect punctuation
79	11	remembering	renumbering	Mistranscription
79	23	filer	file or	Mistranscription
83	1	wouldn't	would	Mistranscription
84	16	walking	blocking	Mistranscription
94	1	Morton-Park	incorporates	Mistranscription

_____Subject to the above changes, I certify that the transcript is true and correct.

David Maier

David Maier, Ph.D.

25 July 2025

Date