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

DROPBOX, INC. AND MICROSOFT CORPORATION,

Petitioners,

v.

DATANET, LLC,

Patent Owner.

IPR2024-00078

U.S. Patent No. 8,473,478

***

DEPOSITION OF ZAYDOON JAWADI

TUESDAY, OCTOBER 8, 2024

9:00 a.m.

Petitioner has added numbers to pages 282-284.
Otherwise, it leaves the original page numbering.

DROPBOX EXHIBIT 1027
Dropbox v. Datanet
IPR2024-00080

BE IT REMEMBERED THAT, the deposition of ZAYDOON JAWADI was reported by Mary C. Soldati, Registered Professional Reporter and Certified Shorthand Reporter, on Tuesday, October 8, 2024, commencing at the hour of 9:00 a.m., the proceedings being reported remotely from Portland, Oregon.

APPEARANCES

Appearing on behalf of the Petitioners:
ANDREW M. MASON
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204
andrew.mason@klarquist.com

Appearing on behalf the Patent Owners:
ARI JAFFESS
MICHAEL LEWIS
LISTON ABRAMSON LLP
405 Lexington Ave
46th Floor
New York, NY 10174
ari.jaffess@listonabramson.com
michael.lewis@listonabramson.com

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P R O C E E D I N G S

ZAYDOON JAWADI,
was thereupon produced as a witness and, after having been sworn on oath, was examined and testified as follows:

EXAMINATION

BY MR. MASON:

Q. Good morning. Can you please state your name and address for the record?

A. Good morning. My name is Zaydoon, Z-A-Y-D-O-O-N. And the last name is Jawadi, J-A-W-A-D-I. I go by Jay.

And my address is 12159 Dawn, D-A-W-N, Lane, Los Altos Hills -- three words -- California 94022.

Q. Great. Thank you.

Have you been deposed before, Mr. Jawadi?

A. Yes.

Q. And, roughly, how many times have you been deposed?

A. I haven't counted them recently. They're in my CV.
Q. Okay. But more than ten times have you been deposed?
A. Yes.
Q. And when was the most recent time you were deposed?
A. Probably earlier this year or late last year.
Q. Okay. And you feel that you understand the deposition process?
A. I think so.
Q. Okay. And do you agree to testify truthfully today?
A. Yes.
Q. Okay. And do you agree to testify accurately today?
A. Yes, if my memory doesn't fail me.
Q. Fair enough. Is there anything that would impair or impede your ability to testify truthfully and accurately today?
A. No.
Q. Great. And do you understand that the rules of the United States Patent

1 and Trademark Office forbid you from
2 communicating with Datanet's counsel about
3 the substance of the testimony when we are on
4 break today?
5 MR. JAFFESS: Objection to
6 form.
7 THE WITNESS: I understand.
8 BY MR. MASON:
9 Q. Do you agree to follow those
10 rules?
11 A. Yes.
12 Q. Great. Are you located today
13 at your home address, as you earlier stated?
14 A. Yes.
15 Q. And is anyone else associated
16 with Datanet there with you in Los Altos?
17 A. No.
18 Q. Do you have any messaging
19 applications open right now?
20 A. I have an iPad, which I am
21 communicating through. I also have my PC as
22 well, a desktop.
23 Q. And you said you had an iPad
24 that you're communicating through.
25 Who are you communicating with

1 through that iPad?
2 A. That's the Zoom call.
3 Q. Got it.
4 A. You can see, I am on two
5 windows there.
6 Q. Okay. Just to clarify, other
7 than the Zoom application that is being run
8 on both of your devices, do you have any
9 other messaging applications open?
10 A. No. My cell phone is sitting
11 idle on the side.
12 Q. Okay. Great. And do you agree
13 to let me know if at any point you begin
14 using a messaging application, other than
15 Zoom, during this deposition?
16 A. Yes.
17 Q. Okay. Great.
18 MR. JAFFESS: Can I just
19 confirm one point? This is not being
20 video recorded or audio recorded,
21 except for backup purposes, correct?
22 MR. MASON: Correct.
23 (Discussion off the record.)
24 BY MR. MASON:
25 Q. So, Mr. Jawadi, how did you

1 prepare for today's deposition?
2 MR. JAFFESS: I caution the
3 witness not to reveal the content of
4 any attorney-client communications.
5 THE WITNESS: I reviewed my
6 declarations, reviewed the patents,
7 and I reviewed prior art documents, as
8 well as the experts' declarations, and
9 maybe some -- whatever other documents
10 may be referenced in my declarations.
11 BY MR. MASON:
12 Q. And I'm not asking you to
13 reveal any privileged communications, but did
14 you meet with counsel for Datanet in
15 preparation for your deposition?
16 A. Yes. I communicated through
17 Zoom and phone calls -- Zoom calls and phone
18 calls with Mr. Jaffess and Mr. Lewis.
19 Q. Did you communicate with
20 anybody else associated with Datanet in
21 preparation for your deposition today?
22 And again, I am not asking for
23 privileged communications.
24 A. No.
25 Q. Okay. And, roughly, how long

1 did you meet with Mr. Jaffess and Mr. Lewis
2 in preparing for your deposition?
3 A. A few hours.
4 Q. And then independent of those
5 meetings or that meeting, how long did you
6 spend preparing for your deposition today?
7 A. I didn't add them, but they're
8 in the hours.
9 Q. Fair to say less than ten
10 hours?
11 A. More than ten hours --
12 Q. Okay.
13 A. -- to the best of my
14 recollection.
15 Q. Great. Do I understand
16 correctly that you have with you there clean
17 copies of your declarations submitted in
18 these three IPRs?
19 A. I do not have physical
20 printouts, but Mr. Jaffess sent me a set of
21 documents containing all of the different
22 declarations and documents associated with
23 the three IPRs which I downloaded to my
24 computer.
25 Q. Okay. Excellent. Thank you.

1 Can I ask that you open your
2 declaration and IPR 2024-00080, which relates
3 to the 850 patent?
4 A. Okay. To confirm, this is the
5 IPR ending with 80 for the 850 patent.
6 And you'd like me to open my
7 declaration?
8 Q. That is correct.
9 A. I am opening it.
10 Q. Can you please let me know when
11 it's open?
12 A. Yes. I'm ready.
13 Q. Great. And just to confirm,
14 you have opened before you what's been marked
15 as Exhibit 2004, and the IPR ending in 80; is
16 that correct?
17 A. Yes, that is correct.
18 Q. And can we agree to refer to
19 this exhibit as the 850 declaration today?
20 A. Yes.
21 Q. Okay. Excellent.
22 Do you recall when you were
23 retained by Datanet to work on these IPRs?
24 MR. JAFFESS: Objection to the
25 form.

1 THE WITNESS: I don't recall
2 the exact date, but I'm guessing
3 either late last year or early this
4 year.
5 BY MR. MASON:
6 Q. And who first contacted you
7 regarding your work on the IPR involving the
8 850 patent?
9 MR. JAFFESS: I just caution
10 the witness not to reveal the content
11 of attorney communications.
12 THE WITNESS: I was initially
13 contacted by an agency, an expert
14 agency. And after that, I was
15 connected with the attorneys.
16 BY MR. MASON:
17 Q. And you recall submitting a
18 first declaration in this 80 proceeding?
19 A. You mean a preliminary one?
20 Q. Correct.
21 (Reporter clarification.)
22 BY MR. MASON:
23 Q. I will re-ask the question.
24 Do you recall submitting a
25 preliminary declaration in the 80 proceeding?

1 MR. JAFFESS: Objection.
2 Scope. You can answer.
3 THE WITNESS: Yes.
4 BY MR. MASON:
5 Q. Okay. But today, the subject
6 of this deposition is the 850 declaration
7 that you have open on your desktop, correct?
8 A. Yes, that's my understanding.
9 Q. Okay. When did you first begin
10 work on your 850 declaration?
11 MR. JAFFESS: Objection to
12 form.
13 THE WITNESS: I just want to
14 clarify.
15 Do you mean the current one
16 that I have open?
17 BY MR. MASON:
18 Q. Yeah, yeah. And can we agree
19 that if I refer to the 850 declaration today,
20 I'm referring to Exhibit 2004?
21 A. Yes. Okay. Thank you. I
22 understand.
23 May I hear the question again?
24 Q. Yes.
25 When did you first begin work

on your 850 declaration?

MR. JAFFESS: Objection.

THE WITNESS: To the best of my recollection, probably July.

BY MR. MASON:

Q. And, roughly, how long did you spend -- and I'm not asking for any privileged communications -- but, roughly, how long did you spend preparing your 850 declaration?

A. I don't recall, sitting right here. It's been a few months.

Q. Was it -- strike that.

Did you spend more than ten hours preparing your 850 declaration?

MR. JAFFESS: Objection to the form.

THE WITNESS: I don't recall if I separated the time between the three different declarations, so I don't remember what time I spent on each.

BY MR. MASON:

Q. And when you're referring to your three different declarations, you're referring to your 850 declaration and then a

1 declaration for the 348 patent and a
2 declaration for the 478 patent; is that
3 correct?
4 A. That's correct, yes.
5 Q. And cumulatively on those three
6 declarations, how much time did you spend
7 preparing the declarations?
8 A. I don't recall, sitting right
9 now.
10 Q. Was it more than ten hours?
11 A. I don't recall that, but to the
12 best of my memory, yes.
13 Q. And in your 850 declaration, do
14 you offer opinions on U.S. Patent No.
15 10585850?
16 MR. JAFFESS: Object to the
17 form.
18 THE WITNESS: Yes.
19 BY MR. MASON:
20 Q. And can we agree to refer to
21 that patent as the 850 patent?
22 A. Yes.
23 Q. Great. Can I have you --
24 strike that.
25 And do you understand that the

850 patent was filed as Exhibit 1001 in IPR 2024-00080?

A. I will need to check that. May I do that?

Q. Oh, yes, please. Thank you for letting me know.

A. And the question was that the 850 patent is referred to as Exhibit 1001? Was that the question?

Q. Yeah. The question is: Is the 850 patent, filed as Exhibit 1001 in IPR 2024-00080?

A. Yes.

Q. And do you have the 850 patent opened there on your desktop?

A. I can have it open in a different window. May I?

Q. Please. Thank you.

A. Okay. I have it open in a second window.

Q. Excellent. Can I ask you while you're there to open what has been marked as Exhibit 1003 in the 80 IPR?

A. Just to clarify, is that the Provisional Application 211?

1 Q. Yes. Can you please open the
2 221 Provisional Application that has been
3 marked as Exhibit 1003?
4 A. I am opening it. I am opening
5 it. I have it open now.
6 Q. Can I have you turn to page 30
7 in Exhibit 1003?
8 A. Exhibit 1003? I'm sorry. What
9 page number?
10 Q. Exhibit 30 -- I'm sorry.
11 Exhibit 1003, page 30.
12 A. I am there now.
13 Q. And what do you see on --
14 strike that.
15 Just to clarify, what is the --
16 do you see a slide on page 30 there?
17 A. I do.
18 MR. JAFFESS: Objection to
19 form.
20 BY MR. MASON:
21 Q. What is the title of that page
22 represented on page 30 on Exhibit 1003?
23 A. I want to make sure we're
24 dealing with the same thing.
25 There is a page number at the

1 bottom of the -- it says page 30 of 296. Is
2 that the one you would like me to --
3 Q. That's correct. And that was
4 my next question, so thanks for anticipating
5 that.
6 So just to confirm, in
7 referring to Exhibit 1003, I will be
8 referring to the page numbers that are --
9 appear as part of the indicator page number
10 blank of 296.
11 So are you on page 30 of 296?
12 A. That's correct.
13 Q. And do you see on page 30 of
14 296, is the title, at the top of that page,
15 Example: Use Case Scenario?
16 A. Yes.
17 Q. And in your -- strike that.
18 In your declaration, you've
19 referred to this Exhibit 1003 as the 221
20 Provisional; is that correct?
21 A. To be precise, I would need to
22 check. I can take your representation, if
23 you like.
24 Q. Strike that.
25 You may have also referred to

1 it as the 221 Application.
2 So can we agree today if we
3 refer to Exhibit 1003 also as the 221
4 Application for shorthand?
5 A. I don't think it's 221.
6 Q. Okay. And I invite you to
7 paragraph 42 of your declaration --
8 A. Okay.
9 Q. -- of your 850 declaration.
10 Excuse me.
11 A. Well, the file name is 211
12 Provisional. The name of the file that I
13 received, okay, so I need to check.
14 Interesting. The file name is
15 211, but the actual application is 221.
16 That's interesting. Okay. Yes. 221.
17 Q. Right. I just want to make
18 sure we're on the same page.
19 So then on page 30 of 296 in
20 Exhibit 1003, is that the first of many
21 pages, which provide an example: Use Case
22 Scenario in that application?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: Let me check,

please.

What I am seeing is that on page 30, the title is Example and the following pages are all titled Example.

But whether this is -- whether page 30 is the first page providing examples, I would need to check to make sure that that's true.

BY MR. MASON:

Q. Okay. You can check to make sure.

A. What I can confirm is that page 30 is the first page with the title Example. Whether any of the previous pages have examples, but are not titled -- so I am unable to confirm, unless given more time.

Q. And in forming your opinions regarding the 850 patent, did you review Exhibit 1003?

A. Yes.

Q. And, indeed, you reference Exhibit 1003 in your discussion of the 850 patent in the 850 declaration, correct?

A. I believe so.

1 Q. Do the embodiments in
2 Exhibit 1003 satisfy the methods of the
3 challenged claims?
4 MR. JAFFESS: Object to the
5 form.
6 BY MR. MASON:
7 Q. In the 850 patent?
8 MR. JAFFESS: Object.
9 THE WITNESS: May I hear the
10 question again, please?
11 BY MR. MASON:
12 Q. Yeah.
13 Is it your opinion that the
14 embodiments in Exhibit 1003 satisfy the
15 methods of the challenged claims in the 850
16 patent?
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: I am considering
20 the question.
21 I am still considering the
22 question.
23 I think the question is vague.
24 Because the 850 patent has multiple
25 claims, and each claim has different

1 limitations. And the 1003 has
2 296 pages, so I would need more
3 specificity there.
4 BY MR. MASON:
5 Q. Is it true that you reference
6 the 221 Application, which is Exhibit 1003,
7 in opining on the claim scope of the
8 challenged Claim 1 of the 850 patent?
9 MR. JAFFESS: Object.
10 THE WITNESS: Can you show me
11 exactly what you're referring to in my
12 declaration, please?
13 BY MR. MASON:
14 Q. I can invite you to
15 paragraph 45.
16 A. I am going to paragraph 45 of
17 my declaration. And I am there.
18 Would you like me to read it to
19 myself to refresh my memory?
20 Q. Certainly.
21 A. Thank you. Are we referring to
22 paragraph 45 only?
23 Q. I believe -- paragraph 45 is
24 one example where you discuss the 221
25 Application, correct?

A. Yes.
Q. Is it correct that you also continue on in the following paragraphs, up through paragraph 52, that you discuss the 221 Application?
A. Let me check.
MR. JAFFESS: Object to the form.
THE WITNESS: I see references to the 221 Application through 52. Whether it's -- whether there are references to the 221 Application elsewhere or not, I would need to check.
BY MR. MASON:
Q. Okay. And turning back to Exhibit 1003, do you see that pages 30 through 49 of that Exhibit 1003, are all titled quote, "Example: Use Case Scenario," end quote?
A. Sorry. What were the page numbers that you referred to? 30 through?
Q. 30 through 49.
A. Let me check. I can confirm that 30 to 49 are titled Example, et cetera.

1 There may be others, but I can confirm that
2 30 to 49 have that title.
3 Q. And is it your opinion that the
4 quote, "Example: Use Case Scenario," end
5 quote, on pages 30 through 49 of Exhibit 1003
6 practice the method of the challenged Claim
7 1?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: Can you show me
11 where I make that statement?
12 BY MR. MASON:
13 Q. Well, my question is not
14 whether you make that statement in your
15 declaration.
16 My question is whether the use
17 case scenario on pages 30 through 49 of
18 Exhibit 1003 practice challenged Claim 1, in
19 your opinion?
20 MR. JAFFESS: Object to the
21 form.
22 THE WITNESS: I am considering
23 the question.
24 I don't recall if I considered
25 this question in my analysis.

1 BY MR. MASON:
2 Q. Is it your testimony, sitting
3 here today, you have no opinion one way or
4 another whether pages 30 through 49 of
5 Exhibit 1003 practice Claim 1 of the 850
6 patent?
7 MR. JAFFESS: Object.
8 THE WITNESS: I'll stick with
9 whatever opinions I have expressed in
10 my declaration.
11 BY MR. MASON:
12 Q. Is that a yes to my prior
13 question? And I'll ask the question again.
14 And just to confirm I
15 understand your testimony here today is that
16 you do not have an opinion one way or another
17 whether the use case scenario on pages 30
18 through 49 of Exhibit 1003 practice Claim 1
19 of the 850 patent?
20 MR. JAFFESS: Same objection.
21 THE WITNESS: I am considering
22 the question.
23 I will stick with whatever
24 opinions I expressed in my
25 declaration.

And I don't recall if -- if I had considered the question that was posed to me right now. And it's not my practice to offer opinions on the spot.

So if the answer is in my declaration -- I can't think of where it might be right now, I will stick with that answer.

If it's not, then I am not prepared to give an answer right now because I need time to study, analyze, and then offer opinions.

BY MR. MASON:

Q. Do you consider pages 30 through 49 of Exhibit 1003 in forming your opinions regarding the scope of Claim 1 of the 850 patent?

MR. JAFFESS: Object to the form.

THE WITNESS: May I hear the question again, please?

BY MR. MASON:

Q. Did you consider pages 30 through 49 of Exhibit 1003, in forming your

1 opinions, regarding the scope of Claim 1 of
2 the 850 patent?
3 MR. JAFFESS: Same objection.
4 THE WITNESS: Can you point me
5 to where I opined about the scope of
6 the 850 patent in my declaration,
7 please?
8 BY MR. MASON:
9 Q. There is a section titled,
10 Claim Construction on page 23 of the 850
11 declaration.
12 A. I'm sorry. What was the
13 paragraph number?
14 Q. Paragraph 58 is where that
15 discussion begins.
16 A. I searched for the word,
17 "scope" and I don't see opinions regarding
18 the scope of the 850 or Claim 1 of the 850
19 patent.
20 If you could point me to that
21 paragraph number.
22 Q. Do you understand what I mean
23 when I say, "scope of Claim 1 of the 850
24 patent"?
25 A. Can you define that term for

me, just to make sure that we both have the same understanding.

Q. Well, I am asking you what your understanding is.

If somebody says to you, the scope of the Claim 1 of the 850 patent, what is your understanding of "scope"?

MR. JAFFESS: Object to the form.

THE WITNESS: I don't think I opined about the term "scope" in my declaration.

BY MR. MASON:

Q. Is it your testimony that sitting here today you have no understanding of what is meant by the scope of a patent claim?

MR. JAFFESS: Objection.

THE WITNESS: That's a legal question. I'm not an attorney.

BY MR. MASON:

Q. Did you consider pages 30 through 49 of Exhibit 1003 in forming your opinions regarding the meaning of terms in Claim 1 of the 850 patent?

A. I need to refresh my memory by going back to my declaration, unless you have a paragraph number you would like me to go to.

Q. I mean, I think I pointed you to paragraph 58, which is the beginning of your Claim Construction section, which might be helpful.

A. I am reading through my declaration, the paragraphs that you pointed to.

May I hear the question again now that I have refreshed my memory, please?

Q. Did you consider pages 30 through 49 of Exhibit 1003 in forming your opinions regarding the meaning of terms in Claim 1 of the 850 patent?

A. I'm looking still because now it's not just 221, but rather the page numbers specifically.

I don't see references to those pages, starting at paragraph 59.

Q. Was it your testimony today that you did not consider pages 30 through 49 of Exhibit 1003 in forming your opinions

1 regarding the meaning of terms in Claim 1 of
2 the 850 patent?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: That's not what I
6 said.
7 BY MR. MASON:
8 Q. Is it your testimony today that
9 you did not consider pages 30 through 49 of
10 Exhibit 1003 in forming your opinions
11 regarding the meaning of terms in Claim 1 of
12 the 850 patent?
13 MR. JAFFESS: Object to the
14 form.
15 THE WITNESS: I did consider
16 pages 30 to 49 in understanding the
17 meaning of the various terms.
18 But exactly -- but exactly how,
19 regarding which specific term, I would
20 need -- would need to go to specific
21 paragraph numbers.
22 BY MR. MASON:
23 Q. In paragraph 60 of your 850
24 declaration, can you read me the first two
25 lines of that paragraph?

1 A. Right now my declaration,
2 that's Exhibit 2004, paragraph 60, which
3 reads as follows:
4 "As explained above, according
5 to the disclosure of the 221
6 Application and thus of the 850
7 patent, a POSITA would understand that
8 when a user makes a change to a file
9 on the user's PC or restores such a
10 file to the previous version present
11 in the Accusafe drive, the now current
12 version of the file, (that is the
13 version resulting from the change or
14 the restoration procedure) on the
15 user's PC is also reflected back in
16 the AccuSafe drive so that the now
17 current version of the user's PC is
18 again also present in the AccuSafe
19 drive as the most current version
20 therein."
21 That was paragraph 60.
22 Q. Am I correct that paragraph 60
23 begins, quote:
24 "As explained above, according
25 to the disclosure of the 221

1 Application," end quote?
2 A. Correct.
3 Q. And what disclosure of the 221
4 Application are you referring to?
5 A. I'm considering the question.
6 Q. Are you reviewing a document on
7 your screen there?
8 A. Yes, I am searching for 221
9 right now.
10 Q. Within your declaration; is
11 that correct?
12 A. Yes, within my declaration.
13 Thank you.
14 Q. Thank you.
15 A. The 221 -- well, let me
16 backtrack.
17 My declaration, which is
18 Exhibit 224, refers to the 221 Application in
19 various places. And also refers to the -- to
20 pages 30 to 49 of the 221 Application.
21 The first sentence or the first
22 line of paragraph 30 of my declaration says:
23 "As explained above, according
24 to the disclosure of the 221
25 Application."

1 So that means any discussion
2 related to the 221 above, which
3 includes but is not limited to pages
4 30 to 49 of the 221 Application.
5 Q. Just to clarify. In that
6 answer, I think you said your declaration was
7 Exhibit 224. But am I correct that the 850
8 declaration you're referring to is
9 Exhibit 2004?
10 A. I misspoke. It's 2004. Thank
11 you.
12 Q. Just want to make sure. Thank
13 you. Okay.
14 So just to make sure I
15 understand correctly, in forming your
16 opinions regarding the meaning of claim terms
17 in the 850 patent, you considered pages 30
18 through 49 of Exhibit 1003; is that correct?
19 MR. JAFFESS: Object.
20 THE WITNESS: I considered the
21 entirety of the 221 Application,
22 including pages 30 to 49.
23 BY MR. MASON:
24 Q. And did you consider those and
25 cite to those pages, 30 through 49, because

1 you considered, "Example: Use Case Scenario,"
2 on those pages to exemplify the claims of the
3 850 patent?
4 MR. JAFFESS: Object to the
5 form.
6 THE WITNESS: I am considering
7 the question.
8 I'm not sure I would phrase it
9 that way.
10 BY MR. MASON:
11 Q. How would you phrase it?
12 A. I would need to go back and
13 look at all these pages and look at the 221
14 and figure out what -- what those particular
15 paragraphs and pages were trying to say.
16 To make a summary of that,
17 to -- just blanket statement like that, I
18 like to be more precise and I am under oath.
19 So everything has to be accurate, whatever I
20 say, which requires time.
21 Q. Does the use case scenario on
22 page 39 of Exhibit 1003, in your opinion and
23 exemplify the method recited in Claim 1 of
24 the 850 patent?
25 MR. JAFFESS: Object to the

form.

THE WITNESS: I think I already answered this question.

BY MR. MASON:

Q. What is your answer to that question?

MR. JAFFESS: Object to the form.

THE WITNESS: It's on the record already. I'll stick with it.

BY MR. MASON:

Q. I don't know that you answered the question, so I'm just going to ask that you answer the question again.

Does the use case scenario on page 30 through 49 on Exhibit 1003 exemplify the method in Claim 1 of the 850 patent?

MR. JAFFESS: Object to the form.

THE WITNESS: I'll stick with my previous answer.

BY MR. MASON:

Q. What was your previous answer?

A. It's on the record.

Q. I am asking what your previous

1 answer was because I don't recall your
2 previous answer and I don't recall you
3 answering the question.
4 A. Can you ask the reporter to
5 read it back, please?
6 (Record read.)
7 THE WITNESS: Thank you.
8 That last paragraph, the longer
9 paragraph that you read, is my answer
10 and I'll stick with it.
11 BY MR. MASON:
12 Q. So am I correct, then, that
13 you're unable to answer whether or not the
14 use case scenarios on pages 30 through 49 of
15 Exhibit 1003 exemplify the method in Claim 1
16 of the 850 patent?
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: I would need to
20 go back and read my declaration, in
21 view of the question, to answer very
22 accurately.
23 BY MR. MASON:
24 Q. You can review your declaration
25 or the exhibit, pages 30 through 49.

1 A. No. I need to read the entire
2 declaration, because anything related to that
3 may be related.
4 Q. So is it your testimony today
5 that you need to read your entire declaration
6 in order to answer the question of whether
7 pages 30 through 49 of Exhibit 1003 exemplify
8 the method of Claim 1?
9 MR. JAFFESS: Object to the
10 form.
11 THE WITNESS: It's not a
12 question I considered. I don't recall
13 if I considered this particular
14 question like that.
15 In order for me to answer
16 accurately and truthfully, I would
17 need to go back and read my
18 declaration, and to make sure that
19 whatever I answer reflects my
20 opinions, rather than an impromptu
21 answer. That's not research.
22 BY MR. MASON:
23 Q. I invite you to page 31 of
24 Exhibit 1003.
25 A. I am going there now. I am at

1 page 31 of Exhibit 1003.
2 Q. And on page 31 of Exhibit 1003,
3 you see on THE right-hand side it states,
4 quote:
5 "The user realizes that he's
6 overwritten his file. Via Explorer
7 (or any other file selection dialog)."
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: The page is -- I
11 need to rotate the page because it's
12 kind of -- it's a slide this way.
13 BY MR. MASON:
14 Q. Yeah. Am I correct that you're
15 just changing the view so you can view the
16 landscape mode of the slide; is that correct?
17 A. Yes.
18 Q. Please do. You're more than
19 welcome to tilt your head, if that's what you
20 prefer.
21 MR. MASON: Ari, you too.
22 BY MR. MASON:
23 Q. On the right-hand side of
24 page 31 of Exhibit 1003, do you see the
25 second sentence begins, quote:

1 "Via explorer"?
2 A. Yes.
3 Q. Do you have an understanding of
4 what that sentence is referring to by, quote,
5 "Explorer," end quote?
6 A. I need to search for the word
7 "Explorer" in this document to make sure that
8 my understanding is correct -- my
9 recollection is correct.
10 Q. Okay.
11 A. Would you like me to do that?
12 Q. Yeah. Well, first, what is
13 your recollection, without looking at the
14 document? And then I will -- then you can
15 search and, you know, obviously change if
16 your recollection changes.
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: It's hard to -- I
20 don't like to rely on -- I don't like
21 to guess, based on recollection, so...
22 BY MR. MASON:
23 Q. Yeah. Please review. And then
24 the question is: Do you have an
25 understanding of what page 31 of Exhibit 1003

is referring to by quote, "Explorer," end quote?

A. So the word "Explorer" is the term in question?

Q. (Nods head.)

A. It appears that the word "Explorer" is referring to the Microsoft Windows Explorer software or program.

The reason I was hesitant to answer regarding page 31 is that the term "explorer" here is lower case, and it doesn't say Windows Explorer.

I am assuming that this, "Via explorer," that means, via Windows Explorer, with the "W" capitalized and then "V" capitalized. And there should be a "T" at the end. But this is just a slide.

Q. And what is Microsoft Windows Explorer?

A. Can you point me to where I opine about that in my declaration?

Q. I'll just ask, do you know what Microsoft Windows Explorer is?

A. Yes.

Q. And what is Microsoft Windows

1 Explorer?
2 MR. JAFFESS: Object to the
3 form.
4 THE WITNESS: Let me go back to
5 this. I want to search for that exact
6 term that they used in the -- if I
7 may -- in Exhibit 1003, since I am
8 being asked a question here.
9 BY MR. MASON:
10 Q. Yeah. And my question is not
11 really specific to Exhibit 1003. It's just,
12 I want to get an understanding of -- strike
13 that.
14 I want to know your
15 understanding of what Microsoft Windows
16 Explorer is.
17 So with that, my question is:
18 What is Microsoft Windows Explorer?
19 And if you don't know, that's
20 fine.
21 A. I do know. But I am being
22 asked to define a term, a technical term.
23 It's a product I'm very
24 familiar with. But in terms of coming up
25 with a definition on the spot like that in a

1 deposition, it's not my practice to offer
2 definitions of technical terms in depositions
3 on the spot, impromptu, because I like to be
4 very accurate.
5 Q. Are you currently reading a
6 document, Mr. Jawadi?
7 A. No. I'm waiting for the next
8 question.
9 Q. Oh. The question is: What is
10 Microsoft Windows Explorer?
11 A. I just said that it's not my
12 practice to offer definitions on the spot,
13 impromptu, in a deposition.
14 Q. Am I correct that you just
15 testified that you're very familiar with
16 Microsoft Windows Explorer?
17 A. Yes, I am.
18 Q. Okay. But you're unable to
19 answer my question: What is Microsoft
20 Windows Explorer; is that correct?
21 MR. JAFFESS: Objection to the
22 form.
23 THE WITNESS: No. So hold on
24 one second, please. I am going to
25 open up -- going back to my -- I am

1 viewing my declaration again, that's
2 Exhibit 2004.
3 And I am searching for
4 "Explorer." And "Explorer" does not
5 appear there.
6 So it's not a term I cite or
7 refer to. And it's not my practice in
8 depositions to define terms impromptu,
9 on the spot --
10 BY MR. MASON:
11 Q. What is the -- oh, sorry --
12 A. -- even with terms that I am
13 familiar with.
14 Q. I am not asking for you to
15 define a term. My question is: What is your
16 understanding of Microsoft Windows Explorer?
17 A. I am being asked to define a
18 term. Explaining is defining.
19 Q. I'm not I'm asking -- I'm
20 asking: What is your understanding of what
21 Microsoft Windows Explorer is?
22 A. I didn't opine about it. In
23 order for me to provide a precise answer, I
24 would need to go and consider -- consider the
25 term, look at the industry definition of it,

1 beyond my understanding, and come up with
2 precise words to describe it, rather than
3 impromptu, just willy-nilly, just come up
4 with explanations like that.
5 It's not my practice to engage
6 in that in depositions. That's not how I
7 operate.
8 Q. If a person asked you outside
9 of a deposition what Microsoft Windows
10 Explorer was, how would you answer?
11 MR. JAFFESS: Object to the
12 form.
13 THE WITNESS: I'm not outside
14 of a deposition. And I am under oath.
15 And I need to be very precise. And
16 whatever answers I provide affect the
17 case.
18 It's not my practice to engage
19 in impromptu definitions, or even
20 explanations, unless they are in my
21 declaration. And this term
22 "Explorer," is not in my declaration.
23 BY MR. MASON:
24 Q. So is it your testimony today
25 that you are unwilling to offer any

1 understanding that you might have of
2 Microsoft Windows Explorer?
3 A. Given time, if I am asked to
4 define or explain a term in a legal setting,
5 I would need time so I can go investigate
6 references, look at definitions, consider the
7 case and all of that, and then come up with
8 an explanation that is accurate.
9 I can do that here, if you
10 like. It will take time. But I would need
11 -- I can't tell you how much time I need. So
12 "unwilling" is not an accurate portrayal of
13 that.
14 Q. So is it your answer today that
15 you are unable, without consultation of
16 additional references and materials today, to
17 offer any understanding of Microsoft Windows
18 Explorer?
19 MR. JAFFESS: Object.
20 THE WITNESS: In order for me
21 to provide any definition or term
22 that's not in my declaration, I need
23 time to research, analyze and then
24 provide an answer, in light of all
25 case documents.

1 And that's my answer.
2 BY MR. MASON:
3 Q. Do you have an understanding of
4 software?
5 A. Yes.
6 Q. What is computer software?
7 A. Again, the same answer here.
8 It's not my practice to offer explanations
9 and definitions impromptu, on the spot.
10 This is a legal setting. I am
11 under oath. And I need to answer very
12 truthfully, and also very accurately in the
13 context of the litigation.
14 It's not my practice to offer
15 any explanations or definitions on the spot,
16 even for the simplest terms, even a simple
17 word like the definite article can have
18 ramifications. It's not my practice to offer
19 things impromptu.
20 Q. What was the definite article
21 that you mentioned?
22 A. I was just giving an analogy.
23 Q. Yeah. I just didn't hear it.
24 Did you say the definite article?
25 A. Yes.

1 Q. Do you understand that I am not
2 asking you for a legal understanding? I am
3 asking for your technical understanding of
4 these terms.
5 A. This is a legal setting and
6 every word is important in the context of the
7 litigation. It's not my practice to offer
8 definitions, explanations on the spot without
9 researching and considering the case as well.
10 Q. In paragraph 19 of your 850
11 declaration, do you testify that you, by
12 September 2000, had more than two decades of
13 experience directly applicable to the
14 technology at issue in this case, including
15 expertise in file management; backup, and
16 restoration?
17 A. Was there a question there? I
18 didn't hear a question.
19 Q. I am asking, in paragraph 19 of
20 your 850 declaration, do you testify that by
21 September 2000, you had more than two decades
22 of experience, including expertise in file
23 management; backup, and restoration?
24 A. I'll go to paragraph 19. I see
25 that paragraph.

1 Q. In 2000, what was your
2 experience in file restoration?
3 A. Okay. I am looking at my
4 declaration. If I may go to paragraph 7 of
5 my declaration, Exhibit 2004, there is an
6 example there.
7 Q. Are you referring to your work
8 at Emirtel?
9 A. Yes.
10 Q. What was the file restoration
11 technology that you worked on at Emirtel.
12 A. Emirtel was a
13 telecommunications company that provided
14 telephone, fax and other telecommunication
15 electronic services.
16 And every phone call that is
17 made, every fax, every -- all these different
18 types of communications; faxes to phone
19 calls.
20 So every telephone call that is
21 made needs to be accounted for. Any time
22 someone places a phone call, the phone
23 company has to record the caller's telephone
24 number, the destination telephone number and
25 some other information, including the

1 duration of the call.
2 So the data is being
3 accumulated at very rapid rates. And the
4 data is typically stored on the disk. And
5 then the data had to be archived almost
6 immediately on tape, just in case the disk
7 drive crashes or whatever.
8 And quite often, the archival
9 is done on multiple tapes, typically two
10 tapes. So we had tape drives and software
11 with -- constantly back up all of these --
12 all of these records onto the tape drives.
13 And then if there's any issue,
14 then we can retrieve the data from the backup
15 tapes and th tapes were stored offsite when
16 they fill up.
17 And also, the disk would fill
18 up as well with so many phone calls
19 happening. So it's not possible for the disk
20 drive to store all of this information, even
21 a tape drive, the physical tape itself, would
22 fill up. So we had no choice but to
23 constantly record on tapes.
24 And there are multiple tape
25 drives. When the tape on one drive fills up,

1 then archival continues on the next tape
2 drive on a different tape, so that we can
3 remove this first tape from the first tape
4 drive and replace it with a blank tape, like
5 that.
6 And all these records need to
7 be kept for billing purposes, at the very
8 least.
9 Q. And how did that work involve
10 file restoration?
11 A. Two ways of storing the data.
12 You could have the data based on a region, in
13 which case the telephone calls would be
14 grouped into regions. And those would
15 constitute files. Or each record could
16 constitute a file and you could store it as
17 such.
18 Q. So in that work at Emirtel, you
19 had experience restoring an individual file;
20 is that correct?
21 MR. JAFFESS: Object to the
22 form.
23 THE WITNESS: Sorry?
24 MR. JAFFESS: You can answer.
25 THE WITNESS: Yeah. Extensive

1 experience. And, actually, what I
2 tried to do also was to replace the
3 software that we had.
4 The software that we had was
5 written by a third party, and our
6 needs were changing. So one of the
7 things I worked on for almost six
8 months was to rewrite that software to
9 improve performance and add additional
10 features that I cannot discuss here
11 because of confidentiality, obviously,
12 with the client -- of the employer at
13 the time.
14 BY MR. MASON:
15 Q. But it's your testimony today
16 that the technology you worked on there would
17 access and allow for recovery -- allow a user
18 to recover an individual file at a prior
19 point in time?
20 A. Yes.
21 Q. And how would the system know
22 how to access that file at a prior point in
23 time?
24 A. The data is all stored on
25 tapes. Everything is on tapes. Disk drive,

1 it fills up very quickly.
2 And as a result, we relied on
3 the tapes. If there is any issue related --
4 in fact, the processing of billing itself is
5 done from the tapes.
6 So, for example, all billing
7 customers, we took those tapes and then we
8 would -- we would basically look at each
9 telephone number from the different tapes and
10 bill the customer accordingly.
11 This is also more complicated
12 if it's a long distance call, then there are
13 multiple carriers, potentially at least
14 another carrier involved. They have to be
15 paid as well.
16 So we have to pretty much -- I
17 mean, retrieval was a very important aspect
18 of this software. It wasn't just for if
19 something was lost, although we did use it
20 for that as well. But more importantly,
21 also, it's needed to process everything.
22 Q. In your experience prior to
23 2000, on file restoration, a user would be
24 able to recover a specific file from an
25 archived remote drive? Is that your

1 testimony?
2 MR. JAFFESS: Object to the
3 form.
4 THE WITNESS: So there -- we --
5 throughout my career, I worked on
6 both. I worked on archival and
7 restoration, including restoring
8 specific files.
9 BY MR. MASON:
10 Q. And that was prior to 2000?
11 A. Yes.
12 Q. And in that experience with
13 restoration of a specific file, how would the
14 software know where to locate the prior
15 version of that file?
16 MR. JAFFESS: Object to the
17 form.
18 THE WITNESS: I don't recall.
19 I dealt with different -- other than
20 writing my own, I wrote -- I also used
21 archival software products.
22 For example, when I had my
23 company, we had all kinds of records
24 on computers and on the data server.
25 And we had tape backup systems

to make sure that everything is backed up, and in case a file is lost, it can be retrieved from the tapes, for example.

BY MR. MASON:

Q. And what time period was that, Mr. Jawadi?

A. '80s, '90s is one.

Q. And in recovering a specific file, how would the system know where to retrieve that file from on the tapes?

MR. JAFFESS: Object to the form.

THE WITNESS: Depending on the software -- the software, the archival software that is being used.

BY MR. MASON:

Q. You have no knowledge of how the system would know where to retrieve that file from the tapes?

MR. JAFFESS: Object to the form.

BY MR. MASON:

Q. Is that correct?

A. This is more than -- almost

25 years ago. I hesitate to answer, based on memory of events that happened, usage of software or software that I developed more than 25 years ago.

BY MR. MASON:

Q. So is it your testimony that you have no recollection of how software might have known how to access archived files --

MR. JAFFESS: Object to the form.

BY MR. MASON:

Q. -- more than 25 years ago?

A. This mischaracterizes my testimony.

Q. How does it mischaracterize your testimony?

A. I don't recall the exact software operation that I was using specifically, to answer that question.

The question was asked in a vague sort of way that mischaracterizes my experience and my memory.

Q. And what was vague? Or actually, let me just ask another question.

1 In this period prior to 2000,
2 do you have any understanding of how file
3 restoration software would know where to
4 restore a file from, in a tape system?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: What do you mean
8 where? Where from?
9 BY MR. MASON:
10 Q. Which location within the
11 system --
12 MR. JAFFESS: Objection.
13 BY MR. MASON:
14 Q. Strike that.
15 Within these file recovery
16 systems, would the system need to retrieve
17 the file from a particular remote location?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: The question just
21 doesn't make any technical sense. I
22 don't understand what you're trying
23 to -- it just doesn't make technical
24 sense.
25 BY MR. MASON:

1 Q. What do you not understand
2 about the question?
3 A. How do you get a file from a
4 tape? That's -- it's -- what do you mean by
5 that? Do you mean how to locate the file
6 within the tape? I just don't understand the
7 question. It's vague.
8 Q. You were just discussing file
9 recovery software that you were aware of,
10 dating more than 25 years ago, correct?
11 A. Yes. And the reason I am
12 referring to that is the prior to date of
13 2000, I also have had more experience than
14 that after. But we're discussing my
15 experience prior to 2000.
16 And that's why it relates to
17 that. And that's more than 25. So we're
18 talking 1999 and before, which is 25 years
19 and more.
20 I don't think it's reasonable
21 for me to extract any specifics, but I can
22 answer in generality, if the answer -- if the
23 question is not vague.
24 Q. Yeah. So for that time period
25 you just identified, you testified that there

1 was file recovery software that would recover
2 files from an external tape; is that correct?
3 A. Files or in some cases we also
4 are had backups for entire disks, not just
5 files, but entire disks as well. That's
6 sector based.
7 Q. For now, I'll just focus on the
8 files.
9 And so for those file recovery
10 systems from that time period, would the
11 system know from which tape to recover the
12 file?
13 MR. JAFFESS: Object to the
14 form.
15 THE WITNESS: It depends on the
16 system. Depends on the software.
17 BY MR. MASON:
18 Q. Well, I guess what I am trying
19 to understand, in order to recover a file
20 from a tape, am I correct that the system
21 would need to know the previous version of
22 the file that existed on that tape?
23 A. It depends on how the software
24 is written.
25 Q. And what does that depend on?

1 MR. JAFFESS: Object to the
2 form.
3 THE WITNESS: Whatever the
4 requirements of the software was.
5 Different companies had different
6 parts and different software packages
7 had different capabilities.
8 BY MR. MASON:
9 Q. Are you aware of systems --
10 strike that.
11 Did your experience prior to
12 2000 involve systems in which the system had
13 to know that the previous version of a file
14 existed on an external tape?
15 MR. JAFFESS: Object to the
16 form.
17 THE WITNESS: May I hear the
18 question again, please?
19 BY MR. MASON:
20 Q. Did your experience, prior to
21 the year 2000, involve systems in which the
22 system had to know that the previous version
23 of a file existed on an external tape?
24 MR. JAFFESS: Object to the
25 form.

1 THE WITNESS: I don't recall
2 the specifics of these products at the
3 time from more than 25 years ago.
4 MR. MASON: I think we been
5 going for well over an hour, so I want
6 to give Mary a little break here,
7 unless you want to keep -- why don't
8 we break for about five or ten
9 minutes.
10 THE WITNESS: Can we make it
11 ten rather than five, please?
12 (Discussion off the record.)
13 (Break taken.)
14 BY MR. MASON:
15 Q. Are you ready to resume your
16 deposition, Mr. Jawadi?
17 A. Yes.
18 Q. And while we were off the
19 record, did you have any communications with
20 counsel for Datanet?
21 A. No.
22 Q. Do you recall earlier
23 discussing Microsoft Windows Explorer?
24 A. Yes.
25 Q. What is Microsoft Windows?

A. It's a Microsoft operating system.

Q. Is Microsoft Windows Explorer part of the Microsoft operating system?

MR. JAFFESS: Object to the form.

BY MR. MASON:

Q. Strike that.

Is Microsoft Windows Explorer part of the Microsoft Windows operating system?

A. I don't think I opined about that.

Q. Sitting here today, do you have any opinion on whether Microsoft Windows Explorer is part of the Microsoft Windows operating system?

A. I am considering the question. First, I need to understand what part of the operating system is referring to specifically, because it could have different meanings.

And even then, I would then need to go -- and -- and considering the precise definition of the question -- of the

1 term in the question, then I would research
2 to confirm my understanding and then answer.
3 Sitting here, the question is
4 vague. And I would need time to confirm my
5 understanding before answering.
6 Q. So is it correct that without
7 further research, you do not know whether
8 Microsoft Windows Explorer is part of the
9 Microsoft Windows operating system?
10 MR. JAFFESS: Object to the
11 form.
12 THE WITNESS: It
13 mischaracterizes what I said.
14 BY MR. MASON:
15 Q. It's a yes-or-no question.
16 Is it correct that without
17 further research, you do not know whether
18 Microsoft Windows Explorer is part of the
19 Microsoft Windows operating system?
20 MR. JAFFESS: Object to the
21 form.
22 THE WITNESS: The question
23 whether Windows Explorer is part of
24 the operating of the Microsoft
25 operating system of the Windows

1 operating system is vague.
2 What does that exactly mean?
3 There are technical ramifications to
4 this question.
5 BY MR. MASON:
6 Q. What is vague about the
7 question?
8 A. For instance, from an
9 implementation perspective, is Explorer --
10 the majority of its software imbedded inside
11 Windows, and all Explorer is, is just
12 presenting some kind of a user interface, is
13 it -- or is it a completely separate program
14 from the operating system you can download by
15 installing -- that you can even remove it.
16 So the definition of -- part
17 of -- is vague. It needs to be very, very
18 precise. And only then can an answer be
19 provided.
20 Q. Is Microsoft Windows Explorer a
21 completely separate program from the
22 Microsoft Windows operating system in this
23 pre-2000 time period?
24 MR. JAFFESS: Object to the
25 form.

1 THE WITNESS: I did not opine
2 about this. And I would need -- I
3 would need the definition of the -- I
4 would need to understand if it -- if
5 the program could be just a tiny
6 little shell with -- that uses a lot
7 of drivers that come with the
8 operating system or not, it's more
9 complicated.
10 Where I am being asked a
11 superficial, vague, technical
12 question, that requires a lot more
13 nuance to be able to answer.
14 And even then, my recollection
15 of something 25 years ago -- from
16 25 years ago, needs to be confirmed by
17 doing -- by doing research, going in
18 there and checking to -- checking the
19 Microsoft documentation and references
20 and so forth.
21 BY MR. MASON:
22 Q. It's fine if you don't know
23 without doing further research.
24 My question for you is, do
25 you --

1 A. No.
2 Q. -- know how Microsoft Windows
3 Explorer relates to the Microsoft Windows
4 operating system?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: Not knowing and
8 not providing a precise
9 well-researched answer to a
10 well-formulated question are two
11 different things.
12 To mischaracterize my answer as
13 "not knowing" is -- is objectionable
14 to me.
15 BY MR. MASON:
16 Q. Sitting here today, do you have
17 any understanding of how Microsoft Windows
18 Explorer related to the Microsoft Windows
19 operating system in 2000 and before?
20 MR. JAFFESS: Object to the
21 form.
22 THE WITNESS: I have some
23 recollection, but I would need to
24 confirm.
25 And again, I would need to

1 understand the question. The question
2 needs to be more technically nuanced
3 than being asked in this deposition.
4 BY MR. MASON:
5 Q. So you're refusing to answer
6 that question; is that correct? Because you
7 cannot answer that question in this
8 deposition; is that correct?
9 A. I'm not refusing. I am just
10 stating the fact that the question needs to
11 be asked in a technically precise manner.
12 And then I would need to --
13 depending on what the technically precise
14 question is, then I would have recollection,
15 most likely.
16 So I have a pretty decent
17 memory. But then again, this is 25 years
18 ago. And different versions of Microsoft
19 were available even then.
20 And so to confirm my
21 recollection, I would need to go and
22 research. It's not a matter of refusing.
23 Q. Sitting here today, before
24 2000, did Microsoft Windows Explorer have any
25 relationship to Microsoft Windows?

1 A. What do you mean
2 "relationship"? It's not a term of art.
3 Q. So you don't understand what I
4 mean by "relationship" when I am discussing
5 the relationship between Microsoft Windows
6 Explorer and Microsoft Windows; is that
7 correct?
8 A. Are you using "relationship" as
9 a technical term? And if so, can you define
10 what that -- what that term means, so I can
11 answer accurately?
12 Q. In the context of computer
13 software, do you have an understanding of the
14 word "relationship"?
15 MR. JAFFESS: Object to the
16 form.
17 THE WITNESS: It's not a
18 standard term of art. If you could --
19 and it could mean different things.
20 If you give me a definition of
21 what you mean, then I can answer the
22 question.
23 BY MR. MASON:
24 Q. Is there any association, prior
25 to 2000, between Microsoft Windows Explorer

1 and Microsoft Windows?
2 A. What do you mean by that?
3 Q. Is it your testimony that you
4 don't understand what I mean by the word
5 "association"?
6 MR. JAFFESS: Object to the
7 form.
8 THE WITNESS: I don't want to
9 reword the question. You're the one
10 asking me the question. The question
11 is vague.
12 BY MR. MASON:
13 Q. What is your understanding of
14 the word "association"?
15 A. It has different meanings.
16 Q. What are the meanings that you
17 can think of for the word "association"?
18 A. To be precise, I need to open a
19 dictionary.
20 Q. So sitting here today, though,
21 you have no understanding of the word
22 "association."
23 Is that correct?
24 A. I do.
25 MR. JAFFESS: Object to the

1 form.
2 BY MR. MASON:
3 Q. What is that understanding?
4 A. This is not a technical
5 question, so I will answer in a non-technical
6 way.
7 The word "associate," it
8 could -- one meaning for "associate" is when
9 someone says -- for example, when someone
10 says, I associate X with Y, it means when I
11 hear X, I also think of Y. That's one
12 meaning.
13 It could mean that X is
14 associated with Y. That means they have some
15 sort of relationship. Say that they're
16 colleagues. So, for example, when you say,
17 I'd like to introduce so and so, my associate
18 such and such, it means maybe we work
19 together, my colleague.
20 And there are -- I'm sure there
21 are other meanings as well, but that is a
22 layperson's understanding, not technology.
23 Q. Is Microsoft Windows
24 Explorer -- strike that.
25 Was Microsoft Windows Explorer

1 a software application in 2000 and before?
2 A. I don't recall if Microsoft
3 classified Explorer as a separate application
4 or otherwise.
5 Microsoft is the author of
6 both. And I would need to go back and look
7 at which version of the operating system --
8 Windows in this case -- and what Microsoft
9 considered the two -- how those two programs
10 are -- would Microsoft consider Explorer an
11 application or not?
12 That's the authority to be
13 consulted, Microsoft.
14 Q. In that answer you referred to
15 two programs. What two programs were you
16 referring to?
17 A. You were asking me about
18 Windows and Explorer. And they both are
19 published by Microsoft.
20 Q. And is Windows a program?
21 A. I should -- okay. So let me
22 strike that.
23 Let me use the term "software
24 product" for both of them, instead of
25 program, because program has -- potentially

1 has different -- different connotations.
2 It could, potentially,
3 sometimes mean a separate program, that kind
4 of is isolated on its own. And that's not
5 what I meant.
6 Q. And by "program" in your
7 answer, were you referring to application?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: The term
11 "program" is kind of generic, and
12 sometimes is used colloquially in many
13 different ways, even sometimes an
14 operating system may be referred to as
15 a program.
16 It's -- it's not accurate,
17 typically. But colloquially,
18 casually, sometimes it's referred to
19 as that.
20 The whole collection of these
21 is software. But even then, an
22 operating system, it could be imbedded
23 in hardware, in which case it would be
24 firmware, rather than software.
25 So that's why it's very

1 difficult to come up with precise
2 definitions and statements, unless
3 there is a very specific context.
4 BY MR. MASON:
5 Q. Would a POSITA have understood
6 that Microsoft Windows Explorer was a part of
7 the Microsoft Windows operating system?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: Can you show me
11 where I opined on that in my
12 declaration?
13 BY MR. MASON:
14 Q. I'm just asking if a POSITA
15 would have understood that Microsoft Windows
16 Explorer was a part of the Microsoft Windows
17 operating?
18 A. I don't remember if I
19 considered this question in my analysis. And
20 in order for me to provide an answer, I would
21 need to go back and investigate and provide a
22 very accurate and truthful answer.
23 And it's not my practice to do
24 that impromptu in depositions.
25 Q. So without going back and

1 investigating, is it your testimony that you
2 don't know whether a POSITA would have
3 understood that Microsoft Windows Explorer
4 was a part of the Microsoft Windows operating
5 system?
6 MR. JAFFESS: Object to the
7 form.
8 THE WITNESS: No. That's not a
9 fair representation --
10 characterization of what I said.
11 BY MR. MASON:
12 Q. So you do know? You do have an
13 opinion on whether a POSITA would know
14 whether Microsoft Windows Explorer was a part
15 of the Microsoft Windows operating system; is
16 that correct?
17 A. That also mischaracterizes what
18 I said.
19 Q. Well, it's got to be one or the
20 other.
21 A. No. Some things are just kind
22 of more nuanced than yes or no. Many things
23 are nuanced. I answered in a very nuanced
24 sort of way to a vague question.
25 This is something that refers

1 to -- the question refers to something that
2 is 25 years or more ago.
3 And I am in a legal deposition,
4 under oath. I need to provide accurate,
5 precise, truthful answers that are well
6 thought out.
7 It's not my practice to provide
8 willy-nilly impromptu answers on the spot. I
9 am a precise type of person. I like to go
10 and make sure that I do all of my research,
11 rather than just rely on recollections and
12 memories and understandings, even though I
13 have some -- may or may not in some cases --
14 like to be very precise.
15 Q. So here, without doing further
16 research, do you have an understanding of
17 whether Microsoft Windows Explorer was part
18 of the Microsoft Windows operating system?
19 MR. JAFFESS: Object to the
20 form.
21 THE WITNESS: I've answered
22 this multiple times, in so many
23 different ways now.
24 Asked and answered.
25 BY MR. MASON:

1 Q. So you're not answering the
2 question; is that correct?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: It
6 mischaracterizes my question -- my
7 answer, rather.
8 BY MR. MASON:
9 Q. Would a POSITA have an
10 understanding of the word "file"?
11 A. Whatever is in my declaration
12 reflects my opinions and my analyses. If you
13 could point me to a specific paragraph, I'm
14 happy to elaborate.
15 Q. And would a POSITA have an
16 understanding of the term "restoring a file"?
17 A. The same answer as before,
18 which is: I am being asked about a specific
19 technical term in a specific technical
20 setting, in a legal setting.
21 And in order for me to answer
22 truthfully, accurately and precisely within
23 the context of this litigation, I would need
24 to do an investigation to make sure my answer
25 is not based on recollection, but rather

1 based on thorough investigation.
2 That's how I operate.
3 Q. Would a POSITA have an
4 understanding of the term "a current version
5 of a file"?
6 A. In what context?
7 Q. Do you understand the
8 definition -- strike that.
9 Do you understand that by "a
10 POSITA," I mean a person of ordinary skill in
11 the art?
12 A. Yes.
13 Q. Okay. And you recall
14 offering -- strike that.
15 Do you recall assuming a
16 certain definition for a person of an
17 ordinary skill in the art, for purposes of
18 your declaration?
19 MR. JAFFESS: Object to the
20 form.
21 THE WITNESS: I'm sorry. What
22 was the question again?
23 BY MR. MASON:
24 Q. Do you recall assuming a
25 certain definition of a POSITA, for purposes

1 of your 850 declaration?
2 A. I have a recollection. I would
3 need to confirm it with my declaration.
4 Q. Yeah. And certainly, you can
5 do so. If I could invite you to paragraph 40
6 of your declaration, Exhibit 2004.
7 A. I am reading paragraph 40, for
8 myself, of my Exhibit 2004.
9 I see that. I just read it.
10 Q. And when I use the term
11 "POSITA" today, do you understand that I am
12 referring to a person of ordinary skill in
13 the art?
14 A. Yes.
15 Q. And you understood that term
16 when you wrote your declaration, correct?
17 A. Yes.
18 Q. Would a POSITA have an
19 understanding of the term "a current version
20 of a file"?
21 MR. JAFFESS: Object to the
22 form.
23 THE WITNESS: In what context?
24 BY MR. MASON:
25 Q. In the context of their work --

1 strike that.
2 In the context of his or her
3 work, would a POSITA have an understanding of
4 the term "a version of a file"?
5 MR. JAFFESS: Object to the
6 form.
7 BY MR. MASON:
8 Q. In the context of his or her
9 work, would a POSITA have an understanding of
10 the term "a current version of a file"?
11 MR. JAFFESS: Object to the
12 form.
13 THE WITNESS: Can you tell me
14 where I opined that current version of
15 a file, generically, in my
16 declaration?
17 BY MR. MASON:
18 Q. All I'm asking here is --
19 without your declaration, I'm just asking, do
20 you have any opinion on whether a POSITA
21 would know -- strike that.
22 My question is: Do you have an
23 opinion on whether a POSITA would understand
24 the term "a current version of a file"?
25 MR. JAFFESS: Object to the

form.

THE WITNESS: Context is very important. I am -- without context -- without context, answering that kind of question is difficult. I would need the context in which the term is used.

And then -- and then I would need to research. And also, what time frame? Is it 25 years ago? Is it current? What is it? What time are we in?

To answer the question, I need to investigate and provide an answer, accurately and truthfully.

BY MR. MASON:

Q. And do you understand that a POSITA has been defined as of the time September 2000?

A. Yes.

Q. And you've adopted that understanding in offering your opinion in this IPR; is that correct?

A. It's what I say in paragraph 40 -- paragraph 40.

1 Q. Okay. So in the context of the
2 850 patent, in 2000, would a POSITA have an
3 understanding of the term "version of a
4 file"?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: Version or
8 current version?
9 BY MR. MASON:
10 Q. "Version of a file."
11 A. A version or current version?
12 Q. In the context of the 850
13 patent, would a POSITA have an understanding
14 of the term "version of a file"?
15 MR. JAFFESS: Object to the
16 form.
17 THE WITNESS: I don't recall if
18 I opined on the term "version" to --
19 just as a standalone term like that.
20 BY MR. MASON:
21 Q. Is your answer that you do not
22 recall?
23 A. I don't recall that I opined
24 about a POSITA's understanding of the term
25 "version" in the context of the 850 patent in

1 the year 2000.
2 Q. In paragraph 41 of your 850
3 declaration, did you testify that over the
4 course of your career, you have supervised
5 and directed many POSITAs?
6 A. What's the question?
7 Q. In paragraph 41 of your 850
8 declaration, did you testify that over the
9 course of your career, you have supervised
10 and directed many POSITAs?
11 A. Well, the exact language is,
12 "many such persons," instead of many POSITAs,
13 just to be precise.
14 Q. In paragraph 41, what does the
15 phrase, "many such persons," refer to?
16 A. Many such POSITAs. It's
17 referring to POSITAs. But I was just
18 pointing out the language is slightly
19 different from what you stated, for the
20 record.
21 Q. Fair enough. Yeah.
22 So by 2000, had you supervised
23 and directed many POSITAs, in your opinion?
24 A. Yes.
25 Q. And would those POSITAs have an

1 understanding of the phrase, "current version
2 of a file"?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: In what context?
6 BY MR. MASON:
7 Q. Just in the context of their
8 work. Do you understand the definition of a
9 POSITA?
10 A. Yes.
11 Q. Okay. And, in fact, you worked
12 with many POSITAs, correct?
13 A. Yes.
14 Q. Okay. And would a POSITA have
15 an understanding of the phrase "current
16 version of a file"?
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: I hesitate to
20 answer without context because without
21 context, the term can mean -- well,
22 depending on the context, the meaning
23 can change.
24 BY MR. MASON:
25 Q. What is one meaning that a

1 POSITA would have of "a current version of a
2 file"?
3 MR. JAFFESS: Object.
4 THE WITNESS: I don't think
5 that -- different context. Pardon me,
6 Mr. Jaffess. I interrupted.
7
8 BY MR. MASON:
9 Q. Mr. Jawadi, can you give me one
10 example of how a POSITA would understand the
11 term, "a current version of a file," in one
12 example, context?
13 MR. JAFFESS: Object to the
14 form.
15 THE WITNESS: My understanding
16 is that I am here to testify about the
17 three different declarations.
18 I don't think defining terms
19 out of context is something that I
20 offer opinions about in my
21 depositions.
22 I don't provide impromptu
23 definitions and explanations unrelated
24 to my declaration.
25 It's not my practice to do

1 that.
2 BY MR. MASON:
3 Q. Would a POSITA have an
4 understanding of the term "computer"?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: Again, here, I
8 need context. Generically, I can
9 provide an answer. But then again, in
10 some cases, the definition could be
11 inappropriate for a particular
12 context.
13 So I hesitate to provide
14 lengthy answers to general questions
15 which could be inappropriate for
16 different contexts.
17 BY MR. MASON:
18 Q. So sitting here today, you're
19 unwilling to answer whether a POSITA would
20 have had an understanding of the term
21 "computer"?
22 MR. JAFFESS: Object to the
23 form.
24 BY MR. MASON:
25 Q. Is that correct?

1 A. It's not a matter of unwilling.
2 It's a matter of a question that is way too
3 vague. And without context, in order for me
4 to answer any question, I -- I need -- I
5 don't think that's unreasonable.
6 It's not a matter of unwilling
7 or unable. It's a matter of I need precision
8 in the question, which includes context, time
9 frame, et cetera, Which have not been
10 provided in the question.
11 So it's not a matter of
12 unwillingness or inability.
13 Q. Is that your complete answer?
14 A. Yes, along with everything else
15 I've testified.
16 Q. And you understand that a
17 POSITA is defined as a person, in
18 September 2000; is that correct?
19 A. Yes. The question was not --
20 was a POSITA in 2000. But still, the context
21 was not provided for that -- for the
22 question.
23 Q. What additional context would
24 you need to answer that question?
25 A. What was the question again?

1 Q. The question I will ask now is:
2 Would a POSITA, which is defined to be as of
3 the time September 2000, have an
4 understanding of the word "computer"?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: A generic
8 understanding, it's possible. But
9 that understanding would be modified,
10 depending on context.
11 BY MR. MASON:
12 Q. What would a POSITA's generic
13 understanding of the term "computer" be?
14 A. It's not my practice to provide
15 speculations and -- strike the
16 speculations -- but definitions and
17 explanations impromptu, even about terms that
18 I know and am familiar with.
19 Because we are in a legal
20 setting. And I need to be very accurate and
21 very precise in the context of the -- of the
22 legal setting.
23 It's not my practice to offer
24 impromptu explanations, unless they're in my
25 declaration.

1 Q. Can I invite you to
2 paragraph 61 of your 850 declaration?
3 A. 61. I'm there.
4 Q. Great.
5 And in paragraph 61 of your 850
6 declaration, do you offer opinions on the 850
7 claim term, quote:
8 "Storing the selected previous
9 version by the computational machine
10 as the current version on the local
11 storage location."
12 Is that correct?
13 A. Yes.
14 Q. You understand that Claim 1 of
15 the 850 patent is a method claim, correct?
16 A. I need to confirm that. Under
17 oath, I can't just rely on recollection. May
18 I open it? Or do you have it open?
19 Q. I think I can invite you to
20 paragraph 56 of your declaration. I think
21 you also reproduce Claim 1.
22 A. Yeah. There it is. I'm
23 looking at Exhibit 1001, which has Claim 1.
24 It says a method. Okay.
25 Q. Yeah. With that in mind, what

1 is your full construction of the phrase,
2 quote, "storing a selected previous version
3 by the computational machine as the current
4 version on the local storage location," end
5 quote?
6 MR. JAFFESS: Object to the
7 form.
8 THE WITNESS: It's in my
9 declaration.
10 BY MR. MASON:
11 Q. Where in your declaration is
12 that construction that you opined on?
13 A. I'm considering the question.
14 I am reading my declaration.
15 I'm still considering and
16 reviewing.
17 For example, in my declaration,
18 Exhibit 2004, paragraph 61, which states that
19 (as read):
20 "As a result, in the context of
21 the claims and the related disclosure,
22 a POSITA understands that the term" --
23 in quotes, "'storing the selected
24 previous version by the computational
25 machine as the current version on the

1 local storage location,'" -- end
2 quotation -- "means that the version
3 of a file, now present on the user's
4 PC, also has a corresponding version
5 on the remote storage location. Each
6 of them corresponding to the other and
7 being the most recent version in time
8 of such file."
9 Q. Yeah. And so what I am trying
10 to understand -- and you see those last three
11 lines in paragraph 61 that begin, "means
12 that"?
13 A. Yes.
14 Q. Okay. So is that -- are you
15 saying that that phrase that begins with "the
16 version," that is your -- that is how someone
17 would understand the previously quoted term,
18 claim term, within paragraph 61?
19 And to maybe set the stage,
20 what I am trying to figure out is the quoted
21 language is an action, it's storing.
22 And so my question is, is your
23 understanding of what that quoted language
24 means is -- is those last three lines in
25 paragraph 61?

1 A. I'm considering the question.
2 I'm still considering the
3 question.
4 The last three lines focus on
5 the current version, that the act of storing
6 the previous version by the computational
7 machine on the local storage location, the
8 understanding is that construction means that
9 that version of the file now present on the
10 user's PC also has a corresponding version on
11 the remote storage location.
12 And of each of them -- and the
13 "them" refers to the two versions -- to the
14 two -- well, to the file on the user's PC and
15 the file on the remote storage location,
16 corresponding to the other, and being the
17 most recent version in time of such file.
18 Q. So just so I understand, in
19 paragraph 61, are you then only offering a
20 meaning for the phrase, "the current
21 version"?
22 A. It's -- the last three lines
23 are providing a construction for the term "as
24 the current version."
25 Specifically, in the context of

1 this -- of this claim language, which begins
2 with "storing" and ends with "local storage
3 location," it's understood that storing is
4 happening of the selected previous version.
5 And then the rest is pretty
6 much encompassed in the version -- in the
7 last three lines.
8 Q. Just so I understand, is your
9 opinion in paragraph 61 that this claim
10 language beginning with "storing" requires
11 two actions, namely storing the selected
12 previous version on the local storage
13 location, and also storing it on the remote
14 storage location?
15 MR. JAFFESS: Object to the
16 form.
17 THE WITNESS: I'm considering
18 the question.
19 I'm still considering the
20 question.
21 The language that I use in 61
22 says "each has a corresponding version
23 on the remote storage location."
24 And then in paragraph 62, I
25 say, in the last three lines --

1 actually four lines:
2 "Hence, in context of the
3 claims and underlying disclosure,
4 current version means more than
5 overriding, but also means keeping
6 parity between the file on the local
7 storage location and the versioning
8 system of the remote storage
9 location."
10 So somehow -- somehow this
11 current version, which has just been
12 restored, is now present on the user's
13 PC as the current version.
14 In addition, the remote storage
15 also has to have that particular
16 version, the current version, not just
17 there somewhere on the remote storage,
18 but specifically as the current
19 version.
20 That's what I'm saying.
21 BY MR. MASON:
22 Q. Yeah. And you're saying that's
23 what the claim requires; is that correct?
24 A. Yes. And the reason -- the
25 reason is explained in paragraph 62.

1 Q. Okay. Yeah. And so I am just
2 trying to understand your testimony that the
3 remote storage also has to have that
4 particular version, the current version.
5 How -- so how does the remote
6 storage come to have that particular version,
7 namely the current version?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: The remote
11 storage already had that previous
12 version because that's how the system
13 was able to restore that previous
14 version to the local storage as the
15 current version.
16 The point I am trying to make
17 in paragraph 61 and paragraph 62 is
18 that the system has to have this most
19 recent current version, not just as
20 the most recent version on the user's
21 PC, but also remotely, in the remote
22 storage.
23 They both, the local -- the
24 local storage, the user's PC and the
25 remote storage, both of them have to

1 have this version, not just there,
2 present, but as the current as well.
3 BY MR. MASON:
4 Q. So is it your opinion that the
5 claims require not only storing this version
6 as the current version locally, but also
7 require renaming the remote copy of the file
8 as the current version?
9 MR. JAFFESS: Object to the
10 form.
11 THE WITNESS: I don't offer an
12 opinion about renaming, as such.
13 The opinion and the
14 construction relates to the current
15 version being recognized as the most
16 recent, the current version. Not just
17 locally, but in the storage location.
18 That's the point I make here.
19 In 61, it says:
20 "Each of them corresponding to
21 the other and being the most recent
22 version in time of such file."
23 And in 62, similar language.
24 Actually, similar in high level. It
25 says, "Hence, in the context of the

1 claims and underlying disclosure" --
2 this is from paragraph 62 -- "current
3 version means more than mere
4 overriding, but keeping parity between
5 the file on the local storage location
6 and the versioning system of the
7 remote storage location."
8 So if, for example, if the
9 local computer -- so let's take this
10 scenario:
11 The user restores a previous
12 version. And the previous version now
13 arrives at the local storage and is
14 stored there. And as soon as the file
15 is received, the user's PC crashes,
16 for whatever reason.
17 Now, the user boots the system
18 back up. And the user goes to the
19 remote storage to get the most recent
20 version.
21 That most recent version from
22 the remote system should be the
23 version that was downloaded, that was
24 restored before the user's computer
25 crashed.

1 It wouldn't make sense
2 otherwise, because the user restored a
3 previous version.
4 So let's say we have Versions
5 1, 2 and 3. And the user restores to
6 Version 1. And then now the most
7 current version is Version 1, locally.
8 And then the user's computer
9 crashes. The user boots the system
10 back up and goes to the remote system
11 and says, okay, give me the latest
12 version.
13 What should the user get?
14 Version 1 or version 3? Should be
15 Version 1.
16 So -- otherwise, it wouldn't
17 make any sense.
18 That's my answer.
19 BY MR. MASON:
20 Q. And on that remote storage
21 location, in your opinion, how does that
22 remote storage location, as you stated, make
23 the recently restored version the current
24 version?
25 MR. JAFFESS: Object to the

form.

THE WITNESS: I don't think I opined about that.

BY MR. MASON:

Q. So you're just saying that it magically appears. That the claim requires this kind of just happening on the remote storage location, without any action being performed, that on this remote storage location, this V.1 in your hypothetical is how it labeled the current version; is that correct?

MR. JAFFESS: Object to the form.

THE WITNESS: Mischaracterize my testimony I didn't use the word magically.

BY MR. MASON:

Q. Fair enough. I'm just trying to understand, is there an extra step that happens in which the remote location somehow relabels or identifies the V.1 in your hypothetical as the current version?

A. I don't opine about that. That's an implementation detail.

1 Q. So it's your testimony that the
2 storage step, which refers to the local
3 storage location, requires also something --
4 well, strike that.
5 Prior to the storage step, what
6 is the current version on the remote storage
7 location?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: Is the question
11 in the context of my example?
12 BY MR. MASON:
13 Q. Yeah. Use your hypothetical.
14 That's fine. I'm really just trying to get
15 an understanding of what you understand the
16 claim to require.
17 A. Sure. Let's say the user
18 creates a file. That's let's call that
19 Version 1. The user updates somehow. Now
20 she has Version 2, and the system is backing
21 up.
22 So when the user created
23 Version 1, the system kept a copy of that,
24 archived it as Version 1. So now both local
25 and remote storage have Version 1.

1 The user updates and saves.
2 Now we have Version 2. The system archives
3 Version 2 to the remote storage.
4 At this point, local storage
5 has Version 2 only, because Version 1 has
6 been overwritten.
7 The remote storage at that
8 point has Version 1 and Version 2, with the
9 most recent version as Version 2.
10 Now the user makes some more
11 changes then she saves the file. Now there's
12 version 3. The backup happens. Now the
13 remote storage also has Version 3.
14 The user's computer, locally,
15 has Version 3 only because the prior versions
16 have been overwritten.
17 The remote storage has the
18 three versions; Version 1, 2 and 3, with the
19 most recent version as Version 3.
20 So at this point, the most
21 current version, locally, is Version 3. The
22 most current version, remotely, is Version 3.
23 Now the user goes, oh, no. I
24 want Version 1. I made a mistake. I don't
25 like those changes in the last two versions.

1 So the user goes and restores Version 1. Now
2 the system restores Version 1 locally.
3 And at this point, the most
4 current version, locally, is Version 1. And
5 let's say that the system doesn't do
6 anything, it just keeps it that way.
7 Now the computer crashes on --
8 the user's computer crashes. Then the user
9 starts the computer and goes to the system to
10 get the most recent version because the user
11 goes, well, let me just make sure that I am
12 getting the last version, the most current
13 version.
14 So now the user goes to the --
15 to the remote storage to look. What is the
16 most recent version, remotely? It shouldn't
17 be Version 3. It should be Version 1 because
18 that is what was restored, otherwise it would
19 not make any sense.
20 Q. So are you opining that some
21 particular action leads to this remote
22 location having the Version 1 as the current
23 version?
24 A. Yes.
25 MR. JAFFESS: Object to the

form.
BY MR. MASON:
Q. And what is that particular action?
A. I don't opine on how to implement that.
Q. Okay. But your opinion is that some additional action is required in order to make sure -- strike that.
Your opinion is that the claim requires some additional action in order to make sure that the remote storage location updates its copies of the file to make sure that Version 1, in your example, is labeled as the current version?
A. Yes.
MR. JAFFESS: Object to the form.
THE WITNESS: Let me add a little more detail to the scenario -- to the hypothetical I am giving.
Let's say Version 1, 2 and 3, they were all created by Mary, okay? But Mary and I are -- Jay also likes to access the file.

1 When Mary did the restoration,
2 the Version 1, she left and the
3 computer crashed. And I go, oh, the
4 computer crashed. Let me just restore
5 the latest version, just to make sure
6 because the computer crashed. The
7 power went out, the computer crashed,
8 okay?
9 So I start the computer. And
10 the first thing I do is go to the
11 remote storage. So Jay is doing that.
12 So should Jay get Version 3? That
13 would be really bad. That's -- that's
14 bad. Mary said the most recent
15 version is 1. And she decided to
16 discard the two versions after that, 2
17 and 3.
18 If the system doesn't work
19 properly, then Jay will come back and
20 will get Version 3.
21 It's pretty obvious that there
22 is a bug in the system, unless the
23 current version, the most current
24 version, which would be 1, is -- it's
25 in both as most current version, both

1 locally and remotely.
2 Otherwise, Mary comes back and
3 Jay has been working on -- starting
4 from Version 3. And now we've got a
5 really big problem.
6 BY MR. MASON:
7 Q. Okay. Yeah, no. Thank you.
8 Your hypothetical -- your example helps
9 elucidate things.
10 So, yeah. It sounds like, in
11 terms of your -- the claim construction that
12 you're opining is that storing the selected
13 previous version by the computational machine
14 has a current version on the local storage
15 location.
16 That claim language requires
17 both storing the previous version as the
18 current version on the local storage
19 location, and then taking some action
20 remotely to make sure that an identical file
21 is also labeled as the current version
22 remotely; is that correct?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: That was a long

1 summary. I'm just afraid to say yes,
2 because I don't know if that really
3 reflects --
4 BY MR. MASON:
5 Q. And you can recast it. I just
6 want to make sure I understand.
7 You're reading this storing
8 step as requiring a storing action on the
9 local computer -- or strike that.
10 Am I correct that you're
11 reading the storing step in Claim 1 of the
12 850 patent to require a storage action on the
13 local storage location?
14 A. I don't want to call storage
15 action on the remote because that is a
16 specific action that I did not opine on.
17 Q. Fair enough.
18 Is it your opinion that the
19 storing claim step that you discuss in
20 claim -- strike that.
21 Is it your opinion that the
22 storing claim language, discussed in
23 paragraph 61 of your 850 declaration,
24 involves storing the selected previous
25 version by the computational machine on the

1 local storage location?
2 A. Yes. And -- yes and it also
3 means not just overriding -- overriding the
4 file locally, but also means keeping parity
5 between the file on the local storage
6 location and the version system of the remote
7 about storage location.
8 In other words -- in other
9 words, the remote system has to have -- has
10 to know that the most current -- not just
11 know, but has to consider the most recent --
12 the most current version, the same as what is
13 on the local storage. Both of them are in
14 parity. They're corresponding to each other.
15 Q. So is it your opinion that this
16 storing language that you quote in
17 paragraph 61 requires that the storing action
18 that's actually recited there, in quotes, and
19 also some additional step on the remote
20 storage location?
21 MR. JAFFESS: Object to the
22 form.
23 THE WITNESS: Something has to
24 happen on the local storage to make
25 sure that the current version on the

1 remote storage corresponds to that
2 same version on the local storage.
3 Both of them. Both local
4 version and the remote version, they
5 must correspond to each other.
6 BY MR. MASON:
7 Q. Yeah. And I am just trying to
8 confirm -- or I just want to understand what
9 you're -- I'm not disagreeing or agreeing
10 with it. I am just trying to understand what
11 your opinion is on this as to what the claim
12 language requires.
13 So is it your -- any of that,
14 this storing a selected previous version
15 language, quoted in paragraph 61, requires
16 some action be taken, such that the
17 corresponding version on the remote storage
18 location is labeled as the current version?
19 MR. JAFFESS: Objection.
20 THE WITNESS: I hesitate to say
21 when we talk about labeled as or
22 whatever. Somehow we're getting into
23 computation.
24 Somehow, if the user -- there's
25 a current version locally. If the

1 user goes back to the remote and asks
2 for the most current version, it has
3 to be the most recently restored
4 version, provided that no additional
5 changes have happened locally.
6 Otherwise, the system --
7 essentially, the remote system would
8 be out of date, would not correspond
9 to the local storage.
10 As a user, I would be unhappy
11 with that kind of scenario, and would
12 report it as a bug to whatever
13 provided such a system.
14 BY MR. MASON:
15 Q. And in the example that you
16 provided, the Jay and Mary example, do you
17 recall that example?
18 A. Yes.
19 Q. When Mary saves -- strike that.
20 When Mary updates the current
21 version locally to be V.1, under the Claim 1
22 of the 850 patent, that V.1 is the selected
23 previous version that would be stored as the
24 current version on the local storage
25 location; is that correct?

A. Can you rephrase that one? Because -- and also, is that the first time or is Mary restoring?

Q. That's Mary restoring.

So in your example, you gave an example where Mary restores from Version 3 to Version 1; is that correct?

A. Yes. Essentially, she wants to discard Version 3 and replace it with the original, Version 1.

Q. Correct. And is it your opinion under Claim 1 of the 850 patent, what would happen then is that the selected previous version -- in this case Version 1 -- would be stored as the current version on the local storage location?

A. It would be, yes, as the current version on the local storage.

Q. And then is it your opinion further that that storing claim step also requires some action be taken so that the remote storage location indicates Version 1 as the current version?

MR. JAFFESS: Object to the form.

1 THE WITNESS: I believe the
2 answer is yes. I'm just worried that
3 saying yes to your words, you know,
4 without seeing the words multiple
5 times and making sure that they
6 reflect my opinion.
7 So I think I've given it my
8 best already.
9 BY MR. MASON:
10 Q. Yeah, yeah. And I understand
11 that. I'm really -- just maybe at a high
12 level, is it your opinion that the storing
13 language quoted in paragraph 61 requires two
14 actions be taken? One action on the local
15 storage location and another action taken on
16 the remote storage location?
17 MR. JAFFESS: Object to the
18 form. You can answer.
19 THE WITNESS: I'm considering
20 the question.
21 That action taken at the --
22 taken at the remote storage is done
23 automatically. It shouldn't be done
24 manually.
25 Because, for example, in the

1 scenario we had, the computer crashes.
2 And if there is no one manually
3 updating the remote system to make
4 sure that Version 1 is now the current
5 version, Jay boots the system and
6 wants to see the most recent version.
7 So the system needs to make
8 sure that the current version is in
9 both local and remote storage as the
10 current version. It has to be done
11 automatically at the remote storage.
12 BY MR. MASON:
13 Q. So if I understand that
14 clarification, it's just that this storing
15 action -- strike that.
16 If I understand that
17 clarification it's that the storing action
18 quoted in paragraph 61 of your declaration
19 requires automatic action taken at the remote
20 storage location?
21 A. Yes.
22 MR. JAFFESS: Object to the
23 form.
24 THE WITNESS: Manual would mean
25 -- would expose the system if --

1 manual, if someone forgets -- is it
2 someone to do that, say, at midnight
3 and everyone is asleep or whatever?
4 It exposes the system.
5 BY MR. MASON:
6 Q. Yeah. Okay. Yeah. No. And I
7 understand what you mean by manual and the
8 issues that you opined on with respect to
9 manual.
10 But in terms of this claim
11 language quoted in paragraph 61, is it your
12 opinion that it requires storing the selected
13 previous version as the current version on
14 the local storage location, and also
15 automatically performing some operation on
16 the remote storage location?
17 A. Something on the remote
18 storage, such that the most current version
19 is not just locally stored, but available
20 also as the most current version remotely.
21 Q. And indicated as the most
22 current version remotely, correct?
23 A. I don't know about "indicated."
24 Q. Yeah.
25 A. Jay wants the most recent

1 version. How it's done through remote
2 storage, that's implementation detail.
3 Q. Yeah. And then -- okay.
4 And then offering this opinion,
5 I think in paragraph 60 of your 850
6 declaration, you refer to, quote, "The
7 disclosure of the 221 Application."
8 Do you see that?
9 A. First line?
10 Q. Correct. Yeah.
11 So does the disclosure of the
12 221 Application provide an example of this
13 automatic updating that occurs on the remote
14 storage location?
15 A. I do not recall.
16 Q. What's that?
17 A. I do not recall.
18 Q. Is there any example in the 850
19 patent or its incorporated references that
20 provide an example of this automatic updating
21 that you opine to occur in paragraph 61 of
22 your 850 declaration?
23 A. I don't recall. But certainly
24 a POSITA would understand that lack of that
25 functionality, the system would be -- would

not be functioning properly.

Q. Can I have you turn to paragraph 63 of your 850 declaration?

A. I'm there.

Q. Yeah. Am I correct that in this section here, beginning at paragraph 63, you discuss a similar claim construction relating to the -- that requires performing two steps?

MR. JAFFESS: Object to the form.

THE WITNESS: I don't like the characterization of "two steps."

BY MR. MASON:

Q. Okay. Yeah, yeah. That's fair. That was a poorly phrased question.

In paragraph 64 here, do you offer an opinion on how a POSITA would understand the claim language, quote, "restoring a file to a previous version of the file, a current version of the file being available at a local storage location: End quote?

A. Whatever I have in that section is what I have. And it discusses current

1 version.
2 Q. Is it your opinion that this
3 restoring claim language quoted in
4 paragraph 65 requires an automatic change to
5 the Internet storage area network, such that
6 the selected -- another revision as indicated
7 as the current version?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: I believe you
11 said paragraph 65. Did you mean 63?
12 BY MR. MASON:
13 Q. No, no. I meant paragraph 65.
14 Do you see paragraph 65 in your declaration?
15 A. Yes, I am looking at it now.
16 Q. And do you see in the third
17 line, you quote claim language, beginning,
18 quote, "Restore and selected another revision
19 of said file, following said previewing
20 step," end quote?
21 A. Yes.
22 Q. What does that quoted restoring
23 claim language in your opinion require?
24 A. The bottom three lines of
25 paragraph 65, say that the selected --

1 another revision of said file is now the most
2 recent version in time on both the local
3 storage location and the Internet storage
4 area network.
5 Q. So is it your opinion that the
6 restoring language quoted in the middle of
7 paragraph 65 requires an action taken both at
8 the local storage location and at the
9 Internet storage area network?
10 MR. JAFFESS: Objection.
11 BY MR. MASON:
12 Q. I'll strike that and restate
13 it.
14 In your opinion, is it the
15 restoring language quoted in the middle of
16 paragraph 65 requires two actions; one at the
17 local storage location and one at the
18 Internet storage area network?
19 A. I'm not sure I like that
20 characterization of words; actions and steps
21 and things.
22 But whatever I explained
23 before. So when -- when a file is restored
24 and becomes the most current version locally,
25 the remote storage in claim 19, it's actually

1 the Internet storage area network.
2 The current version there at
3 the Internet area storage network must also
4 be the same as the current version locally.
5 Very similar to the discussion we had with
6 regards to the Claim 1.
7 Q. So in order for the current
8 version at the Internet area storage network
9 to be the same as the current version
10 locally, would some action need to be taken
11 at the remote storage location?
12 MR. JAFFESS: Object to the
13 form.
14 THE WITNESS: I'm considering
15 the question.
16 Whatever language I provided
17 for Claim 1 applies here.
18 BY MR. MASON:
19 Q. Okay.
20 A. Except substitute "remote
21 storage location" with "Internet area storage
22 network."
23 Same scenarios. I believe I
24 provided a lot of details.
25 Q. Okay. Let me just see. Yeah.

1 So you agree that the
2 discussion we had earlier with respect to
3 paragraph, you know, 59 through 62, would
4 apply equally to our discussion here on
5 paragraph 63 to 65, except as you noted, that
6 the remote storage location of the earlier
7 paragraphs says the Internet area storage
8 network of the later paragraphs?
9 MR. JAFFESS: Object to the
10 form.
11 BY MR. MASON:
12 Q. Is that correct?
13 A. Generally and conceptually,
14 yes. But for claim 19, I will refer to
15 whatever statements I gave in my declaration,
16 Exhibit 2004, in paragraphs 63 to 65. That's
17 the most accurate opinion, right there.
18 Examples I gave are
19 conceptually attempting to explain what I
20 meant. For Claim 1, it's paragraph 59 to 62.
21 And for 19, it would be 63 to 65.
22 Q. And for the meaning of the
23 restoring step quoted in the middle of
24 paragraph 55 that you opine on, is there an
25 example in the 850 patent or the 221

1 Application that shows this construction?
2 MR. JAFFESS: Object to the
3 form.
4 THE WITNESS: What was that,
5 please? Was it 65 or --
6 BY MR. MASON:
7 Q. 65. Yeah. So in your --
8 strike that.
9 Does the 850 patent provide any
10 description of the restoring step quoted in
11 paragraph 55 -- it's not 55. Strike that.
12 So does the 850 patent provide
13 any description of the restoring step quoted
14 in paragraph 65 of your declaration?
15 MR. JAFFESS: Object to the
16 form.
17 THE WITNESS: Sitting here, I
18 don't recall. But a POSITA would
19 understand that the remote storage and
20 the local storage must have as the
21 latest most current version the same
22 locally and remotely.
23 And in this case, the remotely
24 refers to the Internet area storage
25 network.

BY MR. MASON:

Q. And can you identify any description in the 221 Application of the meaning that you offer for the restoring step quoted in paragraph 65 of your 850 declaration?

MR. JAFFESS: Object to the form.

THE WITNESS: I'll answer two ways. Number one is, as I sit here, I don't recall.

In addition, I will refer to my previous answer, which explains what a POSITA would understand as well.

BY MR. MASON:

Q. And I understand you have opinions on what a POSITA would understand.

But my specific question is: Is there anything you can identify in the 221 Application that describes the restoring step quoted in paragraph 65 of your 850 declaration?

A. As I sit here, I don't recall. But, again, a POSITA would know that that's necessary.

1 MR. MASON: Okay. I think we
2 can take another break right now.
3 Do you want to break for maybe
4 ten minutes again? And then maybe we
5 can take a lunch break after that?
6 THE WITNESS: Thank you.
7 (Discussion off the record.)
8 (Break taken.)
9 BY MR. MASON:
10 Q. Are you ready to resume your
11 deposition Mr. Jawadi?
12 A. Yes, sir.
13 Q. And while we were on break, did
14 you have any communications with counsel for
15 Datanet?
16 A. No, sir.
17 Q. Great. Can I invite you to
18 Exhibit 1003, again? I'll have you turn to
19 page 42 of 296. You might want to leave it
20 in that landscape mode.
21 A. Page 42, I'm there.
22 Q. Great. And do you see on the
23 left-hand side of the middle of page 42 of
24 Exhibit 1003 what appears to be some kind of
25 window that at the very top says,

1 "Forecasts.xls"?
2 A. Yeah. "Forecasts.xls."
3 Q. Excellent. And is this a
4 window showing properties for a file?
5 A. Let me look. Do you mean
6 properties as a technical term or just
7 generically some information?
8 Q. Well, yeah. Do you have a
9 technical understanding of properties for a
10 file?
11 A. Well, you asked the question.
12 I just want to make sure that --
13 Q. Yeah. What would a POSITA --
14 let's just start with that, maybe.
15 What would a POSITA understand
16 "file properties" to mean?
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: Do you mean --
20 okay. So there are file attributes.
21 BY MR. MASON:
22 Q. Okay.
23 A. And there are file properties,
24 but it depends on context, the question.
25 Q. Yeah. Is there a difference

1 between file attributes and file properties?
2 A. Depends on context.
3 Q. Maybe a better question is
4 just, what is shown here in this window on
5 page 42 of Exhibit 1003?
6 A. So as a window, is that the
7 window that you're referring to there?
8 Q. Yeah. The window at the very
9 top that says, "Forecasts.xls properties"?
10 A. There is the name of --
11 apparently the name of the file as the xls.
12 It is a type of file, so Excel spreadsheet,
13 the location of it, where it is, the size of
14 the file, et cetera.
15 I can continue reading, if you
16 like.
17 Q. Yeah, sure. Why don't you just
18 go through what it indicates in this little
19 window here?
20 A. Additionally, it has an MS DOS
21 name, the file name. And then it has the
22 date time that the file was created. The
23 date and time that the file was last
24 modified. It says modified, but generally
25 that means last modified. And then accessed.

1 That means when the file was accessed last.
2 And then at the bottom there
3 are checkboxes, indicating: Attributes, read
4 only, hidden and system are not checked, but
5 archive is checked.
6 Q. Okay. Would a POSITA have an
7 understanding of those attribute shown in the
8 window on page 42 of Exhibit 1003?
9 A. Yes.
10 Q. What does the read only
11 attribute indicate to a POSITA?
12 A. Read only means the file may
13 not be -- cannot be -- cannot be written. If
14 the file is read only, if someone -- a user
15 opens the file and attempts to save the file,
16 the file will not be saved.
17 Q. So you just described a
18 scenario in which -- if a user opened that
19 file and the read only box was checked; is
20 that correct?
21 A. Yes. But here would make
22 sure -- my answer here is kind of generic.
23 It may vary, depending on context. So I
24 don't want this to be a blanket statement
25 applying to everything.

1 I was asked a question without
2 context. And I am answering without context
3 and probably shouldn't be, but there it is.
4 Q. Yeah. And the context is just
5 the 850 patent. And you understand that the
6 221 application is incorporated by reference
7 into the 850 patent, correct?
8 A. I don't remember if I opined
9 about read only in the 850 patent. Let me
10 check before I continue on this path.
11 So I want to make sure that
12 when I answer a question it relates to a
13 particular context.
14 So my previous answer about
15 this stage, about this page of Exhibit 1003,
16 page 42, that was without context. In other
17 words, shouldn't be applied.
18 Q. So I just -- are you
19 withdrawing all previous answers that you
20 provided with respect to Exhibit 1003,
21 page 42?
22 MR. JAFFESS: Object to the
23 form.
24 THE WITNESS: I answered
25 generically, not specifically for the

1 patent. So whatever I said, I was
2 asked generically what I would
3 understand.
4 BY MR. MASON:
5 Q. Okay.
6 A. So that does not mean that my
7 answer or answers reply -- or rather apply to
8 my declaration or the 850 patent.
9 Q. Just so I understand. The
10 answer that you gave before reflected your
11 opinion of how a POSITA would understand that
12 read only attribute; is that correct?
13 A. Because I opined about read
14 only in the -- in my declaration.
15 I strike my previous answer and
16 refer to whatever I said in my declaration
17 instead.
18 Either that or my previous
19 answer was a generic answer, unrelated to the
20 850 patent and unrelated to this litigation.
21 Q. Could I have you turn to
22 paragraph 115 of your declaration?
23 A. 115. I'm there.
24 Q. And in paragraph 115
25 through 122, do you provide opinions

1 regarding Ground 3 of the petition?
2 A. Checking.
3 Q. Yup.
4 A. Yes.
5 Q. Okay. And are your opinions in
6 paragraphs 115 through 120 of your
7 declaration dependent on the constructions of
8 claim terms that you offered in paragraphs 58
9 through 62 of your declaration?
10 MR. JAFFESS: Object to the
11 form.
12 THE WITNESS: I need to check.
13 I need a little time.
14 BY MR. MASON:
15 Q. Certainly.
16 A. The answer is: Generally, yes.
17 Q. I apologize. I was on mute.
18 There was some background noise, so I muted.
19 Can I have you turn to
20 paragraph 116 of your 850 declaration?
21 A. 116. I am there.
22 Q. In paragraph 116, do you
23 discuss CAD drawing files? Capital C,
24 capital A, capital D?
25 A. Yes.

1 Q. What are CAD drawing files?
2 A. In what context?
3 Q. In the context of you
4 discussing in here, in paragraph 116 of your
5 declaration.
6 A. CAD stands for computer-aided
7 design. And they could mean different things
8 in different contexts.
9 But, for example, say there's a
10 product that allows someone to -- software
11 that allows someone to design something with
12 the aid of -- with the aid of a computer. So
13 let's say design architectural drawings or
14 even computer chips or something, then that's
15 -- that's CAD.
16 Q. And was there any particular
17 software that might have allowed the design
18 of -- with the aid of computer -- sorry --
19 with the aid of a computer?
20 MR. JAFFESS: Object to the
21 form.
22 THE WITNESS: I did not opine
23 about that. If you give me -- so --
24 well, I did not opine about CAD
25 systems, and I'm not here to provide

1 information about CAD systems,
2 generically.
3 BY MR. MASON:
4 Q. Are you familiar with the
5 software AutoCAD? Capital C, capital A,
6 capital D in that name.
7 MR. JAFFESS: Object to the
8 form.
9 THE WITNESS: What was the
10 question again?
11 BY MR. MASON:
12 Q. Are you familiar with a
13 software called AutoCAD, all one word?
14 A. I have -- AutoCAD is a company
15 I am somewhat familiar with. And I
16 understand all the different components of
17 how their system works, particular
18 technologies of their system.
19 Q. Were you familiar with AutoCAD
20 prior to 2000?
21 MR. JAFFESS: Object to the
22 form.
23 THE WITNESS: It's a famous
24 company in the Bay Area, so I don't
25 remember when I first became familiar

with them.
BY MR. MASON:
Q. What were some of the uses of AutoCAD software?
A. Which AutoCAD software?
Q. Were there multiple?
A. What do you mean by that?
Q. Yeah. It sounds like, based on your answer, were there multiple AutoCAD software applications?
A. You used the word "AutoCAD." I didn't.
Q. Yeah. Were there multiple AutoCAD software applications?
A. I don't believe I opined about that in my declaration. Can you point me to where I did?
Q. Yeah. I'm just asking, sitting here today, do you know if there were multiple AutoCAD software applications?
MR. JAFFESS: Object to the form.
THE WITNESS: It's not my practice to provide definitions and explanations about terms that are not

in my declaration.
BY MR. MASON:
Q. Have you ever used any AutoCAD software?
MR. JAFFESS: Object to the form.
THE WITNESS: I have.
BY MR. MASON:
Q. What purpose did you use AutoCAD software for?
MR. JAFFESS: Objection. Form. Scope.
THE WITNESS: My background is in software engineering. And a lot of my work involved dealing with hardware.
And, for example, programming chips, programming hardware, imbedded systems and so forth, which involved dealing with hardware at a pretty low level, understanding what the hardware is doing.
And that's the context in which -- but it's not something I opined about in my declaration.

1 That's the extent of the information I
2 can give you at this point.
3 BY MR. MASON:
4 Q. Okay. And did the AutoCAD
5 software allow you to work with CAD files
6 that described the hardware you were
7 designing?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: I didn't design
11 the hardware. I didn't design the
12 hardware. I'm a software engineer. I
13 understand hardware.
14 I don't recall the details
15 about the software that I used to
16 examine hardware implementations.
17 BY MR. MASON:
18 Q. Did the AutoCAD software you
19 used allow for editing or modification of the
20 CAD files that described the hardware you
21 were looking at?
22 MR. JAFFESS: Object to the
23 form.
24 THE WITNESS: It's outside of
25 the scope of this deposition. And I

1 don't recall.
2 BY MR. MASON:
3 Q. Okay. So sitting here today,
4 do you know if AutoCAD software could be used
5 to edit CAD files?
6 A. If you show me where I opined
7 about that, I'll be happy to answer.
8 Otherwise, I am not.
9 My practice is not to offer
10 information that are outside of the scope of
11 my declaration.
12 Q. So you are unwilling to answer
13 my question whether or not AutoCAD software
14 could be used to edit CAD files; is that
15 correct?
16 MR. JAFFESS: Object to the
17 form.
18 THE WITNESS: It's not a matter
19 of unwilling, it's a matter of I was
20 asked to prepare for the deposition
21 regarding the declarations that I
22 submitted and the scope of these
23 declarations and the declarations
24 themselves.
25 And if you could show me where

1 I opine about something, I can
2 elaborate, as I did before with the
3 examples with the versions.
4 But if it's outside of my
5 scope, and regarding events that
6 happened decades ago, it's not my
7 practice to provide additional
8 information.
9 BY MR. MASON:
10 Q. Do you know if AutoCAD software
11 could be used to edit CAD files in 2000?
12 A. I would need specific examples
13 I could go investigate. It's a generic
14 question. I would have to investigate the
15 specific product to answer definitively.
16 I am under oath. And I'm a
17 technical expert. I need to be A, truthful,
18 B, accurate. Guessing is not part of my
19 practice.
20 Relying on just recollections
21 that may not be very accurate is not part of
22 my practice.
23 Q. Sitting here today, do you have
24 any recollection of any AutoCAD software that
25 allowed for the editing of CAD files in 2000

1 or earlier?
2 A. As I said, I didn't opine about
3 this. And I need specific context. And only
4 then I would go investigate and provide
5 answers. Right now, I don't have any of
6 these facilities to be truthful and accurate.
7 Q. Would a POSITA in
8 September 2000 -- strike that.
9 Would you expect a POSITA in
10 2000 to be aware of AutoCAD?
11 MR. JAFFESS: Object to the
12 form.
13 THE WITNESS: The POSITA as
14 defined in this particular IPR?
15 BY MR. MASON:
16 Q. Correct.
17 A. A person of ordinary skill with
18 backup and archival background, if they did
19 not deal with hardware at the low level, and
20 they are not hardware engineers, they are
21 just strictly software engineers, which is
22 most likely -- can I see the definition of a
23 POSITA?
24 Q. Yeah. I believe you discussed
25 the definition of a POSITA in either

1 paragraph 40 or 41 of your declaration.
2 A. It doesn't have an exact
3 definition. I see the petitioner's expert
4 definition. Would you like me to refer to
5 that?
6 Q. Yeah. To the extent you cannot
7 recall -- yeah. The -- or if you'd like to
8 refresh your recollection as to the meaning
9 of a POSITA, that you've adopted, you're more
10 than welcome to open Exhibit 1004.
11 A. Yeah. To clarify my statement
12 of not being able to recall, I have a good
13 memory. But I like to be precise. So any
14 time I'm referring to the recollection, that
15 is what I am trying to avoid, just answering
16 off the cuff.
17 So page 16. I'm looking at
18 Exhibit 1004. I'm looking for definition of
19 a POSITA.
20 Q. I believe you cite to
21 paragraph 31 of Exhibit 1004.
22 A. Okay. So here is the
23 definition. I'm looking at Exhibit 1004,
24 page 16, paragraph 31. It says at the
25 bottom:

1 "POSITA would have held a
2 bachelor's degree in computer science,
3 electrical engineering, computer engineer or
4 closely related field, and one or more years
5 of experience in design and development of
6 file management, restoration and archival
7 systems.
8 "More education, example,
9 master's or Ph.D. could compensate for a lack
10 of experience and vice versa. There would be
11 no meaningful distinction if the critical
12 date were 1999 or 2001, as far as my analysis
13 is concerned."
14 And that is the expert on the
15 other side making these statements.
16 So here, of course, education
17 is computer science, electrical engineering
18 or whatever. But the key here is one or more
19 years of experience in the design and
20 development of file management restoration
21 and archival systems.
22 That kind of person, kind of
23 POSITA, does not need to deal with chip
24 design, hardware design, et cetera, the
25 person that is working at the file level.

1 So it's unlikely that this
2 person would know about -- about AutoCAD or
3 AutoDesk or these kinds of products.
4 Q. You mentioned AutoDesk. What
5 is AutoDesk?
6 A. Let me open sweat. AutoDesk is
7 the assignee of the sweat patent. It's a
8 famous company based in the Bay Area. They
9 do architectural design, software, things
10 like that.
11 So a person of ordinary skill
12 doing file archival and restoration wouldn't
13 know about AutoDesk. I do because I -- yeah,
14 I did a lot of consulting for many different
15 companies, and had a pretty wide background.
16 A person of ordinary skill in
17 the file management would not need to deal
18 with AutoDesk.
19 Q. And in what capacity did you
20 deal with AutoDesk?
21 A. I didn't deal with them. I was
22 familiar with them because they're a famous
23 company.
24 So out of curiosity, I would
25 look at them and track them. And I think

1 they had a pretty famous CEO at some point as
2 well, I believe; Carol something.
3 Q. Did you ever use AutoDesk
4 software?
5 A. I didn't, but I am familiar
6 with all the different constituent
7 technologies involved.
8 Q. When you say the different
9 constituent technologies, you're saying
10 you're familiar with the different AutoDesk
11 applications? Or what did you mean by that?
12 A. I am -- a product like that
13 would have user interface software, which I
14 have a lot of experience in.
15 Would have database
16 information, which I have extensive
17 experience in.
18 Would have file manipulation of
19 some kind, which I am an expert in.
20 It would have all of the
21 different parts of the system that I have
22 personally been involved in designing or at
23 least reviewing also.
24 Q. What do you mean by file
25 manipulation?

A. So someone who designs something and they store the data in the file would update the file and so forth.

Q. Oh, so it's -- strike that. You're just referring to making changes within a file and then saving those changes to a file? Is that one example of what you might mean by file manipulation?

A. Well, beyond that. I mean, file has data structures. Data is stored using data structures. All the different intricacies of software design; how is the data managed? How is the data shared? How is it organized? These are parts of the system where the secret sauce is.

Q. When you said user interface software, what do you mean by that?

A. For example, the GUI, the graphic user interface involved, being able to navigate the stream and click and select and do things, and then have that -- whatever is accurately reflected somehow if the user is performing certain actions, and vice versa, in terms of presenting information to the user so the user can see.

1 I have extensive experience
2 with user interface.
3 Q. Am I correct that your
4 knowledge of these aspects of AutoDesk came
5 from reviewing documents and not from using
6 the AutoDesk software?
7 A. Correct.
8 Q. And where did you obtain those
9 documents?
10 MR. JAFFESS: Object to the
11 form.
12 THE WITNESS: I shouldn't say
13 documents. It sounds like these are,
14 like, user manuals or stuff like that.
15 It's more tracking the company
16 sometimes from time to time, just to
17 see what their -- what their
18 innovations are.
19 BY MR. MASON:
20 Q. Okay. Just looking at their
21 product offerings?
22 A. Yes.
23 Q. Or as one example -- I'm not
24 trying to limit you, but yeah.
25 And then, did you have similar

1 familiarity with AutoCAD as you did for
2 AutoDesk software?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: At a similar
6 level, yes.
7 BY MR. MASON:
8 Q. Did you ever create CAD files
9 using AutoCAD?
10 A. I don't remember what hardware
11 design products my hardware engineers used.
12 And so I can't really make a definitive
13 statement about any CAD systems. It's been
14 decades since I looked.
15 Q. Would you expect that in 2000
16 AutoCAD software would allow for creation and
17 editing of CAD files?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: Again, out of
21 context, I am hesitant to venture into
22 offering recollections and opinions
23 without looking at context and go back
24 and doing the investigation.
25 It's not my practice to offer

1 impromptu information about that.
2 BY MR. MASON:
3 Q. I'm not offering for a specific
4 detailed answer. I am just saying what would
5 you would expect, based on, you know, sitting
6 here today, would you expect that in 2000 and
7 earlier, AutoCAD software would allow for
8 creation and editing of CAD files?
9 A. I would think so. But in terms
10 of -- and how such an answer relates to this
11 litigation, I would need to go back and I
12 need specificity and context and then go back
13 and confirm. I am under oath and I need to
14 be truthful and accurate.
15 Q. Would you expect someone with a
16 bachelor's degree in electrical engineering
17 to be aware of AutoCAD in the year 2000?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: Too generic for
21 the question. Depends on what they
22 studied, where they studied, what
23 their emphasis is.
24 It's a broad field. I would
25 need to know more and then go back and

1 investigate.
2 BY MR. MASON:
3 Q. So sitting here today, you're
4 not sure whether a POSITA with a bachelor
5 degree in electrical engineering should have
6 been aware of AutoCAD?
7 MR. JAFFESS: Object to the
8 form.
9 THE WITNESS: Aware of is one
10 thing. I don't think that that was
11 the question. Was it?
12 BY MR. MASON:
13 Q. I can just ask that question
14 then.
15 I mean, would you expect a
16 POSITA with a bachelor's degree in electrical
17 engineering to be aware of AutoCAD in the
18 year 2000?
19 A. I would have to go back and
20 investigate. Look at what the curriculum was
21 in 2000 for electrical engineering for the
22 specific college, and a variety of colleges.
23 So the question is way too
24 vague.
25 Q. So is it your testimony that

you would expect your hardware engineers working for you, prior to 2000, would be aware of AutoCAD?

MR. JAFFESS: Object to the form.

THE WITNESS: Engineers I worked with, they were practitioners, experts in designing hardware. That is not what the POSITA in this case is.

BY MR. MASON:

Q. Would you expect hardware engineers working for you in the years '99 and 2000 to be aware of AutoCAD?

MR. JAFFESS: Object to the form.

THE WITNESS: I worked with a lot of hardware engineers. On what they knew and what tools they used, in some cases, I had no idea.

For example, I worked with hardware engineers who were designing analog products. And how they designed those analog products, I had no idea.

1 There was had some digital
2 hardware that shielded the analog from
3 the software. So my software would
4 interface with digital hardware.
5 And then that digital hardware
6 would somehow communicate with the
7 analog circuitry. How do I know what
8 the analog circuitry designer knew?
9 BY MR. MASON:
10 Q. Did you know what the digital
11 hardware designer knew -- strike that.
12 Do you have an understanding of
13 what the digital hardware designer would
14 know?
15 A. I have to go back in 2000 and
16 figure out what they were doing and what
17 their background is and so forth and so on.
18 And this is not something I opined about in
19 this declaration.
20 Q. Can I have you turn to
21 paragraph 90 of your declaration?
22 A. I see that there. I'm there.
23 Q. And in paragraph 90, do you
24 discuss integration of software with an
25 operating system?

1 MR. JAFFESS: Object to the
2 form.
3 THE WITNESS: It says what it
4 says.
5 BY MR. MASON:
6 Q. What does it mean for software
7 to be integrated with the operating system of
8 the user's computer?
9 A. I'm considering the question.
10 I'm reading my declaration.
11 This particular statement is
12 referring to Schneider. I will open
13 Schneider at this point.
14 I am opening Schneider, which
15 is Exhibit 1005. I am looking for that.
16 My understanding of -- tied to
17 integration with the operating system in the
18 context of Schneider, is as follows:
19 Typically there are functions
20 provided by the operating system. For
21 example, file management, type or disk
22 management or any other input-output device
23 type management.
24 The operating system shields
25 the details of the hardware and the system

1 from the application programs, such that the
2 operating system is managing the details; how
3 the files are stored, for example, the format
4 of the -- where the files are stored exactly
5 on the hard disk, et cetera.
6 And then the application
7 program utilize the operating system to
8 perform services that are provided by the
9 operating system.
10 Integration in the context of
11 Schneider indicates that the software is
12 involved with some of the functionality that
13 is performed by the operating system and
14 shielded from the application programs.
15 It's almost like having this
16 wall between the operating system and
17 application programs, and there is a door.
18 The door is generally some
19 interface -- programming interface that
20 allows applications to reach the operating
21 system for services. It's a hierarchical
22 system.
23 So let's say the operating
24 system is the bottom, and then the
25 application programs are at the top.

1 Integration that Schneider is advocating is
2 that the software providing this
3 functionality that Schneider is describing,
4 requires the software to perform these
5 functionalities to be integrated with the
6 operating system.
7 In other words, kind of being
8 enmeshed with the operating system, instead
9 of having this layer being so rigid in force.
10 No application should just interfere with
11 operating system functions.
12 But in this case, the
13 integration is done with the operating
14 system.
15 Q. In paragraph 91, do you see
16 where you discuss the, quote, "simulated or
17 virtual drive," end quote, on line 3?
18 A. Yes.
19 Q. What is your understanding of a
20 simulated or virtual drive, as that term is
21 described in Schneider or that concept is
22 described in Schneider?
23 A. The answer is in simulated and
24 virtual drive, I will go to -- for that, this
25 is -- this paragraph is referring to

1 Schneider, so I will go to Schneider. That's
2 Exhibit 1005. And specifically, some
3 references there.
4 For example, in Schneider,
5 which is Exhibit 1005, I am reading page 15,
6 which is PDF page 17, I will start reading.
7 This is just an example. This is, again,
8 Schneider, Exhibit 1005, page 15, PDF
9 page 17, starting line 23:
10 "The technology of the present
11 invention assumes the system can
12 support another drive D, which instead
13 of being a real disk drive, is a
14 simulated or virtual drive whose image
15 is created by combining information on
16 the original drive C, and history
17 buffer, which is typically part of
18 drive C."
19 That's the answer.
20 Q. So in Schneider, is the
21 simulated or virtual drive a physical storage
22 location?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: So everything is

1 physical, but it depends on what you
2 mean by that.
3 So let's go back and look at
4 this terminology described here.
5 The technology of the present
6 invention assumes that the system can
7 support drive D, which instead of
8 being a real disk drive -- so it's not
9 an actual physical drive -- is
10 simulated or a virtual drive whose
11 image is created by combining
12 information on the original drive C
13 and the history buffer.
14 So the simulated or virtual
15 drive are stored on a physical drive
16 C, but they appear as if they are a
17 separate drive, disk drive.
18 And this is not an uncommon
19 type of functionality where, for
20 example, on my hard disk, I have
21 multiple partitions and they appear as
22 C, D, E, whatever. But they are all
23 on the same physical drive.
24 BY MR. MASON:
25 Q. So in the Schneider process is

1 the simulated or virtual drive created before
2 or after a user selects the recovery file?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: There has to be
6 an -- excuse me.
7 Can you say that question
8 again?
9 BY MR. MASON:
10 Q. In the Schneider process, is
11 the simulated or virtual drive created before
12 or after the user selects the recovery file?
13 A. Let me check. The declaration
14 actually cites to Schneider. So if we look
15 at Schneider, page 60, which is PDF page 62,
16 and then we look at -- starting from line 21,
17 I will read.
18 "Note that it is useful to
19 allow the user to select a file that can be
20 retrieved from the past and to automatically
21 launch the appropriate application to view
22 the file, referencing either the file on a
23 simulated disk or copying the file from a
24 simulated disk to a temporary directory."
25 Q. My question is: In the

1 Schneider process, is the simulated or
2 virtual drive created before or after the
3 user selects the recovery file?
4 A. Can you point me to where I
5 opine about this?
6 Q. I am just asking if you have an
7 understanding of when in Schneider's process
8 the simulated or virtual drive is created?
9 MR. JAFFESS: Object to the
10 form.
11 BY MR. MASON:
12 Q. So the question is: In the
13 Schneider process, is a simulated or virtual
14 drive created before or after the user
15 selects the recovery file?
16 A. I need to continue looking
17 here. Given enough time, I can research and
18 answer.
19 But I don't think I have an
20 answer in my -- unless you can point me to
21 it, I will need to read all of these
22 paragraphs in my declaration to see if I
23 answered that question.
24 Q. To my knowledge, it's not in
25 your declaration. I'm curious if you know,

1 based on your understanding of Schneider.
2 A. I'm looking here. If you can
3 give me more time, I can continue looking to
4 see --
5 Q. Certainly.
6 A. -- in my declaration.
7 This is a complicated question
8 because it involves more than just a yes or a
9 no.
10 You're looking for before or
11 after. But it's more complicated than that.
12 Because to answer that more specifically in
13 the context of the 850, one of the questions
14 to ask is, is the entire disk image
15 retrieved? Or is a specific file retrieved?
16 And then -- at least these two
17 need to be answered. I think -- strike the
18 "I think." I know that Schneider has nuances
19 about how -- how the simulated drive is used,
20 when it's backed up, and then how data is
21 restored.
22 And all these nuances need to
23 be addressed, rather than just a brief before
24 or after. The question is, really, what is
25 being retrieved and how, if anything, and

1 from where, and is it retrieved as a complete
2 image or is it retrieved as individual files
3 and when does that happen?
4 And all of this would require
5 some analysis of the Schneider, from that
6 particular perspective, and in view of the
7 850 claims.
8 So sitting here, I would need
9 to do all of that analysis to give you an
10 answer.
11 Q. Do you recall the Accusafe
12 software that is discussed in Exhibit 1003,
13 the 221 Application?
14 A. What specifically about it?
15 Q. What specifically -- does the
16 Accusafe system software described in the 221
17 Application run locally on a user's computer?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: I'm considering
21 the question.
22 I'm still considering the
23 question.
24 As I sit here, I don't recall
25 if I investigated this question in my

1 analysis, previous analysis or not.
2 So, frankly, I don't have an
3 answer because I would need to go
4 investigate. I don't recall if I
5 conducted that analysis, and if I did,
6 what my conclusion was on that.
7 But in all cases, whether the
8 software runs locally or not, what is
9 the software doing in terms of -- in
10 terms of accessing the data in
11 question? The archived data. And
12 where is this data coming from?
13 So it's not just a question of
14 one thing, which is, oh, this is --
15 this software is running locally or
16 not.
17 This point has to be taken in
18 totality with the other aspects that
19 are discussed here in my declaration
20 regarding Schneider.
21 The point is not that any one
22 particular item can be taken out, but
23 it's everything in totality, all the
24 different aspects.
25 There are different

1 interrelated arguments that need to be
2 taken into account. All of them. And
3 even individually, as well. But in
4 some cases, they need to be taken
5 together.
6 So whether, for example, if
7 software is running locally or
8 remotely, it's one thing. But it has
9 to be taken -- this particular
10 question needs to be taken along with
11 the other aspects of the arguments and
12 the limitations we discussed.
13 That's my answer.
14 MR. MASON: Why don't we take
15 another break. I think maybe we can
16 take a little longer break for folks
17 to get a little food. Some of us eat.
18 Maybe not all of us, but yeah.
19 (Discussion off the record.)
20 (Break taken.)
21 BY MR. MASON:
22 Q. Mr. Jawadi, are you ready to
23 resume your deposition?
24 A. Yes, sir.
25 Q. All right. And while we were

on break, did you have any communications of any sort with Datanet counsel?

A. No.

Q. And do you still have in front of you your 850 declaration?

A. I do.

Q. Okay. Did you read this declaration carefully before signing it on August 2nd, 2024?

A. To the best of my recollection, I tried to, at least.

Q. Okay. Did you review this declaration again in preparation for this deposition?

A. Yes.

Q. Did you identify any errors in your declaration?

A. There's one, paragraph 8.

Q. Okay. And what is the error in paragraph 8?

A. Yeah. There's a spurious Kenley on the second line. California-based Kenley supplier. That Kenley shouldn't be there.

Q. Okay.

A. And I spotted, I think, a couple of -- something that has an "S" in it that shouldn't or -- I didn't keep track of them.

Q. Okay. Aside from minor typos, did you identify any errors in your declaration?

A. No.

Q. Well, you can -- for now you can close that 850 declaration. I think you can close the exhibits that we have had open thus far, namely Schneider. And maybe there were others that you had opened, 1003.

And then we can pivot, for purposes of the record, to IPR 2024-00079. And I'll represent that that involves U.S. Patent No. 9218348.

Can we refer to that as the 348 patent today, Mr. Jawadi?

A. Yes, sir.

Q. Okay. And, yeah, so can you please let me know when you have opened your declaration for the 348 patent?

A. I have it. I believe that's Exhibit 2020.

1 Q. That is correct.
2 Do you have in front you of
3 Exhibit 2020 and IPR 2024-00079?
4 A. Yes.
5 Q. Can we refer to that as the 348
6 declaration today?
7 A. Yes.
8 Q. Excellent. Did you read this
9 declaration carefully before signing it on
10 August 2nd, 2024?
11 A. Yes. I think the same typo is
12 there.
13 Q. Okay. Did you review the 348
14 declaration in preparation for this
15 deposition?
16 A. I did.
17 Q. You're already anticipating all
18 of my questions. I'm that predictable.
19 Have you identified any errors
20 in your 348 Application, other than minor
21 typos?
22 MR. JAFFESS: Object to the
23 form.
24 THE WITNESS: I believe -- so I
25 I don't know if I kept track of all of

these things. Maybe during a break if -- I may have notes I may have scribbled on.

So can we do that after break?

BY MR. MASON:

Q. Are you saying -- have you taken notes on your 348 declaration in preparation for this deposition?

A. No. No. I tried to keep track of any typos. And then at some point -- or stuff that I thought shouldn't be there. And I kept track of them.

But for the 478 -- for the other IPR, and then I just kind of said okay. So let's see if I have any scribbles on any paper that says, okay, paragraph so has an error.

Q. Okay. And thinking right now, have you identified any errors in the 348 declaration?

A. Let me just refresh my memory a little bit. Take a look. Okay. Can you go to page 75, please? Paragraph 218?

Q. Okay.

A. Okay. So this one, the same

1 arguments apply to limitations, et cetera.
2 That should be limitation, instead of
3 limitations. And then delete the text of,
4 12.5, 13.5, 14.5 and 15.5.
5 Do you see those?
6 Q. Yes.
7 A. Please delete those.
8 Q. So you're saying it should
9 read, "The same arguments apply to limitation
10 8.5"?
11 A. Correct. And then continuing,
12 and limitations 8.5. Same thing here. It
13 should be at limitation 8.5, it's --
14 Q. Are not disclosed?
15 A. Delete those. And then "are"
16 should be "is."
17 Q. Okay.
18 A. Let me see. And then, going to
19 the next page, do you see that 6 from Claim
20 1, claims -- I don't know if you see that.
21 I'm on the next page. That should be 6
22 depend from Claim 1.
23 Q. Okay.
24 A. Remove the comma, add the word
25 "and" and then delete the text, starting

1 from -- starting from: Comma and claims 16
2 to 20 and et cetera. All of that gets
3 removed to the word "and," including the word
4 "and."
5 So I will read the text as it
6 should be:
7 "6 depend from" -- so starting
8 from the previous page, actually.
9 "Claims 2-6 depend from Claim 1
10 and claims 9-11 depend from Claim 8
11 are patentable and for the same
12 reasons."
13 Add "which," before the "and."
14 Anyway, that's --
15 Q. Okay. Yeah. Aside from those
16 errors that you just identified, have you
17 identified any other errors in your 348
18 declaration?
19 A. If I remember something else,
20 I'll let you know. I'll see if I have any
21 scribbled sheets of paper or something. I
22 probably don't, but at some point I tried.
23 Q. Go ahead. Sorry.
24 A. We fixed the Kenley. I believe
25 that was -- again the Kenley issue here is

1 the same in that. In paragraph 8, Kenley
2 should not be there.
3 Q. And in identifying those errors
4 in paragraph 218, were you referencing a
5 document there on your desktop or --
6 A. Right now?
7 Q. Yeah. Previously when you were
8 explaining those errors and the typos, were
9 you referencing a document or some other
10 piece of paper in explaining?
11 A. No. I don't have any pieces of
12 paper. So what I had was the document that
13 you asked me, the exhibit that you asked me
14 to open.
15 Q. Okay.
16 A. I was just kind of browsing
17 through it.
18 Q. So you merely, just from
19 memory, you had recalled those errors?
20 A. Yes.
21 Q. Okay.
22 A. If I think of something else.
23 I know that there is a verb that has an "S"
24 and it shouldn't because it's a plural or
25 vice versa, at least in one case. And it

shouldn't change the meaning much, but still.

Q. I'm easily confused, so I don't know. That's fair enough. If you notice anything else, please let me know, certainly. I want to make sure we are aware of any of those. So thanks for walking through that.

Can I have you turn to paragraph 37 of your declaration?

A. I'm there.

Q. Excellent. And beginning at paragraph 37 and I believe up through paragraph 40, you discuss the definition of a POSITA.

A. Yeah. From 37 to 40 in those paragraphs, I do discuss that, a POSITA.

Q. Okay. And am I correct that with respect to your opinions on the 348 patent, you have adopted, for purposes of this declaration, the definition offered by Dr. Meyer in Exhibit 1003, paragraph 31?

A. Let me check. So Exhibit 1003, that's correct. And then to confirm. I just want to look at it with my own eyes again. Yup. 31 has the definition.

Q. Okay. And yeah. Okay.

1 So for purposes of your
2 opinions in the IPR, you've accepted his
3 definition of a POSITA; is that correct?
4 A. Yes.
5 Q. Okay. Great. So if I use --
6 strike that.
7 Until otherwise stated, if I
8 use the term "POSITA" do we understand that
9 we are referring to the definition of the
10 POSITA for the 348 patent proceeding?
11 A. Correct.
12 Q. Great. Thank you.
13 A. As of 2000.
14 Q. Yeah, as of September 2000,
15 that's correct.
16 And you agree that that would,
17 for purposes of this proceeding at least,
18 that that would not differ, whether it was in
19 1999 or 2001, as set forth in Dr. Meyer's
20 declaration?
21 A. I don't think I opined about
22 that.
23 Q. But in any event, you're
24 adopting his definition of a POSITA as set
25 forth in paragraph 31, Exhibit 1003, in the

348 proceeding; is that correct?

A. Yes. The definition, but I'm not sure about the 1999 to 2001.

Q. If I could direct you to the second to last paragraph of Dr. Meyer's definition in paragraph 31. He states, quote:

"There would be no meaningful distinction if the critical date were 1999 or 2001, as far as my analysis is concerned."

Do you see that?

A. Yes.

Q. And you agree that you've adopted that, for purposes of this proceeding?

A. I don't believe that was my intention. I don't recall if that was my intention. But the question is really, it's a matter of 2001. That's really what it is.

Q. Well, I guess the question is: For purposes of this IPR, are you opining that there's a different definition of a POSITA if the critical date were 2001?

A. I haven't considered that

1 question. But for the sake of moving things
2 forward, I will say yes.
3 Q. Okay. And is the same true for
4 1999? In other words, for purposes of this
5 348 IPR, assuming that the definition of a
6 POSITA would not change meaningfully, if the
7 critical date were 1999?
8 A. Yeah. You know, this may be a
9 legal -- a legal issue. I am hesitant to do
10 this because I would need to consult with
11 counsel about the issue of the dates.
12 What I adopted is the
13 definition itself. I don't believe I
14 indicated that I agree with the 1999 or 2000
15 -- 2001. And I'm hesitant here because I
16 believe this is a legal matter as well.
17 So I would say, I haven't -- I
18 don't recall if I considered this or not.
19 But I do agree I have adopted Dr. Meyer's
20 definition of a POSITA. And that means the
21 education and experience.
22 Q. And I guess what I am trying to
23 get at here -- and I am not trying to trick
24 you or anything like that. I'm just trying
25 to make sure.

His definition in paragraph 31 states -- he doesn't see any meaningful distinction if the critical date were 1999 or 2001, instead of 2000.

A. Yeah.

Q. And I just want to make sure.

So my question to you is: For purposes of this IPR, are you assuming the same thing here?

A. Let's assume not with the regards to those two years. And I don't feel tricked or anything like that. It's just a legal matter. I don't know what the ramifications are of that.

So I would say I am adopting his definition, but I don't recall if I considered those two dates or not, and what the impact was. So I reserve. I reserve that portion of it.

Q. Given that answer, sitting here right now, are you aware of any meaningful distinction in the definition of a POSITA if the critical date were 1999?

A. I'd have to go back and look at the prior art dates, the references in the

1 prior art to see if that makes a difference,
2 for example, or not.
3 Because this is just the --
4 just a POSITA itself, not the prior art.
5 But I hesitate to answer this
6 question like that. I would say my opinion
7 is what I expressed in my declaration, which
8 the thoughts, the meaning, but without the
9 dates. I should have been more specific in
10 my declaration.
11 To the best of my recollection,
12 I don't think there would be a big
13 difference. But before -- it's not my
14 practice to make statements on the spot. I
15 could go and research it, and for all I know
16 in 2001, something happened. I want to be
17 accurate and truthful, both.
18 Q. So I guess then, are you
19 changing your testimony in paragraph 39 of
20 your declaration that you're only adopting
21 the definition set forth in Exhibit 1003,
22 paragraph 31, insofar as it omits that second
23 to last sentence; is that correct?
24 A. Because I didn't -- I don't
25 believe -- because even he says, "as far as

1 my analysis is concerned."
2 So he's referring to those two
3 dates -- to those two years for his analysis.
4 That's how I read it. He didn't state that
5 the definition would have been the same or is
6 the same. That's not what he said.
7 He just said there would be no
8 meaningful distinction, as far as my analysis
9 is concerned. That's how I am reading it.
10 Q. And in forming your opinions.
11 Did you consider the analysis provided by Dr.
12 Myer?
13 A. I read his opinions.
14 Q. Okay. And just with respect to
15 those, his opinions that you read, are you
16 aware of any meaningful distinction in the
17 definition of a POSITA from 1999 to 2000?
18 A. I don't recall. I don't recall
19 if I went through that analysis. Sitting
20 right here, I am hesitant to say anything,
21 although it's likely that they wouldn't be
22 different.
23 But I can't be certain. I'm
24 under oath. I would need to go back and look
25 to see if anything happened in that time

1 period that would change what a POSITA would
2 know.
3 Q. With respect to Dr. Myer's
4 analysis in this IPR, are you aware of any
5 meaningful distinction of the definition of a
6 POSITA between 2000 and 2001?
7 A. I don't recall if I analyzed
8 his opinions from that perspective. Sorry.
9 I hesitate to venture into that meaning here.
10 Q. If I can have you turn to --
11 let's see. Bear with me here. Yeah. In
12 paragraph -- can I have you turn to
13 paragraph 141?
14 A. 141?
15 Q. Mm-hmm.
16 A. I am there.
17 Q. Excellent. And in
18 paragraph 141, is this the beginning of a
19 section in which you discuss the petition's
20 proposed combination of Kenley and Long?
21 A. Yes.
22 Q. And in offering your opinions
23 on that proposed combination of Kenley and
24 Long, did you offer and understanding of the
25 Kenley and Long combination as set forth in

1 the petition?
2 A. Can you -- can you repeat the
3 question, please?
4 Q. Yeah. What is your
5 understanding of the Kenley and Long
6 combination as set forth in the petition?
7 A. I don't know if I provided an
8 explanation in the declaration. Can you
9 point me to it, if I did?
10 Q. Yeah. I don't know that -- I
11 mean, that there's any particular paragraph I
12 can point you to.
13 I want to know your
14 understanding, in terms of how the petition
15 proposes combining these two references.
16 So my question is, what is your
17 understanding of how the Kenley and Long
18 references are combined by the petition?
19 MR. JAFFESS: Object to the
20 form.
21 THE WITNESS: Yeah. Unless I
22 wrote it down after thorough
23 examination and consideration, it's
24 not my practice to offer explanations
25 on the spot.

BY MR. MASON:

Q. Was your understanding of the Kenley-Long combination that the software of Long was being incorporated into Kenley?

MR. JAFFESS: Object to the form.

THE WITNESS: Can you show me where I opined about that, please?

BY MR. MASON:

Q. You opined on it -- strike that.

Did you carefully study the Kenley and Long foundation as set forth in the petition?

A. To the best of my recollection, I did.

Q. And how did you understand the petition to propose combining the teachings of those two references?

A. I don't think I have a summary of that in my declaration. It's not my practice to -- to -- explanations and opinions impromptu, because I need to formulate my thoughts succinctly, accurately, precisely.

1 Q. Sitting here today, you do the
2 not have an understanding of how the
3 petitions combining the teachings of Kenley
4 and Long; is that correct?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: No, that's not
8 what I had said -- what I said, at
9 least that's not what I meant.
10 And what I meant is, when I
11 provide answers, opinions
12 explanations, et cetera, I like to be
13 meticulous about that process, and do
14 all my research and then formulate my
15 language precisely, accurately and
16 succinctly.
17 And only when I feel confident
18 that my language is accurate, that I
19 am willing to share it or I do share
20 it.
21 Sitting right here, whatever
22 understanding I have, I need time to
23 formulate it in an accurate and
24 succinct fashion.
25 I also need to go back and

1 review the petition, the petitioner's
2 expert's declaration and all the
3 references, and then formulate my
4 language accordingly.
5 BY MR. MASON:
6 Q. Did you offer an opinion in
7 your declaration regarding whether a POSITA
8 would have been motivated to combine Kenley
9 and Long?
10 A. I'm looking at my declaration
11 here, paragraph 141. It says:
12 "As a result, I would not have
13 been motivated to combine the two
14 references," referring to a POSITA.
15 Q. And in forming that opinion,
16 what was your understanding of how the
17 petition proposed that Kenley and Long be
18 combined?
19 A. I just answered that question
20 before this. I'll stick with that answer.
21 Q. You mean that you cannot answer
22 that question, correct?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: That

1 mischaracterizes what I said.
2 BY MR. MASON:
3 Q. I don't recall you answering
4 that question. I'll ask it again.
5 In forming your opinion in
6 paragraph 141 there, what was your
7 understanding of how the petition proposed
8 that Kenley and Long be combined?
9 MR. JAFFESS: Objection.
10 THE WITNESS: My understanding
11 was based on reading the petition and
12 the petitioner's expert's declaration,
13 and also studying or reviewing Kenley
14 an Long. And then that's how I
15 formulated my understanding.
16 BY MR. MASON:
17 Q. And was your understanding of
18 the combination proposed by the petition that
19 Long's sector-level implementation would be
20 modified to work with files?
21 MR. JAFFESS: Object to the
22 form.
23 THE WITNESS: Can you show me
24 where I opined about that, please?
25 BY MR. MASON:

1 Q. I'm trying to get a sense of
2 how you understood the combination when you
3 were opining on that.
4 A. I'll stick with my previous
5 answer.
6 Q. What was that previous answer?
7 A. My understanding was based on
8 petition, petitioner's expert's declaration
9 and the relevant references.
10 Q. So today, you cannot explain to
11 me your understanding of the combination
12 proposed by the petition; is that correct?
13 MR. JAFFESS: Object to the
14 form.
15 THE WITNESS: In order for me
16 to explain, I need to -- and under
17 oath, with a high level of accuracy, I
18 would need to review those references
19 that I just mentioned, and then
20 formulate my language accordingly.
21 But I'm not going to provide
22 impromptu, imprecise language.
23 BY MR. MASON:
24 Q. Did you understand the petition
25 to propose modifying Long's sector-level

1 implementation such that it would work with
2 files?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: Whatever opinions
6 I have about that are already in the
7 declaration. I'm more than happy to
8 answer questions related to those.
9 BY MR. MASON:
10 Q. Did you understand the petition
11 to propose incorporating Long's sector-level
12 implementation into the file system of
13 Kenley?
14 MR. JAFFESS: Object to the
15 form.
16 THE WITNESS: As I said
17 earlier, I do not formulate
18 explanations and opinions on the spot.
19 I need to be accurate and truthful, so
20 I need to go back and do that.
21 Whatever is in my declaration,
22 I will stand by and be happy to
23 elaborate on.
24 If it's outside the scope of
25 that, if you show me a specific

1 paragraph, I'm happy to go there.
2 BY MR. MASON:
3 Q. Is it your testimony today that
4 your understanding of the proposed Kenley and
5 Long combination is outside the scope of your
6 declaration?
7 MR. JAFFESS: Object to the
8 form.
9 THE WITNESS: May I hear the
10 question again?
11 BY MR. MASON:
12 Q. Is it your testimony today that
13 your understanding of the proposed Kenley and
14 Long combination is beyond the scope of your
15 declaration testimony?
16 MR. JAFFESS: Same objection.
17 THE WITNESS: I would have to
18 ask the attorneys with this kind of
19 specificity about that in all cases.
20 My understanding and my
21 opinions need to be formulated in very
22 succinct and accurate ways. I am
23 under oath. And this is a legal
24 situation, legal setting.
25 And I am being asked to offer

1 an explanation that I did not provide
2 in my declaration.
3 And as I mentioned, in order
4 for me to essentially supplement my
5 declaration here, as I am being asked
6 to do, if I am to supplement my
7 declaration, I need time to formulate
8 my answers in a language that is
9 accurate and truly reflects my
10 understanding, rather than on the
11 spot, haphazardly, impromptu, answer
12 with rough language.
13 BY MR. MASON:
14 Q. Do you see in paragraph 144 of
15 your 348 declaration where you discuss,
16 quote, "Modifying Long into a file-based
17 system," end quote?
18 A. But then there's a conjunction.
19 It says "or."
20 Q. Do you see paragraph 144, Mr.
21 Jawadi?
22 A. Yes. I'm looking at it.
23 Q. So was your understanding of
24 Kenley-Long combination proposed by the
25 petition, that Long's sector-level

1 implementation was being modified into a
2 file-based system?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: There is a
6 conjunction in there, the "or" word.
7 My opinion, as expressed in
8 144, is that the POSITA in 2000 would
9 have understood that modifying Long
10 into a file-based system or combining
11 Long into a file-based system, et
12 cetera. I'm addressing both
13 possibilities.
14 BY MR. MASON:
15 Q. So was it your understanding
16 that the petition proposed modifying Long's
17 sector-level implementation into a file-based
18 system?
19 MR. JAFFESS: Object to the
20 form.
21 THE WITNESS: I'm just saying
22 from a POSITA, from a POSITA's
23 perspective, we have two references,
24 Long and Kenley. Long is sector
25 based. Doesn't have the word "file"

at all in it. Doesn't even mention the word "file."

So somehow, Long and Kenley have to be combined, allegedly.

And to end up with a file system, file-based system, as talking the 348 patent, somehow, the Long invention, which is sector based, has to work in a file-based system.

And I'm here saying -- in either case, that's what I am saying. That's what the conjunction is for. I didn't say this is my understanding.

BY MR. MASON:

Q. Did you offer opinions on whether a POSITA would be motivated to make the Kenley and Long combination, proposed by the petition?

A. Can you repeat the question, please?

Q. Yeah. Do you have opinions on whether a POSITA was motivated to make the Kenley-Long combination, as proposed by the petition?

MR. JAFFESS: Object to the

1 form.
2 THE WITNESS: Yeah. And what I
3 say is that, as I wrote in -- as
4 stated in 141, would not have been
5 motivated.
6 BY MR. MASON:
7 Q. And do you agree that in order
8 to form that opinion, you would require an
9 understanding of the Kenley-Long combination,
10 as proposed by the petition?
11 MR. JAFFESS: Object to the
12 form.
13 THE WITNESS: I looked at the
14 alleged combination from the
15 perspective of how a petition was --
16 how the petition argued, how the
17 petitioner's experts declaration
18 argued, and also from my -- also from
19 the perspective of a POSITA.
20 BY MR. MASON:
21 Q. I understand what you looked
22 at. But my question is: What is your
23 understanding of the alleged combination?
24 MR. JAFFESS: Object to the
25 form.

1 THE WITNESS: Asked and
2 answered.
3 BY MR. MASON:
4 Q. Is that your answer?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: I provided an
8 explanation already for -- I explained
9 why I do not formulate language on the
10 spot, unless given time to do my
11 investigation and draft my responses
12 very accurately.
13 BY MR. MASON:
14 Q. That's fine. So, yeah. Today
15 you're unable or unwilling to answer what
16 your understanding of the alleged combination
17 is, correct?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: I take issue with
21 "unwilling" and "unable." It's not --
22 it's neither of those. It's a matter
23 of being accurate. It's a matter of
24 being truthful.
25 If someone -- okay. Can you

1 jump? I can. But if jumping has
2 ramifications and has to be done very
3 accurately, and I say, you need to be
4 accurately jumping, it's not a matter
5 of unwillingness or inability. I can
6 jump. I know how to talk, obviously.
7 But -- and I can. No one is --
8 there's no one forcing me not to talk.
9 So it's -- I don't like that
10 characterization. It's not accurate.
11 It's a matter of accuracy and truth.
12 BY MR. MASON:
13 Q. You can take the time you need.
14 But my question is: Are you able to
15 articulate your understanding of the
16 Kenley-Long combination as that combination
17 as proposed by the petition?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: Given time -- and
21 I'm not talking two minutes. I'm
22 looking at reading, specifically,
23 about what the petition is proposing.
24 I would need to read the
25 petition, the entire section related

1 to Kenley and Long and the
2 combination, alleged combination.
3 And do the same with the
4 petitioner's expert's declaration. Go
5 back and look at the patent, look at
6 Long and look at Kenley.
7 So the process of investigation
8 and then formulating the response. I
9 don't think that's unreasonable.
10 BY MR. MASON:
11 Q. Yeah. Your testimony, without
12 undertaking that exercise, you would be
13 unable to articulate an understanding of
14 Kenley-Long combination, as proposed by the
15 petition; is that correct?
16 MR. JAFFESS: Object to the
17 form.
18 THE WITNESS: Unwillingness and
19 inability do not describe the
20 situation. It's a necessity, not just
21 desired, but necessity of accuracy and
22 truthfulness.
23 I'm a technical guy. And it's
24 my process to provide accurate,
25 truthful information. And I don't

1 work just willy-nilly just providing
2 rough answers on the spot because
3 that's not accurate.
4 BY MR. MASON:
5 Q. Is it your testimony that in
6 order for you to provide an accurate and
7 truthful explanation of your understanding of
8 the Kenley-Long combination, it would be
9 necessary to undertake the exercise that you
10 just described?
11 A. Yes.
12 MR. JAFFESS: Object to the
13 form.
14 THE WITNESS: Yes, for that
15 particular purpose.
16 BY MR. MASON:
17 Q. I invite you back to
18 paragraph 144.
19 A. I am there now.
20 Q. As we discussed, you have a
21 conjunctive sentence there in paragraph 144,
22 correct?
23 A. Conjunctive phrase, yes.
24 Q. Thank you. Is your
25 understanding of the Kenley-Long combination,

as proposed by the petition, expressed here in paragraph 144?

A. Paragraph 144 describes my opinion of what a POSITA in 2000 would understand in those two scenarios.

Q. And looking at those two scenarios in paragraph 144, is the first scenario a combination that involved modifying the Long sector-level implementation into a file-based system?

A. The first part of the phrase is modified into a file-based system, and that's what it reads, yes.

Q. And does the second part of that phrase reflect integrating the Long implementation into a file-based system?

A. It says combined, but okay. Combine and Long into a file-based system.

Q. And by that, you're analyzing whether one would combine Long's sector-level implementation into a file-based system?

MR. JAFFESS: Object to the form.

THE WITNESS: I am considering the question.

1 I am still considering the
2 question.
3 The sentence says modifying
4 Long and then combining Long. It's
5 not restricted to the sector-based
6 aspect.
7 And then the sentence
8 continues:
9 "Would have contradicted Long's
10 basic and fundamental sector-based
11 teachings, rendering Long inoperable
12 for Long's intended purpose."
13 BY MR. MASON:
14 Q. Maybe if I could invite you to
15 paragraph 110.
16 A. I'm there now, 110.
17 Q. Please let me know when you've
18 had a chance to read to yourself
19 paragraph 110.
20 A. There's a typo. Okay.
21 Q. What is the typo?
22 A. Just as a side note, the second
23 line has a typo, "is would."
24 Q. You're saying we should strike
25 the "is"?

A. Yes, please. Strike the "is." Thank you.

But now I'll continue reading.

Q. Fair enough. Thank you for that.

A. Actually, no. It's correct. Just leave it there. Excuse me. No. How extensively sector based is, would have. So the "is" is needed. Excuse me. It's the second time I got tripped. I got tripped into it a couple of days ago too.

Q. Having looked at paragraph 110 of your 348 declaration, is your understanding of the Kenley-Long combination proposed by the petition that Long's sector-level implementation is being modified to make it file based?

MR. JAFFESS: Object to the form.

THE WITNESS: I'm considering the question.

It's not exclusive to other scenarios. It's just saying that one possibility is that -- it's not saying that's the only possibility.

1 This is a paragraph that it is
2 referring to. This paragraph -- this
3 paragraph is not excluding other
4 scenarios.
5 BY MR. MASON:
6 Q. What other scenarios are you
7 referring to?
8 A. Back to -- it was that phrase
9 with the conjunction. For example, there
10 were two possibilities there.
11 Q. And what were the two
12 possibilities there that you're referring to?
13 A. Okay. I strike that. Let's
14 just focus on 110.
15 110 is saying that modify Long
16 to make it file based, it's essentially a new
17 invention.
18 It's -- Long is -- so just if
19 we look at Long. For example, the header,
20 the audit header, audit buffer, et cetera,
21 all of that is just very sector based. And
22 very, very low level. And that's -- and the
23 rest is much more detailed and it's provided
24 here.
25 Q. So my first question, then, is

1 was your understanding -- in forming these
2 opinions, was your understanding of
3 petition's proposed Kenley-Long combination
4 that Long's sector-based implementation was
5 being modified, as we sit here, to make it
6 file based?
7 MR. JAFFESS: Object to the
8 form.
9 THE WITNESS: May I hear the
10 question again, please?
11 BY MR. MASON:
12 Q. Was it your understanding in
13 forming these opinions that the petition's
14 proposed Kenley-Long combination involved
15 modifying the Long sector-based
16 implementation to work with files?
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: The concepts
20 provided by Long are deeply applicable
21 to sectors, sector-based
22 implementations.
23 Whether Long itself is modified
24 to make it sector based allegedly, or
25 taking those concepts and applying

1 them.
2 Long's implementation and
3 concepts are sector based. Go look at
4 the audit buffer and all the different
5 concepts, it's deeply sector based.
6 It goes in from the detection of -- of
7 the events that affect the data to
8 storing the data to archiving the data
9 to everything.
10 It's very deeply sector based.
11 A POSITA would definitely see that and
12 understand it.
13 MR. MASON: I'll move to strike
14 as non-responsive.
15 BY MR. MASON:
16 Q. My question is: Was your
17 understanding of the Kenley-Long combination
18 proposed by the petition that Long's
19 sector-level implementation would be modified
20 to, quote, "make it file based," end quote?
21 MR. JAFFESS: Object to the
22 motion. And object to the form of the
23 question.
24 THE WITNESS: Long is sector
25 based. The proposed combination is to

make Long and Kenley provide a file-based archival system.

Somehow, those two are combined; Long and Kenley. Something in Long has to change. So something -- the concepts are everything is sector based. So something has to change. That's what this is saying.

If -- if Long is used in a file-based system in its entirety or in some other form, then it's essentially a new invention. That's what this paragraph is saying.

BY MR. MASON:

Q. Is it your opinion that Long's sector-level implementation could not be adapted for archiving files?

MR. JAFFESS: Object to the form.

THE WITNESS: I have decades of industry experience and many years of dealing with disk drives, tank drives, storage devices, storage subsystems, as well as high-level software

1 operating at the file level, archival
2 restoration, et cetera.
3 The two are very different.
4 When someone without industry
5 experience or just looking at it from
6 a high-level perspective is one thing,
7 but Long is very sector based.
8 Just so deeply sector based.
9 That's the issue.
10 BY MR. MASON:
11 Q. Yeah. And I apologize. My
12 question, perhaps, wasn't -- let's strike
13 that.
14 I'm just going to ask a
15 different question.
16 Is it your opinion that a
17 POSITA would be unable to adapt Long's
18 sector-level implementation in order to
19 archive files?
20 MR. JAFFESS: Object to the
21 form.
22 THE WITNESS: I don't know the
23 exact Woody Allen phrase, but it's
24 something like a certified public
25 accountant's head with the body of a

1 crab or something like that. I wish I
2 could remember precisely. And that's
3 what we're talking about.
4 BY MR. MASON:
5 Q. That's precise enough for me.
6 You've created an image. So, yeah, I will
7 let you finish. I apologize.
8 A. That was my answer. I mean,
9 it's kind of analogy.
10 Q. So it's your testimony that a
11 POSITA would be unable to adapt Long's
12 sector-level implementation, in order to
13 archive files?
14 MR. JAFFESS: Object to the
15 form.
16 THE WITNESS: Everything in the
17 world is possible. Let me take my
18 bicycle and make a rocket out of it.
19 And, you know, given, a lot of money
20 and a lot of time and a lot of effort
21 and so forth. But if I am making a
22 rocket, I don't think I'd start with a
23 bicycle.
24 I mean, that's kind of a crude
25 analogy. But that's what I am saying

1 here, is that a POSITA would look at
2 Long and Long is very deeply sector
3 based.
4 Tracks and disks and sectors
5 and off-section within sectors and all
6 those things.
7 And then the basic design,
8 audit header -- if we look at the
9 audit region, in one of the -- Long
10 mentions that in the preferred
11 embodiment, the audit header is one
12 sector. That's 512 bytes. It's
13 almost laughable for a file-based
14 archive system. That's what I am
15 talking about.
16 If as someone who spent time,
17 even a POSITA with one year working
18 with file backup systems, would just
19 realize, okay, one sector for the
20 header, how is that sufficient to have
21 any meaningful number of files in
22 there?
23 The whole design of Long is
24 very sector based in every aspect;
25 conceptually, down to the minute

1 details.
2 BY MR. MASON:
3 Q. So is it your testimony that it
4 would require an extraordinary amount of
5 experimentation for a POSITA in 2000 to adapt
6 Long's sector-level implementation, such that
7 it could archive files?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: It's the wrong
11 vehicle. It's the wrong vehicle.
12 It's an archival system.
13 Motorcycle and car are modes of
14 transportation. You take two
15 motorcycles and attach them next to
16 each other or something.
17 But it seems to me that the
18 difference in between implementation
19 is quite significant.
20 BY MR. MASON:
21 Q. It your testimony that the
22 difference in between these implementations
23 is so significant that a POSITA in 2000 to be
24 able to adapt Long's file based -- strike
25 that.

1 Is it your testimony that the
2 difference between these implementations is
3 so significant that a POSITA in 2000 would be
4 unable to adapt Long's sector-based
5 implementation in order to archive files?
6 MR. JAFFESS: Object to the
7 form.
8 THE WITNESS: It's a not a
9 matter of yes or no. It's such a
10 nuanced situation here.
11 So the POSITA would look at
12 Long and say, okay, here is an audit
13 header. Here is how the audit header
14 works. The audit header is dealing
15 with first and last, first and last
16 markers.
17 Then you look at the, okay, how
18 do I map marker into a file? Is a
19 marker a file? I look at the audit
20 buffer. And it's got all this stuff
21 about the system, the system is
22 shutting down and the system is
23 booting and this, that and the other.
24 Sectors -- it goes on and on
25 like that. That's the invention. How

1 is that applicable to a file? Just
2 take that and run with it.
3 BY MR. MASON:
4 Q. So is it your testimony that a
5 POSITA would not have implemented any of
6 Long's teaching into the file system?
7 MR. JAFFESS: Object to the
8 form.
9 THE WITNESS: A scooter and a
10 rocket are both -- they have something
11 in common.
12 The issue is -- yes. I mean,
13 Long is an archival system. But what
14 kind of implementation is there? It's
15 deeply sector based. What does it
16 have to offer at the highest level?
17 BY MR. MASON:
18 Q. So is it your testimony that a
19 POSITA would not have been motivated to
20 implement any of Long's teachings into a
21 file-based system?
22 A. Okay. So we can begin with the
23 high level things. So any, nothing at all.
24 Well, it teaches that there is a backup.
25 So there's some archival, okay?

1 That sounds interesting, but that's nothing.
2 That's nothing.
3 There's a lot of -- I mean,
4 backup and archival, that's -- generic backup
5 and archival, that's available.
6 So what is it? The invention
7 itself, the specifics, are all sector based
8 and not applicable to a file system,
9 file-based system.
10 We look at the -- just the crux
11 of the matter is the implementation. All of
12 the stuff regarding how the invention
13 actually works, all of that is sector based
14 and heavily so.
15 What kind of invention is this
16 if it doesn't relate to the files? The word
17 "file" doesn't appear anywhere.
18 Q. Is it your testimony that
19 because Long does not use the word "file"
20 anywhere its teachings are not applicable to
21 file-based systems?
22 A. No.
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: What I am saying

is, it's so deeply sector based. And I have pages and pages here describing how it is so.

BY MR. MASON:

Q. And is it your opinion that because Long is so deeply sector based, its teachings are not applicable to file-based systems?

A. It depends on which teachings we're referring to. If we're talking about something so generic and high level, oh, backup an archival and archiving, that's nothing.

But then, once we peel down and see what the invention is supposed to be, it's so deeply sector based.

It's easy to wave hands and say, oh, we use those things. Just, it discloses stuff. But what stuff? The stuff that is disclosed is all sector based, that's really of any value.

Q. So is it your opinion that Long's modification request is deeply sector based?

MR. JAFFESS: Object to the

form.
THE WITNESS: Sorry. What was the question?
BY MR. MASON:
Q. Do you recall in Long that there was a modification request achieved by an application?
MR. JAFFESS: Object to the form.
A. I'm sorry. I don't understand that.
What was the question? Can you rephrase it maybe?
Q. Do you recall Long describing a modification request?
MR. JAFFESS: Object to the form.
THE WITNESS: Can you show me what that is? That I opine about it.
BY MR. MASON:
Q. Do you not recall Long's modification request?
A. Can you point me to where exactly in my declaration I discuss that?
Q. I am not aware of anywhere in

1 your declaration that you discuss that.
2 Do you discuss a POSITA and
3 their knowledge of files? How would a POSITA
4 have understood files to be stored?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: Can you show me
8 where I opine about that or explain
9 it?
10 BY MR. MASON:
11 Q. I cannot point you to anywhere
12 in your declaration right now. And I am not
13 saying it's not there. But my question is:
14 Do you have an understanding of how a POSITA
15 would have understood files to be stored in a
16 file-based system?
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: May I hear the
20 question again, please?
21 BY MR. MASON:
22 Q. Do you have an understanding of
23 how a POSITA would have understood files to
24 be stored in a file-based system?
25 MR. JAFFESS: Same objection.

THE WITNESS: In what context?
BY MR. MASON:
Q. In the context of the 348 patent. Strike that.
Do you understand that the POSITA here is defined in the context of the 348 patent?
A. Yes.
Q. Okay. So with that in mind, do you have an understanding of how a POSITA would have understood files to be stored in a file-based system?
MR. JAFFESS: Object to the form.
THE WITNESS: I don't believe I provided an explanation or opinion about that.
BY MR. MASON:
Q. And today, you have no opinion or understanding of how a POSITA would have understood files to be stored in a file-based system; is that correct?
MR. JAFFESS: Object to the form.
THE WITNESS: That

1 mischaracterizes my answer. It's not
2 what I said and I don't think that's
3 what I said in there. So not in that
4 way, either.
5 So in order for me to provide
6 accurate and truthful explanations,
7 even for simple matters that I
8 understand, in order for me to provide
9 accurate, truthful answers, I need to
10 formulate the answers based on
11 investigation in the context of the --
12 of the litigation, all the different
13 references and then offer precise,
14 accurate and truthful answers.
15 It's not my practice to provide
16 rough guesses and language that's
17 constructed impromptu, which may not
18 be very accurate.
19 BY MR. MASON:
20 Q. Is it your testimony that over
21 the course of your career you have supervised
22 and directed many POSITAs?
23 A. Yes.
24 Q. And would you expect those
25 POSITAs to have an understanding of how files

1 are stored in a file-based system?
2 MR. JAFFESS: Object to the
3 form.
4 THE WITNESS: Depends on
5 context.
6 BY MR. MASON:
7 Q. So you're unable to answer that
8 without further context?
9 A. The answer will change
10 depending on context. In what context? Is
11 it from the context of the operating system?
12 Is it from the disk drive perspective? Is it
13 from the applications perspective? Whose
14 perspective?
15 What is the data being used
16 for? What is the system itself? And the
17 list goes on an on.
18 A blanket statement will be, at
19 best, very rough and probably not very
20 accurate, unless context is provided and
21 accuracy is achieved.
22 Q. In the context of the operating
23 system -- strike that.
24 Would a POSITA have an
25 understanding of how files are stored in a

1 file-based system from the context of the
2 operating system?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: To answer that,
6 there's a chapter in an operating
7 system textbook.
8 It summarizes, in a couple of
9 rough sentences would be, just in my
10 opinion, would be irresponsible,
11 especially in a litigation setting, to
12 provide truthful, accurate and precise
13 answers based on references in exact
14 context that they will be used.
15 BY MR. MASON:
16 Q. Would a POSITA understand that
17 files in a file-based system were stored
18 using sectors?
19 A. If there is a disk drive in a
20 computer, and the data -- and the disk drive
21 is used to store the data, obviously the data
22 would go into the disk drive. But that's --
23 that's like saying we're analyzing sleep
24 apnea and we're discussing that there's
25 oxygen in the air. We jump from here down to

1 there.
2 The fact that it is a sector,
3 so what? The sector level details are all
4 hidden. There's BIOS. There's the file
5 system. There's the operating system, et
6 cetera.
7 Q. Would you expect a POSITA to
8 have an understanding of the sector-level
9 details when implementing a file-based
10 archive system that relied on a disk drive?
11 MR. JAFFESS: Object to the
12 form.
13 THE WITNESS: May I hear the
14 question again, please?
15 BY MR. MASON:
16 Q. Would you expect a POSITA to
17 have an understanding of the sector-level
18 details when implementing a file-based
19 archive system that relied on archiving to a
20 disk drive?
21 MR. JAFFESS: Same objection.
22 THE WITNESS: If we're looking
23 at the details of the sector level for
24 example, the sector would have what's
25 called a preamble, which allows the

1 head to lock on the sector, and
2 understanding what sector number it is
3 and its characteristics, there are
4 several bursts written all over the
5 tracks to make sure that the heads can
6 reach the right sector and reach the
7 right track and the right sector.
8 But there is ECC data. It
9 is -- the data itself is written using
10 read write channel. And those are the
11 kinds of levels -- those are the kinds
12 of details when we're dealing with
13 sectors.
14 How do I know this stuff? I
15 spent years doing this. But I was
16 doing disk drive work at the time,
17 working for a disk drive company. In
18 fact, multiple disk drive companies.
19 I built equipment that disk
20 drive companies used to verify and
21 test their disk drives. I wrote
22 firmware for disk drives.
23 I helped -- I consulted for
24 companies designing chips for disk
25 drives. That's one level.

1 Does the average engineer,
2 after one year or two years working on
3 an archival system, need to know about
4 these details? What would the
5 engineer need to know those details
6 for?
7 What would the engineer
8 designing an archival system to take
9 data from this to put it on tape,
10 using operating system file calls, why
11 would -- why would the engineer need
12 to know about these details?
13 And let's look at a tape drive.
14 Data can be written on a tape drive
15 using fixed or variable block lengths.
16 If we use a variable block length, we
17 can store any time file on that.
18 Does the archival engineer need
19 to knows know those details? No.
20 What for? ECC, error correcting code.
21 Why would that be needed for the
22 POSITA to know?
23 But that's part of the --
24 that's involved.
25 BY MR. MASON:

1 Q. So is it your testimony that
2 the POSITA would have no understanding of
3 sector level details then?
4 MR. JAFFESS: Object to the
5 form.
6 THE WITNESS: It depends on
7 what sector level details. Again,
8 context. Everything is context.
9 BY MR. MASON:
10 Q. What sector level knowledge
11 would a POSITA have in 2000?
12 MR. JAFFESS: Object to the
13 form.
14 BY MR. MASON:
15 Q. Strike that.
16 What sector-level knowledge
17 would a POSITA have with respect to files?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: This question
21 doesn't make technical sense. That's
22 not how it should be phrased. I don't
23 even know what you mean.
24 BY MR. MASON:
25 Q. I invite you to paragraph 78 of

1 your declaration, your 348 declaration.
2 A. Okay.
3 Q. Would a POSITA know that a file
4 roughly consists of multiple sectors?
5 MR. JAFFESS: Object to the
6 form.
7 THE WITNESS: Can you show me
8 where -- okay. 78.
9 BY MR. MASON:
10 Q. Using your language here.
11 A. Okay. What is the question?
12 Q. Would a POSITA know that a file
13 roughly consists of one or more -- strike
14 that.
15 Would a POSITA know that a file
16 roughly consists of one or more multiple
17 sectors?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: It depends, first
21 of all. Okay. So let me explain.
22 The word "sector" itself could be
23 confusing because there is logical
24 sector and there is physical sector.
25 In fact, if you -- as I recall

1 in Long, there is -- there are some --
2 the reference, as I recall, to PCHS
3 and LCHS -- CHS stands for cylinder
4 head sector.
5 The concept of sector sometimes
6 does not even refer to a physical
7 sector. And a sector can appear to be
8 a physical sector, but it's actually
9 not because disk trans also keep spare
10 sectors and they hide the spare
11 sector.
12 And when a sector is defective,
13 the disk drive may actually map that
14 defective sector into a different
15 physical location, but yet keep the
16 same sector number.
17 It's more complicated.
18 So, again, here this is along
19 with that context. And we're trying
20 here to just kind of fit everything
21 into little sound bites. And it
22 doesn't fit that way because this is
23 just -- it's more complicated than
24 that. It really is.
25 What does the POSITA know? The

1 POSITA may have heard about, yes. A
2 POSITA would know there's a disk drive
3 there and there are sectors in this.
4 Then I could ask, is this --
5 the POSITA may not know the difference
6 between a logical and a physical
7 sector.
8 So, again, depends on context.
9 But if we look at Long -- in fact --
10 BY MR. MASON:
11 Q. Maybe one way to short circuit
12 this in a sense -- I think a lot of that is
13 just non-responsive.
14 If you turn to paragraph 75,
15 you begin a discussion of the 348
16 declaration. You begin a discussion of
17 files.
18 Do you see that?
19 A. Yes.
20 Q. And is your discussion of files
21 from paragraph 75 to 93, does that reflect
22 the knowledge of the POSITA regarding files?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: Can you show me

where I say that this is the knowledge of the POSITA?

BY MR. MASON:

Q. Well, the whole section begins with a sentence that concludes, as a POSITA would have understood file to mean in the context of the 348 patent.

So my question is: This section on files, does this reflect how a POSITA would have understood -- strike that.

Does this section C in paragraph 75 through paragraph 93 reflect what a POSITA would have known and understood about files in the context of the 348 patent?

MR. JAFFESS: Object to the form.

THE WITNESS: This is not what 75 is saying. What 75 is saying is something different.

It says in this declaration. This -- I'm reading 75 -- paragraph 75 from the Exhibit 2020, in my declaration, says:

"In this declaration, I applied the plain and ordinary meaning to the

1 term file, as controlled by the
2 operating system as a POSITA would
3 have understood file to mean in the
4 context of the 348 patent."
5 And then continues on some
6 other stuff.
7 BY MR. MASON:
8 Q. My question to you now is:
9 Would a POSITA have had the knowledge about
10 files that you express in paragraphs 76
11 through 93 of your 348 declaration?
12 MR. JAFFESS: Object to the
13 form.
14 THE WITNESS: Okay. So I can't
15 answer just with a blank statement
16 that would be inaccurate, so I'll go
17 through them one by one.
18 BY MR. MASON:
19 Q. Sounds great.
20 A. Okay. 76. That's saying
21 petitioner's expert declaration at 37, et
22 cetera.
23 This is speaking about what the
24 declaration says. It has nothing to do with
25 a POSITA here.

1 Q. Is it your opinion that a
2 POSITA would have would have that knowledge
3 about files expressed in paragraph 76?
4 MR. JAFFESS: Object to the
5 form.
6 THE WITNESS: That's reasonable
7 for that 76.
8 BY MR. MASON:
9 Q. Okay. How about 77? Would a
10 POSITA know what's expressed there in
11 paragraph 77 about file?
12 MR. JAFFESS: Object to the
13 form.
14 THE WITNESS: Generally, yes.
15 BY MR. MASON:
16 Q. And would a POSITA have
17 knowledge of what's expressed about files in
18 paragraph 78?
19 A. Now we're getting into context.
20 Q. So is your answer that a POSITA
21 would not have the knowledge about files as
22 expressed in paragraph 78?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: Depends on the

1 POSITA. For example, a POSITA may or
2 may not know about clusters. May or
3 may not know the difference between
4 blocks and sectors. May or may not
5 know the difference between physical
6 sectors and logical sectors.
7 So there, depends on the
8 POSITA. It depends on the context.
9 It depends on which of these -- which
10 ones of these terms.
11 And a POSITA would know roughly
12 what a sector is, right? That there
13 is a disk drive out there and they are
14 sectors. But then the knowledge
15 beyond that, like, okay, let's talk
16 about ECC.
17 Q. Is ECC in paragraph 78?
18 A. No. I'm just saying once we
19 get into the details of the disk drive, then
20 the POSITA may not know.
21 Q. I'm not asking about details
22 not expressed in your declaration. I am
23 asking in paragraph 78 of your declaration,
24 would a POSITA have the knowledge about the
25 files expressed in that paragraph 78?

1 MR. JAFFESS: Object to the
2 form.
3 THE WITNESS: A POSITA would
4 know that a file consists of multiple
5 sectors, I think.
6 BY MR. MASON:
7 Q. Would a POSITA know that most
8 operating systems commonly allocate storage
9 to files in units called clusters?
10 MR. JAFFESS: Object to the
11 form.
12 THE WITNESS: Possibly not.
13 BY MR. MASON:
14 Q. You're just not sure?
15 MR. JAFFESS: Object to the
16 form.
17 THE WITNESS: Depends on the
18 POSITA.
19 The POSITA is writing software
20 to backup an archive.
21 And with that, the software
22 opens, reads, writes, closes the files
23 to calls with the operating system.
24 What the operating system does
25 to manage the files is immaterial for

file implementations.

So the fact that they are clusters, the POSITA doesn't care and may or may not know. And it doesn't affect anything. It just doesn't. An operating system handles these files.

BY MR. MASON:

Q. So is it your opinion that a person with a bachelor's degree in computer science would not know that files are often allocated to units in storage called clusters?

MR. JAFFESS: Object to the form.

THE WITNESS: If you look at the definition of a POSITA, one of the scenarios is that the person studied EE. And if the EE education for that person did not include storage devices, and then the person started working in software, writing this archival and backup using operating system codes, why would this person know about clusters? Certainly wouldn't have studied the concept of

1 clusters in college.
2 BY MR. MASON:
3 Q. So it's your testimony that an
4 electrical engineer would not have studied
5 the concept of clusters in college?
6 MR. JAFFESS: Object to the
7 form.
8 BY MR. MASON:
9 Q. Is that correct?
10 A. Again, context. We need to
11 know who that is, what they studied and what
12 courses they took.
13 Q. Is it your opinion that a
14 POSITA with a year of experience working with
15 archival systems would not have knowledge of
16 clusters?
17 MR. JAFFESS: Object to the
18 form.
19 THE WITNESS: I would have to
20 investigate the particular person,
21 this fictitious -- fictional
22 character.
23 But is it guaranteed that that
24 fictional character would know the
25 clusters? No. May know? Yes. Would

1 definitely know? Possibly not.
2 Would this person know about
3 files? Absolutely. Otherwise how
4 would they write the file lab archival
5 and backup? A POSITA would have to
6 know about files.
7 BY MR. MASON:
8 Q. Is it your testimony that a
9 POSITA could implement the software carrying
10 out the method of Claim 1 of the 348 patent
11 without any knowledge of clusters?
12 MR. JAFFESS: Object to the
13 form.
14 THE WITNESS: I'm checking
15 something.
16 BY MR. MASON:
17 Q. What are you checking?
18 A. I am opening Exhibit 1001,
19 which is the 348 patent. Then I'm going to
20 search for "cluster." And it's not there.
21 And then, I am going to open
22 the 221, try to find that file history.
23 Okay. Okay. It's open, the file history.
24 The word "cluster" appears but unrelated to
25 files.

1 I am looking at the entire file
2 history. Still searching. Okay. Not there.
3 Okay.
4 So, again, here, application,
5 operating system, file system, drivers,
6 files, disk drive. The disk drive itself has
7 firmware, which is software, on a chip.
8 Then you have the read write
9 channel, and then all these letters. A
10 POSITA is writing at this level right here;
11 open file, close file, read, write, using --
12 the word "cluster" doesn't appear in the 348
13 patent.
14 Q. How about paragraphs 81
15 through 85? Would a POSITA have the
16 knowledge of files reflected in those
17 paragraphs?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: 81?
21 BY MR. MASON:
22 Q. 81 to 85.
23 A. 81 to 85?
24 Q. Correct.
25 A. 81. Files are accessible by

1 the end user, yes.
2 Q. Okay.
3 A. But then it says at the end:
4 "A user cannot read or write
5 sectors."
6 So we're back to the sector
7 business here. And in contrast -- so
8 the first part, the first sentence,
9 the POSITA would know.
10 Then how, when we get to
11 sectors, are not accessible by the end
12 user, POSITA would probably know that
13 if they know about sectors, because
14 the sectors are hidden by the
15 operating system and file system, and
16 the user cannot directly read or write
17 sectors. A POSITA would probably know
18 that if they know about sectors.
19 Then file consists of clusters,
20 we just addressed that. And then
21 files are managed by the operating
22 system, specifically the file system,
23 yes. A POSITA would know that,
24 otherwise how would the POSITA write
25 the software to archive and backup and

1 restore?
2 And a POSITA for the 348 patent
3 does not need to know about BIOS.
4 It's low level. It's not necessary.
5 There's no need to know BIOS at all.
6 So a POSITA doesn't have to know about
7 BIOS and doesn't even care.
8 84, files are managed by the
9 operating system. Yes, a POSITA would
10 know that, obviously, to be able to
11 write software, to do the archival and
12 restoration.
13 And then files have different
14 formats? Yes. In contrast, sectors
15 do not have such requirements. And
16 there we go again. The rest of it,
17 the POSITA may not know because it's
18 all disk drive stuff.
19 I've been on cases where the
20 technology at issue is disk drives. A
21 POSITA would be different. So files
22 are hardware agnostic, independent.
23 Q. It's your testimony that
24 POSITAs in this case would have no knowledge
25 of disk drives?

1 MR. JAFFESS: Object to the
2 form.
3 THE WITNESS: Not at the level
4 that Long is operating in.
5 BY MR. MASON:
6 Q. Is it your opinion that a
7 POSITA would not be able to understand Long
8 and what he describes?
9 MR. JAFFESS: Object to the
10 form.
11 THE WITNESS: Okay. I am
12 opening Long, which is 1004. So I am
13 looking at that. And it's dealing
14 with sectors. Sectors, sectors,
15 sectors. I am looking, CRC.
16 BY MR. MASON:
17 Q. My question is: Would a POSITA
18 be able to understand Long and what's
19 described in Long?
20 MR. JAFFESS: Same objection.
21 THE WITNESS: Not necessarily
22 at all. So it began with all the
23 stuff about disk drives and sectors
24 and tracks and whatever.
25 I've had a lot of engineers who

have dealt with operating systems -- not operating systems, but writing code at high level, and they don't know what a track is.

Q. Is it your testimony that a POSITA would not be able to understand Long and what it teaches?

MR. JAFFESS: Object to the form.

THE WITNESS: At the very cursory level, meaning they can understand, like, for example, let me read the beginning.

It's all dealing with -- so in order for the -- in order for the POSITA to understand Long, a POSITA would have to dig down and get into the audit header and audit buffer and all those things, which deal with sectors and CRC and all of this other stuff. And now that's not their experience.

Everyone can read English. Engineers, they're smart. They can sit down and read it. Will they

1 understand the words? Yes. Will they
2 understand all the low level
3 intricacies of this to the point where
4 they can actually use it to implement
5 something else that's file based?
6 BY MR. MASON:
7 Q. Would a POSITA have knowledge
8 sufficient to implement a system that
9 archived a file to a disk?
10 MR. JAFFESS: Object to the
11 form.
12 THE WITNESS: May I hear the
13 question again, please?
14 BY MR. MASON:
15 Q. Would a POSITA have knowledge
16 sufficient to implement a system that
17 archived a file to a disk?
18 MR. JAFFESS: Object to the
19 form.
20 THE WITNESS: That's a big
21 question. If a system has a disk
22 drive and no other motive or device
23 for storing data, then obviously it
24 would be in there. There's no choice
25 about that.

1 BY MR. MASON:
2 Q. So is it your testimony that a
3 POSITA would have knowledge sufficient to
4 implement a system, such that that system
5 saved a file to a disk?
6 MR. JAFFESS: Object to the
7 form.
8 THE WITNESS: Written without
9 any knowledge about any software or
10 whatever, if they're using Word or
11 Excel, and they're saving the data,
12 the data will go to the disk.
13 So that question is really --
14 it's immaterial.
15 BY MR. MASON:
16 Q. Is it your opinion would a
17 POSITA be able to implement a file-based
18 system such that it archived files to a disk?
19 MR. JAFFESS: Object to the
20 form.
21 THE WITNESS: The software in
22 question, would call the operating
23 system. So it -- we call the
24 operating system to open the file.
25 The operating system will then

1 go, will use the file system software
2 and then the drivers and BIOS and go
3 to the disk and the disk firmware and
4 all of that through the chain and open
5 the file.
6 So -- but, this POSITA is
7 working with the operating system
8 open.
9 All these other details that
10 involve the disk, they are hidden in
11 layers of abstraction. That's how
12 software works. Abstraction layers.
13 The POSITA in this case is
14 working at the highest level of
15 abstraction, which means all the
16 details are hidden. And we're looking
17 for a question like, oh, is the data
18 written on the disk? Well, where
19 would it go then? Of course it's
20 written on the disk.
21 But that's not what the POSITA
22 is concerned with, in terms of all the
23 details. Because the details -- of
24 how the data is actually stored on
25 that disk.

1 Because the operating system
2 takes care of that and then below the
3 operating system, the different layers
4 of the abstraction. It's a
5 hierarchical system.
6 BY MR. MASON:
7 Q. Just so I understand, is it
8 your understanding that a POSITA would have
9 no knowledge of how the system operates below
10 the operating system?
11 MR. JAFFESS: Object to the
12 form.
13 THE WITNESS: That's not what I
14 said.
15 BY MR. MASON:
16 Q. Would a POSITA have knowledge
17 of how the system operates below the
18 operating system when writing a file to disk?
19 A. Depends on the POSITA and the
20 POSITA's background. For the definition that
21 we have in here, all that POSITA needs to
22 know is what the operating system functions
23 to call.
24 The services provided by the
25 operating system, okay, to -- if it's written

1 in some high-level programming language, then
2 there's a library that comes from Microsoft
3 or whatever, it's an open file or the
4 programming language. That's all. I mean,
5 that's all this POSITA is concerned with.
6 In fact, the POSITA doesn't
7 even deal with the operating system in this
8 case.
9 The POSITA is writing some
10 code. That's if even the POSITA wrote the
11 code for this archival system. And I have
12 written this. So what would I be concerned
13 with? Let's say I'm writing it in JAVA or
14 whatever.
15 I have a code with JAVA that
16 says open file. That's it. That's all I
17 need to do just open file.
18 And what happens there? Well,
19 the library takes care of that eventually
20 calls the operating system.
21 As a POSITA, I don't even need
22 to deal with the operating system because the
23 library takes care of that for me. It's all
24 these abstractions.
25 Then the operating system deals

1 with the file system. Now we're looking at
2 clusters. Then we're looking at logical
3 blocks. Then we're looking, potentially, at
4 logical sectors, then possibly physical
5 sectors and BIOS.
6 Why do I, as a POSITA, writing
7 software to write to do a backup on -- from
8 disk to tape, why do I need to worry about
9 all of these details if from I have a
10 function provided by C or C++ or JAVA,
11 whatever.
12 It says open file, read this
13 block number from the file or read this
14 location, how many bytes, save it, we closed
15 file.
16 What motivation does a POSITA
17 have to know -- and if I am hiring an
18 engineer to write a backup system, the job
19 qualifications of this POSITA would not
20 include knowledge of disk drives at the level
21 that we're discussing here.
22 The sectors and the cylinders
23 and heads and tracks and all of this. Not
24 necessary. In fact, it's inapplicable. I
25 have hired those people myself. And I worked

1 as such myself, like all these different
2 layers.
3 That's my answer.
4 Q. So is it your opinion that I
5 POSITA would not have even would not even
6 require knowledge about how to make operating
7 system calls?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: If the user just
11 needs to deal with taking files and
12 archiving, removing a file from a disk
13 drive, putting it in a different
14 location on a different disk drive,
15 how does that work?
16 We call -- the chances are
17 there are functions when -- that deal
18 with the operating system. I want to
19 make a copy from -- from my hard disk
20 to my backup drive. I can do that
21 here without any computer programming
22 experience whatsoever, and just use
23 the user interface and drag and drop.
24 Well, the programmer is doing
25 this, writing the archival program,

they presumably would use a programming of some kind. Even in 2000 they'd be using a program. At that time it would probably be C.

I tell you that the file, the function to open a file is -- it hides all the details. If you give it the full file name, including the path and it deals with it, calls the operating system and the operating system goes down the step.

Close the file. They just read. They just write. And there are additional functions to copy files and to delete files and things like that all available in the programming language. This is 2000. Today is much more --

BY MR. MASON:

Q. Would a POSITA know how to implement that code to detect read or write compiled by other programs?

MR. JAFFESS: Object to the form.

THE WITNESS: There -- what --

1 we go to the next level. What the
2 POSITA would have to do at that point
3 would be to intercept to write code
4 that intercepts calls. The operating
5 system calls for the file system.
6 For example, the user would --
7 so in those days, the easiest way is
8 there is an interrupt. If a user says
9 open file and then close and whatever,
10 eventually those calls go to the -- go
11 to the DOS -- not DOS. Excuse me --
12 specific interrupt.
13 If a user wants to bypass all
14 of these functions from C and
15 whatever, it can write code and then
16 they can substitute the call, the
17 interrupt handler of interrupt 21,
18 they can reroute it to their own code.
19 So when a call is made to
20 interrupt 21 to say open a file or
21 close or read or write or save or
22 whatever, then the user code would be
23 executed.
24 And then when the user -- not
25 the user -- the detection code is

1 executed, is finished, then the code
2 would call the original operating
3 system interrupt handler to execute
4 whatever the call was and say read or
5 write or something.
6 So it's a matter of tracking
7 the interrupt to process the file
8 instructions.
9 And the interrupt itself --
10 when the interrupt is processed, the
11 parameters for the interrupt are
12 stored in registers, process
13 registers.
14 And then the code would look at
15 these registers to determine
16 information about the file being open,
17 closed or what have you. And then it
18 would do the necessary things, for
19 example, to make a copy of the file or
20 whatever else is needed.
21 So the interaction with the
22 operating system comes in the form of
23 interrupt and doing something and then
24 letting the interrupt handler of the
25 operating system do work as well.

1 And that's what we're talking
2 about. And I've done it.
3 BY MR. MASON:
4 Q. Is that interrupt handling at
5 the operating system level?
6 MR. JAFFESS: Object to the
7 form.
8 THE WITNESS: The interrupt
9 handler in those stages is part of the
10 operating system, which could be a
11 different driver that was added later.
12 For example, if the system has
13 some additional device drivers for
14 specific drives that say optical drive
15 or something. So that's how it works.
16 BY MR. MASON:
17 Q. If you're dealing with an
18 optical drive -- driver, what level of the
19 hierarchy would that be at?
20 A. The operating system provides
21 functions to applications. Those functions
22 are like read, open file, read, close,
23 delete, this kind of thing.
24 And the easiest way is to
25 provide those functions, hide them by

1 providing a library that the user can call,
2 like C libraries, and then they call the
3 operating system or the applications can also
4 call the operating system interrupts
5 directly.
6 And in that case, the interrupt
7 is executed. But before the interrupt is
8 executed, parameters are filled in in the
9 registers. So the code receiving the
10 interrupt would know what to do.
11 And then after that, it's all
12 hidden. So access to clusters and whatever,
13 that's below this level. It's abstracted.
14 It's below that level.
15 So that interrupt 21 that I
16 just described, that is still at the
17 operating system level. Interrupt 21
18 operates at a higher level than sectors and
19 heads and things like that.
20 MR. MASON: Let's take a
21 ten-minute break.
22 (Break taken.)
23 BY MR. MASON:
24 Q. Are you ready to resume your
25 deposition, Mr. Jawadi?

A. Yes, sir, I am.
Q. Did you have any communications with counsel for Datanet while we were on break?
A. No, I did not.
Q. All right. Could I invite you bear with me for just a second.
Are you familiar with the term "memory buffer"?
MR. JAFFESS: Object to the form.
THE WITNESS: Memory buffer in what context? Can you show me where in my declaration?
BY MR. MASON:
Q. Are you familiar with the term "memory buffer" with the term "file management"?
MR. JAFFESS: Object to the form.
THE WITNESS: I need specific context.
BY MR. MASON:
Q. And if I don't give you context, are you unable to tell me an

1 understanding of the term "memory buffer"?
2 MR. JAFFESS: Object to the
3 form.
4 THE WITNESS: It depends on
5 context, for sure.
6 BY MR. MASON:
7 Q. Would a POSITA have an
8 understanding of the term "memory buffer"?
9 MR. JAFFESS: Object to the
10 form.
11 THE WITNESS: Again, it depends
12 on context.
13 BY MR. MASON:
14 Q. I invite you to go to
15 Exhibit 1014, which is Kenley.
16 A. Okay.
17 Q. I invite you to call on 19,
18 lines 14 to 15.
19 A. I am going there. 19. And
20 then I'm sorry. The line numbers.
21 Q. On 19, lines 14 to 15.
22 A. I'm looking at Exhibit 1014.
23 Am I in the right place?
24 Q. Exhibit 1014, column 19, lines
25 -- are you looking at Exhibit 1014 in the 348

1 patent proceeding?
2 MR. JAFFESS: Can we go off the
3 record for just a moment? And I'll
4 explain why.
5 (Discussion off the record.)
6 BY MR. MASON:
7 Q. Mr. Jawadi, do you now have in
8 front of you what's U.S. Patent No. 5276867
9 to Kenley?
10 A. I do.
11 Q. Great. And are you at column
12 19 of that patent?
13 A. Yes, I am.
14 Q. And at lines 14 to 15, do you
15 see it discuss, quote, "The file system reads
16 the staged out blocks into main memory
17 buffers"?
18 A. Yes.
19 Q. In this context, what do you
20 understand memory buffers to mean?
21 A. Search, in case they have some
22 other definition. They don't define it as
23 far as I can see.
24 Q. Okay. And would a POSITA have
25 an understanding of the term "memory buffer"

as you see in this context of file-based backup systems?

A. Let me look in my declaration to see what I say about it. Memory buffer is in log.

Q. Any particular paragraph?

A. Yeah. I'm looking, for example, at paragraph 156.

Q. Okay. I am there. Just to clarify, is it your understanding that a POSITA would have an understanding of the term memory buffer?

MR. JAFFESS: Object to the form.

THE WITNESS: I would need to -- in the context -- I am fixated on context because of accuracy.

In what context? In what context are we referring to memory buffer?

BY MR. MASON:

Q. In the context of file-based backup systems. I'm just asking if a POSITA working with these types of systems in September 2000 would have an understanding of

1 the term memory buffer?
2 A. Let me give you just a simple
3 example of why I am fixated on context.
4 If I look at Kenley and I look
5 at line 14, it says -- okay. It says memory
6 buffers. But there is a word before it; main
7 memory buffers.
8 And likewise, in the following
9 line, line 15 of Kenley, that's column 19,
10 it's main memory buffer.
11 So again, context really
12 matters. It's a massive difference. Memory
13 buffer where? It's like saying memory.
14 Memory what? What kind of memory? Where?
15 What? So here, main memory buffer.
16 And in Long, it's probably
17 something else. So context matters. If you
18 give my me context, it helps in being
19 accurate.
20 Q. Would a POSITA working with
21 file-based systems have an understanding of
22 the term memory buffer?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: To the degree

1 that context is disclosed and not
2 vague, then the POSITA would have an
3 understanding.
4 BY MR. MASON:
5 Q. What context would be required?
6 A. For example, here is Kenley.
7 It says main memory buffers, okay? Main
8 memory buffers. That could actually mean two
9 different things.
10 But, for example, main memory,
11 that refers to main memory versus secondary
12 one, typically. I would have to look at the
13 rest of the this patent, Kenley, to determine
14 the exact meaning that they attribute to main
15 memory buffers. So context matters.
16 And likewise for Long. So that
17 is one meaning. I could go to Long and the
18 meaning may be slightly different. It just
19 doesn't work to just give blanket definitions
20 without context.
21 Q. Would a POSITA understand the
22 memory buffer to be implemented in RAM?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: It depends on

1 context. I would have to look at the
2 rest of the system.
3 BY MR. MASON:
4 Q. So is it your testimony today
5 that a POSITA working with file-based systems
6 would not know what the term memory buffer
7 meant unless they were given precise context
8 and a definition for that term?
9 MR. JAFFESS: Object to the
10 form.
11 THE WITNESS: A POSITA can
12 guess. But to be to be accurate and
13 precise, then a specific context is
14 needed. And here context is
15 important. We're -- this a legal
16 setting here.
17 BY MR. MASON:
18 Q. Is it your testimony that
19 memory buffer was not a term of art?
20 A. That's not what I said, and
21 that's also not what I meant.
22 Q. Was memory buffer a term of art
23 to a POSITA in 2000?
24 MR. JAFFESS: Object to the
25 form.

1 THE WITNESS: It still is a
2 commonly used term, just like memory.
3 BY MR. MASON:
4 Q. What was the commonly used
5 meaning of that term in 2000, memory buffer?
6 MR. JAFFESS: Object to the
7 form.
8 THE WITNESS: It depends on
9 context. Again, it's a general, just
10 like memory. What is memory? If you
11 want a precise definition, depends on
12 context.
13 BY MR. MASON:
14 Q. In the context of Long, what
15 would a POSITA understand the memory buffer
16 to be?
17 A. Long. I'm still looking.
18 Okay. For example, in Long, which is
19 Exhibit 1004 for this IPR, column 7, line 44,
20 says:
21 "Audit system appends data to a
22 semiconductor memory buffer prior to
23 writing the data to the audit
24 partition on the hard disk, which is
25 significantly slower. When the memory

1 buffer is full" -- et cetera.
2 So, so far, there is no
3 specific definition of this buffer,
4 memory buffer, except that it's a
5 semiconductor memory semiconductor
6 memory. And it is faster than the
7 hard disk because Long said the hard
8 disk is significantly slower.
9 So all we know so far is that
10 it's some kind of memory buffer
11 somewhere in the system. In other
12 words, it's some kind of memory in the
13 system in the computer somewhere.
14 And because the content of the
15 buffer memory is stored to disk at
16 some point, presumably local disk,
17 then it must be in the main memory of
18 Long's system.
19 Q. And by main memory, are you
20 talking about the RAM?
21 A. Most likely it is RAM, but it
22 doesn't specifically state that most likely
23 it's RAM.
24 Q. And then in 2000, would you
25 have had an understanding of the term memory

1 buffer?
2 MR. JAFFESS: Object to the
3 form.
4 THE WITNESS: Generically or in
5 this context?
6 BY MR. MASON:
7 Q. In this context.
8 A. In this context, reading Long,
9 it's a portion of memory that's used to
10 buffer data. That's why it's called memory
11 buffer.
12 Q. And generically, was there a
13 known meaning of the term memory buffer in
14 the year 2000?
15 A. I hesitate to say that. I'll
16 give you an example. A hard disk would have
17 memory buffer, literally. Where is it? It's
18 on the hard disk itself.
19 When data is sent to the hard
20 disk, the hard disk would take this -- the
21 data that the hard disk is receiving, puts it
22 in memory buffer and then writes it to the
23 hard disk, to the actual medium.
24 Q. In that instance, however, is
25 the memory buffer on the hard disk RAM or is

1 it actually the disk itself?
2 A. No, no. It's RAM.
3 Q. Okay. So it is RAM. And that
4 goes to one of my questions.
5 You had you ever encountered
6 memory buffer being used to describe
7 something stored on a disk?
8 MR. JAFFESS: Object to the
9 form.
10 THE WITNESS: I mean, if I had
11 to bet, someone did. Because
12 sometimes people are sloppy and they
13 are not very accurate or maybe even
14 they intentionally do that for some
15 reason.
16 The term memory can be used.
17 And, in fact, for many years it was
18 used to -- there is primary storage,
19 secondary storage and some people
20 called it primary memory, secondary
21 memory and confuse it had with some
22 other types of storage. So that's why
23 I like context.
24 BY MR. MASON:
25 Q. Yeah. And I understand there

1 might be atypical usage of the term.
2 But my general understanding of
3 memory buffer is it was RAM that could be
4 used for a variety of purposes by the
5 operating system or applications within a
6 given system.
7 Do you have a different
8 understanding of that term memory buffer in
9 the year 2000?
10 MR. JAFFESS: Object to the
11 form.
12 THE WITNESS: That's your
13 definition. I would not come up with
14 that unless I know the context
15 precisely, then I would investigate
16 and come up and formulate words that
17 are very precise and specific to the
18 context.
19 BY MR. MASON:
20 Q. So is it your opinion that
21 without specific or precise context, you
22 would be unable to offer an opinion as to
23 what the term memory buffer might mean in the
24 year 2000?
25 MR. JAFFESS: Object to the

form.

THE WITNESS: I am -- I am able to. But it wouldn't be accurate, necessarily.

And my practice is to provide accurate and truthful information and not do so in a hurry or in an impromptu sort of fashion without the proper research and proper formulation.

BY MR. MASON:

Q. If a POSITA was working for you in the year 2000 asked you what a memory buffer was, how would you answer?

MR. JAFFESS: Object to the form.

THE WITNESS: In what context?

BY MR. MASON:

Q. In the context of a file-based system.

A. Memory buffer where?

Q. Without somebody providing specific details as to where the memory buffer was located and what function it performed, you would have no opinion in the

1 year 2000 as to what the term memory buffer
2 might mean generically?
3 MR. JAFFESS: Object to the
4 form.
5 THE WITNESS: The best engineer
6 I ever worked with was someone who
7 always asked. And I go to him, I say,
8 okay, give me X. And then he would
9 ask me a lot of questions; how are you
10 going to use X? What is X for? Will
11 it be used for whatever.
12 And then when he's done
13 providing me X, it's precisely what I
14 need. And rather than going through
15 this process of guessing -- and that's
16 what I try to emulate to -- to -- to
17 understand context and then provide
18 response, whether that is in designing
19 something or writing something or
20 saying something when it comes to
21 important -- important work.
22 BY MR. MASON:
23 Q. Is it your opinion that in the
24 year 2000, file-based backup systems had the
25 ability to restore individual files?

MR. JAFFESS: Object to form.
THE WITNESS: May I hear the question again, please?
BY MR. MASON:
Q. Yeah. Is it your opinion that in the year 2000, file-based backup archive systems were able to restore individual selected files, if needed?
MR. JAFFESS: Object to the form.
THE WITNESS: Some of it, yes. But I would need to know the specific product and circumstances.
BY MR. MASON:
Q. In the year 2000, in order to restore individual selected files, would a file-based backup system need to know location information for such a file?
MR. JAFFESS: Object to the form.
THE WITNESS: I don't understand. The question is vague.
BY MR. MASON:
Q. What is vague about the question?

1 A. What does location mean?
2 Q. What do you understand location
3 information to mean with respect to a file?
4 A. First of all, when referring to
5 something to restore, are you referring to
6 the file to the -- where it's being stored
7 from or being restored to? Or is it what
8 media it's on? Is it what device it's on?
9 The list just goes on and on like that.
10 Q. I will rephrase my question.
11 In the year 2000, in order to restore
12 individual selected files, would a file-based
13 backup system need to know from where the
14 file was being restored?
15 MR. JAFFESS: Object to the
16 form.
17 THE WITNESS: What do you mean
18 an individual selected file?
19 BY MR. MASON:
20 Q. Can I invite you to
21 paragraph 61 of your 348 declaration?
22 A. Paragraph 61?
23 Q. Correct.
24 In paragraph 61, do you see in
25 the second line how you discuss the ability

1 to restore individual selected files if
2 needed?
3 A. Okay. I understand the context
4 now.
5 Q. And in that context, to restore
6 individual selected files, would the
7 file-based backup archival system need to
8 know the location of that file being
9 restored?
10 MR. JAFFESS: Object to the
11 form.
12 THE WITNESS: May I hear the
13 question again, please?
14 BY MR. MASON:
15 Q. Yeah. To restore an individual
16 file, would the file-based backup archive
17 system need to know the location from where
18 the file was being restored?
19 MR. JAFFESS: Same objection.
20 THE WITNESS: When you say the
21 system needs to know, what system are
22 you referring to?
23 BY MR. MASON:
24 Q. The file-based archive system
25 that you discuss in paragraph 61?

A. It depends on the system.
Q. How does it depend on the system?
A. Let's say the backup was done to a tape, and the -- and the system has a directory of all of the different files that have been backed up. So all the user has to do is point to that particular file from the directory and grab it back, for example.
Q. And in that example, is the system directory tracking the tape and location on the tape of where that file has been backed up?
MR. JAFFESS: Object to the form.
THE WITNESS: Depends on the system.
BY MR. MASON:
Q. How does it depends on the system?
A. Where is the directory stored? Who wrote the directory? What is in the directory? Is this a direct access device like a disk drive or a sequential disk drive device like a tape? And the list just goes

on and on like that. It just varies a lot.

Q. Does the file-based backup archive system you discuss in paragraph 61 of the 348 declaration need to know where the backup file is in order to restore from that backup file?

MR. JAFFESS: Object to the form.

THE WITNESS: It depends on the system. It depends on the context and the implementation.

BY MR. MASON:

Q. Would a file-based archive system be able to restore a file from an archived file without knowing the location of that archived file?

MR. JAFFESS: Object to the form.

THE WITNESS: It depends on the system. For example, let's say that the system keeps track of all the archive files on their locations and whatever.

And in that case, there is a record of where everything is. But

1 I'll give another example. Let's say
2 a system doesn't keep track of the
3 individual files. Instead, it just --
4 it writes those files, it appends
5 backups, it keeps appending, then it
6 only keeps track of the first and the
7 last.
8 So let's say that the system
9 keeps appending. So here is a file.
10 Here is a file, file, file, file and
11 it keeps that somewhere in a memory
12 buffer.
13 And then it has a header of
14 some kind that keeps track of only the
15 first and the last location of these
16 individual backups.
17 So now this header here doesn't
18 actually have any of these locations
19 to go to. So in that kind of system,
20 just looking at the header itself,
21 there is no way to determine where a
22 specific file is.
23 So if the design of the system
24 is such that only the first and the
25 last and then every time a new file is

1 backed up, it's appended at the end
2 and the header only keeps track of the
3 last one, then something else has to
4 be taken -- has to be taken advantage
5 of to be able to locate the file.
6 But if someone says, all you
7 have is this header to go locate, then
8 -- which is the case in some
9 implementations, then in that case,
10 there is no -- there is no way to
11 just -- from that header -- to
12 determine the location of the files,
13 because the header doesn't have the
14 locations of the files. What it has
15 is the first and last.
16 So that's an opposite example.
17 BY MR. MASON:
18 Q. So are you saying in that
19 instance, there would be an inability to
20 restore individual selected files other than
21 the first saved and most recently saved
22 backup copy?
23 MR. JAFFESS: Object to the
24 form.
25 THE WITNESS: If it's -- if

1 someone says only -- here is the
2 header, and from the header determine
3 the location of all the different
4 files that have been backed up, it's
5 not feasible because -- because
6 that -- that header does not have a
7 full list.
8 So let's say the system is
9 intended to add a database of all the
10 different locations of the files,
11 let's say.
12 But the design is such that
13 only the first and the last files are
14 kept track of, but nothing else in
15 them.
16 So that, if we call that a
17 database -- first of all, it's not
18 much of a database because it only has
19 two entries. It's really not a
20 database at all for that reason alone.
21 And the second reason is there
22 is no way to determine where the
23 location of the files are because this
24 supposed database only keeps track of
25 the first and the last. And as files

1 are being appended, even the last is
2 not stable.
3 In that system, that supposed
4 database is unusable.
5 BY MR. MASON:
6 Q. So I understand correctly, you
7 described two possible options for these
8 file-based archive systems in the year 2001
9 in which the system keeps track of all the
10 archived files and their locations, and
11 another in which there is only information on
12 the first saved and most recently saved
13 archive files; is that correct?
14 A. First and last, yes. First
15 saved and last saved.
16 Q. Okay. Other than those two
17 possible options, were there any other
18 options in the year 2000?
19 MR. JAFFESS: Object to the
20 form.
21 THE WITNESS: This is what
22 comes to mind right now. I'm sure
23 that there are other ways to implement
24 just about anything. Give an engineer
25 a challenge and here we go.

1 My wife can attest to that.
2 She's a brilliant engineer. And I ask
3 her a question, she comes up with five
4 solutions.
5 BY MR. MASON:
6 Q. But sitting here right now,
7 those are the two options that you can think
8 of; is that correct?
9 I just want to -- yeah -- make
10 sure you don't have something else in mind,
11 but you're not sharing it?
12 MR. JAFFESS: Object to the
13 form.
14 THE WITNESS: Given enough
15 time, I'm sure I can. If my wife was
16 here, maybe I could ask her for some
17 ideas.
18 BY MR. MASON:
19 Q. If only we were so lucky?
20 A. She's brilliant. I am so
21 lucky.
22 Q. Okay. Yeah. Yeah. I don't
23 have any further questions.
24 MR. JAFFESS: Can we have,
25 like, a three-minute break?

1 MR. MASON: Yeah, of course.
2 You can take five if you want.
3 (Break taken.)
4 MR. JAFFESS: Okay. I just
5 have a couple questions, if we can go
6 back on the record.
7
8 EXAMINATION
9 BY MR. JAFFESS:
10 Q. For the record, the rules in
11 IPRs do allow people to communicate after
12 cross is closed.
13 Have we communicated since the
14 break, Mr. Jawadi?
15 A. You mean right now?
16 Q. Yes. In the five minutes since
17 we took a break, have we communicated at all,
18 sir?
19 A. No.
20 Q. You didn't communicate with Mr.
21 Lewis either, correct?
22 A. I didn't communicate with
23 anyone.
24 Q. Very briefly -- and I'd like
25 you to open up your declaration from the 850

1 case. It says the IPR, ending 80.
2 A. I'm going there. Yes, sir.
3 Q. And I'd like to direct you to
4 paragraphs 51 to 55.
5 A. I'm there now.
6 Q. Earlier you were asked about
7 the disclosure in the 850 or the related
8 application regarding the restore. And I
9 believe at the time you had said that you
10 couldn't recall disclosure to that effect.
11 Do you remember this testimony?
12 A. Yes. It was a bit more
13 specific than that, though.
14 Q. Okay. Do the contents of
15 paragraph 51 to 55 in your 850 declaration
16 refresh your recollection regarding
17 disclosures in the 850 patent and associated
18 application?
19 MR. MASON: Objection to the
20 form.
21 THE WITNESS: I forgot what the
22 question was about, that we're
23 referring to here.
24 BY MR. JAFFESS:
25 Q. I can read you a rough quote if

1 that would help.
2 A. Yes, please.
3 Q. Does the 850 patent provide any
4 description of the restoring step quoted in
5 paragraph 55 -- strike that -- in
6 paragraph 65 of your declaration? Objection.
7 Sitting here, I don't recall.
8 That was the start of your
9 answer and then you talked about a POSITA's
10 understanding.
11 A. I think that --
12 MR. MASON: Object to the form.
13 THE WITNESS: -- I think that
14 the question was maybe a little bit
15 different because I know those -- of
16 course it does right here.
17 But I think maybe the question
18 was a little bit more -- more -- it
19 had something else.
20 But if what you just asked me,
21 obviously, it's here and it's
22 extensively here.
23 MR. JAFFESS: No further
24 questions.
25

1 FURTHER EXAMINATION
2 BY MR. MASON:
3 Q. Just to make sure I understand,
4 Mr. Jawadi, what do you mean, "it's here and
5 it's extensively here"? What are you
6 referring to?
7 A. I wish we could go back to that
8 question, the way you asked it. If we can
9 find that question.
10 Q. Well, yeah. I am not going to
11 try and find that question right now. I
12 apologize.
13 But I think we were -- you
14 were -- am I correct that you -- you were
15 just discussing with Mr. Jaffess whether
16 there was disclosure in the 850 or the
17 related application regarding the restore
18 step that you discuss in paragraph 65 of your
19 850 declaration?
20 Is that your understanding?
21 A. Let me go to 65. Okay. So let
22 me just go back to 51. Okay. So the
23 question was -- my understanding of the
24 question was that the current version has to
25 be reflected in the remote storage. I

1 believe that was the context of what we were
2 discussing.
3 Is that correct or not?
4 Q. Yeah. I worry that the context
5 has been lost, so --
6 A. Okay.
7 Q. I think I withdraw my question.
8 A. Yeah. Because if that was the
9 line of -- if that was if the line of
10 questioning was this restore. A function
11 offered in the 850 disclosed or described in
12 the 850 or 221 Application.
13 Well, it's obviously -- I mean
14 that's so germane to the invention, so
15 definitely, yes. I mean that was not my
16 understanding of the question.
17 Q. Okay. So you're saying it was
18 so germane to the alleged invention that --
19 sorry. Strike that.
20 What are you opining was so
21 germane to the alleged invention, Mr. Jawadi?
22 A. The ability to restore. The
23 ability to restore, including restore that
24 the current version, that is germane.
25 I mean, obviously, this is --

this kind of capability is integral to the 850 and the 221.

Q. But as part of that your opinion that this restore step requires some kind of action on the remote storage location, correct?

MR. JAFFESS: Object to the form.

THE WITNESS: Was that the question, Mr. Jaffess?

BY MR. MASON:

Q. I'm just asking that question now, your opinion. I think we're all focused on paragraph 65. And you're discussing that restore step in paragraph 65 of your declaration, your 850 declaration, correct?

A. Yes. 850 declaration.

Q. Thank you, sir.

And so my question is: Your opinion regarding that restore step is reflected in paragraph 65 is that in addition to some action on the local storage location, it also requires an action on the remote storage location; is that correct?

MR. JAFFESS: Object to the

1 form.
2 THE WITNESS: Yes. So -- yes
3 that happens. And I described very
4 thoroughly in my deposition today --
5 my testimony.
6 BY MR. MASON:
7 Q. Yeah. And I think my question
8 to you during the deposition which Mr. -- and
9 I understand Mr. Jaffess asked you about was
10 where in the 850 patent or the 221
11 Application does it describe that type of
12 restoring?
13 A. Okay.
14 Q. As you understand the term
15 restoring in paragraph 65.
16 A. So, yes. If I may have just a
17 minute to review something quick. Okay.
18 Okay. So I'd like to read -- the question
19 was regarding that implicit action done at
20 the remote storage.
21 When restoration occurs, what
22 happens at the remote storage, whether the
23 current version is indicated there or not.
24 And now -- and I didn't recall.
25 Now I am going to read paragraph 54 from my

1 declaration. This is, again, the 850 patent,
2 the Exhibit No. 2004, that's my declaration.
3 I am reading paragraph 54.
4 "As a result of these
5 operations, the version of the file being
6 replaced on the user's PC is backed up in the
7 Accusafe drive as the second most recent
8 prior version, while the restored version,
9 which becomes the current version on the
10 user's PC also.
11 "PC also becomes the most
12 current version in the Accusafe drive. See
13 also" -- and there is a reference to the
14 patent -- "capturing file in response to an
15 operation on the file and also another
16 citation file capture involves creating an
17 archive file of the captured file."
18 And similarly, page 55:
19 "When the user makes changes to
20 the restored and now current version the file
21 on the user's PC, such changes are reflected
22 back in the Accusafe drive, so that the
23 change current version on the user's PC is
24 again also present in the Accusafe drive as
25 the most current version they're in."

1 So 54, paragraph, 54 from my
2 declaration supercedes my "I don't recall"
3 answer to the question I was asked.
4 Q. Yeah. Is that the only support
5 you're aware of for this notion that the
6 restore step involves some type of action on
7 the remote storage location, as expressed in
8 paragraph 65 of your 850 declaration?
9 A. I would need to go my
10 declaration again and 850 patent and the 221
11 Application again to answer that question.
12 Would you like me to do that.
13 Q. Please. Go ahead.
14 A. Yeah. I just thought of
15 something else. The way that the restoration
16 works, is that a file -- we go back to the
17 scenario that we had.
18 The specification of the 850,
19 the way that -- bay the way the specification
20 of the 850 patent is identical with the
21 exception of maybe a couple of words, to the
22 348 and to the 348 specification as well.
23 And the point is that when a
24 file is -- file operation is performed, a
25 backup is automatically performed.

1 So what happens with the 850,
2 in light of the specification, when the file
3 restore happens, it has to obviously go
4 through the operating system to restore the
5 file because that's how file writes work.
6 This is a file-based archive system.
7 So the file coming from comes
8 from the remote storage and goes through the
9 operating system to be written to the to be
10 written.
11 That operation, while it's
12 being written, it's automatically trapped,
13 detected by the file modification detection
14 as described by the specification, which is
15 in the 850 patent, and then automatically at
16 that point that file is uploaded to the
17 remote storage. It automatically happens.
18 In fact it's not just in the
19 850 specification, but it's explicitly
20 described. Because any time something
21 happens to a file, whether it's overwritten
22 or updated or whatever, saved, it is
23 automatically updated to the remote storage.
24 That is far better than just
25 about any other description I could think of

1 right now. Because it's a very solid. It
2 happens automatically. The 850, I can point
3 to the specific language in the 850.
4 Q. Before I can ask you to point
5 to the specific language, your testimony is
6 that the claim requires that there be an
7 automatic trap and detection by the file
8 modification system and then automatically,
9 at that point, the file is uploaded to the
10 remote storage location and that's required
11 by Claim 1 of the 850 patent, by the restore
12 step?
13 A. Well, it's described in the
14 specification. That's how the system
15 operates. The system automatically detects
16 anything that happens to the file involves
17 changing the file, and that detection
18 mechanism causes the file to be uploaded to
19 the remote storage.
20 So it's actually perfectly
21 described in the specification. And if you
22 just give me a minute, I'll point to the
23 exact locations within the 850.
24 I'm so glad we asked that
25 question and you let me investigate because

1 this is important, I think.
2 So, for example, I'm looking at
3 right now at Exhibit 1003, which is the 850
4 patent. I am looking at column 3. I am
5 going to read now from -- from starting
6 line 31:
7 "The method includes in a
8 computing device detecting an
9 instruction from resident program to
10 form an operation on an operating
11 file. Upon detection of the
12 instruction, capturing the operating
13 file temporarily proximate to the
14 operation being performed in the
15 operating file" -- describes exactly
16 what is in my declaration just
17 perfectly so.
18 And I will continue reading
19 from the same column, column 3, and
20 now, starting line 45:
21 "The method includes detecting
22 an instruction from a resident program
23 to perform an operation on an
24 operating file."
25 And then:

1 "Responsive to" -- and "the
2 method further includes creating
3 archive file from the operating file
4 and storing the archive file in a
5 first storage location temporarily
6 proximate to the operation being
7 performed in the operating file and
8 responsive to detecting the
9 instruction."
10 So then the rest of it,
11 obviously, it -- then the file gets
12 uploaded to the remote storage.
13 Next -- and then, this is now
14 page column 5, line 22:
15 "Preferably the operating file
16 is captured within a few clock cycles
17 of detection of the instruction."
18 And obviously later, archive
19 file goes to the remote.
20 So even if even if the -- the
21 archive software itself doesn't do it
22 automatically, as I indicate in my
23 declaration, which it does, the file
24 will still be uploaded.
25 And because of all these

1 disclosures in the specification of
2 the 850 -- so now we have not just --
3 not just some -- not just the
4 citations that I have in the
5 declaration, but citations to how it
6 can actually happen as well, described
7 in the -- in this specification, in
8 detail, multiple times.
9 Q. Is it your requirement that
10 each claim of the 850 patent requires every
11 aspect of the system that's described in the
12 850?
13 A. That's not what I said. But
14 the system -- the system -- first, the
15 procedure would understand that the current
16 version has to be in both places and we
17 described that in detail.
18 Q. Excuse me, Mr. Jawadi. What is
19 your support for that statement, though, in
20 the 850 patent?
21 A. Which?
22 Q. First of all, where does the
23 850 patent say that in every instance of this
24 implementation the current version has to be
25 in both places?

A. What I am saying is the specification itself, not the claim, but the specification describes one way to implement -- one way to implement the -- this synchronization between the local and the remote.

MR. MASON: I have no further questions.

MR. JAFFESS: No further questions.

(Whereupon, the deposition concluded at 5:33 p.m.)

CERTIFICATE

I, Mary C. Soldati, Registered Professional reporter, Oregon and Washington Certified Shorthand. Reporter, hereby certify that at said time and place, I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were transcribed through computer-aided transcription by me to the best of my ability; and that the foregoing pages constitute a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof.

In witness whereof, I have hereunto set my hand this 10th day October, 2024.

Mary C. Soldati, RPR
CSR-WA No. 3406
Expires April 20, 2025
CSR-OR No. 19-0457
Expires September 30, 2025

1 Reference No.: 11801488
2
3 Case: DROPBOX, INC. V. DATANET, LLC
4
5 DECLARATION UNDER PENALTY OF PERJURY
6 I declare under penalty of perjury that I have read the entire transcript of my Deposition taken in the captioned matter or the
7 same has been read to me, and the same is true and accurate, save and except for
8 changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET
9 hereof, with the understanding that I offer these changes as if still under oath.
10
11 _____
12 Zaydoon Jawadi
13
14 NOTARIZATION OF CHANGES
15 (If Required)
16
17 Subscribed and sworn to on the _____ day of
18
19 _____, 20____ before me,
20
21 (Notary Sign)_____
22
23 (Print Name) Notary Public,
24
25 in and for the State of _____

Errata Sheet for the Deposition Transcript

Deponent: Zaydoon (Jay) Jawadi
Deposition Date: October 8, 2024
Case Name: Dropbox, Inc. v. Datanet, LLC
Reference No.: 11801488
Date Prepared: October 21, 2024

Reason Codes:

1. To correct transcription errors
2. To clarify for the record
3. To correct what I said with the intended words / meaning

Page	Line	From [current text]	To [should read]	Reason
37	21	That's not	An impromptu answer is not	2
40	15	"V"	"E"	1
49	11	With	which	1
49	15	Th	the	1
51	25	Disk drive	The disk drive	1 / 2
52	1	it fills up very quickly	fills up very quickly	1 / 2
57	12	is the prior to	is that prior to	1
57	17	more than 25.	more than 25 years.	2
58	4	are had	had	1 / 2
59	4	was	were	1 / 2
63	10	imbedded	embedded	1
71	22	imbedded	embedded	1
86	16	but definitions and	definitions and	2
105	24	local	remote	3
117	18	examples	the examples	1 / 2
127	7	And they could mean different	And that could mean different	1 / 2
145	1	was had	was	2
130	18	imbedded	embedded	1
139	20	navigate the stream	navigate the screen	1
146	21	type or disk	tape or disk	1
147	7	program utilize	programs utilize	1
148	1	Integration that Schneider	The integration that Schneider	1 / 2
169	8	the thoughts, the meaning, but	involved the meaning but	1

Zaydoon (Jay) Jawadi

October 21, 2024

Page	Line	From [current text]	To [should read]	Reason
170	8	as far as my analysis	as far as "my analysis"	2
182	6	as talking	as disclosing	1
188	18	combine and Long	combine Kenley and Long	1 / 2
192	24	to make it sector based	to make it filed-based	3
194	23	tank drives	tape drives	1
197	5	off-section within sectors	offsets within sectors	1
198	18	difference in between	difference in	2
208	8	It summarizes	To summarize	1 / 2
211	17	can store any time file	can store any type of file	1
214	9	disk trans also keep	disk drives also keep	1
218	7	for that 76	for paragraph 76	1 / 2
220	20	to backup an archive	to backup and archive	1
221	2	the fact that they are	the fact that there are	1
225	19	Then file consists	The file consists	1
229	22	no other motive or device	no other mode or device	1 / 2
233	15	have a code with JAVA	have code with JAVA	1
234	9	these details if from I	these details if I	1 / 2
234	14	we closed	we close the	1
236	2	programming	programming language	1 / 2
236	3	using a program.	using a programming language.	1 / 2
236	6	function to open a file is – it	function to open a file is open. It	1
236	11	down the step	down the stack	1
237	5	calls for the file system	calls the file system	1 / 2
237	15	it can write code and then	they can write code and then	1 / 2
238	4	the call was and say read	the call was, say read	1 / 2
238	6	matter of tracking	matter of trapping	1
238	12	process	processor	1
239	14	specific drives that say optical	specific drives, let's say optical	1 / 2
239	9	handler in those stages is part	handler in those years was part	1
244	5	in log.	in Long.	1
245	18	give my me context	give me context	1 / 2
247	15	this a legal	this is a legal	1
248	9	it's a general	it's a general term	1 / 2
251	21	and confuse it had with	and confused it with	1

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Zaydoon (Jay) Jawadi

Page	Line	From [current text]	To [should read]	Reason
256	6	being stored	being restored	1
259	22	archive files on their locations	archive files and their locations	1
269	10	this restore.· A function	this restore a function	1 / 2
273	9	go my	go to my	1
273	19	bay the way	by the way	1
275	16	to the file involves	to the file that involves	1 / 2
278	15	procedure	POSITA	1

October 21, 2024

Zaydoon (Jay) Jawadi