BEFORE THE PATENT TRIAL AND APPEAL BOARD

METACLUSTER LT, UAB,

Petitioner,

v.

CASE IPR2022-00687
Patent No. 11,190,622

BRIGHT DATA LTD.,

Patent Owner.

REMOTE DEPOSITION OF

JAMES OLIVIER, Ph.D.

Thursday, December 29, 2022

9:05 a.m. Central Standard Time

Reported By:

GRETA H. DUCKETT, CCR, RPR, CRR, CVR-S, RVR-M-S

JOB NO.: 6225

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December 29, 2022

9:05 a.m. Central Standard Time

Remote deposition of JAMES OLIVIER, Ph.D., taken stenographically by Greta H. Duckett, CCR, RPR, CRR, CVR-S, RVR-M-S.

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THE VIDEOGRAPHER: Good morning. We are now on the record. Today's date is December 29, 2022, and the time is 9:05 a.m. Central. This is the video deposition of Dr. James Olivier, in the matter of Metacluster LT, UAB, v. Bright Data, Ltd., filed in the Patent Trial and Appeal Board, case IPR2022-00687.

This deposition is taking place via web videoconference, with all participants attending remotely. My name is Brian Smith. I'm the videographer representing TransPerfect Legal Solutions.

Would counsel on the conference please identify yourselves and state whom you represent, beginning with the questioning attorney.

(Counsel stated appearances for the record.)

THE VIDEOGRAPHER: Our court reporter today is Greta Duckett,

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representing TransPerfect Legal Solutions. The court reporter will now swear in the witness.

JAMES OLIVIER, Ph.D.,

the witness, having first been duly sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

EXAMINATION

BY MR. DUNHAM:

Q. Good morning, Dr. Olivier.

A. Good morning.

Q. As you heard, I'm Tom Dunham. I'll be asking a series of questions today. And this is in connection with the declaration that you submitted in support of the IPR ending in 687 pertaining to the '622 patent.

I know from your resume you have done this many times. It looks like you have been deposed quite a few times and testified before. But just a basic reminder of the rules. I'll ask a series of questions. Particularly because this is being done remotely, I would ask you to pause a little bit before you answer, both so you can make sure the question has been finished and also in case

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your counsel needs to interpose an objection.

Does that make sense to you?

A. Yes.

Q. Great. Thank you. From time to time, there will be objections, I suspect. But unless you're instructed not to answer, please do answer the questions, notwithstanding any objection.

If I ask a question that's unclear or if you haven't heard something, please feel free to ask me to repeat or for clarification. I would rather resolve any ambiguities right now while we are together. It's much cleaner for the record and better for everyone involved. So can we agree that unless you ask me to clarify something, that you otherwise have understood my questions?

A. Yes, I will try.

Q. Great. Thank you. I would ask you if you've been deposed before, but I can tell you have. Have you been deposed remotely before?

A. Yes.

Q. Okay. Because of the remote circumstances, please, if you refer to anything

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that we cannot see on camera, please let us know, so that -- if you want to open or refer to a particular document or something, that's fine, but just please make a statement that you're looking at this reference or that exhibit just so we have a clear record since we're not in the same room to see what you may be referring to.

Can we agree to that procedure?

A. Sure.

Q. Okay. From time to time, we'll take a break. I try to break every hour. If you need a break at any time, please don't hesitate to ask. We'll probably have to finish up a question or two. But I know we're in very different time zones across the group here. I always strive to be sensitive to you, so if there's a particular time you need a break or lunch or something, again, please feel free to just speak up and we'll accommodate you.

Agree?

A. Okay.

Q. Okay. And we provided you previously, through your counsel, a link to all of the exhibits that we may discuss today. And

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is that something that you've had a chance to at least click on and, if necessary, download?

A. Yes. I downloaded the possible Olivier deposition exhibits.

Q. Perfect. Could you start by opening up Exhibit 1002, which is a copy of your declaration.

(Exhibit 1002 was marked for identification.)

A. I've got it up.

Q. Perfect. I just want to confirm for the record, is Exhibit 1002 a declaration that you prepared and signed in connection with your work in this matter?

A. Yes.

Q. Are there any -- sitting here today, are there any corrections that you've identified that you would like to make to your declaration before we get started in questioning?

A. Not that I'm aware of, but if I find some, I'll let you know as we go along.

Q. Okay. Fair enough. In connection with your work in this matter, how many hours have you spent in total?

A. No idea.
Q. Do you issue periodic invoices for the work that you do?
A. Yes, I do.
Q. Do you know -- have you spent more than 25 hours working on this matter?
A. I believe so, yes.
Q. Okay. Do you know whether you spent more than 50 hours working on this matter?
A. That's -- I have no exact knowledge of anything. I didn't go back and refresh myself on how many hours I spent on this, so I don't know the exact number.
Q. Okay. And with respect to Exhibit 1002 of your declaration, can you describe generally for me the process of how you prepared this declaration?
A. Sure. So, generally, I speak with the attorneys and I put together a draft and put the arguments in the draft. And then I put that under change control and let the attorneys review the document, make suggestions, and then, if I approve of them, I'll accept the changes; otherwise, I'll reject the changes.

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And then eventually it ends up to be this document.

Q. Did you, then, generate the first draft of your declaration?

A. I believe so, because that's usually my practice. I don't recall in this exact situation whether I did that or not, but that's typically my practice.

Q. Okay. If you could turn to page -- and I'm going to use the page numbers at the bottom right of the declaration where you say page X of total 132.

If you could turn to page 5 of 132. It's the exhibit list in your declaration.

A. Okay.

Q. So you list a number of exhibits here, Exhibit 1001 through 1019. Did you read each of those exhibits in their entirety?

A. I don't recall one way or the other. I know I reviewed them. I don't know if I read them all in their entirety or not.

Q. With respect to Exhibit 1001, which is the U.S. Patent 11,910,622, did you read the entirety of the '622 patent?

A. Yes.

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Q. And did you review the file history for the '622 patent?

A. I did review it.

Q. And did you review the file history for the '622 in its entirety?

A. No. I generally just look at the Office actions and not everything else that goes through. So I wouldn't say I reviewed all the documents that were cited by certain parties and stuff in other parts of it. I generally stick to the Office actions and the patentee's response to that.

Q. In your exhibit list you list Exhibit 1008, which is listed as the '511 file history.

Do you see that?

A. Right.

Q. Can you describe for me the level of review that you did for the '511 file history?

A. Just at a very high level, perused it.

Q. And you also then list Exhibits 1010 through 1014, a number of court documents. And my question is -- if you want

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to take them separately, that's fine. But my high-level question is: What level of review did you give to the various court documents that you listed as Exhibits 1010 through 1014?

A. I, again, reviewed them at a very high level to see the basics of what they said.

Q. Prior to your work in this particular matter, had you ever heard of Bright Data, Limited, whether by that name or by one of its earlier names, like Luminati or Hola?

A. No.

Q. And prior to your work on this matter, had you ever heard of Metacluster?

A. No.

Q. And prior to your work on this matter, have you heard of any of the companies that are identified as somehow related to Metacluster, such as Teso, Teso LT, Code200, et cetera?

A. No.

Q. Have you ever used the services -- the proxy services that are available from Bright Data?

A. No.

Q. Did you -- in connection with --

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strike that.

Have you ever used proxy services available from Metacluster or any of its related companies? And many people think of them available under the Oxylabs brand.

A. No.

Q. Did you do any research outside the information listed in your declaration that in any way informed your opinions in this case?

MR. LEVENTHAL: Form.

MR. DUNHAM: And let me ask a better question. Thank you for that, Daniel.

BY MR. DUNHAM:

Q. Are there any sources of information that you're relying on for the opinions that you presented in your declaration outside of the sources that are identified in your declaration?

A. No, I don't believe so.

Q. Would you please turn to paragraph number 38 in your declaration. And that's on page 19 of 132.

A. I'm there.

Q. Any time during the questions

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today, sir, if there are other portions of your declaration that you want to refer to, please feel free to do so. If I direct you to a particular paragraph, it's mostly to help give context to a question. But I just wanted you to know I'm not asking you to restrict your thinking to what I point you to. Okay?

A. Okay.

Q. In paragraph 38, you say you cite RFC 2616.

Do you see that?

A. Yes.

Q. What role, if any, did RFC 2616 play in informing you as to how you believe a person of skill in the art would understand the various terms that are used in the claims of the '622 patent?

A. It confirmed my understanding.

Q. And confirmed your understanding as to what?

A. As to how people of skill in the art would view the terms "client" and "server."

Q. Okay. So when you looked at RFC 2616, were you looking to try to see how the term "client" and "server" were used in the

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RFC?

A. No. I was using it confirm my general understanding of the term "client" and "server."

Q. And what was your general understanding of the terms "client" and "server" based on prior to your review of RFC 2616?

A. My experience in network protocols and network clients and servers that I have developed over the years.

Q. Was there a particular time frame that you applied in trying to determine how a person skilled in the art would understand the terms used in the claims of the '622 patent?

A. Yeah. I think I have the time frame in here that I was -- October of 2009.

Q. In paragraph 38 of your declaration, if you look down, there's a sentence that begins, RFC 2616 also confirms the role-based constructions for client and server as discussed in section VIII.A are correct, and then it continues.

Do you see that sentence?

A. Yes, I do.

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Q. And how did the quote that you've included there -- and the quote reads, Any given program may be capable of being both a client and a server; our use of these terms refers only to the role being performed by the program for a particular connection.

How did that particular phrase come to be included in paragraph 38?

A. How did that phrase come to be included in it?

Q. Why did you select that phrase for inclusion in paragraph 38?

A. Because I believe it supports the role-based constructions as discussed in section VIII.A.

Q. Okay. So were you looking at RFC 2616 for support for constructions that you discussed in section VIII.A?

A. I was looking at it, as I said before, to confirm my understanding. And if there was support for it, I put it in my declaration.

Q. And there's some bold language that's highlighted in that sentence in paragraph 38 that says, Our use of these terms

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refers only to the role being performed.

Do you see that?

A. Yes, I do.

Q. Did you choose to make that particular passage bold?

A. I don't recall one way or another.

Q. If you could look now at paragraph 39 in your declaration. And I'm interested in the diagram spilled over onto the next page. So if you just take a minute and skim that paragraph, then I have a few questions about it for you.

A. Sure.

Sure. Okay.

Q. What is your understanding of what is shown in the figure that you included at the end of paragraph 39? And that's the figure that's at the top of page 20 of your declaration.

A. That it is an illustration of a request chain that is, as described above, a more complicated situation than directly having a use agent go to an origin server. We have these intermediaries along the way, an A computer, a B computer, and a C computer.

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Q. So is it your understanding that the "UA" then shown in the request for response chain is a user agent?

A. Yes.

Q. And to you what is a user agent as you have included that in your declaration?

A. A user agent is a -- typically a web browser. A particular web browser has a particular user-agent designation.

Q. And then the A, B, and C, which I believe you indicated were three intermediaries, what is your understanding of what the three intermediaries A, B, and C are as shown in the figure in paragraph 39?

A. They are intermediary computers that are involved in a request chain between the user agent and the origin server.

Q. And then is the O over on the right, is that the origin server?

A. Yes.

Q. So with reference to the figure in paragraph 39 of your declaration, would you agree that the figure shows that the user agent can send a request to intermediary A?

A. Well, I guess I have to -- what do

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you mean by the user agent sending a request to intermediary A?

Q. Well, is it your understanding that this is a request/response chain?

A. Yes.

Q. So in connection with a request portion of the claim, would you agree that a user agent will send a request that will go to intermediary A as shown in the figure?

A. The request will pass to intermediary A, if that helps.

Q. Sure. So would a request leave the user agent and then go to intermediary A?

A. Yes.

Q. At that particular point in time, when a request leaves user agent and goes to intermediary A, would you agree that the user agent is operating in the role of a client with respect to intermediary A?

A. It's requesting information. So in that regard, it's acting as a client with the request to the request chain. I don't know if it's acting as a client in request to intermediary A. I think I need more context of what you are talking about.

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Q. When the user agent issues a request that goes to intermediary A, is it your understanding that the user agent is ultimately hoping for a response that it will subsequently receive from intermediary A?

A. It's my understanding it could or could not have any idea whether intermediary A is there or not. So I'm having difficulty -- in the request chain shown here, the user agent is requesting from the origin server and getting a response back from the origin server. I'm not aware that user agent A would know anything about intermediary A, B, and C necessarily. He may or may not be aware of them. That's why I'm having trouble answering your question.

Q. If the user agent is aware of intermediary A and the user agent sends a request to intermediary A, would you agree that in that context user A is operating in the role of a client with respect to intermediary A?

A. So if that's where he's requesting information from, then he's acting as a client by requesting information from user agent A. That's where he believes that his request is

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going.

Q. Okay. And in connection with that transaction, if user agent -- if the user agent is aware of intermediary A and sends a request for information to intermediary A, would you agree that intermediary A, under the role-based construction is operating as the server with respect to user agent?

A. So I have to clarify your question because I thought -- and it may not have been clear that in my response that user agent A is requesting the information from A, intermediary A, not that it's just receiving a request from it.

Q. Sure. So let's make sure the question is clear.

(Simultaneous speakers.)

(Technical discussion.)

BY MR. DUNHAM:

Q. In connection with the circumstance where the user agent knows that it is sending a request for information to intermediary A, as shown in the figure in paragraph 39 of your declaration, would you agree that under the role-based constructions, intermediary A would

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be operating in the role of a server with respect to the user agent?

A. So can we break down your question a little into different chunks? Because intermediary A could know he's sending a request for information from A or he could, as I said before, know he's sending a request to origin server O and be unaware or aware that it's passing through A.

So which one of those scenarios is your question referring to?

Q. Sure. So what I'm interested in, as is shown in Figure 9, there's a request chain that shows a first connection between the user agent and intermediary A.

Do you see that?

A. Yes.

Q. So in order for you to tell me whether intermediary A is operating in the role of a server when it receives a request from the user agent, are you telling me that you would also have to know whether the user agent knows of intermediary A?

A. No. I was just trying to understand your question.

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Q. Well, I've asked it now twice. I'll ask it a third time. And I'm going to really be picky about if you think there's additional information you need to know in order to make the assessment of whether intermediary A is operating in the role of a server. I'm going to want you to clearly tell me what that information it.

So let me give you the question again. The question is: As shown in the figure you included in paragraph 39 of your declaration, if user agent sends a request for information to intermediary A, is intermediary A operating in the role of a server with respect to the user agent at that point in time?

A. It is operating as a server by receiving and handling that request for information.

Q. Okay. Perfect. Now, would you agree, then, that the request chain that you included in paragraph 39 of your report subsequently then shows that intermediary A can pass that request along to intermediary B?

A. Yes.

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Q. So at that point in time, where intermediary A is sending a request for information to intermediary B, is intermediary A operating in the role of a client with respect to intermediary B?

A. Yes.

Q. Okay. And in connection with that same transaction where intermediary A sends a request on to intermediary B, is intermediary B operating in the role of a server with respect to intermediary A?

A. Yes.

Q. Okay. And I'm going to extend this, as you can imagine. Now, intermediary B, would you agree as shown in the figure in paragraph 39 of your report, can send that request on to intermediary C?

A. Yes.

Q. And at the point in time when intermediary B is sending the request on to intermediary C, is intermediary B operating in the role of a client with respect to intermediary C?

A. Yes.

Q. Okay. And at the point in time

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when intermediary C receives that request from intermediary B, would you agree that intermediary C is operating in the role of a server with respect to intermediary B?

A. Yes.

Q. Okay. And then I think the last leg of this chain shows intermediary C sending a response on to the origin server.

Would you agree?

A. You mean a request on to the origin server?

Q. Yes, maybe that dropped out. I want to make sure that the audio came through. Would you agree that the last connection that's shown is between intermediary C and the origin server? Would you agree that that's the last connection that's shown here in the figure?

A. Yes.

Q. And at the point in time when intermediary C sends a request on to the origin server, would you agree that intermediary C is operating in the role of a client?

A. Yes.

Q. And then at that same point in time when the origin server receives the request

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from intermediary C, would you agree that the origin server is operating in the role of a server with respect to intermediary C?

A. Yes.

Q. Based on your review of the RFC 2616 where this figure was taken from, do you have an understanding whether intermediary A, B, and C are the same type of intermediary or whether they're different?

A. I would have to review 2616 and try to understand what you mean by "different."

Q. Well, let me ask it differently, then. Under your understanding of RFC 2616, can intermediaries A and B be implemented using the exact same type of device?

A. So type of device, I -- intermediaries A, B, and C appear to be some type of proxies. So if you're saying proxies are a type of device, I would say A, B, and C could be proxies. Be that same type of device.

Q. Let's say intermediary A was a blade server. Okay?

A. Okay.

Q. Could that same two exact blade servers be used, one to implement intermediary

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A and one to implement intermediary B?

A. You mean -- okay. Are they two different blade servers? How are -- if you imagine blade servers are a computer system and computer systems can be programmed, then intermediary A could be a blade server and intermediary B could be a blade server. There is no restriction on the type of computer architecture they are.

Q. Okay. That's what I'm trying to get to. Is there anything in RFC 2616 that tells you whether there's any difference in the computer architecture that would be required between, say, intermediary A and intermediary B?

A. Other than they can perform the functions that 2616 requires of them. I mean, they would have multiple internet connections. They would have to have some sort of, you know, operating system for handling multiple connections. But outside of that, there's no -- you know, whether it's a RISC processor or an ARM processor or an AMD processor or a blade server, that's immaterial to a 2616.

Q. So it's more the characteristics of

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the devices that are used to implement intermediary A, B, and C that are important; is that your testimony?

A. The roles of the device. If you want to say characteristics or roles, yeah. It's the roles of the devices that they're performing.

Q. Okay. I now want to focus on the path going in the opposite direction. The same path which I believe, per the legend, is the response chain. Can we agree that response chain is referring, in the figure in paragraph 39, to the response from the origin server passing through the intermediaries back to the user agent?

A. Yes.

Q. Okay. And I basically have the same sequence of questions. Now I want to focus on the point that this request that originated from the user agent has now made it to the origin server. And I want to ask you, at the point in time that the origin server is sending its response to that request back to intermediary C, is the origin server operating in the role of a server under your

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understanding of the meaning of the term "server" in connection with this matter?

A. Yes.

Q. Okay. And when intermediary C receives that response from the origin server, would you agree that intermediary C is operating in the role of a client with respect to the origin server?

A. Yes.

Q. Okay. And now is the part I'm trying to get to. So now when intermediary C passes that response back to intermediary B, would you agree that intermediary C is operating in the role of a server at that point in time?

A. Yes.

Q. When intermediary B receives that response from intermediary C, would you agree that intermediary B is operating in the role of a client?

A. Yes.

Q. Okay. And I would ask you the exact same question, B relative to A. I can do that if you'd like or can we agree that the same answers would apply from the response B

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going back to A?

A. Absolutely.

Q. If we can summarize and say that you would have the same answers for A then sending the response back to the user agent?

A. Correct.

Q. So is it fair to say, then, that in this chain of A, B, and C, the intermediaries A, B, and C toggle roles from client to server and back to client depending whether they are receiving a request or responding to a request?

A. They have multiple roles depending on what's being asked of them to do by the packets coming in.

Q. Would you have to look at the particular point in time that you're interested in to determine what the request from those packets was?

A. So the particular point in time for handling that particular packet as it goes through them, when it receives it and when it sends it will be two different points in time. So the software is capable of doing both via client and a server at the same time. But in regards to that particular packet, at one

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point, it's acting as a client and at another point, it's acting as a server for that particular packet.

Q. Okay. So let me follow up with that, then. So for the handling of a particular packet that's passing through one of these intermediaries, would the intermediary be operating in the role of a client at some points in time and in the role of a server at other points in time?

A. For that particular packet that we were talking about here, yes. It has two different roles. The intermediaries have two different roles. One role of a client and one role of a server.

Q. Okay. Sort of a higher-level question about the RFC. Would you agree that at the time of the invention here, which I think you testified earlier was October of 2009, would you agree that it was well known to a person skilled in the art as of October 2009 that you could use a proxy server as an intermediary between a requesting client and a web server?

A. Yes.

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Q. I'd like you to take a quick look at paragraphs 43 and 44 of your declaration. And feel free to skim them over, and then I have a particular question.

A. 43 and 44?

Q. Yes. I'm particularly interested in the diagram, the data header diagram that was included at the end of paragraph 43.

A. Okay.

Q. Okay. I notice you've put a -- I believe you did this -- put a red box around two of the elements that are in the data room header, the source address and the destination address.

Do you see that?

A. Yes, I do.

Q. What is your understanding of a "source address" as that phrase would be understood by a person skilled in the art at the time of invention in this matter?

A. It would be the IP protocol source address.

Q. And, if you can, what device or devices would that source address relate to?

A. Typically, it's the source of the

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IP packet.

Q. So would that mean that the source address as shown in the datagram -- header diagram would be the IP address of the sending device?

A. Typically, it's the source address of the person who created the IP packet that's getting sent.

(Simultaneous speakers.)

A. Sometimes there's network address translation, which changes at something called "NAT," so I'm just going to use the word "typically."

Q. Fair enough. So let me ask the question slightly differently: Would you believe that a person skilled in the art at the time of invention for this matter would believe that the source address that's shown in Figure 4 in paragraph 43 of your report relates to the address of the server to which the request is directed?

A. I'm sorry. Could you repeat that question?

Q. Sure. Would a person skilled in the art at the time of the invention for this

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particular matter understand that "source address," as shown in Figure 4, would correspond to the IP address of the destination server to which a packet is being sent?

A. That's not typical.

Q. Are you aware of any circumstance where source address, as shown in datagram header for Figure 4, would be the IP address of an origin server to which a GET request was being sent?

A. I would have to review Cohen off the top of my head, but I would say typically, unless, you know, something complex was happening, the -- or some sort of network address translation -- typically, the source address would not be the destination address, because the IP protocol is going to route -- as we all know, on destination prefix matching, so it's going to route it to wherever the destination address tells it to go.

Q. So under IPv 4, are you aware of any circumstance where the source address, as shown in the Figure 4, would actually be the address of the destination?

A. I'm not aware of it as I sit here

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right now, but sometimes you can do very interesting things with network address translation. So I wouldn't say it's impossible, but typically the source address is not the destination address of the packet.

(Simultaneous speakers.)

A. There is something called "source routing" in IP, but that's a different issue. So I -- typically, let's just stick to "typically," the normal practice in an IP network is to route on a destination address.

Q. Let me ask a slightly different question. So in Figure 4, you've highlighted the terms "source address" and "destination address," correct?

A. Correct.

Q. Would a person skilled in the art understand that "source," in the context of the Figure 4, refers to the initiator of a request as distinct from the source of the information that the request is seeking?

MR. LEVENTHAL: Form.

A. So there -- typically, one of ordinary skill looking at this diagram would see the source address as the source that was

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creating the IP packet. I know there was some issues with claim construction, which kind of ended up muddling that a little bit. But in regards to a person of ordinary skill looking at this diagram, they would view the source address as being the source where the packet was created -- the IP packet was created.

Q. If you can turn to paragraph 58 of your declaration, please. Please let me know when you're there.

A. Right there.

Q. And I think this is relating to what you were just saying. But if we turn to page 30 of 132, you have a sentence that says, The Court disagreed, holding that the specification, quote, suggests that "source" is used to refer to a content source rather than a communication source.

And then the sentence goes on. Do you see that quoted language?

A. Yes.

Q. Do you believe that the Court was correct in stating that "source" is used to refer to a content resource rather than a communication source?

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A. Do I believe -- courts are always correct in interpretation of what they believe, either what the -- stuff they're construing. Would it be correct to apply that to that diagram? No, that would be incorrect. But I accept the Court's construction.

Q. And I appreciate that you would accept the Court's construction, as we all do. So my question now is a little different, though. If you were called to testify under oath within the context of the '622 patent, do you believe that the specification suggests that "source" is used to refer to a content source rather than a communication source?

A. That's the construction I applied, so I kind of just take that as a given and work from there.

Q. And I understand that and I appreciate that. My question, though, is a little different. Under oath today, do you believe that the specification of the '622 patent uses "source" to refer to a content source rather than a communication source?

MR. LEVENTHAL: Scope.

A. I'd have to go back and develop an

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opinion. As I stated in my declaration, I just took that as a given. I didn't undertake an independent analysis to inform my opinion of that.

Q. You've done no analysis to determine whether "source" as used in the specification of the '622 patent is used to refer to a content source as opposed to a communication source; is that correct?

A. Correct. Because I took this as given by the Court.

Q. Could you turn to paragraph 52 of your declaration?

A. I'm there.

Q. Okay. And do you see where you've quoted the Court's claim construction for client device as meaning, quote, communication device that is operating in the role of a client.

Do you see that?

A. Yes, I do.

Q. Is that construction for client device, communication device that is operating in the role of a client, is that the construction that you applied in connection

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with your analysis in this IPR?

A. Yes.

Q. Did you --

A. Sorry. That's -- I did my analysis under two different constructions of client. I believe I did it both under this -- so I applied this one, and then I also applied what the patent owner suggested they believed, which was a client device is some sort of computer equipment or a server is some sort of special-purpose hardware. So I believe I did it under both.

Q. So I want to make sure, then -- we can break this into two questions. I'm not trying to exclude something. I want to make sure that the record is clear. In performing the analysis you did in this IPR, did you perform an analysis where you interpreted "client device" to mean, quote, communication device that is operating in the role of a client, close quote?

A. Yes.

Q. And I understand you say you also may have applied another construction, but I wanted to make sure that you did apply, at

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least in some of your analysis, the quoted construction as shown in paragraph 52. And your testimony is that you did; is that correct?

A. Correct.

Q. So with respect to the quoted construction of "communication device" that is operating in the role of a client, what is your understanding of how a POSA would understand the term "communication device" as you quoted in paragraph 52 of your declaration?

A. A communication device would be a piece of hardware and software that could communicate with other devices.

Q. Is the server, as you understand it as a POSA for this matter, is that a device with software that can communicate with other devices?

A. Sure.

Q. Okay. Is a smartphone, as you understand it from the perspective of a POSA, a communication device that's hardware with software that can communicate with other devices?

A. Yes.

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Q. Could you take a look at paragraph 53, please, of your declaration. And please let me know when you've had a chance to look at that.

A. Okay.

Q. And my first question for you is: What construction did you utilize for the term "first server" in performing the analysis set forth in your declaration?

A. A server that is operating in the role as a server and is not the first client device or the web server.

Q. So did you sort of combine the two passages that you quoted from the Court, then?

A. Yes.

Q. Okay. So in the answer you gave a server that is not the client device but that's operating in the role of a server. I'm just paraphrasing what you said. What I'm interested in, what was your understanding of how a POSA would understand something to be a server?

A. Something that's operating in the role as a server.

Q. So if you look at the construction

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that you quoted initially, you say, the Court construed "first server" as, quote, server that is not the client device or the web server, close quote.

Do you see that?

A. Yes, I do.

Q. I'm asking you: What is your understanding of how a person skilled in the art at the time of this invention would have understood that first word, "server," that's used in the Court's construction?

A. A device that was operating in the role of a server.

Q. So would any device operating in the role of a server, within your understanding of the term "server" as used in this construction for first server, would any device operating in the role of a server meet that particular aspect of the construction?

A. Any server operating in the role as a server would meet the construction for "server."

Q. So my question was slightly different. Would any device operating in the role of a server meet the construction of

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"server" that is not the client device or web server?

A. So "device" being computer system, yes. Any device, being computer system, operating in the role of a server would be a server.

Q. Okay. As of the -- October of 2009 for this particular '622 patent, what meaning to the word "server" would a person of skill in the art have?

A. A device that's performing the role of a server. So I guess the question is a little bit confusing. The server is a functionality of a device, and a device that's capable of that functionality can be thought of as a server.

Q. So would any device capable of functionality of a server qualify as a server under the Court's construction as you've recounted that in paragraph 53 of your declaration?

A. Any device that was capable of performing that role would be a server, yes.

Q. And what would that role -- what would be required to be capable of performing

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the role of a server as of the October 2009 date of these patents?

A. To take requests -- in client server architectures, which all of these are based on, servers sit and listen for requests and respond to those requests with information back. That's from Tannenbaum of how client servers operate. So one of ordinary skill would understand what a server is, which can typically receive requests from multiple clients. A device that's capable of performing the operations of a server would be thought of as a server by one of ordinary skill.

Q. Other than taking requests for information and responding to them, would there be any other capabilities or attributes that a person skilled in the art would need to see as of October 2009 in order to determine whether a particular device was a server, as that phrase was construed by the Court?

A. I don't think of any, because the idea of a server -- I mean, typically, it's not restricted to a single client device the way client-server architectures are defined. But the idea of taking in requests, and typically

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multiple requests and providing back information regarding those requests, is the functionality of a server to one of ordinary skill, whether we're talking 2009 or even to this day.

Q. So to be specific in my question, as of October 2009, would any device that can take in requests and provide information in response to those requests be a server, within the meaning of that term as you understand the Court has construed it in this case?

A. I believe that's correct. I, in particular, would have to maybe look at the actual architecture of the device. But I think that's correct, that a device capable of receiving requests and responding to those requests is, in computer science, described as being a server.

Q. Well, if it's helpful, then, could you turn to paragraph 98 of your report? You've asked for specifics, so I'll give you some examples.

A. Okay. 98.

Q. And do you see in paragraph 98 the reference to proxy server 17 from the

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Kocherlakota reference?

A. Yes.

Q. Did you undertake an analysis to determine whether proxy 17 meets the Court's construction of the phrase "server" as that term was understood by a POSA as of the priority date of these patents?

A. Yes.

Q. And what about proxy 17 would cause you to conclude that that indeed was a server?

A. Because it's accepting requests and sending back responses.

Q. So other than --

(Simultaneous speakers.)

A. I need to continue. And it wasn't the same physical device as the client computer 11 identified as the first client. I understand that was the Court's construction. So that was me applying the Court's construction there.

Q. Okay. In connection with applying the Court's construction, did you separately try to decide if proxy 17 was, in fact, a server?

A. Yes.

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Q. And so I want to focus on that aspect of the construction because "first server" has the specific meaning where it's not the same device as the client computer 11 and so forth. But what I want to focus in on, I've been asking you some questions about what a server is as that phrase appears within the Court's construction. And my question is: Did you do any analysis to determine if proxy 17 is a server as that particular word was used within the Court's construction of first server?

A. Yes.

Q. What about proxy 17 did you have to look at and consider in order to determine whether proxy 17 was a server as that term is used within the Court's construction of "first server"?

A. That it could receive a request and respond to that request with information.

Q. Was there any other requirement that you applied to determine whether proxy 17 was a server, as that phrase "server" is used within the Court's construction of "first server"?

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A. So yes, in that it had to be operating as a server. It couldn't be a wire, right, in that a wire -- you can imagine a wire connecting, receiving a request and sending back a response -- or a router that was receiving a request and sending back a response. It had to perform some sort of operation with it in order to be a server. So that it was meeting all of those requirements was what informed me that it was acting as -- that it was a server.

Q. Can you point me to where in your declaration you describe meeting these requirements; something, as you just said, that has to do more than just receive a request and provide a response. I'm trying to, as you can tell, get to your understanding of "server," and I just want to make sure I have a clear record on this.

A. Sure. Absolutely. So it's a computer system that receives requests and performs response by -- one that is not simply just passing them along. So it's, like, this says, accepting a connection from a client to service request and sending back a response to

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it. So that informed my analysis that this was a server.

Q. So in order to meet the Court's -- I'm sorry. In order to meet the meaning of "server" as used in the Court's construction, would a device have to accept a connection from a client computer?

A. No. But it would have -- accepting a connection is indicative of it being a server. It's not the only way.

Q. So I'm trying to get to the list of what, in your mind -- what attributes and functionalities would a device have to have, as of October 2009 within the meaning of these patents, to meet the term "server" as that term was used in the Court's construction. I'd like you to list for me those attributes that you feel would have to be present in order for a device to actually be a server.

A. So my analysis was to look at the device and see if it met the requirements of a server, not to perform an analysis of all the different ways something could be a server. But in my mind, what I was looking for was something that was accepting connections or

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requests and not simply packets, and not simply electrical communications like it was a wire. So if it was a router, it's really just accepting or responding to packets, not requests, not connections. So something that interpreted the request in some way, something -- and then formulated a response in some way and sent it back was how I viewed a server.

Q. I'm going to switch gears a minute. But as I promised you, I always do a break every hour. Why don't we take a 10-minute break?

(Recess.)

THE VIDEOGRAPHER: We are now back on the record. The time is 10:16 a.m.

BY MR. DUNHAM:

Q. Dr. Olivier, could you turn to paragraph 61 of your declaration, please?

A. Yes.

Q. I'm sorry. Are you there, sir?

A. Yes.

Q. Thank you. Would you agree that in the '622 patent, communication devices that are

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disclosed are clients, peers, and agents?

MR. LEVENTHAL: Form.

A. Yeah. Communication device may be a client, peer, or an agent.

Q. So you would agree with that in the context of the '622 patent?

A. Yes.

MR. LEVENTHAL: Form.

BY MR. DUNHAM:

Q. Could you please take out Exhibit 1003, which is the Kocherlakota reference.

(Exhibit 1003 was marked for identification.)

A. Okay. I've got it.

Q. Please let me know when you have that.

A. I have it.

Q. And I'm sorry. I forgot to ask you. During the break, did you in any way discuss or communicate with anyone about your deposition testimony today?

A. No one.

Q. Thank you. In connection with the work you did in this matter, did you review the

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entirety of the Kocherlakota reference?

A. Yes.

Q. And did you review the associated prosecution history for Kocherlakota?

A. No, I did not.

Q. Do you recall in Kocherlakota the use of an applet, A-P-P-L-E-T?

A. Yes.

Q. And is it your understanding that Kocherlakota teaches that the client enters the identities of proxies into the applet?

MR. LEVENTHAL: Form.

A. So someone at the client device enters the information into the applet.

Q. And when you say "the information," what information do you mean?

A. The information identified in Figure 2 about the proxies, the user ID. There needs to be proxy identification and then session -- management information, such as user IDs and passwords that are entered into the applet.

Q. So focusing on the identification of the proxies that are entered into the applet, would you agree, then, that a user at

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the client has to enter the identities of the proxies into the applet?

A. Yes.

Q. Would you agree, then, that according to the teaching of Kocherlakota, upon receiving the applet, proxy server 17 analyzes the information in the applet and contacts the other proxy servers 19 and 21, to form the proxy chain?

MR. LEVENTHAL: Form.

A. So the -- it receives the information from the applet and contacts the proxy servers that were identified in the information in the applet.

Q. And when you say "it," are you referring to proxy server 17?

A. Yes.

Q. So let me break that down just to make sure we get it right. So once a user at the client has entered information into the applet, what is your understanding of what device or devices will subsequently receive the applet?

A. So the applet is the interface from the user device to the -- to proxy 17. And you

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can see that in Figure 4, where proxy 17 is receiving the applet response in step 111. It then uses the information it received in the response to set up the sessions with other proxies that were identified in the data that was sent to it by the applet.

Q. So is it your understanding, then, that proxy 17 is the device that establishes the proxy chain that is shown in Figure 1 of 17 to 19, to 21?

A. Yes.

Q. What I'm going to ask you to do -- and please keep Kocherlakota open. But I'm going to sort of refer you back and forth between your declaration and the Kocherlakota reference. So I'd like for you to look at paragraph 68 of your declaration for a moment. And let me know when you're there.

A. Okay. I'm there.

Q. And I'm particularly -- you can take a moment if you'd like to review paragraph 68 or anything else you need. But I really want to focus on the Figure 6 that you included at the end of your discussion in paragraph 68.

A. Okay.

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Q. Okay. If we look at Figure 6 from Kocherlakota, which is reproduced at the end of paragraph 68 in your declaration, do you see item 233 labeled as "internet request"? It's down at the bottom of Figure 6?

A. Yes.

Q. What is your understanding of what the internet request is in Kocherlakota?

A. It is the client trying to make a request of the web server that passes through the proxy chain that was set up previously. So this is a request for information from the web server.

Q. Would you agree that in Kocherlakota, the internet request from the client to the web server is not sent until after the proxy chain has been established?

A. That's what this is representing: After a proxy chain is established, an internet request is sent.

Q. Are you aware of any disclosure in Kocherlakota that deviates from Figure 6 with respect to the internet request being sent only after the proxy chain has been established?

A. Sorry. What was your question?

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Q. Sure. Are you aware of any disclosure in Kocherlakota where an internet request from the client to the web server is sent before the proxy chain is established?

A. Not as I sit here. I was concentrating on "after the proxy chain was established, the internet request."

Q. I'm not aware of any disclosure in Kocherlakota showing an internet request that is sent before a proxy chain is established, but I want to get your testimony on this.

So the question I have for you is: Would you agree that according to Kocherlakota, the proxy chain has to be established before client sends an internet request to a web server?

A. Yeah. That's what it's teaching, yes.

Q. If it's helpful, please feel free to refer to paragraph 69 of your declaration. I just have a couple questions. I want to confirm a few things about your understanding of the three proxy servers, 17, 19, and 21. So if you'd like to take a minute to review 69, that's fine.

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A. Okay.

Q. So is it your understanding that Kocherlakota teaches that proxy 17 provides anonymity features?

A. It's a possibility that it could provide it. It's not required to. But in the example, it provides anonymity features.

Q. Would you agree that in Kocherlakota, proxy 19 provides the French translation features?

A. That's what they're teaching, that that's an example of what 19 can provide. Yes.

Q. Are there any other examples of what 19 could provide other than the French translation features?

A. I don't know in particular 19, but I think they've described other features that proxies can provide in Kocherlakota.

Q. Okay. And would you agree that the proxy 21 shown in Kocherlakota is for wait-avoidance features?

A. Yes.

Q. If you could turn to paragraph 71 of your declaration?

A. Okay.

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Q. And you've included from Kocherlakota, Figure 7 as part of your paragraph 71.

Do you see that?

A. Yes.

Q. What is your understanding of what Figure 7 shows from Kocherlakota?

A. It is a more advanced feature than the -- I think it's a -- the preferred embodiment. So an embodiment of what you can do is setting up the proxy chain as shown in Figure 2 and then there's an advancement you can take on the proxy chain. I believe you click on the advanced feature in Figure 2, and it gets you to where you can provide information to proxy 17 about how to skip or jump to other proxies based on an identifier at 247 and 253.

Q. Would you agree that Figure 7 is referred to as the advanced features window in Kocherlakota?

A. Yes.

Q. Okay. And I believe, as you just testified, would you also agree that the advanced features window allows a user to input

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information that will be used by proxy 17?

A. Yes.

Q. And if we go to Figure 2 of Kocherlakota for a moment, and please let me know when you're there.

A. Figure 2 of Kocherlakota. Okay.

Q. And in Figure 2, do you see element 201 pointing to the first proxy box that has LPWA.com in it?

A. Yes.

Q. What is your understanding of what the LPWA.com shown in element 201 of Figure 2 of Kocherlakota represents?

A. It's the URL of the first proxy server 17 that we've been talking about.

Q. Okay. And if we go back to Figure 7 which was included in paragraph 71 of your report, do you see the same LPWA.com up where element 2, I believe, 61 appears?

A. Yes.

Q. Okay. And what does that tell you when you see the LPWA.com at the very top of Figure 7 of Kocherlakota?

A. It tells me that you're directly connected to this computer over port 8,000 in

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this case.

Q. And by "this computer" --

A. I'm sorry. LPWA.com computer, proxy 17.

Q. That's the question. So I know that that broke up a little bit because of the internet. So I just want to confirm: Is it your understanding that the LPWA.com shown at the top of Figure 7 of Kocherlakota indicates that this is a connection that's made to proxy 17 to provide some additional information?

A. Yes.

MR. LEVENTHAL: Form.

BY MR. DUNHAM:

Q. And is it your understanding that, according to Kocherlakota, the advanced features window shown as Figure 7 is really part of the applet, as that term is also used in Kocherlakota?

A. No. It's kind of different in an applet. It's more a web interface in how I view it, though it's not material. They're both providing information to proxy 17. And I only do that because it says port 8000, and I think port 8000 is a well-known port for a web

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interface.

Q. I'm sorry. Is a what type of port?

A. Well-known port.

Q. Do you have an understanding of what the X in box 249 of Figure 7 represents?

A. It's a skip or jump-to designation.

Q. So let me start by saying, I see the word "SHIP." Is it your understanding that's a typo and that should be "SKIP"?

A. Yes. Because of the text associated with Figure 7.

Q. Okay. And so I want to focus specifically on that box 249 skip that has an X in it in Figure 7.

Do you see that?

A. Yes.

Q. What is your understanding of what the X in the skip box 249 of Figure 7 means?

A. That you skip or proxy in the chain.

Q. So is it your understanding -- strike that.

What do you mean by skip a proxy in the chain?

A. So it would not follow the proxy

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chain but instead would skip.

Q. Is that your answer, or are you still thinking?

A. No. That's my answer.

Q. So is it your testimony that the X in box 249 means that proxy 17 would be skipped for the URL shown in box 247?

A. So the patent discusses that when the URL is transmitted to the first proxy, the services of that proxy will be skipped and it will jump to the second proxy. So it will be sent to the first proxy, and then the services of that will be skipped if that skip is designated at 249.

Q. So do you want to correct your earlier answer in light of that?

A. Sure.

Q. So what I'm trying to get to is your understanding of the X in the skip box 249 shown in Figure 7 -- and let me ask you a complete question on that. Is it your understanding that that skip means that the features of the proxy server associated with those URLs would be -- strike that. That was not a good question. Let me try again.

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I want to make sure I have a clear understanding of what you believe the X in box 249 means in Figure 7. And I've heard two possibilities: One is that the X means that the proxy itself is to be skipped, and another answer was that the particular features provided by the proxy should be skipped for any request to the URL shown in the box 247. And I want to make sure I have your understanding of what that skip feature means in Figure 7.

A. My understanding is the services of proxy 17 will be skipped if that box is checked, 249.

Q. So can we agree, then, that the request from the client to one of those particular URLs like *.lucent.com will be sent to proxy 17, but whatever feature proxy 17 provides would be skipped for that particular domain?

A. Yes.

Q. What is your understanding, then, of box 251, the jump-to box, as shown in Figure 7?

A. In that, the information, when it's received at proxy 17, will skip the second

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proxy and jump to the third proxy. In this case, proxy 21.

Q. And are you referring, then, to box 257 for that particular answer?

A. Yes.

Q. So with respect to the proxy chain that's shown as an example of 17, 19, 21, would it be possible to have a different number in 257 other than 3?

A. In this example, no. But the patent teaches you can have more than just three proxies.

Q. Sure. I just want to make sure I have an understanding of how you interpret the jump-to box. So is it your understanding, for the example shown with three proxies, 17, 19, 21, the only possible value that could go in box 251 is the three?

A. Yes, I think so.

Q. Could you turn to paragraph 76 of your declaration, please.

A. Yes.

Q. So I believe in the fourth sentence, you state, If the URL matches the skip criteria, this URL will be directly sent

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to proxy 19.

Do you see that?

A. Yes.

Q. And my question is: What do you mean by "directly sent"?

A. It will not take -- make use of the services of proxy 17. It would be directly sent to 19.

Q. So, then, so my record is clear, you do not mean by directly sent that that means the client would send the URL directly to proxy 19, correct?

A. Correct. Because they were talking about proxy 17 doing the sending.

Q. So, then, by directly sent, do you mean simply that whatever services are provided by proxy 17 will not be provided, and proxy 17 will send the URL on to proxy 19?

A. Correct.

Q. Would you agree that, under Kocherlakota, proxy server 17 would need to receive the applet and any additional features that are specified and then apply that information in order for proxy server 17 to know whether its features are not going to be

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used?

A. Okay.

MR. LEVENTHAL: Form.

A. Can we slow that one down?

Q. Absolutely. What I want to get to is: Would you agree that under Kocherlakota, the determination of whether the features of proxy 17 -- whether those are going to be applied or not -- is the determination that would be made by proxy server 17 after it receives a request from a client?

A. Okay. Those were two different questions, I think. But after proxy 17 has received the information via the applet and via the web interface, the information is used by proxy 17 to determine where to send URLs that it receives.

Q. So my question, then, is: Would you agree that proxy server 17 has to first receive information regarding the proxy chain and any specified advanced features before it receives a URL?

A. Before it receives a URL that it can select destinations for, yes.

Q. Okay. And then once proxy server

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17 receives a URL that it can request destinations for, would you agree that it is at that point in time where proxy 17 applies the information it has received from the applet and from the web interface for the advanced features?

A. So it applies the information it's received to select and determine where to send the URLs based on that information. It needed that information prior to being programmed to make the selections.

Q. And that's what I'm trying to get to, is the temporal relation here. So would you agree that the information to establish the proxy chain is something that proxy 17 needs to receive before it receives a URL requesting content?

A. Right. Before it receives a URL. It, as a general proxy, may have just provided a single service. But before it can provide that chain, it needs the information to set up that proxy chain.

Q. And then would you also agree, then, that to the extent the user has specified advanced features -- any of the skip- or

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jump-type features -- that information has to be something that's provided to proxy 17 before proxy 17 receives a URL requesting information?

A. Well before it receives a URL, which it's going to make a different determination based on those features. I can imagine that you can turn it off and turn it on. So it needs to have the information to select the different addresses prior to making that selection. It has to have the criteria for how to select it prior to making that selection.

Q. Can you turn to paragraph 105 of your declaration, please. And let me know when you're there.

A. I'm there.

Q. Okay. In paragraph 105, you talk about when proxy 17 receives from the client computer 11 a URL matching the criteria in text window 247 but not text window 253.

Do you see that language?

A. Yes.

Q. So when proxy 17 receives a URL from the client computer where the criteria in text window 247 does match but 253 does not,

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what happens next? What does proxy 17 do?

A. So it will skip the functionality of proxy 17 but will not jump over any server in a chain, because the jump-to criteria is not matched for that IP address.

Q. So is it your understanding, then, that if the skip criteria is satisfied, proxy server 17 would skip its functionality but then would pass that request on to 19 -- proxy 19 and then on to proxy server 21?

A. Correct.

Q. If you could turn to paragraph 98 in your declaration, please.

A. Yes.

Q. And I'm interested in the first part of the paragraph where you say, Proxy 17 meets the construction of "first server" because it is a device operating in the role of a server by accepting a connection from client computer 11 to service requests and to send back responses, and so on.

Do you see that language?

A. Yes.

Q. I want to make sure I'm clear on this. Is it your opinion that as recited in

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paragraph 98, proxy server 17 operates in the role of a server with respect to client computer 11?

A. Yes.

Q. Did you undertake an analysis to determine whether proxy server 17 operates in the role of a client or in the role of a server with respect to proxy server 19?

A. Proxy server 19. Yes.

Q. And under your -- strike that.

What is your opinion, does proxy server 17 operate in the role of a client or in the role of a server with respect to proxy server 19?

MR. LEVENTHAL: Form.

MR. DUNHAM: Counsel, what's the basis for that objection? I just asked him if he had formed an opinion on that, and he said yes. What is the basis of your objection?

MR. LEVENTHAL: The basis of the objection is you assumed that it cannot be operating in both roles because he said client or

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server.

MR. DUNHAM: Sure. Let me --

(Simultaneous speakers.)

MR. LEVENTHAL: -- have to exclusively be one or the other.

BY MR. DUNHAM:

Q. So, Dr. Olivier, what opinions, if any, did you form as to whether proxy server 17 operates in the role of a client or a server or some combination thereof with respect to proxy server 19?

A. So proxy server 17 can act as a client of proxy server 19. And I don't recall if I did an analysis on whether proxy server 17 could act as a server for proxy 19.

Q. Did you perform any analysis as to what role proxy server 17 might operate in with respect to any URLs where the jump to proxy 21 occurs?

A. When it's a jump to 21, it's performing as an -- acting in the role as a client to proxy 21.

Q. And by the "it," do you mean proxy 17 is operating in the role of a client with respect to server 21 when the jump command is

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active?

A. Yes.

Q. Could you turn to paragraph 103, please?

A. Okay.

Q. And I want to focus on a clause that's in the very first sentence. This relates to some questions I asked you earlier, but I just want to confirm my understanding.

If you look at paragraph 103 of your declaration, it cites a prior section, and then it's talking about -- it says, Upon receiving the URL, proxy 17 selects the IP address of either proxy 19 or 21 from the group of those IP addresses to route the URL through the proxy chain.

Do you see that sentence?

A. Yes.

Q. What I'm interested in focusing on is what did you mean by "upon receiving the URL"? And I'm asking this from a timing perspective. I want to make sure I understand the timing of how it operates.

A. So "upon receiving" is the time that this is operating.

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Q. So is that -- just to make sure my record is clear, is what you're saying in paragraph 103 that the selection that proxy server 17 performs in your view occurs after proxy 17 has received a URL from the client computer?

A. Yes.

Q. Based on your review of Kocherlakota, would you agree that proxy server 17 does not determine whether the French translation features of proxy server 19 are to be used for a particular URL?

A. It determines for a particular URL that it receives whether to route it to that proxy server or not. So we're talking about the received URL and its selecting based on information in that URL to send it to the proxy server 20 [sic] or 19.

Q. Can you please turn to paragraph 94 of your declaration.

A. Yes.

Q. I'm just looking to see if I've already covered what I wanted to cover. So if you would just allow me a moment, please.

A. Sure.

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Q. I have some questions generally -- I'm trying to short-circuit things that I've asked you. So, hopefully, that will help. I have some questions that generally relate to what you discuss in paragraphs 109 through 112 of your declaration, which is really going to be the response path from the server back through the proxy chain. And if you'd like to take a skim of those sections, please feel free. Otherwise, I'll just start asking you.

A. Oh, go ahead.

Q. So when a request that originated with the client computer ultimately reaches the web server, what is your understanding of how the response from the web server is going to flow back to the client device?

A. It will flow back either through the proxy chain or if certain portions of the chain will skip, it will flow back to the originator of the request, and then flow back to proxy 17.

Q. Now, you used the word "skip" in that answer. Did you mean "jump"?

A. I think -- yeah. If they were jumped, yes.

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Q. So let's take a look at Figure 1 of Kocherlakota, please. Let me know when you're there.

A. Okay.

Q. So I'd like to start first with the example where no advanced features have been selected and the proxy chain that has been established is as shown in Figure 1, 17, 19, 21.

Do you understand those assumptions?

A. Yes.

Q. So in the case where proxy chain 17, 19, 21 has been established and no advanced features have been specified in proxy 17, what is your understanding of the pathway that a request for information from client computer 11, what is the pathway that that request will take to get to the server 15?

A. So the information would flow back through the chain of proxies as shown in Figure 1 and arrive back at the client.

Q. So let me start with the request side now. So when client 11 wants to make a request of web server 15 and the proxy chain

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17, 19, 21 has been established and no advanced features have selected, could you please describe your understanding of the pathway that that request will flow from client 11 to server 15?

A. Sure. It will flow from 11, to 17 to 19, to 21, to 15.

Q. Okay. And now, in that same circumstance where client 11 has made a request and sent it ultimately to server 15 and we have the proxy chain 17, 19, 21 as shown in Figure 1 and no advanced features have been selected, what is your understanding of the pathway that the response from 15 will flow?

A. It will flow from 15 to 21 to 19 to 17 to 11.

Q. Now I'd like to make just a slight modification to the assumptions. And really, what I'm going to be doing is applying the logic in the first row of Figure 7, the advanced features, where the skip functionality has been selected.

And my question is: If proxy -- I'm sorry. If client computer 11 sends a request ultimately to server 15, and that

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request matches the skip feature that's been selected for proxy 17 -- proxy server 17, what is your understanding of the pathway that that request would flow?

A. It would flow from 11 to 17 to 19 to 21 to 15.

Q. And in that flow, is it just that the features provided by proxy server 17 would not be applied to that particular request?

A. Correct.

Q. Okay. And in that same hypothetical where we have a request that's been sent from 11 to 15 and we have the proxy chain as shown but the advanced features of 17 were selected and the request did match that selection, what is your understanding of the pathway that the response from server 15 will use to get that information back to 11?

A. Could you repeat that just a little slower?

Q. Sure. I'm just trying to do the reverse path --

A. Sure.

Q. -- for a request that's now been received at server 15 and the skip of 17

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occurred. What is your understanding of the flow of information from server 15 back to client 11 where the skip feature was met when the request was sent?

A. It would go from server 15 to proxy 21 to 19 to 17 to device 11.

Q. And would it also be true, then, that whatever functionality 17 provides would not be applied to that information?

A. Correct.

Q. Okay. So now I want to take the next case -- and if you refer to Figure 7 again, we've got the second row of advanced features which was the Microsoft.com domain and the jump to the little 3 in the box 257. So my question is going to be both directions, the outbound and then the response.

I'd like to know -- let's take the outbound first. So we've got client computer 11 sending a request ultimately to server 15. And this time when that request reaches proxy server 17, the request matches the criteria for the jump, as indicated in box 257. My question is: Can you describe for me the flow, the pathway that that request will take from client

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11 to server 15?

A. Sure. So it will go from 11 to 17 to 21 to server 15.

Q. Okay. And now, for that same request that matched the jump criteria specified in Figure 7, can you describe for me the pathway that the response from server 15 will take for that request to flow back to client 11?

A. Sure. It will go from 15 to 21 to 17 to 11.

Q. Can you show me some disclosure somewhere in Kocherlakota that explains that the jump command, if applied to the request flowing from the client 11 to server 15 would have the same effect in reverse, i.e., that proxy server 19 would be skipped in the pathway of the response from the server to that request?

A. So the system sets up in Figure -- sessions between the first proxy and the second proxy and the first proxy and the third proxy. So it has a path going back either from received at the third proxy either to the second proxy or directly to the first proxy.

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Q. And can you point me to the disclosure in Kocherlakota that you say shows that a path is set up between the first and third proxy servers?

A. Sure. In Figure 6, we're setting up the chain from the -- we set up another request of a connection in a session between the first proxy and the third proxy.

Q. And is that the elements 230 and 231 are showing the connection between the first and the third proxies?

A. Yes.

Q. Can we agree that all of the requests originating from the client must first be received by the first proxy server?

A. Yes.

Q. Could you turn to paragraph 119 of your declaration, please. Please let me know when you're there.

A. Okay. Sorry. My computer jumped.

Q. No worries. Jumped or skipped?

A. Okay.

Q. Do you see in the first clause of the second sentence of paragraph 119 of your declaration says, Proxy 19 and proxy 21 are

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client devices.

Do you see that language?

A. Yes.

Q. Following up on the earlier testimony you gave, is it your opinion that proxy 19 and proxy 21 are always client devices or that they would be client devices only at particular points in time, depending on the flow of messaging to and from them?

A. Yes. As proxies they act as both client and servers in certain situations.

Q. And would that be consistent with the discussion we had of the request response chain from RFC 2616 where the intermediaries A, B, and C were at some points in the process operating in the role of a client but that same intermediary at a different point of the process would be operating in the role of a server?

A. Yes. Depending on what input packets were being processed. Sometimes they're receiving them, sometimes they're sending them. So sometimes they're acting as a client, sometimes they're acting as a server. And proxies are well known to act as both

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clients and servers.

Q. So at what point in time would proxy 19 meet your understanding of the definition of client device as the Court has construed the term?

A. Always, because it's always capable of acting as a client. So it's a client device.

Q. So it's always a client device; is that what you're saying?

A. Yes. It's always a client device and it's always a server device, because it can act as both, depending upon inputs.

Q. Okay. So is it your opinion that proxy 19 is always a client device and always a server as those terms have been construed by the Court in this case?

A. Yes. The proxy devices act as both clients and servers. They have a role -- they can act in either role.

Q. And is it, likewise, then, your opinion that proxy 21 is always a client device and always a server as the Court has construed those terms in this case?

A. It can always act as a client

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device or always act as a server device.

Q. Okay. Can you take a look at the cover sheet of the Kocherlakota patent, please? And I'm interested in the abstract language.

A. Okay.

Q. Would you agree that in Kocherlakota, the proxy 17, 19, and 21 are described as, for example, in the abstract, that they are proxy servers?

A. That's how it's described in the abstract, correct.

Q. Okay. Would you agree that consistently throughout Kocherlakota, proxy 17, 19, and 21 are described as proxy servers?

A. Well, in the Figure 2 they're just identified as proxies. In the figures they are generally identified as -- and in Figure 6, they're identified as proxies, where the web server is identified as a server.

Q. So in --

(Simultaneous speakers.)

A. They're generally identified as proxy servers in the text.

Well, sometimes they are, sometimes they're not.

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Q. Are you aware of any disclosure in Kocherlakota that informs a person to use a device other than a proxy server to be used as either proxy 17, 19, or 21?

A. Sorry. Could I hear that question again?

Q. Sure. Are you aware of any disclosure in Kocherlakota that says to implement proxy 17, 19, or 21, you should use something other than a proxy server?

A. No, I'm not aware of.

Q. Can you go back to Figure 6, please, of Kocherlakota?

A. Sure. Okay.

Q. So you had pointed me to the elements 230 and 231 showing a request and a session established between the first and third proxy in an earlier answer.

Do you remember that?

A. Yes.

Q. Does Figure 6 show a connection being made between the second proxy and the third proxy?

A. No, it does not.

Q. So how does a request that flows

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through the proxy chain where no advanced features have either been specified or met, how does that request flow from the first to the second to the third proxy?

A. Because the proxy chain was set up by the first proxy.

Q. Is there any disclosure in the figures of Kocherlakota showing the establishment of that proxy chain by the first proxy? I mean, I'm looking for the first to second to third.

A. Is there any disclosure in the figure?

Q. Sure. Let me ask a better question. And I appreciate your question back.

We've talked about the notion of a proxy chain, for example, as shown in Figure 1, correct?

A. Correct.

Q. And I just want to make sure, you also pointed me earlier to Figure 4, correct, about the establishment of the proxy chain?

A. Correct.

Q. And is Figure 4 showing the establishment of the full chains? For example,

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17 to 19 to 21.

A. No. It's just showing in response to proxy 17 what it's doing.

Q. Sure. And then what is your understanding of what's in box 113 of Figure 4?

A. It's setting up a session with the second proxy. So proxy 17 is setting up a session with the -- in the example, proxy 19.

Q. And then where is it shown that proxy 19 sets up a connection with proxy 21? That's what I'm trying to get to.

A. In that figure where is it shown?

Q. Anywhere in Kocherlakota. And I was just trying to help reference the figures that you pointed to earlier showing the establishment of connections.

A. If -- so the easiest way to see what's happening is to go to claim 1 of Kocherlakota. And it talked about in the final limitation that the first proxy transmits to the second proxy the identity of the third proxy and the data associated with that. So that gives the second proxy the information to continue to set up the chain. I think that's the question you are asking, but you're always

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referring to figures.

Q. Correct. And what I'm asking for is other than in the claim 1 that you pointed to in Kocherlakota, is there any disclosure in the specification that you can point me to that shows how that chain is established, the connection particularly between the second and third proxies?

A. You mean besides Figure 1, right, which shows them all chained together?

Q. Sure. Figure 1. I'll take that.

Anything else? That's what I'm looking for is anything beyond Figure 1.

A. You mean besides the claim in Figure 1?

Q. Yes.

A. No, I don't know anything off the top of my head besides that.

Q. So is there anything in Kocherlakota you can point to me that would preclude server -- I'm sorry. Let me back you up.

Let's go to Figure 1, please.

A. Sure.

Q. I asked you some questions about

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the flow of a request and a response between client 11 and server 15 where the jump feature -- I'm sorry -- the jump advanced feature had been implemented such that the request went from the client to 17 to 21 to server.

Do you remember those questions?

A. Right.

Q. And my question is: Since we've established that there is a proxy chain that is formed of 17, 19, 21, is there anything in Kocherlakota you can point me to that says a response from 15, where 19 has been jumped, that the response will not flow back through the entire chain, but instead would go from 21 to 17 to 11?

A. Well, other than the fact that 19 is set up as a French translation. And so if you're translating all the things coming back, so you would skip it -- you wouldn't be using the services of 19.

So I would say, other than just common sense, there's nothing beyond that.

Q. Yeah. What I'm trying to get to is we have talked about the flow that would be

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under the circumstances where advanced features were enabled and a jump had been specified from 17 to 21. We talked about the flow of the request going from 11 to 17 to 21 to 15, correct?

A. Correct.

Q. And I wanted to know what support is there, for and against, the response going from 15 and then back through the whole chain, 21, 19, 17, 11, as opposed to the response skipping 19 -- jumping it, to use the word of the patent.

You've given me a commonsense answer. And I'm asking you is there anything else you can point to that's technical that says responses do not go back through the entire chain?

A. Well, if you didn't skip 19, 19 would try to do a French translation on what would be received. So it would seem like -- I don't know if that's a direct teaching of it. But to me, it's a commonsense teaching of it. So besides that, I can't point to anything as I sit here.

Q. I didn't see it either. That's why

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I'm asking. This is not a trick question. I'm just trying to understand if there was something particular that you pointed to in your review of Kocherlakota that informed you that a response where a jump had been initiated on the request, where the response would not flow back through the whole proxy chain. I just want to make sure I have your complete understanding.

A. Yeah, so my complete understanding is some of the proxy services are on the response and not on the request. And so it makes sense that the service, such as a translation, would be skipped because that's on the response. And so you would set it up as, as I described it, when you would skip a service.

Q. And by "skip a service," you would mean jump a proxy, correct?

A. Right. Right. Sorry. I get "skip" and "jump" intertwined.

MR. DUNHAM: We've been going a little over an hour. And I'm actually going to shift gears here, so why don't we take another break

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for 10 minutes or so.

THE VIDEOGRAPHER: We are now off the record. The time is 11:19 a.m.

(Recess.)

THE VIDEOGRAPHER: We are now back on the record. The time is 11:31 a.m.

BY MR. DUNHAM:

Q. Dr. Olivier, during the break, did you discuss or communicate with anyone about your testimony here?

A. No.

Q. Thank you. I'm going to switch, now, gears a little bit and I'd like to go to the Cohen reference, which is Exhibit 1004.

(Exhibit 1004 was marked for identification.)

BY MR. DUNHAM:

Q. And if it helps, you can close Kocherlakota.

A. Okay. Hold on. Okay.

Q. All right. If helpful for you for context, I'm going to be asking you some questions that relate generally to the

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reference and pertains loosely to what you discussed starting at paragraph 84 of your declarations. And, again, that's just for a guide if it helps you. Let me know when you're ready to go.

A. Okay. I'm on 84.

Q. Okay. Would you agree that Cohen reference teaches obtaining a copy of an object from a proxy cache rather than from an origin server?

A. It teaches both, that it can get it from the proxy cache, and if the proxy cache doesn't have it, the proxy cache will get it from the origin server.

Q. So then -- and I think you've honed in on one of the points I want to make sure that we agree on. Would you agree, then, that requests for an object that are made by one of the client devices in Cohen do not themselves get sent to the origin server, but instead have to go through a proxy cache?

MR. LEVENTHAL: Form.

A. They -- the embodiment I focused on was it got intercepted by a proxy redirector that sent it to a proxy cache which could then

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send it on to the origin server.

Q. So can we agree, then, that to the extent a client device in Cohen wants to get a particular object, the client device is going to get that object from the proxy cache, and the proxy cache will either have that previously cached to provide it or the proxy cache will go to the origin server to get the requested object?

A. Yes.

Q. Okay. Would you agree that in the event that a requested object is not available at the selected proxy cache, that proxy cache has to set up a separate connection to the origin server to retrieve that requested object?

A. Can I hear that question again?

MR. DUNHAM: Sure. Greta, could you read that one back.

(The court reporter read the requested portion.)

A. I'm trying to see if it keeps the connection open to the origin server or not in the proxy cache or whether it has to set up a separate connection each time.

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Okay. Yeah. You're correct.

Q. Okay. Thank you. Would you agree that, under Cohen, the client 101 is not anonymous as to the origin server?

A. Not anonymous?

Q. Let me ask it differently.

Would you agree that in the embodiments disclosed in Cohen, the origin server will know the IP address of a requesting client device?

A. Not if it's going through the proxies.

Q. Will you turn to column 7 of Cohen, please. Please let me know when you're there.

A. I'm there.

Q. I'd like you to look at that first paragraph, column 7, roughly lines 1 through 10. Just read that to yourself, please.

A. Okay.

Q. So what is your understanding of the first paragraph in column 7 of Cohen from lines 1 through 10? What is that describing?

A. The -- it's really describing a typical connection between the client and the origin server when you're setting up a TCP

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connection.

Q. Okay. So is it your understanding of Cohen that the connection described at column 7, in lines 1 through 10, is not utilized?

MR. LEVENTHAL: Tom, not utilized at all or is not utilized in a specific situation? I'm not following the question. I don't mean to interrupt.

MR. DUNHAM: If you have an objection, you're welcome to state it. I prefer you not --

(Simultaneous speakers.)

MR. LEVENTHAL: Okay. I apologize. I just -- I object to form.

BY MR. DUNHAM:

Q. But that said, I'm trying to understand, Dr. Olivier, what your understanding of the disclosure in the first paragraph of column 7 is, and whether that sequence that's described, the handshake between the client and the origin server occurs or does not occur in connection with the

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operation of the embodiments disclosed in Cohen.

A. Okay. Thanks for that clarification.

So the first paragraph in column 7 describes the standard way that a client interacts with a server, but it goes on in the next paragraph to describe a modification to that standard procedure where, after the IP address of the server has been identified through a DNS, instead of establishing the TCP connection to the server, it establishes it to a proxy, in this case, a proxy cache that they're referring to here, about line 11 of column 7 to, I guess, all the way down to 35.

Q. So is it your testimony today that the connection described roughly between lines 11 and 35 of column 7 -- and that would be from the client through the proxy redirector to a proxy cache and then if necessary, to an origin server, that's the pathway that's established as opposed to a pathway that's shown in the first paragraph of column 7, which would be a connection from the client to the origin server?

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A. I would agree, except I think the next paragraph just describes a connection to a proxy cache and not to the redirector. A redirector is described later on in the patent. So that's -- what happens in that first paragraph is not what the teachings of Cohen are about.

Q. And so is it your testimony that the first paragraph in column 7, roughly lines 1 through 10, that those teachings and the connection described therein are not followed when one practices the embodiment disclosed in Cohen?

A. Right. Especially the preferred embodiment with the proxy redirector.

Q. Okay. Now I have a question about something you said about the next paragraph. Let's focus in on those next couple of sentences. And it talks about -- it says, In accordance with the present invention, once the IP address of the origin server corresponding to the logical URL name is determined through the DNS lookup, proxy redirector 104, rather than establishing a TCP connection to the origin server at the determined IP address,

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transparently establishes a TCP connection between the client and a proxy.

Is it your understanding that that connection is direct from the client to the proxy or that it's through proxy redirector 104?

A. So can I hear your question again?

Q. Sure. In your earlier answer, I believe you testified that in the embodiments of Cohen, a connection is made between the client and the proxy cache without going through proxy redirector 104.

And my question is: Isn't that incorrect, and isn't proxy redirector 104 an element in that connection such that the connection is really from the client to the proxy redirector, to the proxy cache?

A. So the -- at least in that paragraph, the proxy redirector is involved in establishing the connection. But the last sentence says that the connection that copies forward to the client over the original TCP connection that was established between the client and the proxy cache.

So the proxy director was involved

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in transparently establishing the TCP connection between the client and a proxy. But the connection in this particular embodiment is not going through the proxy redirector, as far as I read it.

Q. Sir, how could the connection, then, that the client thinks it's making to an origin server be transparent to the client, that it would not know that it's actually being connected to a proxy cache unless it went through the -- that connection went through the redirector?

A. Well, the embodiment I concentrated on was the preferred embodiment with the redirector. There's lots of ways things could work, and it does say that there is a connection -- a TCP connection established between the client and the proxy cache in the last sentence. So you either have to say that's incorrect or there's some other way that it was working within the patent.

Q. Isn't another reading of that same exact language that there is a connection between the client and the proxy cache, but it's through the proxy redirector?

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A. I mean, it's not stated there, so it could be.

Q. I'm trying to get to your understanding of this reference.

A. Sure.

Q. And all of the disclosure of the reference that explains how the packets and the headers are modified by the proxy redirector. I just want to make sure for the record: Is it your testimony that you believe that Cohen discloses a connection being formed between requesting client and a proxy cache without that connection going through proxy redirector 104?

A. I think there's many things disclosed in Cohen. The embodiment I concentrated on was the one where it went through the redirector. And I didn't check to see if there was another one that perhaps didn't go through the redirector or not.

Q. So is it fair to say, then, that all of the opinions that you have expressed pertaining to Cohen are limited to an embodiment where any connection between a client device and a proxy cache is through

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proxy redirector 104?

A. That was a preferred embodiment I concentrated on, yes.

Q. That's not quite my question. My question is: Are all of the opinions that you have expressed pertaining to Cohen limited to an embodiment where any connection between a client device and a proxy cache is through proxy redirector 104?

A. Yes.

Q. Okay. Would you agree that in Cohen, the client 101 does not know that its request is being redirected to a proxy cache?

A. Yes.

Q. Could you take a look at the cover sheet of Cohen? And in particular, I want to look at the abstract.

A. Okay.

Q. What I'd like you to do -- and I'll tell you what I'm going to ask you first so I can help -- I can make this easier. Since it's very long, I don't want to read this abstract into the record, and it's obviously part of the exhibit.

What I'd like you to do for me is

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read the abstract. And my question is going to be: Does the abstract describe the embodiment of Cohen that you relied on in forming the opinions that you express in your declaration?

Do you understand that question?

A. I do. I think, in my declaration, I put the parts of Cohen I relied on. Are you saying I need to check to see if all those parts are in this or covered in this or -- I'm confused.

Q. What I'm asking you is -- a few moments ago I asked you some questions about the possibility of different connections, and you said you relied on a particular embodiment and you did not exclude the possibility of other embodiments.

My question to you is I would like you to read the abstract and tell me if this describes the embodiment that you were relying on or if this abstract seems to be describing other content that you were not relying on.

A. Okay.

Yes. This is describing the embodiment I was analyzing.

Q. Okay. If we look -- and it's -- I

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wish there were line numbers here. It's about halfway down the abstract. There is a sentence -- a clause, rather, in a sentence that includes the phrase "the complete URL." It's about halfway down. And it's maybe four or five words in. I'm looking for the words "the complete URL" in the abstract if you can localize those.

A. Okay.

Q. Do you see that phrase, "the complete URL"?

A. Yes, I see it.

Q. What is your understanding of that, as a POSA in this case, as to what is meant by "the complete URL" as that phrase is used here in the abstract of Cohen?

A. So Cohen describes several different URLs. The complete URL is one that doesn't have the optional parts of a URL. It's the part of a URL that is required, which is the path, is my understanding of it.

Q. Okay. In the next line of the abstract, Cohen references the "absolute URL."

Do you see that?

A. Yes.

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Q. And what is your understanding of your reading of Cohen of how a POSA would understand that phrase, "absolute URL"?

A. That the absolute URL is the complete URL with some optional information, which is the IP address, which is called the authority in a URL.

Q. Prior to reading the Cohen patent in connection with your work on this matter, is the phrase "complete URL" a phrase that you have used in connection with your work?

A. No, not so much. I think it relates back to the HTTP/1.0 versus 1.1 protocols, but that's the only thing that pops to mind when you ask me that question.

Q. Sure. So let me be very precise in my question so I can make sure I understand. Prior to reading Cohen, had you heard the phrase "complete URL"?

A. I don't recall one way or the other.

Q. Prior to reading Cohen, had you heard the phrase "absolute URL"?

A. I can't say one way or another.

Q. Can you turn to column 10 of Cohen?

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And in particular I'm interested in the Table 1 at the bottom.

A. Okay.

Q. And if you look at Table 1 in the upper portion with the header, the label, "arriving packet," do you see the GET request that appears there?

A. Yes.

Q. And is the GET request from Table 1 for the arriving packet, in your view, is it a complete URL, an absolute URL, or something else?

A. That one is a complete URL, because, as I read Cohen, the absolute URL is the one with the IP address as designating his source. I mean the authority in the URL.

Q. Okay. So let me focus on that upper part. So in the upper part of Table 1, the arriving packet section, is it correct that it's your opinion that the GET request shown there is a complete URL?

A. Let me just verify that so -- in Table 1, that first GET request is the complete URL for protocol HTTP/1.0.

Q. Okay. So now if we look at the

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lower portion of Table 1, below the little header that's written, modified to, and we see another GET request that has an IP address followed by the same URL that was up in table -- in the upper part of Table 1.

My question is: From your review of Cohen is the GET request that's shown in the modified-to section of Table 1, is that a complete URL, an absolute URL, or something else?

A. So that's an absolute URL because, in addition to the complete URL, they put the optional information, which is the IP address in the authority part of the URL. So it's my understanding Cohen calls that an absolute URL.

Q. Based on the embodiments of Cohen that you relied on in forming your opinion, is it your understanding that the proxy cache of Cohen requires the absolute URL in order to be able to determine whether the cache has the requested content?

A. Well, what it teaches is the complete URL provides insufficient information for the proxy cache to determine whether it has the object and, if not, to forward it to the

origin server, which it does. So it's how the proxy cache determines whether it has the requested object or not.

Q. Right. So my question --

(Simultaneous speakers.)

A. I think I answered yes to your question, but if you ask it again.

Q. That's what I wanted to know. I believe that was the yes, as well, but I just want to make sure the record is clear. Is it your understanding that the proxy caches of Cohen require the complete -- I'm sorry. Strike that. I misspoke myself.

Is it your understanding that the proxy caches of Cohen require the absolute URL to -- in order to determine if the cache itself has the requested content?

A. Well, the way it's described here, it's a little ambiguous. But it seems like that's correct. In other words, because it says, if not, be forwarded to the origin server, which does. And these IP addresses relate directly to the origin server that you're sending it to.

So the way it describes it is

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it's -- if you -- it says, whether -- to determine whether it has a requested object. So it's insufficient to determine whether it has a requested object, and if not, to forward it to the origin server. It's a little tough to parse that knowing that's the IP address of the origin server and why the proxy would or wouldn't care. But it seems like that's a fair reading of it.

Q. And would you agree that in order for a proxy cache to know that it has the same object that is stored at a particular origin server, the proxy cache would need the absolute URL so it could determine for itself whether it obtained that cache content from that particular origin server?

A. Yes, that makes sense.

Q. If we can go back into the abstract of Cohen for a moment, please, and on the cover page. And let me know when you're there.

A. I'm there.

Q. So I'd like you to go down a couple of lines below, where we were looking at the reference of absolute URL. I'm interested in the phrase "masquerades those packets as coming

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from the origin server."

Let me know when you find that language.

A. Okay.

Q. So if we look at the sentence in which that phrase appears, it says, If it does, it sends the object back to the proxy redirector which masquerades those packets as coming from the origin server.

What is your understanding from the perspective of a POSA of what the proxy redirector is doing when it masquerades packets as coming from an origin server?

A. It's translating the destination and source address to make it -- we call it IP spoofing. Make it appear like it's coming from someplace else.

Q. So basically, is it fair to say, that what the proxy redirector is doing is spoofing some of the information contained in the packets to mislead the client device to think that it's receiving packets from an origin server?

A. I wouldn't use the word "mislead." It is masquerading that it used a cache.

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Q. When a client device is shown in Cohen 101, 101-1, -2, and so forth -- let me start again and make a clearer question for you.

When one of the requesting client devices in Cohen receives packets that have been masqueraded by the proxy redirector, does the client always believe that those packets actually originated at the origin server?

A. Yes. According to that IP address.

Q. Okay. And if you go back to Table 1 of Cohen in column 10, please.

A. Column 10.

Okay.

Q. Okay. And I want to start up in the arriving packet again. So this is packets arriving at the proxy redirector.

And in the fourth row, do you see the DADDR?

A. Yes.

Q. What's your understanding of what the DADDR is that's shown in the fourth row of the upper portion of Table 1?

A. It's the IP address of the origin server.

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Q. Okay. And now, if we look in the lower portion of Table 1 for the modified packets, and we look for that same parameter, the DADDR, do you see it there?

A. Okay.

Q. And what is your under- -- I'm sorry. Do you see it?

A. Yes, I do. Yes. Sorry.

Q. So what is your understanding of what the DADDR is in the modified packet shown in Table 1?

A. It should be the selected proxy cache, but let me verify that.

Yes. It's proxy cache 110-1. It's the IP address of that.

Q. So if we go back in the upper portion of Table 1 in column 10 of Cohen, the next row down starts with the phrase "TCP header."

Do you see that row?

A. Yes.

Q. What is your understanding of what the sport is? And, for example, it's shown as 1273.

A. 1273? Oh, you mean in the arriving

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packet. I thought we were on the modified one.

Q. Back up in the top portion. So let me make sure my question is clear.

In the upper portion of Table 1 for the arriving packet, what is your understanding of what the S-P-O-R-T is shown in the fifth row of information?

A. It's the TCP port that this packet was sent from on the client device.

Q. Okay. And then what is your understanding of when the next parameter, the dport, is?

A. The destination port for the IP packet.

Q. Okay. So that would be the destination port for the origin server, correct?

A. Correct.

Q. Okay. Now, if we jump down to the modified packets, I want to focus on those same parameters and I want start with the sport, which is now shown as 5,000.

Do you see that?

A. Yes.

Q. Why did Cohen -- in Cohen, why did

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they have to change the sport to 5000?

A. You mean why didn't they keep the original port?

Q. I'm asking if you have an understanding of why the sport is 5,000 in the modified packet?

A. So it's a bogus port by the proxy redirector. And, typically, you grab ports of high port numbers when you don't want them to collide with anything known as a well-known port number.

Q. And are you referring to the text in column 11 explaining that the port number is modified to a bogus port number?

A. Yes.

Q. Could you turn to paragraph 168 in your declaration, please?

A. Okay.

Q. And just for context, if it's helpful, at the end of paragraph 169, you've also included Figure 1 from Cohen. And if you can kind of see both of those at once, it might help with the questions that I'm asking.

A. Okay.

Q. Okay. So in paragraph 168 of your

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declaration, you begin by saying, "Proxy redirector 104 meets the construction of first server because it is a device operating in the role of a server." And then it continues on from there.

Do you see that language?

A. Yes.

Q. I just want to make sure my record is clear. Is it your opinion that proxy redirector 104 operates in the role of a server with respect to any one of the client 101s?

MR. LEVENTHAL: Form.

A. So it's -- yes, it's receiving requests from clients 101 and sending the responses back to clients 101. So it's operating as a server because it's operating at a -- at a request level.

Q. Okay. And I'm trying to make sure I understand it. Is it the relative relationship between proxy redirector 104 and any one of the client 101-1s that causes you to conclude that proxy redirector is operating in the role of a server relative to those clients?

A. I didn't quite understand your question. Sorry.

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Q. Sure. Is the opinion you've expressed in paragraph 168 that proxy redirector 104 meets the construction of a first server, is that because proxy redirector 104 is receiving requests from the client 101-1s and responding to those requests with information?

A. Right. And at a higher level than the IP packet layer that I described earlier.

Q. Now, if we sort of think of the flow of a request -- and I want to take the example where a client 101-1 has made a request that's been sent to proxy redirector 104 and proxy redirector 104, in turn, has sent that request to proxy cache 115.

Do you understand that particular pathway that I'm talking about?

A. Yes.

Q. So in connection with the request that has originated at client 101-1, that request has been received by proxy redirector 104. And then proxy redirector 104 has created the modified request and sent it on to proxy cache 115.

Is proxy redirector 104 operating

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in the role of a client with respect to proxy cache 115?

A. Yes. It's operating as a client because it's sending a request to the proxy cache.

Q. Okay. And when the proxy cache 115 receives that request that's been modified by proxy redirector 104, is it your opinion, then, that the proxy cache is operating in the role of a server with respect to that request?

A. Yes. Because it's going to receive a request and return a response.

Q. Okay. And in that same flow of information, if client 101-1 had sent a request that proxy redirector 104 has intercepted and modified and then proxy redirector 104 has sent that request to proxy cache 115, if proxy cache 115 does not have the requested content, is it your understanding that proxy cache 115, itself, will establish a connection to an origin server and then send that request on to the origin server to retrieve the requested content?

A. Yes.

Q. So that's the part of the process I

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want to focus on for a moment, is when proxy cache 115 has received a modified request, has determined that it lacks that content itself, and then proxy cache 115 reaches out to origin server 107 to get that content.

Is it your opinion that proxy cache 115 is operating in the role of a client at that point in time?

A. Okay. Once again, just slow down just a little bit.

Q. Sure. I'm just trying to go step-wise through the flow.

A. Got you.

Q. The portion of the flow I'm focusing on is when proxy cache 115 has received a request but does not have the content, so proxy cache 115 seeks to retrieve that content from an origin server, is that proxy cache operating in the role of a client at that point in time?

A. Yes. Proxy directors or caches, proxies -- yes, proxies act in roles as both client and servers. And in that regard, it's acting as a client.

Q. Dr. Olivier, quick question to

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follow up on proxy redirector 104. Are you aware of any disclosure in Cohen where proxy redirector 104 itself would cache any content?

A. No, not as I sit here.

Q. Can you go, please, to column 7 of the Cohen reference.

A. Okay.

Q. And I'd like to focus you on some language that's in column 7, approximately lines 46 through 48. I'll point out the language I'm interested in, and then I'll ask you to take a minute to review the surrounding text.

So the particular passage I'm interested in is that sentence in column 7, starting at line 46, that says, with respect to the latter, all objects from a specific origin server will be served by a specific proxy.

Do you see that language?

A. Yes.

Q. So I'm going to ask you what is your understanding when that sentence says, "All objects from a specific origin server will be served by a specific proxy." So you can take a minute to think about that.

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A. Okay.

Q. What is your understanding of the phrase "all objects from a specific origin server will be served by a specific proxy"?

A. That the proxy redirector, after a selecting proxy based on round-robin or least-loaded, after it's selected, it will then forward all requests to a specific origin server -- I'm sorry -- to a specific proxy based on the origin server that was identified in the request.

Q. So does that mean that once the proxy redirector has modified a request and forwarded it to a particular proxy cache, from that point forward in time, all requests directed to that same origin server will be forwarded to that same proxy cache?

A. It seems like if it was selecting it based on the -- if the proxy director used a selection based on the IP header information, it would then target that particular proxy server for that origin server. So it had different ways of selecting it. And if it was selecting it based on the IP header information, then it would target it to that

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one each time.

Q. So let me make sure I understand that. Is it your testimony that once the proxy redirector 104 has selected a particular proxy cache to service requests directed to a particular origin server, the proxy redirector is going to forward any subsequent requests directed to that same origin server to that same selected proxy cache?

A. So if it used -- if it based a selection on the IP header information and didn't base it on least-loaded or round-robin, then if it had based it on the IP header information, such as origin server's IP address, all the rest of the requests to that origin server would be served by that specific proxy.

So based on the proxy director choosing that particular way of partitioning out the requests and not using the least-loaded or round-robin approach, it would then choose that specific proxy over and over again.

Q. So I believe you're referring to some language in the prior sentence that's still in column 7 of Cohen starting at roughly

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line 43. And it says, "Proxy redirector 104 selects one of the available proxy caches to which to forward client requests." And then it says, "Based on a metric, such as least-loaded or round-robin, based on IP header information such as the origin server IP address."

Do you see that?

A. Yes.

Q. The explanation you had just given me, if I understood you correctly -- and please correct me if I'm wrong -- was if the proxy redirector made the selection based on IP header information and chose a specific proxy cache based on that header information, then that redirector is going to continue to send all the requests directed to that origin server to that same proxy cache. I just want to make sure I have that correct.

A. Correct. If it didn't use the least-loaded or round-robin approach, correct.

Q. Is that -- I'm sorry. I didn't mean to cut you off.

(Simultaneous speakers.)

A. I said correct.

Q. Is the answer that you gave, is

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that why you inserted the word "or" in your declaration between the least-loaded or round-robin and then the based on IP header information?

In your declaration, each time that word appears, you inserted the word in brackets "or"?

A. Yes, because I assumed it was missing.

Q. Okay. And, again, I just want to get to a clear understanding, then. So is the way you understand this disclosure in Cohen that the proxy redirector may select a proxy cache based on the metric such as least-loaded or round-robin, that would be one set of circumstances. Or another step would be where that selection of the proxy cache was based on IP header information.

Did you see those as alternatives? That's what I'm trying to get to.

A. Yes. A least-loaded is one way of doing it. That's the least load on the CPU. Round-robin is, you know, keep going in a circle; or based on IP header information. So I see least-loaded or round-robin or based on

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the IP header information.

Q. Okay. So in the least-loaded and round-robin, then the proxy redirector would be selecting different proxy caches based on those criteria?

A. Correct.

Q. But in the case where the proxy redirector was making its selection of a proxy cache based on IP header information, then the proxy redirector would select the same proxy cache for subsequent requests with the same IP header information; is that right?

A. Correct.

Q. Okay. Could you turn to paragraph 182 in your declaration, please. And let me know when you're there.

A. 182. Okay. I'm there.

Q. Is it your opinion that proxy caches 110, 115, and 117 meet the Court's construction of client device in this case?

A. Sorry. It must be my internet connection. You broke up just a little bit there.

Q. Sure. I'm sorry. Let me try that again. Is it your opinion that the proxy

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caches 110, 115, and 117 each meet the Court's construction of client device for this matter?

A. Correct. Because they can request information from an origin server.

Q. And, again, the same type of question I asked you earlier. What I wanted to focus in on: Is it important for your conclusion that you're looking at the point in time where the proxy cache would be requesting information from an origin server that the proxy cache would operate in the role of a client?

A. It's important that it have the capability and can work at it and does work at it at a particular time that informs my opinion that it's acting as a client.

Q. Can you turn to paragraph 211 of your report, please. I'm sorry. Of your declaration.

A. I sometimes call them reports too.

Q. It's all the same thing to me.

A. Yeah. 211. Okay. I'm there.

Q. And do you see the reference -- you talk about proxy redirector can be a programmable network element which runs on a

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Linux machine.

Do you see that?

A. Yes.

Q. In October of 2009, what type of Linux operating systems were in use, to your knowledge?

A. Linux is an operating system. So by "what type," what do you mean?

Q. You say in paragraph 212: A POSITA would know that Linux is a type of operating system; therefore, the first server must be operating or using a server operating system.

Do you see that?

A. Right.

Q. Are you aware in October of 2009 of any nonserver Linux operating systems?

MR. LEVENTHAL: Form.

A. So Linux operating system could do a lot of different things. You could have a desktop Linux. When you're talking about a server and -- and you -- it's using a Linux operating system, you say, a POSITA would understand that the server would be using a server operating system portion of Linux.

Q. So is the logic that you've

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applied, then, that because it's a server, it would use the server portion of Linux as opposed to a client or desktop portion?

A. Correct. Because it's operating as a server in the network.

MR. DUNHAM: Counsel, I'm very close to finishing up. What I would like to do, though, is take a short break just to review my notes and see if I have any follow-up. And I know it's probably getting very close, if not past the witness's lunchtime. But we can break for lunch if Dr. Olivier would prefer, or just take maybe a 10- to 15-minute break just to go over my notes and see if I'm at the end.

MR. LEVENTHAL: Let's just take a break. Do you want to make it quarter till or do you need 20?

MR. DUNHAM: How about 20 till? That should be sufficient.

THE VIDEOGRAPHER: The time is 12:27 p.m. We are now off the

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record.

(Recess.)

THE VIDEOGRAPHER: We are now back on the record. The time is 12:45 p.m.

MR. DUNHAM: Dr. Olivier, thank you very much for your time today. I pass the witness.

MR. LEVENTHAL: We have no redirect. We are done.

MR. DUNHAM: Thank you.

THE VIDEOGRAPHER: Counsel, are we agreeing to conclude today's deposition?

MR. DUNHAM: Yes.

MR. LEVENTHAL: Yes.

THE VIDEOGRAPHER: This concludes the deposition of Dr. James Olivier. Going off the record at 12:46 p.m.

(The deposition of JAMES OLIVIER, Ph.D., concluded at 12:46 p.m. Central Standard Time.)

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REPORTER'S CERTIFICATE

I, Greta H. Duckett, Certified Court Reporter, Registered Professional Reporter, and Certified Realtime Reporter, hereby certify that on Thursday, December 29, 2022, I reported the remote deposition of JAMES OLIVIER, Ph.D., who was first duly sworn or affirmed to speak the truth in the matter of the foregoing cause, and that the pages herein contain a true and accurate transcription of the examination of said witness by counsel for the parties set out herein.

I further certify that I am neither of kin nor of counsel to any of the parties to said cause, nor in any manner interested in the results thereof.

This 30th day of December, 2022.

_____
GRETA H. DUCKETT, RPR, CRR, CVR-S, RVR-M-S
Alabama CCR-12
Georgia CCR-2891
Hawaii CSR-540
Mississippi CCR-1945
Tennessee LCR-671

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*** ERRATA SHEET ***
TRANSPERFECT DEPOSITION SERVICES
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NEW YORK, NEW YORK 10017
(212) 400-8845

CASE: METACLUSTER LT, UAB vs. BRIGHT DATA LTD
DATE: DECEMBER 29, 2022
WITNESS: JAMES OLIVIER, Ph.D. REF: 6225

PAGE	LINE	FROM	TO

_____

JAMES OLIVIER, Ph.D.

Subscribed and sworn to before me

this ____ day of _____, 20__.

_____
Notary Public

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