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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLR WORLDWIDE SALES LIMITED,
Petitioner
v.
FLIP PHONE GAMES, INC.,
Patent Owner

Case No. IPR2024-00171
U.S. Patent No. 10,617,958

Case No. IPR2024-00132
U.S. Patent No. 9,731,202

Case No. IPR2024-00200
U.S. Patent No. 11,117,056

Case No. IPR2024-00209
U.S. Patent No. 9,427,662

REMOTE ORAL DEPOSITION OF
DR. ROBERT AKL
OCTOBER 24, 2024

REMOTE ORAL DEPOSITION of DR. ROBERT
AKL, produced as a witness at the instance of
the Petitioner, and duly sworn, was taken in
the above-styled and numbered cause on
October 24, 2024, from 9:00 a.m. to
a.m., before Mendy A. Schneider, CSR, 9:58
RPR, in and for the State of Texas, recorded
by machine shorthand, remotely at the offices
of MENDY SCHNEIDER, LLC, The Woodlands,
Texas, pursuant to the Federal Rules of Civil
Procedure and the provisions stated on the
record or attached hereto; that the
deposition shall be read and signed.

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R E M O T E A P P E A R A N C E S

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EXAMINATION INDEX	
WITNESS: DR. ROBERT AKL	
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EXHIBIT INDEX

(No exhibits were marked.)

(REPORTER'S NOTE: All quotations from documents are reflected in the manner in which they were read into the record and do not necessarily denote an exact quote from the document.)

1 THE REPORTER: The attorneys
2 participating in this deposition
3 acknowledge that I am not physically
4 present in the deposition room and
5 that I will be reporting this
6 deposition remotely.

7 They further acknowledge that
8 in lieu of an oath administered in
9 person, I will administer the oath
10 remotely.

11 The parties and their counsel
12 consent to this arrangement and waive
13 any objections to this manner of
14 reporting.

15 DR. ROBERT AKL,
16 having been first duly sworn, testified as
17 follows:

18 E X A M I N A T I O N

19 BY MR. HAGIZ:

20 Q. All right. Good morning, 09:00:41
21 Doctor. My name is Ron Hagiz. I represent
22 the petitioner. I think it's officially PLR
23 Worldwide Limited, but we -- we refer to them
24 as Playrix usually.

25 Before -- before I dive into 09:00:53

Page 4

1 any of the details, you -- you've been
2 deposed before, correct?

3 A. Yes.

4 Q. All right. I'll skip the
5 lengthy preamble. Just remind you for the 09:01:01
6 court reporter's sake to please wait until I
7 finish my questions before you start your
8 answer. I will try my best to wait for you
9 to finish your answer before I move on to my
10 next question. Is that okay? 09:01:13

11 A. Yes.

12 Q. And if you don't understand any
13 of my questions today, will you let me know?

14 A. Yes.

15 Q. Do you have any notes or 09:01:24
16 documents in front of you?

17 A. I have a blank sheet of paper
18 in front of me.

19 Q. Oh, that's it?

20 A. Yes. 09:01:33

21 Q. Is there any reason you can't
22 provide complete and honest testimony today?

23 A. No.

24 Q. So you understand -- well, let
25 me -- let me take a step back. 09:01:44

Page 5

1 You submitted three
2 declarations in connection with four -- four
3 IPRs and patents between Playrix and the
4 patent owner Flip Phone Games, right?

5	A. Yes.	09:02:01
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6 Q. So you understand that today's
7 deposition is -- is kind of a consolidated
8 deposition that covers in all four of those
9 proceedings all four of those patents, all
10 three of your declarations? 09:02:12

11	A. Yes.
----	---------

12 Q. So I've -- and I think we
13 talked about this before, briefly before the
14 deposition started.

15 But you -- I've uploaded into 09:02:23
16 the exhibit share system the three
17 declarations you submitted.

18	Have you -- have you had a	
19	chance to download and -- and take a look at	
20	them?	09:02:34

21	A. Yes.
----	---------

22 Q. I just want to make sure those
23 three declarations -- just making sure no --
24 no uploading or file errors.

25	Those are -- those are the	09:02:43
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Page 6

1 three declarations that you submitted with
2 respect to the '202 patent, the -- the '662
3 patent, and the '958 and '056 patents, right?

4 A. Yes.

5 Q. Okay. And just to make sure, 09:03:03
6 again, we're on the same page, I think the --
7 oh, one -- there's one declaration that
8 covers two of those patents, the '958 and the
9 '056, correct?

10 A. Yes. 09:03:23

11 Q. Now, the -- the four patents
12 that you've opined on, the -- in your
13 declarations, all four of those patents
14 relate to -- to games on mobile devices; is
15 that right? 09:03:42

16 A. At a high level, I would agree.

17 Q. And you -- based on your --
18 your personal experience and expertise, you
19 had experience with -- with -- with games and
20 video games before the -- the priority date 09:03:53
21 of these four patents, for 2007,
22 specifically?

23 A. Yes.

24 Q. And you're familiar more
25 generally with portable game consoles that 09:04:04

Page 7

1	existed before 2007?
---	----------------------

2	A. Yes.
---	---------

3 Q. Just as an example, are you
4 familiar with the PlayStation Portable?

5	A. Yes, I'm familiar.	09:04:17
---	-----------------------	----------

6 Q. And do you recall, was that
7 released before 2007 or after?

8 A. There were -- the PSP, which is
9 the first PlayStation Portable, then they
10 came out with a PlayStation Vita, the 09:04:30
11 PlayStation Portable I think it came out
12 maybe a -- a couple years before that. Maybe
13 2005 or something like that.

14	Q. And you're familiar with the	
15	Nintendo DS as well?	09:04:52

16 A. Yes, I've owned that too.

17 Q. And the original one -- I know
18 there's been a few iterations of that one
19 too.

20	The original Nintendo DS, do	09:05:00
21	you recall roughly when that was released?	

22 A. I know there was a DS and then
23 there was a DSi, and then there was a 3DS,
24 and then they had the XL versions of those.

25	I think it's around the same	09:05:16
----	------------------------------	----------

1 time. I think around 2005, probably, when
2 the DS came out. They -- they came out
3 around the same time.

4 Q. I want to ask you a little bit
5 about some of the patents that you opined on. 09:05:28

6 And just to start -- and I
7 think -- let me double-check. I think I've
8 uploaded the '202 and the '958 patents into
9 exhibit share.

10 Let me -- just in case you need 09:05:43
11 it, I'm going to upload the '056 into there
12 as well because I want to start with those
13 three.

14 You might need to refresh the
15 window, but the '056 should be in there as 09:05:57
16 well if you want to download it.

17 And my -- my question is:
18 The -- the '202, the '958, and the -- the
19 '056, those -- those patents are all in -- in
20 the same patent family; is that right? 09:06:09

21 A. That's a legal question, but
22 they have similar specification.

23 Q. Yeah. And I guess that --
24 that's what I was trying to get at.

25 Those three patents, they have 09:06:24

1 overlapping specifications?

2 A. Yes. I mean, I can look and
3 compare the specifications and I agree to
4 that.

5 Q. Yeah. And the reason I ask, 09:06:35
6 just in order to save ourselves time, I want
7 to ask some questions about the
8 specifications.

9 I'm -- I'm going to refer to
10 the '202 patent. And I just want to make 09:06:43
11 sure that we're on the same page, that those
12 same -- those same disclosures also exists in
13 the '958 and the '056 patents.

14 And does that sound right to
15 you or do we need to go through each of the 09:06:55
16 three patents for the same disclosure?

17 A. I think that's something that's
18 easily verifiable, so we don't need to go
19 through.

20 Q. All right. Perfect. So 09:07:05
21 let's -- let's open up the '202 patent that
22 was Exhibit 1000 -- so I've done my best --
23 since we were dealing with four different IPR
24 proceedings and these are all exhibits that
25 were already identified and numbered for each 09:07:22

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1 proceeding, for the purposes of -- of
2 navigation I -- I've tried my best to
3 indicate, and what I've uploaded to exhibit
4 share, both the exhibit number and the patent
5 number where that was submitted, you know, 09:07:36
6 and the associated IPR where it was
7 submitted.

8 So if we open up the '202
9 patent, which is Exhibit 1001 in the IPR
10 proceeding for the '202 patent -- just let me 09:07:50
11 know when you have that in front of you.

12 A. I do.

13 Q. And specifically I want to -- I
14 want to turn in -- to Column 10, and there is
15 an example -- well, there's a few examples in 09:08:10
16 Column 10 relating to initial messages.

17 Let me know when you're there
18 before I -- before I start asking questions.

19 A. I am in Column 10.

20 Q. And in your declarations you 09:08:28
21 provided some -- some opinions on -- on claim
22 limitation relating to -- to kind of a
23 checking or check step.

24 Do you remember that?

25 A. Can you repeat the question, 09:08:40

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1 please.

2 Q. Yeah. We can use an example.

3 For example, if you want to
4 look at your '202 declaration, I mean, that
5 was -- just for reference, that was 09:08:53
6 Exhibit 2004 in the '202 IPR.

7 For example, in paragraphs --
8 beginning in Paragraph 51 of that declaration
9 you provided an opinion on a limitation
10 checking what updated video game content to 09:09:22
11 send based on one of the factors.

12 Do you see that?

13 A. Yes.

14 Q. And in the -- in the -- the
15 declaration you've submitted for the '958 and 09:09:40
16 '056 patents that was Exhibit 2004, both of
17 those proceedings you opined on -- for
18 example, beginning in Paragraph 81, you opine
19 on a limitation reciting messages preselected
20 by the server. 09:10:01

21 And the limitation goes on, but
22 do you see that?

23 A. Yes.

24 Q. Okay. And so I -- I want to --
25 I guess I want to make sure that I understand 09:10:12

Page 12

1 your -- your reading or your understanding of
2 some of these claim limitations.

3 I guess the first question:

4 Did you consider the example in the '202
5 patent in Column 10, beginning at Line 4 09:10:28
6 through Line 45 -- did you consider that --
7 that example and specification in -- in your
8 understanding of the claims for the purposes
9 of rendering your opinions?

10 A. I considered the specification. 09:10:43
11 My understanding -- again, I'm not a
12 lawyer -- but my understanding are, you know,
13 claims are understood from the point of view
14 of a person of ordinary skill in the art in
15 light of the specification. 09:11:02

16 Q. But I guess -- I guess my
17 question more specifically: Did you consider
18 or did you review the -- the example or the
19 embodiments that are described in Column 10,
20 Lines 4 through 45 specifically? 09:11:15

21 A. I -- I read all the
22 specification which would include those.

23 Q. Okay. And if we look
24 specifically -- if you go down to -- to
25 Line 33 -- or, actually, I think Line 37, you 09:11:40

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1 see that there's an example that's described
2 there where a service provider -- or a
3 particular service provider may wish to
4 provide an initial message that thanks the
5 user of the mobile communication device for 09:11:56
6 using their services.

7 Do you see that?

8 A. I see those words, yes.

9 Q. And -- and I guess as a -- as
10 an initial matter, the -- there are -- there 09:12:06
11 are claims you've opined on that refer to
12 updated content or updated video content.

13 Is -- is the message -- the
14 initial message that's described in that
15 example, would that be considered updated 09:12:20
16 content or updated video content that's used
17 in the claims?

18 A. I didn't necessarily map claim
19 language to the specification that we would
20 have to -- to answer your question, I would 09:12:37
21 have to -- I mean, I would have to go back
22 and look at the claim language.

23 But I did not map claim
24 language to specific lines in the
25 specification. So it's difficult for me to 09:12:51

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1 answer your question.

2 Q. Well, I guess I'll ask it a
3 little differently.

4 Reading the example -- and if
5 you need to review the paragraph or -- or 09:13:00
6 some of the adjacent language for context,
7 that's fine too.

8 But reviewing the example
9 specifically on Lines 37 through 40 of
10 Column 10, based on your understanding of the 09:13:14
11 claims, is that describing an example of
12 updated content or updated video game
13 content?

14 A. Again, that is not an exercise
15 I've done. I did not map embodiments or 09:13:26
16 specification to claim language.

17 Q. Right. But based on your
18 understanding of the claims, are you able to
19 answer that question sitting here right now?

20 A. That is -- that is not 09:13:38
21 something I did in my declaration. So I --
22 I'm not -- I don't know if that's something I
23 can do on the fly.

24 Q. Okay. Okay. Well, I guess
25 I'll -- let me ask a more -- a little more 09:13:52

Page 15

1 technical question.

2 In the example on Lines 37
3 to 40 in Column 10, the -- the initial
4 message that's being described there, that's
5 selected based on -- on service provider, 09:14:06
6 correct?

7 A. I mean, the -- the
8 specification says the initial message may be
9 preselected based upon at least one of the
10 factors, including a type of the mobile 09:14:26
11 communication device, a telecommunication
12 service, and a subscription device -- a
13 subscription associated with the mobile
14 communication device and a service provider.

15 So in this -- in this spec, 09:14:42
16 it's based upon at least one of these. And
17 one of those, the last one, does state a
18 service provider of the telecommunications
19 service.

20 Q. That's exactly right. And -- 09:14:54
21 and in the -- in the example that follows on
22 Lines 37 to 40 where it describes a
23 particular service provider who wishes to
24 provide an initial message, there the message
25 could be selected just based on the service 09:15:09

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1 provider of the factors you just described,
2 correct?

3 A. I -- I mean the -- I have not
4 provided opinions on this paragraph so I
5 don't have opinions on it. 09:15:20

6 I can agree that you've read it
7 correctly. I can agree to the words on the
8 page. But I don't have opinions on -- on it
9 in general in my declaration.

10 Q. Okay. So you don't have an 09:15:32
11 opinion as to whether the example on Line 37
12 to 40, whether that -- in that example the
13 message can be selected based on the service
14 provider alone or based on other factors.

15 You don't have an opinion on 09:15:45
16 that?

17 A. Again, I did not map claim
18 language to the specification. I gave lang
19 terms their plain and ordinary meaning.

20 Q. In the example on the following 09:16:00
21 lines, Lines 42 to 45 describes the newer
22 mobile communication devices that may be able
23 to display a more elaborate initial message.

24 Do you see that?

25 A. I do see that. I do see those 09:16:12

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1 words, yes.

2 Q. And then it explains the
3 distinguishing among types of mobile
4 communication devices may allow a game
5 provider to maximize the experience on each 09:16:22
6 type of mobile communication device, right?

7 A. I do see those words, yes.

8 Q. And so in that example the
9 message -- a message could be selected based
10 on the type of mobile communication device? 09:16:35

11 A. I don't have opinions on it,
12 but I agree that some of those words appear
13 in the specification.

14 Q. Then -- then I think we can
15 agree, though, that in the example on 09:16:47
16 Lines 37 to 40 there is no description --
17 there's no description there of using the
18 type of mobile communication device to select
19 the message, right?

20 A. I don't have opinions on that. 09:16:58

21 Q. I'm asking you about what the
22 words on the page say, right?

23 On Lines 37 to 40 -- in the
24 sentence that spans Lines 37 to 40 there's no
25 description of using the type of mobile 09:17:12

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1 communication device to select the initial
2 message in that example, correct?

3 A. I mean the words say what they
4 say. I don't have opinions on it. And I'm
5 not interpreting them.

09:17:24

6 Q. Sorry, you're not what?

7 A. Providing an interpretation of
8 them.

9 Q. All right. Let's turn to --
10 turn to Column 8 and see if there's an
11 example in Line 6 through 8.

09:18:09

12 A. I am in Column 8.

13 Q. Okay. And you see in -- in
14 Column 8, in Lines 6 to 8, there's a
15 description of popup windows that are to the
16 operation of the game?

09:18:25

17 A. I do see those words.

18 Q. And in your declaration I think
19 you provide -- well, actually, let -- rather
20 than saying I think, let's -- let's turn to
21 your declaration and your declaration on the
22 '202 patent specifically.

09:18:40

23 On -- if you turn to
24 Paragraph 64 -- I think more generally
25 starting in Paragraph 64 of your '202

09:19:19

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1 declaration, you opine on what it means
2 for -- for an advertisement to be for use or
3 usable in a mobile video game.

4 Do you see that?

5 A. Well, my opinion on that claim 09:19:30
6 language starts in Paragraph 61.

7 And in Paragraph 64 I am
8 providing an opinion how the POSITA would
9 understand the -- whether that is disclosed
10 or not in the context of the prior art that 09:19:59
11 petitioner put forward.

12 Q. Right. But you -- you had to
13 form an understanding of what the claims
14 require in order to opine whether or not the
15 prior art in fact discloses those elements, 09:20:12
16 right?

17 A. Yes, I gave terms their plain
18 and ordinary meaning, as understood by a
19 person of ordinary skill in the art, at the
20 time of the invention. 09:20:28

21 Q. And Paragraph 64 with -- with
22 respect to -- to have specifically -- and I'm
23 reading from Page 30, about four lines down.

24 You say: "The advertisements
25 do not relate to any specific interactions or 09:20:41

Page 20

1 uses in the game."

2 You see that?

3 A. Yes, I see those words.

4 Q. And so in your opinion, in
5 order for -- for video game -- for updated 09:20:52
6 video game content to be usable or for use,
7 that content must -- must relate to a
8 specific interaction or use in the game; is
9 that right?

10 A. I am giving examples. I'm not 09:21:13
11 providing a -- I'm not articulating a
12 definition or doing claim construction.

13 Q. Well, the claims don't include
14 the language "specific interactions" or "uses
15 in the game." 09:21:30

16 So I'm trying to understand
17 why -- why does the fact that the
18 advertisements in Hays do not relate to any
19 specific interactions or uses in the game,
20 why does that mean that they don't meet the 09:21:37
21 claim limitation relating to usable in the
22 video game?

23 A. Because that's how a person of
24 ordinary skill in the art would understand
25 the claim language. 09:21:53

Page 21

1 So when you go back to the
2 claim itself, the claim says "for use in a
3 mobile."

4 So, I mean, the claim could
5 have said a method for providing updated 09:22:13
6 video game content to a mobile communication
7 device in a mobile video game.

8 So -- but it didn't. It said
9 "for use in a mobile video game." So those
10 two words have meaning. 09:22:31

11 You could have content in a
12 game or you could have content for use in a
13 game. And so those "for use" is what is
14 missing in the prior art.

15 Q. Okay. And so -- so this "for 09:22:47
16 use," does that mean that it -- that it
17 impacts the game playing in some way?

18 A. "For use" means for use. Like
19 you have to be able to use it, like the user
20 has to be able to use it. It has to be 09:23:08
21 usable.

22 Now an example of something
23 that is usable could impact the game play.

24 But I am not specifically --
25 I'm not articulating a definition of what -- 09:23:22

Page 22

1 I don't need to articulate a definition here
2 of exactly what it -- the whole boundary
3 because there is nothing for -- in Hays that
4 allows you to use it.

5 And I gave examples of what 09:23:44
6 that means.

7 So just having something be a
8 skin that's rendered in the game, you know,
9 you have a -- you know, you have a billboard
10 or you have a can or you have something that 09:23:59
11 an advertisement appears on, that would not
12 meet the "for use" or "usable" claim
13 language.

14 And so it's easy for me to be
15 able to provide an opinion of why Hays does 09:24:17
16 not meet that claim language without having
17 to articulate all the requirements for what
18 it means to be for use and what's the
19 boundary of the term "for use."

20 I can still use plain and 09:24:35
21 ordinary meaning. And because the -- the
22 Hays, which is spelled H-A-Y-S, doesn't
23 disclose anything related for use or
24 usable -- and I walk through what exactly it
25 discloses and what it's used for. 09:24:55

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1 In fact, the disclosures teach
2 the opposite. I can say that Hays does not
3 disclose or teach this claim element without
4 having to articulate any definition for the
5 words "for use" and "usable." 09:25:12

6 Q. Okay. So let's -- let's break
7 that down a little.

8 So you pointed to -- you
9 referenced -- I think you were referring to
10 in Paragraph 64, where you say, describing 09:25:20
11 Hays: "The advertisements are merely
12 graphical skins that are rendered or content
13 or items that are already present and shipped
14 with the game."

15 That's one of the examples you 09:25:33
16 were referring to about why -- why Hays is
17 not -- not providing content that's for use
18 or usable in the game; is that right?

19 A. Yes. That's part of my
20 opinion. 09:25:41

21 Q. Okay. And so -- so if an
22 update just provides a graphical skin that's
23 rendered on -- on content or items that are
24 already present and shipped within the game,
25 that -- that doesn't rise to the -- to the 09:25:54

Page 24

1 level of -- of for use or usable as that's
2 used in the claim language?

3 A. That's fair. That's just
4 content in the game. That would not meet the
5 claim language and would be reading out the 09:26:10
6 terms for use.

7 Q. Okay. Let's -- if you go back
8 to the '202 patent, if we turn to
9 paragraph -- sorry -- Column -- Column 6
10 there's an example. It starts at Line 42. 09:26:29

11 A. I'm there.

12 Q. Okay. And you see there --
13 there's the example here is referring to --
14 to Figure 2A. If you need to take a look at
15 that, feel free to look at that in parallel 09:26:49
16 as well.

17 Do you see the example
18 referring to 2A beginning on Line 42 of
19 Column 6 of the '202 patent?

20 A. Yes. 09:27:00

21 Q. And in this example, if you
22 continue on Line 45, the patent says -- still
23 in Column 6 -- "For instance -- for instance,
24 the shirt might be updated to include a logo
25 associated with third party X (as shown)." 09:27:17

Page 25

1 Do you see that?

2 A. Yes.

3 Q. And based on -- on your
4 understanding -- or based on -- based on your
5 understanding of the claims, updating the 09:27:27
6 shirt to include a logo associated with a
7 third party, that -- that would not be
8 updated content that is for use or usable in
9 the game?

10 A. It depends on the context. If 09:27:38
11 you use that shirt and the -- you know,
12 the -- the content plays a role when you use
13 that shirt, then it could.

14 But just having something on a
15 shirt, and if we stop there and we don't give 09:27:59
16 any additional information, that is just
17 content but that doesn't disclose for use
18 yet.

19 Q. Okay. Understood.

20 Okay. You also -- this is, I 09:28:13
21 think, in Paragraph 75 to 82 of your
22 declaration. On the '202 patent, you opine
23 on a limitation relating to -- relating to --
24 to the in-game placement location.

25 You see that? 09:28:44

Page 26

1 A. That is correct.

2 Q. And, again, I want to -- I want
3 to make sure I -- I understand your -- your
4 understanding of that claim.

5 Does -- I guess according to 09:28:56
6 the claim language, does the location -- does
7 the in-game location, does that have to be
8 provided or identified in a particular format
9 such as coordinates, for example?

10 A. The claims do not limit -- or, 09:29:10
11 I mean, at least what I'm looking at here,
12 coordinates would be an example but it would
13 not be limited to that.

14 But the claim does say that you
15 have to send information as part of the 09:29:42
16 updated content, the information providing an
17 in-game placement location associated with
18 the updated video game content.

19 Q. Right. I just want to -- I
20 mean, I want to make sure I understand kind 09:30:01
21 of like where -- where that location -- what
22 exactly that location means -- or at least I
23 want to explore a few examples.

24 If we turn to Column 12
25 beginning on Line 4, again, of the '202 09:30:17

Page 27

1 patent, just let me know when you're there.

2 A. I'm in the '202. What column?

3 Q. It's Column 12 beginning in

4 Line 4.

5 A. I'm there. 09:30:33

6 Q. Okay. And there -- there's a
7 passage there that -- that generally relates
8 to determining the location of the content
9 placement.

10 Do you see that? 09:30:40

11 A. Yes, I see those words.

12 Q. And -- and so in -- in -- on
13 Lines 5 to 7, still in Column 12, there's an
14 example where the downloaded -- downloaded
15 updated content includes coordinates. 09:30:55

16 Do you see that?

17 A. Well, Line 5 says: "In some
18 embodiments, the downloaded updated content
19 includes coordinates. For example, the
20 coordinates may specify..." 09:31:09

21 And it goes on.

22 Q. Right. And I just want to make
23 sure.

24 So I think we agree that the
25 coordinates are -- are one way, one 09:31:15

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1 nonlimiting way, in which location
2 information could be provided according to
3 the patent?

4 A. I haven't provided an opinion
5 on that. I can agree that the specification 09:31:28
6 says: "In some embodiments, the downloaded
7 updated content includes coordinates."

8 I have used the plain and
9 ordinary meaning of that term in the claim,
10 but I have not articulated a definition of 09:31:45
11 everything that it can and cannot embody.

12 Q. You see if you go down to --
13 still on Column 12 beginning on Line 24,
14 there is -- there's a description of another
15 embodiment where the coordinates comprise a 09:32:06
16 selection of one or more predefined in-game
17 locations.

18 You see that?

19 A. Yes.

20 Q. And continuing on the same 09:32:16
21 embodiment in Line 29, beginning on Line 29
22 says: "In that embodiment, the coordinates
23 need only identify the predefined location
24 (rather than positions along the axes)..."

25 And then it goes on. 09:32:32

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1 Do you see that passage?

2 A. I do see those words, yes. And
3 it gives examples of like where the shirt is
4 hanging.

5 The second location is where 09:32:43
6 the poster is positioned.

7 A third location may be like
8 where the dart board displays.

9 So it's not saying that it's a
10 shirt or it's a dartboard or it's a poster. 09:32:55

11 But it's adding location to
12 that item, like where the shirt is hanging,
13 where the poster is positioned, where the
14 dartboard displays.

15 And that's exactly the opinion 09:33:08
16 that I have, is that Hays does not disclose
17 that.

18 The -- you know, so -- so -- so
19 that's consistent with the opinion that I
20 have. 09:33:19

21 Where Hays is describing ad
22 units or spaces, that would just be the
23 billboard or the sign. But it's not saying a
24 specific -- or a T-shirt.

25 But that's different than the 09:33:37

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1 claim language that says where the shirt is
2 hanging. There is location information that
3 is not disclosed in Hays.

4 Q. Okay. But you -- and I guess
5 you would agree with me that the -- the 09:33:50
6 example that's described in Lines 24 to 33 of
7 Column 12, that is -- that is an example
8 where location information is provided?

9 A. Yes. It's saying a first
10 location may be where the shirt is hanging. 09:34:07

11 A second location may be where
12 the poster is positioned.

13 A third location may be where
14 the dartboard displays and so on.

15 So it is giving you location 09:34:20
16 information, not just saying a first location
17 is the shirt. So that's, I think, the
18 distinction between the priority, like Hays,
19 that does not provide any location
20 information. 09:34:35

21 And the examples in the '202
22 that provide examples of locations that could
23 be exact coordinates or a location that still
24 be in relation to an object, but it's still a
25 location where something is hanging, where 09:34:52

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1 something is positioned.

2 And that's also where the
3 coordinates comprise the selection or -- of
4 one or more predefined in-game locations.

5 Q. Okay. That is helpful. 09:35:07

6 Okay. Let me -- I want to turn
7 to your declaration on the '958 patent. That
8 was Exhibit 2000 -- well, the '958 patent and
9 the '056 patent, that was Exhibit 2004.

10 In both of those proceedings -- 09:35:29
11 and specifically once you have it open --
12 let's turn to Paragraph 57. Let me know when
13 you're there.

14 A. I'm there.

15 Q. Okay. And you see in 09:35:47
16 Paragraph 57 of your declaration on the '958
17 and '056 patents -- in that section you're
18 opining on the -- on the limitation
19 preselected in-game advertising with respect
20 to Hays. 09:36:00

21 Do you see that?

22 A. Yes, which starts Paragraph 52.

23 Q. And specifically I want to ask:
24 In Paragraph 57, the last sentence, you say:
25 "A POSITA would understand that an ad is not 09:36:15

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1 preselected if it is selected in realtime, as
2 preselection must occur beforehand."

3 You see that?

4 A. I do.

5 Q. And when you refer here to -- 09:36:29
6 to an ad being selected in realtime, what
7 does that mean?

8 What do you mean there?

9 A. This is further describing why
10 Hays does not meet this claim term. 09:36:48

11 And so I provide multiple
12 opinions over the previous paragraphs.

13 And specifically those relate
14 to the subchannels and Hays' description of
15 coming to this opinion of serving an ad at a 09:37:14
16 specific date and time.

17 And when that is being done,
18 the server is still selecting from a set of
19 advertisements. And -- but -- and that
20 selection is done in realtime. 09:37:30

21 So I'm still referring to Hays'
22 own disclosure that it is doing a
23 selection -- even if you're selecting from a
24 set, that does not meet the preselected claim
25 language. 09:37:51

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1 So, again, I'm not providing
2 claim construction. The term would still
3 have its plain and ordinary meaning.

4 I am distinguishing the plain
5 and ordinary meaning of preselected would not 09:38:04
6 include the selection in real-time from a set
7 of advertisements that Hays describes.

8 Q. So in the end of that sentence,
9 when you say "preselection must occur
10 beforehand," before what? 09:38:23

11 A. So -- so before you're going to
12 do something with it. That's -- that's --
13 you know, preselection, if you look at the
14 definition, general dictionary definition, of
15 preselection -- again, I'm not articulating 09:38:42
16 one, but generally most dictionary
17 definitions of preselection would say
18 selection done in advance. So that's the
19 same thing.

20 So a preselection must occur 09:38:54
21 beforehand means you need to have -- to
22 select an event means an event of -- it's not
23 like right then and there that -- that
24 selection. That's not preselection.

25 So it has to be done before. 09:39:13

1 And -- and you're asking me before what.
2 Before whatever event you're
3 going to use it or you're going to pick it or
4 you're going to -- you know, that's when
5 you're going to make -- you know, whatever 09:39:26
6 that event is, there has to -- the
7 preselection has to happen beforehand or in
8 advance, otherwise it's just selection.
9 So the pre has a weight. And
10 pre means before -- you know, in advance of 09:39:42
11 something. And that something, you know,
12 would depend on the context.
13 But -- but that's what
14 preselection -- that's the plain and ordinary
15 meaning of preselection. 09:39:57
16 And that's why I am saying if
17 you're doing something -- you're selecting in
18 real-time, you're selecting and using, that
19 would not be preselection.
20 Q. Okay. And -- 09:40:09
21 (Speaking simultaneously.)
22 A. Sorry. That would read out the
23 pre in preselection.
24 (BY MR. HAGIZ)
25 Q. And in your -- your opinion is 09:40:16

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1 if there is a set or a list that is selected
2 in advance, that -- that's not enough in
3 order to -- that doesn't qualify as
4 preselected if you -- if you have to later
5 select from among that list or set? 09:40:30

6 A. That's correct.

7 So the selection that's being
8 done is still done in real-time even if
9 you're selecting from a set of
10 advertisements. 09:40:41

11 That would not meet the claim
12 language of preselecting the -- the in-game
13 advertising because it doesn't say
14 preselecting the set.

15 The claim language says 09:41:00
16 preselecting in-game advertising.

17 And you would not be
18 preselecting in-game advertising when
19 you're -- even if you're selecting from a
20 set, because the pregame advertising that you 09:41:12
21 are selecting, you wouldn't be preselecting
22 that.

23 Q. So if -- let's take a look at
24 the '958 patent itself. That was
25 Exhibit 1001 in that respective proceeding. 09:41:28

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1 And I uploaded that to exhibit share. Let me
2 know if you have that one in front of you.

3 A. I do.

4 Q. Okay. And I just want to turn
5 to claim 1, which is in Column 15. 09:41:40

6 A. I am there.

7 Q. And in -- in Column 15 -- or in
8 claim 1 there's a -- there's a limitation --
9 second to last limitation is check what
10 preselected in-game advertising to send. 09:41:56

11 Do you see that?

12 A. Yes.

13 Q. And by -- by the time this
14 check step is performed that -- that
15 preselection must have already happened, 09:42:09
16 right?

17 It's not being preselected
18 during that checking step?

19 A. I don't have an opinion on
20 that. 09:42:17

21 Q. Do you not have -- is that not
22 something that you considered when you
23 offered your opinions?

24 A. Well, that is a legal question.
25 So -- and the reason I say that 09:42:27

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1 is this is a system claim and the system
2 comprises multiple steps. You need to have a
3 storage medium, a server, an interface, a
4 check, and you send.

5 And my understanding is -- of 09:42:47
6 legal principles -- again, I'm not a lawyer.

7 But my understanding of legal
8 principles is that when you have multiple
9 steps, the steps do not have to occur in the
10 order that they are written, unless the judge 09:43:05
11 provides a claim construction that says the
12 steps need to follow a specific order or
13 there is an inherent order that would make
14 sense.

15 So here in the absence of a 09:43:23
16 claim construction order that would limit
17 specific steps to occur before others, I
18 would disagree -- I don't have an opinion
19 that answers your question because you seem
20 to be asking me about an inherent -- or to 09:43:40
21 provide an opinion about an inherent order of
22 the steps.

23 Q. So I'm not asking about the
24 order of the steps. Let me ask my question a
25 little clearer. 09:43:54

1 Earlier when we were talking
2 about your opinions on the term "preselect,"
3 I pointed you to a part in your declaration
4 where you said the preselection --
5 preselection must occur beforehand. 09:44:05

6 So my question in the context
7 of claim 1: Does it -- preselection, does
8 that happen -- does that have to happen
9 before the -- the check step or is that
10 something that can happen at -- as part of 09:44:18
11 the check step?

12 A. I have not addressed that in
13 my -- and I'm not providing an opinion on
14 that limitation. I'm providing an opinion on
15 the sending. 09:44:49

16 So the -- so when you go back
17 to the claim language, I think -- I provide
18 an opinion on sending the preselecting
19 in-game advertising.

20 The sending has to happen after 09:45:02
21 the checking step. So you have a checking
22 step and you have a sending step. And I
23 would agree in this case you have to check
24 what preselected in-game advertising to send
25 and then you need to send. 09:45:19

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1 So I would agree that -- and I
2 provide an opinion that sending the
3 preselected in-game advertising would happen
4 before the checking what preselected in-game
5 advertising to send. 09:45:34

6 But you're further asking me to
7 break down or provide a timeline between the
8 checking and the preselected in-game
9 advertising.

```
10          And I -- and I -- those are          09:45:49
11  single limitation.
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12 And I don't have an opinion on
13 the temporal aspect of that.

14	Q. Okay. I think you may have	
15	misspoken just now. Let me -- and let me	09:45:59
16	just make sure.	

17 I heard you say just now that
18 sending the preselected in-game advertising
19 would happen before the checking. Is that --

20	A. After.	09:46:10
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21 Q. Okay. And so if I understood
22 you correctly, in your opinion, the
23 preselection must have happened before the
24 sending step; is that right?

25	A. The -- can you repeat your	09:46:24
----	-------------------------------	----------

1 question.

2 Q. Yeah. You -- you -- you
3 mentioned just now that your opinion was on
4 the sending step.

5 So your opinion that the 09:46:40
6 preselection is something that must have
7 happened before the sending step?

8 A. There is no preselection step
9 on its own. There is a check what
10 preselected advertising to send and there is 09:46:58
11 a send the preselected in-game advertising.

12 I am saying that the claim
13 language says you need to check and then you
14 need to send. And the sending step happens
15 after the checking step. 09:47:16

16 Q. Right. Well, I guess I'm
17 not -- I'm not asking about the sequence of
18 those steps.

19 I'm trying to understand in the
20 context of the claims by when must the 09:47:24
21 preselection have happened.

22 So does the preselection of --
23 of content, does that need to have already
24 happened by the time you send the preselected
25 in-game advertising? 09:47:39

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1 A. And, again, it's difficult to
2 answer your question because you're asking me
3 about a limitation that does not exist in
4 vacuum.

5 There is a checking what 09:47:55
6 preselected in-game advertising to send.
7 That whole limitation would probably base --
8 again, would -- I think would have to happen
9 before the sending the preselected in-game
10 advertising. 09:48:13

11 So that's how I would -- but
12 you're asking me to break down a limitation
13 further.

14 In a way you're asking me to
15 break down checking what preselected in-game 09:48:24
16 advertising and if the checking, which I
17 would say as a step, happens before the
18 sending.

19 But you're asking me about
20 preselected. Preselected is not a limitation 09:48:35
21 on its own.

22 There is checking what
23 preselected in-game advertising. So that is
24 the step. Not -- preselected on its own in
25 vacuum is not a step. 09:48:47

1 Q. Right. But preselection or
2 preselected means that at some point in time
3 a selection was made for the in-game
4 advertising, correct?

5 A. Preselected as a term would 09:48:57
6 imply some selection in advance, yes.

7 Q. And so my question is: When --
8 when the claims refer to -- to checking what
9 preselected in-game advertising to send, has
10 that selection already been made at that 09:49:15
11 point in time or is that not necessarily the
12 case in the context of the claims, claim 1
13 specifically?

14 A. I don't have an opinion on the
15 checking what preselected and subparts in 09:49:27
16 that. That's exactly my answer to you.

17 Q. Okay. So you're not offering
18 an opinion that the preselection must have
19 occurred before you have a checking step; is
20 that right? 09:49:40

21 A. That's fair, because
22 preselection is not a limitation on its own.

23 MR. HAGIZ: Okay. Let's take a
24 short break. That may actually be all
25 I have today, but let me just take a 09:49:57

quick look at my notes. And if it is, then we can go back on the record and wrap up.

(Break from 9:50 a.m. to 9:58 a.m.)

(BY MR. HAGIZ)

09:58:00

Q. All right. Thanks, Doctor.
That's all the questions I have for you
today.

MS. KOBALLA: No questions for me either.

09:58:14

MR. HAGIZ: All right.

(The deposition concluded at 9:58 a.m.)

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S I G N A T U R E O F W I T N E S S

I, DR. ROBERT AKL, solemnly swear or affirm under the pains and penalties of perjury that the foregoing pages contain a true and correct transcript of the testimony given by me at the time and place stated with the corrections, if any, and the reasons therefor noted on the foregoing correction page(s), and that I am signing this before a Notary Public.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PLR WORLDWIDE SALES LIMITED,
Petitioner

v.

FLIP PHONE GAMES, INC.,
Patent Owner

Case No. IPR2024-00171
U.S. Patent No. 10,617,958

Case No. IPR2024-00132
U.S. Patent No. 9,731,202

Case No. IPR2024-00200
U.S. Patent No. 11,117,056

Case No. IPR2024-00209
U.S. Patent No. 9,427,662

THE STATE OF _____:

COUNTY OF _____:

I, MENDY A. SCHNEIDER, a Certified
Shorthand Reporter in and for the State of
Texas, do hereby certify that the facts as
stated by me in the caption hereto are true;
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interrogatories as indicated were made before
me by the said witness after being first duly
sworn to testify the truth, and same were

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4 correct transcript of the proceedings had at
5 the time of taking of said deposition.

6 I further certify that I am not, in any
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9 the regular employ of this attorney; and I
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11 cause, nor of kin or counsel to either of the
12 parties.

13 That the amount of time used by
14 each party at the deposition is as follows:

15 MR. HAGIZ - 00:49:21
16
17

18 GIVEN UNDER MY HAND AND SEAL OF OFFICE,
19 on this, the 28th of October 2024.
20
21
22



23 MENDY A. SCHNEIDER, CSR, RPR
24 Certification No.: 7761
25 Expiration Date: 1-31-2025

1 Dr. Robert Akl

2 robert.akl@ashumcorp.com

3 OCTOBER 28, 2024

4 RE: PLR Worldwide Sales Limited v. Flip Phone Games, Inc.

5 10/24/2024, Dr. Robert Akl, (#6981980).

6 The above-referenced transcript has been

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22 Counsel - Original transcript to be released for signature
23 as determined at the deposition.

24 ___ Signature Waived - Reading & Signature was waived at the
25 time of the deposition.

Page 48

1 _X_ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF
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9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

1 PLR Worldwide Sales Limited v. Flip Phone Games, Inc.
2 Dr. Robert Akl (#6981980)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

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24 (Dr. Robert Akl) Date

25

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[& - ad]

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056 7:3,9 9:11 9:15,19 10:13 12:16 32:9,17	2005 8:13 9:1 2007 7:21 8:1,7 202 7:2 9:8,18 10:10,21 11:8 11:10 12:4,6 13:4 19:22,25 25:8,19 26:22 27:25 28:2 31:21	40 15:9 16:3,22 17:12 18:16,23 18:24 42 17:21 25:10 25:18 4208 2:9 45 3:4 13:6,20 17:21 25:22 47 3:5	82 26:21
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10 11:14,16,19 13:5,19 15:10 16:3 10,617,958 1:8 46:8 10/24/2024 48:5	22 2:4 24 1:17,21 29:13 31:6 27609 2:10 28 48:3 28th 47:18 29 29:21,21 2a 25:14,18	5 28:13,17 51 2:4 12:8 52 32:22 57 32:12,16,24	9,731,202 1:10 46:10
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11 27:24 28:3 28:13 29:13 31:7	30 20:23 49:1 33 13:25 31:6 37 13:25 15:9 16:2,22 17:11 18:16,23,24	6 19:11,14 25:9 25:19,23 61 20:6 64 19:24,25 20:7,21 24:10 662 7:2 6981980 45:23 48:5 50:2	958 7:3,8 9:8 9:18 10:13 12:15 32:7,8 32:16 36:24
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[adding - checking]

adding 30:11 additional 26:16 addressed 39:12 adjacent 15:6 administer 4:9 administered 4:8 advance 34:18 35:8,10 36:2 43:6 advertisement 20:2 23:11 advertisements 20:24 21:18 24:11 33:19 34:7 36:10 advertising 32:19 36:13,16 36:18,20 37:10 39:19,24 40:3 40:5,9,18 41:10,11,25 42:6,10,16,23 43:4,9 affirm 45:4 agree 7:16 10:3 17:6,7 18:12 18:15 28:24 29:5 31:5 39:23 40:1 akl 1:17,19 3:2 4:15 45:3,13 45:16 46:22	48:1,5 50:2,24 allow 18:4 allows 23:4 amount 47:13 answer 5:8,9 14:20 15:1,19 42:2 43:16 answers 38:19 46:21 appeal 1:2 46:2 appear 18:12 appearing 48:18 49:7 appears 23:11 arrangement 4:12 art 13:14 20:10 20:15,19 21:24 22:14 articulate 23:1 23:17 24:4 articulated 29:10 articulating 21:11 22:25 34:15 ashumcorp.c... 48:2 asking 11:18 18:21 35:1 38:20,23 40:6 41:17 42:2,12 42:14,19 aspect 40:13	associated 11:6 16:13 25:25 26:6 27:17 attached 1:24 attorney 47:9 attorneys 4:1 avenue 2:4 axes 29:24 b b 49:1 back 5:25 14:21 22:1 25:7 39:16 44:2 base 42:7 based 7:17 12:11 15:10,17 16:5,9,16,25 17:13,14 18:9 26:3,4,4 beginning 12:8 12:18 13:5 25:18 27:25 28:3 29:13,21 behalf 47:8 best 5:8 10:22 11:2 billboard 23:9 30:23 bit 9:4 blank 5:17 board 1:2 30:8 46:2 boundary 23:2 23:19	break 24:6 40:7 42:12,15 43:24 44:4 briefly 6:13 c c 2:1 ca 48:9,12,21 capacity 47:7 caption 46:20 carolina 2:10 case 1:8,10,12 1:14 9:10 39:23 43:12 46:8,10,12,14 cause 1:20 47:11 ccp 48:9,12 certification 3:5 47:23 certified 46:17 certify 46:19 47:6,10 chance 6:19 change 50:4,7 50:10,13,16,19 check 9:7 11:23 37:9,14 38:4 39:9,11,23 41:9,13 checking 11:23 12:10 37:18 39:21,21 40:4 40:8,19 41:15 42:5,15,16,22 43:8,15,19
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[civil - denote]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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