

<p style="text-align: right;">Page 2</p> <p>1 INDEX OF EXAMINATIONS</p> <p>2</p> <p>3 EXAMINATION BY MS. LEE</p> <p>4 EXHIBITS MARKED FOR IDENTIFICATION</p> <p>5 No. Description</p> <p>6 Exhibit 1 Declaration of Michael Smith, Ph.D., in Support of Motion Offense, LLC's Opposition to Dropbox's Motion for Partial Summary Judgment</p> <p>7</p> <p>8</p> <p>9 Exhibit 2 Methods, Systems and Computer Program Products for Processing a Data Object Identification Request In a Communication (13624906.pdf)</p> <p>10</p> <p>11</p> <p>12 Exhibit 3 Methods, Systems and Computer Program Products for Sharing a Data Object in a Data Store Via a Communication (13626635.pdf)</p> <p>13</p> <p>14 Exhibit 4 U.S. Patent No. US 10,013,158 B1, Methods, Systems, and Computer Program Products for Sharing a Data Object in a Data Store Via a Communication, Morris, 7/3/18</p> <p>15</p> <p>16</p> <p>17 Exhibit 5 U.S. Patent No. US 10,303,353 B1, Methods, Systems, and Computer Program Products for Sharing a Data Object in a Data Store Via a Communication, Morris, 5/28/19</p> <p>18</p> <p>19</p> <p>20 Exhibit 6 201.08 Continuation-in-Part Application [R-07. 2015] (https://mpep.uspto.gov/RDMS/MPEP/print?version=E9_R-07.2015&href=ch200_d1ff71_198a2_222.html)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: We are now on the record</p> <p>2 for the video deposition of Mike Smith. The time is</p> <p>3 9:36 a.m., February 9, 2021, in the matter of</p> <p>4 Dropbox, Incorporated vs. Motion Offense, LLC, Civil</p> <p>5 Action Number 6:20-cv-00251-ADA, being held in the</p> <p>6 United States District Court for the Western</p> <p>7 District of Texas, Waco Division. The court</p> <p>8 reporter is John Wissenbach, the videographer is Gus</p> <p>9 Phillips, and both are representatives of</p> <p>10 GregoryEdwards court reporting.</p> <p>11 Will counsel please state their appearances</p> <p>12 for the record, beginning with the defendant.</p> <p>13 MR. DAHLGREN: Derek Dahlgren, from the</p> <p>14 Devlin Law Firm, for defendant Motion Offense, LLC.</p> <p>15 MS. LEE: And this is Yvonne Lee, for</p> <p>16 plaintiff Dropbox, Incorporated, and I'm from Wilmer</p> <p>17 Cutler Pickering Hale and Dorr. With me on the line</p> <p>18 is also Liv Herriot, from Wilmer Cutler Pickering</p> <p>19 Hale and Dorr.</p> <p>20 THE VIDEOGRAPHER: Will the court reporter</p> <p>21 please administer the oath.</p> <p>22 MICHAEL JOHN SEBASTIAN SMITH, Ph.D.,</p> <p>23 having been first duly sworn, testified as follows:</p> <p>24 EXAMINATION BY MS. LEE</p> <p>25 Q. Good morning. Can you please state your</p>
<p style="text-align: right;">Page 3</p> <p>1 BE IT REMEMBERED that, pursuant to the laws</p> <p>2 governing the taking and use of depositions, on</p> <p>3 Tuesday, February 9, 2021, commencing at 9:36 a.m.</p> <p>4 thereof, at Palo Alto, California, before me, JOHN</p> <p>5 WISSENBACH, CSR 6862, of San Francisco, California,</p> <p>6 personally appeared MICHAEL JOHN SEBASTIAN SMITH,</p> <p>7 Ph.D., called as a witness by Plaintiff/Counterclaim</p> <p>8 Defendant Dropbox, Inc., who, being by me first duly</p> <p>9 sworn, was thereupon examined as a witness in said</p> <p>10 action.</p> <p>11 APPEARANCES OF COUNSEL</p> <p>12 For Plaintiff/Counterclaim Defendant Dropbox, Inc.:</p> <p>13 WILMERHALE</p> <p>14 BY: YVONNE S. LEE, Attorney at Law</p> <p>15 60 State Street</p> <p>16 Boston, Massachusetts 02109</p> <p>17 (617) 526-6692 yvonne.lee@wilmerhale.com</p> <p>18 WILMERHALE</p> <p>19 BY: LIV HERRIOT, Attorney at Law</p> <p>20 2600 El Camino Real, Suite 400</p> <p>21 Palo Alto, California 94306</p> <p>22 (650) 858-6138 liv.herriot@wilmerhale.com</p> <p>23 For Defendant/Counterclaim Plaintiff Motion Offense,</p> <p>24 LLC:</p> <p>25</p> <p>DEVLIN LAW FIRM LLC</p> <p>BY: DEREK DAHLGREN, Attorney at Law</p> <p>1526 Gilpin Avenue</p> <p>Wilmington, Delaware 19806</p> <p>(302) 449-9010 ddahlgren@devlinlawfirm.com</p> <p>ALSO PRESENT: GEOFF ADDEO and GUS PHILLIPS,</p> <p>Videographers</p> <p style="text-align: center;">---oOo---</p>	<p style="text-align: right;">Page 5</p> <p>1 name and address for the record.</p> <p>2 A. My name is Michael John Sebastian Smith.</p> <p>3 My residence is 825 Ilima Court, Palo Alto,</p> <p>4 California 94306.</p> <p>5 Q. I'll be asking you some questions today,</p> <p>6 and I'll ask that you let me finish my questions</p> <p>7 before you answer. Can you try to do that?</p> <p>8 A. Yes.</p> <p>9 Q. If you don't understand my question, you'll</p> <p>10 let me know, okay?</p> <p>11 A. Yes.</p> <p>12 Q. And I will also try to let you finish an</p> <p>13 answer before I ask my next question. Is that okay?</p> <p>14 A. Yes.</p> <p>15 Q. Even though this is being videotaped,</p> <p>16 please verbalize your answer so that it can be</p> <p>17 recorded by the court reporter. Okay?</p> <p>18 A. Yes.</p> <p>19 Q. And let me know whenever you need a break.</p> <p>20 You understand you're under oath to testify</p> <p>21 truthfully?</p> <p>22 A. I do.</p> <p>23 Q. Is there anything that would keep you from</p> <p>24 testifying accurately today?</p> <p>25 A. No, not that I'm aware of.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q. You're not taking any medication -- okay. 2 You're not taking my medication that could 3 interfere with your ability to testify accurately? 4 A. No. 5 Q. How many times have you been deposed? 6 A. I have signed approximately 13 7 declarations. This is the first time that I've 8 acted as a testifying witness. 9 Q. And in what types of proceedings did you 10 submit signed declarations? 11 A. Various, ranging from hardware at a low 12 level and a high level to software and systems, 13 again at a high level and fairly low level. 14 Q. And did you submit those declarations in a 15 district court litigation? 16 A. I'm not sure that I can recall exactly how 17 those declarations were submitted. 18 Q. Were they part of patent office 19 proceedings? 20 A. Typically, yes. They were intellectual 21 property cases. 22 Q. Were they proceedings at the U.S. patent 23 office? 24 A. They involved proceedings at the U.S. 25 patent office, yes.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Sorry. Let me -- 2 A. I'm having -- 3 Q. Is anyone else -- 4 A. -- trouble hearing, sometimes, your 5 questions. 6 MS. LEE: Maybe we can go off the record 7 for just a moment. 8 THE VIDEOGRAPHER: Off record, Counsel? 9 We are off the record. The time is 9:42 10 a.m. 11 (Discussion off the record.) 12 THE VIDEOGRAPHER: We are back on the 13 record. The time is 9:43 a.m. 14 BY MS. LEE: 15 Q. Dr. Smith, have you ever submitted a 16 declaration in an IPR on behalf of petitioner? 17 A. Again, I'm sorry. I didn't catch the very 18 last word that you asked me in that question. Could 19 you spell it or -- 20 Q. Have you ever -- sorry. But let me try one 21 more time. 22 Have you ever submitted a declaration in an 23 IPR on behalf of petitioner? 24 A. On behalf of a petitioner is the word, I 25 think, I missed before. And a petitioner in what</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Are you familiar with post-grant 2 proceedings at the U.S. patent office? 3 A. Could you clarify that question? That 4 could cover a wide range of issues in my mind. 5 Q. Sure. Like inter partes review or covered 6 business method patent proceedings? 7 A. I have submitted declarations that involve 8 what I know as IPRs, yes. 9 Q. And which party did you submit a 10 declaration in those IPRs on behalf of? 11 A. That -- I'm not sure I understand your 12 question. Are you asking for the names or whether I 13 was plaintiff or defense or -- could you clarify 14 your question, please. 15 Q. Yes. Sure. How many of the declarations 16 you submitted in the IPRs were on behalf of -- on 17 behalf of patent owner? 18 A. I would -- I can't recall exactly, but I 19 would probably say the majority. 20 Q. Okay. And did you ever -- have you ever 21 submitted a declaration in an IPR on behalf of 22 petitioner? 23 A. I'm sorry. I did not catch the last part 24 of your question. And, in fact, in general the 25 audio for me is not perfect.</p>	<p style="text-align: right;">Page 9</p> <p>1 sense? I'm not sure I understand your question. 2 I'm not an attorney. 3 Q. Have you ever submitted a declaration in an 4 IPR on behalf of the party challenging the patent? 5 A. No, I don't believe that I have. 6 Q. So fair to say all the declarations you've 7 submitted in IPR proceedings are on behalf of patent 8 owner? 9 A. I believe I answered that question 10 previously when I said that the majority were, from 11 my recollection. 12 Q. So as a -- do you have any electric copies 13 of documents with you currently? 14 A. I have PDF copies of some of the documents 15 that I believe were obtained from PACER, I think 16 it's called, that are the same as the exhibits that 17 I expect we're talking about today. Yes. 18 Q. And the electronic copies you have include 19 a copy of your declaration? 20 A. Yes, they do. 21 Q. And they include the documents you cited in 22 your declaration? 23 A. I believe I have all of the documents that 24 were cited in my declaration. There are quite a few 25 of them. But I believe I do, yes.</p>

<p style="text-align: right;">Page 10</p> <p>1 Q. Do you have copies of any documents that</p> <p>2 you did not cite in your declaration?</p> <p>3 A. I have a lot of documents on my computer,</p> <p>4 but I have none that are on my computer that I</p> <p>5 believe I should have cited or -- I'm sorry. I'm</p> <p>6 not clear in your question. There was a negative in</p> <p>7 there that confused me. Could you repeat the</p> <p>8 question, please?</p> <p>9 Q. Sure. Where are you -- where do you have</p> <p>10 electronic copies of the documents you plan to</p> <p>11 access today stored on your computer?</p> <p>12 A. Well, I have a computer in front of me, and</p> <p>13 some of those PDFs are on my computer, if that</p> <p>14 answers your question.</p> <p>15 Q. Are they stored in a separate folder on</p> <p>16 your computer from other files on your computer?</p> <p>17 A. Yes, actually, they are.</p> <p>18 Q. Okay. And do you have copies of any</p> <p>19 documents in that folder that were not cited in your</p> <p>20 declaration?</p> <p>21 A. No.</p> <p>22 Q. And the copies you have in that folder, are</p> <p>23 they marked up in any way?</p> <p>24 A. Are the copies of the PDFs of the files</p> <p>25 relevant to this case marked up, as in --</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Do you have a CV or a resume?</p> <p>2 A. I do have a CV and a resume, yes.</p> <p>3 Q. Is there any reason you did not provide a</p> <p>4 CV or resume with your declaration?</p> <p>5 A. I did provide one to the legal team. And I</p> <p>6 think they incorporated some of that in my</p> <p>7 declaration.</p> <p>8 Q. And what is your current occupation?</p> <p>9 A. I'm principally a consultant and also</p> <p>10 part-time CTO of a start-up company in Palo Alto.</p> <p>11 Q. What type of consulting work do you do?</p> <p>12 A. Oh, it varies. Most often consulting on</p> <p>13 technical aspects of, for example, due diligence for</p> <p>14 companies on financial matters. I also work at</p> <p>15 consulting on intellectual property issues, for</p> <p>16 example performing due diligence on a potential</p> <p>17 patent portfolio acquisition, so generally in the</p> <p>18 area of technical due diligence.</p> <p>19 Q. Do you perform your consulting work through</p> <p>20 your company, P4TENTS1?</p> <p>21 A. Typically, yes, I do.</p> <p>22 Q. How many employees does P4TENTS1 have?</p> <p>23 A. My -- we have no employees. It's an LLC,</p> <p>24 and I am the managing -- managing director/member of</p> <p>25 that company.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Yes, that's the question.</p> <p>2 A. -- have I -- have I attached comments or --</p> <p>3 I'm not -- could you clarify your question, please?</p> <p>4 Q. Yes. Have you attached comments or edited</p> <p>5 the PDFs in the folder in any way?</p> <p>6 A. No, I have not.</p> <p>7 Q. Do you have any notes with you?</p> <p>8 A. I have a pad that has Derek Dahlgren's</p> <p>9 phone number on it.</p> <p>10 Q. And are you planning to call Mr. Dahlgren</p> <p>11 during this deposition?</p> <p>12 A. I'm not planning on calling him, but I have</p> <p>13 his phone number.</p> <p>14 He mentioned --</p> <p>15 Q. Do you have --</p> <p>16 A. -- for example, that if he got</p> <p>17 disconnected, we may have to -- we may have to talk.</p> <p>18 And so it seemed prudent to have his phone number.</p> <p>19 Q. Do you have any printed documents with you?</p> <p>20 A. Do I have any --</p> <p>21 Q. Printed documents with you.</p> <p>22 A. Printed documents.</p> <p>23 Q. Do you have any printed?</p> <p>24 A. None. No. I -- I have cleared my desk. I</p> <p>25 don't have any other documents.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. What is your experience with distributed</p> <p>2 systems, cloud computing, and network systems?</p> <p>3 MR. DAHLGREN: Objection; form.</p> <p>4 THE WITNESS: Sorry. There was --</p> <p>5 MR. DAHLGREN: Sorry, Dr. Smith. I just</p> <p>6 was making an objection for the record. You can --</p> <p>7 you can respond.</p> <p>8 THE WITNESS: Could you repeat the question</p> <p>9 again, please?</p> <p>10 BY MS. LEE:</p> <p>11 Q. Sure. What is your experience with</p> <p>12 distributed systems, cloud computing, and network</p> <p>13 systems?</p> <p>14 MR. DAHLGREN: Same objection.</p> <p>15 THE WITNESS: I have -- I started my career</p> <p>16 in hardware. Hardware design is now virtually a</p> <p>17 hundred percent software, so I migrated from</p> <p>18 hardware to software over the years. But my focus</p> <p>19 has been on networking, networking applied to all of</p> <p>20 those situations, so networking in particular</p> <p>21 between distributed systems. I participated in the</p> <p>22 development of protocols for remote direct memory</p> <p>23 access between processes in computer -- in -- in</p> <p>24 distributed systems at the IETF. I was CTO of a</p> <p>25 start-up called iReady. That was directed at high</p>

<p style="text-align: right;">Page 14</p> <p>1 performance computing, distributed computing, cloud 2 computing, and offloading the protocols involved in 3 those systems. 4 BY MS. LEE: 5 Q. Do you consider yourself an expert in 6 distributed systems, cloud systems, and network 7 systems? 8 A. To varying degrees. I would say that in 9 stages of my career I focused on storage systems. 10 For example, I participated in the design and 11 standardization of a protocol called iSCSI, which is 12 a storage protocol and -- and therefore closely 13 involved with systems using that storage protocol. 14 And, again, as I think I've just said, I spent some 15 time looking at other networking protocols used for 16 distributed systems, storage systems, and, indeed, 17 all types of systems. 18 Q. Do you have an understanding of the meaning 19 of the phrase "a person of ordinary skill in the 20 art"? 21 A. I believe I do. 22 Q. Will you understand if I refer to a person 23 of ordinary skill in the art as a POSITA? 24 A. You can do that. I usually spell it out. 25 I try and avoid acronyms and buzzwords where</p>	<p style="text-align: right;">Page 16</p> <p>1 experience a person of ordinary skill in the art 2 would have needed in the context of the asserted 3 patents? 4 A. Yes, I believe I do have knowledge of what 5 somebody who is a person of ordinary skill in the 6 art would -- that knowledge they would have in this 7 area. 8 Q. And such knowledge would include three to 9 five years' experience in a particular field? 10 A. I think what I said was -- you asked me 11 what the definition of a person of -- excuse me -- 12 ordinary skill in the art would be in this area, and 13 I said that it might vary -- as I understand, it 14 might change, that definition, slightly -- but that 15 my understanding of a definition of "person of 16 ordinary skill in the art" would be somebody who has 17 a bachelor's-level degree in that area plus, and it 18 might vary depending on how complex the area we're 19 talking about was, from three to five years of 20 experience, something like that. 21 Q. And when you say -- oh. Sorry for 22 interrupting. 23 When you say "that area," what area are you 24 referring to? 25 A. The area that we are talking about when we</p>
<p style="text-align: right;">Page 15</p> <p>1 possible. But go ahead. 2 Q. What is your understanding of the meaning 3 of the phrase "a person of ordinary skill in the 4 art"? 5 A. Well, I understand that it can vary, but 6 typically I've seen it to mean somebody that has a 7 bachelor's degree in an area that's relevant to the 8 area that we're talking about, plus it could be 9 three, five years' experience working in that area. 10 Q. And in the context of this proceeding, what 11 is that area in which a POSITA would need to have 12 three to five years' experience? 13 MR. DAHLGREN: Objection; form. 14 THE WITNESS: Could you repeat the question 15 and tell me which area you are talking about, 16 because you talked about distributed systems, you 17 talked about storage systems, you talked about other 18 types of systems. Are you referring to the general 19 area of all computer systems or a specific type of 20 computer system? 21 BY MS. LEE: 22 Q. Well, related to the patents asserted in 23 this case -- 24 A. Uh-huh. 25 Q. -- do you have an understanding of the</p>	<p style="text-align: right;">Page 17</p> <p>1 say "a person of ordinary skill in the art," so the 2 art of what area -- whatever area we were talking 3 about. 4 Q. And in the context of the asserted patents, 5 what would that area be? 6 MR. DAHLGREN: Objection; form. 7 THE WITNESS: Could you repeat the 8 question, please? 9 BY MS. LEE: 10 Q. Sure. In the context of the asserted 11 patents, what would that area be? 12 A. The asserted patents, the area of the 13 asserted patents cover some of the distributed 14 systems, but I would state more closely cloud 15 computing, communication between systems, software 16 architecture. That's, I think, a good description 17 of the general area that we're talking about here. 18 Q. Do you agree that it is important to follow 19 the correct legal principles when forming your 20 opinion? 21 MR. DAHLGREN: Objection; form. 22 THE WITNESS: I'm not sure I understand 23 exactly what you're asking me in that question. 24 Could you repeat it and maybe clarify it for me, 25 please?</p>

<p style="text-align: right;">Page 18</p> <p>1 BY MS. LEE:</p> <p>2 Q. Do you agree that it is important to follow</p> <p>3 correct legal principles when forming your opinions</p> <p>4 that you provide in your declaration?</p> <p>5 MR. DAHLGREN: Objection; form.</p> <p>6 THE WITNESS: I'm not sure what you</p> <p>7 understand by "legal principles." But you will read</p> <p>8 at the beginning of my declaration that I have</p> <p>9 been -- that, first of all, I am not an attorney,</p> <p>10 and therefore not able to offer any legal opinions;</p> <p>11 and, second, that I've been informed about certain</p> <p>12 legal principles in this case but not all.</p> <p>13 BY MS. LEE:</p> <p>14 Q. And if you fail to follow the correct</p> <p>15 principles of law, you may have reached the wrong</p> <p>16 conclusion; is that right?</p> <p>17 MR. DAHLGREN: Objection; form.</p> <p>18 THE WITNESS: Could you repeat that</p> <p>19 question, please, though?</p> <p>20 BY MS. LEE:</p> <p>21 Q. Sure. Do you agree that if you failed to</p> <p>22 follow correct principles of law, you might have</p> <p>23 reached the wrong conclusion?</p> <p>24 MR. DAHLGREN: Objection; form.</p> <p>25 THE WITNESS: Perhaps you could rephrase</p>	<p style="text-align: right;">Page 20</p> <p>1 And we can mark the declaration of</p> <p>2 Dr. Smith as Exhibit 1.</p> <p>3 (Deposition Exhibit 1 was marked for</p> <p>4 identification.)</p> <p>5 THE VIDEOGRAPHER: And Counsel, would you</p> <p>6 like me to share that?</p> <p>7 MS. LEE: Sure. I -- yes. Why don't you</p> <p>8 bring it up.</p> <p>9 Q. And Dr. Smith, feel free to look either at</p> <p>10 the shared version or if you have a local copy,</p> <p>11 that's also fine.</p> <p>12 A. Okay.</p> <p>13 Q. So in paragraph 12 --</p> <p>14 A. Now --</p> <p>15 Q. Sorry.</p> <p>16 A. I was expecting the same thing that</p> <p>17 happened at the beginning.</p> <p>18 Ah. I just see what I was expecting to</p> <p>19 happen, that my declaration has appeared, albeit</p> <p>20 extremely small.</p> <p>21 I now see my -- what I believe to be my</p> <p>22 declaration, though I do not see the header. I do</p> <p>23 not know what version or court document number we're</p> <p>24 looking at.</p> <p>25 MS. LEE: Yeah. Can you -- can you</p>
<p style="text-align: right;">Page 19</p> <p>1 that question so that it's less legal in nature and</p> <p>2 more something that I would understand without my</p> <p>3 legal background.</p> <p>4 BY MS. LEE:</p> <p>5 Q. So you developed some understanding of</p> <p>6 legal principles prior to submitting your</p> <p>7 declaration; is that right?</p> <p>8 MR. DAHLGREN: Objection; form.</p> <p>9 THE WITNESS: Now, I'm -- could you help me</p> <p>10 by -- by maybe pointing to the area of my</p> <p>11 declaration that we're talking about now? The</p> <p>12 question was very broad, and if you point me to my</p> <p>13 declaration, perhaps I could help.</p> <p>14 BY MS. LEE:</p> <p>15 Q. Did you include in your declaration a</p> <p>16 section on legal standards?</p> <p>17 A. I believe at the beginning of the</p> <p>18 declaration, there is, as I -- I think I previously</p> <p>19 answered, a section that talks about the areas on</p> <p>20 which I was informed. Maybe you could -- could we</p> <p>21 bring that part of the declaration up, and you can</p> <p>22 direct me to the particular part that you're asking</p> <p>23 about?</p> <p>24 Q. Sure. If you go to your declaration, at</p> <p>25 paragraph 12.</p>	<p style="text-align: right;">Page 21</p> <p>1 please -- now I'm addressing the court reporter.</p> <p>2 Please show the first page of the document.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MS. LEE:</p> <p>5 Q. This is a -- this is a copy of your</p> <p>6 declaration?</p> <p>7 A. Yes. It appears to be my declaration and</p> <p>8 same as the copy -- as far as I can tell so far,</p> <p>9 than the copy that I have here remotely.</p> <p>10 Q. Okay. Great. And now if we could please</p> <p>11 go back to paragraph 12 of the declaration.</p> <p>12 So in section IV of your declaration --</p> <p>13 A. Yes.</p> <p>14 Q. -- you set forth your understanding of</p> <p>15 legal principles as they were explained to you; is</p> <p>16 that correct?</p> <p>17 A. Yes, as I think I answered previously, this</p> <p>18 is the section that I was talking about that</p> <p>19 explained those principles that I had been informed</p> <p>20 upon.</p> <p>21 Q. And do you agree that if your understanding</p> <p>22 of a legal principle is incorrect, you may have</p> <p>23 reached the wrong conclusion?</p> <p>24 MR. DAHLGREN: Objection; form.</p> <p>25 THE WITNESS: I think I generally</p>

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1 understand what you're trying to tell me. But I'm
2 not sure I completely understand the question that
3 you're asking me.

4 Yes.
5 In --

6 BY MS. LEE:

7 Q. So the answer is yes --

8 A. In general I understand -- I'm --

9 Q. Okay. Sorry. I didn't mean to cut you
10 off. Please finish.

11 A. Yes, so I generally understand that if I
12 adopt the wrong criteria for making a decision or I
13 miss something in a specification, that, yes, it's
14 possible to reach the wrong conclusion.

15 Q. And did you consider when providing the
16 opinions in your declaration of how the asserted
17 claims would have been understood by a person of
18 ordinary skill in the art?

19 A. In -- in general, yes, I did. As I was
20 reading the materials, that was not necessarily the
21 focus of the analysis in my declaration, but, yes,
22 in general I -- as I read the materials, I was
23 considering the viewpoint of a person of ordinary
24 skill in the art in this area.

25 Q. Now, you testified previously that you've

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1 means that it's a client of something. And so, for
2 example, a client computer could be working in a
3 system together with a -- with a server or -- or
4 some other part of a system, and therefore it is a
5 client of something.

6 Q. And what is a -- a local application on a
7 client?

8 MR. DAHLGREN: Objection; form.

9 THE WITNESS: Well, let's start with an
10 application, what is an application.

11 So an application's generally a piece of
12 software that's running on something, somehow. And
13 a local application, as opposed to a remote
14 application -- and perhaps the easiest way to see
15 what is local and what is not local is to say:
16 Well, if I look at a system and the application is
17 running on the computer that I'm working with, then
18 that application could be considered local. Again,
19 in a different context it might mean something a
20 little different, but generally, again, a local
21 application is what it says, that the application is
22 local to something.

23 BY MS. LEE:

24 Q. And what is email?

25 A. Wow. That's a very broad question. And

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1 had experiences with distributed systems; is that
2 right?

3 A. Some aspects of distributed systems more
4 than others, but, yes, that -- I've certainly dealt
5 with distributed systems, cloud systems in
6 particular, systems that communicate via
7 interprocess communication, so distributed --
8 there -- there are many ways that a system could be
9 distributed, and I have dealt with several of them.

10 Q. And what is a distributed system?

11 A. Well, in general terms -- it would depend
12 on the context, of course, but in general terms a
13 distributed system is one where some task or
14 algorithm is performed in different locations. And
15 the locations may be different physical locations.
16 They may be different electrical locations. They
17 may be some other way of separating the pieces of
18 the systems that are performing these tasks. But in
19 general, a distributed system is what the term says.
20 It's a system that's distributed.

21 Q. What is a client computer?

22 A. In general terms, a client -- a client
23 computer can be many things, but in general terms a
24 client computer is typically something that is part
25 of a system. So the very fact that it is a client

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1 generally I would have to say, starting at -- since
2 it's a term that's used by a layperson, what would a
3 layperson understand by "email." Start there. And
4 "email" can mean many things. For example, "email"
5 can be a noun. "Email" can be a verb. I can send
6 email to somebody. An email may be a singular noun.
7 Then email may be a plural noun. Or I can email
8 someone, and in that case "email" has been used as a
9 verb. So email has grown so ubiquitous, or at least
10 it did -- it seems to be falling off in use now, but
11 "email" can mean many things. But I think to a
12 layperson, I've just described what an email would
13 mean to a layperson.

14 Q. So "email" as a noun is a message that you
15 would send someone, is that right, via an email
16 protocol?

17 A. Again, it would generally depend on the
18 context. I think I prefaced my earlier answer with
19 that comment. But in general I think a layperson
20 would understand that email -- emailing someone or
21 sending an email to someone means sending, to a
22 layperson, a message or a picture; or you can send
23 an email without anything in it, maybe just a
24 subject. But in general an email is transferring
25 some kind of information from one place to another,

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1 from one person to another, from one computer to
2 another.

3 Q. And that information in an email would need
4 to include a recipient address; is that right?

5 MR. DAHLGREN: Objection; form.

6 THE WITNESS: Well, you can compose an
7 email without having a recipient address.

8 BY MS. LEE:

9 Q. Can you --

10 A. I often do that.

11 Q. -- send an email without -- I'm sorry.
12 Can you send an email without a recipient
13 address?

14 A. Generally I would say no. Most people
15 would understand -- in terms of the layperson
16 description of email that I've been talking about,
17 most people would understand that in order to send
18 an email to someone, you generally need to know who
19 you're sending it to.

20 Q. Now, you've been prefacing your answers
21 with "layperson." Do your answers also apply to an
22 understanding that someone would have as a person of
23 ordinary skill in the art?

24 MR. DAHLGREN: Objection; form.

25 THE WITNESS: And I'm sorry. I -- your --

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1 THE WITNESS: Well, there were a lot of
2 questions that you asked me and a lot of answers
3 that I gave you. Without going through each one
4 individually, I would just refer back to my previous
5 answer, which is, a -- a -- in a -- in -- depending
6 on the context, "email" may mean different things to
7 a layperson, to a person of ordinary skill in the
8 art, or an expert working in the depths of some
9 email system.

10 BY MS. LEE:

11 Q. So from the perspective of a person of
12 ordinary skill in the art, "email" as a noun is a
13 message that you would send someone via an email
14 protocol; is that right?

15 MR. DAHLGREN: Objection; form.

16 THE WITNESS: I want to make sure I
17 understand your question completely. Could you --
18 could you repeat it more -- more slowly, please,
19 perhaps break it down in small pieces for me.

20 BY MS. LEE:

21 Q. Sure. I'd like you for the next few
22 questions to answer the questions from the
23 perspective of a person of ordinary skill in the
24 art, as they would understand it. Can you do that?

25 A. Yes, I can. Once again, might I ask you to

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1 your question was a little bit garbled. Perhaps you
2 could speak a little slow -- more slowly and
3 little -- little more clearly for me, please. Could
4 you repeat your question?

5 BY MS. LEE:

6 Q. You have been prefacing your answers with
7 "layperson." Would your answers equally apply to a
8 person of ordinary skill in the art?

9 A. I think a --

10 MR. DAHLGREN: Objection; form.

11 THE WITNESS: -- person of ordinary skill
12 in the art in this area would realize that "email"
13 can be used in other more technical contexts. And
14 that's why I -- when you asked me what "email"
15 meant, I started with layperson. So it might -- it
16 might -- there might be more detail that a person of
17 ordinary skill in the art would want to -- to know
18 before they understood what "email" meant in a
19 particular context.

20 BY MS. LEE:

21 Q. Do the answers to any of my previous
22 questions about emails change based on it being from
23 the perspective of a person of ordinary skill in the
24 art rather than a layperson?

25 MR. DAHLGREN: Objection; form.

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1 refer to a particular place in my declaration that
2 we're talking about here, since we're now moving
3 into a technical discussion.

4 Q. As part of your analysis for your
5 declaration, you reviewed all of the asserted
6 patents; is that right?

7 A. Yes, I -- I reviewed them. I'm not saying
8 that I analyzed all of them, but, yes, I reviewed
9 them.

10 Q. So you reviewed all of the asserted
11 patents, but you didn't analyze all of them; is that
12 right?

13 A. No. What I -- what I -- I understood
14 your -- your question to be all of the materials
15 around the asserted patents. So, for example, the
16 asserted patents contain a lot of material that's
17 incorporated by reference, external documents that
18 are incorporated by reference. So I reviewed the
19 original applications and analyzed the original
20 applications.

21 Q. Is the term "email" used in the asserted
22 patents?

23 A. I believe it is. I think there might be a
24 question that I had for you that was outstanding,
25 though. Can you please, to help me answer the

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1 question, point me to the area of my declaration
2 that we're discussing now?

3 Q. Well, I just want to get your understanding
4 of how you understood certain terms as they were
5 used in the asserted patents. Okay?

6 A. Ah. Okay. Yes.

7 Q. And now back to these questions. Your
8 answers to my questions, if you could answer them
9 from the perspective of how a person of ordinary
10 skill in the art would have understood the terms I'm
11 about to use in my question. Okay?

12 A. Yes.

13 Q. So "email" as a noun is a message that you
14 would send someone via an email protocol; is that
15 right?

16 A. It would depend on the context being used,
17 but --

18 Q. And in what context would that be correct?

19 A. Could you repeat the definition that you
20 used?

21 Q. Sure. "Email" as a noun is a message that
22 you would send someone via an email protocol?

23 A. I think that's a definition that uses the
24 term "message," and therefore we would have to be
25 careful about what the context was because of the

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1 looking at a screen that's on their refrigerator?
2 In general it's a means -- it's the bridge;
3 it's the interface between us, as humans, and some
4 computing device, typically, but -- I think that's
5 what a layperson would understand by "user
6 interface."

7 Q. In preparing your declaration, did you
8 apply the meanings of terms as they would have been
9 understood by a layperson?

10 A. No. You asked me what the definition was.
11 You didn't ask me this time to apply the definition
12 of a person of ordinary skill in the art.

13 Q. So moving forward through the deposition,
14 when I'm asking you your understanding, it's as a
15 person of ordinary skill in the art would have
16 understood it in whatever relevant time frame for
17 the patents. Is that -- is that fair?

18 A. Yes, if you would make that clear, please.
19 Because when you asked me before, you said "the next
20 few questions," but "few questions" wasn't defined.

21 Q. Okay. So now, moving forward, when I ask
22 your understanding, it's as you would understand it
23 as a person of ordinary skill in the art would have
24 understood it. Fair?

25 A. Yes, I will try and keep that in mind. But

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1 context of the term "message."

2 Q. And what is an email message?

3 A. From someone -- the point of view of
4 someone of ordinary skill in the art, generally an
5 email message can -- can compose -- can comprise
6 several pieces. So an email message, for example,
7 or an email, would be considered by a person of
8 ordinary skill in the art to comprise a header, a
9 message header, an email header. It might
10 comprise an email body, or, more typically, a
11 message body. It might include some attachments.
12 So a person of ordinary skill in the art would
13 understand those pieces, for example, and whether or
14 not those were a part of the context that your --
15 the term was being used in.

16 Q. And what is your understanding of a user
17 interface?

18 A. Well, a user interface can cover many
19 different aspects. I mean, again, I think that
20 that's now become a term that's very commonly used,
21 and so I would start again with a layperson's
22 definition of a user interface. And to them that
23 means, well, are they looking at a computer screen?
24 Are they looking at a gaming console? Are they
25 looking at a -- a device that's in a car? Are they

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1 if you would clarify that when you're asking your
2 questions, it would help me. Thank you.

3 Q. What is a user interface element?

4 MR. DAHLGREN: Objection; form.

5 THE WITNESS: I understand your question to
6 be, what is a user interface element as understood
7 by a person of ordinary skill in the art.

8 Generally somebody who has skill in the art
9 would now look at a user interface, and, again,
10 looking at it from the point of view that it's an
11 interface between us as humans and some piece of
12 electronic machinery: How is the interface
13 constructed? The interface might be -- and we
14 typically think of it as being a flat screen with
15 graphics, but it doesn't have to be. It could
16 involve other types of sensors, actuators. It could
17 involve feedback, haptic feedback. It could be a
18 pressure-sensitive touchscreen. But generally,
19 depending on the context, all of those things could
20 be considered by a person of ordinary skill in the
21 art to -- to be involved in a user interface.

22 BY MS. LEE:

23 Q. And what, if any, difference is there
24 between a user interface and a user interface
25 element?

<p style="text-align: right;">Page 34</p> <p>1 MR. DAHLGREN: Objection; form.</p> <p>2 THE WITNESS: Again, your -- your question</p> <p>3 was a little bit rushed at the end. So if I could</p> <p>4 repeat your question to make sure I understand it,</p> <p>5 you asked me, what would a person of ordinary skill</p> <p>6 in the art understand to be the difference between a</p> <p>7 user interface and a user interface, and then I</p> <p>8 think you said element.</p> <p>9 BY MS. LEE:</p> <p>10 Q. That's correct. You understood the</p> <p>11 question.</p> <p>12 A. So a person of ordinary skill in the art</p> <p>13 would look at the definition that I just gave you,</p> <p>14 listing some of the pieces of the user interface,</p> <p>15 that, again, may be -- may not be just graphics,</p> <p>16 they may be physical components, touchscreens,</p> <p>17 knobs, switches, force transducers, feedback</p> <p>18 elements, and understand that the interface elements</p> <p>19 might be the pieces that make up a user interface.</p> <p>20 Those pieces generally may be graphical but they're</p> <p>21 not always.</p> <p>22 Q. So your user interface elements are</p> <p>23 components within a user interface; is that fair?</p> <p>24 MR. DAHLGREN: Objection; form.</p> <p>25 THE WITNESS: Could you repeat the</p>	<p style="text-align: right;">Page 36</p> <p>1 just a quick break to allow me to just get up and --</p> <p>2 and stretch my legs, rather than -- you know,</p> <p>3 sitting here for an hour, I tend to -- to get stiff.</p> <p>4 MS. LEE: Yeah. No, this is -- this is a</p> <p>5 great time for a break. So is -- is five minutes or</p> <p>6 ten minutes -- whatever you prefer.</p> <p>7 THE WITNESS: 30 seconds would be fine.</p> <p>8 THE VIDEOGRAPHER: Off record, Counsel?</p> <p>9 MS. LEE: Let's -- five --</p> <p>10 MR. DAHLGREN: Let's do five minutes.</p> <p>11 MS. LEE: Yeah. I'm sorry. Let's just go</p> <p>12 off the record.</p> <p>13 THE VIDEOGRAPHER: We are off the record.</p> <p>14 The time is 10:24 a.m.</p> <p>15 (Recess taken.)</p> <p>16 THE VIDEOGRAPHER: We are back on the</p> <p>17 record. The time is 10:32 a.m.</p> <p>18 BY MS. LEE:</p> <p>19 Q. So Dr. Smith, I'd like you to focus on</p> <p>20 2012, before any claimed priority date for the</p> <p>21 asserted patents. Okay?</p> <p>22 A. Yes.</p> <p>23 Q. Now, email messages were known prior to</p> <p>24 2012; is that right?</p> <p>25 A. That's correct. I agree with that.</p>
<p style="text-align: right;">Page 35</p> <p>1 question, please?</p> <p>2 BY MS. LEE:</p> <p>3 Q. User interface elements are components</p> <p>4 within a user interface; is that right?</p> <p>5 A. They may be. But the -- the -- generally</p> <p>6 the definition of a user interface element might be</p> <p>7 a box to tick; it might be a text field in which you</p> <p>8 would insert text. It could be many things. But</p> <p>9 all of those I would also generally, depending on</p> <p>10 the context, include in my definition as being</p> <p>11 components of a user interface.</p> <p>12 Again, I think "user interface" is such a</p> <p>13 broad term that even someone -- a person of ordinary</p> <p>14 skill in the art might view the definition</p> <p>15 differently depending on the context.</p> <p>16 Q. So I'd now like you to focus on 2012,</p> <p>17 before the earliest possible priority date of the</p> <p>18 asserted patents. Okay?</p> <p>19 A. I will try and focus on 2012.</p> <p>20 THE VIDEOGRAPHER: Counsel, this is the</p> <p>21 videographer. Would you like me to still share this</p> <p>22 document?</p> <p>23 MS. LEE: No, that's fine. Please --</p> <p>24 please pull it down.</p> <p>25 THE WITNESS: Would this be a good time for</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Sharing files via email was known prior to</p> <p>2 2012?</p> <p>3 A. Yes, I would generally agree that someone</p> <p>4 could send a file to someone else at that time,</p> <p>5 prior to that time.</p> <p>6 Q. Sharing content generally via email was</p> <p>7 known prior to 2012?</p> <p>8 MR. DAHLGREN: Objection; form.</p> <p>9 BY MS. LEE:</p> <p>10 Q. Right?</p> <p>11 A. I'm sorry. Sometimes you rush your</p> <p>12 question and I don't quite catch a word. Could</p> <p>13 you -- could you maybe slow down a little bit when</p> <p>14 you ask your questions, and could you repeat that</p> <p>15 last question, please, for me.</p> <p>16 Q. Sharing content generally via email was</p> <p>17 known prior to 2012, right?</p> <p>18 MR. DAHLGREN: Same objection.</p> <p>19 THE WITNESS: Yes. But I would say that I</p> <p>20 understand your question to mean: Can I send</p> <p>21 something by email from someone to someone else?</p> <p>22 Can Will send something to his dad via email? And</p> <p>23 the answer to that is yes. In general you could</p> <p>24 send information from one place to another, from one</p> <p>25 person to another using email.</p>

<p style="text-align: right;">Page 38</p> <p>1 BY MS. LEE:</p> <p>2 Q. Web-based email was known prior to 2012,</p> <p>3 right?</p> <p>4 A. Yes, certainly the use of cloud computing</p> <p>5 in particular -- and that is an example of cloud</p> <p>6 computing -- was -- was still exploding at that</p> <p>7 time, yes.</p> <p>8 Q. And Web-based mail included having a server</p> <p>9 display an email interface at a user device; is that</p> <p>10 correct?</p> <p>11 MR. DAHLGREN: Objection; form.</p> <p>12 THE WITNESS: That was a long, complicated</p> <p>13 question. Could you rephrase or clarify, simplify</p> <p>14 the question, please, for me?</p> <p>15 BY MS. LEE:</p> <p>16 Q. Web-based mail -- I'm sorry. Strike that.</p> <p>17 Web-based email involves communications</p> <p>18 between a server and a client computer; is that</p> <p>19 correct?</p> <p>20 A. Well, email normally involves communication</p> <p>21 between a client and a server computer; so</p> <p>22 generally, yes, that is -- that is how email works.</p> <p>23 Q. And that was how email worked in two</p> <p>24 thousand -- prior to 2012; is that right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. User interfaces and user interface elements</p> <p>2 were known prior to 2012, right?</p> <p>3 MR. DAHLGREN: Objection; form.</p> <p>4 THE WITNESS: There was a list of things</p> <p>5 that you gave me there. Could you break them --</p> <p>6 that question down into individual pieces for me so</p> <p>7 that I make sure that I answer correctly?</p> <p>8 BY MS. LEE:</p> <p>9 Q. User -- user interfaces were known prior to</p> <p>10 2012, right?</p> <p>11 A. Yes. In general the concept of a user</p> <p>12 interface was -- was well understood prior to 2012,</p> <p>13 because we all had to interact with computers, and</p> <p>14 the interface was important. So that is generally</p> <p>15 true, that user interface was a well-known,</p> <p>16 important part of interaction with computers before</p> <p>17 2012.</p> <p>18 Q. User interface elements were known prior to</p> <p>19 2012, right?</p> <p>20 MR. DAHLGREN: Objection; form.</p> <p>21 THE WITNESS: Yeah, again, could you repeat</p> <p>22 the question, so I make sure I understand all of</p> <p>23 completely?</p> <p>24 BY MS. LEE:</p> <p>25 Q. User interface elements were known prior to</p>
<p style="text-align: right;">Page 39</p> <p>1 MR. DAHLGREN: Objection; form.</p> <p>2 THE WITNESS: Sorry. Could you repeat the</p> <p>3 question again? Sometimes it trips me up when I get</p> <p>4 people saying things between your asking a question</p> <p>5 and me being able to answer it.</p> <p>6 BY MS. LEE:</p> <p>7 Q. Email involving communication between a</p> <p>8 client and a server computer, that was known prior</p> <p>9 to 2012, correct?</p> <p>10 A. Yes. I think I answered that previously,</p> <p>11 that generally that is how email works. There's a</p> <p>12 client computer and a server, an email server, mail</p> <p>13 server. Yes.</p> <p>14 Q. And a server sending an email interface to</p> <p>15 a client computer was known prior to 2012, right?</p> <p>16 A. Yes.</p> <p>17 MR. DAHLGREN: Object to form.</p> <p>18 THE WITNESS: In general, a server,</p> <p>19 wherever it be, will provide some kind of interface.</p> <p>20 It might be graphical. It might be text. It might</p> <p>21 be command -- what we call command line. But in</p> <p>22 general something has to provide some type of</p> <p>23 interface to a user so that a user is able to</p> <p>24 compose and send email.</p> <p>25 BY MS. LEE:</p>	<p style="text-align: right;">Page 41</p> <p>1 2012, right?</p> <p>2 MR. DAHLGREN: Objection; form.</p> <p>3 THE WITNESS: Yes, in general the use of</p> <p>4 the pieces of a user interface were -- were</p> <p>5 understood prior to 2012. I generally agree with</p> <p>6 that, yes.</p> <p>7 BY MS. LEE:</p> <p>8 Q. Web-based email implemented with user</p> <p>9 interfaces was known prior to 2012, right?</p> <p>10 MR. DAHLGREN: Objection; form.</p> <p>11 THE WITNESS: Now we're starting to build</p> <p>12 up into a long, complicated question. And can we --</p> <p>13 can we break that down again so I clearly understand</p> <p>14 what you're asking?</p> <p>15 BY MS. LEE:</p> <p>16 Q. Web-based email implemented with user</p> <p>17 interfaces was known prior to 2012, right?</p> <p>18 MR. DAHLGREN: Objection; form.</p> <p>19 THE WITNESS: So let me make sure I</p> <p>20 understand all of the components of your question.</p> <p>21 You're asking about Web-based email interfaces or</p> <p>22 interface --</p> <p>23 BY MS. LEE:</p> <p>24 Q. Web-based --</p> <p>25 A. -- elements or --</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. Sorry.</p> <p>2 A. I'm not sure I understand your question.</p> <p>3 Could you rephrase it, please, for me?</p> <p>4 Q. Using user interfaces as part of Web-based</p> <p>5 emails was known prior to 2012, right?</p> <p>6 A. I believe that's generally true, yes, that</p> <p>7 a -- an email server would provide an interface to</p> <p>8 construct or handle email, yes. Generally I agree</p> <p>9 with that.</p> <p>10 Q. And a Web server providing user interface</p> <p>11 elements to a user as part of Web-based email was</p> <p>12 also known prior to 2012, right?</p> <p>13 MR. DAHLGREN: Objection; form.</p> <p>14 THE WITNESS: I'm sorry. Could you clarify</p> <p>15 the difference between that and the previous</p> <p>16 question that you asked?</p> <p>17 BY MS. LEE:</p> <p>18 Q. I'm now asking about user interface</p> <p>19 elements instead of user interfaces.</p> <p>20 So a Web server providing user interface</p> <p>21 elements to a user as part of Web-based email was</p> <p>22 also known prior to 2012, right?</p> <p>23 MR. DAHLGREN: Objection; form.</p> <p>24 THE WITNESS: Yeah, I -- in general the</p> <p>25 concept of using interface elements and a user</p>	<p style="text-align: right;">Page 44</p> <p>1 to 2012, use HTML?</p> <p>2 A. Again, I think actually now it's even less</p> <p>3 clear to me what you're driving at and asking. I</p> <p>4 didn't understand what you meant by "part of." I'm</p> <p>5 even less sure what you mean by "used."</p> <p>6 Q. Are the interfaces used as part of</p> <p>7 Web-based email -- were they rendered using HTML</p> <p>8 prior to 2012?</p> <p>9 A. Typically if you're using a Web browser,</p> <p>10 that -- that -- that interface would be rendered</p> <p>11 generally by -- using by HTML.</p> <p>12 Q. User nodes were known prior to 2012, right?</p> <p>13 MR. DAHLGREN: Objection; form.</p> <p>14 THE WITNESS: Now, that is a difficult</p> <p>15 question to answer as you've asked it. I need</p> <p>16 you -- I need you to, if you can, point me to my</p> <p>17 declaration and give me the context for which you're</p> <p>18 asking that question.</p> <p>19 BY MS. LEE:</p> <p>20 Q. User computers were known prior to 2012,</p> <p>21 right?</p> <p>22 MR. DAHLGREN: Objection; form.</p> <p>23 THE WITNESS: A user computer was known</p> <p>24 prior to 2012 in the sense -- in the general sense</p> <p>25 that a computer, a personal computer, a computer</p>
<p style="text-align: right;">Page 43</p> <p>1 interface in a email system was -- was understood</p> <p>2 prior to 2012.</p> <p>3 BY MS. LEE:</p> <p>4 Q. Hypertext markup language was known prior</p> <p>5 to 2012, right?</p> <p>6 A. I would agree that definitely the -- the</p> <p>7 seeds of HTML, various versions, were -- were known</p> <p>8 prior to 2012.</p> <p>9 Q. Using -- sorry. Strike that.</p> <p>10 If I refer to hypertext markup language as</p> <p>11 "HTML," would you understand me?</p> <p>12 A. Yes. I think I just used that term.</p> <p>13 That's -- that's how I generally refer -- refer to</p> <p>14 HTML. Sometimes I use acronyms and shorthand. But</p> <p>15 "HTML" I think is one that's fairly well understood</p> <p>16 and fairly widely used for hypertext markup</p> <p>17 language. Yes.</p> <p>18 Q. Using HTML as part of Web-based email was</p> <p>19 known prior to 2012, right?</p> <p>20 A. Well, I think I would like you to -- to</p> <p>21 repeat that question and -- and rephrase it so that</p> <p>22 I understand exactly what -- what it is you're</p> <p>23 asking, because I don't quite understand what you</p> <p>24 mean by "part of."</p> <p>25 Q. Did Web-based email, as it was known prior</p>	<p style="text-align: right;">Page 45</p> <p>1 that would be used by someone, would typically be</p> <p>2 referred -- generally understood what a user</p> <p>3 computer meant: somebody using a computer.</p> <p>4 BY MS. LEE:</p> <p>5 Q. And what is the difference, if any, between</p> <p>6 a node and a computer?</p> <p>7 MR. DAHLGREN: Objection; form.</p> <p>8 THE WITNESS: Again, I would ask you -- it</p> <p>9 depends on the context. So I would ask you to give</p> <p>10 me the context by pointing out in my declaration</p> <p>11 which part of my declaration you are talking about</p> <p>12 here.</p> <p>13 BY MS. LEE:</p> <p>14 Q. Okay. Servers were known prior to 2012,</p> <p>15 right?</p> <p>16 A. Yes. The concept of a server was known</p> <p>17 prior to 2012.</p> <p>18 Q. Computers implementing server functions</p> <p>19 were known prior to 2012, right?</p> <p>20 MR. DAHLGREN: Objection; form.</p> <p>21 THE WITNESS: That's a very broad question.</p> <p>22 Are we talking about any particular type of server</p> <p>23 function? Could you clarify your question and</p> <p>24 repeat it, please?</p> <p>25 BY MS. LEE:</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. Computers implementing a server function 2 for relaying messages was known prior to 2012, 3 right? 4 A. Whoa. That was a very long, complicated 5 question. Could you -- could you repeat that, break 6 it down a little for me, please, so that I 7 understand it? 8 Q. Yeah. We can come back to this later. 9 Generating an email at a user node was 10 prior to -- was known prior to 2012, right? 11 MR. DAHLGREN: Objection; form. 12 THE WITNESS: You've started to use the 13 term "user node," so that makes me wonder if I 14 really understood your question. Could you -- could 15 you rephrase your question and phrase it in plain 16 terms or simple terms or break it down for me so 17 that I know exactly what it is you're asking about? 18 Or, again, I would ask, if you could, to refer to 19 the place in my declaration that you're referring to 20 here. 21 BY MS. LEE: 22 Q. Well, generating an email at a user 23 computer was known prior to 2012, right? 24 MR. DAHLGREN: Objection; form. 25 THE WITNESS: In general, yes, it was well</p>	<p style="text-align: right;">Page 48</p> <p>1 MR. DAHLGREN: Objection; form. 2 THE WITNESS: Again, I think you -- you 3 need to not only break that down, that complex 4 question down for me, but give me the context in 5 which you're using these terms. 6 BY MS. LEE: 7 Q. Do you understand what it means to request 8 a file over email? 9 A. I -- I could send an email message that 10 says, "Please put this file on a tape and send it to 11 me via a post," for example. Would that -- would 12 that be requesting -- that would be requesting a 13 file. So, again, I'm not sure on the context of 14 your question. 15 Q. So requesting a file over email would be 16 asking someone to indicate that file by email and 17 then send it over; is that right? 18 A. No, I -- 19 MR. DAHLGREN: Objection; form. 20 THE WITNESS: No, I disagree that that was 21 the answer that I gave you. Perhaps you could have 22 the answer read back for me, please. 23 BY MS. LEE: 24 Q. I believe I'd asked a different question. 25 What does it mean to request a file over</p>
<p style="text-align: right;">Page 47</p> <p>1 known -- well, it would be understood by a person of 2 skill in the art that you could generate an email at 3 a user computer. You typically, however, have to 4 have the involvement of an email server in order to 5 send an email. So I think I need again to ask you 6 to clarify what you mean by "generating" here. 7 BY MS. LEE: 8 Q. It was known prior to the -- sorry. Strike 9 that. 10 Prior to 2012, it was known to generate an 11 email by assembling different portions of the email 12 into a single message, right? 13 MR. DAHLGREN: Objection; form. 14 THE WITNESS: Again, you're using terms, 15 and I'm not sure the context in which you're using 16 them. You were using the term "generate," which it 17 is a term that is used in the original applications. 18 I'm not sure if you're referring to "generate" in -- 19 in which context, in my declaration, in the original 20 applications. Can you point me to somewhere in my 21 declaration that you're -- you're asking about here? 22 BY MS. LEE: 23 Q. Sure. We can come back to that. 24 Requesting files over Web-based email was 25 known prior to the asserted -- prior to 2012, right?</p>	<p style="text-align: right;">Page 49</p> <p>1 email? 2 A. I think that very much depends on the 3 context. 4 Q. In the context of Web-based email, what 5 does it mean to request a file? 6 A. I don't think -- 7 MR. DAHLGREN: Objection. 8 THE WITNESS: -- it makes -- 9 MR. DAHLGREN: Form. 10 THE WITNESS: To answer your question, I 11 don't think it makes a difference whether it's 12 Web-based email or any other type of email. Still 13 not sure of the context of the request. As I say, 14 the request could be in many forms, and the 15 satisfying, or not, of that request could be in many 16 forms, and without context I -- I don't think I can 17 clearly answer your question. 18 BY MS. LEE: 19 Q. What is one form of requesting content via 20 email? 21 A. I think I gave you an example earlier. 22 Q. And so in the context of your example, that 23 was known prior to 2012? 24 MR. DAHLGREN: Objection; form. 25 THE WITNESS: Let's be clear of what we're</p>

<p style="text-align: right;">Page 50</p> <p>1 talking, because we've nested references a couple 2 questions deep here, at least. You asked me, I 3 believe: Give me an example of how you would 4 request a file by email. 5 And I gave you an example that illustrated 6 how broad that could be, by saying I could, for 7 example, send you an email saying, "Can you pop that 8 file in the post for me." And that would be a 9 request by email. So that was by way of indicating 10 that your question was extremely broad and I didn't 11 understand the context that you were asking the 12 question in. 13 BY MS. LEE: 14 Q. Sharing content over Web-based email 15 without including an attachment was known prior to 16 2012, right? 17 A. Could you -- 18 MR. DAHLGREN: Objection; form. 19 THE WITNESS: Could I ask you again to -- 20 to slow down and perhaps, for me, speak a little 21 more clearly so I can get the question. Could you 22 repeat it again, please. 23 BY MS. LEE: 24 Q. Sure. Sharing content over Web-based email 25 without including an attachment is known prior to</p>	<p style="text-align: right;">Page 52</p> <p>1 A. If I understood your question correctly, it 2 would be as if I had constructed an email, sent an 3 email, and I put, "Please see the attached." And 4 when I send an email, I typically -- as a note to 5 myself, I might copy and paste the name of the file 6 in there. So it would be "MikesFile.pdf." And then 7 I would attach MikesFile.pdf to the email. 8 So in terms of your question, yes, I 9 believe it was common for people to do as I often 10 did, which is to put a description of a file or the 11 name of a file along with the attachment. I think 12 that's fairly well understood or adopted as a 13 practice. 14 Q. Prior to 2012, was it known to send an 15 email with only a description of shared content and 16 not the attachment? 17 MR. DAHLGREN: Objection; form. 18 THE WITNESS: To answer that question, I 19 really must ask you for the context, and, as I've 20 asked a number of times, the context in my 21 declaration, in paragraph, section. 22 BY MS. LEE: 23 Q. Sure. In the example you just gave, was it 24 known prior to 2012 to send an email with the name 25 of the file, MikesFile.pdf, for example, without</p>
<p style="text-align: right;">Page 51</p> <p>1 2012, right? 2 MR. DAHLGREN: Objection; form. 3 THE WITNESS: That is a very complex 4 question. I could break that down in many ways. 5 Could you -- could you simplify it and clarify it, 6 perhaps break it into smaller pieces for me, please? 7 BY MS. LEE: 8 Q. Sending emails with attachments was known 9 prior to 2012, right? 10 A. Yes, in general the -- it was generally 11 typically the ability to attach something to an 12 email. 13 Q. And sending an email with an attachment and 14 with a description of the attachment was known prior 15 to 2012, right? 16 MR. DAHLGREN: Objection; form. 17 THE WITNESS: Again, I would ask that you 18 give me the context for that question or clarify it 19 and break it down. 20 BY MS. LEE: 21 Q. Yeah. I'm asking for your understanding of 22 how a person of ordinary skill in the art would have 23 understood these prior to 2012. Would a -- 24 A. Well, if I -- 25 Q. Would a -- sorry. Go ahead.</p>	<p style="text-align: right;">Page 53</p> <p>1 including the PDF as an attachment? 2 MR. DAHLGREN: Objection; form. 3 THE WITNESS: I disagree with that 4 assertion. I don't think it's an -- assertion or in 5 the question completely. I think you've gone a long 6 way from what I just explained, which was somebody 7 typing in the name of a file to say "I've attached 8 this file," to what you've just said. So, no, I 9 disagree with that. 10 BY MS. LEE: 11 Q. Prior to 2012, was it known to include a 12 link in an email to -- sorry. Strike that. 13 Prior to 2012, was it known to include a 14 link in an email that linked to content? 15 MR. DAHLGREN: Objection; form. 16 THE WITNESS: Again, I would ask you for 17 the context. 18 BY MS. LEE: 19 Q. So in your example of sending MikesFile.pdf 20 as an attachment, was it known in 2012 to send a 21 link to the PDF in an email rather than send a PDF 22 as an attachment? 23 MR. DAHLGREN: Objection; form. 24 THE WITNESS: I would have to study that 25 question. At the time of the invention, it would</p>

<p style="text-align: right;">Page 54</p> <p>1 have been known to send a link in the form of a 2 hyperlink, a World Wide Web reference, HTTP or 3 HTTPS, to a Web page. That much was common. But 4 that's not the same as sending a link to a file. 5 BY MS. LEE: 6 Q. So sending a link to a Web page would not 7 allow you to link to a file? 8 MR. DAHLGREN: Objection. 9 BY MS. LEE: 10 Q. Is that -- 11 MR. DAHLGREN: Form. 12 BY MS. LEE: 13 Q. Is that what you just said? 14 MR. DAHLGREN: Sorry, Counsel. Objection; 15 form. 16 THE WITNESS: Well, we have to start 17 defining our terms a little more carefully here 18 before we answer that type of question. So, again, 19 let's break the question down into pieces. Could 20 you -- could you repeat it again in smaller pieces, 21 please? 22 BY MS. LEE: 23 Q. Was it known prior to 2012 that a link to a 24 Web page could have been a link to a file? 25 MR. DAHLGREN: Objection; form.</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. DAHLGREN: I think it was 61-4, 2 Dr. Smith. 3 THE WITNESS: Thank you. 4 (Deposition Exhibit 2 was marked for 5 identification.) 6 THE VIDEOGRAPHER: And, Counsel, would you 7 like that displayed? 8 THE WITNESS: And that would be -- 9 MS. LEE: Yes. 10 THE WITNESS: -- Exhibit -- that would be 11 Exhibit 3? 12 MR. DAHLGREN: Yes, Dr. Smith. That's my 13 understanding. 14 BY MS. LEE: 15 Q. Yes, Exhibit 3. Sorry. That -- apologies. 16 Yes, Exhibit 3. 17 And if we can -- if we can navigate, 18 please, to figure 5. And that's page 83 of the PDF, 19 for the court reporter. If we could go there. 20 A. That is very small. Let me bring it up on 21 my bigger screen. 22 And, again, that is page -- page number for 23 the figure that you're looking at? 24 THE VIDEOGRAPHER: 83, sir. 25 THE WITNESS: 83?</p>
<p style="text-align: right;">Page 55</p> <p>1 THE WITNESS: I -- I -- I have to answer 2 that question by giving you the definitions of the 3 terms that we've used as I understand them and 4 somebody who is a person of ordinary skill in the 5 art at that time would have understand it. And the 6 key term here is "link." What do you mean by 7 "link"? Well, if, by "link," you mean an HTTP link 8 to -- or a www link, that would link to a specific 9 type of file that's stored remotely; an HTML file, 10 for example. 11 MS. LEE: Okay. Let's -- I'm going to ask 12 the court reporter to please pull up the '906 13 application. 14 Q. And Dr. Smith, if you have a copy of it, 15 please feel free to pull that up as well. 16 A. Yes. In general I find it easier if you 17 give me the court document number, the XX-Y. 18 THE VIDEOGRAPHER: And, Counsel, I could 19 use the tab as well. 20 MS. LEE: Yes. So that is -- that would be 21 tab 6. 22 THE VIDEOGRAPHER: And Mr. Smith, I've 23 dropped that in the box for you, as well. 24 THE WITNESS: So that is court document 25 number?</p>	<p style="text-align: right;">Page 57</p> <p>1 BY MS. LEE: 2 Q. That's -- that's in the -- that's the 3 document that was dropped in the link. 4 A. Okay. 5 Q. It's figure 5 of the -- figure 5 of the 6 '906 application. 7 A. So -- 8 Q. Let me know when you're there, Doctor? 9 A. Yeah. I just realized that you're talking 10 about not the court page numbers but the actual page 11 numbers at the bottom of the document. It's not on 12 page 83. I have a header which says 119 pages. 13 Q. Yes. I had excerpted the -- the 14 specification. So it's -- are you able to go to 15 figure 5 of the '906 application in your copy, 16 Dr. Smith? 17 A. Yeah. Do you have the page numbers at the 18 top of that document? I can't see them. 19 MR. DAHLGREN: Dr. Smith, I think it's page 20 102 of 119. 21 THE WITNESS: Ah. That -- that's what I 22 was looking for. Thank you. 23 I have that figure, figure 5. Yes. I see 24 that figure. 25 BY MS. LEE:</p>

<p style="text-align: right;">Page 58</p> <p>1 Q. You would agree this figure shows a first 2 node that is operatively coupled by a network to a 3 second node; is that right? 4 A. I'm not sure of the wording of "operatively 5 coupled," but they are -- the first node and the 6 second node are connected via a network. 7 Are you using this term in the sense of 8 claim language or in terms of the specification? 9 Q. Yeah, sure. If it's helpful, I'm taking a 10 look at the paragraph 74 of the application. 11 A. Perhaps you could bring that up, too, or 12 tell me -- if you could give me a page number, 13 similarly to the way that Derek gave me a page 14 number; in other words, page X of -- of -- I believe 15 there are 119 pages here. So which page are we 16 talking about? 17 Q. Yeah, if you're able to navigate to -- 18 there are also paragraph numbers in the document. 19 Are you able to get to paragraph 74? 20 A. Well, it would be easier if you gave me a 21 page number, if you just scroll to the top of the -- 22 and looked at the blue header. 23 MS. LEE: So -- and this is for the court 24 reporter. If you could go to 21. 25 THE WITNESS: Oh, well, I would -- I would</p>	<p style="text-align: right;">Page 60</p> <p>1 A. I'm sorry. Are we -- 2 MS. LEE: All right. I'm sorry. Can you 3 put -- 4 THE WITNESS: -- looking at the wrong -- 5 are we looking at the wrong application or the wrong 6 paragraph? 7 BY MS. LEE: 8 Q. Sorry. They're the wrong application. 9 But I'll have the court reporter pull up 10 figure 5 again, please. If we can go back to figure 11 5. 12 So in this figure, "First Node" and "Second 13 Node" are examples of the first node and second node 14 recited in the asserted claims; is that right? 15 MR. DAHLGREN: Objection; form. 16 THE WITNESS: No, I'm not -- I'm not sure I 17 can totally agree with that, because the -- the 18 rest -- the use of "first node" and "second node" in 19 the claims could, for example, be backwards. The 20 first node in the claim could be the second node in 21 this picture, and the second node in the claim could 22 be the first node in this picture. There's -- 23 there's nothing special about "First Node" and 24 "Second Node" in this picture. 25 BY MS. LEE:</p>
<p style="text-align: right;">Page 59</p> <p>1 like to keep this figure. And if you're going to 2 ask me a question about the figure, I would like 3 to -- 4 BY MS. LEE: 5 Q. Okay. Yes. 6 A. -- keep it up. And if you -- 7 Q. Okay. Then if you're -- 8 A. -- just tell me -- 9 Q. -- able to see -- sorry. Go ahead. 10 A. If you would tell me what the page number, 11 or if you can't do that, I -- I could find the 12 page -- the paragraph number. 13 Q. Yeah, if you could go to paragraph -- let's 14 see, paragraph 74. I'm sorry. It's -- 15 MR. DAHLGREN: That's -- gosh. And I 16 believe that's page 24 of 119. 17 THE WITNESS: Thank you, Derek. 18 BY MS. LEE: 19 Q. And, actually, I apologize. It's -- 20 A. I see paragraph 74, which starts with, in 21 my copy, "'Path Information' is any information that 22 identifies a network path." 23 Q. Yes. I -- I apologize, actually. It's -- 24 it's paragraph 74 of the '635 application. We 25 can -- can come back to this in a moment.</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. You would agree, though, then, that the 2 first node and second node as recited in the claims 3 of the asserted patents are one of the first node or 4 second nodes shown in figure 5; is that right? 5 A. Well, that was the very tortuous way of 6 saying what I think I just said, which is that they 7 could be backwards. So I'd rather use my simple 8 explanation than yours, which sounded a little more 9 complicated. But in general we're talking about -- 10 when the patent is talking about a first node and a 11 second node, it's talking about the first node and a 12 second node in this figure. I generally agree with 13 that, yes. 14 Q. And "Path Node" is a server node, right? 15 A. No, not -- 16 MR. DAHLGREN: Objection; form. 17 THE WITNESS: -- always. It could be. 18 BY MS. LEE: 19 Q. Okay. And what about "Service Provider 20 Node"? Is that a server node? 21 MR. DAHLGREN: Objection; form. 22 THE WITNESS: Again, it's my belief that it 23 could be, yes. 24 BY MS. LEE: 25 Q. Now, you would agree that there's no</p>

<p style="text-align: right;">Page 62</p> <p>1 disclosure in the original -- strike that.</p> <p>2 Will you understand me if I refer to the</p> <p>3 original applications as the '906 and '635</p> <p>4 applications?</p> <p>5 A. I believe that is correct. Those are the</p> <p>6 two I believe that I have been focusing on and we</p> <p>7 have called the original applications.</p> <p>8 Q. Okay. So would you agree with me that</p> <p>9 there is no disclosure in the original applications</p> <p>10 that describes the path node receiving an indicia of</p> <p>11 an email address prior to the creation of an email</p> <p>12 message?</p> <p>13 MR. DAHLGREN: Objection; form.</p> <p>14 THE WITNESS: That was a very, very long</p> <p>15 question. I don't believe I agree with it at all.</p> <p>16 But it was so long, it was hard to follow. Could</p> <p>17 you break it down into smaller pieces for me?</p> <p>18 BY MS. LEE:</p> <p>19 Q. Sure. So in the original applications, is</p> <p>20 there disclosure of path node receiving an email</p> <p>21 address prior to creation of an email message?</p> <p>22 A. Are we -- are we talking about my --</p> <p>23 MR. DAHLGREN: Objection; form.</p> <p>24 THE WITNESS: Are we talking about my</p> <p>25 declaration here, or is this a hypothetical</p>	<p style="text-align: right;">Page 64</p> <p>1 some poor arguments based on a path node. But it</p> <p>2 was not the focus of my declaration.</p> <p>3 Again, I would ask that we -- we go to</p> <p>4 the -- the context of this question in my</p> <p>5 declaration. If you could point me to that, or we</p> <p>6 could -- we could look at it.</p> <p>7 BY MS. LEE:</p> <p>8 Q. Sure. So in -- if you go to paragraph 36</p> <p>9 of your declaration.</p> <p>10 Let me know when you're there.</p> <p>11 A. Yes, I have paragraph 36.</p> <p>12 Q. Do you see where you refer to "path node"</p> <p>13 in paragraph 36?</p> <p>14 A. I see that -- I see the sentence "Dropbox</p> <p>15 argues that '[w]here the Original Applications</p> <p>16 describe nodes external to the user'" computer,</p> <p>17 those "'nodes are solely "path nodes" that merely</p> <p>18 "relay" messages between...computers'" -- "'user</p> <p>19 computers without modification, or that are used to</p> <p>20 store or locate...user data.'"</p> <p>21 Q. Do you understand the reference to "path"</p> <p>22 node here to be related to path node 508 in the '906</p> <p>23 application?</p> <p>24 MR. DAHLGREN: Objection; form.</p> <p>25 THE WITNESS: I generally agree with that,</p>
<p style="text-align: right;">Page 63</p> <p>1 argument? Are we talking about a reference in the</p> <p>2 original applications? I'm not sure of the context</p> <p>3 of your question at all.</p> <p>4 BY MS. LEE:</p> <p>5 Q. Well, you reviewed the original</p> <p>6 applications prior to submitting your declaration,</p> <p>7 right?</p> <p>8 A. I did review the original applications,</p> <p>9 yes.</p> <p>10 Q. And you reviewed disclosures relating to</p> <p>11 path node 5 -- 508, right?</p> <p>12 A. I -- I read the application that</p> <p>13 described -- the original applications that</p> <p>14 described the path node 508, but I did not focus on</p> <p>15 the -- the element path node, because it was not, as</p> <p>16 far as I remember, included in the Gibbons</p> <p>17 declaration, and therefore it was not something that</p> <p>18 I analyzed in detail in my declaration.</p> <p>19 Q. So you did not analyze the path node in</p> <p>20 detail in your declaration; is that right?</p> <p>21 MR. DAHLGREN: Objection; form.</p> <p>22 THE WITNESS: I don't -- I don't agree with</p> <p>23 that. I think there was some analysis in my</p> <p>24 declaration. I think, for example, at -- at one of</p> <p>25 the paragraphs, I pointed out that Dropbox had made</p>	<p style="text-align: right;">Page 65</p> <p>1 except that I note that path -- nodes that are</p> <p>2 external to user computers do not have to be path</p> <p>3 nodes.</p> <p>4 BY MS. LEE:</p> <p>5 Q. So there are -- there are nodes that are</p> <p>6 external to user computers that are not path nodes;</p> <p>7 is that right?</p> <p>8 MR. DAHLGREN: Objection; form.</p> <p>9 THE WITNESS: Could you repeat the</p> <p>10 question, please?</p> <p>11 BY MS. LEE:</p> <p>12 Q. There are nodes that are external to user</p> <p>13 computers that are not path nodes?</p> <p>14 A. There -- there could --</p> <p>15 Q. Is that right?</p> <p>16 A. There could -- the disclosure clearly</p> <p>17 describes first or second node as being possible to</p> <p>18 make those up with more than one node. And</p> <p>19 therefore, in this picture, if you were to have a</p> <p>20 second node, for example, be more than one node, you</p> <p>21 could have more than one node as a second node, and</p> <p>22 you could have a path node 508. Those would not</p> <p>23 necessarily be the same things.</p> <p>24 BY MS. LEE:</p> <p>25 Q. You would agree, though, that path node 508</p>

<p style="text-align: right;">Page 66</p> <p>1 as shown in figure 5 only relays messages; is that 2 right? 3 MR. DAHLGREN: Objection; form. 4 THE WITNESS: No, I don't believe that's a 5 fair characterization. 6 BY MS. LEE: 7 Q. Is it your opinion that path node — sorry. 8 Strike that. 9 What other operations are performed by path 10 node 508 as described in the original applications? 11 A. Well, for example, a path node might be 12 what is called a relay or intermediate server that 13 could and often does modify information passing 14 through it. 15 Q. And those modifications are to header 16 information; is that right? 17 A. They could be if it were an intermediate 18 mail server. 19 Q. So as an intermediary mail server, a path 20 node would receive an email — would — sorry. 21 Strike that. 22 As an intermediary mail server, path node 23 would relay an email from first node to second node, 24 for example, right? 25 MR. DAHLGREN: Objection; form.</p>	<p style="text-align: right;">Page 68</p> <p>1 applications; is that right? 2 A. No, I don't agree completely with that 3 statement. We started talking about what an 4 intermediate mail server could be, and now we've 5 moved to the exact definition of "path node" in the 6 original applications. 7 Q. So in an email that is relayed by path 8 node, the email address and other email content is 9 specified by one of first or second node; is that 10 right? 11 MR. DAHLGREN: Objection; form. 12 THE WITNESS: Could you repeat that 13 question, please? 14 BY MS. LEE: 15 Q. Sure. So in an email that is relayed by 16 path node, the email address and other email content 17 is specified by either the first or second node, 18 right? 19 MR. DAHLGREN: Objection; form. 20 THE WITNESS: Yeah, I'm really not sure of 21 the relevance of this question to the central 22 pillars of the Gibbons declaration and my 23 declaration. 24 BY MS. LEE: 25 Q. So are you not able to answer my question?</p>
<p style="text-align: right;">Page 67</p> <p>1 THE WITNESS: I used the term "intermediate 2 mail server" in that there may be one or more mail 3 servers that pass email along. There may be a box, 4 for example, at the — outside of a corporation that 5 filters email. It — it may change headers. It may 6 strip attachments. It may perform virus scanning. 7 It may perform any number of operations that change 8 or modify an email, email content, email header. 9 BY MS. LEE: 10 Q. And for your understanding of path node 11 508, you applied what was described in the original 12 application; is that right? 13 MR. DAHLGREN: Objection; form. 14 THE WITNESS: I don't understand your 15 question. Could you clarify the part where you said 16 I applied something? "Applied" is something to 17 something. It's — 18 BY MS. LEE: 19 Q. Sure. 20 A. — attached to something. 21 Q. So your understanding of path node 508 is 22 informed by the disclosure of "path node" in the 23 508 — in — I'm sorry. Strike that. 24 Your understanding of path node 508 is 25 informed by the disclosure in the original</p>	<p style="text-align: right;">Page 69</p> <p>1 A. If you could point me to where I discuss 2 this in my declaration, then I may be able to answer 3 your question, but otherwise, without some more 4 analysis, no. 5 Q. Okay. So you have no opinion about whether 6 an email that is relayed by a path node, whether the 7 email address and other email content is specified 8 by either the first or second node; is that right? 9 MR. DAHLGREN: Objection; form. 10 THE WITNESS: That was a very long 11 question. Can you break it down, please? I'm 12 trying to understand what it is you are asking that 13 the path node is doing. 14 BY MS. LEE: 15 Q. Sure. So an email that is relayed by the 16 path node — do you have that in mind? 17 A. Yes. I understand that — 18 Q. Okay. 19 A. I understand that a path node in this 20 figure could — could relay an email; it could relay 21 a phone message. The disclosure is clear, I think, 22 that it — it could be a phone switch, for example. 23 Q. Right. So keeping in mind an email being 24 relayed by a path node, the email address and other 25 email content in that email is specified by either</p>

<p style="text-align: right;">Page 70</p> <p>1 the first node or the second node, correct?</p> <p>2 MR. DAHLGREN: Objection; form.</p> <p>3 THE WITNESS: Again, I -- I'm not sure I</p> <p>4 understand your question. Are you -- are you ask --</p> <p>5 are you asking -- I'm just not understanding your</p> <p>6 question.</p> <p>7 BY MS. LEE:</p> <p>8 Q. Sure. So the -- the email that is being</p> <p>9 relayed by path node, the recipient email address in</p> <p>10 that email is specified by first node or second</p> <p>11 node, correct?</p> <p>12 MR. DAHLGREN: Objection; form.</p> <p>13 THE WITNESS: I think I got the end of your</p> <p>14 question, but it was -- it sounded as though you</p> <p>15 were asking as if an email address was specified by</p> <p>16 first node and the second node. So could you --</p> <p>17 could you repeat it, slow down, and ask a little</p> <p>18 more clearly -- ask me the question a little more</p> <p>19 clearly, please?</p> <p>20 BY MS. LEE:</p> <p>21 Q. Yeah. An email that is being relayed by</p> <p>22 the path node, the recipient email address contained</p> <p>23 in that email is specified by either a first node or</p> <p>24 a second node; is that right?</p> <p>25 A. Well, it would depend on who was sending</p>	<p style="text-align: right;">Page 72</p> <p>1 what I said.</p> <p>2 BY MS. LEE:</p> <p>3 Q. So in an email sent from first node to</p> <p>4 second node, it is your opinion that first node</p> <p>5 provides the email address within that email?</p> <p>6 MR. DAHLGREN: Objection; form, asked and</p> <p>7 answered.</p> <p>8 THE WITNESS: Could you repeat the question</p> <p>9 slowly and more clearly, please.</p> <p>10 BY MS. LEE:</p> <p>11 Q. So in an email sent from first node to</p> <p>12 second node, it is your opinion that first node</p> <p>13 provides the email address within that email?</p> <p>14 MR. DAHLGREN: Same objections.</p> <p>15 THE WITNESS: Yes, when -- when a first</p> <p>16 node is sending an email, it will include an email</p> <p>17 address.</p> <p>18 BY MS. LEE:</p> <p>19 Q. Okay. And prior to the path node receiving</p> <p>20 the email from the first node, does path node</p> <p>21 separately receive the email address?</p> <p>22 MR. DAHLGREN: Objection; form.</p> <p>23 THE WITNESS: Oh. That was a very long</p> <p>24 question. Can you simplify that, please?</p> <p>25 BY MS. LEE:</p>
<p style="text-align: right;">Page 71</p> <p>1 the email.</p> <p>2 Q. And the node sending the email would</p> <p>3 specify the email address; is that right?</p> <p>4 MR. DAHLGREN: Objection; form.</p> <p>5 THE WITNESS: Yes, generally. I am not</p> <p>6 sure I understand your question, because if the</p> <p>7 first node had sent an email to the second node,</p> <p>8 then the email address would not be inserted in the</p> <p>9 email by the second node. So the answer to your --</p> <p>10 that's why I hesitated on answering your question,</p> <p>11 because it wasn't clear. The question was not</p> <p>12 clear, still isn't clear.</p> <p>13 BY MS. LEE:</p> <p>14 Q. Okay. So when first node sends an email to</p> <p>15 second node, first node inserts an email address</p> <p>16 corresponding to the second node; is that right?</p> <p>17 MR. DAHLGREN: Objection; form.</p> <p>18 THE WITNESS: No, that's not correct.</p> <p>19 BY MS. LEE:</p> <p>20 Q. So in an email sent from first node to</p> <p>21 second node, is it your opinion that first node does</p> <p>22 not provide the email address within that email?</p> <p>23 A. No, that's --</p> <p>24 MR. DAHLGREN: Objection; form.</p> <p>25 THE WITNESS: -- not what I -- that's not</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. So you agree path node can receive an email</p> <p>2 from first node; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Prior to receiving that email from</p> <p>5 first node, does path node separately receive an</p> <p>6 email address?</p> <p>7 A. Yes, typically --</p> <p>8 MR. DAHLGREN: Objection; form.</p> <p>9 THE WITNESS: Yes. Typically when the</p> <p>10 first node sends an email out, it will have an</p> <p>11 address. That address may be received by the path</p> <p>12 node.</p> <p>13 BY MS. LEE:</p> <p>14 Q. The email address received by the path node</p> <p>15 is part of the email sent by first node; is that</p> <p>16 right?</p> <p>17 MR. DAHLGREN: Objection; form.</p> <p>18 THE WITNESS: Yes, generally I think that's</p> <p>19 exactly what I just said, that first node sends an</p> <p>20 email. First email -- the first node's email, the</p> <p>21 email that was sent by the first node, contains an</p> <p>22 email address. And as part of the routing of that</p> <p>23 mail, it could be that path node receives that</p> <p>24 email.</p> <p>25 BY MS. LEE:</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. Okay.</p> <p>2 And we're about getting to, I think,</p> <p>3 another hour, Dr. Smith. Do you want to keep going,</p> <p>4 or is this a good time for a break?</p> <p>5 A. Up to you. I'm quite happy to continue</p> <p>6 explaining to you how email works and --</p> <p>7 MR. DAHLGREN: I'll -- I'll take a -- I'll</p> <p>8 take that invitation just for five minutes, if</p> <p>9 that's all right. I could use one.</p> <p>10 MS. LEE: Okay. Great. All right. Then</p> <p>11 let's --</p> <p>12 MR. DAHLGREN: Appreciate it.</p> <p>13 MS. LEE: Let's go off -- yeah.</p> <p>14 THE VIDEOGRAPHER: We are off the record.</p> <p>15 The time is 11:29 a.m.</p> <p>16 (Recess taken.)</p> <p>17 THE VIDEOGRAPHER: We are back on the</p> <p>18 record. The time is 11:40 a.m.</p> <p>19 MS. LEE: Okay. Great. Let's turn to --</p> <p>20 let's pull up the '635 application. I believe we</p> <p>21 need to mark that as Exhibit 3.</p> <p>22 (Deposition Exhibit 3 was marked for</p> <p>23 identification.)</p> <p>24 THE WITNESS: Yeah, I think we tried this</p> <p>25 before. Could -- when we pulled up the wrong one.</p>	<p style="text-align: right;">Page 76</p> <p>1 node of the figure that we were -- we were talking</p> <p>2 about before the break, yes.</p> <p>3 Q. Okay. And the '635 application references</p> <p>4 communications between "Dad" and "William." Do you</p> <p>5 recall that?</p> <p>6 MR. DAHLGREN: Objection; form.</p> <p>7 THE WITNESS: You've used the term</p> <p>8 "communication" here again, so that's why I was</p> <p>9 asking you what context you were using that term in.</p> <p>10 I'm not sure that the application uses the</p> <p>11 term "communication" between Will and -- and Dad.</p> <p>12 Will -- I think Will and Dad do exchange email. And</p> <p>13 that is a form of communication as would be</p> <p>14 generally regarded, yes.</p> <p>15 BY MS. LEE:</p> <p>16 Q. Okay. So the '635 application references</p> <p>17 emails between Dad and William?</p> <p>18 MR. DAHLGREN: Objection; form.</p> <p>19 THE WITNESS: Generally that -- that --</p> <p>20 that's true. We would have to look at the exact</p> <p>21 description of the email, whether it's an email</p> <p>22 message, or what -- what terms were being used. But</p> <p>23 that's generally true.</p> <p>24 BY MS. LEE:</p> <p>25 Q. Okay. And is -- and is node 1 -- is --</p>
<p style="text-align: right;">Page 75</p> <p>1 Could you give me the court document number?</p> <p>2 MR. DAHLGREN: Dr. Smith, that's document</p> <p>3 61-5.</p> <p>4 THE WITNESS: All right. I think we pulled</p> <p>5 up 61-4 before, which was Exhibit 3. 61-5 is</p> <p>6 Exhibit 4.</p> <p>7 BY MS. LEE:</p> <p>8 Q. And if you could please pull up figure 7.</p> <p>9 A. Yes. Again, it would help if you gave me a</p> <p>10 page number.</p> <p>11 MR. DAHLGREN: Dr. Smith, I think it's page</p> <p>12 106 of 107 in the court document.</p> <p>13 THE WITNESS: Yeah. Yeah, right at the</p> <p>14 end. Yeah. I got it.</p> <p>15 BY MS. LEE:</p> <p>16 Q. Okay. Great. Just wait for the court</p> <p>17 reporter to get there also.</p> <p>18 Figure 7, please.</p> <p>19 Okay. So Dr. Smith, figure 7 shows</p> <p>20 communications between "First Node" and "Second</p> <p>21 Node"; is that right?</p> <p>22 A. Yes, in general I would -- I would say that</p> <p>23 in -- depending on the context of the use of the</p> <p>24 word "communication," this is, in general,</p> <p>25 communication between the first node and the second</p>	<p style="text-align: right;">Page 77</p> <p>1 sorry. Strike that.</p> <p>2 "First Node 502," is that Dad or William?</p> <p>3 MR. DAHLGREN: Objection; form.</p> <p>4 THE WITNESS: I'm sorry. Could you repeat</p> <p>5 the question? Again, I -- the audio is actually</p> <p>6 slightly worse now than it was before the break. So</p> <p>7 could you repeat the -- the question? And I don't</p> <p>8 think it's necessarily your speaking that's causing</p> <p>9 the problem, but maybe you're not quite pointed at</p> <p>10 the microphone, or something.</p> <p>11 BY MS. LEE:</p> <p>12 Q. "First Node 502" in figure 7, is that Dad</p> <p>13 or William?</p> <p>14 A. Well, in general it could be that first</p> <p>15 node's talking to the second node or second node</p> <p>16 talking to the first node.</p> <p>17 Q. In the '635 application, Dad is requesting</p> <p>18 content from William; is that right?</p> <p>19 A. In one part of the example, yes. But the</p> <p>20 application talks about what's going on from both --</p> <p>21 both sides.</p> <p>22 Q. And William, in the -- sorry. Strike that.</p> <p>23 In the '635 application, William shares</p> <p>24 content with Dad; is that right?</p> <p>25 MR. DAHLGREN: Objection; form.</p>

<p style="text-align: right;">Page 78</p> <p>1 THE WITNESS: I would ask you to -- to give</p> <p>2 me a exact reference in the original applications</p> <p>3 that we're talking about here.</p> <p>4 BY MS. LEE:</p> <p>5 Q. Sure. If we go to figure 6E of the '635</p> <p>6 application.</p> <p>7 Figure 6E shows a draft email from Dad to</p> <p>8 William; is that right?</p> <p>9 MR. DAHLGREN: Objection; form.</p> <p>10 THE WITNESS: Yeah, I -- again, I'd be more</p> <p>11 comfortable if we looked at the exact place in the</p> <p>12 original applications that you're talking about.</p> <p>13 Give me a paragraph reference, and let's go there.</p> <p>14 If you -- if you want him to hold this</p> <p>15 figure there and give me a paragraph reference.</p> <p>16 BY MS. LEE:</p> <p>17 Q. So, actually, if we -- if we can just go</p> <p>18 back to figure 7. We can come back to this in a</p> <p>19 moment. If we go back to figure 7.</p> <p>20 You agree whether or not -- sorry. Strike</p> <p>21 that.</p> <p>22 Figure 7 shows email exchanges between</p> <p>23 first node and second node, correct?</p> <p>24 MR. DAHLGREN: Objection; form.</p> <p>25 THE WITNESS: No, I don't agree with that.</p>	<p style="text-align: right;">Page 80</p> <p>1 A. No.</p> <p>2 MR. DAHLGREN: Sorry, Counsel.</p> <p>3 Same objection.</p> <p>4 BY MS. LEE:</p> <p>5 Q. So 716 is a message from first node to</p> <p>6 second node; is that right?</p> <p>7 A. That is correct. And if --</p> <p>8 Q. Okay.</p> <p>9 A. -- we were to go to the disclosure, it</p> <p>10 would have been obvious that I was referring to 716</p> <p>11 and 702 as being messages. If you can again point</p> <p>12 me to the place in the disclosure that you're</p> <p>13 questioning, it might make things easier.</p> <p>14 Q. And 716 is a message sent from first node</p> <p>15 to second node to request content; is that right?</p> <p>16 MR. DAHLGREN: Objection; form.</p> <p>17 THE WITNESS: Well, the disclosure, I</p> <p>18 think, clearly explains that a message such as 716</p> <p>19 may contain various things. The specification</p> <p>20 discloses, for example -- the original application</p> <p>21 disclosed, for example, that message 616 may include</p> <p>22 a data object request, for example, but other things</p> <p>23 in addition to that.</p> <p>24 BY MS. LEE:</p> <p>25 Q. So figure 7 describes that message 716</p>
<p style="text-align: right;">Page 79</p> <p>1 BY MS. LEE:</p> <p>2 Q. Figure 7 shows an email being sent by first</p> <p>3 node to second node; is that right?</p> <p>4 MR. DAHLGREN: Objection; form.</p> <p>5 THE WITNESS: No, that's not all that</p> <p>6 figure 7 shows.</p> <p>7 BY MS. LEE:</p> <p>8 Q. That is -- one aspect of figure 7 is first</p> <p>9 node sending an email to second node; is that right?</p> <p>10 MR. DAHLGREN: Objection; form.</p> <p>11 THE WITNESS: Well, I think figure 7 is</p> <p>12 quite clear here. I'm wondering if you're asking</p> <p>13 about the 716 and 702 exchange.</p> <p>14 BY MS. LEE:</p> <p>15 Q. Right. So 716 in figure 7 is an email from</p> <p>16 first node to second node; is that right?</p> <p>17 MR. DAHLGREN: Objection; form.</p> <p>18 THE WITNESS: Sorry. Can you repeat that</p> <p>19 question, please?</p> <p>20 BY MS. LEE:</p> <p>21 Q. Sure. 716 in figure 7 is an email from</p> <p>22 first node to second node?</p> <p>23 MR. DAHLGREN: Objection; form.</p> <p>24 BY MS. LEE:</p> <p>25 Q. Is that right?</p>	<p style="text-align: right;">Page 81</p> <p>1 includes a data object request that is sent from</p> <p>2 first node and received by second node; is that</p> <p>3 right?</p> <p>4 MR. DAHLGREN: Objection; form.</p> <p>5 THE WITNESS: I'm looking at the disclosure</p> <p>6 description. If we go to the original applications</p> <p>7 themselves, I believe that description is pretty</p> <p>8 clear there in paragraph 152 of document 61-5.</p> <p>9 BY MS. LEE:</p> <p>10 Q. Right. So in paragraph 152, message 716 is</p> <p>11 sent by first node to the second node, right?</p> <p>12 MR. DAHLGREN: Objection; form.</p> <p>13 THE WITNESS: No. No. I disagree with</p> <p>14 that.</p> <p>15 BY MS. LEE:</p> <p>16 Q. Okay. So you disagree that in figure 7,</p> <p>17 716 shows a message sent from first node to second</p> <p>18 node?</p> <p>19 A. I disagree with that.</p> <p>20 MR. DAHLGREN: Objection; form.</p> <p>21 THE WITNESS: That is not what the</p> <p>22 disclosure says.</p> <p>23 BY MS. LEE:</p> <p>24 Q. And you disagree that figure 7 shows a</p> <p>25 message from first node to second node as label 716?</p>

<p style="text-align: right;">Page 82</p> <p>1 MR. DAHLGREN: Objection; form.</p> <p>2 THE WITNESS: Yes, I disagree with that.</p> <p>3 That's not what the disclosure says.</p> <p>4 BY MS. LEE:</p> <p>5 Q. And what is incorrect about the statement</p> <p>6 that 716 is a message from first node to second</p> <p>7 node?</p> <p>8 A. Let me read the disclosure.</p> <p>9 Oh, that was a question. May I read the</p> <p>10 disclosure?</p> <p>11 Q. Yes, of course.</p> <p>12 A. Paragraph 152 says that "Previous</p> <p>13 message...as shown, may be sent via network 506 by</p> <p>14 execution environment 401 of first node 502 to</p> <p>15 execution environment 401 of second node 504." That</p> <p>16 is not what you said.</p> <p>17 Q. So sending by an execution environment of</p> <p>18 first node to sending it to an execution environment</p> <p>19 of second node is not the same as sending a message</p> <p>20 from first node to second node?</p> <p>21 MR. DAHLGREN: Objection; form.</p> <p>22 THE WITNESS: Well, clearly they're not the</p> <p>23 same sentences.</p> <p>24 BY MS. LEE:</p> <p>25 Q. So sending a message from first node to</p>	<p style="text-align: right;">Page 84</p> <p>1 73, on page -- PDF page 31.</p> <p>2 THE VIDEOGRAPHER: 73, correct?</p> <p>3 MS. LEE: Yes. Correct.</p> <p>4 Q. So Dr. Smith, you give some examples of</p> <p>5 data flows in paragraph 73 that can be internal to</p> <p>6 an execution environment or that can be a message</p> <p>7 received via a network; is that right?</p> <p>8 A. I got the first part of your question.</p> <p>9 I'll answer that separately. You said that it could</p> <p>10 be a data flow internal to an execution environment.</p> <p>11 And, yes, I agree with that. I did not catch the</p> <p>12 second part of your question. Could you repeat it,</p> <p>13 please.</p> <p>14 Q. Sure. The -- paragraph 73 also includes</p> <p>15 some examples of data flows that include messages</p> <p>16 received via network; is that right?</p> <p>17 A. Yes, I -- in general that's true. I see,</p> <p>18 for example, the second example that I gave says</p> <p>19 that "Figure 7 includes a data flow message that</p> <p>20 illustrates a locate data flow 706 that may be</p> <p>21 internal to execution environment 401 of first node</p> <p>22 502...or that may include a message received via</p> <p>23 network 506 by first node 502."</p> <p>24 Q. So of the examples you give in paragraph</p> <p>25 73, they do not describe -- sorry. Strike that.</p>
<p style="text-align: right;">Page 83</p> <p>1 second node does not encompass sending a message</p> <p>2 from an execution environment in first node to an</p> <p>3 execution environment in the second node? Is that</p> <p>4 what your opinion is?</p> <p>5 MR. DAHLGREN: Objection; form.</p> <p>6 THE WITNESS: No. I merely stated that</p> <p>7 what you said was not what was in the disclosure. I</p> <p>8 have not performed extensive analysis on what the</p> <p>9 differences might be. That was not within the scope</p> <p>10 of my declaration.</p> <p>11 BY MS. LEE:</p> <p>12 Q. Okay. Now if you can turn to paragraph 73</p> <p>13 of your declaration. And I'm wondering if the court</p> <p>14 reporter -- I'm sorry, paragraph 73 of your</p> <p>15 declaration.</p> <p>16 A. Paragraph 73 of my declaration.</p> <p>17 Q. Yes.</p> <p>18 And if I could ask the court reporter to</p> <p>19 please show that along with figure 7.</p> <p>20 THE VIDEOGRAPHER: Which tab would that be,</p> <p>21 ma'am?</p> <p>22 MS. LEE: Oh, I'm sorry. It's tab 0.</p> <p>23 THE VIDEOGRAPHER: Got you. Thank you.</p> <p>24 And I'm sorry again. Could I have the --</p> <p>25 MS. LEE: Yes, of course. It's paragraph</p>	<p style="text-align: right;">Page 85</p> <p>1 Of the examples you give in paragraph 73,</p> <p>2 there's no disclosure of steps 716 or 702, where</p> <p>3 those processes occur; is that right?</p> <p>4 A. No, I don't think that's right.</p> <p>5 Q. Can you please point me to the excerpt that</p> <p>6 discusses 716 in paragraph 73?</p> <p>7 A. On page -- oh, it doesn't have a header.</p> <p>8 It's page 33. And let me read it to you.</p> <p>9 "Figure 7 includes dataflow message 716</p> <p>10 that illustrates a present message that may be</p> <p>11 internal to execution environment 401 of first node</p> <p>12 502 and/or may be a message sent to a remote device,</p> <p>13 such as a node including a browser, to send" present</p> <p>14 "information to present, via an" input "device, a</p> <p>15 representation of the data object identification</p> <p>16 response received in second message" -- "second</p> <p>17 message 714. Figure 7 also includes dataflow</p> <p>18 message 718 that illustrates a create access request</p> <p>19 message that may be a data flow internal to</p> <p>20 execution environment 401 of first node 502 and/or a</p> <p>21 message received via network 506 by execution</p> <p>22 environment 401 of first node 502."</p> <p>23 Q. And you just read me a description from the</p> <p>24 '906 application; is that right?</p> <p>25 A. I believe that was '906 application at</p>

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1 paragraph 144.

2 Q. Okay. And we're looking right now at a
3 figure of the '635 application. And I believe -- is
4 it accurate that paragraph 73 is the paragraph in
5 your declaration referencing the '635 application
6 and figure 7?

7 A. I think paragraph -- a lot of scrolling
8 here. Paragraph 73 talks about the '635
9 application. Paragraph 74 talks about the '906
10 application. So I may -- I may have read from
11 paragraph 74. There's a similar paragraph in '635
12 at 157, paragraph 157. I can read that for you.

13 Q. At 157?

14 A. "Figure 7 includes a data flow message that
15 illustrates a" data "detect...object request...data
16 flow 718 that may be internal to execution
17 environment 401 of second node 504 and/or may
18 include interoperation with another node via a
19 network."

20 Local "message 720 may be internal to
21 execution environment 401 of second node 504 and/or
22 may include a message exchanged with a remote
23 device, such as" a "database server and/or a network
24 attached storage device providing storage locations
25 for some or all of a file system of execution

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1 16, paragraph 38.

2 A. Okay. And do you want me to look at the
3 text or the figure?

4 Q. Let's -- let's focus on the figure.

5 So what you have in paragraph 38 is a
6 modified version of figure 7 from the '635
7 application; is that right?

8 A. It's annotated. That is correct.

9 Q. And the annotations include adding "User
10 Computer1" and "User Computer2." That's one
11 modification, right?

12 A. The way that the figure is drawn, I suppose
13 we need to describe in words what's shown here is
14 that -- that two boxes have been added -- one is
15 labeled "User Computer1," and one is "User
16 Computer2" -- as a means of explaining and
17 annotating what's going on, yes.

18 Q. Okay. And then the other modification is
19 in the box with "First Node," "502" was replaced
20 with "= Server1"; is that right?

21 A. Yes, the -- the annotation, to fit in the
22 box, was pasted over the "502" label.

23 Q. Okay. And -- and then same thing for
24 "Second Node." "504" was pasted over with
25 "= Server2"?

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1 environment 401 of second node 504."

2 That, I believe, is the '635 application,
3 in paragraph 157.

4 Q. Right. So I believe I asked you about step
5 716. So the -- the paragraph you just read me does
6 not describe 716; is that accurate?

7 A. I think in paragraph 73, there -- there are
8 no explicit references to 716 that I can find.

9 Q. Great. And then if you could just confirm
10 for me, there are also no specific references to
11 702. Is that right?

12 A. No explicit reference to 702. All of the
13 other components in the figure are referenced.

14 Q. Okay. Great. If we can now go to
15 paragraph 37 of your declaration.

16 I'm sorry. And, actually, yeah, I -- there
17 was a typo there. It's actually paragraph 38 of
18 your declaration.

19 A. I'm sorry. Paragraph 37 is the one: "As I
20 established above, in one disclosed embodiment,
21 each...node...explicitly taught to include 'one or
22 more devices'?"

23 Q. Yeah. I'd actually like you to take a look
24 at paragraph 38 and the -- the figure below in
25 paragraph 38; so the figure that you include on page

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1 A. Yes, that is --

2 Q. Is that right?

3 A. -- correct, that the -- the "Second Node =
4 Server2," "= Server2" is pasted over the label
5 "504."

6 Q. And is it your opinion that this modified
7 version of figure 7 discloses the limitations of the
8 asserted claims?

9 A. No. I don't agree with that
10 characterization of the figure.

11 Q. Is it your opinion that this annotated
12 version of figure 7 discloses the limitations of the
13 asserted claims?

14 A. Yes.

15 MR. DAHLGREN: Objection; form.

16 THE WITNESS: The -- the point I was making
17 was that the intent is not to modify anything here;
18 it's to clarify what's going on and illustrate a
19 point that I believe Gibbons missed completely, that
20 these nodes can be more complex than a single device
21 or single element, a box.

22 BY MS. LEE:

23 Q. So it's your opinion that an external
24 messaging node is not a requirement of the asserted
25 claims; is that right?

<p style="text-align: right;">Page 90</p> <p>1 A. Whoa. Where do --</p> <p>2 MR. DAHLGREN: Objection; form.</p> <p>3 THE WITNESS: I'm sorry. We seem to have</p> <p>4 jumped from one issue to completely another. I'm</p> <p>5 not sure how the question you've just asked is</p> <p>6 relevant to anything that we're looking at. Can</p> <p>7 you -- can you again point me to something in my</p> <p>8 declaration that you're either questioning or</p> <p>9 discussing here?</p> <p>10 BY MS. LEE:</p> <p>11 Q. Yeah, sure. Let's go to paragraph 30 --</p> <p>12 A. Paragraph thirty --</p> <p>13 Q. -- of your declaration.</p> <p>14 A. -- something or -- three -- three zero</p> <p>15 or --</p> <p>16 Q. If you just -- three zero. It's on page</p> <p>17 12, PDF page 12, of your declaration.</p> <p>18 A. Paragraph 32, yes. "In my opinion."</p> <p>19 Bottom of page 12. I have it.</p> <p>20 Q. Okay. And in paragraph 30, you state "it</p> <p>21 is clear that these supposed 'intermediary'</p> <p>22 'external messaging node' elements simply do not</p> <p>23 exist in any of the claims."</p> <p>24 A. I'm sorry. I was looking --</p> <p>25 Q. Is that your opinion?</p>	<p style="text-align: right;">Page 92</p> <p>1 Does your -- just let me know when you're</p> <p>2 there, Dr. Smith.</p> <p>3 A. Yes. I see that figure.</p> <p>4 Q. Okay.</p> <p>5 A. The annotated figure 7.</p> <p>6 Q. So in your annotated figure 7, do you show</p> <p>7 an external messaging node?</p> <p>8 MR. DAHLGREN: Objection; form.</p> <p>9 THE WITNESS: No. I do not show an</p> <p>10 external messaging node as such. I show what is</p> <p>11 shown here as the annotation.</p> <p>12 BY MS. LEE:</p> <p>13 Q. So your annotated version of figure 7 does</p> <p>14 not illustrate an intermediary external messaging</p> <p>15 node; is --</p> <p>16 MR. DAHLGREN: Objection.</p> <p>17 BY MS. LEE:</p> <p>18 Q. -- that right?</p> <p>19 MR. DAHLGREN: Objection; form.</p> <p>20 THE WITNESS: My -- the annotation on my</p> <p>21 figure shows Server1 and Server2.</p> <p>22 BY MS. LEE:</p> <p>23 Q. And you do not consider Server1 to be an</p> <p>24 intermediary external messaging node? Is that your</p> <p>25 opinion?</p>
<p style="text-align: right;">Page 91</p> <p>1 A. Sorry. I was looking at the wrong</p> <p>2 paragraph. We're talking about section B, "'Send'</p> <p>3 and 'Receive' Elements"?</p> <p>4 Q. Yes, and paragraph 30.</p> <p>5 A. I see -- I see paragraph 30. And your</p> <p>6 question?</p> <p>7 Q. So it's your opinion that an external</p> <p>8 messaging node is not a requirement of the asserted</p> <p>9 claims; is that right?</p> <p>10 MR. DAHLGREN: Objection; form.</p> <p>11 THE WITNESS: I would repeat what I've said</p> <p>12 in my declaration, that "Based on my review,"</p> <p>13 Dropbox's required "'send' and 'receive' limitations</p> <p>14 to include 'intermediary' 'external messaging node,'"</p> <p>15 and I believe "That is wrong."</p> <p>16 BY MS. LEE:</p> <p>17 Q. So it's your opinion that intermediary</p> <p>18 external messaging nodes are not a requirement of</p> <p>19 the asserted claims; is that right?</p> <p>20 A. In my opinion, those claims were not</p> <p>21 limited to any such intermediary -- intermediary</p> <p>22 external messaging node.</p> <p>23 Q. Okay. So now let's go back to figure 7, if</p> <p>24 we can. So that's again paragraph 38 of your</p> <p>25 declaration, PDF page 16.</p>	<p style="text-align: right;">Page 93</p> <p>1 A. The annotation in this figure represents</p> <p>2 clearly that the first node and second node may</p> <p>3 contain more than just a user computer, may contain</p> <p>4 more than just a single device. That is the purpose</p> <p>5 of the annotation of this figure, a fact that</p> <p>6 Gibbons I think completely missed.</p> <p>7 Q. And do you understand what Dr. Gibbons</p> <p>8 refers to as an intermediary external messaging</p> <p>9 node?</p> <p>10 A. I think so. But I think he -- it, one, is</p> <p>11 not central to the issues at hand here; and, two,</p> <p>12 I'm not sure he did completely characterize the</p> <p>13 external messaging node in -- in terms of the</p> <p>14 disclosure, because the disclosure doesn't talk</p> <p>15 about -- and claims do not talk about external</p> <p>16 messaging nodes.</p> <p>17 Q. Do the original applications talk about an</p> <p>18 intermediary external messaging node?</p> <p>19 MR. DAHLGREN: Objection; form.</p> <p>20 THE WITNESS: The original applications</p> <p>21 have intermediate nodes, path nodes acting as, for</p> <p>22 example, relay servers. And we talked about that</p> <p>23 issue.</p> <p>24 BY MS. LEE:</p> <p>25 Q. So do the original applications describe</p>

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1 intermediary external messaging nodes?
 2 MR. DAHLGREN: Objection; form.
 3 THE WITNESS: Are you looking for the exact
 4 term? Are you looking for the concept? I'm not
 5 sure. Can you refer me to a part of my declaration
 6 or a part of the original applications that you're
 7 talking about?
 8 BY MS. LEE:
 9 Q. Do the original applications describe the
 10 concept of an intermediary external messaging node?
 11 MR. DAHLGREN: Objection; form.
 12 THE WITNESS: I don't believe the word
 13 "intermediary" is used anywhere in the original
 14 applications, so -- I would have to say that without
 15 further study, I couldn't say whether the concept is
 16 covered, because I don't understand what you might
 17 mean by "intermediary messaging node" and whether
 18 that concept was covered or not in the original
 19 disclosure. It's not the focus of my declaration.
 20 BY MS. LEE:
 21 Q. Well, let's go back to paragraph 30. In
 22 paragraph 30, you state "it is clear that these
 23 supposed 'intermediary' 'external messaging node'
 24 elements simply do not exist in any of the claims";
 25 is that correct?

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1 not sure that Gibbons exactly was clear or defined
 2 what he meant by an intermediary external messaging
 3 node.
 4 BY MS. LEE:
 5 Q. So sitting here now, you are not clear as
 6 to what an intermediary external messaging node is;
 7 is that --
 8 A. I'm not clear --
 9 MR. DAHLGREN: Objection; form.
 10 THE WITNESS: Could you repeat the
 11 question, please?
 12 BY MS. LEE:
 13 Q. Sure. So sitting here now, you're not
 14 clear as to what an external -- I'm sorry. Strike
 15 that.
 16 So sitting here now, you're not clear as to
 17 what an intermediary external messaging node is; is
 18 that right?
 19 A. I think it is --
 20 MR. DAHLGREN: Objection; form.
 21 THE WITNESS: -- fair to say that -- sorry.
 22 I think it's fair to say that I'm not clear
 23 what you mean by that term.
 24 BY MS. LEE:
 25 Q. You used the term "intermediary external

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1 A. That -- yes, that is correct. That's what
 2 I say. I say that "Based on my review, Dropbox
 3 requires the 'send' and 'receive' limitations to
 4 include 'intermediary' 'external messaging'" nodes.
 5 And I believe those are Dropbox's words, not used
 6 anywhere else. And "That is wrong," because I say,
 7 "In my opinion, the claims are not limited to" such
 8 any -- "any such 'intermediary'" or "'external
 9 messaging node.'" And the reason I give is because
 10 those words or phrases simply do not exist in the
 11 claims.
 12 And I further go on to say that "Gibbons,
 13 admitted that at least claim 5 of the '353 patent
 14 does not require an intermediate messaging node."
 15 And I include by saying, "Thus, it is clear that
 16 these supposed 'intermediary' 'external messaging
 17 node' elements simply do not exist in any of the
 18 claims."
 19 Q. So is it your opinion that the intermediary
 20 external messaging node does not exist in the claims
 21 but that you don't understand what that is?
 22 MR. DAHLGREN: Objection; form.
 23 THE WITNESS: No. I don't think I said
 24 that. I said I would have to understand what the
 25 context is. I think I may also have said that I'm

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1 messaging node" in your declaration; is that right?
 2 A. I did, yes. I --
 3 Q. So --
 4 A. If you --
 5 Q. I'm sorry. Please finish what you --
 6 A. If you're saying --
 7 Q. I'm sorry. Please finish.
 8 A. No, I -- I didn't hear a question.
 9 Q. What did you understand "intermediary
 10 external messaging node" to be as used in your
 11 declaration?
 12 A. Well, there are several intermediate
 13 messaging nodes that are possible. There are nodes
 14 that can be intermediate in the path between, for
 15 example, node 1 and node 2 or part of node 1 and
 16 node 2. So that -- that -- those would be
 17 intermediate nodes. And they may or may not handle
 18 messages.
 19 Q. So the intermediary external messaging node
 20 element, that you say does not exist in any claims,
 21 what do you understand that to be?
 22 MR. DAHLGREN: Objection; form.
 23 THE WITNESS: Well, I understand that an
 24 intermediary node may be a node along a path, for
 25 example between node 1 and node 2. Therefore, it's

<p style="text-align: right;">Page 98</p> <p>1 intermediate. If it's handling a message, then it 2 may be a messaging node. That's what I understand 3 by that term. 4 BY MS. LEE: 5 Q. So your understanding of "intermediary 6 external messaging node" -- sorry. Strike that. 7 So the intermediary external messaging node 8 that you say does not exist in any of the claims 9 refers to a path node in the original applications? 10 Is that your testimony? 11 MR. DAHLGREN: Objection; form. 12 THE WITNESS: I'm not sure, because the 13 term "intermediary" does not appear in the 14 disclosure. So it would be hard for me to say 15 exactly what that term was meant to represent. 16 MS. LEE: And, actually, if you don't mind, 17 I -- this is actually a good time to break. Do you 18 mind taking a ten-minute-earlier lunch break? 19 THE WITNESS: A ten-minute break for lunch? 20 MS. LEE: No, I'm sorry. You can take a -- 21 we can go off the record now. 22 THE VIDEOGRAPHER: Yes, ma'am. We are off 23 the record. The time is 12:21 p.m. 24 (Whereupon, a lunch recess was taken.) 25</p>	<p style="text-align: right;">Page 100</p> <p>1 pull that up. It's tab 1. 2 (Deposition Exhibit 4 was marked for 3 identification.) 4 THE WITNESS: And would that be Exhibit 3 5 or Exhibit 4? 6 (Discussion off the record.) 7 THE WITNESS: Document 61-5. I have that. 8 BY MS. LEE: 9 Q. Great. And -- 10 A. I have document -- four documents. 61-5, 11 that does not -- 12 THE VIDEOGRAPHER: I apologize. Wait one, 13 please. 14 MS. LEE: Sure. 15 THE VIDEOGRAPHER: Counsel, could you give 16 me the last three digits again? 17 THE WITNESS: Not -- don't think that's 18 Exhibit 4. 19 MS. LEE: '158 -- 20 THE VIDEOGRAPHER: '158. 21 MS. LEE: -- is the patent number. 22 THE VIDEOGRAPHER: Is that tab 1? 23 MS. LEE: Yeah. That was tab 1. 24 THE WITNESS: Okay. I have -- I don't 25 think that is Exhibit 4. But I have -- I have the</p>
<p style="text-align: right;">Page 99</p> <p>1 AFTERNOON PROCEEDINGS 2 THE VIDEOGRAPHER: We are back on the 3 record. The time is 1:17 p.m. 4 BY MS. LEE: 5 Q. Welcome back, Dr. Smith. 6 A. Good afternoon. How are you doing? 7 Q. Good. Did you enjoy your lunch? 8 A. I just went for a quick walk. Thank you 9 very much. 10 Q. Did you speak with counsel at all, 11 Mr. Dahlgren, during your break? 12 A. Briefly. He just called me to ask me how I 13 was doing, if I was, you know, tired or -- that's 14 it. I said, "I'm fine." And we hung up. That was 15 it. 16 Q. Okay. So nothing else was discussed other 17 than just how you're doing -- no -- you guys did not 18 discuss anything else; is that right? 19 A. No. 20 Q. Okay. 21 A. No, we did not discuss anything related to 22 the morning's deposition. 23 Q. I would like you to pull up, please, the 24 '148 patent. 25 And I'll ask the court reporter also to</p>	<p style="text-align: right;">Page 101</p> <p>1 '158 patent. Same document that you have, it 2 appears to be. 3 BY MS. LEE: 4 Q. Great. If you could turn to claim 1 now. 5 THE VIDEOGRAPHER: Is that figure 1, 6 Counsel? 7 MS. LEE: I'm sorry. Claim 1. So that's 8 PDF page 40. 9 THE VIDEOGRAPHER: 40. Thank you. 10 MS. LEE: And this is marked as Exhibit 4. 11 And -- I'm speaking to the court reporter. Have you 12 guys marked it as Exhibit 4? 13 (Discussion off the record.) 14 MS. LEE: Okay. Great. Thank you. 15 THE WITNESS: I was confused between the 16 Exhibit 4 documents that I already have. And this 17 is now overloaded. We have two Exhibit 4s, I guess. 18 BY MS. LEE: 19 Q. So Dr. Smith, please let me know when you 20 have claim 1 pulled up. 21 A. Yep. Yep. I have claim 1. I'm reading it 22 on my screen, because what I'm looking at on -- on 23 the Zoom screen is -- is tiny. 24 Q. Okay. Great. Do you see -- let's just 25 walk through. So do you see the -- let's -- on</p>

<p style="text-align: right;">Page 102</p> <p>1 column 29 the limitation beginning with "receive, at 2 the first node" -- 3 A. Yes. 4 Q. -- "information" -- 5 A. I see -- 6 Q. -- "associated with at least one folder"? 7 A. Yes. I see "receive, at the first node" -- 8 that's the -- oh. 9 Ah. I see -- this is the "receive" 10 limitation. "From the first node via the at least 11 one network, an indication to share the at least one 12 folder." 13 Q. It's -- are we on -- are you on claim 1? 14 A. Ah. I am now on claim 1. I was looking at 15 claim 3. You're right. Now, which -- which 16 "receive" claim element were we looking at here? 17 Q. Starting at line 29: "receive, at the 18 first node, information associated with at least one 19 folder." 20 A. "Via the first user interface element." 21 Yes. 22 Q. Okay. And the next limitation is "send, 23 from the first node via at least one network, the 24 information associated with the at least one 25 folder." Did I read that correctly?</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. So in the claim, and in light of -- and in 2 the context of the specification, what is the 3 definition of this particular "send" limitation? 4 MR. DAHLGREN: Objection; form. 5 THE WITNESS: Well, I can't see the entire 6 claim on my screen, so I'm going to have to just 7 look at -- on -- on the Zoom screen. I have another 8 screen that I have the same document open. 9 So to answer your question, I've looked at 10 the claim. I haven't studied this aspect of your 11 question in detail, or this aspect of claim 1 in 12 detail. Is this relevant to a portion of my 13 declaration? Can you point me to the section of my 14 declaration where I discuss this? 15 BY MS. LEE: 16 Q. Do you recall discussing this in your 17 declaration? 18 A. I certainly didn't focus on it. I focused 19 on the -- who was sending, not the what, how, where. 20 I focused on the -- on responding to the Gibbons 21 declaration. So if you could point me to where this 22 was discussed in the Gibbons declaration, that would 23 also be helpful. 24 Q. So sitting here right now, you can't recall 25 any analysis regarding where this information was</p>
<p style="text-align: right;">Page 103</p> <p>1 A. Yes. Yes, I see those two claim elements, 2 "receive" and "send." 3 Q. So my question is, where is the information 4 associated with the "at least one folder" sent in 5 this claim? 6 MR. DAHLGREN: Objection; form. 7 THE WITNESS: So let me ask you to clarify 8 your question. Are you asking me where in this -- 9 when I read the claim, what is the -- what is the 10 destination of the "send" according -- 11 BY MS. LEE: 12 Q. Correct. 13 A. -- to the claim? 14 Q. What is the -- yes. What is -- what is the 15 destination of the claim? 16 A. So you're asking me to construct the claim 17 and interpret the claim? Is that what you're asking 18 me to do? 19 Q. Well, from a -- a person of ordinary skill 20 in the art reading the claim would understand that 21 to send via a network would require a destination; 22 is that right? 23 A. Typically that's -- that's correct, that if 24 you were sending information, you would want to know 25 where to send it. That's generally correct, yes.</p>	<p style="text-align: right;">Page 105</p> <p>1 sent? 2 A. Well -- 3 MR. DAHLGREN: Objection; form. 4 THE WITNESS: I reviewed the claim. I did 5 not analyze it. I didn't perform any claim 6 construction, even if I were able to -- to do so 7 from a legal perspective. 8 BY MS. LEE: 9 Q. Okay. And movingly on to line 36, the 10 limitation "send, from the first node via the at 11 least one network, the object associated with the at 12 least one email address," what is the definition of 13 that send operation? 14 MR. DAHLGREN: Objection; form. 15 THE WITNESS: Yes, I don't think I 16 understand your question. Could you -- could you 17 rephrase it in simple terms, please. 18 BY MS. LEE: 19 Q. What is the destination of the send 20 operation as recited on line 36 of claim 1? 21 A. Well, what you're sending here is "the 22 object associated with the at least one email 23 address." 24 Q. And what is the destination of that send 25 operation?</p>

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<p>1 MR. DAHLGREN: Objection; form.</p> <p>2 THE WITNESS: I'm not sure I understand</p> <p>3 your question. What is the meaning of the word</p> <p>4 "send"?</p> <p>5 BY MS. LEE:</p> <p>6 Q. What -- sorry. Strike that.</p> <p>7 Where is the object associated with the "at</p> <p>8 least one email address" sent?</p> <p>9 MR. DAHLGREN: Objection; form.</p> <p>10 THE WITNESS: I'm sorry. I still don't</p> <p>11 understand your question. Can you break it down a</p> <p>12 little more for me?</p> <p>13 I think the -- the claim --</p> <p>14 BY MS. LEE:</p> <p>15 Q. Do you understand --</p> <p>16 A. -- term is describing sending.</p> <p>17 Q. Sorry.</p> <p>18 Please continue.</p> <p>19 A. I think the claim term here is describing</p> <p>20 the sending.</p> <p>21 Q. And where -- strike that.</p> <p>22 And you have no opinion about the</p> <p>23 destination of that send operation; is that correct?</p> <p>24 A. Not from this claim term.</p> <p>25 MR. DAHLGREN: Objection; form.</p>	<p>1 Q. Great.</p> <p>2 And, actually, I'm going to ask the court</p> <p>3 reporter, can you please also pull up Dr. Smith's</p> <p>4 declaration, that's tab 0, or Exhibit 1, and show</p> <p>5 claim 3 and Exhibit 1 side by side.</p> <p>6 And then if you would go to page 16 of</p> <p>7 Exhibit 1.</p> <p>8 THE VIDEOGRAPHER: I apologize. Something</p> <p>9 about tab 1 does not like shortcuts.</p> <p>10 MS. LEE: Okay. Great.</p> <p>11 Q. So Dr. Smith, does figure 7, as you've</p> <p>12 annotated, provide support for the asserted claims?</p> <p>13 MR. DAHLGREN: Objection; form.</p> <p>14 THE WITNESS: In general, when I was</p> <p>15 analyzing these issues, I looked at the question of</p> <p>16 support as I read the materials, couldn't help by</p> <p>17 doing that. But that was not the focus of my</p> <p>18 analysis. To provide a -- a complete answer to your</p> <p>19 question on the -- on the issue of whether this</p> <p>20 claim is fully supported, I would have to -- I --</p> <p>21 sitting here today, I couldn't perform that</p> <p>22 analysis. It would take me some time.</p> <p>23 BY MS. LEE:</p> <p>24 Q. So there -- there may be other aspects of</p> <p>25 the specification, the original application --</p>
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<p>1 THE WITNESS: The claim term just simply</p> <p>2 says that -- what it says, that -- to "send, from</p> <p>3 the first node via the at least one network, the</p> <p>4 object associated with the at least one email</p> <p>5 address." Now, my -- my understanding of claims is</p> <p>6 that when we refer to "the object" and "the at least</p> <p>7 one email address," those have already been defined.</p> <p>8 BY MS. LEE:</p> <p>9 Q. Let's move on to claim 3 now.</p> <p>10 A. Sorry. You went quiet on me. I couldn't</p> <p>11 hear your question.</p> <p>12 MS. LEE: You know, I'm sorry. Apologies</p> <p>13 if the audio is on my end. Is anyone else having</p> <p>14 trouble hearing me? Just checking --</p> <p>15 MR. DAHLGREN: Counsel, when you --</p> <p>16 MS. LEE: -- with the court reporter.</p> <p>17 MR. DAHLGREN: When you back up, it's a</p> <p>18 little bit hard to hear you. It gets fainter. When</p> <p>19 you're closer to the computer and just -- the</p> <p>20 microphone, I'm hearing you fine now.</p> <p>21 MS. LEE: Okay. Let's -- let's try this.</p> <p>22 Q. So, Dr. Smith, if you could please pull up</p> <p>23 claim 3, or turn to claim 3.</p> <p>24 A. Claim 3.</p> <p>25 I have claim 3.</p>	<p>1 strike that.</p> <p>2 So there may be other aspects of the</p> <p>3 original application you would have to combine with</p> <p>4 what you've shown as annotated figure 7 to fully</p> <p>5 support the claims?</p> <p>6 MR. DAHLGREN: Objection; form.</p> <p>7 THE WITNESS: Could you repeat the</p> <p>8 question, please. The part that is not clear to me</p> <p>9 is if you are asking that figure 7 alone, annotated</p> <p>10 or not, is the sole means of support that I would</p> <p>11 cite for this entire claim. Is that your question?</p> <p>12 BY MS. LEE:</p> <p>13 Q. Yeah. I'm asking -- and I'm asking you to</p> <p>14 focus on figure 7 as you've annotated it. And is --</p> <p>15 strike that.</p> <p>16 Is it your opinion that the -- figure 7 as</p> <p>17 you've annotated it provides support for the</p> <p>18 asserted claims?</p> <p>19 MR. DAHLGREN: Objection.</p> <p>20 THE WITNESS: No.</p> <p>21 MR. DAHLGREN: Form.</p> <p>22 THE WITNESS: I -- I would say that in</p> <p>23 order to analyze and give you support for each and</p> <p>24 every claim element of claim 3, I would need more</p> <p>25 than figure 7. But I would say this: Figure 7</p>

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1 represents the crux of the errors in the Gibbons
2 declaration. In my declaration, I summarize the
3 major errors in the Gibbons declaration, and one of
4 the major errors was that Gibbons had missed the
5 fact that node 1 or node 2 could compromise or
6 include more than one device, and in particular,
7 since a device may be a user computer or a server,
8 that node 1 or node 2 could also include one or more
9 servers. Node 1 or node 2 may both include one or
10 more servers.

11 We talked earlier about -- I think the
12 expression that Gibbons and Dropbox used was an
13 intermediary messaging server. So these servers
14 could be viewed as what you've characterized as an
15 external server, external to the user computer.

16 So to answer your question again in a short
17 form, yes, figure 7 is relevant -- certainly
18 relevant to support, but it's certainly not the only
19 part of the disclosure that supports this claim.
20 The entire disclosure -- the entire disclosure,
21 including user computer to user computer
22 description, followed by the description that
23 explains that portions of that system can be
24 implemented in a cloud, the entire disclosure
25 supports this claim.

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1 a distributed way so that both Server1 and Server2
2 are part of Dad Box. Or Dad Box could be at
3 location on the East Coast, Server1, and also at a
4 location on the West Coast, Server -- Server2. So
5 that's how a cloud system works. That's how Dad Box
6 would -- works. And that is essentially what this
7 claim is describing.

8 So the processors, in this case let's say
9 they were in Dad Box, but Dad Box could be multiple
10 servers, so those processors could be cooperating
11 with each other in -- in what we view as being the
12 box called Dad Box: Server1, Server2, or both.

13 BY MS. LEE:

14 Q. So if we look at the first limitation,
15 "cause, at a first node, display of at least one
16 first interface with a first user interface
17 element," what element in your figure is performing
18 the "cause...display"?

19 MR. DAHLGREN: Objection; form.

20 THE WITNESS: Again, I -- I go back to my
21 previous answer. Figure 7 is illustrating not the
22 entirety of this claim nor representing the entirety
23 of the disclosure. You must take the disclosure as
24 a whole to understand this claim.

25 So I have at no point represented that

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1 BY MS. LEE:

2 Q. Okay. So I'd just like to understand how
3 claim 3 relates to what you've shown in annotated
4 figure 7. So turning now to claim 3, the "one or
5 more processors in communication with the at least
6 one non-transitory memory," where are those
7 processors located in figure 7, as you've annotated
8 it?

9 MR. DAHLGREN: Objection; form.

10 THE WITNESS: Well, I -- I can answer your
11 question in general terms, because I haven't, as I
12 say, analyzed the claim completely. But in general
13 terms, what's going on here is that two user
14 computers are talking to each other. And you see
15 those at the top of figure 7. And they're talking
16 to each other in this case via a server computer.

17 Let's take a simple example. Will and Dad
18 are talking to each other, and Dad has a cloud
19 account, Dad Box. And Dad is going to use Dad Box
20 to exchange files with Will. And Dad is using one
21 user computer. Let's call it User Computer1. Will
22 is using another computer. Let's call it User
23 Computer2. And Dad Box can be implemented as a
24 server that's Server1 or it can be implemented as a
25 server that's Server2, or it could be implemented in

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1 figure 7 is -- is the entire means of support for
2 this claim or portions of the claim, merely that
3 it's been annotated to expose this fundamental
4 difference in considering what's inside node 1 and
5 node 2 and where the operations that are illustrated
6 in figure 7 are performed in node 1 and node 2.

7 BY MS. LEE:

8 Q. So you can't -- sorry. Strike that.

9 So there is no node here that is causing at
10 the first node "display of at least one first
11 interface"?

12 MR. DAHLGREN: Objection; form.

13 THE WITNESS: Can you -- can you repeat
14 that question with a few less negatives?

15 BY MS. LEE:

16 Q. Can you identify the node in this figure 7,
17 as you've annotated, that causes "display of at
18 least one first interface"?

19 A. It could be one of these servers.

20 Q. So you've labeled, in figure 7 as
21 annotated, "First Node = Server1"; is that right?

22 A. In this -- in this figure, "First Node" was
23 chosen to be "Server1." "Second Node" is "Server2."

24 Q. So according to the claims, it's "cause, at
25 a first node, display of at least one...interface."

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1 Is the "First Node" that you've labeled "Server1" in
2 modified figure 7 the first node in claim 3 of the
3 '158?

4 MR. DAHLGREN: Objection; form.

5 THE WITNESS: I believe it could be, but
6 I -- I -- I have not analyzed and unraveled the
7 "First Node," "Second Node" in the figure versus the
8 claims, and I would have to study the claim to make
9 sure that I was giving you the correct answer. But
10 in general the answer is it could be. But without
11 analyzing the claim, which I haven't done in regards
12 to this, I suspect -- I couldn't tell you sitting
13 here today.

14 BY MS. LEE:

15 Q. And would your answer be the same for the
16 remaining limitations of claim 3 with respect to
17 your annotated figure 7?

18 MR. DAHLGREN: Objection; form.

19 THE WITNESS: I'm not sure which particular
20 questions you are asking, but I would repeat my
21 previous answer, which is that this was not a focus
22 of the Gibbons declaration, and as such it's not
23 something that I -- I focused on in my declaration.

24 MS. LEE: Okay. I'm -- can we pull up the
25 '353 patent.

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1 with a first user interface element, utilizing first
2 hypertext markup language-equipped code."

3 Did I read that correct?

4 A. Yes. I see that claim element.

5 Q. Can you explain to me with reference to
6 your annotated figure 7 which nodes or elements are
7 performing this "causing display" limitation?

8 MR. DAHLGREN: Objection; form.

9 THE WITNESS: Again, I think the line of
10 questioning is similar to your previous line. I
11 would -- I would say that my analysis of the '353
12 patent, in particular claim 5, I believe I did
13 address that in my declaration, but it was limited
14 to addressing the issues that were raised by the
15 Gibbons declaration. I did not analyze the '353
16 claims, including claim 5, for support or analyze
17 how, where, when things were done, what each claim
18 element meant. I -- I would have to spend some more
19 time studying that in order to answer your question
20 in detail.

21 I do remember that I addressed claim --
22 '353 claim 5 in my declaration, though. Perhaps we
23 could turn to my declaration and see if your
24 question is answered there.

25 BY MS. LEE:

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1 And -- and for the court reporter, that is
2 going to be Exhibit -- tab 3. And this will be
3 marked as Exhibit 5.

4 (Deposition Exhibit 5 was marked for
5 identification.)

6 MS. LEE: And, again, for the court
7 reporter, if you could also keep Exhibit 1, that
8 same paragraph, up with the modified figure 7 and
9 show them side by side.

10 THE VIDEOGRAPHER: Counsel, you want tab 1,
11 section 3 still up?

12 MS. LEE: Yes. I'm sorry. Yeah, tab 1.

13 I'm sorry. I can't -- no, I'm sorry. I
14 only want -- I apologize. I'm getting the tabs and
15 exhibits mixed up. I only want tab 3 up and then
16 also tab 0.

17 THE VIDEOGRAPHER: Yes, ma'am.

18 MS. LEE: Okay. Thank you.

19 Q. Dr. Smith, if you could please turn to
20 claim 5 of the '353 patent.

21 A. I have claim 5.

22 Q. Great. And the court reporter has up your
23 annotated figure 7 up on the screen also.

24 So in claim 5, the first limitation is
25 "causing display of at least one first interface

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1 Q. Yeah, I'm -- I'm just trying to get an
2 understanding of how you're mapping the claims to
3 this annotated figure 7. So if we go to the next
4 step, "receiving an indication of at least one
5 folder via the...user interface element," where is
6 that occurring in annotated figure 7?

7 MR. DAHLGREN: Objection.

8 THE WITNESS: Well --

9 MR. DAHLGREN: Form.

10 THE WITNESS: -- again, I -- I go back and
11 repeat the explanation that I gave you before, that
12 in general what's going on here is two nodes are
13 communicating with each other with the use of a
14 server. That server is performing some of the data
15 flow that's described here in -- or shown here in
16 figure 7. And that's what's described in the claim.

17 BY MS. LEE:

18 Q. And -- sorry. You said that the -- the
19 server is performing some of the data flow and
20 that's what's described in the claims.

21 Can you point me to how the server is being
22 used in claim 5?

23 MR. DAHLGREN: Objection; form.

24 THE WITNESS: As I explained, I haven't
25 analyzed claim 5 in -- in -- in detail, other than

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1 in context and scope of my declaration, which
 2 addressed the -- the issues that were raised by the
 3 Gibbons declaration. So if you could perhaps point
 4 me to how this is relevant to the Gibbons
 5 declaration or where I covered it in my declaration,
 6 that would help. Otherwise it's something that I
 7 can't answer today on the spur of the moment. I
 8 would have to perform some analysis.
 9 THE VIDEOGRAPHER: Counsel, this is the
 10 videographer. Which page should I be located on in
 11 tab 3?
 12 MS. LEE: Oh, I'm sorry. On tab 3?
 13 We were still on -- we were on Exhibit 5 as
 14 marked. So I think it was claim -- claim 5 of
 15 Exhibit 5.
 16 THE VIDEOGRAPHER: Claim 5. This is --
 17 MS. LEE: That's where we're looking at.
 18 THE VIDEOGRAPHER: Yes, ma'am.
 19 MS. LEE: That's figure 5. So if you go
 20 down to the bottom.
 21 THE VIDEOGRAPHER: Oh, yes.
 22 MS. LEE: I think it's PDF page 38.
 23 THE VIDEOGRAPHER: 38.
 24 I believe these are -- oh, I see. Claim 3,
 25 4, 5. Thank you.

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1 MS. LEE: Okay. Now that -- now that
 2 you've pulled that up, I can actually have you pull
 3 those down. But -- so -- so for the court reporter,
 4 I think we can -- we can pull these exhibits down
 5 for now.
 6 Q. So Dr. Smith, you are an inventor on
 7 several patents; is that right?
 8 A. I am an inventor on several patents; that
 9 is correct.
 10 Q. Have you -- strike that.
 11 And you're fairly familiar with the patent
 12 process?
 13 MR. DAHLGREN: Objection; form.
 14 THE WITNESS: As somebody who's neither
 15 legally qualified or a patent attorney, given --
 16 given those limitations, I'm reasonably familiar
 17 with the application process.
 18 BY MS. LEE:
 19 Q. Have you heard of the Manual of Patent
 20 Examining Procedure?
 21 MR. DAHLGREN: Objection; form.
 22 THE WITNESS: I have heard of the MPEP, or
 23 the manual that's used by the patent office.
 24 BY MS. LEE:
 25 Q. And you're okay if I refer to that document

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1 as the MPEP?
 2 A. "MPEP" or MPEP, I understand what that term
 3 means.
 4 Q. And have you ever read portions of the
 5 MPEP?
 6 A. I have from time to time read portions and
 7 then quickly turned away.
 8 Q. You would agree the MPEP is a manual
 9 published by the USPTO for use by patent attorneys
 10 and patent examiners?
 11 MR. DAHLGREN: Objection.
 12 THE WITNESS: I have --
 13 MR. DAHLGREN: Form.
 14 THE WITNESS: I -- I have to say that I --
 15 I understand generally that that is true, but I
 16 couldn't swear to it or -- or say that I -- I know
 17 how exactly that works. But that's my general
 18 understanding.
 19 BY MS. LEE:
 20 Q. What is your understanding of a
 21 continuation-in-part application?
 22 MR. DAHLGREN: Objection; form, foundation.
 23 THE WITNESS: Well, I have to preface any
 24 answer I give you by -- by repeating that I'm not
 25 qualified to really give you an answer to that, that

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1 question, in any form of any legal sense. But I can
 2 answer in general terms that I understand a -- you
 3 asked for a CI -- definition of a CIP,
 4 continuation-in-part?
 5 BY MS. LEE:
 6 Q. Yes.
 7 A. Well, I understand there are several types
 8 of continuations during the patent process and that
 9 a continuation-in-part is one of those types of
 10 continuations. That is my general understanding.
 11 And that is my limited general understanding of
 12 that term.
 13 MS. LEE: So I think I may need to -- you
 14 may need to pull this from the link.
 15 I'll ask the court reporter to please share
 16 tab 9.
 17 And this will be Exhibit 6.
 18 (Deposition Exhibit 6 was marked for
 19 identification.)
 20 MS. LEE: And I'll ask the court reporter
 21 to zoom in on the second-to-last paragraph on the
 22 first page.
 23 Q. And let me know, Dr. Smith, when you're
 24 able to access this document.
 25 A. Well, this is a document that I am familiar

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1 with in general terms, but this part of the document
2 I'm not familiar with. This is the first time I'm
3 seeing this.

4 I -- I see the document on the screen, and
5 I'm -- it's small, but I'm able to read it. So I
6 haven't -- I haven't actually downloaded it yet. So
7 let's continue on and assume that I can see what you
8 can see.

9 MR. DAHLGREN: Counsel, I'm actually having
10 trouble accessing the document my -- a copy of it
11 myself. I can only see what's being projected on
12 the screen.

13 MS. LEE: Okay. Do we want to go off the
14 record a bit for now just to sort this out?

15 MR. DAHLGREN: For one second, yeah. That
16 would be helpful. Thank you.

17 THE VIDEOGRAPHER: We are off --

18 MS. LEE: Let's go off the record.

19 THE VIDEOGRAPHER: -- the record. The time
20 is 1:58 p.m.

21 (Discussion off the record.)

22 THE VIDEOGRAPHER: We are back on the
23 record. The time is 2:03 p.m.

24 BY MS. LEE:

25 Q. Now, Dr. Smith, on Exhibit 6 do you see the

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1 beginning of my declaration, and that would be on
2 page 7 of my declaration. I did not access PAIR or
3 do any research on my own to confirm whether
4 these -- whether this figure and the contents of the
5 boxes in this figure are indeed correct. I assume
6 that they are. And as such, I assume that the
7 family history of these patents is as shown in this
8 figure at the beginning of my declaration.

9 BY MS. LEE:

10 Q. So this figure was generated by counsel and
11 provided to you to insert into your declaration?

12 MR. DAHLGREN: Objection.

13 THE WITNESS: Yes.

14 MR. DAHLGREN: Form.

15 THE WITNESS: That is the general idea
16 here. This figure was prepared I'm not sure exactly
17 by whom, but it was prepared to clearly illustrate
18 the lineage of the patents involved in the dispute.
19 And I think it does that. And I don't believe I
20 have any more that I can usefully add to this
21 particular figure.

22 BY MS. LEE:

23 Q. Would you agree that there's a presumption
24 that new matter is added when an application is
25 filed with a continuation-in-part application?

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1 sentence beginning with "A continuation-in-part is
2 an application filed during the lifetime"?

3 A. I do. I see that portion on the screen.

4 Q. Can you please read that sentence out loud.

5 A. "A continuation-in-part is an application
6 filed during the lifetime of an earlier
7 nonprovisional application, repeating some
8 substantial portion" of "all of the earlier
9 nonprovisional application and adding matter not
10 disclosed in the said earlier nonprovisional
11 application."

12 Q. Now, did you read this provision before
13 preparing your report?

14 A. I did not read the entire --

15 MR. DAHLGREN: Objection; form.

16 THE WITNESS: -- MPEP manual, nor this
17 particular portion of the MPEP manual.

18 BY MS. LEE:

19 Q. You agree that all of the asserted patents
20 are continuations-in-part, either directly or
21 indirectly, of the original application?

22 A. My guidance --

23 MR. DAHLGREN: Objection; form.

24 THE WITNESS: My guidance as to the history
25 of these patents is illustrated in a figure at the

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1 A. No.

2 MR. DAHLGREN: Objection; form, foundation.

3 THE WITNESS: No, I would not agree that

4 there is a presumption of any kind. I would
5 certainly -- as a layman, not a lawyer, all I can
6 do -- the best I can do is to repeat to you the
7 sentence that I just read out. As to its exact
8 interpretation under the law -- and after all, I
9 understand that the MPEP is part of the law -- I --
10 I'm not qualified to give you that answer.

11 BY MS. LEE:

12 Q. Okay. Let's turn back to the '906
13 application.

14 And to the court reporter, please pull
15 down -- pull down this page.

16 And this is Exhibit 2, was marked as
17 Exhibit 2.

18 MR. DAHLGREN: Dr. Smith, if it helps, this
19 is the document at 61-4.

20 THE WITNESS: That does help me, especially
21 as -- as I say, we stopped numbering multiple
22 exhibits with the same number, depending on whether
23 we've seen them before or we're just introducing
24 them now.

25 BY MS. LEE:

<p style="text-align: right;">Page 126</p> <p>1 Q. And if you could turn to figure 4, please, 2 of this application. 3 A. Yes. Could you give me -- I have 119 pages 4 in this document. Could you give me a page number, 5 maybe? 6 MR. DAHLGREN: Dr. Smith, it's page 101 of 7 119. 8 THE WITNESS: Thank you. 9 THE VIDEOGRAPHER: Counsel, I may need a 10 little help here on the page -- 11 MS. LEE: Oh. 12 THE VIDEOGRAPHER: -- for me. 13 MS. LEE: Yes. It's -- yep. It is -- it's 14 towards the end. 15 THE VIDEOGRAPHER: There it is, hopefully. 16 Figure 4? 17 MS. LEE: Yes, figure 4. 18 Q. So Dr. Smith, figure 4 shows an exemplary 19 execution environment; is that right? 20 A. That is the high-level label on the box 21 surrounding all of the elements in this figure: 22 "Execution Environment 401." 23 Q. If we could now also have paragraph 27 of 24 your declaration. 25 And I'll ask the court reporter to please</p>	<p style="text-align: right;">Page 128</p> <p>1 execution environment. For example, it might be 2 a -- a processor with a graphics subsystem. And, 3 importantly, a device in a node typically contains a 4 network interface. And that's shown at the bottom 5 of this figure, figure 4. So that's the part of the 6 device, the server, the user computer, the personal 7 computer that you mentioned that would communicate 8 with a network. For example, if there were two 9 devices in a node or two nodes, two devices in a 10 node may communicate using that network interface. 11 BY MS. LEE: 12 Q. So just so it's clear, Execution 13 Environment 401 is entirely located within a single 14 node? 15 MR. DAHLGREN: Objection; form. 16 THE WITNESS: It could be. If there 17 were -- that would be very clear if there were -- if 18 it were a single device and this was a single 19 device, that could be the case. That's generally 20 how the disclosure starts off, by describing a 21 single device in a node, the example being a user 22 computer. And the disclosure starts off by 23 describing how two user computers would perform the 24 invention and then quite clearly discloses how those 25 user computers in a node, that that node might be</p>
<p style="text-align: right;">Page 127</p> <p>1 show that next to figure 4. 2 So in paragraph 27, Dr. Smith, it's your 3 opinion that "node" as disclosed in the original 4 applications refers to "one or more devices"; is 5 that right? 6 A. Yes, that's -- that's -- that's the case. 7 That's generally true. 8 Q. And that those devices can include servers, 9 distributed systems, and personal computers? 10 A. I use a computer; other types of devices, 11 yes, though the -- and the examples you have given 12 are not exhaustive but include those that are 13 disclosed. 14 Q. And in -- in your opinion, how does that 15 disclosure apply to figure 4? 16 MR. DAHLGREN: Objection; form. 17 THE WITNESS: Well, in general terms what 18 figure 4 is showing is an environment, a big box, 19 around what a node might contain, and -- but a node 20 may contain an execution environment that consists 21 of various pieces, including those shown here in 22 this box 401 in figure 4. 23 Let's turn to what a node might mean. A 24 node might be "one or more devices." "One or more 25 devices" might include a device that has this</p>	<p style="text-align: right;">Page 129</p> <p>1 more than just a user computer, it might contain one 2 or more devices, but that there still would be an 3 execution environment within that node. 4 BY MS. LEE: 5 Q. So a node can include more than one device; 6 is that right? 7 A. A node may include more than one device. 8 There may be more than one node. There may be 9 more -- more than one device in a node. 10 Q. And so is it your opinion that the original 11 applications disclosed at figure 4 could be 12 distributed among ten nodes -- I'm sorry, ten 13 devices within a node? 14 A. I think a person of -- 15 MR. DAHLGREN: Objection; form. 16 THE WITNESS: -- ordinary skill in the art 17 would recognize that if you had -- what was your 18 example, ten nodes? -- if you had ten nodes, that, 19 first of all, not all nodes would include all of the 20 things that are shown in figure 4, and that some of 21 the nodes, indeed, might span an execution 22 environment or an execution environment may span 23 more than one device in a node. I think that would 24 be -- that was clear to me when I read the 25 disclosure, and I think it would be clear to anybody</p>

<p style="text-align: right;">Page 130</p> <p>1 skilled in the art, of ordinary skill in the art. 2 So, for example -- 3 BY MS. LEE: 4 Q. So execution -- 5 A. -- we have a -- 6 Q. I'm sorry. Go ahead. 7 A. -- graphics subsystem here. Not all 8 devices would have the same graphics subsystem. 9 Q. So execution environment could be 10 distributed among ten different devices. Is that 11 your understanding of -- of the disclosure? 12 MR. DAHLGREN: Objection; form. 13 THE WITNESS: I'd have to look -- it's not 14 something I considered in detail in my analysis. 15 I'd have to look at the exact wording in the 16 disclosure. That would take me a little time, to 17 perform that analysis. It's not something, sitting 18 here today, I can answer off the top of my head. 19 BY MS. LEE: 20 Q. And how many different combinations of 21 distributions are possible for Execution Environment 22 401, shown here, across multiple devices? 23 MR. DAHLGREN: Objection; form. 24 THE WITNESS: I don't -- I'm sorry. I 25 don't understand your question. You asked me for</p>	<p style="text-align: right;">Page 132</p> <p>1 (Recess taken.) 2 THE VIDEOGRAPHER: We are back on the 3 record. The time is 2:29 p.m. 4 BY MS. LEE: 5 Q. Welcome back, Dr. Smith. 6 A. Hi. Good afternoon. 7 Q. Did you have any conversations with your 8 counsel during the last break? 9 A. Yes. He called me, and we had about a 10 10-second conversation. He asked if I was doing 11 okay. I said yes. And that was it. 12 MS. LEE: Well, I have no further 13 questions, subject to any redirect by Mr. Dahlgren. 14 Thank you very much. 15 MR. DAHLGREN: Counsel, if you could give 16 me just maybe five minutes and go off the record, 17 and I'll -- 18 MS. LEE: Yeah. 19 MR. DAHLGREN: -- look at my notes. 20 MS. LEE: No problem. 21 THE VIDEOGRAPHER: We are off the record. 22 The time is 2:29 p.m. 23 (Recess taken.) 24 THE VIDEOGRAPHER: We are back on the 25 record. The time is 2:33 p.m.</p>
<p style="text-align: right;">Page 131</p> <p>1 permutations and combinations, but I'm not sure of 2 what. 3 BY MS. LEE: 4 Q. How many permutations of distributions of 5 Execution Environment 401 do you think are disclosed 6 by the original applications? 7 MR. DAHLGREN: Objection; form. 8 THE WITNESS: I don't think I address that 9 in my declaration. And I would have to say that I 10 couldn't provide, sitting here today, the answer 11 immediately without some further analysis. 12 BY MS. LEE: 13 Q. Would it be in the range of hundreds? 14 MR. DAHLGREN: Objection; form. 15 THE WITNESS: I don't know the answer to 16 that question. 17 MS. LEE: Okay. Great. This is a good 18 stopping point for me. And I think we've been going 19 for an hour. So if -- Dr. Smith, if you're okay 20 with taking a break now. 21 THE WITNESS: Yeah. 22 THE VIDEOGRAPHER: We are -- 23 MS. LEE: We'll go off the record. 24 THE VIDEOGRAPHER: -- off the record. The 25 time is 2:17 p.m.</p>	<p style="text-align: right;">Page 133</p> <p>1 MR. DAHLGREN: Dr. Smith, I want to thank 2 for your time today. I have no questions for you. 3 We'll consider the deposition closed and reserve 4 reading and -- 5 THE WITNESS: Oh, I -- 6 MR. DAHLGREN: -- signing. 7 THE WITNESS: Sorry. I totally missed 8 that. I was taking a swig of tea, and I -- I didn't 9 hear what Yvonne said. And I -- I saw you two had 10 figured things out, so I -- I figured I wasn't 11 involved. I didn't realize that you were wrapping 12 things up. 13 MR. DAHLGREN: Oh, yes. So all I was 14 saying, actually, is I have no questions for you, so 15 the deposition can conclude, and we'll reserve 16 reading and signing. And thank you for your time 17 today. 18 THE WITNESS: Oh, well, no worries. Thank 19 you. 20 Pleasure to meet you, Yvonne, and John and 21 your helper, Gus, I think it was. 22 THE VIDEOGRAPHER: Yes, sir. Thank you. 23 Off ready, Counsel? 24 MS. LEE: Yes, ready to go off the record. 25 THE VIDEOGRAPHER: Yes, ma'am.</p>

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1 THE WITNESS: It went very smoothly, thank	1 LAWYER'S NOTES
2 you, yeah, technically; technically --	2 PAGE LINE
3 THE VIDEOGRAPHER: We are --	3 _____
4 THE WITNESS: -- no problem.	4 _____
5 THE VIDEOGRAPHER: -- off the record. The	5 _____
6 time is 2:34 p.m.	6 _____
7 (Whereupon, the deposition session ended at	7 _____
8 2:34 p.m.)	8 _____
9 ---o0o---	9 _____
10 I declare under penalty of perjury that the	10 _____
11 foregoing is true and correct. Subscribed at	11 _____
12 _____, California, this ____ day of	12 _____
13 _____, 2021.	13 _____
14	14 _____
15	15 _____
16 Signature of the witness	16 _____
17	17 _____
18	18 _____
19	19 _____
20	20 _____
21	21 _____
22	22 _____
23	23 _____
24	24 _____
25	25 _____

Page 135	Page 137
1 CERTIFICATE OF REPORTER	1 CERTIFICATE OF DEPONENT
2 I, JOHN WISSENBACH, a Certified Shorthand	2
3 Reporter, hereby certify that the witness in the	3 I hereby certify that I have read the
4 foregoing deposition was by me duly sworn to tell	4 foregoing pages of my deposition testimony in
5 the truth, the whole truth, and nothing but the	5 this proceeding, and with the exception of
6 truth in the within-entitled cause;	6 changes and/or corrections, if any, find them to
7 That said deposition was taken down in	7 be a true and correct transcription thereof.
8 shorthand by me, a disinterested person, at the time	8
9 and place therein stated, and that the testimony was	9
10 thereafter reduced to typewriting by computer under	10 _____
11 my direction and supervision and is a true record of	11 Deponent
12 the testimony given by the witness;	12
13 That before completion of the deposition,	13 _____
14 review of the transcript [X] was [] was not	14 Date
15 requested. If requested, any changes made by the	15
16 deponent (and provided to the reporter) during the	16 NOTARY PUBLIC
17 period allowed are appended hereto.	16 Subscribed and sworn to before me this
18 I further certify that I am not of counsel	17 _____ day of _____, 20__.
19 or attorney for either or any of the parties to the	18
20 said deposition, nor in any way interested in the	19 Notary Republic
21 event of this cause, and that I am not related to	20 My Commission Expires: _____
22 any of the parties thereto.	21
23 DATED: FEBRUARY 16, 2021	22
24	23
25	24
JOHN WISSENBACH, CSR No. 6862	25

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1	INSTRUCTIONS TO WITNESS	1	ERRATA SHEET
2		2	
3	Please read your deposition over carefully	3	PAGE -- LINE -- CORRECTION/REASON
4	and make any necessary corrections. You	4	_____
5	should state the reason in the appropriate	5	_____
6	space on the errata sheet for any corrections	6	_____
7	that are made.	7	_____
8	After doing so, please sign the errata	8	_____
9	sheet and date it.	9	_____
10	You are signing same subject to the changes	10	_____
11	you have noted on the errata sheet, which	11	_____
12	will be attached to your deposition.	12	_____
13	It is imperative that you return the	13	_____
14	original errata sheet to the deposing	14	_____
15	attorney within thirty (30) days of	15	_____
16	receipt of the deposition transcript by	16	_____
17	you. If you fail to do so, the deposition	17	_____
18	transcript may be deemed to be accurate	18	_____
19	and may be used in court.	19	_____
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24		24	_____
25		25	_____

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1	ERRATA SHEET
2	
3	PAGE -- LINE -- CORRECTION/REASON
4	_____
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