

Deposition Transcript

Case Number: IPR2024-00287

Date: March 11, 2025

In the matter of:

DROPBOX, INC. v MOTION OFFENSE, LLC

Todd Mowry, Ph.D.

**CERTIFIED
COPY**

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

DROPBOX, INC.,

Petitioner

v.

MOTION OFFENSE, LLC,

Patent Owner.

IPR2024-00287
U.S. Patent No.
11,611,520

- - -

DEPOSITION OF TODD MOWRY, PH.D.
TUESDAY, MARCH 11, 2025

- - -

Video-recorded deposition of TODD
MOWRY, PH.D. taken remotely, before Donna W.
Dratwa, Registered Merit Reporter, Certified
Realtime Reporter, and Notary Public, commencing
at 9:32 a.m. ET, on the above date.

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S T I P U L A T I O N S

It is hereby stipulated and agreed by and
between the counsel for the respective parties
and the deponent that the reading and signing of
the deposition transcript is not waived.

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1 P R O C E E D I N G S

2
3 MR. DAHLGREN: Yes, this is Derek
4 Dahlgren, from Devlin law firm, on behalf
5 of the Patent Owner, and I'm joined by my
6 colleague, Srikant Cheruvu.

7 MR ESRAM: Thank you. My name is
8 Trishan Efram, on behalf of the petitioner,
9 Dropbox, and I'm joined here with Liv
10 Harriot, and we are both from WilmerHale.

11 THE REPORTER: Attorneys appearing in
12 this deposition acknowledge that I am not
13 physically present in the deposition room,
14 that I will be reporting on this deposition
15 remotely, and that I will administer the
16 oath to the witness remotely. The parties
17 and their counsel further agree that while
18 I am a licensed notary court reporter, the
19 witness may be in a state where I am not
20 licensed. The parties stipulate that this
21 deposition may be taken before me. If any
22 party does have an objection to this manner
23 of reporting as stated above, please state
24 so now.

25 Hearing none, we can proceed.

1 Please raise your right hand to be
2 sworn.

3 Do you solemnly swear or affirm to
4 tell the truth, the whole truth and nothing
5 but the truth?

6 THE WITNESS: I do.

7

8 T O D D C A R L M O W R Y,
9 having first been duly sworn, was
10 examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. DAHLGREN:

14 Q. Good morning, Dr. Mowry. Apologies
15 for the delay. Would you please state your name
16 for the record?

17 A. Yes. It's Todd Carl Mowry,
18 M-O-W-R-Y.

19 Q. And you understand that you are here
20 today, in the virtual sense, for a deposition in
21 two patent office proceedings, correct?

22 A. Yes, that's correct.

23 Q. I'm going to ask my colleague -- he's
24 handling the exhibits.

25 MR. DAHLGREN: Srikant, if you could

1 just put up the two notices of deposition,
2 please.

3 BY MR. DAHLGREN:

4 Q. While he does that, Dr. Mowry, do you
5 have a hard copy or a copy of your declarations
6 and exhibits?

7 A. No, I do not.

8 Q. Now, have you been deposed before?

9 A. Yes, I have.

10 Q. Okay. So you may know kind of the
11 ground rules, but I'm just going over some of
12 them briefly. I'll be asking questions today.
13 The court reporter is going to be recording, you
14 know, those questions and your answers. So I
15 would appreciate if we could try not to talk
16 over each other.

17 Is that okay?

18 A. Yes. Absolutely.

19 Q. And likewise, if you could try to
20 avoid any nonverbal responses, like nodding your
21 head, that will make her job easier as well.

22 Does that sound good?

23 A. Yes.

24 Q. And if I accidentally cut you off, I
25 am going to try not to, but if that does happen,

1 please let me know, and I will let you finish
2 your response.

3 Does that sound good?

4 A. Yes, yes.

5 Q. And likewise, I may not always ask
6 the question as artfully as I would like. But
7 let me try to get the question out before you
8 start to answer as well.

9 Will that work?

10 A. Yes.

11 Q. And likewise, if I ever say anything
12 that you don't understand, will you please let
13 me know so I can try to clarify?

14 A. Yes.

15 Q. I just want to let you know, I have
16 two monitors up here, so I keep looking over to
17 the right. That's a big one, so I put my
18 readers on. So I am not being rude. So I just
19 want to apologize in advance, so just to let you
20 know.

21 Now, your counsel may object from
22 time to time to my questions, but unless you are
23 instructed not to answer, you need to go ahead
24 and answer.

25 Do you understand?

1 A. Yes.

2 Q. And if you can't answer the question
3 for some other reason, you could just tell me
4 that you can't answer a question.

5 That work?

6 A. Okay. Yes.

7 Q. So where are you located right now,
8 for this deposition?

9 A. I'm in Pittsburgh, Pennsylvania.

10 Q. I think I asked you before if you had
11 any access to hard copies or electronic copies
12 of any of the declarations and exhibits. I
13 think you said you don't.

14 Is that correct?

15 A. That's right. I don't have hard
16 copies, and I don't have any electronic copies
17 handy. If -- I'm hoping that you can just share
18 them with me.

19 Q. Yes. So we can certainly do that.
20 Absolutely.

21 Do you have any, like, Messenger apps
22 or any forms of kind of communication available
23 to you, or are you in --

24 Strike that.

25 So I will try that again. Do you

1 have any apps or any means for communicating
2 with other folks that are available to you right
3 now?

4 A. No. I've shut all of those things
5 off.

6 Q. If you could just let me know if you
7 are contacted, if there's a family emergency or
8 something like that, certainly, we can take a
9 break. But otherwise, I would appreciate if you
10 could just limit your communications and not
11 talk to other folks, except for counsel as
12 necessary during the course of the deposition.

13 Does that work?

14 A. Yes.

15 THE VIDEOGRAPHER: Dr. Mowry, I just
16 sent you a link in the Zoom chat where you
17 can open up the app and see the exhibits or
18 download a copy onto your computer with the
19 three dots next to them.

20 THE WITNESS: Okay.

21 BY MR. DAHLGREN:

22 Q. So do you have the two documents
23 that -- they're loading for me. I guess, just
24 let me know when you have them available.

25 A. Hang on a second.

1 Q. Does it say on screen sharing?

2 A. I have the two documents.

3 (Defendant's Exhibit 1, 287 IPR
4 Declaration, introduced as of this date.)

5 (Defendant's Exhibit 2, 287 IPR
6 Declaration, introduced as of this date.)

7 BY MR. DAHLGREN:

8 Q. Great. So these are notices of
9 deposition and the two IPR proceedings. Are you
10 familiar with the IPR proceedings and the
11 parties?

12 A. Yes, although it looks like both --
13 unless something went wrong, it looks like both
14 of the documents are the 287, at least when I
15 preview Exhibit 1 and Exhibit 2. They look like
16 they are identical.

17 Q. I am looking at that right now.
18 Okay. Maybe during a break, we will make sure
19 that we can dig up the right one, and make sure
20 that's in the record.

21 But I just wanted to confirm that you
22 understand that this is a two IPR proceedings
23 that Dropbox has initiated against Motion
24 Offense, regarding the patent number.

25 Is it okay if I refer to it as the

1 '520 Patent or the 5-2-0 patent?

2 A. Yes, that's fine.

3 Q. I think you mentioned that you had
4 been deposed before.

5 How many times have you been deposed?

6 A. Roughly, 20 times.

7 Q. Without divulging anything that's
8 confidential with respect to those cases, could
9 you just tell me who the parties were, I'd just
10 like to walk through them?

11 A. Well, the first time that -- I don't
12 know if I can accurately recall all the
13 projects. The first one was Apple.

14 I was working on a project on behalf of Apple
15 Computer, and the opposing party was HTC. I
16 also did a project where it was Apple, I was
17 working on behalf of Apple, and the opposing
18 party was Samsung.

19 I've done -- I can't remember all of
20 the parties because in many cases, the opposing
21 party was a troll or a patent holding company,
22 and I don't remember their random names. But
23 I've worked on projects on behalf of companies
24 including Oracle, Microsoft, Google, and Intel,
25 and HP.

1 Q. Are there any other parties that
2 you've worked for previously?

3 MR. ESRAM: Objection to form.

4 BY MR. DAHLGREN:

5 Q. Have you served as a witness for any
6 other parties as a part of either PTAB
7 proceedings or discord litigation or ITC work?

8 A. Well, as I said, I don't know that I
9 can reproduce an exact -- a complete list off
10 the top of my head, but the ones that I
11 remembered, I just listed their names. I think
12 PNC Bank was another party that I worked on
13 behalf of for another project.

14 Q. Have you ever done any work for
15 Dropbox before either as a consultant or as an
16 expert witness?

17 A. I've done expert witness work before
18 for Dropbox, I believe patents related to
19 this -- the patent at issue in this case.

20 Q. I think the first party that you
21 referenced was Apple, and it was -- I think you
22 said it was adverse to HTC.

23 What was technology involved in that
24 case, what was that?

25 MR. ESRAM: Objection. Relevance.

1 BY MR. DAHLGREN:

2 Q. You can answer.

3 A. Let's see, the -- well, it was -- I
4 don't remember the patent number, but it was a
5 patent related to automatically detecting
6 contact information in electronic communication
7 in things like email or text messages, and then
8 enabling actions once those things are detected.

9 My research spans a number of
10 different areas and computer systems, operating
11 systems, hardware, distributed systems,
12 operating systems, and that project spanned --
13 the technology spanned different layers of the
14 computer system.

15 Q. Do you recall approximately the time
16 frame of that case?

17 MR. ESRAM: Objection. Relevance.

18 BY MR. DAHLGREN:

19 Q. Sorry, Dr. Mowry. Like I said
20 before, your attorney may object from time to
21 time, but unless you are instructed not to
22 answer, I would appreciate if you would please
23 answer the question to the best of your ability.

24 A. I don't remember the exact year off
25 the top of my head. I think that it was more

1 than ten years ago.

2 Q. And I think you also mentioned
3 another matter for Apple adverse to Samsung.
4 Is that right?

5 A. Yes.

6 Q. Do you recall what technology was
7 involved in that case?

8 MR. ESRAM: Objection. Relevance.

9 A. Yes. That was for the same patent.

10 BY MR. DAHLGREN:

11 Q. So you said it spanned a number of
12 different areas, computer systems, like the OS,
13 hardware and distributed systems.

14 Would you think that is coexistent
15 with your background, with your experience in
16 academia and working in the commercial sector?

17 MR. ESRAM: Objection to form.

18 A. There may be some confusion here.

19 What I said was that my research
20 spans a number of various different areas of
21 computer systems. I didn't say that the patent
22 spanned all those areas.

23 The patent did involve several
24 different pieces of the computer system stack,
25 but my research spans various technical areas,

1 which I believe I described in my reports.

2 BY MR. DAHLGREN:

3 Q. I am so sorry about that. I was
4 looking at the real time, and I misspoke, you
5 are correct. Thank you.

6 You also mentioned Oracle. Do you
7 recall what the technology was in that case?

8 Strike that. Try again.

9 You also mentioned "Oracle." What
10 technology did that case kind of relate to?

11 MR. ESRAM: Objection. Relevance.

12 A. I don't remember specifically,
13 unfortunately. I think it was -- I don't
14 remember what that was. It was a long time ago.

15 BY MR. DAHLGREN:

16 Q. And you also mentioned "Microsoft."
17 Do you recall, you know, what technology was
18 involved in the litigation that you served as an
19 expert for Microsoft in?

20 MR. ESRAM: Objection. Relevance.

21 A. That was also a long time ago. But
22 it was something in the operating systems and
23 file systems space, as I recall. But I don't
24 remember specific details of it right now
25 because it was, it was quite some time ago.

1 BY MR. DAHLGREN:

2 Q. And Google was another party that you
3 had mentioned. Do you recall what technology
4 was involved in the case or cases that you
5 represented Google in?

6 MR. ESRAM: Objection. Relevance.

7 A. It's an ongoing project, so I am not
8 sure that I am actually allowed to talk about
9 that, to be honest.

10 BY MR. DAHLGREN:

11 Q. Okay. And I don't want to get into,
12 you know, anything that's confidential with
13 third parties.

14 You also mentioned "Intel." What
15 technology did those case or cases involve?

16 MR. ESRAM: Objection. Relevance.

17 A. Those were related to computer
18 systems, there were a couple of different
19 patents involved. I don't remember all the
20 specific details, though.

21 BY MR. DAHLGREN:

22 Q. You've also worked in the commercial
23 sector for Intel as well, correct?

24 A. I was the director of their research
25 lab in Pittsburg from 2004 through 2007.

1 Q. Was that while you were still also
2 working at -- I don't know if was the Carnegie
3 Mellon -- what university you were at that time,
4 or if it was Toronto or did that coincide --

5 Did your work at Intel coincide or
6 overlap with your work in academia?

7 A. Yes. The model for the research lab
8 is that a professor would take a temporary
9 three-year leave of absence to run the research
10 lab, so that's what I did from 2004 to 2007.

11 Q. What work were you doing at Intel,
12 just generally speaking, if you can tell me.

13 A. I ran the research lab, which had
14 about, roughly, 20 full-time Intel employees in
15 it, and they all had Ph.D.s. They were doing
16 research on a variety of computer-related
17 topics, and they were working closely with
18 faculty and Ph.D. students at Carnegie Mellon
19 University and also with other engineers and
20 people inside Intel.

21 Q. You said "computer-related
22 technologies."

23 Do you recall more specifically which
24 area of computer technology the work was -- kind
25 of fell in?

1 A. Well, with 20 researchers over the
2 course of three years, there were quite a few
3 different projects, and they spanned a very
4 diverse set of technical areas. Some of them
5 included data storage. They included parallel
6 processing. They included robotics, computer
7 vision, quite a few other areas.

8 The idea was to explore applications
9 of computers that would seem like they would be
10 consuming many processor cycles in the future so
11 that Intel could understand what was potentially
12 game-changing applications in the future.

13 So our mission was to engage with the
14 faculty and Ph.D. students at Carnegie Mellon
15 and try to explore these interesting
16 applications and what system support for them
17 would look like.

18 Q. When you say "parallel processing,"
19 could you explain to me just kind of at a high
20 level what that refers to?

21 A. Parallel processing -- it's a topic
22 that I taught courses on for many years,
23 including I am teaching a class on it this
24 semester. And the basic idea is that you have a
25 collection of multiple processors that are

1 working together, cooperating to make a single
2 application run faster.

3 Q. Okay. You also mentioned HP was
4 another company that you had served as an expert
5 witness for.

6 Do you recall what technology was
7 involved with your expert work for HP?

8 MR. ESRAM: Objection. Relevance.

9 A. I think it was something related to
10 data storage, but I don't remember the details
11 of it.

12 BY MR. DAHLGREN:

13 Q. I should take a step back.

14 So the work for Apple, was that
15 district court litigation or work at the PTAB,
16 or ITC?

17 MR. ESRAM: Objection. Relevance.

18 A. The first project that I mentioned,
19 which was Apple and HTC was at the ITC, the
20 Apple-Samsung case. That was in the district
21 court in San José.

22 BY MR. DAHLGREN:

23 Q. Was that over smartphones, the iPhone
24 and Galaxy?

25 MR. ESRAM: Objection. Relevance.

1 A. Yes. That was one of those trials,
2 yes.

3 BY MR. DAHLGREN:

4 Q. The work you did for Oracle, do you
5 recall whether that was at the patent office or
6 the district court or in the ITC?

7 MR. ESRAM: Objection. Relevance.

8 A. I believe those were PTAB cases. It
9 was a long time ago, so I don't recall the
10 details.

11 BY MR. DAHLGREN:

12 Q. For Microsoft, was that district
13 court, PTAB or something else?

14 MR. ESRAM: Objection. Relevance.

15 A. I don't recall. I remember that
16 after I was deposed, the opposing party dropped
17 the case, but I don't remember whether that
18 was -- what that was for exactly.

19 BY MR. DAHLGREN:

20 Q. Understood. If you are able to say
21 for Google, same question. If you are not, just
22 let me know.

23 I don't think that I am able to address that.

24 Q. And for Intel, and with respect to
25 your work as an expert witness, was that in

1 court, at the PTAB or somewhere else?

2 MR. ESRAM: Objection. Relevance.

3 A. Well, some of that is ongoing, so I
4 don't think I can discuss all of that.

5 BY MR. DAHLGREN:

6 Q. Well, if -- okay. I will make a note
7 of that. Yeah.

8 And HP, in what form was that expert
9 work?

10 MR. ESRAM: Objection. Relevance.

11 A. I don't remember. I'm sorry.

12 BY MR. DAHLGREN:

13 Q. Do you recall -- same question with
14 respect to PNC. Do you recall where --

15 MR. ESRAM: Objection --

16 BY MR. DAHLGREN:

17 Q. -- where that work was?

18 MR. ESRAM: Objection. Relevance.

19 A. I believe that was a PTAB proceeding.

20 BY MR. DAHLGREN:

21 Q. Did you say you had worked for
22 Dropbox? I wrote them down here, but I -- have
23 you served as an expert for Dropbox before?

24 A. Yes. I mentioned that I worked on a
25 case for patents related to this project.

1 Q. And was that in -- which forum was
2 that expert work used in, was that district
3 court or PTAB or ITC?

4 A. Well, not the ITC. I don't remember,
5 to be honest, whether it was PTAB or district
6 court or both.

7 Q. And do you recall any other parties
8 that you have served as an expert witness for?

9 A. Not off the top of my head, no.

10 Q. You said that the work that you did
11 for Dropbox -- it was patents related to this
12 project.

13 What do you mean by that?

14 MR. ESRAM: Objection to form.

15 A. All right. So I mean, I don't really
16 feel comfortable answering that question. I
17 mean, I am very happy to talk about my
18 declaration, and I understand that's why I am
19 here. So I am very happy to answer those kinds
20 of questions, of course.

21 I don't -- I don't recall.

22 BY MR. DAHLGREN:

23 Q. The question was you had said that
24 the patents were related to this project, and I
25 just wanted to understand what you meant by

1 that.

2 So here's the question. That's not a
3 question.

4 When you said that "patents related
5 to this project," do you mean involving similar
6 technology?

7 MR. ESRAM: Objection to form.

8 A. I don't remember. That's not
9 something that I looked up in preparing for
10 this. So I don't -- I really don't recall
11 details of that.

12 BY MR. DAHLGREN:

13 Q. You recalled enough to say that they
14 were related to the patents in these
15 proceedings, right?

16 A. I did not refresh my memory on those
17 kinds of things, so I think it's probably more
18 accurate for me to say that I just don't really
19 recall that. I'm not sure, to be honest, even
20 if that was a separate proceeding or what that
21 was, so I am not sure.

22 Q. You submitted a CV with your initial
23 expert declarations in each of the proceedings,
24 right?

25 MR. ESRAM: Objection to scope.

1 A. I believe that a CV is usually
2 attached when I submit an expert report. I
3 believe so.

4 BY MR. DAHLGREN:

5 Q. Yeah, and the reason I've asked you,
6 I don't recall seeing a list of any cases that
7 you have been involved in.

8 MR. DAHLGREN: Srikant, if you
9 wouldn't mind, if you could put the two
10 opening experts' declarations in the
11 exhibit share.

12 MR. ESRAM: Objection. Outside of
13 scope.

14 MR. DAHLGREN: If you could please,
15 also -- let's go ahead -- we can mark
16 the -- we're going to need to mark them --
17 but the two reply declarations as well.

18 BY MR. DAHLGREN:

19 Q. And once you have a chance to preview
20 those, Dr. Mowry, and confirm that they are your
21 declarations, just let me know, and then I will
22 have a few questions for you.

23 And Dr. Mowry, one thing I also want
24 to add. I should have done this when I was
25 going over the ground rules. I try to take

1 breaks about every hour or so, but if you need
2 to take a break earlier than that, please let me
3 know, and we'll do that as soon as -- if we have
4 a question pending, I'll ask for you to answer,
5 and then, usually, we'll be able to stop right
6 there.

7 A. Okay.

8 (Defendant's Exhibit 3, Mowry Notice
9 of Deposition, introduced as of this date.)

10 BY MR. DAHLGREN:

11 Q. And also, I think, Dr. Mowry, that
12 there is Exhibit -- I think it's Mowry 3. I
13 believe that is the correct notice of
14 deposition, so if you wouldn't mind, please,
15 just looking at that and confirming that it is
16 the other IPR number, and then I think we'll be
17 set there.

18 A. Yes. Exhibit 3 is the other IPR
19 number, 82861.

20 MR. ESRAM: Counsel, I'd like the
21 record to reflect that the deposition
22 notice was -- makes it clear that the
23 deposition today is about Dr. Mowry's
24 second declarations in both IPRs, not the
25 first.

1 MR. DAHLGREN: Yes. And that's
2 what -- understood, and objection is noted.
3 Thank you.

4 BY MR. DAHLGREN:

5 Q. So yeah, Dr. Mowry, once again,
6 please let me know once you have had a chance to
7 confirm that the four declarations are the
8 declaration that you submitted in the two IPR
9 proceedings, and then I will have a few
10 questions for you.

11 A. There's a problem with the Exhibit 4
12 PDF. I can't preview it properly. I can see
13 Exhibit 5. I am just seeing a lot of blank
14 pages, only fragments of images in the Exhibit 4
15 PDF.

16 (Defendant's Exhibit 4, PDF 286 IPR
17 Declaration, introduced as of this date.)

18 (Defendant's Exhibit 5, PDF 286 IPR
19 Declaration, introduced as of this date.)

20 Q. So Exhibit 4, I am able to -- well,
21 actually, it just takes a little while to load
22 for me. If that problem persists, I guess for
23 another minute or two, then I assume we can get
24 offline and try to send you, maybe,
25 electronically, like an email or something like

1 that, a copy of those.

2 A. Okay. Actually, I've been able to --
3 I've been able to open it in a different PDF
4 preview --

5 Q. I think there's an option to download
6 it, too, so that may take care of it.

7 Now I'm having some technical
8 problems. Give me one second. I apologize.

9 Dr. Mowry, I am not sure if you had a
10 chance to download the four declarations yet,
11 but once you've had it, if you could please just
12 look through those and just confirm that they
13 are the two declarations that you submitted in
14 the 286 IPR, and then the two declarations you
15 submitted in the 287 IPR, please.

16 A. Okay. I can see them now. Yes, they
17 appear to be my first and second declarations
18 for both of the proceedings.

19 Q. Okay. Great. If you could -- so I
20 want to start off with --

21 MR. DAHLGREN: Can we just go offline
22 just for one minute? I am having some
23 computer issues. I just want to get it
24 sorted out. If we can take a break just
25 for two minutes.

1 (Off the record.)

2 (Defendant's Exhibit 1034, 286 IPR
3 Declaration, introduced as of this date.)

4 BY MR. DAHLGREN:

5 Q. So Dr. Mowry, if you could open
6 Exhibit -- it's numbered 1034. Just let me know
7 when you have that up.

8 A. Can you repeat the number again?

9 Q. It's in the 286 IPR. It's Exhibit
10 Number 1034.

11 MR. ESRAM: Counsel, I think
12 Dr. Mowry may not have that number in front
13 of him. You need to point him to the
14 exhibit number that you put in the chat or
15 upload it, please.

16 BY MR. DAHLGREN:

17 Q. Sure. It's Mowry 5 is the exhibit
18 number, and that corresponds to the second
19 declaration of the 286 IPR?

20 A. Okay. I have it open.

21 Q. And if you could turn to -- I think
22 it's the second -- no, sorry, just the first
23 paragraph in that declaration, and you say your
24 "background and qualifications remain as stated
25 in paragraphs 1 through 16 in Exhibit A of your

1 first declaration."

2 Do you see that?

3 A. I see that.

4 Q. And if we could -- I want to turn to
5 that first declaration now. I want to make sure
6 I get the number right for you. I think it's
7 Mowry 4?

8 (Defendant's Exhibit A, PDF CV,
9 introduced as of this date.)

10 A. Okay.

11 BY MR. DAHLGREN:

12 Q. And I would like to look at the CV
13 that is attached as Exhibit A to Mowry 4. And I
14 think it's around page, like, 108 of the PDF, if
15 I recall.

16 A. Okay.

17 Q. So I am just kind of scrolling down
18 through your CV, and I just want to confirm that
19 you didn't list any of the prior expert work
20 that you have done for the various parties that
21 we talked about earlier today.

22 MR. ESRAM: Objection to form.

23 BY MR. DAHLGREN:

24 Q. Dr. Mowry, can you please confirm
25 whether you identified the expert work that you

1 have done in other patent matters in your CV
2 that's attached to, I guess this would be Mowry
3 4, which is your first declaration, the 286 IPR?

4 A. Those things are not listed in CV.

5 Q. The same with the CV. It says that
6 you have previously worked for -- scrolling
7 down --

8 Strike that.

9 I will start over.

10 So under -- it's page 120 of Mowry 4,
11 it says -- it lists "industrial employment" and
12 it lists "Intel Corporation" and also "Silicon
13 Graphics, Inc."

14 What type of work were you doing for
15 Silicon Graphics?

16 A. I was working as a computer
17 architect. I worked in the group that was
18 exploring future designs of -- for their
19 microprocessors.

20 Q. And there's also consulting work
21 below that, and there's Intel -- that is the
22 first company that's listed, what type of
23 consulting work were you doing for Intel, if you
24 can say?

25 A. Well, it was a combination of -- I

1 mean, the day -- after a professor serves as the
2 lab director, they continue on for several years
3 as a consultant for the sake of continuity to
4 help continue with moving forward with projects
5 in the lab and also doing tech transfer within
6 the company.

7 Q. What type of work would you do with
8 respect to tech transfer?

9 A. That's confidential.

10 Q. Well, I'm not asking about the
11 specifics; I was just asking more generally,
12 would you -- just review IP and give advice
13 or -- I am just curious more like a general
14 level without getting into the specifics of the
15 technology or the parties involved except for
16 just you.

17 A. I was working with engineers within
18 Intel discussing ideas for how my research
19 projects and projects that we've been working on
20 in the labs, how those things could be
21 potentially incorporated into Intel products.

22 Q. And there's also "SandCraft" that's
23 listed below "Intel." What was the nature of
24 the work that you were doing for SandCraft?

25 A. SandCraft was the microprocessor

1 startup company. It was started by engineers
2 from Silicon Graphics, and I was helping them as
3 a member of the technical advisory board with
4 some of their -- just giving them technical
5 guidance related to things like processor
6 design, compiler support for their processors,
7 and systems challenges, things like that.

8 Q. There was also an entry consulting
9 for IBM. What was the nature of your consulting
10 work for IBM?

11 A. IBM has a compiler's research and
12 development group in Toronto, and I was working
13 with them on a variety of projects including
14 taking some of the ideas from my research and
15 doing tech transfer into their compiler
16 products.

17 Q. And there's also -- it looks like you
18 continued in a consulting role with Silicon
19 Graphics for a few years. Was that the same
20 type of work that you were doing as a
21 consultant?

22 A. Yes.

23 Q. While you were -- so when you were
24 consulting for IBM, you were also working as a
25 professor.

1 Is that correct?

2 A. Yes, I was. I was -- it's a
3 part-time role being a visiting scientist. That
4 was not a full-time job, that was just something
5 that I did with a small number of hours each
6 week.

7 Q. Okay. Looking at your CV, it looks
8 like there's a lot of work that deals with
9 processors and multiprocessors on chips.

10 Could you just walk me through the
11 papers, the work that you think is applicable to
12 the technology that's involved in these two IPR
13 proceedings?

14 MR. ESRAM: Objection to form and
15 relevance.

16 BY MR. DAHLGREN:

17 Q. Well, Dr. Mowry, I will strike that
18 just to try to make it easier.

19 So starting at the top of your CV,
20 with respect to your academic appointments that
21 are listed, were any of those -- did any of
22 those entail the consumer technology that's
23 involved in this case?

24 A. By "academic appointments," you mean
25 being a professor at Carnegie Mellon and at the

1 University of Toronto and --

2 Q. Yeah, I'm sorry. I didn't mean to
3 interrupt. I was referring to the -- it's just
4 the header that you have on your CV. There's a
5 header that says "Academic Appointments."

6 A. Yes. I've long done research
7 starting at the University of Toronto,
8 continuing through my time at Carnegie Mellon on
9 things like storage systems, distributed
10 systems.

11 For example, if we -- my -- on that
12 first page, the best paper award that I got in
13 1996 was at the second symposium on operating
14 systems design and implementation, and that was
15 a storage systems piece of research.

16 Q. Was the graduate assistant work that
17 you did at Stanford --

18 Strike that.

19 What area of computer science --

20 Strike that.

21 What was the nature of your work at
22 Stanford as a graduate research assistant?

23 A. My Ph.D. thesis focused on using the
24 compiler to improve the performance of accessing
25 information through a technique called

1 "prefetching," and as soon as I graduated, one
2 of the very first projects I did at -- starting
3 at the University of Toronto, which is actually
4 the thing that led to that award in 1996 is
5 extending this into the storage system and the
6 operating system.

7 Q. When you say "storage system," what
8 are you referring to?

9 A. The file system, nonvolatile data
10 storage.

11 Q. Now was that directed to data-based
12 management, or was that memory on a chip?

13 A. Well, I've worked on all of those
14 things, even starting in prior to 2000. When
15 you say that, do you mean specifically the work
16 that won the best paper award in 1996?

17 Is that what you are asking about?

18 Q. Sorry. You had mentioned the work
19 you did at Toronto, so I was just more
20 generally -- the work while you were in Toronto.

21 A. Well, one of the major themes of my
22 research, which was the topic of Angela Demke
23 Brown's Ph.D. thesis, which she won the best
24 thesis award at CMU, was extending ideas of
25 optimizing data access performance into the

1 operating system and in particular with
2 nonvolatile data storage through the file
3 system.

4 Q. Were any of the other graduate
5 students with these theses --

6 Strike that.

7 Did any of your other work with
8 graduate students involve file systems and data
9 storage?

10 A. Yes.

11 Q. So I see one of the thesis titles
12 that's listed is -- it's for -- sorry. I don't
13 have my glasses, but on it -- was it Monte?
14 It's the title is "Increasing the Scaleability
15 of Dynamic Web Applications," it's March 2008.

16 Do you see that?

17 A. Yes.

18 Q. Could you please just describe to me,
19 generally, what that entailed?

20 MR. ESRAM: Objection. Relevance.

21 BY MR. DAHLGREN:

22 Q. So -- I'm sorry --

23 A. It is sort of stretching my
24 imagination to see how this is related, but I
25 can talk about that since you asked the

1 question, or I. Don't know if you are
2 withdrawing the question.

3 Q. No, I was going to ask it a little
4 more directly. So I will do that.

5 So strike the earlier question.

6 What does dynamic web applications
7 refer to?

8 A. All right. In the mid-2000s and
9 early 2000s, when the world-wide web -- when web
10 pages were becoming more popular, there was this
11 well-known performance challenge, which is, if
12 you have popular websites and everybody is
13 trying to download a web page from the same
14 server at the same time, it can be overloaded.
15 So one technology for improving that is
16 something called "web caching," where you
17 essentially make distributed replicas of content
18 of files across the Internet, and that gets
19 more -- so it's easy to do that for --
20 relatively easy to do that for static web
21 content.

22 In other words, web pages that are
23 not changing. It gets much more challenging to
24 do that for dynamic web pages that are actively
25 changing, potentially because you have a

1 database sitting behind it, and that's
2 complicating how you construct the page.

3 For example, so this, the motivation
4 for Amit's Ph.D. thesis was trying to figure out
5 how we get the benefits of dynamic -- of web
6 caching even for dynamic web content where you
7 have to worry about propagating up files and
8 stored content across many locations across the
9 internet in a distributed environment.

10 Q. Would, when you refer to "static web
11 content," is that an HTML doc, what do you mean
12 by that?

13 Strike that.

14 Can you please explain to me what you
15 mean by "static web content"?

16 MR. ESRAM: Objection. Relevance.

17 BY MR. DAHLGREN:

18 Q. So I'm sorry. I am going to --
19 actually I will ask the question again. If we
20 can go off the record for a second.

21 (Pause in Proceedings.)

22 BY MR. DAHLGREN:

23 Q. Dr. Mowry, what do you mean by
24 "static web content"?

25 MR. ESRAM: Objection. Relevance.

1 A. Well, it's not a term that I
2 invented, it just generally refers to web pages
3 that are not changing rapidly.

4 "Static" means it's not changing.

5 MR. ESRAM: Counsel, we've been going
6 for an hour, so whenever is a good time to
7 stop, let's take a break.

8 MR. DAHLGREN: Right now, works. Ten
9 minutes?

10 MR. ESRAM: Sounds good.

11 MR. DAHLGREN: Thank you.

12 MR. ESRAM: Thank you.

13 (Off the record.)

14 BY MR. DAHLGREN:

15 Q. Dr. Mowry, during the break, did you
16 discuss the -- it's just yes, no. Did you
17 discuss the substance of your testimony today
18 with counsel?

19 A. No.

20 Q. I realize I was also remiss in
21 another kind of a rule, is there any -- or just
22 a question.

23 Is there any reason that you can't
24 give truthful and complete answers today?

25 A. No.

1 Q. Thank you.

2 What did you do to prepare for
3 today's deposition?

4 A. I went back and re-read my
5 declarations and the '520 Patents and the prior
6 references that I cite.

7 Q. Did you meet with anyone?

8 A. Yes. I met with attorneys from
9 WilmerHale to go over the material.

10 Q. How many times did you meet with
11 them?

12 A. Three times.

13 Q. Approximately how many hours in total
14 was that?

15 A. Maybe 11 or 12 hours.

16 Q. And you said you reviewed the '520
17 Patent and your declarations in the prior art
18 references.

19 Is there anything else that you
20 recall reviewing?

21 A. And things that I refer to there, I
22 mean, I read Dr. Smith's declarations. Yeah, I
23 read some of the other things that I referenced.
24 But I was focusing on my declarations and the
25 things that I reference in my declarations.

1 Q. Did you review any documents that
2 aren't cited in your declarations or in
3 Dr. Smith's declarations?

4 A. I don't think so.

5 Q. Did you speak to anyone else other
6 than attorneys from WilmerHale to prepare for
7 today's deposition?

8 A. No.

9 Q. Do you know a Professor Gibbons?

10 MR. ESRAM: Objection. Relevance,
11 lack of scope.

12 A. You just gave me a last name. Can
13 you be more specific?

14 BY MR. DAHLGREN:

15 Q. It's Phil Gibbons --

16 Strike that.

17 Dr. Mowry, are you aware that there
18 is litigation between Motion Offense and Dropbox
19 in the district court?

20 A. I am aware that such litigation
21 exists. I am not involved with that litigation.

22 Q. Are you aware that Professor Gibbons
23 was an expert witness in that litigation?

24 MR. ESRAM: Objection. Relevance,
25 out of scope.

1 A. I don't know about details of that
2 litigation.

3 BY MR. DAHLGREN:

4 Q. Do you recall referencing the fact
5 that there was litigation in a jury trial in any
6 of your declarations?

7 A. I believe that -- is there
8 something -- can you point me to something
9 specifically that you have in mind?

10 Q. I was just asking if you recall. If
11 you don't, that's fine. But I was -- so, yeah,
12 I will ask the question just again.

13 Do you recall referencing any
14 district court litigation in your declarations?

15 A. I may have. If you wanted to -- I
16 mean, these were long declarations. If you want
17 to point me to something, I'm happy to take a
18 look at it.

19 Q. So Dr. Mowry, did you discuss your
20 work for Dropbox and these IPRs with Professor
21 Gibbons?

22 A. No.

23 Q. And do you know a Dr. Michael Shamos?

24 MR. ESRAM: Objection. Relevance,
25 out of scope.

1 A. I know who Michael Shamos is. He's
2 the -- he's another professor at Carnegie
3 Mellon.

4 BY MR. DAHLGREN:

5 Q. Did you discuss your declarations or
6 these IPRs with Dr. Shamos at any point?

7 A. No.

8 Q. I'm at -- I believe it is -- it was
9 Mowry 4, and I want to point you to -- it's
10 paragraph 2.

11 MR. ESRAM: Objection. Scope -- out
12 of scope.

13 BY MR. DAHLGREN:

14 Q. I apologize. I am referring to the
15 second declaration, the reply declaration, in
16 the 286 IPR.

17 MR. ESRAM: That's not Mowry 4.

18 MR. DAHLGREN: Thank you, Counsel.

19 Sorry. It's Mowry 5.

20 BY MR. DAHLGREN:

21 Q. If you could just turn to
22 paragraph 2.

23 A. Okay.

24 Q. You reference the "Dropbox petition"
25 in this paragraph, correct?

1 A. Yes, that appears here in this
2 paragraph.

3 Q. Do you recall any discussion of the
4 district court litigations in that petition?

5 A. I don't recall off the top of my
6 head. I am happy to take a look at something if
7 you want me to look at it, but I don't recall
8 off the top of my head. I haven't reviewed that
9 in a little while.

10 Q. Okay. We can get to that, if
11 necessary.

12 Did you talk to any Dropbox employees
13 as part of preparing your declarations?

14 A. No, I did not.

15 Q. Do you recall reviewing any
16 litigation documents as part of preparing your
17 reply declarations?

18 MR. ESRAM: Objection to form.

19 A. I'm not sure what -- exactly what the
20 term "litigation documents" means. I don't know
21 if that includes "Dropbox petition," for
22 example, or the Patent Owner's responses and
23 preliminary responses.

24 BY MR. DAHLGREN:

25 Q. That's fair. I can clarify.

1 Did you review any documents from the
2 district court litigations as part of preparing
3 your reply declarations that you recall?

4 A. I don't recall that. If I did, I
5 cited, then I would have cited it in my -- in my
6 declaration.

7 Q. I know that you said your research
8 activities span a pretty wide swath of kind of
9 computer science technology.

10 Would you say that there's a
11 particular area that you focus most of your time
12 in?

13 A. The theme of my research is making
14 computer systems more efficient, especially
15 related to data accesses and data movement.
16 It's an overarching theme of many of my research
17 projects.

18 Q. Dr. Mowry, you are a named inventor
19 on -- I think it's -- is it five patents?

20 A. It's -- that sounds about right. I
21 think it's five or six, something like that.

22 Q. Can you walk me through the
23 technology that they cover?

24 MR. ESRAM: Objection. Relevance.

25 A. Well, the big caveat here is that it

1 has been a long time since I looked at those
2 patents. Decades. So they fall into three
3 categories: The one with Earl Killian, the
4 first one, was related to making processors more
5 efficient through trick for fetching
6 instructions when you encounter a branch -- a
7 conditional branch, there is a set of patents
8 related to prefetch instructions and processors.

9 And there's one in -- that was a
10 joint between CMU and Bell Labs related to the
11 Ph.D. research of one of my Ph.D. students
12 related to database performance and prefetching.

13 BY MR. DAHLGREN:

14 Q. When you refer to "prefetching,"
15 could you just describe that to me, what that
16 entails -- I will strike that. I'll ask a
17 better question.

18 When you refer to "prefetching," is
19 that related to the caching that you were
20 talking about, that we talked about earlier that
21 you had worked on with one of your Ph.D.
22 students with -- I think it was the dynamic web
23 applications?

24 MR. ESRAM: Objection. Relevance.
25 Mischaracterizes the testimony.

1 BY MR. DAHLGREN:

2 Q. Dr. Mowry, I'm not trying to
3 mischaracterize what you said. I just thought
4 that was a close approximation, but, certainly,
5 if I said something wrong, let me know.

6 But I was just trying to understand
7 if our discussion earlier about the caching, and
8 I think there were different proxy service or
9 something like that, that if that was related to
10 what you just said.

11 MR. ESRAM: Same objection.

12 A. I mean, these patents were from --
13 are not about Amit's, Ph.D. thesis topic, if
14 that's what you are asking.

15 Generally, what "prefetching" refers
16 to is if you can anticipate that you need data
17 ahead of time before you actually need it, then
18 you can proactively start moving the data close
19 to you so that you have it when you need it.
20 That's the idea behind prefetching.

21 BY MR. DAHLGREN:

22 Q. So with you being the named inventor
23 on a number of patents and having served as an
24 expert witness in 20 or so cases, do you have --
25 would you say that you have a decent grasp of

1 patent -- the concept of patent validity and
2 prior art?

3 A. Well, I didn't go to law school, and
4 I am not a patent attorney. But I've been
5 instructed on this topic at a general level, and
6 I discussed that in my declarations. So I think
7 I understand the role of a technical expert in
8 these types of proceedings.

9 Q. In your declarations, there's a legal
10 standard section. It's in the initial
11 declaration that you filed and you reference
12 that in the replies, but you relied on counsel's
13 instruction for kind of the legal principles to
14 apply.

15 Is that fair?

16 A. Yes.

17 Q. And the articulation of the law in
18 your declarations, that's what you used, right?

19 A. Yes.

20 Q. Now, you had mentioned this -- I
21 guess "fetching," and was any of the work with
22 the fetching, the prefetching -- is that
23 applicable to networks and database management?

24 MR. ESRAM: Objection to form and
25 mischaracterizes the testimony again.

1 A. This is getting a little abstract for
2 me to follow. Can you, maybe, rephrase that, or
3 is there like -- point me to something in my
4 declaration that you are referring to?

5 BY MR. DAHLGREN:

6 Q. Sure. I can try to ask a better
7 question.

8 I was just wondering if the
9 fetching -- that the work you've done in that
10 area, if that had any bearing on database
11 technology and like in-network technology?

12 MR. ESRAM: Objection to form.

13 A. Well, yes, absolutely. We moved data
14 across different storage locations, across
15 networks.

16 BY MR. DAHLGREN:

17 Q. And I think that you mentioned that
18 one of the challenges that one of your Ph.D.
19 students was dealing with was doing that with
20 dynamic web pages.

21 Is that right?

22 A. Yes. Amit Manjhi's thesis was
23 focused on dynamic web content. Yes.

24 Q. I had asked you about static web
25 content earlier, and I want to ask kind of the

1 flip side of that. When you say "dynamic web
2 content," would you please describe to me what
3 it is?

4 MR. ESRAM: Objection. Relevance,
5 out of scope.

6 A. And I'm not here doing any --
7 defining any terms. In general terms, like the
8 dynamic -- the difference between "static" and
9 "dynamic web content" is that dynamic web
10 content is changing, and static web content is
11 not changing as frequently.

12 But I'm not -- I am somewhat missing
13 how to tie this to my declaration. So I am not
14 exactly sure like what -- how this relates to my
15 declarations.

16 BY MR. DAHLGREN:

17 Q. Well, you're serving as the expert in
18 computer science technology in this case and
19 have held yourself out as a person of ordinary
20 skill in the art, so I am just trying to
21 understand your background and knowledge in
22 these different kind of areas in computer
23 technology.

24 So as an expert with 30-odd years of
25 experience in this area, can you just describe

1 to me -- let's say, what a person of ordinary
2 skill in the art as of the time of the
3 invention, say 2012 time frame, what they would
4 understand dynamic web content to be.

5 MR. ESRAM: Objection. Out of scope
6 and relevance.

7 A. There's a problem in your question.

8 You said that 2012 was the time of
9 the invention, but that's not the time of the
10 invention.

11 BY MR. DAHLGREN:

12 Q. Well, isn't 2012 the time of
13 invention that you used in your opening report?
14 And let's be clear, the 287 IPR and in the 286
15 IPR, did you not assess what a person with
16 ordinary skill in the art would understand about
17 the prior art and the claims from the
18 perspective of HOSA in September 2012?

19 A. Can you please point me to what
20 you're referring to?

21 (Defendant's Exhibit 1102, 287 IPR
22 Declaration, introduced as of this date.)

23 Q. Sure. Sorry.

24 Trying to figure out which one the
25 287 declaration is. I know that it's Exhibit

1 Number 1102, but it's marked as Mowry 6.

2 MR. DAHLGREN: So you can blow up
3 Mowry 6.

4 (Defendant's Exhibit 6, 287 IPR
5 Declaration, introduced as of this date.)

6 BY MR. DAHLGREN:

7 Q. And I will give you the paragraph
8 number here in a second.

9 A. Okay. I have it open.

10 Q. If you look at paragraph 11 -- well,
11 I am looking at the wrong one. So sorry. Take
12 that back. Give me one more second.

13 So I know I am directing you to the
14 right paragraph, but you couldn't recall the
15 year that you used for kind of the time of
16 invention for your analysis?

17 MR. ESRAM: Objection to form.

18 A. Sorry. Are you asking --

19 BY MR. DAHLGREN:

20 Q. It's fine. I was just asking if you
21 recalled --

22 A. Maybe do you want to restate your
23 original question where you inserted the date?

24 Do you have a different version of
25 that question, or I am not sure what you are

1 asking me right now. If you want me to -- if
2 you are asking if I don't remember the priority
3 date, I believe that that's in my declaration
4 somewhere, but it would take me some time to go
5 find it. If you want me to spend the time doing
6 that, I can do that.

7 Q. No. I am not looking for it. So
8 that's fine.

9 While I do that, I take it, based on
10 your previous comments, that the patent is not
11 entitled to that date.

12 Is it your opinion now that the
13 patent and also the time frame for the person of
14 ordinary skill in the art, that hypothetical
15 construct, you don't believe that should be 2012
16 anymore?

17 MR. ESRAM: Objection to form.

18 A. You said "anymore." Are you
19 suggesting that I referenced a specific date,
20 originally? Are you saying there's an
21 inconsistency in my reports? I am not sure.
22 That seems to be embedded into the question.

23 BY MR. DAHLGREN:

24 Q. My recollection was that you had done
25 your validity or invalidity analysis applying

1 the perspective of a person of ordinary skill in
2 the art as of the 2012 time frame. That was my
3 recollection. And I was asking if that was no
4 longer the case, but I will ask a different
5 question.

6 So strike that.

7 So in your reply declarations that
8 you reviewed in preparing for today's
9 deposition, what time frame did you use for the
10 person of ordinary skill in the art, their
11 perspective for one of the three analysis that
12 you did?

13 So while -- I guess I will let you
14 answer that question, and then I can point you
15 to the declaration.

16 A. I have --

17 Q. Dr. Mowry --

18 A. -- paragraphs where I talk about
19 these -- sorry. Go ahead.

20 Q. Well, I was just asking if you
21 weren't able to answer the question, if you need
22 me to rephrase it.

23 A. That would be great if you can
24 rephrase your question.

25 Q. Sure. So looking at Mowry 6, it's

1 the Exhibit 1102, it's in the 287 IPR. It's
2 paragraph 29, you refer to the time of the
3 alleged invention.

4 What is that time frame that you are
5 referring to there?

6 A. It's referring to the priority date.
7 There's a section where I talk about the
8 prosecution history and different dates.

9 I know there's dispute on -- about
10 the priority date, and I talk about that in my
11 second declaration. But in using all of these
12 different alleged priority dates, the ones that
13 I -- including 2012 and later dates -- my
14 description of a person of ordinary skill in the
15 art under my definition in all of those same
16 time frames, I reach the same conclusions in my
17 analysis.

18 Q. So I just want to make sure I
19 understand.

20 So whether it's 2012 or some other
21 time frame, it doesn't change your analysis.

22 Is that what you're saying?

23 A. Regarding level of ordinary skill of
24 the art, yes, and it would be the -- a person of
25 ordinary skill in the art in 2012 or in 2015,

1 if -- I would reach the same conclusion.

2 Q. Is that true for the claims in both
3 proceedings or just the 287 IPR?

4 A. Which part -- is which part of it
5 true?

6 Q. Is the issue of the priority date,
7 whether it's 2012 or 2015 --

8 Strike that.

9 If I understood you correctly, you're
10 saying that for the 287 IPR, whether the
11 priority date that you use is 2012 or 2015, it
12 doesn't change your opinion.

13 Is that correct?

14 A. The way that I apply the person of
15 ordinary skill in the art, I reach the same
16 conclusion with either of those dates.

17 That's correct.

18 Q. And with the 286 IPR, that involves
19 the folder share claims, is it also true that
20 you reached the same conclusion, whether you
21 used the 2012 time frame or 2015?

22 A. That doesn't change my definition of
23 a person of ordinary skill in the art, and how
24 one thinks about what the person of ordinary
25 skill in the art, how they would interpret the

1 claims in those time frames.

2 Q. You teach both graduate and
3 undergraduate students.
4 Is that correct?

5 A. That is correct.

6 Q. What undergraduate courses have you
7 taught?

8 I taught a number of different courses. I've
9 taught, this semester, I am teaching an
10 undergraduate course on Parallel Processing. I
11 have regularly taught undergraduate courses on
12 operating systems, including file systems.

13 I have also taught courses,
14 undergraduate courses on computer systems,
15 topics generally including a number of different
16 things, such as Networking, Distributed Systems.

17 We have an Intro to Computer Systems
18 course that covers a wide range of those types
19 of topics. Those are some of the classes that
20 I've typically taught to undergraduates.

21 Q. You said that you taught classes on
22 operating systems, including file systems.

23 Did I hear that correctly?

24 A. Yes.

25 Q. What is the relationship between an

1 operating system and a file system?

2 I will strike that, and I'll try to
3 ask a better question.

4 Is the file system part of the
5 operating system?

6 MR. ESRAM: Objection. Scope and
7 relevance.

8 A. I believe that in some of the claims,
9 there's a discussion of that type of issue. So
10 I would prefer to talk specifically.

11 If you want to point me to that
12 specific issue, I am happy to talk about that.

13 BY MR. DAHLGREN:

14 Q. So I am asking if a person of
15 ordinary skill in the art, an expert computer
16 science professor, 30 years of experience, if
17 the file system is part of an operating system,
18 and a person of extraordinary skill in the art
19 would understand?

20 MR. ESRAM: Objection. Out of scope.

21 A. Well, I know -- I mean, I'm here to
22 talk about my opinions and declarations, and I
23 know that those terms appear in some of the
24 claims.

25 So I am happy to talk about the

1 specifics of that, but making a blanket
2 statement, I don't think is really is
3 appropriate. It would not be helpful for a
4 discussion today.

5 BY MR. DAHLGREN:

6 Q. I appreciate that, but if you could
7 just please answer the question.

8 MR. ESRAM: Same objection.

9 A. It's not at the level which you
10 specified the question. There's not a specific
11 answer to the question.

12 BY MR. DAHLGREN:

13 Q. Do operating systems generally
14 include a file system or multiple file systems?

15 MR. ESRAM: Objection. Relevance,
16 out of scope and form.

17 A. Again, I am happy to talk about the
18 specific claims here and my declarations, but
19 from the -- at the abstract level at the general
20 level at which the question's been posed, it's
21 not really a question that has a specific
22 answer.

23 BY MR. DAHLGREN:

24 Q. So sitting here today, you can't say
25 one way or another whether operating systems

1 include a file system.

2 Is that right?

3 MR. ESRAM: Objection. Misstates the
4 testimony and same objection as before.

5 A. The short answer is, it depends, and
6 I can't really give a useful answer to such a
7 high-level question.

8 I am very happy to talk about the
9 details of the specific claims that are at issue
10 here and also about the opinions in my report.

11 BY MR. DAHLGREN:

12 Q. So you are refusing to answer my
13 question.

14 Is that right?

15 A. No, I did answer your question. But
16 what I am saying is that the answer depends upon
17 the details. There's not a blanket answer to
18 that question.

19 Q. What type of details does that answer
20 turn on?

21 MR. ESRAM: Objection to form.

22 A. Can you restate the question with the
23 original part included in it? I think that I am
24 having a little trouble following the whole
25 question.

1 BY MR. DAHLGREN:

2 Q. You said that the answer to my
3 question -- it depends upon the details. And I
4 would like to know what details it depends on.

5 And I will try to ask it a little bit
6 clearer, so I will strike that.

7 And whether an operating system
8 includes a file system depends on what details?

9 MR. ESRAM: Objection. Relevance,
10 out of scope.

11 A. I'm sorry, but I haven't spent time
12 contemplating that for -- in my report, so that
13 is not something I am prepared to answer just
14 sitting here. That's a new topic that I haven't
15 contemplated for my report.

16 BY MR. DAHLGREN:

17 Q. What would you need to do to figure
18 that out?

19 MR. ESRAM: Objection to form.

20 A. As I said, I'm not prepared to answer
21 that question, sitting here, but I am very happy
22 to discuss the issues that I talked about in my
23 expert reports.

24 BY MR. DAHLGREN:

25 Q. So if you go to -- it's the one -- I

1 think it's Mowry 5, and you go to page 16.
2 A. The 16 of the PDF or 16 of -- labeled
3 16?
4 Q. I think it's the page.
5 A. Okay.
6 Q. Do you see a discussion of "file
7 system"?
8 MR. ESRAM: Objection to form.
9 BY MR. DAHLGREN:
10 Q. This is going to be Footnote 5.
11 A. Wait. Sorry. Which exhibit are we
12 talking about?
13 Q. Yeah. I want to figure this out.
14 Could we just go off the record for just one
15 minute, and I'm going to put together a little
16 cheat sheet here, so we don't have this
17 confusion.
18 (Pause in Proceedings.)
19 (Defendant's Exhibit 1034, 286 IPR
20 Declaration, introduced as of this date.)
21 BY MR. DAHLGREN:
22 Q. Dr. Mowry, apologies for that little
23 bit of confusion there. So looking at -- it's
24 Mowry 5, and that's Exhibit 1034.
25 If you look at paragraph 6 on page 4?

1 A. Okay.

2 Q. You state (As read): "I have
3 interpreted the '520 Patent and the prior art
4 references consistent with the knowledge and
5 understanding of a person of ordinary skill in
6 the art."

7 Do you see that?

8 A. Yes.

9 Q. And I want to understand what that
10 "knowledge and understanding of a person of
11 ordinary skill in the art" is when it comes to a
12 file system.

13 So could you just -- could you please
14 explain to me what a person of ordinary skill in
15 the art -- and let's assume it's the 2012 time
16 frame -- what they would know and understand
17 with respect to a file system?

18 MR. ESRAM: Objection to form.

19 A. Sorry. That's just far too broad of
20 a question for me to be able to answer that
21 accurately. But I am happy to talk about
22 specifics of things that I've discussed in my
23 declarations if you want to point me to
24 something.

25 BY MR. DAHLGREN:

1 Q. Well, Dr. Mowry, why can't you answer
2 the question?

3 A. It's too vague.

4 Q. You can't say, generally, what a
5 person of ordinary skill in the art would have
6 understood a "file system" to mean in the 2012
7 time frame?

8 MR. ESRAM: Objection. Asked and
9 answered.

10 MR. DAHLGREN: Counsel, I believe
11 that's an improper speaking objective --
12 objection. So I'd appreciate if you
13 wouldn't coach the witness. You can wait
14 until breaks.

15 MR. ESRAM: I disagree.

16 A. Sorry. Can you restate the question,
17 please?

18 BY MR. DAHLGREN:

19 Q. Sure. I will try to rephrase it.

20 Sitting here in this deposition, are
21 you not able to describe what a person of
22 ordinary skill in the art would have understood
23 a file system to be in the 2012 time frame?

24 MR. ESRAM: Form.

25 A. I am well aware of file systems in

1 the 2012 time frame.

2 BY MR. DAHLGREN:

3 Q. And I am just trying to understand
4 what that kind of general understanding is, and
5 then we can get into the specifics, when you
6 start looking at it from the context of the '520
7 Patent.

8 But as a general matter, can you tell
9 me what a person of ordinary skill in the art
10 would understand a file system comprises in the
11 2012 time frame?

12 MR. ESRAM: Objection to form.

13 A. I am sorry. That's a bit like asking
14 me to explain what "biology" means in the 2012
15 time frame. It's such a broad field and
16 encompasses many things.

17 The patent at issue here is related
18 to file systems, and I am very happy to talk
19 about details related to the '520 Patent and the
20 claims and my declarations. But as the question
21 is phrased, it's -- you are asking me to give
22 you a full semester course of material, and I am
23 not prepared to do that, just sitting here. But
24 I am very happy to answer questions related to
25 the patent and my declarations.

1 BY MR. DAHLGREN:

2 Q. Well, earlier you had said that you
3 taught a course on operating systems, including
4 file systems, and I asked you if, you know,
5 operating systems included file systems, and you
6 weren't able to answer the question.

7 Were there any operating systems in
8 the 2012 time frame that included file systems?

9 MR. ESRAM: Objection to form and
10 scope.

11 A. Well, your question said that I was
12 unable to answer the question. That's not
13 correct.

14 BY MR. DAHLGREN:

15 Q. Well, you refused to.

16 If you are able to now, that's great.
17 I would love to understand, you know, what you
18 know about file systems and operating systems,
19 kind of generally, and then, you know, get into
20 the technology of the patent suit.

21 A. Was there a question there? Sorry.
22 I didn't follow that.

23 Q. How does an operating system interact
24 with a file system? Such that you would say it
25 includes a file system, I just want to

1 understand what you meant by that?

2 MR. ESRAM: Objection to form and
3 scope.

4 A. In the patent at issue, there's
5 terminology related to whether things are
6 included in the operating system or not. So I
7 am happy to discuss those specific details, but
8 I am not prepared to just talk generally about
9 things that I have not formed opinions on.

10 BY MR. DAHLGREN:

11 Q. You've held yourself out as a person
12 of ordinary skill in the art and submitted
13 expert declarations into IPR proceedings, right?

14 A. Yes, I did. I was a -- I am a person
15 of ordinary skill in the art, and in that --
16 yes, and I did submit declarations. Yes, that's
17 correct.

18 Q. And can you please explain to me what
19 the relationship is between operating systems,
20 and file systems in the context of what you said
21 when you described the undergraduate coursework
22 that you taught?

23 MR. ESRAM: Objection to form, out of
24 scope.

25 A. Well, what I said is that in the

1 course of 15410. I gave lectures on file
2 systems and operating systems. That's what I
3 said.

4 BY MR. DAHLGREN:

5 Q. You said "operating systems,
6 including file systems," if I recall correctly.

7 A. Hold on.

8 No. I don't remember what my exact
9 words were, but I said it was a course on
10 operating systems. That course included file
11 systems. I did not say -- I did not say I gave
12 lectures on operating systems that included file
13 systems, specifically.

14 And as I pointed out, I know that in
15 the patent at issue, there is discussion of
16 whether or not certain things are included in an
17 operating system or not.

18 So I am happy to talk about specifics
19 related to the '520 Patent.

20 Q. I'd like to -- we can move on.

21 Actually, so when you have a
22 database, a distributed database, and I guess
23 that can be a client server setup -- is that one
24 way to characterize it?

25 MR. ESRAM: Objection to form, out of

1 scope.

2 A. Can you please point me to what we
3 are talking about in my declaration?

4 BY MR. DAHLGREN:

5 Q. Again, I am just trying to understand
6 your knowledge, what you understand about this,
7 and then I want to get into the context of the
8 '520 Patent.

9 As a person of ordinary skill in the
10 art, I would just like to know --

11 Strike that.

12 So you, in the -- it's Mowry 7, and
13 that's your second declaration in the 287 IPR --

14 Actually, strike that. I got that
15 backwards.

16 It's 1034, it's Mowry 5, that's
17 Exhibit 1034 and the 286 IPR. You discussed the
18 term "representation."

19 Do you recall that?

20 A. I know that the '520 Patent uses the
21 term "representation," and that's something that
22 I've discussed in my declarations. I don't know
23 if there's a specific part of the declaration
24 you want me to focus on.

25 Q. Yeah, if you can go to paragraph 9 of

1 Mowry 5, and that's Exhibit 1034, it's your
2 second declaration. Just let me know when you
3 are there.

4 A. Okay.

5 Q. And I am looking at -- it's on page
6 4 -- it's numbered page 4, so I know that
7 paragraph bridges the page.

8 And you say, (As read): "A person of
9 ordinary skill in the art would understand a
10 representation of the at least one folder to
11 have a sign or symbol that stands in the place
12 of (i.e., represents) a folder rather than be
13 the literal folder itself."

14 Do you see that?

15 A. Yes, I see that.

16 Q. How did you come up with that or
17 reach that --

18 Strike that.

19 How did you reach that conclusion?

20 A. Well, if you read the '520 Patent
21 carefully, including the claims, the
22 specification and so on, the representation is
23 appearing in the context of the user interface.
24 And a person of ordinary skill in the art would
25 recognize that what that means, is something

1 like an icon. It's something that's shown as,
2 typically, a visual user interface element
3 either in, say, a web browser interface or on a
4 File Explorer interface. So it's referring to
5 that visual element, which, again, it could be
6 multiple things but it's -- an icon would be an
7 example of something like that.

8 A user would see it, and recognize
9 that this, this represents a folder, visually.

10 Q. Okay. Let's go off the record.

11 (Off the record from 11:42 a.m. to
12 12:33 p.m.)

13 BY MR. DAHLGREN:

14 Q. Dr. Mowry, during the lunch break,
15 did you discuss your testimony or this IPR with
16 counsel?

17 A. No.

18 (Defendant's Exhibit 8, '510 Patent,
19 introduced as of this date.)

20 (Defendant's Exhibit 1001, 286 IPR
21 Declaration, introduced as of this date.)

22 Q. We are going to introduce the '520
23 Patent and it will be, I believe, Mowry 8. It
24 should be Exhibit 1001 from the 286 IPR.

25 Let me know when you have access to

1 it.

2 A. Yes, I have it.

3 Q. We were discussing previously file
4 systems and operating systems, and I guess
5 whether there's some relationship or not with
6 the '520 Patent in front of you. Are you able
7 to describe what interaction if any there is
8 between a file system and the computer's
9 operating system?

10 MR. ESRAM: Form.

11 A. You said "the computer's operating
12 system," what computer are you referring to?

13 BY MR. DAHLGREN:

14 Q. If I say "client computer," do you
15 have an understanding of what that means?

16 A. That's not specific enough for me to
17 be able to answer the question.

18 Q. If I said a "first node"?

19 A. That's definitely not specific
20 enough. I mean, are we talking about a
21 particular part of my declaration or the '520
22 Patent?

23 Q. Sure. Give me one second.

24 I am going to direct you to the
25 claims that are involved in the 286 up here, I

1 believe.

2 So if you look at Mowry 8, which is
3 the '520 Patent and it's Exhibit 1001 and the
4 286 IPR, and if you go towards the end, it's
5 column 225, claim 17.

6 A. Okay.

7 Q. And it's line 55 to 56. There's a
8 reference to "client based File Explorer
9 application."

10 A. Okay.

11 Q. Could you describe to me what that --
12 what you understand that to mean?

13 A. Well, the File Explorer interface --
14 an example of this would be, for example, the
15 "Finder" application on -- the Finder on --
16 sorry to say "the Finder application." I meant
17 the Finder on Mac OSX. That's their version of
18 a File Explorer interface. It's the part of the
19 operating system that presents the user
20 interface of the files and folders that are on
21 the computer.

22 Q. And for Windows, is there an
23 equivalent?

24 MR. ESRAM: Objection to form.

25 A. Yes. Okay. Just to be clear, let me

1 expand on my answer so that the context is
2 clear. Windows also has a File Explorer
3 interface.

4 BY MR. DAHLGREN:

5 Q. I didn't want to cut you off, I
6 wasn't sure if you were done with your response
7 yet or answer.

8 A. Well, to be clear, what I am
9 explaining is the term "File Explorer," is
10 something that -- it's an interface that allows
11 the user -- it's a user interface that allows
12 the user to look, observe what -- interact with
13 the file system. They can look at what files
14 and folders are on the operating system. That's
15 what File Explorer interface is referring to,
16 generally.

17 Q. So you understand the -- so your
18 understanding is that in the context of the '520
19 Patent the -- sorry. Hang on. One second.
20 I lost the exhibit. One second.

21 So when you see the client-based File
22 Explorer application, you understand that to be
23 an interface?

24 Is that correct?

25 MR. ESRAM: Objection to form.

1 A. No, that's not what I said. I said
2 that the File Explorer interface is an
3 interface.

4 BY MR. DAHLGREN:

5 Q. And what's the difference between
6 the -- I guess the interface and the
7 application?

8 A. I mean, the interface is the part
9 that the user interacts with, generally, for an
10 application.

11 Q. Understood. Would -- in OS, is
12 "Finder" considered an application or just an
13 interface?

14 A. Well, to be clear, I've not examined
15 the code for Finder, so I am not completely sure
16 whether -- I've not examined the source code for
17 Finder on Mac OSX, the interface when you open
18 files and -- when you are browsing around
19 through the file system on a Mac with Mac OSX,
20 it labels what you are using as "Finder."

21 I am not sure exactly whether Apple
22 considers that to be the name of their user
23 interface or if it's more than that.

24 Q. What is your understanding of the
25 term "application" --

1 Strike that.

2 Is the term "application" a term of

3 art in computer science?

4 A. Well, it depends on the context. It

5 sometimes means "program," but it depends on the

6 context.

7 Q. What else could it mean?

8 MR. ESRAM: Objection to form.

9 Objection to the form.

10 BY MR. DAHLGREN:

11 Q. What else could "application" refer

12 to in the field of computer science other than

13 "program"?

14 A. Well, it would depend on the context.

15 I am not --

16 Q. Any --

17 A. Is this something that I was

18 discussing in my report somewhere? If you could

19 point me to it, that would be helpful.

20 Q. Dr. Mowry, as a person with over

21 30 years of experience in computer science,

22 professor at a very highly regarded school, can

23 you not answer the question?

24 A. Sorry. What? Can you repeat the

25 question, please?

1 Q. What other meanings does the term
2 "application" have in the computer science field
3 other than "program"?

4 A. Well, I think it typically refers to
5 "program." That's why I said that it often --
6 because it means program, but "application" is
7 sometimes -- just refers to applying something
8 in some cases, I suppose, like the application
9 of knowledge or the application of something.
10 So the word doesn't always necessarily mean
11 "program," but that's probably the most common
12 thing that it means in the field.

13 Q. Is "representation" a term of art in
14 computer science?

15 A. Well, in the context of the '520
16 Patent, it's clear what "representation" means.
17 It's referring to something like an icon within
18 a user interface.

19 Q. What about the term "folder," does a
20 folder --

21 Strike that.

22 Does the term "folder" have a special
23 meaning in the area of computer science?

24 MR. ESRAM: Objection to form.

25 A. Well, in the context of a file

1 system, a folder is understood to be --
2 sometimes it's also called a "directory," and
3 it's understood what that means to a person of
4 ordinary skill in the art.

5 BY MR. DAHLGREN:

6 Q. If you wouldn't mind, could you
7 explain to me what a directory -- what that
8 refers to --

9 Strike that.

10 Would you please explain to me what a
11 person of skill in the art would understand a
12 "directory" to be?

13 A. For a person -- for a user
14 interacting with a file system, a directory is
15 something that allows you to have structure with
16 a hierarchical structure of how files are
17 organized.

18 A directory can contain files or
19 other directories within it. That's the user's
20 view of the hierarchical organization.

21 There can also be things like
22 symbolic links and the details of how these
23 things are implemented is interesting. But
24 that's -- from the user's point of view, it
25 helps you heirarchically organize the

1 information within a file system.

2 Q. What's the difference between a file
3 system and a File Explorer application, if any?

4 MR. ESRAM: Objection to form.

5 A. It would depend on the circumstances
6 of how those terms were being used exactly.

7 BY MR. DAHLGREN:

8 Q. Can you give me some examples where
9 the context would change the meaning?

10 MR. ESRAM: Objection to form.

11 A. I'm happy to discuss my declarations
12 and the things that I refer to in those
13 declarations, if you want to point me to
14 anything there. I am happy to talk about those,
15 examples.

16 BY MR. DAHLGREN:

17 Q. Sure. Dr. Mowry, what I am trying to
18 understand is you state that you are giving the
19 terms their plain, ordinary meaning in light of
20 the '520 Patent and the intrinsic record, and I
21 want to know what the -- kind of the meaning of
22 these terms would be to a person of skill in the
23 art just divorced from the '520 Patent. And
24 then in the context of the '520 Patent, how that
25 may differ.

1 It's really hard to understand what
2 about the '520 Patent is affecting your
3 understanding of the language or the terms when
4 we don't have that baseline understanding of
5 what a POSITA would -- that's P-O-S-I-T-A.

6 Without understanding what a POSITA
7 would understand generally, it's challenging to
8 be able to ascertain what it is that is driving
9 your particular understanding of the plain
10 language.

11 Let me try it a different way.

12 So would a person of ordinary skill
13 in the art have a different understanding of
14 what a client-based File Explorer application is
15 generally in the area of computer science
16 versus, in the context of the '520 Patent, is
17 there any difference?

18 MR. ESRAM: Objection to form.

19 A. I apologize, but can you please
20 repeat the question? I just want to make sure
21 that I caught the exact words in the question.

22 BY MR. DAHLGREN:

23 Q. Sure. Would a person of ordinary
24 skill in the art have a different understanding
25 of what a client-based File Explorer application

1 is generally in the area of computer science
2 versus as it does in the context of the '520
3 Patent?

4 MR. ESRAM: Objection to form.

5 BY MR. DAHLGREN:

6 Q. Let me try to clean it up for you.

7 For a client-based File Explorer
8 application, is there anything in the '520
9 Patent, its prosecution history, claims,
10 specification, that would change how a person of
11 ordinary skill in the art understood that phrase
12 compared to just generally in the area of
13 computer science?

14 MR. ESRAM: Objection to form.

15 A. Well, your question refers to a lot
16 of information with the file history and so on,
17 and I have -- I've reviewed it, but not -- it's
18 not fresh in my mind. I would need to go back
19 and look through that to answer your question
20 accurately.

21 I don't think that a person of
22 ordinary skill in the art has difficulty
23 understanding the claim language.

24 BY MR. DAHLGREN:

25 Q. But the --

1 Strike that.

2 Would a person of ordinary skill in
3 the art have a different understanding for the
4 phrase --

5 Strike that.

6 I want to maybe try to make it
7 easier, with easier terms.

8 "Server," that's a term of art,
9 right?

10 A. Yes, I am familiar with the term
11 "server."

12 Q. Does the use of the term "server" in
13 claim 17 of the '520 Patent mean something
14 different than your kind of general
15 understanding of what a server is in the area of
16 computer science?

17 MR. ESRAM: Objection to form.

18 A. Well, one thing I would say is that
19 although a server is -- so you always, when you
20 try to understand the language in claims, you
21 need to read the claims. You need to read the
22 entire patent carefully, and starting with the
23 claims, you also read the spec.

24 So in the context of reading the
25 520's claims and the spec and the prosecution

1 history, that makes it clear what "server"
2 means.

3 It's not a concept that's
4 inconsistent with how the term is used in
5 computer science generally, although I would
6 point out that the term doesn't always mean the
7 same thing because sometimes it refers to a
8 piece of hardware; sometimes it refers to a
9 piece of software or both.

10 But in the context of reading the
11 claims of the '520 Patent and the spec and the
12 file history, a person of ordinary skill in the
13 art would understand what it refers to.

14 BY MR. DAHLGREN:

15 Q. Is there anything in the '520 Patent
16 that changes the meaning of the term "server"
17 from what a person of ordinary skill in the art
18 would generally understand it to be?

19 A. I think that the plain ordinary
20 meaning of "server" is appropriate when trying
21 to understand the claim language.

22 I think that a person of ordinary
23 skill in the art reading the claims, having read
24 the claims and the specifications and the file
25 history would understand what "server" means

1 here. And it's not inconsistent with how the
2 term is generally used in the field.

3 Q. What's the difference between a
4 "proxy server" and a "web server"?

5 MR. ESRAM: Objection to form.

6 A. Can you please point me to what we
7 are referring to?

8 Is this in the '520 Patent or my
9 declaration or what are you referring to?

10 BY MR. DAHLGREN:

11 Q. I just want to know, just generally,
12 as a term of art in this area, if you are not
13 able to answer that, then I can see if I can
14 direct you to a more specific disclosure.

15 A. I know those terms, but the details
16 matter, so if you can point to something -- if
17 we can look at something specific, I am happy to
18 talk about it.

19 Q. Well, as a general matter, is there a
20 difference between a "proxy server" and a "web
21 server"?

22 Setting aside the '520 Patent as a
23 person of ordinary skill in the art, how you
24 would understand those terms just generally, is
25 there a distinction?

1 MR. ESRAM: Objection to form.

2 A. Sorry. Do I discuss this somewhere
3 in my reports? I am happy to expand on whatever
4 I talked about in my reports.

5 BY MR. DAHLGREN:

6 Q. Do you recall any discussion of "web
7 servers" or "proxy servers" in your reports?

8 A. The reports are not trivially long,
9 so if you can help me refresh my memory by
10 pointing me out to what you are referencing, I
11 would appreciate that.

12 (Defendant's Exhibit 1127, 287 IPR,
13 introduced as of this date.)

14 Q. If you look at Mowry 7, and that's
15 Exhibit 1127 from the 287 IPR.

16 A. Okay.

17 Q. And I am working on it, looks like
18 for paragraph number 4.

19 You recall in the 287 IPR that you
20 responded to Dr. Smith's identification of
21 written subscription support for the challenged
22 claims.

23 Do you recall that?

24 A. Yes.

25 Q. If you look at paragraph 56 -- excuse

1 me, it's not proxy, it says, "proxy node." I
2 apologize for that confusion.

3 It says, (As read): "Exemplary path
4 nodes include mail relayed nodes, phone switch
5 nodes, and proxy nodes."

6 A. I see that.

7 Q. And that's actually -- that brings
8 the question for me.

9 What is a "proxy node" versus a
10 "proxy server"?

11 A. You would need to provide more
12 context than that because the term "node" and
13 "server" are used without more context. I can't
14 really provide a specific answer to that
15 question.

16 Q. What do you understand "proxy node"
17 to mean in the context of the '520 Patent?

18 And if you can turn to Figure 5 of
19 the '520 Patent, it's Mowry 8. It doesn't say
20 "proxy" there, but it refers to a "path node"
21 and a "service provider node."

22 A. Figure 5.

23 I see Figure 5.

24 Q. So with respect to the path node,
25 what do you understand that path node to refer

1 to?

2 Is that a server?

3 A. I believe I discussed this in my
4 report. Let me look.

5 (Witness reviews documents).

6 (Defendant's Exhibit 2004, Document,
7 introduced as of this date.)

8 I have discussed -- I mean, well,
9 paragraph 56 of Exhibit 7 in that report, I
10 discussed -- I had some discussion of a "path
11 node." The paragraph 114 of Exhibit 2004 -- it
12 lists examples of path nodes. And I believe --

13 (Defendant's Exhibit 7, Document,
14 introduced as of this date.)

15 Q. You say, "A path node does not
16 generate messages."

17 I see that.

18 What does a path node do? Is it just
19 a relay?

20 A. Well, it forwards something that has
21 some information that is being communicated, and
22 it's just passing it along through the
23 communication path.

24 Q. Were about a proxy node? Can that
25 generate a message?

1 A. Well, in line 24, starting -- sorry.
2 In column 24, the '520 Patent, the paragraph
3 that starts at line 59, it is using -- it's
4 saying that path nodes include mail relay nodes,
5 phone switch nodes and proxy nodes, such as
6 instant message proxies.

7 So using "proxy" in that context, it
8 would not be generating a message; it would
9 simply be passing something along.

10 Q. Sorry.

11 What was the call number that you
12 just -- call 24?

13 A. Call 24.

14 Q. It says it's an instant messaging
15 proxies for communicating through firewalls.

16 So you are saying that an instant
17 messaging proxy node doesn't send a message?

18 MR. ESRAM: Objection.

19 Mischaracterization of testimony.

20 MR. DAHLGREN: Counsel, please stop
21 the speaking objections. You can say
22 "form."

23 A. In this paragraph in column 24
24 beginning at line 59, it's describing what a
25 path node does and the things that it lists.

1 A path node is simply moving
2 something along a path within a network. It's
3 just forwarding a message along.

4 BY MR. DAHLGREN:

5 Q. It says (As read): "Also, and proxy
6 nodes, such as instant messaging proxies for
7 communicating through firewalls."

8 So your testimony under oath is that
9 when it says, "A path node includes proxy nodes,
10 such as instant messaging proxies for
11 communicating through firewalls," that it's not
12 sending a message?

13 MR. ESRAM: Objection to form.

14 A. In this context, a path node, as
15 illustrated in the figure, it is something that
16 is forwarding a message along a path. That's
17 what it's doing, and proxy node can also simply
18 forward messages along.

19 BY MR. DAHLGREN:

20 Q. It says, (As read): "Communicate
21 through firewalls," right?

22 A. Networks can include firewalls, so it
23 can be communicating through a firewall.

24 Q. Would a person of ordinary skill in
25 the art understand that proxy nodes can send

1 messages?

2 MR. ESRAM: Objection to form.

3 A. In the context of the '520 Patent
4 when it's describing -- when it's listing a
5 proxy node here in this paragraph, in column 24,
6 starting at line 54, this is discussing a
7 scenario where messages are simply being passed
8 along a path within the network.

9 BY MR. DAHLGREN:

10 Q. So it's your testimony under oath
11 today as an expert in computer science,
12 30-years-plus experience in this field, that
13 when the patent even says, "proxy nodes such as
14 instant messaging, proxies for communicating
15 through firewalls," you are saying that it's
16 just simply passing through; it's not -- it's
17 not communicating a message?

18 I am just trying to understand.

19 MR. ESRAM: Objection to form.

20 A. Your question doesn't make sense to
21 me.

22 BY MR. DAHLGREN:

23 Q. What about it doesn't make sense?

24 A. Can you repeat the question, please?

25 Q. Sure. As a person with 30-plus

1 years' experience in computer science, it's your
2 opinion today under oath that a proxy node does
3 not send messages?

4 MR. ESRAM: Objection to form.

5 A. As I said in the context of how proxy
6 node is being used in the '520 Patent, in this
7 paragraph in line -- in column 24, starting at
8 line 59, the proxy node that's being referred to
9 here is passing a message along through a
10 communication path.

11 It is not creating a message; it is
12 passing a message along.

13 BY MR. DAHLGREN:

14 Q. What about this paragraph leads you
15 to that conclusion?

16 Strike that.

17 So if I understand correctly, you
18 would have a different understanding of what a
19 proxy node is capable of doing if it wasn't
20 constrained by the language in this paragraph.

21 Is that fair?

22 MR. ESRAM: Objection to form. I
23 don't think that's what I said.

24 BY MR. DAHLGREN:

25 Q. The way that you are describing a

1 proxy node in the '520 Patent in column 24, is
2 that different in any way than you would
3 generally understand a proxy node to be?

4 MR. ESRAM: Objection to the form.

5 A. For a person of ordinary skill in the
6 art reading the '520 Patent, the meaning of
7 proxy node in this context is clear.

8 It's described as a "path node" and
9 the path node is a node along a network path
10 that is forwarding a message along to facilitate
11 this communication. So it's clear what it means
12 in this context.

13 BY MR. DAHLGREN:

14 Q. Are there other contexts where it
15 would have a different meaning?

16 MR. ESRAM: Objection to form.

17 A. Sorry. I am -- I think that my
18 understanding is that I am here to answer
19 questions about my declarations. So I am happy
20 to talk about what things mean in the context of
21 this patent. I haven't formed opinions about
22 other contexts.

23 BY MR. DAHLGREN:

24 Q. Well, you understand, you know, as a
25 person of skill in the art as you've held

1 yourself out to be, they would have -- so a
2 person of ordinary skill in the art would have a
3 certain understanding of, let's say, the term
4 "proxy node."

5 And I just want to know, does this
6 paragraph change what that typical understanding
7 of "proxy node" would be to a person of skill in
8 the art, or is it the same as what they would
9 always think it is?

10 MR. ESRAM: Objection to form.

11 A. The term "proxy" generically refers
12 to something that stands in for something else.
13 In the context of a communication path, it's
14 clear what a proxy node is, it's something that
15 lies along the communication path and it is
16 forwarding communication along. So there is not
17 any inconsistency here.

18 BY MR. DAHLGREN:

19 Q. Now you had mentioned before that one
20 of the Ph.D. students that you were advising on
21 their thesis, they had developed an approach
22 where they would use proxy nodes to, what, lower
23 the latency in a -- was it a dynamic web
24 application like network?

25 I know I am not saying it quite

1 right, I am trying to jog your memory so you can
2 jog mine. We talked about that, right? That
3 there was a Ph.D. student that used these proxy
4 servers. It was to improve some type of
5 network, and I think it was dynamic web
6 application or something like that.

7 Is that right?

8 MR. ESRAM: Objection to form.

9 A. I don't think that I used the word
10 "proxy" when we were discussing Amit Manjhi's
11 Ph.D. thesis research.

12 BY MR. DAHLGREN:

13 Q. Did that research involve proxy nodes
14 or servers?

15 MR. ESRAM: Objection. Out of scope.

16 A. I'm sorry. I fail to see how that's
17 relevant to my declarations here.

18 BY MR. DAHLGREN:

19 Q. I am sorry, Professor, you don't get
20 to determine the relevance and refuse to answer
21 on that basis. If you guys want to call the
22 board and stop this, that's fine. But,
23 otherwise, you are obligated to answer the
24 question. So would you please answer?

25 A. In the '520 Patent, the word "proxy

1 node" is defined in this context of the
2 paragraph beginning in column 24, starting at
3 line 59, and it's clear what they mean by "proxy
4 node."

5 It is a node along a communication
6 path that is forwarding information.

7 I don't recall the specific details,
8 since it's been more than ten years of
9 terminology we used in Amit Manjhi's thesis, but
10 the term "proxy node" -- the meaning of it is
11 clear here in this paragraph of the '520 Patent.

12 Q. Has his thesis come up in any of your
13 20 or so depositions that you've done as an
14 expert witness?

15 A. Generally, in depositions, people
16 don't ask me questions about my student's Ph.D.
17 theses. I don't recall people asking about
18 that.

19 Q. Are you aware that you have an
20 obligation to inform us of any inconsistent
21 testimony that you've given in the past?

22 There's actually a regulation in the
23 patent office that requires you and your counsel
24 to do that?

25 Are you aware of that?

1 A. I'm sorry. You seem to be -- I don't
2 think that I followed the question. Could
3 you --

4 Q. Sure. I was asking if you were aware
5 that you have, along with your counsel, an
6 obligation to disclose any inconsistent
7 information that -- excuse me, any information
8 that's inconsistent with, you know, the
9 positions that you are taking in these IPR
10 proceedings?

11 A. Okay. I have not taken any positions
12 that are inconsistent with the positions I'm
13 taking here.

14 Q. Okay. All right. If that's your --
15 if that's your testimony.

16 MR. DAHLGREN: Let's take -- can we
17 do like a five-minute break because I've got to
18 switch gears here for a little while, and I want
19 to get into some of the prior art after the
20 break.

21 THE WITNESS: Okay.

22 MR. ESRAM: Okay.

23 MR. DAHLGREN: Is five okay? Or do
24 we need ten? Why don't we do ten. We can
25 go off the record. Thank you.

1 (Off the record.)

2 BY MR. DAHLGREN:

3 Q. Dr. Mowry, did you discuss the
4 substance of your testimony with counsel during
5 the break?

6 A. No.

7 Q. Before we get to the prior art,
8 actually, I wanted to go back to the web
9 services node. So that was, I believe, Figure 5
10 of the '520 Patent.

11 What is your understanding of what
12 the "web services node" means in the context of
13 the '520 Patent?

14 MR. ESRAM: Objection to the form.

15 A. I'm sorry. You said Figure 5 in the
16 '520 Patent. What node are you referring to
17 exactly?

18 BY MR. DAHLGREN:

19 Q. I am pulling up the figure myself. I
20 believe it was a web services node.

21 A. I don't see such a thing in Figure 5.

22 Q. Okay. "Service provider node."
23 Excuse me. Does the term "service provider
24 node" -- does that have any particular meaning
25 to you in the context of the '520 Patent?

1 Dr. Mowry, if it's helpful, I believe
2 there's a reference to it in column 27 of the
3 '520 Patent around line -- I think it's lines 9
4 through 10. There's -- "web service provider
5 node" is referred to.

6 A. Okay. That discussion is not
7 referencing 510, so I am trying to look through
8 here to make sure that it's actually referring
9 to Item 510 in Figure 5.

10 Q. Whether or not it says "510," but the
11 phrase "web service provider node," which is
12 also in the figure and in column 27, does that
13 have a particular meaning to you in the context
14 of the '520 Patent?

15 MR. ESRAM: Objection to form.

16 A. I am not sure that -- so can you --
17 I'm not following your question. I don't know
18 if there's another way to phrase the question to
19 make it more clear or what you can do.

20 BY MR. DAHLGREN:

21 Q. Do you have any understanding of what
22 a "web service provider node" means?

23 We can break this down. For a node
24 that's depicted in Figure 5 in a network, like
25 that, would you have any understanding as to

1 what that is or could be?

2 A. Sorry. I was still trying to read
3 this.

4 Q. I apologize. I didn't mean to cut
5 you off if you were thinking, so take your time.

6 A. Okay. Sorry. You can repeat the
7 question or ask whatever question you want to
8 ask.

9 Q. Sure. What does the phrase "web
10 service provider node" --

11 Strike that.

12 What do you understand the reference
13 to "node" to be in Figure 5 --

14 Strike that.

15 So what do you understand a "web
16 service provider node" to refer to?

17 A. Well, in that column, let me go back
18 to this. I mean, a web service is something
19 that you access usually through a browser. And
20 so in column 27, that's the only discussion I
21 see of "web service provider node," and it's
22 something that the browser is interacting with
23 to view information in the form of a web page.

24 Q. Is the web service provider node --
25 would you understand that to be a web server?

1 MR. ESRAM: Objection to form.

2 A. There is very little discussion of
3 what they mean exactly. I think the phrase
4 appears exactly twice. There's just not much
5 detail on this. Unfortunately, the patent spec
6 is not a paragon of clarity, unfortunately.

7 BY MR. DAHLGREN:

8 Q. So what would it -- what would that
9 phrase mean to a person of ordinary skill in the
10 art, just generally?

11 MR. ESRAM: Objection to form.

12 A. You said "that phrase," what phrase
13 are you referring to?

14 BY MR. DAHLGREN:

15 Q. A "web service provider node." What
16 does that mean to a person of skill in the art?

17 Strike that.

18 What would a person of skill in the
19 art understand a web service provider node to
20 be?

21 A. That's too vague of a term for
22 someone to know what that means without
23 additional context.

24 Q. Well, presumably, it's providing a
25 service, right?

1 MR. ESRAM: Objection to form.
2 BY MR. DAHLGREN:
3 Q. Presumably, a web service provider
4 node is providing a service.
5 Is that fair?
6 A. No, not necessarily, it depends on
7 the context.
8 Q. How so?
9 Strike that.
10 How would it depend on context? Can
11 you give me some examples?
12 A. Sorry. I am losing track of how to
13 tie this back to what we are talking about here.
14 Can you point me to whatever you are
15 referencing here in my declarations, please?
16 Q. Sure. Do you recall discussing this
17 figure in the web service provider node in any
18 of your declarations?
19 And I am going to point you to it,
20 but I'm just curious if you have any
21 recollection?
22 A. So you're just basically asking me
23 how good my memory is?
24 Q. It's been excellent. I have to say,
25 I've been impressed.

1 But if you look at --

2 A. I think it's in -- you're talking
3 around paragraph 56 in Exhibit 7, is that the
4 right ballpark or is it somewhere else?

5 Q. No, I think that it is close, if not
6 just completely on point.

7 So that's the path nodes, bear with
8 me one second.

9 And I apologize if someone could hear
10 the child in the background.

11 You are correct. I apologize. It is
12 paragraph 56 of, I think, it's Mowry 7.

13 (Defendant's Exhibit 127, 287 IPR,
14 introduced as of this date.)

15 And that is your declaration Exhibit
16 Number 127 of the 287 IPR, and you refer also to
17 paragraph 24 in that same paragraph?

18 A. I lost track of the question.

19 Q. Sure. So what would a person of
20 ordinary skill in the art understand the "web
21 service provider node" to be?

22 And I think you had said that it
23 would depend on context.

24 And I said, Well, presumably, it
25 provides a service.

1 And you said, There wasn't much
2 discussion in the patent about that term.

3 And I just asked, Well, what would a
4 person of skill in the art understand just
5 generally, a "web service provider node" to be?

6 MR. ESRAM: Objection to form.

7 BY MR. DAHLGREN:

8 Q. And the question is -- with all of
9 that lead-up -- what would a person of skill in
10 the art understand a "web service provider node"
11 to be referring to in the 2012 time frame?

12 A. Well, in the '520 Patent in column
13 27, the -- starting at around -- so column 27,
14 starting at around line 7, it says, (As read):
15 The browser may send the data object information
16 via a network to a web -- and then there's some
17 more text -- to a web service provider. The web
18 service provider node may include a query
19 handler component to receive the data object
20 information.

21 So to paraphrase this, it is
22 responding to a request from the web browser,
23 and as I discuss in paragraph 49 of Exhibit 7, I
24 have a whole paragraph where I talk about this.

25 And what I say is that, for example,

1 on the last sentence of paragraph 49, the web
2 service provider node in the query handler
3 component, these things do not generate
4 messages.

5 Q. Have you ever heard someone in the
6 computer science field use the term "web service
7 provider node"?

8 MR. ESRAM: Objection to form.

9 A. I don't recall hearing someone use
10 that exact combination of words.

11 The phrase is discussed in the '520
12 Patent, so that's the best context for what it
13 means.

14 BY MR. DAHLGREN:

15 Q. Does it inform your understanding of
16 what a web service provider node is based on the
17 fact that it interoperates with the browser?

18 Strike that.

19 The '520 Patent discloses that the
20 web service provider node can interoperate with
21 a browser.

22 Would that indicate it's a web
23 server?

24 MR. ESRAM: Objection to form.

25 A. The '520 Patent doesn't use the term

1 "web server"; it uses the phrase "web service
2 provider node."

3 Those terms are not -- not
4 necessarily synonymous with the best --
5 presumably, if they meant to use the term "web
6 server," then they would have used that instead.

7 BY MR. DAHLGREN:

8 Q. But the '520 Patent does say a node
9 can be a server, correct?

10 A. Can you point me to what you are
11 referring to in the '520 Patent?

12 Q. You have no recollection of that?
13 It's fine. I will point you there, but --

14 A. It's a 55-page patent spec that's --
15 has a very tediously written spec body. So I
16 don't have every sentence of it memorized --

17 Q. Imagine that.

18 A. -- what you said is probably true,
19 but I can't just pull it up in my memory banks
20 in my head.

21 Q. No worries. It's not a memory test.
22 Just give me one second.

23 And actually, I may -- yeah, well,
24 let me get that up for you.

25 So if you look at column 10 of the

1 '520 Patent, and it's around line 13, it's that
2 paragraph, beginning on 13. It says, (As read):
3 "Terms 'network node' and 'node' in this
4 document, both refer to a device having a
5 network interface, and the terms 'device' and
6 'node' may refer to one or more devices and
7 nodes providing and/or otherwise included in the
8 environment unless indicated otherwise" -- it
9 cites what I was looking for.

10 While I look for that -- so I will
11 see if I can find it -- just looking at Figure
12 5, of the '520 Patent.

13 You have a web service provider node,
14 the way it's depicted outside this network, you
15 have a path node inside a cloud. That is 506.

16 What does that suggest to you?

17 The -- again --

18 Strike that. Strike all of that.
19 Start over.

20 In Figure 5, there's a box with
21 identifying the service provider node, 510, that
22 is connected to the network, but it's not in the
23 network like the path node?

24 Service provider, the way the -- that
25 note is defined -- does that have any meaning to

1 you? Do you have an understanding of what
2 "service provider" would mean in the context of
3 a network like this?

4 MR. ESRAM: Objection to the form.

5 A. To make sure I understand what you're
6 asking, are you saying that just looking at
7 Figure 5 without looking at the patent claims or
8 the spec, is it clear what service provider node
9 510 is?

10 Is that the question?

11 BY MR. DAHLGREN:

12 Q. I'm just asking if you have -- what
13 do you understand that to be depicting? And it
14 can be in the context of the '520 Patent, as
15 well.

16 I think you said there wasn't much disclosure in
17 the '520 Patent, and so I would presume that you
18 would interpret it according to its plain and
19 ordinary meaning under the circumstances.

20 A. Just from the figure, the only clear
21 thing is that this thing is connected to the
22 network. That's really the only thing that's
23 obvious from the figure.

24 But to understand, really, what
25 service provider or node 510 is, we need to look

1 to the spec, because those are fairly generic
2 terms. "Service provider" and "node" in column
3 27, where we were just -- that we were
4 referencing a minute ago, it talks about a "web
5 service provider node." So assuming that's
6 what -- assuming that corresponds to what we are
7 looking at here in the figure, it does discuss
8 that it is something that the web browser
9 interacts with.

10 Q. If you look at column 11 line -- it's
11 a sentence beginning on line 57.

12 And it goes from 57 through 61.

13 A. Column 11, 57?

14 Q. Yes. Column 11, lines 57 through 61.
15 It says (As read): "As used herein, the terms
16 'application and service' may be realized in one
17 or more executables, and/or in one or more
18 hardware components. The terms are used
19 interchangeably herein."

20 A. Okay. I see that.

21 Q. And earlier you had mentioned that
22 one understanding of the application was a
23 program, and there's reference here to
24 "executable." So looking at column 11, lines 57
25 through 61 of the '520 Patent, what's your

1 understanding of the term "service"?

2 A. I apologize. But can you please
3 repeat the question? I lost track of the very
4 beginning of the question. I just want to make
5 sure that I remember it accurately.

6 Q. Sure. Looking at column 11, lines 57
7 through 61, what do you understand the term
8 "service" to mean?

9 A. Well, in this paragraph, it's
10 referring to "programs," but "service,"
11 generally, just refers to some kind of
12 functionality. It's going on to say that it can
13 be hardware or software or both. So that's
14 really -- it's not really like many of the
15 paragraphs in this part of the spec. It's
16 just -- has pages and pages of definitions that
17 are fairly general generic.

18 Q. Well -- I mean, I'm sorry. I didn't
19 mean to cut you off, if you are not done.

20 A. I was finished.

21 Q. If a web service provider node -- so
22 it's a node that's providing a service, which is
23 an executable program, wouldn't that
24 traditionally be thought of as a "server"?

25 Is that fair?

1 MR. ESRAM: Objection to form.

2 A. Not necessarily.

3 BY MR. DAHLGREN:

4 Q. So in a client-server setup, what
5 does a server do versus what does the client do?
6 I just want to understand that terminology, as a
7 person of skill in the art would, you know,
8 understand what the distinction is between a
9 "client" and a "server"?

10 MR. ESRAM: Objection to form and
11 scope.

12 A. Sorry. Is this something that I
13 discussed in my declarations? If you could
14 point me to what we are talking about?

15 (Defendant's Exhibit 1127, 287 IPR
16 Declaration, introduced as of this date.)

17 BY MR. DAHLGREN:

18 Q. We were just talking about the -- it
19 was Mowry 7, which is Exhibit 1127, where you
20 are critiquing Dr. Smith's identification of
21 written description support, and we were
22 specifically talking about the web service
23 provider node, and you said that it wasn't
24 sufficient support. That's your opinion.

25 MR. DAHLGREN: So that's -- this is

1 completely within the scope. So also, Counsel,
2 this is -- there is no chance it's outside the
3 scope. So I'd appreciate if you would refrain
4 from those frivolous objections.

5 BY MR. DAHLGREN:

6 Q. Dr. Mowry, I am just trying to
7 understand what you interpret these disclosures
8 to mean and what you would normally understand a
9 "web service provider node" to mean as a person
10 of skill in the art, you know, separate from the
11 '520 Patent.

12 Are you able to break that down for
13 me? Could you just tell me what you understand
14 as a person of skill in the art, you know, a
15 "web service provider node" means versus
16 whatever interpretation you are giving it in the
17 context of the '520 Patent because it seems
18 they're different.

19 MR. ESRAM: Objection to form.

20 A. As I say in paragraph 49 of Exhibit
21 7, the web service provider node that's
22 described in this '520 Patent does not generate,
23 the first message.

24 So a server of a web service provider
25 node -- it's responding to queries that are

1 coming from a web browser.

2 It's not generating the first
3 message. That's the point that I am making in
4 paragraph 49.

5 BY MR. DAHLGREN:

6 Q. We will get right to that. So I'd
7 like you to turn to -- it is column 22 of the
8 '520 Patent, and it's approximately lines 21
9 through 31.

10 And, in particular, it's towards the end of that
11 paragraph.

12 Actually, strike that. We will go
13 back to it.

14 But in the context of '520 Patent,
15 what's your understanding of the term "node" and
16 what that means?

17 A. Well, in the claims, for example, in
18 claim 17, it talks about a first node and a
19 second node, and these are separate machines.
20 That's what it's referring to, I believe.

21 Q. Is that all that it describes?
22 There's reference to a "server" there, correct?

23 MR. ESRAM: Objection to form.

24 BY MR. DAHLGREN:

25 Q. In column 22, lines 21 through 31 of

1 the '520 Patent, it also discusses that --

2 Strike that.

3 In column 22, lines 21 through 31 of
4 the '520 Patent, in addition to the first and
5 second node, there's also references to a
6 "browser" in one node, and, I believe, partially
7 in a "server" in another node that are
8 interoperating via network, right?

9 A. I'm sorry. I lost track of the
10 question. I was still processing the previous
11 question.

12 Can you please repeat the question.

13 Q. Sure. So in column 22, lines 21
14 through 31, is, it says, for example --

15 Strike that.

16 In column 22, lines 29 through 31, it
17 states, (As read): "For example, such an
18 arrangement may operate at least partially in a
19 browser, in a one node, and at least partially
20 in a server in another node interoperating via a
21 network."

22 Did I read that correctly?

23 A. Yeah, I think it appears that you
24 read that sentence correctly.

25 Q. And the sentence before about that,

1 it says -- and this is starting on line 24 of
2 column 22. (As read): "For example, those
3 skilled in the art will see based on the
4 description herein, that arrangements of
5 components for forming the method illustrated in
6 Figure 2A and the method illustrated in
7 Figure 2B may each be distributed across more
8 than one node and/or execution environment."

9 Do you see that?

10 A. Yes, I see that.

11 Q. And what do you understand that to be
12 saying?

13 A. I understand it to be saying what it
14 says. I mean, I am not exactly sure I
15 understand what your question is asking beyond
16 that.

17 Q. Is that disclosure in column 22, and
18 we will say that paragraph from lines 21
19 through 31, isn't that stating that you can have
20 the nodes located and arranged differently, and
21 still as part of the --

22 Strike that.

23 In the '520 Patent, column 22, lines
24 21 through 31, isn't that saying that the
25 location and the particular arrangement of the

1 nodes can vary in different ways, such as
2 arrangements may operate at least partially in a
3 browser in a one node, at least partially in a
4 server in another node, and that's as part of
5 the invention?

6 MR. ESRAM: Objection to form.

7 BY MR. DAHLGREN:

8 Q. Is the paragraph in column 22, lines
9 21 through 31, stating that you can utilize
10 different arrangements of nodes and those
11 arrangements can include being partially in a
12 browser and partially in a server interoperating
13 via a network?

14 A. Well, as usual, I think we need to
15 start with the claims -- the claim language.

16 Q. So, I don't -- I'm sorry. I
17 apologize.

18 I just really want you to answer the
19 question, because I am asking what the spec
20 disclosed, and this is written description
21 report.

22 So I want to know what your
23 understanding is of that paragraph. Is it
24 agnostic -- or maybe that's too strong a word,
25 but isn't it disclosing that you can use various

1 arrangements of these nodes, including in a
2 network, with kind of like a client server
3 arrangement as part of the invention?

4 MR. ESRAM: Objection to form.

5 A. It says just exactly what it says
6 here. It's the sentence is relatively narrow.

7 It's talking about the method in
8 Figure 2A and 2B regarding -- your question
9 seems to suggest that there's lots and lots of
10 flexibility with regard to the arrangement of
11 various things.

12 But you have to start with the claim
13 language and what it requires, and these
14 sentences are fairly specific, and they just say
15 what they say.

16 BY MR. DAHLGREN:

17 Q. Where in the -- let's go to claim 17.

18 And where does it state -- I -- let's
19 go to claim 17 in the '520 Patent.

20 Please explain to me what is in that
21 claim that precludes the arrangement disclosed
22 in column 22.

23 MR. ESRAM: Objection to form.

24 A. I'm not following your question. I'm
25 sorry.

1 BY MR. DAHLGREN:

2 Q. So we are looking at the claim
3 language, and I want to know what in the claim
4 specifies locations for nodes that preclude
5 utilizing an arrangement, such as the one
6 disclosed in column 22.

7 MR. ESRAM: Objection to form.

8 A. As I understand your question, I
9 think it's a flawed question because there are
10 certain requirements in claim 17.

11 There's a first node, a second node.
12 There's a server. That's -- so that's what
13 claim 17 says.

14 The spec says certain things.

15 I am not saying these things are at
16 odds with each other. I believe in your earlier
17 question you were trying to broaden things.

18 And what I am saying is that you
19 start with claims, and then you add on -- I
20 mean, you understand that, and you also look to
21 the spec as well.

22 BY MR. DAHLGREN:

23 Q. You haven't answered my question.

24 MR. DAHLGREN: So I move to strike
25 that as nonresponsive.

1 BY MR. DAHLGREN:

2 Q. What in claim 17 specifies a location
3 for these nodes that is incompatible with the
4 arrangement disclosed in column 22?

5 MR. ESRAM: Objection to form.

6 A. I'm sorry. You seem to be suggesting
7 there's some problem. I don't follow your
8 question.

9 BY MR. DAHLGREN:

10 Q. In the language -- and that whatever
11 is in column 22, it was, you discounted because
12 you said that we have to focus on the claim
13 language.

14 So now we are focusing on the claim
15 language. I want to know what is it in the
16 claim that you believe precludes the arrangement
17 in -- disclosed in column 22?

18 A. I didn't characterize it that way.
19 That's not -- that's not what I said.

20 Q. So what is your opinion, then? I am
21 not -- I am struggling to understand even what
22 you're -- what your understanding is of the
23 claim and the disclosure.

24 So --

25 A. It's in my declaration.

1 Q. We looked at your declaration, and
2 you just say that you don't agree.

3 Like what precludes having two nodes also
4 interoperating with a browser and a server?

5 MR. ESRAM: Objection to form.

6 BY MR. DAHLGREN:

7 Q. The third, this external node that
8 you seem to say is always required.

9 So I want to -- I tried to
10 understand, and I am not getting it.

11 So -- you said we need to focus on
12 the claim language. We are looking at the
13 claim. We have first and second node. Got it.
14 You state in your dec that there has to be a
15 third, a third node.

16 Okay. Well, we have first, second
17 node in column 22. We have a server. We have
18 the web service provider node in Figure 5.

19 What's missing?

20 MR. ESRAM: Objection to form.

21 BY MR. DAHLGREN:

22 Q. What's missing in those disclosures?

23 MR. ESRAM: Objection to form again.

24 A. Sorry. Can you point me to a
25 specific thing? This line of questioning has

1 gotten so abstract and vague. I just can't
2 follow what the actual question is.

3 Can we just go back to the part of my
4 declaration that you are referencing?

5 BY MR. DAHLGREN:

6 Q. Let's go back to column 22. And what
7 do you understand the disclosure in that
8 paragraph in column 22, it's lines, I think it's
9 21 through 31.

10 What do you understand that to be
11 describing?

12 A. I think that you asked this question
13 before, and as I said, it's saying what it says.
14 I'm not following what you mean beyond that.

15 Q. In your experience in the 30 years of
16 your field of computer science, do other people
17 skilled in the art refer to servers as "nodes"?

18 Strike that.

19 As a person of skill in the art, is
20 "server" generally understood to be one example
21 of a node?

22 MR. ESRAM: Objection to form.

23 A. It would very much depend on the
24 context.

25 BY MR. DAHLGREN:

1 Q. What about the context of
2 distributing the network on the internet?

3 MR. ESRAM: Objection to form.

4 A. It would need to be specific. I know
5 that words have meaning in this litigation. So
6 I am here to answer my questions about my
7 understanding of the '502 --

8 BY MR. DAHLGREN:

9 Q. In the '520 Patent when the
10 discussion in Figure 5, when it refers to the
11 service provider -- I'm sorry -- the "web
12 service provider node," would that be understood
13 to encompass a server?

14 MR. ESRAM: Objection to form.

15 A. What it means is what's described
16 later during that brief part, very brief part of
17 column 27, where it discusses the phrase,
18 "web" -- where is that -- "web service provider
19 node," and it says that what this does is it
20 responds to queries from the browser.

21 So as I stated in paragraph 49 of
22 Exhibit 7, that does not -- is not consistent
23 with generating a first message by an external
24 messaging node.

25 And the patent owner appears to think

1 that that's encompassed in the limitations of
2 the claims. And that's why I disagree that --
3 with Dr. Smith about providing written
4 description support.

5 BY MR. DAHLGREN:

6 Q. You would agree that that node is an
7 external third node?

8 You'd agree at least to that,
9 correct?

10 MR. ESRAM: Objection to form.

11 BY MR. DAHLGREN:

12 Q. One, two, three nodes outside the
13 cloud, right? So third external node?

14 A. It's described as a "web server
15 provider node."

16 Q. Right. And the claim doesn't say "a
17 third node."

18 There's no third node in the claim,
19 you'd agree with that, too, right?

20 MR. ESRAM: Objection to form.

21 A. Which claim are we referring to?

22 BY MR. DAHLGREN:

23 Q. Claim 17, please. You can turn
24 there.

25 And if you can point me to a third

1 node that's recited in that claim, we can call
2 it a day.

3 But it's not -- I'm confident it's
4 not there.

5 A. So you are asking if the
6 characters -- the string third node appears in
7 the text, and I don't see it there.

8 Q. Right. Yeah.

9 My point is, you critiqued Dr. Smith
10 for saying it's not written description support,
11 but you would at least agree though, that Figure
12 5 does disclose a third external node, right?

13 MR. ESRAM: Objection to form.

14 A. It does not describe an external node
15 that could be generating a first message.

16 BY MR. DAHLGREN:

17 Q. Thank you.

18 So what I understand you to be saying
19 is, you understand that it does disclose that
20 third node, but it doesn't have the
21 functionality that's recited in the claim that
22 you believe is attributed or required by said
23 third node?

24 MR. ESRAM: Objection to form and
25 misstates the testimony as well.

1 A. That's not what I said.

2 As I said in paragraph -- I mean, in
3 paragraph 49 of my Exhibit 7, I am discussing --
4 and in other parts of it -- I am discussing the
5 fact that the patent owner appears to contend
6 that an external messaging node is encompassed
7 in the limitations of the challenge claim, and
8 the web service provider node and the query
9 handler component do not generate messages.

10 BY MR. DAHLGREN:

11 Q. I want to be clear.

12 It was Dropbox that has challenged
13 the written description support of the Motion
14 Offense claims based on this third node. The
15 Motion Offense's position is the claims can
16 encompass it, cover it, but not necessarily
17 limit it to -- we haven't taken that position.

18 So I want to be very clear that we
19 were not the ones that kind of introduced this
20 whole dispute.

21 But after Dropbox raised this issue,
22 we pointed to three nodes, which I think you at
23 least agree that there are three nodes disclosed
24 in the '520 Patent, and I believe what you said
25 is you disagree that the limitations of the

1 claims are encompassed by -- by those -- the
2 disclosure of the three nodes.

3 I am just trying to crystalize what
4 the party's dispute is.

5 A. I did not say --

6 MR. ESRAM: Objection to form.

7 Dr. Mowry, let me object to this.

8 First of all, mischaracterization of
9 the testimony and form.

10 MR. DAHLGREN: Counsel, that's an
11 improper speaking objection, please.

12 You can tell him during the break to
13 not to talk -- to not answer my questions,
14 but don't do it on the record.

15 MR. ESRAM: That, I disagree with.

16 MR. DAHLGREN: Let the record speak
17 for itself.

18 BY MR. DAHLGREN:

19 Q. Dr. Mowry, I am trying to crystallize
20 the dispute here, and it seems that the figure
21 discloses three external nodes in its network
22 that are connected via the cloud. And I thought
23 I understood you to be saying that it's just the
24 limitations in the claim. You believe that the
25 disclosure doesn't tie the functionality of

1 those limitations to -- to that arrangement of
2 the three nodes.

3 Am I wrong?

4 MR. ESRAM: Objection to form.

5 A. You mischaracterized what I said.

6 BY MR. DAHLGREN:

7 Q. I am asking -- so you agree that
8 Figure 5 discloses three nodes outside the
9 network, connected --

10 MR. ESRAM: Objection to form.

11 BY MR. DAHLGREN:

12 Q. -- via the network?

13 MR. ESRAM: Objection to form.

14 A. Claim 17 uses the word "node" to
15 refer to a first node and a second node in the
16 context of "node" meaning specific things in the
17 claims.

18 I did not characterize Figure 5 as
19 having three nodes.

20 BY MR. DAHLGREN:

21 Q. Is it your position that Figure 5
22 doesn't disclose three nodes external to a
23 network that are connected via the cloud?

24 MR. ESRAM: Objection to form.

25 A. Can you repeat the question, please?

1 BY MR. DAHLGREN:

2 Q. Does Figure 5 disclose three external
3 nodes that are connected via network?

4 MR. ESRAM: Objection to form.

5 A. Figure 5 shows node -- something --
6 just one second, I am -- Figure 5 shows a first
7 node, 502, and a second node, 504.

8 It does not show a third node.

9 BY MR. DAHLGREN:

10 Q. What's 510 in Figure 5 --

11 MR. ESRAM: Objection to form.

12 A. To '520 Patent?

13 BY MR. DAHLGREN:

14 Q. It's a node, correct?

15 MR. ESRAM: Objection to form again.

16 BY MR. DAHLGREN:

17 Q. Figure 5 is going to speak for
18 itself. And we will cite the testimony to the
19 board, and, you know, I will also point out that
20 that third node is a web service provider node.

21 And you are -- if I understand
22 correctly -- saying it doesn't provide, you
23 know, this messaging functionality which seems
24 to be a service.

25 So I am, you know, I think that the

1 figure speaks for itself. So we can move on.
2 I want to point you to --
3 MR. ESRAM: Counsel, we've been going
4 for a while. Can we take a break now, if
5 it's a good time?
6 MR. DAHLGREN: Yeah, sure. This is a
7 good time. Ten minutes?
8 MR. ESRAM: Sounds good.
9 (Off the record.)
10 (Defendant's Exhibit 8, 1001 in 286
11 IPR '520 Patent, introduced as of this
12 date.)
13 BY MR. DAHLGREN:
14 Q. Dr. Mowry, if you would turn to
15 column 44 of the '520 Patent, it's Mowry Exhibit
16 8, 1001, in the 286 IPR.
17 I'd like to direct you to the
18 paragraph beginning at line 28.
19 And just let me know when you get
20 there.
21 A. You said column 44 of the '520
22 Patent, Exhibit 8?
23 Q. Correct.
24 A. Okay. I'm at column 44.
25 Q. It states, beginning at line 28, (As

1 read:) "As described above, receiving data
2 object information may include receiving via
3 network from a node that received the data
4 object information from the user a message that
5 identifies the data object information. For
6 example, data object information may be received
7 from a browser by a web server."

8 Do you see that?

9 A. Yes, I see that.

10 Q. And immediately after it, it says,
11 (As read:) "Data object information and/or a
12 data object identification request may be
13 generated, detected and/or otherwise processed
14 according to a schema."

15 And then it goes on?

16 A. I'm sorry. Was there a question
17 there?

18 Q. Sorry. I just want you to confirm
19 that I am reading this disclosure correctly, so
20 I'll start over again at line 28, column 44 of
21 the '520 Patent.

22 It states, (As read:) "As described above,
23 receiving data object information may include
24 receiving via network from a node that received
25 the data object information from the user a

1 message that identifies the data object
2 information. For example, data object
3 information may be received from a browser by a
4 web server. Data object information and/or a
5 data object identification request may be
6 generated, detected and/or otherwise processed
7 according to a schema that identifies at least
8 one of a rule and a vocabulary that defines a
9 valid data object identification request."

10 Did I read that portion of the spec
11 correctly?

12 A. I believe so.

13 Q. So you would agree that the '520
14 Patent discloses data object information may be
15 received from a browser by a web server, and
16 immediately afterwards, it states that (As
17 read): "The data object information and/or a
18 data object identification request may be
19 generated, detected, and/or otherwise
20 processed."

21 MR. ESRAM: Objection to form.

22 BY MR. DAHLGREN:

23 Q. Is request, as used in line 35,
24 column 44, of the '520 Patent, would you
25 consider that to be a type of message?

1 MR. ESRAM: Objection to form.

2 A. (Indiscernible.)

3 BY MR. DAHLGREN:

4 Q. So is the 287 IPR, you understand
5 that those claims are generally what we refer to
6 as the file request claims.

7 Is that fair?

8 A. Yes.

9 Q. In column 44, line 35, it uses the
10 word -- lines 34 through 35, column 44 -- it's
11 referring to "a data object identification
12 request may be generated."

13 Correct?

14 A. So you're quoting the sentence?

15 Q. Yeah. And that's immediately after
16 it states that "the data object information may
17 be received from a browser by a web server,"
18 right?

19 A. So the question is do those two
20 sentences appear next to each other? They do.
21 I don't know if there's some other thing that
22 you are asking about that, but those -- those
23 are indeed sentences in different paragraphs
24 that appear consecutively.

25 Q. So you agree that those two sentences

1 appear consecutively in the spec where data
2 information received from a browser by a server,
3 and then immediately it states that (As read):
4 "An information -- data information or
5 information request may be generated." You --
6 what's your understanding of that disclosure?

7 MR. ESRAM: Objection to form.

8 A. Well, you seem to be, by the way
9 you're phrasing the set of questions, you seem
10 to be implying that there's some special
11 significance to them appearing in consecutive
12 paragraphs.

13 But the paragraphs starting on line
14 34 of column 44 is talking about something
15 completely different.

16 It's talking about schemas and rules.
17 It's unrelated to the paragraph above it. So I
18 don't attach any special significance to these
19 things appearing back to back, which you seem to
20 be suggesting in your question.

21 BY MR. DAHLGREN:

22 Q. What does "a schema" refer to?

23 Strike that.

24 What is your understanding of the
25 term "schema" in column 44 of the '520 Patent?

1 A. It's a term from the field of
2 databases. It represents a special, a specific
3 pattern that's used to create -- construct
4 something. For example, like a date has a
5 particular kind of format. That's just one
6 random example, but a schema generally -- it's a
7 term from databases.

8 Q. And --

9 A. Oh, sorry. The sentence goes --

10 Q. Please. You can finish. Sorry about
11 that. Sorry.

12 A. I mean, it talks about a rule and a
13 vocabulary, so it's just saying that when you
14 are describing this object that you are
15 requesting, that you could use rules or
16 vocabulary to help identify it as valid data
17 object requests.

18 Q. And what does "vocabulary" mean --
19 Strike that.

20 Is "vocabulary" a term of art in the
21 computer science field?

22 Strike that.

23 In the field of invention of the '520
24 Patent, do you consider the term "vocabulary" to
25 have any specialized meaning?

1 MR. ESRAM: Objection to form.

2 A. Well, reading this spec, it's what a
3 person of ordinary skill in the art would
4 recognize. It's not surprising to see, if you
5 read this entire paragraph, the meaning of the
6 vocabulary here makes sense.

7 The schema in this context, the gist
8 of it is it means a "set of words," a set of
9 strings that you would include to describe
10 whatever it is that you're requesting.

11 So maybe it's related to certain
12 words to describe photos or audio or text or
13 whatever the kind of file is that you are trying
14 to grab. It's not specific at all. It's really
15 just saying -- sometimes we use the word "token"
16 also. But it just -- it means that there's a
17 pattern. A pattern is made up of rules and
18 strings.

19 BY MR. DAHLGREN:

20 Q. So and "schema" and "vocabulary" have
21 different meanings.

22 Is that fair?

23 MR. ESRAM: Objection to form.

24 A. Sorry. I am, again, losing track of
25 trying to tie this back to what -- we seem to be

1 way down in the weeds, and I am not sure. Is
2 this something that I discuss in my
3 declarations? I am not sure.

4 BY MR. DAHLGREN:

5 Q. Well, you discussed that, you know,
6 your opinion that there's not real description
7 support for the claims that are directed to the
8 file requests.

9 So, yeah, that's what I am trying to
10 get at is just what the spec in the disclosure,
11 what you understand it to be teaching, you know,
12 what a person of skill in the art would
13 appreciate from viewing it. And I'm just not
14 sure because -- I want to know as a person of
15 skill in the art with 30-plus years of
16 experience in this field, what does the term
17 "vocabulary" mean to you versus "rule" versus
18 "schema"? I'm trying to understand the
19 distinction.

20 MR. ESRAM: Objection to form.

21 A. Don't think I talk about this in my
22 declarations, generically speaking. I mean, the
23 spec contains many parts where it just goes off
24 and defines various things here, but all that
25 it's saying here is that you can -- a schema

1 is -- it essentially means a pattern. You can
2 have patterns that have rules and a vocabulary
3 which is a set of strings that are used to
4 construct something that's -- that's a data
5 object identification request.

6 BY MR. DAHLGREN:

7 Q. Okay. So they are different. I
8 don't know if "parameters" is the right word,
9 but it governs the -- if I understand correctly,
10 it governs the -- the data object identification
11 request in different ways?

12 Well, strike that.

13 I'll let -- your answer will speak
14 for itself.

15 I am curious, if you look at the
16 column 43, and it's actually the paragraph
17 bridging 43 and 44. There's a reference to
18 "syntaxes, grammars, vocabularies and/or
19 languages."

20 And that's kind of the bottom of
21 column 43 of the '520 Patent, and then the top
22 of column 44, it refers to "SQL, X path, and
23 XML, HTML, base language."

24 Is -- the terms "syntax, grammar,
25 vocabulary," are those terms that are usually

1 associated with like markup languages like XML
2 and HTML?

3 MR. ESRAM: Objection to form.

4 A. Can you repeat the question, please?

5 BY MR. DAHLGREN:

6 Q. Sure. Are the terms "syntax,
7 grammar, vocabulary," terms of art that are
8 associated with XML and HTML?

9 MR. ESRAM: Objection to form.

10 A. Potentially, not always. Possibly.

11 BY MR. DAHLGREN:

12 Q. Going back to claim 17, which is
13 involved in the 286 IPR?

14 A. Okay.

15 Q. In your opinion, does the claim
16 impose any limits on how the nodes can be
17 arranged?

18 MR. ESRAM: Objection to form.

19 BY MR. DAHLGREN:

20 Q. In a network?

21 MR. ESRAM: Objection to form.

22 A. When you say "arranged," that's not
23 totally clear what that means. Are you talking
24 about where they are geographically?

25 I am not following exactly what you

1 mean by "arranged."

2 BY MR. DAHLGREN:

3 Q. So if we can go back to -- I believe
4 it was called 22.

5 And it was -- I think it was lines 21
6 through 31, lines of column 22, and it's talking
7 about arrangements at 3A, Figure 3A, and
8 Figure 3B says they're not exhaustive, and that
9 (As read): "The method illustrated in Figure 2A,
10 and the method illustrated in Figure 2B may each
11 be distributed across more than one node and/or
12 execution environment. For example, such
13 arrangement may operate at least partially in a
14 browser in one node, and at least partially in a
15 server in another node, interoperating via
16 network."

17 And my question is in claim 17, is
18 there any language in the claim that you believe
19 precludes the arrangement disclosed in the last
20 sentence of that paragraph in column 22, that's
21 on lines 29 through 31?

22 MR. ESRAM: Objection to form.

23 A. Your question, I think, has some
24 misunderstandings embedded it. You are
25 suggesting that -- you're talking about an

1 arrangement. And like, for example, when we
2 look at Figure 7, which is illustrating having a
3 first node and a second node, I believe that
4 this column 22 thing that you've been referring
5 to is simply talking about internal arrangements
6 in the first node and second node in that
7 figure. And I think that's really about the
8 other claims, not claim 17. I think that's more
9 about the 287 than the 286.

10 But regarding claim 17, I mean, the
11 claim says what it says. There's a first node.
12 There's a second node. There's a server.
13 That's what claim 17 is describing.

14 BY MR. DAHLGREN:

15 Q. Right. And we pushed on it earlier,
16 but the disclosure of "node" can be one or more
17 nodes, and they can be distributed across a
18 browser or server. You would agree that there
19 are statements in the '520 Patent to that
20 effect, correct?

21 MR. ESRAM: Objection to form.

22 A. Can you point me to what you are
23 referring to, please?

24 BY MR. DAHLGREN:

25 Q. Sure. If you go to column 10, for

1 example, line -- looking at line 15, column 10,
2 it says, (As read): "Further the terms 'device'
3 and 'node'" -- and "device" and "node" are both
4 in quotes -- "User end may refer to one or more
5 devices and nodes, respectively, providing
6 and/or otherwise included in an execution
7 environment, unless clearly indicated
8 otherwise."

9 And we also touched on the
10 disclosures about browsers and servers, column
11 22, I think it's column 44. And in column 22,
12 it actually -- when it's discussing having the
13 nodes across the -- partly a browser and a
14 server, it refers to the methods of Figures 2A
15 and B. And if you go to those figures,
16 Figure 2A is talking about (As read): "Received
17 by a first communication agent in the first
18 execution environment from the first user
19 represented by a first communications agent data
20 object information identifying a data object
21 matching criterion," and it says, "Send is
22 Step 2 of 4 of Figure 2A, a first message," and
23 then you have, you know, Step 2 of 6, and then
24 you have the method. Steps were cited in
25 Figure 2B, which are tied specifically to that

1 distributor arrangement disclosed in column 22.

2 So it certainly seems to need -- I
3 understand it's your position, but you have that
4 disclosure that we were just discussing in
5 column 22. You said it wasn't tied to, you
6 know, the messaging, and it's tied specifically
7 to the method in Figure 2A and 2B, which is
8 messages.

9 MR. ESRAM: Counsel, is there a
10 question there?

11 BY MR. DAHLGREN:

12 Q. You would agree that Figure 2A and B
13 discuss sending messages, correct?

14 MR. ESRAM: Objection to form.

15 BY MR. DAHLGREN:

16 Q. Dr. Mowry, could you please read for
17 the record, the step in Figure 2B that is
18 Element 216? It's page 14 of the PDF, and I
19 would just appreciate if you could read the text
20 that's in the box in 216.

21 Dr. Mowry, is there a problem?

22 A. Oh, no. I'm --

23 Q. If not --

24 A. -- reading --

25 Q. -- I can read it into the record.

1 A. I am reading the whole figure.
2 Q. Okay. Thank you.
3 A. Okay. I've read that.
4 Q. Well, I was hoping you could read it
5 into the record, please.
6 A. I mean, if you want to read it into
7 the record, you can go ahead. But is there a
8 question you want to ask me?
9 Q. I'll just -- I'm going to ask you if
10 I am reading it -- after I recite it, and I will
11 see if I did correctly. But I just wanted to
12 have it in the record.
13 So in Figure 2B which is also
14 referred to in column 22, lines 21 through 31,
15 there is a Step 216, which states, (As read):
16 "Generate in response to detecting the data
17 object identification request, a data object
18 identification response that identifies a data
19 object and a second data store and a second --
20 in the second execution environment wherein the
21 data object is identified by processing the data
22 object identification request."
23 Aside from the one stumble over the
24 "the," did I read that correctly?
25 A. Yes.

1 Q. And you would agree that Step 216 is
2 referring to a response message being generated
3 after a request is received. So this is a --
4 it's a second message. It's a response,
5 correct?

6 MR. ESRAM: Objection to form.

7 A. Box 218 talks about sending a "second
8 message."

9 BY MR. DAHLGREN:

10 Q. I am talking about 216. What I am
11 talking about -- sorry. That's a fair point.

12 216 is talking about -- referring to
13 generating that second message, the response,
14 after receiving a request.

15 Is that fair?

16 MR. ESRAM: Objection to form.

17 BY MR. DAHLGREN:

18 Q. Strike that.

19 So Figure 2B of the '520 Patent, it's
20 Step 216, that is disclosing the generation of a
21 response to the detection of a data object
22 identification request.

23 Is that fair?

24 MR. ESRAM: Objection to form.

25 A. Step 216. I didn't follow all the

1 exhibits --

2 BY MR. DAHLGREN:

3 Q. Let's go back to the original
4 question. I am going to read that step, then
5 you can confirm if I did correctly. I tried to
6 do it before, and you just went on to 218 and
7 didn't answer my question. So let's try it one
8 more time.

9 In the '520 Patent in Figure 2B,
10 which is referred to in connection with the
11 arrangement disclosed in column 22, lines 21
12 through 31.

13 Step 216 states: (As read):
14 "Generate in response to detecting the data
15 object identification request, a data object
16 identification response that identifies a data
17 object and a second data store, and the second
18 execution environment wherein the data object is
19 identified by processing the data object
20 identification request."

21 Did I read that correctly?

22 A. Yes, you did.

23 Q. And then in Step 218, the immediately
24 following step, it refers to sending a second
25 message, correct?

1 A. Yes, it does refer to sending a
2 second message.

3 Q. And it says "via the network by the
4 second communications agent," correct?

5 A. Yes, it does.

6 Q. And it also says that (As read):
7 "Includes the data object identification
8 response wherein the second message does not
9 include the data object."
10 Is that right?

11 A. Yes, that's right.

12 Q. Going back to claim 17, I don't know
13 if you responded to my question about what in
14 the claim would preclude the arrangement that is
15 disclosed in column 22 of the '520 Patent that
16 we've been discussing, lines 21 through 31.

17 Strike that.

18 MR. ESRAM: Objection to form.

19 BY MR. DAHLGREN:

20 Q. Would you agree that claim 17 would
21 allow an arrangement --

22 Strike that.

23 Would you agree that claim 17
24 encompasses an arrangement of nodes as described
25 in column 22, lines 21 through 31?

1 MR. ESRAM: Objection to form.

2 A. So Figure 2B is describing
3 functionality related to other claims, but it's
4 related to the file request, the 286 matter.

5 It is not related to the folder
6 sharing claims in -- sorry. I think I said that
7 backwards.

8 File sharing is 287; folder sharing
9 is matter 286.

10 Claim 17 is about folder sharing. So
11 you are mixing together two unrelated things.

12 This is, Figure 2B is about -- this
13 is a file request for a user to respond with a
14 file that has nothing to do with claim 17, which
15 is about something entirely different, which is
16 folder sharing.

17 BY MR. DAHLGREN:

18 Q. You agree that a data object can be a
19 file or folder, right? And what Figure 2 is
20 disclosing, you have a request and a response.

21 The response, you are sending a data
22 object, right -- or the data object
23 identification response without the attachment.

24 It's -- so it's, it covers -- you
25 would agree that that covers a folder share --

1 the folder share, if you refer to it as a data
2 object, which the '520 Patent discloses, covers
3 both folders and files, the response you are
4 sending, you could be -- it is disclosing --
5 encompass sending a folder.

6 So I don't know how you reconcile
7 what you just said with that disclosure. You
8 would agree --

9 A. I'm sorry. I am happy to answer
10 that, if that's a question.

11 Q. I apologize.

12 You would agree that the '520 Patent
13 does disclose that a data object can be either a
14 file or folder, right?

15 A. To respond to your question, the
16 Figure 2B is discussing responding to a request
17 for a specific file to be uploaded. That has
18 nothing to do with the claim 17.

19 In claim 17, you do not describe a
20 data object that you would like someone to send
21 to you. Instead, a person is invited to share a
22 folder. And when they decide to share that
23 folder, then things will be shared and
24 synchronized as appropriate. It has nothing to
25 do with Figure 2B.

1 Trying to say that it's just -- they
2 are all about data objects is incorrect, to say
3 that this is somehow -- Figure 2B is relevant to
4 claim 17 because of that.

5 Q. Let's break them down.

6 So first, it sounds like you would
7 agree, then, that the disclosure in Figure 2B
8 and in column 22, that that provides support for
9 a file request claim?

10 MR. ESRAM: Objection. Objection to
11 form.

12 A. Is that a question?

13 BY MR. DAHLGREN:

14 Q. Yeah.

15 So what you just said was, it's
16 describing a file request and the response. I
17 mean --

18 A. I didn't say that it supports the
19 claim, if that's what you are saying.

20 Q. Yeah. And now the other point is
21 that they're comprising claims, isn't claim 17
22 comprising?

23 So whatever happens to pause, outside
24 the steps of the claim, to maybe trigger that
25 folder share, it doesn't matter. It's still

1 disclosing sending it, you know, a data object
2 which can be a folder.

3 So you would agree that -- sorry.
4 Strike that.

5 You would agree that claim 17 is a
6 comprising claim, and it doesn't preclude some
7 activity that occurs preceding the folder share.

8 Is that fair?

9 A. I did not go to law school, so I am
10 not exactly sure what the term "comprising
11 claim" means.

12 Q. Understood.

13 So we can move on. It's --

14 I would like to go back to my
15 original question about the arrangement, and how
16 the nodes were located in this, this network,
17 and whether claim 17 has any particular
18 requirements in how that the nodes were
19 arranged.

20 Strike that.

21 I would like to go back to my earlier
22 question about the arrangement of the nodes in
23 claim 17, and whether there are any limitations
24 in the claim that preclude it from including the
25 arrangement discussed in column 22.

1 Setting aside the file request point
2 that you brought up, talking about the
3 arrangement, is there anything in claim 17 that
4 would preclude the nodes being partially in a
5 browser and a server as disclosed in column 22?

6 MR. ESRAM: Objection to form.

7 A. I have not formed an opinion on that,
8 but what I do know is that the ground that I
9 cite do render a claim 17 obvious.

10 BY MR. DAHLGREN:

11 Q. So that's -- if you can't tell me
12 what arrangements are within the scope of claim
13 17, do you understand the scope of claim 17?

14 MR. ESRAM: Objection to form.

15 A. What I understand is that under any
16 reasonable interpretation, that the combination
17 that I describe in my declarations satisfy claim
18 17 and render it obvious.

19 BY MR. DAHLGREN:

20 Q. We will get to that in a little bit,
21 but I want to know if the arrangement --

22 Strike that.

23 I want to look at one of the file
24 request claims, and we can compare that claim to
25 the disclosure of column 22 and in Figure 2B,

1 and see if you believe that they're incompatible
2 or not. Because it's the file request claims
3 were the ones that there was a 112 challenge.

4 So if you wouldn't mind, it's Mowry
5 7.

6 A. Okay.

7 Q. And I think that you beat me to it.

8 So I think it's around paragraph 27
9 of your reply declaration in the 287 IPR.

10 A. Do you know what page that is in the
11 PDF?

12 Q. That's number 13, physical page 15.

13 A. Okay.

14 Q. And you state -- and this is the last
15 two sentences of paragraph 27, (As read): "All
16 of the steps of the disclosed invention are
17 performed by the user computers, the original
18 applications do not describe the creation or
19 modification of messages at a node other than
20 the user computers."

21 Do you see that?

22 A. Yes.

23 Q. Now, what we discussed with respect
24 to column 22 was the introduction of the browser
25 and server, the nodes spanning a browser server

1 arrangement. Just let me figure it out.
2 Strike that. I've got to phrase that
3 better.
4 But in column 22 of the '520 Patent,
5 there's a disclosure of some of the
6 functionality spanning both the browser and
7 server.
8 Is that fair?
9 MR. ESRAM: Objection to form.
10 BY MR. DAHLGREN:
11 Q. Strike that. Let me ask that better.
12 Strike that.
13 So in column 22 -- and this is lines
14 21 through 31. There's a disclosure saying, it
15 says --
16 Strike that.
17 In column 22, and in particular,
18 lines 29 through 31, it states (As read): "For
19 example, such an arrangement may operate at
20 least partially in a browser in a one node, and
21 at least partially in a server in another node,
22 interoperating via a network."
23 Do you see that?
24 A. I see that.
25 Q. And before that, the sentence

1 immediately before that, it states (As read):
2 "For example, those skilled in the art will see,
3 based on the description herein, that
4 arrangements of components for performing the
5 method illustrated in Figure 2A and the message
6 illustrated in Figure 2B may each be distributed
7 across more than one node and/or execution
8 environment."

9 And then it states (As read): "For
10 example, such an arrangement may operate at
11 least partially in a browser in a one node, and
12 at least partially in a server in another node,
13 interoperating via network."

14 So each of the nodes that are
15 disclosed in the methods illustrated in figures
16 2A and 2B, those may each be split up into two
17 different nodes where one is operating partially
18 in a browser, and one partially in a server,
19 right?

20 MR. ESRAM: Objection to form.

21 A. The part you just quoted from,
22 paragraph 27, was describing the original
23 applications, not the 520 application.

24 BY MR. DAHLGREN:

25 Q. I don't follow. So the language that

1 I just -- that I cited to you, that's in the
2 original applications.

3 So you understand that that can be
4 support for the claims as of the date of those
5 original applications.

6 You understand that, right?

7 A. I'd appreciate if you --

8 Q. Sorry. I didn't mean to interrupt.

9 A. My point is, I just wanted to have a
10 minute to check what was exactly in the original
11 applications and whether it contained exactly
12 that.

13 I know that's contained later in my
14 287 reply declaration, and I need a second to
15 take a look at that.

16 Q. Sure. We will get that pulled up and
17 inside for you.

18 But assuming that that language was
19 present in the original applications --

20 A. Okay.

21 Q. -- what would your opinion be in that
22 case?

23 Strike that.

24 Would you agree that if the
25 disclosure that's in column 22, lines 21

1 through 31, was present in the original
2 applications that it would provide --

3 Strike that.

4 If that language was in one of the
5 original applications, you would agree that that
6 would be written description support, assuming
7 that it was sufficient, would entitle the claims
8 to the priority date of the original
9 application's filing date?

10 MR. ESRAM: Objection to form.

11 A. No, I disagree with that.

12 In fact, I did go back and have a
13 chance to check that that does appear in the
14 original applications, and as I explain in
15 detail in my second declaration, well, the --
16 even so, that does not describe the creation or
17 modification of messages that a node other than
18 at the user computers, because all that it's
19 really saying is if we go to, say, Figure 7
20 in --

21 BY MR. DAHLGREN:

22 Q. Let's stick with the language.

23 Let's stick with the --

24 MR. ESRAM: Counsel, can you let
25 Dr. Mowry finish his answer, please?

1 A. So in Figure 7 of the '520 on the
2 left, we see a first node. On the right, we see
3 a second node, 502 and 504. And all of that
4 language that you quoted in column 22 is saying,
5 is that within those boxes, first node and
6 second node, they can be subdivided a little
7 further into multiple pieces.

8 But it's still the case that we have
9 the same picture where there's just a first
10 message being sent from the first node on the
11 left to the second node on the right.

12 So it does not provide a written
13 description support, even with that quote from
14 column 22.

15 BY MR. DAHLGREN:

16 Q. Well, what it says is that (As read):
17 "Those (audio error) based on the description
18 herein, that arrangements or components for
19 performing the method illustrated in Figure 2A
20 and the method illustrated in Figure 2B, may
21 each be distributed across more than one node
22 and/or execution environment. For example, such
23 an arrangement may operate at least partially in
24 a browser in one node, and at least partially in
25 the server in another node, interoperating via a

1 network."

2 So respectfully, you know, it's
3 saying that a node can be multiple nodes, and it
4 can be the browser and server, but if your
5 position is that, you know, I think the patent's
6 pretty clear.

7 MR. DAHLGREN: Could we take just
8 one -- five -- actually, we've been going, I
9 think, about an hour. And I just lost my voice,
10 so can we do like ten minutes?

11 MR. ESRAM: Sounds good.

12 MR. DAHLGREN: Thanks, guys.

13 (Off the record.)

14 (Defendant's Exhibit 9, Houston
15 Patent, introduced as of this date.)

16 BY MR. DAHLGREN:

17 Q. Dr. Mowry, we are introducing the
18 Houston reference that you rely on. That should
19 be Mowry 9.

20 A. Okay. I am downloading it now.

21 (Defendant's Exhibit 10, Houston
22 Provision Application, introduced as of this
23 date.)

24 BY MR. DAHLGREN:

25 Q. And we are also introducing one of

1 the Houston Provisional Applications as well,
2 and that will be Mowry 10.

3 (Defendant's Exhibit 1003, 286 IPR
4 Declaration, introduced as of this date.)

5 And Houston is Exhibit 1003 in the
6 286 IPR. And I would appreciate if you could
7 just pull that reference up first. And on the
8 first page, and it's Section 60 under "Related
9 U.S. Application Data."

10 A. Sorry. I am still downloading
11 things.

12 Q. Sure, sure. Just let me know when
13 you're ready. Thank you.

14 A. Okay. Can you start over with what
15 you were pointing me to?

16 Q. Sure. If you look at the Houston
17 Patent, which is Exhibit 1003, and on the first
18 page, there is a Section 60. It's under
19 "Related U.S. Application Data."

20 Do you see that?

21 A. Okay. Sorry. It's out of order.
22 Yes. I see it now.

23 Q. And do you see that it is Provisional
24 Application Number 61/233787?

25 A. Yes.

1 Q. And if you go to column one of the
2 Houston Patent, Exhibit 1003?

3 And it's lines 6 through 9, and it's
4 under "Cross-Reference to Related Applications."
5 It recites that same Provisional Application
6 Number, 61/233787, which is incorporated by
7 reference herein in its entirety.

8 Do you see that?

9 A. Sorry. I was manipulating, opening,
10 moving the file around.

11 Can you start over? Point me to
12 where you were pointing me one more time.

13 Q. Sure. It's column 1 of the Houston
14 Patent, the '597 Patent, and it's line 6
15 through 9. And it incorporates two provisional
16 applications by reference.

17 Do you see that?

18 A. Yes.

19 Q. So if you could pull up Mowry Exhibit
20 10, please.

21 A. Okay.

22 Q. And if you look on the first page at
23 the top left, you will see an "application
24 number" box, and then below it, you will see a
25 number.

1 MR. ESRAM: Counsel, I object to this
2 Exhibit 10. I don't think it's of record.

3 MR. DAHLGREN: It's incorporated by
4 reference in the Houston reference. It's
5 part of the disclosure of the Houston
6 Patent. So it's certainly in the scope of
7 everything.

8 MR. ESRAM: It may be in the scope,
9 but it's not of record, and that's new
10 evidence that you are introducing, so we
11 still object to this.

12 MR. DAHLGREN: Objection is noted.

13 BY MR. DAHLGREN:

14 Q. Now Dr. Mowry, again, on exhibit,
15 Mowry Exhibit 10, on the first page on the top
16 left, you will see that there's a number listed
17 under an application number that corresponds to
18 one of the applications that the Houston Patent
19 incorporates by reference.

20 Is that correct?

21 A. I see the application number on
22 page 1.

23 Q. And that corresponds to the
24 application number that's incorporated by
25 reference in the Houston Patent that's

1 Exhibit 1003 in the 286 IPR, correct?
2 MR. ESRAM: Object to form.
3 A. Sorry. Can you repeat the question,
4 please?
5 BY MR. DAHLGREN:
6 Q. Sure. The number -- application
7 number in Exhibit 10 is 61233787, correct?
8 A. Yes.
9 Q. And in Exhibit 1003, which is depo
10 Exhibit Mowry 9, the Houston Patent, in column
11 one, it refers to that same application number
12 as one of the two provisional applications that
13 are incorporated by reference in their entirety.
14 Is that right?
15 MR. ESRAM: Objection. Scope and
16 form.
17 A. The number 61/233787, it appears in
18 line 8 of column 1 of the '597 Patent, if that's
19 what you're asking.
20 BY MR. DAHLGREN:
21 Q. Do you understand what it means to
22 incorporate by reference a document into a
23 patent? I understand you are not an attorney.
24 I just want to know if you understand what that
25 means?

1 A. I'm not sure that I can say with
2 confidence that I understand all the details of
3 what that means.

4 Q. Okay. And that's fair, and I won't
5 belabor that point, right?

6 I will point you to some disclosure
7 in the Exhibit 10.

8 Hang on one second.

9 So if you -- let me get the right
10 page number for you. Sorry. Bear with me one
11 second.

12 Did you review the prosecution
13 histories of the prior art references that you
14 relied on in the two IPRs?

15 A. Yes, I did. I have a question,
16 though.

17 Q. Sure.

18 A. This Exhibit 10, was this something
19 that I cited or Dr. Smith cited in our
20 declarations?

21 Q. So we are looking at that, but it
22 looks like, potentially, the wrong provision was
23 cited.

24 You critique his reliance on certain
25 paragraphs and parts of the Houston Provisional,

1 and I believe that there was a -- some mixup in
2 the wrong provisional site there. But
3 regardless, they are both incorporated by
4 reference into Houston, and part of the Houston
5 disclosure, so any reference that is
6 incorporated by reference, that disclosure can
7 become part of the patent in its disclosure.

8 MR. ESRAM: Objection. Counsel,
9 throughout this deposition you have been
10 making these long comments providing your
11 own opinions.

12 Can you please stick to your
13 question, and let Dr. Mowry testify?

14 MR. DAHLGREN: I'm going to keep
15 doing the deposition the way I want to.
16 But your objection is noted and the record
17 speaks for itself.

18 BY MR. DAHLGREN:

19 Q. So if you actually go back to the
20 Houston Patent, you can set aside the
21 provisional for now and turn to Figure 2, and
22 that's page 3 of the PDF.

23 Okay. There's a Box 200. You see "share a
24 folder" at the top of the box, and then there is
25 some text below that. It says, (As read):

1 "Dropbox shared folders lets you share or
2 collaborate on a set of files. When someone
3 joins a shared folder, a folder appears inside
4 their Dropbox and syncs to their computers
5 automatically."

6 Do you see that?

7 A. Yes, I see that.

8 Q. So you would agree that what this is
9 saying is if you join a shared folder, the
10 folder will appear inside your Dropbox and sync
11 to your computers -- that's plural --
12 automatically.

13 Do you agree that's a fair
14 characterization?

15 MR. ESRAM: Objection to form.

16 A. Well, you did not quote that sentence
17 accurately.

18 BY MR. DAHLGREN:

19 Q. Sure. I will read it verbatim.

20 (As read): "Dropbox shared folders lets you
21 share or collaborate on a set of files. When
22 someone joins a shared folder, the folder
23 appears inside their Dropbox and syncs to their
24 computers automatically."

25 Is that correct?

1 A. That's what it says.

2 (Defendant's Exhibit 1034, 286 IPR
3 Declaration, introduced as of this date.)

4 Q. If you can turn to Mowry 5, this is
5 your second declaration, in the 286 IPR, and
6 it's Exhibit 1034.

7 A. Okay.

8 Q. You are -- if I understand you
9 correctly, are you saying that Figure 2 doesn't
10 say that a shared folder is downloaded
11 automatically?

12 MR. ESRAM: Objection to form,
13 mischaracterization.

14 BY MR. DAHLGREN:

15 Q. I am trying to understand how you're
16 discounting the language that's in Figure 2.

17 MR. ESRAM: Objection to form.

18 A. Sorry. I didn't follow that
19 question. You just -- the part that I caught
20 was you say I disagree with Figure 2. I don't
21 understand the question. I don't disagree with
22 Figure 2.

23 Was that what you were asking?

24 BY MR. DAHLGREN:

25 Q. I was -- you seem to be contesting

1 another's position that Houston discloses this
2 automatic download of a shared folder unless
3 it's joined. And I am trying to understand how
4 you are reconciling the disclosure in Figure 2
5 with the position that Houston discloses
6 representations.

7 MR. ESRAM: Objection. Is there a
8 question here, Counsel?

9 BY MR. DAHLGREN:

10 Q. Can you please explain to me how
11 you believe that Houston doesn't download
12 automatically and will disclose representations
13 of folders given Figure 2 suggests that anytime
14 a shared folder is joined, that folder is
15 downloaded automatically to all of the user's
16 devices?

17 MR. ESRAM: Objection. Form.

18 A. That was very long. Can we maybe
19 break that down a little bit? There were many
20 things rolled into that statement. It's
21 difficult to parse that entire thing.

22 BY MR. DAHLGREN:

23 Q. Sure. You would agree that Figure 2
24 of Houston, Exhibit 1003, discloses that a
25 shared folder that is joined by a user is then

1 automatically downloaded to all of that user's
2 computers.

3 Is that fair?

4 MR. ESRAM: Objection to form.

5 A. As I said say in paragraph 22 of
6 Exhibit 5, what figure -- what Figure 2 of
7 Houston is saying in this sentence, when someone
8 joins a shared folder, the folder appears inside
9 their Dropbox and syncs to their computers
10 automatically, is that there is a -- there's a
11 major distinction between the first phrase in
12 that sentence, "when someone joins a shared
13 folder," and the "syncing" part.

14 So when you -- when you invite
15 somebody to share a folder, they decide whether
16 or not they want to accept that invitation.
17 What the -- that does not mean that it is
18 automatically downloaded.

19 What it is saying is that updates to
20 something that has been downloaded after it's
21 been joined, when the user decides that they
22 want to do that and have it downloaded, that
23 updates that occur later are synchronized to
24 their downloaded copies automatically.

25 And the point of this is that as the

1 person who's sharing the folder continues to
2 modify content within the folder, those updates
3 get propagated to the already downloaded
4 synchronized replicas that the other user has on
5 their machines.

6 BY MR. DAHLGREN:

7 Q. In Figure 2, you would agree that the
8 selection, "I'd like to create and share a new
9 folder," that's -- that's marked in Figure 2 of
10 the Houston reference, "I'd like to create and
11 share a folder," right?

12 A. If I understand the question
13 correctly, you are asking whether the circle is
14 filled in on the top circle relative as opposed
15 to the bottom circle, and, yes, that's correct.

16 There's a darkened in circle next to
17 the top version of "I'd like to create and share
18 a new folder."

19 Q. Right. And with that option
20 selected, the text above that is stating, "When
21 someone joins a shared folder, the folder
22 appears inside their Dropbox and syncs to their
23 computers automatically," right?

24 MR. ESRAM: Objection to form.

25 A. I believe you just read aloud that

1 sentence from Figure 2, and from what I could
2 tell, you read it accurately.

3 BY MR. DAHLGREN:

4 Q. Thank you. And now, going back to
5 Exhibit 10, which is the 787 Provisional, is it
6 okay if I refer to it that way?

7 A. Okay.

8 MR. ESRAM: We object to Exhibit 10
9 again.

10 BY MR. DAHLGREN:

11 Q. And if you could -- it's paragraphs
12 15 and 16 --

13 Strike that.

14 One second. If you can go to.

15 -- it's the beginning of paragraph 14
16 of Exhibit 10. And if you could, Dr. Mowry,
17 please just read 14 through 17 and feel free to
18 read the surrounding disclosure as well. And
19 then we can discuss what the Houston 787
20 Provisional is disclosing?

21 A. So did Dr. Smith reference this
22 section of this exhibit?

23 Q. You can still just take a look at it.
24 Actually, if you -- actually, if you
25 could start under paragraph 8, and I believe you

1 stated that you reviewed all of the prosecution
2 histories, and so that would be the apparent
3 applications, which would include these
4 provisionals?

5 So but either way, I'd like to talk
6 to you about what this is disclosing.

7 A. As I recall, I didn't reference
8 anything from this in either of my declarations.
9 And as I recall, Dr. Smith did not also -- he
10 also did not reference content here.

11 So my understanding is I'm here to
12 discuss the opinions that I set forth in my
13 declarations. But I don't think --

14 Q. That --

15 A. -- it --

16 Q. Yeah. Sorry.

17 A. So it had nothing to do with that.

18 Q. And this provisional application is
19 incorporated by reference in the Houston
20 Provisional as part of the disclosure of the
21 Houston Patent.

22 So I don't want to get back and forth
23 with you. If you can just answer the questions,
24 then we can just move on. But please --

25 A. My understanding is you are asking me

1 to review new material and form new opinions,
2 but my understanding is that I'm here to answer
3 questions about the opinions that I set forth in
4 my declarations, and that would not include
5 this.

6 Q. So you would agree, though, that if
7 your opinions and your declaration were based on
8 an incomplete disclosure of --

9 Strike that.

10 You would agree that if you relied on
11 half of one of the patents for what it taught,
12 just ignored other half, that that would be
13 improper.

14 Is that fair?

15 MR. ESRAM: Objection to form.

16 A. I did not go to law school, so I
17 cannot answer such a question. But I am happy
18 to answer something that I discussed in one of
19 my declarations if you can please point me to
20 something. I am happy to talk about that.

21 BY MR. DAHLGREN:

22 Q. If you were debugging some program,
23 and just said, "I am just going to do half of it
24 and not worry about the other half," you would
25 agree that that could be problematic, fair?

1 MR. ESRAM: Objection to form.

2 A. I don't believe there's a bug in my
3 declaration. I'm happy to discuss my
4 declaration.

5 BY MR. DAHLGREN:

6 Q. That's fair. But please answer my
7 questions, and if you want to refuse to, you can
8 talk to your attorney and, you know, call the
9 board. But I would like just to get my
10 questions answered and move on.

11 A. As I said, I believe I did not
12 discuss this either in -- in either of my
13 declarations. So it appears to me that you're
14 asking me to form an opinion on something on the
15 spot.

16 Q. Dr. Mowry, your attorney can object.
17 Please answer my questions.
18 So in paragraph 10, the Houston 787 Provisional
19 -- it states, (As read): "Also various
20 embodiments of technology provides local
21 input/output speed, (which equates to less
22 speed, time and comparison to traditional
23 systems,) because the files are local and the
24 soliciting and accessing of the files appear
25 much more quickly to users than if they had used

1 traditional systems."
2 Did I read that sentence correctly?
3 A. It appears that you did.
4 Q. And that was in paragraph 10. In
5 paragraph 8, "Using traditional systems" --
6 Strike that.
7 So in paragraph 8 of the Houston 787
8 Provisional, it states "Using traditional
9 systems, businesses share files through a file
10 server on a network with a disc and a file
11 system.
12 "With the traditional systems and
13 protocols, multiple users may only edit and
14 share files via the one disc. If a user was
15 offsite, then the user would have to use a tool
16 (such as a virtual private network over a VPN)
17 to gain access to the files that are being
18 maintained on the server.
19 "One problem associated with the
20 traditional system is that a business is
21 required to maintain its own server, which also
22 must be maintained by personnel, both of which
23 may be expensive and time consuming."
24 Paragraph 9, various embodiments of
25 the innovative technology presented herein

1 eliminates the need to have a person maintaining
2 a central server for a business. The technology
3 makes local copies of data, which are then
4 synchronized using DeltaSync protocol, which is
5 more fully described in a provisional
6 application having U.S. Application, Serial
7 No. 614/233773, entitled, "Systems and Methods
8 for File Synchronization," filed on August 13th,
9 2009, which is incorporated by reference here in
10 its entirety."

11 Did I read that portion of the
12 Houston reference correctly?

13 A. No, there was a mistake.

14 Q. What was the mistake? Did I miss a
15 comma?

16 A. You missed a closed paren.

17 Q. Okay. But other than the closed
18 paren, the substance was accurate otherwise?

19 A. I did not notice any other mistakes
20 in your reading aloud.

21 Q. Now, going back to your declaration,
22 it's your reply declaration in the 286 IPR, it's
23 1034. I'd like to point you to paragraph 22 --
24 or, no, excuse me, paragraph 21. Just let me
25 know when you are there.

1 A. This is Exhibit 5.
2 Is that correct?
3 Q. This is exhibit -- oh, sorry. It is
4 exactly Exhibit 5.
5 A. Okay. I'm at paragraph 21.
6 Q. And you state that (As read):
7 "Dr. Smith's citation to Houston at column 5,
8 line 37 through column 6, line 3, does not
9 support its argument" -- I assume you meant his
10 argument -- and you say that, (As read): "This
11 passage refers to updating a synchronized folder
12 on the second user's machine."
13 Do you see that?
14 A. Yes.
15 Q. Now, you cite to a portion of the
16 disclosure that Dr. Smith referenced, correct?
17 MR. ESRAM: Objection to form.
18 A. Can you point me to what you are
19 referring to?
20 BY MR. DAHLGREN:
21 Q. Sure. In paragraph 21 of your reply
22 declaration in 286 IPR, you see that you say,
23 (As read): "Dr. Smith's citation to Houston at
24 column 5, line 37, through column 6, line 3,
25 also does not support its argument."

1 Do you see that?

2 A. I see that sentence, yes.

3 Q. And in the next sentence, it is
4 followed by a cite by Houston to column 5, lines
5 37 through 41.

6 Do you see that?

7 A. Yes.

8 Q. I'd like you to turn to column 5,
9 please, of the Houston Patent Exhibit 1003 in
10 the 286 IPR.

11 A. Okay. I'm there.

12 Q. So you quote language between lines
13 37 and 41 of column 5, correct?

14 A. I reference that at the end of the
15 second sentence in paragraph 21, yes. And then
16 I quote it right after that.

17 Q. Right. But then, later on, you quote
18 the Houston Patent. And it's column 5, lines 45
19 through 51, right?

20 Do you see that at the top of page 14
21 of your second declaration and the 286 IPR?

22 A. Yes, I see that.

23 Q. And lines 42 through 43, which you
24 leave out, it states (As read): "Refer again to
25 Figure 1, assume that a user of a first

1 client" -- let's try it again.

2 The portion of the Houston reference
3 that Dr. Smith cites that you left out in those
4 two quotes, that's column 5, lines 42
5 through 44.

6 It states (As read): "Referring
7 again to Figure 1, assume that a serve a first
8 client-108A, has created a folder, and invited a
9 user of client-108B to share the folder."

10 Do you see that?

11 A. I'm noticing that although at the top
12 of page 14 in my second declaration, Exhibit 5,
13 although you're correct that the citation says,
14 5:45 to 51, the part that I'm actually quoting
15 begins in the line that you just referenced. It
16 actually begins in line 42.

17 So you characterize it that I left
18 something out, but I actually quoted it. The
19 only part that I didn't quote was referring
20 again to Figure 1. But there was no -- I did
21 not leave anything out, although there appears
22 to have been a typo in what I cited.

23 It would have been more accurate, I
24 guess, to just cite -- that second cite should
25 have really begun where I started quoting, which

1 was immediately afterward in line 42.

2 So nothing in fact was -- nothing of
3 substance was, was not discussed here from
4 Dr. Smith's original -- what he was citing.

5 Q. Okay. I will give you that. That's
6 fine.

7 The Houston Provisional that is now
8 Exhibit 10 for the deposition, if you reviewed
9 the prosecution histories of the prior art
10 references that relied on, like you said, you
11 were familiar with that provisional.

12 Is that fair?

13 MR. ESRAM: Objection to form.

14 A. As I am sure you know, prosecution
15 histories are enormously large files. So I, at
16 some point, went through the file, but I don't
17 remember details of it. But I do reference
18 everything that I -- in my actual declarations,
19 I have explicit references to things that I am
20 drawing upon.

21 So if this is indeed in the file
22 history file, then I looked at -- I mean, I
23 looked at the file history file, but again, I
24 cited things that were relevant to my opinions
25 and my declarations.

1 I don't have explicit recollection of
2 this.

3 BY MR. DAHLGREN:

4 Q. You would agree that the -- the file
5 histories can be very important.

6 Is that a fair characterization?

7 Strike that.

8 You would agree that based on your
9 experience being an expert in -- well, I think
10 that you said 20-odd cases that the file
11 histories for patents are -- it's important --
12 it's an important part of the analysis that you
13 have to perform when assessing validity.

14 Is that fair?

15 MR. ESRAM: Objection to form.

16 A. Again, I didn't go to law school.
17 But the way it was explained to me at one point
18 is that you start with the claims, the claim
19 language is the most important thing, and the
20 specification illuminates the meaning of the
21 claims.

22 So that's -- and then in addition,
23 the file history also provides context. There
24 are patents where if the claim language is clear
25 in the spec, the file history can provide

1 additional context, but I don't know.

2 Again, I am not a patent attorney. I
3 don't know --

4 BY MR. DAHLGREN:

5 Q. And it's too legalese, so I apologize
6 about that.

7 But I appreciate you taking a shot at
8 it. Thank you.

9 (Defendant's Exhibit 234, 286 IPR
10 Declaration, introduced as of this date.)

11 BY MR. DAHLGREN:

12 Q. Now, if you go to -- sticking with
13 your declaration exhibit, it's Mowry Exhibit 5
14 for the depo. It's Exhibit 234, the 286 IPR.

15 If you could go up to, I think it's
16 paragraph 19.

17 A. Okay.

18 Q. And it's the last sentence of that
19 paragraph.

20 A. Okay.

21 Q. It says (As read): "Houston does not
22 give any initial benefit to initially
23 downloading a newly shared file without the user
24 clicking on the file to request the download."

25 You see that?

1 A. I see that.

2 Q. Is that still your opinion?

3 A. Yes, that's still my opinion.

4 Q. If you could go back to the Houston
5 reference, and in particular, it's Figure 2 that
6 we were looking at before.

7 I just want to make sure I understand
8 your position.

9 In Figure 2, it is showing -- it's a
10 message -- and I'm so sorry. It's not Figure 2.

11 I'm sorry, I apologize. I believe
12 it's the Exhibit 10, which is the Houston
13 Provisional.

14 MR. ESRAM: I will object again to
15 Exhibit 10. And to clarify, Exhibit 10, I
16 am objecting to it because it's not
17 stamped.

18 You have a stamped version of it, the
19 exhibit you can introduce.

20 MR. DAHLGREN: Do we have a stamped
21 version?

22 MR. ESRAM: Yes.

23 BY MR. DAHLGREN:

24 Q. Are you referring to this as an
25 exhibit number or the deposition exhibit

1 numbers? They haven't been coinciding.

2 MR. ESRAM: Yes. So Exhibit Mowry
3 10, you have a stamped version that's in
4 the record, okay?

5 But the objection is because this is
6 not the one that you have in the record.

7 (Defendant's Exhibit 2026,
8 Provisional, introduced as of this date.)

9 MR. DAHLGREN: Right. So the other
10 provisional is the one that is -- I think
11 it's Exhibit 2026.

12 And Counsel, if you want, your
13 objection is noted, and if -- we can talk
14 about it offline. But I understand your
15 objection for the record.

16 Why don't we take a ten-minute break
17 so I can get myself organized before we
18 move on.

19 (Off the record.)

20 BY MR. DAHLGREN:

21 Q. Dr. Mowry, I'd like to stay focused
22 on your reply declaration in the 286 IPR, and
23 it's Mowry Exhibit 5.

24 And you state, if we could go to
25 paragraph 14.

1 A. Okay.

2 Q. And you say, (As read): "Dr. Smith's
3 reliance on the specifications incorporation by
4 reference of an abandoned related patent, the
5 635 application is erroneous."

6 And I just wanted to make sure that I
7 understand what you mean by that.

8 Are you saying that there is some
9 legal flaw, or is it factual basis that you
10 believe the reliance is inappropriate?

11 Strike that. I will take a step
12 back.

13 Could you explain to me what
14 specifically you believe is erroneous about
15 Dr. Smith's reliance on the 635 application's
16 incorporation by reference?

17 MR. ESRAM: Objection to form.

18 BY MR. DAHLGREN:

19 Q. Strike that. I will ask a cleaner
20 question.

21 Could you please explain to me what
22 you believe is erroneous about Dr. Smith relying
23 on the 635 application?

24 A. I go on to explain that in the rest
25 of the paragraph 14. I can read more of that if

1 you'd like.

2 Q. I understand that you take the
3 position that --

4 Strike that.

5 The last -- second-to-last sentence,
6 you state -- this is -- sorry -- paragraph 14 in
7 the reply declaration in the 286 IPR. You state
8 (As read): "Dr. Smith's citation to the 635
9 application."

10 Strike that.

11 You state (As read): "Dr. Smith's
12 citations to the 635 application do not identify
13 what is initiating accessing of the data object
14 or whether accessing requires the requester to
15 initiate the communication."

16 "Based on Dr. Smith's citations,
17 nothing precludes a communication of the data
18 object separate from accessing."

19 Do you see that?

20 A. Yes.

21 Q. When you say that "Nothing precludes
22 a communication of the data object separate from
23 accessing," are you referring to the disclosures
24 that he cites to in the 635 application?

25 A. What I am citing to is what Dr. Smith

1 has cited in that portion of -- in that portion
2 of his declaration that's referencing the 635.

3 Q. Okay. So that's the paragraph 84 and
4 you cite his dec.

5 Is that right?

6 A. Yes. Paragraphs 83 to 88.

7 Q. When you say, "Nothing precludes
8 communication of the data objects separate from
9 accessing," you're --

10 Strike that.

11 You would agree that the folder
12 share --

13 Strike that.

14 You would agree that claim 17 of the
15 '520 Patent discloses that the folder sharing
16 message is sent without an attachment --

17 Strike that.

18 With respect to claim 17 of the '520
19 Patent, you would agree that the message sending
20 the folder share does not include an attachment,
21 correct?

22 MR. ESRAM: Objection to form.

23 A. So there's a specific claim element
24 part, portion of claim 17 that you are referring
25 to?

1 BY MR. DAHLGREN:

2 Q. Yeah, yeah. So we can pull that up.
3 And I believe that is Exhibit 8 of this
4 deposition, and it would be 1001 of the 286 IPR.

5 Column 55 of the '520 Patent, and if
6 I can just turn you to approximately lines 25
7 through -- well, 31 is the complete limitation
8 in claim 17, column 55.

9 If you could please review that, and
10 just let me know when you're done.

11 A. So you mean lines 24 through 31?

12 Q. Actually, just to make it a little
13 more clear, I think that you should probably go
14 up to line 14, the limitation beginning with
15 "Causing generation of at least one email."

16 A. Okay. Yes, I'm familiar with this,
17 yes.

18 Q. And so lines approximately 15
19 through 31 of column 55 of the '520 Patent,
20 there's the generation of at least one email and
21 it does not include a file attachment, and it
22 says, (As read): "For permitting avoidance of
23 at least one file from being communicated to and
24 stored in the second node until an initiation of
25 the communication of the at least one file by

1 user of the second node is detected and the
2 communication commences via at least one server
3 that stores at least one file."

4 So my question is you would agree
5 that this language in claim 17 -- you would
6 agree that language in claim 17 would preclude
7 communication of that data object separate from
8 accessing.

9 Is that right?

10 MR. ESRAM: Objection to form.

11 A. Sorry.

12 BY MR. DAHLGREN:

13 Q. I understand.

14 I will strike that, and I will try it again.

15 In your declaration, when you say the
16 citations that Dr. Smith points to in the 635
17 application may not preclude the communication
18 separate from accessing, if you look at claim 17
19 and that language we just discussed about the
20 email and it not including a attachment, you
21 would agree that that does preclude the
22 communication of the data object/folder separate
23 from the accessing.

24 Is that fair?

25 MR. ESRAM: Objection to form.

1 A. This claim element, starting at
2 line 14 is simply discussing the creation of an
3 email message. It says that this email message
4 includes a link and not an attachment, and then
5 it has for permitting, it describes an option,
6 but that's optional.

7 BY MR. DAHLGREN:

8 Q. Well, let's talk about that.

9 The language of claim 17 at line 25
10 in column 55, it says, "does not include a file
11 attachment," correct?

12 A. Yes, that's correct.

13 Q. And "does not include," you would
14 agree that that is not permissive.

15 Is that fair?

16 MR. ESRAM: Objection to form.

17 A. Okay. I'm not -- let's see. Again,
18 I didn't go to law school, so "permissive" may
19 have specific legal meaning.

20 It's a fairly definite statement
21 there, that it says it does not include a file
22 attachment, so I am not -- I am not arguing
23 about the fact that it does not include a file
24 attachment.

25 BY MR. DAHLGREN:

1 Q. And I wasn't trying to -- I just had
2 used your language, I believe, from your
3 declaration. I think you had used that
4 permissive language.

5 We can move on. I just want to wrap
6 this up.

7 So you would agree that the language
8 does not include a file attachment. That's
9 pretty clear that it doesn't include a file
10 attachment, right?

11 A. Yes, it's clear that this email
12 message does not include a file attachment; it
13 includes an HTTP link.

14 Q. Okay. And I go back to your
15 declaration, Exhibit 5.

16 While I'm pulling this stuff up, just
17 approximately, how much time did you spend
18 preparing your reply declarations?

19 A. I don't recall with any precision,
20 maybe 30, 40 hours.

21 Q. That's fair. That's fair.

22 So in -- so if you look at
23 paragraph 14, you make a statement that
24 Dr. Smith relies in claim 1 of the 635
25 application, which he argues requires that a

1 data object be stored in the second execution
2 environment and accessing the representation by
3 the first execution environment includes
4 accessing the data object from the second data
5 store.

6 Which means that the detailed claims
7 of the '520 Patent must be read to require a
8 requested folder not be communicated until the
9 user initiates communication. And then you
10 state that it's in a Footnote 2, excuse me, that
11 Dr. Smith failed to explain why a representation
12 of at least one folder in the '520 Patent would
13 be equivalent to the representation of the at
14 least one data object in the 635 application.

15 Do you see that?

16 A. Yes, I see that.

17 Q. But if you go to Footnote 1, there's
18 a sentence. I think it's the third sentence in
19 Footnote 1 of your reply declaration, the 286
20 IPR. But I understand that the 635 application
21 lists files and folders in a file system as
22 exemplary data objects.

23 Do you see that?

24 A. I see that sentence.

25 Q. So on the one hand, you're saying

1 that you understand that data objects can
2 encompass files and folders, so I don't
3 understand what the critique is in Footnote 2
4 then?

5 MR. ESRAM: Objection.

6 A. Could you repeat that?

7 BY MR. DAHLGREN:

8 Q. So you would agree that the
9 disclosure of the representation of at least one
10 data object would encompass disclosure of either
11 a file folder.

12 Isn't that fair?

13 MR. ESRAM: Objection to form.

14 A. Sorry. You said Footnote 2?

15 BY MR. DAHLGREN:

16 Q. Yes, yeah. You say Dr. Smith failed
17 to explain why a representation of the at least
18 one folder in the '520 Patent would be
19 equivalent to a representation of the at least
20 one data object in the 635 application.

21 But just before you had said the 635
22 application says the data object can be a file
23 or a folder.

24 So I just don't understand the
25 critique.

1 A. Well, something that's definitely a
2 folder is different from something that might be
3 a file. Files and folders don't have the same
4 representations.

5 Q. But if a data object can be either,
6 and it's making a disclosure with respect to a
7 data object, is it your position that that
8 doesn't disclose the same with respect to a file
9 and folder?

10 MR. ESRAM: Objection to form.

11 A. Sorry. I will need to go back and
12 look again at the details of the -- of what we
13 are referencing exactly to refresh my memory. I
14 am not -- to answer this accurately.

15 BY MR. DAHLGREN:

16 Q. Okay. Well, I think the record will
17 say that -- I think it will speak for itself.
18 And so I think we can continue on.

19 So sticking with this declaration, so
20 there's the discussion of the board's
21 institution decision in -- it's in paragraph 15
22 of your reply declaration in 286 IPR. And you
23 say (As read): "The board also explained that
24 the 365 application states a representation of
25 the data object may include and/or may otherwise

1 be based on a replica of at least a portion of
2 the data object."

3 Do you see that?

4 A. Okay. I see that.

5 Q. And you referred to a thumbnail -- in
6 Footnote 3, you refer to a thumbnail icon of a
7 video file downloaded, and it's not the video
8 file itself.

9 That would be referring to a file
10 representation, not a folder representation.

11 Is that fair?

12 MR. ESRAM: Objection to form.

13 A. Can you -- can you possibly restate
14 the question? You said that --

15 BY MR. DAHLGREN:

16 Q. Yes. So actually, maybe we can --
17 let's go up to -- I think it's paragraph 9.
18 It's the same subject, but you discuss the --
19 your kind of icon construction there.

20 A. Well, I'm at paragraph 9.

21 Q. Okay. Now for a representation of a
22 folder to have representations of files inside
23 it, you have to be able to open the folder.

24 Is that a fair characterization?

25 MR. ESRAM: Objection to the form.

1 A. Sorry. Is there -- can you point me
2 to what you're --

3 BY MR. DAHLGREN:

4 Q. Sure. Yeah.

5 A. What you're talking about?

6 Q. At the beginning of paragraph 9, you
7 say (As read): "First, Dr. Smith proposes a
8 definition that effectively reads out part of
9 the claim term, representation."

10 And you say (As read): "He defines a
11 representation of at least one folder as a
12 folder that" -- and then... and you cite to his
13 declaration as Exhibit 2051, Section B?

14 (Defendant's Exhibit 2051, Section B,
15 Declaration, introduced as of this date.)

16 A. Yes.

17 Q. You've left out, you know, obviously,
18 some of what Dr. Smith has said in paragraph 9.
19 But my question is, the representation of a
20 folder -- it still can have representations or a
21 file -- it can have things internal to it,
22 nonetheless.

23 Would you agree with that?

24 MR. ESRAM: Objection to form.

25 A. So if I understand your question

1 correctly, you are asking whether an icon
2 representing a folder, whether that icon itself
3 contains more icons?

4 The answer to that is, no. The
5 folder icon is simply an icon.

6 If you navigate inside of the folder,
7 you will separately see more icons for any
8 objects that are within the folder, but the --
9 the enclosing outer folder, its icon, its
10 representation, that representation is data.
11 That data does not contain other icons inside of
12 it. That's not how the user interfaces work.

13 BY MR. DAHLGREN:

14 Q. Right. And I think that we talked
15 about this earlier, but a folder is a way of
16 organizing storage in the memory. I think that
17 we talked about a hierarchical structure as one
18 option.

19 Is that correct?

20 MR. ESRAM: Objection to form.

21 Misstates the testimony.

22 A. So I recall that we had an earlier
23 discussion about folders.

24 BY MR. DAHLGREN:

25 Q. Yes. And my question is for a

1 representation of a folder to be able to have
2 representation of the files inside it or
3 additional folders -- I'm trying to understand
4 how that --

5 Strike that.

6 When you say that a representation is
7 just an icon, are you saying that a
8 representation of a folder -- if you tried to
9 open that folder, at that point, any contents of
10 the folder would be downloaded or not?

11 Let me strike that. One more time.

12 Are you saying that the
13 representation of the folder, under your
14 construction as this icon, if you clicked on
15 that icon, would that trigger the download of
16 any files that were internal to that folder
17 representation?

18 MR. ESRAM: Objection to form.

19 A. The icon -- how the icon is stored
20 does not have to do with how the user interface
21 decides to respond if you click on the icon. An
22 icon for a folder is just a type of data. It's
23 a piece of data that represents just the folder.
24 It's not itself a folder. It is just an icon.

25 BY MR. DAHLGREN:

1 Q. So setting aside the representation
2 of a folder, if you have a locally stored folder
3 and the folder contents, that icon for the
4 folder, what's the distinction? Because a lot
5 of things are depicted with icons on computers.

6 MR. ESRAM: Objection. Is there a
7 question there?

8 BY MR. DAHLGREN:

9 Q. Yeah. I am trying to understand what
10 the distinction is that you're drawing between
11 an icon for a folder that's on my computer where
12 all of the contents are locally stored versus
13 one that would be this folder representation?

14 MR. ESRAM: Same objection.

15 A. Well, I mean, the question, with all
16 due respect, there is -- user interfaces are
17 different things from the underlying things that
18 they are helping you visualize.

19 For example, like if you -- like
20 their -- their icons are information used by
21 user interface, and the things that they
22 represent are separate from that. It's similar
23 to how if you play some "World of Warcraft" or
24 some immersive video game, and you have an
25 avatar in the game. That's some visual

1 depiction of what's supposed to be you, but it's
2 not really you.

3 It's just a visual thing that is
4 supposed to represent you. So an icon is
5 something visual. Files are not visual. They
6 are pieces of information stored in nonvolatile
7 storage. And an icon is simply something that
8 allows a user interface to help a user navigate
9 through the information.

10 So inside of a user interface, it has
11 data to represent whatever it's displaying to
12 you. That's true not only for file systems, but
13 for other forms of user interfaces. So they are
14 separate things. The representation of
15 something and the thing itself, these are
16 different.

17 BY MR. DAHLGREN:

18 Q. Okay. Yeah. So the representation
19 of a folder wouldn't be a folder if it contained
20 representations of files.

21 You would agree, correct?

22 MR. ESRAM: Objection to form.

23 A. A representation of a folder is an
24 icon. An icon is, to my knowledge, never stored
25 itself as a folder. That would make no sense.

1 It's just a small piece of information that the
2 user interface uses to allow the user to
3 visualize and interact with a file system.

4 But the icon is not the contents of
5 the file.

6 These are -- it's a separate thing.

7 BY MR. DAHLGREN:

8 Q. I guess -- maybe approach this a
9 different way.

10 What is the basis for your
11 interpretation of the claims to require an icon
12 or symbol?

13 Where is the support for that?

14 MR. ESRAM: Objection to form.

15 BY MR. DAHLGREN:

16 Q. Dr. -- so strike that.

17 Dr. Mowry, for your construction of
18 representation of the "At Least One folder," it
19 appears that you are relying on Dr. Smith's
20 testimony.

21 MR. ESRAM: Objection to form.

22 BY MR. DAHLGREN:

23 Q. I am asking what other basis you have
24 for believing that that construction is correct?

25 MR. ESRAM: Objection to form.

1 BY MR. DAHLGREN:

2 Q. Strike that question.

3 Dr. Mowry, could you please explain
4 to me what the -- what support you believe is
5 contained in the intrinsic record for your
6 construction of representation of the At Least
7 One folder?

8 A. What I stated in my declarations, is
9 that the plain and ordinary meaning of
10 representation is appropriate for understanding
11 the term in the context of the '520 Patent
12 because, as I explained, under any reasonable
13 interpretation by a person of ordinary skill in
14 the art, the prior art combinations that I cite
15 would render the claims obvious.

16 An icon is an example of such a
17 representation, for example, and that would be
18 abundantly clear to a person of ordinary skill
19 in the art.

20 As I also say, even under -- yeah,
21 so --

22 Q. Is the word "icon" used anywhere in
23 the --

24 MR. ESRAM: Counsel, can you let
25 Dr. Mowry finish his answer, please?

1 MR. DAHLGREN: I thought he stopped.
2 BY MR. DAHLGREN:
3 Q. I didn't mean to interrupt you,
4 Dr. Mowry.
5 Did you finish?
6 A. That's fine. I am finished.
7 Q. So I was just asking where "icon" or
8 "symbol" appears in the '520 Patent?
9 MR. ESRAM: Objection to form.
10 A. I did not say that the term appears
11 there. It is describing a representation within
12 a user interface. And given the description of
13 how this representation is used in the user
14 interface, it would be clear to a person of
15 ordinary skill in the art what that means.
16 And one example would be an icon or a
17 symbol, something that would be displayed
18 visually in either a web browser interface or in
19 a File Explorer interface.
20 BY MR. DAHLGREN:
21 Q. Okay. I believe I'd asked you
22 earlier if representation was a term of art, in
23 seal technology. I take it now that you are
24 saying it is, and what it means is icons.
25 Is that fair?

1 MR. ESRAM: Objection.

2 Mischaracterization.

3 A. That does not accurately characterize
4 what I said.

5 BY MR. DAHLGREN:

6 Q. Please put it in your own words.

7 A. Can you restate the question, please?

8 Q. Please describe to me how --
9 Strike that.

10 So is it your position that
11 "representation" is a term of art in the seal
12 technology?

13 A. What I said is that the plain and
14 ordinary meaning is appropriate for applying
15 the -- using the term "representation" in the
16 context of the '520 Patent because under -- I
17 have -- let me find the -- as I say in
18 paragraph 7 of my 286 reply declaration, (As
19 read): "Any reasonable interpretation of those
20 terms consistent with their plain and ordinary
21 meaning reads on the prior art."

22 Q. And so what is the plain and ordinary
23 meaning of "representation," in this field,
24 technology? In your opinion, as the person of
25 skill in the art with 30-plus years of

1 experience in this area?

2 A. I believe I've answered this already.
3 I think I just answered this a minute ago.

4 It's -- and I don't know -- you are
5 saying "field of technology." I am not -- what
6 I am saying is if you read the '520 Patent, when
7 they use the word "representation," it's clear
8 to a person of ordinary skill in the art, what
9 they are referring to is a user interface
10 element of some type that is used to visually
11 represent the folder. Either -- an icon or a
12 symbol would be an example of this. Something
13 that would be displayed in either a web browser
14 interface or in a file interface.

15 Q. And the factual basis for your
16 opinion is completely set forth in your reply
17 declaration in paragraph 7 through 17. That's
18 the paragraphs under the "Claim Construction"
19 heading?

20 MR. ESRAM: Objection to form.

21 A. I'm sorry. I'm also -- that was --
22 Go ahead.

23 BY MR. DAHLGREN:

24 Q. Oh, I'm sorry. I was just going to
25 say "strike that."

1 I just want to make sure that I
2 understand all the factual bases that support --
3 that you believe support your interpretation
4 that representation is icon or symbol when those
5 terms -- I do not believe appear in the '520
6 Patent?

7 MR. ESRAM: Objection to form.

8 A. In my first and second declarations,
9 I discuss "representation." You've just
10 referenced the claim construction paragraphs.
11 That's part of the discussion, certainly. In
12 terms of the words in your question, I think
13 that you are inserting legally significant
14 terms. So I don't know -- having not gone to
15 law school, and I'm not a patent attorney, so --
16 but I relied on things like the fact that I am
17 an expert in this area, and I am also a person
18 of ordinary skill in the art for this patent in
19 the relevant time frame.

20 BY MR. DAHLGREN:

21 Q. Is "representation" a term of art
22 with respect to HTML?

23 MR. ESRAM: Objection to form.

24 Relevance.

25 MR. DAHLGREN: Counsel, if we are

1 talking about "representation" as a claim
2 term, that the construction is in dispute,
3 so it's highly relevant, so please...

4 BY MR. DAHLGREN:

5 Q. Dr. Mowry, the HTML -- I think that
6 the file spec -- you would agree that the term
7 "representation" is used as a term of art,
8 correct?

9 MR. ESRAM: Objection to form.

10 A. Again, I did not go to law school. I
11 believe the phrase "term of art" has specific
12 legal significance. And if I was a qualified
13 licensed patent attorney, I might be able to
14 understand the subtlety of what you are asking.

15 But as I've stated, the term
16 "representation" should be given its plain and
17 ordinary meaning, because under any reasonable
18 interpretation of the term, given the '520
19 Patent within -- with any reasonable
20 interpretation of what that means, it -- the
21 prior art combinations that I cite would read
22 on -- would be consistent with the patent
23 claims.

24 BY MR. DAHLGREN:

25 Q. You keep saying "any reasonable

1 interpretation," with respect to these different
2 terms, but you wouldn't tell me what a person of
3 ordinary skill in the art would understand with
4 respect to some of these terms to mean. So I'm
5 having trouble following you.

6 Dr. Mowrey, have you ever, in your
7 recollection, taken a position on HTML, and the
8 use of the term "representation"?

9 MR. ESRAM: Objection to form and
10 relevance.

11 A. As I have discussed, the point of
12 this exercise of writing these declarations is
13 to understand the '520 Patent. So I understand
14 what "representation" means in the context of
15 that patent.

16 The patent does talk about HTML.
17 There's a web browser interface. As I've said,
18 "representation" in the web browser interface is
19 some type of user interface element that the
20 user could recognize as corresponding to a
21 folder.

22 So it could be a symbol or something
23 that would appear like an icon within the web
24 page.

25 BY MR. DAHLGREN:

1 Q. An "HTML" is actually mentioned in
2 the specification unlike "icon," correct?

3 MR. ESRAM: Objection to form.

4 A. Sorry, I don't follow your question.

5 BY MR. DAHLGREN:

6 Q. I'm saying that the term "HTML"
7 appears in the '520 Patent unlike the term
8 "icon," right?

9 MR. ESRAM: Same objection.

10 A. HTML does appear in the '520 Patent.

11 BY MR. DAHLGREN:

12 Q. And "icon" does not, right?

13 A. Well, it discusses representation
14 within the context of a user interface, and it's
15 clear what that means.

16 I believe you're correct that the
17 literal string icon did not appear there, but it
18 is using the term, "representation," but an icon
19 would be an example of such a representation.

20 Q. Are you familiar with the WC3?

21 MR. ESRAM: Objection. Relevance,
22 out of scope.

23 A. Can you point me to where you are
24 talking about?

25 BY MR. DAHLGREN:

1 Q. My understanding is that they are in
2 charge of the HTML spec, and I was just
3 wondering if you were familiar with it.

4 MR. ESRAM: Same objection.

5 A. I am not sure what the term, am I
6 "familiar" with it means, I haven't served on
7 it. I don't know. I don't read their
8 newsletters or something. I don't know what you
9 mean by that exactly.

10 BY MR. DAHLGREN:

11 Q. Would you be shocked if the HTML
12 standard said a representation is data that
13 encodes information about resource state,
14 representation is not necessarily describe the
15 resource or portray a likeness of the resource,
16 or represent the resource in other senses of the
17 word "represent"?

18 MR. ESRAM: Objection to form.

19 Objection to scope as well.

20 BY MR. DAHLGREN:

21 Q. It's a term of art. I just didn't
22 know if you had heard that before, if that's
23 news to you.

24 A. Is there a document that you want to
25 point me to?

1 Q. I think that I have everything that I
2 need. So we can move on from this.

3 MR. DAHLGREN: I do want to touch on
4 a couple more prior art references. To
5 make it efficient, if we could take a
6 ten-minute break and I can get everything
7 lined up and then we can horseshoe that,
8 does that work for everyone?

9 MR. ESRAM: That's all right. Yes.

10 MR. DAHLGREN: We may touch on a few
11 of your papers as well, but I'll try to
12 make it quick.

13 Let's go off the record.

14 (Off the record.)

15 BY MR. DAHLGREN:

16 Q. Dr. Mowry, I'd like to turn to the
17 287 IPR and your reply declaration.

18 And that is Mowry Depo Exhibit 7, and
19 it's Exhibit 1127 in the IPR.

20 A. Okay.

21 Q. In, roughly, paragraphs 27 through
22 100, you are responding to Dr. Smith's opinions
23 on written description support, and I just want
24 to make sure I understood what your theory was.

25 It sounds, from my take, that the

1 critique or what you believe is lacking --

2 Strike that.

3 My understanding from your
4 declaration is that you do not believe the file
5 request claims, that's 9 through 16, and 22
6 through 24 of the '520 Patent, provide written
7 description support for this external messaging
8 node.

9 Is that fair?

10 MR. ESRAM: Objection to form.

11 BY MR. DAHLGREN:

12 Q. Strike that.

13 Dr. Mowry, could you please tell me
14 the reason or reasons that you believe claims 9
15 through 16 and 22 through 24 of the '520 Patent
16 are not entitled to a September 2012 priority
17 date?

18 A. Well, that's roughly 40 or so pages
19 of my declaration. So I'm happy to read through
20 that, but that will probably take up the rest of
21 our time.

22 Q. That was a bad question. And I
23 appreciate you pointing that out.

24 Is it correct that the basis for your
25 belief that the claims are not entitled to a

1 September 2012 priority date is that the '520
2 Patent and the priority applications do not
3 provide any disclosure of this external
4 messaging node that you referenced in your
5 declaration?

6 MR. ESRAM: Objection to form.

7 A. Again, it's 40 pages of opinion. I
8 don't want to try to boil this down to one or
9 two sentences. I don't think that's really
10 practical.

11 I'm happy to walk through all those
12 pages.

13 BY MR. DAHLGREN:

14 Q. Do you recall any other element of
15 those claims that you do not believe is
16 disclosed in the September 2012 application,
17 aside from external messaging node?

18 MR. ESRAM: Objection to form.

19 A. You're mischaracterizing my opinion.

20 BY MR. DAHLGREN:

21 Q. How so, could you please tell me what
22 I'm getting wrong?

23 It appears in your declaration that
24 you are just going through every disclosure that
25 Dr. Smith points to, or at least most, and

1 stating that you do not believe this discloses
2 an external messaging node.

3 MR. ESRAM: Objection. Is there a
4 question, Counsel?

5 BY MR. DAHLGREN:

6 Q. Dr. Mowry, can you point to any
7 limitation, other than this alleged external
8 messaging node that you do not believe is
9 disclosed in the September 2012 priority
10 applications?

11 MR. ESRAM: Objection to form.

12 A. Again, based on the volume of text in
13 my opinion, it's going to take me a significant
14 amount of time to go through this to refresh my
15 memory, in order to answer your question.

16 BY MR. DAHLGREN:

17 Q. Dr. Mowry, you've spent, I believe
18 somewhere in the order of 12 hours over a span
19 of three meetings with counsel preparing for
20 today's deposition, reviewing materials, and you
21 dedicated 70 or so paragraphs of your
22 declaration in the 287 IPR, in this alleged
23 issue.

24 Do you recall any other alleged
25 limitation that you believe is not disclosed in

1 the claims aside from this external messaging
2 node?

3 A. So, again, the problem with that
4 question, is you are asking whether something
5 exists, and I need to go back through these, all
6 these pages of text to refresh my memory on
7 that.

8 I'm happy to do that, if you don't
9 mind taking the time for me to do that.

10 Q. Why don't you start, and if it drags
11 on too long, then you could just let me know
12 what paragraph you got to, and then we can just
13 deal with that.

14 All right, Dr. Mowry. I will
15 withdraw that question after five minutes. So
16 we will get back to the 287.

17 But are you familiar with a course
18 that's taught at Carnegie Mellon called
19 Introduction to Computer Systems? It's at
20 50-213.

21 MR. ESRAM: Objection to form and
22 relevance.

23 BY MR. DAHLGREN:

24 Q. I believe it's called "Web Services,
25 Introduction to Computer Systems."

1 MR. ESRAM: Same objection.

2 A. Sorry. Can you repeat that again?

3 BY MR. DAHLGREN:

4 Q. So there is a course, it's Web
5 Services, 15-2 and -3, "Introduction of Computer
6 Systems." The instructors were Randy Bryant and
7 Dave O'Hallaron.

8 "The Web Service" is the name of the
9 lecture. It's dated November 4, 2010.

10 Do you recall, are you familiar with
11 that at all, that course or that lecture?

12 MR. ESRAM: Objection to form,
13 relevance, out of scope.

14 A. I'm aware of the course in that it
15 exists. But I am not -- I don't -- I teach -- I
16 don't regularly sit in on the course.

17 I have not reviewed that lecture, to
18 my knowledge.

19 Did I reference that, or did
20 Dr. Smith reference that in our declarations?

21 BY MR. DAHLGREN:

22 Q. No. You just weren't able to tell me
23 what Web Services referred to, so I found a
24 course that is taught at the university that
25 you're a professor at, and I was hoping you

1 could explain to me what it means.

2 A. No. I disagree with your
3 characterization. I explained what "web
4 services" mean with how it's described in the
5 '520 Patent. So I disagree with that
6 characterization.

7 Q. Can you remind me what "services"
8 refers to aside from not sending a -- or
9 generating a message?

10 MR. ESRAM: Objection to form.

11 A. I think that we covered that ground
12 before. It would go back to -- I can revisit
13 that whole discussion, if you'd like, but I
14 disagree with the characterization that you had
15 that I didn't understand what web services are.
16 That's completely wrong.

17 BY MR. DAHLGREN:

18 Q. I apologize. I have no doubt that
19 you understand what web services are, but I am
20 just trying to get you to explain it to me. The
21 way that you were defining it was a negative,
22 that it doesn't include generating messages.

23 Please, if you are able to, I would
24 appreciate if you would take another shot at it.

25 What would a person in ordinary skill

1 in the art understand the phrase "web services"
2 to mean?

3 MR. ESRAM: Objection to form.

4 A. So to be clear, I don't believe that
5 term appears in the '520, as you just stated it.

6 BY MR. DAHLGREN:

7 Q. And that's why I just asked what a
8 person of ordinary skill in the art would
9 understand the phrase "web services" to mean in
10 the 2012 time frame.

11 If you're able to answer.

12 MR. ESRAM: Objection to form.

13 A. I think we've already covered this
14 ground. The term "web service" -- it appears
15 with other words, it doesn't just say "web
16 services."

17 BY MR. DAHLGREN:

18 Q. What kind of lecture is this "Web
19 Services"? I can represent that to you. I can
20 submit it as an exhibit, I don't know if that
21 helps with your recall --

22 A. I'm still -- I'm still answering the
23 question here.

24 Q. Oh, sorry.

25 A. It says -- all it says is "web

1 service provider node." It doesn't say "web
2 services" in the '520. The term only appears
3 twice.

4 I'm finished.

5 Q. So you're refusing to answer the
6 question? I'm not --

7 A. No. I was answering the previous
8 question. And I pointed out that we already had
9 a lengthy discussion about this term, "web
10 service provider node."

11 Q. Dr. Mowry, I would just appreciate if
12 you could just answer the questions I asked, and
13 if I have asked a question that was similar
14 before, I apologize.

15 But now that I refreshed your memory
16 about this course at Carnegie Mellon, the
17 university that you teach at that has a lecture
18 called "Web Services," I was hoping that you
19 could shed some light on what that "term" means
20 to a person of ordinary skill in the art in the
21 2012 time frame.

22 MR. ESRAM: Object to form,
23 relevance.

24 A. Well, I reject the premise of your
25 question where you said that this has refreshed

1 my memory on what "web services" means for a
2 person of ordinary skill in the art because "web
3 services" is not a term that appears in the '520
4 Patent, and person of ordinary skill in the art
5 is a term that's specific to reading this
6 patent.

7 And in terms of understanding "web
8 service provider node," that is not the same as
9 "web services" in a 213 course lecture. That's
10 not relevant to this. This is specific to how
11 the term is used in the '520 Patent.

12 BY MR. DAHLGREN:

13 Q. Dr. Mowry, if you want to refuse to
14 answer my question, if you say it's not
15 relevant, that's not really your call to make.
16 We can move to strike your declarations and have
17 all of your testimony excluded. Otherwise, I
18 would just appreciate if you would answer the
19 question.

20 MR. ESRAM: Objection. Counsel.

21 BY MR. DAHLGREN:

22 Q. It's turned into a big issue, the
23 support in the 287, so, it's -- I have to
24 insist.

25 MR. ESRAM: Objection. Counsel, I

1 believe Dr. Mowry answered your question
2 every single time. If you are not
3 satisfied with the answer, you can ask your
4 question again.

5 A. Can you please restate the question?

6 BY MR. DAHLGREN:

7 Q. What would a person of skill in the
8 art in the 2012 time frame understand the phrase
9 "web services" to mean?

10 MR. ESRAM: Objection to form.

11 A. That term does not appear in the '520
12 Patent. It refers to a web service provider
13 node and the context where it's described in the
14 '520 Patent is referring to -- well, it's in
15 column 27, starting around line 9 or so, it says
16 that (As read): "The web service provider node
17 may include a query handler component that may
18 operate to receive data object information
19 identified in the message from the browser, so a
20 browser is interacting with this web service
21 provider."

22 Just prior to that, it says (As
23 read): "The browser may send the data object
24 information via network cumulatively coupled to
25 the client node to a web service provider node."

1 That's what a person of ordinary
2 skill in the art would understand. The web
3 service provider node is responding to this
4 request from the browser.

5 MR. DAHLGREN: And again, move to
6 strike, that's nonresponsive.

7 BY MR. DAHLGREN:

8 Q. Again, Dr. Mowry, could you please
9 explain what the phrase "web services" would
10 mean to a person of skill in the art in the 2012
11 time frame?

12 MR. ESRAM: Objection to form and
13 scope.

14 A. I believe I just answered that
15 question, so I refer to my previous answer.

16 BY MR. DAHLGREN:

17 Q. Do you recall ever opining on what
18 "web services" may refer to in any of your prior
19 expert witness work?

20 MR. ESRAM: Objection to form, out of
21 scope.

22 BY MR. DAHLGREN:

23 Q. You have an obligation to produce any
24 inconsistent testimony. Right now, you're
25 saying -- you're just not responding.

1 So you did produce any of the prior,
2 you know, transcripts and depositions or
3 anything like that. If there is a statement
4 that refers to "web services," then you guys are
5 in violation of the board's rules, and we will
6 seek relief or you can answer the question --

7 MR. ESRAM: And we object to that,
8 and we disagree with what you just said.
9 And we can take it offline if you need to.

10 MR. DAHLGREN: Yeah, we will bring it
11 up after the deposition.

12 BY MR. DAHLGREN:

13 Q. But in the meantime, Dr. Mowry, in
14 the 2012 time frame, the phrase "web services"
15 would be understood by a person with skill in
16 the art to mean what?

17 MR. ESRAM: Objection to form, out of
18 scope.

19 A. I just answered that question, so I
20 refer to my previous answer to the same
21 question.

22 BY MR. DAHLGREN:

23 Q. And your answer was nonresponsive.

24 Strike that.

25 Dr. Mowry, what is a "web service"?

1 Can you give me an example, please?

2 MR. ESRAM: Objection to form, out of
3 scope.

4 A. Well, in the '520 Patent, the term
5 "web service" appears in a specific context.
6 It's talking about web service provider node,
7 and what it's discussing here is a node that
8 responds to a request from a browser, so that's
9 what -- that's how a person of ordinary skill in
10 the art would understand the term. It is
11 something this web service provider node
12 responds to a request from a browser.

13 BY MR. DAHLGREN:

14 Q. And does it limit the type of
15 response?

16 Strike that.

17 What type of responses do web service
18 provider nodes provide to browsers?

19 Can you give me an example, please?

20 MR. ESRAM: Objection to form.

21 A. The only detail provided here is two
22 sentences in column 27.

23 BY MR. DAHLGREN:

24 Q. And so what would a person of skill
25 in the art understand "web service" to refer to?

1 MR. ESRAM: Objection to form.

2 BY MR. DAHLGREN:

3 Q. That term has a meaning, and it's
4 not. The --

5 Strike that.

6 You would agree that Paul Morris, the
7 investor of the '520 Patent, he didn't make up
8 the term web service.

9 Is that fair?

10 I will remind you, also, in 2010,
11 it's the name of a lecture in a computer science
12 class at your University.

13 So what does it mean?

14 MR. ESRAM: Objection to form.

15 A. Well, I'm here to discuss my opinions
16 and my declarations, which are related to the
17 '520 Patent. The term in the '520 Patent arises
18 only in these two sentences in column 27, where
19 it's referring to a web service provider node,
20 and what it's discussing is something that this
21 web service provider node is responding to a
22 request from a browser.

23 BY MR. DAHLGREN:

24 Q. And what type of -- that's all you
25 can say. You --

1 Strike that.

2 So I just want to make sure I
3 understand correctly. You can't say anything
4 else in your 30 years of experience about what
5 web services, or web service refers to? I just
6 want to make sure that I am very clear on this
7 point, because we are going to take this up.

8 MR. ESRAM: Objection. Out of scope
9 and form.

10 MR. DAHLGREN: Counsel, he says that
11 the web service provider node in Figure 5
12 doesn't provide support. It's just right
13 down the middle in terms of scope. So
14 please refrain from those specious
15 objections.

16 MR. ESRAM: I think I disagree with
17 what you just said as well. "Web services"
18 alone doesn't show up in the spec.

19 MR. DAHLGREN: Counsel, you don't
20 need to testify for your witness. He's
21 said that multiple times already. And I
22 just want to get an answer and move on.

23 A. I've given you an answer already.

24 BY MR. DAHLGREN:

25 Q. So you agree, you can't give me any

1 more information as to what "web service" or
2 "web services" refers to. Okay.

3 MR. ESRAM: Objection to form.

4 MR. DAHLGREN: You've already shared.
5 There's no --

6 A. Sorry, Counsel. No, I want to
7 respond to the question there. That's
8 incorrect.

9 "Web service provider node" is
10 responding to a request from a browser. That's
11 what a person of ordinary skill in the art would
12 understand that phrase to mean. So web is HTTP
13 based, and it is responding to this request from
14 the browser.

15 BY MR. DAHLGREN:

16 Q. Is Gmail a web service?

17 MR. ESRAM: Objection to form.

18 BY MR. DAHLGREN:

19 Q. Strike that. I will give you an
20 easier one.

21 MR. ESRAM: Objection to form.

22 A. Can you repeat the question, please?

23 BY MR. DAHLGREN:

24 Q. Dr. Mowry, I asked if Dropbox is a
25 web service. If you are unable to answer that

1 question, you can state as much.

2 A. I asked you to repeat the question.
3 I didn't hear the question.

4 Q. Is Dropbox an example of a web
5 service?

6 MR. ESRAM: Objection to form.

7 A. Well, what I know is, again, we can,
8 if you want to explore hypotheticals, that's all
9 very interesting, but in the context of the '520
10 Patent, the term "web service" only appears in
11 these two sentences in column 27, and as I said,
12 in this context, it refers to responding to a
13 request from a browser.

14 There are a number of websites out in
15 the world. I mean, E-commerce is a well-known
16 thing. But in the '520 Patent, it's using the
17 term only in column 27, when it discusses "web
18 service provider node" in roughly lines, say, 6
19 through 13 or so. And this is something that
20 responds to a request from a browser, and that's
21 consistent with what a person of ordinary skill
22 in the art would understand the term to mean.

23 BY MR. DAHLGREN:

24 Q. And I don't know if that actually
25 said anything more than what you'd done before.

1 So if the spec referred to a hammer,
2 and it had a picture of a hammer, and it only
3 talked about using hammer to remove a nail that
4 you hammered in, are you saying that you
5 wouldn't be able to understand that, Oh, well,
6 there's a hammer. I can actually knock the nail
7 into wood, too.

8 MR. ESRAM: Objection to form.

9 BY MR. DAHLGREN:

10 Q. It may be a bad example, but if
11 there's a term that's used that has a well-known
12 meaning -- and I think that "web service" has a
13 well-known meaning -- that's what a person of
14 skill in the art would use. And I'm just trying
15 to find out what that is. You're a person
16 skilled in the art.

17 MR. ESRAM: Objection to form.

18 A. Can you restate the question, please?

19 BY MR. DAHLGREN:

20 Q. Sure. So Dr. Mowry, if there was a
21 disclosure in the spec of a hammer, and it
22 didn't say anything else, it just said "hammer,"
23 are you saying that, well, that -- it wouldn't
24 be sufficient to allow you to understand what
25 was being taught by the reference to hammer?

1 MR. ESRAM: Objection to form.

2 A. Well, that sounds like the kind of
3 question that you need to go to law school to
4 answer accurately. But what I can say is the
5 term that does appear is -- in the '520 Patent
6 is not simply "web service," it is -- the phrase
7 is only "web service provider node," all four of
8 those words. That whole phrase appears twice.
9 So that is not equivalent to web service. It is
10 "web service provider node."

11 So in your question, you seem to be
12 suggesting that the term is "web service."
13 That's incorrect. The term is "web service
14 provider node." That is not a commonly used
15 term. It -- to understand what it means, we are
16 looking at the spec here, and it is described in
17 these sentences, and it is something that
18 responds to this request from the browser, as I
19 have stated several times.

20 BY MR. DAHLGREN:

21 Q. So I am going to ask that you and
22 your counsel produce anything inconsistent with
23 your position now that you are not able to
24 articulate what a person skilled in the art
25 would understand "web service provider node" to

1 mean, and I want to point out in -- it looks
2 like a prior IPR, you relied on an article
3 called "Access Management of Web of Based
4 Services."

5 I haven't gone through and looked at
6 this.

7 The fact that we were not given this,
8 I think that it is very likely a violation of
9 the patent office rules, and I am going to have
10 to continue this discussion with your counsel
11 about this.

12 I want to give you one more chance.

13 I don't want to do this, but you can't
14 keep stonewalling us. So could you please
15 explain to me what a person skilled in the art
16 would have understood "web service provider
17 node" to mean in the 2012 time frame?

18 What do you believe?

19 MR. ESRAM: Counsel, again, we
20 disagree with everything you just said, and
21 we are proposing that we take this offline,
22 if needed.

23 A. I believe I've just answered your
24 question about five or six times. I am happy to
25 answer it again, but I've already answered your

1 question.

2 BY MR. DAHLGREN:

3 Q. Is there a reason why you didn't list
4 your prior expert witness work in your CV?

5 MR. ESRAM: Objection to form.

6 BY MR. DAHLGREN:

7 Q. It's a pretty standard practice, and
8 the fact that you have represented Dropbox in
9 the past, and you said on patents related to
10 what's involved here, I am just wondering why
11 you didn't disclose that fact.

12 A. My CV is the academic CV I have on my
13 website. That's the standard practice of my
14 colleagues.

15 Q. So if I -- Okay. I am going to spend
16 some time, and I'll look at some other CVs from
17 this report, and, you know, we can compare
18 those. But I was just wondering if there was a
19 reason. I just was curious.

20 So I think that we've probably
21 addressed that enough. We can move on. I think
22 the record will speak for itself.

23 Just give me one second.

24 I want to talk about your second
25 declaration in the 287 IPR, and that is Mowry

1 Depo Exhibit 7, Exhibit 1127.

2 A. Okay.

3 MR. DAHLGREN: Oh, I think I said the
4 Depo Exhibit 7 -- oh, no, sorry.

5 And I think we are going to just --
6 for the record -- I just want to state in
7 case I forget, we are going to want to hold
8 the depo open pending our discussion on the
9 inconsistent discovery production.

10 MR. ESRAM: And we disagree with
11 that.

12 BY MR. DAHLGREN:

13 Q. Dr. Mowry, do you recall your
14 discussion of the replaying reference with
15 respect to the file request claims? If you turn
16 to -- I think it's around paragraph, like, 101
17 of your declaration. I think that's where the
18 discussion of the asserted prior art references,
19 alleged art references begins.

20 A. What's the page?

21 Q. I'm sorry. I am getting there
22 myself. I'm navigating.

23 It is -- I think it's around like 67
24 or --

25 Oh, real quick, just before I mention

1 that, are you familiar with the Extreme FS
2 client that is disclosed in the priority
3 application for 2012?

4 MR. ESRAM: Objection to form.

5 A. Sorry. Can you point me to what you
6 are referring to?

7 BY MR. DAHLGREN:

8 Q. Sure. If you look at paragraph --
9 it's -- it's paragraph 100. Here, you just
10 reproduced a couple paragraphs, and I understand
11 that you -- wait a second.

12 So I'm looking at -- it's
13 paragraph 100, and you reproduced a number of
14 paragraphs, and then you state (As read):
15 "These paragraphs 116 through 119 are describing
16 a representation of a data object, including
17 creating, identifying, mounting and accessing
18 the data object. It does not describe
19 generation of any message by an external
20 messaging node, which Patent Owner appears to
21 contend is encompassed in limitations of all
22 challenged claims."

23 Do you see that?

24 A. I see paragraph 100, yes.

25 Q. Are you familiar with the Extreme FS

1 client that's referenced in paragraph 100 of
2 your declaration?

3 MR. ESRAM: Objection to the form.

4 A. I believe I'm familiar with it.

5 BY MR. DAHLGREN:

6 Q. Sorry. You believe -- so are you
7 familiar with the Extreme FS?

8 A. What do you mean "familiar with"? I
9 haven't read all of the source code in Extreme
10 FS. I know that it's a file system client.
11 I've analyzed this section here.

12 Q. My apologies. I was wondering if
13 you -- if this was something that you were
14 familiar with or that you had to do some
15 research. I wasn't sure how well-known some of
16 these different technologies were that are
17 recited in paragraph 100.

18 So same question, but now with Samba.
19 Have you heard of Samba before your involvement
20 in this -- these IPRs?

21 A. Yes.

22 Q. For the CMIS, Content Management
23 Interoperability Services, were you familiar
24 with that prior to these IPRs?

25 A. I think so.

1 Q. For the Web Distributed Authoring and
2 Versioning, WebDAV, were you familiar with that
3 prior to these IPRs?

4 A. I don't recall exactly.

5 Q. And the ADaM Publishing Protocol,
6 were you familiar with that prior to your
7 involvement in these IPRs?

8 A. I don't recall.

9 Q. Do you recall what you did to form
10 your opinions that none of those disclosures
11 were adequate to provide written description
12 support for the challenge claims?

13 MR. ESRAM: Objection to form.

14 A. Sorry. You're asking me how I wrote
15 my report? Is that what you're --

16 BY MR. DAHLGREN:

17 Q. If you had to do any research, how
18 you satisfy yourself that you had a sound basis
19 for stating under oath that none of those
20 systems that were disclosed in the 2012 priority
21 applications were sufficient for purposes of
22 written description report for the challenge
23 claims.

24 MR. ESRAM: Objection to form.

25 A. Can you please restate the question?

1 BY MR. DAHLGREN:

2 Q. How did you determine that the
3 disclosures in the paragraph that you cite in
4 paragraph 100 of your applied declaration --

5 MR. ESRAM: Objection. Form.

6 BY MR. DAHLGREN:

7 Q. -- did not provide written
8 description report for the challenge claims?

9 MR. ESRAM: Objection to form.

10 BY MR. DAHLGREN:

11 Q. And Doctor, I don't want to --

12 A. Okay. We've been going a long time.
13 I mean -- you know, I was happy to let you start
14 late. This has been a very long day. So you're
15 asking me questions where I don't recall all of
16 the details of this, but that's not my answer.
17 So I need to spend more time going through this.

18 Q. Then that's -- if that's your intent,
19 that's fine. If you just can't recall, at this
20 moment, that is what it is.

21 So let's move back to your
22 declaration, and there is -- it's paragraph 101.
23 It's a 287 IPR, your second declaration.

24 A. Okay.

25 Q. There's the "Riepling" reference, and

1 you have reproduced -- it's Figure 3.

2 Do you see that?

3 A. Yes. Yes.

4 Q. And with respect to 101 and 102,
5 these paragraphs. Riepling doesn't disclose
6 that the information in the Figure 3 is all sent
7 to -- to the party that the file is being
8 requested from, correct?

9 MR. ESRAM: Objection to form.

10 A. Can you repeat the question, please?

11 BY MR. DAHLGREN:

12 Q. Sure. So in Figure 3, there's
13 different fields that are shown.

14 But the information that is
15 collected, that's not all included in the
16 message that is sent to another user requesting
17 a file, right?

18 MR. ESRAM: Objection to form.

19 A. So you're asking whether Figure 3 is
20 showing this, the Riepling patent. It's obvious
21 that this information would be communicated to
22 the person that the invitation is sent to.
23 Otherwise, you would be surprising them in an
24 unpleasant way, when they attempt to upload the
25 wrong thing.

1 (Defendant's Exhibit 11, Riepling,
2 introduced as of this date.)

3 BY MR. DAHLGREN:

4 Q. So we have Riepling, that should be
5 loaded -- if you could just download that and
6 let me know when you're ready.

7 And Riepling is Exhibit 11,
8 Deposition, and 1107 of the 287 IPR.

9 A. Okay.

10 Q. Now, the Figure 3 -- and
11 specifically, the content field, 325, the audio,
12 that is not included in the message that is sent
13 to another user requesting a file, correct?

14 MR. ESRAM: Objection to form.

15 A. I discuss this in my declaration, so
16 I want to refresh my memory on that discussion.

17 BY MR. DAHLGREN:

18 Q. Absolutely, please do so.

19 A. (Witness reviews document.) This
20 file is not searchable. It's going slowly here.

21 Q. I think that Figure 4 of Riepling's
22 is a depiction of something that's sent to the
23 party that the file be requested from.

24 A. Well, that figure is showing an
25 example of something, and it appears to be

1 chopped off.

2 You only see a portion of the email
3 message at the top. The portion that includes
4 just the link, but a person of ordinary skill in
5 the art reading the patent would realize that it
6 would be likely that the chopped off part would
7 include that information in box with 325.

8 Q. So it is your position that a person
9 of ordinary skill in the art, that it is
10 inherent, that it would be present that's how a
11 person would understand Figure 4?

12 MR. ESRAM: Objection to form,
13 misstates the testimony.

14 MR. DAHLGREN: Counsel, please stop
15 the speaking objections. It's an improper
16 objection. You have done it multiple times
17 today.

18 Just let the witness answer. You can
19 clean it up on redirect if you need to --
20 or try to at least.

21 MR. ESRAM: I disagree that it's
22 improper.

23 A. Sorry. You said the word "inherent."
24 I apologize, but again, I did not go to law
25 school. So I'm not sure what the significance

1 of that term is exactly.

2 As I stated, a person of ordinary
3 skill in the art would realize that it would be
4 obvious to include that information in the rest
5 of the email message.

6 In Figure 4, if you look at it, it
7 looks like it appears clearly to be chopped off.
8 There's no signature or anything else. And it
9 would be obvious to include those details in
10 that email message.

11 BY MR. DAHLGREN:

12 Q. If you could look at your first
13 declaration, it's in 287 IRP. That is 1102,
14 paragraph 21. It's a legal standard, and it's
15 for "anticipation." And you will see that's
16 where this word "inherently" came from, and it's
17 from your declaration.

18 A. What page, paragraph are we talking
19 about?

20 Q. It's numbered page 8, physical
21 page 11 of the PDF and it's paragraph 21.

22 A. Hang on. I need to adjust the
23 lights. I'll be right back in 30 seconds.

24 Q. No worries.

25 A. Sorry. Can you please repeat the

1 question?

2 Q. I was directing you to paragraph 21.

3 You had asked about that term
4 "inherently," and I wanted to direct you to
5 that. You can just read that paragraph.

6 And let me know when you're done,
7 please.

8 A. (Witness reviews document).

9 Well, that paragraph is about
10 "anticipation," and I am not providing an
11 opinion.

12 Let's see. (Witness reviews
13 document).

14 Q. I just wanted to clarify that,
15 Dr. Mowry, you answered it at that point.

16 I just wanted to make sure that we
17 are all on the same page as to what the theory
18 was.

19 So your opinion is that Figure 4, it
20 is chopped off, but given the rest of the
21 disclosure of Riepling, a person of ordinary
22 skill in the art, they would know or think it's
23 obvious to include additional information in
24 the -- I think it's called an "invite." That's
25 the invite message that's sent.

1 MR. ESRAM: Objection to form.

2 A. I think that, as I said, a person of
3 ordinary skill in the art reading Riepling would
4 find it obvious to include the information from
5 Box in 325 in the email message, in the
6 invitation, which is shown in Figure 4 -- well,
7 Figure 4 showing a portion of it.

8 BY MR. DAHLGREN:

9 Q. Is there anything in Riepling that
10 you can point to that you believe would provide
11 some type of motivation or reason or any
12 rationale for a person of ordinary skill in the
13 art to modify Riepling in that way?

14 MR. ESRAM: Objection to form.

15 A. That's not modifying Riepling.
16 That's what Riepling would do.

17 Can I say one thing?

18 BY MR. DAHLGREN:

19 Q. Yes, absolutely.

20 A. We've been going for a while, and I
21 am also wondering if we are close to the end of
22 our day here. But in any event, our most recent
23 session has been going for a while.

24 Q. Sure. If you could just answer this
25 last question, and then we will break and tally

1 the time.

2 But you agree that Riepling doesn't
3 disclose the content type in the message that's
4 depicted in Figure 4 or anywhere else in the
5 specification.

6 Is that right?

7 MR. ESRAM: Objection to form.

8 A. No, I don't agree with that.

9 BY MR. DAHLGREN:

10 Q. So you agree that you are not
11 asserting anticipation, which would require
12 every claim element to be disclosed, correct?
13 Actually it -- to just check, a minute ago, you
14 said if I answer that one question, we were
15 going to break, and I think I did.

16 Q. I didn't say "break." Well, sorry.
17 I understand, but it depends on the answer,
18 so -- okay.

19 I will strike that answer.

20 MR. DAHLGREN: We can go off the
21 record and figure out how much time we have
22 left.

23 MR. ESRAM: Okay. Are we going off?
24 (Off the record.)

25 MR. DAHLGREN: Dr. Mowry, I want to

1 thank you for your time. I have no further
2 questions at this moment, subject to your
3 counsel potentially having redirect.

4 However, I am going to have ongoing
5 discussions with him about some of the
6 issues I brought up about discovery
7 obligations.

8 So we are reserving the right to seek
9 some additional time. Hopefully, we can
10 avoid it. But subject to all that, I turn
11 it over to you, Trishan.

12 MR. ESRAM: Thanks. We don't have
13 any other -- we don't have any questions
14 for Dr. Mowry, so we rest. Thank you.

15 MR. DAHLGREN: I guess we can go
16 offline?

17 THE COURT REPORTER: Does Dr. Mowry
18 want to read and sign or waive his
19 signature?

20 THE WITNESS: Sorry. Can you explain
21 what that means?

22 MR. DAHLGREN: If you want to read
23 and sign.

24 MR. ESRAM: Yeah, he will read.

25 MR. DAHLGREN: Trishan, I don't know

1 if we talked about -- I don't recall what
2 we did for Dr. Smith in terms of logistics
3 if the proponent provides the transcript.
4 I apologize if we didn't bring it up.
5 (Off the record.)
6 MR. DAHLGREN: We will do a rough,
7 and today, being Tuesday, could we request
8 a -- do you think we could get something by
9 Monday, a final, or Tuesday?
10 Let's do a week, I guess.
11 Well, actually, I want to confirm
12 when the deadline is, make sure that I'm
13 not cutting it too close.
14 MS. HERRIOT: It's not regular
15 delivery.
16 MR. DAHLGREN: Can I get it by
17 Friday, the final?
18 MS. HERRIOT: We do want a final, so
19 there you go.
20 (Concluded at 6:46 p.m.)
21
22
23
24
25

CERTIFICATE OF OATH

STATE OF FLORIDA)

COUNTY OF LEE)

I, the undersigned authority, certify that TODD
MOWRY personally appeared before me and was duly
sworn.

WITNESS my hand and official seal this 14th day
of March, 2025.

Donna Dratwa

Donna Dratwa

Notary Public - State of Florida

1 REPORTER'S DEPOSITION CERTIFICATE

2 STATE OF FLORIDA)

3 COUNTY OF LEE)

4
5 I, Donna Dratwa, Certified Realtime Reporter,
6 Registered Merit Reporter, and Notary Public in
7 and for the State of Florida at Large, certify
8 that I was authorized to and did
9 stenographically report the deposition of TODD
10 MOWRY, that a review of the transcript was
11 requested, and that the transcript is a true and
12 complete record of my stenographic notes.

13 I further certify that I am not a relative,
14 employee, attorney, or counsel of any of the
15 parties; nor am I a relative or employee of any
16 of the parties' attorney or counsel connected
17 with the action; nor am I financially interested
18 in the action.

19 DATED this 14th day of March, 2025.

20 *Donna Dratwa*
21 Donna Dratwa

22 Donna Dratwa, RMR, CRR
23
24
25

1

RE: DROPBOX, INC., Petitioner v. MOTION

2

OFFENSE, LLC, Patent Owner

3

4

E R R A T A S H E E T

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20

21

Under penalties of perjury, I declare that I

22

have read the foregoing document and that the

23

facts stated in it are true.

24

25

TODD MOWRYDATE

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