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Transcript of David Lett

Date: August 1, 2025

Case: Viant Technology LLC -v- Intent IQ LLC (PTAB)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Intent IQ LLC
Ex. 2005, IPR2024-00421

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3)
4 VIANT TECHNOLOGY LLC,) IPR2024-00421
5 Petitioner,) IPR2024-00422
6) Patent No:
7 V.) 7,861,260 B2
8)
9 INTENT IQ LLC,) Page 1-72
10 Patent Owner.)
11)
12
13
14

15 REMOTE VIDEOTAPED DEPOSITION OF DAVID LETT
16 TAKEN ON
17 FRIDAY, AUGUST 1, 2025
18
19
20
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22 Reported by:
23 BRENDA R. COUNTZ, RPR-CRR
24 CSR NO. 12563
25 Job No.594868

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Remote Videotaped deposition of DAVID LETT
taken via Zoom or teleconference in Los Angeles,
California, on Friday, August 1, 2025, before
Brenda R. Countz, CSR No. 12563.

1 APPEARANCES OF COUNSEL:

2 (All counsel and participants present
3 via Zoom and/or teleconference.)
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Transcript of David Lett
Conducted on August 1, 2025

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I N D E X

WITNESS	EXAMINATION BY	PAGE
DAVID LETT	MR. MILKEY	5

E X H I B I T S

NO.	DESCRIPTION	PAGE
	(none marked)	

Transcript of David Lett
Conducted on August 1, 2025

5

1 LOS ANGELES, CA - FRIDAY, AUGUST 1, 2025

2 6:02 A.M.

3

4 DAVID LETT,

5 having been first duly sworn, was

6 examined and testified as follows:

7

8 EXAMINATION

9 BY MR. MILKEY:

10 Q. Good morning, Mr. Lett.

11 A. Good morning.

12 Q. Did you do anything to prepare for today's
13 deposition?

14 A. Yes.

15 Q. And what did you do to prepare for today's
16 deposition?

17 A. I read through my previous declarations
18 and other documents referenced by those, some of
19 them, and I also had some preparation sessions with
20 counsel.

21 Q. Okay. Approximately how long did you
22 spend preparing for today's deposition?

23 A. I'm thinking around 20 hours, ballpark.

24 Q. Okay. And is that including or not
25 including the time that you spent preparing your

1 second declaration in this case?

2 A. That's not including preparing the second
3 declaration.

4 Q. Okay. So you've submitted two
5 declarations in this proceeding, correct?

6 A. Yes. Actually four, I think, because
7 there was an A and a B for each of the first and
8 second declarations.

9 Q. Okay. Are the A and B declarations
10 substantively identical?

11 A. I think they are. Perhaps if there's
12 something I missed but it seems that they are.

13 Q. Okay. So just so we have this for the
14 record, you understand that you're testifying today
15 in regard to two different proceedings regarding
16 the same patent, correct?

17 A. That's right. That's my understanding.

18 Q. Okay. And in both of those proceedings
19 you've submitted an opening declaration and a reply
20 declaration; is that correct?

21 A. Yes, that's right.

22 Q. So, is it fair if I just refer to your
23 opening declaration and your reply declaration as a
24 single declaration just for purposes of ease of the
25 transcript?

1 A. Well, the opening declaration -- so, for
2 proceeding I think it's like 00221. There is an
3 opening declaration or a first declaration and a
4 second declaration.

5 And then for the proceeding that ends with
6 I think it's 422, the second one, there's an
7 identical -- substantively, essentially identical
8 except for maybe the timeline and a few things, a
9 first declaration and a second declaration.

10 So are you wanting to refer to the first
11 and second declaration as one?

12 Q. So yeah, thank you for that clarification.
13 So I'd like to just refer to your opening
14 declaration and not have to specify what proceeding
15 we're talking about because my understanding is
16 your opening declarations are substantively
17 identical, is that fair?

18 A. That makes sense, yes.

19 Q. Okay, and the same for the reply
20 declarations; I'm just going to refer to those as a
21 single declaration.

22 Is that fair?

23 A. That's fair. Thank you for the
24 clarification.

25 Q. Thank you.

1 And do you have a copy of your
2 declarations available today?

3 A. I do.

4 Q. Okay. I am going to upload the relevant
5 materials that we're discussing into the chat for
6 the benefit of the reporter. But feel free to
7 refer to any declaration that you have available as
8 long as it's a clean copy.

9 And also feel free to refer to any clean
10 materials that are exhibits in this proceeding as
11 well as long as these are clean copies, okay?

12 A. Yes.

13 MR. MILKEY: And just so we have them in
14 the record for this deposition, I'm going to upload
15 them. I'm going to upload your declarations in the
16 421 proceeding to the chat.

17 For the reporter's benefit, all of the
18 exhibits in this case and all of the papers are
19 already part of the record so we don't need to add
20 anything as an exhibit. At least I'm not planning
21 to at this time but I'm just going to upload them
22 to the chat so you have them available.

23 THE REPORTER: Thank you.

24 MR. MILKEY: So I'm uploading to the chat
25 Exhibit 1002, which is the first or opening

1 declaration that Mr. Lett submitted, and also
2 uploading Exhibit 1063 which is the second or reply
3 declaration that Mr. Lett submitted.

4 BY MR. MILKEY:

5 Q. So Mr. Lett, I want to start off with a
6 somewhat general question but again, feel free to
7 refer to any materials that you might want to.

8 Why do coffee shops provide public Wi-Fi
9 hotspots to their customers?

10 A. So Baig discloses public Wi-Fi hotspots
11 for providing services to the customers.

12 Q. Let me clarify something for the record.
13 So by Baig, Mr. Lett, you are referring to the
14 prior art reference Baig I believe that is
15 submitted as Exhibit 1007 in this case, is that
16 correct?

17 A. Yes, that's right.

18 MR. MILKEY: And going to upload that to
19 the chat as well. It's B-A-I-G and I'm also going
20 to upload the Costa reference which is
21 Exhibit 1011, and Costa is C-O-S-T-A.

22 BY MR. MILKEY:

23 Q. Okay, so apologies for the confusion,
24 Mr. Lett.

25 So my question is why do coffee shops

1 provide public Wi-Fi hotspots to their customers?

2 A. To provide services. And Baig describes
3 some examples of those services and he refers to
4 venues that could be a lot of different things
5 other than coffee shops.

6 Q. Okay. Understood that Baig talks about
7 things other than coffee shops. I believe Baig
8 talks about airports and libraries, for example?

9 A. Yes.

10 Q. Okay. Did you express any opinions
11 regarding what would have been obvious to the
12 proprietor of an airport in your opening report?

13 A. I don't know if I did. I talked, I think,
14 about venues that had these services and gave some
15 examples of those types of services.

16 Q. Okay. Did you provide any opinions
17 regarding what would have been obvious to the
18 proprietor of a library in your opening report?

19 A. I might have referred to or cited the
20 section in Baig that talks about that but I don't
21 know if I did that in my declaration other than
22 citing the section.

23 Q. Okay. And are you looking at your opening
24 report right now?

25 A. I have it but I was not looking at it.

1 Q. Okay, that's fine. I just wanted to
2 clarify for the record.

3 So, what is the last coffee shop that you
4 visited?

5 A. Personally?

6 Q. Yes, or the most recent one that you
7 remember.

8 A. I mean, I've been to Starbucks but I don't
9 know if that was the last one.

10 Q. Understood. Do you know if that Starbucks
11 provided a public Wi-Fi hotspot to the customers?

12 A. I think they did, yes.

13 Q. Okay. Do you have any idea why Starbucks
14 provides that public Wi-Fi hotspot to customers?

15 MR. HOLT: Objection, scope.

16 THE WITNESS: Well, I don't think I opined
17 on that in my declaration. But in the context of
18 the Baig patent, the Wi-Fi network, the hotspot is
19 provided so that the customers and/or anyone who
20 visits the hotspot could use services that are
21 supported by the hotspot.

22 BY MR. MILKEY:

23 Q. Okay. So it's your opinion that in Baig
24 there would be no reason to use the public hotspot
25 other than to use Baig's services, correct?

1 A. No.

2 Q. Okay. So I understand that it's your
3 opinion that you think the hotspot -- it would be
4 obvious to use the hotspot to use Baig's services.

5 Starbucks doesn't offer the services
6 described in Baig, correct?

7 MR. HOLT: Objection to form and scope.

8 THE WITNESS: I don't know, is the answer.

9 BY MR. MILKEY:

10 Q. You don't know if the Starbucks you
11 visited had a TV that displayed Baig's website on
12 it?

13 A. Well, I'm not sure what you mean by Baig's
14 website. Baig discloses a VCSP system with many
15 embodiments.

16 Q. Did the Starbucks you visited have any of
17 the embodiments of Baig displayed on the television
18 set?

19 MR. HOLT: Objection to form, scope.

20 THE WITNESS: I don't know.

21 BY MR. MILKEY:

22 Q. It's your testimony under oath that you
23 don't know if the Starbucks you visited had a
24 television set displaying any of Baig's embodiments
25 on it?

1 MR. HOLT: Objection to form, scope.

2 THE WITNESS: So I don't remember if they
3 had a television. They might have but I don't
4 know.

5 I don't remember is a better answer. I
6 don't remember.

7 BY MR. MILKEY:

8 Q. Okay. Do you know if Baig's website is
9 something that exists in the real world?

10 A. So I'm not sure what you mean by Baig's
11 website.

12 Q. Baig discloses a website, correct?

13 A. Baig discloses a lot of things. Baig is
14 about providing community services at hotspots and
15 neighboring vicinity hotspots and providing
16 advertising to those hotspots.

17 Q. Okay. Can you please turn to paragraph 40
18 of the Baig reference in Exhibit 1007?

19 A. Okay.

20 Q. And do you see that Exhibit 1007 in
21 paragraph 40 states, "Once the end-users at a
22 particular access point log into the website of the
23 VCSP, they are able to view other members of the
24 VCSP who have also logged in from the same access
25 point associated with a particular wireless

1 hotspot"?

2 A. I'm sorry, I lost you a little bit.

3 Are you quoting from paragraph 40?

4 Q. Yes.

5 A. I'm not sure if the words you said were
6 exactly what it says there. Are you starting with
7 the first sentence of paragraph 40?

8 Q. Yeah. So what is the first sentence of
9 paragraph 40 of Baig?

10 A. Do you want me to read it?

11 Q. Yes.

12 A. "Once the end-users at a particular access
13 point log into the website of the VCSP, they are
14 able to view other members of the VCSP who have
15 also logged in from the same access point
16 associated with a particular wireless hotspot."

17 Q. Okay, thank you. And do you see that that
18 references, quote, "The website of the VCSP,"
19 unquote?

20 A. Yes.

21 Q. So you agree that Baig discloses a
22 website, right?

23 A. At least, yes.

24 Q. Is that website described in Baig, is that
25 something that exists in the real world today?

1 MR. HOLT: Objection to form, scope.

2 THE WITNESS: I don't know the answer to
3 your question.

4 BY MR. MILKEY:

5 Q. Do you know if the website of Baig ever
6 existed in the real world?

7 A. So Baig describes a lot of functionality
8 and gives examples of that functionality and states
9 that it's not limited to this functionality. And
10 so if you're talking about the example where he, in
11 the figures, shows some tabs and, you know, with
12 different functionality like lost and found and
13 messaging and so on, that's just one example.

14 So it's hard to say if Baig -- Baig is not
15 limiting his website to this example, as he says
16 many times throughout the document.

17 Q. Okay. So if we go to figure 7 of Baig,
18 for example, that shows a portion -- an example of
19 Baig's website, correct?

20 A. One example, yes.

21 Q. Okay. So there may be other examples of
22 Baig's website that could exist, right?

23 A. That's right.

24 Q. Okay. Are you aware of any examples of
25 Baig's website that have ever existed in the real

1 world?

2 MR. HOLT: Objection to form and scope.

3 THE WITNESS: Baig references many types
4 of content. Multimedia content meaning -- could
5 mean audio, video, data, text.

6 He also refers to video games and other
7 examples consistent with the 260 patent where we're
8 talking about advertisements with different types
9 of multimedia.

10 So it's hard to answer your question.

11 BY MR. MILKEY:

12 Q. Okay. Is it your opinion that any website
13 that displays any type of multimedia is an example
14 of Baig's website?

15 A. So again, Baig is providing service for
16 targeted advertising as well as other services.

17 I'm sorry, what was your question again?

18 Q. Is it your opinion that any website that
19 provides multimedia is an example of Baig's
20 website?

21 A. I mean it's hard to say. I would need to
22 look at a particular website to see if it embodies
23 the disclosures of Baig.

24 Q. Okay. One of the primary purposes of Baig
25 and something central to Baig's teachings is a

1 vicinity-based community, correct?

2 A. He talks about a vicinity-based community,
3 yes.

4 MR. MILKEY: I'd like to keep going but I
5 think we just lost our defending attorney so I'll
6 hold for a second. We can go off the record.

7 Oh, never mind. We're back. David, are
8 you with us?

9 All right, let's go off the record.

10 (Break taken.)

11 BY MR. MILKEY:

12 Q. Mr. Lett, are you aware of any embodiments
13 of Baig's website that do not -- strike that.

14 Mr. Lett, would you agree that all of the
15 embodiments of Baig's website include a
16 vicinity-based community?

17 A. Baig's invention is for creating
18 vicinity-based communities over the internet by a
19 vicinity-based community service provider.

20 Q. So are there any embodiments of Baig's
21 website that do not create vicinity-based
22 communities over the internet using a
23 vicinity-based service provider?

24 A. It seems that Baig is what I just
25 described. Actually, I was reading from paragraph

1 38 which says, "The present invention is directed
2 to a method and apparatus for creating
3 vicinity-based communities over the internet by a
4 vicinity-based community service provider for
5 wireless mobile devices of end-users that have
6 accessed the VCSP," blah, blah, blah, so on and so
7 forth.

8 So he's describing a vicinity-based
9 community service.

10 Q. Okay, and just to be clear, my question is
11 are there any embodiments of Baig's website that do
12 not create a vicinity-based community service?

13 A. There might be. I don't recall. Perhaps
14 there's another place in his patent document that
15 describes something else, but I don't recall at
16 that time.

17 Q. Okay. Are you aware of any websites that
18 exist in the real world that create a
19 vicinity-based community service?

20 MR. HOLT: Objection to form and scope.

21 THE WITNESS: I don't know. I don't
22 remember.

23 BY MR. MILKEY:

24 Q. Okay. So you don't have any opinion that,
25 for example, your local Starbucks provides a public

1 Wi-Fi hotspot for the purpose of providing a
2 vicinity-based community service, correct?

3 A. I mean, I don't know why Starbucks decided
4 to put that at their store. Perhaps we should ask
5 them.

6 Q. Okay. Obviously we can't ask Starbucks
7 why they are doing what they are doing.

8 You are an expert in the field of content
9 distribution, correct?

10 A. Yes.

11 Q. You don't provide any opinions that coffee
12 shops in the real world provide public Wi-Fi
13 hotspots for the purpose of providing a
14 vicinity-based community service, correct?

15 A. I don't think I opined on that. What I
16 did was I looked at the 260 patent and I mapped the
17 prior art references that disclose the elements of
18 the 260 patent, the claims of the 260 patent.

19 Q. Okay, speaking of that, which prior art
20 reference discloses a television advertisement?

21 A. So according to the 260 patent, a
22 television advertisement is any form of
23 advertisement suitable for delivery to a visual or
24 audible presentation by a television set, and gives
25 examples of full screen video ad, a partial screen

1 video ad, a banner ad, a text add, an audio ad or
2 any other form of advertisement.

3 So what he's saying is that a television
4 ad is an advertisement displayed on a television
5 set.

6 MR. MILKEY: And just for the record I'm
7 also uploading Exhibit 1001 which is the 260 patent
8 that you are referencing.

9 BY MR. MILKEY:

10 Q. So Mr. Lett, I believe you said a
11 television advertisement is an advertisement
12 displayed on a television set, correct?

13 A. In the context of this proceeding, yes.

14 Q. Okay. And so my question is does Baig
15 disclose a television advertisement under that
16 definition?

17 A. So, I used a combination of Baig and Costa
18 as well as other prior art references in the
19 grounds, as you can see, and Baig does not preclude
20 a set-top box but just to make sure that a set-top
21 box which displays on a television is included, I
22 opined that and I used the combination of Baig and
23 Costa in all of the grounds.

24 Q. Okay. Understood that it's your opinion
25 that Baig does not preclude a television.

1 My question is whether Baig discloses a
2 television advertisement.

3 A. So Baig refers to multimedia. It refers
4 to video games. It refers to music. All of those
5 are within the definition that the 260 patent
6 described as a television ad. And Baig is talking
7 about devices 102, which could be a number of
8 different type of devices.

9 And what I did was I said we can modify
10 Baig with Costa by making those devices 102 a
11 set-top box which would create a television
12 display.

13 Q. You can't have a television advertisement
14 without a television display, correct?

15 A. I think my understanding is that a
16 television ad is an advertisement displayed on a
17 television set.

18 Q. So does Baig disclose a television
19 ad -- sorry, strike that.

20 Does Baig disclose an advertisement
21 displayed on a television set?

22 A. In the combination with Costa, yes.

23 Q. Okay. In isolation, does Baig disclose an
24 advertisement displayed on a television set?

25 A. Well, I didn't render any opinions in

1 isolation. All my opinions were based on the
2 combinations.

3 Q. Okay. And is it your opinion that Costa
4 discloses an advertisement displayed on a
5 television set?

6 A. It might but what I did in my declaration
7 was I modified Baig with Costa's set-top box.

8 Q. Mr. Lett, just to be clear, I'm happy to
9 make this clear for the record. I understand that
10 you are proposing a combination of Baig with Costa.
11 I'm just trying to understand where we have any
12 disagreements.

13 So I believe you testified that Baig alone
14 does not explicitly disclose a television
15 advertisement. My question is do you have any
16 opinion that Costa alone discloses a television
17 advertisement?

18 A. Can you break that down into two sections
19 for me? There are several questions or at least
20 two sections. There are several questions there.

21 Q. Yeah. My question is whether Costa,
22 standing alone -- strike that.

23 My question is whether you have offered
24 any opinions that Costa, standing alone, discloses
25 a television advertisement?

1 A. No, I have not.

2 Q. And we were talking previously about
3 coffee shops that provide vicinity-based community
4 services to their customers.

5 Are you aware of any coffee shops that
6 provide vicinity-based community service websites
7 to their customers?

8 A. I have not mapped the Baig disclosure to a
9 local coffee shop so it's hard for me to answer
10 that question.

11 Q. Do you have an opinion in that regard?

12 A. I haven't really provided an opinion on
13 that and I mean it sounds like that would be a new
14 opinion and I would like to have more time to think
15 about that, perhaps in another disclosure if
16 necessary.

17 Q. Okay. Do you have any opinions regarding
18 why coffee shops provide public wireless hotspots
19 in the first place?

20 A. Well, I think -- and again I'm not the
21 coffee shop owner but I think they provide access
22 to Wi-Fi and hotspots so that customers will gather
23 there and perhaps linger there and buy things.

24 Q. Now Baig's website doesn't provide
25 traditional television services, correct?

1 A. What do you mean?

2 Q. Can you watch a television program with
3 Baig's website?

4 A. Again, I use the combination with Costa
5 and Baig.

6 Q. Okay.

7 A. The Baig system modified with Costa has a
8 set-top box with a television.

9 Q. Okay. So I'm specifically asking about
10 television service; for example watching a program
11 on network or cable television.

12 And my question is does Baig disclose that
13 its website provides television service such as
14 television programming?

15 A. Again, Baig is modified with Costa for the
16 television.

17 Q. Okay. So do you have an opinion that
18 Baig, standing alone, discloses that it is a
19 website providing television programming?

20 A. I didn't provide any opinions about Baig
21 alone that I'm aware of.

22 Q. And do you have any opinions that Costa
23 discloses a website that provides television
24 programming?

25 A. Again, I provided the combination of Baig

1 and Costa among others but I modified Baig with
2 Costa to provide a set-top box and a television.

3 Q. Okay, so again my question is did you
4 provide any opinions that Costa, standing alone,
5 discloses a website that provides television
6 programming?

7 A. I do not provide any opinions.

8 Q. Okay. And do you offer any opinions that
9 Baig as modified with Costa would provide a website
10 that provides television programming?

11 A. So, one practical example of I think what
12 you are trying to get at is I have a bar or a
13 restaurant or a venue, let's call it, and I did
14 provide an opinion that a reason to put a set-top
15 box at such a venue would be to provide television.

16 And when I mean television service, you
17 know, like you are talking about, ABC or something,
18 right?

19 And so a person would certainly understand
20 that at such a venue the television could be tuned
21 to broadcast channels to watch sports or whatever.
22 And I think the proper way to say it is to have
23 television service as you are describing, right?

24 And then, if the proprietor or the owner,
25 as described in the prior art documents, wants to

1 offer these services that are beneficial like, as
2 for example Baig discloses lost and found and Baig
3 discloses that a proprietor may want to offer
4 coupons so that the people at the venue could view
5 them.

6 Or I could think of another example that's
7 not precluded that's playing trivia at a particular
8 time, say 7:00 p.m. on Saturday night we switch the
9 set-top box to a VCSP website that would allow the
10 people to play trivia.

11 And so I think that in that context Baig
12 and Costa disclose not only, you know, to watch
13 television but also delivery of ads in all the
14 different ways we've talked about.

15 Q. Okay. So you talked about that the
16 proprietor of a coffee shop might want to display,
17 for example, television service provided by ABC.

18 My question is whether Baig's website, as
19 modified by Costa, would provide television
20 programming provided by, for example, ABC?

21 A. It could. You know, Baig talks about, you
22 know, multimedia which means that's sound and video
23 and whatever. And it could do that. He doesn't
24 preclude that.

25 Q. Okay. Sorry for the confusion. My

1 question is -- strike that.

2 Does Baig disclose that its website would
3 provide television programming?

4 A. Again, I use Baig in combination with
5 Costa so that the set-top box of Costa modifies
6 Baig so that there is a television.

7 Q. So my question isn't about whether there's
8 a television, my question is whether Baig's website
9 provides television programming.

10 So with that in mind, my question is
11 specifically does Baig disclose that its website
12 provides television programming?

13 A. Well, it talks about multimedia and
14 multimedia can mean video and audio. So it does
15 not preclude that.

16 Q. Okay. I understand that it's your
17 testimony that Baig does not preclude its website
18 providing television programming.

19 Does Baig disclose that its website
20 provides television programming?

21 A. So again, I'm using Baig in a combination
22 with Costa. Baig, as far as I know, doesn't talk
23 about televisions. Baig, in combination with
24 Costa, has a television.

25 Q. Okay. And separate from the question of

1 whether Baig discusses televisions, Baig also does
2 not disclose television programming, correct?

3 A. I don't think Baig mentions televisions.
4 He may and if so I missed it, but I don't think he
5 does.

6 Q. Okay. Televisions and television
7 programming are, in theory, two different things,
8 right? Because I could stream potentially ABC News
9 onto my laptop, right?

10 A. Yes, you can do that.

11 Q. Does Baig disclose that its website
12 provides television programming?

13 A. So again, it talks about multimedia and
14 multimedia can be streaming content that is
15 representative of a television program.

16 I hate to use the word television because
17 it's not a television, right, that we're talking
18 about here. We're talking about content coming
19 down and Baig disclosing that content having video
20 and audio information, right? And then with the
21 combination with Costa, that's where we add the
22 television display.

23 Does that make sense?

24 Q. I understand what you're saying.

25 My question though, specifically is you

1 mention that multimedia can be streaming content
2 that is representative of a television program.

3 My question is whether Baig discloses that
4 its multimedia is streaming content that is
5 representative of a television program?

6 A. I don't think he discloses that but he
7 does disclose multimedia content which a POSA would
8 understand could be such programming.

9 Q. Does Baig disclose multimedia streaming
10 services like Netflix?

11 A. He doesn't mention Netflix because I'm not
12 even sure Netflix existed at the time. Maybe it
13 did.

14 Q. I'm asking if it discloses multimedia
15 streaming services such as Netflix.

16 A. So again, he discloses multimedia. So a
17 POSA could and would understand that it could
18 include streaming services.

19 And he even talks about music stored on
20 the VCSP website that can be played. So
21 essentially that's streaming music from the VCSP
22 website, which is at least one component of kind of
23 providing streaming media.

24 Q. Okay, so it's your opinion that Baig
25 discloses a streaming service for music, correct?

1 A. It seems to be, yes.

2 Q. And where do you offer that opinion in
3 your reports?

4 A. Well, I reference or I cite paragraph 90
5 of Baig, at least in my first declaration because
6 that's the one I found first. I may have had it
7 also in the second declaration.

8 In paragraph 90 of Baig he talks about
9 uploading and downloading music and the
10 capabilities that I'm describing.

11 Q. Okay. Is it your opinion that a
12 file-sharing service is the same thing as a media
13 streaming service?

14 A. It's hard to say because if the file is
15 music or video, it could be a streaming media
16 service.

17 Q. Okay. Are you familiar with Napster?

18 A. Yes.

19 Q. At a high level, what is Napster?

20 MR. HOLT: Objection to form.

21 THE WITNESS: I'm sorry, I haven't thought
22 about Napster in many years so I'm not sure I, at
23 this time, feel comfortable rendering an opinion on
24 that.

25 BY MR. MILKEY:

1 Q. Okay. You understand that Napster was,
2 and potentially still is, a file-sharing service,
3 correct?

4 A. I'm not really prepared to testify about
5 Napster.

6 Q. You are not prepared to testify that
7 Napster is a streaming service, correct?

8 A. I don't remember.

9 Q. Where in your reports do you offer any
10 opinion that Baig's website would be modified to
11 provide television programming such as, for
12 example, ABC News?

13 A. I don't think I offer an opinion on that.
14 If I do, perhaps you could point me to it and I can
15 look at it.

16 Q. Okay. I don't think you do either, but at
17 this point I just wanted to check to see if you had
18 a different recollection.

19 Okay. So I want to talk a little bit
20 about how the coffee shop discussed in Baig
21 actually uses the Baig website in a beneficial way.

22 How does Baig disclose that for example a
23 coffee shop proprietor could make use of Baig's
24 website?

25 A. One example I provide is in paragraph 33

1 of my reply declaration where I say that users that
2 previously lost an item, regarding lost and found,
3 but is not logged in the VCSP website on their
4 personal devices would still be able to see via
5 television that the item had been found at the
6 coffee shop and could contact the set-top box
7 operator, you know, presumably the owner or
8 whatever of the venue, to retrieve the item.

9 Thus the coffee shop -- if the coffee shop
10 -- the set-top operator associated with the coffee
11 shop would understand the benefits of displaying
12 the services to their customers.

13 Does that answer your question?

14 Q. Thank you for that. Not quite.

15 My question is specifically about how Baig
16 discloses that the coffee shop proprietor would use
17 Baig's website.

18 I believe you mentioned this in your
19 declaration somewhere. It's paragraph 101 of Baig.

20 A. Okay, are you talking about my first
21 declaration or my reply declaration? Do you
22 remember?

23 Q. I think it was your second one.

24 A. Okay.

25 Q. Yeah, so it's paragraph 34 of your second

1 declaration.

2 A. Okay, thank you for that.

3 Now what was your question?

4 Q. Okay. So before I ask my question, for
5 context, at the bottom of page 20 you cite to
6 paragraph 101 of Baig and provide a parenthetical
7 there which says, "(Teaching the wireless hotspot
8 provider (coffee shop owner) using Baig's
9 vicinity-based community to advertise itself.)"

10 And my question is other than using the
11 hotspot to advertise itself, does Baig disclose
12 that the coffee shop would use Baig's website for
13 any other purpose?

14 A. I'm sorry, I missed a couple of words.
15 Would you mind repeating that?

16 Q. Other than advertising itself, does Baig
17 actually disclose that the coffee shop proprietor
18 would make use of Baig's website for any other
19 purpose?

20 A. So in Baig paragraph 94, for example, the
21 owners of a music shop may choose to advertise
22 offering special discount coupons. So I don't know
23 if there are other examples but there might be
24 other examples.

25 Q. Okay. So other than advertising, does

1 Baig disclose that the proprietor of a coffee shop
2 would use Baig's website for any other purpose?

3 A. I don't think so. Perhaps there are some
4 but I don't see any at this particular time other
5 than what I've just talked about. I'm basically
6 looking for the word "owner" in the document so
7 that's how I'm finding what I'm talking about.

8 Q. Okay. So let's stick with the coffee shop
9 example in Baig. And in the coffee shop example of
10 Baig, the coffee shop has to pay Baig's website to
11 advertise on the website, right?

12 A. I mean, I don't know if that's disclosed.

13 Q. Do you know if advertisers to Baig's
14 website get the advertising for free?

15 A. So Baig describes bidding for
16 advertisements. And in some of the other prior art
17 references I provide the combination where there is
18 payment.

19 But a POSA would understand that a payment
20 could be included with the process of bidding,
21 right? So from a practical point of view, the
22 advertisers bid for the right to display an ad as
23 Baig describes, and whoever wins that bid, you
24 know, would pay for the right to display that ad, I
25 think, is what he's basically talking about.

1 (Reporter clarification.)

2 BY MR. MILKEY:

3 Q. You don't offer any opinions that Baig's
4 website gives its advertising away for free,
5 correct?

6 A. I don't think so. Perhaps if I did you
7 could refer me to it and I could answer a question
8 about it.

9 Q. Okay, that's consistent with my
10 understanding as well.

11 And so in your proposed combination of
12 Baig with Costa, a POSITA would understand that the
13 coffee shop would need to pay Baig's website to
14 advertise so that the advertisement can be
15 displayed on the television set, correct?

16 A. I don't know if it discloses that it's
17 absolutely required that payment is rendered.

18 Q. Okay, but that would be the logical
19 extension of your proposed combination, correct?

20 A. I mean, yeah, Baig describes the bidding
21 process as I just described.

22 Q. Okay. So let's say that the coffee shop
23 provider is Starbucks and Starbucks puts the
24 television set in the Starbucks and navigates the
25 television set to Baig's website.

1 A POSITA would understand that Starbucks
2 would need to pay Baig's website to display an ad
3 on that television set, correct?

4 A. I'm not sure. There might be other
5 incentives for providing that advertisement, you
6 know, other than monetary. I just can't really
7 speculate what they might be.

8 Q. Do you have any opinions regarding how
9 Starbucks could get its ad on that television set
10 other than by paying Baig's website to display the
11 advertisement?

12 A. I don't have an opinion on that.

13 Q. And so I understand that you don't have an
14 opinion as to other ways that the ad could get on
15 the television set. But let's assume for the sake
16 of this next line of questioning that Starbucks
17 would have to pay Baig's website for the
18 advertisement, is that fair?

19 A. Okay, I'm fine with that.

20 Q. What if another coffee shop wanted to
21 advertise on Baig's website at that hotspot; for
22 example Coffee Bean next door wants to provide an
23 advertisement to the Starbucks hotspot.

24 Would they be able to do that?

25 A. Baig's disclosure does not preclude that.

1 Q. Okay. So it's possible that Starbucks
2 would go to the effort of adding a television set
3 to its coffee shop to display ads. And then
4 another coffee shop would end up displaying the ad
5 on that television set, correct?

6 A. Well, this is a very hypothetical
7 situation that I haven't really contemplated. So
8 it's difficult for me to map that to the prior art
9 elements.

10 Q. Okay, I'm not talking about mapping to any
11 elements, I'm just asking whether in the
12 implementation that you are proposing where
13 Starbucks would add a television set for
14 advertising purposes, whether any other coffee
15 shops would be able to display advertisements on
16 that television set.

17 Would a POSITA understand that other
18 coffee shops would be able to bid for ad space on
19 Starbucks's television set?

20 A. The first part of your statement, I did
21 not propose that, you did.

22 Q. Okay, it's your opinion though that a
23 purpose of providing the television set tuned to
24 Baig's website is so that the proprietor of the
25 coffee shop can display advertising to customers,

1 correct?

2 A. That's one of the examples. There's other
3 examples of why the coffee shop operator or the
4 venue operator or the bar or the restaurant or any
5 kind of venue might want to do that.

6 Q. Okay. And in the example of where the
7 proprietor of the coffee shop provides the
8 television set and wants to provide advertisements
9 to its customers, do you have any opinion regarding
10 whether a neighboring coffee shop such as Coffee
11 Bean would be able to bid for that ad space on that
12 television set?

13 A. Baig is not limited to preclude that
14 combination. A business owner -- the business
15 contracts may be worked out in such a way as to
16 prevent that. But Baig's is a technical disclosure
17 and it's not talking about that.

18 Q. Baig talks about advertisers bidding
19 against each other for ad space, right?

20 A. It does, yes.

21 Q. So in the context of Baig's disclosure, a
22 POSITA would understand that it's possible that two
23 different coffee shops would be bidding against
24 each other for the same ad space, correct?

25 A. Well, it doesn't narrow it down to that.

1 It's talking about advertisers bidding for ads to
2 be displayed at the VCSP hotspot based on the
3 profiles and so on that's disclosed in Baig.

4 Q. Okay. Nothing in Baig's disclosure would
5 preclude, in your proposed combination, Coffee Bean
6 outbidding Starbucks for the ad space displayed on
7 Starbucks's TV, correct?

8 A. Baig is more general than that. It
9 doesn't get into that specific hypothetical
10 scenario so it does not disclose that.

11 Q. Baig doesn't preclude that though,
12 correct?

13 A. Again, Baig is talking about a VCSP
14 service and gives some examples. Baig is not
15 limited to the examples, including the venue which
16 it operates such as a coffee shop or a number of
17 different venues that he refers to.

18 He's just giving a few examples of the
19 type of services that could be provided in his
20 disclosure that's very general.

21 Q. Let's say I'm a POSITA and I run a copy
22 shop. I am considering installing a TV in my
23 coffee shop and navigating that TV to Baig's
24 website. I have a concern, however, that competing
25 coffee shops will be able to target ads to my

1 customers.

2 What in Baig's disclosure would give me
3 confidence as a POSITA that competing coffee shops
4 would not be able to do that?

5 MR. HOLT: Objection, form and scope.

6 THE WITNESS: Are you referring to a
7 particular claim element?

8 BY MR. MILKEY:

9 Q. No, I'm asking about your proposed
10 combination. And my specific question is what
11 would give me confidence as a POSITA that if I were
12 to install a TV in my coffee shop and navigate it
13 to Baig's website, that other coffee shops wouldn't
14 be able to display advertisements to my customers?

15 A. That is out of the scope of the
16 disclosure.

17 Q. Would you turn to paragraph 14 of your
18 reply declaration, Exhibit 1063?

19 A. Okay.

20 Q. Do you see that the first sentence of
21 paragraph 14 of your reply declaration states:
22 "Patent Owner and Mr. de la Iglesia then find fault
23 with my alleged failure to identify who would have
24 found it obvious to add the STB to the Wi-Fi access
25 point"?

1 A. Yes.

2 Q. And then in paragraph 15 of your
3 declaration you state, "Thus, my analysis first
4 explained how I, as a POSA, would have combined
5 Costa's STB with Baig's public wireless hotspots."

6 Do you see that?

7 A. Yes.

8 Q. So, is it correct that the analysis in
9 your opening report explained how you would have
10 found the combination obvious?

11 A. I believe the paragraphs in my declaration
12 state my opinion correctly.

13 Q. Okay, so is it fair that in your opening
14 report you analyzed how you would have combined
15 Costa's STB with Baig's public wireless hotspots if
16 you were designing a system at that point in time?

17 A. Well, at least in paragraph 15 of my
18 second declaration I'm describing that, yes.

19 Q. And in paragraph 16 you state that, "My
20 analysis then explained why I, as a POSA, would
21 have combined Costa's STB with Baig's public
22 wireless hotspots."

23 Do you see that?

24 A. Yes.

25 Q. So in your analysis in this case, was your

1 analysis focussed on why you would have been
2 motivated to combine Costa's STB with Baig's public
3 wireless hotspots if you went back in time and were
4 designing systems in the relevant timeframe?

5 A. I'm sorry, that's a really long question.
6 Would you mind breaking it up for me?

7 Q. Yeah. So was your analysis focused on
8 whether you would have found the proposed
9 combination obvious?

10 A. So I analyzed this from the point of view
11 of a POSA or POSITA as defined in my declaration
12 and I put myself in the shoes of the POSITA to
13 render my opinion.

14 Q. A POSITA is presumed to have knowledge of
15 the prior art, correct?

16 A. Yes.

17 Q. What are the motivations of a POSITA?

18 MR. HOLT: Objection to form.

19 THE WITNESS: Just to be clear, my
20 declarations may use POSITA but most of the time it
21 uses POSA, as meaning a person of skill in the
22 ordinary skill in the art.

23 So what was your question again?

24 BY MR. MILKEY:

25 Q. My question is what is a POSA or POSITA

1 trying to accomplish?

2 MR. HOLT: Objection to form.

3 THE WITNESS: So, as I state on paragraph
4 23 of my first declaration, I understand that in
5 consideration of the issue of obviousness it's
6 important to identify whether a reason existed at
7 the time of the invention that would have led a
8 POSA to combine elements of the references in a way
9 that yields the claimed invention.

10 BY MR. MILKEY:

11 Q. Yeah. So my question is maybe a little
12 bit more high-level.

13 Is a POSA trying to make money, create
14 good technology? What are the motivations at a
15 high level that a POSA is trying to accomplish?

16 MR. HOLT: Objection.

17 THE WITNESS: Accomplish with what? I
18 mean I don't understand the question.

19 BY MR. MILKEY:

20 Q. When a POSA is looking to prior art to try
21 to design systems, what are they trying to
22 accomplish?

23 MR. HOLT: Objection to form.

24 THE WITNESS: I'm sorry, I don't
25 understand the question.

1 BY MR. MILKEY:

2 Q. What is the goal of running a coffee shop?

3 MR. HOLT: Objection to form and scope.

4 THE WITNESS: I mean, I don't think I
5 provided an opinion on that. I suppose any
6 business is in business to make money. Perhaps an
7 example that you just described, the purpose is to
8 sell coffee. I don't know.

9 BY MR. MILKEY:

10 Q. And is that the goal of a POSITA?

11 A. To sell coffee?

12 Q. Correct.

13 A. I don't understand. I mean we're talking
14 a different language here. A POSA is defined in my
15 declaration. It doesn't say anything about selling
16 coffee.

17 Does that help?

18 Q. Yeah, I think so.

19 MR. HOLT: Jim, we've been going for I'd
20 say 90 minutes but I know I was offline for a few.
21 Are you planning on taking a break any time soon?

22 MR. MILKEY: Yeah, let's go off the
23 record.

24 (Break taken.)

25 BY MR. MILKEY:

1 Q. So, Mr. Lett, I want to ask you about your
2 own personal experience with set-top boxes.

3 Do you have personal experience with
4 set-top boxes?

5 A. Yes.

6 Q. You're familiar with how set-top boxes are
7 used in public establishments, right?

8 A. Yes.

9 Q. And you design set-top boxes?

10 A. Yes.

11 Q. And you know how customers of your set-top
12 boxes use the set-top boxes, right?

13 A. At least some examples, yes. There may be
14 some court cases that I don't know about.

15 Q. Okay. Could you please turn to paragraph
16 18 of your declaration?

17 A. The reply or the first declaration?

18 Q. Thank you for the clarification.
19 Paragraph 18 of the reply declaration.

20 A. Okay, I have it.

21 Q. I'm going to paraphrase a little bit
22 because it's a long sentence with parentheticals.
23 Do you see that paragraph 18 discusses that your
24 proposed combination, "Merely combines known prior
25 art elements according to known methods to yield

1 predictable results"?

2 A. Yes.

3 Q. And is it your opinion that combining
4 known prior art elements according to known methods
5 to yield predictable results renders a combination
6 obvious, even if the results would be undesirable?

7 A. I don't know the answer to that question.
8 I'm sorry, I'm not an attorney.

9 Q. Do you understand that to be a KSR
10 obviousness rationale, that combining known prior
11 art elements according to known methods to yield
12 predictable results is obvious, even if the results
13 would be bad?

14 MR. HOLT: Objection to form.

15 THE WITNESS: Perhaps you could refer me
16 to which of the elements says that and maybe I
17 could look at it, if it says that? I'm looking at
18 paragraph 24 of my first declaration.

19 BY MR. MILKEY:

20 Q. Okay. So I'm looking at paragraph 162 of
21 your first declaration and it's actually towards
22 the end of paragraph 162 on page 89, if you could
23 let me know when you're there.

24 A. Okay. I'm at paragraph 162.

25 Q. Okay. Do you see that the last two

1 sentences of paragraph 162 talk about how the
2 combination yields predictable results and what
3 those three results are?

4 A. Yes.

5 Q. And for the KSR obviousness analysis, in
6 your opinion is it sufficient just to identify that
7 the results are predictable without explaining how
8 those results are advantageous in any way?

9 A. So this section refers to obvious
10 rationale A in Section IV. So if I go to Section
11 IV and I look at obvious rationale A, it says
12 "Combining prior art elements according to known
13 methods to yield predictable results."

14 Q. Okay. And that rationale doesn't have any
15 reference to a requirement that the predictable
16 results be good results, correct?

17 A. It doesn't say anything about good
18 results. It says predictable results.

19 Q. And is this rationale what you applied in
20 forming your opinions in this case?

21 A. Well, the paragraph you just referenced
22 me, that was the rationale that I was using for
23 that section.

24 Q. Do either of your declarations identify
25 any coffee shops that have installed a television

1 set?

2 A. Well, throughout my declaration I use the
3 combination of Baig and Costa and sometimes refer
4 to the example -- one of the examples of Baig where
5 he's talking about a coffee shop.

6 Q. Right. So I understand that in your
7 proposed combination of Baig with Costa there's a
8 coffee shop with a television set.

9 What I'm asking is do either of your
10 declarations identify any actual coffee shops that
11 actually included a television set?

12 A. Just to be clear, the combination does not
13 require a coffee shop. It just uses one example of
14 a VCSP -- or a hotspot in a VCSP community and he
15 refers to many other examples like cafes, for
16 example.

17 So my opinions are not limited to coffee
18 shops.

19 Q. Okay. Understood. My question was
20 specifically about a coffee shop.

21 So my question specifically is, in your
22 declarations, do you give any examples of coffee
23 shops that actually included a television set?

24 A. I don't remember. Do you want me to go
25 through my declaration and see if I can find if I

1 did? I honestly don't remember.

2 Q. Okay. So I don't think that you
3 identified any real world examples of coffee shops
4 that included a television set.

5 Is your recollection different?

6 A. Well, Baig gives an address of some venue.
7 I'm not sure but he might have referred to a
8 specific coffee shop that I used. I just don't
9 recall.

10 Q. Well, Baig doesn't disclose a television
11 set, correct?

12 A. Correct. He doesn't preclude using a
13 television set.

14 Q. Right. So my question is -- and we'll
15 start with this. My first question is very
16 specific. We'll get broader later.

17 But my question is do you identify, in
18 either of your declarations, any real-world
19 examples of coffee shops that include set-top box?

20 A. What do you mean by real-world examples?
21 Are you talking about a specific property or can
22 you define what you mean by real-world examples?

23 Q. Can you identify in your declarations any
24 coffee shop that exists that included a set-top
25 box?

1 A. I think I answered that question. I said
2 I don't recall. But I can read through my
3 declaration and see if I can find it.

4 Q. Okay. If you want to -- I think that's
5 consistent with my understanding but if you want to
6 re-review your declaration and verify it, I don't
7 have any objection to you doing that. It's just
8 going to take more time.

9 A. Okay. Just let me know one way or
10 another. I just don't recall. So to be certain,
11 I'd probably need to read through a good bit of my
12 declaration.

13 Q. Okay.

14 A. Would you like me to do that?

15 Q. I'll get more specific in later questions.
16 Let me just ask this.

17 Sitting here today, you are not
18 remembering any examples you provided in your
19 declarations of a real-world coffee shop that
20 included a set-top box, correct?

21 A. Well, I refer to coffee shop examples
22 including a set-top box. For example, in paragraph
23 160 among a number of places in my first
24 declaration. It's an example provided by Baig,
25 modified by Costa to include a set-top box, which

1 means it also includes a television.

2 Q. Okay, my question is specifically about
3 real-world examples, not proposed combinations of
4 references.

5 So again my question is, sitting here
6 today do you recall any examples you provided in
7 your declarations of a real-world coffee shop that
8 included a set-top box?

9 A. I'm not sure if I understand what you mean
10 by real world. Are you requiring that I specify
11 certain property like with an address or the name
12 of the establishment or something like that? Is
13 that what you are asking?

14 Q. I don't think you need to be that
15 specific. But sitting here today do you recall in
16 your declarations describing any coffee shop that
17 existed in the real world that actually included a
18 set-top box?

19 A. So, in my second declaration I gave some
20 examples of set-top boxes that were used in public
21 establishments and Baig uses the example of a cafe.
22 And so I talked about some of my experience
23 personally at Scientific Atlanta and working for
24 EchoStar with our customers using the Dish set-top
25 boxes that we supplied.

1 I don't know if I used a coffee shop.
2 Maybe I did. I'll have to look. But I talked
3 about -- well, I'd better find it. Bars,
4 restaurants that commonly use Dish Network set-top
5 boxes that I was responsible for, the design was
6 commonly used in bars, restaurants and other public
7 areas and Scientific Atlanta interactive boxes were
8 used, as an example, in a 1996 public venue in the
9 Olympics.

10 And then furthermore, I have experience
11 with environments such as hotels, which frequently
12 have restaurants that serve coffee, and hospitals
13 that would have coffee and schools and businesses.

14 So I'm talking a lot about examples from
15 my personal experience where set-top boxes are used
16 in public environments.

17 Q. Okay, and in your discussion of your
18 personal experience of set-top boxes used in public
19 environments, can you describe any personal
20 experience you have where you can recall a coffee
21 shop that included a set-top box?

22 A. Well, I certainly remember restaurants and
23 there may have been some that were specifically
24 coffee shops but certainly restaurants serve
25 coffee.

1 So does that make it a coffee shop?

2 Maybe. And I do remember those establishments.

3 Q. Okay. Is McDonald's a coffee shop?

4 A. In the context that they serve coffee, I
5 would say yes. It could be.

6 Q. Would you agree that when someone is
7 saying I want to go to the local coffee shop, they
8 are not typically talking about, for example, the
9 local steakhouse?

10 MR. HOLT: Objection, form and scope.

11 THE WITNESS: I mean, how do I know what
12 people think typically? I don't know what they
13 think.

14 BY MR. MILKEY:

15 Q. In Baig's disclosure of coffee shops, do
16 you view that as encompassing, for example, a
17 steakhouse?

18 A. Well, it depends on the definition of
19 coffee shops. If a steakhouse serves coffee, it
20 could be called a coffee shop.

21 Q. Is that how you interpreted the Baig
22 reference?

23 A. The Baig reference is not limited to
24 coffee shops. The Baig reference uses only an
25 example of a coffee shop. It uses other examples

1 but he's just describing one example of a venue
2 that could be a cafe as well as other things that
3 he describes, other types of venues throughout his
4 disclosure. It's not limited to coffee shops.

5 Q. My question is would a POSITA reviewing
6 the Baig reference believe that Baig's reference to
7 a coffee shop is referring to things like a
8 steakhouse?

9 A. No, because the POSITA would know that
10 Baig is referring to a venue, with coffee shop
11 being an example, and there were many other types
12 of venues including cafes which could be a
13 steakhouse that he discloses.

14 But throughout his disclosure he used the
15 word "venue" to make sure that we're not limiting
16 it to a coffee shop.

17 Q. So I understand that Baig talks about
18 things other than coffee shops. But your analysis
19 in your opening report was focused on what a coffee
20 shop would do in the sense that that was your
21 proposed implementation. So my line of questioning
22 is going to be about coffee shops.

23 I understand that you have an opinion
24 about other things as well but I'm specifically
25 going to be asking about coffee shops, at least for

1 the next several questions.

2 A. Sorry, there may be some presumptions in
3 the first part of your statement that I don't agree
4 with. So if we could just strike all that and you
5 just ask me the question?

6 Q. That's fine. I do want to make clear
7 though that my questions are specifically about
8 coffee shops and not generally about whatever else
9 Baig may disclose.

10 Is that fair?

11 A. Yes. So please, whatever you said was my
12 position or my statement in that previous question,
13 I would like you to strike that or ignore it and
14 let's just start from what your question is.

15 Q. Your disagreement with that is noted.
16 So my question is whether in either of
17 your declarations you specifically identify a
18 coffee shop that existed in the real world that
19 included a set-top box?

20 A. I think I've answered that question
21 several times.

22 Q. Is the answer no? I believe the answer is
23 no but I just want to make it clear for the record.

24 And again the question is whether in
25 either of your declarations you specifically

1 identify a coffee shop that existed in the real
2 world that included a set-top box.

3 A. I think I said that I need to read through
4 my entire declaration to see if I referred to any
5 specific coffee shop. But I know I referred to
6 coffee shop examples including a set-top box.

7 Q. So sitting here today you don't recall
8 identifying in either of your declarations a coffee
9 shop that existed in the real world that included a
10 set-top box, correct?

11 A. I didn't specify any particular cafes,
12 restaurants, bars. I did identify one venue which
13 was the 1996 Olympics. But I'm not aware that I
14 gave any specific properties in the examples or in
15 my disclosures.

16 If I did, perhaps you could point me to it
17 and I could answer a question about it.

18 Q. Mr. Lett, again my question was limited to
19 coffee shops, not the Olympics.

20 So my question, again, is sitting here
21 today, you don't recall identifying in either of
22 your declarations a coffee shop that existed in the
23 real world that included a set-top box, correct?

24 A. I don't think I identified a specific
25 coffee shop or property, other than the Olympics

1 that I just referred to.

2 Q. And you don't have any opinion that the
3 1996 Olympics was a coffee shop expressed in your
4 declaration, do you?

5 A. Some of the areas of the 1996 Olympics had
6 coffee shops with our set-top box, in the example I
7 used.

8 But if you asked me which specific
9 property, I mean I can't remember exactly. It's
10 been a long time.

11 Q. Okay. In your declaration I believe the
12 only reference to the 1996 Olympics is paragraph 20
13 of your declaration.

14 You don't allege in your declaration the
15 1996 Olympics included a coffee shop with a set-top
16 box, do you?

17 A. I think it did, but I can't remember which
18 ones they were because these set-top boxes were all
19 over the place, right? So there were many
20 different venues in public areas of the 1996
21 Olympics, including restaurants and businesses and
22 hallways and big rooms. I mean they were
23 everywhere, right?

24 So I believe that there was at least one
25 that was in a coffee shop but I can't really

1 remember specifically.

2 What I was describing here was in context
3 to Baig which is talking about venues, and venues
4 being a lot of different types of areas that had
5 set-top boxes. So I didn't zero in on any specific
6 case of one set-top in a certain place.

7 MR. MILKEY: Object as nonresponsive.

8 BY MR. MILKEY:

9 Q. Mr. Lett, if you could please turn to page
10 10 of your reply declaration?

11 A. Okay.

12 Q. And about two-thirds of the way down there
13 is a sentence beginning with, quote, "In another
14 example."

15 And I believe that's the only reference
16 you have to the 1996 Olympics in either of your
17 declarations?

18 And my question is: In your declarations
19 do you present the opinion that the 1996 Olympics
20 included a coffee shop that itself included a
21 set-top box?

22 A. No. I'm just talking about the set-top
23 boxes were used throughout the public venues.

24 Q. Thank you. Okay.

25 Now moving away from real-world coffee

1 shops that included a set-top box, do you recall in
2 your declaration discussing any prior art
3 references that disclose the use of a set-top box
4 being used in a coffee shop?

5 A. So several places in my declaration I'm
6 referring to the coffee shop example of Baig with
7 the set-top box as modified by Costa.

8 Q. Neither Baig nor Costa standing alone
9 discloses the use of a set-top box within a coffee
10 shop, correct?

11 A. So Baig definitely discloses a coffee
12 shop, in combination with Costa to add the set-top
13 box to modify Baig with the set-top box.

14 The two together refer to a coffee shop in
15 the combination.

16 MR. MILKEY: Object as nonresponsive.

17 BY MR. MILKEY:

18 Q. Mr. Lett, neither Baig not Costa standing
19 alone discloses the use of a set-top box within a
20 coffee shop, correct?

21 A. Well, no, but I didn't render any opinions
22 of Baig alone or Costa alone. I analyzed and
23 proposed the grounds based on the combination.

24 Q. Do you recall identifying any other
25 references that, standing alone, disclose the use

1 of a coffee shop within -- strike that.

2 Do you recall identifying any other
3 references that, standing alone, disclosed the use
4 of a set-top box within a coffee shop?

5 A. Perhaps there are some. I do not recall.
6 But I cited many supporting references that provide
7 examples of set-top boxes used at different types
8 of venues.

9 And so to answer your question,
10 specifically I need to go through each of them and
11 check because I don't remember if they have a
12 coffee shop in them or not, with a set-top box.

13 Q. So without reviewing the references
14 disclosed in your declarations, sitting here today
15 after 20 hours of preparation for today's
16 deposition you can't recall whether you identified
17 any references that, standing alone, disclose the
18 use of a set-top box within a coffee shop?

19 A. I don't recall. And just to be clear, I
20 didn't go back and look at all those references in
21 preparation for this declaration. I may have
22 included one that references a coffee shop.

23 But again, my opinion is consistent with
24 Baig in that it's not limited to coffee shops so I
25 didn't really focus on a limited case of a coffee

1 shop.

2 I was talking about set-top boxes used in
3 many types of venues and I cited a bunch of
4 references of that, including some of my own
5 patents.

6 Q. Do you have any opinions regarding whether
7 it would be obvious for the proprietor of a coffee
8 shop to install a television and then using a
9 set-top box navigate that television to the front
10 page of ebay.com and just leave the web page there?

11 MR. HOLT: Objection to form and scope.

12 THE WITNESS: Can you break that down a
13 bit?

14 BY MR. MILKEY:

15 Q. Let's imagine in your proposal -- this is
16 going to deviate a bit from your proposal but I'm
17 talking about a scenario where a coffee shop like
18 Starbucks has a television set within it.

19 Are you with me so far?

20 A. I hear what you are saying, yes.

21 Q. Do you have any opinion regarding whether
22 it would be obvious for the proprietor of that
23 Starbucks to navigate that television set to the
24 front page of ebay.com and leave the television set
25 displaying the front page of ebay.com?

1 MR. HOLT: Objection to form and scope.

2 THE WITNESS: I have no opinion on that.

3 BY MR. MILKEY:

4 Q. Do you have an opinion regarding whether
5 it would be obvious for the proprietor of that
6 Starbucks to navigate the television to the front
7 page of facebook.com?

8 MR. HOLT: Objection to form and scope.

9 THE WITNESS: I mean I don't understand
10 the context of Facebook in this regard. I've been
11 focussing on the time of the priority date of the
12 patents as a POSA, so I really haven't considered
13 that.

14 BY MR. MILKEY:

15 Q. Are you aware of any public establishment
16 that has ever included a TV that used that TV to
17 display a social media website?

18 MR. HOLT: Objection to form and scope.

19 THE WITNESS: I don't have an opinion on
20 that.

21 BY MR. MILKEY:

22 Q. Are you aware of any public establishment
23 that has ever used a TV to display an auction
24 website?

25 MR. HOLT: Objection to form and scope.

1 THE WITNESS: Can you read that back,
2 please?

3 BY MR. MILKEY:

4 Q. I'll just repeat the question.

5 Are you aware of any public establishment
6 that has ever used a TV to display an auction
7 website?

8 MR. HOLT: Same objections.

9 THE WITNESS: So I provided my opinions
10 based on the prior art references and what a POSITA
11 would know at the time of the priority date. I
12 haven't thought about ever, and ever could include
13 today for that matter, right? So it's a little too
14 broad for me to answer that question in a way that
15 I can understand exactly what we're talking about.

16 BY MR. MILKEY:

17 Q. Okay. Are you aware of any public
18 establishments that existed before the priority
19 date of the 260 patent that used a TV to display an
20 auction website?

21 MR. HOLT: Objection to form and scope.

22 THE WITNESS: I'm not aware of any
23 specific example. But as the Baig and Costa
24 combination describes, it describes -- it discloses
25 having a television and using it in the way you

1 describe.

2 BY MR. MILKEY:

3 Q. Okay. Baig doesn't describe that then?

4 A. I've said in the combination.

5 Q. So just to be clear, neither Baig nor
6 Costa stand alone to describe using a TV to display
7 an auction website at a public establishment,
8 correct?

9 A. I haven't provided any opinions about Baig
10 alone or Costa alone.

11 Q. Are you aware of any public establishments
12 that existed after the priority date of the 260
13 patent that used a TV to display an auction
14 website?

15 MR. HOLT: Objection to form and scope.

16 THE WITNESS: I don't recall.

17 BY MR. MILKEY:

18 Q. Okay. Are you aware of any public
19 establishments that existed before the priority
20 date of the 260 patent that used a TV to display
21 any website?

22 MR. HOLT: Objection to form and scope.

23 THE WITNESS: Can you read that back
24 again, please?

25 BY MR. MILKEY:

1 Q. Yes.

2 Are you aware of any public establishments
3 that existed before the priority date of the 260
4 patent that used a TV to display any website?

5 MR. HOLT: Same objections.

6 THE WITNESS: I believe there were but I
7 can't recall specifically what they were.

8 BY MR. MILKEY:

9 Q. And are you aware of any public
10 establishments that existed after the priority date
11 of the 260 patent that used a TV to display any
12 website?

13 A. I believe there are but I don't recall
14 specifically which ones they are.

15 Q. You're not an expert in running a coffee
16 shop, right?

17 A. I would think that would be fair, yes.

18 Q. You're not an expert in food or beverage
19 service?

20 A. No, I wouldn't say that I'm an expert in
21 food or beverage service.

22 Q. Okay. You are not an expert in the
23 economics of running a food service business?

24 A. Correct.

25 Q. And you don't offer any opinions about how

1 a coffee shop would economically benefit from
2 providing certain services to customers, correct?

3 A. I believe I do provide an opinion on that.

4 Q. Okay. And it's your opinion that you are
5 qualified to offer an opinion regarding the
6 economic benefit of providing television displays
7 to coffee shop patrons?

8 A. Well, for example in paragraph 160 of my
9 first declaration, and this is just one example, a
10 POSA would recognize that entertainment in a public
11 venue such as retail business is often beneficial
12 to engage the user's interest and maintain their
13 presence at that location. And if they maintain
14 their presence at that location, that would be good
15 for business.

16 I think anybody would agree with that.

17 Q. Okay. So it's your opinion that anyone
18 would agree that the longer a coffee shop patron
19 stays at a location, the better it is?

20 A. In general that's true because they buy
21 things. There are extreme examples of where that
22 may not be true. But I think in general businesses
23 like their patrons to be there so they buy things.

24 Q. Have you ever seen a coffee shop that
25 included an hour limit on how long patrons can stay

1 at that coffee shop?

2 MR. HOLT: Objection to form and scope.

3 THE WITNESS: No. I heard something about
4 that in the news but I don't have any knowledge of
5 it specifically.

6 BY MR. MILKEY:

7 Q. So you are not disputing that some coffee
8 shops do include hour limits on patrons, correct?

9 MR. HOLT: Objection to form and scope.

10 THE WITNESS: I don't know.

11 MR. MILKEY: All right, I will pass the
12 witness.

13 MR. HOLT: Could I get maybe five minutes
14 to just look at my notes real fast? I don't think
15 I'll have anything. Maybe a question or two but I
16 just want to take a look real fast.

17 MR. MILKEY: Okay.

18 MR. HOLT: Thanks so much. Let's go off
19 the record and come back in five-ish minutes.

20 (Break taken.)

21 MR. HOLT: For the record, I don't have
22 any redirect questions.

23 MR. MILKEY: Okay. Thank you very much
24 for your time, Mr. Lett. I know these depositions
25 are kind of the last thing you want to be doing but

1 I appreciate your time today.

2 THE WITNESS: You're welcome.

3 MR. MILKEY: Anyone let me know if you
4 need anything from me. Otherwise everyone have a
5 great weekend.

6 THE REPORTER: I need to verify your
7 transcript orders. Mr. Milkey, I have you down for
8 a rough draft and the final transcript delivered on
9 August 11th.

10 MR. MILKEY: I'll take the rough and I'd
11 like to receive the final transcript next
12 Wednesday, August 6th.

13 THE REPORTER: And Mr. Holt, do you want
14 a copy of the transcript?

15 MR. HOLT: Yes, but just regular delivery
16 and no rough draft.

17 (Whereupon, the deposition was concluded
18 at 8:37 a.m.)
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CERTIFICATE OF SHORTHAND REPORTER

I, BRENDA R. COUNTZ, Certified Shorthand
Reporter licensed within and for the State of
California do hereby certify:

That DAVID LETT, the witness whose deposition
is hereinbefore set forth, was duly sworn by me
before the commencement of such deposition and that
such deposition was taken before me and is a true
record of the testimony given by such witness.

I further certify that the adverse party,
Petitioner Viant Technology LLC, was represented by
counsel at the deposition.

I further certify that the deposition of
DAVID LETT occurred remotely via Zoom on Friday,
August 1, 2025, commencing at 6:02 a.m. and ending
at 8:37 a.m.

IN WITNESS WHEREOF, I have hereunto set my hand
this 4th day of August, 2025.

Brenda Countz

BRENDA R. COUNTZ, CRR, RPR

CSR No. 12563

DEPOSITION ERRATA SHEET

Assignment No. 594868

Case Caption: VIANT TECHNOLOGY LLC vs. INTENT IQ
LLC

Deponent: DAVID LETT

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read
the entire transcript of my deposition taken in the
above-captioned matter or the same has been read to
me, and the same is true and accurate, save and
except for changes and/or corrections, if any, as
indicated by me on the deposition errata sheet
hereof, with the understanding that I offer these
changes as if still under oath.

Signed on the ____ day of _____ 2025.

DAVID LETT

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