UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRlAL AND APPEAL BOARD

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TIKTOK, INC.,

Petitioner,

v.

CELLSPIN SOFT, INC.,

Patent Owner,

----------X

IPR2024-00757

U.S. Patent No. 8,756,336B2

IPR2024-00759

U.S. Patent No. 8,862,757 B2

IPR2024-007 60

U.S. Patent No. 8,898,260 B2

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REMOTE DEPOSITION OF

PAVAN M. GAJENDRAGAD

Friday, March 21, 2025

Reported By: Randi J. Garcia, RPR

DIGITAL EVIDENCE GROUP

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TTI-1038
TikTok v. Cellspin
IPR2024-00768

Transcript of the deposition of PAVAN M. GAJENDRAGAD, called for Oral Examination in the above-captioned matter, said Deposition being taken pursuant to Federal Rules of Civil Procedure by and before RANDI J. GARCIA, Registered Professional Reporter, and Notary Public, via Zoom, on Friday, March 21, 2025, commencing at approximately 2:00 p.m.

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1 I N D E X

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3 WITNESS: PAVAN M. GAJENDRAGAD

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P A V A N G A J E N D R A G A D, after having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. BONILLA:

Q. Good morning, sir. Would you please state and spell your name for the record.

A. I am Pavan Gajendragad, P-A-V-A-N, G-A-J-E-N-D-R-A-G-A-D.

Q. Have you been deposed before?

A. No.

Q. Have you ever testified in a trial before?

A. No.

Q. Do you understand why you're here today?

A. Yes, I do.

Q. What is your understanding of what we are doing here today?

A. So I'm trying -- I'm here to give my expert opinion.

Q. And your expert opinion on behalf of

CellSpin Soft Incorporated?

A. Yes. That is correct.

Q. You understand that they're the patent owner in these proceedings?

A. Yes, I do.

Q. And did you prepare a report or declaration in support of CellSpin Soft's positions in these proceedings?

A. Yes.

Q. Have you --

A. You are an attorney?

Q. Yes. So I am an attorney -- good question. I'm an attorney for the petitioner, for TikTok.

A. Okay.

Q. And so I'm going to be asking you some questions mostly about your -- about you and your declaration in these proceedings, limited to three of them. I believe you actually provided opinions on seven patents; is that right?

A. Yes.

Q. We are going to talk about three of them today. Is that okay?

A. Yeah.

Q. Did you do anything to prepare for this deposition today?

A. Well, I read my report.

Q. What else?

A. Just had a good breakfast.

Q. What else?

A. That's about it. Yeah.

Q. When did you read your report?

A. Last night, I guess.

Q. About how long did it take you to read it?

A. Took me quite a while, about an hour, hour and a half.

Q. Did you meet with anyone in preparation for your deposition today?

A. No.

Q. Did you speak with anyone in preparation for your deposition today?

A. No.

Q. Do you know who Mr. Vazquez is here?
A. Yes, I do.
Q. When was the last time you spoke with him?
A. I mean, just this morning he sent -- he confirmed if I had got the Zoom invite or not.
Q. And before this morning, when was the last time you spoke with Mr. Vazquez?
A. A few days ago.
Q. And you know who CellSpin is here?
A. Yes.
Q. Do you know the CEO and president of CellSpin?
A. Yes, I know.
Q. You know Gurvinder Singh?
A. Yes.
Q. How do you know him?
A. We worked -- I worked with him at SoftBank.
Q. When was that?
A. 2018 and 2019.

Q. And between 2018/2019 when you worked with him at SoftBank, and when you were contacted about this matter, had you spoken with Mr. Singh in that time?

A. No.

Q. How were you first contacted about this matter?

A. When we were -- I don't recall. Back in October/November, I think, I was asked if you want to take it up by giving it a thought, and I said okay.

Q. And your purpose in this proceeding is to act as an expert witness; is that correct?

A. That is right.

Q. Have you been an expert witness in the past?

A. No.

Q. This is your first time being an expert witness?

A. Like I said, yes.

Q. And who contacted you about being

retained by CellSpin for this matter?

A. Initially Bobby contacted me. And after that, the counsel came in the picture. And after that, it's only been counsel, yeah.

Q. And when you say Bobby, you're referring to Mr. Singh?

A. Yes.

Q. Do you know who Marcos Klein is?

A. Say that again.

Q. Marcos Klein, do you know who that is?

A. No.

Q. Do you know who Vince Laviano is?

A. Vince Laviano, let me recall it. Yeah, I think they are the inventors of the -- of -- of CellSpin's patent, I think.

Q. They are -- I'm not trying to trick you or anything. They are listed as the inventors on these patents.

Do you know either of those two individuals personally?

A. No, I don't.

Q. Have you ever spoken with them, either of them?

A. No.

Q. Have you ever spoken with anyone employed by TikTok?

A. No.

Q. I want to ask you some questions about your background. Is that okay?

A. Sure.

Q. Did you graduate from high school?

A. Yes.

Q. When was that?

A. High school was 1998.

Q. Where?

A. In India.

Q. Where in India?

A. Bangalore, India.

Q. Did you further your education after high school?

A. Yes. I did my BS in instrumentation technology at Visveswaraiah Institute of Technology in India.

Q. When you say BS, is that a degree, a bachelor of science?

A. Yes.

Q. Did you obtain any other degrees?

A. Yes. I also went on and got my master's education in the U.S.

Q. And what did you get your master's in?

A. Telecommunications and management.

Q. From what institution?

A. University of Maryland College Park.

Q. Did you physically attend that university or was it an online program?

A. I physically attended.

Q. When did you obtain your master's degree?

A. 2008, summer of 2008.

Q. So I have bachelor's of science and a master's degree. Did you obtain any other degrees?

A. No.

Q. I should have asked this before. I

noticed you had some papers there in front of you. Can you tell me what you've got there?

A. It's my resume.

Q. I can't see it, but that's okay. Do you have anything other than your resume in front of you?

A. I have my report. (indicating).

Q. And is that report annotated? Have you drawn on it?

A. I have made some notes, yeah.

Q. Do you have anything else in front of you?

A. Like a water bottle.

Q. Anything else?

A. A cup of tea.

Q. Anything else?

A. That's it.

Q. Do you have any -- other than the Zoom application that we are conversing through right now, do you have any other applications open on your computer?

A. No.

Q. Do you have your cell phone with you?
A. Yes, I do.
Q. Is it on?
A. It's in airplane mode. I don't want to be disturbed. It is for like checking the time.
Q. And where are you physically located at the moment?
A. San Jose.
Q. Where in San Jose? Where are you?
A. Metro Drive, San Jose.
Q. Is that an office? Is it your residence?
A. It is very close to my office.
Q. Very close to your office. Is it where you live?
A. I live in Sacramento, but I work in San Jose.
Q. So where, that is not your office and not your home, are you right now?
A. So I'm in -- I have a small place here. So because I commute every week, so I

have a small place here. So I'm there right now.

Q. Is there anyone else there with you?

A. No.

Q. Are you in communication with anyone via any means, other than those of us on this Zoom?

A. No.

Q. I want to ask you a little about your work experience. What was your first job?

A. So I worked at Mistral Affair, M-I-S-T-R-A-L, Mistral Affair, Bangalore. It's a software company.

Q. And what was your role at Mistral?

A. I was a test engineer. I was testing a protocol called UWB protocol, which is similar to Bluetooth.

Q. What do you mean by that, similar to Bluetooth?

A. It is a close-range protocol. So communication between mobile-to-mobile or any device that like transferring files between

peers, like, say, person A was standing next to person B, things like that. It's a wireless protocol. And it's similar. So once the file is transferred, my job was to check if it is -- if the file -- received file and the transferred file are the same, or if they are not the same, how different they are, are there any error beds. In short, it's a short range, communication protocol.

Q. When were you first hired for that role at Mistral?

A. It was 2005 January.

Q. Was test engineer the only role you had at Mistral?

A. Yes.

Q. How long were you in that position?

A. I was there till August of 2005.

Q. What did you do after that?

A. I joined Infosys. It's another software company.

Q. In August 2005?

A. No, in November.

Q. What was your role at Infosys?

A. I was again a test engineer. Yeah, software test engineer.

Q. And what were you testing?

A. I was primarily testing the banking software server performance.

Q. You said banking software?

A. Banking software and server performance.

Q. Server performance.

A. Application server performance.

Q. Can you give me a little bit more specificity there when you say banking software? What kind of software were you working on?

A. So it was a banking software. To go a little more deeper into it, it's like what we use on our every day banking, to transfer money, and I tested the security associated with it, also the server performance and networking, like the whole implementation of the client server architecture testing that --

how the communication happens between the client and server, such things. So there were test cases that I was supposed to design and then test them.

Q. Did you work on closed circuit or nearby communication protocols when you were at Infosys as well?

A. No.

Q. So you didn't do any work on Bluetooth or similar technologies while you were at Infosys?

A. Not short-range communication, but in more -- more like server, client server communication.

Q. Your focus -- is it fair to say your focus was on software and not hardware?

A. At Infosys it was software. At Mistral it was hardware and software.

Q. How long were you in that position?

A. With Infosys about eight months, seven months.

Q. And did you have any other roles at

Infosys?

A. I was the lead engineer there. That is it. So that required me to get some more, like speak with some other -- other teams and...

Q. What do you mean by that?

A. So parallel teams will be -- so at any meetings and because they have their own deliverables before the testing should take up -- testing, so if they finished the development, the test teams will take up testing. So things like that. Yeah.

Q. When did you leave Infosys?

A. Just before I got an admit from the University of Maryland, July 2006.

Q. So what did you do after July 2006?

A. I came to the U.S. for my master's.

Q. How long were you in your master's program in the U.S.?

A. Till August 2008.

Q. Did you work while you were studying at Maryland?

A. Yes, I did.

Q. What did you do?

A. I was the network administrator for the university counseling center, so --

Q. Of the University of Maryland?

A. Yes. And web developer there.

Q. Did you do that during your entire two years of study?

A. Not entire two years. After a year I think I started there, yeah. So from June 2007 to May of 2008.

Q. You got your degree, you said, in August of 2008?

A. Yeah.

Q. What did you do after that?

A. After that I joined Caritor. Oh, I also interned at Ericsson.

Q. When did you intern at Ericsson?

A. June to September.

Q. Of which year?

A. 2008. Soon after I graduated.

Q. What did you do in your internship at

Ericsson?

A. So they had -- it was a small stint. My job was to organize the internal documents so that they are more easily accessible.

Q. What did that entail?

A. So they have a lot of the -- Ericsson's GSM network documentations. So like if you go on website, you have to organize the documents in a certain way that is more intuitive. Like, all the documents pertaining to the GSM network per se should go into a single folder. It is more like a bookkeeping and organization. And also in that process, I also learned tools like Rational Robot and Rationale ClearQuest. They are test tools.

Q. Was that internship a paid position?

A. Yes.

Q. What did you do after that?

A. After that I got a job at Airvana. It was based in Chelmsford, Massachusetts. I was a test engineer there.

Q. When did you start at -- sorry, you

said -- what was the name of the company?

A. Airvana. A-I-R-V-A-N-A.

Q. And when did you start at Airvana?

A. October of 2008.

Q. As a test engineer?

A. Yes. Systems test engineer.

Q. And what were you testing, other than systems?

A. My primary job was to test the system, so systems --

Q. What system?

A. So EV-DO, RNC system, it's a telecommunication -- RNC basically your 3G, 4G systems. So the RNC is what sits in the base station. We used to make boards that go in the base station, and then the software that goes on that, so how much capacity it can withstand, how many users it can support at a single time, a system capacity test.

Q. Did you ever physically make any of those boards?

A. My company did, yes.

Q. Did you yourself?

A. My job was to do the testing on the boards. Not designing those boards.

Q. How long were you in that position?

A. I was there till May of 2010.

Q. And did you have the same responsibilities throughout the almost two years that you were at Airvana?

A. Yes. Mostly, yes.

Q. What did you do after May of 2010?

A. I joined Qualcomm in San Diego.

Q. And when did you start at Qualcomm?

A. Qualcomm I started in July 2010.

Q. What was your role at Qualcomm?

A. My role at Qualcomm was, again, systems test engineer, write test trips, test reports, test plans, on various wireless communications -- communication, like including but not limited to Bluetooth.

Q. I'm sorry to interrupt. Would you please list for me the wireless protocols that you tested at Qualcomm?

A. Sure. LTE, UMTS, EV-DO, Wi-Fi, Bluetooth. Yeah. Those are the wireless technologies. Then there are SIP, S-I-P. What else?

Q. Did you ever work or test UMB, Ultra Mobile Broadband?

A. UMB? It's UMTS.

Q. Yeah.

A. UMTS.

Q. With respect to Wi-Fi, did you ever test WiMAX?

A. WiMAX, I did do that, yes.

Q. At Qualcomm?

A. Yes. Not substantially, but I did do that.

Q. How long were you at Qualcomm?

A. Qualcomm I was there 2014 December. December of 2014.

Q. What did you do after December 2014?

A. So I tried to get more expertise on the data side and on the monetization of the AdTech and all that.

Q. You said you wanted to get more experience with the data side. What do you mean by that?

A. The data side is the data signs, machine learning, data cleaning, data analysis, exploratory data analysis, prediction. So I invested time there for a couple of years. And I also headed a start-up in India.

Q. You said you invested some time there for a couple of years. What do you mean by that?

A. I got certifications, R certification. I got Tableau certification. Yes.

Q. Any other certifications?

A. Exploratory data analysis certification. Cleaning data certification. Yeah.

Q. You mentioned a start-up in India.

A. It's not --

Q. Explain that to me.

A. It was not -- nothing substantial.

Just held start-up to also look into these new fields, new technologies which were coming up at that time.

Q. What was the name of the start-up?

A. So I don't quite recall it. I mean, it was -- I don't recall. I don't want to say something that is incorrect.

Q. That's okay. What field was the start-up in?

A. So like AdTech.

Q. And what do you mean by that?

A. AdTech is basically using the profile data of a person to display ads on its mobile phone.

Q. Is that start-up still in existence?

A. I don't know actually. I haven't spoken to them for a long time. I haven't...

Q. When you say "them", who is them?

A. Sorry.

Q. When you say "them", who is them?

A. It is my friend's start-up at that time. I have lost touch with him.

Q. Can you tell me your friend's name?
A. Yeah.
Q. What is your friend's name?
A. Veno.
Q. Last name?
A. Veno Jopal, V-E-N-U-J-O-P-A-L. It was a long time ago, so I don't quite recollect.
Q. And how long were you doing these two roles?
A. What two roles?
Q. Getting your certifications and assisting the start-up.
A. Assisting the start-up was very brief, like three, four times I discussed with them. That's about it. But primarily, my focus was to improve my skill set.
Q. And how long were you working on improving your skill set?
A. Two years.
Q. To December of 2016?
A. So 2015, the whole of 2015 and whole

of 2016.

Q. And what did you do after 2016?

A. I joined Cinarra Systems, which later got acquired by SoftBank.

Q. When did you join Cinarra?

A. March of 2017.

Q. What was your role?

A. My role there is senior data analysis.

Q. What kind of data were you analyzing?

A. Say that again.

Q. What kind of data were you analyzing?

A. All kinds of data, like AdTech data, wireless data, profile database, making profiles of the user, the location data. Yeah, that is about it.

Q. Were -- was your focus on design, implementation or testing?

A. It depends on the project. So I have been involved with testing. I have been involved with designing. Yeah.

Q. I'm asking specifically about your

time at Cinarra, what was your --

A. Yeah, yeah. So because it's since 2017 I'm there, at various stages I have done all of them. Like analysis, design, implementation, execution, all of that.

Q. How long were you at Cinarra?

A. Oh, I'm still working at Cinarra.

Q. You said it was acquired by who?

A. SoftBank.

Q. Sorry?

A. SoftBank.

Q. SoftBank. So you're still in that role?

A. Yes.

I have one request. So I like to take a break every hour, five, 10 minutes.

Q. I was planning on doing the same. Certainly, if at any point you want to take a break, just let me know. The only thing I will ask is if I have a question pending to you, that you answer the question before we take a break.

Would you like to take a break right now? I know it is your first deposition and we have been going for 30 minutes. We can take a couple minutes.

THE WITNESS: All right.

MR. BONILLA: Let's go off the record for a few minutes.

(Thereupon, a brief recess was taken.)

BY MR. BONILLA:

Q. Are you a member of any professional organizations?

A. Can you explain more.

Q. Sure. Things like the Professional Society of Engineers, or the International Standard Setting Organization, IRC, things like that.

A. Not currently.

Q. Have you ever been a member of a professional organization?

A. I used to be a member of ISA, Instrumentation Association Society.

Q. And when were you a member of that

organization?

A. When I was doing my bachelor's back in 2004, 2003, 2004.

Q. Was it just 2003 or 2004?

A. Yeah.

Q. And did you hold any leadership positions within the organization?

A. No. I was a member. That's it.

Q. Have you been a member of any professional organizations?

A. No. I don't recall.

Q. Are you aware if you're listed as an inventor on any US patents?

A. No.

Q. Have you ever -- sorry, go ahead.

A. I wish.

Q. Have you ever applied for a US patent?

A. No.

Q. So what I'm going to do here is I'm going to drop into the chat our first, of what I hope be, very few exhibits.

(Thereupon, Exhibit 1 was marked for identification.)

BY MR. BONILLA:

Q. Can you see that exhibit?

A. Exhibit 2001?

Q. Yes. Can you please open that.

And Mr. Vazquez, can you see this as well.

MR. VAZQUEZ: I can.

MR. BONILLA: Ms. Court Reporter, are you good too?

THE REPORTER: Yes.

Q. You have this document Exhibit 2001 in front of you?

A. Exhibit 2001?

Q. It's a document that bears the, "Declaration of Pavan Gajendragad".

A. Yes, Final Pavan Gajendragad Declaration.

Q. That is the title of the file; correct?

A. Yes.

Q. Do you recognize this document?
A. Yes.
Q. How do you recognize it?
A. It is my document.
Q. And is that your signature on the front of it?
A. Yes, it's mine.
Q. Is it your declaration prepared and submitted in the three IPR proceedings listed on the front first page?
A. Yes.
Q. And I understand that this same declaration was submitted in all three of the '757, '759, and '760 proceedings; correct?
A. Yes.
Q. Is it fair to say that your opinions, as reflected in this document, are the same across all three of those IPR proceedings?
A. Yes.
Q. Did you write this document?
A. Largely, yes.
Q. Sorry?

A. I mean, my counsel helped me a little bit.

Q. Can you just tell me that process, how did this document come to be?

A. So I would -- I would read up the patents and I worked with my counsel to establish a process for fine tuning it and using the proper language and all. Yeah.

Q. The first draft of this document, who prepared that?

A. The first draft, I don't recall the first draft. I have my notes. Yeah.

Q. You don't recall who prepared the first draft?

A. The first draft I think I gave my notes like I had made a lot of notes on --

Q. And just to be clear, I don't want to know what you shared with counsel and what they shared with you in preparing the draft. I just want to know who created the first one, if you can recall it.

A. I think it is my counsel's call, I

1 think.
2 Q. Do you have an understanding of what
3 an inter partes review is?
4 A. I think I do, but if you can
5 elaborate, I would appreciate that.
6 Q. I actually would like to know what
7 your understanding of an inter partes review
8 is.
9 A. So basically to review all the
10 patents and see if -- if the -- if that
11 invalidation -- like at the PTAB there is --
12 like to invalidate a patent, is that accurate
13 argument, things like that. Yeah.
14 Q. And so what did you understand your
15 -- what do you understand your role to be in
16 these three inter partes review proceedings?
17 A. So to show the glaring shortcomings
18 of the argument put forth by the petitioner.
19 Q. And is it only to show the glaring
20 shortcomings?
21 A. Largely.
22 Q. What do you mean by that?

A. It's not like going into implementation details. Not like trying to see -- trying to make it work or like it's -- somehow it's like trying to see if what are the shortcomings in the argument. If, like say, two different patents can be combined to achieve what CellSpin has achieved. What is -- if it was obvious back in 2007 or 2008, if this could be done generally speaking, yeah. So that is -- that is what I understand.

Q. So I want to be fair to you. You said "make it work." What did you mean by that?

A. So make it work, let me take a moment to think and --

Q. Please take your time.

A. To see if it was obvious for these -- combining these two patents and make it work. So that was my line of thought.

Q. Have you seen the patent owner's responses in these three proceedings?

A. Yes.

Q. Did you help in preparing the responses, the patent owner responses in these three proceedings?

A. I prepared them myself.

Q. You mean you prepared the patent owner response or your declaration?

A. My declaration.

Q. What I'm going to do is I'm going to put in the chat another document, and we are going to look at these concurrently, if you don't mind. So I'm going to drop this now into the chat.

If everyone can just let me know when you've accessed it and are able to view it. The file name starts -00757.

A. 0057?

Q. You have that document open in front of you?

A. Yes.

MR. BONILLA: Does our court reporter have access to it as well?

THE REPORTER: Yes.

Q. I'm going to share my screen so we are all looking at the same thing. Give me one moment, because I always forget how I'm supposed to do that.

Can you see my screen?

A. Yes.

Q. You see this document, and at the top it bears United Patent and Trademark Office?

A. Yes.

Q. And the bottom there's a bolded and underlined portion that says, "Patent Owner Response."

A. Yes.

Q. I will represent to you that this is the patent owner or CellSpin's response to the petition for inter partes review in IPR 2024-00757.

Do you see that?

A. Yes.

Q. It refers to US patent number 8,756,336B2; correct?

A. That is right.

Q. Do you mind if we refer to this patent as the '336 patent?

A. Yes, we can do that.

Q. Are you familiar with the '336 patent?

A. Yes, I am.

Q. What does the '336 patent direct to?

A. It talks about segmentation at the application layer.

Q. Segmentation and the application of data?

A. Segmentation done at the application layer.

Q. Segmentation done at the application layer. Segmentation of what?

A. Segmentation of payload. Segmentation of data. Segmentation of image files.

Q. Those three things, payload, data, image files, are those synonymous in your mind?

A. No.

Q. What's the difference between each of

those three things?

A. It depends.

Q. It depends on what?

A. Payload, file is different. File is the intact data but file -- so the data -- fragments of file can be data. And what is sent in a package is the payload.

Q. And how does payload or data, as you just defined them, differ from image file?

A. Image file is made up of data, of course. But it does -- image file has file error, end of file, all of that. Data is just plain payload.

Q. So data and payload are synonymous?

A. No, no. I didn't say that. I did not mean that, rather. A network packet, the data a network packet carries is called a payload. And a data is split, as in like -- an image file is split into segments of data.

(Thereupon, Exhibit 2 was marked for identification.)

BY MR. BONILLA:

Q. Turning to this document, Exhibit 2 that is on the screen right now. Have you seen this document before? And if you need me to scroll down, I can do that. Would you like me to?

A. Yes, please do.

Q. Let me know if you want me to scroll some more, but the question is: Have you seen this document before?

A. Yes. I have seen this document.

Q. Did you assist in the preparation of this document?

A. This is patent owner's response.

Q. I will go scroll up to the cover page.

A. This is not mine. This is patent owner's response.

Q. Correct. Did you assist in the preparation of the patent owner's response?

A. No, no, no.

Q. You did not?

A. No.

Q. But you have seen this document before?

A. Yeah.

Q. You understand this document relies on your declaration in its arguments?

A. Yes.

Q. I'm going scroll down -- (crosstalk)

A. -- I think had used this. Yeah.

Q. We are going to scroll down to page 11 of the patent owner response. I'm going to highlight this right here. You see the sentence I've highlighted?

A. Uh-huh.

Q. It reads, "Indeed, Dr. Gajendragad expressly disagrees with the suggestion that the plain and ordinary meaning of along with could include inside."

A. Uh-huh.

Q. Did I read that correctly?

A. Yes. That is right.

Q. Do you agree with that statement?
A. Yes, I do.
Q. Is there anything inaccurate about that statement?
A. No. That is in my report.
Q. I'm going to scroll us down to page 13 of Exhibit 2. And I'm highlighting another sentence. You see that?
A. "As confirmed by Dr. Gajendragad, a POSITA would have likewise understood application there to have this defined meaning." Okay.
Q. Do you agree with that statement?
A. I stand by my report. Can we see that word, what it means.
Q. We can in a moment, but that statement, as stated, is there anything, sitting here today as you're looking at it, that is inaccurate about that statement?
A. The only thing is Dr., I'm not a doctor. That is the typo. But apart from that, I stand by my report.

Q. So the patent owner response refers to you as Dr. Gajendragad four times. You're saying that that is inaccurate?

A. I don't have a Ph.D.

Q. So you're not a doctor?

A. Yes.

Q. I should refer to you as Mr. Gajendragad?

A. Sure.

Q. I'm going to take us back to Exhibit 1. This is your declaration; correct?

A. That's a typo.

Q. Sorry?

A. That is a typo.

Q. Oh, the Dr. instead of Mr. is a typo?

A. Yeah.

Q. You mean typographical error?

A. Yes.

Q. So we are going to go into your declaration. We were going to come down -- sorry, go ahead.

A. No. I said, yes. Okay.

Q. In paragraph 2, you have the paragraph that starts with, "I am informed and understand that."

Do you see that?

A. Uh-huh.

Q. By whom were you informed?

A. By my counsel.

Q. Anyone else?

A. No other -- none other than my counsel.

Q. When you were referring to my counsel, who are you referring to?

A. Scott, Rene.

Q. Is that Scott Fuller?

A. Yes.

Q. And Rene Vazquez?

A. Rene Vazquez, yes.

Q. Anyone else?

A. To the best of my knowledge, the only two people.

Q. Have you ever spoken to -- you referred earlier to Gurvinder Singh; correct?

A. Yes.
Q. And you called him Bobby?
A. Yes.
Q. Would you consider Bobby to be a friend of yours?
A. I mean, we were colleagues back in the day. And he reached out to me sometime in the late October.
Q. Would you consider Mr. Singh to be a friend today?
A. Yeah.
Q. Have you ever spoken to Mr. Randall Garteiser?
A. Randall Garteiser, maybe. Yeah.
Q. When you say "maybe", what are you thinking of?
A. On the phone, I think I spoke to him once.
Q. He sometimes goes by Randy.
A. Yeah.
Q. So you have spoken to Randy?
A. Yeah.

Q. Did you speak to Mr. Garteiser, Mr. Fuller or Mr. Vazquez in preparing your declaration in these proceedings?

A. Not in these proceedings, but in my report. Yeah.

Q. So we are looking right now at your declaration or your report; correct?

A. Uh-huh.

Q. And those three gentlemen, you spoke with them in assisting you to prepare this declaration; is that fair?

Again, to be clear, I don't want to know what you talked about. I just want to know if you spoke with them in preparing your report.

A. Yeah. In preparing my report, I did speak with them.

Q. Did you speak with Mr. Singh in preparing your report?

A. He was on initially when all the documents were given to me, initially he was on the call as well.

Q. Did you rely on Mr. Singh in forming any of your opinions in these proceedings?

A. No. These are completely mine.

Q. When it says here in paragraph 2, I am informed and understand that, who informed you?

A. The counsel, Rene, Scott.

Q. Those are your primary contacts?

A. Yes.

Q. In paragraph 3 -- I'm just scrolling down a little bit here, in Exhibit 1 -- paragraph 3 you state, that a true and correct copy of my resume is attached as Exhibit A.

Do you see that?

A. Yes. Yes.

Q. If Exhibit A is not attached to this document, is there any other way we -- by we I mean petitioner -- would be able to access it?

A. I mean, these days you have a lot of ways to access it, as in like you have my online profile. You can go --

Q. When you say online profile, where

would that be located?

A. LinkedIn. Yeah.

Q. Anywhere else other than LinkedIn?

A. Not in this detail about my education, nowhere else.

Q. What do you mean by this detail?

A. Like where I did my master's, where I'm currently working. What are my expertise. What -- which protocols I worked on. All of those details.

Q. All of those details are listed in your resume?

A. I think so.

Q. And is this resume that is referred to here as Exhibit A, is that the document that you have in front of you right now?

A. Yeah.

Q. I'm going to continue scrolling down to paragraph 7, which is under a sub-heading, or heading titled, Information Considered.

Do you see that?

A. Titled 7, in preparing this written

report --

Q. I mean, on the screen right now you can see paragraphs 7 through 12 in your declaration; correct?

A. Yes.

Q. And these are the materials that you considered in forming your opinions for this case?

A. Yes.

Q. Other than what is listed here, is there anything else that you relied on in forming your opinions for these proceedings?

A. To the best of my ability, I've listed everything.

Q. So if it is not listed here, we are safe to assume you did not consider it in forming your opinions?

A. More or less, I think, yeah.

Q. What makes you say more or less?

A. I have taken great care in listing all the sources that I'm quoting, and all the snippets that I put in my report. I have taken

great care to put all the references there, where that is coming from, all of that. So I think this is accurate.

Q. In paragraph 11, you note that one of the things you considered is the Court's claim construction procedures and status as have been explained to me by counsel and as discussed below.

Do you see that?

A. The Court's claim construction procedures and status as have been explained to me by counsel. Yes, I see that. Yes.

Q. Other than what they explained to you about the claim construction procedures and status, did you perform any independent analysis of the claim construction procedures and status in this matter?

A. Independent -- I looked at some dictionaries and some other sources.

Q. What other sources? You said dictionaries and other sources, what other sources?

A. I think I should have listed like the Cisco CCNA book. It is there in my report actually. All of those -- all the places where I put the snippets and where I put everything, it's there in my report.

Q. So all the other sources, if you relied on it, it is listed in your declaration?

A. Yes.

Q. If it's not in your declaration, you didn't rely on that?

A. Yes. You can say that. Yes.

Q. Are you aware that there is a pending district court litigation between CellSpin and the petitioner?

A. CellSpin and petitioner, district court litigation, yes, I'm aware of it.

Q. Did you review any of the pleadings or filings in that district court litigation in forming your opinions for this case?

A. No. I just know that there's something going on. I haven't -- haven't taken any time to do that, to investigate what is

that. Yeah.

Q. Let's scroll down a little bit to paragraph 14.

A. I'm a technical guy.

Q. What do you mean by that?

A. Like, I'm not -- I like technology. I like to read, keep myself abreast with the latest and -- in the technology. Not so much inclined on the cases.

Q. You mean you're not a lawyer?

A. Yeah, basically.

Q. Okay.

A. Yeah, that is the right way to put it, I guess.

Q. So in this section that we are looking at right now, it is section three, legal framework. As you said, you're not an attorney. You're not a lawyer. Where did your understanding of the legal framework come from?

A. So Scott and Rene, we had a couple of calls, and that's it. Yeah.

Q. So counsel explained the legal

framework to you?

A. Yeah.

Q. The portion of this report that says legal framework, is it fair to say you didn't actually draft this yourself?

A. I mean, I stand by my report.

Q. Let me ask you a more specific question. So in paragraph 14, you have, in the second line of that paragraph, The so-called open quote, pre-AIA, closed quote, versions.

Do you see that?

A. Uh-huh.

Q. What does AIA mean in that context?

A. AIA I know is some law changed in 20-- I had read about it, I think 2014/2013 maybe. And so we have to abide by that, yeah.

Q. Why?

A. Why?

MR. VAZQUEZ: I'm going to object as to calling for a legal conclusion here.

BY MR. BONILLA:

Q. You can still answer, Mr.

Gajendragad.

A. So I mean, these patents were given to CellSpin a year to 2013. So prior to 2013, the patents were given to CellSpin, so with the priority date of '07. So with that said, I think -- I think it's fair to -- and the law is from 2013. So yeah, I guess, I'm not a lawyer or anything so, yeah.

Q. Does the fact that you were informed that you needed to apply the pre-AIA versions of the patent statutes affect your opinions in the case at all?

A. No.

Q. I'm going to scroll down a little bit to paragraph 17. You see there it says -- I'm going to highlight it. It says, I am informed and understand that a claim is invalid as anticipated.

Did I read that correctly?

A. Informed and understand that a claim is invalid as anticipated. Okay.

Q. Do you understand the petitioner in

these three proceedings to be arguing that any claim is invalid as anticipated?

A. No.

Q. Why is this paragraph in your declaration?

A. I mean, I think it is just to make sure I think. So -- so it is in combination with, so it is -- yeah. So 102 does not apply in this AI.

Q. So why include a paragraph discussing section 102 or 102?

A. Section 102, just to ensure, just to make sure that 102 is not applied here, and 103 is applied.

Q. So is that why you have included this highlighted sentence, There is no allegation that any asserted claim is allegedly anticipated by any single reference under 35 USC Section 102?

A. Yes. Yes.

Q. We are going to scroll down some more. You see paragraph 22 here on the screen

in Exhibit 1?

A. Uh-huh.

Q. For our court reporter's sanity, please give me a "yes" or "no"?

A. Yes. Yes.

Q. Thank you.

So in paragraph 22 you note that, I am further advised and understand that references may be combined only when there is an established design need or market pressure to solve a problem.

Do you see that?

A. Yes.

Q. What does that mean?

MR. VAZQUEZ: Objection. Calls for a legal conclusion.

BY MR. BONILLA:

Q. You can still answer, Mr. Gajendragad. Mr. Vazquez is going to make objections as we go through on the record. Unless he instructs you not to answer, you do have to answer the question.

A. Only when there is established design need or market pressure to solve a problem. It is kind of self-explanatory. It's what it means.

Q. Well, the next clause says, And there are a finite number of identified predictable solutions, and which are easily traversed.

Do you see that?

A. Uh-huh, I see that.

Q. What does that mean?

A. Finite number of identified predictable solutions, and which are easily traversed. Like it is self-explanatory.

Q. You're saying it means what it says?

A. Yes.

Q. So is it your understanding that for references to be combined, all three of these clauses must be met?

MR. VAZQUEZ: Objection. Calls for a legal conclusion.

THE WITNESS: I'm not a lawyer, so...

Q. I understand, but you've provided

1 some opinions here about obviousness; correct?
2 A. Yes.
3 Q. And those opinions are based on what
4 you have been advised is the state of the law;
5 correct?
6 A. Yes.
7 Q. I'm just asking if your understanding
8 of the state of the law is that those three
9 things must be met in order for references to
10 be combined for obviousness purposes?
11 MR. VAZQUEZ: Objection. Calls for a
12 legal conclusion.
13 THE WITNESS: Sure.
14 Q. Again, I want to be fair to you.
15 Sure or yes?
16 A. None of the combinations give out a
17 workable solution and does not make it obvious
18 when you're reading through and don't provide
19 alternative workable solution like it's
20 claimed.
21 Q. Mr. Gajendragad, that is not quite
22 the question that I'm asking. Let's make it

even more narrow.

A. Okay.

Q. You see this "and"? "Yes" or "no"? You see the "and"?

A. Yes.

Q. You see this "and" as well?

A. Uh-huh.

Q. Sorry, "yes" or "no"?

A. Yes, yes, I see the "and".

Q. Are those conjunctive or disjunctive?

A. Are those conjunctive or disjunctive? Conjunctive. It depends. Conjunctive.

Q. These are conjunctive. So all three of these statements that you make, an established design, need or market pressure, finite number of identified predictable solutions, and easily traversed, those three things must exist for one to combine references for purposes of obviousness? Is that your understanding of the state of law?

MR. VAZQUEZ: Objection. Calls for a legal conclusion.

THE WITNESS: It depends.

Q. Depends on what?

A. Depends on what we are trying to do, what we are trying to achieve.

Q. Well, how about what you're trying to do in including this language in your declaration?

A. I stand by my report.

Q. So you wrote this sentence that I've highlighted here, the first sentence of paragraph 22? You stand by that statement?

A. Yes. Me and my counsel together. Yeah.

Q. You and your counsel together.

A. Yeah.

Q. In this paragraph in the sentence I highlighted -- sorry, go ahead.

A. Some of the wordings like language counsel --

Q. Some of the language what?

A. Counsel helped me write this report.

Q. I understand that. You've adopted

this sentence that I've highlighted here in paragraph 22 of Exhibit 1. That is a part of your opinion; correct?

A. Yes.

Q. I just want to know if when you wrote this and adopted it as your opinion, if that means these three things you've identified in this paragraph, in this sentence, are necessary for one to be able to combine references for purposes of obviousness?

MR. VAZQUEZ: Objection. Calls for legal conclusion.

THE WITNESS: It depends.

BY MR. BONILLA:

Q. Mr. Gajendragad, you keep saying it depends, but depends on what? Because we are -- I'm looking at -- this your report; correct?

A. Right. It depends on the scenario what we are trying --

Q. In the scenario of paragraph 22, is the answer, yes, you need all three, or no, you

can have one, two or three of them?

A. Only when there's established design need or market pressure to solve a problem, and finite (sotto voce) -- in some cases you need all three of them.

Q. Are you saying there are some cases where you don't need all three of them?

A. Yes.

Q. With respect to petitioner's argument in these three proceedings, did you form your opinions believing that all three conditions needed to be met or not?

A. Market pressure to solve -- not all.

Q. Sorry, not all what?

A. Not all of them. Not all of them. Not all three.

Q. So in the context of petitioner's obviousness arguments, in these three proceedings --

A. Uh-huh.

Q. -- and you forming your opinions about those arguments, you did not believe that

all three of these conditions must be met in order for references to be combined?

MR. VAZQUEZ: Objection. Mischaracterizes prior testimony.

THE WITNESS: Can you please repeat the question.

Q. Yeah. In the context of petitioner's arguments regarding obviousness in these three proceedings, and you forming your opinions regarding those arguments, is it true that you did not believe that for the references referred to by the petitioner to be combined, they did not have to meet all three of these conditions?

MR. VAZQUEZ: Same objection.

THE WITNESS: They don't have to meet all three.

Q. Okay. And you formed your opinions based on that understanding of this statement?

A. Yes.

Q. All right. I'm going to scroll down to page 9 of Exhibit 1, paragraphs 27 and 28.

We don't have to read through them, but I will represent to you that these two paragraphs relate to the written description requirement of patents in the United States.

Do you understand what that is?

A. Yes, I do.

Q. And do you believe the three patents at issue in these proceedings satisfy the written description requirements of US patent law?

A. Yes.

MR. VAZQUEZ: Sorry, I'm going to object to that as calling for a legal conclusion.

MR. BONILLA: Why?

MR. VAZQUEZ: Objection. Calls for legal conclusion.

THE WITNESS: Why?

BY MR. BONILLA:

Q. Why was the answer to my question yes?

A. Person who is competent can

1 understand -- understand the return
2 description.
3 Q. Of these three patents?
4 A. Yes.
5 Q. Could you practice the claims of
6 these patents?
7 MR. VAZQUEZ: Objection. Calls for a
8 legal conclusion.
9 THE WITNESS: I think so, yes.
10 BY MR. BONILLA:
11 Q. How?
12 A. You can use the patents and implement
13 what the patent says and try -- implementation
14 is very different, but yeah, we can try that.
15 We can make an attempt.
16 Q. So I don't want to know if you can
17 attempt to implement it. Could you implement
18 inventions as claimed in these three patents?
19 A. Yes.
20 Q. What makes you say that?
21 A. Because the -- I can understand the
22 written description.

Q. How?

A. Because I'm fairly skilled enough and I qualify as a POSITA.

Q. Because you're a person of ordinary skill in the art, you would be able to understand and implement the claimed inventions in these three patents?

A. Yes, I think so. Yes.

MR. BONILLA: I told you we would take a break about once an hour. How about now for our break?

THE WITNESS: Sure.

(Thereupon, a brief recess was taken.)

BY MR. BONILLA:

Q. During our breaks -- we have had two of them -- have you communicated with anybody?

A. No.

Q. I would like to take us back to Exhibit 1. I'm going to share my screen again. Can you see my screen?

A. Yes.

Q. So we are here on page 11 of

Exhibit 1, and I really want to focus your attention on paragraph 33. Starts with, "It is my understanding." You see that?

A. Yes.

Q. It says, "It is my understanding that petitioner is seeking to secure narrow constructions of 100 plus claim terms in the district court." Did I read that sentence correctly?

A. Yes.

Q. Is that accurate as far as reflecting your opinion?

A. Yes. That's what I was told.

Q. What do you base that statement on?

A. I was told that by my counsel.

Q. Did you count how many claim terms petitioner is seeking to construe in the district court?

A. I don't recall.

Q. You don't recall if you counted?

A. Yeah.

Q. So you might have?

A. There were a lot of them.
Q. A lot of what?
A. A lot of claim terms.
Q. How do you know that?
A. Like Scott --
Q. Hold on, just because I don't want you to tell me what was discussed between you and counsel.
MR. VAZQUEZ: I'm going to object to this as testimony, as indicated, you're not -- I'm going to instruct you not to discuss any of the substantive content of the communications between you and counsel. But under those caveats, proceed.
BY MR. BONILLA:
Q. Let me ask a different question, okay, Mr. Gajendragad?
A. Yeah.
Q. Other than what you were told by counsel, did you rely on anything else to form the opinion that the petitioner is seeking to

1 secure narrow constructions of 100 plus claim
2 terms?
3 A. I don't recall.
4 Q. Have you seen the allegedly 100 plus
5 claim terms that petitioner is seeking to
6 construe in the district court?
7 A. I may have.
8 Q. But you don't remember?
9 A. Yeah, I don't recall.
10 Q. Is it possible that you formed this
11 opinion based solely on what you were informed
12 by counsel?
13 MR. VAZQUEZ: Objection. Calls for
14 speculation.
15 THE WITNESS: No.
16 BY MR. BONILLA:
17 Q. That is not possible?
18 A. No. I do remember seeing a lot of
19 the claim terms.
20 Q. And you counted those terms?
21 MR. VAZQUEZ: Objection. Asked and
22 answered.

1 THE WITNESS: There were a lot of
2 them.
3 BY MR. BONILLA:
4 Q. Okay. Were there a million of them?
5 A. No.
6 Q. Were there 500 million of them?
7 A. No.
8 Q. Were there 1 million of them?
9 A. No.
10 Q. Were there a thousand of them?
11 A. I mean, it was a ballpark.
12 Q. Is a thousand in the ballpark?
13 A. No.
14 Q. 500?
15 A. No. I think it was about 100 --
16 Q. It was about 100?
17 A. Hundreds.
18 Q. Hundreds. Was it 300?
19 A. It was 100, 110, 95.
20 Q. Sorry, you said 110 or 195?
21 A. I said 110.
22 Q. 110.

A. 110, 95. It could be 95.
Q. How do you know that?
A. In that range.
Q. How do you know that?
A. How do I know that?
Q. You said it was in the range of 95 to 110?
A. Yes.
Q. Something like that?
A. Yeah.
Q. What are you basing that on?
A. To the best of my knowledge, it was around that range.
Q. Okay. I understand that to the best of your knowledge that's about how many you think there were. My question to you is, what makes you say that?
A. It was in a document.
Q. So you reviewed a document and saw that there were somewhere around 95 to 110 constructions proposed by the petitioner?
A. Yes. I did refer a document. Yeah.

I did refer a document.

Q. And you counted the terms?

A. Again, it is a ballpark --

MR. VAZQUEZ: Asked and answered multiple times now.

THE WITNESS: Again, it is in the ballpark range. Not the exact number.

BY MR. BONILLA:

Q. Did you take into consideration whether some claim terms might have appeared in multiple claims of the asserted patents?

A. Yes.

Q. And did you count each claim term in each patent claim as a separate proposed construction when you wrote this sentence in paragraph 33?

A. Can you repeat.

Q. Yes. If the claim term had a proposed construction by the petitioner in one patent claim, and that term also showed up in another patent claim, did you count that as two constructions or one?

A. So it depends. So basically what you're trying to say is if there was a claim term, for example, A, and claim term A again used in another one, did I count them as two or did I them count them as one?

Q. Correct.

A. Right?

Q. Yes. Did you do one or two?

A. Actually, I don't recall if I counted it as two or I counted it as one, I don't recall that. There were a lot of claim terms, that much I know. But I don't know if I -- if I saw there were repetitions or there were duplicates.

Q. You understand that between the petitioner in this matter filed IPR petitions on seven patents; correct?

A. Yes, in total, yes.

Q. This declaration is referring to three of the seven; correct?

A. Yes.

Q. When you say 100 plus claim terms

were proposed for construction by the petitioner, is that the three patents in these proceedings or all seven patents?

A. All seven.

Q. How many claim terms did the petitioner propose constructions for in the three patents that you're referring to in this declaration?

A. I think it is there in my report here. I have to look.

Q. You mentioned to me that you have your report in front of you; right?

A. Right.

Q. Go ahead and you can tell me -- you can direct me on the screen, and I will scroll wherever you would like, or you can look at your report yourself, and then tell me the answer, how many of these claim -- 100 plus claim terms you identified in paragraph 33 are from the three patents that we are talking about here today?

A. I know the claim terms. So it's --

it is in the -- I mean, you have it there at 41, 42, 43 disclosures.

Can you repeat the question again.

Q. How many of the 100 plus claim terms that you referred to in paragraph 33 are from the three patents that this declaration relates to?

A. This declaration, you have to look at it -- can you show it, the disclosures?

Q. Are you unable to tell me the answer to my question without looking at the disclosures?

A. Yes. I would like to see the disclosures.

Q. Without seeing the disclosures, you can't answer my question?

A. It is -- it's not a memory.

Q. No, and I'm not trying to make it a memory test, if that's what you need, but I need to know the answer to my question, which is, do you need to see the disclosures to answer my question?

A. Yes.

Q. You do. Okay.

Did counsel inform you of this contention in paragraph 33? And to be clear, the answer to this question is "yes" or "no".

A. Yes.

Q. Did you independently verify that?

A. Yes.

Q. You did count the terms?

A. Yes.

Q. But without looking at the disclosures, you don't know how many of those terms are from these three patents as opposed to the other four?

A. I don't recall the exact number, yeah.

Q. Ballpark it for me, please. Is it more than half?

A. I don't want to speculate. I don't want to speculate.

Q. Were 99 terms from one set of patents and a few others from the other?

MR. VAZQUEZ: Objection. Asked and answered.

THE WITNESS: I don't want to speculate.

Q. Now that we've confirmed that you did count the terms, can you tell me now if when you saw a term that was used across multiple asserted claims, if you counted that multiple times or as just one term?

MR. VAZQUEZ: Objection. Asked and answered.

THE WITNESS: I would have to look at the disclosures again, Mr. Bonilla.

BY MR. BONILLA:

Q. Would it surprise you if I said that there are 16 independent claim terms that were proposed for construction by the petitioner?

MR. VAZQUEZ: I'm going to object as to argumentative.

THE WITNESS: I would need to look at the disclosures.

BY MR. BONILLA:

Q. When I said that just now, did it surprise you?

MR. VAZQUEZ: Objection. Argumentative.

THE WITNESS: I don't want to speculate.

BY MR. BONILLA:

Q. I'm not asking you to speculate, Mr. Gajendragad. I'm asking you, when I said 16, that number, when I said it, did that surprise you or did it not surprise you?

A. I recollect seeing a lot of them, so...

Q. So it did not surprise you?

A. I recollect it being more than 16.

Q. So it did surprise you?

MR. VAZQUEZ: Objection, mischaracterizes prior testimony.

THE WITNESS: I don't want to say a number. I don't want to say --

BY MR. BONILLA:

Q. Mr. Gajendragad, I'm not asking you for a number. When you heard me say 16 terms, did you find yourself in a state of surprise or not?

A. I'm trying to recollect how many I saw.

Q. Mr. Gajendragad, you know what the word surprise means, yes?

A. Yes, sir, I know.

Q. Do you feel surprised right now?

A. There were definitely more than 16 is what I recall. And because in my mind I see it as more than 16, it is like -- it doesn't surprise me so much.

Q. So it does not surprise you?

A. It's like 16 is still more than what TikTok wanted to construe in the PTAB, so...

Q. So you are surprised by the number 16 or you're not surprised by the number 16?

MR. VAZQUEZ: Objection. Asked and answered.

THE WITNESS: I have to look at the disclosures to see -- to answer that.

BY MR. BONILLA:

Q. To answer whether you're surprised by the number 16?

A. In my recollection, I see that it was more than 16. And that is where my surprise and not being surprised, I'm basing that on. In my recollection, there were a lot of claim terms.

Q. Do you think 16 is a lot?

A. Yeah.

Q. Sixteen is a lot? Okay.

A. Yeah. More than what TikTok wanted to construe in PTAB.

Q. We're real close to being done here, Mr. Gajendragad, but I really need an answer whether you felt surprised or feel surprised if I tell you there are 16 independent claim terms being proposed by the petitioner across all seven patents in this matter?

MR. VAZQUEZ: Objection. Asked and

answered.

THE WITNESS: Sixteen is still more than what TikTok wants to construe.

BY MR. BONILLA:

Q. I understand that, sir, but my question to you is, would it surprise you if the number is 16 independent claim terms? Yes, it would surprise me; no, it would not surprise me?

A. I don't have an opinion on my emotion at this point in time. Surprise versus not surprised.

Q. You can't tell me whether you are surprised or not; right?

A. Yes.

Q. So let's shift gears a little bit. We are going to go to Exhibit 2, which is the patent owner's response. And we are going to go to page 29 in the PDF, which is page 23 of the document.

Do you see what I have highlighted here down here, it starts with "finally"?

A. Yeah.

Q. I'm going to read this highlighted sentence to you. Just follow along with me. It reads, "Finally, as of 2007, a POSITA would have understood that HTTP was only being used between web servers and requesting browsers, not by standalone mobile applications." Did I read that correctly?

A. Yes.

Q. And you see how it refers to your declaration at paragraph 67?

A. Yes.

Q. So let's go to your declaration that's Exhibit 1. You see here how we have paragraph 67?

A. Yes.

Q. It says in paragraph 67 of Exhibit 1, "As of 2007, a POSITA would have understood that HTTP was only being used between web servers and requesting browsers, not by standalone mobile applications."

Did I read that correctly?

A. Yes, you read that correctly.

Q. Other than the word "finally" -- this is now Exhibit 2, the patent owner response -- is the rest of what I've highlighted here in the patent owner response, the rest of that sentence, is that exactly the same as what I have highlighted here in Exhibit 1?

A. Yes.

Q. What is the basis for your opinion at paragraph 67 of your declaration here in Exhibit 1?

A. Give me a second to process my thoughts and answer that.

Q. Please take your time.

A. So back in 2007, I had not seen any implementation of HTTP protocol being used other than in a browser, in a proper browser.

Q. What do you mean by proper browser?

A. Like not a browser on a mobile phone or something. Proper, like a laptop or desktop. Browser. Internet -- back in the day Internet Explorer, Mozilla.

Q. A full standalone web browser?
A. Yes.
Q. Not the mobile version of a web browser?
A. Yes.
Q. You had personally not seen -- sorry, go ahead.
A. Back in 2007, there were other protocols that mobile phones would engage in, like WAP protocol and things like that.
Q. What other protocols besides WAP?
A. I have to look, but WAP protocol was being pushed by the industry. There were like big books on WAP. WAP itself is a complete stack. So it has a transport and all that, yeah.
Q. Any other protocols?
A. WMTP is part of WAP. So WMTP comes in the transport layer. So that was architecture back in the day. That is what was, like, giving training on in a lot of these software companies.

Q. Other than your personal knowledge, as of 2007, is this statement in paragraph 67 of your declaration Exhibit 1 to this deposition, based on anything else?

A. No. Rephrase your question. As of 2007?

Q. I want to explore, I want to know everything you relied on to make that statement that isn't your personal knowledge, education and training. Is there anything else?

A. No. Like I referred to -- I recall the technologies that were there in 2007, what was the norm back then.

Q. Your opinion -- your opinion here is based on your recollection of the state of the art back then?

A. Yes. Yeah. So back in the day there was companies training on WAP architecture because it was very new back in the day, and mobile phones didn't have a full-fledged color screen back in the day.

Q. I'm going to stop sharing my screen.

A. Blueberry [sic] was probably the only -- Blueberry phone, Blueberry, that was probably the only phone that had a browser back then.

MR. BONILLA: So can we go off the record, please.

(Thereupon, a brief recess was taken.)

BY MR. BONILLA:

Q. Mr. Gajendragad, how much time would you say you spent drafting this declaration, Exhibit 1, in this deposition?

A. I don't recall exactly. I don't recall exactly. I cannot quote a number on it.

Q. Was it a million hours?

A. Not like that. It was not like a one day I sat and wrote the whole thing.

Q. Was it 50, 100, 150, 200 hours? About how much time did you spend?

A. About 150, 200 hours.

MR. BONILLA: Okay. I have no further questions at this time. I pass the witness.

MR. VAZQUEZ: Thank you. I just have -- I have a little bit of redirect here. Won't take long.

FURTHER EXAMINATION

BY MR. VAZQUEZ:

Q. So Mr. Gajendragad, I want to revisit the section of your declaration regarding legal framework. And I just want to just confirm, you're obviously not an attorney; right?

A. Yes.

Q. You did rely on counsel for information related to, for example, the pre-AIA versions of patent statutes?

A. Yes. That is right.

Q. And I want to specifically go to address paragraph 33 of your declaration, which was the paragraph involving the 100 plus claim terms that -- quoting to your paragraph 33.

A. Yes.

Q. So I want to lay a little bit of foundation here, because as you know, there were seven patents in total; right, involved in

the IPRs?

A. Right.

Q. So I want to clarify, you understand that a claim term, such as claim term A, can appear in multiple claims across multiple patents? Do you understand that?

A. Yes, I understand.

Q. So it's possible that a particular claim term, for example, could appear in all seven patents, in multiple claims, and within those seven patents, do you agree with that?

A. Yes, I agree.

Q. So in your recollection when this particular statement in paragraph 33, seeking to secure narrow constructions of 100 plus claim terms, do you know, as you consider what I just said, in terms of how claim terms can appear in multiple claims, do you feel that those 100 plus -- that number 100 plus could be a particular claim term being addressed in multiple claims over multiple patents?

A. Yes, I understand -- yes, I agree.

MR. VAZQUEZ: Okay, so I just wanted to clarify that.

That is really all I have. I wanted to clarify that point.

MR. BONILLA: Counsel, if I may, I have -- I can't say I have one question, because it always turns into more than one.

FURTHER EXAMINATION

BY MR. BONILLA:

Q. During the break we just took from 1:09 Pacific to 1:15 Pacific, did you communicate with anyone?

A. No.

MR. BONILLA: No further questions.

(Time Noted: 4:21 p.m.)

CERTIFICATE

I, the undersigned authority, hereby certify that the foregoing transcript, page 1 through 90 is a true and correct transcription of the deposition of PAVAN M. GAJENDRAGAD, taken before me at the time and place set forth on the title page hereof.

I further certify that said witness was duly sworn by me according to law.

I further certify that I am not of counsel to any of the parties to said cause or otherwise interested in the event thereof.

IN WITNESS WHEREOF I hereunto set my hand and affix official seal this 31st day of March, 2025.

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Case: TikTok, Inc. v. CellSpin Soft, Inc.
Date of deposition: March 21, 2025
Deponent: Pavan M. Gajenragad

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