In the Matter Of:

In Re Certain Fitness Devices and Systems Containing Same

JOHN EDWARDS

November 12, 2021

LEXITAS™

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.
Before the Honorable David P. Shaw,
Administrative Law Judge

In the Matter of,

CERTAIN FITNESS DEVICES, STREAMING
COMPONENTS THEREOF, AND SYSTEMS CONTAINING
SAME,

Inv. No. 337-TA-1265
----------X
Confidential

VIDEOTAPED DEPOSITION OF JOHN EDWARDS

DATE: November 12, 2021

TIME: 12:02 Eastern time

PLACE: ***REMOTE***

BEFORE: Rebecca Schaumloffel, RPR, CCR-NJ

JOB NO: 2021-819195

A P P E A R A N C E S:

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Appearances (continued:)

MASCHOFF BRENNAN
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300 South Grand Avenue, 14th Floor
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BY: CHARLES BARQUIST, ESQ.

ALSO PRESENT:

Ira Jamshidi, Esq., in-house counsel, DISH

Jim Hanft, Esq., in-house counsel, DISH

Aaron Rauh, Esq., Office of Unfair Import Investigations U.S. International Trade Commission

Kimberly Villalobos, videographer

* * *

J. EDWARDS

12:03PM THE VIDEOGRAPHER: We are on the record on November 12, 2021 at 10:03 a.m. Mountain Time for the remote video deposition of Mr. John Edwards in the matter of Certain Fitness Devices Streaming Components Thereof and Systems Containing Same. My name is Kimberly Villalobos and I'm the videographer.

All present will be noted on the stenographic record. Will the court reporter please swear in the witness.

JOHN EDWARDS, called as a witness, having been first duly sworn by a Notary Public of the States of New York, New Jersey, and Pennsylvania was examined and testified as follows:

EXAMINATION BY

MR. BARQUIST:

Q. Good morning, Mr. Edwards.

A. Good morning.

Q. My name is Charles Barquist and I

J. EDWARDS

12:03PM represent iFIT in this matter. Thank you for
12:03PM making yourself available for this deposition
12:03PM today. As the videographer noted, this is a
12:03PM remote deposition. Would you tell us where
12:04PM you are this morning?
12:04PM A. Orem, Utah.
12:04PM Q. Are you at your home?
12:04PM A. Yeah, yes.
12:04PM Q. Can you give us the address,
12:04PM please?
12:04PM A. 672 East 1160, North Lehi, Utah
12:04PM 84097.
12:04PM Q. And do you also have a business
12:04PM address, sir?
12:04PM A. Yes.
12:04PM Q. Could you give us that, please?
12:04PM A. 3000 North Triumph Boulevard,
12:04PM Lehi, Utah, 84043.
12:04PM Q. And the name of the company or
12:04PM enterprise there?
12:04PM A. Summit Brain and Spine.
12:04PM Q. And what is your position with
12:04PM Summit?
12:04PM A. CEO.

J. EDWARDS

12:04PM Q. You're represented by counsel this morning?

12:04PM A. Yes.

12:04PM Q. And who is that?

12:04PM A. Steve and Ira.

12:05PM Q. And when did you engage counsel?

12:05PM A. Oh, maybe we first talked a month ago. It's a guess. I'm not sure --

12:05PM Q. All right.

12:05PM A. -- exactly.

12:05PM Q. And do you have a written engagement agreement with counsel?

12:05PM A. So we have exchanged documents. I'm not sure if it's an engagement agreement.

12:05PM Q. What documents have you exchanged?

12:05PM A. Just our communication by email. But I don't recall a written engagement agreement.

12:05PM Q. Do you have any other agreement with DISH?

12:05PM A. No.

12:05PM Q. Do you have any agreement with the Baker Botts law firm?

12:06PM A. No.

1 **J. EDWARDS**

12:06PM 2 Q. Are you being compensated for your
12:06PM 3 time in connection with this deposition?
12:06PM 4 **A. No.**
12:06PM 5 Q. Are you providing any consultation
12:06PM 6 or other similar services to DISH or its
12:06PM 7 counsel in connection with this matter?
12:06PM 8 **A. No.**
12:06PM 9 Q. What is your understanding of the
12:06PM 10 matter that brings us here this morning?
12:06PM 11 **A. Very little, actually. I**
12:06PM 12 **understand that there is a suit between DISH**
12:06PM 13 **and various equipment providers having to do**
12:06PM 14 **with streaming.**
12:06PM 15 Q. Okay. And how did you learn that?
12:06PM 16 **A. In conversation with counsel.**
12:06PM 17 Q. Have you discussed this
12:07PM 18 infringement litigation with anyone other
12:07PM 19 than counsel?
12:07PM 20 **A. Yes.**
12:07PM 21 Q. With whom?
12:07PM 22 **A. Drew Major.**
12:07PM 23 Q. I'm sorry?
12:07PM 24 **A. Drew Major.**
12:07PM 25 THE COURT REPORTER: Excuse me

J. EDWARDS

12:07PM one second. Is it possible to raise the volume on your computer?

12:07PM THE WITNESS: I wouldn't know how to do that. I can try to move it closer. Let's see. If I use --

12:07PM THE COURT REPORTER: Do you want to go off the record for one second to address this?

12:07PM THE WITNESS: I'll just try to speak up because I don't see a way to adjust it.

12:07PM BY MR. BARQUIST:

12:07PM Q. I think when you speak up, Mr. Edwards, we can hear you.

12:07PM A. Okay.

12:07PM Q. We'll let you know if you fade again.

12:07PM A. Thanks.

12:07PM Q. When did you discuss this matter with Mr. Major?

12:08PM A. Probably about six weeks ago.

12:08PM Q. On how many occasions did you have such a discussion?

12:08PM A. Just then.

1 **J. EDWARDS**

12:08PM 2 Q. And what did Mr. Major tell you at
12:08PM 3 that time?
12:08PM 4 **A. That there was a lawsuit and could**
12:08PM 5 **he give my name to be deposed or to counsel**
12:08PM 6 **to be interviewed. I said sure.**
12:08PM 7 Q. Did he tell you anything more
12:08PM 8 about the case?
12:08PM 9 **A. No.**
12:08PM 10 Q. Have you discussed this lawsuit
12:08PM 11 with anyone else other than Mr. Major and
12:08PM 12 counsel?
12:08PM 13 **A. Yes.**
12:08PM 14 Q. With whom?
12:08PM 15 **A. My wife.**
12:08PM 16 Q. Anyone else?
12:08PM 17 **A. Yes. My son.**
12:08PM 18 Q. Okay. Anyone else?
12:08PM 19 **A. No.**
12:08PM 20 Q. Do your wife or son have any
12:09PM 21 involvement with Move Networks?
12:09PM 22 **A. My --**
12:09PM 23 MR. DHANANI: Objection; vague.
12:09PM 24 Q. You may answer, Mr. Edwards.
12:09PM 25 **A. So they watched me go through that**

J. EDWARDS

12:09PM **timeframe and be involved with them.**

12:09PM Q. Is that the extent of it?

12:09PM **A. Yeah, they are involved in my**

12:09PM **life, so they're involved in Move.**

12:09PM Q. Have you discussed this matter

12:09PM with Mr. Smith?

12:09PM **A. No.**

12:09PM Q. What, if anything, did you do to

12:09PM prepare for today's deposition?

12:09PM **A. I attended --**

12:09PM MR. DHANANI: And I'll just

12:09PM caution you here not to reveal

12:09PM attorney-client communications, but

12:09PM you can answer that specific question

12:09PM as to what you did to prepare.

12:09PM **A. Visited with counsel.**

12:10PM Q. Okay. When did you do that?

12:10PM **A. Yesterday.**

12:10PM Q. For how long?

12:10PM **A. A couple of hours.**

12:10PM Q. Did you do anything else besides

12:10PM that meeting with counsel yesterday?

12:10PM **A. Yes.**

12:10PM Q. What did you do?

J. EDWARDS

12:10PM **A. Just tried to remember -- 15, 16, 17 years ago.**

12:10PM Q. Did you look at any documents in connection with trying to remember?

12:10PM **A. Yes.**

12:10PM Q. What documents did you look at?

12:10PM **A. The document provided by counsel.**

12:10PM Q. And what document was that?

12:10PM **A. I'm not sure what to call it. Just a summary of the case in terms of very high level summary of the case.**

12:10PM Q. Okay. And did that document refresh your recollection as to some of the matters involving Move Networks and your involvement --

12:10PM **A. No.**

12:10PM Q. -- some years ago?

12:10PM **A. No.**

12:11PM Q. Did any documents you looked at refresh your recollection at all?

12:11PM **A. No.**

12:11PM Q. Did you do anything else to try to refresh your recollection about the events at Move Networks?

J. EDWARDS

12:11PM **A. No.**

12:11PM Q. Have you reviewed any other documents besides that summary document given to you by counsel?

12:11PM **A. No.**

12:11PM Q. Can you describe that document any further?

12:11PM **A. It's a document that summarizes a lot of other documents that I didn't get to see that have information about the case. I think it was largely to -- also to prep me as a witness.**

12:12PM Q. Could you tell from the document whether it was a confidential document or a document that, perhaps, had been filed in the court or somehow produced in the lawsuit?

12:12PM **A. I could not. I assume it would be confidential but I don't know that.**

12:12PM Q. Okay. Were you told whether or not it was confidential?

12:12PM **A. I don't recall.**

12:12PM Q. Did it bear any indications, words or other indications, that it was a confidential document?

J. EDWARDS

12:12PM **A. Not that I recall.**

12:12PM Q. Okay. One of the phrases that's used in these -- International Trade Commission investigations is confidential business information. Did the document have that phrase on it, "confidential business information"?

12:13PM **A. I don't know.**

12:13PM Q. Do you intend to testify at the trial of this matter?

12:13PM **A. I'm not sure. I don't know if I would be called or if I would be invited.**

12:13PM Q. Have you been asked to this point?

12:13PM **A. I have been told that there is a potential trial and would I be willing to if my testimony is needed.**

12:13PM Q. And did you answer that question?

12:13PM **A. Yes, I would be willing.**

12:13PM Q. Have you prepared a written Witness Statement in connection with potentially testifying at the trial in this matter?

12:14PM **A. No.**

12:14PM Q. Have you seen a draft of such a

1 J. EDWARDS

12:14PM 2 Witness Statement?

12:14PM 3 A. No.

12:14PM 4 Q. So, Mr. Edwards, there's a

12:14PM 5 procedure here with exhibits, where if you go

12:14PM 6 into the chat, I will put a document into the

12:14PM 7 chat and then you can open it up, we hope.

12:14PM 8 A. Okay.

12:14PM 9 Q. So I'm going to mark as Edwards

12:14PM 10 Exhibit 1 a copy of your LinkedIn profile.

12:14PM 11 Hopefully you can see that in the chat now,

12:15PM 12 sir.

12:15PM 13 A. Yes.

12:15PM 14 (Whereupon, Edwards Exhibit 1,

12:15PM 15 John Edwards LinkedIn profile was

12:15PM 16 marked for identification as of this

12:15PM 17 date by the Reporter.)

12:15PM 18 Q. You have it now?

12:15PM 19 A. I do.

12:15PM 20 Q. And do you recognize Exhibit 1 as

12:15PM 21 a copy of your LinkedIn profile?

12:15PM 22 A. I recognize it as one of two.

12:15PM 23 Okay? And the older one at that.

12:15PM 24 Q. So this one is out of date?

12:15PM 25 A. I don't know. I just somehow

1 **J. EDWARDS**

12:15PM 2 **ended up with two addresses. I don't spend**
12:15PM 3 **hardly any time on LinkedIn, so...**
12:15PM 4 Q. Okay. Well, this is the one I
12:15PM 5 found.
12:15PM 6 **A. Great.**
12:15PM 7 Q. Can you look at Exhibit 1 and tell
12:15PM 8 me if this is an accurate summary of your
12:15PM 9 employment experience?
12:16PM 10 **A. So I can see one error. I'll try**
12:16PM 11 **to look at them all and then come back.**
12:17PM 12 **It does look like my LinkedIn**
12:17PM 13 **profile.**
12:17PM 14 Q. What was the error that you noted?
12:17PM 15 **A. Well, I'm -- when I was trying**
12:17PM 16 **mentally to put together the dates last night**
12:17PM 17 **from Move Networks, I think December 2000, it**
12:17PM 18 **might have been early 2000 -- it might have**
12:17PM 19 **been a little bit later than that. And**
12:17PM 20 **actually I wasn't actually able to remember**
12:17PM 21 **the exact date. I think this was put**
12:17PM 22 **together just to show continuity, I'm sure,**
12:17PM 23 **but I -- it's really an older version, but**
12:17PM 24 **that would be the thing that would catch me.**
12:17PM 25 Q. Okay. So just to be clear, the

J. EDWARDS

12:17PM date that you started with Move Networks
12:18PM indicated on Exhibit 1 as December 2000 may
12:18PM have been somewhat later into 2001. Is that
12:18PM what you're telling us?
12:18PM A. Well, yes. And when I joined that
12:18PM entity, it was XLON Technologies and Move was
12:18PM the name we adopted later. And so that's
12:18PM all.
12:18PM Q. Okay.
12:18PM A. Same company. Just a different
12:18PM name.
12:18PM Q. Right. XLON, X-L-O-N, was the
12:18PM original name of what became Move Networks;
12:18PM is that correct?
12:18PM A. That's correct.
12:18PM Q. And when you joined XLON in or
12:18PM about 2000, 2001, what was your role at the
12:18PM company?
12:18PM A. So just to be clear, I'm actually
12:18PM not sure the date I joined and I didn't try
12:19PM to recreate that. It's around that time.
12:19PM And I joined as the CEO. President and CEO.
12:19PM Q. And how big a company was it when
12:19PM you first joined it?

J. EDWARDS

12:19PM **A. Well, maybe under ten.**

12:19PM Q. Under ten employees?

12:19PM **A. Yeah.**

12:19PM Q. Okay. Who were the other employees at that time, to the best of your recollection?

12:19PM **A. Greg Smith was there. That's the only thing that I actually remember right now.**

12:19PM Q. Was Mr. Major there at the time?

12:19PM **A. So Drew was the investor, but he wasn't an employee of the company at that time. He was providing the funding. So I would say no, he wasn't there as an employee, but he was definitely there as an investor.**

12:20PM Q. I see. Did he become an employee at some point?

12:20PM MR. DHANANI: Objection; calls for speculation.

12:20PM **A. So I'm actually not sure if Drew became an employee.**

12:20PM Q. Did he play a role in the company other than as an investor?

12:20PM **A. Yes.**

1 **J. EDWARDS**

12:20PM 2 Q. What did he do?

12:20PM 3 A. Drew was technical advisor. He
12:20PM 4 was the investor off and on. He participated
12:20PM 5 in the technical strategy deeply.

12:21PM 6 Q. Okay. At what point in time did
12:21PM 7 XLON become Move Networks?

12:21PM 8 A. So as I recall we started to use
12:21PM 9 the name, probably, 2003 to -- 2000 probably
12:21PM 10 2004, 2005, but I don't think it actually
12:21PM 11 became an announcement until early 2006.
12:21PM 12 That's what I remember.

12:21PM 13 Q. And what was the reason for
12:21PM 14 adopting the Move Networks name?

12:21PM 15 A. To more closely align on what the
12:21PM 16 strategy the company was doing.

12:22PM 17 Q. So according to Exhibit 1, you
12:22PM 18 were president and CEO of Move until May of
12:22PM 19 2009. Is that date correct?

12:22PM 20 A. I would say 2009. I am not sure
12:22PM 21 if April, May, June. It was right in that
12:22PM 22 timeframe.

12:22PM 23 Q. And what were the circumstances of
12:22PM 24 your departure from Move at that time?

12:22PM 25 A. I was a member of the Board of

J. EDWARDS

12:22PM **Directors and I was the CEO. And the**
12:22PM **investors, the outside investors, asked me to**
12:22PM **resign.**
12:22PM Q. And are you aware of the reason
12:22PM that you were asked to resign?
12:22PM **A. They wanted to go a different**
12:22PM **direction.**
12:22PM Q. What was the different direction
12:22PM they wanted to go in?
12:22PM **A. They wanted to move from our**
12:22PM **handling high-end streaming environments to a**
12:23PM **more general market approach using licensing**
12:23PM **of the technology. Maybe you can think of it**
12:23PM **as going from enterprise approach to the**
12:23PM **market to a reseller and ISP close to the**
12:23PM **market.**
12:23PM THE COURT REPORTER: Sir, could
12:23PM you speak up a little bit?
12:23PM **THE WITNESS: Sure.**
12:23PM THE COURT REPORTER: Thank you.
12:23PM Q. And did you disagree with any
12:23PM change in direction?
12:23PM **A. I did.**
12:23PM MR. DHANANI: Objection; vague.

J. EDWARDS

12:23PM Q. Why did you disagree with it?

12:23PM A. So I felt like the trajectory we were on was a good one, and those elements would come and it wasn't the right time.

12:23PM Q. So what trajectory were you on at that time in the spring of 2009?

12:24PM A. And by that I mean our support of media companies in using the technology to stream Internet, television, and other content across the Internet to one that would have opened up the channel to have many more approaches to the market using the same technology.

12:24PM Q. So, I'm sorry, that's the current direction that you were on at the time?

12:24PM A. The current direction was that we were the streaming technology of choice for most of the major media companies, and I wanted to continue that pursuit, which is a company to media company direct, I would call it an enterprise sell, and allow the broader market to appear a little later.

12:25PM Q. The enterprise approach that you were on, as you label it, was the company

J. EDWARDS

12:25PM profitable pursuing that approach at that time?

12:25PM **A. Not --**

12:25PM MR. DHANANI: Objection; calls for speculation and vague.

12:25PM Q. I'm sorry. Your answer was not yet?

12:25PM **A. Not yet. We were close, but not yet.**

12:25PM Q. And how much money had the company lost as of the spring of 2009?

12:25PM **A. I don't recall.**

12:25PM MR. DHANANI: Objection; calls for speculation.

12:25PM **A. Don't recall.**

12:26PM MR. DHANANI: Go ahead.

12:26PM **A. I don't recall.**

12:26PM Q. Would you characterize the board's decision to ask you to resign as a management shakeup?

12:26PM MR. DHANANI: Objection; vague and calls for speculation.

12:26PM **A. I would not have characterized it as that.**

1 **J. EDWARDS**

12:26PM 2 Q. Were there other members of
12:26PM 3 management at Move Networks other than
12:26PM 4 yourself asked to resign at the same time?
12:26PM 5 A. I do know that other people left
12:26PM 6 at that time, but I don't recall the ins and
12:26PM 7 outs of who else was at the same time.
12:26PM 8 Q. Who do you recall left the company
12:26PM 9 at or about the same time that you did?
12:26PM 10 A. I would just simply say that it
12:27PM 11 was about a 10, maybe 15% reduction in force
12:27PM 12 about that time, but I don't -- the time is a
12:27PM 13 little bit -- the timeframe is a little
12:27PM 14 sketchy on who else exactly and what order
12:27PM 15 they fell in. I just don't know.
12:27PM 16 Q. And I think you said that the
12:27PM 17 Board of Directors was comprised of the
12:27PM 18 investors in the company at that time; is
12:27PM 19 that right?
12:27PM 20 A. Yes. But not all investors were
12:27PM 21 board members, but some board members were
12:27PM 22 investors.
12:27PM 23 Q. And it was those investors who
12:27PM 24 made the decision to ask you to resign?
12:28PM 25 A. They are the ones that made the

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12:28PM **request.**

12:28PM Q. And so which investors were those that were represented on the board and made that request of you?

12:28PM **A. Hummer Winblad and Steamboat Ventures.**

12:28PM Q. And what were the names of the individual people who were representing those companies on the board?

12:28PM **A. From Hummer, it was Doug. I want to the say Pickier, I can't remember his last name right now. And from Steamboat was Dan Beldy. Dan Beldy made the request. It was principally Dan.**

12:28PM Q. And so what did Mr. Beldy tell you when he made that request of you?

12:29PM **A. Would you be willing to resign.**

12:29PM Q. Did you at some point move from serving as president and CEO to becoming Executive Chairman of Move?

12:29PM **A. Yes.**

12:29PM Q. When did that happen?

12:29PM **A. At the same time.**

12:29PM Q. So when you were asked to resign

J. EDWARDS

12:29PM as CEO, you then moved into the Executive
12:29PM Chairman position; is that correct?
12:29PM A. Correct.
12:29PM Q. And how long did you hold the
12:29PM Executive Chairman position?
12:29PM A. Oh, not long. I don't recall. A
12:29PM few months.
12:29PM Q. And what were the circumstances of
12:29PM your leaving the position of Executive
12:29PM Chairman of Move Networks?
12:29PM A. So I was there as a board member
12:29PM largely to help with the transition. And as
12:29PM soon as I wasn't needed to assist in the
12:30PM transition, I had other things to do and
12:30PM left.
12:30PM Q. Okay. So you left the board as
12:30PM well at that point?
12:30PM A. I stayed on the board for a little
12:30PM while, but as far as being an Executive
12:30PM Chairman or having other than normal board
12:30PM responsibilities, I was not needed to do
12:30PM that. I was no longer needed in that
12:30PM capacity.
12:30PM Q. So when did you leave the board of

1 J. EDWARDS

12:30PM 2 Move?

12:30PM 3 MR. DHANANI: Objection; asked

12:30PM 4 and answered.

12:30PM 5 THE WITNESS: Do you want me to

12:30PM 6 go ahead and --

12:30PM 7 Q. Yes, you can answer.

12:30PM 8 A. Can you repeat back -- can the

12:30PM 9 reporter repeat back the previous questioning

12:30PM 10 on this topic?

12:30PM 11 Q. Well, let me -- I mean, we can do

12:30PM 12 that, but let me make a suggestion,

12:31PM 13 Mr. Edwards. I think the reason for the

12:31PM 14 objection was you -- in my opinion, you gave

12:31PM 15 kind of a vague answer about when you left

12:31PM 16 the board and I wanted to see if you could be

12:31PM 17 any more precise.

12:31PM 18 So the question is, to the best of

12:31PM 19 your recollection, when did you leave the

12:31PM 20 Board of Directors of Move Networks?

12:31PM 21 A. I don't recall.

12:31PM 22 Q. Can you give me your best estimate

12:31PM 23 as to how long it was after you resigned as

12:31PM 24 CEO of Move?

12:31PM 25 A. I honestly don't recall.

1 **J. EDWARDS**

12:31PM 2 Q. Was it more or less than six
12:31PM 3 months?
12:31PM 4 **A. I just don't recall.**
12:31PM 5 Q. More or less than a year?
12:31PM 6 **A. To be honest with you, I just**
12:31PM 7 **don't recall. That means I can't make**
12:32PM 8 **something up. I just don't recall.**
12:32PM 9 Q. Okay. Looking back at Exhibit 1,
12:32PM 10 the LinkedIn profile, in the descriptions
12:32PM 11 under your -- under Move Networks, it states
12:32PM 12 under the paragraph entitled "Vision,
12:32PM 13 Strategy & Leadership," it says, "Our efforts
12:32PM 14 resulted in patents for media over an IP
12:32PM 15 network."
12:32PM 16 Do you see that?
12:32PM 17 **A. Yes.**
12:32PM 18 Q. Are you familiar with those
12:32PM 19 patents?
12:32PM 20 **A. I'm familiar that we filed**
12:32PM 21 **patents. I'm familiar with the technology.**
12:32PM 22 Q. Okay. What do you understand
12:32PM 23 those patents cover?
12:32PM 24 **A. Our --**
12:32PM 25 MR. DHANANI: Before you answer,

J. EDWARDS

12:32PM I'm just going to caution you to base
12:33PM your understanding on your personal
12:33PM knowledge and not with any discussions
12:33PM you have had with attorneys. Go
12:33PM ahead.
12:33PM A. So Move had a technology which
12:33PM allowed streaming to be done at a higher
12:33PM quality using variable bit and variable
12:33PM technology and was really revolutionary in
12:33PM that sense. And those patents covered that
12:33PM body of work having to do with that.
12:33PM Q. And what, to your understanding,
12:33PM was revolutionary about the technology?
12:33PM A. Ability to stream without
12:33PM buffering. The ability to start quickly.
12:33PM The ability to produce higher quality in the
12:34PM resulted streaming.
12:34PM Q. And what about the technology
12:34PM allowed those things to be achieved?
12:34PM A. There was a client-side approach
12:34PM to the technology that knew exactly what was
12:34PM going on in the communication and could make
12:34PM intelligent requests for new media to be
12:34PM delivered to the client.

J. EDWARDS

12:34PM Q. And that required a plug-in on a
12:34PM -- on the client device, correct?
12:34PM **A. That required local --**
12:34PM MR. DHANANI: Objection; vague
12:34PM and compound.
12:34PM Go ahead.
12:34PM **A. That required local intelligence.**
12:34PM Q. Well, it required a plug-in that
12:34PM had to be installed on the consumer's device,
12:35PM correct?
12:35PM **A. The client-side intelligence.**
12:35PM MR. DHANANI: Objection.
12:35PM Q. When you say "client-side
12:35PM intelligence," what do you mean?
12:35PM **A. Software on the client.**
12:35PM Q. That the consumer had to install
12:35PM on his or her computer, correct?
12:35PM **A. That's a way to get there.**
12:35PM MR. DHANANI: Objection; vague.
12:35PM **A. That's a way to get there. There**
12:35PM **is multiple ways to get there.**
12:35PM Q. Well, isn't that the way that
12:35PM Move Networks was trying to get it there at
12:35PM the time?

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12:35PM **A. Move did have a plug-in that allowed for that intelligence to exist.**

12:35PM Q. Okay. And getting consumers to install that plug-in was one of the challenges that Move was facing in implementing its technology; isn't that right?

12:35PM MR. DHANANI: Objection; foundation.

12:35PM **A. I don't think of -- I never thought of that as a challenge.**

12:35PM Q. Were there challenges that Move faced in achieving the success of its technology?

12:36PM **A. Certainly.**

12:36PM Q. What were those?

12:36PM **A. The challenge that most businesses have, the capital, the key device strategy relative to hiring and maintaining good talent. I mean, just normal business. Most of the issues relative to the technology itself had to do with the political infrastructure in the media industry and relationships that -- between media companies**

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12:36PM and between all new technologies and media
12:36PM companies.
12:36PM THE COURT REPORTER:
12:36PM Mr. Edwards, I need you to speak up
12:36PM again. It's hard to hear you.
12:36PM THE WITNESS: Okay.
12:36PM MR. BARQUIST: Did you get that
12:36PM whole answer, Rebecca?
12:36PM THE COURT REPORTER: I did.
12:37PM BY MR. BARQUIST:
12:37PM Q. So what were those challenges?
12:37PM Can you explain them a little bit further?
12:37PM A. So I'm describing normal business,
12:37PM just making sales calls. Making
12:37PM presentations about the technology. Having
12:37PM people believe -- let go of previous beliefs
12:37PM about the way streaming should work and catch
12:37PM a new vision and -- on how streaming could
12:37PM work. And that's always a challenge, to put
12:37PM forth a new vision and a new way of doing
12:37PM things that hadn't been done anything like it
12:37PM ever before. And they were accustomed to
12:37PM their way of doing things, progressive
12:37PM download or service-side technologies, RTF,

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12:37PM 2 ESP, flashes, media server, Microsoft. And
12:38PM 3 they weren't working well. And you were
12:38PM 4 trying to convince people that streaming
12:38PM 5 could actually work and be good. And that
12:38PM 6 had a lot of people not necessarily beginning
12:38PM 7 as believers, but the moment they saw it
12:38PM 8 work, they were believers. The quality was
12:38PM 9 better. The time to load, it didn't buffer,
12:38PM 10 it worked over fast networks and slow
12:38PM 11 networks. And, typically, people would say
12:38PM 12 there wasn't anything like it that they had
12:38PM 13 ever seen. And that led to companies like
12:38PM 14 ABC moving away from previous versions and
12:38PM 15 moving towards our solution, because they
12:38PM 16 believed it.
12:38PM 17 But that took a lot of work, a lot
12:38PM 18 of meetings with companies like ABC to go
12:38PM 19 through that cycle. So I'm just describing
12:38PM 20 what it takes to go from vision to
12:38PM 21 implementation to delivery and getting media
12:39PM 22 companies to adopt.
12:39PM 23 So when you look at this screen
12:39PM 24 you've got up in front of me, "Product
12:39PM 25 Development & Commercialization - Worked in

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12:39PM **tandem with ABC, Fox, CBS, ESPN," those are**
12:39PM **large companies. We're a small company. And**
12:39PM **for them to give us the time of day was a**
12:39PM **challenge. For them to take our meetings was**
12:39PM **a challenge. And you just had to bust**
12:39PM **through that disbelief that we could solve a**
12:39PM **problem they knew they had and that we could**
12:39PM **move forward with it.**
12:39PM Q. Were there technical reasons that
12:39PM the companies you were trying to sell your
12:39PM technology to were reluctant to adopt it?
12:39PM **A. Well, I would say it had more to**
12:39PM **do with their belief that our solution would**
12:40PM **work for them and their environment. So most**
12:40PM **of the entities were doing web-based work and**
12:40PM **they had an existing investment in current**
12:40PM **ways of doing things, and for them to stop**
12:40PM **and go a different direction was a big**
12:40PM **decision for them to make. The good news is**
12:40PM **they made it.**
12:40PM Q. Were there cost concerns that made
12:40PM the companies you were trying to sell your
12:40PM technology to reluctant to adopt it?
12:40PM **A. No.**

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12:40PM 2 Q. Was the fact that a plug-in had to
12:40PM 3 be installed by the consumer a reason that
12:40PM 4 companies were reluctant to adopt your
12:40PM 5 technology?
12:40PM 6 MR. DHANANI: Objection; vague.
12:41PM 7 **A. People would ask questions about**
12:41PM 8 **the plug-in, but it never stopped us from**
12:41PM 9 **moving forward with any of them. They --**
12:41PM 10 **nobody wants to add things that they -- until**
12:41PM 11 **they understand that -- the benefits of**
12:41PM 12 **making those changes.**
12:41PM 13 **So I never found that the plug-in**
12:41PM 14 **was a big deal, particularly when we got to**
12:41PM 15 **the point that tens of thousands, even in**
12:41PM 16 **some days 100,000 people were adopting the**
12:41PM 17 **plug-in per day, and we were getting to 20,**
12:41PM 18 **30-plus million installed users, it was**
12:41PM 19 **clearly not something people were reticent**
12:41PM 20 **about adopting.**
12:41PM 21 Q. So you don't recall that very low
12:41PM 22 installation rates for the plug-in were a
12:41PM 23 problem that Move Networks faced at the time?
12:41PM 24 **A. No.**
12:42PM 25 Q. How about the cost of encoding

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12:42PM 2 equipment, was that a reason that companies
12:42PM 3 were reluctant to adopt your technology?
12:42PM 4 MR. DHANANI: Objection; vague.
12:42PM 5 A. So I would answer that question by
12:42PM 6 saying if you're not sure that the future
12:42PM 7 solves the problem you've got, you could have
12:42PM 8 concerns about making any changes. But when
12:42PM 9 you become confident that it will, these
12:42PM 10 costs are small relative to the value that
12:42PM 11 they would achieve.
12:42PM 12 When ABC undertook to stream all
12:42PM 13 of their television, Internet television,
12:42PM 14 Grey's Anatomy, Lost, others, on the net,
12:42PM 15 they had gone through that cycle. And these
12:42PM 16 were not significant costs to them relative
12:42PM 17 to the value they got through increased
12:42PM 18 exposure and meeting the user's demand, more
12:43PM 19 high quality, HD quality-type viewing within
12:43PM 20 an environment that heretofore they had not
12:43PM 21 been able to achieve successfully.
12:43PM 22 Q. Well, in connection with
12:43PM 23 discussions with companies that you were
12:43PM 24 offering your technology to, did any of them
12:43PM 25 express concern about the cost of adopting

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12:43PM it?

12:43PM **A. That wasn't usually where the conversation went. The conversation was more along the lines of is this really accurate. Are you showing me something that you have served or that you have somehow -- it's working in this demo. Will it really work for me. And so we would tend to send them a link of their contents and play around with it. And when that occurred, when they saw the vision being materialized for their content, these costs were not -- that's not where their head was at.**

12:43PM Q. Well, again, Mr. Edwards, that wasn't the question. The question is -- is more of a direct one.

12:44PM In your discussions with companies that you were trying to sell your technology to, did they express concerns about the costs of adopting it, yes or no?

12:44PM MR. DHANANI: Objection; asked and answered.

12:44PM And, John, you can answer it any way you want. You're not limited to

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12:44PM 2 yes or no.

12:44PM 3 **A. So I think I've answered it. And**
12:44PM 4 **that is, in fairness, I don't believe that**
12:44PM 5 **costs were the fundamental -- in fact, we**
12:44PM 6 **were, in most of the early days, they were**
12:44PM 7 **looking at streaming at upwards of $0.30 per**
12:44PM 8 **gig and more. And we instantly gave them a**
12:44PM 9 **chance to drop that to a dime a gig or less.**
12:44PM 10 **And so from a cost basis, these**
12:44PM 11 **costs that we're talking about paled in**
12:44PM 12 **comparison to the value they achieved by**
12:44PM 13 **using an ultimate technology. Not to mention**
12:44PM 14 **the broader reach and the greater**
12:44PM 15 **opportunities for advertorial revenues.**
12:45PM 16 **Simply, as soon as they understand what could**
12:45PM 17 **be done, the cost associated with these items**
12:45PM 18 **and technology implementation, that's not**
12:45PM 19 **what they were concerned about.**

12:45PM 20 Q. Again, Mr. Edwards, I'd like you
12:45PM 21 to answer the question itself.
12:45PM 22 Did the companies express concern
12:45PM 23 about the cost of adopting your technology?
12:45PM 24 I understand you're telling me that the cost,
12:45PM 25 in your view, was not significant or

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12:45PM 2 outweighed by other factors, but I want a
12:45PM 3 direct answer to my question.
12:45PM 4 Did the companies you were trying
12:45PM 5 to sell Move Networks technology to express
12:45PM 6 concern in your discussions with them about
12:45PM 7 the cost of adopting it?
12:45PM 8 A. I think I've answered it.
12:45PM 9 MR. DHANANI: Objection; asked
12:45PM 10 and answered several times now.
12:45PM 11 Go ahead, John.
12:45PM 12 A. I think I answered it. That's
12:45PM 13 what I have for you.
12:45PM 14 Q. Well, I think I'm entitled to a
12:45PM 15 direct answer to the question. Did they
12:46PM 16 express concern about the cost of adopting
12:46PM 17 Move Networks; technology?
12:46PM 18 MR. DHANANI: Objection; asked
12:46PM 19 and answered.
12:46PM 20 A. So I've answered it a couple of
12:46PM 21 times and that's my answer. I don't have
12:46PM 22 anything more to offer you.
12:46PM 23 Q. Going back to Exhibit 1, your
12:46PM 24 LinkedIn profile. In that same paragraph we
12:46PM 25 were looking at, it says, "The product set is

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12:46PM 2 currently the core of EchoStar's strategy for
12:46PM 3 an over-the-top media play."
12:46PM 4 What is EchoStar's strategy for an
12:46PM 5 over-the-top media play?
12:47PM 6 A. I don't recall why that sentence
12:47PM 7 was there, nor do I remember much about
12:47PM 8 EchoStar's strategy. Over-the-top simply
12:47PM 9 meant bypassing normal table and other
12:47PM 10 methodologies for the streaming television.
12:47PM 11 And companies like EchoStar and others had a
12:47PM 12 desire to go over-the-top.
12:47PM 13 Other than that, other than them
12:47PM 14 wanting to use technologies like Move's to
12:47PM 15 stream, I don't know more about EchoStar's
12:47PM 16 strategy than that.
12:47PM 17 Q. Your profile also indicates that
12:47PM 18 you "Led all fund-raising efforts through two
12:47PM 19 successful rounds of funding prior to the
12:47PM 20 sale of the company."
12:48PM 21 How much did you raise in those
12:48PM 22 two rounds of funding for Move Networks?
12:48PM 23 A. So the context of that sentence
12:48PM 24 would have been the last two, kind of, rounds
12:48PM 25 where Hummer Winblad and Steamboat came in,

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12:48PM **if I recall, in the 30 millions and then we**
12:48PM **added others afterwards, that -- we kind of**
12:48PM **kept the round open and went through that**
12:48PM **round. So that would have been one in that**
12:48PM **kind of timeframe in 2007, '8 kind of**
12:48PM **timeframe. The initial funding was in the**
12:48PM **2006, '7. And, of course, that doesn't**
12:48PM **really speak to Drew's seed funding.**
12:49PM Q. And the sale of the company, when
12:49PM did that occur?
12:49PM **A. So first of all, I wasn't at the**
12:49PM **company then. So I recall it to be in 2009,**
12:49PM **2010, kind of that timeframe.**
12:49PM Q. So did you have any involvement
12:49PM with the sale of Move Networks?
12:49PM **A. During that time, I believe I**
12:49PM **was -- right around that time, I may have**
12:49PM **still been on the board, but that would have**
12:49PM **been all.**
12:49PM Q. And you're referring there to the
12:49PM sale to EchoStar; is that correct?
12:50PM **A. Yeah. Yes.**
12:50PM Q. And how much did Move Networks
12:50PM receive for the sale of the company to

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EchoStar?

A. I don't recall.

Q. Did you own stock in Move?

A. Yes; options for that, I do believe.

Q. And did you receive any money as a result of owning stock or options in Move?

A. I believe I did, but in trying to put that together for myself last night, I honestly couldn't remember that time period at all.

Q. Do you recall the amount you received, if any?

A. No. It wasn't significant for me.

Q. And by not significant for you, what do you mean?

A. I didn't get multiple millions of dollars.

Q. Did you get a million dollars?

A. No. No. It would have been small amounts of money, tens of thousands of dollars, if anything. And that's why I just probably don't remember it that well.

Q. Did you invest any money into

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12:51PM Move?

12:51PM A. No.

12:51PM Q. So these were options you received as a result of your employment?

12:51PM A. Correct.

12:51PM Q. And when did you receive monies as a result of owning options or stock in Move?

12:51PM A. I would have to guess. I really don't know. I don't recall.

12:51PM Q. Was it in connection with the sale to EchoStar, or at some earlier point?

12:51PM A. I think it would have been in conjunction with the sale, but I'm not certain.

12:51PM Q. Did the folks at Hummer Winblad receive any return on their investment in Move Networks?

12:52PM A. I don't know.

12:52PM Q. Did Steamboat receive any return on its investment at Move Networks?

12:52PM A. I don't know. And as far as other entities, I really just don't recall much about the sale or the terms or who got money and who -- I just don't recall that much

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12:52PM 2 **about it. I was not that involved at that**
12:52PM 3 **time.**
12:52PM 4 Q. Well, did it matter to you, as the
12:52PM 5 CEO of Move, as to whether its investors were
12:52PM 6 receiving any return on their investment?
12:52PM 7 **A. It mattered that the people were**
12:52PM 8 **good and okay. And that the vision that we**
12:52PM 9 **had had a chance to potentially get into the**
12:52PM 10 **plans and continue its life. That's what**
12:52PM 11 **mattered most. Because I thought that,**
12:52PM 12 **really, this was still a billion dollar**
12:53PM 13 **opportunity, in my own view. I mean, in**
12:53PM 14 **other words, when I say "billion," not to be**
12:53PM 15 **specific, but just to say it was specific.**
12:53PM 16 **And so my hope was that additional**
12:53PM 17 **funding through acquisition, through**
12:53PM 18 **something, would occur. So I was interested**
12:53PM 19 **that way. I wasn't caught up in whether or**
12:53PM 20 **not the BCs necessarily got some substantial**
12:53PM 21 **return. I don't recall a lot of thinking**
12:53PM 22 **that way.**
12:53PM 23 Q. Isn't that the reason they invest
12:53PM 24 in a company, to --
12:53PM 25 **A. Oh, for sure. And I'm sure that**

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12:53PM **they would be concerned about them getting a**
12:53PM **return, for sure. And had I still been the**
12:53PM **CEO and that been my fiduciary**
12:53PM **responsibility, I would have been all over**
12:53PM **it, but I just wasn't any longer. I wasn't**
12:53PM **that involved and I didn't have the ability**
12:53PM **to control that one way or another, and so**
12:53PM **that wasn't my interest at that time. I was**
12:54PM **no longer in the hot seat.**
12:54PM Q. So are you familiar with the
12:54PM circumstances when the ideas that became part
12:54PM of the Move Networks; patents were first
12:54PM developed?
12:54PM **A. Yes.**
12:54PM Q. When was that?
12:54PM **A. 2003, 2004. 2003. Probably more**
12:54PM **in 2003.**
12:54PM Q. Okay. Who was involved in coming
12:54PM up with the idea that -- of the technology
12:54PM that became embodied in the Move patents?
12:55PM **A. The idea of it was Drew's,**
12:55PM **largely. That idea got developed and made**
12:55PM **real by Mark and by Dave Brubeck over time.**
12:55PM **Dave later, but Mark and Drew initially.**

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12:55PM **Mark Hurst, Drew Major. And Greg and I were**
12:55PM **cheerleaders in sales and marketing, looking**
12:55PM **to see it materialize.**
12:55PM Q. And Greg is Greg Smith you're
12:55PM referring to?
12:55PM **A. Thank you, yes.**
12:55PM Q. Okay. And when, to the best of
12:55PM your recollection, did Mr. Major come up with
12:55PM the idea initially?
12:55PM **A. So it was in 2003. We had an**
12:56PM **opportunity to bid on a billion impression**
12:56PM **campaign involving EyeWonder, I think**
12:56PM **targeted at AOL. And we flew out to Atlanta,**
12:56PM **as I recall, where they were located. And**
12:56PM **they had a web-based tool for spinning up ads**
12:56PM **that they had begun working with us for the**
12:56PM **CDN. And as Drew was at that meeting, we**
12:56PM **were there. He went very quiet. When I came**
12:56PM **out in the parking lot, I said, Drew, why did**
12:56PM **you go quiet? And he said because I've got a**
12:56PM **phenomenal idea. And I said tell me about**
12:56PM **it.**
12:56PM **And he started to break down a way**
12:56PM **that we could do streaming that was different**

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12:57PM 2 than what everybody else was trying to do,
12:57PM 3 which at the time was very server-centric,
12:57PM 4 very back side centric, logic back side, and
12:57PM 5 that we could deal with a client orientation,
12:57PM 6 because it occurred to him that, at the
12:57PM 7 client side, we would know the specific
12:57PM 8 characteristics of the transmission. Where,
12:57PM 9 at the service side, we were kind of guessing
12:57PM 10 and the latency associated with guessing, we
12:57PM 11 would always be off a little bit, which is
12:57PM 12 the reason streaming wasn't working.
12:57PM 13 And with progressive download,
12:57PM 14 because one of my comments to him was, why
12:57PM 15 not progressive download, and he said because
12:57PM 16 you can't -- you can't deal with it
12:57PM 17 intelligently enough. That was always the
12:57PM 18 knock on peer-to-peer impressive download was
12:57PM 19 that the overhead for intelligence on the
12:57PM 20 protocol was substantial.
12:57PM 21 And so that's where it started.
12:57PM 22 And all the way back and all the way the next
12:58PM 23 week, that's all Drew and I could talk about.
12:58PM 24 And we -- additionally, Drew recommended that
12:58PM 25 I move quickly to hire Mark Hurst, who he had

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12:58PM **known from Novell. We all worked together at**
12:58PM **Novell. And so we hired Mark and got him**
12:58PM **going. And that's how it started.**
12:58PM Q. So what exactly was the idea that
12:58PM you were discussing with Mr. Major at that
12:58PM point in time?
12:58PM **A. How was it going to be**
12:58PM **accomplished. Well, so the idea or how was**
12:58PM **it going to be accomplished?**
12:58PM Q. Let's start with the idea. Give
12:58PM me more.
12:58PM **A. So the idea I just went over. The**
12:58PM **idea was that, by providing client-side**
12:58PM **intelligence, we could control the variance**
12:58PM **of streaming more completely. The**
12:59PM **implementation then began for what did that**
12:59PM **mean. And it came down to cutting up the**
12:59PM **video and treating video like any other data**
12:59PM **type. So you treat video like you would a**
12:59PM **gif file or like you would anything that was**
12:59PM **shipping over a network.**
12:59PM **But the beauty of doing it this**
12:59PM **way was that you could use all standard**
12:59PM **infrastructure components. You wouldn't need**

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12:59PM **to have proprietary servers or proprietary**
12:59PM **technology, and you could use off-the-shelf,**
12:59PM **standard components, caching infrastructure.**
12:59PM **Of course, that was Drew's background and**
12:59PM **passion. And by leveraging the cache, we**
12:59PM **didn't need a server.**
12:59PM **That was breakthrough. That is**
12:59PM **not what people were thinking at the time.**
12:59PM Q. And what contributions did you
12:59PM make to the development of this idea?
01:00PM MR. DHANANI: Objection --
01:00PM **A. Giving --**
01:00PM MR. DHANANI: -- vague and --
01:00PM vague at the moment.
01:00PM **A. So my contribution was to get**
01:00PM **involved in testing this idea out at a high**
01:00PM **level, but getting in front of providers as**
01:00PM **soon as there were evidences of it working**
01:00PM **enough in data stages, and to hire the people**
01:00PM **to get it done. And I hired Mark. And just**
01:00PM **managing the company generally.**
01:00PM **My involvement wasn't in the**
01:00PM **specifics of the approach or the**
01:00PM **implementation. I was a sounding board**

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01:00PM **largely.**

01:00PM Q. So when you say getting in front of providers --

01:00PM **A. I'm sorry, customers. Potential customers.**

01:01PM Q. And when did you begin doing that?

01:01PM **A. So some of the firsts were 2004, 2005, to the best of my recollection. There were probably demos in a very closed environment internal to the company, but it took a little while to get the technology developed. I would say 2004, 2005.**

01:01PM Q. And who were the providers or potential customers that you first met with?

01:01PM **A. So one of the first that we went to, Drew and I belong to the Church of Jesus Christ of Latter-day Saints, and one of the first we went to was the LDS church, because they had for years tried to stream their general broadcast, and also -- and hadn't done it very successfully using the tuition technologies. And so we offered to run as a test that streaming for them. And that was one of our first.**

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01:02PM **There were probably demos and**
01:02PM **conversations as we started to work through**
01:02PM **the various media companies. But they would**
01:02PM **have been very early stages, conceptual,**
01:02PM **PowerPoints, those kinds of things. Not a**
01:02PM **demonstration of the technology, I don't**
01:02PM **think.**
01:02PM Q. Okay. And when did this work with
01:02PM the church occur?
01:02PM **A. It was 2005.**
01:02PM Q. Okay. And can you tell me more
01:02PM about what happened at that time?
01:02PM **A. It was wildly successful. They**
01:02PM **were thrilled that, for the first time, there**
01:03PM **were tens of thousands of people who could**
01:03PM **watch the conference. Some of those**
01:03PM **things -- I was trying to remember the**
01:03PM **analytics of that and I couldn't remember it,**
01:03PM **but -- other than saying it was a**
01:03PM **significantly larger number than they had**
01:03PM **ever streamed before. And they were very**
01:03PM **happy with it. So it was a good initial test**
01:03PM **drive for us.**
01:03PM Q. And it was a test drive of what

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01:03PM exactly?

01:03PM A. The streaming capability.

01:03PM Q. Okay. And is that essentially the same streaming capability that you later sold to companies like ABC?

01:03PM A. Yes.

01:03PM Q. Okay. So going back to when Mr. Major first came up with the idea at this meeting with EyeWonder, and the -- I think you've said that for the next week or two, that's all you talked about with Mr. Major. During those early discussions what contributions, if any, did you make to the development of the idea?

01:04PM MR. DHANANI: Objection; vague.

01:04PM Go ahead.

01:04PM A. I didn't make any contributions to the idea fundamentally, other than me being a sounding board for Drew and asking lots of questions, like, well, why would it be better than this technology or why would it be better than that. Or -- and then to try -- since it was going to be money to go off -- and, of course, it was Drew's money, but it

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01:04PM 2 **was going to be money to go off and hire**
01:04PM 3 **people, how strongly did he feel about it.**
01:04PM 4 **And Drew was over-the-top, I would**
01:04PM 5 **think -- over-the-top media play. He was**
01:05PM 6 **over-the-top on the idea. He just really**
01:05PM 7 **felt like there was something there.**
01:05PM 8 **Now, recognize, from my position,**
01:05PM 9 **this is a guy that's been inducted into the**
01:05PM 10 **international technology hall of fame. This**
01:05PM 11 **is the guy I worked with at Novell and I know**
01:05PM 12 **how good he is. He has a skill set that's**
01:05PM 13 **second to none when it comes to doing up**
01:05PM 14 **that.**
01:05PM 15 **And so I knew when Drew was saying**
01:05PM 16 **this is an idea, I took it at face value and**
01:05PM 17 **began to say, well, if it is, then what does**
01:05PM 18 **the industry look like? What do the players**
01:05PM 19 **look like? Who should we approach? What**
01:05PM 20 **marketing should we go after? How should we**
01:05PM 21 **sell to them? Those were my contributions**
01:05PM 22 **Greg Smith and I teamed up on that.**
01:05PM 23 Q. Yeah. So tell me what
01:05PM 24 contributions Greg Smith made at the time of
01:05PM 25 those early discussions about the -- about

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01:05PM Mr. Major's idea for streaming.

01:05PM A. Identical to mine, really. We
01:06PM were both in the sales and the marketing side
01:06PM of things. We were both trying to look for
01:06PM ideas that would be potential. Greg was sort
01:06PM of the -- a little bit of a -- at least my
01:06PM recollection of it, cruder to me, and so we
01:06PM quietly plowed forward to try to get it
01:06PM developed so that we could show it to him.
01:06PM And -- so, but largely, Greg and I started to
01:06PM form the analysis of the industry and how we
01:06PM would use such a technology.

01:06PM THE COURT REPORTER: You are
01:06PM starting to trail off again. If you
01:06PM can speak loudly.

01:06PM THE WITNESS: I feel like I'm
01:06PM yelling already, but I'll try.

01:06PM THE COURT REPORTER: I think we
01:06PM can address this at the next break.

01:06PM MR. BARQUIST: Well, should we
01:06PM take a break? We've been going about
01:06PM an hour. Why don't we take a short
01:06PM break.

01:07PM THE WITNESS: Okay.

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01:07PM 2 THE VIDEOGRAPHER: The time is
01:07PM 3 11:07 a.m., and we are going off the
01:07PM 4 record.
01:20PM 5 (Whereupon, a recess was held.)
01:20PM 6 THE VIDEOGRAPHER: The time is
01:20PM 7 11:20 a.m., and we are back on the
01:20PM 8 record.
01:20PM 9 BY MR. BARQUIST:
01:20PM 10 Q. Mr. Edwards, did you look to see
01:20PM 11 if you still had any documents in your
01:20PM 12 possession relating to Move Networks?
01:21PM 13 **A. I did not.**
01:21PM 14 Q. Do you know if --
01:21PM 15 **A. I do. I don't think I have any.**
01:21PM 16 **So I wouldn't have looked because I didn't**
01:21PM 17 **keep any that I'm aware of.**
01:21PM 18 Q. So going back to our discussion
01:21PM 19 about the original idea that you were
01:21PM 20 describing Mr. Major coming up with in '03,
01:21PM 21 what happened next with regard to development
01:21PM 22 of that idea after those initial discussions
01:21PM 23 on the EyeWonder visit?
01:21PM 24 **A. We went back to Utah. I reached**
01:21PM 25 **out and -- well, actually, probably Drew**

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01:21PM 2 **reached out to Mark, but I reached out to**
01:21PM 3 **Mark afterwards, and we negotiated and got**
01:22PM 4 **hired and found a place for him and have him**
01:22PM 5 **start to move forward and develop the idea.**
01:22PM 6 Q. And at what point in time did you
01:22PM 7 all come up with a working implementation of
01:22PM 8 the idea?
01:22PM 9 **A. So there is a period of time**
01:22PM 10 **between that 2003 and 2005 where there would**
01:22PM 11 **have been multiple working versions of the**
01:22PM 12 **technology that Mark was working on in the**
01:22PM 13 **lab. I kind of feel like it was 2005, at**
01:22PM 14 **least I felt like we had some of our first**
01:22PM 15 **traction account with the LDS church and then**
01:23PM 16 **from then on.**
01:23PM 17 **But knowing Mark and Drew, my**
01:23PM 18 **guess is it probably would have been fairly**
01:23PM 19 **quick, two, three months we would have had a**
01:23PM 20 **working kind of prototype, not for external**
01:23PM 21 **use, but that would have been normally the**
01:23PM 22 **way these kinds of things would go and we**
01:23PM 23 **would have multiple versions of it and**
01:23PM 24 **tweaking of it throughout the course of 2004.**
01:23PM 25 **My guess is there was probably demos in 2004,**

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01:23PM **too. I just don't recall any of them.**

01:23PM Q. Okay. So if I understand your answer, you really don't recall. You're just, as you say, guessing, or that's how things would normally have gone; is that correct?

01:23PM **A. So it's a little bit more than a guess, because I do know that we were developing technology. Software is something that develops over time and adds our way, so there would have been multiple substantiations of the technology throughout the course of 2003 and 2004. The first time I saw it used externally to that would have been 2005. The one that I remember.**

01:24PM Q. And that was the LDS church usage that you mentioned earlier?

01:24PM **A. Right. Yes.**

01:24PM Q. Did there come a time -- well, when did you all decide to seek patent protection for Move Networks' technology?

01:24PM MR. DHANANI: Objection. I'll just caution you not to reveal attorney-client communication, but, on

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that question, you can answer.

A. So in 2004 or '5, so I don't remember a specific time when we said, okay, let's go get patent coverage. I do think that most likely happened in 2004, 2005 would be a guess of mine. But it's purely that. I just don't recall the timing.

Q. And what role, if any, did you play in the patenting process?

A. In the patenting process, very little. Most of the discussion -- I was the CEO of the company. I paid the bills to the attorneys. I did the ancillary things, but I wasn't involved. I probably reviewed documents, but the real heart of the matter was happening with the attorney and Mark and Drew, as I recall.

Q. Do you recall reviewing patent applications before they were filed?

MR. DHANANI: And just be careful in your answer about not revealing attorney-client communications but, you can answer that question.

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01:25PM **A. Yeah. So I don't sit here today**
01:25PM **and remember a time when I sat down and**
01:25PM **reviewed it. I'm sure I did, as the CEO, but**
01:26PM **I just don't recall any more than that.**
01:26PM Q. Were you involved in the decision
01:26PM to -- as to who would be identified as the
01:26PM inventors on the patents?
01:26PM MR. DHANANI: And I caution you
01:26PM again not to reveal communications
01:26PM with attorneys on the topic, but
01:26PM outside of that, you can answer.
01:26PM **A. I would be involved.**
01:26PM Q. And, again, I'm not asking for
01:26PM conversation with counsel, but since there
01:26PM were conversations other than with counsel,
01:26PM do you recall any discussions about who would
01:26PM be named as inventors on the patents?
01:26PM **A. I only recall being asked, did it**
01:26PM **make sense for Drew and Mark to be named.**
01:26PM **And that made sense to me. And so that's**
01:27PM **about it.**
01:27PM Q. Was there any discussion about
01:27PM whether you or Mr. Smith should be named as a
01:27PM co-inventor because of your contributions to

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01:27PM the development of the idea?

MR. DHANANI: Objection. I'm going to instruct the witness not to answer that question on the basis of attorney-client privilege. And I'm going to give you that instruction first. But if you have any of those discussions that occurred outside of attorneys, then you can answer. But I wanted to give you that instruction first because that's a privileged question.

A. Yeah, I wouldn't have any comment.

Q. Well, I'm not asking for a comment, sir. I'm asking for an answer to the question.

A. I don't have an answer for you that lays outside the bounds of attorney-client privilege.

Q. So did you have discussions including with attorneys on the subject of naming inventors on the patent applications, yes or no?

MR. DHANANI: That still calls

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01:28PM for attorney-client communication as
01:28PM to the topic. I'm going to instruct
01:28PM the witness not to answer that
01:28PM question.
01:28PM A. I would give the same as my last
01:28PM answer. I don't have anything to say that
01:28PM would fall outside the privilege.
01:28PM Q. Who are the attorneys that you had
01:28PM conversations with regarding seeking patent
01:28PM protection on Move Networks' technology?
01:28PM A. I actually don't recall any
01:28PM attorney's name. It was an attorney that
01:28PM Drew knew and he recommended. And I can see
01:28PM his face, can't think of his name right now.
01:28PM Q. At the time that Move Networks
01:29PM applied for patents on its technology, was
01:29PM Move aware of others outside of Move who were
01:29PM working on similar solutions to streaming?
01:29PM A. I would say --
01:29PM MR. DHANANI: Objection.
01:29PM A. I was not aware of any.
01:29PM MR. DHANANI: Go ahead.
01:29PM A. Quite the opposite. I was aware
01:29PM that people had a hard time believing in our

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01:29PM **ideas. They felt like you couldn't do it**
01:29PM **without a server-side logic. They didn't**
01:29PM **feel like routers would support it. They**
01:29PM **didn't feel like -- they just were mostly of**
01:29PM **the nature of not believing that you could**
01:29PM **treat video, something with such a high**
01:29PM **payload, like you would any other data type**
01:29PM **on the Internet. They had a hard time**
01:29PM **believing that. A real hard time.**
01:30PM Q. Did anyone at Move investigate
01:30PM whether others were working on solutions to
01:30PM do the streaming at or about the same time?
01:30PM MR. DHANANI: Objection; vague,
01:30PM calls for speculation. And then just
01:30PM to caution, don't disclose
01:30PM communications with attorneys, but you
01:30PM can answer if you know.
01:30PM **A. So when you say did anybody**
01:30PM **discuss, I don't know. There could have been**
01:30PM **discussions. But what we found was that the**
01:30PM **best place and the best source of real**
01:30PM **information was, as you presented to the**
01:30PM **media companies we were presenting to and**
01:30PM **watched their jaw drop on the quality of the**

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01:30PM 2 **streaming and have them openly say we haven't**
01:30PM 3 **seen anything like this. And so that was the**
01:30PM 4 **best research I could have is people in the**
01:30PM 5 **industry that were being called upon all the**
01:30PM 6 **time by every vendor on the planet and they**
01:31PM 7 **hadn't seen it. And so, to me, that was**
01:31PM 8 **enough.**
01:31PM 9 **Did we keep apprised of press**
01:31PM 10 **releases as they came out in various**
01:31PM 11 **templates, sure. We didn't see anything that**
01:31PM 12 **looked anything like this and that had the**
01:31PM 13 **same orientation, the same context and the**
01:31PM 14 **same approach to the problem. It was really**
01:31PM 15 **a new and very unique way to solve this**
01:31PM 16 **problem.**
01:31PM 17 Q. So tell me who it was who, in your
01:31PM 18 words, jaw-dropped and told you that they had
01:31PM 19 never seen anything like this before?
01:31PM 20 **A. Well, ABC, Scarpy, Doug Parish and**
01:31PM 21 **the people inside that firm, or Fox. Fox**
01:31PM 22 **properties and the people inside that firm.**
01:31PM 23 **Or CW and the people associated with that**
01:31PM 24 **media company, etc.**
01:31PM 25 **So they were largely ones that**

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01:31PM 2 **were in the heat of the battle. ABC had**
01:32PM 3 **launched their television side, I think in**
01:32PM 4 **late 2006, at least in the beta motion, and**
01:32PM 5 **they were very frustrated with that. When we**
01:32PM 6 **went to them, they said, this is it. And**
01:32PM 7 **Flash was their previous solution. And they**
01:32PM 8 **said this does something that Flash does not**
01:32PM 9 **in that case.**
01:32PM 10 **So one company after another was**
01:32PM 11 **pretty significant. CBS and Major League**
01:32PM 12 **Baseball were struggling to get their**
01:32PM 13 **solutions to even work well enough to attract**
01:32PM 14 **an audience. So it was generally known in**
01:32PM 15 **the industry that streaming longer than three**
01:32PM 16 **or four minutes just wasn't working. And to**
01:32PM 17 **think about streaming for an hour in high**
01:32PM 18 **quality across both good and bad connections**
01:32PM 19 **was unheard of.**
01:32PM 20 Q. So you mentioned ABC. Who are the
01:32PM 21 individuals at ABC to said this to you?
01:33PM 22 **A. Scarpy. I can't remember Scarpy's**
01:33PM 23 **last name, but the team that we were there**
01:33PM 24 **with. It's 18 years ago. So it's a long**
01:33PM 25 **time.**

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01:33PM **Scarpy and the team -- just anybody on that development team there at ABC. Or anybody at Fox's team. When we would make a presentation, they would have a jaw-dropping type response. It is different.**

01:33PM Q. Okay. So with regard to ABC, the name Scarpy, is that a first name or a last name?

01:33PM **A. First name.**

01:33PM Q. And you don't know the person's last name?

01:33PM **A. I can't remember it right now. Starts with an H. I can't remember his last name.**

01:33PM Q. Okay. And when did you have this meeting with Scarpy in which his jaw dropped and he said he has never seen anything like this before?

01:33PM **A. Many meetings through 2006 and 2007 and 2008 as they continued to use the technology.**

01:34PM Q. All right. So, Mr. Edwards, did he say that he had never seen anything like this before in each of those meetings?

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01:34PM **A. He said -- that was the way he generally characterized our technology to anybody that was in the room or anybody he talked to.**

01:34PM Q. So when was the first meeting at which he said this?

01:34PM **A. I don't recall the first meeting. I've given you the general dates of it. 2006, 2007 is what I recall.**

01:34PM Q. And in 2006, what were you disclosing to ABC about what you had to offer?

01:34PM **A. We were demonstrating the -- their stream running, using our technology.**

01:34PM Q. And by your technology, what are you referring to?

01:34PM **A. Our streaming solution.**

01:34PM Q. Okay. And that's the streaming solution that's embodied in the Move patents?

01:35PM **A. Yes.**

01:35PM Q. And when did you first disclose the Move streaming technology to Fox?

01:35PM **A. Would have been in the same --**

01:35PM MR. DHANANI: Objection.

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01:35PM 2 Go ahead.

01:35PM 3 A. Would have been in the same
01:35PM 4 timeframe, 2006, 2007 would be the first.
01:35PM 5 Probably these two are both coming up kind of
01:35PM 6 simultaneously. They were both -- we were
01:35PM 7 presenting to most of the media companies at
01:35PM 8 that time. And a general response was, pull
01:35PM 9 other people into the room, let's have so and
01:35PM 10 so see this. Let's get it out in front of
01:35PM 11 people. There wasn't anything like this.
01:35PM 12 That was just the general type of
01:35PM 13 response. And later, when folks like
01:35PM 14 Steamboat and Hummer and others came back and
01:36PM 15 looked at what we have done, I mean, that's
01:36PM 16 what gave them the confidence to move forward
01:36PM 17 with the investment, I think, in part.

01:36PM 18 Q. And can you place the meeting with
01:36PM 19 Fox in --
01:36PM 20 THE COURT REPORTER: Counsel,
01:36PM 21 you broke up. Can you start over
01:36PM 22 again?
01:36PM 23 Q. Can you place the meeting that you
01:36PM 24 described with Fox, the first meeting at
01:36PM 25 which disclosed Move technology, more

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01:36PM 2 precisely other than just saying generally
01:36PM 3 2006?
01:36PM 4 A. No.
01:37PM 5 Q. I'm going to show you,
01:37PM 6 Mr. Edwards, an exhibit that we marked at
01:37PM 7 Mr. Smith's deposition as Exhibit 28.
01:37PM 8 (Whereupon, Exhibit 28 was
01:37PM 9 previously marked at a prior
01:37PM 10 deposition.)
01:37PM 11 A. Am I supposed to see something
01:38PM 12 now?
01:38PM 13 Q. Just give me a second.
01:38PM 14 A. Oh, I'm sorry.
01:38PM 15 Q. I'm putting it in the chat. It
01:38PM 16 takes a moment. There we go.
01:38PM 17 Do you see what we have marked as
01:38PM 18 Smith Exhibit 28 an article from The Salt
01:38PM 19 Lake Tribune dated April 24, 2009?
01:38PM 20 A. I don't see the marking, but I do
01:38PM 21 see the article.
01:38PM 22 Q. Have you seen this article before?
01:38PM 23 A. Let me see.
01:39PM 24 So I don't have -- I don't know if
01:39PM 25 I've seen it before or not.

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01:39PM Q. If you look in the second paragraph of the article, it refers to -- it says, "In the past two months, Move Networks has laid off several senior members of management among about 30 percent of its work force that numbered 150 in September of last year."

Do you see that?

01:39PM A. Um-hum, I do.

01:40PM Q. Does that refresh your recollection that approximately 30% of the Move Networks; work force was laid off in the spring of 2009?

MR. DHANANI: Objection; hearsay, calls for speculation.

01:40PM A. So as I mentioned previously, I do recall there being people laid off. I don't recall the specific percentage and I don't know the source for this information in this article.

01:40PM Q. So the question is, does this reference to the 30% refresh your recollection that it was in fact about 30% of the workforce that was laid off?

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01:40PM **A. No, not necessarily because, again, I don't know what numbers went into there. I do know that there was a layoff of staff, and I do know that there was a layoff of members of the management team, but I don't recall this article, nor do I know if that number is accurate at this writing, at this time. I just don't know how accurate that may be.**

01:41PM Q. Okay. In the next couple of paragraphs of this article, there is a quote from you that says, "I was spending a significant amount of time outside the company."

Do you see that?

01:41PM **A. I do.**

01:41PM Q. Is that an accurate quote?

01:41PM **A. Well, it depends on what they meant by outside. What I meant by outside was I was meeting with customers and I wasn't dealing with the internal execution that others were, but that's what I take that to mean. Again, I don't recall seeing this article. I don't recall giving the quote.**

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I'm not saying I didn't, I just don't recall.

Q. Do you recall having discussions with Level 3 about doing business with Level 3?

A. Yes.

Q. Okay. What was the nature of the business you were discussing with Level 3?

A. Give them a solution for streaming that took advantage of their presence and relationship with media companies. That would be the answer.

Q. Did you discuss Level 3 making an investment in Move Networks?

A. Yes.

Q. Did they ultimately make an investment?

A. Yes.

Q. How much?

A. Don't recall. The number that sticks out in my mind is like 5 million, but I actually don't recall the structure of that deal anymore. I tried to put that together last night. I just couldn't remember all the numbers.

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01:43PM 2 Q. And did Move Networks receive any
01:43PM 3 return on that investment in Move Networks?
01:43PM 4 MR. DHANANI: Objection; vague.
01:43PM 5 A. Can you clarify what you mean?
01:43PM 6 Q. Well, did they get any dividends?
01:43PM 7 Did they -- were they able to sell their
01:43PM 8 share?
01:43PM 9 MR. DHANANI: I think you said
01:43PM 10 Move Networks instead of Level 3 in
01:43PM 11 the question. That was the objection.
01:43PM 12 MR. BARQUIST: I'm sorry.
01:43PM 13 Q. The question is did --
01:43PM 14 A. What Move Networks got was
01:43PM 15 whatever they --
01:43PM 16 Q. I'm sorry. I misspoke. Let me --
01:43PM 17 did Level 3 receive any return on its
01:43PM 18 investment in Move Networks?
01:43PM 19 A. I'm sure we did. I just don't
01:44PM 20 recall enough about the transaction any
01:44PM 21 longer to know. And I know that they became
01:44PM 22 an investor. They became -- they began
01:44PM 23 looking at doing joint engagements together.
01:44PM 24 They had a chance to kick the tires and prove
01:44PM 25 to themselves that what we had was unique and

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01:44PM 2 **different and not offered elsewhere, and it**
01:44PM 3 **was thus their desire to form a strategic**
01:44PM 4 **partnership.**
01:44PM 5 Q. Okay. So did you form a strategic
01:44PM 6 partnership with Level 3?
01:44PM 7 **A. Well, I think an investor and**
01:44PM 8 **having an investor in the company is pretty**
01:44PM 9 **strategic. We never, ever looked for dumb**
01:44PM 10 **money, as they -- quote, unquote, as they**
01:44PM 11 **say. We always looked for getting investment**
01:44PM 12 **from people who could add something else so**
01:44PM 13 **that there was a good reason for us to be**
01:44PM 14 **working together. Everything just for --**
01:45PM 15 THE COURT REPORTER: Could you
01:45PM 16 repeat the last few words? I can't
01:45PM 17 hear.
01:45PM 18 **A. I'm trying to say that we -- that**
01:45PM 19 **financial return is important, but not the**
01:45PM 20 **only reason we made decisions about who to**
01:45PM 21 **have invest. We wanted people who would work**
01:45PM 22 **strategically with us, who would come and**
01:45PM 23 **team with us and be a partner.**
01:45PM 24 Q. And so what did you do in terms of
01:45PM 25 being a team or a partner with Level 3?

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01:45PM **A. As I said, we called on joint**
01:45PM **accounts together. This relationship**
01:45PM **formulated in 2008, I think. In other words,**
01:45PM **it was a little bit later in the investment**
01:45PM **process, if I remember right. And so their**
01:46PM **interest was they had media companies**
01:46PM **selecting Level 3 that they wanted a superior**
01:46PM **or a different solution for streaming.**
01:46PM Q. Media companies selected Level 3
01:46PM to do what?
01:46PM **A. To route traffic. To host**
01:46PM **existing technologies for streaming. So if**
01:46PM **it was CBS and they wanted to -- or any of**
01:46PM **the -- particularly the -- if I recall the**
01:46PM **European-based companies, if they were using**
01:46PM **them for streaming, but it wasn't -- the**
01:46PM **companies -- the media companies knew what**
01:46PM **Move was providing for ABC and through other,**
01:46PM **was not as good as what Level 3 was providing**
01:46PM **on just pure bandwidth and bits and hosting**
01:46PM **service.**
01:46PM **So what they wanted -- Level 3**
01:47PM **wanted to get into their portfolio the**
01:47PM **ability to resell and to leverage the Move**

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01:47PM 2 **solution. And that's where this relationship**
01:47PM 3 **started.**
01:47PM 4 Q. In connection with your
01:47PM 5 discussions with Level 3, did you provide
01:47PM 6 them information about Move patent
01:47PM 7 applications?
01:47PM 8 **A. Yes, I believe we did. I think we**
01:47PM 9 **always did that under nondisclosure and we**
01:47PM 10 **always did it pursuant to terms around an**
01:47PM 11 **investment, but, yeah.**
01:47PM 12 Q. And what did you disclose to Level
01:47PM 13 3 about the Move patents?
01:47PM 14 **A. I don't recall. I -- just**
01:47PM 15 **probably that process. That would have been**
01:47PM 16 **Greg Smith and -- who probably I would have,**
01:47PM 17 **as the CTO, had go and discuss that topic.**
01:48PM 18 Q. I'm going to show you a document
01:48PM 19 that we marked as Exhibit 7 in the Smith
01:48PM 20 deposition.
01:48PM 21 (Whereupon, Exhibit 7 was
01:48PM 22 previously marked at a prior
01:48PM 23 deposition.)
01:48PM 24 Q. This is an email from Mr. Smith to
01:48PM 25 you dated July 17, 2007.

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01:48PM 2 Do you see that, sir?

01:48PM 3 A. Not yet. I'm opening it.

01:48PM 4 MR. DHANANI: Charles, just to

01:48PM 5 confirm, we're not relabeling these

01:48PM 6 for Edwards 1 or 2 or 3, we're just

01:48PM 7 keeping that same number, right?

01:48PM 8 MR. BARQUIST: Right. Just to

01:48PM 9 eliminate the amount of duplication.

01:48PM 10 MR. DHANANI: Perfect. Thank

01:48PM 11 you.

01:49PM 12 BY MR. BARQUIST:

01:49PM 13 Q. Let me know when you're done

01:49PM 14 looking at the document.

01:49PM 15 A. Okay. Yeah, I'm just trying to

01:49PM 16 familiarize myself with it.

01:49PM 17 Okay.

01:49PM 18 Q. Do you recall this email exchange

01:49PM 19 with Mr. Trainor of Level 3 and Greg Smith?

01:50PM 20 A. Not specifically. I mean, I was

01:50PM 21 obviously there and it makes sense to me what

01:50PM 22 they're saying, but I don't recall this

01:50PM 23 particular email.

01:50PM 24 Q. In the middle of the exhibit in

01:50PM 25 your email to Mr. Smith, you're talking about

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01:50PM the relationship that Level 3 is proposing.
01:50PM And you say, "It has caused me some concern."
01:50PM What is the concern you had about
01:50PM the proposed arrangement with Level 3?
01:50PM A. Well, it's the same concern I
01:50PM would have with any very large company, as it
01:50PM teams up with a very small entity. And that
01:50PM is what are they going to be asking and can
01:50PM you deliver? Will they be reaching in their
01:51PM ask? Will they be asking for some things
01:51PM we're not prepared to deliver?
01:51PM So I would have just told Greg, if
01:51PM I'm choose -- what I would normally do, just
01:51PM be super careful. Because we shouldn't be
01:51PM signing things. We shouldn't move forward
01:51PM with rights unless we really met -- and this
01:51PM would probably be something that I might have
01:51PM even said we should get some of the board
01:51PM members to weigh in. But I don't recall
01:51PM specifically. Just, that would be my concern
01:51PM would be my guess.
01:51PM Q. Mr. Smith refers to a technology
01:51PM licensing as part of the proposed arrangement
01:51PM with Level 3. Did you have a concern about

1 J. EDWARDS

01:51PM 2 that aspect of the proposal?

01:51PM 3 **A. Yeah. I mean, I think --**

01:51PM 4 **technology licensing goes way beyond a**

01:51PM 5 **reseller agreement in my view. And we would**

01:51PM 6 **have to be very certain as to what we were**

01:51PM 7 **granting in order for us to move forward on**

01:52PM 8 **something like that.**

01:52PM 9 Q. So why were you concerned about

01:52PM 10 technology and licensing?

01:52PM 11 **A. Because they're a very big entity,**

01:52PM 12 **with a lot of people. And we were a very**

01:52PM 13 **small entity. And at the bargaining table,**

01:52PM 14 **they are going to push us in ways that we may**

01:52PM 15 **not actually want to go. And so often little**

01:52PM 16 **companies will jump at it, because they are a**

01:52PM 17 **big company before they really thought**

01:52PM 18 **through all the issues. And so I would**

01:52PM 19 **naturally be concerned about any relationship**

01:52PM 20 **where I'm going to be entering into -- with a**

01:52PM 21 **very -- with an entity -- I mean, I can**

01:52PM 22 **remember some of those calls on the phone**

01:52PM 23 **where it was Greg and I and they would have a**

01:52PM 24 **team full of people. And they are just**

01:52PM 25 **thinking more probably than we are and that**

J. EDWARDS

01:52PM **would be my concern. Just, it's a natural**
01:52PM **concern I would have with any large entity.**
01:52PM Q. Was there anything in particular
01:52PM about the idea of licensing Move's technology
01:53PM that caused you concern?
01:53PM **A. Not at a technology level, but at**
01:53PM **a business level, yes. I mean, what are they**
01:53PM **asking for? What are we getting in return?**
01:53PM **What does that mean for the long-term impact?**
01:53PM **Of which -- I'm concerned about the**
01:53PM **technology. The technology worked. And**
01:53PM **they -- this would be another company that**
01:53PM **said it would. And that -- so I think that's**
01:53PM **why they were spending the time to**
01:53PM **investigate, because they knew it.**
01:53PM **But the question would be, what**
01:53PM **will they be asking? It's very often in**
01:53PM **those times when a big, large player would**
01:53PM **want us to give them everything just because**
01:53PM **they were big and large. And you don't want**
01:53PM **to do that.**
01:53PM Q. Well, speaking of big and large,
01:53PM let me ask you about your interactions with
01:53PM Microsoft.

1 J. EDWARDS

01:53PM 2 **A. Sure.**

01:54PM 3 Q. When did you first begin

01:54PM 4 interactions with Microsoft with regard to --

01:54PM 5 at Move technology -- at Move Networks.

01:54PM 6 Excuse me.

01:54PM 7 **A. My guess is -- so we were for sure**

01:54PM 8 **engaged with them in 2006. I would say 2006,**

01:54PM 9 **2007, that timeframe.**

01:54PM 10 Q. And what was your --

01:54PM 11 **A. And beyond.**

01:54PM 12 Q. What was your strategy at Move

01:54PM 13 with regard to doing business with Microsoft?

01:54PM 14 **A. So I think when it began, it**

01:54PM 15 **wasn't so much strategic, as technical. And**

01:54PM 16 **this is what I mean by that. ABC and Disney**

01:54PM 17 **had a desire for us to bring them along with**

01:54PM 18 **the technology, because there were -- this is**

01:54PM 19 **what I said earlier. When the issue was the**

01:55PM 20 **political landscape and the partnership**

01:55PM 21 **landscape, not the technological landscape.**

01:55PM 22 **There was lots of pressure at ABC and Disney**

01:55PM 23 **to use Microsoft technologies. Not because**

01:55PM 24 **they were superior or better, but because of**

01:55PM 25 **the relationship the company had with**

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01:55PM **Microsoft.**

01:55PM **And so as a result of that, they**

01:55PM **would -- we went out and we would begin**

01:55PM **entertaining and presenting to them. They**

01:55PM **had Silverlight at the time, which was tried**

01:55PM **with ABC and tried at other places. It**

01:55PM **wasn't very good. And it had lots of**

01:55PM **problems. And so as we began working with**

01:55PM **them, what became true is we saw an**

01:55PM **opportunity to maybe make Silverlight better**

01:55PM **if we could come to appropriate terms.**

01:55PM Q. And what were the problems with

01:55PM Silverlight?

01:55PM **A. So this is what I recall. I mean,**

01:56PM **they didn't do digital rights management.**

01:56PM **They didn't have the ability to -- they**

01:56PM **didn't -- I think they had the V9 to V7**

01:56PM **encoder, and I don't think it allowed for**

01:56PM **variableness to occur once you started the**

01:56PM **player at a particular rate, it -- that's**

01:56PM **what you were in for, which was empathetical**

01:56PM **to our approach, which was variableness.**

01:56PM **And so we had hoped that we could**

01:56PM **apply and work around that. And that's the**

1 **J. EDWARDS**

01:56PM 2 **process that we were into with Microsoft.**
01:56PM 3 **That led to numerous occasions and meetings,**
01:56PM 4 **which, in my view, ultimately led to**
01:56PM 5 **Microsoft taking their stuff and putting it**
01:56PM 6 **into their Smooth Streaming. And I think**
01:56PM 7 **that they were -- my sense of it is that they**
01:57PM 8 **would just join with us, but that's what I**
01:57PM 9 **mean by big concerns. How do you prevent**
01:57PM 10 **that from happening, for these larger**
01:57PM 11 **entities, that want to take your idea and**
01:57PM 12 **copy it.**
01:57PM 13 Q. I'm sorry. I'm not sure I heard
01:57PM 14 your answer in full. Did you say that
01:57PM 15 Microsoft did take something from you?
01:57PM 16 **THE WITNESS: So could you read**
01:57PM 17 **it back? Did you get it, court**
01:57PM 18 **reporter?**
01:57PM 19 MR. BARQUIST: Rebecca, could
01:57PM 20 you read back the last answer?
01:59PM 21 (Record read.)
01:59PM 22 **A. Okay. Now, what's your question?**
01:59PM 23 Q. Well, that was the phrase I wasn't
01:59PM 24 sure I heard correctly. So let me ask you
01:59PM 25 about that.

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02:00PM Is it your understanding that
02:00PM Microsoft took Move's technology and
02:00PM incorporated it into their Smooth Stream
02:00PM technology?
02:00PM A. That's my belief. I think that in
02:00PM terms of HLS with Apple and Smooth Stream
02:00PM with Microsoft, I think that --
02:00PM THE COURT REPORTER: Sorry, sir.
02:00PM You're breaking up again.
02:00PM A. Sorry. My guess is -- my answer
02:00PM would be yes. That's my take on it. That's
02:00PM my position.
02:00PM Q. And what are you basing that on?
02:00PM A. That when they made the
02:00PM announcement of Smooth Stream, it caught us
02:00PM completely off guard because they were doing
02:00PM exactly what we were trying to do and we were
02:00PM supposed to be a partner of theirs.
02:00PM Q. Now, you mentioned a moment ago
02:01PM HLS and Apple. Are you saying that Apple
02:01PM also took Move's technology?
02:01PM A. I'm saying that in the case of the
02:01PM timing of both those announcements, it was
02:01PM after we had made presentations under

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02:01PM nondisclosure to those entities and I felt like they were taking advantage of that and leveraging our ideas inappropriately. That was my belief.

02:01PM Q. Did you have any discussions with anyone else at Move, other than attorneys, about your belief that Apple was inappropriately leveraging your ideas?

02:01PM A. I'm sure I did, but I don't recall, like, the specific instance.

02:02PM Q. Did you have any discussions with others at Move outside of attorneys about your belief that Microsoft was taking your technology and incorporating it into Smooth Streaming?

02:02PM A. I don't recall.

02:02PM Q. Did you have any discussions with anyone at the company about suing either Microsoft or Apple?

02:02PM A. I don't recall.

02:02PM Q. Did you ever tell Microsoft that you believed that their Smooth Streaming was using Move's technology?

02:02PM A. I didn't, but I believe that Greg

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Smith might have, because he was really managing that relationship. And my recollection was that we were all really shocked when they made their announcement, and I think sent us an email saying that this is what we've done. I just remember that being really not what we were planning on. And so -- but Greg was managing that, and it's -- he is probably the better one to ask those kinds of questions to.

Q. Did that announcement by Microsoft, about its introduction of its new streaming technology, play a role in the decision by Move Networks in the spring of 2009 to change direction and ask you to resign?

MR. DHANANI: Objection; calls for speculation and vague.

A. I don't think so. I don't know.

Q. So did the -- did Microsoft --

A. When you say a different way, nobody ever said that to me. Nobody ever said one of the reasons we'd like you to resign is because of the Smooth

J. EDWARDS

02:04PM **Stream/Microsoft situation. I don't remember**
02:04PM **that. So I'm not sure what was going on**
02:04PM **outside of my purview, but that -- I don't**
02:04PM **think so.**
02:04PM Q. So as far as you know, the
02:04PM announcement by Microsoft to come up with
02:04PM this competing Smooth Streaming technology
02:04PM product was not a factor in the -- in
02:04PM Move Networks' decision to change direction
02:04PM in the spring of 2009?
02:05PM **A. Oh, I don't think that in**
02:05PM **particular would have been a driving force,**
02:05PM **but no.**
02:05PM Q. When you say not in particular a
02:05PM driving force --
02:05PM **A. I don't think that was a major**
02:05PM **reason why. I think the bigger components to**
02:05PM **that were that the 2008 crash, the desire for**
02:05PM **venture capitalists to see things, they**
02:05PM **wanted to speed all of the return and they**
02:05PM **lost patience. And I don't think it was an**
02:05PM **event like that that was causing it, as I**
02:05PM **understood the situation. Our technology was**
02:05PM **still in great shape. Still working. Our**

J. EDWARDS

02:05PM **customers loved us. We simply needed to**
02:05PM **continue to execute on our plan, in my**
02:05PM **opinion.**
02:05PM **We differed in that, though. They**
02:05PM **wanted to try other strategies. So that was**
02:05PM **fun.**
02:06PM Q. I'm sorry? Did you say something?
02:06PM **A. I didn't.**
02:06PM Q. I thought you were adding
02:06PM something to your answer.
02:06PM And did Apple's announcement of
02:06PM HLS have anything to do with the company's
02:06PM decision to change direction in the spring of
02:06PM 2009?
02:06PM **A. No, I don't think so. That's not**
02:06PM **what I recall.**
02:06PM Q. So the fact that big companies
02:06PM like Apple and Microsoft had competing
02:06PM technology as to what you were offering was
02:06PM not a concern for you?
02:06PM MR. DHANANI: Objection; vague
02:06PM and mischaracterizes testimony.
02:07PM **A. Could you repeat the question,**
02:07PM **please?**

1 **J. EDWARDS**

02:07PM 2 MR. BARQUIST: Can you read it
02:07PM 3 back, Rebecca?
02:07PM 4 (Record read.)
02:07PM 5 MR. DHANANI: Same objection.
02:07PM 6 Mischaracterizes testimony.
02:07PM 7 A. So you asked me whether or not
02:07PM 8 these were reasons we changed directions, and
02:07PM 9 my answer is, I don't think they were. If
02:07PM 10 you're asking me do you have concerns with
02:07PM 11 other competing technologies, at that stage,
02:07PM 12 that wouldn't have been my concern either,
02:07PM 13 because they were so far behind in the
02:08PM 14 implementation of something that worked in
02:08PM 15 the same way. They still had a lot to grow.
02:08PM 16 We had been through a lot of real live
02:08PM 17 experience watching these streaming
02:08PM 18 environments over real networks.
02:08PM 19 And so I think in terms of the
02:08PM 20 analysis of the market you are always worried
02:08PM 21 about larger companies with technology, but I
02:08PM 22 don't think that was what -- you don't want
02:08PM 23 to just jump and respond to those. You have
02:08PM 24 got to take your time and formulate a
02:08PM 25 strategy and see how it plays out.

1 **J. EDWARDS**

02:08PM 2 Q. Well, did you formulate a strategy
02:08PM 3 for how you were going to deal with competing
02:08PM 4 technologies from Apple and Microsoft?
02:08PM 5 A. To continue what we were doing,
02:08PM 6 which was to continue to stream on behalf of
02:08PM 7 ESPN and ABC and Fox, and to continue to go
02:09PM 8 after encounters by Democratic National
02:09PM 9 Convention or the Oprah campaign or whatever
02:09PM 10 it was. Just to continue to do the things we
02:09PM 11 had been doing because they were working and
02:09PM 12 entities were adopting our approach.
02:09PM 13 Q. But what you were doing was not
02:09PM 14 making a profit for the company, correct?
02:09PM 15 A. Yeah.
02:09PM 16 MR. DHANANI: Objection.
02:09PM 17 A. At this stage of any early stage
02:09PM 18 company.
02:09PM 19 Q. I'm going to show you what was
02:09PM 20 marked as Mr. Carper's deposition as Exhibit
02:09PM 21 3. Give me a moment and I'll pull it up.
02:09PM 22 (Whereupon, Exhibit 3 was
02:09PM 23 previously marked at a prior
02:10PM 24 deposition.)
02:10PM 25 Q. It should be in the chat now.

J. EDWARDS

02:10PM Do you recognize Carper Exhibit 3?

02:10PM A. Yeah.

02:10PM Q. This is something called Input Agreement between Move Networks and Microsoft dated in August of 2007, correct?

02:10PM A. This says July 31, 2007, so -- actually, Greg, it looks like, signed it August 13th. I'm not seeing the date you mentioned, but...

02:10PM Q. No. I was looking at the August 13, 2007 date for Mr. Smith.

02:11PM A. Okay. Got it.

02:11PM Q. You're familiar with this agreement, Carper Exhibit 3?

02:11PM A. You know, I'm generally aware of this series with Microsoft. There is a lot I don't remember about this agreement specifically.

02:11PM MR. DHANANI: I'll just go ahead, given the confidential documents that have been shown so far, designate this transcript confidential with this information, subject to the Protective Order in the case. And

J. EDWARDS

02:12PM I'll note that we do have -- I believe
02:12PM Mr. Jamshidi and Gratton -- I think,
02:12PM Charles, if you're going to have some
02:12PM questions about these, I may have them
02:12PM switch off and then come back on, just
02:12PM given the -- that it's the Microsoft
02:12PM version you are using.
02:12PM MR. BARQUIST: Okay. I mean, I
02:12PM did get clearance, because this was
02:12PM produced by Microsoft, but I assume a
02:12PM copy exists somewhere at DISH.
02:12PM MR. DHANANI: Exactly. I
02:12PM just -- I'm okay with it if you've got
02:12PM clearance from Microsoft, but I'll
02:12PM just note that Mr. Hanft and
02:13PM Mr. Jamshidi are not. I can ask them
02:13PM to step off for a few minutes and then
02:13PM come back on.
02:13PM MR. BARQUIST: Okay.
02:13PM MR. DHANANI: Would you like
02:13PM that?
02:13PM MR. BARQUIST: It seems to be
02:13PM unnecessary, given that it's a
02:13PM produced document.

J. EDWARDS

02:13PM MR. DHANANI: Then that's fine.
Then that's fine. Sorry about that.
MR. BARQUIST: It's a DISH
document.
MR. DHANANI: Yeah. Keep going.
BY MR. BARQUIST:
Q. So, Mr. Edwards, the paragraph 1
of the agreement says, "We intend to enter"
into "discussions in which one or both of us
may provide input in connection with
Microsoft and/or Company," referring to Move
Networks, "offerings as described below."
Are you aware that Move Networks
and/or Microsoft provided input to one
another in connection with this agreement?
MR. DHANANI: Objection; vague.
A. So in this particular
relationship, because of the technical nature
of it, the reason you see my name crossed out
and Greg's name inserted is I asked Greg to
take this one on directly, because I, first
of all, did not feel like anybody other than
somebody who is tracking the detail such as
Greg should do this, and I wasn't convinced

1 **J. EDWARDS**

02:14PM 2 **we could come to any terms whereby we would**
02:14PM 3 **actually sign one of these type of**
02:14PM 4 **agreements.**
02:14PM 5 **So conversations were going on,**
02:14PM 6 **but to the best of my knowledge, we never**
02:14PM 7 **signed one of these, because we couldn't get**
02:14PM 8 **to terms with each other.**
02:14PM 9 Q. I'm sorry. I just want to make
02:14PM 10 sure I understand your answer, because it was
02:14PM 11 a little hard to hear you.
02:14PM 12 You weren't sure you signed any of
02:14PM 13 what?
02:14PM 14 **A. The input agreements. You have**
02:15PM 15 **got a sample agreement down here at bottom of**
02:15PM 16 **it, where it says form input schedule,**
02:15PM 17 **whereby either party will disclose something.**
02:15PM 18 **And then my assumption is that they would**
02:15PM 19 **then move forward and sign that.**
02:15PM 20 **The top part of it, to me, was**
02:15PM 21 **simply saying that, yeah, we're going to have**
02:15PM 22 **conversations, but any specifics we would**
02:15PM 23 **have to have both signed off on, and I'm not**
02:15PM 24 **aware that we moved forward to signing off.**
02:15PM 25 **The person that might know that better would**

1 **J. EDWARDS**

02:15PM 2 **be Greg, I think. He managed this**
02:15PM 3 **relationship.**
02:15PM 4 Q. Okay. So you're referring to the
02:15PM 5 last two pages of the exhibit, which are
02:15PM 6 sample forms of input schedules, correct?
02:15PM 7 **A. Right.**
02:15PM 8 Q. And if I understand you correctly,
02:15PM 9 you're saying, to your knowledge, there never
02:15PM 10 were any input schedules completed and
02:15PM 11 signed?
02:15PM 12 **A. That's my memory. If it were**
02:16PM 13 **other than that or something else, then I**
02:16PM 14 **think Greg might the better one to ask.**
02:16PM 15 Q. Let me show you another agreement
02:16PM 16 with Microsoft. This was marked as Carper
02:16PM 17 Exhibit 10.
02:16PM 18 (Whereupon, Exhibit 10 was
02:16PM 19 previously marked at a prior
02:16PM 20 deposition.)
02:16PM 21 Q. And I'm putting it into the chat.
02:16PM 22 It should be available now. Let me know once
02:17PM 23 you've had a chance to look at Carper
02:17PM 24 Exhibit 10.
02:18PM 25 **A. Yeah, okay. I'm there.**

1 **J. EDWARDS**

02:18PM 2 Q. I'm sorry?

02:18PM 3 A. Yes, go ahead.

02:18PM 4 Q. Okay. Are you familiar with the

02:18PM 5 document we've marked -- that's been marked

02:18PM 6 as Carper Exhibit 10?

02:19PM 7 A. Yes.

02:19PM 8 Q. So this is -- Carper Exhibit 10 is

02:19PM 9 described as a Term Sheet that "represents a

02:19PM 10 draft, non-binding summary of certain

02:19PM 11 proposed terms to Move Networks for the

02:19PM 12 adoption of Microsoft Silverlight."

02:19PM 13 A. Wait a second. Where does it say

02:19PM 14 that?

02:19PM 15 Q. Right at the top of the first

02:19PM 16 page.

02:19PM 17 A. Oh, oh, further -- okay.

02:19PM 18 Q. You see that?

02:19PM 19 A. Um-hum.

02:19PM 20 Q. Okay. And so to your

02:19PM 21 understanding, what does this agreement

02:19PM 22 concern?

02:19PM 23 A. Well, my recollection of this is,

02:19PM 24 as previously stated, that Silverlight was

02:19PM 25 struggling to do good streaming, but they did

J. EDWARDS

02:20PM **have a client and a certain number of**
02:20PM **installations. And we could augment**
02:20PM **Silverlight with our better approach and open**
02:20PM **up doors that Microsoft heretofore hadn't**
02:20PM **been able to open.**
02:20PM Q. And this agreement also provided
02:20PM for an investment by Microsoft in
02:20PM Move Networks, correct?
02:20PM **A. It discussed an investment.**
02:20PM Q. So, again, this document described
02:20PM as a draft Term Sheet, was a final agreement
02:20PM covering this subject matter ever entered
02:20PM into between Move and Microsoft?
02:20PM **A. In terms of the investment itself,**
02:20PM **that kind of spun off and become -- and they**
02:20PM **joined the -- pretty much standard documents,**
02:20PM **as I recall, of the investment vehicle in**
02:20PM **place by the other entities around the Hummer**
02:21PM **Winblad, etc., investment, the two different**
02:21PM **tranches of that.**
02:21PM **So that, kind of, let me remind**
02:21PM **you, wasn't a part of this Term Sheet anymore**
02:21PM **or in terms of an agreement. And that's what**
02:21PM **I would have focused in on was the**

1 **J. EDWARDS**

02:21PM 2 **investment.**

02:21PM 3 **I wasn't aware that a specific**

02:21PM 4 **more detailed Term Sheet was entered into**

02:21PM 5 **with Microsoft besides that investment. At**

02:21PM 6 **least I don't remember it.**

02:21PM 7 Q. So in the background section on

02:21PM 8 page 1 of Carper Exhibit 10, you see there

02:21PM 9 are five bullet points there?

02:21PM 10 **A. Um-hum.**

02:21PM 11 Q. The fourth bullet point reads as

02:21PM 12 follows, "Microsoft views a relationship with

02:21PM 13 Move Networks as being a strategic

02:22PM 14 opportunity to showcase the capabilities of

02:22PM 15 Silverlight and to encourage user adoption of

02:22PM 16 Silverlight."

02:22PM 17 **A. Right.**

02:22PM 18 Q. Is that consistent with your

02:22PM 19 understanding of Microsoft's view in entering

02:22PM 20 into this agreement?

02:22PM 21 **A. Yes, Microsoft's view, I would say**

02:22PM 22 **so.**

02:22PM 23 Q. Okay. So let me show you another

02:22PM 24 exhibit here, sir. One moment. This exhibit

02:22PM 25 was marked as Exhibit 15 in the Smith

J. EDWARDS

02:22PM deposition. It's an email chain dated
02:23PM April 14 and 15, 2018.
02:23PM (Whereupon, Exhibit 15 was
02:23PM previously marked at a prior
02:23PM deposition.)
02:23PM Q. It should be available in the
02:23PM chat.
02:23PM A. Okay.
02:23PM Q. So may I proceed, Mr. Edwards?
02:24PM A. Please.
02:24PM Q. So Exhibit 15, Smith Exhibit 15
02:24PM includes a copy of an announcement by
02:24PM Microsoft in which, among other things, it
02:24PM announces its plan to invest in
02:24PM Move Networks, correct? That's on the fourth
02:24PM page of the exhibit.
02:25PM A. Okay.
02:25PM Q. Then the emails on the first page
02:25PM of Exhibit 15 discuss or state that
02:25PM "Microsoft forgot take the investment mention
02:25PM out of their news release."
02:25PM Do you see that?
02:25PM A. Yeah.
02:25PM Q. Do you recall that incident?

J. EDWARDS

02:25PM **A. No.**

02:25PM Q. Do you have any recollection about why Microsoft did or didn't want to announce its investment in Move Networks at that time?

02:25PM **A. I don't have any recollection of that.**

02:25PM Q. Did Microsoft's announcement of its investment have any impact one way or the other on Move Networks at that time?

02:26PM **A. I don't recall, to be honest with you.**

02:26PM Q. Okay. So if you see the -- near the top of the first page of Exhibit 15, you see the email from you dated April 14, 2008 at 8:41 p.m.

02:26PM Do you see that?

02:26PM **A. The top of -- it's at the top of --**

02:26PM Q. The top of the first page.

02:26PM **A. I see one from Greg. Oh, to me. Got it. "Call you in a minute."**

02:26PM **Is that the one you're talking about?**

02:26PM Q. The one right below it.

J. EDWARDS

02:26PM **A. Okay.**

02:26PM Q. Okay. Now, you skipped over the one right in the middle.

02:26PM **A. All right. Just read it to me. Where do you want me to be?**

02:27PM Q. On 4/14/08, 8:41 John Edwards wrote. That part.

02:27PM **A. Great? That part? Great? Is that what you're talking about?**

02:27PM Q. Yes.

02:27PM **A. About I'll call you in a minute? Great. Call me. Okay. Good.**

02:27PM Q. What did you mean by writing "Great!" in response to Mary Kay Evans email pointing out that Microsoft forgot to take the investment of mention out of its news release?

02:27PM **A. I don't know. I don't recall.**

02:27PM Q. Was that a happy great or a sarcastic great?

02:27PM **A. I don't recall.**

02:27PM MR. DHANANI: Objection.

02:27PM **A. I don't recall. I don't know. I thought it was great, Greg's going to call me**

J. EDWARDS

in a minute.

Q. Well, I -- if I'm reading the sequence here right, I think he wrote that after you wrote great.

A. Okay.

Q. So why did you think it was great that Microsoft forgot to take the investment out of one of their news releases?

A. I don't recall.

Q. Is there some reason that Move Networks wanted to keep that investment non-public at that point in time?

A. I don't recall. I really don't recall this exchange that much.

Q. Let me show you what was marked as Exhibit 19 in the Smith deposition. I'll pull it up in a moment here.

(Whereupon, Exhibit 19 was previously marked at a prior deposition.)

A. Okay.

Q. So Exhibit 191 is an email string that you're not on, but if you read it, you see that it's a discussion between Chris

J. EDWARDS

02:30PM Carper at Microsoft, Greg Smith at
02:30PM Move Networks, Darren Person at CBS, about
02:30PM the installation of Silverlight and the
02:30PM Move Networks plug-in?
02:30PM A. Yes.
02:30PM Q. Do you see that?
02:30PM Were you made aware of the
02:30PM difficulties that Move Networks and Microsoft
02:30PM were experiencing in getting good
02:30PM installation rates of Silverlight and the
02:30PM Move Networks plug-in?
02:31PM A. I was aware that Microsoft's
02:31PM streaming live shell was struggling with
02:31PM bringing in and adopting an intermedia
02:31PM player, because of its inability to deal with
02:31PM the dynamic nature of that player. And I was
02:31PM aware from Greg they were working on it. I
02:31PM thought that generally our work with them was
02:31PM positive. But beyond that, I don't have
02:31PM enough memory to support other than just
02:31PM these questions.
02:31PM Q. Well, all right.
02:31PM THE COURT REPORTER: Counsel,
02:31PM can we take a break when you can?

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02:31PM 2 MR. BARQUIST: Oh, sure. We can
02:31PM 3 take a break now if you want.
02:31PM 4 THE COURT REPORTER: Thank you.
02:31PM 5 MR. BARQUIST: Sorry. I tend to
02:31PM 6 keep going until someone calls uncle.
02:31PM 7 THE VIDEOGRAPHER: The time is
02:32PM 8 12:32 p.m., and we are going off the
02:32PM 9 record.
02:44PM 10 (Whereupon, a recess was held.)
02:44PM 11 THE VIDEOGRAPHER: The time is
02:44PM 12 12:44 p.m., and we are back on the
02:44PM 13 record.
02:44PM 14 BY MR. BARQUIST:
02:44PM 15 Q. Mr. Edwards, I've put in the chat
02:44PM 16 a document we've marked as Smith Exhibit 22,
02:44PM 17 emails -- chain dated February 19, 2009.
02:44PM 18 MR. DHANANI: February 19, 2009?
02:44PM 19 MR. BARQUIST: Correct.
02:44PM 20 MR. DHANANI: Okay.
02:44PM 21 (Whereupon, Exhibit 22 was
02:44PM 22 previously marked at a prior
02:45PM 23 deposition.)
02:45PM 24 Q. Do you see that?
02:45PM 25 **A. I do.**

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02:46PM Q. Have you had a chance to look at
02:46PM Smith Exhibit 22?
02:46PM A. Yes.
02:46PM Q. So in the middle of the first
02:46PM page, there is an email from Greg Smith to
02:46PM you and Dan Beldy, and David Rice.
02:46PM Do you see that?
02:46PM A. I do.
02:46PM Q. And in paragraph 2 of Mr. Smith's
02:46PM email, he talks about the problems with
02:46PM installing the Move plug-in and Silverlight.
02:46PM Do you see that?
02:46PM A. Um-hum.
02:46PM Q. And begins the paragraph by
02:46PM saying, "Unified Install is the concern."
02:46PM And then later on, he says, "We had a 2.6%
02:46PM install rate on the CBS inauguration site
02:46PM because the MOVE plus SL install experience
02:47PM was poor."
02:47PM Do you see that?
02:47PM A. I do.
02:47PM Q. Does that refresh your
02:47PM recollection that in fact in 2009,
02:47PM Move Networks was having a poor experience

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with getting its plug-in and the Microsoft Silverlight installed on customer devices?

A. Well, the way I would characterize it is this: Move plug-in install, simple. Silverlight had their install and they could get through it. The technical challenges of trying to do something we shouldn't try to do, which is wrap one install around another install, was the challenge. And there wasn't time to go out and start from scratch and do it the right way, I don't think. I think they were trying for a fix that would allow them to demonstrate it working.

What I remember about this install experience was that there was a concern, but overcomeable, we could overcome the challenges, it was just going to take a little time. And because you had -- you were dealing with two separate engineering teams and that's pretty common with software. So I think the experience itself, if I remember right on this, on many of the events, was positive, notwithstanding the install rate. And then the Move installs were substantially

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02:48PM 2 **better. It was just a pure move in.**

02:48PM 3 Q. Well, you would agree that the

02:48PM 4 2.6% install rate on the CBS inauguration

02:48PM 5 site that Mr. Smith describes here was a poor

02:48PM 6 experience, wouldn't you?

02:48PM 7 **A. I would suggest that it was poor,**

02:48PM 8 **yes, from the standpoint of trying to**

02:49PM 9 **leverage Silverlight, which had all kinds of**

02:49PM 10 **problems with our technology. Fundamentally,**

02:49PM 11 **the problem was with Microsoft and not with**

02:49PM 12 **our technology. After all, we had millions**

02:49PM 13 **of installs. It wasn't our technology that**

02:49PM 14 **was at risk, that was the problem here. It**

02:49PM 15 **was doing it under Microsoft's way of doing**

02:49PM 16 **it and Silverlight that was the challenge.**

02:49PM 17 **It was a Silverlight problem.**

02:49PM 18 Q. And -- but it was a problem for

02:49PM 19 Move's ability to work in conjunction with

02:49PM 20 Microsoft, correct?

02:49PM 21 MR. DHANANI: Objection; vague.

02:50PM 22 **A. I don't think it was any type of**

02:50PM 23 **permanent problem with Microsoft. I think it**

02:50PM 24 **was a normal technical snafu that we would**

02:50PM 25 **get around with the additional amount of**

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time.

Q. Was the problem with installing Move plus Silverlight ever fixed?

A. I don't recall.

Q. In paragraph 3 of Mr. Smith's email to you here in Exhibit 22, he also says, "We should also pursue" Microsoft "with Intellectual property patents at the right time."

Do you recall discussions with Mr. Smith or others at Move Networks about pursuing Microsoft with intellectual property patents?

MR. DHANANI: Please don't disclose those outside of conversations with attorneys.

A. No.

Q. Let me show you what was marked as Exhibit 23 at the Smith deposition.

(Whereupon, Exhibit 23 was previously marked at a prior deposition.)

Q. You should see it now, sir.

A. Yes, thank you.

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02:52PM Q. So Exhibit 23 is an email from
02:52PM Chris Carper at Microsoft to you and
02:52PM Mr. Smith at Move dated February 23, 2009,
02:52PM correct?
02:52PM A. Yeah.
02:52PM Q. And this is Mr. Carper giving you
02:52PM a heads up that Microsoft would be announcing
02:52PM its Smooth Streaming technology, correct?
02:52PM A. Yes.
02:52PM Q. And this is the announcement that
02:52PM you said caught you off guard?
02:52PM A. Yes.
02:53PM Q. Did you have discussions with
02:53PM members of the Move Board of Directors about
02:53PM Microsoft's Smooth Streaming announcement?
02:53PM A. Yes.
02:53PM Q. Who did you discuss it with?
02:53PM A. The board. All of them. It
02:53PM was --
02:53PM Q. What was --
02:53PM A. It was brought up at the start of
02:53PM that board meeting.
02:53PM Q. And what was the substance of that
02:53PM discussion?

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02:53PM 2 MR. DHANANI: John, I'll just
02:53PM 3 caution, I don't believe there is any
02:53PM 4 attorney-client communication there on
02:53PM 5 the board meeting, but if there is, we
02:53PM 6 can discuss separately, but you can
02:53PM 7 answer that question.
02:53PM 8 A. So I don't have a lot of detail.
02:53PM 9 It's just been too long ago. But I do
02:53PM 10 remember bringing it up to the board that we
02:53PM 11 were in the strategic relationship with
02:53PM 12 Microsoft, but we were seeking to expand our
02:54PM 13 market by allowing them to imbed our
02:54PM 14 streaming capability inside of their
02:54PM 15 technology. And that would be --
02:54PM 16 THE COURT REPORTER: I'm sorry.
02:54PM 17 That would be a?
02:54PM 18 A. The level that we would have
02:54PM 19 had -- a high level. Just general
02:54PM 20 information.
02:54PM 21 Q. Well, Microsoft's Smooth Streaming
02:54PM 22 was not something in conjunction with
02:54PM 23 Move Networks, was it?
02:54PM 24 A. Well, no, but we would have said
02:54PM 25 there would have been this relationship we

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02:54PM **are moving forward with Microsoft. Now**
02:54PM **there's this announcement. And that's it. I**
02:54PM **mean, generally, this announcement, we don't**
02:54PM **know what it means yet because we didn't.**
02:54PM Q. Well, didn't Microsoft's Smooth
02:54PM Streaming technology of its own mean that it
02:54PM would no longer be needing Move Networks;
02:54PM technology?
02:54PM **A. I don't know the answer to that**
02:55PM **question.**
02:55PM Q. Was there any discussion at
02:55PM Move Networks about whether Microsoft's
02:55PM announcement of Smooth Streaming meant that
02:55PM Microsoft would not longer be needing, in the
02:55PM short or long run, Move Networks; technology?
02:55PM **A. Don't recall.**
02:55PM Q. You recall that Netflix chose
02:55PM Microsoft to stream movies and television for
02:55PM Netflix?
02:55PM **A. I was aware that Netflix used**
02:55PM **Microsoft, yeah.**
02:55PM Q. And was that -- was the
02:55PM opportunity to do streaming business with
02:55PM Netflix something that Move Networks

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02:55PM attempted to achieve?

02:55PM A. Yes.

02:56PM Q. And so what was the effect of

02:56PM Netflix's choosing Microsoft rather than

02:56PM Move Networks?

02:56PM A. Well, at the time they chose

02:56PM Microsoft, it wasn't, I don't think, a

02:56PM juxtapose because we didn't talk to them yet.

02:56PM They were well down the path with Microsoft.

02:56PM Technologies, generally speaking. And when

02:56PM we presented to them, their response was

02:56PM typically, like others, this is great, this

02:56PM is better, but we are wound up with

02:56PM investments and other things for Microsoft,

02:56PM investments and time, energy. I don't

02:56PM remember all of what the relationship was

02:56PM like with Microsoft. It's been too long.

02:56PM Q. So when did you have these

02:56PM discussions with Netflix?

02:56PM A. So with every one of these media

02:56PM companies, we began approaching them in 2006

02:56PM and 2007. And I don't recall a specific

02:56PM timeframe of the Netflix meetings. I just

02:56PM recall that they used Microsoft and we

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02:57PM 2 **continued to try to speak with them from time**
02:57PM 3 **to time.**
02:57PM 4 Q. But Move Networks was unable to do
02:57PM 5 business with Netflix because they were
02:57PM 6 committed to Microsoft; is that correct?
02:57PM 7 MR. DHANANI: Objection; vague,
02:57PM 8 mischaracterizes.
02:57PM 9 **A. I think it isn't a fact that they**
02:57PM 10 **are unable to. It is simply that, while they**
02:57PM 11 **recognize the value that we provided, which**
02:57PM 12 **was better, and they struggled because their**
02:57PM 13 **implementation at the time focused on an**
02:57PM 14 **alternate approach, and so it would take some**
02:57PM 15 **time for them to be able to convert to a new**
02:57PM 16 **approach at a systems level, not at a**
02:57PM 17 **protocol and the wire level. They could see**
02:57PM 18 **that was better.**
02:58PM 19 Q. Who is The Horn Group?
02:58PM 20 **A. Is that in that document?**
02:58PM 21 Q. No.
02:58PM 22 **A. Oh. I don't know.**
02:58PM 23 Q. Let me show you what was marked as
02:58PM 24 the Smith deposition as Exhibit 26.
02:58PM 25 (Whereupon, Exhibit 26 was

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02:58PM previously marked at a prior
02:58PM deposition.)
02:58PM Q. This is an email from Mary Kay
02:59PM Crocker to The Horn Group team and others,
02:59PM including yourself, Mr. Edwards, dated
02:59PM March 17, 2009.
02:59PM A. So it's just that one little
02:59PM paragraph or page, one page?
02:59PM Q. That's all we have, yes.
02:59PM A. I don't need to scroll any more
02:59PM than that.
02:59PM I'm ready. What's your question?
02:59PM Q. Well, my first question is, does
02:59PM this email, this exhibit, Smith 26, refresh
03:00PM your recollection at all as to who The Horn
03:00PM Group team was?
03:00PM A. No.
03:00PM Q. Do you recall this announcement by
03:00PM Akamai that it was beginning to use
03:00PM Microsoft's Smooth Stream technology?
03:00PM A. No.
03:00PM Q. Did Akamai's announcement that it
03:00PM was using Microsoft's Smooth Stream
03:00PM technology have an impact or play a role in

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03:00PM Move Networks' decision in the spring of 2009
03:00PM to change direction?
03:00PM A. I don't think so. Akamai used
03:00PM every technology. That's the nature of their
03:00PM business. They don't use one thing. Their
03:01PM intent is to be an aggregator of multiple
03:01PM products and services. So they could use us.
03:01PM They could use Microsoft. I'm sure they used
03:01PM RealPlayer. I'm sure they used lots of
03:01PM stuff, Fox included. I mean, I think that
03:01PM these companies provide a horizontal caching
03:01PM service. So I don't think that this would
03:01PM have stood out to me to be a reason to change
03:01PM strategies.
03:01PM Q. Did Move Networks do business with
03:01PM Akamai?
03:01PM A. Yeah.
03:01PM Q. What business did you have with
03:01PM Akamai?
03:01PM A. CDN.
03:01PM Q. Explain what that means, please.
03:01PM A. Content distribution network.
03:01PM That's their core product, being able to be
03:01PM brought -- a variety, LimeWire, Akamai,

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03:01PM **you've got a variety of companies that**
03:01PM **Microsoft would provide a content**
03:01PM **distributions network. And we utilized those**
03:01PM **technologies. That's what's beautiful about**
03:02PM **it. You can just take them off the shelf and**
03:02PM **use them without any special setup or without**
03:02PM **any special agreements, because they just**
03:02PM **work.**
03:02PM Q. So --
03:02PM **A. If you look at that last**
03:02PM **paragraph, "Microsoft's Smoothstream is a**
03:02PM **server-based solution that is an extension of**
03:02PM **their Windows Media product line."**
03:02PM **That phrase right there would say**
03:02PM **they're not going to be very good. They're**
03:02PM **not going to be like us. And so, a very**
03:02PM **different approach to streaming.**
03:02PM Q. So, Mr. Edwards, help me
03:02PM understand this. What was Move Networks'
03:02PM business plan or business strategy in terms
03:02PM of how it was going to earn revenues from its
03:02PM technology?
03:02PM **A. We earned revenues by both**
03:03PM **approaching large media companies and people**

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03:03PM **streaming television and movies and events,**
03:03PM **and they paid us to stream their movies and**
03:03PM **television and events. So it would not have**
03:03PM **been at the layer of Akamai. Akamai would**
03:03PM **have been at the layer that lots of people**
03:03PM **have used in order to store and carry traffic**
03:03PM **in the Internet. It's that -- kind of a**
03:03PM **component of the Internet. It would be like**
03:03PM **saying, what do Cisco routers provide? And**
03:03PM **so we are making it at a much higher level**
03:03PM **based upon delivering a full streaming**
03:03PM **service.**
03:03PM Q. So how did you charge for your
03:03PM services?
03:03PM **A. So there is variety of different**
03:03PM **ways to charge. We charged a price to bid.**
03:03PM **We charged an event price. We charged -- it**
03:03PM **really depended upon the engagement and --**
03:04PM **but -- so that would have been the focus.**
03:04PM Q. How did you determine which
03:04PM approach to use for a particular engagement?
03:04PM **A. Customer need.**
03:04PM Q. And how would the customer need
03:04PM determine how you would structure a charge?

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03:04PM A. So at the time, customers wanted
03:04PM their users to watch content longer in higher
03:04PM quality. They wanted it to start faster.
03:04PM They wanted it to not have buffering events.
03:04PM They wanted it to generally breathe with the
03:04PM Internet, if I could use that term, meaning
03:04PM if the connectivity and the variables
03:04PM associated with connectivity change and are
03:04PM different from a moment to moment, they
03:04PM wanted it to act and feel like they were
03:05PM watching traditional high def television.
03:05PM That's the need.
03:05PM And so we came together with them
03:05PM and helped them price and deliver solutions
03:05PM that met that need. And we met that need for
03:05PM them. And so that -- that's the way.
03:05PM And we met it because of the way
03:05PM that the protocol worked. We met it because
03:05PM of the way that the technology came together
03:05PM for them. The low cost of operation relative
03:05PM to anything else. The low cost of streaming
03:05PM relative to anything else. Because it was
03:05PM leveraging general Internet dynamics versus
03:05PM proprietary server-based solutions where you

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03:05PM 2 **had to buy independent servers, independent**
03:05PM 3 **devices to do one type of streaming. So**
03:05PM 4 **there was no fungibility or operational**
03:05PM 5 **leverage with respect to the streaming**
03:05PM 6 **environment. But with ours, there was.**
03:05PM 7 **We had the operational leverage of**
03:05PM 8 **the Internet generally that had the ability**
03:05PM 9 **to do what people do today, which is, you**
03:06PM 10 **know, plug a device onto the WiFi and get**
03:06PM 11 **streaming to go to it generally, without**
03:06PM 12 **having to have particular things imbedded or**
03:06PM 13 **dealt with. With stuff like Smooth Stream or**
03:06PM 14 **RealPlayer or Microsoft or Flash media, they**
03:06PM 15 **all required specialized equipment and setup**
03:06PM 16 **and services. And so they were like a line**
03:06PM 17 **of business. At first we said, look, we**
03:06PM 18 **treat it like any other data type.**
03:06PM 19 Q. Didn't --
03:06PM 20 **A. It had never been done before.**
03:06PM 21 Q. Didn't your technology require
03:06PM 22 specialized encoding to encode the content
03:06PM 23 into the particular streams and streamlets
03:06PM 24 that you needed?
03:06PM 25 **A. It required --**

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03:06PM 2 MR. DHANANI: Objection.

03:06PM 3 A. -- a specialized approach, but
03:06PM 4 that was all baked into the solution. Nobody
03:06PM 5 had to go off and do anything different.
03:06PM 6 Rather than they just used the browsing
03:07PM 7 technology like it was intended, which they
03:07PM 8 could stream it over HTP, they could leverage
03:07PM 9 Cisco routers without even knowing about it,
03:07PM 10 they could leverage Akamai without even
03:07PM 11 knowing about it. There wasn't intimate
03:07PM 12 knowledge needed of those systems for it to
03:07PM 13 work as a general purpose capability.
03:07PM 14 Whereas, with these other solutions, you
03:07PM 15 would have to have that. And so the fact
03:07PM 16 that Silverlight or Smooth Stream doesn't
03:07PM 17 work is not a surprise. They come from a
03:07PM 18 different orientation.

03:07PM 19 Q. When you say Smooth Stream or
03:07PM 20 Silverlight doesn't work, Smooth Stream and
03:07PM 21 Silverlight are different aspects of
03:07PM 22 Microsoft's offerings, correct?

03:07PM 23 A. Yeah, I'm just giving you two of
03:07PM 24 Microsoft's offerings that don't work all
03:07PM 25 that well. Didn't work as well as ours. And

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03:07PM 2 **I could put the real media in the -- I could**
03:07PM 3 **put the media box in there, too, the**
03:07PM 4 **Microsoft Media. I mean, they all did not,**
03:07PM 5 **at the time, function and do anything like**
03:07PM 6 **what we were doing.**
03:07PM 7 **Now, Smooth Stream started to get**
03:08PM 8 **there, in my opinion, because of what we**
03:08PM 9 **provided to them under non-disclosure and**
03:08PM 10 **under briefings. And them going through.**
03:08PM 11 **But I think that that's why I said the better**
03:08PM 12 **focus point on that is probably Greg, because**
03:08PM 13 **he managed that relationship. But that would**
03:08PM 14 **be my initial, just, gut take.**
03:08PM 15 MR. DHANANI: John, just to note
03:08PM 16 to slow down just a little bit for the
03:08PM 17 court reporter who is taking
03:08PM 18 everything down.
03:08PM 19 **THE WITNESS: Oh, I'm sorry.**
03:08PM 20 **Sorry. You got me excited. Rebecca,**
03:08PM 21 **my apologies.**
03:08PM 22 MR. DHANANI: Sorry about that.
03:08PM 23 BY MR. BARQUIST:
03:08PM 24 Q. Was the Cisco an investor in
03:08PM 25 Move Networks?

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03:08PM **A. Yes.**

03:08PM Q. What was the nature of your business with Cisco aside from simply an investment, if anything?

03:08PM **A. So Cisco's approach at the time was how can we tune our routers, give prioritized -- prioritization and other things off the box that would support technologies like we were doing. Which would primarily be the extension of a payload. And so they were super excited about what we were doing, because we meant television HD on the Internet across their routers.**

03:09PM Q. So did you do business with Cisco?

03:09PM **A. Well, Cisco would have been an indirect relationship. Yes, we bought Cisco routers. But I think the bigger issue is everybody did. But I think that Cisco would have wanted to foster technologies like this because of its impact, generally, on Internet television. The more of that there is, the more there is a demand for Cisco routers. So Cisco benefitted by our being there.**

03:09PM Q. So you didn't do any business

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03:10PM directly with Cisco?

03:10PM A. We bought their routers. We were a customer.

03:10PM Q. Was Comcast an investor in Move Networks?

03:10PM A. Yes.

03:10PM Q. What business, if any, did you do with Comcast aside from that investment?

03:10PM A. I don't recall the exact customers that we approached together. I don't recall.

03:10PM Q. Was Disney an investor in Move Networks?

03:10PM A. Steamboat Ventures was. Not Disney per se, but Steamboat Ventures was the investment arm of that entity.

03:10PM Q. Okay. Did you do any business with Disney?

03:10PM A. Well, yes, Disney, ABC. We streamed their content.

03:11PM Q. With Disney or ABC?

03:11PM A. ABC and some Disney. We did Disney -- I forget the properties we did with Disney, but there was work with Disney.

03:11PM Q. Was Televisa an investor?

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03:11PM **A. Yes.**

03:11PM Q. What did they investor?

03:11PM **A. I don't remember the amount, but Televisa was one of those companies that was blown away by our technology and leveraged it throughout their system. And it was a young relationship at about the time I was leaving. We were just getting going on it. But good company. Provided us a good extension to international territories.**

03:11PM Q. And so what business exactly did you do with Televisa?

03:11PM **A. Streamed their video, their television.**

03:12PM Q. Mr. Edwards, do you own any shares in DISH or EchoStar?

03:12PM **A. No.**

03:12PM Q. I'm near the end of the questions I have for you. Let me just ask you, going back to the beginning, about your current position. What's the company that you're currently CEO of?

03:12PM **A. Summit Brain and Spine.**

03:12PM Q. And what business are they in?

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03:12PM **A. Neurosurgery. My two sons, my two**
03:12PM **older sons, are surgeons. And I have**
03:12PM **retired. And they said, dad, come help us**
03:13PM **build a surgery practice. So I got elected**
03:13PM **two years ago and have built up a really**
03:13PM **strong, we are the largest neurosurgerical of**
03:13PM **the neurosurgical practice in -- probably in**
03:13PM **the state of Utah. Although I haven't taken**
03:13PM **specific measurements, but definitely in our**
03:13PM **area of the world, is standard.**
03:13PM MR. BARQUIST: All right. I
03:13PM think that's all I have for you today,
03:13PM Mr. Edwards. I think one or another
03:13PM of the other lawyers may have some
03:13PM questions for you as well.
03:13PM **THE WITNESS: Okay.**
03:13PM MS. WHITCHER: This is Emily
03:13PM Whitcher for Peloton. I will have
03:13PM some questions, but it's -- I know
03:13PM about a little after 1:00 your time.
03:13PM Do you want to take a break for lunch
03:13PM now?
03:13PM **THE WITNESS: I don't need it.**
03:13PM **But if you guys want something --**

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03:14PM MS. WHITCHER: Okay. Let's do a ten-minute break now and then we can come back and hopefully wrap up.

03:14PM THE VIDEOGRAPHER: The time is 1:14 p.m., and we are going off the record.

03:26PM (Whereupon, a recess was held.)

03:26PM THE VIDEOGRAPHER: The time is 1:26 p.m., and we are back on the record.

03:26PM EXAMINATION BY

03:26PM MS. WHITCHER:

03:26PM Q. Hi, Mr. Edwards. So my name's Emily and I'm going to be asking some questions now on behalf of Peloton, one of the other Respondents. And I apologize if we go over something again that we might have already talked about, but I want to go back to a couple of things that we had -- you had testified to earlier.

03:27PM Just to get started, I was wondering how familiar would you say you are generally with the Move Networks' adaptive bit rate technology?

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03:27PM **A. My knowledge of it --**

03:27PM **THE WITNESS: Did somebody else**

03:27PM **ask a question?**

03:27PM Q. Maybe someone wasn't on mute.

03:27PM **A. Okay. I think I'm aware of it**

03:27PM **conceptually, what its features and benefits**

03:27PM **are.**

03:27PM Q. And what would you say its key

03:27PM features are?

03:27PM **A. Its ability to stream high quality**

03:27PM **without buffering. Its ability to start**

03:27PM **quickly. Its ability to adaptively shift**

03:27PM **based upon conditions in the Internet**

03:28PM **generally. That would be it. Those are all**

03:28PM **the points.**

03:28PM Q. So in terms of how the technology

03:28PM actually is functioning, how familiar are you

03:28PM with how the technology is implemented?

03:28PM **A. Well, again, I'm familiar with it**

03:28PM **from the standpoint that it's client-side**

03:28PM **intelligence, and that its algorithm will**

03:28PM **adapt to conditions in the Internet. But I'm**

03:28PM **much more familiar with how it functions to**

03:29PM **those who want to stream, in other words, why**

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03:29PM **customers want it.**

03:29PM Q. So, do you understand what a streamlet is?

03:29PM **A. Yes.**

03:29PM Q. And what's your understanding of a streamlet?

03:29PM MR. DHANANI: Objection. I'm just going to caution you not to reveal any attorney-client communication and object as to vague and as to seeking a legal conclusion.

03:29PM Go ahead.

03:29PM **A. A streamlet is a -- an element of the result that -- that will be reassembled to make the video on the receiving side. So all telecommunications, all Internet traffic breaks things down into elements that are both sent, based upon, and then received. And a streamlet is doing that for video.**

03:30PM Q. And when you say something is adaptive bitrate, what does adaptive bitrate mean?

03:30PM MR. DHANANI: Objection; vague.

03:30PM Go ahead.

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03:30PM **A. The value is that it will adjust to conditions in the Internet such that the best possible quality is maintained.**

03:30PM Q. Do you know what a virtual timeline is?

03:30PM **A. A what?**

03:30PM Q. Virtual timeline.

03:30PM **A. Virtual timeline are you saying?**

03:31PM Q. Um-hum.

03:31PM **A. I don't recognize that term.**

03:31PM Q. You had testified earlier about a use of Move's streaming technology that was associated with the Mormon church. When was that use that you were referring to?

03:31PM **A. It's the Church of Jesus Christ of Latter-day Saints, just to be clear. And it was in 2005, I believe.**

03:31PM Q. When in 2005?

03:31PM **A. I think October. It would have been April or October.**

03:32PM Q. Can you think of any other instance before this particular event that you're thinking of where Move technology was used publically?

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03:32PM **A. I can't. I don't -- nothing comes**
03:32PM **to mind.**
03:32PM Q. And you said it was either April
03:32PM or October. Is that because you know that it
03:33PM was at a general conference and those occur
03:33PM in those months?
03:33PM **A. Yep. The last 150 years or**
03:33PM **200 years, every April, every October like**
03:33PM **clockwork, even with COVID.**
03:33PM Q. So when Move technologies was
03:33PM viewed at the general conference, do you
03:33PM know, was that using live streaming version
03:33PM of the product?
03:33PM **A. It was live.**
03:33PM MR. DHANANI: Objection.
03:33PM Objection; form.
03:33PM Go ahead.
03:33PM **A. So it's both, really, because it's**
03:33PM **live, but there are then replays of it that**
03:33PM **continue to get streamed, which would just be**
03:33PM **our repository of the information we**
03:34PM **streamed. So it's both.**
03:34PM Q. And how involved were you in the
03:34PM planning of this streaming of the general

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03:34PM conference in 2005?

03:34PM A. At a planning level, very involved. At implementation, not so much, because our technical guys would have done that.

03:34PM Q. And this event was in collaboration with BYUtv; is that right?

03:34PM A. That's correct, which is a wholly owned property of the LDS church, the Church of Jesus Christ of Latter-day Saints.

03:35PM Q. Well, how did this come to be? Did you approach BYUtv about doing the live stream?

03:35PM A. Yes, I did.

03:35PM Q. And what did you discuss with them?

03:35PM A. We think we can do a better job of streaming and we would like to have your permission to do so. And would you work with us to put together -- we will provide the technology if you give us access. We need access to your post, your live stream. We took the live stream and broadcast it, with I think an initial four-second delay, maybe a

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03:35PM **two-second delay. And then we ramped it up**
03:35PM **to eight-second delay, which was pretty**
03:35PM **common. But that, we would consider live.**
03:36PM Q. Was this the first time you had
03:36PM approached someone about doing this type of
03:36PM live streaming event?
03:36PM **A. I don't know if it was the first**
03:36PM **time, but it was the first installation or**
03:36PM **the first use of it that I recall. But if I**
03:36PM **had my old notebooks and all that, I could**
03:36PM **maybe go back and recall more. It's just**
03:36PM **been a long time.**
03:36PM Q. And do you still have those
03:36PM notebooks?
03:36PM **A. No.**
03:36PM Q. What happened to them?
03:36PM **A. I have no idea. I moved on.**
03:36PM Q. Did you leave them with
03:36PM Move Networks when you left?
03:36PM MR. DHANANI: Objection; calls
03:36PM for speculation.
03:36PM **A. I just don't know. And that's the**
03:36PM **truth for months. I don't know what's -- all**
03:36PM **of the notes from that time, the email, all**

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that's gone. I don't have any access. I do not know.

Q. Who at BTU were you speaking to primarily about the live stream?

A. So it would have been the general manager. And that would have been -- you will ask the name and I don't recall the name at the time. I'm sure we could go back and look that up. It's probably part of the history.

Q. So it would be the general manager of BYUtv?

A. TV, um-hum. Whoever was in that role then. And probably the operations manager. This wasn't in and out for us. It was, can we come in and get access, and if so, we'll stream and see how it goes.

Q. So if it weren't for Move Networks, BYUtv was already doing a different version of live streaming?

A. No. They had tried to do some streaming and, really, other than just the fact that they are a television broadcaster, they hadn't succeeded at their web-based

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03:38PM 2 **streaming. And so they were backing away**
03:38PM 3 **from it. And as a member of the church, I**
03:38PM 4 **wanted to have it. And so it was an easy one**
03:38PM 5 **for us to go say, hey, I've got an idea for**
03:38PM 6 **you, let's try this out. We were showing**
03:38PM 7 **really good laboratory results on this stuff**
03:38PM 8 **and showing really good demos, but we'd not**
03:38PM 9 **taken on, as I recall it, a significant**
03:38PM 10 **event. This is a worldwide event. This is a**
03:38PM 11 **stream that's translated into 170 languages.**
03:38PM 12 **It goes all around the world. I mean, this**
03:38PM 13 **is a big deal for -- as far as streaming**
03:39PM 14 **goes. And so it could serve us well if it**
03:39PM 15 **went well. And it did.**
03:39PM 16 Q. What do you mean by "serve us
03:39PM 17 well"? Who is "us"?
03:39PM 18 **A. So much to learn by handling**
03:39PM 19 **something live versus something in a lab,**
03:39PM 20 **because even if you do things with the**
03:39PM 21 **technology to simulate live traffic, it's not**
03:39PM 22 **live traffic because the whole point here is**
03:39PM 23 **that the variables that exist in the**
03:39PM 24 **Internet's server-side, a protocol, client**
03:39PM 25 **side, everything, there's just a lot of**

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03:39PM variables to tune to get right. And so we
03:39PM believe that our approach would prove
03:39PM superior, but we needed experimentation.
03:39PM THE COURT REPORTER:
03:39PM Mr. Dhanani, can you go on mute when
03:39PM you are not making objections? Thank
03:39PM you.
03:39PM Please continue.
03:39PM BY MS. WHITCHER:
03:39PM Q. Would you say that this was -- or
03:40PM would you say this was a significant event in
03:40PM Move Networks' history, this live stream?
03:40PM A. It was an event. I believe it was
03:40PM an important event. Significant, I don't
03:40PM know. It was an important event. It
03:40PM provided us good feedback on where we were
03:40PM at.
03:40PM Q. What feedback did you get?
03:40PM A. That we rock and we're good and we
03:40PM can handle this kind of high quality
03:40PM streaming without buffering with lots of
03:40PM clients in an international audience.
03:40PM Q. Was Move paid anything for doing
03:40PM the broadcast?

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03:40PM 2 **A. No. They tried. Drew and I**
03:40PM 3 **elected to take it as a donation.**
03:41PM 4 Q. What do you mean, "take it as a
03:41PM 5 donation"?
03:41PM 6 **A. We were members of the church. We**
03:41PM 7 **wanted to give a donation to our church.**
03:41PM 8 **They were paying at the time over $2 a gig to**
03:41PM 9 **stream content. It was very expensive back**
03:41PM 10 **then to Akamai and Line Mike and others. And**
03:41PM 11 **so for us to provide them two times two times**
03:41PM 12 **two hours worth of video and really**
03:41PM 13 **contribute, that was a big deal to them.**
03:41PM 14 Q. When you say two times two
03:41PM 15 times --
03:41PM 16 **A. So two sessions --**
03:41PM 17 Q. How many hours?
03:41PM 18 **A. So two hours a day, two sessions a**
03:41PM 19 **day, for two days. So effectively you've got**
03:41PM 20 **four hours a day over two, so two times two**
03:41PM 21 **times two is eight still. And that's how.**
03:41PM 22 **It's a big deal, because if you break that**
03:41PM 23 **down, you're dealing with approximately a**
03:42PM 24 **half a gig, at least, per hour, maybe more.**
03:42PM 25 **Roughly speaking. So you're talking, you**

1 **J. EDWARDS**

03:42PM 2 **know, significant dollars particularly when**
03:42PM 3 **you're going out to hit tens of thousands of**
03:42PM 4 **users.**
03:42PM 5 Q. So there would have been a total
03:42PM 6 of six sessions?
03:42PM 7 **A. So, for two days, we have two**
03:42PM 8 **sessions each day for two hours. So there is**
03:42PM 9 **four sessions, but there is eight hours.**
03:42PM 10 Q. Got it.
03:42PM 11 MR. DHANANI: John, just a small
03:42PM 12 request to wait until the question is
03:42PM 13 finished so the court reporter can
03:42PM 14 take it down. Thank you so much.
03:42PM 15 **THE WITNESS: Okay.**
03:42PM 16 Q. And when the separate sessions
03:42PM 17 were being streamed, was there any gaps in
03:42PM 18 them or how was the playback between
03:42PM 19 sessions?
03:42PM 20 **A. So the playback was good. When**
03:43PM 21 **you say gaps, would you describe what you**
03:43PM 22 **mean by that?**
03:43PM 23 Q. You just said there were separate
03:43PM 24 sessions. In terms of the live stream, was
03:43PM 25 there any divisions in the stream for each

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03:43PM session?

03:43PM A. So for example, on Saturday, it would start at 10:00 a.m. and go to noon, and then restart again at 2:00 and go till 4:00. And then on Sunday it would start at 10:00 a.m., go till noon, and then start again at 2:00 and go to 4:00. So, yeah, there were breaks in between sessions, but during a session, they would be two hours, approximately, front to back with no breaks.

03:43PM Q. And then would -- you would be able to go back later and rewatch some of the earlier streaming?

03:43PM A. Yes.

03:43PM Q. How quickly was that available, do you remember?

03:44PM A. No. But I would have guessed next day.

03:44PM THE COURT REPORTER: Sorry. You would have guessed?

03:44PM A. Next day.

03:44PM Q. Were viewers able to pause or rewind during the live stream?

03:44PM MR. DHANANI: Objection; vague

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03:44PM and calls for speculation.

03:44PM A. I don't recall one way or another back then whether that was available.

03:45PM Q. You mentioned earlier that you took the payment you would have received from BYUtv as a donation. Is there any written record of that?

03:45PM MR. DHANANI: Objection; mischaracterizes the prior testimony.

03:45PM A. Not really. The point was we just never charged them.

03:45PM Q. Did you ever put a value to it?

03:45PM MR. DHANANI: Objection; vague, calls for speculation.

03:45PM A. I don't recall putting a value to it.

03:45PM Q. Did they offer you a specific amount of money?

03:45PM MR. DHANANI: Go ahead. You can answer that one.

03:45PM A. In their view, streaming was really expensive, meaning two to $3 per gig. In our view, we couldn't believe that, how expensive it was for them. So while they

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03:46PM 2 **didn't come up and say a specific amount of**
03:46PM 3 **money, had we offered them anything under a**
03:46PM 4 **dollar, they would have gladly paid, I think.**
03:46PM 5 **But we just didn't. Because we intended to**
03:46PM 6 **offer this as a contribution to our church.**
03:46PM 7 **It wasn't what we were focused in on. We**
03:46PM 8 **wanted to learn and we wanted to experience**
03:46PM 9 **it and see how the technology was working**
03:46PM 10 **out. So I don't recall specific offering.**
03:46PM 11 **It could have happened. I just don't recall**
03:46PM 12 **that.**
03:46PM 13 Q. I think you said that they had
03:46PM 14 tried to pay you but you had denied it?
03:46PM 15 **A. So, tried in the following way:**
03:46PM 16 **Are you going to not charge us anything for**
03:46PM 17 **this? Are you kidding me? We will pay**
03:46PM 18 **something for this. But not try as in, I**
03:47PM 19 **have got a document and they tried to hand me**
03:47PM 20 **money. Just -- it's more of a conversational**
03:47PM 21 **tone about it, that they couldn't believe**
03:47PM 22 **that we were just going to offer it up.**
03:47PM 23 **And after that, as we continued to**
03:47PM 24 **stream their broadcasts, each time they would**
03:47PM 25 **say, now, we are willing to pay for this.**

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Each time we felt like it was a way for us to contribute.

Q. And by "contribute," you mean contribute to the church?

A. Donate our offering to them.

Q. And as a general practice, do you typically keep accounting records of your donations to the church?

A. Yes.

MR. DHANANI: Objection; mischaracterizes prior testimony.

Go ahead.

A. Yes, sure.

Q. And would this have been on one of those records?

A. No.

MR. DHANANI: Objection; calls for speculation.

Go ahead.

A. No, wouldn't have. This was us not charging them.

Q. Did you have a written contract with BYU?

A. No.

1 **J. EDWARDS**

03:48PM 2 Q. So everything was just informally
03:48PM 3 organized?
03:48PM 4 **A. That's correct.**
03:48PM 5 Q. Other than yourself, who else at
03:48PM 6 Move Networks was involved in planning the
03:48PM 7 live broadcast with BYU?
03:48PM 8 **A. Drew Major. I'm guessing Greg**
03:48PM 9 **was, but you know what, I -- it's been**
03:48PM 10 **awhile.**
03:48PM 11 Q. So if someone wanted to view the
03:48PM 12 BYU live broadcast, how would they do so?
03:48PM 13 MR. DHANANI: Objection; calls
03:49PM 14 for speculation and vague.
03:49PM 15 **A. They would go to the conference**
03:49PM 16 **website and click on the link.**
03:49PM 17 Q. Where did the link take them?
03:49PM 18 **A. To the page that provided**
03:49PM 19 **television.**
03:49PM 20 Q. Are you talking about a page on
03:49PM 21 Move Networks; website?
03:49PM 22 **A. On the website generally speaking,**
03:49PM 23 **but, yeah, probably would have been -- could**
03:49PM 24 **have been either our website or their landing**
03:49PM 25 **page. Either would have worked. I'm not**

J. EDWARDS

03:49PM **sure I recall which landing page we used.**

03:49PM Q. Do you recall if Mark Hurst was involved in planning this BYU broadcast?

03:49PM **A. No.**

03:49PM MR. DHANANI: Objection; calls for speculation.

03:49PM **A. No, I don't.**

03:50PM Q. And you don't remember anyone's names at BYU that was working on this with you?

03:50PM **A. No. It would have been somebody in their technical department and their general manager, but it's just been too long.**

03:50PM Q. And if you wanted to determine who these people were, do you think you would be able to?

03:50PM MR. DHANANI: Objection; calls for speculation.

03:50PM **A. I don't know.**

03:50PM Q. Would you have been exchanging emails with these individuals?

03:50PM **A. Probably.**

03:50PM Q. Using a Move Networks' email address?

1 J. EDWARDS

03:51PM 2 THE COURT REPORTER: I'm sorry.

03:51PM 3 Could you repeat the answer?

03:51PM 4 **A. Could have been XLON or Move.**

03:51PM 5 Q. And XLON was Move's name before it

03:51PM 6 changed to Move Networks?

03:51PM 7 **A. That's correct.**

03:51PM 8 Q. So you could have been using

03:51PM 9 either an XLON or Move email address; is that

03:51PM 10 right?

03:51PM 11 **A. That's correct.**

03:51PM 12 Q. Other than the general conference,

03:51PM 13 did Move Networks broadcast any other content

03:51PM 14 in collaboration with BYU in this timeframe?

03:52PM 15 **A. Nothing comes to mind.**

03:52PM 16 Q. Let's take a look at an exhibit.

03:52PM 17 I will drop it in the chat for you. One

03:52PM 18 second. This is Exhibit 63.

03:53PM 19 **A. Okay.**

03:53PM 20 (Whereupon, Edwards Exhibit 63,

03:53PM 21 Wayback Machine BUY Television website

03:53PM 22 printout was marked for identification

03:57PM 23 as of this date by the Reporter.)

03:53PM 24 Q. Do you have Exhibit 63 open?

03:53PM 25 **A. Yes.**

1 **J. EDWARDS**

03:53PM 2 Q. Does this look familiar to you at
03:53PM 3 all?
03:53PM 4 **A. No. I mean, I recognize BYU**
03:53PM 5 **Television. I'm not very familiar with this**
03:53PM 6 **site.**
03:53PM 7 Q. Have you heard of the Wayback
03:53PM 8 Machine or Internet Archive?
03:53PM 9 **A. Yes.**
03:54PM 10 Q. So if you look at the bottom left,
03:54PM 11 you can see there is a web address and it's
03:54PM 12 web.archive.org?
03:54PM 13 **A. Okay.**
03:54PM 14 Q. And you see how there is numbers
03:54PM 15 following the -- where it says web, it then
03:54PM 16 has 20051001 and then it continues?
03:54PM 17 **A. Yeah.**
03:54PM 18 Q. So I'll represent to you that the
03:54PM 19 way that the Wayback Machine works is the URL
03:54PM 20 has a date of the web page that's being
03:54PM 21 archived.
03:54PM 22 Does that make sense?
03:54PM 23 **A. Um-hum.**
03:54PM 24 Q. So it looks like this would have
03:54PM 25 been on October 1st of 2005.

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03:54PM **A. Okay.**

03:54PM Q. And then looking, you can see the second part, where it says http, it has the buytv.org web URL listed.

03:55PM Do you see that?

03:55PM **A. Right. Um-hum.**

03:55PM Q. So does this refresh your recollection about what Move software would have been available on the BYUtv website?

03:55PM MR. DHANANI: Objection; asked and answered, vague and speculation.

03:55PM Go ahead.

03:55PM **A. No. The only thing I know about that link is, right before the colon, the a-d, it's an open port using standard stuff. It doesn't help me with that page at all. I'm not doubting the page existed, but I just don't recognize it.**

03:55PM Q. You don't recall ever --

03:56PM MR. DHANANI: Sorry. What was the question?

03:56PM **A. I'm sorry. Did you quit?**

03:56PM Q. I said, you don't recall ever seeing this web page before?

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03:56PM **A. Not that specific page, no.**

03:56PM Q. So I want to look at a couple more exhibits. We'll probably go ahead and just drop two in at once.

03:56PM **A. Okay.**

03:57PM Q. I'm going to drop into the chat Exhibit 64 and Exhibit 65.

MR. DHANANI: And, Emily, are these exhibits that have previously been provided to us?

MS. WHITCHER: No, I'm marking them as exhibits. I'm sorry if that wasn't clear.

MR. DHANANI: No, no. I mean in production.

Have these ever been produced to us before?

MS. WHITCHER: I don't believe so.

MR. DHANANI: Not in the contentions or anything like that?

MS. WHITCHER: No.

MR. DHANANI: Okay. Go ahead.

(Whereupon, Edwards Exhibit 64,

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Wayback Machine Move Networks website was marked for identification as of this date by the Reporter.)

(Whereupon, Edwards Exhibit 65, Wayback Machine XLON Technologies website was marked for identification as of this date by the Reporter.)

Q. Do you have them open?

03:57PM **A. I have the -- do you want me to open one first? I've got 64. Let me see if it'll let me open both of them. Yeah, I have them open.**

03:58PM Q. So Exhibit 64, can you take a look at that? And you see at the top left where it has a movenetworks.com web address?

03:58PM MR. DHANANI: Okay. I'm just going to have a running objection on documents, because they have not been produced, nor are they referenced anywhere in the contentions.

But go ahead, Mr. Edwards, if you know the answer.

03:58PM **A. What's the question with regard to, do I see the support@movenetworks.com?**

1 **J. EDWARDS**

03:58PM 2 **What are you asking me?**

03:58PM 3 Q. Oh, so you're looking at 64,

03:58PM 4 right?

03:58PM 5 **A. Um-hum.**

03:58PM 6 Q. Okay. So this is another page

03:58PM 7 from the Wayback Machine that we've just been

03:59PM 8 talking about.

03:59PM 9 **A. Yeah.**

03:59PM 10 Q. If you look at the top left, do

03:59PM 11 you see where the web address is a

03:59PM 12 movenetworks.com web address.

03:59PM 13 Do you see that?

03:59PM 14 **A. Oh, yes. Yes. If I scroll up.**

03:59PM 15 **There you go.**

03:59PM 16 Q. Was that Move Networks' web

03:59PM 17 address in 2005?

03:59PM 18 **A. Say that again?**

03:59PM 19 Q. Was that Move Networks; web

03:59PM 20 address in 2005?

03:59PM 21 MR. DHANANI: I'm just going to

03:59PM 22 object that this document has no

03:59PM 23 indication where it came from.

03:59PM 24 **A. So it wouldn't have been our -- I**

03:59PM 25 **mean, our web address would have been**

J. EDWARDS

03:59PM movenetworks.com. The /byutv would be a sub
03:59PM address. And I don't know if that's our web
04:00PM address or not, but it would make sense that
04:00PM it could be.
04:00PM Q. Okay. Yeah, it's fine if you
04:00PM don't recall. Just let me know. That's
04:00PM fine.
04:00PM Do you recall making
04:00PM Move Networks' software available on the
04:00PM network's website in 2005?
04:00PM A. I'm sorry. You were breaking up
04:00PM for me right when you said do I recall what?
04:00PM Q. Let me put in my AirPods. One
04:00PM second.
04:00PM A. I don't know whether it is for
04:00PM others, but you're breaking up a lot for me.
04:00PM Q. Is this better now?
04:00PM A. Oh, that's a little better.
04:00PM Q. Great. I'll go back.
04:00PM So I'm wondering if you recall in
04:00PM 2005 whether you made Move Networks' software
04:01PM available on its website?
04:01PM MR. DHANANI: Objection;
04:01PM foundation and speculation and vague.

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04:01PM **A. So we would not have made our software available. We may have provided the link to stream, but, typically that would have been for a specific event. And so the fact that this says /byutv is indicating that it's not a part of our normal environment. My guess is this would be in the subdomain for this event.**

But that's a guess. I don't recall these pages. What it does remind me of, though, is the media player technology, they had multiple streaming solutions on their page, which did confuse people.

04:02PM Q. Can you now take a look at Exhibit 65, please.

04:02PM **A. 65. Okay.**

04:02PM Q. And if you look at the top left, do you see there is a URL that starts with http and then has X-L-O-N --

04:02PM **A. XLON.**

04:02PM Q. -- H-C-L-D?

04:02PM **A. Um-hum.**

04:02PM Q. Was this a website maintained by Move Networks in 2005?

J. EDWARDS

04:02PM MR. DHANANI: Objection; speculation and vague and foundation.

04:02PM **A. Well, I don't know. This looks more like it was supposed to, but it's really hard to tell by this.**

04:03PM Q. Can you take a look at the content where it starts "Who created this media presentation?" You see where it says, "This media presentation was produced by Move Networks. We specialize in publishing media to the web. You can get more information at www.movenetworks.com."

04:03PM Do you see that?

04:03PM **A. I do.**

04:03PM Q. Does that remind you of anything related to what this website might be?

04:03PM MR. DHANANI: Objection; vague and mischaracterizes the document.

04:03PM **A. Other than the words at face value, no. I'm sorry. I'm just reading the document.**

04:04PM Q. Yeah. Go ahead and take a look and let me know if anything on this website reminds you of what was being maintained on

1 J. EDWARDS

04:04PM 2 Move Networks' website in 2005.

04:04PM 3 MR. DHANANI: Objection;

04:04PM 4 mischaracterizes the document, calls

04:04PM 5 for speculation and lack of

04:04PM 6 foundation.

04:04PM 7 A. This document isn't doing a lot to

04:04PM 8 bring back a lot to me. It looks like

04:04PM 9 something that may have been created as, kind

04:04PM 10 of, a support-side website for the event, but

04:05PM 11 I'm not sure.

04:05PM 12 Q. And by "the event," are you

04:05PM 13 referring to the general conference live

04:05PM 14 stream?

04:05PM 15 MR. DHANANI: Objection; vague.

04:05PM 16 A. This says demos/live/byu/faq. So

04:05PM 17 my guess is, it's some part of some demo

04:05PM 18 site, probably not the live site of the event

04:05PM 19 itself, but a demo site put up for some

04:05PM 20 purpose, which I'm not sure of by just

04:05PM 21 looking at this.

04:05PM 22 Q. Do you recall Move Networks ever

04:05PM 23 maintaining a website with the xlontech.net

04:06PM 24 URL?

04:06PM 25 MR. DHANANI: Objection; vague

J. EDWARDS

and calls for speculation.

A. I don't remember that specifically.

MS. WHITCHER: There is a lot of sound. Does someone want to go on mute?

Q. When was the next streaming event after the general conference in 2005 that you can recall with BYU?

A. I don't know. We did do conferences after that. I mean, so -- I'm not sure when the next one is.

Q. You had been talking earlier about some of the challenges that Move had faced. And I was wondering if one of those challenges that Moved faced was attempting to secure a patent for its technology?

MR. DHANANI: Objection. I'm going caution the witness not to reveal any attorney-client communications regarding patents. Only answer the question if you specifically recall discussions outside of attorneys.

J. EDWARDS

04:09PM **A. I don't have of any recollection**
04:09PM **outside of privileged information.**
04:10PM Q. So let me clarify. You don't have
04:10PM any -- you have a specific recollection but
04:10PM it's privileged information or you don't have
04:10PM a recollection at all?
04:10PM **A. I don't have a recollection of any**
04:10PM **challenges.**
04:10PM Q. And was Move struggling in the
04:10PM market at all because it didn't enforce any
04:10PM patent rights?
04:10PM MR. DHANANI: Objection;
04:10PM foundation, speculation, vague.
04:10PM Go ahead, if you know.
04:10PM **A. No. I mean, I never heard that**
04:10PM **ever as a reason why somebody wouldn't want**
04:10PM **higher quality content that didn't buffer and**
04:11PM **started quickly. So no.**
04:11PM Q. You testified a bit about a
04:11PM meeting with EyeWonder earlier today.
04:11PM Do you recall that?
04:11PM **A. Yes.**
04:11PM Q. So I want to go back to some of
04:11PM the details there. So you mentioned that

J. EDWARDS

04:11PM Drew Major was there; is that right?

04:11PM A. Correct.

04:11PM Q. Do you recall who from EyeWonder

04:12PM participated in the meeting?

04:12PM A. I don't.

04:12PM Q. Was it more than one person?

04:12PM A. We had one main contact point.

04:12PM I'm just not good with remembering the name

04:12PM right now. They had a couple of partners and

04:12PM I just don't recall -- we had one meeting,

04:12PM one person in the meeting that I recall.

04:12PM Q. You mentioned that after the

04:12PM meeting you had discussions with fellow Move

04:13PM employees in a parking lot; is that right?

04:13PM A. Yeah.

04:13PM Q. Why do you remember that it

04:13PM happened in a parking lot?

04:13PM A. Because Drew was pacing and he

04:13PM often did that when he was ideated. He just

04:13PM was a pacer and just walking back and forth.

04:13PM And I kept wondering why aren't we getting in

04:13PM the car and going away, and Drew just was

04:13PM very excited about what he was thinking

04:13PM about. And it just -- it's one of those

J. EDWARDS

04:13PM **snippets, I just kind of recall it. And I**
04:13PM **couldn't say much more, but I do remember the**
04:13PM **conversation started then. It was an**
04:13PM **important deal for us, because it -- we were**
04:13PM **working with EyeWonder to support a billion**
04:13PM **impression item person campaign, and we had**
04:13PM **some great ideas.**
04:13PM Q. So you mentioned something about
04:13PM asking Mr. Major why he got quiet. What were
04:14PM you referring to?
04:14PM **A. In our meeting, as we were talking**
04:14PM **about why we felt like our CDN would work,**
04:14PM **Drew stopped talking, which was not like**
04:14PM **Drew. And I just asked him, what's up. You**
04:14PM **stopped and kind of left it up to me. And**
04:14PM **then he -- that's when he talked about the**
04:14PM **idea that had come to hum.**
04:14PM Q. Do you recall Mr. Major ever
04:14PM having a one-on-one meeting with someone at
04:14PM EyeWonder?
04:14PM **A. Oh, sure. He talked with their**
04:14PM **technical guy all the time. Well, not all**
04:14PM **the time. Several times.**
04:14PM MR. DHANANI: Sorry, I was on

J. EDWARDS

04:14PM mute. Calls for speculation,
04:14PM objection.
04:14PM But go ahead.
04:14PM A. Yeah, Drew had one-off meetings
04:14PM with EyeWonder one on one, and meetings where
04:15PM multiple people were together. This one for
04:15PM me is one of the times that I did.
04:15PM Q. How many meetings -- in-person
04:15PM meetings were there with EyeWonder that
04:15PM you're aware of?
04:15PM MR. DHANANI: Objection; calls
04:15PM for speculation.
04:15PM A. I don't know how many there were.
04:15PM I don't know how many.
04:15PM Q. Was this the first meeting that
04:15PM you're recalling?
04:15PM A. It wasn't the first time we would
04:15PM talk. It could have been the first time in
04:15PM person, but I'm not sure of that, because
04:15PM Drew would have had other meetings without
04:15PM me. But it was the first one that I recall.
04:16PM Q. Do you have any documents or notes
04:16PM with you today?
04:16PM A. No. Other than what you guys have

1 **J. EDWARDS**

04:16PM 2 **put up here in the chat.**

04:16PM 3 Q. And earlier you had testified

04:16PM 4 about a document that you had reviewed during

04:16PM 5 preparing for the deposition. When you

04:16PM 6 reviewed that document, did anything in the

04:16PM 7 document jog your memory about something that

04:16PM 8 happened in the past?

04:16PM 9 **A. I don't recall anything coming to**

04:16PM 10 **light or refreshing my memory at all.**

04:17PM 11 Q. Was there anything that you read

04:17PM 12 in the document you already remembered it

04:17PM 13 clearly?

04:17PM 14 MR. DHANANI: Objection; vague.

04:17PM 15 **A. Well, first of all, the document**

04:17PM 16 **was kind of long and I skimmed it because I**

04:17PM 17 **just didn't have the time to really, really**

04:17PM 18 **read it. And there wasn't anything I saw**

04:17PM 19 **there by subject that wasn't something that**

04:17PM 20 **gave me some type of new memory. So I would**

04:17PM 21 **just say no.**

04:17PM 22 Q. So everything about EyeWonder and

04:17PM 23 the parking lot and Drew getting quiet, you

04:17PM 24 had already remembered all of that?

04:17PM 25 **A. Yes. If I recall, I don't think**

J. EDWARDS

any of that was in that letter, so...

Q. Do you know anything about a letter that Move Networks received from Microsoft after Move's first patent was allowed?

A. No.

MS. WHITCHER: Okay. Well, I think that is all that I have. Unless anyone else for Respondents or staff would like to ask anything?

MR. VANDERWALL: This is Cameron Vanderwall, counsel for Respondent Lululemon and Amir. We don't have any additional questions at this time.

MR. RAUH: This is Aaron Rauh, Commission of Investigative staff. I do have some questions. I'm happy to start now or, Mr. Edwards, if you'd like a short break, I'm happy to take one.

THE WITNESS: Go for it. I will say that when this was meeting was first put on my calendar it said it

1 **J. EDWARDS**

04:19PM 2 **would go from like 8:00 to noon -- I**
04:19PM 3 **kind of had a rough threat of 3:00, if**
04:19PM 4 **it's possible to estimate, but keep**
04:19PM 5 **going.**
04:19PM 6 MR. RAUH: I do not have many
04:20PM 7 questions.
04:20PM 8 **THE WITNESS: Okay.**
04:20PM 9 MR. RAUH: And I'll apologize
04:20PM 10 ahead of time. We have three
04:20PM 11 depositions going on in the
04:20PM 12 investigation today, so I have been
04:20PM 13 bouncing around those. I've spent a
04:20PM 14 lot of time in your deposition but,
04:20PM 15 Mr. Dhanani, if you have an objection
04:20PM 16 for asked and answered, I will not be
04:20PM 17 offended.
04:20PM 18 MR. DHANANI: Thank you. I
04:20PM 19 appreciate that. I think we're fine.
04:20PM 20 Please go ahead.
04:20PM 21 MR. RAUH: Okay.
04:20PM 22 EXAMINATION BY
04:20PM 23 MR. RAUH:
04:20PM 24 Q. Mr. Edwards, has your counsel,
04:20PM 25 without disclosing any privileged

J. EDWARDS

04:20PM communications, explained my role in this
04:20PM investigation to you?
04:20PM A. No.
04:20PM Q. So I am with what is called the
04:20PM Office of Unfair Import Investigations, which
04:20PM is an office within the International Trade
04:20PM Commission where this investigation is being
04:20PM conducted. My office is a party to this
04:20PM proceeding. I represent the public interest
04:20PM in this. I do not have a client. I'm not
04:20PM working with DISH or Peloton or Amir or
04:20PM anyone else.
04:21PM Do you understand?
04:21PM A. Okay.
04:21PM Q. So just a few follow-up questions
04:21PM for you. Do you recall your testimony
04:21PM earlier today about the 2005 LDS general
04:21PM conference streaming that Move --
04:21PM A. Yes.
04:21PM Q. You do. Okay.
04:21PM And you testified that you
04:21PM couldn't recall whether that was in October
04:21PM or April, was it?
04:21PM A. Correct.

1 **J. EDWARDS**

04:21PM 2 Q. Okay.

04:21PM 3 A. I lean towards October, but
04:21PM 4 that's, I think, what I said. It was one of
04:21PM 5 those two, because that's when they are held.

04:21PM 6 Q. Sure. Do you recall how far in
04:21PM 7 advance of the conference that Move
04:21PM 8 approached the church and BYUtv to handle
04:21PM 9 streaming of the conference?

04:22PM 10 A. I don't.

04:22PM 11 Q. Do you know whether it was a
04:22PM 12 matter of weeks or months or days?

04:22PM 13 A. My guess is it was probably
04:22PM 14 several weeks would be a guess. It takes
04:22PM 15 time to put those together and they would
04:22PM 16 have had to have had some level of the
04:22PM 17 people, I would guess.

04:22PM 18 Q. Okay. And, again, correct me if I
04:22PM 19 misstate your testimony here. I believe your
04:22PM 20 result or the company's view of Move's
04:22PM 21 streaming of the conference was that you rock
04:22PM 22 and, like, everything went off really well;
04:22PM 23 is that right?

04:22PM 24 A. Well, I do. I think that that's
04:22PM 25 correct, that it went well. I think overall.

1 **J. EDWARDS**

04:22PM 2 **Any time you do an event, there's going to**
04:22PM 3 **be, you know, issues that happen as a result**
04:22PM 4 **of the event, but, overall, I think it was**
04:22PM 5 **definitely a very positive event.**
04:23PM 6 Q. Do you recall Move making any
04:23PM 7 changes to its streaming technology in view
04:23PM 8 of streaming the LDS general conference?
04:23PM 9 **A. I don't recall anything specific.**
04:23PM 10 Q. As of that LSD general conference,
04:23PM 11 did Move view its technology as ready for the
04:23PM 12 general marketplace?
04:23PM 13 **A. So we would not have even**
04:23PM 14 **attempted to broadcast the conference if we**
04:23PM 15 **had not had a fair amount of confidence that**
04:23PM 16 **things would go well.**
04:24PM 17 Q. Would it be fair to say that
04:24PM 18 Move's streaming technology was complete or
04:24PM 19 nearly complete as of streaming that LDS
04:24PM 20 conference in 2005?
04:24PM 21 **A. Well, you're talking to a software**
04:24PM 22 **(inaudible) and software is never complete.**
04:24PM 23 **So it's agile. It's continuous improvements.**
04:24PM 24 **It's -- yeah. But the core fundamentals in**
04:24PM 25 **principle, yes, that -- the idea had**

J. EDWARDS

04:24PM **crystalized into a deliverable that now we could tweak, but yeah.**

04:24PM Q. Okay. I believe -- switching topics a little bit here. I believe you testified, again, correct me if I'm wrong, earlier today that when you left Move or when you stepped down as CEO of the company, it was not yet profitable.

Do you recall that?

04:25PM **A. That's correct.**

04:25PM Q. Was Move receiving revenue at that time?

04:25PM **A. Oh, yeah. So -- and we were really close to profitability, we were doing -- you know, within 20, 30,000, $50,000 of profitability. We were really close and growing. And so there was significant revenue coming in to the company.**

I just lost you.

04:25PM Q. Sorry.

04:25PM **A. There you go.**

04:25PM Q. So were you generally aware of Move's sales efforts during your time at the company?

J. EDWARDS

04:25PM **A. Yes.**

04:25PM Q. Are you aware of when Move made its first sale for its streaming technology?

04:26PM **A. So the first substantive sales would have been with Fox and/or ABC, that time frame would be the -- there may have been some smaller things leading up to that, but the first ones that I recall that were a part of our strategy would have been Fox and ABC.**

04:26PM Q. And do you recall --

04:26PM **A. In that range. So that would be 2006, 2007.**

04:26PM Q. You referenced smaller things leading up to the Fox and ABC sales?

04:26PM **A. Yes. So we were doing -- and I didn't remember these company names. We were doing smaller things that were -- we wanted to do to just kind of prove out the model, but they would have also been around that cluster of things in 2006, 2007; end of 2005, maybe some would have come in.**

04:27PM Q. Nothing sticks out in your mind as the first sale of the company?

J. EDWARDS

04:27PM **A. No. It's just -- I'd just have to speculate too much. I just don't have the records. And I haven't seen them for 17 years.**

04:27PM Q. Sure.

04:27PM **A. So I just don't have specific recollection.**

04:27PM Q. Do you recall when Move started offering its streaming services for sale?

04:27PM **A. Again, I would think it would be in the 2006 time frame, that's when we would first start monetizing the product. It's interesting because in 2003 we were with EyeWonder and we were offering some of our core CDN services. And then that had migrated and now the product is being developed in 2004, 2005 when we got these demos going and then we are producing the more significant sales. So that's what I was thinking.**

04:28PM Q. You said demos, plural, in 2005. Were there other demos besides the BYUtv streaming event?

04:28PM **A. That's the only one that I recall**

J. EDWARDS

specifically. I would say there probably were others, but I don't have any specific recollection.

Q. Do you recall whether they were before or after the BYUtv event?

A. After.

Q. After?

A. Right.

Q. Do you recall whether Move had any demos on its website of streaming videos or its technology?

A. No, I don't recall.

MR. RAUH: Okay. I don't have any further questions. Thank you.

MR. DHANANI: Thank you so much. At this time, I do not have any questions for Mr. Edwards. Thank you very much for your time, Mr. Edwards.

(Continued on next page to include jurat.)

J. EDWARDS

04:29PM **THE WITNESS: Thank you. Is**
04:29PM **that it?**
04:29PM MR. DHANANI: Yes.
04:29PM THE VIDEOGRAPHER: The time is
04:29PM 2:29 p.m. and that ends today's
04:29PM deposition. Thank you, everyone.
(Whereupon, at 2:29 p.m., the
Examination of this Witness was
concluded.)

_____
JOHN EDWARDS

Subscribed and sworn to before me
this _____ day of _____, 2021.

_____
NOTARY PUBLIC

E X H I B I T S

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Exhibit 63	Wayback Machine BUY Television website printout	141
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INFORMATION AND/OR DOCUMENTS PAGE

(NONE)

C E R T I F I C A T E

STATE OF NEW YORK)
: SS.:
COUNTY OF NASSAU)

I, REBECCA SCHAUMLOFFEL, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose examination is hereinbefore set forth was duly sworn and that such examination is a true record of the testimony given by that witness.

I further certify that I am not related to any of the parties to this action by blood or by marriage and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of November, 2021.

Rebecca Schaumloffel

REBECCA SCHAUMLOFFEL

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: In The Matter of Certain Fitness Devices

Dep. Date: November 12, 2021

Deponent: John Edwards

CORRECTIONS:

Pg.	Ln.	Now Reads	Should Read	Reason
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Signature of Deponent

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THIS____DAY OF_____,2021.

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(Notary Public) MY COMMISSION EXPIRES:_____

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