

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

AYLO FREESITES LTD,

Petitioner,

vs.

DISH TECHNOLOGIES, L.L.C.,

Patent Owner.

IPR2024-00940

Patent No. 11,991,234

FUBOTV MEDIA, INC. & YANKA INDUSTRIES,
INC.,

Petitioners,

vs.

DISH TECHNOLOGIES L.L.C.,

Patent Owner.

IPR2024-00917 (Patent 10,757,156 B2)

IPR2024-00918 (Patent 9,407,564 B2)

IPR2024-00919 (Patent 8,868,772 B2)

DEPOSITION OF DAVID ERICSON

Friday, May 9, 2025

Conducted Remotely

REPORTED BY:

Christina Diaz, RDR CRC CRR RMR CSR-NY/NJ CLR

HUDSON COURT REPORTING & VIDEO (800) 310-1769

New York
212-273-9911

Hudson Court Reporting & Video
1-800-310-1769

New Jersey
732-906-2078

fuboTV Media Inc.
Exhibit 1030
fuboTV v. Dish
IPR2024-00917, -00918, -00919
Ex. 1030-001

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May 9, 2025

1:00 P.M. M.S.T.

Deposition of DAVID ERICSON, conducted
remotely, before Christina Diaz, a
Registered Diplomate Reporter, Certified
Realtime Captioner, Certified Realtime and
Registered Merit Reporter and Notary Public
within and for the State of New York.

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A P P E A R A N C E S

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A P P E A R A N C E S (Cont'd.)

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LAURA NATCHEV, ESQUIRE

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JACOB SHOBER, Videographer

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I N D E X

WITNESS

David Ericson

EXAMINATION BY

PAGE

Ms. Rabenstein

10, 239

Mr. Zimmerman

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Mr. Shepard

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E X H I B I T S

(Exhibits attached to transcript)

EXHIBIT

DESCRIPTION

PAGE

Exhibit 4

Article "DISH Network Joins
Web-TV Trend With Sling,"
eight pages

45

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R E F E R E N C E D E X H I B I T S

EXHIBIT PAGE

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I N F O R M A T I O N R E Q U E S T S

INSERTED INFORMATION - NONE -

REQUESTS FOR PRODUCTION - NONE -

RULING - NONE -

DIRECTIONS NOT TO ANSWER - NONE -

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

IT IS HEREBY STIPULATED AND AGREED,
by and between counsel for the respective
parties hereto, that all objections, except
as to form, are reserved to the time of
trial.

IT IS FURTHER STIPULATED AND AGREED
that the deposition may be signed and sworn
to before any officer authorized to
administer an oath.

IT IS FURTHER STIPULATED AND AGREED
that the sealing and filing of the
deposition be waived.

1 D. Ericson

2 THE VIDEOGRAPHER: Good

3 afternoon. We are going on the record
4 at 1:00 p.m., Mountain Time, on Friday,
5 May 9th, 2025, for the stenographically
6 reported and videotaped deposition of
7 David Ericson in the action Aylo
8 Freesites Limited and FuboTV Media,
9 Incorporated versus DISH Technologies.
10 My name is Jacob Shober, the
11 videographer. Ms. Christina Diaz is
12 our court reporter. We are with Hudson
13 Court Reporting & Video Nationwide.

14 This deposition is being taken
15 remotely with all parties attending via
16 video conferencing and all counsel
17 present will be noted on the
18 stenographic record. Before swearing
19 in the witness, all counsel present
20 please introduce yourselves for the
21 record.

22 MS. RABENSTEIN: Rebecca
23 Rabenstein, of Latham & Watkins, on
24 behalf of petitioners, FuboTV and Yanka
25 Industries, who does business as

1 D. Ericson

2 MasterClass.

3 MR. ZIMMERMAN: Parker Zimmerman,
4 with Venable LLP, for petitioner, Aylo
5 Freesites Limited. With me, is Philip
6 Sheng, also with Venable.

7 MR. SHEPARD: Zacharias Shepard,
8 with Baker Botts, LLP, on behalf of
9 patent owner DISH Technologies, LLC,
10 and the witness, and also on the -- in
11 the Zoom room is Ali Dhanani and Laura
12 Natchev, also with Baker Botts.

13 (The following statement was read
14 by the reporter)

15 "The attorneys participating in
16 this deposition acknowledge that I am
17 not physically present in the
18 deposition room, and that I will be
19 reporting this deposition remotely.

20 "They further acknowledge that,
21 in lieu of an oath administered in
22 person, the witness will verbally
23 declare his testimony in this matter
24 under penalty of perjury.

25 "The parties and their counsel

1 D. Ericson
2 consent to this arrangement and waive
3 any objections to this manner of
4 reporting.

5 "Counsel, please indicate your
6 agreement by stating your name and your
7 agreement on the record."

8 MS. RABENSTEIN: We agree, Fubo
9 and MasterClass.

10 MR. ZIMMERMAN: Aylo Freesites
11 agrees.

12 MR. SHEPARD: Yes, for patent
13 owner and the witness.

14
15 D A V I D E R I C S O N,
16 having been remotely sworn as
17 stipulated by the parties, was examined
18 and testified as follows:

19
20 EXAMINATION

21 BY MS. RABENSTEIN:

22

23 Q. Good afternoon, Mr. Ericson. I
24 am sorry. The multiple times -- I am on
25 the East Coast, so it's still even later in

1 D. Ericson

2 the afternoon for me, but good afternoon.

3 I appreciate you taking your time today to
4 talk to us.

5 A. Thank you. Good afternoon to all
6 of you.

7 Q. Before we get started, could you
8 please state your name and your business
9 address for the record?

10 A. My name is David Ray Ericson.
11 Ericson is spelled E-R-I-C-S-O-N. My
12 business -- my place of business today is
13 -- I am in my office at Brigham Young
14 University.

15 Q. Now, I know you have been deposed
16 at least once before, but about how many
17 times have you been deposed?

18 A. Well, I've been deposed twice in
19 -- twice in this general, I guess, type of
20 proceeding.

21 Q. I'm sorry. My screen froze,
22 everyone. I apologize.

23 A. And I've been deposed in previous
24 actions.

25 Q. I apologize. I had a technical

1 D. Ericson

2 issue on my end. I froze. About how many
3 times total have you been deposed before?

4 A. In my life?

5 Q. Yes.

6 A. Three or four.

7 Q. So you are a little familiar with
8 depositions, but just so we are on the same
9 page, I would like to go over some ground
10 rules with you.

11 A. Sure.

12 Q. So today I will be asking the
13 questions, and you will be giving the
14 answers, and just to give you a little bit
15 of context, once I am done with my initial
16 line of questioning, the petitioners from
17 Aylo may have some questions for you as
18 well.

19 Do you understand that?

20 A. Yes.

21 Q. Please keep your answers to be
22 verbal. The court reporter is taking down
23 everything we say, so we need yeses and
24 nos; not head shakes. Those are hard to
25 get into the record.

1 D. Ericson

2 Is that okay?

3 A. That's fine. If I forget, just
4 tell me to say it again.

5 Q. You agree that we will both do
6 our best and even -- all the counsel on
7 this call will do our best so that we're
8 not talking over each other to make it
9 easier for the court reporter to put
10 together a clean record.

11 Is that okay?

12 A. Yes.

13 Q. Now if anything in any of my
14 questions is ever unclear, please ask me
15 for clarification. I am happy to do so.
16 But if you don't ask for clarification, you
17 agree that that means you understood the
18 question and you were able to answer it.

19 Is that fair?

20 A. That's fair.

21 Q. Now, your lawyer may make
22 objections from time to time. These will
23 be very short, but unless your lawyer
24 instructs you not to answer, you still have
25 to answer my question.

1 D. Ericson

2 Do you understand that?

3 A. Yes.

4 Q. Now, we'll have an opportunity to
5 take breaks today. I understand and value
6 your time, so I am going to try and keep
7 this as quick as I can, but things happen.
8 We'll have breaks. If you ever need a
9 break, please ask me. I am happy to take
10 one. The only thing that I ask is that if
11 there is a question pending, you answer the
12 question and then we can take the break.

13 Is that fair?

14 A. That's fine.

15 Q. Are you taking any medications
16 today that would make it difficult for you
17 to give true and accurate testimony today?

18 A. No.

19 Q. Are there any other reasons that
20 you might not be able to give complete and
21 accurate testimony today?

22 A. No.

23 Q. Now, because this is a remote
24 deposition, we will be putting documents
25 that we are talking about on the screen. I

1 D. Ericson

2 am not sure exactly how the technology will
3 work, but I am sure the videographer will
4 help us on this as to whether or not we can
5 give you control of the documents or if you
6 need to direct the videographer to scroll
7 through the documents. But you will have
8 an opportunity to see all of the document
9 when you're asking.

10 Do you understand that?

11 A. Yes.

12 Q. Now, if there's any discrepancy
13 -- it sounds like we're not putting the
14 documents into the chat, so you won't be
15 able to download them. But if technical
16 issues come up, maybe that's something we
17 might do.

18 In that event, if there's any
19 discrepancy between what is on the screen
20 and what you download and you are looking
21 at locally, please let me know. Otherwise,
22 can we agree that the version on the screen
23 is going to be the official version of the
24 document?

25 Is that fair?

1 D. Ericson

2 A. Yes.

3 Q. Now, you understand that you are
4 here to testify today as to the
5 declarations you submitted in certain inter
6 partes reviews.

7 Is that your understanding?

8 A. Yes.

9 MS. RABENSTEIN: Jacob, can we
10 please get up Tabs 1, 2, and 3.

11 BY MS. RABENSTEIN:

12 Q. While he is doing that, you
13 understand today that you're actually
14 testifying in several IPRs. There is four
15 of them that you are testifying in today?

16 Is that right? You understand
17 that?

18 A. I understood there were at least
19 two. I didn't know there were four, but
20 that's okay.

21 Q. Is it a fair characterization
22 that you submitted the same declaration in
23 all of the IPRs that you are testifying
24 about today?

25 A. Yes. I believe I only submitted

1 D. Ericson

2 one -- well, one declaration for today.

3 Q. Okay. And it's just a copy of
4 that same one declaration in the multiple
5 IPRs, correct?

6 A. That's my understanding.

7 MS. RABENSTEIN: Jacob, if we can
8 look at Tab 1, please, and if you can
9 scroll down.

10 BY MS. RABENSTEIN:

11 Q. This is just your deposition
12 notice in the first IPR, which is ending in
13 the numbers 917.

14 You understand you are testifying
15 in response to this notice today, correct?

16 A. Yes.

17 Q. Now, do you know the patent
18 numbers that are involved in the IPRs you
19 are testifying about today?

20 A. No. I don't know the specific
21 numbers. I know the general nature of the
22 patent.

23 Q. Do you know how many patents are
24 involved in the IPRs that you are
25 testifying about today?

1 D. Ericson

2 A. I do not.

3 Q. And do you know -- have you
4 looked at the patents that are -- that you
5 are -- strike that. Let me clean it up.

6 Have you reviewed the patents
7 that are involved in the IPRs that you are
8 testifying about today?

9 A. No.

10 Q. Now, so far, you have submitted
11 two declarations in IPRs involving DISH
12 patents.

13 Is that correct?

14 A. Yes.

15 MS. RABENSTEIN: Jacob, you can
16 put down Tabs 1 through 3. I don't
17 think we are going to use those again.
18 But can you pull up Tab 18, please?

19 And, Zach, this is Exhibit 2100,
20 Mr. Ericson's declaration in the
21 current IPRs, and I believe the copy
22 that we are using is in IPR 00917.

23 MR. SHEPARD: Sounds good. Thank
24 you.

25 (Exhibit 2100 was referenced for

1 D. Ericson

2 identification)

3 THE WITNESS: May I ask a -- just
4 a qualifying question?

5 MS. RABENSTEIN: Sure.

6 THE WITNESS: You asked if I had
7 reviewed the patents that -- related to
8 this.

9 MS. RABENSTEIN: Yes.

10 THE WITNESS: I have seen
11 portions of the patents way back, but I
12 have not reviewed the patents in the
13 last 20 years regarding this.

14 MS. RABENSTEIN: Thank you for
15 that clarification. I appreciate it.
16 If you have any other clarifications
17 like that, please do let me know
18 because our goal today is to get down
19 and be as accurate as we can about
20 things, so I appreciate it. Okay.

21 Jacob, can you please scroll down
22 so Mr. Ericson has a chance to review
23 what is Exhibit 2100.

24 BY MS. RABENSTEIN:

25 Q. Mr. Ericson, once you have had a

1 D. Ericson

2 chance to kind of flip through this, I will
3 ask you if you are familiar with this
4 document.

5 A. It appears to be my declaration.
6 Yes. I mean, that's what I would say this
7 is, is my declaration.

8 Q. And if we scroll all the way down
9 to the end, just so we can see the date
10 that Mr. Ericson signed this please -- oh,
11 wait, actually not quite the end; I think
12 it should be about page 10.

13 A. There we go.

14 Q. I just want to see the date and
15 the signature.

16 Mr. Ericson, we see that it's
17 dated February 24th, 2025.

18 Do you see that?

19 A. Yes. That is correct.

20 Q. Does that indicate to you that
21 this is the declaration that you submitted
22 in the current pending IPRs and not any
23 earlier declaration?

24 A. Yes.

25 MS. RABENSTEIN: Just so we have

1 D. Ericson

2 them all in one spot, Jacob, can you
3 please pull up Tab 19?

4 And, Zach, this is previously
5 marked Exhibit 2101.

6 (Exhibit 2101 was referenced for
7 identification)

8 MS. RABENSTEIN: This is
9 Mr. Ericson's -- this is the copy of
10 Mr. Ericson's declaration from the
11 Ogden IPRs that was filed in the
12 current IPRs.

13 BY MS. RABENSTEIN:

14 Q. Mr. Ericson, I am going to orient
15 you to this document just a little bit
16 here. I know it says Exhibit 2090 on the
17 front in very large letters, but if you
18 look at the top of the exhibit, it has a
19 stamp that says it's "Exhibit 2101."

20 Do you see that?

21 A. Yes.

22 Q. Can we agree to call this
23 Exhibit 2101 today because that's the
24 number for the current proceedings? It's
25 just a little bit of housekeeping.

1 D. Ericson

2 A. Fine by me.

3 Q. Great. Now, do you recognize
4 Exhibit 2101?

5 A. Yes, I believe so. I believe
6 that's the declaration that I previously
7 provided.

8 Q. And are you okay with us
9 referring to this declaration as having
10 been submitted in what we can call the
11 "Ogden IPRs"?

12 Is that okay terminology for you?

13 A. Yes, that's fine.

14 MS. RABENSTEIN: In fact, if we
15 scroll to paragraph 4 -- oh, excuse me.
16 If we can go back to Exhibit 2100 -- so
17 that would be Tab 18, and please scroll
18 to paragraph 4.

19 BY MS. RABENSTEIN:

20 Q. Mr. Ericson, can you please read
21 paragraph 4 to yourself?

22 A. Do you need me to read it out
23 loud?

24 Q. You can read it to yourself, and
25 then I will ask you a question.

1 D. Ericson

2 A. (Witness reviewing document).

3 Q. So in your declaration in this
4 current IPR, you state that Exhibit 2101 is
5 the declaration that you submitted in the
6 Ogden IPRs.

7 Is that correct?

8 A. Yes.

9 Q. Now you also provided deposition
10 testimony in a case involving "Move's, ABR
11 streaming technology" in a case at the
12 International Trade Commission.

13 Is that correct?

14 A. Yes.

15 Q. Do you agree that if we refer to
16 the International Trade Commission today,
17 we can refer to it as the ITC because it's
18 a lot to say?

19 A. Sure. Now I have to keep them
20 all straight in my head, but, yes.

21 Q. If you ever need clarification,
22 please do ask. I am fine to do that.

23 MS. RABENSTEIN: Can we turn,
24 please, back, Jacob, to Exhibit 2101,
25 and let's go to paragraphs 4 and 5,

1 D. Ericson

2 please?

3 BY MS. RABENSTEIN:

4 Q. Mr. Ericson, DISH submitted an
5 excerpt of your ITC deposition testimony as
6 Exhibit 2063 in the prior Ogden IPRs; is
7 that correct?

8 A. According to this.

9 Q. And you incorporated your
10 statements from your ITC deposition
11 testimony excerpt that was in Exhibit 2063
12 fully into your declaration in the Ogden
13 IPRs; is that correct?

14 A. Yes. I believe so.

15 MS. RABENSTEIN: Jacob, if we can
16 go back, please, to Exhibit 2100, and
17 let's look at paragraph 3, please.
18 Just scroll up.

19 BY MS. RABENSTEIN:

20 Q. Now, Mr. Ericson, in your
21 declaration in the current IPRs, you also
22 reference that same deposition testimony
23 from the ITC case; is that correct?

24 A. Yes.

25 Q. And you state that -- in

1 D. Ericson

2 paragraph 3 of your current declaration,
3 you state that you, "Understand that in the
4 Ogden IPRs" an excerpt of your ITC
5 deposition testimony was submitted,
6 correct?

7 A. Yes.

8 Q. Now, you personally did not
9 submit the excerpt of your ITC deposition
10 testimony in the Ogden IPRs, correct?

11 A. Please, can you repeat what you
12 are asking?

13 Q. Sure. You personally did not
14 physically submit the excerpt of your ITC
15 deposition testimony in the IPRs?

16 A. No.

17 Q. And that's why your declaration
18 states that you understand it was
19 submitted, right?

20 A. Yes.

21 Q. You didn't do it. Is that fair?

22 A. Yes.

23 Q. So someone had to tell you that
24 it had been done -- it had been submitted.

25 Is that fair?

1 D. Ericson

2 A. Yes.

3 Q. Who told you that an excerpt of
4 your ITC deposition testimony was submitted
5 in the IPRs?

6 MR. SHEPARD: I am going to
7 counsel the witness to not reveal any
8 communications that you have had with
9 your attorneys during the
10 representation, but if you
11 independently know, then feel free to
12 go ahead and answer.

13 A. I believe it was the Baker Botts
14 attorneys.

15 BY MS. RABENSTEIN:

16 Q. I am just looking for a name. I
17 am not looking for anything you might have
18 said to him. Do you recall anyone
19 specifically by name?

20 A. Sorry. You are asking -- just to
21 make sure -- this is really detailed. So I
22 had -- I provided previous testimony. That
23 testimony in the ITC was somebody was
24 extracted from that and provided as part of
25 those components, right. And so that would

1 D. Ericson
2 have been done by an attorney. I don't
3 know if it was the attorneys I have been
4 counseling with, but I will assume that it
5 was Zach or Ali.

6 Q. Thank you very much for that
7 clarification. Now, if we look at
8 paragraph 4 where we are right now of your
9 current declaration, you reference your
10 declaration in the Ogden IPRs, correct?

11 A. Yes.

12 Q. And if we scroll down to
13 paragraph 5 of your current declaration,
14 which is Exhibit 2100, you state that you
15 were deposed in the Ogden IPRs; is that
16 correct?

17 A. Yes.

18 MS. RABENSTEIN: Can we pull up,
19 please, Tab 12, and this is
20 Exhibit 2102. This is Mr. Ericson's
21 deposition transcript.

22 (Exhibit 2102 was referenced for
23 identification)

24 If you can scroll through the
25 first pages a little bit, please,

1 D. Ericson

2 Jacob.

3 BY MS. RABENSTEIN:

4 Q. Mr. Ericson, do you recognize
5 Exhibit 2102?

6 A. Yes. It appears to be to the
7 best of my knowledge the testimony or the
8 deposition that I gave for that first
9 deposition.

10 Q. So have you seen this transcript
11 of your first deposition testimony before?

12 A. I have.

13 Q. When did you first see the
14 transcript of your previous deposition
15 testimony?

16 A. When I acknowledged that it was
17 accurate.

18 Q. When did you acknowledge that it
19 was accurate?

20 A. At the end of -- when I got the
21 printout, I guess. At the end of that. I
22 don't know the exact date.

23 Q. And was it before or after you
24 signed your declaration for the current
25 IPRs in February of this year?

1 D. Ericson

2 A. Before.

3 Q. Now can we go back, please, to
4 Exhibit 2100, paragraph 5.

5 Mr. Ericson, prior to signing
6 your declaration -- your current
7 declaration here in the current IPRs, did
8 you -- about how many times had you
9 reviewed your deposition transcript from
10 your deposition in the Ogden IPRs?

11 A. The Ogden IPR is the middle one,
12 right? The one that we did last time. I
13 would -- I don't know. Maybe one.

14 Q. And that one time that you
15 reviewed it, it would have been after it
16 was sent to you right after the deposition
17 and you acknowledged it was correct?

18 A. When I reviewed and acknowledged
19 it was accurate.

20 Q. So in preparing your declaration
21 in the current IPRs, which is Exhibit 2100,
22 you didn't go back and re-review that
23 transcript before you prepared this
24 declaration; is that fair?

25 A. Say that again. I am getting

1 D. Ericson
2 confused. Sorry. You are asking have I
3 seen this before? Yes. I reviewed it when
4 I received it after the declaration, and I
5 have -- and I signed it. I believe that I
6 have reviewed this one additional time, but
7 it was -- I don't know when that was by
8 date.

9 Q. That additional time that you
10 reviewed the transcript, was it before or
11 after you signed your declaration in the
12 current IPRs in February 2025?

13 A. Before.

14 Q. Do you recall about how long
15 before?

16 A. I do not.

17 Q. Now in paragraph 5 of Exhibit
18 2100, which we have in front of us, you
19 state that a true and correct copy of your
20 deposition testimony is attached as
21 Exhibit 2102, right? Did I read that
22 right?

23 A. Yes.

24 Q. Is true and correct copy a phrase
25 you typically use in your work?

1 D. Ericson

2 A. A phrase that I do?

3 Q. Yes?

4 A. Yes. I mean, it's not -- it's
5 legalese but, yes, I mean, I would say it
6 is truthful and correct and accurate.

7 Q. Would you write that in the
8 type of work that you do, the type of
9 writings that you do in your own personal
10 work?

11 A. I would probably phrase it true
12 and accurate.

13 Q. Okay.

14 A. I don't often use correct but,
15 yes.

16 Q. Did you write -- did you actually
17 draft your declaration that is Exhibit
18 2100?

19 A. Did I draft it myself?

20 Q. Correct.

21 A. No.

22 Q. Do you know who did?

23 A. Yes.

24 Q. And I am looking for a name here.
25 Who drafted your declaration that is

1 D. Ericson

2 Exhibit 2100?

3 A. Again, I think it would have
4 either been Zach or Ali, or an attorney
5 there.

6 Q. And did you make any edits to
7 your declaration that is Exhibit 2100
8 before you signed it?

9 A. Yes. Well, verbally.

10 Q. What were the edits that you
11 made?

12 A. I do not recall. They were
13 minor.

14 Q. Were any of the edits substantive
15 in nature?

16 A. No.

17 Q. About how long did you spend
18 reviewing or considering edits to your
19 declaration that is Exhibit 2100 before you
20 signed it?

21 A. Very little time. I looked and I
22 said -- it was basically accurate. I may
23 have added a couple of clarifying
24 statements, but that was it.

25 Q. Now that same process where the

1 D. Ericson

2 attorneys at Baker Botts initially drafted
3 the declaration and you made some minor
4 edits to it -- that same process is the
5 same one that you used in preparing your
6 declaration in the Ogden IPRs that is
7 Exhibit 2101; is that correct?

8 A. Yes.

9 Q. Now, a lot of the text in your
10 current declaration that is Exhibit 2100 is
11 the same as in your declaration from the
12 Ogden IPRs that is Exhibit 2101.

13 Is that a fair characterization?

14 A. Yes. It should be. It's what I
15 said.

16 Q. I would like to shift gears a
17 little bit and ask you about your
18 preparation for today's deposition. About
19 how much time did you spend preparing for
20 today's deposition?

21 A. About a little over an hour.

22 Q. And did you speak to anyone? Was
23 anyone else there with you when you were
24 preparing?

25 A. I spoke by video conference to

1 D. Ericson

2 Ali and Zach.

3 Q. Did you do any preparation on
4 your own?

5 A. No. Well, yes. I guess I should
6 say, I went back and reread a portion of
7 the deposition that I gave -- I guess you
8 would say the last deposition, the one that
9 was dated the 25th that I signed this year,
10 briefly, just to familiarize myself, but
11 that was it.

12 Q. Now, in your preparation sessions
13 and outside of your previous deposition
14 transcript, did you review any other
15 exhibits in preparation for today's
16 deposition?

17 MR. SHEPARD: Dave, before you go
18 any further, I am just going to caution
19 you again not to reveal the substance
20 of any communications that we have had
21 or if you have reviewed any documents
22 under the advice of counsel, but if you
23 have done it independently, feel free
24 to answer.

25 A. I have not done it independently.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Now I am asking -- I am looking
4 for a yes-or-no answer here. Not an
5 indication of what anything is. But did
6 you review any documents or exhibits other
7 than your deposition transcript from your
8 prior deposition in preparation for your
9 deposition today with or without the
10 presence of counsel?

11 MR. SHEPARD: I am going to
12 object to that on privileged grounds.
13 So, Dave, you don't have to answer if
14 it's all in the course of our
15 communications.

16 MS. RABENSTEIN: How is a
17 yes-or-no answer to that question
18 privileged?

19 MR. SHEPARD: So the documents
20 that Dave has reviewed in his
21 preparation sessions with attorneys are
22 pursuant to the course of his
23 representation -- or our representation
24 of the witness. So, again, I am
25 cautioning the witness not to reveal

1 D. Ericson
2 the substance of or any of the
3 identities of those documents, but
4 again I am also counseling the witness
5 that he may answer if he has
6 independent knowledge or if he has his
7 own independent understanding of that
8 preparation.

9 MS. RABENSTEIN: You are not
10 responding to my question. I asked him
11 a yes-or-no question. Did he -- yes or
12 no -- review exhibits with counsel
13 present. I didn't ask him what the
14 exhibits were. How is that privileged?

15 MR. SHEPARD: That -- I am not
16 going to object to that as a fair
17 question. That's not what I understood
18 your first question to be, which was
19 what documents you reviewed in
20 consulting with counsel, but, again,
21 the same objection will stand. Dave,
22 you are allowed to answer the question
23 only in yes or no, but not to reveal
24 any of the substance of the documents
25 that you reviewed and only if you have

1 D. Ericson

2 done that independently.

3 MS. RABENSTEIN: I am going to
4 re-ask my question.

5 BY MS. RABENSTEIN:

6 Q. Mr. Ericson, I am looking for a
7 yes-or-no answer here.

8 Did you review any exhibits in
9 preparation for your deposition today with
10 or without the presence of counsel?

11 A. Yes.

12 Q. Now you testified previously that
13 you had looked at your deposition
14 transcript or portions of that. Is that
15 right?

16 A. Yes.

17 Q. Again, I am looking for a
18 yes-or-no answer. Did you review any
19 exhibits other than your deposition
20 transcript with or without the presence of
21 counsel in preparation for your deposition
22 today?

23 MR. SHEPARD: Again, I am going
24 to object on privilege grounds for all
25 documents that you have reviewed with

1 D. Ericson
2 counsel, Dave.

3 MS. RABENSTEIN: Zach, I asked
4 him again -- it's a yes-or-no question.
5 I am not asking him what the exhibits
6 are. A yes-or-no question.

7 BY MS. RABENSTEIN:

8 Q. Mr. Ericson, yes or no, did you
9 review exhibits other than your deposition
10 transcript with or without counsel -- the
11 presence of counsel in preparation for your
12 deposition today?

13 MR. SHEPARD: I am going to
14 object to the same question again.
15 Sorry, Reba. I understand where you
16 are going with it. Yes or no.
17 However, if you remove "other than your
18 deposition transcript," I will allow
19 the question, but it can't be probing
20 to the questions that he's reviewed
21 with counsel.

22 MS. RABENSTEIN: I am not asking
23 the substance of what you showed him.
24 How is the fact that you showed him
25 exhibits privileged?

1 D. Ericson

2 MR. SHEPARD: Because those would
3 be documents that he has reviewed in
4 preparation for the litigation and in
5 communication with his attorneys.

6 MS. RABENSTEIN: I am not asking
7 what those exhibits are. I am just
8 asking if he did, yes or no. How is
9 that privileged?

10 MR. SHEPARD: You are asking
11 whether he was shown documents other
12 than his deposition transcript, which
13 he testified to. So to the extent that
14 you are probing those other documents
15 and what those other documents might
16 be, if he has reviewed them on the
17 advice of his counsel, those are
18 privileged.

19 MS. RABENSTEIN: I am not asking
20 what those other documents are. I am
21 just saying, are there other documents,
22 yes or no, that he reviewed? How is
23 that privileged?

24 MR. SHEPARD: You asked documents
25 other than his deposition transcript.

1 D. Ericson

2 I am going to have to stand on the
3 objection, Reba. I apologize. We can
4 move on. We can call the board if you
5 want to. I'm again going to caution
6 Dave, yes or no, and it can only be if
7 you have independently reviewed
8 documents. It cannot be if you have
9 reviewed the documents on the advice of
10 counsel.

11 BY MS. RABENSTEIN:

12 Q. Mr. Ericson, I am going to ask
13 you the question. Are you going to take
14 the advice of Mr. Shepard?

15 A. Yes.

16 Q. I think that's an improper
17 instruction, and I am noting my objection
18 for the record.

19 Mr. Ericson, in any of the
20 exhibits that you reviewed at any time in
21 preparation for your deposition -- and this
22 is again a yes-or-no question -- did any of
23 them refresh your recollection as to the
24 events that you discuss in your
25 declaration?

1 D. Ericson

2 A. No.

3 Q. Now, before you signed your
4 declaration that is Exhibit 2100, did you
5 review any of the exhibits that were cited
6 in that declaration?

7 A. No.

8 Q. Are you being compensated in any
9 way for submitting a declaration in the
10 current IPRs?

11 A. No.

12 Q. Have you received any expense --
13 recompense for travel or anything like
14 that?

15 A. No, I should. This is my time,
16 but no.

17 Q. And you are not being compensated
18 for your time; is that right?

19 A. No. In fact, I had to take a day
20 off from work for this. It's at my cost.
21 Let me put it that way.

22 Q. I am sorry. Do you receive any
23 compensation from or do you have a
24 financial interest in DISH or Sling TV?

25 A. No.

1 D. Ericson

2 Q. If you don't have a financial --

3 A. Let me qualify that. I am going
4 to say what I did last time. I have a
5 401(k) from when I left EchoStar or DISH,
6 and that was directly related to my
7 employment there at that time.

8 That's the only ownership that I
9 would have in any stock would be in that
10 401(k).

11 Q. Are you under any obligation to
12 assist DISH or Sling TV with respect to
13 litigation regarding your prior employment
14 with them?

15 A. No.

16 Q. Now, at the time you signed your
17 declaration in these IPRs, the current one,
18 were you aware that you would need to be
19 deposed again?

20 A. No. I was hoping I wasn't going
21 to be.

22 Q. Okay. Can we turn back to -- we
23 are going to shift gears again a little
24 bit.

25 Can we turn back to Exhibit 2100,

1 D. Ericson

2 please, Jacob. And when we get there,
3 could we please go to page 11 of the PDF.

4 Mr. Ericson, we are going to
5 scroll through page 11 through page 20.
6 And once you have a chance to look at that,
7 my question for you is going to be, are
8 pages 11 through 20 of Exhibit 2100 your
9 current CV from LinkedIn?

10 A. It was at the time that this was
11 taken and nothing substantially has
12 changed.

13 Q. Thank you. You anticipated my
14 question.

15 Jacob, can we please scroll back
16 to page 11, please, the heading summary.
17 Put that on the screen. Thank you. I want
18 to see the full paragraph under Summary
19 now.

20 Under the heading summary in your
21 CV, you state that your, "Teams have
22 pioneered new over-the-top OTT cloud-based
23 products." Correct?

24 A. Yes.

25 Q. After that you also mention some

1 D. Ericson

2 awards; is that fair?

3 A. Yes.

4 Q. One of them is an Emmy?

5 A. Yes.

6 Q. And in your CV, you describe that
7 Emmy as being for "Sling TV's
8 groundbreaking work in launching the first
9 live OTT TV service." Is that correct?

10 A. Yes.

11 Q. So you also say, "Sling TV won
12 some awards at CES, 2015"?

13 A. Yes.

14 Q. What's CES 2015?

15 A. The consumer electronics show in
16 Las Vegas, Nevada.

17 MS. RABENSTEIN: I am dropping
18 this into the chat.

19 Zach, if you want to take a look
20 at this.

21 And, Jacob, if you can pull up,
22 but don't put on the screen yet,
23 Tab 20. It looks like the PDF is in
24 the process of uploading to the chat.

25 Zach, could you open that up,

1 D. Ericson

2 please, and tell me if you have any
3 objections.

4 MR. SHEPARD: Yes. No problem.
5 Let me download it real quick.

6 MS. RABENSTEIN: Apologies for
7 the delay, Mr. Ericson.

8 THE WITNESS: You are fine.

9 MR. SHEPARD: I will just -- I
10 will object to it on hearsay grounds
11 and then I'll object to it on
12 foundation grounds.

13 You can show it.

14 MS. RABENSTEIN: We will deal
15 with that later.

16 Jacob, could you please mark the
17 document that is Tab 20 as Exhibit 4 to
18 Mr. Ericson's deposition.

19 (Exhibit 4, Article "DISH Network
20 Joins Web-TV Trend With Sling," eight
21 pages, was marked for identification)

22 BY MS. RABENSTEIN:

23 Q. And, Mr. Ericson, we will give
24 you a chance to scroll through this.

25 And once you have a chance to see

1 D. Ericson

2 the document, my first question for you
3 will be, do you recognize this as a U.S.
4 News & World Report article?

5 A. That's what it said at the
6 beginning.

7 Q. Jacob, I think we can scroll back
8 up to the top, please.

9 Mr. Ericson, is this U.S. News &
10 World Report article dated January 5, 2015?

11 A. It appears that way.

12 Q. And the title of this article is
13 "DISH Network Joins Web TV Trend with
14 Sling."

15 Did I read that correctly?

16 A. Yes.

17 Q. Are you familiar with U.S. News &
18 World Report?

19 A. I am.

20 Q. What do you understand U.S. News
21 & World Report to be?

22 A. News and information magazine now
23 online.

24 MS. RABENSTEIN: Jacob, can we
25 please scroll to the top of the second

1 D. Ericson

2 page. And can we please just make sure
3 that -- I think on my screen, I am
4 seeing some of the words on the
5 right-hand side are cut off.

6 Can we resize things so
7 Mr. Ericson can see all the text.
8 Thank you.

9 BY MS. RABENSTEIN:

10 Q. Mr. Ericson, the first sentence
11 at the top of page 2 of Exhibit 4 is --
12 states -- excuse me. Strike that. I am
13 going to restart.

14 Mr. Ericson, the first sentence
15 of the second paragraph on page 2 of
16 Exhibit 4 is -- I am so sorry. I am sorry.
17 Strike that. I am so sorry.

18 The first sentence at the top of
19 page 2 of Exhibit 4 is, "The growing
20 movement of customers seeking to end their
21 cable television subscriptions gained
22 another option on Monday at the
23 International Consumer Electronic Show as
24 DISH network unveiled its new Sling TV
25 web-based video service that will feature

1 D. Ericson

2 ESPN, the sports network that is one of
3 cable's prized assets."

4 Did I read that correctly?

5 A. Yes.

6 Q. Is the International Consumer
7 Electronic Show commonly known as CES?

8 A. Yes.

9 Q. So is it fair to say this article
10 is talking about CES 2015 given that it's
11 dated January 2015?

12 A. Yes. However, I believe it is
13 prior to the actual show. I don't remember
14 the date of the show, but I think the date
15 of the article might have been prior to the
16 date of the show.

17 Q. Is it fair to say that this
18 article is reporting on -- strike that.

19 So this article is reporting
20 about some news that either DISH was going
21 to report or had already reported at the
22 consumer electronic show in 2015.

23 Is that fair?

24 MR. SHEPARD: Object to form.

25 THE WITNESS: Go ahead.

1 D. Ericson

2 MR. SHEPARD: That was it just
3 objection. Form.

4 You can answer it.

5 A. Yes. Yes. That show was when
6 Sling TV was going to be announced as a
7 news service.

8 BY MS. RABENSTEIN:

9 Q. The second paragraph here that we
10 are looking at at the top of page 2 of
11 Exhibit 4, it discusses what Richard Lynch,
12 CEO of Sling TV said about --

13 A. Roger Lynch?

14 Q. Yes. Roger Lynch, CEO of Sling
15 TV said about the launch.

16 Is that fair?

17 MR. SHEPARD: Objection. Form.

18 A. I think so.

19 (Witness reviewing document).

20 Yes. If that's what he said in
21 the press release, Roger was the CEO.

22 BY MS. RABENSTEIN:

23 Q. Are you familiar with Mr. Lynch?

24 A. I am.

25 Q. How do you know him?

1 D. Ericson

2 A. I worked for him.

3 Q. For how long?

4 A. For several years. Let's see.

5 It would've been from December 31st of 2010
6 until 2017.

7 MS. RABENSTEIN: Jacob, can we
8 please scroll down to the paragraph
9 below the picture of this gentleman's
10 face here in Exhibit 4. Thank you very
11 much.

12 BY MS. RABENSTEIN:

13 Q. So in the paragraph just below
14 the photograph on page 2 of Exhibit 4, U.S.
15 News & World Report quotes Mr. Lynch as
16 saying that, quote, "Consumers can now
17 watch their favorite shows on their
18 favorite devices that they already use to
19 watch video. Live television including
20 ESPN for \$20 per month with no commitment
21 or contract is a game changer."

22 Did I read that correctly?

23 A. That's what it was written or
24 said, yes.

25 Q. And that quote from Mr. Lynch

1 D. Ericson
2 does not say anything about
3 adaptive-bitrate streaming.

4 Is that correct?

5 MR. SHEPARD: Objection. Form.

6 A. Yes. That statement does not say
7 anything about adaptive-bitrate streaming.

8 MS. RABENSTEIN: Can we please go
9 back, Jacob, to Exhibit 2100 and page
10 11 of it -- back to Mr. Ericson's
11 LinkedIn CV. Thank you.

12 Can we scroll down a little bit
13 so we can see all the bullets under the
14 heading, Dave's Efforts Include. Thank
15 you.

16 BY MS. RABENSTEIN:

17 Q. Mr. Ericson, the first bullet
18 under the Dave's efforts include heading on
19 your CV says, "The first vMVPD and live OTT
20 television streaming service, Sling TV."

21 Did I read that correctly?

22 A. Yes.

23 Q. What does vMVPD stand for?

24 A. Virtual multi-program --
25 multi-video programming distributor.

1 D. Ericson

2 Q. Have you heard of a term MVPD?

3 A. Say that again.

4 Q. Have you heard of an acronym,
5 MVPD?

6 A. MVPD?

7 Q. Yes.

8 A. Yes. That's what it says here
9 just without the V.

10 Q. Without the V. All right.

11 So is MVPD the same acronym, but
12 just not virtual?

13 A. Yes. It's a different category
14 of services.

15 So an MVPD is what DISH would be
16 prior to Sling TV, and the vMVPD is a new
17 service offering that was done
18 over-the-top.

19 So DISH was an aggregator, in
20 that case a satellite aggregator of
21 television channels. And a virtual MVPD,
22 as the industry named it, was a virtual
23 aggregator of content and television
24 channels. Meaning, that they weren't
25 supplying the equipment for somebody to

1 D. Ericson

2 receive those signals themselves.

3 Q. So when you say DISH was an MVPD
4 before Sling TV, is it fair to say that
5 traditional providers like cable or
6 satellite providers would be MVPDs?

7 MR. SHEPARD: Objection to
8 form.

9 A. Yes.

10 BY MS. RABENSTEIN:

11 Q. Would it also be fair to say that
12 vMVPDs would be like over-the-top streaming
13 services?

14 Is that fair?

15 MR. SHEPARD: Object to form.

16 A. No. It would be an example of a
17 type of service. There are lots of
18 over-the-top streaming providers that offer
19 various types of services.

20 BY MS. RABENSTEIN:

21 Q. Okay. So let me -- please help
22 me understand.

23 So in the category of
24 over-the-top streaming services, a subset
25 of those can be vMVPDs.

1 D. Ericson

2 Is that fair?

3 A. Of service providers, yes. Let
4 me just qualify.

5 Meaning, Sling TV was a
6 separate service with separate rights
7 and separate type of technology than was
8 DISH's satellite operation, if that makes
9 sense.

10 Q. Okay. A different type. The
11 Sling TV service -- did it have a different
12 form of advertising than the DISH satellite
13 service?

14 MR. SHEPARD: Objection. Form.

15 A. A different form of advertising.
16 What do you mean by that?

17 BY MS. RABENSTEIN:

18 Q. So how advertisements were
19 displayed on Sling TV, was that a different
20 format or a different type of advertisement
21 display than you would typically buy an ad
22 spot for cable TV or for DISH's satellite
23 TV?

24 MR. SHEPARD: Objection. Form.

25 A. Are you talking about the

1 D. Ericson

2 technology or the model?

3 BY MS. RABENSTEIN:

4 Q. The model, please?

5 MR. SHEPARD: Objection. Form.

6 A. So the model of the television
7 was to mirror as closely as possible to
8 what a user's experience was in watching
9 traditional television.

10 BY MS. RABENSTEIN:

11 Q. So in traditional television, ad
12 spots are typically bought and the ads are
13 displayed to everybody who's watching the
14 same channel at the same time.

15 Is that fair?

16 MR. SHEPARD: Objection. Form.

17 A. Yes. That is correct.

18 BY MS. RABENSTEIN:

19 Q. So under traditional cable or
20 satellite, there is no way to show one
21 household watching a show, one ad, and a
22 different household watching the same show,
23 a different ad.

24 Is that fair?

25 MR. SHEPARD: Objection. Form.

1 D. Ericson

2 A. In that world, no. So that's why
3 -- just for me to clarify, that's why I
4 asked about the viewer's experience versus
5 the technology. And you seem to be asking
6 about the technology. So from a consumer
7 standpoint, they're watching a show. It
8 gets interrupted with an ad. They are
9 watching a show, it gets interrupted with
10 an ad, et cetera. That's how people have
11 watched television for years.

12 It was to mirror that experience.
13 Consumers don't know why or what is being
14 vended to them as an ad. And presumably,
15 sometimes they don't even know what they
16 are going to tune into to watch at a given
17 time.

18 Most people do know what they are
19 going to tune into, but if you just turn on
20 to the TV, it's going to come on to
21 whatever is on, just like if you would go
22 to -- so that's the idea is it was to mimic
23 the user's experience, which is why I
24 differentiated between the technology and
25 the experience.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Now, the technology of how the
4 ads are delivered to a user between
5 something like Sling TV and traditional
6 cable, that technology is different,
7 though.

8 Is that fair?

9 MR. SHEPARD: Objection. Form.

10 A. Yes. It's fair. It's an
11 evolving market, and it's changing, yes.

12 BY MS. RABENSTEIN:

13 Q. So on a service like Sling TV,
14 does the technology allow you to target
15 specific ads to specific users who are
16 watching Sling TV service?

17 MR. SHEPARD: Objection. Form.

18 A. It can. It can do so, yes.

19 BY MS. RABENSTEIN:

20 Q. And in your experience -- you
21 worked at Sling TV for several years, yes?

22 A. Yes.

23 Q. In your experience, did Sling TV
24 ever sell or market to advertisers this
25 ability to target advertising to individual

1 D. Ericson

2 consumers or individual viewers?

3 MR. SHEPARD: Objection. Form.

4 A. Yes.

5 BY MS. RABENSTEIN:

6 Q. Now, with traditional cable, the
7 technology for buying an ad spot or
8 displaying an ad spot to viewers, that does
9 not allow you to target individual viewers.

10 Is that correct?

11 MR. SHEPARD: Objection. Form.

12 A. Only for the degree that you are
13 trying to target an audience within a given
14 geography.

15 So the ad itself is bought or
16 purchased on the assumption that the
17 advertiser's target audience is going to be
18 contained within that demographic that that
19 channel reaches.

20 So on a national network, you
21 might have local spots, for instance, that
22 would be trying to talk to local buyers,
23 and you will also have national spots
24 that'd be trying to target the national
25 buyers.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. But with both the local spots and
4 the national spots, the same ad is going
5 out to everyone who is watching that
6 channel at the time, right?

7 MR. SHEPARD: Objection. Form.

8 A. Yes. It would be. Again, the
9 local -- it is to a point. So if the idea
10 is there is one set of ads, and that is
11 what everyone in the country sees, that is
12 not correct. What is -- in traditional
13 broadcast -- because there are something
14 called SCTE markers, or they used to be
15 actual physical contact cues, where an ad
16 would be able to be cued on a local level.
17 So when they bought inventory, they bought
18 local spots or they bought national spots.

19 And a local spot, say the Salt
20 Lake market, could receive a different
21 advertisement or a set of advertisements
22 than the Colorado market.

23 Q. But the local group -- the local
24 market for all the viewers within that
25 local market, they would all see the same

1 D. Ericson

2 ad if they were tuned to the same channel?

3 A. That is correct.

4 Q. I am going to move on and switch
5 something. I know we have been going about
6 an hour yet. Are you good? Do you need a
7 break?

8 THE WITNESS: I am good for --
9 yes, I'm good for now.

10 Could I add one thing to that
11 comment -- that last comment?

12 BY MS. RABENSTEIN:

13 Q. Sure.

14 A. That is true. I will state that
15 the way streaming technology evolved was in
16 the use of those similar technologies that
17 existed for broadcast.

18 Q. Okay.

19 A. So a SCTE marker became the
20 trigger point for a transition of an ad
21 that was distributed from an ad decision
22 server versus from a head-end server in the
23 broadcast world. So SCTE got transferred
24 to metadata that then made those same types
25 of examples of ad calls that would have

1 D. Ericson

2 been done in the broadcast world.

3 Q. Do I have it correct that the one
4 difference in the streaming services,
5 though, is you could -- you could target
6 individual users with those calls as
7 opposed to a local area.

8 Is that fair?

9 MR. SHEPARD: Objection. Form.

10 A. Yes. It's fair because you would
11 have their IP address.

12 MS. RABENSTEIN: Jacob, can we
13 please turn back to Exhibit 2100? I
14 would like to scroll to paragraph 11 of
15 Mr. Ericson's deposition, please.

16 There we go.

17 BY MS. RABENSTEIN:

18 Q. Mr. Ericson, can you see
19 paragraph 11 of your declaration that is
20 Exhibit 2100 on the screen?

21 A. Yes.

22 Q. Now in this paragraph, you say
23 that, quote, "Because of its ABR streaming
24 technology, Sling TV earned a Technology &
25 Engineering Emmy Award for 'Pioneering

1 D. Ericson
2 Development of Large Scale, Cloud Served,
3 Broadcast Quality, Linear Channel
4 Transmission," correct?

5 A. Yes.

6 Q. You cite one exhibit, 2023.
7 Is that correct?

8 A. Yes.

9 MR. RABENSTEIN: Let's take a
10 look at that exhibit.

11 Jacob, can you please put up
12 Tab 4, please.

13 (Exhibit 2023 was referenced for
14 identification)

15 BY MS. RABENSTEIN:

16 Q. Mr. Ericson, is Exhibit 2023 a
17 press release titled -- or that states it
18 has "news provided by Sling TV, LLC"?

19 A. Yes.

20 Q. So this press release is how
21 Sling TV itself characterized the Emmy
22 award?

23 A. Yes.

24 MS. RABENSTEIN: Jacob, can you
25 please scroll down so that the first

1 D. Ericson

2 paragraph is centered in the screen?

3 BY MS. RABENSTEIN:

4 Q. Mr. Ericson, can you please read
5 out the first sentence of the Sling TV
6 press release that is Exhibit 2023, the one
7 that starts "The National Academy"?

8 A. "The National Academy of
9 Television Arts and Sciences (NATAS) today
10 awarded Sling TV a Technology Emmy Award
11 for its groundbreaking work developing and
12 launching the nation's first live
13 over-the-top television service."

14 Q. So at the time Sling TV won the
15 Emmy, Sling TV characterized the award as
16 being for "launching the first over-the-top
17 TV service," correct?

18 A. First live --

19 MR. SHEPARD: Objection. Form.

20 A. -- over-the-top television
21 service, yes.

22 BY MS. RABENSTEIN:

23 Q. Thank you. And earlier, we
24 looked at your LinkedIn profile, where you
25 said the same thing, that Sling TV's Emmy

1 D. Ericson

2 was for the groundbreaking work in
3 launching the first live over-the-top TV
4 service, correct?

5 A. Yes.

6 Q. Now if we can go back to your
7 declaration, which is 2100, at paragraph
8 11, please.

9 Now in your declaration in this
10 IPR, you actually say that the Emmy is for
11 something different. It's because of Sling
12 TV's ABR streaming technology.

13 Is that right?

14 MR. SHEPARD: Objection. Form.

15 A. That's what I do -- that's what I
16 say.

17 BY MS. RABENSTEIN:

18 Q. And, in your declaration, you
19 don't mention the first live over-the-top
20 streaming technology.

21 Is that right?

22 MR. SHEPARD: Objection. Form.

23 A. No, that's not correct. It says
24 -- and what I meant to imply is it says,
25 "As vice president of operations at

1 D. Ericson

2 EchoStar and DISH TV, I oversaw the
3 development and operation of the first
4 virtual multi-channel video programming
5 distributor" -- which is what I say in my
6 thing -- "(MVPD) and live over-the-top
7 television streaming service: Sling TV."
8 That's in paragraph 10.

9 So taking into account I have
10 already said that, when it comes down to
11 now defining what the specific Emmy was
12 about, it then says "pioneering development
13 of large scale, cloud served, broadcast
14 quality, linear channel transmission," and
15 that's what the Emmy was about, not the
16 service was about, and the Emmy ties to
17 technical engineering, I believe.

18 BY MS. RABENSTEIN:

19 Q. Thank you for that explanation.

20 My question is a little bit
21 simpler. In paragraph 11, right, you
22 state, "Because of its ABR streaming
23 technology, Sling TV earned a Technology &
24 Engineering Emmy award."

25 Is that right?

1 D. Ericson

2 A. That is correct.

3 Q. And so in your declaration, you
4 are tying Sling's earning the Emmy to the
5 ABR streaming technology.

6 Is that right?

7 A. I am, yes.

8 Q. But in your LinkedIn profile and
9 in the press release that Sling TV issued
10 before this litigation, they said the Emmy
11 was for the -- for "Sling TV's
12 groundbreaking work in launching the first
13 live OTT TV service," correct?

14 MR. SHEPARD: Objection. Form.

15 A. Can we go back to the exhibit,
16 please?

17 BY MS. RABENSTEIN:

18 Q. Sure. Which would you like to
19 see, the press release or your LinkedIn
20 profile?

21 A. The press release, please.

22 MS. RABENSTEIN: Okay. Jacob,
23 can you please turn back to
24 Exhibit 2023?

25 There you go. That's that first

1 D. Ericson

2 sentence there, Exhibit 2023.

3 THE WITNESS: Yes. So again, let
4 me differentiate. This is what I would
5 call as a "press release." They are
6 obviously trying to market what they
7 have done, and so here, they say, "We
8 won it for its groundbreaking work
9 developing and launching the nation's
10 first over-the-top service," which I
11 think is consistent with what I put in
12 my declaration.

13 Then in the second paragraph --
14 because I read it real quickly when you
15 had it up before, it says, "Our journey
16 over the past five years is about the
17 customer offering exceptional value,"
18 da, da, da, da, da, so that's marketing
19 speak. "We are honored to receive this
20 Technical Emmy award, which recognizes
21 the Sling team's excellence in
22 engineering and creativity. Our
23 company has a history of fostering
24 innovation and disrupting the industry
25 and Sling's leadership in live TV is

1 D. Ericson

2 another example of our culture."

3 And then it references in the
4 third paragraph, we received a
5 technical and engineering Emmy award in
6 the category of "Pioneering development
7 of large scale, cloud served, broadcast
8 quality, linear channel transmission."
9 And that is what I believe is expressly
10 what is tied to adaptive-bitrate
11 streaming.

12 BY MS. RABENSTEIN:

13 Q. But it doesn't -- any of that
14 stuff that you just read to me does not say
15 adaptive-bitrate --

16 A. It doesn't say ABR, but it is --
17 I would say that ABR is a pretty critical
18 component of "pioneering large scale, cloud
19 served, broadcast quality, linear channel
20 transmission" or streaming.

21 Q. And we both agree that the first
22 sentence of this says -- the first sentence
23 of Sling's press release in 2020 here, it
24 says that, "The National Academy of
25 Television Arts and Sciences today awarded

1 D. Ericson

2 Sling TV a Technology & Engineering Emmy
3 award for its groundbreaking work
4 developing" --

5 MR. SHEPARD: Objection. Form.

6 BY MS. RABENSTEIN:

7 Q. -- "the nation's first live
8 over-the-top television service"?

9 A. Yes.

10 Q. We agree that that's the first
11 sentence in this press release from Sling
12 TV.

13 Is that fair?

14 MR. SHEPARD: Objection. Form.

15 A. Yes. But I think -- I think they
16 are trying to say it's a Technical Emmy. I
17 am not trying to be defensive in any way
18 here. I think we just -- all I am trying
19 to qualify is that they're not saying it's
20 for the first over-the-top live television
21 service; they are saying it's for its
22 groundbreaking work in developing and
23 the engineering required to launch the
24 nation's first live over-the-top television
25 service.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. And Sling didn't say what that
4 technology was in that sentence, right?

5 A. They did not.

6 MR. SHEPARD: Objection. Form.

7 BY MS. RABENSTEIN:

8 Q. Let's go back to your declaration
9 in this case, which is Exhibit 2011, and
10 let's go back to that same paragraph,
11 paragraph 11.

12 In paragraph 11 of Exhibit 2100,
13 the last sentence of that paragraph, you
14 state, quote, "Nearly all the ABR streaming
15 technology that Sling TV relied upon came
16 through the Move acquisition."

17 Did I read that correctly?

18 A. That is correct.

19 Q. You don't cite any exhibit in
20 support of that sentence.

21 Is that correct?

22 A. I do not. It's my own personal
23 knowledge.

24 Q. You say that "Nearly all of the
25 ABR streaming technology came through the

1 D. Ericson

2 'Move' acquisition," correct?

3 A. Yes.

4 Q. So there is at least some ABR
5 streaming technology that Sling TV relied
6 on that did not come from Move, correct?

7 MR. SHEPARD: Objection. Form.

8 A. Yes, but it requires an
9 explanation. The technology and the
10 technology of streaming is continuing to
11 evolve. So the foundation of Sling TV,
12 undeniably, is the Move technology. It
13 became -- and I can take you through that,
14 but it's undeniably the Move technology.

15 As the market evolved, and as I
16 was at Sling for nearly six or seven years,
17 it continued to evolve both on the value of
18 the technology the Move acquisition brought
19 to Sling and other advancements in the
20 industry. So it was still based on a
21 foundation of Move, but where other
22 advancements continued to take place,
23 naturally, as a service, Sling would -- had
24 the opportunity to evolve its service
25 platform to incorporate the value of

1 D. Ericson

2 technology that was continuing to evolve.

3 BY MS. RABENSTEIN:

4 Q. That's fair. That makes sense.
5 I think the point that I am trying just to
6 confirm is it wouldn't be fair, and it
7 wouldn't be proper to say the Move
8 technology is exactly the same technology
9 in Sling TV's service.

10 Is that right?

11 MR. SHEPARD: Objection. Form.

12 A. I don't know how to say that
13 because even the amount of technology
14 required or the scale of the technology
15 required is constantly evolving. So I am
16 not -- when you ask that question, it's --
17 I will tell you that -- the best way of
18 answering this is to say that Sling was
19 launched on equipment and on software
20 technology that was developed by Move and
21 was already in place from the acquisition
22 of Move Networks.

23 It was not new software or new
24 hardware started from scratch or deployed
25 to support Sling TV; it was, in fact, the

1 D. Ericson

2 very software and very equipment that
3 was acquired by EchoStar to turn into
4 Sling TV.

5 BY MS. RABENSTEIN:

6 Q. Right. I mean that's fair. What
7 I am trying to get at is the Sling TV
8 technology player, program -- whatever you
9 want to say -- is not completely
10 co-extensive with the original Move
11 technology.

12 Fair?

13 MR. SHEPARD: Objection. Form.

14 Asked and answered.

15 A. I believe I answered that. It
16 is. It is based on the platform of Move
17 Networks' player invention. I don't know
18 what else to say.

19 BY MS. RABENSTEIN:

20 Q. So does Sling TV have only the
21 Move Player technology and no other
22 technology in it whatsoever?

23 A. No. No. That's what I said.

24 MR. SHEPARD: Objection. Form.

25 A. It continues to evolve.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. That's my question. The
4 technologies are not completely
5 co-extensive; they just aren't like the
6 exact same thing. There is additional
7 stuff in Sling TV.

8 Fair?

9 MR. SHEPARD: Objection. Form.
10 Asked and answered and calls for a
11 legal conclusion.

12 A. Yes.

13 MS. RABENSTEIN: Zach, you are
14 limited to just objection, form. So
15 let's please limit the speaking
16 objections here, please.

17 And also please wait for me to
18 finish my questions and for Mr. Ericson
19 to provide his answers so that we have
20 a clean transcript.

21 MR. SHEPARD: I am going to
22 object before he provides his answers
23 if I have an objection. But I
24 understand your point, and I will wait
25 until you are finished.

1 D. Ericson

2 MS. RABENSTEIN: Jacob, can we
3 please put back up Exhibit 2100 and
4 paragraph 11, please?

5 BY MS. RABENSTEIN:

6 Q. Mr. Ericson, in paragraph 11 of
7 Exhibit 2100, you do not identify the
8 specific ABR streaming technology
9 components that Sling TV relied upon that
10 came to it through the Move acquisition,
11 correct?

12 MR. SHEPARD: Objection. Form.

13 A. I didn't go into any detail, no.

14 BY MS. RABENSTEIN:

15 Q. And in your declaration that is
16 Exhibit 2100 at paragraph 11, you did not
17 identify any other company sources of --
18 you did not identify where any other ABR
19 streaming technology that Sling relied on
20 came from.

21 Is that fair?

22 MR. SHEPARD: Objection. Form.

23 A. Paragraph 11 -- I didn't say any
24 -- in fact, I used "nearly all" as a
25 qualifier.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. But for the material that didn't
4 come from Move?

5 A. I didn't say anything about that.

6 Q. You didn't identify who provided
7 that material or where that material came
8 from; is that fair?

9 A. Correct.

10 MR. SHEPARD: Objection. Form.

11 THE WITNESS: Can I take a brief
12 break?

13 MS. RABENSTEIN: Sure.

14 THE WITNESS: I am getting a
15 phone call here from my boss. Okay.

16 MS. RABENSTEIN: Can we go off
17 the record, please.

18 THE VIDEOGRAPHER: Going off the
19 record at 2:13 p.m.

20 (Recess)

21 THE VIDEOGRAPHER: Going on the
22 record at 2:35 p.m.

23 BY MS. RABENSTEIN:

24 Q. Welcome back, Mr. Ericson. Quick
25 question, just some housekeeping stuff.

1 D. Ericson

2 During the break, did you discuss
3 the substance of your testimony with
4 anyone?

5 A. No.

6 MS. RABENSTEIN: Jacob, can we
7 please put back up Exhibit 2100, which
8 is Mr. Ericson's declaration in this
9 IPR, and when you get it up, can we
10 scroll to paragraph 215.

11 BY MS. RABENSTEIN:

12 Q. Mr. Ericson, can you see
13 paragraph 15 of your declaration that is
14 Exhibit 2100 on the screen?

15 A. Yes.

16 Q. And you state in this paragraph
17 that you additionally oversaw Move's ABR
18 streaming technology, which I understand is
19 disclosed in the ABR patents.

20 Is that correct?

21 A. I additionally oversaw Move's ABR
22 streaming technology, yes.

23 Q. What are the ABR patents that you
24 are referring to there?

25 A. I believe they are the patents in

1 D. Ericson

2 question to today's deposition.

3 Q. And at the time you signed your
4 declaration, did you have any specific
5 patents by number or anything in mind?

6 A. No.

7 Q. Do you know if there are any
8 differences between the patents that fall
9 in the bucket of ABR patents that you are
10 talking about here?

11 A. I am specifically referring to
12 the patents that were filed and submitted
13 by Move Networks.

14 Q. And do you know if within those
15 patents that were filed and submitted by
16 Move Networks -- do you know if there are
17 any differences between individual patents
18 within that group?

19 A. I know that they -- I know that
20 they cover additional things, but that's
21 all I know.

22 Q. So you don't know if like one of
23 those patents covers one thing, and then a
24 separate patent covers that thing and
25 something else? You don't know that or

1 D. Ericson

2 not?

3 A. That's what I was -- I guess
4 that's what I am trying to say.

5 Q. Okay.

6 A. I think it's -- yes. That's what
7 I am trying to say. I think they are
8 related, but I don't know exactly what's in
9 what patent.

10 Q. Now you state that you understand
11 that Move's ABR streaming technology is
12 disclosed in the patents.

13 What do you mean by, you
14 understand that?

15 A. Which I understand is disclosed
16 in the ABR patents -- like the design of
17 the invention is what I am trying to say.

18 Q. Did you personally assess whether
19 Move's ABR streaming technology is
20 disclosed in the ABR patents?

21 A. That's what I -- that's what I
22 have always understood was disclosed in
23 Move's submitted patents.

24 Q. Right. I am asking a slightly
25 different point.

1 D. Ericson

2 So did you personally read the
3 ABR patents and compare it to Move's
4 technology and say, yes, I see it in there?

5 MR. SHEPARD: Objection. Form.

6 A. Like I said, years ago I saw the
7 patents, and I know enough about the
8 patents to know that what I spent my time
9 implementing was the technology related to
10 those patents.

11 BY MS. RABENSTEIN:

12 Q. Okay. Did anyone -- is your
13 understanding that the Move's ABR streaming
14 technology is disclosed in the ABR patents
15 -- is that understanding based on someone
16 telling you that it was disclosed in there?

17 A. Yes. Because I was there, and
18 actually, some of the engineers that were
19 inventing the technology reported to me for
20 a period of time.

21 So I knew what they were working
22 on. We had discussions. We had some
23 design discussions like -- I wasn't the
24 inventor. So that's why I wasn't involved
25 directly in writing the patents, but I

1 D. Ericson

2 certainly know what was being contemplated
3 and what was being done at a given time.

4 Q. So you understand what the
5 engineers were contemplating and doing at
6 the time?

7 A. Yes.

8 Q. Is that fair and you understand
9 that Move was patenting what the engineers
10 were doing, right?

11 A. Yes.

12 Q. Did you ever sit down and compare
13 directly the text of the ABR patents to the
14 precise process in Move's technology and
15 line it up to see that it's in there?

16 MR. SHEPARD: Objection. Form.

17 A. No. I had no need to do so. I
18 knew what we were working on. There was
19 no need to go to a design of something
20 that we were practically working on every
21 day.

22 MS. RABENSTEIN: Jacob, could you
23 please scroll to paragraph 17 of
24 Exhibit 2100, which is Mr. Ericson's
25 declaration.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Now, Mr. Ericson, if you can read
4 through this paragraph, once you have the
5 chance to remind yourself of what it
6 states.

7 My question is, in this
8 paragraph, you talk about broadcasting the
9 Church of Jesus Christ of Latter Day Saints
10 general conference in 2005. Is that
11 correct?

12 A. Yes.

13 Q. And, in fact, most of paragraph
14 17 is about the October 2005 general
15 conference.

16 Is that correct?

17 A. I am just reading it real quick.
18 Give me one second.

19 (Witness reviewing document).

20 Yes, that is correct.

21 Q. And in the last sentence of
22 paragraph 17 of Exhibit 2100, you state
23 that Move's ABR streaming technology was
24 also used to broadcast the October 2006 and
25 October 2007 general conferences.

1 D. Ericson

2 Is that correct?

3 A. Yes.

4 Q. And for this sentence, you cite
5 Exhibit 2073 from these IPRs in your
6 support, right?

7 A. Yes.

8 Q. I think you testified earlier
9 when we were looking at paragraph 3 of your
10 declaration, Exhibit 2073 is the excerpt of
11 your deposition testimony from the ITC
12 case, correct?

13 A. I believe so. I can't remember
14 the linkage between which exhibit, but I am
15 going to believe that that's the case.

16 Q. We can scroll back up to
17 paragraph 3, if you really want to.

18 A. I trust you. I am assuming that
19 we are all on the same page here.

20 Q. I am not trying to trick you.

21 MS. RABENSTEIN: Jacob, can we
22 please put up Exhibit 2101, which is
23 Mr. Ericson's declaration in the Ogden
24 IPRs, the prior declaration.

25 We are going to do some toggling

1 D. Ericson

2 back and forth between those two
3 declarations for a while.

4 Can you please turn, Jacob, to
5 paragraph 15 of Exhibit 2101. Can you
6 make that a little bigger, please.
7 Thank you. It's easier for me to read.
8 Hopefully everyone else too.

9 BY MS. RABENSTEIN:

10 Q. Mr. Ericson, in your prior
11 declaration in the Ogden IPRs in paragraph
12 15 of Exhibit 2101, this paragraph has a
13 single sentence that states, "Move's ABR
14 streaming technology was used in the
15 October 2006 and October 2007 general
16 conferences."

17 Correct?

18 A. (Nodding affirmatively).

19 Q. And it cites Exhibit 2063 from
20 the Ogden IPRs as support.

21 Is that right?

22 A. That's what it says.

23 MS. RABENSTEIN: Jacob, can you
24 please scroll up to paragraphs 4 and 5
25 in Exhibit 2101.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Mr. Ericson, you can read these
4 paragraphs, but you state in Exhibit 2101
5 that Exhibit 2100 in the Ogden IPRs is the
6 same excerpt of your deposition testimony
7 from the ITC case.

8 Is that right?

9 A. Yes. I believe so.

10 MS. RABENSTEIN: Now, if we can
11 scroll back down to paragraph 15 in
12 Exhibit 2101, please. And if you can
13 scroll up so we can get paragraph 14 on
14 there as well. Zoom out a little so we
15 have paragraph 14 and 15 together.

16 BY MS. RABENSTEIN:

17 Q. Mr. Ericson, if there is anything
18 you want to see in here when answering my
19 question, please feel free to direct Jacob
20 to do it.

21 Now, paragraph 15 of
22 Exhibit 2101, which is your declaration in
23 the Ogden IPRs does not mention the
24 church's October 2005 general conference.

25 Is that correct?

1 D. Ericson

2 A. Yes.

3 Q. So the discussion of the church's
4 October 2005 general conference in your
5 current declaration which is Exhibit 2100,
6 that was added between -- after your
7 declaration in the prior Ogden IPRs.

8 Is that correct?

9 A. Me stating the same -- I don't
10 know how to say it. It doesn't mean that
11 one precludes the other. I just used it
12 like I said, for example, Move's
13 adaptive-bitrate -- it was also used in
14 2005. I knew that.

15 The difference is that I joined
16 Move in March of 2006, which is why I said,
17 at the time I joined Move, the state of
18 Move's technology included the ability to
19 perform adaptive-bitrate streaming through
20 a browser-based plug-in. And we were
21 attempting to scale this operation and so
22 -- to stream anywhere in the world.

23 So we were continuing to work.
24 Based on the experience of the October 2025
25 general conference, we were continuing to

1 D. Ericson

2 scale the operation to prove that Move's
3 adaptive technology could, in fact, stream
4 videos from anywhere in the world, and that
5 tens of thousands of people could pull the
6 same files at the same time to watch the
7 same events.

8 So that's what I am referencing
9 is that that event had already taken place,
10 and we were continuing to scale that and to
11 continue to develop the technology.

12 Q. My question is much simpler,
13 Mr. Ericson, which is, you didn't discuss
14 the church's October 2005 general
15 conference in your Ogden IPRs?

16 A. I did not mention that in the
17 previous deposition, correct, but it
18 doesn't mean that I didn't know about it.

19 Q. Right.

20 And you did mention it in your
21 current declaration, that is Exhibit 2100,
22 correct?

23 A. Yes.

24 Q. So why did you feel the need to
25 add it to your declaration in the current

1 D. Ericson

2 proceedings when you didn't feel the need
3 to add it in the prior one?

4 MR. SHEPARD: Objection. Form.

5 A. Because as it doesn't clearly
6 state in Section 14 here, but that I was
7 alluding to it, that it was -- as I said
8 here, "At the time I joined Move, the state
9 of Move's technology included the ability
10 to perform adaptive-bitrate streaming
11 through a browser-based plug-in for
12 Internet Explorer," and we were trying to
13 do a scale of the operation.

14 The reason -- so it was already
15 proven and I was aware personally of it
16 being done in 2025. That's one of the
17 reasons it attracted me to come to work for
18 Move in the beginning of 2026 is that it
19 was already proven and successful. So the
20 only reason I chose to add it is because I
21 knew that it was already working for
22 general conference 2025. That's when it
23 was kind of first proven at scale, I guess.

24 BY MS. RABENSTEIN:

25 Q. I guess I am still a little

1 D. Ericson
2 confused. If we are looking at paragraph
3 14 of your Exhibit 2101 which is your Ogden
4 IPRs declaration, that paragraph 14 starts
5 at the time I joined Move, the state of
6 Move's technology included the ability to
7 perform -- and all that you were
8 discussing, right?

9 A. (Nodding affirmatively).

10 Q. And then paragraph 15 discusses
11 just the October 2006 and October 2007
12 general conferences for the church.

13 Is that right?

14 MR. SHEPARD: Objection. Form.

15 A. Yes.

16 MS. RABENSTEIN: Jacob can we
17 please go back to Exhibit 2100 and can
18 we put paragraphs -- scroll up and
19 start at 16. Scroll up a little bit
20 more, please.

21 BY MS. RABENSTEIN:

22 Q. So, Mr. Ericson, if you look at
23 paragraph 167 in your current declaration,
24 that is Exhibit 2100, that starts with the
25 same identical language that was in

1 D. Ericson

2 paragraph 14 of your Ogden declaration,
3 right.

4 So at the time I joined Move, the
5 state of Move's technology. Right?

6 A. Right.

7 Q. So I guess what I am confused
8 about is, you were saying that you added
9 the discussion of the church's October 2005
10 general conference into paragraph 15 --
11 excuse me -- into paragraph 17 of your
12 current declaration because you felt you
13 needed to explain what was in paragraph 14
14 of your prior declaration?

15 A. It was just to clarify when --
16 all it is, is to -- I don't understand what
17 you -- sorry -- please tell me the point
18 you are trying to make.

19 Q. The reason I am concerned -- not
20 concerned -- confused. I am just confused
21 as to what prompted you to think you needed
22 to provide that clarification and add in
23 the 2005?

24 MR. SHEPARD: One second. Object
25 to form.

1 D. Ericson

2 Dave, if you could please wait me
3 to lodge my objection before you
4 provide your answer, it would be great.
5 Thanks.

6 MS. RABENSTEIN: Let me rephrase
7 my question. You can say object to
8 form.

9 BY MS. RABENSTEIN:

10 Q. What I am confused about,
11 Mr. Ericson -- what I would like to
12 understand is what prompted you to put the
13 clarification in discussing the 2005
14 general conference in your new declaration?

15 MR. SHEPARD: Objection. Form.

16 A. I can't tell you what the initial
17 prompt was. I can tell you -- can I read
18 17 real quick.

19 MS. RABENSTEIN: Sure.

20 Jacob, can you please scroll so
21 Mr. Ericson can read paragraph 17.

22 THE WITNESS: (Reviewing document).

23 Yes. The only thing that I can
24 -- and this is where I referenced at
25 the beginning that there were things

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D. Ericson

that were put in for clarity, and that I felt were kind of needed details, just like I am adding testimony today. And the fact that I currently work at BYU, I was simply bolstering the reason -- I was trying to clarify the reasons that were -- because when I was at Move, I was aware of what was going on, and I was not at BYU, obviously, but now I am working for BYU, and I think I was just expressing that when I knew that those things were working. I don't know what else to say. I clarified initial demonstrations were for the church and collaborated with BYU and it was successful. There is a plaque on the wall that I pass every day and that's about the best I can tell you.

BY MS. RABENSTEIN:

Q. Okay. And just one simple question to clarify. At the time you signed your Ogden IPR declaration that is Exhibit 2101, you also were working at BYU

1 D. Ericson

2 again?

3 A. I was, but I think I was just
4 trying to clarify what I meant by -- at the
5 time I joined Move. I don't know what else
6 to -- I was just adding clarity, I think.

7 Q. Let's talk about the substance of
8 paragraph 17 here. You state in paragraph
9 17 of Exhibit 2100 that "Move worked to
10 ensure that tens of thousands of people
11 from all over the world could pull the same
12 files at the same time to watch the same
13 event without freezing, buffering, or
14 extensive latency, which plagued nearly
15 every commercially available solution at
16 that time."

17 Did I read that correctly?

18 A. That is correct.

19 Q. What do you mean by commercially
20 available solution here?

21 A. Every commercially available
22 solution -- that's what I said.

23 Q. What is a commercially available
24 solution at the time?

25 A. Something that would have enabled

1 D. Ericson

2 streaming to do that. To be reliable. To
3 deliver lots of files at the same time to
4 lots of people without freezing, buffering,
5 and latency.

6 Q. Can you give me an example of a
7 commercially available solution that could
8 do that at the time?

9 A. I am not aware of any.

10 Q. Now, the only citation that you
11 cite to support that statement is
12 Exhibit 2064, which you identify as the
13 "October General Conference Notes, at 1";
14 is that correct?

15 A. Yes.

16 MS. RABENSTEIN: Let's take a
17 look at that exhibit. Jacob, can you
18 please pull up Tab 8, which is
19 Exhibit 2064 in this IPR.

20 BY MS. RABENSTEIN:

21 Q. Mr. Ericson, can you see
22 Exhibit 2064 on your screen?

23 A. Yes.

24 Q. What is Exhibit 2064?

25 A. It's the official report of the

1 D. Ericson

2 175th Semiannual General Conference of --

3 Q. Now -- sorry, I didn't mean to
4 cut you off.

5 A. Sorry. Of the church of Jesus
6 Christ of Latter Day Saints.

7 Q. I know you cited page 1, but I
8 don't think you were citing the exhibit
9 page 1. I think you were citing the
10 internal page 1; is that fair?

11 A. (Nodding affirmatively).

12 Q. Can we go to page 1, please,
13 which I think is exhibit page 5. We want
14 internal page 1. Up. Up. Up. So the
15 next PDF page. There we go. That's it.
16 Can we zoom out a little bit so we can see
17 the full page there, please?

18 So can you take a look at page 1
19 of Exhibit 2064 and that's internal page 1.
20 You don't see a reference to Move on
21 page 1. Is that right?

22 A. Can I scan this real quick?

23 Q. Absolutely. And please feel free
24 to direct Jacob to make things bigger or
25 Move stuff around, however you need it.

1 D. Ericson

2 A. Just give me a minute, here.

3 (Witness reviewing document).

4 There is no reference to Move as
5 a company, but I am referencing the last
6 sentence of the -- one, two, three, fourth
7 paragraph where it says the proceedings
8 were also broadcast live over the internet.

9 Q. I am glad that you brought that
10 up. Let's look at that paragraph. So the
11 first sentence in the fourth paragraph in
12 the left-hand column on page 1 of
13 Exhibit 2064, that first sentence states,
14 "The conference was carried by satellite
15 transmission to thousands of church
16 buildings in many countries."

17 Did I read that correctly?

18 A. Yes.

19 Q. So the document here is
20 referencing thousands of church buildings
21 watching the conference via satellite. Is
22 that fair?

23 A. Yes.

24 Q. And then the next sentence in the
25 fourth paragraph on the first page of

1 D. Ericson

2 Exhibit 2064 states, "In areas that did not
3 receive this transmission, videotapes of
4 the conference were sent to local
5 distribution centers and made available to
6 all church units."

7 Did I read that correctly?

8 A. Yes.

9 Q. So additional individuals watched
10 the church's October 2005 general
11 conference via videotape; is that fair?

12 A. Correct.

13 Q. And in the third sentence in
14 paragraph 4 of page 1 of Exhibit 2064,
15 states, "In addition, television and radio
16 stations and the LDS radio network carried
17 portions or all of the general session to
18 large audiences throughout North America."

19 Did I read that correctly?

20 A. Yes.

21 Q. So large audiences saw the
22 church's October 2005 general conference
23 via television or listened to it via radio.

24 Is that fair?

25 A. Yes.

1 D. Ericson

2 Q. And then the last sentence in the
3 paragraph, the one that you pointed to me,
4 it also says the proceedings were also
5 broadcast live over the internet.

6 Is that fair?

7 A. Yes.

8 Q. So fair to say that there was
9 several different ways that individuals
10 were able to watch the general conference
11 of the October -- the October 2005 general
12 conference?

13 A. Yes.

14 Q. So page 1 of Exhibit 2064 doesn't
15 identify the number of people who watched
16 the proceedings via broadcast live over the
17 internet, correct?

18 A. Correct.

19 Q. And it doesn't even include a
20 qualifier as a large audience, right, or
21 anything. It just says it was broadcast?

22 A. Yes. Broadcast isn't even the
23 right term. Right? It should be streamed
24 live over the internet, but streamed didn't
25 even exist as a term then.

1 D. Ericson

2 Q. So can we go back to Exhibit 2100
3 and paragraph 17, please. Now, in this
4 paragraph, you state, "Move worked to
5 ensure that tens of thousands of people
6 from all over the world could pull the same
7 files at the same time to watch the same
8 event without freezing, buffering, or
9 extensive latency, which plagued nearly
10 every commercially available solution at
11 that time," right?

12 A. Yes.

13 Q. And your only citation in support
14 is Exhibit 2064, the "October General
15 Conference Notes, at 1," correct?

16 MR. SHEPARD: Objection. Form.

17 A. That is what I reference there,
18 yes.

19 BY MS. RABENSTEIN:

20 Q. And Exhibit 2064 doesn't say
21 anything about the number of people, let
22 alone tens of thousands of people from all
23 over the world watching the 2005 general
24 conference via streaming live over the
25 internet; is that correct?

1 D. Ericson

2 A. It does not state that, no.

3 Q. And Exhibit 2064 at 1 does not
4 state that any of the individuals who
5 watched the October general conference via
6 live streaming were able to do so without
7 it freezing, buffering, or having extensive
8 latency; is that correct?

9 MR. SHEPARD: Objection. Form.

10 A. It doesn't say anything about
11 that. However, if I can explain, just
12 because it doesn't say anything about it
13 from a company or a technology or streaming
14 -- they didn't even know what to call it --
15 they used broadcast as a term -- doesn't
16 mean that it did not stream to all of those
17 people, and it did so live, and I know that
18 it did it to tens of thousands of people
19 because I was at Move Networks watching --
20 not 2005, but I was there after that
21 conference and doing the next conference,
22 which by the way, it doesn't say this
23 either, but if you will note, it says it's
24 a semiannual general conference, and Move
25 also streamed the October 2006 and -- sorry

1 D. Ericson

2 -- the April 2006 and the April 2007
3 general conferences as well, even though
4 they are not mentioned.

5 And so I know because we were
6 getting ready to ramp up for the April --
7 when I joined in March, for the April 2006
8 general conference what the results were of
9 the October 2005 general conference. And
10 we had that because we had internal data
11 from the player telling us how many people
12 and how many views of the content were done
13 over the internet. And so because of that,
14 it's why we are continuing to scale the
15 technology to accommodate more tens of
16 thousands of people that might want to
17 watch it the very next session or the very
18 next semiannual conference because there
19 was high demand for streaming in addition
20 to all of those other ways that people
21 could watch the content.

22 BY MS. RABENSTEIN:

23 Q. Okay. You stated that you had
24 internal data from the player telling us
25 how many people and how many views of the

1 D. Ericson

2 content were done over the internet.

3 Is that right?

4 A. Yes.

5 Q. How many people watched the
6 October 2005 general conference via live
7 broadcast over the internet? I am looking
8 for a number.

9 A. I don't have that number.

10 Q. But you say in your declaration
11 it was tens of thousands of people from all
12 over the world, right?

13 A. That's correct.

14 Q. And if you had those internal
15 data from the player telling us how many
16 people and how many views of the content
17 were done, why didn't you cite that here in
18 your declaration?

19 A. Because I don't have that
20 document or those records at my disposal.

21 Q. Okay. --

22 A. It's not because I don't know it.
23 It's because that data is twenty years old,
24 and I doubt anybody has that analytical
25 data anymore.

1 D. Ericson

2 Q. So you just testified that you
3 don't have the number of how many people
4 watched the October 2005 general conference
5 via live broadcast over the internet.
6 Right?

7 A. I don't have the exact number,
8 no.

9 Q. But in your declaration --

10 A. Go ahead.

11 Q. I don't want to cut you off.

12 A. But I do know it was tens of
13 thousands. I don't know what the number
14 was, but I know it was large, and it was
15 tens of thousands. I don't know if it was
16 -- I don't know what the total number was,
17 but that is the recollection because of
18 what we were continuing to do when I got
19 there in March to get ready for the April
20 2006 and then subsequent conferences and
21 other just to do internet streaming at
22 scale. So I don't exactly understand the
23 question.

24 The data from that conference is
25 -- I don't know how anyone would have the

1 D. Ericson

2 data that's that old. In the church's
3 thing, they don't reference how many people
4 watched in North America or how many people
5 watched over broadcast or anything. So I
6 am not exactly sure, but what that means,
7 it was a large group of people. I don't
8 know what percentage it was compared to the
9 rest of all the people that were watching,
10 but I know at that time the church had -- I
11 don't know -- I can only guess, but
12 probably 13, 14 million members around the
13 world. So -- and they didn't all watch,
14 obviously, but a substantial portion of
15 people did watch and a substantial portion
16 of the people used the new technology
17 called streaming. So that's what I am
18 testifying to.

19 Q. So we know that what you cited
20 here, though, doesn't say that a large
21 number of people watched according to
22 streaming, correct?

23 MR. SHEPARD: Objection. Form.

24 A. It did not say that, but I am
25 just telling you my knowledge. So it

1 D. Ericson

2 didn't say that publicly, no. I am telling
3 you my knowledge is that -- as to what I
4 testified to here.

5 BY MS. RABENSTEIN:

6 Q. And you --

7 A. My personal internal coming and
8 joining Move. Knowing what happened,
9 knowing what we were working on. That's
10 what I am trying to say here.

11 Q. And your recollection is twenty
12 years old at this point, right?

13 MR. SHEPARD: Objection. Form.

14 A. Yes. But I know -- yes, it is
15 twenty years old but -- I mean, I can tell
16 you the types of statistics we were looking
17 at and continuing to add those. I can tell
18 you, generally speaking, how we got the
19 data at the church. At the time we were
20 still spreading it in Excel spreadsheets,
21 but I can't tell you what that number was.

22 BY MS. RABENSTEIN:

23 Q. And the internal data that you
24 had at the time when you were at Move, that
25 would have been something that DISH would

1 D. Ericson

2 have acquired when it acquired Move,
3 correct?

4 MR. SHEPARD: Objection. Form.

5 A. If that data was still available.
6 I don't know -- like I said, it was -- the
7 systems were continuing to evolve. So we
8 had -- our analytic systems and our ability
9 to capture this data went from a server to
10 multiple servers. We continued to get more
11 and more data as more and more people used
12 the technology so we had to scale that and
13 we had to come up with new database
14 architectures to capture it all. So I
15 don't -- and what the storage retention was
16 of that data -- I mean, it wasn't worth
17 much a couple years after or it really
18 wasn't worth much after the very next
19 conference except for comparison sake. So
20 I don't know what happened to the data
21 itself.

22 BY MS. RABENSTEIN:

23 Q. You are submitting your
24 declaration on behalf of DISH in this IPR,
25 correct?

1 D. Ericson

2 MR. SHEPARD: Objection. Form.

3 A. I am.

4 BY MS. RABENSTEIN:

5 Q. Did you ask DISH if it had the
6 data available for you to confirm your
7 twenty-year-old memory of the numbers?

8 MR. SHEPARD: Objection. Form.

9 A. I did not.

10 BY MS. RABENSTEIN:

11 Q. So you don't know whether or not
12 DISH would still have that data or not,
13 correct?

14 MR. SHEPARD: Objection. Form.

15 A. I have no idea.

16 BY MS. RABENSTEIN:

17 Q. And when was the last time you
18 would have actually seen that internal data
19 about the number of people who watched the
20 October 2005 general conference?

21 MR. SHEPARD: Objection. Form.

22 A. The last time I actually saw the
23 data -- the spreadsheet we sent around?

24 BY MS. RABENSTEIN:

25 Q. Yes.

1 D. Ericson

2 A. Whatever -- let's see. Where are
3 we -- twenty years ago. 18 years ago. I
4 don't know. Pick a number. I mean, I know
5 the data. It was available in the
6 database. But I don't know what the
7 retention of that data was. It seems to me
8 that we were only retaining data for
9 reporting purposes to people who were doing
10 events and streaming. I think we limited
11 it two years because storage was still
12 relatively costly back then. I don't know
13 what else to say.

14 Q. And the internal data that you
15 are referencing there, would that internal
16 data also have tracked whether the people
17 who streamed the 2005 general conference
18 did so without freezing, buffering, or
19 extensive latency?

20 MR. SHEPARD: Objection. Form.

21 A. Let me think. I don't know. It
22 was -- it was very early that we put those
23 capabilities of monitoring into the player.
24 I don't know when in the timeline between
25 that conference and March of that year or

1 D. Ericson

2 September of that year, what statistics
3 were available in the player at what
4 particular time. I can't remember that
5 detail.

6 But I can tell you that it's the
7 type of information that we are gathering
8 in the player so that we can continue to
9 work on the overall player and scale and
10 reliability and all those things.

11 BY MS. RABENSTEIN:

12 Q. Just so I make clear I
13 understand. So at some point, monitoring
14 capabilities to check -- excuse me, strike
15 that.

16 At some point, the Move player
17 included capabilities to monitor whether
18 viewers were experiencing freezing,
19 buffering, or extensive latency in the
20 videos they were watching, correct?

21 MR. SHEPARD: Objection. Form.

22 A. Yes.

23 BY MS. RABENSTEIN:

24 Q. So to your knowledge, back in
25 2005 or 2006, are you aware of any reports

1 D. Ericson

2 of problems with viewers having the videos
3 that they are watching using the Move
4 player having freezing episodes?

5 MR. SHEPARD: Objection. Form.

6 A. I am sure there were a small
7 percentage that may have done that. We
8 were still trying to figure out what it
9 looked like in terms of massive -- it was
10 kind of like broadcast. You don't know
11 what the quality of the broadcast looks at
12 any one person's home when you send that
13 out. Streaming, from a request standpoint,
14 we didn't know, based on the limitations of
15 somebody's computer's CPU, memory, the size
16 of their internet connection, the quality
17 of their ISP, all of those things, we
18 hadn't -- since it was a new technology, we
19 hadn't been able to determine all of that
20 at scale.

21 What we did know is that it
22 worked, and we did know from the statistics
23 that lots of people were able to watch and
24 lots of people used it to watch the
25 conference. So it must have been pretty

1 D. Ericson

2 good because they chose to continue to
3 watch during general conference. So what
4 we were trying to do is make sure it was as
5 reliable as possible. And I am sure, based
6 on the technology at the time, that there
7 were a variety of reasons why somebody
8 could have stalled or buffered, but the
9 entire point of the technology was to
10 overcome the issues that previous streaming
11 or previous video delivery over the
12 internet attempts had failed at. That was
13 the entire thing.

14 So we took a very analytical
15 approach to be able to gather as much
16 information as we could because we couldn't
17 go out and query the users. We weren't
18 going to go out and send tens of thousands
19 of e-mails and say, Okay, please respond to
20 us. What was your quality?

21 So we tried to do that in the
22 player because we didn't know who was at
23 the time -- we didn't know who anyone was.
24 We had -- because they weren't subscribing.
25 We didn't have their names. We just knew

1 D. Ericson

2 that they were using the technology. They
3 had installed the client, and they were
4 pulling information to watch video. So we
5 were creating mechanisms to ensure that the
6 video they pulled was getting done so that
7 they were having a good experience. So
8 that's kind of what the state of the
9 technology was at the time. I mean, nobody
10 had done this. So we were doing it and
11 improving it along the way.

12 BY MS. RABENSTEIN:

13 Q. Thank you for that. I just want
14 to clarify a couple of points of what you
15 said. So the state of the technology at
16 the time in 2006 -- could Move's technology
17 in 2006 prevent any freezing, buffering, or
18 extensive latency in video delays for any
19 viewer using its program?

20 MR. SHEPARD: Objection. Form.

21 A. Can you restate that?

22 BY MS. RABENSTEIN:

23 Q. Sure. What I am trying to
24 understand is you say here that people were
25 watching the same event without freezing,

1 D. Ericson

2 buffering, or extensive latency.

3 Is that right?

4 A. Yes. I mean -- yes. Generally
5 speaking, that is the case.

6 Q. And that's the point I want to
7 follow up, the generally speaking.

8 At the time in 2006, was your
9 technology so improved that literally no
10 one who was using your technology would
11 experience freezing?

12 A. No.

13 MR. SHEPARD: Objection. Form.

14 A. The answer is no. Just like
15 today. I still can't watch satellite TV
16 sometimes. I mean, I don't know what the
17 point of the thing is. No technology is
18 perfect.

19 BY MS. RABENSTEIN:

20 Q. Right. And the same question
21 with respect to buffering. So at the time
22 in 2006, was the Move technology so
23 improved that literally no one who used it
24 would experience buffering?

25 MR. SHEPARD: Objection. Form.

1 D. Ericson

2 A. No. I mean, the entire point of
3 adaptive-bitrate streaming was to overcome
4 those issues. So were those issues
5 prevalent? Not -- I mean, Move's
6 technology proved that they could be
7 overcome.

8 Was it perfect? At that time?
9 No. But it was pretty good. Lots of --
10 tens of thousands of people were able to
11 have a pretty good experience from all over
12 the world. In April or March of 2006, one
13 of my first trips was going down to
14 Televisa in Mexico. And in Mexico, we
15 showed up for a demo, and we had access to
16 their linear stations. And linear stations
17 -- and we had a live demo going because we
18 had BYU TV, and we went down and showed
19 them from Mexico City the ability to watch
20 BYU TV in Mexico City over really terrible
21 internet connectivity in Mexico that we
22 were able to do live streaming, and it blew
23 them away.

24 So that was the state of the
25 technology.

1 D. Ericson

2 MS. RABENSTEIN: Jacob, can we
3 scroll up, please? I want to move on
4 to paragraph 18 of Mr. Ericson's
5 declaration that is Exhibit 2100.

6 MR. SHEPARD: Reba, I know -- if
7 we are going to be moving on, I notice
8 that we have been going for just about
9 50 minutes, closing in on an hour
10 shortly. Would this be a natural point
11 to take a ten-minute pause?

12 MS. RABENSTEIN: That's fine.

13 THE WITNESS: I will try to keep
14 it to ten minutes this time.

15 MS. RABENSTEIN: Thanks. Can we
16 go off the record, please?

17 THE VIDEOGRAPHER: Going off the
18 record at 3:23 p.m.

19 (Recess)

20 THE VIDEOGRAPHER: Going on the
21 record at 3:37 p.m.

22 BY MS. RABENSTEIN:

23 Q. Welcome back, Mr. Ericson. Our
24 standard housekeeping question, during the
25 break, did you discuss the substance of

1 D. Ericson

2 your testimony with anyone?

3 A. No, I did not. There was the
4 other issue.

5 Q. Thank you for confirming that. I
6 know there is a lot of repeat things that
7 we say time and time again. But it's just
8 to make reading it easier.

9 A. I would never do that.

10 MS. RABENSTEIN: Jacob, can we
11 please put back up Exhibit 2100, and
12 can we put up paragraph 18, please?

13 Scroll a little bit so that we
14 can get as much of paragraph 18 on
15 there as we can. I know it spans two
16 pages. There we go. Thank you.

17 BY MS. RABENSTEIN:

18 Q. Mr. Ericson, paragraph 18 of
19 Exhibit 2100, which is your declaration
20 in these IPRs, starts with the sentence
21 that, "Move's ABR streaming technology
22 proved to be commercially successful as
23 well."

24 Did I read that correctly?

25 A. Yes.

1 D. Ericson

2 Q. And then paragraph 18 has two
3 more sentences, and then it has a third --
4 excuse me -- it would be a fourth sentence
5 that states "Additionally, Move's player
6 was instrumental in the successful
7 streaming of the 2008 Democratic National
8 Convention," correct?

9 A. Yes.

10 Q. And then the next sentence says,
11 "As with Move's initial demonstrations for
12 the Church of Jesus Christ of Latter Day
13 Saints, the Democratic National Convention
14 stream was a huge technological success.
15 Millions across the United States and world
16 used Move's technology to view a continuous
17 stream of the convention without freezing
18 or buffering of the content."

19 Did I read that correctly?

20 A. You did.

21 MS. RABENSTEIN: Can we turn,
22 Jacob, please, to Exhibit 2101, which
23 is Mr. Ericson's declaration in the
24 Ogden IPRs and go to paragraph 16,
25 please.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Mr. Ericson, paragraph 16 of
4 Exhibit 2101 also starts by saying, "Move's
5 ABR streaming technology proved to be" --

6 A. Which one again -- oh, 16? Okay.
7 Sorry.

8 Q. Yes. I will restart the
9 question. Okay. All right.

10 So paragraph 16 of Exhibit 2101
11 also starts by stating, quote, Move's ABS
12 -- excuse me -- "Move's adaptive-bitrate
13 streaming technology proved to be
14 commercially successful as well."

15 Did I read that correctly?

16 A. Yes.

17 Q. Now then it has the same two --
18 well, skip that.

19 Paragraph 16 of Exhibit 2101 does
20 not include the two sentences about the
21 Democratic National Convention that I just
22 read from paragraph 18 of Exhibit 2100.

23 Is that correct?

24 A. Correct. So, wait. Which one is
25 this one? This is the --

1 D. Ericson

2 Q. Ogden IPRs one, so this is your
3 previous one.

4 A. This is the middle one, right?

5 MS. RABENSTEIN: Yes. And Jacob,
6 can we flip back to Exhibit 2100 which
7 is your current one. Paragraph 18.

8 BY MS. RABENSTEIN:

9 Q. Do you see a reference to the
10 "Democratic National Convention" there?

11 A. Yes.

12 Q. Why did you decide to add in a
13 reference to the Democratic National
14 Convention in your current declaration when
15 you hadn't referred to it in your Ogden IPR
16 declaration?

17 MR. SHEPARD: Objection. Form.

18 A. Actually, I believe -- and now
19 that you have brought up my recollection --
20 and it may be true -- I am not saying it
21 is, but it may be true to what you asked me
22 before that I was struggling with around
23 why I added the 2025 -- sorry -- 2005
24 October general conference. It is in the
25 deposition -- the Ogden deposition that I

1 D. Ericson

2 gave. If my memory serves me right, which
3 I am pretty sure it does, I believe I
4 stated that in that deposition, and so
5 because I stated it in that deposition, in
6 the new declaration, I was reiterating
7 testimony that I gave in that deposition to
8 include in this declaration.

9 BY MS. RABENSTEIN:

10 Q. Okay. That's helpful. Now, you
11 did cite your deposition transcript from
12 the Ogden IPRs as an exhibit in your
13 current declaration, which is Exhibit 2100,
14 correct?

15 A. I'm pretty sure that's where that
16 testimony is, and I think it probably also
17 mentions Televisa. It mentions ABC. It
18 mentions a number of things in there.

19 Q. Now in paragraph 18 -- so I think
20 -- we did mark it. So we did mark
21 Exhibit 2102 is your deposition transcript
22 from the prior Ogden IPR declaration,
23 correct?

24 A. (Nodding affirmatively).

25 Q. And we can scroll up to

1 D. Ericson

2 paragraphs 4 and 5 in the Exhibit 2100
3 declaration if you want to see where it
4 says that we did that.

5 Now, in paragraph 18, you don't
6 cite to the exhibit that is your deposition
7 transcript from the Ogden IPRs, correct?

8 A. No. I probably should have.

9 Q. And do you know -- and I can show
10 you later on -- or we can scroll to one
11 that does it -- you are aware that in other
12 paragraphs in your declaration, that is
13 Exhibit 2100, you actually did cite to
14 testimony in that prior deposition
15 transcript.

16 You are aware of that, right?

17 A. I am guessing I did. I mean, it
18 might have been an oversight. We can go
19 back and -- if you want, we can, I guess,
20 go back and look at my deposition and
21 search for "Democratic National
22 Convention." I am pretty sure it's in
23 there.

24 Q. Let's focus on the substance of
25 what is here. So in paragraph 18 of

1 D. Ericson

2 Exhibit 2100, you state that, "Millions
3 across the United States and the world
4 used Move's technology to view a
5 continuous stream of the convention
6 without freezing or buffering of the
7 content," correct?

8 A. Correct.

9 Q. How many people in the United
10 States used Move's technology to view the
11 2008 Democratic National Convention?

12 A. Again, I don't have that --

13 MR. SHEPARD: Objection. Form.

14 A. Sorry.

15 THE WITNESS: Zach, I am sorry.
16 My other work issue is going on, and so
17 it's affecting this. So I apologize to
18 all of you, to be honest, because I'm a
19 little bit -- yes. I took the day off
20 on purpose, but I am being interrupted
21 because of something, so I apologize
22 for that.

23 Going back to this -- since I
24 just went off the page, can you just
25 restate your question again?

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Sure. How many people in the
4 United States used Move's technology to
5 view the 2008 Democratic National
6 Convention?

7 MR. SHEPARD: Objection. Form.

8 A. Again, I don't have access to
9 that data. I don't recall the exact
10 number, but I can tell you that we were the
11 only streaming provider of that convention,
12 and it, at the time, included at least
13 three of the largest providers trying to --
14 a collaboration between three of the
15 largest providers trying to make streaming
16 work over networks.

17 So it was a collaboration between
18 level 3, which had a massive network at the
19 time, and were becoming a CVN, Microsoft's
20 visual product, and it included Move's
21 technology to do the streaming, and we know
22 because Microsoft actually used Move's
23 plug-in to seed their --

24 BY MS. RABENSTEIN:

25 Q. Mr. Ericson, I don't mean to cut

1 D. Ericson

2 you off, but my question was just how many
3 people in the United States used --

4 A. I don't know. I don't know.

5 Q. Thank you. What countries did
6 people -- were people in who used Move's
7 technology to watch the 2008 Democratic
8 National Convention?

9 MR. SHEPARD: Objection. Form.

10 A. I don't know.

11 BY MS. RABENSTEIN:

12 Q. So despite not knowing those
13 facts, you put in your declaration that
14 "Millions across the United States and the
15 world used Move's technology to view the
16 Democratic National Convention," correct?

17 MR. SHEPARD: Objection. Form.

18 A. I did. Can I -- so let me just
19 state why. We knew how many people had
20 installed the plug-in to be able to use
21 Move's technology, and we knew how many
22 people had seated Silverlight as a
23 Microsoft technology. So I don't know how
24 long they watched, and I don't know -- I
25 don't have that data at hand at all, but my

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D. Ericson

reference to millions was -- at that time,
there were millions in fact in the United
States and across the world that had
installed Move's plug-in either because of
another streaming event or specifically for
that streaming event that were enabled to
watch it. So I don't remember the number
itself.

BY MS. RABENSTEIN:

Q. So, Mr. Ericson, if I am hearing
you correctly, you are speculating as to,
"It must have been millions," based on your
recollection of the number of people who
have installed the plug-in, correct?

MR. SHEPARD: Objection. Form.

A. Yes. That's a fairer statement,
I guess, but I know it was streamed to a
very, very large audience.

BY MS. RABENSTEIN:

Q. And there would have been data
that would have been collected --

A. There would have been.

Q. -- at the time by Move that would
actually get those numbers and the

1 D. Ericson

2 locations of individuals.

3 Is that correct?

4 A. That's correct.

5 Q. And you didn't ask to see that
6 data before you signed your declaration,
7 correct?

8 A. I did not. I just -- just from
9 memory.

10 Q. And you could have, but you just
11 chose not to.

12 Is that right?

13 MR. SHEPARD: Objection. Form.

14 A. I don't know that I could have.
15 Like I stated before, I don't think that
16 information is in any state of being
17 capable of being found again. I don't
18 think it's on servers. I don't -- I think
19 it was --

20 BY MS. RABENSTEIN:

21 Q. My question was a little
22 narrower. You could have asked DISH if it
23 still had that data, right? There was
24 nothing stopping you from asking DISH --

25 MR. SHEPARD: Objection. Form.

1 D. Ericson

2 A. I certainly could have. I assume
3 they did not based on -- like when I went
4 from Move to Sling, no one ever asked about
5 our old data once.

6 BY MS. RABENSTEIN:

7 Q. But you didn't ask, so you're
8 just --

9 A. I didn't ask. I am just assuming
10 that when that acquisition of things
11 happened, that data was no longer deemed
12 important. I just don't have it. I don't
13 know if they do, but I didn't have access
14 to it.

15 BY MS. RABENSTEIN:

16 Q. So let's go to paragraph 20 of
17 your declaration. That is Exhibit 2100.
18 You state in paragraph 20 of Exhibit 2100
19 that you understand that "Move has also met
20 with other companies, including Apple and
21 Microsoft, who expressed interest in Move's
22 technology."

23 Did I read that correctly?

24 A. Yes.

25 Q. You are using this "understand"

1 D. Ericson

2 language again.

3 Where did you get that
4 understanding from?

5 A. From working as an executive at
6 Move and knowing that other executives at
7 Move had flown to have discussions
8 specifically with those companies.

9 Q. So you personally were not
10 involved?

11 A. I was not in those -- personally
12 was not involved in those direct
13 discussions.

14 Q. And your understanding about Move
15 meeting with individuals is based on
16 talking to other individuals at Move,
17 correct?

18 MR. SHEPARD: Objection. Form.

19 A. Those that would have been in
20 those meetings.

21 MS. RABENSTEIN: Let's turn to --
22 can we go to Exhibit 2101, which
23 is Mr. Ericson's declaration in the
24 Ogden IPRs, and go to paragraph 17,
25 please.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. And paragraph 17 of Exhibit 2101
4 states the exact same sentence that we just
5 discussed in paragraph 20 of Exhibit 2100.

6 Is that correct?

7 A. Yes.

8 Q. And so while we are here, let's
9 go to paragraph 18 of 2101. And
10 paragraph 18 of Exhibit 2101 discusses
11 Microsoft's "Smooth Streaming" product,
12 yes?

13 A. Yes.

14 Q. Can we flip back to exhibit --
15 can you please read this full paragraph?
16 Just read it to yourself. You don't have
17 to read it out loud.

18 A. (Witness reviewing document).

19 Q. When you are done reading
20 it, I would like to flip back to
21 Exhibit 2100.

22 A. Okay.

23 MS. RABENSTEIN: Jacob, can we
24 flip back to Exhibit 2100, please, and
25 now go to paragraph 21?

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Mr. Ericson, please take a look
4 at paragraph 21 of Exhibit 2100, and once
5 you have had a chance to read it, my
6 question for you is the text of
7 paragraph 18 of Exhibit 2101, which you
8 just read --

9 A. (Nodding affirmatively).

10 Q. And of paragraph 21 of
11 Exhibit 2100 -- is that text the same?

12 A. No.

13 Q. What, if any -- what differences
14 do you see in there?

15 A. Simply the portion that said
16 Smooth Streaming offered HTTP-based
17 adaptive streaming and I think it then
18 jumped to the last part of my sentence that
19 said, "overcoming a network connection on a
20 server" -- or something like that. This is
21 simply more clarifying. The purpose of
22 Move's technology was to -- with adaptive
23 streaming was to -- like I mentioned
24 before, to minimize buffering and startups
25 and timeouts and adaptive quality of the

1 D. Ericson

2 video stream. So I was clarifying. It may
3 have been one of those things that I said
4 that I just amended for clarity.

5 Q. So let me just see what precisely
6 are the words that you think are different
7 between paragraph 21 of Exhibit 2100 and
8 paragraph 18 of Exhibit 2101? And we can
9 put them up side by side?

10 A. Yes. Put them up.

11 MS. RABENSTEIN: Jacob, can we
12 put them up side by side?

13 THE WITNESS: We can all read
14 them, so if we do it side by side.

15 THE VIDEOGRAPHER: I will try. I
16 can't quite do it side by side.

17 MS. RABENSTEIN: All right. Can
18 you put up paragraph 18 of
19 Exhibit 2101, please?

20 BY MS. RABENSTEIN:

21 Q. I am going to read the last
22 paragraph in -- the last sentence in
23 paragraph 18 of Exhibit 2101, and it
24 states, "Like Move's adaptive-bitrate
25 streaming solution, Smooth Streaming

1 D. Ericson

2 offered HTTP-based adaptive streaming with
3 the aims of minimizing buffering, reducing
4 startup times, and adapting the quality of
5 a video stream during a presentation based
6 upon an end user's network connection with
7 server infrastructure."

8 Did I read that correctly?

9 A. Yes.

10 Q. Can we go to Exhibit 2100 at
11 paragraph 21? That same sentence that I
12 read starting with like Move's
13 adaptive-bitrate streaming solution, the
14 same sentence that I read from
15 Exhibit 2101, paragraph 18, is in
16 Exhibit 2100, paragraph 21. Correct?

17 A. That's what it looks like. It
18 doesn't look like -- it looks like it's the
19 same testimony.

20 Q. Okay. The one addition here is a
21 cite to Exhibit 2067 at 1.

22 Is that right?

23 A. That's what it says.

24 Q. And you didn't cite that in your
25 previous declaration.

1 D. Ericson

2 Is that right?

3 MR. SHEPARD: Objection. Form.

4 A. It wasn't referenced in the
5 previous one, no.

6 BY MS. RABENSTEIN:

7 Q. Why did you add it here?

8 A. Can I see what the exhibit is?

9 MS. RABENSTEIN: Sure. Jacob,
10 can you please pull up -- I believe --
11 let's pull up -- I think it's Tab 25.
12 Zach, this is for you. There is a
13 public version and there is a version
14 under the protective order of this
15 exhibit. I am going to show him the
16 public version that was redacted.

17 MR. SHEPARD: Okay. That should
18 work.

19 MS. RABENSTEIN: This should be
20 Exhibit 25. Not Exhibit 25, I'm sorry,
21 it's Tab 25. There we go.

22 (Exhibit 2067 was referenced for
23 identification)

24 BY MS. RABENSTEIN:

25 Q. Mr. Ericson, do you see at the

1 D. Ericson

2 top of the document you are looking at on
3 the screen there is a stamp that says DISH
4 Technologies LLC, Exhibit 2067.

5 Do you see that?

6 A. Yes.

7 Q. And we can scroll through this
8 and once you have a chance to read it, can
9 you please tell me whether you have ever
10 seen this document before?

11 A. (Witness reviewing document).

12 I haven't seen this particular
13 document in its full amount.

14 Q. Exhibit 2067 appears to be an
15 e-mail chain.

16 Is that right?

17 A. That's what it looks like.

18 MS. RABENSTEIN: Jacob, can we
19 scroll up to the top, please?

20 BY MS. RABENSTEIN:

21 Q. And the latest e-mail -- so the
22 e-mail at the top of the e-mail chain is
23 from an individual called Christopher
24 Carper?

25 Is that right?

1 D. Ericson

2 A. That's what it says.

3 Q. And it was sent to Greg Smith.

4 Is that right?

5 A. Yes.

6 Q. You were not a recipient on this
7 e-mail chain?

8 A. What?

9 Q. You were not a recipient on this
10 e-mail?

11 A. I was not, but Greg was one of
12 the executives that I was mentioning that I
13 knew had met with Microsoft and Apple.

14 Q. Did you ever read Greg's e-mail
15 that you weren't on when you were working
16 with him?

17 A. I didn't read the e-mail, no.

18 Q. So prior to signing your
19 declaration had you read Exhibit 2067?

20 A. I don't recall reading this, no.

21 Q. So you don't know why it was
22 cited in your declaration that is
23 Exhibit 2100; is that fair to say?

24 MR. SHEPARD: Object to form.

25 A. Like I said, I didn't write my --

1 D. Ericson

2 it all the way. It probably was an
3 oversight that I didn't go and check this.

4 MS. RABENSTEIN: You can take
5 that down, Jacob, please. Can we turn
6 back to Exhibit 2100, and go to
7 paragraph 22, please.

8 BY MS. RABENSTEIN:

9 Q. Mr. Ericson, in paragraph 22 of
10 your declaration in this proceeding which
11 is Exhibit 2100, you state, "Microsoft's
12 Smooth Streaming was offered as a free
13 alternative to Move's ABR streaming.
14 Microsoft was never charged a Move tax,
15 which was a large source of revenue for
16 Move during that time."

17 Is that right?

18 A. Microsoft never charged Move tax,
19 not Microsoft was never charged.

20 Q. Excuse me. Thank you for the
21 correction. "Microsoft never charged a
22 Move tax," and that continues on to say,
23 "which was a large source of revenue for
24 Move during that time."

25 Is that right?

1 D. Ericson

2 A. Yes. We were basically charging
3 providers for the amount of data moved
4 across the network. That was part of the
5 revenue stream for using our adaptive
6 streaming.

7 Q. So did you consider that type of
8 a charge for providers to Move data across
9 the network -- did you call that a Move
10 tax; is that what you meant by a Move tax?

11 MR. SHEPARD: Objection. Form.

12 A. Yes.

13 BY MS. RABENSTEIN:

14 Q. Now you cite one exhibit here.
15 Exhibit 2102.

16 Is that right?

17 A. That's what it says.

18 Q. Exhibit 2102 -- that's your
19 deposition transcript from when you were
20 deposed about your declaration in the Ogden
21 IPRs; is that correct?

22 A. Yes. I mean, I am assuming, yes.

23 Q. Oh, no. I mean, I will show you.
24 Can you take a look --

25 A. I am assuming, yes, and I believe

1 D. Ericson

2 I said those exact words in that
3 deposition.

4 Q. There is paragraph 4 in your
5 Exhibit 2100 declaration actually states
6 that Exhibit 2102 is a true and correct
7 copy of your deposition transcript. I can
8 scroll up there and show it to you if you
9 want confirmation. I wanted to let you
10 know that.

11 So before we go to that
12 deposition transcript, I just want to keep
13 in your mind, you say Microsoft Smooth
14 Streaming was offered as a free alternative
15 to Move's ABR streaming.

16 Is that right?

17 A. Yes, but I don't know -- I mean,
18 free here I think in context was without
19 charging the Move tax. So I think
20 Microsoft had a different pricing model for
21 Smooth Streaming than Move had done. Move
22 was charging for the data moved over the
23 network. I think Microsoft was charging
24 for the use of its software. That's what I
25 think I am referring to there.

1 D. Ericson

2 Q. So the first sentence in
3 paragraph 22 of Exhibit 2100 that states,
4 "Microsoft Smooth Streaming was offered as
5 a free alternative to Move's ABR
6 streaming." That does not mean that
7 Microsoft was giving away its software for
8 free, right?

9 MR. SHEPARD: Objection. Form.

10 A. You know what, I don't recall how
11 Microsoft entered the market. I think they
12 tried to seed the market initially, and it
13 was free, but I don't exactly remember, and
14 I don't exactly remember what I was trying
15 to say at the time. I know that the model
16 was different and that Move was beginning
17 to be seen as a tax because what happened
18 is CVNs were charging by the minute and so
19 -- or by the amount of data. So Move was
20 charging what was sometimes being called in
21 the industry the Move tax because it was an
22 additional charge on top of the CVN, and I
23 think Microsoft Smooth Streaming was also
24 allowing people to use CVNs, but it was
25 kind of decoupled from that data. I don't

1 D. Ericson

2 remember specifically how Microsoft's
3 pricing models worked or what they chose to
4 do -- if they gave it away for a period of
5 time. I know that Microsoft and others
6 tried to take consumers from Move by
7 reducing the cost of similar technology.
8 So that's the best I can state there.

9 BY MS. RABENSTEIN:

10 Q. This is all from your
11 recollection. There is no --

12 A. That part is from my
13 recollection.

14 Q. And this would have been -- what
15 -- like close to 15 years ago?

16 A. Yes. That's exactly right.

17 Q. Let's turn to paragraph 23 of
18 Exhibit 2100, which is your declaration in
19 these IPRs. Can you please read that
20 paragraph to yourself?

21 A. (Witness reviewing document).

22 Yes.

23 MS. RABENSTEIN: And, Jacob, can
24 we please turn to Exhibit 2101 and go
25 to paragraph 19 of it.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. Mr. Ericson, can you please read
4 paragraph 19 of Exhibit 2101 to yourself.

5 A. (Witness reviewing document).
6 Okay.

7 Q. Is the text of paragraph 23 of
8 Exhibit 2100 and paragraph 19 of
9 Exhibit 2101 the same with the only
10 difference being the cited exhibit numbers?

11 A. I don't think it's exactly the
12 same. I mean, I don't remember reading in
13 that first one the word "promulgating." I
14 said that certainly. It's something I
15 would use. And I'm not sure about the
16 exhibits. I didn't pay attention to both.
17 I know that there was an exhibit cited
18 after the -- brought to the floor by Move
19 Networks in both, but I don't know.

20 MS. RABENSTEIN: We are going to
21 go back to it anyway. So, Jacob, can
22 you please go back to 2100, please.

23 BY MS. RABENSTEIN:

24 Q. And in paragraph 23, do you see
25 the word promulgating there?

1 D. Ericson

2 A. I do. I do. And I see two
3 exhibits cited and there are two exhibits
4 in the other one, I think.

5 Q. Let's go to paragraph 24 of the
6 Exhibit 2100, please. Scroll a little bit.
7 Thank you.

8 And in paragraph 24 of
9 Exhibit 2100, which is your declaration in
10 these IPRs, you state, "Ultimately Smooth
11 Streaming, HLS and other later announced
12 streaming solutions were all attempts to
13 mirror the adaptive-bitrate streaming
14 solution that Move pioneered."

15 Did I read that correctly?

16 A. Yes.

17 Q. And you cite one exhibit there,
18 Exhibit 2102.

19 Is that right?

20 A. Yes.

21 Q. And Exhibit 2102 is your
22 testimony from your prior deposition
23 regarding the declaration in your Ogden
24 IPRs; is that correct?

25 A. That's what I understand.

1 D. Ericson

2 Q. So your only source for support
3 here is your own prior testimony for
4 paragraph 24 of Exhibit 2100?

5 A. Yes. My own recollection there.
6 My own -- yes.

7 Q. And when you are talking here
8 about Smooth Streaming, HLS and comparing
9 it to Move's technology, you're comparing
10 the two different technology products.

11 Is that right?

12 MR. SHEPARD: Objection. Form.

13 A. There is lots of -- there is lots
14 of things in a -- I mean, maybe on a macro
15 level like the fact that there is
16 significant similarities between those is
17 what I think I said in my Ogden deposition
18 as I was asked about that. I think I even
19 went in to explain a little bit more why I
20 stated that.

21 BY MS. RABENSTEIN:

22 Q. But the basis for your statement
23 here where you are talking about Smooth
24 Streaming and HLS and comparing it to the
25 Move technology, that's based on your

1 D. Ericson

2 understanding of the Smooth Streaming HLS
3 and Move products.

4 Is that right?

5 A. Yes. Yes.

6 Q. So you are not comparing Smooth
7 Streaming or HLS to any disclosures in any
8 patents; is that correct?

9 A. Correct.

10 Q. Let's go to paragraph 25 in
11 Exhibit 2100. In paragraph 25 you say, "As
12 I discussed above, I became familiar with
13 these streaming solutions" -- strike that.

14 Can you read through paragraph 25
15 of Exhibit 2100 and let me know when you
16 are done, please.

17 A. (Witness reviewing document).

18 Yes.

19 Q. Now you state in this paragraph
20 25 of Exhibit 2100 that your duties
21 involved requiring you "To convert video
22 programs to conform to non Move standards
23 such as HLS."

24 Did I read that correctly?

25 A. Yes.

1 D. Ericson

2 Q. And the only citation that you
3 have here is to your deposition testimony
4 from the Ogden IPRs, which is Exhibit 2102
5 at 49, 14 to 25.

6 Is that right?

7 A. I don't -- I mean, yes. A lot of
8 my testimony is based on my living this and
9 my understanding in implementing it.

10 MS. RABENSTEIN: Jacob, can we
11 please pull up Exhibit 2102, please,
12 and go to page 49.

13 THE WITNESS: This is the Ogden
14 deposition?

15 MS. RABENSTEIN: This is
16 Exhibit 2102, which is the transcript
17 of the Ogden deposition. So we need to
18 be at page 49 and I would like lines 14
19 through 25, please.

20 BY MS. RABENSTEIN:

21 Q. Now, in your declaration that we
22 just looked at, you cited these lines to
23 say your duties involved you to convert
24 video programs to conform to Non-Move
25 standards such as HLS, but your cited

1 D. Ericson

2 testimony from your prior deposition -- I
3 don't see that here.

4 Can you read through lines 14
5 through 25 and tell me if you see any
6 reference to "HLS" in this testimony?

7 A. I don't, but this will shock you.
8 I have a pretty good memory. So can you
9 scroll down a little further in this or
10 up -- I don't know -- but can you give me a
11 second to just scroll down a little for me.
12 Let's see. Keep going. It's all context.
13 Keep going.

14 (Witness reviewing document).

15 Okay. Keep going down.

16 Okay. Keep going down.

17 (Witness reviewing document).

18 Q. Just for the record, we are at
19 page 54, going on to 55.

20 A. Keep going down.

21 (Witness reviewing document).

22 Okay. Keep going on. Sorry to
23 do this real-time but --

24 Q. I think I can make just a simpler
25 question, and we can move on because --

1 D. Ericson

2 A. Well, I think this is important,
3 actually, in my feeling because I think I
4 know where you are trying to go with this.
5 Can you go down further?

6 Q. Well, no. My simple question was
7 the testimony that you cited, which is page
8 49, lines 14 through 25, that didn't
9 actually talk about what you had cited it
10 for, that you were required to convert
11 video programs to conform to non-Move
12 standards such as HLS.

13 Is that fair? That's all I want
14 to know.

15 A. It might have been a poor cite.
16 So if you want to go back up to it, I can
17 look at that again, but just remember where
18 we are in this because I might have --

19 Q. Let's go back up to 49, and it's
20 lines 14 through 25.

21 A. It might have been an incorrect
22 cite. That's what you get for reviewing so
23 closely before signing.

24 (Witness reviewing document).

25 Let's see...

1 D. Ericson

2 Q. Again, now that you have had a
3 chance to read it again, my only question
4 is the testimony that you cited, which is
5 page 49, lines 14 through 25, of
6 Exhibit 2102, doesn't talk about the
7 proposition that your duties required you
8 to convert the video programs to conform to
9 non-Move standards such as HLS, which is
10 what you cited it for in paragraph 25 of
11 Exhibit 2100.

12 MR. SHEPARD: Object to form.

13 A. Yes. All I can say is it may not
14 be citing the exact lines in my previous
15 deposition.

16 BY MS. RABENSTEIN:

17 Q. Thank you.

18 MS. RABENSTEIN: Let's go back to
19 Exhibit 2100, please, and let's go to
20 paragraph 26 of that --

21 A. That was my --

22 BY MS. RABENSTEIN:

23 Q. That's okay. You answered my
24 question. That's all I wanted.

25 Let's look at paragraph 26 of

1 D. Ericson
2 Exhibit 2100, please, which is your
3 declaration in these IPRs. And I would
4 like you to read the sentence which appears
5 to be one long sentence made up of four
6 clauses separated by commas and a citation.
7 Just confirm that I read that right,
8 please.

9 A. It's probably related to the way
10 I talk.

11 (Witness reviewing document).

12 Okay.

13 Q. You cited two exhibits here, 2073
14 and 2102.

15 Is that right?

16 A. Right.

17 Q. Those are the excerpts of your
18 ITC deposition testimony and your
19 deposition testimony from the Ogden IPRs,
20 respectively.

21 Is that correct?

22 A. It's probably paraphrasing those
23 to some extent.

24 Q. So the substance that you are
25 stating in paragraph 26 of Exhibit 2100,

1 D. Ericson

2 your only source of support for that is
3 your own prior testimony.

4 Is that right?

5 MR. SHEPARD: Objection. Form.

6 A. I am assuming, yes.

7 BY MS. RABENSTEIN:

8 Q. Now in paragraph 26 of
9 Exhibit 2100, you are comparing HLS as a
10 proposed standard to the actual technology
11 that Move had already developed and
12 implemented.

13 Is that correct?

14 A. Yes.

15 Q. So it's fair to say you are
16 comparing HLS to Move's product there?

17 MR. SHEPARD: Objection. Form.

18 A. Yes. I mean, again, 27 is the
19 continuation of that, but, yes.

20 BY MS. RABENSTEIN:

21 Q. And in paragraph 26, you were not
22 comparing HLS to any claim or any
23 disclosure in any of the ABR patents.

24 Is that correct?

25 MR. SHEPARD: Objection. Form.

1 D. Ericson

2 A. I am comparing it to the
3 similarities between Move's implementation
4 and the HLS proposed standard and -- that
5 they put out and the way HLS works.

6 BY MS. RABENSTEIN:

7 Q. And when you say "Move's
8 implementation" there, you mean, like the
9 technological products that Move made,
10 right?

11 MR. SHEPARD: Objection. Form.

12 A. Yes.

13 BY MS. RABENSTEIN:

14 Q. Can you turn, please, to
15 paragraph 27 of Exhibit 2100, which is your
16 declaration?

17 So the second sentence of this
18 paragraph reads, "Like Move's ABR streaming
19 technology, HLS also decides how to break
20 up content into segments for audio/video,
21 utilizes 'get' requests, encodes content on
22 the fly, maintains a timeline index to sets
23 of files, and more."

24 Did I read that correctly?

25 A. Yes.

1 D. Ericson

2 Q. And there is no citation at the
3 end of this sentence in Exhibit 2100.

4 Is that correct?

5 A. That's correct.

6 Q. So your basis for saying this is
7 your own personal knowledge.

8 Is that right?

9 A. Yes.

10 Q. What version of HLS did you
11 assess to make this understanding?

12 A. The original standard. There is
13 lots of versions of HLS. I was referring
14 to the components, specifically, and I
15 think I state that below. "HLS uses
16 transport stream and manifest files that
17 closely resemble Move's QSS and QMX,
18 respectively. Move's QSS files and HLS
19 were streamlets." So I think I tried to go
20 and explain that in the vernacular that I
21 would use. That's what I was comparing to.
22 I didn't compare it to a particular
23 version; I compared it to the overall
24 solution, if you will.

25 Q. You didn't compare it to a

1 D. Ericson

2 specific version of HLS.

3 Is that fair?

4 A. Yes.

5 MR. SHEPARD: Objection. Form.

6 A. HLS, at that time, was not a -- I
7 mean, it came out, but it wasn't a version
8 like Apple didn't sell HLS to the
9 marketplace; it created a proposed standard
10 that, I believe, personally from what I
11 knew and who I talked to at the company at
12 the time, closely resembled Move after
13 discussions that Apple had with Move
14 executives.

15 So they proposed a standard and
16 people that developed around that proposed
17 standard various solutions, and as those
18 solutions developed, they became kind of,
19 if you will, products in the marketplace.
20 But that's not what HLS originally was.

21 BY MS. RABENSTEIN:

22 Q. Has HLS standard always remained
23 exactly the same?

24 MR. SHEPARD: Objection. Form.

25 A. No. It changed. In fact, they

1 D. Ericson

2 purposely made it different. I believe, if
3 my recollection serves me right, that like
4 their initial recommendation of a segment
5 for HLS was like ten seconds and then they
6 changed it down to eight seconds as they
7 tried to do -- because it was originally a
8 lot to do with baud, and then they realized
9 that it didn't work for live. They changed
10 it again. As people kept working and
11 trying to improve it, it actually, in some
12 ways, got closer and closer and closer to
13 what Move had invented.

14 BY MS. RABENSTEIN:

15 Q. So the initial HLS that came out
16 before all of these --

17 A. The proposed standards.

18 Q. -- standards were made was
19 different from what Move invented, right?

20 MR. SHEPARD: Objection. Form.

21 A. No. It was way more simplistic
22 than what Move had done. I guess that's
23 what I am trying to say. It was a proposed
24 standard, and then as people did that, it
25 became closer and closer to what Move had

1 D. Ericson

2 originally invented. So for instance, they
3 had an M3U8 file that was their manifest,
4 and they had one manifest file, and they
5 were trying to do ten-minute segments,
6 which don't adapt really well over certain
7 networks, so they had to make them shorter.
8 And they had to open up additional PCP
9 connections, and, eventually, they had to
10 solve another problem of time. So then
11 they created another manifest file to go
12 over the original manifest file and then it
13 became closer to -- if the original
14 manifest file was like Move's QMX file,
15 then the additional one was more like
16 Move's QVP file.

17 So that's what I am trying to
18 convey is that the secret sauce was kind of
19 known and by putting out a proposed
20 standard that over time, it actually
21 evolved a lot closer to what Move was
22 already using in the marketplace.

23 BY MS. RABENSTEIN:

24 Q. So if I take this correctly, as
25 to what you just said, Apple was working on

1 D. Ericson

2 and evolving the HLS standard over time.

3 Is that right?

4 MR. SHEPARD: Objection. Form.

5 A. That's my belief.

6 BY MS. RABENSTEIN:

7 Q. And so Apple didn't just look at
8 the Move player and say, "We are going to
9 do exactly what the Move player is doing."

10 Is that right?

11 MR. SHEPARD: Objection. Form.

12 A. Yes. My personal belief -- and I
13 will say that -- is that it was because
14 they recognized that had they done that,
15 they would have likely been crossing
16 intellectual property boundaries.

17 BY MS. RABENSTEIN:

18 Q. And that's your personal belief.

19 Is that right?

20 A. That's my belief, and it was the
21 belief of others that I worked with.

22 Q. And the others that you work with
23 that you are referencing to are other
24 people at Move.

25 Is that right?

1 D. Ericson

2 A. Yes.

3 Q. You have no evidence that Apple
4 actually did recognize what Move had done
5 -- that people at Apple had recognized what
6 Move had done, and they thought that they
7 would likely be crossing intellectual
8 boundaries?

9 MR. SHEPARD: Objection. Form.

10 A. I don't know how they wouldn't
11 have because they had a meeting with us
12 before they proposed the standard and
13 Steamboat Venture Partners was Disney, and
14 they were doing business with Apple at the
15 time, and they kind of walked us into the
16 room, is what I understand. That's how the
17 meeting set up, and they -- the whole
18 purpose was to kind of see what we were
19 doing and --

20 BY MS. RABENSTEIN:

21 Q. Let me --

22 A. -- they were trying to get
23 investment dollars. So I guess what I am
24 trying to say is it's all my recollection,
25 yes. That's the story, as I remember it,

1 D. Ericson

2 and that's what I remember going on at the
3 time.

4 Q. That's the story, as you remember
5 it. So were you in the meeting with
6 Steamboat --

7 A. It's not a story. Meaning,
8 that's my firsthand account of what was
9 going on at the time. I said "story." I
10 meant the story I am trying to tell you.
11 Like the story I am trying to convey here
12 is that what was going on at the time was
13 -- I mean, I was meeting with various --

14 Q. Thank you. I appreciate you
15 trying to tell me a story, but I would like
16 you to answer my questions, please.

17 So my question to you is, were
18 you in the meeting with Steamboat Ventures
19 that you mentioned in the story you were
20 telling me? Were you personally at that
21 meeting?

22 MR. SHEPARD: Objection. Form.

23 A. I was not, but --

24 BY MS. RABENSTEIN:

25 Q. Thank you.

1 D. Ericson

2 A. -- I personally had multiple
3 discussions with Dan Beldy and others at
4 Steamboat Ventures.

5 Q. Right. You were not in the
6 meeting that you discussed in your --

7 A. I was not in that meeting, no,
8 but I was well aware of what was going on
9 in the company.

10 Q. And your belief that Apple
11 followed what Move was doing is based on
12 your own personal speculation.

13 Is that correct?

14 MR. SHEPARD: Objection. Form.

15 A. Yes. I mean, if somebody comes
16 up with something that is similar to
17 something they were exposed to that they
18 hadn't come up with before, that would be
19 an assumption.

20 BY MS. RABENSTEIN:

21 Q. Let us move on to -- one second,
22 please. Hold on. Okay.

23 Let's scroll down -- great. So
24 we can see the last sentence in -- well,
25 let's do it this way.

1 D. Ericson

2 Mr. Ericson, the first sentence
3 of paragraph 27 of Exhibit 2100 states,
4 "For example, like Move's adaptive-bitrate
5 technology, HLS purports to offer end users
6 a streaming experience with minimal
7 buffering that provides the highest
8 supportable quality segments of video
9 programming in an adaptive fashion,"
10 correct?

11 MR. SHEPARD: Objection. Form.
12 BY MS. RABENSTEIN:

13 Q. I read that correctly, correct?

14 A. Sorry. I am not following.

15 Q. That's okay. You know what?
16 Strike that. We will go back.

17 The last sentence in paragraph 27
18 that is in your declaration that is
19 Exhibit 2100 states --

20 A. Where it says "and like" -- is
21 that where you are?

22 Q. No. The last sentence -- I'm
23 going to read it -- the last sentence in
24 paragraph 27 on Exhibit 2100 states, "These
25 features shift the playback quality to

1 D. Ericson

2 achieve continuous playback of the video."

3 Do you see that?

4 A. Yes.

5 Q. I would like to go to your Ogden
6 IPR declaration, which is Exhibit 2101,
7 please. And if we can go to paragraph 23.

8 Now paragraph 23, in your Ogden
9 declaration, talks about HLS and its use of
10 transport streams just like paragraph 27 in
11 Exhibit 2100 that we just looked at, right?

12 MR. SHEPARD: Objection. Form.

13 A. It's largely the same. It's not
14 just the same.

15 BY MS. RABENSTEIN:

16 Q. But one difference in
17 paragraph 23 in your Ogden IPR declaration
18 is it does not include the last sentence of
19 paragraph 27 of Exhibit 2100, which said,
20 "The features shift the playback quality to
21 achieve continuous playback of the video."

22 Is that right? That sentence
23 does not appear here?

24 A. Sure. That's fair.

25 Again, going back to -- I had an

1 D. Ericson

2 entire deposition in the middle, and there
3 were lots of things that I said in the
4 Ogden deposition that I would have included
5 in this to enhance what I was trying to say
6 in the later declaration.

7 Q. Let's go back to your later
8 declaration, Exhibit 2100, at paragraph 27.
9 And that last sentence that talks about
10 "shifting the playback quality," you do not
11 include a citation there.

12 Is that correct?

13 A. I don't, but that was the general
14 gist of what I was trying to say. So that
15 is my declaration.

16 Q. Right. And if we look at -- one,
17 two -- three lines above, so the last line
18 on the bottom of page 7 of Exhibit 2100,
19 also in paragraph 27, you actually do cite
20 your deposition transcript from the Ogden
21 IPRs.

22 Is that right?

23 A. Yes, it's cited.

24 Q. But you didn't cite any
25 deposition transcript from the Ogden IPRs

1 D. Ericson
2 for that last sentence talking about
3 "shifting the playback to achieve
4 continuous playback of the video."

5 Is that right?

6 MR. SHEPARD: Objection. Form.

7 A. It is correct, it is not stated.
8 However, what I am saying is that what I
9 said in that longer deposition in part and
10 parcel is what the intent of this paragraph
11 is meant to describe.

12 BY MS. RABENSTEIN:

13 Q. But you didn't explain that here
14 in your declaration.

15 Is that right?

16 MR. SHEPARD: Objection. Form.

17 A. Sorry. I probably could've cited
18 everything that we have requoted here. I
19 don't know -- it doesn't specifically cite
20 those lines, but in that declaration it's
21 pretty obvious because I think I make that
22 -- talk about adapting quite a bit.

23 BY MS. RABENSTEIN:

24 Q. And so what you are saying here
25 about these features shifting the playback

1 D. Ericson

2 quality to achieve continuous playback of
3 video, you are talking about HLS' manifest
4 files that provide a way of time indexing.
5 Those are the features you are talking
6 about, right?

7 MR. SHEPARD: Objection. Form.

8 A. Again, what I am referring to is
9 the player's ability to adapt in the way
10 adaptive-bitrate streaming was designed.
11 BY MS. RABENSTEIN:

12 Q. My question is different. Right.

13 So your sentence says, "These
14 features shift the playback quality to
15 achieve continuous playback of video." And
16 the sentence immediately prior to that
17 states, "HLS' manifest files provide a way
18 of time indexing the video encoded
19 segment."

20 Did I read both of those
21 sentences correctly?

22 A. You did, but my last line is
23 referring to the paragraph 27. Not
24 necessarily the line above it. What I am
25 trying to convey here is that the entire

1 D. Ericson

2 concept of what Move's adaptive player was
3 all about, which undoubtedly -- that's what
4 ABR stands for is adaptive, so that's part
5 and parcel to what it does. It shifts the
6 playback quality. That's what adaptive is.

7 Q. Okay. And so shifting the
8 playback quality is what achieves
9 continuous playback of the video.

10 Is that right?

11 MR. SHEPARD: Objection. Form.

12 A. No. That's not what I said.
13 What I am saying is there are lots of
14 components to make the technology work as a
15 solution in the player, how you prepare the
16 content, how you -- how it's requesting the
17 content over TCP/IP network, the "get"
18 requests. How there's profiles that are
19 decided with audio, video, how to decide
20 the length of those to achieve maximum
21 quality. How to decide the size of those
22 from a profile to ensure the continuous
23 playback. There are lots of things that
24 are part of the Move solution that ensures
25 the things that you are talking about in

1 D. Ericson

2 terms of minimizing buffering, latency.

3 BY MS. RABENSTEIN:

4 Q. That's not my question.

5 A. That's what I am saying.

6 MR. SHEPARD: You are going to
7 have to stop talking over him.

8 MS. RABENSTEIN: He is not
9 answering my question.

10 THE WITNESS: I am explaining
11 this paragraph to you. I am sorry for
12 getting a little --

13 BY MS. RABENSTEIN:

14 Q. I wasn't asking you to explain
15 the paragraph. I was asking you to explain
16 the sentence where you say, "These features
17 shift the playback quality to achieve
18 continuous playback of the video." My
19 question is --

20 A. What I just explained was those
21 features. I just explained.

22 Q. My question is shift the playback
23 quality to achieve continuous playback.

24 MR. SHEPARD: The court reporter
25 can't take it when you guys are talking

1 D. Ericson
2 over each other. I would just ask each
3 party finish the question and then
4 allow the other party to finish their
5 answer so we can all get accurate
6 testimony. Thank you.

7 MS. RABENSTEIN: Thank you.

8 BY MS. RABENSTEIN:

9 Q. My question is in paragraph 27,
10 the last sentence, you state, the features,
11 quote, "Shift the playback quality to
12 achieve continuous playback of the video."

13 A. Yes. That's what the sentence
14 says, and there is a lot contained in that.

15 Q. Okay. But that's what you wrote
16 in your declaration?

17 A. That is exactly what I said, and
18 I just tried to explain all the things that
19 go into that sentence.

20 Q. Okay.

21 A. It was not easy to figure out how
22 to do this or implement it. That's where
23 my agitation comes from.

24 Q. Please. I just asked the
25 question. I wasn't asking and I wasn't

1 D. Ericson

2 trying to say it wasn't easy or not. I was
3 just asking --

4 A. No. I get it, but I am just
5 trying to clarify. There is a lot to it.

6 Q. Let's turn to paragraph 28 -- so
7 if we can scroll down to paragraph 28 in
8 Exhibit 2100, please. You can read the
9 paragraph, but in this paragraph 28 of
10 Exhibit 2100, you discuss the economic
11 downturn of 2008 and Move's subsequent
12 change in its business model, but not its
13 technology in 2009.

14 Is that a fair summary of what
15 you state in paragraph 28?

16 A. Let me read it real quick.

17 (Witness reviewing document).

18 Yes, I don't say anything about
19 changing the technology. I am referring to
20 why it changes its business model.

21 Q. But you do say in the middle of
22 that paragraph -- it's the fifth line down,
23 you do state, quote, "Move changed its
24 business model but not its technology."

25 Is that correct?

1 D. Ericson

2 A. Sure. I mean, in general that's
3 what I -- yes. That's what I was trying to
4 convey.

5 Q. And all of your citations here
6 are to your deposition testimony in the
7 Ogden IPRs.

8 Is that right?

9 A. Yes. It's my recollection of
10 what was going on in the business at the
11 time.

12 Q. And you cited just two pages of
13 that testimony, pages 97 and 98.

14 Is that right?

15 MR. SHEPARD: Objection. Form.

16 A. I am guessing -- if we want to --
17 I would be happy to cite the entire -- my
18 entire testimony that I have said
19 previously because there was a lot in it,
20 and I am frustrated I am having to do it
21 again. But the entire thing was accurate
22 to my recollection.

23 BY MS. RABENSTEIN:

24 Q. So I would like to --

25 A. All of Ogden.

1 D. Ericson

2 Q. I would like to discuss some of
3 what you said in your prior deposition that
4 you didn't cite in this paragraph. So
5 let's turn to Exhibit 2102, please, and
6 let's start at page 97.

7 Can you scroll down slowly, just
8 refresh your recollection to 98, and what I
9 would like you to put on the screen is
10 lines -- on 98, I would like to put the
11 first line appearing being line 7, just so
12 we can see as much as we can see there.

13 Mr. Ericson, in the interest of
14 speeding things up, I will represent to you
15 that in paragraph 28 of your declaration
16 the latest line testimony that you cite on
17 page 98 is page 98, line 9. Okay?

18 Now, the next question -- the
19 next question we ask that you didn't cite
20 was, do you have an understanding as to why
21 Move was migrating to a new model?

22 Right? Do you see that question?

23 A. Do you have an understanding?

24 Yes.

25 Q. And you testified that Move was

1 D. Ericson
2 migrating to a new model in response to the
3 market downturn because "There wasn't
4 enough ad inventory to support the revenue
5 to offset the cost of over the top
6 streaming."

7 Is that correct?

8 A. That's what I said in terms of
9 the way that -- yes. In terms of the way
10 that Move had been pricing its technology
11 for sure.

12 Q. And you still agree with that
13 statement? That statement is correct?

14 A. Yes. For the model at the time,
15 yes. That statement is correct.

16 Q. And you continue on -- now we are
17 at page 98, lines 18 through 21 of
18 Exhibit 2102 -- you explain that there
19 wasn't people creating a lot of creative or
20 ad inventory in the marketplace so we had
21 more consumer demand for the streaming than
22 could be monetized -- and I just kind of
23 fixed the verb tense there, but is that the
24 correct substance of what you were saying?

25 A. That's the general idea.

1 D. Ericson

2 Q. And that testimony is still
3 correct today, right?

4 A. Yes. The market -- yes. To
5 express -- to re-express what I was trying
6 to convey because I don't know exactly is
7 that because of the economic downturn
8 people weren't buying, therefore there
9 wasn't as much advertising and there wasn't
10 as much -- there wasn't as much interest in
11 the cost of streaming, and so all of those
12 factors combined to make it difficult for
13 Move to continue its model and to change
14 into like -- you know, add a few options
15 but we had to choose how to -- okay. This
16 model is not working so now how do we
17 decide to use what we have built in a way
18 that can make money as opposed to being --
19 I mean, there were various ways to go. We
20 could have been a software company. We
21 could have been an MVPD. There was lots of
22 things, and so Move was trying to adapt
23 itself as a company to fit into the
24 economic climate at the time.

25 Q. So just a couple of clarifying

1 D. Ericson

2 points there. So prior to the economic
3 downturn in 2007 to 2009, Move's model was
4 an ad-sponsored revenue model.

5 Is that right?

6 MR. SHEPARD: Objection. Form.

7 A. Move's model was an ad-sponsored
8 revenue model?

9 BY MS. RABENSTEIN:

10 Q. Yes.

11 A. No. That's not correct. Move's
12 model --

13 Q. Hold on. Can we go back to your
14 declaration, Exhibit 2100, please, at
15 paragraph 28. You state there -- the first
16 sentence in paragraph 28 of your
17 declaration of Exhibit 2100, you state, "By
18 the economic downturn of 2008, businesses
19 in the industry began shifting their
20 revenue bases away from ad supported models
21 and moved toward premium subscription
22 models."

23 Is that right?

24 A. Yes. That's what the publishers
25 of the content were doing for sure.

1 D. Ericson

2 Q. Move relied on ad-sponsored
3 revenue to support its player prior to
4 the --

5 A. No.

6 Q. -- economic downturn?

7 A. Move was selling adaptive-bitrate
8 streaming technology and the ability to
9 move content over the network. The
10 broadcasters -- its companies -- its
11 customers were supporting the cost of
12 streaming and using Move technology by
13 selling ads themselves. And so because of
14 the market downturn, the publishers -- the
15 people that own the content -- were the
16 ones that were trying to figure out how to
17 reduce their costs because their revenue
18 had declined, which is why Move was
19 considered kind of a tax or a luxury
20 because the technology itself was good, but
21 the model -- if you couldn't pay for the
22 cost of distributing streaming, then -- and
23 you didn't have enough ad inventory in
24 revenue as one of these publishers, then
25 the cost of streaming was greater than your

1 D. Ericson

2 revenue. That's why the industry started
3 to change.

4 Q. So the model that Move was
5 relying on prior to the economic downturn
6 was a model selling to who?

7 A. To Televisa and ABC and all of --
8 virtually every major publisher of content
9 at the time. So everybody. The National
10 -- like I said before, the Democratic
11 National Convention, the church, the Don
12 King Enterprises, the Pel center. There
13 is hundreds of customers including Fox and
14 ABC and ESPN, and I can go down the list.
15 And the reason why it -- and what we were
16 doing is we were providing the technology
17 and the model was charging those providers
18 for the bits they moved using Move's
19 player. Not for ads. The ad revenue was
20 on their side. So what happened is because
21 of the economic downturn, those publishers
22 and because there wasn't enough ad
23 inventory, those publishers couldn't
24 support the cost of streaming to all these
25 customers because there wasn't enough new

1 D. Ericson

2 ad inventory nor revenue from the inventory
3 in the downturn to support streaming at the
4 scale it had grown to using Move's
5 technology.

6 Q. Let me see if I have this
7 correctly.

8 Because of Move's customers who
9 were paying Move needed ad revenue and they
10 couldn't get it --

11 A. The entire business model -- I
12 will be simpler. The entire business model
13 was based on the proposition that
14 advertising dollars were moving from
15 traditional television to internet
16 advertising. And because the dollars were
17 moving to internet advertising, whether it
18 be a banner or whether it be -- whatever --
19 they were losing revenue to other places
20 where people were spending ad dollars.

21 So Move came along and they said,
22 Guess what? We have invented a technology
23 that is so good that people can actually
24 watch your premium television content over
25 the internet and they will stay and watch

1 D. Ericson

2 it without buffering and getting frustrated
3 and watching at a postage stamp size, and
4 because they can now actually legitimately
5 watch television like they were doing in
6 television previously, you can move your
7 ads now, in addition to your broadcast
8 service to an online streaming service and
9 recoup a lot of that revenue that you are
10 losing by people going to the internet.
11 That was the business proposition that Move
12 was selling to these people.

13 Q. So the business proposition Move
14 was selling to the people was, you can use
15 our technology to target people with ads
16 and they'll see the ads online; is that
17 right?

18 MR. SHEPARD: Objection. Form.

19 A. You can use our technology to
20 expand your business from traditional
21 broadcast to video watching online because,
22 heretofore, people have had to watch it as
23 little teeny screens because they couldn't
24 push the amount of data or bits or they had
25 to watch it with buffering and stalls. And

1 D. Ericson

2 Move came along and invented this
3 technology, and we went to them and said,
4 Look, here is streaming that actually
5 works. It's so good it's like television.
6 We have invented this new thing and they
7 all looked at it and they all said, yes,
8 after testing and everything else. You
9 know what? You are right. It is awesome.
10 And so what we want to do is we buy into
11 what you are telling us. This is a new
12 thing. This is going to change the market,
13 and so we could now recoup -- not only can
14 we expand our audience in this new
15 technology, but we can recoup by being on
16 the internet some of the ad revenue we are
17 losing on traditional broadcast because
18 more and more content is moving to the
19 internet.

20 And so that was Move's business
21 model is providing a solution -- a platform
22 -- a player -- that allowed them to expand
23 their business model, an outlet for their
24 previous content, and collect revenue in
25 the same way they had been collecting

1 D. Ericson

2 revenue for the previous 50 years. That's
3 the premise of adaptive-bitrate streaming.

4 Q. Okay. I think I get it now. So
5 let's go back -- we're already there. So
6 the last sentence in Exhibit 2100,
7 paragraph 28, states, "Others, like
8 Disney/ABC, for example, adopted Flash as a
9 temporary stop-gap measure following Move's
10 transition away from business-to-business
11 provisions."

12 A. That is exactly what they had to
13 do because what Move could no longer --

14 Q. I just -- my question was, did I
15 read it correctly?

16 A. You did.

17 Q. And you cite one exhibit there,
18 Exhibit 2121.

19 Is that right?

20 A. Yes.

21 Q. You don't cite anything else for
22 that proposition, right?

23 A. Other than what I just explained
24 to you, but that's my testimony what I just
25 explained to you.

1 D. Ericson

2 MS. RABENSTEIN: Right. So let's
3 look at Exhibit 2121, which should be
4 Tab 14.

5 (Exhibit 2121 was referenced for
6 identification)

7 BY MS. RABENSTEIN:

8 Q. Mr. Ericson, please take a look
9 at Exhibit 2121, and once you have had a
10 chance to review it, my question is, do you
11 recognize it?

12 A. (Witness reviewing document).

13 Yes.

14 Q. What is Exhibit 2121?

15 A. It is an article talking about
16 the transition of Fox and ABC away from
17 Move and to Flash or alternative streaming.

18 Q. I will direct you to the first
19 paragraph of this article and the first
20 sentence in it, which states, "Fox.com has
21 quietly switched from Move Networks' player
22 to Flash for its online video with
23 Brightcove powering content management and
24 publishing."

25 Did I read that correctly?

1 D. Ericson

2 A. Yes.

3 Q. That sentence does not indicate
4 that Fox.com's switch to Flash was
5 temporary, correct?

6 A. Its move to Flash was temporary?

7 Q. Yes.

8 A. No.

9 Q. And that article does not say
10 anything about Fox.com later switching away
11 from Flash.

12 Is that correct?

13 A. Right, because how would you know
14 "later" at the time it was written?

15 Q. Now the second sentence of
16 Exhibit 2121 states, "Separately, a
17 Disney/ABC spokesperson told me that
18 ABC.com will also be transitioning from
19 Move to Flash in the coming weeks, though
20 both will be used temporarily."

21 Did I read that correctly?

22 A. Yes.

23 Q. So the VideoNuze article that is
24 Exhibit 2121 states that "ABC.com will be
25 transitioning from Move to Flash," correct?

1 D. Ericson

2 A. Yes. But they both indicated it
3 would be temporarily. That they got that
4 because they knew that Flash wasn't a great
5 solution at the time.

6 Q. Well, it doesn't say, "They knew
7 Flash wasn't a great solution at the time,"
8 in the article, right?

9 A. I don't know why you would say
10 "temporarily," then.

11 Q. Well, the sentence says "ABC.com
12 will be transitioning from Move to Flash in
13 the coming weeks, though both will be used
14 temporarily."

15 MR. SHEPARD: Objection. Form.

16 BY MS. RABENSTEIN:

17 Q. Correct?

18 A. So what would be the reason for
19 temporarily?

20 Q. Both -- ABC.com was both using
21 both Move and Flash temporarily.

22 Is that a fair reading of that?

23 MR. SHEPARD: Objection. Form.

24 A. No. I think it's -- my reading
25 of it is, "Fox and ABC were both using Move

1 D. Ericson

2 and will be moving to Flash temporarily."

3 BY MS. RABENSTEIN:

4 Q. There is nothing in the sentence
5 talking about Fox that says it's
6 "temporary"?

7 A. The same paragraph. "Fox.com has
8 quitely switched from Move Networks' player
9 to Flash for its online video with
10 Brightcove powering the content." So they
11 went to Flash, and Brightcove was the one
12 providing that solution. "Separately, a
13 Disney/ABC spokesman told me that ABC.com
14 will also be transitioning from Move to
15 Flash in the coming weeks, though both will
16 be used temporarily."

17 I believe that to say that both
18 -- because of who the providers are -- goes
19 to mean Fox and ABC, not ABC and whatever.

20 Q. So it's your testimony that the
21 sentence that says, "Separately, a
22 Disney/ABC spokesperson told me that
23 ABC.com will also be transitioning from
24 Move to Flash in the coming weeks, though
25 both will be used temporarily" --

1 D. Ericson

2 A. I think --

3 Q. -- it actually means that Fox.com
4 and ABC.com will be temporarily using what,
5 Flash?

6 A. Yes.

7 MR. SHEPARD: Objection. Form.

8 A. That's what I read because Move
9 was transitioning away from being their
10 provider. We were trying to turn into
11 something else. We were going to become a
12 -- we were looking at being a multi-channel
13 service vendor. So they had to find an
14 alternative if we were no longer a B2B
15 partner. And so they were using Move
16 through the transition because they
17 couldn't just cut off their customers. So
18 they continued to use Move up until the
19 point that they thought it was technically
20 feasible to finally move their customers to
21 Flash even though neither of them really
22 thought it was a great -- wanted to.
23 That's my take on it, because -- but they
24 didn't have a lot of alternatives. So
25 that's what they did because Move's

1 D. Ericson

2 business model was transitioning.

3 BY MS. RABENSTEIN:

4 Q. This article doesn't say that --

5 A. It does.

6 Q. -- Fox.com or ABC were planning
7 to transition back to Move.

8 Is that correct?

9 A. No. It does not say that at all,
10 and I don't know they would have because
11 Move's owners and people were trying to
12 transition it to be an end-to-end delivery
13 platform multi-channel video service as
14 opposed to kind of just a core technology
15 provider enabling the independent content
16 providers. So in one way, they were at
17 odds with each other because an aggregator
18 or an MVPD doesn't -- is licensing content
19 from these guys, as opposed to these guys
20 distributing directly to end consumers.
21 And so the business models are kind of
22 incongruent. I think that's what the
23 article is trying to point out.

24 Q. Let's go back to your
25 declaration, Exhibit 2100, paragraph 28,

1 D. Ericson

2 where you say, "Others like Disney/ABC, for
3 example, adopted Flash as a temporary
4 stop-gap measure following Move's
5 transition away from business-to-business
6 provisions."

7 A. I think I just said that without
8 reading the paragraph.

9 Q. What "others" were you referring
10 to there?

11 A. Other Move customers. Like I
12 just said, we had --

13 Q. Which ones?

14 A. Televisa, ProSeiben, ABC, CWTB,
15 Fox -- like we said, Fox, ABC, ESPN.

16 Q. How do you know Televisa adopted
17 Flash as a temporary stop-gap measure
18 following Move's transition?

19 MR. SHEPARD: You are going to
20 have to let him finish answering,
21 please.

22 A. What I can't do is say -- sorry.
23 Let me put it another way.

24 They all had to find another
25 mechanism for continuing in the streaming

1 D. Ericson

2 business if they chose to do so, rather
3 than Move because Move's business model was
4 changing because of the economic downturn.
5 If you can't afford to stream in the way
6 Move was doing, then Move had to change its
7 business model. And so Move was changing
8 its business model, which means that people
9 had to find other solutions.

10 In this article, the solution
11 that was chosen by Fox was to Move to
12 Flash.

13 MS. RABENSTEIN: I move to strike
14 all of that because I am asking you
15 about a sentence in your declaration.
16 I am not talking about the article at
17 this point.

18 BY MS. RABENSTEIN:

19 Q. My question was you state,
20 "Others like Disney/ABC, for example,
21 adopted Flash as a temporary stop-gap
22 measure following Move's transition away
23 from the business-to-business provision,"
24 and I asked you, "What others adopted Flash
25 as a temporary stop-gap measure?"

1 D. Ericson

2 MR. SHEPARD: I want to also
3 point out, though, that he was in the
4 middle of giving that answer, but was
5 interrupted at page 121, lines 15 and
6 16.

7 MS. RABENSTEIN: You get to say
8 "objection to form." Stop with it.

9 BY MS. RABENSTEIN:

10 Q. Mr. Ericson, what others adopted
11 Flash as a temporary stop-gap measure
12 following Move's transition away from
13 business-to-business provisions?

14 A. I can't tell you all the ones
15 that went specifically to Flash. I can
16 tell you that all of the people I just
17 mentioned to you had to find another
18 solution because of the model changing.

19 So I can't go and say, Hey, this
20 person chose whatever, or this person chose
21 Flash. I would presume, based on my prior
22 statement, that because ABC and Fox, which
23 are generally considered market leaders
24 chose Flash, that others did so too. But
25 it wasn't a satisfactory position. So

1 D. Ericson

2 things like HLS and others had to be
3 enhanced to be able to provide the same
4 quality, which is why it was considered
5 "temporary." That's my take on it.

6 But what I do know for sure is
7 that all those customers that I was just in
8 the process of mentioning had to find
9 another place to get their streaming
10 technology from because the economic cycle
11 at the time was difficult for Move to
12 continue the model that it had been
13 providing to those providers.

14 Q. So your statement that "others
15 adopted Flash as a temporary stop-gap
16 measure" is a presumption that you are
17 making, correct?

18 MR. SHEPARD: Objection. Form.

19 A. No. It's -- I just indicated two
20 market leaders that clearly went there. I
21 know that others would have had to choose
22 that, which is why I said "others." I
23 don't know if anyone else chose any other
24 solution other than Flash, but I know some
25 chose Flash, for sure. Absolutely,

1 D. Ericson

2 undeniably. The article you showed me said
3 that.

4 BY MS. RABENSTEIN:

5 Q. You say, "I know that others
6 would have had to choose Flash," right?

7 A. There was only so many things in
8 the marketplace to choose from. So that's
9 what I am saying. Name me other
10 technologies that they could have moved to
11 that were functionally close -- even close
12 to what Move was doing. That's why Move
13 had all the customers.

14 Q. But you are stating it in your
15 declaration as if it is a fact that you are
16 aware of -- specific others that adopted
17 Flash as a temporary stop-gap measure.

18 A. The others --

19 MR. SHEPARD: Objection. Form.

20 A. The others -- I will take that on
21 what you said -- the others is an
22 assumption. I can't tell you exactly
23 because my memory is not that good. But I
24 know that some of those customers I just
25 mentioned went to Flash. I can't tell you

1 D. Ericson

2 who, and I can't tell you what because I
3 don't have that information in front of me,
4 but there were very few alternatives.

5 BY MS. RABENSTEIN:

6 Q. And when you were preparing your
7 declaration, you could have looked that
8 information up, correct?

9 MR. SHEPARD: Objection. Form.

10 A. Sure. But it's not -- I could
11 have -- I could have created -- I could
12 have been deposed for another seven hours.
13 I am just telling you what I remember.

14 BY MS. RABENSTEIN:

15 Q. So you had the opportunity to
16 include names and look that up and you --

17 A. Sure. But I just included a
18 bunch of names of people that would have
19 had to find another solution other than
20 Move, and so I don't really care --
21 personally I don't care. I don't know
22 about this case, what technology they
23 chose. The focus of me and Move at the
24 time was saying, Wow, we have got to shift
25 the business, and all these other people

1 D. Ericson

2 have to find a place to go because the
3 model that we had in the marketplace, while
4 it was awesome, and everyone loved it, and
5 everyone was using our technology -- had to
6 find a place to go because we had to find a
7 way to keep doing things.

8 And the best course of action at
9 the time because we had proved out so much
10 of our live streaming technology and things
11 was to try to go get actual television and
12 Move towards being a provider at the time
13 because subscription revenue -- ad revenue
14 at the time was not sustaining the
15 marketplace, period, for anybody. And you
16 can go back and look at all the economics
17 of everybody in the industry at the time
18 and every article will say, they're losing
19 money.

20 And the reason they were losing
21 money is because advertising by itself with
22 the limited amount of advertising and the
23 downturn in the economy was not capable of
24 sustaining this awesome emerging business,
25 and this technology and it was just really

1 D. Ericson

2 unfortunate that the technology was there,
3 but the market had a downturn. So what
4 happened is that -- because we are a
5 business, and we want to keep people
6 employed, we had to figure out a different
7 way of operating, and so did they. And so
8 what we did is we said, Well -- and the
9 board and, whatever, and whoever owned Move
10 at the time, or who put in all the
11 investment dollars were saying, Well, we
12 want you to do something because this isn't
13 sustainable, and we want to get our money
14 -- you know, we want to get a return on our
15 investment. And so that's kind of what
16 drove --

17 MS. RABENSTEIN: Mr. Ericson, I
18 am sorry. This is pages and pages and
19 pages, and it is not at all responsive
20 to the question that I asked you. So I
21 am moving to strike everything that is
22 not responsive to my question, which
23 was that you had the opportunity to put
24 this in your declaration and you
25 didn't.

1 D. Ericson

2 THE WITNESS: Let me abbreviate
3 what I said.

4 MS. RABENSTEIN: No. I move to
5 strike all of that, and I am moving on
6 into my next question. So let's look
7 at paragraph 29 of your declaration,
8 please.

9 BY MS. RABENSTEIN:

10 Q. In paragraph 29 of your
11 declaration, you state, "At its peak,
12 Move's player was superior" -- "was a
13 superior product to the other commercially
14 available players, including Flash."

15 Did I read that correctly?

16 A. That is what I stated, and I
17 think I just explained that.

18 Q. When was Move's player at its
19 peak?

20 A. When we had all those customers
21 that I just mentioned that you struck.

22 Q. I am asking you, when? What
23 time? What year was Move's player at its
24 peak?

25 MR. SHEPARD: Objection.

1 D. Ericson

2 A. Between 20 -- probably between
3 the end of -- I mean, this is my
4 recollection -- so probably between the end
5 of 2006 and the majority of -- up to
6 probably mid-2000 -- I don't know. I mean,
7 I can't tell you the end because we kind of
8 forced people away. So but we were
9 definitely at its peak adding all these
10 people that I told you throughout 2007, for
11 sure, 2006 and 2007.

12 BY MS. RABENSTEIN:

13 Q. So what other commercially
14 available players were available in 2006
15 and 2007?

16 A. I don't think there were any
17 commercially viable players that performed
18 like Move Networks'.

19 Q. I'm sorry. My question was --
20 based on words you said -- no -- let me ask
21 my question.

22 My question was, what were other
23 commercially available players in 2006 and
24 2007?

25 A. There were players that did

1 D. Ericson

2 Progressive Download.

3 Q. Can you give me names of any
4 other commercially available players
5 available in 2006 and 2007?

6 A. As a player? I mean, again, as a
7 technology, people were trying to deliver
8 video by lots of ways. I don't know that
9 anyone had a -- "Here is my player and this
10 is what it does like Move Networks' did."
11 I think that people were trying to download
12 video via lots of mechanisms, including
13 like Progressive Download, and trying to
14 mess around with peer-to-peer and UVP, and
15 there were other providers that were trying
16 to solve this solution at the time, but not
17 sold to the industry in the way Move did as
18 a player, to my recollection.

19 Q. Mr. Ericson, you state in
20 paragraph 29 of your declaration, "At its
21 peak, Move's player was a superior product
22 to the other commercially available
23 players, including Flash."

24 I am asking you what were the
25 other commercially available players

1 D. Ericson

2 including Flash -- the names of them that
3 you are referencing in that sentence.

4 MR. SHEPARD: Objection. Form.

5 A. Okay. Flash. Let's see. Like I
6 said, 2007, 2008 -- again, Apple was a
7 proposed standard in 2008. My recollection
8 would tell me that Microsoft's Smooth
9 Streaming was being developed in 2008,
10 2009, and so Move's peak, beginning in 2006
11 going through 2008-ish, when -- because we
12 had been in two years of economic
13 downturn -- people then would have had the
14 opportunity to consider Flash or -- at the
15 time of the transition -- would have had
16 the opportunity to probably choose from
17 three major opportunities.

18 Either try to implement HLS or go
19 to Flash in some combination there or try
20 Microsoft Smooth Streaming would have been
21 the market viable -- there are probably
22 others, but those would have been market
23 viable solutions. The peer-to-peer stuff
24 that was developed wasn't working very
25 well, and it hadn't proven itself as a

1 D. Ericson

2 viable option at all. So that's what I can
3 tell you.

4 BY MS. RABENSTEIN:

5 Q. So in response to my question of
6 what other commercially available -- don't
7 interrupt me -- you're yelling at me about
8 interrupting you.

9 A. I am sorry.

10 Q. In response to my question about
11 what were the other commercially available
12 players, including Flash, the names of them
13 that were available in 2006 and 2007, you
14 came up with Flash, Apple was a proposed
15 standard in 2008, and Microsoft's Smooth
16 Streaming was being developed in 2008.

17 Is that fair?

18 MR. SHEPARD: Objection. Form.

19 A. And whoever -- and CVNs and
20 others that were trying to mess around with
21 the idea of Progressive Download. I do not
22 know what brands or players were associated
23 with that concept.

24 BY MS. RABENSTEIN:

25 Q. And in 2006 and 2007, was HLS --

1 D. Ericson

2 Apple's HLS -- commercially available?

3 MR. SHEPARD: Objection. Form.

4 A. In 2006? No. 2007? Not to my
5 knowledge.

6 BY MS. RABENSTEIN:

7 Q. In 2006 and 2007, was Microsoft's
8 Smooth Streaming commercially available?

9 MR. SHEPARD: Objection. Form.

10 A. Not Smooth Streaming, but they
11 had other technologies in the marketplace
12 attempting to provide streaming. I don't
13 know what those were by name, but I know
14 that they were already in the marketplace,
15 trying to provide them.

16 BY MS. RABENSTEIN:

17 Q. So here is where I stand, where I
18 am trying to understand your basis for the
19 sentence in paragraph 29.

20 So you state, "At its peak" --
21 and you say that's 2006 to 2007-ish --
22 "Move's player" --

23 A. Even through '08 -- even into
24 '09.

25 Q. -- "Move's player was a superior

1 D. Ericson

2 product to the other commercially available
3 players, including Flash," right? You say
4 that?

5 A. I do say that.

6 Q. And you can't tell me, other than
7 Flash, a commercially available player in
8 2006 or 2007, correct?

9 MR. SHEPARD: Objection. Form.

10 A. Maybe -- I get what you are
11 asking, I think. So let me maybe restate
12 it in my understanding. You are looking
13 for me to say what product or company --
14 BY MS. RABENSTEIN:

15 Q. I would like you to answer the
16 question that I asked and not restate what
17 you think I am asking.

18 MR. SHEPARD: He has answered
19 your question repeatedly. He is trying
20 to help you with your understanding
21 that you have asked him about. So if
22 you would like him to respond, he will,
23 but he is not going to repeatedly
24 answer his question in terms that you'd
25 like.

1 D. Ericson

2 THE WITNESS: Here's what I --
3 please let me answer -- let me just --

4 BY MS. RABENSTEIN:

5 Q. Yes or no? Can you tell me,
6 other than Flash, a commercially available
7 player in 2006 or 2007?

8 MR. SHEPARD: Objection. Form.

9 A. It's the semantics of the word
10 "player" that I am struggling with in
11 answering your question. So what I am
12 saying is, clearly, there were people
13 trying to stream content on the internet.
14 I've referenced that previously in my
15 testimony about buffering and sizing of
16 windows and things. People were trying to
17 stream.

18 Prior to -- at Move's peak,
19 people were trying to stream. And it was a
20 problem because it wasn't very good.

21 BY MS. RABENSTEIN:

22 Q. That's not answering my question.

23 A. I am. I am. Streaming was out
24 there. I cannot name all -- I cannot name
25 the commercially viable player, but

1 D. Ericson

2 streaming was out in the marketplace. And
3 it was not working well. I can't tell you
4 that, but I can tell you that streaming --
5 trying to move video over the internet did
6 not start with Move Networks. Move
7 Networks fixed streaming over the internet.

8 That's what I am trying to say.
9 That's my testimony.

10 Q. So my question to you -- and the
11 answer is yes, no, or I can't answer this
12 question with a yes or no -- which is --
13 yes or no or I can't answer yes or no --
14 can you tell me, other than Flash, a
15 commercially available player in 2006 or
16 2007?

17 MR. SHEPARD: Objection. Form.

18 Dave, you don't have to answer
19 the way that she's telling you how to
20 answer. You answer the question that
21 you understand.

22 BY MS. RABENSTEIN:

23 Q. Yes, no, or you can't answer it
24 yes or no.

25 A. I've tried to answer it the way I

1 D. Ericson

2 did. So let me amend if I can, because
3 this is becoming a weird discussion here.

4 So Move is a superior product to
5 any other commercially viable technologies
6 in the marketplace. Done.

7 Q. And you can't tell me
8 commercially --

9 A. I have told you --

10 Q. So you are rewriting what you
11 wrote in your declaration -- is that --

12 MR. SHEPARD: Objection. Form.

13 A. I am trying to clarify.

14 MR. SHEPARD: That's wildly
15 inappropriate to characterize it as
16 that.

17 THE WITNESS: I am trying to
18 clarify what I was trying to convey in
19 my declaration without getting around
20 the semantics of the language I chose.
21 So that appears to be where we are
22 debating. I am trying to say there
23 were technologies available for
24 streaming, and Move was clearly
25 superior. That is my -- that is what I

1 D. Ericson

2 am trying to say here.

3 BY MS. RABENSTEIN:

4 Q. I understand you're trying to say
5 that. I am asking you what were the
6 commercially viable technologies that you
7 are referencing to make that allegation?

8 MR. SHEPARD: Objection. Form.

9 BY MS. RABENSTEIN:

10 Q. I just want names of products,
11 and if you can't give me the names of the
12 products, that's fine.

13 A. I've given you the names of the
14 products.

15 MR. SHEPARD: He has answered
16 that question repeatedly.

17 MS. RABENSTEIN: No, he hasn't.
18 I don't have names of products.

19 MR. SHEPARD: He has answered the
20 question repeatedly. And if I may, I
21 will direct the court reporter to read
22 back exactly where he has.

23 THE WITNESS: Is Progressive
24 Download a player with a technology?
25 Because people were trying to do that.

1 D. Ericson

2 This is why I don't understand the
3 question, and I guess I have answered
4 it to the best of my ability. So I
5 can't give you a product name. I can't
6 give you a market name because it
7 wasn't like that at that time.

8 BY MS. RABENSTEIN:

9 Q. I just want to say, in asking the
10 question, I was using the language that you
11 used in your declaration.

12 A. I get it. And that's why I am
13 saying -- that's why I would restate it,
14 but the concept stands in what I was trying
15 to say.

16 MR. SHEPARD: We have been going
17 for a little over 75 minutes. Reba, if
18 we can reach a natural stopping point
19 sometime soon and maybe cool off and
20 take a break, that'd be great. I'm not
21 sure if this is a good time, or if you
22 have got more.

23 MS. RABENSTEIN: I was going to
24 say, I mean, we are almost at the end
25 of his declaration. Obviously, I will

1 D. Ericson

2 take a break if that's what you want
3 and if -- Mr. Ericson, if that's what
4 you want.

5 THE WITNESS: I am sorry for
6 getting so animated. I am just
7 frustrated because --

8 MS. RABENSTEIN: I'm trying to
9 figure out what you're saying, too,
10 because I feel like I am using the
11 language --

12 THE WITNESS: I'm trying to --

13 MS. RABENSTEIN: -- and you are
14 saying you don't understand that.

15 MR. SHEPARD: Since we've been
16 speaking over each other and since the
17 court reporter, it looks like, having
18 not a great time, I propose that we all
19 take maybe five minutes, if that's
20 okay.

21 MS. RABENSTEIN: We can take five
22 minutes. We hopefully can get done
23 pretty quickly because we are almost at
24 the end of his declaration, so like --

25 MR. SHEPARD: I just think maybe

1 D. Ericson

2 it would be better if we paused here
3 for just five minutes.

4 MS. RABENSTEIN: Okay. Off the
5 record, please.

6 THE VIDEOGRAPHER: Going off the
7 record at 5:25 p.m.

8 (Recess)

9 THE VIDEOGRAPHER: Going on the
10 record at 5:31 p.m.

11 BY MS. RABENSTEIN:

12 Q. Welcome back, Mr. Ericson. I
13 think you are on mute. So you might have
14 to take yourself off mute here in a second.
15 Great. Thank you.

16 During the break we just had, did
17 you discuss the substance of your testimony
18 with anyone?

19 A. I did not.

20 Q. Thank you very much. Let's put
21 back -- we are almost at the end. Can we
22 please put back up Exhibit 2100, please,
23 and let's look at paragraph 30, please.

24 And, Mr. Ericson, just to preface
25 this, I am just asking about what is stated

1 D. Ericson

2 in paragraph 30, right?

3 So in paragraph 30 you state,
4 "When my team and I developed Sling TV,
5 we did so by implementing Move's ABR
6 architecture. In other words.
7 Sling TV was built upon Move's platform,"
8 and then you have a cite to your prior
9 testimony?

10 Is that correct?

11 A. That is.

12 Q. Now, in paragraph 30, you didn't
13 identify any particular components of the
14 Move ABR architecture that you put into
15 Sling TV.

16 Is that fair?

17 A. Yes.

18 MS. RABENSTEIN: That's really
19 all I have at this point.

20 At this point, I think I am done
21 with my initial questions, and I will
22 turn it over to counsel for Aylo if
23 they have any additional questions for
24 you.

25

1 D. Ericson

2 EXAMINATION

3 BY MR. ZIMMERMAN:

4

5 Q. Hi, Mr. Ericson. It's good to
6 see you again. It's been a few months
7 now.

8 A. It has.

9 Q. We have been going for a while
10 today. So I will try and keep my portion
11 brief and be respectful of your time.
12 Hopefully, this deposition total will still
13 be shorter than the last one?

14 A. I don't know. I feel like I am
15 talking a lot more this time.

16 Q. I just want to revisit a few of
17 the terms and kind of statements you made
18 earlier in talking with Reba. So first,
19 Mr. Ericson, when you were discussing with
20 Reba, you used a few technical terms such
21 as "freezing, buffering, extensive latency,
22 stalls."

23 Is that correct?

24 A. I did.

25 MR. SHEPARD: Objection. Form.

1 D. Ericson

2 BY MR. ZIMMERMAN:

3 Q. What does "freezing" mean in the
4 context of video streaming?

5 MR. SHEPARD: Objection. Form.

6 A. When you see a video -- a moving
7 picture turning into a still picture and
8 not progressing.

9 BY MR. ZIMMERMAN:

10 Q. What does "buffering" mean in the
11 context of video streaming?

12 MR. SHEPARD: Objection. Form.

13 A. My definition would be when it
14 can't receive the information that it would
15 expect to receive as the next frame of
16 video, it attempts to re-request those
17 files from the server and tries to build up
18 enough of those requests to try to provide
19 continuous playback when it resumes play.

20 BY MR. ZIMMERMAN:

21 Q. What does "extensive latency"
22 mean in the context of video streaming?

23 MR. SHEPARD: Objection. Form.

24 A. Latency -- my definition of
25 latency would be that it cannot receive --

1 D. Ericson

2 going back to the buffering -- latency is
3 either because of distance or other network
4 factors. It's just the round trip time it
5 takes to make a request and receive video
6 or data from the server and return that
7 back to the player. So the time it takes
8 to make that cycle.

9 BY MR. ZIMMERMAN:

10 Q. What do you mean by "extensive
11 latency"?

12 MR. SHEPARD: Objection. Form.

13 A. Just saying too much time to be
14 able to continue -- extensive to me is too
15 much time delay to be able to receive the
16 video in time.

17 BY MR. ZIMMERMAN:

18 Q. What does "stalls" mean in the
19 context of video streaming?

20 MR. SHEPARD: Objection. Form.

21 A. A stall would be somewhat
22 analogous to what I said was freezing
23 before. It's basically from a user
24 perspective the video stalls. It was
25 playing and now it's frozen or it's

1 D. Ericson

2 stalled.

3 BY MR. ZIMMERMAN:

4 Q. Have you ever heard any other,
5 quote, "somewhat analogous terms" for
6 freezing? Would you have heard of someone
7 using the word "blip" in the context of
8 video streaming?

9 MR. SHEPARD: Objection. Form.

10 A. Yes. I've heard that.

11 BY MR. ZIMMERMAN:

12 Q. What does "blip" mean in the
13 context of video streaming?

14 MR. SHEPARD: Objection. Form.

15 A. I would categorize it as a brief
16 freeze or stall.

17 BY MR. ZIMMERMAN:

18 Q. So --

19 A. Basically, you are playing along
20 and all of a sudden it pauses for a second
21 and quickly resumes. That's how I would
22 describe that term.

23 Q. So if a user said to you, I
24 experienced a blip while watching a video
25 on the Move player, you would understand

1 D. Ericson

2 what they mean?

3 Is that correct?

4 MR. SHEPARD: Objection. Form.

5 A. I would make the assumption based
6 on the definition -- my definition I just
7 gave you.

8 BY MR. ZIMMERMAN:

9 Q. Is the term "blip" fairly well
10 known in the video streaming industry?

11 MR. SHEPARD: Objection. Form.

12 A. Yes. Lots of people have lots of
13 terms for these. We were inventing our own
14 terms at the time -- right. I don't know
15 what to say. When we invented the
16 technology, no one had terms for any of
17 this stuff. So we called it what we called
18 it and people tried to describe the
19 behavior they saw. So no doubt there is
20 lots of terms. Blip is a term I have
21 heard.

22 BY MR. ZIMMERMAN:

23 Q. Would you expect someone with
24 experience in the video streaming industry
25 to have heard the term "blip"?

1 D. Ericson

2 MR. SHEPARD: Objection. Form.

3 A. I think it depends on who you are
4 talking to.

5 BY MR. ZIMMERMAN:

6 Q. Would you expect an expert in the
7 field of video streaming to understand what
8 the word "blip" means in the context of
9 video streaming?

10 MR. SHEPARD: Objection. Form.

11 A. I think I just tried to say that.
12 It depends on the context of what the
13 person's knowledge is or the terms they
14 have had. So if the -- Parker, I am not
15 trying to make this difficult again. But
16 it would be analogous to all the terms
17 people might use to describe the different
18 qualities of video. It's been called
19 "profiles" and "ladders," and all sorts of
20 other things. So it depends on who you are
21 talking to.

22 BY MR. ZIMMERMAN:

23 Q. I totally appreciate that there
24 are different words used in different
25 contexts. Okay.

1 D. Ericson

2 So moving on, earlier today you
3 stated that -- I'll quote, "I wasn't
4 involved directly in writing the patents,
5 but I certainly know what was being
6 contemplated and what was being done at the
7 time."

8 You were saying that to discuss
9 your knowledge of the "ABR patents."

10 Is that correct?

11 MR. SHEPARD: Objection. Form.

12 A. Yes. I'm trying to qualify that
13 the technology that I was responsible to
14 help implement to provide the type of user
15 experience we wanted to do was predicated
16 on the software that was being written and
17 the system that was being designed while we
18 were implementing it.

19 BY MR. ZIMMERMAN:

20 Q. Based on your knowledge of
21 the ABR patents, do you know if all of
22 DISH's ABR patents require continuous
23 playback?

24 MR. SHEPARD: Objection. Form.

25 A. I do not know.

1 D. Ericson

2 BY MR. ZIMMERMAN:

3 Q. Do you know if there are some
4 patents that require continuous playback?

5 MR. SHEPARD: Objection. Form.

6 A. My dispute would be in the word
7 "require." The purpose -- the intent of
8 the Move technology or player is to provide
9 an experience of continuous playback.
10 That's the entire intent of what we were
11 trying to accomplish.

12 BY MR. ZIMMERMAN:

13 Q. Do some of DISH's ABR patents
14 allow for freezing?

15 MR. SHEPARD: Objection. Form.

16 A. I will answer that in the same
17 way I just answered the others, is that the
18 problems that we are referring to are
19 things inherent in internet technologies
20 that Move's technology was trying to
21 overcome. So the way you phrased it was
22 that -- allows or whatever -- the term you
23 used, and I am saying those are inherent in
24 the problem trying to be solved, and Move
25 was trying to overcome those types of

1 D. Ericson

2 challenges.

3 BY MR. ZIMMERMAN:

4 Q. So would you agree that
5 continuous playback is a goal of DISH's ABR
6 patents and not a requirement?

7 MR. SHEPARD: Objection. Form.

8 A. That's hard to answer, and I will
9 explain why. Because it is -- the intent
10 is to provide an end user with an
11 experience that is as good as traditional
12 television they have experienced
13 previously. And so to the extent that a
14 normal person would say that I can watch
15 that show continuously without interruption
16 other than the nagging ads or whatever
17 else, that would be what Move's patent was
18 attempting to do, or Move's technology was
19 attempting to do. "Reliability" is a good
20 word for it too. I think it's a better
21 word, actually. It was trying to provide
22 reliable video viewing over the internet.

23 BY MR. ZIMMERMAN:

24 Q. And so Move's technology was
25 attempting to provide reliable video

1 D. Ericson

2 viewing over the internet, but it wasn't
3 required.

4 Do you agree?

5 MR. SHEPARD: Objection. Form.

6 A. I don't agree with the way it was
7 -- you are saying it because no technology
8 is 100 percent reliable. So every patent
9 in that way in my view would be unreliable.
10 Like nothing is reliable -- right? Your
11 car is going to break down. Everything
12 else. All those components are patentable.
13 So it was trying to accomplish reliability.
14 If it was able to do so with absolute
15 perfection, then, great. But to my
16 knowledge, I have never seen a technology
17 or anything that man has created that is
18 perfect.

19 BY MR. ZIMMERMAN:

20 Q. So switch out reliable, back to
21 the term we were using previously, nothing
22 -- sorry. One second. Strike that.

23 So just as ABR patents are
24 attempting to accomplish continuous
25 playback, but to do so with, as you said,

1 D. Ericson

2 absolute perfection, is not possible -- it
3 is not required, correct?

4 MR. SHEPARD: Objection. Form.

5 A. Again, it's the word "required"
6 that I am struggling with, Parker. Is
7 power to your home required to always be
8 on? And, I mean, it's the same type of
9 question you are telling me about. I mean,
10 the idea would be it's certainly expected
11 to be reliable, it's expected to be there,
12 but we know at times it's not. So I don't
13 know how else better to answer than I
14 already have.

15 BY MR. ZIMMERMAN:

16 Q. In your opinion, is it possible
17 to ever have continuous playback with 100
18 percent accuracy?

19 MR. SHEPARD: Objection. Form.

20 A. I would submit that we are all
21 trying to do that, but to my other set
22 point, I don't think any technology is 100
23 percent reliable. So what we do is we add
24 in error correction where things don't work
25 as intended and then we try to overcome

1 D. Ericson

2 those types of errors. So everything in
3 technology -- everything -- your car has
4 alarms and alerts for things that aren't
5 intended, like your oil leaks out, and I
6 would submit that Move's technology had
7 similar things to help us try to know how
8 things were behaving, but I don't believe
9 any technology -- I mean, the whole -- the
10 entire technology that it's based on is
11 technology -- TCP/IP is technology that in
12 its nature is flawed. Packets get dropped.
13 They don't get to their destination. So
14 they retransmit packets and if they
15 retransmit packets too many times, you have
16 to then re-request information. So my
17 point is you can't be more reliable and
18 more perfect than all the technologies that
19 it's based upon.

20 BY MR. ZIMMERMAN:

21 Q. And those TCP flaws -- those
22 would cause interruptions and buffering and
23 freezing and those other terms we discussed
24 earlier.

25 Is that correct?

1 D. Ericson

2 MR. SHEPARD: Objection. Form.

3 A. Yes. They are partially to be
4 responsible for those things. That was
5 what part of Move's technology was designed
6 to overcome on IP networks.

7 BY MR. ZIMMERMAN:

8 Q. And then earlier today, you
9 stated that you have -- and I will quote,
10 "have not reviewed the patents in the last
11 twenty years."

12 Correct?

13 MR. SHEPARD: Objection. Form.

14 A. I will qualify that to say in the
15 last -- in the Ogden deposition, you asked
16 me a similar question, and whatever I said
17 at that time is largely what I am trying to
18 say here. I don't know exactly verbatim
19 what I said, but I think I said something
20 to the effect that I have seen them. I
21 reviewed part of them, but it's been years
22 since I have done so. And that's what I
23 stand by.

24 BY MR. ZIMMERMAN:

25 Q. And by "them," you mean the ABR

1 D. Ericson

2 patents that Move filed, correct?

3 A. Correct.

4 Q. Are you aware of any ABR patents
5 that have been filed since twenty years
6 ago?

7 A. I have no doubt there are some.
8 I don't follow patent law. I don't follow
9 the patents.

10 Q. I will rephrase that question. I
11 am specifically talking about DISH's ABR
12 patents.

13 Are you aware of any that have
14 been filed since twenty years ago?

15 A. The only patents that I am ever
16 referring to is -- are those patents that I
17 knew about when I worked at DISH and
18 EchoStar.

19 Q. So you are not aware of any ABR
20 patents that have been filed in the last
21 five years?

22 A. No.

23 MR. SHEPARD: Objection. Form.

24 BY MR. ZIMMERMAN:

25 Q. So if DISH had filed an ABR

1 D. Ericson

2 patent in the last five years, you would
3 not have knowledge of that. Is that
4 correct?

5 MR. SHEPARD: Objection. Form.

6 A. That is correct. I have never
7 talked to anybody about such a thing.

8 MR. ZIMMERMAN: I think that is
9 it for me. So I will pass the witness.

10 MR. SHEPARD: Is that all the
11 questions on cross before we move to
12 redirect?

13 MS. RABENSTEIN: No further
14 questions from me before redirect.

15 MR. SHEPARD: Let's take a short
16 break. Maybe five minutes. I will
17 gather some documents and we will do a
18 brief redirect. If we could go off the
19 record, please.

20 THE VIDEOGRAPHER: Going off the
21 record the 5:54 p.m.

22 (Recess)

23 THE VIDEOGRAPHER: Going on the
24 record at 6:01 p.m.

25

1 D. Ericson

2 EXAMINATION

3 BY MR. SHEPARD:

4

5 Q. Mr. Ericson, welcome back from
6 break. A couple of those same housekeeping
7 questions that you were asked earlier, did
8 you discuss the substance of your testimony
9 with anybody on the break?

10 A. No.

11 Q. And we didn't have any
12 discussions over the break just to close
13 that loop, correct?

14 A. That is correct.

15 MR. SHEPARD: I am going to,
16 first, show you what's been marked as
17 Exhibit 2021 in these IPR proceedings,
18 and I believe it was shown to you
19 earlier. Let me know if you all can
20 see my screen. I am not a Zoom
21 aficionado.

22 (Exhibit 2021 was referenced for
23 identification)

24 BY MR. SHEPARD:

25 Q. Can everyone see my screen okay?

1 D. Ericson

2 A. Yes, I can.

3 Q. Mr. Ericson, you were shown this
4 document earlier, correct?

5 A. Yes.

6 Q. And do you recall what this
7 document is?

8 A. Yes. This is describing Fox and
9 ABC planning to transition to Flash as a
10 result of Move's changing its business
11 model.

12 Q. Specifically, it's a news article
13 from VideoNuze -- correct? -- titled, "Fox
14 Switches From Move to Flash, ABC Plans
15 Transition Too"?

16 A. Yes.

17 MR. ZIMMERMAN: Objection.

18 Leading.

19 BY MR. SHEPARD:

20 Q. I am going to scroll down and
21 show you the third paragraph of this
22 article, and I would like you to read it
23 silently. Let me know when you have
24 finished.

25 A. (Witness reviewing document).

1 D. Ericson

2 Okay.

3 Q. Mr. Ericson, what does that
4 paragraph say?

5 A. It says -- I can read it, but it
6 says that Move had received at the time
7 well over 100 -- millions of dollars, and
8 it gained notice for providing and proving
9 the point that -- to quote it -- that
10 "showing people that the internet could
11 indeed deliver crystal-clear high-quality
12 video that could credibly compete with TV
13 viewing." And it was tangible evidence of
14 how far it had come. And the last sentence
15 says, "Real Networks' RealPlayer ten years
16 earlier." But that was a brand that I
17 probably should have mentioned.

18 Q. The first sentence of that
19 paragraph states, quote, "Move was an early
20 leader in adaptive-bitrate streaming and
21 gained a ton of visibility for raising
22 close to \$70 million, including a whopping
23 \$46 million in April '08."

24 Do I have that right?

25 A. That is correct.

1 D. Ericson

2 Q. Is that your understanding of
3 Move?

4 A. Yes.

5 Q. Moving on to the next paragraph,
6 if you could please read this silently, and
7 let me know when you have finished.

8 A. (Witness reviewing document).

9 Okay. Done.

10 Q. Is this consistent with your
11 understanding about the economic downturn
12 in 2008 and how it affected Move's
13 business?

14 MR. ZIMMERMAN: Objection.

15 Leading.

16 A. Yes.

17 BY MR. SHEPARD:

18 Q. I would like to draw your
19 attention to the bottom right. There is a
20 yellow stamp that says "Exhibit 1," and it
21 has "Ericson" written in cursive below it?

22 A. Yes.

23 Q. And it's dated September 19th,
24 2024 in ink on the right. Do you see that?

25 A. Yes.

1 D. Ericson

2 Q. Do you recall ever seeing this
3 document prior to today?

4 A. Yes.

5 Q. When did you see this document
6 prior to today?

7 A. Presumably, on September 19th,
8 2024.

9 Q. Do you recall what occurred that
10 day?

11 A. I don't recall what occurred that
12 particular day.

13 Q. If I represented to you that
14 your deposition in the -- what has been
15 labeled "Ogden IPRs" occurred on September
16 19th of 2024, would that refresh your
17 recollection?

18 A. It sure would.

19 Q. So then, you would agree with me
20 that you saw this document and it was
21 Exhibit 1 in your deposition that was given
22 on September 19th, 2024, correct?

23 MR. ZIMMERMAN: Objection.

24 Leading.

25 A. Yes.

1 D. Ericson

2 BY MR. SHEPARD:

3 Q. Do you recall who showed you this
4 document that day?

5 A. I don't. I know I saw it.

6 Q. As counsel for Fubo and maybe
7 Aylo represented earlier, this is an
8 exhibit that's cited in your declaration,
9 right?

10 MR. ZIMMERMAN: Objection.

11 Leading.

12 A. Yes.

13 BY MR. SHEPARD:

14 Q. So then it's fair to say that you
15 reviewed this exhibit -- strike that. I
16 will rephrase my question.

17 It's fair to say that you
18 reviewed this exhibit prior to executing
19 your declaration in these proceedings?

20 MR. ZIMMERMAN: Objection. Form.

21 Leading.

22 MS. RABENSTEIN: Objection.

23 A. Can you restate it? Two people
24 were talking.

25 MR. SHEPARD: Yes. Reba, do you

1 D. Ericson

2 mind restating your objection? I
3 didn't catch it on the real time.

4 MS. RABENSTEIN: I was going to
5 say, "Objection, leading," but I can
6 limit it to "Objection, form," if
7 that's what you want.

8 MR. SHEPARD: That's fine.

9 I will rephrase that question.

10 BY MR. SHEPARD:

11 Q. So when was the first time that
12 you reviewed this page, to the best of your
13 knowledge?

14 A. Prior to that September date --
15 or at least by that September date.

16 Q. I am going to direct your
17 attention now to what's been labeled
18 Exhibit 2061 in these proceedings.
19 Earlier, you testified that you didn't have
20 the exact number of the people who tuned in
21 to the Church of Jesus Christ of Latter Day
22 Saints General Conference in October of
23 2005, but that you had personal knowledge
24 of about a number that might exist, right?

25 A. That is correct.

1 D. Ericson

2 MR. ZIMMERMAN: Objection.

3 Mischaracterizes prior testimony.

4 BY MR. SHEPARD:

5 Q. And I believe in your
6 declaration, you say that, "Tens of
7 thousands of people viewed the October 2005
8 General Conference for the Church of Jesus
9 Christ of Latter Day Saints."

10 Do I have that right?

11 A. Yes.

12 MR. SHEPARD: Objection. Form.

13 MR. ZIMMERMAN: Objection.

14 Leading.

15 BY MR. SHEPARD:

16 Q. Mr Ericson, do you know what the
17 Y Magazine is?

18 A. Yes.

19 Q. What is the Y Magazine?

20 A. It's a BYU magazine publication.

21 MS. RABENSTEIN: Objection.

22 Scope.

23 MR. SHEPARD: So now I am going
24 to direct your attention to Exhibit
25 2061.

1 D. Ericson

2 (Exhibit 2061 was referenced for
3 identification)

4 BY MR. SHEPARD:

5 Q. Could you tell me what
6 Exhibit 2061 in these proceedings are -- or
7 is?

8 MR. ZIMMERMAN: Objection.
9 Scope.

10 MS. RABENSTEIN: Objection.
11 Scope. This exhibit was not shown to
12 him during his cross.

13 MR. SHEPARD: That's correct.
14 But this exhibit directly clarifies the
15 narrative that Mr. Ericson presented,
16 so...

17 MS. RABENSTEIN: So the objection
18 remains.

19 A. This is a magazine article from
20 Brigham Young University.

21 BY MR. SHEPARD:

22 Q. Do you have any reason to doubt
23 the authenticity of this article?

24 A. No.

25 Q. Have you seen this article

1 D. Ericson

2 before?

3 A. If I have, I have forgotten what
4 it says.

5 Q. I am going to direct your
6 attention to page 6 of 15 of this exhibit,
7 and I would like you to read these three
8 paragraphs silently in your head, and let
9 me know when I can scroll to the next page,
10 please.

11 A. (Witness reviewing document).

12 Okay. I can't see the very last
13 line of the paragraph.

14 Q. Can you see it now?

15 A. Yes. You would like me to
16 paraphrase what it says?

17 Q. No, no. I would like you to keep
18 reading. Let me know when I can scroll. I
19 believe we are just going to go through
20 this page 7.

21 A. (Witness reviewing document).

22 Okay. You can scroll up.

23 (Witness reviewing document).

24 Okay.

25 Q. So do you know who Drew Major and

1 D. Ericson

2 John Edwards are?

3 A. I do.

4 Q. Who is Drew Major?

5 A. Drew Major was one of the -- the
6 founder of Move TV or the Move Networks.

7 Q. Who is John Edwards?

8 A. John Edwards was the CEO.

9 Q. And do you see in this paragraph
10 that's shown here on the bottom that, "The
11 most watched program on BYU Television,
12 General Conference, first streamed online
13 through Move Networks' servers in April
14 '06, garnered hundreds of thousands of
15 unique user sessions"?

16 A. Yes.

17 Q. Is this consistent with your
18 understanding that Move Networks'
19 collaboration with Brigham Young
20 University's broadcast of the General
21 Conference garnered the views of at least
22 tens of thousands of people, if not more?

23 MS. RABENSTEIN: Objection,
24 leading. Objection, mischaracterizes.

25 MR. ZIMMERMAN: Objection,

1 D. Ericson

2 leading.

3 A. Let me state what I said. I used
4 the term "tens of thousands." This says
5 "hundreds of thousands."

6 BY MR. SHEPARD:

7 Q. Okay. Mr. Ericson, the last
8 exhibit I am going to turn to. It is what
9 was shown to you earlier. This is
10 Exhibit 2023 in these proceedings, and it
11 is cited in your declaration.

12 Do you recognize this exhibit?

13 A. Yes, I do.

14 Q. Tell me what this exhibit is,
15 please.

16 A. This is an exhibit -- press
17 release, talking about Sling TV getting its
18 -- acknowledging an Emmy award.

19 Q. Earlier, Ms. Rabenstein
20 represented to you what is written in the
21 first paragraph here. I will read it for
22 the record. "The National Academy of
23 Television Arts and Sciences (NATAS) today
24 awarded Sling TV a Technology & Engineering
25 Emmy for its groundbreaking work developing

1 D. Ericson

2 and launching the nation's first live
3 over-the-top television service."

4 Do you recall that?

5 A. Yes.

6 Q. Would you please summarize,
7 briefly, what your testimony was as to what
8 the "groundbreaking work developing and
9 launching the nation's first live
10 over-the-top television service" was?

11 A. Yes. It was providing live,
12 linear television as a virtual MVPD so an
13 aggregator over-the-top, using Move's
14 technology.

15 MR. SHENG: Zach, my
16 colleague-partner just notified me that
17 he lost his connection. If we could
18 give him another minute just to jump
19 back in, I would appreciate it.

20 MR. SHEPARD: No problem.
21 Thanks.

22 MR. ZIMMERMAN: I just got back
23 in. Thank you.

24 MR. SHENG: If it's okay with
25 you, Zach, if you could just re-ask

1 D. Ericson

2 your last question.

3 MR. SHEPARD: Yes. I am happy to
4 have the court reporter -- could you
5 please read it back for us here
6 beginning --

7 Parker, do you remember about the
8 last question you heard?

9 Parker, are you there?

10 MR. ZIMMERMAN: We were still on
11 the last exhibit. It was, I think,
12 basically right after I objected.

13 MR. SHEPARD: Okay. I will
14 restart with Exhibit 2023, unless Reba
15 has any objections to that?

16 MS. RABENSTEIN: I mean, I don't
17 think we necessarily need to restart.
18 Do you have the real-time? You can see
19 what's in there.

20 MR. ZIMMERMAN: Yes.

21 MR. SHEPARD: Then I will carry
22 on.

23 BY MR. SHEPARD:

24 Q. Mr. Ericson, could you please
25 quietly read paragraph 4 of Exhibit 2023 of

1 D. Ericson

2 these IPRs?

3 A. (Witness reviewing document)

4 Okay.

5 Q. Could you please read sentence
6 one of paragraph 4 out loud, please,
7 beginning, "A pioneer"?

8 A. Sure. "A pioneer in
9 adaptive-bitrate streaming, Sling TV
10 launched February 9th, 2015, as the first
11 streaming service to deliver live
12 television over-the-top."

13 Q. Is this consistent with your
14 testimony that this was included in the
15 groundbreaking work developing and
16 launching the nation's first live
17 over-the-top television service?

18 MS. RABENSTEIN: Objection.

19 Leading, mischaracterizes.

20 A. Yes. I tried to convey that
21 previously, that it is about the
22 engineering work of which adaptive-bitrate
23 streaming and Move's technology was at that
24 foundation.

25 I know that because the Move

1 D. Ericson
2 assets that were acquired were literally
3 the technology that Sling TV was running
4 on. So it went from DISH Anywhere to Sling
5 TV and from Move Networks'. We didn't like
6 start from scratch. It was the exact same
7 technology and deployed infrastructure that
8 was the basis of all three.

9 MR. SHEPARD: Thank you,
10 Mr. Ericson. I will go ahead and turn
11 it back over to Ms. Rabenstein and
12 Mr. Zimmerman for any recross.

13 MS. RABENSTEIN: I have a
14 question on the exhibit you have right
15 up there. I don't know, Zach, if you
16 want to leave it up there?

17 MR. SHEPARD: I will reshow it.
18 Let me know when you can see my screen,
19 please.

20
21 FURTHER EXAMINATION

22 BY MS. RABENSTEIN:

23
24 Q. Mr. Ericson, can you see the
25 screen?

1 D. Ericson

2 A. Yes.

3 Q. Thank you. Just so we have a
4 clean record, we are looking at
5 Exhibit 2023 in the current IPR,
6 Mr. Ericson, and this is the press release
7 from Sling TV.

8 Do you see on the screen,
9 where it says, "News provided by Sling TV
10 LLC"?

11 MR. SHEPARD: Objection. Form.

12 A. Yes.

13 BY MS. RABENSTEIN:

14 Q. So the next provided in
15 Exhibit 2023 came from Sling TV.

16 Is that right?

17 MR. SHEPARD: Objection. Form.

18 A. My understanding would be this
19 would be a press release that they are --
20 or some PR agency drafted.

21 BY MS. RABENSTEIN:

22 Q. And a PR agency working on behalf
23 of Sling TV, right?

24 MR. SHEPARD: Objection. Form.

25 A. Yes.

1 D. Ericson

2 BY MS. RABENSTEIN:

3 Q. And you were just asked on
4 redirect here about the fourth paragraph
5 down stating, "A pioneer in
6 adaptive-bitrate streaming, Sling TV
7 launched"; is that right?

8 A. Yes.

9 Q. So this is Sling TV itself
10 calling itself a pioneer in
11 adaptive-bitrate streaming; is that right?

12 MR. SHEPARD: Objection. Form.

13 A. Yes. But Sling TV acquired Move
14 Networks, and so it's part and parcel of
15 the same organization and the same set of
16 technology underneath.

17 BY MS. RABENSTEIN:

18 Q. Correct. So it's the same
19 organization calling itself a pioneer in
20 the adaptive-bitrate streaming area,
21 correct?

22 A. Sling TV acquired Move Networks,
23 so I don't -- basically Move was no more,
24 so I don't know what else they would have
25 called it.

1 D. Ericson

2 Q. I guess the point I am getting at
3 is this language that you were pointed to
4 -- this isn't language that someone else in
5 the industry, who is not affiliated with
6 Sling TV or Move Networks, stated this
7 point.

8 Is that correct?

9 MR. SHEPARD: Objection. Form.

10 A. Correct. Sling stated that.

11 MS. RABENSTEIN: I think that is
12 all that I have. Parker, if you have
13 anything else?

14 MR. ZIMMERMAN: Nothing further
15 from me.

16 MR. SHEPARD: If that's all we
17 have got, we can go off the record.

18 THE VIDEOGRAPHER: Before we do
19 go off the record, I just need to get
20 on the record who would like a copy of
21 the video, if you would like it synced
22 or standard.

23 MS. RABENSTEIN: Can you check
24 with my paralegal, please, and we will
25 get whatever our order -- our standing

1 D. Ericson

2 order is.

3 MR. SHEPARD: I think we are
4 going to want a synced copy of the
5 video, please.

6 THE VIDEOGRAPHER: In that case,
7 going off the record at 6:22 p.m., and
8 this concludes the deposition.

9 (Proceedings concluded at 6:22
10 P.M. M.S.T.)

11

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1
2 ACKNOWLEDGMENT OF DEPONENT

3
4 STATE OF NEW YORK)
5) ss.:
6 COUNTY OF NEW YORK)
7

8 I, DAVID ERICSON, hereby certify, that
9 I have read the transcript of my testimony
10 taken under oath in my deposition of May 9,
11 2025; that the transcript is a true,
12 complete and correct record of what was
13 asked, answered and said during this
14 deposition, and that the answers on the
15 record as given by me are true and correct.
16

17 _____
18 DAVID ERICSON
19

20 SUBSCRIBED AND SWORN BEFORE ME

21 THIS _____ DAY OF _____ 2025.
22

23 _____
24 Notary Public

25 My Commission Expires: _____

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C E R T I F I C A T E

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

I, Christina Diaz, a Certified Realtime Captioner, Registered Merit Reporter and Certified Realtime Reporter and Notary Public within and for the State of New York, do hereby certify:

That DAVID ERICSON, the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by such witness on May 9, 2025.

I further certify that I am not related to any of the parties to this action by blood or marriage and that I am in no way interested in the outcome of this matter.

Dated: May 11, 2025

CHRISTINA DIAZ, RDR CRC CRR RMR CSR-NY/NJ CLR

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ERRATA SHEET

Case Name: Aylo Freesites LTD and fuboTV
Media Inc. vs. DISH
Technologies L.L.C.
Deposition Date: Friday, May 9, 2025
Deponent: David Ericson

Page/Line	Now Reads	Should Read	Reason
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[illegible]

Date _____ Signature _____

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