

In the Matter Of:

APPLE INC. vs

SMITH INTERFACE TECHNOLOGIES

ANDREW COCKBURN, PH.D.

April 02, 2025



1 UNITED STATES PATENT AND TRADEMARK OFFICE

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3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

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5
6 APPLE INC.,

7
8 Petitioner

9
10 -VS-

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12 SMITH INTERFACE TECHNOLOGIES, LLC

13
14 Patent Owner

15 - - - - -

16 IPR2024-01090

17 Patent 10,725,581 B1

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19
20 DEPOSITION OF ANDREW COCKBURN, Ph.D., taken via
21 Zoom, commencing at 12:10 p.m., April 2, 2025,
22 before Michele L. Proesch, Certified Shorthand
23 Reporter.

APPEARANCES

KENNETH W. DARBY, of the firm of Fish & Richardson
PC, 111 Congress Avenue, Suite 2000, Austin, TX
78701, appeared on behalf of the Petitioner.

STEPHANIE DEBROW, of the firm of Norton Rose
Fulbright, 1301 Avenue of the Americas, New York, NY
10019, appeared on behalf of the Patent Owner.

BRETT MCKEAN, of the firm of Norton Rose Fulbright,
98 San Jacinto Boulevard, Suite 1100, Austin, TX
78701, appeared on behalf of the Patent Owner.

Also present: Josh Clark, Lexitas monitor

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PROCEEDINGS

ANDREW COCKBURN, Ph.D.,

witness herein, called as a witness by the Patent
Owner, after having been first duly sworn, was
examined and testified as follows:

EXAMINATION

BY MS. DEBROW:

Q. Without further ado, good morning -- I think it is
good morning where you are, Dr. Cockburn; right?

A. It is morning, 6:00 a.m.

Q. Okay. Well, thank you for joining us bright and
early. We appreciate you being here.

Could you please state your full name for the
record?

A. Andrew Jeremy Gavin Cockburn.

Q. And you were just sworn in by the court reporter.

So do you understand that you're testifying
under oath today?

A. I do.

Q. Since you have been deposed a number of times
before, I'm not going to spend too much time on
ground rules, but two things that I always like to
get as a reminder are let's both agree to do our
very best to not talk over each other. That will
help Michele as she's trying to get an accurate

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1 transcript of this proceeding, and then also, can
2 you agree to let me finish a question and then I'll
3 let you finish an answer before I begin another
4 question?

5 A. Understood.

6 Q. Okay, and I will try to take a break about every
7 hour. It's like -- Let's say we started at 10 after
8 1:00, but if I lose track of time and don't do that
9 or you need a break before that, please feel free to
10 speak up and say so. All that I ask is if there is
11 a question pending, that you answer the question and
12 then ask for a break, or if you don't want to forget
13 to ask for the break, ask for it, give your answer,
14 and then we can take a brief break.

15 Does that sound okay?

16 A. That sounds good.

17 Q. Okay; so this deposition involves IPR2024-01090,
18 which challenges the validity of US Patent No.
19 10,725,581.

20 Is that your understanding?

21 A. I haven't memorized the numbers of either the IPR or
22 the full number of the patent in question. I
23 certainly refer to this as the '581 patent.

24 Q. Okay. Well, then you answered my next question,
25 which was going to be are you okay if we refer to

6

1 that as the '581 patent throughout this deposition?

2 A. Sure.

3 Q. So is there -- is there any reason you can think of
4 today, such as medications or anything else, that
5 would prevent you from giving truthful, accurate,
6 and complete testimony?

7 A. There is no such reason.

8 Q. And where are you physically located today?

9 A. I'm in Lyttelton, New Zealand.

10 Q. Is anyone else in the room with you right now?

11 A. No.

12 Q. Will you agree to let me know if anyone enters the
13 room while we're on the record during the
14 deposition?

15 A. Yes.

16 Q. And can you confirm that the only thing you have
17 open on your computer right now is the Zoom meeting?

18 A. I also have a pdf previewer running, no windows
19 open. That's in preparation for, I assume, you
20 sharing my declaration and other materials with me.
21 Chrome is also running. That's a side effect of
22 clicking on the link to open this Zoom application,
23 but there are no windows open in Chrome.

24 Q. Okay. I would ask that you just keep no windows
25 open in Chrome and no other documents beyond the

1 exhibits that I'll send you open.

2 Can you agree to that?

3 A. Yes.

4 Q. Okay, and do you have any papers of any -- or paper
5 copies of any documents that are in front of you
6 right now?

7 A. I have a (indicating) notebook with no notes inside
8 it. It's entirely blank. It's there just in case I
9 want to take a note of any question or issue raised
10 during this deposition.

11 Q. And then can you confirm that you're not currently
12 in electronic communication with anyone right now
13 other than through the Zoom chat that's part of this
14 deposition?

15 A. I confirm that.

16 Q. And you -- Can you agree to not look at or send any
17 messages, e-mails, chats, or other communications
18 while we're on the record?

19 A. I agree to that.

20 Q. Okay, and do you have any technical difficulties
21 today that might hinder your ability to see or hear
22 the proceedings of the deposition?

23 A. No.

24 Q. Okay, and will you agree to let us know if that
25 changes at any point during the deposition?

1 A. Yes.

2 Q. Okay. After submitting your deposition -- or your
3 declaration, sorry, in this case what did you do to
4 prepare for today's deposition?

5 A. I reread my declaration and materials associated
6 with this case.

7 Q. And did you meet with anyone in preparation for the
8 deposition?

9 A. I met with Apple counsel in preparation.

10 Q. And what documents specifically did you review?

11 A. The documents that I reviewed include my
12 declaration, the various prior art materials cited
13 in that declaration, the '581 patent itself, the
14 patent owner's preliminary response, and the
15 institution decision.

16 Q. And other than your lawyers did you discuss your
17 anticipated testimony with anyone else?

18 A. No.

19 Q. Okay. I'm going to place in the Zoom chat a series
20 of exhibits that I will read into the record after I
21 place them there. So bear with me for just a moment
22 as I get those put into the chat. Okay. It looks
23 like they came into the chat a little bit out of
24 order from what I had them, but I will go ahead and
25 read them into the record. Those are Exhibit

1 Number 1006, Exhibit Number 1001, Exhibit
2 Number 1003, Exhibit Number 1004, and Exhibit
3 Number 1005. I'll give you a second to download
4 those, Dr. Cockburn, and if you can confirm for me
5 once you are able to access them.

6 A. They are on their way. I'll let you know when I
7 have them all.

8 Q. So while we wait on that so that we have a cleaner
9 record of exactly what those exhibits are,
10 Exhibit 1001 is US Patent No. 10,725,581;
11 Exhibit 1003 is Dr. Cockburn's Declaration and
12 IPR2024-01090; Exhibit 1004 is the patent
13 publication that the parties have referred to as
14 Blumenberg in these proceedings; Exhibit 1005 is the
15 patent publication that the parties have referred to
16 as Bhumkar, spelled B-h-u-m-k-a-r; and Exhibit 1006
17 is the patent publication the parties have referred
18 to as Griffin.

19 A. I have all of those documents now. Thanks.

20 Q. Okay; so let's go first, please, to your
21 declaration, which is Exhibit 1003.

22 A. I have it open.

23 Q. And just to verify for purposes of the record, this
24 is your declaration in support of the petition in
25 IPR2024-01090; correct?

10

1 A. As I said before, I have not memorized the number of
2 this IPR.

3 Q. I think it should show up on the first page if you
4 want to verify that.

5 A. Can you repeat the number, please?

6 Q. 2024-01090.

7 A. I don't see any reference to 090 in my --

8 Q. Yep, you are right. Sorry about that. It's on the
9 petition but not here, but it does reference the
10 patent number that this declaration is in reference
11 to, which is 10,725,581; correct?

12 A. That's correct.

13 Q. Okay, and are there any corrections you'd like to
14 make before we begin?

15 A. There is one minuscule correction I would like to
16 make.

17 Q. Okay. Can you please --

18 A. It is in paragraph --

19 Q. Go ahead. I broke my own rule and I talked over
20 you. Please, let me let you finish.

21 A. It's in paragraph 123, and in the final sentence
22 there is a spurious open brace before the word "In."
23 That brace should not be there.

24 Q. Okay.

25 A. Bracket.

1 Q. I see that.

2 A. It's a bracket.

3 Q. Any other corrections?

4 A. No.

5 Q. Okay, so then with that correction does Exhibit 1003
6 currently and accurately reflect all of your
7 opinions related to the IPR on the '581 patent?

8 A. Currently it does. If more information becomes
9 available to me in subsequent disclosures in this
10 case, I reserve the right to respond to those
11 disclosures.

12 Q. And, Dr. Cockburn, did you draft this declaration?

13 A. Yes. It was a collaborative effort between me and
14 Apple counsel. I take responsibility for every word
15 in this declaration.

16 Q. Getting into the substance of the declaration, can
17 you turn to paragraph 36 of your declaration, and
18 let me know when you're there.

19 A. I'm there. Thanks.

20 Q. Do you see the clause in that paragraph that begins
21 with a comma and states, "and additional years of
22 experience could substitute for the advanced-level
23 degree"?

24 A. I do.

25 Q. Now, I believe you testified in depositions in

12

1 related proceedings for the '212 patent and the '755
2 patent that that clause was superfluous and could
3 simply be removed.

4 Do you recall that?

5 A. I do.

6 Q. Would you agree that the same is true here and, in
7 fact, the definition you've given in paragraph 36
8 makes more sense if we delete that clause?

9 A. The question was compound. I agree with the first
10 part, that it is superfluous from the comma onwards.
11 I'm not sure that I agree that it makes more sense
12 if it is deleted. I think it is simply a redundant
13 piece of information.

14 Q. Okay. I'm -- I'm not trying to pull one over on you
15 here. I think the confusion is that the clause
16 references additional years substituting for an
17 advanced-level degree, but your level of skill in
18 the art does not require an advanced-level degree.
19 So that clause injects some confusion, which I
20 believe is why you agreed with my colleague that it
21 should be deleted.

22 A. I agree that it can be deleted.

23 Q. Okay, then we'll leave it at that.

24 A. Sure.

25 Q. Can you please turn to paragraph 27 of your

13

1 declaration and let me know when you're there?

2 A. I'm there. Thanks.

3 Q. In this paragraph you state that in preparing your
4 declaration you reviewed the '581 patent marked as
5 Exhibit 1001; correct?

6 A. That's correct.

7 Q. And that you also considered the prosecution history
8 for the '581 patent, which is marked as
9 Exhibit 1002; right?

10 A. That's correct.

11 Q. And then you further considered a long list of
12 materials marked as Exhibits 1004 to 1052; correct?

13 A. That's correct.

14 Q. Now, sitting here today do you recall any documents
15 that you reviewed that are not identified in this
16 paragraph 27 as one of Exhibits 1001 through 1052?

17 A. I don't recall any such documents.

18 Q. Okay. Now if you could go to paragraph 30 of your
19 declaration and let me know once you're there.

20 A. I'm there. Thanks.

21 Q. So beginning at paragraph 30 you describe what you
22 refer to as pertinent disclosure from the '581
23 patent; correct?

24 A. There are three paragraphs in that section titled
25 Pertinent Disclosure; yes.

14

1 Q. And in paragraph 30 you cite to Figure 3; correct?

2 A. That's correct.

3 Q. And at paragraph 31, which you've pointed out is
4 also in this Pertinent Disclosure section, you
5 described Figure 6 and provide an annotated version
6 of that figure; correct?

7 A. That's correct.

8 Q. In this Pertinent Disclosure section, which is
9 paragraphs 30 through 32, did you provide opinions
10 concerning any other figures of the '581 patent?

11 MR. DARBY: Objection, form.

12 MS. DEBROW: What is your specific form
13 objection so that I can decide whether to
14 reformulate the question?

15 MR. DARBY: I think the question is vague.

16 MS. DEBROW: In what way?

17 MR. DARBY: The section you're referring to is
18 talking about the '581 patent, which is part of the
19 materials considered, which was confirmed earlier.
20 So these are opinions pertaining to the patent
21 itself, which includes all of the figures.

22 MS. DEBROW: Let me reformulate my question.

23 Q. My question, Dr. Cockburn, is a narrow one, and I'm
24 asking specifically in the section of your
25 declaration entitled Pertinent Disclosure, which

15

1 spans paragraphs 30 through 32, do those paragraphs
2 include opinions relating to any other figures
3 beyond Figures 3 and 6?

4 A. I think the best answer to that is yes. Included in
5 paragraph 31 there is at least a citation to
6 Columns 26:41 to 35:53, and that broad segment of
7 the '581 patent includes references to other
8 figures, including at least Figure 5.

9 Q. Okay; and as you sit here today, do you recall
10 which, if any, of those other figures addressed in
11 that swath you would have regarded as pertinent
12 disclosure of the '581 patent?

13 A. I read the '581 patent as a whole and understood its
14 disclosures as a whole, and this section on
15 pertinent disclosure is providing a very brief
16 summary.

17 Q. Okay. Can you please turn with me to page 19 of
18 your declaration? And if you're searching for
19 paragraph numbers to get there, paragraph 23 is on
20 that page.

21 A. I'm there. Thanks.

22 Q. Would you read Footnote 1 to yourself, please, and
23 let me know when you've done that?

24 A. I've done that.

25 Q. So in Footnote 1 you state that you do not concede

1 that the '581 patent is entitled to its earliest
2 claimed priority date; correct?

3 A. Correct.

4 Q. Did you provide any specific analysis in
5 Exhibit 1003, which is your declaration, to support
6 that assertion in Footnote 1?

7 MR. DARBY: Objection, form.

8 A. Footnote 1 is at the terminus of paragraph 22.
9 That's the nature of my analysis associated with the
10 priority date for the '581 patent.

11 BY MS. DEBROW:

12 Q. And in reaching that conclusion, which is expressed
13 in paragraph 22 and Footnote 1, did you consider the
14 disclosure from any of the provisional applications?

15 A. I don't recall analyzing the provisional
16 applications.

17 Q. Please turn to paragraph 33 of your declaration and
18 let me know once you're there.

19 A. I'm there. Thanks.

20 Q. In paragraph 33 you state that the '581 patent's
21 independent claims, which are Claims 1 and 42,
22 outline three scenarios regarding a user's contact
23 with a touchscreen device displaying a web page;
24 correct?

25 A. That is included in paragraph 33. You read a

1 portion of it.

2 Q. And if you can then turn, please, to page 4 of your
3 declaration.

4 A. I'm there. Thanks.

5 Q. And take a look at pages 4 through 6 just quickly,
6 and my question is these pages, 4 through 6, include
7 a listing of the claim elements for Claim 1 of the
8 '581 patent; correct?

9 A. Yes.

10 Q. And I'd like to draw your attention specifically to
11 Claim Element 1.h, which is on page 4.

12 A. Okay.

13 Q. That element states, "detect a first contact
14 starting at a first contact point at a first contact
15 time on the touch-sensitive interface (sic)";
16 correct?

17 A. No.

18 Q. What did I get wrong?

19 A. You referred to "interface." It says, "interaction
20 surface."

21 Q. "interaction surface," okay. So let me rephrase
22 that question then so we have a clean record, and
23 thank you for pointing out that inconsistency.

24 Element 1.h states, "detect a first contact
25 starting at a first contact point at a first contact

18

1 time on the touch-sensitive interaction surface";
2 correct?

3 A. You read that correctly.

4 Q. And in that Element 1.h when it refers to "first
5 contact," is that the "user's contact" that you
6 refer to in paragraph 33 of your declaration?

7 THE WITNESS: Can you repeat the question,
8 please?

9 Q. In Element 1.h when it refers to the "first
10 contact," is that the "user's contact" that you
11 refer to in paragraph 33 of your declaration?

12 A. The contacts described at paragraph 33 includes that
13 contact.

14 Q. What other contact would it include, if any?

15 A. In the Limitation 1.o.vii there is an "option for,
16 in response to detection of a selection thereof,
17 performing an operation on a web address associated
18 with the hyperlink." A person skilled in the art
19 would understand that that selection thereof could
20 be achieved by a user contact.

21 Q. So your opinion is that -- 1.o.vii is how that's
22 enumerated on page 4, that that element recites an
23 additional contact beyond the first contact?

24 MR. DARBY: Objection to form.

25 A. That wasn't my testimony. I think my testimony was

19

1 that the contact I refer to at paragraph 33 includes
2 the contacts of the claims and the contacts of the
3 claims a person of skill in the art would understand
4 includes selection from the menu.

5 BY MS. DEBROW:

6 Q. Dr. Cockburn, what I'm trying to understand is
7 whether when you point to Limitation 1.0.vii, that
8 you're saying that the selection thereof is part of
9 the first contact or is a separate contact?

10 A. The question referred to my pointing to 1.0.vii. At
11 paragraph 33 I don't --

12 Q. Okay.

13 A. -- specifically point to --

14 Q. Let's --

15 A. -- 1.0.vii.

16 Q. Let me -- Let me simplify this. Let's go back to
17 paragraph 33.

18 A. Okay.

19 Q. In that paragraph you say that independent Claims 1
20 and 42 of the '581 patent outline three scenarios
21 regarding a user's contact with a touchscreen device
22 displaying a web page via a web browser application;
23 correct?

24 A. That's more or less I think what it says.

25 Q. And I asked you whether that user's contact referred

1 to the first contact recited in Element 1.h. My
2 understanding of your answer was that it was that
3 first contact and perhaps an additional contact.

4 Have I misunderstood that?

5 A. Paragraph 33 says, "The '581 patent's independent
6 claims 1 and 42 outline three scenarios regarding a
7 user's contact with a touch screen device displaying
8 a webpage via a web browser application." I didn't
9 limit my description of "user contact" there to any
10 particular contact disclosed by Claim 1.

11 Q. Okay.

12 A. This is a broad coverage of the contacts that are
13 included within Claim 1.

14 Q. So turning back to Claim 1, which is shown on
15 pages 4 through 6 of your declaration, you agree
16 with me that Element 1.h recites a first contact;
17 correct?

18 A. Element 1.h reads, "detect a first contact starting
19 at a first contact point at a first contact time on
20 the touch-sensitive interaction surface."

21 Q. And you agree that the first contact referenced in
22 Element 1.h would be included in the user's contact
23 that you reference in paragraph 33; correct?

24 A. Yes.

25 Q. Dr. Cockburn, please point me to any other contacts

21

1 recited in this claim that you contend are included
2 in the "user's contact" you refer to in
3 paragraph 33?

4 A. For example, at Limitation 1.0.vii reads, "display a
5 menu including at least one option for, in response
6 to detection of a selection thereof, performing an
7 operation on a web address associated with the
8 hyperlink of the first (sic) page, and." A person
9 of skill in the art reading that claim would
10 understand that on a touchscreen device in
11 particular contacts are required to -- contacts are
12 required or often used in order to achieve a
13 selection thereof.

14 Q. What I'm trying to understand is in
15 Limitation 1.0.vii you are contending that that is a
16 separate contact from the first contact or that
17 that -- Let me rephrase that.

18 In Limitation 1.0.vii you are contending that
19 that selection would be achieved through a contact
20 separate from the first contact.

21 MR. DARBY: Objection to form.

22 A. I think that mischaracterizes my testimony. I think
23 my testimony was that a person of skill in the art
24 would understand that a contact could be used in
25 order to achieve selection of a menu item.

1 BY MS. DEBROW:

2 Q. And the contact that could be used to achieve
3 selection of the menu item, would that be -- is it
4 your opinion that that would be part of the first
5 contact recited in these claims?

6 A. A person of skill in the art would understand that a
7 contact could be used to achieve the selection.
8 Whether it is possible for that selection to be the
9 same selection, I don't think a person of skill in
10 the art would think that the -- that that was
11 necessarily the case.

12 Q. Dr. Cockburn, I didn't ask you about possibilities.
13 I asked you is it your opinion that the touch to
14 achieve that selection is part of the first contact
15 recited in these claims.

16 A. The analysis in my declaration shows how a contact
17 can be used in order to achieve that selection.

18 MS. DEBROW: Objection, nonresponsive.

19 THE WITNESS: Can I finish my question -- my --
20 my -- my response, please?

21 MS. DEBROW: Sure, and I apologize for talking
22 over you.

23 THE WITNESS: And now I've lost my train of
24 thought.

25 MS. DEBROW: Okay. I think we can move on from

1 that.

2 Q. So turning -- staying on Claim 1 on this page span
3 of pages 4 through 6 in your declaration, in
4 Claim 1 -- let me get the element number -- in
5 Claim 1 if you take a look at Element 1.h, 1.i, and
6 1.j, the final of those elements recites, "determine
7 a duration of the first contact as a difference
8 between the first contact time and the second
9 contact time"; correct?

10 A. Yes.

11 Q. And when you look at the other elements in this
12 claim, Claim 1 defines the duration of the first
13 contact as a period that begins when the contact --
14 first contact begins and ends when that contact
15 ceases; correct?

16 THE WITNESS: Can you repeat the question,
17 please?

18 Q. In Claim 1 the duration of the first contact is a
19 period that begins when the first contact begins and
20 ends when that contact ceases; correct?

21 A. Claim 1 includes that duration, yes.

22 Q. Claim 1 defines a duration of a first contact to be
23 the time that -- the time period between when the
24 first contact begins and the first contact ends;
25 correct?

1 A. The claims include that duration.

2 Q. What I'm having trouble with, Dr. Cockburn, is your
3 use of the word "includes," because the claim says,
4 "determine a duration of the first contact as a
5 difference between the first contact time and the
6 second contact time."

7 Do you regard that as not being definitional
8 language about how to calculate the duration of the
9 first contact?

10 A. Limitation 1.j recites, "determine a duration of the
11 first contact as a difference between the first
12 contact time" and a second -- "and the second
13 contact time," and Limitation 1.i recites, "detect
14 an end of the first contact at a second contact
15 time"; however, subsequent claims require
16 determining the time of the contact where the
17 contact is maintained and a person of skill in the
18 art would have the capability to understand how to
19 accomplish these limitations.

20 Q. Can you point me to the other claim that you're
21 referring to that you says -- say provides a
22 different way to determine the duration of the first
23 contact?

24 A. Limitation 1.o.v recites, "when...the end of the
25 first contact is not detected," so that a person of

25

1 skill in the art would understand this includes the
2 contact not ending.

3 Q. Okay, and in that situation based on 1.h you would
4 be unable to calculate a duration -- excuse me, 1.j
5 you would be unable to calculate a duration if you
6 don't have an end to the contact. So I guess --
7 Sorry, let me start over because that's not a clean
8 question.

9 1.j, you will agree with me, recites, "determine
10 a duration of the first contact as a difference
11 between the first contact time and the second
12 contact time"; correct?

13 A. That's what Limitation 1.j recites.

14 Q. And Limitation 1.h recites that a -- and I'm
15 paraphrasing -- or I'm omitting some language here
16 to focus on the language that's important, but in
17 part it recites a first contact starting at a first
18 contact time; correct?

19 A. No. It recites, "detect a first contact starting at
20 a first contact point at a first contact time on the
21 touch-sensitive interaction surface."

22 Q. Do you agree with me that in Limitation 1.h, "a
23 first contact time," as is recited in that
24 limitation, is the time at which the first contact
25 starts?

1 A. It would include that.

2 Q. What else could it include?

3 A. Depending on context a person of skill in the art
4 would understand that a -- that the starting point
5 for a particular contact could be a multitude of
6 things. A person of skill in the art would
7 understand that gesture recognition systems can
8 determine the start of a contact at a variety of
9 points, including the time at which a moving gesture
10 stops or pauses. That could be determined as a new
11 starting point for the gesture.

12 Q. None of those additional purported starting points
13 that you just listed are recited in this claim;
14 correct, Dr. Cockburn?

15 A. The claim recites -- The claim element recites
16 detecting a first contact starting at a first
17 contact point, and a person of skill in the art
18 would -- would understand that contacts can start in
19 a variety of ways. Gestures can be recognized in a
20 variety of ways with different starting points.

21 MS. DEBROW: Objection, nonresponsive. Move to
22 strike.

23 Q. Dr. Cockburn, I asked you a very specific question,
24 which is that in this claim it recites, "detect a
25 first contact starting at a first contact point at a

1 first contact time on the touch-sensitive
2 interaction surface," and it does not recite any of
3 the other purported starting points that you listed
4 in your prior answer; correct?

5 A. A person of skill in the art would understand that
6 one form of the contact starting is the point at
7 which the gesture begins on the touch-sensitive
8 surface. It does not preclude starting gestures at
9 other points, such as during a -- following a pause
10 in an ongoing continuous gesture.

11 MS. DEBROW: Objection, again, nonresponsive and
12 move to strike the answer.

13 Q. Dr. Cockburn, I'm asking you a very narrow question
14 that does not involve all of the different things
15 that a person of skill in the art might understand
16 could start a gesture. I'm asking you specifically
17 whether you agree with me that in Element 1.h it
18 recites detecting a first contact that starts at a
19 first contact point at a first contact time on the
20 touch-sensitive interaction surface.

21 Do you agree with that?

22 A. I agree that the claim limitation reads, "detect a
23 first contact starting at a first contact point at a
24 first contact time on the touch-sensitive
25 interaction surface." I think that was in response

1 to your question.

2 Q. And then Element L -- or 1.i recites, "detect an end
3 of the first contact at a second contact time";
4 correct?

5 A. Correct.

6 Q. And then in Element 1.j it recites, "determine a
7 duration of the first contact as a difference
8 between the first contact time and the second
9 contact time," which were referenced in Elements 1.h
10 and 1.i; correct?

11 A. I see that.

12 Q. Okay. Please turn to paragraph 34 of your
13 declaration.

14 A. I'm there. Thanks.

15 Q. So in paragraph 34 you describe some of the
16 conditions that are included in each of the three
17 scenarios that you referenced in paragraph 33;
18 correct?

19 A. The paragraph describes three scenarios for --
20 concerning the contact duration.

21 Q. So in the first scenario that you describe here, is
22 it your opinion that that scenario is defined fully
23 by the contact duration being less than a first
24 predefined duration?

25 A. That's --

1 MR. DARBY: Objection, form.

2 A. That's not what the sentence -- the first sentence
3 of paragraph 34 states. It states, "The first
4 scenario includes the contact duration being less
5 than a first predefined duration."

6 Q. Okay. I'm going to want to spend some time with you
7 talking about these scenarios, and you seem to have
8 had a problem with me referring to "the contact
9 duration being less than a first predefined
10 duration" as a condition of the first scenario.

11 So what would you call that so that we can have
12 a -- refer to it in the same way?

13 THE WITNESS: Sorry, I don't understand the
14 question.

15 Q. "The first scenario includes the contact duration
16 being less than a first predefined duration." That
17 language about the contact duration, is that a
18 feature of the first scenario, a condition of the
19 first scenario? I'm trying to figure out a -- a
20 word to use to refer to that in a way that you will
21 know what I'm talking about and that you're not
22 objecting to.

23 A. The series of paragraphs in Section B that addresses
24 the Claimed Subject Matter, the first paragraph
25 provides an introduction to what follows, the second

30

1 paragraph describes the timing issues associated
2 with the three scenarios I outline, and the --
3 paragraph 35 then describes the functionality or
4 behavior associated with the three contact
5 scenarios. I think the paragraphs stand for
6 themselves.

7 MS. DEBROW: Objection, nonresponsive. Move to
8 strike.

9 Q. Dr. Cockburn, let's start with the first scenario.
10 The first scenario, that sentence that I read to you
11 you state that it -- "The first scenario includes
12 the contact duration being less than a (sic)
13 predefined duration"; is that right?

14 A. Essentially, yes.

15 Q. And that aspect of the first scenario is linked to
16 Claim Element 1.m.ii; is that correct?

17 A. Yes.

18 Q. So then the duration that you're referencing in
19 describing the first scenario in paragraph 33 is the
20 duration of the first contact in Element 1.m.ii; is
21 that right?

22 A. Not quite. You referred to paragraph 33, I believe.

23 Q. I --

24 A. This is paragraph --

25 Q. I apologize.

1 A. -- 34.

2 Q. Yes, that should be 34. Let me repeat the question.

3 So then the duration that you're referencing in
4 describing the first scenario in paragraph 34 is the
5 duration of the first contact that's recited in
6 Element 1.m.ii; is that correct?

7 A. Yes, that's fair. The time that I'm describing here
8 is the time in 1.m.ii.

9 Q. And in Element 1.m.i the claim recites, "the first
10 web page is displayed via the user interface of the
11 network browser application"; correct?

12 A. You missed the word "when," I think, but -- The
13 limitation begins with the word "when."

14 Q. With that correction do you agree with me that
15 Element 1.m.i is also an aspect of the first
16 scenario?

17 A. Broadly I think that's fair. The -- In the
18 scenarios that I'm outlining I separate the
19 scenarios in two ways, by the timing -- by the
20 timing associated with the scenarios and by the
21 functionality associated with the scenarios. That's
22 the separation between paragraphs 34 and 35.

23 Q. So in Element 1.m.ii there is a clause at the end of
24 that element after the comma that says, "and the end
25 of the first contact is detected."

1 Would you agree with me that that is also an
2 aspect of the first scenario?

3 A. I think that's fair.

4 Q. So then sticking with paragraph 34 of your
5 declaration, if we can flip back to that for a
6 moment, the second sentence in that paragraph you
7 state that "The second scenario includes the contact
8 corresponding to a hyperlink and the contact
9 duration being greater than the first predefined
10 duration and less than the second predefined
11 duration"; correct?

12 A. I would count it as the third sentence of that
13 paragraph, but, yes, that's how the third sentence
14 reads.

15 Q. Fair enough. I was not counting the citation as its
16 own independent sentence, but -- Now, keep that
17 sentence that I just read to you in your mind,
18 please, and flip back to the claim listing at
19 page 5, which is the listing of elements of Claim 1
20 or a portion of it.

21 A. I'm there.

22 Q. And take a look for me, please, at Claim Element
23 1.n.ii?

24 A. Yes, I see it.

25 Q. So in paragraph 34 of your declaration when you're

33

1 referring to "The second scenario," the duration of
2 the first contact that you reference there is --
3 corresponds to the duration of the first contact
4 referenced in this Element 1.n, as in Nancy, ii; is
5 that correct?

6 A. Yes.

7 Q. Now, if you can look with me at the elements that
8 begin -- that are 1.n, as in Nancy, i; 1.n, as in
9 Nancy, iii; 1.n, as in Nancy, iv; and then the very
10 next limitation, 1.n.v.

11 A. Okay.

12 Q. Would you agree with me that those limitations are
13 also associated with the second scenario or are also
14 aspects of the second scenario, to phrase that more
15 precisely?

16 A. I think that's fair.

17 Q. Okay, and if you will flip back with me to
18 paragraph 34 again, the second-to-last sentence
19 counting the citation sentence at the very end of
20 that paragraph, relates to the third scenario;
21 correct?

22 A. Yes.

23 Q. And in that sentence you state that "The third
24 scenario includes the contact corresponding to a
25 hyperlink and the contact duration being greater

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1 than the second predefined duration"; correct?

2 A. Yes.

3 Q. Now, if you will go back with me again to that claim
4 listing that's at pages 4 through 6 and look
5 specifically at the claim limitations that begin 1.o
6 and then small Roman numerals i through v.

7 A. Okay.

8 Q. Would you agree with me that those claim limitations
9 I listed, 1.o.i through v, are aspects of the third
10 scenario referenced in paragraph 34 of your
11 declaration?

12 A. Yes.

13 MS. DEBROW: Okay. We are coming up very close
14 but not quite on an hour, but I'm at a spot where I
15 may shift gears a little bit in the questioning. So
16 it seems like now would be a good time for a break
17 if that's okay with everyone. I always defer to the
18 witness. Dr. Cockburn, what length of break would
19 you like, five minutes, ten minutes? If you need a
20 bit longer than that to grab some water, have a
21 personal comfort break, just let me know.

22 THE WITNESS: Why don't we go for eight minutes
23 and come back quarter past the hour.

24 MS. DEBROW: Okay, that works. Let's go off the
25 record for the break, please.

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1 (A recess was taken.)

2 MS. DEBROW: Okay. Welcome back, Dr. Cockburn.

3 Q. If you could go for me to paragraph 35 of your
4 declaration and let me know when you're there.

5 A. I'm there. Thanks.

6 Q. So in paragraph 35 you state that "Claims 1 and 42
7 further recite a respective functionality associated
8 with each of the three contact scenarios"; correct?

9 A. Correct.

10 Q. And those "three contact scenarios" you're
11 referencing there in paragraph 35 are the ones that
12 you reference in paragraph 34; correct?

13 A. Correct.

14 Q. When you say that a respective functionality is
15 associated with each of the three contact scenarios,
16 what do you mean by "associated"?

17 A. The normal meaning of "associated"; connected with
18 in some way, for example.

19 Q. So as Claim 1 is written, can the functionality
20 that's associated with the first scenario occur only
21 when the conditions from the third scenario are met?

22 THE WITNESS: Can you repeat the question,
23 please?

24 Q. As Claim 1 is written, can the functionality
25 associated with the first scenario occur only when

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1 the aspects of the first scenario are present? Let
2 me rephrase that. That was a bad question. I got
3 my "only" placed in the wrong place in the question.

4 So as Claim 1 is written, the functionality
5 that's associated with the first scenario, could
6 that occur if only -- or if the aspects of the third
7 scenario are only the ones that are present, not the
8 aspects of the first scenario?

9 MR. DARBY: Objection to form.

10 MS. DEBROW: Let me try to get you a better,
11 even more precise -- I think what I'm trying to get
12 at is complicated -- It's not complicated, but it's
13 wordy.

14 Q. Your opinion is that there is a functionality
15 associated with each of these scenarios; correct?

16 A. Yes.

17 Q. And when you think about the functionality
18 associated with the first scenario, would that occur
19 if only the aspects of the third scenario were
20 present but not the aspects of the first scenario?

21 THE WITNESS: It's a very strange question.

22 MS. DEBROW: Let's simplify this then.

23 Q. You have a functionality associated with the first
24 scenario.

25 Does that occur --

1 A. Yes.

2 Q. -- if none of the aspects of the first scenario are
3 met, as this claim is written?

4 THE WITNESS: Can you repeat the question,
5 please?

6 Q. Does the functionality associated with the first
7 scenario occur if none of the aspects of the first
8 scenario are met, as Claim 1 is written?

9 THE WITNESS: It's a very strange question.

10 A. The functionality associated with the first scenario
11 involves avoiding display of any operation. A
12 person of skill in the art would understand there
13 are abundant other situations in which there is an
14 avoidance of displaying any operation.

15 MS. DEBROW: Yep, that -- Objection,
16 nonresponsive, and move to strike. That's not the
17 question that I asked you, Dr. Cockburn.

18 Q. What I'm trying to understand is is it your opinion
19 that as Claim 1 is written, that the functionality
20 recited as part of the first scenario would occur if
21 the aspects of the first scenario that are also
22 recited in the claim are not met?

23 A. I think my previous answer was directly on point for
24 your -- for your question. So I don't understand
25 why you've asserted that it was nonresponsive. The

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1 functionality -- Let me read the second sentence of
2 paragraph 35, "The functionality for the first
3 scenario involves avoiding display of any
4 operation." So this is an avoidance of displaying
5 any operation. My prior answer that I stick to is
6 that there are an abundant -- abundance of
7 situations, including situations related to the
8 third scenario, where there is an avoidance of
9 displaying operations.

10 Q. Does Claim 1 recite avoiding display of any
11 operation as part of the second or the third
12 scenario?

13 A. Claim 1 recites avoiding display of operations in
14 connection with the first scenario.

15 Q. Do you agree that it does not recite avoiding
16 display of any operation in connection with the
17 second and the third scenario?

18 A. That's correct.

19 Q. And similarly, if we look at the same paragraph, 35,
20 the functionality you described for the second
21 scenario involves replacing the current web page
22 with the web page identified by the hyperlink;
23 correct?

24 A. Yes.

25 Q. And Claim 1, as it's written, does not recite that

1 functionality associated with either the first or
2 the third scenario; correct?

3 A. The third scenario includes performing an operation
4 on a web address associated with the hyperlink first
5 web page. So the third scenario could include
6 replacing the current web page with the web page
7 identified by the hyperlink.

8 MS. DEBROW: Objection, nonresponsive.

9 Q. I asked you a very specific and narrow question,
10 Dr. Cockburn, which is as Claim 1 is written, does
11 it recite that the functionality associated with the
12 second scenario, which is replacing the current web
13 page with the web page identified by the hyperlink,
14 is part of the first or third scenario?

15 A. Again, we're clearly speaking past one another,
16 because I think my prior answer was exactly on
17 point. The third scenario -- The second scenario,
18 which you address in the question, involves
19 replacing -- let me see -- replacing the current web
20 page with the web page identified by the hyperlink.
21 The third scenario includes a menu and performing an
22 operation in response -- in -- in response to
23 selection of the menu. A person of skill in the art
24 would understand that selecting a menu associated
25 with the hyperlink could include displaying the

1 page, and, therefore, the functionality of the
2 second scenario could be included within the third
3 scenario.

4 Q. I think where we're talking past each other is that
5 I am asking you narrow questions about what these
6 claims actually recite, what the words say as
7 opposed to what they could conceivably include. So
8 I will try to be more precise with my questions, and
9 I would ask that you listen to the specific question
10 that I'm asking you, which I think you're mostly
11 doing a good job of, but I'm -- I'm not asking you
12 broad questions about what could possibly constitute
13 an operation on a web page, which it seems to be
14 what you're answering.

15 So paring this question down a little bit, for
16 the functionality associated with the second
17 scenario that you describe in paragraph 35, you
18 would agree with me that that would not occur when
19 only the first scenario aspects were satisfied;
20 correct?

21 MR. DARBY: Objection, form.

22 A. I'm having difficulty understanding fully the
23 question. You said it would be a very precise and
24 exact question. Yet the scenarios outlined include
25 two different aspects; there is the timing aspect

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1 covered in 34, my declaration paragraph 34 and the
2 functionality aspect covered in paragraph 35. So
3 when you refer to aspects of the scenarios, I'm not
4 sure whether you're referring to the timing aspects
5 or the functionality aspect.

6 Q. So let's look at paragraphs 34 and 35 together for a
7 moment. As I understand your opinions on this, the
8 first scenario includes the contact duration being
9 less than a first predefined duration and the
10 functionality associated with that is avoiding
11 display of any operation; correct?

12 A. Correct.

13 Q. And the second scenario includes the contact
14 corresponding to a hyperlink and the contact
15 duration being greater than the first predefined
16 duration and less than the second predefined
17 duration and you associate with that the
18 functionality of replacing the current web page with
19 the web page identified by the hyperlink; correct?

20 A. Correct.

21 Q. You agreed with me earlier that those first and
22 second scenarios also include some other aspects
23 that are recited in the claims; correct?

24 THE WITNESS: Can you be specific what you're
25 referring to?

1 Q. So earlier you agreed with me that the first
2 scenario includes the aspects recited in
3 Elements 1.m.i and 1.m.ii; correct?

4 A. Yes.

5 Q. So the way that these claims are written, the
6 functionality associated with the second scenario
7 would not occur if only the aspects of the first
8 scenario were detected; correct?

9 THE WITNESS: Can you repeat the question,
10 please?

11 Q. As Claim 1 is written the functionality associated
12 with the second scenario would not occur when only
13 the aspects of the first scenario are detected;
14 correct?

15 A. When you say "when," do you mean in response to or
16 do you mean something else?

17 Q. The way these claims are written you would agree
18 these elements that we're talking about for the
19 first, second, third scenario, they say "when" and
20 they list some aspects of the scenario, colon, and
21 then they recite some functionality; correct?

22 A. Broadly that's fair.

23 Q. And so what I'm trying to understand is is it your
24 opinion that the functionality associated with one
25 of those scenarios would be performed under

1 circumstances where the aspects of that scenario are
2 not present, as the claim is written?

3 A. Well, for example, the functionality for the first
4 scenario involves avoiding displaying any operation.
5 A person of skill in the art would understand
6 avoiding display of any operation can occur at a
7 mult- -- multitude of times, not only in response to
8 that specific first scenario -- the timing
9 associated with the first scenario.

10 Q. Again, Dr. Cockburn, I'm not asking you how a device
11 could operate.

12 I'm asking you these claims do not recite that
13 the functionality of the first scenario occurs when
14 none of the aspects of the first scenario are met;
15 correct?

16 A. I -- I would disagree with that. The term "when" in
17 the claims is very broad.

18 Q. So as written, Claim 1, the functionality of the
19 second scenario would not occur if only the aspects
20 of the first scenario exist; correct?

21 A. The claims of the '581 patent are clear, that "when"
22 is an inclusive term. It really relates to a period
23 of time and -- Yeah, I'm finished.

24 Q. Is it your opinion then that for the functionality
25 of the second scenario to occur none of the aspects

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1 of the second scenario have to be present? Because
2 it seems to me like that is what you're saying.

3 A. The functionality associated with the second timing
4 scenario must be true when that second -- when the
5 conditions of the second scenario are met.

6 Q. Okay, so in the question that I asked you, as
7 Claim 1 is written, if only the aspects of the first
8 scenario are met, the aspects of the second scenario
9 are not met, the functionality of the second
10 scenario would not occur; correct?

11 MR. DARBY: Objection, form.

12 A. The claims are clear that the timing conditions for
13 each of the scenarios are related to the
14 functionality associated with each of those timing
15 conditions. They do not stipulate an "only if"
16 condition.

17 MS. DEBROW: Objection, nonresponsive. Move to
18 strike. Give me just a moment to consult my notes.

19 Q. So switching gears for a moment, if you could turn
20 to page 4 -- sorry, pages 9 and 10 of your
21 declaration. I think we're done with 4 and 5 for
22 now.

23 A. I'm there. Thanks.

24 Q. So for Claim 42, specifically looking at Claim
25 Elements 42.h, 42.i, and 42.j, each of those begins

1 with the phrase "based on"; correct?

2 A. They each begin, "based on detected usage where,"
3 which the claims make clear is a broad -- has a
4 broad interpretation.

5 MS. DEBROW: Objection, nonresponsive as to the
6 second half of that answer and move to strike.

7 Q. Dr. Cockburn, I simply asked for verification that
8 they use the phrase "based on." This isn't a trick.

9 Do you agree with me that they use that
10 language? And then I'll get to the question that I
11 really want an answer to from a substantive
12 perspective.

13 A. The first two words are "based on."

14 Q. And I said we were done with pages 4, 5, and 6, but
15 it seems I lied. Flipping back to those very
16 briefly, if you will look at Elements 1.m.i through
17 ii; 1.n, as in Nancy, i through v; and 1.o.i through
18 v, the first word of each of those elements is
19 "when"; correct?

20 A. Does that include 1.m.iii? Because that does not
21 begin with "when."

22 Q. I'm just looking at the realtime, and I did not say,
23 1.m.iii. I said, Elements 1.m.i through 1.m.ii, but
24 good to double-check and be precise.

25 A. Sure, then, I agree.

1 Q. Okay, so in your declaration you provide no
2 distinction regarding the interpretation of the term
3 "based on" as used in Claim 42 and the term "when"
4 as used in Claim 1; correct?

5 A. That's broadly correct. Paragraph 181 of my
6 declaration provides my opinions regarding the
7 substantial similarity between the claims.

8 Q. And you would agree with me that both the phrase
9 "based on" and "when" -- the phrase "based on" and
10 "when," as used in these claims, are a type of
11 conditional language; correct?

12 A. In paragraph 158 of my declaration I describe how
13 these relate to a "when/then" relationship; such
14 that when some condition is true, then some other
15 conditions are true.

16 Q. I asked you a slightly narrower question, which is
17 that would you agree with me that both "based on"
18 and "when" are a type of conditional language.

19 A. They're a type of conditional language that includes
20 "while." So it's a broad when/then type of
21 relationship such that when some condition is true,
22 then some other condition's true.

23 MS. DEBROW: Move to strike the last part of
24 that answer as also nonresponsive. I was simply
25 asking you for an agreement on the question that I

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1 asked. I appreciate that you want to explain your
2 thinking here, but your counsel will have a chance
3 to redirect you to allow you to get further
4 explanation on anything that he sees fits. I need
5 you to really try to limit your answers to the
6 question that I'm directly asking you instead of
7 going beyond that.

8 THE WITNESS: I think it's important to provide
9 complete and accurate testimony.

10 Q. So I think you can set aside your declaration for a
11 moment, and if you could, please pull up
12 Exhibit 1004, which is the patent publication that
13 the parties have been referring to as Blumenberg.

14 A. I'm there. Thanks.

15 Q. And we may dip back into your declaration. So if
16 you can keep that in a place that's accessible, that
17 would be good, but if not, I will give you as much
18 time as you need to pull that back up.

19 So for starters in Blumenberg if you could
20 please go to paragraph 4 and read that paragraph to
21 yourself, please, and let me know once you're done.

22 A. Yes, I'm ready.

23 Q. And would you agree with me that this paragraph 4 in
24 Blumenberg is describing some of the drawbacks
25 associated with portable devices?

1 A. Broadly that's fair.

2 Q. And one of the drawbacks it identifies is small
3 screen size; correct?

4 A. Yes.

5 Q. Blumenberg -- This paragraph of Blumenberg, which is
6 paragraph 4, doesn't disclose problems of screen
7 size or drawbacks of screen size in terms of desktop
8 computers; correct?

9 A. There is no mention of desktop computers in
10 paragraph 4.

11 Q. And are you aware of any other disclosure in
12 Blumenberg that links screen size as a drawback
13 associated with desktop computers?

14 A. I don't recall any such explicit disclosure, no.

15 Q. And if you could, please, look at the very next
16 paragraph, paragraph 5 of Blumenberg. Take a moment
17 to read that to yourself as well and let me know
18 when you're done.

19 A. I see that.

20 Q. So would you agree with me that this paragraph
21 describes there being a need for more efficient ways
22 to convey hyperlink information and select hyperlink
23 in portable devices?

24 A. That's a portion of what paragraph says -- 5 says.

25 Q. Would you agree with me that that paragraph of

1 Blumenberg does not associate that problem with
2 conventional web browsers, like those available in a
3 PC?

4 A. It makes no mention of personal computers.

5 Q. And you're not aware of any other disclosure in
6 Blumenberg that links the need for more efficient
7 ways to convey hyperlink information or select
8 hyperlink with being a problem in conventional web
9 browsers, like those available on a PC; correct?

10 A. Paragraph 58 of Blumenberg broadens its disclosures;
11 for example, it says, "However, the illustrative
12 descriptions (sic) above are not intended to be
13 exhaustive or to limit the invention to the precise
14 forms disclosed. Many modifications and variations
15 are possible in view of the above teachings."

16 Q. So paragraph --

17 A. (Inaudible.)

18 Q. Sorry. I didn't mean to interrupt you.

19 A. No, I'm finished.

20 Q. Paragraph 58, however, does not expressly state that
21 either screen size or a need to -- for more
22 efficient ways to convey hyperlink information is a
23 problem with conventional web browsers like those
24 available on PC's; correct?

25 A. It makes no explicit mention of personal computers,

1 no.

2 Q. If you could turn back to paragraph 49 of
3 Blumenberg, and you can take a moment to read it to
4 yourself if you'd like, but we're going to be
5 focusing on some specific sentences in here sort of
6 one at a time. So I'll give you a moment to read it
7 through and let me know when you're done.

8 A. Okay.

9 Q. So I want to focus initially on the first sentence
10 of paragraph 49 of Blumenberg.

11 Is it fair to say that that sentence describes
12 how a hyperlink display preview could be started?

13 A. Broadly I think that's okay. It's describing a
14 method to avoid inadvertent contacts and assuring
15 that the contact is maintained for at least a
16 predetermined period of time before displaying the
17 link information.

18 Q. Where in that sentence is there any explicit
19 reference to an inadvertent contact?

20 A. In that particular paragraph there is no direct and
21 explicit mention of inadvertent contact, but earlier
22 in Blumenberg there is disclosure of methods to
23 avoid detection of inadvertent contact.

24 Q. Sticking with this first sentence and focusing on
25 directly what the sentence says, it describes a

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1 hyperlink preview would be displayed when contact is
2 maintained for a duration that meets or exceeds a
3 predetermined time, and the examples it gives are
4 times such as 0.2 seconds or another value between
5 0.1 and 0.25; correct?

6 A. So there is no explicit mention of the term
7 "preview" in that sentence, but otherwise, broadly I
8 think your characterization of the sentence is okay.

9 Q. Do you agree with me that when it refers to "the
10 information is displayed," that what that's
11 referencing is the hyperlink preview that's
12 described in Blumenberg?

13 A. I can't -- The version of the document that you've
14 sent to me I cannot search, but I believe Blumenberg
15 does not use the term "preview." It uses the term
16 "snippet of information," but a person of skill in
17 the art would understand that a preview is a form of
18 snippet of information.

19 Q. You would agree with me that this first sentence
20 does not expressly state what would happen if the
21 contact it held were less than 0.2 seconds or some
22 other value between the 0.1 or 0.25; correct?

23 A. A person of skill in the art reading Blumenberg,
24 including the disclosure at paragraph 49, would
25 understand that the purpose of this duration

1 described in the first sentence of paragraph 49 is
2 to avoid inadvertent contact.

3 MS. DEBROW: Dr. Cockburn, that is not the
4 question that I asked you. I'm asking you a narrow
5 question.

6 Q. That first sentence of paragraph 49 does not
7 expressly state what would happen if the contact is
8 held for less than the predetermined time; correct?

9 A. If I narrow my analysis and blanket myself to the
10 disclosures of Blumenberg and read only that
11 sentence, that sentence has no explicit disclosure
12 of what happens -- what could happen if the contact
13 is maintained for less than that time.

14 Q. So if you could go with me to paragraph 34 of your
15 declaration.

16 A. I'm there. Thanks.

17 Q. Is this the paragraph that you were referencing in a
18 prior answer when you said that other parts of
19 Blumenberg address inadvertent contact?

20 A. Paragraph 34 of my declaration? No.

21 MS. DEBROW: I'm sorry. Let me read this back
22 on the realtime. Sorry. I said paragraph -- We got
23 our wires crossed, paragraph 34 of Blumenberg. If I
24 asked you to go to your declaration, that is my
25 mistake, and I see in the realtime I did.

1 Q. So to make sure you have a clear question, in an
2 earlier answer you referenced that other parts of
3 Blumenberg you viewed as the disclosure related to
4 inadvertent contact.

5 Do you recall that?

6 A. Yes.

7 Q. And is this paragraph 34 of Blumenberg part of the
8 disclosure you were thinking of?

9 A. Yes.

10 Q. So I'd like to focus in on the last two sentences of
11 that paragraph that begins with the clause "In some
12 embodiments, inadvertent contact with an icon."

13 A. I see that.

14 Q. Those two sentences expressly address only
15 inadvertent contact with an icon; correct?

16 A. Those two sentences in Blumenberg explicitly address
17 inadvertent contact with an icon. A person of skill
18 in the art reading the disclosures in Blumenberg,
19 including those that we were recently addressing at
20 paragraph 49, would understand that both are
21 directed to reducing inadvertent contact.

22 Q. But I'm specifically focused on these last two
23 sentences of paragraph 34.

24 And I believe in your prior answer you agreed
25 with me that those explicitly address inadvertent

1 contact with an icon; correct?

2 A. The final two paragraphs (sic) of paragraph 34
3 explicitly refer to "inadvertent contact with an
4 icon." My prior answer addresses a person of skill
5 in the art's understanding of Blumenberg as a whole.

6 Q. Dr. Cockburn, respectfully I'm not concerned in this
7 question with how a person of skill in the art would
8 interpret Blumenberg as a whole. I'm asking you
9 narrowly about how you interpret the disclosure of
10 these two sentences and that they expressly address
11 only inadvertent contact with an icon.

12 Do you agree?

13 A. Blanketing myself to the disclosures of Blumenberg
14 as a whole and reading only those two sentences,
15 they explicitly address inadvertent contact with an
16 icon.

17 Q. Does Blumenberg describe icons as including
18 hyperlinks?

19 A. The version of the document that I have in front of
20 me does not support searching, so I'm unable to
21 confirm the extent of how Blumenberg discloses
22 icons. A person of skill in the art would -- would
23 understand that an icon could include a hyperlink.

24 MS. DEBROW: Objection, nonresponsive, and move
25 to strike as to the portion of the answer that

1 relates to how a person of skill in the art would
2 understand an icon.

3 Q. Again, Dr. Blum-- -- or, sorry, I'm about to call
4 you Dr. Blumenberg, which is, you know, not your
5 name. Sorry.

6 Dr. Cockburn, my question remains narrowly
7 focused on what Blumenberg expressly described, and
8 I understand that this version of the document is
9 not searchable.

10 Are you aware of any disclosure in Blumenberg
11 that describes icon as hyperlink?

12 A. If the question is limited to my understanding of
13 Blumen- -- Blumenberg's disclosure of icons, I am
14 unaware, as I sit here right now, of Blumenberg's
15 explicit disclosure of icons as hyperlinks.

16 Q. And if you'll read paragraph 34 to yourself in its
17 entirety and let me know when you're done.

18 A. Okay.

19 Q. Is it fair to say that paragraph 34 in describing
20 icons does not describe icons as hyperlinks?

21 A. Paragraph 34 is a broad paragraph. It includes
22 reference to Figure 2, which is "a schematic diagram
23 illustrating an embodiment of a user interface for a
24 portable electronic device. The device includes a
25 touch screen. For some applications, the touch

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1 screen may display one or more trays." A person of
2 skill in the art understanding this understands that
3 Figure 2 is directed to graphical user interfaces
4 for touchscreens. It also includes specific
5 examples, such as the keyboard that is disclosed and
6 the tray. It goes on to say, "A tray is a defined
7 region or area within a graphical user interface.
8 One tray may include a user entry interface, such as
9 a keyboard 210."

10 So these are examples of things that could be
11 included in the touchscreen user interface, but it
12 is important to describe how a person of skill in
13 the art would understand this paragraph, blanket to
14 the remaining disclosures in Blumenberg. Their
15 understanding of this paragraph would be that there
16 is a graphical user interface on a touchscreen
17 device that can include multiple trays.

18 MS. DEBROW: I'm going to object to the majority
19 of that answer as nonresponsive. I'm asking you a
20 question, again, specifically focused on paragraph
21 34 and how it uses the term "icon," and your answer
22 went on about all of the things that could be
23 included in Electronic Device 200, which bears no
24 relation to the question that I asked you.

25 Q. So to reset, paragraph 34 when it uses the term

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1 "icon," it does not describe hyperlink as icon;
2 correct?

3 A. I maintain my prior answer. Paragraph 34 is broad
4 enough to include touchscreen graphical user
5 interfaces. It reads, "The icons may include one or
6 more symbols." This is consistent with a person of
7 skill in the art's understanding of icons.

8 MS. DEBROW: Objection, nonresponsive. Move to
9 strike.

10 Q. Do you agree with me that this paragraph states that
11 Keyboard 210 could include a plurality of icons?
12 Correct?

13 MR. DARBY: Objection to form.

14 BY MS. DEBROW:

15 Q. Sorry. To rephrase the question, do you agree that
16 this paragraph states that Keyboard 210 includes a
17 plurality of icons?

18 A. That is one example of the contents of the tray and
19 the graphical user interface.

20 MS. DEBROW: Objection, nonresponsive.

21 Q. I'm asking you just for an agreement that the
22 language in this paragraph states -- and I quote --
23 in part, "keyboard 210 that includes a plurality of
24 icons."

25 Do you agree?

1 A. That language is contained within the paragraph.

2 Q. And the very next sentence states, "The icons may
3 include one or more symbols"; correct?

4 A. The next sentence reads as you read it.

5 Q. And that sentence refers back to the icons included
6 in the keyboard; correct?

7 A. The two sentences together read, "One tray may
8 include a user (sic) interface, such as a keyboard
9 210 that includes a plurality of icons. The icons
10 may include one or more symbols." So the
11 Keyboard 210 is one particular example of the
12 contents of the tray disclosed in paragraph 34.

13 Q. Again, to focus in on the issues that I'm really
14 interested in, paragraph 34 at no point discloses
15 that an icon is a hyperlink; correct? Let me
16 rephrase that.

17 Paragraph 34 at no point states that an icon is
18 a hyperlink; correct?

19 A. There is no explicit statement in paragraph 34 that
20 an icon is a hyperlink.

21 Q. And so I want to be sure that I understand your
22 prior testimony. Is it your position that when
23 paragraph 34 states that "icons may include one or
24 more symbols," that those symbols are hyperlinked?

25 THE WITNESS: That wasn't the question.

1 MS. DEBROW: Strike that question. That's a --
2 That's a bad question. Strike that question. It's
3 confusing.

4 Q. So this paragraph states in terms of describing
5 icons that icons may include one or more symbols;
6 correct?

7 A. Paragraph 34 includes the sentence, "The icons may
8 include one or more symbols."

9 Q. Okay; and if we go down to the last sentence of
10 paragraph 34, which begins, "For example."

11 A. Okay.

12 Q. In the -- That's describing an example of a type of
13 inadvertent contact in which a swipe gesture sweeps
14 over an icon; correct?

15 A. The two sentences at the end of paragraph 34 are
16 addressing inadvertent contacts, in this case with
17 icons, and how those inadvertent contacts could be,
18 for example, determined. The specific example is a
19 swipe gesture that sweeps over an icon may not
20 select a corresponding symbol if the gesture
21 corresponding to the selection is a tap gesture.

22 Q. And in paragraph 34 there is no discussion of
23 distinguishing inadvertent contact based on the
24 duration of the contact relative to a predetermined
25 threshold; correct?

1 A. If your question is addressing the explicit
2 disclosures solely of paragraph 34, then there is no
3 mention in paragraph 34 explicitly of the use of
4 duration to detect inadvertent contact; however, the
5 second-to-last sentence reads, "In some embodiments,
6 inadvertent contact with an icon may not select a
7 corresponding symbol." A person of skill in the art
8 reading that would understand that the elements of
9 the user interface would be programmed to respond to
10 particular types of gestures, and the example in the
11 final sentence of paragraph 34 is consistent with
12 that understanding.

13 MS. DEBROW: Objection to everything beginning
14 with "however" until the end of the answer as
15 nonresponsive and move to strike that portion of the
16 answer.

17 Q. So going back to paragraph 49 of Blumenberg, if you
18 could please read the last two sentences of that
19 paragraph to yourself and let me know when you're
20 done.

21 A. Okay.

22 Q. Is it fair to say that the final two sentences of
23 paragraph 49 describe removing the link information
24 display if the user's contact is maintained for a
25 longer period of time, such as three to

1 five seconds?

2 THE WITNESS: Can you repeat the question,
3 please?

4 Q. Is it fair to say that the final two sentences of
5 paragraph 49 describe removing the link preview from
6 the display if the contact is maintained for a
7 longer period of time, such as three to
8 five seconds?

9 A. You're concerned that I address the precise wording
10 of Blumenberg's disclosures, and I believe that
11 Blumenberg does not disclose it as being a preview.
12 It discloses it as being linked information.

13 Q. Earlier when we talked about this, we referenced --
14 we looked back at the prior paragraph that it talks
15 about disclosing a snippet of content, and I believe
16 that your testimony was that a person of skill in
17 the art would understand that to be a preview and so
18 I'm merely trying to use "preview" as shorthand in
19 the way that the parties have used it in the
20 briefing to understand and get agreement around what
21 it is that those last two sentences of paragraph 49
22 are describing.

23 So with that in mind is it fair to say that
24 those last two sentences are describing removing the
25 preview from the display when the user's contact is

1 maintained for a longer period of time, such as the
2 example it gives being three to five seconds?

3 A. Broadly I agree with that. I describe this in
4 paragraph 64 of my declaration.

5 MS. DEBROW: Okay. I think we have been going
6 for about another hour. Would you like to take a
7 break or would you like to keep going?

8 THE WITNESS: Let's take a break.

9 MS. DEBROW: Okay. If we could go off the
10 record and then we'll agree on how long of break.

11 (A recess was taken.)

12 Q. All right. Dr. Cockburn, if you could go to
13 paragraph 51 of Blumenberg, please.

14 A. I'm there. Thanks.

15 Q. So I want to focus in on the last sentence of this
16 paragraph, which is a fairly long sentence, and it
17 begins with, "In some embodiments, a combination of
18 such activation criteria are used:"

19 Let me know when you have located that sentence
20 and read it to yourself.

21 A. Yes, I've read it. Thanks.

22 Q. So in that last sentence, which refers to "the
23 selected link is activated by a contact break if the
24 link information was displayed less than the first
25 predetermined amount of time," and then it goes on,

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1 but I won't quote that part. What I'm focused on is
2 "the first predetermined amount of time."

3 Is that what you refer to in your declaration as
4 the "activation threshold"?

5 THE WITNESS: Can you repeat the question,
6 please?

7 Q. So in that last sentence of paragraph 51 when it
8 references "the first predetermined amount of time,"
9 is that what you refer to in your declaration as the
10 "activation threshold"?

11 A. Yes. I described this in paragraph 63 of my
12 declaration.

13 Q. And that's the same "activation threshold" that you
14 also reference in paragraph 62; correct?

15 A. That seems fair.

16 Q. Returning to paragraph 51 of Blumenberg, that last
17 sentence, again, discloses that a link can be
18 activated by a contact break if the link information
19 was displayed for less time than the time period you
20 referred to as the "activation threshold"; correct?

21 A. That seems fine -- fair.

22 Q. And then focusing then on the last clause of that
23 final sentence of paragraph 51, is it fair to say
24 that that discloses that if the link information was
25 displayed for more than that amount of time, which I

1 understand to refer back to the activation
2 threshold, then the user must break contact and tap
3 the link information to activate the link?

4 A. Broadly that's fair, yes.

5 Q. The description in that last clause about the user
6 breaking contact, is that referring -- or do you
7 agree -- I muddled that. I'm sorry. Let me start
8 over.

9 In that last clause of the final sentence of
10 paragraph 51 of Blumenberg when it refers to the
11 user breaking contact, do you agree to me -- agree
12 with me that the contact being broken is the first
13 contact?

14 A. That seems fine.

15 MR. DARBY: (Inaudible.)

16 THE REPORTER: Kenneth, did you say something?

17 MR. DARBY: I did. I said objection to form.

18 Thanks.

19 BY MS. DEBROW:

20 Q. And before we go on from paragraph 51, I want to
21 focus in on an earlier sentence that's sort of
22 buried in the paragraph. So I'll read it to you so
23 you can find it, and it's kind of midway in. It
24 says, "In some other embodiments, the activation of
25 the link may be triggered by a gesture, such as a

1 quick tap on the touch screen 208 after breaking
2 contact."

3 Do you see that sentence?

4 A. I do.

5 Q. And focusing only on the expressed disclosure of
6 that one sentence, that states that activation of
7 the link may be triggered by a quick tap gesture
8 that occurs after the user breaks the first contact;
9 correct?

10 A. That's not quite -- That's not what the sentence
11 says exactly; "may be triggered by a gesture, such
12 as a quick tap on the touch screen."

13 Q. Is it fair to say that the quick tap on the
14 touchscreen is described as one that occurs after
15 breaking contact?

16 A. It reads, "such as a quick tap on the touch screen
17 208 after breaking contact."

18 MS. DEBROW: Okay. I think we can switch from
19 Blumenberg to Bhumkar, and for the sake of the
20 record I will spell that for you. It's B, as in
21 boy, -h-u-m-, as in Mary, -k-a-r, and that's Exhibit
22 1005.

23 Q. And I want to start with the abstract. If you can
24 let me know when you're there, Dr. Cockburn.

25 A. I'm there. Thanks.

1 Q. If you could read that abstract to yourself, if you
2 have not already done that.

3 A. I've read it. Thanks.

4 Q. Is it fair to say that in the abstract Bhumkar is
5 describing providing previews of target websites in
6 response to what it calls "cursor control events"?

7 A. That's what paragraph -- the sentence says.

8 Q. And in the context of Bhumkar what is a "cursor
9 control event"?

10 A. In the context -- context of Bhumkar a person
11 skilled in the art would understand that it's a
12 means of providing input to a computing device,
13 including handheld computing devices.

14 Q. I'd like you to turn to paragraph 83 of Bhumkar,
15 please.

16 A. I'm there. Thanks.

17 Q. In this paragraph would you agree with me that
18 Bhumkar describes cursor control -- like, cursor
19 control 216 is what it references as a mouse,
20 trackball, or cursor direction keys for
21 communicating direction information and command
22 selections to a processor and for controlling cursor
23 movement on the display 212?

24 A. Paragraph 83 is describing hardware components that
25 may be part of embodiments of Bhumkar.

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1 Q. If you'll go to paragraph 38 of Bhumkar and go ahead
2 and read that paragraph to yourself.

3 A. Yes, I've read it. Thanks.

4 Q. One of the sentences in that paragraph refers to
5 "quick views are displayed in response to gestures,
6 such as mouseover events"; correct?

7 A. You read a portion of paragraph 38 correctly.

8 Q. And paragraph 38 describes a mouseover as something
9 where "a user positions a cursor over or near a
10 hyperlink"; correct?

11 A. This is in response to gestures, such as mouseover
12 events, and that's how I characterize them.

13 Q. I just want to be sure I'm clear on your answer.

14 You agree with me that paragraph 38 describes a
15 mouseover as something where "a user positions a
16 cursor over or near a hyperlink"; right?

17 A. It describes a quick view as displayed in response
18 to gestures, such as mouseover events, where a user
19 positions a cursor over or near a hyperlink.

20 Q. Okay.

21 A. I think a mouseover event is just one type of the
22 gestures.

23 Q. So when Bhumkar refers to a mouseover event, would
24 you agree with me that that is a description of
25 where a user utilizes a mouse to position a cursor

1 or pass a cursor over something?

2 A. Not necessarily. Over or mouseover events in
3 programming languages are commonly used to detect --
4 for -- for the purposes of something called event
5 binding in programming to allow a system to detect
6 certain actions, which would include touch
7 interactions over certain components of the
8 graphical user interfaces.

9 Q. Bhumkar does not expressly disclose touchscreen
10 interactions as a mouseover event, though; correct?

11 A. Bhumkar expressly discloses the use of handheld
12 devices, which a person of skill in the art would
13 comprehensively understand to include touchscreens
14 at the time and mouseover events when known to be
15 used with touchscreen devices through something
16 that's known as mass emulation.

17 MS. DEBROW: Objection, nonresponsive. Move to
18 strike. I'm asking you a narrow question here.

19 Q. I understand that your testimony is that Bhumkar
20 discloses the use of handheld devices. That's not
21 what I'm asking you about. I'm asking you if
22 Bhumkar expressly discloses mouseover events as
23 touchscreen interactions.

24 A. I'm struggling with this type of question. It -- It
25 requires me to blanket myself both to the

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1 disclosures of Bhumkar and to a person of skill in
2 the art's understanding, if I understand you
3 correctly. A person of skill in the art has an
4 understanding of what mouseover events are. If I
5 expunge that memory, then I can say Bhumkar has no
6 explicit disclosure of touchscreen-over events, if
7 that was your question.

8 Q. Let me ask you a different question.

9 None of the examples of cursor control events
10 described in Bhumkar are touchscreen gestures;
11 correct?

12 A. In responding to that can I import a person of skill
13 in the art's understanding or is this limited to
14 expressed disclosures solely in paragraph 38?

15 Q. I'm asking you about the expressed disclosures of
16 Bhumkar.

17 A. The expressed disclosures of Bhumkar include
18 handheld devices. If I import a person of skill in
19 the art's understanding of handheld devices at the
20 time, Bhumkar's express disclosure of gestures and
21 mouseover events includes touchscreen interaction.

22 MS. DEBROW: Dr. Cockburn, that is not the
23 question that I asked you. You asked for
24 clarification about whether I was limiting you to
25 the express disclosure of Bhumkar, to which I

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1 responded in the affirmative, and then you answered
2 anyway about what a person of skill in the art might
3 understand.

4 Q. I'm asking you to tell me what your opinion is about
5 the express disclosures of Bhumkar, and I think that
6 should be a simple question. Bhumkar describes
7 cursor control events as things related to mice,
8 trackballs, and I forget the other examples, not --
9 mouse, trackballs, and cursor direction keys, not
10 touchscreen gestures; correct?

11 MR. DARBY: Objection to form.

12 A. I can -- The only honest answer to this question
13 includes the express disclosure of handheld devices
14 in Bhumkar and a person of skill in the art's
15 understanding of what a mouseover event is. A
16 person of skill in the art understands that handheld
17 touchscreens -- handheld devices include
18 touchscreens and that mouseover events, when
19 implemented on touchscreen devices to the
20 recognition of gestures, includes touch locations as
21 also disclosed in Bhumkar at paragraph 83 where it
22 describes this input device typically has two
23 degrees of freedom in two axes, a first axis (x) and
24 a second axis (y) allowing the device to specify
25 positions in a plane, which is entirely consistent

1 with touchscreens.

2 MS. DEBROW: Object to that entire answer as
3 nonresponsive and move to strike it. I'm asking you
4 only about what Bhumkar expressly described, and
5 you're veering off in a total other direction. So
6 we're going to move on.

7 THE WITNESS: Can I reply?

8 MR. DARBY: I'm going to object. I don't think
9 that accurately characterizes the testimony.

10 THE WITNESS: Can I reply?

11 MS. DEBROW: There is not a question pending,
12 so, no, sir. I think that may be all that I have
13 today, but I would like to take five minutes to
14 review my notes and make sure that I don't have any
15 follow-up questions. So if we could go off the
16 record for -- Well, do we want to make it an even
17 time, like your other ones? But let's go off the
18 record for a moment and then we'll agree on a time
19 to come back.

20 (A recess was taken.)

21 MS. DEBROW: So I have one question that I just
22 want to make sure we have a clear record on, because
23 there was an objection pending on a question. I
24 went back and looked at it on the realtime, and I
25 did ask it in a agree or disagree way.

1 Q. I asked you previously, Dr. Cockburn, when we were
2 looking at paragraph 51 of Blumenberg when it refers
3 to the user breaking contact, do you agree with me
4 that the contact being broken is the first contact?
5 And you said that seems fine. The way I phrased
6 that question before was do you agree or disagree
7 and your counsel objected to that. So now I want to
8 pose a clean question, which is in the last clause
9 of the final sentence of paragraph 51 of Blumenberg
10 when it refers to the user breaking contact, do you
11 agree that the contact being broken is what
12 Blumenberg refers to as the first contact?

13 MR. DARBY: Same objection to form.

14 MS. DEBROW: What is your objection to form so
15 that I can understand it and figure out how to
16 formulate a question that you do not find
17 objectionable?

18 MR. DARBY: Uh-huh. Yeah, lack of foundation
19 for the term "first contact." I didn't see -- see
20 it established in the line of questioning leading up
21 to this one.

22 MS. DEBROW: Okay. Let me step through this in
23 a little more detail then.

24 Q. In Blumenberg's paragraph 49 and paragraph 51,
25 generally speaking, those paragraphs are discussing

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1 scenarios involving a user's contact and whether a
2 link preview would just be displayed or a link would
3 be activated.

4 Do you agree with that?

5 A. That is included in those disclosures.

6 Q. And in that last clause of the final sentence of
7 paragraph 51 when it refers to the user breaking
8 contact and then tapping the link information to
9 activate the selected link, is the contact that's
10 broken the same contact that is discussed in
11 paragraph 49 and earlier in paragraph 51?

12 A. As I disclose in paragraphs 63 and 64 of my
13 declaration, for example, if the contact is
14 maintained for longer than the activation threshold,
15 then persistent information is displayed and a tap
16 will then activate the link.

17 Q. Okay. To clarify that answer on 63 and 64, your
18 actual opinion there is the user breaks contact and
19 then executes a confirmatory tap to activate the
20 selected hyperlink and visit the target web page;
21 correct?

22 A. That's what I say in paragraph 63, yes.

23 Q. And in paragraph 63 your -- that is your effort to
24 describe a scenario described in paragraph 51 of
25 Blumenberg; correct?

1 A. That is one of the places where I describe that
2 paragraph. I believe I describe it elsewhere --

3 Q. Correct.

4 A. -- in my declaration, too.

5 Q. I did not mean to imply that that was the only place
6 you described that scenario, but what I'm trying to
7 do is confirm that in paragraph 63 when you're
8 discussing breaking contact and executing a
9 confirmatory tap to activate the selected hyperlink
10 and visit the target web page, that is what is
11 described in this final clause of paragraph 51 that
12 we have been talking about where it says, then the
13 user must break contact and tap the link information
14 to activate the selected link; correct?

15 A. The segment you read from paragraph 51 is correct,
16 yes.

17 Q. And that segment is what you're referring to in
18 paragraph 63 of your declaration; correct?

19 A. Broadly, yes.

20 MS. DEBROW: Okay. That is -- That is all the
21 questioning that I have for the moment. I will pass
22 the witness to Mr. Darby if he has any redirect and
23 reserve the right to do recross thereafter.

24 MR. DARBY: No redirect for Petitioner.

25 MS. DEBROW: And that concludes our deposition

1 for today. We can go off the record.

2 (Exhibit Numbers 1001, 1003, 1004, 1005, and
3 1006 were marked for identification.)

4 (Deposition concluded at 3:01 p.m.)

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C E R T I F I C A T E

I, the undersigned, a Certified Shorthand Reporter of the State of Iowa, do hereby certify that there came before me at the time, date, and place hereinbefore indicated, the witness named on the caption sheet hereof, who was by me duly sworn to testify to the truth of said witness's knowledge touching and concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination taken down by me in shorthand, and later reduced to Computer-Aided Transcription under my supervision and direction, and that the deposition is a true record of the testimony given and of all objections interposed to the best of my ability.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action in which this deposition is taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

Dated at Clarence, Iowa, this 4th day of April, 2025.

Michele L. Proesch
CERTIFIED SHORTHAND REPORTER

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