

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4 HOME DEPOT U.S.A., INC.,

5 Petitioner

6 v.

7 SECURITY TECHNOLOGY, LLC,

8 Patent Owner

9
10 Case IPR2024-01420

11 U.S. Patent No. 11,562,402

12
13 Videotaped Deposition of ROBERT J. SHERWOOD

14 Conducted virtually via Zoom

15 Friday, June 13, 2025

16 9:37 a.m. CST

17
18
19 Job No.: 588377

20 Pages: 1 - 159

21 Reported by: THERESA A. VORKAPIC,

22 CSR, RMR, CRR, RPR

Videotaped deposition of Robert J.
Sherwood, conducted virtually via Zoom, pursuant
to notice before Theresa A. Vorkapic, a Certified
Shorthand Reporter, Registered Merit Reporter,
Certified Realtime Reporter, Registered
Professional Reporter and a Notary Public in and
for the State of Illinois.

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 (Continued)

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Nate St. Clair, Jackson Walker

C O N T E N T S

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E X H I B I T S

(Attached to transcript.)

PREVIOUSLY MARKED EXHIBITS	PAGE
1003 Declaration	12
1005 US Patent 7,809,740 Chung	79
1006 ICDM 2003	148
1007 US 2007/0244750 Grannan	26
1009 US 2012/0109956 Ramaiyer	148

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	P R O C E E D I N G S	09:30:10
2	THE REPORTER: Would you raise your right	
3	hand, please.	
4	(The witness was duly sworn.)	09:37:17
5	ROBERT J. SHERWOOD,	
6	called as a witness herein, having been first duly	
7	sworn, was examined and testified as follows:	
8	EXAMINATION	09:37:45
9	BY MR. DOOLEY:	09:37:45
10	Q Good morning, Dr. Sherwood. My name is	09:38:09
11	Ryan Dooley. I represent the plaintiff. Well, I	09:38:12
12	guess I'm used to saying "the plaintiff." I guess	09:38:16
13	we are the patentholder.	09:38:27
14	A What was your last name, please?	09:38:28
15	Q Dooley, D-O-O-L-E-Y.	09:38:30
16	A Nice to meet you, Mr. Dooley.	09:38:33
17	Q Nice to meet you, too. Could you please	09:38:36
18	give your full name for the record.	09:38:38
19	A Yes. My full name is Robert James	09:38:41
20	Sherwood.	09:38:46
21	Q Do you understand that you are testifying	09:38:46
22	under oath today with the same effect as if you	09:38:48

Transcript of Robert J. Sherwood
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1	are testifying in court in front of a jury?	09:38:51
2	A I do understand that.	09:38:53
3	Q Is there any reason you cannot testify	09:38:54
4	truthfully or that your testimony might be	09:38:56
5	unreliable?	09:38:58
6	A Not that I'm aware of.	09:39:02
7	Q How many times have you been deposed?	09:39:03
8	A In the last five years, maybe a dozen.	09:39:09
9	Q Then I'll just quickly run through the	09:39:12
10	ground rules as a refresher, but I'm assume you're	09:39:15
11	familiar with them.	09:39:19
12	The first one is please not to talk over	09:39:20
13	each other. If I'm giving a question, please	09:39:22
14	don't talk over me. And if your attorney is	09:39:24
15	giving an objection, please don't talk over him.	09:39:28
16	If you do not understand a question, I can	09:39:33
17	rephrase the question. Otherwise I will assume	09:39:35
18	you understood the question. You must answer my	09:39:38
19	questions unless your attorney instructs you	09:39:40
20	otherwise, and I just ask that we don't take a	09:39:41
21	break while my question is pending.	09:39:43
22	Are those rules all familiar to you?	09:39:45

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	A I'm sorry, was that a question?	09:39:56
2	Q Are those rules all familiar to you?	09:39:58
3	A I understand, yes.	09:40:00
4	Q Have you ever given an opinion in a patent	09:40:01
5	case that a judge or a jury disagreed with?	09:40:03
6	A I'm having a little hard time	09:40:07
7	understanding you. Maybe you could ask a question	09:40:09
8	a little slower, please.	09:40:11
9	Q Sure. Have you ever given an opinion in a	09:40:17
10	patent case that a judge or a jury disagreed with?	09:40:19
11	A Yes.	09:40:21
12	Q Could you give me an example of that	09:40:25
13	disagreement?	09:40:28
14	A The only one I'm aware of is I worked on a	09:40:33
15	case for Kroy, it's in my CV, and there were	09:40:36
16	two -- let's say two people, two companies we were	09:40:46
17	adverse to, one was Microsoft and one was Apple.	09:40:49
18	The issues in both cases were the same, and it	09:40:55
19	revolved around the cost of advertising around	09:40:58
20	videos.	09:41:04
21	I used the same database for Microsoft to	09:41:05
22	form my opinions, and I used the same database for	09:41:07

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1 Apple to form my opinions, but later -- and I was 09:41:11
2 actually disappointed that I didn't get a chance 09:41:15
3 to participate when it was challenged, but 09:41:18
4 apparently the judge accepted the Microsoft and 09:41:24
5 excluded the Apple report. I have never read the 09:41:27
6 complete opinion, but as I understand it, it was 09:41:30
7 based on I didn't have enough data which was 09:41:33
8 disappointing to me because, frankly, in both 09:41:38
9 cases I used the same data group. 09:41:40

10 Q Were you representing the defendant in 09:41:46
11 that case? 09:41:48

12 A No. I have to look at my CV, but the 09:41:50
13 defendants were Microsoft and Apple. 09:41:56

14 Q Have you ever opined that a patent was not 09:42:00
15 infringed that a jury did not agree with? 09:42:03

16 A Let me give that some thought. The only 09:42:16
17 one that I can recall that a judge or a jury 09:42:19
18 disagreed with was the one I just mentioned. 09:42:24

19 Q Has a court ever determined that you were 09:42:28
20 not qualified to provide testimony on a subject? 09:42:30

21 A Not as far as I know. 09:42:32

22 Q Have you ever had an opinion excluded by a 09:42:42

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	court?	09:42:44
2	A I'm sorry, I'm having trouble	09:42:44
3	understanding.	09:42:47
4	Q Have you ever had an opinion excluded by a	09:42:47
5	court?	09:42:50
6	MR. ISHMAEL: Objection to form.	09:42:58
7	BY THE WITNESS:	09:42:59
8	A As far as I know, the report that I	09:43:00
9	mentioned earlier was excluded. I suspect there	09:43:01
10	were some opinions in that report, so if that was	09:43:05
11	the case, then whatever was in that report was	09:43:08
12	excluded also.	09:43:11
13	BY MR. DOOLEY:	09:43:12
14	Q What materials do you have in front of	09:43:13
15	yourself, sir?	09:43:15
16	A Again. I apologize, but I'm having	09:43:20
17	trouble. You said what materials do I have in	09:43:22
18	front of me?	09:43:26
19	MR. DOOLEY: Can we go off record for just	09:43:27
20	a moment, please?	09:43:28
21	THE WITNESS: Sure.	09:43:30
22	(Discussion was had off the record.)	09:44:28

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	MR. DOOLEY: Let's go back on the record,	09:44:28
2	please.	09:44:30
3	BY MR. DOOLEY:	09:44:32
4	Q Dr. Sherwood, what materials do you have	09:44:33
5	in front of yourself?	09:44:35
6	A I'm going to repeat the question.	09:44:39
7	Q You're going to repeat it or you want me	09:44:43
8	to repeat it? Dr. Sherwood?	09:44:45
9	MR. ISHMAEL: It looks like we lost him.	09:44:59
10	MR. DOOLEY: Let's go off the record,	09:45:01
11	please.	09:45:03
12	(A recess was had.)	09:47:46
13	MR. DOOLEY: Let's go back on the record,	09:47:46
14	please.	09:47:49
15	BY MR. DOOLEY:	09:47:57
16	Q Dr. Sherwood, what materials do you have	09:47:57
17	in front of yourself?	09:47:58
18	A Again, it sounded like you asked me what	09:48:01
19	materials do I have in front of me.	09:48:03
20	Q That's correct.	09:48:06
21	A And the answer is I have no materials in	09:48:07
22	front of me.	09:48:09

Transcript of Robert J. Sherwood
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1	Q Do you have access to any materials?	09:48:16
2	A Not unless you give me access. I mean, I	09:48:20
3	don't --	09:48:23
4	Q Let me give you access to your	09:48:24
5	declaration.	09:48:30
6	MR. DOOLEY: Mr. Pappas, if you could	09:48:31
7	please share the declaration of Dr. Sherwood.	09:48:34
8	And for the record, this is the	09:48:40
9	declaration in this IPR. That's IPR 202401420 for	09:48:42
10	US Patent No. 11,562,402, and this is	09:48:50
11	Exhibit 1003.	09:48:56
12	BY MR. DOOLEY:	09:48:57
13	Q Dr. Sherwood, Mr. Pappas has put the	09:49:05
14	exhibit in the chat, if you would like to download	09:49:08
15	that.	09:49:09
16	A Yeah, I have the declaration in front of	09:49:51
17	me now.	09:49:53
18	Q Is this your signed declaration in this	09:49:54
19	IPR?	09:49:57
20	A Yes, it looks like it. I see the date,	09:49:58
21	September 17, 2024, and my signature, Robert J.	09:50:02
22	Sherwood.	09:50:06

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	Q Just for the record, who else is in the	09:50:07
2	room with you there?	09:50:09
3	A Tessa Duxbury and no one else.	09:50:15
4	Q Did you write this declaration yourself?	09:50:28
5	A I authored the declaration, yes.	09:50:30
6	Q Approximately how much time did you spend	09:50:32
7	on your declaration?	09:50:34
8	A I think it was approximately nine months	09:50:42
9	ago, September 2024. I'd say approximately maybe	09:50:45
10	30 or 40 hours.	09:50:48
11	Q Did you talk to anybody outside of counsel	09:50:58
12	for the petitioner in the process of preparing	09:51:00
13	your declaration?	09:51:02
14	A I don't believe so. I don't recall any	09:51:12
15	conversations, other than those with counsel.	09:51:16
16	Q Did you review Home Depot's petition when	09:51:20
17	you were writing your declaration?	09:51:24
18	A No.	09:51:41
19	Q Are there any errors in your declaration	09:51:41
20	that you're aware of and would like to correct?	09:51:43
21	A No. It's probably a knit, but it looked	09:51:50
22	like to me there was a typo or I put in the word	09:51:53

Transcript of Robert J. Sherwood
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1 "core" and it should have been s-c-o-r-e. I don't
2 remember now exactly where it was in the
3 declaration, but I remember going through it and I
4 think I saw that.

5 Q Other than that error, any other errors
6 that you're aware of and would like to correct?

7 A Well, first, I characterize that as a
8 typo, but, no, I'm not aware of any other typos or
9 errors in the deposition -- in the declaration.

10 Q What did you do to prepare for your
11 deposition today?

12 A I tried to get a good sleep last night.
13 Unfortunately, I didn't do that. But I started
14 preparing for the deposition about --
15 approximately maybe three weeks ago. I had
16 several meetings with counsel. I had a meeting
17 with counsel yesterday. I reviewed the documents
18 listed in my report under the exhibits. I read my
19 declaration several times.

20 Q Approximately how long did you spend
21 preparing for today's deposition?

22 A I would say approximately 25 hours.

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	Q Did you speak with anyone outside of	09:53:39
2	counsel while preparing for this deposition?	09:53:41
3	A Well, yes, I did, but I didn't speak with	09:53:49
4	anybody outside about the deposition.	09:53:52
5	Q Do you have any personal notes with you	09:54:03
6	pertaining to this deposition?	09:54:05
7	A No.	09:54:08
8	Q Does your declaration contain all your	09:54:15
9	expert opinions in this matter?	09:54:17
10	A It certainly contains all the opinions I	09:54:26
11	have relative to what I was -- what I was asked to	09:54:28
12	do.	09:54:32
13	Q When you say what you were asked to do,	09:54:38
14	could you explain that further?	09:54:41
15	A Sure. I was asked -- I think it was	09:54:45
16	described in my report. I could read it, but	09:54:48
17	essentially I was asked to look at the '402	09:54:50
18	patent, examine some prior art and express	09:55:04
19	opinions on if a POSITA could have looked at the	09:55:06
20	prior art and arrived at the claims of the '402	09:55:12
21	patent.	09:55:15
22	Q Your declaration contains all your expert	09:55:21

1	opinions regarding the '402 patent and related	09:55:23
2	prior art that you looked at and your opinions on	09:55:28
3	a POSITA?	09:55:29
4	A Yes, I think that's correct.	09:55:30
5	Q Do you have any additional opinions about	09:55:36
6	the '402 patent that are not stated in this	09:55:38
7	declaration?	09:55:42
8	A No.	09:55:45
9	Q Does your declaration set forth all the	09:55:47
10	bases for your opinions?	09:55:50
11	A I believe the answer is yes. I'm just	09:56:11
12	taking a minute to see how I explain that issue in	09:56:14
13	my report. Yes. I think as I explain in my	09:56:20
14	report, my opinions are based on, you know, the	09:56:47
15	materials I reviewed and, of course, my experience	09:56:52
16	in the advertising field.	09:56:59
17	Q So you've numbered portions of Claim 1 in	09:57:07
18	your report as [1a], [1b] and et cetera. So	09:57:10
19	you'll know what I'm talking about if I refer to	09:57:14
20	these elements as [1a], [1b], et cetera?	09:57:16
21	A Yes.	09:57:19
22	Q You have two grounds in your report.	09:57:20

Transcript of Robert J. Sherwood
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1	Ground I is Grannan, Chung and Yang, correct?	09:57:23
2	A Yes.	09:57:30
3	Q And Ground 2 is Grannan, Chung and	09:57:30
4	Ramaiyer, correct?	09:57:34
5	A Yeah, Ground 2 is Grannan in view of Chung	09:57:35
6	and Ramaiyer.	09:57:38
7	Q And both Ramaiyer and Yang are only used	09:57:38
8	for their disclosure of clustering in	09:57:42
9	Element [1c]; is that correct?	09:57:46
10	A I'm going to say yes, but that's what I	09:57:57
11	recall from memory. I'm not sure how I	09:58:00
12	characterized that in my report. I don't want to	09:58:10
13	have to read the whole thing while we're sitting	09:58:13
14	here, but I think that's correct, yes.	09:58:16
15	Q So you don't have any opinions in your	09:58:17
16	report that you're aware of regarding Ramaiyer,	09:58:19
17	Yang, outside the disclosure of clustering,	09:58:25
18	correct?	09:58:30
19	A Let me take a minute to give that some	09:58:32
20	thought. My screen has suddenly gone gray here.	09:58:34
21	I need to -- Mr. Dooley, I need to go down and	09:59:01
22	look at how I describe -- how I used that	09:59:06

1 reference precisely and, for example,
2 occasionally, if you're referring to a specific
3 paragraph in my report, if you could give me the
4 number, I will go right to it and I can give you a
5 responsive answer. I'm getting some additional
6 legal technical help here.

7 Q So I believe your discussion of Yang
8 starts on page -- you first mention it on Page 36
9 outside the -- in the actual body of your report.
10 That's your Paragraph 96?

11 A Let me get right to it.

12 Q And it continues for a number of
13 paragraphs.

14 A Yeah. Let me just read it out loud: "In
15 my opinion, the technique of differentiating
16 between multiple users of the same computer based
17 on identifying clusters of user behavior was a
18 known technique at the time of the '402 patent.
19 Yang teaches the idea of pattern-based clustering.
20 It's not new."

21 And you asked me about Ramaiyer, correct?

22 Q Correct. I believe that is Page 81 in

1	your report, second line, Paragraph 197 --	10:01:06
2	sorry -- 196.	10:01:25
3	A I just want to click away --	10:01:45
4	Q I believe Paragraph 194 also mentions	10:01:48
5	Ramaiyer. So you should probably start there.	10:01:53
6	A All right. Just a minute. Okay. So in	10:02:03
7	reading the answer to your question, Ramaiyer, I	10:02:32
8	guess that's the correct pronunciation, discloses	10:02:37
9	a profile protection system, identified one or	10:02:41
10	multiple user profiles for a single computer,	10:02:45
11	teaches that a home computer may have multiple	10:02:50
12	users and may not be targeted unless the user on	10:02:52
13	the home computer identified, and the user	10:02:56
14	identification may be based on a clustering model	10:02:59
15	that considers various browsing characteristics.	10:03:02
16	Ramaiyer teaches the tracking of sessions	10:03:13
17	of user behavior on a device to predict the user's	10:03:15
18	advice based on clustering.	10:03:21
19	So if you were to, you know, encapsulate	10:03:22
20	all of those paragraphs under the concept of	10:03:26
21	clustering and what I relied on with respect to	10:03:28
22	Ramaiyer, then it would be in those paragraphs.	10:03:30

1	Q So I appreciate you reviewing your report.	10:03:34
2	So let me just ask the question one more time now	10:03:36
3	that you've reviewed it.	10:03:39
4	A Okay.	10:03:40
5	Q You don't have any opinions in your report	10:03:41
6	regarding Ramaiyer or Yang outside their	10:03:42
7	disclosure of clustering, correct?	10:03:44
8	A Well, again, if I read from Paragraph 198,	10:03:55
9	the last sentence, the cluster data is then used	10:03:58
10	for identifying a user, user profile based on the	10:04:01
11	user's behavior. So as long as that particular	10:04:06
12	sentence is contained within the concept of	10:04:09
13	clustering, then the answer to your question is	10:04:13
14	yes. But there are some nuances that are in there	10:04:16
15	that are kind of explained.	10:04:19
16	Q So are you saying that you're relying on	10:04:22
17	Ramaiyer for the concept of a profile?	10:04:25
18	A No. I think I'm being very specific. For	10:04:31
19	example, looking at the whole paragraph	10:04:34
20	additionally, for example: "Ramaiyer teaches that	10:04:38
21	its 'profile prediction model may be a Bayesian	10:04:39
22	model that provides a probability that a user	10:04:44

1 belongs to a particular cluster,' and that the
2 'model provides a probability that the user
3 belongs to a particular cluster based on the
4 monitored behavior.'"

5 So all I'm saying -- and maybe I'm being
6 more nuanced than I should, but as long as all
7 those paragraphs go within the definition of
8 clustering, that's what I relied on in Ramaiyer.

9 Q Sure. What I'm trying to get at is that
10 you're not relying on Ramaiyer for, for example,
11 element like [lpre] method comprising, or [la]
12 determining a first quality level.

13 Do you know what I'm talking about?
14 You're just relying on Ramaiyer for clustering?

15 A Yes, I understand what you're talking
16 about, yes. The.

17 Q And you're just relying on Ramaiyer and
18 Yang for clustering, correct?

19 A Without going back and reading those
20 specific sections, I believe that's correct.

21 Q Let's turn to Page 18 of your report,
22 please.

10:04:47

10:04:49

10:04:52

10:04:55

10:04:57

10:05:00

10:05:03

10:05:06

10:05:13

10:05:18

10:05:22

10:05:31

10:05:32

10:05:35

10:05:37

10:05:37

10:05:41

10:05:42

10:05:45

10:05:59

10:06:15

1	A	Page 16?	10:06:19
2	Q	18.	10:06:20
3	A	Sorry. Again, was it 16 or 18?	10:06:22
4	Q	18. Your claim construction section	10:06:30
5		starting on Paragraph 56.	10:06:32
6	A	Just a second. I am at Paragraph 56, yes.	10:06:37
7	Q	So 56 and 57 are your paragraphs on claim	10:07:17
8		construction. You are quoting all terms with	10:07:23
9		their plain and ordinary meaning, correct?	10:07:27
10	A	Yes.	10:07:30
11	Q	Do you have any further opinions on the	10:07:31
12		construction of any claim element that is not	10:07:33
13		present in your declaration?	10:07:35
14	A	I was not asked to make any determination,	10:07:38
15		so no.	10:07:41
16	Q	So at the end of Element [1b] describes a	10:07:48
17		first search and a first purchase.	10:07:53
18		Do you see that?	10:07:55
19	A	What paragraph are you at?	10:07:57
20	Q	I'm not at a paragraph right now, but you	10:07:59
21		could turn to Paragraph 85.	10:08:05
22	A	All right. Thank you. I'm at	10:08:07

1	Paragraph 85.	10:08:25
2	Q I suppose we should go to the actual	10:08:33
3	language of the claim. If you could turn back two	10:08:37
4	pages immediately above Paragraph 81. Let me know	10:08:40
5	when you're there, please?	10:08:55
6	A I'm in -- I'm looking at Claim [1b] above	10:09:01
7	Paragraph 81.	10:09:05
8	Q Correct. You see that it describes a	10:09:05
9	first search and a first purchase, correct?	10:09:08
10	A Wherein the first quality level is	10:09:18
11	determined based at least in part on at least one	10:09:20
12	of: A first search associated with the user	10:09:24
13	profile or a first purchase associated with the	10:09:28
14	user profile, yes.	10:09:31
15	Q You allege that Grannan discloses a first	10:09:34
16	search, correct?	10:09:41
17	A When I look at Paragraph 84: "Grannan	10:10:37
18	also discloses or at least renders obvious that	10:10:44
19	the first quality level PIC score is determined	10:10:47
20	based at least in part on a first search	10:10:49
21	associated with the user's profile. Grannan	10:10:51
22	discloses that a subscriber's 'browsing to a new	10:10:57

1	website' is among the events used to update the	10:11:02
2	AKMS" -- my screen scrolls on its own. Here we	10:11:05
3	go. So, yes.	10:11:12
4	Q You're pointing to Grannan at 98, Figure 5	10:11:24
5	and 60?	10:11:32
6	A Let me go to those.	10:11:33
7	Q That's what you cite there at the end of	10:11:35
8	the sentence you just read.	10:11:37
9	A Let me get to it. I have to get used to	10:11:38
10	this mouse. You're on Paragraph 98?	10:11:41
11	Q 84 is --	10:11:50
12	A You're on 84.	10:11:51
13	Q I was just continuing from where you were	10:11:52
14	reading.	10:11:54
15	A Okay. What was the question?	10:12:06
16	Q You were relying on Grannan at Paragraph	10:12:12
17	98, Figure 5, and Paragraph 60.	10:12:17
18	A I thought you said you were looking at	10:12:20
19	Paragraph 84.	10:12:22
20	Q Your report 84 after the sentence that you	10:12:23
21	just read into the record from your report --	10:12:27
22	A Yes.	10:12:30

1	Q -- has a number of cites after that.	10:12:30
2	A Yes.	10:12:33
3	Q Do you see that?	10:12:34
4	A Yes.	10:12:35
5	Q And those sites are the paragraphs that I	10:12:36
6	just read.	10:12:38
7	A Yes, I understand.	10:12:40
8	Q So I'm just confirming that the sentence	10:12:42
9	that you just read, you're relying on Grannan's	10:12:45
10	Paragraph 98, Figure 5 and Paragraph 60.	10:12:50
11	A Yes, that makes sense.	10:12:53
12	Q And those paragraphs show that Grannan	10:12:59
13	discloses a first search?	10:13:03
14	A I would say those paragraphs, but in terms	10:13:33
15	of the first search and first purchase, I'm also	10:13:36
16	referencing the paragraphs below that as well as	10:13:39
17	the paragraphs --	10:13:43
18	Q So I --	10:13:44
19	A Pardon me?	10:13:46
20	Q I'm sorry. Please continue.	10:13:47
21	A I beg your pardon.	10:13:49
22	Q I'm sorry. I cut you off. Please	10:13:52

1	continue.	10:13:54
2	A So my response to [1b] is included in all	10:13:54
3	the paragraphs below that, 81, 82, 83, 84, 85, 86,	10:14:05
4	87, 88, 89, right through to 91 as well as the	10:14:23
5	individual references that I recite at the end of	10:14:35
6	some of those paragraphs.	10:14:40
7	Q Let me introduce Grannan into the record.	10:14:58
8	This is Exhibit 1007 to the IPR.	10:15:01
9	A Are you saying you're putting it into the	10:15:23
10	chat?	10:15:25
11	Q Yes.	10:15:26
12	A I don't see it yet.	10:15:28
13	Q One second, please.	10:15:29
14	A My chat is gone. I'm going to need a	10:15:31
15	little bit of help here because we're using a	10:15:36
16	double screen and my chat is not coming up -- oh,	10:15:39
17	there we go.	10:15:42
18	So it's Exhibit 1003?	10:15:52
19	Q Give it a second. It's not on there yet.	10:15:55
20	A Oh, it's not up there yet. I see.	10:15:58
21	Q There it is. So if you could download	10:16:13
22	Exhibit 1007, please.	10:16:15

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

27

1	A I have in front of me Grannan.	10:16:53
2	Q So you're free to look at either exhibit,	10:17:00
3	either your declaration or the reference. And my	10:17:05
4	question is only where Grannan discloses a first	10:17:10
5	search.	10:17:14
6	A If I go to the declaration in front of me,	10:17:26
7	again, it's on another -- I have to go back and	10:17:29
8	look at those references, so it will take me a	10:17:31
9	minute to look at each of those references.	10:17:34
10	Are you going me to look at, for example,	10:17:59
11	each of the figures that I reference as well as	10:18:01
12	the text?	10:18:02
13	Q You are free to use your report in	10:18:05
14	whatever manner you see fit.	10:18:08
15	A Yeah.	10:18:16
16	Q If you need to look at each of those	10:18:17
17	paragraphs, that's what you need to do. My	10:18:19
18	question is only where Grannan discloses a first	10:18:21
19	search.	10:18:24
20	A Well, for example, 0098, Figure 5, 0060,	10:18:49
21	and there's other references that tie into that.	10:19:02
22	That's 0076, 0080, 0083, and 0090.	10:19:07

1 Q Yes, sir. I see that those are the
2 paragraphs that you've cited in your report.
3 Could you point me to the exact portions of
4 Grannan that are disclosing a first search.

5 A I have to look at all those sections
6 together, not one individual line or sentence.

7 Q You're saying that a first search is only
8 disclosed by Grannan if you look at all of
9 Paragraph 98, Paragraph 60, Figure 5,
10 Paragraph 78, Paragraph 80, and Paragraphs 83 to
11 90 and Paragraph 65?

12 MR. ISHMAEL: Objection to the form.

13 BY THE WITNESS:

14 A I think all my responses under a claim are
15 all important relative to my opinion about that
16 claim. So I think the answer is yes. You have to
17 look at it in the aggregate.

18 BY MR. DOOLEY:

19 Q Are you saying that if I looked at a
20 single paragraph, like this first one,
21 Paragraph 98, I would not be able to figure out
22 whether there was a first search disclosed?

1	MR. ISHMAEL: Objection. Form.	10:20:52
2	BY THE WITNESS:	10:20:55
3	A I don't know if you would be able to or	10:20:56
4	not.	10:20:57
5	BY MR. DOOLEY:	10:20:57
6	Q Fair enough --	10:21:00
7	A At that point -- excuse me. Go ahead.	10:21:01
8	Q Fair enough. Would you be able to?	10:21:03
9	A I tend to look at the -- you know, the	10:21:12
10	entire description of the first search and a	10:21:16
11	limitation to that claim in all the paragraphs	10:21:19
12	that reference it rather than just a single line	10:21:26
13	or a single sentence. In a way, that's why when I	10:21:29
14	get into explaining that particular part of the	10:21:32
15	claim, I use examples and more than just a single	10:21:34
16	line or a single section.	10:21:40
17	Q So is your testimony today that you cannot	10:21:44
18	point to a single line or a single section that	10:21:47
19	discloses a first search?	10:21:52
20	MR. ISHMAEL: Objection. Form.	10:21:53
21	BY THE WITNESS:	10:21:58
22	A Well, for me, there's a couple of parts to	10:21:59

1 that. First, as far as I know -- and I didn't do
2 a search on the whole patent, but as far as I
3 know, it doesn't mention the word -- the words
4 "first search." But for me, when I'm doing an
5 obviousness analysis, I'm not looking too much for
6 items that might come into an anticipation
7 analysis.

8 So in response to your question, I think
9 you need to look at all the paragraphs and all the
10 response to form your -- to form an opinion.
11 That's how I do it, anyway, about a particular
12 claim limitation.

13 BY MR. DOOLEY:

14 Q So sitting here today with your report in
15 front of you and with Grannan in front of you, you
16 cannot identify anything other than the entirety
17 of the paragraphs that you've cited for disclosing
18 a first search?

19 A I'm having a little trouble navigating
20 here. Oh, here we go. Okay. I'm going to need
21 some assistance with this mouse again. Oh, there
22 we go. Never mind. It has a mind of its own.

1	Excuse me. Just give me another minute before I	10:24:53
2	respond right.	10:24:56
3	I have to go back to my response earlier	10:26:22
4	which is that item is -- I beg your pardon. It	10:26:25
5	seems like the mouse seems to -- I click on it --	10:26:55
6	oh, there we go. I have to now go back to	10:27:02
7	wherever we started, which is [1b].	10:27:17
8	Yeah, I'd have to say in forming my	10:27:37
9	opinion, I'm looking at all the paragraphs	10:27:39
10	together in the aggregate.	10:27:46
11	If you have a specific sentence that	10:27:56
12	you're referring to in my declaration and you	10:27:58
13	could tell me what that is, I would turn there and	10:28:02
14	maybe I can offer another explanation.	10:28:06
15	Can you hear me okay now?	10:28:22
16	Q Yes, sir.	10:28:24
17	A Okay. All right.	10:28:25
18	Q [1b] describes a first purchase, as we've	10:28:37
19	been discussing. Do you see that?	10:28:43
20	A Which paragraph are you at?	10:28:44
21	Q Above Paragraph 81 of your report, the	10:28:46
22	last line there.	10:28:55

1	A My scroller just keeps scrolling. Oh,	10:28:56
2	there we go. Paragraph 81. What's the question,	10:28:58
3	please, sir?	10:29:00
4	Q You see that sell Element [1b] describes a	10:29:01
5	first purchase?	10:29:06
6	A I do.	10:29:07
7	Q Could you tell me where Grannan describes	10:29:11
8	a first purchase?	10:29:14
9	A When the Grannan describer exhibits	10:29:50
10	behavior of someone more likely to purchase a	10:29:53
11	product, Grannan accounts for that estimated	10:29:56
12	likelihood by increasing the PIC score, and that's	10:29:58
13	the beginning of [1b], is when the first quality	10:30:03
14	level is based at least in part on an estimate of	10:30:06
15	a likelihood of an event.	10:30:09
16	Q I'm sorry, is that your entire answer?	10:30:34
17	A I'm making sure -- I wrote this report	10:30:39
18	nine months ago, and so I have to -- even though I	10:30:49
19	prepped, I have to make sure I read. But I think	10:30:55
20	if the answer is more or less what we've been -- I	10:31:02
21	think what you asked me before, at least what I	10:31:09
22	thought, is that when I look at the first purchase	10:31:11

1 associated with the user profile and form an
2 opinion about whether or not a POSITA could from
3 the prior art arrive at that claim or arrive at
4 that limitation, I look at all the paragraphs that
5 I cite. I'm not relying on one specific sentence
6 but the entire analysis.

7 Q So sitting here today with your report in
8 front of you and the reference in front of you,
9 you cannot identify any particular portion of
10 Grannan that is disclosing a first purchase?

11 MR. ISHMAEL: Objection. Form.

12 BY THE WITNESS:

13 A Well, I think the paragraphs speak for
14 themselves because they reference Grannan. They
15 reference parts of Grannan that at least are
16 relevant to this obviousness analysis. So all
17 those are contained in the paragraphs.

18 BY MR. DOOLEY:

19 Q You cannot point me to any particular
20 paragraph that is disclosing a first purchase,
21 correct?

22 A When I'm referring to, for example, [1b],

1 my response has to be done in more than one
2 paragraph. So, again, I look at all the
3 paragraphs in forming my opinion.

4 Q Fair. But I'm not asking for the entirety
5 of [1b]. I'm only asking for a first purchase.

6 Do you understand that?

7 A Yes.

8 Q You cannot point to any paragraph which
9 discloses a first purchase other than the entirety
10 of all the paragraphs you cited in this section?

11 A Well, first purchase is part of [1b]. So
12 in responding to [1b], I'm responding to the first
13 purchase, and my response is contained in the
14 aggregate in the paragraphs as well as the
15 references.

16 Q Paragraph 85 of your report you say: "To
17 the extent that web browsing and surfing are not
18 expressly a first search."

19 Do you see that?

20 A Yes.

21 Q Are you conceding here that Grannan does
22 not expressly disclose a first search?

10:32:36

10:32:39

10:32:45

10:32:49

10:32:52

10:32:55

10:32:56

10:32:56

10:33:06

10:33:08

10:33:15

10:33:24

10:33:27

10:33:30

10:33:33

10:33:55

10:33:58

10:34:01

10:34:05

10:34:09

10:34:10

10:34:12

1 A No. It's really saying to the extent that
2 web browsing and surfing are not expressly a first
3 search in an obviousness analysis, I go on to say
4 in my opinion, a POSITA would have found it
5 obvious to calculate the Grannan PIC score based
6 on the user web search engine queries in addition
7 to user browsing information.

8 Q So are you contending that web browsing
9 and surfing is a first search?

10 A I don't know exactly how this been
11 determined later by a judge or maybe through other
12 determinations, more information, maybe claim
13 construction issues, so I just look at it from the
14 standpoint as what else could a POSITA learn from
15 Grannan.

16 And to the extent that web browsing and
17 surfing are not expressly a first search, in my
18 opinion, a POSITA would have found it obvious to
19 calculate the Grannan PIC score based on the
20 user's web search engine queries in addition to
21 user browsing information.

22 This is because a POSITA would have been

10:34:22

10:34:24

10:34:28

10:34:32

10:34:35

10:34:38

10:34:43

10:34:44

10:34:46

10:34:52

10:35:02

10:35:04

10:35:07

10:35:11

10:35:14

10:35:15

10:35:19

10:35:23

10:35:25

10:35:29

10:35:32

10:35:34

1 motivated to improve the accuracy of the PIC score
2 by using other information well known at the time
3 to indicate a user's purchase likelihood such as
4 the user's search engine queries.

5 Q I see that you've written all that in
6 Paragraph 85, but are you contending that web
7 browsing and searching is or is not a first
8 search?

9 MR. ISHMAEL: Objection. Form.

10 BY THE WITNESS:

11 A I don't think I'm contending anything more
12 than what the language is, which to the extent
13 that web browsing and surfing are not expressly a
14 first search, in my opinion would have found it
15 obvious to calculate the Grannan PIC score.

16 So I think that paragraph is pretty clear.
17 If you could point me to a sentence that's not
18 clear, maybe I could explain what I meant.

19 BY MR. DOOLEY:

20 Q I'm trying to do exactly that, sir.

21 A Uh-huh.

22 Q I just want your opinion whether -- your

1 expert opinion whether web browsing is expressly a 10:36:51
2 first search. 10:36:55

3 A I'm having trouble navigating this report 10:38:09
4 here. The opinions regarding Grannan in terms of 10:38:11
5 Ground I and Ground II are -- I think I've already 10:38:35
6 stated those. So I don't -- I don't recall a -- 10:38:37
7 let me answer another way. 10:38:50

8 Since as I looked at it I did not see 10:38:52
9 browsing and surfing expressly actually listed as 10:38:56
10 a first search, I'm using my obvious analysis to 10:39:01
11 more or less conclude that a POSITA would have 10:39:19
12 been motivated to improve the accuracy of the PIC 10:39:21
13 score by using other information which could come 10:39:25
14 from browsing and surfing well known at the time 10:39:28
15 to indicate a user's purchase likelihood such as 10:39:31
16 the user's search engine. 10:39:35

17 Q I'm sorry. That's your entire answer? 10:39:55

18 A As far as I understood the question, yes. 10:39:59

19 Q In Paragraph 86 you say: "Such a 10:40:07
20 modification of Grannan would be simple for a 10:40:10
21 POSITA to implement." 10:40:13

22 Do you see that? 10:40:15

1	A Yes.	10:40:16
2	Q What are you basing that opinion on?	10:40:17
3	A Let me read the whole paragraph. "Such a	10:40:30
4	modification of Grannan would have been simple for	10:40:35
5	a POSITA to implement because a user's web search	10:40:37
6	engine queries were a very similar type of data to	10:40:41
7	use for browsing information and would therefore	10:40:47
8	have been simple to track and use in the same way	10:40:51
9	in Grannan. For example, users typically initiate	10:40:53
10	their browsing event with an interest-based search	10:40:58
11	engine query followed by browsing the query	10:41:00
12	results."	10:41:03
13	I don't know what's unclear about that.	10:41:08
14	Maybe I you could ask that question again, please.	10:41:13
15	Q What are you basing your opinion on that a	10:41:17
16	modification of Grannan would be simple for a	10:41:20
17	POSITA to do?	10:41:23
18	A Well, I take myself back to, let's say,	10:41:29
19	2010 or some period before the earliest filing	10:41:32
20	date, which I don't remember exactly what it was,	10:41:36
21	but I think it's 2010 or 2011. I mention in my	10:41:39
22	report. I just don't recall exact dates.	10:41:43

1	So I look what a POSITA would know then.	10:41:45
2	We have a definition of "POSITA" that we've	10:41:50
3	already given in terms of experience. I looked at	10:41:53
4	the tools that would be available to a POSITA in	10:41:59
5	that time frame.	10:42:02
6	And my own experience was I was at least a	10:42:12
7	POSITA in that time frame. So I have people	10:42:16
8	working for me that do these kinds of things in	10:42:19
9	terms of programming and doing -- working with	10:42:21
10	search engine queries and data of that type.	10:42:27
11	So when I put myself in the place of a	10:42:32
12	POSITA and look at the tools that would have been	10:42:37
13	available to them, yes, I would conclude that a	10:42:38
14	POSITA would be able to implement that.	10:42:48
15	And I add one more point in my paragraph	10:42:50
16	where I -- a similar type of data to web browsing	10:42:55
17	information and would therefore have been simple	10:43:02
18	to track. So data in this case is simple to	10:43:03
19	track. A POSITA would understand that and they'd	10:43:06
20	be able to look at Grannan and the modification	10:43:11
21	and arrive at that claim limitation.	10:43:19
22	Q You mentioned tools available to a POSITA	10:43:24

1	at that time frame.	10:43:27
2	What tools are you referring to that a	10:43:27
3	POSITA would use to modify Grannan here?	10:43:31
4	A Let me give that some thought.	10:43:36
5	A POSITA has some years' experience. So	10:43:42
6	he has available to him Python programming tools,	10:43:45
7	cluster-oriented tools, some templates. They	10:43:54
8	would have the basic items, like Visual Basic,	10:44:04
9	those things available to him.	10:44:08
10	So, yeah, I mean, I don't have a whole	10:44:09
11	list of all the tools that would be available to a	10:44:11
12	POSITA, but I can remember that period of time and	10:44:13
13	looking at what Grannan has disclosed, this should	10:44:17
14	not be anything -- any difficult at all for an	10:44:24
15	ordinary person to implement or a POSITA to	10:44:28
16	implement.	10:44:30
17	Q You didn't cite any of those tools in your	10:44:33
18	opinion, did you?	10:44:36
19	A No. I didn't think it was necessary.	10:44:42
20	Q Did you cite any other references --	10:44:46
21	strike that.	10:44:49
22	You didn't cite any other references which	10:44:49

1	describe any similar sort of modification, did	10:44:52
2	you?	10:45:05
3	A Wait a minute. It sounded like you asked	10:45:05
4	me did I describe any other types of modifications	10:45:07
5	to my report?	10:45:10
6	Q No. Let me ask that again.	10:45:12
7	A All right.	10:45:14
8	Q Did you cite any other references which	10:45:14
9	describe a modification of this kind?	10:45:18
10	A Well, I'm not sure -- when you say "this	10:45:39
11	kind," before I answer, what do you mean by that?	10:45:41
12	Q I mean the modification you describe in	10:45:46
13	Paragraphs 85 and 86 of your report. When you say	10:45:50
14	"such a modification," that's what I'm talking	10:45:53
15	about.	10:45:54
16	A I did reference, I think, some other	10:45:59
17	modifications when a POSITA is adding certain	10:46:03
18	things, for example, like the clustering	10:46:07
19	component. I could go back and go through my	10:46:12
20	report and list every modification that I	10:46:14
21	described --	10:46:17
22	Q That's not my question.	10:46:19

1	A -- if you'd like me to.	10:46:21
2	Q It's not whether there could be other	10:46:22
3	modifications.	10:46:25
4	A Yeah.	10:46:25
5	Q My question is are there any other	10:46:26
6	references which describe these modifications?	10:46:28
7	A Okay. If you mean a reference like a	10:46:37
8	footnote or appendix, something of that nature?	10:46:40
9	Q I mean like a patent or a printed	10:46:43
10	publication.	10:46:45
11	A In this particular modification described	10:46:58
12	in Paragraph 86, there wouldn't be any other	10:47:01
13	references at that level, but when I opined on the	10:47:05
14	issue of adding Yang or Ramaiyer and the	10:47:11
15	clustering, there was certainly additional	10:47:15
16	information in there about describing the	10:47:19
17	technologies involved in clustering for those	10:47:23
18	particular modification opinions that I have	10:47:26
19	presented.	10:47:28
20	Q But nothing regarding modifying Grannan to	10:47:31
21	use web search engine queries, correct?	10:47:41
22	A As far as I know nothing with respect to	10:47:45

1 this particular claim that we're reviewing or this
2 segment of the report.

3 Q If this modification were so simple for a
4 POSITA, wouldn't you have expected to see it in
5 other art at the time of the invention?

6 MR. ISHMAEL: Objection to the form.

7 BY THE WITNESS:

8 A Okay. Can you ask that a little bit
9 slower, please?

10 BY MR. DOOLEY:

11 Q Sure. If this modification were simple
12 for a POSITA, you would expect to see it in other
13 art at the time of the invention, correct?

14 MR. ISHMAEL: Objection to the form.

15 BY THE WITNESS:

16 A I have to give that some thought.

17 My analysis is somewhat narrower focused
18 because I'm looking at the prior art that I
19 reviewed. Grannan, Chung, Yang, Ramaiyer. So if
20 the question is is there other prior art that
21 might use this, perhaps, but my analysis of the
22 invalidity of the '402 patent was restricted to

1	the things that were disclosed in the prior art.	10:49:13
2	BY MR. DOOLEY:	10:49:15
3	Q When you say "restricted to the things	10:49:19
4	that were disclosed in the prior art" --	10:49:20
5	A Yes.	10:49:23
6	Q -- what do you mean by that?	10:49:24
7	A Well, the prior art, Ground I is, Grannan,	10:49:28
8	Chung and Yang, and Ground II is Yang and Young	10:49:34
9	and Ramaiyer, so that's the prior art that I	10:49:38
10	reviewed in this analysis.	10:49:40
11	Q You didn't review any references outside	10:49:44
12	Grannan, Chung and Yang for Ground I?	10:49:46
13	A Well, when you say "references," if there	10:49:56
14	were references in their patents that I looked at,	10:49:58
15	then I would have, you know, looked at those	10:50:03
16	references, but the prior art was restricted to	10:50:06
17	Grannan, Chung, Yang and Ramaiyer.	10:50:11
18	Q Did you find those references yourself?	10:50:16
19	A No.	10:50:21
20	Q Did you look for other references?	10:50:23
21	A No.	10:50:29
22	Q Let's turn to Element [1d], please. I	10:50:56

1	believe this is Page 38 of your report starting on	10:50:59
2	Paragraph 102.	10:51:02
3	MR. ISHMAEL: If we're switching lines,	10:51:17
4	could we take a quick break?	10:51:19
5	MR. DOOLEY: Yes, we can do a quick break.	10:51:20
6	MR. ISHMAEL: We have been on the record	10:51:23
7	for a while.	10:51:25
8	(A recess was had.)	10:51:29
9	BY MR. DOOLEY:	10:57:05
10	Q If you could please turn to Element [1d]	10:57:09
11	which on your report starts right above	10:57:13
12	Paragraph 102 on Page 38.	10:57:18
13	A [1d] as in dog?	10:57:22
14	Q Correct.	10:57:24
15	A I'm there.	10:57:25
16	Q This discloses -- excuse me. This element	10:57:32
17	talks about a second search and a second purchase.	10:57:36
18	Do you see those?	10:57:38
19	A It talks about at least that -- go	10:57:48
20	ahead -- but included in [1d] is the words "a	10:57:51
21	second search associated with the user profile or	10:57:53
22	a second purchase associated with the user	10:58:00

1 profile."

10:58:02

2 Q You allege that Grannan discloses a second
3 search, correct?

10:58:04

10:58:08

4 A Well, more specifically, I say: "Grannan
5 discloses or renders obvious this particular
6 element." So it's more than just discloses. It's
7 also renders obvious from a POSITA's point of
8 view.

10:58:23

10:58:25

10:58:30

10:58:33

10:58:35

9 Q Could you tell me where in Grannan it
10 discloses a second search?

10:58:38

10:58:42

11 A Are you asking me -- just for
12 clarification -- where in Grannan the words
13 "second purchase" or second -- "second purchase"
14 is actually written?

10:58:52

10:58:56

10:58:59

10:59:02

15 Q No, sir. Well, first of all, I'm just
16 asking for search right now. I'm not interested
17 in purchases right now. But whatever you're
18 contending that Grannan discloses that renders
19 obvious a second search, that is what I'm
20 interested in.

10:59:09

10:59:12

10:59:15

10:59:17

10:59:24

10:59:27

21 So to ask the question again: Where does
22 Grannan disclose a second search?

10:59:28

10:59:32

1	A	What I'm actually saying is that Grannan	10:59:39
2		discloses or renders obvious the elements of [1d].	10:59:42
3	Q	And the second search is part of [1d],	10:59:51
4		correct?	10:59:54
5	A	Yes.	10:59:54
6	Q	So could you tell me where a second search	10:59:58
7		is found in Grannan, please?	11:00:00
8	A	Well, I'm interpreting your question	11:00:01
9		literally, and my opinion is based on what Grannan	11:00:03
10		discloses or renders obvious.	11:00:07
11	Q	Okay. So are you saying that you cannot	11:00:15
12		identify any portion of Grannan that discloses a	11:00:17
13		second search?	11:00:19
14	A	As far as I know, I can't identify in	11:00:30
15		Grannan where the term "second search" is. At	11:00:33
16		least I don't remember that term being there,	11:00:38
17		right, but I'm relying on my complete analysis	11:00:39
18		plus the obviousness analysis to -- you know,	11:00:45
19		based on the prior art to arrive at that	11:00:54
20		particular limitation.	11:00:56
21	Q	Can you tell me where in Grannan what	11:01:00
22		portion of Grannan -- strike that.	11:01:02

1 Could you please identify what portion of
2 Grannan renders obvious a second search?

3 A I'm going to read from my report a couple
4 of sentences, but I don't want those to just be a
5 narrow part of my answer because when I look at
6 that particular claim limitation, I always look at
7 all the paragraphs. However, having said that, on
8 Page 39, Paragraph 104, I write: "As such, the
9 indication of interest (contribution score) that
10 led to the target ad was based on a second search
11 associated with the user profile."

12 And, again, although I have that sentence
13 there, I look at the entire paragraphs where I'm
14 describing, for example, Susan's activities to be
15 a part of my response to that limitation, that
16 particular claim that we're talking about now.

17 Q I don't see a cite here from the paragraph
18 you just read regarding second search. Are you
19 referring to any portion of Grannan which is
20 talking about that second search?

21 A Before I respond, can you ask the question
22 again, please?

1	Q Yes. That sentence you just read, I don't	11:04:22
2	see a paragraph cite to Grannan at the end of it.	11:04:26
3	Could you please tell me if you are	11:04:29
4	relying on any portion of Grannan?	11:04:30
5	A This mouse is kind of fouling me up here,	11:04:39
6	so I've lost the paragraph that I read back to you	11:04:44
7	that I need to respond to.	11:04:47
8	Q I believe that you were on Paragraph 104.	11:04:51
9	The --	11:04:58
10	A Yeah.	11:04:58
11	Q End of 39, top of 40.	11:05:00
12	A Sure, thank you. I was back into another	11:05:01
13	couple of paragraphs there.	11:05:09
14	So what's the question now? I beg your	11:05:13
15	pardon.	11:05:18
16	Q So your previous answer -- and I don't	11:05:19
17	mean to mischaracterize you, if I am, so was that	11:05:22
18	the indication of interest was based on a second	11:05:26
19	search, and I was wondering if you were pointing	11:05:32
20	to any portion of Grannan for that.	11:05:35
21	A "As such, the indication of interest (a	11:05:45
22	contribution score) that led to the targeted ad	11:05:48

1 was based on a second search associated with

11:05:52

2 Susan's user profile."

11:05:54

3 Other than referencing the 1[b] and then

11:06:02

4 there's no other -- I did not have other reference

11:06:14

5 listed for that particular item, no.

11:06:19

6 Q I'm sorry, Dr. Sherwood, that was my

11:06:22

7 question. Because I don't see anything else cited

11:06:24

8 here, what in Grannan are you relying on?

11:06:29

9 A Just a second. My screen is rotating

11:06:39

10 again by itself.

11:06:42

11 Other than the reference to 1[b] above --

11:07:45

12 let me just read to make sure that we're correct.

11:07:48

13 "...that led to the targeted ad was based

11:07:51

14 on a second search associated with Susan's user

11:07:54

15 profile (second historical searches, different

11:07:57

16 than the first one discussed in Limitation [1b]

11:08:03

17 above) and a second purchase associated with

11:08:07

18 Susan's user profile (a second historic purchase

11:08:09

19 behavior different than the first one discussed in

11:08:12

20 Limitation [1b] above)."

11:08:15

21 So those are the references that I'm using

11:08:16

22 in this particular paragraph to support what I've

11:08:22

1	said previously.	11:08:26
2	Q Sure. And as I understand it, those are	11:08:35
3	not references, that's your opinion.	11:08:38
4	Am I misunderstanding that?	11:08:40
5	A Let me read it again. When I say "user	11:08:43
6	profile discussed in Limitation [1b] above." So	11:08:46
7	to the extent that there were opinions in that	11:08:48
8	discussion, well, then they would of course be	11:08:53
9	included but the factual information in that	11:08:59
10	discussion also. So it's the whole Section [1b]	11:09:02
11	discussion that we have to reference.	11:09:09
12	Q If you need to go to Section [1b] in your	11:09:12
13	report, that's fine.	11:09:15
14	A All right. This is a little bit awkward.	11:09:18
15	It looks like -- never mind. It's gone. We're	11:12:20
16	off. The whole thing. The Internet is gone.	11:12:20
17	THE REPORTER: We can still hear you.	11:12:27
18	BY THE WITNESS:	11:12:28
19	A I didn't realize you were still there. I	11:12:28
20	didn't see anybody.	11:12:31
21	Mr. Dooley, are you there?	11:12:33
22	BY MR. DOOLEY:	11:12:34

1	Q I'm here.	11:12:37
2	A Okay. I just can't see you.	11:12:38
3	So I looked back up at [1b], and I'm	11:12:40
4	including [1b] as part of the information that I	11:12:42
5	at least refer to when describing -- I think it's	11:12:54
6	[1d].	11:12:57
7	Q I don't totally understand your answer	11:13:04
8	there. So let me ask it again. I'm looking for	11:13:06
9	where in Grannan a second search is disclosed.	11:13:10
10	A Let me go back to paragraph -- where are	11:13:18
11	we at, 104?	11:13:24
12	Q We are. But you're free to use anything	11:13:25
13	from [1b] that you'd like.	11:13:28
14	A Let me try to respond by looking at the	11:14:08
15	way I described part of Susan's activity and from	11:14:10
16	the point of view of a POSITA.	11:14:13
17	A POSITA would have recognized from this	11:14:15
18	disclosure that the historic surfing shopping	11:14:18
19	behavior refers to multiple purchases and web	11:14:21
20	surfing that Susan had made in the children's	11:14:29
21	books category. And then I go on to "As such, the	11:14:31
22	indication of interest," which is the contribution	11:14:40

1 score which does come from -- obviously from 11:14:43
2 Grannan "that led to the targeted ad was based on 11:14:50
3 a second search associated with Susan's user 11:14:52
4 profile (second historic surfing/searches, 11:14:56
5 different from the first one discussed in 11:15:02
6 Limitation [1b])." 11:15:04

7 So because I've already referenced the 11:15:05
8 first one in [1b] as being the first one and this 11:15:08
9 is now the second one, and it's not based just on 11:15:13
10 Grannan's disclosure but Grannan's disclosure, as 11:15:17
11 well as a POSITA's point of view. 11:15:22

12 Q Were you reading from a portion of your 11:15:32
13 report there? 11:15:34

14 A Pardon me? 11:15:35

15 Q Were you reading from a portion of your 11:15:37
16 report there? 11:15:39

17 A Was I reading? 11:15:39

18 Q Yes. 11:15:41

19 A Yes. 11:15:42

20 Q What portion were you reading? 11:15:43

21 A There was a sentence at the end that I 11:15:44
22 didn't read, but otherwise, I was reading from it, 11:15:45

1	yes.	11:15:48
2	Q What paragraph were you reading from	11:15:52
3	there?	11:15:54
4	A I was in Paragraph 104. I started about	11:15:54
5	the second or third sentence and read through to	11:15:57
6	the end of Paragraph 104.	11:15:59
7	Q Could you please -- strike that.	11:16:22
8	So are you saying that Susan's user	11:16:24
9	profile -- strike that.	11:16:31
10	Is Grannan's historic shopping behavior	11:16:34
11	that you reference, that you're relying on for the	11:16:43
12	teaching of a second search?	11:16:45
13	A Okay. It sounded like you asked me is	11:16:50
14	Grannan's shopping behavior what we're relying on	11:16:54
15	for the second search. Was that the question?	11:16:58
16	Q Correct.	11:17:01
17	A Close? Okay.	11:17:02
18	I'm still looking at 104. "A POSITA would	11:17:20
19	have recognized from this disclosure that the	11:17:38
20	'historic surfing/shopping behavior' refers to	11:17:42
21	multiple purchases and web surfing that Susan had	11:17:46
22	made in the children's books category."	11:17:51

1 So that is certainly not the only thing 11:18:00
2 I'm relying on, but that's one of the statements 11:18:02
3 that I'm using to summarize where I was in that 11:18:06
4 particular analysis. 11:18:08

5 Q Does Grannan disclose that the historic 11:18:24
6 surfing and -- strike that. 11:18:29

7 Does Grannan disclose that the historic 11:18:42
8 surfing/shopping behavior includes a search? 11:18:46

9 A It sounded like you asked me -- I'm just 11:18:52
10 repeating it to make sure I understood it -- that 11:18:55
11 does Grannan disclose the historic shopping 11:18:58
12 behavior includes search? 11:19:01

13 Q Correct. 11:19:05

14 A Well, in this obvious analysis, a POSITA 11:19:11
15 would have recognized from the disclosure that the 11:19:17
16 historic shopping behavior refers to multiple 11:19:21
17 purchases and web surfing that Susan has made in 11:19:26
18 the children's books category. So those are the 11:19:31
19 two items that I'm pulling together for what the 11:19:39
20 historic shopping behavior refers to, multiple 11:19:44
21 purchases and web surfing that Susan had made in 11:19:48
22 the children's books category. 11:19:52

1 Q And are you giving me that answer based on 11:19:56
2 your experience? 11:19:59

3 A Excuse me? Pardon me? 11:19:59

4 Q Are you giving me that answer based on 11:20:02
5 your experience? 11:20:04

6 MR. ISHMAEL: Objection to the form. 11:20:05

7 BY THE WITNESS: 11:20:14

8 A I mean, actually, no. My analysis in the 11:20:15
9 declaration is based on the view of a POSITA in 11:20:22
10 about the period, I think, 2010. Obviously, my 11:20:28
11 experience would be more than that, but my 11:20:31
12 analysis is based on a POSITA's -- the POSITA 11:20:35
13 definition that we provided earlier. 11:20:38

14 BY MR. DOOLEY: 11:21:22

15 Q But Grannan itself doesn't explain what 11:21:22
16 "historic shopping behavior" refers to, correct? 11:21:26

17 A I don't recall, as I sit here, a 11:21:29
18 definition of "shopping behavior." I'm not 11:21:59
19 finished yet. I want to look at if I've 11:22:14
20 indirectly -- I don't recall a limited definition 11:22:18
21 of "shopping behavior" except a discussion about 11:22:52
22 it. If it there's a definition in my report that 11:22:56

1 you want me to expand on, please point me to it,
2 but I don't recall doing any kind of definitions
3 like that because I was -- for me, it would have
4 been kind of a claim construction issue, and I was
5 staying away from that.

6 Q You contend that Grannan discloses a
7 second purchase, correct?

8 A Yes.

9 Q And where does Grannan disclose a second
10 purchase?

11 A Again, my analysis is based on Grannan's
12 disclosure and what a POSITA would have learned
13 from that. And so in my report, I deal with that
14 issue by -- I say: Additionally, a POSITA would
15 have recognized that the targeted ad from the
16 AKMS, the Advertisement Knowledge Management
17 System, was based on a PIC score, product interest
18 correlation score, for Susan that was calculated
19 based on multiple contribution scores calculated
20 from multiple purchases and web surfing and
21 Susan's behavior. As such, the indication of
22 interest, the contribution score that led to the

1 target ad, was based on a second search. And it 11:25:24
2 goes on to explain the same way that a second 11:25:32
3 purchase associated with the user profile as 11:25:34
4 explained in [1b]. 11:25:41

5 Q You're relying on the knowledge of a 11:25:45
6 POSITA here? 11:25:48

7 MR. ISHMAEL: Objection. Form. 11:25:58

8 BY THE WITNESS: 11:25:59

9 A Again, looking at Page 39 and 11:26:00
10 Paragraph 104 which deals with this particular 11:26:05
11 limitation, I provide a POSITA's analysis in 104 11:26:08
12 several times, so, yes. 11:26:21

13 BY MR. DOOLEY: 11:26:33

14 Q Earlier in your answer you said your 11:26:33
15 analysis is based on Grannan's disclosure and what 11:26:36
16 a POSITA would have learned from that. 11:26:39

17 Which portion of Grannan's disclosure are 11:26:41
18 you referring to here? 11:26:43

19 A Are you referring to [1d] or [1b]? 11:26:51

20 Q [1d]. 11:26:55

21 A [1d], as in dog? 11:26:57

22 Q Yes. 11:27:00

1	A Okay. For example, in 102, Grannan is	11:27:14
2	disclosing his contribution scores. Contribution	11:27:16
3	scores are calculated based on URL links and a	11:27:21
4	user may browse. It's also of note that as	11:27:25
5	discussed, updated in the AKMS using contribution	11:27:35
6	score to reflect the user's interest in certain	11:27:39
7	products and product categories.	11:27:42
8	So these are all things that Grannan is	11:27:44
9	disclosing. Grannan discloses the PIC scoring	11:27:50
10	matrix with product categories and PIC scores for	11:28:00
11	the product categories. He discloses the PIC	11:28:04
12	scoring matrix is updated dynamically for each	11:28:12
13	subscriber in realtime.	11:28:16
14	These updates can be by the way of	11:28:27
15	calculating a PIC contribution score based on the	11:28:27
16	user patterns. That contribution score can be	11:28:28
17	added to the subscriber's current PIC score.	11:28:31
18	So if I refer to Grannan disclosures,	11:28:36
19	unless I'm specifically referencing a specific	11:28:43
20	disclosure, then I'm usually looking at all the	11:28:46
21	things that he's teaching, and usually I'm listing	11:28:50
22	those things in the paragraphs, as I've just read.	11:28:53

1 Q So a POSITA would need to rely on all of 11:29:00
2 those elements that you just read in order to know 11:29:03
3 that Grannan was disclosing a second purchase? 11:29:07

4 MR. ISHMAEL: Objection. Form. 11:29:13

5 BY THE WITNESS: 11:29:53

6 A In Paragraph 102, I discuss what Grannan 11:29:56
7 discloses that renders obvious in the AKMS using 11:30:04
8 contribution scores that reflect the user's 11:30:11
9 interest in certain products and product 11:30:13
10 categories. Contribution scores are calculated 11:30:15
11 based on URL links a user may browse. 11:30:19

12 These updates can be by way of calculating 11:30:41
13 a PIC contribution score based on the user 11:30:46
14 patterns, and that contribution score can be added 11:30:48
15 to the subscriber's current PIC score for a 11:30:51
16 particular category to update the PIC score. 11:30:53

17 The combination score is an indication of 11:31:10
18 interest that is calculated based on a 11:31:12
19 subscriber's purchases since Grannan also 11:31:14
20 discloses that the final PIC score is tallied by 11:31:16
21 evaluating previous purchases, and I give a 11:31:20
22 reference there. 11:31:25

1 So using, you know, that type of analysis,
2 I mean, Grannan would disclose this particular
3 limitation, and in the event that it wasn't
4 expressly disclosed, then I likely have a
5 paragraph there on a POSITA, but -- excuse me a
6 minute. It's going again. There we go.

7 So that's my answer.

8 BY MR. DOOLEY:

9 Q So in order for a POSITA to know that
10 Grannan was disclosing a second purchase, a POSITA
11 would have to review all the paragraphs that you
12 cited in 102, 103 and 104?

13 Excuse me. Let me ask that again.

14 In order for a POSITA to know that Grannan
15 disclosed a second purchase, a POSITA would have
16 to review all the paragraphs you cited in
17 Paragraphs 102, 103 and 104 of your report?

18 A It sounded like you asked me if a POSITA
19 would have to review those paragraphs.

20 Q Yes.

21 A And, of course, those paragraphs don't
22 exist for a POSITA in that time frame, so I don't

1	understand the question.	11:33:01
2	Q You're saying the paragraphs -- in your	11:33:05
3	Paragraph 102, you cite Grannan at 83. That does	11:33:12
4	not exist at the time of the invention?	11:33:18
5	MR. ISHMAEL: Objection.	11:33:22
6	BY THE WITNESS:	11:33:22
7	A No, I never said that at all, no. I	11:33:23
8	thought you asked me about whether or not a POSITA	11:33:25
9	would have seen these paragraphs. The paragraphs	11:33:30
10	that I'm writing now were written in	11:33:32
11	September 2024. Obviously a POSITA has reference	11:33:35
12	to the prior art, of course. Maybe I didn't make	11:33:42
13	that clear, but --	11:33:43
14	BY MR. DOOLEY:	11:33:45
15	Q Let me ask my question again.	11:33:46
16	In order for a POSITA to know that a	11:33:48
17	second purchase is disclosed, they would need to	11:33:53
18	review all the paragraphs of Grannan that you cite	11:33:57
19	in your Paragraphs 102, 103 and 104?	11:34:01
20	A A POSITA would have to be aware of the	11:34:35
21	prior art is the only way I think I could answer	11:34:38
22	that because that's the basis of the opinion is	11:34:40

1 what Grannan discloses or renders obvious.

11:34:47

2 Q So you're not referring to any particular
3 line or paragraph in Grannan other than the
4 entirety of what you've cited in your Paragraphs
5 102, 103 and 104, correct?

11:34:53

11:34:58

11:35:01

11:35:03

6 A Well, without going back and reading each
7 time I've cited a POSITA, I would say that
8 whatever references that I'm listing for a
9 particular POSITA opinion, yes, a POSITA would
10 have to be aware of that part of the prior art.

11:35:06

11:35:11

11:35:13

11:35:16

11:35:23

11 Q So sitting here today with your report and
12 the reference in front of you, you cannot be any
13 more specific in terms of what Grannan discloses
14 that would teach a second purchase to a POSITA?

11:35:31

11:35:35

11:35:39

11:35:42

15 A I think I answered earlier. I read some
16 things that Grannan discloses. I could look at
17 some of the other elements. For example, even in
18 103: "These updates can be by way of calculating
19 a PIC contribution score based on the user
20 patterns. The 'contribution score' is an
21 indication of interest that is calculated based on
22 the subscriber purchases."

11:35:51

11:35:54

11:36:02

11:36:05

11:36:11

11:36:14

11:36:22

11:36:24

1 Without limiting it to what I've just
2 read, I mean, there's a number of things that
3 Grannan teaches in here that a POSITA would
4 understand.

5 Q Let's move on to Element [1f]. That is
6 Page 44 of your report starting right above
7 Paragraph 114.

8 A [1f] as in frank?

9 Q Correct.

10 A I'm at [1f] as in frank.

11 Q You don't allege that Grannan discloses a
12 third search, correct?

13 A It sounded like you asked me if I allege
14 that Grannan doesn't disclose or does disclose a
15 third search?

16 Q I'll repeat my question. It might be
17 easier.

18 You don't allege that Grannan discloses a
19 third search, correct?

20 A It sounds like I'm disclosing just the
21 opposite. Maybe I don't understand the question
22 but. Actually, looking at [1f], looking at

1 Paragraph 114, where I clearly state: "Grannan
2 discloses or renders obvious this limitation."

3 Q Yes, sir. I'm not interested in the
4 entire limitation at this point.

5 A Uh-huh.

6 Q I understand from your disclosure that --
7 excuse me.

8 I understand from your declaration that
9 you're contending that Grannan discloses a third
10 purchase, correct?

11 A Disclosing at least that. I'm opining
12 that the entire limitation is disclosed or
13 rendered obvious.

14 Q Right. But you are not opining that
15 Grannan discloses a third search, correct?

16 A I'm not sure again about the questioning,
17 but I'm saying "Grannan discloses or renders
18 obvious this limitation." If part of that
19 limitation is a third search, then I'm opining
20 that Grannan discloses or renders that particular
21 element obvious as well as the entire claim.

22 Q Could you point me to your opinion on

11:38:24

11:38:31

11:38:34

11:38:35

11:38:37

11:38:38

11:38:43

11:38:43

11:38:47

11:38:49

11:38:56

11:39:00

11:39:03

11:39:04

11:39:06

11:39:13

11:39:15

11:39:23

11:39:25

11:39:29

11:39:31

11:39:37

1	where you contend that Grannan discloses a third	11:39:39
2	search?	11:39:43
3	A I start to go through an explanation in	11:40:01
4	114. "Susan is walking by a local bookstore.	11:40:04
5	There is a discount sale on children's books.	11:40:12
6	Susan impulsively walks into the store and makes a	11:40:14
7	purchase." I have two references there. I'm not	11:40:17
8	finished.	11:40:22
9	Paragraph 116: "A POSITA would have found	11:40:36
10	it obvious that Susan's purchase on which this	11:40:37
11	determination was made is a third purchase	11:40:43
12	associated with her user profile. Grannan	11:40:45
13	discloses that the AKMS has tracked Susan's	11:40:48
14	'historic shopping behavior' and that embodiments	11:40:53
15	of the AKMS mine the user's 'purchase history' to	11:40:56
16	target ads.	11:41:00
17	"Grannan also discloses, 'subscriber	11:41:01
18	digital purchase history information, keep track	11:41:04
19	of online purchases and purchases at retail	11:41:07
20	outlets.' Moreover, the disclosed AKMS	11:41:11
21	contemplates tracking many purchases made by the	11:41:14
22	same user. As such, it would have been obvious	11:41:17

1 that Susan would have purchased many other items 11:41:32
2 in the past, as discussed above and the other 11:41:34
3 limitations [1b] and [1d], and that the book 11:41:39
4 purchase discussed in this section would have been 11:41:43
5 at least a third purchase associated with her user 11:41:44
6 profile." 11:41:47

7 I'm sorry. That's my answer. 11:41:59

8 Q So again, the answer is your entire 11:42:05
9 section here from Paragraphs 114 to 116 discloses 11:42:08
10 a third search? 11:42:13

11 (Reporter clarification.)

12 BY THE WITNESS:

13 A I don't feel it's appropriate to narrow 11:42:37
14 down to one sentence whether the limitation is 11:42:39
15 described in several paragraphs. So for me, it's 11:42:41
16 the aggregate information that's the basis of a 11:42:45
17 POSITA's opinion, not a particular item or 11:42:51
18 element. 11:42:53

19 BY MR. DOOLEY:

20 Q At the end of 116 here, you say that: 11:42:58
21 "The book purchase discussed in this section would 11:43:01
22 have been at least a third purchase," correct? 11:43:03

1	A Paragraph 116, I say: Purchase discussed	11:43:13
2	in this section would have been at least a third	11:43:18
3	purchase associated with her user profile."	11:43:20
4	Q Right. But you don't say that it would	11:43:24
5	have been a third search, correct?	11:43:27
6	A Well, I said it would have been at least a	11:43:34
7	third purchase, yes.	11:43:37
8	Q So is your contention that this would also	11:43:38
9	be a third search?	11:43:41
10	A I'm sorry. Pardon me?	11:43:44
11	Q Are you saying that this means it could be	11:43:45
12	a third search?	11:43:49
13	A Yes, I am. And I believe I've actually	11:43:51
14	said that in another part of the declaration, but	11:43:54
15	yes.	11:44:01
16	Q You're relying on any particular portion	11:44:10
17	of Grannan for that or the entirety of what you	11:44:13
18	cite in Grannan in your Paragraphs 114 through	11:44:16
19	116?	11:44:20
20	A It's a bit more specific than that. For	11:44:23
21	example, in Paragraph 116: "A POSITA would have	11:44:28
22	found it obvious that Susan's purchase on which	11:44:35

1 this determination was made is a third purchase 11:44:38
2 associated with the user profile. Grannan 11:44:42
3 discloses that the AKMS has tracked Susan's 11:44:46
4 historic shopping behavior, and that embodiments 11:44:51
5 of the AKMS mine the user's purchase history to 11:44:56
6 target ads," and I reference Exhibit 1007 and also 11:44:59
7 [0057] and [0066] (sic). 11:45:08

8 I go on to state that: "Grannan also 11:45:16
9 discloses, 'Subscriber digital purchase history
10 information keeps track of online purchases at 11:45:20
11 retail outlets.'" And I reference 0078. So, yeah, 11:45:23
12 that's my answer. 11:45:28

13 Q So your answer is that? 11:45:32

14 A Pardon me? 11:45:37

15 Q The paragraphs in Grannan that you cite in 11:45:37
16 Paragraph 116 of your report show a third search? 11:45:43

17 A No, Paragraph 116 is about second 11:45:55
18 purchase. 11:45:59

19 Q Do you mean a third purchase? 11:45:59

20 A Yes, I misspoke. Yes, it clearly says: 11:46:03
21 "A POSITA would have found it obvious that Susan's 11:46:06
22 purchase on which this determination was made is a 11:46:09

1 third purchase."

11:46:12

2 Q Are you contending that this is disclosing
3 a third search as well as a third purchase?

11:46:15

11:46:17

4 A The question is on search, so

11:47:34

5 Paragraph 115: "Moreover, 'the purchase of the
6 product and rendering of that purchase transaction
7 within the Grannan system now reduces or blocks
8 her PIC score.'"

11:47:39

11:47:44

11:47:47

11:47:52

9 Yeah, I would go back to 114 where it says
10 where "the first category has been met in the
11 example of Susan Grannan discloses that subsequent
12 to determining the indication of interest in the
13 first category after the contribution score based
14 on Susan's historical surfing/purchase behavior
15 was calculated."

11:48:34

11:48:45

11:48:46

11:48:51

11:48:52

11:48:54

11:49:02

16 "Through the merchant reporting the
17 purchase or through a digital wall transaction,
18 the Grannan system will reflect this in Susan's
19 PIC score in the product category."

11:49:26

11:49:27

11:49:30

11:49:35

20 So as I go through these paragraphs that
21 refer to that limitation, for example, when I say:
22 As such, Grannan discloses that its system

11:49:42

11:49:44

11:49:57

1 determines that Susan's need relative to the first
2 category for children's book has been met by the
3 purchase, therefore reducing or blocking her PIC
4 score for the book.

5 So, yes, when I look at those from a
6 POSITA's point of view, I see both search and
7 purchase arrived at as far as that claim goes.

8 Q So at the end of 114, there is a quote
9 from Grannan here: "Susan impulsively walks into
10 the store and makes a purchase."

11 Do you see that?

12 A Let me go back up for a second. Yes.

13 Q So is that sentence there disclosing that
14 there's a third search?

15 A Just a second. Well, that sentence
16 doesn't expressly mention a third search, so I
17 have to then go back to my analysis from what
18 Grannan teaches and what a POSITA would understand
19 to form an opinion. That's what I did in this
20 case.

21 Q And your opinion is that there is a third
22 search disclosed by Grannan?

11:49:59

11:50:02

11:50:06

11:50:09

11:50:18

11:50:23

11:50:27

11:50:38

11:50:40

11:50:43

11:50:45

11:50:47

11:50:52

11:50:57

11:51:00

11:51:24

11:51:31

11:51:35

11:51:44

11:51:47

11:51:48

11:51:51

1 A My opinion is that Grannan discloses or
2 renders obvious this limitation of which part of
3 that limitation is a third search or a third
4 purchase.

5 Q And, in your opinion, does Grannan
6 disclose a third search?

7 MR. ISHMAEL: Objection. Form.

8 BY THE WITNESS:

9 A I think it discloses it or renders it
10 obvious, yes.

11 BY MR. DOOLEY:

12 Q What portions of Grannan form the basis
13 for your opinion that a third search is disclosed?

14 A Mr. Dooley, I'm just looking at my clock.
15 I've got 11:53. Could we take a break? But I
16 don't want to -- at a break that's convenient for
17 your questioning. When would that be appropriate?

18 Q I think once we're finished with a couple
19 of questions here, we can take a break. That's no
20 problem.

21 A So what was the question again now,
22 please?

1 Q What portions of Grannan form the basis
2 for your opinion that a third search is disclosed?

3 A In this particular section, [1f], right,
4 as I look at the way I've described that section,
5 I arrive at the third purchase limitation. I
6 thought I had arrived at a different limitation,
7 and I'm just trying to make sure that I'm not
8 recalling it incorrectly. It's been about eight
9 months, even though I prepped.

10 So the way I respond to this limitation is
11 I focused on the purchase issue and then opined
12 that "...it would have been obvious that Susan
13 would have purchased many other items in the past
14 comprising her 'historic shopping' purchases as
15 discussed above in Limitations [1b] and [1d] and
16 that the book purchase discussed in this section
17 would have been at least a third purchase
18 associated with a user profile."

19 So it doesn't appear to me that I've
20 actually expressed an opinion here regarding third
21 search that I relied on arriving at this
22 limitation through a third purchase.

1 Q So you agree that Grannan does not 11:56:54
2 disclose a third search, correct? 11:56:55

3 A As I sit here today, and I don't have the 11:57:30
4 entire report it in my memory, but I don't 11:57:32
5 remember opining on the third search. I may have. 11:57:35
6 If there is a specific paragraph that you're 11:57:39
7 asking about, if you'd point me to that, I could 11:57:43
8 probably recall it. 11:57:47

9 But as far as this particular section 11:57:55
10 goes, it's looking at a POSITA's ability to arrive 11:57:57
11 at this particular limitation with at least one of 11:58:00
12 a user profile or at least one of a third search 11:58:02
13 or a third purchase, and this particular section 11:58:05
14 is relying on a third purchase to meet the 11:58:09
15 limitation. 11:58:11

16 Q So you agree that Grannan does not 11:58:15
17 disclose a third search, correct? 11:58:17

18 MR. ISHMAEL: Objection. Form. 11:58:18

19 BY THE WITNESS: 11:58:24

20 A No. I think what I said is I don't 11:58:25
21 remember every word in this particular report. I 11:58:26
22 don't remember every word in Grannan, but I am 11:58:32

1 saying that with respect to [1f], I don't see that 11:58:42
2 in the narrative that I've described I'm focusing 11:58:47
3 on a third search. I'm relying on the third 11:58:50
4 purchase to meet all the elements of the 11:58:54
5 limitation. 11:58:56

6 MR. DOOLEY: Why don't we go off record. 11:58:59

7 (A lunch recess was had from 11:58 a.m. to
8 12:32 p.m.) 12:00:08

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Transcript of Robert J. Sherwood
Conducted on June 13, 2025

76

A F T E R N O O N S E S S I O N

ROBERT J. SHERWOOD,

called as a witness herein, having been previously
duly sworn and having testified, was examined and
testified further as follows:

EXAMINATION (Resumed)

12:32:31

BY MR. DOOLEY:

12:32:31

Q Dr. Sherwood, welcome back. Did you
discuss any of the substance of your testimony
with your counsel during break?

12:32:39

12:32:40

12:32:42

A No.

12:32:43

Q Let's go back to Element [1a]. I'll grab
the page number for you in just a moment.

12:32:51

12:33:04

A A, as in Apple, all right.

12:33:04

Q It should be Page 23 of your report,
starting on your Paragraph 77.

12:33:07

12:33:11

A I am at Paragraph 77.

12:33:36

Q You see this limitation is determining a
first quality level associated with a user
profile, correct?

12:33:38

12:33:40

12:33:42

A Yes.

12:33:43

Q And you are pointing to the user profile

12:33:43

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1 in Grannan -- excuse me -- the subscriber profile 12:33:49
2 in Grannan as the user profile; is that correct? 12:33:55
3 A In my opinion, Grannan discloses 12:34:03
4 determining a first quality level, that's the PIC 12:34:06
5 score, that is associated with a user profile 12:34:12
6 (subscriber's profile). Yes. 12:34:17
7 Q So just for clarity, you're pointing to 12:34:25
8 the subscriber's profile as the user profile? 12:34:28
9 A I think in this case, the user is 12:34:39
10 subscriber, yes. 12:34:40
11 Q And then on Paragraph 78 you say: "PIC 12:34:41
12 scores are associated with a user profile." 12:35:19
13 And that is referring to the subscriber 12:35:21
14 profile here, too, correct? 12:35:24
15 A In 78, "Grannan also teaches that the PIC 12:35:27
16 scores are associated with the user profiles as 12:35:36
17 they are kept in a 'PIC scoring matrix' for each 12:35:38
18 subscriber that contains PIC scores for various 12:35:41
19 product categories..." 12:35:45
20 I'm through. That would have been my 12:35:58
21 response. 12:36:00
22 Q So when you say "user profile" here, are 12:36:03

1 you referring to anything other than the 12:36:05
2 subscriber profile that you're referring to in 12:36:07
3 Paragraph 77? 12:36:10

4 A Let me read it. "In my opinion, Grannan 12:36:38
5 discloses a first quality level" -- that's the 12:36:48
6 product interest correlation score -- "that is 12:36:52
7 associated with a user profile (subscriber's 12:36:55
8 profile)."

9 So I don't want to be too restrictive as 12:37:13
10 far as those definitions go, but -- but, yes, I'm 12:37:18
11 referring to a subscriber's profile. 12:37:23

12 Q In Paragraph 79 you talk about Chung 12:37:35
13 disclosing this limitation, correct? 12:37:42

14 A Paragraph 79: "To the extent Grannan does 12:37:52
15 not expressly disclose this limitation, it is my 12:37:55
16 opinion that Chung discloses it." Yes. 12:37:58

17 Q And you say here "Chung discloses 12:38:04
18 determining a first quality level (mapped 12:38:07
19 score)..." 12:38:10

20 So the mapped score is the first quality 12:38:11
21 level? 12:38:13

22 A These aren't easy questions to address, 12:39:18

1 obviously, because there's a lot of material to 12:39:22
2 understand. But so "Chung discloses determining a 12:39:24
3 first quality level (mapped score) associated with 12:39:34
4 a user profile." 12:39:38

5 So it looks like what I have addressed 12:39:44
6 here is pretty clear. "Chung discloses 12:39:46
7 determining a first quality level (mapped score) 12:39:48
8 associated with a user profile." 12:39:51

9 Q So you're referring to Chung's mapped 12:39:57
10 score as the first quality level, correct? 12:40:00

11 A Yes. It seems like that's the way it's 12:40:17
12 worded, yes. 12:40:19

13 Q Why don't we mark Chung. That's 12:40:21
14 Exhibit 1005 to this IPR. It will be in the chat. 12:40:27
15 Dr. Sherwood, you're more than welcome to download 12:40:41
16 it and use it in any manner you see fit. I won't 12:40:43
17 be referring to Chung immediately. I just want 12:40:47
18 you to have it available if you need it. 12:40:49

19 A It just went away. Just a second. While 12:40:55
20 I was looking down, I was actually looking at a 12:41:19
21 hard copy of the patent, of Chung. 12:41:22

22 BY MR. DOOLEY: 12:41:24

1	Q You are more than welcome to refer to your	12:41:24
2	hard copy instead. I have no problem with that.	12:41:26
3	A I am. I'm back to the is screen copy.	12:41:29
4	It's a little easier for me to read. I have in	12:41:33
5	front of me the Chung patent.	12:41:39
6	Q Like said, I'm not going to be referring	12:41:40
7	to that right now. I just wanted you to have that	12:41:42
8	available.	12:41:46
9	A I've got it.	12:41:52
10	Q What do you identify as Chung's user	12:41:53
11	profile?	12:41:55
12	A Let me go back to my report. I don't want	12:41:56
13	to restrict my answer to this particular section	12:42:31
14	of the paragraph.	12:42:33
15	But when I'm referring to Chung, I've got	12:42:34
16	the behavioral targeting system. The behavioral	12:42:35
17	targeting system generates a user profile score	12:42:39
18	for a target objective. For example, the target	12:42:43
19	objective may include brand advertising and direct	12:42:46
20	response advertising. And Chung develops or	12:42:50
21	generates a user profile score based on those	12:43:04
22	items.	12:43:10

1 Q Are you still reading, sir? I don't want 12:43:34
2 to interrupt you. 12:43:36

3 A Sure. I just didn't want to go into a lot 12:43:39
4 more detail, but I think it's clear here. I go on 12:43:41
5 to discuss, referring to Chung: The behavioral 12:43:44
6 targeting system generates profile scores by 12:43:51
7 category to predict user propensity for subject 12:43:54
8 matter in the category for the target objective. 12:44:01
9 For examples, the interest score may be based -- 12:44:04
10 may be used to model the strength of a user's 12:44:07
11 interest in purchasing a product or service within 12:44:10
12 a category. Chung teaches that the user interest 12:44:11
13 score is input to a mapping module to generate the 12:44:16
14 mapped score. 12:44:19

15 I think that covers my response to that 12:44:28
16 question. 12:44:31

17 Q So the behavioral targeting system is part 12:44:43
18 of Chung's user profile? 12:44:46

19 A Again, this behavioral targeting system. 12:45:15
20 I'm just looking to see if Chung specifies it in 12:45:17
21 that manner. The behavioral targeting system 12:45:20
22 generates profile scores by category to predict 12:45:29

1 user propensity. So Chung does exactly use the
2 term "behavioral targeting score," and I've
3 referenced that -- or "behavioral targeting
4 system," excuse me.

5 Q So my question is what is Chung's user
6 profile?

7 A The question is what user is Chung
8 profiling?

9 Q No. Where does Chung disclose a user
10 profile? What are the metes and bounds of the
11 profile? Does it include this behavioral
12 targeting system that you identified?

13 A Well, the behavioral targeting system
14 generates profile scores by category to predict
15 user propensity for subject matter in the category
16 for the target objective.

17 Q Is a user profile score the entirety of
18 the user profile?

19 A Well, I'm not sure how I treated that
20 question in my report, but -- and, again, if you
21 want to point me to a sentence, I would reply
22 directly to that sentence. But it sounds like

12:45:33

12:45:36

12:45:41

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12:46:06

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12:46:09

12:46:13

12:46:15

12:46:19

12:46:20

12:46:22

12:46:25

12:46:28

12:46:44

12:46:47

12:46:49

12:47:01

12:47:08

12:47:11

1	your question was is the user profile score the	12:47:16
2	same as the user profile?	12:47:22
3	Q Correct.	12:47:42
4	A I don't know that I use the term "same" or	12:47:43
5	"similar." A user profile is based on behavior of	12:47:45
6	the individual, and that information -- again, I	12:47:52
7	don't want to -- wait a minute. I'm trying not to	12:47:59
8	read every sentence in order to give you a	12:48:07
9	response, so let me get back down to where I was,	12:48:10
10	right. We were at [1a]?	12:48:13
11	Q Correct. If you need to use other	12:48:15
12	sections of your report or Chung itself, that's	12:48:20
13	completely fine.	12:48:25
14	A Yeah. When I look at Chung, just reading	12:48:26
15	it, Chung teaches that the user interest score is	12:48:29
16	input to a mapping module to generate the mapped	12:48:32
17	score. Map scores are behavior-oriented scores	12:48:36
18	that reflect user tendencies for a particular	12:48:40
19	action, right. So there is a profile score which,	12:48:42
20	as I believe, have -- when I look at Chung which	12:48:56
21	is kind of a numeric term, I don't know if I've	12:49:02
22	exactly specified that in my report. So the	12:49:06

1 mapping score is different than the profile since 12:49:13
2 the profile is what helps create the mapped score, 12:49:21
3 so they'd be different items on that basis. 12:49:25

4 Q You said the mapping score is different 12:49:36
5 from the profile? 12:49:37

6 A Well, let's look at the way it's described 12:49:39
7 here. Chung discloses determining a first quality 12:49:43
8 level associated with the user profile. Chung 12:49:47
9 teaches that the user profile scores are mapped to 12:49:50
10 create map scores. 12:49:54

11 So I think that's -- the way I interpret 12:50:00
12 that is the way I've read it is that the mapped 12:50:02
13 score is different than the user profile score 12:50:08
14 only because the user profile scores are mapped to 12:50:12
15 create map scores. 12:50:16

16 Q What's the difference between a user 12:50:22
17 profile score and the mapped score? 12:50:25

18 A Okay, let's look at map scores, for 12:50:36
19 example. Chung teaches that user profile scores 12:50:40
20 are mapped to create map scores in order to 12:50:42
21 estimate the likelihood of the user taking certain 12:50:45
22 actions, such as a click propensity, click through 12:50:49

1 rate and conversion propensity.

12:50:53

2 So the behavioral targeting system
3 generates a user profile score for a target
4 objective. The user profile score is mapped to
5 create the mapped score. And the mapped score is,
6 as Chung explains, is done to estimate the
7 likelihood of the user taking certain actions,
8 such as click propensity, click-through rate and
9 conversion propensity.

12:50:57

12:50:59

12:51:03

12:51:09

12:51:14

12:51:19

12:51:22

12:51:26

10 Q So where does the user profile fit into
11 all of that?

12:51:31

12:51:35

12 A The user profile scores are mapped --

12:51:50

13 Q I'm sorry, sir. Not the scores. Just the
14 user profile itself.

12:51:52

12:51:55

15 A Well, as far as fitting in, the user
16 profile is -- Chung discloses determining a
17 first-quality level associated with a user
18 profile.

12:52:38

12:52:48

12:52:53

12:53:07

19 Q And you are reading from Paragraph 79 of
20 your report, the portion on Page 25?

12:53:07

12:53:10

21 A I'm in Paragraph 79, and I thought what I
22 looked at was the last paragraph on Page 25:

12:53:15

12:53:24

1	Chung teaches that the user profile scores are	12:53:28
2	mapped to create mapped scores.	12:53:32
3	Q Yes, sir. Are you -- strike that.	12:53:46
4	What is the relationship between a user	12:53:51
5	profile score and a user profile?	12:53:54
6	A I don't see quickly where I addressed that	12:54:44
7	distinction. If I've made that distinction and	12:54:47
8	you could point me to where I've done that, I'd be	12:54:52
9	happy to respond to it, but I don't quickly get to	12:54:54
10	where I see a distinction being made.	12:54:57
11	Q Do you know the distinction between a user	12:55:02
12	profile and a mapped score?	12:55:05
13	A Do I know the difference or does anybody	12:55:06
14	know the difference?	12:55:08
15	Q Well, this is your opinion, sir, so I'm	12:55:09
16	asking your opinion on the difference.	12:55:11
17	A Well, I'm looking at the claim limitation	12:55:19
18	and what Chung is disclosing, and with respect to	12:55:21
19	Chung disclosing precisely or expressly what the	12:55:24
20	profile is, I don't see that quickly. I really	12:55:27
21	just see that the system itself generates a user	12:55:33
22	profile score.	12:55:38

1	And it's a behavioral targeting system, so	12:55:38
2	without going too far, it's collecting behavioral	12:55:46
3	information known as BTS and using that to	12:55:49
4	generate the user profile score. I don't want to	12:55:52
5	limit my answer to just that because all the	12:55:54
6	paragraphs more or less describe that, but that's	12:55:58
7	the only answer that I have.	12:56:09
8	Q Let's go to Page 88 of your report --	12:57:17
9	sorry, Paragraph 88 of your report, please.	12:57:20
10	That's on Page 31 and this puts us in element 1b.	12:57:27
11	A I'm on Paragraph 88.	12:57:35
12	Q So here again you say the first quality	12:57:38
13	level is the mapped score, correct?	12:57:42
14	A Yes.	12:58:00
15	Q And then on Paragraph 89, you talk about	12:58:00
16	the user events.	12:58:12
17	Do you see that?	12:58:14
18	A I see in Paragraph 89, the first sentence	12:58:18
19	starts with "User events."	12:58:23
20	Q And you say here: "User events, such as	12:58:29
21	user search queries, are input into the system	12:58:32
22	disclosed by Chung and used to determine user	12:58:36

1	scores."	12:58:38
2	Do you see that?	12:58:38
3	A Yes.	12:58:45
4	Q Continuing on: "Which are in turn used to	12:58:46
5	produce the mapped score."	12:58:48
6	Do you see that?	12:58:53
7	A Yes.	12:58:54
8	Q Are user events such as user search	12:58:55
9	queries ever used to create the mapped score	12:58:59
10	without first determining user scores?	12:59:02
11	MR. ISHMAEL: Objection. Form.	12:59:07
12	BY THE WITNESS:	12:59:26
13	A Let's read that sentence carefully that	12:59:27
14	you actually, I think, pointed to in Paragraph 89.	12:59:29
15	"User events, such as user search queries, are	12:59:34
16	input into the system disclosed by Chung and used	12:59:40
17	to determine user scores which are in turn used to	12:59:43
18	produce the mapped score."	12:59:50
19	I don't know that I can offer any other	01:00:03
20	opinion except what is described in that sentence	01:00:05
21	with respect to the user events, the user scores,	01:00:07
22	and the mapped scores because it says "and used to	01:00:12

1	determine user scores which are in turn used to	01:00:15
2	produce the mapped score."	01:00:18
3	BY MR. DOOLEY:	01:00:22
4	Q You don't have an opinion here that user	01:00:22
5	events such as user search queries are used to	01:00:24
6	produce the mapped score directly, correct?	01:00:28
7	A Let's continue to read.	01:00:31
8	"...Chung and used to determine user	01:00:44
9	scores which are in turn used to produce the	01:00:46
10	mapped score: Events include advertisement	01:00:48
11	clicks, search queries, search clicks, sponsored	01:00:51
12	listing clicks, page views and advertisement	01:00:56
13	views. However, events as used herein may include	01:00:59
14	any type of online navigational interaction or	01:01:03
15	search-related event."	01:01:07
16	I don't see that I actually made an	01:01:22
17	analysis whether or not a mapped score could be	01:01:24
18	determined from a single event such as a search	01:01:26
19	query or an ad click. I don't see that it's	01:01:28
20	limiting to one or more than one. However, the	01:01:36
21	way I've interpreted Chung, just to read it again,	01:01:51
22	is that "User events, such as user search queries,	01:01:56

1	are input into the system."	01:02:01
2	Now, there I've used the plural "queries"	01:02:10
3	referencing some things from Chung -- are input	01:02:14
4	into the system disclosed by Chung and used to	01:02:20
5	determine user scores which are in turn used to	01:02:23
6	produce the mapped score.	01:02:26
7	So the issue of whether or not a single	01:02:29
8	event could be a user score as opposed to user	01:02:31
9	scores could be mapped. I don't see that I've	01:02:38
10	expressed an opinion on that particular issue. If	01:02:44
11	I have and if it's in another paragraph, you can	01:02:49
12	point me to it and I'd be glad to give you a	01:02:51
13	response, but as I read it now, I never made an	01:02:54
14	analysis on whether or not an individual event	01:03:00
15	could be used.	01:03:03
16	Q Sir, I understand you are contending that	01:03:11
17	a user event is used to determine a user score.	01:03:13
18	Can a user event or multiple events be used to	01:03:18
19	create a mapping score without going through a	01:03:23
20	user score first?	01:03:26
21	A Yes, there's two issues for me in that	01:03:40
22	question. One is could it happen, and the other	01:03:44

1	issue is does it happen in Chung, for example.	01:03:46
2	And kind of like the technologist in me always	01:03:51
3	lends to almost anything sometime is possible, but	01:03:54
4	with respect to the matter at hand, I think Chung	01:03:59
5	teaches these are two -- what I call two steps. I	01:04:06
6	could go back and read it, but it says the mapped	01:04:10
7	score is created from the user score. That's the	01:04:15
8	way Chung has disclosed it.	01:04:19
9	Q So in your understanding of Chung, the	01:04:27
10	mapped score is created from the user score and	01:04:30
11	nothing else, correct? Let me rephrase that. I'm	01:04:33
12	sorry.	01:04:41
13	A Yeah.	01:04:41
14	Q In your understanding of Chung, the mapped	01:04:42
15	score is created from a user score and no other	01:04:43
16	events, correct?	01:04:45
17	A The user events such as user search	01:05:03
18	queries are input into the system disclosed by	01:05:06
19	Chung and used to determine user scores which are	01:05:09
20	in turn used to produce the mapped scores.	01:05:13
21	So, again, is there an event? Is there an	01:05:24
22	event somewhere in the world that's not included	01:05:30

1	in the events that Chung describes? I don't know.	01:05:33
2	With respect to Chung, she is using the user	01:05:42
3	events. And I want to use her language for a	01:05:48
4	second just to be clear on it, right? Chung	01:05:52
5	teaches that user profile scores are mapped based	01:05:59
6	on an estimate of the likelihood of a user actions	01:06:04
7	such as click propensity, click-through rates.	01:06:09
8	So those are the events that she is --	01:06:12
9	Chung is describing. I don't know that she's	01:06:15
10	limited to those items, but the way I have read	01:06:22
11	her -- the prior art is it's very specific to maps	01:06:25
12	are based on estimates that are likely that the	01:06:35
13	user actions such as click propensity,	01:06:36
14	click-through rate and that those user profile	01:06:40
15	scores are mapped essentially to the mapped	01:06:47
16	scores.	01:06:58
17	Is there some event somewhere that's not	01:06:58
18	included in here? I wouldn't have any way of	01:07:01
19	knowing that. I just know exactly what Chung	01:07:07
20	discloses.	01:07:09
21	Q Let's limit our universe to what Chung	01:07:10
22	discloses.	01:07:12

1	A Yeah.	01:07:13
2	Q In your understanding of what Chung	01:07:14
3	discloses, the mapped score is created from the	01:07:15
4	user score and no other events, correct?	01:07:17
5	A Let's go back because I want to be -- wait	01:07:19
6	a minute. My computer is acting up again here.	01:07:31
7	So Chung teaches that the user profile	01:07:49
8	scores are mapped based on an estimate of	01:07:53
9	likelihood of user actions such as click	01:07:57
10	propensity. So the user actions, of course, then,	01:08:01
11	are part of the user profile scores which are	01:08:12
12	mapped.	01:08:15
13	Again, I don't know that that can't be	01:08:19
14	interpreted -- I don't know if there's a limit on	01:08:23
15	that, but the way Chung is disclosing it, the way	01:08:25
16	I interpret it, it's the user profile scores are	01:08:29
17	mapped, you know, to the mapped score.	01:08:34
18	Q I understand that the user profile scores	01:08:41
19	are mapped to the mapped score, in your opinion at	01:08:44
20	least.	01:08:47
21	A Right.	01:08:48
22	Q And I understand that you're contending	01:08:48

1	that events are used to determine user scores,	01:08:50
2	correct?	01:08:53
3	A Just a second because I think it's -- yes,	01:08:58
4	user profile score, yes.	01:09:04
5	Q User profile scores -- sorry. Let me is	01:09:04
6	start again.	01:09:07
7	So events are used to determine user	01:09:08
8	scores, and then user scores are used to create	01:09:10
9	mapped scores, correct?	01:09:15
10	A That sounds correct, yes.	01:09:23
11	Q Are you aware of any disclosure of Chung	01:09:24
12	where user events are used to create mapped scores	01:09:27
13	without that intermediate step of a user score?	01:09:29
14	A I don't know that I made that specific	01:09:50
15	analysis. So I'm not saying it's not present in	01:09:51
16	Chung. I just don't recall making that specific	01:09:57
17	analysis.	01:10:01
18	Q Do you have an opinion in your report on	01:10:06
19	that analysis?	01:10:09
20	A You're talking about the analysis that I	01:10:15
21	didn't do that I just referenced?	01:10:17
22	Q Correct.	01:10:21

1	A I don't think I referenced an analysis	01:10:22
2	that I didn't do, no.	01:10:23
3	Q So we were talking about user events being	01:10:35
4	used to create user scores, correct?	01:10:38
5	A We're talking about Chung.	01:10:43
6	Q Yes.	01:10:46
7	A And we're talking about those events in	01:10:46
8	Chung, yes, I understand that.	01:10:49
9	Q I understand you're contending that search	01:10:54
10	queries are events that are used to create user	01:10:56
11	scores, correct?	01:10:58
12	A I'm searching for how Chung has actually	01:11:12
13	disclosed it.	01:11:15
14	Q So your sentence here in 89, you have	01:11:18
15	bolded "search queries." So that was not supposed	01:11:21
16	to be a trick question. I'm just confirming	01:11:26
17	that --	01:11:29
18	A I'm not expecting it. I just wanted to be	01:11:29
19	responsive by looking how I addressed it in my	01:11:32
20	report. Chung discloses that the first quality	01:11:36
21	level part of first search associated with the	01:11:38
22	user profile, search query, yes, that would make	01:11:40

1	sense, sure.	01:11:44
2	Q Are you contending that Chung discloses	01:11:47
3	any purchase events that are used to determine	01:11:50
4	user scores?	01:11:52
5	A In my reading and understanding of Chung	01:12:43
6	with respect to the events, the user events such	01:12:45
7	as user search queries are input into the system	01:12:48
8	discussed by Chung and used to determine user	01:12:54
9	scores which are in turn used to produce the	01:12:58
10	mapped score.	01:13:06
11	Events include advertisements, clicks,	01:13:06
12	search queries, search clicks, sponsored listing	01:13:11
13	clicks, page views and advertisement views, may	01:13:15
14	include any type of online navigational	01:13:21
15	interaction or search-related events. That's how	01:13:24
16	I have applied Chung.	01:13:31
17	Q And in that list that you just recited, I	01:13:36
18	didn't hear anything about purchases; is that	01:13:39
19	correct?	01:13:50
20	A Purchases were not listed in that list,	01:13:50
21	yes.	01:13:52
22	Q So just to complete the circle, you're not	01:13:55

1	contending that Chung discloses any purchase	01:13:57
2	events that are used to determine user scores,	01:14:00
3	correct?	01:14:02
4	A I can't say what I'm not opining on, but	01:14:04
5	what I'm opining on is a list of events that Chung	01:14:18
6	describes.	01:14:21
7	Q And that list does not include purchases,	01:14:23
8	correct?	01:14:25
9	A The list, as I read it in that particular	01:14:25
10	paragraph, does not include purchases.	01:14:28
11	Q The page -- excuse me. Let me start over.	01:14:50
12	In Paragraph 91 you say: "Additionally, a	01:14:53
13	POSITA would have found it obvious to modify	01:14:56
14	Grannan by substituting Chung's mapped score for	01:15:02
15	Grannan's PIC score."	01:15:10
16	Do you see that?	01:15:14
17	A Yes.	01:15:16
18	Q What does Chung's mapped score offer that	01:15:16
19	Grannan's PIC score does not?	01:15:21
20	A Before I answer, let me look at the	01:15:32
21	paragraph I've written up: A POSITA would	01:15:34
22	recognize that these two scores are both directed	01:15:37

1 to determining the likelihood of the user 01:15:39
2 purchasing product. "A POSITA therefore would 01:15:41
3 have had a reasonable expectation of success in 01:15:43
4 making the substitution. And as Chung's 'mapped 01:15:46
5 score' is based on user search queries, a POSITA 01:15:51
6 would have recognized that using web search 01:15:55
7 queries would further improve Grannan's PIC score 01:15:58
8 as search queries provide an additional data point 01:16:02
9 in gauging the user likelihood of making a certain 01:16:09
10 purchase." 01:16:12

11 Paragraph 88: Mapped scores are used for 01:16:42
12 target optimization purposes as they provide 01:16:46
13 predictive information regarding the user's action 01:16:50
14 relative to the category of interest. 01:16:54

15 I believe somewhere in my report I've 01:17:07
16 referenced Grannan's issue on inferred intent. I 01:17:10
17 don't know if I said this specifically, so I'm not 01:17:21
18 modifying anything, but clearly -- just a second. 01:17:25
19 Let me get down to it. Okay. Wait a minute. My 01:17:26
20 computer has lost the paragraph again. So which 01:17:53
21 paragraph are we discussing so I can get down to 01:17:53
22 it? 01:17:55

1 Q I have asked you about Paragraph 91, but I 01:17:56
2 believe you were looking at Paragraph 88 before 01:17:58
3 you lost it. 01:18:00

4 A I don't want to try to recharacterize 01:18:10
5 something, but the PIC score I believe somewhere 01:18:12
6 in Grannan, we can talk about inferred intent 01:18:14
7 being related to that. What Chung offers is a -- 01:18:21
8 I would say -- I don't want to -- again, I don't 01:18:30
9 want to recharacterize what I've said, but it's a 01:18:33
10 little closer to a predictability score. 01:18:35

11 So together I think they make a lot of 01:18:42
12 sense together, and that's kind of what I 01:18:46
13 concluded. "In my opinion, the modification would 01:18:50
14 have required a simple change to the software 01:18:53
15 algorithm that calculates the PIC score, a change 01:18:57
16 that was well within the skill of a POSITA." 01:19:00

17 So that refers to modifying the PIC score 01:19:03
18 with the mapped score. 01:19:05

19 Q In Paragraph 91 you don't say that you 01:19:11
20 should combine the two scores. You say you should 01:19:15
21 substitute Chung's mapped score. 01:19:17

22 Do you see that? 01:19:19

1	A Yes, that's right. 91 says:	01:19:26
2	"Additionally, a POSITA would have found it	01:19:32
3	obvious to modify Grannan by substituting Chung's	01:19:33
4	mapped score for Grannan's PIC scores."	01:19:37
5	Q So if a POSITA is substituting Chung's	01:19:43
6	mapped score, why would a POSITA do that?	01:19:46
7	A Do what?	01:19:48
8	Q Substitute Chung's mapped score for	01:19:49
9	Grannan's PIC score.	01:19:51
10	A Of course, a POSITA doesn't have to do it,	01:20:13
11	but in terms of making the analysis: "A POSITA	01:20:15
12	would have found it obvious to modify Grannan by	01:20:19
13	substituting Chung's mapped score for Grannan's	01:20:23
14	PIC score. A POSITA would have recognized that	01:20:27
15	these two scores are both directed to determine	01:20:30
16	the likelihood of a user purchasing a product.	01:20:31
17	"A POSITA therefore would have had a	01:20:33
18	reasonable expectation of success in making the	01:20:35
19	substitution. And as Chung's 'mapped scores' are	01:20:37
20	based on user search queries, a POSITA would have	01:20:45
21	recognized that using web search queries would	01:20:48
22	further improve Grannan's PIC score."	01:20:50

1	Q That's your answer?	01:21:10
2	A Yes.	01:21:12
3	Q You don't have anything to add other than	01:21:29
4	what you've written in your report here?	01:21:31
5	A Are you asking me if I have a longer	01:21:43
6	answer?	01:21:45
7	Q Longer or shorter, it doesn't matter to	01:21:48
8	me.	01:21:53
9	A Yeah.	01:21:53
10	Q But my question is just why would -- what	01:21:54
11	else does Chung's mapped score give that Grannan's	01:21:56
12	PIC score doesn't?	01:22:01
13	A Again, I'm not sure if I understand the	01:22:27
14	question. Am I making -- it sounds like you're	01:22:29
15	asking me am I making a specific measurable	01:22:34
16	distinction between a Grannan PIC score and the	01:22:41
17	Chung system on the mapping score.	01:22:46
18	Is that what you're asking?	01:22:49
19	Q That is what I'm asking.	01:22:51
20	A Other than what I've described here and	01:22:56
21	how the two prior art systems work, that's all I	01:22:58
22	have is this description of how -- or what they	01:23:07

1	disclose themselves.	01:23:10
2	Q So in Paragraph 89, we talked about user	01:23:13
3	events.	01:23:17
4	Do you remember that?	01:23:18
5	A Paragraph 89, second sentence starts with	01:23:22
6	"User events," yes.	01:23:24
7	Q And we talked about how user events are	01:23:28
8	used to create user scores which are then used to	01:23:30
9	produce mapped scores.	01:23:33
10	Do you remember that?	01:23:34
11	A User events, such as user search queries,	01:23:38
12	are input into the system disclosed by Chung and	01:23:41
13	used to determine the various user scores which	01:23:45
14	are in turn used to produce the mapped score, yes.	01:23:47
15	Q So if your combination of Grannan and	01:23:51
16	Chung where you're substituting Chung's mapped	01:23:56
17	score, do you also need to combine Chung's user	01:23:59
18	events and user scores when comparing the Grannan	01:24:04
19	system?	01:24:11
20	MR. ISHMAEL: Objection. Form.	01:24:11
21	BY THE WITNESS:	01:24:29
22	A I don't know that I addressed that	01:24:29

1	specific issue, in other words, whether or not the	01:24:30
2	events come along, I guess, programatically with	01:24:33
3	the mapped score. The way I look at and applied	01:24:36
4	Chung, I didn't apply the addition of the events.	01:24:48
5	I looked at simply the mapped score.	01:24:54
6	BY MR. DOOLEY:	01:25:06
7	Q We had recently talked about how user	01:25:06
8	scores are turned into mapped scores, right?	01:25:08
9	A We've talked about -- I think it was user	01:25:20
10	profile scores which in turn produced the mapped	01:25:23
11	score.	01:25:27
12	Q Right. So if there's no user scores, then	01:25:30
13	how can Chung's mapped scores work in Grannan's	01:25:34
14	system?	01:25:39
15	A Obviously the user scores are different	01:25:43
16	than the mapped score. And what's being	01:25:46
17	substituted as I interpret Chung is the mapped	01:25:49
18	score. So the question about the events I don't	01:25:57
19	see is relevant when I'm looking at what Chung is	01:26:04
20	teaching to a POSITA.	01:26:09
21	Q You agree that user events go into user	01:26:20
22	scores which then go into mapped scores, correct?	01:26:24

1 A Well, again, to be specific, let's go back 01:26:26
2 to -- Chung teaches input events, referred to as 01:26:31
3 events, are input to an event categorization 01:26:38
4 module -- let me go back because I want to read 01:26:46
5 exactly how -- yeah. 01:26:55

6 So to be specific, the way I look at Chung 01:27:02
7 is Chung teaches that user profile scores are 01:27:07
8 mapped based on estimate of likelihood of user 01:27:10
9 actions such as click propensity, click-through 01:27:16
10 rate, and the user profile scores are used to 01:27:19
11 create the mapped score. 01:27:25

12 Q So if you're not combining Chung's user 01:27:33
13 scores with Grannan's system, there's nothing for 01:27:35
14 Chung to map to create a mapped score; isn't that 01:27:39
15 true? 01:27:41

16 MR. ISHMAEL: Objection. Form. 01:27:41

17 BY THE WITNESS: 01:27:43

18 A I don't get that logic at all. Maybe you 01:27:43
19 want to break it up into some other smaller 01:27:45
20 sentences for me. 01:27:48

21 BY MR. DOOLEY: 01:27:49

22 Q Okay. In Paragraph 91 you say: "A POSITA 01:27:49

1 would have found it obvious to modify Grannan by 01:27:52
2 substituting Chung's mapped score for Grannan's 01:27:55
3 PIC score," correct? 01:28:00

4 A First sentence: "Additionally, a POSITA 01:28:00
5 would have found it obvious to modify Grannan by 01:28:02
6 substituting Chung's mapped score for Grannan's 01:28:05
7 PIC scores," yes. 01:28:10

8 Q If you don't combine Chung's user scores 01:28:12
9 in this combined system, how would Chung's mapped 01:28:17
10 scores get created? 01:28:22

11 A It sounded like you asked me if you don't 01:28:36
12 combine the mapped scores. I'm not sure now where 01:28:38
13 we are going in terms of the word "combining." I 01:28:40
14 may have misspoke about that earlier, but what 01:28:43
15 we're talking about here is substituting a mapped 01:28:47
16 score for the PIC score. 01:28:50

17 Q Right. And you agree with me that mapped 01:28:53
18 scores are created from the user scores, correct? 01:28:56

19 A I think the way I state it in this report 01:29:05
20 is that the mapped scores are created -- user 01:29:08
21 profile scores are used to create the mapped 01:29:13
22 score. 01:29:16

1	Q So we agree, correct?	01:29:16
2	A It didn't sound like we did, frankly.	01:29:18
3	Q I will read your answer, then.	01:29:25
4	The user profile scores are user to create	01:29:28
5	the mapped score, correct?	01:29:31
6	A The user profile scores are used to create	01:29:37
7	the mapped score, yes.	01:29:39
8	Q If there are no user profile scores, how	01:29:42
9	is a mapped score created?	01:29:46
10	A Well, I don't know that I actually thought	01:30:03
11	about that kind of hypothetical situation, and	01:30:05
12	offhand I don't know if Chung addresses it. I	01:30:14
13	don't recall the issue of what happens if there's	01:30:19
14	no user profile scores. The Chung prior art is	01:30:21
15	clearly using user profile scores to create mapped	01:30:33
16	scores.	01:30:35
17	So the hypothetical of what would happen	01:30:37
18	if there's no user profile scores, I don't see	01:30:39
19	that I have addressed that or made that kind of	01:30:42
20	analysis. It's kind of a hypothetical question as	01:30:46
21	far as I see.	01:30:49
22	Q As far as Chung discloses, you need the	01:30:50

1	user scores to create the mapped scores, don't	01:30:52
2	you?	01:30:55
3	A Well, what Chung discloses, to the extent	01:30:56
4	that I discussed it in this report, is that a user	01:31:01
5	profile score is used to create a mapped score.	01:31:07
6	Q And without the user profile score, you	01:31:14
7	don't know how a mapped score could be created,	01:31:16
8	correct?	01:31:18
9	MR. ISHMAEL: Objection. Form.	01:31:22
10	BY THE WITNESS:	01:31:26
11	A Well, from the point of view of what Chung	01:31:27
12	is disclosing, Chung is disclosing a user profile	01:31:29
13	score is used to create a mapped score.	01:31:32
14	BY MR. DOOLEY:	01:31:38
15	Q Is there any portion of Grannan that could	01:31:43
16	create Chung's mapped score?	01:31:45
17	A Well, literally speaking, Chung's mapped	01:32:06
18	score is defined by Chung, and I did not see in	01:32:12
19	Grannan where he defined Chung's mapped score.	01:32:23
20	Q But you say a POSITA would have found it	01:32:34
21	obvious to modify Grannan by substituting Chung's	01:32:37
22	mapped score for Grannan's PIC score, don't you?	01:32:39

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	A Yes.	01:32:44
2	Q So what portion of Grannan could create	01:32:45
3	Chung's mapped score?	01:32:48
4	A Oh, I see. That's a different question	01:32:56
5	than I thought you asked, and I may have	01:32:58
6	misunderstood your other question, but it sounds	01:33:00
7	like you're asking now is what portion of	01:33:02
8	Grannan's PIC score would be substituted by	01:33:04
9	Chung's mapped score?	01:33:08
10	Q Sure.	01:33:11
11	A Then the answer would be PIC -- it would	01:33:14
12	be the PIC score.	01:33:20
13	Q The entire PIC score?	01:33:21
14	A I don't know that I made an analysis of	01:33:28
15	parts of PIC score that might be saved or	01:33:31
16	protected. I don't think I made that fine of an	01:33:37
17	analysis. If I did, you can point me to a	01:33:42
18	paragraph and I'm glad to respond to it, but	01:33:44
19	otherwise it's the PIC score being -- Chung's	01:33:47
20	mapped score is substituting in for Grannan's PIC	01:33:56
21	score.	01:34:00
22	Q Let's go back to Element [1a] in your	01:34:26

1	Paragraph 79.	01:34:40
2	A I'm at Paragraph 79.	01:35:05
3	Q Most of the way through this paragraph	01:35:07
4	right after the footnote, you say: "Chung teaches	01:35:09
5	that the user interest score is input to a mapping	01:35:13
6	module 460 generate the mapped score."	01:35:18
7	Do you see that?	01:35:19
8	A I'm going to see it in a minute. I just	01:35:21
9	want to see exactly what claim limitation we're	01:35:24
10	at. We're at [1a], all right.	01:35:26
11	Now, what paragraph did you want me to	01:35:29
12	focus on?	01:35:30
13	Q 79.	01:35:31
14	A All right. I'm there.	01:35:34
15	Q Right after the footnote, do you see that	01:35:37
16	footnote?	01:35:39
17	A Yes.	01:35:44
18	Q Right after the footnote it says: "Chung	01:35:46
19	teaches that the user interest score is input to a	01:35:49
20	mapping module 460 to generate the mapped score."	01:35:53
21	Do you see that?	01:35:57
22	A Second sentence on 79?	01:36:05

1	Q No, sir. This is probably the eighth	01:36:09
2	sentence or so.	01:36:12
3	A Pardon, what sentence?	01:36:19
4	Q It says: "Chung teaches that the user	01:36:20
5	interest score..."	01:36:25
6	A The last sentence is that Chung teaches	01:36:32
7	that the user interest score is converted to a	01:36:34
8	mapped score using a mapping equation.	01:36:36
9	Q That one is fine, too. Why don't we look	01:36:38
10	at that one since you're there.	01:36:42
11	A I'm sorry. I beg your pardon. What did	01:36:48
12	you say?	01:36:50
13	Q That sentence is fine.	01:36:52
14	How would the combination of Grannan and	01:36:57
15	Chung work with this mapping equation?	01:37:02
16	MR. ISHMAEL: Objection. Form.	01:37:12
17	BY THE WITNESS:	01:37:21
18	A What mapping equation?	01:37:21
19	BY MR. DOOLEY:	
20	Q These are your words, sir.	01:37:23
21	A Looking at what sentence?	01:37:24
22	Q The sentence that you just read into the	01:37:27

1	record.	01:37:29
2	A I read: "Chung teaches the user interest	01:37:29
3	score is 'converted' to a 'mapped score' using a	01:36:35
4	mapping equation." Yeah, okay. I see what you	01:36:37
5	meant. I didn't quite understand it.	
6	I don't have Chung in front of me. I	01:38:10
7	don't know if Chung actually showed the equation.	01:38:12
8	Go ahead.	01:38:14
9	Q You do have Chung in front of you. It's	01:38:14
10	available in chat, and I've been told you have in	01:38:16
11	hard copy.	01:38:19
12	A I'll take another look at it then, all	01:38:20
13	right?	
14	I've got 103, 105, 107. Just a second.	01:38:43
15	Give me a minute here. Okay. I'm just opening	01:38:46
16	that now. Here we go. Oop, it opened Grannan.	01:38:52
17	Chung just -- I just lost Chung for a second.	01:39:16
18	Q That's Exhibit 1005, the last one in the	01:39:19
19	chat.	01:39:21
20	A Oh, it's back. Okay. So I have Chung.	01:39:22
21	I'm not able to -- it would take me too long to	01:40:16
22	read every sentence in Chung, but just looking	01:40:19

1	through it here, I don't see -- just a second.	01:40:22
2	Let me get through the whole thing. She does	01:40:28
3	discuss in Section 12 a mapping equation, and it's	01:40:36
4	very specific about that equation in terms of the	01:40:49
5	variables.	01:40:52
6	So Chung does, in looking at it again,	01:40:57
7	disclose an equation that Chung used.	01:41:03
8	Q Would you like me to ask my question	01:41:22
9	again, sir, or are you still reading?	01:41:24
10	A I think if you're asking about the	01:41:26
11	equation, that would be the answer. It looks like	01:41:28
12	she's disclosed it in the patent.	01:41:31
13	Q My question was how would the combination	01:41:35
14	of Grannan and Chung work with this mapping	01:41:36
15	equation?	01:41:39
16	A Do you mean how from a programmatic	01:41:46
17	standpoint?	01:41:49
18	Q Yes. How would a person of ordinary skill	01:41:50
19	in the art use this equation to combine Grannan	01:41:53
20	and Chung?	01:42:01
21	MR. ISHMAEL: Objection. Form.	01:42:07
22	BY THE WITNESS:	01:42:12

1	A Again, I don't want to get hung up on the	01:42:13
2	word "combine," but it's Grannan in view of Chung.	01:42:15
3	And as I understand our discussion, it's about	01:42:19
4	substituting the mapping score for the PIC score	01:42:21
5	in Grannan, and it looks like, to me, that Chung	01:42:29
6	has disclosed in some detail how to do that in her	01:42:37
7	patent. I say "her." I don't know if she's a	01:42:43
8	woman or not.	01:42:51
9	BY MR. DOOLEY:	01:42:51
10	Q I believe you are correct.	01:42:51
11	A Yeah.	01:42:53
12	Q When you say "Chung has disclosed how to	01:42:53
13	do that," what do you mean?	01:42:56
14	A Well, "how" of course is an operative term	01:43:00
15	there, and I was focused on the last sentence of	01:43:02
16	the paragraph where we were talking about the	01:43:07
17	equation. It was my understanding you want to	01:43:09
18	know what equation was involved.	01:43:12
19	And based on that, I looked at the Chung	01:43:15
20	patent, and I see that Chung has provided --	01:43:17
21	again, I didn't read the whole patent. As I sit	01:43:26
22	here today, I don't know if that's the only	01:43:29

1	equation or the equation, but she does provide an	01:43:32
2	equation for what she calls her long-term interest	01:43:35
3	score for a user.	01:43:46
4	Q I understand that she teaches an equation	01:43:57
5	here, and I understand that you are saying this is	01:44:00
6	an equation that converts the user interest score	01:44:07
7	to a mapped score?	01:44:09
8	A Uh-huh.	01:44:13
9	Q My question is when you combine Chung with	01:44:14
10	Grannan, how does this score fit into the	01:44:18
11	combination?	01:44:20
12	MR. ISHMAEL: Objection. Form.	01:44:26
13	BY THE WITNESS:	01:44:27
14	A Again, as I understand -- excuse me.	01:44:27
15	As I understand the issue we're	01:44:30
16	discussing, it is the substitution of the mapped	01:44:34
17	score for the PIC score in Grannan, and it sounds	01:44:40
18	like you're asking me how was that done. Is that	01:44:47
19	the question?	01:44:51
20	BY MR. DOOLEY:	01:44:52
21	Q Correct.	01:44:52
22	A First, we have the scoring principles	01:44:59

1	disclosed in my declaration, and a POSITA would	01:45:11
2	then look at that information and substitute the	01:45:16
3	mapped score for the PIC score and arrived at the	01:45:24
4	limitation.	01:45:27
5	Q Let's turn to Paragraph 92 of your report.	01:45:45
6	This is Section [1c] -- Element [1c]. I'm sorry.	01:45:51
7	A I am at Paragraph 92.	01:46:02
8	Q Here you say: "Grannan discloses that the	01:46:09
9	determining of the first quality level (PIC score)	01:46:13
10	is based at least in part on a unique identifier	01:46:14
11	(unique user profile data, demographics and past	01:46:21
12	behavior/settings)."	01:46:24
13	Do you see that?	01:46:28
14	A Yes.	01:46:29
15	Q Are you saying that the unique user	01:46:30
16	profile data demographics and past	01:46:31
17	behavior/settings are all part of the unique	01:46:35
18	identifier?	01:46:37
19	A The unique identifier of course is	01:47:05
20	distinct from the user profile. But the user	01:47:08
21	profile data includes demographics and past	01:47:18
22	behavioral settings. Grannan teaches that the PIC	01:47:21

1	score associated with each subscriber's user	01:47:27
2	profile, which includes a unique identifier, is	01:47:32
3	weighed based on the contents of the user profile.	01:47:35
4	Q I believe you inserted a word there,	01:47:40
5	"includes" after user profile and unique	01:47:43
6	identifier. Are you saying that that sentence	01:47:48
7	should read: The user profile includes a unique	01:47:50
8	identifier?	01:47:52
9	A Wait a minute. Are you asking me does the	01:47:55
10	user profile create the user identifier?	01:47:57
11	Q No. That's not what I'm asking you. The	01:48:00
12	sentence as written just says "user profile" and	01:48:05
13	"(unique identifier)."	01:48:10
14	Do you see that?	01:48:13
15	A "Grannan teaches that the PIC score	01:48:17
16	associated with each subscriber's user profile	01:48:18
17	(unique identifier)..."	01:48:24
18	I see that sentence, yes.	01:48:25
19	Q That means the unique identifier is the	01:48:26
20	user profile, correct?	01:48:30
21	MR. ISHMAEL: Objection. Form.	01:48:30
22	BY THE WITNESS:	01:48:34

1	A No, it doesn't mean that.	01:48:34
2	BY MR. DOOLEY:	01:48:36
3	Q Okay. Could you explain that more?	01:48:36
4	A Pardon me?	01:48:38
5	Q Could you explain that more, please?	01:48:38
6	A Again, I want to -- I'll explain it, but I	01:48:47
7	also want to go back and look at my -- I want to	01:48:52
8	read this section before I respond completely to	01:48:56
9	your question, right? I beg your pardon. This	01:48:58
10	mouse is awkward for me. What paragraph were we	01:49:35
11	on again?	01:49:40
12	Q 92.	01:49:40
13	A 92?	01:49:42
14	Q Yes, sir.	01:49:43
15	A I just want to make sure because it moves	01:49:45
16	me into another paragraph, and it's probably my	01:49:47
17	fault.	01:49:50
18	User profile data includes but is not	01:50:07
19	limited to ages, family size, ethnicity, language	01:50:09
20	spoken, address, subscriber and user identifier.	01:50:16
21	User profile settings may also include but not	01:50:25
22	limited to multiple screens or device settings for	01:50:28

1	selecting -- so I could try to summarize that, but	01:50:32
2	I think it's clear. I mean, the user profile is	01:50:40
3	defined. The user profile data includes. It	01:50:45
4	lists what it includes, and part of what it	01:50:57
5	includes would be a unique identifier.	01:51:02
6	Q Could you please point out where you	01:51:14
7	identify a unique identifier?	01:51:18
8	A Well, with the exception of bringing Yang	01:52:19
9	in, it's described in the paragraphs between -- I	01:52:21
10	think it's between 92 and like 97. And then I	01:52:33
11	move over to the -- just a second.	01:52:40
12	When I talk about the user profile data	01:52:57
13	and I talk about what it includes, it includes the	01:53:00
14	unique identifier. In the case of Grannan, we're	01:53:04
15	discussing subscribers.	01:53:20
16	Grannan teaches that the PIC score	01:53:22
17	associated with each subscriber's user profile.	01:53:24
18	So here we've got the user profile includes this	01:53:29
19	subscriber information which is the unique	01:53:32
20	identifier.	01:53:35
21	Q I'm sorry --	01:53:40
22	A Go ahead.	01:53:40

1	Q I'm sorry, that didn't come through	01:53:41
2	entirely clear to me. Could you say that again?	01:53:43
3	What were you pointing to as the unique	01:53:46
4	identifier?	01:53:48
5	A I'm looking at --	01:53:49
6	MR. ISHMAEL: Counsel, I would just ask	01:53:49
7	that you let him finish the answer. I think he	01:53:52
8	was in the middle of the answer.	01:53:54
9	MR. DOOLEY: I apologize.	01:53:56
10	BY THE WITNESS:	01:53:58
11	A Am I back? The sentence I read was the	01:53:58
12	second sentence of Paragraph 92, and I'm not	01:54:05
13	limiting my answer to that sentence, but that is	01:54:11
14	the one that I read where Grannan teaches that the	01:54:13
15	PIC score associated with each subscriber user's	01:54:16
16	profile, (unique identifier) right there. We have	01:54:22
17	subscriber is weighted based on the contents of	01:54:24
18	the user profile.	01:54:30
19	BY MR. DOOLEY:	01:54:41
20	Q So, again, what are you pointing to as the	01:54:41
21	unique identifier?	01:54:44
22	A Again, I don't want to point to a specific	01:54:49

1 sentence, but when we use the term "subscriber" 01:54:51
2 the way it's used in Grannan, a POSITA would 01:54:58
3 understand that the identifier is to some degree 01:55:02
4 the subscriber or subscriber's credentials or, as 01:55:12
5 I list in this paragraph, the subscriber address. 01:55:16

6 Q And that's the bold portion of 01:55:31
7 Paragraph 92, the address in the middle of the 01:55:34
8 page? 01:55:36

9 A Let's read it again. "User profile data 01:55:36
10 includes but is not limited to ages, family size, 01:55:38
11 ethnicity, language spoken, address, subscriber 01:55:39
12 user identifiers for family members." 01:55:44

13 So that profile description, the way I 01:55:59
14 read it, is -- represents or includes a unique 01:56:03
15 identifier. 01:56:08

16 Q Does it represent it or does it include 01:56:10
17 it? 01:56:13

18 A Again, I have to be careful to be more 01:56:14
19 specific. I apologize. But no, it's included. 01:56:19

20 Q When you say "it's included," that means 01:56:22
21 you're saying that the user profile is not the 01:56:24
22 unique identifier itself, correct? 01:56:26

1	A I'm saying there is a distinction between	01:56:34
2	a user profile and a unique identifier, yes.	01:56:38
3	Q And what is the unique identifier?	01:56:44
4	A It's the identifier that's used to	01:56:50
5	pinpoint a specific subscriber in the case of	01:56:55
6	Grannan.	01:56:59
7	Q And what is that identifier called in	01:57:01
8	Grannan?	01:57:04
9	MR. ISHMAEL: Objection. Form.	01:57:07
10	BY THE WITNESS:	01:57:16
11	A I think, you know, Grannan when it uses	01:57:17
12	the term "subscriber," I think a POSITA would look	01:57:19
13	at the term "subscriber" -- and I think we	01:57:30
14	discussed this, but -- and recognize that if we	01:57:32
15	have a subscriber, we could have a -- we should	01:57:44
16	have a unique identifier in this subscriber.	01:57:46
17	BY MR. DOOLEY:	01:57:51
18	Q When you say "could" or "should," are you	01:57:51
19	pointing to any particular portion of Grannan?	01:57:53
20	A Pardon me?	01:57:59
21	Q When you said "we could or should have a	01:58:00
22	unique identifier," what portion of Grannan are	01:58:02

1	you pointing to?	01:58:04
2	A When I see the word "subscriber,"	01:58:05
3	Paragraph 92, that's going to be about as close to	01:58:07
4	unique identifier as you're going to get because	01:58:20
5	we've talked about a specific subscriber. And	01:58:23
6	when we go down to the same paragraph where it	01:58:28
7	says "user profile data includes," and then we	01:58:31
8	list, and we list subscriber user identifiers.	01:58:38
9	Q Are you saying that each of these bold	01:58:49
10	elements here are subscriber user identifiers,	01:58:52
11	ages, family size, et cetera?	01:58:55
12	A Well, when you say hypothetically,	01:59:04
13	hypothetically, as long as it's a unique item, it	01:59:06
14	could be a unique -- it could be the unique user.	01:59:17
15	But the way this is set up, the way Grannan	01:59:24
16	describes it, he's using subscriber in his user	01:59:29
17	profile.	01:59:41
18	Q I'm sorry, you're saying he's using	01:59:41
19	subscriber in his user profile?	01:59:44
20	A Well, when I look here, it says "user	01:59:45
21	profile data includes," "includes but is not	01:59:47
22	limited to ages, family size, ethnicity, language	01:59:49

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	spoken, address, subscriber, user identifiers."	01:59:54
2	Q For family members, correct?	02:00:00
3	A I'm sorry. What was the question?	02:00:06
4	Q You didn't complete the sentence.	02:00:08
5	A Okay. Family members, et cetera, period.	02:00:12
6	Q Subscriber user identifiers for family	02:00:19
7	members, correct?	02:00:21
8	A Grannan recognizes that family members	02:00:40
9	exist in this period of time and that a single	02:00:44
10	computer may be used by three different people.	02:00:52
11	And by the way, what I'm saying is probably better	02:00:53
12	written in my report, but to be responsive,	02:00:58
13	Grannan recognizes this exists. And in order to	02:01:06
14	handle, let's say, arrive at the claim at this	02:01:18
15	point in my analysis is when I started to add --	02:01:23
16	look at -- may be later.	02:01:31
17	But when I go in 97 and I start adding the	02:01:36
18	teachings from Yang on clustering that a POSITA	02:01:53
19	would understand and using that clustering which	02:01:56
20	is created by the situation that exists at that	02:02:04
21	particular time, which was that one computer could	02:02:10
22	be used by several members. So in order to arrive	02:02:14

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	at that limitation, Yang provides that additional	02:02:17
2	teaching.	02:02:20
3	THE REPORTER: Counsel, do you mind if we	02:02:29
4	take a short break?	02:02:35
5	MR. DOOLEY: Yes.	02:02:37
6	(A recess was had.)	02:02:41
7	BY MR. DOOLEY:	
8	Q What did you bold these elements at the	02:08:43
9	bottom of your Paragraph 92 for, ages, family	02:09:04
10	size, et cetera?	02:09:09
11	A I don't recall. I'm looking to see if I	02:09:46
12	referenced it somewhere in the declaration. I	02:09:55
13	don't see that I referenced that.	02:09:57
14	Q Are all of these elements required for a	02:10:02
15	unique identifier?	02:10:06
16	MR. ISHMAEL: Objection. Form.	02:10:12
17	BY THE WITNESS:	02:10:13
18	A Again, I think we've established that the	02:10:23
19	unique identifier is distinct from the user	02:10:27
20	profile, and what I've listed here is the user	02:10:31
21	profile data.	02:10:35
22	BY MR. DOOLEY:	02:10:35

1 Q When you say it's "distinct" from it, do
2 you mean it's separate from it?

3 A I mean that a user profile is different
4 from -- distinct from a unique identifier, but
5 they are two different terms, yes.

6 Q So if a user profile is not a unique
7 identifier, could you please point out what
8 Grannan teaches as the unique identifier?

9 MR. ISHMAEL: Objection. Form.

10 BY THE WITNESS:

11 A In the case of Grannan, we have the term,
12 for example, in the second sentence, "subscriber,"
13 right? And the term "subscriber" may not be
14 limiting, but I believe a POSITA would look at
15 that and say a subscriber or a subscriber's
16 credentials would be a unique identifier. And
17 when I go down to the list of what's inside of the
18 profile data, I get subscriber, user identifiers
19 for family members. It doesn't mean only family
20 members.

21 So the user profile -- the unique
22 identifier is contained within the user profile.

1	BY MR. DOOLEY:	02:12:32
2	Q What are you pointing to as the unique	02:12:32
3	identifier?	02:12:34
4	A I think we've talked about that, and if	02:12:38
5	you're asking me in specifics, almost anything	02:12:39
6	under certain circumstances can be a unique	02:12:49
7	identifier. In the case of Grannan, because	02:12:51
8	Grannan's system is basically around a subscriber	02:12:54
9	the subscriber is the -- the subscriber	02:13:03
10	credentials or address, e-mail address would be	02:13:08
11	the unique identifier. And the way Grannan works,	02:13:11
12	that's included inside the user profile data.	02:13:15
13	Q When you say "e-mail address," are you	02:13:22
14	referring to this address that you've bolded?	02:13:24
15	A I don't recall if I used e-mail address or	02:13:28
16	not or picked that part up, but an e-mail address	02:13:38
17	could be used as a unique identifier, yes.	02:13:45
18	Q When you say "an e-mail address could be	02:13:48
19	used as a unique identifier," are you contending	02:13:50
20	that Grannan does disclose using an e-mail address	02:13:53
21	as a unique identifier?	02:13:57
22	A I don't see that I point to a specific	02:14:52

1 example of an e-mail address, but if I'm 02:14:54
2 responding to a question of what types of things 02:14:58
3 could be a unique identifier, an e-mail address is 02:15:00
4 one of those things. 02:15:08

5 Q I'm only interested in what Grannan 02:15:08
6 actually discloses here, not any other universe of 02:15:10
7 types of things. 02:15:16

8 So when you say "a user profile in Grannan 02:15:17
9 includes a unique identifier," what are you 02:15:19
10 pointing to? 02:15:25

11 A Wait a minute. I lost the paragraphs 02:15:46
12 again. Okay. I don't want this to be limiting, 02:15:48
13 but when I look at the user profile data and I see 02:15:55
14 the word "subscriber," that's about as close to 02:15:58
15 being a unique identifier when I think that's what 02:16:03
16 Grannan discloses when he starts talking about 02:16:08
17 subscribers. 02:16:12

18 Q When you say "subscriber," are you 02:16:14
19 referring to the phrase "subscriber user 02:16:19
20 identifiers for family members"? 02:16:21

21 A Am I doing what? 02:16:26

22 Q Are you referring to the phrase 02:16:27

1	"subscriber user identifiers for family members"?	02:16:29
2	A Not limited to that, but yes.	02:16:32
3	Q So that's Grannan's unique identifier?	02:16:39
4	A No, you're asking me about the family	02:16:41
5	members.	02:16:44
6	Q I'm not, sir.	02:16:44
7	A Okay. It sounded like you were, but go	02:16:50
8	ahead please.	02:16:52
9	Q I'm asking for what in Grannan's user	02:16:52
10	profile data is a unique identifier?	02:16:56
11	A Well, the user profile data includes but	02:16:58
12	is not limited to a list of these items, right. I	02:17:02
13	don't recall if the e-mail address was expressly	02:17:10
14	disclosed by Grannan, but included inside the user	02:17:12
15	profile data is a unique identifier.	02:17:21
16	The issue with respect to "subscriber	02:17:32
17	using identifiers for family members" relates	02:17:34
18	specifically to what I'll call this limitation	02:17:36
19	where the limitation reads: "Wherein determining	02:17:41
20	the first quality level is based at least in part	02:17:44
21	on a unique identifier and clustering."	02:17:47
22	So the "family members" reference is what	02:17:55

1 creates the need for an additional -- for a POSITA 02:18:03
2 to implement it, he needs to develop unique 02:18:06
3 identifiers for family members, and that's where 02:18:10
4 Yang comes in. So that's why that is referenced 02:18:15
5 in that way. 02:18:17

6 Q So are you saying that subscriber user 02:18:20
7 identifiers for family members is important for 02:18:22
8 clustering? 02:18:25

9 A Important for clustering. Again, I don't 02:18:35
10 know where I exactly say that. If you're looking 02:18:38
11 at a claim which is -- let's go back and look at 02:18:44
12 the claim again, all right. 02:18:48

13 I beg your pardon, but this mouse is a 02:19:20
14 little bit -- I'm getting back to the wrong claim 02:19:22
15 and I want to read the correct claim. 02:19:25

16 Q It's right above Paragraph 92. 02:19:28

17 A Yeah, just a second. Now if you would, 02:19:30
18 please, read your question again, I'm looking now 02:20:06
19 at Paragraph 92 referencing [1c]. 02:20:08

20 Q That's okay. 02:20:14

21 A What was the question, please. 02:20:20

22 Q Could you please identify the unique 02:20:22

1	identifier?	02:20:24
2	I'm sorry. That was not my question. Let	02:20:36
3	me repeat the correct question.	02:20:37
4	You mentioned subscriber user identifiers	02:20:39
5	for family members, and you talked about Yang.	02:20:41
6	Are you saying that subscriber user identifiers	02:20:44
7	for family members is important to clustering	02:20:46
8	only?	02:20:48
9	A Am I saying that subscriber family members	02:21:02
10	are somehow related to clustering?	02:21:04
11	Q Sure.	02:21:06
12	A I'd say it's probably more the opposite.	02:21:16
13	In fact, let's just go down and look at Yang	02:21:19
14	because I think he's pretty clear about how that	02:21:21
15	works.	02:21:31
16	Page 98 -- Paragraph 98: Yang teaches	02:21:31
17	that by using the features of an online session	02:21:34
18	such as time-related features, average time per	02:21:40
19	page, average time per category or site, most	02:21:42
20	visited site category, quantity-related features,	02:21:45
21	number of pages, number of categories,	02:21:50
22	order-related features, features can be clustered	02:21:52

1	so as to count 70 percent.	02:21:57
2	So the clustering is -- well, to be	02:22:02
3	specific: "Therefore, it's obvious to a POSITA to	02:22:12
4	use Yang's clustering of user behavior in Grannan	02:22:14
5	for the Grannan-Chang combination to differentiate	02:22:19
6	between unique users on a shared device so as to	02:22:25
7	determine which user profile information to use	02:22:32
8	for calculating the first quality level PIC	02:22:34
9	score."	02:22:37
10	So the relationship of clustering to the	02:22:40
11	user identifiers is explained in those paragraphs	02:22:53
12	where I discuss how Yang works. Even such	02:22:58
13	modification would have required a user software	02:23:07
14	change adding Yang's clustering algorithm to	02:23:10
15	Grannan's software in order to further determine a	02:23:14
16	unique user from a computer or from a subscriber	02:23:17
17	ID that was tied to a whole household, and that's	02:23:20
18	what we were talking about earlier when we looked	02:23:23
19	at the family members that was listed in bold.	02:23:27
20	Q Does a unique identifier have to include	02:23:44
21	an age?	02:23:46
22	MR. ISHMAEL: Objection. Form, scope.	02:23:49

1	BY THE WITNESS:	02:23:53
2	A It sounds like in general, does a unique	02:23:54
3	identifier have to include age?	02:23:57
4	BY MR. DOOLEY:	
5	Q Yes.	02:24:01
6	A No.	02:24:09
7	Q Does Grannan specifically teach that a	02:24:09
8	unique identifier includes an age?	02:24:12
9	A I think in the paragraph I read, the user	02:24:23
10	profile data listed age as one of the data that	02:24:26
11	would be collected.	02:24:28
12	Q As part of the user profile, not a unique	02:24:36
13	identifier, correct?	02:24:38
14	A That the user profile data includes. It	02:24:41
15	could include but not limited to -- without having	02:24:43
16	to read that paragraph again, because as I recall,	02:24:47
17	but not limited to, and age was one of the first	02:24:50
18	ones in the sequence.	02:24:52
19	Q I understand that you contend that user	02:24:59
20	profile data includes these elements. My question	02:25:01
21	is whether a unique identifier includes these	02:25:02
22	elements?	02:25:04

1	A	What unique identifier are you referring	02:25:12
2		to and what element?	02:25:13
3	Q	That's my question to you, sir. I'm	02:25:15
4		trying to figure out what you are contending is	02:25:17
5		the unique identifier.	02:25:19
6	A	I think I've attempted to respond to that.	02:25:29
7		The user profile data which lists certain elements	02:25:32
8		that are being collected would include the user --	02:25:34
9		the unique -- what I'll call the unique user	02:25:40
10		profile because it's being collected from a	02:25:42
11		subscriber.	02:25:44
12		There may be other rationale for it, but	02:25:47
13		at a beginning analysis, using what I've done here	02:25:50
14		is that Grannan talks about a subscriber. That	02:25:53
15		becomes not limited to what a unique identifier	02:26:04
16		is.	02:26:07
17	Q	In the first sentence of Paragraph 92, you	02:26:10
18		have in parenthesis "unique user profile data,	02:26:16
19		demographics and past behavior/settings."	02:26:19
20		Do you see that?	02:26:22
21	A	Yes.	02:26:24
22	Q	How do those relate to Element [1c] here?	02:26:41

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1	A	Wait a minute. How does age relate to	02:26:46
2		what?	02:26:49
3	Q	I didn't mention age, sir.	02:26:49
4	A	Okay. What did you say?	02:26:51
5	Q	In parenthesis here at the end of the	02:26:53
6		first sentence of your Paragraph 92 --	02:26:58
7	A	Yes.	02:27:00
8	Q	-- it mentions "unique user profile data,	02:27:03
9		demographics and past behavior/settings."	02:26:19
10	A	I'm looking at Page 33.	02:27:21
11	Q	Correct.	02:27:22
12	A	The last sentence there?	02:27:23
13	Q	The last words of the first sentence.	02:27:24
14	A	The last word is "settings," right?	02:27:36
15	Q	Yes, the entire parenthetical there.	02:27:39
16	A	Yeah.	02:27:43
17	Q	Do you see it says "unique user profile	02:27:44
18		data, demographics and past behavior/settings"?	02:27:47
19	A	I see where it says "unique user profile	02:27:50
20		data, demographics and past behavior/settings."	02:27:52
21	Q	How do those relate to Element [1c] here?	02:27:57
22	A	How could they relate to -- what elements	02:28:02

1	are you referring to?	02:28:05
2	Q Element [1c] of the patent.	02:28:06
3	MR. ISHMAEL: Objection. Form.	02:28:11
4	BY THE WITNESS:	02:28:13
5	A Okay. I understand your question. I	02:28:14
6	didn't understand the [1c]. Okay. Well, Grannan	02:28:15
7	discloses that determining the first quality	02:28:28
8	level, that's [1c], wherein determined first	02:28:29
9	quality level, the PIC score is based at least in	02:28:35
10	part on a unique identifier. "Grannan teaches	02:28:38
11	that the PIC score associated with each	02:28:49
12	subscriber's user profile (unique identifier) is	02:28:52
13	weighted based on the contents of the user	02:28:58
14	profile." That seems pretty clear to me.	02:29:01
15	BY MR. DOOLEY:	02:29:04
16	Q I'm sorry, sir. Did you skip over the	02:29:05
17	words "unique user profile data, demographics and	02:29:07
18	past behavior/settings"?	02:29:10
19	A I can read that again. I didn't mean to	02:29:17
20	unread that. "Grannan discloses that determining	02:29:19
21	of the first quality level PIC score is based at	02:29:21
22	least in part on a unique identifier (unique user	02:29:24

1 profile data), demographics, and past

02:29:28

2 behavior/settings."

02:29:32

3 Q Those three elements that you just read,

02:29:35

4 "unique user profile data, demographics and past

02:29:37

5 behavior/settings," how do those relate to the

02:29:40

6 patent's Element [1c], please?

02:29:47

7 A Patent [1c] calls out determining of the

02:30:02

8 first quality level is based at least in part on

02:30:05

9 the unique identifier. Grannan discloses that

02:30:10

10 determining of the first quality level is based at

02:30:13

11 least in part on a unique identifier (unique user

02:30:16

12 profile data, demographics and past behavioral

02:30:21

13 settings.

02:30:24

14 That is a direct reference to [1c].

02:30:30

15 Q So you're saying that "unique user profile

02:30:34

16 data, demographics and past behavior/settings" are

02:30:36

17 part of the unique identifier?

02:30:39

18 A When determining of the first quality

02:30:57

19 level is based at least in part on a unique

02:30:59

20 identifier. Since we're talking about the PIC

02:31:03

21 score, we have elements of demographics and past

02:31:06

22 behavioral settings.

02:31:11

1 Q So you're saying demographics of past
2 behavior/settings have nothing to do with the
3 unique identifier?

02:31:20

02:31:24

02:31:25

4 MR. ISHMAEL: Objection. Form.

02:31:27

5 BY THE WITNESS:

02:31:33

6 A No. I'm just saying that in determining
7 of the first quality level is based at least in
8 part on a unique identifier and focusing on that
9 particular sentence. And, again, there may be
10 additional discussions on this subject later in
11 this paragraph, but since you seem to be focused
12 just on those sentences, all I can do is repeat
13 those sentences and ask you, you know, for me
14 they're very clear.

02:31:34

02:31:36

02:31:38

02:31:43

02:31:47

02:31:49

02:31:53

02:31:56

02:31:59

15 BY MR. DOOLEY:

02:32:02

16 Q So are demographics related to a unique
17 identifier or no?

02:32:02

02:32:07

18 A I would say just from an interpretation of
19 the term "demographics," it could be related to a
20 unique identifier, for example, in ZIP codes and
21 things like that. It could be more specific, but
22 there would be ways that demographics could be a

02:32:21

02:32:23

02:32:31

02:32:35

02:32:37

1	unique identifier.	02:32:41
2	Q Are you contending that they are a unique	02:32:45
3	identifier as Grannan teaches?	02:32:50
4	A I don't think Grannan teaches demographics	02:32:55
5	are factually a unique identifier.	02:33:05
6	Q Does Grannan teach that past	02:33:05
7	behavior/settings are a unique identifier?	02:33:07
8	A I think Grannan teaches that the user	02:33:11
9	profile data which is subscriber data includes a	02:33:32
10	unique identifier.	02:33:37
11	Q Sir, I'm focused only on the words here,	02:33:43
12	"past behavior/settings." Do you see those words?	02:33:46
13	A Yes.	02:33:49
14	Q Does Grannan teach that past	02:33:53
15	behavior/settings are a unique identifier?	02:33:57
16	A Again, let me -- to be responsive, let me	02:34:16
17	look at how I've described that.	02:34:21
18	It did it again to me. And I want to make	02:34:24
19	sure I'm answering the correct question. Tell me	02:35:33
20	what paragraph you're on.	02:35:36
21	Q I'm still on Paragraph 92, sir.	02:35:37
22	A That's what I thought. That's where I am.	02:35:39

1 I don't know that Grannan teaches -- I'm 02:35:58
2 looking at the term "past behavior/settings" is or 02:36:05
3 is not a unique identifier. I think what he 02:36:09
4 teaches is exactly what I've got in the next 02:36:13
5 sentence, which is that the PIC score associated 02:36:15
6 with each subscriber's user profile is weighted 02:36:17
7 based on the contents of the user profile. 02:36:21

8 So I don't want to be offering a different 02:36:27
9 view, but I don't see that he disclosed that 02:36:31
10 particular item. But in general, I mean, when 02:36:38
11 we're talking about unique identifiers, I don't 02:36:39
12 know that he limited it. I don't know that 02:36:41
13 Grannan limited a unique identifier to some 02:36:46
14 specific term. 02:36:49

15 Q So past behavior or settings could be part 02:36:53
16 of a unique identifier? 02:36:56

17 A Well, hypothetically speaking, when you 02:36:58
18 have a term like "past behavior/settings," in 02:37:00
19 other words, not hypothetically speaking, a number 02:37:06
20 of things could be used as a unique identifier. 02:37:09

21 Q So would a person of ordinary skill in the 02:37:17
22 art read Grannan to teach that past behavior or 02:37:20

1 settings could be part of its unique identifier? 02:37:22

2 A I think in general, a POSITA would be 02:37:28

3 looking at what Grannan teaches, which is more 02:37:32

4 along the lines of the PIC score and the 02:37:35

5 subscriber user profile. I don't think he'd be 02:37:39

6 focusing on whether or not past behavior settings 02:37:45

7 could in fact be unique identifier. No, I 02:37:48

8 wouldn't think that. 02:37:51

9 Q You mentioned the PIC score. How does the 02:37:56

10 PIC score relate to a unique identifier? 02:38:00

11 A In [1c], it says: And wherein the 02:38:07

12 determining of the first quality level. So 02:38:12

13 Grannan discloses the determining of the first 02:38:16

14 quality level, the PIC score. So I think we've 02:38:18

15 discussed this, but determining of the first 02:38:28

16 quality level is the PIC score. And that is -- 02:38:31

17 that's the terms that are used in [1c], which is 02:38:34

18 determining of the first quality level. 02:38:38

19 Q Let's move to Paragraph 93, please, which 02:38:42

20 is on the next page. 02:38:45

21 A I'm at 93. 02:38:53

22 Q Why don't you take a moment to read the 02:39:00

1	entire paragraph, and then let me know once you've	02:39:03
2	done that.	02:39:06
3	A It will help me if I could read it out	02:39:06
4	loud.	02:39:08
5	Q You're welcome to.	02:39:08
6	A "Grannan further discloses assessing	02:39:10
7	realtime contextual information about the	02:39:12
8	subscriber and weighing the PIC score based on	02:39:15
9	realtime contextual information and weighting the	02:39:18
10	PIC scores based on previous event data for the	02:39:22
11	subscriber in the product categories. PIC scoring	02:39:29
12	aggregates weighing and scoring for behaviors and	02:39:30
13	context for subscribers. For example, the	02:39:34
14	subscriber's unique location and internet	02:39:36
15	connectivity may be used in the weighting PIC	02:39:38
16	scores. The more receptive subscriber is given a	02:39:42
17	greater weight in their PIC score."	02:39:46
18	Did you want me to read additional	02:39:54
19	paragraphs?	02:39:56
20	Q Yes. That's fine.	02:39:57
21	A Okay.	02:39:59
22	Q When you say "realtime contextual	02:39:59

1 information," is that part of the unique 02:40:01
2 identifier?

3 A What Grannan is disclosing here is 02:40:24
4 that -- is adjustments to the PIC score or 02:40:27
5 weighting the PIC score, and the PIC score is 02:40:33
6 based on realtime contextual information and 02:40:35
7 weighting the PIC score. I don't see a reference 02:40:41
8 here to whether or not realtime contextual 02:40:43
9 information is a unique identifier. It's 02:40:47
10 referencing the PIC score. 02:40:51

11 Q So in your opinion, the realtime 02:40:55
12 contextual information is not part of a unique 02:40:57
13 identifier, correct? 02:41:02

14 A I would say it's more about the first 02:41:52
15 quality level than a unique identifier. 02:41:54

16 Q And you continue in that same sentence and 02:41:56
17 talk about previous event data at the very top of 02:41:58
18 Page 35. 02:42:00

19 Do you see that? 02:42:01

20 A Yes. 02:42:08

21 Q Is previous event data part of a unique 02:42:08
22 identifier? 02:42:11

1	A I would probably look at the language that	02:42:36
2	I've written that a PIC score itself is related to	02:42:48
3	the first quality level. Previous event data	02:42:53
4	would necessarily be part of the what I'll call	02:43:01
5	the user profile, information about that user. So	02:43:03
6	they're not expressly related to a unique	02:43:14
7	identifier, no.	02:43:17
8	Q Two lines down, you say -- the next	02:43:23
9	sentence says: "PIC scoring aggregates weighting	02:43:36
10	and scoring for behaviors and context for	02:43:38
11	subscribers."	02:43:42
12	Do you see "behaviors and context for	02:43:42
13	subscribers"?	02:43:45
14	A Yes, I see that.	02:43:45
15	Q Are those part of a unique identifier?	02:43:46
16	A Well, PIC scoring aggregates weigh and	02:44:05
17	scoring for behaviors and content, and the PIC	02:44:07
18	score is more related to the quality level and the	02:44:16
19	quality level, of course, is different than a	02:44:29
20	unique identifier.	02:44:31
21	Q So is your answer no?	02:44:36
22	A Well, it's not that easy. I mean, some	02:44:38

1 questions can't be answered, you know, binarily, 02:44:41
2 but ask it again and let's see if I can be more -- 02:44:45
3 be more explanatory. 02:44:49

4 Q Are behaviors in context for subscribers 02:44:51
5 part of a unique identifier? 02:44:55

6 A What I've referenced here is that PIC 02:45:07
7 scoring aggregates weighing and scoring for 02:45:09
8 behaviors in context for subscribers. For 02:45:10
9 example, the subscriber's unique location. 02:45:13
10 Internet connectivity may be used in weighting PIC 02:45:16
11 scores. The more receptive subscriber is given a 02:45:18
12 greater weight. So as far as the actual PIC score 02:45:24
13 being equal to a unique identifier, by itself, the 02:45:32
14 answer would be no. 02:45:40

15 Q The next sentence you just read, for 02:45:49
16 example, the subscriber's unique location and 02:45:54
17 internet connectivity. 02:45:56

18 Do you see those? 02:45:57

19 A Yes. 02:45:58

20 Q Are a subscriber's unique location and 02:46:00
21 internet connectivity part of a unique identifier? 02:46:03

22 A Well, the unique location and internet 02:46:19

1 connectivity is used in weighting PIC scores, and 02:46:22
2 without limiting PIC scores with respect to unique 02:46:26
3 identifier, without limiting that, the PIC scores 02:46:31
4 are more related to the first quality level in 02:46:34
5 this particular limitation. 02:46:41

6 Q So your answer is no? 02:46:44

7 A No, my answer is that the PIC score itself 02:46:53
8 is related to the first quality -- I think we 02:46:59
9 called it the first quality level, so the actual 02:47:03
10 individual element of the PIC score -- the actual 02:47:14
11 PIC score itself would not be considered in my 02:47:19
12 view a unique identifier. 02:47:30

13 Q I'm sorry, that was not my question. I'm 02:47:30
14 not really talking about PIC scores right now. I 02:47:32
15 just want to know whether a unique location and 02:47:35
16 internet connectivity are part of a unique 02:47:38
17 identifier. 02:47:45

18 A Well, I can't answer that question without 02:47:45
19 understanding what unique location and internet 02:47:47
20 connectivity is, which is what I'm describing. So 02:47:51
21 I'm saying the subscriber's unique location and 02:47:54
22 internet connectivity may be used in weighing the 02:47:59

1	PIC scores. So I can't discuss one without the	02:48:01
2	other, so that's why I brought in the PIC scores.	02:48:03
3	And if PIC scores are more related to quality	02:48:07
4	level, by itself, they would not be unique	02:48:09
5	identifiers.	02:48:23
6	Q Would they be unique identifiers in	02:48:23
7	combination with anything?	02:48:26
8	A Would what be used?	02:48:28
9	Q Well, you seem to say unique identifier	02:48:30
10	and internet connectivity alone would not be	02:48:35
11	unique identifiers. Could they be unique	02:48:41
12	identifiers in combination with anything else?	02:48:44
13	A Well, hypothetically speaking as I	02:48:46
14	understand the question, internet connectivity	02:48:50
15	would unlikely be used as a unique identifier, but	02:48:54
16	again, it would depend on analyzing that actual	02:49:02
17	term and doing some interpretation of what	02:49:07
18	internet connectivity means in a broader and	02:49:12
19	narrower sense. But just looking at the term	02:49:15
20	itself, limited -- limited internet connectivity	02:49:17
21	would not likely be used as a unique identifier by	02:49:21
22	itself.	02:49:28

1 Q I understood that it would not be a unique
2 identifier by itself.

3 A Yes.

4 Q My question was could it be a unique
5 identifier in combination with anything else?

6 A Well, I mean, again, I don't know if I
7 address that particular issue, but typically, or
8 let's say internet connectivity in combination
9 with something else, I'm not sure exactly what
10 that would be as I sit here, but there's probably
11 a hypothetical situation that I could come up
12 with. But so that yes, I'd say it could be used
13 as a unique identifier.

14 I don't say it would be used very often,
15 but there's probably some circumstance under which
16 internet connectivity plus something else could be
17 a unique identifier.

18 Q How about a unique location, does Grannan
19 teach that a unique location is a unique
20 identifier?

21 A Yeah. I would likely give the same answer
22 with the only caveat that locations such as a GPS

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1	coordinate network might be more easier to	02:51:02
2	hypothetically combine with something else and	02:51:04
3	form a unique identifier.	02:51:06
4	MR. DOOLEY: Why don't we take a quick	02:51:12
5	break.	02:51:13
6	(A recess was had.)	02:51:20
7	BY MR. DOOLEY:	02:58:11
8	Q Dr. Sherwood, welcome back.	02:58:12
9	A Thank you.	02:58:14
10	Q Let's keep going on Element [1c]. Let's	02:58:14
11	talk about Yang, if we could get that in the chat.	02:58:17
12	It is already in the chat. That should be	02:58:24
13	Exhibit 1006. And you're free to also download	02:58:26
14	Exhibit 1009. That's right above it in the chat,	02:58:59
15	that's Ramaiyer.	02:59:02
16	Dr. Sherwood, do you have Yang downloaded?	03:00:17
17	A What I have is ICDM 2003.	03:00:29
18	Q The document should start with	03:00:39
19	Exhibit 1006.	03:00:42
20	A Yes, down in the lower right corner, yes.	03:00:43
21	Q I won't be referring to that directly, but	03:00:46
22	I just wanted to make sure you had it in front of	03:00:51

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1	you.	03:00:54
2	A Okay. I have it in front of me.	03:00:54
3	Q So back to your declaration. I believe	03:00:57
4	your analysis of Yang starts on Paragraph 97.	03:01:02
5	A I'm at Paragraph 97.	03:01:14
6	Q How does Yang collect the data it uses in	03:01:33
7	order to perform its clustering?	03:01:42
8	A I beg your pardon?	03:01:47
9	Q How does Yang collect the data it uses in	03:01:49
10	order to perform the clustering?	03:01:51
11	A Paragraph 98 -- by the way, is Mr. Dooley	03:02:37
12	still here? I don't see his picture.	03:02:45
13	Q I'm still here.	03:02:48
14	A Okay. Never mind.	03:02:49
15	So Paragraph 98, Yang teaches that by	03:02:51
16	using the features of an online session, so using	03:02:54
17	the operative term "how" in your question, then	03:03:00
18	the online sessions is where this particular data	03:03:03
19	capturing would start. And according to the way	03:03:07
20	Yang describes it, he's collecting time-related	03:03:19
21	features, average time per page, average time per	03:03:23
22	category of site, most visited site category,	03:03:26

1	quantity-related features. So he's basically	03:03:34
2	monitoring a session from a single device -- and I	03:03:36
3	think I've described that here, but he's	03:03:45
4	monitoring a session from a single device with	03:03:47
5	multiple users.	03:03:51
6	And yeah, that's how I would describe it.	03:03:55
7	I mean, I could be more specific, I think he's	03:04:01
8	more specific, but essentially he's using session	03:04:03
9	data.	03:04:07
10	Q Does Yang base its individual -- strike	03:04:13
11	that.	03:04:16
12	Does Yang base its identification of	03:04:17
13	individual users based on that monitored user	03:04:19
14	activity?	03:04:23
15	A Well, the answer is necessarily yes, but	03:04:37
16	just -- we'll make sure that I'm responding in the	03:04:42
17	right level of detail. Paragraph 98: "Yang	03:04:48
18	teaches that by using the features of an online	03:04:52
19	session such as time-related features," which we	03:04:55
20	just talked about, right, "and order-related	03:04:58
21	features, second site, first category, second	03:05:04
22	category, the features can be clustered so as to	03:05:07

1	around 70 percent of the clusters we get are more	03:05:13
2	than 95 percent pure (a cluster is considered	03:05:16
3	95 percent pure if at least 95 percent of the	03:05:21
4	transaction in the cluster being entirely to a	03:05:25
5	single user.)	03:05:28
6	Q Let's go all the way to Page 81, please,	03:05:36
7	where you start talking about Ramaiyer. You	03:05:43
8	mention the Ramaiyer first in Paragraph 194, but I	03:05:50
9	will be talking about Paragraph 198.	03:06:00
10	A All right. Oh, 198.	03:06:03
11	Q Yeah. I don't want to -- if you need to	03:06:05
12	read from 194 where Ramaiyer starts, you're	03:06:10
13	welcome to.	03:06:13
14	A Let me just get to that area. I'm at	03:06:14
15	Paragraph 194. I'm sorry. What's the question?	03:06:37
16	Q Paragraph 198, you say: "Ramaiyer teaches	03:06:50
17	that tracking of sessions of user behavior on a	03:06:55
18	device to predict the user of the device based on	03:06:58
19	clustering of the data."	03:07:02
20	Do you see that?	03:07:03
21	A Yes.	03:07:05
22	Q And that user behavior includes "clicking"	03:07:06

1	and "browsing" in the next sentence, correct?	03:07:12
2	A Yes.	03:07:19
3	Q So Ramaiyer also teaches monitoring user	03:07:19
4	activity; is that fair?	03:07:22
5	A I think it's fair. I mean, I think it's	03:07:32
6	monitoring user activity via sessions, yes.	03:07:41
7	Q And then it's using that activity to	03:07:44
8	predict the user of the device?	03:07:47
9	A Ramaiyer's clustering algorithm is used to	03:07:55
10	group user sessions into clusters so that each	03:07:59
11	cluster is associated with a different user, yes.	03:08:02
12	Q Can we turn to Page 38, please,	03:09:34
13	Paragraph 102.	03:09:38
14	A I'm at Paragraph 102.	03:10:19
15	Q Here we are at Element [1d], correct?	03:10:21
16	A Yes, [1d], as in David, yes.	03:10:24
17	Q You say that in the first sentence: It	03:10:26
18	ends with "an indication of interest in the first	03:10:31
19	category (contribution score)."	03:10:34
20	Do you see that?	03:10:36
21	A Yes.	03:10:37
22	Q Are you identifying the contribution score	03:10:40

1 as the indication of interest in the first 03:10:42

2 category? 03:10:46

3 A Grannan discloses or renders obvious 03:10:47

4 determining for a user associated with a user 03:10:52

5 profile an indication of interest in a first 03:10:54

6 category, contribution score. As discussed in 03:10:58

7 [1b], [1b] as in boy, a user's quality level PIC 03:11:19

8 score is updated in the AKMS using contribution 03:11:22

9 scores that reflect the user's interest in certain 03:11:26

10 products and product categories. 03:11:28

11 I was finished just in case you were 03:12:03

12 waiting for me. 03:12:05

13 Q I was waiting for you. So are you 03:12:06

14 identifying the contribution score as an 03:12:14

15 indication of interest in a first category? 03:12:15

16 A Determining for a user associated with a 03:12:50

17 user profile an indication of interest in first 03:12:52

18 category, it's the determining part that is the 03:12:55

19 contribution score, right, and that's associated 03:13:03

20 with the user profile. 03:13:08

21 Q When you say the "determining part," do 03:13:11

22 you mean that indication of interest is not the 03:13:14

1	contribution score?	03:13:17
2	A Well, the way it's -- actually reading	03:13:19
3	what we're looking at, it says: Grannan discloses	03:13:23
4	or renders obvious determining an indication of	03:13:26
5	interest in a first category contribution score.	03:13:31
6	Q I see those words on the page.	03:13:40
7	A Yeah.	03:13:42
8	Q But are you saying that an indication of	03:13:43
9	interest is something else other than a	03:13:44
10	contribution score?	03:13:48
11	MR. ISHMAEL: Objection. Form.	03:13:50
12	BY THE WITNESS:	03:13:52
13	A Not limiting to that, but I'm saying	03:13:53
14	indication of interest in a first category	03:13:55
15	combination -- contribution score, right?	03:14:01
16	BY MR. DOOLEY:	03:14:05
17	Q If you're not limited to that, what else	03:14:05
18	is part of an indication of interest?	03:14:07
19	A I'm not specifying that. I'm just looking	03:14:10
20	at what Grannan discloses, not what he might have	03:14:15
21	disclosed but what he did disclose, which is	03:14:19
22	exactly what I've written here.	03:14:26

1 Q You're saying what he did disclose is the 03:14:28
2 contribution score is larger than an indication of 03:14:30
3 interest? 03:14:32

4 A He indicated -- 03:14:34

5 MR. ISHMAEL: Object to form. 03:14:34

6 BY THE WITNESS: 03:14:43

7 A Pardon me. 03:14:44

8 A contribution score is an indication of 03:14:44
9 interest for sure because it's looking at the 03:14:48
10 original PIC score and what's happened after that. 03:14:55
11 So, yes, a contribution score is an indication of 03:15:01
12 interest. 03:15:04

13 BY MR. DOOLEY: 03:15:10

14 Q You say that contribution scores are added 03:15:11
15 to a subscriber's PIC score, correct? 03:15:16

16 A I'm not sure how, in fact -- whether it's 03:15:26
17 limited to added because there are situations 03:15:34
18 where -- and ones that I describe in my report 03:15:39
19 where the user has done something such as 03:15:43
20 purchased a product, and her PIC score is 03:15:47
21 modified. And if the modification is a plus or 03:15:53
22 minus contribution, then it would be handled. 03:15:58

1 But typically, it's modifying the PIC 03:16:02
2 score in a positive direction. That's how I 03:16:11
3 looked at it, but it doesn't necessarily have to 03:16:15
4 do that. 03:16:17

5 Q And you -- at the end of Paragraph 103, 03:16:25
6 you say: "The final PIC score is tallied by 03:16:30
7 evaluating previous purchases." 03:16:32

8 Do you see that? 03:16:34

9 A It says: "Grannan also discloses that the 03:16:39
10 final PIC score is tallied by evaluating previous 03:16:41
11 purchases." Yes. 03:16:45

12 Q Do you contend that the final PIC score is 03:16:50
13 tallied by evaluating previous searches as well? 03:16:55

14 A Did you then say "previous searches" or 03:16:58
15 did you say "previous purchases"? 03:17:01

16 Q Searches. 03:17:03

17 A Searches? 03:17:06

18 Q Correct. 03:17:07

19 A No, all I'm relating here is the final PIC 03:17:07
20 score is tallied by evaluating previous purchases. 03:17:10

21 MR. DOOLEY: Let's go off the record, 03:17:35
22 please. 03:17:36

Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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1	(A recess was had.)	03:22:37
2	MR. DOOLEY: Dr. Sherwood, that's all the	03:22:43
3	questions that I have.	03:22:45
4	Mr. Ishmael, the witness is yours.	03:22:54
5	MR. ISHMAEL: No redirect for us. So we	03:22:57
6	are all set.	03:23:01
7	(Deposition concluded at 3:23 p.m. CST.)	03:23:13
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1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Theresa A. Vorkapic, Certified
3 Reporter and Notary Public within and for the
4 State of Illinois do hereby certify:

5 That ROBERT J. SHERWOOD, the witness whose
6 deposition is hereinbefore set forth,

7 Was duly sworn by me before the
8 commencement of such deposition and that such
9 deposition was taken before me and is a true
10 record of the testimony given by such witness.

11 I further certify that the adverse
12 party, patent owner, was represented by counsel at
13 the deposition.

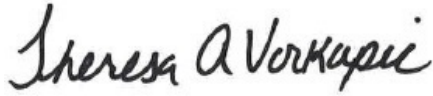
14 I further certify that the deposition of
15 ROBERT J. SHERWOOD, occurred virtually on Friday,
16 June 13, 2025, commencing at 9:37 a.m. to 3:23
17 p.m.

18 I further certify the inspection,
19 reading and signing of said deposition was
20 waived on the record by agreement of all parties.

21 I further certify that I am not related
22 to any of the parties to this action by blood

1 or marriage, I am not employed by or an attorney
2 to any of the parties to this action, and that I
3 am in no way interested, financially or otherwise,
4 in the outcome of this matter.

5 IN WITNESS WHEREOF, I have hereunto set
6 my hand this 13th day of June, 2025.

7 
8

9
10 Theresa A. Vorkapic

11 My commission expires November 6, 2027.

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Transcript of Robert J. Sherwood
Conducted on June 13, 2025

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