

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SLACK TECHNOLOGIES, LLC. and
SALESFORCE, INC.,
Petitioners,

v.

WRINKL, INC.,
Patent Owner

Case Nos.: IPR2024-01489, IPR2024-01490
U.S. Patent No. 11,973,731

REMOTE DEPOSITION OF KEVIN C. ALMEROTH, PH.D., a
witness herein, pursuant to notice, the witness being duly
sworn by TERI C. GIBSON, Notary Public in and for the
State of Massachusetts, the witness physically located in
Santa Barbara, California, at 2:37 p.m. EST, October 28,
2025, and the proceedings taken down by Mechanical
Stenography and computer-aided transcription by TERI C.
GIBSON, CSR, RPR, CRR.

Job No. 10175963

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16

17 ALSO PRESENT:

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20 *****

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24		Date of Patent: April 30, 2024.	
25		*****	

1 P-R-O-C-E-E-D-I-N-G-S

2 THE COURT REPORTER: This is Teri
3 Gibson. I'm a registered professional court
4 reporter and a notary public in the Commonwealth
5 of Massachusetts. This deposition is being taken
6 remotely, the witness is appearing remotely from
7 the City of --

8 Mr. Almeroth, where are you located
9 presently?

10 THE WITNESS: Santa Barbara,
11 California.

12 THE COURT REPORTER: The attorneys
13 participating in this proceeding acknowledge
14 their understanding that I'm not physically
15 present in the proceeding room, nor am I
16 physically present with the witness, and that I
17 will be reporting this proceeding remotely. They
18 further acknowledge that in lieu of an oath
19 administered in person, I will swear in the
20 witness. They further acknowledge that in lieu
21 of an oath administered in person, the witness
22 will verbally declare his testimony in this
23 matter under the pains and penalties perjury.
24 The parties and their counsel consent to this
25 arrangement, and waive any objections to this

1 manner of proceeding.

2 Counsel, can you acknowledge that,
3 please.

4 MR. KAO: Yes, acknowledged for
5 petitioner.

6 MR. KATZ: And acknowledged for patent
7 owner.

8 THE COURT REPORTER: Thank you.

9 Please indicate your agreement by
10 stating your name and your agreement on the
11 record, after which the notary public will swear
12 in the witness, and we may begin. We have that
13 affirmation on the record.

14 So at this time, we will ask the
15 witness to raise his right hand, and I will swear
16 in the witness.

17 (Witness sworn.)

18 THE WITNESS: Yes, ma'am, I do.

19 THE COURT REPORTER: Counsel, you may
20 begin.

21 MR. KAO: Thank you.

22 KEVIN C. ALMEROTH, PH.D.,
23 called as a witness, having been first duly sworn to tell
24 the truth, the whole truth, and nothing but the truth, was
25 examined and testified as follows:

EXAMINATION

BY MR. KAO:

Q. Dr. Almeroth, can you just please state your full name for the record.

A. Kevin Christopher Almeroth.

Q. And you understand that you are here to testify today regarding the declarations you submitted in IPR numbers 2024-1489 and 2024-1490?

A. Yes.

Q. How many times have you been deposed before, Dr. Almeroth?

A. More than about 200, at this point.

Q. Because you're very familiar with the process then, I'm not going to go over a lot of the standard instructions that we do at the beginning, but I will note that if you need to take a break at any time, just let us know, and we will stop and take a break?

A. Thank you.

Q. And I will also assume that if you answer one of my questions, you've understood the question and are providing your full answer, is that fair?

A. Yes.

Q. Is there any reason why you can't give your best testimony today, Dr. Almeroth?

1 A. No.

2 **Q. Did you do anything to prepare for this**
3 **deposition?**

4 A. I did.

5 **Q. What did you do?**

6 A. Primarily, I reviewed my two declarations,
7 review of those declarations included reviewing the
8 '731 patent and some of the documents cited or relied
9 on in the declaration, principally the prior art
10 references. I also met with counsel.

11 **Q. And by counsel, did you mean with Mr. Katz**
12 **who is present here today?**

13 A. Yes.

14 **Q. Was there anyone else present at that**
15 **meeting?**

16 A. Yes. There was another attorney.

17 **Q. Do you recall the name of the other**
18 **attorney?**

19 A. Larry. I don't remember his last name.

20 **Q. Approximately, how long did you meet with**
21 **counsel?**

22 A. I would say about four hours. I don't
23 specifically remember. I think that's about right.

24 **Q. Apart from your meeting with counsel, did**
25 **you meet with anyone else regarding your deposition?**

1 A. I believe at one point Mr. Cohen was
2 present for a portion of our -- for my preparation.

3 **Q. Was your preparation done by phone or**
4 **videoconference?**

5 A. No. It was done in person, and then
6 Mr. Cohen joined by, I believe, Zoom.

7 **Q. Was Mr. Cohen present for the entire**
8 **session or just portions of it?**

9 A. Just a portion.

10 **Q. Did you have any specific discussions with**
11 **Mr. Cohen during your prep session?**

12 A. No. I think it was more of a general
13 conversation, and I don't think he said anything that
14 I'm relying on in the context of either the
15 declarations or this deposition.

16 **Q. Did you take any notes of anything**
17 **specifically that you discussed with Mr. Cohen?**

18 A. No.

19 **Q. Prior to meeting with Mr. Cohen for your**
20 **deposition prep, had you had prior discussions with or**
21 **meetings with Mr. Cohen?**

22 A. I believe I did in the past.

23 **Q. Was this prior to your preparation of the**
24 **two declarations that you've submitted in these**
25 **proceedings?**

1 **Are you frozen Dr. Almeroth, or am I**
2 **frozen?**

3 THE COURT REPORTER: His camera went
4 out, so I'm not sure what happened.

5 MR. KAO: Hopefully he'll be able to
6 reconnect.

7 THE COURT REPORTER: We're off the
8 record.

9 (Off the record at 2:45 p.m.)

10 THE COURT REPORTER: We're back on the
11 record, counsel?

12 MR. KAO: Yes.

13 THE COURT REPORTER: On the record.

14 (On the record at 2:47 p.m.)

15 BY MR. KAO:

16 **Q. When you met with -- well, strike that.**
17 **How many times have you met with or had**
18 **discussions with Mr. Cohen prior to your deposition**
19 **prep?**

20 A. I am not sure. I also think it would have
21 been in the context of a previous IPR or the
22 underlying District Court case. I am not sure how far
23 we got on either of those, but my recollection was
24 when I saw Mr. Cohen it was not the first time that I
25 had met him.

1 **Q. Prior to your being retained as an expert**
2 **for these two IPR proceedings, had you been retained**
3 **by Wrinkl as an expert in other matters?**

4 A. Yes.

5 **Q. What matters were those?**

6 A. There was a previous IPR and then I believe
7 there was also a pending EPR.

8 **Q. And you mentioned, I think, also prior**
9 **litigation matters; is that the case?**

10 A. I remember the IPR. I don't know if I had
11 been retained for the --

12 THE COURT REPORTER: You're frozen.

13 Repeat your answer, because we had a frozen
14 moment there.

15 A. I don't recall if I was retained to work on
16 the underlining litigation or not. I don't remember
17 what the retention letter said.

18 **Q. Do you recall the parties in the prior IPR**
19 **that you worked on, on behalf of Wrinkl?**

20 A. I don't specifically. It would be in my
21 CV. I can pull it up if you want a quick answer.

22 **Q. Was the petitioner Meta on that case?**

23 A. Yes.

24 **Q. Do you recall the parties in the EPR that**
25 **you were also working on, on behalf of Wrinkl?**

1 A. I do not recall who filed the re-exam
2 petition.

3 **Q. Do you know if it's Unified Patents?**

4 A. That sounds right.

5 **Q. With respect to the prior IPR matter with**
6 **Meta, is your work in that engagement complete?**

7 A. To my knowledge, as I sit here right now.

8 **Q. Were you deposed in that matter?**

9 A. I believe so, yes.

10 **Q. With respect to the EPR matter, is your**
11 **work in that matter completed?**

12 A. I have filed a declaration. I don't recall
13 if there is an opportunity for follow-up or not. I
14 haven't been asked to do any work recently. Let me
15 rephrase. I haven't been asked, to my recollection,
16 to do any work after submitting the declaration, but I
17 don't know what the status of that EPR is.

18 **Q. Do you recall roughly when you were first**
19 **engaged in the IPR matter with Meta?**

20 A. I do not.

21 **Q. Prior to your work in that matter, the IPR**
22 **with Meta, had you done any work with Wrinkl?**

23 A. Not that I recall, sitting here now.

24 **Q. Were you familiar, at all, with Wrinkl**
25 **prior to being engaged as an expert in the Meta IPR**

1 **matter?**

2 A. Sitting here now, I -- I don't have either
3 a direct recollection or an indirect recollection,
4 indirect meaning I don't have a specific memory of
5 when I was retained in the original IPR that I had
6 heard of Wrinkl before. I suspect if I had, I might
7 remember now, and sitting here now, kind of
8 independently, I don't recall anything specific about
9 Wrinkl before I was retained in the original IPR, the
10 Meta IPR.

11 **Q. Have you been retained as an expert witness**
12 **for the District Court litigation brought by Wrinkl**
13 **against Slack and Salesforce?**

14 A. I do not know.

15 **Q. Can you tell me your hourly rate for this**
16 **engagement with respect to the two IPR proceedings at**
17 **issue here?**

18 A. It's 850 an hour.

19 **Q. And can you tell me roughly the amount of**
20 **time you've spent on these two proceedings?**

21 A. I would say it's in the neighborhood of
22 about 25 hours. Actually, it's probably more than
23 that now. It's definitely more than that now. I
24 think the 25 hours -- actually, I'm sorry. Let me
25 start over.

1 I think it was about 25 hours for one of
2 the IPRs to work on the declaration. I think it was
3 about 10 to 15 hours on the other one, and then there
4 was all of the depo preparation that's happened before
5 today in the last couple days.

6 **Q. Do you recall roughly how much time you**
7 **spent working on the prior IPR proceeding with Meta?**

8 A. I don't. Generally, it will take anywhere
9 from 25 to 50 hours to work on the declaration. I
10 think that that declaration would have generally been
11 in line with that number, and then there would have
12 been time to prep and do the deposition for the IPR.

13 **Q. And do you recall approximately how much**
14 **time you spent on the EPR?**

15 A. I think for the EPR, it would be in about
16 the 10 to 15-hour range.

17 **Q. Can you tell me roughly how many IPR or EPR**
18 **or PGR proceedings you've served as an expert in?**

19 A. I would say it would be in the ballpark of
20 about 100.

21 **Q. And are you able to estimate how often**
22 **you've served as an expert for the patent owner versus**
23 **the petitioner in those proceedings?**

24 A. Generally, my answer is I think it's split
25 fairly evenly. If you add up the total, over smaller

1 periods of time it might be slightly more weighted
2 towards petitioners or patent owners.

3 Q. I'm sorry. I didn't quite catch that.
4 Slightly more weighted towards which?

5 A. Towards one or the other.

6 Q. Okay.

7 A. I mean I've had instances, I think in one
8 case like 13 IPRs filed, and so that would have been a
9 fairly significant bubble related to patent owners
10 that would filter through my timeline. So if you used
11 kind of a smaller window, a sliding window over that
12 period, it probably would be more weighted toward
13 patent owners, but then kind of conversely, there's
14 been a bunch of declarations in support of petitions
15 as well.

16 Q. And would that same breakdown roughly be
17 true of cases in which you've served as an expert in
18 District Court litigation?

19 A. Yes. I think I've -- I've been fairly
20 evenly weighted between their patent owners and
21 defendants, plaintiffs and defendants.

22 Q. In your prior cases that you've worked on,
23 either District Court litigation or, you know, PTAB
24 proceedings, have any of those cases involved
25 graphical user interfaces?

1 A. Yes.

2 **Q. Can you tell me what cases those were, for**
3 **the best of your recollection?**

4 A. Sure. Do you mind if I pull up a CV?

5 MR. KAO: Sure. Why don't we just, for
6 the sake of the record, I can just mark this as
7 Exhibit 1, and put it in the chat box for you.

8 (Exhibit 1 marked for identification,
9 Curriculum Vitae of Kevin C. Almeroth.)

10 BY MR. KAO:

11 **Q. Hopefully, you'll be able to access that**
12 **and download it.**

13 A. Okay. I got it downloaded and opened.

14 **Q. Okay.**

15 A. So this is on Page 37 of the PDF. It
16 covers cases in the last four years that I've been
17 deposed or testified at hearing or trial. I can run
18 through, kind of, the cases that are there. I'll do
19 my best. In some cases, especially more recent ones,
20 I have a couple cases in mind that I'll get to later
21 in the list where I -- we're actually going to trial
22 next week in one of the cases, and I know it has claim
23 limitations about user interfaces under "what you see
24 is what you get", kind of styling. But some of these
25 other cases early on have aspects of user interfaces.

1 Even for the first one that's listed here,
2 it's generally about video doorbells, and aspects of
3 that case were the user interface and user controls
4 via a mobile device, generally along the lines, as you
5 might expect, with respect to being able to remotely
6 receive somebody who comes and rings your doorbell or
7 where video is being activated based on motion
8 detection.

9 The third case down, for VideoShare v.
10 Google, that was a case about uploading user generated
11 content and making it available via a website, and so
12 there were user interface elements around being able
13 to upload the video, and then once uploaded, prepare
14 it for requests from the user.

15 In the Chewy v. IBM case, that case was
16 about how to display Web pages in combination with
17 advertisements. Actually, the original technology was
18 from AOL, which IBM purchased and managed to have a
19 priority date that was 1988 that's still asserted
20 today, and that had to do with the layout of
21 advertising and non-advertising content on a Web page.

22 Let's see.

23 That Peloton v. Icon case, that had to do
24 with network support for a user interface that
25 essentially comes through a Peloton tablet, so you get

1 race statistics, where you are. You can watch
2 classes, and I think, in part, an element of those
3 claims was being able to link an instructor with
4 students and have the instructor be able to control
5 aspects of the student's bike, so things like the
6 resistance level, time levels, and to have all of that
7 displayed in a user interface. There are a couple of
8 Peloton cases there.

9 Further down there's the IPR for Meta v.
10 Wrinkl.

11 Hyundai v. Stratos, I've done quite a few
12 cases that deal with essentially putting computers and
13 computer technology into vehicles as kind of just a
14 different domain, and they're user interfaces. In
15 some of those cases, there were limitations around
16 providing a user interface that would not distract the
17 driver.

18 The next is Shopify v. Express Mobile.
19 That is actually one of the cases I was talking about.
20 It's a different defendant, but it's going to trial
21 against GoDaddy, and that has to do with basically
22 being able to have a, "what you see is what you get"
23 user interface, design the layout for a Web page, and
24 then to be able to publish that so that you can
25 facilitate kind of a mom and pop store being able to

1 set up a user interface. This is -- I mean, it's
2 styled here Shopify v. Express Mobile, that was a DJ.
3 So -- sir, I generally would put that in the plaintiff
4 column since it was a DJ.

5 There's also FirstFace, that was a user
6 interface, but I think it was for haptics and -- I
7 actually think it was limited to haptics for logging
8 into a mobile device. You might have been able to do
9 like a user or a human face detection.

10 Let's see.

11 Page 39, four down, there is another IBM
12 case. It's the same patents, as I mentioned before.

13 The next one down, Omnitracs is related to
14 user interfaces for tracking semis as they move around
15 and have certain job orders. There was a significant
16 user interface component to what the truckers would
17 use.

18 There's another IBM v. Zynga case, those
19 are the same patents.

20 There is a series of Touchstream cases.
21 Those had to do with a user interface where you could
22 select content, essentially to be cast to another
23 device, used technology would be things likes you can
24 pull up a TV and via the interface select Netflix or
25 Hulu and it would be able to seamlessly display on

1 your TV or mobile device.

2 On to Page 40. There is the Contour v.
3 GoPro case. That actually just finished in trial.
4 That had to do with simultaneously recording a
5 high-quality video, and then also streaming a lower
6 quality version to a remote device, and then being
7 able to, through the user interface of that remote
8 device, execute remote control commands to adjust
9 settings on the GoPro camera itself.

10 There's another Peloton case. I think that
11 was more about higher or adapted bit rate.

12 There's the Zoom Video case. Marble was
13 plaintiff. I think that was about voiceover IP
14 technology and the user interface there.

15 Robocast was about user interfaces for
16 being able to select different kinds of content for
17 playback.

18 And then on to Page 41, there's another car
19 case. There might be part of my CV that's missing at
20 the top of that page.

21 TikTok was about, basically, the mechanics
22 of how you would build the user interface and populate
23 it with content, kind of, sequentially so a person
24 could flip through different content.

25 Those are the ones that come to mind.

1 **Q.** Apart from the prior Wrinkl case, did any
2 of these cases listed here in your CV involve a chat
3 system or a messaging system of any kind?

4 A. I'd have to go back and look. I don't
5 recall chats specifically. There were a couple of
6 distant education cases. There might have been a chat
7 there. Obviously, they didn't go very far. I wasn't
8 deposed or testified.

9 In terms of messaging, I would understand
10 your question to be sort is of user level messaging as
11 opposed to, you know, like RPC, remote procedure call
12 messaging.

13 **Q.** Correct.

14 A. Not specifically that comes to mind, but
15 there's a good chance I might be misremembering a
16 case. This is also in the last four years. There's
17 obviously cases earlier than four years ago.

18 **Q.** And just so the record is clear, I take it
19 that when you've underlined the party in one of these
20 proceedings, that's the party that retained you as an
21 expert?

22 A. Yes. That's correct.

23 **Q.** Is everything in this CV accurate to the
24 best of your knowledge?

25 A. Up until the case history, yes. There is

1 probably a few program committees for conferences that
2 I've served on in 2025. The case history was accurate
3 as of the time I submitted the declaration. It will
4 probably have a few more cases on it, or for example,
5 the GoPro case now goes into the finished category, at
6 least to my understanding.

7 **Q. Have you ever been precluded from**
8 **testifying in any case for any reason?**

9 A. Precluded, that involves sort of Dauberts,
10 yes. I've had Dauberts filed and granted, at least in
11 part, in some courts.

12 **Q. Do you recall what cases those were or the**
13 **reasons for your exclusion in those cases?**

14 A. Yes. So Dauberts have gotten fairly
15 popular. In some cases it's used to streamline cases.
16 I had one case, I think it was Eon v. Silver Springs,
17 E-O-N, where the Daubert that was granted limited me
18 to the scope of the opinions that were in the report.
19 So the reason why the Daubert was filed was because I
20 had a boilerplate paragraph that after the
21 anticipation analysis that said, to the extent any
22 limitation is determined not to be present in the
23 reference, it would have been obvious to a person of
24 skill in the art, and there was some debate among the
25 parties as to the extent to which I could offer

1 testimony in that vein, and the court granted the
2 Daubert and just -- saying that.

3 Another case, Robocast v. Microsoft, and
4 Apple, I had offered opinions as to the priority
5 date -- or sorry, the conception date in the report
6 based on an interrogatory, we only addressed the claim
7 term, the claim limitations that were disputed by the
8 defendants as not being supported by the conception
9 documents. The court said -- granted their Daubert
10 and said, "You have to address all limitations, even
11 if they are not disputed," and then gave me the
12 opportunity to amend my report and identify support
13 for undisputed limitations.

14 So there have been Dauberts like that over
15 the last 20 years or so. More recently, I was
16 actually Dauberted in the Contour v. GoPro case. We
17 had a non-infringement argument that I think
18 Judge Orrick said was not based on a proper claim
19 construction, and so he Dauberted that
20 non-infringement argument.

21 Another case, I think it was Sprint v.
22 Charter -- Sprint v. Charter, and I had a written
23 description argument based on plaintiff's infringement
24 allegations. The case was -- the patents, I believe,
25 were about how to do voiceover IP over asynchronous

1 transfer mode. Their infringement allegations were
2 against voiceover IP.

3 I said, "if their infringement allegations
4 are accurate, then there is no written description for
5 support for how to do voiceover IP, since it was all
6 about voiceover ATM." So I said, "Under their claimed
7 scope for infringement, the patents would be invalid."

8 And it was a substitute judge from
9 Pennsylvania who ruled that I didn't apply the Court's
10 claim constructions in rendering that opinion, which I
11 actually agree with because if you did then there
12 would be no infringement. But he struck those. He
13 struck that written description opinion.

14 Those are kind of the ones that come to
15 mind, and I'm sure there has been another dozen or so
16 kind of along the same kinds of lines with respect to
17 particular opinions that I've offered in reports.

18 MR. KAO: Sorry. I'm trying to get the
19 next exhibit here.

20 Renumber -- I'm loading in the chat box
21 what's been marked as Exhibit 2, which is your
22 declaration, should be your declaration, in the
23 1489 proceeding, but I'll give you a chance to
24 download it and confirm that.

25 *****

1 (Exhibit 2 marked for identification,
2 declaration of Dr. Kevin C. Almeroth,
3 '1489.)

4 THE WITNESS: I have it downloaded.
5 Scrolling through it now.

6 Yes, that is my declaration, and my
7 signature at the end for August 21, 2025.

8 BY MR. KAO:

9 Q. I will ask you to turn to Paragraph 2 of
10 your declaration.

11 A. I'm there. Sorry.

12 Q. The second sentence in Paragraph 2 states:
13 "The '731 patent, however, claims
14 priority to various utility and
15 provisional applications, the earliest of
16 which is dated November 10, 2015, well
17 before Cohen's publication date."

18 Dr. Almeroth, in this case have you been
19 asked to determine the priority date for the '731
20 patent?

21 A. When you say, "in this case", I'm not sure
22 if you mean in either of these IPRs?

23 Q. Sure. Yes, in either of the two IPR
24 proceedings for which you've submitted declarations,
25 have you been asked to opine as to the priority date

1 **for the '731 patent?**

2 A. I -- let's see. I don't recall if I
3 reached an ultimate conclusion on that point. I mean,
4 you can look at, kind of, Paragraph 4, the summary of
5 opinion. I won't read it, but I think to the extent
6 that is a consideration as to the priority gained,
7 then I've offered that kind of an opinion.

8 My recollection from the 1490 IPR, is
9 there's a paragraph in there that I have identified a
10 date that I've been asked to assume for purposes of
11 priority. If I'm misremembering that there is such a
12 paragraph or -- then I would -- I would defer to what
13 the declaration says, but I think I can probably go
14 find it if -- if you want me to.

15 **Q. Sure. Why don't I, just so you have it,**
16 **let me load your declaration in the 1490 proceeding**
17 **into the chat box as Exhibit 3, that way you will have**
18 **that as well.**

19 A. Thank you.

20 (Exhibit 3 marked for identification,
21 declaration of Dr. Kevin C. Almeroth,
22 '1490.)

23 THE WITNESS: I've got it downloaded
24 and opened. I believe it is Paragraph 6 -- yes,
25 Paragraph 6 in Exhibit 3. Sorry. Hold on.

1 Exhibit 3 looks like 1489 again.

2 BY MR. KAO:

3 Q. Oh, did I -- I'm sorry. Let me give you a
4 corrected Exhibit 3. I must have just accidentally
5 uploaded the same thing.

6 A. It has the right file name.

7 Q. That's weird.

8 A. I have it.

9 Q. I've got it. It's just -- let me try
10 again. I don't know why it's the exact same.

11 Okay. Let me try Exhibit 3 again.
12 Hopefully, this one will work.

13 A. That is correct.

14 Q. Okay.

15 A. So here, if you turn to Paragraph 6, it
16 says, "My analysis assumes a priority date of
17 November 10, 2015." That's usually code for that's
18 what I was asked to assume and I don't -- I haven't
19 done in the declaration an independent confirmation
20 that that's the date to assume or the date to use.

21 Q. Okay. So for both of your -- let me strike
22 that.

23 For the work that you performed in these
24 proceedings you have been instructed to assume a
25 priority date of November 10, 2015?

1 A. I think that's right. That's the date that
2 I've assumed.

3 Q. And I think I understand from your
4 testimony that you haven't been asked to or formed an
5 opinion as to whether that is the correct priority
6 date for the '731 patent; is that fair?

7 A. I don't believe I've asked, been asked.
8 Specifically, again, the kind of caveat is going
9 through the comparison of the '731 patent and the '663
10 application is going to be in part probably supporting
11 an earlier conception, but the conclusion that I
12 reached was, you know, really in Paragraph 4 of
13 Exhibit 2.

14 Q. And as I understand the work that you
15 performed with respect to the declaration in the 1489
16 proceeding, is that you reviewed the '663 application
17 disclosures in comparison to the '731 patent; is that
18 accurate?

19 A. The '731 patent claims, yes, that's
20 accurate.

21 Q. Did you review any other applications that
22 were part of the priority chain with respect to the
23 '731 patent as part of your work in this, in these
24 proceedings?

25 A. Not that I recall, but I think that I would

1 just check materials considered if they had been
2 exhibit, if they were listed in the declaration, and
3 there was some opinion identifying those particular
4 documents. I don't have an instance that comes to
5 mind within either of two declarations where it says
6 that I've looked, but I defer to what the declarations
7 say, if I'm misremembering.

8 Q. As part of your work in the proceeding, did
9 you review the patent owner responses in the 1489 and
10 1490 proceedings?

11 A. My recollection is they did not. I might
12 have received them. They probably went into a folder
13 on the patent owner response, if I did receive them, I
14 don't recall spending any significant amount of time
15 with those documents.

16 MR. KAO: I'm loading into the chat box
17 Exhibit 4, which is the patent owner response of
18 the 1489 proceeding. I'm asking you to download
19 that, and I will have a few questions about it.

20 (Exhibit 4 marked for identification, Patent
21 Owner Response.)

22 THE WITNESS: It just appeared. I have
23 downloaded it, and it is now opened.

24 BY MR. KAO:

25 Q. And I will actually ask you to turn to

1 **Page 2 of this exhibit where there is a chart that**
2 **purports to be the priority chain for the '731 patent;**
3 **do you see that?**

4 A. I do.

5 **Q. Have you ever seen this chart before?**

6 A. I don't recall if I have or not. The chart
7 looks familiar to me, but I know I have seen charts
8 like this in other cases, and so I don't know if it's
9 familiarity is based on the structure, or that I've
10 seen this one specifically.

11 **Q. So just looking at the various patent**
12 **applications that are shown in this chart, apart from**
13 **the '663 application, which we discussed, did you**
14 **review and compare the disclosures in any of the other**
15 **applications listed here in this chart against the**
16 **'731 patent claims?**

17 A. For purposes of this IPR, I don't recall
18 doing so. I think it's kind of consistent with the
19 answer to your earlier question. If I've done any
20 sort of analysis of these other applications, they
21 would be contained in one or the other of the two
22 declarations.

23 MR. KATZ: I'm wondering if we can take
24 a five-minute break.

25 MR. KAO: Sure, no problem.

1 THE COURT REPORTER: Off the record.
2 (Off the record at 3:32 p.m.)

3 THE COURT REPORTER: Back on the
4 record, counsel?

5 MR. KAO: Yes.

6 THE COURT REPORTER: On the record.
7 (On the record at 3:38 p.m.)

8 MR. KAO: I'm loading into the chat box
9 Exhibit 5, which is the '731 patent. Let me know
10 when you've downloaded that, and I just have a
11 couple questions about this one.

12 (Exhibit 5 marked for identification, U.S.
13 Patent 11,973,731 B2.)

14 THE WITNESS: Download and opened.

15 BY MR. KAO:

16 Q. Okay. Let me refer you to the related U.S.
17 application data part of the patent, which starts on
18 Column 1, but continues on to the next page of the
19 patent. At the top of the page where it says,
20 "related U.S. application data."

21 Do you see that?

22 A. Yes.

23 Q. I won't have you compare this list with the
24 chart that we were looking at, at Page 2 of Exhibit 4
25 previously, but I'll just represent to you that there

1 is an application that is listed in this related U.S.
2 application data, Number 16/712,952.

3 My question is simply whether with respect
4 to that '952 application, as part of your work in
5 these proceedings, did you compare the disclosures in
6 that application with the claims of the '731 patent?

7 A. I don't believe I have, and, again, subject
8 to what's included in the declaration.

9 Q. In the next paragraph of the '731 patent,
10 on this page, there is a list of various provisional
11 applications; do you see that?

12 A. I do.

13 Q. As part of your work in these proceedings,
14 did you review the disclosures in these provisional
15 applications and compare them to the claims of the
16 '731 patent?

17 A. I don't believe I have. Again, I would
18 defer to any discussions of those in the declaration.

19 Q. As part of your work in these proceedings,
20 were you asked to review the Cohen publication that
21 the petitioner -- the petitioners rely on in their
22 1489 petition?

23 A. That does not ring a bell. If you're
24 referring to Paragraph 2, the first sentence that
25 talks about the art --

1 (Reporter requested clarification.)

2 A. If you're referring to that first sentence
3 in my declaration in Paragraph 2:

4 "The art cited by Petitioner in this
5 proceeding, ("Cohen"), published on
6 May 11, 2017."

7 I don't believe I have spent time or
8 paragraphs in the declaration offering specific
9 opinions about it. I can search through for Cohen. I
10 think it's basically cited as something that I am --
11 the reason why I have been asked to look at this '663
12 application and compare it to the '731 patent claims.

13 Q. You don't recall comparing the disclosures
14 of that Cohen publication against the claims of the
15 '731 patent?

16 A. Not for these IPR's.

17 Q. Let me have you turn to Paragraph 30 of
18 your declaration in the 1489 proceeding, the Level of
19 Skill in the Art?

20 A. I'm there.

21 Q. I, just for ease of proceeding here, I take
22 it that you give the same opinion with respect to the
23 level of skill in the art in both proceedings, the
24 1489 and 1490 proceeding?

25 A. I believe so.

1 **Q.** So in Paragraph 30, you state that a person
2 of ordinary skill in the art would have a bachelor's
3 degree in computer science or a related degree and
4 two years of experience designing software for
5 communication systems.

6 What exactly do you mean by communication
7 systems?

8 **A.** I really think it's the type of
9 communication systems as referenced in the patent.
10 Let me see what it says.

11 Under Column 2 of the '731 patent, under
12 the technical field, and then under the background,
13 it's really the type of communications is typically
14 electronic chat communications, that's kind of the
15 most relevant example of a communication system.

16 **Q.** And prior to 2015 or so, what experience
17 did you have designing software for that kind of
18 messaging communication system?

19 **A.** Yes. So essentially, from the very early
20 days of my research, some of which I guess you asked
21 more about user interfaces in the context of
22 litigation, but I have a parallel set of experiences
23 in my research and in teaching. In particular, I
24 worked on projects where, kind of before this date,
25 looked at mobile devices and how users interacted

Kevin C. Almeroth, Ph.D.

1 among mobile devices, including the exchange of chat
2 messages and other kinds of communications. There
3 were projects that I had worked on before the earliest
4 date here.

5 Going back to my CV, the one that comes to
6 mind, sort of more recently, is on Page 18 of my CV
7 that discusses a project or a paper that came out of
8 the graduate level class called "Friend Relay", and
9 that's research sharing framework for mobile devices,
10 and in the context of that work I believe we were
11 looking at how users can come into contact with each
12 other through their mobile devices are able to both
13 share files like music, but also to chat and exchange
14 messages. So that's software work that's done in this
15 context, as one example of the research projects that
16 I've worked on.

17 And I can go through just about as many
18 other papers as you'd like and kind of point out where
19 even considering communication systems as electronic
20 chat communications, that that would have been
21 something I would have worked on across a variety of
22 both research papers and then also in the context of
23 graduate student projects.

24 **Q. Can you explain why it is that you**
25 **disagree, as you do in Paragraph 31, that the level of**

1 skill in the art should be with respect to graphical
2 user interfaces or the graphical user interface field?

3 Oh, you're on mute, for some reason.

4 A. Sorry. I'm at home and the dogs were
5 barking.

6 Q. No problem.

7 A. I'm trying to do a little bit of background
8 noise filtering.

9 I think the basis for that is, if you even
10 start with Claim 1 and look at some of the aspects of
11 Claim 1 of the '731 patent, there's discussions of
12 processors and memory. There are some discussions of
13 communications interfaces, but there's also aspects
14 related to the underlying communication that takes
15 place, in other words the elements of Claim 1, as an
16 example, are not limited to the user interface field,
17 and a person of skill in the art who only had
18 experiences in say, user interfaces, may not recognize
19 some of the terminology and functionality that
20 underlies some of the user interface elements of at
21 least 21 of the '731 patent. And so it's my belief
22 that it's more than just user interfaces, it's a bit
23 of a broader field than that.

24 Q. Is it your view that the various hardware
25 elements of -- that are recited in Claim 1, are

1 **anything beyond sort of generic computer technology?**

2 A. Yes. I think it's more than just basic
3 computer technology.

4 **Q. Okay. Looking at Claim 1, just as an**
5 **example, can you tell me what hardware elements you**
6 **believe are more than just generic computer**
7 **technology?**

8 A. I think if you're limiting the question to
9 just hardware, I haven't really tried to look through
10 the claim language to ascertain if there's novelty
11 just based on the hardware. I mean, the reality is
12 it's a system, as the preamble says, to facilitate
13 messaging communication over a network, and so it's
14 really the combination of functionality performed by
15 the hardware, some which of can be specialized, but I
16 think ultimately with respect to doing an analysis of
17 the claim language, to determine if there's some
18 aspect of the hardware or the combination of the
19 hardware or software that's -- that is not basic, to
20 use your terminology. I could certainly spend some
21 time and look through the claim. I don't think that's
22 a question I was specifically asked to address in the
23 context of these declarations.

24 **Q. Okay. Starting with the hardware, though,**
25 **there is no specialized hardware described in Claim 1,**

1 **right?**

2 A. I mean, I can look through it and take some
3 time. I see elements around a processor and memory.
4 There's certainly the software. I mean, you could
5 implement the claim in a combination of hardware or
6 software. So the question as to whether or not
7 there's no -- nothing but basic hardware in the claim,
8 is one I would need to spend some time to look at the
9 claim. I think it would cover a system where it did
10 have specialized hardware, ASICs, for example, to
11 implement functionality as defined by the claim. So I
12 don't -- I don't think the claim is limited to using
13 just basic hardware alone.

14 **Q. Well, let me ask it this way. We can just**
15 **look at the first limitation in Claim 1. It says**
16 **after the comprising, it says, "a processor."**

17 A person of ordinary skill in the art would
18 understand what "a processor" is, right?

19 A. I think so.

20 **Q. And also recites "a memory", and again, a**
21 **person of ordinary skill in the art would understand**
22 **what "a memory" is, right?**

23 A. I think they would.

24 **Q. And there is nothing, at least in this**
25 **limitation, with respect to those two elements that**

1 **require any specialized or novel processors or memory,**
2 **right?**

3 A. So you've mixed specialized and novel
4 together. Those are sort of two different questions.
5 Again, I think this gets into an area of analysis of
6 the claim language that I have not been asked to do in
7 the context of these declarations.

8 I mean, the discussions around hardware,
9 and whether or not it's basic hardware, start to sound
10 like questions related to 101, and that's certainly
11 not an analysis that I've done in the context of
12 responding to the IPR petition.

13 **Q. Let me ask this: Would you agree that as a**
14 **person of ordinary skill in the art, that messaging**
15 **systems over a network existed prior to 2015?**

16 A. In the general sense, messaging systems
17 existed, not of the type of messaging systems that are
18 specifically claimed here. Messaging systems is a
19 broad concept and covers lots of different concepts
20 and systems, but ultimately, I think that the
21 messaging system that's claimed here is something that
22 was not known to a person of skill in the art, would
23 have been something that was novel.

24 **Q. And just so I understand the basis for your**
25 **opinion that you just gave, is that based on a review**

1 of the prior art that is cited in the petitions before
2 you, or did you do any additional investigation to
3 determine the validity of the '731 patent?

4 A. My recollection is that these two
5 declarations, and especially the 1490, are largely
6 rebuttal opinions in responding to the specific
7 grounds identified by the petitioner.

8 The 1489 is a little bit different
9 question. That is the primary focus of the
10 declarations. To the extent there is some additional
11 background in either petition, then that might fall
12 under the umbrella of additional work beyond just
13 responding to Dr. Cockburn's opinions, but I think
14 it's mostly responding to his opinions.

15 Q. Going back to Paragraph 31 of your
16 declaration, the last sentence you state:

17 "Even assuming petitioner were correct, I
18 would still have more than ordinary skill
19 and be qualified to opine on the issues
20 raised in the petition."

21 So prior to let's say 2015, what experience
22 did you have in the graphical user interface field?

23 A. Sure. I generally use the early '90s,
24 as -- I started doing research. Some of the first
25 efforts were to develop a TiVo-type interface for

1 streamed audio and video to a set-top box. We
2 envisioned user interfaces and functionality in that
3 context. We developed some prototype systems for what
4 that would look like over the Internet. We published
5 papers that had examples of what that user interface
6 would look like, and so pretty much even in the
7 context of research projects that were focused on
8 solving problems specific to the Internet, there were
9 user interface elements to those projects that were
10 more than just demonstrating the concepts of the
11 research, but were integral to those research efforts.

12 Another example kind of in the streaming
13 media context is, we developed an online jukebox for
14 streaming video under the idea that in the early
15 Internet, one request and one video stream in response
16 was not an economically viable model for providing
17 video on demand, because of the lack of bandwidth in
18 the Internet and the size of these video streams, and
19 frankly, comparing it to going and buying a video from
20 Blockbuster or getting a Netflix CD in the mail. So
21 we developed a jukebox model where it had a user
22 interface. You would come in, you could see what's
23 already playing on one of the channels, select the
24 channel, or you could request something to be cued up
25 at the end of the channel, sort of like a jukebox. So

1 there was very much a video interface -- or sorry,
2 user interface design element to the project to convey
3 the concept of the jukebox as implemented in a video
4 streaming over the Internet kind of architecture.
5 That's another example.

6 I mean, literally, there are at least a
7 dozen projects like that, that incorporated user
8 interface design considerations as part of the
9 project.

10 **Q. Any of those of projects involve user**
11 **interfaces -- well, let me ask it a better way.**

12 **The projects you just mentioned all relate**
13 **to streaming media of some sort, whether it be audio**
14 **or video. Did you work on any user interfaces outside**
15 **of the sort of streaming media context?**

16 **A. Yes. Part of it is related to streaming**
17 **media, but one of the projects I have in mind is what**
18 **is called a digital classroom, and what we were trying**
19 **to do is, at least it started off as a streaming media**
20 **driven project with respect to capturing audio and**
21 **video in a classroom. And what we realized is, it was**
22 **a very information rich environment in terms of audio**
23 **and video, PowerPoint slides, user interaction or**
24 **student interaction, and so within that project, we**
25 **built multiple modalities for user interaction,**

1 including students who were remote. One thing that we
2 did was, on the back of the classroom we put a
3 display, and then in that display was a video camera
4 of remote students so that they could raise their
5 hands, I could call on them, students in the class
6 could turnaround and see the student who had asked a
7 question, to try and present this tele-presence idea.
8 Again, largely audio and video, but then we built in,
9 through the presenter's kiosk or desktop, the ability
10 to receive text questions in a user interface.

11 There were some design considerations,
12 because I'm up there as an instructor teaching, maybe
13 teaching or showing PowerPoint and it would be
14 potentially distracting if I have a chat session going
15 and questions just kind of streaming among both the
16 students locally and remotely. So there was some
17 design elements to try and use that as a mechanism to
18 foster questions from people who didn't want to raise
19 their hands, but not be a distraction to me as someone
20 who would need to read the question, see the question,
21 and then judge it as being worthwhile, and then read
22 it out loud.

23 So in those kinds of environments, teaching
24 environments, mobile environments like the Friend
25 Relay, there were certainly chat, text based

1 communication that was happening, and it was designed
2 as part of the interface for the project.

3 Q. Let me ask you to now turn to your
4 declaration in the 1490 matter, which I believe is
5 Exhibit 3.

6 A. I have that up.

7 Q. So if I can ask you to turn to Paragraph 44
8 of your declaration.

9 A. Okay.

10 Q. In that paragraph you reference
11 Exhibit 2006, Wrinkl's Infringement Contentions in the
12 litigation. See that?

13 A. Yes.

14 Q. And you state that you reviewed those
15 infringement contentions, correct?

16 A. I have.

17 Q. Did you have any role in preparing those
18 infringement contentions?

19 A. As I sit here now, I don't recall a
20 specific role in those, developing those contentions.

21 Q. And based on your review of those
22 contentions, have you formed an opinion that Slack's,
23 "Threads" feature infringes the '731 patent?

24 A. I don't believe I've been asked to form an
25 opinion about infringement and I have not done so.

1 Other than, I guess, really the extent of the analysis
2 is probably the recognition in Paragraph 45.

3 Q. Yes, so I guess that's my question. So
4 Paragraph 45, you are state that:

5 "It is apparent that Slack's Threads
6 features -- feature practices each
7 limitation of the claims asserted in the
8 litigation."

9 So are you there stating your opinion that
10 the Slack's Threads feature infringes Claim 1 of the
11 '731 patent?

12 A. I think it's limited to what it says, which
13 is, it's apparent if you look at the contentions that
14 it practices each limitation of the claims. I haven't
15 formed a kind of a formal opinion. I haven't
16 presented an analysis or relied on things like any
17 sort of my own testing or source code or depositions.
18 It's really limited to looking at what the contentions
19 outlined as evidence meeting a limitation.

20 Q. In reviewing the infringement contentions,
21 did you utilize or apply any claim constructions for
22 any of the terms in the '731 patent?

23 A. I don't recall my analysis getting to the
24 level of considering any particular constructions. It
25 was really more just looking at what the evidence was

1 in the contentions and seeing how it lined up against
2 the limitations.

3 Q. When did you perform your analysis of the
4 Wrinkl infringement contentions?

5 A. This declaration was signed August 21,
6 2025, and so it would have been in the days and weeks
7 leading up to that date.

8 Q. Did you review the infringement contentions
9 before you undertook your review of the prior art
10 presented in the 1490 petition?

11 A. Sitting here now, I don't recall the
12 ordering of those activities, which one happened
13 before the other.

14 Q. Let me next ask you about Paragraph 46.
15 Paragraph 46, you state:

16 "Given that Slack's Threads feature
17 appears to practice (based on my review
18 of the infringement contentions) the
19 claims of the '731 patent, Petitioner's
20 comments regarding the Threads feature
21 provides some evidence to guard against
22 hindsight bias when considering the
23 question of obviousness of the invention
24 of the '731 patent."

25 Do you see that?

1 A. Yes.

2 **Q. What exactly do you mean by "guarding**
3 **against hindsight bias when considering the question**
4 **of obviousness"?**

5 A. Exactly what that says, recognizing what
6 the petitioner said with respect to its own Threads
7 feature provides some evidence, including the points
8 that they make about the time that they spent in
9 development and the challenge in getting the user
10 interface right, that that provides some insight that
11 in contrast to Dr. Cockburn, who seems to suggest that
12 all of these things would have been obvious to put
13 together, that that would not be an accurate
14 characterization of the prior art or what a person of
15 skill in the art would have done.

16 **Q. Well, let me ask this: When -- for the**
17 **purposes of your analysis, what date were you looking**
18 **at in determining obviousness or non-obviousness?**

19 A. That would have been the date I assumed,
20 which was back in Paragraph 6, which was that
21 November 10, 2015.

22 **Q. So did you make any attempt to determine**
23 **when Slack developed the Threads feature, that you**
24 **were referencing in Paragraph 46 of your declaration?**

25 A. Certainly, I considered the dates of, for

1 example, the articles that are cited in Exhibit 2001,
2 Exhibit 2002, and then also Slack's own '649 patent,
3 as another example.

4 **Q. Apart from reviewing those materials did**
5 **you do anything to attempt to determine when Slack**
6 **developed the Threads feature?**

7 A. Not with any degree of specificity, say not
8 from a perspective of doing an analysis to determine
9 say when the feature was developed or released or a
10 date of first infringement or an analysis like that.
11 It's really through the expressed purpose of what is
12 cited in these paragraphs of Exhibit 3 that you've
13 been asking about.

14 **Q. So would it be your view -- well, strike**
15 **that.**

16 **If you were to assume, hypothetically, that**
17 **Slack developed its Threads feature prior to**
18 **November 2015, the priority date that you are**
19 **assuming, then would the Threads development have any**
20 **relevance to your analysis of obviousness?**

21 A. It's an interesting hypothetical question.
22 I think the answer would be, it depends on what
23 development you would refer to and doing some sort of
24 comparison about what the functionality was as it
25 existed of November 2015, as compared to what it

1 ultimately had, or at least had as of the point in, I
2 think, 2017 when some of these articles were being
3 published online.

4 **Q. Well, assume, again hypothetically, that**
5 **all of the functionality described in, just for**
6 **example, the '649 patent which you looked at, had been**
7 **developed prior to November 2015. In that case, that**
8 **would not be evidence of non-obviousness, correct, in**
9 **that hypothetical?**

10 A. There would potentially be additional
11 issues if there was evidence of prior development, but
12 at least with respect to non-obviousness, what I'm
13 relying on is the representations that Slack made
14 about the Threads functionality, and those
15 representations I think, are as the sentence you asked
16 me about, provide some evidence to guard against
17 hindsight bias because of what was specifically said
18 about the features that are identified in Threads.

19 **Q. I take it that you don't know, sitting here**
20 **today, when the Threads features were developed or**
21 **implemented?**

22 A. The limit of my information is really what
23 comes from these infringement contentions and the
24 articles describing Threads that are cited to in the
25 declaration.

1 Q. Given your long experience as an expert in
2 patent matters, I take it you are aware of what are
3 called the secondary considerations of
4 non-obviousness?

5 A. Yes.

6 Q. Did you attempt to analyze any of those
7 secondary considerations of non-obviousness for the
8 purposes of your analysis in the declarations you
9 submitted in these matters?

10 A. I -- let me look. My recollection was that
11 there wasn't a section on secondary considerations,
12 and so I think I've relied on primarily the reasons
13 identified in the declaration for why a person of
14 skill in the art would not combine these references,
15 or if they were combined there would still be missing
16 limitations. I don't believe I've relied on secondary
17 considerations as a basis for non-obviousness, with
18 the caveat that what's included about statements made
19 by petitioner about its Threads functionality is
20 something that could potentially be considered under
21 one of the categories of secondary considerations.

22 Q. Which category would you consider that
23 under?

24 A. I would have to give that some thought. I
25 mean, some of it kind of sounds like praise, you know,

1 that Threads can figure out a way to solve a problem,
2 potentially, long-felt need, failure of others,
3 potentially. I'd have to give some thought into how
4 this section of the declaration could be tracked
5 against one or more of the secondary indicia criteria.

6 **Q. At least in the declaration you did not**
7 **attempt to do that, correct?**

8 A. I don't believe I've done that mapping in
9 the declaration, but it's obviously something you've
10 asked me about.

11 **Q. So with respect to the '649 patent, which**
12 **you discuss in your declaration, the Slack patent,**
13 **have you formed an opinion as to whether the '649**
14 **patent is valid or invalid?**

15 A. In the context of this declaration, I don't
16 think I've offered opinions like that.

17 **Q. But you have formed the opinion that the**
18 **'649 patent claims the identical invention as the '731**
19 **patent, correct?**

20 A. I believe so, I think, based on Claim 30 of
21 the '731 patent. I think it's my understanding
22 Claim 30 is the same claim or one of the same claims
23 from the '649 patent.

24 **Q. So in Paragraph 52 you state the opinion**
25 **that Claim 1 of the '649 patent is identical to**

1 **Claim 30 of the '731 patent; is that right?**

2 A. Yes.

3 **Q. So given that it's your opinion that these**
4 **two patents, at least with respect to these claims,**
5 **claim the same invention, is it your opinion that the**
6 **'649 patent is therefore invalid for claiming the same**
7 **invention as another patent?**

8 A. I, again, have not offered that specific
9 opinion in the context of the declaration, but just
10 based on logic it would seem like not much of a leap
11 to get from the fact that Claim 30 in the '731 patent
12 is the same as Claim 1 of the '649 patent. That a
13 comparison, you know, once you've shown validity of
14 Claim 30 of the '731 patent, it should be fairly
15 straightforward analysis to invalidate at least
16 Claim 1 of the '649 patent, and really the point in 52
17 is Dr. Cockburn and petitioner believe that Claim 30
18 of the '731 patent is invalid, and as it says in that
19 last sentence, that's a position that's contrary to
20 what the petitioner has said about its own patent.

21 **Q. Well, are you saying that the petition or**
22 **Dr. Cockburn asserts in the petition or his expert**
23 **declaration that the '649 patent is valid, that's**
24 **recited in any of those documents?**

25 A. No, I don't -- I don't think Dr. Cockburn

1 has opined on the '649 patent, but certainly when --
2 it's my understanding when you file an inventor
3 statement that you believe that your claims are novel
4 and non-obvious, and so under the guise of what
5 petitioner has said about Claim 1 of the '649 patent,
6 it's saying that that claim, it believes that claim is
7 valid, and now is taking a position that would seem to
8 contradict that statement.

9 Q. I take it your analysis that you just
10 recited assumes that the '731 patent has a priority
11 date that precedes the priority date of the '649
12 patent, right?

13 A. Yes. And I think that goes back to the
14 1489 petition in my declaration.

15 Q. Hypothetically, if that were incorrect and
16 the priority date of the '649 patent predates the
17 priority date of the '731 patent, then you would agree
18 that the reverse of what you just testified to would
19 be true, that in that instance the '731 patent would
20 be invalid based on the '649 patent, right?

21 A. I'm not sure that would be the case. There
22 might be other considerations involved, but I
23 understand the logic of what you are saying. I would
24 agree with it to the extent that there would be no
25 other considerations in terms of doing an assessment

1 between the sets of claims. So as an example, that
2 would assume that Claim 1 of the '649 patent was a
3 valid claim, regardless.

4 I don't know. So ultimately, there might
5 be additional considerations before it could be
6 reduced to a simple -- what is it -- the reflective
7 property.

8 Q. Sure. I understand. Assuming all other
9 things equal, though, right, for the same reason that
10 you would say, just looking at what you looked at
11 here, if the '731 patent predates the '649 patent, the
12 '649 patent would be invalid, the --

13 THE COURT REPORTER: I'm sorry.

14 Counsel, I apologize. Could you repeat the
15 question?

16 BY MR. KAO:

17 Q. Assuming all other things equal, for the
18 same reason that you testified that without looking at
19 anything else, if the '731 patent predated the '649
20 patent, the '649 patent would be invalid; if the '649
21 patent predated the '731 patent, then the '731 patent
22 would be invalid?

23 MR. KATZ: Objection to form, misstates
24 his testimony, and incomplete hypothetical.

25 MR. KAO: I think we lost Dr. Almeroth

1 again.

2 MR. KATZ: I'm showing that his video
3 is disconnected. Teri is frozen, too.

4 THE COURT REPORTER: I'm here. I can
5 see Dr. Almeroth. He's frozen. Let's go off the
6 record.

7 MR. KAO: Let's go off the record to
8 give him a little bit to reconnect.

9 (Off the record at 4:33 p.m.)

10 THE COURT REPORTER: Are we ready?

11 MR. KAO: Yes.

12 THE COURT REPORTER: On the record.

13 (On the record at 4:41 p.m.)

14 BY MR. KAO:

15 Q. Okay. Let me try it restate the question
16 before you dropped off.

17 All else being equal, for the reasons that
18 you stated that if the '731 patent predated the '649
19 patent, the '649 patent would likely be invalid; if
20 the '649 patent predated the '731 patent, then the
21 '731 patent would likely be invalid in that instance,
22 right?

23 MR. KATZ: And again objection to form,
24 misstates the testimony, and incomplete
25 hypothetical.

1 THE WITNESS: Right.

2 So now, again, this is with respect to
3 Claim 30 versus Claim 1. Moreover, really the
4 point of Paragraph 52 is that petitioner is
5 taking inconsistent positions. In one sense it
6 has Dr. Cockburn opining that Claim 30 is invalid
7 based on the prior art, which means he's offering
8 an opinion that the limitations and the subject
9 matter of Claim 1 of the '649 patent is invalid,
10 and that's a -- that's a position that the
11 petitioner has taken as well and that position is
12 inconsistent with its representations to the
13 Patent Office that Claim 1 of the '649 patent was
14 novel and not obvious.

15 And so really, the point of
16 Paragraph 52 is to point out that there is an
17 inconsistency being taken by the petitioner.

18 BY MR. KAO:

19 Q. That doesn't answer my question, though.
20 Please answer the question that I asked.

21 A. So I think I have answered it. When you
22 say all things being equal, that's a bit vague as to
23 what that means. If you're asking about, again, you
24 have A as Claim 30 of the '731 patent, and Claim 1 of
25 the '649 patent as being B, and A would meet all the

1 limitations of B, then B would meet all of the
2 limitations of A, and then the question, the legal
3 question of validity, what I had said earlier is it
4 depends on kind of those considerations, and I don't
5 know if you've properly handled that with all things
6 being equal.

7 So I have the opinion that's in 52. It's
8 hard for me to say under "all things being equal,"
9 that one would necessarily invalidate the other.

10 **Q. That would be either way then, now you're**
11 **saying?**

12 A. That would be either way. There are
13 additional considerations, except the point of 52 is
14 that petitioner, in both the '649 patent application
15 and in this case, are simultaneously saying that the
16 patent, that the claims are valid and invalid at the
17 same time.

18 **Q. Well, let me ask you about that. I**
19 **understand that that's your opinion now, but that**
20 **assumes that you're correct that Claim 1 of the '649**
21 **patent is identical to Claim 30 of the '731 patent,**
22 **right?**

23 A. As it's included in what was originally
24 filed, because that's the point when the inventor
25 signs the statement saying it believed the patent

1 claims were valid.

2 Q. But if the claims of the '649 patent and
3 the '731 patent are different, then there can be,
4 there may not be any inconsistency, right?

5 A. So as a hypothetical, if there are
6 differences -- now if we're doing an analysis of a
7 representation of the '649 patent Claim 1 as being
8 different than Claim 30 of the '731 patent as a
9 hypothetical, the assumption is they're different,
10 then you have to redo the analysis because now they're
11 different.

12 Q. So my question is, the conclusion that you
13 reached in Paragraph 52, right, is based on your
14 conclusion that Claim 1 of the '649 patent and
15 Claim 30 of the '731 patent are identical?

16 A. That implies a verb tense. Are identical,
17 meaning now. I think the point is that they would
18 have been identical not necessarily now, but at some
19 point in the past.

20 Q. Okay. But the verb tense you use in
21 Paragraph 52 is, "is identical", not sometime in the
22 past. So is that an error that you mean to say to
23 clarify your statement in Paragraph 52?

24 A. No. I think -- I think that's the second
25 sentence:

1 "It appears the claim 1 is still in force
2 and has not been disclaimed," and that's
3 really the point.

4 I think the point would be if it were
5 ever -- if patent owner ever had an opinion that the
6 '649 patent Claim 1 as being identical to Claim 30 of
7 the '731 patent was valid, then that would be a
8 position that would be contrary to the position that
9 it is now taking in this petition.

10 Q. And have you seen any evidence, based on
11 your review of the materials of these proceedings,
12 that the petitioner has ever taken the position that
13 Claim 1 of the '649 patent is identical to Claim 30 of
14 the '731 patent?

15 A. No. I think that the comparison of the
16 claim language as it existed, or as it exists, I think
17 would speak for itself.

18 Q. Let me next ask you to turn to Page 50 of
19 your declaration in the 1490 proceeding.

20 A. Okay. I am there.

21 Q. And let me ask you what your understanding,
22 as a person of ordinary skill in the art, the term
23 "pane" means in Limitation 1[c] that you set forth in
24 Paragraph 83.

25 (Reporter requested clarification.)

1 MR. KAO: Pane, P-A-N-E.

2 A. I think, as the declaration says, I'm
3 applying the plain and ordinary meaning. To offer the
4 opinions that are in the declaration, I didn't require
5 any particular definition for a term, and so really,
6 the plain and ordinary meaning of the term pane, I
7 don't -- I don't have other words to describe that
8 concept. I think the concept as a pane isn't one that
9 requires further definition in order to offer the
10 opinions that are in the declaration.

11 Q. What is the plain and ordinary meaning of
12 the term pane?

13 A. Yeah, I haven't tried to come up with a
14 dictionary definition of what that term is. There are
15 examples in the concept of the specification of the
16 '731 patent, and it's clear based on what Kakuta
17 describes that it's not a pane configured to describe
18 a plurality of channel identifiers.

19 Q. But you can't tell me what a pane is
20 without referencing the patents or the prior art?

21 A. The plain and ordinary meaning of the word
22 pane, I can give you some examples of what a pane
23 would look like in an interface, those come from the
24 '731 patent. I don't have some dictionary definition
25 for you, and I think that the basis for why I believe

1 the limitation is not disclosed is not based on some
2 particular -- particularized definition of what a pane
3 is.

4 Q. Sir, I'm not asking for a dictionary
5 definition of the word pane. I can certainly go and
6 look that up myself, if I wanted to.

7 I'm asking you, as a person of ordinary
8 skill in the art, when you see the word "pane" what do
9 you understand that to mean?

10 A. Oh, sure. Examples of what I think a pane
11 would be, what that means to me are the kinds of
12 examples shown in Figure 10B of the '731 patent,
13 that's what Paragraph 84 describes. So that would be
14 an example of what a pane would be.

15 Q. You understand that, as you've just said,
16 that that's an example, right, Figure 10B provides an
17 example of what a pane is. You understand from your
18 experience, you know, in this field and reading patent
19 claims, that patent claims are not limited to examples
20 in the specification, right?

21 A. Yes.

22 Q. So a pane, as set forth in Claim 1, is not
23 limited to the panes that are shown in Figure 10B,
24 right?

25 A. That's correct.

1 Q. Just so we are clear and I make sure I
2 understand your opinion, let's look at the annotated
3 Figure 10B that you have in Paragraph 87.

4 A. Okay.

5 Q. So when you say -- and I assume -- let's
6 just clarify for the record. I assume that the red
7 annotations are the annotations that you added?

8 A. That's correct.

9 Q. So what is the first pane that you are
10 referring to in Figure 10B, what constitutes the first
11 pane based on this figure?

12 A. What's identified in that figure is the
13 first pane, so it's the portion that includes the, "At
14 a Glance", the "Chat" down through the "Quick
15 Navigation" button.

16 Q. So that entire area on the left of
17 Figure 10B, you consider the first pane?

18 A. I don't think the title bar would be
19 considered part of the first pane.

20 Q. Okay. So everything below the title
21 "Solaris3" and that whole bar across the top?

22 A. That's correct.

23 Q. And so I understand, what do you believe is
24 the second pane in Figure 10B?

25 A. The second pane is what's within that box

1 that has the title, "Today, May 10th."

2 **Q.** And all the way down through and including
3 the, "To All" section of this, or does it stop
4 somewhere?

5 A. That includes the "To All". It's within
6 that box. The -- it's within the outermost box.

7 **Q.** And within that "To All" box, what is your
8 understanding of what interactions a user can have
9 with that rectangular box at the bottom of what you
10 described as the second pane?

11 A. I don't understand the question, if you are
12 asking about just the box at the bottom, the "To All"
13 box.

14 **Q.** Yes, what's the purpose of this box at the
15 bottom from your understanding of the patent?

16 A. Okay. I'll have to go and look. I don't
17 have it specifically in mind what the specification
18 says about the set of functions or interactions that a
19 user can have with that box.

20 If you'd like, I can certainly pull up the
21 patent and try to see what it says about the different
22 elements of that portion of the second pane.

23 **Q.** Okay. Just sitting here, looking at it,
24 you can't tell me what -- what interactions the user
25 has with that, with that "To All" box?

1 A. So I don't have the specification
2 memorized. My recollection is that certainly a person
3 can type within the text box. It looks like there is
4 to the right, three icons. One looks like an emoji
5 icon, the next might be a draw in form, the third
6 might be an attachment paperclip. I don't remember
7 what the specification says about 10B, about what
8 interactions a user could have with the "To All"
9 portion, but I can certainly go look at the disclosure
10 for Figure 3 and read those for you if you'd like.

11 **Q. No. That's okay.**

12 **Now looking at that "To All" box, there is**
13 **a -- what looks to me like an inverted triangle or**
14 **pyramid. Do you have any understanding what that**
15 **depicts?**

16 A. I don't recall what functionality the
17 specification attributed to that portion of the
18 interface.

19 **Q. And as a person of ordinary skill in the**
20 **art, when you see that type of figure in a user**
21 **interface, do you have any understanding what that**
22 **might indicate without looking at the specification?**

23 A. The reason I would take some care here is
24 to see what the specifications specifically said about
25 it. It can have different meanings in different

1 contexts. I mean, one might look at this, and
2 understand that there is an option that would allow a
3 user to select something other than "To All", but it
4 would -- again, I would defer to what the
5 specification would say.

6 Q. In your experience, in the user interface
7 field, have you seen triangles like that in user
8 interfaces?

9 A. I have.

10 Q. And could that be used to represent a drop
11 down menu of the different users, for example, the
12 ones that are depicted in the title bar there, of
13 individuals who you might send a message to?

14 A. Could you --

15 Q. Oh-oh, you froze for a second. I thought
16 we might have lost you. Sorry. Please continue.

17 A. So your question is, "could you." I mean,
18 I think certainly from a user interface perspective,
19 there is a -- lots of flex of that -- sorry. There is
20 a lot of flexibility in terms of what you can program
21 to have happen in an instance like that. In some
22 cases, you've pointed out the possibility where that
23 could be a drop down menu. It could be a text fill in
24 box, it could be really any manner of sort of user
25 interface widgets, and so what you'd specifically want

1 the interface to do in that particular instance, I
2 guess, would really be up to the designer.

3 For a person using that interface, you
4 would certainly like it to be fairly intuitive as to
5 what that interface would mean if the user selected on
6 it. The more intuitive you can make the interface,
7 the better, but ultimately, picking the right design
8 element is going to make a difference. And so here,
9 with respect to, "well, what could that mean in this
10 context," in something like Figure 10B, it might be
11 useful given where it says "To All", to be able to do
12 something other than send something to all
13 individuals' particular channel.

14 **Q. Wouldn't the natural understanding of that**
15 **figure be that, just from your use of user interfaces**
16 **on a day-to-day basis, that this would pull out and**
17 **show you a list of individuals you can send a message**
18 **to?**

19 **A.** In the context of this particular
20 interface, that certainly would be one of the things
21 that might be possible and might ultimately be
22 logical, but whether or not that's what the interface
23 actually does is really the question of what the
24 design choice is, and that gets into kind of the
25 challenge in design and user interfaces, is whether or

1 not the user's expectation matches what's actually in
2 the interface. So in this particular interface, in
3 the way that it's set forth, there are some contextual
4 clues that would suggest to a user that that's a
5 likely possibility, but then again, that's what, kind
6 of, would differentiate this user interface from some
7 other user interface and the design choices that
8 another designer would make.

9 **Q. So a designer of a user interface could**
10 **configure this differently based on design choices**
11 **available to them, is what you're saying, I think?**

12 **A.** I think that is half of the issue, which is
13 certainly there are different design elements that a
14 person of skill in the art could choose, but it's more
15 than just a simple design choice, because there is
16 some complexity to how an interface is designed to
17 accomplish sort of an intuitive look and feel, and
18 that's really the point of pointing to, for example,
19 the section earlier that you asked questions about and
20 Slack and its Threads feature. And I think there is
21 some additional opinions later in the report about
22 motivation to combine and gap filling and user
23 interface design, which get to the second half of the
24 complexity in how you would do user interface design.

25 **Q. Just so we finish this and I make sure I**

1 understand all your opinions. What in this Figure 10B
2 do you believe is the third thing?

3 A. That is the right side, below the title
4 bar, and not inclusive of the second pane. So it
5 would be what's leftover in that display. So it's the
6 box with the "Sidebar" title through down to the "Type
7 Sidebar Message Here."

8 Q. Again, just so I'm clear. Not including
9 that box or including that box?

10 A. Including that box. It's in the pane.

11 Q. And then you've also annotated Figure 4 of
12 the '649 patent in that same paragraph, and just so
13 we're clear, the red is what you added to the figure,
14 correct?

15 A. Yes.

16 Q. Your indication is that each of these
17 three, I guess I don't know -- items or columns are
18 each a separate pane; is that fair?

19 A. I think the panes have boundaries to them
20 in this figure, so everything within the rectangular
21 boundary, it has rounded corners but essentially there
22 are three rectangular portions shown in Figure 4.

23 Q. Each of them would be its own pane?

24 A. That's what the reference says.

25 Sorry. I mean, it literally says at the

1 top in red that those are three panes.

2 Q. Now turning to Paragraph 90 in your
3 declaration. It is your opinion that the area that
4 contains the text "#CH1," that that is not a pane, in
5 your view, of the term pane to a person of ordinary
6 skill in the art, right?

7 A. That's right.

8 Q. And now I guess I have a similar question
9 for you with respect to the upside down triangle or
10 pyramid in black to the right of the #CH1 text.

11 What is your understanding of what that --
12 that button's functionality is?

13 A. So it's not clear, based on the interface,
14 what that is supposed to do for the reasons set forth
15 in the declaration.

16 Q. So you don't have an understanding of what
17 that does?

18 A. No. It's a question that the reference
19 doesn't say what that button does, and so a person of
20 skill in the art would be left to guess as to what its
21 functionality would be, and at least in this section,
22 for anticipation, which ultimately I think will
23 translate to obviousness as well. It's not inherent
24 that what that button would do, and it's also not
25 obvious what that button would do given both what is

1 on the left side, the up-down arrow, and then also the
2 channel button that's highlighted at the top and the
3 annotated figure after Paragraph 90 or above
4 Paragraph 91.

5 Q. Let me ask you then: On the left of the
6 text that says #CH1, there is this -- there are two
7 figures there, a triangle and an upside down triangle
8 or pyramid, inverted pyramid, however you want to
9 describe them. It's your -- well, strike that.

10 What is your view of what those buttons do?

11 A. Paragraph 90, "Regarding the arrows near
12 the channel identifier, a logical interpretation of a
13 Skilled Artisan would have been that the up and down
14 arrows to the left of the channel identifier might
15 allow the user to go up or down one channel at a
16 time."

17 Q. So let me also just confirm your opinion
18 here. So we talked about the fact that it's your
19 opinion that the box that contains the text #CH1 is
20 not a pane. I take it that it's also your opinion
21 that that box is not configured to display a plurality
22 of channel identifiers, correct?

23 A. I believe I have offered that opinion. If
24 you want me to put eyes on the specific words, I can
25 find it for you. I think to answer your question,

1 that is the first sentence of Paragraph 90.

2 **Q. All right. In your work in the industry,**
3 **have you ever heard the term "menu pane" before?**

4 A. I may have.

5 **Q. Do you have any understanding of what the**
6 **term "menu pane" means to a person of ordinary skill**
7 **in the art?**

8 A. To the extent I think it has any meaning,
9 it would depend on the context of when and how that
10 term was used. It's fairly vague.

11 **Q. Could you think of any example, from your**
12 **experience, of what a menu pane is or looks like?**

13 A. I don't have specific examples that come to
14 mind or how you would characterize what a menu pane
15 would be. I don't think it's a term that's used in
16 Kakuta or any of the prior art references. I don't
17 think it's something Dr. Cockburn pointed to, and so I
18 think you'd need it provide some context for where
19 that term would have been used and its relevance in
20 the context of the IPR. Maybe that would give it some
21 particular meaning or some basic understanding.

22 **Q. Is it your view that in order to meet the**
23 **limitation of a pane configured to display a plurality**
24 **of channel identifiers, that all of the channel**
25 **identifiers that exist need to be displayed in the**

1 pane at one time?

2 A. I don't think I've taken a position one way
3 or another on whether or not it needs to be all
4 channels. I think in the context of Kakuta and the
5 prior art, it never got to the point of needing to
6 answer that question because there were other reasons
7 why the limitation wasn't met. Sitting here right
8 now, it doesn't seem like that's a requirement of the
9 claim, but I'd have to give some thought to whether it
10 would actually be a requirement.

11 Q. Do you have an understanding that in
12 designing user interfaces, designers will often
13 provide multiple or redundant ways of performing the
14 same action?

15 A. That's a bit of a vague characterization.
16 I am not sure I would agree with it, except maybe in a
17 situation where there is a particular way via the
18 graphical portion of the user interface, and then
19 there might be a shortcut key stroke, or hot key or
20 something like that, that might be possible. So maybe
21 in that sense, I am familiar with interfaces where
22 there are multiple ways to get at a particular
23 function through something like that.

24 Q. I mean, when you have designed user
25 interfaces, have you ever designed the user interface

1 **to have multiple ways of achieving an action?**

2 A. Again, that's kind of a vague
3 characterization. The examples I can think of are
4 where the alternative might be through, say, a command
5 line interface versus the graphical user interface.
6 Windows has a graphical user interface, but you can
7 also pull up a command window that has a CLI. Those
8 are the examples that I can think of.

9 The reality is, if you're thinking of an
10 example where you might put multiple buttons on the
11 screen to do the same thing, certainly there are
12 design principles for graphical user interfaces to
13 keep it simple, keep it consistent, and so there are
14 reasons not to have multiple ways through the
15 graphical interface to perform the same function.

16 **Q. There could also be reasons why you would**
17 **want to provide a user multiple ways to achieve the**
18 **same function, too, right?**

19 A. So that gets into a class of kind of, could
20 you or would you or was there ever a need to do
21 something like that. I mean, now you kind of opened
22 the horizon to saying, "in the abstract, is that
23 something that you could do," and maybe in some
24 applications there would be a reason to do that, but
25 now we have moved beyond kind of what the references

1 specifically teach, or what would have been obvious in
2 the context of particular references, to more just
3 generic would it be possible kinds of questions.

4 In that vein, it's certainly something that
5 if that's what you decided you wanted to do, that
6 somebody could either design an interface or implement
7 an interface with that characteristic.

8 Q. I think you state in your declaration that
9 you're familiar with Internet relay chat or IRC
10 technology?

11 A. Yes.

12 Q. Is that fair?

13 A. Yes.

14 Q. Have you used IRC technology yourself in
15 the past?

16 A. Yes.

17 Q. In what context have you used it?

18 A. A couple different contexts have come to
19 mind. Three that come to mind, specifically, one just
20 on a personal level among family members, back in the
21 day when IRC was specifically popular. The second is
22 in the context of among group chats, between -- that
23 included all of the students in my research lab. And
24 then the third is in the context of Internet
25 engineering task force meetings, that there it became

1 popular to have kind of corresponding channels along
2 with the meetings that were happening when the ITF was
3 held in person.

4 **Q. But how long has IRC technology been in**
5 **use?**

6 A. My recollection is there's a -- there is an
7 RFC for IRC. RFC, request for comment. For IRC,
8 Internet relay chat.

9 **Q. And about when was that, to your**
10 **recollection?**

11 A. I don't recall. There's been a bunch of
12 different versions, but I think the original IRC, RFC
13 is quite old.

14 **Q. When were -- I think you mentioned, you**
15 **know, that you were using this, you know, when it was**
16 **popular or when -- when approximately was that?**

17 A. As early as the -- probably the late '90s.
18 That's certainly when I had a research lab. It could
19 have been earlier. I don't know if some of the tools
20 that were used at the ITF was specifically IRC based
21 or whether or not they used other technologies for
22 sending messaging.

23 **Q. Let me have you turn to Page 59 of your**
24 **declaration, Paragraph 94.**

25 A. I'm there.

1 Q. What is your understanding, as a person of
2 ordinary skill in the art, what the plain and ordinary
3 meaning of "associated with" in this limitation means?

4 A. Let's see. Again, I think I have offered
5 the opinion. I haven't provided specific definitions
6 as to what those terms would mean. The basis for the
7 disagreement that the limitation is disclosed by
8 Kakuta is basically described in the paragraphs, so I
9 don't think I've got some specific definition, other
10 than kind of plain and ordinary meaning based on just
11 what it says in the limitation.

12 Q. But again, as we've talked about, the
13 figure, in this case Figure 10A, in your view doesn't
14 limit this Limitation 1[h], right, so just the
15 embodiment that's shown in 10A?

16 A. That's correct.

17 Q. And you have annotated in red Figure 10A
18 and 10B on the next page of your declaration, can you
19 just explain to me what you're trying to show with
20 your annotations?

21 A. Sure. The annotations are pretty much
22 described in Paragraph 95. That seems directly
23 responsive to your question. I'm happy to read it, if
24 you'd like.

25 Q. I guess, if you can explain to me how this,

1 how your annotations of Figure 10A and 10B, illustrate
2 the limitation that there's a first user-selectable
3 control associated with the first messaging
4 communication?

5 A. Sure. So 10A has outlined the little
6 message icon and has what that allow as user to do, as
7 the specification describes. That when an user hovers
8 over Ali T's message at 8:42 a.m., is presented with a
9 menu of user-selectable controls associated with the
10 specific message. So when you hover over that
11 message, those four icons appear in Figure 10A, and
12 then in this example, the one that's most relevant is
13 that arrow control, which can be selected, and that's
14 an example of a first user-selectable control
15 associated with said first messaging communication.
16 The association is based on those four icons appearing
17 and being associated with that particular message. If
18 you were to scroll up or use your arrow key --
19 sorry -- your arrow to hover over the message above
20 it, you could get the same four icons, but now it
21 would be specific to that particular message, and so
22 the description in the specification that identifies
23 that functionality, supports the idea that for each of
24 those messages there will be a user-selectable control
25 that's associated with that first messaging

1 communication.

2 And then, sorry, the 10B is if you -- if a
3 user clicks that arrow, then what is displayed is that
4 third pane that's then shown from Figure 10B with the
5 red box around it.

6 Q. Does the -- strike that.

7 Does the claim require that the pop up of
8 these four items, here in Figure 10A, be located sort
9 of in or around the specific message that it's
10 associated with?

11 A. I don't recall that I offered an opinion
12 like that in this declaration, though I may be
13 misremembering. I do believe I've offered an opinion
14 that the associated with -- sorry -- the association
15 between the first user-selectable control in the first
16 messaging communication is in the context of the
17 limitation about a display, and so that there is --
18 the association is in part something that a user would
19 be able to see. As in terms of some sort of proximity
20 on the screen, I don't recall offering an opinion that
21 that is certainly not an expressed limitation in the
22 claim, but it might be one way of providing an
23 association as long as it's not simply location by
24 itself, but some other way to associate the
25 user-selectable control with the first messaging

1 communication, so not just in proximity of the window
2 or not have some control tied specifically to a
3 message.

4 **Q. Some way for the user to know that these**
5 **controls are controls that relate to a particular**
6 **message that's in this chain of messages?**

7 A. You introduced the concept of "knowing,"
8 certainly in the context of evaluating a system,
9 whether or not the user knows that there is an
10 association, that there is a relationship, might be
11 some evidence that you could use to determine that the
12 limitation is met, but it really depends on what
13 information is available in order to do that kind of
14 assessment. I think in Kakuta, kind of the specific
15 ground at issue here, it's pretty clear that Kakuta
16 teaches a floating menu where there is not an
17 association, and so ultimately, in terms of comparing
18 what Dr. Cockburn has pointed to in Kakuta is really
19 the focus of the analysis here. When you move beyond
20 that into kind of more hypothetical examples, then
21 it's really going to depend on what the example is.

22 **Q. I see. So the association might not need**
23 **to be one that the user knows, but that the system has**
24 **associated the control with a particular message?**

25 A. Yeah, so I'm not sure of the context for

1 that question. If you're asking about what would be
2 required or what could meet the claim, you've moved
3 kind of beyond the comparison of Kakuta to the claims
4 into more of a hypothetical, what would be sufficient
5 to meet the claim kind of analysis.

6 And so I guess the answer is going to be,
7 it depends. It's not something I was specifically
8 asked to address in the context of this limitation.
9 So it would depend on what the system is, and what
10 information was available, and whether or not that
11 would be sufficient to determine if the limitation was
12 met or not.

13 **Q. And so, again, just to make sure I**
14 **understand your opinion, with respect to Figure 5 of**
15 **Kakuta that's on Page 63 of your declaration, I think**
16 **you just testified that there's no association in your**
17 **opinion between the menu of options in this bar, in**
18 **particular, I guess, the "Create" button, with a**
19 **specific message; is that your opinion?**

20 A. I think it's probably close. I think
21 you've, in some attempt, tried to explain what's in
22 Paragraph 96. I think that's close to what I'm saying
23 in Paragraph 96.

24 **Q. You know, I don't mean to try to, you know,**
25 **put words in your mouth.**

1 Why don't you just explain to me what you
2 have set forth in Paragraph 96 with reference to the
3 figures for Kakuta that you have included in your
4 declaration?

5 A. Sure.

6 So I mean, one of the things that you -- I
7 don't want to say struggle with to find the right
8 word, but the term I think is the floating toolbar
9 that Kakuta uses. That second sentence in 96 talks
10 about Kakuta's generic floating toolbar, generic in
11 the sense that it's not tied to any specific messaging
12 communication as required by the claims. And then it
13 goes through and talks about sort of the options,
14 seven of them within that floating toolbar. There's a
15 "Create." There's a "Display." And I think I focused
16 on those because those are things that Dr. Cockburn
17 relies on in his analysis, and so when you look
18 specifically at those different functions, they're not
19 associated with particular messages, and they're not
20 associated with the messages in the way that
21 Dr. Cockburn attempts to rely on the disclosures of
22 Kakuta for.

23 Q. So in your view, is the floating toolbar
24 not associated with any message, period?

25 A. I am not sure what that means. Kakuta's

1 generic floating tool bar is not tied, not associated
2 with any specific messages required by the second half
3 of the claim element that -- what was the language --
4 the first messaging communication.

5 Q. I'm just trying to understand your opinion.
6 So is that because this floating toolbar can be used
7 to control or operate on any message that's displayed
8 versus a specific message?

9 Just trying to understand your opinion.

10 A. Yeah, it's more than that. Halfway or a
11 third of the way through Paragraph 96, it starts. The
12 declaration starts with a discussion of the "Create"
13 button, what the "Display" button does. It then has
14 the several pages of screenshots. It then talks about
15 a user creating a thread in one of three ways, and so
16 it walks through what Dr. Cockburn and the petitioner
17 rely on with respect to what he alleges is sufficient
18 to met the limitation. That's in the second half of
19 Paragraph 97.

20 Dr. Cockburn asserts that the message
21 selection embodiment of Figure 8 illustrates the use
22 of a first user-selectable control, and then I walk
23 through why that's not the case. And then at the top
24 of Page 70, kind of the last part of Paragraph 97,
25 petitioner also identifies a first message, but that

1 message hasn't been selected for the thread and then
2 cannot be the first messaging communication, and then
3 sort of the highlighting in Paragraph 98.

4 So it walks through, kind of, in these
5 paragraphs, what the petitioner and Dr. Cockburn have
6 identified. And in each of what they've identified
7 and based on the explanation that's provided, there
8 are deficiencies in terms of why it doesn't need the
9 limitation, or it is what Dr. Cockburn has
10 specifically attempted to rely on.

11 Q. I understand. I'm just trying, though, to
12 understand the actual opinion that you are setting
13 forth in those paragraphs. Going back to Figure 10A,
14 of the '731 patent that you have displayed on Page 60
15 of your declaration.

16 A. Yes.

17 Q. There is a toolbar there of four items that
18 a user can press, right?

19 A. Yes.

20 Q. Okay. And so I take it your opinion is
21 it's not the fact that a toolbar appears or a toolbar
22 is used that, you know, distinguish Kakuta from the
23 '731 patent. Your opinion seems to be that in Kakuta
24 the toolbar that appears isn't associated with a
25 specific message, whereas, in Figure 10A, the toolbar

1 is associated with the specific message. Is that a
2 fair characterization of your opinion?

3 A. I certainly think it's close. You
4 identified part of the reasons I expressed to you why
5 I thought Figure 10A had a first user-selectable
6 control and why it didn't -- why Kakuta's floating
7 toolbar is not sufficient to meet the limitation for
8 the reasons that Dr. Cockburn and the petitioner
9 relied on.

10 So, again, just to be clear, it is a
11 rebuttal declaration. I looked at what Dr. Cockburn
12 pointed to. There are deficiencies in what he points
13 to, and I've sort of taken those one at a time and
14 responded to what he said, and that's the basis for
15 the opinion across these paragraphs.

16 Q. Let me ask you now to turn to Page 71 of
17 your declaration.

18 A. Okay. I am there.

19 Q. And you discussed Limitation 1, little "i".

20 And to make sure I understand your opinion,
21 your opinion is that Kakuta does not display a third
22 pane in response to a user selection of the first
23 user-selectable control, because there is a
24 confirmation window that's depicted in Figure 6 on
25 Page 64 of your declaration; is that right?

1 A. I was with you until the very last phrase,
2 of Figure 6 --

3 **Q. Kakuta, on Page 64 of your declaration.**

4 A. Okay. Yes. I understand where you're
5 reading from, and I know which aspect of this
6 limitation I am disagreeing with.

7 **Q. And so it's your opinion that -- well, let**
8 **me ask it this way.**

9 **To a person of ordinary skill in the art,**
10 **with respect to Limitation 1, little "i", what do you**
11 **understand the term "in response to" means?**

12 A. Again, I think it's going to be its plain
13 and ordinary meaning. I haven't attempted to offer a
14 specific construction -- understanding would be, but
15 kind of, again, the way I've done the analysis, is
16 I've looked at what Dr. Cockburn has pointed to, and
17 what to does not include is the way that Kakuta is set
18 up, both in terms of its floating menu and then how
19 would you get to something that would be a third pane.

20 And so the point of the analysis is kind of
21 under any reasonable interpretation of what "in
22 response to" would mean in that claim. As an example,
23 you click on the user selection, that first -- via the
24 user-selectable control, and in response to that
25 action the third pane would be displayed.

1 Q. So in your view, the plain and ordinary
2 meaning of "in response to," means that there can be
3 no intervening step at all, it's an immediate and
4 automatic response?

5 A. You have added some requirements in there,
6 "immediate, no intervening step." Those are somewhat
7 vague concepts in terms of what would qualify as
8 immediate or what a step would be. Again, that gets
9 into providing some sort of specific construction
10 beyond the plain and ordinary meaning to inject
11 requirements likes that.

12 Ultimately, my opinion is, you look at what
13 Dr. Cockburn pointed to in Kakuta, and not only does
14 that not meet the "in response to," but as the rest of
15 this analysis identifies, is missing kind of the
16 things that are doing the selection and "in the
17 response to" before you even get to just the simple
18 question of whether or not there's a user selection of
19 the first user-selectable control that leads to the
20 display of the third pane in response to that
21 selection.

22 Q. Just so we're clear. The first part of
23 your response, the first user-selectable control, is
24 based on your discussion of Limitation 1[h] that we
25 just talked about previously, right?

1 A. I mean, yes. That's Paragraph 99, so there
2 is a discontinuity among the claims in Dr. Cockburn's
3 analysis.

4 MR. KATZ: I think we've been going
5 more than an hour since last break. Should we
6 take another five-minute break?

7 MR. KAO: Okay, yes, as long as we keep
8 it at five minutes. I know we have a hard end,
9 so.

10 MR. KATZ: Okay. I can do short.
11 Five minutes would be fine, thanks.

12 MR. KAO: Okay.

13 THE COURT REPORTER: Off the record.
14 (Off the record at 5:52 p.m.)

15 THE COURT REPORTER: On the record.
16 (On the record at 5:58 p.m.)

17 BY MR. KAO:

18 Q. Okay. Dr. Almeroth, I ask you to turn to
19 Page 73 of your declaration in your discussion of
20 Limitations 1[n] and 1[o].

21 A. Okay. I'm there.

22 Q. What is your understanding, as a person of
23 ordinary skill in the art, of the plain and ordinary
24 meaning of the term "anchor message"?

25 A. Sure. It's going to be pretty similar to

1 what I've said for other terms. I think in the case
2 of this particular term, the requirements of the
3 anchor message and what it is are pretty well set
4 forth in the claim. The claim ties the anchor message
5 to the first messaging communication. There's one of
6 the limitations that says it is the first messaging
7 communication. So the requirements of the first --
8 messaging communication in the anchor message are what
9 the anchor message is and what it needs to do.

10 **Q. And what is your understanding of the plain**
11 **and ordinary meaning of "an indication"?**

12 A. I think that is going to be pretty similar.
13 The plain language says what the indication is. It's
14 an indication that said, "first messaging
15 communication is an anchor message of a subsidiary
16 communication thread," and then it goes on from there.
17 It says in the claim language what the indication has
18 to be an indication of.

19 **Q. In Paragraph 105, you refer to Figure 10E**
20 **to depict an indication; is that right?**

21 A. Yes. It's an example of one from the
22 specification.

23 **Q. But you would agree with me that Claim 1 is**
24 **not limited to this particular type of indication,**
25 **right?**

1 A. That is correct.

2 Q. And just so we're clear, what is the
3 indication in Figure 10E that you're relying on?

4 A. That highlighted portion.

5 Q. That says, "Sidebar with Ali T. started
6 May 10 at 8:43 a.m."?

7 A. Yes.

8 Q. Now, with respect to the prior art Kakuta
9 reference, are you opining that there is no anchor
10 message at all, or that there's no indication that the
11 first messaging communication is an anchor, anchor
12 message?

13 A. Normally, I would say it's all of the
14 limitations together. Let me see if I've broken it
15 down into its constituent parts to see if I've tried
16 to answer your question specifically, so give me one
17 second.

18 So Paragraph 107, the top of Page 75, the
19 portion of the paragraph that goes on to the next
20 page.

21 The second full sentence says, "Thus, the
22 message in the top-most position in the
23 window does not indicate a message is an
24 anchor message."

25 And it goes on, "In addition, the top

1 message in Figure 7 happens to be a
2 message prior to the creation of a
3 thread." And then it says,
4 "However, this is not apparent from the
5 Kakuta user interface." And it goes on
6 from there.

7 So it's saying again, that what
8 Dr. Cockburn has pointed to as the anchor message, in
9 fact that's the first sentence of Paragraph 108, that
10 he suggests that the top-most message can serve as an
11 anchor message, and so the point is that's not how
12 it's described and it wouldn't meet all of the
13 requirements of an anchor message as expressed
14 throughout the various limitations. So what he's
15 pointed to is not an anchor message.

16 Now your question might have been does that
17 mean there's no anchor message anywhere in Kakuta?
18 And if that's the question, not to my recollection.
19 Certainly not anything that Dr. Cockburn and
20 petitioner have pointed to do -- have pointed to.

21 **Q. And so I think you corrected a typo, so I**
22 **want to make sure that we understand we're on the same**
23 **page here.**

24 **At the Paragraph 107, the second full**
25 **sentence on Page 75 of your declaration, you read when**

1 you were reading it, you read this to say, "does not
2 indicate a message is an anchor message," rather than
3 it says on the text, "a message in an anchor message."

4 A. Yes.

5 Q. Okay. So that should be "is"?

6 A. That's correct.

7 Q. If I can refer you to Paragraph 111 of your
8 declaration?

9 A. I am there.

10 Q. Is it the case that you understand
11 Limitation 1[o] to require that the second
12 user-selectable control must appear in the second
13 pane?

14 A. I don't think it has to appear in the pane
15 to be associated with. I think the example -- ah,
16 there's not the example from the '731 patent that
17 follows the same model. I think in the '731, I think
18 it's 10G. No, sorry. It is 10G.

19 And so I don't recall having to determine
20 whether or not it was a requirement of the claim that
21 the second user-selectable control has to be in the
22 same pane. It is in 10G and it's part of what 10G is
23 including as the association, but as long as you've
24 got a display that associates those two things
25 together in the display, then you would have that

1 association to it. I think in the paragraph you were
2 reading, it was kind of the first sentence, in
3 characterizing Kakuta, and then it goes on from there
4 to say, that is it's placement on the floating toolbar
5 and the placement of the toolbar within the overall
6 screen that has no association with the first
7 messaging communication in the second panel.

8 Q. Yeah, well, what I was looking at was your
9 statement in Paragraph 111 that says, "the claim
10 requires that the control be 'in said second pane.'"

11 A. What paragraph was that?

12 Q. 111. So I wanted to confirm that that --
13 if I'm understanding your opinion correctly, that you
14 believe Limitation 1[o] requires that the control
15 appear within the boundaries of the second pane or
16 not?

17 A. Okay, I see that. I think this is, what
18 this paragraph is supposed to be describing is it's
19 offering those two as an alternative, because it goes
20 essentially to a claim construction as to whether or
21 not a claim requires the control to be in the second
22 pane. Under the assumption that it's not required to
23 be in the second pane, there's still not an
24 association for the reasons I've identified on the
25 next page. For this first condition, where it is that

1 the claim requires the control to be in the second
2 pane, it's certainly not in the second pane.

3 Q. Do you have an opinion, I suppose, of what
4 the proper understanding of that limitations is; is it
5 required to be in the second pane or not?

6 A. So thinking back to this, I don't recall
7 that the claim language says explicitly that it has to
8 be in the second pane, it just has to be associated
9 with. So I would be careful to explain that I'm
10 considering both alternatives at this point. If it
11 has to be in the pane, that's the interpretation of
12 the claim, then what Dr. Cockburn points to is
13 certainly not in the second pane. And then also it
14 goes on to say it's a floating toolbar, it's not
15 associated with the first messaging communication. So
16 even though there would need to be an association,
17 it's not present. So I think I've handled both, both
18 instances, in Paragraph 111.

19 And then to the question for the sentence
20 that says, "However, the claim requires
21 the control to be in the second pane."

22 I think that should be expressed as an
23 assumption, but I don't think I've taken a position
24 under claim construction that it is an explicit
25 requirement of the claim.

1 Q. Let me next ask you to turn to Page 80 of
2 your declaration, starting with Paragraph 115.

3 A. Okay, I am there.

4 Q. And this, I think, is similar to an issue
5 we discussed previously, so I will try to be brief in
6 my questions here.

7 As I understand your opinion with respect
8 to Limitation 1[p], your opinion is that the
9 intervening thread selection box that's displayed in
10 Figure 12 of Kakuta on Page 81 of your declaration
11 means that the display button does not cause a portion
12 of the subsidiary thread to be displayed in the third
13 pane. In other words, it seems similar to your
14 opinion that the "in response to" language is not met
15 because Kakuta has an intervening box, a pop up box,
16 and I believe your opinion here is the same, but I'm
17 just trying to make sure that that's accurate?

18 A. It is similar. I think your question
19 pretty much got to one of the sentences in
20 Paragraph 117, that third sentence, but then just for
21 the sake of completeness, 116 says, again, there's
22 this linkage that Dr. Cockburn doesn't or hasn't
23 established with Limitation 1[o], but for at least the
24 additional reason that it doesn't cause a portion of
25 the thread to appear in the thread window, it's

1 similar to what was the same style of analysis as
2 before.

3 Q. We can now turn to Page 82 of your
4 declaration and your discussion of Claim 2.

5 A. Okay.

6 Q. What is your understanding of the plain and
7 ordinary meaning of additional messaging communication
8 in Claim 2?

9 A. Let's see. Let me look back at Claim 1.
10 I'm looking for the antecedent basis for
11 that additional messaging communication, and I believe
12 it shows up at the bottom of Column 27.

13 It looks like the context of the way that
14 term is used is in that limitation:

15 "In response to a user selection of said
16 first user-selectable control, display a
17 third pane, said third pane displaying
18 said first messaging communication and
19 having an associated sidebar text-entry
20 field that is different from said channel
21 text-entry field and operable to receive
22 user input of an additional messaging
23 communication."

24 It's referencing an additional message that
25 could be entered in that third pane, and then it's

1 referenced again at the top of Column 28, about Line 7
2 or 8, and so this is talking about the additional
3 messaging communication that would be input in that
4 third panel that would then appear back in the second
5 panel while it's also displayed in the third panel.

6 Q. What is it -- what is -- sorry. Strike
7 that.

8 What does Claim 2 require with respect to
9 the additional messaging communication that's not
10 claimed in Claim 1?

11 A. The simultaneous display of that additional
12 messaging communication in both the second and third
13 pane.

14 Q. Doesn't Claim 1 say where you were just
15 reading from and wherein -- or wherein said first
16 messaging communication -- I see. So Claim 2 is
17 adding in addition to the first messaging
18 communication being displayed in both? The additional
19 messaging communication is displayed in both?

20 A. Yes, at the same time in Claim 2.

21 Q. And it's your opinion that Kakuta does not
22 disclose any embodiment in which a message that is
23 input in the -- in response to the first message, is
24 displayed in both the original chat area and the new
25 chat area that was created?

1 A. All right, I lost track of the first part,
2 what you were identifying as the message. The way I
3 would describe it is, what's supposed to happen is you
4 have a third panel, you enter a message there, and
5 it's displayed in the third panel and then also in the
6 second panel at the same time. With respect to that
7 functionality, it's not disclosed in Kakuta because of
8 that description from Figure 14, that flow diagram,
9 where it describes it as being displayed in one or the
10 other, but not both.

11 Q. And it's your opinion that there's no other
12 disclosures anywhere in Kakuta that discloses
13 displaying that message in both the thread window or
14 the chat window?

15 Sorry. Maybe that was confusing. Let me
16 ask that again.

17 A. I knew what you were asking.

18 Q. I'm trying to use the language also that
19 you use in your declaration to refer to the different
20 windows.

21 So I will talk about the chat window, which
22 I think was the original window of messages, and then
23 the thread window, which is the subsequent one that
24 was created. Is that how you were referring to those
25 terms in your declaration?

1 A. I think that's right.

2 Q. Okay. So is it your view that outside
3 of -- sorry. Strike that.

4 Is it your view that Kakuta does not
5 disclose any embodiments in its specification where a
6 message is displayed in both the thread window and the
7 chat window, simultaneously when that message is
8 entered?

9 MR. KATZ: Objection. Misstates his
10 testimony.

11 Go ahead.

12 THE WITNESS: Not any message.
13 Remember we're not talking about just the display
14 of a message or any message in both windows at
15 the same time. We're talking about a first
16 messaging communication, and then there's an
17 additional messaging communication. As you ask
18 to start this mini module, the additional
19 messaging communication has specific requirements
20 for it, because Claim 2 has an antecedent basis
21 back to Claim 1, that is that you have the
22 additional messaging communication entered via
23 that third pane, and then is also simultaneously
24 displayed in the second pane.

25 So to be clear, it's not just any

1 message in any embodiment. It has to be of the
2 particular type identified in the claim.

3 BY MR. KAO:

4 Q. So to ask it again, it's your understanding
5 of Kakuta, that Kakuta does not disclose any
6 embodiment were a new message entered in the thread
7 window will display that message in both the thread
8 window and the original chat window simultaneously?

9 A. If I understand what you're saying
10 correctly, not something that's sufficient to meet the
11 requirement of Claim 2. I think that's what you're
12 trying to get at in your question, and then the answer
13 would be it's not disclosed in Kakuta.

14 Actually, the first answer would be what
15 Dr. Cockburn points to is not sufficient to meet the
16 requirement, and then to answer your specific
17 question, I don't believe that there is an embodiment
18 that meets the specific requirements of Claim 2.

19 I'm sorry, and the reason for that is in
20 121. This, kind of what he relies on, is a message in
21 the main chat window that has been copied into the
22 thread window. Once you properly impose the
23 limitations of Claim 2 for that additional messaging
24 communication, which is supposed to be in the other
25 direction, I don't believe there's a disclosure of

1 that.

2 **Q. I think I understand you. You are saying**
3 **that Kakuta discloses if a new message is entered in**
4 **the chat window, it may simultaneously appear in the**
5 **thread window, but not vice versa?**

6 A. No. I don't think that there is a
7 disclosure of that. You could copy, select and copy a
8 message from the thread window into the chat window.

9 Your characterization seems to imply typing
10 a message into the thread window would cause it to
11 also appear in the chat window. I don't think there
12 is a disclosure of that. What Dr. Cockburn relies on
13 is being able to copy a message from one window to the
14 next.

15 **Q. Okay. So maybe I understood you --**
16 **misunderstood you before.**

17 Is there a disclosure in Kakuta, in your
18 view, of inputting message into the chat window and
19 having that message simultaneously appear in the
20 thread window or not?

21 A. I don't believe there is.

22 **Q. Okay.**

23 A. And yeah, I think you're a little vague on
24 the message aspect of it, but I think the requirement
25 for the additional messaging communication, at least

1 in part, includes typing into the third pane and
2 having it appear in the second pane simultaneously.

3 Q. I understand that, but my question was
4 whether there was a disclosure of inputting an
5 additional message or a new message in the chat window
6 and having that appear simultaneously in the thread
7 window?

8 MR. KATZ: Objection to form. Using
9 terms from the claim improperly.

10 THE WITNESS: So I am looking at
11 Paragraph 121. That's where he is arguing it
12 goes from the thread window to the chat window,
13 and so there's the main chat window -- maybe the
14 confusion is over the terminology.

15 What's shown is copying messages from
16 the main chat window to the thread window, and
17 that's not what's required. And so that
18 passage -- and then you get to 122, that that
19 passage does not suggest that messages will
20 appear in both the thread window and the main
21 chat window.

22 BY MR. KAO:

23 Q. So your understanding of the Kakuta
24 reference, just so we're clear, is that there's no
25 disclosure of a new message appearing simultaneously

1 in the chat window and the thread window, regardless
2 of where it's input, either in the chat window or in
3 the thread window. Is that -- I'm trying to
4 understand; is that fair?

5 MR. KATZ: Hold on. Objection to form.
6 Misstates his testimony, incomplete hypothetical.

7 THE WITNESS: I understand the desire
8 to understand. Your characterization appears to
9 allow a user to take a message that was entered
10 into the main chat window, to select and copy it
11 into the thread window, and then say, okay, now
12 you have the simultaneous display of two messages
13 in two different windows at the same time, which
14 is what simultaneous means. The existence of the
15 ability to do that is not sufficient to meet the
16 additional requirement of Claim 2, because what
17 has to be displayed and where it comes from has
18 an antecedent basis back into Claim 1 and where
19 the additional messaging communication has to be
20 received as user input into the text entry field
21 of the third pane.

22 BY MR. KAO:

23 Q. I understand your opinion with respect to
24 Claim 2, Doctor.

25 A. Okay.

1 Q. I'm just asking for your understanding of
2 Kakuta. And I'm not -- I am not embedding any
3 terminology or concepts of copying over. That wasn't
4 in my question.

5 A. Okay.

6 Q. So I'm just simply asking with respect to
7 your understanding of Kakuta, and you might not have
8 an understanding of Kakuta, that's fine. But my
9 question is, in your understanding of Kakuta is there
10 any disclosure of a new message, that is input either
11 in the chat window or the thread window, appearing
12 simultaneously in both, both of those windows?

13 MR. KATZ: Objection to form. Compound
14 and incomplete hypothetical.

15 THE WITNESS: So there is a disclosure
16 in Kakuta in which a message can be copied from
17 the main chat window to the thread window. That
18 would seem to meet the requirements of your
19 question, though to be clear, the question is not
20 what the claims require.

21 BY MR. KAO:

22 Q. And I wasn't asking you to opine on the
23 claims, at all. I was again, once again, just asking
24 for your understanding of Kakuta?

25 A. Okay. I just want to make sure there's no

1 confusion about my disagreement between the scenario
2 you were asking about and what the claims require.

3 Q. And my question, I specifically said I
4 wasn't asking you about any copying, but in your
5 answer, you mentioned copying. So I guess I want to
6 understand what -- what is your, you know -- why is
7 copying important to you, or what does the
8 significance of you saying that there is copying as an
9 option?

10 A. Okay. Sure, I understand and I think I had
11 missed that part in your question to be exclusive of
12 copying. So the reason for that is if you look at
13 Figure 7 of Kakuta, and I think there is an example.
14 I have to look, pull up Kakuta. It's earlier in the
15 declaration somewhere. Page 65.

16 Q. Okay.

17 A. So there is Figure 7, and it shows the main
18 chat window and it has a message in it. It actually
19 has three messages, and then three of those messages
20 are in the window, "New Thread 1," and so that would
21 be an example of where the same message appears in
22 those two windows at the same time. The point is the
23 disclosure of how you get to that example is based on
24 a user's copying the messages from the underlying
25 window into the new window, and that's why that's

1 important to understand how that happened.

2 Q. I think I understand you now. So by
3 copying you mean that you're essentially saying it's
4 the creation of the new thread you're saying is
5 copying the messages from the chat window into the new
6 thread. That's what you're referring to as copying.
7 Is that right, just so I get what you're saying?

8 A. I actually thought that the disclosure in
9 Kakuta was more specific than that. It was that you
10 could select those messages and copy them into a new
11 thread window.

12 Q. Okay. So I think I understand what you are
13 saying. Let me ask it again with this context.

14 It's your view that there is no disclosure
15 anywhere in Kakuta of a user entering a new message
16 after the thread has been created, either in the chat
17 window or the thread window, and having that new
18 message be displayed in both the chat window and the
19 thread window simultaneously?

20 MR. KATZ: Objection. Compound and
21 incomplete hypothetical.

22 THE WITNESS: So it's unclear whether
23 or not you're asking about the claim language or
24 a different scenario.

25 *****

1 BY MR. KAO:

2 Q. I am not asking about the claim language.

3 A. Okay.

4 Q. I'm asking for your understanding of
5 Kakuta?

6 A. Okay. So for that scenario, I don't recall
7 if there was a disclosure in Kakuta of that
8 functionality, in large part because I think it's
9 different from the claims, and so asking about a
10 disclosure in Kakuta that's different than what I
11 looked at, I would have to go and look.

12 Q. I will ask you to turn to Page 91 of your
13 declaration and your discussion of Claim 4, starting
14 at Paragraph 130.

15 A. Okay. I'm there.

16 Q. What is your understanding, as a person of
17 ordinary skill in the art, of the plain and ordinary
18 meaning of the term, "proximate to"?

19 A. I don't believe I have a specific
20 definition or a specific plain and ordinary meaning.
21 There is the first sentence of Paragraph 134:

22 "The proximity between a control and a
23 message, as described in the '731 patent
24 creates a visual relationship between" --
25 between the two -- "such that a user

1 would readily understand that the control
2 relates to that message."

3 And so I think that's a reasonable
4 understanding as to what would be needed in the claim
5 when it uses the term "proximate to" between the two
6 things that are supposed to be in proximity to each
7 other.

8 **Q. So proximity is not a measure of distance?**

9 A. It is not a requirement -- well, I'm not
10 sure how to express this, but it could be a
11 consideration whether or not something is close or not
12 could affect whether or not there is a visual
13 relationship between the control and the message such
14 that a user would readily understand that the control
15 relates to that message, but the fact that they could
16 be visually proximate is something that could
17 contribute to meeting the requirements of the claim.

18 **Q. How does the term "proximate" then, in your**
19 **view, differ from the terms we were looking at earlier**
20 **like "associated with"?**

21 MR. KATZ: Objection to form.

22 Dr. Almeroth, let me make my objection.

23 Objection to form. Nonsensical

24 question.

25 Go ahead.

1 THE WITNESS: I mean, there are
2 different terms. They would have different
3 meanings. Certainly there could be something
4 that is both associated with and proximate to,
5 but they ultimately have different requirements,
6 as expressed in the claims.

7 BY MR. KAO:

8 Q. Again, you would agree that example
9 depicted in Figure 10G doesn't limit what might be
10 proximate for the purposes of Claim 4, right?

11 A. Not from a claims scope perspective. It's
12 offered as an example embodiment.

13 Q. I will ask you to turn to Page 97 of your
14 declaration and your discussion of Claim 7?

15 A. Okay.

16 Q. What is your understanding, as a person of
17 ordinary skill of the art, as to the plain and
18 ordinary meaning of the term "identifying
19 information," in Claim 7?

20 A. It is information associated with the
21 anchor message, and so I think the example is now 10H,
22 and so examples of identifying the information would
23 be like in an identifier of the author of the message,
24 and then there could potentially be other things.
25 There could be a tie -- there could be some sort of

1 message identifier that's included, but at least an
2 example would be that the author of the message.

3 Q. Specifically with respect to Figure 10H,
4 which you have depicted in Paragraph 140, the
5 identifying information is the -- are the words,
6 "Frank M."

7 A. I see your question phrased interestingly
8 was the identifying information of the message. It
9 doesn't use that article "the." It's identifying
10 information associated with the anchor message. So
11 there's Frank M. There's the other example, Sona,
12 S-O-N-A, H. at 8:33 a.m. That's identifying
13 information associated with, in that case, that
14 particular message.

15 Q. So just to step back, let me try to
16 rephrase it in a way that I think you are more
17 comfortable with.

18 The context of Figure 10H, identifying
19 information associated with the anchor message is
20 Frank M.?

21 A. An example of identifying information
22 associated with the anchor message would be Frank M.,
23 as an example.

24 Q. How is that -- in the example given in
25 Figure 10H, how is that then in association with said

1 additional messaging communication in said second
2 pane?

3 A. So remember that the additional messaging
4 communication is the message that's entered in that
5 right panel, that third panel, and so that would
6 include the fact that Frank M. is included in that
7 sidebar communication, and so the claim would require
8 displaying the Frank M. information in association
9 with that additional messaging communication in the
10 second panel.

11 So this additional third panel
12 communication would include an additional message
13 entered by Frank M., and displaying that it's Frank M.
14 who is associated with that message.

15 Q. I appreciate that we're almost out of time
16 here. Why don't we take a quick two or three-minute
17 break, and let me make sure that I don't have any
18 final questions for you and I'll try to get you out on
19 time.

20 A. All right. Thank you.

21 THE COURT REPORTER: Off the record.
22 (Off the record at 6:48 p.m.)

23 MR. KAO: We can go back on the record.

24 THE COURT REPORTER: On the record.
25 (On the record at 6:52 p.m.)

1 BY MR. KAO:

2 Q. One additional question for you,
3 Dr. Almeroth. If I can have you turn to Paragraph 214
4 of your declaration, and in particular, the fourth
5 full sentence on Page 141 of your declaration, where
6 you state that:

7 "Claims 8 and 20 require the display of
8 'said additional messaging communication'
9 in the second pane and displaying an
10 'indicator identifying said additional
11 messaging communication as associated
12 with a subsidiary communication thread."

13 Do you have an understanding, as a person
14 of ordinary skill in the art, what the plain and
15 ordinary meaning of "indicator identifying said
16 additional messaging communication" means?

17 A. Yes.

18 Q. What is that?

19 A. That's another question. No, I'm just
20 kidding.

21 It's defined by that claim language itself.
22 So the indicator identifying said additional message
23 communication as associated with the subsidiary
24 communication thread, so you need an indicator that
25 does that.

1 Q. And there's no, I take it, requirement in
2 the claims of any specific type of indicator, as long
3 as it performs this function that you just identified?

4 A. That is a bit open-ended. I probably need
5 to give it some thought, but as long as it's something
6 that identifies the -- identifies the rest of the
7 claim language, I don't have an example of something
8 that wouldn't be an indicator if it meets that
9 requirement. Maybe there's something. I'd have to
10 give it some thought, though.

11 MR. KAO: Thank you. I don't have any
12 further questions for you. I appreciate your,
13 you know, rescheduling this. I know that it was
14 difficult, but, you know, given now we had a team
15 member that had health issues that had to go to
16 the emergency room, I appreciate your
17 rescheduling it. So thank you for your time
18 today, Dr. Almeroth.

19 MR. KATZ: I wasn't sure if it was you
20 or Brock, but give our best wishes. It was
21 Brock?

22 MR. KAO: Yes, yes.

23 MR. KATZ: Give our best wishes to
24 Brock, and in fact, the Wrinkle guys as well
25 wanted me to pass that on to you.

1 I just have a very quick, I hope, a
2 two-question follow-up.

3 EXAMINATION

4 BY MR. KATZ:

5 Q. Dr. Almeroth, during the course of this
6 lengthy deposition, you identified a typo, I think,
7 "in" was supposed to be "is," and you identified a
8 clarification where you said something should be
9 interpreted as alternative, even if literally it may
10 not be read that way.

11 Do you remember those two clarifications?

12 A. I do.

13 Q. Other than those two, do you fully stand by
14 your declaration as printed and served?

15 A. Yes.

16 MR. KATZ: No further questions.

17 MR. KAO: I don't have anything
18 further.

19 (Deposition concluded at 6:56 p.m.)

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C E R T I F I C A T E

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

I, TERI C. GIBSON, a CSR, RPR, CRR, and a Notary Public within and for the Commonwealth of Massachusetts do hereby certify:

In the 28th day of October 2025, before me, the undersigned Notary Public, appeared remotely, KEVIN C. ALMEROOTH, PH.D., who proved to me through satisfactory evidence of identification, which was a CALIFORNIA DRIVER LICENSE; that the witness whose testimony is hereinbefore set forth, was duly sworn by me, and that such testimony is a true and accurate record of my stenotype notes taken in the foregoing matter, with use of mechanical stenography, computer-aided transcription, to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand this 31st day of October 2025.


TERI C. GIBSON, CSR, RPR, CRR

Notary Public - My Commission Expires: 1/29/2032

DECLARATION UNDER PENALTY OF PERJURY

Case Name: Slack Technologies, LLC
vs. Wrinkl, Inc.

Date of Deposition: 10/28/2025

Job No.: 10175963

I, KEVIN C. ALMEROOTH, PH.D., hereby certify
under penalty of perjury under the laws of the State of
_____ that the foregoing is true and correct.

Executed this _____ day of
_____, 2025, at _____.

KEVIN C. ALMEROOTH, PH.D.

NOTARIZATION (If Required)

State of _____

County of _____

Subscribed and sworn to (or affirmed) before me on
this _____ day of _____, 20____,
by _____, proved to me on the
basis of satisfactory evidence to be the person
who appeared before me.

Signature: _____ (Seal)

1 DEPOSITION ERRATA SHEET
Case Name: Slack Technologies, LLC
2 vs. Wrinkl, Inc.
Name of Witness: Kevin C. Almeroth, Ph.D.
3 Date of Deposition: 10/28/2025
Job No.: 10175963
Reason Codes: 1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.
4
5
6 Page _____ Line _____ Reason _____
7 From _____ to _____
8 Page _____ Line _____ Reason _____
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1 DEPOSITION ERRATA SHEET

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21 From _____ to _____

22 _____ Subject to the above changes, I certify that the
transcript is true and correct

23 _____ No changes have been made. I certify that the
transcript is true and correct.

24

25 _____
KEVIN C. ALMEROOTH, PH.D.

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