

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

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MAXELL, LTD.,

Plaintiff,

Case No. 5:23-cv-00108-RWS-JBB

v.

TCL Electronics Holdings Ltd. (F/k/a TCL
Multimedia Technology Holdings, Ltd.); TCL
Industries Holdings Co., Ltd.; T.C.L.
Industries Holdings (H.K.) Limited; TTE
Corporation; TCL Moka International Limited;
TCL Moka Manufacturing S.A. de C.V.; TCL
King Electrical Appliances (Huizhou) Co.
Ltd.; Manufacturas Avanzadas S.A. de C.V.;
TCL Smart Device (Vietnam) Co., Ltd.;
Shenzhen TCL New Technology Co., Ltd.;
TCL Optoelectronics Technology (Huizhou)
Co., Ltd.; TCL Overseas Marketing Ltd.; and
TCL Technology Group Corporation (f/k/a
TCL Corp.),

Defendants.

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VIDEOTAPED DEPOSITION
OF
ELI SABER
TUESDAY, AUGUST 20, 2024
HELD REMOTELY

Reported by:
CANDIDA BORRIELLO
JOB NO. 6685206-001

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DATE: August 20, 2024
TIME: 9:08 a.m. (Eastern Time)

Deposition of ELI SABER, held REMOTELY,
before Candida Borriello, Court Reporter and
Notary Public of the State of New York.

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

Appearing on Behalf of Plaintiff,
Maxell, Ltd:

MAYER BROWN LLP
1999 K Street, NW
Washington, DC 20006
(202) 263-3000
BY: COURTNEY KRAWICE, ESQ.
EMAIL: ckrawice@mayerbrown.com

Appearing on Behalf of Defendants,
TCL Electronics Holdings Ltd.(f/k/a TCL
Multimedia Technology Holdings, Ltd.);
TCL Industries Holdings Co., Ltd.;
T.C.L. Industries Holdings (H.K.) Limited;
TTE Corporation; TECL King Electrical
Appliances (Huizhou) Co. Ltd.; Manufacturas
Avanzadas S.A. de C.V.; TCL Smart Device
(Vietnam) Co., Ltd.; Shenzhen TCL New
Technology Co., Ltd.; TCL Optoelectronics
Technology (Huizhou) Co., Ltd.; TCL Overseas
Marketing Ltd.; and TCL Technology Group
Corporation (f/k/a TCL Corp.):

KING & SPALDING LLP
1700 Pennsylvania Avenue, NW
Suite 900
Washington, D.C. 20006
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BY: ZACHARY COOTS, ESQ.
EMAIL: zcoots@kslaw.com

(Appearances continued on next page.)

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A P P E A R A N C E S: (Continued)

Appearing on Behalf of Defendants,
TCL Moka International Limited and TCL Moka
Manufacturing S.A. de C.V.:

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ALSO PRESENT:

CRAIG JONES, Videographer

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THE VIDEOGRAPHER: Good morning.

We are going on the record at
9:08 a.m. EDT on August 20, 2024.

Audio and video recording will
continue to take place until all
parties agree to go off the record.

Please note that microphones are
sensitive and may pick up whispering
and private conversations.

This is the video recorded
proceeding of Dr. Eli Saber in the
matter of Maxell, LTD versus TCL
Electronic Holdings, et al. This
proceeding is being held via remote
digital conference.

My name is Craig Jones, I'm the
videographer on behalf of US Legal
Support. I'm not related to any party
in this action, nor am I financially
interested in the outcome.

The court reporter is Candida
Borriello, also on behalf of US Legal
Support.

Counsel will now state their

1 E. Saber
2 appearances for the record, after
3 which the court reporter will swear in
4 the witness and then counsel may
5 proceed.

6 MR. COOTS: Good morning. This is
7 Zachary Coots of King & Spalding, we
8 represent the TCL defendants.

9 MS. KIRK: This is Ashley Kirk of
10 Willenken, LLP, we represent the TCL
11 Moka defendants.

12 MS. KRAWICE: Courtney Krawice
13 from Mayer Brown on behalf of
14 plaintiff, Maxell.

15 E L I S A B E R,
16 called as a witness, having been
17 duly sworn by a Notary Public,
18 was examined and testified as
19 follows:

20 EXAMINATION BY

21 MR. COOTS:

22 Q. Good morning, Dr. Saber. How are
23 you?

24 A. Good morning. How are you?

25 Q. Doing well.

1 E. Saber

2 Would you mind to state and spell
3 your name for the record?

4 A. Yes. Eli Saber, E-L-I S-A-B-E-R.

5 Q. And where are you located this
6 morning, Dr. Saber?

7 A. I am located in Westport, New York.

8 Q. Have you been deposed before?

9 A. I have.

10 Q. Approximately how many times?

11 A. About 24 times.

12 Q. Have you ever represented the
13 plaintiffs, Maxell, before?

14 A. Not that I can remember.

15 Q. And with your prior depositions,
16 were those related to patent cases?

17 A. I'm sorry?

18 Q. Your previous depositions, were
19 those related to patent cases?

20 A. Most of them have. There were a
21 couple of cases, if I remember off the top of
22 my head, that were not patent related.

23 Q. Have your previous cases for which
24 you've provided deposition testimony been
25 related to television technology?

1 E. Saber

2 A. I don't remember way back, but
3 recent ones have not been.

4 Q. Have they involved computer
5 software technology?

6 A. Yes, there has been several that
7 involved computer software technology.

8 Q. I'm gonna go -- it sounds like you
9 have experience with depositions, but just --
10 I'm gonna go over some ground rules and if
11 you can confirm you understand.

12 Do you understand that your
13 testimony is under oath this morning?

14 A. I do.

15 Q. And you understand that means
16 you're sworn to tell the truth, the whole
17 truth and nothing but the truth?

18 A. I do.

19 Q. Is there any reason you cannot
20 provide your best testimony this morning?

21 A. No, there is not.

22 Q. You understand that your testimony
23 is being recorded by a stenographer?

24 A. I do.

25 Q. And that means let's please avoid

1 E. Saber

2 talking over each other. I'll allow you to
3 finish your answer if you can please allow me
4 to finish my question. Remember to keep your
5 responses verbal, so that means, you know, to
6 the extent you do shake or nod your head,
7 please also give an oral yes or no.

8 In that same way please avoid
9 things like uh-hum and uh-huh as those are
10 hard to take down. Your attorney,
11 Ms. Krawice, may object. To the extent she
12 objects, you can still -- and it's a fair
13 question, you're not instructed not to
14 answer, please answer the question. If you
15 don't understand my question, please let me
16 know and I will reask it. If you do answer
17 my question, I'm gonna presume you understand
18 my question.

19 Is that fair?

20 A. That's fair.

21 Q. Okay. You're entitled to
22 estimates, but do not guess. And I'll
23 probably -- I'll take breaks about every hour
24 or so, but if you need to go on a break, let
25 me know. My only request will be that if I

1 E. Saber

2 have a question pending on the record, you'll
3 answer that before we go on break.

4 Understood?

5 A. Yes, understood. Thank you.

6 Q. So Dr. Saber, are you currently
7 employed?

8 A. I am.

9 Q. And who is your current employer?

10 A. I'm -- I work for the Rochester
11 Institute of Technology.

12 Q. And how long -- I'm sorry?

13 A. RIT is the acronym.

14 Q. And how long have you worked for
15 RIT?

16 A. I started working for RIT in 1998
17 as an adjunct faculty and I joined full-time
18 in 2004.

19 Q. And what is -- what is your main
20 topic for professorship?

21 A. What do you mean by "main topic?"

22 Q. So like, what -- what field of
23 study do you cover, high level?

24 A. So I'm the faculty of electrical
25 and microelectronic engineering. So my, I

1 E. Saber

2 guess, field is somewhat broad. I teach
3 courses and signal MH video processing,
4 computer vision, machine learning. I've
5 taught courses in the same control systems
6 and communication systems. So typically in
7 these areas.

8 Q. Understood.

9 Do you have before you today a copy
10 of your declaration?

11 A. Counsel has sent a three-ring
12 binder that has the exhibits, so I have a
13 clean copy of my declaration. I also have
14 copies of the two patents. And I think the
15 prosecution history is here, but I also like
16 for you to upload those electronically.

17 Q. Understood.

18 Do you have -- do you have any
19 notes on your declaration or any other
20 documents in that binder?

21 A. No, I do not.

22 Q. Did you prepare for your deposition
23 today?

24 MS. KRAWICE: Objection. Form.

25 A. I did prepare for my deposition.

1 E. Saber

2 Q. And what did you do to prepare for
3 your deposition?

4 A. I read through the exhibits, I met
5 with counsel.

6 Q. And who did you meet with?

7 A. I met with Ms. Bonner, Ms. Krawice,
8 Ms. Kim, Mr. Levi and Mr. Koyama, not all at
9 the same time.

10 Q. Are all of those people attorneys
11 at Mayer Brown?

12 A. Yes, to my knowledge. They're
13 attorneys, I don't know if there's any
14 specialties, whatever, but they're counsel
15 that I met with.

16 Q. And approximately -- you said you
17 didn't meet with them all at the same time.
18 Approximately how many meetings did you have
19 to prepare with counsel for your deposition?

20 A. Four to five meetings, perhaps.

21 Q. All right.

22 MR. COOTS: I'm gonna -- actually,
23 can I go off the record for a minute?

24 THE VIDEOGRAPHER: We are off the
25 record. The time is 9:19 a.m.

1 E. Saber

2 (Off the record.)

3 THE VIDEOGRAPHER: We are back on
4 the record. The time is 9:27 a.m.

5 (Saber Exhibit 1, Expert Report of
6 Eli Saber, was marked for
7 identification.)

8 BY MR. COOTS:

9 Q. Dr. Saber, I've premarked Exhibit
10 Saber 1. Do you have a copy of this now,
11 were you able to download it?

12 A. I do.

13 Q. And do you recognize Exhibit
14 Saber 1?

15 A. Yes, it's my declaration.

16 Q. Okay. And this looks to be an
17 accurate copy of your declaration?

18 A. Yes.

19 Q. Did you draft this declaration?

20 A. So I have a process that works very
21 well for me over the years, so I typically
22 studied materials carefully, I have
23 conversation with counsel. And then it's a
24 collaborative and intuitive effort to come to
25 the final draft that I reviewed very

1 E. Saber

2 carefully inside.

3 Q. Can we go to -- looks like
4 Paragraph 58, which is on page 16 of your
5 report?

6 A. So I also have a hard copy, clean
7 hard copy here as I mentioned before, so I'll
8 be looking at both at the same time.

9 Q. Understood.

10 A. Paragraph what?

11 Q. So it is Paragraph 58 on page 16 of
12 your report. And if you can flip through to
13 Paragraph -- or I guess page 22, which is
14 Paragraph 75.

15 And the question is, does
16 Paragraph 58 to 65 capture the entirety of
17 your opinions with respect to whether
18 communication unit is a means-plus-function
19 term and whether it is definite?

20 MS. KRAWICE: Objection. Form.

21 A. So paragraphs -- so looking at my
22 declaration, essentially the opinions of the
23 disputed terms and the '341 patent start on
24 Paragraph 56 and go to Paragraph 75.

25 Q. Okay.

1 E. Saber

2 A. So that captures the opinions,
3 obviously the declaration has opinions and
4 discussions in various places, but this is --
5 this is the section that's focused on the
6 claim term communication unit.

7 Q. And then can you leaf through
8 specifically Paragraphs 58 through 65. We're
9 gonna discuss those next.

10 A. Okay. So what is your question?

11 Q. Okay. So let's start with
12 Paragraph 60, it says, you say:

13 In my opinion the term "unit" as
14 used in Claim 3 does not provide any
15 disclosure of structure and is not the name
16 of a specific structure. Counsel has
17 informed me that the term "unit" may be a
18 nonce word tantamount amount to the word
19 "means." I agree that in the context of
20 Claim 3, the word "unit" has no more
21 structural meaning than the word "means."

22 Is that a fair representation of
23 your opinion?

24 A. This was Paragraph 59 or --

25 Q. Let me -- my exhibit dropped off.

1 E. Saber

2 A. You cut off for a second.

3 Q. Yeah, give me a second.

4 So this is Paragraph 60.

5 A. 60, six zero.

6 Q. Six zero. Okay. And so do you
7 agree that the term "unit" may be a nonce
8 word tantamount to the word "means" and this
9 in context of Claim 3 the word "unit" has no
10 more structural meaning than the word
11 "means?"

12 MS. KRAWICE: Objection. Form.

13 A. I mean Paragraph 60 states my
14 opinion.

15 Q. Did you propose any other terms
16 from the '341 patent as requiring
17 means-plus-function construction?

18 MS. KRAWICE: Object to privilege.
19 I'm gonna instruct the witness not to
20 answer that question.

21 MR. COOTS: I didn't ask him about
22 any privileged communication. I just
23 asked him --

24 Q. Do you -- let me rephrase then.

25 Do you have any opinions that any

1 E. Saber

2 other claim terms to the '341 patent require
3 means-plus-function construction?

4 MS. KRAWICE: Objection. Scope.

5 A. So the opinions that I was asked to
6 provide are containing in my declaration. So
7 if you look at starting at Paragraph 56, I
8 provided an opinion on the term communication
9 unit and that was all I was asked to provide
10 at this time.

11 Q. Do you have the '341 patent in
12 front of you? And I can move this into --

13 A. I do.

14 Q. And can you navigate to Claim 3?

15 A. Can you upload a copy of the '341,
16 please?

17 Q. Is it --

18 MR. COOTS: Can you all see it?

19 MS. KRAWICE: Zach, I don't have
20 anything in my exhibit list. Did you
21 upload it?

22 MR. COOTS: Okay. There it is.

23 (Saber Exhibit 2, United States
24 Patent 10,375,341 B2, was marked for
25 identification.)

1 E. Saber

2 Q. All right. I'm sharing what has
3 been premarked Exhibit Saber 2. And I'll
4 represent for the record this is US patent
5 number 10,375,341.

6 Do you have this available for
7 download on your end, Dr. Saber?

8 A. I do, I am downloading it as we
9 speak. One moment. Okay. I have it
10 downloaded and it's open.

11 Q. Okay. If you can flip to the very
12 last page, I'm looking at Claim 3, the
13 preamble, a video display apparatus
14 comprising. Let me know when you're there.

15 A. I am there.

16 Q. And you see where it says -- and
17 this is the first limitation:

18 A display unit that displays a
19 video content from a broadcast station or
20 from a video content delivery source.

21 Did you propose or is it your
22 opinion that display unit requires
23 means-plus-function construction?

24 MS. KRAWICE: I'm going to object
25 to form and privilege and instruct the

1 E. Saber

2 witness not to answer on the grounds
3 of the part of that question that is
4 privileged.

5 Q. Do you have an opinion that display
6 unit requires means-plus-function
7 construction?

8 MS. KRAWICE: Object to scope.

9 A. I was not asked to provide any
10 opinions on display unit at this time.

11 Q. Is it your opinion that display
12 unit as recited in the claim itself has
13 sufficient structure not to require
14 means-plus-function construction?

15 MS. KRAWICE: Objection. Scope
16 and form.

17 A. Again, I was not asked to provide
18 any opinions on display unit. I obviously
19 read Claim 3, the entirety of Claim 3, to
20 form my opinions, but I was not asked to
21 provide an opinion specifically on display
22 unit. My scope was just on communication
23 unit.

24 Q. When you say you were not asked,
25 asked by who?

1 E. Saber

2 MS. KRAWICE: Object to privilege.

3 Instruct the witness not to answer.

4 Q. Dr. Saber, are you going to stand
5 on your counsel's objection?

6 A. Yes.

7 THE COURT REPORTER: I'm sorry.

8 Excuse me. I can't hear the witness.

9 A. I said if counsel instructs me not
10 to answer a question, I will not answer the
11 question.

12 Q. Understood.

13 If you go down to Limitation 1C, it
14 should be infrared receiver unit that
15 receives infrared rays from a third wireless
16 control device.

17 Is it your opinion that infrared
18 receiver unit does not require construction
19 under 112(f), means-plus-function?

20 MS. KRAWICE: Object to scope.

21 A. Again, as I said earlier, I have
22 read Claim 3 in its entirety to form my
23 opinion. Obviously, I read the specification
24 as well, but I was not asked to provide any
25 opinions on infrared receiver unit at this

1 E. Saber

2 time.

3 Q. Okay. And then if you go down one
4 more limitation, it says:

5 A controller that controls the
6 display unit, the communication unit and the
7 infrared receiver unit.

8 Do you have an opinion whether
9 controller requires means-plus-function
10 construction under 112(f)?

11 MS. KRAWICE: Object to scope.

12 A. And again, it would be the same
13 answer as I provided earlier. I read the
14 claim in its entirety to form my opinions,
15 but I was not asked to provide any specific
16 opinions on controller.

17 Q. Can we go to Paragraph 61 of your
18 report? You say:

19 Further, in my opinion, adding the
20 word "communication" to unit does not connote
21 a sufficiently definite structure to perform
22 the recited functions. The claim provides no
23 indication of structure for the term
24 "communication unit." The larger claim
25 describes the "communication unit" in

1 E. Saber
2 functional terms with respect to what the
3 communication unit communicates with in
4 sending and receiving information and
5 commands, rather than describing the
6 structure of the communication unit. I
7 further note that a POSITA would not
8 recognize communication unit as describing a
9 commercial phrase or term of art that is used
10 to describe a structure or class of
11 structures.

12 What do you mean by "the larger
13 claim describes the communication unit in
14 functional terms with respect to what the
15 communication unit communicates with in
16 sending and receiving information and
17 commands, rather than describing the
18 structure of the communication unit"?

19 A. Just what it says. If the -- if
20 you look at the claim as a whole when you
21 read the entire claim, the larger claim, the
22 claim as a whole in a sense, describes the
23 communication unit in functional terms.

24 Q. What do you mean specifically by
25 "with respect to what the communication unit

1 E. Saber

2 communicates with"?

3 A. Well, just what it says,
4 essentially, the larger claim as it says
5 describes a communication unit in functional
6 terms, that it does -- it's communicating
7 with devices. If you look at the function
8 that I provided, it transmits or receives
9 information or commands to or from wireless
10 control devices with or without the wireless
11 router.

12 So it's essentially describing the
13 communication unit in functional terms with
14 what it's communicating with.

15 Q. So, is going with or without a
16 router considered describing communication
17 unit in functional terms?

18 MS. KRAWICE: Object to form.

19 A. So, the function that I provide as
20 you see above Paragraph 58 described the
21 function of the communication unit. That
22 entirety, you know, sentence in a sense
23 describes the function.

24 Q. Do the terms communicating with a
25 router or without a router connote physical

1 E. Saber

2 structure to the communication unit?

3 A. Those describe function, the
4 function as I've described. Transmit or
5 receive information or commands to or from
6 wireless control devices with or without a
7 wireless router. That's the function that
8 the communication unit is performing.

9 Q. In your opinion, why -- why does
10 communicating with the router not connote
11 physical structure?

12 MS. KRAWICE: Objection. Form.

13 A. It doesn't. It's discussing the
14 function, that's a function of what the
15 communication unit is doing. The structure
16 is provided in above Paragraph 58 that
17 defines the structure of what the
18 communication unit is performing.

19 Q. So just to say communicating
20 without going through a router, that's not
21 sufficient physical structure for
22 communication unit?

23 MS. KRAWICE: Objection. Form.

24 A. That's the function as I've
25 described.

1 E. Saber

2 Q. What if I were to say "communicate
3 via the internet," would that add structure?

4 MS. KRAWICE: Objection. Form.
5 Scope.

6 A. Well, I mean, if you can see, if
7 you look at the function I provided, it
8 clearly says:

9 Transmitting or receiving
10 information or commands to or from wireless
11 control devices with or without a wireless
12 router.

13 So, that's the function that this
14 communication unit is performing. So in this
15 particular case when you read Claim 3 in its
16 entirety, a POSITA would come to that
17 conclusion.

18 Q. If the claim said "communicate and
19 receive commands through the internet -- or
20 let me rephrase that.

21 If the claim said the
22 "communication unit sends and receives
23 commands via the internet," would that
24 connote structure to the communication unit?

25 MS. KRAWICE: Objection. Form.

1 E. Saber

2 Scope.

3 A. So, what I have provided today is
4 an analysis on what it currently says. If
5 the claim -- I would have to see exactly what
6 the claim is -- is discussing in details and
7 I would have to analyze that to render an
8 opinion of that -- I'm not going to do that
9 on the fly here in a deposition. I would
10 have to see the entirety of the claim, the
11 details, the whereins, all the steps that are
12 being discussed and look at the specification
13 that supports that so I can render a proper
14 opinion.

15 Q. But the claim containing language
16 "communication unit sends and receives
17 commands via a router" is not specific
18 structure?

19 MS. KRAWICE: Objection. Form.

20 Scope.

21 A. The function that you see there is
22 what the communication unit that I provided
23 is what the communication unit function is
24 when you read Claim 3 as a POSITA, and that
25 is clearly a, you know, as you read the

1 E. Saber

2 claim. When you see the -- you look at the
3 structure in -- on -- above -- above
4 Paragraph 58 in my declaration, if you look
5 at the structure that I provided there, that
6 provides the structure for that communication
7 unit as described in the specification.

8 Q. Can we go -- can you go next to
9 your Paragraph 64? You say:

10 While the '341 patent discloses
11 that a LAN communication unit 36 is connected
12 to a wireless router 6 by wire or by
13 wireless, and can receive a video content to
14 or the like from the internet network for the
15 like, there is no discussion of a
16 communication unit broadly. In my opinion, a
17 LAN communication unit is one example of what
18 a communication unit could be, but it does
19 not expressly define the broader
20 communication unit as claimed.

21 What structure does the LAN
22 communication unit add?

23 MS. KRAWICE: Objection. Form.
24 Scope.

25 A. I mean, as this -- (indiscernible).

1 E. Saber

2 THE COURT REPORTER: I'm sorry,
3 you cut out there.

4 A. As this paragraph discusses or
5 describes, the LAN -- I mean, the LAN
6 communication unit is an example obviously of
7 the communication unit. It's not a clear
8 definition like you see when you get into the
9 later paragraphs.

10 So if you look at the structure
11 that I provided in the table above Paragraph
12 58, that's a clear structure definition
13 for -- for the communication unit as -- as
14 described in the specification. That's what
15 a POSITA -- (indiscernible).

16 THE COURT REPORTER: I'm sorry.

17 That's what a POSITA what?

18 A. -- would understand.

19 Q. Let's go to -- well, let me go back
20 to that. Actually, we'll jump to -- let's go
21 to Paragraph 72 to 73 and this is on page 20
22 and 21 of your report.

23 And you can take a look at that and
24 confirm, but what I'm seeing here is that you
25 cite to the '341 patent Column 6, line 41 to

1 E. Saber

2 47, you cite that in Paragraph 72. And then
3 in Paragraph 73, you cite the '341 patent at
4 Column 6 lines 47 to 51.

5 Do you see that?

6 MS. KRAWICE: Objection. Form.

7 A. I do see the citations.

8 Q. And if you can, turn over to the
9 '341, can you locate within the document
10 Column 6 lines 40 to 51.

11 A. Yes, let me -- yes, I have those
12 columns.

13 Q. Can you identify within this
14 paragraph from the '341 patent the structures
15 recited as part of the communication unit?

16 MS. KRAWICE: Objection. Form.

17 A. So, I think we have to be very
18 careful with terminology in the specifics
19 because terminology means certain things in
20 the legal arena. So the structure that I
21 provided is in the table above Paragraph 58,
22 that's the structure. So, whenever I use the
23 word "structure," it's referring to that
24 structure that's in that table. That's the
25 structure that's provided for the function

1 E. Saber

2 that's provided in that table as well.

3 Paragraph 6 -- 72 and 73 provide
4 the support that from obviously the '341
5 patent for that particular structure that I
6 provided.

7 Q. So is there -- is there structure
8 recited in this Column 6 lines 40 to 51?

9 MS. KRAWICE: Objection. Form.

10 A. As I said, as I answered earlier,
11 the structure -- I want to make sure the word
12 "structure" again means certain things in the
13 legal community and I don't want to mix that
14 with the wording from the paragraphs.

15 The structure is what's provided in
16 the table of Paragraph 58. That's the
17 structure. Paragraph 72 provides the support
18 and Paragraph 73 provide the support for --
19 that a POSITA would understand or arrive at
20 that structure.

21 So you see in Paragraph 72, that's
22 a direct quote from lines 41 to 47 of Column
23 6. So I directly quoted lines 41 to 47 that
24 you point me to within that whole paragraph
25 and emphasized the LAN communication unit

1 E. Saber

2 connections, the wireless, hard wire, et
3 cetera. That's all emphasized there and the
4 discussion also, as you see in Figure 3.

5 Paragraph 73 provides this -- the
6 support for that, essentially the without
7 part of it, but the structure is what I
8 provided in the table above Paragraph 58.

9 Q. You said the word "structure" means
10 certain things in the legal community, how
11 are you understanding the term "structure"
12 for purposes of your expert declaration?

13 MS. KRAWICE: Object to form.

14 A. Well, there is a description in my
15 declaration starting with Paragraphs 34 to 39
16 that discuss the means-plus-function
17 essentially -- (indiscernible).

18 THE COURT REPORTER: I'm sorry,
19 excuse. I really can't hear over the
20 typing.

21 A. So in my declaration Paragraphs 34
22 to 39 describe a legalities of the
23 means-plus-function claim terms and the steps
24 that you would follow, in a sense.

25 Q. Let's go to the structure you have

1 E. Saber

2 in the table. You say:

3 The structure is a LAN
4 communication device that is connected to a
5 wireless router by wire or wireless and
6 arranged to transmit or receive information
7 to or from wireless control devices according
8 to communication protocols such as infrared
9 rays, WiFi Direct, Bluetooth or WiFi.

10 Your structure contains function
11 language here, it's transmit or receive
12 information to or from wireless control
13 devices according to communication protocols
14 such as infrared rays, WiFi Direct, Bluetooth
15 or WiFi.

16 How does that connote structure?

17 MS. KRAWICE: Objection. Form.

18 A. Well, that essentially defines -- I
19 mean, the -- the description starting on
20 Paragraph 72 provide that, and if you see --
21 if you look at Figure 3, for instance, I
22 describe that, you know, you have the Figure
23 3 from the patent that supports the structure
24 that we have -- that I have provided.

25 Q. If we go to that section of the

1 E. Saber

2 specification you're reciting, I'm going back
3 to Column 6, line 40 to 51 and I'm now
4 specifically on line 43, it says:

5 Also, the LAN communication unit 36
6 receives various parts of commands from the
7 terminal apparatus 1 via the wireless router
8 or the like by using, for example, WiFi.

9 Do you disagree that that is
10 written in functional language?

11 MS. KRAWICE: Objection. Form.
12 Scope.

13 A. Well, you read it correctly, but I
14 don't want to use the words "functional" and
15 "structural" and -- because these have a
16 certain meaning, as I mentioned earlier, in
17 the legal community. So, I don't want to use
18 those words. You read the sentence
19 correctly. The LAN com unit receives various
20 types of commands from the terminal apparatus
21 1 via the wireless router, so it receives
22 commands via the wireless router 6 or the
23 like by using, for example, WiFi.

24 And if you look at Figure 3
25 essentially this is describing -- that column

1 E. Saber

2 starts describing Figure 3 on line 6 of that
3 column and goes on to line 51 as you have
4 mentioned.

5 Q. What about the specific part on
6 line 45, using, for example, WiFi.

7 Does using, for example, WiFi
8 connote structure?

9 A. Well, as I've described earlier,
10 the structure that I would like to utilize in
11 my declaration is what you see above
12 Paragraph 58, in that table. That is the
13 structure to support the claim term
14 "communication unit."

15 The supporting -- the supporting
16 citations are essentially -- I show that in
17 Paragraph 72 through 75 of how I've arrived
18 at that structure, so those are the
19 purporting citations. When you read those
20 citations and that section of Column 6, you
21 would understand that, you know, that that
22 LAN communication unit is connected to a
23 wireless router by wire or wireless and is
24 arranged to transmit or receive information
25 to or from wireless control devices according

1 E. Saber

2 to communication protocols, so you have
3 infrared, WiFi Direct, Bluetooth, WiFi.

4 So that's the structure that's
5 described here. These paragraphs provide the
6 supporting citation to arrive at that
7 structure.

8 Q. Do you have an opinion whether the
9 phrase "using, for example, WiFi" provides
10 sufficient structure to define the
11 communication unit?

12 MS. KRAWICE: Objection. Form.

13 A. Well, it's not just a phrase. I
14 mean, you have to look at the context, you
15 have to read the specification. It's not
16 just a single phrase that, you know, lifting
17 a phrase isn't -- doesn't comprehend the
18 context of what's going on. That's why I
19 discuss that in Paragraphs 72 through 75 and
20 provide the structure that you see above
21 Paragraph 58.

22 So these are the supporting
23 citations that support the structure that I
24 provided.

25 Q. Let me ask it another way. I can

1 E. Saber

2 read the whole sentence:

3 The LAN communication unit 36
4 receives various types of commands from the
5 terminal apparatus 1 via the wireless router
6 or the like by using, for example, WiFi.

7 Does using WiFi provide structure
8 to the communication unit?

9 MS. KRAWICE: Objection. Form.

10 A. I think I've already answered this
11 question, I've already answered this question
12 multiple times. The section that's cited
13 there in these paragraphs provide the proper
14 citations to arrive at the structure that's
15 in above Paragraph 58 in that table. So it's
16 not one single sentence. There's a series of
17 citations there and figures that support the
18 structure that's in that table.

19 Q. Okay. Let's go to Figure 3 and can
20 you point to specifically the structure
21 providing support the communication unit in
22 Figure 3?

23 MS. KRAWICE: Objection. Form.

24 A. So, if you look at Column 6
25 starting on line 6 to line 51, there is a

1 E. Saber

2 description of Figure 3 that we can walk
3 through to talk about Figure 3. That
4 description describes what's taking place in
5 Figure 3. There's also Figure 1 that is also
6 providing additional citations to support the
7 structure.

8 Q. Going to Figure 3, do we see
9 anything that is describing or illustrating a
10 communication that is not via the wireless
11 router?

12 MS. KRAWICE: Objection. Form.

13 A. So you see, for instance, if you
14 look at Column 6, lines 27 to 31, you see it
15 says:

16 An infrared communication unit 34
17 receives a control command transmitted from a
18 terminal apparatus having an infrared
19 communication function or a dedicated remote
20 controller by using, for example, infrared
21 rays and transmit the construction in the
22 control unit 30.

23 So there's description -- there's a
24 description of the figure here. And the
25 description on line 47 through 51 which are

1 E. Saber

2 cited also in the in Paragraph 73. So you
3 see there it says:

4 The LAN communication unit 36,
5 which is in Figure 3, may directly transit
6 and receive the command and status
7 information to and from the terminal
8 apparatus 1 without the wireless router 6 or
9 the like by using, for example, infrared
10 rays, WiFi direct or Bluetooth.

11 So this is talking about receiving
12 communications and information without the
13 wireless router. That previous line that you
14 read, which is 43 to 45, goes via the
15 wireless router 6.

16 So that's -- to me, that's a clear
17 description of Figure 3 in that column.

18 Q. What about that paragraph -- let me
19 see what you're referring to, I guess this
20 was Column 6, lines 47 to 51 and this is what
21 you describe in Paragraph 73. What about
22 those lines provide structures sufficient to
23 define communication unit?

24 MS. KRAWICE: Objection. Form.

25 A. I did not hear your question, you

1 E. Saber

2 cut out for a second.

3 Q. So, returning to Column 6, lines 47
4 to 51, what about those lines provide
5 sufficient structure to define communication
6 unit?

7 MS. KRAWICE: Objection. Form.

8 A. So you see in my Paragraph 73 that
9 essentially those lines, if I understood your
10 question correctly, so this is the
11 description, the citation for the without the
12 wireless router, so that's a citation for
13 without the wireless router.

14 Q. I guess what I'm trying to
15 understand here is that Paragraph 61, you say
16 that:

17 The larger claim describes
18 communication unit in functional terms with
19 respect to what the communication unit
20 communicates with in sending and receiving
21 information and commands.

22 And we discussed how that pertains
23 to sending commands, receiving commands via a
24 wireless router or without going via a
25 router. But then when we turn to the

1 E. Saber

2 specification for support, and I'm looking
3 specifically on Column 6, lines 40 to 51 and
4 then also with respect to Figure 1 and Figure
5 3, I'm still seeing functional language, I'm
6 still seeing things like the LAN
7 communication unit may directly transmit and
8 receive commands without the wireless router
9 or the like by using, for example, infrared
10 rays, WiFi Direct or Bluetooth.

11 What is the difference between
12 what's functional and what's structural?

13 MS. KRAWICE: Objection. Form.

14 A. So you see the function as provided
15 in that table is to transmit and receive
16 information or commands to and from wireless
17 control devices with or without a wireless
18 router, you can transmit, you can receive
19 information, doesn't provide exactly the
20 details, transmit and receive information or
21 commands to and from the wireless control
22 device, so you can go to and from, with or
23 without a wireless router.

24 The structure that's provided there
25 talks about a LAN communication device, it's

1 E. Saber
2 a local area network communication device
3 that is connected to a wireless router, so
4 there's a connection there to a wireless
5 router by wire or wireless, so it describes a
6 connection, and arrange to transmit or
7 receive information to and from wireless
8 control devices, according to communication
9 protocols.

10 So now it's providing the
11 structure, you got communication protocols,
12 this infrared, WiFi Direct, Bluetooth or
13 WiFi. So -- and that structure is supported
14 by the citations that I provided you in those
15 paragraphs that we've been talking about.

16 Q. So is it the communication
17 protocols that provide structure?

18 A. Well, it's that whole, the whole
19 piece of it is the structure that comes from
20 reading the context. It's not one word. You
21 have to read the context of what's being
22 described in the specification to arrive at
23 that structure. And that's what those
24 paragraphs are providing.

25 Q. What -- what I'm reading from, and

1 E. Saber

2 maybe we can break this down in parts, but
3 what I'm reading from structure is transmit
4 or receive information to or from wireless
5 control devices according to communication
6 protocols such as infrared rays, WiFi Direct,
7 Bluetooth or WiFi.

8 Do you disagree that transmit
9 information to or from wireless control
10 devices according to communication protocols
11 is functional language?

12 MS. KRAWICE: Objection. Form.

13 A. Well, there may be a couple of
14 words that overlap here and there, but you
15 have to describe the function is clearly
16 described, you are transmitting or receiving
17 information, so it's a functional thing. I'm
18 either transmitting or receiving information
19 or commands to and from wireless control
20 devices. So either transmitting to wireless
21 control or receiving with or without a
22 wireless router.

23 So to me that's clear. It's --
24 you're transmitting or receiving information
25 or commands to or from a wireless control

1 E. Saber

2 device with or without a wireless router.

3 So that to me is a functional
4 function of this communication unit, that's
5 its function. It transmits and receives
6 information and commands to or from the
7 wireless control device with or without the
8 use of a router, a wireless router. The
9 structure of it is described in that
10 structure statement that I provided and the
11 support for that is in those paragraphs, the
12 analysis and support is in the paragraphs in
13 the figures that I've shown you. So, the
14 structure provides the structure. It's --
15 you have a LAN communication unit that's
16 connected to wireless router by wire or
17 wireless and arranged to receive -- transmit
18 or receive information to or from wireless
19 control devices. Now you have according to
20 communication protocols and we've gone over
21 that all ready.

22 So that's the structure of how this
23 communication unit functions, in a sense. I
24 guess -- I don't know how to say it any
25 better than this.

1 E. Saber

2 Q. Well, I guess my question was a
3 little bit more direct and I think if you can
4 answer it, we can probably move on from this.

5 I guess my question is: The
6 structure you recite in this table on page 16
7 is transmit or receive information to or from
8 wireless control devices according to
9 communication protocols.

10 Do you agree or disagree that that
11 is functional language?

12 MS. KRAWICE: Objection. Form.

13 A. Well, I think you're -- you're
14 taking perhaps things a little bit out of
15 context. What -- what I'm describing there
16 is that whole sentence, in a sense, is the
17 structure. It's not picking one word here
18 and there and say, well, this word appears in
19 the function and must be functional language.
20 That's not -- that's not what I'm -- what I'm
21 stating there. The function is described
22 clearly in -- under a function. What is the
23 function of this communication unit? The
24 structure that supports that function is
25 described in that sentence under structure.

1 E. Saber

2 I don't know how to answer any
3 better than that. The citations are all in
4 the paragraphs that we've been discussing.
5 To me as looking at this as a POSITA is
6 crystal clear.

7 Do you think this is a good time
8 for a quick break?

9 Q. Yeah, we can take a break, you want
10 five or ten minutes?

11 A. What is your preference?

12 MR. COOTS: We can go off the
13 record and figure it out.

14 THE VIDEOGRAPHER: We are off the
15 record. The time is 10:21 a.m.

16 (Whereupon, a brief recess was
17 taken.)

18 THE VIDEOGRAPHER: We are back on
19 the record. The time is 10:32 a.m.

20 BY MR. COOTS:

21 Q. Welcome back, Dr. Saber.

22 A. Thank you.

23 Q. So I want to turn now to page 18,
24 and I'm looking at Paragraph 66 on to, let's
25 say, 69 for now.

1 E. Saber

2 A. Page 18 of my declaration.

3 Q. Yes, starting at Paragraph 66.

4 A. Yes, sir.

5 Q. Okay. And is it correct that here
6 you're talking about the functions to which
7 the communication unit performs?

8 MS. KRAWICE: Objection. Form.

9 A. Well, this section, so if you look
10 at my declaration from earlier, you know, the
11 context, in a sense, you can see on -- just
12 above Paragraph 59, there is a heading and
13 then above Paragraph 66 is the second
14 heading, which now defines the structure that
15 perform the claim function and there's a
16 description underneath that. So there's a
17 context for the whole section and that's -- I
18 want to make sure that's clear.

19 Q. Understood.

20 If we could actually then just go
21 to Paragraph 69, you say:

22 While I recognize that portions of
23 TCL's proposed functions are recitations of
24 the Claim 3, Maxell's proposed function
25 succinctly describes the same communications.

1 E. Saber

2 And then if you go to the very --
3 let me see, if you go to second to last
4 sentence in the same paragraph, you say:

5 Further as shown by my highlighting
6 above, Maxell's proposed functionality of the
7 communication unit captures both functions
8 proposed by TCL.

9 Do you see that in your report?

10 MS. KRAWICE: Objection. Form.

11 Q. Do you agree then with the --

12 THE COURT REPORTER: I'm sorry, I
13 didn't get an answer. I didn't hear
14 an answer.

15 A. You read those two sentences
16 correctly.

17 Q. Going up to the table TCL's
18 Proposed Functions, we have Number 1, and
19 it's:

20 Executes two types of
21 bidirectional, and so on.

22 And then we have Number 2:

23 If a first command/second command,
24 and so on.

25 Do you agree that the communication

1 E. Saber

2 unit performs both of those functions?

3 MS. KRAWICE: Objection. Form.

4 A. Well, what I agree to is stated in
5 my paragraph, so I just want to be sure that
6 we are clear here.

7 So the Paragraph 69 -- well, first
8 of all, let's put some context on this to
9 make sure it's clear. Paragraph 68 basically
10 states that TCL proposes two functions that
11 are listed, 1 and 2. Whereas Maxell's
12 proposal describes the same communication in
13 a more succinct way and that's why you have
14 that one function.

15 And I've done a comparison for you
16 using colors to see where that -- the Maxell
17 functionality and the TCL functionality
18 match.

19 So in Paragraph 69, the sentence
20 that you've read, while I recognize the
21 portions of TCL proposed functions are
22 recitations of Claim 3, because essentially
23 taking them out of Claim 3, the Maxell's
24 proposed function succinctly describes the
25 same communications.

1 E. Saber

2 Q. I guess my question is more simple
3 than that.

4 Can you disagree with TCL's
5 proposed functions? Not is there a more
6 succinct way of saying it, just do you
7 disagree with the functions TCL proposed for
8 communication unit?

9 MS. KRAWICE: Objection. Form.

10 A. Well, you can see from the table
11 where I have shown the connection between the
12 two functions -- so they're both describing
13 essentially the same, you know, the Maxell's
14 proposed function is equivalent to TCL's
15 to -- (indiscernible).

16 THE COURT REPORTER: I'm sorry, to
17 the what functions?

18 A. The Maxell's proposed function is
19 equivalent to TCL's two proposed functions.
20 The two or the equivalent. So in a sense,
21 Maxell's proposed -- sorry, Maxell's proposed
22 function is equivalent to the TCL two
23 proposed functions. So they both describe
24 the same functions, except the Maxell one is
25 more succinct and more clear and easier to,

1 E. Saber

2 you know, more crisp way define the function.

3 Q. So you do not disagree with TCL's
4 proposed functions, you agree that the
5 communication unit must perform both Function
6 1 and Function 2 as recited in TCL's proposed
7 functions?

8 MS. KRAWICE: Objection. Form.

9 A. Well, as I said, the Maxell's
10 proposed function is equivalent to TCL's two
11 proposed functions. So the Maxell's proposed
12 function describes the communication unit,
13 the TCL proposed Function 1 and 2 describe
14 the same functionality. They're equivalent
15 in a sense.

16 Q. So that's a yes, you do agree with
17 both TCL's proposed Functions 1 and 2?

18 MS. KRAWICE: Objection. Form.

19 A. Well, I would rather state it that
20 they're both equivalent functions. They both
21 propose the -- you know, the both proposed
22 functions are equivalent. And the Maxell one
23 is just more precise, succinct and clear.

24 Q. Okay. Let me ask another way then.
25 But you do agree that the specification must

1 E. Saber

2 describe sufficient structure to perform both
3 Functions 1 and 2 as proposed by TCL?

4 MS. KRAWICE: Objection. Form.

5 A. So let me also make another point
6 here that's important. Even though both
7 functions are equivalent, you see on
8 Paragraph 69 the second sentence, you see
9 where it says:

10 Specifically, TCL's proposed
11 functions import half of Claim 3 into the
12 functionality of the communication unit and
13 also includes the disputed term itself.

14 So communication unit is in that
15 description as well along with other elements
16 such as display unit and such. That's why I
17 think -- that's why I stated earlier that the
18 Maxell's proposed function is a more concise,
19 clear and right to the point function.

20 Now to answer your question you
21 just asked is yes, I do understand that
22 the -- and that's Paragraph 70 in my
23 declaration, I do understand that the
24 specification must disclose a structure that
25 performs this function for the claim term to

1 E. Saber

2 avoid being found indefinite.

3 Q. Is there -- and you started talking
4 about I guess these other elements like the
5 display unit, for example. Is there anything
6 in TCL's recited Functions 1 or 2 that you
7 disagree is performed by the communication
8 unit?

9 MS. KRAWICE: Objection. Form.

10 A. I think I've already answered that
11 question. So Maxell's proposed function is
12 concise and clear. TCL's proposed function
13 is equivalent, the two proposed functions are
14 equivalent to Maxell. The coloring there
15 will show you where every part of those
16 functions are, essentially the equivalence
17 between them. And that sentence I just read
18 to you that starts with "specifically"
19 describes why the Maxell function is
20 essentially the better choice because the TCL
21 function imports half of the Claim 3 and has
22 the word communication unit in it and other,
23 you know, things like display unit.

24 So, it's the POSITA, the Maxell
25 function is a clear and concise way of

1 E. Saber

2 stating the function of the communication
3 unit.

4 Q. Okay. Let's go to your table then
5 and we have what I presume here on the left
6 is Maxell's proposed function, we have
7 highlight in yellow, that responds to
8 transmits or receives. And then if you look
9 over here on the right, TCL's proposed
10 function, we have highlighted in yellow
11 bidirectional wireless communication, put in
12 by a first bidirectional wireless
13 communication, second bidirectional wireless
14 communication.

15 So all of that about the
16 bidirectional wireless communication
17 including the first bidirectional
18 communication and second bidirectional
19 wireless communication, that all corresponds
20 to Maxell's function transmits or receives?

21 A. Yes. In essence, that's the
22 functionality that's being described.
23 Transmits and receives on the TCL side, you
24 have bidirectional wireless communication and
25 you have a first and a second, so you're

1 E. Saber

2 transmitting, you have bidirectional, so you
3 can transmit and receive, so...

4 Q. Does Maxell's proposed function
5 include the concept that the transmission and
6 receipt of signals is bidirectional?

7 A. Well, if you're transmitting and
8 receiving, then essentially it's
9 bidirectional. You're transmitting and
10 receiving, so you're able to transmit
11 something, you're able to receive something.
12 So in essence, it's bidirectional.

13 Q. Let's look at what's highlighted in
14 green. I guess we can probably look at the
15 green and pink together if that makes sense.
16 So we have "with" highlighted in green, and
17 if you look at TCL's proposed function we
18 have via a router.

19 So is it fair to say that Maxell's
20 proposed function when it refers to "with"
21 we're talking about via a router?

22 A. Well, the "with or without"
23 obviously the wording "a wireless router"
24 should be -- you can think of it as being
25 green and pink as well, depending on which

1 E. Saber

2 one you're going after. So, with a wireless
3 router would correspond to via the router and
4 without a wireless router would correspond to
5 without going via the router.

6 Q. Okay. Yeah, that makes sense. And
7 then if you see here this "or" between "with
8 or without," are you familiar with the
9 difference between disjunctive and
10 conjunctive?

11 MS. KRAWICE: Objection. Form.

12 A. Well, what is your question?

13 Q. Are you familiar with the concept
14 of conjunctive versus disjunctive, like, or
15 is disjunctive and is conjunctive?

16 A. Yes, I understand ands and ors.

17 Q. Okay. So you see in Maxell's
18 proposed function we have with or without a
19 wireless router. But if we go to TCL's
20 proposed constructions, we see without going
21 via a router and second bidirectional
22 wireless communication via a router.

23 Can you explain how those two are
24 the same?

25 MS. KRAWICE: Objection. Form.

1 E. Saber

2 A. I don't understand your question at
3 all.

4 Q. So how is Maxell's proposed
5 function where it uses an "or" the same as
6 TCL's proposed function where it separates
7 the "via a router" and "without going via a
8 router" separates those two with an "and."
9 Maxell separates them with an "or," TCL
10 separates them with an "and."

11 How are those the same functions?

12 MS. KRAWICE: Objection. Form.

13 A. I don't know what you're referring
14 to with an "and." You'll have to be a little
15 bit more specific. I don't understand your
16 question.

17 Q. Okay. Let me go -- let me direct
18 you there then. So let's go to the table and
19 we see the Proposed Function 1 starts with:

20 Executes two types of bidirectional
21 wireless communication.

22 And then it says:

23 Including first bidirectional
24 wireless communication with a first wireless
25 control device without going via a router.

1 E. Saber

2 A. Yes.

3 Q. "And," you see that "and" there?

4 A. Yes.

5 Q. And second bidirectional wireless
6 communication via a router.

7 So that's the "and" I'm referring
8 to, the one that splits the "without going
9 via a router" and then splits the "second
10 bidirectional wireless communication via a
11 router."

12 A. Yes.

13 Q. Now let's turn to Maxell's proposed
14 construction. Maxell says:

15 Transmits or receives information
16 or commands to or from wireless control
17 devices with or without a wireless router.

18 A. Yes.

19 Q. Are those the same functions?

20 A. Well, the highlighting in the
21 functions defines where things are similar.
22 But yes, these describe the same function
23 'cause the "and" that you see there without
24 going through a router and second
25 bidirectional via router, that doesn't mean

1 E. Saber

2 those are happening in the same microsecond
3 instant. You're either going without a
4 router or you're going with the router.

5 So it's not -- it's not done in the
6 same instant of time.

7 Q. Do you agree --

8 A. And that functionality is described
9 with the Maxell's proposed function that you
10 can go with a wireless router, you can go
11 without a wireless router.

12 Q. Do you agree, based on TCL's
13 proposed function, that the communication
14 unit must be capable of communicating with
15 going via a router and going via a router?

16 MS. KRAWICE: Objection. Form.

17 A. Well, if you look at the function
18 that -- that Maxwell -- the Maxell's proposed
19 function, so you see it says "transmit or
20 receives," so it can do both, "information or
21 commands," so it can transmit information or
22 commands, receives information or commands.
23 "To or from wireless control devices," so
24 that can go -- those information and command
25 can go to a wireless control devices and can

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2 come from wireless control devices, with or
3 without a wireless router.

4 So that information command can go
5 through wireless control devices with a
6 wireless router, it can also without a
7 wireless router.

8 So it defines the functionality of
9 the communication unit very concisely and
10 clearly.

11 Q. So under Maxell's proposed
12 function, is it the case that the
13 communication unit must be capable of
14 communicating with both through a wireless
15 router and without going via a wireless
16 router?

17 MR. COOTS: Courtney, you're
18 nodding your head.

19 A. No, I'm thinking, I'm sorry.

20 MR. COOTS: No, Courtney is
21 nodding her head yes.

22 MS. KRAWICE: I'm not doing that,
23 Zach. I don't know what you're
24 talking about, but I never said
25 anything on the record.

1 E. Saber

2 A. The function of the -- the Maxell's
3 proposed function for communication unit, I
4 think we've answered this already.
5 Communication unit must be capable
6 of (indiscernible) --

7 THE COURT REPORTER: I'm sorry.
8 Must be capable of what.

9 A. To transmit or receive, so it has
10 to have the ability to transmit commands --
11 information or commands or receive
12 informations or commands. These have to --
13 to or from wireless control device. So it
14 has to be able to do that to and from the
15 wireless control device and with or without a
16 wireless router. So it has to be able to
17 communicate with a wireless router and
18 without a wireless router to those wireless
19 control devices.

20 So this accomplishes all the
21 functionality that the TCL proposed functions
22 accomplish as well. As I mentioned earlier,
23 they both equivalent.

24 (Cross-talk.)

25 A. I'm sorry, they propose the

1 E. Saber

2 equivalent functionality.

3 Q. I just want to make sure I heard
4 you correctly 'cause you did say, so it has
5 to be -- so it has to be able to communicate
6 with a wireless router and without a wireless
7 router to those wireless control devices.

8 Are did I hear you correctly?

9 A. Well, you see transmits or receives
10 information or commands to or from wireless
11 control devices with or without a wireless
12 router.

13 I don't understand what's not clear
14 about this. It's got to be able to do that
15 with a wireless router or without a wireless
16 router.

17 Q. I think I'm clear on what the "or"
18 means in this context, but that's why I'm
19 asking you about this because it does make a
20 big difference.

21 If the function is with or without
22 a wireless router, then the only structure we
23 need to look for in the spec needs to do one
24 or the other, it need not do both. And so
25 that's what I'm asking you. The structure

1 E. Saber

2 that we find in the specification must be
3 capable of communicating with both going
4 through a wireless router and without a
5 router or does the structure need to only do
6 one, either communicate with a wireless
7 router or communicate without a wireless
8 router?

9 MS. KRAWICE: Objection. Form.

10 A. I guess we go back to the answers I
11 gave you before about Paragraphs 72, 73, 74,
12 et cetera.

13 So the function of this
14 communication unit must be capable of doing
15 the with a wireless router and has to be able
16 to do the without a wireless router and the
17 support for both of those is provided in
18 these paragraphs. So it's got -- it has the
19 capability to do both.

20 Q. Understood.

21 Can we go to TCL's second proposed
22 function? This one starts with "if a" and
23 then we have in brackets first command/second
24 command.

25 A. Yes.

1 E. Saber

2 Q. That is:

3 If a first command/second command
4 for changing a video content on the display
5 unit from a first/second video content
6 selected by the first wireless control device
7 to another video content is transmitted from
8 the second/third wireless control device to
9 the communication unit via the router during
10 the first video content is displayed on the
11 display device send first/second information
12 for information termination of the displaying
13 of the first/second video content to the
14 first wireless control device without going
15 via a router to the second wireless control
16 device.

17 Do you see that language -- I guess
18 I'll try to break that down a little bit
19 more. But if a first command/second command
20 for changing a video content on the display
21 unit is transmitted from the wireless control
22 device to the communication unit via the
23 router send first information for informing
24 termination of the displaying of the first
25 video content to the first wireless control

1 E. Saber

2 device without going via a router.

3 Does that "if" language set up in
4 your mind a condition?

5 MS. KRAWICE: Objection. Form.

6 A. I don't really understand your
7 question at all. But if you -- obviously, as
8 you know, that language is lifted from the
9 Claim 3 itself and might be a little
10 confusing the way it's structured there, but
11 it's -- it's -- if you look at the Claim 3,
12 the first "wherein" -- so let me call that
13 3-E, so you see that first "wherein" at the
14 bottom of Column 27 in the patent starting at
15 line 54 and going all the way to Column 28,
16 line 6, that essentially covers the function
17 that you have here with that "if" et cetera
18 et cetera, without going via a router.

19 So that first "wherein" in Claim 3
20 covers the function that you just stated
21 without going via a router. And the second
22 "wherein" in Claim 3 that goes with the
23 second command instead of the first command
24 covers via the router.

25 So it's probably easier and more --

1 E. Saber

2 less confusing to just look at them in the
3 claim itself than trying to cut through all
4 the stuff that's there.

5 Q. Understood.

6 And why don't we just focus on the
7 first one because -- and you can take a look
8 and let me disagree, but my understanding is
9 the first "wherein" clause and the second
10 "wherein" clause, the only real difference is
11 like the order of videos and then really one
12 is coming in through a wireless router, the
13 other one is going out.

14 And then for the second one we
15 incorporate the, what is it, the infrared
16 communication?

17 A. Yes.

18 Q. So going back then, do you see
19 this:

20 If a first command for changing of
21 video content from a first video content
22 selected by the first wireless control
23 device, it's transmitted from the second
24 wireless control device to the communication
25 unit via a router.

1 E. Saber

2 A. Correct.

3 Q. And you see that as -- do you agree
4 that that's a condition that's setting up if
5 a command comes in via a router?

6 MS. KRAWICE: Object to form.

7 A. Yes. So as you see there, you have
8 a first command for changing a video content
9 on a display unit from a first video content
10 selected, so there was a first video content
11 that was selected by a first wireless control
12 device, and a command is coming and change
13 that video content to another video content
14 and that command is transmitted from the
15 second wireless control device to the
16 communication unit via the router.

17 During the first video content is
18 displayed on -- so while -- the first video
19 content is being displayed on the display
20 unit, that command comes in from a second
21 wireless control device via the router to the
22 communication unit to change content,
23 essentially.

24 Q. So if we go then to Column 28 and
25 we see:

1 E. Saber

2 The communication unit sends first
3 information for informing termination of the
4 displaying of the first video content or the
5 first wireless control device without going
6 via a router.

7 Do you see that?

8 MS. KRAWICE: Objection. Form.

9 A. I see that. What is your question?

10 Q. So the question is: Do you agree
11 that sending this first information for
12 informing termination without going via a
13 router is a condition of the first command
14 being communicated via the router?

15 MS. KRAWICE: Objection. Form.

16 A. I don't know what you mean by your
17 question. I think you're mixing apples and
18 oranges here.

19 You have a first command for
20 changing a video content on the display unit
21 from a first video content that was selected
22 by a first wireless control device. So you
23 have a first wireless control device as
24 selected a first video content, and a command
25 comes in to change that to another video

1 E. Saber
2 content. That -- that command comes in from
3 the second wireless control device so that
4 first command is coming in from the second
5 wireless control device to the communication
6 unit via the router, the -- doing the video
7 content is being displayed on. So the first
8 wireless control device had selected some
9 video content that's being displayed and it's
10 being played on the display and a first
11 command comes in from a second wireless
12 control device to the communication unit to
13 change that video content to some other video
14 content.

15 So the display unit terminates
16 displaying and the communication unit
17 communicates back to the first -- to the
18 first wireless control device letting that
19 device know that, you know, I've terminated
20 your video content.

21 So I think you're mixing apples and
22 oranges. You have two devices here being
23 communicated, the first wireless and second
24 wireless.

25 Q. But we do have one device, the

1 E. Saber

2 communication unit, that's receiving the
3 first command and sending the termination
4 message.

5 Do you agree with that?

6 A. I didn't understand your question.

7 Q. We do have one device, that's the
8 communication unit we're discussing in your
9 opinion, that's receiving this first command
10 from the second wireless device and that
11 communication unit is also sending the
12 information for informing termination to the
13 first wireless control device?

14 MS. KRAWICE: Objection. Form.

15 A. So if you go back into the claim up
16 to 3B, you have a communication unit that
17 executes two types of bidirectional, et
18 cetera, et cetera. So you have A
19 communication unit that's being claimed
20 there. And then if you go down to the
21 "wherein" we're talking about, that
22 communication unit is referring to that A
23 communication unit that was claimed in Claim
24 3B. So we have -- that's what that
25 communication unit is.

1 E. Saber

2 Q. I guess my question overall then
3 is, this communication unit, does it send
4 this termination message without going via a
5 router based on whether it received the first
6 command via the router?

7 MS. KRAWICE: Objection. Form.

8 A. I think you're mixing apples and
9 oranges. The communication unit communicates
10 with two wireless control devices. So
11 there's two wireless control devices, one of
12 them, it communicates with via router, the
13 other one communicates without going via
14 router. So when it drops -- when it gets the
15 command to say go from video 1 to video 2,
16 the communication unit will change obviously
17 what's being played, so it will provide those
18 plans to change what's being played, and then
19 will inform the first wireless control device
20 that we've terminated your video, video 1,
21 without going via the router.

22 So it's -- there are two different
23 devices here that it's communicating with.

24 Q. What device is controlling whether
25 or not the termination of the displaying of

1 E. Saber

2 the first video, that termination message,
3 what device controls whether or not that
4 termination message is sent without going via
5 a router?

6 MS. KRAWICE: Objection. Scope.
7 Zach, to the extent that this is
8 asking about opinions that were
9 withdrawn from his report, I'm just
10 gonna object to scope.

11 MR. COOTS: Okay, yeah. I'm not
12 asking about those, but thank you for
13 clarifying.

14 A. I didn't understand your question.

15 Q. So, we have this, and I'm looking
16 at Column 28, communication unit sends first
17 information for informing termination of the
18 displaying of the first video content to the
19 first wireless control device without going
20 via a router. My question is, what device is
21 determining whether or not that termination
22 message goes without going via a router?

23 MS. KRAWICE: Objection. Form.
24 Scope.

25 A. Well, first of all, you obviously

1 E. Saber
2 have -- you have multiple devices that
3 communication unit can communicate with. You
4 have device one that can communicate with via
5 say a router. A device 2, it can communicate
6 without a router or vice versa. So the
7 communication unit and the device have -- you
8 know, when you install the device and you
9 basically -- there is essentially a pivotal
10 understanding that -- how this communication
11 is gonna take place.

12 So, the communication unit knows
13 that this device is a direct communication
14 versus this other one I go through the
15 router. So that's understood at the
16 installation time and setup time and et
17 cetera.

18 Q. You're talking when you connect
19 this first and second wireless device to the
20 communication unit?

21 MS. KRAWICE: Objection. Form.
22 Scope.

23 A. So, again, I wasn't asked to
24 provide opinions on the connectivity at this
25 point. My scope was to provide opinions

1 E. Saber

2 about the communication unit.

3 During installation time, when you
4 bring on a device, you have to do some
5 installation and set up the proper setup so
6 the device can communicate with a
7 communication unit and the television or the
8 display -- the display unit. So there's some
9 setup that would have to take place to define
10 controls and communications that need to take
11 place.

12 Q. Is that -- can you point me to
13 where in the '341 patent specification it
14 talks about that setup process you're
15 referring to?

16 MS. KRAWICE: Objection. Form.
17 Scope.

18 A. Well, I mean that's understood from
19 a POSITA when you're -- when you're setting
20 up the systems, it's understood. But you can
21 see there's a series of flow charts in the
22 patent that describe basically various
23 embodiments and functionalities, you know,
24 from turning on and off power and selecting
25 channels and whatever.

1 E. Saber

2 Q. Do any of these flow charts you're
3 referring to describe this section setup or
4 this installation process you were just
5 describing?

6 MS. KRAWICE: Objection. Form.
7 Scope.

8 A. Well, again, as I mentioned to you,
9 I wasn't asked to provide opinions about the
10 installation and setup, but it is -- it would
11 be understood by a POSITA that a
12 communication unit has to be able to
13 communicate with a wireless device. So,
14 depending on the capabilities of the wireless
15 device, the communication unit has the
16 capability of doing this communication with
17 or without a wireless router.

18 Q. So I guess just to kind of frame us
19 back into your report, I am talking about the
20 second function in your table of Paragraph
21 68. I know we started talking about the '341
22 patent when we refer to the claims directly,
23 but I was asking you how the '341 patent
24 performs this function.

25 Do you recall?

1 E. Saber

2 A. Yes.

3 Q. And then you explain that the way
4 that the communication unit would perform
5 this function would be something at install?

6 MS. KRAWICE: Objection. Form.

7 A. That's not what I explained. What
8 I explained is the communication unit has the
9 capability to communicate with the wireless
10 device that is there, so that would be, you
11 know, set up, you know, essentially a priori.
12 So the wireless device that you brought onto
13 the scene has the ability to communicate with
14 that communication unit. So that
15 communication has to be -- has to take place.
16 So the communication unit has the ability to
17 communicate with these two wireless devices
18 that we are talking about here in that
19 "wherein" claim, where the first one is going
20 via router and the other one is going without
21 going through a router.

22 Q. Let's turn to your opinions on the
23 term "interface," I believe this starts at
24 Paragraph 92.

25 A. Are we done with the '341, can I

1 E. Saber

2 set that aside?

3 Q. Yeah, I think that's fair.

4 A. Okay. Would this be a good time
5 for a quick break before we jump into the
6 second one?

7 Q. Yeah, I'm okay with that. We can
8 go off the record.

9 THE VIDEOGRAPHER: We are off the
10 record. The time is 11:13 a.m.

11 (Whereupon, a brief recess was
12 taken.)

13 THE VIDEOGRAPHER: We are back on
14 the record. The time is 11:21 a.m.

15 BY MR. COOTS:

16 Q. Welcome back, Dr. Saber.

17 A. Thank you, sir.

18 Q. So I'm at page 28 of your report
19 and I'm looking at starting at Paragraph 92
20 going to go down to page 33 Paragraph 99
21 beyond that actually page 34 to 102.

22 Is that the sum of your opinions
23 with respect to the construction of
24 interface?

25 A. Well, my opinion is just to be

1 E. Saber

2 exact and clear, you know, start on Paragraph
3 90 where it provide the three terms. And
4 then 91 provides kind of an overview and then
5 92 through 102 are focused on the term
6 "interface."

7 Q. And it's your opinion that
8 interface should be construed to its plain
9 and ordinary meaning?

10 A. That is correct.

11 Q. If we go to Paragraph 94, you
12 say -- I'm looking at sentence -- maybe it's
13 like the fourth sentence here:

14 As such, a POSITA would understand
15 that "interface" should be read in context
16 because "interface" can be referring to a
17 wide array of things, for example, an I/O
18 port in a computer, a touchscreen on a phone
19 or a layer of program between software.

20 Do you agree that "interface" has
21 different definitions that mean different
22 things?

23 MS. KRAWICE: Objection. Form.

24 A. Well, the word "interface" should
25 be read what I stated there, which I think is

1 E. Saber
2 important to understand what I stated, is a
3 POSITA would understand that the word
4 "interface" should be read in context of
5 where it's being utilized. So when you read
6 the claims and you read the specification,
7 that's when you get -- you have the word
8 "interface" appearing in the claims and then
9 you read in light of the specification to
10 understand the context of how this word is
11 being defined.

12 Q. So within -- as it's recited in the
13 claims of the '206 patent, do you agree that
14 "interface" is not all of the I/O port in a
15 computer, a touch screen on a phone or a
16 layer of program between software?

17 MS. KRAWICE: Objection. Form.

18 A. I don't know what -- I don't
19 understand your question.

20 Q. Let me reask it.

21 So according to your opinion, is it
22 correct that a person of ordinary skill in
23 the art would understand an interface to
24 refer to different things that mean different
25 things like an I/O port in a computer is not

1 E. Saber

2 the same as a touchscreen on a phone?

3 MS. KRAWICE: Objection. Form.

4 A. So, again, as I said, the word
5 "interface" has to be read in context. You
6 know, I told you, the word "bank," am I
7 referring to an institution where you deposit
8 money or am I referring to a bank of a river,
9 am I referring to an airplane banking as it's
10 turning.

11 So, the word "interface" has --
12 essentially has broadness to it. You could
13 be referring to an I/O port in a computer
14 where you're aero facing with a computer
15 through an I/O port, that's kind of the
16 hardware interface.

17 So a touchscreen on a phone is kind
18 of a user interface, right, where you're
19 touching just like you go on your Apple phone
20 and you touch things and things happen.

21 So the word "interface" has to be
22 read in context of how the claim is written
23 and in light of the specification, and that's
24 what a POSITA would do essentially when
25 reading, you know, a patent or a paper.

1 E. Saber

2 Q. Okay. I think I understand, but
3 correct me if I'm wrong: So "interface" like
4 the word "bank" can have different meanings
5 depending on the context.

6 And so what you're saying here is
7 that you have to read "interface" in context
8 of the '206 patent because it can't mean all
9 of those different definitions at the same
10 time?

11 MS. KRAWICE: Objection. Form.

12 A. Well, I think the sentence that I
13 put in my declaration is a good sentence to
14 utilize so we are clear. So you see there, I
15 said:

16 As such, a POSITA would understand
17 that "interface" should be read in context
18 because, quote/unquote, "interface" can be
19 referring to a wide array of things, for
20 example, an I/O port a touchscreen or a layer
21 program.

22 So it has to be read in the context
23 of where it's being described.

24 Q. In the next sentence you say:

25 The POSITA should understand with

1 E. Saber

2 clarity that "interface" is referring to the
3 layer of the program and/or software here
4 because "interface" in the context of this
5 claim is about smart television's transition
6 between the audio/video applications (AV
7 applications.)

8 So is it fair to say that
9 "interface" in the context of the '206 patent
10 is not referring to an I/O port in a
11 computer?

12 A. Well, let's refer to what it is
13 saying. A POSITA should understand that when
14 you read the claim, obviously in light of the
15 specification, that the word "interface" is
16 referring to the layer of the program and/or
17 software here in the context of this claim.

18 So it's not talking about an I/O
19 port in the context of this claim, it's
20 talking about a layer of a program or
21 software that interacts essentially in the
22 context of this claim when you're talking
23 about smart television transitions between
24 audio visual, AV applications.

25 Q. So then "interface" as recited in

1 E. Saber

2 Claim 1, for example, the '206 patent, is not
3 referring to an I/O port in a computer?

4 MS. KRAWICE: Objection. Form.

5 A. Well, I think I already answered
6 that. It is -- as I state in that sentence,
7 it is referring to the program and/or
8 software here that allows the transition
9 from, you know, among AV applications to take
10 place. And obviously you'll read the claim
11 in light of specification.

12 Q. So that's a yes?

13 A. It's referring to --

14 MS. KRAWICE: Objection. Form.

15 A. Again, it's referring to software
16 and/or programs that essentially does this.
17 We're not talking about I/O port in a
18 computer.

19 Q. What about this next one, a
20 touchscreen on a phone. As "interface" is
21 recited in Claim 1 of the '206 patent, for
22 example, is a touchscreen on a phone not an
23 interface?

24 MS. KRAWICE: Organization. Form.

25 Q. I can rephrase that because it's

1 E. Saber

2 kind of wonky.

3 As it's recited in Claim 1 of the
4 '206 patent, is interface not referring to a
5 touchscreen on a phone?

6 MS. KRAWICE: Objection. Form.

7 A. Well, as reciting in the claim
8 here, you are talking about, you know,
9 starting a preset intermediate interface. So
10 this claim is talking about a method of
11 switching -- for switching an audio visual
12 application. Let's just talk about what it
13 says. So it's talking about starting a
14 preset intermediate interface, which
15 essentially describing the switching process
16 from AV application 1 to audio visual
17 application 2. That is what it's describing
18 and the specification provides more context
19 to this.

20 Q. Is a touchscreen on a phone within
21 the scope of interface as it's recited in
22 Claim 1 of the '206 patent?

23 MS. KRAWICE: Objection. Form.

24 Scope.

25 A. So I want to be careful that we're

1 E. Saber

2 not getting into the weeds here and I'm not
3 sure I understand what your question is. But
4 a touchscreen on a phone would provide
5 essentially a user interface. But the claim
6 here is talking about a preset intermediate
7 interface. And you see the bolded word
8 "interface" here, so you read the claim in
9 light of specification. I wasn't asked to
10 provide opinions on a touchscreen on a phone.

11 Q. But you were asked to provide an
12 opinion on what interface is. And that's why
13 I'm asking you, does interface, as it's
14 recited in Claim 1 of the '206 patent,
15 encompass a touchscreen on a phone?

16 MS. KRAWICE: Objection. Form.

17 A. So I was asked to provide opinions
18 about interface in context of the patent, the
19 '206 patent that we are talking about, and
20 Claim 3 that you see here in Paragraph 95.
21 And as you mentioned earlier the Paragraphs
22 92 through 102 provide the opinions and the
23 analysis how I've arrived at those opinions.
24 So that's what I was asked to do.

25 Q. Based on -- based on the '206

1 E. Saber

2 patent as you reviewed it, is a touchscreen
3 on a phone inside or outside the scope of
4 "interface" as it's recited in Claim 1 of the
5 '206 patent?

6 MS. KRAWICE: Organization. Form,
7 scope.

8 A. Again, as I mentioned to you, I
9 wasn't asked to provide opinions on
10 touchscreen on a phone. As I discussed
11 earlier, I mentioned to you a touchscreen on
12 a phone would be an example of a user
13 interface, you know, essentially.

14 But my opinions here are in light
15 or in the context of how interface is being
16 utilized in Claim 3 and I -- that's the scope
17 of what I was asked to consider.

18 Q. Is it reasonably clear from the
19 '206 patent whether or not a touchscreen on a
20 phone is within or outside the scope of
21 "interface" as it's recited in Claim 1 of the
22 '206 patent?

23 MS. KRAWICE: Objection. Form.
24 Scope.

25 A. I think I've already answered that

1 E. Saber

2 question to you.

3 Q. And what was your answer to it?

4 MS. KRAWICE: Objection. Form.

5 A. Again, as I said earlier, I was
6 asked to provide opinions from the word
7 "interface" in the context of Claim 3 as read
8 by a POSITA in light of specifications.
9 That's what I was asked to provide opinions
10 on and that's what you see in this
11 declaration.

12 Q. Is it your opinion that the term
13 "interface" is definite?

14 A. I think the answer is clear from my
15 declaration. You know, interface, the
16 proposed construction that Maxell -- that I'm
17 proposing here is plain and ordinary meaning
18 of the term "interface" in light -- when you
19 read the claim, in light of the
20 specification, you understand what the
21 authors of this patent are -- are meant with
22 the term "interface" as, you know, reading as
23 a POSITA. And the analysis is there.

24 Q. And when you read it as a POSITA,
25 do you determine a touchscreen on a phone to

1 E. Saber

2 be inside or outside the scope of "interface"
3 as it is recited in Claim 1 of the '206
4 patent?

5 MS. KRAWICE: Objection. Form.
6 Scope.

7 A. Well, the Claim 3 is talking about
8 a preset intermediate interface and then
9 refers to the intermediate interface, and
10 again intermediate interface. So Claim 3, as
11 you see it there, is referring to an
12 intermediate interface as described in the
13 specification of this patent.

14 So I was asked to provide opinions
15 about "interface" and "preset intermediate
16 interface" as you see in table -- the table
17 in paragraph 90. So that's the scope of what
18 I was asked to provide opinions on.

19 Q. And the scope of your opinion on
20 the plain and ordinary meaning of the
21 "interface" as it's used in Claim 1 of the
22 '206 patent, does that or does it not include
23 a touchscreen on a phone?

24 MS. KRAWICE: Objection. Form.
25 Scope.

1 E. Saber

2 A. I think I've already answered this
3 question multiple times.

4 Q. I'm still asking it because I don't
5 think I've gotten an answer on it. I
6 understand you keep saying you were not
7 providing an opinion on a touchscreen on a
8 phone, but your opinion says: I understand
9 an interface can refer to these things in
10 context of the patent, I understand it's
11 referring to this.

12 And so my question is: Does
13 "interface," as it's recited in Claim 1 of
14 the '206 patent, include within its scope a
15 touchscreen on a phone? Yes or no.

16 MS. KRAWICE: Objection. Form.
17 Scope.

18 A. I believe I've already answered
19 that and I'll answer it again and the answer
20 isn't going to change.

21 So if you look at the context of my
22 analysis, you see if you look at the
23 paragraph starting 92 to say 95 or 96,
24 there's a context there and there is a line
25 of thought in the sense of how this is being

1 E. Saber

2 described.

3 So Paragraph 92 says essentially no
4 construction is necessary plain and ordinary
5 meaning as when a POSITA would read Claim 3
6 in light of the specification, you know, of
7 this patent.

8 And Paragraph 94 is essentially
9 highlighting the importance of content as I
10 mentioned to you earlier. So the context of
11 how the words being utilized defines to a
12 POSITA what is the func- -- you know, who is
13 being -- what is this interface defining or
14 describing, in a sense, because interface
15 could, you know, could refer to an I/O port
16 on a computer, like we said earlier.

17 So, when you come to Paragraph 95,
18 it provides the claim as essentially the
19 context in which "interface" appears in the
20 claim. So you have "preset intermediate
21 interface" and you see the word bolded
22 "interface" in that claim, that's the context
23 of that. And the -- and when you get into 96
24 and on, it describes the support, you know,
25 the, you know, when you read the claim in

1 E. Saber

2 light of the specification, how you come
3 about understanding that concept -- that
4 context.

5 So I think this is clear describing
6 how -- why "interface" should be given its
7 plain and ordinary meaning when read by a
8 POSITA reading the Claim 3 in light of the
9 specification.

10 Q. What about a user interface? And I
11 think maybe you said that that's part of what
12 the touchscreen on a phone is referring to.
13 Is a user interface within or outside the
14 scope of the term interface as it is recited
15 in Claim 1 of the '206 patent?

16 A. Well, Claim 1, again, I wasn't
17 asked to provide opinions about a user
18 interface. I was asked to provide opinions
19 about "interface" as it appears in Claim 3,
20 not Claim 1.

21 So in Claim 3, the -- Claim 3 is
22 referring to a basically preset intermediate
23 interface and describing that intermediate
24 interface and claiming that intermediate
25 interface in light of that specification.

1 E. Saber

2 Q. In Paragraph 93, you acknowledge
3 that TCL construes this term "interface" as
4 indefinite, correct?

5 A. Yes, I claim -- I state -- I
6 understand from Maxell's attorneys that TCL
7 contends the term "interface" is indefinite.

8 Q. And do you have an understanding
9 for what indefiniteness means?

10 A. Yes. I'm not an attorney, but yes,
11 from -- from a POSITA point of view.

12 Q. And what -- what is your
13 perspective? And I know you have a legal
14 section on this, so if you want to refer to
15 that that's fine.

16 A. So if you go to my legal -- to the
17 legal section in this declaration, I'm
18 referring to Paragraph 39 specifically of the
19 legal section.

20 Let me know when you are there.

21 Q. I'm there.

22 A. So you see:

23 I understand that a claim term is
24 indefinite if, when the term is viewed in
25 light of the specification and prosecution

1 E. Saber

2 history, it fails to inform a POSITA about
3 the scope of the invention with reasonable
4 certainty.

5 Q. And do you understand what that
6 means, to inform one about the scope of the
7 invention with reasonable certainty?

8 A. Yes.

9 Q. And you understand that means that
10 you should understand the bounds of what all
11 an interface can be with reasonable
12 certainty?

13 MS. KRAWICE: Objection. Form.

14 A. Well, you see the description in
15 that paragraph after that, first sentence
16 provides additional details. So you can see
17 like it reads:

18 The definiteness requirement must
19 take into account the inherent limitations of
20 the language -- of language; reasonable
21 certainty in light of the subject matter, and
22 not absolute precision is required.

23 So -- and you see that I understand
24 that the specification need not disclose
25 details of structures while known in the art

1 E. Saber

2 so long as some structure is disclosed in a
3 specification as understood by a POSITA.

4 So there's description there of how
5 you would determine that a term is indefinite
6 or not.

7 Q. And so I guess what I'm asking you
8 is the term "interface" as it's recited in
9 Claim 1 in context of the whole '206 patent,
10 is it clear whether or not a user interface
11 is within or outside the scope of
12 "interface?"

13 A. Well, it depends -- like I said to
14 you, you have to read the wording in the
15 context of what's being described. And I'm
16 going back to my Paragraph 95. So you have
17 to read that in the context of what's being
18 described in Claim 3, the context of Claim 3
19 is a preset intermediate interface. That's
20 what's being described there. That's what's
21 being claimed and the specification supports,
22 you know, when you read that in light of the
23 specification, you understand what that is.

24 Q. So does the preset intermediate --
25 does the scope of preset intermediate

1 E. Saber

2 interface include a touchscreen on a phone?

3 MS. KRAWICE: Objection. Form.

4 A. I think I've already answered that.

5 Q. Well, let me -- let me make sure I
6 understand then because it sounds like that
7 answer depends on context.

8 So is it the case that sometimes a
9 user interface will be an interface as it's
10 recited in Claim 1 and then sometimes the
11 user interface will not constitute an
12 interface as it's recited in Claim 1 of the
13 '206 patent?

14 MS. KRAWICE: Objection. Form.

15 A. I think you're mixing apples and
16 oranges. First of all, we're not talking
17 about Claim 1, we're talking about Claim 3.
18 So you're mixing apples and oranges in your
19 questions.

20 So if you look at Paragraph 95 --
21 sorry, you're right. My mistake. We are
22 talking about Claim 1. I was thinking about
23 the other band for a second. My apologies, I
24 misspoke.

25 Q. You're okay, I wasn't gonna --

1 E. Saber

2 A. I understand, but it's important
3 for the record to be clear.

4 Q. Yes.

5 A. So I'm talking -- I misspoke on my
6 part, I am talking about Claim 1 and you are
7 correct. You're asking about Claim 1.

8 So if you see below the claim, the
9 quote of the claim, you see where it says
10 "the above claim language," so I'm reading
11 directly underneath that claim:

12 The above claim language, including
13 the "interface," makes clear how the
14 "interface" is being utilized for the
15 transition from an AV application currently
16 in use to the target AV application.

17 So, in this case, it's -- it's --
18 that it's a transition that we are discussing
19 here. So the context of how "interface" is
20 utilized, when you read the context, you
21 understand what is meant by the word
22 "interface" in context, what is the, you
23 know, the authors are referring to.

24 Q. Let's go to that sentence, and I'm
25 returning back to Paragraph 94, but you say:

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2 The POSITA should understand with
3 clarity that "interface" is referring to the
4 layer of the program and/or software here
5 because "interface" in the context of this
6 claim is about smart television's transition
7 between the audio/video applications.

8 What -- what do you mean "by layer
9 of the program and/or software?"

10 A. Well, you have obviously software
11 when intermediate interface is performing the
12 transition, essentially from application --
13 AV application 1 to AV application 2, it's
14 gotta communicate with AV application 1, it's
15 gotta communicate with AV application 2. So
16 there's a level of software that has to take
17 place to perform the transition and, you
18 know, release the decoder, et cetera. So
19 that's what's described and claimed in
20 Claim 1.

21 Q. So is the intermediate interface
22 then a software program?

23 A. Well, obviously it's referring
24 to -- I mean, as I state there, a POSITA
25 should understand with clarity that interface

1 E. Saber
2 in the context of Claim 1 read in light of
3 the specification is referring to a layer of
4 the program and/or software here because
5 "interface" in the context of this claim,
6 Claim 1 we're talking about, is talking
7 about essentially smart television
8 transitions from -- for audio/visual
9 application. So it's -- it's essentially
10 that description that's being claimed in
11 Claim 1.

12 Q. What do you mean by "layer" here in
13 this sentence? What is that referring to?

14 A. Well, I mean, people use, you know,
15 it's essentially -- a section of the program
16 in a sense or a set of code, it's
17 essentially -- the intermediate interface has
18 to communicate with the AV applications that
19 are, you know -- so you can see there, the
20 method -- if you look at Claim 1, you have a
21 method for switching an audio/visual
22 application, so it's a method claim in the
23 comprising, you receive an instruction for
24 switching. You then have -- you start it
25 preset intermediate interface, which -- and

1 E. Saber

2 you set the AV application currently in use
3 to the background and then triggering a
4 response to the intermediate interface as
5 being completely loaded, the AV application
6 which has been set to the background to
7 release a decoder.

8 So that AV application I was
9 running was using the decoder to -- to show,
10 you know, the AV content, you know, assume,
11 you know, you using say -- you have AV
12 content that's being streamed in, the decoder
13 is decoding it, you know, because it's coming
14 in in a compressed form. The decoder is
15 decoding it and it's being displayed on the
16 screen for you to watch.

17 So when the switching, you know,
18 when instruction for switching to a target AV
19 application comes in, the intermediate
20 interface has to communicate with the first
21 AV application has to communicate with a
22 decoder and has to communicate with a second
23 AV application to perform the transition.

24 Q. I'm trying -- yeah, I guess I'm
25 trying to get a better sense of this.

1 E. Saber

2 Is this a specific layer within the
3 software that you're referring to as the
4 interface?

5 MS. KRAWICE: Objection. Form.

6 A. Well, I mean you have intermediate
7 interface that essentially the source code
8 defines that. So when the -- when -- when
9 the command comes in, the instruction comes
10 in for switching to a target AV application.
11 However that comes in, when that comes in,
12 that source code has to essentially get
13 launched or become active to perform this
14 transition according to the steps that you
15 see there, according to the discussion, to
16 the -- to the, you know, to the details that
17 are provided in Claim 1 and the
18 specification. So it's gotta perform the
19 transmission from the first AV application to
20 the second. So it's the decoder has to be
21 released so the -- the interface has to get
22 launched in a sense, it's gotta communicate
23 with AV1, release the decoder and -- and
24 bring in AV2 and then AV2 would take control
25 of the decoder and start streaming.

1 E. Saber

2 Q. You said the interface has to get
3 launched. Is a layer of program launched?

4 MS. KRAWICE: Objection. Form.
5 Scope.

6 A. Well, I mean intermediate
7 interface, let's say, becomes active,
8 becomes -- so whether it's already launched
9 in the background, whatever, it's really not
10 relevant to this discussion. It's -- the
11 intermediate interface, you see the claim
12 says "starting a preset intermediate
13 interface." So that has to get started,
14 wherever it is the source code that defines
15 this intermediate interface would get started
16 and that intermediate interface will
17 essentially become active and performs, you
18 know, facilitates this transition, in a
19 sense.

20 Q. Is this intermediate interface a
21 program?

22 MS. KRAWICE: Objection. Form.

23 A. So, I think if we look at the
24 paragraphs that come after the claim, you see
25 where it starts on Paragraph 96:

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2 The specification of the '206
3 patent also provides further context and
4 explanations of "interface" consistent with
5 the plain and ordinary meaning of the term.

6 So you see if you look at Figure 3,
7 for example, if we're looking at Figure 3,
8 which is obviously from the patent, provides
9 further description disclosed in the
10 specification and per the context for the
11 interface. You see in Figure 3, so
12 consequently Figure 3 and the specification
13 refer to the interface as something that
14 comes between the two AV applications while
15 transitioning from the one that's currently
16 in use that's being streamed to the target
17 one that you want to transition to. So,
18 which additionally supports that the
19 interface is a layer of the program or a
20 software between these two applications.

21 So, you have a -- a, you know, a
22 layer of a program or a piece of software,
23 you know, that could be multiple routines or
24 whatever. But it's an entity that piece of
25 software is what's essentially supporting

1 E. Saber

2 that transition from AV application currently
3 in use to the target one.

4 Q. Is there a difference between a
5 layer of a program or a piece of software?

6 MS. KRAWICE: Objection. Form.
7 Scope.

8 A. Well, I mean, I wasn't asked to
9 provide opinions about a layer of program or
10 software, so I'm kinda using these terms a
11 little loosely. But you have essentially a
12 piece of software that has to become -- it
13 has to get started and so it becomes active
14 in a sense and to conduct -- you know, to
15 oversee or facilitate this transition. Does
16 this piece of software, you know, essentially
17 layered in there so it can communicate with a
18 two AV applications, with a decoder and
19 perform the transition.

20 Q. Is that piece of software part of
21 the television's operating system?

22 MS. KRAWICE: Objection. Form.
23 Scope.

24 A. I wasn't asked to provide opinions
25 of where the -- this piece of software is

1 E. Saber

2 residing, you know, where it is exactly
3 residing, whether it's on server or memory
4 whatever, I wasn't asked to provide any
5 opinions on that, but it has to be capable of
6 performing what's in Claim 1.

7 Q. What does it need to be capable of
8 performing, what are those functions?

9 MS. KRAWICE: Objection. Form.
10 Scope.

11 A. So I think we're getting into
12 semantics and wording. The intermediate
13 interface or this preset intermediate
14 interface that's being claimed in Claim 1 has
15 to be able, you know -- it has -- there's an
16 instruction that's receiving instruction for
17 switching to a target AV application. That
18 gets the intermediate interface started, and
19 then that intermediate interface, essentially
20 as you see on my Paragraph 96, second
21 sentence I'm looking on page 30, maybe it's
22 third sentence, but I'm looking at page 30
23 where it says, Consequently, Figure 3 and the
24 spec. So I'm referring to that sentence
25 there, Consequently, Figure 3 in the spec

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2 refer to the "interface" as something that
3 comes between the two AV application while
4 transitioning from the one currently in use
5 that's being streamed to the target
6 application that you want to start, whatever
7 that is.

8 So, from the current application --
9 from the current AV application that's
10 currently in use, whatever -- however that's
11 being used, to the target AV application that
12 you want to utilize that person wants to
13 utilize, so that interface is a layer of a
14 program or a software between these two
15 applications. So it's gotta be able to
16 perform this transition or facilitate this
17 transition.

18 Q. Can it be part of either AV
19 application 1 or AV application 2?

20 MS. KRAWICE: Objection. Form.
21 Scope.

22 A. So where the details of the
23 software reside is not really relevant to
24 this discussion and I wasn't asked to provide
25 opinions on whether the code resides on this

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2 application or that application or in a
3 memory somewhere or on server somewhere. I
4 wasn't asked to provide any opinions on that.
5 But the interface that we're talking about
6 here has to be able to perform this
7 transmission.

8 Q. How does the interface perform this
9 transition? What functions does the
10 interface perform?

11 MS. KRAWICE: Objection. Form.
12 Scope.

13 A. Well, if you look starting on
14 Paragraph 96 of my declaration, you can see
15 the description there and you can see the
16 citations from the patent that talk about the
17 intermediate interface, or in this case we're
18 talking about "interface," but... So you see
19 the citations from the patent that talk about
20 the steps and the details and you look at
21 Paragraph 97, it provides additional
22 descriptions and citations, these are the
23 steps that are shown in Figure 3.

24 And additionally you look at
25 Figure 5, it provides more context to how

1 E. Saber

2 this transition is taking place. You see in
3 Figure 5, you have intermediate interface E,
4 you have start intermediate interface E, you
5 have a switching controller. So there's a
6 description in the specification how all this
7 is taking place.

8 Q. All of this context though, right,
9 is just talking about how the intermediate
10 interface is utilized, correct? It doesn't
11 say that the intermediate interface actually
12 performs any function, it's just is used to
13 accomplish other functions.

14 Am I misunderstanding?

15 MS. KRAWICE: Objection. Form.

16 A. This context describe -- I mean,
17 this is -- this section is obviously talking
18 about the word "interface" and you go to the
19 next section and I describe the preset
20 intermediate interface, which obviously has
21 similar citations because, you know, where
22 the specification is describing. So it's the
23 context that defines what's being done here
24 and that content is clearly described --
25 (indiscernible).

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2 THE COURT REPORTER: I'm sorry, I
3 can't hear the witness.

4 MS. KRAWICE: Really?

5 A. This context is clearly described
6 as you read through the these citations that
7 I've given you here, Figure 3 that goes by
8 the steps and the corresponding steps that go
9 on with Figure 5 -- that go with Figure 5.
10 So it describes how this is taking place.

11 Q. Let's go to Paragraph 99, I think.

12 A. 99.

13 Q. So I think here you have a table
14 with definitions of "interface" and this
15 first one again you say:

16 A POSITA would understand
17 "interface" in the context of the '206 patent
18 would have referred to the layer of the
19 program and/or software while transitioning
20 from one AV application to another AV
21 application.

22 And your first definition says:

23 Interface refers to the layer of
24 programming where the user interacts with the
25 software, can be graphical, text-based or

1 E. Saber

2 command-base.

3 That definition, is that referring
4 to a user "interface?"

5 MS. KRAWICE: Objection. Form.

6 A. Well, that definition is just what
7 it says, it refers to a layer of programming
8 where the user interacts with the software.
9 So there's a user interaction with the
10 software, which can be graphical, text-based
11 or command-based.

12 But if you look at the next
13 definition on the next page, you see
14 "interface" also the software enables a
15 program to work with the user, and there's
16 some parens stuff there, with another program
17 such as the operating system or with the
18 computer hardware.

19 So the term -- these are dictionary
20 terms for the word "interface" essentially
21 show you that -- you know, they have, you
22 know, context meaning. But in the context
23 that we're talking about here in the word
24 "interface," it's in the context of Claim 1
25 it's that intermediate -- that preset

1 E. Saber

2 intermediate interface that essentially
3 facilitating or overseeing this transition
4 from AV application 1 to AV application 2.

5 Q. If we take a look at both of these
6 definitions, the first one says, you know,
7 refers to the layer of programming where the
8 user interacts with the software. And then
9 the second definition says:

10 Software that enables a program to
11 work with the user. And then in parentheses
12 it says, (the user interface which can be a
13 command line interface, menu-driven or
14 graphical user interface).

15 Do you disagree that both of these
16 definitions of "interface" require
17 interaction with a user?

18 MS. KRAWICE: Objection. Form.

19 A. I mean, it doesn't mean you have to
20 interact with the user the entire time. I
21 mean, you know, essentially -- I mean, if you
22 look at Claim 1, you're receiving an
23 instruction for switching to target AV
24 application, so that instruction can come in
25 from the user to switch to a target AV

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2 application, a preset intermediate interface
3 is started and then this essentially, you
4 know, facilitates that transition.

5 I mean, these are just dictionary
6 terms to provide --- to explain that there's
7 context, see what it says there on Paragraph
8 99.

9 Q. Well, the --

10 A. You see, I'm looking at Paragraph
11 99 second line, you see where it says:

12 It's my opinion that the dictionary
13 definitions preferred by Maxell although
14 further support -- also further support that
15 a POSITA would understand "interface" in the
16 context of the '206 patent would've referred
17 to the layer of the program and/or software
18 that's transitioning from AV to AV.

19 So when you read Claim 1, you
20 understand that there's a transition that's
21 taking place.

22 Q. But if I'm looking at these
23 definitions, what I'm understanding then to
24 be these interfaces is a layer of software
25 that allows a user to interact with the

1 E. Saber

2 software. Like, right, if we take a look at
3 the second definition we see command lines,
4 menus, graphical user interface, that's a
5 specific interface, yes?

6 MS. KRAWICE: Objection. Form.

7 A. Well, I mean that's the definition
8 of "interface." But again, you have to look
9 at the context of how this wording is being
10 described. You know, as I mentioned earlier,
11 if you go back to Paragraph 94, you know, you
12 read that sentence earlier and we've talked
13 about it. As such -- I'm in Paragraph 94,
14 five lines down:

15 As such, a POSITA would understand
16 that "interface" should be read in context
17 because "interface" could be referring to a
18 wide array of things.

19 So you have to read it in the
20 context of what is being claimed and in light
21 of the specification to understand what --
22 how it's being utilized in this particular,
23 you know, application.

24 Q. Is a layer of software that enables
25 a user to interact with the software, like a

1 E. Saber

2 command line interface, menu-driven or
3 graphical user interface, is that within the
4 scope of intermediate interface as it's
5 claimed in the '206 patent?

6 MS. KRAWICE: Objection. Form.

7 A. I think I already answered this
8 question multiple times.

9 So if you read Claim 1, you
10 understand that the context of how interface
11 is being utilized. And when you read the --
12 you read that in light of specifications,
13 which I provided to you with the citations in
14 the details, Figure 3 description, Figure 5
15 description, it's clear to a POSITA how this
16 intermediate interface is being utilized to
17 perform the switching.

18 Q. So I mean, is the intermediate
19 interface anything that comes between the
20 first and second AV applications during an
21 application switching process?

22 MS. KRAWICE: Objection. Form.

23 A. Well, this intermediate interface
24 that we're talking about from Claim 1 has to
25 be able to perform the functions -- well, the

1 E. Saber
2 elements are described in Claim 1, so has to
3 be able to -- that gets started, it has to,
4 you know -- so it has to essentially
5 communicate with a current AV application
6 that's there being played currently, it has
7 to instruct -- it has to be able to
8 communicate with the applications, both the
9 AV target and the AV current, and the decoder
10 so that the transition takes place in a
11 seamless, essentially, manner. So it has to
12 be able to perform these actions.

13 Q. So the intermediate interface can
14 be anything that is started, that can
15 communicate with the first AV application,
16 the second AV application and the AV decoder?

17 MS. KRAWICE: Objection. Form.
18 Scope.

19 A. So again, I mean I think you're
20 mixing apples and oranges a little bit and
21 providing confusion with your questions.

22 So Claim 1 has a certain -- claims
23 a certain action, certain functions, details
24 that's being claimed in Claim 1 that a POSITA
25 would read. And when you go read the

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2 specification, you read the claim in light of
3 the specification, you understand what's
4 being claimed there by "interface," so what's
5 being described.

6 And I've given you the details of
7 that in these paragraphs that we've been
8 talking about.

9 Q. Well, let me give you an example
10 then. So -- and, you know, to the extent I
11 am talking about apples and oranges and you
12 can identify what the orange is and what the
13 apple is, that might help me understand this
14 a little better.

15 So I understand -- let's say --
16 let's just talk about the TV's operating
17 system for an example, I know that I can
18 start the TV operating system because I can
19 turn my television on. Once I turn my
20 television on, the menu, everything pops up
21 and the TV's operating system is running. I
22 also know that the operating system can
23 communicate with the first AV application, it
24 can communicate with the second AV
25 application and it can communicate with the

1 E. Saber

2 AV decoder.

3 Is the television operating system
4 the intermediate interface?

5 MS. KRAWICE: Objection. Form.

6 Scope.

7 A. So I think you're mixing apples and
8 oranges. So where the intermediate interface
9 is residing is not within the scope of what
10 I'm talking about. So what's being claimed
11 here is this preset intermediate interface
12 that comes up in Claim 1 that has -- that
13 defines the functionality that we've been
14 talking about that allow the transition. I
15 wasn't asked to provide opinions on whether
16 that resides in operating system of the TV or
17 whether that resides on the separate server
18 or whether that resides on a piece of
19 software that's sitting in RAM somewhere.
20 There's probably different ways of doing
21 that, I wasn't asked to provide any analysis
22 of that.

23 Q. Well, I guess simple yes or no, can
24 the television's operating testimony be the
25 intermediate interface?

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2 MS. KRAWICE: Objection. Scope.

3 A. I think I already answered this
4 question for you. It's not a yes or no
5 question and I already answered it.

6 Q. So it could be, but it also could
7 not be?

8 MS. KRAWICE: Objection. Form.
9 Scope.

10 A. I think I've already answered this
11 question. We're talking about what the
12 functionality of this intermediate -- the
13 claim is talking about the functionality of
14 the intermediate interface. It's not talking
15 about where it's residing or, you know,
16 whether it's in this piece of software or
17 that piece of software. That's not relevant
18 to this discussion. It's what is the purpose
19 of this intermediate interface as claimed
20 when you read that in light of the
21 specification. As a POSITA, you would
22 understand that. And that's described in the
23 details that I provided you.

24 I think I've already answered this
25 question.

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2 Let me ask a quick question on
3 myself. Do you plan on taking a lunch break
4 or what does your timeline look like, sir?

5 MR. COOTS: Let's see, why don't
6 we go on a break and then we can
7 discuss.

8 THE VIDEOGRAPHER: We are off the
9 record. The time is 12:15 p.m.

10 (Whereupon, a lunch recess was
11 taken.)

12 THE VIDEOGRAPHER: We are back on
13 the record. The time is 1:03 p.m.

14 BY MR. COOTS:

15 Q. Welcome back, Dr. Saber.

16 A. Thank you very much. The break was
17 very well utilized.

18 Q. Perfect.

19 Did you speak with counsel during
20 the break?

21 A. I have not had any discussions with
22 counsel whatsoever.

23 Q. Okay. Let's turn to your opinions
24 regarding the term "completely loaded" and
25 looks like -- starts at your declaration on

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2 page 39, Paragraph 112 down to Paragraph 119.

3 Those paragraphs define your opinion on the
4 construction of the term "completely loaded."

5 A. Yes, those paragraphs provide my
6 opinions on the term "completely loaded."

7 Q. And you're aware that TCL has
8 proposed the term "completely loaded" to be
9 indefinite?

10 A. I'm aware of that and I disagree
11 with it.

12 Q. And your opinion is that the term
13 "completely loaded" should be construed
14 according to its plain and ordinary meaning?

15 A. That is correct.

16 Q. Let's go down to Paragraph 117, and
17 I think this is the second sentence you say:

18 A POSITA reading the above would
19 understand that "completely loaded"
20 interface, for example, is when the user will
21 be presented with both the frame and content
22 of the interface on the display.

23 What do you mean by a user will be
24 presented with both the frame and the content
25 of the user interface -- sorry, I misspoke.

1 E. Saber

2 What do you mean by "the user will
3 be presented with both the frame and the
4 content of the interface on the display"?

5 A. Go to the next page of my
6 declaration. You see where it's talking
7 about Step 120?

8 Q. Yes.

9 A. And there is a citation there from
10 the patent citing Column 433 to Column 53.
11 I'm assuming you see that with emphasis
12 added.

13 Q. Yes.

14 A. So do you see where it's talking
15 about in the second paragraph that starts
16 with, "On an Android OS," and in that
17 paragraph I have bolded or emphasized
18 completely loading in that particular
19 paragraph.

20 So you see where it says -- I'm in
21 the middle of that paragraph, so let me start
22 at the beginning.

23 On an Android OS, after the AV
24 application A currently in use enters the
25 background, the process of releasing the AV

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2 decoder is need to be triggered by the
3 completely loading of interface.

4 So you see that?

5 If you look at the bottom of that
6 paragraph, you see where it says:

7 In this case, the completely
8 loading of the interface refers to both the
9 frame and the content of the intermediate
10 interface has been completely loaded.

11 So you have the frame of the
12 interface and the content of the interface,
13 that's what's completely loading is referring
14 to. And that's what I'm talking about in
15 Paragraph 117.

16 Q. What do you mean by "the user will
17 be presented with"? What was your language
18 "presented with" in reference to?

19 A. Well, the user, I mean, you're
20 looking at the screen, right? So the user
21 will be presented with both a frame and the
22 content of the interface on the display. You
23 could see that the frame and the content of
24 the interface on the display.

25 Q. So the -- I'm looking at the very

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2 next sentence, I think this is what you just
3 said:

4 When the user sees the frame and
5 content of the "completely loaded"
6 intermediate interface in the background.

7 It goes on to say:

8 The program can be written so that
9 the "completely loaded" intermediate
10 interface can be used as a queue to release
11 the AV applicant and to start releasing AV
12 decoder.

13 So is the interface completely
14 loaded when the user is able to see the frame
15 and the content?

16 MS. KRAWICE: Objection. Form.

17 A. Well, I mean, the definition of
18 "completely loaded," as I showed you in that
19 citation on page 42, second paragraph, you
20 see where it says:

21 In this case, the completely
22 loading of the interface refers to both the
23 frame and the content of the intermediate
24 interface have been completely loaded.

25 So, you have the frame of it, you

1 E. Saber

2 have the content and it's completely loaded
3 when you see both the frame and the content
4 of the interface on the display.

5 Q. The user sees both the frame and
6 the content on the interface on the display?

7 MS. KRAWICE: Objection. Form.

8 A. So, you see Paragraph 117, the
9 sentence that you just read I think answers
10 your question.

11 See, a POSITA reading the above
12 would understand that completely loaded
13 interface, quote/unquote, "completely
14 loaded," for example, is when the user will
15 be presented with both the frame and the
16 content of the interface on the display.

17 So the user sees the frame and he
18 sees the content of the interface on the
19 display that defines -- that is completely
20 loaded, that's consistent with what you see
21 in the citation on page 42 that I just
22 pointed you to.

23 Q. Do you have the '206 patent in
24 front of you? I don't know that I've entered
25 it yet so I can --

1 E. Saber

2 A. Could you please -- no, I only --
3 you've only given me the declaration and the
4 '341. I do have a hard copy, but I would
5 like an electronic one.

6 Q. Understood.

7 (Saber Exhibit 3, United States
8 Patent 10,321,206 B2, was marked for
9 identification.)

10 BY MR. COOTS:

11 Q. I am sharing what's been premarked
12 Exhibit Saber 3 and I'll represent for the
13 record this is US Patent Number 10,321,206.
14 And let me know when you have that.

15 A. It's taking a minute. I do have
16 it.

17 Q. Okay. If you go to Column 6 and
18 I'm looking at line 58 down to 61 it reads:

19 Since a window layer of the
20 animation playback window is above a window
21 layer of the AV application, an AV
22 application interface window is in a state of
23 invisibility.

24 Do you see that?

25 A. Yes.

1 E. Saber

2 Q. My question is, if an interface is
3 loaded when the user sees the frame and the
4 content, how does it make sense if the
5 interface is in a state of invisibility?

6 MS. KRAWICE: Objection. Form.
7 Scope.

8 A. I think you're mixing apples and
9 oranges. Again, I think this whole section
10 starting back up in, you know, describing
11 Step 130, it's describing the details. So
12 there may be a point in time -- I'm sorry?

13 Q. I didn't say anything, I was
14 listening to you.

15 A. Okay. There may be a point in time
16 when the intermediate interface may not be
17 visible to the user while it's being started,
18 but that's not -- that doesn't mean it's
19 invisible the entire time. I mean, clearly
20 when you read these description here, you
21 know, when it's completely, you know -- so
22 clearly read the description you understand
23 that that is not the case the entire time.

24 Q. So it was completely loaded because
25 the user saw it at one time before the

1 E. Saber

2 animation playback window covered it, for
3 example?

4 MS. KRAWICE: Objection. Form.
5 Scope.

6 A. I think -- we're saying two
7 different things here. So the -- I'm
8 defining the term completely loaded which is
9 the scope of this discussion here and seems
10 to be, I mean, understood by a POSITA -- to
11 me this term seems to be well understood by a
12 POSITA. So when you hear the term
13 "completely loaded," you completely loaded
14 the interface, you see the frame of the
15 interface, you see the content of the
16 interface on the display. So that's when the
17 interface is completely loaded and is going
18 to essentially transition you from AV1 to
19 AV2.

20 Q. Let's go to Column 7 and looking at
21 line 28 through 30, it says:

22 For example, the intermediate
23 interface is a blank interface that includes
24 no more than a layout control with no
25 interface content to be added.

1 E. Saber

2 How can an intermediate interface
3 which is a blank interface that includes no
4 more than a layout control with no interface
5 content to be added ever be completely loaded
6 if completely loading requires that the user
7 sees the frame and the content?

8 MS. KRAWICE: Objection. Form.
9 Scope.

10 A. I think we're mixing a variety of
11 things. Like, look at my declaration on
12 Page 36. So you see in the bottom of that
13 page there is a paragraph that's cited from
14 the patent Column 359 to 420 with emphasis
15 added.

16 You see that?

17 Q. Yes.

18 A. So you see in that paragraph it
19 discusses -- it's talking about the
20 intermediate interface and it gives you --
21 and for another instance and so on, towards
22 the bottom of the paragraph it says:

23 For example, the intermediate
24 interface may include just a layout of
25 control and a few interface contents to allow

1 E. Saber

2 fast loading of the intermediate interface,
3 'cause you want to load it pretty quickly.
4 Preferably, the intermediate interface may
5 include no interface content except for one
6 layout control.

7 Do you see that?

8 Q. Yes, I see that.

9 A. Yes. And then it says:

10 That is, the intermediate interface
11 may be a blank interface to further improve
12 the loading of speed.

13 That doesn't mean that's all
14 that's -- or that does not have to be just
15 one particular option. But even if you have
16 a blank screen there, that -- 'cause the
17 interface is being started and loading, but
18 that doesn't mean that it's invisible the
19 entire time.

20 Q. I'm a little bit confused on the
21 there may be a blank interface. Are you --
22 are you suggesting that that's one possible
23 embodiment of the '206 patent?

24 MS. KRAWICE: Objection. Form.

25 A. Well, as it says, that is, the

1 E. Saber

2 intermediate interface may be a blank
3 interface, but does not have to be a blank
4 interface. That's just one option
5 essentially.

6 Q. If it is -- sorry, I didn't mean to
7 cut you off.

8 A. Yeah. I mean, that's essentially
9 one option, it may be a blank interface, but
10 it doesn't have to be, there's all these
11 others I talked about earlier.

12 Q. If it is a blank interface under
13 that possibility, can it be completely
14 loaded?

15 MS. KRAWICE: Objection. Form.

16 A. So I think we're mixing different
17 concepts again. See, you go back to page 42
18 of my dec, last three lines of the citation,
19 the middle paragraph:

20 The completely loading interface
21 refers to both the frame and the content of
22 the interface have been completely loaded.

23 So for it to be completely loaded,
24 it's gonna have the frame and the content.
25 So that's what defines, according to the

1 E. Saber

2 inventors, completely loaded. It's talking
3 about the frame and the content.

4 Q. I understand that and that's why
5 I'm asking you, how does -- how can a blank
6 interface be completely loaded? We've
7 established that the intermediate interface
8 may be a blank interface to further improve
9 the loading speed. Under that possibility,
10 how is that intermediate interface, which is
11 a blank interface, completely loaded?

12 MS. KRAWICE: Objection. Form.

13 A. Well, I mean, the intermediate
14 interface is going through, you know, states
15 of essentially transition as it's loading.
16 So you see where it says earlier -- I'm
17 looking at page 41, the citation 4:25 to 32
18 with emphasis added, you see where it says:

19 In this case the completely -- the
20 completely starting of interface refers to a
21 frame of the intermediate interface has been
22 completely loaded.

23 So you have the completely starting
24 refers to a frame while the content in the
25 intermediate interface has not essentially

1 E. Saber

2 loaded. So you have a frame that's loaded
3 while the -- (discernible).

4 THE COURT REPORTER: I'm having
5 trouble hearing the witness.

6 MS. KRAWICE: I'm sorry to
7 interrupt, I'm really, but I think the
8 feedback is coming from you.

9 THE COURT REPORTER: Me?

10 MS. KRAWICE: I keep muting myself
11 during answers because I'm trying to
12 help not contribute to feedback
13 either.

14 THE COURT REPORTER: Okay. I'm
15 gonna mute myself, but I'm not getting
16 feedback from him, I'm just getting
17 him cutting out since we came back
18 from the break. But I'll mute myself
19 and if I need to interrupt, I will
20 again.

21 MR. COOTS: Okay.

22 A. So going back you see on page 41
23 it's talking about completely starting
24 intermediate interface, so you have an
25 intermediate interface that's completely

1 E. Saber

2 starting, it refers to a frame of the
3 intermediate interface that has been loaded
4 while the content of the intermediate
5 interface has not. And if you go to page 42
6 you see the completely loading of the
7 intermediate interface refers to both frame
8 and the content of the intermediate interface
9 have been completely loaded.

10 So at that point, the intermediate
11 interface has been completely loaded and a
12 POSITA reading that would understand that
13 both the frame and the content of the
14 interface are presented on the screen, on the
15 display.

16 Q. So are you saying that, and I'm
17 going back to your page 37, the '206 patent
18 at 3:59 to 4:20, when it says:

19 That is, the intermediate interface
20 may be a blank interface to further improve
21 the loading speed.

22 Are you suggesting that that
23 intermediate interface is only at the
24 completely started phase?

25 MS. KRAWICE: Objection. Form.

1 E. Saber

2 A. Well, it's talking about to further
3 improve the loading speed. Yeah, so you have
4 the interface is being -- is loading so you
5 may have a blank, you know, it says the
6 intermediate interface may be a blank
7 interface to further improve the loading
8 speed. But when you read the context that I
9 just described to you on page 41 and 42, it
10 clearly describes what "completely starting"
11 means and then what's "completely loaded"
12 means.

13 And I think it seems that TCL seems
14 to understand that, because if you look on
15 page 13 of my declaration on Paragraph 54
16 there's an agreed upon construction there
17 that both parties have agreed upon and those
18 terms completely loaded seems to be a term
19 that's agreed upon.

20 Q. I don't think the parties agree to
21 the term "completely loaded." I think the
22 parties are agreeing to the triggering part
23 of that term. I mean, we can walk through
24 that agreement a little bit more unless your
25 attorneys have covered it with you?

1 E. Saber

2 MS. KRAWICE: Objection.

3 Privileged and instruct the witness
4 not to answer that question.

5 MR. COOTS: I was just asking him
6 if he wanted to walk through it.

7 A. I mean, the point I'm making here
8 is when you read the citations on page 41 and
9 42 from the eyes of a POSITA reading the
10 specification and these citations, to me,
11 it's clear. Completely starting refers to a
12 frame of the intermediate interface that's
13 been completely loaded. So the frame has
14 been completely loaded while the content of
15 the interface has not.

16 And when I go to the next citation,
17 completely loading of the interface refers to
18 both the frame and the content of the
19 intermediate interface have been completely
20 loaded.

21 I mean, I don't understand what is
22 the confusion with it. It's clear to me as a
23 POSITA reading this.

24 Q. So going back to this, the
25 intermediate interface may be a blank

1 E. Saber

2 interface to further improve the loading
3 screen, you're suggesting that that
4 intermediate interface is just a frame?

5 MS. KRAWICE: Objection. Form.

6 A. All that's saying is that the
7 intermediate interface may be a blank
8 interface to further improve the loading
9 speed as you're loading this interface I've
10 been talking about. So you -- so it may
11 be -- it may be a blank interface as you're
12 loading, but you see where it says here it
13 describes "completely starting," you have a
14 frame as being completely loaded, so that's
15 clear.

16 And then when you go to the second
17 citation, it says you have frame and content.
18 It's -- I mean, I don't know how much clearer
19 can it be.

20 Q. I guess -- and I'm going back to
21 Column 7, line 28 down to 30 and this example
22 of the intermediate interface is a blank
23 interface that includes no more than a layout
24 control with no interface content to be
25 added.

1 E. Saber

2 My question is: How is a blank
3 interface that has no interface content to be
4 added ever completely loaded if completely
5 loading requires that the content is
6 completely loaded?

7 A. I don't understand your question at
8 all. I mean, if you look -- if you continue
9 reading this paragraph you see -- so --

10 Q. Go back there real quick. What
11 aren't you understanding about my question?
12 Are we confused about what the intermediate
13 interface is in this example? Are we
14 confused about the content? What is it that
15 we're confused about?

16 A. I think I'm not understanding what
17 you're ask -- I mean, you asked about
18 completely started, that description is clear
19 in that citation. Completely loaded, that
20 description is clear. Now when you look at
21 the Column 7 and the context of the column,
22 you're just reading one sentence out of
23 context, you gotta read the context and the
24 description there. So if you go past that
25 sentence paragraph -- in Column 7, line 30:

1 E. Saber

2 Thus, the onCreate and onStart
3 lifecycles of the intermediate interface E
4 will only last for a short time span,
5 allowing the intermediate interface E to be
6 rapidly pulled up into the foreground.

7 So this is referring to Figure 5
8 that you see in the patent when it's talking
9 about this onStart and whatever, on the
10 onCreate and onStart. So you can look at
11 Figure 5 and see this intermediate interface
12 that we've been talking about.

13 So I think you're taking a sentence
14 out of context and that is not what is being
15 described here.

16 Q. Okay. Well, maybe walk me through
17 the context. This intermediate interface is
18 a blank interface that includes no more than
19 a layout control with no interface content to
20 be added.

21 What is that referring to?

22 MS. KRAWICE: Objection. Form.
23 Scope.

24 A. Well, if you go back to the -- back
25 up in a sense so you can see the description

1 E. Saber
2 of Figure 5, I think that's where -- so you
3 can see the description on Figure 5 starts --
4 well, I mean it's even starts on Column 6,
5 but we can probably start -- if you look at
6 Column 7, line 11, it's referring to the
7 illustration of Figure 5 where the user --
8 where after instruction from the user for
9 switching from live TV Y is received, for
10 switching -- sorry, to live TV Y, TV Y is
11 received.

12 So it's discussing essentially that
13 that -- you know, that Figure 5 has got, you
14 know, some of the steps, you know, or the
15 thing that it's referring to. So you have a
16 preset intermediate interface E that
17 essentially gets a starting signal to get
18 started.

19 Now, if you look at Column 7, line
20 21, you see where it says:

21 If it is the first time the
22 intermediate interface E is started, when the
23 starting signal send from the switching
24 controller Z is received, so you can see the
25 switching controller Z in the figure, and you

1 E. Saber
2 can see it's got an arrow going on to the
3 onCreate, the intermediate interface will
4 enter into the onCreate lifecycle. You know,
5 the onCreate is like, you know, sometimes we
6 use these type of language to define code,
7 like some routine. So, this is your period
8 of creating if it hasn't been, you know,
9 started already. Then it goes into the
10 onStart lifecycle, this is your period of
11 starting. If it's not the first time, then
12 the intermediate interface will go straight
13 to the lifecycle -- to the onStart lifecycle.
14 And see the sentence comes up that
15 you're talking about, but then if you
16 continue the context from there, thus the
17 onCreate and onStart lifecycles of the
18 intermediate interface will only last for a
19 short time span, because it's gotta launch it
20 up and get it started, allowing the
21 intermediate interface to be rapidly pulled
22 up into the foreground. And that's the
23 purpose is you want to get that into the
24 foreground so you can start the switching
25 process.

1 E. Saber

2 And you see where it says below

3 that:

4 Further, while the intermediate
5 interface E is going into the onStart
6 lifecycle, so while it's going through its
7 onStart lifecycle, the iQIYI X interface is
8 triggered to enter into the onPause and so on
9 and so forth.

10 So when you look at the diagram,
11 you see three boxes on Figure 5, you see the
12 box where it shows the intermediate
13 interface. You also see the box that shows
14 the trigger lifecycle of the iQIYI thing and
15 you see the box that talks about start the
16 interface of live TV Y, which is what you're
17 switching to. So you're switching out of
18 iQIYI X to live TV Y and this intermediate
19 interface is essentially conducting the
20 switching, so to speak.

21 Q. So then the lines that I'm
22 referring to, the 28 to 30 where it says:

23 The intermediate interface is a
24 blank interface that includes no more than a
25 layout control with no interface content to

1 E. Saber

2 be added.

3 Is that blank intermediate
4 interface an intermediate interface during a
5 specific phase of this onStart, onCreate
6 onResume lifecycle?

7 MS. KRAWICE: Objection. Form.
8 Scope.

9 A. I mean my -- again, I think we may
10 be mixing apples and oranges here. The scope
11 of what I'm discussing here is to define
12 three terms; interface, preset intermediate
13 interface, and completely loaded.

14 So the "completely loaded" term
15 that we're talking about, I've described that
16 to you in detail in basically the section we
17 went over. And so is the "preset
18 intermediate interface" which I describe in
19 the previous section. And we've gone over
20 this background material in a sense that
21 provides the context for these descriptions.
22 I think you're taking a sentence out of
23 context here and just trying to, you know,
24 apply meaning to a sentence out of context.
25 You have to read the whole context in what's

1 E. Saber

2 going on.

3 Q. Well, I understand that and, you
4 know, you walked me through that, you
5 referred to Figure 5 and I think we walked
6 through Column 7, line 11 down to I think
7 maybe 46, we talked about those different
8 lifecycles.

9 A. Yes.

10 Q. So what I'm asking you is, in
11 context of this whole thing, what does it
12 mean that the intermediate interface is a
13 blank interface that includes no more than a
14 layout control with no interface content to
15 be added?

16 MS. KRAWICE: Objection. Form.
17 Scope.

18 A. I think I've already explained
19 that. I mean, if you look at the -- as I
20 said to you earlier, page 36, 37 of my dec,
21 the intermediate interface may be a blank
22 interface to further improve the loading
23 speed, so while you're loading, you may have,
24 you know, a split second in a sense, a blank
25 interface, so you have a blank interface to

1 E. Saber
2 help -- to further improve the loading speed.
3 But the discussion here on Column 7 go --
4 walks through the steps, the context of how
5 this intermediate interface is switching
6 from, you know, iQIYI X to live TV Y. So
7 there is a context behind it. It's not just
8 one sentence that you're, you know, that
9 you're referring to. The whole context of
10 that is important.

11 Q. Well, I guess that's why I'm asking
12 you. So this blank interface that we're
13 referring to, is that interface specific to a
14 single step within -- like I understand we're
15 talking about -- so we have an onStart cycle
16 and that onStart cycle is when the frame is
17 loaded, but content has not been loaded,
18 right? And then we hit completely loaded
19 when the frame and the content are loaded as
20 we discussed earlier that's when it's
21 displayed to a user, right? I understand
22 that.

23 What I'm asking you is, is this
24 intermediate interface, which is a blank
25 interface that includes no more than a layout

1 E. Saber

2 control with no interface content to be
3 added, is that the intermediate interface in
4 a specific step in that onStart, onLoad
5 lifecycle?

6 MS. KRAWICE: Objection. Form.

7 A. I mean, as I said earlier, there
8 may be a point in time or a point in time
9 when the intermediate interface may not be
10 visible to the user while it's being started.
11 But as we just discussed and went on all
12 these different things that we've been
13 talking about, once you get the completely
14 start -- I mean once you enter the completely
15 starting, you enter into the cycles of we
16 have discussed here, you have a frame for the
17 intermediate interface that's been completely
18 loaded, you continue on, you have a frame and
19 content of that interface, that's completely
20 loaded now. And that interface now starts to
21 perform what's in Figure 5 that we discuss to
22 transition you from iQIYI to live TV Y.

23 Q. Do you agree that an intermediate
24 interface must have content to be completely
25 loaded?

1 E. Saber

2 MS. KRAWICE: Objection. Form.

3 Scope.

4 A. Well, I would use the terminology
5 that's used in the patent so that it's clear
6 and concise and there's no inconsistencies.

7 So you see, if you look on page 42
8 at the citation that I provided that
9 completely loading of the interface refers to
10 both the frame and the content of the
11 intermediate interface have been completely
12 loaded. So you have frame and content that's
13 been completely loaded.

14 So in my Paragraph 117, it clearly
15 says:

16 A POSITA reading these citations
17 would understand that completely loaded
18 interface, for example, is when the user will
19 be presented with both the frame and the
20 content of the interface on the display.

21 So I don't know how else I can
22 state it more clearer than this.

23 Q. Well, I guess we talked about
24 succinctness earlier with respect to '341.
25 My question was pretty succinct. In order to

1 E. Saber

2 be completely loaded, do you agree the
3 intermediate interface has to have content
4 that is completely loaded?

5 MS. KRAWICE: Objection. Form.
6 Scope.

7 A. Well, that's why I want to use the
8 language that I'm using here because I don't
9 want the language to start to get into the
10 semantics and that's important. Semantics
11 seem to always yield different things to
12 different people. So that's why I'm clearly
13 stating it here, a POSITA reading the above,
14 and the next paragraphs obviously, would
15 understand that completely loaded interface,
16 for example, as one user will be presented
17 with both the frame and the content of the
18 interface on the display. So, you have the
19 frame, you have the content. That's what --
20 what a POSITA would understand when they read
21 the word "completely loaded" or "completely
22 loading" in the specification as described.

23 Q. So when the specification talks
24 about the intermediate interface, it's a
25 blank interface that includes no more than a

1 E. Saber

2 layout control with no interface content to
3 be added.

4 Is it your opinion that that blank
5 interface is an interface that has not yet
6 been completely loaded?

7 MS. KRAWICE: Objection. Form.

8 A. I don't understand what you're
9 asking. I think we went over this already.
10 I mean, as I said earlier, there may be a
11 point in time when the intermediate interface
12 may not be visible in a sense to the user
13 while it's being started, but completely
14 loading and completely starting are well
15 described in the specification and in my
16 declaration here. I can't describe them any
17 better than I have done.

18 Q. So again, if I'm understanding what
19 you just said correctly, there may be a point
20 in time when the intermediate interface is
21 invisible to the user because it's only been
22 completely started, but it has not yet been
23 completely loaded?

24 MS. KRAWICE: Objection. Form.

25 A. I think you're mixing different

1 E. Saber
2 things. So completely loading or completely
3 loaded, if you look at the spec, the
4 completely loading of the interface refers to
5 both the frame and the content of the
6 intermediate interface have been completely
7 loaded. So I don't know which part of that
8 sentence is not clear. It needs to have both
9 the frame and the content of the intermediate
10 interface have been completely loaded. When
11 it has both, it's completely loaded.

12 Completely starting of intermediate
13 interface refers to a frame of the
14 intermediate interface has been -- so the
15 frame has been completely loaded, but the
16 intermediate the content has not been
17 completely loaded. So I don't know which
18 point of these passages is not clear. To me,
19 reading it as a POSITA, it's clear.

20 Q. I'm just trying to get a sense of
21 what this blank interface is and if this
22 blank interface is just an interface that has
23 just been completely started, I mean, is that
24 what you're telling me?

25 MS. KRAWICE: Objection. Form.

1 E. Saber

2 Scope.

3 A. I think we're talking semantics and
4 we're kind of going round and round a little
5 bit to try to come down to some, you know, a
6 point or a -- some type of a sentence that
7 might fill a sound bite. But the definitions
8 here are described, you have completely
9 started what it means, you have completely
10 loaded what it means. And as I say in
11 Paragraph 117, a POSITA reading the above
12 would understand that completely loaded, from
13 example, is when the user will be presented
14 with both the frame and a content of the
15 interface on the display. So when I see
16 both, when a user sees both, it's completely
17 loaded. When the user sees the frame, but
18 the rest of the content is kind of in limbo,
19 it's completely starting. So it's starting
20 essentially the interface.

21 Q. As you point out on page 37, like
22 right at the top of 37, and you're referring
23 to the '206 patent, Column 3 lines 59 through
24 420, you recognize that the intermediate
25 interface may be a blank interface to further

1 E. Saber

2 improve the loading screen.

3 What I'm trying to understand is,
4 can that blank interface, has no interface
5 content, ever be completely loaded?

6 MS. KRAWICE: Objection. Form.
7 Scope.

8 A. Well, I think you're mixing
9 different things, that's why we keep going
10 through this round and round. My scope was
11 to define to you what is interface -- what is
12 preset intermediate interface or what is
13 "completely loaded," that is the scope of
14 what I was asked to do, which I've defined in
15 this declaration. And as I mentioned, there
16 may be a point in time where the intermediate
17 interface may not be visible, you know, for a
18 split second or so, you know, to --
19 essentially to the user while it's being
20 started. There may be a point in time where
21 that's the case, so may not be visible. But
22 "completely starting" means you have an
23 intermediate interface refers to a frame of
24 the intermediate interface. So when the
25 authors are referring to "completely

1 E. Saber

2 starting," they're saying you see a frame of
3 the intermediate interface and when it's
4 "completely loaded," you see the frame and
5 the content on the display. I can't say it
6 any better than I have done that. And I --
7 and you keep asking me the same question, and
8 my answer isn't going to change. It's clear,
9 described in the specification and the
10 context of what you read the patent.

11 Q. Can you tell me whether the blank
12 intermediate interface is just an
13 intermediate interface that has only been
14 completely started?

15 MS. KRAWICE: Objection. Form.
16 Scope.

17 A. I wasn't asked to provide opinions
18 on a blank interface as I've described to you
19 earlier. I was asked to provide opinions on
20 "interface," "preset intermediate interface"
21 and "completely loaded" and that's what I've
22 done. And as I mentioned, there may be a
23 point where you have essentially, you know,
24 intermediate interface may be -- may be --
25 may be not be visible to the user while it's

1 E. Saber
2 starting its process, like, we talked about
3 the onCreate and onStart that we've been
4 talking about here while this is, you know,
5 taking place. But once you have -- it's
6 completely starting once the frame is there
7 and it's completely loaded when you have
8 frame and content and the user can see
9 completely started, user can see the frame on
10 the display and completely loaded the user
11 can see the frame and the content of the
12 interface on display. I can't say it any
13 better than this.

14 Q. Okay. I have no further questions.
15 Thank you, Dr. Saber.

16 A. Thank you very much. It's been my
17 distinct pleasure and privilege to be working
18 with you today.

19 MS. KRAWICE: Can we just take
20 like a five to ten-minute break off
21 the record?

22 THE VIDEOGRAPHER: We are off the
23 record. The time is 1:50 p.m.

24 (Whereupon, a brief recess was
25 taken.)

1 E. Saber

2 THE VIDEOGRAPHER: We are back on
3 the record. The time is 2 p.m.

4 EXAMINATION BY

5 MS. KRAWICE:

6 Q. Dr. Saber, do you recall being
7 asked earlier today about your opinions in
8 Paragraph 61 of your declaration?

9 A. I do. It's been a bit, but yes.

10 Q. Can you open your declaration,
11 which I believe was marked as Saber Exhibit 1
12 at Paragraph 61 on page 17 and let me know
13 when you're there.

14 A. Yes, I'm there.

15 Q. Paragraph 61 falls under Heading 1
16 in your declaration, correct?

17 A. That is correct.

18 Q. What opinions are you providing in
19 Section 1 in Paragraphs 59 through 65?

20 A. Well, as you see the heading there,
21 it says means-plus-function construction
22 applies because communication unit,
23 quote/unquote, does not recite sufficiently
24 definite structure.

25 Q. Are Paragraphs 59 through 65

1 E. Saber

2 concerning your opinions on the proper
3 means-plus-function analysis communication of
4 unit?

5 MR. COOTS: Objection. Form.

6 A. Well, my opinions in Paragraph 59
7 through 65 support -- basically describe the
8 statement that's in that heading, so it's
9 support, you know, how -- support a statement
10 in that heading, in a sense.

11 Q. If you scroll down to Paragraph 66
12 through 75, what opinions are you offering in
13 those paragraphs?

14 A. Well, if you look at the heading of
15 those paragraphs, so that statement that's
16 been quoted from the start with the LAN com
17 unit communication device, all the way to
18 WiFi Direct, Bluetooth or WiFi is the
19 structure that performs the claimed function
20 that is provided in that table and those
21 paragraphs describe that process or those
22 details.

23 Q. Dr. Saber, do you recall being
24 asked earlier today about a user interface?

25 A. Yes.

1 E. Saber

2 Q. Is -- I think the '206 patent was
3 marked as Exhibit 3, excuse me, Saber
4 Exhibit 3. If you can turn to Claim 1 of the
5 '206 patent and let me know when you're
6 there.

7 A. I'm at Claim 1 of the '206 patent.

8 Q. Great. Is "user interface" a term
9 in Claim 1 of the '206 patent?

10 A. No, it is not.

11 Q. Is "interface" a term in Claim 1 of
12 the '206 patent?

13 A. Yes, the term "interface" is in the
14 Claim 1 of the '206 patent.

15 Q. Do you understand a user interface
16 to be one example of a commonly understood
17 interface?

18 MR. COOTS: Object to form.

19 A. Yes, a user interface would be, as
20 I stated in my declaration, would be an
21 example of a commonly used interface.

22 Q. Do you recall being asked today
23 whether a blank interface is completely
24 loaded?

25 A. Yes.

1 E. Saber

2 Q. Is one example of a blank interface
3 a black screen?

4 A. That would be a blank interface.

5 Q. How would a POSITA know when a
6 blank interface is completely loaded?

7 A. Well, you would see a black screen,
8 in a sense. I mean, if they're just talking
9 about the blank part, you would see a black
10 screen, the frame and a black screen
11 indicating it's, you know, it's -- that part
12 is loaded, but obviously as we discussed
13 earlier, the intermediate interface is in its
14 process.

15 MS. KRAWICE: No further
16 questions.

17 MR. COOTS: I have some redirect.

18 FURTHER EXAMINATION

19 BY MR. COOTS:

20 Q. Dr. Saber, you just said that a
21 black screen is an example of a blank
22 interface.

23 Where in the '206 patent does it
24 describe that?

25 MS. KRAWICE: Objection. Scope.

1 E. Saber

2 MR. COOTS: It's in the scope of
3 your redirect, Counsel.

4 A. As I described earlier, I mean we
5 discussed -- we would went through this a few
6 times now and the intermediate interface as
7 it states on page 37 of my dec may be a blank
8 interface for -- to further improve the
9 loading speed. So that blank interface
10 essentially you have a blank interface, you
11 might be seeing, you know, for instance, a
12 black screen on the display while the process
13 of intermediate interface that we described
14 earlier is taking place.

15 Q. Is the '206 patent searchable?

16 MS. KRAWICE: Objection. Form.
17 Scope.

18 Q. Can you type in the word "black
19 screen" and tell me how many hits you get?

20 MS. KRAWICE: Objection. Form.
21 Scope.

22 A. Well, the word "black" doesn't
23 literally appear printed in the patent, but
24 obviously when you read the context, you
25 understand what's going on.

1 E. Saber

2 Q. Does a black screen have interface
3 content?

4 MS. KRAWICE: Objection. Scope.

5 MR. COOTS: Courtney, you opened
6 the door to this.

7 A. Well, as I mentioned to you
8 earlier, I wasn't asked to provide analysis
9 on black screen or -- I was asked to provide
10 analysis and opinions on the three terms that
11 are there in my declaration with regards to
12 '206.

13 Q. You were just asked if a black
14 screen is an example of a blank interface and
15 you responded yes.

16 Do you disagree you've provided an
17 opinion on whether or not a black screen is a
18 blank interface?

19 MS. KRAWICE: Objection. Form.

20 A. Well, in your description of
21 intermediate interface as you see in my
22 declaration, you see the intermediate
23 interface may be a blank interface. So, when
24 you're seeing a blank interface, you
25 potentially have a black screen 'cause it's a

1 E. Saber

2 blank interface and the process is taking
3 place. I mean...

4 Q. Does a black screen have content?

5 MS. KRAWICE: Objection. Scope.

6 A. Well, the -- well, first of all, I
7 wasn't asked -- as I mentioned to you
8 earlier, I wasn't asked to provide opinions
9 on a black screen. But a blank interface was
10 -- potentially could contain a black screen,
11 there may be content that's being, you know,
12 brought into -- brought into the process
13 there, so...

14 Q. So then the black screen is not at
15 that point completely loaded?

16 MS. KRAWICE: Objection. Scope.
17 Form.

18 A. I'm not sure I understand your
19 question. As I mentioned earlier, I wasn't
20 asked to provide opinions on a black screen.

21 Q. You have provided an opinion on
22 black screen within the last five to
23 ten minutes. Do you want to walk that
24 opinion back or do you want to continue to
25 discuss it?

1 E. Saber

2 MS. KRAWICE: Objection. Form.

3 A. I've already, I think, described
4 that to you.

5 Q. So then let me get this straight,
6 the black screen, there is content that may
7 be loaded into it, but the black screen does
8 not, at that moment, contain content.

9 Is that what you're saying?

10 MS. KRAWICE: Objection. Form.

11 Scope.

12 A. As I mentioned to you earlier,
13 right, we've talked about this already, so --

14 Q. I'm not talking about what you and
15 I talked about, I'm now talking about what
16 you and Courtney talked about.

17 MS. KRAWICE: Objection. Form.

18 Please don't cut off my witness, Zach.

19 A. As I mentioned to you earlier, you
20 have an intermediate interface, there may be
21 a point in time where that intermediate
22 interface may not be visible to the user, so
23 you do have a frame in a sense and you see a
24 black screen there and while the loading is
25 taking place, as we described.

1 E. Saber

2 Q. So the black screen is preloading?

3 MS. KRAWICE: Objection. Form.

4 Scope.

5 A. Well, the definitions that we've
6 talked about I think are important to go
7 to -- to -- I don't want to start going
8 around that. Completely starting we talked
9 about it multiple times now. You have
10 intermediate interface refers to a frame of
11 the intermediate interface as being
12 completely started, that's the definition
13 provided in the spec. Completely loaded is
14 the other definition that's described here in
15 my declaration where you have frame and
16 content.

17 Q. Does a black screen have content?

18 MS. KRAWICE: Objection. Form.

19 Scope?

20 A. Well, a black screen as I mentioned
21 to you, as the interface is coming up, you --
22 there may be a point in time where it may not
23 be visible, you have a black screen, but
24 there's content that's being loaded, that's
25 being, you know, as the interface is coming

1 E. Saber

2 up to completely loaded.

3 Q. So, the black screen is when the
4 interface is being loaded, but it's not when
5 interface is completely loaded?

6 MS. KRAWICE: Objection. Form.
7 Scope.

8 A. We talked about completely loaded
9 already multiple times. You keep asking me
10 the same question. Completely loaded means
11 you have frame and content of the interface
12 on the display. That's completely loaded.

13 Q. You said:

14 Well, a black screen, as I
15 mentioned to you, as the interface is coming
16 up, there may be a point in time where it may
17 not be visible. You have a black screen, but
18 there's no content, that's being loaded,
19 that's being, you know, as the interface is
20 coming up to completely loaded.

21 And so what I'm asking you in
22 context of that response is, is the black
23 screen the point where the interface is being
24 loaded, but before the intermediate interface
25 is completely loaded?

1 E. Saber

2 MS. KRAWICE: Objection. Form.

3 Scope.

4 A. Well, as I mentioned to you, I
5 wasn't asked to provide opinions on the black
6 screen in my declaration. As we've been
7 discussing here, I've already said to you
8 multiple times, when there might be a point
9 in time where the intermediate interface as
10 it's starting may not be visible to the user
11 while the loading process is in its infancy,
12 if you would. So, you will see a black
13 screen, you may see a black screen with a
14 frame, but that doesn't mean that it's --
15 there's no content. So it's the -- the
16 interface is in the process of starting. And
17 completely starting means you now have a
18 frame and when you go to completely loaded,
19 you have a frame and content.

20 Q. Do you have an opinion on whether
21 or not a black screen is an example of an
22 intermediate interface, a blank intermediate
23 interface?

24 MS. KRAWICE: Objection. Scope.

25 Form.

1 E. Saber

2 A. I did not provide an opinion in my
3 declaration on that as you see in my
4 declaration. I wasn't asked to provide an
5 opinion on it.

6 Q. Sitting here today, do you have an
7 opinion on whether or not a black screen is
8 an example of a blank intermediate interface?

9 MS. KRAWICE: Objection. Scope.
10 Form.

11 A. As I said to you, I wasn't asked to
12 provide an opinion on black screen in my
13 declaration.

14 Q. I didn't ask you about your
15 declaration, I asked you sitting here today.
16 Sitting here today, do you have an opinion on
17 whether or not a black screen is an example
18 of a blank intermediate interface?

19 MS. KRAWICE: Objection. Scope.
20 Form.

21 A. I would have to sit down and do the
22 analysis to provide you a proper opinion. I
23 wouldn't be able to provide an opinion on the
24 fly in the middle of deposition. So I would
25 have to sit down, do the proper analysis,

1 E. Saber

2 I'll be happy to render an opinion.

3 Q. So when Ms. Krawice asked you that
4 question, did you sit down and do the proper
5 analysis?

6 MS. KRAWICE: Objection. Scope.
7 Form.

8 A. I was just responding to her
9 question because I've already discussed that
10 a little but earlier. But I haven't provided
11 a formal opinion in my declaration and I
12 would need to do the analysis to do so.

13 Q. So sitting here today, you do not
14 have an opinion on whether or not a black
15 screen is an example of a blank intermediate
16 interface?

17 MS. KRAWICE: Objection. Scope.
18 Form.

19 A. As I mentioned to you, I have not
20 been asked to provide an opinion on a black
21 screen in my declaration, so I would need to
22 do the analysis to render a proper opinion.

23 Q. Understood. No further questions
24 on this.

25 THE VIDEOGRAPHER: Anything else

1 E. Saber

2 before we close out the record?

3 MS. KRAWICE: I think we're done
4 here.

5 THE VIDEOGRAPHER: Okay. Then we
6 are off the record. The time is
7 2:18 p.m. and this concludes today's
8 testimony.

9 (Time noted: 2:18 p.m. Eastern Time)

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E. Saber

J U R A T

I, ELI SABER, do hereby certify
under penalty of perjury that I have
read the foregoing transcript of my
deposition taken on AUGUST 20, 2024;
that I have made such corrections as
appear noted herein in ink, initialed
by me; that my testimony as contained
herein, as corrected, is true and
correct.

ELI SABER

Subscribed and sworn to before me
This _____ day of _____, 20__.

NOTARY PUBLIC

1	E. Saber		
2	-----I N D E X-----		
3	WITNESS: ELI SABER		
4	EXAMINATION BY:		PAGE
5	MR. COOTS		6
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8			
9	-----E X H I B I T S-----		
10	SABER EXHIBITS		
11	NUMBER	DESCRIPTION	PAGE
12			
13	Exhibit 1	United States Patent	13
14		10,375,341 B2	
15	Exhibit 2	Expert Report of	17
16		Eli Saber	
17	Exhibit 3	United States Patent	123
18		10,321,206	
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E. Saber

C E R T I F I C A T E

STATE OF NEW YORK)
 : SS.:
COUNTY OF RICHMOND)

I, CANDIDA BORRIELLO, a Notary Public for
and within the State of New York, do hereby
certify:

That the witness, ELI SABER, whose
examination is hereinbefore set forth was duly
sworn and that such examination is a true record
of the testimony given by that witness.

I further certify that I am not related
to any of the parties to this action by blood or
by marriage and that I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 20th day of August, 2024.

Candida Borriello

CANDIDA BORRIELLO

1 E. Saber

2 ERRATA SHEET FOR THE TRANSCRIPT OF:

3 Case Name: MAXELL v. TLC
4 Dep. Date: AUGUST 20, 2024
5 Deponent: ELI SABER

6	Pg.	Ln.	Now Reads	Should Read	Reason
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19	_____	_____	_____	_____	_____

20 _____
21 ELI SABER

22 SUBSCRIBED AND SWORN BEFORE ME,
23 This____ day of_____, 20____.

24 _____
25 Notary Public

My Commission Expires:_____

<div>Exhibits</div> <div>EX 0001 Dr. Eli Saber 08 .20.24 13:5 152:11 167:13</div> <div>EX 0002 Dr. Eli Saber 08 .20.24 17:23 167:15</div> <div>EX 0003 Dr. Eli Saber 08 .20.24 123:7 154:3, 4 167:16</div> <div>1</div>	<div>154:4, 7, 9, 11, 14</div> <div>10, 321, 206 123:8, 13</div> <div>10, 375, 341 17:24 18:5</div> <div>102 76:21 77:5 84:22</div> <div>10:21 45:15</div> <div>10:32 45:19</div> <div>11 137:6 141:6</div> <div>112 118:2</div> <div>112(f) 20:19 21:10</div> <div>117 118:16 120:15 122:8 144:14 148:11</div> <div>119 118:2</div> <div>11:13 76:10</div> <div>11:21 76:14</div> <div>120 119:7</div> <div>12:15 117:9</div> <div>13 132:15</div> <div>130 124:11</div> <div>16 14:4, 11 44:6</div> <div>17 152:12</div> <div>18 45:23 46:2</div> <div>1998 10:16</div>	<div>1:03 117:13</div> <div>1:50 151:23</div> <div>1C 20:13</div> <div>2</div> <div>2 17:23 18:3 47:22 48:11 50:6, 13, 17 51:3 52:6 70:15 72:5 83:17 96:13, 15 104:19 109:4 152:3</div> <div>20 5:4 28:21</div> <div>2004 10:18</div> <div>2024 5:4</div> <div>206 78:13 80:8 81:9 82:2, 21 83:4, 22 84:14, 19, 25 85:5, 19, 22 87:3, 22 88:14 90:15 93:9 94:13 101:2 107:17 110:16 112:5 122:23 127:23 131:17 148:23 154:2, 5, 7, 9, 12, 14 155:23 156:15 157:12</div> <div>21 28:22 137:20</div> <div>22 14:13</div>	<div>24 7:11</div> <div>27 37:14 64:14</div> <div>28 64:15 66:24 71:16 76:18 125:21 134:21 139:22</div> <div>2:18 165:7, 9</div> <div>3</div> <div>3 15:14, 20 16:9 17:14 18:12 19:19 20:22 25:15 26:24 31:4 32:21, 23 33:24 34:2 36:19, 22 37:2, 3, 5, 8 38:5, 17 40:5 46:24 48:22, 23 51:11 52:21 64:9, 11, 19, 22 84:20 85:16 86:7 87:7, 10 89:5 90:8, 19, 21 93:18 94:17 101:6, 7, 11, 12 103:23, 25 105:23 107:7 112:14 123:7, 12 148:23 154:3, 4</div> <div>3-E 64:13</div> <div>30 37:22 103:21, 22 125:21</div>
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