

1 ROUGH DRAFT OF THE DEPOSITION OF
2 JUSTIN MARSTON
3 THE FOLLOWING TRANSCRIPT OF PROCEEDING
4 OR ANY PORTION THEREOF TAKEN ON NOVEMBER 11,
5 2025, IS BEING DELIVERED UNEDITED AND
6 UNCERTIFIED BY THE CERTIFIED COURT REPORTER.
7 THE PURCHASER AGREES NOT TO DISCLOSE
8 THIS UNEDITED TRANSCRIPTION IN ANY FORM,
9 WRITTEN OR ELECTRONIC, TO ANYONE WHO HAS NO
10 CONNECTION TO THIS CASE. THIS IS AN
11 UNOFFICIAL TRANSCRIPTION WHICH SHOULD NOT BE
12 RELIED UPON FOR PURPOSES OF VERBATIM CITATION
13 OF TESTIMONY.
14 THIS TRANSCRIPTION HAS NOT BEEN
15 CHECKED, PROOFREAD, OR CORRECTED. IT IS A
16 DRAFT TRANSCRIPT, NOT A CERTIFIED TRANSCRIPT.
17 AS SUCH, IT WILL CONTAIN COMPUTER-GENERATED
18 MISTRANSLATIONS OF STENOGRAPHIC CODE OR
19 ELECTRONIC TRANSMISSION ERRORS, RESULTING IN
20 INACCURATE OR NONSENSICAL WORD COMBINATIONS
21 OR UNTRANSLATED STENOGRAPHIC SYMBOLS WHICH
22 CANNOT BE DECIPHERED BY NONSTENOGRAPHERS.

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1 CORRECTIONS WILL BE MADE IN THE

2 PREPARATION OF THE CERTIFIED TRANSCRIPTION,
3 RESULTING IN DIFFERENCES IN CONTENT, PAGE AND
4 LINE NUMBERS, PUNCTUATION, AND FORMATTING.

5 * * * * *

6 .

7 WITNESS NAME,
8 HAVING BEEN FIRST DULY SWORN, TESTIFIED UPON
9 HIS/HER OATH AS FOLLOWS:

10 EXAMINATION

11 BY MR. PLAIL:

12 Q. ALL RIGHT. GOOD MORNING,
13 MR. MARSTON?

14 A. HEY.

15 Q. HAVE YOU EVER BEEN DEPOSED
16 BEFORE?

17 A. NO, NOT LIKE THIS, NO.

18 Q. WHEN YOU SAY NOT LIKE THIS, WHAT
19 DO YOU MEAN?

20 A. I MEAN, I WAS IN A TINY SMALL
21 CLAIMS THING WITH A VIDEO, YOU KNOW, JUDGE,
22 WHATEVER, A CONSULTING CONTRACT, BUT LIKE, IT

3

1 WAS, YOU KNOW, IT WAS -- YOU KNOW, LIKE THE
2 WHOLE -- THE WHOLE THING WAS ABOUT TEN GRAND
3 PAYING TO A CONSULTANT. SO IT WAS -- IT WAS

♀
†

4 VERY LOW PRESSURE.

5 Q. OKAY.

6 A. I CAN SAY THAT.

7 Q. WELL, HOPE TO KEEP TODAY LOW

8 PRESSURE, AS WELL?

9 A. YEAH.

10 Q. SO I GUESS, JUST TO GO OVER THE

11 RULES OF THE ROAD, I'M GOING TO ASK YOU

12 QUESTIONS, YOU PROVIDE ANSWERS. FROM TIME TO

13 TIME YOUR COUNSEL MAY OBJECT UNLESS YOU'RE

14 SPECIFICALLY INSTRUCTED BY YOUR COUNSEL NOT

15 TO ANSWER, YOU MUST STILL ANSWER THE

16 QUESTION. MAKE SENSE?

17 A. YEAH, OKAY.

18 Q. IF I EVER ASK A QUESTION THAT

19 DOESN'T MAKE SENSE, JUST LET ME KNOW, AND WE

20 AND I WILL DO MY BEST TO REPHRASE IT, OR WE

21 CAN BREAK IT DOWN INTO PARTS.

22 A. OKAY.

♀
†

4

1 Q. DOES THAT ALL MAKE SENSE?

2 A. YEAH.

3 Q. ALL RIGHT. SO WHAT'S YOUR

4 CURRENT ADDRESS?

5 A. 2800 RIO MESA DRIVE, AUSTIN

6 TEXAS, 78732. SORRY, YOU HAVE TO WRITE THAT.

7 YEAH.

8 Q. I'M USED TO SAYING THAT SO FAST.

9 AND WHAT DID YOU DO TO PREPARE

10 FOR TODAY'S DEPOSITION?

11 A. YOU KNOW, SPOKE TO ATTORNEY,

12 TRIED TO REFRESH A LITTLE BIT ON THE

13 DOCUMENTS. IT'S A LONG TIME AGO, BUT TRIED

14 TO HAVE SOME CONTEXT COMING IN SO I WOULD BE

15 USEFUL FOR ANSWERING QUESTIONS.

16 Q. OKAY. DID YOU SPEAK WITH

17 MR. LATIFUR KHAN --

18 A. I'M SORRY.

19 MR. PLAIL: LATIFUR KHAN.

20 A. I HAVE NO IDEA WHO THAT IS, BUT

21 NO.

22 (BY MR. PLAIL)

♀

5

1 Q. OKAY. DID YOU REVIEW MR. KHAN'S

2 DECLARATION IN PREPARATION FOR TODAY?

3 A. NO, I DON'T KNOW WHO HE IS, NO.

4 Q. OKAY. DID YOU SPEAK WITH

5 MR. PAUL MARSTON?

6 A. WELL, HE'S MY DAD, SO YEAH, I'VE

7 SPOKEN TO HIM, YEAH.

8 Q. ABOUT TODAY'S DEPOSITION?

9 A. ONLY THAT I'M COMING IN TO DO IT,
10 YEAH.

11 Q. DID YOU REVIEW MR. PAUL MARSTON'S
12 DECLARATION?

13 A. I DON'T KNOW IF I'VE READ THAT, I
14 DON'T THINK I'VE READ IT.

15 Q. OKAY. DID YOU SPEAK WITH ANYONE
16 ELSE OTHER THAN YOUR COUNSEL OR MR. MARSTON
17 ABOUT TODAY'S DEPOSITION?

18 A. NO.

19 Q. OKAY. DID YOU REACH OUT TO ANY
20 FORMER BLUESPACE EMPLOYEES WHILE PREPARING
21 YOUR DECLARATION FOR TODAY'S DEPOSITION?

22 A. NO.

♀
+

6

1 Q. OKAY. SO I WANT TO TALK ABOUT
2 BLUESPACE FOR A BIT.

3 A. OKAY.

4 Q. BLUESPACE IS A COMPANY YOU
5 FOUNDED, RIGHT?

6 A. YES.

7 Q. AND WHAT KIND OF PRODUCTS DID
8 BLUESPACE MAKE?

9 A. WE MADE SECURE MESSAGING PRODUCTS

10 AT THE START, AND THEN OVER TIME, WE MOVED TO
11 DOING CROSS-DOMAIN -- CROSS-DOMAIN SOLUTIONS
12 FOR THE GOVERNMENT, FOR THE INTELLIGENCE
13 COMMUNITY.

14 Q. WHAT DO YOU MEAN BY CROSS-DOMAIN
15 SOLUTIONS?

16 A. CROSS-DOMAIN MEANS AN APPLICATION
17 THAT SPANS MULTIPLE VIRTUAL NETWORKS THAT ARE
18 RUNNING AT DIFFERENT CLASSIFICATION LEVELS.

19 Q. OKAY. JUST ONE OTHER THING, I
20 NOTICE YOU HAVE SOME DOCUMENTS IN FRONT OF
21 YOU?

22 A. UH-HUH.

♀
†

7

1 Q. ARE THOSE YOUR NOTES ON THE --
2 ON --

3 A. YES, THESE ARE ALL THINGS THAT
4 YOU HAVE. SO THESE ARE THE -- THE -- MY --
5 MY DECLARATIONS IN CASE, YOU KNOW, I CAN'T
6 REMEMBER SOMETHING, AND I NEED TO REFER TO
7 THEM, AND THEN THE TIMELINE ONE THAT THE
8 ATTORNEYS PREPARED BASED ON CONVERSATIONS
9 WITH ME AND I'VE REVIEWED.

10 BUT I DON'T REMEMBER, I MEAN,
11 THIS IS 20 YEARS AGO, SO I DON'T REMEMBER

12 EVERY SINGLE DATE, EVERY SINGLE ACTION
13 THAT -- THE WRITTEN RECORD OF THE DOCUMENTS
14 WE HAVE IS -- YOU KNOW, FAR SUPERIOR TO THE
15 WHATEVER I REMEMBER AT THIS POINT. BUT YES,
16 THAT'S WHAT THESE ARE, SO...

17 Q. OKAY. SO JUST SO WE RECAP, YOU
18 HAVE IN FRONT OF YOU A COPY OF EACH OF YOUR
19 THREE DECLARATIONS?

20 A. YES.

21 Q. AND THEN YOU SAID THE TIMELINE
22 DOCUMENT. WHAT IS THE EXHIBIT NUMBER IN THE

♀

8

1 CORNER OF THAT?

2 A. 2014.

3 Q. OKAY. OKAY. SO YOU SAID THAT
4 CROSS-DOMAIN MEANS THAT THE APPLICATION SPANS
5 MULTIPLE VIRTUAL NETWORKS THAT ARE RUNNING AT
6 DIFFERENT CLASSIFICATION LEVELS; IS THAT
7 RIGHT?

8 A. UH-HUH.

9 Q. SO THAT PRODUCT STREAM DOESN'T
10 RELATE TO THE RELEVANT SYSTEMS --

11 A. NO.

12 Q. -- DISCLOSED IN THE '217 PATENT?

13 A. CORRECT.

14 Q. OKAY. AND DID BLUESPACE EVER
15 MAKE A PRODUCT THAT IMPLEMENTED THE '217
16 PATENT?

17 A. NO. WE DID -- WE NEVER -- WE
18 PIVOTED. SO AFTER WE HAD CREATED IT, WE
19 MOVED MORE INTO CROSS-DOMAIN SOLUTIONS.

20 Q. OKAY. AND WHEN ABOUT, DID YOU
21 PIVOT?

22 A. IT'S PROBABLY A YEAR AFTER I

♀
+

9

1 MOVED TO U.S., SO I WOULD SAY -- I MEAN,
2 IT -- THERE WASN'T A MOMENT IN TIME, RIGHT?
3 IT WAS AROUND 2007, I WOULD SAY, THAT WE
4 PIVOTED, SOMETHING LIKE THAT.

5 I MOVED TO THE U.S. IN 2006 AND
6 THEN, YOU KNOW, WE WERE -- WE WERE WORKING
7 WITH PARTS OF THE U.S. INTELLIGENCE
8 COMMUNITY, AND THAT WAS WHERE -- THROUGH IT,
9 WE CREATED TRANSMAIL, AND WE WERE MARKETING
10 TRANSMAIL AS A SECURE MESSAGING PLATFORM.

11 AND THEN WE -- THEN WE MOVED TO
12 WANTING TO ALLOW THAT TO RUN ON DIFFERENT
13 CLASSIFIED NETWORKS AT THE SAME TIME. SO
14 THAT WAS SORT OF THE -- YOU KNOW, WE HAD
15 MULTIPLE INSTANCES OF TRANSMAIL RUNNING ON

16 DIFFERENT NETWORK DOMAINS, LIKE, YOU KNOW
17 CLASSIFIED, SECRET, TOP SECRET, VARIOUS
18 FLAVORS OF TOP SECRET, SCI.
19 AND THEN THE GOVERNMENT WANTED TO
20 HAVE A SINGLE INBOX VIEW OF THESE SEPARATE
21 SYSTEMS RUNNING AT DIFFERENT CLASSIFICATION
22 LEVELS.

♀
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10

1 SO THEN, YOU KNOW, WE STARTED
2 WORKING ON A WAY TO CREATE A UNIFIED INBOX
3 THAT WOULD SPAN, YOU KNOW, DIFFERENT -- THESE
4 DIFFERENT NETWORK DOMAINS ON A TRUSTED
5 OPERATING SYSTEM.

6 AND THEN FROM THERE, WE SORT OF
7 REALIZED, WELL, THAT WAS ONE INSTANCE OF THAT
8 TYPE OF APPLICATION, AND WE BUILT OUT A
9 MIDDLEWARE FRAMEWORK TO BUILD MORE OF THEM.

10 Q. WHEN YOU SAY YOU MOVED TO CREATE
11 "A MIDDLEWARE FRAMEWORK TO BUILD MORE OF
12 THEM," ARE YOU REFERRING TO BUILDING THE
13 TRANSMAIL SYSTEM? WHAT DO YOU MEAN BY
14 MIDDLEWARE FRAMEWORK?

15 A. A MIDDLEWARE FRAMEWORK IS A
16 SOFTWARE PLATFORM DESIGNED FOR OTHER PEOPLE
17 TO BUILD APPLICATIONS ON TOP OF.

18 Q. OKAY.

19 A. SO WE BUILT, AND I THINK WE
20 PATENTED -- I HAVEN'T -- I MEAN, I'M GOING
21 FROM MEMORY -- A TRUSTED SERVICE PASS, WHICH
22 WAS A WAY OF EXCHANGING VERY LIMITED, VERY

♀

11

1 NARROWLY, SORT OF, FENCED MESSAGES BETWEEN
2 DIFFERENT NETWORKS TO ORCHESTRATE A SINGLE
3 USER EXPERIENCE ACROSS THESE, YOU KNOW,
4 LOGICALLY SEPARATE NETWORK DOMAINS.

5 SO IT WAS STILL TRANSMAIL IN
6 THAT -- AND WE ACTUALLY GOT CLOSE TO
7 [GOVERNMENT ENTITY] ADOPTING TRANSMAIL AS
8 THEIR PRIMARY METHOD FOR DISTRIBUTING
9 INTELLIGENCE, BUT, SO YEAH, WE WERE STILL
10 ACTIVELY SELLING IT.

11 BUT WE, YOU KNOW, WE ALSO WENT
12 INTO THIS -- THIS, YOU KNOW, CROSS-DOMAIN
13 SPACE AND THEN IN THE END, YOU KNOW, I HAD
14 LEFT TO FORM HYPORI -- DROIDCLOUD, THEN
15 HYPORI, WHICH WAS REALLY A CONTINUED -- YOU
16 KNOW, IT WAS A CONTINUOUS PATH IN THE SENSE
17 OF THAT THEN TOOK SOME OF THE SAME CONCEPTS
18 TO MOBILE DEVICES, SO -- AND THAT SOFTWARE IS
19 USED BY OVER A HUNDRED THOUSAND PEOPLE IN THE

♀
†

20 DEPARTMENT OF DEFENSE TODAY. SO IT WAS
21 REALLY JUST NARROWING, I GUESS, ON THE
22 BIGGEST PAIN POINTS FOR THE END USER, THE END

12

1 CUSTOMERS.

2 Q. I SEE. SO WHEN YOU SAY "CREATE A
3 UNIFIED INBOX"?

4 A. MM-HMM.

5 Q. WOULD THE UNIFIED INBOX -- WAS
6 THAT MANAGED THROUGH, FOR EXAMPLE, A
7 COMPLIANCE MODEL?

8 A. SO WHEN YOU SAY "COMPLIANCE
9 MODEL," DO YOU MEAN THE SEPARATE PATENT THAT
10 WE HAVE FOR COMPLIANCE MODEL, OR DO YOU
11 MEAN -- WHAT DO YOU MEAN BY COMPLIANCE MODEL?

12 Q. THIS PATENT REFERS TO A
13 COMPLIANCE MODEL.

14 A. YEAH, IT WASN'T -- SO TELL ME
15 WHEN YOU'RE BORED HERE.

16 SO THE COMPLIANCE MODEL WAS ABOUT
17 HOW MESSAGES WERE HANDLED OVER THEIR
18 LIFECYCLE, WITHIN A SINGLE NETWORK DOMAIN.
19 WHILE THE GOVERNMENT DOES BECAUSE THEY ARE
20 VERY WORRIED ABOUT FOREIGN NATION STATE
21 HACKERS, THEY RUN GLOBAL NON-INTERNET PEERED

♀
†

22 NETWORKS.

13

1 SO THE SECRET NETWORK, THE TOP
2 SECRET NETWORK IN THE U.S. GOVERNMENT, THOSE
3 NETWORKS ARE WALLED GARDENS THAT DO NOT ROUTE
4 OUT TO THE INTERNET AT ALL.

5 AND THE PROBLEM WITH, YOU KNOW,
6 911, THE 911 REPORT, INSPIRED THIS WHOLE WAVE
7 OF CROSS-DOMAIN SOLUTIONS AND MULTILEVEL
8 SECURITY BECAUSE ALL THE INFORMATION WAS
9 STOVEPIPED, AND IT MADE IT DIFFICULT TO MAKE
10 CONNECTIONS BETWEEN THIS ONE AND THIS AND
11 THIS BECAUSE THEY'RE ALL ON DIFFERENT
12 NETWORKS.

13 SO ESSENTIALLY, WHAT THEY WERE
14 LOOKING -- THEY HAD SEVEN, EIGHT DIFFERENT
15 INBOXES. THEY HAD ONE ON UNCLASSIFIED, THEY
16 HAD ONE ON SECRET, THEY HAD ONE ON TOP
17 SECRET, THEY HAD ONE ON 2I'S UK, THEY HAD ONE
18 ON FIVE EYES, THEY HAD ONE ON NATO, THEY HAD
19 ONE ON ISAF; SO THEY LITERALLY HAD, YOU KNOW,
20 EIGHT TO TEN, SORT OF SEPARATE INBOXES, AND
21 HISTORICALLY, THEY HAD SEPARATE COMPUTERS ON
22 THEIR DESKS.

♀
†

14

1 AND WHAT [GOVERNMENT ENTITY] HAD
2 WORKED ON WAS A TRUSTED HYPERVISOR THAT
3 ALLOWED THEM TO RUN MULTIPLE VIRTUAL
4 COMPUTERS ON A SINGLE PIECE OF HARDWARE, BUT
5 THAT DIDN'T HELP WITH THE USER EXPERIENCE,
6 THEY WERE ALL STILL SEPARATE.

7 SO THE PLACE THAT BLUESPACE ENDED
8 UP WAS BUILDING THIS MIDDLEWARE PLATFORM THAT
9 ALLOWED YOU TO CREATE A SINGLE APPLICATION
10 AND A SINGLE APPLICATION VIEW THAT SPANNED
11 THOSE DIFFERENT LOGICAL NETWORKS WITHOUT
12 CAUSING, YOU KNOW, BIG SECURITY GAPS BECAUSE
13 YOU HAD NOW CONNECTED THEM.

14 YOU COULD IMAGINE IT WAS AN
15 INCREDIBLY LOCKED DOWN FIREWALL THAT WAS
16 ORCHESTRATING MESSAGES GOING BETWEEN THESE
17 DIFFERENT NETWORKS TO BUILD A SINGLE USER
18 EXPERIENCE, BUT EACH OF THE DATA STILL LIVED
19 WITHIN EACH OF THE RESPECTIVE VIRTUAL
20 NETWORKS. SO THAT IS CROSS-DOMAIN,
21 SOLUTIONS, MULTILEVEL SECURITY.

22 Q. I SEE.

♀

15

1 YOU SAID YOU -- YOU SAID THAT
2 BLUESPACE PIVOTED AWAY FROM THE RELATIONAL --

3 SORRY, THE RELEVANCE MODELS IN THE '217
4 PATENT INTO THIS MULTIDOMAIN SECURITY. WHY
5 WAS THAT?

6 A. MONEY.

7 Q. MONEY. AND WHAT DO YOU MEAN BY
8 "MONEY"?

9 A. WELL, I MEAN, AS AN ENTREPRENEUR,
10 YOU LOOK AT WHAT YOUR CUSTOMERS ARE ASKING
11 YOU FOR, AND THEN YOU GO TOWARDS THAT.

12 AND SO, YOU KNOW, THE RELEVANCE
13 PATENT WAS JUST DIFFERENT TO THAT BIG
14 POST-911 PROBLEM, THE -- YOU KNOW, HOW DO I
15 BUILD APPLICATIONS THAT SPAN MULTIPLE
16 SECURITY DOMAINS?

17 AND, YOU KNOW, THERE WAS A
18 PARTICULAR MOMENT WHERE, I MEAN, THAT WAS THE
19 REASON I LEFT BLUESPACE, ULTIMATELY, AND
20 FORMED HYPORI, WAS BECAUSE I WAS SAT WITH
21 DIFFERENT SENIOR EXECUTIVES WITH [GOVERNMENT
22 ENTITY], AND THEY SAID, HEY, IF YOU CAN BUILD

16

1 ME A MOBILE THIN CLIENT, I'LL GIVE YOU
2 MILLIONS OF DOLLARS TO GO BUILD ONE OF THOSE,
3 BECAUSE WE REALLY NEED IT.

4 SO THAT'S THE -- YOU KNOW,

♀
†

5 EVERYBODY DOES IT, YOU KNOW, YOU LISTEN TO
6 WHAT CUSTOMERS TELL YOU, AND YOU TAKE
7 PRIORITIZATION DECISIONS.

8 Q. I SEE. SO YOU -- WHEN YOU SAY
9 THAT AS AN ENTREPRENEUR YOU LOOK AT WHAT YOUR
10 CUSTOMERS ARE ASKING, SO YOUR CUSTOMERS WERE
11 LOOKING FOR THESE MULTI-DOMAIN SECURITY
12 SOLUTIONS AT THE TIME?

13 A. CORRECT.

14 Q. AND THEY WEREN'T REALLY LOOKING
15 FOR A RELEVANCE SYSTEM AT THE TIME?

16 A. IT WASN'T THEIR BURNING NUMBER
17 ONE ISSUE. YOU KNOW, THEIR NUMBER ONE THING
18 WAS, YOU KNOW, TERRORISTS BLEW UP THE TRADE
19 CENTERS, AND IT WAS BECAUSE WE DIDN'T SHARE
20 INFORMATION BETWEEN ORGANIZATIONS VERY WELL,
21 AND EVERYTHING WAS STOVEPIPED. SO YOU KNOW,
22 THERE WAS A LOT OF MONEY THAT WAS GETTING

17

1 SPENT MOVING IN THAT SPACE.

2 Q. AND YOU SAID YOU LEFT HYPORI
3 BECAUSE -- TO FOCUS ON A THIN CLIENT OR
4 SORRY, STRIKE THAT.

5 YOU SAID YOU LEFT BLUESPACE AND
6 MOVED TO HYPORI ON --

♀

7 A. HYPORI, YES.

8 Q. HYPORI, SORRY.

9 A. YEAH.

10 Q. TO FOCUS ON, AGAIN, THIS
11 MULTI-DOMAIN SECURITY SOLUTION, RIGHT?

12 A. I MEAN, SO TECHNICALLY, IT WAS TO
13 FOCUS ON A MOBILE THIN CLIENT SOLUTION,
14 WHICH, AS I SAY, IS USED BY A OVER A HUNDRED
15 THOUSAND PEOPLE TODAY IN THE GOVERNMENT.

16 SO IT WAS TO -- IT DEFINITELY WAS
17 A WHOLE NEW COMPANY, IT WAS A WHOLE NEW
18 PRODUCT STAFF, AND I JUST KIND OF SAID
19 THERE'S NO POINT DRAGGING ALL OF THE HISTORY
20 OF BLUESPACE, THE EXISTING INVESTORS, THE
21 CASH STRUCTURE, EVERYTHING ELSE. IT'S A NEW
22 PRODUCT, REQUIRES DIFFERENT SKILLED

♀

18

1 DEVELOPERS WITH DIFFERENT SPECIALISMS, YOU
2 KNOW, DIFFERENT REVENUE SOURCE, DIFFERENT
3 INVESTORS.

4 LIKE, IT'S A WHOLE NEW THING, AND
5 SO I, YOU KNOW, I WORKED MY WAY OUT AND
6 ESSENTIALLY RESIGNED FROM BLUESPACE TO -- TO
7 GO FORM -- IT WAS ORIGINALLY CALLED
8 DROIDCLOUD, IS THE WORKING NAME, WHICH IS

9 D-R-O-I-D-C-L-O-U-D, AND THEN WE RENAMED IT
10 TO HYPORI, YOU KNOW, A YEAR OR TWO LATER.

11 Q. AND YOU LEFT BLUESPACE IN AROUND
12 2011; IS THAT RIGHT?

13 A. NO. IT WAS -- WELL, I CAN'T
14 REMEMBER, ACTUALLY. YEAH, I GUESS THAT'S --
15 YEAH, I'D HAVE TO LOOK AT THE DATES, BUT
16 PROBABLY AROUND THEN, YEAH, I THINK. YEAH,
17 I'D HAVE TO LOOK AT THE DATES TO -- IT'S ON
18 MY LINKEDIN, WHATEVER'S ON MY LINKEDIN IS
19 SORT OF BACKGROUND FOR WHEN I WENT TO
20 DROIDCLOUD.

21 Q. I GUESS WE CAN GO AHEAD AND MARK
22 THIS AS EXHIBIT 1, THEN.

♀
†

19

1 A. MM-HMM.

2 Q. IT'S JUST A COPY OF YOUR
3 LINKEDIN.

4 (WHEREUPON EXHIBIT NUMBER 1 WAS
5 MARKED FOR IDENTIFICATION.)

6 THE COURT REPORTER: HOLD ON A
7 SECOND. SO WHEN YOU ASK ME TO MARK AN
8 EXHIBIT, PLEASE GIVE ME ONE SECOND TO
9 DO SO, PLEASE. APPRECIATE YOU. OKAY.
10 A. SO YES, THAT'S RIGHT. AND

11 DROIDCLOUD AND HYPORI WERE THE SAME COMPANY,
12 WE JUST CHANGED THE NAME.

13 (BY MR. PLAIL)

14 Q. I SEE. AND AFTER THAT, YOU WORKED
15 AT BAMBOO --

16 A. YEAH.

17 Q. -- TRIBE, AND NOW MITHRIL
18 DEFENSE?

19 A. CORRECT.

20 Q. AND AT ALL OF THESE COMPANIES,
21 DID YOU MAKE A RELEVANT SYSTEM SIMILAR TO THE
22 '217 PATENT?

♀

20

1 A. NO.

2 Q. WHY NOT?

3 A. I MEAN, YOU KNOW, I BUILT THINGS
4 THAT WERE -- I MEAN, AS AN ENTREPRENEUR, YOU
5 RESPOND TO IMMEDIATE PROBLEMS IN FRONT OF
6 YOU, AND PEOPLE WHO ARE WILLING TO SPEND
7 MONEY IMMEDIATELY.

8 SO, YOU KNOW, THOSE ARE THE
9 THINGS I BUILT, THAT'S THE LIFE I'VE LIVED.
10 MITHRIL DEFENSE IS ALL ABOUT DRONES AND
11 STOPPING SCHOOL SHOOTINGS. IT'S DIFFERENT,
12 YOU KNOW, YOU -- YOU KNOW, THAT'S --

13 THAT'S -- YOU'RE A SERIAL ENTREPRENEUR, YOU
14 LOOK AT NEW PROBLEMS, AND YOU MAKE NEW
15 THINGS, SO...

16 Q. SO LET'S LOOK AT YOUR LINKEDIN
17 REAL QUICK.

18 A. SURE.

19 Q. SO THIS IS JUST A COPY OF YOUR
20 LINKEDIN?

21 A. YEAH.

22 Q. THIS LOOK ACCURATE TO YOU?

♀

21

1 A. YES.

2 Q. OKAY. SO YOU SAID THAT YOU LEFT
3 BLUESPACE, I GUESS, IN 2011.

4 A. UH-HUH.

5 Q. DID YOU LEAVE ON GOOD TERMS WITH
6 BLUESPACE?

7 A. THEY DIDN'T WANT ME TO LEAVE. SO
8 I GAVE THEM A PIECE OF HYPORI, AND THEY ENDED
9 UP SELLING THAT FOR SEVERAL MILLION DOLLARS.
10 BUT -- BUT YEAH, THEY DIDN'T -- THEY DIDN'T
11 REALLY, I DON'T THINK -- WE DIDN'T HAVE
12 PARTICULARLY EXPERT INVESTORS, AND I COULD
13 ASSOCIATE WITH THEM THAT THEY FELT LIKE THEY
14 HAD BACKED ME AND NOT A SPECIFIC PRODUCT, AND

♀
†

15 SO IT WAS DIFFICULT FOR THEM TO COME TO TERMS
16 WITH ME LEAVING, BUT, YOU KNOW, I DIDN'T OWN
17 VERY MUCH OF BLUESPACE AT THE MOMENT THAT I
18 LEFT. I'D GIVEN UP CEO TITLE, I'VE BEEN
19 DILUTED SIGNIFICANTLY.

20 IT JUST DIDN'T MAKE SENSE TO
21 START A WHOLE NEW PROJECT IN A COMPANY WHERE
22 I OWNED, I CAN'T REMEMBER THE -- YOU KNOW,

22

1 SOME -- I THINK, LIKE, 10 PERCENT OF THE
2 STOCK, SO -- SO THAT WAS WHY I LEFT, IT WAS A
3 WHOLE NEW THING. SO THEY WEREN'T HAPPY ABOUT
4 IT.

5 BUT SOMETIMES IN LIFE, YOU KNOW,
6 YOU HAVE TO -- YOU HAVE TO CLOSE ONE CHAPTER
7 AND MOVE TO THE NEXT.

8 Q. AND SO YOU WEREN'T PARTICULARLY
9 INVOLVED WITH BLUESPACE BETWEEN 2011 AND
10 2014?

11 A. NO, I WAS VERY SORT OF -- LOOK AT
12 THE TIMELINE HERE, BUT YES -- NO, I REALLY
13 WASN'T INVOLVED, PRETTY MUCH AT ALL, YOU
14 KNOW, NO.

15 [REDACTED]
16 [REDACTED]

♀

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19

20

21

MR. PADMANABHAN: SORRY, AND

22

THE OBJECTION IS RULE 601, 602.

⚭

24

1 (BY MR. PLAIL)

2

Q. YOU MENTIONED THAT YOU GAVE A

3

STAKE -- I MIGHT HAVE MISPRONOUNCED IT AGAIN,

4

HYPORI?

5

A. HYPORI.

6

Q. I'LL GET THERE EVENTUALLY.

7

A. YEAH.

8

Q. YOU -- YOU MENTIONED THAT YOU

9

GAVE A STAKE OF HYPORI TO BLUESPACE AS PART

10

OF YOUR TRANSITION OUT?

11

A. (NODS HEAD.)

12

Q. AND THAT BLUESPACE SOLD THAT

13

STAKE FOR SEVERAL MILLION DOLLARS, YOU SAID?

14

A. YES.

15

Q. WAS THAT SALE YOU'RE REFERRING

16

TO, IS THAT THE SALE TO STERLING?

17

A. NO.

18

Q. SO THERE WAS A SEPARATE SALE FOR

19

THE HYPORI STUFF?

20

A. YEAH, THE HYPORI STOCK WAS

21 PURCHASED BY OTHER INVESTORS IN THE
22 COMPANY -- IN HYPORI. SO THE INVESTORS WERE

25

1 INVESTING IN PREFERENCE STOCK. WHAT
2 BLUESPACE OWNED IN HYPORI WAS COMMON STOCK.
3 SO THE REST OF THE INVESTORS
4 BOUGHT OUT BLUESPACES'S COMMON STOCK HOLDING
5 IN HYPORI AT A DISCOUNT TO THE FULL
6 PREFERENCE PRICE, BUT, YOU KNOW, THEY FELT
7 LIKE IT WAS GOOD VALUE, AND IT WAS REALLY.
8 THERE WAS A GUY, MICHAEL UNDERWOOD, WHO IS
9 THE PRIMARY FINANCIAL BACKER OF BLUESPACE AT
10 THIS POINT, AND HE, YOU KNOW -- HE WAS
11 LOOKING TO SORT OF LIQUIDATE ALL OF THE
12 POSITION, AND SO HE -- HE KIND OF DROVE
13 BLUESPACE'S BOARD DECIDING THAT THEY WANTED
14 TO SELL IT.

15 SO WE HELPED WITH THE --
16 ESSENTIALLY A SECONDARY SALE TO THE EXISTING
17 INVESTORS, THE OTHER INVESTORS IN HYPORI.

18 Q. I SEE.

19 AND WHEN ABOUT DID THAT SALE TAKE
20 PLACE, THE SALE OF HYPORI STOCK?

21 A. YEAH, I DON'T REMEMBER THAT
22 OFFHAND. I WOULD HAVE TO...

1 Q. WOULD IT HAVE BEEN BEFORE OR
2 AFTER BLUESPACE WAS ACQUIRED BY STERLING?

3 MR. PADMANABHAN: OBJECTION
4 601, 602, BUT YOU CAN ANSWER.

5 A. I DON'T KNOW THE ANSWER TO THAT.
6 I CAN'T REMEMBER. I WASN'T, YEAH, I DON'T
7 HAVE ANY OF MY HYPORI FILES WITH ME.

8 (BY MR. PLAIL)

9 Q. BLUESPACE MADE A PRODUCT CALLED
10 THE XD FRAMEWORK. DO YOU KNOW WHAT THAT IS?

11 A. YEAH, I THINK THAT THEY CALLED IT
12 THAT AFTER I LEFT. BUT THAT WAS THE
13 CROSS-DOMAIN PLATFORM, SO THE FRAMEWORK
14 PLATFORM, IT WAS -- AN X WAS CROSS-DOMAIN,
15 THE X IS SORT OF A -- SO IT WAS THE
16 CROSS-DOMAIN FRAMEWORK. I THINK THAT'S WHAT
17 THEY NAMED THE PRODUCT.

18 Q. OKAY. SO DID THAT INCLUDE
19 TRANSMAIL?

20 A. I DON'T BELIEVE SO, BUT YOU'D
21 HAVE TO -- AGAIN, I THINK THAT HAPPENED AFTER
22 I LEFT.

1 Q. OKAY. AND SO JUST SO WE'RE

2 CLEAR, TRANSMAIL, WHAT TIME PERIOD WAS THAT
3 ACTIVE?

4 A. WELL, IT WAS STILL ACTIVE, THOUGH
5 NOT AS MUCH AS OF A FOCUS WHEN I LEFT, AND I
6 DON'T KNOW AT WHAT POINT THEY DECIDED, LOOK,
7 WE'RE GOING TO -- WE'RE GOING TO TOTALLY GIVE
8 UP ON THAT AND JUST FOCUS ON CROSS-DOMAIN
9 SOLUTIONS. I MEAN, I'M GUESSING IT WAS
10 SOMETIME BETWEEN WHEN I LEFT AND WHEN THEY
11 SOLD THE ASSETS.

12 Q. AND WHEN DID TRANSMAIL START?

13 A. WELL, THAT WAS THE FIRST PRODUCT
14 THAT WE CREATED. SO, YOU KNOW, THE ORIGINAL
15 IDEA OF TRANSMAIL WAS -- OR THE ORIGINAL
16 CUSTOMER NEED WAS SECURITY.

17 LIKE, BACK IN -- AT THE VERY
18 START, WHEN I WAS, YOU KNOW, FRESH OUT OF
19 UNIVERSITY, A LONG TIME AGO, I'M GUESSING
20 THIS IS LIKE AROUND 2001, THE ORIGINAL IDEA
21 WAS, YOU KNOW, E-MAIL'S NOT VERY SECURE, IT
22 GETS FORWARDED THROUGH ALL THESE DIFFERENT

♀

28

1 FORWARDING SERVERS. THERE ARE CUSTOMERS WHO
2 WANT SECURITY, IT NEEDS BETTER SECURITY,
3 RIGHT.

4 AND THEN AS WE STARTED TALKING TO
5 THOSE CUSTOMERS, IT WASN'T JUST ABOUT THE
6 ENCRYPTION AND SECURITY OF THE DATA, IT WAS
7 ABOUT HOW THAT DATA WAS MANAGED, AND SO THAT
8 WAS WHERE THE COMPLIANCE POLICY PATENT CAME
9 FROM, FOR SAYING, OKAY, IF -- IMAGINE AN
10 INVESTMENT BANK. IF ANALYST SENDS AN E-MAIL
11 TO A INVESTMENT BANKER, WELL, THAT'S NOT
12 ALLOWED, RIGHT, BECAUSE OF THE -- BECAUSE
13 THEY'RE SUPPOSED TO HAVE CHINESE WALLS.

14 IF ANALYST SENDS AN E-MAIL TO,
15 YOU KNOW, SOMEBODY IN HR, AND THEY FORWARD IT
16 TO AN INVESTMENT BANKER, AT THE TIME, THERE
17 WASN'T ANY WAY TO TRACK THAT, BECAUSE IT WAS
18 ALL JUST ONE GIANT TEXT ESSAY IN EVERY
19 E-MAIL, RIGHT.

20 AND SO THE -- ONE OF THE
21 INNOVATIONS THAT BLUESPACE HAD, WAS SAYING,
22 HEY, IF WE KEEP EACH OF THESE OBJECTS

♀
†

29

1 SEPARATE AND WE JUST REFERENCE THEM, THEN
2 INSTEAD OF HAVING THOUSANDS OF COPIES OF THE
3 SAME OR, YOU KNOW, TENS, HUNDREDS OF COPIES
4 OF THE SAME PIECE OF TEXT DISTRIBUTED ACROSS
5 DIFFERENT TEXT FRAGMENTS, WE CAN RESOLVE THAT

6 BACK TO, YOU KNOW, A SINGLE OBJECT. AND THEN
7 WE CAN START, YOU KNOW, THEN WE CAN CONTROL
8 IT BETTER BECAUSE THERE'S ONLY ONE COPY OF
9 IT, RIGHT.

10 SO WE CAN SAY, EVEN WHEN THE
11 ANALYST SENDS THE MESSAGE TO HR, AND HR
12 FORWARDS IT TO THE INVESTMENT BANKER, THE
13 INVESTMENT BANKER CAN SEE THE HR PERSON'S
14 MESSAGE, BUT THEY CAN'T SEE THE ANALYST'S
15 MESSAGE BECAUSE THERE'S A CHINESE WALL. AND
16 IT'S NOT JUST THE DIRECT SENDING, IT'S THE
17 WHOLE LIFECYCLE OF THAT MESSAGE AS AN OBJECT.

18 AND SO, REALLY, YOU KNOW, TO THE
19 BEST OF MY KNOWLEDGE, TRANSMAIL WAS THE FIRST
20 KIND OF OBJECT-ORIENTED MESSAGES PLATFORM,
21 AND THAT WAS A KEY UNIQUE INNOVATION THAT
22 WE -- WE KIND OF HAD, AND THEN YOU THINK

30

1 ABOUT, WELL, WHO ARE THE PEOPLE THAT CARE
2 ABOUT THAT THE MOST? THE BANKS KIND OF CARE
3 ABOUT IT. BUT IT TURNS OUT THAT THE DEFENSE
4 AND INTELLIGENCE COMMUNITY CARE ABOUT IT A
5 LOT MORE.

6 THAT'S WHY WHEN I MOVED HERE, YOU
7 KNOW THE NATURAL SUCK WAS INTO THE

♀

8 INTELLIGENCE COMMUNITY BECAUSE THEY REALLY
9 CARED ABOUT WHO ACCESSED THAT PIECE OF
10 INTELLIGENCE ACROSS ITS LIFECYCLE AND HAVING
11 AN AUDIT TRAIL OF THAT.

12 SO YOU KNOW, WE KIND OF, THAT'S
13 WHAT KIND OF TOOK US INTO THAT SPACE, BUT THE
14 CORE IDEA WAS OBJECTS THAT CAN BE, YOU KNOW,
15 TRACKED AND MANAGED ACROSS THEIR LIFECYCLE,
16 AND THE COMPLIANCE PATENT WAS -- WAS SAYING,
17 OKAY, WHO CAN READ IT AND HOW LONG DO HE I
18 RETAIN IT FOR, WHEN DO I DELETE IT TO GET RID
19 OF MY LIABILITY?

20 AND THEN DEVELOPMENT'S PATENT WAS
21 SAYING OKAY, NOW THAT I HAVE THIS SINGLE
22 OBJECT, I CAN THINK ABOUT WHOSE ACCESS DATA,

31

1 WHAT THEY'VE DONE WITH IT, ALL OF THOSE
2 ACTIONS BECOME AN INDICATOR FOR HOW USEFUL
3 THAT CONTENT IS.

4 RATHER THAN JUST BEING WHO CAN
5 ACCESS IT, AND WHETHER I DELETE IT OR NOT.
6 YOU KNOW THE FEEDBACK THAT WE WERE GETTING
7 FROM LOTS OF PEOPLE IN THE -- IN THE
8 CORPORATE WORLD WAS I GET SO MUCH E-MAIL, I
9 DON'T HAVE TIME TO READ IT ALL, AND A LOT OF

♀
†

10 IT ISN'T SPAM LIKE CUBAN CIGARS. A LOT OF IT
11 IS MESSAGES THAT ARE, YOU KNOW, INTERNAL
12 CC'ING AND STUFF THAT'S NOT INTERESTING TO
13 ME, BUT PEOPLE -- THAT PERSON WHO CC'S THE
14 WORLD EVERY TIME THEY SEND AN E-MAIL, AND ALL
15 OF THAT STUFF ENDS UP IN THE INBOX.

16 SO THAT WAS THE CORE, YOU KNOW,
17 THOUGHT, WAS, HEY, IF WE CAN COME UP WITH A
18 MECHANISM THAT -- THAT REWARDS GOOD BEHAVIOR,
19 MEANS YOUR E-MAILS ARE LESS LIKELY TO GET --
20 OR YOUR MESSAGES ARE LESS LIKELY TO GET
21 DELIVERED IF YOU KEEP HAVING BAD "COPY
22 EVERYBODY" BEHAVIOR, AND WE CAN START

♀
†

32

1 DETERMINING HOW INTERESTING EACH ONE OF THESE
2 OBJECTS IN THE CHAIN IS TO YOU, BASED ON ALL
3 THE ACTIONS YOU'RE DOING, PEOPLE LIKE YOU
4 WERE DOING, THEN -- THEN THAT WOULD BE REALLY
5 HELPFUL FOR THAT, YOU KNOW, THAT CENTRAL
6 PROBLEM OF -- OF HOW DO I MAKE SENSE OF
7 GETTING 200 E-MAILS A DAY, EXCLUDING THE
8 CUBAN CIGARS AND THE, YOU KNOW, WHATEVER
9 OTHER COMPLETE TOTAL SPAM.

10 Q. SO --

11 A. YOU KNOW.

12 Q. JUST TO -- THAT'S VERY HELPFUL.
13 AND JUST TO KIND OF BREAK THIS DOWN INTO
14 PARTS, THEN. YOU KNOW, JUST -- YOU SAID THAT
15 TRANSMAIL STARTED AROUND 2001; IS THAT RIGHT?

16 A. YEAH, THAT WAS THE FIRST PRODUCT
17 WE BUILT.

18 Q. UH-HUH. AND WHEN YOU'RE
19 REFERRING TO THE, YOU KNOW, COMPLIANCE MODEL
20 BEING USED TO CONTROL SINGLE INCIDENTS OF THE
21 MAIL OBJECT, YOU'RE REFERRING TO THE
22 RELATIONAL MODEL, ALSO SOMETIMES CALLED THE

33

1 RELATIONAL MODEL IN THE PATENT?

2 A. YES, THAT'S RIGHT.

3 Q. OKAY. AND YOU SAID THAT THE LACK
4 OF SECURITY IN TRADITIONAL E-MAIL WAS ONE OF
5 THE MAJOR DRIVERS TO --

6 A. THAT'S THE INITIAL ONE.

7 Q. YEAH, THE INITIAL DRIVER.

8 AND SO THAT IS KIND OF WHAT A LOT
9 OF YOUR INITIAL CUSTOMERS WERE INTERESTED IN,
10 IS SOLVING THAT ISSUE OF LACK OF SECURITY?

11 A. YES.

12 Q. YEAH. AND YOU CAN USE THE
13 COMPLIANCE MODEL AND THE RELATIONAL MODEL

♀

14 TOGETHER TO ALLEVIATE THAT SECURITY CONCERN
15 BY HAVING A SINGLE RECORD OF THAT E-MAIL?
16 A. CORRECT.
17 Q. YEAH. AND SO THEN THE -- THE
18 RELEVANCE PORTION OF THIS WAS REALLY TARGETED
19 AT A DIFFERENT ISSUE ALTOGETHER, WHICH IS A
20 LARGE AMOUNT OF MAIL?
21 A. YES, IT WAS HOW DO I MAKE SENSE
22 OF THE VOLUME I'M GETTING. YES.

♀
†

34

1 Q. OKAY. BUT THAT PARTICULAR
2 RELEVANCE SOLUTION WAS NEVER IMPLEMENTED IN
3 THE TRANSMAIL?

4 A. THAT'S TRUE.

5 Q. YEAH, AND THAT WAS BECAUSE AS THE
6 INDUSTRY WAS MOVING TOWARDS THESE
7 MULTI-DOMAIN AND HIGHER SECURITY, AND THAT'S
8 WHERE THE MONEY WAS?

9 MR. PADMANABHAN: OBJECTION
10 611. YOU CAN ANSWER.

11 A. YEAH, I MEAN, I THINK THAT THE
12 CROSS-DOMAIN THING -- I MEAN, EACH OF THESE
13 STEPS WAS A STEP INTO A DIFFERENT PRODUCT, SO
14 THERE WAS THE MESSAGING THING, AND THEN, YOU
15 KNOW, THE HOW DO I GET TO A SINGLE INBOX,

16 REALLY STRONG DRIVER DROVE, OKAY, NOW I NEED
17 A WAY TO -- TO CREATE A SINGLE INBOX THAT
18 SPANS ALL OF THOSE DIFFERENT VIRTUAL
19 NETWORKS. THAT WAS -- THAT WAS A CUSTOM AND
20 NEED INSPIRATION HOOK, RIGHT.
21 (BY MR. PLAIL)

22 Q. RIGHT. AND FROM THAT, YOU KNOW,

35

1 THE COMPANY THEN WENT ON WITH THE
2 CROSS-DOMAIN FRAMEWORK TO BUILD, YOU KNOW,
3 COMMON OPERATING PICTURE APPS, CHAT APPS, I
4 MEAN, ALL KINDS OF DIFFERENT THINGS THAT WERE
5 BASED ON THAT ARCHITECTURE.

6 NOW, IRONICALLY IN THE END,
7 [GOVERNMENT ENTITY] COPIED IT, BECAUSE THEY
8 FELT LIKE THAT PROBLEM WAS UNIQUE TO DEFENSE,
9 AND SO IT DIDN'T NEED A COMMERCIAL SOLUTION.

10 BUT -- BUT IT WAS A REAL PROBLEM,
11 AND IT -- IT HAS -- IT'S REFLECTED IN SOME OF
12 WHAT THE GOVERNMENT DOES ON ITS OWN SYSTEMS
13 THAT [GOVERNMENT ENTITY] BUILDS TODAY.

14 AND THEN A STEP FROM THERE TO THE
15 MOBILE THING WAS SAYING -- WE WERE SAYING,
16 OKAY, HOW CAN WE GET THOSE TRUSTED APPS ONTO
17 MOBILE DEVICES, AND THEN, YOU KNOW -- THIS

18 TESTIMONY ISN'T PUBLIC, RIGHT? I PROBABLY
19 SHOULDN'T SAY [GOVERNMENT ENTITY] SO MUCH IF
20 IT'S GOING TO BE PUBLIC.

21 MR. PADMANABHAN: WE CAN MARK
22 IT "ATTORNEYS' EYES ONLY."

♀

36

1 A. I CAN SAY THE GOVERNMENT
2 CUSTOMER.

3 MR. PLAIL: WE CAN TALK OFF THE
4 RECORD ABOUT HOW TO HANDLE IT.

5 THE WITNESS: OKAY.

6 MR. PLAIL: BUT, I MEAN,
7 GENERALLY, IF YOU CAN KEEP THINGS PUBLIC --
8 (TALKING OVER EACH OTHER.)

9 A. OKAY. LET'S SAY THE GOVERNMENT
10 CUSTOMER.

11 (BY MR. PLAIL)

12 Q. YEAH.

13 A. YOU KNOW, THE GOVERNMENT
14 CUSTOMER, THEY KIND OF SAID, LOOK, THE
15 PROBLEM ISN'T GETTING CROSS-DOMAIN APPS ON
16 MOBILE DEVICES, THE PROBLEM IS WE CAN'T GET
17 ANY APPS ON MOBILE DEVICES BECAUSE THEY ARE,
18 YOU KNOW, THEY HAVE DATA AT REST, THEY DON'T
19 HAVE GOOD ENCRYPTION. I DON'T WANT THIS TOP

♀
†

20 SECRET STUFF EVERYWHERE, YOU KNOW, ON STORAGE
21 AT REST, AND THAT HE WAS WHAT INSPIRED US TO
22 SAY, WELL, WHAT IF WE COULD JUST BUILD A

37

1 MOBILE THIN CLIENT THAT WAS DESIGNED TO DO
2 THAT? SO, REALLY, THEY ARE THREE SEPARATE
3 PRODUCTS. TRANSMAIL, THE CROSS-DOMAIN
4 PLATFORM, THEY WERE BOTH PART OF BLUESPACE
5 THAT WAS --

6 (REPORTER CLARIFICATION.)

7 OKAY. SO THERE WERE THREE
8 DIFFERENT PRODUCTS. TRANSMAIL AND THE
9 CROSS-DOMAIN SOLUTION WERE BOTH PART OF
10 BLUESPACE.

11 THE MOBILE THIN CLIENT AND HYPORI
12 WAS A WHOLE NEW COMPANY, AND REALLY, A WHOLE
13 NEW IDEA, AND, YOU KNOW, EACH ONE OF THOSE,
14 WHENEVER YOU'RE AN ENTREPRENEUR AND YOU THINK
15 OF SOMETHING ELSE, OR YOU HAVE AN IDEA AND
16 YOU START TO PIVOT, YOU KNOW, IT'S GOING TO
17 REFLECT THE JOURNEY THAT YOU WENT DOWN, BUT
18 THEY WERE STILL SEPARATE LOGICAL IDEAS.

19 I THINK ONE OF THE QUESTIONS THAT
20 YOU'VE BEEN PUSHING ON, SO I CAN JUST ANSWER
21 IT, IS LIKE, WHAT IF THIS WAS SUCH A GREAT

22 IDEA, WHY DON'T YOU GO DO IT?

38

1 I MEAN, I THINK THAT'S KIND OF,
2 LIKE, THAT'S THE THREAD OF -- OF THE
3 QUESTIONS YOU'RE ASKING.

4 Q. I THINK MY -- MY QUESTION, JUST
5 TO -- JUST TO GO BACK TO IT, THOUGH --

6 A. SURE.

7 Q. -- IS YOU NEVER IMPLEMENTED THE
8 PATENT, RIGHT?

9 A. CORRECT, YEAH.

10 Q. AND THE REASON YOU DIDN'T
11 IMPLEMENT THE PATENT WAS BECAUSE YOU PIVOTED
12 TO THE MULTI-SECURITY DOMAIN?

13 A. YES, THAT'S --

14 Q. RIGHT?

15 A. YEP, YEP.

16 Q. OKAY. SO I MEAN, I THINK THAT'S
17 REALLY THE -- WITH THE MAIN QUESTIONS I WAS
18 ASKING --

19 A. OKAY. SURE.

20 Q. -- ON THAT.

21 AND JUST TO CONFIRM, YOUR OTHER
22 COMPANIES DIDN'T HAVE A PRODUCT LIKE

39

1 TRANSMAIL GOING FORWARD?

2 A. NO.

3 Q. OR -- OR A RELEVANCE SYSTEM?

4 A. CORRECT.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

♀

40

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED] [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED]
22 [REDACTED]

♀
†

41

1 [REDACTED] [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED] [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 Q. OKAY. AND WE TALKED ABOUT THE XD
16 FRAMEWORK. IT LOOKS LIKE BLUESPACE ALSO HAD
17 ANOTHER PRODUCT CALLED THE SMARTXD FRAMEWORK?

18 A. I THINK IT'S PROBABLY THE SAME
19 THING, BUT I DON'T KNOW. I CAN'T SPEAK TO
20 IT.

21 Q. OKAY. AND TRANSMAIL, YOU SAID,
22 WAS DISCONTINUED SOMETIME BETWEEN 2011 WHEN

♀

42

1 YOU LEFT THE COMPANY, AND 2014 AT THE SALE?

2 MR. PADMANABHAN: OBJECTION,
3 RULE 611 AND 601, 602.

4 A. I DON'T KNOW THE ANSWER TO THAT.
5 I MEAN, I ASSUME YES. I DO NOT KNOW THE
6 ANSWER TO THAT. I WAS NOT INVOLVED.

7 (BY MR. PLAIL)

8 Q. OKAY. YOU USED TO USE TRANSMAIL
9 DAILY, RIGHT?

10 A. I MEAN, WE USED IT FOR INTERNAL
11 COMMUNICATIONS. THE GREATEST CHALLENGE THAT
12 WE HAD IN TRANSMAIL WAS THAT IT WASN'T
13 E-MAIL, AND AT THE TIME, YOU KNOW, SEPARATE
14 MESSAGING SYSTEMS, EVERYBODY WAS PUSHING
15 TOWARDS E-MAIL.

16 WHEN YOU LOOK AT THE PRODUCT
17 PORTFOLIO AND THE PATENT PORTFOLIO, WE TRIED
18 TO CREATE GATEWAYS FROM, YOU KNOW, TRANSMAIL
19 TO E-MAIL AND THEN DIGEST THEM COMING BACK
20 IN, AND IT WAS ALL ABOUT HOW YOU BUILD THAT
21 GATEWAY.

22 I THINK, INTERESTINGLY, YOU KNOW,

43

1 FACEBOOK TRIED TO DO THE SAME THING FOR A
2 PERIOD. THEY TRIED TO ALLOW YOU TO SEND
3 MESSAGES OUT FROM THEIR OWN FACEBOOK
4 COMMUNITY INTO E-MAIL, AND THEN DIGEST THEM
5 AND BRING THEM BACK, AND EVERYBODY HAD A
6 FACEBOOK E-MAIL ADDRESS, AND THEN THEY KILLED
7 IT.

8 AND SO THE PROBLEM IS, LIKE, YOU

♀

9 HAVE TO BE VESTED IN THE VALUE OF GOING TO A
10 SEPARATE MESSAGING SYSTEM THAT ISN'T E-MAIL.
11 NOW THE GOVERNMENT DOES THAT FOR INTELLIGENCE
12 DISTRIBUTION, BECAUSE INTELLIGENCE
13 DISTRIBUTION'S VERY IMPORTANT TO THEM.
14 KIDS DO IT ON INSTAGRAM BECAUSE
15 THEY SOMEHOW HAVE -- YOU KNOW, THEY --
16 THERE'S VALUE IN THE REST OF THAT SOCIAL
17 NETWORK, THERE'S VALUE IN SHARING PHOTOS OF
18 THEMSELVES AND ALL THE FEATURES OF THAT
19 PLATFORM, AND THEY HAVE IDENTITY, THEY
20 PROJECT IDENTITY INTO THAT NETWORK, SO THEY
21 MESSAGE THROUGH IT. RIGHT?

22 IN THE CORPORATE WORLD, THERE WAS

44

1 BLOOMBERG THAT SORT OF HAD BLOOMBERG MAIL
2 THAT WAS SEPARATE, AND IT WAS KIND OF LIKE A
3 VIP WALLED GARDEN FROM EVERYBODY'S BLOOMBERG
4 TERMINALS, AND THERE WAS SORT OF THIS, MAYBE
5 OVER TIME, AFTER I'D LEFT THE SPACE, YOU
6 KNOW, LINKEDIN GOT MORE TRACTION AND THEN
7 STARTED HAVING LINKEDIN MAILS.

8 BUT, LIKE, AT THE TIME WE WERE
9 DOING IT, THE NUMBER ONE CHALLENGE WAS THAT
10 PEOPLE JUST WANTED IT TO ALL WORK AROUND

♀
†

11 E-MAIL, AND IT'S VERY DIFFICULT, AS FACEBOOK
12 FOUND, AS LINKEDIN FOUND, AS OTHERS HAVE
13 FOUND, IT'S VERY DIFFICULT TO BUILD A BRIDGE
14 BETWEEN SOME INTERNAL MESSAGING SYSTEM THAT'S
15 SUBSTANTIALLY DIFFERENT AND E-MAIL AS A
16 COMMON DENOMINATOR.

17 Q. OKAY. AND SO YOU USED TRANSMAIL
18 FOR YOUR INTERNAL COMMUNICATION?

19 A. YEAH, WE DID. WE DID USE IT.
20 YOU KNOW, AGAIN, WE COULDN'T USE IT FOR
21 EVERYTHING, BECAUSE IT DIDN'T LET US COPY IN
22 PEOPLE WHO WEREN'T ON TRANSMAIL.

♀

45

1 Q. I SEE.

2 A. WE DID HAVE OTHER CUSTOMERS WHO
3 USED TRANSMAIL. WE HAD A -- WE HAD A
4 COMPANY -- WE HAD SEVERAL COMPANIES IN THE UK
5 THAT WERE USING IT FOR INTERNAL PRIVILEGED
6 AND SENSITIVE COMMUNICATIONS, BUT, YOU
7 KNOW -- BUT YEAH, I MEAN, THAT WAS THE
8 PRIMARY PROBLEM, WAS EVERYBODY WANTED TO BE
9 ABLE TO TALK TO EVERYBODY ELSE, AND THE
10 E-MAIL WAS THE STANDARD. SO...

11 Q. AND SO AT SOME POINT, THOUGH, YOU
12 LOST ACCESS TO YOUR BLUESPACE E-MAIL. WAS

13 THAT WHEN YOU TRANSITIONED INTO A NEW
14 COMPANY?

15 A. YES.

16 Q. OKAY.

17 A. IT WAS AROUND -- I MEAN, I DON'T
18 KNOW THE EXACT TIME, BUT AROUND THAT TIME.
19 IT WAS A TRANSITION, BECAUSE I DIDN'T WANT TO
20 LEAVE INSTANTLY, AND THEY DIDN'T WANT ME TO
21 LEAVE AT ALL.

22 AND SO I TRIED TO SORT OF -- WE

46

1 HAD THIS PERIOD WHERE MYSELF AND MY COFOUNDER
2 WORKED ON DROIDCLOUD PART-TIME AND WORKED ON
3 BLUESPACE PART-TIME, AND THEN WE WENT OVER TO
4 FULLY WORKING ON -- ON, YOU KNOW, THE NEW
5 COMPANY ALONE, AND AGAIN, I DON'T THINK
6 THAT -- I DON'T THINK THAT, I MEAN, THEY
7 WANTED -- THEY WANTED US TO STAY, AND SO IT
8 FELT LIKE A ONE-SIDED DIVORCE, WHERE ONE
9 DOESN'T WANT YOU TO LEAVE AND, YOU KNOW, ONE
10 HAS DECIDED THAT THEY WANT TO GO, SO...

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

♀

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

47

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

♀

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED]

48

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED]

18 Q. ALL RIGHT. SO GOING BACK TO YOUR

♀

19 RESUM FOR ONE SECOND?

20 A. SURE.

21 Q. I JUST WANTED TO CONFIRM, YOU --

22 YOU DON'T HAVE A BACKGROUND IN COMPUTER

49

1 SCIENCE, RIGHT?

2 A. CORRECT.

3 Q. AND YOU'RE NOT A COMPUTER

4 PROGRAMMER?

5 A. I MEAN, I HAVE DONE -- I DID DO

6 SOME COMPUTER PROGRAMMING WHEN I WAS A KID.

7 SO IT'S NOT -- I DON'T THINK IT'S ON MY

8 RESUM , BUT, YOU KNOW, I -- I ACTUALLY DID

9 THE EQUIVALENT OF MY HIGH SCHOOL PROJECT IN

10 THE UK ON CHAOS THEORY, AND I PUBLISHED IN IT

11 A JOURNAL CALLED NATURE, WHICH IS QUITE

12 WELL-KNOWN. IT'S A -- IT'S PROBABLY -- IT'S

13 PRETTY MUCH THE MOST PRESTIGIOUS SCIENCE

14 JOURNAL THAT THERE IS, AND I WAS THE YOUNGEST

15 PERSON TO HAVE PUBLISHED IN IT IN THE HISTORY

16 OF THE JOURNAL, WHICH WAS 125 YEARS.

17 AS PART OF THAT PROJECT, I DID DO

18 PROGRAMMING OF A SYSTEM TO MEASURE TIME

19 BETWEEN EVENTS IN A CHAOTIC SYSTEM, AND

20 NATURE DID AN INTERNATIONAL PRESS RELEASE

21 ABOUT ME.

22 I WON THE BRITISH YOUNG SCIENTIST

50

1 COMPETITION. I WON ONE OF THE MAJOR PRIZES

2 OF THE EUROPEAN YOUNG SCIENTISTS COMPETITION.

3 SO, I MEAN, IT'S A LONG TIME AGO,

4 BUT A LONG TIME AGO, I USED TO BE QUITE

5 SMART, YOU KNOW. AND SO YEAH, I MEAN -- AND

6 I ALSO DID -- AND WHILE I WAS IN -- IN THE

7 EQUIVALENT OF HIGH SCHOOL, IN MY A-LEVELS, I

8 DID A FIFTH OF THE FIRST-CLASS HONOR'S DEGREE

9 IN STATISTICS, AND I WAS THE YOUNG -- I GOT

10 APPROVED -- I GOT, YOU KNOW, CONFIRMED AS THE

11 YOUNGEST EVER FELLOW AT THE ROYAL STATISTICAL

12 SOCIETY IN THE UK, BASED ON THE STATS THAT I

13 DID.

14 SO YOU KNOW, THERE'S A THIN LINE

15 BETWEEN COMPUTATIONAL MATHEMATICS AND

16 STATISTICS, AND YEAH, I MEAN, SO I WAS 17, I

17 HAD A FIFTH OF THE FIRST-CLASS HONORS DEGREE

18 ON STATS. I PUBLISHED IN NATURE. I HAD A

19 PATENT GOING ON, WHAT I HAD DEVELOPED AT

20 BRITISH NUCLEAR FUELS IN MY YEAR OUT, WHICH

21 WAS TO DO WITH BUILDING FEEDBACK LOOPS FOR

22 BIOREMEDIATION.

1 SO, YOU KNOW, I ALWAYS TELL
 2 PEOPLE THAT I'M NOT STUPID AS I LOOK, BUT I
 3 HAD DONE A LOT OF THAT, AND I HAD DONE, YOU
 4 KNOW, CODING TO BUILD OUT BOTH THE SYSTEM I
 5 BUILT AT BRITISH NUCLEAR FUELS AND THE SYSTEM
 6 I BUILT AT -- I BUILT FOR MY HIGH -- MY HIGH
 7 SCHOOL PHYSICS PROJECT, SO... AND THEN,
 8 OBVIOUSLY, MY FATHER IS A PROFESSOR IN THE
 9 STATISTICS DEPARTMENT, BUT, YEAH.

10 Q. BUT YOU DIDN'T BUILD THE CODE
 11 USED FOR TRANSMAIL?

12 A. THAT'S CORRECT.

13 Q. YEAH. OR THE SOFTWARE
 14 IMPLEMENTATIONS TO IMPLEMENT THE RELEVANCE
 15 SYSTEM?

16 A. CORRECT.

17 Q. OKAY. AND SO WHILE YOU HAVE SOME
 18 BACKGROUND IN COMPUTER PROGRAMMING, YOU DON'T
 19 HAVE A DEGREE IN COMPUTER PROGRAMMING?

20 A. CORRECT.

21 Q. AND YOU DON'T HAVE A DEGREE IN
 22 ELECTRICAL ENGINEERING?

1 A. NO, I HAVE A DEGREE IN

2 CHEMICAL -- I HAVE A DEGREE AND A MASTER'S
3 DEGREE IN CHEMISTRY, IT'S A -- IT'S A UNIFIED
4 COURSE.

5 Q. SO YOU DIDN'T WRITE THE SOURCE
6 CODE FOR THE BLUESPACE PRODUCTS?

7 A. CORRECT.

8 Q. OKAY.

9 A. I HIRED PEOPLE TO DO THAT FOR ME.

10 Q. OKAY.

11 (WHEREUPON EXHIBIT NUMBER 2 WAS
12 MARKED FOR IDENTIFICATION.)

13 (BY MR. PLAIL)

14 Q. DO YOU RECOGNIZE THIS DOCUMENT?

15 A. HONESTLY, NOT REALLY, BUT I
16 PROBABLY DID WRITE IT AT SOME POINT 20 YEARS
17 AGO, YEAH.

18 Q. OKAY.

19 A. I DON'T RECOGNIZE -- I DON'T
20 REMEMBER IT.

21 Q. SO YOU WROTE THIS DOCUMENT?

22 A. YEAH, I'M SURE I PROBABLY DID.

♀
†

53

1 Q. AND THIS WAS IN DECEMBER 2005,
2 RIGHT?

3 A. I DON'T KNOW THE DATE.

4 Q. SAYS IT ON THE COVER?
5 A. THEN YES, PROBABLY, YEAH.
6 Q. OKAY.
7 A. YES.
8 Q. OKAY. AND SO THIS IS AN
9 INVESTMENT PRESENTATION, RIGHT?
10 A. UH-HUH.
11 Q. AND THIS, YOU KNOW, SIMILAR TO
12 HOW WE DISCUSSED BEFORE, THIS IS FOCUSING ON
13 THE MULTI-DOMAIN SECURITY SOLUTIONS OF
14 BLUEMAIL, RIGHT?
15 A. NO.
16 Q. WHAT DOES THIS INVESTMENT
17 PRESENTATION GO OVER THEN?
18 A. FOCUSES ON TRANSMAIL. I DON'T
19 THINK THERE'S ANYTHING IN CROSS-DOMAIN
20 SOLUTIONS.
21 Q. SO TRANSMAIL DIDN'T IMPLEMENT THE
22 CROSS-DOMAIN SOLUTIONS AT THIS TIME?

♀
†

54

1 MR. PADMANABHAN: OBJECTION,
2 WELL, MISSTATES WITNESS TESTIMONY, RULE 611.
3 OBJECTION, RULE 611.
4 A. LET ME LOOK AT IT AND SEE IF I
5 CAN SEE ANYTHING IN HERE THAT SAYS THAT.

6 YEAH, SO I DON'T SEE ANYTHING
7 HERE THAT'S ON THE CROSS-DOMAIN SIDE. AND
8 THEN, AGAIN, I THINK -- I MOVED HERE
9 FULL-TIME IN 2006, AND IT WASN'T REALLY UNTIL
10 AFTER THAT, AND I CAN'T GIVE YOU AN EXACT
11 DATE, YEAR, BUT, YOU KNOW, IT WAS AFTER I GOT
12 HERE, AND I WAS PERMANENTLY HERE, AND I WAS
13 DOING A LOT MORE MEETINGS IN THE INTELLIGENCE
14 COMMUNITY.
15 THAT WAS WHEN, YOU KNOW, FRANKLY,
16 I STARTED UNDERSTANDING HOW THEIR IT
17 INFRASTRUCTURE WORKED. I MEAN, IF YOU DON'T
18 WORK IN DEFENSE AND INTELLIGENCE, YOU HAVE NO
19 IDEA HOW THEY MANAGED TO TRY AND KEEP SECRETS
20 SAFE FROM FOREIGN NATION STATES. YOU KNOW,
21 IT'S A UNIQUELY DIFFICULT CHALLENGE. SO --
22 SO, NO, I THINK THIS ENTIRE THING'S ABOUT

♀

55

1 TRANSMAIL.

2 Q. OKAY. CAN YOU GO TO -- IF YOU
3 LOOK AT THE BOTTOM RIGHT CORNER, THOSE PAGE
4 NUMBERS -- OR BATES NUMBERS. CAN YOU GO TO
5 THE PAGE ENDING IN 3201?

6 A. YEAH, PAGE -- PROBLEM, YEAH.

7 Q. OKAY. SO IT APPEARS THAT THIS

8 PAGE IS, AS YOU SAID, IDENTIFYING KEY

9 PROBLEMS WITH E-MAIL. RIGHT?

10 A. YEAH.

11 Q. AND ONE OF THE PROBLEMS IS THE NO

12 CONTENT CONTROL, RIGHT?

13 A. WHAT DO YOU -- YES, YEAH, YEAH,

14 IT'S WRITTEN THERE.

15 Q. AND WHAT DO YOU MEAN BY "NO

16 CONTENT CONTROL" THERE?

17 A. I MEAN, THERE'S NO -- THERE'S NO

18 LIFECYCLE, BUT I IMAGINE I MEANT -- I MEAN,

19 AGAIN, I WROTE THIS 20 YEARS AGO, BUT WHAT I

20 THINK I MEANT IN THIS CONTEXT IS THAT THERE'S

21 NO CONTROL OVER WHO CAN SEE WHAT.

22 SO THERE'S NO -- THERE'S NO

♀
†

56

1 CONTROL OVER ACCESS RIGHTS, THERE'S NO

2 CONTROL OVER HOW -- THERE'S NO CONTROL OVER

3 HOW LONG YOU KEEP IT FOR, BECAUSE IT CAN GET

4 COPIED INTO ALL THESE OTHER MAILS, AND YOU

5 DON'T ACTUALLY KNOW WHETHER YOU'VE DELETED IT

6 OR NOT.

7 THERE'S NO ABILITY TO KNOW WHO

8 DID WHAT WITH WHAT BECAUSE IT'S ALL LOST IN A

9 MORASS OF FREE TEXT AND DATA EVERYWHERE, AND

10 THE PROCESS INTEGRATION WAS THERE'S NO WAY
11 TO -- TO TIE MESSAGES INTO PROJECTS, INTO,
12 YOU KNOW, BEING RELATED TO SPECIFIC BUSINESS
13 PROCESSES.

14 Q. OKAY. SO WHEN YOU SAY THERE'S NO
15 CONTROL OVER WHO CAN SEE WHAT --

16 A. UH-HUH.

17 Q. -- ARE YOU REFERRING TO BASICALLY
18 THE IDEA THAT YOU NEED CONTENT TO BE
19 CONTROLLED BASED OFF, FOR EXAMPLE, SOMEONE'S
20 JOB ROLE WITHIN A COMPANY?

21 A. CORRECT.

22 Q. SO YOU GAVE THE EXAMPLE EARLIER

57

1 ABOUT HOW A BANKER MAY BE ABLE TO SEE
2 DIFFERENT INFORMATION THAN ANALYST?

3 A. CORRECT.

4 Q. SO IT'S IMPORTANT TO KIND OF HAVE
5 A SYSTEM THAT MAINTAINS THE MESSAGES SUCH
6 THAT ONLY THE PEOPLE WHO ARE SUPPOSED TO SEE
7 THINGS SEE THINGS?

8 A. ALLOWED TO SEE THINGS, BUT YES.

9 Q. OKAY. OKAY. CAN YOU GO TO THE
10 PAGE ENDING IN 3209?

11 A. 3209. YEP.

♀
†

12 Q. SO IT SAYS HERE THAT YOU CAN
13 COMPOSE TRANSMAIL THROUGH A WEB INTERFACE
14 JUST LIKE WEBMAIL.

15 DO YOU SEE THAT?

16 A. YEAH.

17 Q. SO TRANSMAIL WAS A WEBMAIL-LIKE
18 PRODUCT?

19 A. IT WAS A BROWSER INTERFACE, YEAH.

20 Q. OKAY. AND SO IT USED JUST A KIND
21 OF A NORMAL INTERNET BROWSER, AND THEN YOU
22 WOULD LOG IN, OR WAS IT A --

♀

58

1 A. YEAH, A NORMAL INTERNET BROWSER.

2 Q. OKAY. SO AT THE TIME, THERE WERE
3 COMPANIES LIKE AOL, RIGHT?

4 A. UH-HUH.

5 Q. AND AOL USED KIND OF A CAPTIVE
6 WEB BROWSER?

7 A. YEAH, THEY BUILT THEIR OWN.

8 Q. YEAH. SO BASICALLY A WALLED
9 GARDEN THAT ALLOWS YOU TO ACCESS THEIR
10 WEBMAIL THROUGH THIS SPECIALIZED BROWSER; IS
11 THAT RIGHT?

12 MR. PADMANABHAN: OBJECTION

13 601, 602, BUT YOU CAN ANSWER IF YOU KNOW.

14 A. I'M NOT AN EXPERT IN AOL. I KNOW
15 THAT THEY HAD SOME CONCEPT OF, YOU KNOW, A
16 RING-FENCED PRIVATE GARDEN.
17 I THINK THAT THAT KIND OF DIED
18 BECAUSE SO MUCH DATA WAS COMING ONLINE IN THE
19 BROADER INTERNET THAT LIKE, I MEAN, IT'S
20 REALLY THE REASON WHY GOOGLE DEFEATED LYCOS,
21 IS BECAUSE, YOU KNOW, AND YAHOO, WAS BECAUSE
22 THE IDEA ARE CURATING ALL THAT BECAME

♀

59

1 IMPOSSIBLE AS THE CONTENT GREW, AND STAYING
2 WITHIN AOL APPROVED SITES MEANT YOU COULD
3 ONLY ACCESS 10 PERCENT OR LESS OF THE DATA
4 THAT WAS OUT THERE, SO -- SO I THINK THEY
5 GAVE UP ON IT. BUT AGAIN, I'M -- I AM NOT AN
6 EXPERT AT AOL. THERE ARE OTHER PEOPLE WHO
7 WOULD BE.

8 (BY MR. PLAIL)

9 Q. BUT IT WAS COMMON AT THE TIME TO
10 USE INTERNET BROWSERS TO ACCESS WEBMAIL?

11 A. YES.

12 Q. OKAY. DID YOU EVER MAKE A
13 PLUG-IN OR AN INTERFACE FOR A INTERNET
14 BROWSER TO MAKE IT COMPATIBLE WITH THE
15 TRANSMAIL?

16 A. YOU KNOW, I MEAN, YOU ACCESSED
17 TRANSMAIL THROUGH A WEB BROWSER.
18 Q. OKAY.
19 A. SO THERE WASN'T A NEED TO TRY
20 AND -- I MEAN, WE MADE -- WE PLAYED WITH A
21 PLUG-IN TO MICROSOFT OUTLOOK AT ONE POINT, TO
22 TRY AND CREATE VIEWS WITHIN OUTLOOK, BECAUSE

♀
†

60

1 THAT'S WHAT SO MANY USERS WERE USING.
2 BUT THERE WAS NEVER A -- I MEAN,
3 THE REASON WHY PEOPLE MAKE BROWSER
4 APPLICATIONS IS SO THAT YOU CAN ACCESS THEM
5 THROUGH BROWSERS.

6 Q. OKAY. CAN YOU GO TO THE NEXT
7 PAGE?

8 A. SURE. THIS IS 10, RIGHT? 3210?

9 Q. YES.

10 A. OKAY. YEAH.

11 Q. AND JUST TO BE CLEAR, THIS IS A
12 PICTURE OF THE INBOX OF TRANSMAIL?

13 A. CORRECT.

14 Q. AND IT'S HERE DISPLAYED INSIDE A
15 BROWSER, LIKE WE DISCUSSED?

16 A. (NODS HEAD.)

17 Q. AND JUST TO BE CLEAR, THIS IS NOT

18 SORTED BY RELEVANCE?

19 A. THAT'S TRUE, THIS IS -- WELL, I
20 CAN'T SEE ACTUALLY, BUT LET ME HAVE A LOOK
21 CLOSELY. IT'S PROBABLY SORTED BY DATE, YES,
22 I WOULD IMAGINE IT'S GOING TO BE SORTED BY

61

1 DATE.

2 Q. ACTUALLY, IF YOU LOOK IN THE
3 RECEIPT COLUMN, YOU CAN SEE THERE'S A LITTLE
4 SORT OF ICON ABOVE IT?

5 A. UH-HUH.

6 Q. SO THIS IS SORTED BY DATE?

7 A. YEAH, I MEAN, IT'S -- YES, I
8 WOULD IMAGINE IT SHOULD, YES.

9 Q. OKAY. AND LET'S GO TO THE NEXT
10 PAGE, 3211.

11 A. YEAH.

12 Q. I BELIEVE YOU MENTIONED THIS --
13 WELL, ACTUALLY, IF WE GO TO 3212, MAYBE
14 CIRCLE BACK AFTER. I BELIEVE YOU JUST
15 MENTIONED THIS, COMPATIBLE WITH OUTLOOK
16 EXCHANGE, MICROSOFT PARTNER?

17 A. YES.

18 Q. SO WAS THAT THE PLUG-IN YOU WERE
19 REFERRING TO A FEW MINUTES AGO?

♀

♀
†

20 A. WELL, IT'S TWO DIFFERENT THINGS,
21 ONE WAS TRYING TO MAKE A PLUG-IN TO OUTLOOK,
22 SO THAT TRANSMAILS WOULD BE VIEWED WITHIN

62

1 OUTLOOK, SO THAT WAS ONE THING.

2 AND THEN EXCHANGE WAS MICROSOFT
3 MAIL SERVER ON THE BACK END, SO THAT WAS
4 TRYING TO TAKE A TRANSMAIL AND EFFECTIVELY,
5 YOU KNOW, PRINT IT OUT INTO A CONTINUOUS TEXT
6 STREAM THAT WOULD BE COMPATIBLE WITH SMTP,
7 AND THEN WHENEVER E-MAIL COMES BACK IN, TO --
8 TO THEN DIGEST IT BACK INTO ITS OBJECT
9 COMPONENTS.

10 THAT'S ACTUALLY WHAT FACEBOOK
11 TRIED TO IMPLEMENT IN THEIR MESSAGING GATEWAY
12 YEARS LATER, WHEN THEY BUILT ONE, AND IT'S
13 ALSO WHAT GOOGLE TRIED TO DO WITH THREADS, TO
14 TRY AND STACK THREADS BASED ON A -- ON CHAIN,
15 INSTEAD OF, JUST, I HAVE TO FIND EVERY
16 INBOX -- EVERY E-MAIL IN MY INBOX THAT'S, YOU
17 KNOW, RELATED, SO...

18 BUT, THEY'RE TWO DIFFERENT
19 THINGS, THE INTEGRATION WITH OUTLOOK AND THE
20 INTEGRATION WITH EXCHANGE, TWO DIFFERENT
21 THINGS.

♀
†

22 Q. OKAY. SO FOCUSING ON THE -- ON

63

1 THE PLUG-IN, THEN --

2 A. UH-HUH.

3 Q. -- AND SO THE PLUG-IN WAS USED TO

4 MAKE TRANSMAIL COMPATIBLE WITH --

5 A. ACCESSIBLE FROM, REALLY. I MEAN,

6 IT WASN'T -- THE PLUG-IN WAS USED TO -- SO

7 THAT I COULD CLICK A BUTTON WITHIN OUTLOOK,

8 AND I COULD SEE ALL MY TRANSMAIL MESSAGES,

9 YOU KNOW AS A -- AS A VIEW WITHIN OUTLOOK, I

10 DIDN'T HAVE TO GO OFF TO A WEB BROWSER

11 SEPARATELY TO VIEW IT. I COULD VIEW IT FROM

12 WITHIN AN OUTLOOK SCREEN.

13 Q. OKAY. AND YOU MENTIONED EARLIER

14 THAT YOU CREATED THIS PLUG-IN BECAUSE

15 MICROSOFT HAD SUCH A LARGE MARKET SHARE,

16 BASICALLY?

17 A. I MEAN, BOTH E-MAIL AND OUTLOOK,

18 BUT YES, MICROSOFT AT THE TIME -- AGAIN, I

19 DON'T KNOW HOW MUCH YOU CARE ABOUT THIS, BUT

20 LIKE, OUTLOOK AND EXCHANGE WAS INCREDIBLY

21 DOMINANT, AND NOW GOOGLE HAS BEEN, YOU KNOW,

22 PENETRATING INTO THE OUTLOOK EXCHANGE MARKET,

♀
†

64

1 BUT THAT TOOK A HUNDRED BILLION
2 DOLLAR-COMPANY, YOU KNOW, A DECADE TO MAKE A
3 SIGNIFICANT IMPACT ON.

4 SO MICROSOFT HAD A WHOLE
5 ECOSYSTEM AROUND THAT, WITHIN EXCHANGE, OF,
6 YOU KNOW, COMPLIANCE TOOLS AND ARCHIVING
7 TOOLS.

8 SO ONE THING WAS, HOW DO I TALK
9 TO EVERYBODY ELSE WHEN EVERYBODY ELSE IS
10 USING E-MAIL? AND THEN THE SECOND PROBLEM
11 WAS, YOU KNOW, OUTLOOK, MICROSOFT JUST BUILT,
12 BY BEING THE LEADER IN THE SPACE, THEY BECAME
13 A PLATFORM THAT OTHERS BUILT ON TOP OF AND
14 AROUND.

15 Q. SO THAT ECOSYSTEM OF TOOLS IS
16 BASICALLY WHAT YOU'RE REFERRING TO AS THE
17 ABILITY OF OUTLOOK AND EXCHANGE TO INTERACT
18 WITH THIRD-PARTY SOFTWARE?

19 A. YEAH, THEY -- THEY STARTED
20 ALLOWING, YOU KNOW, THIRD-PARTY SYSTEMS AND
21 DEVELOPERS TO BUILD VALUE AROUND THEIR CORE
22 PLATFORM, YOU KNOW. IT BECAME A PLATFORM

♀

65

1 PLAY.

2 Q. AND SO AS A DEVELOPER AT THAT

3 TIME, YOU WERE INCENTIVIZED TO LOOK FOR WAYS
4 TO INTEGRATE YOUR SYSTEM WITH THE DOMINANT
5 E-MAIL SYSTEM OF THE TIME, RIGHT?

6 A. YES.

7 Q. AND WERE OTHERS IN THE SPACE ALSO
8 CREATING THESE THIRD-PARTY ITEMS?

9 A. YEAH, TONS OF THEM, YEAH.

10 Q. AND YOU ALSO MENTIONED -- IF WE
11 GO BACK TO PAGE 11, NOTES AND DOMINO IBM
12 PARTNERSHIP?

13 A. YEAH.

14 Q. WHAT IS THAT?

15 A. DOMINO IS NOW DEAD, BUT DOMINO
16 AND NOTES WAS IBM'S, YOU KNOW, LOTUS E-MAIL
17 PLATFORM. SO THEY BUILT -- THEY BUILT AN
18 INTERNAL COLLABORATION SYSTEM IN LOTUS NOTES,
19 AND THEN WHEN E-MAIL BECAME SO CRITICAL TO
20 EVERYBODY, THEY TRIED TO ALSO BUILD, YOU
21 KNOW, THEY ALSO BUILT THEIR OWN INTEGRATION
22 WITH E-MAIL IN LOTUS NOTES.

♀
†

66

1 SO REALLY, NOTES AND DOMINO WAS A
2 COMPETITOR TO MICROSOFT OUTLOOK AND EXCHANGE,
3 BUT I THINK IBM'S KILLED IT NOW, LIKE,
4 PROBABLY KILLED IT A DECADE AGO.

5 Q. SO THEY WERE ANOTHER MAJOR
6 COMPETITOR?

7 A. I MEAN, THEY HAD -- THEY
8 ALWAYS -- I MEAN, MICROSOFT JUST KILLED THEM.
9 THEY -- THEY HAD A SMALL NUMBER OF ENTERPRISE
10 CLIENTS THAT WERE ON IT, AND IT WAS VERY
11 DIFFICULT FOR THEM TO GET OFF IT. BUT IN THE
12 END, EVERYBODY GOT OFF IT AND MOVED TO
13 MICROSOFT.

14 Q. I SEE.
15 AND SO JUST GOING BACK IN TIME TO
16 2001, 2002 --

17 A. UH-HUH.

18 Q. -- MICROSOFT IS PREDOMINANT, AND
19 YOU'RE LOOKING TO CREATE AN E-MAIL
20 APPLICATION?

21 A. UH-HUH.

22 Q. YOU WOULD LOOK TO, FOR EXAMPLE,

♀

67

1 THE MAJOR E-MAIL PLATFORMS LIKE MICROSOFT
2 AND -- AND DO YOUR BEST TO INTEGRATE WITH
3 THOSE PLATFORMS, RIGHT?

4 A. CORRECT.

5 Q. ALL RIGHT. SO WE TALKED A BIT
6 ABOUT YOUR -- YOU CAN PUT THAT TO THE SIDE.

7 MR. PADMANABHAN: WE'VE BEEN
8 GOING ABOUT AN HOUR. DO YOU WANT TO TAKE
9 A...

10 MR. PLAIL: SURE.

11 (BREAK TAKEN FROM 10:11 A.M. TO
12 , 10:14 A.M.)

13 (BY MR. PLAIL)

14 Q. ALL RIGHT. SO JUST ONE MORE
15 QUESTION ON THAT PRESENTATION. IT SAYS
16 DECEMBER 2005 ON THE COVER.

17 A. UH-HUH.

18 Q. YOU HAVE NO REASON TO BELIEVE
19 THAT DATE'S WRONG?

20 A. I HAVE NO REASON TO BELIEVE IT.
21 YEAH, I MEAN.

22 Q. OKAY. YOU HAVE NO REASON TO

♀

68

1 BELIEVE THAT DATE'S WRONG?

2 A. YEAH, I MEAN, I BELIEVE THAT THE
3 DATE IS MOST LIKELY CORRECT.

4 Q. OKAY.

5 A. I DON'T HAVE ANY REASON TO
6 BELIEVE IT WOULD BE FALSE.

7 Q. OKAY. OKAY. SORRY, SOMETIMES
8 THINGS IN THE TEXT CHAT LOOK DIFFERENT

9 THAN...

10 A. YEAH.

11 Q. SO WE DISCUSSED A BIT ABOUT YOUR
12 RELATIONSHIP WITH BLUESPACE?

13 A. UH-HUH.

14 Q. I WANTED TO TALK ABOUT YOUR
15 RELATIONSHIP WITH STERLING.

16 DO YOU HAVE ANY CURRENT
17 RELATIONSHIP WITH STERLING?

18 A. NO. OTHER THAN I'M ACTING AS A
19 EXPERT WITNESS ON SOMETHING THAT THEY HAVE,
20 BUT OTHER THAN THAT, NO.

21 Q. OKAY. WHEN YOU SAY YOU'RE
22 "ACTING AS AN EXPERT WITNESS," ARE YOU

♀
†

69

1 REFERRING TO YOUR TESTIMONY IN THIS CASE?

2 A. WHAT'S A GOOD ANSWER THAT? I
3 MEAN, THEY ARE -- YES, THIS IS THE ONLY THING
4 THAT I'M INVOLVED WITH STERLING, IS THEM
5 WANTING MY CONTEXT ON -- ON THE PATENT, SO
6 THAT'S THE ONLY THING I'M WORKING ON WITH
7 THEM.

8 Q. OKAY. AND ARE YOU BEING
9 COMPENSATED FOR YOUR TIME HERE TODAY?

10 A. I HAVE A -- THERE'S AN HOURLY

11 RATE CONTRACT FOR -- FOR MY TIME, THAT'S IT.

12 Q. OKAY. AND HOW MUCH ARE YOU BEING
13 PAID FOR -- HOW MUCH ARE YOU BEING PAID BY
14 THE HOUR?

15 A. \$500 AN HOUR.

16 Q. OKAY. AND WERE YOU ALSO
17 COMPENSATED TO PREPARE YOUR DECLARATIONS IN
18 THIS CASE?

19 A. I THINK I CAN ANSWER THAT. YEAH,
20 I MEAN, I -- YES, WHENEVER I'VE HAD THE --
21 THERE WOULD BE NO OTHER REASON FOR ME TO DO
22 IT. SO, YOU KNOW, YES.

♀
†

70

1 Q. OKAY. AND AT THE SAME RATE, \$500
2 AN HOUR?

3 A. YES.

4 Q. OKAY. AND YOU HAVE NO OTHER
5 CONTRACTS WITH STERLING?

6 A. NO.

7 Q. AND YOU'RE NOT A PARTY TO ANY OF
8 THEIR AGREEMENTS WITH BLUESPACE AS PART OF
9 THEIR ACQUISITION?

10 A. NO.

11 Q. OKAY. AND YOU WEREN'T INVOLVED
12 IN THEIR ACQUISITION?

13 A. NO.
14 Q. OKAY. OKAY. I'M GOING TO HAND
15 YOU A COPY OF THE PATENT.
16 SO THIS IS A COPY OF THE '217
17 PATENT, CORRECT?
18 A. YES.
19 Q. OKAY. IF WE LOOK AT THE -- I
20 GUESS THE SECOND PAGE HERE, THE ABSTRACT --
21 A. UH-HUH.
22 Q. -- IT SAYS, IN AN ELECTRONIC MAIL

♀

71

1 SYSTEM, AND THEN IT GOES ON TO DESCRIBE SOME
2 PARTS OF A -- MANAGING ELECTRONIC CONTENT.
3 DO YOU SEE THAT?
4 A. YEAH.
5 Q. OKAY. SO THIS PATENT WAS FOCUSED
6 ON APPLICATIONS WITHIN AN ELECTRONIC MAIL
7 SYSTEM; IS THAT RIGHT?
8 MR. PADMANABHAN: OBJECTION,
9 I'LL JUST SAY 601, 602, BUT YOU CAN -- YOU
10 CAN ANSWER IF YOU KNOW.
11 A. YES, IT RELATES TO ELECTRONIC
12 MESSAGING CONTENT.
13 (BY MR. PLAIL)
14 Q. ALL RIGHT. AND IT'S FOCUSED ON A

15 MAIL SYSTEM, RIGHT?

16 A. YEAH, I MEAN, IT'S -- MAIL
17 MESSAGING. I MEAN, SOMETHING THAT INVOLVES
18 PEOPLE SENDING MESSAGES TO EACH OTHER.

19 Q. OKAY. AND ONE OF THE GOALS IS TO
20 ORGANIZE E-MAIL SO THAT THE MOST RELEVANT
21 E-MAIL APPEARS BASICALLY AT THE TOP OF
22 SOMEONE'S INBOX, RIGHT?

♀
†

72

1 A. YEAH, I MEAN, THAT -- THAT OR
2 JUST HAVING SORTS, SO WHEN THEY SCROLL DOWN
3 IT OR PUT THEM IN DIFFERENT FOLDERS, OR SOME
4 WAY TO -- SOME WAY TO GIVE THE USER A PREREAD
5 OF HOW RELEVANT THIS MESSAGE IS TO THEM.

6 Q. CAN YOU GO TO FIGURE 2?

7 A. YEAH.

8 Q. THIS IS A FLOWCHART OF THE E-MAIL
9 SYSTEM OF THE PATENT, RIGHT?

10 A. FIGURE -- YEAH, I MEAN, IT'S --
11 IT'S THE -- IT'S THE ELEMENTS THAT MAKE IT
12 UP, YEAH.

13 Q. OKAY. AND EACH OF THESE BOXES IS
14 A MODULE OF THE SYSTEM, RIGHT?

15 A. YEAH, I MEAN, THAT'S -- IT'S A
16 CHART, YES.

17 Q. AND YOU SEE THIS BOX HERE NAMED
18 "RELEVANCE ANALYSIS ENGINE"?
19 A. YEAH.
20 Q. IS THAT THE PART OF THE SYSTEM
21 THAT CALCULATES THE RELEVANCE VALUE FOR EACH
22 PIECE OF THE E-MAIL SYSTEM?

♀

73

1 A. YEAH, I MEAN, THIS IS A -- A VERY
2 BROAD HIGH-LEVEL VIEW BUT YES.

3 Q. OKAY. AND THE RELEVANCE ANALYSIS
4 ENGINE USES TWO METRICS, THE RELEVANCE
5 DETERMINATION 256 AND THE IMPORTANCE
6 DETERMINATION 258, RIGHT?

7 A. YEAH, I MEAN, THOSE ARE -- IT
8 USES MANY THINGS, BUT THOSE ARE TWO
9 HIGH-LEVEL CONCEPTS IN IT, YEAH.

10 Q. WHAT IS THE DIFFERENCE BETWEEN A
11 RELEVANCE AND IMPORTANCE DETERMINATION?

12 A. RELEVANCE DETERMINATION IS HOW
13 RELEVANT A PIECE OF CONTENT IS TO ME, AND
14 IMPORTANCE DETERMINATION IS HOW IMPORTANT
15 A -- AN ENTITY IS TO ME, WHICH COULD BE, YOU
16 KNOW, A JOB CODE, COULD BE A USER, COULD BE
17 A -- YOU KNOW, SO IMPORTANCE IS ABOUT
18 ENTITIES, RELEVANCE IS ABOUT CONTENT.

♀

19 Q. SO THE SYSTEM WOULD CALCULATE A
20 DIFFERENT SCORE FOR THE IMPORTANCE IN THE
21 RELEVANCE AND COMBINE THEM IN THE RELEVANCE
22 ANALYSIS ENGINE; IS THAT RIGHT?

74

1 A. WELL, I MEAN, THE -- THIS IS KIND
2 OF A MULTIVARIANT STATISTICAL MODEL, IN WHICH
3 ACTIONS WITH CONTENT HELP DETERMINE THE
4 RELEVANCE OF THAT CONTENT AND OTHER CONTENT,
5 AND THE IMPORTANCE OF ACTORS AND OTHER
6 ENTITIES INVOLVED IN WHATEVER THAT PIECE OF
7 CONTENT IN THE -- THE USER'S LOOKING AT.

8 SO THEY RELATE TO EACH OTHER. I
9 THINK THERE'S ANOTHER PICTURE OF THAT IN THE
10 PATENT, BUT THEY, YOU KNOW -- THEY ALL
11 POINT -- YOU KNOW, THEY'RE PART OF A UNIFIED
12 MATHEMATICAL MODEL.

13 Q. CAN YOU GO TO COLUMN 6? LINE 65.

14 A. DO YOU HAVE A PAGE NUMBER?

15 Q. PAGE 28.

16 A. OKAY. SO SAY THAT AGAIN.

17 PAGE 28, AND THEN WHAT COLUMN.

18 Q. COLUMN 6, LINE 65 ON.

19 A. YEAH, STILL REFERRING TO

20 FIGURE 2, THAT -- THAT ONE THERE, YEAH.

21 Q. YEAH.

22 IT SAYS THERE THAT [AS READ]:

75

1 "THE ELECTRONIC MAIL SYSTEM 250 OR ANY
2 COMBINATION OF THE MODEL SHOWN THEREIN MAY
3 RUN ON ANY TYPE OF CAN COMPUTER SYSTEM."

4 DO YOU SEE THAT?

5 A. YEAH.

6 Q. WHAT DO YOU MEAN BY THAT, "IT MAY
7 RUN ON ANY TYPE OF COMPUTER SYSTEM"?

8 A. I MEAN, OBVIOUSLY THIS WAS
9 WRITTEN BY THE PATENT ATTORNEY. BUT IT JUST
10 MEANS, I MEAN, I -- I -- IT COULD BE A
11 SERVER, IT COULD BE A DESKTOP COMPUTER, IT
12 COULD BE A, YOU KNOW, SOME TYPE OF -- ANY
13 COMPUTING DEVICE.

14 Q. AND IS THAT BECAUSE THE
15 INVENTIONS HERE ARE SOFTWARE CODE?

16 A. WELL, YEAH, I MEAN, IT'S A
17 STATISTICAL MODEL THAT'S IMPLEMENTED IN
18 SOFTWARE, YOU KNOW, SO YEAH, I MEAN, IT -- IT
19 IS SOFTWARE, YEAH.

20 Q. AND SO THAT SOFTWARE WOULD
21 INCLUDE ALL THE ALGORITHMS TO DETERMINE THE
22 RELEVANCE FOR EACH PIECE OF CONTENT?

1 A. YEAH.

2 Q. OKAY. AND YOUR -- WOULD --

3 BASICALLY YOU COULD PORT THAT SOFTWARE TO ANY

4 GENERAL PURPOSE COMPUTER AND HAVE IT RUN?

5 A. YEAH, PROVIDING IT HAS SUFFICIENT

6 POWER TO RUN IT. YES.

7 Q. WHAT DO YOU MEAN BY HAVING

8 "SUFFICIENT POWER"?

9 A. WELL, I MEAN, YOU COULDN'T RUN A

10 VERY LARGE MATHEMATICAL MODEL ON, YOU KNOW,

11 A -- VERSION 1 NOKIA PHONE. SO I MEAN, IT

12 HAS TO HAVE THE NECESSARY CPU POWER, MEMORY,

13 OTHER THINGS, TO BE ABLE TO RUN A MANAGED

14 MODEL, SO THAT'S -- THAT'S WHAT I MEAN.

15 Q. BUT ANY GENERAL PURPOSE COMPUTER,

16 PROVIDING IT HAS ENOUGH POWER --

17 A. YES.

18 Q. -- COULD RUN SOFTWARE?

19 A. YEAH.

20 Q. OKAY. AND THE SOFTWARE WOULD BE

21 PROGRAMMING THAT GENERAL PURPOSE COMPUTER TO

22 IMPLEMENT THE ALGORITHMS IN THE PATENT?

1 A. CORRECT.

2 Q. OKAY. IF YOU'D GO TO THE NEXT
3 PAGE.

4 A. YEAH, IT'S ACTUALLY PAGE 30.

5 Q. 29.

6 A. OKAY. YEAH, I'M ON THERE.

7 Q. IF YOU LOOK AT LINES 7 THROUGH 12
8 OF COLUMN 7...

9 MR. PADMANABHAN: ARE YOU ON
10 THE "AS CONTAINED" SENTENCE?

11 MR. PLAIL: YES, "AS CONTAINS."
12 (BY MR. PLAIL)

13 Q. SAYS [AS READ]: "AS CONTAINED ON
14 SUCH A COMPUTE -- COMPUTER READABLE MEDIUM,
15 THE FUNCTIONALITY OF THE ELECTRONIC MAIL
16 SYSTEM 250 OR ANY COMBINATION OF THE MODULES
17 SHOWN THEREIN MAY BE PARTIALLY OR WHOLLY
18 CARRIED OUT IN RESPONSE TO ONE OR MORE
19 PROCESSORS EXECUTING SOFTWARE INSTRUCTIONS
20 STORED ON THE COMPUTER READABLE MEDIUM,
21 DO YOU SEE THAT?

22 A. YEAH.

♀
+

78

1 Q. WHAT DO YOU MEAN THERE BY
2 "PARTIALLY"?

3 MR. PADMANABHAN: YOU MEAN,

4 "PARTLY"?

5 MR. PLAIL: YEAH, SORRY,
6 PARTLY.

7 A. I THINK IT PROBABLY JUST MEANS
8 THEY CAN SPLIT IT ACROSS MULTIPLE COMPUTERS,
9 IF YOU'RE CLUSTERING IT.

10 BUT, YEAH, I MEAN, IT MEANS YOU
11 COULD SPLIT IT ACROSS MULTIPLE COMPUTERS.
12 YOU COULD DO PART OF THE MODEL ON ONE
13 COMPUTER AND PART ON ANOTHER.

14 (BY MR. PLAIL)

15 Q. BUT EACH OF THOSE COMPUTERS WOULD
16 BE A GENERAL PURPOSE COMPUTER?

17 A. CORRECT, YES.

18 Q. OKAY. AND SO AS WE GO THROUGH
19 THE PATENT --

20 A. UH-HUH.

21 Q. YOU AGREE THERE'S -- THERE'S A
22 NUMBER OF ALGORITHMS AND STATISTICAL FORMULAS

♀
†

79

1 THAT EXPLAIN THE RELEVANCE MODEL?

2 A. YES.

3 Q. AND IN ORDER TO IMPLEMENT THE
4 INVENTIONS IN THIS PATENT, A POSA WOULD NEED
5 TO LOOK TO THOSE ALGORITHMS IN ORDER TO BUILD

6 THE NECESSARY SOFTWARE CODE, CORRECT?

7 A. YES.

8 Q. OKAY. AND IF YOU WENT TO BEST

9 BUY AND PURCHASED A COMPUTER, IT WOULD NOT BE

10 ABLE TO RUN THE RELEVANCE MODELS IN THIS

11 PATENT WITHOUT THAT PROGRAMMING?

12 A. YEAH, I MEAN, THAT -- YES.

13 Q. AND YOU WOULD AGREE THAT THESE

14 MODELS ARE BEYOND THE LEVEL OF -- STRIKE

15 THAT.

16 WOULD A PERSON OF ORDINARY SKILL

17 IN THE ART BE ABLE TO IMPLEMENT THESE MODELS

18 WITH JUST WHAT WAS AVAILABLE PRIOR TO YOUR

19 PATENT?

20 A. I MEAN, IF THEY WERE -- IF THEY

21 WERE, YOU KNOW, SKILLED IN THE ART, YES. I

22 MEAN, IF YOU PICKED SOMEBODY STOOD OUTSIDE

♀

80

1 HOME DEPOT LOOKING TO DO KITCHEN REMODELS,

2 NO, BUT IF YOU PICKED SOMEBODY, YOU KNOW, WHO

3 IS -- WHO IS SKILLED IN THE ART OF BUILDING

4 COMPLICATED COMPUTATIONAL MODELS BASED ON

5 MATHEMATICAL FORMULA, THEN YES.

6 Q. CAN YOU GO TO FIGURE 8?

7 A. YEP.

8 Q. THIS IS A PICTURE OF THE
9 TRANSMAIL SYSTEM, RIGHT?

10 A. IT'S A PICTURE OF THE USER
11 EXPERIENCE, YES.

12 Q. AND THIS IS AN EXAMPLE OF THE
13 TRANSMAIL USER EXPERIENCE BEING RUN IN AN
14 INTERNET BROWSER, RIGHT?

15 A. YES.

16 Q. AND IF YOU LOOK AT THE TOP, YOU
17 CAN SEE IT'S THE MICROSOFT INTERNET EXPLORER
18 BROWSER?

19 A. YES.

20 Q. ALL RIGHT. AND YOUR IDEA IN THIS
21 PATENT WAS TO INTEGRATE THE RELEVANCE SYSTEM
22 INTO THIS TRANSMAIL SYSTEM, RIGHT?

♀
+

81

1 A. YES.

2 Q. SO THE RELEVANCE SYSTEM DESCRIBED
3 IN THE PATENT WOULD ALSO WORK WITHIN THE
4 BROWSER EXPERIENCE TRANSMITTAL, RIGHT?

5 A. YES.

6 Q. OKAY. WHAT WERE SOME OF THE
7 ADVANTAGES OF USING A WEBMAIL-BASED SYSTEM
8 INSTEAD OF A CLIENT-BASED SYSTEM?

9 A. YOU DON'T HAVE TO INSTALL AN

10 APPLICATION ON YOUR COMPUTER TO USE IT.

11 Q. AND YOU ALSO DON'T HAVE TO
12 MAINTAIN A SEPARATE CLIENT APPLICATION?

13 A. CORRECT.

14 Q. AND YOU DON'T HAVE TO WORRY ABOUT
15 UPDATE ISSUES, AS WELL, RIGHT?

16 A. YEAH, I MEAN, IT -- YES.

17 Q. YEAH. SO YOU WERE MOTIVATED AT
18 THE TIME TO USE A WEB APPLICATION?

19 A. YES.

20 Q. AND GENERALLY, WAS THE INDUSTRY
21 MOVING TOWARD WEB APPLICATIONS AT THE TIME?

22 A. YES.

♀
†

82

1 Q. SO IT WAS COMMON TO USE BROWSERS
2 TO ACCESS WEBMAIL?

3 A. YES.

4 Q. YEAH. OKAY. CAN YOU GO TO COLUMN
5 16, THAT'S ON PAGE 43, LINES 40 THROUGH 57.

6 A. OKAY. PAGE 43...

7 PAGE 43, AND THEN WHAT WAS THERE?

8 Q. IT WOULD BE COLUMN 16 --

9 A. YEAH.

10 Q. -- STARTING AT LINE 40.

11 A. YEAH, OKAY. TURNING TO THE

12 PROCESSES SHOWN IN FIGURE 7.

13 Q. SO THIS IS DESCRIBING THE

14 MICROSOFT --

15 A. GATEWAY, THE EXCHANGE GATEWAY.

16 Q. OKAY. AND SO THAT'S THE SAME

17 GATEWAY WE WERE DISCUSSING EARLIER?

18 A. YES.

19 Q. SO YOU USED THIS AS A WAY TO MAKE

20 TRANSMAIL ACCESSIBLE FROM A MICROSOFT OUTLOOK

21 EXPERIENCE?

22 A. NO.

♀

83

1 SO WHAT -- WHAT THE MICROSOFT

2 OUTLOOK PLUG-IN WAS DOING WAS ESSENTIALLY

3 EMBEDDING A WEB VIEW INSIDE THE MICROSOFT

4 OUTLOOK CLIENT. WHAT THIS IS DOING IS

5 ALLOWING ME TO SEND A TRANSMAIL TO AN E-MAIL

6 USER, GET A RESPONSE VIA E-MAIL, DIGEST IT,

7 AND PUT IT BACK INTO THAT SAME RELATIONAL

8 ARCHITECTURE THAT I HAVE INSIDE THE TRANSMAIL

9 PLATFORM.

10 Q. I SEE.

11 A. SO THIS IS ABOUT EXTERNAL E-MAIL

12 INTEGRATION AND EXCHANGE INTEROPERABILITY

13 WITH SMTP AND INTEROPERABILITY WITH E-MAIL,

14 WHICH EXCHANGE IS ONE OF MANY, BUT ONE OF THE
15 BIGGEST SERVERS WITH THAT.

16 Q. AND SO WHEN YOU SAY THAT THE
17 MICROSOFT PLUG-IN WAS "EMBEDDING A WEB VIEW
18 INSIDE OF THE MICROSOFT OUTLOOK CLIENT" --

19 A. UH-HUH.

20 Q. -- SO BASICALLY YOU'RE COMBINING
21 A SMALL BROWSER WITHIN THE E-MAIL CLIENT OF
22 OUTLOOK IN ORDER TO ACCESS TRANSMAIL?

♀

84

1 A. WELL, I MEAN, THEY ALREADY HAD AN
2 EMBEDDED BROWSER, AND WE WERE LEVERAGING TO
3 SHOW A VIEW OF TRANSMAIL WITHOUT FORCING THEM
4 TO GO TO INTERNAL EXPLORER EVERY TIME THEY
5 WANTED TO SEE IT.

6 Q. I SEE. SO AT THIS TIME OUTLOOK
7 ALREADY INCLUDED AN EMBEDDED BROWSER?

8 A. RIGHT.

9 Q. AND THAT EMBEDDED BROWSER ALLOWED
10 YOU TO ACCESS OTHER INTERNET ASSETS RIGHT?

11 A. YEAH. I MEAN, WHEN YOU GET AN
12 E-MAIL THAT'S GOT A WHOLE BUNCH OF EMBEDDED
13 HTML STUFF IN IT, IT'S THE BROWSER -- IT'S
14 THE BROWSER THAT IS RENDERING THAT.

15 SO, YOU KNOW, IT'S A FUNDAMENTAL

16 PART OF BEING ABLE TO VIEW E-MAILS. THE
17 DIFFERENCE HERE IS BEING ABLE TO SEE, YOU
18 KNOW, AND INTERACT WITH THAT WHOLE
19 APPLICATION EXPERIENCE WITHOUT IT BEING TIED
20 INTO, YOU KNOW, A SINGLE E-MAIL PREVIEW PANE.
21 Q. I SEE. SO HAVING THE EMBEDDED
22 INTERNET BROWSER IS A FUNDAMENTAL PART OF

♀
†

85

1 INTERACTING WITH HTML E-MAIL?
2 A. CORRECT.
3 Q. AND HTML E-MAIL IS A FAIRLY
4 COMMON TYPE OF E-MAIL?
5 A. CORRECT.
6 Q. AND IT WAS FAIRLY COMMON BACK IN
7 2004, AS WELL?
8 A. YES.
9 Q. OKAY. CAN YOU GO TO COLUMN 24,
10 LINE 30.
11 A. ALL RIGHT.
12 [AS READ]: "EACH SEARCH HIT
13 HIGHLIGHTS THE CONTENT THAT CAUSED THE ITEMS
14 TO APPEAR IN THE SEARCH RESULTS."
15 THAT ONE?
16 Q. IF YOU KEEP READING DOWN...
17 A. [AS READ]: "WITH, FOR EXAMPLE,

♀

18 THE FOLLOWING DISPLACED SCHEME: THE SUBJECT
19 OF THE SUBMESSAGE, THE MAGNIFYING GLASS
20 CONTAINING A QUESTION MARK, THE RELEVANCE OF
21 THE SUBMESSAGE, THE BODY TEXT SHOWING THE
22 INSTANCES OF THE SEARCH TERM, THE PEOPLE

86

1 INVOLVED SENDING AND RECIPIENTS, THE SET OF
2 PROPERTY ICONS SIMILAR TO THOSE DESCRIBED
3 ABOVE," AND ET CETERA, ET CETERA.

4 SO IT'S JUST DESCRIBING THE USER
5 EXPERIENCE.

6 Q. BUT THIS IS A SEARCH
7 FUNCTIONALITY WITHIN THE USER EXPERIENCE,
8 CORRECT?

9 A. YEAH, IT'S -- DAMN, THIS THING'S
10 SMALL. YEAH, IT'S ABOUT -- IT'S ABOUT
11 SEARCHING FOR THE INTEGRATION.

12 SO IT'S JUST SAYING YOU CAN SEE
13 THE RELEVANT SCORE AS ONE OF THE ATTRIBUTES
14 OF A MESSAGE IN SEARCH RESULTS.

15 Q. OKAY. AND WHAT IS A SEARCH
16 SCORE?

17 A. WELL, IT'S A RELEVANCE SCORE
18 WITHIN SEARCH RESULTS. SO I SEE THAT THIS
19 E-MAIL CAME FROM BOBBY, AND AS PART OF THE

♀
†

20 INFORMATION ABOUT THE -- THE E-MAIL FROM
21 BOBBY, IT TELLS ME THE RELEVANCE SCORE THAT
22 WAS PREVIOUSLY CALCULATED FOR IT.

87

1 Q. SO EVERY PIECE OF CONTENT HAS A
2 RELEVANCE SCORE?

3 A. UH-HUH.

4 Q. AND THEN THE SEARCH IS JUST
5 CHANGING WHICH CONTENT IS VIEWABLE AND GIVING
6 YOU THAT SAME RELEVANCE SCORE?

7 A. YES.

8 Q. OKAY. CAN YOU GO TO COLUMN 16,
9 LINES 25 -- LINE 25 -- I GUESS, IT'S 27.

10 A. OKAY. WELL, THE SENTENCE STARTS
11 AT 24, SO...

12 Q. YEAH.

13 A. [AS READ]: "BY USING A
14 RELATIONAL ARCHITECTURE FOR REGULAR
15 ELECTRONIC MAIL, AN ELECTRONIC MAIL SYSTEM IN
16 ACCORDANCE WITH ONE OR MORE EMBODIMENTS
17 ALLOWS FOR THE SEARCHING OF REGULAR
18 ELECTRONIC MAIL WITH A SIMILAR RELEVANCE
19 SYSTEM TO THAT OF A SEARCH ENGINE USED FOR AN
20 ELECTRONIC MAIL SYSTEM OPERATING ON
21 ELECTRONIC MAIL OBJECTS AS DESCRIBED ABOVE."

♀
†

22 YEAH.

88

1 Q. SO THERE YOU'RE DISCUSSING USING
2 A RELEVANCE SYSTEM SIMILAR TO THAT OF A
3 SEARCH ENGINE.

4 DO YOU SEE THAT?

5 A. YEAH.

6 Q. SO THERE YOU'RE REFERRING TO
7 USING THE ACTIONS OF USERS, SIMILAR TO HOW
8 GOOGLE TRACKED IT AT THE TIME, RIGHT?

9 A. WELL, GOOGLE -- I DID NOT BELIEVE
10 GOOGLE DID THAT TO -- YOU KNOW, NO.

11 Q. OKAY. SO WHAT ARE YOU REFERRING
12 TO "USING A RELEVANCE SYSTEM SIMILAR TO A
13 SEARCH ENGINE"?

14 A. IT JUST MEANS, YOU KNOW,
15 SOMETHING THAT SAYS THAT SOME RESULTS ARE
16 MORE RELEVANT THAN OTHERS. IT'S A, YOU KNOW,
17 THE WAY GOOGLE DID IT, IN MY UNDERSTANDING,
18 IS -- IS COMPLETELY DIFFERENT FOR WEBSITES
19 THAN THE WAY THAT, YOU KNOW, WE WERE DOING IN
20 THE MESSAGING SYSTEM.

21 Q. AND SO, AT THE TIME, THOUGH, A
22 SEARCH ENGINE IS JUST A WAY TO IDENTIFY

♀
†

89

1 RELEVANT CONTENT AMONG A LARGE AMOUNT OF
2 CONTENT?

3 A. NO, IT WAS A WAY TO SAY, OKAY, I
4 WANT TO FIND ALL THE E-MAILS FROM BOBBY. IT
5 WAS A WAY TO CREATE A CUSTOM VIEW BASED ON
6 FILTER CRITERIA.

7 Q. AND THAT'S WHAT YOU'RE REFERRING
8 TO AS THE SEARCH ENGINE?

9 A. YEAH, THAT'S HOW A SEARCH ENGINE
10 WORKS, YEAH.

11 Q. SORRY, I'M NOT EXACTLY ASKING HOW
12 SEARCHING WORKS. HERE YOU REFER TO SIMILAR
13 RELEVANCE OF THAT OF A SEARCH ENGINE?

14 A. YEAH, I MEAN, A SEARCH ENGINE --
15 IN MY UNDERSTANDING, YOU KNOW, I PUT IN, I
16 WANT WEBSITES ABOUT CUTE KITTIES, AND I SEE
17 LOTS OF WEBSITES ABOUT CUTE KITTIES, WHERE IT
18 DOES A DOWNSELECT OF THE INTERNET TO SHOW ME
19 CONTENT THAT'S ABOUT CUTE KITTIES.

20 Q. AND WHAT YOU WERE TRYING TO DO,
21 IS, IN THE E-MAIL CONTEXT, WAS DOWNSELECT TO
22 CREATE A SUBSECTION OF THE MOST RELEVANT

♀

90

1 E-MAILS THAT RELATE TO YOUR KEYWORD SEARCH?

2 A. RELEVANT ISN'T -- ISN'T A HELPFUL

3 TERM THERE. YOU KNOW, SEARCHING OBVIOUSLY
4 EXISTED IN THE E-MAIL SYSTEMS FROM THE YEAR
5 DOT. BUT IT WAS ONLY EVER SEARCHING BASED ON
6 WHO'S THE MESSAGE FROM, WHO'S IT TO, WHAT'S
7 THE DATE RANGE.

8 NOW, IN THIS DESCRIPTION, IT
9 STILL ALLOWS YOU TO SEARCH BY WHO IT'S FROM,
10 WHO IT'S TO, YOU KNOW, WHAT THE DATE RANGE
11 IS.

12 AND WHEN YOU SEE THAT LIST, IF
13 THAT'S YOUR SEARCH CRITERIA, YOU'RE GOING TO
14 SEE, YOU KNOW, RELEVANT SCORES OF EACH OF
15 THOSE MAILS IN THE LIST; BUT YOU COULD ALSO
16 INCLUDE RELEVANT SCORES AS A SEARCH CRITERIA,
17 AND YOU COULD SAY, SHOW ME THE, YOU KNOW, TOP
18 10 PERCENT E-MAILS THAT ARE -- OR TOP PERCENT
19 OF MESSAGES THAT ARE JUDGED TO BE THE MOST
20 RELEVANT AROUND THIS PARTICULAR CRITERIA I'M
21 LOOKING FOR, OR YOU COULD SAY SORT THE SEARCH
22 ENGINE RESULTS BY RELEVANCE.

♀
†

91

1 Q. OKAY.

2 A. BUT I THINK THE WAY YOU USED
3 RELEVANCE IS CONFUSING, BECAUSE YOU SAID
4 THEY'RE RELEVANT TO A SEARCH CRITERIA. IT'S

5 NOT REALLY THE, YOU KNOW, WHEN YOU DO A
6 SEARCH, YOU'RE JUST DOING A DOWNSELECT BASED
7 ON ATTRIBUTES.

8 Q. I SEE. SO A SEARCH ENGINE,
9 DOWNSELECT'S BASED OFF OF THE SEARCH
10 ATTRIBUTE.

11 A. CORRECT.

12 Q. AND IN THE CONTEXT OF THE E-MAIL
13 SYSTEM, YOU WERE ATTEMPTING TO DOWNSELECT,
14 BASED OFF THE SEARCH, IN THE SAME WAY?

15 A. SO YOU CAN -- YOU COULD SEARCH
16 BASED ON ATTRIBUTES, AND YOU COULD SEE ALL
17 THE MESSAGES THAT ARE FROM BOBBY WITHIN
18 CERTAIN DATES.

19 Q. UH-HUH.

20 A. THE -- THE DIFFERENT PIECE HERE
21 IS THAT IN A -- IN A TRADITIONAL E-MAIL
22 SYSTEM, THAT WAS A STRAIGHT FILTER, AND THAT

♀

92

1 WAS IT. IT WAS JUST A FILTER FOR EVERYTHING
2 THAT -- THAT, YOU KNOW, REFLECTED THOSE
3 ATTRIBUTES.

4 WHEREAS HERE, WE HAVE THIS
5 ADDITIONAL CONCEPT OF A RELEVANCE SCORE,
6 WHICH COULD EITHER JUST BE DISPLAYED OR COULD

7 BE SET AS A, YOU KNOW, AN ATTRIBUTE. IT HAS
8 TO BE THIS MUCH RELEVANT OR MORE, OR I WANT
9 TO SORT THEM BY RELEVANCE VALUES.

10 BUT WHEN I DO A SEARCH IN A
11 TRADITIONAL E-MAIL SYSTEM, WHAT I'M DOING IS
12 A FILTER BASED ON SPECIFIC ATTRIBUTES, IT'S
13 NOT -- IT'S NOT A -- IT'S NOT A -- THE USER
14 MIGHT THINK OF IT AS THESE ARE MESSAGES THAT
15 ARE RELEVANT TO THE CONVERSATION I'VE HAD
16 WITH BOBBY, BUT WHAT THEY'RE GETTING IS JUST
17 ALL THE MESSAGES THAT FULFILL THAT CRITERIA,
18 SORTED BY DATE.

19 Q. SO IT'S A DOWNSelect?

20 A. YEAH, IT'S A DOWNSelect, IS THE
21 TRADITIONAL WAY WORKS. AND SO WE'RE SAYING
22 THE SAME THING HERE. LIKE, YOU CAN DO A

♀

93

1 DOWNSelect VIEW AND ONE OF THE -- JUST LIKE
2 IMPORTANCE, THERE'S A THING IN E-MAIL, WHERE
3 YOU CAN SAY IT'S LOWER IMPORTANCE, REGULAR
4 IMPORTANCE, HIGH IMPORTANCE. OUTLOOK HAS HAD
5 THAT FOR A LONG TIME. BUT THOSE ARE JUST
6 CHARACTERISTICS THAT I, AS A USER, CLICK FROM
7 A DROP-DOWN BOX WHEN I SEND IT.

8 IT'S NOT SOME -- IT'S NOT BASED

9 ON ANY STATISTICAL MODEL, MATHEMATICAL MODEL,
10 THAT'S A STRAIGHT ATTRIBUTE, BUT, YOU KNOW,
11 THAT'S HOW MICROSOFT OUTLOOK WORKS, IT ALLOWS
12 YOU TO SET THAT.

13 SO THIS IS JUST A DIFFERENT
14 ATTRIBUTE THAT IS COMPUTER-DERIVED FROM A
15 STATISTICAL MODEL. DOES THAT MAKE SENSE?

16 Q. YEAH, THAT MAKE SENSE. I MEAN, I
17 THINK WHAT I'M STRUGGLING WITH, IF WE LOOK AT
18 THE LINE IN THE PATENT, IT SAYS WITH A
19 "SIMILAR RELEVANCE SYSTEM" TO THAT OF A
20 SEARCH ENGINE?

21 A. SURE, I MEAN, THE GENERAL CONCEPT
22 OF SYSTEMS THAT TRY AND DETERMINE RELEVANCE

94

1 WAS NOT, I MEAN, THERE WERE -- THAT WAS A
2 MAJOR DIFFERENCE BETWEEN GOOGLE AND YAHOO,
3 RIGHT, WAS THAT YAHOO JUST LISTED EVERYTHING,
4 AND GOOGLE ATTEMPTED TO DO SOME
5 PRIORITIZATION BASED ON AN ALGORITHM.

6 Q. THAT'S WHAT YOU WERE TRYING TO
7 DO, RIGHT, YOU WERE TRYING TO DO SOME
8 PRIORITIZATION BASED OFF OF THE ALGORITHM?

9 A. YES, WE WERE. IN MAIL, WE WERE
10 TRYING TO DO SOME SCORING FOR RELEVANCE OF

♀
†

11 CONTENT BASED ON AN ALGORITHM, THAT'S TRUE.

12 Q. ALL RIGHT. AND SO YOU MENTIONED
13 THAT THE DIFFERENCE -- SORRY, YOU MENTIONED
14 HOW GOOGLE WOULD PRIORITIZE THINGS BASED ON
15 AN ALGORITHM, AND THAT'S SIMILAR TO HOW YOU
16 WERE TRYING TO PRIORITIZE THINGS BASED OFF OF
17 ALGORITHMS IN HERE?

18 MR. PADMANABHAN: OBJECTION,
19 RULE 611. YOU CAN ANSWER.

20 (REPORTER CLARIFICATION.)

21 A. THEY WERE TRYING TO PRIORITIZE
22 HOW TO SHOW WEB PAGE RESULTS.

♀

95

1 YEAH, I MEAN, WE WERE ALSO TRYING
2 TO ASCRIBE RELEVANCE VALUES.
3 (BY MR. PLAIL)

4 Q. YEAH.

5 A. YEAH, I MEAN.

6 Q. SO AND YOU WOULD USE THOSE
7 RELEVANCE VALUES TO SEARCH -- SORT THE
8 E-MAIL, FOR EXAMPLE?

9 A. THAT WAS ONE OF THE USES OF IT IN
10 THE SYSTEM, YES.

11 Q. SO JUST LIKE A SEARCH ENGINE IS
12 USED TO IDENTIFY THE BEST RESULTS ON THE WEB,

13 YOUR SYSTEM WAS USED TO SORT FOR THE BEST
14 RESULTS IN E-MAIL?

15 MR. PADMANABHAN: OBJECTION,
16 RULE 611, BUT YOU CAN ANSWER.

17 A. THAT WAS ONE OF THE USES OF IT.
18 THERE WASN'T REALLY A CONTEXT OF AN INBOX
19 IN -- IN GOOGLE WEB PAGES.

20 (BY MR. PLAIL)

21 Q. UH-HUH.

22 A. SO THERE ISN'T LIKE, YOU KNOW, I

96

1 JUST COME TO GOOGLE, I SEE A SEARCH BOX, AND
2 I LOOK WHAT I'M LOOKING FOR.

3 THERE WASN'T REALLY A BROWSING
4 EXPERIENCE LIKE THERE IS IN, SAY, A FACEBOOK
5 WALL OR A, YOU KNOW, SOME OTHER SYSTEM, BUT
6 YES, THEY ARE BOTH.

7 I MEAN, THERE WERE OTHER
8 ALGORITHMS OUT THERE, THERE ARE OTHER
9 SYSTEMS. I MEAN, AMAZON TRIES TO DO IT IN
10 SHOPPING. I MEAN, THERE'S SYSTEMS THAT TRY
11 AND, YOU KNOW, COME UP WITH SOME WAY TO --
12 TO, YOU KNOW, PRIORITIZE CONTENT THAT ISN'T
13 PURELY BASED ON A CHRONOLOGICAL DATE.

14 Q. UH-HUH. AND ALL OF THESE SYSTEMS

♀

15 ARE TRYING TO SOLVE A SIMILAR PROBLEM, WHICH
16 IS, WHEN YOU HAVE A LARGE AMOUNT OF CONTENT,
17 IT CAN BE DIFFICULT TO IDENTIFY THE MOST
18 RELEVANT PORTIONS OF THAT CONTENT?

19 A. THAT'S CORRECT.

20 Q. DID YOU LOOK TO ANY OF THESE
21 SYSTEMS AS YOU WERE CREATING THE ALGORITHMS
22 IN THIS PATENT?

97

1 A. NO, IT'S A DIFFERENT SYSTEM. SO
2 I MEAN, IT'S -- THE DATASETS ARE DIFFERENT. I
3 MEAN, OBVIOUSLY, I WAS AWARE THAT GOOGLE
4 EXISTED, AS WAS THE REST OF EVERYBODY ELSE
5 WITH A COMPUTER, BUT LIKE, YOU KNOW, THEIR
6 CHALLENGE, THEIR ALGORITHMS, THEIR MODEL, WAS
7 VERY DIFFERENT TO THE PROBLEM IN AN E-MAIL
8 SYSTEM, SO...

9 Q. AND SO THE DIFFERENCE BETWEEN
10 GOOGLE AND WHAT YOU WERE DESIGNING WAS THAT
11 YOU WERE FOCUSING ON AN E-MAIL SYSTEM?

12 MR. PADMANABHAN: OBJECTION --
13 OBJECTION, RULE 611.

14 A. I MEAN, IT'S TRUE WE WERE FOCUSED
15 ON THE MESSAGING OR E-MAIL SYSTEM. THEY WERE
16 FOCUSING ON WEB SEARCH IN THEIR OWN PRODUCT.

17 THE TWO SYSTEMS ARE VERY DIFFERENT, BUT, YOU
18 KNOW, YEAH, I MEAN, I'M -- I'M NOT
19 PARTICULARLY AN EXPERT IN HOW GOOGLE OPERATES
20 TODAY OR HOW IT DOES GOOGLE SEARCH, BUT LIKE,
21 THEY'RE -- I SEE THEM AS TWO DIFFERENT
22 PROBLEM SETS.

♀

98

1 (BY MR. PLAIL)

2 Q. OKAY. SO CAN YOU GO TO COLUMN
3 15, LINES 51 --

4 A. OKAY.

5 Q. -- THROUGH 55.

6 A. [AS READ]: AS DESCRIBED ABOVE,
7 AN ELECTRONIC MAIL SYSTEM, IN ACCORDANCE WITH
8 ONE OTHER MORE EMBODIMENTS, MAY HAVE A
9 RELATIONAL MAIL ARCHITECTURE IN WHICH EACH
10 PIECE OF CONTENT WRITTEN BY A USER IS MANAGED
11 AS A SINGLE INSTANT OBJECT DURING ITS
12 LIFECYCLE IN THE MAIL SYSTEM."

13 THAT ONE?

14 Q. YES.

15 A. OKAY.

16 Q. SO THAT'S REFERRING TO THE
17 RELATIONAL --

18 A. YEP.

⊕

19 Q. -- MODEL THAT WE WERE DISCUSSING
20 EARLIER?

21 A. CORRECT, YEAH.

22 Q. SO THE RELEVANCE SYSTEM CAN BE

99

1 USED WITHIN THAT RELATIONAL MODEL?

2 A. CORRECT.

3 Q. OKAY. IF YOU GO TO COLUMN 47 --

4 MR. PADMANABHAN: COLUMN 47?

5 MR. PLAIL: YES.

6 A. YEAH.

7 (BY MR. PLAIL)

8 Q. LINES 7 THROUGH 10.

9 A. 7 THROUGH 10. ALL RIGHT.

10 Q. SAYS [AS READ]: "IN ANOTHER
11 ASPECT, THE ELECTRONIC MAIL SYSTEM MAYBE
12 INTEGRATED WITH TRADITIONAL E-MAIL SYSTEMS."

13 A. YES.

14 Q. DO YOU SEE THAT?

15 SO THE RELATIONAL MAIL SYSTEM WAS
16 NOT A REQUIREMENT OF THE SYSTEM?

17 A. IT WAS NOT A REQUIREMENT. IT
18 WORKED BETTER IF YOU HAD IT. THE PROBLEM IN
19 A TRADITIONAL MAIL SYSTEM WAS THE INABILITY
20 TO SEE -- TO RESOLVE CONTENT OBJECTS, YOU

21 KNOW, ACROSS ALL OF THE LIFECYCLE OF THEIR
22 INTERACTIONS, BUT YOU COULD STILL, FOR

100

1 EXAMPLE, SEE THAT I ALWAYS TEND TO READ

2 E-MAILS FROM BOBBY. I DON'T TEND TO READ

3 E-MAILS FROM CLAIRE.

4 SO YOU COULD STILL GET SOME LEVEL

5 OF MODEL JUST FROM THAT FIRST ORDER

6 INTERACTION, BUT YOU WOULDN'T KNOW HOW MUCH

7 MY E-MAIL TO BOBBY GETS FORWARDED TO

8 EVERYBODY ELSE, BECAUSE YOU'RE NOT GOING TO

9 SEE THAT ANYMORE. IT'S LOST IN THE -- IN THE

10 MORASS OF TEXT OF THE E-MAILS.

11 Q. I SEE.

12 CAN YOU GO TO COLUMN 4330 THROUGH

13 37.

14 A. OKAY. DO YOU WANT TO READ IT?

15 GO AHEAD.

16 Q. IT SAYS[AS READ]: IN REGARD TO

17 HOW SUCH SIMILARITY OR IDENTIFICATION OF THE

18 COGNATE GROUP IS DETERMINED, ONE OR MORE OF

19 THE FOLLOWING APPROACHES MAY BE USED: ROLE-

20 OR GROUP-BASED, COLLABORATIVE FILTERING,

21 FINGERPRINTING, CLUSTER MODELS, SEARCH-BASED

22 METHODS, FREQUENCY ANALYSIS, AND IMPORTANCE

1 VALUE CORRELATION.

2 EACH OF THESE DIFFERENT

3 APPROACHES, WHICH MAY BE USED SINGULARLY OR

4 IN ANY COMBINATION, WILL NOW BE DESCRIBED.

5 A. UH-HUH.

6 MR. PADMANABHAN: SINGLY.

7 THE WITNESS: YEAH, SINGLY, BUT

8 YES.

9 (BY MR. PLAIL)

10 Q. SO THIS IS TALKING ABOUT

11 COMBINING DIFFERENT TYPES OF LOGIC SYSTEMS,

12 BASICALLY?

13 MR. PADMANABHAN: OBJECTION,

14 RULE 611.

15 A. YEAH, I MEAN, IT'S DIFFERENT WAYS

16 TO TRY AND DETERMINE PEOPLE WHO ARE LIKE ME.

17 (BY MR. PLAIL)

18 Q. AND THEY COULD BE COMBINED?

19 A. YEAH.

20 Q. OKAY. AND SO IT WAS COMMON TO

21 COMBINE, FOR EXAMPLE, FREQUENCY ANALYSIS AND

22 FINGERPRINTING?

1 MR. PADMANABHAN: OBJECTION,

2 RULE 611, YOU CAN ANSWER IF YOU KNOW.

3 A. I DON'T KNOW WHAT "COMMON" MEANS.

4 I MEAN, WHEN YOU SAY COMMON, YOU MEAN OTHER

5 PEOPLE DID IT?

6 (BY MR. PLAIL)

7 Q. YES.

8 A. I DON'T KNOW IF ANYBODY ELSE WAS

9 DOING IT. I MEAN, GOOGLE WASN'T DOING IT, AS

10 FAR AS I KNOW. SO NO.

11 Q. BUT OTHERS WERE COMBINING

12 DIFFERENT TYPES OF SIMILARITY ANALYSES IN THE

13 PRIOR ART?

14 MR. PADMANABHAN: OBJECTION,

15 RULE 611.

16 A. I DON'T KNOW. I DON'T KNOW THE

17 ANSWER TO THAT. I HAVEN'T STUDIED THE PRIOR

18 ART ENOUGH TO KNOW.

19 (BY MR. PLAIL)

20 Q. WHAT DO YOU MEAN THERE BY

21 "COLLABORATIVE FILTERING"?

22 A. I CAN'T REMEMBER. I MEAN,

♀
†

103

1 FINGERPRINTING IS MORE, STUFF THAT PEOPLE

2 THAT LOOK LIKE OTHER PEOPLE, BASED ON THEIR

3 ACTIONS.

4 I CAN'T REMEMBER SPECIFICALLY
5 WHAT I MEANT BY COLLABORATIVE FILTERING. I'D
6 HAVE TO GO AND READ THE WHOLE THING AGAIN AND
7 SEE IF I REFERENCED IT SOMEWHERE.

8 Q. SO WHEN YOU SAY THAT THESE CAN BE
9 COMBINED IN ANY COMBINATION --

10 A. UH-HUH.

11 Q. -- HOW DOES A PERSON OF SKILL
12 KNOW WHICH CAN BE COMBINED AND WHICH CAN'T BE
13 COMBINED?

14 A. WELL, I MEAN, YOU COULD COMBINE
15 ANY OF THEM, OR YOU COULD ONLY USE ONE OF
16 THEM, DEPENDING ON HOW YOU WANT TO IMPLEMENT
17 IT.

18 Q. AND HOW ARE THEY COMBINED?

19 A. I DON'T KNOW. YOU'D HAVE TO
20 DECIDE HOW MUCH -- HOW MUCH STATISTICAL
21 WEIGHTING TO GIVE TO EACH ONE OF THOSE, BASED
22 ON, YOU KNOW, YOUR -- THE FEEDBACK YOU'RE

♀
†

104

1 GETTING FROM HOW THE USERS ARE INTERACTING
2 VERSUS HOW YOU PROJECTED THE RELEVANT SCORES
3 TO BE.

4 IF YOU FIND OUT THAT THIS THING
5 IS A VERY GOOD INDICATOR OF HOW THE USERS ARE

6 GOING TO REACT, THEN YOU CAN INCREASE THE
7 STATISTICAL WEIGHT FOR THAT TYPE OF -- FOR
8 THAT ONE OF THOSE THINGS.

9 IF YOU FIND THAT THIS OTHER ONE
10 YOU THOUGHT WAS A GOOD IDEA TURNS OUT DOESN'T
11 HAVE A STRONG CORRELATION, YOU'RE PREDICTING
12 HOW HUMAN -- HOW PEOPLE WILL INTERACT WITH
13 THAT CONTENT, AND YOU WOULD DECREASE ITS
14 WEIGHT.

15 Q. I SEE.

16 SO ONE WAY TO COMBINE THESE WOULD
17 BE TO HAVE DIFFERENT WEIGHTS ASSOCIATED WITH
18 EACH ANALYTICAL APPROACH AND THEN ADJUST
19 THOSE WEIGHTS ACCORDING TO HOW SUCCESSFUL
20 THAT APPROACH IS?

21 A. YES, CORRECT. I MEAN, IT'S A
22 FEEDBACK LOOP.

♀

105

1 Q. CAN YOU GO TO CLAIM 1, WHICH IS
2 ON PAGE 49.

3 A. YEAH.

4 Q. SO IF WE LOOK AT LINE 30, YOU SEE
5 THERE'S A COMPUTER READABLE STORAGE MEDIUM
6 STORING COMPUTER PROGRAMMING MODULES, AND
7 THEN IF WE LOOK AT THE REST OF THE CLAIM, WE

8 CAN SEE THERE'S A NUMBER OF MODULES, A
9 MONITORING MODULE, A FIRST RELEVANCE
10 MEASUREMENT MODULE, THE SECOND RELEVANCE
11 MEASUREMENT MODULE, AND THEN FINALLY AT THE
12 END, A RELEVANCE ANALYSIS MODULE.

13 DO YOU SEE THOSE?

14 A. YES.

15 Q. YEAH. SO LET'S START WITH THE
16 MONITORING MODULE.

17 THE MONITORING MODULE TRACKS
18 ACTIONS BY USERS RIGHT?

19 A. YES.

20 Q. AND THE MONITORING MODULE IS
21 IMPLEMENTED USING CODE?

22 A. YES.

♀
†

106

1 Q. OKAY. AND SO YOU WOULD NEED TO
2 LOOK AT THE CODE OF HOW A SYSTEM IS
3 IMPLEMENTED IN ORDER TO DETERMINE WHETHER IT
4 WAS USING A MONITORING MODULE, CORRECT?

5 A. YES.

6 Q. OKAY. WAS USING A MONITORING
7 MODULE WELL-KNOWN BY 2004?

8 A. I MEAN, IN THE CONTEXT OF
9 GENERALLY AUDITING, YOU KNOW, LOOKING AT WHAT

10 USERS ARE DOING IN A COMPUTER SYSTEM, YES.

11 Q. AND IS THAT THE CONTEXT THAT'S --
12 YOU'RE DISCUSSING HERE?

13 A. YES.

14 Q. WAS IT POSSIBLE FOR A
15 OFF-THE-SHELF COMPUTER TO PERFORM THE STEPS
16 OF THE MONITORING MODULE, OR DID IT HAVE TO
17 BE PROGRAMMED TO DO THAT?

18 A. HAD TO BE -- I MEAN, HAD TO BE
19 PROGRAMMED TO DO IT. COMPUTER CAN'T DO
20 ANYTHING WITHOUT -- WITHOUT SOFTWARE RUNNING,
21 SO.

22 Q. I MEAN, OFF THE SHELF, THE

107

1 OPERATING SYSTEM ON.

2 A. IT DEPENDS ON THE COMPUTER
3 OPERATING SYSTEM AND WHAT IT'S AUDITING. SO
4 YOU KNOW, IT DEPENDS ON, YEAH, IT DEPENDS ON
5 THE OPERATING SYSTEM, WHETHER IT'S TRYING TO
6 RECORD EVERY ACTION OR WHAT IT'S DOING.

7 Q. SO GENERALLY, YOU WOULD SAY,
8 THEN, THE MONITORING MODULE IS NOT AN
9 OFF-THE-SHELF FUNCTIONALITY OF A COMPUTER?

10 A. WE NEED -- THE IDEA OF AUDITING
11 USER ACTIONS IN A COMPUTER SYSTEM WAS

♀
†

12 WELL-KNOWN AT THIS TIME.

13 Q. BUT WAS IT A FUNCTIONALITY OF AN
14 OFF-THE-SHELF COMPUTER?

15 A. I MEAN, THE COMPUTER ITSELF ISN'T
16 DOING ANYTHING. IT'S THE SOFTWARE THAT RUNS
17 ON IT, AND THEN IT DEPENDS ON THE OPERATING
18 SYSTEM, WHETHER THE OPERATING SYSTEM IS
19 TRACKING EVERY SINGLE USER INTERACTION OR IF
20 THE OPERATING SYSTEM DOESN'T CARE, AND IT'S
21 JUST RUNNING THE APPLICATIONS, AND IT'S NOT
22 ATTEMPTING TO CREATE THIS INCREDIBLY DETAILED

108

1 AUDIT LOG.

2 SO TRUSTED OPERATING SYSTEMS ARE
3 MORE LIKELY GOING LIKE SOLARIS OR UNIX OR
4 SOMETHING WHICH IS, YOU KNOW, A MORE
5 SOPHISTICATED AND -- YOU KNOW, TRUST-ORIENTED
6 OPERATING SYSTEM WOULD PROBABLY BE DOING
7 THAT, AND THE END USER OPERATING SYSTEM MAY
8 NOT BE BOTHERED WITH THE OVERHEAD OF DOING
9 IT.

10 Q. SO GENERALLY, THEN, YOU WOULD
11 NEED TO PROGRAM THE COMPUTER TO PERFORM THESE
12 STEPS ABOVE YOUR ORDINARY OPERATING SYSTEM?

13 A. YEAH, GENERALLY --

♀

14 MR. PADMANABHAN: OBJECTION,

15 611.

16 BUT GO AHEAD, YOU CAN ANSWER.

17 A. YEAH, GENERALLY THE -- EACH

18 APPLICATION IS RESPONSIBLE FOR ITS OWN ACTION

19 AUDITING. THAT'S TYPICALLY HOW SOFTWARE

20 WORKS.

21 (BY MR. PLAIL)

22 Q. OKAY. SO IF WE LOOK AT THE FIRST

109

1 RELEVANCE MEASUREMENT MODULE, IT SAYS THAT

2 [AS READ]: "THE FIRST RELEVANCE MEASURING

3 MODULE IS COUPLED TO THE MONITORING MODULE

4 AND IS CONFIGURED TO DETERMINE THE FIRST

5 MEASURE OF RELEVANCE."

6 DO YOU SEE THAT?

7 A. YES.

8 Q. OKAY. HOW DOES IT DETERMINE

9 FIRST RELEVANT -- SORRY, HOW DOES IT

10 DETERMINE A FIRST MEASURE OF RELEVANCE?

11 MR. PADMANABHAN: ARE YOU

12 SAYING BEYOND WHAT'S IN THE CLAIM, OR ARE YOU

13 REFERRING TO THE CLAIM ITSELF?

14 MR. PLAIL: THE CLAIM SAYS,

15 DETERMINE A FIRST MEASURE OF RELEVANCE.

♀

16 MR. PADMANABHAN: BUT THAT SAME
17 ELEMENT GOES ON TO SAY -- I MEAN, I'M ASKING
18 IF YOU'RE SAYING BEYOND WHAT THE CLAIM IS, OR
19 ARE YOU SAYING YOU HAVE HIM READ THE REST OF
20 THE CLAIM?

21 (BY MR. PLAIL)

22 Q. SURE.

110

1 YOU CAN READ THE REST OF THE
2 CLAIM -- FOR THE FIRST RELEVANCE MEASUREMENT.

3 A. YEAH.

4 [AS READ]: "FIRST RELEVANCE
5 MEASUREMENT MODULE COUPLED TO THE MONITORING
6 MODULE AND CONFIGURED TO DETERMINE A FIRST
7 MEASURE OF RELEVANCE OF THE PIECE OF
8 ELECTRONIC CONTENT BASED, AT LEAST IN PART,
9 ON ONE OR MORE ACTIONS OF THE USER ON THE
10 PIECE OF ELECTRONIC CONTENT."

11 OKAY. SO WHAT WAS YOUR QUESTION
12 AGAIN?

13 Q. HOW DOES IT DETERMINE THE FIRST
14 MEASURE OF RELEVANCE?

15 A. DOES IT BASED ON WHAT THE ACTIONS
16 OF THE USERS ARE ON THE CONTENT.

17 Q. AND HOW DOES IT TAKE THE ACTIONS

♀
†

18 AND CONVERT THAT INTO A MEASURE OF RELEVANCE?
19 A. USING THE ALGORITHMS THAT ARE
20 DESCRIBED IN THE PATENT. SO, I MEAN, IF I
21 FORWARD IT, IT MEANS IT'S MORE RELEVANT. IF
22 I REPLY IT TO, IT MEANS IT MORE RELEVANT.

♀

111

1 SO ALL OF THOSE ACTIONS ARE FED
2 INTO A MATHEMATICAL MODEL, AND THEN THE
3 MATHEMATICAL MODEL THEN ADJUSTS THE VALUE
4 THAT IT SCORES FOR THAT USER CONTENT FOR
5 RELEVANCE, AND IT ADJUSTS THE IMPORTANT
6 SCORES FOR ALL ENTITIES INVOLVED IN THAT
7 PIECE OF CONTENT.

8 Q. OKAY. SO A PERSON OF SKILL
9 LOOKING AT JUST THIS SENTENCE WOULD NOT --
10 WOULD NEED TO LOOK TO THE ALGORITHMS IN THE
11 SPECIFICATION TO UNDERSTAND HOW TO IMPLEMENT
12 THE FIRST RELEVANCE MEASUREMENT MODULE?

13 A. CORRECT.

14 Q. AND THE FIRST RELEVANCE
15 MEASUREMENT MODULE WAS IMPLEMENTED IN CODE?

16 A. YES, I MEAN, THAT -- THE METHOD
17 OF IMPLEMENTATION HAS TO BE A COMPUTER
18 ALGORITHM.

19 Q. AND IN ORDER TO DETERMINE WHETHER

♀
†

20 A SYSTEM WAS USING A FIRST RELEVANCE
21 MEASUREMENT MODULE, YOU WOULD NEED TO LOOK AT
22 THE CODE OF THAT SYSTEM?

112

1 A. YES.

2 Q. WAS THE FUNCTIONALITY OF THE
3 FIRST RELEVANCE MEASUREMENT MODULE WELL KNOWN
4 BY 2004?

5 A. NO.

6 Q. AND SO YOU WOULDN'T SAY THAT THIS
7 IS A CONVENTIONAL OR NECESSARY PART OF THE
8 COMPUTER SYSTEM?

9 A. NO, I WOULD NOT.

10 Q. AND A COMPUTER WOULD NEED TO BE
11 SPECIFICALLY PROGRAMMED TO IMPLEMENT THIS
12 FIRST RELEVANCE MEASUREMENT MODULE?

13 A. YES.

14 Q. AND A GENERAL PURPOSE COMPUTER
15 WITHOUT THAT PROGRAMMING COULD NOT PERFORM
16 THE STEPS OF THE FIRST RELEVANCE MEASUREMENT
17 MODULE?

18 A. YES. YES, THAT'S CORRECT. IT
19 COULDN'T DO IT. SO HOWEVER YOU WANT TO --
20 YEAH.

21 Q. ALL RIGHT. LET'S LOOK AT THE

♀

22 SECOND RELEVANCE MEASUREMENT MODULE.

113

1 A. UH-HUH.

2 Q. SO THIS ONE'S LENGTHY, BUT IT'S
3 BROKEN INTO TWO PARTS.

4 A. UH-HUH.

5 Q. FIRST, THERE'S [AS READ]:

6 "IDENTIFY AT LEAST ONE OTHER OF THE PLURALITY
7 OF USERS THAT IS A RECIPIENT OF THE PIECE OF
8 ELECTRONIC CONTENT AND THAT IS COGNATE TO THE
9 USER.

10 A. UH-HUH. COGNATE, YEAH.

11 Q. THE SECOND IS DETERMINE A SECOND
12 MEASURE OF RELEVANCE OF THE PIECE OF
13 ELECTRONIC CONTENT AS BASED, AT LEAST IN
14 PART, ON ONE OR MORE MEASURES DERIVED FROM
15 THE GROUP CONSISTING OF --"

16 AND THEN IT LISTS FOUR THINGS.

17 DO YOU SEE THAT?

18 A. YEAH.

19 Q. SO HOW DOES THE SECOND RELEVANCE
20 MEASUREMENT MODULE IDENTIFY A COGNATE USER?

21 A. A COGNATE USER.

22 SO THIS IS USERS THAT

♀

114

1 HISTORICALLY HAVE ACTED IN SIMILAR WAYS TO
2 MYSELF. IT'S USED, AND YOU KNOW, THAT'S THE
3 MOST IMPORTANT ONE, IT'S GOING TO TYPICALLY
4 REFLECT SIMILAR ROLES, IT'S GOING TO REFLECT
5 SIMILAR INTERESTING CONTENT, IT'S GOING TO
6 REFLECT SIMILAR, JUST, YOU KNOW, PEOPLE I
7 BEHAVE SIMILARLY TO.

8 Q. I SEE. AND SO HOW WOULD A PERSON
9 OF SKILLED IN THE ART IMPLEMENT THE SECOND
10 RELEVANCE MEASUREMENT MODULE SO THAT IT WOULD
11 BE ABLE TO IDENTIFY ANOTHER COGNATE USER?

12 A. WELL, YOU KNOW, YOU TAKE THE
13 MATHEMATICAL FORMULAS, AND YOU BUILD OUT A
14 MODEL, THE MULTIVARIATE COMPUTER MODEL, IN
15 WHICH EVERY PIECE OF CONTENT IS ASCRIBED A
16 RELEVANCE SCORE, AND EVERY USER IS ASCRIBED
17 AN IMPORTANCE SCORE.

18 SO YOU THE TAKE THE PICTURE WHICH
19 IS IN THE EARLIER ONE IN THE FIGURE, AND IT
20 SHOWS RELEVANCE IMPORTANCE. IT SHOWS, YOU
21 KNOW, GLOBAL IMPORTANCE. IT SHOWS IMPORTANCE
22 TO A PARTICULAR SUBSET OF USERS, THEN YOU

115

1 IMPLEMENT IT IN A -- IN A GIANT, YOU KNOW,
2 DATA MODEL. I MEAN, THAT'S THE -- THAT'S HOW

♀

3 YOU WOULD DO IT.

4 Q. ALL RIGHT. SO A PERSON OF SKILL
5 READING JUST THIS SENTENCE, IDENTIFIED AT
6 LEAST ONE OTHER OF THE PLURALITY OF USERS
7 THAT IS A RECIPIENT OF THE PIECE OF
8 ELECTRONIC CONTENT AND THAT IS A COGNATE
9 USER, WOULD NOT BE ABLE TO IMPLEMENT THAT
10 IDEA WITHIN THE SECOND RELEVANCE MEASUREMENT
11 MODULE WITHOUT LOOKING AT THE ALGORITHMS IN
12 THE PATENT?

13 A. THEY COULD ATTEMPT TO MAKE AN
14 IMPLEMENTATION. IF THEY READ THE REST OF THE
15 PATENT, THEY WOULD MAKE A BETTER ONE. I
16 MEAN, THEY COULD READ THAT SENTENCE, AND SAY,
17 I'M GOING TO IMAGINE SOMETHING AND BUILD IT.
18 IF THEY READ THROUGH THE REST OF THE PATENT,
19 THEY WOULD HAVE MORE CONTEXT AND -- AND
20 SPECIFIC, KIND OF, BUILDING BLOCKS TO DO IT.

21 Q. BUT SPECIFICALLY TO BUILD THE
22 INVENTION HERE, THEY WOULD NEED TO LOOK TO

116

1 THE ALGORITHMS IN THE SPECIFICATION, RIGHT?

2 A. I MEAN, AGAIN, THEY COULD -- THEY
3 CAN ATTEMPT TO COME UP WITH DIFFERENT ONES,
4 BUT THE ONES THAT ARE IN HERE WOULD BE VERY

♀
†

5 HELPFUL FOR SOMEBODY SKILLED IN THE ART TO
6 GET THERE FASTER.

7 Q. AND THE SECOND RELEVANCE
8 MEASUREMENT MODULE IS IMPLEMENTED IN CODE?

9 A. YES.

10 Q. AND YOU WOULD NEED TO PROGRAM A
11 COMPUTER IN ORDER TO PERFORM THE STEPS OF THE
12 SECOND RELEVANT?

13 A. YES.

14 Q. AND A GENERAL PURPOSE COMPUTER
15 WOULD NOT BE ABLE TO PERFORM THE STEPS OF THE
16 SECOND RELEVANCE MEASUREMENT MODULE OUT OF
17 THE BOX?

18 A. NO.

19 Q. [AS READ]: "THE SECOND RELEVANCE
20 MEASUREMENT MODULE ALSO DETERMINES A SECOND
21 MEASURE OF RELEVANCE OF THE PIECE OF
22 ELECTRONIC CONTENT AS BASED, AT LEAST IN

117

1 PART, ON ONE OR MORE MEASURES DERIVED FROM
2 THE GROUP CONSISTING OF --" AND THEN THERE'S
3 FOUR THINGS LISTED THERE.

4 DO YOU SEE THAT?

5 A. UH-HUH. YEAH.

6 MR. PADMANABHAN: ARE YOU

♀

7 READING THE CLAIM?

8 MR. PLAIL: YES.

9 THE WITNESS: YEAH.

10 (BY MR. PLAIL)

11 Q. HOW DOES THE -- SORRY. A PERSON
12 OF SKILLED IN THE ART WOULD NEED TO LOOK TO
13 THE ALGORITHMS IN THE PATENT TO UNDERSTAND
14 HOW TO DETERMINE THE SECOND MEASURE OF
15 RELEVANCE HERE, RIGHT?

16 MR. PADMANABHAN: WAIT, SORRY,
17 I JUST WANT TO UNDERSTAND YOUR QUESTION,
18 BECAUSE NOW I TRACK HOW YOU'RE DOING THIS.
19 ARE YOU ASKING IF THEY READ THAT WHOLE
20 ELEMENT WOULD DETERMINE ALL THE WAY THROUGH
21 THE FOUR THINGS.

22 MR. PLAIL: NO, NO, I'M GOING

118

1 TO SAY THAT'S A SPEAKING OBJECTION.

2 MR. PADMANABHAN: OKAY, I'M NOT
3 UNDERSTANDING YOUR QUESTION, SO OBJECTION,
4 VAGUE.

5 MR. PLAIL: YEAH, IT'S VAGUE,
6 OBJECTION, FORM.

7 A. HELP ME UNDERSTAND THE QUESTION
8 AGAIN.

♀

9 (BY MR. PLAIL)

10 Q. A PERSON OF ORDINARY SKILL, IN
11 ORDER TO IMPLEMENT THE SECOND RELEVANCE
12 MEASUREMENT MODULE, WOULD NEED TO LOOK TO THE
13 ALGORITHMS IN THE PATENT IN ORDER TO FIGURE
14 OUT HOW TO DETERMINE A SECOND MEASURE OF
15 RELEVANCE AS DESCRIBED HERE IN THE COLUMN?

16 A. I MEAN, I THINK THEY WOULD NEED
17 TO LOOK AT THE REST OF THE PATENT FOR CONTEXT
18 OF WHAT THESE TERMS MEAN. OTHERWISE, THEY'RE
19 NOT GOING TO KNOW, YOU KNOW, THE "GLOBAL
20 IMPORTANCE" IS A DEFINED TERM. "LOCAL
21 IMPORTANCE" IS A DEFINED TERM. WITHOUT
22 KNOWING WHAT THE TERMS MEAN, IT WOULD BE

119

1 DIFFICULT TO IMPLEMENT A SYSTEM THAT, YOU
2 KNOW, THAT DOES THAT.

3 Q. OKAY. LOOKING AT THE RELEVANCE
4 ANALYSIS MODULE --

5 A. YEAH.

6 Q. -- IT SAYS [AS READ]: THAT THE
7 RELEVANCE ANALYSIS MODULE IS CONFIGURED TO
8 DETERMINE THE RELEVANCE SCORE OF A PIECE OF
9 ELECTRONIC CONTENT SENT FROM THE SENDER TO
10 THE USER, THE RELEVANCE SCORE BEING

♀
†

11 DETERMINED BASED, AT LEAST IN PART, ON THE
12 FIRST DETERMINED MEASURE OF RELEVANCE AND THE
13 SECOND DETERMINED MEASURE OF RELEVANCE."

14 DO YOU SEE THAT?

15 A. YEAH.

16 Q. SO A PERSON OF ORDINARY SKILL IN
17 THE ART, IN ORDER TO IMPLEMENT THE RELEVANCE
18 ANALYSIS MODULE AS DESCRIBED HERE IN THE
19 CLAIM WOULD NEED TO LOOK TO THE ALGORITHMS IN
20 THE SPECIFICATION, CORRECT?

21 A. YEAH, I'M TRYING TO STRUGGLE
22 TO -- I'M THINKING HOW TO ANSWER THIS.

♀

120

1 I MEAN, IT WOULD BE A LOT EASIER
2 IF THEY READ THE REST OF THE PATENT. IF THEY
3 DIDN'T READ THE REST OF THE PATENT, THEY
4 COULD STILL TRY AND TAKE A SWING AT IT.

5 BUT THIS IS ONE PIECE OF A LARGE
6 DESCRIPTION OF A COMPLEX MATHEMATICAL MODEL.
7 SO IF I ONLY HAD THAT, COULD I ATTEMPT TO
8 IMPLEMENT SOMETHING? I COULD. WOULD I BE
9 BETTER OFF DOING IT IF I'D READ THE REST OF
10 THE PATENT? I'D BE BETTER OFF IF I READ THE
11 REST OF THE PATENT.

12 SO I DON'T KNOW IF I'M ANSWERING

13 YOUR QUESTION OR NOT. IF NOT, FEEL FREE TO
14 REASK IT. BUT YOU KNOW, THERE IS -- THERE IS
15 INFORMATION HERE ABOUT HOW TO DO IT, YOU
16 KNOW, OR WHAT IT IS.

17 AND THEN THERE'S A LOT MORE
18 INFORMATION THROUGHOUT THE PATENT OF HOW
19 IT -- OF WHAT THOSE TERMS MEAN AND HOW THEY
20 WORK AND HOW THEY INTERACT WITH EACH OTHER.

21 SORRY.

22 Q. SO YOU WOULDN'T SAY IMPLEMENTING

121

1 IT -- SORRY.

2 SO YOU WOULDN'T SAY THEN, THAT
3 IMPLEMENTING THE RELEVANCE ANALYSIS MODULE
4 WOULD BE CONVENTIONAL AND EASY FOR A PERSON
5 OF ORDINARY SKILL IN THE ART WITHOUT READING
6 THE ALGORITHMS IN THE PATENT?

7 A. I DON'T THINK IT WOULD BE EASY
8 EITHER WAY, BUT I THINK SOMEBODY WHO'S
9 SKILLED IN THE ART, YOU KNOW, SOMEBODY WHO'S
10 VERY SKILLED IN THE ART COULD ATTEMPT TO MAKE
11 AN IMPLEMENTATION BASED ON PURELY THE CLAIM.
12 THEY WOULD HAVE A BETTER PICTURE OF THE -- OF
13 HOW TO IMPLEMENT IT IF THEY READ THE REST OF
14 THE PATENT AND THE MATH.

15 Q. THE RELEVANCE ANALYSIS MODULE IS
16 IMPLEMENTED IN CODE?

17 A. YES.

18 Q. AND AN OFF-THE-SHELF COMPUTER
19 WOULD NOT BE ABLE TO IMPLEMENT THE RELEVANCE
20 ANALYSIS MODULE WITHOUT BEING SPECIALLY
21 PROGRAMMED TO DO THAT?

22 A. IT WOULD NOT.

122

1 Q. ALL RIGHT. LOOKING AT -- LOOKING
2 AT CLAIM 2, THERE IS A CONTENT PRESENTATION
3 MODULE LISTED THERE.

4 A. YEAH.

5 Q. WHAT IS THE CONTENT PRESENTATION
6 MODULE?

7 A. IT'S THE THING THAT MAKES THE --
8 YOU KNOW, THAT MAKES THE USER EXPERIENCE
9 PIXELS ON THE SCREEN, THE DISPLAY AND THE
10 GRAPHICAL DISPLAY OF THE -- OF THE USER
11 EXPERIENCE.

12 Q. AND SPECIFICALLY FOR CLAIM 2, [AS
13 READ]: IT PRESENTS THE PIECE OF ELECTRONIC
14 CONTENT TO THE USER IN ACCORDANCE WITH THE
15 DETERMINED RELEVANCE SCORE AND TO PRESENT TO
16 THE USER A VALUE DESCRIBING THE DETERMINED

♀

17 RELEVANCE SCORE?

18 A. YES.

19 Q. SO A OFF-THE-SHELF COMPUTER WOULD
20 NEED TO BE PROGRAMMED TO IMPLEMENT THE
21 CONTENT PRESENTATION MODULE, CORRECT?

22 A. YES.

123

1 Q. AND IT WOULD BE INCAPABLE OF
2 PERFORMING THE STEPS OF THE CONTENT
3 PRESENTATION MODULE WITHOUT THAT SPECIAL
4 PROGRAMMING?

5 A. YES.

6 Q. OKAY. I AM GOING TO DIRECT YOU
7 TO COLUMN 33.

8 A. YEAH.

9 Q. LOOKING AT THE SENTENCE STARTING
10 AT LINE 58, ITS TALKING ABOUT HOW TO IDENTIFY
11 OTHER USERS --

12 A. UH-HUH.

13 Q. -- WHO ARE IN A COGNATE GROUP.
14 DO YOU SEE THAT?

15 A. YES.

16 [AS READ]: NOW TURNING TO A
17 DESCRIPTION REGARDING COMPUTING COGNATE
18 IMPORTANCE IN ACCORDANCE WITH ONE OR MORE

♀

19 EMBODIMENTS IN THE ELECTRONIC MAIL SYSTEM,
20 MAY STORE FOR EACH USER A SET OF N OTHER
21 USERS CONSIDERED TO BE MOST SIMILAR TO THE
22 USER CONCERNED. THAT IS THE USER'S COGNATE

124

1 GROUP."

2 Q. AND SO THE SYSTEM CAN DETERMINE
3 THAT A USER IS COGNATE TO A PARTICULAR PERSON
4 OR IT CAN DETERMINE THAT THE USER'S COGNATE
5 TO AN ENTIRE GROUP OF PEOPLE?

6 A. CORRECT.

7 Q. AND WHY IS IT IMPORTANT TO HAVE
8 THE SYSTEM BE ABLE TO IDENTIFY A COGNATE
9 GROUP?

10 A. BECAUSE IF I'M TRYING TO PREDICT
11 HOW RELEVANT A PIECE OF CONTENT IS TO YOU, IF
12 YOU TEND TO BEHAVE LIKE THESE TEN OTHER
13 PEOPLE, THEN THE BEHAVIOR THAT THEY'VE HAD,
14 IF THEY'VE ALREADY SEEN THAT PIECE OF
15 CONTENT, IS GOING TO BE A GOOD INDICATOR OF
16 HOW RELEVANT IT IS TO YOU.

17 Q. AND IT'S VALUABLE TO DO THAT OVER
18 A GROUP, SO YOU DON'T END UP WITH ONE
19 OUTLIER, RIGHT?

20 A. YEAH, I MEAN, IT'S, YOU KNOW,

21 THERE'S A LOT OF THESE THINGS. IT'S A --

22 IT'S A COMPUTER ALGORITHM WITH A FEEDBACK

125

1 LOOP, SO IT ESSENTIALLY LEARNS WHAT'S THE

2 MOST USEFUL INDICATORS TO PREDICT YOUR

3 BEHAVIOR, BASED ON CORRELATING ITS

4 PROJECTIONS WITH YOUR ACTUAL BEHAVIOR EVERY

5 TIME.

6 Q. RIGHT.

7 SO IF YOU JUST DETERMINE IF

8 SOMEONE WAS COGNATE TO ONE OTHER PARTICULAR

9 PERSON IN THE SYSTEM, THERE WOULD BE A HIGH

10 CHANCE OF DIVERGING RELEVANCE BECAUSE YOU'RE

11 NOT GOING TO BE IDENTICAL TO THAT PERSON

12 RIGHT?

13 MR. PADMANABHAN: OBJECTION,

14 RULE 611.

15 A. I MEAN, BROADER SAMPLES IS

16 BETTER.

17 (BY MR. PLAIL)

18 Q. UH-HUH.

19 A. SO THE MORE PEOPLE THAT YOU HAVE,

20 THAT YOU'RE SIMILAR TO, THE -- YOU KNOW, THE

21 BETTER PREDICTION YOU WOULD EXPECT THE MODEL

22 TO HAVE.

1 NOW, IF YOU HAD AN IDENTICAL
2 TWIN, AND YOU LITERALLY BEHAVED IDENTICALLY
3 TO YOUR TWIN, THEN YOUR TWIN WOULD BE THE
4 BEST COGNATE GROUP TO COMPARE YOU TO.

5 Q. RIGHT. BUT THAT WOULD BE AN
6 OUTLIER SITUATION?

7 A. THAT'S TRUE, THAT WOULD BE AN
8 OUTLIER.

9 Q. YEAH.

10 CAN YOU LOOK AT FIGURE 5 OF THE
11 PATENT.

12 A. FIGURE 5. OKAY. OKAY. YEP.

13 Q. THIS IS THE COMPLIANCE POLICY,
14 RIGHT?

15 A. NO. I MEAN, THIS IS A -- I MEAN,
16 IT -- IT'S A -- A NORMALIZED DATABASE VIEW
17 THAT INCLUDE -- THAT IS -- YEAH, YOU KNOW,
18 THAT INCLUDES THE COMPLIANCE POLICY AS ONE
19 PIECE OF IT. I MEAN, IT'S -- I'M JUST
20 READING IT NOW.

21 YEAH, I THINK THIS IS MOSTLY
22 ABOUT THE COMPLIANCE POLICY STUFF, YEAH.

1 Q. DO YOU SEE THERE'S A BOX THERE,

2 LABELED "JOB CODE"?

3 A. UH-HUH. YEAH.

4 Q. WHAT'S A JOB CODE?

5 A. JOB CODE IS A -- THAT'S

6 ESSENTIALLY LIKE A PROJECT CODE OR A PROCESS

7 CODE THAT YOU COULD ASSOCIATE A MESSAGE WITH.

8 SO THIS IS RELATED TO PURCHASING. THIS IS

9 RELATED TO PRODUCT REQUIREMENTS. SO IT'S

10 A -- EFFECTIVELY A METADATA FIELD THAT LETS

11 YOU DESCRIBE CONTEXT ON THE APPLICATION -- ON

12 THAT MESSAGE.

13 Q. ALL RIGHT. SO, FOR EXAMPLE, A

14 COMPANY COULD, INSTEAD OF -- STRIKE THAT.

15 FOR EXAMPLE, A COMPANY COULD

16 ASSIGN A JOB CODE FOR ALL E-MAILS RELATING TO

17 PURCHASING?

18 A. YES.

19 Q. RIGHT?

20 AND THEN INSTEAD OF EACH

21 INDIVIDUAL HAVING TO RECEIVE THAT E-MAIL,

22 THEY WOULD JUST BE ABLE TO ACCESS IT BY BEING

♀

128

1 GIVEN ACCESS TO THAT JOB CODE?

2 A. I MEAN, TRADITIONALLY, IN

3 MESSAGING SYSTEMS, YOU KNOW, THERE IS A --

4 WHO IT'S FROM, AND THERE'S A SET OF
5 DESTINATIONS, BUT IF YOU CONSIDERED THAT YOU
6 TURN YOU A JOB CODE INTO A DISTRIBUTION LIST,
7 THEN YES, IF YOU SAID ANYTHING THAT IS TAGGED
8 WITH THIS JOB CODE SHOULD BE, I MEAN, YOU
9 COULD SAY, IT SHOULD BE VIEWABLE IN SEARCH
10 RESULTS BY THIS BODY OF PEOPLE, YOU COULD SAY
11 IT SHOULD BE DELIVERED TO THAT BODY OF
12 PEOPLE.

13 THOSE WOULD BOTH BE
14 METADATA-BASED MAIL ROUTING RULES AND VIEWING
15 RULES, YEAH.

16 Q. ALL RIGHT. AND SO YOU COULD USE
17 THE JOB CODE AS THAT KIND OF DISTRIBUTION
18 LIST?

19 A. YOU COULD, THAT WOULD BE ONE WAY
20 OF DOING IT, YEAH. WHICH IT'S REALLY JUST AN
21 ATTRIBUTE. IT'S A CUSTOM ATTRIBUTE.

22 Q. OKAY. CAN YOU LOOK DOWN HERE AT

129

1 THE BOTTOM OF THIS, IT SAYS, "READERSHIP
2 RULES"?

3 A. YEAH.

4 Q. WHAT ARE THOSE?

5 A. SO THIS IS, YOU KNOW, SHOULD I BE

♀
†

6 ALLOWED TO READ THIS MESSAGE OR NOT? SO
7 COMMUNICATION IS, CAN I TALK TO YOU?
8 READERSHIP IS, IF I SEND A MESSAGE TO DEVON,
9 AND HE SENDS IT TO YOU, SHOULD YOU BE ABLE TO
10 READ IT?

11 Q. I SEE.

12 SO WE DISCUSSED EARLIER THE
13 EXAMPLE OF THE BANKER AND THE ANALYST,
14 REMEMBER THAT?

15 A. UH-HUH.

16 Q. SO IN THIS EXAMPLE, IT MAY BE
17 DESIRABLE FOR AN ANALYST TO BE ABLE TO READ
18 EVERYTHING ASSOCIATED WITH A SPECIFIC JOB
19 CODE?

20 A. YES.

21 Q. ALL RIGHT. AND YOU WOULDN'T WANT
22 THE BANKER TO NECESSARILY HAVE ACCESS TO THAT

♀

130

1 SAME DATABASE?

2 A. CORRECT.

3 Q. AND, LIKEWISE, YOU WOULD WANT TO
4 MAKE SURE THAT THE ANALYST HAD ACCESS TO
5 EVERYTHING THEY NEEDED?

6 A. YES, YOU KNOW, SUBJECT TO
7 WHATEVER YOUR POLICY IS YOU'RE TRYING TO

8 IMPLEMENT, YES.

9 Q. OKAY.

10 A. I MEAN, THE PATENT DOESN'T REALLY
11 TALK MUCH ABOUT THIS. I THINK THIS IS A --
12 THERE'S A SEPARATE PATENT FOR THE COMPLIANCE
13 POLICIES. I THINK THIS IS JUST REFERENCING
14 IT FROM A CONTEXT OF, YOU KNOW, REFERENCING
15 PRIOR ART THAT AS A COMPANY WE HAD ALREADY
16 CREATED.

17 Q. OKAY.

18 A. I DON'T THINK ANY OF THE CLAIMS
19 OF THE PATENT ARE PARTICULARLY DEPENDENT ON
20 THIS PICTURE, BUT...

21 MR. PADMANABHAN: ARE YOU
22 SWITCHING TO ANOTHER TOPIC?

♀
+

131

1 MR. PLAIL: NOT QUITE.

2 MR. PADMANABHAN: OKAY.

3 (BY MR. PLAIL)

4 Q. THIS HAS ALREADY BEEN MARKED AS
5 EXHIBIT 1043.

6 A. OKAY.

7 Q. SO THIS IS AN EARLIER PATENT
8 APPLICATION?

9 A. YEAH.

10 Q. WHEN YOU'RE REFERRING TO THE
11 "COMPLIANCE PATENT," IS THIS THE PATENT
12 APPLICATION YOU'RE REFERRING TO?
13 A. NO.
14 Q. OKAY. DO YOU KNOW WHICH PATENT
15 YOU'RE REFERRING TO WHEN YOU REFERRING TO THE
16 COMPLIANCE PATENT?
17 A. IT'S THE ONE WITH THE COMPLIANCE
18 POLICIES. I DON'T HAVE THE NUMBER OFFHAND.
19 DEVON WILL KNOW THE NUMBER, BUT I DON'T
20 REMEMBER THE NUMBER AT THIS TIME. IT'S A
21 DIFFERENT PATENT.
22 Q. IF WE COULD GO BACK REAL QUICK

♀
†

132

1 TO --
2 A. THE PATENT?
3 Q. -- THE PATENT. YEAH. THE -- THE
4 '217.
5 A. YEAH.
6 Q. GO BACK TO COLUMN 43. LINES 32
7 THROUGH 37 AGAIN.
8 A. 32 THROUGH 37.
9 Q. SO --
10 A. YEAH, DO YOU WANT TO READ IT?
11 Q. I THINK WE'VE ALREADY READ THIS

12 PART INTO THE RECORD, BUT I GUESS MY QUESTION
13 IS, THIS IS DESCRIBING HOW TO IDENTIFY
14 SIMILARITIES IN COGNATE GROUPS AND HOW TO
15 DETERMINE COGNATE GROUPS, RIGHT?

16 A. UH-HUH, OKAY.

17 Q. SO IT DESCRIBES A NUMBER OF
18 DIFFERENT METHODS TO DO THAT, RIGHT?

19 A. YES, I REMEMBER LOOKING AT THIS,
20 YEAH.

21 Q. AND ONE OF THE WAYS TO DETERMINE
22 A COGNATE GROUP IS THROUGH COLLABORATIVE

♀

133

1 FILTERING, RIGHT?

2 A. UH-HUH.

3 Q. AND THEN ANOTHER ROLE IS TO ROLE
4 OR GROUP-BASED FILTERING RIGHT?

5 A. YES. WELL, IT'S NOT -- ROLE OR
6 GROUP-BASED METHODS, IT DOESN'T FILTERING'S
7 SEPARATELY, YES.

8 Q. AND WHAT IS ROLE OR GROUP BASED
9 MEAN?

10 A. MEANS THAT, YOU KNOW, PEOPLE IN
11 HR TEND TO BE INTERESTED IN MESSAGES ABOUT
12 SALARIES, FOR EXAMPLE. SO BASED ON THE ROLE,
13 IF THIS IS A MESSAGE ABOUT SALARIES, IT'S --

14 LIKELY MORE RELEVANT TO PEOPLE IN HR THAN IT
15 IS TO, YOU KNOW, PEOPLE IN THE LOGISTICS.

16 Q. UH-HUH. YOU SEE THERE'S CLUSTER
17 MODELING THERE, RIGHT?

18 A. UH-HUH.

19 Q. WHAT IS CLUSTER MODELING?

20 A. YOU HAVE TO ASK MY FATHER THAT,
21 HE KIND OF HELPED -- DEALT WITH THE MATH MORE
22 THAN I DID IN THIS. SO I THINK THAT'S THE --

♀

134

1 I THINK THAT'S THE STATISTICAL TERM.

2 Q. OKAY. IF YOU LOOK OVER ON THE
3 COLUMN TO THE RIGHT THERE, 37 THROUGH 62 IT
4 IS DESCRIBING SUBPARTS OF CLUSTERING MODEL?

5 A. SURE, READ THAT, THEN, YEAH.

6 Q. SPECIFICALLY IF YOU LOOK AROUND
7 45 THROUGH 50, IT DESCRIBES USING VARIOUS
8 CLUSTERS TO IDENTIFY COGNATE GROUPS INCLUDING
9 PEOPLE WHO WORK IN PARTICULAR DEPARTMENTS?

10 A. UH-HUH.

11 Q. SO ONE EXAMPLE OF A CLUSTER HERE
12 COULD BE PEOPLE WHO WORK IN THE SAME
13 DEPARTMENT?

14 A. OKAY. GIVE ME A MINUTE TO READ
15 THIS WHOLE PARAGRAPH.

♀
†

16 Q. OKAY.

17 A. YEAH, SO I THINK THESE ARE
18 CLUSTERS SETS THAT UNIQUELY BEHAVE IN SIMILAR
19 WAYS AND YOU KNOW, ROLE WOULD BE ONE
20 INDICATION OF A CLUSTER THAT BEHAVES
21 SIMILARLY. BUT THERE ARE OTHER -- COULD BE
22 OTHER CLUSTER MODELS LIKE PEOPLE WHO READ

135

1 E-MAILS WHO DON'T, PEOPLE WHO FORWARD E-MAILS
2 VERSUS PEOPLE WHO DON'T.

3 Q. SO ONE CLUSTER WOULD BE THE SAME
4 PEOPLE WHO HAVE THE SAME JOB?

5 A. YES, THAT WOULD BE.

6 Q. AND ANOTHER CLUSTER IT MENTIONS
7 HERE IS JOB CODE.

8 DO YOU SEE THAT?

9 A. YEAH, I'M SURE IT'S IN THERE
10 SOMEWHERE, IT'S A VERY LONG SENTENCE.

11 Q. AND IF WE GO BACK TO OUR EXAMPLE
12 OF THE BANKER AND THE ANALYST, FOR EXAMPLE,
13 TWO ANALYSTS MIGHT BE IN A CLUSTER BECAUSE
14 THEY SHARE THE SAME JOB, RIGHT?

15 A. UH-HUH.

16 Q. OR THEY MAYBE IN A CLUSTER
17 BECAUSE THEY'VE BEEN ASSIGNED THE SAME JOB

♀

18 CODE AND THEY'RE WORKING ON THE SAME PROJECT

19 RIGHT?

20 A. YES.

21 Q. SO WE WOULD EXPECT THOSE TWO

22 ANALYSTS WHO ARE WORKING ON THE SAME JOB CODE

136

1 TO HAVE SIMILAR RELEVANCE ON THE SAME PIECE

2 OF CONTENT?

3 A. IF IT PERTAINS TO THAT JOB CODE,

4 YES.

5 Q. RIGHT.

6 OKAY.

7 AND THE SYSTEM HERE, WHILE IT

8 PRIMARILY DESCRIBES E-MAIL, IT CAN BE USED TO

9 MANAGE OTHER KINDS OF DOCUMENTS, AS WELL,

10 RIGHT?

11 A. YEAH, I MEAN, YOU KNOW THE

12 CONTEXT IN THE PATENT IS MESSAGING SYSTEMS

13 AND, YOU KNOW, REALLY CONTENT SENT BETWEEN

14 USERS, I MEAN, THAT COULD RELATE TO E-MAILS,

15 IT COULD RELATE TO MESSAGES, THAT ARE NOT

16 E-MAILS BUT ARE STILL SENT BETWEEN USERS, IT

17 COULD RELATE TO, I MEAN, REALLY, IF SOMEBODY,

18 YOU KNOW -- IF SOMEBODY POSTS SOMETHING TO A

19 GROUP OF USERS IN FACEBOOK, THAT IS STILL A

20 POST TO AN AUDIENCE AND THE AUDIENCE
21 INTERACTS WITH IT. SO ALL OF THOSE WOULD BE
22 EXAMPLES OF CONTENT THAT IS ALTERED BY ONE

137

1 USER AND SENT TO ANOTHER SET OF USERS WHO
2 THEN INTERACT WITH IT.

3 Q. SO IN THE BANKER AND ANALYST
4 EXAMPLE?

5 A. UH-HUH.

6 Q. SO THE ANALYST MIGHT LOOK AT
7 DOCUMENTS OUTSIDE OF E-MAIL.

8 A. SURE.

9 Q. AS PART -- RIGHT AND THOSE
10 DOCUMENTS WOULD STILL BE MANAGED WITHIN THE
11 SYSTEM?

12 A. DEPENDS HOW THEY'RE DOING THAT.
13 I MEAN, OBVIOUSLY THEY'RE LOADING MICROSOFT
14 WORD ATTACHMENTS AND THEY'RE GOING OFF
15 MICROSOFT WORD OUR APPLICATION WOULD NO
16 LONGER BE ABLE TO TRACK THAT BECAUSE IT HAD
17 GONE INTO I A THIRD PARTY APPLICATION. SO
18 WE'RE ONLY ABLE TO TRACK THE THINGS WE HAVE
19 VISIBILITY TO, BASED ON WHAT COMMISSIONS THE
20 OPERATING SYSTEM GRANTS US.

21 Q. SO AS LONG AS THE DOCUMENT MOVES

22 WITHIN THE CONFINES OF THE SYSTEM?

138

1 A. YES, IF IT'S AN ATTACHMENT AND
2 PEOPLE ARE FORWARDING THE SAME ATTACHMENT
3 AROUND, THE SYSTEM DOES RESOLVE THAT TO A
4 SINGLE, YOU KNOW, IF -- IF THEY BE ATTACHED
5 THE SAME DOCUMENT IT COMPUTES A HASH VALUE
6 AND RECOGNIZES IT'S THE SAME DOCUMENT, THEN,
7 YOU KNOW, ESSENTIALLY IT PINS THAT DOCUMENT
8 AS BEING ACCESSED BY THOSE NEW PEOPLE.

9 Q. CAN YOU GO TO COLUMN FIVE, 29
10 THROUGH 44?

11 A. OKAY. SURE.

12 Q. DO YOU WANT TO READ IT?

13 A. SO -- SO FROM, IN ONE OR MORE
14 EMBODIMENTS.

15 Q. YEAH, I DON'T NEED TO FORCE YOU
16 TO READ THE WHOLE THING, BUT THIS IS
17 DISCUSSING THE COMPLIANCE MODEL, CORRECT?

18 A. OKAY. I'LL PROBABLY HAVE TO READ
19 THE WHEEL THING.

20 Q. NO, I DON'T MEAN TO MAKE YOU READ
21 IT OUT LOUD.

22 A. YES THIS IS ALL ABOUT THE

139

1 COMPLIANCE MODEL.

2 Q. OKAY. SO IT'S DISCUSSING USING
3 THE COMPLIANCE MODEL AS PART OF A SEARCH
4 OPERATION, RIGHT?

5 A. YES. THIS IS MORE ABOUT ACCESS
6 RIGHTS AND NOT ABOUT RELEVANCE.

7 Q. RIGHT.

8 BUT IN THIS EXAMPLE, AN ANALYST
9 MAY HAVE THE RIGHT TO SEARCH ALL CONTENT
10 RELATED TO WHAT THAT ANALYST IS WORKING ON,
11 CORRECT?

12 A. YES.

13 Q. OKAY. AND SO THAT WOULD BE
14 DETERMINED THROUGH A JOB CODE FOR EXAMPLE?

15 A. YES.

16 Q. YEAH?

17 A. THAT'S ONE WAY OF DETERMINING IT,
18 YEAH. I MEAN THERE'S A WHOLE SECTION OF THE
19 PATENT THAT DESCRIBES THIS, BUT YES.

20 Q. OKAY. OKAY. I'M GOING TO SWITCH
21 ONTO OTHER TOPIC IF YOU WANT TO --

22 MR. PADMANABHAN: TAKE A SHORT

140

1 BREAK.

2 MR. PLAIL: YEAH.

♀
†

3 (BREAK TAKEN FROM 11:30 A.M. TO
4 11:35 A.M.)

5 MR. PLAIL: THIS HAS ALREADY
6 BEEN MARKED AS EXHIBIT 2006.

7 (WHEREUPON EXHIBIT NUMBER 2006
8 WAS SHOWN.)

9 A. YEAH.

10 (BY MR. PLAIL)

11 Q. DO YOU RECOGNIZE THIS DOCUMENT?

12 A. YEAH, I WROTE THIS ONE AND THE
13 FONT'S BIGGER, WHICH MAKES LIFE EASY.

14 (BY MR. PLAIL)

15 Q. CAN YOU TURN TO PAGE 52?

16 A. YEP.

17 Q. CAN YOU SEE THE SECTION ENTITLED
18 BRAIN DUMP?

19 A. YES, YEAH.

20 Q. SO THIS IS GOING OVER SOME OF THE
21 ALGORITHMS DISCLOSED IN THIS DOCUMENT AT A
22 HIGH LEVEL. RIGHT?

♀
†

141

1 A. UH-HUH.

2 Q. YEAH. BUT THIS IS NOT THE
3 COMPLETE WORK PRODUCT -- SORRY, STRIKE THAT.
4 THIS IS NOT THE COMPLETE SET OF ALGORITHMS

5 THAT EVENTUALLY MADE IT INTO THE PATENT,
6 CORRECT?

7 A. YES, THIS WAS IN THE CREATION
8 PROCESS OF THE, YOU KNOW, OF THE IDEA.

9 Q. ALL RIGHT. SO IF YOU GO, KEEP
10 SCROLL GO THROUGH TO PAGE 53...

11 A. YEAH.

12 Q. YOU'LL SEE THERE'S AN INITIAL
13 MATH'S SECTION?

14 A. UH-HUH.

15 Q. IT NOTES THERE THAT THIS IS
16 INITIAL MATH'S THAT HAS BEEN DRAFTED WITH A
17 MATH TISSUE BUT IS IN NEED OF SIGNIFICANT
18 CHANGES THAT IS INCLUDED HERE FOR COMPLETION
19 IN THE CURRENT DRAFT?

20 A. YEAH.

21 Q. THE MAT TISSUE YOU'RE REFERRING
22 TO, IS THAT PAUL MARSTON?

♀

142

1 A. YES, THAT'S, YES.

2 Q. OKAY. AND WHAT SIGNIFICANT
3 CHANGES WAS THE MATH IN NEED OF?

4 A. I -- I DON'T KNOW THE ANSWER TO
5 THAT. YOU COULD ASK HIM. I MEAN, I THINK
6 THIS WAS AN INTERIM MODEL ON THE PAST OF WHAT

7 BECAME THE FINAL PATENT. SO IT WAS JUST
8 BASICALLY, THIS WAS AN INTERNAL DOCUMENT, AND
9 IT JUST SORT OF SAID, THIS IS THE INITIAL
10 THOUGHTS ON THE MATHEMATICAL ALGORITHM AND
11 ITS IMPLEMENTATION, BUT YOU KNOW, IT'S GOING
12 TO NEED A LOT MORE THOUGHT TO GET TO A FINAL
13 PRODUCT AND SO YEAH, I MEAN, IT SORT OF THE,
14 YOU START WITH SOMETHING THEN YOU KIND OF
15 REFINE IT AND ADD TO IT AS YOU FIGURE OUT
16 MORE OF WHAT YOU'RE -- OF HOW THE INNOVATION
17 SHOULD WORK.

18 Q. OKAY. CAN YOU GO BACK TO
19 PAGE 59?

20 A. 51.

21 MR. PADMANABHAN: 50 WHAT?

22 MR. PLAIL: 51.

♀

143

1 A. YEAH OKAY.

2 (BY MR. PLAIL)

3 Q. IT SAYS HERE RELEVANCE IN BLOGS?

4 A. UH-HUH.

5 Q. WHAT IS -- WHAT IS THIS SECTION
6 REFERRING TO?

7 A. YEAH, I MEAN, THIS IS SAYING THAT
8 THERE WERE DIFFERENT CONTENT DELIVERY

9 MECHANISMS THAT THIS COULD BE APPLIED TO. SO
10 YOU KNOW, BLOGS, THIS IS MORE PEOPLE
11 PUBLISHING THINGS, YOU KNOW, AS -- SO THIS IS
12 MORE OF A SEND IT OUT BROADLY AS OPPOSED TO
13 A -- A MESSAGE. SO I THINK THIS IS SORT OF A
14 THROW AWAY, YOU KNOW, WE COULD APPLY THE SAME
15 THING TO BLOGS, SAY, I THINK THAT WE EVER --
16 WE EVER REALLY PURSUED THAT IN DETAIL, BUT
17 YOU KNOW, IT'S AGAIN, RECORDING USER
18 INTERACTIONS AS A MECHANISM FOR SCORING
19 RELEVANT SCORES FOR CONTENT. THAT ARE
20 INDIVIDUALIZED TO THE USERS.

21 Q. SO THIS IS USING THE RELEVANCE
22 BASED MODELS FROM THE MAIL ENVIRONMENT IN

144

1 MORE OF A WEB BASED APPLICATION?

2 A. IT'S A DIFFERENT TYPE OF -- BLOGS
3 ARE MORE LIKE WHEN YOU'RE PUBLISHING
4 SOMETHING, RIGHT SO IT'S NOT WHETHER IT'S
5 DELIVERED THROUGH A THICK APPLICATION OR A
6 WEB APPLICATION, DOESN'T MAKE ANY DIFFERENCE,
7 IT'S MORE, YOU KNOW IN A BLOG YOU'RE LIKE
8 PUBLISHING A PIECE OF CONTENT AND THEN SEEING
9 HOW PEOPLE INTERACT WITH IT.

10 I MEAN, IN SOME WAYS, YOU KNOW,

11 IF I PUBLIC A MESSAGE TO FACEBOOK, I CAN
12 PUBLISH IT TO EVERYBODY IN THE UNIVERSE, I
13 CAN PUBLISH IT TO A SUBSET OF PEOPLE WHICH
14 REALLY IS A LOT LIKE A MESSAGE BECAUSE I'M
15 SENDING IT TO THIS CIRCLE OF MY FRIENDS, AND
16 EVEN IF I PUBLISH IT TO THE UNIVERSE THE
17 PLATFORM MAY STILL DECIDE TO LIMIT ITS
18 DISTRIBUTION BASED ON SOME ALGORITHM. SO YOU
19 KNOW, I THINK THERE'S A FUZZY LINE BETWEEN
20 PUBLISHING STUFF WITH AUDIENCES AND SENDING
21 MESSAGES TO PEOPLE. IN BOTH CASES I'M
22 WRITING A PIECE OF CONTENT AND MAKING IT

♀

145

1 AVAILABLE TO A SET OF END USERS.

2 Q. IT SAYS HERE AT THE BOTTOM, FOR
3 BREAST RELEVANCE IN BLOGS IS NOT DESCRIBED IN
4 FULL. AS IT IS A -- AS IT IS HIGHLY
5 ANALOGOUS TO THAT OF MAIL REFERENCE?

6 A. YEAH, I MEAN, I DON'T KNOW -- I
7 THINK THAT THE -- I MEAN, I THINK IT IS LIKE
8 A THROW AWAY SECTION IN A WHITE PAPER THAT
9 WAS NEVER INCLUDED IN A PATENT.

10 YOU KNOW THE IDEA OF TRACKING ALL
11 THE THINGS THAT THE USER IS DOING IN READING
12 CONTENT SAY IN A CORPORATE BLOG ENVIRONMENT,

13 IT COULD BE SIMILAR, IT COULD BE INTEGRATED
14 INTO THE SAME, YOU KNOW, IF I'VE GOT A SET OF
15 BLOGS AND I'VE GOT A SET OF MAIL MESSAGES, I
16 COULD USE THE SAME ALGORITHM TO ANALYZE BOTH,
17 BUT I MEAN, I DON'T THINK ANY OF THE CLAIMS
18 OF THE PATENT CLAIM BLOGS, SO YOU KNOW, I
19 THINK THIS WAS JUST PART OF THE CREATION
20 PROCESS.

21 (BY MR. PLAIL)

22 Q. BUT JUST TO FOCUS ON THIS ONE

♀

146

1 SECTION, YOU SAY IT'S HIGHLY ANALOGOUS, SO
2 YOU'RE SAYING THAT THE KIND OF READING THESE
3 CORPORATE BLOGS AND DETERMINING THE RELEVANCE
4 OF CORPORATE BLOGS COULD BE HIGHLY ANALOGOUS
5 TO THE MAIL BASED ENVIRONMENT THAT WE'VE BEEN
6 DISCUSSING PREVIOUSLY?

7 A. SO IF YOU KNOW ALL OF -- IF YOU
8 KNOW ALL THE USERS IN A CORPORATE BLOG
9 ENVIRONMENT AND YOU KNOW WHO -- WHICH PEOPLE
10 ARE ALLOWED TO READ EACH BLOG BASED ON SOME
11 ACCESS RATE OVERVIEW, THEN YOU HAVE THE SAME
12 RICHNESS OF USER DATA OF WHO'S INTERACTED
13 WITH EACH OF THEM AND HOW AND YOU HAVE A
14 DISTRIBUTION SET OF DATA ABOUT WHO'S

15 PERMITTED TO ACCESS EACH OF THOSE, YOU KNOW,
16 IT WOULD BE POSSIBLE TO CONSTRUCT A SIMILAR
17 MODEL THAT IS, YOU KNOW, BASED ON THE
18 AUTHORS, BASED ON THE CONTENT IT'S ABOUT, ANY
19 META TAGS THAT IT'S TAGGED WITH, YOU COULD
20 BUILD A RELEVANCE MODEL ON THE BACK OF THAT,
21 I THINK THAT'S WHAT THIS IS SAYING.

22 Q. CAN YOU GO TO PAGE 53 AGAIN REAL

147

1 QUICK?

2 MR. PADMANABHAN: 53?

3 MR. PLAIL: YES.

4 A. OKAY.

5 (BY MR. PLAIL)

6 Q. SAYS HERE, WE NEED TO BUILD THE
7 IDEA, WE NEED TO BUILD IN THE IDEA OF A IF HE
8 HAD RATED WEIGHTING MODEL. WHAT DOES THAT
9 MEAN?

10 MR. PADMANABHAN: WE ALSO NEED
11 TO BUILD IN THE...

12 A. OKAY. LET ME READ THIS. OKAY.
13 I KNOW WHAT THIS MEANS. THIS MEANS THAT, YOU
14 KNOW, WE WANT TO BE ABLE TO LEARN FROM --
15 LET'S SAY THAT 20 COMPANIES IMPLEMENT THIS.
16 WE DON'T WANT THE -- WE DON'T

♀

17 WANT TO HAVE TO START FROM SCRATCH WITH
18 COMPANY 21. WE WANT TO BE ABLE TO TAKE THE
19 WEIGHTINGS, THE -- YOU KNOW, THE -- I MEAN,
20 THIS IS REALLY KIND OF BEFORE MUCH AI STUFF
21 WAS AROUND BUT NOW, YOU KNOW, WEIGHTS AND
22 STATISTICAL MODELS ARE KNOWN TO BE INCREDIBLY

148

1 IMPORTANT. SO HOW MUCH WEIGHTING SHOULD I
2 GIVE TO, YOU KNOW, THIS TYPE OF ACTION OR --
3 OR EVENT VERSUS THIS OTHER TYPE OF ACTION OR
4 EVENT. SO ALL IT TURNS OUT THAT IF THEY
5 FORWARDED THE MESSAGE, THEN THAT'S A REALLY
6 GOOD INDICATOR OF RELEVANCE, WHEREAS IF THEY,
7 YOU KNOW, DELETE IT, THAT'S NOT A GOOD
8 INDICATOR OF RELEVANCE. SO YOU KNOW, WE'D
9 WANT TO COLLECT THE DATA LIKE SANITIZED USER
10 DATA. WE DON'T NEED TO KNOW THE USER'S
11 NAMES, PUT THEM ON A COLLECT WEIGHTING VALUE
12 FROM EACH OF THESE ACTIONS FROM ALL OF OUR
13 CUSTOMERS AND FEDERATE THAT BACK INTO A
14 UNIFIED MODEL BECAUSE IT INCREASES THE SAMPLE
15 SIZE THAT WE'RE LEARNING FROM FOR THE OUT OF
16 THE BOX WEIGHT AND NEW IMPLEMENTATIONS.

17 (BY MR. PLAIL)

18 Q. I SEE.

19 (WHEREUPON EXHIBIT NUMBER 3 WAS
20 MARKED FOR IDENTIFICATION.)
21 (BY MR. PLAIL)

22 Q. DO YOU RECOGNIZE THIS DOCUMENT?

149

1 A. NO.

2 Q. DO YOU SEE AT THE TOP WHERE IT
3 SAYS HI JON AND JUSTIN?

4 A. YEAH.

5 Q. WOULD THAT REFER -- WHO IS JON?

6 A. THAT'S JON, FERN YO, I THINK IT
7 WAS FERNYHOUGH, I THINK.

8 Q. SO THIS APPEARS TO BE A LETTER TO
9 YOU AND JON?

10 A. UH-HUH.

11 Q. CORRECT?

12 WHO WROTE THIS?

13 A. I DON'T -- I'M NOT CONFIDENCE IN
14 THE ANSWER TO THAT. I WOULD GUESS IT'S MY
15 FATHER, BUT THAT WOULD BE A GUESS. NO, I
16 GUESS IT WOULD BE PAUL MARSTON.

17 Q. AND IT APPEARS THAT ONE OF THE
18 ISSUES THIS DOCUMENT IS DISCUSSING IS THE
19 SCALABILITY OF THE SYSTEM; IS THAT FAIR?

20 A. UH-HUH.

21 Q. AND WAS SCALABILITY A MAJOR
22 ISSUE?

150

1 A. YES.

2 Q. EARLY ON? WHAT WAS THE PROBLEM
3 WITH SCALABILITY?

4 A. THERE'S A MASSIVE AMOUNT OF
5 COMPUTER STUFF TO FIGURE OUT. I MEAN,
6 IT'S -- THESE ARE ENORMOUS, ENORMOUS MULTI
7 VARIANT MODELS. TODAY THOSE MODELS ARE, I
8 MEAN, THAT IS THE BASIS OF A LOT OF SOCIAL
9 PLATFORMS AND FACEBOOK HAS QUITE A FEW
10 SERVERS TO WORK ON THIS PROBLEM.

11 Q. SO THIS DOCUMENT IS SUGGESTING
12 FOUR DIFFERENT WAYS TO DEAL WITH THE
13 SCALABILITY PROBLEM?

14 A. YEAH.

15 Q. IS THAT RIGHT?

16 DID YOU END UP IMPLEMENTING ANY
17 OF THESE FOUR DIFFERENT WAYS TO ADDRESS THE
18 SCALABILITY PROBLEM?

19 A. WE NEVER IMPLEMENTED THE DETAIL
20 OF THE -- THE ALGORITHM IN CODE. SO THIS WAS
21 A DISCUSSION OF DIFFERENT WAYS TO CALCULATE
22 THEIR COGNATE RELEVANCE AND HOW OFTEN YOU

1 CALCULATE IT. CLEARLY, IF YOU CALCULATE
 2 ALL -- IF YOU RECALCULATE EVERY SINGLE
 3 ATTRIBUTE EVERY TIME ANYBODY TOUCHES ANY
 4 PIECE OF CONTENT, YOU WOULD HAVE A INFINITELY
 5 DIFFICULT MATH PROBLEM. I MEAN, IT WOULD --
 6 IT'S VERY HARD TO KEEP UP SO THE QUESTION
 7 FROM A MATHEMATICAL IMPLEMENTATION IS
 8 DIFFERENT THAN FROM, YOU KNOW, I MEAN, YOU
 9 COULD IMPLEMENT SOMETHING AND AS LONG AS
 10 THERE'S ONLY TEN USERS AND YOU'VE GOT A
 11 SUITABLE INVESTOR IT WOULD STILL FUNCTION BUT
 12 AS THE NUMBER OF USERS GROWS, THE -- YOU
 13 KNOW, THE NUMBER OF COMPUTER STUFF YOU HAVE
 14 TO DO GROWS, SO HOW DO YOU DECIDE THE MOST
 15 EFFICIENT WAY TO DEVELOP, YOU KNOW, THE
 16 FREQUENCY OF CALCULATING THE MATH? I THINK
 17 THAT'S WHAT THIS IS ABOUT.

18 Q. OKAY. AND HOW DID YOU ADDRESS
 19 THE SCALABILITY PROBLEM IN THE PATENT?

20 A. WELL, THE PATENT, THE PATENT IS
 21 DESCRIBING THE MATHEMATICS OF HOW THE SYSTEM
 22 WORKS. AND WE CAN ASSUME, YOU KNOW, A

1 INCREDIBLY POWERFUL COMPUTER DOING IT. BUT

2 OBVIOUSLY, YOU KNOW, TO COME TO A COST
3 EFFECTIVE IMPLEMENTATION, YOU NEED TO THINK
4 ABOUT, YOU KNOW, WHAT IS SENSIBLE GIVEN THE
5 VALUE OF THE SYSTEM AND NOT WANTING TO TIE UP
6 THE WHOLE OF THE WEB SERVER SERVICES IN
7 TRYING TO COMPUTE IT. SO I THINK THIS IS
8 DISCUSSING IMPLEMENTATION LEVEL DETAIL OF ONE
9 VARIANT OF THE INNOVATION AS DESCRIBED IN THE
10 PATENT, YOU KNOW, TO TRY AND MAKE THAT
11 COMPUTE LOAD BE LESS.

12 Q. AND ONE WAY TO DO THAT WAS TO
13 CHANGE THE ALGORITHMS SLIGHTLY SO THAT
14 THEY'RE MORE EFFICIENT, RIGHT?

15 A. I MEAN, YES, IT'S THE -- IT'S THE
16 RATE AT WHICH YOU RECALCULATE SPECIFIC
17 VALUES. THAT'S WHAT THIS IS TALKING ABOUT.

18 Q. UH-HUH.

19 A. SO DO YOU DO IT PERIODICALLY ON A
20 REVIEW BASIS, DO YOU DO IT EVERY TIME, I
21 MEAN, THE FIRST ONE WOULD BE THE MOST COMPUTE
22 INTENSIVE. YOU HAVE TO DO IT EVERY TIME.

♀

153

1 AND THEN, YOU KNOW, EACH OF THESE IS THEN
2 COMING UP WITH WAYS TO -- TO COMPUTE IT LESS
3 FREQUENTLY AND STILL HAVE AN APPROXIMATION TO

4 THE -- THE MOST ACCURATE POSSIBLE VALUE AND
5 IT'S A TRADE OFF BETWEEN COMPUTE COST AND
6 ACCURACY.

7 Q. OKAY. SO JON WAS HELPING YOU
8 SOLVE THE SCALABILITY PROBLEM?

9 A. I MEAN, JON FERN HO WAS A GENERAL
10 SOFTWARE DEVELOPER WHO WAS PART OF MY
11 EMPLOYEE -- HE WAS ONE OF MY EMPLOYEES.
12 HE -- HIS MATH WASN'T PARTICULARLY STRONG.
13 HE WAS MORE OF A GENERAL DEVELOPER.
14 ULTIMATELY, TO FULLY REFINE AND DEVELOP THIS,
15 YOU KNOW, WE -- WE LOOK AT WHO A FREE SPIRIT
16 OR SOMEBODY WOULD HIRE TO DO ON THIS AREA
17 CALLED DATA SCIENTISTS AND THEY HAVE I OBJECT
18 INCREDIBLY STRONG STATISTICAL BACKGROUNDS,
19 YOU KNOW, SO WHEN YOU LOOK THROUGH THE
20 COMMENTS HE WROTE. HE WAS WAY OUT OF HIS
21 DEPTH AND I'M THINKING ABOUT HOW TO REDUCE
22 THIS -- THIS ACTUAL CODE AND MAKE IT FUNCTION

♀
†

154

1 IN SCALE. BUT -- BUT HE WAS THE, YOU KNOW,
2 HE WAS THE RESOURCE WE HAD, SO...

3 Q. BUT THIS LETTER IS SPECIFICALLY
4 TO JON AND YOU, RIGHT?

5 A. YEAH, MY DAD SENT IT TO BOTH OF

6 THE US. I MEAN, JON WAS TRYING TO REVIEW IT
7 AND SEE IF HE COULD ADD VALUE. I MEAN, HE
8 DIDN'T REALLY ADD ANY VALUE OR MAKE -- MAKE
9 ANY SUGGESTIONS THAT MADE IT INTO CHANGES IN
10 THE PATENT. HE WAS JUST TRYING TO THINK
11 ABOUT WHAT WOULD IT TAKE TO IMPLEMENT THE --
12 THE MATH AND THE INNOVATIONS DESCRIBED IN THE
13 PATENT IN REAL LIFE AND YOU KNOW, WHAT WOULD
14 BE THE CHALLENGES IN -- AND HOW MUCH
15 COMPUTERS, WHAT WOULD YOU NEED TO COMPUTER
16 SYSTEMS TO DO IT.

17 Q. SO AT THIS TIME, THOUGH, JON WAS
18 HELPING YOU WORK ON SCALABILITY ISSUE?

19 A. HE WAS TRYING TO ADVISE ON WHAT
20 IT WOULD TAKE AND WAYS TO MAKE THE THING
21 PERFORM BETTER ON, YOU KNOW, LESS EXPENSIVE
22 COMPUTER HARDWARE.

♀

155

1 Q. I'M GOING TO MARK THIS AS FOUR.

2 (WHEREUPON EXHIBIT NUMBER 4 WAS
3 MARKED FOR IDENTIFICATION.)

4 (BY MR. PLAIL)

5 Q. DO YOU RECOGNIZE THIS DOCUMENT?

6 A. NO.

7 Q. THIS IS ANOTHER LETTER TO YOU AND

8 JON, DOES THAT APPEAR TO BE CORRECT?

9 A. YES, THAT APPEARS TO BE RIGHT.

10 Q. AND THIS IS FROM OCTOBER OF 2005?

11 A. THAT IS THE DATE THAT'S MARKED ON
12 IT. YES.

13 Q. WHO WROTE THIS DOCUMENT?

14 A. WELL, IT SAYS PAUL, SO I'M GOING
15 TO GUESS PAUL MARSTON.

16 Q. OKAY. AND SO WHAT -- WHAT IS
17 THIS DOCUMENT ABOUT?

18 A. OKAY. WELL, LET ME READ IT FOR A
19 SECOND.

20 YEAH, SO I THINK THIS IS MY
21 FATHER CREATING A CLEAN VERSION OF THE
22 DOCUMENT WITH SOME OF THE TRACKED CHANGES

156

1 RESOLVED AND HE IS, YOU KNOW, HE'S CONTINUING
2 TO THINK ABOUT THE COMPUTATIONAL COST AND
3 WHERE IT MAKE SENSE TO SEND THAT
4 COMPUTATIONAL COST AND WHERE IT DOESN'T.
5 NOW, AGAIN IF YOU'RE YOU KNOW, BUILDING A
6 SYSTEM TODAY, THE COST OF COMPUTE IS
7 DRAMATICALLY LESS THAN IT WAS IN 2005 AND THE
8 WHOLE SOFTWARE SYSTEMS DESIGNED TO ALLOW
9 MASSIVELY COMPLEX DISTRIBUTED COMPUTE MODELS,

♀
†

10 THEY DIDN'T REALLY EXIST BACK IN 2005.

11 SO THE IDEALIZED IMPLEMENTATION

12 OF THE MATH WOULD BE TO RECALCULATE

13 EVERYTHING ALWAYS IN REAL TIME AND, YOU KNOW,

14 THAT MIGHT BE MORE FEASIBLE TODAY THAN IT WAS

15 BACK IN 2005 BECAUSE COMPUTERS GOT CHEAPER.

16 Q. THIS DOCUMENT MENTIONS I'VE ALSO

17 INSERTED A SECTION SUGGESTING IDENTIFICATION

18 OF COGNATE USERS BY CORRELATING LOCAL

19 IMPORTANCE TO THIS.

20 DO YOU SEE THAT?

21 A. UH-HUH.

22 Q. SO PAUL MARSTON IS INDICATING

157

1 THAT HE'S ADDED A SECTION ABOUT CALCULATING

2 OR SORRY, PAUL MARSTON IS INDICATING THAT HE

3 HAS ADDED A SECTION ABOUT IDENTIFICATION OF

4 COGNATE USERS AND ONE WAY OF DOING THAT IS

5 CORRELATING THE LOCAL IMPORTANCE?

6 A. YES.

7 Q. AND THAT WOULD BE ONE WAY TO

8 ADDRESS THE SCALABILITY ISSUE IS TO CORRELATE

9 THE LOCAL IMPORTANCE BETWEEN USERS?

10 A. YES, THAT'S WHAT HE'S SUGGESTING.

11 Q. YEAH. AND SO THIS WOULD BE A

♀
†

12 CHANGE TO THE ALGORITHMS IN ORDER TO FOCUS
13 THEM ON CORRELATING THE USERS, RIGHT?
14 A. I MEAN, YEAH, IT WOULD BE A
15 CHANGE IN THE WEIGHTINGS OF WHICH VALUES YOU,
16 YOU KNOW, YOU GIVE MORE WEIGHT, MORE, YOU
17 KNOW, YOU KNOW, I DON'T WANT TO USE
18 IMPORTANCE, REALLY, JUST LET'S JUST SAY
19 WEIGHT TO, SO YOU KNOW, I MEAN, IT'S --
20 AGAIN, GOING THROUGH THE CREATION PROCESS AND
21 SAYING, HEY, WE COULD IN ONE IMPLEMENTATION,
22 WE COULD SIMPLIFY SOME OF THE MATH, YOU KNOW,

158

1 THE COMPUTE REQUIRED, BY CORRELATING LOCAL
2 IMPORTANCE AS AN APPROXIMATION TO A PERFECT
3 VALUE.

4 Q. AND AT THIS TIME, JON WAS STILL
5 WORKING WITH YOU AND PAUL MARSTON ON THE WEB
6 PAPER DOCUMENT, RIGHT?

7 MR. PADMANABHAN: I'M SORRY,
8 WHAT WAS THE LAST WORD YOU SAID.

9 MR. PLAIL: WHITE PAPER
10 DOCUMENT.

11 A. I MEAN, JON WAS REVIEWING IT.
12 JON'S MAIN JOB WAS CREATING THE CODE OF
13 TRANSMAIL, I MEAN, THAT'S WHAT HE WAS HIRED

♀

14 TO DO IT. HE WAS WRITING THE BACK END CODE,
15 THAT POWERED THE REGULAR TRANSMAIL SYSTEM SO
16 THIS WAS REALLY A SIDE TASK FOR HIM TO TRY
17 AND GIVE, YOU KNOW, OPINIONS AND SUGGESTIONS
18 ON HOW THE SYSTEM COULD BE IMPLEMENTED WITH
19 COMPUTATIONAL EFFICIENCY BUT HIS, YOU KNOW,
20 SO I MEAN, HE -- HE REALLY DIDN'T DO A LOT ON
21 THIS. HE JUST GAVE SOME THOUGHTS AND
22 FEEDBACK, BUT HIS MATH AND STATISTICS WERE

♀
†

159

1 NOT STRONG ENOUGH TO -- YOU KNOW, HE WAS NOT
2 A COMPUTATIONAL, HE WASN'T A MATHEMATICAL, HE
3 WASN'T REALLY LIKE A MATH COMPUTATIONAL
4 SOFTWARE DEVELOPER, HE WAS A GENERAL BACK END
5 WRITE JAVA TYPE DEVELOPER, YOU KNOW, THE
6 PEOPLE WHO WORK THESE GROUPS IN THE PEOPLE
7 WHO WORK AS DATA SCIENTISTS, AGAIN, THEY HAVE
8 TO HAVE MUCH DEEPER MATHEMATICAL FOUNDATIONS
9 THAN JON EVER HAD, SO.

10 (BY MR. PLAIL)

11 Q. BUT JON WAS WORKING WITH YOU ON
12 THIS PROJECT AT THE TIME?

13 A. JON WAS ATTEMPTING TO PROVIDE
14 FEEDBACK TO ME ON THE PATENT THAT I WAS
15 WRITING.

16 Q. CAN WE GO BACK TO 2006?
17 A. OKAY. THIS IS THE WHITE PAPER,
18 THIS ONE?
19 Q. YES.
20 A. OKAY. YEAH.
21 Q. I'M GOING TO ASK YOU TO KIND OF
22 KEEP THAT OPEN AND I'M GOING TO GIVE YOU A

♀
†

160

1 SECOND DOCUMENT TO LOOK AT IN PARALLEL.
2 A. SURE.
3
4 Q. SO YOU SAID JON WAS WORKING ON
5 THE SOFTWARE IMPLEMENTATION, RIGHT?
6 A. JON WAS WORKING ON THE SOFTWARE
7 IMPLEMENTATION OF THE -- OF THE TRANSMAIL
8 PLATFORM.
9 Q. THIS HAS ALREADY BEEN MARKED AS
10 EXHIBIT 1003.
11 (BY MR. PLAIL)
12 Q. THIS IS THE PROVISION PATENT
13 APPLICATION THAT LED TO THE '217 PATENT?
14 A. OKAY, YEAH.
15 Q. I'M GOING TO ASK YOU TO TURN TO
16 PAGE 83.
17 A. (COMPLYING.) OKAY.

♀

18 Q. THIS IS A SECTION 11 TITLED
19 SOFTWARE IMPLEMENTATION.

20 DO YOU SEE THAT?

21 A. NO, IS THAT ON THE PAGE?

22 Q. ON THE VERY TOP, IN THE --

161

1 A. YEAH YEAH YEAH RIGHT RIGHT.

2 Q. AND SO THIS IS TALKING ABOUT THE
3 IMPLEMENTATION, YOU KNOW A PHASED APPROACH OF
4 THE MATHEMATICAL MODELS INTO CODE; IS THAT
5 CORRECT?

6 A. YES.

7 Q. OKAY. IS THIS SOMETHING THAT JON
8 WAS HELPING YOU WITH?

9 A. NO, WE NEVER GOT THAT EVER.

10 Q. AND WHO HELPED PUT TOGETHER THE
11 SOFTWARE IMPLEMENTATION?

12 A. I DON'T THINK THAT WE OURSELVES
13 REDUCED THIS TO SOFTWARE. I THINK THAT WE
14 HAD IT IN THE MATHEMATICAL MODEL BUT I DON'T
15 THINK WE EVER GOT TO OURSELVES ATTEMPTING A
16 SOFTWARE CODE THAT WENT TO IMPLEMENTATION.

17 Q. WHAT ABOUT THIS SOFTWARE
18 IMPLEMENTATION HERE?

19 A. THIS MATHEMATICAL MODEL?

♀
†

20 Q. THE NAME OF THE SECTION'S
21 SOFTWARE IMPLEMENTATION?

22 A. WELL, THIS IS DESCRIBING, YES --

162

1 I MEAN, THIS IS DESCRIBING -- THE MATH
2 INCREMENTAL IMPLEMENTATION IN SOFTWARE AS THE
3 MODEL GETS MORE COMPLEX BY ADDING IN MORE
4 FUNCTIONS AND TERMS.

5 SO IT'S -- YOU START WITH IT
6 SIMPLE AND THEN YOU ADD IN MORE COMPLEXITY,
7 YOU KNOW, COLLECTIVELY.

8 THERE'S A DEFINITION OF COMMUNAL
9 FILTERING HERE, TOO, IF YOU WANT IT.

10 Q. IF YOU'D LOOK AT PAGE 86?

11 A. OKAY.

12 Q. IT'S DISCUSSING COMPUTATIONAL
13 ISSUES.

14 DO YOU SEE THAT?

15 A. YES.

16 Q. IT SAYS THAT IT SHOULD BE
17 APPARENT THAT THE BLUESPACE TRANSMITTAL
18 RELEVANT SYSTEM INVOLVES A HIGHLY COMPLEX
19 NEXUS OF INTERRELATIONSHIPS?

20 A. UH-HUH.

21 Q. IS THIS THE SCALABILITY PROBLEM

♀
†

22 YOU WERE TALKING ABOUT BEFORE?

163

1 A. YES.

2 Q. AND SO THIS WAS STILL A
3 COMPUTATIONAL ISSUE AT THIS TIME?

4 A. YES.

5 Q. OKAY. SO SINCE WE HAVE BOTH
6 OPEN, IF WE GO TO 2006 --

7 A. UH-HUH.

8 Q. -- IF YOU GO TO PAGE 57?

9 A. YEAH.

10 Q. I WANT YOU TO KIND OF LOOK
11 THROUGH 51, JUST KIND OF SCROLL THROUGH 51,
12 WHICH -- I'M SORRY, 52 THROUGH 57, YOU'LL SEE
13 THAT'S THE MATH SECTION OF 2006; IS THAT
14 RIGHT?

15 MR. PADMANABHAN: 57 FOR ME,
16 THE CONCLUSION?

17 MR. PLAIL: YEAH, YEAH.

18 THE WITNESS: YEAH, HE'S AT THE
19 PREVIOUS PAGES.

20 A. YEAH, OKAY. YEAH.

21 (BY MR. PLAIL)

22 Q. NOW, IF WE GO BACK TO -- YOU'LL

♀
†

164

1 NOTICE IT JUST GOES DIRECTLY TO THE
2 CONCLUSION, RIGHT?
3 A. AFTER THAT, YES.
4 Q. YES. AND SO THERE'S NO SOFTWARE
5 IMPLEMENTATION SECTION?
6 A. NOT IN THIS DOCUMENT, NO.
7 Q. NOW, IF WE SCROLL BACK TO PAGE 59
8 OF 1,003...
9 A. (COMPLYING.) YEP.
10 Q. YOU CAN KIND OF SCROLL FORWARD
11 THROUGH THOSE PAGES, KEEP GOING, IT GOES FOR
12 QUITE SOME TIME, RIGHT?
13 A. YEAH.
14 Q. AND SO THE ALGORITHMIC MATH
15 SECTION IN 1,003 IS DIFFERENT THAN THE
16 ALGORITHMIC MATH SECTION IN 2006, RIGHT?
17 A. YES.
18 Q. ALL RIGHT. AND THERE'S BEEN
19 SIGNIFICANT CHANGES TO THAT SECTION?
20 A. THERE HAVE BEEN CHANGES.
21 Q. UH-HUH. ALL RIGHT. I'M GOING TO
22 ASK YOU TO GO BACK TO 1,043?

⌘

165

1 A. 1,000 AND...
2 Q. 43, THIS DOCUMENT.

3 A. OKAY. YEAH, OKAY.

4 Q. DO YOU SEE THAT THIS APPLICATION
5 LISTS INVENTORS AS YOURSELF AND ANDREW HATCH?

6 A. YES.

7 Q. WHO IS ANDREW HATCH?

8 A. HE WAS MY COFOUNDER AT BLUESPACE.

9 Q. AND HOW LONG WAS HE AT BLUESPACE?

10 A. I CAN'T RECALL, HE WAS THERE FOR
11 SEVERAL YEARS.

12 Q. ALL RIGHT. AND WHEN ROUGHLY DID
13 MR. HATCH LEAVE?

14 A. I CAN'T REMEMBER.

15 Q. OKAY.

16 A. PROBABLY, I MEAN, IT WAS AROUND
17 THE TIME THAT I MOVED TO THE U.S. SO YOU
18 KNOW, SOMETIME IN -- SOMETIME BETWEEN 2005
19 AND 2008 BUT I MEAN, I'M SURE IT'S ON HIS
20 LINKEDIN OR SOMEWHERE.

21 Q. AND WHAT WAS MR. HATCH'S ROLE?

22 A. HE WAS CT O. HE WAS, YOU KNOW,

♀
†

166

1 INITIALLY A CT O AND THEN BECAME A SOFTWARE
2 DEVELOPER IN THE COMPANY.

3 Q. CHIEF TECHNOLOGY OFFICER?

4 A. WHEN WE STARTED HE WAS THE CHIEF

5 TECHNOLOGY OFFICER.

6 Q. AND HE WORKED ON A NUMBER OF
7 BLUESPACE PROJECTS, CORRECT?

8 A. YES.

9 Q. AND DID HE HAVE ANY INVOLVEMENT
10 WITH THE RELEVANCE SYSTEM DESCRIBED IN THIS
11 PATENT?

12 A. NO.

13 Q. HE DID NOT WORK ON THAT SOFTWARE
14 AT ALL?

15 A. NO, NOT AT ALL.

16 Q. BUT HE DID WORK ON THE RELATIONAL
17 MODEL?

18 A. YES.

19 Q. YEAH. AND THIS PATENT
20 APPLICATION IS DESCRIBING THE RELATIONAL
21 MODEL?

22 A. YES.

♀

167

1 Q. WHOSE TOMMY MORTON JONES?

2 A. TOMMY MORTON JONES IS A -- WAS A
3 COLLEAGUE OF MY FATHER IN THE STATISTICS
4 DEPARTMENT AT UNIVERSITY OF CENTRAL
5 LANKASHIRE.

6 Q. AND MR. JONES COMMENTED ON AT

7 LEAST ONE DRAFT OF THE ALGORITHM SECTION OF
8 THE --

9 A. YEAH, I BELIEVE HE GAVE SOME VERY
10 HIGH LEVEL THOUGHTS TO MY FATHER AS YOU KNOW,
11 WE WERE LOOKING AROUND TO GET FEEDBACK ONLY
12 THE INNOVATION.

13 Q. OKAY. AND WAS MR. JONES EVER
14 EMPLOYED BY BLUESPACE?

15 A. NO.

16 Q. WAS MR. JONES INVOLVED IN ANY
17 OTHER WAY WITH BLUESPACE?

18 A. NO.

19 Q. DO YOU PERSONALLY KNOW MR. JONES?

20 A. NO, I MEAN, I MIGHT HAVE MET HIM
21 ONCE, MAYBE, BUT I'M NOT SURE BUT I DO NOT
22 KNOW HIM.

♀

168

1 Q. SO AS IT RELATES TO THIS PROJECT,
2 DID YOU DIRECT -- DID YOU INTERACT DIRECTLY
3 WITH MR. JONES?

4 A. NO, I DON'T BELIEVE SO.

5 Q. SO THESE COMMUNICATIONS WOULD
6 HAVE GONE THROUGH PAUL MARSTON?

7 A. MY FATHER, YEAH.

8 Q. DID YOUR FATHER SEND A COPY OF

9 THE INITIAL WHITE PAPER DOCUMENT TO

10 MR. JONES?

11 A. YOU SHOULD ASK HIM THAT QUESTION,
12 BUT I BELIEVE HE DID SHARE SOMETHING AT SOME
13 POINT IN TIME.

14 Q. DO YOU KNOW IF MR. JONES WAS
15 UNDER ANY NDA OBLIGATIONS?

16 A. I DON'T KNOW THE ANSWER TO THAT.
17 I MEAN, IMPLICITLY. I'M SURE MY FATHER WOULD
18 HAVE SAID, THIS IS CONFIDENTIAL, BUT I --
19 YOU'D HAVE TO ASK HIM THAT.

20 Q. OKAY. THIS HAS ALREADY BEEN
21 MARKED AS 2047.

22 (WHEREUPON EXHIBIT NUMBER 2047

169

1 WAS SHOWN.)

2 (BY MR. PLAIL)

3 Q. DO YOU RECOGNIZE THIS DOCUMENT?

4 A. NOT REALLY. I MEAN, IT'S ANOTHER
5 ONE OF MANY DOCUMENTS THAT LOOKS FAMILIAR.

6 Q. THIS IS MR. JONES'S COMMENTS ON
7 THE RELEVANCE FORMULA?

8 A. OKAY.

9 Q. I BELIEVE IN YOUR DECLARATION YOU
10 INDICATE THAT THE REDLINED PORTIONS ARE

♀
†

11 MR. JONES'S ADDITIONS; IS THAT RIGHT?
12 A. I DON'T RECALL THAT RIGHT NOW.
13 Q. YOU DON'T RECALL WHETHER THESE
14 ARE MR. JONES'S?
15 A. OKAY. WHICH -- I GUESS I'LL NEED
16 TO REFER TO MY DECLARATION.
17 Q. SURE.
18 A. WHICH DECLARATION WAS IT.
19 Q. IT WOULD BE IN 2030.
20 A. 20... 2,003 OR --
21 Q. YES. 20 -- 2030.
22 A. OKAY. OKAY. WHICH PAGE?

♀
†

170

1 (WHEREUPON EXHIBIT NUMBER 2030
2 WAS SHOWN.)
3 (BY MR. PLAIL)
4 Q. IT WOULD BE IN PARAGRAPH 58,
5 WHICH STARTS ON PAGE 21.
6 A. OKAY.
7 Q. SO THE REDLINES IN THIS DOCUMENT
8 ARE ADDITIONS BY MR. JONES?
9 A. YES, THAT'S WHAT I GUESS I
10 BELIEVE FROM READING MY DECLARATION, YES.
11 Q. THE REDLINES IN THIS DOCUMENT ARE
12 ADDITIONS FROM MR. JONES?

13 A. YES.
14 Q. OKAY.
15 A. YEAH.
16 Q. IF YOU LOOK AT THE BOTTOM OF
17 PAGE 2 AND THE TOP OF PAGE 3 --
18 A. UH-HUH.
19 Q. -- DO YOU SEE THE BAR ON THE
20 SIDE?
21 A. THIS ONE?
22 Q. THIS LINE -- THIS LINE HERE?

♀

171

1 A. YEAH, YEAH YEAH YEAH, YEAH.
2 Q. DO YOU UNDERSTAND THAT THAT
3 INDICATES THAT CONTENT HAS BEEN CHANGED
4 THERE?
5 A. YES, IT INDICATES THAT IT WAS
6 CHANGED.
7 Q. ALL RIGHT. SO DO YOU SEE THAT
8 MR. JONES HAS CROSSED OUT A FORMULA AT THE
9 BOTTOM OF PAGE 2 AND ADDED A NEW FORMULA AT
10 THE TOP OF PAGE 3?
11 A. YEAH, I MEAN, WORD DOES THAT. I
12 DON'T KNOW IF HE EXPLICITLY CROSSED IT OUT OR
13 CHANGED ONE LETTER IN IT OR ADDED A BRACKET.
14 IF YOU CHANGE ANYTHING, IT WILL

15 STRIKE THE WHOLE THING AND REDO THE ENTIRE
16 THING, SO I DON'T KNOW -- I MEAN, BUT I SEE
17 THAT ONE IS STRUCK AND THE OTHER ONE IS NOT
18 STRUCK.

19 Q. OKAY. BUT ALSO YOU CAN SEE BOTH
20 OF THEM, RIGHT?

21 A. I SEE BOTH OF THEM, YEAH.

22 Q. YOU SEE THE VARIABLES -- STRIKE

172

1 THAT. THE FORMULAS ARE DIFFERENT BETWEEN THE
2 TWO?

3 A. I DO SEE THAT.

4 Q. ALL RIGHT. DO YOU ALSO SEE
5 FURTHER DOWN THE PAGE HE'S ADDED ANOTHER
6 FORMULA?

7 A. YES.

8 Q. ALL RIGHT. IF YOU GO TO
9 PAGE 4...

10 A. (COMPLYING.)

11 Q. DO YOU SEE THERE HE'S ADDED THREE
12 ADDITIONAL FORMULAS?

13 A. YEAH, I MEAN, I DON'T -- I GUESS
14 AS I READ THIS, I COULDN'T SAY WITH
15 CONFIDENCE WHETHER OR NOT EVERY LETTER THAT'S
16 BEEN TYPED HERE IS COMING FROM HIM. YOU'D

♀
†

♀

17 HAVE TO ASK MY FATHER THAT. I MEAN, IT'S
18 TRUE THAT HE HAS COMMENTED ON THIS DOCUMENT,
19 THIS LANGUAGE SOUNDS MORE LIKE STUFF THAT MY
20 FATHER'S WRITTEN. SO YOU WOULD HAVE TO,
21 AT -- YOU KNOW, I DON'T KNOW IF THERE'S A WAY
22 TO FORENSICALLY TELL WHICH BITS WERE WRITTEN

173

1 BY WHO. SEEMS UNLIKELY TO ME THAT ALL OF
2 THIS TEXT WAS WRITTEN BY HIM, YOU KNOW, AT
3 HIS -- BY HIM SOLELY, TO BE HONEST, BUT I
4 THINK YOU'D HAVE ASK MY FATHER THAT, THIS IS
5 ONE OF HIS DOCUMENTS.

6 Q. SITTING HERE TODAY THOUGH, YOU
7 DON'T KNOW ONE WAY OR THE OTHER?

8 A. I DON'T KNOW ONE WAY OR THE
9 OTHER, YEAH.

10 Q. BUT THERE ARE THREE FORMULAS THAT
11 HAVE BEEN ADDED TO THIS DOCUMENT BY SOMEONE?

12 A. YES, THERE ARE THREE FORMULAS,
13 YEAH, YEAH.

14 Q. OKAY.

15 A. AND IT ALSO SHOWS THIS ABC THING.
16 AGAIN, I'M PRETTY SURE THAT -- THAT -- I'M
17 PRETTY CONFIDENT TONY JONES DID NOT CREATE
18 THAT PICTURE OR LABEL THOSE. SO...

♀

19 Q. SO YOU MENTIONED A MINUTE AGO
20 THAT THIS WAS ONE OF YOUR FATHER'S DOCUMENTS.

21 A. I BELIEVE SO, I DON'T THINK I
22 FOUND THIS ONE, BUT EITHER WAY THIS IS

174

1 CERTAINLY A DOCUMENT THAT MY FATHER AUTHORED
2 BECAUSE IT -- YOU KNOW, ALL THE DETAIL MATH
3 IS STUFF THAT HE WORKED ON.

4 Q. IF YOU GO TO THE META DATA IT
5 LISTS MR. JONES AS THE AUTHOR OF THIS.

6 A. WHERE AM I LOOKING AT META DATA.

7 Q. THAT WOULD BE ON THE LAST PAGE,
8 PAGE 7?

9 A. YEAH, MEANS HE WAS THE LAST ONE
10 TO SAVE IT. YEAH, I MEAN, CERTAINLY HE DID
11 NOT WRITE EVERYTHING IN THIS DOCUMENT, SO...

12 Q. BUT MR. JONES IS THE AUTHOR OF
13 THIS DOCUMENT, ACCORDING TO THE META DATA?

14 A. ACCORDING TO THE META DATA THAT'S
15 WHAT THIS DESCRIPTION SAYS.

16 Q. AND HE'S ALSO THE LAST PERSON WHO
17 SAVED IT ACCORDING TO THE METADATA?

18 A. ACCORDING TO THE META DATA, YEAH,
19 HE'S THE LAST PERSON WHO SAVED IT. I MEAN,
20 YEAH.

21 Q. THANK YOU.

22 A. YEAH.

175

1 Q. WHO IS RICK TURNER?

2 A. RICK TURNER WAS HIRED BRIEFLY AS

3 A -- AS THE CT O OF THE COMPANY WHEN IT WAS

4 STILL BASED IN THE UK BEFORE IT WAS MOVED TO

5 THE U.S.

6 Q. WAS HE HIRED TO REPLACE ANDREW

7 HATCH?

8 A. YEAH, ANDREW STILL WORKED WITH

9 THE COMPANY BUT HE WAS BROUGHT IN TO TRY AND

10 BE A, YOU KNOW, MORE SENIOR TECHNOLOGY

11 EMPLOYEE.

12 Q. AGAIN, CHIEF TECHNOLOGY OFFICER?

13 A. THAT WAS HIS TITLE, I BELIEVE.

14 Q. YEAH, WHAT WAS HIS ROLE IN THE

15 COMPANY?

16 A. WELL, CHIEF TECHNOLOGY OFFICER, I

17 MEAN, THAT WAS HIS JOB TITLE, HIS ROLE, YOU

18 KNOW, HE WAS -- AROUND THE PERIOD WHEN I GOT

19 MARRIED AND WENT ON HONEYMOON, THE REST OF

20 THE EXECUTIVE TEAM WERE LOOKING TO BRING IN

21 SORT OF THE MORE EXPERIENCED STRONG RESUM

22 TECHNICAL LEADER. HE HAD BEEN A SENIOR

1 MANAGER AT ACCENCIA, AND HIS -- WHAT HE
2 ACTUALLY ENDED UP DOING WAS HIRING A BUNCH OF
3 PEOPLE THAT HE HAD WORKED WITH PREVIOUSLY AND
4 THEN ATTEMPTING TO RE IMPLEMENT EVERYTHING.

5 AND LET ME SEE IF I CAN REMEMBER
6 WHAT HAPPENED WHEN.

7 SO WE HAD A TEAM IN MAL DOVE I
8 CAN'T THAT HAD DEVELOPED THE FIRST VERSION OF
9 TRANSMAIL. HE THEN HIRED DEVELOPERS IN
10 BELGIUM AND PEOPLE THAT HE HAD WORKED WITH AT
11 ACCENCIA IN THE U.S., IN BELGIUM AND THEN
12 SOMEWHERE ELSE, I THINK, AND ATTEMPTED TO RE
13 IMPLEMENT TRANSMAIL FROM THE GROUND UP, AND
14 THAT LASTED -- THAT LASTED MAYBE SOME -- YOU
15 KNOW, A SMALL NUMBER OF YEARS, BUT WE
16 ULTIMATELY FIRED RICK TURNER AND ALL OF THAT
17 TEAM TRANSITIONED OUT AND WE REHIRED A NEW
18 TEAM IN THE U.S. SO THAT'S -- THAT WAS HIS
19 ROLE.

20 Q. AND SO HE WAS FOCUSED ON
21 DEVELOPING TRANSMAIL?

22 A. YEAH, I MEAN, HE WAS FOCUSED ON

1 TRYING TO RE IMPLEMENT IT BUT YES, HIS, HE

2 WAS PART OF THE ENGINEERING ORGANIZATION.

3 Q. THIS HAS BEEN MARKED EARLIER AS
4 2,048.

5 (WHEREUPON EXHIBIT NUMBER 2048
6 WAS SHOWN.)

7 (BY MR. PLAIL)

8 Q. IF YOU GO TO PAGE 5 OF THIS
9 DOCUMENT. DO YOU SEE THAT THE AUTHOR IS
10 LISTED AS RICK TURNER?

11 A. YES.

12 Q. IF YOU GO TO THE FRONT OF THE
13 DOCUMENT, DO YOU SEE FOR EXAMPLE THIS
14 DOCUMENT REFERS TO WEIGHING THE IMPORTANCE
15 AND RELEVANCE?

16 A. YES.

17 MR. PADMANABHAN: WEIGHTING
18 IMPORTANCE AND RELEVANCE?

19 (BY MR. PLAIL)

20 Q. SO YOU'D AGREE THIS DOCUMENT
21 GENERALLY RELATES TO THE RELEVANCE SYSTEM?

22 A. YES.

♀
+

178

1 Q. AND RICK TURNER WROTE THIS
2 DOCUMENT?

3 A. I CAN'T SAY FOR 100 PERCENT

4 CERTAINLY, BUT I WOULD -- I WOULD GUESS YES,
5 HE WROTE THIS.

6 Q. SO RICK TURNER WAS WORKING ON THE
7 RELEVANCE SYSTEM AT THE TIME?

8 A. HE PROVIDED COMMENTARY ON THE
9 WHITE PAPER THAT WE HAD DRAFTED AND THIS WAS,
10 I BELIEVE THIS IS PROBABLY HIS COMMENTARY,
11 YES.

12 Q. DO YOU SEE AT THE TOP IT SAYS, I
13 HAVE NOT HAD TIME TO READ THE NEW STUFF FROM
14 THE MATHS GUY?

15 A. YES.

16 Q. WHO'S HE REFERRING TO, THEN?

17 A. I THINK HE'S REFERRING TO MY
18 FATHER.

19 Q. WHAT IS THE NEW STUFF THAT HE'S
20 REFERRING TO?

21 A. I DON'T KNOW.

22 Q. THIS HAS ALREADY BEEN MARKED AS

♀
†

179

1 2054.

2 (WHEREUPON EXHIBIT NUMBER 2054
3 WAS SHOWN.)

4 (BY MR. PLAIL)

5 Q. CAN YOU GO TO THE LAST PAGE OF

6 THIS DOCUMENT?

7 A. YEP.

8 Q. IT SAYS THE FILE NAME OF THIS

9 DOCUMENT IS BLUESPACE MAIL SEARCH FOR JAMES

10 B?

11 A. YEAH.

12 Q. WHO'S JAMES B?

13 A. NO IDEA. YEAH, I HAVE NO IDEA

14 WHO THAT IS.

15 Q. IN THIS DOCUMENT, YOU SEE THE

16 CUSTODIAN IS PAUL MARSTON?

17 A. UH-HUH.

18 Q. THIS WAS ONE OF THE DOCUMENTS

19 THAT MR. PAUL MARSTON FOUND?

20 A. OKAY.

21 Q. I'M ASKING.

22 A. I DON'T KNOW THE ANSWER TO THAT.

♀

180

1 Q. OKAY. IF YOU'D GO TO PAGE 41...

2 A. (COMPLYING.) YEP.

3 Q. DO YOU SEE THERE'S SOME

4 REDLINE -- WELL, THERE ARE SOME RED -- THERE

5 ARE IS SOME RED TEXT IN HERE?

6 A. UH-HUH.

7 Q. THESE APPEAR TO BE IN LINE

8 COMMENTS; IS THAT FAIR?

9 A. YEAH, AND YES, FAIR COMMENTS, THE
10 STUFF IN RED WRITTEN IN THE BODY OF THE
11 DOCUMENT.

12 Q. YEAH. DO YOU KNOW WHO LEFT THESE
13 COMMENTS?

14 A. NO. BUT I WILL READ THEM. SO I
15 DON'T KNOW WHO WROTE THIS. YEAH, I'M GOING
16 TO LEAVE IT AS I DON'T KNOW. IT WOULD BE
17 CONJECTURE. I DON'T THINK IT'S MY FATHER.

18 Q. SO YOU DON'T THINK YOUR FATHER
19 WROTE THIS?

20 A. I DOUBT HE WROTE THE RED PIECES,
21 I THINK THAT'S BY SOMEBODY ELSE.

22 Q. AND YOU DIDN'T WRITE THE RED

181

1 PIECES?

2 A. NO, I DIDN'T WRITE THEM.

3 Q. IF YOU LOOK AT THE TOP ONE, IT
4 SAYS THERE'S ACTUALLY A PROBLEM HERE?

5 A. UH-HUH.

6 Q. IF THERE ARE NO TRANSMAILS
7 RECEIVED.

8 DO YOU SEE THAT?

9 A. UH-HUH.

♀
+

10 Q. SO IT'S INDICATING THAT THERE'S A
11 PROBLEM WITH THE MATH USED IN THE DOCUMENT
12 WHEN NO TRANSMAILS HAVE BEEN RECEIVED; IS
13 THAT RIGHT?

14 A. THAT'S WHAT IT'S SAYING, YES.

15 Q. BECAUSE IN THAT CASE, YOU'D
16 SIMPLY BE SUBTRACTING ALPHA IK OVER ONE?

17 A. YEAH, BUT IT'S NOT -- YES, YEAH,
18 THE THING THAT'S WRITTEN, YES.

19 Q. YEAH. AND SO WHY WOULD THAT BE A
20 PROBLEM?

21 A. I DON'T KNOW. YOU SHOULD ASK MY
22 FATHER.

♀
†

182

1 Q. WHO'S TIM COUPER?

2 A. TIM COUPER WAS A CONSULTANT WHO
3 WE USED IN AN ADVISOR CAPACITY AT BLUESPACE.

4 Q. WHAT DID HE CONSULT ON?

5 A. HE CONSULTED ON, YOU KNOW, ALL OF
6 THE TRANSMAIL SYSTEM, HE HAD A BACKGROUND IN
7 SOFTWARE AND CONSULTED ON, YOU KNOW,
8 DIFFERENT ASPECTS OF THE SOFTWARE.

9 Q. I'M GOING TO DIRECT YOU BACK TO
10 2006.

11 A. OKAY. YEAH, GOT IT.

12 Q. PAGE 52.
13 A. YEAH.
14 Q. SO IT DESCRIBES A PAPER THERE. I
15 DON'T THINK THE THIRD -- THE THIRD IS A
16 HYPERLINK, THEN IT SAYS, WE NEED AN EXPERT IN
17 THIS AREA?
18 A. YES.
19 Q. WAS TIM COUPER THE EXPERT IN THAT
20 AREA?
21 A. NO.
22 Q. WHO WAS THE EXPERT?

♀

183

1 A. I DON'T THINK WE EVER FOUND ONE.
2 Q. OKAY.
3 A. I MEAN, THIS WAS A BRAIN DUMP,
4 SAYING THAT, YOU KNOW, WE NEED AN EXPERT IN
5 THIS AREA, BUT I DON'T THINK WE EVER -- WE
6 NEVER TALKED TO ANYBODY WHO -- WHO WAS AN
7 EXPERT IN RELEVANCE MODELS OR IN OTHER
8 SYSTEMS. YEAH, I DON'T THINK WE EVER DID.
9 Q. SO YOU SAID THAT TIM COUPER
10 CONSULTED ON DIFFERENT ASPECTS OF THE
11 SOFTWARE. DID HE CONSULT ON THE RELEVANT
12 SYSTEM?
13 A. I DON'T RECALL. I MEAN, I CAN'T

14 RECALL FROM -- I CAN'T RECALL. IF HE DID, IT
15 WAS INCREDIBLY MINOR. HE WAS A GENERALIST.
16 AGAIN, HE WASN'T REALLY, SORT OF A SPECIALIST
17 IN MATHEMATICS AND COMPUTATIONAL SOFTWARE,
18 SO.

19 Q. OKAY. THIS IS ALREADY BEEN
20 MARKED AS 2050.

21 (WHEREUPON EXHIBIT NUMBER 2050
22 WAS SHOWN.)

♀

184

1 (BY MR. PLAIL)

2 Q. IF YOU'D GO TO THE LAST PAGE...
3 YOU SEE IT LISTS THE AUTHOR AT TIM COUPER?

4 A. OKAY.

5 Q. AND THEN LASTLY IT HAS MARSTON,
6 DO YOU SEE IT?

7 A. YEAH.

8 Q. AND THEN THE FILE NAME IS TIM'S
9 COMMENTS.

10 DO YOU SEE THAT?

11 A. YEAH, YES.

12 Q. SO DOES THIS DOCUMENT CONTAIN
13 COMMENTS FROM TIM COUPER ON THE WHITE PAPER
14 DOCUMENT?

15 A. I WOULD BELIEVE SO. LET ME READ

♀
†

16 SOME OF THE CONTENT AND TRY TO FIGURE OUT WHO
17 WAS WRITING WHAT.
18 SO MY AND THIS IS MY CONJECTURE,
19 MY CONJECTURE WOULD BE THE BLACK TEXT IS
20 WRITTEN BY TIM AND THE BLUE TEXT WAS WRITTEN
21 BY MY FATHER.

22 Q. OKAY. AND SO THE BLUE TEXT WAS

185

1 NOT WRITTEN BY YOU?

2 A. NO, NO, I DIDN'T WRITE THAT.

3 Q. OKAY. AND THIS HAPPEN DOCUMENT
4 RELATES TO THE RELEVANT SYSTEM, CORRECT?

5 A. YES, YES, I THINK HE HAD MADE
6 COMMENTS HERE AND THEN THE RESPONSES ARE MY
7 FATHERS, I THINK.

8 Q. SO AT THIS TIME, TIM COUPER WAS
9 WORKING ON RELEVANCE SYSTEM?

10 A. TIM COUPER PROVIDED COMMENTARY ON
11 THE RELEVANCE SYSTEM, HE WAS NOT WORKING ON
12 IT. I MEAN, HE PROVIDED VERY LIMITED
13 COMMENTARY ON THE DOCUMENT.

14 Q. WHY DID JON FERN KNOW LEAVE THE
15 COMPANY?

16 A. WHEN WE MOVED THE COMPANY FROM
17 THE U.S. -- FROM THE UK TO THE U.S., WE

18 DECIDED IN THE END IT DIDN'T MAKE SENSE TO
19 RELOCATE ANY OF THE PEOPLE. I MEAN, THE COST
20 OF RELOCATING, WAS HIGH, SO WE DIDN'T TAKE
21 ANY OF THE UK TEAM, IT WAS REALLY A U.S.
22 RESTART.

♀

186

1 Q. OKAY. AND WHEN DID YOU LET THE
2 UK TEAM GO?

3 A. I CAN'T RECALL THE DATE BUT IT
4 WOULD HAVE BEEN AROUND ABOUT A PERIOD OF, YOU
5 KNOW, BETWEEN 2005 AND 2007.

6 Q. I'M ABOUT TO SWITCH TOPICS,
7 SHOULD WE TAKE A BREAK?

8 MR. PADMANABHAN: YEAH.

9 (BREAK TAKEN FROM 12:36 P.M. TO
10 1:06 P.M.)

11 (BY MR. PLAIL) THIS HAS BEEN ALREADY MARKED
12 AS EXHIBIT 2003. IT'S A COPY OF YOUR EARLIER
13 DECLARATION

14 A. OKAY. . YEAH.

15 (WHEREUPON EXHIBIT NUMBER 2003
16 WAS SHOWN.).

17 (BY MR. PLAIL)

18 Q. I'D LIKE TO DIRECT YOU TO
19 PARAGRAPH 16 OF THIS. IT'S ON PAGE 7.

♀
†

20 A. YEP.

21 Q. YOU SAY, IN PARAGRAPH 16 THAT IN
22 THE 2004 TO 2000 TIME FRAME A PERSON OF

187

1 ORDINARY SKILL IN THE ART WOULD YOU
2 UNDERSTAND THAT, GOES ON FROM THERE. RIGHT
3 AND YOU GIVE AN EXAMPLE OF PERSON OF ORDINARY
4 SKILL IN THE ART, EG WHO WOULD HAVE KNOWLEDGE
5 OF IMPLEMENTING THE MODEL IN SOFTWARE IN
6 ADDITION TO HAVING A BACKGROUND IN THE
7 TECHNOLOGY OF THE PATENT.

8 DO YOU SEE THAT?

9 A. YEAH.

10 Q. AND SO WHEN YOU'RE REFERRING TO A
11 PERSON OF ORDINARY SKILL IN THE ART, ARE YOU
12 REFERRING TO THAT DEFINITION?

13 A. YES.

14 Q. WHAT DO YOU MEAN BY THE PERSON
15 WOULD HAVE KNOWLEDGE IMPLEMENTING THE
16 MODELING SOFTWARE?

17 A. I MEAN, THAT THEY WOULD HAVE
18 EXPERIENCE OF, YOU KNOW -- THEY WOULD HAVE
19 KNOWLEDGE OF HOW TO IMPLEMENT THESE TYPES
20 OF -- OF MODELS, SO THIS WOULD HAVE TO BE
21 SOMEBODY WHO'S A DATA SCIENTIST OR SOMEBODY

♀
†

22 WHO IS, YOU KNOW, NOT JUST A GENERALIST

188

1 SOFTWARE DEVELOPER. THEY NEED TO HAVE --
2 THEY NEED TO BE, THEY NEED TO HAVE KNOWLEDGE
3 IN THE SPECIFIC SPACE OF IMPLEMENTING THESE
4 TYPES OF COMPLEX ALGORITHMS AND MATH IN A
5 LARGE SCALE SYSTEM.

6 Q. OKAY. AND WHAT IS HAVING A
7 BACKGROUND IN THE TECHNOLOGY OF A PATENT?

8 A. I THINK THE BACKGROUND OF THE --
9 THE -- THE BACKGROUND RELATING TO THE
10 TECHNOLOGY OF THE PATENT IS -- I MEAN, I
11 THINK THIS IS A LEGAL TERM BUT MY EXPECTATION
12 WOULD BE SOMEBODY WHO GENERALLY UNDERSTANDS
13 THE CONTEXT OF THE PROBLEM YOU'RE TRYING TO
14 SOLVE. AND HAS READ THE PATENT SO IT'S
15 SOMEBODY WHO'S READ THE PATENT AND IS A DATA
16 SCIENTIST AND THERE'S BUILT MODELS THAT ARE
17 COMPUTATIONAL TYPE MODELS, WOULD BE ABLE TO
18 IMPLEMENT THIS. I THINK THAT'S TRUE.

19 Q. OKAY. SO A PERSON OF ORDINARY
20 SKILL IN THE ART WOULD BE -- WOULD HAVE READ
21 THE PATENT AND HAVE EXPERIENCE IN THE
22 IMPLEMENTING THE MODELS IN SOFTWARE?

♀
†

189

1 A. I THINK -- YOU KNOW, ORDINARY
2 SKILL IN THE ART FOR ME IS SOMEBODY WHO
3 SPENDS THEIR DAYS DOING, YOU KNOW,
4 COMPUTATIONAL SOFTWARE DEVELOPMENT. SO IF
5 THIS IS DATA SCIENTIST, SOMEBODY WHO IS
6 SKILLED IN THIS TYPE OF AREA, LET'S BE
7 SPECIFIC ON THE DEFINITION, YEAH, I MEAN,
8 THEY'D HAVE TO -- THEY'D HAVE TO HAVE
9 KNOWLEDGE OF IMPLEMENTING THESE TYPES OF
10 MODELS IN SOFTWARE AND HAVE THE CONTEXT OF
11 HAVING READ THE PATENT TO BE ABLE TO DO IT.
12 I MEAN, OTHERWISE, THEY WOULDN'T UNDERSTAND
13 WHAT MONITORING MODULE MEANS, THEY'D HAVE TO
14 HAVE READ THE PATENT TO KNOW WHAT THE HELL
15 ANY OF THOSE THINGS MEANT. SO THAT'S WHAT I
16 THINK IT MEANS.

17 Q. OKAY. THIS HAS ALREADY BEEN
18 MARKED AS EXHIBIT 2014.

19 (WHEREUPON EXHIBIT NUMBER 2014
20 WAS SHOWN.)

21 (BY MR. PLAIL)

22 Q. DO YOU RECOGNIZE THIS DOCUMENT?

190

1 A. YES.

2 Q. DID YOU PREPARE THIS DOCUMENT?

♀

3 A. YES, I PREPARED THIS WITH
4 ASSISTANCE FROM -- FROM COUNSEL BUT I -- YES.

5 Q. YOU DID NOT CITE THIS DOCUMENT IN
6 YOUR DECLARATIONS?

7 A. OKAY.

8 Q. IS THERE A REASON FOR THAT?

9 A. NO, NOT THAT I'M -- YOU KNOW, I
10 DON'T HAVE A SPECIFIC REASON FOR WHY I
11 DIDN'T.

12 Q. ARE THERE ANY OTHER DOCUMENTS
13 THAT YOU REVIEWED AND PREPARED THAT WERE
14 NOT -- OR RELIED ON OR CONSIDERED THAT WERE
15 NOT PART OR CITED IN YOUR DECLARATIONS?

16 A. I THINK EVERYTHING THAT WE HAVE
17 READ WILL HAVE BEEN INCLUDED IN THE FILES
18 THAT WERE PAST -- I'M NOT 100 PERCENT
19 CONFIDENT IN IT. BUT I BELIEVE THAT'S TRUE.
20 I MEAN, REALLY IT JUST CAME DOWN TO, YOU
21 KNOW, THE TIMELINE OF WHEN DIFFERENT ASPECTS
22 OF THE INNOVATION HAPPENED AND THAT'S WHAT

191

1 STARTED THIS STROLL BACK THROUGH E-MAILS AND
2 MESSAGES AND DOCUMENTS FROM, YOU KNOW, BEFORE
3 THE PATENT, SO...

4 Q. OKAY. CAN YOU TURN TO PAGE 2 OF

♀
†

5 THIS AND I APOLOGIZE FOR THE PRINTING.

6 A. YEAH. OKAY.

7 Q. YOU SAY AT THE BOTTOM OF THIS
8 THAT A SKILLED ARTISAN WOULD UNDERSTAND THAT
9 THESE ALGORITHMS ARE IMPLEMENTED USING
10 SOFTWARE, EG COMPUTER PROGRAMMING MODULES
11 STORED ON DOT DOT DOT, GOES ON FROM THERE,
12 WHAT DO YOU MEAN BY A SKILLED ARTISAN?

13 A. MEANS SOMEBODY WHO'S SKILLED AT
14 DOING, I MEAN, DATA SCIENTIST, SOMEBODY WHO'S
15 SKILL SET IS BUILDING COMPLEX COMPLATEN
16 MATHEMATICAL MODELS AND CODE.

17 Q. SO ARE YOU USING THE SAME
18 DEFINITION OF A POSA, A PERSON OF ORDINARY
19 SKILL IN THE ART THAT WE JUST DISCUSSED IN
20 PARAGRAPH 16 OF YOUR DECLARATION?

21 A. YEAH, I THINK I'M USING THOSE
22 TERMS INTERCHANGEABLY, YEAH.

♀

192

1 Q. SO THIS WOULD BE A PERSON WHO HAS
2 THE CONTEXT OF THE PATENTS AND WHO HAS
3 EXPERIENCE SUCH AS A DATA SCIENTIST?

4 A. YES, THAT'S WHAT YOU WOULD NEED
5 TO IMPLEMENT IT. YES.

6 Q. AND IN THIS CHART, YOU CITE TO

7 PRIMARYLY TWO DOCUMENTS, 2004 AND 2006; IS
8 THAT RIGHT?

9 A. YES.

10 Q. AND BOTH OF THOSE DOCUMENTS WERE
11 IN YOUR POSSESSION, CUSTODY AND CONTROL?

12 A. OH, SO PROBABLY. I THINK THEY
13 CAME FROM MY -- I THINK THEY CAME FROM A -- A
14 BACKUP I HAD ON MY -- ON A OLD HARD DRIVE, SO
15 YES.

16 Q. SO I ALREADY HANDED YOU 2006 BUT
17 I'LL HAND YOU 2004 JUST FOR COMPLETENESS?

18 A. YEAH, I THINK THESE ARE ALL
19 VERSIONS IN THE CREATIVE PROCESS BUT YES.

20 Q. YES, BOTH OF THESE DOCUMENTS ARE
21 BLUESPACE -- ARE ENTITLED BLUESPACE MAIL
22 SEARCH?

♀

193

1 A. UH-HUH.

2 Q. SO THESE ARE YOUR FILES?

3 A. I BELIEVE SO I MEAN, CERTAINLY I
4 WROTE THIS. YOU KNOW.

5 Q. OKAY.

6 A. APART FROM THE MATH PART, WHICH
7 MY FATHER WROTE.

8 Q. IF YOU LOOK AT THE LAST PAGE?

9 A. UH-HUH.
10 Q. OF THE DOCUMENT I JUST HANDED YOU
11 2004?
12 A. YEAH.
13 Q. IT SAYS CUSTODIAN, JUSTIN
14 MARSTON?
15 A. YEAH.
16 Q. OKAY. SO THIS IS ONE OF YOUR
17 CUSTODIAL DOCUMENTS?
18 A. YES, I GUESS SO.
19 Q. OKAY. IF YOU'D TURN BACK TO
20 2006...
21 A. OKAY.
22 Q. GO TO THE LAST PAGE?

♀
†

194

1 A. YEAH.
2 Q. IT SAYS CUSTODIAN JUSTIN MARSTON?
3 A. YEAH.
4 Q. SO THIS IS ONE OF YOUR CUSTODIAL
5 DOCUMENTS?
6 A. YES.
7 Q. SO WE CAN TURN BACK TO 2014.
8 A. YEAH.
9 Q. SO THE DOCUMENTS IN HERE OR THE
10 DOCUMENTS REFERENCED IN THIS CHART, 2006 AND

11 2004 ARE YOUR CUSTODIAL DOCUMENTS, CORRECT?

12 A. WHAT'S THE DEFINITION OF A
13 CUSTODIAL DOCUMENT?

14 Q. BASICALLY THAT YOU HAVE
15 MAINTAINED THAT DOCUMENT AND THAT YOU'RE
16 ATTESTING THAT YOU MAINTAINED THAT DOCUMENT.

17 A. OH OKAY, THEN, YES.

18 Q. OKAY. I GUESS TO PUT IT ANOTHER
19 WAY, THESE DOCUMENTS WERE IN YOUR RECORDS.

20 A. YEAH, I MEAN, I HAD A FILE, I HAD
21 A FOLDER ON -- IN AN OLD EMBEDDED ARCHIVE AND
22 IT STAYED ON MY COMPUTER THAT WHOLE TIME. SO

195

1 YES.

2 Q. OKAY. AND WE HAVE DISCUSSED
3 OTHER FILES THAT PAUL MARSTON HAS LOCATED?

4 A. UH-HUH.

5 Q. BUT NEITHER OF THESE FILES WERE
6 LOCATED BY PAUL MARSTON?

7 A. AS FAR AS I'M AWARE, THAT'S TRUE.
8 I MEAN, THERE'S A WHOLE SET OF FILES THAT HE
9 FOUND AND THERE WAS A SET OF FILES THAT I
10 FOUND FROM VERY OLD BACKUPS, FROM MEMORY, YOU
11 KNOW, I DON'T -- I WOULDN'T BE ABLE TO TELL
12 YOU PRECISELY WHICH ONES CAME FROM WHICH OF

♀

13 THE TWO FOLDERS BUT I BELIEVE THESE TWO CAME
14 FROM MY LAPTOP, I COULD CHECK IT IF I LOOKED
15 AT THAT LAPTOP AND LOOKED A THAT VERY OLD
16 FOLDER, BUT THOSE ARE THE ONLY TWO SOURCES OF
17 THE WORKING DOCUMENTS WHERE STUFF HE PROVIDED
18 THAT HE HAD KEPT AND STUFF I HAD FOUND THAT
19 WAS STUCK ON A HARD DRIVE THAT I HAD.

20 Q. OKAY.

21 I'M GOING TO HAND YOU A DOCUMENT
22 THAT'S ALREADY BEEN MARKED AS 2041.

♀

196

1 (WHEREUPON EXHIBIT NUMBER **
2 WAS SHOWN.)

3 A. YEAH.

4 (BY MR. PLAIL)

5 Q. AND THEN I'M ALSO GOING TO MARK
6 THIS AS EXHIBIT 5.

7 (WHEREUPON EXHIBIT NUMBER 5 WAS
8 MARKED FOR IDENTIFICATION.)

9 (BY MR. PLAIL)

10 Q. SO FIRST, ON 2041, DO YOU
11 RECOGNIZE THIS DOCUMENT, SORRY, THE ONE
12 THAT'S LABELED 2041 IN THE BOTTOM RIGHT
13 CORNER.

14 MR. PADMANABHAN: YEAH, THIS

15 ONE.

16 A. WELL, OKAY. THIS ONE'S UPDATED
17 HERE TO 2041 AND THIS ONE'S 2041.

18 (BY MR. PLAIL)

19 Q. I MEANT THE ORIGINAL 2041, YES?

20 A. GO AHEAD, THIS ONE, YEAH, OKAY.

21 Q. DO YOU RECOGNIZE THAT DOCUMENT?

22 A. HONESTLY, I DON'T PARTICULARLY

197

1 RECOGNIZE IT BUT IT LOOKS LIKE A FILE LIST OF
2 ALL THE FILES IN A FOLDER THAT I PROVIDED.

3 Q. OKAY. SO YOU CITE TO THIS
4 DOCUMENT IN YOUR DECLARATION ON NUMEROUS
5 OCCASIONS?

6 A. OKAY. I DON'T RECALL, BUT YES,
7 THIS -- THIS LOOKS LIKE A BUNCH OF FILES THAT
8 CAME FROM MY -- FROM MY COMPUTER.

9 Q. OKAY. I'LL REPRESENT TO YOU THAT
10 WHAT I'VE MARKED AS EXHIBIT 5 IS AN UPDATED
11 VERSION OF 2041 THAT WAS PROVIDED BY COUNSEL.

12 A. THIS ONE?

13 Q. YES.

14 A. OKAY.

15 Q. UNDERSTAND?

16 A. OKAY. SO THIS IS AN UPDATED

♀
†

17 VERSION OF THE SAME FOLDER, BASICALLY, BUT
18 YEAH, OKAY, GO AHEAD, WHAT'S THE -- WHAT DO
19 YOU --

20 Q. HAVE YOU REVIEWED THIS UPDATED
21 VERSION OF 2041 BEFORE?

22 A. I CAN'T SAY THAT I HAVE. YEAH, I

198

1 DON'T THINK I HAVE.

2 Q. YOU SAID THAT THESE ARE -- SORRY,
3 YOU SAID THAT THIS IS A LOG OF FILES FROM
4 YOUR FOLDERS; IS THAT RIGHT?

5 A. I BELIEVE THAT'S ACCURATE.

6 Q. OKAY.

7 A. YEAH.

8 I MEAN, ALL OF THESE FILES ARE
9 FILES I RECOLLECT THE FILE NAMES ON, SO...

10 Q. OKAY.

11 A. YES.

12 Q. AND SO THESE ARE FROM YOUR
13 RECORDS?

14 A. YES, FROM 20 YEARS AGO, CORRECT.

15 Q. AND NOT ALL OF THESE FILES RELATE
16 TO THE INVENTION, RIGHT?

17 A. CORRECT.

18 Q. THEY RELATE GENERALLY TO ACTIVITY

♀

19 RELATING TO BLUESPACE?

20 A. YES.

21 Q. ARE THERE ANY DOCUMENTS IN THIS

22 LIST THAT ARE NOT YOUR CUSTODIAL FILES?

♀

199

1 A. I DON'T BELIEVE SO. I MEAN, I --

2 IF THERE WERE THREE THAT SLIPPED IN HERE

3 SOMEHOW, I WOULDN'T NOTICE THE DIFFERENCE BUT

4 LIKE ALL THE FILES I'M LOOKING AT RIGHT NOW,

5 THEY LOOK LIKE THINGS THAT I WOULD HAVE ON MY

6 -- IN THAT FOLDER.

7 Q. OKAY. ALL RIGHT. SO THIS LOG IS

8 ORGANIZED BY WHAT APPEARS TO BE LAST MODIFIED

9 DATE. CORRECT?

10 A. YES.

11 Q. OKAY. ALL RIGHT. SO I'M GOING

12 TO HAVE YOU TURN TO NOVEMBER 9TH, WHICH IS ON

13 PAGE -- I DON'T KNOW?

14 A. SOMETHING OR OTHER.

15 Q. SOMETHING OR OTHER, YEAH.

16 A. YEAH, I SEE THAT, EPA

17 PRESENTATION.

18 Q. YES.

19 A. YEP, OKAY.

20 Q. SO WE HAD LOOKED AT THE FILES ON

♀
†

21 THE NINTH, 10TH, 14TH AND 15TH.

22 A. UH-HUH.

200

1 Q. THESE ALL RELATE TO INVESTOR
2 PRESENTATIONS OR CONFERENCES; IS THAT RIGHT?

3 A. SALES PRESENTATIONS, SO YOU KNOW,
4 EPA PRESENTATION WAS A PRESENTATION, SALES
5 PRESENTATION TO THE ENVIRONMENTAL PROTECTION
6 AGENCY, YOU KNOW, CITIGROUP, CITIGROUP,
7 VERIZON, LIKELY WAS A PRESENTATION TO
8 VERIZON, VERIZON WAS A PARTNER, A GO TO
9 MARKET PARTNER IN DC, WHO HAD A RELATIONSHIP
10 WITH THE USDA.

11 Q. OKAY. AND SO NONE OF THESE
12 RELATE TO THE INVENTIONS?

13 A. NO.

14 Q. CAN YOU TURN TO THE NEXT PAGE?

15 A. SURE.

16 Q. ALL RIGHT. IF YOU COULD LOOK AT
17 THE DOCUMENTS ON THIS PAGE AND THIS IS FROM
18 NOVEMBER 21ST --

19 A. YEAH.

20 Q. THROUGH DECEMBER 1ST?

21 A. UH-HUH.

22 Q. THESE DOCUMENTS APPEAR TO RELATE,

1 AGAIN TO SALES PRESENTATIONS, SALES FORECASTS
2 AND COMPLIANCE DOCUMENTS AND MEETING MINUTES.
3 DOES THAT SEEM RIGHT?

4 A. YEAH, THAT'S GENERALLY THE
5 CONTENT, YEAH, YEAH.

6 Q. AND SO THESE DOCUMENTS DON'T
7 RELATE TO THE CLAIMED INVENTION, CORRECT?

8 A. NO, I DON'T THINK ANY OF THESE
9 ONES DO.

10 Q. OKAY. WE CAN GO TO PAGE 7, WHICH
11 IS DECEMBER 1ST THROUGH DECEMBER 11TH?

12 A. UH-HUH.

13 Q. THESE DOCUMENTS APPEAR TO RELATE
14 TO AGAIN, SALES PRESENTATIONS, COMPETITIVE
15 ANALYSIS, WEBSITE UPDATES AND SOMETHING
16 CALLED THE FBI TWO QUESTIONNAIRE.

17 DO YOU SEE THAT?

18 A. YES.

19 Q. IS THAT ACCURATE?

20 A. YES.

21 Q. SO THESE DOCUMENTS DO NOT RELATE
22 TO THE CLAIMED INVENTION?

1 A. YES, THEY DO NOT.

2 Q. LET'S GO TO THE NEXT PAGE.

3 A. (COMPLYING.)

4 Q. NOW WE'RE LOOKING AT THE PAGE
5 HAVING TO DO WITH DECEMBER 11TH THROUGH
6 JANUARY 12TH.

7 A. UH-HUH.

8 Q. THESE FILES APPEAR TO RELATE TO
9 COMPLIANCE REPORTING, FINANCIAL PLANNING, AND
10 RESEARCH RELATING TO GOVERNMENT RECORD
11 KEEPING. DOES THAT SEEM ACCURATE?

12 A. YES.

13 Q. AND SO THESE FILES DO NOT RELATE
14 TO THE CLAIMED INVENTION, CORRECT?

15 A. CORRECT.

16 Q. CAN YOU LOOK AT PAGE 1?

17 A. YEAH.

18 Q. DO ANY FILES ON PAGE 1 RELATE TO
19 THE CLAIMED INVENTION?

20 A. I DON'T BELIEVE SO, NO.

21 Q. LOOKING AT PAGE 2 DO ANY OF THE
22 FILES ON PAGE CLAIMED RELATE TO THE CLAIMED

♀
†

203

1 INVENTION?

2 A. NO.

3 Q. PAGE 3, SAME QUESTION.

4 A. NO. I DON'T BELIEVE SO.
5 Q. OKAY. PAGE 4, SAME QUESTION.
6 A. NO.
7 Q. PAGE 5, SAME QUESTION.
8 A. SO I THINK THAT THE ONE ON THE
9 8TH OF -- IT COULD BE THE OTHER WAY AROUND,
10 ISN'T IT? YEAH THE 8TH OF NOVEMBER, THAT ONE
11 LIKELY DOES.
12 Q. UH-HUH.
13 A. I DON'T SEE ANY OTHERS THAT I
14 THINK DO.
15 Q. OKAY. GOING BACK TO THE FIRST
16 PAGE...
17 A. UH-HUH.
18 Q. IF YOU LOOK AT THE AUTHOR AND
19 LAST SAVED BY COLUMN?
20 A. YEAH.
21 Q. WHO IS DEBRA MELNACK?
22 A. DEBRA MELNACK WAS A PROJECT

♀
†

204

1 MANAGER WORKING FOR BLUESPACE.
2 Q. AND WHAT PROJECTS WAS SHE WORKING
3 ON?
4 A. SHE KIND OF DID EFFECTIVELY LIKE
5 A STRUM MASTER, SO SHE WAS OVERSEEING THE

6 DEVELOPER TEAM, BUILDING TRANSMAIL.

7 Q. DID SHE WORK ON THE RELEVANCE?

8 A. NO.

9 Q. THERE IS AN AUTHOR LISTED AS DC
10 S3ASH.

11 A. YEAH.

12 Q. DO YOU KNOW WHO --

13 A. I THINK THAT'S -- YES, I THINK
14 THAT'S GOING TO BE DUNCAN ASH.

15 Q. WHO IS DUNCAN ASH?

16 A. HE WAS A SALES ENGINEER WHO
17 WORKED FOR BLUESPACE.

18 Q. DID HE WORK ON THE RELEVANCE
19 MODELS?

20 A. NO.

21 Q. WHO IS MIKEY?

22 A. MIKEY WAS MIKEY HALF JOSEPH. HE

205

1 WAS A SALES REP WORKING FOR BLUESPACE.

2 Q. WHO IS JAMES BURK?

3 A. HE WAS AN ATTORNEY HERE IN --
4 WELL, HE PROBABLY WAS IN AUSTIN, I THINK HE
5 WAS IN -- HERE IN THE U.S., I CAN'T REMEMBER
6 WHICH CITY. SO HE HELPED INTRODUCE ME TO
7 SOME INVESTORS AND HIS BROTHER HERE IN THE

♀
†

8 U.S.

9 Q. WHO IS JASON FITZPATRICK?

10 A. JASON FITZPATRICK WAS THE HEAD OF
11 PROFESSIONAL SERVICES FOR -- FOR BLUESPACE.

12 Q. AND WHAT WAS HIS ROLE IN THE
13 COMPANY?

14 A. HELPING WITH IMPLEMENTATIONS AND
15 PLANNING DEPLOYMENT.

16 Q. GO TO THE NEXT PAGE.

17 A. OKAY.

18 Q. WHO IS STEVEN DAVIS?

19 A. STEVEN DAVIS WAS A SALES REP
20 WORKING FOR BLUESPACE.

21 Q. OKAY. AND CASSIE WYLER?

22 A. CASSIE WAS -- SHE KIND OF DID

♀
†

206

1 DOCUMENTATION. SO SHE WAS IN AMERICA AND SHE
2 DID -- SHE DID REQUIREMENTS AND
3 DOCUMENTATION.

4 Q. DO YOU KNOW WHERE IN AMERICA?

5 A. NOT WITH A HIGH LEVEL OF
6 CONFIDENCE, NO, I THINK COLORADO BUT I
7 WOULDN'T SWEAR TO IT.

8 Q. WHO IS ISAAC GADSTEN?

9 A. ISAAC GADSTEN WAS A BUSINESS

10 DEVELOPMENT, GENERAL GUY IN DC WHO WAS
11 DOING -- TRYING TO DO MARKET DEVELOPMENT FOR
12 US, HE WAS A CONSULTANT.

13 Q. OKAY. AND WHO'S JACKIE WILLIAMS?

14 A. JACKIE WILLIAMS WAS THE FINANCE
15 CONTROLLER IN THE UK.

16 Q. AND JAY CLEAR RE?

17 A. DON'T KNOW WHO HE WAS. I'M GOING
18 TO GUESS HE WAS A -- HE WAS RELATED TO JEFF
19 KNOLL, WHICH WAS THE INVESTMENT CAPITAL FIRM
20 THAT INVESTED IN THE COMPANY.

21 Q. AND CHRIS DAVIS?

22 A. CHRIS DAVIS, I CAN'T REMEMBER

♀
†

207

1 EITHER, I THINK PROBABLY ALSO RELATED TO JEFF
2 NEWELL IN THE NEW YORK OFFICE.

3 Q. AND MICHAEL CATTER?

4 A. I DON'T REMEMBER WHO HE WAS.

5 Q. GRAM SEWAU?

6 A. GRAM SEWAU WAS AN INVESTOR FROM
7 THE UK AND SORT OF ACTED AS THE CFO AND
8 BRIEFLY AS THE CEO.

9 Q. ANDREA?

10 A. WHERE IS THAT NAME ON?

11 Q. LAST PAGE.

12 A. YOU MISSED RUDY VANKERSMIT,
13 WHATEVER HIS NAME IS.
14 Q. OH, THANK YOU.
15 A. HE --
16 Q. THANK YOU.
17 A. SO HE WAS -- HE WAS A SOFTWARE
18 DEVELOPER OUT OF BELGIUM, WAS IT BELGIUM, I
19 THINK IT WAS BELGIUM, YEAH AND THEN TED WEST
20 WAS AN INVESTOR FROM THE U.S. AND WHERE IS
21 ANDREA AT? WHICH --
22 Q. LAST PAGE?

♀

208

1 A. OH, YEAH, OKAY. I THINK SHE WAS
2 FROM ROMANIA, WE HAD A ROMANIAN DEVELOPMENT
3 TEAM AT THIS POINT BUT I CAN'T BE SURE OF
4 THAT, BUT I THINK, I THINK SHE WAS FROM
5 CENTRAL EUROPE.
6 Q. THIS DOCUMENT HAS ALREADY BEEN
7 MARKED AS 2042.
8 (WHEREUPON EXHIBIT NUMBER **
9 WAS SHOWN.)
10 (BY MR. PLAIL)
11 Q. DO YOU RECOGNIZE THIS DOCUMENT?
12 A. NOT FROM MEMORY, THIS LOOKS LIKE
13 E-MAIL TRAFFIC, BUT YES, WHAT'S YOUR

14 QUESTION.

15 Q. OH ONE SECOND. I'M GOING TO HAND
16 YOU THIS WAS JUST GOING TO BE EXHIBIT 6.

17 (WHEREUPON EXHIBIT NUMBER 6 WAS
18 MARKED FOR IDENTIFICATION.)

19 (BY MR. PLAIL)

20 Q. I WILL REPRESENT TO YOU THAT THIS
21 IS AN UPDATED VERSION OF EXHIBIT -- THIS IS
22 AN UPDATED VERSION OF EXHIBIT 2042, WHICH WAS

209

1 PROVIDED BY COUNSEL. IT SAYS ACROSS THE TOP
2 THIS IS A LOG OF PRIVILEGED COMMUNICATIONS
3 WITH BLUESPACE COUNSEL REGARDING BLUESPACE
4 WORK FROM JUNE 28TH, 2005, THROUGH
5 JANUARY 13TH, 2006. DO YOU UNDERSTAND THAT?

6 A. I DO. SO I THINK THE DIFFERENCE
7 HERE IS THAT I THINK THAT A LOT OF THIS
8 CONTENT MAY HAVE COME FROM THE LAW FIRM'S
9 LOGS, FROM THE FENWICK WEST LOGS WHEREAS I
10 THINK THE OTHER ONES CAME FROM MY FILES.
11 IT'S ABOUT THE SAME STUFF. I KNOW THAT THEY
12 HAD -- ALL MY E-MAIL WAS GONE BUT I KNOW THEY
13 HAD SOME CONTENT SO I BELIEVE IT MAY BE -- IT
14 MAY BE FROM THEM. BUT I'M NOT SURE.

15 Q. AND JUST SO WITH WE CONFIRM BY

♀

♀
†

16 THE LAW FIRM, YOU MEAN FENWICK AND WEST?

17 A. CORRECT.

18 Q. AND SO THESE DOCUMENTS HERE ARE
19 COMMUNICATIONS WITH FENWICK AND WEST?

20 A. YES, I BELIEVE SO.

21 Q. SO THESE DOCUMENTS DON'T
22 NECESSARILY RELATE TO THE CLAIMED INVENTION,

210

1 CORRECT?

2 A. AGAIN, NOT ALL OF THEM, SOME OF
3 THEM MAY IF WE WENT THROUGH THE LIST, BUT
4 YES.

5 Q. THEY RELATE TO ACTIVITIES FOR
6 BLUESPACE GENERALLY?

7 A. THEY RELATE TO OTHER PARTS OF THE
8 INTELLECTUAL PROPERTY PORTFOLIO SO YOU KNOW
9 WE FILED THE PATENT ON CONTEXT, I DON'T KNOW
10 WHAT THE TRANSMAIL ONE IS IN TERMS OF
11 CONTENT. A LOT OF THIS IS JUST BACK AND
12 FORTH ABOUT --

13 Q. SO JUST TO -- SOME -- HIGH LEVEL
14 QUESTIONS FIRST?

15 A. I GUESS SO COMMENTS WITH --
16 COMMENTS WITH FENWICK AND WEST, WHO ARE
17 PATENT ATTORNEYS.

♀

18 Q. DID YOU REVIEW THESE E-MAILS
19 WHILE YOU WERE PREPARING YOUR DECLARATION?

20 A. NOT ANY SIGNIFICANT DATA. I KNOW
21 THAT THEY WERE RECOVERED.

22 Q. OKAY. I'M GOING TO ASK YOU TO

211

1 PULL OUT YOUR DECLARATION, 2030.

2 A. ONE SECOND. ALL RIGHT. THIS IS
3 2030. YEAH.

4 Q. SO IF YOU LOOK AT PARAGRAPH 19...

5 A. (COMPLYING.) YEAH.

6 Q. YOU SAY HERE THAT MY WORK AS CEO
7 OF BLUESPACE DURING THE SUMMER OF 2005 IS
8 CORROBORATED BY DOCUMENTS INCLUDING E-MAIL
9 EXCHANGES WITH COUNSEL FOR BLUESPACE?

10 A. UH-HUH.

11 Q. DO YOU SEE THAT?

12 A. RIGHT.

13 Q. WHAT DO YOU MEAN THAT THESE
14 E-MAIL EXCHANGES CORROBORATE YOUR ACTIVITY IN
15 THE SUMMER OF 2005?

16 A. THEY SHOW THAT I WAS WORKING AT
17 BLUESPACE.

18 Q. AND WHAT DO YOU MEAN BY THE
19 SUMMER OF 2005 THERE?

♀
†

20 A. THE BROAD PERIOD FROM THE END OF
21 SPRING TO THE BEGINNING OF FALL.

22 Q. SO IF YOU GO ONE PAGE BACK?

212

1 A. UH-HUH.

2 Q. THIS IS WITHIN THE SECTION
3 JUNE 7TH TO AUGUST 21?

4 A. OKAY. THOSE DATES, YEAH.

5 Q. OKAY.

6 A. THAT WOULD BE THE BEGINNING OF
7 THE SUMMER.

8 Q. SO WHEN YOU WERE REFERRING TO THE
9 SUMMER OF 2005 THERE, YOU'RE REFERRING TO
10 JUNE 7 THROUGH AUGUST 21?

11 A. YEAH, I MEAN, I WAS WORKING
12 CONTINUOUSLY AS CEO OF BLUESPACE DURING THE
13 WHOLE OF THE SUMMER OF 2005.

14 Q. WHEN YOU SAID THAT THESE E-MAILS
15 CORROBORATE THAT YOU WERE WORKING AT
16 BLUESPACE --

17 A. UH-HUH.

18 Q. -- THEY DON'T CORROBORATE WHAT
19 YOU WERE WORKING ON?

20 A. NO, THEY CORROBORATE THE FACT
21 THAT I WAS CONTINUING TO WORK AT BLUESPACE AS

♀
†

22 THE CEO.

213

1 Q. OKAY. CAN YOU GO TO YOUR OTHER
2 DECLARATION, 2003?

3 A. YEP.

4 Q. CAN YOU LOOK AT PARAGRAPH EIGHT?

5 A. (COMPLYING.) YEAH.

6 Q. IT SAYS THERE, TO THE BEST OF MY
7 RECOLLECTION, I DID NOT SEND THE INITIAL
8 DOCUMENT OR ANY OTHER DOCUMENTS ATTACHED TO
9 THIS DECLARATION TO OUR PATENT PROSECUTION
10 ATTORNEYS OR ANY OTHER LAWYERS?

11 A. UH-HUH.

12 Q. I DID SEND VERSIONS OF THE
13 DOCUMENT?

14 MR. PADMANABHAN: LATER
15 VERSION.

16 (BY MR. PLAIL)

17 Q. LATER VERSIONS OF THE DOCUMENT
18 THAT WERE LATER FILED AS A PROVISIONAL PATENT
19 APPLICATION TO OUR PATENT PROSECUTION
20 ATTORNEYS.

21 DO YOU SEE THAT?

22 A. SURE, YEAH.

♀
†

214

1 Q. NOW, IF YOU GO BACK TO 2030?

2 A. YEAH.

3 Q. IN PARAGRAPH 54...

4 A. YEAH.

5 Q. YOU SAY THERE THAT ON JUNE 11TH,
6 2006, I SENT?

7 MR. PADMANABHAN: JANUARY.

8 (BY MR. PLAIL)

9 Q. SORRY, JANUARY 11TH, 2006, I SENT
10 A DRAFT OF THE PROVISIONAL PATENT APPLICATION
11 TO MY PATENT PROSECUTION ATTORNEY, BRIAN
12 HOFFMAN AT FENWICK?

13 A. CORRECT.

14 Q. SO IF WE LOOK AT THOSE TWO
15 STATEMENTS TOGETHER --

16 A. UH-HUH.

17 Q. -- TO THE BEST OF YOUR
18 RECOLLECTION, YOU DID NOT SEND THE
19 PROVISIONAL APPLICATION TO COUNSEL BEFORE
20 JANUARY 11TH, 2006; IS THAT RIGHT?

21 A. YEAH, TO THE BEST OF MY
22 RECOLLECTION, THAT'S ACCURATE.

♀

215

1 Q. OKAY. SO YOU WOULD HAVE NOT HAD
2 ANY COMMUNICATION WITH BRIAN HOFFMAN RELATING

3 TO THE PROVISIONAL PATENT APPLICATION PRIOR
4 TO JANUARY 11TH?

5 A. I MEAN, I MAY HAVE TALKED ABOUT
6 IT IN A PHONE CALL, WE FILED, YOU KNOW, AT
7 LEAST EIGHT PATENTS, I THINK, THROUGH FENWICK
8 AND WEST. SO I MAY HAVE, YOU KNOW, MOVE THAT
9 WE HAD CALLS ABOUT ALL THE PATENTS SO I MAY
10 HAVE SAID I'M WORKING ON ANOTHER ONE, BUT
11 THERE'S NO POINT SHARING SOMETHING THAT'S
12 HALF FINISHED AND PAYING WHATEVER ATTORNEYS
13 CHARGE YOU PER HOUR TO HAVE THEM LOOK AT A
14 DOCUMENT THAT'S NOT FINISHED, SO -- THEN I
15 WAS WAITING TO GET TO A FULL DOC BEFORE I
16 SENT THE DATA, BUT I MIGHT HAVE -- I MIGHT
17 HAVE MENTIONED TO HIM AHEAD OF THAT THAT I
18 WAS WORKING ON IT. I DON'T RECALL.

19 Q. SO YOU WOULD NOT HAVE SENT THE
20 DRAFT PROVISIONAL PATENT APPLICATION TO BRIAN
21 HOFFMAN AT FENWICK PRIOR TO JANUARY 11, 2006?

22 A. TO THE BEST OF MY RECOLLECTION,

216

1 NO.

2 Q. SO IF WE GO BACK TO WHAT HAS BEEN
3 MARKED AS EXHIBIT 6...

4 A. YEP.

♀
†

5 Q. AGAIN, THIS APPEARS TO BE
6 ORGANIZED BY DATE; IS THAT CORRECT?

7 A. YEP.

8 Q. AND SO IF WE GO THROUGH, WE WOULD
9 NOT EXPECT TO SEE ANY COMMUNICATIONS RELATING
10 TO THIS PATENT APPLICATION IN HERE BEFORE
11 JANUARY 11TH?

12 A. TO THE BEST OF MY RECOLLECTION,
13 THAT SHOULD BE TRUE.

14 Q. OKAY. SO LET'S JUST GO THROUGH
15 THEM.

16 THE FIRST SECTION HERE LISTS
17 CONTEXT PATENT.

18 A. UH-HUH.

19 Q. WHAT IS THE BLUESPACE CONTEXT
20 PATENT?

21 A. IT WAS A PATENT FOR BEING ABLE TO
22 ASCRIBE MALES TO CONTEXT, IT'S NOT RELEVANT

♀

217

1 REALLY TO THIS RELEVANCE PATENT BUT IT WAS A
2 DIFFERENT PATENT.

3 Q. OKAY. SO IT'S NOT RELEVANT TO
4 THE CLAIMED INVENTIONS?

5 A. NO.

6 Q. OKAY. WHAT IS THE TRANSMAIL

7 PATENT?

8 A. WHICH LINE ARE YOU LOOKING AT?

9 Q. THAT WOULD BE THE FOURTH LINE.

10 OR THE NAME OF THE E-MAIL IS TRANSMAIL. WHAT
11 IS THAT E-MAIL?

12 A. NO IDEA.

13 Q. IT SAYS IN THE RIGHT CORNER THAT
14 IT IS CORRESPONDENCE WITH COUNSEL PROVIDING
15 LEGAL ADVICE REGARDING PATENT PORTFOLIO?

16 A. OKAY.

17 Q. IS THAT A COMMUNICATION RELATING
18 TO THE OVERALL PATENT PORTFOLIO FOR
19 BLUESPACE?

20 A. I DON'T KNOW. I'D HAVE TO SEE
21 IT. I MEAN, I WROTE IT 20 YEARS -- JUST OVER
22 20 YEARS AGO, I DON'T KNOW?

♀

218

1 Q. ALL RIGHT. BUT YOU REVIEWED THIS
2 E-MAIL IN PREPARING YOUR DECLARATION?

3 A. I MEAN, I -- I HAVE SCANNED
4 THROUGH THEM, BUT I DON'T RECALL, YOU KNOW,
5 SO THERE'S A LOT OF INFORMATION WHEN YOU
6 MOTOROLA BACK THIS FAR, THERE'S A HECK OF A
7 LOT TO REVIEW. SO...

8 Q. BUT SITTING HERE TODAY, YOU DON'T

9 KNOW WHETHER -- WHAT THAT E-MAIL'S
10 CONCERNING?

11 A. I CAN'T RECALL WHAT THAT'S
12 CONCERNING RIGHT NOW.

13 Q. DO YOU RECALL IF THE CLAIMED
14 INVENTION WAS DISCUSSED IN THAT E-MAIL?

15 A. NO, I CAN'T RECALL EITHER WAY.

16 Q. AND YOU'LL SEE THAT THE TRANSMAIL
17 RELATED COMMUNICATION CARRIES ON FOR
18 SOMETIME?

19 A. UH-HUH.

20 Q. THERE APPEAR TO BE SOME
21 ATTACHMENTS LINKED IN THERE, BUT?

22 A. HOPEFULLY NAMED.

♀
†

219

1 Q. IF YOU GO TO PAGE 3...

2 A. YEP.

3 Q. THE TOP ONE IS A E-MAIL TITLED
4 CONFIRMATION OF FILING INSTRUCTIONS?

5 A. YES.

6 Q. THE DESCRIPTION SAYS, IT IS
7 CORRESPONDENCE FROM COUNSEL PROVIDING LEGAL
8 ADVICE REGARDING PATENT APPLICATION ON SECURE
9 MESSAGING SYSTEM?

10 A. UH-HUH.

11 Q. WHAT IS THE SECURE MESSAGING
12 SYSTEM?

13 A. I MEAN, THE SECURE MESSAGING
14 SYSTEM IS JUST TRANSMAIL. IT IS, YOU KNOW,
15 THAT IS THE -- THAT IS THE PRODUCT. YEAH, I
16 MEAN, I CAN'T RECALL OFFHAND WHAT'S IN THE
17 CONTENT OF THE E-MAIL, YOU KNOW.

18 Q. BUT YOU REVIEWED THIS E-MAIL IN
19 PREPARING YOUR DECLARATION?

20 A. I MEAN, I REVIEWED A TON OF STUFF
21 IN PREPARING MY DECLARATIONS, BUT I CAN'T
22 RECALL OF ALL IT RIGHT NOW.

♀

220

1 Q. AND OF THAT STUFF YOU REVIEWED,
2 THIS E-MAIL WAS ONE OF THEM?

3 A. I BELIEVE I HAD ACCESS TO ALL THE
4 E-MAILS IN PREPARING MY DECLARATION AND I
5 REMEMBER GOING THROUGH SOME. I CAN'T SPEAK
6 SPECIFICALLY TO WHICH ONES I READ IN DETAIL
7 AND WHICH ONES I DIDN'T.

8 Q. DOES THIS E-MAIL RELATE TO THE
9 CLAIMED INVENTION?

10 A. I DOUBT IT. I'D HAVE TO GO BACK
11 AND LOOK AT IT TO BE CONFIDENT.

12 Q. OKAY. THE NEXT IS TAMPER PROOF

13 ELECTRONIC MESSAGING?

14 A. UH-HUH.

15 Q. WHAT IS TAMPER PROOF ELECTRONIC
16 MESSAGING?

17 MR. PADMANABHAN: ON THE NEXT
18 ROW.

19 A. OH, JUST ON THE NEXT ROW. I WAS
20 JUST GOING TO CHECK IT OUT.

21 OKAY. YEAH, SO THIS WAS TO DO,
22 IT DOESN'T RELATE TO THE INVENTION BUT THIS

221

1 WAS TO DO WITH CREATING HASH VALUES FROM
2 E-MAILS TO MAKE SURE THAT THE HASH VALUES ARE
3 STORED SEPARATELY SO THAT IF SOMEBODY CHANGED
4 THE CONTENT OF THE MAIL IN THE DATABASE, IT
5 WOULDN'T MATCH TO THE HASH VALUE.

6 (BY MR. PLAIL)

7 Q. DOES THAT RELATE TO THE CLAIMED R
8 CLAIMED INVENTION?

9 A. NO.

10 Q. DID YOU REVIEW THIS E-MAIL WHILE
11 PREPARING YOUR DECLARATION?

12 A. YEAH, TO THE BEST OF MY
13 KNOWLEDGE, YEAH, I MEAN, YES, I HAD ACCESS TO
14 ALL OF THIS DURING THE PREPARATION.

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†

15 Q. AND DID THIS E-MAIL RELATE TO THE
16 CLAIMED INVENTION?

17 A. NO.

18 Q. IF YOU GO DOWN TO PAGE 4, THE
19 SECOND -- ON PAGE 4?

20 A. UH-HUH.

21 Q. IT'S DISCUSSING THE PATENT
22 APPLICATION ON FORCING COMPLIANCE POLICIES IN

222

1 A MESSAGING SYSTEM. YOU SEE THAT?

2 A. YEAH, THE THIRD BAR, RIGHT?

3 Q. YEAH, THIRD BAR.

4 A. UH-HUH.

5 Q. WHAT IS THE PATENT APPLICATION ON
6 ENFORCING COMPLIANCE POLICIES IN MESSAGING
7 SYSTEMS?

8 A. YEAH, THIS IS THE RULES ENGINE
9 APPLIED TO MESSAGE ORS DURING A LIFECYCLE.
10 IT DOESN'T RELATE TO THE CURRENT INVENTION.

11 Q. OKAY. AND YOU REVIEWED THIS
12 E-MAIL WHILE PREPARING YOUR DECLARATION?

13 A. YES, I HAD ACCESS TO ALL OF THIS
14 DURING MY -- PREPARING MY DECLARATIONS.

15 Q. IF YOU LOOK AT THE NEXT LINE --

16 A. UH-HUH.

17 Q. -- IT SAYS, CORRESPONDENCE TO
18 COUNSEL ON BEHALF OF J MARSTON TO FACILITATE
19 THE RENDERING OF LEGAL ADVICE AND FILINGS IN
20 CONNECTION WITH FILINGS -- IN CONNECTION WITH
21 PENDING PATENT APPLICATIONS.

22 A. YES.

223

1 Q. DOES THAT E-MAIL RELATE TO THE
2 CLAIMED INVENTION?

3 A. I CAN'T RECALL FROM MEMORY. I'D
4 HAVE TO GO BACK TO THAT SPECIFIC E-MAIL,
5 SO...

6 Q. SO SITTING HERE TODAY, YOU DON'T
7 KNOW WHETHER THAT E-MAIL RELATES TO THE
8 PATENT APPLICATIONS?

9 A. I CAN'T RECALL FROM THE -- I
10 MEAN, IT RELATES TO PATENT APPLICATIONS,
11 WHETHER IT RELATES TO THIS SPECIFIC ONE, I'D
12 HAVE TO GO RELOOK AT THE E-MAIL TO REMIND
13 MYSELF.

14 Q. OKAY. I BELIEVE THE NEXT PAGE
15 COVERS APPLICATIONS WE'VE ALREADY DISCUSSED,
16 OR INVENTIONS WE'VE ALREADY DISCUSSED; IS
17 THAT TRUE?

18 A. YEAH.

♀

19 Q. SAME WITH PAGE 6?
20 A. YEAH, YES.
21 Q. SAME WITH PAGE 7?
22 A. YEAH, THAT'S ALL TAMPER PROOF

224

1 STUFF.
2 Q. ON PAGE 8 --
3 A. UH-HUH.
4 Q. -- THERE ARE FIVE ENTRIES THAT
5 RELATE TO ADVICE REGARDING PENDING
6 PROVISIONAL PATENT APPLICATIONS, DEADLINES
7 FOR THE SAME. DO YOU SEE THAT?
8 A. UH-HUH.
9 Q. DO ANY OF THESE E-MAILS RELATE TO
10 THE CLAIMED INVENTION?
11 A. TO THE BEST OF MY KNOWLEDGE, NO.
12 I CAN'T RECALL EVERY ONE OF THESE FROM
13 MEMORY, BUT...
14 Q. BUT YOU REVIEWED THESE IN
15 PREPARING THE DECLARATIONS?
16 A. YES, I HAD ACCESS TO ALL OF THEM
17 IN PREPARATION FOR MY STATEMENTS.
18 Q. ON PAGE 9 --
19 A. UH-HUH.
20 Q. -- SAME QUESTION WITH RESPECT TO

21 THE FIRST ENTRY.

22 A. YEAH, NO, I DON'T BELIEVE IT HAD

225

1 ANYTHING TO DO WITH THIS -- THIS PATENT
2 APPLICATION. I'D HAVE TO REVIEW IT TO BE
3 100 PERCENT SURE BUT I DON'T BELIEVE IT DID.

4 Q. OKAY. LOOKING AT THE NEXT ENTRY
5 IT SAYS THE PATENT APPLICATION ON E-MAIL
6 STRUCTURING, WHAT IS THE PATENT APPLICATION
7 ON E-MAIL STRUCTURING?

8 A. I THINK THAT WAS THE S AND TP
9 GATEWAY, SO THAT WAS, YOU KNOW, TAKING
10 MESSAGES AND THAT WERE SENT OUT THROUGH
11 E-MAIL AND THEN BRINGING THEM BACK IN AGAIN.

12 Q. OKAY. SO THAT DOES NOT RELATE TO
13 THE CLAIMED INVENTION?

14 A. NO.

15 Q. IF YOU LOOK AT PAGE 10, YOU'LL
16 SEE THERE'S A NUMBER OF CORRESPONDENCE ON
17 BEHALF OF YOU AND STEWART HATCH?

18 A. ANDREW, YES.

19 Q. SORRY, SORRY, ANDREW HATCH.

20 A. THIS IS HIS SECOND E-MAIL, BUT
21 YEAH.

22 Q. RELATING TO VARIOUS PENDING

1 PATENT APPLICATIONS. DO ANY OF THESE RELATE
2 TO THE CLAIMED INVENTION?

3 A. NO.

4 Q. OKAY. DO YOU SEE THAT THE
5 SUBJECT LINE OF THESE E-MAILS IS TOBY GOD'S
6 NELL?

7 A. YEAH.

8 Q. WHAT DOES THAT REFER TO?

9 A. I THINK THAT'S PROBABLY A NAME OF
10 A PARALEGAL THAT WORKED FOR BRIAN WOULD BE MY
11 GUESS.

12 Q. IN THE SUBJECT LINE?

13 A. YEAH, I MEAN, I -- THAT WOULD BE
14 MY -- THAT LOOKS LIKE A NAME TO ME, SO I
15 CAN'T RECALL FROM MEMORY, BUT YEAH, IT HAS
16 TOBY GOD'S NELL DASH FENWICK DOT DOCK. SO
17 THAT WOULD TELL ME THAT'S PROBABLY WHAT IT
18 WAS.

19 Q. THE LAST ENTRY ON THAT, DOES THAT
20 RELATE TO THE CLAIMED INVENTION?

21 A. NO.

22 Q. GOING TO PAGE 11 --

1 A. UH-HUH.

2 Q. -- DO ANY OF THESE ENTRIES RELATE
3 TO THE CLAIMED INVENTION?

4 A. FIRST TWO, NO. THIRD ONE, NO.
5 FOURTH ONE, NO. NO.

6 Q. OKAY. I HAVE A COUPLE OF QUICK
7 QUESTIONS. IN FORCING COMPLIANCE POLICIES IN
8 MESSAGING SYSTEMS, WHAT DOES THAT REFER TO?

9 A. THAT'S THE COMPLIANCE POLICY
10 PATENT.

11 Q. OKAY. AND GENERATING RELATIONAL
12 STRUCTURES FOR NONRELATIONAL MESSAGES, WHAT'S
13 THAT REFER TO?

14 A. THAT'S THE GATEWAY PATENT.

15 Q. ON PAGE 12 DO ANY OF THESE
16 MESSAGES RELATE TO THE CLAIMED INVENTION?

17 A. NO.

18 Q. ON PAGE 13 DO ANY OF THESE
19 MESSAGES RELATE TO THE CLAIMED INVENTION?

20 A. NO.

21 Q. THERE'S THIS ENTRY HERE, FOURTH
22 ONE, WHICH IS THE SUBJECT LINE IS DUE

♀
†

228

1 DILIGENCE?

2 A. UH-HUH.

3 Q. SAYS CORRESPONDING --

4 CORRESPONDENCE TO COUNSEL SEEKING LEGAL

5 ADVICE REGARDING DUE DILIGENCE?

6 A. UH-HUH.

7 Q. DOES THAT REFER TO OR RELATE TO
8 THE CLAIMED INVENTION?

9 A. NO.

10 Q. IF WE LOOK AT PAGE 14 DO ANY OF
11 THESE MESSAGES RELATE TO THE CLAIMED
12 INVENTION?

13 A. NO.

14 Q. IF WE GO TO PAGE 15, DO ANY OF
15 THESE MESSAGES RELATE TO THE CLAIMED
16 INVENTION?

17 A. NO.

18 Q. IF WE GO TO PAGE 16, DO ANY OF
19 THESE MESSAGES RELATE TO THE CLAIMED
20 INVENTION?

21 A. NO.

22 Q. IF WE GO TO PAGE 17.. --

♀
†

229

1 A. UH-HUH. NO.

2 Q. OKAY. SO JUST TO CONFIRM, NONE
3 OF THESE --

4 A. NO, NONE OF THEM RELATE TO THE
5 CLAIMED INVENTION.

6 Q. OKAY. GO TO PAGE 18.

7 A. SAY LINE NUMBER TWO DOES, LINE
8 NUMBER 3 DOES, LINE NUMBER 4 AND LINE
9 NUMBER 5 DOES.

10 Q. OKAY. BUT LINE NUMBER ONE DOES
11 NOT?

12 A. CORRECT.

13 Q. RELATE TO THE CLAIMED INVENTION?

14 A. NO, THAT WAS AN INTRODUCTION TO
15 AN EMPLOYMENT LAWYER.

16 Q. OKAY.

17 A. SO NO.

18 Q. SO DO YOU AGREE THAT OF THE
19 ENTRIES IN THIS LOG, ONLY THE LAST FOUR
20 RELATE TO THE CLAIMED INVENTION?

21 A. YES.

22 Q. WHEN PREPARING YOUR DECLARATION,

230

1 YOU REVIEWED THE DOCUMENTS IN EXHIBIT 2042
2 AND 2041, CORRECT?

3 A. WHICH ONES WERE THOSE, AGAIN?

4 Q. THE TWO LOGS WE JUST WENT OVER.

5 A. OH, YES.

6 Q. AND YOU REVIEWED THE DOCUMENTS
7 CITED IN YOUR DECLARATION?

♀

8 A. YES, I SCANNED THROUGH THEM.

9 Q. AND YOU REVIEWED 2014, WHICH
10 WE'VE ALREADY DISCUSSED, WHICH IS THE
11 TIMELINE CLAIM CHART?

12 A. YES.

13 Q. DID YOU REVIEW ANY OTHER
14 DOCUMENTS IN PREPARING YOUR DECLARATION?

15 A. I DON'T BELIEVE SO.

16 Q. THIS HAS ALREADY BEEN MARKED AS
17 2046.

18 (WHEREUPON EXHIBIT NUMBER **
19 WAS SHOWN.)

20 A. UH-HUH. YES, I REMEMBER THIS ONE.
21 (BY MR. PLAIL)

22 Q. SO THIS IS AN E-MAIL FROM

231

1 JANUARY 11TH, 2006, -- SORRY THE E-MAIL AT
2 THE BOTTOM OF THE CHAIN IS FROM JANUARY 11TH,
3 2006; IS THAT CORRECT?

4 A. YES.

5 Q. IF YOU GO TO THE OTHER SIDE, YOU
6 CAN LOOK AT THE SIGNATURE LINE?

7 A. UH-HUH.

8 Q. IT SAYS AT THIS TIME THAT YOU
9 WERE COO. WERE YOU OPERATING AS COO AT THIS

♀
†

10 TIME IN 2006?

11 A. AND I CAN'T REMEMBER MY SPECIFIC
12 TITLE. I MEAN, THERE WAS A -- THERE WAS A
13 PERIOD WHERE I HANDED OVER THE CEO SHIP TO A
14 SERIES OF GUYS IN THE UK AND THEN I REALIZED
15 THEY WEREN'T GOING TO BE SUCCESSFUL SO I
16 STARTED MOVING TO THE COMPANY TO THE U.S., SO
17 I THINK I WAS COO THEN E VP OR SOMETHING OR
18 OTHER AND THEN, YOU KNOW, I WAS, YOU KNOW, I
19 MAY HAVE HAD A TITLE OF COO FOR A WHILE AND
20 MY NEXT TRANSITION WAS COMPLETE AND THE
21 COMPANY WAS FUNDED IN THE U.S., I WENT BACK
22 TO CEO. SO I DON'T KNOW, THEY LIKED TO, THEY

232

1 WANTED TO FEEL LIKE THEY GOT THE COMPANY TO
2 THE U.S., SO INGRAM SEWELL MIGHT HAVE BEEN
3 CEO AT THIS TIME. SO THE THREE PEOPLE WHO
4 WERE CEO APART FROM ME WOULD HAVE BEEN, I
5 THINK, SIMON CATLIN, THEN JON CLARK THEN GRAM
6 SEWELL, AND THEN I TOOK OVER THE CEO SHIP
7 AGAIN.

8 Q. OKAY. STARTING AT THIS FIRST
9 E-MAIL, THE SUBJECT LINE IS NEW PATENT.

10 DO YOU SEE THAT?

11 A. YEAH.

♀
†

12 Q. SO THIS PATENT IS TRANSMITTING
13 THE PATENT APPLICATION FOR THE PROVISIONAL
14 APPLICATION HERE?

15 A. YEAH, THIS IS DEVELOPMENT PATENT
16 HAVING BRIAN FILE THE PATENT. APPARENTLY IT
17 WAS THE PROVISIONAL.

18 Q. AND DO YOU SEE THE NEXT E-MAIL IN
19 THE CHAIN IS A RESPONSE FROM BRIAN HOFFMAN ON
20 JANUARY 13TH, 2006?

21 A. YES.

22 Q. DO YOU SEE THAT HE'S CHANGED THE

233

1 SUBJECT LINE, SO IT'S NO LONGER NEW PATENTS,
2 NEW PATENT INVENTORSHIP QUESTION MARK?

3 A. I THINK THEY BOTH HAVE THE SAME
4 SUBJECT, DON'T THEY? OH, I SEE, OKAY. YES,
5 I THINK HE WAS PROBABLY VALIDATING IN THIS
6 E-MAIL THAT WHO THE IDENTITIES OF THE
7 CREATORS WERE FOR THE -- THE CREATORS OF THE
8 PATENT TO BE FILED FOR THE PATENT.

9 Q. SO HE'S ASKING THE QUESTION ABOUT
10 INVENTORSHIP?

11 A. I THINK THAT'S WHAT HE WAS DOING,
12 YES, SO I SPENT THE PATENT THEN I THINK HE
13 REPLACED TO CONFIRM IDENTITIES OF INVENTORS

♀

14 AND I REPLIED.

15 Q. AND WITHIN THE CONTEXT OF THAT
16 COMMUNICATION, YOU RESPONDED ON JANUARY 12TH?

17 A. YES, THAT'S WHAT IT SAYS, YEAH.
18 I MEAN, REMEMBER, HERE, THAT -- LET ME THIS
19 ABOUT THIS, THEN.

20 THIS CAME FROM FENWICK, DIDN'T
21 IT? THIS DOCUMENT. IT HAS TO HAVE COME
22 BECAUSE I DIDN'T HAVE ANY E-MAIL. SO I MEAN,

234

1 YEAH, I RESPONDED TO HIM REGARDING THE --
2 REGARDING WHO IT WAS. I -- YEAH, I KNOW WHAT
3 YOU'RE GOING TO ASK, WHY THE DATE'S NO LONGER
4 GOOD. BUT YES, I RESPONDED TO HIM SAYING
5 THAT -- THAT JON -- REMEMBER WHAT IT SAYS,
6 JON HIGHTOWER BUT DIDN'T REALLY DO ANYTHING
7 SIGNIFICANTLY IN THE PATENT.

8 Q. SO HERE YOU WERE ANSWERING
9 BRIAN'S QUESTION?

10 MR. PADMANABHAN: OBJECT TO THE
11 FORM -- NOT 4043, GO AHEAD.

12 A. I BELIEVE SO, I MEAN, I CAN'T
13 RECALL SEEING THE UNSANITIZED VERSION OF THIS
14 E-MAIL. I'D HAVE TO PROBABLY LOOK AT IT TO
15 MAKE SURE THAT WAS THE CASE.

♀
†

16 (BY MR. PLAIL)

17 Q. SO YOU WOULD NEED TO LOOK AT THE
18 UNREDACTED VERSION OF THIS E-MAIL TO
19 DETERMINE WHETHER YOU WERE ANSWERING A
20 QUESTION FROM?

21 A. ANSWERING THE QUESTION, BUT.
22 (TALKING OVER EACH OTHER.) WHETHER BOTH -- IN

235

1 TERMS, I MEAN, I'M SURE THAT HE ASKED WHO
2 WERE THE AUTHORS AND I MADE A COMMENT ON WHO
3 THE AUTHOR SHOULD BE FOR THE PATENT, YEAH, SO
4 I MEAN, I'M SURE I WAS REPLYING TO A QUESTION
5 HE ASKED ABOUT THAT

6 Q. SO MR. HOFFMAN ASKED WHO THE
7 INVENTORS WERE ON THE PATENT?

8 A. I BELIEVE SO.

9 Q. AND YOU RESPONDED?

10 A. YEAH, I MEAN, I -- THAT'S MY
11 RESPONSE ABOUT WHO THE INVENTORS WERE.

12 Q. DID MR. HOFFMAN ASK ANY OTHER
13 QUESTIONS?

14 A. I DON'T RECALL, BECAUSE I DON'T
15 KNOW THAT I'VE SEEN THE UNREDACTED VERSION OF
16 THIS E-MAIL.

17 Q. YOU DON'T RECALL IF YOU HAVE SEEN

♀
†

18 THE UNREDACTED VERSION?

19 A. I HAVEN'T SEEN THE UNREDACTED
20 VERSION, I BARREL SEEN THE REDACTED VERSION.
21 I THINK THAT HE -- YOU KNOW THE KEY COMMENT
22 THAT WAS BEING HIGHLIGHTED TO ME WAS THIS

236

1 SENTENCE THAT I WROTE ON JANUARY 12; 2006.

2 Q. IF YOU LOOK AT YOUR LOG OR THE
3 LOG, THIS E-MAIL IS LISTED ON THE LOG.

4 A. THIS IS THIS ONE?

5 Q. YES IT'S ON THE LAST PAGE.

6 A. OKAY. YEP.

7 Q. AND SO YOU TESTIFIED EARLIER THAT
8 YOU HAD ACCESS TO ALL OF THE E-MAILS LISTED
9 ON THIS LOG.

10 A. I HAVE -- I'VE HAD ACCESS, I
11 DON'T REMEMBER SEEING A VERSION -- WELL, I
12 DON'T RECALL -- I DON'T THINK I'VE SEEN A
13 VERSION THAT WASN'T UNREDACTED BUT I'VE HAD
14 ACCESS TO THIS, I REMEMBER REVIEWING THIS
15 TOGETHER, SO... SO IN THAT SENSE, YES, I'VE
16 HAD ACCESS TO THE E-MAIL THAT HAS BEEN
17 REDACTED.

18 Q. SO AT NO POINT DURING PREPARING
19 YOUR DECLARATION, DID YOU HAVE ACCESS TO THE

♀
†

20 UNREDACTED VERSION OF THIS DECLARATION OR
21 SORRY, OF THIS E-MAIL?
22 A. THIS E-MAIL?

237

1 I DON'T BELIEVE I DID, BUT I
2 CAN'T RECALL FOR CERTAIN, YEAH. I'VE HAD A
3 LOT GOING ON, BUT I DON'T THINK I'VE SEEN IT.
4 I CAN'T REMEMBER SEEING THE UNREDACTED
5 VERSION. I REMEMBER THIS SENTENCE, BUT YES,
6 I DON'T -- I DON'T HAVE THE REST OF THE
7 CONTEXT ON IT.

8 MR. PLAIL: I THINK WE SHOULD
9 GO OFF THE RECORD QUICKLY.

10 MR. PADMANABHAN: OKAY.

11 (BREAK TAKEN FROM 2:06 P.M. TO
12 2:28 P.M.)

13 (BY MR. PLAIL) ALL RIGHT. TURNING BACK TO
14 EXHIBIT 2046, I JUST WANT TO CONFIRM

15 A. OKAY.

16 Q. LET'S GO BACK TO PAGE 18 OF 2042.

17 A. UH-HUH.

18 Q. AND SO THIS E-MAIL IS -- IS THE
19 SECOND ENTRY, THE FOURTH ENTRY, AND THE FIFTH
20 ENTRY, RIGHT?

21 A. HOW DO I TELL THAT FROM THIS

♀
†

22 LIST? I MEAN, THIS ONE AND THIS ONE I SEE

238

1 AND THEN.

2 MR. PADMANABHAN: HE'S TALKING
3 ABOUT THE TOP ONE, BUT YEAH.

4 A. OKAY. SO NEW PATENT
5 INVENTORSHIP, NEW PATENT INVENTORSHIP, NEW
6 PATENT.

7 MR. PADMANABHAN: NEW PATENT IS
8 RIGHT THERE.

9 A. I SEE, YEAH YEAH YEAH GOT IT.
10 THE SECOND, FOURTH AND THE FIFTH, YEAH, GOT
11 IT.

12 (BY MR. PLAIL)

13 Q. OKAY. SO YOU AGREE THAT THE
14 SECOND ENTRY, THE FOURTH ENTRY AND THE FIFTH
15 ENTRY ARE EXHIBIT 2046?

16 A. YES.

17 Q. OKAY. AND THE THIRD ENTRY,
18 BLUESPACE MAIL RELEVANCE, 131105. WHAT IS
19 THAT TALKING ABOUT?

20 A. YEAH, I THINK THAT'S THE --
21 THAT'S THE PROVISIONAL DOCUMENT THAT I SENT
22 TO BRIAN.

♀
†

239

1 Q. OKAY. AND SO THAT DOCUMENT
2 DESCRIBES THE CLAIMED INVENTIONS?

3 A. YES.

4 Q. AND DOES IT INCLUDE THE SAME
5 MATERIAL AS 2006?

6 A. WELL, THIS ONE IS BLUESPACE MAIL
7 EVENTS, AT 131105. SO WHICHEVER ONE HAS THE
8 EXHIBIT NUMBER THAT CORRESPONDENCE TO THAT,
9 THEN YES, THAT WOULD BE THE ATTACHMENT.

10 Q. SORRY YOU'RE REFERRING TO THE --
11 THE DATE THERE, 131105?

12 A. SO THIS ONE YOU'RE SAYING, IS
13 THIS ONE THE SAME AS ANOTHER EXHIBIT OR ARE
14 YOU SAYING THIS WHOLE --

15 Q. YOU'RE REFERRING TO THE FILE NAME
16 THERE, 131105?

17 A. I WAS REFERRING TO THAT AND
18 SAYING, I THINK THAT YOU GUYS ARE GOING THAT
19 WOULD BE ONE OF THE EXHIBITS I ASSUME, BUT
20 WHAT WAS YOUR QUESTION?

21 Q. SO I HAVE NOT RECEIVED THIS FILE
22 SO MY QUESTION IS WHAT IS IN THIS FILE?

♀

240

1 A. I DON'T RECALL OFFHAND.

2 Q. BUT YOU'RE SAYING IT RELATES TO

3 THE CLAIMED INVENTION?

4 MR. PADMANABHAN: WELL, I MEAN,
5 I THINK HE'S BASING IT ON THE --

6 A. WELL, IT SAYS BLUESPACE MAIL
7 RELEVANT JM131105. SO THAT'S --

8 MR. PADMANABHAN: THAT'S A
9 DESCRIPTION FOR IT.

10 A. YEAH, YEAH. SO THIS IS A -- A
11 JOB -- I IMAGINE THIS IS GOING TO BE THE
12 DRAFT PROVISIONAL PATENT FOR THE BLUESPACE
13 MAIL RELEVANCE PATENT.

14 (BY MR. PLAIL)

15 Q. OKAY. AND YOU'RE SAYING THAT
16 EACH AND EVERY CLIMB ELEMENT WAS DESCRIBED IN
17 THE DRAFT PROVISIONAL ATTACHED TO THIS
18 E-MAIL?

19 A. WELL, THE CLAIMS WOULDN'T HAVE
20 BEEN DESCRIBED IN THE PROVISIONAL. THE
21 CLAIMS WERE -- WELL, OKAY. SO I THINK THIS
22 IS THE PROVISIONAL NOT THE UTILITY AND SO I

241

1 DON'T THINK THE CLAIMS WOULD HAVE BEEN
2 CREATED UNTIL THE UTILITY, RIGHT?

3 Q. SO YOU'RE SAYING THAT THE
4 INVENTION THAT IS CLAIMED IN THE '217 PATENT

♀
†

5 WAS FULLY DESCRIBED IN THE BLUESPACE MAIL
6 RELEVANCE FILES?

7 A. I BELIEVE THAT IS THE CASE.

8 Q. WHAT IS YOUR BASIS FOR SAYING
9 THAT?

10 A. BY THE TIME I SENT IT, BRIAN, I
11 WILL HAVE HAD -- I WILL HAVE COMPLETED THE
12 DRAFTING PROCESS. SO THE DOCUMENT THAT I
13 SENT HIM AND THIS IS TAMELY ALWAYS TRUE THE
14 DOCUMENT, HE WOULD NEVER REALLY HAVE ANY
15 COMMENTS ON THE PROVISIONAL PATENTS, THEN HE
16 WOULD AUTHOR THE -- YOU KNOW THE PATENT
17 ATTORNEY WRITES THE UTILITY FOR ALL INTENSE
18 AND PURPOSES SO HE WOULD HAVE WRITTEN THE
19 CLAIMS BASED ON THE PROVISIONAL.

20 Q. BUT YOU REVIEWED THIS DOCUMENT IN
21 PREPARING THE DECLARATION?

22 A. THIS ONE.

♀

242

1 Q. YES?

2 A. YES, IT'S GOING TO BE THE
3 SUBMITTED DOCUMENT THAT WAS FINALLY -- IT'S
4 THE SAME ONE, IT WILL BE THE SAME ONE THAT
5 YOU GUYS HAVE AT THE PROVISIONAL.

6 Q. SO YOU'RE SAYING THERE WAS NO

7 DIFFERENCES BETWEEN THIS FILE, BLUESPACE MAIL
8 RELEVANCE JM131105 DOT DOC AND THE
9 PROVISIONAL THAT WAS SUBMITTED TO PATENT
10 OFFICE?

11 A. I WOULD EXPECT THAT TO BE, I
12 CAN'T BE 100 PERCENT SURE WITHOUT COMPARING
13 BOTH DOCUMENTS BUT I BELIEVE THAT WOULD BE
14 THE CASE.

15 Q. SO I DON'T HAVE ACCESS TO THIS
16 FILE.

17 A. OKAY.

18 Q. SO YOU TESTIFIED THAT THIS IS
19 EVIDENCE THAT YOU PROVIDED THIS PROVISIONAL
20 APPLICATION TO YOUR PATENT AGENT ON THIS
21 DATE?

22 A. YES.

♀
†

243

1 Q. HOW DO I KNOW THAT'S TRUE? HOW
2 DO I KNOW THAT THIS FILE CONTAINS EVERYTHING
3 IN THE CLAIM?

4 MR. PADMANABHAN: HE JUST TOLD
5 YOU.

6 A. YEAH, I MEAN, I HAVEN'T -- I
7 HAVEN'T BEEN -- I HAVEN'T MADE DECISIONS
8 ABOUT WHAT IS BELIEVE TO YOU AND WHAT ISN'T.

9 I CAN'T ANSWER THAT OTHER THAN TO SAY THIS IS
10 THE, YOU KNOW, THIS IS EYE LOG SHOWING THE
11 TIME THAT I SENT THE E-MAIL AND THIS WILL BE
12 EITHER THE FINAL OR VERY CLOSE TO THE FINAL
13 COPY OF THE PROVISIONAL PATENT, AGAIN, I'D
14 HAVE TO GO WITH THE TOOTH COMB AND REREAD
15 BOTH DOCUMENTS TO COMPARE THEM LINE BY LINE,
16 SIDE-BY-SIDE, BUT THERE WOULDN'T HAVE BEEN
17 ANY MATERIAL CHANGES FROM THIS DOCUMENT TO
18 THE FINAL ONE THAT WAS SIGNED -- THAT WAS
19 FILED.

20 (BY MR. PLAIL)

21 Q. YOU MENTIONED THAT YOUR ATTORNEY
22 RARELY GAVE COMMENTS?

♀
†

244

1 A. UH-HUH.

2 Q. ON THE PROVISIONAL APPLICATIONS.

3 A. THAT'S TRUE. BY THIS POINT, I
4 MEAN, EARLY ON, HE DID BUT I'VE WRITTEN A LOT
5 OF PATENTS BY THIS POINT, SO YOU KNOW,
6 FORWARDLY, HE KIND OF EXCEPTED IT AND THEN
7 STARTED DRAFTING WHAT HE CHOSE BASED ON IT.

8 Q. SO YOU WOULD NOT EXPECT ANY LEGAL
9 ADVICE TO BE CONTAINED WITHIN THIS
10 PROVISIONAL PATENT?

11 A. WELL, I MEAN, I'M UNDERSTANDING
12 EVERYTHING FROM COUNSEL IS SUBJECT TO CLIENT
13 ATTORNEY PRIVILEGE BUT BEYOND THAT, I DON'T
14 HAVE AN OPINION.

15 Q. SO WHAT IS THE RELEVANCE DOCUMENT
16 SAY?

17 A. THIS ONE?

18 Q. YES.

19 A. IT SAYS, YOU KNOW, THE STUFF
20 IN -- THIS DOCUMENT, HERE IS AT
21 MATHEMATICAL -- HERE'S THE BASIS OF THE
22 RELEVANCE FORMULA FOR TRANSMAIL AND HERE'S

245

1 THE MATHEMATICS FORMULAS THAT GO WITH YOU, SO
2 YEAH.

3 Q. IS THAT ALL IT SAYS?

4 A. YEAH, IT'S THE SAME DOCUMENT SO
5 YEAH, IT'S GOING TO BE, THAT'S WHAT IT'S
6 GOING TO SAY. I CAN'T RECALL THE EXACT TERM,
7 YOU KNOW, WORDS THAT WERE IN THE COVENANT
8 OATH THAT GOES WITH IT. BUT THAT WOULD BE
9 THE ATTACHMENT.

10 Q. BUT IT WOULD HAVE DIFFERENCES
11 FROM THE PROVISIONAL?

12 MR. PADMANABHAN: OBJECTION,

♀

13 MISSTATES -- OH, RULE 611.

14 A. I DON'T KNOW THE ANSWER. I DOUBT
15 THERE WERE ANY DIFFERENCES, I CAN'T BE SURE
16 WITHOUT COMPARING THE DOCUMENTS.

17 (BY MR. PLAIL)

18 Q. SO SITTING HERE TODAY, YOU ARE
19 NOT SURE WHAT THE THIRD ENTRY ON THIS LOG
20 SAYS WITHOUT REVIEWING IT?

21 MR. PADMANABHAN: OBJECTION
22 RULE 611.

♀

246

1 A. I MEAN, YOU'RE ASKING ME IF IT'S
2 PRECISELY THE SAME IN EVERY TERM IN A 40 PAGE
3 DOCUMENT, AM I CONFIDENT THAT THIS
4 DOCUMENT -- THIS FILE CONTAINS THE INVENTION,
5 YES I'M CONFIDENT IT CONTAINS THE INVENTION.

6 (BY MR. PLAIL)

7 Q. ALL RIGHT. AND THAT'S BASED OFF
8 YOUR REVIEW AND ANALYSIS IN PREPARING YOUR
9 DECLARATION?

10 A. YES, THIS IS THE SAME FILE, SO
11 YES.

12 Q. SO YOU RELIED ON THIS, WHEN YOU
13 MADE YOUR TESTIMONY?

14 A. YEAH, I RELIED ON THIS E-MAIL

15 LOG. I MEAN, THERE'S NO, IT CAME STRAIGHT
16 FROM THE ATTORNEY, SO...

17 Q. ALL RIGHT.

18 A. I BELIEVE THAT IT'S ACCURATE AND,
19 YOU KNOW, AND THEY HAVE THE -- ALL OF THE
20 E-MAILS THAT I NO LONGER HAVE, SO.

21 Q. AND YOU RELIED ON THE UNDERLYING
22 FILE, YOU REVIEWED THIS UNDERLYING FILE, AS

247

1 WELL?

2 A. I BELIEVE I DID. I REVIEWED A
3 LOT OF FILES, BUT YES, I BELIEVE ALL OF -- I
4 MEAN, I BELIEVE I REVIEWED IT.

5 Q. AND YOUR REVIEW OF THAT FILE
6 INFORMED YOUR TESTIMONY IN YOUR DECLARATION?

7 A. EVERYTHING I READ INFORMED THE
8 TESTIMONY IN MY DECLARATION.

9 Q. SO THAT'S A YES?

10 A. YES.

11 Q. GOING BACK TO 2046 --

12 A. YEP.

13 Q. SO THAT'S THE OTHER THREE
14 DOCUMENTS THAT MANY WE PREVIOUSLY -- SORRY
15 THE ENTRY TWO, ENTRY FOUR AND ENTRY FIVE ON
16 THIS PAGE 18 AND --

♀
†

17 A. YES.

18 Q. -- JUST TO CONFIRM, YOU
19 PREVIOUSLY WENT THROUGH AND CONFIRMED THAT
20 THESE ARE THE ONLY FOUR ENTRIES ON THIS LIST
21 THAT RELATE TO THE CLAIMED INVENTION?

22 A. YES.

248

1 Q. AND WHEN YOU SENT THIS E-MAIL ON
2 WEDNESDAY, JANUARY 11TH, 2006 --

3 A. UH-HUH.

4 Q. -- WAS IT THAT E-MAIL THAT
5 ATTACHED THE FILE BLUESPACE MAIL RELEVANCE
6 JM131105?

7 A. I BELIEVE YES.

8 Q. WHAT ARE YOU SAYING HERE IN THIS
9 E-MAIL?

10 A. I DON'T RECALL.

11 Q. DURING THE BREAK, YOUR COUNSEL
12 INFORMED ME THAT YOU HAVE REVIEWED AN
13 UNREDACTED VERSION OF THIS FILE. DOES THAT
14 REFRESH YOUR RECOLLECTION?

15 A. NO, I STILL DON'T RECALL. BUT
16 IT'S POSSIBLE I HAVE.

17 Q. OKAY. WHAT -- SO YOU SITTING
18 HERE TODAY DO NOT KNOW WHAT IS UNDER THIS

19 REDACTION?

20 A. OFF THE TOP OF MY HEAD, I CANNOT
21 RECALL WHAT'S IN IT.

22 Q. AND YOU, HOWEVER, REVIEWED THIS

249

1 FILE IN PREPARING YOUR DECLARATION?

2 A. YEAH, I MEAN, THAT WAS SEVERAL --
3 I MEAN, I HAVE A LOT OF WORK I'M DOING, SO I
4 DON'T REMEMBER. I MEAN, THIS TO ME IS -- IT
5 DOESN'T RELATE TO THE MAIN THING I'M DOING,
6 SPENDING MY TIME DOING, SO I DO NOT RECALL
7 EVERY DETAIL OF EVERY INTERACTION AND
8 CONVERSATION I'VE HAD WITH, YOU KNOW, WITH
9 COUNSELOR LOOKING AT EVERY ONE OF THESE
10 DOCUMENTS, I DON'T RECALL ALL OF IT. BUT I
11 BELIEVE THAT I'VE SEEN THE UNREDACTED
12 VERSION. I THINK THE MAIN, I MEAN THE MAIN
13 PURPOSE IN PROVIDING IT WAS JUST TO REFLECT
14 THE FACT THAT AT THE TIME I DIDN'T THINK THAT
15 JON FOR KNOW HAD BEEN A SIGNIFICANT
16 CONTRIBUTOR OR AUTHOR TO THE -- TO THE
17 PATENT. I THINK THAT'S WHY IT WAS PROVIDED
18 BUT LIKE I -- TO SAY, I HAVE REVIEWED, YOU
19 KNOW, A LARGE AMOUNT OF FORENSIC DOCUMENTS IN
20 THE PROCESS OF PREPARING FOR THESE -- FOR

21 THESE AT THE SAME TIME STATEMENTS, SO IT'S
22 HARD FOR ME TO RECALL ALL OF THEM FROM

250

1 MEMORY.

2 Q. OKAY. SO JUST TO RECAP?

3 A. UH-HUH.

4 Q. YOU DO NOT KNOW WHAT'S UNDER THIS
5 FIRST REDACTION HERE?

6 A. I DO NOT REMEMBER IT AT THIS
7 TIME.

8 Q. THE SECOND E-MAIL, DO YOU
9 REMEMBER WHAT'S UNDER THOSE REDACTIONS?

10 A. I DO NOT REMEMBER IT AT THIS
11 TIME, FROM MEMORY.

12 Q. AND THE THIRD E-MAIL, DO YOU
13 REMEMBER WHAT'S UNDER THAT REDACTION?

14 A. I DO NOT REMEMBER IT AT THIS
15 TIME, FROM MEMORY.

16 Q. BUT YOU RELIED ON THE PARTS UNDER
17 THOSE REDACTIONS FOR WHEN YOU WERE DRAFTING
18 YOUR DECLARATION?

19 A. I MUST HAVE DONE IT BECAUSE WHEN
20 I WROTE IT, YOU KNOW, I SAW IT. I MEAN,
21 AGAIN, I THINK THAT THE -- THE CRITICAL PIECE
22 OF IT WAS JUST CONFIRMATION, I REMEMBER THIS

1 SENTENCE WELL, THAT ABOUT JON FOR KNOW NOT
 2 BEING AN AUTHOR BUT AS TO THE REST OF IT, YOU
 3 KNOW, I CAN'T REMEMBER WELL WHAT'S THERE
 4 RIGHT NOW. I DON'T THINK ANY OF IT WAS VERY
 5 EXOTIC BUT I WOULD BE GUESSING, SO.

6 Q. WELL, FOR THE FIRST E-MAIL WHAT'S
 7 YOUR BEST RECOLLECTION FOR WHAT'S UNDER THE
 8 REDACTION?

9 A. I DON'T REMEMBER.

10 Q. NO --

11 A. I HAVE NO RECOLLECTION AT THIS
 12 TIME.

13 Q. THE SECOND E-MAIL?

14 A. SAME ANSWER.

15 Q. THIRD E-MAIL?

16 A. SAME ANSWER, THERE'S NO POINT IN
 17 ME GUESSING, I MEAN, I CANNOT REMEMBER
 18 OFFHAND FROM MEMORY OF THE HUNDREDS OF
 19 DOCUMENTS THAT I'VE LOOKED AT IN THE PROCESS
 20 OF THIS TRIAL OR THIS, YOU KNOW, INTERACTION,
 21 I CAN'T REMEMBER THE DETAILS OF ALL OF THEM,
 22 LIKE, I REMEMBER THE TIME I DID IT. I

1 OBVIOUSLY LOOKED AT IT. BUT I CAN'T REMEMBER

2 NOW.

3 Q. DO YOU RECALL ANYTHING ELSE ABOUT
4 THIS DOCUMENT?

5 A. NO. I MEAN, HONESTLY, I THINK
6 THIS IS DANCING AROUND A REDACTION. I JUST
7 DON'T -- BUT IT'S NOT MY DECISION HOW THESE
8 E-MAILS GET REDACTED WHEN THEY'RE RELEASED.
9 SO.

10 Q. OKAY. SO CAN WE GO TO 2031? I'M
11 SORRY, 2030.

12 A. THAT WAS ONE OF THE -- ONE OF THE
13 STATEMENTS, RIGHT?

14 Q. ONE OF YOUR DECLARATIONS.

15 A. OKAY. YEAH.

16 Q. IF YOU GO TO PAGE 12, PARAGRAPH
17 32.

18 A. YEAH.

19 Q.

20 A. YEAH, JON FORNEY -- YES.

21 Q. DO YOU SEE WHERE YOU CITE 2046,
22 THE E-MAIL WE WERE JUST DISCUSSING IN THIS

♀
†

253

1 PARAGRAPH AT THE BOTTOM?

2 A. YES.

3 Q. SO YOU AGREE THAT YOU'VE RELIED

4 ON THIS E-MAIL IN FORMING THE OPINIONS IN
5 YOUR DECLARATION?

6 A. YES.

7 Q. AND THE ONLY RECOLLECTION YOU
8 HAVE HERE SITTING HERE TODAY IS AS THE ONE
9 UNREDACTED SENTENCE FROM THE E-MAIL?

10 A. YES, IT WAS THE ONLY PIECE THAT
11 WAS RELEVANT.

12 Q. IF YOU GO BACK TO 2046?

13 A. UH-HUH.

14 Q. DO YOU RECALL WHETHER THE -- I
15 THINK WE'VE ALREADY DISCUSSED -- SORRY, WHAT
16 DO YOU MEAN BY RELEVANT THERE?

17 A. WELL, NONE OF IT, I MEAN, THIS
18 WAS THE KEY SENTENCE ABOUT WHETHER JON
19 FORNIO, SHOULD BE CONSIDERED TO HAVE BEEN AN
20 AUTHOR OR CREATOR OF THE PATENT AND SO THAT
21 WAS THE ONLY SENTENCE THAT WE REALLY, YOU
22 KNOW, THAT REALLY FOCUSED ON WAS THE FACT

254

1 THAT EVEN AT THE TIME, YOU KNOW, I WAS
2 CONFIDENT THAT HE WASN'T AN AUTHOR AND HE
3 NEVER PROVIDED, YOU KNOW, CONTENT THAT WOULD
4 BE -- MAKE HIM BE CONSIDERED TO BE ONE OF THE
5 CREATORS OF THE -- OF THE IP IN THE PATENT.

♀
†

6 Q. AND HOW CAN YOU DETERMINE THAT
7 THAT WAS THE ONLY RELEVANT PORTION WHEN THE
8 REST IS REDACTED?

9 A. I MADE A JUDGMENT CALL AT THAT
10 TIME. I MEAN, THAT WE WERE LOOKING AT
11 WHETHER JON FORGOTTEN HOE SHOULD BE
12 CONSIDERED, WAS BEING CONSIDERED ONE OF THE
13 CREATORS OF THE PATENT AND THIS WAS A CLEAR
14 INDICATION OF EQUITY AT THE TIME THAT HE
15 WASN'T.

16 Q. SORRY, A JUDGMENT CALL WHEN YOU
17 MADE THE REDACTION OR A JUDGMENT CALL BACK IN
18 JANUARY 12TH --

19 A. JUDGMENT CALL WHEN I SAW THE
20 E-MAIL. I MEAN, THE FOCUS WAS ON THIS ONE
21 SENTENCE.

22 Q. SO EARLIER YOU TESTIFIED THAT YOU

255

1 DIDN'T MAKE THE DECISION ON WHAT WAS OR WAS
2 NOT REDACTED?

3 A. THAT'S TRUE.

4 Q. OKAY. SO?

5 MR. PADMANABHAN: YOU'RE ASKING
6 HIM ABOUT RELEVANCE, I DON'T WANT TO GO WAY
7 OFF.

♀

8 MR. PLAIL: I'M GOING TO HAVE
9 TO, SPEAKING OBJECTION.

10 MR. PADMANABHAN: OKAY.

11 RESTATE YOUR QUESTION -- OBJECTION, RULE 611.

12 (BY MR. PLAIL)

13 Q. EARLIER, YOU TESTIFIED THAT YOU
14 DIDN'T MAKE A DECISION ON WHAT WAS NOT --
15 WHAT WAS OR WAS NOT REDACTED, CORRECT?

16 A. THAT IS TRUE, I DID NOT MAKE
17 DECISIONS ON WHAT WAS REDACTED.

18 Q. AND EARLIER YOU TESTIFIED THAT
19 THIS RESPONSE HERE WAS AN ANSWER TO A
20 QUESTION FROM BRIAN, RIGHT?

21 A. YES. GIVEN THE -- YES, I BELIEVE
22 THAT'S TRUE.

♀
†

256

1 Q. AND SO YOU WERE HERE RESPONDING
2 TO A QUESTION FROM COUNSEL?

3 A. YES.

4 Q. EARLIER YOU SAID THAT YOU THOUGHT
5 THIS WAS DANCING AROUND A REDACTION?

6 A. UH-HUH.

7 Q. WHAT DO YOU MEAN BY THAT?

8 A. WELL, IT'S NOT MY DECISION WHAT
9 GETS REDACTED AND WHAT DOESN'T. I DON'T

10 THINK THAT ANY OF THE STUFF UNDER THIS
11 REDACTION, YOU KNOW, IN IDLE UNREDACTED FORM
12 WOULD BE IN ANY WAY EXCITING. BUT -- BUT
13 IT'S NOT MY DECISION, WHICH, YOU KNOW, WHICH
14 PIECES ARE REDACTED AND WHICH AREN'T, SO YOU
15 KNOW, I THINK THERE'S BEEN A LOT OF CONCERN
16 ABOUT WAIVING CLIENT PRIVILEGE AND WHAT --
17 YOU WAIVE CLIENT PRIVILEGE ON AND WHAT YOU
18 DON'T. MY OPINIONS ON THE -- WHAT, YOU KNOW,
19 WHAT IS RELEVANT AND ISN'T RELEVANT TO WAIVE,
20 YOU KNOW, I'M NOT THE DECISION-MAKER IN THAT
21 DECISION-MAKING IS THE OWNER OF THE DOCUMENTS
22 AND THE ATTORNEYS. SO YOU -- YOU KNOW, I --

♀
†

257

1 I DON'T -- IF I'D HAD THE UNREDACTED COPY IN
2 FRONT OF ME RIGHT NOW, I WOULD PROBABLY SAY,
3 YEAH, THAT SOUNDS LIKE STUFF I WOULD HAVE
4 WRITTEN AND IT'S COMPLETELY BENIGN BUT I
5 DON'T HAVE IT IN FRONT OF ME AT THIS POINT
6 SO.

7 Q. SO THERE'S NO WAY TO CONFIRM HERE
8 WHAT'S UNDER HERE IS COMPLETELY BENIGN SINCE
9 WE DON'T HAVE THE UNREDACTED VERSION?

10 MR. PADMANABHAN: OBJECTION
11 611.

12 A. NO, I DON'T --

13 (BY MR. PLAIL)

14 Q. SO JUST TO CONFIRM, YOU SAID THAT
15 WHAT IS UNDER THIS REDACTION IS LIKELY
16 BENIGN.

17 DOES THAT MEAN IT'S LIKELY JUST
18 TRANSMITTAL OF A DOCUMENT OR NOT RELATED TO
19 NOT AN ATTORNEY/CLIENT QUESTION OR
20 COMMUNICATION?

21 MR. PADMANABHAN: OBJECTION
22 RULE 601, 602.

♀

258

1 A. CAN YOU RESTATE THE QUESTION?

2 (BY MR. PLAIL)

3 Q. YOU SAID THAT WHAT IS UNDER THIS
4 REDACTION IS LIKELY BENIGN. DOES THAT MEAN
5 IT'S UNLIKELY TO BE AN ATTORNEY/CLIENT
6 QUESTION?

7 MR. PADMANABHAN: OBJECTION
8 RULE 601, 602 AND 611.

9 A. I THINK IT -- I MEAN, IT'S JUST
10 CORRESPONDENCE BETWEEN ME AND AN ATTORNEY
11 COVERED UNDER CLIENT ATTORNEY PRIVILEGE. I
12 THINK THE ONLY REASON THIS PIECE WAS RELEASED
13 WAS BECAUSE IT RELATES TO AUTHORSHIP OF THE

14 PATENT, THE REST OF THE PATENT IS COVERED --
15 THE REST OF THE E-MAIL CHAIN IS COVERED BY
16 CLIENT ATTORNEY PRIVILEGE. BUT YOU KNOW, YOU
17 KNOW, I CAN'T -- YOU KNOW, I'M NOT THE
18 DECISION-MAKER FOR HOW THESE E-MAILS ARE
19 REDACTED.

20 (BY MR. PLAIL)

21 Q. OKAY. CAN WE TURN BACK TO THE
22 UPDATED 2041. AND IF YOU'D TURN TO THE PAGE

259

1 COVERING DECEMBER 11TH THROUGH NOVEMBER 15TH.

2 A. WHAT DOES IT LOOK LIKE.

3 MR. PADMANABHAN: EXHIBIT 5,
4 THIS ONE.

5 THE WITNESS: THIS ONE.

6 MR. PADMANABHAN: YEAH, YEAH.

7 A. OKAY. WHICH ONE?

8 (BY MR. PLAIL)

9 Q. THE ONES THE PAGE THAT COVERS
10 OCTOBER 11TH THROUGH NOVEMBER 15TH.

11 A. YEAH.

12 Q. SO JUST TO CONFIRM, WE WENT
13 THROUGH THIS WHOLE DOCUMENT?

14 A. UH-HUH.

15 Q. AND OF THE DOCUMENTS IDENTIFIED

♀
†

16 HERE, ONLY THIS ONE LISTED AS BLUESPACE MAIL
17 RELEVANCE JM, ONLY THAT ONE RELATES TO THE
18 CLAIMED INVENTION; IS THAT CORRECT?

19 A. YES.

20 Q. OKAY. ALL RIGHT. CAN YOU GO TO
21 YOUR DECLARATION, 2030?

22 A. YEAH.

260

1 Q. CAN YOU GO TO PARAGRAPH TEN?

2 A. YEP.

3 Q. HERE YOU MENTION WORKING ON AN
4 INVESTMENT ROUND WITH AN ADMIRAL N MAN IN
5 APRIL OF 2005. DO YOU SEE THAT?

6 A. YEP.

7 Q. AND THIS INVESTMENT ROUND WAS NOT
8 DEPENDENT ON THE CLAIMED INVENTION, RIGHT?

9 A. CORRECT.

10 Q. AND THIS RELATED TO THE TRANSMAIL
11 AND OTHER MULTI SECURITY --

12 A. IT WAS MORE FOCUSED ON TRANSMAIL
13 AT THE TIME, BUT YES.

14 Q. AND YOU REFERENCE A LETTER TO
15 ADMIRAL IN MAN HERE IN 2041.

16 DO YOU SEE THAT?

17 A. THIS IS ON -- IN SECTION 10?

♀
†

18 Q. YES.

19 MR. PADMANABHAN: IT'S RIGHT
20 HERE.

21 A. OH, OKAY. YEAH, RIGHT AT THE
22 END. YEAH, OKAY.

♀

261

1 (BY MR. PLAIL)

2 Q. OKAY. I'M GOING TO SHOW YOU THAT
3 LETTER.

4 A. UH-HUH.

5 (WHEREUPON EXHIBIT NUMBER 7 WAS
6 MARKED FOR IDENTIFICATION.) ALL RIGHT.
7 SO THIS IS A -- APPEARS TO BE A LETTER
8 FROM YOU TO MR. IN MAN ON AUGUST 2ND,
9 2005. DOES THAT LOOK RIGHT?

10 A. YES.

11 (BY MR. PLAIL)

12 Q. IN THIS LETTER, YOU ARE
13 DISCUSSING SOME DUE DILIGENCE OR, I GUESS,
14 THE DUE DILIGENCE REQUIREMENTS FROM GRAN
15 FOUR?

16 A. JEFF NOR.

17 Q. JEFF NOR; IS THAT RIGHT?

18 A. JEFF NOR YEAH.

19 Q. BUT YOU ARE DISCUSSING THE DUE

♀
†

20 DILIGENCE REQUIREMENTS FROM JEFF NOR?

21 A. YEAH, DISCUSSING THEIR -- THEIR
22 INVESTMENT.

262

1 Q. ALL RIGHT. AND SO THIS WAS EARLY
2 STAGES WITH JEFF NOR?

3 A. WELL, THEY'D ALREADY -- LET ME
4 JUST CHECK HERE.

5 I MEAN, I DIDN'T THINK IT WAS THE
6 EARLY STAGE. I THINK THERE HAD ALREADY BEEN
7 A SET OF CONVERSATIONS. HE HAD INTRODUCED ME
8 TO PRESCOTT WINTER, WHO -- WHO WAS THE CHIEF
9 INFORMATION OFFICER AT A GOVERNMENT -- AN
10 INTELLIGENCE AGENCY.

11 SO WE'D ALREADY HAD A WHOLE
12 BUNCH, WE'D HAD A BUNCH OF MEETINGS BY THIS
13 POINT, BUT YES, GO AHEAD.

14 Q. BUT AT THIS POINT, JEFF NOR HAD
15 NOT YET INVESTED?

16 A. THAT'S TRUE.

17 Q. OKAY. AND WHEN DID THEY
18 EVENTUALLY INVEST?

19 A. I CAN'T RECALL THE EXACT DATE.
20 BUT IT WILL BE IN SOME OF THE DOCUMENTS ON MY
21 --

22 Q. IF YOU GO BACK OVER TO PARAGRAPH

263

1 TEN OF YOUR DECLARATION, YOU SAY THERE THE
2 INVESTMENT EVENTUALLY CLOSED AROUND
3 JULY 2006. DOES THAT SOUND RIGHT?

4 A. YEAH, SOUNDS RIGHT, YEAH.

5 Q. OKAY. IF YOU LOOK AT PARAGRAPH
6 11?

7 A. UH-HUH.

8 Q. YOU MENTION THAT DURING THIS TIME
9 FRAME, AND THEN YOU SAY FROM JUNE 2005 TO
10 DECEMBER 2005?

11 A. YEP.

12 Q. IS THAT THE TIME FRAME YOU'RE
13 REFERRING TO?

14 A. WELL, I'M JUST SAYING GENERAL
15 TIME FRAME, I'M NOT SAYING THAT THE TIME
16 FRAME -- I'M SAYING THAT THE FRAME INCLUDED
17 THE PERIOD JUNE 25 -- 2005 TO DECEMBER 2005
18 SO I'M TALKING ABOUT THE GENERAL TIME FRAME
19 IN THAT THIRD MONTH BEING A SUBSET OF THAT
20 TIME FRAME.

21 Q. WHAT IS THE SCOPE OF THE GENERAL
22 TIME FRAME, 2005 AS A WHOLE?

264

1 A. YEAH, I WOULD YOU KNOW, YES.

2 LET'S SAY -- LET'S SAY THAT I -- I'M TALKING
3 ABOUT 2005 THROUGH TO THE FIRST HALF OF 2006.

4 Q. AND YOU MENTION THAT YOU SHUT
5 DOWN YOUR UK OFFICE?

6 A. YEP.

7 Q. LET GO OF THE VAST MAJORITY OF
8 YOUR THE EUROPEAN HEAD COUNT?

9 A. YEAH.

10 Q. AND YOU WERE IN THE PROCESS OF
11 RESTRUCTURING THE BLUESPACE CORPORATE
12 ENTITIES?

13 A. YEAH.

14 Q. AND THAT INVOLVED ROLLING UP
15 VARIOUS BLUESPACE LEGAL ENTITIES AND CREATING
16 NEW U.S. LEGAL ENTITIES?

17 A. YEAH, YES, THAT'S TRUE.

18 Q. OKAY. SO WHY DID YOU MOVE
19 OFFICES TO THE U.S.?

20 A. THAT WAS THE BEST PLACE TO BUILD
21 TECHNOLOGY COMPANIES.

22 Q. AND WHY CUT HEAD COUNT?

♀

265

1 A. WE LOOKED AT MOVING SOME OF THEM,
2 WE TOOK A BUSINESS DECISION.

3 Q. AND THE BUSINESS DECISION WAS
4 BASED OFF THE COST OF RELOCATING THEM?

5 A. RELOCATING PEOPLE AND, YOU KNOW,
6 IT WAS DIFFICULT, AND JUST FELT LIKE, YOU
7 KNOW, WE COULD ACQUIRE NEW TALENT IN THE U.S.
8 TO CONTINUE THE DEVELOPMENT. I THINK YOU
9 KNOW, THE TEAM IN EUROPE RETIRED, SO IT
10 JUST -- IT WAS A BUSINESS DECISION.

11 Q. AND WHY RESTRUCTURE THE BLUESPACE
12 LEGAL ENTITIES?

13 A. WE HAD AN OVERLY COMPLICATED
14 LEGAL STRUCTURE THAT WAS DESIGNED BY THE REST
15 OF THE TEAM. SO THEY WANTED TO BE A TOP
16 COMPANY AND A LICENSING ARRANGEMENT TO THE UK
17 AND THE OTHER ENTITIES, SO THAT THEY COULD
18 ULTIMATELY DECLARE CORPORATE TAX IN BERMUDA,
19 WHERE THE TAX RATE WAS LOW, BUT LIKE, I MEAN,
20 THE COMPANY NEVER MADE HEY PROFIT SO IT WAS
21 IRRELEVANT, IT WAS JUST A -- YOU KNOW, COST
22 OVERHEAD THAT SOME OF THE FOLKS ON THE TEAM

♀
†

266

1 THOUGHT WAS A GOOD IDEA.

2 Q. AND SO NONE OF THESE ACTIVITIES
3 RELATE TO THE CLAIMED INVENTION?

4 A. TRUE, THEY DIDN'T RELATE TO THE

5 CLAIMED INVENTION AND THEY WERE TAKING MY
6 TIME CLEARLY BUT THEY DIDN'T RELATE TO THE
7 CLAIMED INVENTION.

8 Q. SO IF WE LOOK AT THE NEXT
9 SECTION, IT SAYS WORK DURING JUNE 7, 2005, TO
10 AUGUST 21, 2005.

11 DO YOU SEE THAT?

12 A. UH-HUH.

13 Q. YOU MENTION A NUMBER OF
14 ACTIVITIES DURING THIS TIME PERIOD?

15 A. YEAH.

16 Q. IF YOU GO TO PARAGRAPH 18?

17 A. UH-HUH. YEP.

18 Q. YOU SAY I WAS WORKING ON A NUMBER
19 OF OTHER TASKS FOR BLUESPACE?

20 A. YEAH.

21 Q. ARE THOSE OTHER TASKS THE TASKS
22 WE HAD JUST DISCUSSED ABOVE?

♀

267

1 A. YOU KNOW, I MEAN, I WAS DOING
2 SALES, I WAS DOING, YOU KNOW, ORGANIZING
3 RESTRUCTURING, I WAS CLOSING THE INVESTMENT
4 ROUNDS, YOU KNOW, DOING THE INVESTOR
5 RELATIONS. SO YOU KNOW, AND PRODUCT
6 MANAGEMENT. SO I WAS DOING A WHOLE BUNCH OF

7 DIFFERENT TASKS THAT, ALL INVOLVED IN BEING
8 THE CEO OF A TECHNOLOGY COMPANY.

9 Q. OKAY. IF YOU LOOK AT PARAGRAPH
10 15, SAY BETWEEN JUNE 7TH AND AUGUST 16TH, YOU
11 ADDED 16 PAGES TO THE DRAFT PATENT
12 APPLICATION AND YOU'RE REFERRING TO THE
13 DIFFERENCE BETWEEN EXHIBIT 2006 AND 2007.

14 DO YOU SEE THAT?

15 A. YEAH.

16 Q. OKAY. AND YOU LIST A NUMBER OF
17 CHANGES MADE TO THE DOCUMENT.

18 DO YOU SEE THAT?

19 A. YEP.

20 Q. OKAY. IF YOU GO ON TO THE NEXT
21 PAGE?

22 A. UH-HUH.

♀
†

268

1 Q. ONE OF THE CHANGES YOU LIST IS
2 ADDITIONS AND REVISIONS TO SECTION 9 ON THE
3 MATHEMATICS.

4 DO YOU SEE THAT?

5 A. YEP.

6 Q. AND THE ADDITION OF SECTION 10 ON
7 SOFTWARE IMPLEMENTATION?

8 A. YEP.

9 Q. AND THE ADDITION TO SECTION 11,
10 CONCLUSION?

11 A. YEP.

12 Q. RIGHT.

13 WHAT WAS THE ADDED AND REVISED IN
14 SECTION 9 THE MATHEMATICS?

15 A. I DON'T RECALL AT THIS TIME. BUT
16 YOU KNOW, I THINK THIS IS THE PROCESS OF MY
17 FATHER CONTINUING TO DEVELOPING THE
18 MATHEMATICS AND, YOU KNOW, THERE WAS A LOT OF
19 STATISTICS AND IT WAS A LONG PROCESS THAT --
20 THAT IT TOOK TO MAKE IT. SO I THINK HE JUST
21 WAS CONTINUING TO REFINE THE -- THE FORMULA
22 THAT WERE IN IT.

♀
†

269

1 (BY MR. PLAIL)

2 Q. IN PARAGRAPH 17 YOU SAY I
3 ANTICIPATE IT WOULD HAVE TAKEN 20 HOURS TO
4 MAKE THE REVISIONS?

5 A. YEAH.

6 Q. OKAY. AND THAT'S YOUR TIME OR
7 YOUR AND PAUL MARSTON'S TIME?

8 A. THAT'S MY TIME ON MY --

9 Q. OR YOU AND PAUL MARSTON'S TIME?

10 A. I THINK -- I THINK THAT WOULD BE

11 BOTH OF OUR TIME. I THINK THAT'S WHAT I
12 MEANT WHEN I WROTE THAT.

13 Q. OKAY. AND SO JUST TO -- WELL, I
14 GUESS GOING TO THE NEXT SECTION, 23,
15 PARAGRAPH 23, THIS IS RELATED TO WORK DONE
16 DURING AUGUST 21 TO SEPTEMBER 21.

17 A. OKAY. YES.

18 Q. IF YOU GO TO PARAGRAPH 20 --
19 SORRY, IF YOU GO TO PARAGRAPH 23, YOU DISCUSS
20 SOME -- SOME CHANGES MADE TO THE DRAFT PATENT
21 APPLICATION; IS THAT RIGHT?

22 A. YES.

♀

270

1 Q. YEAH.
2 ABOUT HOW MANY HOURS DID IT TAKE
3 TO MAKE THE CHANGES TO EXHIBIT 2032?

4 A. I DON'T KNOW THAT I RECALL AT
5 THIS TIME.

6 Q. ROUGH ESTIMATE.

7 A. YEAH, I'D HAVE TO COMPARE THE
8 TWO. I DON'T HAVE -- I DON'T HAVE AN
9 ESTIMATE AT THIS TIME.

10 Q. I'M GOING TO HAND YOU
11 EXHIBIT 2032?

12 A. THANKS.

13 (WHEREUPON EXHIBIT NUMBER **
14 WAS SHOWN.)
15 A. AND THEN COMPARING THIS TO?
16 WHICH ONE AM I COMPARING THIS TO?
17 (BY MR. PLAIL)

18 Q. IT LOOKS LIKE 2073.

19 A. OKAY.

20 (WHEREUPON EXHIBIT NUMBER **
21 WAS SHOWN.).

22 A. THANKS. YEAH, I THINK THE MAIN

271

1 DEFENSES ARE GOING TO BE IN THE MATH. SO --
2 LOOK AT THIS.

3 YES, I THINK YOU SHOULD ASK THAT
4 QUESTION TO MY FATHER BECAUSE IF YOU LOOK AT
5 THE TWO DOCUMENTS, THEY'RE PRETTY MUCH
6 IDENTICAL UP TO THE BEGINNING OF THE
7 MATHEMATICAL ALGORITHM FRAMEWORK SECTION ON
8 PAGE 55, PAGE 55 IN BOTH DOCUMENTS AND FROM
9 THERE, THAT'S WHERE, YOU KNOW, THIS IS
10 ESSENTIALLY THREE ADDITIONAL PAGES IN THIS,
11 THIS IS THE ORIGINAL AND ALL OF THAT WAS IN
12 THE MATHEMATIC SECTION WHICH IS THE SECTION
13 THAT HE PRIMARILY WORKED ON.

14 Q. AND IF YOU LOOK AT 2032, LOOKS

15 LIKE A SECTION CALLED DEFINITIONS WAS ADDED
16 TO THE MATHEMATICS SECTION?

17 A. WHICH PAGE IS THAT?

18 Q. 55 OF 32, 55 OF EXHIBIT 2032.

19 A. SO OH, YEAH, OKAY. YEAH, SO
20 THAT'S THE POINT AT WHICH THEY DIVERGE, YES.

21 Q. OKAY.

22 A. YEAH, SO THAT'S BEEN ADDED.

♀
†

272

1 Q. AND THEN THE FIGURE ON THE NEXT
2 PAGE WAS ADDED?

3 A. OKAY. SO I PROBABLY CREATED
4 THOSE TWO PAGES, SO IF I WAS ESTIMATING, I
5 WOULD SAY -- I WOULD SAY THREE, YOU KNOW,
6 SOMETHING LIKE THREE HOURS FOR THE --

7 Q. OKAY.

8 A. -- YOU KNOW DIAGRAM AND THE
9 DEFINITIONS AND THEN THERE MUST BE SOME OTHER
10 CHANGES IN IT, AS WELL, I WOULD THINK. SO
11 BECAUSE THIS IS STILL -- THIS STILL, YEAH,
12 THIS -- THERE'S SOME THERE'S SOME OTHER
13 CHANGES THROUGH HERE, AS WELL. BECAUSE IT'S
14 GOING BY ANOTHER PAGE.

15 Q. OKAY. SO IN TERMS OF A TOTAL
16 ESTIMATE OF HOW LONG IT TOOK TO CREATE

17 2032 --

18 A. YEAH, LET'S SAY, I MEAN, THE
19 THING IN ALL OF THIS IS THAT LIKE, I COULD
20 SEE THE TEXT THAT I WROTE AND THE DIAGRAM
21 THAT I WROTE AND I DON'T THINK IT TOOK ME
22 MORE THAN SAY THREE HOURS TO DO THAT BUT FOR

273

1 THE MATHEMATICS SECTION, YOU WOULD HAVE TO --
2 THAT'S MY FATHER BECAUSE YOU COULD HAVE TWO
3 FORMULA THAT ARE THE SAME LENGTH BUT IT COULD
4 HAVE TAKEN A LOT OF TIME TO GET FROM ONE TO
5 THE OTHER. SO I WOULD -- I WOULD ASK HIM
6 THAT QUESTION.

7 Q. AND AT THIS POINT, THE
8 MATHEMATICAL FORMULAS WERE STILL BEING
9 DEVELOPED?

10 A. YEAH, I -- BASED ON A COMBINATION
11 OR A COMPARISON OF THE TWO BUT YES, I BELIEVE
12 THAT'S TRUE, YES.

13 Q. AND SO YOU SAY TO THE BEST OF
14 YOUR RECOLLECTION, YOU SPENT ABOUT THREE
15 HOURS ON THAT?

16 A. ON THOSE TWO PAGES, CORRECT.

17 Q. CAN WE GO TO PARAGRAPH 26?

18 A. OF THIS ONE AGAIN?

♀

♀

19 Q. YES.

20 A. YEP.

21 Q. SO THIS IS WORK DONE BETWEEN

22 SEPTEMBER 21 AND OCTOBER 2 THROUGH SEVEN?

274

1 A. OKAY.

2 Q. YOU SAY THAT YOU PREPARED ANOTHER

3 VERSION OF EX OR SORRY, ANOTHER VERSION OF

4 THE PROVISIONAL APPLICATION.

5 DO YOU SEE THAT?

6 A. YEAH.

7 Q. AND SO NOT TO BELABOR THE POINT,

8 BUT IF YOU GO THROUGH, YOU DISCUSS IN

9 PARAGRAPH 26, YOU DISCUSS ONE, PARAGRAPH 27,

10 28, 29, 30, YOU DISCUSS VARIOUS EDITS TO THE

11 DRAFT?

12 A. UH-HUH.

13 Q. KIND OF SUMS UP IN PARAGRAPH 34.

14 AND IN THERE YOU SAY IN TOTAL, 17 ADDITIONAL

15 PAGES OF MATERIAL WERE ADDED. I ANTICIPATE

16 THAT WOULD TAKE APPROXIMATELY ANOTHER 55

17 HOURS TO PREPARE THE ADDITIONAL MATERIAL

18 DURING THE TIME FRAME OF AUGUST 17TH, THROUGH

19 OCTOBER 6TH?

20 A. UH-HUH.

21 Q. SO THIS IS THE AMOUNT OF TIME
22 THAT YOU AND PAUL MARSTON SPENT IN PREPARING

275

1 THE PROVISIONAL APPLICATION BETWEEN
2 AUGUST 17TH AND OCTOBER 6TH?

3 A. YEAH, I MEAN, WE ADDED, HOW MANY
4 PAGES IS THAT? YOU KNOW, 17 PAGES, RIGHT?

5 Q. UH-HUH.

6 AND THOSE 17 PAGES, WERE THEY
7 MOSTLY RELATED TO THE MATHEMATICAL MODELS?

8 A. I'D HAVE TO COMPARE THE TWO
9 AGAIN, TO -- TO SEE.

10 Q. OKAY.

11 A. BUT YES THE MATH, YOU KNOW,
12 REALLY THE -- THE CONCEPT WAS DEVELOPED
13 FIRST, THE SCREENSHOTS WERE DEVELOPED AND
14 THEN, YOU KNOW, WE GOT INTO THE MATH, BUT
15 SURE, SHOW THEM TO ME, IF YOU LIKE, YEAH.

16 Q. THIS IS 2008.

17 (WHEREUPON EXHIBIT NUMBER **
18 WAS SHOWN.)

19 (BY MR. PLAIL)

20 Q. AND THEN I'LL GIVE YOU 2010.

21 (WHEREUPON EXHIBIT NUMBER **
22 WAS SHOWN.)

1 A. OKAY. YEAH.

2 (BY MR. PLAIL)

3 Q. SO WHERE DO YOU THINK THE
4 MAJORITY OF THE CHANGES WERE BETWEEN THESE
5 TWO IN THE MATHEMATICAL FORMULA SECTION OR
6 ELSEWHERE?

7 A. OKAY. SO THAT WON'TS ON 59, THIS
8 ONE'S ON 55. SO YEAH, I MEAN THIS ONE'S GOT
9 THE ADDITIONAL PICTURE AND DEFINITION AHEAD
10 OF THAT, I THINK, YEAH, ALGORITHM DEFINITION,
11 ALGORITHM OVERVIEW. I THINK THAT'S A NEW
12 SECTION. SO I THINK MY FATHER WORKED ON
13 SECTION 9 IN THE NEW DOCUMENT, INCLUDING THE
14 STATISTICAL TERMS FOR EACH OF THE DIFFERENT
15 THINGS THAT I'D FIND AND THEN I WORKED ON
16 THAT DIAGRAM AND THEN FROM THERE, YOU KNOW,
17 THERE'S ANOTHER -- SO THE MAJORITY OF THE
18 CHANGES WERE IN THE MATHEMATICAL SECTION.

19 Q. OKAY.

20 A. YES.

21 Q. OKAY. IF YOU GO TO THE NEXT
22 SECTION, THIS IS DISCUSSING WORK BETWEEN

1 OCTOBER 7TH AND NOVEMBER 8TH?

2 A. YEAH, YEAH.

3 Q. YEAH. YOU DISCUSS PREPARING AN
4 ADDITIONAL EXHIBIT 2034 AND THEN
5 EXHIBIT 2035.

6 A. UH-HUH.

7 Q. AND IT GOES ON. AND THEN AT THE
8 END OF THIS SECTION, KIND OF SUMS UP AGAIN IN
9 PARAGRAPH 47, IT SAYS I ANTICIPATE THAT IT
10 WOULD TAKE APPROXIMATELY 30 HOURS TO PREPARE
11 THE DOCUMENT FILED AS EXHIBIT 2013.

12 A. UH-HUH.

13 Q. SO JUST TO CONFIRM, THIS WOULD BE
14 AN ADDITIONAL 30 HOURS BETWEEN THE PERIOD OF
15 OCTOBER 7TH THROUGH NOVEMBER 8TH?

16 A. YES.

17 Q. OKAY. AND THAT LEAVES US AT
18 2,000 -- EXHIBIT 2013.

19 A. UH-HUH.

20 Q. SO MOVING ON TO NOVEMBER 13TH
21 THROUGH JANUARY 11TH, THIS SECTION?

22 MR. PADMANABHAN: ON THE NEXT

♀
†

278

1 PAGE.

2 A. YEAH.

3 (BY MR. PLAIL)

4 Q. DOES NOT REFLECT ANY SPECIFIC
5 WORK ON THE PROVISIONAL APPLICATION AT THIS
6 TIME; IS THAT RIGHT?

7 A. YEAH. IT WAS -- IT WAS A PERIOD
8 WHERE IT WAS VERY FOCUSED ON THE INVESTMENT
9 CLOSE AND THE HOLIDAYS.

10 Q. OKAY. AND SO DURING THIS TIME,
11 YOU DID NOT SPECIFICALLY WORK ON THE
12 PROVISIONAL APPLICATION?

13 A. NO, I DON'T BELIEVE SO.

14 Q. YOU HAVE A SECTION HERE CALLED
15 OTHER DOCUMENTS FROM SEPTEMBER 2ND, 2004,
16 THROUGH JUNE 7TH, 2005?

17 A. AT WHICH PARAGRAPH NUMBER IS
18 THIS -- OH, YEAH.

19 Q. 57.

20 A. YEAH, UH-HUH.

21 Q. I BELIEVE YOU'VE ALREADY
22 DISCUSSED PARAGRAPH 58 BUT THAT REFERS TO

♀
†

279

1 MR. JONES'S COMMENTS ON THE ALGORITHMS,
2 CORRECT?

3 A. JONES, WHAT WAS HIS FIRST NAME?

4 Q. TONY MORTON JONES?

5 A. OH, JONES, OKAY. YEAH, YEAH.

6 Q. IF YOU'D GO TO PARAGRAPH 63?

7 MR. PADMANABHAN: 63?

8 MR. PLAIL: UH-HUH.

9 A. OKAY.

10 (BY MR. PLAIL)

11 Q. THIS RELATES TO A DOCUMENT
12 ENTITLED SOME THOUGHTS ON THE TRANSMITTAL
13 RELEVANCE SLASH IMPORTANCE ALGORITHM?

14 A. OKAY.

15 Q. YOU SAY THIS RELATES TO OUR WORK
16 ON THE PROVISION PATENT APPLICATION.

17 AND YOU SAY PAUL MARSTON IS
18 PROVIDING FEEDBACK TO ME REGARDING THE DRAFT.

19 DO YOU SEE THAT?

20 A. YEAH.

21 Q. SO THIS IS A SUMMARY OF
22 MR. MARSTON -- I'M SORRY, MR. PAUL MARSTON'S

280

1 FEEDBACK ON THE RELEVANCE MODELS AT THAT
2 TIME, MAY 17TH, 2005?

3 A. OKAY.

4 Q. DO YOU AGREE?

5 A. YEAH.

6 Q. ALL RIGHT. AND SO THIS WAS
7 EXCHANGED AS PART OF BOTH OF YOU WORKING

♀

8 TOGETHER ON CREATING THE RELEVANCE MODELS,
9 CORRECT?
10 A. YEAH.
11 Q. HAVE YOU EVER REVIEWED ANY SOURCE
12 CODE OR CODE FROM TWITTER?
13 A. NO.
14 Q. OR ANY PRODUCT BY X CORP.?
15 A. NOT -- WELL, HAVE I REVIEWED IT?
16 HAVE I HAVE I EVER TOUCHED TWITTER UP TO NOW
17 OR IN THE TIME OF THE --
18 Q. SOURCE CODE?
19 A. SOURCE CODE.
20 Q. YEAH?
21 A. NO.
22 Q. HAVE YOU EVER REVIEWED CODE FOR

♀
+

281

1 FACEBOOK?
2 A. NO.
3 Q. OR INSTAGRAM?
4 A. NO.
5 Q. ALL RIGHT. ALL RIGHT. SHOULD
6 TAKE A BREAK?
7 A. OKAY --
8 (BREAK TAKEN FROM 3:24 P.M. TO
9 3:29 P.M.)

10 (BY MR. PLAIL) JUST ONE MORE QUICK LINE OF
11 QUESTIONING AND THEN
12 A. -- SURE.
13 Q. GET YOU OUT OF HERE. ALL RIGHT.
14 I JUST WANT TO SUMMARIZE WHAT WE TALKED ABOUT
15 MOST RECENTLY, THE --
16 A. READY. SO BACK TO THIS ONE?
17 Q. BACK TO 2030. YEAH.
18 A. OKAY. OKAY.
19 Q. LOOKING AT WORK DONE BETWEEN
20 JUNE 7TH AND AUGUST 21?
21 MR. PADMANABHAN: WHAT PAGE ARE
22 YOU ON? PAGE 5. OKAY.

♀
†

282

1 MR. PLAIL: YEAH:
2 A. YEAH.
3 (BY MR. PLAIL)
4 Q. APPROXIMATELY 20 HOURS OF WORK --
5 YOU AND PAUL MARSTON PLANNED ON APPROXIMATELY
6 20 HOURS OF WORK BETWEEN JUNE 7TH AND
7 AUGUST 21 ON THE PROVISIONAL APPLICATION.
8 A. WHICH PARAGRAPH NUMBER WAS THAT?
9 Q. 17.
10 A. YES, IT'S A GUESS, BUT YES.
11 Q. FOR AUGUST 21 THROUGH

12 SEPTEMBER 21, ON PAGE 8 --
13 A. YEAH.
14 Q. -- YOU ESTIMATED THAT YOU SPENT
15 THREE HOURS OF WORK ON A PROVISIONAL
16 APPLICATION BETWEEN?
17 A. YES, ME MYSELF.
18 MR. PADMANABHAN: YEAH,
19 OBJECTION RULE 611. GO AHEAD.
20 (BY MR. PLAIL)
21 Q. AND YOU WERE NOT SURE HOW MUCH
22 PAUL MARSTON HAD --

♀

283

1 A. THAT'S CORRECT.
2 Q. OKAY. IF WE GO TO SEPTEMBER 21ST
3 THROUGH OCTOBER 7TH?
4 A. YEAH --
5 Q. ON TEN?
6 A. -- UH-HUH.
7 Q. IF YOU LOOK AT PARAGRAPH 34?
8 A. YES.
9 Q. YOU AND PAUL MARSTON SPENT
10 APPROXIMATELY 55 HOURS BETWEEN SEPTEMBER 21ST
11 AND OCTOBER 7TH ON THE PROVISIONAL
12 APPLICATION?
13 A. YES.

14 Q. LOOKING AT THE TIME PERIOD OF
15 OCTOBER 7TH THROUGH NOVEMBER 8TH THROUGH
16 13TH --

17 A. UH-HUH.

18 Q. -- IF YOU LOOK AT PARAGRAPH 47,
19 YOU AND PAUL MARSTON SPENT ABOUT 30 HOURS
20 BETWEEN OCTOBER 7TH AND NOVEMBER 13TH ON
21 PROVISIONAL APPLICATION?

22 A. UH-HUH. YES.

♀
+

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1 Q. AND FOR THE TIME PERIOD BETWEEN
2 NOVEMBER 13TH AND JANUARY 11 THROUGH 13, YOU
3 TESTIFIED THAT YOU DID NOT SPEND ANY
4 PARTICULAR HOURS ON --

5 A. YES.

6 Q. -- THE PROVISIONAL APPLICATION?

7 A. CORRECT.

8 Q. OKAY. AND DOES THAT INCLUDE PAUL
9 MARSTON?

10 A. ASK HIM.

11 Q. I MEAN, I'M JUST GOING BASED OFF
12 YOUR DECLARATION, YOU DON'T REFERENCE ANY
13 PARTICULAR WORK DONE IN THAT TIME PERIOD OR
14 ANY DRAFTS CREATED IN THAT TIME PERIOD?

15 A. YEAH, THAT WAS LIKELY TRUE. I

16 MEAN, HE WOULD HAVE A BETTER RECOLLECTION OF
17 HOW HE SPENT HIS TIME THAN I WOULD, HOW HE
18 SPENT HIS TIME BUT YES, I DON'T THINK I DID,
19 SO...

20 Q. BUT BASED OFF OF WHAT YOU KNOW
21 HERE TODAY, PAUL MARSTON ALSO DID NOT SPEND
22 ANY TIME ON THE PROVISIONAL APPLICATION

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1 BETWEEN NOVEMBER 13TH AND JANUARY 13TH, 2006?

2 A. I BELIEVE THAT. YOU SHOULD ASK
3 HIM THAT, YEAH.

4 Q. OKAY. ALL RIGHT. I THINK THAT'S
5 ALL MY QUESTIONS. I PASS THE WITNESS.

6 MR. PADMANABHAN: DO YOU WANT
7 TO STEP OUT FOR JUST A SECOND?

8 THE WITNESS: YEAH, ARE WE
9 DONE.

10 (BREAK TAKEN FROM 3:33 P.M. TO

11 MR. PADMANABHAN: YEAH I JUST
12 WANT TO SAY I HAVE NO QUESTIONS FOR THE
13 WITNESS. WE'LL READ AND SIGN.

14 THE COURT REPORTER: YOU NEED A
15 COPY OF THE DEPOSITION, CORRECT.

16 MR. PADMANABHAN: YES, I DO,
17 AND CAN YOU GET US A ROUGH.

♀
†

18 THE COURT REPORTER: YES. THE
19 FINAL HAS BEEN ORDERED EXPEDITED DO YOU WANT
20 THAT.

21 MR. PADMANABHAN: WE DON'T NEED
22 THE FINAL EXPEDITED. THEY DO, WE DON'T.

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1 MR. PLAIL: WE DO.

2 * * * * *

3 MR. PLAIL: FOR WHENEVER THE
4 WORD [GOVERNMENT ENTITY] IS USED IF WE CAN
5 JUST REPLACE THAT.

6 MR. PADMANABHAN: WITH
7 GOVERNMENT ENTITY.

8 (DEPOSITION CONCLUDED.)

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