

UNITED STATES PATENT AND TRADEMARK OFFICE

TWITCH INTERACTIVE, INC.)

Petitioner,)

vs.)

RAZDOG HOLDINGS LLC,)

Patent Owner.)

IPR2025-00308

DEPOSITION OF GEORGE EDWARDS, PH.D.

THURSDAY, JANUARY 15, 2026, 9:27 A.M.

LOS ANGELES, CALIFORNIA

FOCUS LITIGATION SOLUTIONS
(916) 228-4593

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DEPOSITION OF GEORGE EDWARDS, PH.D., commencing
on Thursday, January 15, 2026, at 9:27 a.m., located at
Los Angeles, California, before Jennifer Porto, Certified
Shorthand Reporter No. 14098, in and for the State of
California.

A P P E A R A N C E S

APPEARING ON BEHALF OF THE PETITIONER, TWITCH
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ALSO PRESENT:
(None.)

VIDEOGRAPHER:
(None.)

INTERPRETER:
(None.)

I N D E X

WITNESS: GEORGE EDWARDS, PH.D.

EXAMINATION PAGE

By Mr. Carter 5

EXHIBITS

NUMBER DESCRIPTION PAGE

EXHIBIT 1 Letter to SparkFun Electronics, 140
July 6, 2018, "System for
Managing Web-Based Content Data
and Applications."

Exhibit 2 SparkFun Electronics Website, 140
Product Menu

PREVIOUSLY MARKED EXHIBITS

Exhibit 1001 7

Exhibit 1003 30

Exhibit 2010 6

INSTRUCTIONS NOT TO ANSWER:

PAGE LINE

(None.)

INFORMATION REQUESTED:

PAGE LINE

(None.)

LOS ANGELES, CALIFORNIA

THURSDAY, JANUARY 15, 2026, 9:27 A.M.

-000-

STENOGRAPHIC REPORTER: My name is Jennifer Porto, certified with the State of California. Certification No. 14098.

GEORGE EDWARDS, Ph.D., called as a witness, having been first duly sworn, was examined and testified as follows:

THE WITNESS: Yes, I do.

BY MR. CARTER:

Q Good morning, Dr. Edwards. How are you today?

A I'm fine, thanks.

Q Very good.

How many times have you been deposed before?

A I think about 20 times.

Q Okay. So this is familiar to you, so I'm not going to spend a whole lot of time going over the ground rules. But if at any point today, if I ask a question that's unclear or if you have any issues that we need to discuss, something comes up, we can. But otherwise, I'm going to assume that you know how this goes, and I'm just going to try to plow through the questions and make as efficient use of our time as possible.

Does that sound good?

1 A That sounds fine to me.

2 Q All right. Great.

3 How much time did you spend prepping for your
4 dep today?

5 A I spent several hours on Tuesday and several
6 hours yesterday.

7 Q When you say "several hours," do you have a
8 rough estimate?

9 A Maybe about four to five hours each day.

10 Q And did you discuss your deposition testimony
11 with anyone other than counsel?

12 A No.

13 MR. CARTER: Just to make things run smoothly,
14 let me give you, first of all, a copy of your
15 declaration, which is already marked as Exhibit 2010 in
16 this proceeding.

17 There is a clean copy for you as well,
18 Mr. McBride.

19 (Petitioner's Exhibit 2010 was
20 previously marked for the record
21 and not attached hereto.)

22 MR. CARTER: And while I'm thinking about it,
23 I'm going to go ahead and give you copies of the patents
24 as well. The '658 patent is already marked as Twitch
25 Exhibit 1001.

(Petitioner's Exhibit 1001 was
previously marked for the record
and not attached hereto.)

BY MR. CARTER:

Q And then the -- let's see -- did I give you the
correct ones? Yeah. Okay. And then -- yes, I just want
to make sure.

MR. McBRIDE: This is '068.

MR. CARTER: Okay. Yeah. Sorry. Noted.
They're both Twitch 001. The '068 and the '658 are just
in two separate proceedings.

BY MR. CARTER:

Q So now you should have in front of you a copy
of your declaration and the two patents at issue in these
IPR proceedings. Does that look correct to you,
Dr. Edwards?

A Yes, it does.

Q Okay. If, at any point today, there is
something else that you don't have in front of you that
would assist with your testimony, let me know. I can't
promise that I will have it to provide; but at the very
least you can make the request, and we'll figure it out
from there.

Sounds good?

A Sure.

1 Q How much time did you spend prepping your
2 declaration that is in front of you?

3 A That was back in September, so I don't recall
4 exactly how much time I spent.

5 Q Did you write the first draft of it?

6 A Yes.

7 Q Did anyone help you in drafting your
8 declaration?

9 A Yes.

10 Q And who?

11 A I received some assistance from two other
12 experts that are on my staff. Their names are
13 Luis Padilla and Iman Sadeghi.

14 Q Could you spell the names, please?

15 A Yes. The first one is Luis, L-U-I-S. Last
16 name Padilla, P-A-D-I-L-L-A. And the other is Iman
17 Sadeghi. First name, I-M-A-N. Last name, S-A-D-E-G-H-I.

18 Q And when you say they are on your staff,
19 meaning they work for the same company that you do?

20 A Yes.

21 Q And that's Quandary Peak Research?

22 A Correct.

23 Q Okay. What role did each of these individuals
24 play in assisting you with the preparation of your
25 declaration?

1 MR. MCBRIDE: Just caution the witness not to
2 reveal any specific details. You can answer at a very
3 high level.

4 THE WITNESS: Sure. So as is typical, when
5 preparing my expert reports, I will create an outline of
6 what I want to be included in the report. I will -- when
7 I have someone assisting me, I will meet with that
8 person, explain to them what it is that I want them to
9 assist with, what I want the report to say, and then they
10 generally will help me to craft some of the text, which I
11 then later review, make sure it includes what I want it
12 to, and that it is all correct, make any revisions that
13 are necessary, and so on.

14 BY MR. CARTER:

15 Q Did Luis Padilla or Iman Sadeghi do the first
16 drafts of any sections of your declaration?

17 A I don't think they did first drafts of any
18 entire sections. They did --

19 Q But perhaps subsections?

20 A They helped to draft some of the text at my
21 direction.

22 Q And just to clarify, neither of these
23 individuals is an attorney; is that correct?

24 A Correct.

25 Q Did any attorneys assist with the preparation

1 of your declaration?

2 A There was an attorney that was -- I was
3 communicating with while I was preparing the declaration.

4 Q And who was that?

5 A That was Kyle -- and I -- his last name --

6 Q Deegan [phonetic], does that sound about right?

7 A That sounds right, yeah.

8 Q So other than communications with counsel and
9 then assistance from Luis Padilla and Iman Sadeghi, did
10 anyone else play any role in the preparation of your
11 declaration?

12 A No.

13 Q As you sit here today, does Exhibit 2010, which
14 is your declaration, contain all of the opinions that you
15 have formed to date in connection with these IPRs?

16 A Yes.

17 Q Are you aware of anything in your declaration
18 that requires a revision or correction, as you sit here
19 today?

20 A Beyond minor typos, no.

21 Q I will do my best throughout the day to sort of
22 direct you to particular paragraph numbers or pages if
23 I'm asking you about documents. But if I forget to do
24 that, feel free to ask, and I will do my absolute best to
25 sort of direct you to what I'm looking at as I'm asking

1 you questions today.

2 Does that sound good?

3 A Yes, it does.

4 Q All right. If you'll open up to just
5 paragraph 3 of your declaration. It begins on page 5 and
6 then continues on to page 6, I believe.

7 The last sentence on the paragraph, you just
8 say you reserve the right to revise, supplement, and/or
9 amend your opinions based on new information and on your
10 continuing analysis of the materials submitted in these
11 proceedings. So I just want to close the loop on this?

12 Sitting here today, you don't have any
13 revisions, supplementation, or amendments to the opinions
14 that are expressed in your declaration, which is
15 Exhibit 2010; is that right?

16 A That's right.

17 Q Do you intend, hereafter, to offer any amended
18 or supplemental opinions in connection with these IPRs?

19 A I have no intent to do so as of now, unless I'm
20 given some additional instruction in the future.

21 Q And you haven't been asked to do so?

22 A No.

23 Q If you'll turn to paragraph 35 of your
24 declaration, which begins on page 13 and continues on to
25 page 14.

1 A Okay.

2 Q This, I believe, is a list of the materials you
3 considered in preparing your declaration; is that
4 correct?

5 A Yes.

6 Q Is this intended to be a complete list?

7 A Yes.

8 Q Are you aware that there is a co-pending
9 district court litigation between the parties involving
10 the '658 and '068 patents?

11 A Yes, I am aware of that.

12 Q Have you reviewed any of the party's
13 submissions in that district court case?

14 A I don't recall if I have or not, but it is
15 possible that I might have reviewed, for example, the
16 complaint that was filed.

17 Q Are you aware that the parties actually fully
18 briefed claim construction for the '658 and '068 patents
19 in that co-pending district court litigation?

20 A I was not aware of the status of the briefing.

21 Q Have you reviewed any of the claimed
22 construction briefing from the co-pending district court
23 litigation involving these two patents?

24 A Not that I recall.

25 Q If you move to page 15 of your declaration,

1 please. There is a section numbered 5, titled "Legal
2 Standards." Do you see that?

3 A Yes, I do.

4 Q Did you draft this section?

5 A No.

6 Q Was this provided by counsel?

7 A Yes, it was.

8 Q Sitting here today, do you feel comfortable
9 testifying consistent with the legal standards that are
10 set forth in section 5 of your declaration?

11 A I think so.

12 Q Go to page 18, please. There is a section 5.6
13 labeled "Prior Art," and I'm looking specifically at
14 paragraph 48. Do you have that in front of you?

15 A Yes, I do.

16 Q The second sentence of that paragraph reads,
17 quote, (Reading:) However, my use of this phrase should
18 not be interpreted as agreement that the item(s)
19 described qualify as "prior art" under the patent laws.

20 Do you see that?

21 A Yes, I do.

22 Q Sitting here today, do you dispute that any of
23 the references presented in petitioners' petitions in
24 this proceeding qualify as prior art?

25 A I have not offered an opinion on that.

1 Q If we look at the very next section, which
2 begins on page 19 of your declaration, it's titled
3 "Anticipation." Do you see that?

4 A Yes, I do.

5 Q And then you purport to provide an overview of
6 the legal standard for anticipation in paragraphs 49 and
7 50; is that correct?

8 A Yes, with the caveat, as I said, this material
9 was provided to me by counsel.

10 Q Understood.

11 Is it your understanding that any invalidity
12 grounds, based on anticipation, are being advanced by
13 petitioner in this proceeding?

14 A No. My understanding is that there are not any
15 grounds based on anticipation.

16 Q Did you just include this section for
17 completeness?

18 A I did, and because it was provided by counsel
19 along with the other material in this section 5.

20 Q Let's go to paragraph 55, please. It begins at
21 the bottom of page 20 and continues to the top of
22 page 21.

23 A Okay.

24 Q I'm going to read this paragraph, and then I
25 have a couple of questions for you about it. Quote,

1 (Reading:) I understand that some articulated reasoning
2 with some rational underpinning to support the legal
3 conclusion of obviousness must be made. For example, I
4 understand that there may be no rational underpinning to
5 support the legal conclusion of obviousness, where
6 systems are already complete, and the party challenging
7 validity seeks to mix and match components, which each
8 exist in the separate systems from these complete
9 systems.

10 Did I read that correctly?

11 A Yes, you did.

12 Q What's your understanding of that paragraph?

13 A Well, my understanding is simply what you just
14 read.

15 Q I have to be honest, the second sentence of
16 that paragraph, I don't fully understand. And I was
17 hoping, perhaps, you could help me understand why this is
18 in your declaration and what it means.

19 A Well, the reason that it is in my declaration
20 is because I included the legal standards that were
21 explained to me by counsel and that are explained in this
22 text, so that's why it is included in the declaration.
23 As far as what the sentence means, I don't have more to
24 add because, as it says at the beginning of this section,
25 I'm not a legal expert, so I simply take this at face

1 value and understand it to just mean only what it says.

2 Q I get that. The problem for me, at least, is
3 that I don't understand the sentence. And I am hoping,
4 perhaps, you do and can explain to me what it means. And
5 if you can't, that's fine, you can just say so.

6 But I read through it a few times, and it is
7 impenetrable at least to me. So I was hoping, perhaps,
8 you could explain what you meant by -- or what it means
9 in the context of the opinions you are offering here
10 today.

11 MR. McBRIDE: Objection. Form.

12 THE WITNESS: Well, I believe that the sentence
13 is being made in reference to a possible combination of
14 systems, where those systems each include various
15 components, and -- but each of the systems in themselves
16 are, as it says, already complete. And if the party
17 challenging validity mixes and matches components from
18 those separate complete systems, there would need to be
19 some rational underpinning for doing so.

20 BY MR. CARTER:

21 Q Which invalidity grounds, if any, advanced by
22 petitioner do you believe lack sufficient rational
23 underpinning as described in paragraph 55 of your
24 declaration?

25 A Well, I think that my declaration includes my

1 opinions regarding the various grounds, and why I believe
2 that various claim elements are not present in the
3 combinations that were asserted in each of those grounds.

4 I don't believe in my summary of opinions
5 section or the claim-by-claim opinions section that I
6 ever specifically used the words "rational underpinning"
7 or lack thereof. Rather, my opinions generally relate to
8 the lack of a limitation being present in the various
9 combinations.

10 Q So I will represent to you that you are correct
11 that the phrase "rational underpinning" does not appear
12 anywhere else in your declaration except for in this
13 paragraph 55, which is one of the reasons why I'm asking
14 the question is to sort of figure out, is this paragraph
15 in your declaration merely for completeness, kind of like
16 the anticipation section, or is this something that you
17 are actually relying upon in any of the opinions that you
18 are offering?

19 So given that context, my question to you is:
20 Sitting here today, are there any invalidity grounds
21 being advanced by petitioner in this proceeding that you
22 believe lack sufficient rational underpinning to support
23 a legal conclusion of obviousness as you've described in
24 paragraph 55 of your declaration?

25 MR. McBRIDE: Objection. Form.

1 THE WITNESS: I believe that all the opinions
2 that I advanced relate to limitation -- one or more
3 limitations not being present in the combinations
4 asserted in each of the grounds.

5 If you'd like me to go through them one by one,
6 I can double-check that, but that's -- my memory of the
7 opinions is that they relate to the lack of a limitation
8 being present.

9 BY MR. CARTER:

10 Q So in other words, you don't take issue with
11 the combinations advanced in the grounds themselves.
12 Rather, you believe that even with the combinations that
13 are advanced, there are still claim elements that are
14 missing. Is that fair?

15 A As far as I recall, all the opinions I gave
16 with respect to obviousness related to a -- one or more
17 limitations being absent from the combinations.

18 Q To follow up on that, correct me if I'm wrong,
19 but I don't believe that you've offered any opinions in
20 this proceeding that disagree with the motivations to
21 combine that were advanced by petitioner and petitioner's
22 expert for the proposed grounds; is that right?

23 A I did not offer any opinion on motivations to
24 combine.

25 Q Turning specifically to the challenged patents,

1 the '658 and the '068, which are sitting in front of you,
2 is it your understanding that those patents share a
3 common specification?

4 A Yes.

5 Q Just for ease of discussion today, I'm going to
6 focus on the '658, which I believe is also what you
7 largely did in your declaration. Is that -- is that okay
8 with you?

9 A Sure.

10 Q All right. So yeah, when I'm referring to
11 particular passages, for example, in the patent
12 specification, henceforth, unless I say otherwise, I will
13 be talking about the '658 specification.

14 Do you understand that?

15 A Okay.

16 Q As an additional point to that, would it be
17 fair to say that the opinions that you are offering with
18 respect to the '658 apply equally to the '068?

19 A I don't know that that's true in all cases.

20 Q In what cases, as far as you recall, would that
21 not be true?

22 A Well, for example, I offered some opinions
23 regarding certain claims of the '658 that don't appear in
24 the '068.

25 Q To the extent that the same claimed terms

1 appear in the two patents, would your opinions with
2 respect to the meaning and interpretation of those terms
3 be the same?

4 A I think that is generally correct, yes.

5 MR. CARTER: Maybe we take a break for a
6 second.

7 (Brief Recess.)

8 BY MR. CARTER:

9 Q If you will look at paragraph 60 of your
10 declaration, please, it is on page 23, and let me know
11 when you're there.

12 A Okay. I'm there.

13 Q You write, (Reading:) To address this problem,
14 the challenged patents are directed to a cloud-based
15 computer system and architecture for managing and
16 migrating through web-based content data and content
17 applications from multiple content data sources or
18 service providers in real time.

19 And you cite a passage from the '658
20 specification. And then you write, quote, (Reading:) A
21 key feature of the inventions is the master server that
22 acts as a single-point access and supports a user
23 interface, which is preferably an icon-based master
24 web page viewable over the master server from a remote
25 computing device.

1 And you have another citation to the patent's
2 specification. Do you see that?

3 A Yes, I do.

4 Q Do you understand that in a patent, particular
5 features or attributes that are described in the
6 specification but not claimed are not part of the
7 invention?

8 A I understand that the invention -- the scope of
9 the invention is described by the claims and not by the
10 specification. And therefore, it is possible that there
11 is material in the specification that might not appear in
12 one or more claims.

13 Q The reason I ask is because in this sentence --
14 the second sentence of paragraph 60, where you're
15 purporting to describe, quote, "A key feature of the
16 inventions," the citation you provide is only to the
17 patent specification, and you don't actually quote any
18 claim language.

19 And so that's why I want to make sure that
20 we're -- we have a common understanding that a patent
21 specification can describe things that do not ultimately
22 make it into the claims, and those things that aren't in
23 the claims, therefore, are not part of the claimed
24 invention. Fair?

25 A I understand that the -- the scope of the

1 invention is described by the claims, and therefore, it
2 is possible that there is material in the specification
3 that is not actually claimed in one or more claims.

4 Q Paragraph 63, please. It is on page 25. Let
5 me know when you're there.

6 A Okay. I'm there.

7 Q You write, quote, (Reading:) Taken together,
8 the challenged patents describe a cloud-based system
9 centered on a real-time, dynamic master web page that
10 aggregates and displays content from multiple sources,
11 allows a user to navigate between that content through a
12 slide tool program executed from the remote device, and
13 includes a toolbox and analytics features for managing,
14 organizing, and targeting content through the master
15 server.

16 Did I read that correctly?

17 A Yes, you did.

18 Q I noticed there's no citation here. So would I
19 be correct in understanding that this is your attempt to
20 put it in your own words what you believe the claimed
21 invention of the '658 and '068 patents is?

22 A This is my attempt to provide a broad summary
23 of the claimed inventions. It's not intended to
24 substitute for the language of the claims themselves,
25 which is what I analyzed in forming my opinions, but it

1 is intended to broadly characterize some of the key
2 elements that do appear in at least some of the claims.

3 Q I noticed that there is language in the summary
4 sentence in paragraph 63 that does not appear in the
5 claims as written. So, for example, the addition of the
6 word "dynamic" to the description of master web page.
7 And I'm curious, what was your basis in adding the word
8 "dynamic" to a sentence that attempts to describe the
9 claimed invention?

10 A Well, as I said before, this is not a direct
11 quotation from any of the claims. Rather, it is meant to
12 be a broader characterization of the subject matter of
13 those claims without intending to be a precise statement
14 of exactly what is claimed, because I would not
15 substitute my own words for the claimed language.

16 So I included the word "dynamic" as well as the
17 other descriptions here to reflect, again, my general
18 understanding of the -- some of the important
19 characteristics of the subject matter of the challenged
20 patents.

21 Q Would you agree with me that it is improper
22 to add -- excuse me, add limitations to a claim by
23 importing them from the specification when they don't
24 actually appear in the claim language?

25 MR. McBRIDE: Objection. Form.

1 THE WITNESS: In forming my opinions in this
2 declaration, I've applied the plain language of the
3 claims and don't believe that I have imported any
4 additional limitations from the specification. Whether
5 it is inappropriate to do so in all contexts, I don't
6 think I would be necessarily qualified to answer because
7 I'm not a legal expert. In my experience, I think that
8 is generally correct, but I can't necessarily say that
9 that's inappropriate in every circumstance.

10 BY MR. CARTER:

11 Q Just to make sure that I understand that last
12 answer. Is it correct, then, to say that as a general
13 rule, you believe it is not appropriate to import
14 limitations from the specification into the claims; and
15 specifically here, you do not believe that you have done
16 so?

17 MR. McBRIDE: Objection. Form.

18 THE WITNESS: You are correct that in my --
19 forming my opinions in this declaration, I have relied on
20 the plain and ordinary meaning of the claims themselves,
21 and I don't believe that I imported any additional
22 limitations.

23 Regarding the other part of your statement,
24 again, not being a legal expert, I don't think I can
25 necessarily comment on what would be appropriate in other

1 legal contexts. But in my experience, I think it is
2 generally correct that one would not import limitations
3 into a claim.

4 BY MR. CARTER:

5 Q Just to focus on that last answer a little bit
6 more, I'm not asking about other contexts. Specifically
7 here, is it your understanding with respect to the '658
8 and '068 patents, it would be improper to import
9 limitations from the specification into the claims?

10 MR. McBRIDE: Objection. Form.

11 THE WITNESS: As I have been instructed -- in
12 forming my opinions for this declaration, I was
13 instructed to rely on the plain and ordinary meaning of
14 the claims themselves without importing any additional
15 limitations from the specification, and I believe that's
16 what I have done.

17 BY MR. CARTER:

18 Q I meant to hit this earlier. Can you please go
19 back to the first substantive page of your declaration,
20 which I believe is page 5? That's where your paragraph 1
21 begins, and let me know when you're there, please.

22 A Okay. I'm there.

23 Q Specifically looking at footnote 1, you refer
24 to the fact that you have reviewed the prosecution
25 histories of these patents, which is Exhibit 1003; is

1 that correct?

2 A That's correct. There's a -- lengthy, so I
3 don't know that I read them comprehensively, but I have
4 reviewed at least some portions of those file histories.

5 Q Do you recall which portions of the file
6 histories of the challenged patents in this proceeding
7 you reviewed?

8 A I mean, I certainly couldn't give you page
9 numbers. But in general, I reviewed portions that
10 included correspondence between the applicant and the
11 patent office regarding the subject matter of the claims.

12 Q Would it be fair to then say that you reviewed
13 the office actions from the PTO and then the responses
14 from the applicant in the prosecution history?

15 MR. McBRIDE: Objection. Form.

16 THE WITNESS: I believe I reviewed at least
17 portions of those, yes.

18 BY MR. CARTER:

19 Q This is somewhat of an administrative question.
20 In the second sentence in footnote 1, you say you will
21 cite each challenged patent by its shorthand title and
22 the prosecution history as (shorthand patent number)
23 prosecution history.

24 Do you see that?

25 A Yes, I see that.

1 Q So when I searched through your declaration, I
2 don't really see any citations like that. Like, there's
3 no '658 prosecution history. I'm assuming that was just
4 sort of an oversight, and you do, in fact, rely on the
5 prosecution history, and you just cite it as Exhibit 1003
6 any time that you will rely on the prosecution history.
7 Is that fair?

8 A That's possible, yes. I do believe that I
9 listed it in my Materials Considered, but I don't know
10 that I actually utilized the shorthand that's identified
11 in this footnote.

12 Q Okay. And the reason I'm asking is because I
13 want to make sure that I understand that any time that
14 you were relying upon the prosecution history in your
15 declaration, you've cited it. And in every case that
16 I -- I saw you cited it as Exhibit 1003.

17 A I think that I have endeavored to, you know,
18 cite materials where I have relied on them. Obviously,
19 not every statement in the declaration is accompanied by
20 a specific citation, in which case it is derived from my
21 overall understanding of the materials listed under the
22 Materials Considered or some subset of those.

23 BY MR. CARTER:

24 Q What is your understanding of the point of
25 novelty of these patents, the thing that sets them apart

1 from what was already known in the prior art?

2 A Well, my opinions relate to the aspects of the
3 claims that I believe are not found in the prior art that
4 was asserted in this matter and the combinations asserted
5 for each of the grounds. I have not done a broader
6 analysis of other references or potential prior art, so I
7 don't think that I've offered an opinion generally on
8 what aspects of this invention may or may not be found in
9 references beyond the ones that are specifically
10 addressed in my declaration.

11 But with respect to those references, I'm happy
12 to step through which elements of the claims I believe
13 are novel with respect to those references in the sense
14 that they're not found in those references.

15 Q We will get to that. But I'm asking a question
16 that is based on your review of the patents and the
17 prosecution histories. Which I believe you said:
18 Patents, you reviewed all of them, and the prosecution
19 histories, you reviewed the relevant parts. Fair?

20 A It is correct that I reviewed the patents and
21 the references comprehensively and portions of the file
22 histories of the two challenged patents.

23 Q Sitting here today, do you have any opinion
24 regarding the alleged point of novelty of the '658 and
25 '068 patents?

1 A I have only offered opinions with respect to
2 what is novel in the challenged patents with respect to
3 the prior art references that I analyzed for this
4 declaration. So I have not offered an opinion with
5 respect to the novelty of any aspect of the invention
6 regarding any other prior art reference beyond those that
7 are listed in my declaration.

8 Q Do you recall what the examiner identified as
9 the reason for allowing these patents?

10 A I don't recall that from memory, no. I would
11 need to review the file history again.

12 Q If someone were to come up to you on the street
13 and just say, Hey, I looked at these two patents, can you
14 tell me what's new here? What's innovative about these
15 patents? What would you say in response?

16 MR. McBRIDE: Objection. Scope.

17 THE WITNESS: I would say that I can describe
18 what is new and innovative with respect to several other
19 references that I've analyzed, but that I have not done a
20 broader analysis of other prior art. And so I would not
21 be able to speak to what may or may not be novel in the
22 invention with respect to other pieces of prior art that
23 I haven't analyzed.

24 BY MR. CARTER:

25 Q That would make for an odd conversation on a

1 street corner, wouldn't it?

2 A I suppose it would be unusual for someone to
3 approach me with that question.

4 Q I'm going to hand you what is already marked as
5 Exhibit Twitch-1003, or, I think, in your declaration,
6 you referred to it as Exhibit 1003, and this is the
7 prosecution history for the '658 patent.

8 (Petitioner's Exhibit 1003 was
9 previously marked for the record
10 and not attached hereto.)

11 MR. McBRIDE: Oh, good Lord.

12 BY MR. CARTER:

13 Q Does this look familiar, Dr. Edwards?

14 A Generally, this looks like the file history
15 that I reviewed.

16 Q And more specifically, I believe you said that
17 you reviewed pieces of the file history, but not
18 necessarily the whole thing; is that correct?

19 A That's what I said, yes.

20 Q All right. I am going to direct you to
21 page 430. And I believe there are page numbers at the
22 bottom, so hopefully that will assist with you navigating
23 through this rather large document.

24 A Okay.

25 Q And please let me know when you're there.

1 A You said 430?

2 Q That's correct.

3 A Okay.

4 Q Is this a document that you reviewed within the
5 prosecution history of the '658 patent?

6 A Give me just a moment to refresh my memory.

7 Q Certainly.

8 A Okay. I've read this. I think that it is
9 likely that I reviewed this during my review of the file
10 history generally, but I don't have a specific
11 recollection of reading this particular page.

12 Q Are you familiar with this type of document,
13 namely, a notice of allowability in the prosecution
14 history of a patent?

15 A Only as a non-expert in patent prosecution, but
16 I have limited knowledge of some of the procedures
17 regarding patent prosecution.

18 Q What is your understanding of what a notice of
19 allowability is in a prosecution history for a patent?

20 A Again, this is not something I would offer any
21 expert opinion on, and not something that I believe
22 affects any of the opinions that I have given in my
23 declaration.

24 But having said that, my understanding is that
25 a notice of allowance is a notification that the examiner

1 has accepted one or more of the claims of the applicant,
2 and is at least one of the steps necessary for a patent
3 to be issued.

4 Q Specifically on page 430 of Exhibit 1003, which
5 is the '658 prosecution history, there is a section
6 heading that says, "Allowable Subject Matter." Do you
7 see that?

8 A Yes, I do.

9 Q And there is a paragraph in that section
10 that -- I believe it is the third paragraph. It begins
11 with "More specifically." Do you see that?

12 A Yes, I do.

13 Q And that continues on the next page. It reads,
14 (Reading:) More specifically, the main reason for
15 allowance in conjunction with all of the other limitation
16 are the claimed feature of a remote toolbox feature
17 application that allows the user to write code, select
18 code, or delete code to enable and disable tool features
19 that control how subsets of the content data or the
20 content applications from the multiple content sources or
21 service providers are received, displayed, or organized.
22 Wherein the master server collects analytics based, which
23 tool features are enabled to target specific products,
24 services, or information to the user to achieve the
25 claimed invention in combination with the invented claims

1 as a whole.

2 Did I read that correctly?

3 A You read that correctly.

4 Q Do you recall ever reading that paragraph
5 before right now?

6 A As I said, I believe it is likely that this
7 would have been one of the parts of this lengthy document
8 that I would have read, but I don't have a specific
9 recollection of reading this particular page.

10 Q Do you have any reason to disagree with what
11 the examiner said in that paragraph on page 430 and 431
12 of Exhibit 1003?

13 A I don't believe that I have offered any
14 opinions that explicitly agree or disagree with any of
15 the examiner's statements. So I have not offered an
16 opinion, one way or the other, on the correctness of this
17 particular paragraph aside from the aspects that are
18 addressed in my declaration in relation to the opinions
19 that I did give.

20 Q The remote toolbox feature of the '658 patent
21 that is described in the notice of allowance for the '658
22 patent corresponds to claim limitation 1C of that patent;
23 is that right?

24 A It appears that the -- the portion of this
25 paragraph starting with the phrase, "A remote toolbox

1 feature" had -- is the same as the words of claim element
2 1C of the '658 patent up to the word "user" at the end of
3 page 430 with the last portion of that sentence, which
4 says, (Reading:) To achieve the claimed invention in
5 combination with the independent claims as a whole, that
6 portion does not appear in claim 1C.

7 Q So in other words, the -- quote -- "main reason
8 for allowance" identified by the examiner for the '658
9 patent is claim limitation 1C of that patent; correct?

10 A I can't speak for the examiner, but --

11 Q I think the examiner has spoken on the page
12 we're looking at; right? That's what's in the paragraph
13 I already read into the record; correct?

14 A You read the paragraph correctly, and I think
15 the document speaks for itself. This is presumably an
16 accurate statement of the examiner's considerations and
17 conclusions. Again, I don't have any ability to know the
18 mind of the examiner or speak for the examiner. So if
19 the examiner states that that is the main reason for
20 allowance, which is what the document says, then I would
21 have no opinion regarding a different intent of the
22 examiner.

23 Q Are you aware that it was specifically the
24 addition of claim limitation 1C in the '658 patent that
25 was able to overcome the examiner's rejections and

1 ultimately get the patent allowed?

2 MR. McBRIDE: Objection. Form.

3 THE WITNESS: I don't believe that I have
4 analyzed or offered any opinions regarding what the
5 examiner ultimately used as a rationale for allowing
6 these claims.

7 BY MR. CARTER:

8 Q You are not offering any opinions in this
9 proceeding that any of the prior art references or
10 combinations advanced by petitioner fail to satisfy claim
11 limitation 1C; right?

12 A Give me just a moment to confirm that. I did
13 not offer an opinion, one way or the other, regarding
14 whether or not claim element 1C is found in the
15 combinations that I analyzed.

16 Q If you could turn, please, to page 31 of your
17 declaration. And let me know when you're there.

18 A Okay. Can I put the file history away for now?

19 Q You may.

20 A All right. Which page did you ask --

21 Q Page 31, please.

22 A Okay. I'm on page 31.

23 Q The top of page 31 is a continuation of
24 paragraph 83 of your declaration that begins on page 30.
25 I'd like to direct your attention specifically to a

1 sentence at the top of page 31 that begins with "In my
2 opinion." Do you see that?

3 A Yes.

4 Q In paragraph 83, you write, quote, (Reading:)
5 In my opinion, one aspect of the claimed system's novelty
6 is that the system allows a user to view and navigate
7 content from multiple sources on a single-user interface
8 in real time.

9 Did I read that correctly?

10 A Yes, you did.

11 Q Earlier, I asked you if you had any opinions
12 regarding the alleged novelty of the claimed systems of
13 the challenged patents. I'm going to ask you that again.

14 Is this sentence that I just read from
15 paragraph 83 of your declaration, sitting here today, an
16 accurate reflection of your understanding of the alleged
17 novelty of these patents?

18 A What I believe I said before, which is correct,
19 is that I have offered opinions regarding what is novel
20 in the claims of the challenged patents with respect to
21 the specific prior art that is discussed in this
22 declaration, and that is the context in which this
23 sentence is meant to be read.

24 And I believe that it is correct that one
25 aspect, although not the only aspect, of the claimed

1 system's novelty with respect to the prior art that's
2 discussed in the declaration is that the system allows a
3 user to view and navigate content from multiple sources
4 on a single-user interface in real time.

5 Q So in other words, your statement regarding the
6 alleged novelty of the claims of the challenged patents
7 in paragraph 83 of your declaration is only with respect
8 to the specific prior art advanced by petitioner. Your
9 opinion is -- don't extend beyond that. Is that fair?

10 MR. McBRIDE: Objection. Form.

11 THE WITNESS: My opinions are not related to
12 any prior art referenced beyond those discussed in the
13 declaration, with the caveat that there were other
14 materials that were reviewed that are listed in my
15 Materials Considered. And I have also incorporated my
16 review of those materials into the opinions that are
17 stated in this report.

18 But the statements regarding the aspects of the
19 invention of the challenged patents that I state are not
20 found in the prior art, and are therefore novel with
21 respect to that prior art, is directed specifically to
22 the three prior art references and the combinations of
23 those that I analyzed for this declaration.

24 BY MR. CARTER:

25 Q When you are reviewing the prosecution

1 histories of these patents, did you look at the prior art
2 that was presented there?

3 A I don't have a specific recollection of
4 reviewing prior art references that were mentioned in the
5 file history. If I had done so, I believe I would have
6 listed them in my Materials Considered.

7 Q The reason I ask is because your Materials
8 Considered lists the prosecution history, and it doesn't
9 say subsets or subsections. And prosecution history, of
10 course, includes the prior art references that the
11 examiner relies upon for office actions, et cetera.

12 And that's why I'm asking. Did you look at any
13 of the prior art references that were discussed
14 substantively in the prosecution history?

15 A As I said, I did not read the prosecution
16 history comprehensively cover to cover. I browsed some
17 sections. So it is possible that I may have looked at
18 some of that material as I was browsing through the
19 lengthy prosecution history, but I did not conduct an
20 analysis of what limitations of the challenged patents
21 may or may not be found in those specific prior art
22 references, and I've not offered any opinions on that.

23 Q One of the things I'm not clear on is that
24 paragraph 83 of your declaration does not appear in a
25 section of the declaration that's addressing prior art at

1 all. This is a section where you are purporting to
2 describe the patents. And so I'm trying to figure out,
3 then, why you would make a statement in paragraph 83, for
4 example, about the, quote, "Claim system's novelty," that
5 you are now telling me is only with respect to the prior
6 art you reviewed and not broader than that.

7 Can you help me understand why you say it in
8 paragraph 83, without citing to any prior art or even
9 mentioning the prior art; and then now, as I understand
10 it, you're telling me that that statement about novelty
11 is only with respect to the prior art you reviewed? Help
12 me reconcile those two things, if you can?

13 MR. McBRIDE: Objection. Form.

14 THE WITNESS: Sure. Give me just a moment to
15 review the broader section here since you're asking about
16 the context.

17 BY MR. CARTER:

18 Q Certainly.

19 A Okay. So maybe repeat your question one more
20 time to make sure I remember the question correctly now
21 that I've --

22 Q Let me --

23 A -- refreshed my memory.

24 Q Certainly. Let me try to reframe this a little
25 bit. Is it the case that all of the opinions that you

1 are offering in this proceeding are solely with respect
2 to the prior art that is advanced by petitioner, or are
3 the statements that you make in describing the patent and
4 the alleged point of novelty, for example, broader than
5 that?

6 MR. McBRIDE: Objection. Form.

7 THE WITNESS: I think that I have given some
8 opinions that would -- extend beyond a specific
9 comparison of the challenged patents to the asserted
10 prior art combinations. For example, I have offered some
11 opinions regarding the meaning of the term "real-time,"
12 for example, that is more general than a direct
13 comparison between the patents and the prior art
14 references, so that's not necessarily true of all of the
15 opinions in the declaration.

16 However, I can say that the opinions that I
17 give regarding which limitations of the challenged
18 patents are not present in the prior art references are
19 limited to the specific references that I analyzed and
20 list in the declaration.

21 BY MR. CARTER:

22 Q The specific sentence in paragraph 83 that
23 we've been talking about that begins with "In my
24 opinion," does not make reference to any prior art;
25 correct?

1 A That sentence by itself does not reference any
2 specific prior art reference.

3 Q Yet, that sentence purports to identify, quote,
4 "One aspect of the claimed systems and novelty"; right?

5 A I think that this sentence is making reference
6 to what is stated in the patent specification. For
7 example, column 1, line -- starting at about line 58, the
8 '658 specification says, (Reading:) Accordingly, the
9 present invention is directed to a cloud-based computing
10 system and architecture for managing the content data
11 and/or services for multiple sources through a
12 single-user interface in real time.

13 Which generally mirrors the language that I've
14 used in that sentence. So this is making reference to
15 the -- at least one aspect of the claimed system that is
16 a purported novel benefit of the system.

17 Q The section you just quoted me from the '658
18 patent is in the background of the invention section,
19 isn't it?

20 A It's the final sentence of that section that is
21 making reference to the present invention.

22 Q So you believe that the point of novelty of the
23 '658 and '068 patents -- or at least a point of novelty,
24 is what is described in the final sentence of the
25 background of the invention section?

1 MR. MCBRIDE: Objection. Form.

2 THE WITNESS: I believe that, as it says here,
3 one aspect of the claimed system's novelty is that the
4 system allows a user to view and navigate content from
5 multiple sources on a single-user interface in real time.
6 And more specifically, my opinions with respect to that
7 novelty are based on my analysis of the specific prior
8 art references that are listed in the report.

9 BY MR. CARTER:

10 Q So you didn't do anything independently to
11 confirm whether or not the alleged novelty in the
12 sentence you just cited is true, other than reviewing the
13 prior art in this proceeding. Is that fair?

14 A I think the sentence is meant to be read in the
15 context of the analysis that's described in the report.
16 I've not offered opinions regarding other prior art
17 references beyond what is listed in the Materials
18 Considered.

19 Q Would you agree with me that the sentence you
20 just read doesn't say anything about a web page?

21 A It does not use the word "web page," but
22 that -- I don't agree that it's not related to the use of
23 a web page.

24 Q The word "web page" doesn't appear anywhere in
25 the background of the invention section; right?

1 A I would need to read through it if you'd like
2 me to confirm that.

3 Q Go for it. It's only two paragraphs.

4 MR. McBRIDE: Can we take a break when you get
5 to a good point to stop?

6 MR. CARTER: Sure.

7 THE WITNESS: I don't see the word "web page"
8 literally appear anywhere in those two paragraphs.

9 MR. CARTER: All right. Why don't we take a
10 break?

11 MR. McBRIDE: Okay.

12 MR. CARTER: It's a good point.

13 (Brief Recess.)

14 BY MR. CARTER:

15 Q Welcome back, Dr. Edwards. Looking back at
16 that last sentence of the background of the invention
17 section for the '658 to which you directed me before the
18 break, it mentions "managing content data and/or
19 services." Do you see that?

20 A I see that, yes.

21 Q The claims of the challenged patents don't use
22 the word "managing." And so my question for you is:
23 Would the managing that is referred to here correspond to
24 the organizing that is mentioned in the claims?

25 A I think that those functions could be related,

1 but don't necessarily need to be the same. And when
2 interpreting the claim, I've relied solely on the
3 language of the claim itself.

4 Q I understand that. I guess what I'm getting at
5 is, when I asked you about the novelty of the patent, you
6 directed me to this sentence, and there's something in
7 this sentence that doesn't appear in the claims.

8 And so what I'm trying to figure out is: To
9 what extent, if at all, do the claims of the patent
10 actually capture the alleged novelty? Does that make
11 sense?

12 MR. McBRIDE: Objection. Form.

13 THE WITNESS: Which paragraph were we looking
14 at?

15 BY MR. CARTER:

16 Q We were looking at the --

17 A 85 or something?

18 Q I'm sorry. Are you asking about the paragraph
19 in the patents or the paragraph in your declaration or
20 something else?

21 A The paragraph in my declaration.

22 Q So where we were before you directed me to the
23 patent was paragraph 83 of your declaration.

24 A Yes. So the sentence from my declaration
25 doesn't use the word "managing," it uses the words "view

1 and navigate."

2 Q You aren't purporting to define the alleged
3 novelty of the patents using your own words, are you?

4 A I am making a general statement regarding what,
5 in my opinion, is one aspect, and not necessarily the
6 only aspect of the claim system's novelty.

7 Q Why did you choose to omit the managing part of
8 that?

9 A Well, I wasn't --

10 MR. McBRIDE: Objection. Form.

11 THE WITNESS: I wasn't quoting from the
12 specification when -- in this sentence.

13 BY MR. CARTER:

14 Q I guess the difficulty I'm having here is that
15 this is the only sentence in your declaration where you
16 purport to identify the -- quote -- "novelty of the
17 claims." And yet that sentence doesn't identify
18 everything that the patent identifies, and it also
19 doesn't identify the one thing that the examiner
20 identified as the point of novelty.

21 And so I guess my question for you is: Where
22 are you coming up with your understanding of, quote, "the
23 claimed system novelty" that you identified in paragraph
24 83?

25 MR. McBRIDE: Objection. Form.

1 THE WITNESS: Well, as I said, this is only
2 referencing, as it says, one aspect of the claimed
3 system's novelty. It certainly is not meant to preclude
4 that there may be other aspects of the system that may be
5 novel. So I don't believe it, in any way, would
6 contradict a finding that there were other novel aspects
7 of the system.

8 BY MR. CARTER:

9 Q Sitting here today, can you identify what the
10 other aspects of the system are that you believe to be
11 novel?

12 MR. McBRIDE: Objection. Form.

13 THE WITNESS: Well, what I have offered
14 opinions on here are what is novel with respect to the
15 specific prior art that I analyzed for this declaration.
16 And I believe there are at least a few other aspects or
17 elements that appear in at least one or more claims that
18 I explain are novel with respect to the prior art that I
19 analyzed. So this is not the only aspect of the system
20 that I give an opinion is not found in the prior art that
21 I analyzed.

22 BY MR. CARTER:

23 Q This sentence doesn't say anything about prior
24 art; right?

25 A Well, it is -- as you said, uses the word

1 "novelty," which is in reference to what is new. In
2 other words, what is not found in prior art.

3 Q Why did you choose to only highlight this one
4 aspect of purported novelty for these patents in this
5 sentence in paragraph 83 of your declaration?

6 A The particular aspect of the system that is
7 highlighted here is referenced because this sentence
8 appears in the context of a broader discussion in the
9 report regarding the term "real-time," and that is the
10 focus of the context of this section 8.1. So that --
11 this particular capability involves -- doing something in
12 real time is why it is relevant to the content of this
13 section.

14 Q The word "novelty" only appears once in your
15 entire declaration, and it is this sentence. Is it your
16 belief that the only relevant point of novelty for
17 purposes of this proceeding, with respect to the
18 challenged patents, is the, quote, "real-time" aspect of
19 the invention?

20 MR. McBRIDE: Objection. Form.

21 THE WITNESS: I don't think that's correct.

22 BY MR. CARTER:

23 Q All right. So what else is novel?

24 A Well, I can give you a few examples. So, for
25 example, on page 60, I have a discussion of my opinions

1 with respect to dependent claim 2 of the '658 patent and
2 discuss why I believe that limitation is not present in
3 the prior art combination of -- I believe this is ground
4 1A.

5 Q Is it your understanding that the concept of
6 novelty in patent law is limited solely to whatever prior
7 art you happen to be reviewing?

8 A I don't believe I've offered an opinion on the
9 specific legal meaning of that word to the extent that it
10 has one. If you'd like, I can review the understanding
11 of the legal standards section to see if it -- to refresh
12 my memory on whether it contains any specific discussion
13 regarding the legal meaning of the term "novelty" in this
14 context.

15 Q I will represent to you that your legal
16 standards section doesn't ever use the word "novelty,"
17 and so this is -- I think getting at the heart of what
18 I'm trying to understand here. When you use the word
19 "novelty," do you just mean: Doesn't appear in the prior
20 art that I've reviewed, or does it mean something more
21 than that?

22 MR. McBRIDE: Objection. Form.

23 THE WITNESS: I don't believe I have offered
24 any opinions and did not intend to offer opinions
25 regarding prior art other than what is listed in the

1 declaration and encompassed within the Materials
2 Considered, because for me to give an opinion on
3 additional prior art, I would need to conduct a detailed
4 analysis of that.

5 BY MR. CARTER:

6 Q And I'm not asking you to do any of that. You
7 chose to use the word "novelty." What does it mean to
8 you?

9 A Well, again, what I was intending to convey in
10 this sentence was that at least one aspect of some of the
11 claims -- at least some of the claims, that I believe is
12 not present in the prior art that I analyzed could
13 generally be described with the -- the words that I used
14 there without intending it to be a direct quote from any
15 particular claim.

16 Q Sitting here today, do you have any opinion one
17 way or the other as to whether there is anything truly
18 new and non-obvious in the claims of these patents as
19 compared to all the universe of prior art that existed at
20 the time?

21 MR. McBRIDE: Objection. Form. Scope.

22 THE WITNESS: I have not done an analysis of
23 the entire body of prior art. So my opinions are
24 specifically focused on what aspects of these claims is
25 not found in the specific pieces of prior art that are

1 listed in my declaration.

2 BY MR. CARTER:

3 Q So in other words, you're not offering any
4 opinions as to whether or not the claims are truly novel
5 and non-obvious as they issued in these patents. Fair?

6 MR. McBRIDE: Objection. Form. Scope.

7 THE WITNESS: I don't agree with that because I
8 have offered opinions that the claims are not obvious in
9 light of the specific prior art that I analyzed and what
10 would be within the knowledge of a person of ordinary
11 skill.

12 BY MR. CARTER:

13 Q But you didn't even review the prior art that
14 is in the file history; isn't that right?

15 A I have not offered opinions or conducted a
16 detailed analysis of prior art beyond the prior art that
17 is listed in which I've specifically given opinions on.

18 Q Do you think a person of ordinary skill in the
19 art at the time would have known what was in the prior
20 art that's in the prosecution history of these patents?

21 MR. McBRIDE: Objection. Form.

22 THE WITNESS: I think that I have an
23 understanding of the knowledge that a person of ordinary
24 skill in the art would have, that may or may not overlap
25 with some of the information that's in the references

1 from the file history, it likely does. But what I've
2 used for my analysis is what I know the scope of that
3 person's knowledge to be.

4 BY MR. CARTER:

5 Q Do you understand that it is a legal principle
6 that assessing invalidity that a person of ordinary skill
7 in the art is aware of all the prior art?

8 (Stenographer Clarification.)

9 A Give me just a moment.

10 Q If it would help, turn to page 18 of your own
11 declaration and look at the first sentence of paragraph
12 47.

13 A Okay. What it says here is that, (Reading:) I
14 understand that a POSITA is a hypothetical person who is
15 presumed to have known the relevant art at the time of
16 the invention and to whom an expert in the relevant field
17 could assign a routine task with reasonable confidence
18 that the task would be successfully carried out.

19 That is consistent with what I -- the opinions
20 that I've given in this declaration.

21 Q But you don't know all of the relevant art, do
22 you? You didn't review anything that's in the
23 prosecution history in terms of the actual art that's
24 cited and discussed there; isn't that right?

25 MR. McBRIDE: Objection. Form. Scope.

1 THE WITNESS: As I've said, I've not
2 specifically analyzed any prior art or offered opinions
3 regarding any specific pieces of prior art beyond those
4 that are listed in the declaration. But I have
5 incorporated the knowledge of a person of ordinary skill
6 into my analysis.

7 BY MR. CARTER:

8 Q How? What did you do to educate yourself to
9 become a person of ordinary skill in the art in this
10 proceeding, other than reviewing the petition and the
11 prior art cited therein and Dr. Martin's declaration?
12 What did you do?

13 MR. McBRIDE: Objection. Form. Scope.
14 Relevance.

15 THE WITNESS: Well, I obtained a bachelor's
16 degree in computer science in 2003.

17 BY MR. CARTER:

18 Q I'm not asking for your educational background.
19 I'm asking what specifically did you do in connection
20 with this proceeding to educate yourself and prepare to
21 offer opinions with respect to a person of ordinary skill
22 in the art?

23 A Well, my understanding of the knowledge of a
24 person of ordinary skill in the art is informed by my
25 education and experience working in this specific field

1 since 1997.

2 Q And yet you've never read anything that's in
3 the prosecution history in terms of those references to
4 your knowledge. Is that fair?

5 A I did not say that, no.

6 Q I'm asking you that. Did you?

7 A As I said, I reviewed portions of the
8 prosecution history.

9 Q Yes, we heard that.

10 A I'm not comprehensively --

11 Q My question to you -- I'm not asking about
12 portions of the prosecution history. This should be a
13 very, very straightforward question.

14 Have you ever read any of the prior art
15 references that are in the prosecution history for these
16 patents?

17 MR. McBRIDE: Objection. Form. Scope.
18 Relevance.

19 Jon, please, let him continue with his answer.
20 You cut him off several times now.

21 MR. CARTER: He's giving me non-answers. They
22 are non-responsive --

23 MR. McBRIDE: He's giving responsive answers.

24 MR. CARTER: No, he's not.

25 MR. McBRIDE: He has done it several times --

1 MR. CARTER: No, he's not --

2 (Simultaneous Speakers.)

3 MR. CARTER: Stop obstructing. Let your answer
4 testify -- let your witness testify.

5 MR. McBRIDE: Objection. Asked and answered.

6 THE WITNESS: So repeat the question, please.

7 BY MR. CARTER:

8 Q Have you ever reviewed or read any of the prior
9 art that's in the prosecution history of these patents?

10 MR. McBRIDE: Same objection.

11 THE WITNESS: I believe that I testified
12 previously that I browsed through the prosecution
13 history. In doing so, I reviewed what was in that
14 prosecution history but did not comprehensively read
15 everything from cover to cover. So if you're asking me
16 if I have viewed or read portions of what appears in the
17 prosecution history --

18 BY MR. CARTER:

19 Q That wasn't my question.

20 A -- the answer is yes.

21 Q That was not my question. I'm going to try
22 this again, and I'd like you to listen carefully, please.

23 MR. McBRIDE: Please stop cutting him off.

24 MR. CARTER: I didn't. If you actually read
25 the real-time, you will see he was finished, so knock off

1 the speaking objections. I'm done with that. You can
2 say "form," and that's it.

3 BY MR. CARTER:

4 Q All right. Let's try this again. I didn't ask
5 if you've read portions of the prosecution history.
6 You've said that multiple times. All right?

7 So do you understand -- I'm not asking that
8 question. Are we together so far? Yes?

9 A I understand that.

10 Q Okay.

11 A Yes.

12 Q My question to you is: Have you read all of
13 the prior art references that are in the prosecution
14 history for the patents that you're offering opinions
15 about?

16 MR. McBRIDE: Same objection.

17 THE WITNESS: As I believe I've already
18 testified, I reviewed those, but did not necessarily read
19 comprehensively every document in the prosecution
20 history, but that does not mean that I did not review
21 them at all.

22 BY MR. CARTER:

23 Q Without thumbing through the prosecution
24 history, can you identify for me any reference in the
25 prosecution history for these patents that you looked at?

1 A You are asking do I -- have I committed to
2 memory what references are in the prosecution history?

3 Q No. That's not at all what I'm asking you.
4 I'd really appreciate it if you would listen a little bit
5 more carefully to my questions. I didn't ask you if
6 you've committed to memory all of the references to the
7 prosecution history.

8 I'm asking you: Without thumbing through the
9 prosecution history exhibit that's sitting in front of
10 you, can you name one, one reference that you reviewed in
11 the prosecution history for these patents?

12 MR. McBRIDE: Same objections.

13 THE WITNESS: Well, I guess I wasn't prepared
14 for a memory test. So off the top of my head, I don't
15 have a specific recollection of which references are
16 contained in the prosecution history.

17 BY MR. CARTER:

18 Q Would it surprise you to learn that you don't
19 refer to or identify a single reference from the
20 prosecution history in your declaration in this
21 proceeding?

22 MR. McBRIDE: Objection. Form.

23 THE WITNESS: No, that would not surprise me.

24 BY MR. CARTER:

25 Q You don't quote any of the prior art or even

1 any of the office actions from the prosecution history --

2 MR. McBRIDE: Objection. Form.

3 BY MR. CARTER:

4 Q -- do you know that?

5 MR. CARTER: Let me finish my question, then
6 you can render your objections.

7 MR. McBRIDE: Go ahead. I apologize.

8 BY MR. CARTER:

9 Q You don't quote any office actions from the
10 prosecution history. Would that surprise you?

11 MR. McBRIDE: Objection. Form. Relevance.

12 THE WITNESS: No, that does not surprise me.

13 BY MR. CARTER:

14 Q All right. You don't cite any of the office
15 actions or any of the back and forth with the office in
16 your claim construction section. Would that surprise
17 you?

18 MR. McBRIDE: Objection. Form. Relevance.

19 THE WITNESS: Well, let me first confirm
20 whether that's correct.

21 So, I'm -- if I understand your question
22 correctly, I think it is not correct because it appears
23 that I did reference the prosecution history and cite to
24 it in paragraph 82.

25 ///

1 BY MR. CARTER:

2 Q Yes, those citations aren't office actions. So
3 let me ask you again.

4 Do you cite to or reference office actions at
5 any point in your claimed construction analysis in this
6 proceeding?

7 A I don't know of an instance where I felt it was
8 necessary to cite to an office action to support my
9 opinions.

10 Q Did you think it was unnecessary to look at
11 what the examiner identified as the alleged point of
12 novelty in assessing the validity of these patents?

13 A No, that's not correct.

14 Q Okay. What's not correct about that statement?

15 A That I did not think it was unnecessary to look
16 at the examiner's statements.

17 Q Before I directed you to that statement today,
18 you had never read it before; isn't that right?

19 MR. McBRIDE: Objection. Form. Misstates the
20 testimony. Asked and answered.

21 THE WITNESS: I believe I previously testified
22 that I think it is likely that I would have read that.

23 BY MR. CARTER:

24 Q But you don't know one way or the other for
25 sure?

1 MR. McBRIDE: Same objections.

2 THE WITNESS: I believe -- my testimony was
3 that I believe it is likely that I would have reviewed
4 that as part of my review of the file history, but I
5 didn't have a specific recollection of reviewing that
6 particular page.

7 BY MR. CARTER:

8 Q Nor do you cite it anywhere in your
9 declaration; isn't that right?

10 MR. McBRIDE: Same objections.

11 THE WITNESS: To the extent that it is not
12 specifically cited does not mean that I didn't review and
13 consider it. It is listed under my Materials Considered.

14 BY MR. CARTER:

15 Q Do you understand that it is your job as a
16 declaring expert to identify the bases for the opinions
17 that you're offering in this matter?

18 A Yes. And I believe I've done so.

19 Q Okay. So what specific opinion that you've
20 offered in this case is informed by the alleged point of
21 novelty that the examiner identified as the reason for
22 allowing these patents?

23 MR. McBRIDE: Objection. Form. Relevance.

24 MR. CARTER: Form is the only allowed
25 objection.

1 MR. McBRIDE: That's not correct, counsel.
2 You're 100 percent incorrect.

3 MR. CARTER: Okay. Just like "asked and
4 answered" is allowed? Very good.

5 MR. McBRIDE: At a certain point, you do have
6 to raise this kind of stuff, Jon. I mean, when you've
7 asked a question 20, 30 times, you kind of --

8 MR. CARTER: It is my deposition, man. I can
9 ask him the same question a thousand times if I want to.

10 MR. McBRIDE: And eventually it becomes
11 badgering, which you're doing now.

12 MR. CARTER: I'm not. If he would answer
13 questions directly, it would make this a lot faster.

14 MR. McBRIDE: He did answer the question
15 directly. He said he believed he reviewed that section.
16 What else do you want?

17 BY MR. CARTER:

18 Q Do you remember what the question is?

19 A No.

20 Q I don't either.

21 What opinion that you've offered in this matter
22 is based upon or supported by the examiner's reason for
23 allowing these patents?

24 MR. McBRIDE: Same objections.

25 THE WITNESS: Well, I think that the entirety

1 of the materials that I considered, including the file
2 histories, which contain statements by the examiner that
3 I reviewed, informed my general understanding of the
4 context in which I formed my opinions.

5 I don't necessarily have any opinion that is
6 directly based on that specific page that we looked at,
7 but that information is still incorporated into my
8 overall understanding and opinions.

9 BY MR. CARTER:

10 Q Before today, were you aware that claim
11 limitation 1C was the only limitation that was the reason
12 for allowing these claims?

13 MR. McBRIDE: Objection. Form.

14 THE WITNESS: I have not offered any opinion on
15 the specific reasons that the examiner allowed the
16 claims.

17 BY MR. CARTER:

18 Q I'm not offering for your opinion. I'm asking,
19 were you aware? Do you understand the difference between
20 those two things? Awareness versus opinions you've
21 offered?

22 A Well, I -- again, I don't have any specific
23 knowledge beyond what's in the file history as to the --
24 what was in the mind of the examiner when he or she
25 allowed the claims.

1 Q Again, I'm not asking you for what's in
2 somebody else's mind. I'm asking what you were aware of
3 before today. All right? So let me ask this again.

4 Before today, were you aware that claim
5 limitation 1C is the only limitation that was identified
6 as the reason for allowing these patents?

7 MR. McBRIDE: Objection. Form.

8 THE WITNESS: Well, as I was trying to state in
9 my answer, I don't know that that is true. For example,
10 the examiner may have allowed the claims because of the
11 entirety of the claims, including the combination of all
12 of the elements, including element 1C, so I don't know
13 your statement to be correct.

14 BY MR. CARTER:

15 Q But you don't know it to be wrong either, do
16 you?

17 A Well, I -- what I know is that the examiner
18 allowed the claims as they are currently written. And I
19 know what -- the other information that is stated within
20 the file history. Beyond that, I have no additional
21 knowledge, and I have no additional opinions regarding
22 what may or may not have been in the mind of the
23 examiner.

24 Q Let's talk about claim construction. It seems
25 to me that a lot of the disputes in this particular

1 matter boil down to disagreements over claim
2 construction. Is that your impression as well?

3 A I don't think I would be in a position to
4 characterize the entirety of the set of disputes in this
5 matter. I have, in at least one instance, offered my
6 disagreement with some statements made by Dr. Martin and
7 some statements made by the board regarding claim
8 construction, so I believe there is at least some
9 disagreement regarding claim construction.

10 Q There is a whole section in your declaration,
11 section 8.1, where you purport to do -- for lack of a
12 better term, claim construction analysis of the term
13 "real time." Do you have that in front of you?

14 A Okay. I'm at that section.

15 Q It seems to me -- and let me know if you
16 disagree with this, that you aren't really construing the
17 words "real time," but rather you are construing what
18 claim limitation 1B means. Is that fair?

19 A I think that what I'm doing is expressing my
20 disagreement with some aspects of what the board stated
21 as its preliminary finding regarding how a person of
22 ordinary skill in the art would understand the use of the
23 term "real time," and that is why I've characterized my
24 opinions as being opinions regarding the meaning of that
25 term.

1 Q I get that. As I read through the petition and
2 the declarations and the POR, it strikes me that the
3 parties aren't really arguing over what just the words
4 "real time" mean, but rather the dispute is over the
5 entire limitation, what it means, and it happens to use
6 the words "real time." Is that your sense as well?

7 And the reason I ask is because the parties
8 have, as I said, separately briefed claim construction in
9 the district court. And maybe you're aware of this, or
10 maybe you're not, but there were constructions offered in
11 the district court that you don't even talk about in your
12 declaration for the words "real time." Did you know
13 that?

14 MR. McBRIDE: Objection. Form.

15 THE WITNESS: I am aware that there was a
16 construction for the term "real time" that was offered in
17 the district court litigation that was referenced in
18 the -- I believe it was in the board's decision,
19 mentioned it.

20 BY MR. CARTER:

21 Q Yeah. And more to the point, your declaration
22 does not address the construction of real time that
23 patent owner advanced in the co-pending district court
24 litigation; right?

25 A I did not explicitly address that construction,

1 but I believe it is consistent with my understanding of
2 real time and the opinions that I've given.

3 Q Do you know what that proposed construction is?

4 A I do.

5 Q What is it?

6 A I would not be able to recite it verbatim from
7 memory, but I know what it is from my review of the
8 board's decision.

9 Q What is it? Use your words if you have to.
10 I'm not asking for a verbatim recitation, but as far as
11 you understand it, what --

12 MR. McBRIDE: Objection --

13 MR. CARTER: Let me finish, please.

14 MR. McBRIDE: I'm sorry.

15 BY MR. CARTER:

16 Q As far as you understand it, what is the patent
17 owner's proposed construction for real time in the court
18 and district litigation?

19 MR. McBRIDE: Objection. Form. Relevance.

20 THE WITNESS: I'm likely not going to get this
21 verbatim correct, but it is something like progressing at
22 the same rate as human perception or a physical or
23 external process, something along those lines.

24 BY MR. CARTER:

25 Q You haven't offered any opinions as to the

1 correctness or incorrectness of that construction in the
2 context of this proceeding; is that correct?

3 A I've not specifically offered an opinion
4 regarding the correctness of that construction. But as I
5 said, I believe that construction would be consistent
6 with the opinions that I've given.

7 Q Why?

8 A Well, as I state in the declaration, I have
9 generally given the claimed terms their plain and
10 ordinary meaning as they would be understood by a POSITA
11 at the time of the alleged invention. And I believe that
12 the proposed construction that was referenced in the
13 board's decision is consistent with the plain and
14 ordinary meaning.

15 Q Turn to paragraph 90 of your declaration. It
16 is on page 34, and let me know when you're there.

17 A Okay.

18 Q You say, quote, (Reading:) To summarize, in my
19 opinion, a POSITA would understand real time in the
20 challenged patents to mean user-visible updating on the
21 master web page as content becomes available, not merely
22 that upstream servers send data promptly to a master
23 server.

24 Did I read that correctly?

25 A Yes, you did.

1 Q Is that an accurate recitation of your opinion
2 of the meaning of real time in the challenged patents?

3 A That is an accurate statement of my
4 understanding of real time, particularly with respect to
5 the board's statement regarding its preliminary findings
6 as to the term "real time," and the way in which my
7 understanding differs from the board's preliminary
8 finding as to the meaning of that term as it appears in
9 the claims of the challenged patents.

10 Q Setting aside what the board said, what is your
11 opinion of the meaning of real time in the challenged
12 patents?

13 MR. McBRIDE: Objection. Form. Relevance.

14 THE WITNESS: Well, what's stated here in
15 paragraph 90 is in direct reference to the disagreement
16 that I stated regarding the board's preliminary finding.
17 That's the context in which this statement appears.

18 BY MR. CARTER:

19 Q So separate and apart from what the board said,
20 you don't have any opinion as to what "real time" means
21 in the challenged patents?

22 MR. McBRIDE: Objection. Form.

23 THE WITNESS: No, that's not correct.

24 BY MR. CARTER:

25 Q Okay. So then setting aside what the board

1 said -- I'm just asking you, point-blank, what is your
2 opinion regarding the meaning of real time in the
3 challenged patents?

4 A Well --

5 MR. McBRIDE: Same objections.

6 THE WITNESS: I have applied the plain and
7 ordinary meaning of the terms in the claims, and that
8 includes the term "real time" with the caveat that I did
9 not agree and stated my disagreement with the board's
10 interpretation of real time as it appears in the larger
11 phrase contained in claim 1, I think 1B.

12 BY MR. CARTER:

13 Q You say you applied the plain and ordinary
14 meaning of real time. What is that? What do you believe
15 is the plain and ordinary meaning of real time?

16 A I have not offered a specific definition beyond
17 what is stated in paragraph 90 as to the way that
18 real time should be interpreted in the asserted -- in the
19 challenged claims. So again, I've applied the plain and
20 ordinary meaning, which I believe would also be
21 consistent with the construction that was proposed by the
22 patent owner in the accompanying district court
23 litigation.

24 Q I'm not sure I understand that answer. Is it
25 your opinion that the plain and ordinary meaning of

1 real time in the challenged patents is user-visible
2 updating on the master web page as content becomes
3 available, as you recite in paragraph 90 of your
4 declaration?

5 A That's my understanding of the word "real time"
6 as it appears in the claims with respect to the
7 particular preliminary finding of the board regarding how
8 real time should be interpreted in that context.

9 Q Nowhere in this paragraph -- or quite frankly,
10 anywhere else in your declaration, do you make reference
11 to or explain the offered alleged plain and ordinary
12 meaning that patent owner has put forward for real time
13 in the district court case; right?

14 A I don't believe I had any cause to refer
15 specifically to that.

16 Q And so in your mind it was not necessary for
17 you to acknowledge or explain how the supposed plain and
18 ordinary meaning for real time that patent owner is
19 offering in the district court is relevant to or
20 consistent with the construction for real time that
21 you're offering in your declaration; is that right?

22 MR. McBRIDE: Objection. Form.

23 THE WITNESS: The -- what was proposed in the
24 district court litigation is not something that I've
25 specifically offered any opinions on, and therefore had

1 no need to specifically make reference to it. I've
2 simply told you that I was aware of that proposed
3 construction because it is referenced in the materials
4 that I reviewed, and therefore, I have knowledge of it
5 and believe that it is consistent with the plain and
6 ordinary meaning.

7 BY MR. CARTER:

8 Q You keep saying it is consistent, but that's
9 not an opinion you've offered in your declaration; right?

10 A No. I have not specifically referenced that
11 construction in my declaration.

12 Q All right. So your testimony today regarding
13 alleged consistency between the supposed plain and
14 ordinary meaning of real time that patent owner offered
15 in the district court and what you are offering here
16 today is something that you're just coming up with today,
17 or did you come up with that opinion at some other point
18 in time?

19 MR. McBRIDE: Objection. Form.

20 THE WITNESS: That is something that I didn't
21 form at any particular time. You're simply asking me
22 about the materials that I reviewed and state that I
23 considered. I'm doing my best to answer your questions
24 about the materials that I stated that I considered.

25 ///

1 BY MR. CARTER:

2 Q I'm not asking you about Materials Considered,
3 and I want to make that very clear. I'm asking you about
4 a construction. You've testified repeatedly today that
5 you believe that the district court construction that
6 patent owner offered is, quote, "consistent with your
7 opinion," but that doesn't show up anywhere in your
8 declaration. I think we've already established that;
9 right?

10 A I have not specifically referenced that
11 proposed construction in my declaration.

12 Q Nor have you offered any opinion regarding
13 alleged consistency between the constructions in your
14 declaration; correct?

15 A Well, as I stated, my declaration doesn't
16 specifically address that proposed construction.

17 Q And so I'm trying to figure out when you came
18 up with this opinion that the two are supposedly
19 consistent, when did that happen?

20 MR. McBRIDE: Objection. Form.

21 THE WITNESS: As I said, I don't have any
22 specific recollection of the time that I formed that
23 opinion, but it would have occurred during my review of
24 the materials and my drafting of the declaration.

25 ///

1 BY MR. CARTER:

2 Q So you have opinions in this case that you're
3 offering that you didn't bother to put in your
4 declaration?

5 MR. McBRIDE: Objection. Form.

6 THE WITNESS: No. I'm simply doing my best to
7 answer your questions about one of the materials that I
8 considered in drafting the declaration.

9 BY MR. CARTER:

10 Q I'm not asking about your Materials Considered.
11 I'm asking about an opinion that's brand new that you're
12 offering today, that doesn't appear in your declaration.
13 I think -- I think we've already established it is not
14 there; right?

15 And you're telling me that you would have
16 formed that opinion at some point during the preparation
17 of your declaration. So my question to you is: Are
18 there other opinions that you're planning to offer in
19 this case that you didn't bother to put in your
20 declaration?

21 A I have no intent to offer additional opinions
22 beyond what's in my declaration. But if you ask me about
23 opinions that I have considered, I will do my best to
24 answer those questions truthfully and completely.

25 Q Is it fair to say that you believe that the

1 first sentence of paragraph 90 of your declaration
2 recites a requirement of the claims of the challenged
3 patents?

4 MR. McBRIDE: Objection. Form.

5 THE WITNESS: I believe that it is a statement
6 in my own words, without quoting verbatim from the claim
7 language, of what real time means and requires in the
8 context of the claims of the challenged patents.

9 BY MR. CARTER:

10 Q And therefore the claims require it; right?

11 A The claims require what is stated within the
12 claims themselves. So again, this is a restatement, to
13 some degree, of what I believe is stated within the
14 language of the claims themselves.

15 Q All right. So let's bring this full circle.
16 Is it your opinion that the claims require, quote,
17 "user-visible updating on the master web page as content
18 becomes available"?

19 A With the caveat that I understand those are not
20 the precise words of the claim and are not quoting from
21 the claim, and what is required by the claim is what is
22 stated within the claim itself, yes, I believe this is a
23 fair restatement of one aspect of what is required by at
24 least some of the independent claims of the challenged
25 patents.

1 Q Do you believe the claims of the challenged
2 patents require that content be streamed or displayed
3 incrementally in real time on a master web page?

4 A Repeat that one more time.

5 Q Do you believe that the claims of the
6 challenged patents require that content be streamed or
7 displayed incrementally in real time on a master
8 web page?

9 A I don't believe the word "incrementally"
10 appears in the claim, but I could be wrong. I believe
11 the rest of what you said is contained within the
12 language of the claim itself.

13 Q I'm not sure that fully answers my question, so
14 let me try it this way. Do you believe that
15 incrementable display in real time on a master web page
16 is required by the claims?

17 A I don't believe that that is the exact language
18 used by the claims, but the claims do require streaming
19 in real time. And as I've stated in my declaration, I
20 believe that streaming does relate to incremental
21 delivery of data.

22 Q Isn't all data, when being transferred,
23 delivered incrementally?

24 A I don't believe that's correct.

25 Q What data that would qualify as content data in

1 the context of challenged patents would not be delivered
2 incrementally?

3 A Well, give me just a moment, and I will give
4 you an example.

5 Okay. So to answer that question, I would
6 refer you to paragraph 117 of my declaration, for
7 example. Here it states, (Reading:) In Darnell, content
8 items are atomic in the sense that each feed item
9 (whether text, image, audio or video) must be fully
10 transferred to, merged within, and stored in the server's
11 database before any portion becomes available to the user
12 for viewing and consumption.

13 Q When you're transferring video, audio, images,
14 don't you break it up and send it over in increments?

15 A In the case of Darnell, this is --

16 Q I'm not asking about Darnell. I want to be
17 very clear. My question had nothing to do with any
18 particular prior art reference.

19 I am asking you: Isn't it the case that when
20 you are transferring video, audio, or images, you break
21 it up into incremental pieces and then you transmit it?

22 MR. McBRIDE: Objection. Form.

23 THE WITNESS: That is not necessarily the case.

24 BY MR. CARTER:

25 Q In what instance would you not do that?

1 A Well, I was giving you an example a moment ago.
2 Darnell's system, for example, does not do that.

3 Q It is your testimony that Darnell's system,
4 when transmitting video, for example, doesn't break that
5 video up into pieces and send it across to a receiver?
6 That is your testimony?

7 MR. McBRIDE: Objection. Form.

8 BY MR. CARTER:

9 Q I want you to think long and hard about this.

10 MR. McBRIDE: Objection. Form. Stop badgering
11 the witness.

12 MR. CARTER: It is not -- I'm not badgering the
13 witness, but I think we all -- everybody in this room, we
14 all know how video transmission works; right?

15 BY MR. CARTER:

16 Q And so I just want to make sure that I'm
17 completely clear on your opinion. It is your opinion
18 that video transmission in Darnell's system doesn't break
19 up the video into incremental pieces and send it to the
20 receiver?

21 MR. McBRIDE: Same objections.

22 THE WITNESS: Okay. Are you going to give me a
23 chance to answer now?

24 BY MR. CARTER:

25 Q Yeah, go for it.

1 A You've asked me for an example of a system. So
2 in Darnell, or we could say some other system that
3 operates similarly to Darnell, the content items are
4 retrieved and stored in their entirety before any portion
5 of that item is made available to the client or user. So
6 there is no incremental delivery of the content items
7 while they are still being retrieved by the server in
8 Darnell. They are first retrieved in their entirety, and
9 then, only then, is there a subsequent potential transfer
10 to a client device or a user. So that is the reason that
11 my opinion states there is not incremental delivery from
12 the content source to the user in Darnell.

13 Q So in your opinion, streaming means live
14 streaming in these patents; is that right?

15 A My opinion is that the claims of the challenged
16 patents require real-time streaming. And real-time
17 streaming does imply that content is being provided in
18 real time and is streamed, that could be live content
19 depending on the precise meaning of "live," which I have
20 not offered an opinion on, but it certainly doesn't
21 exclude live content.

22 Q If I watch a movie on Netflix, and I'm
23 receiving it on my laptop or on my television over the
24 Internet, is that streaming in your opinion?

25 A I have not offered any particular opinion on

1 Netflix's system, and I haven't conducted an analysis of
2 that system for the purposes of my declaration in this
3 matter.

4 Q Yeah. I get that, but you are an intelligent
5 person. We've all used Netflix. I'm just asking you
6 here, now, if I watch a movie on Netflix over the
7 Internet, am I streaming that movie?

8 MR. McBRIDE: Objection. Scope.

9 THE WITNESS: Again, that's beyond the opinions
10 that I've offered here. I would -- before I offer an
11 opinion on whether something does or does not qualify as
12 streaming in the context of a particular patent analysis,
13 I would do a detailed analysis of that system and have to
14 consider other factors as well.

15 BY MR. CARTER:

16 Q In Darnell's system, where it is transferring
17 the information, it breaks it up into incremental pieces
18 and transfers it to the receiver, doesn't it?

19 A I don't recall any disclosure of that in
20 Darnell, but if you think that I am forgetting something,
21 please point me to it.

22 Q Well, you are the one who said you've analyzed
23 this stuff, so I am asking you, how would Darnell's
24 system work?

25 MR. McBRIDE: Objection. Form.

1 BY MR. CARTER:

2 Q Would it break up the content into small
3 incremental pieces and transfer it from the server to the
4 receiver?

5 MR. McBRIDE: Objection. Form.

6 THE WITNESS: I don't believe that there is any
7 express disclosure of that in Darnell, as far as I
8 remember, but I'm happy to review it again to see -- to
9 refresh my memory on -- to what extent Darnell includes
10 disclosures regarding the mechanics of transfer.

11 BY MR. CARTER:

12 Q Do you know the difference between anticipation
13 and obviousness?

14 A I have a non-expert's understanding as stated
15 in the declaration.

16 Q Do you understand that a claim limitation can
17 be obvious in light of the prior art even if the prior
18 art doesn't expressly say something, but if any person of
19 ordinary skill in the art looking at it would find that
20 obvious?

21 MR. McBRIDE: Objection to form.

22 Jon, I think it is a good time to go on a
23 break.

24 MR. CARTER: Give me a little bit more time,
25 and then we can take one.

1 THE WITNESS: Okay. Let me review section 5
2 for a moment.

3 Okay. So referring to section 5.8 of my
4 declaration, it states, (Reading:) I understand that a
5 patent claim can be found invalid as obvious if the
6 differences between the claim and the prior art
7 references would have been obvious to a person of
8 ordinary skill in the art at the time of the invention,
9 taking into account the scope and content of the prior
10 art, the differences between the prior art and the
11 claims, the level of ordinary skill in the art, and any
12 objective indicia of non-obviousness.

13 So based on that statement, I have, in my
14 analysis, incorporated what I believe to be the topics
15 and knowledge of a person of ordinary skill in the art,
16 and that would be incorporated into the disclosures of
17 any prior art reference when reaching my opinion about
18 whether a claim element is obvious or not.

19 BY MR. CARTER:

20 Q I'm not sure that really answers my question.

21 MR. CARTER: But why don't we just go ahead and
22 take our break now?

23 (Brief Recess.)

24 BY MR. CARTER:

25 Q Welcome back, Dr. Edwards.

1 Is it your opinion that the claims of the
2 challenged patents require incremental transfer of
3 partial content items to a master web page?

4 A Well, I don't think that the claims use those
5 exact words. However, I did offer an opinion in my
6 declaration regarding why I think certain prior art
7 references do not include some limitations of the claims.
8 And in that discussion, I provide some opinions regarding
9 what is involved in real-time streaming and referenced
10 the incremental delivery of data in those opinions.

11 Q I'm going to ask again, because I think my
12 question should be a single "yes" or "no."

13 Is it your opinion that the claims of the
14 challenged patents require incremental transfer of
15 partial content items to a master web page?

16 A My opinion is that the claims require real-time
17 streaming of content data and content applications for
18 multiple content sources or record service providers
19 preselected by the user and streamed to the master server
20 simultaneously in real time from their respective servers
21 on a master web page, among other things.

22 That claim limitation could in -- be satisfied,
23 at least in part, by a system that delivers data
24 incrementally to a master web page provided that all the
25 elements of the claim are met.

1 Q I'm not asking about what could be the claim
2 limitation. I'd like you to listen very carefully to my
3 question. Is it your opinion that the claims of the
4 challenged patents require incremental transfer of
5 partial content items to a master web page? Yes or no?

6 MR. McBRIDE: Objection. Form.

7 THE WITNESS: I think that your question refers
8 to, for example, content items, which I don't see used in
9 the claim in that exact -- in that verbatim phrase, so I
10 think the answer would be no for that reason.

11 BY MR. CARTER:

12 Q Is it your opinion that the claims require
13 incremental transfer of partial content data and content
14 applications to a master web page?

15 A Give me just a minute. Are you asking with
16 respect to any particular claim?

17 Q I'm asking with respect to all of the claims.
18 Is it your opinion that the claims of the challenged
19 patents require incremental transfer of partial content
20 data and content applications to a master web page?

21 A I don't believe that all of the claims require
22 that exact statement.

23 Q Which claims don't require that?

24 A Well, based on what I'm looking at right now,
25 claim 7 does not appear to use the phrase "master

1 web page."

2 Q Anything else? Any other claims that you think
3 don't require that?

4 A Claims 1 and 12. And therefore, their
5 dependent claims do include reference to a master
6 web page.

7 Q So it is your opinion, then, that all of the
8 challenged claims, except for claim 7 of the '658 patent,
9 require incremental transfer of partial content data and
10 content applications to a master web page?

11 A Well, as I stated in paragraph 118 of my
12 declaration, it says, (Reading:) By contrast -- quote --
13 "streaming in real time" -- end quote -- in the context
14 of the challenged patents refers to incremental transfer
15 and continuous rendering. In other words, the live
16 delivery of data segments such that the user perceives an
17 uninterpreted flow of content.

18 So that's my understanding of how a person of
19 ordinary skill would assess whether a system has
20 real-time streaming. And therefore, a system, as you
21 said, includes incremental transfer of partial content
22 data and content applications to a master web page would
23 include some aspects of what is required by the claim,
24 but would not be sufficient by itself to meet any of the
25 independent claims of the '658 patent.

1 Q That was a really long answer. That answered a
2 question that I didn't ask, so what -- let's try this
3 again. I'm not asking for what would be sufficient to
4 meet all of the limitations of the claims. All right?

5 I'm asking very simply: Is it your opinion
6 that all of the challenged claims, except for claim 7 of
7 the '658, require incremental transfer of partial content
8 data and content applications to a master web page?

9 A Well, as I stated, it is my opinion that all of
10 those claims require real-time streaming. That's what's
11 required. That, as I stated in paragraph 118, in my
12 opinion, streaming in real time refers to incremental
13 transfer and continuous rendering. In other words, the
14 live delivery of data segments such that the user
15 perceives an uninterrupted flow of content.

16 Q Is there a reason you can't just answer the
17 question "yes" or "no"?

18 MR. McBRIDE: At least, let him finish.

19 MR. CARTER: He's wasting all my time, man.
20 Like --

21 MR. McBRIDE: Please, don't tell him how to
22 answer the question. You've asked the question, he
23 answers --

24 MR. CARTER: He's not, though.

25 MR. McBRIDE: I think it is pretty responsive.

1 MR. CARTER: Do you?

2 MR. McBRIDE: Yeah.

3 MR. CARTER: If you were sitting in my seat,
4 would you be like, Oh, yeah, that's a great answer to
5 what should be a very straightforward question.

6 MR. McBRIDE: It might not be the answer you
7 want to get, but it is a responsive answer, yes.

8 MR. CARTER: Oh, okay.

9 MR. McBRIDE: And that's your problem, this is
10 not the answer you want to get.

11 MR. CARTER: Oh, okay. Thank you for telling
12 me what my problem is. I really appreciate that. That's
13 very helpful. Anyway --

14 MR. McBRIDE: If you want to ask questions and
15 not tell him what the answers are, feel free.

16 MR. CARTER: I don't even understand what that
17 means, man, but okay.

18 MR. McBRIDE: You are telling him how to answer
19 the questions --

20 MR. CARTER: No, I'm not.

21 MR. McBRIDE: You're cutting him off and
22 telling him how to answer the questions.

23 MR. CARTER: Are you ready to be quiet now?

24 MR. McBRIDE: Go --

25 MR. CARTER: Are you going to continue

1 obstructing?

2 MR. McBRIDE: I'm not saying anything.

3 MR. CARTER: Really? Okay.

4 BY MR. CARTER:

5 Q Let's try this one more time. All right? I'm
6 not trying to trick you here. I'm just trying to
7 understand what you think these claims require. That's
8 it. That's all I'm doing, and I'm not asking you what is
9 the full scope of what the claims require. I want to
10 know one specific thing. All right?

11 You're with me so far? Yes?

12 A I'm with you so far, sure.

13 Q Okay. Great.

14 MR. McBRIDE: Objection. Form.

15 Please stop badgering the witness. Ask the
16 question, counsel.

17 MR. CARTER: We're going to need to take a
18 break in a little bit, and you and I are going to need to
19 go outside and talk, I think, because your obstruction is
20 nonsense. It is starting to get on my nerves, and it is
21 beyond inappropriate, and we may need to raise this with
22 our panel. I don't want to have to do that.

23 I would really prefer it if you would just let
24 me ask my questions, and you would stop with the speaking
25 objections. So I'm not looking for an answer here, but

1 I'm putting you on notice that that is not appropriate
2 and it needs to stop.

3 MR. McBRIDE: Asked --

4 MR. CARTER: So again, I'm not asking for any
5 kind of a response, so please don't.

6 BY MR. CARTER:

7 Q Let me restate my question before we were
8 interrupted.

9 Is it your opinion that the claims require
10 incremental transfer of partial content data and content
11 applications to a master web page?

12 A When such an incremental transfer is part of a
13 real-time stream, the answer is yes, because the claims
14 require streaming in real time.

15 Q Is it your opinion that the claims of the
16 challenged patents require incremental transfer of
17 content data and content applications before they are
18 fully delivered to the server?

19 A Transfer to what or whom?

20 Q The receiver.

21 A I don't understand your question.

22 Q Is it your opinion -- strike that.

23 What is it you don't understand about the
24 question?

25 A I don't understand the phrase that you are

1 asking, whether it is required or not.

2 Q Take a look at page 41 of your declaration.
3 Bottom of paragraph 98. The last sentence, and you can
4 read it to yourself, and let me know when you are
5 finished, please.

6 A Okay. I've read that.

7 Q I'm going to ask my question again, and
8 hopefully, given that context, it makes a little more
9 sense.

10 Is it your opinion that the claims of the
11 challenged patents require incremental transfer of
12 content data and content applications before they are
13 fully delivered to the server?

14 A In my opinion, streaming requires more than the
15 transmission of entire content data items after they have
16 been fully stored by the server in a database. And as it
17 explains here, that is at least one of the reasons that I
18 think Darnell's system does not include real-time
19 streaming, which is required by the claims. And
20 therefore, Darnell's system does not disclose all of the
21 limitations of the claims.

22 Q Are you aware that the claims don't use the
23 phrase "real-time streaming"?

24 A I am aware that those -- that phrase does not
25 appear exactly with those two words together, but the

1 claims do include the words "streaming" and "real time,"
2 and they are in reference to the transfer of content data
3 and content applications.

4 Q So it is your opinion that the claims of the
5 challenged patents require real-time streaming of content
6 data and content applications. Is that fair?

7 A Let me check each of the claims again to make
8 sure that I'm not forgetting any nuances. So claim 1 of
9 the '658 does require organizing content data and content
10 applications from multiple content sources or service
11 providers preselected by the user and streamed to the
12 master server simultaneously in real time from their
13 respective servers on a master web page -- and it
14 continues.

15 So claim 1 of the '658 does require real-time
16 streaming of content data and content applications from
17 multiple content sources or service providers.

18 Q To the server; right?

19 A Would you like me to -- it includes to the
20 server, simultaneously in real time from their respective
21 servers on a master web page, and the claim continues.

22 Q All right. Without reading aloud every one of
23 the claims, are you able to just answer my question, yes
24 or no? Is it your opinion that the claims of the
25 challenged patents require real-time streaming of content

1 data and content applications?

2 MR. McBRIDE: Objection. Form.

3 THE WITNESS: I believe that's correct, but
4 since there are several claims at issue here, I just
5 wanted to particularly find the specific language within
6 each claim that contains that requirement before I gave
7 you a blanket answer.

8 BY MR. CARTER:

9 Q And I just want to be clear, I'm fine with you
10 reviewing whatever you want to, but it is not necessarily
11 helpful to just have you verbally recite full claims
12 before getting to an answer. If you want to read them to
13 yourself, that's totally fine, but my expectation is that
14 you are prepared today to testify about what your
15 opinions are, and this is a pretty significant one, I
16 would say.

17 And so I just want to know, as you sit here
18 today -- and I think you've answered this, but I just
19 want to reconfirm. As you sit here today, is it your
20 opinion that the claims of the challenged patents require
21 real-time streaming of content data and content
22 applications?

23 MR. McBRIDE: Objection. Form.

24 THE WITNESS: I'm just checking on one thing.
25 So I think the answer is yes, with a small

1 caveat regarding claim 12 of the '658.

2 BY MR. CARTER:

3 Q And the streaming that is claimed in the
4 challenged patents is streaming to the master server;
5 correct?

6 A That's one of the recipients of content data
7 and content applications that is streamed, but not
8 necessarily the only one.

9 Q The claims only identify one recipient of the
10 streamed content data and content applications, which is
11 the master server; correct?

12 A No, I don't agree with that.

13 Q Point me to claim language that identifies and
14 requires another recipient of streamed content data and
15 content applications.

16 A Okay.

17 Q And let's start with claim 1 of the '658, just
18 to make this simple. Can you direct me to anything in
19 claim 1 of the '658 patent that requires streaming of
20 content data and content applications to a recipient
21 other than the master server?

22 A Yes, I can.

23 Q Please do.

24 A So claim 1B, recites software coded for
25 organizing content data and content applications from

1 multiple content sources or service providers preselected
2 by the user and streamed to the master server
3 simultaneously in real time from their respective servers
4 on a master web page.

5 And my understanding of that portion of the
6 claim is that the content data and content applications
7 from multiple content sources must be streamed in
8 real time on the master web page in addition to the
9 master server.

10 Q Where is the master web page? It is on the
11 master server; isn't it?

12 A The master web page would be a web page that is
13 generated by and implemented within the software that is
14 coded on the master server. And when a client's web
15 browser is directed to that server, the master web page
16 will be transferred to the client computer for rendering
17 within the client's web browser.

18 Q The claim doesn't actually require a client
19 device to go look at the master web page; right? It just
20 says it has to be viewable. Fair?

21 MR. McBRIDE: Objection. Form.

22 THE WITNESS: The -- let me review the claim
23 one time to confirm before I answer your question.

24 I'm not sure what you stated is correct
25 because, again, answering with respect to the claim 1 of

1 the '658 patent, the claim does reference, quote, "remote
2 computer devices," which would be the devices that a user
3 would directly interact with in order to interact with,
4 for example, the master server and master web page.

5 BY MR. CARTER:

6 Q We're in an agreement on that. All right.
7 That's not quite my question.

8 The claim doesn't actually require those user
9 devices to access, download, and stream content from the
10 master web page; right? It just has to be viewable.

11 A Again, I don't agree with your statement.

12 Q So it is your opinion that claim 1 of the '658
13 patent requires that there be live streaming of content
14 data and content applications that not only goes to the
15 master server, but also goes to the master web page on
16 the master server and further goes to the client devices
17 that are viewing the master web page. Is that your
18 testimony?

19 MR. McBRIDE: Objection. Form.

20 THE WITNESS: Well, the claim does require,
21 (Reading:) Wherein the master application programs a
22 processor on the remote computer devices to operate and
23 execute a slide tool program for scrolling or paging
24 through the content data or the content applications from
25 the multiple content sources or service providers

1 simultaneously and through the master server in real time
2 from the master web page and from the remote computer by
3 operating the slide tool program from the remote
4 computer.

5 So in my opinion, that portion of the claim
6 requires that the cloud-based computer system that is
7 being claimed include the master application that has
8 that capability that was just read, which does include
9 programming a processor on the remote computer devices.

10 BY MR. CARTER:

11 Q It has the capability or does it have to do it?

12 A Well, I'm not a legal expert, and I'm not
13 offering opinions regarding whether any particular system
14 is infringing this claim.

15 Q I want to be clear. I'm not asking anything
16 about infringement. I'm asking your opinions as to what
17 the claim requires.

18 A The claim requires a cloud-based computer
19 system that includes all of the elements that are listed.

20 Q Yeah, not my question.

21 So we were talking about your opinion that the
22 claims require real-time streaming of content data and
23 content applications. And I think where we started with
24 this is I asked you, Okay, who are the recipients in your
25 opinion that are required by the claims to receive the,

1 quote, "real-time streaming of content data and content
2 applications"?

3 And I understand your opinion to believe -- to
4 be -- rather -- that it is not just the master server.
5 It must additionally be client devices viewing the
6 master web page.

7 Do I understand your opinion correctly?

8 MR. McBRIDE: Objection. Form.

9 THE WITNESS: Well, again, my opinion is that
10 the claim requires all of the elements that are recited
11 there, which do include a master application program,
12 programs a processor on the remote computer devices to
13 operate and execute a slide tool program for scrolling
14 and paging through the content data or the content
15 applications, et cetera.

16 Therefore, it is necessary for that element of
17 the claim to be met in order for a system to fall within
18 the scope of the cloud-based computer system that's being
19 claimed here. So that's -- that's the requirement with
20 respect to what occurs on the remote computer devices in
21 this particular claim element.

22 There are other claim elements, of course, that
23 also refer to the remote computer devices, but that's the
24 requirement with respect to the remote computer devices
25 that's recited in this portion of the claim. And it does

1 include a slide tool program for scrolling or paging
2 through the content data or the content applications from
3 the multiple content sources or service providers.

4 BY MR. CARTER:

5 Q I have to be honest, I don't know what you are
6 even talking about at this point. Let me try this again.

7 Is it your opinion that the claims require
8 real-time streaming of content data and content
9 applications to not only the master server but also to
10 the client devices?

11 MR. McBRIDE: Objection. Form.

12 THE WITNESS: I believe that the content data
13 and the content applications do need to be streamed in
14 real time to the master web page, which would be the
15 mechanism through which the remote computer devices would
16 operate and execute the slide tool program for scrolling
17 or paging through the content data and content
18 applications.

19 So the content data and content applications
20 would be streamed to a remote computer device from --
21 from the master web page.

22 BY MR. CARTER:

23 Q Is it your opinion that the claims require the
24 live streaming of content data and content applications
25 from the master web page to the remote computer devices?

1 A The master web page, as I stated -- and would
2 be well understood by a person of ordinary skill in the
3 art, is transmitted to a client web browser and rendered
4 within that browser. So the content data and the content
5 applications that are streamed on the master web page
6 would be displayed on the client device or, as the claim
7 says, the remote computer devices by virtue of being on
8 the master web page.

9 Q So in other words, it is your opinion that the
10 claims require real-time streaming of content data and
11 content applications to the remote computer device?

12 MR. McBRIDE: Objection. Form.

13 THE WITNESS: Well, those weren't the words
14 that I used, and I --

15 BY MR. CARTER:

16 Q I didn't say they were. I'm asking for your
17 opinion. Is that your opinion?

18 A I think it is the same question you just asked,
19 so I would give the same answer, which is that the
20 content data and content applications are streamed to the
21 master web page according to the standard and well-known
22 web architecture, that master web page would be
23 transferred to a remote computer device where it is
24 rendered, so the content data and the content
25 applications would be displayed on the remote computer

1 device by virtue of being on the master web page.

2 Q So I think the answer to my question is yes; it
3 is your opinion that the claims require real-time
4 streaming of content data and content applications to the
5 remote computer device; right?

6 MR. McBRIDE: Objection. Form.

7 THE WITNESS: Well, I think you are trying to
8 restate my testimony in your words --

9 BY MR. CARTER:

10 Q Is what I just said wrong?

11 MR. McBRIDE: Objection. Form.

12 Please, let him answer.

13 MR. CARTER: I'm trying to get this done
14 quickly, man.

15 BY MR. CARTER:

16 Q Was there something wrong with what I just said
17 as far as my understanding of your opinion? I'm not
18 trying to trick you here. I'm just trying to understand
19 what you think the claims require, that's it. So let's
20 start again.

21 Is it your opinion that the claims require
22 real-time streaming of content data and content
23 applications to the remote computing device?

24 A That's not the words that I would use to
25 describe the claim as I understand it. Those are your

1 words. I think I've explained clearly what I understand
2 the requirements to be in terms of the streaming of
3 content data and content applications as it relates to
4 the remote client devices.

5 Q What -- no, strike that.

6 What computing devices within the claimed
7 systems are required to receive the real-time streaming
8 in your opinion?

9 A Are we still discussing claim 1?

10 Q We are.

11 A Okay. So with respect to claim 1 --

12 Q And to be clear, I'm not looking for you to
13 recite a whole bunch of claim language for me. I can
14 read what's on the page. I want your opinion as to what
15 computing devices are required to receive the stream of
16 content data and content applications?

17 MR. McBRIDE: Objection. Form.

18 THE WITNESS: So my understanding of the claim
19 is that the content data and content applications must be
20 streamed to the master server. They must additionally be
21 streamed on a master web page, and that master web page
22 is going to be viewable from the remote computer devices
23 in the way that I described a few minutes ago.

24 So the content data and content applications
25 will be displayed on the remote computer devices because

1 they are streamed to the master web page, which, as I
2 explained, would be rendered within the browser of one of
3 the remote computer devices.

4 BY MR. CARTER:

5 Q Would you agree with me that content data in
6 the context of the challenged patents can include an
7 e-mail?

8 A I don't believe I have offered a specific
9 opinion on that, outside of the opinions that I have
10 offered regarding claim 3, which states that one of the
11 content sources would be an e-mail account.

12 Q So could content data, as recited in the claims
13 of the challenged patents, include a single e-mail?

14 A I don't know that I've addressed that specific
15 hypothetical. I don't think that there is any
16 prohibition on e-mail being some portion or type of
17 content data, but again, that's not -- it is not
18 specifically prohibited by the claim.

19 Q How would somebody live stream an e-mail?

20 MR. McBRIDE: Objection. Form.

21 THE WITNESS: That's a hypothetical that I've
22 not offered any opinion on.

23 BY MR. CARTER:

24 Q Okay. So sitting here today, you have no idea,
25 one way or the other, whether it would be possible to

1 live stream an e-mail, fair?

2 A Well, again, I would have to think through the
3 hypothetical. One would apply the requirements of
4 real-time streaming, and it could be possible to transfer
5 data such as an e-mail in multiple ways, so I'm certainly
6 not aware of any prohibition on e-mail being one part or
7 type of the content data that could potentially satisfy
8 the claim.

9 Q I don't think that answers my question, but
10 okay.

11 Let's look at paragraph 101.

12 A Of my declaration?

13 Q Yes, of your declaration. Specifically, a
14 sentence that begins at the bottom of page 44 and
15 continues to the top of page 45.

16 A Paragraph 101?

17 Q Correct.

18 A Okay.

19 Q Do the claims require real-time content? And
20 if it helps, you refer to this at the bottom of page 44,
21 top of page 45.

22 A Sorry, I'm on the wrong page.

23 Q It is one sentence that runs over the two
24 pages. So let me ask again.

25 Do the claims of the challenged patents require

1 real-time content?

2 A So again, I think it is probably best for me to
3 answer with reference to a specific claim --

4 Q I --

5 A -- to make my answer clear.

6 Q All right. So let's say claim 1 of the '658.
7 Does claim 1 of the '658 patent require real-time
8 content?

9 A So the claim here requires the slide tool
10 program for scrolling or paging through the content data
11 or the content applications from the multiple content
12 sources or service providers simultaneously and through
13 the master server in real time.

14 And as I stated elsewhere in my declaration, in
15 my opinion, that requires that the content that is
16 being -- that is being scrolled or paged through using
17 the slide tool program must be delivered and rendered
18 within the slide tool program in real time, so it is
19 real-time content in that sense.

20 Q Do you believe that the slide tool program is
21 part of the master web page or is it something different?

22 A The -- in claim 1, for example, the slide tool,
23 there's no prohibition on the slide tool program being a
24 part of the master web page.

25 Q The reason I ask is because in your last

1 answer, you said "rendered within the slide tool
2 program." Slide tools don't render anything, web pages
3 are rendered, and so that's why I'm a little confused by
4 your answer.

5 What do you understand to be the relationship
6 between the master web page and the slide tool program as
7 required by these claims?

8 MR. McBRIDE: Objection. Form.

9 THE WITNESS: Well, the slide tool program is
10 something that is being displayed --

11 BY MR. CARTER:

12 Q Like a browser?

13 A -- or rendered to the user.

14 Q Like a browser? Okay. Let's take a step back
15 here. We are all intelligent people. A slide tool
16 program would be the thing that would be a part of your
17 browser that then renders the web page as an example;
18 right?

19 A Well, I guess -- as I said, the slide tool
20 program certainly could be a part of the master web page.
21 I don't see anything within the claim that specifically
22 prohibits that, so that's one embodiment that would meet
23 at least some portions of the claim, provided the other
24 claim elements are met.

25 Q Got it.

1 So do the claims require real-time content?

2 Yes or no?

3 MR. McBRIDE: Objection. Form.

4 THE WITNESS: They require real-time content,
5 for claim 1, at least, we can go through the other claims
6 as well, if you'd like. But claim 1, at least, requires
7 real-time content in the sense that it is content data or
8 content applications that are within the -- within the
9 slide tool program and can be scrolled or paged through
10 in real time. That's the sense in which the content data
11 or the content applications must be real time.

12 BY MR. CARTER:

13 Q I didn't ask for the sense in which it must be
14 real time. I just asked: Yes or no, does the claim
15 require real-time content? And I'm using your words
16 here.

17 MR. McBRIDE: Objection. Form.

18 THE WITNESS: If by "real-time content," you
19 are using the phrase the same way that I'm using it here
20 on page 45 of my declaration, then the answer would be
21 yes, because the content data and content applications
22 must be scrolled or paged through in the slide tool
23 program in real time.

24 BY MR. CARTER:

25 Q The slide tool program doesn't have to be part

1 of the master web page; right?

2 A I haven't offered a specific opinion on that
3 question as far as I remember.

4 Q All right. Go to paragraph 108, and this is
5 just for your reference for my next question. It begins
6 at the bottom of page 47 and then continues on top of
7 page 48.

8 A Okay. And --

9 Q My question -- I'm sorry --

10 MR. McBRIDE: So after this question, can we
11 take a short break? I'll need a couple of minutes.

12 MR. CARTER: That's fine.

13 BY MR. CARTER:

14 Q My question for you is: Do the claims require
15 dynamically organizing or displaying live content?

16 A The claims don't use the specific word "live
17 content." So what do you mean by "live content"?

18 Q So in that sentence you say, (Reading:)
19 Dynamically organize or display live content from
20 multiple sources in real time as required by the '658
21 patent.

22 So this is your words, not mine. I just want
23 to confirm that you believe it is your opinion that the
24 claims of the '658 patent and the '068 patent require
25 dynamically organizing or displaying live content from

1 multiple sources in real time?

2 MR. McBRIDE: Objection. Form.

3 THE WITNESS: So I think, then, your question
4 is using the word "live content" in the same sense that
5 I'm using it here on page 48, and if that's true, then
6 the answer would be yes, because the -- I'm using that
7 word to indicate content that is being updated as updates
8 are available and is being displayed in real time as
9 well. And I believe that is required by the claim --
10 claim 1, if that's the one that we're talking about.

11 MR. CARTER: All right. We can take a short
12 break now, if you would like.

13 -o0o-

14 (Brief Lunch Recess.)

15 -o0o-

16 BY MR. CARTER:

17 Q Welcome back, Dr. Edwards.

18 Did you discuss your testimony with Counsel
19 during the break?

20 A No.

21 Q Have you done it during any of the breaks we've
22 taken today?

23 A No.

24 Q Let's take a look again at paragraph 108 of
25 your declaration. Specifically, the last sentence of

1 that paragraph, it is on page 48.

2 A Okay.

3 Q My question to you is: Do you believe that the
4 claims of the challenged patents require an active,
5 continuously updating master web page accessible to
6 multiple users?

7 A Well, this statement is being given in the
8 context of explaining Darnell's operation. I think that
9 this is explaining part of the reasons for my opinion
10 that Darnell's system does not include what is stated in
11 claim element 1B1, and that's what I believe is required
12 by the claim.

13 Q So then is the answer to my question yes; it is
14 your opinion that claim limitation 1B1 of the '658 patent
15 requires maintaining an active, continuously updating
16 master web page accessible to multiple users?

17 A No. I don't believe that that is what the
18 claim expressly states or requires. That's a statement
19 about why Darnell's system does not satisfy the literal
20 text of the claim that appears in the heading of this
21 section.

22 Q If it is not required by the claim, then why
23 does it matter if Darnell discloses it?

24 A Again, this is part of a larger explanation of
25 how Darnell's system differs from the claimed system of

1 the '658 patent, so it is not meant to be a statement
2 that those -- that exact function is required by the
3 claim. It is meant to be part of a larger explanation
4 regarding why -- what Darnell does, does not accomplish
5 what is stated in 1B1.

6 Q I'm going to ask that question again.

7 What's the relevance of saying that Darnell
8 doesn't, quote, "maintain an active, continuously
9 updating master web page accessible to multiple users" in
10 the context of assessing whether or not Darnell maps to
11 claim limitation 1B1?

12 A Because claim 1B1 is the master application
13 that includes software coded for organizing content data
14 and content applications viewable from the remote
15 computer devices through the master server on the master
16 web page.

17 I have here, within these several pages, tried
18 to explain my understanding of how Darnell's system
19 works, and to explain why it does not accomplish what was
20 stated in that claim element. This is one sentence
21 within that much larger explanation that is trying to --
22 again, it is trying to be descriptive to explain my
23 understanding of Darnell's operation and illustrate why I
24 believe it doesn't meet that required claim language.

25 Q So then it is your opinion that claim

1 limitation 1B1 does not require maintaining an active,
2 continuously updating master web page accessible to
3 multiple users; is that correct?

4 A That specific verbatim phrase that you just
5 quoted from that sentence does not appear in the claim,
6 so I'm not giving opinions based on an understanding as
7 if that verbatim language appeared in the claim. I am
8 rather describing Darnell's operation, what it does do
9 and what it doesn't do here in this sentence.

10 Q So in other words, there is zero relevance to
11 this sentence in assessing whether or not Darnell does
12 what the claim requires; is that right?

13 MR. McBRIDE: Objection. Form.

14 THE WITNESS: No, that's not correct.

15 BY MR. CARTER:

16 Q What is the relevance of it?

17 A The relevance of it is it is explaining how --
18 it is one part, one part of the explanation within this
19 section regarding how Darnell's architecture works, and
20 how it retrieves and transmits content in feeds, and
21 that's very relevant to assessing whether the way that
22 Darnell operates and the way that its architecture is
23 structured includes all of the required elements of any
24 particular claim, in this case claim 1.

25 Q What specific required element does this

1 sentence speak to --

2 A The --

3 Q -- because you don't quote one, you don't cite
4 one. So I'm trying to figure out what are you even
5 talking about, man?

6 MR. McBRIDE: Objection. Form.

7 MR. CARTER: I'm not finished.

8 BY MR. CARTER:

9 Q You've got sentences like this littered
10 throughout your declaration with no citations, not
11 quoting anything, just spouting off. Most of them don't
12 have much context, and so I'm going through here trying
13 to figure out what is it that your opinion really is.

14 And so for this one, what specific claim
15 element in limitation 1B1 does this sentence at the end
16 of paragraph 108 of your declaration relate to?

17 MR. McBRIDE: Objection. Form.

18 THE WITNESS: It is the entirety of --

19 BY MR. CARTER:

20 Q I'm not asking about the entirety. I said
21 claim element. Show me -- do you know the difference
22 between a claim element and a claim limitation? Let me
23 start there. Do you even know that? You can say no,
24 that's fine.

25 A I don't know the specific -- to the extent

1 those have a specific legal definition, I would not be
2 offering an opinion on that.

3 Q Okay. I'm not asking if you are offering
4 opinions. I'm just asking if you even know. Do you know
5 the difference between a claim element and a claim
6 limitation?

7 A Well, I can tell you how I'm using those words
8 in my answers. Again, I'm not claiming to be an expert
9 in --

10 Q Yeah, I get all of that. I don't need --

11 A -- definitions of these terms.

12 MR. McBRIDE: Jon, let him answer --

13 MR. CARTER: We are wasting so much time with
14 these answers.

15 MR. McBRIDE: Your soliloquy is wasting hours.

16 MR. CARTER: So one of us is allowed to be
17 speaking on the record, and guess what, it is not you --

18 (Simultaneous Speakers.)

19 MR. CARTER: -- I will kindly invite you to
20 stop talking.

21 (Admonition by Stenographer.)

22 MR. McBRIDE: I'm allowed to ask you to let him
23 finish his answers. That's all I'm doing. And you have
24 interrupted dozens of times. And I'm being nice about
25 it, and you are -- you're badgering him and cutting him

1 off. So just ask the questions.

2 If he doesn't like the answer, I don't know.
3 That's what it is.

4 MR. CARTER: We are going to continue to have a
5 problem with you just talking on the record uninvited.

6 MR. McBRIDE: As long as you are cutting him
7 off, I need to answer -- I need to address that, Jon. As
8 long as --

9 MR. CARTER: So the answer is yes, apparently,
10 you're going to continue to obstruct. Thank you.

11 BY MR. CARTER:

12 Q Do you know the difference between a claim
13 element and a claim limitation? At this point, I think
14 the answer is no, but you can go ahead and admit it.

15 MR. McBRIDE: Objection. Form.

16 THE WITNESS: As I said, I can tell you how I'm
17 using those terms in my answers -- in the answers I've
18 given here today, and I can explain the difference in
19 terms of the way that I'm using them. I'm not claiming
20 to know or ascribe any formal legal definition to the
21 terms beyond the way that I'm using them and my
22 understanding from section 5 of the declaration.

23 BY MR. CARTER:

24 Q I didn't ask you to explain anything. I didn't
25 ask you to point me to a section of your declaration. I

1 asked a yes-or-no question.

2 Do you know what the difference is between a
3 claim element and a claim limitation?

4 MR. McBRIDE: Objection. Form.

5 THE WITNESS: I know what the difference is in
6 the way that I've been using those terms in my answers
7 today.

8 BY MR. CARTER:

9 Q Okay. So what's the difference?

10 A So I'm generally using limitation to refer to
11 the sections of the claims, such as section 1A of
12 claim 1. I think that would reasonably be called a
13 "limitation." I'm using the word "claim element" to mean
14 something more broadly that appears within the claim or
15 one of its limitations.

16 Q More broadly? What do you mean by "more
17 broadly"?

18 A I'm simply using it to refer to something that
19 appears within the claims or one of its limitations.

20 Q All right. So that's close. All right. Claim
21 limitations are made up of claim elements. All right?
22 So you are right. 1A is a claim limitation, but within
23 1A, there are multiple elements that make up that
24 limitation. So let me get back to my original question
25 now that we seem to have that understanding.

1 What claim element are you specifically
2 addressing or saying is missing from Darnell in the last
3 sentence of paragraph 108 of your declaration?

4 MR. McBRIDE: Objection. Form.

5 THE WITNESS: I am not saying in the last
6 sentence of paragraph 108 that this is meant to identify
7 any individual claim element that's not met. It is meant
8 as part of a larger explanation regarding why that
9 limitation as a whole is not met.

10 BY MR. CARTER:

11 Q Look at the next paragraph. You refer to,
12 quote, (Reading:) The kind of centralized real-time
13 orchestration of heterogeneous web content contemplated
14 by the '658 patent.

15 Do you see that?

16 A Which paragraph are you in?

17 Q 109, the very next one.

18 A Yes, I see that term.

19 Q Do the claims require centralized real-time
20 orchestration of heterogeneous web content?

21 A That is -- again, that is not something that
22 appears verbatim within the claims, but it is a
23 generalized characterization in my own words of aspects
24 of the system that is being claimed.

25 Q So do the claims require it or not?

1 A The claims do not literally require centralized
2 real-time orchestration of heterogeneous web content, but
3 what the claims do require, when taken together as a
4 system, describe a system that does have the
5 characteristic of centralized real-time orchestration and
6 is capable of delivering heterogeneous web content to
7 users.

8 Q So then do I understand correctly that this is
9 your interpretation of what the claim requires --
10 specifically, centralized real-time orchestration,
11 heterogeneous web content?

12 A What the claim requires is what is literally
13 stated in the claim.

14 Q I'm aware of that. That wasn't my question.
15 My question is: Is this language in the sentence that I
16 just read from paragraph 109, your interpretation of what
17 the claim requires?

18 A It is a statement in my own words as to how
19 Darnell's system has an architecture that differs from
20 the architecture that is contemplated within the '658
21 patent.

22 Q The sentence isn't about Darnell, is it? It
23 doesn't mention Darnell. Let's strike that.

24 A The sentence --

25 Q Strike it -- strike it. That means you don't

1 answer. There is no pending question.

2 Is the statement, quote, "centralized real-time
3 orchestration of heterogeneous web content," end quote,
4 your interpretation of what is required by claim 1 in the
5 '658 patent?

6 A That sounds like the same question that you
7 asked a few minutes ago, so I think my answer would be
8 the same, which is that, this is my attempt to describe
9 in my own words how Darnell's architecture differs from
10 the architecture of a system that includes all of the
11 elements that are claimed in, for example, claim 1 of the
12 '658 patent.

13 Q Are you able to answer that question without
14 saying the word "Darnell"?

15 MR. McBRIDE: Objection. Form.

16 THE WITNESS: This is --

17 BY MR. CARTER:

18 Q No, no, no. That's a yes or no. Are you able
19 to answer that question without saying the word
20 "Darnell"?

21 MR. McBRIDE: Objection. Form.

22 BY MR. CARTER:

23 Q It is a simple question. Yes or no?

24 A Repeat the question again.

25 Q The question I asked you is: Is the statement,

1 quote, "centralized real-time orchestration of
2 heterogeneous web content," end quote, in paragraph 109
3 of your declaration, is that your interpretation of what
4 claim 1 of the '658 patent requires?

5 A No. I can't answer that question without
6 making reference to Darnell because this statement is a
7 discussion of Darnell. It is part of my discussion of
8 Darnell.

9 Q Take a look at paragraph 110.

10 A Okay. I'm there.

11 Q The last sentence. Is it your opinion that the
12 claims of the challenged patents require, quote, "live,
13 centralized organization"?

14 A My answer would be the same, which is that this
15 is a statement that is part of my larger discussion of
16 how the architecture of Kim and Darnell differs from the
17 architecture of a system that includes all of the
18 elements of -- for example, claim 1 of the '658 patent,
19 and so it is not meant to be a statement of a literal
20 requirement within that claim.

21 Q Then, why do you say required by the claimed
22 master application? These are your words, not mine. Why
23 do you say that, if it is not a requirement? Did you
24 just misspeak?

25 MR. McBRIDE: Objection. Form. Harassing.

1 THE WITNESS: I'm --

2 MR. CARTER: That's not a proper objection.
3 Try again next time.

4 THE WITNESS: I'm giving a statement regarding
5 how these systems differ from the claimed master
6 application, which is required and why they are not the
7 claimed master application.

8 BY MR. CARTER:

9 Q So do the claims require live, centralized
10 organization or not? As you have stated in
11 paragraph 1- -- 110 -- rather -- of your declaration, yes
12 or no?

13 A The claims do not literally require live,
14 centralized organization --

15 Q Thank you. That's --

16 MR. McBRIDE: Continue your answer.

17 MR. CARTER: No. That's -- no. Here is the
18 thing, I'm not asking for "because."

19 MR. McBRIDE: But he's answering --

20 MR. CARTER: That's the fun -- I'll get that
21 you've coached him to do this. Okay? I know how this
22 works --

23 MR. McBRIDE: You do not know -- You don't know
24 anything.

25 MR. CARTER: I absolutely --

1 MR. McBRIDE: All I know is you are not letting
2 him answer the questions.

3 MR. CARTER: No, no. What he's doing is he has
4 been coached by you to throw in a whole lot of other
5 stuff in his answers. Like, when I ask a yes-or-no
6 question, and he always says because blah, blah, blah,
7 blah.

8 MR. McBRIDE: You are speculating. You have no
9 idea.

10 MR. CARTER: And yet I'm right. So now I would
11 invite you to please be quiet.

12 MR. McBRIDE: You --

13 MR. CARTER: I don't know how many times I have
14 asked you --

15 (Simultaneous Speakers.)

16 MR. CARTER: -- to stop obstructing this
17 deposition.

18 (Admonition by Stenographer.)

19 MR. McBRIDE: And I don't know how many times
20 I've asked you to let him finish his answers. You asked
21 the question. He answered --

22 MR. CARTER: He's not --

23 MR. McBRIDE: You don't tell him what the
24 answer is.

25 MR. CARTER: He's not answering my question.

1 (Admonition by Stenographer.)

2 MR. CARTER: Tell you what, let's step outside.
3 I think we need to address this because --

4 STENOGRAPHIC REPORTER: Off the record,
5 Counsel?

6 MR. CARTER: Yes.

7 (Brief Recess.)

8 MR. CARTER: All right. Welcome back. I just
9 wanted to say that during the break, Mr. McBride and I
10 stepped out, talked about a few things with respect to
11 this deposition, and I believe they may have been
12 conveyed to the witness, which is perfectly fine. And I
13 just want to say thank you, first of all, for stepping
14 out and talking through these things with me.

15 BY MR. CARTER:

16 Q And to you, Dr. Edwards, I want to be very
17 clear, my objective today is not to be tricky; it is not
18 to set any trap for you or anything. There are
19 statements in your declaration that -- I'm just trying to
20 figure out what exactly your opinion is and what they
21 mean. And I'm doing my best to try to ask you questions
22 that sort of get at that point. What does this mean? Is
23 this your opinion?

24 If, at any point, I ask you a question that you
25 don't understand or if you think that it is misusing a

1 term, what have you, you're welcome to say that, ask me
2 to clarify. I'm happy to do it. But I'm hopeful that we
3 can make efficient use of the rest of our time here
4 today.

5 I'm going to continue to ask you my questions.
6 I would ask you to listen very carefully to what the
7 questions are. And then if I have a follow-up, I will.
8 But I want to try to be as expeditious as possible with
9 the remaining time. That's not a question. I just
10 wanted to put all of that on the record.

11 So I want to return to paragraph 110 of your
12 declaration, which begins on page 48 and continues on
13 page 49. This is what we were, I believe, just looking
14 at before we took a break.

15 A Paragraph 110?

16 Q That's right.

17 A Okay.

18 Q And specifically the last sentence of paragraph
19 110. And I'm going to re-ask a question I asked earlier,
20 which is: Is it your opinion that the claims of the
21 challenged patents require, quote, "live, centralized
22 organization," closed quote?

23 A While those words do not literally appear in
24 the claim, I think they are a consequence of what is
25 literally in the claim, and therefore, that would be a

1 characteristic of a system that meets all the claim
2 elements.

3 Q This is a structural question for you. In your
4 declaration, you break up limitation 1B into two pieces,
5 1B1 and 1B2. It looks to me like 1B2 is part of 1B1, and
6 so I'm not entirely clear what distinction you're making
7 between those two divisions that you created for that
8 limitation.

9 Can you help me understand that?

10 A For sure. Give me a second to take a look.

11 Q Certainly.

12 A Yes. So I broke claim limitation 1B, here,
13 into two sections, but the portions of the limitations
14 that are addressed are not strictly sequential, and maybe
15 that's why it was confusing to you.

16 The reason it is broken into these two
17 subsections, 9.2.1.1.1 and 9.2.1.1.2, are because I'm
18 addressing different aspects of the system and
19 highlighting two related, but different, reasons why I
20 believe claim element 1B is not met by this particular
21 combination, which I think is Darnell and Kim.

22 Q Got it. So the opinions that you offer in
23 those two subsections with respect to 1B1 and 1B2, those
24 are meant to be complementary? In other words, you've
25 got opinions regarding the prior art with respect to 1B1,

1 and you have other opinions in 1B2. It is -- those are
2 two separate reasons, in your mind, why the prior art
3 doesn't meet the limitation and those are distinct
4 reasons. Is that -- am I understanding that correctly?

5 A They are distinct reasons, yes.

6 Q Okay. Thank you.

7 If you'll look with me in paragraph 113, the
8 last sentence of that paragraph, you say, (Reading:) In
9 my opinion, these disclosures establish that the claim
10 language requires continuous, concurrent delivery of live
11 content from multiple providers to a unified,
12 server-hosted page that is tailored to the user and
13 remains updated while the user navigates it.

14 Did I read that correctly?

15 A Yes, you did.

16 Q And am I understanding it correctly, that it is
17 your opinion that that recites a requirement of claim 1
18 of the '658 patent?

19 A Yes. With the -- again, I understand that
20 that -- those words do not literally appear in the claim,
21 but I think that that is a necessary characteristic or
22 consequence of a system that includes all of the literal
23 elements and limitations.

24 Q What specific claim element, in your mind,
25 introduces these requirements? Is it the streaming part?

1 The real-time part? I'm just trying to figure out where
2 this is coming from. Can you help me understand that?

3 A Sure. I think it comes from a few different
4 places because there's a few different things in the
5 sentence here. The characteristic of continuous,
6 concurrent delivery of live content from multiple
7 providers comes from the requirement for simultaneous
8 real-time streaming of content items and content
9 applications from multiple content sources or service
10 providers.

11 The characteristic of having a unified,
12 server-hosted page is a consequence of the claim's
13 requirement for a master web page and the related claim
14 language describing the master web page. Which in the
15 interest of time, I'll avoid reading to you. The
16 characteristic of having a page that is -- remains
17 updated while the user navigates it is derived from the
18 claim's requirement for the slide tool program and the --
19 again, the related claim language describing the slide
20 tool program.

21 The aspect of being tailored to the user in
22 some sense is a consequence of the claim's requirement
23 for a remote toolbox that allows the user to write code,
24 select code, delete code, et cetera, and the claim
25 language related to that.

1 Q So even though this discussion in paragraph 113
2 of your declaration is in a section purporting to be
3 specifically about limitation 1B, your characterization
4 of the claim requirement, to some degree, incorporates
5 one or more claim elements from limitation 1C, for
6 example, the remote toolbox feature; is that correct?

7 A I guess that it does. It does have a
8 connection to 1C, but just to -- I guess to amend my
9 previous answer slightly, I could say that the aspect of
10 being tailored to the user is also related to the aspect
11 of claim 1B in which the content sources or service
12 providers are preselected by the user.

13 Q In paragraph 115, page 51, you're talking about
14 Darnell here, and you refer to, quote, (Reading:)
15 Darnell's description of the process for retrieving and
16 storing content items for subsequent transmission.

17 Do you see that?

18 A Yes.

19 Q In your opinion, does the storage of content
20 before transmission necessarily mean that the system is
21 not real time?

22 A No.

23 Q Is there some amount of time, in your opinion,
24 that content can be stored before transmission and still
25 be part of a real-time system?

1 A There is no specific time threshold, if that's
2 what you're asking.

3 Q So, for example, if you have a system that
4 includes some sort of buffering for an incoming stream of
5 data, the fact that that incoming stream is first
6 buffered before it is ultimately output somewhere does
7 not take it necessarily outside the realm of being a
8 real-time system. Is that fair?

9 A I think that it is possible that a real-time
10 system could include buffering.

11 Q You make reference in your declaration to,
12 quote, "atomic content," or "atomic content items." And
13 if it is helpful, paragraph 117 is one example in which
14 you do that.

15 Can you explain to me what you mean by "atomic
16 content" in your declaration?

17 A Well, I think the explanation is there in the
18 sentence. It means that the items are not subdivided in
19 their transfer to the user in a way that allows the user
20 to consume or view or use the individual subparts.
21 Rather, the items must be fully transferred to merge
22 within and stored in the server's database before any
23 portion becomes available to the user. So that's what I
24 mean by atomic.

25 Q So the word "atomic," as far as I'm aware,

1 doesn't appear in Darnell, Dasgupta, or any of the other
2 prior art that I have seen, and I don't believe it
3 appears in the patent or in the prosecution history. So
4 I'm curious where you came up with that term to describe
5 the content items in Darnell?

6 A Well, I'm not using it in the chemistry sense,
7 of course. This is my attempt to -- again, put into my
8 own words a description that explains the rationale from
9 my opinion. And so what it means, in this sense, is that
10 the content items are not subdivided before they can be
11 apportioned, can be transferred, and used at the
12 user's -- recipient. So that's what I -- that's why I'm
13 using the word "atomic" to try to convey that idea.

14 Q And is it your opinion that the claims of the
15 challenged patents exclude systems that use atomic
16 content data consistent with the way you've defined that
17 term, for example, in paragraph 117 of your declaration?

18 A I don't think the claimed systems are
19 prohibited from having data that might meet that
20 description. But in my opinion, I think that I've
21 explained in multiple places in the declaration that it
22 does not, based on my understanding, result in a
23 streaming data system.

24 Q I'm trying to reconcile the two things you said
25 in that answer, so let me try a slightly different

1 question.

2 You said that you don't think the claim systems
3 are prohibited from using atomic content consistent with
4 your definition of that term in paragraph 117, but you
5 say that such a system does not result in streaming data,
6 and I think earlier you said that the claims require
7 streaming data. So can you help me understand what you
8 mean, on the one hand, by saying the claims don't
9 prohibit the use of atomic content data, and yet that
10 type of system is not a streaming data system?

11 A Well, such a system would have to have some
12 other data that is streamed. What I'm saying is that the
13 transmission of completed items would not satisfy the
14 streaming requirement of the claims.

15 Q Got it. So in your mind, the claims require
16 the transmission of content data and content applications
17 that are not yet complete on the master server; is that
18 right?

19 A That's a rough approximation of what I do say
20 in several places. For example, at the top of paragraph
21 118, it says, (Reading:) By contrast, "streaming in real
22 time," in the context of the challenged patents, refers
23 to incremental transfer and continuous rendering.

24 Up above that in the previous paragraph,
25 (Reading:) A feed-based system that only delivers

1 discrete, fully completed "items" cannot satisfy a
2 POSITA's understanding of real-time streaming on the
3 master web page, where the beginning of a data stream
4 becomes available to the viewer while the remainder is
5 still in transit.

6 So your statement, I think, is a rough
7 approximation of what I've said in those sentences and
8 others.

9 Q One of the things that I'm also struggling with
10 a little bit and trying to understand is the perspective.
11 From whose perspective, in your mind, the content data
12 and content applications must be sort of incrementally
13 received and transmitted?

14 So we -- I think we have sort of three -- three
15 devices in the claim system. We've got sort of the
16 source servers, we'll call them that, whatever the source
17 material is, then you have got the master server, and
18 then you have got whatever the remote client device is.

19 And so in your mind, do the claims require that
20 the master server receives content from the source and
21 then transmits that content onto a remote device while it
22 is still in the process of receiving the material from
23 the source?

24 MR. McBRIDE: Objection. Form.

25 THE WITNESS: I think that it does require that

1 the streaming is -- extends to the master web page.
2 Therefore, the -- as I've said, incremental transfer does
3 need to continue past the master server. Having a --
4 having a stream that terminated at the master server, I
5 do not think would accomplish what's stated in the claim.

6 BY MR. CARTER:

7 Q Even if that stream were received by the master
8 server and as it is receiving that data, the master
9 server puts it on the master web page, in your mind,
10 that's not enough to satisfy the claim language of the
11 challenged patents; is that correct?

12 A I think that would not be enough because of the
13 related and connected requirement of the claims for
14 real-time streaming.

15 Q So I think that this goes back to some
16 questions I was asking you earlier, which is -- and I'm
17 going to ask this again, and apologies if this is
18 retreading old ground, but I want to sort of close the
19 loop on this.

20 Is it your opinion that the claims require not
21 only that the content data and content applications be
22 streamed to the master server and the master web page,
23 but also that the content data and content applications
24 must be viewed by the remote device?

25 A I think I would use the word "displayed,"

1 because what I believe the claim requires is the
2 real-time content in the slide tool.

3 Q The way I'm thinking about what I understand
4 your opinions to be here is that the master server seems
5 to be operating essentially as a buffer. It is receiving
6 content from the source, and it is probably storing it
7 somewhere, while at the same time outputting that content
8 on the master web page that, then, is displayed on a
9 remote device. Am I thinking about that the right way,
10 in terms of what your opinions are?

11 A I think that the master server does have to
12 perform both of those functions. That's not sufficient.
13 The master server has additional requirements as well.

14 Q A couple of questions ago, you referred to
15 another statement in paragraph 117 and another one in
16 118. I just want to come back to those to close the loop
17 on a couple of things.

18 The second-to-last sentence, paragraph 117, am
19 I correct in understanding that it is your opinion that
20 the claims of the challenged patent require, quote,
21 (Reading:) Real-time streaming on the master web page
22 where the beginning of a data stream becomes available to
23 the viewer while the remainder is still in transit,
24 closed quote?

25 A I'm sorry. What was the question -- part of

1 that?

2 Q The question is: Is it your opinion that that
3 is a requirement of the claims?

4 A I believe that is required for the real-time
5 streaming aspects of the claims.

6 Q And similarly, if we look at the first sentence
7 in paragraph 118 of your declaration, it is your opinion
8 that streaming in real time, in the context of the
9 challenged patents, refers to incremental transfer and
10 continuous rendering. In other words, the live delivery
11 of data segments, such that the user perceives an
12 uninterrupted flow of content; right?

13 A I think those are simply putting the same
14 things in different words.

15 Q If we look a couple of sentences later in that
16 same paragraph, there's a sentence in which you say,
17 quote, (Reading:) Streaming implies some degree of
18 partial or incremental transfer of a series of
19 portions/pieces/parts of a whole, closed quote.

20 Do you see that?

21 A Yes, I do.

22 Q I'm curious where you got that definition or
23 that understanding that you recited in that sentence. Is
24 there a source for it?

25 A The source would be the plain and ordinary

1 meaning of the term "streaming."

2 Q Specifically, the plain and ordinary meaning of
3 that term at the time of the challenged patents?

4 A Yes.

5 Q Did you go look for any sort of intrinsic or
6 extrinsic evidence to support that understanding of the
7 word "streaming"?

8 A I'm not intending to conduct a claim
9 construction or propose a construction for streaming. I
10 am trying to explain what the plain and ordinary meaning
11 is. So I am assuming that the plain and ordinary meaning
12 is to be used, and I am explaining what the implications
13 of that are.

14 Q And I get all of that. The thing that I'm
15 trying to figure out is, if I wanted -- if I wanted to
16 know what the plain and ordinary meaning is, and you told
17 me that and I asked the follow-up question of, Oh, okay,
18 where did you get that plain and ordinary meaning? And
19 that's kind of where I am now.

20 Is that just something that you know in your
21 head or did you go and look someplace for a definition of
22 streaming that you now recite in paragraph 118 of your
23 declaration?

24 A Well, this is not intended to be a definition.
25 This is intended to be, along with the many other

1 statements about streaming in the report, explanatory.
2 Where does my understanding of streaming come from, I
3 think, was your question. And it comes from my 20 years
4 of working on streaming systems, including real-time
5 streaming systems of all kinds, extending back before the
6 time that these patents were filed, and in many years
7 since then.

8 And so I have a well-developed concept of what
9 streaming means in the plain and ordinary meaning sense;
10 and without providing a specific definition of it, I am
11 here and elsewhere in the declaration simply trying to
12 explain what that concept relates to.

13 Q Is it correct to say that the places in your
14 declaration where you purport to explain what real time
15 means and what streaming means, where you don't have any
16 sort of citation to any source after it, that means that
17 you were putting it into your own words and drawing
18 exclusively upon your own experience and expertise to
19 come up with that description?

20 A Well, I think I first would object to the
21 characterization that -- or the -- maybe the implication,
22 whether intended or not, that I'm attempting to ascribe a
23 specific definition anywhere because my intent, in
24 general, in most cases was rather to provide an
25 explanation rather than an express definition.

1 One exception to that would be, for example,
2 paragraph 90 -- I think it is 90, where I have given a
3 more explicit statement as to what I believe real time
4 means. And that is based on all the -- for all the
5 reasons that are explained earlier in that section, which
6 does include a number of citations. So that should not
7 be taken to mean that there's not some citation provided
8 for the -- as the basis for that opinion.

9 Q Understood. I certainly don't mean to imply
10 that you are improperly trying to define things or
11 anything like that.

12 I'm trying to understand, when I see things in
13 your declaration that purport to explain what the claim
14 requires, and those things use words that aren't in the
15 claim, and there is no citation, I'm trying to figure
16 out, Okay, where is it coming from? What's the basis for
17 it?

18 So as an example, earlier we were talking about
19 incremental transfer; right, and I think we both agree
20 that the word "incremental" doesn't appear in the claims;
21 right?

22 A True.

23 Q And it doesn't appear in the patent either;
24 right?

25 A I haven't searched the entire patent, but

1 perhaps you have.

2 Q I will represent to you that it does not appear
3 in the patent.

4 And so there are statements like that in your
5 declaration where there's no citation to anything after
6 it. I'm not trying to be overbroad here, but I'm going
7 to rely on you to correct me if I'm wrong.

8 But is it accurate to say that in the places in
9 your declaration where you are purporting to explain what
10 the claim requires and you don't provide any citation and
11 you don't quote claim language, you're relying
12 exclusively upon your own experience and your own
13 expertise in this field to come up with that explanation?

14 MR. McBRIDE: Objection. Form.

15 THE WITNESS: I don't agree with that, no.

16 BY MR. CARTER:

17 Q What part of that do you disagree with?

18 A I disagree that it would be based solely on my
19 own experience. It would be based, at least in part, on
20 my own experience and expertise, but it is also based on
21 the other materials that I considered and listed in the
22 declaration.

23 Q I get that you're drawing upon those for
24 background context, but I'm talking about the specific
25 words that you're using, things like "displayed

1 incrementally," which -- that is in paragraph 96, we
2 talked about that earlier. You use that phrase, but
3 you're not quoting anything and you're not citing
4 anything. And I'm not aware that that phrase appears
5 anywhere in any of the materials considered that you've
6 listed.

7 And so in instances like that, where you are
8 introducing terms in your explanation and not quoting
9 anything and not citing anything, what are you relying
10 upon for those terms?

11 MR. McBRIDE: Objection. Form.

12 THE WITNESS: I'm relying on my expertise, my
13 experience, along with the materials listed in my
14 Materials Considered.

15 BY MR. CARTER:

16 Q All right. Let's go to paragraph -- I think
17 118, where we just were. You have a sentence near the
18 bottom of page 52 where you said, quote, (Reading:) In
19 this sense, a system that buffers or merges entire feed
20 items into a database before serving them is
21 non-streaming, closed quote.

22 Do you see that?

23 A Yes, I do.

24 Q Is it your opinion that the claims do not
25 encompass a system that buffers or merges entire feed

1 items into a database before serving them?

2 A I think that if the system requires the
3 complete transfer of a feed item into a database before
4 delivering any portion of that system to a client, or, as
5 stated in the claim, remote computer device, would not
6 have streaming capability.

7 Q Paragraph 121, it begins at the bottom of
8 page 53. You refer to -- in the context of Darnell,
9 quote, "request-driven fetching of feed entries."

10 Do you see that?

11 A Yes, I do.

12 Q Is it your opinion that the claims exclude a
13 situation in which a user requests and a system fetches
14 content?

15 A I don't think that the system prohibits the use
16 of requests internally to accomplish its functions, but
17 the request-driven fetching of feed entries, as described
18 in Darnell, I do not think is consistent with a system
19 that performs real-time streaming.

20 Q Does real-time streaming, in your mind, exclude
21 what you characterize as request-driven fetching? And
22 I'm not limiting this to Darnell, just more in general,
23 do you believe that real-time streaming necessarily
24 excludes request-driven fetching?

25 A I have not offered an opinion on any other

1 system besides Darnell, and that -- and the other
2 references in this declaration, so this is a -- this
3 statement is meant to be limited to the request-driven
4 fetching as disclosed in Darnell.

5 Q I may have asked you this already, but I just
6 want to make sure I'm clear on it. Is it your opinion
7 that a streaming system cannot be a system in which you
8 retrieve fully completed items after they've been stored
9 in a database?

10 MR. McBRIDE: Objection. Form.

11 THE WITNESS: That would not accomplish the
12 streaming requirements of the claims. A system could
13 include both streaming data transfer and not streaming
14 data transfer. So it does not necessarily mean that the
15 system cannot satisfy the claims, but what you just
16 stated would not satisfy the real-time streaming portion.

17 BY MR. CARTER:

18 Q Are you aware of anything in the patent
19 specification or the prosecution history that supports
20 your opinion that retrieval of fully completed items
21 after being stored in a database is not a streaming
22 system?

23 A Yes. I believe that the patent specification
24 and the statements about real-time streaming in the file
25 history indicate that the terms are meant in their plain

1 and ordinary meaning, which is what I have applied.

2 MR. CARTER: Finally, exhibits to put stickers
3 on.

4 Are we just calling this Edwards 1?

5 STENOGRAPHIC REPORTER: Yes.

6 MR. CARTER: All right.

7 (Petitioner's Exhibit 1 was marked
8 for identification by the court
9 reporter and is attached hereto.)

10 MR. CARTER: And let's make this Edwards 2,
11 please.

12 (Petitioner's Exhibit 2 was marked
13 for identification by the court
14 reporter and is attached hereto.)

15 MR. McBRIDE: Sorry. Mind if we go off the
16 record for a second?

17 MR. CARTER: Oh, yeah. Sure.

18 (Brief Recess.)

19 MR. McBRIDE: Back on?

20 STENOGRAPHIC REPORTER: Yes, sir.

21 MR. McBRIDE: Okay. I just want to note that
22 the letter that Mr. Carter just handed me, he has
23 represented that it is publicly available on the
24 litigation docket. I would provisionally object to it to
25 the extent that it is not publicly available for now. I

1 accept his representation.

2 BY MR. CARTER:

3 Q Dr. Edwards, would I be correct in assuming
4 that you've never seen Exhibits Edwards 1 or Edwards 2
5 previously?

6 A I believe that is correct.

7 Q Edwards 1 is a letter dated July 6, 2018, that
8 has as its, I guess, subject line, U.S. patent 9,729,658,
9 titled "System for Managing Web-Based Content Data and
10 Applications."

11 Do you see that?

12 A Yes, I do.

13 Q And that's the same '658 patent that we've been
14 talking about in this proceeding; correct?

15 A It has the same patent number and title.

16 Q And the owner of the patent, as identified in
17 the first sentence of the letter, is Razdog, LLC, which
18 is the Patent Owner in this proceeding; correct?

19 A That's my understanding.

20 Q Do you see the third sentence in that first
21 paragraph where it says, quote, (Reading:) Razdog has a
22 reason to believe that your website located at
23 www.sparkfun.com is using a slide tool program for
24 scrolling or paging through content data or the content
25 applications.

1 A Yes, I see that.

2 Q Next sentence, (Reading:) Based on your
3 apparent use of these patented technologies, you may wish
4 to have your patent counsel examine the '658 Patent
5 (particularly claims 1 and 7) to determine whether a
6 non-exclusive license is needed.

7 Do you see that?

8 A Yes, I see that.

9 Q I will represent to you that Exhibit Edwards 2
10 is a printout of the SparkFun website on the exact same
11 date as the letter in Edwards 1.

12 Is there anything that you see in Edwards 2
13 that you would consider to be live streaming?

14 MR. McBRIDE: Objection. Scope.

15 THE WITNESS: I haven't seen this before, so I
16 would not -- I haven't offered any opinion on it, and I
17 don't think that I can assess that or offer an opinion
18 off the cuff.

19 BY MR. CARTER:

20 Q Sitting here today, do you see anything in
21 Edwards 2 that looks like what you would consider to be
22 live streaming of content?

23 MR. McBRIDE: Objection. Scope.

24 THE WITNESS: Again, from a printout that I've
25 not previously seen, I am not able to answer that

1 question.

2 BY MR. CARTER:

3 Q Do you see anything that looks like a slide
4 tool program in Edwards 2?

5 MR. McBRIDE: Objection. Scope.

6 THE WITNESS: I'm not able to do an accurate
7 assessment of that just from a printout that I have not
8 previously seen. That's not something I've offered an
9 opinion on and would not offer an opinion on without
10 doing a thorough analysis.

11 BY MR. CARTER:

12 Q So without doing some kind of extensive
13 analysis, you are not able to tell me, one way or the
14 other, if you believe that Edwards 2 meets any of the
15 claim limitations of, for example, claim 1 of the '658
16 patent. Is that fair?

17 MR. McBRIDE: Objection. Form. Scope.

18 THE WITNESS: As I sit here today, I don't have
19 enough information to assess that.

20 BY MR. CARTER:

21 Q Would it have been of interest to you, in
22 forming your opinions in this case, to know what the
23 Patent Owner is saying publicly about its own patent --
24 its challenged patent in this case?

25 MR. McBRIDE: Objection. Form. Scope.

1 THE WITNESS: As I sit here at this moment, I
2 don't recall receiving any instruction from counsel
3 regarding incorporating statements of the patent owner
4 beyond what I -- what appears in my Materials Considered,
5 so I don't have any information or instruction to
6 incorporate beyond that.

7 BY MR. CARTER:

8 Q And I understand that you may not have received
9 instruction. I'm asking this question more in the
10 context of someone who is an expert in this field and is
11 being asked to offer objective, unbiased opinions.

12 Would it have been of interest to you when you
13 were rendering your opinions in this case to know what
14 the patent owner was out there telling other people in
15 the world about what this patent may cover?

16 MR. McBRIDE: Objection. Form. Scope.

17 THE WITNESS: As the instructions were provided
18 to me, that would not be necessary for me to consider in
19 my opinions, because I was instructed to consider the
20 literal words of the claims and the perspective of a
21 person of ordinary skill at the time of the invention in
22 light of the specification. And so as far as the
23 instructions I received, additional statements outside of
24 that would not be something that would be part of that
25 consideration.

1 BY MR. CARTER:

2 Q Were you instructed to consider things that the
3 patentee told the patent office --

4 (Stenographer Clarification.)

5 Q Were you instructed to consider things that the
6 patentee told the patent office about what these claims
7 mean in rendering your opinions in this case?

8 A I was asked to review the file histories and to
9 consider them. And in at least a couple of instances, I
10 have indicated in my declaration where my consideration
11 of those file histories, including the patentee
12 statements, have affected or supported my opinions.

13 Q Why would it be the case that you would
14 consider statements that the patentee made to the patent
15 office in assessing and rendering your opinions in this
16 case, but you wouldn't necessarily want to consider
17 statements by the patentee to other people out in the
18 world about this patent?

19 MR. McBRIDE: Objection. Form. Scope.

20 THE WITNESS: I would not be able to speak to
21 the underlying legal rationale for the instructions I was
22 given regarding which specific materials should be
23 considered for the analysis and opinions that I was asked
24 to perform. That aspect of it, I simply have to accept
25 instruction and guidance from counsel on.

1 BY MR. CARTER:

2 Q Would it matter to you in forming your opinions
3 in this case if the patentee were out there saying stuff
4 to the public that was different -- materially different
5 from the opinions that you are offering in this case
6 about what the claims mean? Would that matter to you?

7 MR. McBRIDE: Objection. Form. Scope.

8 THE WITNESS: Assuming that I have been
9 instructed appropriately regarding which materials should
10 be considered, then I would feel that my opinions remain
11 correct because they would be based on the materials that
12 they should be based on. So from that perspective, if
13 there are other materials that, for whatever reason, are
14 not appropriate to consider when doing this analysis,
15 then I would still be confident in the correctness of my
16 opinions.

17 BY MR. CARTER:

18 Q Did you, at any point, ask to see what the
19 patentee may have said publicly about what the patent
20 covers and what the claims mean?

21 MR. McBRIDE: Objection. Form. Scope.

22 THE WITNESS: I don't recall asking for that
23 material.

24 BY MR. CARTER:

25 Q Would it be fair to say, then, that you relied

1 entirely upon counsel in this matter to provide you with
2 and direct you to the specific materials that you
3 reviewed and considered in reaching the opinions that
4 you've offered in this matter?

5 A I don't think that that's -- that's an accurate
6 characterization because I was never restricted or told
7 not to look at anything.

8 Q Did you look at anything separate and apart
9 from what counsel provided to you or directed you to in
10 forming your opinions in this matter?

11 A I think I did in some cases.

12 Q Do you have any memory, sitting here today, of
13 what else you looked at?

14 A Well, I think, for example, some of the
15 exhibits to Dr. Martin's report. I was not instructed by
16 counsel to look at those, but I chose to investigate
17 them.

18 Q Those were part of the record of this
19 proceeding, though; right?

20 A That's my understanding, yes.

21 Q Did you endeavor to do your own research or ask
22 for additional materials from counsel beyond what is part
23 of the record in this proceeding currently in assessing
24 what the claims of this patent mean?

25 A I did my own research on the materials that

1 were part of the record. And if I had felt the need to
2 do any additional research, I certainly would have done
3 so. I was never instructed not to do any additional
4 research or look at other materials, but I felt that what
5 I had reviewed was sufficient for forming and supporting
6 the opinions that I gave.

7 And then I, separately, as I said, have relied
8 on counsel's instructions regarding the correct way to
9 approach interpretation of an individual patent claim.

10 Q At any point in time, did you ask to see any of
11 the materials that are part of the co-pending district
12 court case involving the same patent -- materials that
13 are not part of the records for these IPR proceedings?

14 A I was not aware of any materials that I thought
15 would be relevant and have -- did not ask for any.

16 Q How did you determine whether or not something
17 might be relevant from the co-pending litigation if you
18 didn't review it?

19 A I simply mean that there was no additional
20 information that I felt I needed beyond what had been
21 provided and what I had already reviewed that I felt was
22 necessary in order to accomplish the analysis that I was
23 asked to do.

24 MR. CARTER: Why don't we take a short break?

25 (Brief Recess.)

1 MR. CARTER: All right. Ready to go back on?
2 Okay.

3 BY MR. CARTER:

4 Q Dr. Edwards, if you can turn to page 28 of your
5 declaration, this is in the section discussing the
6 construction of real time.

7 A Okay.

8 Q In paragraph 70, you disagree with the board's
9 construction, and you say, (Reading:) Because, in my
10 opinion, as a POSITA at the time of the invention,
11 "streaming" involve incremental delivery of data that is
12 used contemporaneously by the user on the master
13 web page, not the retrieval of fully completed items
14 after database storage.

15 The board's construction doesn't refer to fully
16 completed items or database storage; right?

17 A Do you have a copy of that decision?

18 Q It is in the preceding paragraph of your
19 declaration, paragraph 69.

20 A Well, I don't have the full decision in front
21 of me, of course. But at least with respect to the
22 quotes from the board's decision that appear in the
23 section of my report, I don't see the words "completed
24 items" or "database storage" literally appear in any of
25 those quotes.

1 Q My follow-up question to you is: Why, then, in
2 a section purporting to be about claim construction, do
3 you introduce this concept of retrieving fully completed
4 items after database storage?

5 A The board's discussion of the term "real time"
6 and the larger phrase in which it appears in claim 1B, I
7 think it is -- does discuss real-time streaming. This
8 section explains the same concept that we had discussed
9 previously in regard to another section regarding what my
10 understanding of real-time streaming is and why it is
11 related to, as it says here, incremental delivery of data
12 that is used contemporaneously by the user on the master
13 web page, not the retrieval of fully completed items
14 after database storage. So I'm explaining -- this
15 appears here because it is an explanation of why I think
16 the board's construction does not sufficiently consider
17 the plain and ordinary meaning of real-time streaming.

18 Q It seems to me like your position -- and let me
19 know if this is wrong, is not that the board is wrong.
20 Instead, it seems like what you were saying is there's
21 more to it. In other words, I don't disagree with what
22 the board has said, but there is this additional
23 requirement or set of requirements in the claims, and
24 that should be part of the construction or the
25 interpretation of the claims as well.

1 Would you agree with that?

2 A I think that's at least partly a fair
3 characterization in that I do believe -- as I read the
4 board's decision, it did -- it preliminarily determined
5 that the claims did not require real-time streaming on
6 the master web page. And I'm explaining my -- the
7 reasons I believe that is an incomplete understanding of
8 what the claim requires, and I have several reasons for
9 that.

10 Q Would it be fair to say, then, that you do not
11 disagree with what the board said that you recite in
12 paragraph 69 of your declaration, but rather you think it
13 leaves some things out that you then add to the
14 understanding?

15 A I think that's a fair statement.

16 Q And I'll tell you, what I'm trying to do -- one
17 of the things I'm trying to do is trying to figure out
18 where exactly the disagreements are and where -- perhaps,
19 there are some agreements. So that's helpful for me, I
20 appreciate it.

21 Let's look at paragraph 71. I think it should
22 still be in front of you. Do you have that in front of
23 you?

24 A Yes, I do.

25 Q All right. You say, (Reading:) Reading the

1 claims in context, the POSITA would treat the phrase
2 "streamed to the master server... in real time... on a
3 master web page" as an integrated clause: "To the master
4 server" (destination), "in real time" (temporal quality),
5 "from their representative servers" (sources), quote,
6 "and on a master web page" (display context) all modify
7 the same operation, streamed.

8 Do you see that paragraph?

9 A Yes, I do.

10 Q There is a claim term that's not in that
11 paragraph, namely "organized." And if you have the
12 patent in front of you, you will see that claim 1B, for
13 example, in the '658 paragraph includes the term
14 "organizing content data and content application";
15 correct?

16 A Yes, I see that.

17 Q So if all the terms that you recite in
18 paragraph 71 of your declaration modify the word
19 "streamed," what, in your opinion, in limitation 1B
20 modifies the word "organizing"?

21 A Well, it states that it includes software code
22 for organizing.

23 Q Is there anything else in limitation 1B of the
24 '658 parent that you understand modifies or relates to
25 the recited "organizing"?

1 A Well, there is the subsequent part of the claim
2 language that describes what is being organized, which
3 includes the content data and content application,
4 et cetera.

5 Q And where is it being organized?

6 A It is organized on the master server.

7 Q And additionally, where is it organized
8 according to the claim?

9 A Within the software coded that's included
10 within the master server.

11 Q It is organized on the master web page, isn't
12 it?

13 A It says that it is viewable from the remote
14 computer devices through the master server on the master
15 web page, but it does use the word "organizing" in that
16 portion of the claim that I just read.

17 Q I'm looking at the phrase immediately before
18 what you just read, "on a master web page."

19 A Well, for the reasons that are explained in my
20 declaration, I think that that "on a master web page"
21 phrase is referring to the real time streamed content
22 data and content applications from multiple sources,
23 et cetera.

24 Q Wouldn't those things necessarily be organized
25 in some way on the master web page?

1 A They will be displayed because they are
2 viewable, and that display presumably would have some
3 form of organization.

4 Q The claim refers to the master web page before
5 it refers to the viewability; right?

6 A Well, it depends on which reference to a master
7 web page, because there are at least two here.

8 Q Well, it introduces the concept of a master
9 web page before it recites anything about viewability,
10 fair?

11 A The words "on a master web page" appear in the
12 claim earlier than the part that says, (Reading:) And
13 are viewable from the remote computer.

14 Q But as you read the claim, you do not believe
15 that the term "organizing content" and "content data and
16 content applications" modifies, quote, "on a master
17 web page" in limitation 1B; is that correct?

18 A For the reasons given in my declaration, which
19 I'm happy to explain further, that clause belongs with
20 the language about real-time streaming simultaneously
21 from their respective servers, et cetera, and are
22 viewable from the remote computer devices. I think
23 similarly, then it refers back to the content data and
24 content application because that's what would be
25 viewable, so the parsing of the sentence places "on a

1 master web page" with the preceding language.

2 Q The content data and the content applications
3 would not only be viewable on the master web page, they
4 would be organized on the master web page, wouldn't they?

5 MR. McBRIDE: Objection. Form.

6 THE WITNESS: The claims referenced to
7 organizing is by software coded on the master server.

8 BY MR. CARTER:

9 Q For organizing what?

10 A The content data and content application.

11 Q And where do those appear? Where do those go?

12 MR. McBRIDE: Objection. Form.

13 THE WITNESS: The subsequent part of the claim
14 requires that they are viewable from their remote
15 computer device.

16 BY MR. CARTER:

17 Q So if we follow the through-line there, we have
18 master application that includes software included for
19 organizing content data and content application on a
20 master web page; right?

21 A That's not the way that I think a person of
22 ordinary skill would understand the language of this
23 claim. Again, for several reasons that are explained in
24 the declaration, but which I won't go through since I
25 want to be mindful of your time.

1 Q Would it be possible for the system of the
2 challenged patents to have a master web page that doesn't
3 have content data and content applications organized on
4 it? Would it work?

5 A I think that the master web page is an
6 essential element of the invention, so -- and I think all
7 of the independent claims require that the master
8 web page include some form of slide tool or other
9 mechanism for paging or scrolling through the content
10 data and content applications. So I don't think that you
11 would have the -- certainly not the same invention, if
12 you ripped out the master web page, I don't see how that
13 would work or accomplish the purpose of this particular
14 invention.

15 Q So in other words, the content data and the
16 content applications that are described in the challenged
17 patents and recited in the claims would be organized in
18 some manner on a master web page; is that correct?

19 A Well, I guess there is the requirement in the
20 claim for -- for example, the remote toolbox feature, in
21 claim 1C, that indicates that it will control how subsets
22 of the content data or content applications are, among
23 other things, organized. So I think that there is
24 organization of the content data and content applications
25 in multiple places in the claim. I do not see a --

1 again, an explicit requirement for organization on the
2 master web page, the word used with respect to the master
3 web page is viewable.

4 Q So in your mind, as you read claim 1, what --
5 rather, where is the content data and content
6 applications organized?

7 A With respect to the first reference to
8 organizing, that is organized by the software that
9 executes on the processor of the master server. It is
10 included in the master application, stored in the memory
11 of the master server.

12 Q But as you read the claim, there is no
13 connection, in your mind, between the phrase "organizing
14 content data and content application" and the phrase "on
15 a master web page"; is that correct?

16 A I wouldn't say there is no connection because
17 all of the parts of the system are related and connected
18 in some way. But as I have said before, I believe the
19 first reference to the master web page is in reference to
20 the real time -- simultaneous real-time streaming of the
21 content sources or service -- sorry -- of the content
22 data and content application.

23 Q I should have been a little clearer with my
24 previous question. When I said "no connection," I'm
25 speaking linguistically because that's what I think

1 you're doing in paragraph 71 of your report that we were
2 just talking about, where you talked about what words
3 modify what in the claim language itself. And so let me
4 try that question again with that understanding.

5 Is it your opinion that in claim 1 of the
6 challenged patents, the phrase "organizing content data
7 and content applications" is linguistically not related
8 to the phrase "on a master web page" in that same
9 limitation?

10 A Again, I don't think --

11 MR. McBRIDE: Objection. Form.

12 THE WITNESS: I don't think they are
13 unconnected because the content data and content
14 application are what are streamed simultaneously in real
15 time on a master web page. So the connection
16 is between -- the linkage between them is the content
17 data and content applications, which are, on the one
18 hand, organized by the software, included in the master
19 application; and on the other hand, those content data
20 and content applications are streamed simultaneously in
21 real time on a master web page and are viewable from the
22 remote computer devices, et cetera.

23 BY MR. CARTER:

24 Q I am going to ask a similar question, but
25 specifically in the context of paragraph 71 of your

1 declaration. Is it your opinion that, quote, "organizing
2 content data and content application," end quote, does
3 not modify the "on a master web page" phrase in the
4 claim?

5 A I don't agree with that because what's being
6 organized is the content data and the content
7 applications, which, as I stated, are the things that are
8 streamed simultaneously in real time on the master
9 web page.

10 Q So then, it is your opinion that, quote,
11 "organizing content data and content applications," does
12 modify, quote, "on a master web page" in the challenged
13 claims?

14 A I'm not sure exactly what you mean by "modify."

15 Q And to clarify, I'm using it the same way you
16 did in paragraph 71 of your declaration. I'm not trying
17 to be tricky here. I'm just trying to figure out which
18 is it, either it is your opinion that it does modify or
19 it doesn't. And your last answer, you disagreed when I
20 said that it is your opinion that it doesn't modify it,
21 so now I'm taking the other side just to make sure that I
22 understand your opinion.

23 That's a lot of colloquy to begin with, so let
24 me start again.

25 Is it your opinion that the phrase "organizing

1 content data and content applications" as it appears in,
2 for example, claim 1 of the challenged claims, modifies
3 the phrase "on a master web page" in the claim?

4 A I'm going to say I disagree with that, and I'm
5 happy to explain why, if you want me to, but I won't do
6 so to be mindful of your time unless you ask me to.

7 Q I'm a little confused because I asked you if it
8 didn't modify it, and you said you disagree; and I asked
9 you if it did modify it, and you disagree. It has to be
10 one of those two things.

11 And so you tell me: It is your opinion that
12 the phrase "for organizing content data and content
13 applications" does or does not modify, quote, "on a
14 master web page" in claim 1 of the challenged patents?

15 A I don't think that "modify" is the right term
16 to use in that question because you are talking about a
17 verb here. The verb has an object and a subject, so it
18 is not a modifier the way an adjective is.

19 Q In paragraph 71, you're also referring to a
20 verb that's modified, aren't you? The word "streamed."

21 A It is modified.

22 Q I'm sorry?

23 A The stream is -- "streamed" is the thing being
24 modified, is what I stated in paragraph 71. I'm not
25 trying to be overly semantic about grammar here, but the

1 point is that the term -- what I am saying in 71, is that
2 these various phrases are describing the streaming. The
3 streaming is to the master server. It is in real time.
4 It is from their respective servers, and it is on a
5 master web page.

6 Q And "organizing" is a gerund; right? So a noun
7 form of a verb in claim limitation 1B, and so using the
8 same kind of -- I will call it a "linguistic analysis,"
9 that you just did, for paragraph 71 of your declaration,
10 is it your opinion that "on a master web page" modifies
11 "organizing content data and content applications" in the
12 claim?

13 A I don't believe it is describing the
14 "organizing." I believe it is describing the "streaming
15 simultaneously in real time."

16 Q Paragraph 83 of your declaration, it begins at
17 the bottom of page 30. Please let me know when you're
18 there.

19 A Okay.

20 Q The first sentence, you say, (Reading:) I
21 understand the petitioner and Dr. Martin define
22 "simultaneously" and "real time" to mean content from
23 more than one source that is sent to the server as it
24 becomes available.

25 Do you see that sentence?

1 A Yes, I do.

2 Q And then you say, quote, (Reading:) I disagree
3 with this definition.

4 Do you see that?

5 A Yes, I do.

6 Q My sense of your opinions, based on reading
7 your declaration and what you've talked about today, is
8 that this is kind of similar to what we talked about with
9 respect to the board's definition. In other words, not
10 so much that you disagree with it, it is just that you
11 think it is incomplete; is that right?

12 A I think that it is overly limiting because of
13 its restriction to being sent to the server, so I -- that
14 is the aspect of it that I am disagreeing with, and it is
15 discussed in this paragraph.

16 Q The construction doesn't say it is only sent to
17 the server, does it? It is not limited to that; right?

18 MR. McBRIDE: Objection. Form.

19 THE WITNESS: There's nothing else contained in
20 the definition.

21 BY MR. CARTER:

22 Q And so it is not limited to sending content to
23 the server. It just has to include at least that; right?

24 A The way the definition is phrased, the content
25 for more than one source would need to be sent to the

1 server as it becomes available, and I explained why I
2 don't think that is a sufficient definition.

3 Q This is getting back to my earlier point, which
4 I believe is the case here, which is that you don't
5 disagree with the petitioner's proposed construction or
6 interpretation of simultaneously in real time, instead
7 you say it is incomplete. In other words, more is
8 required than what is recited in petitioner's proposed
9 construction. Is that fair?

10 A I think that's fair because I would agree that
11 claim 1 does require simultaneously streaming in real
12 time to the master server. That phrase does appear in
13 the claim.

14 Q Paragraph 85, this is page 31.

15 A Okay.

16 Q The first sentence, you're referring to
17 Dr. Martin's declaration. And you say he is, quote,
18 (Reading:) He asserts that the description means that
19 content updates and transmissions occur with minimal lag,
20 which a POSITA would have recognized to ensure users can
21 access the most current data from multiple sources in
22 real time, closed quote.

23 Do you see that?

24 A Yes, I do.

25 Q I'm going to ask you the same question. Do you

1 disagree with that interpretation or do you just think it
2 is incomplete?

3 MR. McBRIDE: Objection. Form.

4 THE WITNESS: Let me take a look at the cited
5 portion of the spec here. I think that the statement is
6 an incomplete description of the real-time streaming.

7 BY MR. CARTER:

8 Q So in other words, you don't disagree with what
9 he said. You just think there's more to it. Is that
10 right?

11 A I think that I would not use the -- the term
12 "minimal lag" would probably not be my word choice, but I
13 agree that that could be an important aspect of many
14 real-time systems.

15 Q Let's take a look at paragraph 86, next page.
16 Again, referring to Dr. Martin's declaration, you say
17 Dr. Martin argues, quote, (Reading:) This setup
18 indicates that content is dynamically available and must
19 be readily retrievable by the master server because the
20 expectation of prompt retrieval suggests that content
21 updates from each service provider would appear on the
22 master server concurrently, given the system's design to
23 integrate various feeds into a cohesive, accessible
24 interface.

25 Do you disagree with that statement by

1 Dr. Martin?

2 A I think that, again, what I'm pointing out here
3 is the incompleteness of the description because it
4 doesn't account for the ultimate delivery of the
5 real-time content.

6 Q So in other words, you don't disagree with
7 Dr. Martin's opinion that you've reproduced in
8 paragraph 86 of your declaration. You just believe that
9 it is incomplete and more is required. Is that fair?

10 MR. McBRIDE: Objection. Form.

11 THE WITNESS: I'm not sure exactly how he
12 derived all of that from the citation in column 4, lines
13 1 through 3, so it might be best for me to review that
14 portion of Dr. Martin's report to understand the fuller
15 context of the statements.

16 BY MR. CARTER:

17 Q Without going back and looking at Dr. Martin's
18 report, which presumably you reviewed in rendering
19 opinions in this matter -- yes?

20 A Yes.

21 Q Okay. And, in fact, you reproduced portions
22 verbatim of his declaration in yours; correct?

23 A I've quoted from it, yes.

24 Q And so I'm just asking, sitting here today, is
25 it the case that you do not disagree with the sentence

1 that you reproduced in paragraph 86 of your declaration,
2 you just think it is incomplete, or do you disagree with
3 it?

4 MR. McBRIDE: Objection. Form.

5 THE WITNESS: I think what I'm disagreeing with
6 in paragraph 86 is the inference that Dr. Martin is
7 making from column 4, lines 1 through 3. So it is -- I
8 don't believe that I'm taking issue with the statements,
9 per se, but rather the -- his purported derivation of
10 this from that particular passage and his usage of it to
11 support a position that the claims do not require
12 streaming simultaneously in real time beyond the master
13 server.

14 BY MR. CARTER:

15 Q If we set aside what his citation is, and if we
16 set aside what his ultimate opinion is, and instead you
17 just look at the text that you have reproduced in
18 paragraph 86 of your declaration from Dr. Martin's
19 declaration, do you disagree with that text; or do you
20 agree with it, but just think it is incomplete?

21 MR. McBRIDE: Objection. Scope.

22 THE WITNESS: I think that the content data is
23 dynamically available. I would go beyond saying that it
24 is simply readily retrievable, and is, in fact, streamed
25 simultaneously in real time, so maybe I would disagree

1 with that part of the first quotation.

2 BY MR. CARTER:

3 Q Well, let me ask you this. You say you would
4 go further, which, to my ears, that sounds like I don't
5 disagree, I just think that there is more to it. So let
6 me just sort of try this again.

7 Do you disagree with the express
8 characterization from Dr. Martin's declarations that
9 you've reproduced in paragraph 86 of your declaration, or
10 do you just think that there is more to it?

11 MR. MCBRIDE: Objection. Form.

12 THE WITNESS: I think that, removed from their
13 larger context, there is nothing in those statements, in
14 particular, that I think is a fundamental disagreement
15 between us, aside from what I have stated regarding the
16 way that I think he has used these statements to support
17 a conclusion I disagree with.

18 BY MR. CARTER:

19 Q And I get that you disagree with the ultimate
20 conclusion. What I'm trying to figure out is where are
21 there agreements and where are there disagreements? And
22 in some parts of your declaration, you explicitly say, "I
23 disagree." I think I showed you one of those earlier
24 when we were talking about the board's construction.

25 In these paragraphs, starting around 83 and on

1 of your declaration where you reproduced verbatim
2 statements from Dr. Martin, you don't say I agree, or I
3 disagree. So that's what I'm trying to figure out is --
4 where, perhaps, is there agreement and where is the
5 disagreement. And so that's not a question, it is just
6 me trying to provide context for these questions.

7 Let's try this with paragraph 87, that's at the
8 bottom of page 32. Do you have that in front of you?

9 A Yes, I do.

10 Q You reproduce the following assertion from
11 Dr. Martin's declaration, (Reading:) This description
12 shows that as content updates on a source server, the
13 master application, which organizes and displays content
14 on master web page, retrieves this content promptly to
15 ensure users experience minimal delay when viewing
16 updated data.

17 Do you agree or disagree with that particular
18 statement?

19 A I think I would disagree with the word
20 "retrieves" as it -- to the extent this is meant to be a
21 description of the system of claim 1, because the more
22 accurate language to use would be that it is streamed to
23 the master server rather than saying it is retrieved.

24 Q Is there anything else that you disagree with
25 in that statement, or do you just think it is incomplete?

1 A I mean, it is certainly incomplete because it
2 is not necessarily attempting to describe everything
3 regarding a master application, so it is incomplete in
4 that sense.

5 Q But is there anything that you disagree with
6 other than the use of the word "retrieves" in
7 Dr. Martin's statement that you have reproduced in
8 paragraph 87 of your declaration?

9 A I think that it is -- the language could be
10 made somewhat more precise to the extent it is intended
11 to reflect what it is contained in the system of claim 1.
12 But in general, I think that the -- the rest of the
13 sentence is a reasonable paraphrasing of some of the
14 other requirements of claim 1.

15 Q Specifically with respect to the retrieving
16 piece, two sentences later in this same paragraph, at the
17 top of page 33, you say, quote, (Reading:) Regardless,
18 in my opinion, Dr. Martin's description actually supports
19 my interpretation of real time because retrieving content
20 and displaying it on the master web page promptly ensures
21 that users experience minimal delay when reviewing
22 updated data.

23 So here you seem to be adopting the retrieving
24 language -- or at least that's how I read it. So do you
25 still disagree with the retrieved portion of what he

1 said, or do you agree with it and think it actually
2 supports your position?

3 A I think what I'm saying here is that -- if one
4 accepts his statements at face value, that they are still
5 supportive of the position that the content data must be
6 streamed in real time to the users and not simply to the
7 master server.

8 Q Paragraph 88, you say, (Reading:) A POSITA
9 would also recognize that a system architecture premised
10 on retrieve-merge-store-later display (as in Darnell)
11 does not ensure users experience minimal delay when
12 viewing updated data. Such systems introduce snapshot
13 behavior bounded by the retrieval interval and client
14 refresh.

15 Do you see that?

16 A Yes, I do.

17 Q Did I read that correctly?

18 A Yes, you did.

19 Q My question for you is: Is there a time period
20 that one could set the retrieval interval that you've
21 referred to in paragraph 88, such that the system would
22 qualify it as real time?

23 A I would say, no, it is not a matter of simply
24 reducing the retrieval interval. It is a matter of the
25 system architecture.

1 Q Then it is not clear to me what the purpose of
2 this sentence is, because the previous sentence talks
3 about the architecture, but in this sentence you then
4 pivot to talk about, quote, "snapshot behavior bounded by
5 the retrieval interval and client refresh."

6 How does that sentence relate to what you
7 understand the meaning of real time to be in the
8 challenged patents?

9 A I think that it relates to the meaning of
10 real-time streaming, because it is a different system
11 architecture than a streaming architecture.

12 Q So in your mind, real-time streaming implies a
13 particular type of system architecture; is that correct?

14 A I think that's true, yes.

15 Q And so regardless of how a prior art system may
16 have operated from an end user's perspective, it may
17 nevertheless not qualify as a real-time streaming system,
18 in your mind, based solely on how it is architected on
19 the back end; is that correct?

20 MR. McBRIDE: Objection. Form.

21 THE WITNESS: I'm not sure I understand your
22 question.

23 BY MR. CARTER:

24 Q Yeah, it is --

25 A Maybe rephrase?

1 Q Maybe, let me try it this way.

2 When we're talking about real-time streaming,
3 in your mind, from whose perspective are you assessing
4 that? Is it the end user? Is it the server? Is it the
5 source? Whose perspective helps us define what a
6 real-time streaming system is?

7 A With respect to claim 1 of the '658, I would be
8 looking to see whether the real-time streaming is
9 occurring from the content sources to the master server
10 and ultimately on the master web page with respect to
11 claim 1B.

12 There is a separate limitation that includes
13 real time -- or maybe it is a separate subsequent part of
14 1B, I forget. But with respect to the first reference to
15 real time, that's what I would be assessing.

16 Q So, in other words, when you are assessing
17 whether or not a system is a real-time streaming system,
18 in the context of the challenged patents, you are looking
19 at the architecture of that system and where the content
20 data and content application goes within that
21 architecture; is that correct?

22 A I think that's what the claim says.

23 Q And so, in your mind, there is not a -- strike
24 that.

25 So, in your mind, it does not matter what the

1 end user perceives in terms of the experience of viewing
2 content data or content applications in assessing whether
3 or not the system the user is interacting with is, in
4 fact, a real-time streaming system; is that correct?

5 MR. McBRIDE: Objection. Form.

6 THE WITNESS: I'm not sure I would say that the
7 user's experience doesn't matter, but when I'm assessing
8 whether, for example, content data is being streamed
9 simultaneously in real time from content sources to a
10 master server, that particular aspect of the system
11 doesn't at least directly involve a user.

12 BY MR. CARTER:

13 Q Well, it involves a remote computing device;
14 right? So like the thing that the user would interact
15 with is part of that overall, I guess, chain of
16 transmission of content data and content applications.
17 So let me tweak the question a little bit.

18 Is it correct that, in your mind, the
19 perception of the content data and content applications,
20 as it is arriving to the remote computing device, does
21 not factor into the assessment of whether or not the
22 system which it is operating is a real-time streaming
23 system; is that correct?

24 MR. McBRIDE: Objection. Form.

25 THE WITNESS: Well, I don't think that that's

1 correct with respect to all limitations of claim 1.
2 That -- I would agree with that with respect to
3 potentially some of the limitations.

4 BY MR. CARTER:

5 Q Let me try this slightly different way. Is it
6 correct that there's not really a timing component, in
7 your mind, of what makes a system a real-time streaming
8 system in the context of the challenged patents? Is that
9 fair?

10 A No, I don't think that's fair.

11 Q How is that incorrect?

12 A Well, I think that a real-time system and
13 streaming in real time does have an important time
14 element. I've simply said there is not a threshold you
15 can set to say: If it is faster than this, it is real
16 time; if it is slower than this, it is not. That's not
17 what real time means -- or streaming in real time means.

18 Q Well, you say it has an important time element.
19 What does that mean?

20 A Well, I haven't offered a general specific
21 definition for real time, but I think the board's
22 decision included a preliminary definition that included
23 a time component within it.

24 Q Is it your position that a system can be a
25 real-time streaming system so long as there is

1 incremental transfer happening from the master server to
2 master web page to a remote computing device while the
3 content data or content application is simultaneously
4 still being transferred from the source to the master
5 server?

6 A I think that would be necessary, but would not
7 necessarily satisfy the real-time component of the
8 requirement.

9 Q What additional requirement would there be to
10 satisfy real time in your mind?

11 A Well, again, I'm applying what I think is the
12 plain and ordinary meaning of real time here, and I think
13 that the board, in its decision, attempted to articulate
14 that. There was, similarly, a proposal made by Razdog in
15 the litigation that I think is also consistent with the
16 plain and ordinary meaning.

17 Q For the record, Razdog's proposed construction
18 for real time in the district court case is, quote,
19 (Reading:) Matching the human perception of time or
20 proceeding at approximately the same rate as a physical
21 or external process, closed quote.

22 Does that ring a bell?

23 A That sounds right.

24 Q All right. None of those words appear in your
25 declaration, and I think we already established that.

1 What I'm trying to understand is what are the
2 requirements of a real-time system in your mind? And
3 what I've come away with thus far is that you believe
4 there needs to be incremental transfer from master server
5 to master web page to remote computing device, while at
6 the same time, the master server is still receiving the
7 content data or the content application from the source.

8 Is, at least, that much correct?

9 A I think that that part of my opinion relates to
10 real-time streaming.

11 Q Okay. Fair enough.

12 So I guess my question to you would be: What
13 does real-time streaming require in your mind other
14 than -- or in addition to having a system in which you
15 have incremental transfer of content data or content
16 applications from master server to master web page to
17 remote computing device, while at the same time the
18 master server is still receiving that content data and
19 content application from the source?

20 MR. McBRIDE: Objection. Form.

21 THE WITNESS: So I discuss in section 8.1 how I
22 had a specific disagreement with the board's preliminary
23 construction of real time because it did not sufficiently
24 consider or -- and did not incorporate into its
25 understanding of the requirements of claim 1, the

1 requirement to stream in real time to a master web page.

2 However, I think the other portions of the
3 board's proposed construction, again, are consistent with
4 what I would describe to be the plain and ordinary
5 meaning. I don't think it is in conflict with the other
6 characterization or definition that you read a few
7 minutes ago.

8 BY MR. CARTER:

9 Q The board's construction doesn't say anything
10 about incremental transfer, and what I just heard you say
11 is the one thing you think is missing from the board's
12 construction is the fact that the content data and the
13 content application must also be displayed on the master
14 web page.

15 And so what I'm trying to understand is what
16 exactly do you think is required for real time? Is it
17 just the board's construction plus "displayed on master
18 web page," or is there more? In other words, things like
19 incremental transfer, is that something that also needs
20 to be part of the construction of real-time streaming or
21 real time?

22 A I don't believe it needs to be part of the
23 construction of real time, but this is not a complete
24 statement of all the requirements of the system of
25 claim 1. Of course, there is also simultaneous, there is

1 the streaming from multiple sources, et cetera. So this
2 does not capture those requirements of claim 1, nor do I
3 think it is intended to.

4 Q Let me ask you this hypothetical. If you had a
5 system in which a source was providing a really big piece
6 of content data. Let's call it -- I don't know, a live
7 football game, and that content data is being sent to a
8 master server, stored on the master server, and then put
9 out on a master web page that, let's say, halfway through
10 the football game a remote computing device logs in and
11 accesses the master web page and starts watching the
12 football game, while it is still going but the user is an
13 hour behind. Is that a real-time streaming system in
14 your mind?

15 MR. McBRIDE: Objection. Form.

16 THE WITNESS: I'm not sure I completely
17 understand the hypothetical here.

18 BY MR. CARTER:

19 Q I'll do my best to clarify here, if I can.

20 A Okay.

21 Q Let me know what you don't understand, and I
22 will do my best.

23 A So what is the user attempting to do or view?

24 Q Let me try it this way. Have you ever used --
25 have you ever watched a sporting event on a live stream,

1 like through YouTube TV or Fubo or any of those streaming
2 services?

3 A I've probably done that at some point.

4 Q Have you ever started watching a game halfway
5 through, but you start from the beginning? So you start
6 watching it later than when it actually began, but you
7 are going to watch the full game. Have you ever done
8 that?

9 A Probably at some point.

10 Q And so my question to you is: If you start
11 watching that game, let's say an hour after it began, but
12 it is still going, but you are starting from the
13 beginning, in your mind, is that real-time streaming?

14 A Again, I think I would need to understand more
15 about the components of the system and how they are
16 transferring data between each other to determine exactly
17 how data is being transferred from, for example, the
18 content source to the streaming server to my local
19 client, and that's what I would be assessing to determine
20 whether that data transfer is a real-time stream.

21 Q So even if you were watching video of a
22 football game, while it is still happening in real life,
23 you would not be able to tell me whether that is
24 real-time streaming without looking at the architecture
25 of the overall system that is delivering that content to

1 you.

2 Is that your testimony?

3 MR. McBRIDE: Objection. Form.

4 THE WITNESS: Well, this is a hypothetical that
5 I haven't specifically considered or opined on. I'm
6 certainly not saying that that's not real-time streaming.
7 I'm just saying that in order to assess whether the
8 system was working that way, I would want to have a
9 complete understanding of exactly what's happening within
10 that system.

11 BY MR. CARTER:

12 Q In your mind, is it ever possible to ascertain
13 whether a system is a real time -- a real-time streaming
14 system without knowing the architecture of the system?

15 MR. McBRIDE: Objection. Form. Scope.

16 THE WITNESS: I think that it is necessary to
17 have some understanding of the system's mechanics for
18 data transfer, because real-time streaming is a form of
19 data transfer. I think that there, you know, could be
20 other considerations that are not included in your
21 hypothetical that could also be relevant, such as whether
22 the person could have watched the game from the beginning
23 or whether they could only begin watching the game once
24 it is halfway through and simply decided to rewind the
25 real-time stream. So those are the kinds of details that

1 I think make it hard to give a definitive answer with
2 respect to an abstract hypothetical.

3 BY MR. CARTER:

4 Q In your mind, is it possible to have a
5 situation in which a user is watching an ongoing sporting
6 event, but on delay, and that would qualify as a
7 real-time system in your mind?

8 MR. McBRIDE: Objection. Form. Scope.

9 Jon, can we take a break when you have a
10 chance?

11 MR. CARTER: Yeah.

12 THE WITNESS: I think that there is always
13 going to be some degree of delay in a computer system,
14 particularly a distributed computer system that's
15 delivering content over a network, so the presence of
16 some degree of delay does not disqualify a system from
17 being a real-time system.

18 BY MR. CARTER:

19 Q But you don't know how much delay, in your
20 mind, would take it out of the realm of being a real-time
21 system. Is that fair? There's not like a bright-line
22 rule?

23 A I don't think that the plain and ordinary
24 meaning of real time designates any kind of numerical
25 delay value that changes a system from real time to not

1 real time. That's not the way the subject is taught to
2 computer science students or not the way that engineers
3 understand the meaning of real time.

4 MR. CARTER: I'll do a break in just a second.
5 I want to follow-up on something.

6 BY MR. CARTER:

7 Q Go to paragraph 72 of your declaration, please,
8 and let me know when you are there. It is on the bottom
9 of page 28.

10 A Okay.

11 Q You write, quote, (Reading:) Real time,
12 therefore, characterizes the observable behavior on the
13 page. The content appears in updates without perceptible
14 delay to the user, rather than merely characterizing when
15 a server receives data.

16 Did I read that correctly?

17 A Yes, you did.

18 Q Do you still agree with that?

19 A Yeah. I don't see anything incorrect about the
20 statement.

21 Q The statement doesn't make any reference to
22 system architecture; is that correct?

23 A Well, it is -- it implicates the underlying
24 data transfer mechanisms within the system architecture.
25 Because to achieve that observable behavior, it requires

1 the corresponding architecture and data transfer
2 mechanisms. It is also saying that real time does not
3 merely characterize when the server receives data, but it
4 does -- I don't think it is intended to say that the way
5 the server receives data is not relevant.

6 Q You just don't happen to mention architecture
7 at all in that sentence, though; right?

8 A Well, it is stating that the consumer -- in the
9 context of these patents, the consumer of the real-time
10 stream is the user, and therefore, that must be
11 considered in terms of whether a system accomplishes the
12 real-time streaming requirements of, for example,
13 claim 1.

14 Q But a user looking at a web page would not know
15 what the overall system architecture is; right?

16 A Perhaps, perhaps not. I suppose it depends on
17 the user and other factors.

18 Q So is it now your opinion that the sentence in
19 your declaration in paragraph 72 is correct, but
20 incomplete?

21 (Reading:) Real time, therefore, characterizes
22 the observable behavior on the page. The content appears
23 and updates without perceptible delay to the user, rather
24 than merely characterizing when a server receives data.

25 MR. McBRIDE: Objection. Form.

1 THE WITNESS: That's not intended to be a
2 comprehensive statement of my opinions regarding
3 real time. It is one sentence within a much larger
4 discussion. To that extent, I believe it is accurate,
5 and I have no concerns with it. It is describing one
6 aspect of the real-time streaming of these patents, but
7 it is not intended to be a comprehensive explanation.

8 BY MR. CARTER:

9 Q All right. And if we go back to paragraph 90,
10 and we'll take a break right after this.

11 If we go back to paragraph 90, where I believe
12 that we discussed earlier, you provide your construction
13 for real time. You say real time in the challenged
14 patents means, quote, (Reading:) User-visible updating
15 on the master web page as content becomes available, not
16 merely that the upstream servers send data promptly to a
17 master server.

18 Did I read that correctly?

19 A Yes, you did.

20 Q And would you agree with me that you don't make
21 any reference to the overall system architecture in this
22 construction of real time that you've presented in that
23 first sentence of paragraph 90?

24 MR. McBRIDE: Objection. Form.

25 THE WITNESS: I would not agree, no.

1 BY MR. CARTER:

2 Q What part of, quote, "User-visible updating on
3 the master web page as content becomes available," closed
4 quote --

5 (Stenographer Clarification.)

6 Q -- what part of, quote, "User-visible updating
7 on the master web page as content becomes available,"
8 closed quote, implicates a specific system architecture?

9 A Because it requires, as stated in claim 1,
10 real-time streaming from content sources to the master
11 server and ultimately on the master web page. And the
12 second part of the sentence is saying, "Not merely that
13 upstream servers send data promptly to a master server."
14 So it is not disregarding that the real-time streaming is
15 also occurring to a master server. It is simply saying
16 that is not the entirety of the real-time streaming.

17 MR. CARTER: All right. Let's take a break.

18 (Brief Recess.)

19 BY MR. CARTER:

20 Q Welcome back, Dr. Edwards. Pivoting a little
21 bit, the claims require that there be streaming of
22 content application. Do you recall that?

23 A Yes, I do.

24 Q And it distinguishes content application from
25 content data; right?

1 A It identifies each of them separately.

2 Q What does it mean to, in your mind, real-time
3 stream a content application?

4 A I think that the same plain and ordinary
5 meaning applies that we've been discussing, so I would
6 not alter the -- my understanding of real-time streaming
7 with respect to the content applications. The same plain
8 and ordinary meaning would apply.

9 Q That's not quite my question.
10 I'm trying to understand how a content
11 application can be real-time streamed in accordance with
12 your construction. How would that work as required by
13 the claims?

14 A Well, as we have discussed, the real-time
15 component requires that there is ongoing updating both to
16 the master server and on the master web page as changes
17 are occurring. The streaming components similarly
18 requires the plain and ordinary meaning of streaming that
19 I've discussed in numerous places in my report that I can
20 point you to, if you would like.

21 Q Didn't you also say, though, that the real-time
22 streaming requires incremental transfer, while at the
23 same time the content application is still being received
24 from the source; is that correct?

25 A Streaming, in some sense, requires an ongoing

1 or continuous flow is what I believe I've said. I can
2 read you in my direct words from the report, if you would
3 like.

4 Q In paragraph 98 of your declaration, and you
5 can look at it if you want, my understanding is that it
6 is your opinion that real-time streaming requires
7 incremental transfer, while the content data or content
8 application is still being received from the source; is
9 that correct?

10 A You are reading from paragraph 98?

11 Q I'm trying to understand your opinion, and so
12 my question was: Is my understanding of your opinion
13 correct?

14 MR. McBRIDE: Objection. Form.

15 THE WITNESS: I don't think your
16 characterization is the way that I've stated in my report
17 or in my testimony today.

18 BY MR. CARTER:

19 Q What's wrong with it?

20 A What I have tried to describe regarding
21 real-time streaming in my declaration is the notion of
22 data being transferred and consumable or usable by the
23 receiver without having to wait for the entirety of the
24 dataset or the file or content item to be delivered
25 before it can be viewed or otherwise used.

1 That's the aspect of Darnell that I have
2 explained in several ways. It does not comport with what
3 I understand the plain and ordinary meaning of streaming
4 to be.

5 Q No. I'm not asking you about Darnell. But I
6 want to find out, is it even possible for live streaming
7 of a content application in the system that you've
8 described where you don't have a complete content
9 application on the master server, it is still receiving
10 pieces of the application from its source, and then you
11 have a user on a remote device somehow accessing and
12 receiving the content application while it is in transit
13 from the source.

14 How would that even work?

15 MR. McBRIDE: Objection. Form. Scope.

16 THE WITNESS: Well, I'm not sure why you think
17 that it wouldn't work. It simply means that there is an
18 ongoing flow of updated information.

19 BY MR. CARTER:

20 Q That would be content data. I'm talking about
21 content applications. Do you understand those are two
22 different things in the patent? Yes?

23 A They are two different things.

24 Q All right. And if you look in column 4, for
25 example, in the '658, it provides explicit definitions

1 for claim terms, doesn't it?

2 A It contains a list of terms.

3 Q And those are definitions, aren't they?

4 MR. McBRIDE: Objection. Form.

5 THE WITNESS: I haven't offered an opinion
6 whether these are definitional or not.

7 BY MR. CARTER:

8 Q Well, I'm assuming that you can read; and at
9 the bottom of paragraph -- of column 3, it says,
10 (Reading:) Words and phrases listed below have been
11 ascribed the following meanings.

12 And then it lists them out at the top of
13 column 4. In other words, they are definitions. Do you
14 understand that?

15 MR. McBRIDE: Objection. Form.

16 THE WITNESS: I read this, and like the rest of
17 the specification, I've considered it in my understanding
18 of the claims.

19 BY MR. CARTER:

20 Q Do you disagree that the terms and statements
21 in paragraph 4 are definitions of claim terms?

22 MR. McBRIDE: Objection. Form. Scope.

23 THE WITNESS: No. I simply said I've not
24 offered an opinion that these are definitional
25 statements.

1 BY MR. CARTER:

2 Q Did you apply these definitions in your
3 analysis of the claims?

4 MR. McBRIDE: Objection. Form.

5 THE WITNESS: I applied the plain and ordinary
6 meaning of all the terms in the claim, as it stated in my
7 report, aside from the, I think, two terms where I did
8 discuss the claim constructions. Aside from that, I've
9 assigned the plain and ordinary meaning of all those
10 terms.

11 BY MR. CARTER:

12 Q So did you or did you not apply the express
13 meanings set forth in paragraph 4 of the challenged
14 patents in your analysis of the challenged claims?

15 MR. McBRIDE: Objection. Form.

16 THE WITNESS: I believe that I applied these
17 and considered these statements because there is nothing
18 within these statements that I think is inconsistent with
19 my understanding of the terms and the way I have
20 interpreted them in the claims.

21 BY MR. CARTER:

22 Q I didn't ask if there was an inconsistency. I
23 asked, did you expressly apply the meanings in column 4
24 of the challenged patents when you were interpreting the
25 claims?

1 MR. McBRIDE: Objection. Form.

2 THE WITNESS: I think that all of the
3 explanations of these terms that are given here are the
4 same as the interpretations that I applied when
5 interpreting the claims.

6 BY MR. CARTER:

7 Q All right. You see the content data and
8 content applications are two different terms with two
9 different meanings; right?

10 A Yes, I see that.

11 Q All right. And did you, in your analysis,
12 apply both of those definitions equally in making sure
13 that it made sense to interpret the claims in the way in
14 which you interpreted them?

15 MR. McBRIDE: Objection. Form.

16 THE WITNESS: Yes.

17 BY MR. CARTER:

18 Q So how do you real-time stream a content
19 application when it is still coming from the source?

20 A Again, I'm not sure why -- what aspect of that
21 you are saying is unclear, as I've said, the requirements
22 for real-time streaming would be the same because I've
23 applied the plain and ordinary meaning of those terms
24 both with respect to content data and content
25 application.

1 Q Did you apply the plain and ordinary meaning or
2 did you apply the express definitions that were provided
3 in the patent?

4 MR. McBRIDE: Objection. Form. Scope.

5 BY MR. CARTER:

6 Q If you think they're the same, you can say
7 that, but you should let me know what you're actually
8 using in your analysis here.

9 A I believe I stated a few minutes ago that I
10 believe these characterizations of the particular terms
11 here are in -- the respects that were relevant to my
12 analysis, the same as the plain and ordinary meaning,
13 which is what I have applied.

14 Q Would you agree with me that the definition of
15 master web page doesn't actually say anything about
16 displaying content data or content applications --

17 MR. McBRIDE: Objection. Form.

18 BY MR. CARTER:

19 Q -- on a remote device?

20 MR. McBRIDE: Objection. Form.

21 THE WITNESS: I don't agree.

22 BY MR. CARTER:

23 Q All right. Let's go to paragraph 166.

24 A Okay.

25 Q The first sentence, you say, (Reading:) In my

1 opinion, regardless of whether Dasgupta's use of HTTP --
2 (Stenographer Clarification.)

3 Q -- regardless of whether Dasgupta's use of HTTP
4 could theoretically support a web page transmission, the
5 reference does not disclose the claimed master web page
6 as described in the '658 patent.

7 Do you see that?

8 A Yes, I do.

9 Q Are you offering any opinion as to whether or
10 not Dasgupta's use of HTTP could support a web page
11 transmission?

12 A HTTP, in general, could and does support the
13 transmission of web pages. Regarding Dasgupta,
14 specifically, I would need to refresh my memory on the
15 specific use of HTTP within Dasgupta to fully answer that
16 question.

17 Q For a person of ordinary skill in the art, if
18 you saw a reference to the use of HTTP, would it be
19 obvious that it would involve the transmission of regular
20 pages?

21 MR. McBRIDE: Objection. Form. Scope.

22 THE WITNESS: I think that a person of ordinary
23 skill would know that, in some systems, HTTP is used to
24 transfer web pages, but I don't know that that would make
25 it obvious to do so for any system that uses HTTP.

1 BY MR. CARTER:

2 Q Let me slightly tweak that question. Would it
3 be obvious to a person of ordinary skill in the art,
4 reading a reference to the use of HTTP, that it could be
5 used for web page transmission?

6 MR. McBRIDE: Same objections.

7 THE WITNESS: Again, I think it depends on the
8 particular system, because HTTP does not necessarily
9 imply the transmission of web pages.

10 BY MR. CARTER:

11 Q And I want to be clear, I'm not asking whether
12 it necessarily implies it, but as a person of ordinary
13 skill in the art, if you are reading a reference that
14 talks about the use of HTTP, would it be obvious that
15 that could include the transmission of web pages?

16 A It depends on the particular system, because
17 that would not necessarily make sense for some systems.

18 Q And you are not offering an opinion, one way or
19 the other, as to whether the transmission of a web page
20 would be obvious in view of, specifically, Dasgupta's use
21 of HTTP; correct?

22 A Let me review the question again. I don't
23 believe I have offered an opinion on the very specific
24 question that you just posed, although I have provided
25 some opinions regarding Dasgupta's use of HTTP.

1 MR. McBRIDE: Jennifer, are we at 7 hours?

2 STENOGRAPHIC REPORTER: No, sir. At 5:33, we
3 are at 7.

4 MR. CARTER: All right. I'll tell you what,
5 let's take a short break, just so I can organize my
6 thoughts, and then come back and wrap this up.

7 MR. McBRIDE: Okay.

8 (Brief Recess.)

9 BY MR. CARTER:

10 Q Question for you: Let's take a look at
11 paragraph 170. That's on page 78.

12 A Okay.

13 Q You say in the second sentence, (Reading:) The
14 '658 patents distinguishes live content feeds and
15 applications from advertising elements.

16 Would you agree with me, however, that nothing
17 in the definition of content data, as it appears in
18 column 4 of the challenged patents, would exclude
19 advertisements?

20 A You are referring to lines 1 through 3 in
21 column 4?

22 Q That's correct.

23 A I don't see anything in lines 1 through 3 of
24 column 4 that, by itself, would exclude advertising.

25 Q And when you were applying the claims in your

1 analysis, did you use the definition of content data that
2 appears in column 4, lines 1 through 3, in challenged
3 patents?

4 MR. McBRIDE: Objection. Form.

5 THE WITNESS: As it says in my declaration, I
6 applied what I believe is the plain and ordinary meaning
7 of that term, and I believe that what is stated in lines
8 1 through 3 of column 4 is a statement of the plain and
9 ordinary meaning.

10 BY MR. CARTER:

11 Q Are you familiar with the concept called
12 "scroll delay"?

13 MR. McBRIDE: Objection. Scope.

14 THE WITNESS: I think I -- maybe depending on
15 the context in which it is used.

16 BY MR. CARTER:

17 Q Are you familiar with the concept of real-time
18 scrolling?

19 A I have an understanding of what real-time
20 scrolling means in the context of these patents. I'm not
21 necessarily giving any opinions regarding what real-time
22 scrolling might mean in some other context.

23 Q Would real-time scrolling exclude a situation
24 in which you have a scroll delay?

25 MR. McBRIDE: Objection. Scope.

1 THE WITNESS: Can you clarify what you mean by
2 "scroll delay" in this context?

3 BY MR. CARTER:

4 Q Well, I think you just testified that you are
5 familiar with the concept, so applying your understanding
6 with scroll delay, would real-time scrolling exclude a
7 situation in which you have scroll delay?

8 MR. McBRIDE: Objection. Form. Scope.

9 THE WITNESS: Well, I believe I testified that
10 I may be familiar with it depending on the context in
11 which it is used. I'm not familiar with any specific
12 discussion of that within my declaration or the
13 challenged patents. So if I'm forgetting a reference to
14 it in there somewhere, please direct me to it to refresh
15 my memory.

16 BY MR. CARTER:

17 Q What is your understanding of the meaning of
18 real-time scrolling in the context of challenged patents?

19 A Give me just a moment. Okay. So I would
20 direct you to paragraph 128 of my declaration, for
21 example, which I think answers your question.

22 It discusses the claim limitations and elements
23 related to allowing a user to scroll or page through the
24 content and/or content applications in real time, and
25 gives my short version of how I believe a person of

1 ordinary skill would understand that in the last sentence
2 of that paragraph, for example.

3 Q That last sentence in paragraph 128 of your
4 declaration refers to, quote, "real-time navigation."
5 What does that mean?

6 A Movement through. I'm trying to not use the
7 same words of -- as the thing I'm trying to describe,
8 because that becomes circular and unhelpful, so this is
9 in reference, again, to the real-time scrolling. So I'm
10 talking about how scrolling or paging through the content
11 is the user's movement through that content -- that
12 navigation in that sense.

13 Q What's the difference between navigation and
14 real-time navigation in your mind?

15 A It is the scrolling or paging through content
16 in applications that's being simultaneously streamed in
17 real time.

18 Q So in other words, whether navigation is
19 real-time navigation depends upon the content through
20 which you are navigating, is that your opinion?

21 A I believe that in the context of claim 1, the
22 real-time scrolling is in reference to the content data
23 and content applications.

24 Q So then is the answer yes? Whether navigation
25 is real-time navigation depends upon the content that is

1 being navigated.

2 A In the context of claim 1, I believe that is
3 true. It is the content and the applications.

4 Q And so then if we remove the word "navigating,"
5 and we use the claimed term, would it be your opinion
6 that the difference between scrolling and real-time
7 scrolling, as you believe is required by the claims, is
8 determined by the content that you were scrolling
9 through?

10 MR. McBRIDE: Objection. Form.

11 THE WITNESS: The content data and content
12 applications.

13 BY MR. CARTER:

14 Q Was that -- I'm sorry. Was that the end of
15 your answer?

16 A Yes, I --

17 Q Okay.

18 A -- I agree with your statement with the
19 amendment that real-time scrolling involves scrolling
20 through content data and content applications that are
21 streamed simultaneously in real time.

22 Q So then in your mind, the real-time scrolling
23 that is described in the challenged patents is not in any
24 way tied to the scrolling experience itself. So, in
25 other words, if you have scroll delay, for example, that

1 doesn't matter in assessing whether or not you have
2 real-time scrolling in the context of the challenged
3 patents; is that correct?

4 A I would disagree with that, I think.

5 Q And why would you disagree with that?

6 A Because, first, I would want to make sure that
7 I have a clear understanding of what you mean by "scroll
8 delay" in this context.

9 And, secondly, I think the movement of the --
10 the scrolling tool -- I guess it is called the slide tool
11 program -- through the real-time content data and content
12 applications cannot be disentangled from that content
13 data and content applications.

14 Q So even in the context of scrolling or paging
15 through the content data or the content applications from
16 the multiple content sources or service providers, you
17 believe that the real-time requirement solely refers to
18 the content data and content applications, not to the
19 scrolling or paging; is that correct?

20 A I don't think that is correct, no.

21 (Stenographer Clarification.)

22 MR. CARTER: All right. Give me just a couple
23 more questions, and we will be done.

24 BY MR. CARTER:

25 Q Looking back at the definitions in column 4 of

1 the '658 patent, would you agree with me that content
2 applications require the presence of content data?

3 MR. McBRIDE: Objection. Form. Scope.

4 THE WITNESS: I see that the description of
5 content applications references content data, so it is an
6 aspect of the way that content applications are described
7 there in column 4.

8 BY MR. CARTER:

9 Q So in other words, when the term "content
10 applications" is used in the claims of the challenged
11 patent, that requires the presence of content data;
12 correct?

13 A Yes. Again, I think that's -- I think that's a
14 fair statement.

15 MR. CARTER: All right. I think we are
16 finished.

17 MR. McBRIDE: All right. Give us a minute or
18 two.

19 (Brief Recess.)

20 MR. McBRIDE: No further questions from us.
21 Thank you.

22 STENOGRAPHIC REPORTER: And, counsel, would
23 you -- well, you had RealTime, so you would receive a
24 certified copy. Would you like a rough draft, sir?

25 MR. McBRIDE: Is it an extra charge?

1 STENOGRAPHIC REPORTER: Yes, sir.

2 MR. McBRIDE: When does the -- no, we don't
3 really need it.

4 STENOGRAPHIC REPORTER: And, counsel, would you
5 like a rough?

6 MR. CARTER: I think we have a standing order
7 for it, perhaps, yeah.

8 STENOGRAPHIC REPORTER: I thought so too.

9 MR. CARTER: Yeah, I would say yes, but I think
10 it is already covered by the standing order anyway.

11

12 (End of Proceeding at 5:53 p.m.)

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OUR ASSIGNMENT NO.: 22408

CASE CAPTION: Twitch Interactive, Inc. versus
Razdog Holdings LLC.

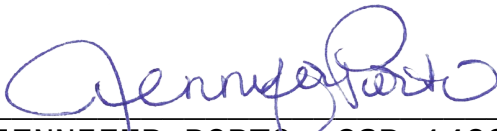
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I further certify that I am not financially
interested in the action, and I am not a relative or
employee of any attorney of the parties, nor of
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Dated this 24th day of January, 2026.



JENNIFER PORTO, CSR 14098

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DECLARATION UNDER PENALTY OF PERJURY

---000---

I, the undersigned, declare under penalty of perjury that I have read the foregoing transcript, and I have made any corrections, additions or deletions that I was desirous of making; and that the foregoing is a true and correct transcript of my testimony contained therein.

EXECUTED this ____ day of _____, 2026.

GEORGE EDWARDS, PH.D.

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common (2)	consumption (1)	currently (2)	design (1)
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