

1 IN THE UNITED STATES DISTRICT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION
4 - - - - - X
5 DR. EDWIN A. HERNANDEZ, :
6 Plaintiff, :
7 v. : Case No.
8 STINGRAY GROUP, INC. F/k/a : 1:24-CV-21226-RAR
9 STINGRAY DIGITAL GROUP, INC., :
10 STINGRAY MUSIC USA, INC., X
11 MOOD MEDIA LLC f/k/a MOOD
12 MEDIA CORPORATION, AT7T
13 ENTERPRISES, LLC f/k/a AT7T
14 CORP., MILLICOM,
15 Defendants
16 - - - - -
17 ROUGH DRAFT
18 ZOOM DEPOSITION
19 Wednesday, September 3, 2025
20 10:02 a.m.

21 ZOOM VIDEOTAPED Deposition of STUART LIPOFF, a
22 witness herein, called for examination by counsel for
23 Plaintiff in the above matter, pursuant to notice,
24 taken via Zoom the witness being duly sworn and the
25 proceedings being taken down by Stenotype by ROBIN L.

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1 COLEMAN, and transcribed under her direction.
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1 APPEARANCES:

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1	C O N T E N T S		
2	WITNESS	EXAMINATION BY COUNSEL FOR	
3	STUART LIPOFF	PLAINTIFF	DEFENDANT
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E X H I B I T S

No.	Description	Page
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* Exhibits retained by counsel.

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

2 THE VIDEOGRAPHER: Good morning. The time
3 is 10:02 a.m., pacific time and the date is September
4 3, 2025.

5 This is Media Unit 1 in the video recorded
6 deposition of Stuart Lipoff, taken by counsel for the
7 Plaintiff in the matter of Dr. Edwin Hernandez and --
8 I mean, E-G-L-A Corporation versus Stingray Group,
9 Incorporated, et al.

10 MR. DROLET: No. Incorrect. It should be
11 Dr. Edwin Hernandez, there's no EGLA in this, this is
12 an --

13 THE VIDEOGRAPHER: All right. I'm just
14 reading off the notice. Sorry. Okay. This is filed
15 in the United States District Court, Southern
16 District --

17 MR. MCBRIDE: This is not correct. This
is
18 the same problem as yesterday. This is an IPR
19 deposition and the case numbers are IPR numbers.

20 THE VIDEOGRAPHER: Okay. All right. So,

21 this deposition is being conducted remotely using
22 virtual technology. My name is Russ White, I am the
23 videographer. And the court reporter is Robin
24 Coleman. We're both from the firm of Veritext Legal
25 Solutions. Will counsel please identify yourselves

7

1 and the parties that you represent.

2 MR. DROLET: Rob Drolet, representing Dr.
3 Edwin Hernandez, patent owner.

4 MR. MCBRIDE: Michael McBride, I'm
5 representing the petitioner, Stingray.

6 I just want to make clear on the record
7 that this is an IPR, with respect to the IPR Number
8 is 2025-00349-350 and 351. I think that should be
9 the plainly stated, I don't know why I have to do
10 that, but that's the IPR depositions. This is the
11 IPR depositions.

12 Also just while I'm also talking. Rob,
13 FYI, we understand this is being recorded, just so
14 there's no confusion, we're pursuant to the patent
15 rules, we're not agreeing that patent can submit the

16 video to the Board pursuant to their procedures. So,
17 if you have any questions about that you can ask, but
18 we're not agreeable to that.

19 MR. DROLET: Understood.

20 Whereupon,

21 STUART LIPOFF,
22 was called as a witness by counsel for Plaintiff, and
23 having been duly sworn, was examined and testified as
24 follows:

25 EXAMINATION BY COUNSEL FOR PLAINTIFF

8

1 BY MR. DROLET:

2 Q. Mr. Lipoff, hi, good morning. I want to
3 thank you for your patience and very -- doing your
4 best to explain stuff to me and I really appreciate
5 that. Today we'll try to do surgical questions based
6 on your declaration that -- sub-elements that you
7 speak about. I will talk about some of the
8 references, but I will try to hone in on that
9 primarily today.

10 I just want to make sure as I reviewed

your

11 declarations for all three patents, you only have --
12 you only speak about some of the certain sub-elements
13 in those different declarations. Am I to understand
14 you correctly that those sub-elements that you don't
15 give an opinion on?

16 MR. MCBRIDE: Objection form.

17 BY MR. DROLET:

18 Q. I'll ask it a different way. So, in your
19 declarations, in the sub-elements that you have an
20 opinion on, that you actually provide analysis, is it
21 my understanding that you did not do an analysis of
22 those other sub-elements and you relied upon the
23 actual petitioner's petition?

24 MR. MCBRIDE: Objection form.

25 BY MR. DROLET:

9

1 Q. I'll ask it a different way, I'm trying to
2 understand the sub-elements that are not included in
3 your declaration, you rely upon the petition for
4 their assessment of those sub-elements?

5 MR. MCBRIDE: Objection, form.

6 THE WITNESS: No, I wouldn't characterize
7 it that way. I think the appropriate way to
8 characterize it was that I -- in my declaration I did
9 not separately provide the comparable text that was
10 in the petition because I relied upon the citations
11 that were in the petition and I performed the same
12 level of analysis on every one of the elements of the
13 claims. Both the ones where I elaborated on them in
14 my declaration as well as where I didn't elaborate
15 further. But I did review all the citations that
16 were in the petition and I provided the same level of
17 analysis that I did for both the elements that I
18 elaborated on in my declaration, as well as the
19 elements that were in the petition. What I did
20 though in order to keep the declaration to a
21 reasonable length, I didn't repeat the same text that
22 was in the petition because I previously looked at
23 all those citations in that analysis and performing
24 my own analysis I agreed with what was already in the
25 petition.

1 BY MR. DROLET:

2 Q. So, you're saying your declaration is
3 verbatim, your work performed on your assessment for
4 your declarations as written?

5 MR. MCBRIDE: Objection form.

6 WITNESS: I'm not quite sure what you mean
7 by that. Let me see if I can explain further.
8 The -- my declaration has got specific citations to
9 some elements where I felt it would be helpful for
10 the Board to have some additional expert opinion that
11 supported the citations that were already in the
12 petition. And in some cases where I felt it would be
13 helpful, provide some additional background for the
14 motivation to combine some of the obviousness
15 references. But in all instances, I reviewed the
16 citations that I made both in my declaration, as well
17 as the citations that were in the petition and I
18 considered the equally. And unless I had some
19 disagreement, or I felt additional elaboration was
20 necessary, I didn't repeat the same analysis and
21 citations that were presented in the petition. But
22 they represent my opinions to exactly the same extent
23 to the ones that I did elaborate on in my
24 declaration.

25 BY MR. DROLET:

11

1 Q. I understand. So, you're saying the
2 analysis or the statements in the petition you're in
3 accordance with, you're in agreement with. Is that
4 correct?

way

5 A. Yeah, I think kind of the best shortest
6 to describe it, is that in each of the grounds in my
7 declaration, I start off with, for example, in
8 Paragraph 125 of my declaration for the 441 I say:
9 "Based on the citations and the patent and the
10 accompanying explanations, it's my opinion that
11 Farber anticipates Claims 1 and 7." Or Avellan in
12 the case of the others. So, I'm basically saying
13 before I then -- the rest of my declaration then goes
14 down to some of the elements that I elaborated on
15 further on. So in the case of the 441, after making
16 that statement saying that I'm basing my opinions on
17 the citations of petition, I then go on to elaborate
18 particularly in this case on Element 1b for the 441.
19 But that's -- it's basing my opinions on the

20 citations and the petition.

21 Q. Thank you, that's very helpful. So, I'm
22 going to go ahead and show the first exhibit for
23 today. It's going to be the order from the Board,
24 just want to put that up on the screen.

25 MR. MCBRIDE: Where are we? This is 002?

12

1 MR. DROLET: Yeah, this is 002.

2 (Plaintiff's Exhibit 6 marked for
3 identification.)

4 BY MR. DROLET:

5 Q. Do you see the screen, Mr. Lipoff?
6 Mr. Lipoff, can you see me? Can you hear me? Did I
7 freeze.

8 A. I'm sorry, Mr. Drolet. Your audio was
9 breaking up.

10 Q. I apologize. Am I coming through clear
11 okay now?

12 A. Yeah, you are. And can you tell me what
13 document this is?

14 Q. This is the order from the Board talking

15 about respect to the 002 patent. And the
16 relationship between the HTTP request from 135 to the
17 Cloud.

18 A. I see. Just so I understand. This is the
19 institution order from the Board; is that right?

20 Q. Yes, that's correct.

21 A. Oh, all right. And this is regarding the
22 002 patent?

23 Q. Correct.

24 A. Okay. Yeah, sorry. I didn't recognize
the
25 text.

13

1 Q. Okay. So, I guess the question is, so
this

2 is the HTTP request from 135 to the Cloud?

3 MR. MCBRIDE: Objection, form.

4 WITNESS: Okay. So we're looking at Page
5 12 and are you highlighting something here?

6 BY MR. DROLET:

7 Q. I'm trying to show the -- bear with me.

8 Right there, the bottom of Page the 12.

content

9 A. Okay.

10 Q. Okay? Request is received from the
11 provider. Is that the actual HTTP request from 135
12 to the Cloud?

13 MR. MCBRIDE: Objection, form. Counsel,
14 are you asking him to interpret the Board's order?

15 MR. DROLET: I'm trying to make sure
16 that -- let me ask it a different way.

17 MR. MCBRIDE: I mean, that's kind of
18 strange, I don't think he's offered opinions on the
19 Board's order, because his declaration was submitted
20 months before the Board's order.

to

21 MR. DROLET: Understood. I'll come back
22 that.

23 BY MR. DROLET:

patent,

24 Q. So, when we're talking about the 02
25 we spoke yesterday concerning the actual

2 provider. Your testimony is the Cloud receives a web
3 request from the content provider. Is that correct?

4 MR. MCBRIDE: Objection, form.

5 WITNESS: I'm sorry. One more time. You
6 weren't coming through clearly. I just -- I just
7 need to hear the words again.

8 BY MR. DROLET:

9 Q. Right. I'm trying to understand looking
at
10 Figure 1. Okay? The content provider is receiving a
11 web request from where?

12 A. Oh, all right. So, I think the best way
to
13 kind of answer that would be to go back to my
14 declaration where I think I provided that flow. I
15 described -- let me -- give me a moment here to find
16 the declaration. I did this so many pieces of paper
17 here. So we're dealing with the 002. Right? And
18 the -- the.

19 Q. I don't want to complicate matters,
20 Mr. Lipoff. I'm just simply, down below and where
21 you have the yellow -- the blue arrow. Right?

22 A. Yes. I understand. And again, let me
23 answer your previous question. So referring back to
24 my declaration on the 002, I describe what you're
25 asking for in Paragraph 103. And what -- regarding

1 the request. What I say here in Paragraph 103,
2 referring to Avellan's Figure 1, which is what you
3 have up on the screen. A user computer 104, which
4 you can't see on the screen, it's up at the top, it's
5 a -- so when I say it's user computer 104, the green
6 arrow can request media streams from either the
7 internet or a private network cloud, which is the
8 blue arrow at the bottom. The gateway platform 130
9 receives a request, obtains the content from the
10 network, processes it using the disclosed browser
11 software. That is the virtual browser. And then
12 broadcasts the requested media on the broadcast
13 panel. So what I'm saying here, in providing a
14 summary of Avellan, the requests are coming from the
15 user's computer 104 and that's -- that's
16 requesting -- ultimately ends up requesting the media
17 streams down at the bottom, what's shown in blue.
18 And it's doing it -- the way it's doing it as
19 described here in my Paragraph 103, is the request
20 from the computer is 104, go through the pathway to

21 the gateway platform 130. The gateway platform 130,
22 red arrow, receives a request and then it obtains
23 that content from the networks in blue down at the
24 bottom.

25 Q. Thank you for that. So, just to make
sure.

16

1 So down there in the blue on the bottom, those are
2 web pages like CNN dot com, or YouTube dot com?

3 A. Yeah. As shown here on the figure, the
4 examples are Yahoo, Netflix, Google, YouTube, CNN.
5 Yes.

6 Q. So they're web pages?

7 A. They are websites, which would have
content
8 on them.

9 Q. Okay. The communication protocol from
them
10 going up would be HTTP?

11 A. I don't know that I offered an opinion or
12 cited to what the protocol was between the internet
13 cloud and the gateway, but typically those sites are
14 accessed using HTTP protocol.

15 Q. So all websites typically use HTTP
16 protocol?

17 A. They're typically -- I wouldn't use the
18 word use -- they're typically accessed by HTTP
19 protocols typically.

20 Q. Thank you. So we're looking at page 9 at
21 the petition.

22 A. Okay. This is the 002 petition?

23 Q. Yes, sir.

24 A. Okay. Let me get a copy of that.

25 Q. I'm sorry, Page 19?

17

1 A. Page 19. All right.

2 Q. I'm sorry. I apologize, I pulled up the
3 074 patent page numbering system. But I imagine it's
4 the same assessment in 002, the sub-element.

5 A. Oh, all right. So, you want me to get the
6 074 petition; is that correct?

7 Q. Yes, sir, please.

8 A. All right. Give me just a moment. We're
9 looking at Element 1b; is that right?

10 Q. Yes, sir.

11 A. All right, hold on, let me find that.

12 Okay. So that's -- I'm on the wrong page here. Oh,
13 it's 19. I see. Excuse me.

14 Q. Okay.

15 A. I just want to make sure I'm in the right
16 place.

17 Q. No worries.

18 A. Yeah. 074, Element 1b, obtaining content
19 corresponding to plurality of media items one source.
20 Yes, I see that. Okay.

21 Q. And that's referring to the websites we
22 just talked about earlier?

23 A. Yeah. Obtaining content for plurality of
24 at least one source. Yes, that's correct. It's
25 referring to the -- in that figure -- the arrow in

18

1 red at the bottom. So as this section of the
2 petition states, the gateway server 134 may be
3 configured to communicate with the public computer,
4 servers or networks, such as the internet cloud,

I

5 which is what's -- the internet cloud or private
6 MPLS, which is what's shown at the bottom of that
7 figure.

8 Q. Okay.

9 A. Let me just get my copy of Avellan out so

10 can --

11 Q. Thank you.

12 A. Make sure I'm referring to it correct.

13 Excuse me. Yeah. So such as internet cloud 150.

14 Which -- yes. So internet cloud 150 is what's at the
15 bottom of Figure 1. Yep.

16 Q. Okay. So the one media stream here is the
17 website?

18 MR. MCBRIDE: Objection, form.

19 WITNESS: I'm sorry what's the question?

20 BY MR. DROLET:

21 Q. So the media stream in this context, is it
22 the website?

23 A. What is the word -- where are you pointing
24 to media stream?

25 Q. So public servers. Right? Multimedia

1 items corresponding -- the plurality of multimedia
2 items.

3 A. Yeah. The media items are the content
4 that's obtained from -- from the internet cloud 150.
5 Those are the media items, not media stream.

6 Q. Is that from the websites?

7 A. The plurality of media items that are
8 recited in Claim 1b are being sourced from the
9 various websites that located in internet cloud 150.

10 Q. Thank you, thank you. So we're going to
go
11 down to Page 21?

12 A. Okay. I see that. Yes.

13 Q. Is this section right here, Mr. Lipoff, is
14 that referring to Element 1c in the plain language?

15 A. Yes. Starting where it says element 1c,
16 yes.

17 Q. Okay. Thank you. So, what is it
rendering
18 at this stage?

19 A. It's rendering -- well.

20 It's rendering -- all right, let me see if
21 I can explain.

22 So the tech here in the petition is

23 beginning by referring to the browser software 106.
24 This is a virtual browser. And the rendering is
25 referring to the operations that are performed by the

20

1 virtual browser. And it is taking the content that
2 was fetched in the previous step the multimedia items
3 that were obtained from the internet cloud. And it's
4 interpreting them by having the virtual browser
5 software operated on them in order to transform them
6 as it says at the bottom of this page, to render the
7 pages, images and documents from the network. To
8 transform them in a form that later on in the claim
9 will be used to generate the media stream that's in
10 element 1f.

11 Q. Thank you for that. So you just mentioned
12 this was -- the previous step gave us the ability to
13 do what? To obtain the items?

14 MR. MCBRIDE: Objection.

15 WITNESS: So, element 1a that we discussed
16 earlier, was where you receive from the content
17 provider a request for -- oh, I'm sorry. I'm mixing

18 between the various things.

19 So element 1b is what I -- so the element
20 1b is obtaining the content from the multimedia items
21 from one source, offering the content in one format.
22 So element 1b is where the -- the Avellan gateway
23 device connects to the media cloud. Yeah, to the
24 internet cloud, items 150 and pulls the content from
25 that into the gateway servers 130. And then what

21

1 you've been referring me to, Element 1c, is when you
2 have that multimedia items that you've obtained from
3 the different websites that are down there. The next
4 step 1c, is to take those web pages that you've
5 obtained the content from in the form that they were
6 provided by the internet cloud and you operate on
7 them using the virtual browser 106. And the virtual
8 browser performs the common operations that are
9 known -- that a browser performs a rendering -- where
10 it takes the input that is not necessarily human
11 readable or digestible and it converts it to a form
12 in which in a normal browser you would view on your

13 screen. In the case of the Avellan system, it
14 converts it into -- transforms it into a different
15 type of data that's suitable for the rest of the
16 claim which is eventually broadcasting it to the user
17 computers 104.

18 BY MR. DROLET:

19 Q. So is it -- can you explain how that
20 rendering the website then works in Avellan?

21 MR. MCBRIDE: Objection, form.

22 WITNESS: I'm sorry, what are you asking
23 to do?

24 BY MR. DROLET:

25 Q. The actual rendering?

22

1 A. Your audio is breaking up.

2 Q. I apologize. Can you hear me?

3 A. Yeah, I hope it's just on my end.

4 MR. MCBRIDE: It's either an echo or
5 somebody else is talking. I can't tell.

6 THE COURT REPORTER: The audio quality is
7 very poor. It's static-ey. But it's on all ends,

me

8 not just yours, Mr. Drolet.

9 MR. DROLET: I'm trying to reset here.

10 MR. MCBRIDE: And Mr. Drolet, is there
11 somebody else in the room with you?

12 MR. DROLET: Yes, there is, but they're on
13 mute. I'm trying to get my microphone.

14 MR. MCBRIDE: I keep hearing them talk,
15 which I think is causing some problems here.

16 MR. DROLET: No worries. Can you hear me
17 clearly now?

18 WITNESS: I can, yes.

19 BY MR. DROLET:

how

20 Q. Okay. My question was, can you explain
21 rendering of the website actually occurs in Avellan?

22 MR. MCBRIDE: Objection, form.

23 BY MR. DROLET:

24 Q. Can you walk me through the rendering
25 process in Avellan?

23

I'm

1 A. Yeah. So, I think it's -- let me see.

2 going to read what's currently here in Element 1c and
3 let me just see if there's something I believe I need
4 to add to that to answer your question. No. I guess
5 there's a -- I guess to understand how that works,
6 you need to have an understanding of what a browser
7 does. And I -- respective of myself and a person
8 skilled in the art, I think they would understand
9 that what's happening in Element 1c is the
10 conventional operation of a browser. That is, a
11 browser accepts, as it does here in Avellan and in
12 any browser, a browser accepts the input where it's
13 browsing the internet content in the form in which it
14 fetches the content from the internet. Typically
15 that's an HTTP stream. And it digests that content
16 and applies software, browser software as it states
17 here. It applies software operations to that
18 incoming content. Let's say for example the HTTP
19 content and it converts it into a visual image, which
20 in a conventional browser would be displayed on a
21 screen that a human, an end-user person would look at
22 the screen and it would make that content that comes
23 in from the internet, which is typically HTTP and is
24 not easily understood by a human being, it turns it
25 into a digital representation. And that visual

1 representation could be text, could be images, could
2 be audio, could be video. But it's basically
3 transforming what comes from the internet into
4 something that is more human friendly. In the case
5 of the Avellan system, the output of the browser as
6 shown in Figure 1, is broadcast up to the user
7 computers 104 and is displayed on the screen of the
8 user computers 104 as Item 106 in Figure 1. So the
9 browser is performing a rendering operation. For
10 rendering you can retransforming the internet content
11 into a visual representation that's then used for
12 additional purposes in the claim.

13 Q. Thank you.

14 A. Additional purposes in Avellan, which
15 happens to read on the same steps in the claim.

16 Q. Thank you for that Mr. Lipoff, thank you

so

17 much. So the multimedia items are obtained from the
18 websites. Is that correct?

19 A. The Element 1b, plurality and multimedia
20 items are obtained from -- in Avellan -- obtained

21 from the source in Element 1b, in the case of Avellan
22 it's the internet cloud or the private MPLS cloud.

23 Q. Okay. So, in this one single request
24 they're obtaining the multimedia items?

25 A. I'm not sure what you mean by one single

25

1 request. Can you explain further?

2 Q. So in Avellan, if I understand you
3 correctly, it's giving one request to the web page,
4 website -- and I don't want to paraphrase you -- then
5 it's just making one request is receiving the
6 information. Correct?

7 MR. MCBRIDE: Objection, form, objection
8 scope.

9 BY MR. DROLET:

10 Q. I'm trying to understand your
11 interpretation of Avellan with respect to that
12 evolution.

13 A. Yeah, I think it would be helpful to refer
14 to both Element 1a, 1b and c, since they're kind of
15 connected together, as I kind of describe it. And

16 for, I don't know, maybe my description of Avellan in
17 my declaration would be a more compact way of doing
18 it. But I can do it both ways if you'd like. You
19 know, the -- give me just a minute here to find the
20 right pages. So starting on description of Element
21 1a, which is on Page 17 of the petition. So, I won't
22 read the whole thing, but I'll just highlight the key
23 points to connect together everything that you're
24 looking for here. So Avellan first receives from the
25 content provider a request for at least one media

26

1 stream. And the way it does that is, the user
2 computers 104 -- user computer 104 make requests for
3 various different kinds of content. And the gateway
4 server 134 responds to those requests from the user
5 computers and it obtains the contents that's been
6 requested from the internet cloud at the bottom, as
7 kind of indicated here. The content that comes in,
8 which is as I say here in the petition, typically in
9 HTTP format are resolved by the browser which then
10 renders the pages. So the gateway server takes the

11 output of the browser which is the images of those
12 pages which were typically obtained in HTTP format.
13 And it images them into a video or image frame
14 format. It then compresses the data into a stream
15 that's then sent to the user computer 104 for display
16 in the browser 106. So what's happening is, briefly,
17 user computer is requesting content that's located on
18 the internet cloud. That content is obtained for the
19 internet cloud in the form of web pages. Typically
20 HTTP format. The HTTP formatted web pages are then
21 rendered by the virtual browser in the gateway and
22 they're turned into, as we say here, they're
23 compressed into data, compressed video format that
24 can eventually be sent to the user computer 104. And
25 it's displayed on the user computer 104 in a window

27

1 that's indicated in Figure 1, Item 106, which is the
2 output of the virtual browser. The virtual browser
3 is actually located in the gateway, but it's being
4 sent to the user computer. So what the user computer
5 sees in Item 106, is the output of the virtual

6 browser after it's been rendered into a compressed
7 digital form. So, I think that -- I believe that
8 answers your question. I think that's what you're
9 asking.

10 Q. Thank you, thank you. Yes. So, to be
11 clear. The elements you just reviewed Elements 1a,
12 1b and 1c, are they all done by the browser?

13 MR. MCBRIDE: Form.

14 WITNESS: No. The browser has a role.

The

15 browser resides in the gateway and it's one of the
16 functions performed by the browser. But the browser
17 by itself would not be the piece of software that's
18 actually fetching the content. The browser is one
19 element in a number of the different operations that
20 are performed in the gateway server.

21 BY MR. DROLET:

22 Q. Thank you, Mr. Lipoff. Thank you so much
23 for that, I appreciate your patience in explaining
24 that. We're going to jump now to the 002 patent
25 declaration. And we're going to focus on your

1 statements in there. So we can look at that. And on
2 the screen we're going to pull up your declaration --
3 not that. Your declaration. Okay. Lifting that up.

4 A. Okay. So we're switching from the 074,
5 right.

6 Q. We're going to the 002 patent.

7 A. Yeah, okay, I got it.

8 Q. All right. So now we're going to -- go
9 to -- of your declaration. We start talking about --
10 give me one second as I paper shuffle. We're going
11 to scroll down to where you give your opinion of the
12 different elements here. Right here. And we're
13 looking at your declaration starting on Page 47.

14 A. Page 47. Okay, give me a minute. Let me
15 just see where that is in the overall scheme of
16 things. Page 47. So that's where I start with a --
17 yeah, okay. I'm with you.

18 Q. Great. Again, remember your guidance
19 yesterday and today we're going to go ahead and talk
20 about that areas that you expound upon in the
21 declarations. But again as you've previously said,
22 the areas that you don't talk about, you're in
23 agreement with what's in the petition. Is that
24 correct?

25 A. Yeah. Yes, I agree that the citations and

1 the analysis in the petition are the same as mine.

2 Q. Thank you. Thank you. Okay. So, I guess
3 the first element here on Page 47, you talk about is
4 element 1d. And I guess, here's where your
5 experience, your knowledge base as someone skilled in
6 the art is making this determination. Can you kind
7 of walk me through your thought process here?

8 A. Yes. Just your audio broke up a little
9 bit, but I think I understood --

10 Q. Any better now?

11 A. Yeah, that's better. So, let me just read
12 the claim limitation here. So generating a temporal
13 sequence of screen captures from the rendered web
14 page, where each screen capture defines all the
15 content of a web page at a given time and at least
16 two adjacent screen captures illustrate a dynamic
17 change of at least a portion of the content over
18 time. Okay. So referring -- in order to understand
19 how Avellan reads on Element 1d, I begin here
20 indicating that previous Element 1c was disclosed as

21 the rendered web pages could include video animations
22 or moving content. In other words, the previous
23 disclosure to Element 1c indicated that we're not
24 just dealing with a static picture. So, because
25 you're continuously capturing screen images over

30

1 time, anything like video would have -- video would
2 typically have 30 independent screen images presented
3 one after the other every 30th of a second. That's
4 what video, typical video would be. They're
5 individual screen images. So if you're capturing
6 moving content such as video, or any sort of animated
7 display where between two adjacent screen captures
8 there would be a difference between the two screen
9 captures. And the example I give, if you have a
10 hockey game going on where there's a lot of movement
11 on the screen, there's people skating around and
12 there's a puck moving. If you take a screen capture
13 of a hockey video at time one and then a few moments
14 later you take another screen capture at time two,
15 there would be a dynamic change in the game, such as

16 the players moving or the puck moving. So, I believe
17 that discloses that dynamic change element of 1d of
18 the patent.

19 Q. Thank you, thank you. Guess I'll move
onto

20 Element 1g then?

21 A. Yeah 1g. Mm-hmm. Okay. So we're dealing
22 with ground one here of -- what's up on the screen
23 here is ground one of my read of Avellan on this
24 Element 1g. And just give me a second to get
25 oriented. Because, there's also in my declaration,

31

1 there's a separate ground two that also addresses the
2 same point. Let me just stay with what's on the
3 screen here, which is with respect to ground one. So
4 ground one -- I'm sorry -- 1g element reads wherein
5 at least one media stream corresponds at least to one
6 of an HTTP live stream (HLS) close stream, an HTTP
7 playlist, at a realtime streaming protocol (RTSP)
8 stream. So limitation 1g of the patent is requiring
9 that at least you have it stored in one suitable

10 format. And as I indicate here in Paragraph 125 of
11 my declaration, Avellan would kind of play the use of
12 a video transfer protocol, which would be motivated
13 to use one that would be commonly known to a person
14 in the ordinary skill of the art. And in the
15 timeframe of the 2014 of the patent, the most
16 prominent video transfer protocol that was known was
17 the HLS protocol, the HTTP live stream protocol, HLS
18 protocol, which was developed by Apple. So a person
19 by a skill of the art, understanding that Avellan
20 would want to use a video transfer protocol would be
21 motivated to find it obvious to use HLS. It turns
22 out that HLS -- as part of HLS -- there is a playlist
23 which is one of the components of the HLS protocol.
24 So by using HLS, you would also have a HTTP playlist,
25 because HLS consists of a number of media segment

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1 files of different quality and speeds. So by using
2 HLS you would also satisfy the HTTP playlist and the
3 Element 1g. Although my understanding is you only
4 need to satisfy one of what's recited there. It also

5 turns out that while HLS was the most popular way to
6 deliver live and audio streaming content and it dates
7 back to Apple introducing it in 2009, an additional
8 protocol which is identified in 1g called RTSP, was
9 also a secondary well known protocol that was used
10 for the same purpose. So as I indicate here at the
11 bottom of Paragraph 126, in the light of Avellan
12 alone without reference to any other references
13 Avellan would I believe anticipate this limitation,
14 because a person in the ordinary skill of the art
15 would understand delivering the live stream
16 television feeds would obviously look to HLS or RTSP.

17 Q. Thank you, Mr. Lipoff. Question for you.
18 Concerning those protocols you just mentioned, the
19 HLS and RTSP, do those require certain types of
20 server software?

21 A. I didn't hear the very last word you said.
22 Require what?

23 Q. Server software?

24 A. Server software. In order to generate HLS
25 or RTSP. Whatever is generated would have to have

1 the protocol coded in it. Typically this would be
2 done by some combination of hardware and software
3 devices. And yeah, they would -- protocols are
4 typically implemented by protocols which are
5 programmed into some type of programmable machine
6 with software.

the
7 Q. Thank you. So in your assessment as in
8 ordinary skill of the art, what kind of -- what
9 options do you have? What kind of software?

10 A. This would --

11 MR. MCBRIDE: Form. Objection, form.

Avellan,
12 WITNESS: Yeah. So in the case of
13 which I believe shows that you are generating a live
14 streaming television feed and as I indicate here in
15 Paragraph 127 -- 126 -- Avellan would be generating
16 that -- a person in the ordinary skill of the art --
17 would find it obvious to generate HLS as a live
18 streaming television feed that's output from the
19 gateway server, that's sent to the user computer as
20 104. And so that functionality would reside
21 somewhere in the Avellan gateway server.

22 BY MR. DROLET:

23 Q. Thank you, Mr. Lipoff. What software

24 specifically would be used?

25 A. You would use software that's capable of

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1 generating HLS or RTSP formatted content.

2 Q. Thank you. Can we move now to your

3 Paragraph 129?

4 A. Yeah. Yeah.

5 Q. 1h?

6 A. By the way, I just, you know, before we

end

7 this section, because to be complete. I also note in

8 Paragraph 127 that my opinion about this being a well

9 known protocol was also known to be an obvious choice

10 because when the examiner was pursuing the

11 prosecution as patent, they also found a reference

12 where also disclosed it would be obvious to use one

13 of those protocols.

14 Q. Thank you.

15 THE VIDEOGRAPHER: Counsel, just really

16 quick, I see we're kind of approaching the end of at

17 least Claim 1. Do you think after you finish that it

18 would be a good time to take a break?

19 MR. DROLET: Certainly.
20 THE VIDEOGRAPHER: Okay, go ahead.
21 WITNESS: So you're directing me to 129?
22 BY MR. DROLET:
23 Q. Paragraph 129. I guess this is the last
24 Element like Mr. McBride said for Claim 1, this is
25 the last sub-element in which you give your

35

1 assessment. So yeah, just want to go to Paragraph
2 129.
3 A. Yeah, okay. What's your question?
4 Q. I'm sorry?
5 A. Do you have a question?
6 Q. So, talk me through the use of Java here
7 that you said well known in the art.
8 A. Okay. And I'll indicate as well here that
9 I also address this is in ground two as well. But
10 we're dealing with ground one. So Element 1h reads
11 where the web page is rendered in parallel in
12 multiple threads. So, Avellan discloses the steps in
13 Figure 2 may be performed in parallel. So, even

14 though that doesn't necessarily disclose multiple
15 threads, but Avellan also acknowledges, references
16 Java and identifies that Java is well known in the
17 art. So because Avellan specifically discloses the
18 steps they performed as parallel and it discloses
19 Java, Java is well known as a programming language
20 that one of its major features is the ability to
21 process multiple threads in parallel. And since
22 they're both disclosed in Avellan, a person of
23 ordinary skill of the art in performing the multiple
24 threads that are disclosed in Avellan and parallel,
25 they would have considered the use of a multi

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1 processor cores and Java, which would facilitate the
2 processing in multiple threads.

3 Q. Just so I understand. So, this feature of
4 being able to process multiple threads in parallel
5 requires Java and other hardware?

6 A. I don't think I said this -- said that in
7 what I just went through, nor is that described in
8 here. I'm just saying that at least -- well, let me

9 start again.

10 Avellan specifically discloses that the
11 steps of Figure 2, which is the rendering of the web
12 page, may be performed in parallel. So it
13 specifically says that. It does not specifically say
14 that it's being performed by a multiple thread
15 process. However, Avellan references Java and Java
16 is a programming language that a person running skill
17 of the art would know one of its major features is
18 the ability to process steps in parallel which are
19 multithreading. Multithreading means doing things in
20 a processor that operate at the same time where they
21 don't have to wait for one of the processes to stop
22 before it begins the next one, it does it at the same
23 time. So since a person in the ordinary skill of the
24 art would understand to do things in parallel and
25 based upon Avellan's disclosure of Java, they would

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1 certainly understand that it would be logical to use
2 multiple threading to use the features of Java to
3 perform the multithreading. And the underlying

4 hardware technology as I indicate here in the form of
5 multiprocessor cores further facilitates operating
6 with Java to perform this parallel processing by
7 using multithreading. So, I believe that Avellan
8 alone anticipates this limitation, because a person
9 in the ordinary skill of the art, would put together
10 the various pieces that are already disclosed in
11 Avellan in order to perform rendering in parallel and
12 multiple threads.

13 Q. Thank you. And just to finish this up on
14 this topic here. So Avellan is using Java? Is that
15 your statement?

16 A. I said that Java is disclosed in Avellan.
17 There certainly are other ways in which it could be
18 used. I think in order to answer your question
19 accurately I should refer to the citation that's
20 here, which is Avellan Column 13, Line 40. If you
21 give me a minute I'll do that so I can accurately
22 read what it is disclosing.

23 Q. Thank you.

24 A. Column 13, Line 40 of Avellan. 13, Line
25 40. Okay. So beginning actually, the context for

1 this is in Column 35 of -- Column 13 -- I'm sorry.

2 Line 35 of Column 13. So it's talking
3 about creating a compressed video format of the first
4 page. And then Line 40 says, the data may include
5 Java, HTML, flash or other programs known for state
6 of the art. So there is not a specific disclosure
7 that Java's implementing the multithreading and I
8 don't say that in the citations in the petition. But
9 what it is saying is, a person in ordinary skill of
10 the art, reading their requirement to perform this in
11 parallel and understanding in Column 40 that there is
12 disclosure of Java and knowing that Java is a very
13 widely used common form in performing multithreading,
14 it would be obvious to not just perform rendering in
15 parallel, but to perform it in multiple threads.

16 Q. Thank you. So Java there is referencing
17 the actual use in the web page?

18 A. In Line 40 of -- yeah, what I was just
19 reading in Column 13, Line 40. It's mentioning Java
20 in the context of Java could be one of the languages
21 used in creating the web pages.

22 Q. Understood. Thank you.

23 MR. DROLET: So, take a ten minute comfort

24 break? Mr. Lipoff, sound good?

25 WITNESS: Sure. I have three minutes past

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1 11:00. Pick up at 11:15, something like that?

2 MR. DROLET: MR McBride, sound good?

3 MR. MCBRIDE: Sounds good.

4 MR. DROLET: Good.

5 THE VIDEOGRAPHER: Okay. We are going off

6 the record at 11:03 a.m.

7 (Recess.)

8 THE VIDEOGRAPHER: We are going back on

the

9 record at 11:14 a.m.

10 BY MR. DROLET:

11 Q. Mr. Lipoff, thank you so much for that.

12 One last question concerning your declaration on the

13 002 and then we're going to jump to 441, last topic

14 of the day. So, I'm going to direct your attention

15 to your declaration for the 002 patent. Page 71,

16 Paragraph 181.

17 A. Page 71 Paragraph, 181. So, let's see,

18 just see where we are. We're in round three, right?

19 Yeah, okay. And 71 is what paragraph? I'm sorry.

20 Q. It's Paragraph 181. 181.

21 A. 181. Oh, all right. I need to go down a

22 little bit. Let's just see.

23 MR. MCBRIDE: Counsel, this is the 350

24 petition?

25 MR. DROLET: This is the -- correct. And

I

40

1 need to introduce this as a new exhibit, because

2 we're referencing the previous things before. So,

3 yes. This is Mr. Lipoff's declarations for 350.

4 Page 71, Paragraph 181.

5 WITNESS: Okay. All right. I'm sorry I

--

6 just give me just a second here.

7 BY MR. DROLET:

8 Q. No worries.

9 A. I just want to see -- scroll up a little

10 bit to see where this was in my declaration so I have

11 a context here. Paragraph 71. And I have to go back

12 to the beginning here. So let's see. Page 71 was in
13 ground three. Right? Yeah. And that's with respect
14 to Claim 7 and 9 and Claims 11 to 12. And let me
15 just take a look at what Line 7, just so I have a
16 context to answer your question.

17 Q. Thank you.

18 A. Yeah. Claim 7. Okay. And then Claim 8.
19 Claim 9. And then 11 and 12. Okay. And now let
20 me -- sorry for the delay here, I'll go to Page 71,
21 because you've asked. And 71. Okay 181. Okay. All
22 right, I'm on 181.

23 Q. Thank you. And I guess I just need to
24 understand some of those acronyms and what your
25 opinion is there in 81. What you're expressing

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1 concerning what those acronyms are.

2 A. Okay. So let me sorry to delay this here
3 again. I just want to scroll up again and see what
4 element I was addressing here in 181. It's a couple
5 of pages earlier. Okay. So I think it's addressing
6 Element 7a if I'm -- no, it's Element 7f it's

7 addressing. Element 7f which is, provide at least
8 one of a video content, image content and audio
9 content to the cast server for generating a cast
10 stream with an MPEG coded video and audio. Okay.
11 So, I'm addressing Element 7f and I'm referring back
12 to Wannamaker to containing MPEG audio and video
13 indicated in Paragraph 177. The application servers,
14 Wannamaker -- I'm sorry, I'm working my way down to
15 where you wanted me to address, but I wanted to see
16 what the context was. Application 178, the
17 application server Wannamaker video image and audio,
18 MPEG, carousel [reading sotto voce] okay. And 180
19 [reading sotto voce.] Now I'm finally at your
20 Paragraph 181. And since this is referring to
21 Wannamaker, I should get a copy of that in front of
22 me, so hold on just a moment. Wannamaker Tab 8.
23 Okay. All right. I have I'm looking at Paragraph
24 181. I understand this is addressing Element f in
25 ground three and I have a copy of Wannamaker here in

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1 front of me.

2 Q. Great.

3 A. So what can I tell you.

4 Q. The request is me understanding what these
5 acronyms mean. FMB, output CPML, MML.

6 A. Yeah. So these are different image files
7 which are created by the renderer in Wannamaker.
8 Wannamaker has a rendering engine. And I don't
9 know -- let me see if it defines what those are.

10 Q. Are these common terms?

11 A. I don't -- I don't immediately recognize
12 what the MML is.

13 Q. It's okay, Mr. Lipoff --

14 A. I don't think Wannamaker further defines
15 it. I think it just calls it a particular form.
16 It's content is rendered in a particular form. MML.
17 Let me look and see what some of the other terms are.
18 FMB.

19 Q. Mr. Lipoff, maybe I can help. I just want
20 to know if they were common terms in the industry and
21 if you knew them? Do you know them?

22 A. Yeah. From the -- I don't immediately
23 recognize them. They're identified in Wannamaker as
24 output image files, which would be consistent with
25 all I needed to rely upon. That is it's converting

1 them into image files from the browser. But let me
2 just see what the other term is. CPML. CPML. No, I
3 don't see it -- where it mentions CPML. Yeah.
4 Just -- so Wannamaker in Paragraph 259, which is what
5 I was referring to, it accepts the URLs of the HTML
6 files that are stored locally. And then it parches
7 them and it renders the HTML to produce image files
8 and output files. And so it doesn't further explain
9 what those particular image and output files are.
10 But they're -- they would be the output -- some sort
11 of output of the browser.

12 Q. Okay. Thank you.

13 A. Yeah.

14 Q. Perfect. We're going to switch gears.

15 Last topic of the day, the 351 or 441 patent.

16 A. Okay.

17 Q. And we're going to be looking at your
18 declaration and looking at Farber. So, you can just
19 kind of I know -- I'm a paper guy too. So, I'm
20 getting Farber out and your declaration.

21 A. Okay. Let me switch to the binder. So

22 441.

23 MR. DROLET: And while he's doing that, I
24 guess for me to introduce Wannamaker since I put it
25 up as an exhibit as next in line.

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1 (Plaintiff's Exhibit 7 marked for
2 identification.)

3 WITNESS: Okay. Farber --

4 BY MR. DROLET:

5 Q. Farber and 441, your declaration 441.

6 A. Okay.

7 Q. While you're doing that, I'm doing the
same
8 thing.

9 A. Okay. And in case we need to look at that
10 I'll get out the petition as well. 441. All right.
11 And let me get my list of the claim terms for the
12 441. All right, I have that. Okay, I think I have
13 everything you asked for.

14 Q. We'll go to the declaration first, Mr.
15 Lipoff. The declaration I want to say starts on Page
16 44.

17 A. Page 44. Which is -- okay, that's the
18 start of my grounds -- okay.

19 Q. Right. Just to make sure I understand. I
20 see that in Page 44 through 45, Paragraphs 126, 127
21 and 128, I think you talk about Elements 1b, 1d and
22 1h respectively.

23 A. That's correct.

24 Q. Again the other ones, the other
25 sub-elements, you are in agreement with the

45

1 petition -- the petitioners assessment/analysis as it
2 exists in the petition. Is that correct?

3 A. Yeah, as I say here in Paragraph 125, I
4 examined the same citations and discussion that were
5 in the petition and I analyzed it and agreed with it.

6 Q. Okay. So with Paragraph 126, I guess we
7 can talk about your assessment here, but you've been
8 saying even on its face Farber doesn't explicitly
9 talk about it. But then you give your interpretation
10 as someone skilled in the art. Can you talk to me
11 about your assessment here on Paragraph --

12 MR. MCBRIDE: Objection, form.

13 BY MR. DROLET:

14 Q. To make it easier, I think you're in
15 Paragraph 126.

16 A. So Paragraph 126 is relevant to Element
1b.

17 And Element 1b reads: "Determining sufficient
18 storage space for the multimedia asset of the cache
19 unit." And what I say here is that I believe that
20 Farber anticipates all of Claim 1 and Claim 7 that
21 with respect to 1b in particular. Because there is
22 successful playback of the requested data, it would
23 be understood that by retrieving the data and be able
24 to play it back later, there must have been
25 sufficient space for it. So, I do acknowledge in

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1 Element 1b, you know, because it does not require
2 that there's a determination, that there's sufficient
3 space before storing it. Nor does it require a
4 specific amount. But because the act of successfully
5 storing and retrieving it would satisfy the plain

6 language, you couldn't store and retrieve it if there
7 wasn't specific space. It would be understood
8 that -- that it discloses it. And of course we're
9 talking about ground one here where I say that it
10 anticipates it. To the extent it doesn't I have some
11 other grounds and other references that are more
12 explicit. But, I certainly believe that Farber on
13 its own anticipates this Element 1b.

14 Q. Thank you. And Farber -- do you have
15 Farber printed out in front of you there?

16 A. I do, I have a copy of it here. Yep.

17 Q. Look at Farber real quick. Because this
18 will be the next Exhibit.

19 (Plaintiff's Exhibit 8 marked for
20 identification.)

21 BY MR. DROLET:

22 Q. I have a paper copy out as well Mr.
Lipoff.

23 Let me know when you're --

24 A. Yeah, I have my hard copy of Figure 4 here
25 as well. Yes.

of

1 Q. So, can you tell me why you chose Farber

2 all the references that are out there?

3 A. Well, I chose Farber because I believe it

4 discloses all the limitations of -- of the claims --

5 Claims 1 through 9, I referenced Farber. I believe

6 it has disclosures that relate to everything that's

7 in the 441 patent in the Claims 1 through 9.

8 Q. So, I know that on the screen you have

9 Figure 4. But looking at Figure 4, is there on

10 Figure 4 your opinion the caching unit?

11 MR. MCBRIDE: Objection to form.

12 BY MR. DROLET:

13 Q. Looking at Figure 4, can you identify a

14 caching unit?

15 A. Yeah. So, I think it would be helpful if

I

16 go to my overview of Farber on Page 36.

17 Q. Certainly.

18 A. And let me just review here whether.

19 Q. Certainly.

20 A. Yeah. So, I don't in my declaration

21 specifically identify that, but give me just a

22 moment.

23 Q. No worries.

24 A. Okay. So, Element 1i of the petition is

25 what I relied upon for the caching unit. So if I go

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1 to -- yeah. So I'm looking here at the -- in the
2 petition at Element 1i, which is receiving the
3 request the caching unit provided in the multimedia
4 asset. And as I note here under Page 28 of the
5 petition, Farber states System 140 is capable of
6 simultaneously transmitting out or storing such
7 content for later playback. That is a definition of
8 a cache. The ability to store -- to store something
9 and then play it back at some later time. And let's
10 see -- that's in Farber itself in Column 8, Line 22.
11 And let me just refer to that. Column 8, Lines 22 to
12 25. Yeah, so it should -- so reading from Farber in
13 Column 8, it should also be understood that System
14 140 is capable of simultaneously transmitting,
15 playing out or storing such content for later
16 playback using the methods disclosed above. So that
17 would be a disclosure of a caching unit.

18 Q. So, a caching unit is a hard drive?

19 MR. MCBRIDE: Object to the form.

20 WITNESS: The caching unit functionality,
21 caching would be described as the ability to store
22 something which you would then be able to access at
23 some later time without having to retrieve it again.
24 And this disclosure in Farber in Column 8, which
25 indicates that the System 140 is capable of

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1 transmitting playback or storing such content for
2 later methods. So System 140, which is shown on Page
3 5 -- I'm sorry -- of Figure 5 of Farber -- has got
4 the ability to store and playback at some later time.
5 And therefore, it would be incorporating the caching
6 unit limitation.

7 BY MR. DROLET:

8 Q. So I'm looking at Figure 5-150 that you're
9 referencing. Correct?

10 A. Figure 5 and it's what I read in Column 8
11 was referring to System 140, I believe, let me just
12 make sure. Column 8, Line 22, yep. So I will just
13 go up a little bit further in Column 8 to show what
14 System 140 is. But Line 15, 16, 17 System 140

15 utilized the methods above and the process repeated
16 such as assets or moved on display according to
17 stored templates. It should be understood that
18 System 140 is capable of simultaneously transmitting,
19 playing out, or storing such content for later
20 playback using the methods described above. So,
21 within the Figure 5, System 140 Farber is disclosing
22 that the caching function exists within that system,
23 which I believe reads on the caching unit limitations
24 of the 441.

25 Q. What would you call the entire Figure 5,

50

1 the 140, Mr. Lipoff?

2 A. It's the Farber -- sorry.

3 MR. MCBRIDE: Objection, form.

4 WITNESS: Yeah. I'd call that the Farber
5 System. Which is what Farber calls it.

6 BY MR. DROLET:

7 Q. Understood. Okay. Let's go to the next
8 paragraph. Bear with me as I'm looking through my
9 notes.

the

10 A. Okay. So we're back in the declaration
11 here? Is that where you want me to go?

12 Q. Yeah. So, yeah. I'm referring back to
13 declaration. But I do have a question before I go
14 off this figure here. The multiplexor, is that --
15 functionally there is 148. Where's the multiplexor
16 exist?

17 MR. MCBRIDE: Objection, form.

18 WITNESS: I'm sorry, I'm not sure what
19 you're asking me.

20 BY MR. DROLET:

21 Q. Is the multiplexor inside the server? Is
22 it a separate unit?

23 MR. MCBRIDE: Objection, form.

Figure,

24 WITNESS: Figure 5 is together with
25 they work together. They're expansions on -- Figure

1 5 includes a multiplexor as does Figure 4. Is that
2 what you're asking?

3 BY MR. DROLET:

could 4 Q. Yeah, I guess I'm trying to say, this

5 all be one unit?

6 A. I'm not sure. I don't understand the
7 question.

physically 8 Q. So are these separate components

9 that have to exist. Or can it be combined?

10 MR. MCBRIDE: Objection, form. Objection
11 scope. Counsel, is there an element you're referring
12 to?

13 MR. DROLET: I'm sorry?

14 MR. MCBRIDE: In order to assist the
15 witness, is there an element you're referring to.

16 MR. DROLET: The multiplexor and the
17 combination multiplexor with the actual caching. Is
18 it all one piece?

19 MR. MCBRIDE: Objection, form.

20 WITNESS: So, Farber is disclosing the
21 System 140, has that functionality within it. It
22 does not specify which -- where that functionality
23 exists within Figure 5. But it could be -- it could
24 be in many places, but given the language Element
25 150, which is indicated storage and play out, that

1 seems to be -- that seems to match the text in Column
2 8, but -- Column 8 is not further specific it just
3 says that that functionality exists within Figure
4 140. And within Item 140, Figure 5. And that's
5 sufficient to me to tell me that the caching unit,
6 functionality that's in the claim is disclosed in
7 Farber.

8 BY MR. DROLET:

dragging 9 Q. Thank you and I apologize for just
10 this out. But I guess, this whole System 140 would
11 that be considered the actual caching unit?

12 MR. MCBRIDE: Objection, form.

13 WITNESS: 140 is the entire system. And
14 within the entire system Farber is disclosing that
15 the caching unit functionality is performed because
16 it's playing back stuff in storage.

17 BY MR. DROLET:

18 Q. So what's playing the stuff back out of
19 storage? The 150?

20 MR. MCBRIDE: Objection, form.

21 WITNESS: Farber does not explicitly point

22 to 150, but because the citation in Column 8, it's
23 referring to System 140 and it says it's capable of
24 simultaneously transmitting, playing about or storing
25 such content. At the very least I would expect there

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1 be some role for 150, but there's nothing that says
2 that there isn't some other portion of 140 that's
3 involved in that function. The only thing I think
4 that's important that I rely upon is that Farber is
5 teaching that there is a caching capability within
6 Figure 5 within System 140 on Figure 5.

7 BY MR. DROLET:

8 Q. Thank you. So let's go to the Paragraph
9 127 in your declaration.

10 A. Okay. I'm sorry, you want me to go to
11 that. And where is that. That's Element -- just
12 yeah, tell me what the --

13 Q. So, yeah, it's Page 44, it's Element
14 1-Delta.

15 A. Okay. Yep. Page 44, right?

16 Q. Yes, sir.

that

17 A. Okay. 1d. Okay, let me just see what
18 is. Okay. Element d is retrieving from the cloud
19 service routing and media files to be included in the
20 multimedia asset, including a media identifier for
21 each one of the files. Okay. And you are -- you're
22 asking me to go to Paragraph 127, is that what I'm
23 understanding?

24 Q. Yes, sir.

25 A. Okay. Give me a moment to read that. So,

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1 there are a couple aspects of this particular claim
2 limitation 1d that I'm commenting on here. That the
3 media files, in this case audio, data, whatever
4 digital -- the digital file for the media content on
5 it can be implemented on remote servers that are not
6 correlated with the data carousel. And so because
7 Farber is disclosing that the media files do not --
8 the data sources basically in Figure 4 and 5, those
9 data sources Farber is saying, do not need to be
10 physically co-located with the rest of System 140.
11 That would be disclosure of them being in the cloud.

12 Because they can be accessed remotely and so a person
13 of ordinary skill would understand that that's a
14 disclosure of a cloud-based service.

15 Q. So are those servers in your assessment,
16 are they data servers?

17 MR. MCBRIDE: Objection, form.

18 WITNESS: They're data sources. And they
19 have -- they have the media content on them. So, the
20 claim is Element 1h here, is receiving a request and
21 caching unit for one of the multimedia assets from
22 the broadcasting units. So, as I indicate here the
23 audio and data source, 44 which is shown in Figure 4
24 and Figure 5 of Farber, those data sources contain
25 the multimedia assets and because they can be

55

1 implemented on remote servers and are not co-located,
2 Farber discloses you can access a mobile
3 communications network remotely that would comport
4 with an understanding of what a cloud-based service
5 is. It's something that is physically located out in
6 the cloud that's accessed via a communications

7 network. It's not physically present in the same
8 place as the other elements that are on Figure 4 and
9 5.

10 BY MR. DROLET:

11 Q. Let's briefly go to Paragraph 128.

12 A. Okay. 128 reads, receiving a request at a
13 caching unit for one of the multimedia assets. I
14 think we perhaps already went through this with
15 respect to talking about what was in the petition,
16 but I'll certainly go through this again if you'd
17 like. So Paragraph 128, I see recognize being able
18 to playback at a later time is inherently disclosing
19 receiving a request at a caching unit, because it's
20 saying playback -- playback what you have previously
21 stored at a later time, some time after you stored
22 it. And so, receiving such a request would basically
23 mean that it had to have been cached and then I say
24 for example, Farber teaches feeding the multiplexor
25 signal, alpha broadcast in the form of a transport

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1 stream, such as a cable network or satellite

2 provider. And it references Figure 5. It says
3 System 140 is capable of simultaneously transmitting,
4 playing out or storing such content for later
5 playback. Same cite before we're looking at in
6 Farber Column 8, 22 to 24. So the very fact that you
7 have a storage embodiment in Figure 5 and the System
8 140 and Figure 4 and Figure 5 would show you that
9 you're receiving that there is a caching unit and
10 that you're receiving a request for playing it back.

11 Q. Thank you, thank you. So, in this
12 transport stream, is it a single file or multiple
13 files?

14 A. What specifically are you asking me about?

15 Q. This MPEG transport stream?

16 A. Okay. I just want to -- I think you're
17 using some words that were in my declaration. Can
18 you just point me to those words, so I see where it
19 was?

20 Q. I apologize. I'm using some of the
21 words -- maybe I'm co-mingling between Farber and
22 what's written in 441.

23 A. I know MPEG transport stream appears in
24 Element 1f, which is in the petition. It also
25 appears in Element 1i which is in the petition. Do

just

1 you want me to go there?

2 Q. I apologize. Yeah, if you could. I'm

3 trying to understand. Yes.

4 A. Yeah, okay, so hold on just a moment. Let
5 me get the petition. And then Element 1f was the
6 first place I think. We're talking about Claim 1
7 here, right?

8 Q. Yes, sir.

9 A. Yeah. Okay. Element 1f is on Page 24 of
10 the petition. And Farber discussed -- so just
11 starting here at the top, I believe Farber teaches
12 Element 1f. It's a data carousel system, generates a
13 trigger to an encoder 47. So in Figure 4 there is an
14 MPEG encoder 47. And then just continuing, the MPEG
15 encoder 47, then produces a video frame such as an
16 MPEG video frame -- this is at the top of Page 25.
17 And is encapsulated media from the MPEG encoder is
18 encapsulated together. And the multiplexor 48 in
19 Figure 4 receives the transport stream from the MPEG
20 encoder and it receives an audio stream from the

21 audio encoder. And it combines the audio feed with
22 the video to produce a MPEG transport stream from the
23 MPEG encoder. So then the multiplexor takes this
24 MPEG transport stream, which has been created and it
25 broadcasts it out for video transport in a different

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1 issue system. So, you're asking about the MPEG
2 transport stream, in Figure 4 it would be as
3 disclosed here, would be the output of the Figure 4
4 multiplexor 48 and the output of that stream is then
5 broadcast in the form of a transport stream to a
6 distribution system. And then there's also some
7 additional description of that in Element 1i, which
8 may further clarify your question.

9 Q. Thank you, Mr. Lipoff. I do have a
10 question. Is this a single file, multiple files for
11 different multiple channels? How --

12 A. It's an MPEG transport stream. An MPEG
13 transport stream by it's very definition or
14 understanding can consist of one or more different
15 programs which are encapsulated in the transport

16 stream. So one transport stream can have contained
17 within it, multiple different, what are called
18 program streams, which would represent different --
19 different programs that the enduser could look at
20 individually, even though they come in over one MPEG
21 transport stream.

file

22 Q. Thank you for that. So is it a single
23 or multiple files?

24 A. A transport stream is -- wouldn't describe
25 it as a file -- it's a stream which is a sequence of

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1 bits, which are modulated on to some compatible
2 system, whether it's cable or satellite. And when it
3 gets to the other end, there is the opposite of
4 multiplexor, called a demultiplexor, which then would
5 remove the individual programs which are contained
6 within the transport stream. So, one transport
7 stream, but the understanding of what a transport
8 stream is. Common understanding is, it's a
9 container, it's a protocol that describes a container
10 for carrying one or more different MPEG programs.

11 Q. Thank you for that. So, it wouldn't be
12 stored in reference to Number 150 in Farber?

13 MR. MCBRIDE: Objection, form.

14 WITNESS: 150 is in Figure 4, is indicated
15 as a storage and playback unit. Farber does not
16 explicitly say in Column 8 in that reference we
17 looked at earlier, that that's where these multimedia
18 assets are stored. But it does say that there are
19 multimedia assets that are stored. It uses assets in
20 plural, which means to me that it's storing more than
21 just one video and one audio file. But, it doesn't
22 say how many.

23 BY MR. DROLET:

24 Q. So would it be multiple files then?

25 A. Sorry, what's the question?

60

one? 1 Q. Would it be multiple files? More than

2 A. So -- yeah. So, they're multiple -- well,
3 let me be clear by making sure I'm correctly
4 referring to what Farber says in Column 8. So the

5 content in Column 8 describing System 140 is using
6 assets in the plural. So, there would be an
7 understanding that the system is simultaneously
8 playing out such content, such assets. The assets
9 being audio -- being any one of the items that are in
10 Figure 4, photos, album, or video, or whatever else
11 would be considered to be the assets that are being
12 stored in System 140.

13 Q. So it would be multiple files then?

14 MR. MCBRIDE: Objection, form.

15 WITNESS: Yeah. It would be stored in
some
16 form. Most likely files.

17 BY MR. DROLET:

18 Q. Thank you.

19 MR. DROLET: I'm almost done. Can we take
20 a little comfort break.

21 MR. MCBRIDE: Sure.

22 MR. DROLET: Ten minutes good?

23 WITNESS: I have like a minute before
noon.

24 What do you want to do? Five minutes? You tell me.

25 MR. DROLET: Five minutes is fine.

1 WITNESS: All right. Back at five minutes
2 past the hour.

3 THE VIDEOGRAPHER: Okay. We are going off
4 the record 11:59 a.m.

5 (Recess.)

6 THE VIDEOGRAPHER: We are going back on
7 record at 12:13 p.m.

8 BY MR. DROLET:

9 Q. Mr. Lipoff, with respect to the figure

10 got there, the MPEG encoder, is the MPEG encoder the
11 same thing as an MPEG video encoder?

12 MR. MCBRIDE: Form.

13 WITNESS: Just want to make sure we're
14 looking at the same thing. So, this is the MPEG
15 encoder in Figure 4; is that correct.

16 BY MR. DROLET:

17 Q. Yes, sir.

18 A. Yeah. So, let me look at the patent and
19 just see how they describe Item 47 so I can --
20 Farber -- reference. So -- okay. So, Column 6 of
21 the Farber reference describes the MPEG encoder 47,
22 that's where we're pointing to. Right, 47? Yeah,

the

I've

23 47. So 47 is pulling template information, images
24 and texts. And it also goes on to describe it as
25 video frame. A video frame. And then it says the

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1 MPEG encoder, Column 6, Line 10, creates an MPEG
2 transfer stream with the embedded MPEG video frames.
3 So, the output of the MPEG encoder is described in
4 Farber as MPEG video frames. And the input to it is
5 a template information, images, texts, video, so
6 forth. So, yes. I think it would be fair to say
7 that the MPEG encoder is generating video frames.

8 Q. Thank you. I'm now going to reference
your
9 declaration that you have in front of you. Just I
10 want to I guess ask you how someone skilled in the
11 art with respect to two references. And I'll let you
12 look at your declaration.

13 A. Okay. I've got my declaration, yep.

14 Q. Thank you. And just two references I
15 guess, I need to get your insight on. The first will
16 be Vermuellen.

17 A. Okay, I'm sorry, you broke up there. What

18 did you say?

19 Q. Just two references I'm going to ask your
20 insight on, so why someone skilled in the art would
21 combine. The first one is Vermuellen.

22 A. Okay. What would you like to know.

23 Q. So you're saying, I read what you've
24 written on Paragraph 130, do you have anything to add
25 to that?

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1 MR. MCBRIDE: Objection, form.

2 BY MR. DROLET:

3 Q. Can you expound on Paragraph 130.

4 MR. MCBRIDE: Objection to form.

5 BY MR. DROLET:

6 Q. Can you explain to me your reasoning?

7 MR. MCBRIDE: Form. What are you asking
8 him about counsel?

9 WITNESS: Yeah. Okay. Well, let me just
10 level set here. So in ground tow I cited to
11 Vermuellen with respect to Claims 1 and 2. And
12 specifically here in 130, Paragraph 130, a there is a

13 claim limitation 1b, I believe. Let me just go to my
14 Paragraph 130 here. Ground two. So, this is
15 addressing initially here starting in Paragraph 129
16 through 130 we talked about, it's addressing the
17 claim limitation 1b, determining that there is
18 sufficient storage space for the multimedia asset in
19 the caching unit. And as I indicated in ground one,
20 I believe that Farber anticipates this thicker claim
21 limitation on its own. But to the extent there's any
22 doubt about that, I said that you could combine
23 Farber with Vermuellen to the first address this
24 claim limitation of determining whether there's
25 additional -- whether there's sufficient space.

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1 Because Farber is explicit that before storing a data
2 object there's a right plan that's developed that
3 ensures that it has reasonable chance of succeeding
4 and the right plan would expect to have sufficient
5 storage space available. So, it would certainly
6 satisfy that. Although I don't believe Farber is
7 missing this disclosure of Element 1b, certainly to

8 the extent one would want additional detail, the
9 concepts in Farber where you would check for
10 available space prior to storage would prevent you
11 from having storage failures. And that would impact
12 the user's experience. So, adding that concept of
13 Vermuellen to Farber would certainly be completely
14 compatible with it. There would be a reasonable
15 expectation of success and it would perhaps improve
16 the overall operation of the system to check
17 beforehand.

18 BY MR. DROLET:

19 Q. Thank you.

20 A. I'm sorry, go ahead.

21 Q. No thank you. So, a question on that. So
22 on Farber -- is the file system in Farber the same
23 file system as in Vermuellen?

24 MR. MCBRIDE: Objection, form.

25 BY MR. DROLET:

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1 Q. Are the formats compatible?

2 A. I'm not relying upon any other teachings

of

3 Vermuellen and I didn't investigate what the file
4 systems were, nor did I opine upon them.

5 Q. Understood. Before we leave Vermuellen,
6 just a question about Farber. In the Farber system,
7 how can you check if you have several channels?

8 A. I'm sorry, I don't understand the
question.

9 Q. So if there's multiple channels, I
10 understand Farber is about preventing screen blackout
11 fadeout. Correct?

12 MR. MCBRIDE: Objection, form.

13 WITNESS: One of the stated purposes of
14 Farber is for reducing screen burn-in. But I didn't
15 rely upon any of those teachings or any of that
16 functionality in order to form my opinion that it is
17 true that, that is one of the objectives of the
18 Farber reference, but not something that was material
19 to my opinion.

20 BY MR. DROLET:

21 Q. So the Farber reference wasn't used for
22 multiple channels then?

23 MR. MCBRIDE: Objection, form. Objection
24 to scope.

25 WITNESS: Yeah, I don't know what you mean

1 by that. I did previously indicate that the Farber
2 reads on Element 1a, which a plurality of multimedia
3 assets, if that's what you mean.

4 BY MR. DROLET:

5 Q. Yes, sir.

6 A. Yeah. It does describe creating a
7 plurality of multimedia assets of caching unit, it
8 does do that.

9 Q. Thank you. So, apologize. Let's go to --
10 Pavlovskaaia reference in your declaration.

11 A. Okay. I'm sorry. Your voice broke up
just
12 there for a second. Something else you want me to
13 look at?

14 Q. Yes, sir. I'm coughing as well. Can you
15 hear me okay?

16 A. Yeah, I can. Yeah, go ahead, sorry. The
17 audio has been a little strange during this.

18 Q. I've got a cold as well. I apologize.
So,
19 the reference is Pavlovskaaia.

20 A. Okay. This is ground three.

21 Q. Yes, sir.

22 A. Ground three, yeah, let me just look at
23 that. Yeah. So that's Pavlovskaja combined with
24 Farber for ground three addressing Claim 3, I
25 believe. Is that right?

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1 Q. Yes, sir.

2 A. Yeah. Ground three. Yeah. So,
3 Pavlovskaja is disclosing broadcast streams getting
4 website content in HTMLUI. Oh. And it discloses
5 JavaScript which is -- yeah, Claim 3 JavaScript.
6 Okay, so let me look at what it says. Paragraph 140
7 Pavlovskaja discloses a web content server for
8 delivery of low bandwidth signals. The web --
9 generates server, generates a set of browser
10 instances through a carousel which -- okay. A web
11 page, includes web page 100. Then just scrolling
12 down. Figure 5 shows a master web page. Includes
13 the functions. Okay. So Pavlovskaja is disclosing
14 the scripting language. In particular, it shows
15 JavaScript. And because Pavlovskaja has also got

16 overlapping functionality and architectures which are
17 the same as Farber, has a carousel, as I say in
18 Paragraph 141, person in the skill of the art would
19 be motivated to combine them because JavaScript was
20 typically used to make web pages more dynamic.
21 Pavlovskaja discloses JavaScript specifically for
22 that purpose and Pavlovskaja a person of skill would
23 take the track label and unit information of the
24 graphic assets, where Farber has got a carousel and
25 would use Pavlovskaja's JavaScript that can contain

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1 the carousel revolving pages. So you have kind of
2 compatible disclosures where by using the JavaScript
3 would allow Farber to display the information more
4 interactively. You certainly in Paragraph 142, you
5 would have reasonable expectation of success because
6 JavaScript was well known as a way of implementing
7 web pages which are a bit more dynamic and easily
8 embedded with an HTML. Farber states that its
9 interface may be coded using HTML. So using
10 Pavlovskaja's JavaScript wouldn't require any

11 altering in the Farber system and there's obviously
12 nothing novel about the JavaScript. The applicant
13 recognizes the HTML with JavaScript was common
14 knowledge, so this would be an obvious thing to do.

15 Q. Thank you. So, just you mentioned Java.
16 Is JavaScript in this application, do you need a
17 rendering engine to utilize JavaScript?

18 MR. MCBRIDE: Objection form, objection
19 scope.

20 WITNESS: Yeah. Java and JavaScript are

--

21 even though they have similar names are completely
22 different concepts. JavaScript is a scripting
23 language that provides -- it can run on the server,
24 but in this instance it's typically running on the --
25 is provided by the website along with the HTML and

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1 it's designed to run on the browser and provides some
2 programmable inner activity to whoever is interacting
3 with the browser.

4 BY MR. DROLET:

5 Q. Thank you. So right here on the screen
6 here, is the fact that Pavlovskaia is associated with
7 low bandwidth digital channels, was that significant
8 for you to utilize this as a reference?

9 MR. MCBRIDE: Objection, form.

10 WITNESS: Yeah. Because it's talking
about
11 the low bandwidth digital channels, which are being
12 accessed from the web pages which are low bandwidth.
13 It's not specifically talking or limiting any of the
14 Farber functions associated with the MPEG transfer
15 stream that's created later. So, no, it's completely
16 compatible. It's like any other browser, Pavlovskaia
17 is talking about using JavaScript in connection with
18 making a web page interactive.

19 BY MR. DROLET:

20 Q. Thank you Mr. Lipoff. Changing topics
21 completely. I do remember yesterday, your mentioning
22 your experience with DoxSys, is that correct? You
23 were part of the DoxSys efforts? And I'm sorry for
24 paraphrasing that. I just want to revisit that
25 topic, because you mentioned your touch points with

1 that.

2 A. I did have involvement with DoxSys during
3 its various generations, starting with the first
4 generation, now called DoxSys 110. And I've been
5 involved off and on with various aspects of it
6 through the current generation DOCSIS 3.

7 Q. Again, I'm a novice in this area, but were
8 you part of the contributors to the DoxSys platform
9 or diversions or anything like that? Has it come out
10 recently?

11 A. I think I may have described in a little
12 bit more detail yesterday, but my first involvement
13 was while I was employed Arthur D. Little. I
14 responded to a request for proposal from the
15 consortium of cable operators that actually developed
16 and published a DOCSIS specification. They were
17 called MCNS, or multimedia network systems, I think
18 or multimedia cable network systems. Cox, Time
19 Warner, TCI, Rogers, Charter I think was part of it
20 and Cable Labs. They wrote an RFP. I as a project
21 manager responded to that RFP and I was awarded a
22 contract by MCNS to develop over a year period what
23 became, later became known as DOCSIS 1.0. Published
24 them in December, I think around -- I think it was

25 '89. And then at that point, the DOCSIS

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1 specification was adopted and was used by many
2 different manufacturers to actually build the first
3 generation of cable modem equipment. And the
4 management of the project formally turned over from
5 Arthur D. Little, where I was the project manager, to
6 Cable Labs at that point. And then I received a
7 contract from Cable Labs to continue to work on
8 DOCSIS as it was evolved into DOCSIS 1.1 and
9 eventually DOCSIS 2 and DOCSIS 3. I had contracts
10 off and on to work on various parts of it.

11 Q. Thank you. So this was prior to 1980,
12 correct? Is that when you said you worked with your
13 previous firm?

14 A. Yeah. I want to make sure I get the dates
15 right. It was -- first published --

16 Q. Mr. Lipoff, maybe I can make this simpler?
17 I just ask this to --

18 A. Yeah. So DOCSIS -- just to get the dates
19 right, DOCSIS 1.0 was officially released to the

20 public in March of '97. I was hired while working at
21 Arthur D. Little in 19 -- beginning of 1996 around
22 January of 1996. And I provided my report, which was
23 essentially the DOCSIS specification in December of
24 '96. And then it was at that point it was released
25 as an interim standard. And then in March of '97, it

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1 was formally released as in issued standard. And
2 then I continued to work on it with DOCSIS 1.1, which
3 was released a year later in '99.

4 By the way, I realized I should have
5 corrected something I said yesterday on the record,
6 which is relative to these dates. I think I told you
7 I left Arthur D. Little in the 1980s. And that's not
8 correct. I was working there through the 1980s. I
9 actually, I started there in 1976 and I was there for
10 25 years and I left in 2001. So, when you were
11 asking me earlier in the deposition yesterday about
12 my work experience, it was around 2001 that I started
13 my private practice through today. Initially, a year
14 or two as a -- organized as a partnership and then

15 after a couple of years I reorganized into a
16 subchapter S Corporation. But, I've been in private
17 practice since around 2001.

18 Q. Thank you for that. I just want to
19 understand. So, are you a listed contributor in any
20 of the versions that are published?

21 A. I was -- let me say I was a responsible
22 author for every one of the versions in that I was a
23 project manager, I had to sign off on each of the
24 releases. But the actual content, DOCSIS was a
25 multivolume standard that consisted of a bunch of

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1 different parts. I was the singular author of the
2 system to network interface volume of DOCSIS. I was
3 contributor - contributing author to each of the
4 other parts of DOCSIS, but it involved the
5 integration of contributions from a variety of
6 different participants. The DOCSIS program that I
7 managed including the soliciting and evaluating and
8 integrating contributions from equipment
9 manufacturers, from my clients who were the cable

10 company and from semi-conductor companies. So 3Com,
11 Intel, Cox, Comcast, a whole variety of other
12 companies were submitting contributions. And I was
13 soliciting for the result of requests for
14 contributions. I was evaluating them, integrating
15 them. Including portions of what they sent in the
16 specification. But ultimately the full set of
17 specifications as they were finally issued was my
18 responsibility. And, you know, with the final
19 approval of my clients they became official documents
20 in March of '97. And then later on I was no longer
21 the primary manager of the project as it evolved into
22 DOCSIS 1.1 and 2.0. But I had separate contracts
23 with Cable Labs who took over the project management
24 responsibility from me. And they had primary
25 responsibility for DOCSIS 1.1. I was a primary

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1 contributor to DOCSIS 1.1 with respect to many of the
2 quality of service mechanisms that ensured a quality
3 delivery of multimedia over cable services that were
4 added to DOCSIS 1.0.

5 Q. Thank you, Mr. Lipoff. Final question and
6 I thank you for your patience. Did you from
7 yesterday to today have any contact with counsel?

8 A. I did. Do you want to know what I talked
9 about?

10 Q. I can't ask you to go ahead and contradict
11 attorney/client privilege. But I guess I can ask,
12 since you mentioned it, was it a five minute phone
13 call? Was it a half hour phone call?

14 MR. MCBRIDE: I'll object on privilege.
15 You know, if you want to give a brief estimate on the
16 time we talked that's fine.

17 WITNESS: Okay. I can tell you that I
18 understood it was not proper to talk about any of the
19 testimony and we did not.

20 BY MR. DROLET:

21 Q. Perfect.

22 A. And it was a short phone call.

23 Q. Mr. Lipoff, thank you so much for your
24 patience, I appreciate your educating me and I
25 appreciate you making the effort. That you did

1 educate someone that's not schooled in your industry.

2 I really appreciate your time.

3 MR. DROLET: So, with that, counsel?

4 MR. MCBRIDE: Thank you for passing the
5 witness, Rob. Do you mind if we take maybe ten
6 minutes just to see if there's anything I want to ask
7 about.

8 MR. DROLET: Fine with me.

9 THE VIDEOGRAPHER: We are going off the
10 record at 12:39 p.m.

11 (Recess.)

12 THE VIDEOGRAPHER: We are going back on
the
13 record at 12:50 p.m.

14 EXAMINATION BY COUNSEL FOR DEFENDANTS

15 BY MR. MCBRIDE:

16 Q. Welcome back, Mr. Lipoff. I only have a
17 few, hopefully quick questions and then I think we
18 can be done for the day. Do you recall yesterday
19 testifying that Avellan supported different
20 modalities and modes of operation?

21 A. Yes, I do.

22 Q. In one of those modes of operation, is a
23 user of Avellan's user computer 104 able to request a

24 media stream from a site such as YouTube, for
25 example?

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1 A. Yes, they are.

2 Q. Okay. And I don't know if you have Figure
3 1 in front of you, but it may be helpful if you're
4 able to just pull it up rather quickly. I don't
5 think we need it on the screen if you have it in
6 front of you, Mr. Lipoff.

7 A. I do. Yes.

8 Q. Okay. So looking at the gateway server

134

9 of Avellan, would it contain functionality that
10 allows the gateway server to obtain the requested
11 content, such as from YouTube?

12 A. Yes, it does.

13 Q. Okay. I'd like to talk a little bit about
14 how that request flows through Avellan. So looking
15 at Figure 1, after the request is generated at user
16 computer 104, where does it go next?

17 A. Sorry, I didn't hear the last part of
18 your --

19 Q. Sure. Let me repeat the question.
20 Looking at Figure 1, after request is
21 generated at user computer 104, where does it go
22 next?
23 A. Okay. Where does it go next, is that what
24 you asked?
25 Q. Yeah. Is the request sent from user

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1 computer 104 sent to broadcast device 102?
2 A. Oh, yes. I'm sorry. I didn't hear the --
3 the audio's a little weird. So, yeah. So, the
4 request from user computer 104 flows through the
5 links that are shown 120, 122, 24 -- flows down to
6 satellite 102 and then into the gateway server via
7 the broadcast devices 132.
8 Q. Okay. And so after, just to kind of break
9 that apart. After the request is received by
10 broadcast device 102, where does it go immediately
11 after that in Figure 1?
12 A. Okay. In Figure 1 it then goes to the

item

13 shown in 132, which I believe are called broadcast
14 receiver transmitters, which are located at the
15 gateway and they're connected to the gateway server
16 130.

17 Q. And so based on your understanding of
18 Avellan, after the request is received by the
19 broadcast receiver 132, would it then passed to the
20 gateway server 134?

21 A. Yes, that's correct.

22 Q. Okay. So in that scenario is it accurate
23 in your opinion that the request is received from the
24 broadcast device 102 and from the broadcast receiver
25 132?

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1 A. Yes.

2 Q. If you can, I'd like you to take a quick
3 moment and read Column 8, Lines 42 through 57 of
4 Avellan. And let me know when you've taken a quick
5 look at that.

6 A. Okay. Column 8, Lines -- 54, did you say?

7 Q. Column 8, Lines 42 through 57.

8 A. Okay. Okay, I'm there. You want me to
9 read --

10 Q. Don't read it out loud, please. Just take
11 a quick look at it and let me know when you're done
12 kind of reviewing that small section?

13 A. Okay. Okay, I've read that.

14 Q. Okay. So, to continue our discussion of
15 the flow through Avellan, is there functionality in
16 the gateway server 134 that retrieves the requested
17 content and generates a media stream?

18 A. Yes.

19 Q. Okay. Let's talk a little bit about that
20 from that point back to the user computers for a
21 second. Is that media stream eventually broadcast to
22 user computer 104?

23 A. Yes, it is.

24 Q. All right. So looking at Figure 1, let's
25 sort of break that apart a little bit, where does the

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1 media stream go after being generated at the gateway
2 server 134?

3 A. Okay. It goes via the pathway from the
4 broadcast receiver transmitter 132 through the
5 satellite 102 which then communicates with the user
6 computers 104.

7 Q. Okay. So, based on your understanding of
8 Avellan in this scenario is it accurate that the
9 media stream gets provided to broadcast transmitter
10 132 and to broadcast device 102?

11 A. Yeah, I'm sorry, your audio broke up just
12 for a second.

13 Q. Let me repeat that question. So based on
14 your understanding of Avellan in this scenario, is it
15 accurate that the request -- sorry, strike that.

16 Based on your understanding of Avellan in
17 this scenario, is it accurate that the media stream
18 that's generated at gateway server 134 gets provided
19 to broadcast transmitter 132 and to broadcast device
20 102?

21 MR. DROLET: Objection.

22 WITNESS: Sorry. So after being requested
23 by the endusers at 104, the gateway server 130
24 generates a media stream and then it sends the media
25 stream that's generated to the enduser computers via

1 the 132 broadcast transfer receiver and the 102
2 satellite.

3 BY MR. MCBRIDE:

4 Q. Thank you Mr. Lipoff, that's the only
5 questions I have.

6 MR. MCBRIDE: Counsel, are we done?

7 FURTHER EXAMINATION BY COUNSEL FOR PLAINTIFF

8 BY MR. DROLET:

9 Q. Follow-up question with respect to the
10 question Mr. McBride just asked you. That's with the
11 broadcast itself, is that an RF signal?

12 A. The signal that's leaving broadcast
13 transmitter receiver 132 at the gateway is an RF
14 signal in Avellan. And it's received by a satellite
15 and the satellite generates an RF signal that is then
16 sent to the user computer 104.

17 Q. So the broadcast is an RF signal?

18 MR. MCBRIDE: Objection to form.

19 WITNESS: Just to be clear about what
we're

20 referring to, the output of Element 132 in figure 1,
21 which the patent described as a broadcast
22 transmitter/receiver, that is an RF signal. The RF

23 signal is relayed through the satellite and the
24 satellite generates another RF signal which is then
25 sent to user devices 104.

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1 Q. Thank you, Mr. Lipoff. Thank you so much.

2 FURTHER EXAMINATION BY COUNSEL FOR DEFENDANTS

3 BY MR. MCBRIDE:

4 Q. One quick follow-up question to that.

5 Mr. Lipoff, in the Avellan reference is the use of a
6 satellite one of the embodiments of Avellan?

7 A. Yes, it is. It's one of the embodiments

of

8 Avellan. Yes.

9 Q. Okay, no further questions.

10 MR. MCBRIDE: All right. Counsel, are we
11 done?

Lipoff,

12 MR. DROLET: We're good to go. Mr.
13 thanks again. Thank you very much for that, I
14 appreciate your patience.

15 WITNESS: Yes, Mr. Drolet.

16 MR. DROLET: Thank you.

17 MR. MCBRIDE: All right. Thank you,
18 everybody.

19 THE VIDEOGRAPHER: Let me get us off the
20 record.

21 This concludes today's testimony of Stuart
22 Lipoff and Media Unit 3. We are going off the record
23 at 12:59 p.m.

24 (Whereupon, at 12:59 p.m., signature
having
25 been waived, the taking of the instant deposition

82

1 ceased.)

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1 CERTIFICATE OF REPORTER
2 UNITED STATES OF AMERICA) ss.:
3 DISTRICT OF COLUMBIA)
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6 I, ROBIN L. COLEMAN, the officer before whom the
7 foregoing proceedings were taken, do hereby
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14 of the parties to this case and have no interest,
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the District of Columbia

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21 My commission expires: 01/17/2029

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