

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p style="text-align: right;">Page 1</p> <p>1 UNITED STATES PATENT AND TRADEMARK OFFICE</p> <p>2 -----</p> <p>3 BEFORE THE PATENT TRIAL AND APPEAL BOARD</p> <p>4 -----</p> <p>5 META PLATFORMS, INC.,</p> <p>6 Petitioners,</p> <p>7 v.</p> <p>8 STERLING COMPUTERS CORPORATION,</p> <p>9 Patent Owner,</p> <p>10 -----</p> <p>11 Case No. IPR2025-00430</p> <p>12 U.S. Patent No. 7,716,217</p> <p>13</p> <p>14 Deposition of JUSTIN MARSTON</p> <p>15 Remote Video Teleconference</p> <p>16 Friday, January 23, 2026</p> <p>17 7:01 a.m. - 2:52 a.m. PST</p> <p>18</p> <p>19</p> <p>20 Job No.: 23200</p> <p>21 Pages: 1 - 371</p> <p>22 Stenographically Reported By: Cara Foster, RPR,<br/>CA CSR No. 11973</p> | <p style="text-align: right;">Page 3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1</p> <p>2</p> <p>3 FOR THE PETITIONER, META PLATFORMS, INC.:</p> <p>4 PERKINS COIE, LLP</p> <p>5 By: Andrew T. Ohlert, Esq.</p> <p>6 1301 Second Avenue</p> <p>7 Suite 4200</p> <p>8 Seattle, Washington 98101-3804</p> <p>206.359.305800</p> <p>aohlert@perkinscoie.com</p> <p>9</p> <p>10 FOR THE PATENT OWNER, STERLING COMPUTERS CORPORATION:</p> <p>11 PADMANABHAN &amp; DAWSON, PLLC</p> <p>12 By: Devan V. Padmanabhan, Esq.</p> <p>13 9800 Shelard Parkway</p> <p>14 Suite 120</p> <p>15 Plymouth, Minneapolis, 55441</p> <p>866.804.8678</p> <p>devan@paddalawgroup.com</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 ALSO PRESENT:</p> <p>21 Said Hofiani, Videographer</p> <p>22 Tyler Knox</p> |
| <p style="text-align: right;">Page 2</p> <p>1 Videotaped Deposition of JUSTIN MARSTON, conducted</p> <p>2 virtually via Zoom videoconference.</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8 Pursuant to notice, before Cara M.</p> <p>9 Foster, Registered Professional Reporter Number</p> <p>10 47135, Stenographic Certified Shorthand Reporter</p> <p>11 Number 11973, in and for the State of California,</p> <p>12 and Stenographic Certified Shorthand Reporter</p> <p>13 Number 23006866, in and for the State of</p> <p>14 Washington.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>                                                                          | <p style="text-align: right;">Page 4</p> <p style="text-align: center;">I N D E X</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p style="text-align: right;">PAGE</p> <p>Appearances..... 3</p> <p>Exhibit List..... 5</p> <p>JUSTIN MARSTON</p> <p>Examination by Mr. Ohlert..... 9</p> <p>Examination by Mr. Padmanabhan..... 367</p> <p>Witness's Changes or Corrections..... 369</p> <p>Witness's Declaration..... 370</p> <p>Stenographer's Certificate..... 371</p> <p>REPORTER'S NOTE:</p> <p>Quotation marks are used for clarity and do not</p> <p>necessarily reflect a direct quote.</p>                                        |

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|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------|------|
| E X H I B I T S |                                                                                                                                                                               |      | E X H I B I T S                                                                                                                                                                                                                                                                 |                                                                                                            |      |
| EXHIBIT         | DESCRIPTION                                                                                                                                                                   | PAGE | EXHIBIT                                                                                                                                                                                                                                                                         | DESCRIPTION                                                                                                | PAGE |
| 1               | Sterling EX2003 IPR2025-00430 (11 pages)<br>Declaration of Justin Marston                                                                                                     | 14   | 19                                                                                                                                                                                                                                                                              | August 2, 2005, Letter to Bobby Inman<br>from Justin (1 page)                                              | 306  |
| 2               | Sterling EX2015 IPR2025-00430 (11 pages)<br>Supplemental Declaration of Justin Marston                                                                                        | 15   | 20                                                                                                                                                                                                                                                                              | Sterling EX2014 IPR 2025-00430 (36 pages)<br>Claim Chart for BlueSpace Mail Documents<br>(EX2004 & EX2006) | 310  |
| 3               | Sterling EX2030 IPR2025-00430 (27 pages)<br>Second Supplemental Declaration of<br>Justin Marston                                                                              | 15   | 21                                                                                                                                                                                                                                                                              | Sterling EX2045 IPR2025-00430 (95 pages)<br>BlueSpace - BlueSpace Mail Relevance                           | 314  |
| 4               | META-1001 IPR2025-00430 (50 pages)<br>United States Patent No. US 7,716,217 B2                                                                                                | 22   | 22                                                                                                                                                                                                                                                                              | Sterling EX2065 IPR2025-00430 (100 pages)<br>BlueSpace - BlueSpace Mail Relevance                          | 324  |
| 5               | United States Patent No. US 8,073,911 BS<br>(17 pages)                                                                                                                        | 24   | 23                                                                                                                                                                                                                                                                              | Sterling EX2048 IPR2025-00430 (5 pages)<br>Notes on Search Document                                        | 352  |
| 6               | United States Patent No. US 9,021,559 B1<br>(20 pages)                                                                                                                        | 26   | 24                                                                                                                                                                                                                                                                              | Sterling EX2050 IPR2025-00430 (3 pages)<br>General Comments                                                | 359  |
| 7               | Sterling EX 2018 IPR 2025-00430 (35 pages)<br>CV of Justin Marston                                                                                                            | 39   | 25                                                                                                                                                                                                                                                                              | Sterling EX2047 IPR2025-00430 (7 pages)<br>TransMail Relevance Formulae                                    | 364  |
| 8               | Patent Owner's Response (72 pages)                                                                                                                                            | 108  |                                                                                                                                                                                                                                                                                 |                                                                                                            |      |
| 9               | META-1006 IPR2025-00430 (11 pages)<br>United States Patent No. US 6,202,058 B1                                                                                                | 118  |                                                                                                                                                                                                                                                                                 |                                                                                                            |      |
| 10              | Sterling EX2004 IPR 2025-00430 (35 pages)<br>BlueSpace - BlueSpace Mail Search                                                                                                | 170  |                                                                                                                                                                                                                                                                                 |                                                                                                            |      |
| Page 6          |                                                                                                                                                                               |      | Page 8                                                                                                                                                                                                                                                                          |                                                                                                            |      |
| E X H I B I T S |                                                                                                                                                                               |      | P R O C E E D I N G S                                                                                                                                                                                                                                                           |                                                                                                            |      |
| EXHIBIT         | DESCRIPTION                                                                                                                                                                   | PAGE | * * *                                                                                                                                                                                                                                                                           |                                                                                                            |      |
| 11              | Sterling EX2006 IPR 2025-00430 (61 pages)<br>BlueSpace - BlueSpace Mail Relevance                                                                                             | 185  | THE VIDEOGRAPHER: Good morning. We are<br>on record at 7:01 a.m. Today's date is January<br>23, 2026. This is the recorded remote deposition<br>of Justin Marston in the matter of Meta Platforms,<br>Inc. versus Sterling Computers Corporation, case<br>number IPR2025-00430. |                                                                                                            |      |
| 12              | X Corp. EX1003 IPR2025-00299 (99 pages)<br>United States Department of Commerce<br>Application Number: 60/758,828<br>Filing Date: January 13, 2006                            | 206  | This deposition is being held via web<br>conference. My name is Said Hofiani. I'm the<br>videographer with Focus Litigation Solutions. The<br>court reporter is Cara Foster.                                                                                                    |                                                                                                            |      |
| 13              | Sterling EX2007 IPR 2025-00430 (77 pages)<br>BlueSpace - BlueSpace Mail Relevance                                                                                             | 214  | Counsel, please introduce yourselves and<br>state whom you represent after which the court<br>reporter will state her CSR license number and<br>swear in the witness.                                                                                                           |                                                                                                            |      |
| 14              | Sterling EX2042 IPR2025-00430 (17 pages)<br>Log of Privileged Communications with<br>BlueSpace Counsel Regarding BlueSpace work<br>from June 28, 2005, until January 13, 2006 | 236  | MR. OHLERT: This is Andrew Ohlert with<br>Perkins Coie on behalf of Meta.                                                                                                                                                                                                       |                                                                                                            |      |
| 15              | Sterling EX2041 IPR2025-00430 (5 pages)<br>Tables                                                                                                                             | 274  | MR. PADMANABHAN: Devan Padmanabhan on<br>behalf of Sterling Computers.                                                                                                                                                                                                          |                                                                                                            |      |
| 16              | Emails (12 pages)                                                                                                                                                             | 278  | JUSTIN MARSTON,<br>was called for examination, and after having been                                                                                                                                                                                                            |                                                                                                            |      |
| 17              | July 2005 BlueSpace SEC Presentation<br>Justin Marston, EVP Product and<br>Jason Fitzpatrick, Director - Services<br>& Delivery                                               | 285  |                                                                                                                                                                                                                                                                                 |                                                                                                            |      |
| 18              | Email Re: Re: Additional Thoughts<br>(1 page)                                                                                                                                 | 290  |                                                                                                                                                                                                                                                                                 |                                                                                                            |      |

| Page 9  |                                                    |  |  |  | Page 11 |                                                    |  |  |  |
|---------|----------------------------------------------------|--|--|--|---------|----------------------------------------------------|--|--|--|
| 1       | duly sworn in under penalty of perjury by the      |  |  |  | 1       | Q. Okay. Now, you understand that at times         |  |  |  |
| 2       | stenographic certified shorthand reporter, was     |  |  |  | 2       | counsel may object to some of my questions, but    |  |  |  |
| 3       | examined and testified as follows:                 |  |  |  | 3       | unless you're instructed not to answer, you're     |  |  |  |
| 4       | EXAMINATION                                        |  |  |  | 4       | still expected to provide an answer?               |  |  |  |
| 5       | BY MR. OHLERT:                                     |  |  |  | 5       | A. Yeah.                                           |  |  |  |
| 6       | Q. Good morning, Mr. Marston. How are you          |  |  |  | 6       | Q. Does that make sense? Okay.                     |  |  |  |
| 7       | doing today?                                       |  |  |  | 7       | I'll just ask that if you have any chat            |  |  |  |
| 8       | A. Good.                                           |  |  |  | 8       | or communication programs on your device, if you   |  |  |  |
| 9       | Q. Thank you for being with us.                    |  |  |  | 9       | could please close those. Same with any email      |  |  |  |
| 10      | Have you ever been deposed before?                 |  |  |  | 10      | messages or browsers, things like that.            |  |  |  |
| 11      | A. I mean, once, a few weeks ago.                  |  |  |  | 11      | Does that make sense?                              |  |  |  |
| 12      | Q. Okay. Well, just in light of that, I'd          |  |  |  | 12      | A. Yeah. Okay. That's going to be a pain           |  |  |  |
| 13      | like to cover a few kind of ground rules for       |  |  |  | 13      | here.                                              |  |  |  |
| 14      | today's deposition just so everyone is on the same |  |  |  | 14      | Okay.                                              |  |  |  |
| 15      | page.                                              |  |  |  | 15      | Q. No rush at all -- okay. You say you're          |  |  |  |
| 16      | Does that make sense to you?                       |  |  |  | 16      | done now?                                          |  |  |  |
| 17      | A. Yes.                                            |  |  |  | 17      | A. Yeah. I think that's good enough.               |  |  |  |
| 18      | Q. Okay. So you understand that today's            |  |  |  | 18      | Q. Okay. Do you have any documents in              |  |  |  |
| 19      | deposition will be recorded?                       |  |  |  | 19      | person in front of you today?                      |  |  |  |
| 20      | A. Yes.                                            |  |  |  | 20      | MR. PADMANABHAN: No. I brought -- I                |  |  |  |
| 21      | Q. So we would just ask that you please            |  |  |  | 21      | brought him his second -- I brought a copy of his  |  |  |  |
| 22      | answer all questions verbally and not with         |  |  |  | 22      | second declaration and supplemental declaration    |  |  |  |
| Page 10 |                                                    |  |  |  | Page 12 |                                                    |  |  |  |
| 1       | physical movements like a nod or a shrug, just for |  |  |  | 1       | and second supplemental declaration, if it         |  |  |  |
| 2       | the benefit of the court reporter.                 |  |  |  | 2       | helps.                                             |  |  |  |
| 3       | Do you agree that you'll provide verbal            |  |  |  | 3       | MR. OHLERT: Okay. And, just for the                |  |  |  |
| 4       | answers like "yes" and "no"?                       |  |  |  | 4       | record, Counsel, can you confirm that none of      |  |  |  |
| 5       | A. Yes.                                            |  |  |  | 5       | those documents have any markings or editings      |  |  |  |
| 6       | Q. And can you agree that you'll wait until        |  |  |  | 6       | added to them?                                     |  |  |  |
| 7       | I finish asking my question before you respond,    |  |  |  | 7       | MR. PADMANABHAN: Yeah. They -- it's not            |  |  |  |
| 8       | and I'll wait until you finish your answer before  |  |  |  | 8       | marked at all.                                     |  |  |  |
| 9       | I proceed with my next question?                   |  |  |  | 9       | MR. OHLERT: Great.                                 |  |  |  |
| 10      | Does that make sense?                              |  |  |  | 10      | MR. PADMANABHAN: I'm not saying he's               |  |  |  |
| 11      | A. Yes.                                            |  |  |  | 11      | going to use it. He's very fast with his           |  |  |  |
| 12      | Q. And you understand that you are under           |  |  |  | 12      | computer, I'm sure, but if he needs it, it's here. |  |  |  |
| 13      | oath today?                                        |  |  |  | 13      | MR. OHLERT: Okay. Great. Super                     |  |  |  |
| 14      | A. Yes.                                            |  |  |  | 14      | helpful. Appreciate it.                            |  |  |  |
| 15      | Q. Is there anything that would prevent you        |  |  |  | 15      | BY MR. OHLERT:                                     |  |  |  |
| 16      | from offering truthful and complete answers        |  |  |  | 16      | Q. So, Mr. Marston, I'm getting ahead of           |  |  |  |
| 17      | today?                                             |  |  |  | 17      | myself.                                            |  |  |  |
| 18      | A. No.                                             |  |  |  | 18      | Can you please state your name for the             |  |  |  |
| 19      | Q. Are you on any medications or substances        |  |  |  | 19      | record?                                            |  |  |  |
| 20      | that would impair your ability to provide truthful |  |  |  | 20      | A. Yes. Justin Marston, J-u-s-t-i-n                |  |  |  |
| 21      | and honest testimony today?                        |  |  |  | 21      | M-a-r-s-t-o-n.                                     |  |  |  |
| 22      | A. No.                                             |  |  |  | 22      | Q. And you said you have been deposed once         |  |  |  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 before.</p> <p>2 Was that part of the X IPR?</p> <p>3 A. Yes.</p> <p>4 Q. And that deposition generally involved</p> <p>5 the same subject matter that we're going to cover</p> <p>6 today?</p> <p>7 A. Yes.</p> <p>8 Q. And that deposition also related to the</p> <p>9 patent that is being challenged in these IPR</p> <p>10 proceedings, which is U.S. Patent Number</p> <p>11 7,716,217; correct?</p> <p>12 A. I don't know the number but, yes,</p> <p>13 probably. Whatever the --</p> <p>14 Q. Okay.</p> <p>15 A. Yeah.</p> <p>16 Q. How did you prepare for today's</p> <p>17 deposition?</p> <p>18 A. Badly. I'm really busy at the moment.</p> <p>19 But, yeah, I tried to read the documents</p> <p>20 yesterday. Didn't have a lot of time. That's</p> <p>21 pretty much -- that's pretty much what I did.</p> <p>22 Q. Did you meet with counsel at all to</p>               | <p>Page 13</p> | <p>1 declaration that you submitted in this matter?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. I'm going to upload a second</p> <p>4 document or exhibit to this deposition, which also</p> <p>5 is labeled EX-2015.</p> <p>6 (Exhibit 2 was marked.)</p> <p>7 BY MR. OHLERT:</p> <p>8 Q. Can you let me know when you have that</p> <p>9 open?</p> <p>10 A. Yeah.</p> <p>11 Q. And do you recognize this as the second</p> <p>12 declaration that you submitted in this matter?</p> <p>13 A. Yeah.</p> <p>14 Q. Okay. And I'm going to do the same</p> <p>15 exercise with another document that I'm uploading</p> <p>16 now. I've uploaded Exhibit 3 to the deposition,</p> <p>17 which is also labeled EX-2030.</p> <p>18 (Exhibit 3 was marked.)</p> <p>19 BY MR. OHLERT:</p> <p>20 Q. Can you let me know when you have that</p> <p>21 open?</p> <p>22 A. I do.</p>                                                                                                                                                                                                                                                         |
| <p>1 prepare for today's deposition?</p> <p>2 A. I had a brief conversation two days ago</p> <p>3 just confirming details and those -- that's pretty</p> <p>4 much what I did --</p> <p>5 Q. Okay.</p> <p>6 A. -- for this deposition.</p> <p>7 Q. I don't want to get into the substance of</p> <p>8 your communications with counsel, but</p> <p>9 approximately how long did you speak with counsel</p> <p>10 to prepare for today's deposition?</p> <p>11 A. 30 minutes.</p> <p>12 Q. And you submitted three declarations in</p> <p>13 this matter; correct?</p> <p>14 A. Yes.</p> <p>15 Q. So I'm going to upload Exhibit 1 to the</p> <p>16 chat, which is also labeled EX-2003.</p> <p>17 (Exhibit 1 was marked.)</p> <p>18 BY MR. OHLERT:</p> <p>19 Q. Can you let me know when you have that</p> <p>20 open?</p> <p>21 A. Yep.</p> <p>22 Q. And do you recognize this as the first</p> | <p>Page 14</p> | <p>1 Q. And do you recognize this as the third</p> <p>2 declaration that you submitted in this matter?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Sorry if some of this is a little</p> <p>5 detailed and tedious but it's what we got to do</p> <p>6 today, so I appreciate your patience. Strike</p> <p>7 that.</p> <p>8 Can you just generally describe how you</p> <p>9 prepared your three declarations that you</p> <p>10 submitted in this matter?</p> <p>11 A. Yeah. We went back through a lot of</p> <p>12 email and documents and other computer records</p> <p>13 several months ago and, you know, worked through a</p> <p>14 timeline of what was done when.</p> <p>15 And then -- yeah, Devan and his team</p> <p>16 prepared the timeline submissions that we've had</p> <p>17 and the testimony, I reviewed it and, you know,</p> <p>18 agreed to the best of my recollection that it</p> <p>19 matched my memory and that it reflected what we</p> <p>20 had discovered in the discovery process.</p> <p>21 You know, it is 20 years ago. A lot of</p> <p>22 stuff has happened in 20 years. So, you know,</p> |

| Page 17 |                                                    |    |    |                                                    | Page 19 |    |                                                    |  |  |
|---------|----------------------------------------------------|----|----|----------------------------------------------------|---------|----|----------------------------------------------------|--|--|
| 1       | honestly, I do not remember in my -- you know,     | 1  | Q. | Do you see that?                                   | 1       | Q. | Do you see that?                                   |  |  |
| 2       | without -- the context of the documents is much    | 2  | A. | Yep.                                               | 2       | A. | Yep.                                               |  |  |
| 3       | better than my recollection of it but -- but,      | 3  | Q. | The caption on the front of this says, "X          | 3       | Q. | The caption on the front of this says, "X          |  |  |
| 4       | yeah, that was the process.                        | 4  |    | Corporation versus Sterling Computers              | 4       |    | Corporation versus Sterling Computers              |  |  |
| 5       | Q. Okay. And just so I understand,                 | 5  |    | Corporation."                                      | 5       |    | Corporation."                                      |  |  |
| 6       | generally, you provided documents to counsel,      | 6  |    | Do you see that?                                   | 6       |    | Do you see that?                                   |  |  |
| 7       | counsel prepared your declarations, and then you   | 7  | A. | Mm-hmm. Yes.                                       | 7       | A. | Mm-hmm. Yes.                                       |  |  |
| 8       | reviewed them for accuracy.                        | 8  | Q. | And then on the bottom right there's a             | 8       | Q. | And then on the bottom right there's a             |  |  |
| 9       | Is that about right?                               | 9  |    | stamp that includes IPR 2025-00430.                | 9       |    | stamp that includes IPR 2025-00430.                |  |  |
| 10      | MR. PADMANABHAN: Objection. Rule 611.              | 10 |    | Do you see that?                                   | 10      |    | Do you see that?                                   |  |  |
| 11      | You can answer.                                    | 11 | A. | Yes.                                               | 11      | A. | Yes.                                               |  |  |
| 12      | THE WITNESS: Yeah. That was the                    | 12 | Q. | And so this declaration has a caption for          | 12      | Q. | And so this declaration has a caption for          |  |  |
| 13      | process, yeah.                                     | 13 |    | the X IPR, but then it has a document stamp for    | 13      |    | the X IPR, but then it has a document stamp for    |  |  |
| 14      | BY MR. OHLERT:                                     | 14 |    | the Meta IPR.                                      | 14      |    | the Meta IPR.                                      |  |  |
| 15      | Q. Okay.                                           | 15 |    | Do you understand that?                            | 15      |    | Do you understand that?                            |  |  |
| 16      | A. I mean, I was quite detailed in some of         | 16 | A. | Not really but, yeah, I think so.                  | 16      | A. | Not really but, yeah, I think so.                  |  |  |
| 17      | the review at the time. You know, even since       | 17 | Q. | Is it fair to say that you submitted this          | 17      | Q. | Is it fair to say that you submitted this          |  |  |
| 18      | then, though, like I'm running another company.    | 18 |    | declaration in association with the X IPR and then | 18      |    | declaration in association with the X IPR and then |  |  |
| 19      | It's growing like crazy, you know. Like a lot of   | 19 |    | it was resubmitted in the Meta IPR?                | 19      |    | it was resubmitted in the Meta IPR?                |  |  |
| 20      | stuff coming in and out of my brain.               | 20 | A. | I believe that's accurate.                         | 20      | A. | I believe that's accurate.                         |  |  |
| 21      | But, yes, that was the -- that's what we           | 21 | Q. | Okay. And let's go to your second                  | 21      | Q. | Okay. And let's go to your second                  |  |  |
| 22      | did at the time, yep.                              | 22 |    | declaration.                                       | 22      |    | declaration.                                       |  |  |
| Page 18 |                                                    |    |    |                                                    | Page 20 |    |                                                    |  |  |
| 1       | Q. Did anyone besides counsel assist you           | 1  | A. | Uh-huh.                                            | 1       | A. | Uh-huh.                                            |  |  |
| 2       | with preparing any of your declarations?           | 2  | Q. | And that one also has a caption for the X          | 2       | Q. | And that one also has a caption for the X          |  |  |
| 3       | A. No.                                             | 3  |    | Corporation as the petitioner versus Sterling, and | 3       |    | Corporation as the petitioner versus Sterling, and |  |  |
| 4       | Q. And, I guess, how do your declarations          | 4  |    | it says case IPR2025-00299.                        | 4       |    | it says case IPR2025-00299.                        |  |  |
| 5       | relate to one another?                             | 5  |    | Do you see that?                                   | 5       |    | Do you see that?                                   |  |  |
| 6       | In other words, you know, is your third            | 6  | A. | Yes.                                               | 6       | A. | Yes.                                               |  |  |
| 7       | declaration a replacement of any of your earlier   | 7  | Q. | And then, again, in the bottom right,              | 7       | Q. | And then, again, in the bottom right,              |  |  |
| 8       | declarations or do they all cover different        | 8  |    | there's a stamp that refers to IPR2025-00430.      | 8       |    | there's a stamp that refers to IPR2025-00430.      |  |  |
| 9       | subject matter?                                    | 9  |    | Do you see that?                                   | 9       |    | Do you see that?                                   |  |  |
| 10      | A. I think the replacement -- I think that         | 10 | A. | Yep.                                               | 10      | A. | Yep.                                               |  |  |
| 11      | the following ones were clarifications on more     | 11 | Q. | So is it fair to say again, this                   | 11      | Q. | So is it fair to say again, this                   |  |  |
| 12      | detail around the specific timelines as it related | 12 |    | declaration was submitted in the X IPR and then it | 12      |    | declaration was submitted in the X IPR and then it |  |  |
| 13      | to other, you know, IP that had been patented.     | 13 |    | was resubmitted in the Meta IPR; is that fair?     | 13      |    | was resubmitted in the Meta IPR; is that fair?     |  |  |
| 14      | So I think that was the main -- the main           | 14 | A. | Yes.                                               | 14      | A. | Yes.                                               |  |  |
| 15      | reason for supplemental declarations, which is     | 15 | Q. | Is there anything about your first and             | 15      | Q. | Is there anything about your first and             |  |  |
| 16      | getting into the detail of when different things   | 16 |    | second declaration being submitted in the X IPR    | 16      |    | second declaration being submitted in the X IPR    |  |  |
| 17      | were invented in the process of the authorship of  | 17 |    | that would affect its relevance to the Meta IPR?   | 17      |    | that would affect its relevance to the Meta IPR?   |  |  |
| 18      | the patent.                                        | 18 | A. | I guess I didn't know the answer to that.          | 18      | A. | I guess I didn't know the answer to that.          |  |  |
| 19      | Q. Okay. And I'll just direct you to the           | 19 |    | It seems like an attorney question, but --         | 19      |    | It seems like an attorney question, but --         |  |  |
| 20      | first page of your first declaration, labeled      | 20 | Q. | Well, let me ask it this way. There's              | 20      | Q. | Well, let me ask it this way. There's              |  |  |
| 21      | EX-2003.                                           | 21 |    | nothing about that arrangement that gives you      | 21      |    | nothing about that arrangement that gives you      |  |  |
| 22      | A. Yep.                                            | 22 |    | pause in terms of standing behind these            | 22      |    | pause in terms of standing behind these            |  |  |

| Page 21 |                                                    |  |  |  |  |  |  |  |  | Page 23 |                                                   |  |  |  |  |  |  |  |  |
|---------|----------------------------------------------------|--|--|--|--|--|--|--|--|---------|---------------------------------------------------|--|--|--|--|--|--|--|--|
| 1       | declarations; fair?                                |  |  |  |  |  |  |  |  | 1       | Q. How do you know Paul Marston?                  |  |  |  |  |  |  |  |  |
| 2       | A. No.                                             |  |  |  |  |  |  |  |  | 2       | A. He's my father.                                |  |  |  |  |  |  |  |  |
| 3       | Q. Okay. I think you said "yes" but I'm not        |  |  |  |  |  |  |  |  | 3       | Q. Okay. Easy question.                           |  |  |  |  |  |  |  |  |
| 4       | sure the audio caught it, so...                    |  |  |  |  |  |  |  |  | 4       | Looking at number 22 on this title page,          |  |  |  |  |  |  |  |  |
| 5       | A. So, yeah. I mean, I'm -- I'm -- there's         |  |  |  |  |  |  |  |  | 5       | you see that the '217 patent was filed on January |  |  |  |  |  |  |  |  |
| 6       | nothing that -- I'm not concerned about the        |  |  |  |  |  |  |  |  | 6       | 16, 2000; correct?                                |  |  |  |  |  |  |  |  |
| 7       | accuracy of the first two with respect to what's   |  |  |  |  |  |  |  |  | 7       | MR. PADMANABHAN: 2007?                            |  |  |  |  |  |  |  |  |
| 8       | stated in the third.                               |  |  |  |  |  |  |  |  | 8       | THE WITNESS: 2007.                                |  |  |  |  |  |  |  |  |
| 9       | Q. Okay. And did you review the declaration        |  |  |  |  |  |  |  |  | 9       | BY MR. OHLERT:                                    |  |  |  |  |  |  |  |  |
| 10      | of Paul Marston at all in preparing for today's    |  |  |  |  |  |  |  |  | 10      | Q. Excuse me. Let me -- let me ask again --       |  |  |  |  |  |  |  |  |
| 11      | deposition?                                        |  |  |  |  |  |  |  |  | 11      | strike that.                                      |  |  |  |  |  |  |  |  |
| 12      | A. I haven't. I haven't read his                   |  |  |  |  |  |  |  |  | 12      | Looking on 22 on the coverage page of the         |  |  |  |  |  |  |  |  |
| 13      | declaration.                                       |  |  |  |  |  |  |  |  | 13      | '217 patent, you see it was filed January 16,     |  |  |  |  |  |  |  |  |
| 14      | Q. Okay. So you just never have read his           |  |  |  |  |  |  |  |  | 14      | 2007; correct?                                    |  |  |  |  |  |  |  |  |
| 15      | declaration; fair?                                 |  |  |  |  |  |  |  |  | 15      | A. Yes.                                           |  |  |  |  |  |  |  |  |
| 16      | A. Yes. I never read -- never read any of          |  |  |  |  |  |  |  |  | 16      | Q. And just below that in parenthetical 60,       |  |  |  |  |  |  |  |  |
| 17      | his.                                               |  |  |  |  |  |  |  |  | 17      | this document says that, "The provisional         |  |  |  |  |  |  |  |  |
| 18      | Q. And did you review the prior transcript         |  |  |  |  |  |  |  |  | 18      | application for the 828 application was filed on  |  |  |  |  |  |  |  |  |
| 19      | from the deposition of Paul Marston in the X       |  |  |  |  |  |  |  |  | 19      | January 13, 2006"; correct?                       |  |  |  |  |  |  |  |  |
| 20      | IPR?                                               |  |  |  |  |  |  |  |  | 20      | A. Yes.                                           |  |  |  |  |  |  |  |  |
| 21      | A. No.                                             |  |  |  |  |  |  |  |  | 21      | Q. And so you understand that the earliest        |  |  |  |  |  |  |  |  |
| 22      | Q. Did you review any declarations from            |  |  |  |  |  |  |  |  | 22      | application related to the '217 patent was filed  |  |  |  |  |  |  |  |  |
| Page 22 |                                                    |  |  |  |  |  |  |  |  | Page 24 |                                                   |  |  |  |  |  |  |  |  |
| 1       | Dr. Latifur Khan at any point?                     |  |  |  |  |  |  |  |  | 1       | on January 13, 2006; fair?                        |  |  |  |  |  |  |  |  |
| 2       | A. No. I don't know who he is.                     |  |  |  |  |  |  |  |  | 2       | A. Yes.                                           |  |  |  |  |  |  |  |  |
| 3       | Q. I'll just represent to you that he's the        |  |  |  |  |  |  |  |  | 3       | Q. Are there any other co-inventors related       |  |  |  |  |  |  |  |  |
| 4       | expert for Sterling in this case.                  |  |  |  |  |  |  |  |  | 4       | to the '217 patent?                               |  |  |  |  |  |  |  |  |
| 5       | A. No. I haven't seen nothing from him.            |  |  |  |  |  |  |  |  | 5       | A. No.                                            |  |  |  |  |  |  |  |  |
| 6       | (Exhibit 4 was marked.)                            |  |  |  |  |  |  |  |  | 6       | Q. Did anyone else contribute to the              |  |  |  |  |  |  |  |  |
| 7       | BY MR. OHLERT:                                     |  |  |  |  |  |  |  |  | 7       | invention of the '217 patent other than yourself  |  |  |  |  |  |  |  |  |
| 8       | Q. Okay. So I'm going to put into the chat         |  |  |  |  |  |  |  |  | 8       | or Mr. Paul Marston?                              |  |  |  |  |  |  |  |  |
| 9       | the fourth exhibit to today's deposition, which is |  |  |  |  |  |  |  |  | 9       | A. No.                                            |  |  |  |  |  |  |  |  |
| 10      | labeled EX-1001.                                   |  |  |  |  |  |  |  |  | 10      | Q. Are you a named inventor on any other          |  |  |  |  |  |  |  |  |
| 11      | Can you let me know when you have that             |  |  |  |  |  |  |  |  | 11      | patents?                                          |  |  |  |  |  |  |  |  |
| 12      | open?                                              |  |  |  |  |  |  |  |  | 12      | A. Yes.                                           |  |  |  |  |  |  |  |  |
| 13      | A. Yeah.                                           |  |  |  |  |  |  |  |  | 13      | Q. What other patents?                            |  |  |  |  |  |  |  |  |
| 14      | Q. Do you recognize this as the '217 patent        |  |  |  |  |  |  |  |  | 14      | A. Lots of them. I can't remember all off         |  |  |  |  |  |  |  |  |
| 15      | that is being challenged in this case?             |  |  |  |  |  |  |  |  | 15      | hand, but yeah. I know the -- know the name.      |  |  |  |  |  |  |  |  |
| 16      | A. Yes.                                            |  |  |  |  |  |  |  |  | 16      | Eight to ten patents, probably.                   |  |  |  |  |  |  |  |  |
| 17      | Q. And you are a named inventor of the '217        |  |  |  |  |  |  |  |  | 17      | Q. And would all of those eight to ten            |  |  |  |  |  |  |  |  |
| 18      | patent; correct?                                   |  |  |  |  |  |  |  |  | 18      | patents be U.S. patents or would they be in other |  |  |  |  |  |  |  |  |
| 19      | A. Yes.                                            |  |  |  |  |  |  |  |  | 19      | jurisdictions as well?                            |  |  |  |  |  |  |  |  |
| 20      | Q. And Paul Marston is also listed as a            |  |  |  |  |  |  |  |  | 20      | A. They are U.S. patents.                         |  |  |  |  |  |  |  |  |
| 21      | co-inventor of the '217 patent; correct?           |  |  |  |  |  |  |  |  | 21      | (Exhibit 5 was marked.)                           |  |  |  |  |  |  |  |  |
| 22      | A. Yes.                                            |  |  |  |  |  |  |  |  | 22      | BY MR. OHLERT:                                    |  |  |  |  |  |  |  |  |

| Page 25 |    |                |                                                    |  |  |  |  |  |  | Page 27 |  |            |                                                    |  |  |  |  |  |  |
|---------|----|----------------|----------------------------------------------------|--|--|--|--|--|--|---------|--|------------|----------------------------------------------------|--|--|--|--|--|--|
| 1       | Q. | Okay.          | I'm going to upload what will be                   |  |  |  |  |  |  | 1       |  | You agree? |                                                    |  |  |  |  |  |  |
| 2       |    |                | Exhibit 5 to today's deposition.                   |  |  |  |  |  |  | 2       |  | A.         | Yes.                                               |  |  |  |  |  |  |
| 3       |    |                | Can you let me know when you have that             |  |  |  |  |  |  | 3       |  | Q.         | And you are a named inventor on this               |  |  |  |  |  |  |
| 4       |    |                | open?                                              |  |  |  |  |  |  | 4       |  |            | patent as well?                                    |  |  |  |  |  |  |
| 5       |    | A.             | Yes.                                               |  |  |  |  |  |  | 5       |  | A.         | Yes.                                               |  |  |  |  |  |  |
| 6       |    | Q.             | And this document is U.S. patent number            |  |  |  |  |  |  | 6       |  | Q.         | And BlueSpace Software Corporation is              |  |  |  |  |  |  |
| 7       |    |                | 8,073,911; correct?                                |  |  |  |  |  |  | 7       |  |            | listed as the assignee?                            |  |  |  |  |  |  |
| 8       |    | A.             | Yes.                                               |  |  |  |  |  |  | 8       |  | A.         | Yes.                                               |  |  |  |  |  |  |
| 9       |    | Q.             | And you are a named inventor on this               |  |  |  |  |  |  | 9       |  | Q.         | And this patent issued on April 28,                |  |  |  |  |  |  |
| 10      |    |                | patent as well; right?                             |  |  |  |  |  |  | 10      |  |            | 2015?                                              |  |  |  |  |  |  |
| 11      |    | A.             | Yes.                                               |  |  |  |  |  |  | 11      |  | A.         | Yes.                                               |  |  |  |  |  |  |
| 12      |    | Q.             | And the assignee for this patent is                |  |  |  |  |  |  | 12      |  | Q.         | And the title is, "Server-based                    |  |  |  |  |  |  |
| 13      |    |                | BlueSpace Software Corporation?                    |  |  |  |  |  |  | 13      |  |            | architecture for securely providing multi-domain   |  |  |  |  |  |  |
| 14      |    | A.             | Yes.                                               |  |  |  |  |  |  | 14      |  |            | applications."                                     |  |  |  |  |  |  |
| 15      |    | Q.             | And the title is, "Enforcing compliance            |  |  |  |  |  |  | 15      |  |            | Do you see that?                                   |  |  |  |  |  |  |
| 16      |    |                | policies in a messaging system."                   |  |  |  |  |  |  | 16      |  | A.         | Yes.                                               |  |  |  |  |  |  |
| 17      |    |                | Do you see that?                                   |  |  |  |  |  |  | 17      |  | Q.         | What is this patent about?                         |  |  |  |  |  |  |
| 18      |    | A.             | Yes.                                               |  |  |  |  |  |  | 18      |  | A.         | It's -- it's about creating mashup                 |  |  |  |  |  |  |
| 19      |    | Q.             | What is this patent about?                         |  |  |  |  |  |  | 19      |  |            | applications that span multiple different          |  |  |  |  |  |  |
| 20      |    | A.             | It's about enforcing access rights and             |  |  |  |  |  |  | 20      |  |            | classified network domains in the intelligence     |  |  |  |  |  |  |
| 21      |    |                | retention policies on message objects in a         |  |  |  |  |  |  | 21      |  |            | community in the defense department.               |  |  |  |  |  |  |
| 22      |    |                | relational messaging system.                       |  |  |  |  |  |  | 22      |  | Q.         | And is it fair to say that this patent is          |  |  |  |  |  |  |
| Page 26 |    |                |                                                    |  |  |  |  |  |  | Page 28 |  |            |                                                    |  |  |  |  |  |  |
| 1       | Q. | Okay.          | And so is it fair to say that this                 |  |  |  |  |  |  | 1       |  |            | also not about determining the automatic relevance |  |  |  |  |  |  |
| 2       |    |                | is more about data security and managing access to |  |  |  |  |  |  | 2       |  |            | of content?                                        |  |  |  |  |  |  |
| 3       |    |                | emails than it is about determining the relevance  |  |  |  |  |  |  | 3       |  | A.         | Yes.                                               |  |  |  |  |  |  |
| 4       |    |                | of content?                                        |  |  |  |  |  |  | 4       |  | Q.         | Okay. Let's go to your second                      |  |  |  |  |  |  |
| 5       |    | A.             | Yes. It's more to do with access rights            |  |  |  |  |  |  | 5       |  |            | declaration labeled EX-2015.                       |  |  |  |  |  |  |
| 6       |    |                | and -- yeah. I mean, the compliant -- assigning    |  |  |  |  |  |  | 6       |  | A.         | Yep.                                               |  |  |  |  |  |  |
| 7       |    |                | and enforcing compliance policies on how content   |  |  |  |  |  |  | 7       |  | Q.         | And I'll direct you to paragraph 8, which          |  |  |  |  |  |  |
| 8       |    |                | should be managed and be made accessible from a    |  |  |  |  |  |  | 8       |  |            | I believe is on page 3.                            |  |  |  |  |  |  |
| 9       |    |                | messaging system versus trying to do anything to   |  |  |  |  |  |  | 9       |  | A.         | Yep.                                               |  |  |  |  |  |  |
| 10      |    |                | determine the relevance of it.                     |  |  |  |  |  |  | 10      |  | Q.         | And so you received a masters in science           |  |  |  |  |  |  |
| 11      |    | Q.             | Okay. And would it be fair to say that             |  |  |  |  |  |  | 11      |  |            | in chemistry from Durham University in the year    |  |  |  |  |  |  |
| 12      |    |                | this patent is not related to automatically        |  |  |  |  |  |  | 12      |  |            | 2000; correct?                                     |  |  |  |  |  |  |
| 13      |    |                | determining the relevance of electronic content?   |  |  |  |  |  |  | 13      |  | A.         | Yes.                                               |  |  |  |  |  |  |
| 14      |    | A.             | Yes.                                               |  |  |  |  |  |  | 14      |  | Q.         | What was your bachelor's degree in?                |  |  |  |  |  |  |
| 15      |    |                | (Exhibit 6 was marked.)                            |  |  |  |  |  |  | 15      |  | A.         | Chemistry. And it was a four-year                  |  |  |  |  |  |  |
| 16      |    | BY MR. OHLERT: |                                                    |  |  |  |  |  |  | 16      |  |            | degree.                                            |  |  |  |  |  |  |
| 17      |    | Q.             | I'm going to upload what is Exhibit 6.             |  |  |  |  |  |  | 17      |  | Q.         | And where was that received from?                  |  |  |  |  |  |  |
| 18      |    |                | Can you let me know when you have that             |  |  |  |  |  |  | 18      |  | A.         | Durham.                                            |  |  |  |  |  |  |
| 19      |    |                | document open?                                     |  |  |  |  |  |  | 19      |  |            | So it -- so the on-site degree is a                |  |  |  |  |  |  |
| 20      |    | A.             | Yes.                                               |  |  |  |  |  |  | 20      |  |            | four-year goal in the master's degree so, you      |  |  |  |  |  |  |
| 21      |    | Q.             | And this is U.S. patent application                |  |  |  |  |  |  | 21      |  |            | know, it's a bachelors and a masters in a single   |  |  |  |  |  |  |
| 22      |    |                | number 9,021,559.                                  |  |  |  |  |  |  | 22      |  |            | degree course, all of which was at Durham.         |  |  |  |  |  |  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |         |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|
| <p>1 Q. Okay. And as part of your master's<br/>2 program, did you have to write a thesis?<br/>3 A. Yes.<br/>4 Q. What was your thesis about?<br/>5 A. The glycosylation of enzymatic<br/>6 membranes.<br/>7 Q. And I'm going to apologize. You're<br/>8 quickly going to test my limits there, so I will<br/>9 pretty quickly move on. Strike that.<br/>10 Did you ever work in the field of<br/>11 chemistry?<br/>12 A. I mean, not -- not after my degree.<br/>13 Q. Why not?<br/>14 A. Decided to go build tech companies<br/>15 instead.<br/>16 Q. Okay. And what was your first job after<br/>17 you received your degree?<br/>18 A. I founded BlueSpace.<br/>19 Q. And when did you found BlueSpace?<br/>20 A. Yeah. 2001. That was -- that was when<br/>21 we created the entity.<br/>22 Q. And approximately how long was BlueSpace</p>                                                                                                                                                                                                                                      | Page 29 | <p>1 as a completely new idea. Needed a new legal<br/>2 entity, new CAP structure.<br/>3 So -- so, yes. So I left and founded<br/>4 Hypori, which, you know, ultimately signed a bunch<br/>5 of contracts with the intelligence community.<br/>6 Q. And did BlueSpace ever have any<br/>7 functioning products that it sold on the market?<br/>8 A. Yes.<br/>9 Q. And can you provide just an overview of<br/>10 those products?<br/>11 A. Yeah. I mean, so there's really two<br/>12 products -- two sets of products in the lifetime<br/>13 of BlueSpace. The first was based on TransMail<br/>14 and secure messaging, and it had customers in the<br/>15 U.K. and the U.S. for that product. Ultimately,<br/>16 gravitated more towards the defense and<br/>17 intelligence community because it turned out they<br/>18 really cared about highly audited secure compliant<br/>19 messaging systems.<br/>20 And then, you know, through that, I ended<br/>21 up getting involved in -- having the ideas for the<br/>22 second system that you referenced the patent on in</p> | Page 31 |
| <p>1 active as a company?<br/>2 A. So I left. I don't know what the<br/>3 specific date was when they, you know, completed<br/>4 the sale and shut the company down, because I had<br/>5 already left.<br/>6 But, you know, at least a decade. So,<br/>7 yeah. I mean, I was there for a decade until I<br/>8 went and started Hypori. And then I think it<br/>9 continued for another couple of years before<br/>10 Sterling acquired the company or its assets.<br/>11 Q. And so you founded BlueSpace in 2001 and<br/>12 you worked there for about a decade.<br/>13 Can you recall specifically when you<br/>14 would have left BlueSpace?<br/>15 A. Yeah. It was December of 2011. And then<br/>16 I started Hypori in January of 2012.<br/>17 Q. Why did you decide to leave BlueSpace?<br/>18 A. I'd been diluted a lot in stock ownership<br/>19 and was working on a -- was working with some<br/>20 defense customers and an intelligence agency on a<br/>21 new problem set. And, you know, they -- they were<br/>22 very keen on me moving to focus on that entirely</p> | Page 30 | <p>1 the multilevel security world, which was about,<br/>2 you know, a different type of set of applications<br/>3 in the trusted computing space.<br/>4 But, yeah, I mean, it had, I think, five<br/>5 of the big six intelligence agencies as customers,<br/>6 all three of the U.S. military branches, and then,<br/>7 you know, a set of commercial -- a smaller set of<br/>8 commercial customers.<br/>9 Q. And you gave some of an overview of the<br/>10 customers that BlueSpace worked for.<br/>11 Were those individuals specific to the<br/>12 TransMail product or the second system that you<br/>13 described or both?<br/>14 A. Both, yeah.<br/>15 Q. Okay.<br/>16 A. There was some overlap but, you know,<br/>17 some were purely on TransMail, some were purely in<br/>18 the second set. And it was -- I don't know how<br/>19 much you care about this, but it was really an<br/>20 evolution of saying, okay, we have a highly secure<br/>21 compliant messaging system and then, you know,<br/>22 okay, the government has multiple classified</p>           | Page 32 |

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| <p>1 networks at different classification levels. Page 33</p> <p>2 How do we create, aggregate, infuse</p> <p>3 across TransMail, running on those different</p> <p>4 classified networks.</p> <p>5 And then we realized that the software</p> <p>6 architecture of their trusted service bus and</p> <p>7 mashup applications would be relevant to a bunch</p> <p>8 of different types of applications, and we</p> <p>9 generalized the strategy we used in TransMail to a</p> <p>10 broader, middle west strategy, which, you know,</p> <p>11 turned out to be quite significant in different</p> <p>12 parts of the intelligence agencies -- eventually</p> <p>13 kind of copied and embedded.</p> <p>14 Q. And approximately what year would the</p> <p>15 first BlueSpace product had been provided to a</p> <p>16 customer?</p> <p>17 A. Yeah, I think that was 2002. I think the</p> <p>18 first customer, from memory, ironically, was a --</p> <p>19 was one of the early customers -- was actually</p> <p>20 a -- a tailor in London on Safiro that had massive</p> <p>21 property and other interests, that -- if you've</p> <p>22 ever seen the movie Kingsman, ironically, there's</p> | <p>1 frameworks that enabled applications to be written Page 35</p> <p>2 around it.</p> <p>3 Q. Okay. And turning back to that first</p> <p>4 product you mentioned, what kinds of features</p> <p>5 would it have had in 2002?</p> <p>6 A. So it had, you know, the ability to send</p> <p>7 and receive messages. It had the ability to</p> <p>8 define kind of lifetime access rights for sub</p> <p>9 messages, which are components of an overall</p> <p>10 message container.</p> <p>11 So, you know, historically at the time,</p> <p>12 email had a process of duplicating the email</p> <p>13 history into the forward response. And you still</p> <p>14 see that today where it just copies and pastes</p> <p>15 whatever was up to that point into the reply.</p> <p>16 The key unique in TransMail at the time</p> <p>17 or the key thing that was different to email was,</p> <p>18 you know, this relational architecture of not</p> <p>19 duplicating content.</p> <p>20 Say that -- you know, if I got a message</p> <p>21 from Jim and I forwarded it to Bill, but Bill</p> <p>22 wasn't allowed to read Jim's message, then it</p>    |
| <p>1 some truth behind it, although not quite to the Page 34</p> <p>2 degree that they have.</p> <p>3 But, yes, those companies have been</p> <p>4 around for a very long time. So they have all</p> <p>5 kinds of other businesses that have nothing to do</p> <p>6 with making suits. And so they were -- they were</p> <p>7 very keen on extremely secure, compliant messaging</p> <p>8 for that -- communication around their other</p> <p>9 businesses.</p> <p>10 Q. And so the product that you provided in</p> <p>11 2002, was it called TransMail at that time?</p> <p>12 A. Yes.</p> <p>13 Q. And just so I can remember, what was the</p> <p>14 name of the second product -- let me just ask that</p> <p>15 again -- strike that.</p> <p>16 What was the name of the second product</p> <p>17 that you mentioned that was provided by BlueSpace?</p> <p>18 A. The second product was -- was called the</p> <p>19 trusted service bus, and a mashup framework around</p> <p>20 it. I think Sterling changed the name after they</p> <p>21 acquired it. But it was -- yeah, the call was --</p> <p>22 was the trusted service bus and then the</p>                                         | <p>1 would effectively tear out Bill's message when Jim Page 36</p> <p>2 looked at it. So when I looked at, I could see</p> <p>3 Jim's message, but when Bill looked at it, he</p> <p>4 couldn't.</p> <p>5 And so it's particularly useful for</p> <p>6 things like enforcing Chinese walls, you know,</p> <p>7 between different departments in a banking context</p> <p>8 or anything where you want to define an enterprise</p> <p>9 policy for lifetime access to different pieces of</p> <p>10 content based on its attributes.</p> <p>11 So part of it was it was a secure email</p> <p>12 at the time it was very insecure. And then the</p> <p>13 other part of it was the way that it handled</p> <p>14 content as objects instead of just duplicating it</p> <p>15 everywhere.</p> <p>16 Q. And so I just want to try to break that</p> <p>17 down a little bit. One of the features that</p> <p>18 TransMail had in 2002 was what you referred to as</p> <p>19 a relational architecture; is that fair?</p> <p>20 A. Yes.</p> <p>21 Q. And the difference between a traditional</p> <p>22 architecture and a relational architecture for</p> |

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| <p>Page 37</p> <p>1 emails is that a traditional architecture will</p> <p>2 include earlier emails in the body of that message</p> <p>3 whereas a relational architecture will include</p> <p>4 links to earlier messages instead of including the</p> <p>5 body of those messages; is that fair?</p> <p>6 A. It's not a link. It's a -- you could</p> <p>7 think of it as like an embedded iFrame. So, you</p> <p>8 know, I don't have to click something to go</p> <p>9 somewhere. But, you know, it -- yes, rather than</p> <p>10 duplicating the history, it retains it as a single</p> <p>11 copy. And then it renders just like when you look</p> <p>12 at, you know, a web page, you could have multiple</p> <p>13 graphics in it.</p> <p>14 But that graphic appears once, and if you</p> <p>15 delete the graphic in one place then, you know,</p> <p>16 you can't see it in the web pages anymore.</p> <p>17 So it was really a -- that was the key</p> <p>18 unique was the -- it would render views of mails</p> <p>19 but it would interpret the viewership of each</p> <p>20 component individually based on who the recipient</p> <p>21 was who was looking at it. It would do that, you</p> <p>22 know, at one time.</p> | <p>Page 39</p> <p>1 In paragraph 9 of your second</p> <p>2 declaration, you labeled BlueSpace as a software</p> <p>3 development company.</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. Is that how you've described it</p> <p>7 elsewhere? A software development company?</p> <p>8 A. It developed software. You know, there</p> <p>9 are different ways to interpret that expression, I</p> <p>10 guess. But, you know, we made products which we</p> <p>11 sold in exchange for a license.</p> <p>12 We didn't do custom development services</p> <p>13 where the IP was owned by the client, but we were</p> <p>14 a -- you know, we built software and we sold it on</p> <p>15 a license basis as a product.</p> <p>16 Q. Okay. And so fair to say you described</p> <p>17 it as a software development company because it</p> <p>18 developed software?</p> <p>19 A. Yes.</p> <p>20 (Exhibit 7 was marked.)</p> <p>21 BY MR. OHLERT:</p> <p>22 Q. Simple enough.</p> |
| <p>Page 38</p> <p>1 Q. And I understand you're distinguishing</p> <p>2 kind of like weblinks or hyperlinks, but would it</p> <p>3 be fair to say that it includes links or</p> <p>4 references more in the sense of like a linked list</p> <p>5 where each message will have some sort of</p> <p>6 reference to other messages?</p> <p>7 A. Yeah. I mean, what was happening behind</p> <p>8 the scenes was that there was a container object</p> <p>9 and then there was message objects, which were</p> <p>10 linked from a container object.</p> <p>11 The way it was shown to the user, just</p> <p>12 like a threaded mail. But, you know, the -- what</p> <p>13 was behind it was -- was this dynamic building of</p> <p>14 the -- of the view based on different individual</p> <p>15 message objects.</p> <p>16 Q. And by using kind of references in that</p> <p>17 way, you could control permissions or access</p> <p>18 policies related to those messages to make sure</p> <p>19 they weren't distributed inappropriately?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. In paragraph 9 of your first</p> <p>22 declaration -- I'm sorry, strike that.</p>                                                                           | <p>Page 40</p> <p>1 I'm going to upload a new document to the</p> <p>2 chat which, I believe, will be Exhibit 7. And</p> <p>3 it's also labeled EX-2018.</p> <p>4 Can you let me know when you have that</p> <p>5 open?</p> <p>6 A. Yeah. It looks like my LinkedIn.</p> <p>7 Q. My next question.</p> <p>8 You agree this is a copy of your LinkedIn</p> <p>9 profile; correct?</p> <p>10 A. Yes. It looks to be a copy, yes.</p> <p>11 Q. And let's scroll to the last page. I</p> <p>12 want to focus on your discussion of your time at</p> <p>13 BlueSpace.</p> <p>14 Do you see that?</p> <p>15 A. Yeah.</p> <p>16 Q. And we already discussed BlueSpace was</p> <p>17 your first job there?</p> <p>18 A. Yes.</p> <p>19 Q. And this says, "Founded BlueSpace,</p> <p>20 briefly gave up the CEO role around 2003 but took</p> <p>21 it up again in the summer of 2006. Worked</p> <p>22 primarily in the defense and intelligence</p>                                         |

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| <p>1 sectors."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And so why did you describe it in your</p> <p>5 LinkedIn as a -- working in primarily in the</p> <p>6 defense and intelligence sectors, and then in your</p> <p>7 declaration you describe BlueSpace as a software</p> <p>8 development company?</p> <p>9 A. Because here I'm describing the customers</p> <p>10 and the other one I'm describing the type of</p> <p>11 company.</p> <p>12 Q. Okay. And so is it fair that BlueSpace</p> <p>13 was in the software space but it was working</p> <p>14 primarily to develop software for defense and</p> <p>15 intelligence sectors?</p> <p>16 A. Yeah. I mean, it didn't start that way.</p> <p>17 You know, we started off really targeting the</p> <p>18 financial services sector and, you know, others.</p> <p>19 But it just turned out that the people who cared</p> <p>20 the most about this type of policy-based messaging</p> <p>21 was the intelligence community because they</p> <p>22 really, really cared about who had seen a specific</p>                                                                                | <p>Page 41</p> | <p>1 And then I started -- you know, I</p> <p>2 realized that to have a shot at success, I needed</p> <p>3 to move to the U.S. and move the company to the</p> <p>4 U.S.</p> <p>5 So I began, you know, moving -- I began</p> <p>6 coming to the U.S. to meet with people. And one</p> <p>7 of the folks that I met was a man called Admiral</p> <p>8 Bob Inman, and he had been the -- the director of</p> <p>9 NSA and CIA. He might be a deputy director of</p> <p>10 one of them, but he had directed both of those two</p> <p>11 intelligence agencies.</p> <p>12 And then he started introducing me to</p> <p>13 people in the intelligence community and, you</p> <p>14 know, they liked what I was working on, and so a</p> <p>15 lot of relevant -- you know, for their problem</p> <p>16 set.</p> <p>17 And so -- yeah, I just started spending</p> <p>18 more time in the intelligence community and -- you</p> <p>19 know, fun fact, I wrote a -- I wrote a white paper</p> <p>20 on message traffic for one of those two agencies</p> <p>21 and they got very excited about the -- message</p> <p>22 traffic is the distribution of foreign</p> | <p>Page 43</p> |
| <p>1 piece of intelligence and it's entire, you know,</p> <p>2 access path, whereas it turned out that banks did</p> <p>3 not care as much as they said that they did.</p> <p>4 Q. And can you recall approximately when</p> <p>5 BlueSpace's focus would have shifted from more of</p> <p>6 the financial side to focusing more on defense and</p> <p>7 intelligence?</p> <p>8 A. Yeah, I think it was a smooth transition.</p> <p>9 So what happened was, you know, we founded the</p> <p>10 company in the U.K. in 2003. And then -- you</p> <p>11 know, it turned out it was extremely hard as a</p> <p>12 young founder to raise money in the -- in the --</p> <p>13 well, I mean, there wasn't much of a venture</p> <p>14 capital ecosystem in the early 2000s in the U.K.,</p> <p>15 so it was very difficult to raise money.</p> <p>16 I gave up the CEO role to sort of the</p> <p>17 older -- some -- a chain of older folks who had</p> <p>18 got involved as investors and then advisors and</p> <p>19 then operators.</p> <p>20 But it turned out none of them were</p> <p>21 particularly good at being CEO of a start-up</p> <p>22 company.</p> | <p>Page 42</p> | <p>1 intelligence.</p> <p>2 And, you know, all of the individual</p> <p>3 pieces were not classified, but when you put</p> <p>4 together the entire picture, it got a lot spicier,</p> <p>5 so they got very worried about that and told me I</p> <p>6 couldn't send it to anybody.</p> <p>7 And then they got me a green card in two</p> <p>8 weeks, so I would count as U.S. for the ITAR</p> <p>9 regulations. So I had a supporting letter from</p> <p>10 the CIO of the director of national intelligence</p> <p>11 for my green card application.</p> <p>12 It was all based around insights and, you</p> <p>13 know, a unique perspective on all messaging</p> <p>14 systems.</p> <p>15 And then, you know, over time from</p> <p>16 there -- so I moved the company here, we took a</p> <p>17 venture capital round in the U.S. led by the</p> <p>18 venture fund that Admiral Inman was working for --</p> <p>19 it was his fund.</p> <p>20 And then -- you know, then the idea for</p> <p>21 multilevel security systems came kind of a year or</p> <p>22 two after that and worked with Air Force research</p>                                    | <p>Page 44</p> |

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| <p>1 labs and one of those intelligence agencies. I'm</p> <p>2 not supposed to say which ones are customers and</p> <p>3 what specifically they were doing, but -- you</p> <p>4 know, that was the ecosystem.</p> <p>5 Q. And so I want to just kind of try to</p> <p>6 break that down and see if you can recall more</p> <p>7 specifics including for years, but I do really</p> <p>8 appreciate that overview.</p> <p>9 So first you mentioned that you moved the</p> <p>10 company to the U.S.</p> <p>11 Do you recall approximately when that</p> <p>12 would have been? What year?</p> <p>13 A. I mean, offhand, I think it was around --</p> <p>14 it was around the 2006 period. And, again, it was</p> <p>15 a process, not an instant in time. I think I</p> <p>16 moved to the U.S. geographically on an L-1 visa</p> <p>17 early in 2006, but I have been going back -- I've</p> <p>18 been spending almost 50 percent of my time in</p> <p>19 America the preceding two years.</p> <p>20 Q. Okay. And next I think you mentioned</p> <p>21 meeting Admiral Inman.</p> <p>22 A. Mm-hmm.</p> | <p>Page 45</p> <p>Page 47</p> <p>1 A. I mean, it was the same thing. He was</p> <p>2 the -- Gefinor Ventures was a co-partnership,</p> <p>3 whatever you want to call it, between Admiral</p> <p>4 Inman's family office, which he had been running</p> <p>5 up to that point and Gefinor, which was a</p> <p>6 financial services firm based in Switzerland, I</p> <p>7 believe, or somewhere in Europe.</p> <p>8 And so they formed Gefinor Ventures</p> <p>9 together and Gefinor sort of brought a lot of the</p> <p>10 additional capital to that fund. And then Admiral</p> <p>11 Inman, he had been on the board of Dell and Oracle</p> <p>12 and so was connected in the technology ecosystem</p> <p>13 here and, you know, was seen as somebody who had</p> <p>14 been successful in it.</p> <p>15 Q. Okay. And when you say Gefinor, are you</p> <p>16 referring to Gefinor Ventures, G-e-f-i-n-o-r?</p> <p>17 A. Yes. So Gefinor was the venture fund.</p> <p>18 If you Googled, you know, there's going to be a</p> <p>19 separate company called Gefinor something or</p> <p>20 other -- I don't know, financial services --</p> <p>21 Gefinor something or other -- have a big office on</p> <p>22 a beautiful lake out in Switzerland.</p> |
| <p>Page 46</p> <p>1 Q. Do you approximately recall what year</p> <p>2 that would have been?</p> <p>3 A. I'm going to say either late 2004 or</p> <p>4 somewhere early in 2005. Sometime around the year</p> <p>5 before I moved.</p> <p>6 Q. And is it fair to say that you were</p> <p>7 focused more on the financial side of things until</p> <p>8 you met Admiral Inman?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And when I say "Admiral Inman,"</p> <p>11 would you recognize him also as Bobby Inman or Bob</p> <p>12 Inman?</p> <p>13 A. Yes. Yes. He is Bobby Inman. Bob</p> <p>14 Inman, yes.</p> <p>15 Q. Okay. Appreciate it. I just wanted to</p> <p>16 make sure.</p> <p>17 A. Yes.</p> <p>18 Q. And you mentioned that then you started</p> <p>19 meeting with a fund that Admiral Inman was related</p> <p>20 to.</p> <p>21 Do you know what year that would have</p> <p>22 been?</p>                                                                                                                                                                                                        | <p>Page 48</p> <p>1 So that was the -- that company -- that,</p> <p>2 you know, private asset management entity existed</p> <p>3 before Gefinor Ventures and has existed after</p> <p>4 Gefinor Ventures ceased as a venture fund -- but</p> <p>5 yes.</p> <p>6 Q. Okay. And earlier we were talking about</p> <p>7 kind of two broad categories of products that</p> <p>8 BlueSpace created.</p> <p>9 When approximately did BlueSpace begin</p> <p>10 focusing on technology for evaluating the</p> <p>11 relevance of electronic content?</p> <p>12 A. Yeah. I mean, the specific months and</p> <p>13 years, I would fall back here on the -- the</p> <p>14 statements that I've made. So I am shooting here</p> <p>15 entirely from memory, but it was in the, you know,</p> <p>16 2004, 2005 period.</p> <p>17 Again, I would -- there was really -- we</p> <p>18 had the model for message objects and compliance</p> <p>19 policies around it, and then the -- you know, the</p> <p>20 innovation was recognizing that people were</p> <p>21 flooded head in email content and that because we</p> <p>22 had an incredibly rich data set of audit data that</p>                                                                                   |

| Page 49                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Page 51                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p>1 already was there and existing in the way that</p> <p>2 content objects were used, we could use that in a</p> <p>3 very large data model to get better insight into</p> <p>4 how people were interacting with the content that</p> <p>5 you could do in a traditional email system where</p> <p>6 you couldn't really track anything of that fine</p> <p>7 grained level of detail.</p> <p>8 Q. Okay. And this may be a little hard to</p> <p>9 answer in the abstract because you were there for</p> <p>10 ten years, but approximately how many BlueSpace</p> <p>11 employees did they employ?</p> <p>12 A. You know, I think it ranged depending on</p> <p>13 the time and transition and whatever from, you</p> <p>14 know, 12 to 15, up to 30 to 40, you know, at</p> <p>15 different times.</p> <p>16 We also had -- for some of that time we</p> <p>17 had an offshore team which technically weren't</p> <p>18 employees but were still full-time team members.</p> <p>19 But, yeah, it varied in that range.</p> <p>20 Q. And so I want to just try to break that</p> <p>21 down and see if we can be a little more specific</p> <p>22 just for the record -- strike that.</p> | <p>1 range.</p> <p>2 Q. Okay. And would that have included</p> <p>3 primarily U.S. employees or would most of those</p> <p>4 have been offshore as well?</p> <p>5 A. I can't remember. There was a point in</p> <p>6 which we had to wind down having an offshore</p> <p>7 presence because, you know, the focus really</p> <p>8 shifted to almost -- to pretty much almost solely</p> <p>9 defense and intelligence end users.</p> <p>10 So, yes, I think by 2006, from the best</p> <p>11 of my recollection, either all or the vast</p> <p>12 majority of employees were in the U.S., you know,</p> <p>13 by that period in 2006, once I had moved full-time</p> <p>14 here.</p> <p>15 We might have had one or two left of the</p> <p>16 early part of 2006 in the U.K. as part of the</p> <p>17 transition but, yeah, I remember there was Steven</p> <p>18 somebody or other, who was still around for a</p> <p>19 little longer in the U.K., you know, trying to</p> <p>20 push stuff there. But really the whole focus was</p> <p>21 the -- was the U.S.</p> <p>22 Q. Okay. So around 2005, 2006, BlueSpace</p>          |
| Page 50                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Page 52                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>1 So let's focus on maybe two to three</p> <p>2 years into BlueSpace as a company.</p> <p>3 Approximately how many employees would it</p> <p>4 have had at that time?</p> <p>5 A. Then, it was probably 20 to 30. There</p> <p>6 was a peak period where there was a significant</p> <p>7 U.K. team. But in the transition to the U.S., I</p> <p>8 was the only person who moved.</p> <p>9 And so, you know, we still had an</p> <p>10 offshore team and it was kind of a transition of</p> <p>11 staffing up the U.S. as we wound down the U.K.</p> <p>12 Q. And so about five or six years in, say</p> <p>13 around 2005, 2006, how many BlueSpace employees</p> <p>14 did they have around that time?</p> <p>15 A. I'd be guessing. I'd have to -- I don't</p> <p>16 remember.</p> <p>17 Q. Can you say anywhere -- like is it closer</p> <p>18 to 5 or closer to 50?</p> <p>19 A. Yeah, let me think.</p> <p>20 I would say it was probably in the 10 to</p> <p>21 20 range in that period. Yes, I would say it's</p> <p>22 probably, yeah -- yes, probably in the 10 to 20</p>                                                                                                       | <p>1 had approximately 10 to 20 employees with most</p> <p>2 being employed in the U.S. because at that point</p> <p>3 you had switched to focusing essentially solely on</p> <p>4 defense; is that fair?</p> <p>5 A. Yeah, I think it was 2006 when -- so</p> <p>6 maybe late 2005 there was a moment where we</p> <p>7 effectively did a RIF on, you know, the U.K.</p> <p>8 employees because it didn't make sense to move</p> <p>9 them. So we had planned to move some.</p> <p>10 It was going to be incredibly expensive</p> <p>11 and kind of difficult, and so we -- they didn't</p> <p>12 particularly want to move. We didn't particularly</p> <p>13 want to move them, so we sort of trended into a</p> <p>14 path of doing a reduction in force.</p> <p>15 But once I had moved here -- yeah,</p> <p>16 sometime soon after that, the majority, the vast</p> <p>17 majority of the of U.K. employees had moved on.</p> <p>18 Q. And then when you left BlueSpace around</p> <p>19 2010, 2011 --</p> <p>20 A. Mm-hmm.</p> <p>21 Q. -- approximately how many employees did</p> <p>22 BlueSpace have at that time?</p> |

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| <p>1 A. Yeah. I'm going to say somewhere between<br/>2 10 and 20 again.<br/>3 Q. Okay.<br/>4 A. I don't -- I didn't have a perfect<br/>5 recollection. Like I couldn't give you a number,<br/>6 but I think it's going to be something in that<br/>7 range.<br/>8 Q. Okay. And this isn't a memory test, so I<br/>9 appreciate you providing the detail that you can.<br/>10 And, again, when you say 10 to 20 around<br/>11 2010, 2011, would those primarily have been U.S.<br/>12 employees at that point?<br/>13 A. Yes. By that point they were all U.S.<br/>14 employees.<br/>15 Q. Okay. And so you mentioned that<br/>16 BlueSpace was a software company; right?<br/>17 A. Mm-hmm, yes.<br/>18 Q. Who developed BlueSpace's software<br/>19 specifically?<br/>20 A. BlueSpace's employees.<br/>21 Q. And approximately how many software<br/>22 developers did BlueSpace employ?</p>                                                                                                                                                                  | <p>Page 53</p> | <p>1 the five to seven range, the primary -- you know,<br/>2 they were software developers and their primary<br/>3 function was just writing the software.<br/>4 And I would say that is probably another<br/>5 two or three that were doing a mix of client<br/>6 engagement and, you know, scripting and other<br/>7 stuff around it that wasn't part of the core<br/>8 product itself.<br/>9 Q. And are there any software developers<br/>10 that stand out in your mind that you can<br/>11 specifically recall by name?<br/>12 A. Yeah. I mean, in the U.S. team, probably<br/>13 the most significant were going to be Brian<br/>14 Vetter, David Sundstrom, and then there was two or<br/>15 three others who I can't really -- I can remember<br/>16 one of the guy's faces. Another guy was called<br/>17 Matt.<br/>18 But like, yeah, it's a long time ago so,<br/>19 you know, I would say those two were -- they were<br/>20 the most senior of the job as we had.<br/>21 Q. And that's Brian Vatter, V-a-t-t-e-r; is<br/>22 that fair?</p> | <p>Page 55</p> |
| <p>1 A. The majority of the headcount was<br/>2 technical. You know, I had a COO who stepped into<br/>3 the CEO role as I left.<br/>4 I had a couple in -- a lady in product<br/>5 management who also helped cover marketing but,<br/>6 yeah, the majority of the employees were<br/>7 technical.<br/>8 Q. And when you say "the majority of the<br/>9 employees were technical," does that mean the<br/>10 majority of BlueSpace employees would have<br/>11 actively been working on developing software?<br/>12 A. Or somewhere around -- I mean, maybe<br/>13 somewhere around the middle. Yeah, there was a<br/>14 couple who were doing more of the plan engagement,<br/>15 deployment stuff, but they were maybe writing a<br/>16 little bit of code. And then there were the<br/>17 people who were -- that the real focus was just<br/>18 writing the code.<br/>19 Q. And can you say approximately how many<br/>20 BlueSpace employees would have been focused on<br/>21 actually writing code?<br/>22 A. Yeah. I would guess it's somewhere in</p> | <p>Page 54</p> | <p>1 A. It's V-e-t-t-e-r.<br/>2 Q. Thank you.<br/>3 A. He got involved when the company moved to<br/>4 the U.S. So this is, you know, 2006. We were<br/>5 probably talking to him in 2007.<br/>6 He came in as full-time. And then when I<br/>7 left to found Hypori, he left with me as a<br/>8 co-founder.<br/>9 Q. Okay. And then can you spell<br/>10 Sundstrom?<br/>11 A. Sundstrom is S-u-n-d-s-t-r-o-m.<br/>12 Sundstrom.<br/>13 Q. And approximately when did David<br/>14 Sundstrom join BlueSpace?<br/>15 A. Yeah, I can't recall. I think it was<br/>16 after -- soon after Brian Vetter, but I can't<br/>17 recall.<br/>18 Q. Okay. I can keep going, but now -- but I<br/>19 want to offer, would now be an okay time for a<br/>20 break?<br/>21 A. I'm okay. We've only been going an hour,<br/>22 yeah.</p>                                                                                                                                                                                                                              | <p>Page 56</p> |

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| <p>Page 57</p> <p>1 Q. Okay. We'll just keep going then.</p> <p>2 A. Yeah.</p> <p>3 Q. Let's go back to the '217 patent, which</p> <p>4 is labeled EX-1001.</p> <p>5 A. Yep.</p> <p>6 Q. So what is the purpose of the invention</p> <p>7 of the '217 patent?</p> <p>8 A. Yeah. It's to provide indications to the</p> <p>9 user of which emails are more interesting to them</p> <p>10 than others or which messages are more interesting</p> <p>11 to them than others, so to help them make sense of</p> <p>12 sort of information overload.</p> <p>13 Q. And how specifically did the '217 patent</p> <p>14 try to address that kind of information overload</p> <p>15 for emails?</p> <p>16 A. So, you know, the platform has a very</p> <p>17 rich store of user actions, and it -- you know,</p> <p>18 the patent involved creating a mathematical model</p> <p>19 that would essentially evaluate all of that data</p> <p>20 in a predictor function to try and say how</p> <p>21 interesting is any given specific piece of content</p> <p>22 to me or to some set of users, whether that's a</p>                                                                                           | <p>Page 59</p> <p>1 entire life cycle.</p> <p>2 So not just looking at the first order</p> <p>3 interaction, but looking at what happened to that</p> <p>4 piece of content across the life cycle and how it</p> <p>5 was bounced between users and the actions that</p> <p>6 they then took on it to sort of indicate how</p> <p>7 interesting it was to them.</p> <p>8 So I think that that was -- I think</p> <p>9 that -- that -- I didn't -- I hadn't seen anybody</p> <p>10 else doing that, so I think that was -- I believe</p> <p>11 that that was an inventive concept which, you</p> <p>12 know, which is why we decided to create a patent</p> <p>13 in the -- that's the one we're looking at today.</p> <p>14 Q. And so the piece that you thought that</p> <p>15 was particularly inventive for the '217 patent was</p> <p>16 the ability to develop a rich data store of every</p> <p>17 users' interactions with every piece of content</p> <p>18 and then essentially use that to identify the</p> <p>19 relevance of that content to different users?</p> <p>20 MR. PADMANABHAN: Objection. Rule 611.</p> <p>21 You can answer.</p> <p>22 THE WITNESS: That was my opinion at the</p> |
| <p>Page 58</p> <p>1 piece that I've already looked at or a piece I've</p> <p>2 just received.</p> <p>3 Q. And I guess -- do you think the '217</p> <p>4 patent was the first patent to use a mathematical</p> <p>5 model to try to evaluate the relevance of</p> <p>6 electronic content?</p> <p>7 A. I don't know the answer to that. You</p> <p>8 know, that would be a discovery question. But to</p> <p>9 the best of my knowledge, it was the -- it was the</p> <p>10 first I knew of but, like I, you know, again, I'm</p> <p>11 not -- I'm not a patent attorney.</p> <p>12 I didn't -- you know, I can't speak to</p> <p>13 everything that's in -- that's in the intellectual</p> <p>14 property record, you know.</p> <p>15 Q. And I guess is there anything about that</p> <p>16 mathematical model that you think was particularly</p> <p>17 inventive as part of the '217 patent?</p> <p>18 A. You know, I think the -- the thing that I</p> <p>19 think was different, to the best of my knowledge,</p> <p>20 was taking such an incredibly rich data store of</p> <p>21 every users' action, you know, on a -- on every</p> <p>22 piece of content during each piece of contents'</p> | <p>Page 60</p> <p>1 time, yeah. I mean, to a single user, to a body</p> <p>2 of users, you know, to determine that some users</p> <p>3 behave like other users, it's a lot -- you have a</p> <p>4 lot more statistical relevance in doing that with</p> <p>5 the larger the data set and the more fine granular</p> <p>6 tracking you have of how they all interact.</p> <p>7 (Court Reporter clarification.)</p> <p>8 MR. PADMANABHAN: Rule 611.</p> <p>9 BY MR. OHLERT:</p> <p>10 Q. And so you mentioned looking to other</p> <p>11 users, I believe.</p> <p>12 Are you referring to cognate users when</p> <p>13 you say that?</p> <p>14 A. Yeah. I mean it -- that was sort of a</p> <p>15 thought of users that behave like a given specific</p> <p>16 user based on that data set.</p> <p>17 So, yes, I mean, that was the concept</p> <p>18 behind cognate users at the time. So there's</p> <p>19 really --</p> <p>20 Q. Did you --</p> <p>21 A. Yeah. Go ahead.</p> <p>22 Q. Oh, I'm sorry. I didn't mean to</p>                                                                                                                                                                               |

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| <p>1 interrupt you.</p> <p>2 A. Go ahead.</p> <p>3 Q. Did you invent or conceive of the term</p> <p>4 "cognate users" or was that something that existed</p> <p>5 in the industry that you adapted?</p> <p>6 A. I didn't think we -- we came up with that</p> <p>7 term. My father and I, you know, came up with it</p> <p>8 in the course of writing the patent.</p> <p>9 Q. I'm sorry. I think at first you said, "I</p> <p>10 don't think," and then you said, "we came up with</p> <p>11 it."</p> <p>12 So just to clarify --</p> <p>13 A. Yeah. So it was not to --</p> <p>14 Q. -- your testimony is that you did come up</p> <p>15 with that term?</p> <p>16 A. Yes. We -- we coined that term to the</p> <p>17 best of our knowledge. Now, somebody else may</p> <p>18 have written that somewhere in a white paper that</p> <p>19 I'm unaware of, but we didn't take it from</p> <p>20 somebody else, you know, using that term we -- we</p> <p>21 created that term ourselves to characterize, you</p> <p>22 know, users who behave similarly to each other,</p> | <p>Page 61</p> | <p>1 The through line for what makes one user</p> <p>2 cognate to another is essentially whether they are</p> <p>3 similar to each other. And then the '217 patent</p> <p>4 can determine that any kind of way, essentially?</p> <p>5 A. I mean, to be precise, that definition</p> <p>6 was based on them behaving differently. I mean,</p> <p>7 they were behaving the same way.</p> <p>8 They could be totally different as</p> <p>9 personalities, but their behavior in the system</p> <p>10 was similar, and so one would be a good prediction</p> <p>11 of how the other would behave.</p> <p>12 Q. Okay. That makes sense.</p> <p>13 Do you think the '217 patent was the</p> <p>14 first patent to try to address clutter of email?</p> <p>15 A. I -- no. I doubt it. I think that there</p> <p>16 were already patents in place that were attempting</p> <p>17 to deal with spam.</p> <p>18 And, you know, at the time, there was a</p> <p>19 lot of sort of emails for Cuban cigars and, you</p> <p>20 know, Russian brides and all kinds of other things</p> <p>21 that were coming from outside the organization,</p> <p>22 right.</p>                                               | <p>Page 63</p> |
| <p>1 yeah.</p> <p>2 Q. Okay. And so your understanding of</p> <p>3 cognate is users that behaved similarly to each</p> <p>4 other; is that fair?</p> <p>5 A. Yes.</p> <p>6 Q. And is it also within your understanding</p> <p>7 of the term "cognate" that users who have similar</p> <p>8 interests will be cognate to one another?</p> <p>9 A. I mean, it could be. But it's a function</p> <p>10 of like -- you know, it could be that they have</p> <p>11 similar interests. It could be that they had</p> <p>12 similar roles. It could be that, you know, they</p> <p>13 just tended to pave in the same way.</p> <p>14 Like we didn't really need to determine</p> <p>15 what the cause was for that similarity. We just</p> <p>16 needed to be able to discover it, evaluate it,</p> <p>17 measure it, and then reflect it in how we then</p> <p>18 present the content.</p> <p>19 Q. Got it.</p> <p>20 So the through line for what makes</p> <p>21 someone content -- let me ask that again. Sorry.</p> <p>22 Strike that.</p>                                   | <p>Page 62</p> | <p>1 So there was an attempt at the firewall</p> <p>2 with things like Iron Port and other companies to</p> <p>3 evaluate incoming messages and see whether they</p> <p>4 believe that those incoming emails at the boundary</p> <p>5 were just total marketing spam or they were valid</p> <p>6 human-authored messages by people that the person</p> <p>7 would have cared about.</p> <p>8 But that was being done without any real</p> <p>9 measurement of -- it wasn't being done with any</p> <p>10 measurement of the user actions within the</p> <p>11 messaging system. It wasn't being done on a per</p> <p>12 recipient basis. And it wasn't dealing with the</p> <p>13 volume of email that was happening within an</p> <p>14 organization.</p> <p>15 So often, people would be receiving 200,</p> <p>16 300 emails a day and, you know, a lot of them were</p> <p>17 cc's and other things that didn't require them to</p> <p>18 take action.</p> <p>19 And, you know, today there are many AI</p> <p>20 tools that are trying to help also deal with that</p> <p>21 deluge of emails that are valid. They're not, you</p> <p>22 know, from some spammer in Eastern Europe who is</p> | <p>Page 64</p> |

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| <p>1 trying to sell Cuban cigars or get people's credit<br/>2 numbers.<br/>3 But they just contribute to this sense of<br/>4 being overwhelmed. And so I think that is -- I<br/>5 don't know of any other patents that were trying<br/>6 to address -- human messaging systems, you know,<br/>7 the overwhelming amount of content that people<br/>8 were receiving, you know, from coworkers and<br/>9 others that were authentic emails but just not<br/>10 particularly relevant to them.<br/>11 Q. And I think you mentioned AI as a more<br/>12 modern solution to trying to address email<br/>13 clutter, even today; is that correct?<br/>14 A. Mm-hmm. Yeah. Yeah. People are using<br/>15 AI data models to try and -- we have superhumans<br/>16 doing that, others are doing it, in an attempt to,<br/>17 you know, learn -- be a copilot, to use the term.<br/>18 You know, learn what's most relevant and<br/>19 interesting for the user to guide them to<br/>20 prioritize that. Because, historically, email was<br/>21 prioritized purely based on date. That was it.<br/>22 That was the only way that messaging systems</p> | <p>Page 65</p> | <p>1 many, you know, interactions do they have? How<br/>2 many -- like all of these things they use to rank<br/>3 incoming messages from people I don't know to try<br/>4 and again sort of help the user prioritize a very<br/>5 large amount of incoming messages from a Hollywood<br/>6 celebrity, you know, getting tons of people<br/>7 slipping into my mail, so how do I try and<br/>8 prioritize the ones that likely most interesting<br/>9 or most important, most relevant to me.<br/>10 So now I think it's become more common as<br/>11 a practice, but at the time it really wasn't, you<br/>12 know. And it was just a chronological view with<br/>13 the newest on top. That was the way that<br/>14 everybody's inboxes were sorted. It was the only<br/>15 thing they saw. There was no auto sorting into<br/>16 folders. There was no, you know, like based on --<br/>17 similar to how Gmail does it today, none of that<br/>18 existed at the time.<br/>19 Q. I appreciate all of that context, but I<br/>20 just want to re-ask my question because I think<br/>21 it's a little more narrow --<br/>22 A. Yeah. Sorry.</p> | <p>Page 67</p> |
| <p>1 prioritize content.<br/>2 You had a chronological view in your<br/>3 inbox. There was the ability for the sender to<br/>4 set high priority and low priority. But that was<br/>5 just a sender attribute that they decided on and<br/>6 very few people were using it. And even if they<br/>7 did, it wasn't a good indicator of sort of truth<br/>8 to the user. So most people ignored that. It was<br/>9 just a tag.<br/>10 So, yeah. There really wasn't any way at<br/>11 that time that I knew of to make sense of that<br/>12 vast amount of content coming in.<br/>13 Now, today, there are lots of ways that<br/>14 people are attempting to go after that problem.<br/>15 But it wasn't true at the time.<br/>16 I mean, obviously, part of the reason<br/>17 we're here is that in my perspective -- I'm not a<br/>18 user of Facebook. I can see how it works to some<br/>19 degree as an end user.<br/>20 The same with -- you look at Twitter and<br/>21 Instagram, they try and use other mechanisms like<br/>22 how many followers does this person have? How</p>                                                         | <p>Page 66</p> | <p>1 Q. -- the detail. No. No apologies.<br/>2 Again, I appreciate the detail. I just want to<br/>3 make sure that I can get a clean record for the<br/>4 specific questions I have, and then if you want to<br/>5 add more detail, I'm happy to hear it. But just<br/>6 don't begrudge me if I ask these follow-ups.<br/>7 A. No worries.<br/>8 Q. Strike that.<br/>9 So, again, I think you mentioned that AI<br/>10 is a modern solution for trying to address email<br/>11 clutter even today; correct?<br/>12 A. Yes.<br/>13 Q. So you would agree that problems with<br/>14 clutter of email are still a problem even today;<br/>15 right?<br/>16 A. Yes. My own opinion, yes.<br/>17 Q. And do you think that other patents since<br/>18 the '217 patent had also tried to address those<br/>19 problems with cluttered email boxes?<br/>20 A. I mean, it would be speculation but I<br/>21 would imagine it's true. I don't know. I haven't<br/>22 looked.</p>                                                                                                                                                                           | <p>Page 68</p> |

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| <p>Page 69</p> <p>1 Q. Okay. So there might be patents out there addressing that subject but you're not specifically aware?</p> <p>2</p> <p>3</p> <p>4 A. I would be very surprised if it was not a true statement but I have not looked.</p> <p>5</p> <p>6 Q. Okay. And I guess the real thing I'm trying to get at is, do you think the '217 patent solved the problem of email clutter?</p> <p>7</p> <p>8</p> <p>9 A. I think it was a very significant meaningful step conceptually and -- as a different paradigm view of how to address the problem. And I think that there are many implementations that reflect that strategy today.</p> <p>10</p> <p>11</p> <p>12 Solving it altogether is very hard because the more connected we have become the more points of communication we make. There is still -- you know, for myself and my job as CEO in my company today, like email can still become and feel overwhelming.</p> <p>13</p> <p>14</p> <p>15 And so I think it's still a problem, but a lot of people have worked on it and the methods and mechanisms of looking at users' actions and</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>                                    | <p>Page 71</p> <p>1 But there is -- there is no obvious solution to hundreds of people wanting to talk to you and technology that makes it simple for hundreds of people to send you messages without you having to spend time with them physically.</p> <p>2</p> <p>3</p> <p>4 Like the volume of stuff just increases and, you know, Slack, Discord, all these platforms increase it even further. There is always that sense of, gosh, I should have looked at that message, all of that stuff was available to me, I never got to it.</p> <p>5</p> <p>6</p> <p>7 Like I think if I went around and asked a bunch of peers, there's still a vast amount of things that are being said inside the organizations and they struggle to keep on top of all of it.</p> <p>8</p> <p>9</p> <p>10 But, you know, I think that that general trajectory of looking at -- learning how the user acts, learning how other similar users act and then, you know, and then addressing it, that is the best hope everybody has, it's the best answer people have come up with. And the statistics and</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> |
| <p>Page 70</p> <p>1 how they act on messages has made a significant difference to, you know, reducing clutter of like newsletters and cc's that are irrelevant and, I mean, everybody thinks now email deliverability, that wasn't a thing when I wrote this patent.</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6 Right now there are whole companies who are using some of them in our -- we're using some of them in our own marketing efforts in my current company that are focused on trying to ensure that messages get into peoples' inboxes instead of being screened out. Again, just really none of that existed at the time as far as I'm aware.</p> <p>7</p> <p>8</p> <p>9 Q. And I think you'll agree, but tell me if you disagree.</p> <p>10</p> <p>11</p> <p>12 You would agree the '217 patent did not solve the problem of email cluttering inboxes because that's a problem that persists even today?</p> <p>13</p> <p>14</p> <p>15 A. Yes. I don't think anybody has solved that problem a hundred percent. I don't even know what a hundred percent solution would look like. I think it's been getting better and better.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> | <p>Page 72</p> <p>1 the modeling of it has moved from formalized to statistics to more fuzzy models black box AI systems, but the general concept is the same.</p> <p>2</p> <p>3</p> <p>4 It's just how that learning and discovery mechanism is implemented technically that has changed over time.</p> <p>5</p> <p>6</p> <p>7 Q. Okay. So you would agree that the '217 patent did not solve the problem --</p> <p>8</p> <p>9</p> <p>10 A. Yes.</p> <p>11</p> <p>12 Q. -- of email congestion in inboxes because that's a problem that exists even today; right?</p> <p>13</p> <p>14</p> <p>15 A. Yes.</p> <p>16</p> <p>17 Q. And then you mentioned learning how other similar users act and then, you know, addressing it is the best hope everybody has.</p> <p>18</p> <p>19</p> <p>20 Is it fair to say that that is essentially what the '217 patent was focused on, was looking to other similar users in trying to leverage their input to determine relevance?</p> <p>21</p> <p>22</p> <p>MR. PADMANABHAN: Objection. Rule 611.</p> <p>You can answer.</p> <p>THE WITNESS: The patent was about</p>                                                                                                         |

| Page 73 |                                                    |  |  |  |  |  |  |  |  | Page 75 |                                                    |  |  |  |  |  |  |  |  |
|---------|----------------------------------------------------|--|--|--|--|--|--|--|--|---------|----------------------------------------------------|--|--|--|--|--|--|--|--|
| 1       | building a mathematical model in which the actions |  |  |  |  |  |  |  |  | 1       | Do you know how to find that?                      |  |  |  |  |  |  |  |  |
| 2       | of other users were one of the inputs.             |  |  |  |  |  |  |  |  | 2       | A. Yes. Scroll down.                               |  |  |  |  |  |  |  |  |
| 3       | My actions were an input. My actions on            |  |  |  |  |  |  |  |  | 3       | Q. It will be on, I think, page 25 out of 50       |  |  |  |  |  |  |  |  |
| 4       | pieces of content was an input. My interactions    |  |  |  |  |  |  |  |  | 4       | of the PDF, if that's helpful.                     |  |  |  |  |  |  |  |  |
| 5       | with other senders and objects within the system   |  |  |  |  |  |  |  |  | 5       | A. Yep. I have it.                                 |  |  |  |  |  |  |  |  |
| 6       | was an input.                                      |  |  |  |  |  |  |  |  | 6       | Q. And so on the leftmost column there's a         |  |  |  |  |  |  |  |  |
| 7       | And then attempting to model and discover          |  |  |  |  |  |  |  |  | 7       | summary.                                           |  |  |  |  |  |  |  |  |
| 8       | similar users was another, you know, mathematical  |  |  |  |  |  |  |  |  | 8       | Do you see that?                                   |  |  |  |  |  |  |  |  |
| 9       | simplification for trying to do better forecasting |  |  |  |  |  |  |  |  | 9       | A. Yes.                                            |  |  |  |  |  |  |  |  |
| 10      | across a very large data set.                      |  |  |  |  |  |  |  |  | 10      | Q. And that paragraph immediately under that       |  |  |  |  |  |  |  |  |
| 11      | That's one of them, yes. I guess that              |  |  |  |  |  |  |  |  | 11      | summary says, "According to at least one aspect of |  |  |  |  |  |  |  |  |
| 12      | was the answer                                     |  |  |  |  |  |  |  |  | 12      | one or more embodiments of the present invention,  |  |  |  |  |  |  |  |  |
| 13      | BY MR. OHLERT:                                     |  |  |  |  |  |  |  |  | 13      | a system and computer program product include" and |  |  |  |  |  |  |  |  |
| 14      | Q. And did that mathematical model need to         |  |  |  |  |  |  |  |  | 14      | then it has a number of things after that.         |  |  |  |  |  |  |  |  |
| 15      | look at input from each of those factors in order  |  |  |  |  |  |  |  |  | 15      | Do you see that?                                   |  |  |  |  |  |  |  |  |
| 16      | to determine relevance or were there just multiple |  |  |  |  |  |  |  |  | 16      | A. Yes.                                            |  |  |  |  |  |  |  |  |
| 17      | factors that were optional and it was able to      |  |  |  |  |  |  |  |  | 17      | Q. And starting around line 55, it says,           |  |  |  |  |  |  |  |  |
| 18      | consider them if they existed?                     |  |  |  |  |  |  |  |  | 18      | "Where the relevance is determined dependent on a  |  |  |  |  |  |  |  |  |
| 19      | A. I mean, it would have been possible to          |  |  |  |  |  |  |  |  | 19      | measure of relevance of the piece of electronic    |  |  |  |  |  |  |  |  |
| 20      | build a mathematical model that only looked at my  |  |  |  |  |  |  |  |  | 20      | content as determined dependent on one or more     |  |  |  |  |  |  |  |  |
| 21      | own actions and didn't look at the actions of      |  |  |  |  |  |  |  |  | 21      | actions of the user on the piece of electronic     |  |  |  |  |  |  |  |  |
| 22      | other people, but that model would not have had as |  |  |  |  |  |  |  |  | 22      | content and a measure of the piece of electronic   |  |  |  |  |  |  |  |  |
| Page 74 |                                                    |  |  |  |  |  |  |  |  | Page 76 |                                                    |  |  |  |  |  |  |  |  |
| 1       | great of accuracy as I would expect from a model   |  |  |  |  |  |  |  |  | 1       | content as determined dependent on one or more     |  |  |  |  |  |  |  |  |
| 2       | that was also interpreting and evaluating actions  |  |  |  |  |  |  |  |  | 2       | actions of at least one other recipient of the     |  |  |  |  |  |  |  |  |
| 3       | from others.                                       |  |  |  |  |  |  |  |  | 3       | piece of electronic content."                      |  |  |  |  |  |  |  |  |
| 4       | So, yeah, you can always make something            |  |  |  |  |  |  |  |  | 4       | Do you see that?                                   |  |  |  |  |  |  |  |  |
| 5       | worse by leaving data out in how you calculate it, |  |  |  |  |  |  |  |  | 5       | A. Yes.                                            |  |  |  |  |  |  |  |  |
| 6       | but the more data that you crunch that is relevant |  |  |  |  |  |  |  |  | 6       | Q. Is it fair to summarize the invention of        |  |  |  |  |  |  |  |  |
| 7       | to the question, you know, the better shot you     |  |  |  |  |  |  |  |  | 7       | the '217 patent as looking at both the actions of  |  |  |  |  |  |  |  |  |
| 8       | have at more accurate forecasting.                 |  |  |  |  |  |  |  |  | 8       | an individual user as well as the actions of other |  |  |  |  |  |  |  |  |
| 9       | MR. OHLERT: Okay. We've been going for             |  |  |  |  |  |  |  |  | 9       | similar users who have also received that          |  |  |  |  |  |  |  |  |
| 10      | a little over an hour. Would now be an okay time   |  |  |  |  |  |  |  |  | 10      | electronic content?                                |  |  |  |  |  |  |  |  |
| 11      | for a break?                                       |  |  |  |  |  |  |  |  | 11      | MR. PADMANABHAN: Objection. Rule 611.              |  |  |  |  |  |  |  |  |
| 12      | MR. PADMANABHAN: Sure. If you want to              |  |  |  |  |  |  |  |  | 12      | But you can answer                                 |  |  |  |  |  |  |  |  |
| 13      | take a break, that's fine.                         |  |  |  |  |  |  |  |  | 13      | THE WITNESS: Broadly, yes. It's not                |  |  |  |  |  |  |  |  |
| 14      | MR. OHLERT: Let's go off the record.               |  |  |  |  |  |  |  |  | 14      | just on that piece of content though, it's on all  |  |  |  |  |  |  |  |  |
| 15      | THE VIDEOGRAPHER: Going off record at              |  |  |  |  |  |  |  |  | 15      | of the content across the life cycle of the        |  |  |  |  |  |  |  |  |
| 16      | 8:15 a.m.                                          |  |  |  |  |  |  |  |  | 16      | system. So, yes, it's -- it involved more data     |  |  |  |  |  |  |  |  |
| 17      | (Off the record: 8:15 a.m. - 8:25 a.m.)            |  |  |  |  |  |  |  |  | 17      | than what you just said, but what the data you     |  |  |  |  |  |  |  |  |
| 18      | THE VIDEOGRAPHER: Back on record at                |  |  |  |  |  |  |  |  | 18      | said is part of that evaluation.                   |  |  |  |  |  |  |  |  |
| 19      | 8:25 a.m.                                          |  |  |  |  |  |  |  |  | 19      | BY MR. OHLERT:                                     |  |  |  |  |  |  |  |  |
| 20      | BY MR. OHLERT:                                     |  |  |  |  |  |  |  |  | 20      | Q. Okay. And you understand that this              |  |  |  |  |  |  |  |  |
| 21      | Q. Okay, Mr. Marston. I'm going to direct          |  |  |  |  |  |  |  |  | 21      | paragraph is talking about evaluating the          |  |  |  |  |  |  |  |  |
| 22      | you to column 1 of the '217 patent.                |  |  |  |  |  |  |  |  | 22      | relevance of a single piece of electronic content; |  |  |  |  |  |  |  |  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 fair?</p> <p>2 A. Yes.</p> <p>3 Q. So this isn't going into details about</p> <p>4 what happens to all content in the system, is</p> <p>5 it?</p> <p>6 A. Yes.</p> <p>7 Q. Yes, as in you agree that this passage is</p> <p>8 not going into details about what happens to all</p> <p>9 content in the system?</p> <p>10 A. Yes. This specific piece of language is</p> <p>11 talking about the actions on one piece of</p> <p>12 electronic content.</p> <p>13 Q. Okay. And then the next paragraph states</p> <p>14 at the first sentence, "According to another</p> <p>15 aspect of one or more embodiments of the present</p> <p>16 invention, a method comprises tracking actions by</p> <p>17 a plurality of users associated with an</p> <p>18 application for managing electronic content and</p> <p>19 determining a relevance to a user of a piece of</p> <p>20 electronic content sent from a sender to the</p> <p>21 user."</p> <p>22 Do you see that?</p>                                                                                                                                                                      | <p>Page 77</p> | <p>1 distribution system, and that the same techniques</p> <p>2 would work on others than just an inbox type</p> <p>3 concept.</p> <p>4 Q. Does the sender need to be a human?</p> <p>5 A. No. I mean, it's -- it's -- and I think</p> <p>6 there is a concept of, you know,</p> <p>7 computer-generated messages. You could have a</p> <p>8 computer-generated email that isn't a human and</p> <p>9 you could still evaluate whether that content was</p> <p>10 interesting or relevant, to use the term, to a</p> <p>11 given recipient based on the same model.</p> <p>12 It's irrespective of whether the actor is</p> <p>13 a human or computer that is doing the sending.</p> <p>14 Q. Are you familiar with the concept of an</p> <p>15 electronic bulletin board?</p> <p>16 A. You know, broadly, yes. I haven't -- I</p> <p>17 don't know if I've ever used them, but I am aware</p> <p>18 that there were bulletin boards back in the day.</p> <p>19 Q. Are you aware of the website called</p> <p>20 Reddit?</p> <p>21 A. I'm aware of Reddit.</p> <p>22 Q. Would you say Reddit is an electronic</p>                             |
| <p>1 A. I do see that, yes.</p> <p>2 Q. What does it mean for content to be sent</p> <p>3 from a sender to a user?</p> <p>4 A. It means that one person wrote something</p> <p>5 and a set of people -- one or a set of people</p> <p>6 received it in some method, you know. So it was a</p> <p>7 piece of content was originated by one user and it</p> <p>8 was received by others and -- you know, as part of</p> <p>9 a defined audience that were recipients of that</p> <p>10 content.</p> <p>11 Q. Is -- do you believe that the '217 patent</p> <p>12 is specifically focused on emails?</p> <p>13 A. No.</p> <p>14 Q. So the '217 patent is focused on any sort</p> <p>15 of electronic content that could be sent from a</p> <p>16 sender to a recipient; is that fair?</p> <p>17 A. Yeah. I believe that's true. I mean,</p> <p>18 again, a long time ago patent attorneys would do a</p> <p>19 better job of interpreting the patent than I</p> <p>20 could, but certainly the concept, when we wrote</p> <p>21 it, and context, when we wrote it, was recognizing</p> <p>22 that an email system was one instance of a content</p> | <p>Page 78</p> | <p>1 bulletin board or -- just so we have an example</p> <p>2 that we can work with?</p> <p>3 A. I don't know. I wouldn't want to</p> <p>4 classify it, but I'm aware that like it's a</p> <p>5 discussion forum type environment so...</p> <p>6 Q. Okay. That's fair.</p> <p>7 So if a user posts a message to an</p> <p>8 electronic bulletin board and someone else reacts</p> <p>9 or responds to that message, has that message been</p> <p>10 sent from a sender to a recipient?</p> <p>11 A. I mean, I think if somebody posts</p> <p>12 something to a publicly accessible board where</p> <p>13 anybody can see it in the world, you know, you can</p> <p>14 say that they sent it to the universe, but it's</p> <p>15 not particularly helpful. It's really like making</p> <p>16 a page on the Internet.</p> <p>17 You know, I think the context that I had</p> <p>18 in mind in originally writing the patent was</p> <p>19 content where there was a defined set of people</p> <p>20 who are able to receive it versus just, you know,</p> <p>21 publishing stuff for the universe that anybody can</p> <p>22 go and access.</p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Page 81</p> <p>1 But, again, I don't know if I really</p> <p>2 answered your question.</p> <p>3 Q. Well, let me ask again then.</p> <p>4 If a user posts a message to an</p> <p>5 electronic bulletin board and someone else</p> <p>6 responds or reacts to that message, has that</p> <p>7 message been sent from a sender to a recipient?</p> <p>8 MR. PADMANABHAN: Objection. Rule 611.</p> <p>9 THE WITNESS: I would -- I don't</p> <p>10 really -- I would say -- I mean, this is my</p> <p>11 personal interpretation, right. But I don't see</p> <p>12 it as such when somebody has published something</p> <p>13 to the universe. I see it as, you know, somebody</p> <p>14 can react to a message that was sent to -- where</p> <p>15 anybody in the world can read it. I see that as</p> <p>16 more like a straight publication mechanism.</p> <p>17 But if I -- if I posted something to, you</p> <p>18 know -- if I posted something to a -- that was</p> <p>19 only accessible to a specific group of people</p> <p>20 based on some compliance policy or other</p> <p>21 readership view or readership overlay, I think</p> <p>22 that is more akin to sending that message to that</p> | <p>Page 83</p> <p>1 take questions around the testimony that, you</p> <p>2 know, the attorneys have worked on and that, you</p> <p>3 know, I've provided documents for and reviewed and</p> <p>4 helped edit and validate.</p> <p>5 But like in terms of, you know, whether</p> <p>6 posting a message to a -- or posting a piece of</p> <p>7 content to a bulletin board is classified as like</p> <p>8 a blog post or a message or a -- you know, I am</p> <p>9 one opinion. But I don't know that -- I'm sure</p> <p>10 that everybody wouldn't agree with me and it just</p> <p>11 doesn't -- I don't know that it matters that much</p> <p>12 how I classify -- how I would see it versus</p> <p>13 everybody else.</p> <p>14 But that's how I would see it. I think</p> <p>15 when you send something to the universe it doesn't</p> <p>16 feel like a message anymore. When you send</p> <p>17 something to a defined audience, then that feels</p> <p>18 more -- ultimately, if I published a -- you know,</p> <p>19 if I posted a post on matter and it's only -- then</p> <p>20 the circle is set to my family, then only three</p> <p>21 people can access that and probably all three of</p> <p>22 them are going to see it.</p> |
| <p>Page 82</p> <p>1 set of people.</p> <p>2 But that's my personal interpretation.</p> <p>3 You know, I don't know -- I don't know whether</p> <p>4 everybody would agree with me.</p> <p>5 BY MR. OHLERT:</p> <p>6 Q. I mean, you keep saying that's your</p> <p>7 personal interpretation, but you understand you're</p> <p>8 an inventor of this patent; right?</p> <p>9 A. Sure. Yes.</p> <p>10 Q. You agree your personal interpretation</p> <p>11 matters for what this patent means; right?</p> <p>12 MR. PADMANABHAN: Objection. Rule 611.</p> <p>13 You can answer.</p> <p>14 THE WITNESS: Yeah. I mean -- you know,</p> <p>15 the patent was written a long time ago. I guess</p> <p>16 the way I see it is it's up to patent attorneys to</p> <p>17 figure out what's like or what's dependent on</p> <p>18 what.</p> <p>19 Like I'm here to describe how I viewed it</p> <p>20 in the creation process and to attest to the best</p> <p>21 of my knowledge of the dates and things of when</p> <p>22 steps were taken, when innovations were done, to</p>                                                                                                                                    | <p>Page 84</p> <p>1 It's -- that starts feeling a lot more</p> <p>2 like a message than if I just take a -- you know,</p> <p>3 I write a thought and I published it to the</p> <p>4 entirety of the Internet.</p> <p>5 But I think it's a gray scale. I don't</p> <p>6 think there's some black and white line. It's</p> <p>7 just in one case I have more of an intent of</p> <p>8 making a piece of content available to a small</p> <p>9 number of people and the other, I'm just sort of</p> <p>10 throwing stuff out there to the universe.</p> <p>11 But I hope that makes sense.</p> <p>12 BY MR. OHLERT:</p> <p>13 Q. I mean, isn't there a difference between</p> <p>14 posting a message and setting it so that only</p> <p>15 three people can see it if they go to that message</p> <p>16 versus posting a message and then sending it</p> <p>17 directly to those three people?</p> <p>18 You get those are different; right?</p> <p>19 MR. PADMANABHAN: Objection. Rule 611.</p> <p>20 You can answer.</p> <p>21 THE WITNESS: No. I don't think it's</p> <p>22 particularly different. I think that, in my</p>                                                                                                                 |

| Page 85                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Page 87                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 personal opinion, you know, the way people use</p> <p>2 social platforms is -- I mean, you think about it.</p> <p>3 When I get messages into my Gmail, I'm not seeing</p> <p>4 all of those messages, I'm seeing a subset of them</p> <p>5 based on a relevant algorithm that's applied to my</p> <p>6 email inbox.</p> <p>7 And, similarly, you know, if somebody</p> <p>8 sends me a message in Instagram, Twitter, or X, or</p> <p>9 one of these platforms, it's making an evaluation</p> <p>10 of whether that should go into my inbox or my</p> <p>11 other.</p> <p>12 LinkedIn is doing the same thing. When I</p> <p>13 get an in mail, it decides whether to put it into</p> <p>14 the primary folder or the rest of the stuff it</p> <p>15 doesn't think is interesting to me folder.</p> <p>16 Well, any social platform is making the</p> <p>17 same decision of whether to put that content in my</p> <p>18 feed or to not put it in my feed, and I have to go</p> <p>19 and discover it another way. So those two things,</p> <p>20 to me, seem extremely analogous.</p> <p>21 BY MR. OHLERT:</p> <p>22 Q. It sounds like your example has a</p>                                    | <p>1 that's relevant to me.</p> <p>2 If I want to find that content, I can go</p> <p>3 to my social folder and I can try and look for it,</p> <p>4 or I can click on All Mail and I can try and see</p> <p>5 if I can find it, just the same way that I can</p> <p>6 click to a person's specific, you know, wall, and</p> <p>7 see if I can see content that did not appear in my</p> <p>8 feed because Facebook judged that it wasn't</p> <p>9 relevant to me even though -- even if it was</p> <p>10 distributed to me, even if I have a friend who</p> <p>11 sent -- you know, who published a piece of content</p> <p>12 to five people in a circle, Facebook may still</p> <p>13 decide that that piece of content is not relevant</p> <p>14 to me and won't show it to me in my feed inbox.</p> <p>15 Q. Well, it sounds like what you're saying</p> <p>16 is that if a website makes the decision to show</p> <p>17 some content to a user in a feed and it makes a</p> <p>18 decision not to show other content, then your</p> <p>19 view, all of that content, both the information in</p> <p>20 the feed and the information not in the feed would</p> <p>21 be considered a message sent from a sender to a</p> <p>22 user; is that correct?</p> |
| Page 86                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Page 88                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>1 difference though where the feed supplies that</p> <p>2 message to somebody else versus, you know, let's</p> <p>3 say I post something on my Facebook page, for lack</p> <p>4 of a better word.</p> <p>5 A. Mm-hmm.</p> <p>6 Q. And someone else just goes to my Facebook</p> <p>7 page and likes it. That hasn't necessarily been</p> <p>8 shown in their feed, has it? So why would that be</p> <p>9 considered a message that has been sent from a</p> <p>10 sender to a user?</p> <p>11 A. So I guess that -- and, again, I mean,</p> <p>12 I'm speculating here on Facebook shooting from the</p> <p>13 hip, but, ultimately, Facebook is making a</p> <p>14 decision about what content I see on my feed, so</p> <p>15 it's making a decision about what content to</p> <p>16 deliver into my feed inbox and what content to not</p> <p>17 to deliver into my feed inbox, in the same way</p> <p>18 that Gmail is a making a decision about what</p> <p>19 content to deliver into my inbox and what content</p> <p>20 to put into my spam folder or my social or my</p> <p>21 promotions or my -- all the other folders that</p> <p>22 it's invented to host content that it's decided</p> | <p>1 MR. PADMANABHAN: Objection. Rule 611.</p> <p>2 You can answer.</p> <p>3 THE WITNESS: I think, you know, my</p> <p>4 personal -- and, again, it is a personal view.</p> <p>5 But my personal view is that content that is</p> <p>6 published on an anybody can access it, anybody can</p> <p>7 read it basis, is less like a message and more</p> <p>8 like -- I mean, at the time, people were throwing</p> <p>9 out GeoCities, Myspace, all those types of pages.</p> <p>10 And anybody could come to my Myspace page</p> <p>11 and they could read all of it. I think that is</p> <p>12 different than when content is published to a</p> <p>13 specific audience and only that authenticated</p> <p>14 audience can view the message at all.</p> <p>15 In that case, to me, that starts feeling</p> <p>16 a lot more like I sent it to my circle of friends,</p> <p>17 I sent it to my family, I published it to my</p> <p>18 family circle, I published it to my, you know,</p> <p>19 church friends, I published it to my crossfit</p> <p>20 friends, I published it to my -- and people do</p> <p>21 that all the time, you know.</p> <p>22 So they are really using it as a</p>                                                                  |

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| <p>1 distribution mechanism to define viewership, Page 89</p> <p>2 available viewership for that piece of content</p> <p>3 based on recipient identities. That's how I would</p> <p>4 see it personally, but...</p> <p>5 BY MR. OHLERT:</p> <p>6 Q. Well, it sounds like you're saying that</p> <p>7 if a user specifies the content is going to be</p> <p>8 delivered to a certain audience, then that makes</p> <p>9 it a message.</p> <p>10 But let me just give you an example.</p> <p>11 Someone posts to the subReddit for books and they</p> <p>12 say, "Hey, I liked this book that I read."</p> <p>13 That subReddit could have millions of</p> <p>14 people in it?</p> <p>15 A. Mm-hmm.</p> <p>16 Q. Would you consider that a message just</p> <p>17 because they had specified that it should be</p> <p>18 delivered to people who are subscribed to the</p> <p>19 subReddit for books?</p> <p>20 A. So I think that there is no black and</p> <p>21 white line. I think that on the one side you've</p> <p>22 got -- I published a message, you know, in no</p>                                                                                                               | <p>1 not a paying member of it, they won't allow you to Page 91</p> <p>2 join. So there's that kind of case.</p> <p>3 And then there's groups defined by</p> <p>4 somebody else from a viewer's perspective, and</p> <p>5 then there are circles and groups that I create</p> <p>6 myself as a user in a platform like Facebook.</p> <p>7 And -- so that might be my immediate friends, my</p> <p>8 church friends, my, you know, crossfit friends, my</p> <p>9 family.</p> <p>10 And, see, that's starting to get more</p> <p>11 narrow, and that's something that's not really a</p> <p>12 pub sub model where other people can determine</p> <p>13 whether they want to try and either subscribe or</p> <p>14 apply to subscribe.</p> <p>15 That is a model in which I am</p> <p>16 specifically selecting which people are in that</p> <p>17 circle, and I have unilateral control of it as the</p> <p>18 sender of all -- the creator/sender of that piece</p> <p>19 of content.</p> <p>20 So that starts to feel a lot more like,</p> <p>21 in my mind, a lot more like a message. And then,</p> <p>22 obviously, ultimately, I can send a message to a</p>                         |
| <p>1 particular specific, you know, context or anything Page 90</p> <p>2 else, and I just sent it to the universe, right.</p> <p>3 So that would be my -- my wall is</p> <p>4 entirely open. Anybody can come and read anything</p> <p>5 on it and I had published it there.</p> <p>6 The next step from that, I guess, in my</p> <p>7 mind, would be I am in, for example, a Facebook</p> <p>8 private group and, you know, people can apply to</p> <p>9 join that Facebook private group but they have to</p> <p>10 join it.</p> <p>11 And there is an audience in there that is</p> <p>12 sort of specifically about, I don't know, flying</p> <p>13 kites, right. And say that audience is all</p> <p>14 interested in flying kites and there's an access</p> <p>15 control to join that group.</p> <p>16 Now, that might be -- you just say you're</p> <p>17 not going to do anything naughty or it might be</p> <p>18 based on some other attributes that the group</p> <p>19 manager is deciding.</p> <p>20 You know, there are Orange Theory Fitness</p> <p>21 groups where you have to be a registered member of</p> <p>22 that Orange Theory Fitness location, and if you're</p> | <p>1 group and it looks like a message. It has a user Page 92</p> <p>2 experience of a message.</p> <p>3 But when I do that in Facebook, if I'm</p> <p>4 sending it to somebody and it's a friend, Facebook</p> <p>5 judges that that should probably go into that</p> <p>6 person's inbox because I tend to write -- you</p> <p>7 know, I'm known to that person.</p> <p>8 But somebody else can use the FaceBook</p> <p>9 Messenger interface and write a message about the</p> <p>10 latest Bitcoin scam and send it to a hundred</p> <p>11 people and that one is probably going into some</p> <p>12 hidden folder that Facebook actually has.</p> <p>13 I eventually found it and saw, you know,</p> <p>14 something about borrowing chads for a wedding that</p> <p>15 I had three years later and I didn't know it</p> <p>16 existed.</p> <p>17 But it was there, it was still in the</p> <p>18 inbox. It's just one that, you know, it turned</p> <p>19 out I didn't know existed and very rarely</p> <p>20 accessed. But in both -- even in that case, I</p> <p>21 mean, Facebook again is making a determination</p> <p>22 based on context, content, how the user behaves,</p> |

| Page 93                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Page 95                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <p>1 that the other person tends to write spammy</p> <p>2 messages a lot, then that message that they sent</p> <p>3 does not warrant going into the user's inbox or my</p> <p>4 inbox.</p> <p>5 So I think that the difference between a</p> <p>6 feed and an inbox is mostly semantics.</p> <p>7 Q. Well, so it sounds like you're saying</p> <p>8 there's no bright-line rule for what qualifies as</p> <p>9 sent from a sender, but the through line I keep</p> <p>10 hearing in your answer is that there's some sort</p> <p>11 of message or feed that is providing the content</p> <p>12 to users; is that fair?</p> <p>13 MR. PADMANABHAN: Objection. Rule 611.</p> <p>14 You can answer.</p> <p>15 THE WITNESS: Yes. I see this as more</p> <p>16 whether there's a computer process that is</p> <p>17 building, you know, a curated view of content for</p> <p>18 me. I do not think it is -- I don't think that</p> <p>19 the context of the patent is really relevant to,</p> <p>20 you know, Myspace or something that was just</p> <p>21 publishing pages on the Internet.</p> <p>22 That was not the context we had at the</p>                                                   | <p>1 relationships with, and we're interacting as a</p> <p>2 subset of a much greater whole, and we're</p> <p>3 effectively messaging with each other through</p> <p>4 various different means versus, you know, just</p> <p>5 publishing stuff to the universe where anybody can</p> <p>6 access it.</p> <p>7 Q. Okay. I think that makes sense.</p> <p>8 Can we go to the '217 patent and jump to</p> <p>9 column 5?</p> <p>10 A. Yeah.</p> <p>11 Q. I'll point you specifically to lines 53</p> <p>12 through 58.</p> <p>13 Can you let me know when you're there?</p> <p>14 A. Yeah -- yes. I think I'm here. The</p> <p>15 relevance component. I can read it.</p> <p>16 "A relevance component may be used to</p> <p>17 read electronic mail content in an order</p> <p>18 reflecting a user's likely interest in that</p> <p>19 content. For example, a high relevance value may</p> <p>20 indicate that the content is likely to be of</p> <p>21 significant interest to the user, while a low</p> <p>22 relevance value may indicate that the content is</p>                                                |
| Page 94                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Page 96                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>1 time. The context we had was creating content</p> <p>2 that had intended -- intended viewerships.</p> <p>3 BY MR. OHLERT:</p> <p>4 Q. And, I guess, is it fair to say you are</p> <p>5 distinguishing some -- a website like Myspace</p> <p>6 because it doesn't have that sort of feed feature</p> <p>7 that shows specific content to users?</p> <p>8 A. Yes. At least to the best of my</p> <p>9 knowledge. I didn't actually use Myspace very</p> <p>10 much but, yes, I think -- I think Myspace was</p> <p>11 really a lot like GeoCities, you know, where it</p> <p>12 was just -- you could make web pages and you could</p> <p>13 make a page about you and everybody had the same</p> <p>14 view of that page, and you had just made</p> <p>15 essentially a page on the Internet that was</p> <p>16 accessible to everybody.</p> <p>17 And it had no social context, really. I</p> <p>18 don't know if whether there was a friends concept</p> <p>19 in Myspace, there might have been, I didn't use</p> <p>20 it. But I think -- I see systems -- I see systems</p> <p>21 differently where I'm interacting with a social</p> <p>22 community of people I know and I have</p> | <p>1 likely to be of little interest to the user."</p> <p>2 Q. Great. Thank you.</p> <p>3 What does it mean when the '217 patent</p> <p>4 refers to a user's likely interest in the</p> <p>5 content.</p> <p>6 A. It's a predictive -- it's a predictive</p> <p>7 score effectively, right. So I think that this</p> <p>8 piece of content is relevant to Jimmy because</p> <p>9 Jimmy is particularly interested in messages the</p> <p>10 CEO and part of the -- you know, this message was</p> <p>11 written by the CEO, one of the messages in the</p> <p>12 thread was written by the CEO, it was tied to some</p> <p>13 job code that is a project that I'm involved in.</p> <p>14 It has some keyword that is relevant to,</p> <p>15 you know, when stuff is about that particular</p> <p>16 topic, it tends to be things that I take actions</p> <p>17 on. Those would be ways to determine it.</p> <p>18 Q. Is it fair to say that when you say</p> <p>19 "likely interests," you're just reflecting the</p> <p>20 fact that you're using a computer to make a</p> <p>21 guess --</p> <p>22 A. Correct.</p> |

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| <p>Page 97</p> <p>1 Q. -- at what it thinks that the -- what it</p> <p>2 thinks about the relevance of that document to a</p> <p>3 user?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So there's nothing like really to</p> <p>6 it, it's just kind of a way to refer to these</p> <p>7 kinds of relevance predictions, essentially?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 A. I mean, that's the patent, yes.</p> <p>11 Q. Sorry. I'm not trying to be tricky here.</p> <p>12 I'm just trying to ask my quick questions.</p> <p>13 Let's go to the claims, which you'll see</p> <p>14 it, it will say "claims," and it will start with</p> <p>15 the number 1.</p> <p>16 Will you let me know when you're there?</p> <p>17 And I think it's on page 48, if that's</p> <p>18 helpful.</p> <p>19 A. Yes.</p> <p>20 Q. Okay.</p> <p>21 A. Yeah. It's in column 25, at the bottom</p> <p>22 of 25, right -- or in the middle.</p> | <p>Page 99</p> <p>1 Q. Do the claims of the '217 patent require</p> <p>2 any specialized computer components to perform the</p> <p>3 claim's invention?</p> <p>4 A. What would a specialized -- you mean a</p> <p>5 specialized piece of hardware, a specialized piece</p> <p>6 of software?</p> <p>7 Q. Exactly. So, you know, some inventions</p> <p>8 rely on an FPGA instead of a general processor or</p> <p>9 things like that?</p> <p>10 A. Yes.</p> <p>11 Q. Like does this patent require any</p> <p>12 specialized computer components or could any</p> <p>13 computer perform the patented invention so long as</p> <p>14 it performs the steps that are claimed?</p> <p>15 A. Yes. Any -- any computer could perform</p> <p>16 the -- can calculate it. Some would be better at</p> <p>17 it than others but, yes, any computer could, with</p> <p>18 the appropriate processing power, could run a</p> <p>19 model like this.</p> <p>20 Q. The claims don't require like a specific</p> <p>21 kind of computer --</p> <p>22 A. No.</p>                                      |
| <p>Page 98</p> <p>1 Q. Sorry. I'm looking at columns 47 and 48.</p> <p>2 A. Oh, I see.</p> <p>3 Q. Page 48.</p> <p>4 A. Yeah.</p> <p>5 Q. Does that make sense?</p> <p>6 A. Yeah. Yeah. Yeah. Yep. Yes. "What is</p> <p>7 claimed is."</p> <p>8 Q. Yep. Exactly.</p> <p>9 Okay. So Claim 1 refers to a</p> <p>10 computer-implemented system.</p> <p>11 Do you see that?</p> <p>12 A. Mm-hmm. Yes.</p> <p>13 Q. And Claim 6 refers to a computer program</p> <p>14 product; correct?</p> <p>15 A. Yes.</p> <p>16 Q. And then Claim 7 refers to a</p> <p>17 computer-implemented method; fair?</p> <p>18 A. Yes.</p> <p>19 Q. And so the through line for each of those</p> <p>20 three claims is that they involve some sort of</p> <p>21 computer or computer programming; is that fair?</p> <p>22 A. Yes.</p>                                                                                                            | <p>Page 100</p> <p>1 Q. -- like an FPGA or anything like that?</p> <p>2 A. No.</p> <p>3 Q. Okay. And so looking at Claim 1 in</p> <p>4 particular --</p> <p>5 A. Yep.</p> <p>6 Q. -- is there any particular claim element</p> <p>7 that, in your opinion, is more important to the</p> <p>8 invention of the '217 patent than the other claim</p> <p>9 elements?</p> <p>10 A. I'm going to have to read it.</p> <p>11 Q. Yeah, please. Take your time.</p> <p>12 A. I did think that there was one claim that</p> <p>13 is more sort of important than another, if you'd</p> <p>14 like. I think that they are describing different</p> <p>15 elements of an overall system.</p> <p>16 It would be possible to have a relevance</p> <p>17 model that was based purely on the actions of an</p> <p>18 individual user as opposed to attempting to</p> <p>19 discover cognate users with similar behavior.</p> <p>20 But that would not be, you know, as --</p> <p>21 that would likely have less forecasting power than</p> <p>22 the system that is -- that is built to include the</p> |

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| <p>Page 101</p> <p>1 actions of cognate users.</p> <p>2 So, you know, really, I think the start</p> <p>3 of the claim is setting out the -- you know, the</p> <p>4 framework of the data to be involved, and then it</p> <p>5 talks about the first component and the second</p> <p>6 component.</p> <p>7 The first component is the actions of the</p> <p>8 given users themselves and then the second is the</p> <p>9 actions of other users which could provide</p> <p>10 additional kinds of useful statistical data to</p> <p>11 inform that number.</p> <p>12 Does that answer the question?</p> <p>13 Q. I think so. And so it's not any</p> <p>14 individual claim element necessarily, it's the</p> <p>15 overall combination of all these elements which</p> <p>16 reflects that the '217 patent is looking at a</p> <p>17 number of different factors to evaluate relevance;</p> <p>18 is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. And, so, for example, before the '217</p> <p>21 patent there were these kinds of monitoring</p> <p>22 modules that could track a user's individual</p> | <p>Page 103</p> <p>1 MR. OHLERT: Yes. He's --</p> <p>2 THE WITNESS: Yes. It says that.</p> <p>3 MR. OHLERT: This is the second measure</p> <p>4 of relevance.</p> <p>5 THE WITNESS: Yes.</p> <p>6 BY MR. OHLERT:</p> <p>7 Q. And so my question is, in determining a</p> <p>8 second measure of relevance, you only need to</p> <p>9 consider one of these four factors; correct?</p> <p>10 A. It could be one of it. It could be more</p> <p>11 of -- you know, the more that you consider, the</p> <p>12 better the -- you know, one would expect the</p> <p>13 forecasting ability to be.</p> <p>14 Q. Sure. I totally get that considering</p> <p>15 more data is usually better.</p> <p>16 But my point is to determine a second</p> <p>17 measure of relevance in the claims of the '217</p> <p>18 patent, you only have to meet one of these four</p> <p>19 factors of looking to local importance, global</p> <p>20 importance, content relevance, or actions of other</p> <p>21 users who have received the content and/or</p> <p>22 cognate; correct?</p>               |
| <p>Page 102</p> <p>1 actions on content.</p> <p>2 You would agree?</p> <p>3 A. Yes. I'm sure there were systems that</p> <p>4 would -- that would do auditing of people's</p> <p>5 actions on computer systems.</p> <p>6 Q. Okay. And I want to focus on the</p> <p>7 limitation from about line 46 to 61. And it's</p> <p>8 determining that second measure of relevance.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And so this says, "Determine a second</p> <p>12 measure of relevance of the piece of electronic</p> <p>13 content as based at least in part on one or more</p> <p>14 measures derived from the group consisting of,"</p> <p>15 and then it lists four elements where the first is</p> <p>16 local importance, the second is global importance,</p> <p>17 the third is content relevance, and then the</p> <p>18 fourth is actions on the piece of content from a</p> <p>19 cognate user who also received the document.</p> <p>20 You would agree?</p> <p>21 MR. PADMANABHAN: What's the question?</p> <p>22 That it says that?</p>                               | <p>Page 104</p> <p>1 A. Yes. I -- yes.</p> <p>2 Q. And so the patent claim doesn't actually</p> <p>3 require looking to the actions of other cognate</p> <p>4 users, does it?</p> <p>5 MR. PADMANABHAN: Objection. Rule 611.</p> <p>6 THE WITNESS: Yes. It is not -- it says</p> <p>7 "one or more of" so, you know, it does not require</p> <p>8 all of them.</p> <p>9 BY MR. OHLERT:</p> <p>10 Q. And so a system could just look to a</p> <p>11 user's individual actions on content and then be</p> <p>12 local importance of a sender without ever looking</p> <p>13 to the actions of other users, and that could</p> <p>14 still infringe this claim; correct?</p> <p>15 MR. PADMANABHAN: Objection. Rule 611.</p> <p>16 THE WITNESS: Actually, no. So reading</p> <p>17 it again. "Determine a second measure of</p> <p>18 relevance of the piece of electronic content is</p> <p>19 based at least in part on one or more measures</p> <p>20 derived from the group consisting of and," so it's</p> <p>21 not correct.</p> <p>22 If you read the language carefully,</p> |

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| <p>1 that's actually an "and" ending and not an "or"</p> <p>2 ending.</p> <p>3 Can you see that?</p> <p>4 BY MR. OHLERT:</p> <p>5 Q. Are you referring to the "and" on line</p> <p>6 57?</p> <p>7 A. Yes.</p> <p>8 Q. Isn't that just saying that you have to</p> <p>9 consider one or more measures derived from the</p> <p>10 group consisting of A, B, C, and D, which means</p> <p>11 you would only need one of those four measures to</p> <p>12 actually be considered something from that group;</p> <p>13 correct?</p> <p>14 A. I think you're conflating the term</p> <p>15 "measures" with implying that a measure is one of</p> <p>16 those four things. And so I think that's where --</p> <p>17 I don't think you're correctly reading the</p> <p>18 statement.</p> <p>19 So what it's saying is -- my</p> <p>20 interpretation of this claim on reading it now is</p> <p>21 to determine a second measure of the relevance of</p> <p>22 the piece of content as based at least in part on</p>                                                                                                                                                                   | <p>Page 105</p> <p>Page 107</p> <p>1 The measures isn't the elements of the</p> <p>2 set. The measures is, you know, the statistical</p> <p>3 mechanisms used to evaluate the set. That's the</p> <p>4 way I would read it, but...</p> <p>5 BY MR. OHLERT:</p> <p>6 Q. So, again, you -- your opinion about what</p> <p>7 this claim means is that it can look to one or</p> <p>8 more measures, but those measures must be derived</p> <p>9 by considering each of local importance, global</p> <p>10 importance, content relevance, and the actions of</p> <p>11 a cognate user who has also received the content;</p> <p>12 correct?</p> <p>13 MR. PADMANABHAN: Objection. Rule 611.</p> <p>14 THE WITNESS: That's the way I would read</p> <p>15 it. You know, I think it's -- it's one or more</p> <p>16 functions based on the union of those four things.</p> <p>17 That's the way I would -- that's the way</p> <p>18 I would interpret it. I don't think that a -- you</p> <p>19 know, if it meant -- if it was trying to say, at</p> <p>20 least in part of one of the following four things,</p> <p>21 it would say that.</p> <p>22 And then it would say a local importance,</p> |
| <p>Page 106</p> <p>1 one or more measures derived from.</p> <p>2 So that could be one or more, you know,</p> <p>3 statistical mechanisms, one or more algorithms,</p> <p>4 one or more computational, you know, statistical</p> <p>5 methods derived from the group consisting of all</p> <p>6 of these four things.</p> <p>7 So, you know, it says, from the group</p> <p>8 consisting of this, this, this, and this. So</p> <p>9 that's the way I would read it.</p> <p>10 Q. Okay. So your opinion about this claim</p> <p>11 is that there are one or more measures that must</p> <p>12 be considered but those measures must be derived</p> <p>13 from each of a local importance, a global</p> <p>14 importance, content relevance, and one or more</p> <p>15 actions on that content from a user who has also</p> <p>16 received the content and is recipient to the user</p> <p>17 for whom relevance is being evaluated; correct?</p> <p>18 MR. PADMANABHAN: Objection. Rule 611.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: I mean, the way I would</p> <p>21 agree that is that it's, you know, one or more</p> <p>22 measures derived from the following set.</p> | <p>Page 108</p> <p>1 a global importance, a content relevance or, you</p> <p>2 know, actions of other users; right.</p> <p>3 So it doesn't say that. So the way I</p> <p>4 would read it is, you know, functions applied to</p> <p>5 that set of data together. So those four things.</p> <p>6 Yeah, the measure is applied to all four</p> <p>7 (Exhibit 8 was marked.)</p> <p>8 BY MR. OHLERT:</p> <p>9 Q. Okay. I've uploaded what I believe is</p> <p>10 Exhibit 8 to the chat.</p> <p>11 A. Uh-huh.</p> <p>12 Q. Can you let me know when you have that</p> <p>13 open?</p> <p>14 A. Yep.</p> <p>15 Q. And this document is titled "Patent</p> <p>16 Owner's Response."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And do you understand that Sterling</p> <p>20 Computers Corporation is the patent owner in this</p> <p>21 matter; correct?</p> <p>22 A. Yes.</p>                                                                                                                                                                                                                                                                                                      |

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| <p>1 Q. And so this is Sterling's patent owner<br/>2 response; correct?<br/>3 A. Yes.<br/>4 Q. Can you please go to page 18 of<br/>5 Sterling's patent owner response?<br/>6 A. There's a lot of stuff in this.<br/>7 Okay. Yes.<br/>8 Q. And so on page 18, right above section D,<br/>9 can you read the sentence immediately before<br/>10 that?<br/>11 A. Okay. I'll read it and then I'll have to<br/>12 try and figure out the context of it but,<br/>13 "Although this step of tracking actions of the<br/>14 second cognate user is optional in the claims,<br/>15 it's one of the reasons why identifying this<br/>16 second user is required."<br/>17 So now if you want me to evaluate it,<br/>18 I'll have to read the rest of it but, yes.<br/>19 Q. That's fair.<br/>20 My question is simply, doesn't Sterling's<br/>21 patent owner response explain that tracking the<br/>22 actions of the second cognate user is optional in</p>                                                                       | <p>Page 109</p> | <p>1 the language that says, "Identify at least one<br/>2 other of the plurality of users that is a<br/>3 recipient of a piece of electronic content and<br/>4 that is cognate to the user."<br/>5 So the claims do require identifying<br/>6 cognate users.<br/>7 You agree?<br/>8 A. Which line are you looking at there?<br/>9 Sorry.<br/>10 Q. Sorry. I was just reading from lines 43<br/>11 to 45.<br/>12 A. Okay. Second relevance -- measurement<br/>13 module coupled to monitoring module and configured<br/>14 to identify at least one of the plurality of users<br/>15 that is recipient...<br/>16 I mean, honestly, I think my answer to<br/>17 this would be 8 to 20 years ago -- you know, I<br/>18 don't know that I'm in a position right now to try<br/>19 and sort of specifically evaluate the claims.<br/>20 I think that's something that a patent<br/>21 attorney should do. You know, obviously, the<br/>22 claims are written by the patent attorney at</p>                                                                                                    | <p>Page 111</p> |
| <p>1 the claims?<br/>2 A. Okay. Let me read it.<br/>3 I mean, I guess you'd have to ask the<br/>4 patent owner why they wrote that and the context<br/>5 of it. I don't have a strong opinion on it.<br/>6 I think that, you know, conceptually,<br/>7 yes, you can evaluate the relevance of a piece of<br/>8 content based purely on my actions as a single<br/>9 user.<br/>10 I think that you can also, you know,<br/>11 evaluate the relevance of a piece of content based<br/>12 on my actions and other users, you know, as part<br/>13 of a sort of combined model. Both of those two<br/>14 statements are true.<br/>15 You know, so in that sense, yes, having<br/>16 cognate relevance is not -- you can still<br/>17 calculate a relevant score without a cognate<br/>18 relevant score -- with a cognate -- one including<br/>19 a cognate relevant score, one would expect to be<br/>20 more accurate.<br/>21 Q. Okay. And I don't want to be<br/>22 disingenuous about the claim, so I'll point you to</p> | <p>Page 110</p> | <p>1 Fenwick and West. I reviewed them. But based on<br/>2 the white paper and idea that I had, but like, you<br/>3 know, coming into that level of specifics, I don't<br/>4 know the answer.<br/>5 Like I can attest to that I wrote it, why<br/>6 I wrote it, and the timeline that I wrote it but,<br/>7 you know, evaluating the rest of this is sort of,<br/>8 you know, a black box cooking machine that I don't<br/>9 entirely understand.<br/>10 So that would be my answer.<br/>11 Q. Okay. Will you at least agree that Claim<br/>12 1 requires identifying a user who is cognate to<br/>13 the user for whom relevance is being evaluated;<br/>14 correct?<br/>15 A. Yes. I mean, it's an "and" element<br/>16 there. I think, you know, given that -- we<br/>17 weren't trying to claim -- we weren't trying to<br/>18 make a claim for the concept of relevant.<br/>19 Like, clearly, other people had had the<br/>20 concept of something that was relevant to<br/>21 somebody. You know, I think -- I think it was<br/>22 more applying these relevance mechanisms in</p> | <p>Page 112</p> |

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| <p>1 messaging systems and, yeah, you know, the cognate</p> <p>2 piece was a clear part of the mathematical model.</p> <p>3 It's throughout all the stats and the diagrams.</p> <p>4 So, you know, would it be possible to</p> <p>5 interpret a relevance score without using cognate</p> <p>6 relevance? It would be possible mathematically to</p> <p>7 do that, but I don't believe -- I don't think</p> <p>8 that's what's being claimed. I think what's being</p> <p>9 claimed is the union of all of them in this</p> <p>10 claim.</p> <p>11 Q. And so what you intended to claim was the</p> <p>12 union of looking to all of these factors, and you</p> <p>13 can't necessarily opine as to whether the claims</p> <p>14 required actually looking to all of them or not?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Can you please go to column 43 of</p> <p>17 the patent?</p> <p>18 A. Yep.</p> <p>19 Q. Okay. And at line 30 to 36, this says,</p> <p>20 "In regard to how such similarity or</p> <p>21 identification of a cognate group is determined,</p> <p>22 one or more of the following approaches may be</p> | <p>Page 113</p> <p>1 that would do the predictive stuff.</p> <p>2 And then, you know, my father, as a</p> <p>3 lecturer/professor in statistics sort of new -- I</p> <p>4 mean, I had some understanding of the models, but</p> <p>5 it's not where I spent the majority of my career,</p> <p>6 and so he -- he sort of worked on the -- really,</p> <p>7 all the mathematical formulas and the statistical</p> <p>8 methods.</p> <p>9 Q. Okay. That's helpful.</p> <p>10 And so you had the essentially aha moment</p> <p>11 of trying to leverage a bunch of data and your</p> <p>12 father had the mathematical know-how for how to</p> <p>13 try to develop a model that could do that; is that</p> <p>14 fair.</p> <p>15 A. Yes.</p> <p>16 Q. And I think we'll get into this later.</p> <p>17 There's a reference in some of the earlier</p> <p>18 conception documents to a maths guy who was going</p> <p>19 to work on the math.</p> <p>20 Would that have referred to your father,</p> <p>21 do you know?</p> <p>22 A. I think -- I believe it did, yes. He</p> <p>Page 115</p>                                                                                                        |
| <p>1 used: Roll or group based, collaborative</p> <p>2 filtering, fingerprinting, cluster models, search</p> <p>3 based methods, frequently analysis, and importance</p> <p>4 value correlation."</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. And so this passage is describing how to</p> <p>8 identify cognate users.</p> <p>9 Do you agree?</p> <p>10 A. Yes.</p> <p>11 Q. And one of the ways to do that is</p> <p>12 collaborative filtering.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Can you describe what collaborative</p> <p>16 filtering is?</p> <p>17 A. No. I have no idea. You'd have to</p> <p>18 ask -- I mean, the way that we kind of separated,</p> <p>19 you know, the invention, was that my father is a</p> <p>20 professor in statistics and so, you know, I had</p> <p>21 the aha moment of, gosh, we could use all of this</p> <p>22 RIT or data to build complex mathematical models</p> <p>Page 114</p>                                                                                                                                                              | <p>1 did the -- he developed all those formulas. You</p> <p>2 know, he chatted to a coworker in the statistics</p> <p>3 department and he talked to others, as you do when</p> <p>4 you're going through an inventive process and</p> <p>5 thinking things through.</p> <p>6 But all of the, you know, formulas are of</p> <p>7 his creation, and the rest of the -- you know,</p> <p>8 really the invention was using these types of</p> <p>9 mathematical formulas in this way to determine</p> <p>10 relevance in this method.</p> <p>11 And then the actual specific statistical</p> <p>12 mechanisms used, yes, you know, as you do when</p> <p>13 you're thinking about how to implement something,</p> <p>14 you ask people for their advice on statistical</p> <p>15 methods, just as you would ask their advice on</p> <p>16 what's the best type of computer to run this on,</p> <p>17 how much memory does it need, you know, all those</p> <p>18 types of things.</p> <p>19 It's a -- you know, that's the, I guess,</p> <p>20 specific details of reduction to practice. That's</p> <p>21 how I would see it.</p> <p>22 Q. Okay. And just so I can try to get a</p> <p>Page 116</p> |

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| <p>1 clear record, there's a reference to a maths guy</p> <p>2 in some of the documents that we'll be discussing</p> <p>3 later.</p> <p>4 Your understanding is that would refer to</p> <p>5 your father, Paul Marston; correct?</p> <p>6 MR. PADMANABHAN: Objection. 611.</p> <p>7 Go ahead.</p> <p>8 THE WITNESS: I believe the answer to</p> <p>9 that is yes. We have to go back and look at them,</p> <p>10 and I have to recollect my memory but, yes, I</p> <p>11 believe it is my father.</p> <p>12 BY MR. OHLERT:</p> <p>13 Q. Okay. And you were talking about</p> <p>14 specific mathematical formulas that you and your</p> <p>15 father developed.</p> <p>16 Those were not claimed in the '217</p> <p>17 patent; correct?</p> <p>18 MR. PADMANABHAN: Objection. Rule 611.</p> <p>19 THE WITNESS: The specifics of the</p> <p>20 implementation, the specific functions and</p> <p>21 formulas, you know, were not claimed. The --</p> <p>22 the -- they are an implementation of the</p> | <p>Page 117</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And the listed inventor here is</p> <p>3 Daniel E. Rose. He's the first one.</p> <p>4 Do you agree?</p> <p>5 A. Yes.</p> <p>6 Q. And so if I call this Exhibit 9 the Rose</p> <p>7 patent, you'll understand I'm referring to this</p> <p>8 patent ending in '058?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And so looking at the top right</p> <p>11 corner of the first page, it has some citations,</p> <p>12 and the second one listed is "Using collaborative</p> <p>13 filtering to weave an information tapestry by</p> <p>14 David Goldberg." And it lists an author date of</p> <p>15 December 1991.</p> <p>16 Do you see that?</p> <p>17 MR. PADMANABHAN: Objection. Rule 601</p> <p>18 and 602.</p> <p>19 THE WITNESS: I'll believe you. I'm not</p> <p>20 seeing the specific -- wait. What was the -- what</p> <p>21 was the -- where were you starting to read from</p> <p>22 there?</p>       |
| <p>Page 118</p> <p>1 innovation but we didn't -- you know, yes, we're</p> <p>2 not attempting to patent a sum sign, yeah.</p> <p>3 BY MR. OHLERT:</p> <p>4 Q. Well, and you are also not attempting to</p> <p>5 patent the specific formulas that your father</p> <p>6 developed because the claims of the '217 patent</p> <p>7 don't claim any specific math or mathematical</p> <p>8 formula; correct?</p> <p>9 A. Correct.</p> <p>10 (Exhibit 9 was marked.)</p> <p>11 BY MR. OHLERT:</p> <p>12 Q. Okay. I'm going to upload what will be,</p> <p>13 I believe, Exhibit 9.</p> <p>14 A. Okay.</p> <p>15 Q. Can you let me know when you have that</p> <p>16 open?</p> <p>17 A. Is this a Rose patent?</p> <p>18 Q. Yes.</p> <p>19 A. Okay.</p> <p>20 Q. So this document is labeled EX-1006 and</p> <p>21 it reflects U.S. Patent Number 6,202,058.</p> <p>22 Do you see that?</p>                                                                                                                  | <p>Page 120</p> <p>1 BY MR. OHLERT:</p> <p>2 Q. In the top-right column, the second</p> <p>3 citation listed there says, "Using collaborative</p> <p>4 filtering to weave an information tapestry by</p> <p>5 David Golberg, David," and it lists December 1991</p> <p>6 as the --</p> <p>7 A. Oh, yeah. Okay. Now I see it. Yes,</p> <p>8 yes, yes.</p> <p>9 Q. Okay. And just talked about how</p> <p>10 collaborative filtering is one way that the '217</p> <p>11 patent discusses identifying cognate users;</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And this is showing a 1991 document</p> <p>15 talking about collaborative filtering.</p> <p>16 You agree?</p> <p>17 A. Sure. Yes.</p> <p>18 Q. So you're not familiar with collaborative</p> <p>19 filtering, but is it fair to say that</p> <p>20 collaborative filtering techniques have existed</p> <p>21 since the early 1990s?</p> <p>22 MR. PADMANABHAN: Objection. 601.</p> |

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| <p>Page 121</p> <p>1 602.</p> <p>2 THE WITNESS: I don't know. Probably.</p> <p>3 But I don't know, yeah.</p> <p>4 BY MR. OHLERT:</p> <p>5 Q. Okay.</p> <p>6 A. It looks like it. I mean, again, I</p> <p>7 didn't think we were claiming collaborative</p> <p>8 filtering as an innovation so, yes, I'm sure it's</p> <p>9 a mechanism that's been known and, you know, being</p> <p>10 used by others.</p> <p>11 Q. Okay. If you'll just give me one second.</p> <p>12 I'm going to waste some time while I try to find</p> <p>13 this document.</p> <p>14 Okay. Can you go to column 1 of the Rose</p> <p>15 patent?</p> <p>16 A. Yes.</p> <p>17 Q. So just looking at the background of the</p> <p>18 invention, you see that Rose is talking about mail</p> <p>19 and electronic mail; correct?</p> <p>20 MR. PADMANABHAN: Objection. Rule 601,</p> <p>21 602.</p> <p>22 THE WITNESS: Yeah. I mean, I haven't</p>                        | <p>Page 123</p> <p>1 THE WITNESS: Yes. That's what it's</p> <p>2 talking about.</p> <p>3 BY MR. OHLERT:</p> <p>4 Q. Okay. And then looking at the summary of</p> <p>5 the invention in column 2, the second sentence</p> <p>6 there says, "A profile of interest is stored for</p> <p>7 each user having access to the system."</p> <p>8 Do you see that?</p> <p>9 A. Yes. I read it.</p> <p>10 Q. And then, "Using this profile, items of</p> <p>11 information to be presented to the user, e.g.,</p> <p>12 messages in an electronic mail network or</p> <p>13 documents within a particular bulletin board</p> <p>14 category, are ranked according to their likely</p> <p>15 degree of relevance."</p> <p>16 Do you see that?</p> <p>17 MR. PADMANABHAN: Objection. Rule 601,</p> <p>18 602.</p> <p>19 THE WITNESS: Yes. I read that.</p> <p>20 BY MR. OHLERT:</p> <p>21 Q. And so Rose is talking about using</p> <p>22 profiles for users that can be used to determine</p> |
| <p>Page 122</p> <p>1 read this before but let me zoom in a little bit.</p> <p>2 Hang on.</p> <p>3 Yeah. So it mentions email, yep.</p> <p>4 BY MR. OHLERT:</p> <p>5 Q. Okay. And starting around line 41, it</p> <p>6 talks about the problems of email becoming</p> <p>7 unmanageable in part due to things like junk mail.</p> <p>8 Do you see that?</p> <p>9 MR. PADMANABHAN: Objection. Rule 601,</p> <p>10 602.</p> <p>11 THE WITNESS: Okay. Well, let me read</p> <p>12 this then since -- rather than jumping to each</p> <p>13 individual sentence. Give me a minute.</p> <p>14 BY MR. OHLERT:</p> <p>15 Q. Yeah, please. Take your time.</p> <p>16 A. Yes. I've read it. It's talking about</p> <p>17 junk mail.</p> <p>18 Q. And so you agree Rose discusses the</p> <p>19 problems of clutter in email inboxes, including</p> <p>20 due to junk mail; correct?</p> <p>21 MR. PADMANABHAN: Objection. Rule 601,</p> <p>22 602.</p> | <p>Page 124</p> <p>1 the relevance of electronic content including</p> <p>2 electronic mail; correct?</p> <p>3 MR. PADMANABHAN: Objection. Rule 601,</p> <p>4 602.</p> <p>5 THE WITNESS: Yes. Based on a profile of</p> <p>6 interests that they have, yes.</p> <p>7 BY MR. OHLERT:</p> <p>8 Q. Okay. And then going down to the</p> <p>9 paragraph starting around line 35, it says that,</p> <p>10 "This prediction of relevance is carried out by</p> <p>11 combining data pertaining to one or more</p> <p>12 attributes of each item of information with other</p> <p>13 data regarding correlations of interests between</p> <p>14 users."</p> <p>15 Do you see that?</p> <p>16 MR. PADMANABHAN: Objection. Rule 601,</p> <p>17 602.</p> <p>18 THE WITNESS: Okay. So let me read this</p> <p>19 paragraph. Just give me a second.</p> <p>20 MR. OHLERT: Yes, please.</p> <p>21 THE WITNESS: Okay. I've scan read</p> <p>22 through this -- this section.</p>                 |

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| <p>Page 125</p> <p>1 BY MR. OHLERT:</p> <p>2 Q. Okay. And so you agree that Rose helps</p> <p>3 make predictions of relevance by combining data</p> <p>4 pertaining to one or more attributes of each item</p> <p>5 of information with up that data regarding</p> <p>6 correlation of interests between users; correct?</p> <p>7 MR. PADMANABHAN: Objection. Rule 601,</p> <p>8 602.</p> <p>9 THE WITNESS: Yes. I mean, I think what</p> <p>10 it's doing here is asking the user what they're</p> <p>11 interested in. So it says, you know -- where does</p> <p>12 it say it here? "User collection data is obtained</p> <p>13 through feedback information provided by users</p> <p>14 when they retrieve items of information.</p> <p>15 Preferably, the user provides an indication of</p> <p>16 interest in each document."</p> <p>17 So it sort of says is this interesting to</p> <p>18 you or not, and they click yes or no when they</p> <p>19 retrieve it from the system. And that's how</p> <p>20 they're trying to get feedback from the user,</p> <p>21 right.</p> <p>22 BY MR. OHLERT:</p> | <p>Page 127</p> <p>1 a user looks at a particular email or what they</p> <p>2 thought was important by focusing on how long they</p> <p>3 spent on a particular paragraph, things like that;</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. The '217 patent doesn't make any</p> <p>7 distinction between that kind of explicit or</p> <p>8 implicit action on electronic content, does it?</p> <p>9 A. I think that it does talk about the</p> <p>10 ability for users to change -- and, again, I'm</p> <p>11 speaking from memory here, but I think it does</p> <p>12 talk about the ability for users to change the</p> <p>13 relevant score or important score of a person in</p> <p>14 order to update the algorithm and say, "Hey,</p> <p>15 actually, you were wrong on this one. You could</p> <p>16 have -- you could have got the value better."</p> <p>17 So I think there is an explicit mechanism</p> <p>18 provided in the patent but, you know -- but it --</p> <p>19 the predominant set of data of information in the</p> <p>20 patent or the methods in the patent are focused on</p> <p>21 implicit mechanisms and only using explicit as</p> <p>22 a -- you know, as a way to assist the math and</p> |
| <p>Page 126</p> <p>1 Q. Exactly. And you would agree that that</p> <p>2 kind of direct feedback on content is an example</p> <p>3 of an action that a user can take on content?</p> <p>4 MR. PADMANABHAN: Objection. Rule 601,</p> <p>5 602, and 611.</p> <p>6 THE WITNESS: I believe -- yes, I think</p> <p>7 it is an example of an action that a user can</p> <p>8 take, yes.</p> <p>9 BY MR. OHLERT:</p> <p>10 Q. And is it fair to say that users can take</p> <p>11 both explicit and implicit actions on electronic</p> <p>12 content?</p> <p>13 A. Yes. I think that's fair.</p> <p>14 Q. And so an example of an explicit action</p> <p>15 on content might be something like saying, "Yes, I</p> <p>16 like this" or "I think this is five stars out of</p> <p>17 five" or providing that kind of direct rating.</p> <p>18 Would you agree?</p> <p>19 A. Yes. That would be a direct feedback</p> <p>20 measure.</p> <p>21 Q. And then an implicit action on content</p> <p>22 would be something like the system tracks how long</p>                                                             | <p>Page 128</p> <p>1 algorithm in learning, essentially.</p> <p>2 But the functioning of the algorithm is</p> <p>3 intended to be implicit. The vast majority of the</p> <p>4 interactions are all implicit.</p> <p>5 Q. Well, let me ask it this way.</p> <p>6 The '217 patent might discuss both</p> <p>7 explicit and implicit actions on electronic</p> <p>8 content, but the claims are agnostic to whether a</p> <p>9 user's actions on content are explicit or</p> <p>10 implicit. They only look to whether a user has</p> <p>11 performed actions on content; correct?</p> <p>12 MR. PADMANABHAN: Objection. Rule 611.</p> <p>13 THE WITNESS: Yeah. I guess -- I'll -- I</p> <p>14 tender the answer to that one. I think that the</p> <p>15 context was very much implicit but the specifics</p> <p>16 of whether the claims called it out or not and</p> <p>17 what that would mean for overlapping claim</p> <p>18 boundaries, I'll leave that to attorneys to</p> <p>19 determine.</p> <p>20 BY MR. OHLERT:</p> <p>21 Q. Well, let's just go back to the '217</p> <p>22 patent. I think we were just looking at Claim 1.</p>                                                                               |

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| <p>1 So let me know when you're there. Page 129</p> <p>2 A. Yeah. Okay. I'm here. And in the</p> <p>3 Claim 1, you said?</p> <p>4 Q. Claim 1. And so looking at line 33, it</p> <p>5 says, "A monitoring module configured to track</p> <p>6 actions by a plurality of users associated with an</p> <p>7 application for managing electronic content."</p> <p>8 It just says, "track actions." It</p> <p>9 doesn't specify the kinds of actions, does it?</p> <p>10 A. Sorry. Which line were you looking at</p> <p>11 there?</p> <p>12 Q. Line 33 to 35 starting, "a monitoring</p> <p>13 module."</p> <p>14 A. Okay. Yes. It says, "user actions." I</p> <p>15 mean, it's -- the rest of the context of that</p> <p>16 thing is around a monitoring module which is</p> <p>17 monitoring implicit actions. But in that specific</p> <p>18 line it just, you know, talks about actions taken</p> <p>19 by users.</p> <p>20 Q. Okay. So the Claim 1 of the '217 patent</p> <p>21 as with the other claims just refers to tracking</p> <p>22 actions. It doesn't require specific kinds of</p> | <p>1 infringement; right? Page 131</p> <p>2 A. Yes.</p> <p>3 Q. And one of the ways that Sterling</p> <p>4 contends that Facebook's products infringe is when</p> <p>5 users like content; correct?</p> <p>6 A. I don't know if that's true. I don't</p> <p>7 know.</p> <p>8 Q. Okay, you don't know. But let's put it</p> <p>9 this way.</p> <p>10 Assuming Sterling was accusing Facebook's</p> <p>11 products of infringing this patent when users like</p> <p>12 content, you would agree that pressing the like</p> <p>13 button on that content is an explicit action on</p> <p>14 that content?</p> <p>15 A. Yes. I would agree that's an explicit</p> <p>16 action.</p> <p>17 Q. Okay. Let's go back to the Rose patent.</p> <p>18 And I think we were at column 6, but if not, then</p> <p>19 let's go to column 6.</p> <p>20 A. Yep. Column 6 we went to -- but, yes,</p> <p>21 column 6.</p> <p>22 Q. Fair enough.</p>               |
| <p>1 actions. Page 130</p> <p>2 Do you agree?</p> <p>3 A. I mean, I would say -- I would say the</p> <p>4 context of it is implicit actions, but in this --</p> <p>5 in this point, you know, an explicit action is an</p> <p>6 example of an action that could be used so, yes,</p> <p>7 the claim is talking about actions in its broader</p> <p>8 sense.</p> <p>9 But the -- you know, the rest of the</p> <p>10 claim is much more focused on implicit actions</p> <p>11 versus just asking the user, "Hey, was this</p> <p>12 interesting or not?"</p> <p>13 Q. Well, let's put it this way. Facebook,</p> <p>14 for example, is one of the products that you</p> <p>15 ultimately say infringes the '217 patent;</p> <p>16 correct?</p> <p>17 A. I don't know that I'm saying that. I</p> <p>18 think that the owner is saying it but, sure.</p> <p>19 Q. Okay. Let me ask that a better way --</p> <p>20 strike that.</p> <p>21 Sterling, the patent owner in this</p> <p>22 matter, accuses Facebook's products of</p>                                                                | <p>1 Focusing on line 36 of column 6, this Page 132</p> <p>2 says, "Each user profile also comprises a vector</p> <p>3 based upon the user's indication as to his or her</p> <p>4 relative interest in previously retrieved</p> <p>5 documents. Each time a user provides a new</p> <p>6 response to a retrieved message, the profile</p> <p>7 vector is modified in accordance with the results</p> <p>8 of the indication."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 MR. PADMANABHAN: Objection to Rule 601,</p> <p>12 602.</p> <p>13 BY MR. OHLERT:</p> <p>14 Q. And so this is an example where Rose is</p> <p>15 tracking user actions and updating a user's</p> <p>16 profile based on those actions to determine the</p> <p>17 relevance of content; correct?</p> <p>18 MR. PADMANABHAN: Objection. Rule 601,</p> <p>19 602.</p> <p>20 THE WITNESS: Okay. So what was your</p> <p>21 question?</p> <p>22 BY MR. OHLERT:</p> |

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| <p style="text-align: right;">Page 133</p> <p>1 Q. Rose teaches that when a user takes</p> <p>2 actions on content, the user's profile will be</p> <p>3 updated and that user profile will be used to</p> <p>4 determine the relevance of electronic content;</p> <p>5 correct?</p> <p>6 A. I mean --</p> <p>7 MR. PADMANABHAN: Objection. Rule 601,</p> <p>8 602.</p> <p>9 THE WITNESS: Yes. The language is quite</p> <p>10 specific whether it's explicit actions. But, yes,</p> <p>11 it is saying that the user has an interest profile</p> <p>12 and, you know, so they've said the things they're</p> <p>13 interested in, and then from time to time the</p> <p>14 system will ask, "Hey, was this actually</p> <p>15 interesting to you?" And based on the user's</p> <p>16 answer, it will update the interest stat or the</p> <p>17 vector for the user.</p> <p>18 BY MR. OHLERT:</p> <p>19 Q. Okay. And line 50 in that same column</p> <p>20 says, "One factor in the prediction of a user's</p> <p>21 likely interest in a particular piece of</p> <p>22 information can be based on the similarity between</p> | <p style="text-align: right;">Page 135</p> <p>1 Q. And so in addition to looking at a user's</p> <p>2 actions on electronic content, Rose also looks to</p> <p>3 the actions provided by other users.</p> <p>4 You would agree?</p> <p>5 MR. PADMANABHAN: Objection. Rule 601,</p> <p>6 602.</p> <p>7 THE WITNESS: Yes. I mean, I see this as</p> <p>8 being similar to a voting mechanism in Netflix.</p> <p>9 Like, you know, it looks at people saying yes, I</p> <p>10 liked this or no, I didn't. And based on that</p> <p>11 it's attempting to, you know -- it's attempting to</p> <p>12 then do some degree of forecasting.</p> <p>13 So if I keep saying that I like, you</p> <p>14 know, war movies, then it's going to show me more</p> <p>15 war movies and, you know, and it's going to</p> <p>16 correlate that with other users who liked war</p> <p>17 movies, and it explicitly said that they liked it</p> <p>18 when they were asked.</p> <p>19 BY MR. OHLERT:</p> <p>20 Q. Okay. And let's go to column 7 around</p> <p>21 line 43.</p> <p>22 Can you let me know when you're there?</p> |
| <p style="text-align: right;">Page 134</p> <p>1 the documents vector and the user's profile</p> <p>2 vector."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And so one of the elements Rose looks to</p> <p>6 when considering the relevance of documents is the</p> <p>7 user's profile vector, which is based on the</p> <p>8 user's actions on electronic content; correct?</p> <p>9 MR. PADMANABHAN: Objection. Rule 601,</p> <p>10 602.</p> <p>11 THE WITNESS: Yeah. It's based on the</p> <p>12 user's explicit actions with respect to content,</p> <p>13 yes. I mean, it's based on the user's explicit</p> <p>14 actions.</p> <p>15 BY MR. OHLERT:</p> <p>16 Q. Okay. And then lines 59 to 61 says, "A</p> <p>17 second factor in the prediction of a user's</p> <p>18 interest and information is based upon a</p> <p>19 correlation with the indications provided by other</p> <p>20 users."</p> <p>21 Do you see that?</p> <p>22 A. I do see that sentence, yes.</p>                                                                                                                                     | <p style="text-align: right;">Page 136</p> <p>1 A. Yes.</p> <p>2 Q. So the start of this paragraph says, "In</p> <p>3 accordance with the invention, a combination of</p> <p>4 attribute-based and correlation-based prediction</p> <p>5 is employed to rank the relevance of each item of</p> <p>6 information."</p> <p>7 So I don't have a question about that,</p> <p>8 but do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And then it continues. And about line 43</p> <p>11 it says, "Regression methods are employed to</p> <p>12 identify the most important attributes that are</p> <p>13 used as predictors, e.g., salient terms in a</p> <p>14 document and users having similar feedback</p> <p>15 responses."</p> <p>16 Do you see that?</p> <p>17 MR. PADMANABHAN: Objection. Rule 601,</p> <p>18 602.</p> <p>19 THE WITNESS: I read that, yes.</p> <p>20 BY MR. OHLERT:</p> <p>21 Q. And so when Rose talks about using</p> <p>22 regression to identify the most important</p>                                                                                                                |

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| <p>Page 137</p> <p>1 attributes that are used as predictors -- and as</p> <p>2 an example, it provides users having similar</p> <p>3 feedback responses.</p> <p>4 Is that an example of cognate users?</p> <p>5 MR. PADMANABHAN: Objection. Rule 601,</p> <p>6 602.</p> <p>7 THE WITNESS: For that, yes. So I think</p> <p>8 that this is an example of users who have said</p> <p>9 that they like this, also like that. And I mean</p> <p>10 there are other shopping carts, other patents that</p> <p>11 I think -- I mean, I haven't looked specifically,</p> <p>12 but they were around at the same time.</p> <p>13 Let me read it again.</p> <p>14 I think that the only action they're</p> <p>15 looking at there really is -- is a user survey.</p> <p>16 But in that sentence they are looking at other</p> <p>17 surveyed values and comparing it to -- you know,</p> <p>18 the -- I mean, they're comparing it to other users</p> <p>19 who they also surveyed.</p> <p>20 I'd have to think more. You know, I</p> <p>21 haven't read this patent before, so I'd have to</p> <p>22 probably read the whole of it and think about it</p> | <p>Page 139</p> <p>1 feedback mechanism to try and determine whether</p> <p>2 the values were accurate. It's not particularly</p> <p>3 useful because people don't do it very often.</p> <p>4 But, you know, direct surveying is a</p> <p>5 mechanism to try and ask -- you know, to try and</p> <p>6 understand whether a user thought something was</p> <p>7 relevant or not.</p> <p>8 BY MR. OHLERT:</p> <p>9 Q. And I just want to understand what you</p> <p>10 mean when you say "survey" because the way I</p> <p>11 understand Rose is it's collecting this</p> <p>12 information based on users providing that direct</p> <p>13 feedback on content. You know, a thumbs up or a</p> <p>14 thumbs down.</p> <p>15 A. Yes.</p> <p>16 Q. Is that what you're referring to when you</p> <p>17 say "survey"?</p> <p>18 A. Yes. An explicit action.</p> <p>19 MR. PADMANABHAN: Objection. Rule 601,</p> <p>20 602.</p> <p>21 BY MR. OHLERT:</p> <p>22 Q. You're not referring to like someone gets</p>                                                                                                                                     |
| <p>Page 138</p> <p>1 for a while to contrast it to -- I mean, again,</p> <p>2 there are other systems out there that would</p> <p>3 say -- that were sampled based on surveys and</p> <p>4 trying to figure out like people who like this</p> <p>5 type of movie also like that type of movie, and so</p> <p>6 I think you'll like this type of movie.</p> <p>7 I think that, you know, some of those</p> <p>8 things did exist back in early -- in the late</p> <p>9 2000s or late '99, early 2000s period.</p> <p>10 But I'd have to think about it some more.</p> <p>11 I'd have to read the whole patent. And then --</p> <p>12 you know, I'd have to think about it, I guess,</p> <p>13 would be my answer.</p> <p>14 BY MR. OHLERT:</p> <p>15 Q. You would -- would you agree that</p> <p>16 identifying users having similar feedback</p> <p>17 responses is one way you can identify cognate</p> <p>18 users in the '217 patent?</p> <p>19 MR. PADMANABHAN: Objection. Rule 601,</p> <p>20 602, and 611.</p> <p>21 THE WITNESS: I think it is one mechanism</p> <p>22 of trying to determine -- you know, it's a</p>                      | <p>Page 140</p> <p>1 a list of 20 movies and it says, "Give me a thumbs</p> <p>2 up or thumbs down" for each of those movies. Like</p> <p>3 that's not the kind of survey you're talking</p> <p>4 about?</p> <p>5 MR. PADMANABHAN: Objection. Rule 601,</p> <p>6 602.</p> <p>7 THE WITNESS: I mean, it's essentially</p> <p>8 asking that because what the patent is saying is</p> <p>9 that you're specifically asking the user to</p> <p>10 perform an action and tell them whether or not</p> <p>11 this content is interesting or not.</p> <p>12 So, you know, it's a -- it is a -- again,</p> <p>13 I haven't read the whole patent, but it seems to</p> <p>14 be a surveying mechanism that asks whether or not</p> <p>15 a particular piece of content was relevant and,</p> <p>16 you know, it's not -- it isn't based on implicit</p> <p>17 actions, it's based on asking a user a specific</p> <p>18 question at a moment in time and attempting to</p> <p>19 adjust the profile of interest for the user based</p> <p>20 on what they tell you.</p> <p>21 BY MR. OHLERT:</p> <p>22 Q. I want to break down that answer because</p> |

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| <p>Page 141</p> <p>1 I think it doesn't quite make sense to me.</p> <p>2 A. Okay.</p> <p>3 Q. So what I'm trying to get at is what you</p> <p>4 mean by "survey." And I think there's a</p> <p>5 difference between providing feedback on</p> <p>6 electronic content directly and getting a list of</p> <p>7 certain movies or pieces of data and providing</p> <p>8 feedback for each of those, not necessarily on</p> <p>9 that electronic content.</p> <p>10 A. Yes. So that's why --</p> <p>11 Q. So you agree that Rose is talking about</p> <p>12 the example where you actually provide that</p> <p>13 feedback directly on the electronic content;</p> <p>14 correct?</p> <p>15 MR. PADMANABHAN: Objection. Rule 601,</p> <p>16 602, and 611.</p> <p>17 THE WITNESS: I'd have to see it. But</p> <p>18 the way I read it is that it's asking the user an</p> <p>19 explicit question, which in my mind is a survey.</p> <p>20 A survey doesn't imply that -- you don't</p> <p>21 have to have a minimum number of questions to be a</p> <p>22 survey but, you know, you're asking -- you're</p>                                | <p>Page 143</p> <p>1 actions on electronic content, you are just saying</p> <p>2 that is a form of a survey?</p> <p>3 MR. PADMANABHAN: Objection. Rule 601,</p> <p>4 602, and 611.</p> <p>5 You can answer if you know.</p> <p>6 THE WITNESS: In my mind, the way I'm</p> <p>7 using survey is I interrupt the user's workflow</p> <p>8 and ask them an explicit question at a moment in</p> <p>9 time.</p> <p>10 BY MR. OHLERT:</p> <p>11 Q. And that doesn't change whether or not a</p> <p>12 user is providing direct feedback on electronic</p> <p>13 content; correct?</p> <p>14 MR. PADMANABHAN: Objection. Rule 601,</p> <p>15 602, and 611 to the extent it applies to Rose.</p> <p>16 THE WITNESS: Yes. I think that the user</p> <p>17 is taking an explicit action when asked to, by the</p> <p>18 system, to say whether they found that piece of</p> <p>19 content interesting.</p> <p>20 BY MR. OHLERT:</p> <p>21 Q. And when you say, "they're taking an</p> <p>22 explicit action," you agree they're taking an</p>                       |
| <p>Page 142</p> <p>1 not -- the user isn't sort of randomly clicking</p> <p>2 like buttons.</p> <p>3 It's that you're asking a user a</p> <p>4 pop-up -- equivalent like a pop-up message saying,</p> <p>5 "Hey." And then Facebook -- not Facebook --</p> <p>6 Netflix does this. Netflix will pop up a thing</p> <p>7 that says, "Hey, we think this movie would be</p> <p>8 interesting to you. Do you agree," right.</p> <p>9 And then you can say, "Yes, I agree it's</p> <p>10 interesting or, no, I don't think it was</p> <p>11 interesting, I probably wouldn't watch it," right.</p> <p>12 And so in my mind that is surveying,</p> <p>13 proactively surveying the user. And I think</p> <p>14 that's what they're talking about doing to build</p> <p>15 this profile of interest.</p> <p>16 Does that make sense?</p> <p>17 BY MR. OHLERT:</p> <p>18 Q. It does. But, again, I just want to make</p> <p>19 sure you're not using "survey" in some particular</p> <p>20 way that I'm not understanding.</p> <p>21 So when you use the word "survey," you're</p> <p>22 not disputing that Rose evaluates a user's direct</p> | <p>Page 144</p> <p>1 explicit action on the piece of electronic</p> <p>2 content; correct?</p> <p>3 MR. PADMANABHAN: Objection. Rule 601,</p> <p>4 602, and 611.</p> <p>5 You can answer if you know.</p> <p>6 THE WITNESS: I mean, yeah, in direct</p> <p>7 relation to that single piece of content, yes.</p> <p>8 You know, it's -- I mean, they're seeing a pop-up</p> <p>9 saying, "Hey, was this interesting," and then</p> <p>10 they're saying yes.</p> <p>11 I mean, it's not a -- it's not an -- it's</p> <p>12 an explicit survey question, and then they're</p> <p>13 giving an answer to that. It's not like some</p> <p>14 passive action they're doing. It's, you know,</p> <p>15 you're specifically asking the user was this</p> <p>16 interesting or not.</p> <p>17 BY MR. OHLERT:</p> <p>18 Q. Okay. And can you scroll up to look at</p> <p>19 figure 6, which is on page 5 of 11 of Rose.</p> <p>20 A. 6. Yep.</p> <p>21 Q. And so the first graph in figure 6 shows</p> <p>22 users -- each column representing different users,</p> |

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| <p>1 and it shows Rose representing different<br/>2 documents.<br/>3 Do you see that?<br/>4 MR. PADMANABHAN: Objection. 601, 602.<br/>5 THE WITNESS: I see users and docs on the<br/>6 table, yes.<br/>7 BY MR. OHLERT:<br/>8 Q. Okay. And would you generally understand<br/>9 that the first of these graphs shows individual<br/>10 user's answers respective to particular<br/>11 documents?<br/>12 MR. PADMANABHAN: Objection. Rule 601,<br/>13 602.<br/>14 THE WITNESS: Yeah, it looks like it. It<br/>15 looks like, you know, they're saying yes, yes, not<br/>16 sure, no. Yeah.<br/>17 BY MR. OHLERT:<br/>18 Q. And then it has a little arrow pointing<br/>19 to a second table labeled 44 that has users for<br/>20 both the Rose and the columns.<br/>21 Do you see that?<br/>22 MR. PADMANABHAN: Objection. Rule 601,</p>                                                                      | Page 145 | <p>1 '217 patent was, and from my recollection it<br/>2 related to trying to address problems of clutter<br/>3 with email based on the user's actions and the<br/>4 actions of other similar users.<br/>5 Is that fair so far?<br/>6 A. Yeah. I mean, that's dealing with --<br/>7 yes, I think that's true.<br/>8 Q. And based on what we've just reviewed in<br/>9 Rose, it looks like Rose also is addressing<br/>10 problems of email clutter. It looks to the<br/>11 actions of users. And it also looks to<br/>12 correlations with other similar users who provided<br/>13 similar actions.<br/>14 So my question is at a high level, what<br/>15 is the invention of the '217 patent specifically<br/>16 that we didn't just cover in Rose?<br/>17 MR. PADMANABHAN: Objection. Rule 601,<br/>18 602.<br/>19 THE WITNESS: Again, I would defer to<br/>20 patent attorneys to determine the difference<br/>21 between the two. I'm probably not qualified to<br/>22 talk about that.</p>                                                                                                          | Page 147 |
| <p>1 602.<br/>2 THE WITNESS: Yes.<br/>3 BY MR. OHLERT:<br/>4 Q. And so this is an example of Rose taking<br/>5 users' answers respective to individual pieces of<br/>6 electronic content. And then it's correlating<br/>7 those answers across the users.<br/>8 Do you agree?<br/>9 MR. PADMANABHAN: Objection. Rule 601,<br/>10 602.<br/>11 THE WITNESS: I mean, yes. I believe --<br/>12 again, I haven't read the patent in detail, but it<br/>13 looks like they are trying to see how similar the<br/>14 different users are based on their surveys.<br/>15 BY MR. OHLERT:<br/>16 Q. Okay. Now, if we go to the first page of<br/>17 Rose, it shows that Rose issued on March 13, 2001;<br/>18 correct?<br/>19 A. I'm sure it does. Yes.<br/>20 Q. Okay. And so I guess the question I<br/>21 have, sir, is earlier you kind of provided a<br/>22 high-level overview of what the invention of the</p> | Page 146 | <p>1 The way that -- the way I would interrupt<br/>2 it is that, you know, this is more of a -- Rose is<br/>3 more of a surveying mechanism in an attempt to<br/>4 build an interest set for the user.<br/>5 The innovation in the patent that we<br/>6 formed was really based on collecting vast amounts<br/>7 of -- I've forgotten the differentiation of the<br/>8 term you used, but inexplicit or, you know,<br/>9 non-surveying actions in building that across the<br/>10 life cycle into a model.<br/>11 So one is effectively surveying what you<br/>12 think is interesting. The other one is just<br/>13 silently kind of monitoring all of it to determine<br/>14 a profile for the user.<br/>15 So I think that would be -- that would be<br/>16 how I would -- I would contrast the two.<br/>17 BY MR. OHLERT:<br/>18 Q. So the main difference in your view<br/>19 between Rose and the invention of the '217 patent<br/>20 is that the '217 patent is more focused on<br/>21 deriving relevance based on implicit actions on<br/>22 content and not just explicit actions; is that</p> | Page 148 |

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| <p>Page 149</p> <p>1 fair?</p> <p>2 MR. PADMANABHAN: Objection. Rule 601,</p> <p>3 602.</p> <p>4 THE WITNESS: I think to properly</p> <p>5 evaluate this, what I would like to do is, you</p> <p>6 know, take -- I don't know if this is allowed or</p> <p>7 not but, you know, to really contrast the two,</p> <p>8 trying to do it on the spot based on picking</p> <p>9 sentences out of a patent, you know, I'm probably</p> <p>10 not smart enough to do that.</p> <p>11 So, you know, I think probably what I</p> <p>12 would want to do is have like 10, 15 minutes,</p> <p>13 maybe take a break or whatever you're supposed to</p> <p>14 do during that, but go read the patent in its</p> <p>15 entirety from Rose and then try and -- try and</p> <p>16 talk on it.</p> <p>17 Because it's really not possible just</p> <p>18 reading one or two sentences, you know, through</p> <p>19 the whole document. I don't really feel</p> <p>20 comfortable making overall comparisons to, you</p> <p>21 know, a relatively complex document.</p> <p>22 All these patents are written in sort of</p>                           | <p>Page 151</p> <p>1 compare Rose and the '217 patent in their</p> <p>2 entirety. I'm trying to understand what you think</p> <p>3 is new that was not contained in the prior art in</p> <p>4 the '217 patent.</p> <p>5 And so what you pointed me to earlier was</p> <p>6 addressing issues with email clutter and looking</p> <p>7 at actions of users and the actions of cognate</p> <p>8 users. And I think based on what we've looked at,</p> <p>9 that's in Rose.</p> <p>10 And so is there anything else that you</p> <p>11 can think of that's inventive to the '217 patent</p> <p>12 that we haven't already covered?</p> <p>13 And I'm not asking for a comprehensive</p> <p>14 difference between Rose and the '217 patent, I'm</p> <p>15 really focused on what you think is inventive</p> <p>16 about the '217 patent.</p> <p>17 Does that make sense? I can ask that in</p> <p>18 a different way if it would be helpful.</p> <p>19 MR. PADMANABHAN: Objection. Rule 611,</p> <p>20 601, and 602.</p> <p>21 THE WITNESS: Should we take a break?</p> <p>22 MR. PADMANABHAN: You have to answer the</p>                                                                                                           |
| <p>Page 150</p> <p>1 legalese anyway, that I'm not -- you know, I don't</p> <p>2 spend all my life working in patent -- patent</p> <p>3 terms and phrase and grammar.</p> <p>4 So I think to really have an opinion on</p> <p>5 it, I'd want to go -- I'd want to have some amount</p> <p>6 of time to review the Rose patent before I try and</p> <p>7 contrast it to any greater level of detail.</p> <p>8 BY MR. OHLERT:</p> <p>9 Q. Okay. And that's fair.</p> <p>10 A. I'm happy to do that, you know. If you</p> <p>11 want to -- I mean, we can take a break for 10</p> <p>12 minutes or take a break for 15 minutes, I'll read</p> <p>13 through it and then try and take some more</p> <p>14 questions.</p> <p>15 But, again, like it's a -- all of these</p> <p>16 things are written in legal language and it's not</p> <p>17 a term of phrase or language that I spend my life</p> <p>18 operating in.</p> <p>19 Q. I understand that. And I guess what I'm</p> <p>20 trying to do is understand what you think is the</p> <p>21 inventive aspect of the '217 patent.</p> <p>22 And so I'm not trying to ask you to</p> | <p>Page 152</p> <p>1 question. You can't take a break yet.</p> <p>2 THE WITNESS: Can't take a break. All</p> <p>3 right. Let me answer the question and then maybe</p> <p>4 we'll -- I prefer to collect my thoughts.</p> <p>5 So, you know, from my perception, the</p> <p>6 thing that was most innovative in the way that we</p> <p>7 looked at the problem was the -- you know,</p> <p>8 monitoring of implicit actions in a very, very</p> <p>9 large mathematical model and doing it based both</p> <p>10 on the user's own actions and on -- the</p> <p>11 combination of the user's own actions and the</p> <p>12 actions of other users.</p> <p>13 And I think that, you know -- and, again,</p> <p>14 I don't care that much now. I wrote it 20 years</p> <p>15 ago, it's owned by somebody else. But like the</p> <p>16 perception I have is that -- well, the inventive</p> <p>17 step that I believe that we went through was</p> <p>18 saying that -- you know, doing that silently in</p> <p>19 the background on vast amounts of audit data in a</p> <p>20 giant mathematical model that's a lot more complex</p> <p>21 than the one I looked at in Rose.</p> <p>22 You know, it's -- that was the -- that</p> |

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| <p>Page 153</p> <p>1 was kind of the inventive step. The idea of</p> <p>2 surveying users was already out there. I mean,</p> <p>3 there were systems to survey users' interest in.</p> <p>4 You know, videos, Netflix, other stuff.</p> <p>5 I think that it was -- and reviews in</p> <p>6 general was sort of a done thing. I think that</p> <p>7 the difference was building -- I mean, nobody's</p> <p>8 called it big data back then but, you know,</p> <p>9 creating a big data model around the plethora of</p> <p>10 implicit actions the user was taking and, yes.</p> <p>11 And then looking at the actions they themselves</p> <p>12 took and looking at the actions that cognate users</p> <p>13 took.</p> <p>14 In some ways, you know, I do think that</p> <p>15 the general concept of comparing one user's</p> <p>16 actions to others -- the reviews already kind of</p> <p>17 did that, but it was an explicit surveying</p> <p>18 mechanism.</p> <p>19 So, you know, the way I would see it,</p> <p>20 those two are different. And I think that would</p> <p>21 be the -- obviously, I didn't know that Rose</p> <p>22 existed when I wrote the patent. You never know</p> | <p>Page 155</p> <p>1 A. Okay.</p> <p>2 Q. So, first, the main difference I heard</p> <p>3 was that the '217 patent is more focused on</p> <p>4 implicit actions and looking at a vast amount of</p> <p>5 data through its giant mathematical model; is that</p> <p>6 fair?</p> <p>7 MR. PADMANABHAN: Objection. Rule 611.</p> <p>8 THE WITNESS: Yes. I think that the</p> <p>9 primary goal of the '217 patent was looking at</p> <p>10 vast amounts of implicit actions.</p> <p>11 BY MR. OHLERT:</p> <p>12 Q. And the claims of the '217 patent are not</p> <p>13 limited to implicit actions. They cover any user</p> <p>14 actions on content; right?</p> <p>15 A. You know, I don't want to speak to the</p> <p>16 specifics of the claims. I would say that the</p> <p>17 vast majority of the context is all about implicit</p> <p>18 actions.</p> <p>19 You know, I don't think there was -- I</p> <p>20 think an explicit surveying action was an</p> <p>21 afterthought, so I don't know that I'm qualified</p> <p>22 to -- I don't feel qualified to try and</p>                                                                  |
| <p>Page 154</p> <p>1 what's out there in the IP. But that's the --</p> <p>2 looking at it now, I think that's still what is</p> <p>3 different in the relevance patent that we wrote</p> <p>4 versus the way Rose is attempting to tackle the</p> <p>5 problem.</p> <p>6 I mean, there were other email spam</p> <p>7 filters that did similar things, you know, that</p> <p>8 would say, oh, you know, if lots of people keep</p> <p>9 deleting messages from that person, it's probably</p> <p>10 spam.</p> <p>11 I think that existed. I don't know for</p> <p>12 sure, but I believe it did. Most of it was</p> <p>13 probably based on keywords versus user direct</p> <p>14 feedback. But I know that there were things that</p> <p>15 operated around spam at the time.</p> <p>16 You know, so that's -- you know, that's</p> <p>17 how I -- I still think what we did is</p> <p>18 significantly different to what it's implying, but</p> <p>19 that would be my answer.</p> <p>20 BY MR. OHLERT:</p> <p>21 Q. Can I just ask a few questions to try to</p> <p>22 tease that out?</p>                                                                                                  | <p>Page 156</p> <p>1 characterize the claims.</p> <p>2 Q. Okay. Well, part of your answer also</p> <p>3 said that spam filters could limit out certain</p> <p>4 kinds of spam and that that was not based on</p> <p>5 direct user feedback.</p> <p>6 So aren't you already agreeing that</p> <p>7 earlier systems could evaluate those kinds of</p> <p>8 implicit actions anyway?</p> <p>9 A. No. Because they weren't -- I don't know</p> <p>10 that there were any spam filters systems that</p> <p>11 were -- the spam filter systems generally were</p> <p>12 operating at the gateway, and they didn't have</p> <p>13 visibility into what the users were doing with the</p> <p>14 email.</p> <p>15 So, again, I'm not an expert in spam</p> <p>16 filtering technologies, but I think that I import</p> <p>17 on others that created those spam filters. You</p> <p>18 know, they were -- if there was a surveying</p> <p>19 mechanism, it was on the side. I don't think</p> <p>20 there was any time like integration into Microsoft</p> <p>21 Exchange that then pulled all of this audit data</p> <p>22 and determined things.</p> |

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| <p style="text-align: right;">Page 157</p> <p>1 I think it was predominantly keyword</p> <p>2 based and then they probably had some way to tune</p> <p>3 it around keywords. But, again, you'd have to go</p> <p>4 look at it for that. But I'm just saying that</p> <p>5 there were mechanisms to attempt to determine</p> <p>6 relevance, you know, based on algorithms in the</p> <p>7 fight against all of that, you know, Cuban cigar</p> <p>8 spam.</p> <p>9 Q. Okay. So just a moment ago we said that</p> <p>10 after looking at Rose you think the main inventive</p> <p>11 elements of the '217 patent are that it's more</p> <p>12 focused on implicit actions and looking at data</p> <p>13 through its giant mathematical model.</p> <p>14 Is there anything else sitting here now</p> <p>15 that comes to mind as to why the '217 patent would</p> <p>16 be inventive in light of what we've seen with</p> <p>17 Rose?</p> <p>18 MR. PADMANABHAN: Objection. Rule 601,</p> <p>19 602, and 611.</p> <p>20 THE WITNESS: I think that was the</p> <p>21 primary innovation. I cannot speak to the whole</p> <p>22 of the patent because I wrote it 20 years ago, and</p> | <p style="text-align: right;">Page 159</p> <p>1 confidence in.</p> <p>2 BY MR. OHLERT:</p> <p>3 Q. So I just want to make sure we have a</p> <p>4 clean record. So let me try to ask it again and</p> <p>5 see if we can get just a direct answer. Strike</p> <p>6 that.</p> <p>7 So just a moment ago you said that after</p> <p>8 looking at Rose you think the main invention of</p> <p>9 the '217 patent is that it's more focused on</p> <p>10 implicit actions and looking at data through its</p> <p>11 giant mathematical model. And sitting here today</p> <p>12 those are the key elements that pop out why the</p> <p>13 '217 is inventive; correct?</p> <p>14 MR. PADMANABHAN: Objection. Rule 601,</p> <p>15 602, and 611.</p> <p>16 You can answer if you know.</p> <p>17 THE WITNESS: Yes. I'm thinking.</p> <p>18 Yes. I believe that the key innovation</p> <p>19 when I created it was basing it almost entirely on</p> <p>20 implicit actions.</p> <p>21 Explicit actions could be used as an</p> <p>22 occasional check-in, but the real power of the</p> |
| <p style="text-align: right;">Page 158</p> <p>1 I haven't -- you know, I haven't read it for a</p> <p>2 couple of months.</p> <p>3 So there are other aspects in it that are</p> <p>4 claimed, but I think -- I think the primary</p> <p>5 invention I had at the time was around what -- you</p> <p>6 know, that very large data set and doing</p> <p>7 mathematics on it and doing it from implicit</p> <p>8 actions.</p> <p>9 But, again, I don't want to -- I don't</p> <p>10 want to sort of come up with unilateral statements</p> <p>11 or global statements about the claims without</p> <p>12 going through it.</p> <p>13 And even if I did, like, I don't know</p> <p>14 that I'm the best expert to speak to that versus</p> <p>15 somebody who deals with claims, semantics all day</p> <p>16 long.</p> <p>17 Like I invented the thing. I had a</p> <p>18 particular set of thoughts in mind and a creative</p> <p>19 process to invent it but, you know, I don't know</p> <p>20 that I know enough to try and contrast two</p> <p>21 different sets of claims and come up with an</p> <p>22 answer that I would have a high degree of</p>                             | <p style="text-align: right;">Page 160</p> <p>1 model was looking at implicit actions.</p> <p>2 BY MR. OHLERT:</p> <p>3 Q. Okay. And so even when you say that,</p> <p>4 you're conceding that explicit actions can be used</p> <p>5 as part of that model; right?</p> <p>6 A. As part of our model, yes. Yes.</p> <p>7 Q. And it is part of the claims of the '217</p> <p>8 patent; right?</p> <p>9 A. The '217 patent is the one that we filed;</p> <p>10 right?</p> <p>11 Q. That's the patent at issue in this case.</p> <p>12 Yes, the '217 patent.</p> <p>13 A. Yeah. Yeah. No, implicit actions --</p> <p>14 implicit actions are certainly very important to</p> <p>15 the patent that we filed.</p> <p>16 Q. Yes. But you just said that explicit</p> <p>17 actions could also be used as an occasional check.</p> <p>18 And so aren't you agreeing that the</p> <p>19 claims of the '217 patent can also consider</p> <p>20 explicit actions?</p> <p>21 MR. PADMANABHAN: Objection. Rule 611.</p> <p>22 THE WITNESS: I don't know if it's in the</p>                |

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| <p>1 claims. I think that it's in the screenshots. I</p> <p>2 would have to reread all of the claims to</p> <p>3 determine that. I mean, I think the claim, that</p> <p>4 central claim, all of the things that are in that</p> <p>5 central claim relate to implicit actions.</p> <p>6 I think the explicit actions is described</p> <p>7 somewhere in the text above as a -- you know,</p> <p>8 somebody can go and move the slider to help the</p> <p>9 model learn, but I'm not sure that we're claiming</p> <p>10 that the action of teaching a model is innovative.</p> <p>11 I think that's just a process by which</p> <p>12 the model learns. I don't think -- I mean, I'd</p> <p>13 have to go back and reread all of the claims of</p> <p>14 the '217 patent, but I'm not sure that we ever</p> <p>15 claimed an explicit action.</p> <p>16 BY MR. OHLERT:</p> <p>17 Q. I think you're mixing things up.</p> <p>18 The point is the claims of the '217</p> <p>19 patent never specify implicit or explicit, which</p> <p>20 means it considers both implicit and explicit</p> <p>21 actions. It doesn't distinguish on that basis.</p> <p>22 MR. PADMANABHAN: Objection. Rule 611.</p> | <p>Page 161</p> <p>1 Exhibit 1001, and look at Claim 1 again.</p> <p>2 A. Yep. Okay.</p> <p>3 Q. And so one of the things you said in your</p> <p>4 answer is if you look at them, referring to the</p> <p>5 claims, and you look at the math, you know, all</p> <p>6 the actions being considered in the claims are</p> <p>7 implicit.</p> <p>8 Where does this claim talk about any math</p> <p>9 whatsoever?</p> <p>10 MR. PADMANABHAN: Objection. Rule 611.</p> <p>11 But you can answer if you know.</p> <p>12 THE WITNESS: I mean, it talks about a</p> <p>13 monitoring module. A monitoring module in my mind</p> <p>14 is different than a surveying module.</p> <p>15 BY MR. OHLERT:</p> <p>16 Q. A monitoring module is not math, is it,</p> <p>17 sir?</p> <p>18 A. No. But it's a passive process. It's</p> <p>19 not a --</p> <p>20 Q. Sir, I'm asking a very specific question,</p> <p>21 and I really don't mean to talk over you. I'm</p> <p>22 sorry.</p> <p>Page 163</p>      |
| <p>1 Now, you can answer.</p> <p>2 THE WITNESS: I think you've invented the</p> <p>3 terms of explicit and implicit actions. You know,</p> <p>4 they were not -- neither of those two words were</p> <p>5 used in the '917 patent. They were simply</p> <p>6 described as actions.</p> <p>7 And I think that, you know, you're</p> <p>8 creating -- I think that the term "action" in that</p> <p>9 context is being -- it's being implied implicitly.</p> <p>10 It doesn't say "implicit actions" because it never</p> <p>11 defined a term of implicit versus explicit</p> <p>12 actions.</p> <p>13 But all the actions being considered in</p> <p>14 the claim, if you look at them and you look at the</p> <p>15 math, you know, like all of the actions being</p> <p>16 considered in the claim are implicit.</p> <p>17 Q. I think we really need to go back to the</p> <p>18 claim because you are inserting some things</p> <p>19 that -- as respectfully as I can say, sir, I just</p> <p>20 don't think are there.</p> <p>21 A. Mm-hmm.</p> <p>22 Q. So let's go back to the '217 patent,</p>                                                                                            | <p>Page 162</p> <p>1 But I just want a clean record. I want a</p> <p>2 clear answer to this question because I think you</p> <p>3 keep inserting this into your answers, and I think</p> <p>4 it is inaccurate and frankly not fair testimony</p> <p>5 for you to be providing, okay?</p> <p>6 So I want to address this before we</p> <p>7 continue, okay?</p> <p>8 MR. PADMANABHAN: Objection. Rule 611.</p> <p>9 MR. OHLERT: So strike that.</p> <p>10 BY MR. OHLERT:</p> <p>11 Q. Looking at Claim 1, it does not claim any</p> <p>12 math whatsoever, does it?</p> <p>13 MR. PADMANABHAN: Objection. Rule 611.</p> <p>14 THE WITNESS: It doesn't claim any math.</p> <p>15 That's true.</p> <p>16 BY MR. OHLERT:</p> <p>17 Q. And it also does not specify implicit</p> <p>18 actions, does it?</p> <p>19 MR. PADMANABHAN: Objection. Rule 611.</p> <p>20 Sorry. You can answer.</p> <p>21 THE WITNESS: What would be your</p> <p>22 definition of a monitoring module?</p> <p>Page 164</p> |

| Page 165 |                                                    | Page 167 |                                                    |
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| 1        | BY MR. OHLERT:                                     | 1        | When did you conceive of the invention             |
| 2        | Q. A module? Well, you know what, let me           | 2        | recited in the '217 patent?                        |
| 3        | just say it's a module that monitors users'        | 3        | A. Whatever is in my declaration. I mean,          |
| 4        | actions on content, in my mind. I don't think      | 4        | there was a period of gestation -- this happens in |
| 5        | there's anything more specific about this, but my  | 5        | these ideas, right? There's the moment you have    |
| 6        | answers aren't really helpful here, so I don't     | 6        | the aha and then there was when we started         |
| 7        | want to --                                         | 7        | actually working on it and writing in it.          |
| 8        | A. Even I use the word "monitoring." When I        | 8        | And then there was, you know, when I               |
| 9        | think about something that's monitoring --         | 9        | started talking about it with my father. I mean,   |
| 10       | Q. Excuse me. There's no question pending.         | 10       | I remember -- I don't remember the date, I         |
| 11       | A. Okay.                                           | 11       | remember a specific meeting with Deutsche Bank     |
| 12       | Q. That's how it has to work because I have        | 12       | where the idea just, you know, became apparent to  |
| 13       | to ask a question and you have to answer.          | 13       | me.                                                |
| 14       | A. Okay.                                           | 14       | I had that -- that, you know, invention            |
| 15       | Q. And then my point was kind of you asking        | 15       | moment. But then from there, you know, I thought   |
| 16       | me a question --                                   | 16       | about it a bit and then I started talking about it |
| 17       | A. Can we take a break now? Or when do we          | 17       | with my father, then I started writing things.     |
| 18       | get to take a break? How does it work in terms     | 18       | And then, you know, we ended up with some of       |
| 19       | of --                                              | 19       | the doc -- with the document chain that you have   |
| 20       | MR. OHLERT: Let's take a break now.                | 20       | in my -- in my -- in my testimony.                 |
| 21       | Let's take a break now.                            | 21       | But I don't remember the specific date.            |
| 22       | THE VIDEOGRAPHER: Going off record at              | 22       | When the first idea came, it was 20 years ago, and |
| Page 166 |                                                    | Page 168 |                                                    |
| 1        | 10:12 a.m.                                         | 1        | I didn't think much of it at the time, you know,   |
| 2        | (Off the record: 10:12 a.m. - 10:32 a.m.)          | 2        | so...                                              |
| 3        | THE VIDEOGRAPHER: Back on record at                | 3        | Q. Okay. So, I just say usually when I ask         |
| 4        | 10:32 a.m.                                         | 4        | a question like that, if you don't know and it's   |
| 5        | MR. OHLERT: Okay. And I'll just note,              | 5        | in your declaration, my next is probably going to  |
| 6        | Devan, your camera is off. If you want it on,      | 6        | be able to point you there -- strike that.         |
| 7        | it's up to you. Strike that.                       | 7        | A. Let's do that. Let's go to the                  |
| 8        | BY MR. OHLERT:                                     | 8        | declaration. I just don't remember. Like I said,   |
| 9        | Q. So, Mr. Marston, I just want to pick up         | 9        | it's a long time ago. I haven't looked at my       |
| 10       | where we left off really quickly before I move on  | 10       | declaration very much, frankly, in the last two    |
| 11       | to some other subjects. Strike that.               | 11       | months.                                            |
| 12       | You agree the claims of the '217 patent            | 12       | So I know that we did a giant deep dive            |
| 13       | do not specify the kinds of actions as explicit or | 13       | in preparation for the X one, and we looked at a   |
| 14       | implicit. It just says to track actions.           | 14       | lot of documents and we tried to find shit on hard |
| 15       | MR. PADMANABHAN: Objection. Rule 611.              | 15       | drives that we had lost, you know.                 |
| 16       | But you can answer.                                | 16       | But like it's been a while so, yeah,               |
| 17       | THE WITNESS: Yes. I agree that the                 | 17       | let's go look at the declarations. It's a good     |
| 18       | patent only uses the term "actions." There was no  | 18       | idea.                                              |
| 19       | concept in the patent of trying to differentiate   | 19       | Q. Yeah. Let's look at your first                  |
| 20       | the two types.                                     | 20       | declaration. It's labeled EX-2003.                 |
| 21       | BY MR. OHLERT:                                     | 21       | A. Yeah.                                           |
| 22       | Q. Okay. Fair enough.                              | 22       | Q. Specifically, in paragraph 3 you note           |

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| <p style="text-align: right;">Page 169</p> <p>1 that you and Paul Marston had conceived of the</p> <p>2 inventions in the '217 patent at least as earlier</p> <p>3 as June 7, 2005; correct?</p> <p>4 A. Yes. That isn't what you asked. But at</p> <p>5 least by then we certainly -- we definitely had,</p> <p>6 based on the evidence, the moment of invention is</p> <p>7 lost to the history of time.</p> <p>8 Q. And you were describing some aha moment</p> <p>9 with Deutsche Bank, but you can't specifically</p> <p>10 remember when that was?</p> <p>11 A. No. It preceded that date. But all my</p> <p>12 records are gone. All my email is gone. All of</p> <p>13 my calendar stuff is gone. If I had all of that,</p> <p>14 then I could probably track it down better but,</p> <p>15 you know, it all got deleted once I left the</p> <p>16 company, and then the company got bought and then</p> <p>17 like all this other stuff happened, so we don't</p> <p>18 have access to any of it anymore.</p> <p>19 We just have whatever documents happened</p> <p>20 to get stored somewhere on an old folder of a</p> <p>21 computer file and that was what -- you know, those</p> <p>22 were the things we had to go through in the</p> | <p style="text-align: right;">Page 171</p> <p>1 A. It does.</p> <p>2 Q. And then in paragraph 5 you say that,</p> <p>3 "Metadata for the initial document, referring to</p> <p>4 EX-2004, indicates a Content Created date of</p> <p>5 August 4, 2004."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And so if that document was created on</p> <p>9 August 4, 2004, why did you point to an initial</p> <p>10 conception date of at least as early as June 7,</p> <p>11 2005?</p> <p>12 A. So I think it's the evolution of the</p> <p>13 idea. You know, the first idea was we can use</p> <p>14 users' actions -- so the first -- and, again, I'd</p> <p>15 have to go back and look at the exhibit</p> <p>16 explicitly.</p> <p>17 But there was this period of we can use</p> <p>18 users' actions as an indicator of relevance, and</p> <p>19 then, you know, the concept of cognate relevance</p> <p>20 was not part of the first thought that I had.</p> <p>21 That sort of came later as I thought</p> <p>22 about well, actually, wouldn't it be good if we</p>                                                                                                                                                                                         |
| <p style="text-align: right;">Page 170</p> <p>1 discovery process to try and piece together a</p> <p>2 timeline.</p> <p>3 Q. And so you were just describing some aha</p> <p>4 moment with Deutsche Bank, but you can't</p> <p>5 specifically remember when that was; correct?</p> <p>6 A. Correct.</p> <p>7 (Exhibit 10 was marked.)</p> <p>8 BY MR. OHLERT:</p> <p>9 Q. Okay. In your declaration, paragraph 4,</p> <p>10 you referred to EX-2004 as the, quote, "initial</p> <p>11 document showing conception"; correct?</p> <p>12 A. Yes. We can go look at that document</p> <p>13 because I can't remember what it says. But I</p> <p>14 remember the fact that a document existed that was</p> <p>15 the mail search document, and that it started to</p> <p>16 establish this mathematical model of -- the</p> <p>17 general concept of looking at users' actions as an</p> <p>18 indicator of relevance in the messaging system.</p> <p>19 Q. And so paragraph 4 of your declaration</p> <p>20 refers to EX-2004 as the initial document for</p> <p>21 purposes of conception and reduction of practice;</p> <p>22 correct?</p>                                                                                                            | <p style="text-align: right;">Page 172</p> <p>1 could look at how other people did it and try and</p> <p>2 build a model that includes all of that.</p> <p>3 And so I think the 2005 date is when we</p> <p>4 have a document or when we discovered a document</p> <p>5 that has a lot of it in much greater detail. The</p> <p>6 2004 documents do not have -- you know, there was</p> <p>7 still -- there was still an ongoing process of</p> <p>8 ideation around the core concept, and that's</p> <p>9 what's reflected in the 2004 document.</p> <p>10 So I think what it's trying to say is,</p> <p>11 look, the thing is pretty much baked with all of</p> <p>12 these different concepts in it by that 2005 date.</p> <p>13 But, you know, inception had happened</p> <p>14 significantly before that. And this is a</p> <p>15 relatively complex patent. You know, it just took</p> <p>16 time for the ideas to come together and, you know,</p> <p>17 there was a lot of math and there was discussions</p> <p>18 that did happen back and forth between myself and</p> <p>19 my father.</p> <p>20 Some of the other patents that I wrote</p> <p>21 happened quite quickly. This one was the most</p> <p>22 complex patent that I've ever written of the ones</p> |

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| <p>Page 173</p> <p>1 I've done, and it took the most thought, you</p> <p>2 know.</p> <p>3 Q. Okay. And so what I'm hearing is that</p> <p>4 you selected June 7, 2005, as the initial</p> <p>5 conception date because that's when you thought</p> <p>6 that the idea was essentially baked, for lack of a</p> <p>7 better word.</p> <p>8 Is there any specific document that</p> <p>9 supports that June 7, 2005 date?</p> <p>10 A. I'm pretty sure there's going to be, yes,</p> <p>11 because most of this went from -- well, pretty</p> <p>12 much all of this, quite frankly, went from</p> <p>13 documents we discovered -- I have no idea and I</p> <p>14 cannot remember anything. I mean, my memory is so</p> <p>15 distant from that 2004, 2005 period. It's just</p> <p>16 tiny little flashes.</p> <p>17 But I'm sure that there was a document</p> <p>18 that would have been cited at some point that we</p> <p>19 could look at that is the -- here is the -- you</p> <p>20 know, here it talks about these different concepts</p> <p>21 and we've evaluated the metadata and other stuff</p> <p>22 on it and that told us the date.</p> | <p>Page 175</p> <p>1 Content Created field for EX-2004 of August 4,</p> <p>2 2004; right?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And is it fair to say that this</p> <p>5 image in paragraph 6 of EX-2003 is a screenshot of</p> <p>6 the actual data -- of the actual metadata of that</p> <p>7 EX-2004 document?</p> <p>8 A. Sorry. State that one again.</p> <p>9 Q. Yeah. So in paragraph 4 you say that</p> <p>10 EX-2004 is the, quote, "initial document";</p> <p>11 right?</p> <p>12 A. Yes. Yes.</p> <p>13 Q. And then -- and then in paragraph 6</p> <p>14 you're showing a screenshot of metadata for the</p> <p>15 initial document; right?</p> <p>16 A. Yes. Yes.</p> <p>17 Q. And so the image here would be a</p> <p>18 screenshot of the actual metadata of EX-2004;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Let's go to your third declaration</p> <p>22 which is labeled EX-2030.</p> |
| <p>Page 174</p> <p>1 Q. Okay. And looking at paragraph 6 of your</p> <p>2 declaration --</p> <p>3 A. Yeah.</p> <p>4 Q. -- at EX-2003, you write that metadata</p> <p>5 from EX-2004 shows the Content Created field is</p> <p>6 August 4, 2004; correct?</p> <p>7 A. So paragraph 6 is saying September 2;</p> <p>8 right?</p> <p>9 Which one are you looking at?</p> <p>10 Q. So paragraph 6 says that the metadata for</p> <p>11 the initial document indicates a date last saved</p> <p>12 date of --</p> <p>13 A. Oh, yeah. Okay.</p> <p>14 Q. -- September 2, 2004.</p> <p>15 Do you see that?</p> <p>16 A. Yes. I seen the text, yep. I seen that,</p> <p>17 yep.</p> <p>18 Q. And then looking at the image below that,</p> <p>19 it has certain metadata about EX-2004.</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. And that image shows that there's a</p>                                                                                                                                                                                                                                                                       | <p>Page 176</p> <p>1 A. Yes. Got it.</p> <p>2 Q. And then in paragraph 5 you again repeat</p> <p>3 the initial conception date as June 7, 2005.</p> <p>4 Do you see that?</p> <p>5 A. Yes. We said it was at least as early as</p> <p>6 then, yes.</p> <p>7 Q. And then Exhibit 5 -- sorry, let me ask</p> <p>8 that again. Strike that.</p> <p>9 Paragraph 5 of EX-2030 does point to</p> <p>10 EX-2004 but it also points to EX-2006.</p> <p>11 A. Okay.</p> <p>12 Q. Why did you add EX-2006 to this</p> <p>13 paragraph?</p> <p>14 A. I didn't. But what's 2006?</p> <p>15 Q. We'll go into that --</p> <p>16 A. No idea.</p> <p>17 Q. -- but is your answer --</p> <p>18 A. I don't know.</p> <p>19 Q. You don't have a specific recollection?</p> <p>20 A. No. I don't remember.</p> <p>21 Q. Okay. Let us pull up EX-2004 and we can</p> <p>22 look at that.</p>                                             |

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| <p>Page 177</p> <p>1 A. Great.</p> <p>2 Q. Just give me one second to upload it to</p> <p>3 the chat.</p> <p>4 And can you just let me know when you</p> <p>5 have that open?</p> <p>6 A. Okay. I've got 2004 open.</p> <p>7 Q. Okay. Scrolling to the very last page of</p> <p>8 this document --</p> <p>9 A. Uh-huh.</p> <p>10 Q. -- there's what's referred to as a</p> <p>11 metadata slip sheet.</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. This doesn't contain a screenshot of the</p> <p>15 metadata like we just saw in your declaration,</p> <p>16 does it?</p> <p>17 A. No.</p> <p>18 Q. And so, for instance, this says there's a</p> <p>19 Last Create on Date of August 4, 2004; correct?</p> <p>20 A. Yes.</p> <p>21 Q. But if I recall correctly, the metadata</p> <p>22 we were just looking at talked about a content</p>                                                                                                                                                                                                                                         | <p>Page 179</p> <p>1 disk, some of them came from a folder that was</p> <p>2 buried somewhere in a backup on a hard drive I</p> <p>3 had. So my guess is that, but I'm not sure.</p> <p>4 Q. And the author listed for EX-2004 is just</p> <p>5 a period.</p> <p>6 Do you know why that is?</p> <p>7 A. Either -- I'm assuming that -- so I don't</p> <p>8 know a hundred percent the answer, but I would</p> <p>9 imagine it's likely that it just was not recorded.</p> <p>10 You know, say, in Microsoft Word's</p> <p>11 metadata the author is an optional field that you</p> <p>12 have to create or put into the info, whereas the</p> <p>13 last -- you know, the Created On and the Last</p> <p>14 Saved Date are always recorded for all files.</p> <p>15 So, you know, my guess would be that it</p> <p>16 just wasn't recorded and that's why they put a</p> <p>17 period for it.</p> <p>18 Q. Do you have any way of determining who</p> <p>19 authored EX-2004?</p> <p>20 A. I mean, there's no -- I don't believe</p> <p>21 that there is a computer validated mechanism like</p> <p>22 a computer audit trail for it.</p>                                                                            |
| <p>Page 178</p> <p>1 created date.</p> <p>2 A. Yeah. I think that's probably a typo.</p> <p>3 And I think that was prepared by the attorneys. I</p> <p>4 think it should -- rather than saying "Last</p> <p>5 Created On," you know, it should probably have</p> <p>6 what was actually in the -- in the screenshot,</p> <p>7 which is the Content Created On rather than Last</p> <p>8 Created On. I'm not sure what "last" is doing</p> <p>9 there, but like -- the screenshot is the data. I</p> <p>10 think this is just a summary of it, was a typo.</p> <p>11 Q. Fair enough.</p> <p>12 This lists you as a custodian.</p> <p>13 A. Mm-hmm.</p> <p>14 Q. What does that mean?</p> <p>15 A. I don't know the answer to that. Let me</p> <p>16 look at the document again.</p> <p>17 Custodian -- I don't know the answer. My</p> <p>18 guess is that -- that we found it on my hard drive</p> <p>19 but I don't know.</p> <p>20 That term was done by the attorneys so --</p> <p>21 so we had various sources we pulled documents</p> <p>22 from. Some of them came from my father's hard</p> | <p>Page 180</p> <p>1 You know, I can -- I can tell you from my</p> <p>2 recollection, you know, so -- some of this was</p> <p>3 created by me and most of this was created by me</p> <p>4 and some of this was created by my father.</p> <p>5 So if I was to go through this -- and,</p> <p>6 again, this is to the best of my recollection, but</p> <p>7 I can recognize the type of writing and term of</p> <p>8 phrase that I used.</p> <p>9 Like the abstract was written by me. The</p> <p>10 introduction section, that's my term of phrase. I</p> <p>11 created that picture, figure 1. I remember</p> <p>12 creating that in -- I think it was in CorelDRAW --</p> <p>13 gosh, that's a long time ago. But I think it was</p> <p>14 in CorelDRAW when that was still a company.</p> <p>15 I think I created figure 2, but I might</p> <p>16 be wrong. I'm sure I created figure 1. I wrote</p> <p>17 the text through that section. I created 4.3.</p> <p>18 So I think the place of the</p> <p>19 transitions -- I don't know how interesting this</p> <p>20 is to you, but the place of the transitions is</p> <p>21 section -- yeah, I created those screenshots in</p> <p>22 Photoshop -- section 8.</p> |

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| <p>Page 181</p> <p>1 So section 8, I kind of wrote the top --</p> <p>2 the first part of that brain dump. And then I</p> <p>3 think that the -- all of the stuff with the</p> <p>4 mathematical formulas, that was all created by my</p> <p>5 father. I didn't create any of this, you know,</p> <p>6 mathematical formula stuff.</p> <p>7 So I think that was his from that section</p> <p>8 on. So actually the place where it says, "Note</p> <p>9 this is national matters, been drafted with a</p> <p>10 mathematician" -- yes, that definitely is my</p> <p>11 father here.</p> <p>12 Q. Sir?</p> <p>13 A. Yes. Go ahead.</p> <p>14 Q. I'm really sorry. I don't mean to</p> <p>15 interrupt --</p> <p>16 A. Yeah.</p> <p>17 Q. -- but my question was, do you have any</p> <p>18 way of determining who authored this document, and</p> <p>19 you're now going paragraph by paragraph through</p> <p>20 the entire 35 pages?</p> <p>21 A. Okay. Sorry.</p> <p>22 Q. Can we just agree that we'll focus on the</p> | <p>Page 183</p> <p>1 Q. And both of those dates are 2004, just</p> <p>2 for the record.</p> <p>3 You agree with me?</p> <p>4 A. Yes.</p> <p>5 Q. And so looking at who wrote what</p> <p>6 particular section doesn't tell you who authored</p> <p>7 this document, does it?</p> <p>8 A. Sorry. Ask that question again.</p> <p>9 Q. I'm trying to figure out who originally</p> <p>10 authored this document, and you're walking through</p> <p>11 and pointing to specific packages.</p> <p>12 And my question is, isn't the fact that</p> <p>13 this document shows at least a month worth of</p> <p>14 edits, doesn't that show that looking at any</p> <p>15 particular passage isn't going to tell you who</p> <p>16 authored the document?</p> <p>17 A. I don't understand the relevance of the</p> <p>18 question. I mean, I don't understand the</p> <p>19 relevance of the question.</p> <p>20 Q. If -- you agree this document shows about</p> <p>21 30 days potentially of edits; right? Just based</p> <p>22 on looking at what we have?</p>             |
| <p>Page 182</p> <p>1 question as asked, and I promise you I'm going to</p> <p>2 try to walk you through these documents --</p> <p>3 A. Okay.</p> <p>4 Q. -- but it will be a lot faster if you</p> <p>5 just let me do that.</p> <p>6 A. Is your question --</p> <p>7 Q. I don't mean to interrupt. I'm sorry.</p> <p>8 A. No, it's fine.</p> <p>9 Is your question, do I have a technology,</p> <p>10 forensic discovery mechanism, to determine it? If</p> <p>11 that's the question, the answer is no.</p> <p>12 If the question is, do I have an opinion</p> <p>13 about who wrote which parts of this document, I</p> <p>14 have an opinion.</p> <p>15 Q. Understood. So focusing on page 35 of</p> <p>16 this document.</p> <p>17 A. Okay.</p> <p>18 Q. Exhibit 2004 shows a last created on date</p> <p>19 of August 4 and a last modified date of September</p> <p>20 2.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p>                                                                                        | <p>Page 184</p> <p>1 A. Yes. Yep.</p> <p>2 Q. And so who wrote section 9 of this</p> <p>3 document doesn't tell you who originally authored</p> <p>4 the document because section 9 could have been</p> <p>5 added at any point in those 30 days; right?</p> <p>6 A. So I originally -- it's my testimony</p> <p>7 that, to the best of my recollection, I wrote this</p> <p>8 document and my father added the math to it after</p> <p>9 I had created it.</p> <p>10 So I was the original creator. I wrote a</p> <p>11 whole bunch of it, and then my dad took that word</p> <p>12 document and added to it.</p> <p>13 Q. So your recollection from 20 years ago</p> <p>14 was that you originally wrote this document and</p> <p>15 then your dad added to it; fair?</p> <p>16 A. Correct. Yes.</p> <p>17 Q. And that's not reflected in the metadata</p> <p>18 because the metadata shows that the author is a</p> <p>19 period; correct?</p> <p>20 A. Yes. It is not reflected in the</p> <p>21 metadata.</p> <p>22 Yes. The metadata does not have an audit</p> |

| Page 185                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Page 187                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>1 history of who the different people were.</p> <p>2 Q. Okay. I'm going to upload the next</p> <p>3 Exhibit, which I believe is Exhibit 7. And that</p> <p>4 is labeled EX-2006.</p> <p>5 Can you let me know when you have that</p> <p>6 open?</p> <p>7 (Reporter clarification.)</p> <p>8 MR. OHLERT: I think this is Exhibit 11</p> <p>9 and the label is EX-2006.</p> <p>10 (Exhibit 11 was marked.)</p> <p>11 BY MR. OHLERT:</p> <p>12 Q. And so, again, just going to the last</p> <p>13 page, looking at the metadata here --</p> <p>14 A. Yeah.</p> <p>15 Q. -- this shows a last create on date of</p> <p>16 April 18, 2005; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And a last modified date of June 7, 2005;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the author for this document is also</p> <p>22 listed as a period; correct?</p>                                                                                                                                  | <p>1 A. Mm-hmm.</p> <p>2 Q. Is that the reason you selected June 7,</p> <p>3 2005, as the date of conception?</p> <p>4 A. This is the reason that we said "at least</p> <p>5 by," so the date of conception is lost to time</p> <p>6 but, you know, we said it had definitely been</p> <p>7 created by then because we have this document that</p> <p>8 reflects it.</p> <p>9 Q. What's the earliest you could think would</p> <p>10 have been the date of conception if it was earlier</p> <p>11 than June 7, 2005?</p> <p>12 A. I mean, it's conjecture. Again, I think</p> <p>13 that there was a creation process. I mean, I</p> <p>14 just -- I don't know how much it matters. But</p> <p>15 like there was a creation process from just to</p> <p>16 having the idea, just to start writing stuff about</p> <p>17 the idea, more pieces being globbed onto the idea</p> <p>18 during that creation process.</p> <p>19 And then, you know, we got to something</p> <p>20 that is very close to what was filed in that June</p> <p>21 7, you know, document that you're looking at.</p> <p>22 I just can't remember -- I can't remember</p> |
| Page 186                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Page 188                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>1 A. Correct.</p> <p>2 Q. Is it your recollection that you authored</p> <p>3 this document as well just as with EX-2004?</p> <p>4 A. Okay. Let me look at it for a second --</p> <p>5 Q. Mm-hmm.</p> <p>6 A. -- and see if I can recollect.</p> <p>7 Q. Please take your time.</p> <p>8 A. Yes. And a lot of it is in common. I</p> <p>9 mean, this is an iteration on the same document,</p> <p>10 like if you did an analysis, a lot of the exact</p> <p>11 summary is the same, a lot of the figures, the</p> <p>12 diagrams, the language.</p> <p>13 You know, at this point the business</p> <p>14 context of the thing had been created, yeah. So</p> <p>15 let me stop there and let you ask questions.</p> <p>16 Q. And so it's your recollection that you</p> <p>17 authored this document but the metadata doesn't</p> <p>18 corroborate that --</p> <p>19 A. Correct.</p> <p>20 Q. -- essentially? Okay.</p> <p>21 This says June 7, 2005, is the last</p> <p>22 modified date.</p> | <p>1 when I had that meeting, but that was -- that was</p> <p>2 I think a key -- a key moment of inspiration, you</p> <p>3 know. And then the idea kind of evolved around it</p> <p>4 afterwards. I don't know if that's helpful, but</p> <p>5 that's the -- that's my recollection.</p> <p>6 Q. Well -- and so Exhibit 2004 that we were</p> <p>7 just looking at has a Last Create On field of</p> <p>8 August 4, 2004.</p> <p>9 Would that be the earliest date of</p> <p>10 conception that you can think of?</p> <p>11 MR. PADMANABHAN: Objection. Rule 611.</p> <p>12 THE WITNESS: This is the mail search</p> <p>13 document; right?</p> <p>14 BY MR. OHLERT:</p> <p>15 Q. Yeah, it's 2004. I think there's a few</p> <p>16 that relate to the mail search portions of this.</p> <p>17 A. Yeah -- yes, 2004. So this is when this</p> <p>18 document was created. Clearly, you know, I had</p> <p>19 been thinking about it ahead of the time when I</p> <p>20 sat down to write the document.</p> <p>21 You know, so I typically don't sit</p> <p>22 down -- normally, my creation process is that some</p>                              |

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| <p style="text-align: right;">Page 189</p> <p>1 idea forms in my mind, it develops over a period</p> <p>2 of time, and then there's a point where I decide</p> <p>3 that the idea is well-formed enough that it makes</p> <p>4 sense to sit down and start writing about it.</p> <p>5 So, you know, I would say -- I would say</p> <p>6 it was probably sometime earlier in 2004 where the</p> <p>7 idea started really, you know, forming. And then</p> <p>8 I sat down to take what I had already formed in my</p> <p>9 mind and began putting it to paper and then it</p> <p>10 continued to evolve.</p> <p>11 So, again, I wish I had -- I wish I had a</p> <p>12 time machine. It would make life a lot easier for</p> <p>13 this, but I don't have one. I just -- you know, a</p> <p>14 lot happened in that 20 years. Facebook happened</p> <p>15 in that 20 years. A lot of things happened in</p> <p>16 that 20 years. And I don't remember, but...</p> <p>17 Q. So you think it could have been even</p> <p>18 before August 4, 2004?</p> <p>19 A. I think it for sure it was before August</p> <p>20 4, 2004, because that's when I sat down to say,</p> <p>21 okay, I'm going to write it now.</p> <p>22 Q. Okay.</p> | <p style="text-align: right;">Page 191</p> <p>1 technology into the invention of the '217</p> <p>2 patent?</p> <p>3 A. No.</p> <p>4 Q. And how do you know that?</p> <p>5 A. What do you mean by "integrate"?</p> <p>6 Q. I mean, there's a document here saying,</p> <p>7 "We need to compare to Google's page rank</p> <p>8 technology."</p> <p>9 Did anyone working on the invention of</p> <p>10 the '217 patent rely on Google's page rank</p> <p>11 technology in forming the invention of the '217</p> <p>12 patent?</p> <p>13 A. No.</p> <p>14 Q. And how do you know that?</p> <p>15 A. Well, I guess I was the person who formed</p> <p>16 the invention. You know, there have been other</p> <p>17 mechanisms to attempt to form mathematical models</p> <p>18 about relevance. Google isn't the only one. It</p> <p>19 is one of the most famous.</p> <p>20 So this is really a working document that</p> <p>21 said, "I wonder what other stuff there is out</p> <p>22 there for relevance-type systems, and is there</p>                                                                                                                                                                                               |
| <p style="text-align: right;">Page 190</p> <p>1 A. But I don't, you know -- I don't have a</p> <p>2 specific date, and I'm not sure it's really that</p> <p>3 relevant but, again, I'm not an expert on patent</p> <p>4 stuff so, you know...</p> <p>5 Q. Understood. And so we were just looking</p> <p>6 at EX-2006.</p> <p>7 A. Okay.</p> <p>8 Q. I'll direct you to page 52.</p> <p>9 A. 52. Got it. Brain dump.</p> <p>10 Q. This is section 9, Algorithms, followed</p> <p>11 by section 9.1, Brain Dump.</p> <p>12 You agree?</p> <p>13 A. Yeah.</p> <p>14 Q. And the first sentence here states, "We</p> <p>15 need to compare to Google's page rank technology."</p> <p>16 Do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. And below that it states, "Need an expert</p> <p>19 in this area," under the second hyperlink there.</p> <p>20 Do you see that?</p> <p>21 A. Yep.</p> <p>22 Q. Did you integrate Google's page rank</p>                                                                                                                                                                                                                                                                                       | <p style="text-align: right;">Page 192</p> <p>1 anything we can learn from it."</p> <p>2 So that's essentially -- this was an</p> <p>3 internal working document. But that was the</p> <p>4 thought process at the time of like we should look</p> <p>5 around and see what else is out there to, you</p> <p>6 know, see if anything helps us in considering this</p> <p>7 innovation.</p> <p>8 That was the idea -- you know, like ideas</p> <p>9 sparked from ideas, let's -- here's the core of</p> <p>10 the innovation, the core of the thought. You</p> <p>11 know, what else could we learn from just thinking</p> <p>12 about what else preexists in the innovation -- in</p> <p>13 the relevance space. That was what I meant.</p> <p>14 Q. And so once you kind of formed the core</p> <p>15 idea for the '217 patent, you looked to other</p> <p>16 ideas just to figure out essentially how to</p> <p>17 implement it; is that fair?</p> <p>18 MR. PADMANABHAN: Objection. Rule 611.</p> <p>19 THE WITNESS: I don't think it's so much</p> <p>20 about implementation. I mean, in some ways it</p> <p>21 was. Obviously, Google created, at the time -- I</p> <p>22 mean, I don't know how much you're interested in</p> |

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| <p style="text-align: right;">Page 193</p> <p>1 this, but like Google created a space and</p> <p>2 different types of technologies to deal with very,</p> <p>3 very large computational problems.</p> <p>4 And they were really the first to create</p> <p>5 a distributed database that would allow you to,</p> <p>6 you know, run very, very large data problems.</p> <p>7 Now, all that stuff has been done to death.</p> <p>8 But at the time, I mean, the original</p> <p>9 model -- one of the -- and, again, tell me to shut</p> <p>10 up when you're bored. One of the problems with</p> <p>11 TransMail and BlueSpace was that we were running</p> <p>12 an Oracles database.</p> <p>13 An Oracles database was a single system</p> <p>14 database which, you know, blew up when it got too</p> <p>15 big, and you had to hold it all in memory. And</p> <p>16 like -- and so Google had been working on computer</p> <p>17 systems that would allow them to run a database</p> <p>18 across very, very many servers and it was a</p> <p>19 different type of architecture database than a</p> <p>20 traditional relational database, you know, which,</p> <p>21 is they say -- I mean, that's why everybody was</p> <p>22 buying EMC main frames, you know, was because</p> | <p style="text-align: right;">Page 195</p> <p>1 this patent.</p> <p>2 So it was really me and my father. My</p> <p>3 father is not a computer science -- he's never</p> <p>4 coded anything. He has no computer science</p> <p>5 programming -- and maybe he did something in</p> <p>6 Visual Basic a long time ago, but he's not a</p> <p>7 software developer. He's a mathematician.</p> <p>8 And a lot of the most interesting stuff</p> <p>9 that Google did was around rethinking computer</p> <p>10 architectures rather than mathematics.</p> <p>11 Q. Would you consider yourself a software</p> <p>12 developer?</p> <p>13 A. No.</p> <p>14 Q. Were you doing the actual coding for any</p> <p>15 of BlueSpace's products?</p> <p>16 A. No. I was not doing that. I was the</p> <p>17 CO.</p> <p>18 Q. And you understand that your declaration</p> <p>19 makes reference to a few other BlueSpace other</p> <p>20 employees that --</p> <p>21 A. Mm-hmm.</p> <p>22 Q. -- worked on these kinds of documents at</p>                                                                                                 |
| <p style="text-align: right;">Page 194</p> <p>1 Oracle couldn't keep one database straight if it</p> <p>2 spanned multiple computers.</p> <p>3 So we were looking at that. I was</p> <p>4 interested in very large data systems because,</p> <p>5 clearly, we were going to end up with a very large</p> <p>6 amount of data. So that was part of the interest,</p> <p>7 if that's helpful.</p> <p>8 BY MR. OHLERT:</p> <p>9 Q. Do you know who wrote this statement</p> <p>10 that, "We need to compare to Google's page rank</p> <p>11 technology"?</p> <p>12 A. I'm pretty sure I wrote that. I'm not a</p> <p>13 hundred percent, but I'm 90 percent confident I</p> <p>14 wrote that sentence.</p> <p>15 Q. Is it possible that you wrote that</p> <p>16 sentence and then someone else went and looked at</p> <p>17 how Google's page rank technology worked?</p> <p>18 A. I mean, there's only two people involved</p> <p>19 in the authorship of the patent, really. It's</p> <p>20 possible other people around it could have gone</p> <p>21 and looked, but like they had no involvement in --</p> <p>22 in the -- in any of the stuff that's written in</p>                                                                                                                | <p style="text-align: right;">Page 196</p> <p>1 various points; right?</p> <p>2 A. They reviewed them. Their main job, Jon</p> <p>3 Fennyhough, and others, they were straight</p> <p>4 software developers. So Jon Fennyhough -- there</p> <p>5 were other employees of BlueSpace. You know, they</p> <p>6 were working on the actual production platform of</p> <p>7 TransMail.</p> <p>8 Q. Okay. But you agree that your</p> <p>9 declaration references other BlueSpace employees</p> <p>10 who were working on these documents at various</p> <p>11 points; correct?</p> <p>12 A. When you say "these documents," which</p> <p>13 specific documents are you including in that term?</p> <p>14 Q. Well, so you primarily rely on several</p> <p>15 iterations of this BlueSpace Mail Relevance</p> <p>16 document that's reflected in EX-2004 and EX-2006,</p> <p>17 among other exhibits.</p> <p>18 You understand that?</p> <p>19 A. Yes.</p> <p>20 Q. And some of the versions of those</p> <p>21 BlueSpace Mail Relevance documents include work or</p> <p>22 comments or edits from other BlueSpace employees;</p> |

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| <p>1 correct? Page 197</p> <p>2 A. So I think the 2004 document -- I don't</p> <p>3 think anybody other than me and my father worked</p> <p>4 on or saw.</p> <p>5 I think that the 2006 document, I can't</p> <p>6 recollect. Like there are probably some people</p> <p>7 comment -- it's possible some other people -- Jon</p> <p>8 Fennyhough, Tim Cooper, others could have</p> <p>9 commented on that document as part of the</p> <p>10 suggestions and editing -- you know, suggestions</p> <p>11 process.</p> <p>12 Frankly, the patent as a whole was beyond</p> <p>13 the mental capability of the software developers</p> <p>14 we had. They did not -- that I can remember -- I</p> <p>15 can remember having a conversation with Jon</p> <p>16 Fennyhough, and I can remember his face that</p> <p>17 basically said, you know, "What the F, I have no</p> <p>18 idea."</p> <p>19 And then he said, "I'm not a mathematics</p> <p>20 developer. I don't really know. I don't know how</p> <p>21 to do this." But -- and he got quite animated</p> <p>22 about it. But, yeah, I -- so let me -- I defer to</p> | <p>1 A. Oh, no. I think it's possible. I don't Page 199</p> <p>2 know. I don't know. I don't know if anybody else</p> <p>3 read that.</p> <p>4 I can't remember the distribution of that</p> <p>5 document or when that comment got redacted out of</p> <p>6 it. You know, it was an internal draft. I never</p> <p>7 thought 20 years later I'd be in a legal</p> <p>8 deposition talking about it.</p> <p>9 But it's possible somebody else read it,</p> <p>10 but my point still remains, that I don't think</p> <p>11 that any of these other people, you know, had any</p> <p>12 significant bearing on any of the content that</p> <p>13 ended up in the patent.</p> <p>14 Really, it was only myself and my father,</p> <p>15 like the only -- I mean, the only person who</p> <p>16 really had any more intelligent comments at all</p> <p>17 would have been my father's coworker because his</p> <p>18 statistics were strong.</p> <p>19 But everybody else had no framework to</p> <p>20 sort of grasp it at all. So Tony Morton Jones</p> <p>21 would not really consider himself an author, but</p> <p>22 his background meant that he was the best position</p> |
| <p>1 you to your ask your question. Page 198</p> <p>2 Q. I mean, I guess the point is you tried to</p> <p>3 say just a moment ago that your father and you are</p> <p>4 the only inventors of the '217 patent, but you</p> <p>5 agree that there were other BlueSpace employees</p> <p>6 who had access to these documents and made edits</p> <p>7 to them; correct?</p> <p>8 A. I can't recollect whether they made</p> <p>9 edits. If they did, they were not substantive. I</p> <p>10 think most of it was raising a comment and saying,</p> <p>11 "Have you thought about this? Have you thought</p> <p>12 about that?"</p> <p>13 The vast majority of them, frankly, were</p> <p>14 irrelevant. I don't think anybody else in the</p> <p>15 company truly understood what this patent was</p> <p>16 about.</p> <p>17 They attempted to add value but added</p> <p>18 close to zero. That's my recollection.</p> <p>19 Q. And my point, though, is just you tried</p> <p>20 to say that no one else could have read the</p> <p>21 statement about looking to Google's page rank</p> <p>22 technology --</p>           | <p>1 of people we asked to give any feedback, given his Page 200</p> <p>2 expertise.</p> <p>3 But, again, I -- you know, our position</p> <p>4 and my position, I believe it to be true, is that</p> <p>5 really, in the end, it was my father and I that</p> <p>6 invented this thing.</p> <p>7 We talked to people about potential ways</p> <p>8 to implement it in software code but, you know,</p> <p>9 big data developers were not a thing. It was</p> <p>10 still super early and the talent -- the people we</p> <p>11 had, it was beyond them.</p> <p>12 So that would be my -- that would be my</p> <p>13 opinion, my testimony.</p> <p>14 Q. And I guess to try to ask it really</p> <p>15 simply, EX-2006 at section 9.1 says, "We need to</p> <p>16 compare to Google's page rank technology."</p> <p>17 And you can't definitively say that other</p> <p>18 BlueSpace employees didn't look at that statement</p> <p>19 and then go and see how Google's page rank</p> <p>20 technology works; right?</p> <p>21 A. Yes.</p> <p>22 Q. And that includes employees who may have</p>                                                                               |

| Page 201 |                                                    | Page 203 |                                                    |
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| 1        | even made edits to these documents that you're     | 1        | don't know -- somehow nepotistic or somehow like,  |
| 2        | relying on; fair?                                  | 2        | you know, explicitly say it's my father.           |
| 3        | A. Incredibly minor and insubstantive edits        | 3        | People in the company, especially in the           |
| 4        | and comments, yes.                                 | 4        | U.K., both of my companies, I was very attuned to  |
| 5        | Q. Okay. Let's go to page 53, which I              | 5        | favoritism and -- you know, having a family member |
| 6        | believe is just the next page down.                | 6        | work in the same company with you was a big no-no. |
| 7        | A. Yep. Go ahead.                                  | 7        | And I'd say that was kind of -- you know,          |
| 8        | Q. And this refers to section 9.2 titled           | 8        | I guess I was sensitive to that. But I still also  |
| 9        | "Initial Maths."                                   | 9        | believe that my father was the best person I knew  |
| 10       | A. Mm-hmm.                                         | 10       | to help me with the mathematics that I needed,     |
| 11       | Q. Do you see that?                                | 11       | so...                                              |
| 12       | A. Yes.                                            | 12       | Q. And so when EX-2006 at page 53 refers to        |
| 13       | Q. And this has a note here that says, "Note       | 13       | "a mathematician," that's referring to your father |
| 14       | that this initial maths has been drafted with a    | 14       | Paul Marston; correct?                             |
| 15       | mathematician but is in need of significant        | 15       | A. Yes.                                            |
| 16       | changes. It is included here for completion in     | 16       | Q. And it appears that the mathematical            |
| 17       | this current draft."                               | 17       | formulas in this section span about pages 53 to    |
| 18       | A. Correct.                                        | 18       | 55.                                                |
| 19       | Q. Do you see that?                                | 19       | Can you confirm that?                              |
| 20       | A. Yes.                                            | 20       | A. Yeah. It runs to 56 actually but, yes.          |
| 21       | Q. And so the initial maths were drafted by        | 21       | Q. Okay. So 53 to 56?                              |
| 22       | a mathematician.                                   | 22       | A. Yes.                                            |
| Page 202 |                                                    | Page 204 |                                                    |
| 1        | Do you know who that mathematician is?             | 1        | Q. And were these the formulas that                |
| 2        | A. Yes. It was my father.                          | 2        | ultimately went into the '554 patent?              |
| 3        | I mean, the context of why some of this,           | 3        | A. Give me one second. I think our food            |
| 4        | it says, "the mathematician," is because it felt   | 4        | might have arrived. I think our food has arrived.  |
| 5        | slightly awkward having my dad work on something   | 5        | Hopefully it's at the front desk --                |
| 6        | that I was working on for the company.             | 6        | Q. Can you just answer my question real            |
| 7        | He had no financial benefit. He had no             | 7        | quick and then we'll go on break?                  |
| 8        | contract. He was not paid. He was not -- you       | 8        | A. Yes. Yes. Yes. Ask the question.                |
| 9        | know, it was just -- I was thinking about it and I | 9        | Q. Do you believe that the paragraph               |
| 10       | knew that my dad knew a lot about statistics, and  | 10       | spanning pages 53 to 56 are the formulas that      |
| 11       | so I brought him in.                               | 11       | ultimately end up in the '217 patent?              |
| 12       | So the reason I said "a mathematician"             | 12       | A. I believe they are a subset of an early         |
| 13       | instead of "my dad" is because it was kind of      | 13       | version of the final formulas that appear. The     |
| 14       | weird saying "my dad," you know.                   | 14       | final formulas are longer and more detailed, but   |
| 15       | Q. Yeah.                                           | 15       | the math that's in this document is subsumed into  |
| 16       | A. It -- you know, it's a corporate                | 16       | the final filing.                                  |
| 17       | document. I guess I was concerned about how it     | 17       | Q. So this is not the same mathematical            |
| 18       | would be perceived. The U.K. is a different place  | 18       | formulas that ultimately ended up in the '217      |
| 19       | to America -- no, I wouldn't give -- I wouldn't    | 19       | patent but it's a precursor?                       |
| 20       | care.                                              | 20       | A. Exactly. Yes.                                   |
| 21       | But like at that time, you know, I didn't          | 21       | Q. Okay. And it says, "This math is in need        |
| 22       | want to litter it with things that could look -- I | 22       | of significant changes."                           |

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| <p>1 Do you know if those changes were made?</p> <p>2 A. Yes, because the final one is much longer</p> <p>3 and has a lot more stuff in it.</p> <p>4 MR. OHLERT: Okay. We can go off the</p> <p>5 record now, if that makes sense?</p> <p>6 THE WITNESS: Sure.</p> <p>7 THE VIDEOGRAPHER: Going off record at</p> <p>8 11:14 a.m.</p> <p>9 (Off the record: 11:14 a.m. - 11:39 a.m.)</p> <p>10 THE VIDEOGRAPHER: Back on record at</p> <p>11 11:39 a.m.</p> <p>12 BY MR. OHLERT:</p> <p>13 Q. Welcome back, Mr. Marston. I'll direct</p> <p>14 you to your first declaration, EX-2003.</p> <p>15 Can you pull that up?</p> <p>16 A. Got it.</p> <p>17 Q. And this says, "To the best of my</p> <p>18 recollection, U.S. provisional patent application</p> <p>19 number 60/758828" was a later, lengthier version</p> <p>20 of the initial document.</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p>                                                                                                   | <p>Page 205</p> <p>1 Q. Exactly right, sir.</p> <p>2 A. Okay. Go ahead, yup.</p> <p>3 Q. And so in the middle of this page, it has</p> <p>4 some text, and then it says, "Application number</p> <p>5 60/758828."</p> <p>6 Do you see that?</p> <p>7 A. Yes.</p> <p>8 Q. And the filing date here is January 13,</p> <p>9 2006; correct?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And would you agree this is the</p> <p>12 provisional application that led to the '217</p> <p>13 patent?</p> <p>14 And if you don't have enough information</p> <p>15 to answer yes or no, that's fine too.</p> <p>16 A. It looks like it, yes. I'm just</p> <p>17 scrolling through it now but, yes, it's -- this</p> <p>18 looks like the epically long white paper that they</p> <p>19 wrote, yes.</p> <p>20 Q. Okay. And take as much time as you'd</p> <p>21 like to look at the document.</p> <p>22 But when you're ready, I'll direct you to</p>                                                                        |
| <p>Page 206</p> <p>1 Q. And that's referring to the provisional</p> <p>2 application that led to the '217 patent;</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. I note this says EX-1003, but EX-10033 in</p> <p>6 these proceedings refers to the declaration of</p> <p>7 Meta's expert, Dr. Fox -- okay. That was just</p> <p>8 going to be my next question.</p> <p>9 So you agree that number is wrong?</p> <p>10 A. No idea. If you read -- I don't care,</p> <p>11 but -- nobody cares. We're all good.</p> <p>12 Q. Okay. Uploading a document into the</p> <p>13 chat. It should be Exhibit 12, and I'll represent</p> <p>14 to you that this is labeled EX-1003 because it is</p> <p>15 pulled from the X IPR.</p> <p>16 (Exhibit 12 was marked.)</p> <p>17 THE WITNESS: I'm seeing a big thing, not</p> <p>18 a picture of you -- United States of America on</p> <p>19 the top of it.</p> <p>20 That's the one I'm supposed to be looking</p> <p>21 at; right?</p> <p>22 BY MR. OHLERT:</p> | <p>Page 208</p> <p>1 page 4.</p> <p>2 A. 99 pages. Gosh.</p> <p>3 Page 4 is the front page. Do you mean</p> <p>4 page 4 of the PDF or page 4 of the document</p> <p>5 numbering?</p> <p>6 Q. So I mean page 4 of the PDF.</p> <p>7 A. Okay.</p> <p>8 Q. And if you look at the bottom right</p> <p>9 corner, there's a pagination of page 4 of 99.</p> <p>10 A. Yeah, I got it. I got that one, yeah.</p> <p>11 Q. Okay. And so you see, this is the first</p> <p>12 page that bears the title "BlueSpace Mail</p> <p>13 Relevance"; correct?</p> <p>14 A. Yes.</p> <p>15 Q. And is it fair to assume this is the</p> <p>16 longer version of the BlueSpace Mail Relevance</p> <p>17 document that we've been looking at in Exhibits</p> <p>18 2004 and Exhibit 2006?</p> <p>19 A. I haven't looked -- but, yes, probably.</p> <p>20 It's possible that the patent attorney cut some of</p> <p>21 the length down, when filing, but I'd have to</p> <p>22 compare the two. But, yes, a lot of this isn't</p> |

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| <p>1 common. Page 209</p> <p>2 Q. Well -- and I'll just direct you. If you</p> <p>3 zoom in on the bottom right of the screen, you can</p> <p>4 say -- you can see that this page bears the footer</p> <p>5 1 out of 96.</p> <p>6 A. Yes.</p> <p>7 Q. Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And so there's kind of three pages that</p> <p>10 are intro as part of the provisional application,</p> <p>11 followed by 96 pages that reflect this BlueSpace</p> <p>12 Mail Relevance document; correct?</p> <p>13 A. Yeah. Yep.</p> <p>14 Q. Okay. And if the examiner had cut out</p> <p>15 any pages, you would agree that would probably be</p> <p>16 reflected by that 1 out of 96 footer on the bottom</p> <p>17 right of the document?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And so, again, is it your</p> <p>20 understanding that you basically provided the</p> <p>21 BlueSpace Mail Relevance document to the patent</p> <p>22 examiner, who submit that as a provisional</p> | <p>Page 211</p> <p>1 father as to whether -- what form the math</p> <p>2 specifically took in these BlueSpace Mail</p> <p>3 Relevance documents?</p> <p>4 A. Yes. He was the -- he was the -- really</p> <p>5 sole author of all the math. You know, I did all</p> <p>6 the front part in the model and screenshots and</p> <p>7 all the rest of it. And then all the math, you</p> <p>8 know, he wrote.</p> <p>9 Q. Okay. And if you'd like, we can look at</p> <p>10 Exhibit 2006 in this provisional.</p> <p>11 But would you expect that this</p> <p>12 provisional application would have different</p> <p>13 mathematical formulas than contained in EX-2006?</p> <p>14 A. Yes. I would think it's evolved a little</p> <p>15 bit, yeah.</p> <p>16 Q. And it's because those formulas evolved</p> <p>17 as Sterling iterated on the invention of the '217</p> <p>18 patent; fair?</p> <p>19 A. Well, as my father -- I mean, Sterling</p> <p>20 wasn't involved at all at this point but, yes, as</p> <p>21 my father iterated on the math, it evolved.</p> <p>22 Q. That's a good point. Let me ask a better</p> |
| <p>Page 210</p> <p>1 application for this '217 patent?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And we had talked a little bit</p> <p>4 before about some of the initial maths that were</p> <p>5 contained in EX-2006.</p> <p>6 Do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. Let's go to page 69 of this document.</p> <p>9 A. Okay. Section 10.4.3?</p> <p>10 Q. I think that's the right page, yes. But</p> <p>11 I'm going to focus you just above that, actually.</p> <p>12 So here there's some formulas for the</p> <p>13 Individual Importance component.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Do you know if these are the same</p> <p>17 mathematical formulas that were contained in</p> <p>18 EX-2006?</p> <p>19 A. No, I would have to compare and contrast.</p> <p>20 That would be a good question to ask my father.</p> <p>21 He's dealt with the math more.</p> <p>22 Q. Okay. So that's a question for your</p>                                          | <p>Page 212</p> <p>1 question. Strike that.</p> <p>2 You would expect the mathematical</p> <p>3 formulas contained in this provisional application</p> <p>4 would be different than EX-2006 because BlueSpace,</p> <p>5 and specifically your father, developed the</p> <p>6 mathematical formulas between EX-2006 and this</p> <p>7 provisional application; correct?</p> <p>8 A. Yes.</p> <p>9 Q. And if you go back to EX-2006 -- you can</p> <p>10 if you'd like, but that document is about 60</p> <p>11 pages, not including the metadata slip sheet; is</p> <p>12 that fair?</p> <p>13 A. I believe, yeah -- yes. Yes, that's</p> <p>14 correct.</p> <p>15 Q. And then looking at the provisional</p> <p>16 document here, this is about 99 pages total with</p> <p>17 the first three that relate to kind of that patent</p> <p>18 specific information followed by a 96-page</p> <p>19 BlueSpace document; correct?</p> <p>20 A. Yes.</p> <p>21 Q. And so between Exhibit 2006 dated June 7,</p> <p>22 2005, and this provisional which you filed</p>                                                          |

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| <p>Page 213</p> <p>1 January 13, 2006, there have been approximately 36</p> <p>2 pages of content added to the provisional; is that</p> <p>3 fair?</p> <p>4 A. Probably. I didn't do the math but, yes,</p> <p>5 it sounds fair, yes.</p> <p>6 Q. And I take it you're not able, sitting</p> <p>7 here right now, to provide a high-level</p> <p>8 description of the changes that were made between</p> <p>9 EX-2006 and this provisional?</p> <p>10 A. That would be a great question for my</p> <p>11 father.</p> <p>12 Q. Okay. You don't have any specific things</p> <p>13 you can point to that would explain the difference</p> <p>14 in those 36 pages?</p> <p>15 A. No, I don't recall. I'd have to sit</p> <p>16 there and go line by line and analyze and see, oh,</p> <p>17 I added that and, oh, I added that.</p> <p>18 And, you know, the documents are as they</p> <p>19 are. To be honest, I would be doing the same</p> <p>20 process with little additional recollection than</p> <p>21 somebody coming just through it like yourself and</p> <p>22 reading them for the first time.</p> | <p>Page 215</p> <p>1 Q. Yeah. That's my first question.</p> <p>2 You would agree this is another version</p> <p>3 of the BlueSpace Mail Relevance document that we</p> <p>4 have been talking about today?</p> <p>5 A. Yeah.</p> <p>6 Q. And this is a 76-page draft of that</p> <p>7 document; correct?</p> <p>8 A. 77 -- yes. Yes. Probably has the last</p> <p>9 page, doesn't it --</p> <p>10 Q. The last page has metadata, so the</p> <p>11 document itself will be 76 pages; right?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. I'm going to ask you some</p> <p>14 questions about EX-2007, but I want to actually go</p> <p>15 back to EX-2006 before I do.</p> <p>16 A. Okay.</p> <p>17 Q. And I apologize for jumping around here,</p> <p>18 it's just a function of trying to compare these</p> <p>19 documents.</p> <p>20 So in EX-2006, let's look at pages 53 and</p> <p>21 54, focusing on section 9.2.1, the introduction.</p> <p>22 A. Sure. Got it. Yeah.</p>                                                              |
| <p>Page 214</p> <p>1 So like I don't remember 20 years ago.</p> <p>2 Most of this is a study of stuff that I don't</p> <p>3 remember, but it's written in Word documents that</p> <p>4 I kind of -- I can recognize my language, and I</p> <p>5 can sort of remember the process of creating it,</p> <p>6 but like specifics, I don't recall.</p> <p>7 Q. Okay. Let's go back to your third</p> <p>8 declaration, labeled EX-2030.</p> <p>9 A. Yep.</p> <p>10 Q. And I'll direct you to paragraph 15.</p> <p>11 A. Yep.</p> <p>12 Q. And in paragraph 15 you write that you</p> <p>13 added approximately 16 pages to the draft patent</p> <p>14 application between EX-2006 and EX-2007;</p> <p>15 correct?</p> <p>16 A. Yep.</p> <p>17 (Exhibit 13 was marked.)</p> <p>18 BY MR. OHLERT:</p> <p>19 Q. And I'm going to upload into the chat</p> <p>20 EX-2007, which I believe would be Exhibit 13.</p> <p>21 A. Okay. Yeah. Another version of the</p> <p>22 document.</p>                                                                                                                                | <p>Page 216</p> <p>1 Q. And on the next page, the very first</p> <p>2 sentence says, "A working formula for the</p> <p>3 relevance of a given TransMail is then," and then</p> <p>4 it has a formula there.</p> <p>5 Do you see that?</p> <p>6 A. Sorry. Which page 50 --</p> <p>7 Q. It's at the top of page 54, and it's</p> <p>8 basically everything on page 54 prior to section</p> <p>9 9.2.2.</p> <p>10 A. Oh, yes. Yes. Yes. I see it now. You</p> <p>11 skipped over the bits of the formula, but yes.</p> <p>12 Q. And so what this is describing is the</p> <p>13 first sentence on page 54 says, "A working formula</p> <p>14 for the relevance of a given TransMail" and then</p> <p>15 it has a formula there that lays out what that</p> <p>16 formula for relevance would be.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And it's got some initial lines of an</p> <p>20 equation and then it has some text followed by</p> <p>21 some additional lines with more equations.</p> <p>22 Do you see that?</p> |

| Page 217 |                                                   | Page 219 |                                                    |
|----------|---------------------------------------------------|----------|----------------------------------------------------|
| 1        | A. Yes. Probably to the same level you do         | 1        | Formula.                                           |
| 2        | but, yes -- yep.                                  | 2        | Do you see that?                                   |
| 3        | Q. And is it fair to say that these are the       | 3        | A. Yes.                                            |
| 4        | formulas that EX-2006 would look at when          | 4        | Q. And then it kind of continues through           |
| 5        | determining the relevance of electronic content?  | 5        | there. But, importantly, I'll direct you to page   |
| 6        | A. Yeah. I mean, certainly some of it, I          | 6        | 57.                                                |
| 7        | think -- I think that would be -- again, I, you   | 7        | A. Yep.                                            |
| 8        | know, defer to my father on the specifics of the  | 8        | Q. And 57 includes a summary of the working        |
| 9        | math.                                             | 9        | formula for the relevance of a given TransMail.    |
| 10       | It's a working formula. I think that              | 10       | And you see it has an equation there?              |
| 11       | there may be some -- yeah, so I think this was    | 11       | A. Mm-hmm. Yes.                                    |
| 12       | to -- yes, this was the initial math, so I think  | 12       | Q. You would agree that the working formula        |
| 13       | that was a working formula, which then got more   | 13       | for relevance in EX-2007 is different than the     |
| 14       | stuff added to it and more sophisticated in its   | 14       | working formula for relevance in EX-2006;          |
| 15       | iterations, but yes.                              | 15       | correct?                                           |
| 16       | Q. Okay. And this whole initial math              | 16       | A. Yes. It has more scribbles in it.               |
| 17       | section starts on page 53.                        | 17       | Q. And so these formulas are new and would         |
| 18       | Do you see that?                                  | 18       | have been added after the mathematics in EX-2006;  |
| 19       | A. Yes.                                           | 19       | correct?                                           |
| 20       | Q. And then if you scroll down, that initial      | 20       | A. Yes. They were a next step, development         |
| 21       | math section continues until page 56; correct?    | 21       | on, from the original formulas.                    |
| 22       | A. Yes.                                           | 22       | Q. Do you know who prepared these                  |
| Page 218 |                                                   | Page 220 |                                                    |
| 1        | Q. And so from page 53 to 56, it's about          | 1        | mathematical formulas?                             |
| 2        | four pages of equations; fair?                    | 2        | A. My father.                                      |
| 3        | A. Yes.                                           | 3        | Q. And can you say that definitively?              |
| 4        | Q. Okay. Were there any software                  | 4        | A. Yes.                                            |
| 5        | implementations of these algorithms in section    | 5        | Q. How do you know that?                           |
| 6        | 9?                                                | 6        | A. Because he told me he did it and I don't        |
| 7        | A. No. I don't believe we ever -- we ever         | 7        | have any reason to believe he would be lying. I    |
| 8        | wrote these into code.                            | 8        | mean, I -- yeah, that's why. I believe he did      |
| 9        | Q. Okay. And did you ever write any of the        | 9        | it.                                                |
| 10       | ultimate relevance formulas that you decided upon | 10       | Q. Okay.                                           |
| 11       | into code?                                        | 11       | A. I didn't -- I wasn't standing over his          |
| 12       | A. I don't believe we did.                        | 12       | shoulder the whole time but, you know, I believe   |
| 13       | Q. Okay. I am now going to direct you back        | 13       | that he did it, he said he did it, and there       |
| 14       | to EX-2007, okay?                                 | 14       | wasn't anybody else, you know, really -- there     |
| 15       | A. Okay. Yeah.                                    | 15       | wasn't anybody else significantly involved who     |
| 16       | Q. And then let's go to page 55. And what I       | 16       | would have had the -- nobody in BlueSpace has a    |
| 17       | want to do is just look at the same disclosures   | 17       | clue of what -- none of the employees in BlueSpace |
| 18       | for the mathematics in section 9 but in EX-2007,  | 18       | would have any ability to write anything like that |
| 19       | okay?                                             | 19       | so...                                              |
| 20       | A. Yep.                                           | 20       | Q. And maybe this is a question for your           |
| 21       | Q. And so page 55 includes section 9.1,           | 21       | father, but you would agree the working formula    |
| 22       | Introduction, and section 9.2, Aim of Relevance   | 22       | for relevance changed substantially from EX-2006   |

| Page 221 |                                                    | Page 223 |                                                    |
|----------|----------------------------------------------------|----------|----------------------------------------------------|
| 1        | to EX-2007?                                        | 1        | this federated weightings model?                   |
| 2        | MR. PADMANABHAN: Objection. Rule 611.              | 2        | A. No. I don't know offhand, no.                   |
| 3        | But you can answer if you know.                    | 3        | Q. Okay. Do you know the purpose of what           |
| 4        | THE WITNESS: I don't know. It's                    | 4        | this federated weightings model would be?          |
| 5        | different -- I'm not enough into the math to       | 5        | A. Yes.                                            |
| 6        | give -- you know, ask a mathematician.             | 6        | Q. What would that purpose be?                     |
| 7        | BY MR. OHLERT:                                     | 7        | A. So, yeah, it may turn out that certain          |
| 8        | Q. Okay. So they are different but you             | 8        | types of actions are better indicators than        |
| 9        | can't tell the difference and you would say to ask | 9        | others. And so you have to determine -- should     |
| 10       | your father Paul Marston; fair?                    | 10       | you like the model -- I mean, you know, it's       |
| 11       | A. Yes.                                            | 11       | really lightweight now in AI models, it's just     |
| 12       | Q. Okay. You would agree that in EX-2007,          | 12       | 20 years later.                                    |
| 13       | section 9, starts at page 55?                      | 13       | But, yes, like weight is how much do               |
| 14       | A. Yes.                                            | 14       | you -- how much -- how much significance do you    |
| 15       | Q. And that continues until page 63, it            | 15       | place in, you know, a bunch of different aspects   |
| 16       | looks like.                                        | 16       | of a single calculation, and so that's what it's   |
| 17       | Do you agree?                                      | 17       | defining here in any case.                         |
| 18       | A. Yes.                                            | 18       | It's like how much -- how important is             |
| 19       | Q. And so in EX-2006 there were about four         | 19       | this type of action versus this type of action.    |
| 20       | pages of mathematical questions, and EX-2007 has   | 20       | That's what it -- and so if you could -- rather    |
| 21       | closer to eight or nine pages; fair?               | 21       | than treating each company as its own -- I mean,   |
| 22       | A. Yes.                                            | 22       | you see this all the time in the press, but rather |
| Page 222 |                                                    | Page 224 |                                                    |
| 1        | Q. Can you speak to what was added to this         | 1        | than treating each company as its own island, and  |
| 2        | algorithm section in EX-2007 to make it so many    | 2        | if you can sort of anonymize an amalgamy toward    |
| 3        | pages longer?                                      | 3        | that data, then you have a much larger sample pool |
| 4        | A. No.                                             | 4        | to inform your algorithm on -- on, you know, how   |
| 5        | Q. Can you speak at all to why these details       | 5        | significant each of -- how the different types of  |
| 6        | were added?                                        | 6        | actions could be.                                  |
| 7        | A. Not really, no.                                 | 7        | Does that make sense?                              |
| 8        | Q. Okay. And then can I direct you to page         | 8        | Q. Yeah. And so the idea is this                   |
| 9        | 72, the last paragraph of EX-2007?                 | 9        | essentially allows for different applications of   |
| 10       | A. Yes.                                            | 10       | the relevance model in different fields to be      |
| 11       | Q. The first sentence of that paragraph            | 11       | specified by different corporations; is that       |
| 12       | says, "We also need to build in the idea of a      | 12       | fair?                                              |
| 13       | federated weightings model in which corporations   | 13       | A. No.                                             |
| 14       | provide the derived values for weightings of       | 14       | Q. Okay.                                           |
| 15       | different actions by web services to a central     | 15       | A. What this allows is different instances         |
| 16       | pool."                                             | 16       | of the relevance system algorithm or whatever you  |
| 17       | Do you see that?                                   | 17       | want to characterize it as to share crib notes on  |
| 18       | A. Yes.                                            | 18       | what the best weightings are to give to different  |
| 19       | Q. Did you ever end up adding that federated       | 19       | types of things.                                   |
| 20       | weightings model to the BlueSpace documents?       | 20       | So otherwise they will operate as                  |
| 21       | A. I don't know.                                   | 21       | independent islands, they will have to -- you      |
| 22       | Q. Okay. Do you know if EX-2006 mentions           | 22       | know, they're all learning by themselves. If you   |

| Page 225 |                                                    | Page 227 |                                                    |
|----------|----------------------------------------------------|----------|----------------------------------------------------|
| 1        | connect them and they're federated, then as you,   | 1        | data you have, the more statistical significance   |
| 2        | you know, build data back into that feedback loop, | 2        | you have.                                          |
| 3        | it gets smarter.                                   | 3        | So ideally you want to share it. Now               |
| 4        | So, I mean, an example, in self-driving            | 4        | some companies might be worried about it, but if   |
| 5        | cars each of Tesla can be it's own little learning | 5        | they fully understand that it's only effectively   |
| 6        | entity, where if we can connect them all together, | 6        | like the algorithms settings data, which is        |
| 7        | you know, we're learning from the hive, we're not  | 7        | entirely anonymized, then hopefully they'll be     |
| 8        | learning from an individual bee.                   | 8        | comfortable sharing it.                            |
| 9        | Does that make sense?                              | 9        | It's a big issue in all the AI stuff               |
| 10       | Q. It did up until you connected federated         | 10       | right now, right. Do I get to -- do I share my     |
| 11       | to that concept.                                   | 11       | model with everybody else or do I make my own      |
| 12       | So let me take a step back.                        | 12       | model and keep it in-house because I think it has  |
| 13       | What do you understand by the term                 | 13       | a secret sauce in it.                              |
| 14       | "federated"?                                       | 14       | Q. Okay. And I'll direct you to section 10         |
| 15       | A. You share things.                               | 15       | on page 65, which is titled "Software              |
| 16       | Q. Okay. It's not about --                         | 16       | Implementation."                                   |
| 17       | A. Federated search. Federated identity.           | 17       | Do you see that?                                   |
| 18       | Federated identity is where, you know, it's --     | 18       | A. Yes.                                            |
| 19       | it's -- you could have one master that is then     | 19       | Q. Do you know who specifically drafted this       |
| 20       | federating credentials to others.                  | 20       | section on software implementation?                |
| 21       | It may be federated isn't a particularly           | 21       | A. You know, I think I wrote this. So              |
| 22       | great word to use there, but like the concept was  | 22       | not -- you know, I wouldn't want to -- let me keep |
| Page 226 |                                                    | Page 228 |                                                    |
| 1        | when you federate something, you are sharing it in | 1        | reading.                                           |
| 2        | a larger pool, as opposed to each one being        | 2        | I mean some of this I don't know a                 |
| 3        | entirely separate and disconnected from the        | 3        | hundred percent. Some of this looks like stuff     |
| 4        | others.                                            | 4        | that I might have written. Some of it looks like   |
| 5        | Sorry, Cara.                                       | 5        | stuff that, yeah, my father might have written.    |
| 6        | Q. And so the idea here is you're allowing         | 6        | So I don't -- I don't know that I have --          |
| 7        | various corporations via federation to basically   | 7        | you'd have to ask him. I'd ask him if he thinks    |
| 8        | share their data with BlueSpace in a centralized   | 8        | he wrote it. The honest answer is I can't say      |
| 9        | location who can then take those inputs and use    | 9        | for -- I don't know.                               |
| 10       | them to evaluate content, more or less?            | 10       | Q. Okay. You just can't be sure one way or         |
| 11       | A. Yeah. If everybody shares the weight            | 11       | another who wrote section 10 of the EX-2007?       |
| 12       | then you come up with more accurate weight because | 12       | A. Yeah. I mean, I'm pretty confident that         |
| 13       | you have a larger statistical sample.              | 13       | section 10.3 was written by him. So I would get    |
| 14       | If everybody, you know, does the distant           | 14       | his -- I would get his perspectives on it, yeah.   |
| 15       | light of mine, I'm going to let it shine then, you | 15       | Q. So you think section --                         |
| 16       | know, you have lots of separate pools of data that | 16       | A. I don't think I could have written 10.3.        |
| 17       | don't know about each other and, you know, the     | 17       | I think he wrote that. So it might be that he      |
| 18       | more data you've got, the better you are -- you    | 18       | wrote all of this. I'm just reading it now.        |
| 19       | know, the more likely accurate you are.            | 19       | Yeah, I'd ask him. It's --                         |
| 20       | I mean, it's just like why the data sets           | 20       | Q. So --                                           |
| 21       | for these AI models is ever, ever getting bigger.  | 21       | A. Yeah, I'd ask him. That's the answer.           |
| 22       | It's analogous. You know, you want -- the more     | 22       | Q. So you think he wrote section 10.3, but         |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                 |
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| <p>1 otherwise reviewing section 10 of EX-2007, you<br/> 2 can't say one way or the other who specifically<br/> 3 wrote section 10; fair?<br/> 4 A. Yes.<br/> 5 Q. Okay. And, sorry, I think I just asked<br/> 6 you this, but did BlueSpace ever implement its<br/> 7 relevance technology into a software<br/> 8 implementation?<br/> 9 A. No. We never rolled it into production<br/> 10 code. I mean, the company started to -- the<br/> 11 company started to pivot more towards the defense<br/> 12 and intelligence world and, you know, we -- it<br/> 13 never got high enough up the priority stack and<br/> 14 then it totally pivoted to this multilevel<br/> 15 security cost domain universe and so it got left<br/> 16 behind.<br/> 17 Q. Okay. In your view, does section 10<br/> 18 explain how to implement the invention of the '217<br/> 19 patent on a computer?<br/> 20 A. Yes. I think between the math -- the<br/> 21 math is the -- I mean, you know, I would say based<br/> 22 on the final math versus an interim document, but</p> | <p>Page 229</p> | <p>1 Q. Okay. Can you go back to your third<br/> 2 declaration, which would be EX-2030?<br/> 3 A. Yes.<br/> 4 Q. And could you go specifically to<br/> 5 paragraph 8.<br/> 6 A. Paragraph 8.<br/> 7 Q. It spans pages 3 and 4.<br/> 8 A. Yes.<br/> 9 Q. And so here you note that you emailed<br/> 10 Paul Marston in the time frame from June 2005<br/> 11 until the provisional was filed on January 13,<br/> 12 2006; correct?<br/> 13 A. Yes.<br/> 14 Q. And you stated that you used BlueSpace<br/> 15 emails for that correspondence; correct?<br/> 16 A. Yes.<br/> 17 Q. And those BlueSpace emails no longer<br/> 18 exist; correct?<br/> 19 A. Yes.<br/> 20 Q. Do you have any other evidence of these<br/> 21 emails or were they just lost?<br/> 22 A. They were lost.</p>                                                                                                                           | <p>Page 231</p> |
| <p>1 the submitted patent, I would say, yes, somebody<br/> 2 skilled in the art could take that math, take<br/> 3 the -- you know, the stuff about the different<br/> 4 statistical methods and would be able to implement<br/> 5 math, I think, big data developer or a<br/> 6 mathematical developer would be able to implement<br/> 7 it based on -- on that description.<br/> 8 Q. Well -- and so I was asking about section<br/> 9 10, which I don't think has those kinds of<br/> 10 mathematical formulas. I think those are<br/> 11 contained in section 9.<br/> 12 Does that make sense?<br/> 13 A. Yes.<br/> 14 Q. And so would section 10 alone explain how<br/> 15 to implement the invention of the '217 patent on a<br/> 16 computer?<br/> 17 A. I don't think so. I think you need both<br/> 18 of them.<br/> 19 Q. Okay. And Exhibit 2007 here is the first<br/> 20 time this software implementation section appears;<br/> 21 correct?<br/> 22 A. Yes.</p>                                                                                   | <p>Page 230</p> | <p>1 Q. Okay. And I want to go to paragraph 19<br/> 2 of the same document.<br/> 3 A. Okay.<br/> 4 Q. And this says in the second sentence,<br/> 5 "The emails maintained by counsel for BlueSpace<br/> 6 show that we exchanged correspondence with counsel<br/> 7 for BlueSpace regarding BlueSpace matters on July<br/> 8 11, 19, 21, and 22 and August 1, 15, and 16."<br/> 9 Do you see that?<br/> 10 A. Yes.<br/> 11 Q. And then you point to a privilege log of<br/> 12 documents that's labeled as EX-2042; correct?<br/> 13 A. Yes.<br/> 14 Q. Okay. I'm going to add that to the chat<br/> 15 and I'd like to ask you some questions about<br/> 16 EX-2042.<br/> 17 A. Okay. Good luck. Let me open it.<br/> 18 Okay. I've got it open.<br/> 19 Q. And so the very first email listed in the<br/> 20 first row on page 1 says that it was sent on<br/> 21 July 10, 2005; correct?<br/> 22 A. Yes.</p> | <p>Page 232</p> |

| Page 233 |                                                    | Page 235 |                                                    |
|----------|----------------------------------------------------|----------|----------------------------------------------------|
| 1        | Q. If you could just scroll through this           | 1        | A. Yes.                                            |
| 2        | document and look through it quickly.              | 2        | Q. And so the real question is whether the         |
| 3        | A. Yes.                                            | 3        | documents on this privilege log relate to the '217 |
| 4        | Q. Do you see any other dates that occur           | 4        | patent or if they relate to other patents; fair?   |
| 5        | before July 10, 2005?                              | 5        | A. Sure. Yep, makes sense. Sounds                  |
| 6        | A. No. It shows it chronologically.                | 6        | logical.                                           |
| 7        | Q. Okay. So you understand that July 10,           | 7        | Q. And so can you tell just based on this          |
| 8        | 2005, is the earliest of any of the documents that | 8        | privilege log whether this first document is       |
| 9        | are logged in EX-2042; correct?                    | 9        | specific to the '217 patent or some other          |
| 10       | A. Yes.                                            | 10       | patent?                                            |
| 11       | Q. And do you know if any of these emails          | 11       | A. I cannot tell that based purely on the          |
| 12       | specifically discuss the '217 patent?              | 12       | privilege log.                                     |
| 13       | A. The ones in this list?                          | 13       | Q. And, in fact, you think it probably             |
| 14       | Q. Yes.                                            | 14       | relates to a different patent that's specific to   |
| 15       | A. I mean, they probably do. I can't               | 15       | BlueSpace context; correct?                        |
| 16       | remember, but they are -- yes. I would imagine,    | 16       | A. I don't have the patent in front of me so       |
| 17       | yes.                                               | 17       | I'm guessing. But, you know, if I saw it, I'd be   |
| 18       | Q. Well, so let's say on this first document       | 18       | able to tell you.                                  |
| 19       | listed on page 1, the privilege description here   | 19       | I frankly don't understand how it works            |
| 20       | is, "Correspondence to counsel reflecting legal    | 20       | in a setting privilege and not -- I'll leave that  |
| 21       | advice being sought regarding patent application   | 21       | to the attorneys. It's their data now, it doesn't  |
| 22       | on BlueSpace context."                             | 22       | belong to me anymore. But, you know -- so I --     |
| Page 234 |                                                    | Page 236 |                                                    |
| 1        | Do you see that?                                   | 1        | you know, I don't know.                            |
| 2        | A. Yes.                                            | 2        | Q. Okay. And then in row 3 there is a              |
| 3        | Q. What does it mean when it says,                 | 3        | description, "RE context patent/message."          |
| 4        | "BlueSpace context"?                               | 4        | Do you think that relates to the '217              |
| 5        | A. We did file another patent in that              | 5        | patent?                                            |
| 6        | context at BlueSpace. I would imagine it was       | 6        | A. That, no idea. I don't know.                    |
| 7        | referring to that.                                 | 7        | Q. Okay.                                           |
| 8        | Q. Okay. So even though that document is           | 8        | A. If I saw the email, I'd tell you. But I         |
| 9        | logged on this privilege log, you actually think   | 9        | haven't got it.                                    |
| 10       | that probably relates to a different patent;       | 10       | Q. And then looking down a few rows, there's       |
| 11       | correct?                                           | 11       | a document that's dated July 19, 2005.             |
| 12       | A. I'm guessing. I'd have to -- I mean, I'd        | 12       | A. Mm-hmm.                                         |
| 13       | have to go -- we'd have to go find the email, but  | 13       | Q. Can you just let me know when you see           |
| 14       | there was a patent called "BlueSpace Context," so  | 14       | that one?                                          |
| 15       | it's likely it could refer to that.                | 15       | A. It's correspondence from counsel                |
| 16       | Q. And so one of the issues with this              | 16       | providing legal advice regarding patent portfolio. |
| 17       | document is that Sterling has asserted privilege   | 17       | That one?                                          |
| 18       | over many of these communications. So Meta and     | 18       | Q. Exactly.                                        |
| 19       | other people trying to challenge the '217 patent   | 19       | A. Yeah.                                           |
| 20       | can't go and look at those specific emails. We're  | 20       | (Exhibit 14 was marked.)                           |
| 21       | just limited to what's in this privilege log.      | 21       | BY MR. OHLERT:                                     |
| 22       | Do you understand that?                            | 22       | Q. And so the document logged in the               |

| Page 237 |                                                  | Page 239 |                                                    |
|----------|--------------------------------------------------|----------|----------------------------------------------------|
| 1        | privileged log EX-2042 ending in 0886 is about   | 1        | communications before this were about a context    |
| 2        | advice regarding patent portfolio; correct?      | 2        | patent?                                            |
| 3        | A. You lost me there. That was the -- no         | 3        | A. No idea.                                        |
| 4        | idea, is the answer.                             | 4        | Q. Okay.                                           |
| 5        | Q. Let me try and ask it again. And, you         | 5        | A. I just don't know any of it -- any of it.       |
| 6        | know, I apologize, it's just the virtue of the   | 6        | I'm literally looking at this table, just like you |
| 7        | record that we're trying to make here.           | 7        | are. And like I don't -- I might have -- I might   |
| 8        | A. Okay.                                         | 8        | have seen a flash of some of these emails in a     |
| 9        | Q. So let me just try again and we'll see if     | 9        | review process two months ago, but I have no idea. |
| 10       | we can do it. Strike that.                       | 10       | I do not remember it at all.                       |
| 11       | Looking at Exhibit 2042, the document            | 11       | Q. You can't speak to these details sitting        |
| 12       | that ends in 0886 --                             | 12       | here today?                                        |
| 13       | A. Yes.                                          | 13       | A. No, I can't. I have no idea.                    |
| 14       | Q. -- and dated July 19, 2005 --                 | 14       | Q. Do you at least recall if you were              |
| 15       | A. Yes.                                          | 15       | working on multiple patents for BlueSpace in the   |
| 16       | Q. -- is about advice regarding patent           | 16       | summer of 2005?                                    |
| 17       | portfolio; correct?                              | 17       | A. Honestly, no. I don't recall. I mean, I         |
| 18       | A. Yes. Yes.                                     | 18       | know that I worked on multiple patents. There      |
| 19       | Q. And so that would be about BlueSpace's        | 19       | were seven or eight patents or some -- there were  |
| 20       | patent portfolio as a whole, not specific to the | 20       | more than five patents that were filed for         |
| 21       | '217 patent; correct?                            | 21       | BlueSpace that are all in the public record.       |
| 22       | A. No idea.                                      | 22       | But the timing of when I worked on which,          |
| Page 238 |                                                  | Page 240 |                                                    |
| 1        | Q. Okay. You can't say that that's specific      | 1        | I don't recall that now, no.                       |
| 2        | to the '217 patent?                              | 2        | Q. Okay. Let's go to page 3. And the first         |
| 3        | A. I can't remember any of it. It would          | 3        | row is the document dated August 17, 2005.         |
| 4        | make life more simple in some ways if they just  | 4        | Do you see that?                                   |
| 5        | disclosed all of it. But, again, it's not my     | 5        | A. Yes.                                            |
| 6        | choice, up to the attorneys. I don't own the     | 6        | Q. Excuse me. Sorry. Strike that.                  |
| 7        | data. I have no idea.                            | 7        | And this is about a correspondence                 |
| 8        | Q. Okay. And you see there's a few entries       | 8        | regarding "patent application on secure messaging  |
| 9        | right after that that each refer to patent       | 9        | system."                                           |
| 10       | portfolio contained on page 1; right?            | 10       | Do you see that?                                   |
| 11       | A. Yes.                                          | 11       | A. Yes.                                            |
| 12       | Q. And is it fair to say that at any time it     | 12       | Q. And is this email that is talking about a       |
| 13       | says "patent portfolio," you're not going to     | 13       | patent application on secure messaging, is that    |
| 14       | really be able to tell if that's specific to the | 14       | related to the '217 patent?                        |
| 15       | '217 patent or not?                              | 15       | A. I have no idea. I don't even know who           |
| 16       | A. Yes. That's correct. I have no idea.          | 16       | wrote the privilege descriptions, so -- this is    |
| 17       | Q. Okay. And the unified subject for these       | 17       | going to be 20 minutes of me saying I have no      |
| 18       | messages on page 1 is TransMail.                 | 18       | idea.                                              |
| 19       | Do you see that?                                 | 19       | But I'll keep doing it happily if you              |
| 20       | A. Yes.                                          | 20       | want me to, but the answer is still I have no      |
| 21       | Q. Do you know why this communication would      | 21       | idea.                                              |
| 22       | be about TransMail whereas the other             | 22       | Q. Well, let's put it this way. The '217           |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                 |
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| <p>1 patent is about determining the relevance of<br/>2 content; right?<br/>3 A. Yes. Yes.<br/>4 Q. And this seems to be about an application<br/>5 for secure messaging; right?<br/>6 A. Yes.<br/>7 Q. You would expect those are different<br/>8 subjects; is that fair?<br/>9 A. It's a guess but -- you know, I don't<br/>10 know. I don't know who wrote the privilege<br/>11 description. It could be -- it could be<br/>12 completely wrong. All of these things -- I mean,<br/>13 you know, all of it was a secure messaging system.<br/>14 Stuff that says "tamper proof electronic<br/>15 messaging," I would have a higher degree that it's<br/>16 different because we wrote a specific patent<br/>17 around that.<br/>18 Secure messaging, it was all kind of in<br/>19 that bracket. So like -- but I'm just guessing<br/>20 based on a mental recollection of the different<br/>21 patents that we filed, all of which were open<br/>22 source, trying to tie -- tie the terms together.</p>                       | <p>Page 241</p> | <p>1 A. I'm just making a point. I guess like<br/>2 the anti-tamper proofing, when it says that,<br/>3 there's a specific patent I remember that was all<br/>4 about hash values and like trying to ensure that<br/>5 we had a separate database and all the hash values<br/>6 that we could compare to and blah, blah, blah.<br/>7 So like there was a thing. Secure<br/>8 messaging was such a broad term. The whole<br/>9 product was about secure messaging, so it's harder<br/>10 for me to guess.<br/>11 Yeah, I don't know how you all figure<br/>12 that out. I -- it's up to you and the owner of<br/>13 the data now.<br/>14 Q. Okay. And so just looking at the next<br/>15 row, that entry is about the tamper proof<br/>16 electronic messaging patent application.<br/>17 And you agree that that certainly is not<br/>18 related to the '217 patent; fair?<br/>19 A. Yeah. I don't think so. I don't know<br/>20 about the email, but it doesn't seem like it would<br/>21 be.<br/>22 Q. Okay. And so I mean at the very least,</p> | <p>Page 243</p> |
| <p>1 But there was an SMTP gateway patent,<br/>2 there was an anti-tamper proofing patent, there<br/>3 was a context patent, there was the governor's<br/>4 policy patent. Obviously, the relevance patent.<br/>5 And then maybe -- you know, maybe there was a<br/>6 couple of others. I can't even recall now. I'd<br/>7 have to -- I can't even remember how many patents<br/>8 I've written in my life. I'd have to go look to<br/>9 the patent office to try and do a query to figure<br/>10 it out, like I said long ago. So, yeah.<br/>11 Q. Well, the '217 patent isn't about<br/>12 security or authentication; right?<br/>13 A. True. Yes. It probably isn't. I don't<br/>14 know.<br/>15 Q. So if this document is accurate that this<br/>16 communication is about a secure messaging system<br/>17 patent application, it's probably not the '217<br/>18 patent; right?<br/>19 A. Yeah, we're both guessing. But like I'll<br/>20 guess with you. Sure. It doesn't seem like it.<br/>21 No idea.<br/>22 Q. Okay.</p> | <p>Page 242</p> | <p>1 you can understand from these entries that you<br/>2 were working on multiple patent applications at<br/>3 this time; correct?<br/>4 A. Yeah. I would -- I would believe that I<br/>5 probably was looking at this list.<br/>6 Q. Okay. Let's go to page 4 of this<br/>7 document.<br/>8 A. Okay.<br/>9 Q. And the first row here has a date of<br/>10 July 21, 2005.<br/>11 Do you see that?<br/>12 A. Yes.<br/>13 Q. The next two rows do not have any dates<br/>14 listed under them; correct?<br/>15 A. Yes.<br/>16 Q. Should those documents be dated July 21,<br/>17 2005?<br/>18 A. No idea.<br/>19 Q. Okay. And then looking at these same<br/>20 rows, the third undated row here shows a unified<br/>21 subject of GOS838.PDF.<br/>22 Do you see that?</p>                                                                                                                                                                                                                                                                          | <p>Page 244</p> |

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| <p>Page 245</p> <p>1 A. Yes.</p> <p>2 Q. Do you have any idea what GOS838 refers</p> <p>3 to?</p> <p>4 A. No. I mean, I think -- for God's sake, I</p> <p>5 think what happened here is I don't have any of my</p> <p>6 email; my dad doesn't have any of our email. The</p> <p>7 only way we can get any email was to go and ask</p> <p>8 Fenwick and West for the emails that they had kept</p> <p>9 in their retention system.</p> <p>10 And so I don't even -- honestly, I</p> <p>11 haven't even read almost all of these. I have no</p> <p>12 idea what I said 20 years ago. I think Devan and</p> <p>13 their team -- this one of the few places where</p> <p>14 there was independent information, and fortunately</p> <p>15 Fenwick and West decided to keep everybody</p> <p>16 forever, so it was in their email archiving</p> <p>17 system.</p> <p>18 They did a pull, they went through and</p> <p>19 they looked at dates. I think the intent was to</p> <p>20 say that I was proactively working to establish</p> <p>21 the company during that period, and I was. I was</p> <p>22 working my ass off during that period -- I'm not</p> | <p>Page 247</p> <p>1 Q. Okay. And then let's go to page 5.</p> <p>2 A. Yep.</p> <p>3 Q. And in the first row in the privilege</p> <p>4 description of page 5, it says, "draft document"</p> <p>5 and then it continues "regarding patent</p> <p>6 application on tamper proof electronic messaging."</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And so, again, that's not related to the</p> <p>10 '217 patent; correct?</p> <p>11 A. I would guess no.</p> <p>12 Q. Okay.</p> <p>13 A. I mean, that's -- you know, again, this</p> <p>14 is -- I'm going to guess -- I don't even know</p> <p>15 where this privilege -- I don't know how you found</p> <p>16 out where this privilege description came from,</p> <p>17 but either it was written -- the most likely thing</p> <p>18 is it was written by Devan's team.</p> <p>19 I don't even think it was written by the</p> <p>20 original patent attorney at Fenwick and West,</p> <p>21 so -- but it probably was about the tamper proof</p> <p>22 messaging patent, I guess.</p> |
| <p>Page 246</p> <p>1 sure if I'm allowed to say that word, but I was</p> <p>2 working very hard during that period and -- you</p> <p>3 know, on lots of different things. And patents</p> <p>4 were one of them.</p> <p>5 And there was lots of ongoing</p> <p>6 conversation with patent counsel. But, yes,</p> <p>7 beyond that, like I -- I -- it's so dim and</p> <p>8 distant. I have no -- I have no -- entirely</p> <p>9 dependent on the discovery process, really.</p> <p>10 Like I can share a little bit of glimmer</p> <p>11 of light here and there based on recollection, but</p> <p>12 the big items, like, I broadly kind of remember</p> <p>13 which patents I wrote, but I couldn't even name</p> <p>14 all of them. I mean, it was a long time.</p> <p>15 Q. And so the simple point is you can't say</p> <p>16 anything about the contents of GOS838?</p> <p>17 A. No.</p> <p>18 Q. You can't tell if it's a patent</p> <p>19 application or a technical document or anything</p> <p>20 else?</p> <p>21 A. It could be a photo of a flamingo for all</p> <p>22 I know. I have no idea at all. Yeah, no idea.</p>                   | <p>Page 248</p> <p>1 Q. Okay. And, again, there's no date here,</p> <p>2 so is it fair to assume that the date that would</p> <p>3 apply here is on the last row of page 4?</p> <p>4 A. No idea.</p> <p>5 Q. Okay. And then continuing on, looking at</p> <p>6 the row for the document ending in 00865.</p> <p>7 A. 865. So that's page 8?</p> <p>8 Q. Page 8.</p> <p>9 A. Got it.</p> <p>10 Q. And then on the right in the privilege</p> <p>11 description this says that it is "Correspondence</p> <p>12 from counsel to facilitate the rendition of legal</p> <p>13 advice regarding patent applications."</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. And you hadn't filed a patent application</p> <p>17 for the '217 patent in 2005; isn't that true?</p> <p>18 A. Probably.</p> <p>19 Q. I think we discussed earlier that you</p> <p>20 filed a provisional for the '217 patent in January</p> <p>21 of 2006?</p> <p>22 A. Yeah. That sounds right.</p>                                                                     |

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| <p>1 Q. That sounds right?</p> <p>2 A. Yep. Yep.</p> <p>3 Q. And so this correspondence about patent</p> <p>4 applications or any of the correspondence about</p> <p>5 patent applications up to this point would not</p> <p>6 have been about the '217 patent; right?</p> <p>7 A. No idea.</p> <p>8 Q. Okay. You certainly can't say that it</p> <p>9 would have related to the '217 patent?</p> <p>10 A. I definitely can't say that. Yep, I</p> <p>11 can't say that either.</p> <p>12 Q. Okay. And then on the second row of page</p> <p>13 9 of Exhibit 2042, there's another application</p> <p>14 added that's dated --</p> <p>15 A. Yep.</p> <p>16 Q. -- September 15, 2005.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And the description for that entry is</p> <p>20 that it's about a draft patent application on</p> <p>21 email structuring.</p> <p>22 Do you see that?</p>                                                                                                                                                           | <p>Page 249</p> | <p>1 that you're discussing, do you have any memory if</p> <p>2 any of these patent applications related to</p> <p>3 international patent applications?</p> <p>4 A. I think we did international for a --</p> <p>5 and, again, I'm shooting so far from the hip here,</p> <p>6 but like I think we did international PTTs on a</p> <p>7 couple of them, and then we got less enthusiasm</p> <p>8 about doing them on all of them because it was</p> <p>9 just a money pit.</p> <p>10 And so I think over time we just</p> <p>11 constrained ourselves to U.S. filings. But in</p> <p>12 terms of any specifics on that, Fenwick and West</p> <p>13 would know all the answers. I don't. I can't</p> <p>14 remember which ones we did and which we didn't.</p> <p>15 Q. And let's go to page 10.</p> <p>16 A. Yeah.</p> <p>17 Q. And in the third row --</p> <p>18 A. Yep. Yep.</p> <p>19 Q. -- for the document ending in 0856.0001,</p> <p>20 the privilege description is "Correspondence from</p> <p>21 BlueSpace" and it continues on to say, "to</p> <p>22 facilitate the rendition of legal advice regarding</p> |
| <p>1 A. Yes.</p> <p>2 Q. Do you recall what that patent</p> <p>3 application would have been about?</p> <p>4 A. I think that was about the SMTP gateway.</p> <p>5 So I think that was saying when you send a -- when</p> <p>6 you take a TransMail and you need to send it out</p> <p>7 through email, through a gateway, and then you've</p> <p>8 got to get it back, you know, how do you recognize</p> <p>9 the fragments and re-piece together that</p> <p>10 relational structure.</p> <p>11 I don't care about the content, but like</p> <p>12 Facebook did exactly that for a period where they</p> <p>13 tried to give everybody an email address and then</p> <p>14 they gave it up.</p> <p>15 But like I don't think anybody cares</p> <p>16 about that, but that is what the patent was</p> <p>17 about.</p> <p>18 Q. And the '217 patent is not about that</p> <p>19 kind of email structuring; correct?</p> <p>20 A. No. Well, it's -- yeah, I mean, it's</p> <p>21 not -- they're not related.</p> <p>22 Q. Okay. And through these applications</p> | <p>Page 250</p> | <p>1 international patent application."</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. And so does that confirm that at this</p> <p>5 time BlueSpace would have been looking at</p> <p>6 international patent applications as well?</p> <p>7 A. Yes. We did do some for some of them.</p> <p>8 Obviously, if you know, you have a window of time</p> <p>9 when you have to decide whether you want to bother</p> <p>10 with the international or not.</p> <p>11 So there's probably a lagging factor from</p> <p>12 an earlier patent, but -- and then you have to</p> <p>13 decide how many languages you want to translate it</p> <p>14 into and that whole money, you know, deaths by</p> <p>15 spiral pit but, yeah, we were probably talking</p> <p>16 about that, yep.</p> <p>17 Q. Okay. And then going down to page 11,</p> <p>18 the third row is dated -- actually, I'm sorry.</p> <p>19 Before we move on there, sticking on page 10, the</p> <p>20 third entry, you don't see any date for that</p> <p>21 entry, do you?</p> <p>22 A. No.</p>                                                      |

| Page 253 |                                                    | Page 255 |                                                    |
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| 1        | Q. Do you have any way of determining what         | 1        | that was around the period that Gefinor Ventures   |
| 2        | date should be applied to the third row of page    | 2        | invested, so they were probably going through the  |
| 3        | 10?                                                | 3        | patent portfolio with their attorneys and, you     |
| 4        | A. No.                                             | 4        | know, trying to validate some stuff.               |
| 5        | Q. Okay. Let's go to page 11. And, again,          | 5        | Q. And so you're welcome to CTRL F and             |
| 6        | focused on the third row, dated October 31, 2005.  | 6        | search through this document, but there are a      |
| 7        | Do you see that?                                   | 7        | number of entries after this related to due        |
| 8        | A. Yes.                                            | 8        | diligence.                                         |
| 9        | Q. And then the description here is "Advice        | 9        | Is it fair to say that those entries               |
| 10       | regarding patent application on enforcing          | 10       | would generally relate to an investment round with |
| 11       | compliance policies in messaging systems."         | 11       | Gefinor Ventures?                                  |
| 12       | Do you see that?                                   | 12       | A. Yes. I think so.                                |
| 13       | A. Yes.                                            | 13       | Q. Okay. And then page 16, I'll direct you         |
| 14       | Q. And then the row immediately below that         | 14       | to the first row there.                            |
| 15       | describes, "Correspondence regarding patent        | 15       | A. Yeah.                                           |
| 16       | application on generating relational structure for | 16       | Q. That is related to a Canadian                   |
| 17       | non-relational messages."                          | 17       | application; correct?                              |
| 18       | Do you see that?                                   | 18       | A. It looks like it, yes.                          |
| 19       | A. Yes.                                            | 19       | Q. And so that obviously wouldn't have been        |
| 20       | Q. Would either of those entries have been         | 20       | the '217 patent; right?                            |
| 21       | about the '217 patent?                             | 21       | A. No idea.                                        |
| 22       | A. No, I don't think so.                           | 22       | Q. I mean, the '217 patent is not a Canadian       |
| Page 254 |                                                    | Page 256 |                                                    |
| 1        | Q. Okay. And then let's go to page 13, the         | 1        | patent; correct?                                   |
| 2        | fourth row.                                        | 2        | A. Then, yes. If we never filed the '217           |
| 3        | A. Yeah.                                           | 3        | internationally, then it wouldn't have had a       |
| 4        | Q. And that is dated December 2, 2005.             | 4        | Canadian counterpart.                              |
| 5        | Do you see that?                                   | 5        | Q. I mean, if you did have a Canadian              |
| 6        | A. Yes.                                            | 6        | counterpart, that would be a different patent from |
| 7        | Q. And it describes in the description,            | 7        | the '217 patent; right?                            |
| 8        | "Correspondence" and it continues on, "seeking     | 8        | A. No idea, but I'll believe you.                  |
| 9        | legal advice regarding due diligence."             | 9        | Q. Okay. And then two rows below that it           |
| 10       | Do you see that?                                   | 10       | says there's "correspondence regarding employment  |
| 11       | MR. PADMANABHAN: Which one?                        | 11       | law."                                              |
| 12       | THE WITNESS: Page 13, line 4.                      | 12       | Do you see that?                                   |
| 13       | "Correspondence to counsel on behalf -- seeking    | 13       | A. Yes.                                            |
| 14       | legal advice regarding due diligence."             | 14       | Q. And so that entry is dated January 3,           |
| 15       | Yes.                                               | 15       | 2006; correct?                                     |
| 16       | BY MR. OHLERT:                                     | 16       | A. Yeah.                                           |
| 17       | Q. And was this the first time you                 | 17       | Q. Did you rely on Fenwick to provide              |
| 18       | corresponded with counsel about due diligence?     | 18       | counsel for non-patent matters?                    |
| 19       | A. No idea.                                        | 19       | A. It looks like it, yeah. Probably. Yes,          |
| 20       | Q. Do you know why you were corresponding          | 20       | I would guess yes.                                 |
| 21       | with counsel about due diligence?                  | 21       | Q. And did you rely on Fenwick as counsel          |
| 22       | A. My guess is that Gefinor Ventures were --       | 22       | for kind of any legal matters related to BlueSpace |

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| <p>1 generally? Page 257</p> <p>2 A. Not really. I mean, we had -- we were</p> <p>3 using Osborne Clark a lot in the U.K. I think it</p> <p>4 was just we were going through the investment</p> <p>5 round in the move to the U.S. We already had a</p> <p>6 pre-existing relationship with Fenwick through the</p> <p>7 patent, and so it made sense to, you know -- it</p> <p>8 just seemed like it made sense to get their</p> <p>9 answers on a few questions about the investment</p> <p>10 round.</p> <p>11 Q. Okay. And I think earlier you mentioned</p> <p>12 that at some point you essentially had to go</p> <p>13 through a rift as you transitioned to the</p> <p>14 United States; correct?</p> <p>15 A. Yep.</p> <p>16 Q. Is it fair to say these employ -- these</p> <p>17 emails related to employment law may have related</p> <p>18 to that RIF?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And then let's go to page 16 --</p> <p>21 we're almost through, I promise. The second to</p> <p>22 last row, dated January 11, 2006.</p> | <p>1 to the '217 patent; correct? Page 259</p> <p>2 A. No idea.</p> <p>3 Q. You can't say --</p> <p>4 A. You know, I think we also had phone calls</p> <p>5 which there aren't any records of. So I would</p> <p>6 have calls with him where I'd talk through the</p> <p>7 ideas that I was working on.</p> <p>8 So we tended to -- you know, we did</p> <p>9 collaboration that way as far as via email. It</p> <p>10 was typically more once I got to something that I</p> <p>11 thought was sort of -- this is a -- I think this</p> <p>12 is pretty final, then I would -- then I would send</p> <p>13 it to him.</p> <p>14 But, yeah, I don't know if that's</p> <p>15 helpful, so...</p> <p>16 Q. Well, you can't remember the details of</p> <p>17 any of those conversations that you would have had</p> <p>18 over the phone?</p> <p>19 A. No.</p> <p>20 Q. And you don't have any records of those</p> <p>21 calls?</p> <p>22 A. No.</p>                                 |
| <p>1 Do you see that? Page 258</p> <p>2 A. Yes.</p> <p>3 Q. And the subject there is "New Patent";</p> <p>4 correct?</p> <p>5 A. Yes.</p> <p>6 Q. And then the correspondence --</p> <p>7 description says, "Correspondence to counsel" and</p> <p>8 it continues on, "regarding patent application on</p> <p>9 BlueSpace mail relevance."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. And do you recall we discussed earlier</p> <p>13 that the '217 patent was filed in January 2006;</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And so the new patent that this is</p> <p>17 referring to is probably the application that led</p> <p>18 to the '217 patent; is that fair?</p> <p>19 A. Probably, yes.</p> <p>20 Q. And so if that were true, any of the</p> <p>21 correspondence to this point that we've been</p> <p>22 talking about related to patents would not relate</p>                                                                                                                                           | <p>1 Q. Okay. And you can't say whether any of Page 260</p> <p>2 the patents that were discussed in Exhibit 2042</p> <p>3 prior to page 16 are specific to the '217 patent;</p> <p>4 fair?</p> <p>5 A. Correct.</p> <p>6 Q. And, in fact, it looks a lot like the new</p> <p>7 patent dated January 11, 2006, relates to the '217</p> <p>8 patent because that's about a patent application</p> <p>9 on BlueSpace Mail Relevance; fair?</p> <p>10 A. Sure. I have no idea. It makes sense</p> <p>11 when you say it.</p> <p>12 Q. I mean, the provisional application we</p> <p>13 looked at was essentially just a version of your</p> <p>14 BlueSpace Mail Relevance document; correct?</p> <p>15 A. Yeah -- yes.</p> <p>16 Q. Okay. Let's go to page 17, the last</p> <p>17 page.</p> <p>18 A. Okay.</p> <p>19 Q. And then there are two communications</p> <p>20 there and the subject is "Unified Subject, New</p> <p>21 Patent-Inventorship?"</p> <p>22 Do you see that?</p> |

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| <p>Page 261</p> <p>1 A. Yeah.</p> <p>2 Q. And the description here is</p> <p>3 "Correspondence from counsel providing legal</p> <p>4 advice regarding draft patent application on</p> <p>5 BlueSpace mail relevance"; correct?</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall anything about this email</p> <p>8 about inventorship of the patent application on</p> <p>9 BlueSpace mail relevance?</p> <p>10 A. I don't really -- I don't really remember</p> <p>11 anything. I think there was some email at some</p> <p>12 point. I don't know if this one or other, but I</p> <p>13 remember -- I believe I remember seeing something</p> <p>14 that sort of had Brian Hoffman, who was the guy at</p> <p>15 Fenwick, asking, you know, who were the authors</p> <p>16 for this one.</p> <p>17 And then me confirming that it was my</p> <p>18 father and I who were the authors, you know. But</p> <p>19 I would imagine that the disclosed documents are</p> <p>20 going to be clearer than my recollection. I think</p> <p>21 there was something like that where he checked and</p> <p>22 then we said, no, it was just myself and my father</p> | <p>Page 263</p> <p>1 disputes where maybe some other party might have</p> <p>2 been considered as a potential inventor of the</p> <p>3 patents being discussed in this row on page 17 of</p> <p>4 EX-2007?</p> <p>5 A. There were never any disputes internally</p> <p>6 about the authors of the patent, the mail</p> <p>7 relevance patent. You know, we never had anybody</p> <p>8 say, "Well, I think I should be listed as an</p> <p>9 author too." Or like -- yeah. Like nothing like</p> <p>10 that happened.</p> <p>11 Q. Is it typical to get emails about</p> <p>12 inventorship of these patent applications?</p> <p>13 A. I mean, I would say, yes. I think he was</p> <p>14 just making sure that we didn't screw up, you</p> <p>15 know, and forget to mention somebody who was an</p> <p>16 inventor.</p> <p>17 And so he was just validating that and it</p> <p>18 was really just a check-in.</p> <p>19 Again, I think I saw this email, and I</p> <p>20 think this email said sort of, "Hey, just to</p> <p>21 check," you know, "were there any other authors of</p> <p>22 the patent other than the two of you?"</p> |
| <p>Page 262</p> <p>1 who are the authors.</p> <p>2 Q. So you think you recall that the</p> <p>3 conversation was counsel asking for who should be</p> <p>4 listed as the inventors and you responding it</p> <p>5 should be yourself and Paul Marston and nobody</p> <p>6 else; fair?</p> <p>7 A. I believe that's accurate going from</p> <p>8 memory. I thought the attorneys disclosed</p> <p>9 something, but I'm not able to ask them, so I</p> <p>10 don't know.</p> <p>11 But, yes, there was some -- I think there</p> <p>12 was a validation from the attorney on the</p> <p>13 authorship at the time, and I believe I answered</p> <p>14 it.</p> <p>15 But that's to the best of my</p> <p>16 recollection, you know.</p> <p>17 Q. So you think that's basically what</p> <p>18 happened as related to inventorship of this patent</p> <p>19 application on BlueSpace mail relevance but you're</p> <p>20 not a hundred percent sure?</p> <p>21 A. Yes. That's fair.</p> <p>22 Q. Okay. And you can't recall any other</p>                                                                                                                | <p>Page 264</p> <p>1 And I think my answer was "no." You</p> <p>2 know, this other guy didn't make any meaningful</p> <p>3 contribution. It was just myself and my father.</p> <p>4 But that's a recollection from memory. But I</p> <p>5 believe that's what it said but, you know, I'm 80</p> <p>6 percent confident, you know.</p> <p>7 Q. You're saying now there's a reference to</p> <p>8 some other guy. Is the idea that Fenwick</p> <p>9 approached you and asked if someone else should be</p> <p>10 listed as an inventor and you responded no?</p> <p>11 Is that what you're trying to say?</p> <p>12 A. I just can't remember. I think they</p> <p>13 did -- I believe that they asked to confirm the</p> <p>14 inventors of the patent. I can't remember whether</p> <p>15 they named anybody or not. I just don't remember.</p> <p>16 I really don't remember.</p> <p>17 Q. Well, one question I have is, I don't see</p> <p>18 any other emails on this privilege log related to</p> <p>19 inventorship.</p> <p>20 Is that consistent with what you're</p> <p>21 seeing?</p> <p>22 A. Yes.</p>                           |

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| <p>Page 265</p> <p>1 Q. And so was there anything about this</p> <p>2 patent application on BlueSpace mail relevance</p> <p>3 that called into question inventorship in a way</p> <p>4 that wasn't called into question for your other</p> <p>5 applications?</p> <p>6 A. I don't think so. I don't remember. I</p> <p>7 mean, I think -- I can't remember the content of</p> <p>8 the email well enough to say under oath.</p> <p>9 You know, like it would make everybody's</p> <p>10 life easier if some of this just got disclosed,</p> <p>11 but like it's up to you all. I'm not the one with</p> <p>12 the data. Sorry, you know. It just is what it</p> <p>13 is. I want it because I wrote it, but like I --</p> <p>14 you know, I'm not -- I don't own it. It is what</p> <p>15 it is.</p> <p>16 I don't think there is any -- I mean,</p> <p>17 there is no hidden dagger there somewhere that's</p> <p>18 incredibly incriminating. I just -- and there's</p> <p>19 really no reason for me to do anything that would</p> <p>20 incriminate myself because I don't care how this</p> <p>21 really works out anyway.</p> <p>22 I'm not an owner of the patent. I'm not</p> | <p>Page 267</p> <p>1 those. And you can't see what any of the content</p> <p>2 is.</p> <p>3 So, you know, like I can understand it's</p> <p>4 very frustrating. I don't understand how the</p> <p>5 process works and why it works that way, but I'm</p> <p>6 sure there were more emails than that, that went</p> <p>7 backwards and forwards between me and Brian.</p> <p>8 I don't know if they've been collected,</p> <p>9 if they're evidential logs. I don't know how</p> <p>10 Fenwick and West decided what was a business</p> <p>11 record and what didn't constitute one. I have no</p> <p>12 idea. So I'm just not tremendously helpful on any</p> <p>13 of this.</p> <p>14 Q. Well -- and so you're saying you sent</p> <p>15 hundreds of emails to Fenwick and West, but</p> <p>16 EX-2042 doesn't log hundreds of emails, does it?</p> <p>17 A. No. I have no -- again, I don't know the</p> <p>18 number I sent back and forth to Brian, but I'm</p> <p>19 sure it's more than the number in that table</p> <p>20 because I worked with him for several years on</p> <p>21 these patents and we had a bunch of phone calls, a</p> <p>22 bunch of other things.</p> |
| <p>Page 266</p> <p>1 involved. So God bless you both. I hope it goes</p> <p>2 well. No idea and I can't remember, you know --</p> <p>3 yeah, I can't remember.</p> <p>4 Q. Okay.</p> <p>5 A. But I don't think that any -- you know, I</p> <p>6 am confident that the patent was written by myself</p> <p>7 and my father, and I am confident that nobody else</p> <p>8 had any significant, you know, input to it.</p> <p>9 Like I know that is true. I remember</p> <p>10 trying to get opinions and trying to get advice,</p> <p>11 but it was just beyond anybody on our team and we</p> <p>12 gave up looking for external people and just went</p> <p>13 and filed it. So that's -- that's basically my</p> <p>14 recollection.</p> <p>15 Q. But the long and short of it is you only</p> <p>16 discussed through these logs, documents,</p> <p>17 inventorship as to one application and that's this</p> <p>18 patent application on BlueSpace mail relevance;</p> <p>19 correct?</p> <p>20 A. I think the problem is that I sent</p> <p>21 hundreds of emails backwards and forwards to Brian</p> <p>22 Hoffman, and you're seeing a small subset of</p>                      | <p>Page 268</p> <p>1 You know, I -- I'll leave it to the</p> <p>2 attorneys to decide, what they decide to show,</p> <p>3 what they don't, why they decide to show it.</p> <p>4 You know, I'm not an expert. I have no</p> <p>5 idea about that. Like I can kind of dimly</p> <p>6 remember -- I remember a lot of conversations with</p> <p>7 Brian. I mean, we spent, gosh, a quarter of a</p> <p>8 million dollars with Fenwick, which now seems like</p> <p>9 peanuts compared to this case.</p> <p>10 But, you know, at the time it felt like a</p> <p>11 lot of money, you know, with them on giving us</p> <p>12 advice and filing patents, and there was quite a</p> <p>13 bit of to and fro, both phone calls and email over</p> <p>14 those years.</p> <p>15 But -- but yeah, I just don't -- you</p> <p>16 know, it was 20 years ago. I don't -- you know, I</p> <p>17 don't want to try and make assertions under oath</p> <p>18 that I'm just not confident of. So...</p> <p>19 Q. Okay. And I completely respect that,</p> <p>20 sir.</p> <p>21 And so I just want to go back a little</p> <p>22 bit. Strike that.</p>                                              |

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| <p>Page 269</p> <p>1 You're not sure who prepared EX-2042;</p> <p>2 correct?</p> <p>3 A. I believe it was Devan and his firm.</p> <p>4 I -- you know, so I'm reasonably confident it was</p> <p>5 them that prepared it. I don't know the criteria</p> <p>6 they used, what they picked and why, what they</p> <p>7 decided to disclose and not.</p> <p>8 Like, you know, I'm a tourist. I'm here</p> <p>9 to give some opinions and to try and recollect</p> <p>10 what I remember of the path.</p> <p>11 You know, they know a lot more about it</p> <p>12 than I do because they've spent hundreds and</p> <p>13 hundreds of hours working on this, and I've</p> <p>14 occasionally been brought in as an expert witness.</p> <p>15 Like they have a better -- they know more</p> <p>16 about it than I do. They're like, "Look at this</p> <p>17 example of blah, blah, blah," and I can't remember</p> <p>18 that. I'll have to go find it. You know, it's --</p> <p>19 it's sort of -- it's almost surreal.</p> <p>20 But there you go.</p> <p>21 Q. And -- so you said earlier you have no</p> <p>22 interest in the outcome of this litigation or this</p>                         | <p>Page 271</p> <p>1 Q. And so you are being paid an hourly rate</p> <p>2 for your testimony today.</p> <p>3 Are you being paid an hourly rate</p> <p>4 generally for your work related to this IPR?</p> <p>5 A. Only in -- like whenever I have to talk</p> <p>6 to attorneys or review things. It hasn't been a</p> <p>7 lot of hours. I don't care about it. But like,</p> <p>8 you know, when I review documents, when I'm on a</p> <p>9 call with them, trying to explain things to them,</p> <p>10 or what about this patent and how is this related</p> <p>11 to it, I mean, I'm being compensated probably</p> <p>12 below what typical market experts are compensated</p> <p>13 at.</p> <p>14 But I'm getting paid something --</p> <p>15 certainly less than any of you guys, as attorneys.</p> <p>16 But, you know, I'm getting paid something for it,</p> <p>17 but like I say, it's not -- it isn't meaningful to</p> <p>18 me or my father. I think that, you know, we've</p> <p>19 spent -- we really haven't spent that many hours</p> <p>20 on it. It's the attorneys who have spent orders</p> <p>21 of magnitude more hours than we have.</p> <p>22 Q. And is it the same hourly rate for any</p> |
| <p>Page 270</p> <p>1 IPR matter; correct?</p> <p>2 A. No, it's up to you. I mean, I'll feel</p> <p>3 kind of flattered if something comes of it. I'll</p> <p>4 feel validated. "Hey, shit, well that work I did</p> <p>5 had some value."</p> <p>6 But like other than that, no. I mean,</p> <p>7 I'm off building another startup in a completely</p> <p>8 different area, up to my eyeballs in alligators.</p> <p>9 That is the focus of all my time, so...</p> <p>10 Q. Are you being compensated in any way for</p> <p>11 providing testimony in association with this</p> <p>12 IPR?</p> <p>13 A. Again, like paid an hourly rate to show</p> <p>14 up as an expert witness. If it all went away and</p> <p>15 I didn't have to do it anymore, I'd be very happy.</p> <p>16 So, you know, but like they are -- they</p> <p>17 are paying me an hourly rate as an expert witness.</p> <p>18 But other than that, my time would be better spent</p> <p>19 elsewhere. But I feel like I ought to be here</p> <p>20 because, you know, I wrote the thing and I feel</p> <p>21 like I should let the owners of it now have a fair</p> <p>22 shake and that's pretty much it, you know.</p> | <p>Page 272</p> <p>1 work provided with respect to this IPR?</p> <p>2 A. Yes.</p> <p>3 Q. And what is that hourly rate?</p> <p>4 A. I can disclose that, I think, right now.</p> <p>5 \$500 an hour.</p> <p>6 Q. Okay. And you say that you're providing</p> <p>7 testimony as an expert witness.</p> <p>8 Is there anything in your mind that goes</p> <p>9 towards qualifying as an expert witness?</p> <p>10 A. Maybe it's not as an expert witness.</p> <p>11 Maybe it's some flavor of witness, whatever the</p> <p>12 right answer is. You know, the fact witness,</p> <p>13 the --</p> <p>14 Q. Understood.</p> <p>15 A. It was my life, I spent it witness,</p> <p>16 the -- you know, I have the T-shirt witness, I</p> <p>17 don't know. But like I'm not --</p> <p>18 Q. Okay.</p> <p>19 A. -- I wouldn't say that I'm an expert in</p> <p>20 the sense of like a called expert witness -- so</p> <p>21 maybe I shouldn't have said that. But I'm a</p> <p>22 witness and I'm here, you know, giving</p>                                                                                                                                                                                                  |

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| <p>Page 273</p> <p>1 perspective.</p> <p>2 Q. And you have no financial interest in the</p> <p>3 '217 patent whatsoever outside of the hourly rate</p> <p>4 associated with your work potentially?</p> <p>5 A. No, I'm not. Actually, it seems unfair</p> <p>6 but, no, I'm not allowed one. So, you know, if</p> <p>7 they made lots of money, then -- then they'll send</p> <p>8 me a photo from their yard, I guess. But like no,</p> <p>9 I have no -- I have no interest, but yeah.</p> <p>10 Q. And there's no -- there's no clause</p> <p>11 somewhere that says if Sterling secures a</p> <p>12 financial reward related to the '217 patent, that</p> <p>13 you would be entitled to any of that money?</p> <p>14 A. No. Actually, I asked that. The answer</p> <p>15 from Brian was that "You can't do that. It's not</p> <p>16 allowed." It's all up to you guys. You know, the</p> <p>17 only thing I get is a T-shirt and the ability to</p> <p>18 claim it in my resume. But other than that, no</p> <p>19 financial reward.</p> <p>20 MR. OHLERT: Okay. Let's -- if it's okay</p> <p>21 with everyone, maybe now is a good time for a</p> <p>22 break?</p> | <p>Page 275</p> <p>1 summer of 2005.</p> <p>2 I'll just represent that for you.</p> <p>3 A. Okay.</p> <p>4 Q. Can you describe what is contained within</p> <p>5 Exhibit 2041 here?</p> <p>6 A. Lots of documents.</p> <p>7 Q. Do you know the purpose of this chart of</p> <p>8 documents?</p> <p>9 A. My understanding is broadly it was to</p> <p>10 make the case that I was working very hard on</p> <p>11 BlueSpace during this entire time.</p> <p>12 That's my understanding of why we</p> <p>13 produced it.</p> <p>14 Q. And you didn't submit the underlying</p> <p>15 documents listed on this chart as exhibits in the</p> <p>16 IPR, did you?</p> <p>17 A. In the patent filing or in the response</p> <p>18 and all of this back and forth?</p> <p>19 Q. I'm talking about the IPR proceedings</p> <p>20 that are a part of this deposition today?</p> <p>21 A. Okay. No, I mean I -- all I did was take</p> <p>22 a folder of all the stuff that I found somewhere</p>                                                                                                                                                                                          |
| <p>Page 274</p> <p>1 THE WITNESS: Sure. Yep. Yep. Okay.</p> <p>2 So you want ten minutes -- until 3:00 o'clock?</p> <p>3 MR. OHLERT: Yeah. How about that?</p> <p>4 THE WITNESS: Great.</p> <p>5 THE VIDEOGRAPHER: Okay. Going off</p> <p>6 record at 12:50 p.m.</p> <p>7 (Off the record: 12:50 p.m. - 1:01 p.m.)</p> <p>8 THE VIDEOGRAPHER: Back on record at</p> <p>9 1:01 p.m.</p> <p>10 (Exhibit 15 was marked.)</p> <p>11 BY MR. OHLERT:</p> <p>12 Q. Okay. Welcome back, Mr. Marston. I'm</p> <p>13 going to upload another exhibit to the chat, which</p> <p>14 is labeled EX-2041. I believe this will be</p> <p>15 Exhibit 15 overall for the deposition.</p> <p>16 Can you let me know when you have that</p> <p>17 open?</p> <p>18 A. Yeah. It looks like an enormous table of</p> <p>19 things I half remember.</p> <p>20 Q. Sounds about right.</p> <p>21 And so your declaration points to this</p> <p>22 document to corroborate the work you did in the</p>                                                                                                                                                                                             | <p>Page 276</p> <p>1 on a backup drive and handed it to these guys to</p> <p>2 go figure out what they wanted to do with it.</p> <p>3 And so they took it, looked at the date,</p> <p>4 and said, "Oh, yeah, we can see that Justin was</p> <p>5 working on all of this stuff during these dates."</p> <p>6 Let's represent that.</p> <p>7 Q. And the point of this chart was not to</p> <p>8 identify documents specific to the '217 patent but</p> <p>9 to identify documents that show that you were</p> <p>10 working on BlueSpace during this time period; is</p> <p>11 that correct?</p> <p>12 A. I believe that's correct. I'm not in</p> <p>13 charge of legal strategy, but I believe that was</p> <p>14 the idea.</p> <p>15 Q. And I'm happy to go to your declaration</p> <p>16 if you'd like, but your declaration doesn't</p> <p>17 specifically cite to or discuss any of the</p> <p>18 documents listed in Exhibit 2041, does it?</p> <p>19 A. Probably not. If you say not, you can</p> <p>20 show me and I'll believe you. But, yes, I</p> <p>21 don't -- I don't think there were any reasons to</p> <p>22 talk about BlueSpace, Asolvent, Toxli, or, you</p> |

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| <p>Page 277</p> <p>1 know, the SEC presentation. Like it was just</p> <p>2 showing activity.</p> <p>3 Q. And so looking at a couple of the entries</p> <p>4 on this document, you are already seeing things</p> <p>5 that are plainly not going to be related to the</p> <p>6 '217 patent; right?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And do you see any document listed</p> <p>9 here that you think does specifically relate to</p> <p>10 the '217 patent?</p> <p>11 A. Can I look through it?</p> <p>12 Q. Please take your time.</p> <p>13 A. No.</p> <p>14 Q. And I'm going to upload a new document to</p> <p>15 the chat. Just give me one moment. I'm having</p> <p>16 some slow computer problems.</p> <p>17 You know, while we're here, in row 135</p> <p>18 there's a document that relates to SEC emails.doc.</p> <p>19 Do you see that?</p> <p>20 A. Yes.</p> <p>21 Q. I appreciate your patience. I'm just</p> <p>22 having some computer troubles. My apologies.</p> | <p>Page 279</p> <p>1 Q. And if you scroll all the way down to the</p> <p>2 last page on page 12, the earliest email is dated</p> <p>3 April 5, 2005; correct?</p> <p>4 A. No.</p> <p>5 Q. Okay. Sorry. Let me ask again. I think</p> <p>6 I see the mistake -- so strike that.</p> <p>7 Looking at page 12 of this document the</p> <p>8 earliest email is dated April 11, 2005; is that</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. Thank you. Keeping me honest.</p> <p>12 Can you go to page 4 and let me know when</p> <p>13 you're there?</p> <p>14 A. Yes.</p> <p>15 Q. And so there's an email in the middle</p> <p>16 here that says, "Wednesday, September 28, 2005."</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And that's from Eric King; correct?</p> <p>20 A. Yes.</p> <p>21 Q. And then the subject is Email</p> <p>22 Productions; correct?</p>                                               |
| <p>Page 278</p> <p>1 Okay. I think I finally uploaded the</p> <p>2 document.</p> <p>3 A. Yep.</p> <p>4 Q. Can you open that and let me know when</p> <p>5 you have it open?</p> <p>6 A. Got it. Eric King.</p> <p>7 (Exhibit 16 was marked.)</p> <p>8 BY MR. OHLERT:</p> <p>9 Q. And this will be Exhibit 16 to the</p> <p>10 deposition.</p> <p>11 Do you recognize this document?</p> <p>12 A. I mean, yes, there is an email. I</p> <p>13 remember the name Eric King. He was CTO or</p> <p>14 similar at the SEC.</p> <p>15 Q. Okay. And if you scroll through this</p> <p>16 document it's about 12-pages long and it has a</p> <p>17 number of emails; correct?</p> <p>18 A. Yes.</p> <p>19 Q. And the most recent email on the first</p> <p>20 page is October 5, 2005, I believe; is that</p> <p>21 correct?</p> <p>22 A. Yes.</p>                                                                                                                                             | <p>Page 280</p> <p>1 A. Yes.</p> <p>2 Q. And in the first line of this email</p> <p>3 message, do you see where it invites employees to</p> <p>4 a demonstration of BlueSpace software?</p> <p>5 A. Yes.</p> <p>6 Q. And this describes that software as a</p> <p>7 laptop-based email processing tool; correct?</p> <p>8 A. Yes.</p> <p>9 Q. Did you deliver the presentation that</p> <p>10 this is talking about?</p> <p>11 A. No idea. Probably.</p> <p>12 Q. Okay. Do you think that someone else</p> <p>13 from BlueSpace could have delivered that</p> <p>14 presentation?</p> <p>15 A. No.</p> <p>16 Q. Okay. So if it happened, it was probably</p> <p>17 you delivering the presentation yourself?</p> <p>18 A. Yes.</p> <p>19 Q. But you can't specifically remember one</p> <p>20 way or the other?</p> <p>21 A. Yeah, it's wildly unrelated. But the --</p> <p>22 for your context on this -- have you heard of</p> |

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| <p>Page 281</p> <p>1 NeuX? It's an Australian company that does email<br/>2 discovery for litigation and other attorneys, and<br/>3 we were looking at the -- the founder died. We<br/>4 were looking at acquiring the assets of the<br/>5 company.<br/>6 So actually what we were demonstrating<br/>7 had nothing to do with TransMail. It was an<br/>8 entirely different product. There was really<br/>9 NeuX's product. And in the end, we didn't acquire<br/>10 the company. A couple of people around it, you<br/>11 know, managed to buy the assets from the widow and<br/>12 then turned it into a large Australian public<br/>13 software company, which -- it was very -- they did<br/>14 a great, amazing job of leveraging the asset.<br/>15 But it was -- it was absolutely nothing<br/>16 to do with TransMail and we wrote zero lines of<br/>17 source code. It was all written by this other<br/>18 team that we were looking to acquire.<br/>19 I'm happy to answer questions on it --<br/>20 totally widely irrelevant than anything that<br/>21 we're -- that's related to this, but happy to<br/>22 answer questions.</p> | <p>Page 283</p> <p>1 recover it is because it was saved as a Word<br/>2 document, probably in relation to a diligence<br/>3 process.<br/>4 So it didn't come from the email server.<br/>5 I saved it off as a Word document at the time, and<br/>6 it was in that folder of, you know, of files.<br/>7 So I think that's why we have it. But --<br/>8 but, yes, this is -- this is the lone unicorn<br/>9 email that I decided to copy and paste into a Word<br/>10 document and save.<br/>11 Q. And you're saying you think that that's<br/>12 why you don't have your other emails and why this<br/>13 was preserved?<br/>14 But can you say that one hundred<br/>15 percent?<br/>16 A. I can say for one hundred percent that I<br/>17 don't have all of my emails. And the fact that<br/>18 this has got -- SEC, you know, it's called<br/>19 SEC.doc, you know -- SEC emails.doc tells me that<br/>20 it was a Word document file.<br/>21 And so the way it was recovered -- yeah,<br/>22 I mean, I'm -- would I bet my firstborn child on</p> |
| <p>Page 282</p> <p>1 Q. Okay. So the point is that whatever<br/>2 software would have been related to this meeting<br/>3 was not related to the '217 patent; is that<br/>4 correct?<br/>5 A. Yeah. A hundred percent totally true.<br/>6 Q. Okay. Let's go to page 11 then.<br/>7 A. Yep.<br/>8 Q. And this shows the email address you were<br/>9 using at the time, justin.marston@bluespace.com.<br/>10 Do you see that?<br/>11 A. Yes.<br/>12 Q. And that was your BlueSpace email address<br/>13 at the time?<br/>14 A. Yes.<br/>15 Q. And this email is dated around May 19,<br/>16 2005; correct?<br/>17 A. Yes.<br/>18 Q. Is this an example of an email that you<br/>19 were able to recover from this time period?<br/>20 A. Yeah. I guess the answer to that is yes.<br/>21 I'm not sure where it came from, but I think -- I<br/>22 think -- I think the reason why we were able to</p>                                                                                                                                                                                                                                           | <p>Page 284</p> <p>1 it, no. But am I 95 percent confident, yes. I'm<br/>2 95 percent confident that I copied and pasted this<br/>3 email thread into a Word doc and saved it.<br/>4 I can't remember why I did that but<br/>5 that's what I did.<br/>6 Q. Okay. Can you remember anything else<br/>7 about this document that would be relevant to the<br/>8 proceedings involving the '217 patent?<br/>9 A. No.<br/>10 Q. Okay. You can close that document. And<br/>11 let's go back to Exhibit 2041.<br/>12 A. Yep.<br/>13 Q. Can you look at rows 17 to 18?<br/>14 A. Yep.<br/>15 Q. And rows 17 and 18 of Exhibit 2041 relate<br/>16 to entries for an SEC presentation from July 27,<br/>17 2005; correct?<br/>18 A. Yes.<br/>19 Q. Okay. I'm uploading into the chat what<br/>20 will be Exhibit 16.<br/>21 Can you let me know when you have that<br/>22 open?</p>                                                                                                                                                                         |

| Page 285 |                                                    | Page 287 |                                                    |
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| 1        | THE STENOGRAPHER: Did we not just mark             | 1        | way to enforce policies and something that they    |
| 2        | Exhibit 16?                                        | 2        | could ultimately use to, you know, push the banks  |
| 3        | MR. OHLERT: You know what, we might                | 3        | to stop having analysts collaborating with         |
| 4        | have. And if so, this would be Exhibit 17. I       | 4        | investment bankers and all the problems they had   |
| 5        | must have just missed a doc. Sorry about that.     | 5        | in that period.                                    |
| 6        | (Exhibit 17 was marked.)                           | 6        | But we also presented the idea of the              |
| 7        | BY MR. OHLERT:                                     | 7        | forensics thing. And the forensics thing, you      |
| 8        | Q. And were you able to open that document         | 8        | know, that -- that really was the -- you know, so  |
| 9        | yet?                                               | 9        | like the slides 31, 32, 33, those were BlueSpace's |
| 10       | A. Yes. Yep.                                       | 10       | existing interface.                                |
| 11       | Q. Okay. Great.                                    | 11       | And then the, you know, slides 35 onwards          |
| 12       | Is this the document that was presented            | 12       | were actually not our product at all. And I think  |
| 13       | to the SEC in July of 2005?                        | 13       | we essentially Photoshopped BlueSpace Forensics on |
| 14       | A. No idea. But possibly.                          | 14       | the top of it. But that was NeuX's product. And    |
| 15       | Q. The title page has a date of July 2005 on       | 15       | NeuX's product allowed you to take and exchange an |
| 16       | it, doesn't it?                                    | 16       | archive file, pull it into this indexing searching |
| 17       | A. Yes.                                            | 17       | tool, and then perform queries on it to try and    |
| 18       | Q. Okay. So is it possible that this is the        | 18       | do -- you know, to try and find things.            |
| 19       | presentation that you presented to the SEC in July | 19       | And it's used by a lot of attorneys now            |
| 20       | of 2005?                                           | 20       | in legal discovery for email systems and contact   |
| 21       | A. Yes.                                            | 21       | repositories like that, you know, to try and find  |
| 22       | Q. And I mean, the title is "SEC                   | 22       | specific -- specific -- oh, I want to say          |
| Page 286 |                                                    | Page 288 |                                                    |
| 1        | Presentation"; is that fair?                       | 1        | everything that George sent to Jimmy or I want to  |
| 2        | A. Yes.                                            | 2        | find everything that mentions this transaction.    |
| 3        | Q. Okay. Let's go to slide 2, which is an          | 3        | And so that's good pieces of software for          |
| 4        | agenda.                                            | 4        | doing that. They've developed it a lot since       |
| 5        | Do you see that?                                   | 5        | then. That was, again, 20 years ago. But that      |
| 6        | A. Sorry. Yes. Give me slide 2.                    | 6        | was the tool that a small team of developers had   |
| 7        | Yes.                                               | 7        | built in Australia.                                |
| 8        | Q. And bullet point 3 here refers to a             | 8        | And it turned out the SEC was a lot more           |
| 9        | forensics solution; correct?                       | 9        | interested in the forensics tool than they were    |
| 10       | A. Yeah. Yeah.                                     | 10       | in, you know, changing their internal email        |
| 11       | Q. Was this presentation about forensics?          | 11       | system. Because if it could make their discovery   |
| 12       | A. See -- yes. The -- we were looking at           | 12       | processes more efficient, you know, that -- that   |
| 13       | acquiring NeuX. You know, we thought we had a      | 13       | would be very useful for them when they're doing   |
| 14       | shot of acquiring the assets for cheap, totally    | 14       | compliance oversight and all that.                 |
| 15       | different product, totally different developers    | 15       | So, really, over time, the conversation            |
| 16       | based out of Australia.                            | 16       | evolved completely to that and we were -- you      |
| 17       | We -- so when I look at this deck -- so            | 17       | know, we were sort of like a white label sales     |
| 18       | there's slides 3 through to 17, were really sort   | 18       | engine, sales conversation, market discovery for   |
| 19       | of a summary of BlueSpace's own technology, and so | 19       | NeuX talking to the SEC with the intent that if we |
| 20       | we were sort of presenting that as a controlled    | 20       | saw commercial traction, we would acquire NeuX's   |
| 21       | messaging system which would allow them better     | 21       | assets.                                            |
| 22       | visibility into their own messages and a better    | 22       | So, again, totally unrelated to this, to           |

| Page 289 |                                                    | Page 291 |                                                    |
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| 1        | be honest, but I'm happy to talk about it for as   | 1        | A. Yes. I believe that's true.                     |
| 2        | long as you want in the next one hour and 40       | 2        | Q. Okay. And you said this is dated                |
| 3        | minutes, so...                                     | 3        | September 30, 2005; correct?                       |
| 4        | Q. So the idea here is that this                   | 4        | A. Yes.                                            |
| 5        | presentation to the SEC is about a transaction     | 5        | Q. And is this from the defense intelligence       |
| 6        | related to NeuX and has nothing to do with the     | 6        | agency?                                            |
| 7        | '217; correct?                                     | 7        | A. Yes.                                            |
| 8        | A. Correct.                                        | 8        | Q. Do you see in the third paragraph where         |
| 9        | Q. Okay. I think that is just fine. We can         | 9        | Chief Shepherd states, "We're interested in the    |
| 10       | probably close this document.                      | 10       | possibilities of enabling innovative search and    |
| 11       | A. Great.                                          | 11       | analytic forensic capabilities on enterprise email |
| 12       | Q. I guess one question for you is, did the        | 12       | collections and potentially other electronic data  |
| 13       | SEC ever adopt BlueSpace --                        | 13       | sets"?                                             |
| 14       | A. No.                                             | 14       | A. Yes.                                            |
| 15       | Q. -- as part of these exchanges?                  | 15       | Q. So the DIA was mostly interested in the         |
| 16       | A. No. I don't know if they bought NeuX.           | 16       | forensics/analytical capabilities of BlueSpace     |
| 17       | They might have done it after NeuX sold the assets | 17       | just like the SEC; correct?                        |
| 18       | to somebody else. And, you know, there's a good    | 18       | A. I need to read the email.                       |
| 19       | chance eventually they brought it, but it was      | 19       | Q. Yes, please.                                    |
| 20       | really nothing to do with BlueSpace's technology.  | 20       | A. Okay. What was your question?                   |
| 21       | It was an entirely separate product -- company's   | 21       | Q. So the DIA was mostly interested in the         |
| 22       | product.                                           | 22       | forensic/analytical aspects of BlueSpace just like |
| Page 290 |                                                    | Page 292 |                                                    |
| 1        | Q. Okay. Let's go back to Exhibit 2041 and         | 1        | the SEC; right?                                    |
| 2        | I'll direct you to row 79.                         | 2        | A. No. No. They were -- they were looking          |
| 3        | A. Yep.                                            | 3        | at it for their -- they were looking at it for     |
| 4        | Q. And this relates to a Lewis Email.doc.          | 4        | their production -- there was two conversations, I |
| 5        | Do you see that?                                   | 5        | guess.                                             |
| 6        | A. Yeah.                                           | 6        | One was about the production message               |
| 7        | Q. Okay. I'm going to upload a new exhibit         | 7        | traffic system inside the intelligence community.  |
| 8        | to the chat.                                       | 8        | And then the second one was about using the NeuX   |
| 9        | Can you let me know when you have that             | 9        | system or software for evidential discovery and    |
| 10       | open?                                              | 10       | exploitation.                                      |
| 11       | And I believe this will be Exhibit 18.             | 11       | Q. And so is it fair to say at least the           |
| 12       | THE WITNESS: Yes. I got it.                        | 12       | NeuX portion of that answer relates to more of the |
| 13       | (Exhibit 18 was marked.)                           | 13       | forensic side of things?                           |
| 14       | BY MR. OHLERT:                                     | 14       | A. Yes. The forensics piece in general was         |
| 15       | Q. Do you recognize this document?                 | 15       | more the -- was more the NeuX side.                |
| 16       | A. Yes.                                            | 16       | Q. And so you said the other part was              |
| 17       | Q. What is it?                                     | 17       | something related to production message traffic or |
| 18       | A. It's an email between me and Lewis              | 18       | their production message traffic system;           |
| 19       | Shepherd.                                          | 19       | correct?                                           |
| 20       | Q. Okay. And this would have been delivered        | 20       | A. Mm-hmm. Yes.                                    |
| 21       | to your justin.marston@bluespace email account     | 21       | Q. Is that related to the relevance                |
| 22       | that you had at that time; is that fair?           | 22       | technologies of the '217 patent?                   |

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| <p>Page 293</p> <p>1 A. Maybe. I don't know if I can answer</p> <p>2 about it. I don't think it's tremendously -- the</p> <p>3 intelligence community has a set of systems for</p> <p>4 distributing intelligence. They are not email</p> <p>5 systems. Some of the things that we built had</p> <p>6 specific features that could be useful in that</p> <p>7 context.</p> <p>8 Q. And so I guess when you say they were</p> <p>9 interested in addressing their production message</p> <p>10 traffic system, what specifically were they</p> <p>11 looking to BlueSpace to help with or do?</p> <p>12 A. You have to understand. So the</p> <p>13 production message traffic system is a top secret</p> <p>14 classified system, so they were interested in</p> <p>15 making that better.</p> <p>16 Q. And were they interested in making that</p> <p>17 better by incorporating BlueSpace's technology</p> <p>18 related to determining the relevance of content</p> <p>19 for users?</p> <p>20 A. Potentially.</p> <p>21 Q. Potentially. What do you mean by that?</p> <p>22 A. You're asking -- you're asking about a</p>   | <p>Page 295</p> <p>1 that is pretty sensitive. It's hard for me to</p> <p>2 talk about any features of that system or why they</p> <p>3 would be interested in the stuff we had.</p> <p>4 Does that help?</p> <p>5 Q. Let's put it this way. If your answer is</p> <p>6 yes, this did relate to your content relevance</p> <p>7 system, then I think we will probably need to</p> <p>8 explore the basis for that, and we can discuss</p> <p>9 with counsel the best way of doing so in a way</p> <p>10 that maintains confidentiality as to that</p> <p>11 information.</p> <p>12 A. Confidentiality ain't good enough.</p> <p>13 That's the problem.</p> <p>14 Q. But -- but -- excuse me?</p> <p>15 A. Yeah.</p> <p>16 Q. Let me ask a question. I'm hopeful I can</p> <p>17 obviate some of this.</p> <p>18 A. Mm-hmm.</p> <p>19 Q. So strike that.</p> <p>20 This document is dated September 30,</p> <p>21 2005; correct?</p> <p>22 A. Yes.</p>                                                                                                                                                                                                          |
| <p>Page 294</p> <p>1 top secret classified message distribution system,</p> <p>2 which is the backbone of the distribution U.S.</p> <p>3 intelligence.</p> <p>4 Like -- you know, so I'm dancing because</p> <p>5 there was no upside for me disclosing why the</p> <p>6 features of our software would help the U.S.</p> <p>7 improve its top secret process of sharing</p> <p>8 information between intelligence agencies.</p> <p>9 It's their production message traffic</p> <p>10 system that they use to share intelligence. How</p> <p>11 much of that do you want me to put on this, you</p> <p>12 know, discovery record?</p> <p>13 And I don't know that it -- you</p> <p>14 probably -- I'm not even supposed to say which</p> <p>15 intelligence agency are customers. It just</p> <p>16 doesn't make sense to have the conversation. You</p> <p>17 don't want it on this record. That will be my</p> <p>18 answer.</p> <p>19 Q. Well --</p> <p>20 A. Because they were broadly interested --</p> <p>21 there were features of it that were interesting</p> <p>22 like -- you know, you're asking about a system</p> | <p>Page 296</p> <p>1 Q. And you didn't file your application</p> <p>2 seeking a provisional application on the '217</p> <p>3 patent until January of 2006; correct?</p> <p>4 A. Yes.</p> <p>5 Q. Would you have been disclosing your</p> <p>6 content relevance technology at this time in</p> <p>7 September of 2005 as part of these</p> <p>8 communications?</p> <p>9 A. I guess I just don't have any comment on</p> <p>10 that. There will be no reason for me to not</p> <p>11 disclose it. I mean, they're pretty good at</p> <p>12 keeping secrets. You know, we were -- we were</p> <p>13 discussing -- we were discussing message traffic.</p> <p>14 I mean -- yeah, I don't know. It's not a</p> <p>15 question of confidentiality. I just -- you know,</p> <p>16 it's a question of blundering into things that are</p> <p>17 classified. And like I just don't see any upside</p> <p>18 for having a conversation about that. I only see</p> <p>19 a downside. So, you know --</p> <p>20 Q. So let me try it this way -- strike that.</p> <p>21 You're saying that these interactions</p> <p>22 with the DIA may have been related to content</p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|
| <p>1 relevance technology related to the '217 patent;<br/>2 correct?<br/>3 A. It could have been, yes.<br/>4 Q. You didn't provide any documents that<br/>5 confirm that these transactions were specifically<br/>6 related to the content relevance technology of the<br/>7 '217 patent; correct?<br/>8 A. I don't believe we did.<br/>9 Q. And on the record you can't say more<br/>10 about whether this is or is not related to content<br/>11 relevance technology because you're concerned that<br/>12 doing so would reveal top secret or classified<br/>13 information that would be inappropriate for these<br/>14 deposition proceedings; is that correct?<br/>15 A. Yes. I mean, you have to understand --<br/>16 you know, to give you sort of how classified stuff<br/>17 works, right.<br/>18 Q. I have an idea. I assure you.<br/>19 A. Well, okay. Well, cool. So I mean the<br/>20 problem is like you could multiple bits of<br/>21 information that by themselves are not classified.<br/>22 But when you put them together they become</p>                          | <p>Page 297</p> | <p>1 And, you know, again, in that specific<br/>2 instance, what happened was they all decided to<br/>3 get me a green card status as fast as possible.<br/>4 The CIO of a very well-known U.S. intelligence<br/>5 agency asked a very well-known U.K. intelligence<br/>6 agency to try and rush me a clearance. They<br/>7 couldn't do that because I was living abroad.<br/>8 Like, you know, it was a thing. And so<br/>9 it just doesn't make sense to like -- there's no<br/>10 value or upside for me in going back into like the<br/>11 stuff that I learned during those conversations or<br/>12 why this technology would help the government in<br/>13 how it thinks about its intelligence<br/>14 infrastructure.<br/>15 It just doesn't like -- you know, I don't<br/>16 think anybody would want that. And I don't think<br/>17 it's particularly relevant to the case.<br/>18 So, you know, I probably did discuss this<br/>19 with Lewis and others, you know, in some of the<br/>20 other -- you know, some of the other people in the<br/>21 intelligence ecosystem. We were developing the<br/>22 IP. We were thinking about this. It was a</p> | <p>Page 299</p> |
| <p>1 classified.<br/>2 And so, you know, I don't know if I<br/>3 mentioned this, but like one of the intelligence<br/>4 agencies that's very good at security asked me to<br/>5 go and interview a bunch of the people around<br/>6 their message traffic related systems.<br/>7 And, you know, we ended up in<br/>8 relationships with some of the people who were<br/>9 involved in those -- in those systems. And they<br/>10 gave me different bits of feedback, all of which<br/>11 they felt were unclassified at the time that they<br/>12 gave them to me.<br/>13 But then I went and wrote, you know, a<br/>14 paper about the future of message traffic, and<br/>15 they decided that I shouldn't have been able to<br/>16 write that paper.<br/>17 And so even though all of the individual<br/>18 elements of it were unclassified, when you put it<br/>19 together, it got more exciting. And so it's just<br/>20 like I'm just careful about -- I don't know that<br/>21 there's -- I don't see it as being sort of some<br/>22 very important thing around the case.</p> | <p>Page 298</p> | <p>1 different type of messaging system to what they<br/>2 had and what they had seen.<br/>3 And we were talking about all the<br/>4 different ways that this relational object were<br/>5 into the message system could bring value, you<br/>6 know. So that was the content of the<br/>7 conversations with them.<br/>8 Q. Okay, sir. On the record you can't say<br/>9 more about whether this is or is not related to<br/>10 content relevance technology because you are<br/>11 concerned that doing so would reveal top secret or<br/>12 classified information and that doing so would be<br/>13 inappropriate for these deposition proceedings; is<br/>14 that correct?<br/>15 A. Yes. I think it would -- it would<br/>16 disclose stuff that at least would cover -- you<br/>17 know, would have a CUI label in the government, if<br/>18 not classified.<br/>19 Yes, I think it would at least -- it<br/>20 would at least become under a CUI label.<br/>21 Q. And BlueSpace never had functioning<br/>22 software related to its relevance technology;</p>                                                                                            | <p>Page 300</p> |

| Page 301 |                                                    | Page 303 |                                                    |
|----------|----------------------------------------------------|----------|----------------------------------------------------|
| 1        | correct?                                           | 1        | you are talking it through from a model            |
| 2        | A. Yeah. That's correct.                           | 2        | perspective, it's still -- I mean, that -- you     |
| 3        | Q. And so BlueSpace never provided examples        | 3        | know, they build systems all the time. So...       |
| 4        | of software that had that technology to the DIA or | 4        | Q. The problem I'm having here -- the              |
| 5        | any other confidential organization; correct?      | 5        | problem we're having here is you are putting a lot |
| 6        | A. I mean, the platform itself existed. You        | 6        | of information into the record while also saying   |
| 7        | know, they tried it. It was -- it was an object    | 7        | that you can't share the full scope of your        |
| 8        | oriented messaging system. It had compliance       | 8        | opinions.                                          |
| 9        | policies. It had all of these things. The          | 9        | And so I'm really struggling because --            |
| 10       | development model was an extension of it in a      | 10       | I'm honestly trying to give you outs to not talk   |
| 11       | different area.                                    | 11       | about this on the record, and you are just --      |
| 12       | But they ran a pilot and -- well, some of          | 12       | A. Okay. All right.                                |
| 13       | these agencies were involved in a pilot. So...     | 13       | Q. But the -- but the real problem --              |
| 14       | Q. How -- can you explain for me what the          | 14       | A. Let's just say no. Let's just say no.           |
| 15       | difference is between having a working software    | 15       | Q. No, sorry. I'm so sorry. I'm so sorry.          |
| 16       | product that relates to content relevance, which   | 16       | The real problem is you are putting this into the  |
| 17       | you just said that you never had --                | 17       | record and now I have an obligation to explore it. |
| 18       | A. Yes.                                            | 18       | A. Okay.                                           |
| 19       | Q. -- and then this software that you are          | 19       | Q. And so I want to explain that context to        |
| 20       | now saying that you provided to all of these       | 20       | you to try to help you, but the more you say, the  |
| 21       | organizations?                                     | 21       | more I have to ask about.                          |
| 22       | A. Sure. So we already had -- BlueSpace            | 22       | A. Okay.                                           |
| Page 302 |                                                    | Page 304 |                                                    |
| 1        | TransMail was a real product that people used.     | 1        | Q. And I just think that that's something          |
| 2        | And we -- you know, we did a bake off between the  | 2        | that might be worth considering as you provide     |
| 3        | legacy system that Northrop Grumman had            | 3        | answers today.                                     |
| 4        | implemented under the IC's direction.              | 4        | A. Okay.                                           |
| 5        | So TransMail itself was a real product,            | 5        | Q. So let me strike that and I'll ask my           |
| 6        | and the compliance policies worked, these other    | 6        | next question.                                     |
| 7        | pieces worked. The attorneys rule stuff worked.    | 7        | You just spoke at length about working             |
| 8        | You know, all of that was a real product.          | 8        | with a number of confidential organizations in the |
| 9        | But, you know, if your job as an                   | 9        | government, purportedly about your relevance       |
| 10       | organization is to find needles in hay stacks,     | 10       | technology that you eventually put in the '217     |
| 11       | anything that helps you find needles in hay stacks | 11       | patent as early as September of 2005.              |
| 12       | is a good thing, so...                             | 12       | So let's break that down. You provided             |
| 13       | Q. And so at some point --                         | 13       | them a working product; correct?                   |
| 14       | A. So even though it didn't fit, they'd be         | 14       | A. We provided a working product for               |
| 15       | happy to talk about it and say, "Hey, well, if we  | 15       | piloting of our commercial product at the time.    |
| 16       | gave you \$10 million, maybe you can make that     | 16       | Q. And that working product had some sort of       |
| 17       | work" and then we could add it in.                 | 17       | technology related to evaluating content           |
| 18       | Like there was a -- it's a different               | 18       | relevance; correct?                                |
| 19       | world that like -- again, I don't know how much    | 19       | A. No. It did not have any functionality           |
| 20       | exposure you've had to that ecosystem, but talking | 20       | working at the time related to the development     |
| 21       | about conceptual ideas, even if it is not fully    | 21       | patent.                                            |
| 22       | baked yet, even if it's not implemented yet, but   | 22       | Q. Did it have early prototypes from               |

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| <p>Page 305</p> <p>1 BlueSpace, attempting to solve the problem of</p> <p>2 electronic content relevance?</p> <p>3 A. No, not at that time. No, it did not.</p> <p>4 Q. Did it have that content at any time that</p> <p>5 you provided software to the DIA or any other</p> <p>6 classified organization you can't specify?</p> <p>7 A. No.</p> <p>8 Q. And so you may have talked about</p> <p>9 relevance technologies in the abstract, but you</p> <p>10 didn't provide any specific software to the DIA or</p> <p>11 any other classified organization that you cannot</p> <p>12 mention that specifically related to BlueSpace's</p> <p>13 relevance technology; is that fair?</p> <p>14 A. Yes.</p> <p>15 Q. And you can't specify more about what you</p> <p>16 specifically discussed other than saying at a high</p> <p>17 level that you did talk about relevance</p> <p>18 technologies with these organizations; is that</p> <p>19 correct?</p> <p>20 A. Yes. I believe I did talk about it with</p> <p>21 them. I can't remember the level of detail, but I</p> <p>22 believe we did discuss it but, yes.</p> | <p>Page 307</p> <p>1 A. Is that the same one or is that a</p> <p>2 different one?</p> <p>3 Q. I believe it's a different document,</p> <p>4 but --</p> <p>5 A. Oh, yeah. Okay. The web is being</p> <p>6 stupid. So this is the email to -- this is a</p> <p>7 letter to Bobby Inman.</p> <p>8 Q. Yes. And this is dated August 2, 2005;</p> <p>9 correct?</p> <p>10 A. Yes.</p> <p>11 Q. And do you know how you preserved this</p> <p>12 document from 2005?</p> <p>13 A. Yes. I saved it. It was kind of an</p> <p>14 important document. I can describe why but, yes,</p> <p>15 I saved it as a document.</p> <p>16 Q. Yeah. Can you explain at a high level</p> <p>17 why this document is important to you?</p> <p>18 A. So -- we were actually talking about this</p> <p>19 over the break. But venture firms don't like it</p> <p>20 if you work with a bank or individual who's taking</p> <p>21 a commission on raised funds, and we hadn't</p> <p>22 disclosed that we had agreed with somebody in the</p>                                                                                                                                                                                                   |
| <p>Page 306</p> <p>1 Q. Okay. I'm going to move on.</p> <p>2 A. Yay. Okay. Good.</p> <p>3 Q. And we will just leave that there.</p> <p>4 A. Okay.</p> <p>5 Q. Let's go back to Exhibit 2030 which is</p> <p>6 your third declaration.</p> <p>7 A. Yeah. It's not letting me scroll. Let</p> <p>8 me do it this way.</p> <p>9 Yep. Okay.</p> <p>10 Q. And in paragraph 10 you write that, "In</p> <p>11 or around April 2005, I met Admiral Inman and</p> <p>12 began engaging with the NSA, the CIA, and the DIA</p> <p>13 on behalf of BlueSpace"; correct?</p> <p>14 A. Yes.</p> <p>15 (Exhibit 19 was marked.)</p> <p>16 BY MR. OHLERT:</p> <p>17 Q. Okay. I'm going to upload to the chat</p> <p>18 what will be Exhibit 19.</p> <p>19 A. Mm-hmm.</p> <p>20 Q. Can you let me know you have that open?</p> <p>21 A. You can -- right.</p> <p>22 Q. It should be on that now.</p>                                                                                                                                                                                                                                        | <p>Page 308</p> <p>1 Austin area, you know, to give a commission on</p> <p>2 base funds in exchange for helping us try and</p> <p>3 raise, you know, some investors here.</p> <p>4 Generally, individual investors don't</p> <p>5 care but venture investors hate going through</p> <p>6 investment bankers in early phases and seeing some</p> <p>7 of their money go out the door.</p> <p>8 And so this email was really -- Inman got</p> <p>9 quite incensed that we hadn't mentioned the fact</p> <p>10 that we had done an agreement with this guy -- I</p> <p>11 think Michael Forello -- or was that -- oh, no, it</p> <p>12 was somebody else. It wasn't him.</p> <p>13 But there was another guy that we had</p> <p>14 done an agreement with who is an attorney in</p> <p>15 Austin to help introduce us to potential investors</p> <p>16 and, you know, so this was basically a mea culpa</p> <p>17 of apologizing for having done that. And then,</p> <p>18 you know, finding a way to hug and make up, which</p> <p>19 is ultimately what happened and then they</p> <p>20 invested.</p> <p>21 Q. Okay. And I think we established earlier</p> <p>22 that Bobby Inman refers to Admiral Inman that you</p> |

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| <p>Page 309</p> <p>1 had discussed in some of your materials?</p> <p>2 A. Yeah. That's correct.</p> <p>3 Q. Okay. And in this letter at the fourth</p> <p>4 paragraph, do you see where it states, "As I</p> <p>5 mentioned in our conversation, there are no other</p> <p>6 serious venture funds in play at this time, so we</p> <p>7 will not fill our capacity elsewhere."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. Was Admiral Inman specifically interested</p> <p>11 in BlueSpace because of its security solutions?</p> <p>12 A. Yes.</p> <p>13 Q. Did any of the NSA, CIA, or DIA agencies</p> <p>14 adopt BlueSpace's technology?</p> <p>15 A. They paid us a lot of money. I mean,</p> <p>16 some of them, they -- I don't know -- so, you</p> <p>17 know -- they paid us for research and development</p> <p>18 and they ultimately replicated some of the</p> <p>19 features that we had built into core products over</p> <p>20 time.</p> <p>21 I don't know whether they're still using</p> <p>22 any of it -- any -- any specifically licensed</p> | <p>Page 311</p> <p>1 (Exhibit 20 was marked.)</p> <p>2 BY MR. OHLERT:</p> <p>3 Q. Okay. I'm going to upload a new document</p> <p>4 to the chat. This will be document 20. It's just</p> <p>5 taking a moment.</p> <p>6 Can you let me know when you have this</p> <p>7 open?</p> <p>8 A. Yes. I think this is the chat; right?</p> <p>9 Q. And this is labeled Exhibit 2014 from the</p> <p>10 IPR proceedings; correct?</p> <p>11 A. Yes.</p> <p>12 Q. What is this document?</p> <p>13 A. That's a good question.</p> <p>14 I think this is a -- I think this is a</p> <p>15 mapping created by the attorneys on the -- on the</p> <p>16 claims in the patent.</p> <p>17 Q. And so you didn't prepare this document,</p> <p>18 did you?</p> <p>19 A. No.</p> <p>20 Q. Did you review it and confirm that it was</p> <p>21 accurate?</p> <p>22 A. I did review it several months ago. And</p>                                                                                                                                                                                                 |
| <p>Page 310</p> <p>1 products or not from BlueSpace's technology, so I</p> <p>2 don't know whether it's still in use, but they --</p> <p>3 they did become -- they did become customers --</p> <p>4 some of those agencies became customers of the</p> <p>5 company.</p> <p>6 Q. So you said that they replicated some of</p> <p>7 the features from BlueSpace's products; correct?</p> <p>8 A. Mm-hmm. Yes.</p> <p>9 Q. Did they replicate any content relevance</p> <p>10 features from BlueSpace's products?</p> <p>11 MR. PADMANABHAN: Objection. Rule 611.</p> <p>12 THE WITNESS: I don't know. No way to</p> <p>13 know that. I don't think so but it's a guess, but</p> <p>14 I don't know.</p> <p>15 BY MR. OHLERT:</p> <p>16 Q. So as far as you're aware, they did not</p> <p>17 adopt anything --</p> <p>18 A. As far as I'm aware.</p> <p>19 Q. -- into BlueSpace's content relevance</p> <p>20 technologies; correct?</p> <p>21 A. As far as I'm aware, I don't know. But</p> <p>22 I'm not aware of it.</p>                                                         | <p>Page 312</p> <p>1 to the -- yeah, best of my knowledge, it's</p> <p>2 accurate.</p> <p>3 Q. Was this submitted to you so that they</p> <p>4 can get your sign off, or was this something that</p> <p>5 they prepared and were planning to submit and they</p> <p>6 just provided it to you as a matter of courtesy?</p> <p>7 A. They -- they did want me to read it and,</p> <p>8 you know, validate that I believed it was</p> <p>9 accurate, so...</p> <p>10 Q. Okay. This document, Exhibit 2014, is</p> <p>11 not cited in any of your declarations; correct?</p> <p>12 A. I don't know the answer to that, but</p> <p>13 probably not, if you say so.</p> <p>14 We'd have to go and look at all of them</p> <p>15 but, yeah, I don't think I cited it.</p> <p>16 Q. Is there anything else about this</p> <p>17 document that you think we should be aware of?</p> <p>18 A. No. Not anything specifically I'm aware</p> <p>19 of at this time.</p> <p>20 Q. Okay. Let's go back to your third</p> <p>21 declaration, Exhibit 2030.</p> <p>22 Can you let me know when you're there?</p> |

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| <p>Page 313</p> <p>1 A. Yep.</p> <p>2 Q. And then I'll direct you to paragraph 29.</p> <p>3 A. Yep.</p> <p>4 Q. In paragraph 29 of Exhibit 2030, you note</p> <p>5 that the October 6, 2025 draft of the provisional</p> <p>6 patent application contains comments from you,</p> <p>7 Paul Marston, and Jon Fennyhough; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Who is Jon Fennyhough?</p> <p>11 A. Jon Fennyhough is the developer of</p> <p>12 BlueSpace.</p> <p>13 Q. And I see this has a reference to</p> <p>14 EX-20445.</p> <p>15 Do you know what document that is</p> <p>16 supposed to refer to?</p> <p>17 A. I believe it's a version showing Jon</p> <p>18 Fennyhough's revisions, yes.</p> <p>19 Q. I guess my point is, most of the</p> <p>20 documents here have only four digits after EX</p> <p>21 whereas this has five.</p> <p>22 A. It's probably a typo.</p>                                                                                               | <p>Page 315</p> <p>1 actually, one moment.</p> <p>2 What contributions, if any, did</p> <p>3 Mr. Fennyhough make to the documents related to</p> <p>4 the '217 patent's invention?</p> <p>5 A. Can you just restate the question so I</p> <p>6 make sure I have it right? I think -- yeah, just</p> <p>7 restate it real quick.</p> <p>8 Q. What contribution, if any, did</p> <p>9 Mr. Fennyhough make to the documents related to</p> <p>10 the '217 patent invention?</p> <p>11 A. Yes. That's right. Minimal. I mean,</p> <p>12 really, the comments you see here, all of the JF</p> <p>13 comments are Jon Fennyhough. They were just sort</p> <p>14 of sprinkled through with his initial reactions.</p> <p>15 Q. Okay. And so I believe you testified you</p> <p>16 had a background in chemistry before you joined</p> <p>17 BlueSpace; fair?</p> <p>18 A. Yeah. I did a few different things, but</p> <p>19 that was -- you know, chemistry is what I did my</p> <p>20 degree in, yeah.</p> <p>21 Q. And Paul Marston's background was</p> <p>22 generally related to statistics; correct?</p>                                                  |
| <p>Page 314</p> <p>1 Q. Do you know if that should be 2045 or</p> <p>2 2044 or some other number?</p> <p>3 A. I'm going to guess it's supposed to be</p> <p>4 2045. It's a guess, but I think it's probably a</p> <p>5 typo, I would think.</p> <p>6 But I don't know how you confirm that,</p> <p>7 but I think it's -- it's -- you know -- I think</p> <p>8 2044 is the previous version, so my guess is that</p> <p>9 the four didn't get deleted.</p> <p>10 Q. Okay. And so your best guess is that</p> <p>11 paragraph 29 of your declaration refers to EX-2045</p> <p>12 and should not have said EX-20445; correct?</p> <p>13 A. Yes.</p> <p>14 (Exhibit 21 was marked.)</p> <p>15 BY MR. OHLERT:</p> <p>16 Q. Okay. I'm going to upload to the chat</p> <p>17 what I believe is Exhibit 21, which is also</p> <p>18 labeled EX-2045.</p> <p>19 Can you let me know when you have that</p> <p>20 open?</p> <p>21 A. Yep, I got it.</p> <p>22 Q. Okay. And I'm going to direct you --</p> | <p>Page 316</p> <p>1 A. Yeah. I mean, he also did a few</p> <p>2 different things -- statistics. Did a PhD in</p> <p>3 Philosophy of Science but he -- you know, did</p> <p>4 quite a bit of statistics.</p> <p>5 Q. So neither of you really had the software</p> <p>6 experience to be able to develop this content</p> <p>7 relevance technology; is that fair?</p> <p>8 A. Yes.</p> <p>9 Q. And you would agree that the claims of</p> <p>10 the '217 patent require a computer in some form;</p> <p>11 correct?</p> <p>12 A. Yeah. They require -- they require a</p> <p>13 method to implement them, that is. Then they have</p> <p>14 to run on something. So, yes, they have to be</p> <p>15 written into computer code to execute, yes.</p> <p>16 Q. Would Mr. Fennyhough have been one of the</p> <p>17 software developers working at BlueSpace who would</p> <p>18 have been working on trying to implement those</p> <p>19 electronic content relevance technologies?</p> <p>20 A. Yeah. He never worked on trying to</p> <p>21 implement them, but we would have had to have</p> <p>22 hired new people who had, you know, kind of big</p> |

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| <p>1 data, math experience, to work on it. Page 317</p> <p>2 Q. How do you know that Mr. Fennyhough</p> <p>3 wouldn't have been able to be a software developer</p> <p>4 on those technologies?</p> <p>5 A. Because he told me he didn't know how to</p> <p>6 do it and it was beyond him. He wasn't a big math</p> <p>7 guy.</p> <p>8 Q. And do you know when approximately that</p> <p>9 conversation happened?</p> <p>10 A. This was right around -- right at the</p> <p>11 time after he read this document and then said,</p> <p>12 "There was no way I know how to do this. I'm not</p> <p>13 a mathematics. I don't know -- you know, all this</p> <p>14 math is beyond me," I think is the specific quote</p> <p>15 that he said.</p> <p>16 Q. So is it fair to say you were trying to</p> <p>17 see if Mr. Fennyhough could develop these</p> <p>18 technologies. He looked at the supporting</p> <p>19 documentation and then said that was outside of</p> <p>20 his expertise; is that right?</p> <p>21 A. Yes. I mean, we were looking for both</p> <p>22 feedback on it and, you know, his thoughts on</p> | <p>1 A. You can work in a collaborative way and Page 319</p> <p>2 still know who invented things. So that would be</p> <p>3 my answer.</p> <p>4 A collaborative way just means that you</p> <p>5 share ideas, you bounce people off people. But</p> <p>6 the inventors are the people who had a meaningful</p> <p>7 and substantive role in the innovation.</p> <p>8 You know, even if we had gone and taken</p> <p>9 this to a full implementation, I don't think the</p> <p>10 developers I asked to build it would have been</p> <p>11 involved in innovation. It would've involved in</p> <p>12 reducing innovation to practice.</p> <p>13 Q. Okay. Let's look through some of the</p> <p>14 comments in EX-2045.</p> <p>15 Can you go to page 66?</p> <p>16 A. Okay. It's sideways, isn't it?</p> <p>17 Q. If you hit Control, Shift, Plus, that</p> <p>18 should be able to help you rotate.</p> <p>19 A. Control, Shift, Plus.</p> <p>20 Q. Any luck?</p> <p>21 A. No. Are you on a Windows box?</p> <p>22 Q. Are you on Mac? Sorry.</p> |
| <p>1 whether he could help implement. And the broad Page 318</p> <p>2 answer was that he didn't really have any strong</p> <p>3 opinions other than it sounded incredibly</p> <p>4 difficult and he had no idea how to implement</p> <p>5 it.</p> <p>6 Q. What do you mean when you say you were</p> <p>7 looking for feedback?</p> <p>8 A. You know, I guess I work in a</p> <p>9 collaborative way, so I will often ask people,</p> <p>10 "Hey, what do you think of this? What's your --</p> <p>11 how does this jive with what you're thinking? Do</p> <p>12 you think that this is a good idea or not? What</p> <p>13 would it take to do this?"</p> <p>14 Like, you know, I do it now in the</p> <p>15 company I'm running. You know, you ask people as</p> <p>16 open-ended questions as you can to try and get</p> <p>17 them to express opinions.</p> <p>18 Q. If you generally work in a collaborative</p> <p>19 way, including during your time at BlueSpace, how</p> <p>20 can you definitively say that the invention of the</p> <p>21 '217 patent is specific to you and Mr. Paul</p> <p>22 Marston?</p>  | <p>1 A. Yes. Page 320</p> <p>2 Q. Well, let me see if I can just be as</p> <p>3 quick and painless as possible.</p> <p>4 A. I got it. I got it. I got it.</p> <p>5 Q. Okay.</p> <p>6 A. Now it made all the other ones sideways,</p> <p>7 but this one is the right way up.</p> <p>8 Q. We can get back to it.</p> <p>9 So looking at page 66, you see a comment</p> <p>10 here from JF; correct?</p> <p>11 A. Yes.</p> <p>12 Q. And you understand that would be Jon</p> <p>13 Fennyhough; right?</p> <p>14 A. Yes.</p> <p>15 Q. What does he mean that, "The stages are</p> <p>16 used in the math section but not defined until</p> <p>17 section 11"?</p> <p>18 MR. PADMANABHAN: Objection. Rule 611.</p> <p>19 THE WITNESS: Okay. Hang on.</p> <p>20 MR. PADMANABHAN: And 601, 602.</p> <p>21 THE WITNESS: Let me rotate it back</p> <p>22 and then -- crap, that's not the right thing. Go</p>                                                                                                                                            |

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| <p>Page 321</p> <p>1 away.</p> <p>2 Okay. Hang on. Okay. So section 11.</p> <p>3 I think what he means here is that it's</p> <p>4 just to comment on the ordering of the document --</p> <p>5 now that page is upside down. I think it's just</p> <p>6 to comment on the ordering of the document that</p> <p>7 he's saying, you know, the stages are used here in</p> <p>8 the math section to run through, like you're</p> <p>9 talking about a stage 1 and stage 2, et cetera.</p> <p>10 But the actual definition of the stages</p> <p>11 doesn't come until section 11, so in his view he</p> <p>12 was saying, you know, it might make more sense, he</p> <p>13 actually says it there at the start of section 11,</p> <p>14 move to section 9, because he was thinking that</p> <p>15 having the stages before the math would make more</p> <p>16 sense.</p> <p>17 BY MR. OHLERT:</p> <p>18 Q. And so your understanding is that the</p> <p>19 comment on page 72 in section 11 of EX-2045 is</p> <p>20 referring back to the same stages mentioned in his</p> <p>21 comment on page 66; fair?</p> <p>22 A. Yes.</p> | <p>Page 323</p> <p>1 Q. And these edits continue through page 83.</p> <p>2 Do you see that?</p> <p>3 A. Yes.</p> <p>4 Q. Can you tell who made these edits in</p> <p>5 Exhibit 2045 across pages 80 through 83?</p> <p>6 A. No. Not offhand. I can guess but I</p> <p>7 don't know.</p> <p>8 Q. If you were to guess, who do you think</p> <p>9 made these edits?</p> <p>10 MR. PADMANABHAN: Objection. Rule 611.</p> <p>11 THE WITNESS: I think you should ask my</p> <p>12 father that. I don't -- yeah. I don't think that</p> <p>13 the -- I don't think the obvious answer is the</p> <p>14 correct one.</p> <p>15 I don't think that -- I don't think</p> <p>16 that -- I don't think Jon Fennyhough touched any</p> <p>17 of these edits. I think there's some funky</p> <p>18 conflation of two people editing a document here.</p> <p>19 So I don't know who made -- I don't know who did</p> <p>20 these edits is the answer. I genuinely don't</p> <p>21 know.</p> <p>22 BY MR. OHLERT:</p> |
| <p>Page 322</p> <p>1 Q. And the stages listed starting on page</p> <p>2 72; correct?</p> <p>3 A. Yes.</p> <p>4 Q. Did Mr. Fennyhough help with any software</p> <p>5 implementation of section 11 here?</p> <p>6 A. No.</p> <p>7 Q. He had no involvement in the software</p> <p>8 whatsoever?</p> <p>9 A. Yeah. No involvement in the software for</p> <p>10 the relevance patent.</p> <p>11 Q. Okay. Was anyone else involved in the</p> <p>12 software for the relevance patent?</p> <p>13 A. No.</p> <p>14 Q. Was there anyone at any time that worked</p> <p>15 on trying to develop software related to the</p> <p>16 relevance patent at BlueSpace?</p> <p>17 A. No.</p> <p>18 Q. Okay. Let's go to page 80, if you can.</p> <p>19 A. Yep.</p> <p>20 Q. These edits all are related to the</p> <p>21 initial relevance calculations; correct?</p> <p>22 A. Yes.</p>                                                                                                                                                                                                                                                  | <p>Page 324</p> <p>1 Q. So you don't know who made these edits to</p> <p>2 EX-2045 spanning pages 80 to 83 one way or the</p> <p>3 other?</p> <p>4 A. That's correct.</p> <p>5 Q. Okay. I'm going to upload a new document</p> <p>6 to the chat, which is labeled EX-2065. And I</p> <p>7 understand this will be Exhibit 21 -- you know</p> <p>8 what, I think this might be 22. Sorry.</p> <p>9 THE STENOGRAPHER: Thank you.</p> <p>10 MR. OHLERT: So EX-2065 will be Exhibit</p> <p>11 22 of the deposition.</p> <p>12 (Exhibit 22 was marked.)</p> <p>13 BY MR. OHLERT:</p> <p>14 Q. Do you have that document open?</p> <p>15 A. I do.</p> <p>16 Q. What is the document?</p> <p>17 A. It's another version of the same</p> <p>18 document.</p> <p>19 Q. Okay. The BlueSpace Mail Relevance</p> <p>20 document that we've been looking at today?</p> <p>21 A. Yes.</p> <p>22 Q. Let's go to page 36, if you can.</p>                                                                              |

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| <p>Page 325</p> <p>1 A. Okay.</p> <p>2 Q. And page 36 has a comment. Is it fair to</p> <p>3 say that this comment is also from Jon</p> <p>4 Fennyhough?</p> <p>5 A. So I think the comment, "For 250,000 uses</p> <p>6 the storage requirements for this would be</p> <p>7 significant," I think that comment from Jon</p> <p>8 Fennyhough.</p> <p>9 I think the comment, "You need to review</p> <p>10 this. Not my area," I would say there's a 70</p> <p>11 percent probability that my father wrote that,</p> <p>12 but -- but I'm not -- I'm not a hundred percent</p> <p>13 sure.</p> <p>14 Q. So either way, you didn't write either of</p> <p>15 these comments here; correct?</p> <p>16 A. I don't think I -- I certainly didn't</p> <p>17 write the first one, and I don't think I wrote the</p> <p>18 second.</p> <p>19 Q. Okay. And you think that your father</p> <p>20 would have written the text in red but you're not</p> <p>21 sure one way or the other?</p> <p>22 A. That is correct.</p>                                                                                                                                                                                                    | <p>Page 327</p> <p>1 A. We weren't saying we would defer to his</p> <p>2 judgment. This comment is just saying I don't</p> <p>3 know how much of a problem it would be to store</p> <p>4 all the data for a quarter of a million users.</p> <p>5 And so he -- you know, my father was</p> <p>6 saying that I need to review this because he</p> <p>7 doesn't have an opinion on, you know, the volume</p> <p>8 of data that would get created or its</p> <p>9 management.</p> <p>10 Q. Well, he's not -- the comment is not</p> <p>11 saying you Justin Marston should review this.</p> <p>12 It's saying you Jon Fennyhough should review this;</p> <p>13 correct?</p> <p>14 A. No. I think the "you" -- I think the</p> <p>15 "you" there is actually directed to me. I think</p> <p>16 this is my father commenting on Jon's comments and</p> <p>17 then sending this document to me.</p> <p>18 I'm pretty -- I'm like 90 percent sure</p> <p>19 that that was not intended to say, "You Jon</p> <p>20 Fennyhough need to review this."</p> <p>21 But you could ask my father. I think he</p> <p>22 was the author of that statement.</p>                                                   |
| <p>Page 326</p> <p>1 Q. Okay. And do you have any idea what the</p> <p>2 person who wrote this message could have meant</p> <p>3 when they said, "You need to review this, not my</p> <p>4 area"?</p> <p>5 A. Yes. I think this is my father saying,</p> <p>6 "I don't know what the storage implications would</p> <p>7 be for a quarter of a million users." It's -- you</p> <p>8 know, it's not -- he's not a computer coder, he's</p> <p>9 a mathematician, statistician, so that's what I</p> <p>10 think he's saying here.</p> <p>11 Really, Jon is saying that this would be</p> <p>12 really hard for a large number of users because it</p> <p>13 would become an enormous amount of data. And</p> <p>14 then -- yeah. And then I'm -- and then my father</p> <p>15 is saying, "I don't know how much of a problem</p> <p>16 this is for vast quantities of data, I'm not in</p> <p>17 the computer science area."</p> <p>18 Q. So Mr. Fennyhough was providing comments</p> <p>19 on these BlueSpace Mail Relevance documents and,</p> <p>20 at least in some instances, your father or you</p> <p>21 were telling Mr. Fennyhough that you would defer</p> <p>22 to his judgment; is that correct?</p> | <p>Page 328</p> <p>1 Q. Okay. And can you recall specifically</p> <p>2 receiving this document with comments from your</p> <p>3 father?</p> <p>4 A. I don't specifically recall it but I</p> <p>5 believe that's what happened. I mean, I -- having</p> <p>6 read through the rest of the document and my</p> <p>7 recollection of the discovery process.</p> <p>8 But I mean, again, it's a -- I didn't,</p> <p>9 you know, like I say, I mean, I'm conjecturing on</p> <p>10 who wrote which bit here, but I don't think that</p> <p>11 there was -- we never -- we never sort of took Jon</p> <p>12 Fennyhough's comments as somehow either guiding an</p> <p>13 implementation or having a particular valid</p> <p>14 opinion.</p> <p>15 It just was -- you know, it was -- just</p> <p>16 regular application development, not systems</p> <p>17 involving giant enormous amounts of data.</p> <p>18 But I could try and remember. If I look</p> <p>19 through the rest of this, I can try and think who</p> <p>20 I think it would be, who would've written each of</p> <p>21 the pieces of, you know, text. But I am -- I am</p> <p>22 conjecturing I do not have a hundred percent</p> |

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| <p>1 answer in this unless I see something, you know,<br/> 2 as I read through it, that is -- that makes it<br/> 3 incredibly clear, so...<br/> 4 Q. Okay. Are you familiar with the concept<br/> 5 of a person of ordinary skill in the art?<br/> 6 A. Broadly, yes.<br/> 7 Q. And let's actually go back to your first<br/> 8 declaration, EX-2003. And specifically I'll<br/> 9 direct you to paragraph 16.<br/> 10 Can you let me know when you're there?<br/> 11 A. Okay. 2000 -- so which one was it? 2000<br/> 12 and --<br/> 13 Q. 3.<br/> 14 A. 3. And then 16?<br/> 15 Q. Paragraph 16.<br/> 16 A. Got it.<br/> 17 Q. Okay. And so this says, "In the<br/> 18 2004/2005 time frame, a person of ordinary skill<br/> 19 in the art, e.g., who would have had knowledge of<br/> 20 implementing the model and software in addition to<br/> 21 having a background in the technology of the<br/> 22 patent."</p>              | <p>Page 329</p> | <p>1 A. Well, it doesn't say model software, it<br/> 2 says implementing the model in software, which is<br/> 3 software development.<br/> 4 Q. Did you have knowledge of how to<br/> 5 implement the model and software --<br/> 6 A. No.<br/> 7 Q. -- at that time in October 2005?<br/> 8 A. No.<br/> 9 Q. And you didn't have a background in the<br/> 10 technology of the patent; right?<br/> 11 A. Well, I had a background in the<br/> 12 technology of the patent in the sense that, you<br/> 13 know, I -- I knew what the patent said, I had<br/> 14 written it.<br/> 15 And I knew, you know, the innovations<br/> 16 described. But I would not have had the level of<br/> 17 technical knowledge as a software developer to go<br/> 18 actually write the code that implements the<br/> 19 mathematics and the, you know, the other things<br/> 20 that are in the system in a way that would be able<br/> 21 perform it enough to scale or, you know, be<br/> 22 optimized for performance, so...</p>             | <p>Page 331</p> |
| <p>1 Do you see that?<br/> 2 A. Yeah. Yep.<br/> 3 Q. So this is saying that a person of skill<br/> 4 in the art would have had the knowledge to<br/> 5 implement the model and software as well as a<br/> 6 background in the technology of the patent;<br/> 7 correct?<br/> 8 A. Yes.<br/> 9 Q. And a background of the technology of the<br/> 10 patent, that refers to content relevance;<br/> 11 correct?<br/> 12 A. Yes. Content relevance and large data<br/> 13 models.<br/> 14 Q. Okay. So my question is, were you a<br/> 15 person of ordinary skill in the art for the '217<br/> 16 patent in October of 2005?<br/> 17 A. In terms of being skilled in the art of<br/> 18 doing software development, no.<br/> 19 Q. I mean, this says that a person of the<br/> 20 skill in the art would have had a background in<br/> 21 the technology and also would have had knowledge<br/> 22 of how to model software; right?</p> | <p>Page 330</p> | <p>1 Q. So in October 2005 you would not had the<br/> 2 level of technical knowledge as a software<br/> 3 developer to actually go out and write the code<br/> 4 that implements the mathematics relevant to the<br/> 5 '217 patent; correct?<br/> 6 A. Yes. I'm not a software developer.<br/> 7 Q. And your father Mr. Paul Marston would<br/> 8 also not have been a person of ordinary skill in<br/> 9 the art in October 2005 according to this<br/> 10 definition in paragraph 16 of your first<br/> 11 declaration; correct?<br/> 12 A. Neither of us are software developers.<br/> 13 Q. And so neither of you would have been a<br/> 14 person of skill in the art at the time the '217<br/> 15 was filed; right?<br/> 16 A. Neither of us would have been a person of<br/> 17 skill in the art of software development at that<br/> 18 time. That's correct.<br/> 19 Q. Would Mr. Jon Fennyhough had been a<br/> 20 person of skill in the art at the time of the '217<br/> 21 patent being filed?<br/> 22 A. No.</p> | <p>Page 332</p> |

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| <p>Page 333</p> <p>1 Q. Why do you say that?</p> <p>2 A. He wasn't a big data mathematic software</p> <p>3 developer. I mean, I could somebody who knows how</p> <p>4 to build mobile apps from vibe coding, and I could</p> <p>5 ask them if they could build this, and the answer</p> <p>6 would also be no.</p> <p>7 No, you need somebody -- you need a team</p> <p>8 of people, but you need somebody who has</p> <p>9 experience implementing extremely large data</p> <p>10 models and making them perform.</p> <p>11 So it has to be somebody who is skilled</p> <p>12 in the art of doing that. Somebody skilled in the</p> <p>13 art of doing that, yes. We did not have anybody</p> <p>14 working in the company that had that skill.</p> <p>15 Q. Looking at paragraph 15 of your first</p> <p>16 declaration, you say, "The disclosure in the</p> <p>17 provisional application allows a programmer to be</p> <p>18 able to build the relevance using standard</p> <p>19 programming techniques."</p> <p>20 Do you see that?</p> <p>21 A. Yes.</p> <p>22 Q. What did you mean when you wrote "using</p>                                                                           | <p>Page 335</p> <p>1 techniques for building extremely large data</p> <p>2 models. But you have to be a specialist in that</p> <p>3 area and not all developers know how to do</p> <p>4 everything. You know, there is -- there is</p> <p>5 different people with different skill sets and</p> <p>6 experiences and, you know, yeah.</p> <p>7 Q. So the way I read paragraph 15 is it is</p> <p>8 saying that the provisional application basically</p> <p>9 gives you everything you need to know about the</p> <p>10 invention such that any programmer can go out and</p> <p>11 implement the invention using standard programming</p> <p>12 techniques.</p> <p>13 Is that not how you read paragraph 15?</p> <p>14 A. Well, I don't think it's accurate. You</p> <p>15 know, I think how -- we could have done -- we</p> <p>16 could do a better job. I could amend my thing and</p> <p>17 be more clear what specific type of software</p> <p>18 developer it needs to be.</p> <p>19 But, generally, a software developer who</p> <p>20 has knowledge in this specific area of</p> <p>21 implementations could go and build this.</p> <p>22 You know, there are plenty of folks at a</p> |
| <p>Page 334</p> <p>1 standard programming techniques"?</p> <p>2 A. I mean, standard programming techniques</p> <p>3 for somebody who is used to building, you know,</p> <p>4 large data models.</p> <p>5 I mean, similarly today, an analogy would</p> <p>6 be you can have somebody who's a software</p> <p>7 developer and you can have somebody who's a</p> <p>8 software developer with experience and knowledge</p> <p>9 of AI models, and one is a subset of the other.</p> <p>10 And just because they tip the box on</p> <p>11 being a software developer doesn't mean that, you</p> <p>12 know, Facebook is going to hire them for a million</p> <p>13 dollars a year. They have to be -- there are</p> <p>14 different areas of specialism with them being a</p> <p>15 software developer.</p> <p>16 Now, I could be more accurate in section</p> <p>17 15 -- paragraph 15, I guess, and say this</p> <p>18 disclosure in the provisional application allows a</p> <p>19 programmer who is skilled in the art of big data</p> <p>20 systems to be able to build the relevance model</p> <p>21 using standard programming techniques.</p> <p>22 They are -- there are programming</p> | <p>Page 336</p> <p>1 company -- you know, a company like Facebook and</p> <p>2 others that could take this blueprint and reduce</p> <p>3 it to practice without anything other than the</p> <p>4 patent.</p> <p>5 We did not have any of those people</p> <p>6 working for the company and, yes, clearly,</p> <p>7 different developers have different skill sets.</p> <p>8 So, you know, not every single -- I didn't -- when</p> <p>9 I wrote this, I didn't have in mind when I</p> <p>10 collaborated on it with the attorney, I didn't</p> <p>11 have in mind that every single person who calls</p> <p>12 themselves a software developer in North America</p> <p>13 would be able to do it, but people with</p> <p>14 appropriate skill in the art in this specific art</p> <p>15 in this area would be able to do it.</p> <p>16 Q. Is it fair to say that you would disclaim</p> <p>17 what you put in paragraph 15 of this first</p> <p>18 declaration?</p> <p>19 MR. PADMANABHAN: Objection. Rule 611.</p> <p>20 THE WITNESS: No. Because we didn't --</p> <p>21 we didn't define -- it says, "a programmer." I</p> <p>22 didn't say, "all programmers." I didn't say, "any</p>     |

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| <p style="text-align: right;">Page 337</p> <p>1 programmer in America." I said, "a programmer."</p> <p>2 And we just didn't have, you know, a</p> <p>3 definition of the specific skills that programmer</p> <p>4 would have to have. But I think it's broadly</p> <p>5 known in the computer science world that different</p> <p>6 programmers have different levels of experience</p> <p>7 and knowledge in different systems.</p> <p>8 And in selecting a programmer who knows</p> <p>9 about these types of systems, they would be able</p> <p>10 to do it with standard techniques that are used in</p> <p>11 big data systems.</p> <p>12 So a programmer would be able to do it.</p> <p>13 Would every programmer -- would any programmer --</p> <p>14 you know, I didn't say that, but there are</p> <p>15 programmers that I could select that would be able</p> <p>16 to go and build this without anything other than</p> <p>17 the patent.</p> <p>18 BY MR. OHLERT:</p> <p>19 Q. Paragraph 15 does not specify that any</p> <p>20 particular kind of programmer would be able to</p> <p>21 build this technology, does it?</p> <p>22 A. I don't think it matters. I don't</p> | <p style="text-align: right;">Page 339</p> <p>1 Q. And my point is your declaration in</p> <p>2 paragraph 15, just says that, "a programmer would</p> <p>3 be able to build the relevance using standard</p> <p>4 programming techniques"; correct?</p> <p>5 MR. PADMANABHAN: Objection. Rule 611.</p> <p>6 THE WITNESS: Yes. I guess I implied --</p> <p>7 I had the intention of implying a programmer who</p> <p>8 knew about these types of systems versus somebody</p> <p>9 who had spent their life developing COBOL. But,</p> <p>10 you know --</p> <p>11 BY MR. OHLERT:</p> <p>12 Q. And if you were -- if you were writing</p> <p>13 this today, you would provide more specificity</p> <p>14 about both the kind of programmer and the kind of</p> <p>15 programming techniques they would need to know to</p> <p>16 be able to build the relevance technology you're</p> <p>17 talking about; correct?</p> <p>18 MR. PADMANABHAN: Objection. Rule 611.</p> <p>19 THE WITNESS: You know, probably not. I</p> <p>20 don't think it's particularly relevant. My</p> <p>21 comment was just I can find a programmer. I can</p> <p>22 go out -- I would be able to find a number of</p> |
| <p style="text-align: right;">Page 338</p> <p>1 understand if it matters, but it doesn't feel like</p> <p>2 it does. I mean, it's a --</p> <p>3 Q. It just says -- yeah, it just says "a</p> <p>4 programmer"; right?</p> <p>5 A. It doesn't mean any programmer. It</p> <p>6 doesn't mean all programmers. It just means --</p> <p>7 Q. I think --</p> <p>8 A. I can find a programmer. I could go out</p> <p>9 right now to Facebook's office. I could grab one</p> <p>10 of a number of senior, you know, software</p> <p>11 developers who are working in AI or big data</p> <p>12 systems and they would be able to do it as a</p> <p>13 programmer, just purely with the patent.</p> <p>14 Q. You understand there's a difference</p> <p>15 between specifying a programmer and specifying a</p> <p>16 senior programmer with a specific kind of</p> <p>17 expertise?</p> <p>18 MR. PADMANABHAN: Objection. Rule 611.</p> <p>19 BY MR. OHLERT:</p> <p>20 Q. It's a simple question.</p> <p>21 A. I don't know. There are -- are they two</p> <p>22 different terms? Yes, they are.</p>                                                                                             | <p style="text-align: right;">Page 340</p> <p>1 programmers relatively quickly who could implement</p> <p>2 this without, you know, anything other than the</p> <p>3 patent. And I believe that is true.</p> <p>4 So you know, I didn't intend to imply</p> <p>5 every single programmer, including people who make</p> <p>6 web sites. You know, I meant somebody with the</p> <p>7 right type of experience and knowledge who was</p> <p>8 skilled in the art of big data systems, not, you</p> <p>9 know, somebody who made video games for</p> <p>10 five-year-olds in Visual Basic or something. Like</p> <p>11 it has to be -- they have to have the right set of</p> <p>12 skills.</p> <p>13 BY MR. OHLERT:</p> <p>14 Q. So you provide a definition of</p> <p>15 ordinary -- a person of ordinary skill in the art</p> <p>16 in paragraph 16 of your declaration, and you don't</p> <p>17 say anything about a programmer with a particular</p> <p>18 set of skills or experience with big data systems,</p> <p>19 do you?</p> <p>20 MR. PADMANABHAN: Objection. Objection.</p> <p>21 Rule 611.</p> <p>22 THE WITNESS: I think I've given my</p>                                      |

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| <p>1 answer. I don't have anything to add. Page 341</p> <p>2 BY MR. OHLERT:</p> <p>3 Q. I mean, I think the real point is</p> <p>4 paragraphs 15 and 16 of your declaration, someone</p> <p>5 coming to it cold are going to think you're</p> <p>6 implying that any programmer using standard</p> <p>7 programming techniques can implement the</p> <p>8 technology so long as they have the teachings of</p> <p>9 the '217 patent.</p> <p>10 And sitting here today, you are saying</p> <p>11 that is not accurate, that person would need</p> <p>12 additional skills, preferably experienced specific</p> <p>13 to big data analytics; correct?</p> <p>14 MR. PADMANABHAN: Objection. Rule 611.</p> <p>15 THE WITNESS: I think that anybody who's</p> <p>16 skilled in the art would understand that there are</p> <p>17 different specialisms in software development, and</p> <p>18 that some people would be able to do whatever, any</p> <p>19 particular stuff the task is and others would not.</p> <p>20 I don't have any, you know, further</p> <p>21 comment really than that. I mean --</p> <p>22 BY MR. OHLERT:</p>             | <p>1 data AI-related area than there were at the time. Page 343</p> <p>2 It was still quite new and specialist at</p> <p>3 the time, but now there are more people who have</p> <p>4 done a lot of work because the compute power and</p> <p>5 storage of data has just increased geometrically</p> <p>6 since 2004.</p> <p>7 But I think, you know, there are lots of</p> <p>8 developers that could do this, but not every</p> <p>9 single developer in America -- and I have to be an</p> <p>10 imbecile if I believed that every single developer</p> <p>11 in America could, you know, develop this system.</p> <p>12 Q. You know, I really have to ask this</p> <p>13 question.</p> <p>14 A. Mm-hmm.</p> <p>15 Q. When you say, "I wasn't intending this as</p> <p>16 a job interview, it's more of a statement," what</p> <p>17 do you mean by that?</p> <p>18 MR. PADMANABHAN: Objection. Rule 611.</p> <p>19 THE WITNESS: Yeah. I think I was just</p> <p>20 not -- I was not intending to list a set of</p> <p>21 requirements for this -- for a developer that I</p> <p>22 would select to do the work.</p>                         |
| <p>1 Q. Paragraph 15 doesn't specify them having Page 342</p> <p>2 a specific expertise, does it?</p> <p>3 MR. PADMANABHAN: Objection. Rule 611.</p> <p>4 THE WITNESS: I think I've answered the</p> <p>5 question.</p> <p>6 BY MR. OHLERT:</p> <p>7 Q. Paragraph 15 does not specify that the</p> <p>8 programmer needs to have any particular</p> <p>9 experience, does it?</p> <p>10 MR. PADMANABHAN: Objection. Rule 611.</p> <p>11 THE WITNESS: I still think I've answered</p> <p>12 the question. I mean, you know, there is no</p> <p>13 specifically listed expertise that the programmer</p> <p>14 would have to have because I wasn't intending this</p> <p>15 as a job interview, it was more of a statement.</p> <p>16 So it wasn't for a job description for</p> <p>17 somebody I looked to do the work, it was just a</p> <p>18 comment that with the right person, a programmer</p> <p>19 that I could select -- and there are hundreds of</p> <p>20 them that I could go out and select, you know,</p> <p>21 would be able to take this patent and -- I mean,</p> <p>22 there's a lot more people now working in this big</p> | <p>1 I was just saying that a developer Page 344</p> <p>2 selected would be able to do this work. You know,</p> <p>3 like there are developers, there are people here,</p> <p>4 I could put my hands on many of them who would be</p> <p>5 able to take this patent and reduce it to</p> <p>6 practice.</p> <p>7 I guess I never really imagined somebody</p> <p>8 would hang on this sentence that this meant that</p> <p>9 every person who has ever developed software,</p> <p>10 including six-year-olds in robotics clubs, would</p> <p>11 be able to, you know, implement this system</p> <p>12 because it is quite complex. So I think somebody</p> <p>13 with appropriate skill would be able to but, you</p> <p>14 know...</p> <p>15 BY MR. OHLERT:</p> <p>16 Q. The problem with that, sir, is paragraph</p> <p>17 15 is talking about the provisional application</p> <p>18 and it's saying that provisional application</p> <p>19 provides those details.</p> <p>20 And so this isn't just saying any</p> <p>21 six-year-old in a coding class could do this, this</p> <p>22 is saying anyone with software experience and the</p> |

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| <p>Page 345</p> <p>1 teaching of the provisional application could</p> <p>2 implement this technology.</p> <p>3 And what it sounds like today is that</p> <p>4 that's not accurate because that programmer would</p> <p>5 need additional skills or expertise.</p> <p>6 Is that a fair summary of what you're</p> <p>7 trying to say today?</p> <p>8 MR. PADMANABHAN: Objection. Rule 611.</p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. OHLERT:</p> <p>11 Q. And what did I get wrong?</p> <p>12 MR. PADMANABHAN: Objection.</p> <p>13 WITNESS: Well, you said that, you</p> <p>14 know -- you said that the developer would have to</p> <p>15 have -- you said that -- I mean, I think the</p> <p>16 fundamental disconnect is that you're saying my</p> <p>17 statement implies that anybody at all who labels</p> <p>18 themselves as a software developer to be able to</p> <p>19 implement something purely based on the patent,</p> <p>20 which is itself quite sophisticated and difficult.</p> <p>21 And my comment would just be it has to be</p> <p>22 somebody who has the innate capability and, you</p>                        | <p>Page 347</p> <p>1 to the provisional application could have built</p> <p>2 the relevance technologies using standard</p> <p>3 programming techniques; correct?</p> <p>4 They would have had to have specific</p> <p>5 skills or expertise.</p> <p>6 MR. PADMANABHAN: Objection. Rule 611.</p> <p>7 THE WITNESS: Yes. I would say that is</p> <p>8 true. They need to have specific skills,</p> <p>9 expertise, and intelligence to be able to deploy</p> <p>10 it, yes.</p> <p>11 BY MR. OHLERT:</p> <p>12 Q. Okay. And you don't believe that</p> <p>13 Mr. Fennyhough, for example, is an example of a</p> <p>14 programmer who would've been able to look at the</p> <p>15 teachings of the provisional application and</p> <p>16 implement that technology; correct?</p> <p>17 A. Correct.</p> <p>18 Q. How many years did you employ</p> <p>19 Mr. Fennyhough?</p> <p>20 A. I don't know the number but probably like</p> <p>21 three or four. I could probably figure it out</p> <p>22 somehow if I had to maybe, but I'd have to -- you</p>                                     |
| <p>Page 346</p> <p>1 know, skill set, to be able to reduce it to</p> <p>2 practice.</p> <p>3 If it was such a person, that person</p> <p>4 would be able to do it. But not every software</p> <p>5 developer, you know, in North America or every</p> <p>6 person who calls himself a software developer has</p> <p>7 to be somebody who is appropriately skilled in the</p> <p>8 appropriate art to be able to implement it. That</p> <p>9 would be my comment.</p> <p>10 BY MR. OHLERT:</p> <p>11 Q. So your testimony today is that paragraph</p> <p>12 15 should have specified a programmer who is</p> <p>13 skilled in the appropriate art such that they</p> <p>14 would be able to implement it; correct?</p> <p>15 MR. PADMANABHAN: Objection. Rule 611.</p> <p>16 THE WITNESS: It would have been clearer</p> <p>17 if I had said that, I guess. I did not see it as</p> <p>18 being a particularly important distinction. But</p> <p>19 it could've been if I had said it, but --</p> <p>20 BY MR. OHLERT:</p> <p>21 Q. And you agree that paragraph 15 is not</p> <p>22 trying to suggest that any programmer with access</p> | <p>Page 348</p> <p>1 know, I'd have to -- I can't remember. Something</p> <p>2 like that. Yeah, three or four years.</p> <p>3 Q. So Mr. Fennyhough had at least three or</p> <p>4 four years of experience working with your</p> <p>5 company, possibly additional experience before</p> <p>6 that, and he still wasn't a person of ordinary</p> <p>7 skill in the art in your mind?</p> <p>8 A. Not in this specific area of big data</p> <p>9 systems, no. He explicitly said he wasn't. So he</p> <p>10 said --</p> <p>11 Q. What about related to the '217 patent?</p> <p>12 A. The '217 patent is the relevance patent;</p> <p>13 right?</p> <p>14 Q. Yes.</p> <p>15 A. Yeah. So, I mean, I gave it to him and</p> <p>16 he said, "I don't know how to do this. It's</p> <p>17 really hard math." And then he waved his arms a</p> <p>18 lot and said, like, no, he -- he did not. He'd</p> <p>19 fully recognized that he did not have the</p> <p>20 knowledge or skill set and would not be able to</p> <p>21 implement it.</p> <p>22 Q. Okay. Let me ask again so that we can</p> |

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| <p>1 just have a clean record, okay?</p> <p>2 A. Mm-hmm.</p> <p>3 Q. Strike that.</p> <p>4 So Mr. Fennyhough had at least three or</p> <p>5 four years of experience working with your</p> <p>6 company, possibly additional experience as a</p> <p>7 software developer before that and, in your view,</p> <p>8 he still was not a person of ordinary skill in the</p> <p>9 art as to the technology of the '217 patent;</p> <p>10 correct?</p> <p>11 MR. PADMANABHAN: Objection. Rule 611.</p> <p>12 THE WITNESS: Yes. I did not think that</p> <p>13 he had the skills in the right area to be</p> <p>14 successful in implementing this and neither did</p> <p>15 he.</p> <p>16 MR. OHLERT: Okay. What if we took a</p> <p>17 quick five-minute break.</p> <p>18 Is that okay with everyone?</p> <p>19 MR. PADMANABHAN: How much time does he</p> <p>20 have left?</p> <p>21 MR. OHLERT: Let's go off the record and</p> <p>22 figure that out.</p> | <p>Page 349</p> | <p>1 somewhere in that range, I think.</p> <p>2 Q. Did you ever work directly with</p> <p>3 Mr. Turner?</p> <p>4 A. Yes.</p> <p>5 Q. And did you ever correspond with him in</p> <p>6 any written documents or emails?</p> <p>7 A. Yes. I'm sure I did, yes.</p> <p>8 Q. Okay. Would you consider Rick Turner to</p> <p>9 be a person of the skill in the art with respect</p> <p>10 to the '217 patent?</p> <p>11 A. No. He -- his background was working in</p> <p>12 Accenture. He wasn't really -- he wasn't</p> <p>13 really -- he was a long way from writing code at</p> <p>14 that point. He was more a manager, essentially.</p> <p>15 I don't think he ever wrote a line of code in his</p> <p>16 life at BlueSpace.</p> <p>17 Q. Would it be fair to call Mr. Turner a</p> <p>18 mathematician?</p> <p>19 A. No.</p> <p>20 Q. Do you think he has expertise in</p> <p>21 mathematics?</p> <p>22 A. No. Not to the best of my knowledge.</p>                                                                         | <p>Page 351</p> |
| <p>1 THE VIDEOGRAPHER: Going off the record</p> <p>2 at 2:27 p.m.</p> <p>3 (Off the record: 2:27 p.m. - 2:33 p.m.)</p> <p>4 THE VIDEOGRAPHER: Back on record at</p> <p>5 2:33 p.m.</p> <p>6 BY MR. OHLERT:</p> <p>7 Q. Okay. Mr. Marston, who is Rick Turner?</p> <p>8 A. Rick Turner was a guy who was brought on</p> <p>9 as CTO for, you know, I don't know -- somewhere</p> <p>10 between one and three years, in the U.K.</p> <p>11 company.</p> <p>12 Q. And did he work at BlueSpace?</p> <p>13 A. Yes, yes. He worked at BlueSpace for</p> <p>14 that period.</p> <p>15 Q. And I think you said he was a CTO at</p> <p>16 BlueSpace; is that right?</p> <p>17 A. Yes. That's what he was hired for,</p> <p>18 yes.</p> <p>19 Q. Okay. How long did he work at</p> <p>20 BlueSpace?</p> <p>21 A. Yeah. So somewhere between one and three</p> <p>22 years. I can't remember exactly the number but</p>                                           | <p>Page 350</p> | <p>1 Q. Does he have expertise in computer</p> <p>2 programming?</p> <p>3 A. I never had any evidence of that. I</p> <p>4 mean, he might have done at some -- he was old.</p> <p>5 He might have done it at some point in his life,</p> <p>6 but he did not write a line of code as far as I'm</p> <p>7 aware at BlueSpace.</p> <p>8 Q. Was he an expert in statistics?</p> <p>9 A. No. Not that I'm aware of.</p> <p>10 Q. Is there any field in particular that you</p> <p>11 would say he had expertise in?</p> <p>12 A. You know, his background was Accenture</p> <p>13 and consulting in engagement management, so I</p> <p>14 would say that his expertise was in, you know,</p> <p>15 managing engineering teams and managing large</p> <p>16 scale consulting efforts with clients.</p> <p>17 (Exhibit 23 was marked.)</p> <p>18 BY MR. OHLERT:</p> <p>19 Q. Okay. I put a document into the chat</p> <p>20 that will be Exhibit 23 to our deposition and it's</p> <p>21 labeled 2048.</p> <p>22 Do you see that?</p> | <p>Page 352</p> |

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| <p>1 A. I've got -- yeah, maybe. The file name<br/>2 is so long I can't see the end of it. Does it<br/>3 start with PTAB-IPR 2025-00430?<br/>4 Q. Dash 2048, yes.<br/>5 A. Yeah. I can't see the end but, yes.<br/>6 Okay. Yeah, I'm on that. Note Concepts<br/>7 document.<br/>8 Q. And can you go to the last page of this<br/>9 document, page 5?<br/>10 A. Yes.<br/>11 Q. This lists Rick Turner as the author of<br/>12 this document?<br/>13 A. Yes.<br/>14 Q. And this was created and modified on<br/>15 September 13, 2004; correct?<br/>16 A. Yes.<br/>17 Q. Is there a reason why this document lists<br/>18 an author but many of the other documents that<br/>19 we've looked at simply list a period?<br/>20 A. Yes. I think it's because he had filled<br/>21 out in Microsoft Word to say -- you know, when you<br/>22 go into your file summary info, back then 20 years</p>      | <p>Page 353</p> | <p>1 commented on any documents relevant to the '217<br/>2 patent?<br/>3 A. Not that I'm aware of, but it was<br/>4 20 years ago.<br/>5 Q. Okay. On page 1, this says that<br/>6 "Weighting importance and relevance is a good<br/>7 candidate for Bayesian models -- or methods."<br/>8 Do you see that?<br/>9 A. Yes.<br/>10 Q. And why were -- why was that the case?<br/>11 A. No idea. I mean, I -- that was his<br/>12 opinion. I think asking questions on the math,<br/>13 you'd be better off asking my father.<br/>14 So that would be my -- you know, I guess<br/>15 that would be my answer for that.<br/>16 Q. Okay. Let's go to page 3.<br/>17 A. Yep.<br/>18 Q. And then this says that, "The problem is<br/>19 for a million-user system, this goes up<br/>20 substantially. We have now have" --<br/>21 A. Sorry. Where are you reading? You're on<br/>22 page 3. Which --</p> | <p>Page 355</p> |
| <p>1 ago, you could define -- you know, every time you<br/>2 save it, it would put your name on the document or<br/>3 you could leave it blank.<br/>4 And so I think it's a function of his<br/>5 instance of Microsoft Word putting Rick Turner on<br/>6 the document.<br/>7 Q. Okay. And can you go to page 1?<br/>8 A. Yeah.<br/>9 Q. The very first kind of text on page 1<br/>10 says, "Notes on search document" and then it says,<br/>11 "I've not yet had time to read the new stuff from<br/>12 the maths guy, so we'll leave any comment on the<br/>13 math out of this doc."<br/>14 Do you see that?<br/>15 A. Yes.<br/>16 Q. And we discussed earlier you think the<br/>17 maths guy is Paul Marston; correct?<br/>18 A. Yes.<br/>19 Q. Did Mr. Turner know Paul Marston?<br/>20 A. No, not really. I don't think they ever<br/>21 met.<br/>22 Q. Okay. Do you know if Rick Turner</p> | <p>Page 354</p> | <p>1 Q. Fair enough. I'm on page 3. And<br/>2 underneath "Practicality Issues and Observations,"<br/>3 I'm looking at the second paragraph.<br/>4 Do you see that?<br/>5 A. Oh, yeah. I'm seeing that, yep, yep.<br/>6 Q. And it says, "For a million-user system<br/>7 that would require approximately an eight terabyte<br/>8 matrix."<br/>9 Do you see that?<br/>10 A. Yes.<br/>11 Q. And then it states in the next<br/>12 sentence -- it's just a stand-alone sentence,<br/>13 "Such a system is not practically soluble in<br/>14 core."<br/>15 Do you see that?<br/>16 A. Yes.<br/>17 Q. What is "core"?<br/>18 A. I don't know what he means there.<br/>19 Q. Okay. Do you understand that Mr. Turner<br/>20 is generally making these comments in this<br/>21 document?<br/>22 A. Yes.</p>                                                                                            | <p>Page 356</p> |

| Page 357 |    |                                                    |                                |  |  |  |  |  |  | Page 359 |                 |                                                    |  |  |  |  |  |  |  |
|----------|----|----------------------------------------------------|--------------------------------|--|--|--|--|--|--|----------|-----------------|----------------------------------------------------|--|--|--|--|--|--|--|
| 1        | Q. | Okay.                                              | And on page 4, let's go there. |  |  |  |  |  |  | 1        | Q.              | And did Paul Marston work with Tim                 |  |  |  |  |  |  |  |
| 2        | A. | Yes.                                               |                                |  |  |  |  |  |  | 2        | Cooper?         |                                                    |  |  |  |  |  |  |  |
| 3        | Q. | Under section 5.4 -- you know what --              |                                |  |  |  |  |  |  | 3        | A.              | Certainly not day-to-day. I don't know             |  |  |  |  |  |  |  |
| 4        |    | withdrawn. I'll just move on.                      |                                |  |  |  |  |  |  | 4        |                 | if they ever had a conversation. I don't think     |  |  |  |  |  |  |  |
| 5        |    | So we talked earlier about how this                |                                |  |  |  |  |  |  | 5        |                 | they did, but you could ask Paul that.             |  |  |  |  |  |  |  |
| 6        |    | document was last modified in 2004; correct?       |                                |  |  |  |  |  |  | 6        |                 | I mean, I saw him in the office and                |  |  |  |  |  |  |  |
| 7        | A. | This one?                                          |                                |  |  |  |  |  |  | 7        |                 | interacted with him a bit more but -- but, yeah,   |  |  |  |  |  |  |  |
| 8        | Q. | Yes.                                               |                                |  |  |  |  |  |  | 8        |                 | I'm not sure if -- I mean, almost all the          |  |  |  |  |  |  |  |
| 9        | A. | The one I'm currently looking at?                  |                                |  |  |  |  |  |  | 9        |                 | interactions of my father with the rest of the     |  |  |  |  |  |  |  |
| 10       | Q. | Yes.                                               |                                |  |  |  |  |  |  | 10       |                 | team went through me.                              |  |  |  |  |  |  |  |
| 11       | A. | Okay. Yes. 13th of September 2004.                 |                                |  |  |  |  |  |  | 11       |                 | Really, I just work with my father on it,          |  |  |  |  |  |  |  |
| 12       | Q. | Do you know if Mr. Turner did any                  |                                |  |  |  |  |  |  | 12       |                 | so like I would provide him a document and then -- |  |  |  |  |  |  |  |
| 13       |    | additional work on this document after September   |                                |  |  |  |  |  |  | 13       |                 | then might have a comment or might have something  |  |  |  |  |  |  |  |
| 14       |    | 13, 2004?                                          |                                |  |  |  |  |  |  | 14       |                 | or other. And then, you know, my father never      |  |  |  |  |  |  |  |
| 15       | A. | No. I think he just looked at it once.             |                                |  |  |  |  |  |  | 15       |                 | visited the BlueSpace office once in my            |  |  |  |  |  |  |  |
| 16       | Q. | Okay. You can set that document aside.             |                                |  |  |  |  |  |  | 16       |                 | recollection.                                      |  |  |  |  |  |  |  |
| 17       | A. | Okay.                                              |                                |  |  |  |  |  |  | 17       | Q.              | Okay. I've uploaded a new document to              |  |  |  |  |  |  |  |
| 18       | Q. | Who was Tim Cooper?                                |                                |  |  |  |  |  |  | 18       |                 | the chat.                                          |  |  |  |  |  |  |  |
| 19       | A. | Yeah. Tim Cooper was an advisor to                 |                                |  |  |  |  |  |  | 19       | A.              | Yeah.                                              |  |  |  |  |  |  |  |
| 20       |    | BlueSpace. Nice guy, smart guy, generalist.        |                                |  |  |  |  |  |  | 20       |                 | (Exhibit 24 was marked.)                           |  |  |  |  |  |  |  |
| 21       |    | He had a degree in physics from Cambridge          |                                |  |  |  |  |  |  | 21       | BY MR. OHLERT:. |                                                    |  |  |  |  |  |  |  |
| 22       |    | or something like that, I think. So he was a       |                                |  |  |  |  |  |  | 22       | Q.              | I think this is going to be Exhibit 24,            |  |  |  |  |  |  |  |
| Page 358 |    |                                                    |                                |  |  |  |  |  |  | Page 360 |                 |                                                    |  |  |  |  |  |  |  |
| 1        |    | consultant. He wasn't an employee. That was        |                                |  |  |  |  |  |  | 1        |                 | but it's labeled EX-2050.                          |  |  |  |  |  |  |  |
| 2        |    | him.                                               |                                |  |  |  |  |  |  | 2        |                 | Do you see that?                                   |  |  |  |  |  |  |  |
| 3        | Q. | What was his role at BlueSpace?                    |                                |  |  |  |  |  |  | 3        | A.              | Yes.                                               |  |  |  |  |  |  |  |
| 4        | A. | He was an advisor.                                 |                                |  |  |  |  |  |  | 4        | Q.              | And then on the first page this has                |  |  |  |  |  |  |  |
| 5        | Q. | Did BlueSpace have other consultants like          |                                |  |  |  |  |  |  | 5        |                 | certain blue text labeled "Response."              |  |  |  |  |  |  |  |
| 6        |    | Mr. Cooper?                                        |                                |  |  |  |  |  |  | 6        |                 | Do you see that?                                   |  |  |  |  |  |  |  |
| 7        | A. | No. Not -- no, he was the only -- he was           |                                |  |  |  |  |  |  | 7        | A.              | Yes.                                               |  |  |  |  |  |  |  |
| 8        |    | the only advisor like that.                        |                                |  |  |  |  |  |  | 8        | Q.              | Who wrote the black text here?                     |  |  |  |  |  |  |  |
| 9        | Q. | Why did you decide to hire Mr. Cooper --           |                                |  |  |  |  |  |  | 9        | A.              | Let me have a look.                                |  |  |  |  |  |  |  |
| 10       |    | or I should say -- let me ask it again. Strike     |                                |  |  |  |  |  |  | 10       |                 | Yeah. I don't know the answer to that.             |  |  |  |  |  |  |  |
| 11       |    | that.                                              |                                |  |  |  |  |  |  | 11       | Q.              | Do you know who wrote the blue text?               |  |  |  |  |  |  |  |
| 12       |    | Why did you decide to take on Mr. Cooper           |                                |  |  |  |  |  |  | 12       | A.              | So my guess would be that Tim Cooper               |  |  |  |  |  |  |  |
| 13       |    | as an advisor of BlueSpace?                        |                                |  |  |  |  |  |  | 13       |                 | wrote the black text and my father wrote the blue  |  |  |  |  |  |  |  |
| 14       | A. | He was a smart guy. I valued his input.            |                                |  |  |  |  |  |  | 14       |                 | text, but I am perhaps 70 percent confident that   |  |  |  |  |  |  |  |
| 15       |    | Yeah, that's why.                                  |                                |  |  |  |  |  |  | 15       |                 | that's true.                                       |  |  |  |  |  |  |  |
| 16       | Q. | And how long did you know Mr. Cooper?              |                                |  |  |  |  |  |  | 16       |                 | I would suggest asking Paul directly, you          |  |  |  |  |  |  |  |
| 17       | A. | You know, I'm going to say it's something          |                                |  |  |  |  |  |  | 17       |                 | know, what he thinks the authorship is.            |  |  |  |  |  |  |  |
| 18       |    | in that two to four-year range. It was during the  |                                |  |  |  |  |  |  | 18       | Q.              | Is it possible the reverse is true where           |  |  |  |  |  |  |  |
| 19       |    | U.K. -- once we moved to the U.S. we kind of       |                                |  |  |  |  |  |  | 19       |                 | Mr. Cooper wrote the blue text and Mr. Paul        |  |  |  |  |  |  |  |
| 20       |    | rebuilt the team. He wasn't involved anymore.      |                                |  |  |  |  |  |  | 20       |                 | Marston wrote the black text?                      |  |  |  |  |  |  |  |
| 21       |    | But he was involved as the company scaled its team |                                |  |  |  |  |  |  | 21       | A.              | I think it is unlikely because he says             |  |  |  |  |  |  |  |
| 22       |    | size in the U.K.                                   |                                |  |  |  |  |  |  | 22       |                 | things like, "Paul, this is fine. Though at this   |  |  |  |  |  |  |  |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 stage I was trying really to give some kind of<br/> 2 overview of the direction it needs to go."<br/> 3 But -- and then, yes, "This is what was<br/> 4 meant, though I have changed it." You know, when<br/> 5 he's quoting, "These are placed into suitable<br/> 6 functions, result and value, it's between a<br/> 7 certain one," I am going to assume that that is<br/> 8 part of the patent math, and so he's quoting it --<br/> 9 he's quoting it. And then I think my father is<br/> 10 responding to the comment. But that would be --<br/> 11 you know, I would ask my father that question.<br/> 12 Q. So, again, you think that Tim Cooper<br/> 13 wrote the black text and your father Paul Marston<br/> 14 wrote the blue text in EX-2050. But you can't be<br/> 15 sure one way or the other; correct?<br/> 16 A. That's correct.<br/> 17 Q. And does any of this text relate to the<br/> 18 '217 patent?<br/> 19 A. Yes. I think this is all about the '217<br/> 20 patent. I think that's what this document is<br/> 21 looking at.<br/> 22 Q. Okay. And can an edit to this kind of</p>                                                                                                            | <p>Page 361</p> <p>1 I did not believe that was the case on<br/> 2 this patent. I don't think any of the people who<br/> 3 made comments made any significant contribution.<br/> 4 It was just an attempt to try and be helpful, or<br/> 5 in the case of some -- trying to seem to be<br/> 6 helpful. But, you know, they were very minor.<br/> 7 Q. And scrolling to the last page of Exhibit<br/> 8 2050 --<br/> 9 A. Uh-huh.<br/> 10 Q. -- this lists you as the custodian and<br/> 11 Tim Cooper as the author; correct?<br/> 12 A. Yes.<br/> 13 Q. And this was last modified on May 17,<br/> 14 2005; correct?<br/> 15 A. Yes.<br/> 16 Q. And is there any reason this document<br/> 17 lists the author, whereas some of the others we've<br/> 18 been looking at just have a period?<br/> 19 A. I think it's the same answer. I think<br/> 20 Tim Cooper started drafting this document in<br/> 21 Microsoft Word and he had his author set up in<br/> 22 Microsoft Word, so when he saved it, it put the</p> <p>Page 363</p> |
| <p>1 document be something that you would consider a<br/> 2 contribution to the teachings of the '217<br/> 3 patent?<br/> 4 A. I see these as just high-level comments.<br/> 5 You know, I would ask my father on whether any of<br/> 6 this -- we don't believe -- and I think if you<br/> 7 asked him, Cooper -- I know I'm no longer in touch<br/> 8 with him -- if he felt he made a substantive, you<br/> 9 know, teaching to the patent, in which should have<br/> 10 incorporated him as an author, he certainly didn't<br/> 11 characterize it that way at the time.<br/> 12 I don't think he believed it. I didn't<br/> 13 believe it. You know, they would just -- you<br/> 14 get -- you ask around for bits of feedback on<br/> 15 things. If somebody had come forward with a<br/> 16 significantly new piece of innovation that we had<br/> 17 added -- and I've filed lots of patents now.<br/> 18 We've had instances in other companies --<br/> 19 a second company where, you know, we drafted -- I<br/> 20 drafted something with somebody else, then a third<br/> 21 person came in and made a meaningful contribution,<br/> 22 we added that person as an author to the patent.</p> <p>Page 362</p> | <p>1 name on the document.<br/> 2 Q. Okay. I think I'm on my last document<br/> 3 here just for everyone's benefit.<br/> 4 A. Okay.<br/> 5 (Exhibit 25 was marked.)<br/> 6 BY MR. OHLERT:<br/> 7 Q. Let me just upload this to the chat.<br/> 8 So I'm uploading what I understand will<br/> 9 be Exhibit 25, labeled EX-2047.<br/> 10 Can you let me know when you have that<br/> 11 open?<br/> 12 A. Yep. Okay. I do.<br/> 13 Q. Who is Tony Martin Jones?<br/> 14 A. Yeah. Tony Martin Jones is a professor<br/> 15 in the statistics department that my father was<br/> 16 also at.<br/> 17 Q. And let's just scroll to the last page of<br/> 18 Exhibit 2047, page 7.<br/> 19 This lists you as the custodian and who I<br/> 20 assume is Mr. Morton Jones as the author;<br/> 21 correct?<br/> 22 A. Yes.</p> <p>Page 364</p>                                                                                                                                                                                                    |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Page 365</p> <p>1 Q. Did Mr. Morton Jones ever comment on Paul<br/>2 Marston's formulas for relevance?</p> <p>3 A. So I believe the black text here is stuff<br/>4 that he wrote. But, again, I couldn't be<br/>5 confident of which way around it is. I would ask<br/>6 my father that question. It may be that, you<br/>7 know, the black -- it may actually be that the<br/>8 black text was, you know, came from my father and<br/>9 then the blue text came from Tony Morton Jones.<br/>10 But I would -- I would defer to my father.</p> <p>11 Q. Okay. And looking at page 4, this has a<br/>12 formatted bubble.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. And this doesn't list who specifically<br/>16 made that formatting edit; correct?</p> <p>17 A. Yes.</p> <p>18 Q. And there's nothing else in this document<br/>19 that would tell you who, between Mr. Paul Marston<br/>20 or Mr. Morton Jones, made the comments in blue<br/>21 versus the text in black; correct?</p> <p>22 A. Yes.</p> | <p>Page 367</p> <p>1 A. I don't know. I would ask -- I'd ask my<br/>2 father that. But it's, you know, it's a good many<br/>3 years.</p> <p>4 Q. Let's look at 2005.</p> <p>5 Would they have been friends for ten<br/>6 years prior to that?</p> <p>7 A. I don't know the answer to that.</p> <p>8 Q. Okay.</p> <p>9 A. I would ask -- I mean, they're still<br/>10 friends, so like a long time.</p> <p>11 Q. Okay. At any point today, did you speak<br/>12 with your counsel about the substance of the<br/>13 questions during today's deposition?</p> <p>14 A. No.</p> <p>15 MR. OHLERT: Okay. I believe those are<br/>16 my questions for the witness.</p> <p>17 Mr. Padmanabhan, do you have any<br/>18 additional questions?</p> <p>19 MR. PADMANABHAN: I just have two quick<br/>20 questions.</p> <p>21 EXAMINATION</p> <p>22 BY MR. PADMANABHAN:</p> |
| <p>Page 366</p> <p>1 Q. Is Tony Morton Jones a person of the<br/>2 skill in the art as it relates to the '217<br/>3 patent?</p> <p>4 A. In the mathematics, yes. In the software<br/>5 development, no.</p> <p>6 Q. Would you say he's kind of like your<br/>7 father Paul Marston in that sense?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And had Mr. Morton Jones and Paul<br/>10 Marston ever worked together before their<br/>11 experiences at BlueSpace?</p> <p>12 A. Yes.</p> <p>13 Q. Do you have any idea about their<br/>14 relationship?</p> <p>15 A. Yeah. They were colleagues at the<br/>16 university.</p> <p>17 Q. Okay. Were they colleagues for a long<br/>18 period of time?</p> <p>19 A. Yes, they were. And they were friends.</p> <p>20 Q. Do you know how many years had they<br/>21 been -- has Mr. Tony Morton Jones and Paul Marston<br/>22 been friends and colleagues?</p>                                                                                                                                | <p>Page 368</p> <p>1 Q. Just on the Rose patent today.</p> <p>2 Had you seen the Rose patent prior to<br/>3 today when counsel showed it to you?</p> <p>4 A. No.</p> <p>5 Q. Had you read the Rose patent prior to<br/>6 today when counsel showed it to you?</p> <p>7 A. No.</p> <p>8 Q. Had you analyzed the Rose patent prior to<br/>9 today when counsel showed it to you?</p> <p>10 A. No.</p> <p>11 MR. PADMANABHAN: That's all I have.</p> <p>12 MR. OHLERT: Okay. No further questions<br/>13 for me. I think we can go off the record.</p> <p>14 Let's go off the record, please.</p> <p>15 THE VIDEOGRAPHER: Going off record at<br/>16 2:52 p.m.</p> <p>17 * * *</p> <p>18 MR. PADMANABHAN: Normal time frame for<br/>19 the transcript but we would like a rough no<br/>20 video.</p> <p>21 MR. OHLERT: We would like a rough as<br/>22 well.</p>    |

| Page 369 |                                                    | Page 371 |                                                    |
|----------|----------------------------------------------------|----------|----------------------------------------------------|
| 1        | WITNESS'S CHANGES OR CORRECTIONS                   | 1        | CERTIFICATE OF STENOGRAPHIC REPORTER               |
| 2        | Deponent: JUSTIN MARTSON                           | 2        |                                                    |
| 3        | NOTE: If you are adding to your testimony, print   | 3        | I, CARA M. FOSTER, a Stenographic                  |
| 4        | the exact word/words you want to add. If you are   | 4        | Certified Shorthand Reporter and Registered        |
| 5        | deleting words from your testimony, print the      | 5        | Professional Reporter, hereby certify that the     |
| 6        | exact word/words you want to delete. Specify with  | 6        | witness in the foregoing deposition:               |
| 7        | "Add" or "Delete" and sign below.                  | 7        | That JUSTIN MARTSON, the witness whose             |
| 8        | PAGE LINE CHANGE/ADD/DELETE                        | 8        | deposition is hereinbefore set forth, was duly     |
| 9        | _____                                              | 9        | sworn by me before the commencement of such        |
| 10       | _____                                              | 10       | deposition and that such deposition was taken      |
| 11       | _____                                              | 11       | before me on Friday, January 23, 2026, commencing  |
| 12       | _____                                              | 12       | at 7:01 a.m. - 2:52 p.m. PST, and is a true record |
| 13       | _____                                              | 13       | of the testimony given by such witness.            |
| 14       | _____                                              | 14       | I further certify that I am not related            |
| 15       | _____                                              | 15       | to any of the parties to this action by blood or   |
| 16       | _____                                              | 16       | marriage, I am not employed by or an attorney to   |
| 17       | Pursuant to Rule 30(e) of the Code of Civil        | 17       | any of the parties to this action, and that I am   |
| 18       | Procedure, I hereby certify that I have read my    | 18       | in no way interested, financially or otherwise, in |
| 19       | Statement Under Oath transcript, made those        | 19       | the outcome of this matter.                        |
| 20       | changes and corrections that I deem necessary, and | 20       | In witness whereof, I have hereunto set            |
| 21       | approve the same as now true.                      | 21       | my hand this 13th day of February, 2026.           |
| 22       | Date: _____ Signature: _____                       | 22       | _____                                              |
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| 1        | DECLARATION UNDER PENALTY OF PERJURY               |          |                                                    |
| 2        |                                                    |          |                                                    |
| 3        |                                                    |          |                                                    |
| 4        | Case Name: Meta Platforms, Inc. versus             |          |                                                    |
| 5        | Sterling Computers Corporation                     |          |                                                    |
| 6        |                                                    |          |                                                    |
| 7        | Date of Deposition: Friday, January 23, 2026       |          |                                                    |
| 8        |                                                    |          |                                                    |
| 9        |                                                    |          |                                                    |
| 10       | I, JUSTIN MARTSON, hereby certify under            |          |                                                    |
| 11       | penalty of perjury under the laws of the State of  |          |                                                    |
| 12       | _____ that the foregoing is true and               |          |                                                    |
| 13       | correct.                                           |          |                                                    |
| 14       |                                                    |          |                                                    |
| 15       | Executed this _____ day of                         |          |                                                    |
| 16       | _____, 20____, at _____.                           |          |                                                    |
| 17       |                                                    |          |                                                    |
| 18       |                                                    |          |                                                    |
| 19       |                                                    |          |                                                    |
| 20       | _____                                              |          |                                                    |
| 21       | JUSTIN MARTSON                                     |          |                                                    |
| 22       |                                                    |          |                                                    |

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| clearer (2)        | commenting (1)     | confidential (2)       | cool (1)              |
| clearly (4)        | Comments (17)      | confidentiality (3)    | Cooper (14)           |
| click (4)          | Commerce (1)       | configured (2)         | co-partnership (1)    |
| clicking (1)       | commercial (4)     | confirm (7)            | copied (2)            |
| client (2)         | commission (2)     | confirming (2)         | copies (1)            |
| clients (1)        | common (3)         | conflating (1)         | copilot (1)           |
| close (5)          | communication (5)  | conflation (1)         | copy (5)              |
| closer (3)         | Communications (6) | congestion (1)         | core (8)              |
| clubs (1)          | community (9)      | conjecture (1)         | CorelDRAW (2)         |
| clue (1)           | companies (7)      | conjecturing (2)       | corner (2)            |
| cluster (1)        | company (48)       | connect (2)            | Corp (1)              |
| clutter (10)       | company's (1)      | connected (3)          | corporate (1)         |
| cluttered (1)      | compare (9)        | consider (10)          | CORPORATION (10)      |
| cluttering (1)     | compared (1)       | considered (8)         | corporations (3)      |
| COBOL (1)          | comparing (3)      | considers (1)          | correct (183)         |
| code (16)          | comparisons (1)    | consistent (1)         | Corrections (3)       |
| coded (1)          | compensated (3)    | consisting (5)         | correctly (2)         |
| coder (1)          | complete (1)       | constitute (1)         | correlate (1)         |
| coding (3)         | completed (1)      | constrained (1)        | correlating (1)       |
| co-founder (1)     | completely (5)     | consultant (1)         | correlation (3)       |
| cognate (32)       | completion (1)     |                        | correlation-based (1) |
| COIE (2)           | complex (6)        |                        |                       |

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**creator/sender** (1)  
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**CTO** (3)  
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**Dash** (1)  
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**distributed** (3)

|                          |                         |                        |                         |
|--------------------------|-------------------------|------------------------|-------------------------|
| <b>distributing</b> (1)  | <b>Email</b> (79)       | <b>evaluated</b> (3)   | <b>Exactly</b> (8)      |
| <b>distribution</b> (6)  | <b>Email.doc</b> (1)    | <b>evaluates</b> (1)   | <b>Examination</b> (5)  |
| <b>dive</b> (1)          | <b>emailed</b> (1)      | <b>evaluating</b> (5)  | <b>examined</b> (1)     |
| <b>doc</b> (4)           | <b>Emails</b> (31)      | <b>evaluation</b> (2)  | <b>examiner</b> (2)     |
| <b>docs</b> (1)          | <b>emails.doc</b> (2)   | <b>eventually</b> (4)  | <b>example</b> (22)     |
| <b>Document</b> (169)    | <b>embedded</b> (2)     | <b>everybody</b> (15)  | <b>examples</b> (1)     |
| <b>documentation</b> (1) | <b>embodiments</b> (2)  | <b>everybody's</b> (2) | <b>exchange</b> (4)     |
| <b>Documents</b> (55)    | <b>EMC</b> (1)          | <b>everyone's</b> (1)  | <b>exchanged</b> (1)    |
| <b>doing</b> (34)        | <b>employ</b> (4)       | <b>evidence</b> (3)    | <b>exchanges</b> (1)    |
| <b>dollars</b> (2)       | <b>employed</b> (4)     | <b>evidential</b> (2)  | <b>excited</b> (1)      |
| <b>domain</b> (1)        | <b>employee</b> (1)     | <b>evolution</b> (2)   | <b>exciting</b> (1)     |
| <b>domains</b> (1)       | <b>employees</b> (26)   | <b>evolve</b> (1)      | <b>Excuse</b> (4)       |
| <b>door</b> (1)          | <b>employment</b> (2)   | <b>evolved</b> (5)     | <b>execute</b> (1)      |
| <b>doubt</b> (1)         | <b>enabled</b> (1)      | <b>EVP</b> (1)         | <b>Executed</b> (1)     |
| <b>downside</b> (1)      | <b>enabling</b> (1)     | <b>EX</b> (2)          | <b>exercise</b> (1)     |
| <b>Dr</b> (2)            | <b>ended</b> (5)        | <b>EX-1001</b> (2)     | <b>Exhibit</b> (84)     |
| <b>draft</b> (8)         | <b>ends</b> (1)         | <b>EX1003</b> (1)      | <b>exhibits</b> (3)     |
| <b>drafted</b> (6)       | <b>enforce</b> (1)      | <b>EX-1003</b> (2)     | <b>exist</b> (2)        |
| <b>drafting</b> (1)      | <b>Enforcing</b> (5)    | <b>EX-10033</b> (1)    | <b>existed</b> (13)     |
| <b>drive</b> (3)         | <b>engagement</b> (3)   | <b>EX-1006</b> (1)     | <b>existing</b> (2)     |
| <b>drives</b> (1)        | <b>engaging</b> (1)     | <b>EX2003</b> (1)      | <b>exists</b> (1)       |
| <b>due</b> (7)           | <b>engine</b> (1)       | <b>EX-2003</b> (7)     | <b>expect</b> (6)       |
| <b>duly</b> (2)          | <b>engineering</b> (1)  | <b>EX2004</b> (2)      | <b>expected</b> (1)     |
| <b>dump</b> (3)          | <b>enormous</b> (3)     | <b>EX-2004</b> (15)    | <b>expensive</b> (1)    |
| <b>duplicating</b> (4)   | <b>ensure</b> (2)       | <b>EX2006</b> (2)      | <b>experience</b> (14)  |
| <b>Durham</b> (3)        | <b>enterprise</b> (2)   | <b>EX-2006</b> (24)    | <b>experienced</b> (1)  |
| <b>dynamic</b> (1)       | <b>enthusiasm</b> (1)   | <b>EX2007</b> (1)      | <b>experiences</b> (2)  |
| < E >                    | <b>entire</b> (5)       | <b>EX-2007</b> (14)    | <b>expert</b> (16)      |
| <b>e.g</b> (3)           | <b>entirely</b> (10)    | <b>EX2014</b> (1)      | <b>expertise</b> (12)   |
| <b>earlier</b> (19)      | <b>entirety</b> (3)     | <b>EX2015</b> (1)      | <b>experts</b> (1)      |
| <b>earliest</b> (6)      | <b>entitled</b> (1)     | <b>EX-2015</b> (2)     | <b>explain</b> (8)      |
| <b>early</b> (15)        | <b>entity</b> (4)       | <b>EX-2018</b> (1)     | <b>explicit</b> (34)    |
| <b>easier</b> (2)        | <b>entries</b> (7)      | <b>EX2030</b> (1)      | <b>explicitly</b> (4)   |
| <b>Eastern</b> (1)       | <b>entry</b> (5)        | <b>EX-2030</b> (5)     | <b>exploitation</b> (1) |
| <b>Easy</b> (1)          | <b>environment</b> (1)  | <b>EX2041</b> (1)      | <b>explore</b> (2)      |
| <b>ecosystem</b> (5)     | <b>enzymatic</b> (1)    | <b>EX-2041</b> (1)     | <b>exposure</b> (1)     |
| <b>edit</b> (3)          | <b>epically</b> (1)     | <b>EX2042</b> (1)      | <b>express</b> (1)      |
| <b>editing</b> (2)       | <b>equation</b> (2)     | <b>EX-2042</b> (6)     | <b>expression</b> (1)   |
| <b>editings</b> (1)      | <b>equations</b> (2)    | <b>EX-20445</b> (2)    | <b>extension</b> (1)    |
| <b>edits</b> (14)        | <b>equivalent</b> (1)   | <b>EX2045</b> (1)      | <b>extent</b> (1)       |
| <b>effectively</b> (6)   | <b>Eric</b> (3)         | <b>EX-2045</b> (5)     | <b>external</b> (1)     |
| <b>efficient</b> (1)     | <b>especially</b> (1)   | <b>EX2047</b> (1)      | <b>extremely</b> (5)    |
| <b>efforts</b> (2)       | <b>Esq</b> (2)          | <b>EX-2047</b> (1)     | <b>eyeballs</b> (1)     |
| <b>Eight</b> (5)         | <b>essentially</b> (20) | <b>EX2048</b> (1)      | < F >                   |
| <b>either</b> (10)       | <b>establish</b> (2)    | <b>EX2050</b> (1)      | <b>face</b> (1)         |
| <b>electronic</b> (46)   | <b>established</b> (1)  | <b>EX-2050</b> (2)     | <b>Facebook</b> (22)    |
| <b>element</b> (3)       | <b>et</b> (1)           | <b>EX2065</b> (1)      | <b>Facebook's</b> (4)   |
| <b>elements</b> (9)      | <b>Europe</b> (2)       | <b>EX-2065</b> (2)     | <b>faces</b> (1)        |
|                          | <b>evaluate</b> (14)    | <b>exact</b> (3)       |                         |

facilitate (2)  
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 GOS838.PDF (1)  
 gosh (5)  
 government (4)

|                       |                           |                            |                           |
|-----------------------|---------------------------|----------------------------|---------------------------|
| <b>governor's (1)</b> | <b>hear (1)</b>           | <b>idea (66)</b>           | <b>incorporating (1)</b>  |
| <b>grab (1)</b>       | <b>heard (2)</b>          | <b>ideally (1)</b>         | <b>increase (1)</b>       |
| <b>grained (1)</b>    | <b>hearing (2)</b>        | <b>ideas (9)</b>           | <b>increased (1)</b>      |
| <b>grammar (1)</b>    | <b>He'd (1)</b>           | <b>ideation (1)</b>        | <b>increases (1)</b>      |
| <b>granular (1)</b>   | <b>held (1)</b>           | <b>identification (1)</b>  | <b>incredibly (7)</b>     |
| <b>graph (1)</b>      | <b>help (14)</b>          | <b>identify (9)</b>        | <b>incriminate (1)</b>    |
| <b>graphic (2)</b>    | <b>helped (2)</b>         | <b>identifying (5)</b>     | <b>incriminating (1)</b>  |
| <b>graphics (1)</b>   | <b>helpful (13)</b>       | <b>identities (1)</b>      | <b>independent (2)</b>    |
| <b>graphs (1)</b>     | <b>helping (1)</b>        | <b>identity (2)</b>        | <b>indexing (1)</b>       |
| <b>grasp (1)</b>      | <b>helps (4)</b>          | <b>iFrame (1)</b>          | <b>indicate (3)</b>       |
| <b>gravitated (1)</b> | <b>hereinbefore (1)</b>   | <b>ignored (1)</b>         | <b>indicates (2)</b>      |
| <b>gray (1)</b>       | <b>hereunto (1)</b>       | <b>image (4)</b>           | <b>indication (3)</b>     |
| <b>Great (11)</b>     | <b>Hey (11)</b>           | <b>imagine (5)</b>         | <b>indications (2)</b>    |
| <b>greater (3)</b>    | <b>hidden (2)</b>         | <b>imagined (1)</b>        | <b>indicator (3)</b>      |
| <b>green (3)</b>      | <b>high (7)</b>           | <b>imbecile (1)</b>        | <b>indicators (1)</b>     |
| <b>ground (1)</b>     | <b>higher (1)</b>         | <b>immediate (1)</b>       | <b>individual (15)</b>    |
| <b>group (14)</b>     | <b>high-level (3)</b>     | <b>immediately (3)</b>     | <b>individually (1)</b>   |
| <b>groups (3)</b>     | <b>highly (2)</b>         | <b>impair (1)</b>          | <b>individuals (1)</b>    |
| <b>growing (1)</b>    | <b>hip (2)</b>            | <b>implement (25)</b>      | <b>industry (1)</b>       |
| <b>Grumman (1)</b>    | <b>hire (2)</b>           | <b>implementation (10)</b> | <b>inexplicit (1)</b>     |
| <b>guess (57)</b>     | <b>hired (2)</b>          | <b>implementations (3)</b> | <b>info (2)</b>           |
| <b>guessing (5)</b>   | <b>historically (2)</b>   | <b>implemented (3)</b>     | <b>inform (2)</b>         |
| <b>guide (1)</b>      | <b>history (4)</b>        | <b>implementing (4)</b>    | <b>information (25)</b>   |
| <b>guiding (1)</b>    | <b>hit (1)</b>            | <b>implements (2)</b>      | <b>infrastructure (1)</b> |
| <b>guy (15)</b>       | <b>hive (1)</b>           | <b>implications (1)</b>    | <b>infringe (2)</b>       |
| <b>guys (3)</b>       | <b>Hoffman (2)</b>        | <b>implicit (38)</b>       | <b>infringement (1)</b>   |
| <b>guy's (1)</b>      | <b>Hofiani (2)</b>        | <b>implicitly (1)</b>      | <b>infringes (1)</b>      |
|                       | <b>hold (1)</b>           | <b>implied (2)</b>         | <b>infringing (1)</b>     |
| <b>&lt; H &gt;</b>    | <b>Hollywood (1)</b>      | <b>implies (1)</b>         | <b>infuse (1)</b>         |
| <b>half (1)</b>       | <b>honest (5)</b>         | <b>imply (2)</b>           | <b>in-house (1)</b>       |
| <b>hand (2)</b>       | <b>honestly (5)</b>       | <b>implying (4)</b>        | <b>initial (20)</b>       |
| <b>handed (1)</b>     | <b>hope (4)</b>           | <b>import (1)</b>          | <b>Inman (18)</b>         |
| <b>handled (1)</b>    | <b>hopeful (1)</b>        | <b>importance (14)</b>     | <b>Inman's (1)</b>        |
| <b>hands (1)</b>      | <b>Hopefully (2)</b>      | <b>important (13)</b>      | <b>innate (1)</b>         |
| <b>Hang (4)</b>       | <b>host (1)</b>           | <b>importantly (1)</b>     | <b>innovation (13)</b>    |
| <b>happen (1)</b>     | <b>hour (4)</b>           | <b>improve (1)</b>         | <b>innovations (2)</b>    |
| <b>happened (18)</b>  | <b>hourly (7)</b>         | <b>inaccurate (1)</b>      | <b>innovative (3)</b>     |
| <b>happening (2)</b>  | <b>hours (4)</b>          | <b>inappropriate (2)</b>   | <b>input (7)</b>          |
| <b>happens (3)</b>    | <b>hug (1)</b>            | <b>inappropriately (1)</b> | <b>inputs (2)</b>         |
| <b>happily (1)</b>    | <b>human (4)</b>          | <b>inbox (13)</b>          | <b>insecure (1)</b>       |
| <b>happy (8)</b>      | <b>human-authored (1)</b> | <b>inboxes (5)</b>         | <b>inserting (2)</b>      |
| <b>hard (12)</b>      | <b>hundred (12)</b>       | <b>incensed (1)</b>        | <b>inside (2)</b>         |
| <b>harder (1)</b>     | <b>hundreds (8)</b>       | <b>inception (1)</b>       | <b>insight (1)</b>        |
| <b>hardware (1)</b>   | <b>hyperlink (1)</b>      | <b>include (5)</b>         | <b>insights (1)</b>       |
| <b>hash (2)</b>       | <b>hyperlinks (1)</b>     | <b>included (2)</b>        | <b>inspiration (1)</b>    |
| <b>hate (1)</b>       | <b>Hypori (4)</b>         | <b>includes (6)</b>        | <b>Instagram (2)</b>      |
| <b>hay (2)</b>        |                           | <b>including (10)</b>      | <b>instance (4)</b>       |
| <b>head (1)</b>       | <b>&lt; I &gt;</b>        | <b>incoming (4)</b>        | <b>instances (3)</b>      |
| <b>headcount (1)</b>  | <b>IC's (1)</b>           | <b>incorporated (1)</b>    | <b>instant (1)</b>        |

|                            |                           |                             |                               |
|----------------------------|---------------------------|-----------------------------|-------------------------------|
| <b>instructed</b> (1)      | <b>involve</b> (1)        | <b>justin.marston@blues</b> | <b>learned</b> (1)            |
| <b>insubstantive</b> (1)   | <b>involved</b> (19)      | <b>pace</b> (1)             | <b>learning</b> (9)           |
| <b>integrate</b> (2)       | <b>involvement</b> (3)    | <b>justin.marston@blues</b> | <b>learns</b> (1)             |
| <b>integration</b> (1)     | <b>involving</b> (2)      | <b>pace.com</b> (1)         | <b>leave</b> (7)              |
| <b>intellectual</b> (1)    | <b>IP</b> (4)             |                             | <b>leaving</b> (1)            |
| <b>intelligence</b> (34)   | <b>IPR</b> (25)           | <b>&lt; K &gt;</b>          | <b>lecturer/professor</b> (1) |
| <b>intelligent</b> (1)     | <b>IPR2025-00299</b> (2)  | <b>keen</b> (2)             | <b>led</b> (4)                |
| <b>intend</b> (1)          | <b>IPR2025-00430</b> (15) | <b>keep</b> (13)            | <b>left</b> (13)              |
| <b>intended</b> (5)        | <b>Iron</b> (1)           | <b>Keeping</b> (2)          | <b>leftmost</b> (1)           |
| <b>intending</b> (3)       | <b>ironically</b> (2)     | <b>kept</b> (1)             | <b>legacy</b> (1)             |
| <b>intent</b> (3)          | <b>irrelevant</b> (3)     | <b>key</b> (7)              | <b>legal</b> (13)             |
| <b>intention</b> (1)       | <b>irrespective</b> (1)   | <b>keyword</b> (2)          | <b>legalese</b> (1)           |
| <b>interact</b> (1)        | <b>island</b> (1)         | <b>keywords</b> (2)         | <b>length</b> (2)             |
| <b>interacted</b> (1)      | <b>islands</b> (1)        | <b>Khan</b> (1)             | <b>lengthier</b> (1)          |
| <b>interacting</b> (3)     | <b>issue</b> (2)          | <b>kind</b> (51)            | <b>Letter</b> (4)             |
| <b>interaction</b> (1)     | <b>issued</b> (2)         | <b>kinds</b> (13)           | <b>letting</b> (1)            |
| <b>interactions</b> (6)    | <b>issues</b> (3)         | <b>King</b> (3)             | <b>level</b> (10)             |
| <b>interest</b> (19)       | <b>ITAR</b> (1)           | <b>Kingsman</b> (1)         | <b>levels</b> (2)             |
| <b>interested</b> (17)     | <b>item</b> (3)           | <b>kites</b> (2)            | <b>leverage</b> (2)           |
| <b>interesting</b> (22)    | <b>items</b> (3)          | <b>knew</b> (8)             | <b>leveraging</b> (1)         |
| <b>interests</b> (7)       | <b>iterated</b> (2)       | <b>know</b> (698)           | <b>Lewis</b> (3)              |
| <b>interface</b> (2)       | <b>iteration</b> (1)      | <b>know-how</b> (1)         | <b>license</b> (3)            |
| <b>interim</b> (1)         | <b>iterations</b> (2)     | <b>knowledge</b> (18)       | <b>licensed</b> (1)           |
| <b>internal</b> (3)        | <b>its</b> (18)           | <b>known</b> (3)            | <b>life</b> (14)              |
| <b>internally</b> (1)      | <b>&lt; J &gt;</b>        | <b>knows</b> (2)            | <b>lifetime</b> (3)           |
| <b>international</b> (6)   | <b>January</b> (20)       | <b>Knox</b> (1)             | <b>light</b> (4)              |
| <b>internationally</b> (1) | <b>Jason</b> (1)          | <b>&lt; L &gt;</b>          | <b>lightweight</b> (1)        |
| <b>Internet</b> (4)        | <b>JF</b> (2)             | <b>L-1</b> (1)              | <b>liked</b> (5)              |
| <b>interpret</b> (4)       | <b>Jim</b> (2)            | <b>label</b> (4)            | <b>likes</b> (1)              |
| <b>interpretation</b> (5)  | <b>Jimmy</b> (3)          | <b>labeled</b> (25)         | <b>limit</b> (1)              |
| <b>interpreting</b> (2)    | <b>Jim's</b> (2)          | <b>labels</b> (1)           | <b>limitation</b> (1)         |
| <b>interrupt</b> (5)       | <b>jive</b> (1)           | <b>labs</b> (1)             | <b>limited</b> (2)            |
| <b>interview</b> (3)       | <b>Job</b> (14)           | <b>lack</b> (2)             | <b>limits</b> (1)             |
| <b>intro</b> (1)           | <b>join</b> (5)           | <b>lady</b> (1)             | <b>line</b> (28)              |
| <b>introduce</b> (2)       | <b>joined</b> (1)         | <b>lagging</b> (1)          | <b>lines</b> (6)              |
| <b>introducing</b> (1)     | <b>Jon</b> (18)           | <b>lake</b> (1)             | <b>link</b> (1)               |
| <b>introduction</b> (3)    | <b>Jones</b> (10)         | <b>language</b> (8)         | <b>linked</b> (2)             |
| <b>invent</b> (2)          | <b>Jon's</b> (1)          | <b>languages</b> (1)        | <b>LinkedIn</b> (4)           |
| <b>invented</b> (6)        | <b>judged</b> (1)         | <b>laptop-based</b> (1)     | <b>links</b> (2)              |
| <b>invention</b> (33)      | <b>judges</b> (1)         | <b>large</b> (16)           | <b>List</b> (9)               |
| <b>inventions</b> (2)      | <b>judgment</b> (2)       | <b>larger</b> (4)           | <b>listed</b> (18)            |
| <b>inventive</b> (12)      | <b>July</b> (13)          | <b>late</b> (4)             | <b>lists</b> (9)              |
| <b>inventor</b> (9)        | <b>jump</b> (1)           | <b>latest</b> (1)           | <b>literally</b> (1)          |
| <b>inventors</b> (4)       | <b>jumping</b> (2)        | <b>Latifur</b> (1)          | <b>Litigation</b> (3)         |
| <b>inventorship</b> (6)    | <b>June</b> (13)          | <b>law</b> (2)              | <b>litter</b> (1)             |
| <b>invested</b> (2)        | <b>junk</b> (3)           | <b>laws</b> (1)             | <b>little</b> (18)            |
| <b>investment</b> (5)      | <b>jurisdictions</b> (1)  | <b>lays</b> (1)             | <b>living</b> (1)             |
| <b>investors</b> (5)       | <b>JUSTIN</b> (18)        | <b>learn</b> (5)            | <b>LLP</b> (1)                |
| <b>invites</b> (1)         | <b>J-u-s-t-i-n</b> (1)    |                             | <b>local</b> (6)              |

|                          |                           |                         |                           |
|--------------------------|---------------------------|-------------------------|---------------------------|
| <b>location</b> (2)      | <b>Martin</b> (2)         | <b>Metadata</b> (20)    | <b>Myspace</b> (7)        |
| <b>Log</b> (10)          | <b>MARTSON</b> (4)        | <b>Meta's</b> (1)       | < N >                     |
| <b>logged</b> (3)        | <b>mashup</b> (3)         | <b>method</b> (5)       | <b>name</b> (13)          |
| <b>logical</b> (1)       | <b>massive</b> (1)        | <b>methods</b> (9)      | <b>named</b> (5)          |
| <b>logs</b> (2)          | <b>master</b> (1)         | <b>Michael</b> (1)      | <b>narrow</b> (2)         |
| <b>London</b> (1)        | <b>masters</b> (2)        | <b>Microsoft</b> (6)    | <b>national</b> (2)       |
| <b>lone</b> (1)          | <b>master's</b> (2)       | <b>middle</b> (5)       | <b>naughty</b> (1)        |
| <b>long</b> (26)         | <b>matched</b> (1)        | <b>military</b> (1)     | <b>necessarily</b> (5)    |
| <b>longer</b> (7)        | <b>materials</b> (1)      | <b>million</b> (5)      | <b>necessary</b> (1)      |
| <b>look</b> (49)         | <b>math</b> (39)          | <b>millions</b> (1)     | <b>need</b> (31)          |
| <b>looked</b> (25)       | <b>mathematic</b> (1)     | <b>million-user</b> (2) | <b>Needed</b> (4)         |
| <b>Looking</b> (86)      | <b>mathematical</b> (33)  | <b>mind</b> (17)        | <b>needles</b> (2)        |
| <b>looks</b> (23)        | <b>mathematically</b> (1) | <b>mine</b> (1)         | <b>needs</b> (4)          |
| <b>loop</b> (1)          | <b>mathematician</b> (11) | <b>Minimal</b> (1)      | <b>neither</b> (6)        |
| <b>lost</b> (6)          | <b>mathematics</b> (11)   | <b>minimum</b> (1)      | <b>nepotistic</b> (1)     |
| <b>lot</b> (49)          | <b>maths</b> (8)          | <b>Minneapolis</b> (1)  | <b>Netflix</b> (4)        |
| <b>Lots</b> (10)         | <b>matrix</b> (1)         | <b>minor</b> (2)        | <b>network</b> (2)        |
| <b>low</b> (2)           | <b>Matt</b> (1)           | <b>minute</b> (1)       | <b>networks</b> (2)       |
| <b>luck</b> (2)          | <b>matter</b> (14)        | <b>minutes</b> (7)      | <b>NeuX</b> (9)           |
| <b>lying</b> (1)         | <b>matters</b> (9)        | <b>missed</b> (1)       | <b>NeuX's</b> (4)         |
| < M >                    | <b>mea</b> (1)            | <b>mistake</b> (1)      | <b>never</b> (23)         |
| <b>Mac</b> (1)           | <b>mean</b> (174)         | <b>mix</b> (1)          | <b>new</b> (22)           |
| <b>machine</b> (2)       | <b>meaningful</b> (5)     | <b>mixing</b> (1)       | <b>newest</b> (1)         |
| <b>magnitude</b> (1)     | <b>means</b> (10)         | <b>Mm-hmm</b> (22)      | <b>newsletters</b> (1)    |
| <b>Mail</b> (40)         | <b>meant</b> (7)          | <b>mobile</b> (1)       | <b>Nice</b> (1)           |
| <b>mails</b> (1)         | <b>measure</b> (13)       | <b>model</b> (53)       | <b>nine</b> (1)           |
| <b>main</b> (8)          | <b>measurement</b> (3)    | <b>modeling</b> (1)     | <b>nobody's</b> (1)       |
| <b>maintained</b> (1)    | <b>measures</b> (13)      | <b>models</b> (14)      | <b>nod</b> (1)            |
| <b>maintains</b> (1)     | <b>mechanism</b> (15)     | <b>modern</b> (2)       | <b>no-no</b> (1)          |
| <b>majority</b> (11)     | <b>mechanisms</b> (9)     | <b>modified</b> (7)     | <b>non-patent</b> (1)     |
| <b>making</b> (16)       | <b>medications</b> (1)    | <b>module</b> (12)      | <b>non-relational</b> (1) |
| <b>man</b> (1)           | <b>meet</b> (3)           | <b>modules</b> (1)      | <b>non-surveying</b> (1)  |
| <b>managed</b> (2)       | <b>meeting</b> (5)        | <b>moment</b> (18)      | <b>Normal</b> (1)         |
| <b>management</b> (4)    | <b>member</b> (3)         | <b>money</b> (9)        | <b>normally</b> (1)       |
| <b>manager</b> (2)       | <b>members</b> (1)        | <b>monitoring</b> (14)  | <b>North</b> (2)          |
| <b>managing</b> (5)      | <b>membranes</b> (1)      | <b>monitors</b> (1)     | <b>Northrop</b> (1)       |
| <b>mapping</b> (1)       | <b>memory</b> (12)        | <b>month</b> (1)        | <b>NOTE</b> (11)          |
| <b>March</b> (1)         | <b>mental</b> (2)         | <b>months</b> (6)       | <b>Notes</b> (3)          |
| <b>mark</b> (1)          | <b>mention</b> (2)        | <b>morning</b> (2)      | <b>notice</b> (1)         |
| <b>marked</b> (26)       | <b>mentioned</b> (15)     | <b>Morton</b> (8)       | <b>NSA</b> (3)            |
| <b>market</b> (3)        | <b>mentions</b> (3)       | <b>move</b> (14)        | <b>Number</b> (33)        |
| <b>marketing</b> (3)     | <b>message</b> (61)       | <b>moved</b> (11)       | <b>numbering</b> (1)      |
| <b>markings</b> (1)      | <b>messages</b> (26)      | <b>movements</b> (1)    | <b>numbers</b> (1)        |
| <b>marks</b> (1)         | <b>messaging</b> (31)     | <b>movie</b> (5)        | < O >                     |
| <b>marriage</b> (1)      | <b>Messenger</b> (1)      | <b>movies</b> (6)       | <b>oath</b> (4)           |
| <b>MARSTON</b> (42)      | <b>met</b> (4)            | <b>moving</b> (2)       | <b>object</b> (5)         |
| <b>M-a-r-s-t-o-n</b> (1) | <b>META</b> (10)          | <b>multi-domain</b> (1) | <b>Objection</b> (78)     |
| <b>Marston's</b> (2)     | <b>META-1001</b> (1)      | <b>multilevel</b> (3)   |                           |
|                          | <b>META-1006</b> (1)      | <b>multiple</b> (9)     |                           |

|                   |                   |                         |                  |
|-------------------|-------------------|-------------------------|------------------|
| objects (7)       | original (4)      | pasted (1)              | Philosophy (1)   |
| obligation (1)    | originally (5)    | pastes (1)              | phone (4)        |
| Observations (1)  | originated (1)    | PATENT (333)            | photo (2)        |
| obtained (1)      | Osborne (1)       | patent/message (1)      | Photoshop (1)    |
| obviate (1)       | ought (1)         | patented (2)            | Photoshopped (1) |
| obvious (2)       | outcome (2)       | Patent-Inventorship (1) | phrase (4)       |
| obviously (8)     | outs (1)          | patents (28)            | physical (1)     |
| occasional (2)    | outside (3)       | patent's (1)            | physically (1)   |
| occasionally (1)  | overall (5)       | path (3)                | physics (1)      |
| occur (1)         | overlap (1)       | patience (2)            | pick (1)         |
| o'clock (1)       | overlapping (1)   | Paul (28)               | picked (1)       |
| October (7)       | overlay (1)       | pause (1)               | picking (1)      |
| offer (1)         | overload (2)      | pave (1)                | picture (3)      |
| offering (1)      | oversight (1)     | paying (2)              | piece (44)       |
| offhand (3)       | overview (5)      | PDF (3)                 | pieces (9)       |
| OFFICE (7)        | overwhelmed (1)   | peak (1)                | pilot (2)        |
| offshore (4)      | overwhelming (2)  | peanut (1)              | piloting (1)     |
| Oh (14)           | owned (2)         | peanuts (1)             | pit (2)          |
| Ohlert (133)      | Owner (11)        | peers (1)               | pivot (1)        |
| Okay (332)        | owners (1)        | penalty (3)             | pivoted (1)      |
| old (2)           | Owner's (2)       | pending (1)             | place (7)        |
| older (2)         | ownership (1)     | people (81)             | placed (1)       |
| once (11)         |                   | peoples (1)             | places (1)       |
| ones (7)          | < P >             | people's (2)            | plainly (1)      |
| ongoing (2)       | p.m (10)          | perceived (1)           | plan (1)         |
| on-site (1)       | packages (1)      | percent (19)            | planned (1)      |
| onwards (1)       | PADMANABHAN (98)  | perception (2)          | planning (1)     |
| open (27)         | PAGE (130)        | perfect (1)             | platform (5)     |
| open-ended (1)    | Pages (48)        | perform (7)             | PLATFORMS (7)    |
| operate (1)       | pagination (1)    | performance (1)         | play (1)         |
| operated (1)      | paid (8)          | performed (1)           | please (13)      |
| operating (2)     | pain (1)          | performs (1)            | plenty (1)       |
| operators (1)     | painless (1)      | period (26)             | plethora (1)     |
| opine (1)         | paper (7)         | perjury (3)             | PLLC (1)         |
| opinion (15)      | paradigm (1)      | PERKINS (2)             | plurality (4)    |
| opinions (5)      | paragraph (56)    | permissions (1)         | Plus (2)         |
| opposed (2)       | paragraphs (1)    | persists (1)            | Plymouth (1)     |
| optimized (1)     | parenthetical (1) | person (36)             | point (43)       |
| optional (4)      | Parkway (1)       | personal (8)            | pointed (1)      |
| Oracle (2)        | part (34)         | personalities (1)       | pointing (2)     |
| Oracles (2)       | particular (20)   | personally (1)          | points (5)       |
| Orange (2)        | particularly (15) | person's (2)            | policies (9)     |
| order (4)         | parties (2)       | perspective (5)         | policy (3)       |
| ordering (2)      | parts (2)         | perspectives (1)        | policy-based (1) |
| orders (1)        | party (1)         | pertaining (2)          | pool (3)         |
| ordinary (8)      | passage (3)       | PETITIONER (2)          | pools (1)        |
| organization (6)  | passive (2)       | Petitioners (1)         | pop (2)          |
| organizations (4) | paste (1)         | phases (1)              | pop-up (3)       |
| oriented (1)      |                   | PhD (1)                 | Port (1)         |

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <b>portfolio</b> (7)<br><b>portion</b> (1)<br><b>portions</b> (1)<br><b>position</b> (4)<br><b>possibilities</b> (1)<br><b>possible</b> (15)<br><b>possibly</b> (3)<br><b>post</b> (3)<br><b>posted</b> (3)<br><b>posting</b> (4)<br><b>posts</b> (4)<br><b>potential</b> (3)<br><b>potentially</b> (5)<br><b>power</b> (4)<br><b>Practicality</b> (1)<br><b>practically</b> (1)<br><b>practice</b> (7)<br><b>preceded</b> (1)<br><b>preceding</b> (1)<br><b>precise</b> (1)<br><b>precursor</b> (1)<br><b>prediction</b> (5)<br><b>predictions</b> (2)<br><b>predictive</b> (3)<br><b>predictor</b> (1)<br><b>predictors</b> (2)<br><b>predominant</b> (1)<br><b>predominantly</b> (1)<br><b>pre-existing</b> (1)<br><b>preexists</b> (1)<br><b>prefer</b> (1)<br><b>Preferably</b> (2)<br><b>preparation</b> (1)<br><b>prepare</b> (4)<br><b>prepared</b> (8)<br><b>preparing</b> (2)<br><b>presence</b> (1)<br><b>PRESENT</b> (4)<br><b>Presentation</b> (10)<br><b>presented</b> (4)<br><b>presenting</b> (1)<br><b>preserved</b> (2)<br><b>press</b> (1)<br><b>pressing</b> (1)<br><b>pretty</b> (15)<br><b>prevent</b> (1)<br><b>previous</b> (1)<br><b>previously</b> (1)<br><b>primarily</b> (6) | <b>primary</b> (6)<br><b>print</b> (2)<br><b>prior</b> (8)<br><b>prioritize</b> (4)<br><b>prioritized</b> (1)<br><b>priority</b> (3)<br><b>private</b> (3)<br><b>privilege</b> (17)<br><b>Privileged</b> (2)<br><b>proactively</b> (2)<br><b>probability</b> (1)<br><b>probably</b> (61)<br><b>problem</b> (26)<br><b>problems</b> (11)<br><b>Procedure</b> (1)<br><b>proceed</b> (1)<br><b>proceedings</b> (7)<br><b>process</b> (28)<br><b>processes</b> (1)<br><b>processing</b> (2)<br><b>processor</b> (1)<br><b>produced</b> (1)<br><b>Product</b> (31)<br><b>production</b> (9)<br><b>Productions</b> (1)<br><b>products</b> (15)<br><b>Professional</b> (2)<br><b>professor</b> (2)<br><b>profile</b> (15)<br><b>profiles</b> (1)<br><b>program</b> (3)<br><b>programmer</b> (32)<br><b>programmers</b> (5)<br><b>programming</b> (13)<br><b>programs</b> (1)<br><b>project</b> (1)<br><b>promise</b> (2)<br><b>promotions</b> (1)<br><b>proof</b> (4)<br><b>proofing</b> (2)<br><b>properly</b> (1)<br><b>property</b> (2)<br><b>prototypes</b> (1)<br><b>provide</b> (16)<br><b>provided</b> (19)<br><b>provides</b> (4)<br><b>providing</b> (14)<br><b>provisional</b> (27)<br><b>PST</b> (2) | <b>PTAB-IPR</b> (1)<br><b>PTTs</b> (1)<br><b>pub</b> (1)<br><b>public</b> (2)<br><b>publication</b> (1)<br><b>publicly</b> (1)<br><b>published</b> (12)<br><b>publishing</b> (3)<br><b>pull</b> (4)<br><b>pulled</b> (3)<br><b>purely</b> (8)<br><b>purportedly</b> (1)<br><b>purpose</b> (4)<br><b>purposes</b> (1)<br><b>Pursuant</b> (2)<br><b>push</b> (2)<br><b>put</b> (21)<br><b>putting</b> (4)<br><br><b>&lt; Q &gt;</b><br><b>qualified</b> (3)<br><b>qualifies</b> (1)<br><b>qualifying</b> (1)<br><b>quantities</b> (1)<br><b>quarter</b> (3)<br><b>queries</b> (1)<br><b>query</b> (1)<br><b>question</b> (68)<br><b>questions</b> (22)<br><b>quick</b> (6)<br><b>quickly</b> (6)<br><b>quite</b> (14)<br><b>Quotation</b> (1)<br><b>quote</b> (4)<br><b>quoting</b> (3)<br><br><b>&lt; R &gt;</b><br><b>raise</b> (3)<br><b>raised</b> (1)<br><b>raising</b> (1)<br><b>ran</b> (1)<br><b>randomly</b> (1)<br><b>range</b> (7)<br><b>ranged</b> (1)<br><b>rank</b> (11)<br><b>ranked</b> (1)<br><b>rarely</b> (1)<br><b>rate</b> (7)<br><b>rating</b> (1) | <b>react</b> (1)<br><b>reactions</b> (1)<br><b>reacts</b> (2)<br><b>read</b> (57)<br><b>readership</b> (2)<br><b>reading</b> (9)<br><b>ready</b> (1)<br><b>real</b> (13)<br><b>realized</b> (2)<br><b>really</b> (91)<br><b>re-ask</b> (1)<br><b>reason</b> (11)<br><b>reasonably</b> (1)<br><b>reasons</b> (2)<br><b>rebuilt</b> (1)<br><b>recall</b> (23)<br><b>receive</b> (2)<br><b>received</b> (11)<br><b>receiving</b> (3)<br><b>recipient</b> (11)<br><b>recipients</b> (1)<br><b>recited</b> (1)<br><b>recognize</b> (10)<br><b>recognized</b> (1)<br><b>recognizing</b> (2)<br><b>recollect</b> (5)<br><b>recollection</b> (24)<br><b>record</b> (43)<br><b>recorded</b> (5)<br><b>records</b> (4)<br><b>recover</b> (2)<br><b>recovered</b> (1)<br><b>red</b> (1)<br><b>redacted</b> (1)<br><b>Reddit</b> (3)<br><b>reduce</b> (3)<br><b>reducing</b> (2)<br><b>reduction</b> (3)<br><b>refer</b> (5)<br><b>reference</b> (6)<br><b>referenced</b> (1)<br><b>references</b> (3)<br><b>referred</b> (4)<br><b>referring</b> (13)<br><b>refers</b> (15)<br><b>reflect</b> (4)<br><b>reflected</b> (6)<br><b>reflecting</b> (3)<br><b>reflects</b> (3) |
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| <b>regard</b> (1)         | <b>responding</b> (2)  | <b>&lt; S &gt;</b>     | <b>seeing</b> (11)      |
| <b>Regarding</b> (19)     | <b>responds</b> (2)    | <b>Safiro</b> (1)      | <b>seeking</b> (3)      |
| <b>Registered</b> (3)     | <b>Response</b> (9)    | <b>sake</b> (1)        | <b>seen</b> (11)        |
| <b>Regression</b> (2)     | <b>responses</b> (3)   | <b>sale</b> (1)        | <b>select</b> (4)       |
| <b>regular</b> (1)        | <b>rest</b> (10)       | <b>sales</b> (2)       | <b>selected</b> (3)     |
| <b>regulations</b> (1)    | <b>restate</b> (2)     | <b>salient</b> (1)     | <b>selecting</b> (2)    |
| <b>relate</b> (12)        | <b>resubmitted</b> (2) | <b>sample</b> (2)      | <b>self-driving</b> (1) |
| <b>related</b> (50)       | <b>result</b> (1)      | <b>sampled</b> (1)     | <b>sell</b> (1)         |
| <b>relates</b> (9)        | <b>results</b> (1)     | <b>sat</b> (3)         | <b>semantics</b> (2)    |
| <b>relation</b> (2)       | <b>resume</b> (1)      | <b>sauce</b> (1)       | <b>send</b> (11)        |
| <b>relational</b> (9)     | <b>retains</b> (1)     | <b>save</b> (2)        | <b>sender</b> (13)      |
| <b>relationship</b> (2)   | <b>retention</b> (2)   | <b>saved</b> (8)       | <b>senders</b> (1)      |
| <b>relationships</b> (2)  | <b>rethinking</b> (1)  | <b>saw</b> (9)         | <b>sending</b> (5)      |
| <b>relative</b> (1)       | <b>retrieve</b> (2)    | <b>saying</b> (55)     | <b>sends</b> (1)        |
| <b>relatively</b> (3)     | <b>retrieved</b> (2)   | <b>says</b> (70)       | <b>senior</b> (3)       |
| <b>Relevance</b> (136)    | <b>reveal</b> (2)      | <b>scale</b> (3)       | <b>sense</b> (35)       |
| <b>relevance-type</b> (1) | <b>reverse</b> (1)     | <b>scaled</b> (1)      | <b>sensitive</b> (2)    |
| <b>relevant</b> (28)      | <b>review</b> (16)     | <b>scam</b> (1)        | <b>sent</b> (20)        |
| <b>rely</b> (5)           | <b>reviewed</b> (6)    | <b>scan</b> (1)        | <b>sentence</b> (16)    |
| <b>relying</b> (1)        | <b>reviewing</b> (1)   | <b>scenes</b> (1)      | <b>sentences</b> (2)    |
| <b>remains</b> (1)        | <b>reviews</b> (2)     | <b>science</b> (6)     | <b>separate</b> (5)     |
| <b>remember</b> (62)      | <b>revisions</b> (1)   | <b>scope</b> (1)       | <b>separated</b> (1)    |
| <b>Remote</b> (2)         | <b>reward</b> (2)      | <b>score</b> (7)       | <b>September</b> (12)   |
| <b>render</b> (1)         | <b>rich</b> (4)        | <b>screen</b> (1)      | <b>serious</b> (1)      |
| <b>renders</b> (1)        | <b>Rick</b> (6)        | <b>screened</b> (1)    | <b>server</b> (1)       |
| <b>rendition</b> (2)      | <b>RIF</b> (2)         | <b>screenshot</b> (6)  | <b>Server-based</b> (1) |
| <b>repeat</b> (1)         | <b>rift</b> (1)        | <b>screenshots</b> (3) | <b>servers</b> (1)      |
| <b>re-piece</b> (1)       | <b>right</b> (91)      | <b>screw</b> (1)       | <b>service</b> (3)      |
| <b>replacement</b> (2)    | <b>rights</b> (3)      | <b>scribbles</b> (1)   | <b>Services</b> (6)     |
| <b>replicate</b> (1)      | <b>RIT</b> (1)         | <b>scripting</b> (1)   | <b>set</b> (35)         |
| <b>replicated</b> (2)     | <b>robotics</b> (1)    | <b>scroll</b> (9)      | <b>sets</b> (6)         |
| <b>reply</b> (1)          | <b>role</b> (5)        | <b>Scrolling</b> (3)   | <b>setting</b> (3)      |
| <b>Reported</b> (1)       | <b>roles</b> (1)       | <b>Search</b> (10)     | <b>settings</b> (1)     |
| <b>Reporter</b> (12)      | <b>Roll</b> (1)        | <b>searching</b> (1)   | <b>seven</b> (2)        |
| <b>REPORTER'S</b> (1)     | <b>rolled</b> (1)      | <b>Seattle</b> (1)     | <b>shake</b> (1)        |
| <b>repositories</b> (1)   | <b>Rose</b> (44)       | <b>SEC</b> (16)        | <b>share</b> (9)        |
| <b>represent</b> (5)      | <b>rotate</b> (2)      | <b>SEC.doc</b> (1)     | <b>shares</b> (1)       |
| <b>representing</b> (2)   | <b>rough</b> (2)       | <b>Second</b> (49)     | <b>sharing</b> (3)      |
| <b>require</b> (12)       | <b>round</b> (4)       | <b>secret</b> (6)      | <b>sheet</b> (2)        |
| <b>required</b> (2)       | <b>row</b> (21)        | <b>secrets</b> (1)     | <b>Shelard</b> (1)      |
| <b>requirements</b> (2)   | <b>rows</b> (6)        | <b>section</b> (51)    | <b>Shepherd</b> (2)     |
| <b>requires</b> (1)       | <b>RPR</b> (2)         | <b>sector</b> (1)      | <b>Shift</b> (2)        |
| <b>reread</b> (2)         | <b>Rule</b> (77)       | <b>sectors</b> (3)     | <b>shifted</b> (2)      |
| <b>research</b> (2)       | <b>rules</b> (1)       | <b>secure</b> (13)     | <b>shine</b> (1)        |
| <b>respect</b> (5)        | <b>run</b> (6)         | <b>securely</b> (1)    | <b>shit</b> (2)         |
| <b>respectfully</b> (1)   | <b>running</b> (5)     | <b>secures</b> (1)     | <b>shooting</b> (3)     |
| <b>respective</b> (2)     | <b>runs</b> (1)        | <b>security</b> (7)    | <b>shopping</b> (1)     |
| <b>respond</b> (1)        | <b>rush</b> (2)        | <b>see</b> (170)       | <b>short</b> (1)        |
| <b>responded</b> (1)      | <b>Russian</b> (1)     |                        | <b>Shorthand</b> (4)    |

|                    |                   |                      |                       |
|--------------------|-------------------|----------------------|-----------------------|
| shot (3)           | SMTP (2)          | spell (1)            | stock (1)             |
| shoulder (1)       | social (6)        | spend (3)            | stop (2)              |
| show (11)          | Software (81)     | spending (2)         | storage (3)           |
| showed (3)         | sold (4)          | spent (10)           | store (4)             |
| showing (5)        | sole (1)          | spicier (1)          | stored (2)            |
| shown (2)          | solely (2)        | spiral (1)           | straight (3)          |
| shows (15)         | soluble (1)       | spoke (1)            | strategy (4)          |
| shrug (1)          | solution (5)      | spot (1)             | Strike (25)           |
| shut (2)           | Solutions (2)     | sprinkled (1)        | strong (3)            |
| side (6)           | solve (3)         | stack (1)            | structure (3)         |
| sideways (2)       | solved (2)        | stacks (2)           | structuring (2)       |
| sign (3)           | Solving (1)       | staffing (1)         | struggle (1)          |
| signed (1)         | somebody (41)     | stage (3)            | struggling (1)        |
| significance (2)   | soon (2)          | stages (6)           | study (1)             |
| significant (13)   | sophisticated (2) | stamp (3)            | stuff (45)            |
| significantly (4)  | Sorry (34)        | stand (1)            | stupid (1)            |
| silently (2)       | sort (43)         | stand-alone (1)      | sub (2)               |
| similar (22)       | sorted (1)        | standard (9)         | subject (9)           |
| similarity (3)     | sorting (1)       | standing (2)         | subjects (2)          |
| similarly (4)      | sought (1)        | stars (1)            | submissions (1)       |
| Simple (5)         | sounded (1)       | start (8)            | submit (3)            |
| simplification (1) | sounds (10)       | started (16)         | submitted (10)        |
| simply (4)         | source (2)        | starting (7)         | subReddit (3)         |
| single (13)        | sources (1)       | starts (5)           | subscribe (2)         |
| sir (9)            | space (4)         | startup (1)          | subscribed (1)        |
| sit (3)            | spam (13)         | start-up (1)         | subset (5)            |
| sites (1)          | spammer (1)       | stat (1)             | substance (2)         |
| sitting (5)        | spammy (1)        | State (7)            | substances (1)        |
| six (2)            | span (2)          | stated (2)           | substantially (2)     |
| six-year-old (1)   | spanned (1)       | statement (10)       | substantive (3)       |
| six-year-olds (1)  | spanning (2)      | statements (4)       | subsumed (1)          |
| size (1)           | spans (1)         | STATES (14)          | success (1)           |
| skill (21)         | sparked (1)       | statistical (11)     | successful (2)        |
| skilled (9)        | speak (9)         | statistician (1)     | suggest (2)           |
| skills (8)         | speaking (1)      | statistics (12)      | suggestions (2)       |
| skipped (1)        | specialism (1)    | stats (1)            | suitable (1)          |
| Slack (1)          | specialisms (1)   | status (1)           | Suite (2)             |
| slide (2)          | specialist (2)    | STENOGRAPHER (2)     | suits (1)             |
| slider (1)         | specialized (5)   | Stenographer's (1)   | sum (1)               |
| slides (3)         | specific (65)     | Stenographic (5)     | summarize (1)         |
| slightly (1)       | specifically (39) | Stenographically (1) | summary (9)           |
| slip (2)           | specificity (1)   | step (7)             | summer (3)            |
| slipping (1)       | specifics (8)     | stepped (1)          | Sundstrom (5)         |
| slow (1)           | specified (3)     | steps (2)            | S-u-n-d-s-t-r-o-m (1) |
| small (3)          | specifies (1)     | STERLING (33)        | Super (2)             |
| smaller (1)        | specify (10)      | Sterling's (3)       | superhumans (1)       |
| smart (3)          | specifying (2)    | Steven (1)           | Supplemental (5)      |
| smarter (1)        | speculating (1)   | sticking (1)         | supplies (1)          |
| smooth (1)         | speculation (1)   |                      | supporting (2)        |

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| <b>valid</b> (3)           | <b>walls</b> (1)       | <b>work</b> (31)     |
| <b>validate</b> (3)        | <b>want</b> (62)       | <b>worked</b> (21)   |
| <b>validated</b> (2)       | <b>wanted</b> (2)      | <b>workflow</b> (1)  |
| <b>validating</b> (1)      | <b>wanting</b> (1)     | <b>working</b> (49)  |
| <b>validation</b> (1)      | <b>war</b> (3)         | <b>works</b> (7)     |
| <b>value</b> (9)           | <b>warrant</b> (1)     | <b>world</b> (6)     |
| <b>valued</b> (1)          | <b>Washington</b> (2)  | <b>worried</b> (2)   |
| <b>values</b> (5)          | <b>waste</b> (1)       | <b>worries</b> (1)   |
| <b>varied</b> (1)          | <b>watch</b> (1)       | <b>worse</b> (1)     |
| <b>various</b> (5)         | <b>waved</b> (1)       | <b>worth</b> (2)     |
| <b>vast</b> (12)           | <b>way</b> (83)        | <b>would've</b> (3)  |
| <b>Vatter</b> (1)          | <b>ways</b> (10)       | <b>wound</b> (1)     |
| <b>V-a-t-t-e-r</b> (1)     | <b>weave</b> (2)       | <b>write</b> (18)    |
| <b>vector</b> (6)          | <b>web</b> (7)         | <b>writing</b> (13)  |
| <b>venture</b> (8)         | <b>weblinks</b> (1)    | <b>written</b> (27)  |
| <b>Ventures</b> (8)        | <b>website</b> (3)     | <b>wrong</b> (5)     |
| <b>verbal</b> (1)          | <b>wedding</b> (1)     | <b>wrote</b> (61)    |
| <b>verbally</b> (1)        | <b>Wednesday</b> (1)   |                      |
| <b>version</b> (9)         | <b>weeks</b> (2)       | <b>&lt; Y &gt;</b>   |
| <b>versions</b> (1)        | <b>weight</b> (3)      | <b>yard</b> (1)      |
| <b>versus</b> (19)         | <b>Weighting</b> (1)   | <b>Yay</b> (1)       |
| <b>Vetter</b> (2)          | <b>weightings</b> (6)  | <b>Yeah</b> (193)    |
| <b>V-e-t-t-e-r</b> (1)     | <b>weird</b> (1)       | <b>year</b> (8)      |
| <b>vibe</b> (1)            | <b>Welcome</b> (3)     | <b>years</b> (37)    |
| <b>Video</b> (3)           | <b>Well</b> (55)       | <b>Yep</b> (58)      |
| <b>videoconference</b> (1) | <b>well-formed</b> (1) | <b>yesterday</b> (1) |
| <b>Videographer</b> (14)   | <b>well-known</b> (2)  | <b>young</b> (1)     |
| <b>videos</b> (1)          | <b>went</b> (15)       | <b>yup</b> (1)       |
| <b>Videotaped</b> (1)      | <b>we're</b> (19)      |                      |
| <b>view</b> (15)           | <b>west</b> (8)        | <b>&lt; Z &gt;</b>   |
| <b>viewed</b> (1)          | <b>we've</b> (14)      | <b>zero</b> (2)      |
| <b>viewer's</b> (1)        | <b>whatsoever</b> (4)  | <b>Zoom</b> (3)      |
| <b>viewership</b> (3)      | <b>whereof</b> (1)     |                      |
| <b>viewerships</b> (1)     | <b>white</b> (7)       |                      |
| <b>views</b> (1)           | <b>widely</b> (1)      |                      |
| <b>virtually</b> (1)       | <b>widow</b> (1)       |                      |
| <b>virtue</b> (1)          | <b>wildly</b> (1)      |                      |
| <b>visa</b> (1)            | <b>wind</b> (1)        |                      |
| <b>visibility</b> (2)      | <b>window</b> (1)      |                      |
| <b>visited</b> (1)         | <b>Windows</b> (1)     |                      |
| <b>Visual</b> (2)          | <b>wish</b> (2)        |                      |
| <b>volume</b> (3)          | <b>withdrawn</b> (1)   |                      |
| <b>voting</b> (1)          | <b>witness</b> (103)   |                      |
|                            | <b>Witness's</b> (3)   |                      |
| <b>&lt; W &gt;</b>         | <b>wonder</b> (1)      |                      |
| <b>wait</b> (3)            | <b>word</b> (17)       |                      |
| <b>walk</b> (1)            | <b>word/words</b> (2)  |                      |
| <b>walking</b> (1)         | <b>words</b> (3)       |                      |
| <b>wall</b> (2)            | <b>Word's</b> (1)      |                      |