UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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META PLATFORMS, INC.,

Petitioners

v.

STERLING COMPUTERS CORPORATION,

Patent Owner.

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Case No. IPR2025-00430

U.S. Patent No. 7,716,217

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Deposition of

PAUL MARSTON

MONDAY, JANUARY 26th, 2026

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Reported by: EMMA HARRIS
RMR, CRR, Ca. CSR No. 14387

A P P E A R A N C E S

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I N D E X

Examination by: MR. KNOX — Page 6

E X H I B I T S

Exhibit	Description	Page
1	Declaration of Paul Marston, numbered Sterling EX2031, 16 pages	15
2	Second Supplemental Declaration of Justin Marston, numbered Sterling EX2030, 27 pages	36
3	United States Patent No. 7,716,217 B2, numbered META-1001, 50 pages	41
4	Transmail Relevance Formulae, numbered Sterling EX2047, 7 pages	64
5	BlueSpace Mail Search, numbered Sterling EX2004, 35 pages	73
6	BlueSpace Mail Relevance, numbered Sterling EX2006, 61 pages	78
7	Initial Maths, numbered Sterling EX2049, 9 pages	86
8	BlueSpace Mail Relevance, numbered Sterling EX2007, 77 pages	88
9	Provisional Application for Patent, numbered X Corp. EX1003, 99 pages	91
10	Jon Fernyhough edits, numbered Sterling EX2056, 2 pages	98
11	Software Implementation, numbered Sterling EX2057, 5 pages	105
12	BlueSpace Mail Relevance, numbered Sterling EX2045, 95 pages	108

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13	Software Implementation, numbered Sterling EX2058, 7 pages	111
14	BlueSpace Mail Relevance, numbered Sterling EX2062, 98 pages	115
15	Comments for Justin, numbered Sterling EX2064, 4 pages	120
16	BlueSpace Mail Relevance, numbered Sterling EX2065, 100 pages	122
17	Comments to Justin and Jon, numbered Sterling EX2070, 2 pages	128
18	Comments to Justin and Jon, numbered Sterling EX2071, 3 pages	134
19	Notes on Search Document, numbered Sterling EX2048, 5 pages	142
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META-1042
Meta Platforms, Inc. v. Sterling Computs. Corp., IPR2025-00430

BE IT REMEMBERED that, on MONDAY, the 26th day of JANUARY, 2026, commencing at the hour of 6:00 a.m. thereof, by remote videoconference before me, Emma Harris, a Certified Shorthand Reporter in and for the State of California, there personally appeared:

PAUL MARSTON,

called as a witness, who, being by me first duly sworn to tell the truth, the whole truth, and nothing but the truth, was thereupon examined and interrogated as hereinafter set forth.

THE VIDEOGRAPHER: Good morning. We are on record at 6:00 a.m. Today's date is January 26, 2026. This is the recorded remote deposition of Paul Marston in the matter of Meta Platforms, Inc. versus Sterling Computers Corporation, case number IPR2025-00430. This deposition is being held via web conference.

My name is Said Hofiani. I'm the videographer with Focus Litigation Solutions. The court reporter is Emma Harris. Counsel, please introduce yourselves and state whom you represent, after which the court reporter will state her CSR license number and swear in the witness.

MR. KNOX: Hi. I'm Tyler Knox. I'm with the law firm Perkins Coie. I represent Meta Platforms in this matter. I have co-counsel Andrew Ohlert on the phone -- or the conference.

MR. PADMANABHAN: Devan Padmanabhan from Padmanabhan & Dawson, representing Sterling Computers and the witness.

THE REPORTER: My name is Emma Harris. I am California Certified Shorthand Reporter No. 14387.

Please raise your right hand.

Do you solemnly swear the testimony you are about to give in this matter will be the truth, the whole truth, and nothing but the truth, so help you God?

THE WITNESS: I do affirm that I will tell the truth and nothing but the truth. Yeah, and God will help me.

THE REPORTER: Thank you. Go ahead, Counsel.

EXAMINATION BY MR. KNOX

Q. Thanks, Dr. Marston. How are you today?

A. Yeah. I'm average, for my age and condition.

Q. All right. And, sir, I understand it's 2:00 in the afternoon, your time?

A. About that; yeah.

Q. Okay.

A. Just a --

Q. And how do you prefer -- prefer to be addressed? Am I saying your name correctly?

A. Yeah, that's fine.

Q. Great. Thank you. So would you please describe your environment there, generally?

A. What -- who I am in England, you mean?

Q. For example, just, where are you located?

A. Oh. Yeah, I'm located in northwestern England, a place called Leyland, which is about 30 miles from Manchester.

Q. And are -- where you're sitting today, are -- are you at home?

A. Yes, I am.

Q. Is there anybody else there in the room with you?

A. No.

Q. Do you have any hard copy documents with you?

A. Yes, I've got some printouts of the files which have been launched, you know, under EX numbers, and I -- I have summary sheets of what they are, with nothing else on it than the numbers, the dates, and the Meta file authors on them -- author and custodian, I think it's called. That -- that's -- that's all I have.

And I also have the -- I have my deposition -- Justin's depositions that he's made, three of them, I think. I've got those printed in front of me as well.

Q. Okay. Are those generally clean copies? Are they free of marks?

A. Well, they're only marked with the -- the EX numbers. I haven't put notes on them, if that's what you mean. No.

Q. Okay.

A. There's no notes on them.

Q. Thank you. So to -- to set up our conversation today, I just have some administrative notes and questions --

A. Oh.

Q. -- besides these. Is that okay?

A. Yeah. You're in charge.

Q. All right. Are you able to offer truthful and complete answers to the best of your abilities today?

A. Yes.

Q. And you understand you are under oath today?

A. I understand that I've affirmed to tell the truth.

Q. Are there any medical conditions, distractions, substances or just other issues generally that would prevent you from providing your full, truthful, and accurate answers to my questions today?

A. No, only that I'm 79, but I can't avoid that.

Q. And as you've noticed, today's deposition is recorded. Therefore, please answer all questions verbally --

A. Yes.

Q. -- and not with physical movements. That way the court reporter can --

A. Yes.

Q. -- take that accurately.

A. Yes.
Q. And to create a clean record, please wait till I've completed my question before responding, and I will wait till you provide your full -- full answer before proceeding with any additional questions.
Does that make sense --
A. Okay.
Q. If you don't understand a question, please tell me so that I can rephrase or clarify that question; okay?
A. Yes.
Q. If at any time you need to refer back to your testimony today, please let me know so that I can look back at the record, and with the court reporter's help, we can reference back; okay?
A. Yes.
Q. We also need to take care not to speak too quickly to help with the annotation of today's conversation; okay?
A. Yes.
Q. We will try to take breaks, and I want to be respectful of your time, especially starting at 2:00 in the afternoon. I will try to schedule those breaks at transitions, but please let us know if you would like a break; okay?
A. Okay.
Q. And I will generally be asking you questions about

your written testimony that you submitted in this matter, which refers to many exhibits, some of which I understand you have hard copy; is that correct?
A. I do.
Q. As we converse, I'll also place the exhibit in the chat to this Zoom call for you to be able to either save and open or just open directly.
Does that work?
A. Yeah.
Q. Okay. I recommend, because we'll be going through a good number of exhibits, to keep open, when we discuss it, your declaration; okay?
A. Yeah.
Q. And as we refer to exhibits, they will be in PDF. Are you able to open and view PDFs?
A. Yeah, I think so. Yeah.
Q. Okay. I'd recommend, if it works for you, just to open the PDF and keep it open, and it should display a categorical tab that you can navigate between. I think that will help.
Would that work?
A. I don't know. I'll find out.
Q. Okay. If at any time you would need me to share my screen to show you an exhibit, I can do that. I just prefer to drop in the chat, because sometimes the print

onscreen becomes very small when I share screen. Does that make sense --
A. Okay.
Q. And I think lastly, Counsel may object to my questions, but unless Counsel instructs you not to answer, you are still required to answer.
Does that make sense?
A. I understand.
Q. Great. Okay, Dr. Marston. Have you been deposed before?
A. Have I done -- well, I had the deposition before. Is that what you mean? I was cross-examined by a lawyer a month or so ago.
Q. Yes. Exactly. And was that matter related to the same patent that we'll be discussing today?
A. Yes, it was.
Q. So generally, that deposition involved the same subject matter?
A. The subject matter is the -- the same patent, so yes. Whether you'll ask the same questions, I don't know until you ask them.
Q. Yes. And that patent, to confirm, is US patent 7,716,217?
A. Well, I haven't memorized the number, but yes.
Q. Besides that past deposition, have you been

deposed any other times?
A. No.
Q. How did you prepare for today's deposition?
A. I prayed a lot. I tried to read the documents to read through my written deposition to refresh my ailing memory. And that was all. I have -- if you're going to ask me, I have not talked with my son about it.
Q. Okay. Are you aware that we spoke with him recently?
A. I am aware that you interviewed him; yes.
Q. Regarding the materials you reviewed, did you review your declaration, Exhibit 2031?
A. The declaration of Paul Marston I've got in front of me. Yeah, I have read it again; yeah. But --
Q. Did you review --
A. -- I haven't memorized it.
Q. Thank you. Did you review any of Justin's declarations?
A. Well, I have reviewed it. Before the last one, I did read the three declarations that he made, because I'm able to say that my memory was consistent with what he said. I -- I haven't reread them all; no.
Q. How long did you spend preparing for today's deposition, approximately?
A. For today's specifically or for the two des --

depositions? I mean --

Q. Today specifically.

A. For today's, I don't know. Probably six, seven hours, maybe. I don't have as good memory as Justin.

Q. Okay. And for the record, who is Justin Marston?

A. He's my son. My only son. And nothing but my son.

Q. Thank you. And he -- where does he reside?

A. He lives in Austin, Texas.

Q. And you said that you did not speak to him prior to your deposition today about this deposition; correct?

A. That is correct; yeah. I mean, I knew he was doing it, because we -- our families are in constant contact, because we like to see and talk to our grandchildren. But we haven't discussed the -- I knew he was going to do it, but we haven't discussed the contents or what you asked him.

Q. Thank you. Are you aware that your transcript from your past deposition is of public record?

THE WITNESS: So I believe --

THE REPORTER: What was that?

THE WITNESS: Yes. Yes. It's a public record. Well, I don't know what a public record is, but if you mean, is it registered, yes, it was registered by the lawyers.

Q. BY MR. KNOX: And that is publicly accessible?

A. Yeah. Yes.

Q. Did you -- thank you. Did you review that transcript?

A. Oh, sorry. The transcript of the last -- do you mean the -- the transcript of the last interview that I had with --

Q. Yeah.

A. -- with the lawyer? Sorry. Yes. I have reviewed it a couple of -- there were a couple of just errors of -- of hearing that I corrected. There's another one that I noticed when I read it again today, but it's -- it's trivial. It's just -- a word was there which I couldn't have used in that context, but it's nothing significant. I think I said "casual" and it was written down as "cognate," but it's -- essentially, I have reviewed it, and it is -- as far as I could remember the conversation, it was correct.

Q. Thank you. And are you aware that Justin -- his transcript is also publicly available?

A. Well, I presume so; yeah. But I haven't seen it.

Q. And do you know that both his past deposition related to the other matter and his recent deposition related to this matter are both publicly accessible?

A. What was the other matter?

Q. That would be the matter of X Corporation or Twitter.

A. Oh, right. Yes. Yes, I -- well, I -- I presume that the things that he said were recorded and that they're available, but I haven't looked at them. I've only looked -- I have just looked at the things -- these declarations that he made, the three declarations, and looked at those. Because I was told I should do, because I was going to be asked whether they were consistent with my recollections.

Q. So is it fair, prior to today, the only transcript you've reviewed was your own?

A. Yes. I haven't seen any other transcripts; no.

Q. Great. Thank you. Did you speak with anyone in preparation for today's deposition besides Counsel?

A. Besides Devan?

Q. Yes.

A. No.

Q. All right. Dr. Marston, I'd like to go ahead and drop your declaration, Exhibit 2031, into the chat.

A. Sure.

Q. For reference. Please feel free to look at your hard copy, but just in case --

A. Oh.

Q. -- that helps. This'll be Exhibit 1.

(Exhibit 1 marked for identification.)

THE WITNESS: Where is it?

MR. PADMANABHAN: You've got to hit Chat, and then it'll come up on the right side.

THE WITNESS: Oh, Chat. Okay. Yeah. Thank you. I've got it now. Yep.

Q. BY MR. KNOX: Great. And you were able to open it and view it and scroll through it?

A. I presume so. I don't know. Who -- who have I got here? Chat.

Is this it? EX2031.

Q. Yes.

A. Okay. So I need to open that, don't it? Oh, I've got to download it, have I? I think. I'll have to download it to Documents, I think. So that'll...

Should have downloaded it. That's not it. Okay. Zoom meeting. Oh, click to open, it says. Oh. It's opened now; yeah. I can't see you or the lady, but I can see the document; yes.

Q. Okay. Great. Looking at Exhibit 2031, does this contain a complete record of your opinions that you submitted in this matter?

A. It contains a complete record of the opinions that I submitted, because I submitted the document.

Q. How did you prepare this declaration?

A. How did I prepare it. Well, I mean, I -- I was aware of the -- of the -- what the case was about. So I

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didn't really prepare anything, other than the fact that I looked at the files, which I had in my system, which should be relabeled as various EX numbers.

And I read them, and I -- I looked to see if I have records of what I was doing between 2004, 2005, when we were putting together the patent, and also records of my employment at that time as a statistician at the university. The various other activities which I was involved with at the time, which it was suggested I talk about as well.

And also to locate any documentary evidence which could be put forward eventually with EX numbers to demonstrate, for example, as I look at the screen now, that from January 1975 until August 2010, I was a full-time senior lecturer in theoretical statistics at what was the University of Central Lancashire and various other things which are in EX2074 -- 2075, 2076, 2077.

So I gathered together the various documents and I had sent them previously to Justin, who'd given them to the law company when it was raised that there was an issue about the patent and they needed the documentary evidence.

Q. Thank you. So it's fair to say that you collected many documents to submit to Counsel?

A. Well, yes. The ones which are listed in it are all -- are all things which I had in my system, or I think a few, not many. Justin had some in his system. I think it

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explains that we -- we both had computers replaced since that time, because computers disintegrate when you've used them for a lot, and we didn't have access to emails. My university email was wiped out when I retired a year and a half ago completely from university, and my AOL email, which I was using at the time with Justin -- it doesn't go back beyond 2008. So we didn't have any emails.

I just happened to have, when the question was raised -- I happened to have a hard -- a separate hard drive from the computer, because I always try and re-save particularly key files separately in case the computer crashes, so that I've got them, and it was an old one, which I think operates on steam or -- or something, but -- no, not quite, but it was an old mechanical one.

But when I fished it out and connected it, it threw out the various files concerning the Blue -- BlueSpace TransMail development, which Justin and I had done. And so I was able to forward those to Justin, who has presumably given them to the law company that -- that is involved in this case.

So that's -- that's really the -- the kind of background. And then I wrote this deposition, with a general direction of what I was supposed to write. But, I mean, they didn't write it for me. I wrote it.

Sorry if I'm speaking too fast for the lady recording.

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I'll try not to. I didn't -- I didn't get any lawyers to draft it. I wrote it, and they obviously then checked and said that's all right, and so I was happy for it to be issued as my official declaration concerning my memory of how the events unfolded.

Q. Thank you. I think a moment ago, you mentioned preparing your deposition. Just to clarify, you meant this declaration; correct?

A. Declaration. Sorry. Yes. I don't know the legal terms, because I am not -- yes, the declaration. I'm sorry. That's what I meant.

Q. How long did that process take to prepare your declaration?

A. I've no idea. I mean, I didn't keep a record of it, because -- I mean, I did submit -- I -- I was involved as a expert witness, so it -- it was quite a number of hours. I mean, I can't -- I -- I cannot remember how many sort of actual hours I -- I laid claim for. The law -- law company can probably tell you that. But I don't remember now. I -- I can go and try and find -- find the data if you want.

It was quite -- it was quite a long time, because these events were 20 years ago, and I had nothing much in my memory about the details of our interchanges and -- and what exactly I've done. So it did take quite a long time to put

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it together.

Q. Did Justin help you with your declaration?

A. No.

Q. Did you review any declarations besides Justin's when preparing yours?

A. No.

Q. Okay. Dr. Marston, I'd just like to ask you some questions about your -- your background and your experience. If you turn to page 1 of your declaration --

A. Yeah, I've got that.

Q. You alluded to this earlier, but what is your educational background?

A. Well, I studied at the London School of Economics and Political Science between 1964 and 1968. I obtained a BSc, honors, which was -- BSc econ, but it was mostly in statistics. I then did a master degree -- master's degree in theoretical statistics.

I have since then done a further master's degree in history and philosophy of science and one in theology and a PhD. But my -- my really academic background and what I was then involved in teaching was theoretical statistics.

And that's -- that's -- that was not all of my teaching. I also have taught courses in history and philosophy of science and one in -- in ethics. But the main subject I was involved in teaching from 1968 until I retired

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a couple years ago was in statistic -- in theoretical statistics.

And as the declaration says, I was a full-time senior lecturer in that subject at the University of Central Lancashire until I reduced to a .7 post in 2010. But I was full-time at the time that we were doing the -- the patent.

The university is now called the University of Lancashire. It's the same institution. They changed it last year.

Q. Dr. Marston, in paragraph 4, 8, and 9, you mention theoretical statistics and also mathematical statistics and theoretical applied statistics; is that right?

A. Well, yeah. I mean, they're just different ways of describing the same thing. But I think it's so that people understand that when you teach statistics, it -- it doesn't mean that you tell them what the rainfall is in Peru and what the current rating is for the prime minister in the popularity polls. It -- it involves the statistical theory that is in the background of it.

So it's not, like, just giving out numbers. And so it just was to make that clear. It's theoretical. It's -- it's applied statistics as well, which means it's statistics which is actually being used on real data, but the theory behind it is mathematical.

Q. So is it fair to say, Dr. Marston, that with your

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command of theoretical statistics, you could apply it to prime minister popularity polls or rainfall predictions as --

A. Yeah, I could -- yeah. But, I mean, it's not learning the -- it's not learning the actual numbers. It's not teaching the numbers. But yes, it could be applied, and I did teach on various different aspects of it, including survey analysis and -- and also the, you know, numbers, and linear algebra, and various things.

But the -- the theoretical side would be there. But it could also be applied to ranking electronic communications in order of relevance or suggested order of relevance to somebody who owned or received them.

Q. Dr. Marston, do you have an example of applying statistics besides the current matter?

A. Well, not really. I've retired. I mean, you want me to find one or something? I -- do you mean one that I've done or one other people have done, or?

Q. Correct. For example, have you ever solved an industry problem like those examples that we discussed?

A. I haven't been involved in working for an industry; no.

Q. Have you ever dealt with what I will term big data?

A. Have I ever dealt with big data. In what context

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are we asking this -- this question? Do you mean, do I -- have I taught the -- the theory with which it can be analysis, or have I actually done paid work for a company to analyze their big data? I haven't done the latter. I haven't been paid to do work for companies. It wasn't really my -- my interest to do that.

The only reason I got involved in this with this particular issue was because it was my son that asked me, so I wanted to apply my academic background and skill to the problem that he gave me to solve. But, I mean, I didn't apply for a job for it or -- with him and provide examples of other work I've done, because he didn't ask me to.

Q. So, Dr. Marston, is this work with your son the first time you applied statistics to an industry problem?

A. Well, in a sense; yes.

Q. In that process, Dr. Marston, what did your development process look like?

MR. PADMANABHAN: Objection -- sorry.

THE WITNESS: Well --

THE REPORTER: I'm sorry. I didn't get the objection.

MR. PADMANABHAN: Objection. Rule 611. And -- and 401 to 403.

THE WITNESS: Well -- sorry. What was the question again?

Q. BY MR. KNOX: Sure. I'll -- I'll rephrase.

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When applying statistics, what is your development process?

A. Well, it's to try to thoroughly understand what the problem is and what the desirable outcome of the statistical application is, and to find a way to use mathematical statistics to solve and achieve those aims and ends. And, of course, to do that, which I did with Justin, I would be interacting with the person that was saying what -- what it was that they wanted to achieve.

But, I mean, it -- it wasn't -- I wasn't doing this for a career move. I did it because it was my son, and he asked me, and so I had the mathematical ability to do it.

Q. In this matter, Dr. Marston, was it an iterative process?

A. Yes, it was an iterative process; yeah.

Q. How many versions do you recall working through to attain the final outcome?

A. Well, I mean, a number of them recorded in the different exhibits -- exhibits. But I -- I -- I wouldn't have retained -- I mean, I've written 17 books, but I -- I haven't retained all the intermediate stages of the process of writing a book or -- if you said how many, you know -- one of my 400-page books -- but how -- how many processes -- or when I wrote my statistics textbook, "How many phases did you get through to get there?" Well, I really can't

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remember. Because you don't keep them all. You develop it, and then you go and think about it, and then you come back and do a bit more development.

But, I mean, I know the interactions I had with Justin as we clarified various terms and thought of improved ways of embodying those in what -- what the process was doing.

Q. Dr. Marston, if I understand correctly, you have authored a -- a novel -- a book?

A. A what book?

Q. My understanding is, you have authored at least one book; is that right?

A. About 17.

Q. And when you wrote those books, that was a collaborative process; yes?

A. It was -- in some cases, I had a co-author. In some cases, I wrote them on my own. When I did my statistics textbook, which is a long time ago now, I didn't have any collaboration. I just simply wrote it myself. Although I understood what the -- what the particular objective was in writing that particular statistics textbook and who it would be for, how it -- how it would be used in teaching. But I didn't collaborate with anybody on that.

On some of my other books, I have had a co-author. But some of them, I have done on my own. But in the -- in the case of developing with Justin, obviously, it was

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continual interaction with -- between him and myself in developing the mathematical model that he wanted to fit what he wanted to achieve with his system.

Q. Did anyone when you were writing your books edit your work?

A. No.

Q. Is that --

A. Oh -- sorry. You mean the books that I've published?

Q. Yes.

A. You -- you have a copy editor who corrects any spelling mistakes you've made or something like that. I haven't had anyone who's edited my -- my -- any of my writing in the sense of rewriting it, if that's what you mean. But, you know, copy edit -- all books have a copy editor that checks it.

Q. So writing the formulas in this matter, Dr. Marston, did anybody edit those?

A. No.

Q. Did anyone review them?

A. Well, yes. You -- you know who reviewed them, because you've got the -- well, when you say "review," I gave the very first thing that I did to a close friend and colleague, who was a statistician who trained at Cambridge, who was also in my university, and he read it and made a few

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comments, but he didn't edit it, and he didn't produce a new version, and I didn't really use the comments in future things. And some other people did review it, and you'll know who they are, because you're probably going to ask me about them later.

None of them were -- apart from Tony Morton-Jones, my friend, they weren't statisticians. They were people who worked for Justin. So Tony was the -- the only one, really, who I showed it to who was a statistician, and he was not -- we didn't collaborate on it. He made some comments as a friend, and I read them, and that -- that was it. But that was -- that was actually in 2004 -- in August 2004, when I started the process. It was the very first draft that I did.

But he made one suggestion, which actually, I didn't take up, which was a different weighting for a linear algebra formula. But he didn't really make any extensive comments, and I didn't ask him to be involved in it. And we never shared anything after that. Neither he nor I have any collaborative documents or documents which passed between us after those initial two in August 2004.

Q. And, Dr. Marston, you mentioned Tony Morton-Jones.

A. Yes.

Q. Is that the same person as the Cambridge statistician?

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A. Yes.

Q. Okay. And you mentioned August 2004. How did you know it was August 2004?

A. Well, because it's written in the metadata of the files which I had and which actually he opened up on a laptop and found the same two files. But he didn't have anything else. So that's how I know it was August 2004, because it said so in the metadata of the files.

Q. Dr. --

A. I mean, I can't remember the two -- sorry. I didn't mean to interrupt.

I can't remember 20 years ago, obviously. But I know from the metadata that that was when we started on this -- when Justin would have asked me. He may have asked me a bit earlier than that. I honestly can't remember. But that's the earliest documentation that I have.

Q. Dr. Marston, you mentioned that you've provided documents to Counsel; correct?

A. I've provided documents to Counsel, meaning the lawyers. Yeah. Yes, I did. Well, I provided them to Justin. I presume he gave them to them, because he was the one that had been approached about this when they realized that the patent had been filed, and I think Justin was known to the people that bought the patent, but I'm guessing that. I don't know them myself.

So he would have been the natural first person to ask, so he contacted me and said, "Have you got any files relating to that work that we did together 20 years ago?" And, as I've earlier related to you, I found an old separate hard drive, opened it up, and found them.

Q. Did you provide --

A. So I sent them to Justin -- sorry.

Q. Oh, thank you. Did you provide the metadata with those files?

A. Well, you -- they're -- they're in them, aren't they? I mean, the -- the Word files contain the metadata within them. You don't have to provide them. You -- the only way that the metadata is destroyed is if you re-save them, and I haven't done that. They were the original files which I sent. So the metadata was still in them.

Q. I see. So you did not create separate files capturing the metadata and showing it of the original files; correct?

A. No. Why would -- I wouldn't have any reason to do that. The -- the metadata is in them already.

Q. Okay.

A. I was just careful not to re-save anything. Ha. But to keep the files, so if it says, do you want to save the alterations -- I haven't made any alterations, but if you say yes, then the metadata is changed.

But -- so I -- I sent them as they were in the -- without altering any -- by email. I sent them direct to Justin, who provided them to the -- what do you call them -- the counsel.

Q. Dr. Marston, do you still have that hard drive?

A. Do I have the?

The what?

Q. The hard -- the hard drive?

A. I've got it somewhere; yeah. I don't use it, because it's a very old-fashioned one. So once I opened it and copied them into my then computer, I don't use the hard drive.

Q. And how did you send those files to Justin?

A. Well, I think I would have emailed them.

Q. Dr. Marston, do you recall using those files for any other work?

A. No.

Q. Turning back to your experience, Dr. Marston, in paragraphs 10 and 15, you discuss several of your roles and positions and full-time teaching responsibilities; correct?

A. I'm just reading it now; yeah.

Yes, I can read 15.

Q. How many hours per week were you teaching full-time at University of Lancashire?

A. How many hours a week?

Q. Yes.

A. Do you mean actual teaching hours or do you mean how many hours was I employed by the university? I'm not quite sure that academic work quite works like that. I don't recollect. I mean, it was a full-time job, so I had a full-time teaching load at the university. I think there are regulations which show that it's been about 12 and 20 hours or something after teaching, but of course you've got meetings and, you know, personal tutoring and various other roles that you do.

But it was -- I was working -- I was working full-time with the university at the time.

Q. So those employment hours -- how many of those per week, please?

A. How many employment hours a week? I think the -- the contract says 36 hours.

Q. And were you organizing the charity -- is it Scibel -- at the same time?

A. Yes. Yes, we were. I mean, it -- it didn't involve a lot of -- a lot of work, but it was -- yeah, Justin and I had founded that. It was a science and Christianity thing which was aimed primarily at students and which we -- we ran for a while.

Q. Were you also teaching the undergraduate church -- church-based course at the same time?

A. Yeah, that was a couple of hours a week.

Q. And was that separate from your work as an sessional lecturer at the Nazarene Theological College?

A. Yeah.

Q. Were you also writing any of the books we spoke about earlier at this time?

A. Yes, as it says in my declaration, I was writing as well at the same time. I mean, I had a lot of energy in those days. Nowadays, I haven't got much. But I was still -- you know, that's 20 years ago, so I was sort of -- 59, 60 -- you know, I -- I mean, at that time, I had a lot of energy, and my son and daughter, obviously, had left home, so I had quite a lot of energy to do various different activities at the time.

Q. And you were --

A. I'm not sure --

Q. Oh, I'm sorry. Go ahead.

A. Well, I -- I'm not quite sure whether -- why I put that stuff in. I think somebody seemed to think it was a good idea, but it doesn't mean that I had other things that were going on.

But -- during the time that Justin wanted to work with me, particularly after about May, June 2005 until the patent was submitted officially in early 2006, we were in much more continuous contact during that time, and so I -- I was

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working fairly assiduously with him as far as I could on developing the idea. And he, of course, was working on it full-time, because it was the thing that he was employed to do. So it wasn't a spare time thing for him.

Q. Of all those activities, which ones were related to mathematical statistics?

A. Well, any of the teaching at the university and the work that I was doing for Justin.

Q. And which activities were related specifically to mail relevance and priority?

A. Well, it was -- obviously, the only thing that I was involved with was what he was doing. Justin was developing TransMail, which I was aware of, which was a -- intended as a different way of dealing with electronic documents, particularly incoming mail, but other documents. It was a way of dealing with that.

And I was involved with that, not because I had a great interest in electronic documents, but because he asked me to, and he believed and I accepted that I had the statistical ability to help him to do the algorithms that he wanted.

But it -- it wasn't a sort of, you know, life passion to be dealing with electronic documentation at the time. It was something that I -- I got involved with assiduously because my son asked me to -- to -- to do it with him.

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Q. Dr. Marston, you mentioned TransMail. Are you aware if that was a commercial product?

A. Oh, he was developing it for it to be used, and his intention is that TransMail would replace email and -- and other electronic systems. That was his intention of developing it. That was the whole point of it.

So obviously, he was my son, so I was aware from when he first began with BlueSpace that this was his intention to develop. So I was interested in what he was doing, because he was my son. And also, of course, a lot of us -- we still do get lots of emails without any prioritizing, and sometimes you can miss some which are important, because they haven't been flagged up by your system. So I could see why it was a useful thing to do.

But I -- I was not involved in the details of how exactly his system was going to work. I was just aware that he was doing it, and this particular aspect was what he asked me to help him with.

Q. Are you aware whether your relevance formulas were commercialized within that product?

A. Well, commercialized within the product -- well, the product -- the product, in the end, of course -- it did -- I mean, people didn't all adopt TransMail. So when you say "commercialized," then obviously, in the sense that it was intended that this would be a commercial package, it

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plainly was. It wasn't an academic passage -- package. It was in order to apply them within the context of the different way of dealing with electronic documents.

And that was the whole point of his company BlueSpace. So I was aware that that was happening; yeah. If you're asking me how far was it successful, you'd really have to ask Justin.

Q. Okay. In paragraph 11, Dr. Marston, you mention that you had considered Justin's declarations dated March 12th, 2025, July 8th, 2025, and September --

A. Yeah.

Q. -- 9th, '25; is that right?

A. Yes, I have.

Q. I'm going to go ahead and drop his declaration, Exhibit 2031, into the chat.

A. Okay. I'm going to somehow have to get back to the -- the Zoom thing, aren't I?

Oh, there you are. Yes. Okay. So it's this one, so I should be able to -- should I just click it? How do you --

Q. Strike that, Dr. Marston. I'm sorry. It's Exhibit 2030.

A. 30.

Q. Declaration.

A. Okay.

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Q. I just uploaded that.

A. I'm not quite sure how to open it, but I'll try.

Q. I think if you click it in the chat, it should be able to open from there.

A. Yeah, it's opened. Yeah. Yeah, I've got it now. Thank you.

(Exhibit 2 marked for identification.)

Q. BY MR. KNOX: Great. If you scroll to the very end of that document, it states, this 4th day of November, 2025; correct?

A. What -- what paragraph are we looking at?

Q. It's the very last page, 27.

A. Okay. Oh -- executed this day 4th of November 2025, Washington, DC -- yeah.

Q. So in your declaration, the last declaration you mentioned before Justin's was September 9th. Is this the declaration that you had intended to reference?

A. I've got one which is executed the 9th day of September. Just check.

Sorry. What's the question? Have I got the November 1?

Q. I just want to verify that you have all three of Justin's declarations --

A. Well, the one that I've got that's got 9th of September... 8th of July. And -- of March. I haven't

got -- I haven't got one that's labeled the -- November. I've got one that's labeled the ninth of September. Don't know if it's the same. I'll have a look.

Q. Okay. That may be the declaration from the X Corporation matter, but if you scroll to paragraph --

A. I've got -- well, it's got the same paragraph 63 as the one that I've got. Yeah.

Sorry.

Q. Okay. If you scroll up in that document to paragraph --

A. Yeah.

Q. -- 7?

A. 7.

Q. There, Justin mentions that he was working for BlueSpace, as you spoke to earlier; correct?

A. That's correct.

Q. He describes them as a software vendor; correct?

A. Let me read it. Sorry.

A software vendor with products; yeah.

Q. Did you ever work for BlueSpace yourself?

A. No.

Q. Did you ever work with anyone at BlueSpace besides Justin?

A. Only through Justin to his coder, Jon Fernyhough and others, but that was really through -- through Justin.

I didn't work -- I didn't work independently of Justin with anyone at BlueSpace; no.

Q. And who is Jon Fernyhough?

A. Well, I understand he's a coder with Justin's company. It's in the documentation. You'll have it.

Q. So in your opinion, Jon Fernyhough would have been involved with software at BlueSpace?

A. Well, he was; yes. But I -- I had no independent contact with him other than through -- with Justin. I mean, I didn't know him. I never met him. He lived in America, and I lived in England. But there were several people that Justin had involved with his company who made some comments which we reacted with, and Jon was one of them.

But I never worked for BlueSpace. I was never paid by BlueSpace. I wasn't paid anything for developing the patent. BlueSpace made a contribution to the charity we both ran, but I was not employed with them.

Q. Dr. Marston, in that same paragraph 7 of Exhibit 2030 --

A. Yeah.

Q. -- declaration, he states, BlueSpace intended to incorporate the inventions set forth in the mail relevance provisional patent application.

Do you see that?

A. Yes.

Q. Do you know if that happened?

A. I don't know.

Q. Okay. And to complete the sentence, he refers to incorporating it into the TransMail product.

Does that change your answer?

A. Well, the TransMail was the name of the company that he was -- or -- or the name of the product he was producing. BlueSpace was the company. The mail relevance provisional patent application -- I'm not quite sure what the question is. Are you saying, is that -- is that the same thing as TransMail, or...

Q. I just want to complete the sentence and ask the same question. So from the top, Justin stated that BlueSpace intended to incorporate the inventions set forth in the mail relevance provisional patent application, and then later into the TransMail product, and you see that; correct?

A. Well, if he said it, that must be what was happening; yeah.

Q. Okay. And do you know whether that incorporation happened?

A. No, I don't.

Q. Okay. Okay. Turning back to your declaration, Dr. Marston -- that's Exhibit 2031 -- if you go to the very first page, please?

A. Okay. So this is his declaration, so I need to go to that one. Is that mine? I think it is. Yes. The first -- what -- what do you want? Sorry. The first page?

Q. Yes, please. The very first page with the --

A. Yeah.

Q. -- titling on it.

A. Yes.

Q. Do you see where it says, X Corporation, and then later, case IPR2025-00299?

A. Oh, the very top. Yeah.

Q. You see that?

A. Yes, X Corporation, Petitioner. Yeah.

Q. Okay. And in the bottom right-hand corner, you see what looks like a stamp that says IPR2025-00430?

A. Yeah.

Q. And those IPR numbers are different; correct?

A. Different from what?

Q. Each other.

A. Sorry. Which two numbers?

Q. The 00299 and 00430 numbers?

A. Oh, yeah. Okay. Sure.

Q. I just want to verify, Dr. Marston, that although this states X Corporation, that this is your declaration for the Meta matter; correct?

A. Well, I -- I presume so. I'm not a lawyer. I

mean, I -- I just do what the law company asks me. They have not asked me to make a separate declaration for Meta from the X Corp., so I presume that the same declaration would apply. I didn't realize that it was specific to a -- you know, some other body. I thought it was just a declaration. But you'd have to ask Devan or somebody else what -- what the -- what the legal situation was. I'm not a lawyer.

Q. Okay. Dr. Marston, we've been going for about an hour. Would you like a break or would you like to continue on?

A. I don't mind. We can carry on. We've -- what -- we had an hour.

Q. Okay. I'm going to go ahead and place Exhibit 1001 in the chat. Believe this is -- this would be the third exhibit.

(Exhibit 3 marked for identification.)

THE WITNESS: This is the patent; is it?

Q. BY MR. KNOX: Yes.

A. Okay.

Q. And just please let me know --

A. I've opened it; yeah.

Q. -- see it.

A. Yes, I've got it open.

Q. Okay. In the top right-hand corner you see where

it states, US patent number 7,716,217 B2; correct?

A. Yes, I do.

Q. And in field 75, it lists the inventors; correct?

A. Sorry. Lists what? The --

Q. Inventors.

A. Marston et al; is that it?

Q. Yes --

A. Oh, that -- inventors. Yes, Justin and me; yeah.

Q. And it lists yourself and your son Justin as the inventors of the '217 patent; correct?

A. That's correct.

Q. And the assignee of this patent, just below that, is BlueSpace Software Corporation; correct?

A. Yes.

Q. So it's fair to say that you invented with Justin the '217 patent owned by BlueSpace Corporation; correct?

A. Yeah -- well, I guess so. If that's what "assignments" means; yeah.

Q. And "assignment," I'll represent to you, means at the time the patent was issued. Does that make sense?

A. Well, I mean, as far as I know, BlueSpace were the people that owned the patent when we -- when we made the invention. Is that what the question is? That was his company.

Q. Yes. Do you know who owns the patent today?

A. Not really. I think probably looking at the front of the document, something called Sterling, but I've no -- no idea who they are.

Q. Dr. Marston, are you a named inventor on any other patents?

A. No.

Q. Have you contributed work to any other patents?

A. No.

Q. In your work on the '217 patent, how did you make most of your contributions?

MR. PADMANABHAN: Objection. Rule 611. But you can answer if you understand it.

THE WITNESS: How did I make -- well, I -- I was mostly involved in the statistical algorithms, but I also -- at that time, I was aware of what the different terms were that we were using, and I also had views on that. I think on one of the documents, I suggested redoing a diagram differently.

I mean, I must be honest. It's 20 years ago -- 20-odd years ago, and I'm 79, and Americans will be aware -- aware that people who are 79 often don't have as good a memory as they used to have when they were 60. So I can't remember the -- the details, and I don't even remember what some of the concepts and terms mean now.

But at that time, I was -- for the months between,

about June 2005 until November 2005, I was kind of living and breathing the stuff that I was doing with Justin. So I did make comments and contributions on the development of the -- of the -- the concepts as well as the pure statistics. The two are, after all, interconnected. You can't entirely separate them.

So that was what I was doing for the -- for the patent during that time.

Q. BY MR. KNOX: Did you do this work in written communications or voice communications or both?

A. Well, probably -- probably both, but it's 20 years ago. I mean, we would have talked. We may well have had different things that we put in emails, but we don't have the emails anymore.

What we have as the kind of paper trail, if you like, is the various files which are saved and have now been given these EX numbers. So that was happening, and a -- a lot of them did contain comments from one to the other, often from me to Justin. Some of them contained comments that Justin made on them, but a lot of them are from me, either just to him or sent to him as responses to his coder, and the -- the questions that had been raised.

So obviously, the only thing we have records of are these saved files. We don't have emails and we don't have any conversations we had. It was mostly written, because

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with him living in Texas and me living in Lancashire, you know, we couldn't sort of get together in a room and look over a document on a table together. So it was mostly done through some kind of electronic communication, either email or through cross-sending of files.

Q. Do you recall whether you worked in pieces or --

A. In what?

Q. -- review -- in pieces? Or would you review whole files?

A. Well, both. Some of -- some of the things that we have saved are sections, and some of them are bigger files. So it was both, really.

Q. Looking back at the '217 patent itself, how would you generally describe it?

A. Well, I wouldn't generally describe it.

Q. What is the invention of the '217 patent?

A. The invention? The invention is a way of categorizing electronic communication, of mail and files, in a way which establishes through various means the likely relevance or importance of those files to the person using the system.

Q. What would be those various means?

A. Well, they were looking at past actions of the person. They were looking at cognate people, you know -- people that were similar to the person concerned and how

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they had reacted to files. Those are the two most obvious things.

So there was some impact intended from the people themselves, as I remember it, to say what was important and what wasn't. The actions that they took, the actions that people who were likely to be in a cluster or cognate group with them.

I can't remember what else we put in now, but those are the kind of things which would be relevant. There's quite a lot of -- it wasn't just a single thing. There were a number of different inputs that, at that time, we developed the idea of reading into. An overall kind of assessment of how important a particular piece of electronic file would be to somebody.

Q. And, Dr. Marston, you mentioned a cognate group. What is that?

A. Well, it -- it's somebody who is similar. So, I mean, this is a statistical concept that -- we have something called cluster sampling, which means that it's cheaper -- if you wanted a sample of, say, school pupils, it's cheaper to take a group in a class. The problem is that the people in that class -- not social class, but, you know, school class -- are more likely to be like each other than they are to people in a school down the road.

So clusters in statistics are a disadvantage, if

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you're trying to get completely random sample. But in the sense of deciding what's important, then if you have someone who has a similar kind of position or job or similar background to the person concerned, they're more likely to have similar interests.

So that's -- that's really what that means. It's one of the concepts which is in the documentation. I mean, I can't remember it too well now. It was a long time ago. But I've glanced through it and seen that those are the kind of things that we were looking at.

Q. Dr. Marston, I'm going to direct you to another section of the patent.

A. Okay.

Q. I'm just finding it.

Actually, to circle back, when you mention those clusters and those user actions, would those be statistically modelled?

A. Yeah. You -- yes, you would want to do that; yeah.

Q. And you mentioned a number of -- components, I think, might be the right term; is -- is that fair?

A. Yeah.

Q. Would more components make the algorithms or the formulas more complex?

A. Well, the more things that you have to consider,

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yeah. It -- it -- it does make it, in that sense, bigger or more complex.

I mean, I -- as I keep saying, I -- I can't remember the details of what we did, because it's a long time ago, and it hasn't been my kind of passionate interest in life. I can't even -- I mean, I wrote some 400-page books in the year 2000 published in America and England, and I read them now, and I know that I wrote it, and I can remember writing it, but I can't remember all the concepts.

I can't remember all of the -- I mean, I look at the bibliography, and I think, "Goodness. I must have read all those books." But if you ask me now to outline, you know, what was Emmanuel Kant's view of things in themselves, I would find it harder than I would have done in the year 2000.

And it's the same with this. I -- I can't remember the details of what we did. But clearly, the more factors that you want to put in to determining relevance, the more complex it's likely to be.

Q. Okay. Looking at columns 25 and 26, I think it lists many of those components.

A. Probably.

Q. Please just let me know when --

A. Where is column 25 and 26? What page?

Q. Of the PDF Exhibit 1001, it's roughly page 37.

A. 37. Some of those diagrams look familiar, but I can't remember them.

Sorry. You said 30 -- 37.

Q. Page -- yes, page 37, columns 25 and 26, labeled at the top of that page.

A. Uh-huh.

Q. If you start in column 25 at approximately line 37.

A. Page 37. Hang on.

Okay. I've got something highlighted in green for some reason. Is that --

Q. That should help. Yep, that should help direct, I think. And it -- in that section, it describes a relevance analysis engine.

A. Probably.

Q. Do you see that?

A. I'm looking at -- what section? Is that 25?

Q. Correct. Column 25, about halfway down the page.

A. Yeah.

Q. And line 37, it should discuss a relevance analysis engine.

A. I can see the bright green in the document. Is that what it is?

Q. Yeah --

A. Oh, relevance analysis engine. Yeah.

Q. And then, after that, do you see 11 numerically ordered -- what are called components, starting with Mail Data Component?

A. What am I looking at now? Sorry.

Q. Starting at line 40 --

A. Let's see.

Q. -- see 11 different components listed in order, starting with Mail Data Component?

A. Probably; yeah. I can see -- I can read it.

Q. Okay. And that includes an Individual Relevance Component, an Individual Importance Component, a Global --

A. Uh-huh.

Q. -- Importance, a Global Relevance? Do you see those?

A. I can read it.

Q. Okay. What are these different components doing?

A. I've no idea. I can't remember. It's 20 years ago.

Q. Would all 11 of these components be factored into a relevance formula?

A. I can't remember what we did. It's 20 years ago.

Q. Okay. Let's scroll down and revisit some of the formulas in the patent, if that's okay.

A. Sure.

Q. If you scroll down one page to column 28, starting

at line 50, it describes, search relevance may be calculated by, and then a formula following.

A. Probably.

Q. Do you see that?

A. Yeah.

Q. Do you recognize that formula?

A. I know I wrote it, but I don't know what it means now. I can't remember.

Q. Scrolling to the next page, column 29.

A. Yes.

Q. And then, lines 29 and forward, it states, relevance begins to decay, and then shows a formula.

Do you recall that one?

A. Well, I -- when you say, "Do you recall it," no, not really. But, I mean, I know -- I know what it's doing. It's a probability distribution. But -- I mean, obviously, at the time, I knew what it meant. But if you ask me now, no, I can't -- I can't tell you. Can't remember. But I recognize it as a -- as a -- it's a probability distribution; yeah.

Q. And what kind of probability distribution is this?

A. Well, it's a negative exponential one. But, I mean -- that doesn't tell you a lot, because, you know, how exactly I used that within the system, I can't remember. But, you know, I can -- even though I retired two years ago,

I can recognize what it -- what it is. It's a -- you know, it's the probability function.

But if you're asking me, could I now write this, the answer's probably no. Because, you know, I'm not as clever or sharp as I was 20 years ago, unfortunately. I wish I were. And I haven't really dealt with any of these for -- for some time, even. You know, it's two years since I was teaching, even. So I can't -- if you ask me, you know, can I reconstruct it, the answer's no.

But I'm presuming that, given the patent, that someone who was young and competent and was a practitioner in the interfaction -- interaction between statistics and computing -- that they could use the patent to apply it and to make it work to do what it says it wants to do, which is to look at relevance.

And the -- the idea of it decaying means that over time, you know, things can naturally get less relevant. But I can only do that from common sense, reading what it says. I don't remember the discussions I had with Justin at the time. It's too long ago.

Q. When you mentioned decay, Dr. Marston, that's a time-based metric; is -- is that correct?

A. Usually, but it -- it -- it can be time. It can also be due to other things changing it.

Q. Okay. Scrolling to another formula, please,

column 32. This should be on page 40.

A. Yeah, I've got it. Yeah, it's a green thing again --

Q. It states --

A. -- formula; yeah.

Q. It states, Individual Importance Component, and then is followed by a longer formula.

Did you see that one?

A. Uh-huh.

Q. It appears to me that there were several weights labeled by W and then a subscript 1, and at least 2, 3, and 4.

A. Yeah.

Q. Do you see those?

A. I can see the letters; yeah.

Q. Is that correct that those are weights in that formula?

A. The Ws?

Q. Yes.

A. Probably. I mean, I -- I can't remember what the nomenclature was now, but it seems logical. I don't know. I can't remember. I don't remember what W meant when I wrote it.

Q. Okay. And just on that same page, Dr. Marston, if you look down to that second formula at roughly line 60 --

A. Yeah.

Q. And right above that, it discusses the Gauss-Seidel algorithm, if I'm saying that correctly.

Do you see that?

A. Gauss-Seidel; yeah.

Q. I guess -- what is that algorithm?

A. Well, I can't remember now. I mean, it's -- it's so long ago since I did this stuff. It's 20 years. I just don't remember. I mean, I presume, if you want, you can go to a statistician who's currently working to look at it and tell you what it's about. But, you know, if you want me to explain all the statistics, then I'm afraid you've come 20 years too late.

Q. In this instance, it's a named algorithm, a Gauss-Seidel; correct?

A. It's a -- well, it -- obviously, it's a known algorithm; yeah.

Q. Would you have taken that known algorithm and changed it for this invention?

A. Well, when you say "changed it for this invention," obviously, you know, in -- in any mathematics, you use preestablished ways of doing things.

So, you know, if -- if I -- if I was just for some reason to use a geometric series, I'd use the formula for a geometric series. I wouldn't then try and look for the

person that wrote the original formula for geometric series to say -- does that mean Gauss and Seidel are co-inventors of the algorithm? I don't think that's the way that mathematics works. I mean, most developments in statistics use concepts and mathematical techniques which have been delivered -- which have been developed since the ancient Greeks.

So did I alter it? Well, probably. I mean, it -- it was made -- made in a specific context, which is why it's in this patent.

But I don't think that we were trying to patent the Gauss-Seidel algorithm. We're trying to patent -- or we were patenting a system which used that as one of the tools within the statistical analysis that we were developing.

Q. I see. So in your process of developing your formulas, you would start with known formulas and build from there; is that correct?

A. Well, I would use them when they were there. And if they weren't there, you invent them. That's -- that's how it -- that's how it works. I mean, obviously, nobody in the history of science, which I used to teach -- no one in the history of science redevelops everything from scratch. It's a frequently made error that people say, "Well, let's begin with a blank mind." That's impossible. You can't -- meaning an empty mind, because we already -- we already

carry ideas and formulae which are there.

So, I mean, if I use differential calculus in this process -- don't think I did, but if I did, I wouldn't feel that Newton had to be stated as a coinventor. You would just use differential calculus as it was developed, actually by -- it wasn't developed by Newton. It was Leibniz. But anyway, he -- he had the idea. He didn't patent it, and it was developed differently by -- you know, by a foreigner, which happens.

But, you know, you -- you use different algorithms and mathematical things which have been developed by mathematics, as I say, in the last 2,000 years.

Q. Looking over these formulas, Dr. Marston, what would you expect from a person who would be able to implement these?

A. Well, they'd have to be a mathematical statistician to be able to implement them; yeah. They'd have to be a practitioner in that area.

But they'd have to be one that was young enough to be able to work through it all and, you know, put it together.

Q. Would that be a mathematical statistician by education?

A. As against by what? By --

Q. For example, experience?

A. Well, no. You -- if you're going to be a

mathematical statistician, you do have to have education in, you know, ideas and formula that have been developed, you know, since statistics began, which was a long time ago. So --

Q. What --

A. -- you wouldn't -- you wouldn't -- it wouldn't be just somebody who got a job as a bricklayer and fancied doing a bit of numbers. I mean, I don't quite understand what you're asking. Obviously, for someone to be a practitioner, they have to be educated in whatever they're going to be a practitioner in, don't they?

Q. What -- what level of education would someone need to understand these algorithms?

A. Well, I would think they would have had -- they would have a university degree, probably; yeah.

Q. And that would be in statistics?

A. Probably mathematical statistics or something like that. I'd -- you know, what level of education -- I don't know. I mean, you do get people that are naturally incredibly clever, and at the age of 15 can manage, you know, advanced -- advanced physics, but -- yeah. I mean, you'd have to have somebody who had a knowledge of -- of mathematical formulae, if that's what you're asking.

I mean, obviously depends what one means by "practitioner," but it's the same with anything. If it was

something which was an invention in -- in -- I don't know -- in electronics, you'd have to have someone knew something about electronics to do it, wouldn't you? Couldn't just pull somebody off the street.

So I'm not quite sure what the -- the line of thinking is on this one. I mean, obviously, patents are designed, presumably, and registered so that people with expertise in the area could apply them without having to be over -- over furtherly creative or however it would be described legally.

I think, you know, somebody who does -- done their degree at, say, Cambridge or LSE or somewhere and done the statistics would be able to apply it, or some other university.

Q. Earlier, we had discussed implementing this in TransMail; correct?

A. Yeah.

Q. What additional education or experience would someone need to apply these statistics in a product like TransMail?

A. Well, one -- one assumes that if it was being applied by somebody, you would -- you would expect it to be a team of people doing it. There aren't very many people who are so omniscient that they can apply coding and statistics and everything else all in one here. You'd have to have -- have it -- have a very exceptional person to do

that.

But I think it -- it's -- it's if -- you know, if a -- if a group of people working together, as Justin and I worked together to develop it, but you -- you'd need people working who had different expertise, presumably, to -- to actually apply it and put it into practice. I mean, I presume that Meta has that, teams of people, and they don't have individuals who do everything on their own. So you would need a -- a group, I suppose, to -- to apply this.

I mean, I've never -- I've never really had to sit and consider it, to be honest, because I wasn't intending to set up a company and apply it. As far as we knew, it was going to be applied within BlueSpace and the TransMail system and anyone else that could take the patent up and apply it.

Q. And BlueSpace had its own coders; correct?

A. They had coders; yeah.

Q. All right, Dr. Marston. I'm just going to scroll down to the claims. Starting with claim 1. It appears on page 48. It's a -- starts at about line 25.

A. Yeah. It's all -- hang on. 48, 25. Yeah, I -- it's not highlighted, but go on.

Q. So do you see where it states, a first relevance measurement model -- module -- excuse me -- a second relevance measurement module, determining a second measure of relevance. In this section, as it starts --

A. Oh, yeah, I've got it. This is 47.

Q. Yes, column 47.

A. Yeah, I can read the writing.

Q. And at the very end, do you see where it says, a relevance analysis module configured to determine the relevance score of the piece of electronic content?

A. Yeah, I can read that.

Q. In this claim, do you see the formulas that we've previously discussed?

A. I read them when you showed them to me.

Q. Would there be ways besides the formulas to determine this relevance?

A. I've no idea.

Q. Would the type of content that is scored for relevance change the formulas?

A. Well, I can't answer that, because, you know, I've forgotten what we were doing. I'm presuming that if Justin had put this into the -- think because he wrote the actual patent -- that he must believe that they would work for it. If that's what the question is.

But if you're asking, did I independently study it and come to a decision on whether it would, then no, not -- not beyond the fact that I'd been in discussion with him for the last six months at the time that he wrote it.

Q. Okay. Dr. Marston, that brings us to a natural

transition. Would you like a break?
A. Yeah, I don't mind. We can do; yeah. Okay.
MR. KNOX: Okay.
THE VIDEOGRAPHER: Okay.
MR. KNOX: We can go off the record, please.
THE VIDEOGRAPHER: Going off record at 7:30 a.m.
(Recess taken from 7:30 a.m. to 7:40 a.m.)
THE VIDEOGRAPHER: Back on record at 7:40 a.m.
Q. BY MR. KNOX: All right. Dr. Marston, I just want to go back to your declaration, please. It's exhibit --
A. Declaration; yeah. I've got it still somewhere, I think. Hang on.
Q. And out of respect for your time, I'll try to be efficient as we go forward --
A. That's all right. I'm -- I'm retired, you know.
Q. Ha. So I'm going to go to paragraph 8, please.
A. Paragraph 8. Yeah.
Q. So there it states, in 2004 --
A. Correct.
Q. -- Justin Marston asked me to work with him on an innovative system of mathematical statistics to determine mail relevance and priority; is that right?
A. Correct.
Q. Do you recall when in 2004 Justin approached you?
A. I've tried to do that. I mean, I had a feeling

when he first asked me that it was in the spring, but the earliest documentation I have is in August, so it may well have been July. And my wife can't remember either. But it -- it wasn't a kind of significant signpost in my life, so didn't really make a note of it. But certainly, I had produced an initial draft of something by August 2004.
Q. Okay. And then, in paragraph 12, you noted, by September 2004, I had drafted a mathematical approach to deciding relevance and importance as reflected in Exhibits 2047 and 2049 --
A. Sorry --
Q. -- see that?
A. -- paragraph 12? Oh, yeah.
Yeah, I've got paragraph 12 up, anyway.
Q. Okay. So there it says, by September 2004.
So what did you mean by the word "by"?
A. Well, the first recorded document that I have, which is entitled -- it's EX2004 -- BlueSpace Mail Search. The date of original formulation is the 4th of August, and the final saving, the custodian's date, is the 2nd of September. So obviously, I must have started on it earlier. I must have started in August. I don't know how long it took me, but that version of it was saved in 2004, the 2nd of September.
I know actually that I had sent it to Tony, my friend

and colleague, by the 8th -- by the -- the 10th. I'm sorry. I have to think, because in America, you put the month and the year the wrong way round. But on the 10th of August, I sent it to my friend and colleague, Tony Morton-Jones. He didn't reply until -- or he didn't send it until he'd re-saved some comments a few days later on the 9th of September.
So those are the -- as it happens, the earliest records that we have. So "by," I mean that it must have been finished or its -- it was -- I had this initial draft -- well, just what it says. By September the 2nd. I don't know how much before that it was. It might have been, you know, three weeks, but by then, I had it, because that's the first recorded document.
Q. I see. So you feel you had a -- an operative model or operative formulas to determine the mail relevance and priority --
A. Yeah. Yeah --
Q. -- by --
A. -- sorry. Didn't mean to interrupt. Yes, the -- the initial model has the formula that was -- was contained in those documents.
Q. Okay. And, again, you had that by the -- you said the 10th of August?
MR. PADMANABHAN: Objection. Six -- rule --

THE WITNESS: Well, the ten -- sorry.
THE REPORTER: I didn't get the objection. I'm sorry.
MR. PADMANABHAN: Objection. Rule 611.
THE WITNESS: Okay. Very -- respond now? Sorry, Stenographer.
Yes, I -- the reason I say that is because the original date it's saved by Tony was on the 10th of August. So I obviously sent it to him fairly soon after I first wrote it. But he hadn't replied by the time I saved my copy on the 2nd of September. He did reply on the 9th of September. Well, by then, because that's when he saved the document again.
So he obviously must have downloaded it, saved it on the 10th of August, and then he wrote his comments on it and saved it again on the 9th of September and sent it back to me. So that would have been the order of events.
Q. BY MR. KNOX: Okay. I'd like to go ahead and upload Exhibit 2047 to the chat. Think this is our fourth.
THE WITNESS: Exhibit 2047. Oh, yeah, this is the -- yeah. Okay. Hang on.
(Exhibit 4 marked for identification.)
Q. BY MR. KNOX: So, Dr. Marston, if you would let me know, please, when you scroll to the very last page containing the metadata -- the metadata slip sheet?
A. Oh, come on. Open, you silly thing.

It decided not to open. It says, click to open, and -- oh, there it is. Yay. I've got it now. Yeah, I've got it up in front of me.

Q. So, Dr. Marston, are these the dirt -- the dates you were referring to, August 10th and September 9th of 2004, reflected on page 7 of the Exhibit 2047?

A. They should be, I hope. I -- I didn't use that. I used the originals. But -- yeah, that's correct. That's what I had.

Q. Okay. And the author of this document is Tony Morton-Jones; is that right?

A. Well, he's the -- he's the author in the sense that he first saved it and he finally saved it, if that's what you mean; yeah. But the formula -- I mean, I have talked about it with him. He's -- he's a personal friend. We go to the same church, and I saw him the last time -- the Sunday before last.

I asked him about it, and he'd want to make a declaration, but from what he told me, which I know is the same as what he told me, is that he remembers it. He found it on his laptop. He says he did not write any of the formulas, that they were my formulas; that he made some comments on them, which are in this particular one, EX2047, and that after that, we didn't have any further communication on the development of it.

So he didn't rewrite any of it, and he didn't send any back to me.

Q. Do you see on that same page where it states, TransmailRelevanceFormula1.doc?

A. Which page am I on? Sorry.

Q. Sorry. The last page 7 --

A. Oh --

Q. -- of Exhibit 2047, where it states, File Name. And states, TransMail --

A. Well, time -- time-dependent relevance? Is that -- is that the one?

Q. Yes.

A. Yeah.

Q. Would that be the first formula that you recall?

A. As far as I can remember, it would have been; yeah. It actually looks very similar to the one that you just showed me in -- or some of them in the -- in the patent. But yes, that -- that would be -- well, when you say "you recall" -- I mean -- ha -- I don't recall any of it. But I know that I wrote that, and I know that I wrote it by August 2004, if that's the question.

Q. Okay.

A. He didn't write it. I did.

Q. And, Dr. Marston, in that same exhibit, if you scroll up to the first page, page 1 --

A. Yeah.

Q. -- do you see the blue text?

A. I can; yeah.

Q. And then, scrolling to the bottom of the second page, do you see the strikethrough line?

A. Oh, there's a formula struck through somewhere. I saw it.

Yeah, he -- he actually made a suggestion. If you compare this, he was suggesting a different formula for the weighting of the linear algebra. Actually, if you look at the later versions of it, I didn't take up the suggestion. He did make the suggestion, but I didn't follow it. So he did blue the scoring through, and he did suggest an alternative weighting instead of one minus alpha minus beta, he suggested one minus beta times one minus alpha. But I didn't actually use that weighting.

Q. Is the blue text --

A. The blue text --

Q. Is the blue text from Tony?

A. I'm not sure. I can't remember. I know that he made that suggestion.

Q. Is it -- the black text --

A. I think it might have been his, but -- I mean, this was the very earliest, so I don't know which bit was mine and which bit was his at this distance.

Q. Do you know who wrote the black text?

A. The black text? Well, obviously, when he scored through, the one minus alpha minus beta and we had one minus beta times one minus alpha, he would have written that black text; yes. Most of the rest of it, he didn't, because it would have been there from my original.

So he was basically making some suggestions. As I guess you would, from an initial kind of impression of it. But the -- the -- I don't see any actual formula which he wrote which were later adopted into the model, if that's what you're asking. And he --

Q. I --

A. -- he would claim -- sorry. I didn't mean to interrupt.

He would claim that he made no such alterations, apart from this one suggestion which I didn't actually follow. He didn't know I hadn't followed it. I never told him. But he -- he -- he -- he has declined any claim to have written the statistics in it. But he did want to make a -- a declaration officially, because he doesn't trust lawyers.

Q. So to break this down a little bit, I see both black and blue text --

A. Yeah.

Q. -- and you see the same; correct? Okay.

A. I can see the blue text, and I don't know who did

that.

Q. Okay. Do you think this is an iteration of Tony's own work?

A. Sorry. I didn't hear that. Say again?

Q. Do you think --

A. Is it --

Q. -- this is an iteration of Tony's own work?

MR. PADMANABHAN: Objection. Rule 611.

THE WITNESS: The blue? I can't remember.

Q. BY MR. KNOX: Earlier, you had mentioned that the first struck out formula was blue, and the second formula was black; correct?

MR. PADMANABHAN: Objection. Rule --

THE WITNESS: The second struck out was blue, and the second formula was black; yes.

THE REPORTER: I didn't get the objection.

MR. PADMANABHAN: It's objection. 611.

THE REPORTER: Thank you.

THE WITNESS: Sorry. Yeah, I've already said the suggestion is changing the weighting of the linear algebra, which I didn't actually do.

Q. BY MR. KNOX: So sitting here today, you can't --

A. So I can't -- sorry.

Q. So you don't recall who wrote which color text?

A. I can't recall it; no.

Q. Okay. Do you see on the last page 6 -- excuse me -- do you see on page 6 at the top of the page starting with numeral 3, where it describes the basic Gauss-Seidel algorithm?

A. Sorry. Where is this?

Q. This is the top of page 6, following numeral 3.

A. Top of page 6.

What's the question?

Q. Do you see on the top of page 6 where it describes, after numeral 3, the model for importance is reminiscent of that used for the PageRank system by Google, but is not exactly the same, and the same iterative procedure, which will -- and there it's a typographical error -- employ the basic Gauss-Seidel algorithm is employed however?

A. I can read it; yeah.

Q. Okay. So you see that part?

A. Yeah, I can see it; yeah.

Q. Is this the same Gauss-Seidel algorithm as we discussed in the patent earlier?

A. Yeah, it looks like it; yeah.

Q. Scrolling back up, Dr. Marston, to page 3, do you see the three boxes, A, B, C there?

A. I can see them; yeah.

Q. Where it describes, user A has sent a TransMail to B who has sent a TransMail to C?

What is this example --

A. -- TransMail again? Sorry.

THE REPORTER: I'm not sure I got that whole thing.

MR. KNOX: I'll start from the top, if helpful.

Q. BY MR. KNOX: What is this example describing?

A. I'd have to read it. I mean, I can't remember, you know. It's 20 years ago. Example to -- TransMail to -- yeah.

You see, I -- I mean, one thing I would say is it looks as though I must have written it, because I doubt very much that Tony would have used the term "TransMail." I mean, I knew that it was the term that Justin was using for his company, but -- so what's the question? Who wrote the formula? Is that it? Or what's the question?

Q. My question is whether you wrote that example.

A. As against who writing it?

Q. Tony.

A. I think that's highly unlikely. It's more likely to be me.

It might have been Justin. I mean, obviously some of this stuff came from Justin, so -- I mean, some of it would have been his, but not the -- not nece -- not necessarily -- well, I mean, it wouldn't have been the formula, but the -- the rest of it could have been from Justin. That particular

diagram could well have been.

It would be nice if we had earlier -- earlier documents which he or I had saved, but unfortunately, we don't have, so all I know is that I did write formulae and that Tony has looked at them and confirmed to me, which I already believe, that apart from his suggestion that he made, which I didn't take up, he didn't write any of the formulae.

I mean, whether we had a discussion over coffee, I can't remember. If that counts as being part inventor, but, you know -- anyway, that's -- I -- I don't remember any -- anything happening, and as I say, he said that as far as he was concerned, he didn't write any of it.

Of course, it went on -- some of those formulae stayed the same throughout the process, and then quite a lot of them were extended a lot between the 2004 thing and the -- the kind of much later version that -- that I had by later that year, because I did quite a lot between the August and the September, as the various EX files will show. And it was quite significantly expanded between August and September in that year 2004, and it would have been just me that was doing that, because Tony wasn't involved.

Q. So, Dr. Marston, looking at page 4, there are two more examples. Do you see those?

A. Yeah, I can see some examples; yeah.

Q. So sitting here today, you don't recall who wrote these formulas or examples?

MR. PADMANABHAN: Objection. Rule 611.

THE WITNESS: Do I recall who wrote them. Trying to look at the formulas.

I can't recall; no. I don't know. I mean, I -- I -- I do think that later, the third one was not the one that was adopted. So they may have been written by Tony, but he's got the -- he's got the different weighting there, so they may have been his, but they're not actually the ones that were finally used.

It's a bit sad, really, because he's a -- he's a good friend. I'd like to say that I used his suggestions, but I didn't.

Q. BY MR. KNOX: Okay. I'd like to enter another exhibit, 2004, into the chat.

A. What exhibit? Sorry.

Q. This will be 2004.

A. Oh, that's the earlier one. Yeah, okay.

(Exhibit 5 marked for identification.)

Q. BY MR. KNOX: If you'd please let me know --

A. Yeah --

Q. -- scroll to the last page, also with the metadata, please.

A. Yeah. I mean, all of this descriptive stuff is

Justin's.

Q. On the very last page, Dr. Marston, do you see where it states that the author is a period?

A. Yeah, I do.

Q. Do you recall who authored this document?

A. No, I don't. But I think it was -- I don't know, and I don't know why sometimes the documents seem to have nothing for the author, and other times, they've actually got Justin's full name.

But most of the time where there's an author, dot, it's Justin who's the author. So as I say, I don't know why his full name is included as custodian and nothing as the author, but, I mean, obviously, looking at this, the -- the algorithms come from me, the brain dump, so-called. But all of the descriptive stuff is from Justin.

So he will have sent this to me, and I would have saved it, and we might have sent it to Tony. I can't remember. But certainly, that was -- the -- the -- the bulk of the document is Justin, and the algorithms is my stuff that's been tagged on to the end of it.

Q. Okay. Dr. Marston --

A. But -- sorry. I was just going to say, if you look at the weighting, it's actually my weighting, not Tony's, that's in the linear algebra.

Sorry. Carry on.

Q. Looking at that last page, this was created on August 4th, 2004, I think as you mentioned earlier; correct?

A. Yeah.

Q. Okay. So this Exhibit 2004 metadata showed this document occurred before the one we just looked at with --

A. Yes, it does.

Q. -- Exhibit 2000? Okay. Thank you. I'd like to --

A. But obviously the -- sorry. I was just saying, obviously, the formulae are my formulae, and I must have -- you see this -- the -- this -- EX2004 is absolutely, definitely not the first time that -- that there were any documents. I must have already had it but for some reason didn't save it, or maybe I saved it on my computer and not on the separate hard drive, because the -- the formulae which I showed to Tony are the ones which are included in this document which Justin has already added on to his initial drafting of the descriptions and diagrams.

Q. So it's your opinion that there were documents preceding Exhibit 2004?

A. Oh, yes. But it's opinion. I can't prove it, because I haven't got them.

Q. Okay. Can you break down some of what you stated just a moment ago -- if we could scroll back to page 28 of Exhibit 2004? It says, Section 8, algorithms.

Do you see that?

A. Page 28. Yes.

Q. So there, the first section, 8.1, states, Brain Dump.

A. Yeah.

Q. Did you write that?

A. Well, I didn't use the term "brain dump." And I didn't write those first three lines. Justin did. And I didn't write the other -- other links. So I suspect that the -- the actual wording there is Justin's, and then he's added in 8.2, which is -- he says, this initial maths has been drafted with a mathematician, but is in need of significant changes. It's included here for completion in this current draft.

So that's what -- that's what he says there. And then, you know, you've got the things which include my formulae, and we've already looked at some of those. And they are my formulae. They're not Tony Morton-Jones's formulae. So yeah, that's -- that's how that document comes together.

So this is obviously one that we had before I communicated with Tony.

Q. And, Dr. Marston, are you the mathematician described in the title of Section 8.2?

A. I am, because there were no others involved.

Q. And back to Section 8.1, it states, about the fourth line down, quote, "need an expert in this area," quote?

Were you that expert?

A. Sorry. Let me read it.

I think the expert in the area must be to do with this scu.e -- edu.au. I don't know what that is. I can't think it means the statistics, because he -- he's -- that -- that was me. I'd have to click on http://ausweb.scu.edu et cetera, which is obviously an academic paper, which is about comparing it with other systems, so that's what I think he needs the expert in. And I wasn't -- I wasn't an expert in the other systems.

Q. Do you ever recall looking at Google's PageRank technology --

A. No.

Q. -- in formulating your formulas?

A. No, I didn't use Google.

Q. Anything else you'd like to add on this document?

A. Well, not really. I mean, I think, as I say, that he's -- he's just worked in my -- my initial formulations. And he said in that -- he said, this is in need of significant changes. So I made those significant changes between that and the -- you know, the later documents which I had, which contained the -- the fourth thing, which comes

in September.

So by the time we get to -- I don't know -- 2061 or something like that, you know, I've -- I've got the -- I've -- I've made the significant changes that he asked for. And that was in September 2 -- sorry. Let's try again. It was -- what number was it? Paul's formula, Section 17. It's EX2049. The 18th of September. Contains the significant changes from that first draft.

Q. Okay. I think -- Dr. Marston, go back to page 29 of Exhibit 2004.

A. 29. 27, 28, 29. Yep.

Q. If you scroll from that point downward, it looks to cover four pages; is that right?

A. Probably; yeah.

Q. Are these four pages your work?

A. Yes.

Q. Okay. I'd like to go to Exhibit 2006, please. Think --

A. Okay. Another document.

Q. -- Exhibit 5.

A. 2006?

Q. Yes, please.

(Exhibit 6 marked for identification.)

Q. BY MR. KNOX: If you could scroll to the last metadata slip sheet of Exhibit 2006, please.

A. I'm trying to open it. It's not liking it. I don't know why it's not opening it. It's being obstinate. That's 2004 still.

Oh, it's open now. Yeah, the metadata at the end; yeah. It's Justin; yes. He's the author and the -- the custodian. For some reason which I don't understand, he's developed, in the meantime, between the August and -- 2004 and this document, which is, as it says in the metadata, it's -- it's later. It's in June next year -- he's developed a lot of the descriptive and diagrammatic things, but he has not -- he's obviously developed them starting with my original statistics.

The statistics in this document are similar to the ones I did in 2004. He hasn't supplement -- he hasn't inserted instead the development which I had made and had sent to him and he'd -- he'd read it, which is in 2049, which is Paul's formula, September the 17th. That obviously was his authorship, so it was because I'd sent him the previous document, and he'd saved it.

And so he'd seen that I had made the significant changes he wanted, but he hadn't updated this particular file, so the -- the section which is headed -- whatever it's headed -- sort of Brain Dump or something -- that's still his -- more or less his original thing from 2004. And he hasn't put in the initial that -- he hasn't changed initial

maths -- maths to my later development.

He was, of course, well aware of it, as you can see from the fact that he saved one of the documents himself with the contents in it, but at the time -- I mean, we didn't know that 20 years later, someone was going to cross-examine us to try and determine the exact time link and time sort of scale of -- of what went on, the timeline. And, unfortunately, he didn't save a combined thing.

You will find that the later ones, which we have -- he has, inserted, of course, my later mathematics into it. So combined documents after that time do contain both.

But at the time, it probably didn't seem very important. He was doing it to complete and to save the descriptive and diagrammatic developments which he'd spent the previous several months doing -- quite some months, actually. Nine months. And so he didn't save it.

But we -- we can say that both of the elements, more or less the sort of final statistical algorithms and the descriptive and diagrammatic algorithms, were in place by the date of what's now called 2006, which is June 2005, mine having been done the previous September and his having been developed up to the point where he saved these -- this file much later on.

Q. So, Dr. Marston, to break that down a little bit, what changed between the September 2004 and June time --

June 2005 time frame?

A. In what? In the descriptive part or in the -- the statistics?

Q. In the statistical part.

A. Well, no -- not a lot changed, because I hadn't been working -- he'd been working on the diagrammatic and descriptive parts, and it was really from that time in about May 2005 that we then have the continual interchange of discussions, both on the definition of terms and on any statistical refinements which are needed to refine the concept, which was clearly in place by June 2005 -- to refine that to the point where the patent was eventually applied for, as you know, in January 2006.

So our interchange between September 2004, 20 -- May 2005 was not great. But I did -- I did kind of re-save -- or it was re-saved, I think, by Justin -- in -- in -- about in May 2005. So that was when, you know, it -- it was restarted, the work on -- well, both, really.

We did -- I did at the time understand -- I did at the time understand the various concepts and terms that we used. I can't remember them now, but at the time, I was living and breathing them for a -- about five or six months. Five months, really, between June and -- and November. And interchanging with Justin on them all the time.

Q. So looking at Exhibit 2006, the metadata, the

author there is also not listed on this page.

Who do you think that author is?

A. It was Justin. I don't know why it's labeled differently for custodian, but most of them -- I don't know if he was using a different computer. He might well, but you'd have to ask him. But -- and I haven't asked him.

But a lot of time, when it's blank or it says add an author, it was Justin. It was no one else but him and me, except on the few occasions when, for example, it was Jon Fernyhough or one of the other people. It was his contact who saved it in their name. But there were no other authors.

So the statistics part was my original work, which he hadn't, unfortunately, replaced, and the developments of the concepts and the descriptions and the diagrams would have been done by Justin, so that -- I don't -- can't believe anyone else could have been the author but him. There was nobody else involved.

Q. Would others have had access to this document?

A. Well, not unless he gave it to them. I certainly didn't give anybody access. The only people that I know that had access were people that he would have shown it to, so you would have to ask him if he showed it to anybody at this time.

He obviously did show it to a couple of people that

worked for him. Rick Turner and Jon Fernyhough. These were people that worked for him. And that was in connection with moving towards the coding of the -- of the idea, the concept. The coding of the concept -- as part of his TransMail development.

I don't know of anyone else. I think in one of his documents he does say he was thinking of showing it to some -- some other people, but he didn't actually get any responses, so as far as I know, there were no other inputs, and it wasn't a publicly available document. It was only available to people to whom he showed it, and I didn't show it to anybody, because there was no reason for me to.

Q. Looking back at page 52, where it states, algorithms, this Section 9 appears to me to be five pages; is that correct?

A. It is; yes.

Q. And then it ends --

A. -- if you say so.

Q. -- and then it ends at page 57 --

A. Yeah.

Q. -- conclusion?

A. Yeah.

Q. This document doesn't appear to have a -- a computer implementation section, does it?

A. It doesn't have a what? Sorry. I couldn't hear

you.

Q. It doesn't appear to have a computer implementation section; is that correct?

A. Implementation section? Well, this is the -- I just told you, the -- this -- what he's done is he's taken the original file that I -- I -- I did in early 2004, and he's sent that in to the back of the development he's done on the other stuff. I don't know why he didn't put the later version of it, which he had from me, into this document. I don't know what he did with this document.

It wasn't in my files. I didn't have it. He had it in his. He didn't have very many. Sorry I'm speaking too fast. He did not have very many files at all. This is one that he did have. And what purpose it was for, I don't know. I don't know if it was sent to anybody else or whether it was just for his reference. I don't know -- or whether it was to show to one of his team in his company. I don't know.

But --

Q. Okay.

A. -- I think what -- what is -- there is no point in looking at the statistics section in EX2006, because I had already superseded it in both of mine with what was, you know, written later in, you know, Paul's -- Paul's formula, which is EX2049, for example, which was saved in the 20th of

September 2004.

So really, if you're looking at where the project was at at this time, you would have to look at 2049 and not at the outdated section in this particular document.

Q. Dr. Marston, you feel that your superseding formulas were in Exhibit 2049; is that correct?

A. I don't know why. You seem to have gone fainter. Are you --

Q. I'll repeat the question.

A. Yeah.

Q. You feel that your superseding formulas were in Exhibit 2049; is that right?

A. Those were the ones which are extant by the time that -- that 2006 was saved. But they weren't included in the 2006 document. I don't know why. You'd have to ask Justin.

But he probably just didn't think of it at the time. Because as far as I can see, the 2006 document -- it wasn't for public display, and it wasn't to use immediately as the basis for the patent. He just kept it for its own reference.

But the -- the stated play at that time would have been the combination of his diagrams and descriptions, which are quite lengthy and complicated, and the revised versions, which I'd done by September 2004.

Q. So, Dr. Marston, I'm going to drop another exhibit, and it's the one you mentioned, Exhibit 2049, into the chat. If you could open that, please.

A. Yeah. Okay.

(Exhibit 7 marked for identification.)

THE WITNESS: I'm just going to move some of these mics and speakers around a bit, because I'm not hearing you very well. I'll try that.

Right. This is another one. Okay.

Q. BY MR. KNOX: If you'd go to the last page, please.

A. Yeah. I will when I get there.

If it's come up there. No. It seems -- it seems very temperamental, this thing.

Oh, I've got it now. Yeah, okay.

Q. Do you see where it states, author, period, and last saved by Marston?

A. Yeah.

Q. Is Marston in the "last saved by" row referring to you?

A. No, it will be Justin.

Q. Are the formulas in this document yours?

A. Yes.

Q. And you said that these were the more, if I may, fulsome formulas?

A. Yes -- yes, that's a good description. Yeah.

Q. And these were not adopted in Exhibit 2006 that we just spoke about?

A. They weren't, and I don't know why. You'd have to ask Justin.

Q. Okay. Looking --

A. -- probably just didn't think of it. I mean, you know, it's easy -- as I say, he wasn't thinking that 20 years later, somebody will be wanting an exact timeline. So he may have just taken the original 2004 document with my early efforts and -- and he was working on that, and -- and just re-saved it with those in, rather, substituting the later ones. That's my guess, but it's just trying to make sense of the -- of the -- the dates of the different documents.

Q. Okay. Well, looking at page 2, please, you'll see a long formula in the middle of the page.

A. Probably. Page 2. Yeah, that's a nice long formula.

Q. And it states the summary of the working formula for the relevance of a given TransMail, and then that formula follows?

A. Uh-huh.

Q. I think I see three weights, or at least W terms. Do you see the same --

A. Probably.

Q. And then, if you scroll down to page 5?

A. Uh-huh.

Q. There's a multi-row formula there.

A. Yep. That's correct --

Q. And --

A. -- as well.

Q. It looks to my eye like there are five weights in that formula?

A. Yeah, looks like five to me as well.

Q. And then, finally, page 7. There appear to be six weights in the formula on page 7; is that right?

A. Looks like that.

Q. So I'll drop another exhibit into the chat. This is Exhibit 2007. I think this is our sixth exhibit today.

(Exhibit 8 marked for identification.)

THE WITNESS: I don't think I've got 2007 -- oh. 2007.

I'll go back and try again. Oh, something's opened now. Yeah, 2007, I think. Yes, it's open.

Q. BY MR. KNOX: Thank you. If you could go to page 57, please.

A. Okay. 57.

Yeah, that's two nice big formulae.

Q. It appears this formula also has three weights and

may resemble the first one we saw in Exhibit 2049.
Do you agree?
A. It certainly looks like a big formula like the other one was.
Q. Does that look like the same formula we just saw or a different --
A. Oh, I can't -- I couldn't tell you that without working through it in detail. That was on -- what -- that's on the 16/8. So that would be the 16th of July -- no, 16th of August 2005.
I don't know without working through it whether that's the same formula.
Q. If we go to page 60?
A. 60.
Q. And I see a five-weight multi-row formula there --
A. Uh-huh.
Q. -- do you see that?
Does that at least look similar to the second one we just saw?
A. I don't know.
Q. Okay.
A. I'd have to look at it in detail. I'm not sure I've got the ability anymore now.
Q. And --
A. If you'd asked me 20 years ago, I'd have been

happy to tell you.
Q. And page 62, it has a formula with six weights in it.
A. Yeah, I can see that.
Q. Does that look similar to the one that we saw with six weights in Exhibit 2049?
A. I -- I don't know whether it's identical without working through them.
Q. Looking at page 65, do you see where it says, Section 10, Software Implementation?
A. I can read that.
Q. What does this section appear to be describing?
A. Well, I don't know without reading it. I don't think this particular one was in my -- my declaration, was it? So... Reasonably comprehensible, mathematics -- complex. To aid explanation, the software implementation can be discussed in the following steps...
Well, obviously, what it's doing is it's generalizing it and trying to explain what the concepts are for anybody who was a practitioner of reasonable skill to be able to apply it within their own context. I guess that's what it's doing. But I didn't write it. You know, Justin did, so you'd really have to ask him exactly what it was trying to do.
Q. Going to drop one more exhibit in the chat.

A. Well, gosh. Okay.
Q. This is Exhibit 1003.
(Exhibit 9 marked for identification.)
Q. BY MR. KNOX: And this is from the X Corporation matter. Should be titled Provisional.
A. I'm still trying to open this. I'll just see if it's come up. Don't know why. It seems very obstinate in getting it to come up. Oh, open file. Excuse me.
Oh, yes. Very nice. Yes. 2024. Filing date, January the 13th, 2006. Yeah.
Q. And, Dr. Marston, do you see where you reference Exhibit 1003 in your declaration at paragraph 32?
A. Which one is this one? This is...
In my declaration, on page --
Q. It would be page 12, paragraph 32.
A. In my declaration?
Q. Yes.
A. Sorry. The -- the declaration -- I've only got one declaration, and paragraph 32 doesn't have anything about that in it.
Q. I'm sorry. Scratch that. Paragraph 13.
A. 13.
Yeah --
Q. So looking at Exhibit 1003, generally, what is this document describing?

A. Well, I don't know. I've never read it. Why would I know?
Q. Do you recognize this document?
A. This is... Sorry. What -- what one are we looking at? This is 1003?
Q. Correct.
A. Yeah. BlueSpace mail relevance, yeah, January 13th, 2006; yeah. What about it? Is that the patent application?
Q. So this is what is referred to as a provisional application --
A. Oh, right. Okay. It's the provisional application. Right.
Q. Did you help write this document?
A. No.
Q. If you scroll down to page 59, please?
A. Uh-huh.
Q. And it states, Algorithm Overview.
Do you see that?
A. Yeah, I can see that; yeah.
Q. What changed between this section and the sections describing algor -- algorithms that we previously discussed?
A. You've got to be joking if you really want me to know that by just glancing at it now. I mean, I don't have a copy of this, and it's 20 years at least since Justin

would have mentioned or shown it to me that he was doing it, so I wouldn't know the answer to that. But if you get a statistician, they'll probably tell you.

Q. I --

A. -- have to look through it, you know.

Q. At a high level, let's start at page 64.

Do you recognize any significant changes from your prior documents?

A. I don't recognize them or not recognize them. I don't know.

I'd have to check through it in great detail. That would take me quite a long time. I'm not sure whether I should be doing it or not. I'd have to ask the lawyers whether it's necessary for me to do it. But I don't know by just glancing at them.

Q. Do you see page 69, where it describes an Individual Importance Component?

A. I can scroll down to 69 and read it; yes. Yes, it's a nice little formula there as well.

Q. So I see that as a formula with weights. Appears to be four weights.

Do you see that?

A. Well, it -- on page 69?

Q. Yes.

A. You see it as a formula with weights? Yeah; okay.

Q. And what is this formula about?

A. Well, I can't remember.

I mean, obviously, it's about the Individual Importance Component, because that's what it says it is. If you're asking me how it works and what exactly are all the elements in it, I don't remember.

Q. Do you recall the difference between relevance and importance?

A. I can't recall it off the top of my head, but I probably knew it 20 years ago.

Q. Did you work on importance factors?

A. Quite probably. But I don't remember.

I -- you're asking for me to remember interchanges and conversations I had 20 years ago, and, you know, as I've said before, I am now 79, and Americans know what happens to people when they get 79 in terms of memory, and in terms of, you know, being able to work through complicated things. And I -- I -- I just don't remember the details of this now, because it's so long ago.

Not just being evasive. It's just a fact of life when you get to my age. If I could reverse the aging process, I'd be very glad to, but I can't, so I can't -- I just can't tell you what differences there were between this and that and how many weights there were. As I say, 20 years ago, I would have been able to answer you the questions. But I

can't now.

Q. That -- that's fine, Dr. Marston.

If you go to page 70 -- excuse me. Internal page 70, stamped page 73. Or it'll be 73 of the PDF document.

A. 73. Yeah.

Q. And there's a graphic there --

A. Oh, yeah. Yeah.

Q. Do you -- do you recognize this chart?

A. Well, I don't really recognize it, but when I was going through the things earlier, I know that on one chart a bit like this, I did make some comments, and I can't remember which one it was, but it's one of these endless EX files. And I actually said, "I don't think this is quite right. You need to change this to do this."

So at the time, I must have understood these diagrams perfectly well. But I can't now remember what they're doing, other than it's obviously saying it's local importance, because it's got it in the heading up there, and it's got local relevance at the bottom.

But what the difference is between the two, I can't remember. It seems to be using both importance and relevance in that diagram. But what exactly the connection and difference is -- as I say, I obviously understood all these diagrams at the time, because I know at least one of the documents I've made an extensive comment on. I said, "I

think you need to alter this in such a way." But I wouldn't be able to do that now.

Q. Okay. Going back to page 64, where it starts, Section 10, about the mathematical algorithm framework. I see that this section is approximately 19 pages.

Does that sound right?

A. Well, if you say so.

Q. So I'm trying to understand at a high level what you think changed from Exhibit 2007 that we looked at and the filing of this provisional application.

A. I'm sorry. I -- I just can't remember.

Q. Do you recall working on any of those changes?

A. Well, I recall working extensively with Justin, but what exactly I was changing, I can't remember 20 years ago; no. I can't remember.

I know that I -- I mean, the only thing I know is what I can surmise from reading the various documents which passed between us during that whole period between -- well, particularly between June 2005 and the final patent application in January 2006. We were in quite a lot of communication during that period, as the documentation shows.

But I can't remember the details of it. It was too long ago.

Q. Okay. And you don't have emails from this period;

correct?

A. Unfortunately, no -- sorry. Didn't mean to interrupt, for the person desperately trying to write down what I'm saying.

I don't have emails. The University of Central Lancashire email system -- when -- the day that you retire, everything is wiped. It keeps nothing. And my AOL account, which I was using for private emails at the time, only goes back to 2008.

So I don't have any emails which -- obviously, Justin and I would have been emailing each other. I don't know if he has any. I don't think so. But I haven't got any copies of anything earlier than 2008. I've couple that I made to him then, but that's not much help if it's years later.

Q. Okay.

A. That's the two emails I used, the university one and AOL at the time.

Q. And that's fine.

Looking at page 83, please, at the section that states, 11, Software Implementation -- do you see that?

A. I will do when I get down there. 83. 85, 80 -- 83. Yes, A Phased Approach, it says.

Q. And this section appears to be discussing the implementation of the statistics in the preceding question -- or -- excuse me. In the preceding section, 10;

is that fair?

A. Well, it's discussing a phased approach, because that's what it says what it's doing, and it is talking about a phased approach to installing statistics; yeah. So I guess that's what -- I didn't write this section. Justin did. But -- or at least he -- he might have had help from some software engineers. I don't know. But I didn't write it.

Q. Okay. Dr. Marston, we've been going for about another hour. Would you like another five or ten-minute break?

A. I don't mind. We can carry on if you want.

Q. Okay.

A. It's -- what is it -- 2:25. Yeah. Okay.

Q. We can go a little bit longer, take a break later if you like, or we can --

A. No, it's -- I can carry on. I won't improve with age, you know. Ha ha.

Q. Okay. I'm going to drop another exhibit in the chat. It's Exhibit 2056.

(Exhibit 10 marked for identification.)

THE WITNESS: Formula. Yeah. Okay.

Q. BY MR. KNOX: If you scroll to the end, you see this was last saved by Jon Fernyhough; correct?

A. It is; yeah. I can't open it -- I've got it,

anyway.

Q. Oh, okay. Please let me know when you're there.

A. So for some reason, it sometimes opens and sometimes doesn't. I don't know why. Try again.

Well, I've got 2056, anyway, if you want. But you want to show me specific things, don't you? Oh, hang on. No, it's not going.

Don't know where it's saving it. It's...

Let's see if it's open now.

Sorry. I don't know why my computer's being -- it probably doesn't like having all these files open.

Q. If it's easier, I think we can close files besides Exhibit 2031, your declaration. That might free up some bandwidth.

A. I don't know if it's being awkward or -- I'll try again. I mean, it -- the computer's fairly new, but -- yeah, let's see. Patent one. Sorry about this, but. This is the one with Jon Fernyhough. I know what it is. Oh, it's open now. It might have just been awkward, because it's -- yeah, I've got it open. Sure.

Q. So looking at the last page, you see where it lists Jon Fernyhough as the author; correct?

A. Yeah, he's the -- the author; yes.

Q. And this appears to be dated in every instance August 17th, 2005; is that right?

A. It is; yeah.

Q. Do you recall who authored the black text?

A. Well, it's got my formulae in it, so it would have been me. Jon --

Q. Who --

A. -- was not a statistician, so he wouldn't have written formulae.

Q. Would the blue text be from Jon Fernyhough?

A. I think it is; yes. Yes, I think -- yeah, I'm pretty sure blue text is his. And he's -- he's the author. I don't know why -- I mean, I'm the custodian. He must have sent it to me, and I saved it, so it listed me as a custodian. But the blue text would be his.

Q. This document is only two pages. Do you see that?

A. Correct.

Q. It appears to be a subset of the larger work -- work product; is that right?

A. Sounds -- yes, I think so; yes.

Q. Would you typically carve out a piece of your work to send to Jon Fernyhough?

A. I doubt it. I mean, Justin might have sent it to him. I don't know.

I doubt I would have take -- carved it out and sent it; no. But I don't know. He may have carved it out of another document and stuck it in a separate one and saved

it, because he's the last saved -- is the author -- well, he's the author as well. I suspect that he's copied it from a larger version of the document Justin's given him. He's copied bits out to put some comments on it.

Q. Looking at page 1, it states in the blue text, about halfway down, "Although I'm not sure, I think a small number of inconsistencies have appeared in the formula and attempted to rewrite what I think it should be."

Do you see that?

A. I have seen that.

Q. Do you know what Jon Fernyhough's describing there?

A. No. I know that there is a second -- well, in fact, there's three from Jon Fernyhough. That is 2057 and 2 -- 2058. 2058 has been saved by me with comments.

I think sometimes he didn't fully understand what the formulae were doing. But in this particular instance -- I mean, I can't remember what points he was making or whether we did anything. And he says he's not sure. He thinks there's some inconsistencies. He's attempted to rewrite what he thinks it should be.

Whether there were, I don't know. It's possible, because obviously, we were -- we were working through the whole document and the formulae to refine them in such a way that they could be applied in practice by a reasonable

practitioner that could understand the -- the formulae and how to quantify them --

Q. So --

A. -- yeah, go on --

Q. Oh -- sorry. Didn't mean to cut you off. When you say "practitioner," do you mean a -- like, a coder, like Jon Fernyhough, applying your formulas?

A. Well, I don't know what kind of practitioner you'd want to apply these formulae. I guess it'd have to be somebody who understood some statistics, otherwise they wouldn't be able to code them. But not necessarily a statistician, but somebody who could at least understand what the formulae were doing to put them into coding.

But all of that stuff was really handled between Justin and Jon Fernyhough. I didn't know the man. I never met him. But this was a comment that was forwarded to me. But what I did with it, I can't remember.

I know there were -- there were a couple of other files which he would also have, which are labeled as 2057, 2058, which come from him, and quite a lot of description is going on there, and then we've got also 2065, 2066, 2067, 2068, 2069, which have all got the labels JFPM, and a lot of those are Jon's comments and my responses and counter-comments.

But all of this was being done through Justin. I

mean, I didn't have an independent relationship with Jon Fernyhough. It was being done through Justin, who sometimes put his own comments in as we -- as we were exchanging these various files.

Q. Dr. Marston, I think you mentioned the files with label -- label JFPM --

A. Yep.

Q. -- what those refer to?

A. Sorry. What did you say? You want to -- look it up?

Q. Just those initials, JFPM, on those documents you mentioned --

A. Well, it must be me. There's no other JFs and PMs, so it must be Jon Fernyhough and Paul Marston -- they're more or less the same -- sorry. I meant to say, I don't have JFPM1. I think there is one, but I haven't got it. I've got 2, 3, 4, 5, and 6, and 6 is -- JFPM6 is the last one with the most extensive of my counter-comments or whatever you want to call it, my responses --

Q. So those are iterations of the same document?

A. Pretty well -- it's the same document, and I have compared them in preparation for today, and the differences is that PM6 has a lot more of my comments. I don't think there's much more of Jon's, if anything. But mine are extended.

I mean, it was only over, like, you know, a few days, really, because it started on about 6th, 7th of October, and it -- it goes on until the 13th. So we're only talking about a week.

And, you know, I was looking again at each one and making responses.

Whether I talked to Justin about it with him, I can't remember, because it's too long ago.

Q. Okay. Turning back to your declaration briefly, Dr. Marston --

A. Oh, okay.

Q. -- I think paragraph 24, you described Jon a little bit more, and is it correct that your understanding is, Jon Fernyhough was a coder working for BlueSpace?

A. That's what I understood. He was a kind of leading coder that Justin was using; yeah. But, I mean, I didn't meet him, and I knew nothing about him apart from the fact he was working for Justin. But Justin will have probably told you who he was.

Q. Okay. And then, in paragraph 25, after that, you mention Exhibit 2057, labeled Software Implementation. And you noted that that is a section of the draft provisional patent application that you and Justin were preparing; is that right?

A. 2057? It would have been; yeah. It was the 19th

of August 2005, and yeah, it would have been what we were preparing; yeah.

Q. Okay. I'll go ahead and drop that one in the chat too.

A. Okay.

(Exhibit 11 marked for identification.)

Q. BY MR. KNOX: Think this is Exhibit 8.

A. I don't know why sometimes it doesn't open when I click on it. It's crazy.

Q. There may be a delay.

A. I don't know. I've got it now, so -- yeah. Software Implementation. 2057. Yeah.

Q. If you look at the last page, 5, of that document, here again it lists yourself as the custodian, and the "last saved by" is Jon Fernyhough.

Do you see that?

A. Yeah.

Q. And this was dated August 18th, 2005?

A. Yeah.

Q. And then, scrolling back up to the first page, you see where it states, Section 1, Software Implementation?

A. Uh-huh.

Q. So in the past documents we reviewed, the software implementation was one of the last sections in the total document; was that right?

A. Well, I haven't checked it, but if you say so.

Q. So this piece is part of the greater document; is that right?

A. Oh. Well, that's obviously the case; yeah.

Q. Do you see under Section 1.1.1, where it has an effective relevance formula with, it looks like, two weightings there?

A. It does look like that; yeah.

Q. Do you recall whether this would have been necessary for the implementation piece of the statistics that you had created or whether this was just a statistical formula?

A. I don't recall that; no.

I don't -- see, the thing is that these things, obviously, Jon has taken a section of documents which he's presumably got from Justin, so I don't know who wrote that. It may have been Justin that wrote it, or it may have been me. I just can't remember.

But, you know, it's -- it looks as though, from what you've shown, that Jon Fernyhough would take out a -- a document, you know -- sections of document, and he -- he would then save it and make some comments or changes on it or whatever, and then send it back.

So he's down as the author of this, and I'm down as the custodian, but I -- he was the author of this particular

saving of the file. It doesn't mean that he's the author of the content of it.

So I don't know whether that's come from anything Justin's written, either personally to Jon or in an earlier document. Without checking that, I wouldn't know either.

Q. Okay. The -- looking a little farther down, under section -- same page, Section 1.1.2, it states, Initial Calculation --

A. Yeah.

Q. -- and then it states, as described in section X, colon, mathematical algorithm framework --

A. Yeah.

Q. -- does that refer to what would have been the section that you wrote?

A. Well, I don't know; no. I mean, obviously, the X is -- is there because whoever was typing this didn't remember what section it was. So -- that's what I would do, anyway.

Q. But it sounds like the -- the mathematical algorithm framework would have been a preceding section?

A. Yeah -- well, it says "as described." So as it says "as described," it was probably a preceding section, I -- I would imagine.

Q. Okay. I'm going to drop another exhibit in the chat, please. This is Exhibit 2047.

You may have it from earlier.

A. 247 or 57?

Q. 2047.

A. It's not appeared yet on the...

MR. PADMANABHAN: I think you might have already marked this one.

MR. KNOX: I think we did. Thank you.

You know what, let's -- let's strike that, Dr. Marston. Let's -- instead, let's stick with our discussion on Jon Fernyhough and go to Exhibit 2045, and I'll drop that one in.

(Exhibit 12 marked for identification.)

Q. BY MR. KNOX: Think this would be Exhibit 9.

A. -- 45, but anyway. Okay. It's opening it. Yeah, obviously, it's a bigger document, isn't it. Yeah. Let's see whose this is.

Q. If you can go to page 66 when you have it open?

A. Well, I've got it open, but I don't know when it was saved or who by, so. I haven't got that one in my declaration.

Yeah. Page what? 50 --

Q. 66, please.

A. 66.

Oh, it's sideways. I think you might -- it's a sideways page, for some reason.

It's comment, something or other, it says. Can't read it sideways.

Q. And I can share if it's easier to -- to read it. But there's a comment on that page from JF20 --

A. That would be Jon Fernyhough; yeah. Well, JF would have been Jon Fernyhough. There's no other JFs.

Q. Okay. And it states, stages used in math section, but not defined until Section 11.

Do you recall what a stage is?

A. No.

I mean, if -- if we looked at the J -- J -- JFPM ones, so I have all my sort of counter-comments -- I don't even know if I've seen this one. Who was it by and saved by? 2045 -- I don't -- it's not one that's in my -- it's not in my set, so I don't -- I don't even know if I've seen it, but maybe he sent it to Justin, did he?

Q. If you look down just a little bit, Dr. Marston, on page 67, do you see the different-colored magenta text?

A. I can see 67.

Q. I call it magenta. It's at least non-black.

A. Yeah, it's a kind of pinky color. What I'm looking at -- 67. It's upside down on mine. But -- so I'm not good at reading upside down, but --

Q. We can just go to a different --

A. -- I mean, I don't know -- I don't know who -- who

saved this document or who it was sent to. I don't think I have it. So I may not have seen it.

Q. Let's go farther down. I think this will present better. Page 80.

A. Uh-huh.

Q. And it shows Section 11.5.2, Initial Relevance Calculations.

Do you see that?

A. Yeah.

Q. Again, there appears to be a lot of magenta text.

Do you see that?

A. It does; yeah. A lot of crossings-out and writings and whatever.

Q. Would you recall who wrote this text?

A. I have no idea. I don't even know who saved it or who was the custodian of this document. It doesn't seem to have any metadata on it, for some reason.

Does yours? Mine doesn't.

Q. No, it doesn't.

A. So I don't know. I've no idea who --

Q. Let's --

A. -- who -- who -- who saved it or wrote it or who it was to or from. As far as I know, I haven't seen it. It's not -- it was not one that was in my files.

Q. Here's one with -- with metadata on it.

Exhibit 2058.

Think this'll be Exhibit 10.

(Exhibit 13 marked for identification.)

THE WITNESS: Software information comment, which is written by Jon and saved by me; yeah. Think it's con --

Q. BY MR. KNOX: Do you see that date is August 19, 2005?

A. Well, I've got it written on my summary; yeah. 2058. It's 19th of August 2005. And I think he's -- I can probably find it, actually. I've got it. But -- I've got all these, so it may be labeled and so on. You've been very kindly projecting them, so.

Software Implement -- yeah. Software Implementation.

Q. Do you see the red text starting on page 1?

A. I haven't got any red text on my version of it, but -- this is nine -- yeah, this is the right one -- oh, sorry. Which one are we talking about? 20 -- EX2057 or 2058?

Q. Now on 2058, please.

A. Oh, sorry. Yeah, I can see it's got some red text. "Not clear what this means."

Q. Well, do you know who wrote it?

A. I think probably me, because I saved it. And when I said I think this is mis -- misguided, later on down that page, I think I'm probably responding to something which has

been suggested by Jon Fernyhough, but obviously, I'm guessing from the fact that, you know, this particular one was written by him, and I was a custodian, so I saved it. So I'm pretty sure the red text is mine.

I mean, how far he'd altered that from what Justin wrote, I don't know. You'd have to ask Justin or compare it with Justin's earlier copies.

Q. Looking at page 2 --

A. Mm-hm.

Q. The first line that states, as I've pointed out in my comments, and in paren -- parentheses, were they --

A. Yeah.

Q. -- global relevance does not appear anywhere in the document, and it continues.

Do you see that?

A. Yeah.

Q. Do you recall writing that?

A. I don't recall it, but it must have been me, because there's no one else that had access to the document, and I was the one that saved it, so yes. It sounds like the language that I would use, so I'm, you know, 99.99 percent sure that I wrote the red doc -- the red responses here.

Q. Do you recall which comments you were referring to as "were they read"?

A. You've got to be joking. Sorry. Yes. Write that

down.

No, I don't recall it.

Q. Okay.

A. I mean, the -- the FP -- JFPM6 has got a lot of his comments and my comments are quite clearly made underneath them. So it's easy for me to follow that. But this one, I can't remember the details; no.

Q. Do you see a little bit farther down, where it states, if this supposed combination is merely when a search is done, then it's better to call it search relevance. If not, then it has no function at all. How could it be different from a local relevance when the latter presumably took into account any global factors in arriving at its value -- it its value? Excuse me.

A. I can't find it. Which -- which section are you at?

Q. Sorry. This is page 2, the first paragraph, about halfway through that paragraph. And it starts, if this supposed combination.

A. Were you on Software Implementation still?

Q. Yes.

A. I can't find it. Sorry.

Q. So we're -- we're on -- other on number 10, which is EX2058, page 2.

The red text, first paragraph.

A. Yeah, I've got that.

Q. It appears to speak about local relevance here.

Do you see that?

A. This is the first paragraph. That's why I said my comments -- the term "global relevance" does not appear anywhere in the document until Section 10, note 9, and there is no explanation of what it means... what such a concept could mean. In any event, if there is such a thing it seems pointless to... yeah.

What are you asking? What it means? I can't remember. I mean, it must have made sense to me at the time, but --

Q. I guess specifically, Dr. Marston, do you recall a difference between local relevance and search relevance and what --

A. Not really; no. No, I can't remember. I would have lived and breathed it for six months, but that was 20 years ago, and a lot's happened since then, and no, I don't remember the concepts.

Q. All right.

A. I know that I understood them then, because I've made quite detailed comments on them as we'd gone through, but whether Justin remembers them, I don't know. He probably does. He's cleverer than me and younger by quite a long way. Ha ha.

Q. I'll add another exhibit to the chat, please. This is Exhibit 2062.

(Exhibit 14 marked for identification.)

THE WITNESS: Yeah, I don't have that one --

Q. BY MR. KNOX: Number 11.

A. Come on, open. Yeah, it's opened. It's a big one, is it? Yeah. Okay. I don't think I've got this one.

Oh, well, I am the custodian, so I must have had it. 2062. Yeah, I haven't got it printed. It's probably not in my --

Q. Do you see at that last metadata slip sheet for Exhibit 2062 where the author's not specified?

A. It's got custodian, Paul Marston, author. Would have been Justin. A lot of them have got nothing specified. I don't know what system Justin was using at the time, but quite a lot of them have got no author, and they were him.

Q. Go back up to -- oh, I'm sorry. Go ahead.

A. Sorry. Go ahead.

Q. If you could go to page 57 of that exhibit, please. And there's a comment in the sidebar there.

Do you see that?

A. I'm just getting there. 57, yeah. A comment, M16. It's probably me.

Q. Says, you have again put the global importance and global relevance around the wrong way.

What does that mean?

A. No idea. Can't remember.

Q. And it appears this is the Algorithm Overview section. Do you see that?

A. It appears what? Sorry.

Q. This appears to be in the section titled Algorithm Overview, Section 9.

Do you see that?

A. It is; yes.

Q. Okay. Can we go down to page 82, please?

A. Mm-hm.

Q. The comment is cited to M42. Would that be you?

A. 62. I think the Ms are all me, as far as I can see in this. I'm just getting there. Sorry. 6 -- page 62, did you say?

MR. PADMANABHAN: I think he said 82.

THE WITNESS: Oh, sorry.

Q. BY MR. KNOX: Correct. 80 -- 82, please.

A. Sorry.

Passed a lot of comments there. 80, 81, 82. Yeah, I've got that. Looks as though Jon -- something -- wrote some of this, but I'm not sure what some of it adds.

Yeah, I think -- I think that's a euphemistic English way of saying that you don't think it adds anything. But it's trying to be polite, because obviously he was Justin's

employee. So yeah. I don't know what it is -- what it was he wrote. He obviously didn't write the formula. It must be some of the descriptions.

I mean, what we were trying to do at this time with Jon was to make it comprehensible to readers to make it -- to clarify -- to clarify terms and to make the various symbols more understandable. I think sometimes he didn't understand what they were doing, and I have said that in some comments.

But this one, I don't know exactly which bit it was that -- that he's done. He wouldn't have written the formula, but he -- he may have added some of the description. And I've just said I'm not sure what it adds.

Q. I think an example of the terms occurs at page 84. If you'd scroll down to that, please.

A. Sure.

Q. The first comment there is cited by global relevance. And just a -- a word-type formula there.

A. Yeah, I can see it's M43, so I must have made the comment, but what it means now, I can't remember.

Q. It -- in that same sidebar comment, M43, it describes -- looks like double ICs and IRCs. Not the local importance and local relevances.

Do you see that?

A. Yeah, I can see that. What it means, I don't

know, but I see it.

Q. Do you think -- strike that.

Is this an example of terminology you were deciding on?

A. I honestly can't remember. I know I keep saying that, but I can't help it. You know, it's 20 years ago, and I haven't looked at it since about November 2005, and we're now in January 2026. So I can't remember. I mean, at the time, it was all very relevant to me, ICs and IRC and all the rest of it. But now -- I can't explain what I meant by that. But obviously, Justin will have understood it at the time.

Justin, at the end of the day, was the driving force behind this, and so he would have taken the comments that Jon made and I counter-made or whatever in deciding whether something should be done about it in the documentation.

It's particularly about defining exactly the terminology, as you say. But whether it went beyond that, I can't remember.

Q. Okay. Dr. Marston, would you like a break?

A. Well, we could have five minutes, if you like; yeah.

MR. KNOX: Absolutely. Yeah. If we could go off the record, please.

THE VIDEOGRAPHER: Going off record at 9:14 a.m.

(Recess taken from 9:14 a.m. to 9:25 a.m.)

THE VIDEOGRAPHER: Back on record at 9:25.

MR. KNOX: All right. Thanks.

Q. BY MR. KNOX: Dr. Marston, I want to direct you back to your declaration, please. If you look at paragraph 21.

A. 21? Yep.

Q. In paragraph, it describes Exhibit 2054, file name BlueSpaceMailSearchforJamesB.doc.

Do you see that?

A. Which one are you in? Sorry.

Q. So I'm reading from paragraph 21 of your declaration, exhibit --

A. Hmm.

Q. -- 2031, and there it's referring to another exhibit, 2054.

A. 21.

Oh, that's Justin -- sorry. I'm looking at the wrong one.

Yeah, the James B thing. Yeah.

Q. Do you recall who James B is?

A. I'm afraid not; no.

Q. Okay. I'm going to load another exhibit in the chat, please. This is Exhibit 2064. Think we're on Exhibit 12.

(Exhibit 15 marked for identification.)

THE WITNESS: 64. 16. Alterations to documents. Is that it?

That's some -- 16, so that's 64. Yeah, it's got a diagram on it.

Q. BY MR. KNOX: In that first sentence, Dr. Marston, states, this paper contains the essential summary of what I think I agreed with Justin. I'm sending it separately for you to look at, but will also incorporate it in the document.

Do you see where it says that?

A. Yeah.

Q. I'm just curious in that sentence who the "you" is?

A. I'm not sure either. I think it's probably the plural "you."

Q. Do you think that --

A. -- the document -- yeah, that was mine. I suspect that the "you" will be Justin and Jon Fernyhough, because I would say that. I would say, "Well, I agree with Justin, so I'm sending it to you," meaning you, Jon and Justin.

But I didn't have any separate interaction, if you like, with Jon, other than, you know, through and with Justin. So it wouldn't be as though Jon and I were somehow discussing it and Justin wasn't involved. That is not how

it happened.

But sometimes, unfortunately, in the English language -- had I been writing in Elizabethan English, there's a difference between "thee" and "you" which is very clear. In the English language, unfortunately, you can be singular or plural, and sometimes -- this isn't the only place. There's a note somewhere where I also say, "Justin has said this, and I'm sending this to you." But I don't mean that Jon is going to act independently to do this. I mean that between them, they'll have to do it.

Q. So if I understand correctly, Dr. Marston, when you use the identifier "you," it could be plural --

A. Yeah.

Q. -- and include Justin, not exclude Justin?

A. Yes -- oh, yes. Absolutely.

Q. -- is that right -- okay.

A. Because as I say, I had -- I had no independent relationship with Jon. I didn't work for BlueSpace. So all the communications were really with -- Justin was the key kind of driver, both of the terminology, and, in the end, the formula I'd written. So yeah, it would be plural.

Q. Looking back at paragraph 21, you state about halfway through, I believe that the comments in red are mine.

Do you see that?

A. Yes, this is the James B one. Yeah.

The trouble is, I don't know -- I don't remember who James B was, if I ever knew, and certainly neither Justin or I seem to have had anything with a file which had been same -- saved by someone who could have been a James B. So I just don't remember. It may have been some contact Justin had or a -- maybe he met him in a pub in Austin. I don't know. But we didn't have any -- we have no extant communication from a James B back, and, you know, so I can't really say what this was about, unfortunately.

Q. Okay. I'm going to load another exhibit, please. This is Exhibit 2065.

A. Yeah, that's JFP M2. Yeah.

Q. I think that's number 13 today.

A. Is it? Yeah. Okay.

(Exhibit 16 marked for identification.)

THE WITNESS: Yes, I know this one, and I have got -- it's very similar to the later one with a few exceptions.

Q. BY MR. KNOX: If you could go to page 31 of that document, please.

A. Sorry? Yeah, I will do.

I just want to find PM6, which is 21, so. I'll attempt to put this up, if it works, which it might do. Come on, open.

It's being obstinate again. Okay. I'm going to close

some. I don't know.

Sorry. I don't know why it's not doing this, but.

Q. If helpful, if you, I think, click Download, and then just double-click that same icon, I think that'll open it.

A. Oh. It doesn't. I put Save, and then -- let's see if it's opened it now. I don't know. 2062. Oh, dear. Oh, open file. Here we are. Okay. Got it now. 2065; yes. I've got that -- sorry.

I also have 2069, which is the much more detailed JFPM6.

Q. On 2065, at page 31, do you see the comment there to JF10?

A. Let me just find it. Page 31. This is on Section 7, isn't it?

Q. Yes.

A. Yeah. Yes, I've got that.

Q. Do you see where it states, also, suggest getting Yul and Debs to review this section.

Do you know who they are --

A. Yes, I can see that. Who are they -- I have no idea. I presume they must be people working for Justin, but I don't know who Yul and Deb were. I don't know whether Justin asked them, as he said, to review this section. We don't seem to have had any replies from a Yul or a Deb that

were saved by me. Whether Justin's got any, I don't know. You'd have to ask him. I -- I mentioned he would know who they were. I guess they were probably people who were also working for BlueSpace.

Q. And do you see the red text at the bottom of that same comment?

States, go along with both those. Neither involve me in any work.

A. It's a lighthearted comment, because I'd spent a lot of time working through these documents making comments, so it's a lighthearted comment, really intended for Justin, saying, "Well, go ahead. Ask them, because it won't involve me doing anything."

I don't think you can read a great deal into that. It's just the sort of thing that -- I'm afraid my sense of humor is a bit like that, so it's -- it's a bit of a flippant comment, really, I'm saying, for Justin to say, go ahead and get it reviewed.

I mean, obviously, had they made extensive comments on it, it could have involved me, but the actual review process would not have involved me, because it would have been organized by Justin, because I didn't know -- even know who they were.

Q. And just to confirm, the -- the red text was authored by you?

A. Yeah.
Q. Okay. Looking down at page 36, please --
A. Mm-hm.
Q. -- there's more red text that states, you need to review this. Not my area.
Is that yours?
A. I'll just find it in my written copy.
Yes, I think, again, the "you" is plural there, to Justin and -- it's talking about the amount of storage that's needed, and I couldn't have answered that one.
I mean, I think it's the sort of query which now would no longer apply, because storage is so cheap. I mean, the only thing is that in the end, the planet may overheat because there's too much storage, but it's not a problem of size.
But at the time, that was really Justin's area to think about, whether the storage would be sufficient that he had for BlueSpace. And with -- with Jon, presumably, who -- well, who made the comment in the first place about the size of the matrix that you'd need to do it.
But the "you" is -- is clearly plural there, again, to Jon and to Justin. "You need to sort it out."
Q. And the JF11 there -- would that be Jon Fernyhough?
A. Yeah.

Q. Do you know whether the magenta-colored text -- whether that would belong to Jon Fernyhough?
A. That would have been me, the red -- the red color.
Q. Where it states, just to confirm --
A. Oh, the -- the text --
Q. Correct. Yeah.
A. The magenta-colored text has disappeared in J -- JFP6. It's all black, so I don't know whether by that it's been accepted or what's happened. Well, let me look. Figure 8, Figure 10. I don't know why that's crossed out.
The extraneous text has disappeared by J -- JFPM6, so I presume it was just -- somehow it had been duplicated too much there and -- and it was incorrect.
Q. And just for the record, please, the -- you had said JFPM6. Which exhibit is that?
A. PM6 is EX2069.
Q. Okay. Thank you. Just another question on page 58 of Exhibit 2065. There's a graphic there.
Do you see that?
A. 58. Long way down. Okay. Sorry I'm a bit slow.
58. It's got figure -- Figure 21. It's probably the same on -- I haven't got -- I have got 58, actually. So it's after this nice diagram. There's a section where it... Process flow.
I -- I suspect that's a similar issue. I don't seem

to have that one. No, I haven't got that page printed out for 2069. But it looks as though it's just correcting the figure number; that's all. Is that what you're asking?
Q. Yes. And do you recall what need to be corrected there?
A. Well, no, but Figure 21 is crossed out, and I think -- I don't know. It may be that there was a -- a meta connection between the two that -- no, I don't know. I don't know why that's been crossed out. It looks similar to the earlier one, so I suspect that in 2069, it will have been adjusted to just read Figure 21. I don't have it in front of me at the moment, so --
Q. Okay.
A. -- I can check if you want.
Q. No, that's fine. Actually, going to page 65, please.
A. Yeah.
Q. There's a comment there from P18. Would this be your comment?
A. Let me look.
I'll have a look at this one. See what I've got for that. This is against -- 10.4 point something or other. 10.4.2.
Don't know why it would suddenly be P, but -- unless it was PM.

I'd probably have to look at some -- EX2069 to see. I think it will have gone by then, so it probably was saved.
Q. Okay.
A. I can't think that anyone else would have been P than me, but why it's suddenly P there, I don't know. Isn't P anywhere else in the comments.
Q. Scrolling briefly, I don't see another P.
A. No, I don't know. I don't know there's any other Ps around, so I don't know -- I don't know why it's suddenly P. It seems to be an added paragraph, but I can't think of anyone else that would have been involved, but there we are. Don't know.
Q. And then, one more question on this document, please. Page 68.
A. Yeah.
Q. Comment to what I presume is Jon Fernyhough, JF21. And just wanted to know whether that red text in that comment is yours.
A. I think it would have been; yeah.
Q. Okay. Let me go ahead and pull up Exhibit 2070.
A. Jon -- Justin.
Q. Please. I think this is number 14.
A. 2070 -- yeah. Okay.
(Exhibit 17 marked for identification.)
Q. BY MR. KNOX: And I presume, Dr. Marston, these

are your comments to Justin and Jon; is that correct?
A. Yeah, they will be.
Q. And --
A. And -- spelled his name right on that one. Yeah.
Q. Okay. Sorry about that. And this appears to be October 10th, 2005; is that right?
A. Come on. Open. Yeah, it's opened now.
Yes, it is. It's got that at the top of the page, actually, as well as the metadata.
Q. And it mentions a revised version of the relevance document.
Do you know whether that's referring to the larger multisection document that we've looked at several times or if that's a smaller subset piece of that overall document?
A. I don't remember. I'm sorry.
Q. Okay. And do you recall -- in the next sentence, it states, I got fed up with retaining the alterations as marked, so accepted them all.
Would you recall which alteration -- alterations you might have accepted?
A. You've got to be kidding me. No -- no, I don't remember.
Q. And is your --
A. I mean, obviously -- sorry. I was going to say, obviously, it's me, because it's got my name at the bottom,

and I'm writing to Justin and Jon, which is what I always did. Of course, it always went to both of them. And I think probably there were some very trivial alterations, which I thought, "Well, rather than marking them, we'll just accept them." So I did that, from what I could read there.
Q. A little bit farther down, it describes the idea that cognate relevance should be recomputed when the user refreshes or actions in his mail, not on a periodic review -- do you see that?
A. Are you on the same -- the same document?
Q. Same document; yes, please. It's the third paragraph down, in about the second sentence. Excuse me -- the third sentence in.
A. The yellow highlights relate particularly to my insertion of the idea.
Q. Correct.
A. Yeah. Okay.
Q. These seem to be alternatives; is that right?
A. Well, I don't know whether they're alternatives. I don't know whether the user would choose or whether there was some combination of those. You know, I mean, obviously, there are different ways of doing it, but I can't remember what they eventually decided. But it's really just talking about, you know, how often do you recompute what the score's going to be?

So what was the question again?
Q. I -- really, whether or not those are alternatives.
A. Well, I -- I wouldn't have decided that. I mean, whether -- whether they were alternatives for the system or alternatives which the user could de -- could decide between. I didn't say -- I didn't have -- specified that there. I just made the point that, you know, some decision needs to be made about it.
Q. Okay. And looking a little farther down in the document, it starts, you will see some other macro changes in sections, EG, the deletion of the stages part in Section 10 and changes instead to the same process in 11.
Do you see that?
A. Well, yeah. I mean, what it meant -- if you're going to ask me that, I haven't a clue. I mean, it was long -- long time ago. But at the time, I was living, eating, and breathing the system, and it would have all been very clear. And so I was able to make those kind of changes and send them for Justin, obviously, ultimately, to approve, because he would be the -- the ultimate judge. But what they were now, I -- I have no idea. I can't remember.
Q. It appears, at least, that these changes would apply to Sections 10 and 11. Is that your --
THE REPORTER: What was the answer, please?

THE WITNESS: To what -- that it appears to be -- it says, the deletion in stages part in Section 10 and changes instead to the same process in 11. So it's -- it's really altering, as far as I can see -- it's altering the way in which the thing is presented.
I mean, that's a standard process when you're writing a book, which I've done a number of times, you know, and you can have a section and you think, "Well, that section might be better later or might be better earlier," and you can move stuff around, which is very convenient with word processors.
When I started writing, we had to use Cow Gum and sticky paper. It was harder, but it's very easy with -- with kind of word processing facility to move different bits around to make it clearer and easier to read, and that seems to be mostly what I've been doing there.
Q. BY MR. KNOX: And below that, it states, I hope the formulas are now consistent -- though nothing is guaranteed.
Do you recall what you might have meant by that?
A. Well, nothing in life is guaranteed, apart from death and taxes, so I would have been, if you like, cautious in saying it's definitely now perfect, but what I've been trying to do is to make the formulas totally consistent and understandable to people. So "nothing is guaranteed" is

a -- a lighthearted way of saying, I'm fallible. You know, I might have made a mistake.

Q. Do you recall from working with Justin whether you reviewed the sections you wrote or other sections as well?

A. No, I would have reviewed them all. Yeah. I'd made suggestions to changing even -- on one of the documents, I've got -- I mean, I can't remember what it was about, but I remember saying, "This diagram's misleading. You should change this in such a way, or, you know, the terms need refining."

So I didn't only make comments at that time on the statistical formula. I was also involved with him in trying to see how much of it made sense.

I didn't understand all of it, because a lot of it was to do with the way that he was trying to structure the whole of the TransMail system. But I would certainly have made comments on different things, and not just the formula, but the terminology and diagrams and how it's presented.

Q. Would Sections 10 and 11 need to be consistent to implement your statistics on a computer?

A. That's an impossible question for me to answer. What -- you mean that without changing it, that it wouldn't work, so at this point, the whole thing wouldn't have worked? Well, I find that -- I mean, we're talking here about -- we're -- we're talking about October, aren't we? I

mean, the dates at the top, of course, is the English way of writing it. So that would have been the 14th of October.

No, I think it's unlikely that it wouldn't have worked at all. But obviously, I wanted to try to make the formulas seem consistent -- totally consistent. Whether it would have worked to the same degree without the changes, I don't know, but I -- I think it would have certainly worked.

They were not that radical, the changes. You know, a lot of them were altering the order to make it simpler for someone to follow, and -- you know, and maybe changing the wording in some of them. It's the sort of thing you do in a book.

If you said, you know, "In the third-before-last version of your book, you know, Science and Christian Faith, would anybody have been able to read it before you altered the sections round?" The answer is, yes, of course they would. But it would have been harder to read, and the aim in writing anything is to make it as easy to read and clear as possible.

Q. Okay. Let's go to Exhibit 2071, please.

A. This is the comments to Justin and Jon; yeah.

Q. Correct.

(Exhibit 18 marked for identification.)

THE WITNESS: Yeah, okay. I can see if the computer will listen to me this time. You never know, do you?

I've got them, anyway. What is it -- 2071?

Q. BY MR. KNOX: 2071; right.

A. What number is that -- that's 26 -- see if I -- yeah. It's a very short thing, isn't it? Is this -- oh, 2071, was it?

Q. 2071; correct. It's three pages.

A. Okay. I could have done with the -- the TransMail system to sort my bits of paper out, but unfortunately, it wasn't available.

I've got it in front of me now; yeah. It's got some blue and some black stuff in it, doesn't it? And it's comments just from me to Justin and Jon.

Q. And, Dr. Marston, to --

A. Sorry?

Q. Sorry. The last page, it looks like this document's dated October 15th, 2025; is that right?

A. Yeah. They're both -- they're both dated that.

Q. And would the author and last saved by, where it states, Marston only -- would that be you?

A. Yes.

Q. Okay. Going back up to page 2, it's the last two paragraphs, and it states, thinking about it, actually the hybrid system-4 seems to me to be the best. Obviously I don't know how easy it would be to program --

A. Yeah.

Q. -- but because the two phases are common to that mail for all recipients it ought to be possible.

A. Yes.

Q. Anyway, you need to make a decision and then I can alter the document accordingly.

You see that; right?

A. Yes.

Q. Do you know in this instance who the "you" is again?

A. Oh. Well, it'll be Justin and I think still Jon at this stage. I think he was still involved. But certainly -- yeah, because it's to Jon and Justin. So the "you" would be Justin and Jon.

Q. And --

A. That's why -- it says, comments to Justin and Jon, doesn't it?

I mean, ultimately, it would be Justin that decided. It was -- Jon was his employee. But, you know, I presume that they would discuss it and Justin would make a decision. I don't know. You'd have to ask Justin how much influence Jon had. I don't know, you know. That was up to them.

But all I was doing there is saying, well, you -- you have got different ways of doing it. You know -- the system -- you'll have to decide the system which is -- makes more sense to you. But "you" plural.

Q. For the "you" plural, referring to the decision, who would need to make a decision?

A. Well, Justin.

Q. Okay.

A. Justin's company. Jon was working for Justin. If he didn't do what Justin said, he would have been looking for another job, probably. Although Justin is not like that, really, but, you know, it's not how it -- not how it works.

Q. Would Jon have been the one responsible for the programming?

A. He was a coder. Justin was not a coder. And I'm certainly not a coder, so the person that was actually implementing the patent would -- would have been Jon, for -- for the purpose of Blue -- of BlueSpace and TransMail. But that's not the same as designing the -- the concept and -- and the patent, which was, you know -- was -- was then, if you like, put into practice. I don't know what the legal term is, but it -- I'm not a lawyer, but.

You know, it was -- it was actually put into -- to practice. That would -- that would be the idea, with -- with Jon doing it for BlueSpace and for TransMail.

Q. Okay. And then it describes, I can alter the document accordingly.

That's referring to you --

MR. PADMANABHAN: I'm sorry. I was muted. I apologize. I didn't realize I was muted. On that last question, I -- I objected to -- under Rule 601, 602, and 611.

THE WITNESS: Okay. Well --

MR. PADMANABHAN: Sorry about that.

THE WITNESS: I didn't mind answering it, but anyway. That's okay.

Q. BY MR. KNOX: And then, Dr. Marston, describes -- then I can alter the document accordingly.

Is that referring to a separate document from this exhibit --

A. Oh, no, no, no -- no, it wouldn't be -- sorry. Sorry. I didn't mean to interrupt.

It wouldn't have been a separate document; no. It would -- I mean, I was collaborating with Justin, so, you know, we passed documents back and forward. I don't think I did, because I think he must have made a decision, and, you know, the last one, 2072, which is a bit later. It's in November.

He's incorporated whatever he wanted to in that for the final patent, and as I have tried to explain -- I mean, Justin is the driving force in it and the inventor for the whole thing, because it was his idea in the first place, and it was his sort of vision, if you like, to construct this

thing, and it was his vision to patent it. I didn't care whether it was patented or not.

But when he said, "Well, I want to patent it," I said, "Sure, that's fine." You know, and I didn't want fame and fortune or career enhancement from it. If it was going to help his business to patent it, which he thought it was, then I would be happy to go along with it and put my name down as the co-author of the patent.

But it was always Justin who was the person that made the decisions as to what went in and what didn't at any stage of it. And then, the final, you know, submission.

Q. So just so that I understand, Dr. Marston, the document that you're referring to in this last sentence -- is that the same as this Exhibit 2071 or are you referring to a different document -- for example, the longer BlueSpace working document?

A. Well, it -- sorry. It would have been the longer BlueSpace one, I think. But where that's gone and why it's not there, I don't know. I mean, I haven't got it. It may be that he didn't take me -- Justin may have decided to make the decision himself, and that's quite likely. So, you know, all I know is -- is that I have the final one, 2072, which is the document which was there in November that year, and that was basically the one that was going to be put into the patent.

But obviously, there was a -- a bit of a break, because, you know, I mean, the Americans celebrate Christmas, or sort of, and New Year, so I presume that there was some break there and the actual submission didn't happen until early in January 2006. But any alterations from there would have been made by Justin. As far as I can remember or have any records of, I didn't make any further alterations to anything.

Although I did save the 2072, the BlueSpace -- JM 06/11/05, which is -- that would have been the English way round of putting it, which is the 6th of November 2005, and JM would have indicated Justin. And he sent it to me, and I saved it, and I don't think I made any alterations to it. I can't remember without looking at it.

Q. Okay. Let's see. Dr. Marston, I'm going to go back to your declaration and paragraph 11.

A. Okay.

Q. And there, it simply states for your review that you had reviewed the declarations of Justin Marston, and there's three different declarations listed there on three different dates. Do you see that --

A. Yeah, I've gone through and read them, but -- yeah.

Q. If you'd like to refer in Justin's declaration, Exhibit 2030, paragraph 59 --

A. Which one of his is this?
Q. This is Exhibit 2030.
A. What -- what date?
Q. The date I have is November 4th, 2025 --
A. All right. I've got September, so -- yeah. Okay.
Q. And in this document, in paragraph 59, he mentions Rick Turner.
Are --
A. Yes, he does.
Q. -- do you know who Rick Turner is?
A. No, I never knew who Rick Turner was, but he -- he -- I believe he was -- I understood from Justin -- because when I looked at the files, I said, "Who on earth's Rick Turner?" He's somebody who was briefly employed by Justin. Not as a statistician, but in -- in some management role, and he made various comments, which were a bit kind of random, really, as some of them didn't understand the system. But he made some comments in the file, which are labeled as -- where is it -- actually, I haven't got them here. But -- sorry. No --
Q. I can drop that in the chat, Dr. Marston. It's Exhibit 2048 --
A. It's 2052, notes on search documents from Rick Turner. Yeah.
But I don't know who he was, because I never met him,

and I never had any contact with him. I -- I had -- I think I made some comments. That's all.
Q. But my understanding is, Rick Turner worked at BlueSpace?
A. That's what I understand. You know, I -- I think that is true; yeah. Justin -- Justin -- that's what Justin said. I mean, I didn't know, because I wasn't at BlueSpace, but that's who he says Rick Turner was, and from what he said, he wasn't employed that long with BlueSpace.
Q. And so you never spoke with Rick Turner directly?
A. I never had any contact with him.
Q. Okay. I dropped Exhibit 2048 into the chat. Think that's number 15 for today.
(Exhibit 19 marked for identification.)
THE WITNESS: Okay. Oh, that's just the Rick Turner one, is it?
Q. BY MR. KNOX: Correct.
A. Okay. Open file -- yeah.
Q. And if you scroll to the last page, Dr. Marston, page 5 --
A. Yeah. Yeah --
Q. -- you'll see the author, Rick Turner; correct?
A. I received it and saved it; yeah. Yes.
Q. Okay. And that date I see is September 13th, 2004?

A. Sounds reasonable. Yeah. It's very early. Yeah. Yes, it's -- no, it's not that early. It's September. Yeah. I think it was before I -- I actually did the -- the '09 one. But anyway -- yes. Okay. And he actually says, I have not yet had time to read the new stuff from the maths guy, so will leave any comment on the new math out of this document.
I think that's referring to the revisions that I'd made between August and September, that he hasn't had them or read them yet. So Justin must have told him that they'd been made. But he hadn't read the latest version. He'd only read the very early two -- the August 2004 version.
Q. Thank you. Looking a little bit farther down on page 1, he describes several mathematical concepts. For example, Kalman filters --
A. Yeah.
Q. -- Wigner-Ville, I think, or Ville, transform; Fourier-based methods; Bayesian methods -- are those all familiar to you?
A. Well, Bayesian is -- is quite a -- well, it's -- I mean, I was taught by one of the early Bayesian statisticians at LSE. I didn't think they were particularly relevant, and they didn't feature in what we did, so we didn't adopt any of them.
I think what happened was is that he'd obviously done

some math, so he was basically thinking of all the statistical terms that he could remember and throwing them out as possibly relevant. It didn't really affect the development of the thing. I didn't say, "Oh, yes, Bayesian methods. I'll put that in."
So they're just general kind of comments that he's made. General comments on the maths. And solving linear equations and so -- so on. So -- yeah. So he's just making some general practicality issues, comments, odds and ends, and so on. So it's a set of thoughts from it.
I don't know whether Justin asked him to make them or not, but anyway, he's made them, and I read them, but I don't think they affected much.
Q. And just one more question on those methods. You see on page 2, he used similar things, like the -- the Gauss-Seidel algorithm which we spoke about before, the Cholesky or Householder transform methods -- are those just typical statistical algorithms or is there anything more tuned to relevance in those?
A. Let me read it. Description of matrix... condition -- yeah, that's possible... Algorithms playing -- yeah -- okay. Converging into something like successive overrelaxation...
Well, I didn't -- I didn't develop any of that, but -- what's the question again? Sorry.

Q. I -- at a high level, Dr. Marston, do you recognize all those types of statistical methods?

A. Which one are we talking about?

Q. Specifically Gauss-Seidel, and farther down in the last paragraph, it describes Cholesky or Householder transform methods.

A. What's it saying... Well, that's all -- I don't know what the tran -- those particular transforms are, but there are various things you can do, and trying to reduce it to -- reduce the sparse matrix -- I mean, those are standard kind of issues that you can adopt. Yeah.

I mean, none of that appeared in the final thing, as far as I remember. I didn't actually do anything with this. And I think shortly after that, he didn't work for Justin anymore, so -- you know, disappeared off the -- out of the system.

Q. Do you recall, just because these ones are named, whether any of these specifically invaded into the patent?

A. Whether they were what? Sorry.

Q. Whether they were incorporated into the patent?

A. No.

Q. You don't recall --

A. I didn't really do anything with this. I don't recall, but I -- I don't believe I did; no. I mean, as I say, he was throwing out some ideas on the off chance that

something might strike a chord, but it didn't particularly, so I didn't do anything with them.

I mean, whether the system would have worked better if any of them had been adopted is not really for me to say, but that's not the point at issue, is it? If the question is, is Rick Turner a kind of co-author of the -- of the patent, then the answer's no, because we didn't really do anything with these things, and he didn't work for BlueSpace for long after that anyway, as far as I -- well, I don't know, but Justin said that when I asked him when I saw these documents. And I asked, "Who's Rick Turner?" Because I didn't know who he was, and that's where -- where my information came from, from Justin. But he would have told you that anyway.

Q. So if I understand correctly, this is the only document that points to Rick Turner?

A. We have no other documents from him that I know of.

Q. And to the best of your recollection, Rick, for one reason or another, left BlueSpace shortly after this?

A. Well, it wasn't a recollection, but Justin told me that when I asked him who Rick Turner was, so if that's what Justin said, then I presume that was the case. But obviously, he was employing the guy, so I presume he knows how long Rick Turner stayed with BlueSpace and when he

disappeared.

But I have no other informations about who he was or what his background was or anything. He's only a contact that came through Justin.

Q. Okay. And one other exhibit I'd like to bring up, please, is Exhibit 2050. Drop that in.

A. This is Tim Couper? Yeah, it is.

Q. That's right. And I don't -- do you have this exhibit hard copy?

A. I will. Yeah, I can -- I can look it up. It's --

Q. Otherwise, it's in the chat, too. Think this is number 16 for today.

(Exhibit 20 marked for identification.)

THE WITNESS: Probably, yeah. See if it's in my -- let's see. My system of finding out who's what.

Yeah, I have it. This is Tim Couper; yeah. And his -- yeah. It's -- again, he's the author and I'm the custodian. I saved it and -- he's made some comments and I've made some responses in blue.

Q. BY MR. KNOX: Thank you. So the responses in blue are yours?

A. Yes.

Q. And do you recall what Tim Couper's role was?

A. I've no idea. Justin will have told you who he was. He was a -- he would have been employed by Justin, I

would imagine, or a contact. But I would think probably an employee. But no, I don't know. I never met him, and I -- I don't know his background.

Q. One comment on page 2, if you look at three paragraphs down, it states, other comments, and then page -- it looks like p for page, 63.

Do you see that portion?

A. Page 63; yeah.

Q. It states, these are placed into suitable functions which are between 0 and -- and 100.

And you see that; correct?

A. Yeah. Well, it's just a clarification of -- of what the terms meant. So -- I mean, I obviously read through the comments, and if somebody said, "Well, this isn't very clear," or, you know, "You need to make it clear what exactly this is," then I'd change it. So -- so yeah, I -- I -- I would have changed the way that the sentence was worded if somebody said there's a better way of doing it.

But I don't consider that to be part of being a kind of co-author of the patent. It's just somebody reading it through, like, you know, my -- my wife reads through my books and says, "The grammar's not right here," and I change it. But I don't put her down as a co-author.

Q. When it refers to page 63, is this of a different document than this three-page document we see as

Exhibit 2050?

A. I can't remember. I don't know.

No, I don't know which page 63 it is. Sorry. I can't remember now.

Q. Okay.

A. It will have been one or other of the big documents, because 63 is a high number, so I don't know which one it was. I would have known at the time. I don't know now.

Q. Do you recall if Tim Couper reviewed anything else?

A. I have no other files from Tim Couper. I don't think Justin had, or he would have submitted them. I think -- he should know who he was, but I -- I have no other files from -- this is the only thing that I have that's from Tim Couper, which is -- as you say, it's -- it's in -- it's in May 2005.

It was just before, really, we were setting off to, you know, make the final push to make everything understandable and readable and so on between that May and the November. You know, but I --

Q. This --

A. -- documents.

Q. Sorry. And this document, Exhibit 2050 -- you see it's dated in May of 2005? If you look at the last page

there?

A. Okay. I'll open it if I can. Yeah.

Yeah. 13th of May. And I saved it on the 17th of May; yes. That's correct.

Q. Okay. Dr. Marston, all the exhibits we've chatted about today are ones that either you or Justin have produced; is that correct?

A. Yeah.

Q. Are there any other documents that exist that you are aware of but were unable to produce?

A. No, I don't have any others, and as far as I know, Justin doesn't, but he will have answered that question. But I haven't seen any others. I don't know of any others.

Q. And at times, we spoke about a -- a practitioner in this area, someone who would understand statistics.

Are you aware of a POSITA and what that is?

A. A what?

Q. A POSITA. A person of ordinary skill in the art. Have you heard that term before?

A. No, I don't know what it means.

I don't know what "ordinary skill" means, anyway. I mean, I would have difficulty with that word. But no, I don't know what it means.

Q. Okay.

A. I mean, a lot of things in life can be done by

anybody, but ordinary skill -- probably your job, you know. It's -- it's -- so I don't -- I don't know what that would mean in the context.

Q. Okay. Today, we spoke a little bit about the '217 patent and its ownership.

Do you recall that?

A. You -- you spoke about it; yeah.

Q. Do you have any financial interest in the '217 patent?

A. Nothing at all.

Q. Do you have any personal interest in the '217 patent at this juncture?

A. Well, not really. What -- you mean for career enhancement? I'm 79. You know, I'm not going to get promoted to be a vice chancellor of the university. But no, I don't have any -- I have no personal in -- influence -- interest, and as far as I know, I have nothing to gain financially, depending on what the outcome of the thing is.

But my son asked me to make a declaration and do the depositions, and so I've done them.

Q. And, Dr. Marston, in your work preparing for this deposition and previously for your written declaration --

A. Mm-hm.

Q. -- is that work that you were compensated for?

A. Yes, they paid me; yeah.

Q. And what is your rate, please?

THE WITNESS: Am I allowed to answer that question, Devan?

MR. PADMANABHAN: Yes. Yes.

THE WITNESS: It was $500 an hour.

Q. BY MR. KNOX: Okay. Thank you.

A. But that was -- I didn't ask for it. But if somebody comes up and says, "If you do some work for us, you'll -- we'll pay you that amount of money," then most of us would say yes. But I would have done it whether I got paid nothing or anything, because if Justin asked me to do it, I'd have done it. But it's nice to get compensated.

I haven't been promised any compensation if they win. Or if they lose. But just to act as a witness.

Q. Understood. Dr. Marston, did you, during any of your breaks, speak with Counsel today?

A. Did I speak with him? We didn't share anything about the deposition.

Q. Okay. And, Dr. Marston, there are others involved in this case.

Specifically, are you aware of Dr. Latifur Khan?

A. No, I've no idea who he is.

Q. And so therefore, you would not have read any of his declarations that he submitted in this case?

A. I've never heard of him, so no, I haven't.

MR. KNOX: Okay. Well, I don't have any further questions, and ready to pass the witness.

MR. PADMANABHAN: I have no further questions either. Thank you.

MR. KNOX: Okay.

THE WITNESS: Okay. Well --

MR. KNOX: Thanks. I think we can go off the record.

THE VIDEOGRAPHER: Okay. Going off record at 10:21 a.m.

THE REPORTER: Could I get your transcript order, please, Counsel?

MR. PADMANABHAN: We just need a rough and regular delivery.

THE REPORTER: Okay.

THE VIDEOGRAPHER: Sorry. Do you want that on the record, Emma?

MR. KNOX: Sorry. Go ahead.

THE VIDEOGRAPHER: Did you want that on the record?

THE WITNESS: The weather's good in California? Ha ha.

THE REPORTER: Sorry. I can only do one at a time.

THE VIDEOGRAPHER: Sorry. Emma, did you want to get copy orders on the record?

THE REPORTER: I'm still on the record. I don't know if you need it on the video or not.

THE VIDEOGRAPHER: Oh. I went off the record the -- the last minute ago.

THE REPORTER: Okay. Mr. Knox?

MR. KNOX: Sorry. What was the question?

THE REPORTER: Could I just get your copy order on the record, please?

MR. KNOX: Oh -- I'm sorry. Yes. Same would be fine, please. The rough, and then just normal delivery would be great.

THE REPORTER: Okay. Great.

(The proceedings concluded at 10:21 a.m.)

--oOo--

C E R T I F I C A T E O F R E P O R T E R

I, EMMA HARRIS, RMR, CRR, Ca. CSR NO. 14387, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place set forth, at which time the witness was put under oath by me;

That the testimony of the witness, the questions propounded, and all objections and statements made at the time of the examination were recorded stenographically by me and were thereafter transcribed;

That the foregoing is a true and correct transcript of my shorthand notes so taken.

I further certify that I am not a relative or employee of any attorney of the parties, nor in any way interested in the outcome of the action.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of FEBRUARY 2026.

_____

EMMA HARRIS
RMR, CRR, Ca. CSR NO. 14387

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