

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3

4 GOOGLE LLC,

5 Petitioner,

6 vs.

CASE NO: IPR2025-00472

7 PATENT: 11,416,898 B2

8 BRODTI INC.,

9 Patent Owner.
10

11 * * * * *

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14 Deposition of HARLEY MYLER PH.D., P.E., taken on
15 behalf of the Petitioner, via Zoom videoconference,
16 commencing on the 22nd day of January, 2026, at the
17 hour of 9:00 a.m. PT, before Jillian Doctor, CSR No.
18 14603, pursuant to Notice of Taking Deposition.
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A P P E A R A N C E S

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I N D E X

WITNESS	EXAMINATION	PAGE
HARLEY MYLER	BY MR. WEINSTEIN:	4
	BY MR. CREMEN	51
	BY MR. WEINSTEIN	54

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EXHIBITS FOR IDENTIFICATION

Exhibit 2009	7
Declaration	
Exhibit 1001	29
US 11,416,898 B2 Patent	
Exhibit 1003	45
US 2004/0054589 A1 Patent	

Transcript of Harley Myler, Ph.D., P.E.
Conducted on January 22, 2026

4

1 HARLEY MYLER PH.D., P.E.,
2 having been first duly sworn,
3 was examined and testified as follows:
4 EXAMINATION
5 BY MR. WEINSTEIN:
6 Q. Good morning, sir.
7 A. Good morning.
8 Q. Could you state your name for the record?
9 A. Harley Ross Myler.
10 Q. And for purpose of this deposition, do you
11 prefer to go by Mr. Myler or Dr. Myler?
12 A. Actually, I prefer Professor, but go ahead
13 and just call me Harley.
14 Q. Okay. Well, I'll just -- maybe I'll just
15 refer to you as Dr. Myler, then, because I think we
16 don't use first names in depositions.
17 A. Okay. Whatever you like.
18 Q. Thank you, sir.
19 Have you had your deposition taken before,
20 sir?
21 A. Yes.
22 Q. Approximately how many times?
23 A. I'm going to say -- I think the number
24 that's been floating around is maybe 50 times.
25 Because the first one that I had occurred after '88.

1 So, yeah, it's been -- I've slept a lot since then.

2 Q. When was the last time you were deposed in
3 any matter, if you can recall?

4 A. I think it was last year.

5 Q. Okay. So Dr. Myler, you're generally
6 familiar with the mechanics of depositions; correct?

7 A. Yes.

8 Q. So just briefly, obviously, this is a
9 deposition; you're under oath and so everything you
10 say here today has the same force and effect as if
11 were stated in open court or a hearing.

12 You understand that; correct?

13 A. I do.

14 Q. Dr. Myler, if you don't understand any
15 question that I provide, you're free to answer the way
16 you want or to ask for clarification.

17 Make sense?

18 A. Yep.

19 Q. Dr. Myler, are you taking any medication
20 that could affect the testimony you give here today?

21 A. I don't believe so.

22 Q. Okay. And is there any reason you can
23 identify that you can't give your best and most
24 accurate testimony here today?

25 A. No, I can't think of anything that's

1 affecting it.

2 Q. Thank you, sir.

3 Dr. Myler, you've been retained as a
4 technical expert for the patent owner in this case,
5 BrodTi, B-R-O-D-T-I. Correct?

6 A. That's correct.

7 Q. And are you being compensated for the work
8 that you're doing for BrodTi on this IPR?

9 A. Yes, I am.

10 Q. What is your hourly rate?

11 A. It's 550 per hour.

12 Q. Okay. And can you estimate approximately
13 how many hours you have spent working on this IPR?

14 A. Maybe in the -- in the range of ten or so.

15 Q. Okay. And are you doing any other work for
16 BrodTi, other than in connection with this IPR?

17 A. No, I'm not.

18 Q. Okay. When were you first retained by
19 BrodTi?

20 A. I believe it was November last year.

21 Q. So the declaration you submitted, Dr. Myler,
22 it was provided as Exhibit 2009 to this IPR. During
23 this deposition, I'm going to be referring to portions
24 of your Exhibit 2009. So if you want to get that out,
25 that's perfectly fine.

1 I want to emphasize, if at any time you need
2 to refer to any portions of your declaration to answer
3 a question that I'm asking, you're free to do that.

4 Sound fair?

5 A. Sounds fair.

6 (DEPOSITION EXHIBIT NUMBER 2009
7 WAS MARKED FOR IDENTIFICATION.)

8 Q. Okay.

9 A. There it is.

10 Q. Dr. Myler, let me know when you have access
11 to Exhibit 2009.

12 A. I have access to it.

13 Q. Okay. Dr. Myler, before you started working
14 with BrodTi in this case, had you ever heard of the
15 '898 patent that's at issue in this IPR?

16 A. No, I had not.

17 Q. Okay. And the lead inventor is named John
18 DeTitta, D-E--T-I-T-T-A.

19 Prior to your retention on this IPR, had you
20 ever heard of Mr. DeTitta?

21 A. No, I had not.

22 Q. Okay. And other than counsel in --
23 withdrawn.

24 Other than counsel for BrodTi, have you
25 spoken to anyone else about the opinions that you have

1 provided in this IPR?

2 A. No, I have not.

3 Q. Have you ever spoken to Mr. DeTitta?

4 A. No.

5 Q. Okay. Dr. Myler, if you could turn to

6 Paragraph 46 of your declaration, Exhibit 2009.

7 That's on Page 19 of your declaration.

8 A. I'm going to pull this out of here. Suffer
9 the risk that -- drop it.

10 And what was that page number again, please?

11 Q. It's Page 19, Paragraph 47 -- I'm sorry --
12 Paragraph 46.

13 A. Okay. I'm there.

14 Q. Okay. And this is a section of your
15 declaration where you discuss the characteristics of a
16 person of ordinary skill in the art; correct?

17 A. Yes. The POSITA.

18 Q. Okay. And then on Paragraph 46, you say, in
19 the very beginning sentence, you say, "To determine a
20 POSITA's characteristics, I considered several things,
21 including various prior art relating to internet-based
22 technologies, including web-based media, the types of
23 problems that such technology gave rise to, and the
24 rapidity with which innovations were made."

25 Do you see that?

1 A. Yes.

2 Q. Now, when you refer to the various prior art
3 techniques in this paragraph, other than the prior art
4 that was cited by Dr. Crovella, what prior techniques
5 did you review?

6 A. Mostly the techniques used to develop
7 webpages, you know, HTML and editing. I've also done
8 a lot of work with internet protocol television and
9 internet protocol-based computing.

10 And of course, the internet is a large
11 digital telecommunications system, so I was looking at
12 things that have to do with how the internet operates,
13 and the fact that it is digital and, at the end of the
14 day, that links up very nicely with the notion of
15 computing and the ability to compute, you know, nodes
16 and things of that sort.

17 Q. Thank you, sir.

18 Had you ever, before your worked on this
19 case, done work related to internet advertising?

20 A. Nothing internet advertising specific in the
21 sense of putting ads up and things. Of course, I've
22 gone online and put things on Facebook marketplace, if
23 you want to consider that internet advertising. But
24 not really, only as a client --

25 Q. I understand.

1 A. -- being aware of how the media operates.

2 Q. Understood.

3 So you haven't been a developer of
4 technologies for internet advertising; correct?

5 A. That's correct.

6 Q. Dr. Myler, are you familiar with the user
7 interface controls that are available through
8 web-based interfaces?

9 MR. CREMEN: Objection. Form.

10 THE WITNESS: Yeah, I'm not quite sure what
11 that question is.

12 BY MR. WEINSTEIN:

13 Q. Well, for example, you're aware that on a
14 webpage, you can be presented with certain types of
15 user interface controls, drop down lists, text boxes,
16 check boxes, other types of controls; correct?

17 A. Oh, yes. Of course. Radio buttons, modal
18 dialogues, et cetera.

19 Q. And prior to your work on this case, had you
20 ever developed any webpages that incorporated any of
21 these user interface controls?

22 A. I'm trying to think here. Most of the
23 webpages that I've developed just simply had links,
24 but I'm trying -- there was some -- there were some --
25 what's the word I want for it? I can't remember the

1 term.

2 But when you're doing online instruction,
3 instructional videos, and I did a lot of that when I
4 was actively teaching, particularly at Lamar
5 University -- and actually, come to think of it, I did
6 some at University of Central Florida as well. But
7 anyway, in those videos it's possible to have
8 interactive controls, so you can do dynamic quizzes
9 while the student is doing their instruction. And
10 that's similar to user interface controls because you
11 have to bring up maybe -- maybe it's a multiple choice
12 question, and so you have to choose one of a
13 selection.

14 And it's -- its not the identical thing, but
15 it's an identical technology. It's just a different
16 way that it's stored and interpreted when it's put
17 out. It's not HTML, in other words, or Java Script or
18 anything of that sort.

19 Q. In connection with -- withdrawn.

20 You're certainly aware of the type of user
21 interface controls that would have been available to
22 developers prior to the '898 patent; correct?

23 MR. CREMEN: Objection. Form.

24 THE WITNESS: I'm going to say in general,
25 yes.

1 BY MR. WEINSTEIN:

2 Q. And what are the types of user interface
3 controls that developers would have been able to use
4 prior to the '898 patent?

5 MR. CREMEN: Objection. Form.

6 THE WITNESS: Yeah, I -- I don't know them
7 specifically because they're always modifying what
8 you're able to do.

9 And what I mean by that is, you know,
10 when -- when you have a particular browser, it's -- it
11 has to interpret these things, and when the -- when
12 certain standards on the internet with HTML, HTTP,
13 et cetera, protocols change, they add new features and
14 the browser has to be updated.

15 When those different things took place, I
16 really don't know. I mean, I haven't looked at any
17 kind of historical list of, you know, in June of 20-X,
18 that's when you first could put a radio button on a
19 webpage.

20 BY MR. WEINSTEIN:

21 Q. But let's talk about the most basic ones.

22 Can you think of any user interface controls
23 for websites that would have existed prior to the '898
24 patent? And I think the priority date that's been
25 assumed in this case is November 2004.

1 A. 2004. You're making me stretch way back.
2 I'm going to say in 2004, you pretty much had
3 user-selectable options. You could fill in a form, in
4 other words.

5 Q. Right. And a form could include things like
6 check boxes; right?

7 A. Exactly. Check boxes, radio buttons,
8 fill-in-the-blank kind of -- or did we say text boxes?

9 Q. I think we did, but it's fine that you just
10 mentioned it.

11 A. Yeah. I think everybody gets the idea.

12 Q. Right. So in a text box, that's a type of
13 user interface control where a user can input textual
14 information to the website; correct?

15 MR. CREMEN: Objection. Form.

16 THE WITNESS: That's my understanding of how
17 it works, yes.

18 BY MR. WEINSTEIN:

19 Q. Were text box controls common on webpages
20 prior to November of 2004, to the best of your
21 recollection?

22 MR. CREMEN: Objection. Form. Requires
23 speculation.

24 THE WITNESS: Yeah, I -- like I said, I -- I
25 would say probably, but I don't have any accurate

1 opinion of that; you know, saying yes, they were or
2 no, they weren't. That's, like I said, I don't really
3 have historical record of what was available and what
4 wasn't.

5 BY MR. WEINSTEIN:

6 Q. Dr. Myler, if you could turn to Paragraph 56
7 of your declaration, which is on Page 22 and
8 continuing to Page 23.

9 A. I'm on Page 56.

10 Q. Okay. And then on 56, you're referring to
11 claim [l] and [f]. And just so we're on the same
12 page, I'll read the limitation into the record.

13 It is based on obtaining the selection --

14 MR. CREMEN: Sorry, I think you guys had a
15 miscommunication on page and paragraph.

16 BY MR. WEINSTEIN:

17 Q. It's Page 22, Paragraph 56.

18 A. Here we are with this extremely advanced
19 video telecommunication technology and I'm shuffling
20 around with papers.

21 Okay. What page again, please?

22 Q. Top of 23.

23 A. Top of 23. Okay. I'm at the top of 23.

24 Q. And you've produced limitation [f] which
25 says, "based on obtaining the selection, populating,

1 by the one or more processors, the advertising
2 material on the at least one website, wherein the
3 populating comprises placing the advertising material
4 within web property content of the at least one
5 website."

6 Do you see that?

7 A. Yes.

8 Q. And in this section, you have italicized the
9 portion that says, "placing the advertising material
10 within web property content of the at least one
11 website." Correct?

12 A. Yes.

13 Q. Okay. So the next, Paragraph 57, says, "A
14 POSITA would have understood this phrase in the
15 context of the '898 patent as a whole to require:"
16 And then you list a number of items.

17 Do you see that?

18 A. Yes.

19 Q. So just so I'm clear, when you say "this
20 phrase" in Paragraph 57, are you referring to the
21 entirety of limitation [f] or just that portion that
22 you have bold italicized?

23 A. It's for the entire thing as a whole.

24 Q. You mean the entirety of claim limitation
25 [f]?

1 A. Yes.

2 Q. Okay. So I'm going to ask a number of
3 questions about your, sort of, views about this.

4 If you look at Footnote 4 on Page 23, you
5 say, "To the extent this understanding (and of the
6 constituent terms) is considered an express
7 construction, I adopt it."

8 Just so I'm clear, are you proposing that
9 the board provide express constructions for terms in
10 limitation [f]?

11 A. I guess what I'm saying is that if it is
12 considered an express construction, then I'm willing
13 to accept that as the construction of the term.
14 Because I don't think any of the terms were construed.

15 Q. Right. That's kind of the idea, is the
16 board doesn't have to construe it, unless the parties
17 believe it needs to be construed.

18 So I'm just trying to figure out, as the
19 technical expert, do you believe that this term
20 requires construction?

21 MR. CREMEN: Objection. Form.

22 THE WITNESS: No. Plain and ordinary
23 meaning.

24 BY MR. WEINSTEIN:

25 Q. Okay. So let me take this piece by piece

1 and I'll jump forward a little bit to Paragraph 61.

2 Let me know when you've gotten there.

3 A. I'm at 61.

4 Q. And I'll read what it says in the record.

5 It says, "Based on the foregoing, a POSITA
6 would have understood 'web property content' to mean a
7 discrete user-accessible file on a website for which
8 revenue is being sought."

9 Do you see that?

10 A. Yes.

11 Q. And that accurately states your opinions as
12 to how the board should understand the term "web
13 property content"; correct?

14 A. That is correct.

15 Q. Okay. Let me actually break this
16 construction down a little bit.

17 You say, "a discrete user-accessible file."

18 So by "file," are you just referring to a
19 computer file that could exist on a storage device?

20 A. Yes, that's what a file is.

21 Q. Okay. And by discrete, what does that do to
22 the file, if anything?

23 A. The term "discrete"?

24 Q. Yes, sir.

25 A. It means it's a single file.

1 Q. And then you say "user-accessible file."

2 What does that mean, in the context of your
3 understanding?

4 A. That the user in question, the operator, can
5 access that file. There is no protections that keep
6 them from accessing it.

7 In other words, if they have the address,
8 then they can access it.

9 Q. So if they have a URL for the file and they
10 can access it via a web browser, that would be a
11 user-accessible file; correct?

12 MR. CREMEN: Objection. Form.

13 THE WITNESS: Yes. As opposed to one that
14 isn't accessible.

15 BY MR. WEINSTEIN:

16 Q. Right. I'm just trying to figure out,
17 you're not specifying any particular way that the file
18 has to be accessed, you're just saying it has to be
19 user accessible; correct?

20 A. That's correct.

21 Q. Okay. And web property content being a
22 discrete file, is it your position that a web property
23 content cannot be two files?

24 A. I think the web property content can be two
25 files. Because they could be in two different places,

1 I suppose. I don't think there is any restriction on
2 that.

3 Q. Right. What I'm getting at is that earlier
4 you said that a discrete file is a single file. So
5 I'm just trying to figure out if that's simply -- if
6 you're restricting the number of files or if discrete
7 has some other meaning to you in the context of your
8 interpretation of web property content?

9 A. Well, I think by "discrete," what I mean is
10 that the file doesn't have multiple parts that have to
11 come together; that it's all in one place and you can
12 access it.

13 Q. But then a discrete file, then, would have
14 to be a single file under that understanding; correct?

15 A. Well, you might imagine some kind of file
16 linkage mechanism that's transparent to the user. And
17 then you could argue that was discrete.

18 Q. Let me ask you this question: So you're
19 aware that webpages are typically presented to a user
20 as HTML files; correct?

21 MR. CREMEN: Objection. Form.

22 THE WITNESS: Yes. Per the interpretation
23 of an HTML file.

24 BY MR. WEINSTEIN:

25 Q. Right. And when a browser receives a

1 webpage, it actually receives an HTML file over the
2 internet; correct?

3 A. That's correct.

4 MR. CREMEN: Objection. Form.

5 BY MR. WEINSTEIN:

6 Q. Okay. And that is a user-accessible file
7 because the user can actually access it via their web
8 browser; correct?

9 A. Yes.

10 MR. CREMEN: Objection.

11 THE WITNESS: If it isn't, you get a 404
12 error or something of that sort.

13 BY MR. WEINSTEIN:

14 Q. You get a 404 error, if it's not accessible,
15 but otherwise, you would see the webpage; correct?

16 A. I believe so, yes.

17 Q. And is an HTML webpage file, is that a
18 discrete file?

19 A. Yes.

20 Q. Okay. Now, in Paragraph 62, we talk about
21 the word "content" that's on the next page.

22 You say, in 62, that content cannot be a
23 webpage or a website generally; correct?

24 MR. CREMEN: Objection. Form. Misstates
25 testimony.

1 THE WITNESS: Yes. I say there that content
2 and website must logically be different things in the
3 context of the patent.

4 BY MR. WEINSTEIN:

5 Q. Understood, sir.

6 In the next sentence of Paragraph 62, you
7 say, Content is specified by claim 1 (and claims 10
8 and 19) to be capable of (among other things) being
9 placed on a website and being accessible to a user on
10 a -- on the website.

11 Do you see that?

12 A. Yes.

13 Q. You'd agree that a webpage meets that
14 description; correct?

15 A. Well --

16 MR. CREMEN: Objection. Form.

17 THE WITNESS: The webpage can be on the
18 website, but you're not looking at the webpage, you're
19 looking at the interpretation of it.

20 BY MR. WEINSTEIN:

21 Q. No, I understand that. My question was
22 simpler.

23 You'd agree that a webpage can be placed on
24 a website; correct?

25 MR. CREMEN: Objection. Form.

1 THE WITNESS: Not entirely in the context of
2 this discussion of this patent. It's -- a webpage can
3 exist on a website that has some URL, but we're
4 talking about appearance on a page that's being
5 observed by the user.

6 BY MR. WEINSTEIN:

7 Q. So is an HTML file, then, an example of
8 content that is capable of being placed on a website
9 and being accessible to a user on the website?

10 MR. CREMEN: Objection. Form.

11 THE WITNESS: Only if the HTML file is
12 misinterpreted and the contents of it are displayed on
13 the page. Sort of like a video or a graphic.

14 BY MR. WEINSTEIN:

15 Q. Okay. So is -- was the answer yes or -- I
16 wasn't sure what the answer was?

17 A. The answer was if certain conditions are
18 met, because the HTML is actually a program that's to
19 be interpreted as a program. Whereas, "content" more
20 implies the program itself, like a printout of the
21 program and that could be displayed as content on a
22 website. And it will be, if there is a problem with
23 the HTML, that's an error condition.

24 Q. Right. But assume there is no error
25 condition, an HTML file that is provided to a user's

1 web browser and website, that is content that's
2 capable of being placed on a website and that is
3 accessible to the user as a website; correct?

4 MR. CREMEN: Objection. Form.

5 THE WITNESS: Well, yes, if the content is
6 presented as the content and not the program
7 execution.

8 BY MR. WEINSTEIN:

9 Q. What would be an example where a webpage
10 would be presented as the program and not the content
11 of the webpage?

12 A. Well, it's the output of the program. In
13 other words, the HTML is the program. And in the HTML
14 code, it says display a table and it gives the
15 structure of the table. A table gets displayed, not
16 the structure of the table, which is the HTML.

17 Q. Of course. Because the web browser
18 interprets the HTML and then turns that into a visual
19 display for the user; correct?

20 MR. CREMEN: Objection.

21 THE WITNESS: That's how that works.

22 BY MR. WEINSTEIN:

23 Q. Okay. If we turn to Paragraph 63.

24 You say in this paragraph, "Second, as for
25 'placing the advertising material within web property

1 content,' a POSITA would have understood this phrase
2 to mean inserting the advertisement into content (with
3 content having the meaning set forth above)."

4 Do you see that?

5 A. Yes.

6 Q. In your understanding, it looks like you've
7 replaced the word "placing" with "inserting."

8 So I'm trying to understand, in your mind,
9 is there a difference between placing and inserting in
10 terms of what that would require the system to do?

11 MR. CREMEN: Objection. Form.

12 THE WITNESS: I think the difference is
13 placing doesn't have the confines of inserting.
14 Although, inserting tends to mean to stick something
15 into something. Placing means to put something on top
16 of something.

17 But when you're talking about these kinds of
18 things, you think about a video and the video's there
19 and you want to insert a message, a closed caption.
20 So you -- well, you turn on the closed captions and
21 all of a sudden you see the closed captions and you
22 could say, well, I inserted that in the video.

23 Technically, it isn't in the video. It's
24 been placed on top of the video with graphic
25 techniques.

1 So, you know, that's sort of the difference
2 between placing and inserting, even though they're
3 both doing essentially the same thing when it's all
4 over. I mean, I don't know if that clarifies it or
5 not.

6 BY MR. WEINSTEIN:

7 Q. I think it does, in part.

8 In connection with your understanding of the
9 patent and your proposed interpretation of the claims,
10 what does inserting require?

11 A. In what context?

12 Q. In the context of your interpretation that
13 the placing limitation refers to "inserting the
14 advertisement into content," as stated in
15 Paragraph 63.

16 A. Oh, yes. It means putting that
17 advertisement into the content.

18 So if it's a video, then the advertisement
19 appears in the video.

20 Right. "Placing the advertising material
21 within the web property content," would understand the
22 phrase to mean inserting the advertisement into the
23 content.

24 Q. Thank you.

25 The reason I ask is because, you know, when

1 I read the word "inserting" the connotation that comes
2 to me is something that's more like embedding
3 something into something else, almost like your
4 sandwiching it between two things, and placing is sort
5 of a broader sort of term that doesn't necessarily
6 require that you embed something into some kind of
7 existing slot or space.

8 I'm just trying to understand by the word
9 "inserting," are you requiring that the -- that the
10 server that's placing the advertised material arrange
11 it in any particular way to meet the claim?

12 MR. CREMEN: Objection. Form.

13 THE WITNESS: I don't think that was added
14 in the claim anywhere. Can you point out where it
15 says something like that?

16 BY MR. WEINSTEIN:

17 Q. I would agree with you, sir.

18 My question is, though, you use the word
19 "inserting." And I just am trying to understand why
20 replace the word "placing" with "inserting."

21 I'm trying to understand what is the
22 implication of the substitution of those two words on
23 the meaning of the claim?

24 A. Oh, I see.

25 MR. CREMEN: Objection.

1 THE WITNESS: Well, if I might. I think
2 what it goes to is we're talking about terminology
3 that's normally associated with objects and sequences
4 and volumes. And so you place -- place an object in
5 the bottom of a bowl. You can also say we insert the
6 object into the bottom of the bowl. So there's
7 inserting and placing being used interchangeably.

8 It gets a little more complicated when you
9 start talking about -- and I'm talking now about the
10 mechanics of doing it. Does it happen in between
11 frames of a video or is it somehow overlaid in the
12 case of MPEG, where each frame is a JPEG image, is the
13 JPEG image modified?

14 You know, none of that is really discussed
15 in the patent, the details of how that's done. It's
16 because it isn't important to the patent.

17 BY MR. WEINSTEIN:

18 Q. Do you mean "inserting" and "placing" are
19 synonymous in the context of your interpretation?

20 MR. CREMEN: Objection. Form.

21 THE WITNESS: I think synonymous might be a
22 little -- a little too loaded. I believe I said they
23 were not synonymous, but more or less interchangeable.

24 I think that's what ...

25 BY MR. WEINSTEIN:

1 Q. Dr. Myler -- go ahead. If you needed to
2 finish your answer, go ahead, sir.

3 A. I'm looking for that place where I said that
4 placing and inserting were -- I didn't say they were
5 synonymous.

6 Q. I don't think you said either way, that's
7 why I'm asking the question.

8 A. Yeah. I they're not synonymous, but they
9 can appear to be the same. I gave the example with
10 the object in a bowl. You could place it in the
11 bottom of the bowl. You can insert it into a bowl,
12 but then there is other instances where you can't
13 interchange them. And that depends on the mechanics
14 on how the placing and the inserting take place.

15 Q. Does the claim, in your view, require a
16 particular way that the advertisement needs to be
17 placed or inserted on the --

18 A. Are we talking claim 1?

19 Q. Yeah. Does the claim, in your opinion,
20 specify how the advertising material has to be placed
21 within the web property content?

22 MR. CREMEN: Objection. Form.

23 THE WITNESS: I'm going to take another look
24 at claim 1 before I jump into that.

25 Which exhibit is the patent? Is it

1 Exhibit 1?

2 (DEPOSITION EXHIBIT NUMBER 1001

3 WAS MARKED FOR IDENTIFICATION.)

4 BY MR. WEINSTEIN:

5 Q. 1001, sir.

6 A. Okay. It's right at the front.

7 We should have thought about this

8 differently.

9 Okay. Could you ask that question one more

10 time. I think I'm seeing where you're going.

11 Q. Sure.

12 I'm just asking the question, does the claim

13 language specify the way that content needs to be

14 placed within web property content?

15 Or I'll be more precise --

16 MR. CREMEN: Objection.

17 BY MR. WEINSTEIN:

18 Q. Does the claim specify details regarding how

19 advertising material needs to be placed within web

20 property content?

21 MR. CREMEN: Objection. Form.

22 THE WITNESS: No, it just says comprising

23 placing the advertising material within the web

24 property content.

25 BY MR. WEINSTEIN:

1 Q. And by changing the word "placing" to
2 "inserting," what, if anything, does that do to the
3 meaning of that phrase, if anything?

4 MR. CREMEN: Objection. Form.

5 THE WITNESS: I think inserting might imply
6 that it was maybe -- might not even be visible. I'm
7 not sure.

8 BY MR. WEINSTEIN:

9 Q. Okay. If you would like to turn next, I
10 think we can go to Paragraph 72 of your declaration,
11 that's Exhibit 2009, where you discuss your
12 understanding of the term "website."

13 A. I'm on Page 72.

14 Q. Actually, Paragraph 72.

15 Actually, I'm jumping ahead a little bit too
16 much. I think we can go to Paragraph 68, which is on
17 Page 28.

18 A. Page 28. Yes.

19 Q. Okay. So in Paragraph 68, you provide the
20 following opinion, you say, "To provide these
21 features, a POSITA would have understood 'website' was
22 being used to describe a particular definable webpage
23 or a group of webpages at a particular domain," and
24 you provide some examples of both of those.

25 Do you see that?

1 A. Yes.

2 Q. And is that how you understand the term
3 "website" in the context of the '898 patent?

4 A. Yes.

5 MR. CREMEN: Objection.

6 BY MR. WEINSTEIN:

7 Q. Okay. And then in Paragraph 69, you say,
8 "Website is used similarly in the '898 patent's
9 specification."

10 Do you see that?

11 A. I do say that, yes.

12 Q. And then you provide a citation to the
13 patent.

14 Paragraph 70, you say, "The prior art cited
15 by Dr. Crovella teaches the same."

16 And you can see you provide citations to
17 Nicholas, Yanovsky, and Manowitz.

18 Do you see that?

19 A. Yes. I think those were the prior art cites
20 that he gave.

21 Q. So would you agree that the prior art cited
22 by Dr. Crovella teaches a website under the definition
23 that you've provided?

24 MR. CREMEN: Objection. Form.

25 THE WITNESS: Yes. The websites such as

1 Yahoo!'s.

2 BY MR. WEINSTEIN:

3 Q. In the example you cite here in Paragraph 70
4 of Nicholas, the example here is the Green Bay Packers
5 website, www.packers.com, that's an example of a
6 website that would meet the definition of website
7 you've provided; correct?

8 A. Yes. In my earlier thing I had, what,
9 www.espn.com. This is www.packers.com. Two different
10 websites.

11 Q. And they're both websites; correct?

12 A. They're URLs that support a website.

13 Q. Right. You say in Paragraph 72, on that
14 same page, "I note that the scope of 'website' as used
15 in the art can include, in some instances, the server
16 that hosts the 'website.' This usage is also
17 mentioned in passing in the '898 patent's
18 specification."

19 Do you see that?

20 A. Yes.

21 Q. And you provide a citation to the '898
22 patent right after that; correct?

23 A. That's correct.

24 Q. But as a person of skill in the art, you
25 would agree that when people refer to a website,

1 they're also referring to the server or computer that
2 hosts the website; correct?

3 MR. CREMEN: Objection. Form.

4 THE WITNESS: Not exactly in that way. In
5 fact, that -- that is part of the -- you've got what
6 takes place between the computer engineers, for lack
7 of a better group.

8 First is the lay people that are actually
9 using it and so you have a URL -- actually, in my
10 example was the -- you have a URL like www.espn.com.
11 If you type that into a browser, it will take you to
12 that website.

13 However -- and I don't know when it
14 happened, but prior, a few years ago, if you just
15 typed into a browser www.espn.com, it would come back
16 with an error because you hadn't typed in the correct
17 URL, http://www.espn.com.

18 Now the browsers are more sophisticated and
19 they know that, oh, he meant the URL, the
20 properly-formed URL.

21 So that notion of a unique name taking you
22 to a website or taking you to -- let's just for lack
23 of a better term, displayable content, that URL can be
24 construed as the website. That's the website. But if
25 you dig deeper, you find out there is a server

1 somewhere, and basically, the server is simply serving
2 up a file. And that file is -- the default is indexed
3 on HTML and so that file gets served up. And so the
4 server that serves up the file is sometimes called the
5 website because it's an actual physical location
6 somewhere out in the internet.

7 And that's what that means. I mean, I hope
8 that was -- it sounded a little muddled, but that is
9 what that means.

10 BY MR. WEINSTEIN:

11 Q. Well, I mean the phrase is "website." I
12 mean doesn't that indicate to you that a website would
13 be a server or computer on the internet that's serving
14 up these webpages?

15 MR. CREMEN: Objection. Form.

16 THE WITNESS: It's site -- when I was
17 talking about site, I'm talking about a physical
18 location somewhere. So now we're into the hardware
19 itself.

20 But, of course, the way the internet is,
21 nobody knows where anything is. There is -- there is
22 this vast server farms and -- but coming from the way
23 it is done and the understanding that it is a
24 communication system, draws up the idea that whoever
25 you are communicating with -- in this instance, the

1 server -- has a physical location somewhere and
2 represents the site, or, if you just strictly want to
3 look at it from a software standpoint, the browser --
4 which implies looking around -- the browser looks
5 around and finds the website and presents it, and that
6 website is what you're seeing on the screen at that
7 URL.

8 BY MR. WEINSTEIN:

9 Q. Right. To a web developer, though, not an
10 average person who is surfing the web, how would they
11 see website?

12 What would they take that term to mean?

13 A. The average person?

14 Q. No, not the average person. How would a web
15 developer, like someone who is actually developing
16 webpages and is a POSITA, for example, how would they
17 interpret the term "website"?

18 MR. CREMEN: Objection. Form.

19 THE WITNESS: A web developer is a sort
20 of -- this is getting into speculation as to --
21 because you can have web developers that are not
22 computer engineers. So they don't know much more
23 about what's happening in the back room than anybody
24 else. And --

25 BY MR. WEINSTEIN:

1 Q. That's a fair point. We'll just limit it to
2 a POSITA, then.

3 A. Yeah. The POSITA now, the computer
4 engineer, has a background in computer engineering and
5 so should -- because now we're talking about just any
6 old person -- should understand these hardware
7 mechanisms in the background.

8 Q. In order for a website to be available to a
9 user for your web browser, there has to be a server
10 that supports that website; correct?

11 MR. CREMEN: Objection. Form.

12 THE WITNESS: There has to be a machine of
13 some sort. I mean, you can have a website on your
14 local machine that isn't even connected to the
15 internet.

16 BY MR. WEINSTEIN:

17 Q. Right. But it has to be some machine
18 somewhere that's providing the webpages for the
19 website; correct?

20 A. Yes.

21 Q. Right?

22 MR. CREMEN: Objection. Form.

23 BY MR. WEINSTEIN:

24 Q. I guess we can move on to Paragraph 77 and
25 78 of your declaration. That's on Pages 31 and 32,

1 Exhibit 2009.

2 A. Paragraph 77. Yes.

3 Q. And in that section, you are quoting
4 elements [c] and [d] of the independent claims;
5 correct?

6 A. Yes.

7 Q. And then in Paragraph 78 and 79, you provide
8 some opinions about what you think that language
9 means; correct?

10 A. Yes.

11 Q. Dr. Myler, when you read the specification
12 of the '898 patent, were you able to locate any
13 description of the user interface for providing the
14 advertising buy options to a client?

15 MR. CREMEN: Objection. Form.

16 THE WITNESS: I don't think there was a
17 picture, if that's what you mean.

18 BY MR. WEINSTEIN:

19 Q. Yeah. So in this section -- I mean, I
20 didn't see any webpages, for example, or any exemplary
21 webpages showing what the user interface might look
22 like.

23 Do you agree with me on that one?

24 A. I don't think there are any in the patent.

25 Q. Okay. Did you find any textual description

1 when you reviewed the patent about how the user
2 interface is supposed to look that provides the
3 advertising buy options to the client?

4 MR. CREMEN: Objection. Form.

5 THE WITNESS: Look in the sense of design?

6 BY MR. WEINSTEIN:

7 Q. (Nodding.) Yes, sir.

8 A. I don't believe there was any specifications
9 of design. You know, like, you need to use a rounded
10 rectangle instead of a circle, that kind of thing.

11 Q. How about, like, the types of user interface
12 controls that must be present on the webpage?

13 MR. CREMEN: Same objection.

14 THE WITNESS: Those controls were discussed,
15 but not delineated in exactly what they had to look
16 like.

17 BY MR. WEINSTEIN:

18 Q. So if we look at Paragraph 78, you have a
19 passage that's quoted at the end of that paragraph
20 from the '898 patent, column 6, line 16 to 23.

21 Do you see that?

22 A. Right.

23 Q. Let's read that. It says, "'A sales team of
24 the company then markets the impressions on the
25 website to the advertiser for a set of impressions and

1 cost in a media buy. A media buy sets the terms and
2 cost of the advertising provided by the media property
3 to the advertiser.'" "

4 Do you see that?

5 A. Yes.

6 Q. Does that passage, in your view, describe
7 the user interface that has to be provided to a client
8 to obtain advertising buy options?

9 A. Can you ask that question again?

10 Q. Sure. Well, let me ask you this question.

11 On the top of Paragraph 78, you say the
12 following: "These elements, read in conjunction,
13 first require the generation of a webpage presenting
14 advertising buy options to a client for the client's
15 selection."

16 Do you see that?

17 A. Yes.

18 Q. And later on in the claims, it says that
19 those options would include, you know, websites and
20 predetermined number of impressions.

21 Who is the client in the context of the
22 claim? Is that somebody who is seeking to purchase
23 advertising or sell the advertising?

24 A. I think the client is the one who's trying
25 to have funds raised for their project.

1 Q. Right. Are they the person who is -- so to
2 do that they want to have -- withdrawn.

3 Going back to the end of Paragraph 78,
4 you're referring to column 6, line 16 to 23.

5 Does that passage describe how the user
6 interface for presenting the advertising buy options
7 should be designed?

8 A. Oh, it doesn't give the specifics of the
9 design.

10 Q. Understood.

11 So in -- earlier, you said that the client
12 for purposes of element [c], is the person who's
13 trying to raise money; correct?

14 A. I believe that's what the client is.

15 Q. So if you could turn back, Dr. Myler, to
16 Page 31, Paragraph 77. That's where you have the
17 claim language quoted.

18 And on the bottom of Page 31, you say,
19 "wherein the selected one or more advertising buy
20 options comprise at least one website of the
21 respective websites and a predetermined number of
22 impressions of the advertising material for users
23 visiting the at least one website."

24 Do you see that?

25 A. No. You started reading before I found it.

1 So I'm on Page 31, Paragraph 77?

2 Q. Yeah. The bottom of limitation [d].

3 A. Okay.

4 Q. Did you see that, sir?

5 A. Yes, I see it.

6 Q. Now, I'm going to move forward to
7 Paragraph 83 through 85, which is on Pages 34 and 35.

8 A. Yes.

9 Q. And then 83 shows you've reproduced
10 Figure 9, and you've circled what looks like some
11 check boxes that are on the webpage.

12 Do you see that?

13 A. The sports, the family, general interests.

14 Q. Right. And on the left, it says, in
15 Figure 9, "Select Channel/Websites."

16 Do you see that?

17 A. Yes. Yes that whole box.

18 Q. Okay. On Paragraph 85, the next page,
19 you've reproduced Figure 8. And you've circled
20 Item 1, where it says, "Enter the Number of
21 impressions Purchased."

22 Do you see that?

23 A. Yes.

24 Q. So obviously I understand from your
25 declaration that you do not believe that the Nicholas

1 reference discloses the selection of a predetermined
2 number of impressions; correct?

3 A. Yes, I think I explained that in
4 Paragraph 87.

5 Q. Correct.

6 What I'm trying to figure out, Dr. Myler, is
7 are you also disputing whether or not Nicholas
8 discloses the selection of at least one website of the
9 respective websites, that part of the claim?

10 I didn't see anything in your declaration
11 disputing that part, but I want to just make sure I
12 read it correctly.

13 A. Yes, I think I'm disputing that as well.

14 Q. Oh, you are. Okay.

15 So can you show me where that particular
16 point is being disputed, because I couldn't find that
17 and that was not clear from my reading of your
18 declaration.

19 A. Then maybe I didn't. Yeah, I think it has
20 to do with entering the number versus selecting
21 predetermined number. And this has an entry -- looks
22 like an entry box. Yeah. "Enter the Number of
23 Impressions Purchased."

24 Q. Right. And I understand you don't think
25 that meets the claim limitation.

1 My question was more that do you think that
2 the other part of the claim limitation, where you
3 select at least one website of the respective
4 websites, are disputing that Nicholas discloses that
5 aspect of the claim language?

6 A. Oh, I don't think -- I don't think I said
7 that.

8 I don't think it mattered. I think
9 everybody knew how to select the website. You know,
10 just click on the URL and that selects it.

11 Q. Right. But I guess I'm just trying to
12 figure out in terms of figuring out what the disputes
13 are between the parties as to what Nicholas discloses
14 or doesn't disclose --

15 A. Oh.

16 Q. -- to be the claim.

17 Are you disputing that Nicholas discloses
18 the selection of at least one website of the
19 respective websites, as recited in the independent
20 claims?

21 A. Well, I think the big thing with Nicholas
22 was not entering a value in realtime selecting a
23 predetermined option. So if there is a predetermined
24 option, you're not going to be entering a value for
25 it. And I think that's what Dr. Crovella was saying.

1 Q. Right. So that's for the predetermined
2 number of selections. I'm talking about the website.

3 There is two advertising buy options you
4 have to select, one is the predetermined number of
5 impressions; the other is at least on the website.

6 I'm trying to figure out are you disputing
7 both of those or one of them?

8 A. Oh, which website you're going to use for
9 the predetermined --- you're saying that Nicholas
10 discloses that?

11 Q. Well, that's -- well, my question is are you
12 disputing it discloses that?

13 I know you don't agree that it discloses the
14 selection of a predetermined number of impressions.
15 That's clear from your declaration.

16 The question I'm asking is, does your
17 declaration dispute that Nicholas discloses the other
18 part, the other option, which is the selection of at
19 least one website of the respective websites?

20 MR. CREMEN: Objection. Form.

21 THE WITNESS: I didn't think there was a
22 selection of websites to be selected from in Nicholas.
23 So, no.

24 BY MR. WEINSTEIN:

25 Q. So you are disputing it then; right?

1 A. Yes. If that's the contention that that's
2 what it's doing, it doesn't appear to be doing that to
3 me.

4 Q. Okay. I guess where is that in your
5 declaration? I just want to make sure I'm not missing
6 something.

7 A. I don't think it is in -- I don't think I
8 specified it like that is what I'm saying.

9 Q. Okay. Well, I mean, you agree Figure 9 of
10 Nicholas, which is on Page 34 of your declaration,
11 actually says, "Select Channel/Websites"; correct?

12 A. Yes.

13 Q. Okay. So let's go to Paragraph 85 of your
14 declaration.

15 Do you have a copy of Nicholas?

16 A. Probably. We'll have to dig it out.

17 (DEPOSITION EXHIBIT NUMBER 1003
18 WAS MARKED FOR IDENTIFICATION.)

19 Q. I'm sure it's in that massive binder. I'll
20 give you the exhibit number if it helps. It's
21 Exhibit 1003.

22 A. Let me put this back the way it was.
23 Exhibit -- oh, yeah, I've got it. I have it.

24 Let me put that -- this would have been
25 better if it would have been a box.

1 In the Nicholas -- where is old Nicholas at?

2 Here is Nicholas, yes.

3 Q. So if you could turn to Page 0043, on the
4 bottom right of each page of Exhibit 1003, there is a
5 page number that petitioner put on, and it's 043.

6 A. Yeah, I think I've almost got it. Almost
7 looks like a Bates number. Okay. I'm on Page 00043.

8 Q. And on the bottom right, you see
9 Paragraph 0061.

10 Do you see that?

11 A. Yes. Yes.

12 Q. And then on the top of the next page, which
13 is 0044, you can see that there is a conclusion to
14 Paragraph 0061.

15 Do you see that?

16 A. Yes.

17 Q. And then I'll read from the second line on
18 Page 0044 at the top of page.

19 It says, "In one embodiment, the user may
20 select both the number of impressions and the start
21 and end times."

22 Do you see that?

23 A. Yes.

24 Q. So you would agree that Nicholas discloses
25 that the user can select the number of impressions for

1 the advertisement; correct?

2 A. Yes.

3 MR. CREMEN: Objection. Form.

4 BY MR. WEINSTEIN:

5 Q. Okay. And when you reviewed your -- I just
6 lost my train of thought.

7 When you reviewed Nicholas, you also
8 reviewed the provisional application that was
9 incorporated by reference into it; correct?

10 A. Well, I believe so, if it's in the list.
11 There were a lot of documents.

12 Q. Right. Actually, we've been going about an
13 hour, why don't we take a break, Dr. Myler.

14 Is that okay with you?

15 A. Fine with me.

16 MR. WEINSTEIN: Okay. We can go off the
17 record.

18 THE COURT REPORTER: Off the record.

19 (OFF THE RECORD AT 10:15 A.M.)

20 (ON THE RECORD AT 10:28 A.M.)

21 THE COURT REPORTER: Back on the record.

22 BY MR. WEINSTEIN:

23 Q. Welcome back, Dr. Myler.

24 A. Thank you.

25 Q. I don't have a whole lot more. Just a

1 couple more questions.

2 A. Take as long as you need.

3 Q. Okay.

4 A. You're very early. We're late in the
5 afternoon -- well, not late.

6 Q. So where are you physically, sir? You're in
7 the East Coast?

8 A. Wilmington, North Carolina.

9 Q. Okay. So it's about 1:30 there, yeah.

10 A. And I will confess, this is one of the warm
11 days out of the week, but I'm missing it.

12 So in that respect, yes, yes, move it along.

13 Q. Understood.

14 A. But from the case standpoint, take as long
15 as you need.

16 Q. Of course. I appreciate that.

17 Dr. Myler, we can go back to your
18 declaration, Exhibit 2009, and specifically,
19 Paragraph 85 of your declaration.

20 Again, that's what we're talking about, the
21 Figure 8 of Nicholas.

22 A. Right. Right.

23 Q. And then on Paragraph 87, which is on that
24 same page, you say, "The textual entry of a number by
25 a client is not the 'selection ...' of 'a

1 predetermined number of impressions of the advertising
2 material' required by element [d]. Entering a value
3 is not selecting a displayed option."

4 Do you see that?

5 A. Yep.

6 Q. If you could redesign the user interface of
7 Nicholas to obtain a number of impressions from the
8 client in a way that meets the claim, as you
9 understand it, how would you redesign it?

10 MR. CREMEN: Objection. Form. Speculation.

11 THE WITNESS: Okay. How I would make
12 Nicholas into this patent?

13 BY MR. WEINSTEIN:

14 Q. Well, how would you change the way Nicholas
15 obtains the number of impressions, so it would
16 actually meet the claim as you understand it?

17 A. I really can't -- I can't quite imagine
18 that. I mean, I'd have to go off and build his system
19 and then build the other one and then look at them and
20 say, okay, what would have to happen here. Because I
21 mean, let's face it, a selection.

22 I don't really know how I'd do that just off
23 the top of my head.

24 Q. Okay. Why don't we turn next to --
25 withdrawn.

1 Before your work on this case, Dr. Myler,
2 were you familiar with the concept of CPM pricing or
3 cost per thousand impressions pricing for advertising?

4 A. I wasn't -- I'm not -- I wasn't familiar
5 with that exact way it's put, but I knew that the main
6 revenue model for the internet was based on how many
7 times people clicked on things. And you often see
8 that on websites; it will say, if you click on this, I
9 may get a small honorarium, you know, this is mainly
10 for the blogs and things of that sort.

11 But -- and that's about -- that's the nature
12 of my understanding of it. But in the formalized
13 terms, I can certainly understand what that means.

14 Q. Right. In terms of, like, the packaging of
15 impressions into groups of a thousand, is that
16 something you were aware of before this case?

17 A. Not so much the packaging, as the -- you
18 know, it's sort of, like, buy one, get one free kind
19 of thing. So the more you buy of something, the less
20 it's going to cost you.

21 And so if you want to buy a thousand
22 impressions, that's going to be cheaper than buying
23 500, and that's about the extent of that
24 understanding.

25 Q. Okay.

1 A. The economic details of it and the
2 mechanisms and the market -- you know, whatever part
3 of the technology that has its own; that, no, not
4 aware of, but certainly understanding the concepts.

1 Q. And earlier, we talked about whether
2 "placing" and "inserting" have the same meaning or
3 similar meanings, right?

4 A. Yes. There was a question of them being
5 synonymous.

6 Q. Okay. Were you asked whether placing
7 something within something had the same meaning as
8 inserting?

9 A. No, I think I gave that as my example.

10 Q. Okay. Let's look at Paragraph 72.

11 A. Yeah.

12 Q. Let me know when you're there.

13 A. I'm there.

14 Q. Okay. Earlier, you were asked a few
15 questions about what website means; correct?

16 A. Yes.

17 Q. Okay. And you were discussing that in the
18 context of this paragraph; correct?

19 A. I was.

20 Q. Were you asked what your understanding was
21 of the term "website" in the context of the claims of
22 the patent at issue?

23 A. I don't think that was part of a question.
24 I think it was just in general.

25 Q. Okay. And then let's look at -- let's look

1 at Paragraph 87. I think we were just discussing that
2 a moment ago.

3 Let me know when you're there.

4 MR. WEINSTEIN: I'm sorry, which paragraph
5 was that, counsel?

6 MR. CREMEN: 87.

7 MR. WEINSTEIN: Thank you, sir.

8 MR. CREMEN: Mm-hmm.

9 THE WITNESS: 87. I'm there.

10 BY MR. CREMEN:

11 Q. Okay. And in Paragraph 87, the first
12 sentence, you talk about the textual entry of a number
13 by a client; correct?

14 A. That's right.

15 Q. So is it the client that's entering a number
16 in Figure 8 of Nicholas, that you talked about -- that
17 you reproduce above?

18 MR. WEINSTEIN: Object to form.

19 THE WITNESS: Actually, what that paragraph
20 is saying is putting a number in is not the same as a
21 selection.

22 BY MR. CREMEN:

23 Q. I guess what I wanted to know was is the
24 client the one buying the advertising or -- is that
25 your understanding?

1 A. Yes.

2 Q. Okay. Earlier, you testified that the
3 client was the one that owned the content with respect
4 to Paragraph 78.

5 Do you remember that testimony?

6 A. I might have got a little confused over who
7 is client. Because "client" is a specific term in
8 internet technology. And you talk about the client
9 is -- the browser is a client of the server.

10 So I may have -- may have scrolled that up a
11 little bit.

12 Q. Okay.

13 A. Okay. Here. Obtaining the client selection
14 of the advertising buy options. So it's the client
15 that's selecting how the advertising is being used.

16 MR. CREMEN: Okay. That's all I have for
17 you.

18 I'll pass the witness back.

19 EXAMINATION

20 BY MR. WEINSTEIN:

21 Q. Thank you, only briefly.

22 If you go back to that paragraph we talked
23 about. We talked about the client, and just to be
24 clear, by "client" I'm referring to the client for
25 purposes of the claim limitation.

1 And just so I'm clear, in the context of the
2 claim, the client is the individual or entity who is
3 purchasing advertisements; correct?

4 A. Client is the person who's trying to get
5 funding for their media project.

6 Q. Right. So that's where I got confused
7 earlier. Because that -- the person who gets the
8 revenue in the claim is not the client, it's the web
9 property content owner.

10 So who is entering the predetermined number
11 of impressions? The person who owns the website in
12 which the impressions are going to be placed, or the
13 person who wants to have their advertisements placed?

14 A. Oh, I think it's the -- it's the person
15 that's advertising that wants this placed.

16 Q. Understood.

17 So the predetermined number of impressions,
18 that's not referring to something that the website
19 owners are entering, that's referring to what the
20 advertisers are providing; correct?

21 MR. CREMEN: Objection. Form.

22 THE WITNESS: I think they're selecting the
23 number of impressions they want.

24 BY MR. WEINSTEIN:

25 Q. And by "they," you mean the person who wants

1 to have their advertisement placed, not the websites
2 where it's going to be placed; right?

3 A. Well, it also ties into how much funding is
4 required for the media because that's where the budget
5 comes in. Because I think advertisers can be skittish
6 because if you put an advertisement up and there is no
7 limits, things could get out of control very quickly,
8 and now we have, all right, what is the value of the
9 advertising to the advertiser.

10 In other words, how much did they spend to
11 make -- how much did they spend Y to make X? Well, if
12 Y is greater than X, you're spending more on your
13 advertising than you're getting profit back, so ...

14 But once again, that's all in the -- it has
15 nothing specific to do with the patent.

16 Q. Okay. My last question, sir.

17 Going back to Paragraph 87, which is what we
18 were just talking about with your discussion with
19 opposing counsel, the second sentence, you make the
20 statement, "Entering a value is not selecting a
21 displayed option."

22 Do you see that?

23 A. Oh, right. Yes. That's a sort of a key
24 thing and I think that was in Nicholas.

25 MR. CREMEN: Objection. Scope.

1 BY MR. WEINSTEIN:

2 Q. Right. So what in the claim, if anything,
3 requires that the client select the predetermined
4 number of impressions from a displayed option?

5 MR. CREMEN: Objection. Scope.

6 THE WITNESS: Yeah, let me see here.

7 I'm just going to pull the patent up real
8 quickly.

9 That was claim language of claim 1; right?

10 BY MR. WEINSTEIN:

11 Q. That statement was, and I was asking what
12 the claim language was in claim 1 that supports that,
13 if any.

14 I can rephrase the question so it's clear.

15 In Paragraph 87, you say, "Entering a value
16 is not selecting a displayed option."

17 I just wanted to understand what part of
18 claim 1 -- to the extent you contend that's a
19 requirement, what language in claim 1 imposes that
20 requirement?

21 A. Okay. Now I see what you're talking about.

22 Yeah. Obtaining by the one or more
23 processes by an input in the graphical user interface
24 is a selection of one or more of the advertising buy
25 options. And in that selection, you're choosing from

1 a group, and the group might be one, as opposed to
2 putting a number into a text box, which is a value
3 input. Not the same thing.

4 Q. Okay. And then, where in the claim does it
5 say you have to select from a group?

6 A. Oh, I said select -- selecting implies --
7 well, yeah, it doesn't say select from a group. But
8 it also allows for the fact that you might have a
9 group. Because selection -- there could be only one
10 selection and you click on it and that's the one you
11 select.

12 MR. WEINSTEIN: Okay. I think that was my
13 last question, sir.

14 THE WITNESS: All right.

15 MR. WEINSTEIN: I guess I'll pass back the
16 witness.

17 MR. CREMEN: No more questions for me.

18 MR. WEINSTEIN: Thank you very much,
19 Dr. Myler. We can go off the record.

20 THE COURT REPORTER: Off the record.

21 Mr. Cremen, did you need a rough or
22 expedite?

23 MR. CREMEN: I need neither. Just the
24 regular delivery is fine.

25 (Whereupon, the deposition concluded at 10:46 a.m. PT.)

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DECLARATION

I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof; and I declare that the same is true of my knowledge except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe them to be true.

I declare under the penalties of perjury that the foregoing is true and correct.

Executed this _____ day of _____,
20____, _____.

1 C E R T I F I C A T E

2 I, the undersigned Certified Shorthand Reporter,
3 holding a valid and current license issued by the
4 State of California, do hereby certify:

5 That HARLEY MYLER PH.D., P.E., the
6 witness whose deposition is hereinbefore set forth,
7 was duly sworn by me before the commencement of such
8 deposition and that such deposition was taken before
9 me and is a true record of the testimony given by
10 such witness.

11 I further certify that the adverse
12 party, BRODTI INC., was represented by counsel at the
13 deposition.

14 I further certify that the deposition of
15 HARLEY MYLER PH.D., P.E., occurred remotely over Zoom
16 on THURSDAY, January 22, 2026, commencing at 9:00 a.m.
17 to 10:46 a.m.

18 I further certify that I am not related to
19 any of the parties to this action by blood or
20 marriage, I am not employed by or an attorney to any
21 of the parties to this action, and that I am in no
22 way interested, financially or otherwise, in the
23 outcome of this matter.

24
25

1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and affixed my notarial seal this 27th day
3 of January 2026.

4
5
6
7 *Jillian Doctor*

8 JILLIAN DOCTOR, RPR,
9 CERTIFIED REALTIME REPORTER

A			
a1	actively	37:14, 38:3,	32:16, 33:1,
3:16	11:4	39:2, 39:8,	42:7, 47:7,
ability	actual	39:14, 39:23,	56:3, 58:8
9:15	34:5	40:6, 40:19,	although
able	actually	40:22, 44:3,	24:14
12:3, 12:8,	4:12, 11:5,	49:1, 50:3,	always
37:12	17:15, 20:1,	51:22, 53:24,	12:7
about	20:7, 22:18,	54:14, 54:15,	among
7:25, 12:21,	30:14, 30:15,	55:15, 56:9,	21:8
16:3, 20:20,	33:8, 33:9,	56:13, 57:24	andrew
22:4, 24:17,	35:15, 45:11,	affect	2:7
24:18, 27:2,	47:12, 49:16,	5:20	another
27:9, 29:7,	53:19	affecting	28:23
34:17, 35:23,	add	6:1	answer
36:5, 37:8,	12:13	affixed	5:15, 7:2,
38:1, 38:11,	added	61:2	22:15, 22:16,
44:2, 47:12,	26:13	after	22:17, 28:2
48:9, 48:20,	address	4:25, 32:22	any
50:11, 50:23,	18:7	afternoon	5:3, 5:14,
52:1, 52:15,	adopt	48:5	5:19, 5:22,
53:12, 53:16,	16:7	again	6:15, 7:1, 7:2,
54:8, 54:23,	ads	8:10, 14:21,	10:20, 12:16,
56:18, 57:21	9:21	39:9, 48:20,	12:22, 13:25,
above	advanced	56:14	16:14, 18:17,
24:3, 53:17	14:18	ago	19:1, 26:11,
accept	adverse	33:14, 53:2	36:5, 37:12,
16:13	60:11	agree	37:20, 37:24,
access	advertised	21:13, 21:23,	37:25, 38:8,
7:10, 7:12,	26:10	26:17, 31:21,	57:13, 60:19,
18:5, 18:8,	advertisement	32:25, 37:23,	60:20
18:10, 19:12,	24:2, 25:14,	44:13, 45:9,	anybody
20:7	25:17, 25:18,	46:24	35:23
accessed	25:22, 28:16,	ahead	anyone
18:18	47:1, 56:1, 56:6	4:12, 28:1,	7:25
accessible	advertisements	28:2, 30:15	anything
18:14, 18:19,	55:3, 55:13	all	5:25, 11:18,
20:14, 21:9,	advertiser	19:11, 24:21,	17:22, 30:2,
22:9, 23:3	38:25, 39:3,	25:3, 54:16,	30:3, 34:21,
accessing	56:9	56:8, 56:14,	42:10, 57:2
18:6	advertisers	58:14	anyway
accurate	55:20, 56:5	allows	11:7
5:24, 13:25	advertising	58:8	anywhere
accurately	9:19, 9:20,	almost	26:14
17:11	9:23, 10:4,	26:3, 46:6	appeal
action	15:1, 15:3,	along	1:2
60:19, 60:21	15:9, 23:25,	48:12	appear
	25:20, 28:20,	also	28:9, 45:2
	29:19, 29:23,	9:7, 27:5,	appearance
			22:4

appears 25:19	50:16, 51:4	4:19, 7:13, 9:18, 28:24, 40:25, 50:1, 50:16, 60:7, 60:8	16:16, 17:12
application 47:8	B	beginning 8:19	bold 15:22
appreciate 48:16	b-r-o-d-t-i 6:5	behalf 1:21	both 25:3, 30:24, 32:11, 44:7, 46:20
approximately 4:22, 6:12	b2 1:11, 3:14	being 6:7, 10:1, 17:8, 18:21, 21:8, 21:9, 22:4, 22:8, 22:9, 23:2, 27:7, 30:22, 42:16, 52:4, 54:15	bottom 27:5, 27:6, 28:11, 40:18, 41:2, 46:4, 46:8
argue 19:17	back 13:1, 33:15, 35:23, 40:3, 40:15, 45:22, 47:21, 47:23, 48:17, 54:18, 54:22, 56:13, 56:17, 58:15	belief 59:7	bowl 27:5, 27:6, 28:10, 28:11
around 4:24, 14:20, 35:4, 35:5	background 36:4, 36:7	believe 5:21, 6:20, 16:17, 16:19, 20:16, 27:22, 38:8, 40:14, 41:25, 47:10, 59:8	box 13:12, 13:19, 41:17, 42:22, 45:25, 58:2
arrange 26:10	based 14:13, 14:25, 17:5, 50:6	best 5:23, 13:20	boxes 10:15, 10:16, 13:6, 13:7, 13:8, 41:11
art 8:16, 8:21, 9:2, 9:3, 31:14, 31:19, 31:21, 32:15, 32:24	basic 12:21	better 33:7, 33:23, 45:25	break 17:15, 47:13
asked 52:6, 52:14, 52:20	basically 34:1	between 24:9, 25:2, 26:4, 27:10, 33:6, 43:13	briefly 5:8, 54:21
asking 7:3, 28:7, 29:12, 44:16, 57:11	bates 46:7	big 43:21	bring 11:11
aspect 43:5	bay 32:4	binder 45:19	broader 26:5
associated 27:3	because 4:15, 4:25, 11:10, 12:7, 16:14, 18:25, 20:7, 22:18, 23:17, 25:25, 27:16, 33:16, 34:5, 35:21, 36:5, 42:16, 49:20, 54:7, 55:7, 56:4, 56:5, 56:6, 58:9	bit 17:1, 17:16, 30:15, 54:11	brodti 1:13, 6:5, 6:8, 6:16, 6:19, 7:14, 7:24, 60:12
assume 22:24	been 4:2, 4:24, 5:1, 6:3, 10:3, 11:21, 12:3, 12:24, 24:24, 45:24, 45:25, 47:12	blogs 50:10	browser 12:10, 12:14, 18:10, 19:25, 20:8, 23:1, 23:17, 33:11, 33:15, 35:3, 35:4, 36:9, 54:9
assumed 12:25	before 1:2, 1:23,	blood 60:19	browsers 33:18
attorney 60:20		board 1:2, 16:9,	budget 56:4
available 10:7, 11:21, 14:3, 36:8, 51:9			build 49:18, 49:19
avenue 2:4, 2:13			
average 35:10, 35:13, 35:14			
aware 10:1, 10:13, 11:20, 19:19,			

button 12:18 buttons 10:17, 13:7 buy 37:14, 38:3, 39:1, 39:8, 39:14, 40:6, 40:19, 44:3, 50:18, 50:19, 50:21, 54:14, 57:24 buying 50:22, 53:24	certainly 11:20, 50:13, 51:4 certified 60:2, 61:10 certify 60:4, 60:11, 60:14, 60:18 cetera 10:18, 12:13 change 12:13, 49:14 changing 30:1 channel 41:15, 45:11 characteristics 8:15, 8:20 cheaper 50:22 check 10:16, 13:6, 13:7, 41:11 choice 11:11 choose 11:12 choosing 57:25 circle 38:10 circled 41:10, 41:19 citation 31:12, 32:21 citations 31:16 cite 32:3 cited 9:4, 31:14, 31:21 cites 31:19 claim 14:11, 15:24, 21:7, 26:11, 26:14, 26:23,	28:15, 28:18, 28:19, 28:24, 29:12, 29:18, 39:22, 40:17, 42:9, 42:25, 43:2, 43:5, 43:16, 49:8, 49:16, 54:25, 55:2, 55:8, 57:2, 57:9, 57:12, 57:18, 57:19, 58:4 claims 21:7, 25:9, 37:4, 39:18, 43:20, 52:21 clarification 5:16 clarifies 25:4 clear 15:19, 16:8, 42:17, 44:15, 54:24, 55:1, 57:14 click 43:10, 50:8, 58:10 clicked 50:7 client 9:24, 37:14, 38:3, 39:7, 39:14, 39:21, 39:24, 40:11, 40:14, 48:25, 49:8, 53:13, 53:15, 53:24, 54:3, 54:7, 54:8, 54:9, 54:13, 54:14, 54:23, 54:24, 55:2, 55:4, 55:8, 57:3 client's 39:14 closed 24:19, 24:20,	24:21 coast 48:7 code 23:14 column 38:20, 40:4 com 2:8, 2:16, 32:5, 32:9, 33:10, 33:15, 33:17 come 11:5, 19:11, 33:15 comes 26:1, 56:5 coming 34:22 commencement 60:7 commencing 1:22, 60:16 common 13:19 communicating 34:25 communication 34:24 company 38:24 compensated 6:7 complicated 27:8 comprise 40:20 comprises 15:3 comprising 29:22 compute 9:15 computer 17:19, 33:1, 33:6, 34:13, 35:22, 36:3, 36:4
--	---	--	--

computing 9:9, 9:15 concept 50:2 concepts 51:4 concluded 58:25 conclusion 46:13 condition 22:23, 22:25 conditions 22:17 confess 48:10 confines 24:13 confused 54:6, 55:6 conjunction 39:12 connected 36:14 connection 6:16, 11:19, 25:8 connotation 26:1 consider 9:23 considered 8:20, 16:6, 16:12 constituent 16:6 construction 16:7, 16:12, 16:13, 16:20, 17:16 constructions 16:9 construe 16:16 construed 16:14, 16:17, 33:24 contend 57:18	content 15:4, 15:10, 17:6, 18:21, 18:23, 18:24, 19:8, 20:21, 20:22, 21:1, 21:7, 22:8, 22:19, 22:21, 23:1, 23:5, 23:6, 23:10, 24:1, 24:2, 24:3, 25:14, 25:17, 25:21, 25:23, 28:21, 29:13, 29:14, 29:20, 29:24, 33:23, 51:23, 54:3, 55:9 content" 17:13 contention 45:1 contents 22:12, 59:5 context 15:15, 18:2, 19:7, 21:3, 22:1, 25:11, 25:12, 27:19, 31:3, 39:21, 52:18, 52:21, 55:1 continuing 14:8 control 13:13, 56:7 controls 10:7, 10:15, 10:16, 10:21, 11:8, 11:10, 11:21, 12:3, 12:22, 13:19, 38:12, 38:14 cooley 2:3, 51:11 copy 45:15 correct 5:6, 5:12, 6:5,	6:6, 8:16, 10:4, 10:5, 10:16, 11:22, 13:14, 15:11, 17:13, 17:14, 18:11, 18:19, 18:20, 19:14, 19:20, 20:2, 20:3, 20:8, 20:15, 20:23, 21:14, 21:24, 23:3, 23:19, 32:7, 32:11, 32:22, 32:23, 33:2, 33:16, 36:10, 36:19, 37:5, 37:9, 40:13, 42:2, 42:5, 45:11, 47:1, 47:9, 52:15, 52:18, 53:13, 55:3, 55:20, 59:11 correctly 42:12 cost 39:1, 39:2, 50:3, 50:20 could 4:8, 5:20, 8:5, 12:18, 13:3, 13:5, 14:6, 17:19, 18:25, 19:17, 22:21, 24:22, 28:10, 29:9, 40:15, 46:3, 49:6, 56:7, 58:9 couldn't 42:16 counsel 7:22, 7:24, 51:13, 53:5, 56:19, 60:12 couple 48:1 course 9:10, 9:21,	10:17, 23:17, 34:20, 48:16 court 2:27, 5:11, 47:18, 47:21, 58:20 cpm 50:2 cremen 2:15, 3:5, 10:9, 11:23, 12:5, 13:15, 13:22, 14:14, 16:21, 18:12, 19:21, 20:4, 20:10, 20:24, 21:16, 21:25, 22:10, 23:4, 23:20, 24:11, 26:12, 26:25, 27:20, 28:22, 29:16, 29:21, 30:4, 31:5, 31:24, 33:3, 34:15, 35:18, 36:11, 36:22, 37:15, 38:4, 38:13, 44:20, 47:3, 49:10, 51:14, 51:17, 53:6, 53:8, 53:10, 53:22, 54:16, 55:21, 56:25, 57:5, 58:17, 58:21, 58:23 crovella 9:4, 31:15, 31:22, 43:25 crr 2:26 csr 1:23 current 60:3 D d-e--t-i-t-t-a 7:18
--	---	--	---

date 12:24 day 1:22, 9:14, 59:13, 61:2 days 48:11 dc 2:5, 2:14 declaration 3:12, 6:21, 7:2, 8:6, 8:7, 8:15, 14:7, 30:10, 36:25, 41:25, 42:10, 42:18, 44:15, 44:17, 45:5, 45:10, 45:14, 48:18, 48:19, 51:18, 59:1 declare 59:3, 59:5, 59:10 deeper 33:25 default 34:2 definable 30:22 definition 31:22, 32:6 delineated 38:15 delivery 58:24 depends 28:13 deponent 59:3 deposed 5:2 deposition 1:20, 1:24, 4:10, 4:19, 5:9, 6:23, 7:6, 29:2, 45:17, 51:9, 58:25, 59:4, 60:6, 60:8,	60:13, 60:14 depositions 4:16, 5:6 describe 30:22, 39:6, 40:5 description 21:14, 37:13, 37:25 design 38:5, 38:9, 40:9 designed 40:7 details 27:15, 29:18, 51:1 determine 8:19 detitta 7:18, 7:20, 8:3 develop 9:6 developed 10:20, 10:23 developer 10:3, 35:9, 35:15, 35:19 developers 11:22, 12:3, 35:21 developing 35:15 device 17:19 dialogues 10:18 difference 24:9, 24:12, 25:1 different 11:15, 12:15, 18:25, 21:2, 32:9 differently 29:8 dig 33:25, 45:16	digital 9:11, 9:13 disclose 43:14 discloses 42:1, 42:8, 43:4, 43:13, 43:17, 44:10, 44:12, 44:13, 44:17, 46:24 discrete 17:7, 17:17, 17:21, 17:23, 18:22, 19:4, 19:6, 19:9, 19:13, 19:17, 20:18 discuss 8:15, 30:11 discussed 27:14, 38:14 discussing 52:17, 53:1 discussion 22:2, 56:18 display 23:14, 23:19 displayable 33:23 displayed 22:12, 22:21, 23:15, 49:3, 56:21, 57:4, 57:16 dispute 44:17 disputed 42:16 disputes 43:12 disputing 42:7, 42:11, 42:13, 43:4, 43:17, 44:6, 44:12, 44:25 doctor 1:23, 2:26, 61:9	documents 47:11 doing 6:8, 6:15, 11:2, 11:9, 25:3, 27:10, 45:2 domain 30:23 done 9:7, 9:19, 27:15, 34:23 down 10:15, 17:16 dr 4:11, 4:15, 5:5, 5:14, 5:19, 6:3, 6:21, 7:10, 7:13, 8:5, 9:4, 10:6, 14:6, 28:1, 31:15, 31:22, 37:11, 40:15, 42:6, 43:25, 47:13, 47:23, 48:17, 50:1, 51:5, 51:15, 58:19 draws 34:24 drop 8:9, 10:15 duly 4:2, 60:7 during 6:22 dynamic 11:8 E each 27:12, 46:4 earlier 19:3, 32:8, 40:11, 52:1, 52:14, 54:2, 55:7 early 48:4
---	--	---	--

east 48:7 economic 51:1 editing 9:7 effect 5:10 either 28:6 element 40:12, 49:2 elements 37:4, 39:12 else 7:25, 26:3, 35:24 embed 26:6 embedding 26:2 embodiment 46:19 emphasize 7:1 employed 60:20 end 9:13, 38:19, 40:3, 46:21 engineer 36:4 engineering 36:4 engineers 33:6, 35:22 enter 41:20, 42:22 entering 42:20, 43:22, 43:24, 49:2, 53:15, 55:10, 55:19, 56:20, 57:15 entire 15:23 entirely 22:1	entirety 15:21, 15:24 entity 55:2 entry 42:21, 42:22, 48:24, 53:12 error 20:12, 20:14, 22:23, 22:24, 33:16 espn 32:9, 33:10, 33:15, 33:17 esquire 2:6, 2:7, 2:15 essentially 25:3 estimate 6:12 et 10:18, 12:13 even 25:2, 30:6, 36:14 ever 7:14, 7:20, 8:3, 9:18, 10:20 everybody 13:11, 43:9 everything 5:9 exact 50:5 exactly 13:7, 33:4, 38:15 examination 3:3, 4:4, 51:16, 54:19 examined 4:3 example 10:13, 22:7, 23:9, 28:9, 32:3, 32:4, 32:5, 33:10, 35:16, 37:20,	52:9 examples 30:24 except 59:6 executed 59:13 execution 23:7 exemplary 37:20 exhibit 3:11, 3:13, 3:15, 6:22, 6:24, 7:6, 7:11, 8:6, 28:25, 29:1, 29:2, 30:11, 37:1, 45:17, 45:20, 45:21, 45:23, 46:4, 48:18 exhibits 3:10 exist 17:19, 22:3 existed 12:23 existing 26:7 expedite 58:22 expert 6:4, 16:19 explained 42:3 express 16:6, 16:9, 16:12 extent 16:5, 50:23, 57:18 extremely 14:18 F face 49:21 facebook 9:22	fact 9:13, 33:5, 58:8 fair 7:4, 7:5, 36:1 familiar 5:6, 10:6, 50:2, 50:4 family 41:13 farms 34:22 features 12:13, 30:21 few 33:14, 51:14, 52:14 figure 16:18, 18:16, 19:5, 41:10, 41:15, 41:19, 42:6, 43:12, 44:6, 45:9, 48:21, 53:16 figuring 43:12 file 17:7, 17:17, 17:18, 17:19, 17:20, 17:22, 17:25, 18:1, 18:5, 18:9, 18:11, 18:17, 18:22, 19:4, 19:10, 19:13, 19:14, 19:15, 19:23, 20:1, 20:6, 20:17, 20:18, 22:7, 22:11, 22:25, 34:2, 34:3, 34:4 files 18:23, 18:25, 19:6, 19:20 fill 13:3 fill-in-the-blank 13:8
---	---	--	---

financially 60:22 find 33:25, 37:25, 42:16 finds 35:5 fine 6:25, 13:9, 47:15, 58:24 finish 28:2 first 4:2, 4:16, 4:25, 6:18, 12:18, 33:8, 39:13, 51:21, 53:11 floating 4:24 florida 11:6 following 30:20, 39:12 follows 4:3 footnote 16:4 force 5:10 foregoing 17:5, 59:4, 59:11 form 10:9, 11:23, 12:5, 13:3, 13:5, 13:15, 13:22, 16:21, 18:12, 19:21, 20:4, 20:24, 21:16, 21:25, 22:10, 23:4, 24:11, 26:12, 27:20, 28:22, 29:21, 30:4, 31:24, 33:3, 34:15, 35:18, 36:11, 36:22,	37:15, 38:4, 44:20, 47:3, 49:10, 53:18, 55:21 formalized 50:12 forth 24:3, 60:6 forward 17:1, 41:6 found 40:25 frame 27:12 frames 27:11 free 5:15, 7:3, 50:18 front 29:6 funding 55:5, 56:3 funds 39:25 further 60:11, 60:14, 60:18 G gave 8:23, 28:9, 31:20, 52:9 general 11:24, 41:13, 52:24 generally 5:5, 20:23 generation 39:13 getting 19:3, 35:20, 56:13 give 5:20, 5:23, 40:8, 45:20, 51:20 given 60:9	gives 23:14 go 4:11, 4:12, 28:1, 28:2, 30:10, 30:16, 45:13, 47:16, 48:17, 49:18, 51:18, 54:22, 58:19 godward 51:11 goes 27:2 going 4:23, 6:23, 8:8, 11:24, 13:2, 16:2, 28:23, 29:10, 40:3, 41:6, 43:24, 44:8, 47:12, 50:20, 50:22, 55:12, 56:2, 56:17, 57:7 gone 9:22 good 4:6, 4:7 google 1:5 gotten 17:2 graphic 22:13, 24:24 graphical 57:23 greater 56:12 green 32:4 group 30:23, 33:7, 58:1, 58:5, 58:7, 58:9 groups 50:15 guess 16:11, 36:24,	43:11, 45:4, 53:23, 58:15 guys 14:14 H hampton 2:12 hand 61:2 happen 27:10, 49:20 happened 33:14 happening 35:23 hardware 34:18, 36:6 harley 1:20, 3:4, 4:1, 4:9, 4:13, 60:5, 60:15 head 49:23 heard 7:14, 7:20 hearing 5:11 helps 45:20 here 5:10, 5:20, 5:24, 8:8, 10:22, 14:18, 32:3, 32:4, 46:2, 49:20, 54:13, 57:6 hereby 59:3, 60:4 hereinbefore 60:6 hereunto 61:1 historical 12:17, 14:3 holding 60:3 honorarium 50:9
--	--	---	--

hope 34:7 hosts 32:16, 33:2 hour 1:23, 6:11, 47:13 hourly 6:10 hours 6:13 however 33:13 html 9:7, 11:17, 12:12, 19:20, 19:23, 20:1, 20:17, 22:7, 22:11, 22:18, 22:23, 22:25, 23:13, 23:16, 23:18, 34:3 http 12:12, 33:17 I idea 13:11, 16:15, 34:24 identical 11:14, 11:15 identification 3:10, 7:7, 29:3, 45:18 identify 5:23 image 27:12, 27:13 imagine 19:15, 49:17 implication 26:22 implies 22:20, 35:4, 58:6 imply 30:5 important 27:16	imposes 57:19 impressions 38:24, 38:25, 39:20, 40:22, 41:21, 42:2, 42:23, 44:5, 44:14, 46:20, 46:25, 49:1, 49:7, 49:15, 50:3, 50:15, 50:22, 55:11, 55:12, 55:17, 55:23, 57:4 inc 1:13, 60:12 include 13:5, 32:15, 39:19 including 8:21, 8:22 incorporated 10:20, 47:9 independent 37:4, 43:19 indexed 34:2 indicate 34:12 individual 55:2 information 13:14, 59:7 innovations 8:24 input 13:13, 57:23, 58:3 insert 24:19, 27:5, 28:11 inserted 24:22, 28:17 inserting 24:2, 24:7, 24:9, 24:13, 24:14, 25:2, 25:10, 25:13,	25:22, 26:1, 26:9, 26:19, 26:20, 27:7, 27:18, 28:4, 28:14, 30:2, 30:5, 52:2, 52:8 instance 34:25 instances 28:12, 32:15 instead 38:10 instruction 11:2, 11:9 instructional 11:3 interactive 11:8 interchange 28:13 interchangeable 27:23 interchangeably 27:7 interested 60:22 interests 41:13 interface 10:7, 10:15, 10:21, 11:10, 11:21, 12:2, 12:22, 13:13, 37:13, 37:21, 38:2, 38:11, 39:7, 40:6, 49:6, 57:23 interfaces 10:8 internet 9:8, 9:9, 9:10, 9:12, 9:19, 9:20, 9:23, 10:4, 12:12, 20:2, 34:6, 34:13, 34:20, 36:15, 50:6, 54:8	internet-based 8:21 interpret 12:11, 35:17 interpretation 19:8, 19:22, 21:19, 25:9, 25:12, 27:19 interpreted 11:16, 22:19 interprets 23:18 inventor 7:17 ipr 1:9, 6:8, 6:13, 6:16, 6:22, 7:15, 7:19, 8:1 issue 7:15, 52:22 issued 60:3 italicized 15:8, 15:22 item 41:20 items 15:16 itself 22:20, 34:19 J january 1:22, 60:16, 61:3 java 11:17 jillian 1:23, 2:26, 61:9 john 7:17 jpeg 27:12, 27:13 jump 17:1, 28:24 jumping 30:15
---	---	--	---

june 12:17	large 9:10	list 12:17, 15:16, 47:10	47:11, 47:25
K	last 5:2, 5:4, 6:20, 51:6, 56:16, 58:13	lists 10:15	M
keep 18:5	late 48:4, 48:5	little 17:1, 17:16, 27:8, 27:22, 30:15, 34:8, 54:6, 54:11	mace 2:7
key 56:23	later 39:18	llc 1:5	machine 36:12, 36:14, 36:17
kind 12:17, 13:8, 16:15, 19:15, 26:6, 38:10, 50:18	lay 33:8	llp 2:3, 2:12	made 8:24
kinds 24:17	lead 7:17	loaded 27:22	main 50:5
knew 43:9, 50:5	least 15:2, 15:4, 15:10, 40:20, 40:23, 42:8, 43:3, 43:18, 44:5, 44:19	local 36:14	mainly 50:9
know 7:10, 9:7, 9:15, 12:6, 12:9, 12:16, 12:17, 14:1, 17:2, 25:1, 25:4, 25:25, 27:14, 33:13, 33:19, 35:22, 38:9, 39:19, 43:9, 44:13, 49:22, 50:9, 50:18, 51:2, 51:19, 52:12, 53:3, 53:23, 59:5	left 41:14	locate 37:12	make 5:17, 42:11, 45:5, 49:11, 56:11, 56:19
knowledge 59:6	less 27:23, 50:19	location 34:5, 34:18, 35:1	making 13:1, 51:8
knows 34:21	let's 12:21, 33:22, 38:23, 45:13, 49:21, 52:10, 52:25	logically 21:2	manowitz 31:17
L	license 60:3	long 48:2, 48:14	many 4:22, 6:13, 50:6
lack 33:6, 33:22	limit 36:1	look 16:4, 28:23, 35:3, 37:21, 38:2, 38:5, 38:15, 38:18, 49:19, 52:10, 52:25	mark 2:6
lamar 11:4	limitation 14:12, 14:24, 15:21, 15:24, 16:10, 25:13, 41:2, 42:25, 43:2, 54:25	looked 12:16	marked 7:7, 29:3, 45:18
language 29:13, 37:8, 40:17, 43:5, 57:9, 57:12, 57:19	limits 56:7	looking 9:11, 21:18, 21:19, 28:3, 35:4	market 51:2
	line 38:20, 40:4, 46:17	looks 24:6, 35:4, 41:10, 42:21, 46:7	marketplace 9:22
	linkage 19:16	lost 47:6	markets 38:24
	links 9:14, 10:23	lot 5:1, 9:8, 11:3,	marriage 60:20
			massive 45:19
			material 15:2, 15:3, 15:9, 23:25, 25:20, 26:10, 28:20, 29:19, 29:23, 40:22, 49:2, 51:22
			matter 5:3, 59:4,

60:23 mattered 43:8 matters 59:6, 59:8 maybe 4:14, 4:24, 6:14, 11:11, 30:6, 42:19 mean 12:9, 12:16, 15:24, 17:6, 18:2, 19:9, 24:2, 24:14, 25:4, 25:22, 27:18, 34:7, 34:11, 34:12, 35:12, 36:13, 37:17, 37:19, 45:9, 49:18, 49:21, 55:25 meaning 16:23, 19:7, 24:3, 26:23, 30:3, 52:2, 52:7 meanings 52:3 means 17:25, 24:15, 25:16, 34:7, 34:9, 37:9, 50:13, 52:15 meant 33:19 mechanics 5:6, 27:10, 28:13 mechanism 19:16 mechanisms 36:7, 51:2 media 8:22, 10:1, 39:1, 39:2, 55:5, 56:4 medication 5:19 meet 26:11, 32:6,	49:16 meets 21:13, 42:25, 49:8 mentioned 13:10, 32:17 message 24:19 met 22:18 might 19:15, 27:1, 27:21, 30:5, 30:6, 37:21, 54:6, 58:1, 58:8 mind 24:8 miscommunication 14:15 misinterpreted 22:12 missing 45:5, 48:11 misstates 20:24 mm-hmm 53:8 modal 10:17 model 50:6 modified 27:13 modifying 12:7 moment 53:2 money 40:13 more 15:1, 22:19, 26:2, 27:8, 27:23, 29:9, 29:15, 33:18, 35:22, 40:19, 43:1, 47:25, 48:1, 50:19, 56:12, 57:22,	57:24, 58:17 morning 4:6, 4:7 most 5:23, 10:22, 12:21 mostly 9:6 move 36:24, 41:6, 48:12 mpeg 27:12 much 13:2, 30:16, 35:22, 50:17, 56:3, 56:10, 56:11, 58:18 muddled 34:8 mullin 2:12 multiple 11:11, 19:10 must 21:2, 38:12 mweinstein@cooley 2:8 myler 1:20, 3:4, 4:1, 4:9, 4:11, 4:15, 5:5, 5:14, 5:19, 6:3, 6:21, 7:10, 7:13, 8:5, 10:6, 14:6, 28:1, 37:11, 40:15, 42:6, 47:13, 47:23, 48:17, 50:1, 51:5, 51:15, 58:19, 60:5, 60:15 N name 4:8, 33:21 named 7:17 names 4:16	nature 50:11 nd 1:22 necessarily 26:5 need 7:1, 38:9, 48:2, 48:15, 58:21, 58:23 needed 28:1 needs 16:17, 28:16, 29:13, 29:19 neither 58:23 new 12:13 next 15:13, 20:21, 21:6, 30:9, 41:18, 46:12, 49:24 nicely 9:14 nicholas 31:17, 32:4, 41:25, 42:7, 43:4, 43:13, 43:17, 43:21, 44:9, 44:17, 44:22, 45:10, 45:15, 46:1, 46:2, 46:24, 47:7, 48:21, 49:7, 49:12, 49:14, 53:16, 56:24 nobody 34:21 nodding 38:7 nodes 9:15 none 27:14 normally 27:3
---	--	---	--

north 48:8 notarial 61:2 note 32:14 nothing 9:20, 56:15 notice 1:24 notion 9:14, 33:21 november 6:20, 12:25, 13:20 number 4:23, 7:6, 8:10, 15:16, 16:2, 19:6, 29:2, 39:20, 40:21, 41:20, 42:2, 42:20, 42:21, 42:22, 44:2, 44:4, 44:14, 45:17, 45:20, 46:5, 46:7, 46:20, 46:25, 48:24, 49:1, 49:7, 49:15, 53:12, 53:15, 53:20, 55:10, 55:17, 55:23, 57:4, 58:2 nw 2:4, 2:13	20:4, 20:10, 20:24, 21:16, 21:25, 22:10, 23:4, 23:20, 24:11, 26:12, 26:25, 27:20, 28:22, 29:16, 29:21, 30:4, 31:5, 31:24, 33:3, 34:15, 35:18, 36:11, 36:22, 37:15, 38:4, 38:13, 44:20, 47:3, 49:10, 55:21, 56:25, 57:5 objects 27:3 observed 22:5 obtain 39:8, 49:7 obtaining 14:13, 14:25, 54:13, 57:22 obtains 49:15 obviously 5:8, 41:24, 51:12 occurred 4:25, 60:15 office 1:1 often 50:7 oh 10:17, 25:16, 26:24, 33:19, 40:8, 42:14, 43:6, 43:15, 44:8, 45:23, 55:14, 56:23, 58:6 okay 4:14, 4:17, 5:5, 5:22, 6:12, 6:15, 6:18, 7:8,	7:13, 7:17, 7:22, 8:5, 8:13, 8:14, 8:18, 14:10, 14:21, 14:23, 15:13, 16:2, 16:25, 17:15, 17:21, 18:21, 20:6, 20:20, 22:15, 23:23, 29:6, 29:9, 30:9, 30:19, 31:7, 37:25, 41:3, 41:18, 42:14, 45:4, 45:9, 45:13, 46:7, 47:5, 47:14, 47:16, 48:3, 48:9, 49:11, 49:20, 49:24, 50:25, 51:5, 51:21, 52:6, 52:10, 52:14, 52:17, 52:25, 53:11, 54:2, 54:12, 54:13, 54:16, 56:16, 57:21, 58:4, 58:12 old 36:6, 46:1 once 56:14 one 4:25, 11:12, 15:1, 15:2, 15:4, 15:10, 18:13, 19:11, 29:9, 37:23, 39:24, 40:19, 40:20, 40:23, 42:8, 43:3, 43:18, 44:4, 44:7, 44:19, 46:19, 48:10, 49:19, 50:18, 53:24, 54:3, 57:22, 57:24,	58:1, 58:9, 58:10 ones 12:21 online 9:22, 11:2 only 9:24, 22:11, 54:21, 58:9 open 5:11 operates 9:12, 10:1 operator 18:4 opinion 14:1, 28:19, 30:20 opinions 7:25, 17:11, 37:8 opposed 18:13, 58:1 opposing 51:13, 56:19 option 43:23, 43:24, 44:18, 49:3, 56:21, 57:4, 57:16 options 13:3, 37:14, 38:3, 39:8, 39:14, 39:19, 40:6, 40:20, 44:3, 54:14, 57:25 order 36:8 ordinary 8:16, 16:22 other 6:15, 6:16, 7:22, 7:24, 9:3, 10:16, 11:17, 13:4, 18:7, 19:7, 21:8, 23:13, 28:12,
o			
oath 5:9 object 27:4, 27:6, 28:10, 53:18 objection 10:9, 11:23, 12:5, 13:15, 13:22, 16:21, 18:12, 19:21,			

43:2, 44:5, 44:17, 44:18, 49:19, 56:10 otherwise 20:15, 60:22 out 6:24, 8:8, 11:17, 16:18, 18:16, 19:5, 26:14, 33:25, 34:6, 42:6, 43:12, 44:6, 45:16, 48:11, 56:7 outcome 60:23 output 23:12 over 20:1, 25:4, 54:6, 60:15 overlaid 27:11 own 51:3 owned 54:3 owner 1:15, 2:10, 6:4, 55:9 owners 55:19 owns 55:11	22:4, 22:13, 30:13, 30:17, 30:18, 32:14, 40:16, 40:18, 41:1, 41:18, 45:10, 46:3, 46:4, 46:5, 46:7, 46:12, 46:18, 48:24, 51:18 pages 36:25, 41:7 papers 14:20 paragraph 8:6, 8:11, 8:12, 8:18, 9:3, 14:6, 14:15, 14:17, 15:13, 15:20, 17:1, 20:20, 21:6, 23:23, 23:24, 25:15, 30:10, 30:14, 30:16, 30:19, 31:7, 31:14, 32:3, 32:13, 36:24, 37:2, 37:7, 38:18, 38:19, 39:11, 40:3, 40:16, 41:1, 41:7, 41:18, 42:4, 45:13, 46:9, 46:14, 48:19, 48:23, 52:10, 52:18, 53:1, 53:4, 53:11, 53:19, 54:4, 54:22, 56:17, 57:15 part 25:7, 33:5, 42:9, 42:11, 43:2, 44:18, 51:2, 52:23, 57:17 particular 12:10, 18:17,	26:11, 28:16, 30:22, 30:23, 42:15 particularly 11:4 parties 16:16, 43:13, 60:19, 60:21 parts 19:10 party 60:12 pass 51:13, 54:18, 58:15 passage 38:19, 39:6, 40:5 passing 32:17 patent 1:1, 1:2, 1:11, 1:15, 2:10, 3:14, 3:16, 6:4, 7:15, 11:22, 12:4, 12:24, 15:15, 21:3, 22:2, 25:9, 27:15, 27:16, 28:25, 31:3, 31:13, 32:22, 37:12, 37:24, 38:1, 38:20, 49:12, 52:22, 56:15, 57:7 patent's 31:8, 32:17 penalties 59:10 pennsylvania 2:4, 2:13 people 32:25, 33:8, 50:7 perfectly 6:25 perjury 59:10	person 8:16, 32:24, 35:10, 35:13, 35:14, 36:6, 40:1, 40:12, 55:4, 55:7, 55:11, 55:13, 55:14, 55:25 petitioner 1:7, 1:21, 2:2, 46:5 ph 1:20, 4:1, 60:5, 60:15 phrase 15:14, 15:20, 24:1, 25:22, 30:3, 34:11 physical 34:5, 34:17, 35:1 physically 48:6 picture 37:17 piece 16:25 place 12:15, 19:11, 27:4, 28:3, 28:10, 28:14, 33:6 placed 21:9, 21:23, 22:8, 23:2, 24:24, 28:17, 28:20, 29:14, 29:19, 55:12, 55:13, 55:15, 56:1, 56:2 places 18:25 placing 15:3, 15:9, 23:25, 24:7, 24:9, 24:13, 24:15, 25:2, 25:13, 25:20,
P packaging 50:14, 50:17 packers 32:4, 32:5, 32:9 page 3:3, 8:7, 8:10, 8:11, 14:7, 14:8, 14:9, 14:12, 14:15, 14:17, 14:21, 16:4, 20:21,			

26:4, 26:10, 26:20, 27:7, 27:18, 28:4, 28:14, 29:23, 30:1, 51:22, 52:2, 52:6 plain 16:22 please 8:10, 14:21, 51:18 point 26:14, 36:1, 42:16 populating 14:25, 15:3 portion 15:9, 15:21 portions 6:23, 7:2 posita 8:17, 15:14, 17:5, 24:1, 30:21, 35:16, 36:2, 36:3 posita's 8:20 position 18:22 possible 11:7 precise 29:15 predetermined 39:20, 40:21, 42:1, 42:21, 43:23, 44:1, 44:4, 44:9, 44:14, 49:1, 55:10, 55:17, 57:3 prefer 4:11, 4:12 present 38:12 presented 10:14, 19:19, 23:6, 23:10	presenting 39:13, 40:6 presents 35:5 pretty 13:2 pricing 50:2, 50:3 printout 22:20 prior 7:19, 8:21, 9:2, 9:3, 9:4, 10:19, 11:22, 12:4, 12:23, 13:20, 31:14, 31:19, 31:21, 33:14 priority 12:24 probably 13:25, 45:16 problem 22:22 problems 8:23 processes 57:23 processors 15:1 produced 14:24 professor 4:12 profit 56:13 program 22:18, 22:19, 22:20, 22:21, 23:6, 23:10, 23:12, 23:13 project 39:25, 55:5 properly-formed 33:20 property 15:4, 15:10, 17:6, 17:13,	18:21, 18:22, 18:24, 19:8, 23:25, 25:21, 28:21, 29:14, 29:20, 29:24, 39:2, 51:23, 55:9 proposed 25:9 proposing 16:8 protections 18:5 protocol 9:8 protocol-based 9:9 protocols 12:13 provide 5:15, 16:9, 30:19, 30:20, 30:24, 31:12, 31:16, 32:21, 37:7 provided 6:22, 8:1, 22:25, 31:23, 32:7, 39:2, 39:7 provides 38:2 providing 36:18, 37:13, 55:20 provisional 47:8 pt 1:23, 58:25 pull 8:8, 57:7 purchase 39:22 purchased 41:21, 42:23 purchasing 55:3 purpose 4:10	purposes 40:12, 54:25 pursuant 1:24 put 9:22, 11:16, 12:18, 24:15, 45:22, 45:24, 46:5, 50:5, 56:6 putting 9:21, 25:16, 53:20, 58:2 Q question 5:15, 7:3, 10:11, 11:12, 18:4, 19:18, 21:21, 26:18, 28:7, 29:9, 29:12, 39:9, 39:10, 43:1, 44:11, 44:16, 51:6, 52:4, 52:23, 56:16, 57:14, 58:13 questions 16:3, 48:1, 51:15, 52:15, 58:17 quick 51:15 quickly 56:7, 57:8 quite 10:10, 49:17 quizzes 11:8 quoted 38:19, 40:17 quoting 37:3 R radio 10:17, 12:18, 13:7 raise 40:13
---	---	--	---

raised 39:25 range 6:14 rapidity 8:24 rate 6:10 read 14:12, 17:4, 26:1, 37:11, 38:23, 39:12, 42:12, 46:17, 59:4 reading 40:25, 42:17 reads 51:21 real 57:7 really 9:24, 12:16, 14:2, 27:14, 49:17, 49:22 realtime 43:22, 61:10 reason 5:22, 25:25 recall 5:3 receives 19:25, 20:1 recited 43:19 recollection 13:21 record 4:8, 14:3, 14:12, 17:4, 47:17, 47:18, 47:19, 47:20, 47:21, 58:19, 58:20, 60:9 rectangle 38:10 redesign 49:6, 49:9 refer 4:15, 7:2, 9:2,	32:25 reference 42:1, 47:9 referring 6:23, 14:10, 15:20, 17:18, 33:1, 40:4, 54:24, 55:18, 55:19 refers 25:13 regarding 29:18 regular 58:24 related 9:19, 60:18 relating 8:21, 51:7 remember 10:25, 54:5 remotely 60:15 rephrase 57:14 replace 26:20 replaced 24:7 reporter 2:27, 47:18, 47:21, 58:20, 60:2, 61:10 represented 60:12 represents 35:2 reproduce 53:17 reproduced 41:9, 41:19 require 24:10, 25:10, 26:6, 28:15, 39:13 require: 15:15 required 49:2, 56:4	requirement 57:19, 57:20 requires 13:22, 16:20, 57:3 requiring 26:9 respect 48:12, 54:3 respective 40:21, 42:9, 43:3, 43:19, 44:19 restricting 19:6 restriction 19:1 retained 6:3, 6:18 retention 7:19 revenue 17:8, 50:6, 55:8 review 9:5 reviewed 38:1, 47:5, 47:7, 47:8 richter 2:12 right 13:5, 13:6, 13:12, 16:15, 18:16, 19:3, 19:25, 22:24, 25:20, 29:6, 32:13, 32:22, 35:9, 36:17, 36:21, 38:22, 40:1, 41:14, 42:24, 43:11, 44:1, 44:25, 46:4, 46:8, 47:12, 48:22, 50:14, 52:3, 53:14, 55:6, 56:2, 56:8,	56:23, 57:2, 57:9, 58:14 rise 8:23 risk 8:9 room 35:23 ross 4:9 rough 58:21 rounded 38:9 rpr 2:26, 61:9 S s 32:1 said 13:24, 14:2, 19:4, 27:22, 28:3, 28:6, 40:11, 43:6, 58:6 sales 38:23 same 5:10, 14:11, 25:3, 28:9, 31:15, 32:14, 38:13, 48:24, 52:2, 52:7, 53:20, 58:3, 59:5 sandwiching 26:4 say 4:23, 5:10, 8:18, 8:19, 11:24, 13:2, 13:8, 13:25, 15:19, 16:5, 17:17, 18:1, 20:22, 21:1, 21:7, 23:24, 24:22, 27:5,
--	--	---	---

28:4, 30:20, 31:7, 31:11, 31:14, 32:13, 39:11, 40:18, 48:24, 49:20, 50:8, 57:15, 58:5, 58:7 saying 14:1, 16:11, 18:18, 43:25, 44:9, 45:8, 53:20 says 14:25, 15:9, 15:13, 17:4, 17:5, 23:14, 26:15, 29:22, 38:23, 39:18, 41:14, 41:20, 45:11, 46:19 scope 32:14, 56:25, 57:5 screen 35:6 script 11:17 scrolled 54:10 seal 61:2 second 23:24, 46:17, 51:20, 51:21, 56:19 section 8:14, 15:8, 37:3, 37:19 see 8:25, 15:6, 15:17, 17:9, 20:15, 21:11, 24:4, 24:21, 26:24, 30:25, 31:10, 31:16, 31:18, 32:19, 35:11, 37:20, 38:21, 39:4,	39:16, 40:24, 41:4, 41:5, 41:12, 41:16, 41:22, 42:10, 46:8, 46:10, 46:13, 46:15, 46:22, 49:4, 50:7, 51:24, 56:22, 57:6, 57:21 seeing 29:10, 35:6 seeking 39:22 select 41:15, 43:3, 43:9, 44:4, 45:11, 46:20, 46:25, 57:3, 58:5, 58:6, 58:7, 58:11 selected 40:19, 44:22 selecting 42:20, 43:22, 49:3, 54:15, 55:22, 56:20, 57:16, 58:6 selection 11:13, 14:13, 14:25, 39:15, 42:1, 42:8, 43:18, 44:14, 44:18, 44:22, 48:25, 49:21, 53:21, 54:13, 57:24, 57:25, 58:9, 58:10 selections 44:2 selects 43:10 sell 39:23 sense 5:17, 9:21, 38:5 sentence 8:19, 21:6,	51:21, 53:12, 56:19 sequences 27:3 served 34:3 server 26:10, 32:15, 33:1, 33:25, 34:1, 34:4, 34:13, 34:22, 35:1, 36:9, 54:9 serves 34:4 serving 34:1, 34:13 set 24:3, 38:25, 60:6, 61:1 sets 39:1 several 8:20 sheppard 2:12 shorthand 60:2 should 17:12, 29:7, 36:5, 36:6, 40:7 show 42:15 showing 37:21 shows 41:9 shuffling 14:19 signature-mig2k 61:7 similar 11:10, 52:3 similarly 31:8 simpler 21:22 simply 10:23, 19:5,	34:1 since 5:1 single 17:25, 19:4, 19:14 sir 4:6, 4:18, 4:20, 6:2, 9:17, 17:24, 21:5, 26:17, 28:2, 29:5, 38:7, 41:4, 48:6, 53:7, 56:16, 58:13 site 34:16, 34:17, 35:2 skill 8:16, 32:24 skittish 56:5 slept 5:1 slot 26:7 small 50:9 software 35:3 some 10:24, 11:6, 19:7, 19:15, 22:3, 26:6, 30:24, 32:15, 36:13, 36:17, 37:8, 41:10 somebody 39:22 somehow 27:11 someone 35:15 something 20:12, 24:14, 24:15, 24:16, 26:2, 26:3, 26:6, 26:15,
--	---	---	---

45:6, 50:16, 50:19, 52:7, 55:18 sometimes 34:4 somewhere 34:1, 34:6, 34:18, 35:1, 36:18 sophisticated 33:18 sorry 8:11, 14:14, 53:4 sort 9:16, 11:18, 16:3, 20:12, 22:13, 25:1, 26:4, 26:5, 35:19, 36:13, 50:10, 50:18, 56:23 sought 17:8 sound 7:4 sounded 34:8 sounds 7:5 space 26:7 specific 9:20, 54:7, 56:15 specifically 12:7, 48:18 specification 31:9, 32:18, 37:11 specifications 38:8 specifics 40:8 specified 21:7, 45:8 specify 28:20, 29:13,	29:18 specifying 18:17 speculation 13:23, 35:20, 49:10 spend 56:10, 56:11 spending 56:12 spent 6:13 spoken 7:25, 8:3 sports 41:13 standards 12:12 standpoint 35:3, 48:14 start 27:9, 46:20 started 7:13, 40:25 state 4:8, 60:4 stated 5:11, 25:14, 59:7 statement 56:20, 57:11 states 1:1, 17:11 stick 24:14 storage 17:19 stored 11:16 stretch 13:1 strictly 35:2 structure 23:15, 23:16 student 11:9 submitted 6:21	substitution 26:22 sudden 24:21 suffer 8:8 suite 2:4 support 32:12 supports 36:10, 57:12 suppose 19:1 supposed 38:2 sure 10:10, 22:16, 29:11, 30:7, 39:10, 42:11, 45:5, 45:19, 51:10 surfing 35:10 sworn 4:2, 60:7 synonymous 27:19, 27:21, 27:23, 28:5, 28:8, 52:5 system 9:11, 24:10, 34:24, 49:18	taking 1:24, 5:19, 33:21, 33:22 talk 12:21, 20:20, 53:12, 54:8 talked 52:1, 53:16, 54:22, 54:23 talking 22:4, 24:17, 27:2, 27:9, 28:18, 34:17, 36:5, 44:2, 48:20, 56:18, 57:21 tcremen@sheppard- mullin 2:16 teaches 31:15, 31:22 teaching 11:4 team 38:23 technical 6:4, 16:19 technically 24:23 techniques 9:3, 9:4, 9:6, 24:25 technologies 8:22, 10:4 technology 8:23, 11:15, 14:19, 51:3, 54:8 telecommunication 14:19 telecommunicatio- ns 9:11 television 9:8 ten 6:14 tends 24:14
---	--	---	---

term 11:1, 16:13, 16:19, 17:12, 17:23, 26:5, 30:12, 31:2, 33:23, 35:12, 35:17, 52:21, 54:7 terminology 27:2 terms 16:6, 16:9, 16:14, 24:10, 39:1, 43:12, 50:13, 50:14 testified 4:3, 54:2 testimony 5:20, 5:24, 20:25, 54:5, 60:9 text 10:15, 13:8, 13:12, 13:19, 58:2 textual 13:13, 37:25, 48:24, 53:12 th 61:2 thank 4:18, 6:2, 9:17, 25:24, 47:24, 51:8, 51:14, 53:7, 54:21, 58:18 therein 59:7 thereof 59:5 thing 11:14, 15:23, 25:3, 32:8, 38:10, 43:21, 50:19, 56:24, 58:3 things 8:20, 9:12,	9:16, 9:21, 9:22, 12:11, 12:15, 13:5, 21:2, 21:8, 24:18, 26:4, 50:7, 50:10, 56:7 think 4:15, 4:23, 5:4, 5:25, 10:22, 11:5, 12:22, 12:24, 13:9, 13:11, 14:14, 16:14, 18:24, 19:1, 19:9, 24:12, 24:18, 25:7, 26:13, 27:1, 27:21, 27:24, 28:6, 29:10, 30:5, 30:10, 30:16, 31:19, 37:8, 37:16, 37:24, 39:24, 42:3, 42:13, 42:19, 42:24, 43:1, 43:6, 43:8, 43:21, 43:25, 44:21, 45:7, 46:6, 51:6, 52:9, 52:23, 52:24, 53:1, 55:14, 55:22, 56:5, 56:24, 58:12 thought 29:7, 47:6 thousand 50:3, 50:15, 50:21 through 10:7, 41:7 thursday 60:16 ties 56:3 time 5:2, 7:1, 29:10	times 4:22, 4:24, 46:21, 50:7 timothy 2:15 today 5:10, 5:20, 5:24 together 19:11 took 12:15 top 14:22, 14:23, 24:15, 24:24, 39:11, 46:12, 46:18, 49:23 trademark 1:1 train 47:6 transparent 19:16 trial 1:2 true 59:6, 59:8, 59:11, 60:9 trying 10:22, 10:24, 16:18, 18:16, 19:5, 24:8, 26:8, 26:19, 26:21, 39:24, 40:13, 42:6, 43:11, 44:6, 55:4 turn 8:5, 14:6, 23:23, 24:20, 30:9, 40:15, 46:3, 49:24 turns 23:18 two 18:23, 18:24, 18:25, 26:4, 26:22, 32:9,	44:3 type 11:20, 13:12, 33:11 typed 33:15, 33:16 types 8:22, 10:14, 10:16, 12:2, 38:11 typically 19:19 U under 5:9, 19:14, 31:22, 59:10 undersigned 60:2 understand 5:12, 5:14, 9:25, 17:12, 21:21, 24:8, 25:21, 26:8, 26:19, 26:21, 31:2, 36:6, 41:24, 42:24, 49:9, 49:16, 50:13, 57:17 understanding 13:16, 16:5, 18:3, 19:14, 24:6, 25:8, 30:12, 34:23, 50:12, 50:24, 51:4, 52:20, 53:25 understood 10:2, 15:14, 17:6, 21:5, 24:1, 30:21, 40:10, 48:13, 55:16 unique 33:21 united 1:1 university 11:5, 11:6
--	---	--	--

unless 16:16 updated 12:14 url 18:9, 22:3, 33:9, 33:10, 33:17, 33:19, 33:20, 33:23, 35:7, 43:10 urls 32:12 usage 32:16 use 4:16, 12:3, 26:18, 38:9, 44:8 user 10:6, 10:15, 10:21, 11:10, 11:20, 12:2, 12:22, 13:13, 18:4, 18:19, 19:16, 19:19, 20:7, 21:9, 22:5, 22:9, 23:3, 23:19, 36:9, 37:13, 37:21, 38:1, 38:11, 39:7, 40:5, 46:19, 46:25, 49:6, 57:23 user's 22:25 user-accessible 17:7, 17:17, 18:1, 18:11, 20:6 user-selectable 13:3 users 40:22 using 33:9 V valid 60:3	value 43:22, 43:24, 49:2, 56:8, 56:20, 57:15, 58:2 various 8:21, 9:2 vast 34:22 versus 42:20 via 1:21, 18:10, 20:7 video 14:19, 22:13, 24:18, 24:22, 24:23, 24:24, 25:18, 25:19, 27:11 video's 24:18 videoconference 1:21 videos 11:3, 11:7 view 28:15, 39:6 views 16:3 visible 30:6 visiting 40:23 visual 23:18 volumes 27:4 vs 1:9 W want 5:16, 6:24, 7:1, 9:23, 10:25, 24:19, 35:2, 40:2, 42:11, 45:5, 50:21, 51:8, 55:23 wanted 53:23, 57:17 wants 55:13, 55:15, 55:25 warm 48:10 washington 2:5, 2:14 way 5:15, 11:16, 13:1, 18:17, 26:11, 28:6, 28:16, 29:13, 33:4, 34:20, 34:22, 45:22, 49:8, 49:14, 50:5, 60:22 we'll 36:1, 45:16 we're 14:11, 22:3, 27:2, 34:18, 36:5, 48:4, 48:20 we've 47:12 web 15:4, 15:10, 17:6, 17:12, 18:10, 18:21, 18:22, 18:24, 19:8, 20:7, 23:1, 23:17, 23:25, 25:21, 28:21, 29:14, 29:19, 29:23, 35:9, 35:10, 35:14, 35:19, 35:21, 36:9, 51:22, 55:8 web-based 8:22, 10:8 webpage 10:14, 12:19, 20:1, 20:15, 20:17, 20:23, 21:13, 21:17, 21:18, 21:23, 22:2, 23:9, 23:11, 30:22, 38:12, 39:13, 41:11 webpages 9:7, 10:20, 10:23, 13:19, 19:19, 30:23, 34:14, 35:16, 36:18, 37:20, 37:21 website 13:14, 15:2, 15:5, 15:11, 17:7, 20:23, 21:2, 21:9, 21:10, 21:18, 21:24, 22:3, 22:8, 22:9, 22:22, 23:1, 23:2, 23:3, 30:12, 30:21, 31:3, 31:8, 31:22, 32:5, 32:6, 32:12, 32:14, 32:16, 32:25, 33:2, 33:12, 33:22, 33:24, 34:5, 34:11, 34:12, 35:5, 35:6, 35:11, 35:17, 36:8, 36:10, 36:13, 36:19, 38:25, 40:20, 40:23, 42:8, 43:3, 43:9, 43:18, 44:2, 44:5, 44:8, 44:19, 52:15, 52:21, 55:11, 55:18 websites 12:23, 31:25, 32:10, 32:11,
---	--

39:19, 40:21, 41:15, 42:9, 43:4, 43:19, 44:19, 44:22, 50:8, 56:1 websites" 45:11 week 48:11 weinstein 2:6, 3:4, 3:6, 4:5, 10:12, 12:1, 12:20, 13:18, 14:5, 14:16, 16:24, 18:15, 19:24, 20:5, 20:13, 21:4, 21:20, 22:6, 22:14, 23:8, 23:22, 25:6, 26:16, 27:17, 27:25, 29:4, 29:17, 29:25, 30:8, 31:6, 32:2, 34:10, 35:8, 35:25, 36:16, 36:23, 37:18, 38:6, 38:17, 44:24, 47:4, 47:16, 47:22, 49:13, 51:5, 51:12, 53:4, 53:7, 53:18, 54:20, 55:24, 57:1, 57:10, 58:12, 58:15, 58:18 welcome 47:23 weren't 14:2 whatever 4:17, 51:2 whereas 22:19 wherein 15:2, 40:19	whereof 61:1 whereupon 58:25 whether 42:7, 52:1, 52:6 whoever 34:24 whole 15:15, 15:23, 41:17, 47:25 willing 16:12 wilmington 48:8 withdrawn 7:23, 11:19, 40:2, 49:25 within 15:4, 15:10, 23:25, 25:21, 28:21, 29:14, 29:19, 29:23, 51:22, 52:7, 59:3 witness 3:3, 10:10, 11:24, 12:6, 13:16, 13:24, 16:22, 18:13, 19:22, 20:11, 21:1, 21:17, 22:1, 22:11, 23:5, 23:21, 24:12, 26:13, 27:1, 27:21, 28:23, 29:22, 30:5, 31:25, 33:4, 34:16, 35:19, 36:12, 37:16, 38:5, 38:14, 44:21, 49:11, 51:10, 51:13, 53:9, 53:19, 54:18, 55:22, 57:6, 58:14, 58:16,	60:6, 60:10, 61:1 word 10:25, 20:21, 24:7, 26:1, 26:8, 26:18, 26:20, 30:1 words 11:17, 13:4, 18:7, 23:13, 26:22, 56:10 work 6:7, 6:15, 9:8, 9:19, 10:19, 50:1 worked 9:18 working 6:13, 7:13 works 13:17, 23:21 www 32:5, 32:9, 33:10, 33:15, 33:17 x x 12:17 y yahoo 32:1 yanovsky 31:17 yeah 5:1, 10:10, 12:6, 13:11, 13:24, 28:8, 28:19, 36:3, 37:19, 41:2, 42:19, 42:22, 45:23, 46:6, 48:9, 51:12, 52:11, 57:6, 57:22, 58:7 year 5:4, 6:20	years 33:14 yep 5:18, 49:5 yourself 51:8 z zoom 1:21, 60:15 o oo 1:23, 60:16 00043 46:7 0043 46:3 0044 46:13, 46:18 00472 1:9 0054589 3:16 0061 46:9, 46:14 043 46:5 1 1 48:9, 57:9 10 21:7, 47:19, 47:20, 58:25, 60:17 1001 3:13, 29:2, 29:5 1003 3:15, 45:17, 45:21, 46:4 11,416,898 1:11, 3:14 1299 2:4 14603 1:24
--	--	---	---

15 47:19 16 38:20, 40:4 19 8:7, 8:11, 21:8 2 20 12:17, 59:14 20004 2:5 20006 2:14 2004 3:16, 12:25, 13:1, 13:2, 13:20 2009 3:11, 6:22, 6:24, 7:6, 7:11, 8:6, 30:11, 37:1, 48:18 2025 1:9 2026 1:22, 60:16, 61:3 2099 2:13 22 1:22, 14:7, 14:17, 60:16 23 14:8, 14:22, 14:23, 16:4, 38:20, 40:4 27 61:2 28 30:17, 30:18, 47:20 29 3:13 3 30 48:9	31 36:25, 40:16, 40:18, 41:1 32 36:25 34 41:7, 45:10 35 41:7 4 404 20:11, 20:14 45 3:15 46 8:6, 8:12, 8:18, 58:25, 60:17 47 8:11 5 50 4:24 500 50:23 51 3:5 54 3:6 550 6:11 56 14:6, 14:9, 14:10, 14:17 57 15:13, 15:20 6 61 17:1, 17:3 62 20:20, 20:22, 21:6 63 23:23, 25:15, 51:18	68 30:16, 30:19 69 31:7 7 70 31:14, 32:3 700 2:4 72 30:10, 30:13, 30:14, 32:13, 52:10 77 36:24, 37:2, 40:16, 41:1 78 36:25, 37:7, 38:18, 39:11, 40:3, 54:4 79 37:7 8 83 41:7, 41:9 85 41:7, 41:18, 45:13, 48:19 87 42:4, 48:23, 53:1, 53:6, 53:9, 53:11, 56:17, 57:15 88 4:25 898 7:15, 11:22, 12:4, 12:23, 15:15, 31:3, 31:8, 32:17, 32:21, 37:12, 38:20 9 9 1:23, 60:16	
---	---	--	--