

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC,
Petitioner,

v.

BRODTI INC.,
Patent Owner

IPR2025-00472
Patent 11,416,898 B2

Record of Oral Hearing
Held: April 21, 2026

Before ARTHUR M. PESLAK, STEPHEN E. BELISLE, and BRIAN P.
MURPHY, *Administrative Patent Judges*.

IPR2025-00472
Patent 11,416,898 B2

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The above-entitled matter came on for hearing on April 21, 2026,
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Trademark Office headquarters in Alexandria, Virginia.

P R O C E E D I N G S

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JUDGE BELISLE: Good morning and welcome to the Patent Trial and Appeal Board. This is the oral hearing in IPR2025-00472 involving U.S. Patent Number 11,416,898. The court reporter will prepare the official transcript for this hearing. Petitioner is Google LLC. Patent Owner is spelled B-R-O-D-T-I. I'm Judge Belisle, and I'm joined by Judge Peslak and Judge Murphy. Judge Peslak, as you can see, is appearing remotely by video. Counsel, please enter your appearances. We'll begin with Petitioner.

MR. WEINSTEIN: Thanks, Your Honor. Mark Weinstein, backup Counsel. Counsel Heidi Keefe. And we also have (INDISCERNIBLE).

JUDGE BELISLE: Thank you. Patent Owner.

MR. CREMEN: Good morning, Your Honor. It's Timothy Cremen on behalf of BrodTi, James Gatto, and (INDISCERNIBLE).

JUDGE BELISLE: I pronounce that BrodTi?

MR. CREMEN: Right.

JUDGE BELISLE: We'll begin with some general guidance for today's hearing. For those who have been here recently, this will sound very familiar. We have the entire record available to us, including the party's demonstratives. When referring to demonstratives, papers or exhibits, please do so clearly and explicitly by slide or page number.

And please pause a few seconds after identifying the page that you want us to go to, to provide us time to find it. Please do not interrupt the

1 other party while that party is presenting its arguments. If you have an
2 objection, just raise it during your argument. Pursuant to our hearing order,
3 each party has 60 minutes to present its argument.

4 Each party may reserve time solely to rebut the opposing party's
5 argument. You may not use rebuttal to address an issue for the first time
6 during the hearing. Petitioner will proceed first because it bears the burden
7 of proving unpatentability. Petitioner, how much time, if any, would you
8 like to reserve for rebuttal?

9 MR. WEINSTEIN: (INDISCERNIBLE).

10 JUDGE BELISLE: And you may approach the podium and begin
11 when you're ready.

12 MR. WEINSTEIN: Good morning, Your Honors. During our part
13 of the oral argument when referring to the Petitioner's demonstrative exhibit,
14 which is Exhibit 1029, and pursuant to your admonitions, we will call out
15 the slide number when we switch to the slides so the record is clear what
16 we're referring to.

17 Going to Slide 3 of Exhibit 1029, Your Honors have instituted IPR
18 on four grounds. Although the arguments relevant to this hearing are
19 actually relatively narrow. I will note there's Grounds 3 and 4, which cite
20 the Manowitz reference. We are aware of the board's PTO's guidance that
21 the board needs to address all the grounds.

22 I respectfully submit I'm not sure you need to address Grounds 3
23 and 4. They were presented solely to account for a potential claim
24 construction position we thought Patent Owner may take. We don't perceive
25 that they have taken that position. So our position is that Your Honors don't
26 need to address Grounds 3 and 4 unless -- obviously unless they raise an

1 argument to the contrary.

2 Your Honor, going to Slide 5, primary prior art reference here is
3 Nicholas. And most of the arguments that are being presented by Patent
4 Owner revolve around Nicholas. Nicholas is an example of a self-service
5 advertising portal. And actually all three of the sort of advertising references
6 we cite, Mayadas, Nicholas, and Yasnovsky, they all recite very similar
7 systems where an advertiser can go onto a website and they can define the
8 parameters of an advertisement that can be presented. And so it just sort of
9 gives you an idea. It's a pretty common mechanism prior to the '898 patent.

10 Nicholas has a system where you log in or input your credentials.
11 You define your advertisement by what your advertisement wants to look
12 like, the data, you define the parameters for it such as how long do you want
13 it to run, how many impressions do you want it to run for, and what are the
14 websites on which you want the advertisement presented?

15 And it gets presented and the impressions get tracked accordingly.
16 Mayadas is on Slide 6. Mayadas is a reference that's cited really only for the
17 financial aspects of it. The Nicholas reference certainly discloses the ability
18 to collect revenue from the presentation of advertisements.

19 It doesn't go into the mechanics of it. It talks about CPM-based
20 advertisement. So Mayadas is cited primarily to show the mechanics of it,
21 but there aren't a whole lot of arguments presented here about Mayadas. So
22 Your Honors, I'm going to jump to Slide 12, in which we've reproduced
23 independent Claim 1 where most of the arguments are.

24 And we've highlighted the claim language that's relevant to the
25 (INDISCERNIBLE) before the board. And we'll go through them sort of in
26 order. Starting with the one that's in purple, which is the selecting issue. I

1 have to jump forward because it's actually later in my slide deck.

2 So jumping, Your Honors, to Slide 38. Slide 38 presents claim
3 limitations 1c and 1d. And these are sort of the key limitations that form the
4 basis of the lead argument, which is about the selection of a number of
5 (INDISCERNIBLE).

6 1c basically says you have to generate a webpage that provides a
7 plurality of options for selection by given client. A says you obtained input
8 to the user interface, the user selection of one or more of the buy options.
9 And the buy options can be a lot of things, but the claim says you have to
10 have at least two categories.

11 One, the website or websites on which the ad will be presented,
12 and the predetermined number of impressions for which you want the ad. I
13 don't see Patent Owner disputing that first part about whether or not websites
14 are being properly selected.

15 I think they don't dispute that. Nicholas does disclose advertising
16 buy options that are selected that comprise at least one website among the
17 websites. It's all about the predetermined number of impressions. So I want
18 to just briefly explain how we contend Nicholas discloses that limitation.

19 On Slide 39, this is Figure 8 of Nicholas. This is a webpage. It's
20 one of the webpages that we contend discloses limitation 1c, which is
21 providing the webpage that shows a plurality of buy options. On this page,
22 there's actually two buy options presented. One is the number of
23 impressions, and we've highlighted that in yellow.

24 The other is the amount of time the ad will run. That's actually not
25 required by the claim, but that's an additional example of a buy option. As
26 you can see in Slide 39, it actually lets the user input the number of

1 impressions into that box. And we agree with Patent Owner, it is sort of a
2 textual entry. And would type in if they want 2000 impressions, they would
3 type in 2000 and then click the Submit button on the bottom of the screen.
4 Then on Slide 4 --

5 JUDGE BELISLE: So this is Judge Belisle. Is it your position
6 that upon clicking that Submit button, that the user has effectively selected
7 whatever they typed in for the number of impressions?

8 MR. WEINSTEIN: Yes, Your Honor. When you push the Submit
9 button, that's when the processor or when the processor 1d obtains it,
10 because essentially it sends the contents of that form up to the web server for
11 collection. So the obtaining step at 1d actually happens when the user
12 selection is received by the server. So that's when the -- mechanically when
13 the step of the frame rotation is met.

14 JUDGE MURPHY: And Counsel, just to follow up, so in step one
15 on Figure 8 of Nicholas, does it matter that it says enter the number of
16 impressions versus select the number of impressions?

17 MR. WEINSTEIN: No --

18 JUDGE MURPHY: Seems to be at least that's my understanding
19 of Patent Owner on Count 1. (INDISCERNIBLE)

20 MR. WEINSTEIN: You're correct, Judge Murphy. In their Patent
21 Owner response, they put a lot of emphasis on select. Does Nicholas
22 disclose selecting the predetermined number of impressions? I have Slide
23 43 on the Demonstrative Exhibit 1029, and it shows Nicholas paragraph 61.

24 And just for the record, paragraph 61 contains all the disclosures
25 about the user interface of Nicholas for the predetermined number of
26 impressions. You'll see that paragraph 0061 cited throughout. To answer

1 your question, Your Honor, if you look at paragraph 61, it's actually
2 recorded here, in one embodiment the user may select both the number of
3 impressions as well as the start and end times.

4 So it actually uses the word, select, to describe the process by
5 which the user goes about entering how many impressions there are. If you
6 go to Slide 44, Your Honor, I asked Petitioners -- I mean, Patent Owner's
7 expert about this, and I asked him, would you agree that Nicholas disclosed
8 that the user can select the number of impressions for the advertisement?

9 And he said, he agreed, yes. So we don't think there's any magic in
10 the word select. Certainly, you're making a selection when you type in a
11 number. The argument seems to have morphed. Judge Murphy, I think the
12 argument started with the issue select.

13 Now it's more the question of, well, in order to select the buy
14 option in 1d, it has to have been explicitly presented in 1c. The argument
15 seems to be if you are going to select 1,000 impressions, that number has to
16 have shown up on the webpage, like kind of like a dropdown list.

17 Although they say in their sur-reply, it's not limited to dropdown
18 list, but their argument is that the claim requires that you actually display the
19 number, and that you select from a displayed number. They portray it as a
20 system created option in their sur-reply. Our argument, Your Honor, is
21 there's nothing in the claim that limits the manner in which the input can be
22 provided.

23 It doesn't require any particular interface, and they don't seem to
24 dispute that. So if Your Honor looks over here, this is on Slide 42. This sort
25 of explains how limitation 1d is being mapped. And most of our arguments,
26 Your Honor, are about 1d, which is the obtaining step. You can see it says

1 obtaining by the one or more processors via an input.

2 So Slide 42, and we're pointing to the slide on petition page 22,
3 form input 221. Actually, the actual patent Nicholas calls it an input. So it's
4 not only is it like -- it actually uses the word form input to provide the
5 number of impressions.

6 In green, we have the graphical user interface. That's Figure 8, it's
7 actually described to say web interface. I don't think there's really any
8 dispute about that. And the predetermined number of impressions, well,
9 that's the number of impressions that you are selecting for your
10 advertisement.

11 Yes, there is an argument, Your Honor, that well, is it
12 predetermined? Is it predetermined? And I don't think we disagree with
13 Patent Owner on what predetermined means. It means determined
14 beforehand. Question is determined before -- the first mention of a
15 predetermined number of impressions is in 1d, which is the obtaining step.

16 Our position is that it's predetermined. We have this on Slide 45, it
17 was from the petition. It's predetermined because the user -- the advertiser
18 determines the number of impressions when they enter it. So by the time the
19 server obtains it in 1d, it's a predetermined number.

20 We also know it's predetermined, Your Honor, because I have here
21 on Slide 41, again, citing to paragraph 61, there's an embodiment in
22 Nicholas where you don't even have to specify the number of impressions.
23 You can just say, look, on this paragraph 61, Slide 41, we say, in one
24 embodiment user may specify only the number of impressions, that's one
25 embodiment.

26 Next embodiment, user may specify only a start and end time and

1 during which (INDISCERNIBLE). That's not what we're relying on. We're
2 relying on providing impressions. But that's an example where it would not
3 be predetermined.

4 Because if I said I want my ad to run January 1st to January 31st,
5 it's not a predetermined number of impressions because it may run any
6 number of impressions. So that's an example where it's not predetermined.
7 But in the embodiment we're relying on the user actually is inputting
8 something into that box, providing the number of impressions, it's
9 impressions that they selected for it, it's a set number that sort of identifies
10 the top level, the maximum number of impressions the advertisement will be
11 delivered.

12 So Your Honor, I think our petition is pretty simple. The plain and
13 ordinary meaning of the claim simply doesn't support the limitations that
14 they're suggesting. And there's nothing in the specification describing how
15 the mechanism of selection works. There's no screenshots, there's no
16 exemplary user interfaces.

17 So there's nothing in the spec that would narrow the otherwise
18 broad, plain and ordinary meaning. There's no disavowal, there's no
19 disclaimer, there's not even anything defining in these terms by implication.
20 So the plain and ordinary meaning controls, Your Honor, and our position is,
21 it clearly covers selecting from, for example, entering a text box.
22 (INDISCERNIBLE).

23 Your Honor, we want to go next to Slide 50, which limitation 1f
24 which is a placing limitation. And this is sort of, if the selecting one was
25 their number one term in terms of like how many arguments, this is probably
26 number two. The disputed language is at the end of limitation 1f, which is

1 placing the advertising material within web property content of at least one
2 website.

3 And there are some claim construction issues. They're construing
4 the whole phrase. They're also construing web property content and one
5 website. And we'll explain in a minute, Your Honor. Your Honor cited
6 (INDISCERNIBLE) case in the institution decision, which makes clear, you
7 don't have to construe terms if they're not germane to the disputes.

8 Our position, Your Honor, is that even under the constructions that
9 they have proposed, which we don't think are correct, we have admissions
10 from their own expert that concede that the prior art meets those
11 constructions even as they (INDISCERNIBLE) them.

12 So we'll go over that in a minute, Your Honor, but I want to go
13 over, how did the petition map it? Because there's a disconnect between
14 Patent Owner and Petitioner on how did we identify the website in claim
15 limitation 1f --

16 JUDGE BELISLE: This is Judge Belisle. Before you get there,
17 let's spend some time on the construction of what -- because it matters. I
18 mean, to the argument, what is a website? What is web property content in
19 the context of this disclosure in the claim?

20 MR. WEINSTEIN: Absolutely, Your Honor. So our position, we
21 have Slide 18 up here, which we have the -- what we believe to be the
22 correct definition of a website. And we believe in the context of this patent,
23 really, it's an ordinary term. It means the server and one or more webpages
24 that may be provided by the server.

25 So for example, when you -- the term, when you visit a website,
26 that's a phrase that's used in the patent. You're not visiting a disembodied

1 (INDISCERNIBLE), you're visiting a server on the network. And that
2 server is what's providing. So you see the term surfing the web or accessing
3 a website, visiting a website.

4 This is all talking about a server that's being accessed. Their
5 position, Your Honor, seems to be that, well, the server is not part of the
6 definition of a website. And we have on Slide 17 their definition. That's not
7 entirely clear to me because their definition even includes a particular
8 domain, ESPN, their actual -- their definition has a particular definable
9 webpage or a group above has a particular domain and they give examples
10 of ESPN.

11 So I'm not sure what the dispute is here, Your Honor, because I
12 think their definition certainly includes, at least implicitly the idea that the
13 website includes a server. Your Honor, the best support for that is probably
14 on Slide 19, which is citing from the '898 Patent. And this is from column
15 three, line 66 through column 4, line 2.

16 And the patent basically says right here, the www service allows a
17 server computer system, i.e. web server or website to send graphical web
18 pages or screens. So the patent is defining the website as including a server,
19 at least the server is part of what the definition of a website is.

20 This is extrinsic evidence we have on Slide 20, but it's only, it's
21 just sort of a piece of extrinsic evidence for definition for what a website is.
22 And it says in number one, in common but technically inaccurate usage is
23 webpage, which is kind of what their position is.

24 And in technically correct usage, it's one or more computers
25 associated with the domain name, which is actually consistent with their
26 own construction. On Slide 21, Your Honor, we asked their expert, so what

1 is this, a website? And here's what he answered on Slide 21, it's from
2 Exhibit 1027, page 33.

3 We have it highlighted here. It says, he talks about it, the URL,
4 but he says if you dig deeper, you find there is a server somewhere and
5 basically the server is simply serving up a file. The last thing he says, "And
6 so the server that serves up the file is sometimes called the website because
7 it's an actual physical location somewhere out in the internet."

8 Your Honor, we're defining a website in the context of what a
9 POSITA thinks, not what someone on the street thinks. So when he says,
10 dig deeper, that's how -- that digging deeper is how a POSITA would
11 understand the term, website, not colloquial definition of a website is just the
12 webpage that I see on the internet.

13 Here we have in their Patent Owner response on Slide 22, they
14 acknowledge the scope of website as used in the art can include in some
15 instances the server that hosts the website. So they acknowledge that the
16 server is part of the definition of a website or at least it can be. So that's the
17 definition of website, Your Honor.

18 The reason we think that issue is not -- I'll go back to that. So we'll
19 go to web property content. So web property content is another term --

20 JUDGE BELISLE: Counsel, this is Judge Belisle. Before we go
21 there, I think it'd be useful given what we've just talked about for website,
22 why does it matter to the case whether the server is part of the definition of
23 website or not?

24 MR. WEINSTEIN: Our position, Your Honor, is we don't think it
25 does, we don't think the construction necessarily matters. I mean it's a
26 correct construction required the server, but we don't think that

1 (INDISCERNIBLE) we have from them, Your Honor, an admission and I'll
2 pull it up on the screen.

3 Like here we have on Slide 59, this is from their Patent Owner's
4 expert, and he cites this is from Exhibit 1027, page 31. And so I asked their
5 expert, "Would you agree that the prior art cited by Dr. Crovella discloses a
6 website under the definition you've provided?" And he said, "Yes."

7 And that's actually consistent with what he said in his declaration.
8 In Slide 60, we have paragraph 69 and 70 of his declaration. 69, he's talking
9 about website is used similarly, and he's discussing what a website is and he
10 has this discussion of citing portions of what a website is in the '898 patent.

11 Paragraph 70, he says, "The prior art cited by Dr. Crovella teaches
12 the same." And he cites Nicholas paragraph 56 and 123. He also cites the
13 other references as well. But I don't think there's a dispute, Your Honor, that
14 Nicholas discloses a website. That's why our position is, you're certainly
15 welcome to construe the term if you think it's necessary.

16 But we believe that prior art clearly discloses a website, regardless
17 of which definition of website you provide. That's sort of our position on
18 -- obviously Your Honors are free to (INDISCERNIBLE) about the website.
19 Our position is that's not going to change the outcome. We don't think at
20 least.

21 Web property content, Your Honor, we think falls in the same
22 category. So web property content we have on Slide 24, side by side
23 showing (INDISCERNIBLE) constructions. And our position is simply that
24 web property content, there's two parts of that. There's web property, what's
25 the web property, and then what's web property content.

26 And our position is web property includes (INDISCERNIBLE) and

1 web property content is simply content of the website, which can be, for
2 example, one or more webpages. It's as simple as that. And Your Honor,
3 we think that's supported by -- if you go to Slide 27, it's supported by
4 disclosures in the '898 Patent.

5 Here we're citing from '898 column 4. This is actually the only
6 time, Your Honor, in this specification, the word web property is actually
7 used in this passage. It talks about media property on the web property. So
8 web property is something bigger than the media property.

9 It says, "The web property is marketed to a target audience who
10 visits the web property to view the content provided. Every time an
11 individual visits the web property, he/she creates an impression." It's
12 important because the patent later says, we have in Slide 28, an impression is
13 a visitor to a website. So these two passages pretty much confirmed that
14 web property includes a website, at least includes a website. That's
15 according to column 5, line 15.

16 JUDGE MURPHY: Well, but Counsel, what's the distinction
17 being made in limitation 1? If you have to place the ad material within the
18 web content property of the website, it has to be -- how do you do that?
19 How do you place it within the content if it's just a website?

20 MR. WEINSTEIN: Well, you would put it in like for example, if
21 you have an HTML webpage -- this is actually what Nicholas discloses. If
22 you have an HTML webpage, you have a lot of things on the webpage. Our
23 position is that's an example of web property content.

24 If you put like a banner ad on the page, which is actually what
25 Nicholas discloses in the Figures 3 provisional, that's an example of placing
26 an advertisement on web property content because you're placing a banner

1 advertisement within the HTML of the webpage (INDISCERNIBLE).

2 JUDGE MURPHY: It's the word within that I'm focusing on to try
3 to draw out if there is a distinction.

4 MR. WEINSTEIN: Yes, I don't know if there's a -- I don't -- the
5 patent doesn't -- it's not really clear whether the within is supposed to specify
6 some kind of strict (INDISCERNIBLE). That's kind of why I think in our
7 example, I'll go straight to it, Your Honor. In this example on Slide 56, this
8 is the actual website that's being provided by Nicholas.

9 An example of it, it's the Green Bay Packers website. And you can
10 see there the advertisement there is 305. It's actually, right there is the -- it
11 talks about this is an advertisement being served to the consumer website
12 selection node.

13 Even if you say within has to have some kind of inserting or some
14 kind of spatial relationship, you can see right here the ad is inserted within
15 web property content, which is within the webpage that's being displayed.
16 So it's not on the top of it, it's not on the bottom, it's sort of sandwiched in
17 the middle.

18 So under any sort of view of, they keep saying inserting, they have
19 the word within, we think it meets that limitation spatially and functionally
20 no matter which way it's (INDISCERNIBLE).

21 JUDGE MURPHY: Thank you, Counsel.

22 MR. WEINSTEIN: Thank you.

23 JUDGE BELISLE: Counsel, this is Judge Belisle. I'm sure we'll
24 hear from Patent Owner on this, but my current understanding of what
25 they're arguing is that, so looking at your Slide 56, which has the illustration
26 of the Packers sort of a website, is that -- on that webpage that's shown on

1 Slide 56, there would be say a file, perhaps a video, short video of some part
2 of the game.

3 And that could be a video file sort of embedded on this webpage.

4 And that the advertisement is within that file, not on this webpage, not on
5 the Packers webpage itself, but within the file of the video that's on the web
6 page. It's almost like a within, within. Can you speak to that? I mean,
7 again, I'm sure we're going to hear about it, but --

8 MR. WEINSTEIN: And I obviously I'll defer to Patent Owner to
9 explain the argument, but my understanding is that their position seems to be
10 that, well, it can't just be the website, it has to be something within
11 -- something that's on the website. Like for example, they keep citing the
12 YouTube example, which I don't know why they're citing it, it's not part of
13 their prior art, it's not relevant to the proceedings, but they keep citing that as
14 an example.

15 So yes, I think their position is that the web property content has to
16 be some subset of a webpage. Maybe it's a video file, maybe it's something
17 else, but they seem to say it has to be some subset. And I think our short
18 answer to that is there's nothing in the claim that requires that.

19 But even if you require it to be some subset of the page, if you look
20 at how we've mapped it, Your Honor, on Slide 52, we have an example of
21 Nicholas. And what Nicholas is talking about is you have the content
22 provider node, which is the web server.

23 You access it, it sends back an HTML file, it sends down this piece
24 of HTML code, here you can see it's got the iframe height, it's got all this
25 URL stuff. There's actually a point in the HTML where it's going to go out
26 and grab the address and stick it right there into the web page what's

1 displayed.

2 But that's actually what happens. And we explained this. On Slide
3 54 from the petition we see the advertisement material will then be
4 populated within the web property being presented to the user. So it's
5 actually populated within a certain section of the site.

6 So even if there are arguments it has to be some subsection, there
7 is a designated part of the website that's dedicated specifically for that
8 banner, and that's defined by this HTML code here, which defines the
9 height, width, tells you where it's going to go, and sort of like what the URL
10 is going to be that's going to get it.

11 In this case it's a 60-pixel high, 468 width. So it clearly discloses
12 you're placing an ad within web property content, which is either the
13 webpage or the HTML of the webpage. The thing that confuses us, Your
14 Honor, is that we asked them. Their definition is it has to be a discrete file,
15 user accessible file.

16 And so, on Slide 61 we asked their expert, went through and
17 pieced through the pieces of their (INDISCERNIBLE). Here on Slide 61, it
18 says, when a browser receives a web page, it actually receives an HTML file
19 over the internet? That's correct. That's a user accessible file because the
20 user can access it, correct? It's a discrete file. Yes. So if you parse their
21 definition, their actual definition, an HTML webpage file meets that
22 definition. So again, this is an example where Your Honors are free to
23 construe the term, but we believe under their construction, we meet it. Now,
24 they add the phrase at the end, it can't be a website webpage.

25 Generally, we don't think that's supported by the specification at
26 all. And their own definition actually undermines it. I'll note, Your Honor,

1 in the sur-reply, there seems to be -- after these admissions, they seem to
2 have added more requirements. Page 15, they say it has to be created by a
3 marketing team (INDISCERNIBLE).

4 It has to be impression tracked, that's a new requirement that's on
5 page 15. And it has to be for fundraising purposes. So in the sur-reply, I'll
6 leave it to them to say it, but it looks like they deviated from their
7 construction and they're adding more limitations on what they think web
8 property content requires.

9 Again, we don't think any of those are supported by the
10 specification. And getting to this point, Your Honor, on Slide 63, this is the
11 tracking, the impression tracking one. In their sur-reply they say, oh, the
12 web property content has to be impression tracked. The claim doesn't say
13 that. The claim only says, the advertising material has to be tracked.

14 It says, monitoring a number of impressions of the advertising
15 material. It doesn't require that web property content being tracked or media
16 property, which isn't even recited in the claim be tracked. It requires that the
17 advertising material be tracked. And that's exactly what Nicholas does.

18 On Slide 64, we have an example where we talk about the fact that
19 Petition 0061, on the very bottom of the slide, "Should the advertisement be
20 served up to the number of impressions, it may automatically stop being
21 served." Our expert explained, well obviously, if you're going to be able to
22 stop the advertisement, if it's displayed a certain number of times, you're
23 certainly tracking the number of impressions.

24 We don't have to rely on that obviously. In the next slide, Slide 65,
25 we actually have explicit disclosures in Nicholas where it's actually tracking
26 the number of advertisements through advertising records. So it's explicitly

1 tracking the number of advertisements that are being displayed, number of
2 times a particular advertisement is being displayed.

3 And just briefly, we actually talk about this reference AIR. And
4 AIR is an old Adobe patent. And AIR we're using for the valid impression.
5 The difference between a valid impression and impression is kind of like
6 when you send something in the mail. I put something in the mail, I'm going
7 to trust that it got there, but I don't really know 100 percent that it got there.

8 Mail you can get a return receipt requested where you get
9 something back that says, yes, this person actually got it and they actually
10 signed for it, so you can actually do that. AIR basically provides that in the
11 web world, provides a system where essentially when you have a piece of
12 content you want to track, you put a URL for what's called a single pixel
13 image.

14 And it's called single pixel because it's never meant to be
15 displayed. It's simply meant to be that when the server goes out and when
16 the browser goes out and grabs that image, it tells the server, aha, we know
17 they got the ad because they wouldn't have asked for that if they didn't get
18 the ad.

19 So it's called a single pixel image. It's a well-known technique.
20 And that's how we used it, we're combining that with Nicholas to show that
21 the impressions would've been valid. Obviously, there's a strong financial
22 incentive to do that because you're paying for these incentives, you're paying
23 for these impressions.

24 So it's important that they're actually delivered. They're not paying
25 for impressions that -- for advertisements that never reached their
26 destination. Just briefly, Your Honor, on paragraph 67, we cite this in our

1 Papers. The tracking embodiment in the patent, this is from '898 column 9,
2 line 4 into 61.

3 It's actually using the same one by one pixel image technique that's
4 described in AIR. This is a well-known technique. It wasn't an invention of
5 the patent, it wasn't an invention of AIR. It's one of the only cites in the
6 background section of AIR.

7 I guess the last argument we'll address, Your Honor, is a number of
8 valid impressions. And that's on Slide 70. And 70 says, we have -- I mean,
9 based on determining a number of valid impressions, and really that number
10 and number of valid impressions, that's the claim limitation in dispute.

11 And there's sort of two parts to the argument. First is what is a
12 number of valid impressions? And the Patent Owner says, well, it has to be
13 at least, because it uses the word impressions, plural, that means it has to be
14 multiple impressions. And our position is, no, number can be one
15 impression.

16 It can be more than one impression, we're not saying it has to be
17 one, it can be one or more than one. And that's consistent with ordinary
18 meaning, Your Honor. Like if you ask yourself, count the number of cars in
19 the parking lot, you're not assuming there's going to be two. It could be just
20 one. So it's not a question of the term a number, it's simply not a dispute that
21 a number can be one. Now, we also have impressions --

22 JUDGE MURPHY: It's the impressions that are plural, right? So
23 to push back, their response is, well, look, why would you need to monitor
24 one impression?

25 MR. WEINSTEIN: Well, there could be a number of reasons you
26 would do that. I mean obviously that's how the Mayadas reference does it.

1 But the Mayadas reference actually collects revenue after every impression.
2 So you could certainly have a system that meets the claim that collects it
3 after each.

4 In which case you would run that limitation multiple times, you
5 wouldn't necessarily -- it wouldn't just be once, but if you had 1,000
6 impressions, you might run that every time. In Mayadas what happens is
7 you -- the advertiser puts its money in an escrow account, and every time an
8 impression happens, a little piece of that money goes out of the advertiser
9 escrow account into the web publisher's account.

10 And so the argument is like that's how Mayadas works, but there's
11 no reason you wouldn't do it that way. And certainly, we understand their
12 arguments that there has to be more than one. And we have a backup
13 argument obviously, that the way advertising impressions are priced, they're
14 priced on CPM, which is cost per mille, which means cost per 1,000.

15 So if you have a CPM of \$35, it means each impression is about
16 three and a half cents. So it would also be obvious if you don't want to
17 collect after every single impression, you could collect after every 1,000,
18 because that's actually how they are priced.

19 So our position is both that a number of valid impressions includes
20 one or more than one. And even if it required more than one, it would've
21 been obvious to do the revenue collection on the basis of CPM, on the basis
22 of a larger increment, such as cost per mille.

23 So I guess I can just briefly talk about Claim 8. There's not much
24 to say about this claim because the arguments they make are -- they really
25 only make like a sentence argument on both their Patent Owner response for
26 the claim. And really what they're saying is that they're attacking the

1 references individually.

2 There's a long line of other cases that you can't avoid an
3 obviousness challenge by simply attacking the references individually and
4 avoiding the combined teachings of the prior art. What they're saying here
5 as well, in the Yasnovsky reference, which is the one that is being used for
6 this, you can actually change the campaign.

7 So in Nicholas, you run a campaign, it's silent on -- when you're
8 running the campaign, can you change the parameters of it while it's
9 running? And Nicholas is silent on it. Yasnovsky says, and we have this
10 cited on Slide 78, Yasnovsky says, you can actually change all those
11 parameters while the ad is running.

12 And it talks about even we have here citing 0049, the advertiser
13 can change the campaign budget, they can change a number of different
14 parameters of the campaign while it's running. So our position is that it
15 would've been obvious to take this teaching of Yasnovsky, which is the
16 ability to change a campaign while it's running.

17 When you adapt it to -- when you adapt it to Nicholas, that would
18 result in the ability to increase the number of impressions, because that's
19 how the campaign scope is defined in Nicholas is to impressions.

20 JUDGE MURPHY: But what's the evidence linking that type of
21 editing, that type of change to the campaign, specifically to changing the
22 impressions?

23 MR. WEINSTEIN: Well, this is described in our expert
24 declaration. What Yasnovsky discloses, Your Honor, is the ability to change
25 the campaign budget. And so the budget and the impressions are actually
26 correlated. So like if you have 1,000 impressions, that's going to result in a

1 certain budget because they're being priced by CPM.

2 So the two are correlated. It's not like we're saying you could alter
3 this setting and it meets this setting. These two are actually correlated.
4 They simply, Nicholas and Yasnovsky simply define -- use different
5 numbers to define what the -- one says budget, one says impressions. In our
6 view, they're both basically equivalent.

7 JUDGE MURPHY: But is there documentary evidence of that
8 correlation apart from I guess it's Dr. Crovella's testimony?

9 MR. WEINSTEIN: Well, we have the budget and we also have
10 disclosures in Nicholas about CPM based pricing, which is essentially that
11 the price is correlated because the number of impressions, like for example,
12 a \$35 CPM, that's 3.5 cents per impression. So if you have a budget of say,
13 \$35 and 1,000 impressions, that's it.

14 So if you increase the budget to \$70, you've now increased it from
15 1,000 to 2,000 impressions. So there is a direct correlation between the
16 number of impressions that you're actually having and the budget. Just
17 Yasnovsky defines it as budget, Nicholas defines it as impressions. In our
18 view they're both directly correlated, so it would be obvious
19 (INDISCERNIBLE).

20 JUDGE MURPHY: The evidentiary link is relying on the CPM
21 essentially as a known web buy --

22 MR. WEINSTEIN: Exactly, Your Honor. And just generally
23 speaking, advertising impressions are -- they're just, they're charged by
24 impression. So there is a direct link between the number of impressions you
25 deliver and ad and the budget, what you're spending for the ad, and that's -- I
26 mean, they're literally, like if you put \$35 for three point dollars CPM,

1 1,000, it's literally exact same number. It will both result in 1,000
2 impressions being delivered. If you put 1,000 in Nicholas, they put a \$35
3 budget, they're literally directly (INDISCERNIBLE).

4 JUDGE MURPHY: Thank you.

5 MR. WEINSTEIN: Your Honor, and I think that's all I had at this
6 point. Your Honor, if you don't have additional questions, I could turn it
7 over to my colleague.

8 JUDGE MURPHY: All right. Thank you.

9 JUDGE BELISLE: So Counsel, just let me know when you're
10 ready and then how much time you want for rebuttal, or sur-rebuttal.

11 MR. CREMEN: I think I'll also reserve 25 minutes on the back
12 end, I don't -- I think I'll also reserve 25 minutes. I don't believe I'll use the
13 entire 35 minutes now, so we'll just proceed. Okay. Good morning again.
14 As I mentioned before, I'm Timothy Cremen representing Patent Owner
15 BrodTi.

16 Before we dive into the issues, I'd like to provide a short
17 background if I can. BrodTi is a small independent technology company
18 founded by Mr. John DeTitta who is with us today. Mr. DeTitta was a
19 creative professional who recognized long before the modern creator
20 economy existed that there was no web-based system to allow individuals to
21 monetize their content through a structured ad skills system.

22 At the time the invention of the '898 Patent, existing advertising
23 systems I think as Petitioner mentioned in his first slide, they were all
24 advertiser centric. So advertisers went to a system, advertisers requested
25 ads, they put in their information.

26 Mr. DeTitta realized that -- he thought about a fundamentally

1 different approach in a system that allowed creators to offer advertising
2 options to advertisers. So that the creators could participate in the
3 marketplace and raise revenue.

4 The idea ended up in the '898 Patent. Mr. DeTitta used his own
5 words and concepts to write the patent. It wasn't part of an IP committee at
6 a corporation. So Mr. DeTitta has personally invested a lot of time and
7 money in developing this system I'm talking about.

8 Moving on to the '898 Patent, I saw a lot of slides from Petitioner
9 talking about what terms mean, both from the specification and the claims,
10 but I didn't see a lot of discussion about the specification itself. And I also
11 did not see a lot of analysis of the claims.

12 The terms we were talking about that needed to be defined or that
13 need to at least be considered, the scope needs to be considered of, they used
14 a lot on the claims. It's not just one element, right? So we'll get to that in a
15 minute. But the exemplary embodiment it's identified in Figure 2 in the
16 Parent. Overall, the '898 Patent is directed to some method for funding a
17 project. And we produced Figure 2 in Slide --

18 JUDGE BELISLE: Counsel, this is Judge Belisle. Just so right
19 out of the door here, would you agree that claim one says nothing about
20 funding a project?

21 MR. CREMEN: I think that's true.

22 JUDGE BELISLE: Okay.

23 MR. CREMEN: So the first step of the process in this
24 methodology that's claimed, is that a company that is developing a project
25 comes up with an idea like a movie script, TV screenplay, that kind of thing,
26 and it sets a budget, internal budget to bring it to fruition. Second step is we

1 can see on lines 1 through 5 of the patent is that --

2 JUDGE BELISLE: So which slide are you on, please?

3 MR. CREMEN: I just pulled up Exhibit 1001 of the '898 Patent.

4 Okay. In Exhibit 1001 on lines 1 through 5, it talks about what the company
5 creates. Because the company creates a media property, and that is a
6 description of the relative target audience, and then the content carried by
7 the media.

8 And that content idea shows up in the claims as we were
9 discussing a moment ago. So the content could be a preview video or
10 anything like that. So then the next step, again, in the '898 Patent Exhibit
11 1001 in column 4, lines 30 through 34, on top here -- sorry, hold on one
12 second.

13 Okay, so column 4, lines 33, 34 were discussed earlier in
14 Petitioner's slides. And here we talked about that media property that we
15 created earlier. So the media property has a description and then the content,
16 the contents in the media property. And then the media property --

17 JUDGE PESLAK: (INDISCERNIBLE).

18 MR. CREMEN: Yes.

19 JUDGE PESLAK: Where does it talk about media property in the
20 claim?

21 MR. CREMEN: It doesn't, but content is in the claim, and content
22 in the specification is in the media property. So I'm just running through the
23 basis for that here. So in column 4, lines 33, 34, it talks about advertising is
24 created through the media property and content.

25 So you have the media property and the content and the media
26 property that's on the web page. So all these words appear in the claims, but

1 I just wanted to make sure we were on the same page in the specification.

2 Turning back to Slide 4, once the content has been put on a website,

3 impressions of the content can be tracked.

4 And then by tracking the interactions of users with the content, the

5 company can determine what specificity the number of hits, the impressions

6 that the content is given. And then say, hey, advertisers, I had a million hits

7 on this content, for example, and you can purchase some ad space within the

8 content, so interested users can see your ads. That's the way this works.

9 Now, to do that, the actual sales ad process is talked about in

10 column 6, lines 1130, which we've produced a bit of here on Slide 5. And to

11 proceed, a sales team from the company markets the impressions on the

12 website to an advertiser, a set number of impressions and cost.

13 So it says, advertiser, can we have this number of impressions for x

14 cost of your advertisement on my content? Now it's clear in the

15 specification, the offers from the company to the advertiser. Now after

16 that, the advertiser can (INDISCERNIBLE) what it calls the predetermined

17 media buy, which is the offer of the impressions and costs, and accept or not

18 accept the offer.

19 If the advertiser accepts the offer, the advertisers are placed into

20 the content and the advertiser pays the company for the placed ads. So that's

21 the way --

22 JUDGE BELISLE: Counsel, this is Judge Belisle. How is that

23 different than allowing the advertiser to just write down how many they

24 want? They know if you give them say five set options, 1,000, 10,000,

25 100,000, and they have a price attached to them, how is that any different

26 than selling, they're five bucks a piece, pick a number?

1 MR. CREMEN: Well, the options are developed on the company
2 side. And the entire point of providing these options to people is to fund the
3 project, right? So when you're setting a budget, you want to fund the
4 project, you say, I have an opportunity to have these ads.

5 Here's opportunity to buy 1,000 impressions for X amount of
6 dollars. And then that money is used to fund the project. If you allow
7 advertisers to come in and say, hey, I want to place one ad or two ads, and
8 I'm typing in how much I want, that doesn't serve the purpose of the
9 (INDISCERNIBLE).

10 JUDGE BELISLE: Okay. But Counsel, you can't make that
11 advertiser select 1,000 either. They could say, I'll select zero. So I don't see
12 how the budgeting argument weighs here because you can't make the
13 advertiser do something. So this argument to me doesn't sound very
14 persuasive in the sense that there's some distinction between having five or
15 10 or what. Pick a number, radio buttons with a number next to them, as
16 opposed to just entering a number. It has a value to it, and that money is
17 generated back for the same purpose of helping fund a deposit.

18 MR. CREMEN: If in the abstract sense you're talking about
19 money flow, perhaps there's not a difference. But what the claims recite is,
20 and we'll get to this in a minute, is providing options and allowing the
21 options to be selected. That's a very specific interaction that's set forth on
22 the webpage that the user has to do. It's not shown in our view in Nicholas.
23 But we'll get to that in a minute. But that --

24 JUDGE BELISLE: I'll wait until we get to it.

25 MR. CREMEN: Okay.

26 JUDGE MURPHY: Counsel, I have a follow-up question. The

1 notion of a cost per mille or a cost per 1,000 impressions, do you agree that
2 was a known technique in the art.

3 MR. CREMEN: Yes, I think it's mentioned in the '898 Patent
4 itself. It was a known pricing scheme.

5 JUDGE MURPHY: Thank you.

6 MR. CREMEN: Impression tracking, I don't think there's a real
7 dispute between the parties about what impression tracking is. I think as
8 we'll get to in a few minutes, there's a dispute about what is tracked, the web
9 page versus the content. So we'll get to that. The petition, the challenges in
10 the petition are shown on Slide 7.

11 Patent Owner agrees that most of the issues are Nicholas centric,
12 I'll say. So we'll look at Nicholas. Slide 8 identifies the claim elements that
13 are in dispute between the parties. I'll note that the slide differs a little bit
14 from Petitioner's slide. They focus on particular language within these
15 elements.

16 But I think when you analyze elements instead of parsing them out,
17 the petition -- or the Patent Owner's arguments. First element, I'll start with
18 elements C and D as Petitioner did. I think that this is probably the most
19 straightforward of the issues we'll talk about today.

20 And that obviously if you find for Patent Owner
21 (INDISCERNIBLE). Now, if we look at Slide 10, Elements C and D read in
22 conjunction, require that a graphical user interface be generated with
23 advertising buy options. And that the graphical user interface be used to
24 select one of those options.

25 So the option that's provided in Element C and selected in element
26 D, has to include at least one website and a predetermined number of

1 impressions. Taking it down a little bit in finer detail, Element D specifies
2 what the user has to select in advertising buy option.

3 That advertising buy option includes at least one website and a
4 predetermined number of impressions who allow the selection of those
5 advertising buy -- that particular advertising buy option of the advertising
6 buy options, that website and predetermined number of impressions that's
7 identified in D also has to be shown. It has to be presented and able to be
8 selected.

9 JUDGE BELISLE: So counsel, this is Judge Belisle. Let's just
10 focus on, we have Limitation C and D. Limitation C says that you're
11 generating the advertising buy options. And D when it talks about what it is
12 that comprises respective website and a predetermined number of
13 impressions, that's a selected advertising buy option.

14 MR. CREMEN: Yes.

15 JUDGE BELISLE: So it's the selected option that's going to have
16 website and the predetermined number of impressions. What I'm hearing
17 from Petitioner, is that the selected option in their primary reference when
18 you hit Submit, tags website and the number of impressions.

19 MR. CREMEN: But that's not an option in Patent Owner's. So I'll
20 back up one step. So step d requires that the selected option has to have a
21 website and a predetermined number of impressions. So in order to select it
22 has to have been provided in step c. Why? Because step c says, hey, I'm
23 providing the plurality of advertising buy options.

24 We have advertising buy options. Step d says, all of those options,
25 we pick one. So that one exists in the provided one as well. And then
26 selected advertising buy option has a predetermined number of impressions

1 and at least one website. So that also has to be in the provided options as
2 well. You can't select it without it being provided.

3 JUDGE MURPHY: Counsel, I have a question on that. So the
4 Petitioner's Counsel argued during the presentation and so does Slide 44,
5 which reflects the deposition testimony of Patent Owner's expert, Dr. Myler.
6 And the question was, "So you would agree that Nicholas discloses that the
7 user can select the number of impressions from the advertisement; correct?"
8 The answer was, "Yes." So what's your response to that testimony, which I
9 view as an admission?

10 MR. CREMEN: Well, so I have a response to that. Let's look at
11 -- so this Slide 12 reproduces Figure 8 of Nicholas that Petitioner has
12 identified as teaching both -- to my understanding, as teaching both the
13 provision of the ad buying options and the selection is in both Elements C
14 and D.

15 So Nicholas teaches, the text of Nicholas says, you can select. I
16 believe it says like you can text -- you can select a number of options, a
17 number of impressions, a date range or anything like that. So it uses the
18 word, select. But that doesn't mean anything different than typing or
19 inserting or anything like that.

20 JUDGE MURPHY: Well, how's that different from the claim?

21 MR. CREMEN: Because the claim requires selection of a
22 predetermined number of impressions.

23 JUDGE MURPHY: And so it's your view that predetermined
24 means before the selection is submitted? The ad buy is --

25 MR. CREMEN: It is our position if I look back on -- this is
26 another way to look at the Elements C and D. It's our position that

1 predetermined number of impressions and the at least one website have to be
2 part of an advertising buy option, which is presented as one of the
3 advertising buy options in Element C, and then you select it.

4 So these things are all present in C, and then you select one of
5 them. And I think that's the only way to read these claim elements together.
6 So if you look at Figure 8 of Nicholas, there's no presenting of an option to
7 select that would comply with requirements of Element C.

8 JUDGE MURPHY: An expert said there was.

9 MR. CREMEN: No, he said, you can -- he said you select the
10 number. You select a number. You can't select a predetermined number of
11 impressions. In other words --

12 JUDGE MURPHY: Why is it not a predetermined number after
13 the ad buyer places? Let's say the ad buyer puts in 1,000 impressions, then
14 hits the Submit button, purchases that ad buy for 1,000 impressions. Why is
15 that not predetermined in accordance with the way the claim is written?

16 MR. CREMEN: Because it's not presented to the user in Element
17 C.

18 JUDGE MURPHY: Where's that in Element C? Where does that
19 say it?

20 MR. CREMEN: Element C requires that -- requires providing via
21 the GUI of the webpage for reality of advertising buy options for selection
22 by a given client accessing the webpage. So it has to provide these options
23 to the user. If we look at Figure 8 and on Slide 12, there's no providing of
24 options.

25 And Element C doesn't just require providing options, it has to also
26 provide that option that's ultimately selected. It has the predetermined

1 number of impressions and at least one website. So it can be selected.

2 JUDGE MURPHY: Well, Nicholas shows the first option for the
3 ad buyer, put the number of impressions they wish to buy.

4 MR. CREMEN: But that's not an option. That's not a
5 predetermined number of impressions that's presented to the user for
6 selection.

7 JUDGE MURPHY: Where does the claim say it has to be
8 presented to the user?

9 MR. CREMEN: Element C requires that the advertising buy
10 options be presented to the client for selection.

11 JUDGE MURPHY: That's not what it says.

12 MR. CREMEN: Well, Element C says the generating comprises
13 providing, via the (INDISCERNIBLE) plurality of advertising buy options
14 for selection by a given client accessing the webpage.

15 JUDGE MURPHY: Right.

16 MR. CREMEN: Advertising buy options according to C, the one
17 that's ultimately selected in D has to have at least one website of the
18 respective websites, and a predetermined number of impressions advertising
19 material. So what is presented to the user has to have advertising buy
20 options.

21 And one of those options has to have a predetermined number of
22 impressions and a website to select. What is presented to the user in Figure
23 8 of Nicholas doesn't have that. It just has an empty text box.

24 JUDGE MURPHY: It's predetermined before the ad buy is
25 submitted. Why is that wrong?

26 MR. CREMEN: I'm sorry, I (INDISCERNIBLE).

1 JUDGE MURPHY: Yes. Counsel explained that when you go
2 through Figure 8 of Nicholas and you select the number of impressions,
3 when you enter the number of impressions, you make the selection by hitting
4 the Submit button to buy the ad. Why is that not predetermined on the
5 Element D?

6 MR. CREMEN: It has to be predetermined when it's presented to
7 the client.

8 JUDGE MURPHY: Where does the claim say that? So we go
9 back to the slide again.

10 MR. CREMEN: Okay. We'll go back to Slide 11. Element C
11 requires that a graphical user interface of the webpage -- providing a
12 graphical user interface of the webpage with a plurality of advertising buy
13 options. So all the advertising buy options have to be presented to the client
14 in Elements --

15 JUDGE BELISLE: Right. So Counsel, let's stop right there. Let's
16 just start with just 1c. If it only said 1c, it's not -- there is no 1d right now,
17 just 1c. Does Figure 8 have what 1c is saying? Does Figure 8 have a
18 provision of a graphical user interface of a webpage that has a plurality of
19 advertising buy options?

20 MR. CREMEN: I would say I have not thought of that before
21 standing here, but I would say that does have options to select.

22 JUDGE BELISLE: Seemingly the options are presented right
23 there in Figure 8.

24 MR. CREMEN: Yes.

25 JUDGE BELISLE: But for 1d, 1c would be shown in Figure 8,
26 correct?

1 MR. CREMEN: Sure. I mean in the abstract sense, but the
2 wherein clause of D applies equally to C as it does to D in our --

3 JUDGE BELISLE: Well, right now we're just talking about 1c,
4 only 1c. Now let's go to 1d.

5 MR. CREMEN: Yes.

6 JUDGE BELISLE: 1c was the provision of the option. 1d now
7 has a user selecting an option, correct?

8 MR. CREMEN: Correct.

9 JUDGE BELISLE: So 1d says, "A selection of one or more of the
10 advertising buy options, wherein the selected one or more advertising buy
11 options comprise at least one website of the respective websites and a
12 predetermined number of impressions." And again, the emphasis being on
13 the selected option that has those two items.

14 And what we're struggling with here, as you can tell from the
15 questions to both sides, is if 1c is the provision of the options, and 1d is the
16 selection of an option that that selected option would have those two
17 features, how is the submitting of the number of impressions from the
18 website at Figure 8, Nicholas not providing?

19 MR. CREMEN: Because the wherein clause of Element D applies
20 equally to Element D and Element C, it's a wherein clause. So the
21 advertising buy options that are presented in Element C have to include
22 features of the wherein clause of Element D.

23 So the selected one or more advertising buy options, those
24 advertising buy options that are presented in Element C, have to list the
25 website and a predetermined number of impressions. If we go back to Slide
26 12 and look at Figure 8, the website that is presented, the question you just

1 asked me is that, are those options? Yes. But the website that is presented
2 does not have any predetermined number of impressions to be selected. It's
3 just an empty text box.

4 JUDGE BELISLE: Do you agree that Limitation 1D speaks in
5 terms of the selected advertising buy options (INDISCERNIBLE) the
6 website and (INDISCERNIBLE)?

7 MR. CREMEN: Absolutely. But the selected advertising buy
8 option has to be one of the advertising buy options that's presented or
9 provided.

10 JUDGE BELISLE: That part is not stated. That is something
11 you're asking us to construe that the wherein clause about the option having
12 to have those applies to the option that is generated and presented, not just
13 the one that was selected.

14 MR. CREMEN: I'm not sure it's necessarily -- I think it's a plain
15 meaning or normal understanding of the claim. It says, a selection of one or
16 more of the advertising buy options previously were cited in Element C, and
17 that one of those advertising buy options has to have these features. And
18 that's just a normal claim drafting practice in our --

19 JUDGE PESLAK: Counsel, this is Judge Peslak.

20 MR. CREMEN: Yes, sir.

21 JUDGE PESLAK: (INDISCERNIBLE) as Element 1c in Figure 8
22 is the step of entering the number of impressions. Do you dispute that it is
23 an option?

24 MR. CREMEN: Is your question in Figure 8 of Nicholas, whether
25 entering a number is an option? I'm sorry, I might have misunderstood.

26 JUDGE PESLAK: Well, it says, 1c has provided for a plurality of

1 advertising buy options.

2 MR. CREMEN: Yes.

3 JUDGE PESLAK: And so we have steps one, two, three, four, and
4 five on Figure 8. Are they all advertising buy options?

5 MR. CREMEN: Oh, okay, I'm sorry. So yes, this is similar to the
6 question I addressed from Judge Belisle. Yes, I think those are options. But
7 none of them are a predetermined number of impressions or a website.
8 Although Petitioner points to a different figure for the website.

9 JUDGE PESLAK: Okay. Thank you.

10 JUDGE BELISLE: So Counsel, before we move off on that, let
11 me just ask this. I want to take a step back. This is about the context of
12 obvious. Ultimately our question is, would what is claimed have been
13 obvious to this artisan that's skilled in this art?

14 We're having a lot of discussion about a distinction between
15 entering a number and selecting a button that has a number. Why would a
16 teaching of a box where you can enter your own number, how would that not
17 allow the skilled artisan, or be obvious to the skilled artisan that you could
18 have used a button or a set of selected items instead of putting in your
19 number? Seemingly entering a number is more difficult than just offering
20 five choices.

21 MR. CREMEN: Well, that's part of the paradigm shift that was the
22 '898 Patent. In other words, as Petitioner mentioned at the beginning of their
23 presentation, everything before the '898 Patent was advertisers coming in
24 and typing in numbers or saying, hey, I want five impressions, that kind of
25 thing. The '898 Patent flipped that.

26 And in order to -- in the effort to fund projects, it gives up lots of

1 impressions. It says, hey, I have 5,000 impressions to sell for X amount of
2 dollars. That's the kind of idea, right? So that's what it's coming down to.
3 That's what it's offering to users. Hey, you can buy the number of
4 impressions on this block and it's take it or leave it.

5 That's kind of a different thing than piecemeal entering of
6 numbers. And in fact, I haven't seen any prior art that shows this. It might
7 seem trivial now. We've been in the creator economy for a long time, but at
8 the time, the question is, at the time was this obvious? And there's no prior
9 art that shows it. So in my view, no, it wasn't.

10 Okay, I think I'll add on if I may, 10 more minutes to my part here.
11 I didn't anticipate quite this many questions, but I'm happy to address them.
12 I think we've addressed most of Petitioner's arguments with respect to this
13 claim element.

14 I will say that the idea that entering a number in the text box in
15 Nicholas's Figure 8 and then hitting Submit, and that's having some kind of
16 predetermined business about it, I don't think that's been in the Papers
17 before. I think that's a new argument. And correct me if I'm wrong in your
18 case, but I think that's a new argument I don't recall seeing.

19 So in the interest of time, let's look at Element F really quickly.
20 There's a lot of discussion during Petitioner's presentation about the meaning
21 of website, web property content, and placing the advertising material within
22 the web property content.

23 I think the dispute over website arose because Patent Owner's
24 thought (INDISCERNIBLE). Patent Owners read the petition as saying
25 server alone could be a website, which is what we disagreed with. I don't
26 think we necessarily disagree with website having the meaning of web pages

1 and a server.

2 Although I don't think a panel needs to even reach that decision. I
3 think both parties agree that website has to be a webpage or multiple web
4 pages. Now, that's important because the claim requires that advertising
5 material be placed within web property content of at least one website.

6 We agree that at least one website is webpage or webpages.
7 Petitioner's position that web property content can also be a webpage,
8 doesn't make sense in the claim. Then the claim would read, placing the
9 advertising material within a webpage of a webpage. It doesn't make sense.
10 Now, we can skip over the meaning of websites, because I think we have
11 agreement.

12 JUDGE BELISLE: Well, so Counsel, on web property content,
13 why couldn't that be what it says? Content of the web property or content on
14 the webpage? In other words, my webpage is a blank piece of paper. The
15 content is everything I put on that blank piece of paper. Well, is that not
16 how a web page -- is that not correct?

17 MR. CREMEN: I don't think that captures the meaning of web
18 property content in the patent. So we look at Slide 21. Web property
19 content just doesn't appear in Element F, it's in a couple different places. So
20 the advertising material has to be placed within the web property content
21 Element F.

22 Users have to be able to access the web property content that is on
23 a website, which we've agreed is a webpage in Element G. And then with
24 Element K, it's the thing that is tracked, send the advertising revenue to the
25 company. So it has requirements. The claim language requires certain
26 things of the web property content.

1 So it has to be the thing that's tracked, right? So it has to be
2 something definable. And we've suggested language to that. I don't think
3 you necessarily need to assign language to it, but it has to be something.
4 And it can't be the webpage in accordance to -- according to the basic rules
5 of claim construction.

6 Because it can't be the same, you can't have two of the same things,
7 it can't be -- you can't put advertising material -- web property content can't
8 mean a webpage, if a website means a webpage. It's saying the same thing
9 twice in one element. It has to be something different.

10 And that's the entire idea of the '898 Patent, is to provide a preview
11 of content. Something that someone can go look at that is tracked. And the
12 number of impressions are tracked and then that -- the number of
13 impressions dictate funding that's going back to the home.

14 JUDGE BELISLE: Counsel, this is Judge Belisle. Where in the
15 specification does it talk about this web property content?

16 MR. CREMEN: So if we go back to Exhibit -- so the phrase web
17 property content I don't believe is in, but there are two cases that we talked
18 about earlier at the beginning of my presentation. So on column, and we're
19 in Exhibit 1001 of the '898 Patent column 5 lines 1 through 5. Talks about a
20 media property. It has information about the target audience and the
21 content, the same content.

22 JUDGE MURPHY: But that's not necessarily the web property
23 (INDISCERNIBLE).

24 MR. CREMEN: I agree. So well, yes, all content, the content in
25 the patent is content in the claims. The adjectives attached to it change a
26 little bit from the specification. So we have media property and then -- so

1 that's the content of the media. Media property content is what's being
2 talked about.

3 JUDGE MURPHY: An example is, as I'm understanding this,
4 media property content could be let's say a movie. And the web property
5 content could be a trailer for the movie.

6 MR. CREMEN: I think --

7 JUDGE MURPHY: So is that wrong?

8 MR. CREMEN: Yes, so I think the content is the same no matter
9 what other adjectives are describing. So the content in this instance is a
10 movie trailer or a snippet of a TV show or something like that you see the
11 content. The media property is described in the patent as a description of the
12 target audience and that content.

13 So it has those two things in the media property. That's described
14 in column 5, line (INDISCERNIBLE). And then if you look at column 4,
15 lines 30 through 34 that we discussed earlier, it says advertising on the
16 internet created by and through media property and content, that content on
17 the media property, on the web property.

18 So the way I understand this is you have your content, your media
19 property is a container for the content, it has the content and the target
20 audience information. And then the web property is the container for all that
21 that you can put on the web page.

22 So it has any kind of hooks or anything you need or HTML hooks
23 or whatever to put up there. That's how I understand the specification.
24 Now, web property content, a term that's used in the claim kind of smushes
25 those, for lack of a better technical term, kind of smushes those words
26 together.

1 It says web property content instead of saying web property, media
2 property content or some variation of that. So but whatever it is, it's that
3 content. The content is the same throughout. And the content is what's
4 tracked, the content is what's being fund risen for. That's a word. What you
5 are doing fundraising for.

6 JUDGE BELISLE: So Counsel, right where we are on column 4
7 of line 30 and 31.

8 MR. CREMEN: Yes.

9 JUDGE BELISLE: Just to read that again, it says advertising on
10 the internet is created by and through a media property and content on the
11 web property. So don't we get web property content right from content on
12 the web property?

13 MR. CREMEN: No, I think --

14 JUDGE BELISLE: Which is something different than media
15 property?

16 MR. CREMEN: I think media property and content is a phrase,
17 and then it's on the web property. That's how I read that sentence. Because
18 the portion of the spec we just looked at said that media property column 5
19 lines 1 through 5 says media property has the description of the relevant
20 target audience and the content.

21 So media property contains the content. So if column 4 lines 33,
22 34 portion, I read that as advertising and as created by and media property
23 and content, pause, on the web property.

24 JUDGE BELISLE: What does it mean, media property comprises
25 a description of a relevant target audience?

26 MR. CREMEN: So as part of developing of the content, it talks

1 about the specification identifying the target audience. That would be, I
2 think in the context of a movie trailer, if it was an Avengers movie trailer, I
3 would give a target audience, for example, males 20 to -- males 20 to 35 or
4 something like that. That's my understanding of that.

5 JUDGE BELISLE: That is the media property?

6 MR. CREMEN: Media property contains that content and
7 description of target audience according to column 5, lines 1 through 5.

8 JUDGE BELISLE: So your position is that there's something in
9 Claim 1 that is directed to the media property? Just talked about in the set.

10 MR. CREMEN: Claim 1 talks about web property content. And
11 that content is the same content that's in the media property or the web
12 property was discussed in the specification. I think we got -- I think we
13 went down this road because I was asked what web property content in the
14 specification.

15 So I think that's where we're at. But whatever it is, it's the content.
16 The content is what the patent is doing fundraising for, and the content is
17 what's tracked, and the content is what drives payment back to you.

18 JUDGE BELISLE: So the content is what's on my webpage that's
19 attracting people to come to my webpage?

20 MR. CREMEN: The content as specified by the claim has to be
21 displayed on a website, and we've agreed that website is webpage. So web
22 property content has to be displayed on a webpage. The advertising has to
23 be placed within the web property content that's displayed on the webpage.
24 Web property content can itself be a website -- webpage, sorry.

25 JUDGE PESLAK: So Counselor, are you saying that the webpage
26 has to display the relevant target audience? Media property content with

1 web property content. So when someone clicks on that advertisement,
2 they're going to say, hey, we're looking -- they're going to say, hey, we're
3 looking for a male 18 to 22?

4 MR. CREMEN: No, I don't think that's required by the claims. I
5 think we were just discussing where the phrase web property content came
6 from, and that it builds up through a different mention of content in the
7 specifications. So the claim doesn't -- the claim just requires the web
8 property content be on a web. It doesn't require that the web property
9 content target audience information. Although I'm sure it could.

10 JUDGE PESLAK: I'm really confused. Are you saying that media
11 property content is equated to web property content or not? I thought you
12 said it was a few minutes ago.

13 MR. CREMEN: Yes. I think web property content includes
14 within its scope the media property content and the content -- in every
15 instance the content is what matters.

16 JUDGE PESLAK: You haven't answered my question. Are you
17 saying that media property content is just another name for web property
18 content?

19 MR. CREMEN: I think there's a little bit different connotations.
20 The patent specification says that media property -- I'm sorry, let me get my
21 exact phrasing here. Media property includes target -- relevant target
22 audience information and content. And then the web property is specified in
23 column 4, lines 33 to 35.

24 It provides a container for the media property and the content that's
25 in the media property. I almost think of these like nesting dolls. So you
26 have content at the center and then media property as a container for the

1 content. And then web property is a container for the media property and
2 the content.

3 I think that's how it's described in the specification in the patent.
4 The phrase in the claims is web property content, but that's -- it's content that
5 matters. The content is the same through all of these descriptions. The
6 content is at the core of any of these properties.

7 JUDGE BELISLE: Counsel, this is Judge Belisle. Maybe this will
8 help. Can you give us an example of what Patent Owner believes web
9 property content is?

10 MR. CREMEN: Yes. We have given an example on Slide 22.
11 This is a YouTube webpage. Content items will be the video. So web
12 property content would be the videos that you could select on. And they're
13 provided on a website. So in the context of the claims, the advertisements
14 into videos that are on a webpage and the videos are examples of web
15 property content.

16 JUDGE BELISLE: So am I correct that Patent Owner's position is
17 that web property content has to be a file that can be embedded into a
18 website, something clickable?

19 MR. CREMEN: Yes. We used the word file in our briefing. I
20 don't think it has to be that word, but it has to be something identifiable that's
21 presented on the webpage that you can click and track on. Because Claim 1
22 requires that track impressions of the content.

23 JUDGE BELISLE: Oh, let me make sure I understand. That
24 seemed like a big departure. Sorry, yes or no, is Patent Owner's position that
25 web property content has to be a file which is (INDISCERNIBLE)?

26 MR. CREMEN: I think, yes. The answer is yes to that. But

1 synonyms of a file are fine too. Some discrete part of bit of data that can be
2 tracked.

3 JUDGE BELISLE: Well, I don't think there's much in the record
4 as to what other things would constitute a file other than a file. Which now
5 makes me wonder. I mean, if it could be something other than a file, it just
6 has to be something that you can click on so you'd be able to track the
7 impressions.

8 Seemingly that goes back now to just content, something on the
9 web page that you can access, which will then present you an advertisement,
10 and it's trackable. So I come back to content. I'm having great difficulty
11 accepting that content means something more than just, well, the content to
12 what a web developer would consider content or what every copyright
13 person would consider to be content.

14 So help me understand why a web property content has to be
15 limited. And then let's go to Patent Owner's definition of what web property
16 content is supposed to be. So we can start here. Patent Owner stated the
17 skilled artisan would've understood web property content, a discrete user
18 accessible tool on a website for which revenue is being sought.

19 MR. CREMEN: Yes, I agree with them. I hope I would agree
20 with that.

21 JUDGE BELISLE: I was going to say that's your position, right?

22 MR. CREMEN: Yes. I hope I would agree with that. Yes. So at
23 a basic level, it has to be different than a web page. There has to be some
24 difference, because website is (INDISCERNIBLE).

25 JUDGE BELISLE: But isn't the file part of the web page?

26 MR. CREMEN: The file is something discrete that's on the web

1 page that you can click on and have the impression tracked.

2 JUDGE BELISLE: When you click on it, what happens? You go
3 to another coded page, web page that presents the video to, correct?

4 MR. CREMEN: Not necessarily a webpage, an applet or
5 something. But yes. So it would present a video.

6 JUDGE BELISLE: Well, it had to have been coded by the --

7 MR. CREMEN: I'm sorry. I'm not sure it would even go to a
8 separate applet. If it's being played in the context of the existing webpage,
9 it'll be played -- it's a little bit -- it's not on the webpage (INDISCERNIBLE).

10 JUDGE BELISLE: So is it not part of the webpage?

11 MR. CREMEN: It's the contents provided on the webpage. So if
12 you're thinking about webpage is an entire container meaning, maybe it can
13 concern that.

14 JUDGE BELISLE: I'll let you continue (INDISCERNIBLE).

15 MR. CREMEN: I've lost how much time we have so --

16 JUDGE BELISLE: We can always adjust time if needed.

17 MR. CREMEN: So I guess probably hit one more topic and then I
18 will reserve the, whatever the balance of my time is. I think the big dispute
19 on Element F is whether this Nicholas's priority document shows an
20 advertisement being presented within content, whether that content is on a
21 webpage. I think we all agree that this figure of Nicholas produced in Slide
22 30 shows an advertisement on (INDISCERNIBLE), but the claim language
23 requires different, it requires that the advertisement be placed in content and
24 then that content has to be on a webpage according to our agreement
25 -- agreed construction of website.

26 JUDGE BELISLE: All right. So Counsel, this is Judge Belisle.

1 So here's a good place to ask a question. We're looking at Slide 30. Why is
2 everything on that displayed web page, not content?

3 MR. CREMEN: If you consider one of the individual pieces of
4 information on the webpage to be content, even if you thought -- even if you
5 reach that position, the advertisement is not placed within any of those
6 particular pieces of content, it's placed on the same level as the rest of those
7 content just next to them on a webpage. Well, so (INDISCERNIBLE).

8 JUDGE MURPHY: When Petitioner's Counsel presented this
9 argument, they quoted what the Nicholas -- which is Exhibit 1013 regarding
10 Figure 3 says. It says it illustrates one embodiment of an advertisement
11 being served into the consumer website. You're saying that doesn't satisfy
12 the claim language of placing the advertising material within the web
13 property content for us?

14 MR. CREMEN: Web property content is different than a
15 webpage, which is what we've agreed that website means in the context of
16 the claims. So the advertisement has to be placed within the claim language,
17 a particular piece of content that is on -- this advertisement is placed on the
18 website. It's not placed within the content on the web page such that that
19 content can be clicked on, tracked, and used to provide funds back to --

20 JUDGE MURPHY: Well, that requires that we accept your
21 definition, that content requires a discrete user accessible file, it's applicable.

22 MR. CREMEN: I don't think you necessarily need to reach that
23 conclusion, but it has -- but content definitely has to be something different
24 than the web page itself. It can't just be the web page according to the claim
25 language.

26 JUDGE MURPHY: Why is this Figure 3 of Nicholas not

1 satisfactory to meet the claim language?

2 MR. CREMEN: It doesn't provide an advertisement within
3 content on that, where that content is placed on the webpage.

4 JUDGE MURPHY: It illustrates an advertisement served into a
5 consumer website that has content on it being displayed. The advertisement
6 wasn't on that website or that webpage content before it was served into it.

7 MR. CREMEN: I think that's all right. But the claims require the
8 advertisement to be placed within the web property content. And the web
9 property content has to be put on a web page. So there is three layers. Top,
10 you have the advertisement, the middle you have the content, the bottom you
11 have the web page. Here, the Figure 3 of (INDISCERNIBLE 1:30:14) is on
12 Slide 30. It has the ad and content adjacent. The ad is not within the
13 content, it's next to the content on the web page.

14 JUDGE MURPHY: But the foundation to that argument is
15 accepting your claim construction that requires a discrete user accessible
16 file. Right?

17 MR. CREMEN: I don't think so. If we look at the claim language,
18 even without accepting our definition of a discrete file that you can click on,
19 which I think is correct in any event. But even ignoring that, the claims
20 require placing the advertising material within web property content of the at
21 least one website.

22 And both parties agree that website has to be a web page or web
23 pages. So I think my reading of the claim is that you have to place the
24 advertising material within the web property content. And the web property
25 content has to be on at least one website different than the web page. It has
26 to be a different layer.

1 JUDGE MURPHY: Okay. Thank you.

2 MR. CREMEN: I think I will reserve the remainder of my time for
3 rebuttal and rest on our Papers for the other elements.

4 JUDGE BELISLE: Thank you. Counsel, you have 27 minutes
5 available.

6 MR. WEINSTEIN: But we're not going to use it, Your Honor. I
7 really only want to address one argument that Patent Owner raised. They
8 said just in passing, they said that the position we took on claim Limitation
9 1d, that there was a new argument presented, a new argument.

10 I just wanted to make sure I claim for the record where the
11 argument we made was, we explained to during earlier in the presentation
12 that the obtaining step occurs when the user inputs the information in the
13 user interface, and then the server receives that information from the user.

14 That's described on page 27 of our petition. It says, Nicholas
15 discloses obtaining the advertisement by the one or more processes
16 (INDISCERNIBLE) because it is explained ad selection node 140, one or
17 more process obtains the advertising selection of buy options for advertiser
18 node 160.

19 JUDGE MURPHY: Counsel, our Court Reporter is remote, and
20 she may have trouble hearing you if you go that far.

21 MR. WEINSTEIN: Got it. Okay. So I'll read it slowly back. I
22 don't think I need to read it. I think the point we made is that we specifically
23 have said in the -- our petition that the step of obtaining occurs when the
24 server gets the selection, which is after the user inputs the information in that
25 form.

26 Your Honor, unless Your Honor has questions, I think all of my

1 rebuttal to what Patent Owner said would just be repeating what I said
2 earlier today. So unless Your Honors have additional questions,
3 (INDISCERNIBLE).

4 JUDGE MURPHY: Well, I would like you to respond just to the
5 last point, why Nicholas Figure 3 does satisfy Limitation 1F about placing
6 the advertising within web property.

7 MR. WEINSTEIN: Right. Your Honor, I think you pointed to --

8 JUDGE MURPHY: What is that coming down to and what's your
9 view of --

10 MR. WEINSTEIN: Well, our view is that there's not really -- I'm
11 having difficulty understanding their argument, Your Honor, because I heard
12 a new requirement that it has to be clickable now. Apparently, web property
13 content now has to be clickable, but that's actually not in their definition.

14 Your Honor read from a portion of Nicholas, which is described in
15 Figure 3. It says Figure 3 illustrates one embodiment of an advertisement
16 being served into the consumer website. So our position, Your Honor, is so
17 as Judge Belisle says like content is content.

18 Webpage, the information on the web page, website and webpages
19 are distinct. A website is a broader thing, webpage is a part of a website.
20 The content on a webpage is content. I mean, we don't know how else to
21 phrase it. And when you look at Figure 3, and you also look at how it's
22 described in Nicholas where it describes inserting the HTML insert, where it
23 goes and grabs that and puts it in there.

24 It's physically inserting it into that webpage when it is displayed.
25 We think that clearly meets the claim language. The claim simply says,
26 placing the advertising material, the ad within web property content. Web

1 property content in this example is simply the surrounding content of the
2 webpage that you're viewing.

3 In this case, the Green Bay Packers, the header on the top, all the
4 stuff around it, it's inserted it into that content by making it available on the
5 page when it's displayed. I think it's that simple, Your Honor.

6 JUDGE MURPHY: Thank you.

7 MR. WEINSTEIN: Thank you.

8 JUDGE BELISLE: (INDISCERNIBLE).

9 MR. CREMEN: (INDISCERNIBLE) ask more questions. All
10 right. Returning to Element F, the web property content that we just
11 discussed. The difference between the web property content and the website
12 is that the number of impressions of the advertising material provided within
13 the web property content has to be tracked.

14 And according to Element G, which I have not disputed, or which
15 is not indispute, but which informs the understanding of web property
16 content. So you have to be -- you have to track users accessing the web
17 property content.

18 There's difference in tracking the users accessing the website or the
19 webpage. It's that content on the webpage that has to be tracked according
20 to Element G. So there is not -- there is a difference between web property
21 content and website or webpage.

22 JUDGE BELISLE: Counsel, Judge Belisle. So 1g
23 (INDISCERNIBLE) it says monitoring a number of impressions of the
24 advertising material provided the user is accessing the web property content
25 (INDISCERNIBLE) website. So does that not mean that the tracking is of
26 the advertising material, right?

1 MR. WEINSTEIN: Yes.

2 JUDGE BELISLE: Impressions of who's clicked on it. Is that
3 basically what it comes down to?

4 MR. WEINSTEIN: Yes.

5 JUDGE BELISLE: My impression is, if the ad is there and I click
6 on it, then I've created one impression. So if we have to access the
7 advertising material, how does that come back to Nicholas figure with the
8 Green Bay Packers. This page comes up, it's got an advertisement on it, and
9 when I click on that, how am I not satisfying (INDISCERNIBLE).

10 MR. CREMEN: You're not accessing the advertisement through
11 clicking on buy property content. It's different than a web page. You're
12 accessing an advertisement on it.

13 JUDGE BELISLE: Again, just looking at 1g, it's the impressions
14 of the advertising material provided to users accessing the web property
15 content (INDISCERNIBLE) except that the web property content, the
16 content of the Green Bay Packers, the content that we're seeing in this
17 image, how am I not satisfying 1g when somebody clicks on the
18 advertisement?

19 MR. CREMEN: According to f, the advertising material has to be
20 within the web property content.

21 JUDGE BELISLE: Okay. And we're going to assume for our
22 argument, web property content is what I'm looking at on the web page that
23 says Green Bay Packers has all this information, and then it has an
24 advertisement, for argument's sake, within this content. With those
25 assumptions, how is it not monitoring the number of impressions of the
26 advertising material if somebody clicks on that ad, those Green Bay

1 Packers?

2 MR. CREMEN: Just going back to the claim. Sorry I've jumped
3 back and forth. So sorry. Can I have your question again? I'm sorry.

4 JUDGE BELISLE: So for purposes of my question, you want us
5 to assume that Green Bay Packers illustrations and information and writeups
6 that we're seeing in your Slide 30, that that is web property content. It's
7 displayed on, I can't make out the website, but I guess
8 packers.com/index/html, so their homepage essentially.

9 So we're going to assume that that's content. That's web property
10 content displayed on the Packer's website. There's an advertisement that's
11 visible and surrounded by web property content out of my software
12 information. So if I was clicking on that advertisement, I see, oh, let me
13 click on this ad. Is that not what F and G is getting at by populating that
14 advertisement into this web property content, and then tracking the
15 impressions when I click on it?

16 MR. CREMEN: I think I grasp it now. The web page that's shown
17 on Slide 30, Patent Owner's Slide 30, that is a webpage. Everything
18 displayed on the webpage is in that html of the web page. So text, images,
19 that kind of thing, it's on the webpage. The content has to be something
20 different. The content has to be on the webpage, it has to be something
21 different. So that --

22 JUDGE BELISLE: For purposes of my question, one is to assume
23 that is content.

24 MR. CREMEN: So if that is content, which I don't agree is
25 content, but I think that if we considered that content, then that
26 advertisement would be within the content. However, that's not all that web

1 content has to be. It also has to be according to K, you have to have a web
2 property content owner.

3 So there has to be an owner of that web property content, which
4 leads into the discussion we had earlier about (INDISCERNIBLE) file or
5 something to sort of -- there has to be an owner for that web property
6 content, and that has to be able to track and the money to go back to the
7 owner. It's the whole point of the point.

8 If you look at information on the web page 30, there's really no
9 -- there's no specific content there that you would link back to
10 (INDISCERNIBLE) no discernible file there. It's just information.

11 JUDGE MURPHY: I mean, the URL is the Packers.com. That's
12 the owner, right?

13 MR. CREMEN: Yes. But you have to be able to track the
14 individual on a particular piece of content. It has to go back. There's no --

15 JUDGE MURPHY: Yes, but on that domain, Best Buy has bought
16 an ad, served it right into the Packers webpage. And you can click on that
17 ad and track it. Right?

18 MR. CREMEN: You're not necessarily clicking on an ad to track
19 it, you have to click on the web property content.

20 JUDGE MURPHY: The ad in Figure 3 says click here, Best Buy,
21 what's hot today. Why is that not within the claim?

22 MR. CREMEN: Because if we're not working under the
23 assumption from Judge Belisle before, but it's not within the claim because
24 it's not an advertisement within web property content, it's on a webpage. It's
25 an advertisement on a webpage. You cut out the middleman. The
26 middleman of the web property content has been cut out in that instance.

1 JUDGE MURPHY: Okay. Thank you.

2 JUDGE PESLAK: Are you saying that -- and this goes back I
3 think to what we were talking about before on the media property.

4 MR. CREMEN: Yes.

5 JUDGE PESLAK: So maybe I'm wrong, but it seems to me what
6 you're saying is there has to be some actual media property, whether it's a
7 movie, a TV show available. And when you click on it, if that was
8 embedded in the Packer's website and you clicked on it, would that then
9 satisfy the claim?

10 MR. CREMEN: Just working on an example here, if there was a
11 video on the Green Bay Packers website and the advertisement was
12 embedded within the video, and I think that would be closer to the claim. I
13 haven't done that exact analysis, but that would certainly be way -- that
14 would certainly be closer to the claim than just putting an advertisement on a
15 web page.

16 JUDGE PESLAK: I don't know what closer to the claim means
17 (INDISCERNIBLE) beginning was has to be embedded -- has to be a file
18 within -- well, Patent Owner's position.

19 MR. CREMEN: I certainly think that that is the most reasonable
20 read of the claim.

21 JUDGE PESLAK: Thank you.

22 JUDGE BELISLE: No further questions.

23 MR. CREMEN: Thank you, Your Honors.

24 JUDGE BELISLE: All right. Thank you, Counsel. This case is
25 submitted. We'll take it under advisement. We're off the record. But
26 Counsel please stick around and let me ask the Court Reporter if there's any

1 questions.

2 (Whereupon, the above-entitled matter went off the record at 10:50

3 a.m.)

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