

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,
vs.
FERID ALLANI,
Patent Owner.

)
) Inter Partes Review
) Case No.
) IPR2025-00857
)
) U.S. Patent No.
) 10,943,058
)
) DEPOSITION TAKEN ON
) BEHALF OF:
) PETITIONER

DEPOSITION OF MAHDI ESLAMIMEHR, PH.D.
(PAGES 1 - 87)
July 6, 2026
VIA ZOOM

REPORTED BY: KELLY R. REXROAT, RPR, CSR, CCR

APPEARANCES

For the Petitioner:

PAUL R. HART, ESQ.
ERISE IP, P.A.
717 17th Street
Suite 1400
Denver, CO 80202
paul.hart@eriseip.com
913.777.5600

and

HUNTER HORTON, ESQ.
ERISE IP, P.A.
7015 College Boulevard
Suite 300
Overland Park, KS 66211
Hunter.horton@eriseip.com
913.777.5600

For the Patent Owner:

LEWIS E. HUDNELL III, ESQ.
HUDNELL LAW GROUP
800 W. El Camino Real
No. 180
Mountain View, CA 94040
allani.team@hudnelllaw.com
650.564.3698

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1 MAHDI ESLAMIMEHR, Ph.D.
2 of lawful age, having been first duly sworn to tell
3 the truth, the whole truth, and nothing but the truth,
4 testified as follows:

5 EXAMINATION

6 BY MR. HART:

7 Q. All right. Good morning. Can you start us
8 off by stating your full name for the record.

9 A. Mahdi Eslamimehr.

10 Q. And have you been deposed before,
11 Dr. Eslamimehr?

12 A. Yes.

13 Q. Approximately how many times have you been
14 deposed?

15 A. I think around 15 times.

16 Q. Have any of those been patent cases?

17 A. Yes.

18 Q. How many, approximately, have been patent
19 cases?

20 A. I think one third of them, I guess. I'd have
21 to check my CV. But off the top of my head, it's like
22 one third of them.

23 Q. Okay. Let me go through just a couple of
24 ground rules as a refresher. It's my job today to ask
25 clear questions. If you do not understand a question

1 I have asked or any part of a question I have asked,
2 please let me know so I can rephrase or clarify.

3 The most important ground rule today is that
4 the court reporter can only capture one person
5 speaking at a time. So I will do my best not to speak
6 over you, and I would ask that you do your best not to
7 speak over me. To that end, if I start speaking
8 before you have finished an answer, can you please let
9 me know so I can stop speaking and let you finish your
10 answer?

11 **A. Sure.**

12 Q. Great. The verbal "sure" was where I was
13 going next. So head nods, head shakes are not easy to
14 capture on a transcript. So please make sure that you
15 provide verbal responses to all my questions, and I
16 will try to avoid grunting or head shakes or head nods
17 on my end as well.

18 Is there any reason, medical or otherwise,
19 that you would be unable to answer my questions fully
20 and truthfully today?

21 **A. No.**

22 Q. Okay. What did you do to prepare for today's
23 deposition?

24 **A. I reviewed my declarations, reviewed patents,**
25 **met with the counsel briefly. That would be the**

1 **extent of it.**

2 Q. Okay. Approximately how long did you meet
3 with counsel?

4 A. **I think roughly about an hour.**

5 Q. And when did that meeting occur?

6 A. **I think it was on Friday.**

7 Q. Okay. And who attended that meeting?

8 A. **It was -- it was me, Mr. Hudnell, another**
9 **attorney called Stan, and -- yeah, that's it.**

10 Q. Okay. Do you recall when you were engaged
11 for this matter?

12 A. **I think I do, yes.**

13 Q. Okay. And when was that?

14 A. **It was last summer, I believe.**

15 Q. Have you worked with Mr. Hudnell or his law
16 firm previously?

17 A. **No, I did not.**

18 Q. And have you worked for the patent owner in
19 any capacity previously?

20 A. **When you say "patent owner," I have worked on**
21 **cases, like IPR cases that I was -- that I was**
22 **retained on behalf of a plaintiff. So I don't know**
23 **what you mean by patent owner.**

24 Q. Sorry. I meant this patent owner
25 specifically, Mr. Allani.

1 **A. Oh, okay. No.**

2 (Eslamimehr Exhibit No. 2020 was marked.)

3 Q. Okay. Very good. I am going to -- I'm going
4 to be referring to your most recent declaration, which
5 has been marked Exhibit 2020 in this case. I'm going
6 to be referring to that frequently in today's
7 deposition. I understand you have some clean copies
8 of exhibits before you. Do you have Exhibit 2020?

9 **A. Exhibit 2020 is my declaration, which --**
10 **submitted on February 26 -- February 25th, 2026,**
11 **correct?**

12 Q. February 25th, 2026, that is correct.

13 **A. Yes, I do have it in front of me.**

14 Q. Okay. Can I have you turn to the first
15 substantive page and to paragraph 3 on that page.

16 **A. Yes.**

17 Q. Okay. Here you note, My employer, Quandary
18 Peak Research, is paid a consulting fee for my time
19 working on this matter. I have no personal interest
20 in this matter, and my compensation does not depend in
21 any way on the opinions I express or the outcome.

22 Do you see that?

23 **A. Yes, I do.**

24 Q. What is Quandary Peak Research's relationship
25 with the patent owner, Mr. Allani, in this case?

1 **A. I have no knowledge about the relationship.**
2 **I believe that there is no relationship between**
3 **Quandary Peak Research and the patent owner. I**
4 **believe that Quandary Peak Research retained by the**
5 **law firm to provide technical opinion in this matter.**

6 Q. Okay. Do you know if Quandary Peak Research
7 has any stake in the outcome of the matter?

8 **A. I believe there is no stake. I understand**
9 **the invoices being sent to the patent owner and they**
10 **paid, like -- outcome of this case doesn't affect our**
11 **qualitative research.**

12 Q. Okay. So aside from your rate of \$600 per
13 hour that is invoiced to the Hudnell Law Group, you're
14 not aware of any other benefit that Quandary Peak
15 Research may have related to this matter?

16 **A. I am not aware of any relationship, but I**
17 **believe there is no relationship.**

18 Q. Okay. And is it the same answer if we expand
19 beyond this IPR to any litigation involving the '058
20 patent?

21 **A. Correct, because Quandary Peak Research is**
22 **not working on contingency or any -- we just provide**
23 **independent opinion.**

24 Q. What -- that's a good lead into my next
25 question. What does Quandary Peak Research do?

1 A. Okay. So we are a consulting firm. We have
2 three major line of business. One is litigation,
3 which if there is a -- if there is a dispute which has
4 a software element in it or hardware element in it,
5 they come to us and ask to look at everything, look at
6 the fact and provide opinion and provide expert
7 witness services.

8 Also, another business -- line of business
9 which I lead in Quandary Peak Research is technical
10 due diligence, which I mainly work with private
11 equities, venture capitals, funding -- investment
12 banks, and help them through their transactions. We
13 look at the code, we look at the artifact and we
14 explain to the investment party or the target that,
15 what are the risks.

16 The other line of business is health IT.
17 Health industry is a very regulated industry. So some
18 governments, some agencies, hospital, pharma ask us to
19 look at their document, their platform, their system
20 and provide opinion to what extent they follow
21 industry standard and best practices.

22 Q. What is your role at Quandary Peak Research?

23 A. I am executive vice president.

24 Q. Okay. And what are your responsibilities as
25 executive vice president?

1 **A. So as I said, I lead the technical due**
2 **diligence team. Also, I helping sometime operation of**
3 **the company, meeting with my teams, checking their**
4 **performances. That's beside my role as a professor at**
5 **USC.**

6 Q. A professor at USC?

7 **A. Yes.**

8 Q. Okay. And approximately how much of your
9 professional time is dedicated to work under the
10 Quandary Peak Research role you have?

11 **A. 75 percent of my time.**

12 Q. Okay. Are there any other professional time
13 occupiers beyond your time -- or your work for
14 Quandary Peak Research and your role as a professor at
15 USC?

16 **A. No.**

17 Q. Okay. So is it approximately 25 percent of
18 your professional time that you dedicate to USC?

19 **A. Yeah, it depends, sometime fluctuate**
20 **depending on how many courses I teach, the amount of**
21 **research I have to -- like, publication or stuff like**
22 **that, but roughly the balance between 25 percent or 75**
23 **percent.**

24 Q. How much of your work at Quandary Peak
25 Research is related to legal matters?

1 A. That's a good question. Sometimes up -- it
2 varies. Depend on my caseload, depend on my
3 availability, depend on load of project that I get for
4 technical due diligence. It's seasonal. Like when
5 the economy is really good, then companies start
6 buying other companies, so we get involved in more
7 technical due diligence. When the economy is not
8 good, companies start suing each other, so we are more
9 involved in litigation. My personal, I want to say,
10 like 50-50 percent.

11 Q. 50-50, okay. And so 50 percent of your time
12 is dedicated to litigation consulting and 50 percent
13 is dedicated to technical due diligence for
14 acquisitions. Is that generally right?

15 A. Yeah, like, again, sometimes it can be more
16 on technical due diligence. Sometimes it can be --
17 like, litigation, again, varies. But there is a
18 balance, and, like, a -- I split half of my time to
19 work on litigation cases. It could be prelitigation.
20 It could be a wide range of cases, from trade secret
21 cases to breach of contract cases to patent cases, and
22 half my time to advisory modes or consultations.

23 (Eslamimehr Exhibit No. 2017 was marked.)

24 Q. Do you have Exhibit 2017 with you there
25 today, which is your CV submitted in this proceeding?

1 **A. I can pull up my CV. I have a CV right now.**

2 Q. And I just want to make sure that what you
3 are pulling up is the version that we have in this
4 proceeding, to keep the record clear. So I'm happy to
5 drop it into chat if you don't have that version
6 handy.

7 **A. So please, if you don't mind.**

8 Q. Sure. Let's see here. Okay. You should be
9 able to download Exhibit 2017 from the chat window.

10 **A. Okay. I did.**

11 Q. All right. Very good.

12 So in Exhibit 2017, which is your CV,
13 starting at page 5 and extending through page 13, you
14 list a total of 86 legal engagements that you've been
15 involved in. Do you see that portion of your CV?

16 **A. Yes.**

17 Q. Many of these are patent cases; correct?

18 **A. Many -- yeah, many of them are patent cases,**
19 **correct.**

20 Q. Approximately what percentage of the patent
21 cases you've consulted on were you representing the
22 patent owner side, or the plaintiff side?

23 **A. I don't know. I mean, I know that I work for**
24 **both plaintiff and defendants. So I don't know the**
25 **exact number, but I have worked for both parties.**

1 Q. Can you recall any specific cases where you
2 represented the accused infringer?

3 A. Do you mind if I quickly take a look at it?

4 Q. Not at all.

5 A. Yes, for example, if you take a look at
6 Content Engine, LLC versus Rumble, that case was also
7 IPR, and I worked for Rumble.

8 Q. And Rumble was the petitioner in that case;
9 is that right?

10 A. Yes. And I know there are cases that,
11 because of the confidentiality, party didn't want us
12 to put their name in our CVs. We asked them, even
13 for -- they just let us to put in for, like, keep them
14 in database for confliction purposes, but right now I
15 think I've done over 120 litigations. Some of them I
16 even cannot put on my CV. But yeah, for example, as I
17 said, this case, I worked for Rumble and Rumble was
18 the petitioner.

19 Q. Okay. Why don't we transition to the
20 substance of your opinions. I'd like to start with
21 the meaning of icon, which is a fairly prominent
22 portion of your declaration, so I'm sure it's no
23 surprise that we're covering that today.

24 A. Yes.

25 Q. Can I have you turn in your declaration,

1 Exhibit 2020, starting at paragraph 41 with me,
2 please.

3 **A. Yes, sir. I'm there.**

4 Q. All right. Very good. So paragraph 41 is
5 the first paragraph in a section titled "The Term
6 Icon." That section extends through paragraph 44 and
7 it's followed by Section 8.11 titled "Rossmann's Menu
8 Items and Choice Cards are Text Selections, Not
9 Icons," as well as Section 8.1.2 titled "Himmel's
10 Bookmark Entries are Hyperlinked Texts and Hyperlinked
11 Texts are Text Strings, Not Icons."

12 Do you see those three sections that extend
13 onto paragraph 50 there?

14 **A. I do, sir.**

15 Q. Okay. I understand from this section of your
16 declaration that you believe selectable text alone is
17 insufficient to satisfy the claim term icon; is that
18 right?

19 MR. HUDNELL: Object.

20 **A. I think I explained in my declaration that**
21 **icon requires a -- based on a patent, requires a**
22 **graphical element, and just a bare line of text -- I**
23 **wouldn't consider a bare line of text as an icon.**

24 Q. (By Mr. Hart) Okay. So there has to be some
25 form of graphics for a selectable item to be an icon;

1 is that right?

2 **A. Some form of graphic design, shape, yes.**

3 Q. Okay. Is there anything beyond graphics that
4 is required for an item to be an icon as the claims
5 recite the term "icon"?

6 MR. HUDNELL: Objection. Form.

7 **A. I think the patent explained that**
8 **the graphic -- a graphical element design and shape --**
9 **I can read from the patent, but these are -- these are**
10 **the thing that required for an icon.**

11 Q. (By Mr. Hart) So graphics is the primary
12 descriptor?

13 **A. Well, it should require graphics, graphic**
14 **elements, at least.**

15 Q. How about the selectability? Are all forms
16 of selectability captured by the claimed icon?

17 MR. HUDNELL: Objection. Form.

18 **A. When you say selectability, could you**
19 **elaborate? Like, if you highlight them, if you -- if**
20 **you, like, were using mouse-dragging rectangle so they**
21 **become highlight, so become projected? If you just**
22 **one-click on them, they become, like, selected, or you**
23 **double-click that action? What do you mean by**
24 **selectability?**

25 Q. (By Mr. Hart) That's a good clarifying

1 follow-up. So let's assume that we're talking about
2 items that can be selected in order to cause an action
3 to occur. For example, going to a website, opening a
4 document, something like that.

5 Does the claimed icon have to be selectable
6 directly via, for example, touch screen or mouse
7 click, or is it sufficient for the user to be able to
8 select the item using the keyboard?

9 MR. HUDNELL: Objection. Form.

10 A. I don't believe I -- I mean, I provide an
11 opinion about selectability.

12 Q. (By Mr. Hart) Okay.

13 A. And this -- at this point, I have, I mean, no
14 opinion about if something is selectable equal to
15 icon. Again, selectability is one-click, double-click
16 selecting.

17 So icon, again, need to have a graphical
18 element into it, the shape, design. There are
19 selectable and then actionable where they would mean
20 selection and actionable happen at the same time, I
21 did not provide opinion on that.

22 Q. Okay. Can you turn to paragraph 45 with me,
23 please.

24 A. Yes, sir. I'm there.

25 Q. You state in the first sentence, Rossmann's

1 interface is expressly text and keypad driven.

2 Do you see that?

3 **A. Yes, sir.**

4 Q. Is the fact that Rossmann's selections are
5 keypad driven relevant to whether or not Rossmann
6 teaches an icon?

7 **A. I don't believe Rossmann teaches an icon. I**
8 **believe, mostly, these are designation or selectable**
9 **text menus. As when I look at those selectable menus**
10 **and selectable texts, I don't call them as an icon.**

11 Q. I understand that. And I believe your
12 primary opinion is that they're not icons because they
13 contain no graphical elements; is that correct?

14 **A. That's one of the reason, yes, that they**
15 **don't have any graphical element or shape or design**
16 **like an icon does.**

17 Q. Is another reason that they are selectable
18 via the keypad, or is that not relevant to whether or
19 not they are icons?

20 **A. Selectable via keypad, you mean using arrow**
21 **keys to go up and down to get them -- or pressing --**
22 **pressing, like, a numerical keypad?**

23 Q. Correct.

24 **A. I don't believe I provide opinion in that**
25 **regard saying that they are not icon because they're**

1 **being controlled by keypad or -- I didn't say anything**
2 **like that.**

3 Q. Okay. Very good.

4 Can I have you turn back to paragraph 41 in
5 Exhibit 2020.

6 A. **Yes, sir.**

7 Q. Here you quote from the '058 patent's
8 Background of the Invention section, and specifically
9 you quote the following sentence: The choices of a
10 site or of a heading are represented either by a
11 designation or by an icon or a fixed or animated
12 image.

13 Do you see that?

14 A. **I do, sir.**

15 Q. From this, it appears as though you are
16 contending that the patent distinguishes between the
17 following three categories: One, designations; two,
18 icons; and three, fixed or animated images.

19 Am I understanding that correctly?

20 MR. HUDNELL: Objection. Form.

21 A. **I think that I explicitly said that -- I**
22 **mean, when you say that I distinguish, I don't know**
23 **what you mean by distinguish. I don't know what part**
24 **of my declaration I distinguish between them.**

25 Q. (BY Mr. Hart) The opening sentence is, The

1 '058 patent distinguishes designations from icons and
2 fixed or animated images.

3 I'm trying to understand what you mean by
4 that statement. Can you help me by elaborating?

5 **A. Yes. So to me, as it proceed to icon, is**
6 **different than designation, for example. That**
7 **sentence is trying -- that sentence is try to -- I**
8 **mean, that sentence confirm my understanding that the**
9 **choice of a site or a heading or presented by**
10 **designation or by an icon, so designation is different**
11 **than icon.**

12 Q. And is a fixed or animated image also
13 different from an icon?

14 **A. I did not say anything, but to me, I mean --**
15 **I did not say anything in the declaration, but a fixed**
16 **or animated image, like, for example, a GIF, a G-I-F,**
17 **could -- is not necessarily an icon.**

18 Q. The patentee used the term "icon" in the
19 claims of the '058 patent; correct?

20 **A. They used the term "icon."**

21 Q. And the patentee did not use the term
22 "designation" in the claims of the '058 patent; is
23 that right?

24 **A. They only use designation once in the whole**
25 **'058 patent. Once.**

1 Q. And that's not in the claims?

2 A. That is not in -- that does not mention in
3 the claim, correct.

4 Q. And the claims also don't refer to images;
5 correct?

6 A. Do you mind if I take a look at the patent
7 quickly? If -- I mean, do you need to call it,
8 like -- I want to check the patent.

9 Q. No, you are more than welcome to reference
10 the patent.

11 A. Okay. So I'm opening up the patent '058 for
12 reference.

13 Q. And that's Exhibit 1001 in this proceeding,
14 just for the record.

15 A. The claim did not mention the term "image."

16 Q. So honing in on the claims using the term
17 "icon" and what icon captures and what it excludes, do
18 these claims exclude the use of images as selectable
19 items?

20 MR. HUDNELL: Objection. Form.

21 A. Could you repeat the question again.

22 Q. (By Mr. Hart) If a system uses an image as a
23 clickable element, is that excluded from the claimed
24 icon in the '058 claims?

25 MR. HUDNELL: Same objection.

1 **A. Well, I believe that clickable item is not an**
2 **image -- I'm sorry, is not an icon. A clickable image**
3 **is not equal -- a clickable image and icon are --**
4 **like, icon can have shape. Icon can have image. Icon**
5 **can have text. But a clickable image is not**
6 **necessarily an icon.**

7 Q. (By Mr. Hart) What would make it an icon?

8 MR. HUDNELL: Objection. Form.

9 **A. I'll refer to my report. An icon should have**
10 **a graphical element and shape and design.**

11 Q. (By Mr. Hart) And so is it your opinion that
12 an icon can include one or more images?

13 **A. An icon can include one or more images.**

14 Q. But one or more images without more is not an
15 icon. Do I have that right?

16 **A. Are you asking that -- I mean -- sorry.**
17 **Could you repeat the question again.**

18 Q. Sure. One or more images without some
19 additional graphical component is not an icon; is that
20 right?

21 **A. I would say that an icon must have shape,**
22 **design and graphical element. It could have text, it**
23 **could have image, but it should be graphical and have**
24 **shape and design.**

25 Q. Okay. So an image alone is not an icon. Is

1 that your opinion?

2 A. An image alone, well, that's -- like, what is
3 the -- like is it JPEG? Is it GIF? Is it bitmap? An
4 image, when you save it, like -- just image alone,
5 that you save it, again, as a JPEG cannot be an icon.

6 Q. And again, I'm trying to understand how you
7 have interpreted this portion of the background of the
8 invention and what this tells you about what is
9 captured by icon and what is not captured by icon. So
10 let's assume that we're talking about selectable items
11 on a display that cause some action.

12 If that selectable item is just an image with
13 no additional graphics, is that image an icon?

14 A. An image in a form of -- an image that had a
15 design and shape could be an icon.

16 Q. Okay. How about text, selectable text, can
17 that be an icon?

18 A. A selectable -- again, if there is one line
19 of text, sequence of letter, like hyperlink, they
20 cannot be icon because there is no shape, design or
21 graphic. Having said that, icon can have text inside
22 of it, but just a text is not an icon.

23 Q. So of the three categories that are called
24 out in this portion of the '058 patent that you have
25 quoted in paragraph 41, Designations, Icons and

1 Images, am I understanding your testimony correctly
2 that an image can be an icon, but text cannot be an
3 icon without more?

4 **A. Again, like image, if image has a graphic**
5 **design, image alone, I mean, we just said image**
6 **alone can -- like, if image has a graphic in it, can**
7 **be icon. If a text has a graphic element, design**
8 **around it, can be icon, but image alone, text alone,**
9 **cannot be icon. And that's what patent tried to**
10 **teach, that these are not the same as icon.**

11 Q. Okay. So I think that was a different answer
12 than I got before. An image standing alone with no
13 added graphical component is not an a icon. Is that
14 your testimony?

15 **A. Image alone cannot be an icon without**
16 **graphical element to it -- without graphical design to**
17 **it, yeah.**

18 Q. Does the patent explain why the claimed
19 invention focuses or is limited to icons to the
20 exclusion of text in isolation or images in isolation?

21 **A. I don't know.**

22 Q. Is there any explained benefit of icons over
23 designations or images?

24 MR. HUDNELL: Object to form.

25 **A. I don't know.**

1 Q. (By Mr. Hart) Does the '058 patent explain
2 what a designation is?

3 A. Designation only mention once in the whole
4 patent, and like an icon for a POSITA, we have
5 understanding of designation, like a selectable menu
6 items. That, to me, is a designation.

7 But you are referring to the patent. Did the
8 patent teach it? I don't know. I don't think so.

9 Q. Okay. Yeah. I think you answered this, but
10 let me just follow up to make sure I understood your
11 answer.

12 Does the '058 patent elaborate on what a
13 designation is?

14 A. I don't know.

15 Q. Is the term "designation" a term of art?

16 MR. HUDNELL: Objection. Form.

17 A. Is this -- I mean, is this a legal question
18 or -- I'm -- I didn't provide any opinion about, like,
19 what is designation or designation is a term of art.

20 Q. (By Mr. Hart) Okay. How have you
21 interpreted designation in the '058 patent? What does
22 it mean?

23 MR. HUDNELL: Objection. Form.

24 A. A designated area from a user interface like
25 a selectable menu item, to me, is a designation.

1 Q. (By Mr. Hart) And how is a designation
2 different from an icon?

3 A. Icon has a graphical design, shape, graphical
4 component. Designation does not have those elements.

5 Q. And why -- why does a designation not have
6 graphical components?

7 MR. HUDNELL: Objection. Form.

8 A. Because those are different user interface
9 component, and also I did not provide the difference
10 between icon and designation in my report. So I have
11 no opinion on that. But, like, generally, those are
12 different user interface component, and a user
13 interface designer implement them -- use them for
14 different purposes.

15 Q. (By Mr. Hart) This is what I'm trying to get
16 to the bottom of to better understand the differences
17 between a designation and an icon in the context of
18 the '058 patent.

19 How do persons of skill in the art understand
20 designation?

21 A. I mean, I did not -- I didn't have any
22 section in my report as a designation. I had a
23 section in report as an icon, which the definition of
24 icon is, like, what the procedure understand icon
25 should have a graphical component and design in it.

1 **An icon could have text, could have image.**
2 **That's not something that, again, a designation could**
3 **contain.**

4 Q. So designations -- go ahead. Sorry. I
5 didn't mean to --

6 A. Sorry. So -- and then I did not provide any
7 definition of designation. So I have -- I mean, I did
8 not -- yeah, I did not provide any opinion about
9 designation.

10 Q. If you haven't defined designation, then what
11 is the relevance of the '058 patent distinguishing
12 designations from icons in this portion of the
13 specification that you quoted here?

14 MR. HUDNELL: Objection. Form.

15 A. Well, the patent distinguish between them and
16 the POSITA understand what is icon, and then the
17 patent tried to say that a designation is not an icon,
18 and here is the icon. Here is the definition of icon.
19 So that's my understanding.

20 I understand icon based on the patent. I
21 understand icon based on the experience, which is not
22 a designation -- is not a form of designation.

23 Q. (By Mr. Hart) And so you understand what an
24 icon is.

25 A. Uh-huh.

1 Q. What is a designation?

2 MR. HUDNELL: Objection. Form.

3 A. I think I did not provide any definition of
4 designation in my report.

5 Q. (By Mr. Hart) Okay. What is your
6 understanding of what a designation is in this
7 context?

8 A. An example of designation could be a
9 selectable -- selectable item or -- on a menu.

10 Q. Are there any particular characteristics that
11 make a selectable item in a menu a designation rather
12 than an icon?

13 A. It's designated to -- for people -- for user
14 to select that area.

15 Q. Can a designation be an icon?

16 A. I don't think so, and I did not cite anything
17 in that regard in my report. I have no opinion on
18 that.

19 Q. It's true that graphical components can be
20 listed in a menu and be selectable in a menu; correct?

21 A. Could you give me an example.

22 Q. Sure. If you have a list of graphical images
23 that are intended to convey certain subject matter,
24 and when you click on one of them it takes you to that
25 subject matter, would those graphical components,

1 selectable components in a menu, be designations?

2 MR. HUDNELL: Objection. Form.

3 A. Many items are different than an icon, and I
4 don't think I provide opinion about many items in my
5 report, like what is -- could be or could not be.
6 Like, if you have a menu, every item in the menu
7 called menu item. They are not called icon. So --
8 and this is very hypothetical question, so I don't
9 know.

10 Q. (By Mr. Hart) If I'm -- if I go to
11 mcdonalds.com and there is a drop-down menu, and there
12 is an image a -- an icon of a chicken -- or, I'm
13 sorry, a graphic of a chicken, a graphic of a cow and
14 a graphic of a potato, and I can click on any of those
15 three to choose my food that I want from McDonald's,
16 are those icons?

17 A. I don't know. Again, I have not checked
18 McDonald menu, but -- I don't know.

19 Q. Okay. And so sitting here today, you
20 can't -- you can't tell me what characteristics of a
21 selectable item make that item a designation rather
22 than an icon? Do I understand you correctly?

23 A. So understanding my declaration, I did not
24 provide such a definition of characteristic in my
25 report.

1 Q. Can you go down to paragraph 44 with me.

2 A. Yes, sir. I'm there.

3 Q. The second complete sentence in paragraph 44
4 states, In my opinion, in view of the '058 patent's
5 express distinction between designations and icons and
6 its description of icons as having shape and design
7 and graphic features, a POSITA would not equate a mere
8 line of text (or a textual hyperlink) with the claimed
9 icon even if that line of text is selectable.

10 Do you see that?

11 A. I do, sir.

12 Q. What is the relevance of the patent's express
13 distinction between designations and icons to your
14 conclusion here?

15 A. I don't understand your question. But here
16 I'm trying to explain that hyperlink or a bare line of
17 text, even selectable, is not icon.

18 Q. And why is it relevant that the patent -- to
19 that conclusion, why is it relevant that the patent
20 distinguishes between designations and icons?

21 A. It could be a designation, but it's not an
22 icon. A hyperlink could be a designation, but not an
23 icon.

24 Q. What is a designation?

25 MR. HUDNELL: Objection. Form.

1 **A. A hyperlink would be a designation.**

2 Q. (By Mr. Hart) Could be?

3 **A. It's not an icon, but it could be**
4 **designation.**

5 Q. And what makes a designation a designation?

6 MR. HUDNELL: Objection. Form.

7 **A. Designation is a piece of user interface,**
8 **which is different from icon. And throughout my**
9 **declaration, I did not provide a definition of**
10 **characteristics for designation.**

11 Q. (By Mr. Hart) So you understand the term
12 "designation" enough to know that a hyperlink could be
13 a designation, but you can't provide any further
14 elaboration on what makes something a designation; am
15 I correct?

16 MR. HUDNELL: Objection. Form.

17 **A. Yeah, because that was out of my scope of my**
18 **assignment to provide a definition of what is**
19 **designation. I was asked to look at the icon. And**
20 **then the patent distinguish between icon and**
21 **designation, so I focus on what is icon and what is**
22 **not.**

23 Q. (By Mr. Hart) Have you, in your professional
24 life, come across the term "designation" in the
25 context of a selectable item in a graphical user

1 interface?

2 A. I don't know -- off the top of my head, I
3 don't know.

4 Q. Is it a common term in this space?

5 A. It is. Like, if you talk to -- I work a lot
6 in the human user -- in human-computer interaction,
7 and also user interface UI, UX a lot. I work with --
8 I hire people in this area. I work with them. I
9 build the software. I build user interface with my
10 engineering crew.

11 So that's a word that you hear, the
12 "designation." Designation area, designation text,
13 designation actionable item, stuff like that. You
14 hear it. But in this declaration, I did not provide
15 professional opinion about designation.

16 Q. When you hear that word, "desig" -- as you
17 have described, designation area, designation text,
18 designation actionable item, what meaning do you
19 ascribe to the word "designation"?

20 A. It's -- sitting here today, I have no
21 definition -- I did not provide a definition of
22 designation, and that was not scope of my assignment
23 to provide any definition of designation.

24 I can explain that what is icon, what is not,
25 but for designation, I have no opinion at this point.

1 MR. HART: I know we have not been going
2 quite an hour, but I could use a quick break. Can we
3 do five minutes?

4 THE WITNESS: Sure.

5 (Break taken from 11:46 to 11:51 a.m.)

6 Q. (By Mr. Hart) Can I have you turn to the --
7 to paragraph 43 in your declaration, Exhibit 2020.

8 A. Yes, sir.

9 Q. So here you are discussing Dr. Bederson, who
10 is petitioner's expert, his opinion regarding the
11 meaning of icon, and you state, Dr. Bederson's
12 declaration states that patent owner's apparent
13 understanding of the plain and ordinary meaning of
14 icon must at least include textual icons. I have
15 applied the patent owner's interpretation for my
16 opinions herein.

17 Do you see that?

18 A. I see that sentence, yes.

19 Q. Okay. This paragraph continues discussing
20 two separate pieces of evidence that Dr. Bederson
21 relied on. The first is a set of exemplary icons
22 identified by the inventor during the '058 patent's
23 prosecution, and the second is Dr. Bederson's reliance
24 on the patent owner's infringement allegations in the
25 parallel litigation.

1 Do you see that discussion as paragraph 43
2 continues?

3 A. I see mention to GAP in later citation to
4 Dr. Bederson's testimonies.

5 Q. Just to make sure we're not missing each
6 other, are you still reviewing paragraph 43?

7 A. Oh, I'm sorry, no. I said that I'm there.
8 Sorry. I was waiting for you.

9 Q. Okay. Let me reiterate what I laid out
10 before.

11 So it's correct that paragraph 43 describes
12 Dr. Bederson relying on two separate pieces of
13 information that he contends informs the patent
14 owner's interpretation of icon; is that right?

15 A. Yeah, I said that I see those sentences that
16 I see mentioned to GAP, Jean Paul Gaultier, and then,
17 later, his testimonies.

18 Q. And so the first category that he relied on
19 are exemplary icons that were introduced into the
20 record by the inventor during the '058 patent's
21 prosecution; is that right?

22 A. He mentioned a couple of examples, yes.

23 Q. And you discuss those examples in paragraph
24 44; correct?

25 A. I -- also I discuss those.

1 Q. The second category of evidence that
2 Dr. Bederson relied upon are the patent owner's
3 infringement allegations from the litigation; correct?

4 MR. HUDNELL: Objection. Form.

5 A. What do you mean?

6 Q. (By Mr. Hart) The last sentence in your
7 paragraph 43 states, Consistent with that approach,
8 Dr. Bederson testifies that as patent owner's apparent
9 understanding in their infringement allegations, which
10 includes the direct access icon only includes text.

11 Do you see that?

12 A. I do see that sentence.

13 Q. And so Dr. Bederson relied on the patent
14 owner's infringement contentions or allegations to
15 support his understanding that patent owner
16 interpreted icon to include text-only icons; correct?

17 MR. HUDNELL: Objection. Form.

18 A. This is Dr. Bederson's testimony.

19 Q. (By Mr. Hart) Correct. That you are
20 describing in your declaration?

21 A. Yeah, I cite that testimony, yes.

22 Q. Okay. Did you look at the infringement
23 allegations that Dr. Bederson relied upon?

24 A. I think I list a list of materials that I
25 considered and review in this declaration. I

1 **remember -- I think I looked at it.**

2 Q. Okay. Do you recall discussing those
3 infringement allegations in your declaration?

4 A. **If you can refer me to that, I'll be happy to**
5 **answer your question.**

6 Q. I'm asking you -- you describe here that
7 Dr. Bederson relied upon patent owner's infringement
8 allegations to support his understanding of the patent
9 owner's view of icon, and I'm asking if you looked at
10 those same infringement allegations to understand how
11 the patent owner viewed icon?

12 A. **I don't -- I think I did -- I don't recall at**
13 **the moment.**

14 Q. Okay. Do you recall discussing infringement
15 allegations in your declaration?

16 A. **I don't provide any infringement analysis.**
17 **This is IPR. That's not in my declaration.**
18 **Infringement opinion is out of the scope of my**
19 **assignment.**

20 Q. Sure. Do you agree that the way a patent
21 owner interprets a claim term for purposes of
22 infringement allegations is relevant to the meaning of
23 that claim term in an invalidity analysis?

24 MR. HUDNELL: Objection. Form.

25 A. **I'm not an attorney. I don't offer any legal**

1 **opinion, and I don't -- I didn't provide any opinion**
2 **about the infringement.**

3 Q. (By Mr. Hart) I understand, but you are
4 pointing out here that Dr. Bederson, petitioner's
5 expert, looked at how patent owner interpreted icon
6 for purposes of infringement and used that to inform
7 his understanding of icon in his analysis.

8 I'm asking if you did the same. Did you
9 consider how the patent owner interpreted icon when
10 you determined what the meaning of icon is?

11 **A. I think the Court construed, like, a -- this**
12 **term as a plain and ordinary meaning, and I followed**
13 **the Court decision.**

14 Q. Do you believe the Court addressed whether or
15 not an icon requires graphical elements?

16 **A. I don't know.**

17 Q. Would it be relevant to your opinions here to
18 know that the patent owner accused text-only links of
19 satisfying the claimed icon?

20 MR. HUDNELL: Objection. Form.

21 **A. I don't know.**

22 Q. (By Mr. Hart) You don't know if that would
23 be relevant?

24 **A. Is it a hypothetical question? I mean, if**
25 **you have -- like, I don't understand your question.**

1 **Like, would it matter if there is evidence? I have**
2 **looked at it, and I provide opinion. If it's a**
3 **hypothetical question, I don't know.**

4 Q. It's not hypothetical. I'm reading from your
5 paragraph 43 where you state that Dr. Bederson relied
6 upon the patent owner's infringement allegation to
7 inform the meaning of icon.

8 I'm asking you, do you agree that the
9 infringement allegations from the patent owner, as to
10 the meaning of icon, are relevant to conclude -- to
11 the conclusion of what an icon is in these claims?

12 MR. HUDNELL: Objection. Form.

13 A. I look at the Court construction of the claim
14 and term, and I believe that the Court gave, like, a
15 plain and ordinary meaning to the icon. I follow
16 that.

17 Q. (By Mr. Hart) But you just said you don't
18 know whether the Court addressed a graphical element
19 at all?

20 A. The Court -- the Court said that the plain
21 and ordinary meaning. The patent said graphical
22 element and as a POSITA, I also believe that an icon
23 should have a graphical elements.

24 Q. So your interpretation of icon goes beyond
25 the Court's conclusion?

1 MR. HUDNELL: Objection. Form.

2 A. I didn't say that.

3 Q. (By Mr. Hart) Well, you are telling me that
4 the -- that an icon requires graphics, but you are
5 also conceding that the Court said nothing about
6 graphics when it construed icon?

7 MR. HUDNELL: Objection. Form.

8 A. That's what the patent teach. As a POSITA
9 here, I am providing my own opinion. And I don't
10 believe my opinion contradicts the Court's
11 construction.

12 Q. (By Mr. Hart) Do you know whether the patent
13 owner, as a plaintiff in the parallel litigation,
14 accused text-only links as satisfying the claimed
15 icon?

16 A. No, I don't know that.

17 Q. Do you have any reason --

18 A. Oh, in a different litigation beside Allani
19 versus Apple?

20 Q. I'm asking about the Allani versus Apple
21 parallel litigation that exists currently.

22 A. I -- I don't know. I don't have any opinion
23 about infringement or anything.

24 Q. Here in paragraph 43 where you note that
25 Dr. Bederson testified that the patent owner did, in

1 fact, accuse text-only icons, do you have any reason
2 to dispute his understanding of those infringement
3 allegations?

4 **A. Which sentence are you reading from? Sorry.**

5 Q. It's just the very last sentence that I have
6 read a number of times in paragraph 43 in your
7 declaration.

8 **A. Starting with his sentence that -- that that**
9 **is patent owner's apparent understanding in their**
10 **infringement allegation, which includes the direct**
11 **access icon only include text?**

12 Q. Correct.

13 **A. That's his statement, and I believe that line**
14 **of text cannot be icon.**

15 Q. So if the patent owner did, in fact, map a
16 line of text to the claimed icon, you would disagree
17 with that map?

18 MR. HUDNELL: Objection. Form.

19 **A. This is a very hypothetical question. I**
20 **cannot answer that. I have to study it.**

21 Q. (By Mr. Hart) And that's because you have
22 not looked at the infringement allegations in the
23 litigation; is that right?

24 MR. HUDNELL: Objection. Form.

25 **A. No, those were out of the scope of my**

1 assignment. I mean, that's a -- I might looked at it.
2 I might have my own understanding, but at this point I
3 don't have any opinion about infringement.

4 Q. (By Mr. Hart) Let's get to the next
5 paragraph, paragraph 44 in your declaration. And
6 these, again, are exemplary icons identified by the
7 inventor during the '058 patent's prosecution.

8 You state at the start of this paragraph,
9 Dr. Bederson points to page elements that, indeed,
10 include text; however, these page elements further
11 contain graphical features such as the GAP and Jean
12 Paul Gaultier icons represented as round ovals, while
13 other icons like the e-mail icon are contained in
14 rectangular boxes, which are each distinct graphical
15 elements.

16 Do you see that?

17 A. I do.

18 (Eslamimehr Exhibit No. 1003 was marked.)

19 Q. Do you have Dr. Bederson's declaration,
20 Exhibit 1003, there with you today?

21 A. I don't know. Could you drop it in the chat
22 box.

23 Q. Yes.

24 All right. You should have access to
25 Exhibit 1003, which is Dr. Bederson's declaration.

1 **A. I do. I do have it now.**

2 Q. And you cite paragraph 85 in his declaration
3 in paragraph 43 of your declaration. And so I'd like
4 you to turn to paragraph 85 that includes an image
5 that I believe you were discussing here in paragraph
6 44. Let me know when you have paragraph 85 in
7 Dr. Bederson's declaration, Exhibit 1003.

8 **A. I am there.**

9 Q. All right. Very good. So we see an image
10 from the file history of the '058 patent on branded
11 page 67, which is contained within paragraph 85 in
12 Dr. Bederson's declaration. Do you see that image?

13 **A. The gray -- the gray screen with that at sign**
14 **in the middle, right?**

15 Q. Yes, that's right.

16 **A. Yes, I can see that.**

17 Q. And here we see the GAP icon, the John Paul
18 Gaultier icon that you are referencing in your
19 paragraph 44 in Exhibit 2020; is that right?

20 **A. Yes.**

21 Q. Okay. And you had a much better
22 pronunciation of that French name than I did. So
23 you'll just have to deal with my poor French
24 pronunciations.

25 **A. You've been dealing with my English accent**

1 **all day.**

2 Q. Do you agree that the green portions that
3 have been annotated green in this figure are icons as
4 icon has been interpreted by you in this case?

5 **A. Yes.**

6 Q. Okay. These selectable features include
7 text; correct?

8 **A. Correct.**

9 Q. Is there something beyond that text that
10 makes them an icon, satisfying your interpretation of
11 the term "icon"?

12 **A. Yeah, they have a graphical element into it,**
13 **which is, for example, they are surrounded by, like,**
14 **an oval shape, which separated from just a bare**
15 **sequence of text. So yeah, they have a graphical**
16 **design around it.**

17 Q. Okay. Some of them have an oval and some of
18 them have a rectangle; is that right?

19 **A. Correct.**

20 Q. What is the purpose of the ovals and the
21 rectangles in this screen?

22 MR. HUDNELL: Objection. Form.

23 **A. I don't know. We have to ask the UI/UX**
24 **designer, but it's -- it certainly had a graphical**
25 **design around it.**

1 Q. (By Mr. Hart) Now, this is from the inventor
2 of the '058 patent; correct?

3 A. I don't know.

4 Q. Okay. The ovals and the rectangles serve to
5 delineate the selectable elements; correct?

6 MR. HUDNELL: Objection. Form.

7 A. Again, I don't know what is the purpose. I
8 think that those are designed -- they added those
9 graphical component and design to make it an icon.
10 That's my understanding. Whether they have a purpose
11 beyond it, I don't know. But those graphical element
12 are added to make it an icon.

13 Q. (By Mr. Hart) Do those graphical elements
14 provide any information about the subject matter
15 associated with these icons?

16 MR. HUDNELL: Objection. Form.

17 A. You were saying that adding a oval around GAP
18 would add extra information, and why not they added,
19 like -- where they added, like, a rectangle around
20 GAP? Is that your question?

21 Q. (By Mr. Hart) No. My question is just do
22 the ovals and the rectangles provide any substantive
23 information about what that icon does or what that
24 icon represents?

25 MR. HUDNELL: Objection. Form.

1 A. I don't know. But, like, in UI/UX field, we
2 have different philosophy. Like, you have meaning by,
3 like, what area or, like, design or, like -- or
4 arrangement of icon. I don't know -- this designer
5 had an extra intention to add oval around, but to me,
6 obvious that they had graphical elements to make it an
7 icon.

8 Q. (By Mr. Hart) Are you aware of any
9 functionality provided by these graphical elements
10 beyond simply delineating the boundaries of the
11 selectable icon?

12 A. Looking at it, I don't know. Maybe when you
13 press it, it can become treaty (phn) and it feels the
14 clicking, and it, like, feels you like an actual
15 clicking. I don't know.

16 But as simple as they just -- like, as simple
17 as they just add a graphical element to a string to
18 make it an icon.

19 Q. And is there any benefit that you're aware of
20 to the graphical features specifically?

21 MR. HUDNELL: Objection. Form.

22 A. Yeah.

23 Q. (By Mr. Hart) What is the benefit?

24 A. If, for example, there is no oval or
25 rectangle around those, I would have thought that this

1 is like a text and it's not actionable and it just --
2 so I cannot click on it. So that's one thing.

3 So to make it differentiate between just a
4 string, just a bare line of string, that also help.
5 Sometimes, I don't know, like, they have their own
6 graphical design for brands. They have different
7 design -- like, there are so many purpose to adding
8 graphical component to a line of text.

9 Q. If you have a link that says the word
10 "chicken" and around it is the shape of a chicken,
11 that helps you understand what you are getting. Is
12 that what you are suggesting in terms of a more
13 complex shape?

14 A. Oh, you are back to that McDonald's
15 situation. If it's part of menu, again, it's become
16 selectable menu item. If it's -- again, we have to
17 look at the area that we are looking from the screen.
18 If a selectable -- if it takes -- if piece of user
19 interface has -- could have a text, but has a design
20 and could -- image or anything that have a graphical
21 component, that could make it an icon.

22 Q. Coming back to this example in paragraph 85
23 of Dr. Bederson's declaration, 1003.

24 A. Yeah, I'm there.

25 Q. Do you agree that it was known in the art as

1 of 1999 to designate the boundaries of selectable
2 items with basic shapes like ovals and rectangles as
3 we see here?

4 **A. Sorry. Were you asking is there a standard?**

5 Q. No. Was it known to artisans in the field?

6 **A. Oh, oh. Sorry. Could you repeat the**
7 **question again, if you don't mind.**

8 Q. Yes. Do you agree that it was known in the
9 art of as of 1999 to designate the boundaries of
10 selectable items with basic shapes like ovals and
11 rectangles as we see in this example?

12 **A. I don't know.**

13 Q. Are you aware of any technical difficulties
14 that a POSITA would have experienced in 1999 adding
15 basic shapes like these to designate the boundaries of
16 selectable elements?

17 MR. HUDNELL: Objection. Form.

18 **A. When you say technical difficulty, that's**
19 **adding extra level of implementation. You have to**
20 **implement it. You have to write a code. You have to**
21 **do stuff like that. But I did not provide any opinion**
22 **about technical difficulty of creating a text into an**
23 **icon or vice versa.**

24 Q. (By Mr. Hart) As a POSITA yourself, are you
25 aware of what the state of the art was in 1999 in the

1 context of creating selectable icons on a GUI?

2 **A. I am aware of that, yeah.**

3 Q. Would it have been within the capacity of
4 your average GUI designer to delineate the boundaries
5 of a selectable item with basic shapes like ovals and
6 rectangles?

7 MR. HUDNELL: Objection to form.

8 **A. There is so many variables in that question,**
9 **like what is average user interface designer and what**
10 **is not average? Was it hard? Like, how -- what do**
11 **you call hard or technical difficulty?**

12 **Again, I did not provide opinion on that, but**
13 **making something from a text to a -- to the icon**
14 **required external work.**

15 Q. (By Mr. Hart) Yeah, I'm asking you to
16 qualify that extra work. As of 1999, was that
17 technically difficult extra work, or would that have
18 been routine extra work?

19 MR. HUDNELL: Objection. Form.

20 **A. Like, these are a term that we have to define**
21 **accurately. What do you mean by routine or what do**
22 **you mean, like, by technical difficulty? And I did**
23 **not provide any opinion in that regard in my report.**

24 **But I would add that you have to add extra**
25 **work to that. Whether it's hard or not, that's a**

1 different thing that I have to run analysis, to what
2 extent it's hard. How long would it take, considering
3 the performance of the machine back in the days, the
4 graphical tools back in the days. So many factors,
5 which I did not analyze, but it require work.

6 Q. (By Mr. Hart) Did you define a POSITA in
7 this case?

8 A. I think both party defined a POSITA, and then
9 I think I'm qualified on both parties.

10 Q. What definition did you adopt of a POSITA in
11 this case?

12 A. I think I define it in my report. I can read
13 from it.

14 Q. Let me refer you to paragraph 25 in your
15 declaration, Exhibit 2020.

16 A. Okay. I'm there.

17 Q. You state, In my opinion, a POSITA at the
18 time -- at that time would be a person with a
19 bachelor's degree in computer science, computer
20 engineering or a closely related discipline and two
21 years of relevant professional experience in software
22 engineering or a similar field.

23 Do you see that?

24 A. I do.

25 Q. If we assume that person has designed a GUI

1 with nongraphical, text-only selectable items in the
2 relevant time period of 1999, and you ask that person
3 to add basic shapes like ovals and rectangles around
4 that selectable text, is that something the POSITA
5 would have struggled with in 1999?

6 MR. HUDNELL: Objection. Form.

7 A. I don't know what do you mean by struggle
8 with. Like, again, it's not -- back in the days, it's
9 not as easy as today. Back in the day, it was line of
10 code and line of design, a simple user interface. Now
11 you can do vibe coding which is text. Back in the
12 day, it was much harder.

13 I did not provide any opinion to what extent
14 it would put POSITA into trouble to make a text to a
15 -- to an icon, but it was way harder than today's.
16 But it's -- I would say it's doable.

17 Q. (By Mr. Hart) Doable. Okay.

18 A. Doable. But again, would it require hours?
19 Would it require hundreds of thousands of dollars?
20 Would it require months? I didn't provide any
21 opinion, but it's doable because at the time we saw
22 screen with only text, and I saw a screen with icon,
23 which has text. So it was doable. But was it hard or
24 not? It was way harder back then than today.

25 (Eslamimehr Exhibit No. 1004 was marked.)

1 Q. I'd like to turn next to Rossmann. Do you
2 have access to Exhibit 1004, the Rossmann reference in
3 this case?

4 A. I think I do. I think -- Exhibit 1004, you
5 said?

6 Q. Yes.

7 A. Yes, I do have it. I'm there.

8 Q. You've reviewed the Rossmann reference and
9 offered opinions about its teachings; correct?

10 A. To some extent, yes.

11 Q. Can I have you turn to Figures 4A through 4E,
12 which are all on the same page in Exhibit 1004.

13 A. Yes, sir.

14 Q. Are you familiar with this set of screens
15 that petitioner relied on in this proceeding?

16 A. I think I do, yeah, I have seen this when I
17 studied this.

18 Q. Can you walk me through, at a high level,
19 what we're seeing here in Figures 4A through 4E.

20 A. Yeah, I think that a user trying to move from
21 one page to another page, depending on the item that
22 they select, using arrow keys or sometimes using
23 keypad numbers.

24 Q. It looks like 4A is a welcome screen. Is
25 that where a user starts out on the Rossmann system?

1 **A. Where you start at this system, I don't know**
2 **exactly. Like, when they turn on the device, this**
3 **page just showed up, or if they have to run something,**
4 **I don't know. But seemed like, from this sequence,**
5 **Figure 4A is, like -- is, like, the start of this**
6 **sequence. Whether it was the main way to start-up,**
7 **like go to start, I don't know.**

8 Q. 4B and 4C appear to depict the same display,
9 but they have a -- a caret or an arrow 310 located in
10 a different position. Do you see that?

11 **A. I do, sir.**

12 Q. What is the significance of that arrow 310 in
13 Rossmann's system?

14 **A. I don't know what is the significance in the**
15 **arrow key, this arrow key.**

16 Q. Do you know what that designates in Rossmann,
17 the arrow 310?

18 **A. No, I did not offer an opinion on that arrow**
19 **key, no.**

20 Q. Do you know how a user -- well, let me ask a
21 different question.

22 In Figure 4B, we see four numbered lines of
23 text.

24 **A. Yes.**

25 Q. Line 1 is ABC Corp. Sales. Line 2 is XYZ

1 Information. Line 3 is Financial Information. And
2 line 4 is Personal Website.

3 Are each one of those selectable by a user in
4 Rossmann?

5 A. I assume so. I mean, it's already been
6 selected, because all the Rossmann teaching, you
7 just -- you have to download everything and then you
8 cache it. So they must have a place downloaded at
9 once at least. They must have gone through this once.

10 Q. And I'm -- my questions are more basic than
11 that. I'm asking from a user's perspective as they're
12 seeing a Figure 4B on their device's display.

13 A. Yeah.

14 Q. Are these four items each selectable by the
15 user, or can the user select one of those four items?

16 A. I think user face -- yeah, user can either
17 use arrow key or user use number, and then select
18 them, yeah.

19 Q. And then once a user selects one of those
20 four options, a new screen is displayed; correct?

21 A. Correct. If he's not visited the website yet
22 or the new thing is connected to the website, so the
23 call is not fully loaded, they have to connect to
24 Internet. If they already visited Internet, yeah,
25 create a new page.

1 Q. Okay. Is Figure 4D an example of a new page
2 that might be one layer below that first page we've
3 been discussing?

4 A. I don't -- I don't exactly recall what 4D is
5 a result, but it could be -- there could be different
6 layers. I don't exactly recall, I mean, what number
7 the user pressed that moved from Figure 4B -- or 4C to
8 get to 4D.

9 Q. In 4D, does this also depict four separate
10 selectable lines of text?

11 A. Yeah, work news, local news, financial news
12 and news brief.

13 Q. And then 4E, the same question, does that
14 also teach four separate selectable lines of text?

15 A. It shows four selectable line of text.

16 Q. Shows, right. I used the word "teach." Good
17 clarification.

18 What does arrow 312 indicate in Rossmann
19 system, do you know?

20 A. It might be one -- I don't know, but it could
21 be, like, moving back to previous page. I don't know
22 exactly. I don't recall.

23 Q. So in each of these displays, 4B, 4C, 4D and
24 4E, we have a portion of the display that is
25 designated to contain selected selectable lines of

1 text; correct?

2 A. We have the screen, and every screen has
3 lineup item that user can -- can go up and down and
4 select whatever -- I mean, the item they like.

5 Q. And that area that contains the selectable
6 items is contained within a rectangle; correct?

7 A. You mean figure -- each one of these Figure
8 4s, yeah, they have -- I don't know if this is exactly
9 the device, but this is the mock-ups or this design
10 showing rectangle.

11 Q. Okay. On the bottom --

12 A. Like a -- I wrote a note here, 33310, these,
13 like, not exactly rectangle, but it's rectangular
14 shape, but yeah.

15 Q. The bottom left of each of these displays has
16 a rectangle with the word "okay" in it. Do you see
17 that?

18 A. Yes, I see what seems like a button that you
19 can press, yeah.

20 Q. And the bottom right in most of these
21 examples has the word "back" in it and some examples
22 has nothing in it. Do you see that?

23 A. Yes.

24 Q. So we have graphical delineations of
25 different areas on this display in Rossmann's system;

1 correct?

2 **A. When you say graphical, is because of the**
3 **rectangle or...**

4 Q. Yeah, so we have graphical rectangles that
5 delineate different portions of Rossmann's display;
6 correct?

7 MR. HUDNELL: Objection. Form.

8 **A. I don't -- I don't see any graphical. This**
9 **is different than the graphical rectangle around**
10 **e-mail, but this is not graphical to --**

11 Q. (By Mr. Hart) In what way are these
12 rectangles different from the rectangles around e-mail
13 in the example we talked about in paragraph 85 of
14 Dr. Bederson's declaration?

15 MR. HUDNELL: Objection. Form.

16 **A. Because -- because that -- for example,**
17 **around e-mail, the whole -- the whole -- the whole**
18 **rectangle was selected, and that was -- that was**
19 **designed to separate. Here are texts being selected.**
20 **That's my understanding. Here, the text is being**
21 **selected. For example, the "back" being selected.**
22 **That was -- on the e-mail, the whole e-mail was**
23 **separated, and the whole e-mail with the rectangle was**
24 **selected.**

25 Q. (By Mr. Hart) If we focus on the "okay"

1 rectangle and the "back" rectangle, is that not the
2 same as the "e-mail" rectangle?

3 MR. HUDNELL: Objection. Form.

4 Q. (By Mr. Hart) Each of these has a single
5 actionable item within a graphical rectangle; correct?

6 MR. HUDNELL: Objection. Form.

7 A. That question -- I get your question. That's
8 a very good question, but, like, this implementation
9 is not -- is not teaching me that "okay" is
10 surrounded -- designed to surrounded by -- by a
11 rectangle. This is just area separated that this is
12 "okay" area and this is "back" area. To me it doesn't
13 show, and "okay" is -- has a graphical element in it.

14 Q. (By Mr. Hart) Despite the fact that each of
15 those actionable items is surrounded by a rectangle?

16 A. Not every. For example, like, the item 1, 2,
17 3, 4 is just surrounded by the screen. That's a
18 screen size. That's not a design or a rectangle.
19 That doesn't have any graphical. That's a screen that
20 we see. Those rectangle are the size of the screen.
21 Those are bare line of -- bare line of text.

22 Q. If those items 1, 2, 3 and 4 were
23 individually surrounded by their own rectangles, would
24 they be icons?

25 MR. HUDNELL: Objection. Form.

1 **A. I don't know. I have to look at it. That's**
2 **a very hypothetical question. But to me, it doesn't**
3 **have any graphical elements. If they have a graphical**
4 **element, that would be a different thing, which I have**
5 **to study it.**

6 Q. (By Mr. Hart) I'm asking, if they were
7 surrounded by their own rectangles such that there
8 were four rectangles in that section, one for each of
9 the selectable text items, would those be four icons?

10 MR. HUDNELL: Objection. Form.

11 **A. I don't know.**

12 Q. (By Mr. Hart) Why don't you know?

13 **A. Because that's a very hypothetical question.**

14 Q. You're an expert. I'm posing a hypothetical
15 question to an expert engaged in this proceeding. If
16 they were surrounded by their own rectangles, what
17 might be missing from that hypothetical scenario that
18 would make them not icons?

19 MR. HUDNELL: Objection.

20 **A. I'm not saying that I cannot -- again, I have**
21 **to look at the exact design that you are saying, and**
22 **then I can provide opinion. On the fly, I cannot**
23 **provide opinion of them.**

24 Q. (By Mr. Hart) Sitting here today, you cannot
25 tell me whether drawing rectangles around those

1 selectable text items would make them icons?

2 MR. HUDNELL: Objection. Form.

3 A. Sitting here today, I cannot answer any
4 hypothetical question. If a graphical design were
5 added, I can study and confirm that it's icon or not.

6 Q. (By Mr. Hart) What would the -- if you were
7 presented with that hypothetical design that I've
8 described, what would be the first step in your
9 analysis to determine whether or not those are icons?

10 A. To compare it against industry standard and
11 best practices of what is icon or not, which is my
12 years of experience, I have to -- I have to look at
13 the design to say something is icon or not icon, but
14 just by imagining it, I cannot provide an answer to
15 imaginary design.

16 Q. It's a pretty simple design. I'm just
17 proposing that we draw boxes around these texts.

18 MR. HUDNELL: Form.

19 Q. (By Mr. Hart) What would make those boxes
20 qualify as icons?

21 MR. HUDNELL: Objection. Form.

22 A. If I can see it, if you can put it in front
23 of me, I can tell you if it's icon or not based on a
24 graphical design. I cannot just imagine and, based on
25 my imagination, provide an opinion.

1 Q. (By Mr. Hart) Do you have a physical copy of
2 Rossmann there before you today?

3 A. No.

4 Q. If I were to provide you a physical copy of
5 Rossmann, with a pen, would you be able to draw boxes
6 around these lines of selectable text in a way that
7 you would agree makes them icons?

8 MR. HUDNELL: Objection. Form.

9 A. Yeah, but, I mean, this is not the scope of
10 the assignment. Like, I'm not here -- I did not
11 provide opinion if you draw rectangle around
12 something, that make it icon or not. I'm saying that
13 if a text has a graphical element, it can be an icon.

14 Q. (By Mr. Hart) And you agree that a rectangle
15 around text can be an icon?

16 A. A rectangle around a text, if it's a
17 graphical design, can make it an icon if it's a
18 graphical design, not just a rectangle. So a
19 graphical design can make it.

20 Q. And maybe that's where there is a disconnect
21 here. What makes a rectangle a graphical design
22 versus a rectangle surrounding text that is not a
23 graphical design?

24 A. If a rectangle -- you just draw a rectangle
25 and you are able to just select an icon -- like, if

1 you draw a rectangle around just a URL, in a
2 hyperlink, that doesn't make it an icon. It has to be
3 graphical. It has to -- like, a POSITA, when you look
4 at it, has to determine whether there is a graphic in
5 it there is an image shape design in it.

6 Just drawing a rectangle -- like, for
7 example, that e-mail rectangle, that was like a design
8 to separate it. The whole thing is a design. You see
9 the page. You understand that rectangular is a
10 design, but just drawing a rectangle around a text
11 without -- with room for separating, not for graphical
12 purposes, that's different and POSITA would
13 understand.

14 Q. Let's go back to that example of the
15 rectangle surrounding the word "e-mail," which is in
16 paragraph 85 of Dr. Bederson's declaration,
17 Exhibit 1003.

18 A. Okay.

19 Q. What makes that rectangle graphical in nature
20 and distinguishes it from a rectangle that would not
21 be graphical in nature?

22 A. As a POSITA, to me, you see the shades around
23 it, for example. You see the -- like, for example,
24 look at the facts. We see the photocopier. You see
25 all of those shades around it. That's not just a

1 rectangle. Like, on the right and below, there is a
2 shade. So these are design. These are graphical
3 design.

4 Q. So we need shading?

5 A. No, I didn't say shading. I said that it has
6 to have, like, a graphical design. Just putting a
7 rectangle, it could, depending if it was done with a
8 sense of design, but here, I can see it's a graphical
9 design.

10 On Rossmann, it's separation of the -- it's
11 more like a separation for -- only for "okay" and
12 "back." Those other is just a screen. And I don't
13 know even if these are, like, for "okay" and "back,"
14 are they like a screen split or, like, if those line
15 are middle, but here is not a graphical design on
16 Rossmann.

17 Q. How about if we took Rossmann and those
18 selectable texts 1, 2, 3 and 4 and we draw shaded
19 rectangles around them, would those then be icons?

20 MR. HUDNELL: Objection. Form.

21 A. I don't know. This is a very hypothetical
22 question.

23 Q. (By Mr. Hart) It is a hypothetical question.
24 You keep saying that as if you are not obligated to
25 answer a -- you don't have to answer them, but, you

1 know, you are engaged by the patent owner here,
2 offering an opinion about the meaning of icon, and an
3 opinion that Rossmann is not it, and I am within my
4 rights to explore the metes and bounds of your
5 opinions.

6 And my hypothetical question is, if one were
7 to draw shaded rectangles around these four selectable
8 text items in Rossmann's display, would that make them
9 icons?

10 MR. HUDNELL: Objection. Form.

11 A. I have no opinion on that, sir.

12 Q. (By Mr. Hart) What does that mean, you have
13 no opinion on that? You are unable to answer my
14 question sitting here today?

15 MR. HUDNELL: Same objection.

16 A. If your question is if -- if you take
17 Rossmann, take -- and add a rectangle, add shades into
18 it, all different graphical element to it, would it
19 make it icon, I have no answer to that because that
20 would be a different invention. That's not what --
21 that's not what I see from Rossmann Exhibit 1004.
22 That's different design, and I have to study that.
23 Top of my head, I cannot answer that question.

24 Q. (By Mr. Hart) Let's switch gears a bit.

25 THE WITNESS: Is it okay to take like a

1 **five-minute break?**

2 MR. HART: Absolutely. Yeah, let's go
3 off the record for five.

4 (Break taken from 12:41 a.m. to 12:46 p.m.)

5 Q. (By Mr. Hart) Can I have you turn to
6 paragraph 56 in your declaration, Exhibit 2020.

7 **A. 56?**

8 Q. 56, yes.

9 **A. Yes, I'm there.**

10 Q. All right. So 56 starts out, The board found
11 that patent owner's argument that locally stored pages
12 must reside in non-volatile memory (such as hard disk
13 or CD-ROM) was too narrow, and determined that
14 Rossmann's use of RAM to store decks of cards
15 satisfies the locally stored pages requirement for
16 purposes of institution.

17 Do you see that?

18 **A. I do.**

19 Q. And then you go on to explain why, even
20 accepting that, the prior art still falls outside the
21 claims.

22 Do you see that, the rest of that discussion
23 in paragraph 56?

24 **A. Yeah, you are talking about, like, later**
25 **Himmel, yeah. Okay.**

1 Q. Yeah, this is your paragraph. So you say --
2 you conclude that paragraph, Thus, Himmel does not
3 supply the missing claim elements even if its
4 bookmarks could be considered locally stored under the
5 board's interpretation.

6 Are you disputing the board's interpretation
7 that use of RAM satisfies the locally stored pages
8 requirement?

9 A. I don't dispute the board. I respect the
10 board, but board decision is not final. I respect
11 that, but regardless, I still believe that that
12 sentence is correct, because Himmel does not supply
13 the missing claim element.

14 Q. Right. And I'm trying to understand whether
15 you are disputing the board's interpretation that RAM
16 satisfies the locally stored pages requirement in
17 these claims.

18 A. I understand the board decision, and I
19 respect that, but it's not final.

20 Q. Right, but have you offered an opinion
21 pushing back on the board's interpretation? Are you
22 opining here, in Exhibit 2020, that the use of RAM
23 fails to satisfy the locally stored pages requirement
24 of the claims?

25 A. I did not offer any opinion on that regard

1 **with the non-volatile memory on RAM after board**
2 **decision.**

3 Q. Let's turn to paragraph 80 in your
4 declaration, Exhibit 2020.

5 **A. Okay.**

6 Q. So here in 80, you are discussing Rossmann's
7 process of downloading decks of cards --

8 **A. Okay.**

9 Q. -- and storing them in RAM. You conclude
10 this paragraph with the following: The system
11 architecture of Rossmann depends on remote fetching of
12 new decks in response to selections, not the omission
13 of locally determined destination addresses.

14 Do you see that?

15 **A. I do.**

16 Q. Am I understanding you correctly that
17 Rossmann's decks are downloaded from the server in
18 response to a user making a selection?

19 **A. I'm saying that Rossmann decks are not**
20 **available before search starts.**

21 Q. Okay. And does a search start when a user
22 makes a selection, or does a search start at some
23 other point in the process?

24 MR. HUDNELL: Objection. Form.

25 **A. Those decks must be there before user starts**

1 **searching.**

2 Q. (By Mr. Hart) In Rossmann or in the patent?

3 A. **In the patents that -- that those are there**
4 **beforehand.**

5 Q. Okay. And in Rossmann, how does Rossmann's
6 process work? When is that deck downloaded from a
7 server?

8 A. **Leaving Rossmann, once you select something,**
9 **it requests from server, and it clicked it, and it**
10 **stored it and next time it will cache it.**

11 Q. It caches the whole deck?

12 A. **The cache of what it visited. Not the whole**
13 **thing. The cache of what it downloaded and what it**
14 **visited. Everything that is not visited, like, for**
15 **example, it can't download one page. That would be**
16 **cache. It won't download the sequence or follow up,**
17 **like, a level of multiple pages. It caches what it**
18 **visited. That's the definition of caching.**

19 Q. I'm sorry. Just humor me. Are you saying
20 visited, V-I-S-I-T-E-D?

21 A. **It cache what it requested, only what it**
22 **requested.**

23 Q. Okay. Are there some user selections in
24 Rossmann's system that do not require pinging a server
25 and downloading a page?

1 **A. I don't know.**

2 Q. Can I have you pull up Rossmann again -- and
3 that's Exhibit 1004 -- and turn with me to column 8,
4 starting at line 47.

5 **A. Column 8. Okay.**

6 Q. All right. So this portion of Rossmann
7 states, According to one embodiment, the received deck
8 or decks are normally kept in the work memory 148 of
9 the phone 142 in Figure 3. Upon receiving a request
10 from the user, the client module in the mobile device
11 142 first consults the work memory 148 therein to
12 determine if the requested deck is available. If the
13 received request is met by one of the cards in the
14 received deck, the deck or corresponding card in the
15 deck is accessed without requiring any communication
16 with the server device.

17 Do you see that?

18 **A. Yes.**

19 Q. Okay. Do you agree then that there are user
20 selections in Rossmann that are served by an existing
21 deck in memory that do not require communicating with
22 the server?

23 MR. HUDNELL: Objection to form.

24 **A. It's in there, so it must be fetched before.**

25 Q. (By Mr. Hart) Right. What is your

1 understanding of a deck in Rossmann?

2 **A. It is a portion of a page that contains some**
3 **data that user wants. It's not a full page. It's a**
4 **portion of a page.**

5 Q. What is a page in the context of your answer?

6 **A. It's a full HDML page or an HDML page.**

7 Q. Like a single web page corresponding to a
8 unique URL? Is that what you are referring to when
9 you say page?

10 **A. Here, it said that a deck -- Rossmann said --**
11 **I didn't provide any definition on page, but Rossmann**
12 **said a deck is the smallest unit of HDML information**
13 **can be exchanged with the server and device.**

14 Q. Okay. And what is contained within a deck?

15 **A. Data.**

16 Q. Okay. The -- there are references in
17 these -- in Rossmann to cards contained within the
18 decks downloaded by Rossmann's device. What are those
19 cards within a deck?

20 **A. Again, I think they're like a data holder.**
21 **Cards also include data.**

22 Q. Okay. And so you would agree with me that
23 once a deck is downloaded and a user starts making
24 selections in Rossmann's menu, some of those
25 selections may be served by the downloaded deck

1 without further communicating with the server;
2 correct?

3 MR. HUDNELL: Objection. Form.

4 A. So you have to -- you have to request to
5 download the deck, and then the deck will include --
6 I'm sorry. You have to -- you have to request to
7 download a deck, and deck being downloaded include a
8 bunch of cards, and then once all of it has been
9 downloaded -- so to the extent that a new user want to
10 do a search after a download, if they still -- if he's
11 still there, like you see on the cache because
12 something after 24 hours, it can be removed or be
13 replaced.

14 So if it's there, then there is no Internet
15 connection because it's already been pulled from the
16 server. If it's not there, there isn't any request.

17 Q. (By Mr. Hart) So if you have a deck existing
18 in memory that serves selections being made by the
19 user, the user can navigate within that deck without
20 communicating with the server; is that right?

21 A. I don't know what you mean by navigate, but
22 again, if the user previously requested that deck
23 being downloaded, and if it's still within a time
24 frame that cache lives, and when user made a similar
25 request to visit the same page it's already

1 downloaded, yes, doesn't need Internet connection. It
2 just move from one page to -- I mean, reviewing data
3 that would be in those decks, look up without Internet
4 connection.

5 Q. So if you have a first session and you
6 download a deck in that first session and then the
7 user comes back for a second session to search within
8 that same deck, you don't have to download anything
9 from the server again?

10 A. I don't know what you mean by session, but
11 again, user request to get Deck A, Deck A being
12 fetched. If user again want to visit Deck A, if it's
13 already there, then there is no Internet connection.

14 If user want to see Deck B, if it's not
15 there, then they have to make Internet connection.

16 Q. And what you suggested, that within 24 hours
17 a deck may be deleted from memory, what dictates when
18 those decks are deleted from memory? Is there a
19 time-to-live field in these HDML decks?

20 A. That was an example. But when you are
21 talking about RAM and non-volatile memory, and with
22 the concept of cache, like, for example, if you turn
23 on and turn off and turn on, some RAM memory will be
24 removed. RAM are not permanent. And the cache data
25 are not permanent. Depending on the browser,

1 depending on so many things, the cache can be emptied.

2 So it is possible that even after -- it
3 depends on the cache and policy. So if after, like, I
4 don't know, hours, your cache been emptied, so even
5 pages that you visited beforehand -- before is not
6 available, so you have to do the same. Sometimes it's
7 staying longer, but if there is caching is not
8 permanent.

9 Q. Let's go back to paragraph 28 in your
10 declaration.

11 A. I'm there.

12 Q. All right. So here you are talking about
13 claim language, and specifically limitations in
14 Claim 21. You state the following: Claim 21 requires
15 three locally stored pages arranged in a tree
16 structure. The first page must be specifically
17 designed to include a selection icon that locally
18 navigates to a second page.

19 The second page must be specifically designed
20 to include both a direct access icon and a second
21 selection icon. The third page must be specifically
22 designed to include one or more direct access icons.

23 What does it mean to be specifically designed
24 to include a given icon arrangement?

25 MR. HUDNELL: Objection. Form.

1 A. I think the Court construed this statement.
2 I forgot the Court construction, but the Court -- I
3 applied the Court construction. It has to be tailored
4 for a specific design. I think this term has been
5 added through prosecution, but I think the Court has a
6 ruling on this -- the meaning of specifically design.
7 I forgot that.

8 Q. (By Mr. Hart) Well, go ahead and find that
9 to make sure you refresh your recollection.

10 A. I cannot find it. I'm looking at my previous
11 declaration.

12 Q. Well, let me refer you to paragraphs 36 and
13 37 in your current declaration, Exhibit 2020.

14 A. Yes. The Court also confirmed that the
15 phrase "specifically designed to include" is not
16 indefinite and carries a plain and ordinary meaning.
17 Claim construction order -- yeah.

18 Q. So what is the plain and ordinary meaning of
19 "specifically designed to include"?

20 MR. HUDNELL: Objection. Form.

21 A. To me, a specific design mean, like, the page
22 must design to have those -- the dark page designed to
23 have that three specific level and layer, and must
24 include selection page and selection -- or a selection
25 icon and direct access icon in the same way the patent

1 explained.

2 Q. (By Mr. Hart) What does that mean, in the
3 same way the patent explained?

4 A. The same way -- like, the first page, the
5 second page, the third page and each page, the patent
6 explained what should be included in first page, what
7 should be included in the second page and what should
8 be included in the third page. That should be
9 specifically the way that a specific design mean to
10 refer to.

11 Q. If there is a first page that includes a
12 selection icon that takes the user to a second page,
13 how can one determine whether that first page was
14 specifically designed in accordance with the claims?

15 MR. HUDNELL: Objection. Form.

16 A. The claim said that you must author -- from
17 what I understand, it must author in a way that there
18 are -- there is a tree structure in the first page
19 following three layers -- three level. That must be
20 design. That must be a specific design. And then on
21 the first page, you see, for example, as you said,
22 some selecting icon that takes you to the second page,
23 which the second page also following the design,
24 including icons, and the third page like a thematic
25 navigation. That is a specific design meaning.

1 Q. (By Mr. Hart) If I have three pages in my
2 system, first page has a selection icon that takes me
3 to a second page, second page has both direct access
4 icons and a second selection icon, and then a third
5 page has one or more direct access icons, so they have
6 the icons that are recited in the claims, does that
7 system necessarily satisfy the claims, or is there
8 something more required for those pages to be
9 specifically designed as claimed?

10 A. Well, to begin with, first of all, you must
11 be thematic, like there is a theme that you follow,
12 and then icons must meet the definition of icon,
13 graphic. And if it exactly follow the way the pattern
14 explained a specific design, it is what a specific
15 design, yes.

16 Q. What is the theme that you were referencing
17 in your prior answer?

18 A. Like, the pattern explain, like, for example,
19 you will start a sport. Then you go through a sport,
20 everything related to a sport. That's a theme you
21 follow, like a thematic.

22 Q. Do the claims require themes?

23 A. Not the claim, but that's what the pattern is
24 saying -- that the pattern try to explain, but the
25 pattern say that a specific design for this three

1 **layer of flow navigation.**

2 Q. Let's focus on the second page recited in the
3 claims. If I have a second page that includes both a
4 direct access icon and a selection icon, have I -- do
5 I have a page that was specifically designed
6 consistent with the claims?

7 A. I'm not sure you can separate them. You have
8 to have, like, a tree structure. The whole tree
9 structure is saying that first page and then second
10 page, each page must have something -- it has to be
11 exactly like the way -- when you say specifically
12 designed, they say that it should be specifically
13 designed the same way. First page, second page, third
14 page and each page must include all of these elements.

15 Q. So the "specifically designed" language in
16 these claims, according to your interpretation,
17 mandates an underlying tree structure; is that right?

18 A. That's my understanding, that a specific
19 design mean that there should be a tree structure.
20 Like, first page, you can go to second page only by
21 passing from the first page. You cannot just jump to
22 the second page.

23 Q. Can you turn to paragraph 53 with me in your
24 declaration, Exhibit 2020.

25 A. Yes.

1 Q. This is a section discussing Rossmann in the
2 context of Claim 21, and the last sentence in this
3 paragraph 53 states -- referring to Dr. Bederson --
4 However, he does not identify any Rossmann disclosure
5 of a three-page hierarchy in which the first page
6 includes only selection icons, the second includes
7 both selection and direct access icons, and the third
8 includes only direct access icons.

9 Do you see that?

10 **A. I do.**

11 Q. Does Claim 21 require the first page include
12 only selection icons?

13 **A. I will need to pull up the patent.**

14 **It doesn't say that the selection -- that the**
15 **first page can have direct access icon.**

16 Q. Let me ask my question again. Does Claim 21
17 require the first page include only selection icons?

18 **A. You have two type of icon-only selection and**
19 **direct access. Claim 21 did not say that the first**
20 **page can have direct access icon.**

21 Q. Does it say that the first page cannot have
22 direct access icons?

23 **A. My understanding is the first page can only**
24 **have -- this claim -- this -- only Claim 21, my**
25 **understanding, the first page can only have selection**

1 **page -- selection page icon.**

2 Q. And what language in the claim leads you to
3 conclude that the first page can only have selection
4 icons?

5 A. Said that -- wherein the first page said
6 locally stored pages is specifically designed to
7 include at least one selection icon capable of being
8 selectively activate to display second one of said
9 locally, but the rest.

10 But other pages, when there is a need for
11 direct access icon, the claim says direct access icon.
12 In one, it said that at least one selection icon. It
13 could be two selection icon, three selection icon. It
14 didn't say could also have direct access icon.

15 Q. I don't think I'm following your reasoning
16 here. What language in Claim 21 mandates that the
17 first page includes only selection icons and not
18 direct access icons?

19 A. The -- Claim 21 did not say the first page
20 can have direct access only. It said that the page
21 should have at least one selection -- one selection
22 icon. Right?

23 So it could have two selection icon. It
24 could have three selection icon, but regardless, the
25 first page, you must have at least one selection icon,

1 right, but on the other hand, the claim continues, for
2 example, saying in -- that, for example, the later
3 page said that design to include at least one icon for
4 directly access, for example, search engine. In that
5 area, direct access icon is explicitly mentioned.

6 So to me, when they set that up, include at
7 least one selection icon, it means that included, but
8 not limited to one selection icon. It could be two
9 selection icon. The claim did not say could have
10 direct access icon.

11 Q. Is it the use of this "specifically designed
12 to include" language that creates a closed-ended
13 interpretation of these limitations?

14 A. What do you mean by close-ended
15 interpretation?

16 Q. Well, the claim -- the claim describes a
17 first page that includes selection icons.

18 You are interpreting that to mean that the
19 first page excludes direct access icons; correct?

20 A. The claim says at least one selection icon --
21 that's the claim said -- and the claim did not say the
22 first page can have or can have -- can have direct
23 access icon. The claim said that later page can have
24 direct access icon.

25 So the claim to me, purposely -- the design,

1 the specific design, purposely omits and exclude that
2 the first page can have direct access icon.

3 Q. And you reach that conclusion because that
4 first page must be specifically designed to include
5 the selection icons. You read that language to
6 suggest that it cannot include other types of icons.
7 Am I right about that?

8 A. Again, the specifically design said that one
9 selection icon. And to me, one selection icon means
10 that only selection icon, like a -- at least one
11 selection icon. It's not -- it's not other select --
12 it's not other type of icon at the first page that are
13 specifically designed -- that's what I understand.

14 Q. Okay. If the language "specifically designed
15 to include" did not exist in Claim 21, would your
16 interpretation change?

17 In other words, if that first limitation in
18 Claim 21 said, Wherein a first one of said locally
19 stored pages includes at least one selection icon,
20 would that limitation be interpreted such that the
21 first page cannot include direct access icons?

22 A. So that's a very good question. I -- I don't
23 know, but -- yeah, I don't know.

24 Q. So the language "specifically designed to
25 include" may be important to your conclusion that the

1 first page excludes direct access icons?

2 **A. That's -- to me, that "specifically designed"**
3 **is important. Also the fact that, regardless of that,**
4 **the claim didn't say the first page can have a direct**
5 **access icon. That also important.**

6 Q. Let's go to paragraph 57 in your declaration,
7 Exhibit 2020. Starting here and going through
8 paragraph 59, you are discussing Himmel's search
9 functionality and whether or not that satisfies an
10 icon for directly accessing a search engine on the
11 web.

12 **A. I'm at Section 724, modification to combine**
13 **Rossmann and Himmel, paragraph 57. I'm there.**

14 Q. All right. What is the Himmel search
15 functionality that you were analyzing in this portion
16 of your declaration? How does it work?

17 **A. It can -- it's a search function that you can**
18 **search within a page or within a website.**

19 Q. And I think the example is sears.com in
20 Himmel?

21 **A. Yes.**

22 Q. Does that search functionality allow you to
23 search just the main top-level URL sears.com, or is it
24 something that allows you to go into the domain
25 sears.com and search for subpages?

1 **A. I think you definitely can search the main**
2 **page, like what we do, like, a control F to find.**
3 **That definitely can do. I don't recall if you can**
4 **search within the same website. Even if you can**
5 **search within a website, it's not a search engine.**
6 **It's like a search functionality happened in a**
7 **website, not through different websites.**

8 Q. Okay. So this is a search bar or a search
9 icon on sears.com that allows you to search,
10 potentially, just on the main page, potentially
11 subpages, but does not allow you to search outside of
12 the sears.com domain; is that correct?

13 **A. That's my understanding.**

14 Q. Okay. And you conclude --

15 **A. It's like Amazon, that you can search on**
16 **Amazon. You just can search within a website, right,**
17 **or you can search control F, but from Amazon search**
18 **bar, you cannot, for example, search Google, and it's**
19 **not a search engine.**

20 Q. So in this sort of paragraph 57, you
21 acknowledge that the board agreed with petitioner that
22 Himmel's -- that Himmel teaches an icon for accessing
23 a search engine on the web, but you disagree with that
24 conclusion; correct?

25 **A. Again, like the RAM situation, I understand**

1 **board decision. I respect board decision. But I**
2 **believe that that's not final, and I stand by my**
3 **declaration.**

4 Q. But unlike the RAM situation, you are
5 presenting an opinion in Exhibit 2020 that Himmel's
6 search functionality is not a search engine on the
7 web; correct?

8 A. I believe that the search bar in Himmel is
9 not a search engine. The patent said -- provide an
10 example of search engine, for example, Yahoo. I
11 believe that Himmel is not a search engine -- search
12 functionality in Himmel is not a search engine.

13 Q. Okay. In paragraph 58, about halfway through
14 that paragraph, you state, The board's conclusion that
15 Himmel's internal search function satisfies this
16 limitation effectively reads the phrase "on the web"
17 out of the claim. Nothing in Himmel suggests that the
18 search functionality it discloses permits global or
19 cross-site searching, nor does Dr. Bederson identify
20 any such feature in his declaration.

21 Do you see that?

22 A. **Paragraph 58?**

23 Q. Yes.

24 A. **The board conclusion that Himmel's internal**
25 **search function satisfied this limitation effectively**

1 reads the phrase "on the web" out of the claim.

2 Yeah, I see that sentence.

3 Q. Okay. So Himmel's search function allows
4 searching within an individual domain; correct?

5 A. At most, yes. You can search within a
6 website.

7 Q. Does that website exist on the web? Is
8 sears.com maintained at a web server?

9 A. sears.com -- I think right now sears.com is
10 on the web, but the point is even if you have, like,
11 intranet, which is not on the web, like a local web,
12 which is private network, which is not connected to
13 Internet, that function doesn't -- that function might
14 work, but that doesn't connect to Internet. That
15 function is you can search to a web -- a website or
16 web page that is local, but it doesn't connect because
17 it's private behind and everything, but it doesn't
18 connect to web. You cannot conduct a search with
19 multiple websites.

20 Q. And the key here is that to be a search
21 engine on the web, according to you, you must have the
22 capacity to search across different domains; is that
23 right?

24 A. Yeah, I mean, I think the patent explains,
25 like, Alta Vista.

1 Q. Does the '058 patent distinguish different
2 types of search functions?

3 A. I don't -- I don't recall, like, the way the
4 icon did, but I think its search engine, it's -- to
5 me, search engine, as a POSITA, is like a search
6 engine like you Google.

7 I don't know if they -- I don't remember if
8 they distinguish between search function within a
9 website or general search engine. I don't recall.

10 Q. Okay. So it does provide examples of search
11 engines that search across multiple domains; correct?

12 A. Yeah, like Yahoo.

13 Q. But you don't know whether it also discusses
14 search engines that are limited to a single domain?

15 A. I don't believe that the patent is meant to
16 have that because the patent said search engine, and
17 then the claim also said that search engine, so you
18 must be the same.

19 The search engine in the patent description
20 in the specification is like Yahoo, like seems like
21 access to multiple website by a search keyboard. So
22 that's my understanding, that the pattern meant search
23 engine, not search functionality within a website.

24 MR. HART: I'm almost done here. Why
25 don't we take a quick five, and I'll wrap up when we

1 get back on.

2 (Break taken from 1:26 p.m. to 1:31 p.m.)

3 MR. HART: Okay. I have no further
4 questions. Thank you very much for your time today.

5 **THE WITNESS: Thank you so much.**

6 MR. HUDNELL: Well, actually, I want to
7 now take five minutes to see if I have any questions.

8 MR. HART: Sounds good.

9 **THE WITNESS: Thanks.**

10 (Break taken from 1:31 a.m. to 1:35 p.m.)

11 MR. HUDNELL: Hi, Kelly. I have no
12 questions. I just want to request read and sign for
13 the witness for the transcript.

14 THE REPORTER: Okay. Do you want a
15 transcript?

16 MR. HUDNELL: Say that again.

17 THE REPORTER: Would you like a copy?

18 MR. HUDNELL: Oh, yeah, we'd like a
19 rough and a standard delivery copy of the transcript,
20 but also a read-and-sign version for the witness.

21 THE REPORTER: Okay.

22 (Deposition concluded at 1:36 p.m.)

23

24

25

SIGNATURE PAGE

I, MAHDI ESLAMIMEHR, Ph.D., a deponent
exercising my right to read and sign my deposition
taken on July 6, 2026, place my signature hereon and
make the following changes on this ____ day of
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(IF THERE ARE NO CHANGES, WRITE "NONE.")

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SIGNATURE LINE - WITNESS

C E R T I F I C A T E

I, KELLY R. REXROAT, a Certified Shorthand Reporter within and for the State of Kansas, hereby certify that the within-named witness was first duly sworn to testify the truth, and that the deposition by said witness was given in response to the questions propounded, as herein set forth, was first taken in machine shorthand by me and afterwards reduced to writing under my direction and supervision, and is a true and correct record of the testimony given by the witness.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, or relative or employee of such attorneys or counsel, or financially interested in the action.

WITNESS my hand and official seal at Overland Park, Johnson County, Kansas, this 9th day of July, 2026.



KELLY R. REXROAT, RPR, CSR, CCR

Certified Shorthand Reporter No. 1479

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