

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

Inter Partes Review Case No. IPR2025-00857
U.S. Patent No. 10,943,058 B2

PATENT OWNER'S EXHIBIT 2021

Deposition Transcript of Dr. Ben Bederson
Taken July 17, 2026

**Confidentiality designation withdrawn by agreement of the parties dated July
29, 2026**

Allani EX2021

Deposition Transcript

Case Number: IPR2025-00857

Date: July 17, 2026

In the matter of:

APPLE INC. v FERID ALLANI

BENJAMIN B. BEDERSON, Ph.D.

HIGHLY CONFIDENTIAL - A.E.O.

**CERTIFIED
COPY**

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UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD
CASE IPR2025-00857

- - -

APPLE INC.,	:	HIGHLY CONFIDENTIAL
	:	ATTORNEYS' EYES
Petitioner,	:	ONLY
	:	
vs.	:	
	:	
FERID ALLANI,	:	Patent Number
	:	10,943,058
Patent Owner.	:	

VIDEOTAPED DEPOSITION OF BENJAMIN B. BEDERSON, Ph.D.

DATE TAKEN: Friday, July 17, 2026
TIME BEGAN: 9:01 a.m. Eastern
TIME ENDED: 12:22 p.m. Eastern
LOCATION: Conducted via videoconference

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20
21
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23
24
25

I N D E X

EXAMINATION

PAGE

By Mr. Hudnell

6

P R I O R E X H I B I T S

EXHIBITS

DESCRIPTION

REFERENCED

Exhibit 6

United States Patent 6,119,155,
Apple Exhibit 1004

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N E W E X H I B I T S

EXHIBITS

DESCRIPTION

REFERENCED

Exhibit 10

Notice of Deposition

11

Exhibit 11

Supplemental Declaration of
Benjamin Bederson, Apple
Exhibit 1052

12

Exhibit 12

2/19/26 Deposition Transcript of
Benjamin Bederson

13

Exhibit 13

5/6/25 Judge Albright Order

51

Exhibit 14

'058 Patent Decision

61

(Provided and marked following completion of
the deposition.)

09:01:33 1 THE VIDEOGRAPHER: Good morning. We are on
09:01:34 2 the record at 9:01 a.m. Eastern Time, July 17th,
09:01:39 3 2026 to begin the deposition of Benjamin Boris
09:01:44 4 Bederson in the matter of Ferid Allani versus Apple
09:01:48 5 Incorporated. The venue of this case is United
09:01:49 6 States District Court for the Western District of
09:01:52 7 Texas, Waco Division. The case number is
09:01:56 8 6:24-CV-00304-ADA.

09:02:07 9 This deposition is taking place via Zoom.

09:02:10 10 The legal videographer is Yasimen Haimed,
09:02:12 11 here on behalf of Steno, whose business address is
09:02:15 12 315 West Ninth Street, Suite 807, Los Angeles,
09:02:20 13 California 90015.

09:02:22 14 Would counsel please identify yourselves and
09:02:24 15 state whom you represent.

09:02:28 16 MR. HUDNELL: Lewis Hudnell, Hudnell Law
09:02:29 17 Group, for Patent Owner, Ferid Allani.

09:02:34 18 MR. HORTON: And Hunter Horton with the law
09:02:35 19 firm Erise IP on behalf of Petitioner, Apple Inc.,
09:02:38 20 and the witness.

09:02:40 21 THE VIDEOGRAPHER: Thank you, counsel.

09:02:42 22 Will the court reporter please identify
09:02:43 23 yourself and swear in the witness.

09:02:50 24 THE COURT REPORTER: Yes, ma'am. My name is
09:02:50 25 Cherie Anderson, also here on behalf of Steno, and

09:02:50 1 I have a brief statement to make: The parties and
09:02:53 2 their counsel agree that while I am a licensed
09:02:53 3 notary, the witness may be in a state where I am
09:02:53 4 not licensed. The parties stipulate that this
09:02:53 5 deposition may be taken before me.

09:02:53 6 The attorneys appearing in this deposition
09:02:53 7 further acknowledge that I am not physically
09:02:53 8 present in the deposition room, that I will be
09:02:53 9 reporting on this deposition remotely, and that I
09:02:53 10 will administer the oath to the witness remotely.

09:02:53 11 If any party does have an objection to this
09:02:53 12 manner of reporting or anything stated above,
09:02:53 13 please state so now.

09:02:53 14 Hearing none, we can proceed.

09:02:53 15 Dr. Bederson, please raise your right hand.
09:02:53 16 I will swear you in. Do you swear or affirm to
09:02:53 17 tell the truth, the whole truth, and nothing but
09:02:53 18 the truth, please?

09:03:47 19 THE WITNESS: Yes.

09:03:48 20 THE COURT REPORTER: Thank you.

09:03:48 21 We may proceed.

09:03:48 22 / / /

09:03:48 23 / / /

09:03:48 24 / / /

09:03:48 25 / / /

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09:04:47 25

BENJAMIN B. BEDERSON, Ph.D.,
having been first duly sworn, was examined and
testified as follows:

- - -

EXAMINATION

- - -

BY MR. HUDNELL:

Q Good morning, Dr. Bederson.

A Good morning.

Q As you may recall from our previous
deposition, my name is Lewis Hudnell. I represent
the patent owner, Ferid Allani, in this matter.

Can you just state and spell your name for the
record.

A It is Benjamin B. Bederson, first name spelled
B-E-N-J-A-M-I-N, middle initial B, last name
B-E-D-E-R-S-O-N.

Q Where are you located right now, Dr. Bederson?

A I am located at home in -- at my home in
Windsor, Massachusetts.

Q Is anyone there with you?

A No.

Q Do you have any papers with you?

A I do.

Q What do you have?

09:04:49 1 A I have four clean printed documents. One is
09:04:55 2 titled Supplemental Declaration of Dr. Benjamin B.
09:04:59 3 Bederson for this IPR case number IPR2025-00857. I
09:05:07 4 also have a patent at issue in this matter, U.S.
09:05:13 5 Patent Number 10,943,058. And I have two prior art
09:05:19 6 references, one labeled -- titled -- sorry -- named
09:05:24 7 Rossman -- at least I call it Rossman -- and the
09:05:26 8 other, I call Himmel.

09:05:29 9 Q Any other papers there with you?

09:05:30 10 A No.

09:05:32 11 Q Do you have any other screens open on your
09:05:36 12 computer besides the deposition window?

09:05:40 13 A No.

09:05:54 14 Q Do you understand that you are under oath?

09:05:58 15 A Yes.

09:05:59 16 Q Do you understand that means you're swearing
09:06:01 17 that your answers to my questions are true and
09:06:02 18 correct?

09:06:05 19 A That sounds right.

09:06:07 20 Q If at any time you don't understand a
09:06:09 21 question, will you let me know?

09:06:11 22 A I will do my best to let you know if I don't
09:06:14 23 understand a question.

09:06:16 24 Q And if you give an answer to a question, I'll
09:06:18 25 assume that you understood the question. Is that

09:06:20 1 fair?

09:06:23 2 A As I said, I will do my best to ask any
09:06:26 3 clarifying questions if I don't understand your
09:06:29 4 question.

09:06:32 5 Q But if you give an answer, I'll assume that
09:06:34 6 you understood it. Is that -- is that fair?

09:06:38 7 Even after your clarifications, if you give an
09:06:40 8 answer, I'll assume that you understood it. Is that
09:06:43 9 fair?

09:06:43 10 A I don't have any opinions about what you
09:06:45 11 assume. I can tell you what I will do.

09:06:48 12 Q Okay. Is there anything that would prevent
09:06:58 13 you from giving complete and truthful testimony
09:07:01 14 today?

09:07:01 15 A No.

09:07:02 16 Q What did you do to prepare for your
09:07:03 17 deposition?

09:07:07 18 A I reviewed documents, and I talked with
09:07:10 19 counsel.

09:07:11 20 Q What documents did you review?

09:07:18 21 A It certainly includes the four documents I
09:07:20 22 just mentioned that I've printed out as well as other
09:07:25 23 documents that I cited in my supplemental
09:07:28 24 declaration.

09:07:31 25 Q Anything else?

09:07:34 1 A I can't think of any.

09:07:36 2 Q Did you review your prior transcript?

09:07:43 3 A You mean from my prior deposition?

09:07:47 4 Q Correct. Your -- the transcript of your prior
09:07:49 5 deposition in this matter.

09:07:54 6 A I did review at least parts of it.

09:07:57 7 Q To prepare for your deposition?

09:07:58 8 A Yes.

09:08:00 9 Q What parts did you review?

09:08:12 10 A I don't think I could tell you all of the
09:08:14 11 parts I reviewed. I mean -- sorry. I don't remember
09:08:18 12 all of the parts I reviewed, which is why I couldn't
09:08:20 13 tell you.

09:08:31 14 I do recall reviewing one portion regarding my
09:08:37 15 discussion around bounding boxes.

09:08:40 16 Q Anything else that you recall?

09:08:51 17 A That's all I'm thinking of right now.

09:08:53 18 Q Is that the only time you've reviewed your
09:08:55 19 transcript -- prior transcript?

09:09:00 20 A I don't remember.

09:09:06 21 Q You have no recollection of reviewing it
09:09:08 22 before the time that you reviewed it to prepare for
09:09:11 23 your deposition?

09:09:14 24 A I may have. As I said, I just don't
09:09:18 25 specifically remember right now.

09:09:30 1 Q You said you met with counsel. When did that
09:09:32 2 take place?

09:09:37 3 A Yesterday.

09:09:39 4 Q Who did you meet with?

09:09:42 5 A I met with Hunter Horton and one other
09:09:45 6 counsel. I believe his name is Logan. I don't
09:09:47 7 remember his last name.

09:09:54 8 Q How did you-all meet? Was it by Zoom?

09:09:57 9 A It was virtually.

09:10:04 10 Q How long did you meet for?

09:10:11 11 A Four or five hours, I think.

09:10:20 12 Q Did you review any documents during the
09:10:22 13 meeting?

09:10:25 14 MR. HORTON: I'll caution the witness not to
09:10:26 15 reveal any attorney-client communications we may
09:10:28 16 have had about any documents or any other
09:10:31 17 communications we had during that discussion.

09:10:38 18 A Yes, we did review documents.

09:10:41 19 BY MR. HUDNELL:

09:10:41 20 Q What documents?

09:10:47 21 A I don't know how to answer that question
09:10:48 22 without revealing what I understand are privileged
09:10:52 23 communications with counsel.

09:10:56 24 Q Did anyone else participate in the meeting
09:10:58 25 besides you and the two counsel that you mentioned?

09:11:02 1

A No.

09:11:30 2

Q You mentioned one of the documents that you have with you is the Supplemental Declaration of Dr. Benjamin B. Bederson. Is that right?

09:11:32 3

09:11:35 4

09:11:39 5

A Yes.

09:11:42 6

Q That's your supplemental declaration that you submitted in this matter?

09:11:45 7

09:11:46 8

A Yes.

09:11:50 9

Q Why did you prepare a supplemental declaration?

09:11:51 10

09:11:56 11

A Because I was asked to.

09:12:01 12

Q What's your understanding of why you were asked to prepare a supplemental declaration?

09:12:03 13

09:12:14 14

A As I explain in paragraph 2 of this declaration, I said that I have been asked to address a few additional issues in response to Patent Owner's Response, Paper 20, and to Patent Owner's Expert's Declaration, Exhibit 2020.

09:12:17 15

09:12:20 16

09:12:24 17

09:12:29 18

09:13:47 19

Q Okay. I want to -- I'm going to mark your supplemental declaration as an exhibit, but before I do that, I've marked Exhibit 10, which is the Notice of Deposition of Dr. Benjamin Bederson.

09:13:56 20

09:14:01 21

09:14:06 22

If you look at -- do you have access to the Steno Connect to see the exhibits?

09:14:10 23

09:14:14 24

09:14:16 25

A I do.

09:14:17 1 Q Okay. And do you see Exhibit 10?

09:14:20 2 A I do.

09:14:21 3 Q Okay. Have you seen it before?

09:14:35 4 A I don't recall.

09:14:35 5 Q Okay. I'm going to introduce Exhibit 11,
09:14:45 6 which is the Supplemental Declaration of Dr. Benjamin
09:14:48 7 B. Bederson.

09:14:50 8 Do you have Exhibit 11 there?

09:14:55 9 A I do.

09:14:56 10 Q Okay. And do you recognize it as your
09:15:01 11 supplemental declaration submitted in this matter?

09:15:19 12 A Yes. It does appear to be.

09:15:22 13 Q Okay. Is this the same document you have in
09:15:25 14 front of you?

09:15:27 15 A It appears to be.

09:15:27 16 Q Okay. And you were just reading from -- a few
09:15:31 17 questions ago, you were just reading from paragraph 2
09:15:38 18 of Exhibit 11. Is that right?

09:15:41 19 A Yes. That's right.

09:15:42 20 Q Okay. At the end of that paragraph, it says,
09:15:47 21 "All of my opinions expressed in my original
09:15:49 22 declaration remain the same."

09:15:50 23 Do you see that?

09:15:52 24 A I do.

09:15:53 25 Q And sorry. I left out the parenthetical,

09:15:56 1 "Exhibit 1003." It says, "All of my opinions
09:16:02 2 expressed in my original declaration," in
09:16:05 3 parentheses, "Exhibit 1003," "remain the same."

09:16:09 4 Do you see that?

09:16:09 5 A I do.

09:16:10 6 Q Okay. Did you use your best efforts to
09:16:24 7 include all of the opinions that you had in your
09:16:27 8 original declaration?

09:16:34 9 MR. HORTON: Object to the form.

09:16:41 10 A I don't -- my understanding is that here --
09:16:45 11 I'm here today to talk about my supplemental
09:16:47 12 declaration, not about my original declaration; so I
09:16:51 13 don't really have anything to say about that.

09:16:55 14 BY MR. HUDNELL:

09:16:55 15 Q Do you recall me asking you during your prior
09:16:57 16 deposition if you used your best efforts to include
09:16:59 17 all of your -- the opinions you had in your original
09:17:01 18 declaration?

09:17:04 19 A I do not.

09:17:41 20 Q Are -- so do -- I'm going to mark Exhibit 12.
09:19:09 21 Let me know when you have it on your end.

09:19:32 22 A Okay. I have it.

09:19:33 23 Q Do you recognize Exhibit 12?

09:19:53 24 A I do.

09:19:54 25 Q And how do you recognize it?

09:20:01 1 A I recognize it by my memory.

09:20:22 2 Q If you could go to page -- it's 131 of the
09:20:26 3 PDF, Exhibit 12, if you enter 131 in the window on
09:20:35 4 the upper left-hand corner here.

09:20:37 5 A Okay.

09:20:39 6 Q Okay. And you see sort of in the middle of
09:20:42 7 the page, I ask, "Question: Did you use your best
09:20:46 8 efforts to put all of your opinions that you have
09:20:48 9 regarding the '058 patent in Exhibit 2," which was
09:20:52 10 your previous declaration.

09:20:54 11 And the answer was: "I did."

09:20:56 12 Do you see that?

09:21:22 13 MR. HORTON: Counsel, for the record, I'm not
09:21:24 14 seeing that on that page, either. Maybe it's an
09:21:27 15 error on the page you directed us to, but --

09:21:33 16 MR. HUDNELL: Okay. Let me see if I can fix
09:21:35 17 that.

09:21:46 18 THE COURT REPORTER: Pardon me, but I saw
09:21:48 19 that on the page 131.

09:21:50 20 THE WITNESS: For what it's worth, I see it
09:21:52 21 on page 130.

09:21:55 22 MR. HUDNELL: 130? Okay.

09:22:03 23 THE WITNESS: Oh, I see. I think it is
09:22:08 24 page 131. I use a different PDF reader that labels
09:22:13 25 things slightly differently sometimes.

09:22:15 1 Anyway, I do see it on page 131.

09:22:18 2 MR. HUDNELL: Okay. Okay. Good.

09:22:20 3 BY MR. HUDNELL:

09:22:22 4 Q Is your answer correct there?

09:22:37 5 A I guess I don't have an opinion now about what
09:22:38 6 I said then, but I have no reason to think that it's
09:22:42 7 incorrect.

09:22:54 8 Q The intent of your previous declaration was to
09:22:57 9 include all of the opinions that you planned to offer
09:23:00 10 at that time. Is that right?

09:23:12 11 A I mean, I see here, I did agree to your
09:23:17 12 question about whether I used my best efforts to put
09:23:20 13 all my opinions that I have regarding the '058 patent
09:23:25 14 in that declaration at that time.

09:23:28 15 So, I assume I answered that to the best of my
09:23:32 16 ability at that point.

09:23:39 17 Q Your supplemental declaration offers new
09:23:42 18 opinions. Is that right?

09:23:49 19 A It does offer some new opinions for specific
09:23:52 20 reasons, but as I said, the opinions expressed in my
09:23:57 21 original declaration remain the same; and my -- I
09:24:01 22 think I can say that my invalidity theories have not
09:24:07 23 changed, but I have provided additional opinions.

09:24:09 24 Q Are there any opinions in your supplemental
09:24:11 25 declaration that you couldn't have included in your

09:24:13 1 original declaration?

09:24:17 2 MR. HORTON: Object to the form.

09:24:23 3 A I would have to look at the specific timing of
09:24:25 4 documents that I considered and responded to, but I
09:24:30 5 believe there are some documents that I responded to
09:24:33 6 that were not available at the time I wrote my
09:24:36 7 original declaration.

09:24:39 8 BY MR. HUDNELL:

09:24:40 9 Q There are several documents in your -- cited
09:24:42 10 in your supplemental declaration that were available
09:24:44 11 at the time you wrote your original declaration.
09:24:46 12 Right?

09:24:50 13 A Yeah. I think that's right.

09:24:52 14 Q The file history of the '058 patent was
09:24:55 15 available?

09:25:09 16 A Well, yes. And as I explained in my
09:25:11 17 supplemental declaration, I provided additional
09:25:17 18 analysis of the file history in response to the -- a
09:25:27 19 patent owner response which was not available at the
09:25:29 20 time I wrote my initial declaration.

09:25:47 21 Q But there was nothing preventing you from
09:25:48 22 analyzing the file history of the '058 patent in
09:25:52 23 connection with your original declaration. Right?

09:26:12 24 A That's probably right.

09:26:50 25 Q In your -- during your previous deposition, I

09:27:05 1 had asked you -- actually, let's actually take a look
09:27:15 2 at that in Exhibit 12. Just give me one second to
09:27:20 3 get you the right page.

09:27:43 4 So if you go in Exhibit 12 to page 20 --

09:28:14 5 A Okay.

09:28:14 6 Q And do you see my question here: "What would
09:28:17 7 a person of ordinary skill in the art at the time of
09:28:20 8 the filing of the '058 patent understand the plain
09:28:22 9 and ordinary meaning of 'icon' to be?"

09:28:25 10 Do you see that?

09:28:26 11 A I do.

09:28:27 12 Q Okay. And then you say -- your answer -- the
09:28:32 13 first part of your answer says, "So I did not perform
09:28:35 14 an analysis for this declaration of what the plain
09:28:36 15 and ordinary meaning" -- "plain and ordinary meaning
09:28:40 16 is or how a person of ordinary skill in the art would
09:28:44 17 have understood it."

09:28:45 18 Do you see that?

09:28:46 19 A I do.

09:28:48 20 Q Okay. Is there any reason that you couldn't
09:28:51 21 have done that in the context of your original
09:28:53 22 declaration?

09:29:07 23 A Well, I didn't need to because, as I explained
09:29:10 24 in the next sentence, I applied the patent owner's
09:29:13 25 interpretation for my analysis. So I don't have an

09:29:16 1 answer for that question, sitting here today. But I
09:29:23 2 don't think there was anything preventing me from
09:29:25 3 doing that; but as I said, I didn't need to.

09:29:37 4 Q Why didn't you need to?

09:29:49 5 A Because I did an analysis based on how I
09:29:56 6 understood Patent Owner's interpretation of this term
09:30:01 7 to be.

09:30:06 8 Q That analysis was based on Patent Owner's
09:30:10 9 preliminary infringement contentions from the
09:30:14 10 litigation. Is that right?

09:30:16 11 MR. HORTON: Object to the form.

09:30:18 12 A I would have to check my original declaration
09:30:20 13 to see all of the evidence that I considered to
09:30:26 14 understand Patent Owner's interpretation, but I do
09:30:32 15 recall that -- as I explained in my current
09:30:38 16 supplemental declaration, that Patent Owner's
09:30:42 17 infringement contentions did describe some of their
09:30:46 18 understanding of the term.

09:30:48 19 BY MR. HUDNELL:

09:30:49 20 Q Okay. If you go to -- let's go back to
09:30:56 21 Exhibit 11, and I'm looking at paragraph 5 under the
09:31:11 22 heading "Icon."

09:31:13 23 Do you see that?

09:31:19 24 A I do.

09:31:20 25 Q And in paragraph 5, you say, "My opinion of

09:31:22 1 the plain and ordinary meaning of the term 'icon' is
09:31:24 2 not limited to graphical or symbolic icons under the
09:31:28 3 intrinsic record, and" in my view -- I'm sorry --
09:31:31 4 "and in view of my understanding of Patent Owner's
09:31:34 5 infringement allegations."

09:31:35 6 Do you see that?

09:31:36 7 A I do.

09:31:38 8 Q Okay. And when you say the intrinsic record
09:31:46 9 here, what are you referring to?

09:32:01 10 A That's probably a legal description of what
09:32:04 11 all the potential parts of intrinsic record are, but
09:32:08 12 as I explain in this section of my report, I'm
09:32:11 13 referring to the -- at least portions of the
09:32:14 14 intrinsic record, including the complete file
09:32:17 15 history, including the parent '877 file history, the
09:32:22 16 '058 file history, and the specification of the
09:32:30 17 patent itself.

09:32:35 18 Q Is it your understanding that in order to
09:32:40 19 determine the meaning of the term "icon" that the
09:32:43 20 intrinsic record must be considered?

09:32:52 21 A I don't have any opinions about what the law
09:32:54 22 requires; I'm not a lawyer; but my general
09:32:59 23 understanding -- well, I will say that, for this
09:33:07 24 supplementary declaration, what I did was performed
09:33:11 25 an analysis based on what I understand the word

09:33:16 1 "icon" to be under the intrinsic record and my view
09:33:25 2 of Patent Owner's infringement allegations.

09:33:30 3 And as I explained in paragraph 4, I performed
09:33:34 4 this analysis in response to Patent Owner's response
09:33:41 5 where they offered a new understanding of the term
09:33:44 6 "icon."

09:34:10 7 Q So I wasn't asking -- I wasn't asking what --
09:34:13 8 your opinion of what the law is. I was understanding
09:34:16 9 [sic] what your understanding of the law is.

09:34:19 10 Do you have an understanding of what the law
09:34:21 11 requires in terms of consideration of the intrinsic
09:34:27 12 record in determining the meaning of a claim term?

09:34:49 13 A My general understanding is that it can be
09:34:52 14 relevant.

09:34:59 15 Q Do you have an understanding of whether it
09:35:01 16 must be considered?

09:35:09 17 A I don't have a way to offer -- to explain what
09:35:14 18 the relative priorities of different kinds of
09:35:17 19 evidence are or in which way they must be considered.

09:35:25 20 Q Is there anything that prevented you from
09:35:27 21 considering the intrinsic record in formulating an
09:35:37 22 opinion about what "icon" is at the time of your
09:35:39 23 original declaration?

09:36:05 24 A I'm not thinking of anything right now.

09:36:20 25 Q So this opinion that appears here in

09:36:25 1 paragraph 5 of Exhibit 11 was not part of your
09:36:32 2 original declaration. Is that right?

09:36:45 3 A I would have to go review my original
09:36:47 4 declaration to see exactly what I said about the term
09:36:49 5 "icon" to answer that question. But, generally, I
09:36:54 6 will say that this section, as I explained in
09:36:57 7 paragraph 4, is in response to the patent owner's
09:37:02 8 response and their new understanding of the term
09:37:06 9 "icon."

09:37:20 10 Q Well, we just looked at, in Exhibit 12, the
09:37:25 11 testimony where you said that you did not perform an
09:37:28 12 analysis for this declaration of what the plain and
09:37:30 13 ordinary meaning is or how a person of skill in the
09:37:36 14 art would have understood it in reference to my
09:37:38 15 question about the plain and ordinary meaning of the
09:37:40 16 term "icon."

09:37:42 17 So if that's the case, is it -- is it possible
09:37:45 18 that you did have an opinion about the plain and
09:37:50 19 ordinary meaning of "icon" expressed somewhere in
09:37:52 20 your original declaration?

09:38:14 21 A Again, I think my original declaration is what
09:38:19 22 it is. I would be happy to review it if you want to
09:38:23 23 put it in front of me, but I don't have further
09:38:25 24 opinions about it today. I didn't study it or
09:38:27 25 prepare to answer questions for it -- about it.

09:38:30 1 Q You don't know whether your original
09:38:33 2 declaration has an opinion on the plain and ordinary
09:38:35 3 meaning of the term "icon," sitting here right now?

09:38:39 4 A My general understanding is that my original
09:38:41 5 declaration responded to Patent Owner's understanding
09:38:48 6 of the term "icon" as I understood it at the time --
09:38:52 7 as I understood it at the time.

09:39:13 8 Q Looking at paragraph 5 of Exhibit 11, you say
09:39:27 9 that the plain and ordinary meaning of the term
09:39:30 10 "icon" is not limited to graphical and symbolic icons
09:39:37 11 under the intrinsic record and in view of my
09:39:41 12 understanding of Patent Owner's infringement
09:39:44 13 allegations.

09:39:45 14 My question is, what, in your opinion, is the
09:39:50 15 plain and ordinary meaning of the term "icon"?

09:39:55 16 MR. HORTON: Object to the form.

09:40:03 17 A So in my supplemental declaration, I offered
09:40:07 18 an opinion about the term "icon" as it would be
09:40:12 19 understood under the intrinsic record and in view of
09:40:16 20 my understanding of Patent Owner's infringement
09:40:23 21 allegations, but I didn't offer an additional opinion
09:40:25 22 about the customary meaning of the term "icon"
09:40:28 23 outside of that context.

09:40:34 24 BY MR. HUDNELL:

09:40:43 25 Q So, within that context, what is the plain and

09:40:45 1 ordinary meaning of the term "icon," in your opinion?

09:41:09 2 A So, within the context of the intrinsic record
09:41:13 3 and the patent owner's infringement allegations, I
09:41:15 4 think, as I say in paragraph 5, the plain and
09:41:17 5 ordinary meaning of the term "icon" is not limited to
09:41:20 6 graphical or symbolic icons and -- and can include
09:41:27 7 text-only icons.

09:41:36 8 Q Right. So as I read paragraph 5, I read you
09:41:40 9 to be opining that the term "icon" is not limited to
09:41:48 10 graphical and symbolic icons, but it doesn't tell me
09:41:53 11 what the meaning is, and I'm trying to understand
09:41:58 12 what you think the meaning is.

09:42:37 13 A I think I just answered that by explaining
09:42:39 14 that, in my opinion, in my supplemental declaration,
09:42:44 15 under the intrinsic record, and understanding of the
09:42:47 16 patent owner's infringement allegations, the term
09:42:51 17 "icon" also includes text-only icons.

09:43:06 18 Q So if a person of ordinary skill in the art
09:43:11 19 was defining the plain and ordinary meaning of the
09:43:14 20 term "icon" in the context of the intrinsic record
09:43:16 21 and Patent Owner's infringement allegations, what
09:43:20 22 would they say the meaning is?

09:43:25 23 MR. HORTON: Object to the form.

09:43:27 24 A I don't believe I offered a specific
09:43:29 25 construction, but as I just explained, I think my

09:43:32 1 opinion is quite clear that icons under the intrinsic
09:43:35 2 record and understanding of the patent owner's
09:43:38 3 infringement allegations can include text-only icons.

09:43:45 4 I was just checking; I'm not sure where I said
09:43:48 5 this, but I think it is also fair to say that an
09:43:51 6 icon, as it's used in the '058 patent, would be
09:43:57 7 selectable to -- and can -- and could perform an
09:44:01 8 action.

09:44:14 9 BY MR. HUDNELL:

09:44:20 10 Q So just to confirm, you don't have a specific
09:44:22 11 construction of the plain and ordinary meaning of the
09:44:25 12 term "icon." Is that correct?

09:44:29 13 A That's right. I did not offer a construction,
09:44:31 14 but I think my opinion about the term "icon" under
09:44:36 15 the intrinsic record and my understanding of the
09:44:39 16 patent owner's infringement allegations are quite
09:44:42 17 clear about its requirements, as I just explained and
09:44:48 18 throughout this section of my report.

09:45:42 19 Q In this section of your report and
09:45:48 20 specifically paragraphs -- well, let me say it like
09:46:14 21 this: In this section of the report, you point to
09:46:23 22 various statements by the patent examiner of the '858
09:46:31 23 [sic] and '877 patents. Is that -- is that right?

09:46:40 24 A I do point to statements of the examiner and
09:46:42 25 the file history of the '058 and '877 patents. I

09:46:47 1 think -- I may have -- you may have misspoke or I may
09:46:50 2 have misheard the number you said.

09:46:52 3 Q Did I say the wrong number?

09:47:00 4 Okay. And those -- and there's several
09:47:16 5 instances where you point to statements by the
09:47:18 6 examiner where the examiner used the term "icon" --
09:47:29 7 or the examiner said that -- equated icons to links.
09:47:39 8 Is that fair?

09:47:49 9 A I think I would say that I pointed to several
09:47:50 10 examples where the examiner described the teachings
09:47:56 11 of prior art that were textual links to teach icons.

09:48:03 12 Q Okay. And those examples are statements by
09:48:24 13 the examiner, not the patent owner. Correct?

09:48:38 14 A Well, in this section of my report, just to be
09:48:40 15 clear, we're talking about paragraphs 6 through 19 --
09:48:45 16 I say "report." I mean my -- when I say "report"
09:48:49 17 today, I'm referring to my supplemental declaration.

09:48:53 18 Q Understood. Yes.

09:48:54 19 A But in paragraphs 6 through 19, I was, just a
09:49:00 20 moment ago, referring to statements by the examiner;
09:49:01 21 but in this section, I also describe statements by
09:49:06 22 the patent owner and specifically how the patent
09:49:09 23 owner does not object or respond to those statements
09:49:16 24 of the examiner.

09:49:32 25 Q Did the patent owner ever state that the

09:49:41 1 teachings in the prior art that were textual links
09:49:45 2 teach icons?

09:49:50 3 A Well, they certainly did in their infringement
09:49:52 4 allegations. As I said, as far as the prosecution
09:49:59 5 history, in my declaration, I explained how the
09:50:04 6 patent owner did not object or respond to the
09:50:06 7 examiner's statements that the prior art teaches --
09:50:15 8 that's -- the prior art's teachings of textual links
09:50:21 9 is -- or disclosure of textual links teaches icons,
09:50:25 10 and the patent owner did not respond or examine [sic]
09:50:27 11 to those concerns or those -- those statements by the
09:50:31 12 examiner.

09:50:33 13 Q Okay. But do you agree that the patent owner
09:50:35 14 never -- but do you agree that the patent owner never
09:50:38 15 specifically stated that the teachings in the prior
09:50:43 16 art of textual links teach icons?

09:50:55 17 A Well, the patent owner responded numerous
09:50:57 18 times in the prosecution history to both anticipation
09:51:03 19 and obviousness rejections that the examiners had
09:51:09 20 created, and the patent owners described their
09:51:12 21 opinions as to why they thought the prior art did not
09:51:18 22 teach those things or they modified their analyses
09:51:25 23 for -- maybe that's not the right word -- mod- --
09:51:31 24 offered different arguments or different amendments
09:51:36 25 to claims.

09:51:37 1 So I think they had plenty of opportunity, and
09:51:39 2 they showed they had multiple opportunities, to
09:51:42 3 respond to the examiner's statements, and as I said,
09:51:45 4 I didn't see them ever responding to these statements
09:51:50 5 that the prior art did teach textual icons.

09:51:58 6 And as I said, I don't think they said
09:52:00 7 anything about it one way or the other.

09:52:11 8 Q So then it's true that there's no examples
09:52:13 9 from the file history where the patent owner
09:52:16 10 specifically states that the teachings in the prior
09:52:19 11 art of textual links teach icons. Correct?

09:52:26 12 A Well, as I just said, the examiner multiple
09:52:30 13 times did state that that was the case, and the
09:52:32 14 patent owner responded to other issues, but they
09:52:35 15 didn't respond to that issue one way or the other.

09:52:38 16 Q I understand that they didn't respond to that
09:52:41 17 issue, but they also did not ever specifically state
09:52:47 18 that the teaching in the prior art of textual links
09:52:50 19 teach icons. Right?

09:52:54 20 A By not responding to that issue, I don't think
09:52:56 21 they addressed that issue at all, including offering
09:52:59 22 an affirmative statement or a negative statement.

09:53:09 23 They just let the record stand that the
09:53:11 24 examiner found that the prior art disclosed textual
09:53:14 25 icons and let that go.

09:53:16 1 Q There's no statement of their agreement with
09:53:17 2 the examiner's finding on that point. Right?

09:53:24 3 A As I said, I think they had plenty of
09:53:26 4 opportunity to respond to that, but I don't recall
09:53:27 5 them specifically responding to that issue one way or
09:53:29 6 the other, offering their own statement, that they
09:53:32 7 either disagreed or agreed with it.

09:53:45 8 Q The patent owner is not required to respond to
09:53:48 9 every single statement by the examiner. Right?

09:53:51 10 MR. HORTON: Object to the form.

09:53:53 11 A I don't know what the legal requirements are,
09:53:56 12 what a patent owner must respond to. My general
09:53:59 13 understanding is that these -- this patent was
09:54:02 14 rejected numerous times; and during the prosecution
09:54:04 15 history, they were attempting to overcome those
09:54:10 16 rejections by trying to get the patent issued.

09:54:13 17 So they certainly had the opportunity to
09:54:15 18 respond to that rejection issue, and they chose not
09:54:18 19 to.

09:54:19 20 BY MR. HUDNELL:

09:54:24 21 Q And the patent owner was able to overcome the
09:54:26 22 rejections from the examiner by making other
09:54:32 23 arguments. Right?

09:54:33 24 Otherwise the patent wouldn't have issued. Is
09:54:35 25 that right?

09:54:37 1 A I think he made other arguments, and I believe
09:54:39 2 they made amendments as well. And, yes, did result
09:54:44 3 in the '058 patent getting issued.

09:56:02 4 Q And so the statements by the examiner in the
09:56:07 5 office actions, finding that the teachings of textual
09:56:13 6 links as teaching icons, that's based on the
09:56:19 7 examiner's interpretation. Right?

09:56:27 8 A I think the examiner's statements are based on
09:56:29 9 the examiner's interpretation. I think that's right.

09:56:39 10 Q It's not the applicant's interpretation?

09:56:44 11 A As I said, I think the applicant had numerous
09:56:51 12 opportunity to respond to that, and they chose not
09:56:53 13 to; but I think that the examiner's statements, as I
09:56:55 14 said, are the examiner's -- represent the examiner's
09:57:00 15 perspective.

09:57:06 16 Q Do you have an understanding of what standard
09:57:11 17 patent examiners apply when examining patent
09:57:17 18 applications for allowance?

09:57:23 19 MR. HORTON: Object to the form.

09:57:25 20 BY MR. HUDNELL:

09:57:25 21 Q And let me clarify: The standard they apply
09:57:28 22 to understanding claim terms.

09:57:34 23 MR. HORTON: Same objection.

09:57:45 24 A I don't recall specifically addressing that in
09:57:48 25 my declaration, and I don't -- don't see that

09:57:53 1 information provided to me by counsel. So, no.
09:57:58 2 Sitting here today, I don't know exactly which
09:58:00 3 standard they used.

09:58:00 4 BY MR. HUDNELL:

09:58:00 5 Q Are you familiar with the terminology
09:58:03 6 "broadest reasonable interpretation"?

09:58:09 7 A I have heard it.

09:58:10 8 Q What's your understanding of what the broadest
09:58:12 9 reasonable interpretation is?

09:58:18 10 A I don't have a legal definition, so I just
09:58:22 11 understand it's the words in that: broadest
09:58:26 12 reasonable interpretation. I don't think I have any
09:58:28 13 other way to explain it.

09:58:32 14 Q Do you know if that's the standard that patent
09:58:35 15 examiners apply to understanding -- to interpreting
09:58:41 16 claim terms?

09:58:45 17 MR. HORTON: Object to the form.

09:58:45 18 A It may be. I'm not sure. And I don't know if
09:58:48 19 that changed over time.

09:58:49 20 BY MR. HUDNELL:

09:58:52 21 Q Do you know what standard is applied in IPRs
09:58:54 22 for the PTAB to determine the meaning of claim terms?

09:59:03 23 A My understanding is that depends on various
09:59:06 24 factors. So there are different standards that I
09:59:10 25 think are applied in different IPRs.

09:59:13 1 Q Different standards applied in different IPRs?

09:59:18 2 A Actually, I guess I'm just not 100 percent
09:59:20 3 sure. Maybe it depends on various states -- or maybe
09:59:25 4 it doesn't. I guess the answer is, I don't know.

09:59:32 5 Q Okay. So then, just to clarify, I guess I was
09:59:34 6 asking, do you understand what standard the Patent
09:59:38 7 Trial and Appeal Board applies now to interpreting
09:59:42 8 claim terms in IPRs?

09:59:49 9 A My understanding is it still may depend on
09:59:54 10 various factors. I think I recall that if a patent
09:59:56 11 is expired, they may use a different standard than in
09:59:59 12 a patent that is not expired, if I'm remembering that
10:00:02 13 correctly.

10:00:03 14 So I think -- I think there are various
10:00:05 15 factors it could depend on. So I don't know that I
10:00:08 16 know 100 percent.

10:00:16 17 Q Are you familiar with a standard called the
10:00:18 18 Philips Standard?

10:00:20 19 A I'm familiar with it at a high level, that
10:00:24 20 there is such a standard.

10:00:25 21 Q What's your understanding of what that
10:00:27 22 standard is?

10:00:32 23 MR. HORTON: Object to the form.

10:00:33 24 A I don't have a description of that standard in
10:00:36 25 front of me, so I don't have a way to characterize

10:00:40 1 it.

10:00:42 2 BY MR. HUDNELL:

10:00:44 3 Q Do you know if the Philips Standard is
10:00:46 4 different than the broadest reasonable interpretation
10:00:49 5 standard?

10:00:51 6 MR. HORTON: Object to the form.

10:00:58 7 A Again, I don't have them in front of me; I
10:00:59 8 don't have the details, but I do understand that -- I
10:01:03 9 believe they are different.

10:01:04 10 BY MR. HUDNELL:

10:01:04 11 Q Do you have an understanding of whether the
10:01:06 12 PTAB apply the different claim interpretation
10:01:11 13 standard in IPRs than patent examiners apply during
10:01:17 14 examination?

10:01:19 15 MR. HORTON: Object to the form.

10:01:24 16 A First of all, it may well depend on various
10:01:26 17 factors for specific matters, and so -- and I don't
10:01:32 18 have an understanding here of what those factors
10:01:36 19 might be and which standards are used under which
10:01:39 20 circumstances.

10:02:14 21 MR. HUDNELL: Why don't we take a break.

10:02:17 22 THE WITNESS: Okay.

10:02:22 23 THE VIDEOGRAPHER: If no objections, we'll go
10:02:23 24 off the record.

10:02:24 25 We are now off the record. The time is

10:02:26 1 10:02 a.m. Eastern Time.

10:02:29 2 (A recess transpired.)

10:13:54 3 THE VIDEOGRAPHER: We are now on the record.

10:13:55 4 The time is 10:13 a.m. Eastern Time.

10:13:59 5 BY MR. HUDNELL:

10:14:01 6 Q Welcome back, Dr. Bederson.

10:14:04 7 If you can look at Exhibit 11, paragraph 6.

10:14:19 8 A Okay.

10:14:20 9 Q Paragraph 6 says, "The file history" -- excuse
10:14:22 10 me -- "of the '058 patent's parent" -- hold on --
10:14:30 11 excuse me.

10:14:31 12 "The file history of the '058 patent's parent,
10:14:34 13 the '877 patent, supports that icons include both
10:14:38 14 textual icons and graphical icons."

10:14:41 15 Do you see that?

10:14:42 16 A I do.

10:14:51 17 Q How do I determine if something is a textual
10:14:53 18 icon?

10:15:04 19 A Well, I didn't offer a construction of textual
10:15:07 20 icon, but I provided numerous pages of analysis
10:15:11 21 showing my opinion and the examiner's opinion and the
10:15:16 22 patent owner's opinion about what are textual icons
10:15:22 23 by -- with examples.

10:15:33 24 Q Did the patent owner, examiner -- or the
10:15:36 25 examiner ever use the term "textual icon"?

10:15:45 1 A I don't recall them using that term, but as I
10:15:49 2 said, they each have given numerous examples of icons
10:15:52 3 that are textual.

10:16:12 4 Q How would a person of ordinary skill in the
10:16:14 5 art determine whether an icon is a textual icon?

10:16:20 6 MR. HORTON: Object to the form.

10:16:31 7 A At a high level, by determining if it met
10:16:34 8 their requirements, and I've explained my opinion
10:16:37 9 about that.

10:16:38 10 And I've explained how the icons that I
10:16:45 11 pointed to -- I've identified and that the examiner
10:16:47 12 has identified and that the patent owner has
10:16:50 13 identified all meet those requirements and,
10:16:54 14 therefore, are textual icons.

10:16:56 15 BY MR. HUDNELL:

10:16:56 16 Q What requirements are you referring to?

10:17:00 17 A I -- we described those earlier, I believe, in
10:17:04 18 discussion regarding paragraph 5, where I explained
10:17:09 19 that an icon can include being text-only, and an icon
10:17:15 20 also needs to be selectable and have the ability to
10:17:19 21 perform an action.

10:17:23 22 And hyper- -- textual hyperlinks, as the
10:17:27 23 examiner and the patent owner have both pointed to,
10:17:31 24 meet all of those requirements.

10:17:42 25 Q So selectable text -- would selectable text

10:17:49 1 qualify as a textual icon?

10:17:54 2 I guess what I'm distinguishing is, not a text
10:17:58 3 hyperlink, but just plain text, if it's selectable,
10:18:02 4 is it a textual icon?

10:18:04 5 A I don't have an opinion about this abstract
10:18:08 6 hypothetical. What I do have an opinion about is the
10:18:13 7 specific examples that I've analyzed, and those
10:18:17 8 include examples from the prior art, examples from
10:18:20 9 the file history that the examiner has identified as
10:18:23 10 icons, and examples that the patent owner themselves
10:18:28 11 have provided.

10:18:30 12 Q All of those examples involve hyperlinks.
10:18:33 13 Correct?

10:18:37 14 A I'm not sure if they all involve hyperlinks,
10:18:39 15 but certainly hyperlinks are many of those examples.

10:18:44 16 Q Is there one that doesn't involve a hyperlink?

10:18:49 17 A I would have to check the -- some of the prior
10:18:52 18 art that I described to see if it ever is described
10:18:55 19 as a hyperlink.

10:18:58 20 But certainly, there's prior art, such as
10:19:05 21 Rossman, that includes user interface elements on a
10:19:09 22 mobile phone that I believe are textual icons.

10:19:17 23 Q I'll get to Rossman in a second, but I just
10:19:19 24 want to know, are there any examples that you found
10:19:24 25 in the file history or from the patent owner that

10:19:31 1 were not hyperlinks?

10:20:00 2 A Well, to the extent you are limiting
10:20:04 3 hyperlinks to Web-based hyperlinks, I see in
10:20:08 4 paragraph 29 of my declaration that in Patent Owner's
10:20:16 5 infringement contentions, they pointed to selection
10:20:22 6 icons in a weather app that appear to be entirely
10:20:26 7 textual.

10:20:27 8 I would have to think about whether those were
10:20:29 9 hyperlinks or not, but they are textual icons.

10:20:37 10 Q There's no graphical element to those?

10:21:01 11 A I don't see one in this figure in paragraph 29
10:21:06 12 on my declaration.

10:21:07 13 Q You're looking at page 14?

10:21:10 14 A Yes.

10:21:11 15 Q You're looking at the image on the right-hand
10:21:14 16 side?

10:21:15 17 A Yes.

10:21:15 18 Q And you're looking at the three arrows that
10:21:18 19 are labeled Selection Icons?

10:21:23 20 A And then two more arrows of direct-access
10:21:24 21 icons.

10:21:26 22 Q Okay. And for the selection icons, there's no
10:21:32 23 graphical element to those -- to what those arrows
10:21:36 24 are pointing to?

10:21:37 25 MR. HORTON: Object to the form.

10:21:42 1 A I can't see any on this image on my
10:21:47 2 black-and-white declaration, but I would also have to
10:21:51 3 look at the direct-access icons to be able give you a
10:21:56 4 clearer description.

10:21:59 5 BY MR. HUDNELL:

10:21:59 6 Q Are you looking at your paper copy or the copy
10:22:02 7 in the exhibit I shared?

10:22:04 8 A I was looking at my paper copy, but I can look
10:22:06 9 at the exhibit share.

10:22:27 10 Okay. I'm looking at the copy in the exhibit
10:22:29 11 share.

10:22:30 12 Q Okay. Let's see. Now I can't -- not coming
10:22:53 13 up for me, but give me a second.

10:23:05 14 So looking at the Exhibit 11 in the exhibit
10:23:09 15 share, do you consider -- do you see the -- the -- do
10:23:15 16 you see the item -- the first selection icon, it has
10:23:20 17 the text My Location? Do you see that?

10:23:36 18 A Sorry. Can you say that again?

10:23:39 19 Q The image on page 14 of Exhibit 11, there's an
10:23:44 20 arrow pointing to -- there's an arrow coming from the
10:23:49 21 description selection icon pointing to an area that
10:23:56 22 says My Location.

10:23:57 23 Do you see that?

10:23:59 24 A I do.

10:24:00 25 Q Okay. And do you see a -- sort of a light-

10:24:05 1 gray shaded area surrounding where it says My
10:24:09 2 Location?

10:24:09 3 A I do.

10:24:11 4 Q Do you consider that a graphical element?

10:24:14 5 A I didn't offer an opinion about that. I
10:24:16 6 offered an opinion about the direct-access icons that
10:24:22 7 I identified on this right image of page 14.

10:24:29 8 So in paragraph 29, I specifically described
10:24:35 9 on the third line that the final infringement
10:24:40 10 contentions accused text link indicated by annotated
10:24:45 11 blue arrows of being direct-access icons.

10:24:48 12 And while I can't read the text in this image
10:24:50 13 that those two blue icons point to, they are text-
10:24:54 14 only.

10:25:02 15 Q I'm sorry. Are you reading on page 14 or 15?

10:25:06 16 A Sorry. I was continuing on to page 15 of
10:25:09 17 paragraph 29 --

10:25:10 18 Q Okay.

10:25:10 19 A -- and lines 2 and 3 and 4.

10:25:19 20 Q Okay. And you described those -- you
10:25:26 21 described those items as text links. Right?

10:25:44 22 A I described them in the narrative as being
10:25:46 23 text links and that they are examples of
10:25:51 24 direct-access icons.

10:26:01 25 Q And you would consider those to be textual

10:26:04 1 icons?

10:26:23 2 A Yes.

10:26:27 3 Q Are they hyperlinks?

10:26:34 4 A They may be. I'm not sure, sitting here
10:26:36 5 today.

10:26:40 6 Q Is there a difference between a text link and
10:26:42 7 a hyperlink?

10:26:48 8 A I don't believe I offered an opinion about
10:26:49 9 that.

10:27:00 10 Q Do you consider text links and hyperlink to be
10:27:02 11 different?

10:27:05 12 A As I said earlier today, I think hyperlinks
10:27:08 13 are often used in the context of Web pages; text
10:27:13 14 links might be a term that is sometimes also used
10:27:20 15 that are not in the context of Web pages.

10:27:23 16 But, again, I didn't offer any opinion
10:27:25 17 specifically saying they are restricted in that way,
10:27:27 18 but there may be some variation in how those terms
10:27:37 19 are used.

10:28:47 20 Q Does an icon have to be selectable -- you say
10:28:53 21 that an icon needs to be selectable. Does it need to
10:28:59 22 be selectable -- what do you mean by that?

10:29:31 23 A Well, the '058 patent claims use the term
10:29:34 24 "icon" as -- in the context of being selection icons
10:29:38 25 or direct-access icons, and in all cases, they are

10:29:42 1 used for accessing information on either other
10:29:48 2 selection pages or, for example, on websites.

10:29:54 3 So when I described that to be an icon, it
10:29:58 4 must be selectable for performing an action, I was
10:30:02 5 informed by those requirements of icon in the claim
10:30:09 6 or claims.

10:30:26 7 Q So is selectability alone sufficient to make a
10:30:39 8 display element an icon?

10:30:48 9 A Well, as I just explained, I think the patent
10:30:53 10 claims the term "icon" so that it can be used to
10:30:59 11 access other pages or websites. And so I was
10:31:08 12 characterizing my understanding of "icon" as to have
10:31:12 13 the requirements that it can be selected to perform
10:31:16 14 an action, such as accessing a selection page or a
10:31:21 15 website.

10:31:36 16 Q Does it matter how the item is selected to
10:31:38 17 determine whether it's an icon or not?

10:31:45 18 A Well, I addressed this in part in my
10:31:48 19 declaration in paragraphs 30 through 35 where I
10:31:54 20 explain quite clearly that icons can be selected --
10:32:04 21 that the claim should not require specific
10:32:09 22 requirement about how they are selected; and so,
10:32:11 23 while that selection could be on a touchscreen, it
10:32:14 24 could also be through other mechanisms, such as the
10:32:21 25 use of keys on a keyboard.

10:32:39 1 For example, in paragraph 35, I explain that
10:32:44 2 using a keyboard numeral or cursor-plus-OK keys would
10:32:56 3 meet the selection requirements of an icon in the
10:33:02 4 '058 patent.

10:33:16 5 Q So you're saying that you don't actually have
10:33:18 6 to select -- so in that, you're saying that you don't
10:33:21 7 actually have to select the text that you're calling
10:33:36 8 an "icon" in order for it to be a textual icon. Is
10:33:40 9 that right?

10:33:45 10 A No. I explain, for example, in paragraph 34,
10:33:47 11 that the relevant claim language requires only that
10:33:51 12 the claimed icons be capable of being selectively
10:33:54 13 activated, and the '058 patent itself describes that
10:34:00 14 selective activation in the context of devices that
10:34:10 15 are not touchscreen, and so that includes, for
10:34:14 16 example, using a cursor input.

10:34:17 17 So, for example, selecting a textual or
10:34:21 18 graphical icon with keys to -- to select it and then
10:34:29 19 activate it. And so that would be selecting an icon
10:34:34 20 even if -- whether it is text or graphics.

10:34:50 21 Q So looking at paragraph 34, you're talking
10:34:52 22 about the interface in Rossman here. Correct?

10:34:59 23 A That's right.

10:35:00 24 Q Okay. And one of the ways that you say you
10:35:13 25 could activate the icon -- or what you're calling an

10:35:18 1 icon in Rossman -- is by pressing the number on
10:35:21 2 the -- the keypad corresponding to the number
10:35:28 3 position of that item in the display list. Right?

10:35:32 4 A That's one way, yes.

10:35:33 5 Q Okay. In that scenario, does the item in the
10:35:36 6 display list get highlighted?

10:35:44 7 A I don't recall, off the top of my head, if
10:35:45 8 Rossman specifically discloses that. I would have to
10:35:48 9 check. But certainly that is a standard way that
10:35:58 10 such numerical selection of items in a list occur,
10:36:02 11 which is the item is visually highlighted and then
10:36:05 12 activated.

10:36:09 13 Q Okay. So let's say the item --

10:36:15 14 A Let me just -- sorry. Sorry. Let me just add
10:36:19 15 a little bit more.

10:36:21 16 Q Sure.

10:36:21 17 A When I was describing selection, I did not
10:36:23 18 describe a requirement about it being visually
10:36:26 19 highlighted. I don't see that anywhere in the
10:36:28 20 claims.

10:36:28 21 The claims only describe the functional
10:36:32 22 requirement of being selectively activated, and so
10:36:37 23 pressing a number to select and activate an icon in
10:36:43 24 Rossman meets that requirement.

10:36:52 25 Furthermore, Rossman does describe moving an

10:36:59 1 arrow to visually indicate items. The only thing I'm
10:37:08 2 not recalling right now -- and I would have to
10:37:10 3 check -- is whether that arrow is moved at the time
10:37:12 4 that a user presses a number to select an element.

10:38:16 5 Furthermore, as I described in paragraph 34,
10:38:19 6 Rossman also describes using the navigation arrows to
10:38:22 7 move the on-screen cursor arrow to highlight that
10:38:25 8 item and then pressing a soft key for OK.

10:38:29 9 So at least in that disclosure of Rossman, it
10:38:31 10 definitely provides a visual indication of the
10:38:34 11 selection before it is --

10:38:39 12 Q Is that --

10:38:39 13 A -- before it is activated.

10:38:41 14 Q Is the visual indication of the selection
10:38:43 15 required for it to be an icon?

10:38:47 16 A I don't see that. As I explained in
10:38:50 17 paragraph 31, the relevant claim language requires
10:38:59 18 only that the claimed icons be, quote, capable of
10:39:02 19 being selectively activated, end quote, and that is a
10:39:06 20 functional requirement.

10:39:26 21 Q So I want to take a look at Rossman. Let me
10:39:30 22 add it to the exhibit share.

10:39:54 23 So let's see. I'm going to show you what we
10:40:10 24 previously marked as Exhibit 6 from your prior
10:40:19 25 deposition. It's U.S. Patent 6,119,155.

10:40:25 1 If you can let me know if you have Exhibit 6
10:40:28 2 on your end.

10:40:30 3 A I do.

10:40:32 4 Q Okay. And do you recognize this as the
10:40:34 5 Rossman reference?

10:40:44 6 A Yes, I do.

10:40:45 7 Q Okay. Turn to Figure -- it's page 5 of the
10:40:54 8 exhibit, but figures -- on that page, it says
10:40:56 9 Figures 4A through 4E of Rossman.

10:41:03 10 A Okay.

10:41:04 11 Q Okay. I'm looking at -- let's start with
10:41:09 12 Figure 4B. And you see the first item in Figure 4B,
10:41:17 13 it says, ABC Corp. Sales?

10:41:20 14 A I see that.

10:41:22 15 Q Okay. So what's the icon on this line?

10:41:55 16 A Well, my full analysis about Rossman and how
10:41:59 17 it teaches all of the claimed elements are in my
10:42:05 18 opening declaration, which, as I've described, I'm
10:42:08 19 not prepared to talk about today.

10:42:13 20 But regarding icons, I see multiple depictions
10:42:18 21 of icons in Figure 4B. So, for example, the line 1,
10:42:26 22 ABC Corp. Sales; as well as line 2, XYZ Information;
10:42:29 23 line 3, Financial Info; and line 4, Personal Website,
10:42:36 24 all are icons as meeting the claim requirements.

10:42:42 25 I recall that Rossman additionally describes

10:43:05 1 some of the visual arrows as being icons; for
10:43:07 2 example, the downward arrow, 312, I believe.

10:43:17 3 Q But just looking at the line that says ABC
10:43:20 4 Sales Corp., is the icon ABC Sales Corp. -- ABC Corp.
10:43:23 5 Sales or something else?

10:43:32 6 MR. HORTON: Object to the form.

10:43:35 7 A So, again, as far meeting the claim
10:43:38 8 requirements, the general -- the full analysis is in
10:43:40 9 my opening declaration, so I would have to refer to
10:43:42 10 that.

10:43:44 11 But what I can tell you is, I was not relying
10:43:47 12 on the -- the triangle with the label 310 as being an
10:43:58 13 icon in Rossman in Figure 4B as far as meeting the
10:44:04 14 claim requirements, to the best of my recollection.

10:44:08 15 BY MR. HUDNELL:

10:44:16 16 Q So is -- ABC Corp. Sales, just by itself, is
10:44:18 17 that an icon?

10:44:25 18 MR. HORTON: Object to the form.

10:44:26 19 A So, again, as I said, my analysis about
10:44:28 20 Rossman and how it specifically meets the claim
10:44:33 21 requirements are in my opening declaration that I'm
10:44:38 22 not prepared to talk about today.

10:44:41 23 BY MR. HUDNELL:

10:44:42 24 Q Well, I guess I'm really trying to understand
10:44:46 25 paragraph 34 of your supplemental declaration. And

10:44:49 1 in item 1 in that paragraph, you say, "By pressing
10:44:53 2 the numeral key on the keypad that corresponds to the
10:44:56 3 numbered position of that item on the displayed
10:45:00 4 list."

10:45:00 5 So if I look at Figure 4B and I have a
10:45:03 6 number 1 by ABC Corp. Sales and I press 1 on my
10:45:10 7 keypad, I am assuming I get whatever -- something is
10:45:18 8 going to happen with respect to ABC Corp. Sales.

10:45:22 9 Do you agree with that?

10:45:23 10 A Yes. I think that's right.

10:45:25 11 Q Okay. So if I'm pressing the number on my
10:45:29 12 keypad, the number 1, what -- what is the icon that I
10:45:34 13 am selecting? Is it ABC Corp. Sales? Is it the
10:45:39 14 1 and ABC Corp. Sales? What is -- what is the icon
10:45:44 15 that I'm selecting?

10:46:08 16 A So they are selecting the menu item that the
10:46:10 17 user selects. I explain that in the last sentence of
10:46:12 18 paragraph 34, where I say, "In both cases, the system
10:46:17 19 identifies which menu item the user intends to
10:46:20 20 select, directs the mobile device to access the
10:46:23 21 associated local card or remote website, and causes
10:46:28 22 navigation to occur."

10:46:30 23 As far as whether the 1 at the beginning of
10:46:35 24 the line is part of the icon, that's part of my
10:46:38 25 opening report/declaration, as I map the -- Rossman

10:46:44 1 to the '058 claim limitations. And I'd have to refer
10:46:49 2 to that declaration in order to tell you exactly how
10:46:52 3 I mapped Rossman to the claims.

10:47:08 4 Q Then I have the same question regarding item 2
10:47:10 5 of 34 -- paragraph 34 of Exhibit 11. You say, "By
10:47:16 6 using the navigation arrow to move the on-screen
10:47:20 7 cursor to highlight the item and then pressing a soft
10:47:25 8 key for OK."

10:47:28 9 So in this scenario, I assume that you're --
10:47:38 10 well, let me ask you, what gets highlighted when I
10:47:41 11 move the cursor? Is it the 1 and ABC Corp. Sales, or
10:47:49 12 is it just AB Corp. Sales? Do you know?

10:47:51 13 A Well, I can see in Figure 4C of Rossman that
10:47:56 14 when the user presses the down arrow, the arrow moves
10:48:00 15 from where it was in Figure 4B to where it is in
10:48:04 16 Figure 4C. So now it is just in front of the text
10:48:09 17 XYZ Information.

10:48:13 18 Q Right. But I don't see any highlighting in
10:48:16 19 Figure 4C. Right?

10:48:18 20 A I don't know what you mean by "highlighting,"
10:48:19 21 but I think that arrow is a visual indication that
10:48:25 22 XYZ Information, that menu item, is selected.

10:48:31 23 Q Well, I'm highlighting; I just mean what --
10:48:34 24 you used the term highlighting in 34, scenario 2. It
10:48:40 25 says, "The navigation arrow to move the on-screen

10:48:42 1 cursor to highlight that item."

10:48:45 2 So I'm wondering, where does the highlight
10:48:48 3 appear?

10:48:49 4 A The highlight appears with the display of that
10:48:53 5 arrow that has -- directly in front of XYZ
10:48:55 6 Information in Figure 4- -- sorry -- in Figure 4C.

10:49:01 7 Q Yeah. Go ahead.

10:49:02 8 A Sorry. The arrow directly in front of XYZ
10:49:05 9 Information in Figure 4C.

10:49:09 10 Q So just XYZ Information gets highlighted?

10:49:15 11 A What I'm describing is that that menu item is
10:49:18 12 highlighted on that horizontal row where the full
10:49:22 13 text of that row is 2, period, XYZ Information, and
10:49:27 14 the arrow is directly in front of the text XYZ
10:49:31 15 Information.

10:49:32 16 Q So that whole row gets highlighted. Is that
10:49:36 17 right?

10:49:37 18 A The arrow is what it is, and it is indicating
10:49:41 19 to the user that that menu item is highlighted.

10:49:46 20 Q I guess when you say "that menu item," are we
10:49:49 21 talking about XYZ Information? Are we talking about
10:49:51 22 2, period, XYZ Information? What consists of the
10:49:57 23 menu item?

10:49:57 24 A So, again, the specific mapping I opined on
10:50:04 25 regarding how Rossman meets the claim requirements

10:50:08 1 are in my opening declaration. I don't have an
10:50:14 2 opinion -- or I don't have -- I'm not prepared to
10:50:18 3 describe that today.

10:50:19 4 But what I can tell you is, as I explained in
10:50:22 5 paragraph 34, that when you use the on-screen cursor
10:50:27 6 arrows, it highlights that menu item on that second
10:50:31 7 row of text.

10:50:39 8 Q What's the menu item?

10:50:46 9 A It is that second row of text.

10:50:48 10 Q The entire row?

10:51:07 11 A Again, to the extent you're asking about how
10:51:10 12 I'm mapping the -- the disclosures of Rossman to the
10:51:16 13 specific claim limitations, I would have to refer
10:51:18 14 back to my opening declaration to answer that
10:51:21 15 question.

10:51:23 16 Sitting here today, I don't have a more
10:51:28 17 detailed answer for you beyond saying that Rossman
10:51:33 18 describes using the arrow keys to move that arrow to
10:51:37 19 visually highlight or select a menu item on the
10:51:42 20 screen.

10:51:43 21 Q Okay. Then, I guess what I want to know is,
10:51:48 22 what's the icon on that row?

10:51:53 23 MR. HORTON: Object to the form.

10:51:59 24 A So, as I said, the mapping of Rossman to the
10:52:03 25 claims are in my opening declaration, but what I can

10:52:08 1 tell you, it is a textual icon, and my opinion in my
10:52:13 2 supplemental declaration is why textual icons meet
10:52:19 3 the requirement of the claimed icon.

10:52:27 4 BY MR. HUDNELL:

10:52:47 5 Q In paragraph 34, you say, "In Rossman's
10:52:49 6 interface, each textual link displayed on a card is
10:52:52 7 associated with a specific selectable item position
10:52:59 8 in the menu." And then it says, "A user activates
10:53:04 9 the icon in one of two ways."

10:53:06 10 So when you say "the icon" here, what are you
10:53:10 11 referring to?

10:53:27 12 A I'm referring to the specific portion of the
10:53:29 13 text that I identified in my opening declaration.

10:54:07 14 Q Based on the requirements for an icon that you
10:54:11 15 listed earlier, is every text link an icon?

10:54:23 16 A I don't have an opinion about all possible
10:54:25 17 text links in the world. My opinion is about the
10:54:29 18 specific things I've analyzed.

10:54:36 19 But, for example, if the text link did not
10:54:45 20 have the ability to activate some function, then it
10:54:49 21 probably wouldn't be. But, again, I would have to
10:54:51 22 check -- analyze the specific disclosure of a text
10:54:55 23 link to be able to answer that question.

10:54:59 24 Q Can you think of -- well, are you aware of
10:55:01 25 any -- are you aware of any specific examples of text

10:55:06 1 links that you would not consider icons applying
10:55:10 2 those three requirements?

10:55:14 3 A No. I did not perform an analysis of was --
10:55:18 4 does not meet the claim requirements; my analysis of
10:55:21 5 invalidity was about whether certain prior art does
10:55:26 6 meet it, and I showed why I think it does, and I
10:55:31 7 explained my analysis as to what the requirements are
10:55:39 8 of various claim terms and how the art meets those
10:55:43 9 requirements.

10:57:45 10 MR. HUDNELL: Why don't we take another
10:57:46 11 break.

10:57:48 12 MR. HORTON: Okay.

10:57:51 13 THE VIDEOGRAPHER: We are now off the record.
10:57:52 14 The time is 10:57 a.m. Eastern Time.

10:57:56 15 (A recess transpired.)

11:10:35 16 THE VIDEOGRAPHER: We are now on the record.
11:10:36 17 The time is 11:10 a.m. Eastern Time.

11:10:41 18 BY MR. HUDNELL:

11:10:42 19 Q Welcome back, Dr. Bederson. I am marking now
11:10:50 20 Exhibit 13. If you can let me know when you have it
11:11:00 21 on your end.

11:11:24 22 A Okay.

11:11:25 23 Q Okay. So Exhibit 13 is the claim construction
11:11:31 24 order from the district court litigation.

11:11:36 25 Do you recognize Exhibit 13?

11:11:53 1 A I don't think so.

11:11:55 2 Q Never seen it before?

11:11:59 3 A I don't recall having seen it.

11:12:03 4 Q If you look at the second page, the left-hand
11:12:12 5 column, it says Claim Term, and the third row says
11:12:18 6 Icon.

11:12:19 7 Do you see that?

11:12:19 8 A I do.

11:12:20 9 Q Okay. And then in the third column, it says,
11:12:24 10 Apple's Construction, and do you see the construction
11:12:30 11 there: a symbol that is a pictorial indication of
11:12:35 12 command?

11:12:36 13 Do you see that?

11:12:36 14 A I do.

11:12:36 15 Q Okay. Do you agree with that construction?

11:12:42 16 MR. HORTON: Object to the form.

11:12:45 17 A I don't have any opinion about that
11:12:48 18 construction. I mean, I can tell you what my opinion
11:12:53 19 is of the term "icon" in my supplemental declaration
11:13:02 20 based on the intrinsic record and in view of Patent
11:13:07 21 Owner's infringement allegations, but I don't have an
11:13:10 22 opinion about Apple's construction in that -- in
11:13:13 23 another matter.

11:13:23 24 BY MR. HUDNELL:

11:13:24 25 Q So I had asked you about this construction in

11:13:25 1 your previous deposition, and I can show you the text
11:13:35 2 if you want to go back to the exhibit; but the
11:13:37 3 question was, "Would a POSITA understand the plain
11:13:42 4 and ordinary meaning of the term 'icon' to be a
11:13:45 5 symbol that is a pictorial indication of a command?"

11:13:48 6 And then you answered -- there was an
11:13:49 7 objection to form, to be fair.

11:13:51 8 And then you answered: "As I said earlier, I
11:13:53 9 did not form my own independent opinion of what the
11:13:57 10 plain and ordinary meaning of the term 'icon' is for
11:13:59 11 this declaration, so I don't have an opinion on
11:14:02 12 that."

11:14:02 13 Then you say, "I applied Allani's proposed
11:14:07 14 construction as they appeared to understand it, based
11:14:09 15 on the reasons that we've discussed earlier."

11:14:15 16 THE COURT REPORTER: Pardon me, Counsel. Can
11:14:16 17 you say what page you are on?

11:14:20 18 MR. HUDNELL: That was on page 92 of -- I
11:14:26 19 believe Exhibit 12 is the -- is Exhibit 12 the
11:14:29 20 transcript?

11:14:30 21 THE COURT REPORTER: Yes, sir. Thank you.

11:14:39 22 BY MR. HUDNELL:

11:14:39 23 Q So my question, sir, is, now that you've had
11:14:42 24 an opportunity to form an independent opinion of what
11:14:49 25 the plain and ordinary meaning of the term "icon" is,

11:14:51 1 or at least what the requirements of an icon are, do
11:14:54 2 you agree with that construction?

11:14:57 3 MR. HORTON: Object to the form.

11:15:00 4 A So, as I just said, my analysis is based on
11:15:04 5 the intrinsic record and my understanding of Patent
11:15:09 6 Owner's infringement allegations, and I explained
11:15:14 7 what my understanding of that -- the requirements are
11:15:18 8 of the term "icon" with -- in that context, and so I
11:15:23 9 just don't have an opinion about this construction
11:15:27 10 you're describing.

11:15:31 11 To the extent that it's different than mine,
11:15:33 12 well, then it's different, but I just don't have an
11:15:35 13 opinion about it.

11:15:36 14 BY MR. HUDNELL:

11:15:36 15 Q You don't have an opinion about whether it's
11:15:38 16 right or wrong?

11:15:38 17 MR. HORTON: Object to the form.

11:15:41 18 A That's right. I have no idea what the context
11:15:42 19 of that litigation is. I have offered my opinion,
11:15:47 20 and I've explained, I think quite clearly, what the
11:15:50 21 context of my opinion is.

11:15:52 22 BY MR. HUDNELL:

11:15:52 23 Q Well, you understand what "claim construction"
11:15:54 24 is in district court litigation. Right?

11:15:59 25 A Generally, yes.

11:16:00 1 Q You've been an expert in district court
11:16:02 2 litigation. Right?

11:16:04 3 A I have.

11:16:05 4 Q And you understand that the parties propose
11:16:07 5 constructions of disputed claim terms in district
11:16:11 6 court litigation. Right?

11:16:13 7 A I think that's right.

11:16:14 8 Q Okay. And that's what Apple was doing in the
11:16:18 9 litigation that's underlying this -- the parallel
11:16:23 10 litigation to this IPR proceeding. Right?

11:16:27 11 A Again, I just don't know, really, anything
11:16:31 12 about this litigation. I mean, I see what's in front
11:16:37 13 of me. It does look like this is -- could well be
11:16:41 14 Apple's proposed construction of the term "icon," and
11:16:44 15 I do see it refers to the '058 patent, but I just
11:16:48 16 can't say much more than that.

11:16:51 17 I don't know what the context was of this
11:16:55 18 construction.

11:17:01 19 Q Well, it's a construction of Apple's proposed
11:17:03 20 construction of the term "icon." Right?

11:17:07 21 A It appears to be.

11:17:08 22 Q Okay. Do you agree with that construction?

11:17:13 23 MR. HORTON: Object to the form.

11:17:14 24 A As I said, I just don't have an opinion about
11:17:16 25 this construction. I've offered my opinion about the

11:17:21 1 requirements of the term "icon" in the context of the
11:17:25 2 '058 patent's intrinsic record and my understanding
11:17:27 3 of Patent Owner's infringement allegations, but I
11:17:30 4 just don't have a comparison of my -- the opinions
11:17:37 5 that I've offered here with this apparent
11:17:41 6 construction from Apple that I'm seeing here on the
11:17:44 7 screen now.

11:17:45 8 BY MR. HUDNELL:

11:17:45 9 Q Well, Apple had access to the intrinsic record
11:17:48 10 for the litigation. Right?

11:17:51 11 MR. HORTON: Object to the form.

11:17:53 12 A I don't know, but I would think they probably
11:17:55 13 would.

11:17:56 14 BY MR. HUDNELL:

11:17:56 15 Q And they had access to Patent Owner's
11:17:58 16 infringement allegations. Right?

11:18:00 17 MR. HORTON: Object to the form. Scope.

11:18:05 18 A I don't know, but presumably. And I imagine
11:18:08 19 they considered a range of things, but I just don't
11:18:12 20 know what they considered and what their thinking
11:18:14 21 was. So I just really don't know anything about this
11:18:17 22 construction.

11:18:18 23 BY MR. HUDNELL:

11:18:18 24 Q I mean, the infringement allegations that
11:18:20 25 you're relying on came from the district court

11:18:22 1 litigation. Right?

11:18:41 2 A Yes. That's right.

11:18:42 3 Q You got those from Apple. Right?

11:18:47 4 A I received those from counsel.

11:18:50 5 Q Apple's counsel. Right?

11:18:55 6 A Yes.

11:18:58 7 Q So Apple had access to the same material you
11:19:00 8 had in formulating their construction. Right?

11:19:04 9 MR. HORTON: Object to the form. Scope.

11:19:06 10 A Again, I just don't know what information
11:19:09 11 Apple had access to or what they considered in this
11:19:16 12 district litigation claim construction proceedings.

11:19:22 13 BY MR. HUDNELL:

11:19:28 14 Q Does Apple's construction exclude textual
11:19:31 15 icons?

11:19:33 16 MR. HORTON: Object to the form. Scope.

11:19:35 17 A I just don't have an opinion about what the
11:19:39 18 meaning of this construction is that Apple has
11:19:42 19 proposed. I mean, I see the words on the screen, but
11:19:45 20 I just have not analyzed it. I don't have an opinion
11:19:48 21 about it.

11:19:48 22 BY MR. HUDNELL:

11:19:49 23 Q Is there anything in the words on the screen
11:19:50 24 that would suggest that Apple was proposing that an
11:19:53 25 icon could be a textual icon?

11:19:55 1 MR. HORTON: Object to the form. Scope.

11:19:59 2 A I just don't know. I haven't analyzed
11:20:01 3 these -- this construction. I don't know that -- how
11:20:05 4 all of the words in this construction are used or
11:20:07 5 where they may have been described or discussed
11:20:10 6 elsewhere. So I just don't know.

11:20:14 7 BY MR. HUDNELL:

11:20:36 8 Q Go back to your supplemental declaration,
11:20:39 9 paragraph 36, under the heading Rossman-Himmel
11:20:48 10 Teaches the Board's Claimed Scope for Beforehand
11:20:51 11 Locally Stored.

11:20:52 12 Do you see that?

11:20:58 13 A Okay.

11:20:58 14 Q Okay. And I had asked you about the board's
11:21:09 15 construction of "beforehand locally stored" in your
11:21:13 16 prior deposition.

11:21:15 17 Do you recall that?

11:21:17 18 A I do not.

11:21:20 19 Q Okay. Let me go back to Exhibit 12 and look
11:22:12 20 at page -- I believe this is going to be 132, I
11:22:27 21 think. Let me just confirm that.

11:22:46 22 I think it technically might be on 133, but
11:22:48 23 let me know where it -- where you find it. The
11:22:54 24 question I asked was, "Was the PTAB's analysis of
11:22:59 25 'beforehand locally stored' consistent or

11:23:02 1 inconsistent with your analysis of that term as used
11:23:06 2 in the '058 patent?"

11:23:11 3 I'm seeing that question near the top of 133,
11:23:14 4 but --

11:23:14 5 A Yes. I see the question. Thank you.

11:23:16 6 Q Okay. Then there's an objection to form, and
11:23:22 7 then your answer was: "I didn't perform that
11:23:24 8 analysis. I didn't perform any analysis of the
11:23:26 9 PTAB's institution decision, so I don't have an
11:23:30 10 opinion, sitting here today."

11:23:32 11 Do you see that?

11:23:32 12 A I do.

11:23:33 13 Q Okay. That testimony was accurate?

11:23:41 14 A I assume it was at the time, to the best of my
11:23:46 15 ability.

11:23:48 16 Q And now, in paragraphs 36 through 40 of your
11:23:54 17 supplemental declaration, you have an analysis of the
11:24:04 18 board's construction. Is that right?

11:24:15 19 A That's right.

11:24:17 20 Q Okay. Is there any reason you couldn't have
11:24:25 21 done this analysis in your original declaration?

11:24:38 22 A I would have to check the timing, but my
11:24:40 23 recollection is that I provided my initial
11:24:45 24 declaration before the institution's decision.

11:25:10 25 Q Have you studied the board's institution

11:25:17 1 decision since the time of your last deposition?

11:25:38 2 A Yes. I referred to the institution's decision
11:25:41 3 in paragraph 3 of this declaration.

11:25:52 4 Q And you're aware that the board agreed with
11:25:58 5 Patent Owner's construction for the term "beforehand
11:26:01 6 locally stored." Correct?

11:26:09 7 A I know, in paragraph 36, I indicated what the
11:26:12 8 board's construction was. I don't specifically
11:26:19 9 remember if this was in agreement with the patent
11:26:22 10 owner.

11:27:22 11 Q Do you recall what the -- do you recall
11:27:33 12 anything about the patent owner's argument for this
11:27:36 13 term?

11:27:43 14 A Sitting here today, I do not.

11:28:34 15 Q Does the "beforehand locally stored" term, to
11:28:40 16 your -- as the board construed it, require that the
11:28:50 17 claimed selection pages be stored before the user
11:29:05 18 does a search?

11:29:15 19 A As I described in paragraph 36, the board's
11:29:19 20 construction of the term "said selection pages being
11:29:24 21 beforehand locally stored" require the selection
11:29:27 22 pages to be locally stored before a user locally
11:29:30 23 performs a preliminary search.

11:29:36 24 Q Do you know if the board construction requires
11:29:37 25 them to be stored before the user does his first

11:29:41 1 search?

11:29:44 2 A Well, the construction is "before a
11:29:47 3 preliminary search."

11:29:49 4 Q How do you determine the point of the
11:29:51 5 preliminary search?

11:29:56 6 A I look at a disclosure and see if that is a
11:29:59 7 preliminary search. I don't -- didn't offer a
11:30:03 8 construction of the term "preliminary search."

11:30:19 9 Q Did the board's construction of "beforehand
11:30:21 10 locally stored" require that the selection pages be
11:30:25 11 stored before the user does any search?

11:30:34 12 A Well, it doesn't say that. What the
11:30:38 13 construction actually says is that it requires the
11:30:40 14 selection pages to be locally stored before a user
11:30:43 15 locally performs a preliminary search.

11:31:18 16 Q Okay. Let's take a look at the board's
11:31:20 17 decision. I'm going to mark it as -- I guess we're
11:31:25 18 up to Exhibit 14.

11:31:34 19 Let's see here. Let me know when you have
11:31:48 20 Exhibit 14 on your end.

11:32:07 21 A Okay.

11:32:08 22 Q Okay. And if you go to page 8, the third
11:32:41 23 paragraph -- beginning of the third paragraph says,
11:32:46 24 "We agree with Patent Owner that the plain meaning of
11:32:49 25 'beforehand locally stored' requires the claimed

11:32:53 1 selection pages to be present on the local device
11:32:55 2 before the user conducts a preliminary search."

11:32:57 3 Do you see that?

11:33:00 4 A I think you may have misread one word. It
11:33:04 5 says, "Before a user conducts a preliminary search."

11:33:06 6 Q Oh, yeah. "A user conducts a preliminary
11:33:10 7 search."

11:33:11 8 Do you see that?

11:33:11 9 A I do.

11:33:19 10 Q And then -- and first -- so do you understand
11:33:24 11 that sentence to mean that the board's agreeing with
11:33:30 12 Patent Owner's construction?

11:33:34 13 A Well, this sentence says that it's -- the
11:33:37 14 board is agreeing with Patent Owner, describes some
11:33:40 15 requirements. It doesn't specifically say they're
11:33:42 16 agreeing with Patent Owner's construction.

11:33:45 17 Q Okay. The next sentence says that "Even if we
11:33:58 18 were to agree with Petitioner that a user could
11:34:02 19 download and store selection pages to the local
11:34:04 20 device, such downloading and storing must occur
11:34:08 21 before the user locally performs a preliminary search
11:34:16 22 in order for the selection pages to be beforehand
11:34:18 23 locally stored within the" meaning -- within --
11:34:21 24 sorry -- "within the scope of Claims 1 and 27."

11:34:24 25 Do you see that?

11:34:26 1 A I do.

11:34:28 2 Q Okay. Do you agree that -- that based on this
11:34:57 3 sentence in the institution decision that the locally
11:35:05 4 stored selection pages cannot be -- that they must be
11:35:15 5 present before the user performs a preliminary
11:35:18 6 search?

11:35:25 7 A To the extent that you've repeated this, then
11:35:28 8 I agree. What it says is that the downloading and
11:35:31 9 storing must occur before the user locally performs a
11:35:34 10 preliminary search.

11:35:42 11 Q So if a user searches for those pages and then
11:35:51 12 downloads them, that wouldn't satisfy the -- the
11:35:59 13 board's definition of "beforehand locally stored."
11:36:02 14 Is that right?

11:36:03 15 A No. That's not what this says.

11:36:06 16 Q Okay.

11:36:06 17 A This says -- this doesn't say what can or
11:36:10 18 cannot happen earlier. What it says is, the
11:36:13 19 downloading and storing must occur before the user
11:36:15 20 locally performs a preliminary search.

11:36:26 21 Q Okay. So if the user performs a preliminary
11:36:29 22 search to download and store selection pages, that
11:36:35 23 wouldn't satisfy the board's construction of
11:36:39 24 "locally" -- "beforehand locally stored." Right?

11:36:46 25 A I would have to look at a specific disclosure

11:36:49 1 to see whether that disclosure meets this
11:36:53 2 requirement. I didn't perform an analysis in the
11:36:57 3 abstract of all possible disclosures that have
11:37:00 4 certain characteristics and whether or not they meet
11:37:02 5 this.

11:37:08 6 Q Let's go to -- let's go back to Exhibit 11,
11:37:17 7 your supplemental declaration.

11:37:32 8 A Okay.

11:37:33 9 Q In paragraph 37, you discuss the cache-case
11:37:37 10 embodiment of Rossman. Correct?

11:37:44 11 A Yes.

11:37:45 12 Q And you say here, "Rossman teaches a
11:37:47 13 cache-case" -- this is in the first sentence of
11:37:51 14 paragraph 37 -- "cache-case embodiment in which HDML
11:37:58 15 decks comprising multiple cards are stored in the
11:38:00 16 work memory/RAM of the mobile device."

11:38:04 17 Do you see that?

11:38:05 18 A I do.

11:38:05 19 THE WITNESS: And just for the court
11:38:07 20 reporter's benefit, for this section of my report,
11:38:10 21 I'm referring to "HDML," where that second letter
11:38:15 22 is D, like dog.

11:38:17 23 MR. HUDNELL: Did I say T or -- I might have
11:38:18 24 said T.

11:38:19 25 THE WITNESS: No. You said it right, but it

11:38:21 1 is hard to hear, so I just want to --

11:38:24 2 MR. HUDNELL: I gotcha.

11:38:25 3 THE WITNESS: -- make that clarifying --

11:38:28 4 MR. HUDNELL: Sure.

11:38:28 5 BY MR. HUDNELL:

11:38:38 6 Q In the Rossman cache-case embodiment, does the
11:38:49 7 user have to perform a search for the HDML decks in
11:38:53 8 order for them to be stored in work memory and RAM of
11:38:57 9 the mobile device?

11:38:59 10 A Well, I think there's different ways that HDML
11:39:04 11 decks in Rossman can be stored. Certainly, one way
11:39:09 12 is for a user to access a deck, which would result in
11:39:20 13 it being stored in a cache, but sometimes -- or I
11:39:29 14 should say Rossman also discloses other ways that
11:39:33 15 decks can be stored.

11:39:34 16 So, for example, in column 13 of Rossman
11:39:40 17 starting at line 60, it says, "If the client device
11:39:44 18 is, for example, a mobile phone (120 in Figure 2)
11:39:50 19 that has a memory cache of sufficient capacity
11:39:56 20 capable of receiving one or more decks, the server
11:39:59 21 device normally sends multiple cards or decks so as
11:40:03 22 to allow the client device to navigate the hyper text
11:40:07 23 cards within the received deck or decks."

11:40:10 24 So this is an express disclosure that even if
11:40:13 25 a user accesses one deck, it might also retrieve

11:40:18 1 additional decks.

11:40:28 2 Q I'm sorry. You said line 60?

11:40:29 3 A Right. I read column 13, line 60 through 66,
11:40:34 4 I believe.

11:40:34 5 Q Okay. That description that you just read
11:40:39 6 requires a user to perform a search. Correct?

11:40:46 7 A Well, that requires a search -- sorry. That
11:40:48 8 requires a user to access one deck, but the system
11:40:52 9 then may, on its own, also receive that deck as well
11:40:57 10 as other decks that the user did not directly
11:41:00 11 specifically request.

11:41:05 12 Q The user wouldn't have got those other decks
11:41:07 13 if it hadn't done a search, right -- if the user
11:41:12 14 hadn't done a search. Right?

11:41:14 15 A Well, the user searched one deck, and it
11:41:17 16 responded by sending multiple decks. It did not --
11:41:20 17 the user did not search for those other decks.

11:41:24 18 Q But the other decks wouldn't have been
11:41:25 19 retrieved if the user hadn't done a search. Right?

11:41:31 20 A Well, as I said, this user did not search for
11:41:34 21 those other decks. It does appear in this
11:41:38 22 disclosure, those other decks are sent as a result of
11:41:48 23 the user searching for the first deck, but, as I
11:41:52 24 said, they did not search for those other decks.

11:41:54 25 Q So if the user had taken no action, those

11:41:57 1 other decks would not have been downloaded to the
11:42:07 2 device?

11:42:14 3 A I think for this scenario, that might be
11:42:17 4 right.

11:42:34 5 Q And in the scenario where the user performs a
11:42:45 6 search -- oops. Hold on.

11:42:51 7 In the scenario where the user performs a
11:42:53 8 search and the system returns one deck, that deck is
11:43:03 9 not returned unless the user had performed that
11:43:05 10 search. Right?

11:43:08 11 A So, to clarify, I don't see this disclosure of
11:43:12 12 Rossman describing this as "search" at all; it
11:43:15 13 describes it as a user accessing a card, which I
11:43:21 14 think, as I've described earlier, is typically by
11:43:25 15 selecting an icon in a menu.

11:43:28 16 So that selection of a menu icon can result in
11:43:39 17 that associated deck being retrieved as well as other
11:43:42 18 decks being retrieved.

11:43:57 19 Q So just going back to paragraph 37 of
11:44:01 20 Exhibit 11, when you say that Rossman teaches a,
11:44:06 21 quote/unquote, "cache-case embodiment in which HDML
11:44:13 22 decks comprising multiple cards are stored in the
11:44:15 23 work memory/RAM of the mobile device," those HDML
11:44:23 24 decks comprising multiple cards are stored after a
11:44:28 25 user has performed some action to select or request

11:44:38 1 those decks. Right?

11:44:54 2 A While, at a high level, I think that's right,
11:44:56 3 I think that misses the point of the way -- of
11:45:01 4 Rossman's disclosure, which is that a user can
11:45:04 5 perform an action. For example, requesting one deck.
11:45:10 6 Rossman can respond by returning and letting the user
11:45:14 7 download and cache that one deck as well as other
11:45:17 8 decks that they did not ask for.

11:45:19 9 So these other decks are now cached without a
11:45:23 10 request for them. And then at that point or some
11:45:26 11 other time, a later time, perhaps a completely
11:45:31 12 different session, completely different interaction,
11:45:34 13 perhaps not even the same day, a user can perform a
11:45:40 14 new action.

11:45:44 15 Rossman would disclose that in the
11:45:46 16 situation -- that that new action on a deck that had
11:45:49 17 not previously been requested is in memory. Because
11:45:51 18 of this cache case, it would then be retrieved
11:45:55 19 locally.

11:45:58 20 Q If the user performs no action, there would be
11:46:06 21 no cache HDML decks in the memory or RAM of the
11:46:11 22 Rossman mobile device. Is that right?

11:46:15 23 A I don't think Rossman ever specifically says
11:46:17 24 that. I think it's possible that Rossman, for
11:46:23 25 example, could ship with some predownloaded HDML

11:46:29 1 decks or maybe some are downloaded as part of -- or
11:46:32 2 not downloaded. Maybe some are just part of the
11:46:34 3 system, and when you use the system for the first
11:46:38 4 time, it automatically includes some HDML decks. It
11:46:42 5 doesn't exclude that possibility.

11:46:43 6 It would certainly be common practice that a
11:46:49 7 proceeder would understand to ship devices with
11:46:52 8 content that's already on that device.

11:46:54 9 Q Is there any disclosure in Rossman of that
11:46:56 10 specific possibility that you just described?

11:47:05 11 A As I said, I think that's consistent with how
11:47:07 12 a person of skill would understand these kinds of
11:47:10 13 devices to work. It certainly does not exclude that
11:47:12 14 possibility. I don't recall it specifically
11:47:14 15 describing that, though.

11:47:35 16 Q And that possibility is not the basis for your
11:47:38 17 opinion that Rossman satisfies the beforehand locally
11:47:45 18 stored limitation. Correct?

11:47:51 19 A Well, in paragraph 38, I leave that
11:47:54 20 possibility open when I explain that in the second
11:47:59 21 sentence, "A deck preserved in work memory (148) is
11:48:03 22 present in that local memory before the user begins a
11:48:06 23 navigation session through its cards. The user's
11:48:11 24 navigation proceeds entirely within the already
11:48:13 25 resident deck without any server communication."

11:48:19 1 And this is following the previous paragraph
11:48:22 2 describing the technology of caching. But
11:48:27 3 paragraph 38 does not specifically limit where the
11:48:31 4 decks are stored in the cache.

11:48:35 5 Paragraph 39 goes on to explain the specific
11:48:38 6 example of downloading a deck and storing it during a
11:48:43 7 session.

11:48:48 8 Q Paragraph 38 is referring to the cache
11:48:50 9 scenario. Correct?

11:48:57 10 A That's right. But it does not specifically
11:49:00 11 describe how items are stored in the cache.

11:49:07 12 Q Well, in paragraph 37, it says, "In the
11:49:14 13 cache" -- "In the, quote, unquote, cache case, upon
11:49:17 14 receiving a request from the user, the client module
11:49:21 15 in the mobile device (142) first consults the work
11:49:24 16 memory (148) therein to determine if the requested
11:49:28 17 deck is available."

11:49:33 18 And then it goes on to say, "If the"
11:49:35 19 request -- "If the received request is met by one of
11:49:39 20 the cards in the received deck, the deck or the
11:49:41 21 corresponding card in the deck is accessed without
11:49:44 22 requiring any communication from the server device."

11:49:50 23 So as I understood paragraph 37, you were
11:49:57 24 talking about a scenario where decks were stored
11:50:06 25 after a request from the user. Is that -- is that

11:50:11 1 not how paragraph 37 should be understood?

11:50:19 2 A Paragraph 37 is describing more generally the
11:50:21 3 concept that, in Rossman, when a user makes a request
11:50:26 4 for an HDML deck, it checks to see if that deck is in
11:50:30 5 cache; and if so, it retrieves the deck from cache
11:50:33 6 without going to a server.

11:50:35 7 And then I go on in the following two
11:50:37 8 paragraphs to explain how the system works using that
11:50:42 9 cache technology. 38 describes generally how it
11:50:47 10 works if a deck is in memory, and then paragraph 39
11:50:51 11 gives a specific example of it being loaded into that
11:50:56 12 cache as a result of a user request.

11:51:28 13 Q Your opinion in these paragraphs is not based
11:51:33 14 on a scenario where Rossman would ship with
11:51:39 15 preloaded -- predownloaded HDML decks. Is that
11:51:46 16 right?

11:51:48 17 A I did not specifically describe that scenario.
11:51:51 18 What I described is that Rossman discloses how --
11:51:56 19 if for any reason an HDML deck is in cache, then as
11:52:01 20 described in paragraph 38 -- well, and 37 -- it would
11:52:06 21 not go to a server to access that deck.

11:52:11 22 And I did not limit the range of ways that a
11:52:14 23 deck might be in memory.

11:52:17 24 And today I gave you an additional example of
11:52:20 25 the device could ship with a deck in memory, and that

11:52:24 1 would be a common practice.

11:52:26 2 Q But you agree that Rossman has no specific
11:52:29 3 disclosure of pre- -- predownloaded HDML decks that
11:52:34 4 ship with the mobile device?

11:52:37 5 A As I said, Rossman gives a number of
11:52:44 6 descriptions of how the -- how it works, and it does
11:52:47 7 not exclude that possibility, but I don't recall it
11:52:51 8 specifically describing that scenario.

11:53:52 9 Q Turn to paragraph 42 of your declaration, and
11:54:05 10 this is under the section related to Directly
11:54:11 11 Accessing a Search Engine on the Web.

11:54:22 12 A Okay.

11:54:23 13 Q Okay. And in paragraph 42, you say, "A POSITA
11:54:30 14 as of December 30, 1999 would have understood the
11:54:33 15 phrase, quote/unquote, 'search engine on the Web,' to
11:54:37 16 encompass search functionality accessible via the Web
11:54:40 17 and operated through a Web interface, including
11:54:44 18 search functionality provided within a specific
11:54:49 19 website."

11:54:50 20 Do you see that?

11:54:51 21 A I do.

11:54:52 22 Q Okay. Are you offering a specific
11:54:59 23 construction -- here, are you offering a specific
11:55:02 24 construction of "search engine on the Web"?

11:55:10 25 A I gave my understanding of some of the

11:55:13 1 requirements of "search engine on the Web," but I
11:55:17 2 didn't offer a specific construction.

11:55:19 3 Q Do you have a specific construction of "search
11:55:22 4 engine on the Web"?

11:55:24 5 A I do not.

11:55:45 6 Q In this paragraph and, I believe, the next
11:55:49 7 paragraph, you consulted some dictionary definitions
11:55:57 8 of "search engine." Is that -- is that accurate?

11:56:07 9 A Yes. That's right.

11:56:08 10 Q Okay. In your search for dictionary
11:56:15 11 definitions, did you find any definitions of "search
11:56:17 12 engine on the Web"?

11:56:28 13 A I don't recall finding that whole term.

11:56:36 14 Q Is a search engine different than a search
11:56:39 15 engine on the Web?

11:56:47 16 A Well, sitting here today, I would think that
11:56:50 17 there are some search engines that might not be on
11:56:54 18 the Web.

11:57:16 19 Q What is the -- what would a POSITA understand
11:57:26 20 that the phrase "on the Web" -- what is that -- what
11:57:34 21 would a POSITA understand that to add to the
11:57:37 22 definition of a search engine?

11:57:53 23 A I explain that in my first sentence of
11:57:55 24 paragraph 42, where I explain that a POSITA as of
11:58:00 25 December 30th, 1999 would have understood the

11:58:03 1 phrase "search engine on the Web" to encompass search
11:58:08 2 functionality accessible via the Web and operated
11:58:12 3 through a Web interface, including search
11:58:15 4 functionality provided within a specific website.

11:58:18 5 And so the Web aspects in that description are
11:58:21 6 what make it a search engine that is on the Web.

11:58:36 7 Q So in my previous question, I asked you if
11:58:39 8 there was -- you said -- I think in the -- in
11:58:43 9 response to one of my previous questions, you said
11:58:46 10 that you are aware of search engines that are not on
11:58:53 11 the Web. Correct?

11:58:59 12 A That's right. And that's consistent with what
11:59:00 13 I said in the next sentence, where I say that a
11:59:02 14 search engine is a system that accepts a user query,
11:59:06 15 processes it, and returns matching functions.

11:59:13 16 Q Okay. And so -- and so it's your opinion that
11:59:24 17 when -- or at least it's your opinion that a POSITA
11:59:27 18 would understand that when you add the phrase "on the
11:59:30 19 Web" to that term that that would encompass
11:59:42 20 functionality that allows you to search across the
11:59:45 21 Web and search a specific website.

11:59:50 22 Is that -- my understanding of your opinion
11:59:55 23 correctly?

11:59:57 24 A I think that's right. You might be able to
11:59:59 25 search potentially across multiple websites, but it

12:00:01 1 would also meet this requirement for you to search a
12:00:04 2 single website.

12:00:51 3 Q In the last sentence of paragraph 42, you say,
12:00:59 4 "These were ubiquitous by 1999 and were understood in
12:01:08 5 the field to be" search -- quote/unquote "'search
12:01:15 6 engines' in a general functional sense."

12:01:20 7 Do you see that?

12:01:21 8 A I do.

12:01:29 9 Q And this is a reference to the
12:01:30 10 website-specific searches that you mentioned in the
12:01:35 11 previous sentence. Correct?

12:01:38 12 A That's right.

12:01:39 13 Q Okay. And you say that they were understood
12:01:49 14 in the field to be search engines, but my question
12:01:53 15 is, were they understood in the field in 1999 to be
12:02:04 16 search engines on the Web?

12:02:09 17 A Yes, they were.

12:02:11 18 Q What's your basis for that statement?

12:02:16 19 A Well, I have explained my understanding of
12:02:20 20 this terminology in 1999 in this paragraph, and I
12:02:25 21 will say, it's consistent with my personal
12:02:28 22 experience. I've probably included a description of
12:02:33 23 the International Children's Digital Library, which
12:02:36 24 is a project and website I've built myself -- or I've
12:02:41 25 led the building of myself. That was in 2001 that it

12:02:44 1 started, but it did not, in my opinion, use different
12:02:54 2 terminology around search engines or the Web from
12:02:57 3 compared to two years before that.

12:02:58 4 Anyway, the International Children's Digital
12:02:59 5 Library was a website with a collection of children's
12:03:03 6 books and included or focused on the ability to
12:03:06 7 search for books; and that search was entirely within
12:03:11 8 that single website, and I certainly described it at
12:03:14 9 the time as a search engine, and I think I would have
12:03:20 10 thought of it at the time as a search engine on the
12:03:22 11 Web.

12:03:26 12 Q Did you ever describe it as a search engine on
12:03:29 13 the Web?

12:03:30 14 A I actually did not check all of my papers for
12:03:32 15 that term, so I do not know.

12:03:45 16 Q Are you aware of any specific search engines
12:03:51 17 for a single site that were described as a search
12:03:53 18 engine on the Web in 1999?

12:04:02 19 A No. Sitting here today, I am not.

12:04:10 20 MR. HUDNELL: All right. Let's take a break.

12:04:21 21 MR. HORTON: No objections to the break if
12:04:23 22 that's what we're waiting for.

12:04:25 23 MR. HUDNELL: They might. I don't know if
12:04:26 24 they heard me.

12:04:27 25 Cherie?

12:04:29 1 THE COURT REPORTER: Madam Videographer, can
12:04:31 2 you take us off the record.

12:04:38 3 THE VIDEOGRAPHER: Yes.

12:04:40 4 We are now off the record. The time is
12:04:41 5 12:04 p.m. Eastern Time.

12:04:43 6 (A recess transpired.)

12:16:00 7 THE VIDEOGRAPHER: We are now on the record.
12:16:00 8 The time is 12:16 p.m. Eastern Time.

12:16:04 9 BY MR. HUDNELL:

12:16:07 10 Q Dr. Bederson, I just have maybe one or two
12:16:09 11 follow-up questions. Hopefully I won't take too
12:16:12 12 long.

12:16:14 13 Can you go back to your declaration,
12:16:16 14 paragraph -- supplemental declaration, paragraph 35.

12:16:36 15 A Okay.

12:16:37 16 Q Okay. The first sentence here says, "A POSITA
12:16:42 17 would have recognized that Rossman's textual menu
12:16:44 18 items are fully capable of being selectively
12:16:47 19 activated, as claimed, and that the mechanism of
12:16:51 20 activation -- keypad numeral or cursor-plus-OK --
12:16:58 21 serves the same functional role as the active zone
12:17:01 22 Patent Owner describes."

12:17:03 23 Do you see that?

12:17:04 24 A I do.

12:17:05 25 Q Okay. Is the mechanism of activation, the

12:17:15 1 keypad numeral or the cursor-plus-OK, is that part of
12:17:19 2 the textual icon in Rossman?

12:17:36 3 A Well, it's part of the disclosure of Rossman
12:17:39 4 that the icons can be selected and activated.

12:17:50 5 Q So when you refer to the icon in Rossman, does
12:17:52 6 that include the mechanism of activation or not
12:17:54 7 include the mechanism of activation?

12:18:00 8 A Similar to some of our earlier questions, the
12:18:02 9 specific mapping I provided of Rossman to the claims
12:18:06 10 are provided in my initial declaration, but what I
12:18:11 11 can say today is that Rossman does disclose icons
12:18:15 12 that are capable of being selectively activated in
12:18:21 13 just a very similar fashion to the claimed icons.

12:18:32 14 Q So your prior declaration will tell me whether
12:18:36 15 the mechanism -- whether you considered the mechanism
12:18:38 16 of activation to be part of the icon?

12:18:47 17 MR. HORTON: Object to the form.

12:18:48 18 A While my previous declaration does provide the
12:18:51 19 mapping of Rossman to the claims, I think what I've
12:18:56 20 said here today is that icons can include textual-
12:19:01 21 only icons, and they need to have the capacity to be
12:19:05 22 selected and activated.

12:19:07 23 And I think I've shown in this paragraph why
12:19:12 24 Rossman meets those requirements as well.

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12:19:16 1 BY MR. HUDNELL:

12:19:25 2 Q So I understand that, but what I don't
12:19:27 3 understand is whether the mechanism of activation is
12:19:35 4 part of the icon or not part of the icon. Do you --
12:19:42 5 are you able to answer that?

12:19:57 6 A I think my previous answer is probably as much
12:20:01 7 as I can say today. I will say that I don't see the
12:20:08 8 claimed -- the claimed icon requiring that it itself
12:20:13 9 includes all of the mechanisms of activation. I
12:20:16 10 don't even see Patent Owner describing that. I
12:20:19 11 believe that they describe it as being selectable,
12:20:22 12 and I think that's consistent with what I've said
12:20:25 13 today about icon.

12:20:34 14 MR. HUDNELL: I'll pass the witness.

12:20:37 15 MR. HORTON: And I think -- I don't think I
12:20:39 16 have any questions on behalf of Petitioner Apple,
12:20:42 17 so I think we can wrap it up.

12:20:43 18 THE VIDEOGRAPHER: Okay.

12:20:47 19 MR. HUDNELL: Sounds good.

12:20:47 20 THE VIDEOGRAPHER: Before we go off the
12:20:48 21 record, Mr. Hudnell, I see a transcript order with
12:20:53 22 a same-day rough draft. Would you still be
12:20:55 23 interested in that?

12:20:57 24 MR. HUDNELL: Yes, please.

12:20:59 25 THE VIDEOGRAPHER: And, Ms. Anderson, is that

12:21:00 1 okay with you?

12:21:01 2 THE COURT REPORTER: Yes, ma'am.

12:21:02 3 MR. HUDNELL: What's the -- what's the
12:21:03 4 turnaround on the final?

12:21:07 5 THE COURT REPORTER: 10 business days, sir.

12:21:15 6 MR. HUDNELL: Today is the 17th?

12:21:18 7 MR. HORTON: 17th.

12:21:21 8 MR. HUDNELL: Can we move that up a little
12:21:22 9 bit?

12:21:23 10 THE COURT REPORTER: Yes, sir. You can just
12:21:26 11 let us know what day you need it by.

12:21:29 12 MR. HUDNELL: I think by -- a week would be
12:21:32 13 sufficient.

12:21:33 14 THE COURT REPORTER: Yes, sir.

12:21:35 15 MR. HUDNELL: So five business days. Yeah.

12:21:37 16 THE VIDEOGRAPHER: No specific date. Right?

12:21:39 17 MR. HUDNELL: Next Friday --

12:21:40 18 THE VIDEOGRAPHER: Next Friday. Okay.

12:21:41 19 MR. HUDNELL: -- is fine.

12:21:43 20 THE VIDEOGRAPHER: And, for video, would you
12:21:44 21 like it synced?

12:21:47 22 MR. HUDNELL: Why not?

12:21:49 23 THE VIDEOGRAPHER: Okay. And Mr. Horton?

12:21:51 24 MR. HORTON: I think standard delivery final
12:21:52 25 is fine and then no need for rough.

12:21:56 1 THE VIDEOGRAPHER: Okay. And no video?

12:21:58 2 MR. HORTON: No video.

12:21:59 3 THE VIDEOGRAPHER: Okay. All right. This
12:22:00 4 concludes the deposition of Benjamin Boris Bederson
12:22:04 5 for Ferid Allani versus Apple Incorporated.

12:22:07 6 We are now off the record. The time is
12:22:10 7 12:22 p.m. Eastern Time.

8 (Witness excused.)

9 (Deposition was concluded at 12:22 p.m.)

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CERTIFICATE OF REPORTER

I, Cherie J. Anderson, Registered Merit Reporter, Registered Professional Reporter, Certified Realtime Reporter, and Notary Public for the State of North Carolina at Large, do hereby certify:

That the foregoing deposition was taken remotely before me on the date and at the time and location stated on page 1 of this transcript; that the deponent was duly sworn to testify to the truth, the whole truth, and nothing but the truth; that the testimony of the deponent and all objections made at the time of the examination were recorded stenographically by me and were thereafter transcribed; that the foregoing deposition as typed is a true, accurate, and complete record of the testimony of the deponent and of all objections made at the time of the examination to the best of my ability.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript was requested.

Witness my hand, I have hereunto affixed my official seal on this 17th day of July 2026, at Wilmington, New Hanover County, North Carolina.

A handwritten signature in black ink, appearing to read 'Cherie J. Anderson', with a long, sweeping horizontal line extending to the right.

Cherie J. Anderson, RMR, CRR
My Commission expires
December 22, 2026

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