

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

FREIGHTCAR AMERICA, INC.,

Petitioner,

v.

NATIONAL STEEL CAR LIMITED,

Patent Owner

IPR2025-01046 (Patent 8,166,892)

IPR2025-01047 (Patent 8,132,515)

VIDEOCONFERENCE DEPOSITION OF

SYLVIA HALL-ELLIS, Ph.D.

February 27, 2026

Reported by:

Anne E. Vosburgh, CSR-10804, RPR, CRR, CSR-6804,
CRC-25001522

Job No. 1489524

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On February 27, 2026, commencing at approximately 8:00 a.m., the remote videoconference deposition of SYLVIA HALL-ELLIS, PH.D. was held before and stenographically reported by Anne E. Vosburgh, Certified Shorthand Reporter No. 6804, Registered Professional Reporter, Certified Realtime Reporter, Certified Court Reporter No. 25001522, Notary Public, LiveNote Reporter, and Closed Captioner.

All attorneys participating in this deposition acknowledge and agree not to object to the use of this transcript on the basis that the reporter is not physically present in the deposition room and will be reporting remotely, and that in lieu of an official oath administered in person, by swearing remotely, the Witness verbally declares their testimony in this matter to be truthful under penalty of perjury.

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22 RANDY YOUNG, Videographer

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24

25

1 I N D E X

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3 ----- EXAMINATIONS -----

4 WITNESS: SYLVIA HALL-ELLIS, PH.D.

5 Examination by Mr. Adams 9

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14 ----- MARKED EXHIBITS -----

15 NUMBER DESCRIPTION PAGE

16 Exhibit 1 Dr. Sylvia Hall-Ellis SJSU 13

17 Faculty Profile, 6 pages

18 Exhibit 2 Expert Report of Sylvia 21

19 Hall-Ellis, Ph.D., 191 pages

20 Exhibit 3 Excerpts from the Car Builders' 51

21 Dictionary 1906 Edition, 6

22 pages

23 Exhibit 4 Excerpts from the Car Builders' 68

24 Dictionary, 1912 Seventh

25 Edition, 6 pages

1 EXHIBITS (Continued):

2

3 Exhibit 5 Excerpt from the Car Builders' 74

4 Cyclopedia, 1922, Tenth

5 Edition, 4 pages

6 Exhibit 6 Excerpt from the Car Builders' 77

7 Cyclopedia, 1946, Seventeenth

8 Edition, 62 pages

9 Exhibit 7 Excerpt from Coal Cars, The 80

10 First Three Hundred Years,

11 Karig, 94 pages

12 Exhibit 8 Excerpt from Lancashire & 84

13 Yorkshire Wagons, Vol. 2, Noel

14 Coates, 9 pages

15 Exhibit 9 Excerpt from Wagons of the 86

16 Final Years of British

17 Railways, David Larkin,

18 10 pages

19 Exhibit 10 Excerpts from Private Owner 90

20 Wagons, Volume 1,

21 Andrew Marshall, 8 pages

22 Exhibit 11 Excerpts from Working Wagons, 94

23 Volume 3, David Larkin,

24 17 pages

25

1 EXHIBITS (Continued):

2

3 Exhibit 12 Excerpts from Private-Owner 97

4 Wagons In Colour,

5 David Ratcliffe, 10 pages

6 Exhibit 13 Excerpts from Wagon 100

7 Recognition, Volume 1, Martin

8 Buck and Mark Rawlinson,

9 3 pages

10 Exhibit 14 Excerpts from Modern 107

11 Private-Owner Wagons on British

12 Rail, David Ratcliffe, 17 pages

13 (EXHIBITS ATTACHED)

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2 PROCEEDINGS

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4 Remote Videoconference Deposition of

5 SYLVIA HALL-ELLIS

6 February 27, 2026, 8:00 a.m.

7 -oOo-

8 THE VIDEOGRAPHER: This marks the
9 beginning of media number 1 of Volume 1 of
10 the virtual Zoom deposition of Dr. Sylvia
11 Hall-Ellis taken on behalf of the attorneys
12 for the Plaintiffs in the matter of National
13 Steel Car Limited, Plaintiff, vs. Freightcar
14 America Inc., et al., Defendants, and
15 related cross-action.

16 Case Number 24-594-JLH-CJB in the
17 U.S. District Court for the District of
18 Delaware [sic].

19 This deposition is being held
20 remotely via videoconference on February 27,
21 2026.

22 The videographer today is
23 Randy A. Young, and the court reporter is
24 Anne Vosburgh. We're on behalf of
25 Magna Legal Services.

3 Will counsel please state your
4 appearance for the record and state whom you
5 represent.

6 MR. ADAMS: Kevin Adams, Ice Miller
7 LLP. I represent National Steel Car
8 Limited, which is the Plaintiff in the
9 district court action.

10 But I think, Randy, I need to
11 clarify. This deposition is pursuant to two
12 IPRs that are related. I'm sorry. I didn't
13 catch if you said that or not.

14 THE VIDEOGRAPHER: Thank you.

15 MR. ADAMS: The IPR numbers are
16 2025-01046 and 2025-01047.

17 THE VIDEOGRAPHER: Thank you.

18 MR. SHEEHAN: This is Kenneth
19 Sheehan, also with Ice Miller, appearing
20 today on behalf of the patent owner,
21 National Steel Car.

22 MR. NELSON: This is Philip Nelson,
23 Knobbe Martens, representing the Petitioner,
24 Freightcar America.

25 - - -

1 SYLVIA HALL-ELLIS, PH.D.,
2 (Having been called to testify, was
3 sworn to tell the truth, the whole
4 truth, and nothing but the truth.)

5 ---

6 THE REPORTER: Thank you.
7 Counsel, you may proceed.

8 ---

9 EXAMINATION

10 BY MR. ADAMS:

11 Q. Good morning, Dr. Hall-Ellis.
12 How are you?

13 A. I'm fine, thank you.

14 Q. Thank you for joining us. We
15 appreciate your time. I'll just get started
16 with the preliminaries.

17 So can you please state your full
18 name for the record.

19 A. My name is Sylvia Hall-Ellis.

20 Q. And can you spell that, please.

21 A. S-y-l-v-i-a H-a-l-l - E-l-l-i-s.

22 Q. Thank you.

23 Have you been deposed before?

24 A. Yes.

25 Q. Okay. How many times?

1 A. This is my 42nd deposition.

2 Q. Okay. Have all those depositions
3 been pursuant to expert declarations that
4 you've submitted?

5 A. Yes.

6 Q. Have they all been in patent cases?

7 A. Yes.

8 Q. Have they all been pursuant to IPR
9 or another Patent Office proceeding?

10 A. Some are for Federal District Court
11 and some are for IPRs.

12 Q. Thank you.

13 So before we jump into it, I'm sure
14 you're well aware, but I'll just go over some
15 ground rules just in case.

16 So if I could ask that you please
17 verbally respond to all my questions with a yes
18 or a no. You know, nods, gestures, or any
19 other non-yes-or-no verbal response may be
20 difficult for the court reporter to record.

21 Can you agree to that?

22 A. I understand what you're asking.

23 Q. And you agree to answer, you know,
24 with yes or no or another -- or with words?

25 A. I will answer verbally, yes.

1 Q. Okay. Thank you.

2 And you understand you're under
3 oath today and so you need to answer all
4 questions truthfully, correct?

5 A. I understand that, yes.

6 Q. Have you taken any medication today
7 that would prevent you from testifying
8 truthfully?

9 A. No.

10 Q. Is there any other reason that you
11 cannot testify truthfully today?

12 A. No.

13 Q. Okay. So you understand that I'm
14 here today representing National Steel Car
15 Limited, which is the Respondent in IPR
16 Numbers 2025-01046 and 2025-01047, correct?

17 A. Yes.

18 Q. Okay. And if I use just the term
19 "IPRs" generally, do you understand that I mean
20 the IPR numbers 2025 01046 and 2025-0147 --
21 01047? Sorry.

22 A. Yes.

23 Q. And you understand that I will be
24 asking questions based on the declarations that
25 you prepared for those IPRs, correct?

1 A. Yes.

2 Q. And did you sign one declaration
3 for both those IPRs or did you sign separate
4 declarations?

5 A. They are separate declarations
6 signed -- one signature for both. They are
7 identical in content.

8 Q. Thank you. That's what I was
9 getting at. Thank you.

10 Okay. Did you do anything to
11 prepare for this deposition today?

12 A. Yes.

13 Q. What did you do?

14 A. I met with counsel and I reread my
15 declarations.

16 Q. Okay. Did you review any other
17 documents other than your declarations?

18 A. Nope.

19 Q. And when did you meet with counsel?

20 A. Yesterday.

21 Q. And when did you reread your
22 declarations?

23 A. Yesterday.

24 Q. Okay. Do you have any notes or
25 other materials with you today?

1 A. No.

2 Q. Okay. Have you ever been employed
3 by Freightcar America?

4 A. No.

5 Q. And, again, if I refer to
6 Freightcar America as "Freightcar" today, you
7 understand that I mean Freightcar America.

8 Is that okay?

9 A. Yes.

10 Q. Have you ever been employed by
11 another railcar manufacturer?

12 A. No.

13 Q. Have you ever been employed by
14 another entity in the railcar industry?

15 A. No.

16 Q. And other than your work for this
17 case, have you ever done any other work for the
18 railcar industry?

19 A. No.

20 Q. Okay. All right. So I'd like to
21 mark as Exhibit 1 -- I'll drop it in the chat
22 now, see if I can do that. And I'll put it on
23 the screen. Bio of Dr. Hall-Ellis.

24 (Dr. Sylvia Hall-Ellis SJSU Faculty
25 Profile, 6 pages, marked as

1 Exhibit 1.)

2 BY MR. ADAMS:

3 Q. So Dr. Hall-Ellis, do you recognize
4 this document?

5 A. I can't see anything.

6 (Off-the-record discussion held.)

7 BY MR. ADAMS:

8 Q. All right. You should be able to
9 see it now.

10 A. Vaguely. It's not clear and it's
11 very small, but I see something.

12 Q. Okay. Let me zoom in for you then.
13 I'm sorry. Acrobat is fun to deal
14 with.

15 Is that better?

16 A. A little bit -- not much, but a
17 little bit. I know what you're showing.

18 MR. ADAMS: Is everyone else having
19 issues seeing what I'm sharing?

20 MR. SHEEHAN: It is very small,
21 Kevin.

22 MR. ADAMS: Do we have someone that
23 can run the technology that will have maybe
24 better luck than me?

25 THE VIDEOGRAPHER: Mr. Adams, I

1 think if you just enlarge it. Keep hitting
2 that plus button down there.

3 MR. ADAMS: On my screen, this is
4 like covering my whole screen. All I can
5 see is her picture. So I don't think I can
6 make it larger than this, if this isn't
7 working for you guys.

8 THE VIDEOGRAPHER: Is the witness
9 able to see the document?

10 THE WITNESS: I can see the top of
11 it. I can't see much, but maybe if you ask
12 a question because I think I know what it is
13 and where it came from.

14 MR. ADAMS: I'm not so much
15 concerned about this document, but as we
16 start to get into other documents, I want to
17 make sure you're able to see what I'm
18 talking about. So I'd rather --

19 THE WITNESS: I can -- can we make
20 it bigger or something? Because it is very
21 small and barely readable to me.

22 MR. ADAMS: Here. Let me try and
23 share it on a different screen and see if
24 that makes it better.

25 How is this?

1 THE WITNESS: It's a little --
2 actually, it's worse, but I can see a little
3 bit.

4 MR. ADAMS: Okay. And there's no
5 one with the court reporter that can run the
6 technology on this?

7 THE VIDEOGRAPHER: Mr. Adams,
8 you're presenting the document so that I can
9 see it. If there's a problem with the
10 witness that can't see the document, maybe
11 she needs to try to view it on a different
12 screen, if she has a different computer or a
13 laptop or something?

14 MR. SHEEHAN: Kevin, why don't we
15 go off the record and try and sort this out.

16 MR. ADAMS: I think that's a good
17 idea. Can we go off the record for a little
18 bit?

19 THE VIDEOGRAPHER: Okay. We are
20 off the record at 8:16.

21 (Recess taken.)

22 THE VIDEOGRAPHER: We are back on
23 record at 8:38.

24 BY MR. ADAMS:

25 Q. I'd like to go ahead and mark as

1 Exhibit 1 the document that's being put on the
2 screen now, which should be your San Jose State
3 bio of Dr. Hall-Ellis, if we can get that
4 pulled up.

5 THE TECHNICIAN: I'm sorry. Which
6 one? I didn't hear what you said.

7 MR. ADAMS: Exhibit 1.

8 Can you zoom in a little bit just
9 so we can see it?

10 Thank you.

11 BY MR. ADAMS:

12 Q. So Dr. Hall-Ellis, do you recognize
13 this document?

14 A. I do. I've seen it in the past.

15 Q. Okay. And according to this
16 document, you work at San Jose State
17 University; is that correct?

18 A. I have a contract to work for them
19 part-time, yes.

20 Q. Okay. And do you have full-time
21 employment anywhere at this time?

22 A. No.

23 Q. And what's your position with
24 San Jose State University?

25 A. I am an adjunct professor, and I

1 teach in the spring and fall semesters.

2 Q. Okay. So your responsibilities
3 with them are purely academic, purely teaching?

4 A. Yes.

5 Q. And how long have you done that?

6 A. Since 2000.

7 Q. Okay.

8 MR. ADAMS: If I can ask the tech,
9 can you scroll down, please. That should be
10 a heading that says "Education."

11 BY MR. ADAMS:

12 Q. Dr. Hall-Ellis, do you see where it
13 says "Education" there?

14 A. Yes, I do.

15 Q. And under there, it says that you
16 graduated with a BA from Rockford College in
17 Illinois in 1971; is that correct?

18 A. Yes.

19 Q. What was that BA in?

20 A. Spanish.

21 Q. Did you study anything else? Did
22 you have any other minors or certificates?

23 A. I have a minor in political
24 science.

25 Q. Is that it?

1 A. Yes.

2 Q. Okay. The next line up, it says
3 you received an MLS from University of
4 North Texas.

5 What is an MLS?

6 A. It's a Master of Library and
7 Information Science accredited by the American
8 Library Association.

9 Q. And it says you graduated in 1972;
10 is that correct?

11 A. That is true.

12 Q. And did you have any specialties
13 with that degree or was it purely a Master's in
14 Library and Information Science?

15 A. Masters in Library and Information
16 Science do not have specializations during the
17 time I went to school.

18 Q. Okay. Thank you.

19 And moving up to your time at the
20 University of Denver, so what is an MPS?

21 A. It's a Master's of Public Studies,
22 which is a version of an MBA. And my special
23 emphasis was human resources.

24 Q. And it says you graduated in 2014;
25 is that correct?

1 A. That is correct.

2 Q. Okay. And moving to the University
3 of Pittsburgh, it says you got your Ph.D.,
4 which I know what that is, but what did you get
5 your Ph.D. in?

6 A. In Library and Information Science.
7 My specialization is cataloging,
8 classification, and technical services.

9 Q. Okay. Thank you.

10 So do you see on the screen just
11 below that where it says "Academic and
12 Professional Experience"?

13 A. I see a little bit of that.

14 Q. Yes. That's all you're going to
15 need to see.

16 Do you see right below that, where
17 it says "Consultant, 1981 through" -- with no
18 end date?

19 A. That is true. I do see it.

20 Q. So is it true that you've worked as
21 a consultant since 1981?

22 A. That is true.

23 Q. And what work have you performed as
24 a consultant?

25 A. I think the best thing to do is to

1 refer you to my CV, which has a listing of
2 those particular activities. It's really too
3 long for me to recite.

4 Q. Okay. Do most of those have to do
5 with cataloging and classification for
6 libraries?

7 A. I would say a significant portion
8 do have that focus, yes.

9 Q. And is there also a significant
10 portion related to serving as an expert witness
11 in district court or in front of the
12 United States Patent and Trademark Office?

13 A. No.

14 Q. Okay.

15 MR. ADAMS: I'd like to go ahead
16 and introduce as Exhibit 2 the declaration
17 of Dr. Sylvia Hall-Ellis, which is
18 Exhibit 1022 in the IPRs.

19 (Expert Report of Sylvia
20 Hall-Ellis, Ph.D., 191 pages,
21 marked as Exhibit 2.)

22 BY MR. ADAMS:

23 Q. And obviously, Dr. Hall-Ellis, if
24 you need the tech to navigate this document in
25 any way, please feel free to speak up.

1 But based on what you're seeing, do
2 you recognize this document?

3 A. This is the document, yes, with the
4 cover sheet for district court. It is not the
5 cover sheet for the IPRs.

6 Q. Is there another document with the
7 cover sheet for the IPRs?

8 A. My understanding is the cover
9 sheets are different for the IPRs.

10 But the content is the same.

11 Q. Have you seen the version of this
12 document that has the cover sheet for the IPRs?

13 A. Yes.

14 Q. When was the last time you saw
15 that?

16 A. Yesterday.

17 Q. Okay. Are all the materials that
18 you relied on in making this declaration
19 included in this declaration?

20 A. I believe that to be the case.
21 I am asking if you can tell me the page length
22 of the document that I am seeing.

23 Q. Correct me if I'm wrong, but it's
24 191 pages by my count.

25 A. Okay. And the text is about 61

1 pages; is that correct?

2 Q. So your signature appears on the
3 first page.

4 A. Yes, I see it.

5 Q. And it appears on page 62 as well.

6 A. All right. So my understanding is
7 this is the full report with attachments.

8 Q. And you didn't rely on anything
9 that's not referenced in this document when
10 making this declaration, correct?

11 A. This declaration represents the
12 materials I examined and the documents that
13 I've attached to it. And it is all-inclusive.

14 Q. I'm sorry. You cut out there for a
15 second.

16 You said "It is all-inclusive"?

17 A. Yes. As far as I know, it is
18 all-inclusive.

19 Q. So you didn't consider anything
20 else?

21 A. No.

22 Q. Okay. Thank you.

23 Okay. If we can scroll -- I guess
24 you're going to scroll up now -- paragraph 4.
25 It's going to be towards the top.

1 A. Oh, my. Okay. Paragraph 4.

2 You realize that the right-hand
3 portion of the page is cut off by my seeing who
4 all is in the group. So I don't know --
5 anyway, that's what's going on. So I can see
6 like 80 percent of the words.

7 THE TECHNICIAN: We can adjust that
8 if you would like.

9 THE WITNESS: Yeah. Can we do
10 something about that or is that not --

11 THE TECHNICIAN: You need to
12 right-click on the screen and it should give
13 you an option to change the view.

14 THE WITNESS: Oh, okay. Yeah.
15 That would be nice.

16 THE TECHNICIAN: Because you should
17 have a fit-to-page option.

18 THE WITNESS: Okay. I want to --
19 I'm on full screen right now.

20 THE TECHNICIAN: You might have to
21 hit "Escape" to hop out of full screen.

22 THE WITNESS: Oh, God, where's
23 "Escape"? Here's "Escape."

24 Okay. I can see it better now.
25 Thank you.

1 THE TECHNICIAN: You're welcome.

2 MR. ADAMS: All set?

3 THE WITNESS: Yeah.

4 Can you make the font a little bit
5 bigger? I'm old. Can you make the font a
6 little bit bigger?

7 THE TECHNICIAN: That's the largest
8 it will get. I'm sorry.

9 THE WITNESS: Okay. That's fine.
10 I'll squint a little bit. I'll make it
11 work.

12 THE TECHNICIAN: You can
13 right-click and choose a different zoom
14 option and change it, varying on what you
15 need at the time.

16 THE WITNESS: All right. Let me
17 try with this and see if I can make it work.
18 If not, I'll let you know.

19 All right. I'm looking. I'm
20 looking at paragraph 4.

21 BY MR. ADAMS:

22 Q. Excellent.

23 So if you want to take a second to
24 review it and then let me know when you're
25 ready.

1 A. It's a pretty standard paragraph
2 for everything I write. I'm fine with it.

3 Q. Okay. So you see it references
4 your normal consulting rate. What is that?

5 A. It depends.

6 Q. Is there a range?

7 A. There is now a range because
8 matters do not get resolved easily or quickly.
9 So there is a range.

10 Q. What is that range?

11 A. The range is 400 to \$500 an hour.

12 Q. And for this particular case, what
13 is your compensation?

14 A. \$450 an hour.

15 Q. And how much time did you spend
16 preparing your declaration?

17 A. In the neighborhood of 20 hours.

18 Q. How much time did you spend
19 preparing for this deposition?

20 A. About three hours yesterday.

21 Q. And that's all the time you spent?
22 That's not just yesterday?

23 A. Yes.

24 Q. So fair to say for this case,
25 you've worked about 23 hours?

1 A. That is as accurate a number as I
2 could give you at this point, yes.

3 Q. Okay. Thank you.

4 So when preparing this declaration,
5 what was your working definition of "person of
6 ordinary skill in the subject matter or art"?

7 MR. NELSON: Objection, form.

8 A. I believe that appears in the
9 document. Around paragraph 14 or 15 is where
10 it normally appears. And that is provided to
11 me by counsel.

12 BY MR. ADAMS:

13 Q. So regarding this declaration, do
14 you know what your working definition of
15 "person of ordinary skill in the subject
16 matter" was?

17 A. When I start the work, I don't
18 necessarily know that.

19 Q. So when you prepared this
20 declaration, did you know what that was?

21 A. The day I started, I did not know.

22 Q. When you signed the declaration,
23 did you know what that was?

24 A. Yes, I did.

25 Q. And the contents of the declaration

1 reflect that understanding, correct?

2 A. That's a curious question. Can you
3 restate that? I'm not quite sure what you're
4 asking me.

5 Q. Yeah, of course.

6 So your understanding of "a person
7 of ordinary skill in the subject matter" --

8 A. Uh-huh.

9 Q. -- as you use in this declaration,
10 that the contents of the declaration as a whole
11 reflect what your understanding was?

12 A. Those two components are related,
13 but my work and my report reflect the
14 examination of the materials I was asked to
15 examine without necessarily considering the
16 person described as "someone in the art."

17 Q. So your opinions contained in this
18 declaration do not consider the person of
19 ordinary skill in the subject matter?

20 MR. NELSON: Objection, form.

21 A. Are you trying to ask me if it
22 matters who the person is or what their role
23 is?

24 Let us scroll to that part, if we
25 could, please, in this declaration.

1 BY MR. ADAMS:

2 Q. How about -- let me ask this: What
3 was your working definition of "the person
4 ordinarily skilled in the subject matter or
5 art" at the time you signed the declaration?

6 A. It's reflected in the declaration
7 and it's in one of the paragraphs. I would
8 like to see that, please.

9 Q. Okay. I'm going to be honest.
10 I don't know where it is either. So if the
11 tech could please scroll down, and the witness
12 can identify where that is.

13 A. It's about --

14 MR. NELSON: Counsel, you can refer
15 to paragraph 27.

16 THE WITNESS: Keep going, because I
17 don't have this printed in front of me. But
18 it's down around -- usually around
19 paragraph 15.

20 There. You're getting close,
21 I think. It's before that.

22 And it talks about a person who has
23 a particular interest and education, and it
24 always appears. It says so many years of
25 education in this particular area and years

1 of experience in the field.

2 MR. NELSON: I think it's 27 --

3 THE WITNESS: Okay. Great.

4 MR. NELSON: -- if you could scroll
5 down to 27.

6 THE WITNESS: All right. Let's
7 look at that, please.

8 No, that's not it.

9 BY MR. ADAMS:

10 Q. Is there another paragraph you were
11 referring to?

12 MR. NELSON: Scroll to the next
13 page.

14 A. It comes up in "Preliminaries," so
15 that is the section where it appears.

16 BY MR. ADAMS:

17 Q. Okay, Dr. Hall-Ellis. So what
18 you're seeing now at the top of this page --

19 A. I'm seeing -- can we make it bigger
20 so I can really see it?

21 Okay. Here we go. Higher -- yeah,
22 okay. We need to scroll up, please. Up, not
23 down. Up. Higher, please. Higher than that.
24 Higher than that.

25 Closer to the beginning of the

1 document. You're too far down in the document
2 at this point.

3 All right. You're closer there.

4 Can we make that so I can read
5 that, please?

6 All right. Let's keep going. Just
7 a little bit further down. We're going to get
8 to it.

9 Keep going, please.

10 You need to keep going.

11 Keep going.

12 Nope. It's not there. This is
13 very frustrating.

14 What is it you want to ask me?
15 Because if we sit and look for this, it's going
16 to take a while.

17 Q. What I want to know is what your
18 working definition of "the person ordinarily
19 skilled in the subject matter or art" was at
20 the time you signed this document.

21 A. It appears in the document, and
22 that's my understanding. And I do not recall
23 word for word what it says, but what appears in
24 the document is my understanding at the time
25 that I signed.

1 I don't have it.

2 Q. Do you have an understanding of
3 what a person ordinarily skilled in the subject
4 matter or art, as you use it in this document,
5 is today?

6 A. It would be the same. I have no
7 reason to change from what is written in the
8 document.

9 Q. But you can't state what that
10 understanding is?

11 A. No, because it's --

12 MR. NELSON: Objection, form.

13 A. It's written in the document.

14 If you can't find it -- I don't
15 have a copy of this printed out in front of me.
16 If I had that, I could tell you exactly. But I
17 don't, so I can't.

18 So that's where we are.

19 BY MR. ADAMS:

20 Q. Will you please take the time to
21 scroll through and look for that definition?
22 Because I would really like to know what it is.

23 A. I think we should go off the record
24 and I should print the document because I work
25 better from paper.

1 And I do not want to go scrolling
2 and scrolling through this because I don't have
3 control of the screen. I can't do that easily.
4 That's very frustrating.

5 Q. Well, I'll say I've looked at this
6 document very thoroughly. I've looked at it a
7 lot, and I have not been able to find where
8 that definition is.

9 A. Okay. So if there is no definition
10 in there, then there is no definition.

11 Q. Okay. So how would I know what the
12 definition is then?

13 A. It doesn't matter what the
14 definition is. What matters is I was asked to
15 look at documents to determine if they were
16 authentic, if they were publicly available, and
17 what they contained. I did that.

18 It is not my job to define the
19 POSITA or to figure out who that person is. If
20 it does not appear in there, to me that is not
21 the most important factor. I was not asked to
22 determine that. I was not asked to define
23 that.

24 If it's not in there, then we're
25 done. I cannot help you any more with that

1 question.

2 Q. Okay. Understood. Thank you.

3 MR. ADAMS: Can we go ahead and
4 pull up the exhibit again, please.

5 Can you please scroll to
6 paragraph 19.

7 A. What is this?

8 BY MR. ADAMS:

9 Q. And Dr. Hall-Ellis, if you could
10 just review and let me know when you're ready
11 for questions, please.

12 A. Okay. What would you like to know
13 about this one?

14 Q. So what is meant by "graduate
15 library school education"?

16 A. In order to get an accredited
17 master's degree of Library and Information
18 Science, a person has to have an undergraduate
19 degree in something. It doesn't really matter
20 what the discipline is.

21 But library education in the
22 United States, which is accredited by the
23 American Library Association, is only delivered
24 at the graduate level. That means the person
25 is earning a master's degree.

1 Q. So the term "graduate library
2 school education" refers to a master's degree
3 program specifically for libraries; is that
4 correct?

5 A. Yes.

6 Q. Okay. It doesn't refer to any
7 standard master's degree; you want to get that
8 sort of education just by getting a master's in
9 another subject area, correct?

10 A. That is not correct. It's like a
11 law degree. It's akin to a law degree in that
12 it is accredited by the national body assigned
13 that responsibility.

14 And in order to do so, the
15 curriculum is reviewed. The program is
16 reviewed every seven years by the American
17 Library Association. And certification is
18 either granted or it is conditionally granted
19 or it is not granted at all.

20 Q. So the term "graduate library
21 school education," as it's used in this
22 paragraph, references a master's degree
23 relating to libraries, correct?

24 A. It relates to the preparation of
25 individuals to serve as professional librarians

1 upon graduation, yes.

2 Q. And I think what I was hearing from
3 your answer is that the same sort of education
4 may apply to other sorts of master's degrees,
5 but not necessarily.

6 Is that fair to say?

7 MR. NELSON: Objection, form.

8 A. No, it is not.

9 BY MR. ADAMS:

10 Q. Can you explain?

11 A. Graduate -- library education is
12 delivered at the graduate level.

13 Accredited programs -- that is,
14 those that are accredited by the American
15 Library Association -- result in the awarding
16 of a degree which prepares a person to be a
17 professional librarian.

18 There are programs that train
19 people to be auxiliary helpers,
20 paraprofessionals, clerical workers, and
21 assistants. Those are quite different.

22 The curriculum is prepared and a
23 report is submitted by the school that hosts
24 the library education program for review and
25 sanction by the American Library Association.

1 The preparation for someone to go
2 to library school at the graduate level
3 includes a bachelor's degree in a discipline.

4 Q. Thank you. That answers my
5 question.

6 I'd like to return to the POSITA
7 issue.

8 So if there is no definition of a
9 POSITA in this declaration, does that mean that
10 you did not have a working definition of that
11 phrase at the time you prepared and signed this
12 declaration?

13 A. If it doesn't appear, I didn't have
14 it. If I had it, it would be in the
15 declaration.

16 Q. Can we please scroll to
17 paragraph 23.

18 A. Uh-huh.

19 Q. So can you please explain what
20 WayBack Machine is?

21 A. WayBack Machine is a virtual
22 depository of website captures that has been
23 going on for quite a long time now, more than
24 20 years, for pages as they appeared at a
25 certain date and time.

1 The courts have recognized the
2 WayBack Machine as reliable and there is
3 documentation to that effect.

4 On occasion, when appropriate, I
5 have seen and I have used the WayBack Machine
6 to establish availability. It's now considered
7 rather common. It's part of the internet
8 archive, which is an attempt to digitize
9 everything that's ever been on the internet.

10 It's useful. People who are
11 younger than I am use it more than I do, but it
12 certainly has its place.

13 And I did include this paragraph
14 because there is at least one instance in the
15 report of a reference to something that
16 appeared in the WayBack Machine.

17 Q. So when you use WayBack Machine,
18 you use it yourself. You don't have an
19 assistant or someone else looking up pages for
20 you?

21 A. I don't have an assistant to do
22 anything for me. No, I don't have one.

23 Q. Thank you.

24 Okay. Can we please move to
25 paragraph 26, please.

1 A. 26. Where is 26? Oh, my goodness.

2 My goodness. My goodness.

3 Okay. Thank you.

4 Q. And you don't have to go into a ton
5 of detail, but if you could just provide me
6 with an overview of what the MARC system is.
7 Can you do that?

8 A. MARC is a format for the
9 transcription of bibliographic data. It's
10 designed for the sharing of bibliographic
11 information about any resource in any language
12 in any packaging. It's used globally by
13 libraries of -- that have online catalogs and
14 online systems.

15 It is very formatted. It's akin to
16 coding in a software environment. There are
17 rules. There are guidelines. And there are
18 local practices that all govern the way data
19 are transcribed. It is particularly intricate.

20 The official headquarters of the
21 rules is the Library of Congress. And that
22 works in partnership with the British Library,
23 and the Library in Australia -- the National
24 Library of Australia. It's been around for
25 quite a long time now. It is the way that we,

1 as librarians, look at materials and data.

2 Learning to read it takes a bit of
3 time. Learning to master it takes a number of
4 years. It is the bread and butter of what
5 makes the online catalog in the library you use
6 possible.

7 Q. And how would someone use the MARC
8 system to find information they are interested
9 in?

10 A. An individual would not use MARC.
11 An individual would use the data contained in
12 MARC through a screen interface designed for a
13 nonlibrarian.

14 It is definitely difficult to read.
15 It requires the decoding of the data and the
16 fields associated with them. And therefore, we
17 have screen interfaces that appear in the
18 online catalog.

19 So it's nice and neat and clean,
20 and looking is easy and is designed for an
21 individual to search independently or to
22 request assistance if that is needed.

23 MR. ADAMS: Can we move to
24 paragraph 27, please.

25 Can you go down to the next page.

1 BY MR. ADAMS:

2 Q. You can see at the end of this, you
3 used the term "WordCat."

4 Do you see that?

5 A. WordCat? I'm sorry. I don't see
6 WordCat.

7 Do you mean WorldCat?

8 Q. WorldCat. I'm sorry. Thank you
9 for correcting me.

10 A. No. I don't see that here, but I'm
11 assuming it's coming in some paragraph -- oh,
12 I see it, at the end of paragraph 27.

13 Sure. I see that.

14 Q. What is WorldCat?

15 A. WorldCat is a screen interface
16 designed for the public that is a
17 nonprofessional librarian to search the largest
18 bibliographic database in the world.

19 Q. And how would someone access that?

20 A. It's on the internet. And going to
21 WorldCat allows you to enter various search
22 keys and to bring up information about a
23 resource.

24 It will also, if you enter your
25 ZIP Code, tell you the libraries closest to you

1 that own the item that you are seeking.

2 Q. When was WorldCat first created?

3 A. WorldCat itself wasn't really
4 available until 2002.

5 The back end of it, the
6 bibliographic database has been being built
7 since the 1960s, but it was not visible to the
8 public for a very long time, visible only to
9 librarians who worked in this particular area.

10 Q. Okay. So anyone who wasn't a
11 librarian couldn't access WorldCat until 2002,
12 correct?

13 A. You couldn't look at it. It is
14 highly regarded, copywritten. It's password
15 and username protected for everybody. And if
16 you looked at it, you couldn't read it.

17 But, no, it was an effort to begin
18 to show that materials were available and
19 accessible to everyone. And you could look on
20 the internet and find things.

21 Many libraries have a setup that
22 allows you to find something and say: It's not
23 here, but I want to borrow it. Can you get it
24 for me?

25 And it definitely opened up the

1 knowledge of what resources are in what
2 libraries.

3 Q. So if you could scroll down to show
4 the full paragraph 28, please.

5 A. Oh, my goodness.

6 Q. Can you see paragraph 28,
7 Dr. Hall-Ellis?

8 A. Yes, I do.

9 Q. So do you see where it says:
10 "MARC records are not designed for
11 public viewing"?

12 A. I do. I wrote that.

13 Q. So are you, as a librarian, able to
14 see MARC records?

15 A. Oh, absolutely. Every day.

16 Q. And how do you see them?

17 A. I look at them at individual
18 libraries. I look at them in the back end of
19 WorldCat. I look at MARC records my students
20 create. I look at MARC records that I need for
21 some other purpose. I look at MARC records all
22 the time.

23 Q. All right. If we could scroll down
24 to paragraph 36, please.

25 Okay. Do you see where it talks

1 about OCLC here?

2 A. I do.

3 Q. Can you explain what OCLC is?

4 A. Yes.

5 Q. Will you please do that for me?

6 A. OCLC is a non-profit organization
7 located outside of Columbus, Ohio. It is the
8 headquarters of what most people recognize as
9 WorldCat -- or we recognize as OCLC, the home
10 of the largest database in the world.

11 It has been around a very long
12 time, originally founded for resource sharing
13 or information of bibliographic data in the
14 State of Ohio, did its first test into
15 Pittsburgh, and now is virtually everywhere in
16 the world.

17 It is designed and operated by
18 librarians and serves that repository role of
19 keeping and preserving bibliographic records
20 for anything that anyone has cataloged and
21 contributed to the database.

22 Q. So the OCLC database is accessed
23 through WorldCat?

24 A. Yes. That is true.

25 Q. Is there any other way to access

1 that database?

2 A. If you're a librarian, you can get
3 into all kinds of different things.

4 They have programs for resource
5 sharing. They connect to Google to give you
6 things that come from Google Scholar and tell
7 you where to get them. They have programs for
8 digitization. They've run a number of other
9 resource sharing and preservation efforts.

10 They are definitely major players
11 in the library world as we know it now.

12 Q. Okay. And you just referenced
13 librarians can access more.

14 What is the criteria for becoming a
15 librarian?

16 A. I think we talked about it. It's
17 that graduate library education, and you work
18 at an institution that participates.

19 Q. Thank you.

20 MR. ADAMS: Can we please scroll to
21 paragraph 38.

22 Okay. Is there any way to zoom out
23 so we can see this whole paragraph? I know
24 it's a little long.

25

1 BY MR. ADAMS:

2 Q. Okay. Dr. Hall-Ellis, can you see
3 that or is it too small?

4 A. Yeah. It's too small.

5 Paragraph 38 talks about the
6 concept of the master record in OCLC. And the
7 master record is what we use -- the creation of
8 a record which is to be used or can be used by
9 others in order to decrease the time and effort
10 required to make a new record at a secondary or
11 tertiary location.

12 The fields are important because
13 the fixed fields, 008, the first six characters
14 are those which can never be changed. They're
15 the only fields in the records that can't be
16 changed.

17 And they are ascribed at the time
18 the record is submitted to OCLC, it's been
19 indexed, and all the fields are then indexed
20 according to the type of field they are in and
21 what kind of index is appropriate.

22 005 indicates a date on which a
23 record was modified in some way. That
24 modification is not necessarily self-evident,
25 but can include corrections. It can include

1 additions. It can include deletions.

2 We're right now building the
3 Semantic Web and we're working to bring out a
4 new program eventually called BIBFRAME. So
5 there are changes to records in anticipation of
6 that happening. So 005 tells us something is
7 happening to the records.

8 Records are definitely not static,
9 but new records are all assigned both an OCLC
10 record number and that date when the record was
11 first created.

12 So this paragraph talks about how
13 there is a change in records, but it is always
14 recorded when that last change was; and yet we
15 know when the record was initially contributed
16 to the database.

17 Q. Okay.

18 MR. ADAMS: Can you just scroll
19 down a little bit? I just want to see the
20 last part of this paragraph.

21 BY MR. ADAMS:

22 Q. Okay. So this -- can you read the
23 last sentence, Dr. Hall-Ellis, and let me know
24 when you're done.

25 A. The last sentence?

1 Q. Yeah. It starts with "Thus, when."
2 It's about four lines up.

3 A. Okay. So we know when records were
4 originally made. We can print them to hard
5 copy if we want to. They're not easy to read,
6 but we can do that. And I have done that and
7 attached quite a few to this report.

8 And we can look at fields 005
9 and 008 in every case, and we can read then
10 where the -- when the initial creation of a
11 particular bibliographic record was made. And
12 we know that, as well as the library that made
13 that record.

14 That's basically what that sentence
15 says.

16 Q. And where it states "cataloged and
17 indexed" --

18 A. Uh-huh.

19 Q. -- what does "cataloged" mean?

20 A. "Cataloged" is a bibliographic
21 description of the resource. So it means every
22 single item of information -- piece of
23 information that we want to ascribe to a work,
24 we're going to put in that record. I'm going
25 to put it in initially.

1 Some places are a little more
2 willing to put in fields that others might not
3 include, but there is always indexing and there
4 is always a description no matter what.

5 Q. And a similar question, then: What
6 does "indexed" mean?

7 A. It depends who is asking.

8 Indexed, from my point of view, is
9 points of access that can be used to retrieve
10 the item. So that includes things like author,
11 title, editor, variant title, classification
12 number, subject index, edit entries for things
13 like editors, corporations, associations, and
14 sometimes things like URLs because something is
15 on the web. So we may have a record that has a
16 link to a website.

17 We have all these different kinds
18 of pieces of information. And many of them are
19 indexed. We also have note fields that are
20 indexed, and we have other kinds of entries
21 that could be indexed if a library decided to
22 share that index.

23 But we can look at a record and
24 say, oh, here's five ways you can find this or
25 10 ways you can find this. It varies by

1 record. It varies by completeness.

2 But indexing is a very generic term
3 that is used in a lot of different ways.

4 Q. So the document is -- is -- give me
5 a second to phrase my question.

6 Okay. So if a document is given a
7 new MARC record, does that mean that document
8 becomes available to the public?

9 A. A new MARC record. You mean if
10 there is a new MARC record created for the
11 first time for a new work? Is that what you
12 mean?

13 Q. Sure.

14 A. Okay. If that happens, the record
15 is submitted to OCLC and it is indexed and it
16 is visible through WorldCat likely within a
17 day. They run 24/7 every day of the year, but
18 that indexing is not instantaneous but close to
19 that.

20 It's also available in the online
21 catalog at the library that created the record.

22 MR. ADAMS: Can you scroll to
23 paragraph 44, please.

24 Can you scroll down just a little
25 bit.

1 BY MR. ADAMS:

2 Q. Dr. Hall-Ellis, in the middle of
3 this, it says: "I obtained Exhibit 1009 from
4 counsel."

5 Do you see where it says that?

6 A. Yes, I do see that.

7 MR. ADAMS: Can we pull up
8 Exhibit 3, please.

9 (Excerpts from the Car Builders'
10 Dictionary 1906 Edition, 6 pages,
11 marked as Exhibit 3.)

12 BY MR. ADAMS:

13 Q. And Dr. Ellis, take your time to
14 look through this, but my question is: Is this
15 Exhibit 1009 that you received from counsel?

16 A. If it is attached to my report, it
17 is. If it came from somewhere else, I can't
18 tell you.

19 I can't really scroll through it,
20 but I see the cover.

21 MR. ADAMS: Can you please scroll
22 through it for her.

23 A. I assume that was the title page
24 and these are the pages. These are excerpts.
25 This is not the entire volume.

1 Okay. What would you like to ask
2 about this?

3 BY MR. ADAMS:

4 Q. So I just want to back up. You
5 stated if this was attached to your report,
6 this is what you reviewed.

7 A. Right.

8 Q. I will represent to you that this
9 is not attached to your report as an
10 attachment.

11 A. Okay. This is the exhibit that the
12 attachment --

13 Q. This is what I believe you were
14 referring to as Exhibit 1009 in your
15 declaration, yes.

16 A. Okay, fine.

17 Q. And on the bottom right, you can
18 see it's Exhibit 1009 as marked in the IPRs.

19 A. I'll take your word for it. It's
20 pretty small, but yes.

21 Q. Okay. So I'll just ask my question
22 one more time.

23 So this is the Exhibit 1009 that
24 you reviewed?

25 A. Yes, I believe that to be true.

1 Q. Thank you.

2 MR. ADAMS: If we can go back to
3 Exhibit 2, staying on paragraph 44, please.

4 THE WITNESS: Oh, paragraph 44.
5 Okay.

6 MR. ADAMS: Can you please just
7 scroll down a little bit more.

8 BY MR. ADAMS:

9 Q. Do you see the next sentence, "The
10 text in Exhibit 1009 is complete"?

11 A. I see that.

12 Q. So what did you base that statement
13 on?

14 A. When you look at the text in the
15 excerpt, you can read it. It makes sense.

16 And it means to me that those
17 pages -- and please know, there are a few pages
18 from a rather large book, and figures from that
19 book, they make sense.

20 So to me, it appears that these
21 excerpts are intact. That is to say, the
22 excerpt covers the content that was extracted,
23 not a page here and a page there, so they make
24 sense to me, and it is possible to read that
25 text knowing that it's only a small portion of

1 a much larger work.

2 Q. Thank you.

3 MR. ADAMS: Can you just scroll up
4 a little bit, please.

5 So this Exhibit 1009 is an excerpt
6 of the 1906 Cyclopedia, correct?

7 A. Yes.

8 Q. And have you seen a full copy of
9 the 1906 Cyclopedia?

10 A. I've only seen the digitized
11 version.

12 Q. Okay.

13 A. Yeah. Because this book is not
14 available just everywhere, of course, being
15 more than a hundred years old.

16 But I did see the digitized person
17 from the University of Michigan. So we know
18 that it's been around a long time.

19 Q. Okay. When did you see that copy
20 of the 1906 Cyclopedia?

21 A. Well, I started working on this at
22 the end of April of 2025. I would say sometime
23 early May of 2025.

24 Once I finish the bibliographic
25 citation verification process, then I set forth

1 to locate copies other than those provided to
2 me, to see where they are and what libraries
3 hold them. I'm in WorldCat. I'm in OCLC. I'm
4 looking around to see what the environment
5 tells me about availability.

6 And so that would make this early
7 May.

8 Q. Okay. So the statement -- well --

9 MR. ADAMS: Can you scroll down to
10 the end of this paragraph, please.

11 BY MR. ADAMS:

12 Q. Okay. Dr. Hall-Ellis, can you see
13 the last sentence here that starts
14 "Exhibit 1009 is a true and correct copy"?

15 A. Yeah, I see that.

16 Q. So what is that statement based on?

17 A. To me, the exhibit provided to me
18 and the copy I saw online make me believe they
19 are one and the same and that they are
20 accurate.

21 I have no reason to think that
22 there's been an alteration or a change or any
23 kind of modification to the exhibit. It is
24 what it appears to be.

25 Q. So going back, you stated that the

1 first time you saw Exhibit 1009 was in
2 April 2025, correct?

3 A. Very late in April, yes.

4 Q. So when did you start working on
5 this matter?

6 A. Without giving an exact date --
7 because I can't remember an exact date --
8 I believe this work started the last week of
9 April 2025.

10 Q. The full version of the
11 1906 Cyclopedia that you viewed online, where
12 did that come from?

13 A. It originally was held at the
14 University of Michigan Libraries. And they
15 have done a great deal of digitization and
16 contributing of resources to the HathiTrust.

17 They're not the only ones that have
18 done that, but they certainly have done more
19 than many of the other universities.

20 I have no idea what their plan is
21 or why they do that, but certainly I see their
22 contributions fairly often.

23 Q. And did you view the
24 1906 Cyclopedia in WorldCat then?

25 A. I can't see the document itself.

1 I can see the bibliographic record there. And
2 as you scroll through the description of this,
3 you'll see that, yes, I was in there and, yes,
4 I did see it there.

5 So you -- you know, the full
6 description of the resource, or the work, is
7 the paragraphs describing this 1906 Cyclopedia.
8 And, yes, I was in WorldCat to look at a
9 bibliographic record for this particular item.

10 Q. Thank you.

11 And just to clarify -- sorry -- but
12 you have seen and reviewed a full copy of the
13 1906 Cyclopedia?

14 A. Online, yes. Not in person.

15 Q. And what website did you use to
16 access that?

17 A. I don't know.

18 What does it say in Footnote 9?

19 MR. ADAMS: Can you scroll down,
20 please, so we can see it.

21 A. Scroll down and you can see it.

22 BY MR. ADAMS:

23 Q. Okay. Thank you.

24 Okay. Can we scroll to
25 paragraph 45, please.

1 A. Paragraph 45. Okay. Okay.

2 So that's one -- okay. I see that.

3 Q. And do you see that you -- do you
4 see that you stated you obtained a true and
5 correct copy of the MARC record for the
6 1906 Cyclopedia?

7 A. Yes.

8 Q. And did you obtain that MARC record
9 in WorldCat?

10 A. No. I have to go into OCLC's
11 bibliographic database. That is to say,
12 I cannot use the WorldCat version to see what I
13 want to see through WorldCat because the
14 display is limited. So I start in WorldCat,
15 but I actually go from there to the OCLC
16 bibliographic database.

17 And I talk about --

18 Q. Okay, thank you -- sorry.

19 A. Yeah, it's the screen interface of
20 WorldCat that gets in the way of what I want to
21 see, so I'm going to go to the bibliographic
22 database every time.

23 Q. Okay. Thank you for that
24 clarification.

25 Okay. And once you had the MARC

1 identification for the 1906 Cyclopedia --

2 A. Yes.

3 Q. -- how did you verify that it --
4 sorry. Let me rephrase my question.

5 How did you verify that the MARC
6 identification for the 1906 Cyclopedia applied
7 to the full version that you viewed through the
8 University of Michigan Libraries?

9 A. Oh, Lord. Let me think for a
10 minute.

11 We create bibliographic records for
12 entire volumes, and the volumes are matched
13 according to major identification pieces, such
14 as title, editor, author, contributor, place of
15 publication, date of publication, length, size,
16 illustrative material.

17 And those elements contained on the
18 title page and the cover of the exhibit match
19 those in the bibliographic record. So I know
20 that's it.

21 Q. And when you matched the MARC
22 identification to Exhibit 1009, did
23 Exhibit 1009 match all of the information in
24 the bibliographic record in the
25 1906 Cyclopedia?

1 A. Yes. Because otherwise I wouldn't
2 have selected it. I would have kept looking
3 for another copy.

4 One of the issues with OCLC and
5 WorldCat is that there are multiple records for
6 the same item, and it takes a bit of time and
7 skill to learn to differentiate which is the
8 appropriate record for use.

9 And this one appeared to me to be
10 the proper record, and it matches, so it is the
11 one I chose.

12 Q. So how do you differentiate between
13 different records?

14 A. Well, I want the earliest
15 appropriate record. I want the record that
16 matches, and I want it from a credible
17 institution.

18 And if I can get a record from the
19 Library of Congress and it's the earliest
20 record, the chances are excellent that's the
21 one I'm going to choose.

22 We have records that people submit
23 that are incomplete. We have records that
24 people submit that have errors. And those I --
25 we just discount those. I can't use those.

1 Q. Why do you want the earliest
2 appropriate record?

3 A. Because the rule is -- I mean, the
4 rule in our community of practice is if one
5 gets an item and wants to make a bibliographic
6 record, it is incumbent upon that cataloger to
7 look for records to see if one exists. And if
8 one exists, it can either be used or modified.

9 If it does not exist, that becomes
10 the first record, and that should be what we
11 would term as "the master record." And that
12 tends to be the oldest record.

13 MR. ADAMS: Can you just scroll
14 down a little bit more on this paragraph,
15 please.

16 A. Let me keep going.

17 BY MR. ADAMS:

18 Q. Okay. Dr. Hall-Ellis, do you see
19 where it says "As can be seen in field 008" --

20 A. I see that.

21 Q. So that sentence states that
22 field 008 of the MARC record that you reviewed
23 indicates that the 1906 Cyclopedia was
24 cataloged on July 12, 1995, correct?

25 A. I do see that.

1 Q. And is that true?

2 A. Yes.

3 Q. Okay. And you see that next
4 sentence that starts: "The most recent
5 enhancement"?

6 A. Uh-huh. I do see that.

7 Q. So as a librarian, can you see the
8 different iterations between the first date of
9 catalog, in this case in 1995, and the most
10 recent enhancement in 2024?

11 A. No. We don't do that. If we
12 needed that, we'd have to ask either the
13 library or OCLC to provide all the iterations.
14 And I have seen that done for research
15 purposes, but normally that does not happen.

16 It is likely, in 2024 we are
17 building BIBFRAME, and there will be
18 enhancements to the record if we look at it
19 that would suggest -- because that work is
20 going on at the Library of Congress --
21 modifications of that type are what occurred.

22 But without asking for that
23 in-depth tracking, we don't track. We just
24 don't do that.

25 Q. Then are -- is the MARC record

1 changed in any way when an enhancement is
2 cataloged?

3 A. Does it change? The basic record
4 doesn't change.

5 Enhancements -- and I call them
6 enhancements because basically the goal is to
7 increase -- find what we would call elements
8 that are important for the discovery process,
9 and we are going to make the record more
10 robust. We don't diminish; we add to.

11 And so, to me, enhancement is a
12 more appropriate designation than change.
13 Change kind of has a negative cast to it, and
14 that really is not what's going on. So I tend
15 to refer to these as enhancements.

16 Q. So fields such as author, title,
17 page numbers, things like that, they don't
18 change when the enhancement is logged?

19 A. No, they don't change. The name of
20 it is the name of it. The people responsible,
21 which we now call creators, which are authors,
22 editors, or other contributors, those don't
23 change.

24 What may change are we add subjects
25 or we add some other kind of availability, but

1 we don't -- we don't diminish or take away
2 unless something is incorrect. And from the
3 Library of Congress, the chances of that are
4 very, very small.

5 Q. Thank you.

6 And then if we can look at
7 paragraph 46, please.

8 A. Yeah. I think it drags to the next
9 page. But if you want to start at the top,
10 that's fine.

11 Q. My question is on the next page.
12 So if you're okay with everything here, I'll
13 scroll down.

14 A. Yeah, that's fine.

15 Q. Okay.

16 MR. ADAMS: Could we scroll down,
17 please.

18 BY MR. ADAMS:

19 Q. So similar to, you know, what I was
20 just asking you about. As of July 12 -- do you
21 see where it says "As of July 12, 1995" --

22 A. I see that.

23 Q. -- "a corresponding publication was
24 available on or before that same date"?

25 A. Uh-huh.

1 Q. So on July 12, 1995, how would
2 someone go about accessing that document?

3 A. It's a curious question because you
4 remember, this book was published in 1906. So
5 this forces us to consider the history of
6 online catalogs in libraries.

7 In 1906, we were handwriting little
8 three-by-five cards and putting them in
9 drawers, large drawers that held a thousand
10 cards each.

11 And the movement to make
12 bibliographic data machine-readable started
13 after World War II in the Library of Congress.
14 And because of that, it took decades for the
15 data on those little cards to be made
16 machine-readable.

17 Hence we see a cataloging date of
18 1995, which, in essence, is not the original
19 cataloging date, but rather the date of
20 machine-readable data.

21 At that point, had someone wanted
22 this book, the probability is very high the
23 individual would have had to go to a library
24 and say: I need or I want this book. Can you
25 get it for me?

1 And at that time in the '90s, OCLC
2 had an interlibrary loan program, that software
3 continues to run, and the librarian would say:
4 Let me see where I can find it.

5 That librarian would be able to
6 look at OCLC and say: These are the libraries
7 that own the book. Let me request a copy for
8 you. So that process would work, but not like
9 it does now.

10 Now you can go into WorldCat and
11 you look it up yourself. It says it's in this
12 library. It may be within 10 or 15 miles from
13 where you are. Get in your car, drive over,
14 call your library and say: I want this. Can
15 you have them send it to you and I will pick it
16 up.

17 So that process has really changed
18 over the years, but the bibliographic data in
19 OCLC's database would have been visible to the
20 librarian, who could have said: It's from
21 here, I can get it for you, or, it's from the
22 Library of Congress, our library of last
23 resort, but we can request it for you.

24 So the delivery of the document in
25 your hands has differed. The way you access

1 the data are different because we now use
2 technology in so many more powerful ways. But
3 at the time, it would have been necessary to
4 take a couple extra steps.

5 Yet in 1995, if you went to the
6 library and said: I want this, can you get it?

7 The answer would be: Yes, we can.
8 Let me see where it's going to come from.

9 The Library of Congress has had an
10 online catalog longer than virtually any other
11 library in the country. But searchability in
12 '95 -- let me think. Z39.50 was not very
13 popular, not very well-used. It would have
14 been more difficult, but doable.

15 Q. All right. Thank you.

16 MR. NELSON: Counsel, is now a good
17 time for a break given the elapsed time?

18 MR. ADAMS: Yes, I think so. I was
19 just going to suggest that.

20 I don't know how long we want to
21 take. I'm fine with 10, 15 minutes.

22 I don't know if you guys want to take
23 longer, Phillip, or Dr. Hall-Ellis?

24 THE VIDEOGRAPHER: May I take us
25 off record?

1 MR. ADAMS: Yes.

2 THE VIDEOGRAPHER: We are off
3 record at 9:53.

4 (Recess taken.)

5 THE VIDEOGRAPHER: We are back on
6 record at 10:11.

7 MR. ADAMS: Okay. Can we pull
8 Exhibit 2 back up, please.

9 And can you please go to
10 paragraph 48.

11 BY MR. ADAMS:

12 Q. Dr. Hall-Ellis, can you just review
13 this and let me know when you're ready to
14 answer questions.

15 A. Okay. Can we scroll down a little
16 bit more for this paragraph, too, please.

17 Okay. All right.

18 Q. Dr. Hall-Ellis, do you see in the
19 middle of that paragraph where it says:
20 "I obtained Exhibit 1010 from counsel"?

21 A. I do.

22 Q. Okay. And I'd like to mark as
23 Exhibit 4, Exhibit 1010.

24 (Excerpts from the Car Builders'
25 Dictionary, 1912 Seventh Edition, 6

1 pages, marked as Exhibit 4.)

2 BY MR. ADAMS:

3 Q. And again, Dr. Hall-Ellis, feel
4 free to have the tech manipulate this document
5 however you need.

6 A. Sure. If we could scroll a little
7 bit, especially the first two or three pages
8 would be helpful.

9 Okay. There's the property stamp.
10 On the previous page is the property stamp,
11 down in the lower right-hand corner, for
12 whatever the library is that had it. Yeah.

13 That was very common -- it's very
14 common now, but the stamps have changed shapes.

15 Okay. So this is that document,
16 okay, with the figures.

17 I don't know that there were many
18 pages in the excerpt this time. The number of
19 pages in the excerpts varied from one to the
20 other.

21 So this one looks like it was a
22 shorter excerpt. Okay.

23 Q. So my question is: This Exhibit 4
24 that you're seeing right now is Exhibit 1010
25 that you reference in paragraph 48 of your

1 declaration?

2 A. All right.

3 Q. Is that true?

4 A. Yes.

5 Q. And it's an excerpt of the
6 1912 Cyclopedia?

7 A. I believe so. If we look at the
8 exhibit, which is the declaration, I believe
9 that's true.

10 Q. Okay.

11 MR. ADAMS: We can pull back up
12 Exhibit 2, if that's okay.

13 A. Okay.

14 MR. ADAMS: Go to paragraph 48,
15 please.

16 A. Okay. So this is the second item,
17 1010, which is the 1912 Cyclopedia. All right.
18 I see that.

19 BY MR. ADAMS:

20 Q. And in preparing your declaration,
21 or this declaration, did you review a full copy
22 of the 1912 Cyclopedia?

23 A. I believe I did not.

24 Q. Okay.

25 MR. ADAMS: So if you can scroll

1 down a little bit, please.

2 BY MR. ADAMS:

3 Q. So if you look at the last sentence
4 here, Dr. Hall-Ellis, starting at "Exhibit 1010
5 is a true and correct copy."

6 Do you see that sentence?

7 A. I do.

8 And I wonder, if we could see what
9 the footnote goes to, that could help me know
10 what's going on.

11 The footnote must be on the next
12 page.

13 I don't see a footnote.

14 There's a footnote. What does the
15 footnote say?

16 Okay. So the footnote only goes
17 back to WorldCat. So I have no reason to
18 believe, though I don't remember, that I looked
19 at a full copy. I believe I did not.

20 MR. ADAMS: Can you scroll back up
21 to paragraph 48, please.

22 BY MR. ADAMS:

23 Q. Okay. So back to this last
24 sentence that reads:

25 "Exhibit 1010 is a true and correct

1 copy in a condition that creates no
2 suspicion about its authenticity."

3 What is your basis for that
4 statement?

5 A. The copy of the cover and the title
6 page on the verso and the figures look like
7 they came from an old book. The data matched
8 something I could verify was, in fact,
9 published at that time, and matches.

10 So I have no reason to think it
11 isn't from the book that it is attached to
12 there in the exhibit. So I believe that is
13 accurate.

14 Q. The data you just referenced to,
15 what data is that?

16 A. The data on that title page. And
17 you'll see it's quite extensive. And as I
18 recall, the subtitle of this book is rather
19 lengthy, and it -- that data match a
20 bibliographic record.

21 So I have no reason to think that
22 it isn't what it purports to be and is from the
23 book that it lists on that title page.

24 Again, it's a book that's more than
25 100 years old.

1 Q. Uh-huh. Okay. But just to be
2 clear, you did not review a full copy of the
3 1912 Cyclopedia in directing this declaration?

4 A. No. If I had done that, I would
5 have said so.

6 Q. Okay. Okay. Thank you very much.

7 MR. ADAMS: Can we scroll down to
8 paragraph 52, please.

9 A. 52. Oh, yes.

10 BY MR. ADAMS:

11 Q. And once you're done reviewing,
12 Dr. Hall-Ellis, please let me know and I will
13 start asking questions.

14 A. 52. This is Exhibit 1011. This is
15 the Tenth Edition, 1922.

16 Could we scroll to the end of the
17 paragraph, please? Thank you.

18 Okay. What would you ask about
19 this one?

20 Q. Do you see in the middle of this
21 paragraph where it states: "I obtained
22 Exhibit 1011 from counsel"?

23 A. Yes, I see that.

24 MR. ADAMS: So I'd like to
25 introduce Exhibit 5, Exhibit 1011 from the

1 IPR.

2 So if we could pull that up,
3 please.

4 (Excerpt from the Car Builders'
5 Cyclopedia, 1922, Tenth Edition, 4
6 pages, marked as Exhibit 5.)

7 A. Okay. This is the cover. That's
8 the title page. And that's the verso, I
9 believe. Yes. That's the verso. And then we
10 have figures.

11 And, again, I think this was a
12 shorter exhibit with not as many pages as some
13 of the others.

14 Is this the last page of the
15 exhibit?

16 THE TECHNICIAN: Yes.

17 A. Okay. Thank you.

18 Okay. So I've seen that.

19 BY MR. ADAMS:

20 Q. So is this -- Exhibit 5, is this
21 the Exhibit 1011 that you reference in
22 paragraph 52 of your declaration?

23 A. Yes.

24 If we go back there, you'll see
25 that the title and the subtitle and the

1 publication information match what's written in
2 that paragraph.

3 Q. This is an excerpt of the
4 1922 Cyclopedia then?

5 A. Yes.

6 Q. And did you review a full copy of
7 the 1922 Cyclopedia when you prepared your
8 declaration?

9 A. I believe I did not.

10 Q. Okay.

11 MR. ADAMS: Can we go back to the
12 declaration, please. Back to paragraph 52.

13 A. Okay. 52.

14 MR. ADAMS: If we can go to the
15 end.

16 A. Right.

17 BY MR. ADAMS:

18 Q. So you see this last sentence
19 states:

20 "Exhibit 1011 is a true and correct
21 copy in a condition that creates no
22 suspicion about its authenticity."

23 Do you see that?

24 A. I do.

25 Q. Okay. And what is that statement

1 based on?

2 A. It's based on the title page, the
3 verso, match the bibliographic description.
4 And these pages look like they're from an old
5 book. And I have no reason to think that they
6 are not what they represent.

7 They are of this exhibit, which
8 originally was in San Francisco in the public
9 library, and I think we saw a stamp with that.
10 So, you know, it's what it looks like.

11 Q. Thank you. Okay.

12 MR. ADAMS: Can we please continue
13 down to paragraph 56.

14 A. 56.

15 MR. ADAMS: Can you scroll down a
16 little bit, please.

17 It's going to be on the next page,
18 actually.

19 BY MR. ADAMS:

20 Q. Dr. Hall-Ellis, do you see where
21 you state: "I obtained Exhibit 1004 from
22 counsel"?

23 A. I do see that, yes.

24 Q. Okay.

25 MR. ADAMS: Can we pull up

1 Exhibit 6 then, which is Exhibit 1004 from
2 the IPRs.

3 (Excerpt from the Car Builders'
4 Cyclopedia, 1946, Seventeenth
5 Edition, 62 pages, marked as
6 Exhibit 6.)

7 A. Okay. The cover and the title page
8 the verso -- foreward, for some reason,
9 included. And then begins the excerpt here.
10 It's one of the longer excerpts.

11 And then drawings. There are a
12 number of drawings in this particular excerpt,
13 pictures.

14 Okay. I think that's the last
15 page.

16 No, it's not. There's more.

17 THE TECHNICIAN: This excerpt has
18 62 pages to it.

19 A. Oh my goodness.

20 I know I looked at all of the pages
21 because I identified them in my document that I
22 wrote. And I wanted to be sure that I had a
23 good list of what was included, but I didn't
24 realize it was that many pages.

25 Okay.

1 BY MR. ADAMS:

2 Q. So Dr. Hall-Ellis, is this -- what
3 you're seeing as Exhibit 6, is this the
4 document that you obtained from counsel that
5 you refer to as Exhibit 1004 in paragraph 56 of
6 your declaration?

7 A. Yes, of -- the data on the title
8 page and the verso match. And I have listed
9 the excerpt sections as best I could determine
10 them. So, yes, this is it.

11 MR. ADAMS: And we can go back to
12 the declaration, paragraph 56. Thank you.

13 A. Okay. 56.

14 MR. ADAMS: And actually, if you
15 could just go up one page. Sorry.

16 A. Okay.

17 BY MR. ADAMS:

18 Q. So Exhibit 1004 is an excerpt of
19 the 1946 Cyclopedia then?

20 A. Yes. That is the short name that I
21 assigned to it, yes.

22 Q. And did you review a full copy of
23 the 1946 Cyclopedia when you prepared your
24 declaration?

25 A. No, I did not.

1 Q. Okay.

2 MR. ADAMS: Now could you please
3 scroll down to the end of this paragraph.

4 BY MR. ADAMS:

5 Q. Dr. Hall-Ellis, do you see the
6 statement that says: "Exhibit 1004 is a true
7 and correct copy in a condition that creates no
8 suspicion about its authenticity"?

9 A. Yes, I see that.

10 Q. And what was the basis for that
11 statement?

12 A. It looks like material that is from
13 a book a number of years old, a number of
14 decades. It was held by the State Historical
15 Society of Wisconsin, which I've worked with
16 their materials in the past.

17 And it -- the pages look like they
18 came from this book. Bibliographically, the
19 title and the verso match. So I have no reason
20 to think this is not what it purports to be.

21 Q. Thank you.

22 MR. ADAMS: Can we go ahead and
23 scroll down to paragraph 60, please.

24 A. 60. What is 60?

25

1 BY MR. ADAMS:

2 Q. Dr. Hall-Ellis, do you see the
3 statement in the middle of that page that says:
4 "I obtained Exhibit 1016 from counsel"?

5 A. I do.

6 MR. ADAMS: I'd like to mark as
7 Exhibit 7 Exhibit 1016 from the IPRs.

8 A. Okay.

9 (Excerpt from Coal Cars, The First
10 Three Hundred Years, Karig,
11 94 pages, marked as Exhibit 7.)

12 A. Can we make this a little bigger,
13 that second page?

14 Very good. Thank you so much.

15 And then there are more pages. Can
16 we see a little bit more of this?

17 Uh-huh. Okay.

18 THE TECHNICIAN: There are 94 pages
19 to this excerpt. Would you like me to
20 scroll through the entire document?

21 THE WITNESS: Unless there are
22 questions about a specific page, I've seen
23 enough. I would leave it up to counsel to
24 tell me, but --

25 THE TECHNICIAN: Yes, ma'am.

1 THE WITNESS: Thank you.

2 BY MR. ADAMS:

3 Q. No, that's okay. If you want to
4 see something specific, we can go to it, but I
5 don't suspect that will be the case.

6 A. Okay. Great.

7 Q. So is this Exhibit 7, is this
8 Exhibit 1016 that you refer to in paragraph 60
9 of your declaration?

10 A. Yes.

11 Q. And this is what you received from
12 counsel?

13 A. Yes, it is.

14 Q. Okay.

15 MR. ADAMS: We can go back to the
16 declaration, paragraph 60, just so you know.

17 Thank you.

18 A. Okay. Paragraph 60.

19 THE TECHNICIAN: Which paragraph
20 were we on?

21 MR. ADAMS: 60.

22 BY MR. ADAMS:

23 Q. Okay. And what we were just
24 looking at, Exhibit 7, that is the book titled
25 "Coal Cars: The First Three Hundred Years," by

1 Martin Robert Karig; is that correct?

2 A. Yes.

3 Q. And did you review a full copy of
4 that title while you were preparing your
5 declaration?

6 A. I did not.

7 Q. Okay.

8 MR. ADAMS: Then if we could scroll
9 to the end of this paragraph.

10 BY MR. ADAMS:

11 Q. Okay. Dr. Hall-Ellis, do you see
12 the sentence at the end of this paragraph that
13 states:

14 "Exhibit 1016 is a true and correct
15 copy in a condition that creates no
16 suspicion about its authenticity"?

17 A. I do see that.

18 Q. What is the basis of that
19 statement?

20 A. Well, this is interesting. This
21 book is new enough that on the verso, it has
22 the cataloging and publication information
23 prepared at the Library of Congress, which
24 tells me that the information matches the book.
25 The information describing the book

1 includes a table of contents, and these
2 particular pages that are excerpted match the
3 table of contents.

4 So, again, it appears to me that it
5 is exactly what it says it is, a section of a
6 book cataloged initially at the Library of
7 Congress, with the excerpts that match the
8 table of contents and the cataloging data on
9 the verso that match the bibliographic record
10 in OCLC.

11 So, to me, it's quite clear that
12 this is exactly what it purports to be.

13 Q. Thank you.

14 MR. ADAMS: Can we scroll to
15 paragraph 64 of the declaration, please.

16 BY MR. ADAMS:

17 Q. Dr. Hall-Ellis, you can take a
18 moment to review and just let me know when
19 you're ready for questions.

20 A. Okay.

21 Okay. 1007 is this book from
22 England, okay.

23 Q. Do you see in the middle of the
24 paragraph where it says: "I obtained
25 Exhibit 1007 from counsel"?

1 A. I do see that.

2 Q. Okay.

3 MR. ADAMS: I'd like to mark
4 Exhibit 8 as Exhibit 1007 from the IPRs.
5 (Excerpt from Lancashire &
6 Yorkshire Wagons, Vol. 2, Noel
7 Coates, 9 pages, marked as
8 Exhibit 8.)

9 BY MR. ADAMS:

10 Q. And, again, please take your time
11 to review this, Dr. Hall-Ellis, and let me know
12 when you're done, please.

13 A. Okay. Let me see, there's a title
14 page.

15 Could we scroll a little bit?

16 Okay. Okay.

17 Okay. Again, a table of contents.
18 Right.

19 And is this a long exhibit?

20 THE TECHNICIAN: No, Doctor. This
21 one only has nine pages.

22 THE WITNESS: Okay. Thank you.

23 THE TECHNICIAN: You're welcome.

24 THE WITNESS: It's hard to know.
25 There are lots of different pages here.

1 Okay. Looks familiar.

2 BY MR. ADAMS:

3 Q. And so is this, Exhibit 9 [sic],
4 the Exhibit 1007 that you reference in
5 paragraph 64 of your declaration?

6 A. Yes, it is.

7 Q. Okay.

8 MR. ADAMS: We can go back to the
9 declaration and paragraph 64, please.

10 BY MR. ADAMS:

11 Q. Okay. So what we were just looking
12 at, Exhibit 9 [sic] then, that's an excerpt
13 from the book titled "Lancashire and Yorkshire
14 Wagons" by Noel Coates. Is that true?

15 A. Yes. Yes.

16 Q. And you see your last statement in
17 this paragraph that says:

18 "Exhibit 1007 is a true and correct
19 copy in a condition that creates no
20 suspicion about its authenticity"?

21 A. Uh-huh.

22 Q. What is the basis for that
23 statement?

24 A. Again, the title page, the verso,
25 and the table of contents match what was part

1 of the exhibit. So I have no reason to think
2 that this excerpt is not from this book.

3 I also found a bibliographic record
4 that represents this particular work, and the
5 data match.

6 So I believe that this excerpt is,
7 in fact, from this book.

8 Q. Okay.

9 MR. ADAMS: We can go ahead and
10 move to Exhibit 68, please -- or, sorry,
11 paragraph 68. My apologies.

12 A. Okay. 68. Okay. I see this one.

13 BY MR. ADAMS:

14 Q. And do you see in the middle of the
15 paragraph: "I obtained Exhibit 1019 from
16 counsel"?

17 A. Yes, I see that.

18 Q. Okay.

19 MR. ADAMS: If we can please pull
20 up Exhibit 9, which is Exhibit 1019 from the
21 IPRs.

22 (Excerpt from Wagons of the Final
23 Years of British Railways,
24 David Larkin, 10 pages, marked as
25 Exhibit 9.)

1 BY MR. ADAMS:

2 Q. Again, go ahead and take your time,
3 review it, and please just let me know when
4 you're ready.

5 A. Okay. If we could scroll a little
6 bit in this, it would be helpful.

7 Okay.

8 THE TECHNICIAN: And that's the
9 final page.

10 THE WITNESS: That's the final
11 page.

12 Could I see the page before,
13 please?

14 Could you scroll up a little bit?

15 Okay. Thank you. I'm done.

16 MR. ADAMS: Okay. You can go back
17 to the declaration, please. Paragraph 68.
18 Okay.

19 BY MR. ADAMS:

20 Q. Dr. Hall-Ellis, the Exhibit 9 that
21 we were just looking at, that is Exhibit 1019
22 that you reference here in paragraph 68 of your
23 declaration?

24 A. Yes, it is.

25 Q. Did you review a -- sorry. Let me

1 rephrase that.

2 And that Exhibit 9 is excerpts from
3 the book "Wagons of the Final Years of British
4 Railways, a Pictorial Study of the 1962 to 1968
5 Period," by David Larkin?

6 A. Yes.

7 Q. Okay. And did you review a full
8 copy of that title in preparing this
9 declaration?

10 A. I did not.

11 MR. ADAMS: And if you could scroll
12 down.

13 Okay.

14 BY MR. ADAMS:

15 Q. Dr. Hall-Ellis, do you see the
16 sentence:

17 "Exhibit 1019 is a true and correct
18 copy in a condition that creates no
19 suspicion about its authenticity"?

20 A. I do see that.

21 Q. And what is the basis for that
22 statement?

23 A. Well, the document itself has
24 bibliographic data that match a MARC record
25 that I found. And I also saw in this one that

1 there is a header on pages with the title of
2 the book.

3 So it is my opinion that these
4 pages, in fact, came from this book. The data
5 match, the header matches, it makes sense, and
6 it's a newer book. So the chances are that I
7 am right in stating it's my opinion that this
8 is an authentic excerpt.

9 Q. On previous exhibits where the
10 header did not match the title of the book on
11 latter pages --

12 A. It depends on the publisher.
13 Sometimes they do. Sometimes they put chapter
14 titles as headers. Sometimes there's no header
15 at all.

16 Q. Does it impact your analysis on
17 authenticity if there's no headers on the
18 subsequent pages?

19 A. No, especially with older books.
20 It varies by publisher. And a number of these,
21 we see from the same publishers.

22 And these are smaller publishers.
23 These are what I would call specialty
24 publishers that tend to handle materials in
25 certain areas of interest, and they may or may

1 not do things the way some larger, more general
2 publishers do.

3 It's interesting to note, but it
4 does not necessarily influence my opinion at
5 all. It's just something to note.

6 Q. Thank you. Okay.

7 MR. ADAMS: Can we go ahead and
8 scroll down to paragraph 72, please.

9 A. Let me look at -- oh, my gosh.

10 Okay. I see that paragraph.

11 BY MR. ADAMS:

12 Q. Okay. And do you see where it
13 states: "I obtained Exhibit 1024 from
14 counsel"?

15 A. Yes, I do.

16 Q. Okay.

17 MR. ADAMS: Can we please bring up
18 Exhibit 10, which is Exhibit 1024 from the
19 IPRs.

20 (Excerpts from Private Owner
21 Wagons, Volume 1, Andrew Marshall,
22 8 pages, marked as Exhibit 10.)

23 A. Okay.

24 THE TECHNICIAN: And this is the
25 final page.

1 THE WITNESS: Thank you.

2 Okay. We can talk about this one.

3 BY MR. ADAMS:

4 Q. Okay. So is this Exhibit 10 the
5 Exhibit 1024 that you reference in paragraph 72
6 of your declaration?

7 A. Yes.

8 Q. Okay.

9 MR. ADAMS: We can go back to the
10 declaration, please.

11 BY MR. ADAMS:

12 Q. Okay. This Exhibit 10 is an
13 excerpt from the book titled "Private Owner
14 Wagons, Volume 1: Tops Types PAA-PHA &
15 PJA-PXX," by Andrew Marshall?

16 A. Yes.

17 Q. And did you review a full copy of
18 that title in preparing your declaration?

19 A. No, I did not.

20 Q. Okay. And you see the last
21 sentence here at the bottom of the screen:

22 "Exhibit 1024 is a true and correct
23 copy in a condition that creates no
24 suspicion about its authenticity."

25 A. I do see that.

1 Q. And what is your basis for that
2 statement?

3 A. I found bibliographic data that
4 match the description of the book as identified
5 on its title page, and the title page on the
6 listings appear to be from this book and the
7 pagination makes sense. It's a newer book.

8 I have no reason to think that it
9 is not what it states itself to be, which is
10 this excerpt from the 1989 book.

11 Q. When you say "the pagination makes
12 sense," what does that mean?

13 A. Right. They're sequential. You
14 know, the listings, 25, 26, 27, 28, makes
15 sense. There's nothing missing in between.
16 You can follow the layout of the data on those
17 pages.

18 The pagination in this book is a
19 little different than in some of the others,
20 but the listings make sense.

21 Q. How is the pagination different?

22 A. Some of the books are numbered, you
23 know, one to whatever. And this one, in some
24 of the pages, I didn't see page numbers per se,
25 but sections.

1 And I identified them that way in
2 this opening paragraph because of -- there
3 weren't page numbers as I traditionally might
4 have seen them. So I listed the section as
5 best I could describe it.

6 Q. And does that give you any doubt as
7 to the authenticity of this excerpt?

8 A. No. It just means that the
9 publisher and the creators decided to present
10 the material in this way.

11 Q. Okay. Thank you.

12 MR. ADAMS: We can go ahead and go
13 to paragraph 76 of the declaration, please.

14 A. Okay.

15 And do we have the rest of this
16 paragraph, please?

17 Okay. All right.

18 BY MR. ADAMS:

19 Q. Do you see in the middle of the
20 paragraph where it says: "I obtained
21 Exhibit 1020 from counsel"?

22 A. I do see that.

23 Q. Okay.

24 MR. ADAMS: Can we please bring up
25 Exhibit 11, which is Exhibit 1020 from the

1 IPRs.

2 (Excerpts from Working Wagons,
3 Volume 3, David Larkin, 17 pages,
4 marked as Exhibit 11.)

5 THE TECHNICIAN: I'm sorry. Did
6 someone say something? There was a glitch
7 in my system.

8 MR. ADAMS: Yeah. I'm going to
9 mark as Exhibit 11, Exhibit 1020 from the
10 IPRs.

11 Thank you.

12 A. Okay. Blue cover. Okay.

13 Uh-huh. Uh-huh. Can we make that
14 a little bigger on that page, please?

15 Okay. That's very helpful. Thank
16 you.

17 Okay. Okay.

18 Okay. Thank you.

19 BY MR. ADAMS:

20 Q. Is this Exhibit 11 the Exhibit 1020
21 that you reference in paragraph 76 of your
22 declaration?

23 A. Yes.

24 Q. Okay.

25 MR. ADAMS: We can go back to the

1 declaration.

2 Perfect.

3 A. Yeah, this --

4 BY MR. ADAMS:

5 Q. Okay. And that Exhibit -- sorry.
6 Go ahead.

7 A. I was going to say if we scroll
8 down, this is 1020, right? Larkin too.

9 Okay. Great.

10 MR. ADAMS: Can we go back just for
11 this question.

12 Thank you.

13 BY MR. ADAMS:

14 Q. Okay. So this Exhibit 11 is an
15 excerpt from the book titled, "Working Wagons:
16 A Pictorial Review of Freight Stock on the BR
17 System, Volume 3: 1980 through 1984," by David
18 Larkin?

19 A. Yes.

20 Q. Okay. And did you review a
21 complete copy of that title in preparing your
22 declaration?

23 A. No.

24 Q. Okay.

25 MR. ADAMS: Can you scroll down to

1 the next page, the end of this paragraph,
2 please.

3 BY MR. ADAMS:

4 Q. Okay. Dr. Hall-Ellis, do you see
5 the sentence that states:

6 "Exhibit 1020 is a true and correct
7 copy in a condition that creates no
8 suspicion about its authenticity"?

9 A. I do see that.

10 Q. And what is the basis for that
11 statement?

12 A. To begin with, this is part of a
13 set. The set was cataloged during publication
14 or pre-publication at the British Library. It
15 has an ISBN number, all of which gives me
16 reason to believe that it is, in fact, what it
17 claims to be.

18 And the pages are attached in such
19 a way that they follow numerically. It's -- I
20 have no reason to think this is not what it's
21 claiming to be.

22 Q. Thank you.

23 MR. ADAMS: We can go down to
24 paragraph 80 of the declaration.

25 A. Okay.

1 BY MR. ADAMS:

2 Q. Dr. Hall-Ellis, do you see in the
3 middle of this paragraph where it states:
4 "I obtained Exhibit 1018 from counsel"?

5 A. I do see that.

6 Q. Okay.

7 MR. ADAMS: I'd like to mark as
8 Exhibit 12, Exhibit 1018 from the IPRs.

9 (Excerpts from Private-Owner Wagons
10 In Colour, David Ratcliffe,
11 10 pages, marked as Exhibit 12.)

12 A. Uh-huh.

13 BY MR. ADAMS:

14 Q. Go ahead and review, and please let
15 me know when you're ready for questions.

16 A. Okay. Can we make that a little
17 bit bigger, please, that page?

18 Okay. Great. Thank you.

19 Color, okay.

20 Now we have a footer, it looks
21 like. Let's see. Will you scroll down this
22 page, please?

23 Okay.

24 Okay.

25 And this is -- okay.

1 David Ratcliffe, okay.

2 Is this a long excerpt?

3 THE TECHNICIAN: It's only 10
4 pages.

5 THE WITNESS: Okay. Thank you.

6 Okay. Great.

7 BY MR. ADAMS:

8 Q. Okay. So is this -- sorry. Are
9 you ready?

10 A. I'm ready.

11 Q. Okay. So is this Exhibit 12 the
12 same as Exhibit 1018 that you reference in
13 paragraph 80 of your declaration?

14 A. Yes.

15 Q. Okay.

16 MR. ADAMS: We can go ahead and go
17 back to the declaration, please.

18 Thank you.

19 BY MR. ADAMS:

20 Q. Okay. So that Exhibit 12 we were
21 just looking at, it's an excerpt from the book
22 titled "Private-Owner Wagons in Colour For the
23 Modeller and Historian," by David Ratcliffe,
24 correct?

25 A. Yes, it is.

1 Q. Okay. And did you review a full
2 copy of that title when creating your
3 declaration -- or when drafting your
4 declaration?

5 A. No, I did not.

6 Q. Do you see the sentence at the
7 bottom of the page that reads:

8 "Exhibit 1018 is a true and correct
9 copy in a condition that creates no
10 suspicion about its authenticity"?

11 A. I do.

12 Q. What's the basis for that
13 statement?

14 A. I look at this particular exhibit
15 and I see that I can find a MARC record that
16 matches the bibliographic data.

17 I also see a table of contents, and
18 I can identify the places where these pages
19 appear in the book.

20 Further, there's a footer which
21 runs across opposing pages, one that has the
22 first words "Private-Owner Wagons in Colour" --
23 and the second half -- "For the Modeller and
24 Historian" on the right-hand side.

25 I have no reason to think that

1 these pages are not from this book.

2 Q. Thank you.

3 MR. ADAMS: We can go ahead and go
4 down to paragraph 84, please.

5 BY MR. ADAMS:

6 Q. If you could review and please let
7 me know when you're ready for questions,
8 Dr. Hall-Ellis.

9 A. I believe this is all on one page,
10 right?

11 Q. Yes. You're correct.

12 A. Yes. Okay. Great. Thank you.
13 This is fine.

14 Q. Okay.

15 MR. ADAMS: I'm going to mark as
16 Exhibit 13, Exhibit 1021 from the IPRs.

17 A. Okay.

18 (Excerpts from Wagon Recognition,
19 Volume 1, Martin Buck and Mark
20 Rawlinson, 3 pages, marked as
21 Exhibit 13.)

22 BY MR. ADAMS:

23 Q. And again, please take your time to
24 review and let me know when you're ready for
25 questions.

1 This one is short.

2 A. This one is short, okay.

3 Q. Yeah.

4 A. Let me see these pages here.

5 Okay. And this page -- let's see
6 what all is on this page.

7 Okay.

8 Q. So this paragraph 13 is --

9 A. Can we scroll --

10 Q. Pardon me.

11 A. I'm sorry. Can we see the bottom
12 of the page that starts with the "2-Axle" at
13 the top, please.

14 Okay. Thank you. Okay.

15 Q. So this Exhibit 13 -- sorry.

16 A. No, it's fine.

17 Q. So this Exhibit 13 is the same as
18 Exhibit 1021 that you reference in paragraph 84
19 of your declaration, correct?

20 A. Yes.

21 Q. Okay.

22 MR. ADAMS: We can go back to the
23 declaration, please.

24 BY MR. ADAMS:

25 Q. And Exhibit 13 that we were just

1 looking at is an excerpt from the book titled
2 "Wagon Recognition, Volume 1, Carkinds - B to
3 W," by Martin Buck, correct?

4 A. Yes.

5 Q. Okay. And did you review a full
6 copy of that title in drafting your
7 declaration?

8 A. No, I did not.

9 Q. Okay. Do you see the last sentence
10 in this paragraph that states:

11 "Exhibit 1021 is a true and correct
12 copy in a condition that creates no
13 suspicion about its authenticity"?

14 A. Yes.

15 Q. What is your basis for that
16 statement?

17 A. I have no reason to think that this
18 particular page came from anywhere else. It's
19 a single page Along with the title and the
20 verso, the cover, the title, match
21 bibliographic data.

22 I have no reason to think this is
23 not from that particular book. It would take a
24 lot to convince me that it isn't from it. It's
25 a newer book.

1 But, no, I have no reason to think
2 it's not accurate.

3 Q. What would convince you that it's
4 not from this book?

5 A. What would convince me?

6 Oh, I don't know. The topic would
7 have to not align with the title of the book,
8 for example.

9 This is a volume of a set. And if
10 we looked at the MARC record, we might get an
11 indication of what the other volumes were.

12 So the description of this
13 particular book right now, without looking at
14 the MARC record, I can't tell you anything much
15 more than what I've written in this paragraph.

16 But why anyone would think that
17 this didn't come from there, I don't know.
18 Alphabetically, it makes sense. It is in the
19 range of what is to be covered in this book, B
20 to W, and this is H, which is kind of in the
21 middle.

22 Q. Okay. And did you review the MARC
23 record of the other volumes when drafting your
24 declaration?

25 A. I cannot tell you if this was

1 cataloged as a single standalone volume or if
2 it was cataloged as a set. Without looking at
3 the MARC record, I cannot tell you that.

4 Q. Okay. So just to clarify, you
5 don't know if you considered the MARC record of
6 the other volumes when you opined on the
7 authenticity of this excerpt?

8 MR. NELSON: Objection, form.

9 A. That's not really accurate. What
10 is accurate is that I did look at a MARC record
11 that represented this volume.

12 If, in fact, there is a statement
13 that indicates this is a set, I would see that
14 in the MARC record.

15 And then the answer to your
16 question is I did look at a complete cataloging
17 of the set.

18 If it's a standalone set and each
19 volume is cataloged separately, then the
20 chances are excellent that I looked only at
21 Volume 1 because that's the one I had at hand.

22 So without looking at that MARC
23 record, which is attached to my declaration,
24 I can't really answer your question.

25

1 BY MR. ADAMS:

2 Q. Okay. If you scroll down to
3 Attachment 19A -- I can tell you the page
4 number -- that's the MARC record.

5 One moment. It's going to be
6 page 188.

7 A. Okay. So let's make it big enough
8 to see.

9 All right. If we could scroll down
10 a little bit, I'm looking for a 490 field.

11 Okay. It was not done as a series,
12 and it was done as a standalone volume.

13 And if we scroll -- scroll to the
14 bottom of the record, please. Let me see that
15 a little better.

16 Okay. Great. What would you like
17 to ask about this?

18 Q. So just bringing the testimony
19 regarding this full circle, so do you doubt the
20 authenticity of Exhibit 13 because it's --

21 A. No.

22 Q. -- not listed as part of a volume
23 set in the MARC record?

24 MR. NELSON: Objection. Objection,
25 form.

1 A. No, I don't.

2 BY MR. ADAMS:

3 Q. And why not?

4 A. This is a perfectly good record.

5 If you scroll up into

6 the 040 field, you see that was created at the

7 British Library. I have no reason to think

8 that someone at the British Library would not

9 follow the procedures that we have for

10 transcribing bibliographic data and that the

11 information here is accurate and complete.

12 Q. Would you be more convinced that it

13 is authentic if it had been cataloged as a

14 volume?

15 A. No.

16 Q. Okay. Thank you.

17 Well, I guess, why not?

18 A. Well, it's possible that subsequent

19 volumes were never published. Or it may be

20 that whoever got Volume 2 didn't catalog it.

21 Or it may have had a variant title that we

22 cannot find it easily under this title.

23 A lot of things could have

24 happened. The author could have passed away

25 before he finished it. It may never have

1 existed. We don't know.

2 Q. Thank you.

3 MR. ADAMS: If we could go up to
4 paragraph 88. It's going to be on page 57.
5 BY MR. ADAMS:

6 Q. Okay. Dr. Hall-Ellis, if you could
7 please review and just let me know when you're
8 ready for questions.

9 A. Okay. I see this one,
10 Exhibit 1017.

11 Q. Can you see the sentence that
12 states: "I obtained Exhibit 1017 from
13 counsel"?

14 A. I do.

15 Q. Okay.

16 MR. ADAMS: I'm going to mark as
17 Exhibit 14, Exhibit 1017 from the IPRs.

18 (Excerpts from Modern Private-Owner
19 Wagons on British Rail,
20 David Ratcliffe, 17 pages, marked
21 as Exhibit 14.)

22 BY MR. ADAMS:

23 Q. And Dr. Hall-Ellis, go ahead and
24 review and let me know when you're ready for
25 questions.

1 It's 17 pages long, just so you're
2 ready.

3 A. All right. Okay. Let me see this
4 one, please.

5 The cover is nice. If we could
6 scroll a little bit. Thank you.

7 I can't see that. It's way too
8 small.

9 Okay. Thank you.

10 Okay.

11 Okay. Thank you.

12 Uh-huh. Okay.

13 Uh-huh.

14 Uh-huh. Okay.

15 (Brief interruption.)

16 THE WITNESS: I need to step away.
17 Someone is at my door. I'll be right back.

18 MR. ADAMS: Let's go off record.

19 THE VIDEOGRAPHER: Going off record
20 at 11:14.

21 (Brief recess.)

22 THE VIDEOGRAPHER: We are back on
23 record at 11:15.

24 THE WITNESS: You can hear me, yes?

25

1 BY MR. ADAMS:

2 Q. Yes.

3 A. Okay. I've seen enough of this
4 one, I think.

5 Q. So what you're looking at, this
6 Exhibit 14 --

7 A. Okay.

8 Q. -- is the same as Exhibit 1017 that
9 you reference in paragraph 88 of your
10 declaration, correct?

11 A. Yes.

12 Q. Okay.

13 MR. ADAMS: And we can go back to
14 the declaration. 88 is on page 57.

15 A. Okay. I see that here now.

16 BY MR. ADAMS:

17 Q. So Exhibit 14 that you were just
18 looking at, is that a copy of an excerpt from
19 the book titled "Modern Private-Owner Wagons on
20 British Rail," by David Ratcliffe?

21 A. Yes, it is.

22 Q. Okay. And did you review a full
23 copy of that title when preparing your
24 declaration?

25 A. No, I did not.

1 Q. Okay. And you see the last
2 sentence in this paragraph -- do you see the
3 last sentence in this paragraph that states:

4 "Exhibit 1017 is a true and correct
5 copy in a condition that creates no
6 suspicion about its authenticity"?

7 A. Yes, I do.

8 Q. And what is your basis for that
9 statement?

10 A. The title page and the cover match
11 the bibliographic data that I found for it.

12 And this volume was cataloged at
13 the British Library, which leads me to believe
14 that the information matches the item itself,
15 and we find that chapter is one that appears in
16 the book.

17 I have no reason to think this is
18 not accurate.

19 Q. Thank you.

20 So not pertaining to this
21 paragraph, but just a cleanup question.

22 A. Okay.

23 Q. I've asked all these questions
24 regarding this declaration, Exhibit 2.

25 Would your answers be the same

1 regarding your declarations in the other IPR in
2 this case?

3 A. Yes. The data in the declarations
4 is the same. My declaration is the same for
5 both patents, so I would answer the same way.

6 Q. Okay. And just to clarify, that's
7 IPRs Number 2025-01046 and 2025-01047, correct?

8 A. That's correct, yes. That is
9 correct.

10 MR. ADAMS: Okay. Counsel, I have
11 no further questions.

12 MR. NELSON: If we could go off the
13 record for a brief recess, and then we'll
14 come back and I'll tell you whether I have
15 some.

16 MR. ADAMS: Okay. Sounds good.

17 THE VIDEOGRAPHER: Okay. We are
18 off record at 11:18.

19 (Recess taken.)

20 THE VIDEOGRAPHER: We are back on
21 record at 11:32.

22 MR. NELSON: This is Philip Nelson,
23 counsel for Freightcar America. We have no
24 further questions.

25 THE VIDEOGRAPHER: Anne, do you

1 have anything you need to put on record?

2 No?

3 Mr. Nelson, do you need video?

4 MR. NELSON: No, thank you.

5 THE VIDEOGRAPHER: Is there
6 anything else that needs to go on the
7 record?

8 MR. NELSON: Not from us.

9 MR. ADAMS: From us either.

10 THE VIDEOGRAPHER: Okay. With
11 that, we are off record at 11:32. This
12 concludes Volume 1 of the virtual deposition
13 of Dr. Sylvia Hall-Ellis.

14 Today's deposition consists of five
15 media files which will be retained with
16 Magna Legal Services, whose office is
17 located at 1635 Market Street in
18 Philadelphia, Pennsylvania.

19 Thank you very much, everyone.

20 (Deposition concluded at 11:33 a.m.)

21

22

23

24

25

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

2

3 I, ANNE E. VOSBURGH, Certified
4 Shorthand Reporter, Registered Professional
5 Reporter, Certified Realtime Reporter hereby
6 certify:

7 That SYLVIA HALL-ELLIS, PH.D., via
8 remote videoconference, agreed to testify
9 truthfully, under penalty of perjury; that all
10 counsel stipulated to the remote swearing and
11 waive objection, notwithstanding the location
12 of reporter or witness during testimony; and
13 that this transcript is a true and correct
14 record of testimony given.

15 I further certify that I am not
16 related to any of the parties and am in no way
17 financially interested in the outcome of this
18 matter.

19

20 *Anne E. Vosburgh*

21 ANNE E. VOSBURGH, CSR, RPR, CRR

22 Notary Public - Exp. July 20, 2029

23

24

25

1 E R R A T A

2 Deponent: SYLVIA HALL-ELLIS, PH.D., February 27, 2026

3 Reason Codes:

4 1. To clarify testimony.

5 2. To change/correct testimony.

6 3. Transcription error

7

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24	Signature of Deponent	Date
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