UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

K. MIZRA, LLC,	)	Docket Number
	)	1:24-CV-05442-SDG
	)	
Plaintiff,	)	
	)	
v.	)	
	)	Atlanta, Georgia
	)	October 21, 2025
CIENA CORPORATION,	)	
	)	
	)	
Defendant.	)	

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE STEVEN D. GRIMBERG
UNITED STATES DISTRICT JUDGE

APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF: MR. CRAWFORD MACLAIN WELLS
MR. SCOTT P. AMY
MR. TIMOTHY DEWBERRY
MR. CLIFF WIN, JR.

FOR THE DEFENDANT: MR. MATTHEW C. GAUDET
MR. JOHN M. BAIRD

OFFICIAL COURT REPORTER: ALICIA B. BAGLEY, RMR, CRR

Proceedings recorded by mechanical stenography, transcript produced by computer

1 P R O C E E D I N G S

2 (in Atlanta, Fulton County, Georgia; October 21, 2025;

3 all parties present)

4 THE COURT: All right. Let me call the case. This is -- that

5 was my first question. Is it K. Mizra or Mizra? How do you pronounce

6 it?

7 MR. AMY: K. Mizra.

8 THE COURT: K. Mizra, thank you.

9 K. Mizra vs. Ciena Corporation. Case Number 24-CV-5442. Let's

10 have appearances of counsel beginning with the plaintiff.

11 MR. AMY: Good morning, Your Honor. Scott Amy here from

12 Perilla Knox & Hildebrandt on behalf of K. Mizra. Also with me is

13 Maclain Wells with Folio Law Group.

14 MR. WELLS: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. AMY: Timothy Dewberry also with Folio Law Group.

17 MR. DEWBERRY: Good morning, Your Honor.

18 THE COURT: Good morning.

19 MR. AMY: Cliff Win from Folio Law Group.

20 THE COURT: Good morning.

21 MR. AMY: And then we also have the client representative

22 Charles Hausman, the founder of K. Mizra.

23 MR. HAUSMAN: Good morning, Your Honor.

24 THE COURT: Good morning. Good to see you all.

25 MR. GAUDET: Good morning, Your Honor. Matt Gaudet from the

1 Atlanta office of Duane Morris here for Ciena Corp. My partner is
2 John Baird who is in our DC office is here as well.
3 MR. BAIRD: Good morning, Your Honor.
4 MR. GAUDET: And then our client representative Ray Gabriel.
5 He is in-house counsel at Ciena in charge of this litigation.
6 THE COURT: Okay. Terrific. Good morning. Good to see you
7 all. Thanks for being here.
8 We're here on Ciena's motions to dismiss. I did review all of
9 the briefings and they were very excellent so thank you very much for
10 putting those together.
11 I'm looking forward to oral argument. We've allocated
12 30 minutes per side and, Ciena, since you are the movant you can
13 reserve some of that time for rebuttal if you would like. There's a
14 clock above the jury box to help you keep track of your time.
15 With that, if you're ready to get started, we can go.
16 MR. GAUDET: Thank you, Your Honor. I'll ask if we can switch
17 the system over.
18 THE COURT: Sure.
19 MR. GAUDET: Before we get started -- I've got some
20 PowerPoints and I've got PowerPoint binders as well.
21 THE COURT: Great.
22 MR. GAUDET: We will start with the 101 motion, Your Honor.
23 I'd like to reserve 5 minutes.
24 THE COURT: Sure.
25 MR. GAUDET: Thank you. Okay. All set to proceed?

1 THE COURT: Yes. Please.
2 MR. GAUDET: Thank you.
3 So, Your Honor, the first point in the 101 motion is it's an
4 issue of law and that's why it's common for them to be addressed and
5 decided on motions to dismiss.
6 The familiar -- well, I should say familiar for people who've
7 spent their lives litigating patent cases.
8 THE COURT: Yeah. It's not familiar to me.
9 MR. GAUDET: Absolutely.
10 I should say standard, not familiar, two-step framework is --
11 the first question is whether the claims are directed to an abstract
12 idea, and there are some hallmarks for that. Things like, you know,
13 is this basically just functional or aspirational without really
14 telling you how.
15 But in a lot of ways, Your Honor, it's sort of like common law.
16 The Federal Circuit's *Enfish Microsoft* case said it's kind of -- you
17 look at cases that came before that said that certain things were
18 abstract and you analogize to that which is sort of like a common law
19 practice almost. That's the first question - is the claim abstract?
20 The second question is even if it's abstract does it have an
21 inventive concept that would sort of save it. But there are two
22 important points there. The first one - and this is now on Slide 3 of
23 the PowerPoint - is that the abstract idea cannot be the inventive
24 concept so you take that out of the equation. Then you look at what's
25 left and you ask what's left -- well, is this something more than just

1 well-understood, routine, and conventional activities previously known
2 to the industry?
3 Now, this question, "known to the industry," is very important
4 because it's not was it something known to me or to someone on the
5 street, but truly someone who knows about this technology area, and
6 you figure that out by looking at the patent specification to see how
7 the patent talks about the various, you know, components and whatnot
8 to see if the patent is just treating them as conventional components
9 or if they're inventing a new component and that's what I'll take you
10 through today.
11 One last preliminary point. We were curious. We just tried to
12 pull all of the cases in the Northern District of Georgia in the last
13 two years that decided motions like this. 101 motions is motions to
14 dismiss. It looks like four were granted or granted in part and three
15 were denied, I think this list is right. But the only point is if the
16 law leads you to the conclusion that the patent is patent eligible,
17 it's fairly ordinary to then rule at this stage that the patent's
18 invalid. Of course, if the law leads to a different conclusion, you
19 would deny it. But this is a fairly ordinary process in patent cases
20 which themselves are not all that ordinary.
21 So the first patent that we're going to address is the '282
22 patent, Your Honor. In the original motion papers, this was the first
23 patent that we addressed. The opposition papers reversed -- or
24 changed the order, but we'll start with the '282 patent.
25 You see on Slide 5, it's just called "Network Management System"

1 and the quote from the specification there acknowledges network
2 management systems were already known. They facilitate basically the
3 exchange of management information between network elements, things
4 out on the network, and the network administrator is operation support
5 system, just whatever a network manager uses to manage a network.
6 It makes the observation, the second underline here, that
7 "Network management systems today face many challenges as networks
8 grow in size." You could make that observation about anything, right.
9 About a highway system. About a law firm like mine, right. As things
10 grow in size, they're harder to manage.
11 So this was the abstract idea, that the patent posits use a
12 server cluster - and servers are just ordinary, you know, decades old
13 computer devices - with a load balancing scheme. In other words, have
14 more than one server and balance their load, right. But the
15 specification's clear that any server will do, right. It can be
16 separate physical or logical. It doesn't matter the number of
17 servers, and that's these quotes.
18 It's also clear any load balancing scheme will do. The first
19 underline here says the load balancer can be located on any device.
20 The second --
21 John, if you would advance the slide there. It might be further
22 up just a bit.
23 The second part of this language indicates that load balancer
24 may use any load balancing algorithm that is appropriate and so this
25 can literally be anything, right, anything that accomplishes that

1 function.
2 So if we go to the next slide -- and if we can have just one
3 second. Restart the computer.
4 (off-the-record discussion)
5 MR. GAUDET: So, Your Honor, this is now Slide 6.
6 THE COURT: Okay.
7 MR. GAUDET: You can see the underlined language there.
8 With that, now on Slide 7, Your Honor, this is the claim. This
9 is Claim 1 which is representative and what you can see is -- there's
10 a lot of words here, that's okay. I mean, cases invalidate claims
11 with lots of words all the time. You just kind of have to break them
12 down.
13 This is fundamentally receiving, processing, sending, bolded the
14 words, and facilitating, establishing an association, which is kind of
15 a funny way of saying you helped to make a connection, okay.
16 Likewise, the fact that this is happening on a computer, that doesn't
17 mean that it's automatically patent eligible at all and the *Two-Way*
18 *Media* case is really the most directly on point case for this patent.
19 The claim in that patent -- in the *Two-Way Media* case was over a
20 method for transmitting message packets over a communications network
21 just like this. Now, it said the claim requires converting and
22 routing and controlling and monitoring, accumulating records, but none
23 of that is sufficiently described how to achieve these results, it's
24 just functional, and that's the same basic conclusion for this claim.
25 The component that's doing the receiving, processing, and

1 sending is called the first application server instance. Okay. First
2 application server instance, the first instance of that. But the
3 specification makes very clear that's conventional. This is the quote
4 on the right side of Slide 8 that it's just a typical Java -- and
5 Java's a well-known programming language - J2EE application server
6 tier. This is purely conventional. Nothing new or unique about this
7 server.
8 THE COURT: And how do I accept that? When you say that it's
9 not unique, at this stage how do I accept that conclusion?
10 MR. GAUDET: Your Honor, because this is their specification.
11 So when you review the specification - and patent law is a little bit
12 unusual in that regard in that the specification is reviewed and
13 interpreted as a matter of law.
14 You look at this and you can see it's referring to typical Java
15 2 platform, J2EE-based model. So this is typical, it already exists.
16 In Java, you know, it's capitalized. It was already well-known. This
17 is their invention, their specification. It says it's just a J2EE
18 application server tier. So it's saying this is off the shelf. The
19 application server here is a Java J2EE application server. That is,
20 by definition, a conventional component.
21 The specification is referring to it as something that exists
22 and it doesn't have some detail about how to build a different server.
23 It just says we'd like you to do some new function with this server.
24 That function is now on Slide 9, right. You select which server to
25 use based on a load balancing process, but that's purely

1 result-focused language, right. We know from what the specifications
2 showed - this is now at the bottom right Slide 9 - any load balancing
3 algorithm is okay. There's no new algorithm. There's no new code.
4 It's just the aspiration balance the loads between these servers and
5 the notion of load balancing has happened forever and they literally
6 tell you we're not teaching you something new about load balancing.
7 You may use any load balancing algorithm.
8 THE COURT: So is that the focus like in the last slide your
9 use of the word "typical" in the patent and here the use of "any," is
10 that what you're asking me to rely on?
11 MR. GAUDET: Yes, Your Honor. And it's -- then there are
12 actually two different questions. The typical question goes to is
13 this conventional? Is this just a conventional component? Well,
14 "typical" is conventional.
15 The any load balancing question, that goes to whether this is
16 abstract and when you see -- for example, the *Electric Power* case,
17 it's essentially result focused functional character of language is a
18 frequent feature of claims held to be ineligible and that's all this
19 is. It's just anything that balances the load and so that is -- it's
20 defined by the function. If you balance the load, that's all you have
21 to do, and that's what I'm asking you to look at in that regard.
22 Then the -- as we work through the claim, the next sort of
23 component we come up with is this first adapter. Again, adapters are
24 just ordinary network elements and it tells you -- again, it's just a
25 Java service on a JVM. It's just, you know, ordinary Java adapter.

1 Then it says the adapter processes information based on a first
2 communication protocol and this part is abstract and that's the *Hawk*
3 *Tech* case and the *Adaptive Streaming* case that says if all you say is
4 process this based on this protocol, convert this to a different
5 protocol, those are age-old abstract concepts.
6 Then as we move through to the next bit of claim language in 1B
7 it says processing the first adapter processed information, that's
8 more of the same, we're just processing information and we do it based
9 on an event management service and, again, that's functional, any
10 service that manages an event.
11 And, again, we've got the quote here from the specification that
12 says that this J2EE, which is, you know, standard software, Java
13 software, the server will have EJB, Enterprise Java Beans, those exist
14 running on it, and then all NMS management services, including event
15 management, may be implemented as EJB. So it's a function on a
16 conventional component.
17 Then the rest of this references a gateway device. You know,
18 the claims are directed to a method of -- I'm sorry. This goes to a
19 gateway device. But the *Hawk Technology* cases and the *Miller* and
20 *Mendel* cases say, I mean, just receiving, displaying, sending,
21 transmitting information around different components in a network is
22 just abstract, that is not detailed enough.
23 Likewise, the configurative process the application processed
24 information on a second communication protocol is, again, just
25 abstract conversion. The last sentence of this *Adaptive Streaming*

1 case that I want to sort of key in on. The focus is not any specific
2 advance in coding or other techniques for implementing that idea. It
3 just says use Java that already exists and accomplish this function.
4 Then the last bit of claim language here is in response to
5 determining that the first application server instance has become
6 disabled facilitating establishing an association. In other words,
7 when one thing doesn't work, use something new, all right.
8 This doesn't even tell you what component would do this, this is
9 passive language, and the *Two-Way Media* case I referenced also talks
10 about verifying the operational status of the user's access to the
11 communication network, right, check the status. Again, this is just
12 directed to a result or an effect. Then finally there's more language
13 about where this occurs on the network and that is just abstract.
14 The other point on this patent is that the expert declaration
15 that they've submitted is immaterial. The case law is clear that you
16 don't have to credit a factual allegation or an expert allegation
17 that's inconsistent with the patent. When you look at what he says in
18 the declaration -- if I can get the Elmo just for a second to sort of
19 show you --
20 As an example, here he says -- this is Page 20 of the
21 declaration that I highlighted. "I observed no abstract idea; i.e.,
22 mental process, mathematical concept, method of organizing human
23 activity in Claim 1."
24 But we know this is a case law. This is a common law issue.
25 You look at prior cases and determine what courts have ruled to be

1 abstract and you analogize, that's a job for a jurist or for a lawyer.
2 It's not the job for a technical expert and so just saying something
3 like that is entitled to no weight. Likewise, he says I think that
4 certain things are new and not conventional and he includes the very
5 abstract ideas that we've identified in those. So the declaration's
6 entitled to no weight.
7 THE COURT: Don't I have to accept it as true at this stage?
8 MR. GAUDET: That's a great question, Your Honor.
9 The case law on that -- if we go back to -- sorry. Go back to
10 the defense slide.
11 This is from the Federal Circuit. You do not have to accept as
12 true anything he says that's inconsistent with the face of the patent.
13 For example, if he said, you know, the server has to be a brand-new
14 thing that's explained this way. No, it doesn't. It says right there
15 that it's a Java server. You do not have to accept that and you
16 absolutely don't have to accept a legal conclusion that's couched as a
17 fact question. Him opining that so-and-so is not an abstract idea,
18 that's a question of law for the Court. You do not have to give any
19 weight or credence to either an allegation or an expert declaration
20 that is just opining on a legal question.
21 The '176 patent is the next patent. This is Global IP-based
22 service-oriented network architecture. It's basically -- you see from
23 Slide 17, it's that -- you know, providing new services - this is the
24 background - may face challenges in creating a common service
25 conception in a diversely owned and multi-technology network. In

1 other words, as new services evolve on the internet, it might be hard
2 to make them feel common which is very abstract almost humanlike
3 language.
4 So the invention is a new architectural layer, right, that's
5 notional. When you think of layers in a computer system, there aren't
6 physical layers or literal layers in hardware or software. It's just
7 a way -- an abstraction, a way of thinking about how you might go
8 about designing software, and it literally says that what this
9 invention is is that GIBSON's pseudowires add an application awareness
10 dimension. This is like a human attribute, purely notional.
11 The word in here that does sound technical - and I'm a political
12 science major, so I did not know what this was before I read this
13 patent - a pseudowire, okay. But when you look at the specification,
14 the specification itself says that pseudowires were not only known,
15 they were literally standardized. In other words, the IETF had a
16 standard that explained exactly what a pseudowire is and so that's
17 here. There's also the cite here where it literally identifies the
18 full pseudowire standard and we laid it out in our brief as well.
19 When you see "pseudowire," that is purely a conventional component.
20 So we look at the claim. Again, this claim, a processor that
21 executes instructions, encapsulates a data packet with a pseudowire
22 label -- this is Slide 20. This is like the *Dropbox* case, Your Honor.
23 In the *Dropbox* case by the Federal Circuit in 2020 a claim directed to
24 formatting data, tagging data, transmitting it, retrieving it,
25 labeling, all these things was found to be abstract and that's what we

1 have here.
2 So as you look at Slide 21, we kind of work through the
3 language.
4 THE COURT: Is this the '176 patent?
5 MR. GAUDET: I'm sorry, Your Honor. This is the '176 patent,
6 that's correct. So this is the first patent in the plaintiff's
7 opposition -- I'm sorry. It's the second one that we addressed in our
8 motion.
9 THE COURT: Right.
10 MR. GAUDET: They changed the order and it was the first in
11 their opposition.
12 THE COURT: Got it.
13 MR. GAUDET: All right. So this is the one -- yeah. The word
14 "pseudowire," that's kind of the word that jumps out and when you see
15 the first bit of language in Claim 9, a processor that encapsulates a
16 data packet, the data packet is the fundamental unit of any traffic on
17 the internet and that's been around forever. There's a payload and
18 there are various headers to it. So processing encapsulating a data
19 packet is just converting information.
20 This next part in yellow is where we see this is just a
21 conventional component doing something that's purely abstract, right.
22 A pseudowire label, we know that pseudowire labels are standardized
23 and conventional, and you determine what the label should be based on
24 an application flow identified by an application header.
25 Application flow - again, this is all in the patent - is all of

1 the packets that relate to the particular application. For example,
2 all the packets that relate to a particular videoconference. You
3 know, they break up and are sent out in the internet separately, but
4 you can think of that as a flow. It's defined by the header in the
5 packet. But this was all conventional. I mean, it talks about
6 application level flow control and it literally talks about, in Column
7 5, the different types of application headers that already exist, a
8 TPP header, a HTTP header, an impact header. These are labels. This
9 is information that already exists in these packets.
10 So what it's saying is do a pseudowire label, right. So a
11 pseudowire is like kind of emulates like a wire. It's almost like a
12 tunnel, right. Have a label for one that you determine based on this
13 preexisting information, that's what it's saying.
14 With that, look at the claim in *Dropbox*, Your Honor. The yellow
15 portion here is what's the perfect analogy to what we just saw, right.
16 Identifying which portions of said data correspond to a respective
17 data field and tagging such data, right. That is in essence what's
18 happening in the '176 patent and that was invalid.
19 What's more, the *Dropbox* case did more than that and was still
20 invalid. It's in purple. It actually formatted the data into fields
21 by determining data fields. It literally created new fields whereas
22 here all that happens is you're using existing fields. Then the
23 balance of this claim is, again, simply selecting your routing policy,
24 you know, ordinary things that happen on any network.
25 Your Honor, I know my time is running short. I'll just say a

1 few words on the '320 patent.
2 THE COURT: Uh-huh.
3 MR. GAUDET: This patent's about an application wire, right,
4 which is basically, as you see on Slide 26, just transferring data
5 over a network using an application wire, just a virtual -- it's a
6 pseudowire, just a virtual idea of a dedicated -- a virtually
7 dedicated connection, okay. It references Figure 3 as the flow chart,
8 and that's everything in Figure 3, right. Identify an application
9 flow, that's conventional. Associate it with a data stream. Map the
10 application flow to the connection. There's nothing nonconventional
11 other than -- or, you know, nonfunctional in here.
12 So when you look at the language it starts with, you know, a
13 processor that identifies an application flow. Again, application
14 flows are very well-known. Based on the header of the application
15 flow, right, we're just like the *Dropbox* case that we saw a second
16 ago, that's functional language.
17 And this was K. Mizra's response. They analogized themselves to
18 the *Uniloc* case and said that -- in the *Uniloc* case there was an
19 addition of a data field, that the claims had added data field to
20 something, and that's like their reference to information.
21 But when you compare the language the *Uniloc* claim - on Slide
22 30 - says adding to each inquiry message prior to transmission an
23 additional data field. They added a new data structure in *Uniloc*,
24 that's what made it patentable. Nothing is added here at all. You're
25 looking at preexisting information, that's it, and *Dropbox* says that's

1 not patentable.
2 And, you know, the fact that it's specific information in the
3 *Geoscope* case isn't relevant. Likewise, when you look at the rest of
4 this language nothing is added here either. You're just in response
5 to your identification of preexisting information you're picking one
6 particular route, that is abstract.
7 Your Honor, I'm going to stop there and Mr. Baird, I think, is
8 going to say a few words on the *Twombly* motion and then we'll reserve
9 the balance of the time.
10 THE COURT: Okay. Thank you.
11 MR. GAUDET: Thank you.
12 THE COURT: Do you want to do that now?
13 MR. GAUDET: Your Honor, yes. I think he's pulling up the
14 PowerPoint on that.
15 THE COURT: Okay.
16 MR. GAUDET: Would it make sense to do all of one motion and
17 switch to the next?
18 THE COURT: I think we can just combine them. Yeah, go ahead.
19 You wanted to reserve 5 minutes so that leaves a minute.
20 MR. GAUDET: Yes. I'll reserve 3 minutes.
21 THE COURT: Okay.
22 MR. GAUDET: Which gives Mr. Baird 3 minutes.
23 THE COURT: Okay. Sounds good.
24 MR. GAUDET: For probably a quick tour guide.
25 THE COURT: Okay. I'll let you handle your own time. There's

1 6 minutes left.
2 MR. BAIRD: May I approach, Your Honor?
3 THE COURT: Sure.
4 MR. BAIRD: John Baird on behalf of Ciena --
5 THE COURT: Good to see you.
6 MR. BAIRD: -- on the motion to dismiss for failure to state a
7 claim. Obviously we have more slides here that we're not going to be
8 able to get through. I'll just touch on a few --
9 THE COURT: Sure.
10 MR. BAIRD: -- and try to jump through quite quickly. So may
11 I proceed?
12 THE COURT: Yes, please.
13 MR. BAIRD: K. Mizra is accusing Blue Planet. Blue Planet is
14 a business, the allegations say that, they point to the website. You
15 go to the website. It's a business. It's not a product because
16 products are separate.
17 So when the complaint lists products there are 14 different
18 products and it's unclear when you get to the allegations are you
19 talking about a Product 1 in combination with Product 2? Is 2 an
20 alternative to Product 3? What is being accused? It's not all 14
21 products. There's no allegation -- I don't think K. Mizra's putting
22 forth any allegation in the complaint that any one of these satisfies
23 a claim of a patent. So we're not on fair notice.
24 Then that breaks down when you go patent by patent. If you look
25 at the '282 patent, first application server instance is critical to

1 the whole claim, but they never say what the application server
2 instance is.
3 Just quick background. The first adapter assists between the
4 application server instance and the network elements just drawing
5 Claim 1 with the '282 patent.
6 Part of Slide 8 is just that they're accusing a resource adapter
7 as the first adapter and this -- I want to focus in on the load
8 balancing of 1A and with that background you see why this is so bad.
9 It requires the first application server instance selected from a
10 plurality based on load balancing.
11 Well, let's look at the allegation. The allegation here shown
12 is talking about the green, the resource adapters. It says there's
13 multiple instances. No allegation about what the application server
14 instance is, how it was selected from load balancing, and then there's
15 just a conclusion which demonstrates load balancing as required by
16 Claim Element 1A. That's on top of all this Blue Planet mix of
17 products, right. So this is not plausible and this is the type of
18 pleading that's been routinely criticized and dismissed.
19 The '176 patent. Quickly drawing the claim. Okay. There's a
20 first node device of a network in red, this is in 9B. Okay. Up at
21 the top of 9A you have this computer instructions to encapsulate.
22 What do you encapsulate? A data packet of application flow with a
23 pseudowire label. So the claim -- just looking at the claim requires
24 receiving the data packet of an application flow into a first node
25 device --

1 (Off-the record discussion)
2 MR. BAIRD: And then having computer instructions to
3 encapsulate that. This issue goes to both the '176 patent and the
4 '320.
5 This allegation here, Your Honor, on Paragraphs 1, 2, 3 says
6 there are network nodes circled and outlined in blue on the bottom
7 left that receive and send data packets.
8 So you're sending data packets between the customers, that's
9 where the data packets of application flow happens. Well, guess what?
10 The accusations are about Blue Planet products. There's no allegation
11 in the complaint that you're going to receive data packets or send
12 data packets in and out of a Blue Planet product.
13 There's a fundamental disconnect between what's required in the
14 claims and what the products that are being accused and you don't have
15 to -- we're not testing the merits. All you have to do is look at
16 what's said and what's in the claim. So it's implausible.
17 The same issue with the '320 patent and that combines with the
18 indirect infringement because indirect infringement is based on direct
19 infringement and how do we know what we're accusing?
20 THE COURT: Okay. Thank you.
21 MR. BAIRD: Thank you, Your Honor.
22 (off-the-record discussion)
23 THE COURT: Mr. Wells; right?
24 MR. WELLS: Mr. Wells on behalf of K. Mizra, Your Honor.
25 THE COURT: All right. Good to see you.

1 MR. WELLS: Your Honor, we're here to talk about three U.S.
2 patents from three different patent families that involve two
3 different sets of inventors. All of them are directed at network
4 technology so grounded in computers.
5 The '282 patent is directed at ensuring a constant flow of data
6 in a scaleable network using information from adapters and gateways
7 while the '176 patent and '320 patent are novel implementations of
8 pseudowires in disparate networks allowing communication and data to
9 flow.
10 Now, we've submitted a 100-plus-page complaint with significant
11 factual evidence to lay out what our infringing theories are. We also
12 included a declaration from an expert in the field. He's a teacher
13 that teaches on these topics. He has 30 years of experience. This is
14 properly considered as part of the complaint.
15 Now, the defendants have said, oh, you shouldn't consider this.
16 Well, the Federal Circuit has said you should consider it. The
17 Federal Circuit in *Natural Alternatives International vs. Creative*
18 *Compounds*, it's 918 F.3d 1338, specifically address a declaration
19 attached to the complaint in addressing *Alice*. It was properly
20 considered. As long as the expert is not opining directly
21 contradictory to the disclosures of the patent specification, it
22 should absolutely be considered and has to be considered and taken as
23 fact assuming that it's plausible.
24 THE COURT: I don't think they've argued otherwise.
25 MR. WELLS: Agreed, Your Honor. We're on the same page there.

1 So the only differentiation they make regarding the *Natural*
2 *Alternatives* case is that that was in pharmaceuticals and it shouldn't
3 apply here. Well, there's no difference -- the legal standard doesn't
4 differentiate between pharmaceuticals and network technology.
5 The only case I found from the Eleventh Circuit addressing
6 expert declarations is a case out of Florida called *University of*
7 *Florida Research Foundation vs. General Electric,* and that's Case
8 Number 17-CV-171 out of the Northern District of Florida. We have
9 copies. I'm not going to get into the details of it. That's the only
10 case from the Eleventh Circuit addressing this issue and they said you
11 should consider an expert's declaration.
12 THE COURT: Is that cited in your brief?
13 MR. WELLS: That one isn't cited in our brief. But that's the
14 only case that I found that addressed anything like this in the
15 Eleventh Circuit, Your Honor.
16 THE COURT: All right.
17 MR. WELLS: So I'm going to focus on the 101 issues first
18 unless Your Honor would like to address the 12(b)(6) motion first.
19 THE COURT: No. However you'd like.
20 MR. WELLS: So the first thing I want to bring up is --
21 there's an issue here and that issue is that counsel for defendants
22 are restating the claims to say that they're abstract. They're
23 abstract in the actual claim language in saying, oh, this is just like
24 a postal worker delivering a package, that's not what the claim said.
25 If you look at the claims directed towards routing technology

1 and specific limitations are directed towards routing technology,
2 pseudowires, gateways, adapters, you have to ignore all of that claim
3 language to get to this level of abstraction.
4 I think the former Chief Judge Batten in the *Medallia* case,
5 *Medallia vs. EchoSpan* that is cited in the briefs, had a good solution
6 to this. He said, look, if you're going to over abstract the claim
7 language, we should address this after claim construction because that
8 will resolve this issue. If you need to have the claim language
9 construed such that it is abstract, if I buy your arguments there,
10 then we can address these issues after claim construction. So I think
11 that's the appropriate case when we're dealing with issues where
12 they're really ignoring the claim language as a whole.
13 In fact, the *Junk Food Customs Arcades vs. The Hip Box* case,
14 that was from the Northern District of Georgia where they specifically
15 said this type of over abstraction is improper. You've actually got
16 to engage with the claim language.
17 So for each of the patents they've done that with regard to
18 specific claim language. So here we are with the '176 patent and you
19 can see the limitation of routing policy and they say, oh, that's a
20 generic route, but it's not a generic route. It's a routing policy
21 that's based upon information that's dictated in the rest of the claim
22 language.
23 When you look at the '320 patent, associated with an application
24 flow. They say, oh, that's just information about a communication,
25 that's not what that says. It says it's information about the

1 application that's actually generating the data and then it talks
2 about all the rest of the language in the limitation.
3 For the '282 patent they talk about adapters. They say, oh, an
4 adapter's a generic component. But they ignore the functional
5 requirements that are required by the claim limitations, that's
6 software implementation with the router.
7 So is the router a different physical component? No. But
8 software improvements are absolutely considered potentially, as long
9 as they're not an abstract idea, to be inventive nonabstract ideas
10 that can be patented, that's not in dispute. So when they don't
11 address the actual claim language and they over abstract the claims,
12 it raises claim construction issues and that's why, for example,
13 former Chief Judge Batten said, hey, let's address these issues after
14 claim construction and we think that's appropriate in this case.
15 Now, counsel for defendant talked a lot about the first step in
16 *Alice*, but didn't spend a lot of time on the second step in *Alice*.
17 I'm going to actually jump to the second step in *Alice* given the
18 limitations that we have on our time.
19 So is there something additional in the elements of the claim
20 that transform the nature of the claim? So, Your Honor --
21 THE COURT: You only get to Step 2 if the answer to Question 1
22 is yes?
23 MR. WELLS: That's correct. If the answer's no, it stops
24 there so we win there and we think we should win there.
25 THE COURT: Right. I understand.

1 MR. WELLS: But I think that this one's dispositive and it's
2 very cut and dry and given the limits on time I thought would be --
3 make most sense to address this first.
4 THE COURT: Sure.
5 MR. WELLS: So in the first amended complaint K. Mizra asserts
6 the patents are directed to technical improvements in network
7 management systems. These are factual assertions that have to be
8 taken as true and if they're plausible that's the end at the motion to
9 dismiss stage. They haven't put forth any basis not to take these
10 assertions by K. Mizra as plausible. In addition, Dr. Akl has
11 addressed this question for each of the three patents in his
12 declaration. Again, that needs to be taken as true.
13 There are disputes of fact regarding the novelty of these claims
14 and whether they add additional elements that transform them from
15 abstract ideas to nonabstract ideas even if you determine that the
16 first step favors the defendants. Because of that at this stage their
17 motion has to be denied.
18 Counsel for defense actually put up on the screen a list of the
19 cases in this district that have addressed this issue and the first
20 case that he had -- this was a recent opinion out by Judge Calvert.
21 It was after the briefing. But it does address this issue and they
22 list it in their slides and I think it's instructive for Your Honor.
23 So if we can provide a copy.
24 In the *DigitalDoors*' case the accused infringer moved under 101
25 to dismiss. Judge Calvert found that the patentee's complaint

1 describes various problems in the prior art and how the *DigitalDoors*'
2 patent addressed them, a plausible inventive step under *Alice* Step 2.
3 Well, defendant disagreed with the factual assertions, they're
4 entitled to do that.
5 As Judge Calvert stated, the problem with defendant's argument
6 is that it fails to engage with the allegations of the complaint.
7 When taken as true, as they must at this stage, plaintiff's
8 allegations sufficiently allege *DigitalDoors*' patents claim an
9 inventive concept. With nothing in the record to refute these
10 allegations, plaintiff's complaint survives a motion to dismiss under
11 101. This was at Page 11.
12 This case is even stronger. Not only do we have the assertions
13 by K. Mizra in the complaint, we have a 33-page declaration detailing
14 the patents, the technology, the inventive concepts from an expert in
15 the field and they don't challenge his credentials. They just vaguely
16 say, oh, it's inconsistent with the specification because we believe
17 the specification is directed towards abstract ideas. That's not an
18 inconsistency with the factual evidence in the specification, that's
19 attorney argument. Attorney argument is insufficient, especially at a
20 motion to dismiss, to overcome factual allegations that have to be
21 accepted as true.
22 THE COURT: And that declaration was not included in your
23 original complaint; is that right?
24 MR. WELLS: It was included in our first amended complaint,
25 Your Honor.

1 THE COURT: First amended complaint. But not the original?
2 MR. WELLS: It was not included as part of the first amended
3 complaint -- I'm sorry -- the original complaint, Your Honor, yes.
4 THE COURT: So was this designed, at least in your mind, to
5 address some of the concerns raised in the initial round of briefing
6 on the motion to dismiss?
7 MR. WELLS: They brought up these issues when we filed our
8 original complaint and we thought we should obviate these issues so
9 that we can get this case moving, yes, Your Honor.
10 THE COURT: All right.
11 MR. WELLS: Now, I unfortunately don't know how much time I
12 have.
13 THE COURT: It's up there.
14 MR. WELLS: Oh, it's over there. Thank you, Your Honor.
15 Okay. So I'd like to talk about briefly each of the individual
16 patents.
17 So '176 patent, Claim 9. The first amended complaint goes
18 through it, talks about the application header selecting the routing
19 policy based upon the application headers. This is, again, addressed
20 by Dr. Robert Akl. They've got to be accepted as true. There is no
21 basis to ignore these assertions both in the complaint and by Dr. Akl,
22 no basis whatsoever.
23 Again, we're at the '320. It was not well understood, routine
24 or conventional to determine the pseudowire pass through MPLS networks
25 based upon distributive mapping. In the complaint, Dr. Akl, no reason

1 to ignore this.
2 The '282 patent. It wasn't well understood, routine or
3 conventional at the time to address the distributive architecture with
4 a plurality of application server instances in the event that a first
5 server instance became defective.
6 We have to pay attention to the assertions in the complaint, we
7 have to pay attention to what Dr. Akl said, and they have to engage
8 those. They haven't done so. All they've said is, oh, it's all
9 abstract, this should collapse into *Alice* Step 1, and we should just
10 say, hey, these patents are really about delivering a package. That's
11 not how the analysis is supposed to go, Your Honor.
12 Again, they say it's irrelevant whether they were first. They
13 say all that matters is that you consider their definition of what
14 these patents cover as an abstract idea and accept that as the end of
15 the analysis.
16 Now I'm going to jump back to the abstract idea arguments, Your
17 Honor, unless you have any questions on the novelty.
18 THE COURT: No. Go ahead.
19 MR. WELLS: Okay. So in *Enfish* the Federal Circuit addressed
20 whether -- computer implemented claims are at issue, like they are in
21 this case, the question under *Alice* Step 1 is whether the claims
22 implement an improvement in computer functionality or, instead, it
23 simply qualifies as an abstract idea for which computers are invoked
24 in a tool. Are you actually increasing the functionality and making a
25 better system?

1 So when we look at the claims here that are directed towards
2 networking technology we have to say, okay, what are we doing? Are we
3 simply saying, oh, we can do stuff on the network using an abstract
4 idea where it doesn't improve the functionality of the system or are
5 the claims directed as, hey, we can do this better? It doesn't have
6 to be a hardware impression -- or improvement. It could be a software
7 improvement. Can we put some functionality into the system, a way of
8 doing things, that makes data flow more effectively in these disparate
9 network environments? If you look at each of the patents, that's
10 exactly what's going on.
11 So this is much more akin to the *Packet Intelligence v. NetScout*
12 case that's cited in the opposition brief where it addressed data
13 packets and information flow being found to be patentable because,
14 again, they were addressing the actual functioning of the system, the
15 software in the system, telling you the steps you need to take to make
16 the data flow more effectively, more consistently, and faster and that
17 is all -- those are not abstract ideas. Those are patent eligible
18 software improvements.
19 So if we look at the '176 patent, improvements in computer
20 technology. So, again, here we're looking at the application header
21 and the headers associated with Level 4. Now they said, oh,
22 application headers are known. Use of headers is known. No one had
23 used the application level for where you put the pseudowire technology
24 previous to the inventors here. They're saying do it differently.
25 Put it somewhere where we can look at what type of application's being

1 used and the pseudowire and make adjustments to the system based
2 thereon such that it flows more effectively, quicker, and more
3 efficiently. This is a change to the software that would be
4 associated with the technology to improve its functioning. This isn't
5 just performing something on a system. Does that make sense, Your
6 Honor?
7 THE COURT: Yeah.
8 MR. WELLS: In the '320 patent we have something very similar.
9 So we're mapping using the application flow basis. So, again, we're
10 going to look at what type of data are we sending. Is this video
11 data? Is this audio data? What types of applications is it
12 associated with and then using that to determine a routing policy to
13 most efficiently and effectively provide the data. Again, we're
14 improving the system itself. We're not simply saying do something
15 using a computer, we're not delivering a package using a computer.
16 For the '282 patent, scaleability, efficiency, and robustness.
17 But how do you do that? You increase the processing power and
18 efficiency and flexibility. And, again, how do you do that? Well, we
19 explain that with the '282 patent claims. We say, hey, you're going
20 to actually look at these networks. You have an adapter, you have a
21 gateway, you have physical attributes associated with it. You're
22 going to process all this information and then ultimately in step 1D
23 of the patent you're going to say, hey, look, if this specific
24 instance falls down, here's your backup and here's how you're going to
25 route the information based upon the information you've collected in

1 1B - A, B, and C.
2 So they spent a lot of time talking about the load balancing
3 that's mentioned in Claim 1A, but they pretty much ignored 1D, which
4 is the end solution that's provided in the '282 patent Claim 1 where
5 it says, hey, based upon all this information, the server instances,
6 the first server instance, the multiple server instances, the gateways
7 and the adapters and how you're getting information flow and feedback,
8 here's how you do a fail-safe so that if one goes down you can reroute
9 the information effectively and efficiently using that technology. So
10 it's going to software improvement to the system to allow the
11 information so that you don't have downtime, you have a consistent
12 quality of service. So, again, these are tied to specific
13 technological improvements in technological systems. These are not
14 abstract ideas where you're simply delivering a package using a
15 computer.
16 I would like now to jump to the 112 issues unless you have any
17 additional questions.
18 THE COURT: No. Go ahead. Please.
19 MR. WELLS: So on the 112 motion -- again, we have a detailed
20 complaint that provides factual allegations about their systems and
21 the standard is sufficient factual matter accepted as true to state a
22 claim to relieve that it's plausible on its face. That is all that
23 requires. Here we have 100 pages of detailed facts far from labels or
24 conclusions or formulaic recitations. Detailed discussions of
25 exemplary infringing functionality. And they admit that we provide an

1 element-by-element analysis for each of the claims.
2 Now, they raise basically two issues, product identification,
3 and then they have some substantive challenges to certain claim
4 limitations.
5 Now, with regard to the product identification, Blue Planet is
6 an intelligent automation portfolio, the parties agree on that. It's
7 a customizable suite of software as a service functionalities. These
8 functionalities are offered and intended to function together by
9 Ciena. So it's not that, oh, you're just taking A and B and C. They
10 intend all of those functionalities to work together when the client
11 asks for them. So they're not independent products. They're
12 functionalities that can be chosen ala cart and used together in this
13 Blue Planet portfolio.
14 They like to -- they tried to liken it to taking a part for a
15 Chevy, a Buick, and a Ford.
16 THE COURT: Is that alleged, what you just said? Is it
17 alleged in the complaint?
18 MR. WELLS: Yes, it is, Your Honor. We have a detailed
19 description of Blue Planet and that it's a suite of functionalities
20 that are intended to work together.
21 We're not talking about taking a part off of a Chevy, a Buick,
22 and a Ford. We're talking about -- these are engine components that
23 are meant to function together. It's the carburetor, the heads and,
24 you know, other aspects of the engine. It's from disparate parts.
25 They also say, oh, the customers are doing it. Well, they're

1 not doing it, no. Ciena's providing these functionalities as a
2 software as a service. They're the one that actually does the
3 combining.
4 And it's not just Blue Planet the software. It's all part of an
5 infrastructure. They have to get these functionalities to their
6 customers, the software, as a service product. How to they do that?
7 Well, they have routers where the customers can put their data into
8 the Ciena system and then it flows to the Blue Planet system. Those
9 routers pass through adapters and gateways and the like to get to Blue
10 Planet and to exit Blue Planet. There's obviously a computer
11 somewhere where the software is being housed that runs Blue Planet and
12 that's mentioned in the claims and in the complaint.
13 They say, oh, Blue Planet's just software. It can't possibly be
14 a device. Well, the Blue Planet software doesn't live in the cloud.
15 It lives on a computer in memory, it's required. So we go through
16 these functionalities. We discuss the different ways that they're put
17 together.
18 Again, the Blue Planet includes not only the Blue Planet
19 software service functionalities described, but also the
20 infrastructure, hardware and software, and they're able to make all
21 that happen. And just because it doesn't fall within the Blue Planet
22 box on some of their marketing literature doesn't mean that that gets
23 excluded. This is Ciena hardware and software.
24 So for each of the patents we run through the different
25 functionalities in Blue Planet that implicate the technologies and in

1 some instances we do have to cite to two different functionalities and
2 there's a reason for that.
3 For example, in one of the -- for the '320 patent, for example,
4 we have this route optimization ability that's provided to customers.
5 Now, the route optimization ability in the public-facing literature
6 that Ciena provides doesn't detail what types of routes it's used
7 with. Is it limited to specific implementations like pseudowires or
8 does it cover all of them? There's just not enough information that's
9 publicly available.
10 But we do have information that says that the MCP functionality
11 specifically says, hey, we do use pseudowires, Blue Planet uses
12 pseudowires, here you go. So that's why we cite to these two things.
13 Now, is it possible the route optimization tool covers
14 pseudowires by itself? Sure. But we've illustrated that the MCP and
15 ROA together at least do and it could be in discovery that we find out
16 the ROA does. The point is that we've put them on notice that, look,
17 it really is your route optimization that's providing certain of this
18 claim information and we think it's used with the pseudowires either
19 in combination with the other functionality or by itself and here's
20 the evidence we have for it. This is more than enough to put them on
21 notice of the issues and it's more than enough for us to meet our
22 burden at this stage.
23 This court has patent local rules and those patent local rules
24 require detailed infringement contentions at a certain point past the
25 stage of the pleading. That's where you identify each product to the

1 extent you're available, that's where you identify the different
2 combinations in detail for each claim that you're asserting. That is
3 not what is required at the complaint stage. We are not required to
4 prove up our infringement case at this stage. We've gone above and
5 beyond what's required.
6 THE COURT: What about the pre-suit notice that was provided,
7 is that something that I should consider in response to the 12(b)(6)
8 motion or am I limited to the four corners of the complaint?
9 MR. WELLS: So for the purposes of the inducement claims Your
10 Honor should absolutely consider the pre-suit notice because we
11 mentioned in the complaint those pre-suit notice letters.
12 So the inducement claim is an interesting question. So they
13 rely in large part on the *Lifetime* case and in that case the court
14 actually addressed a lot of these issues -- and let me just get to my
15 notes on that case specifically, Your Honor.
16 So the *Lifetime Industries v. Trim-Lok* case, the Federal
17 Circuit, they cite to this case. The *Lifetime* case said hey -- yes.
18 Was there pre-suit notice is absolutely something you look at for the
19 purposes of the inducement claim.
20 And what did *Lifetime* do? They pointed to the letters. They
21 said we provided them notice of the patent, we've provided them some
22 basic understanding of our infringement rights at the time, and that
23 is enough to put them on notice for inducement as well as showing that
24 they had intent when they later instructed their customers to use
25 products in substantially the same ways that were outlined in the

1 notice letters.
2 With regard to the knowledge of infringement, the *Lifetime* court
3 said, look, when you gave them the patent and you gave them some
4 explanation they were in a position where they could evaluate the
5 scope of the patent and therefore that's a plausible basis in order to
6 establish an inducement claim.
7 So what do we have here? We have very much the same things
8 outlined in the complaint, that we provided them notice of the
9 patents, we explained the breadth and the scope of the patents, we
10 gave them exemplary claim charts and the like. Have the claim charts
11 changed? Sure they've change. But the fundamental aspects of the
12 infringement hasn't. That put them on notice of the patent and the
13 actions that they're taking when they instruct their customers to
14 combine all these elements or take these elements in the Blue Planet
15 systems and put them together in an infringing way would be a basis
16 for inducement.
17 Then one other note with regard to that -- with regard to the
18 direct infringement issue. They say, oh, you pointed to direct
19 infringers, but you didn't say exactly how those direct infringers
20 infringe. That's not required at this point. If you look at the
21 *Swipe Innovations v. NCR Corp.* case that's cited in the briefing, all
22 you need to allege are the defendant's customers or suppliers or
23 direct infringers and some credible basis for the fact that they might
24 be putting this stuff together. That's all that's required at this
25 stage. Again, we're before discovery. We can't go out and subpoena

1 these third parties for the purposes of establishing which Blue Planet
2 functionalities they actually take.
3 Does that answer your question, Your Honor?
4 THE COURT: It does. Yes. Thank you.
5 MR. WELLS: Does Your Honor have any other questions for me?
6 THE COURT: Not at this time, no.
7 MR. WELLS: Your Honor, with that, I thank you for your time.
8 THE COURT: Thank you very much.
9 (off-the-record discussion)
10 MR. GAUDET: Thank you, Your Honor. May I proceed?
11 THE COURT: Sure.
12 MR. GAUDET: When he started with Step 2, it completely and
13 erroneously changed the analysis. The reason is he went into Step 2,
14 right, assuming that he could use everything in the claim, including
15 the stuff that was abstract.
16 The whole point of starting with Step 1 is that things that are
17 abstract cannot provide the inventive basis at Step 2, and that's why
18 everything in the expert report and every allegation in the complaint
19 has put them all together and so they're irrelevant, they get no
20 weight. The expert never tried to separate out the abstract, right,
21 that you have to take out at Step 2.
22 THE COURT: Well, I think his argument is that none of it is
23 abstract.
24 MR. GAUDET: At Step 1, if you look at that point, his
25 explanation -- if what he said was true, then the Federal Circuit's

1 *Two-Way Media* case could not have been decided that way and the
2 Federal Circuit's *Dropbox* case could not have been decided that way.
3 Everything he said could have been said even more so about those
4 claims, but they're abstract because, again, he just described a bunch
5 of functions and they were a bunch of functions in the environment of
6 sophisticated components that were well-known, but that's not good
7 enough. As one of the cases said, there's no new mechanism of coding
8 or anything of the sort.
9 Likewise, just alleging that there's a technical improvement to
10 network system isn't good enough. I mean, every complaint says that.
11 The statistics I showed you would have been 0 and 7, not 4 and 3, if
12 that's good enough.
13 The *DigitalDoors*' case that I looked at just briefly explains
14 what the nonabstract improvement would be. He showed you no cases. I
15 mean, we went element by element by element and showed you exactly why
16 it's abstract. He showed you no contrary case law on that and he made
17 no effort to then, in Step 2, take out the abstract elements and
18 explain what's left because all that's left is conventional.
19 Another point. Claim construction. They would have to have
20 proposed specific constructions and said why those constructions would
21 change the outcome and as the Federal Circuit said in *Two-Way Media* --
22 you know, the mere fact that you proposed a construction or in this
23 instance you say give us a year and after we spend all this money
24 we'll sort of tell you, that doesn't even move the needle. Otherwise,
25 again, it would have been 0 and 7 in terms of courts that decide these

1 issues.
2 THE COURT: Okay.
3 MR. GAUDET: Thank you, Your Honor.
4 THE COURT: Thank you very much.
5 Very well argued by both sides, thank you. For an English major
6 like me, this is incredibly helpful. So thank you. It's sort of --
7 coupled with the briefing, this really gives me a good background to
8 help decide these issues.
9 You can have a seat.
10 I know that this case has been lingering for sometime. We have
11 sort of been with fits and starts on getting this oral argument
12 scheduled and the second round of briefing. So we're going to do our
13 best to get an order out as soon as we can. Certainly by the end of
14 the year is our goal. Hopefully sooner. For me, that's sort of the
15 red line to get this out.
16 Don't take anything from this question because I have not
17 decided how to resolve these motions. But assuming that the case
18 survives, is the next step the claim construction hearing? Does
19 everyone agree on that? I'm just trying to gauge procedurally what
20 would be the next thing.
21 MR. WELLS: I think the next substantive step for Your Honor
22 would be the claim construction hearing. But obviously between now
23 and then we would begin discovery and begin the processes that we have
24 to deal with on our end.
25 THE COURT: Sure. You agree with that?

1 MR. GAUDET: I do, Your Honor. I think we would --
2 THE COURT: Close to a microphone, please.
3 MR. GAUDET: I'm sorry.
4 Yes. Your Honor, in that very unfortunate hypothetical where
5 you deny the motion, we would follow the local rules, and I think the
6 next event for the Court would be the claims construction hearing.
7 THE COURT: All right. And, again, with no preconceived
8 notions of how this goes, if that were to occur, my general preference
9 is to appoint a special master for that purpose so that you have
10 somebody who actually knows what they're doing. Does everyone agree
11 that a special master appointment is appropriate in this case?
12 MR. WELLS: We would agree that that's appropriate, Your
13 Honor.
14 MR. GAUDET: Your Honor, we would agree. We've done it both
15 ways and if that's how the Court prefers to proceed, we certainly have
16 no objection, Your Honor.
17 THE COURT: Okay. I mean, I'll tell you there was one time
18 when the parties convinced me that it was not that complicated and
19 that I could handle it and I regretted that decision because they
20 completely misunderstood my capacities.
21 MR. GAUDET: Twenty-five years ago Judge Hunt was faced with a
22 similar situation and declared a special master and when the special
23 master returned a 400-page report and recommendation he thought wait a
24 minute, that's not what I was looking for. Absolutely understood.
25 THE COURT: Okay. All right. Okay. Well, that's helpful.

1 Thank you. I just wanted to make sure everybody was on the same page
2 of sort of at least procedurally what would happen next.
3 Great. Well, thank you again. It was very helpful.
4 For those who traveled from out-of-town, thank you for being
5 here. I know traveling these days is not so easy. So I appreciate
6 you making the effort to be here.
7 Like I said, we'll try to get a decision out as soon as we can.
8 All right. Thank you. All right. We're in recess.
9 (Proceedings concluded at 11:06 a.m.)
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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

CERTIFICATE OF REPORTER

I do hereby certify that the foregoing pages are a true and correct transcript of the proceedings taken down by me in the case aforesaid.

This the 10th day of November, 2025.

/S/ Alicia B. Bagley _____
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