

**In the Matter of:**

***MICROSOFT CORPORATION***

***v.***

***SURFCAST, INC.***

---

***GLENN WEADOCK***

***March 12, 2014***

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**M E R R I L L L A D**

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

--OoO--

MICROSOFT CORPORATION

Petitioner,

vs.

SURFCAST, INC.

Patent Owner.

Patent No. 6,724,403

Issued: April 20, 2004

Filed: October 30, 2000

Inventors: Ovid Santoro, et al.

Title: SYSTEM AND METHOD FOR SIMULTANEOUS DISPLAY  
OF INFORMATION SOURCES

Inter Partes Review Nos. IPR2013-00292,  
IPR2013-00293, IPR2013-00294 and IPR2013-00295

Videotaped Deposition of GLENN WEADOCK

Washington, D.C.

Wednesday, March 12, 2014

9:01 a.m.

Job No.: 1-245646

Pages 1 - 151

Reported By: Joan V. Cain

1 Videotaped Deposition of GLENN WEADOCK, held  
2 at the law offices of:

3

4 DLA PIPER, LLP (US)  
5 500 Eighth Street, Northwest  
6 Washington, D.C. 20004  
7 (202) 799-4000

8

9 Pursuant to Notice, before Joan V. Cain,  
10 Court Reporter and Notary Public in and for the  
11 District of Columbia.

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1 A P P E A R A N C E S

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22 David Cooper, Videographer

23

24

25

## 1 C O N T E N T S

2

## 3 EXAMINATION OF GLENN WEADOCK PAGE

4 By Mr. Micallef 8

5 By Ms. Miller 145

6

## 7 E X H I B I T S

8 (Attached to the Transcript.)

## 9 DEPOSITION EXHIBITS PAGE

10 EXHIBIT 1001 U.S. Patent No. 6,724,403 B1 13

11 EXHIBIT 1015 U.S. Patent No. 5,432,932 63

12 EXHIBIT 1030 U.S. Patent No. 6,278,448 B1 135

13 EXHIBIT 1051 PCT Patent Application 139

14 EXHIBIT 1085 Copy of Pages from Merriam-

15 Webster's Collegiate Dictionary 36

16 EXHIBIT 1086 Copy of Pages from Microsoft 45

17 Computer Dictionary, Fourth

18 Edition

19 EXHIBIT 1088 Copy of Pages from Intranet 69

20 Publishing for Dummies

21 EXHIBIT 1091 U.S. Patent No. 5,974,567 104

22 EXHIBIT 1092 Photocopy of Intranet 75

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24

25

## 1 E X H I B I T S C O N T I N U E D

2 (Attached to the Transcript.)

3 DEPOSITION EXHIBITS PAGE

4 EXHIBIT 2004 Declaration of Mr. Weadock 63

5 in Support of Patent Owner's

6 Response Under 35 USC §§

7 316(a)(8)

8 EXHIBIT 2063 Declaration of Mr. Weadock 139

9 in Support of Patent Owner

10 SurfCast's Motion for

11 Conditional Amendment Under

12 37 CFR § 42.121

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

2 THE VIDEOGRAPHER: Here begins video disc  
3 No. 1 in the video deposition of Glenn Weadock in  
4 the matter of Microsoft Corporation versus SurfCast,  
5 Inc., in the United States Patent and Trademark  
6 Office Before the Patent Trial and Appeals Board,  
7 Cases No. IPR2013-00292, IPR2013-00293,  
8 IPR2013-00294, and IPR2013-00295.

9 Today is Wednesday, March 12, 2014. The  
10 time on the video monitor is 9:01:47 a.m. We are  
11 now on the record. My name is David Cooper. I'm  
12 the certified legal video specialist contracted with  
13 Merrill LAD, 21 Church Street, Suite 150, Rockville,  
14 Maryland 20850. This video deposition is taking  
15 place at DLA Piper, LLP in the blue conference room,  
16 located at 500 Eighth Street, Northwest, Washington,  
17 D.C. 20004.

18 Would counsel please introduce themselves  
19 and who they represent.

20 MR. MICALLEF: Joe Micallef with Sidley  
21 representing Microsoft.

22 MR. SUH: Wonjoo Suh representing Microsoft  
23 with Sidley.

24 MS. MILLER: Tiffany Miller from DLA Piper  
25 on behalf of patent owner SurfCast and the witness.



1 DR. BONE: Richard Bone, VLP Law Group, LLP  
2 for patent owner SurfCast.

3 MR. HEINTZ: Jim Heintz, DLA Piper  
4 representing patent owner and SurfCast.

5 THE VIDEOGRAPHER: The court reporter Joan  
6 Cain of Merrill LAD will now swear in the witness.

7 GLENN WEADOCK  
8 having been duly sworn, was examined and did testify  
9 as follows:

10 EXAMINATION BY COUNSEL FOR PETITIONER

11 BY MR. MICALLEF:

12 Q Good morning.

13 A Good morning.

14 MS. MILLER: Actually, sorry, Joe. Before  
15 we get started, could you just identify which  
16 declaration that's going to be the subject of  
17 today's deposition out of Mr. Weadock's two  
18 declaration, so I know how to frame my scope  
19 objections if necessary. Excuse me.

20 MR. MICALLEF: It's likely they both will  
21 be.

22 MS. MILLER: Well, you had said you get one  
23 declaration -- excuse me -- one deposition per  
24 declaration, so I just want to make sure that the  
25 deposition is focused on one declaration for the 6.5

1 hours and then we can do our redirect and then  
2 another one for 6.5, so we aren't prejudiced  
3 where -- excuse me -- when we get to Friday and  
4 we're supposed to redirect on questions that  
5 happened 2 days before.

6 MR. MICALLEF: I see. I don't think that  
7 the -- when we had this out with the Board that the  
8 Board set it up or accepted that it would go the way  
9 you just described it. I think what the Board ruled  
10 was it would be 13 hours of direct and then you  
11 would get your -- I'm sorry -- 13 hours of cross and  
12 then you'd get your redirect and whatever recross.

13 But I don't think it's going to be an  
14 issue, so maybe we should just wait on it, and if  
15 you think it will be an issue, then maybe we can  
16 talk about it off the record.

17 MS. MILLER: Okay. I just want to make  
18 sure that, you know, it's not taking advantage of  
19 the 13 hours and taking his deposition on one  
20 declaration for 13 hours for example.

21 MR. MICALLEF: I don't think we're going to  
22 go 13 hours.

23 MS. MILLER: Okay. Well, I'll try and  
24 frame my scope objections appropriately based on  
25 which declaration you're going for.

1 MR. MICALLEF: Fair enough. Fair enough.

2 DR. BONE: Joe, just to observe, I don't  
3 recall the Board actually set it out that way. I  
4 think the whole debate was about whether Microsoft  
5 is entitled to more than 7 hours, and it was a  
6 question of the justification was to get more than 7  
7 hours, it was that Mr. Weadock had signed off on two  
8 declarations, and therefore we computed two amounts  
9 of time, one amount of time per declaration.

10 I think the board was silent as to issues  
11 of whether it would be 13 hours straight and then  
12 followed by a redirect. I think we've always  
13 assumed that it would be a deposition on one  
14 declaration followed by our redirect and then a  
15 deposition on the other declaration followed by  
16 redirect.

17 MR. MICALLEF: I agree the Board did not  
18 expressly say one way or the other, except as I  
19 recall, what was said on that call was that the  
20 redirect would be the time period set forth in the  
21 rules as would the recross, were there any. That  
22 would suggest one deposition. But I suppose one  
23 could read it differently. I actually don't think  
24 this is going to be an issue, though, so I don't  
25 know why we would use time on the record to debate

1 it.

2 DR. BONE: All right. We hope it won't be  
3 an issue, yeah.

4 MS. MILLER: Well, you know our position  
5 so --

6 MR. MICALLEF: Okay. Okay.

7 BY MR. MICALLEF:

8 Q Could you state your name and residence  
9 address for the record, please?

10 A Yes. My name is Glenn Weadock and my  
11 residence is Lakewood, Colorado, 9850 West Vassar  
12 Way.

13 Q I'm sure I've been pronouncing it Weadock,  
14 and I will try not to. Don't hesitate to correct  
15 me.

16 A You would not be the first. It's my lot in  
17 life to have a name that's pronounced differently  
18 than it's spelled.

19 Q You should hear what they do to mine. You  
20 understand that this proceeding is being conducted  
21 under the rules of the Patent Trial and Appeal  
22 Board?

23 A I do.

24 Q Have you ever given testimony in an Inter  
25 Partes Review before?

1 A No.

2 Q So you understand that this is  
3 cross-examination?

4 A I do.

5 Q And you understand that the Board has very  
6 strict rules about the taking of testimony?

7 A I'm not specifically familiar with IPR  
8 testimony rules as distinct from other  
9 proceedings --

10 Q Okay.

11 A -- so I may not be as up on that as I  
12 should be.

13 Q Okay. Well, I guess you understand you  
14 have to answer my questions?

15 A I do.

16 Q And you have to -- and you understand that  
17 the answers have to be verbal?

18 A Yes.

19 Q Okay. If you don't understand a question,  
20 you'll agree to let me know?

21 A Yes.

22 Q Okay. And you've been deposed several  
23 times before?

24 A Yes.

25 Q So you understand if your counsel objects,

1 unless there's an instruction based on privilege,  
2 you still have to answer my question?

3 A I understand.

4 Q Okay. You understand you're not allowed to  
5 converse with your attorneys now that the deposition  
6 has begun on the subject matter of this case?

7 A I do.

8 Q And that includes not just the substance of  
9 your answers in your testimony, but how those  
10 answers are given or how that testimony is going in.  
11 You understand that?

12 A I do.

13 Q Okay. Okay. If you need a break, let me  
14 know.

15 A Okay.

16 Q I -- I plan on taking breaks probably about  
17 once an hour.

18 A That sounds fine.

19 (Exhibit 1001 was marked for  
20 identification and was attached to the deposition  
21 transcript.)

22 BY MR. MICALLEF:

23 Q Okay. I'm going to hand you a copy of the  
24 '403 patent.

25 MR. MICALLEF: And if you all want one --

1 no?

2 BY MR. MICALLEF:

3 Q You've seen this before, right?

4 A Yes, sir.

5 Q This is Exhibit 1001 in this proceeding?

6 A Yes.

7 Q Okay. You've read it?

8 A I have.

9 Q You've read everything in it?

10 A Yes.

11 Q Okay, great. Now I'd like you to turn to  
12 figure 6 of the '403 patent.

13 A Okay.

14 Q And you've looked at this figure before?

15 A I have.

16 Q Okay. By the way, have you read any of the  
17 other depositions that have been taken in this  
18 proceeding?

19 A I have read over the Karger deposition, and  
20 I think that may be the only one.

21 Q Are you involved in the parallel litigation  
22 in Maine?

23 A Yes.

24 Q And have you received -- did you do --  
25 strike that.

1 Did you review any materials from that  
2 litigation?

3 A Yes.

4 Q Did you review any materials that have been  
5 designated confidential under the confidentiality  
6 order in that litigation?

7 A Yes.

8 Q That would include Microsoft confidential  
9 information?

10 A It would.

11 Q Did you review any deposition transcripts  
12 in that litigation?

13 A Yes.

14 Q Which ones?

15 A Well, I'm trying to remember. I think  
16 there was a Karger declaration there or a Karger  
17 deposition. I'm not sure if I'm getting them mixed  
18 up. The two cases have blended together a little  
19 bit in my mind, but I've reviewed a number of  
20 materials, filings, interrogatories, and responses  
21 and so forth.

22 Q So back to figure 6 of the '403 patent --

23 A Okay.

24 Q -- there's a -- generally speaking, can you  
25 tell me what figure 6 depicts?



1           A       Well, let's see what the patent describes  
2       it as. That'll help us.

3                   Right. So in the brief description of the  
4       drawings, figure 6 is described as showing one  
5       embodiment of a tile in markup language.

6           Q       And in figure 6 in the very middle of it  
7       there is the word "CLICKMAP." Do you see that?

8           A       I do.

9           Q       Okay. Now, the CLICKMAP is an HTML  
10       statements that causes clicks on different portions  
11       of the tile to cause different results; is that  
12       fair?

13                   MS. MILLER: Objection, foundation.

14                   THE WITNESS: Well, let's -- let's see.  
15       It's -- CLICKMAP, I'm not sure that's strict HTML,  
16       so let's see what the -- what the patent describes  
17       that as doing.

18       BY MR. MICALLEF:

19           Q       Well, let me direct your attention to  
20       column 10, line 30 --

21           A       Okay.

22           Q       -- or the sentence that begins on line 30  
23       through 32 which states, "In the example in FIG. 6,  
24       the tile has a clickable map, i.e., separate areas  
25       of the tile produce separate results when clicked."

1 Do you see that?

2 A I do.

3 Q So my question was, is that the CLICKMAP in  
4 figure 6 causes clicks on different portions of the  
5 tile to cause different results; is that fair?

6 MS. MILLER: Objection, form.

7 THE WITNESS: It -- the patent says  
8 separate results. I don't know that it necessarily  
9 mandates that they be different.

10 BY MR. MICALLEF:

11 Q Okay. They can be different, though,  
12 right?

13 A I would expect so.

14 Q All right. And I notice in -- on figure 6  
15 after the CLICKMAP there's an equals sign and then  
16 it looks like there's three lines of text.

17 Do you see that?

18 A I do.

19 Q And each of the lines begins with four  
20 numbers separated by commas. Do you see that?

21 A I do.

22 Q Okay. Would you agree that that -- those  
23 numbers indicate some kind of coordinates on the  
24 tile?

25 A That's a reasonable assumption.

1           Q     And so those numbers indicate which  
2     portions that particular line is associated with --  
3     which portions of the tile that particular line is  
4     associated with; is that fair?

5           MS. MILLER:  Objection, form.

6           THE WITNESS:  I think that's a reasonable  
7     assumption.

8     BY MR. MICALLEF:

9           Q     Okay.  And you're not aware of anything in  
10    the '403 patent which limits what portions could be  
11    defined by these coordinates, are you?

12          MS. MILLER:  Objection, form.

13          THE WITNESS:  Well, I think there may  
14    actually be parts of the patent that limit what  
15    those areas can define.

16    BY MR. MICALLEF:

17          Q     And are you aware of those parts of the  
18    patent as you sit here today?

19          A     Oh, I could probably find them.

20          Q     Well, do you have any memory, recollection  
21    of them?

22          A     Well, I've read the patent a few times, but  
23    I haven't committed it to memory, so I'd need to  
24    hunt for it.

25          Q     Okay.  So you can't tell me without reading

1 the patent again?

2 A I have an expectation that these numbers  
3 would be restricted to the boundaries of a tile, but  
4 I can't point you to where that is from memory of  
5 the patent.

6 Q Okay. I thought my question sort of  
7 implicitly acknowledged that limitation, I thought  
8 it was -- so let me just ask it again to make sure  
9 we're on the same page.

10 You're not aware of anything in the patent  
11 that would limit what portions of the tile the  
12 coordinates could identify?

13 MS. MILLER: Objection, form.

14 THE WITNESS: Not without going through the  
15 patent again, no.

16 BY MR. MICALLEF:

17 Q Okay. And what's your understanding of the  
18 phrase "clickfunction" that appears in each of those  
19 lines on figure 6?

20 A Well, I don't know that the patent refers  
21 to clickfunction1, 2, and 3 here explicitly, but my  
22 expectation would be that would be a function that  
23 is performed when a click is received within those  
24 coordinates.

25 Q Okay. And what would be your reading of

1 the clickargument word that's in each of those  
2 lines?

3 A Well, again, I don't know that the  
4 specification of the patent goes into that in  
5 detail, but normally an argument in code or  
6 pseudocode would be some parameter that is passed  
7 along to a function. So I would assume that it  
8 would do something along those lines, but I'm not  
9 sure the patent explains that.

10 Q Would it be fair to conclude that the  
11 clickargument would be some way to identify to the  
12 system what the result should be from a click within  
13 the associated coordinates?

14 A Well, I don't know that it would specify  
15 what the result should be. Again, an argument is  
16 something that is normally an input to a function.  
17 So I think we're veering into a little bit of  
18 speculation here.

19 Q Okay. So you don't know one way or the  
20 other on that?

21 A I don't know, without reading through the  
22 patent to look for a specific reference to  
23 clickargument1, 2, and 3, if the patent discloses  
24 specifically what -- what they would do.

25 Q Do you recall that the '403 patent

1 discloses that at least in some embodiments, one can  
2 click a tile and cause it to refresh its contents?

3 MS. MILLER: Objection, form.

4 THE WITNESS: I -- I am not sure if I  
5 remember those words. I could flip through the  
6 patent to see that or you could point me somewhere  
7 and we could save time.

8 BY MR. MICALLEF:

9 Q Yeah, let me direct your attention to  
10 Column 9, lines 35 to 36 where it states, "For  
11 example, clicking on a tile will cause it to  
12 immediately refresh its contents."

13 Do you see that?

14 A I do.

15 Q It's fair to conclude, isn't it, that that  
16 would be one of the results that one might get from  
17 clicking on a portion of the tile in figure 6?

18 MS. MILLER: Objection, form.

19 THE WITNESS: No.

20 BY MR. MICALLEF:

21 Q Why not?

22 A Well, that's not what it says.

23 Q Is that it?

24 A Sure, I can -- I can elaborate. Line 35  
25 here in Column 9 says clicking on a tile, so there's

1 no specific -- I haven't put this into context, but  
2 there's no specific reference here to the figure  
3 that you pointed me to earlier or to those -- what  
4 we -- what we assume or what we thought might be  
5 regions defined by coordinates.

6 Q Well, what kind of different results do you  
7 think, after your reading of the '403 patent --  
8 under your reading of the '403 patent, what kind of  
9 different results do you think clicking on the  
10 various regions of figure 6 would create?

11 MS. MILLER: Objection, form.

12 THE WITNESS: Oh, well, I mean, we can --  
13 we can see what the -- what the specification  
14 discloses there. So, again, let's see. If you have  
15 it handy, you can point me to that section where it  
16 discusses figure 6 again.

17 BY MR. MICALLEF:

18 Q It was column 10, line 30 I believe.

19 A Column 10, thank you. So the patent says,  
20 "In the example in FIG. 6, the tile has a clickable  
21 map, i.e., separate areas of the tile produce  
22 separate results when clicked." So that section  
23 really doesn't -- doesn't tell us much. It just  
24 says different -- different things or separate  
25 things can happen when clicking on separate areas.

1 Q So you don't have an understanding of what  
2 results its talking about there?

3 A Not from that sentence or that paragraph.  
4 It doesn't really seem to give any more specifics  
5 than that.

6 Q But isn't it fair to conclude that when it  
7 says clicking on portions causes a result, that  
8 where the patent talks about clicking causing  
9 results in other contexts, that's -- those are the  
10 results the patent is talking about?

11 A No.

12 Q You don't think so?

13 A No.

14 Q Okay. I'm going to ask you to turn to  
15 column 8 of the '403 patent.

16 A Okay.

17 Q Now, there's a paragraph at the bottom of  
18 column 8. It starts at about line 57 and goes to  
19 the end of the column.

20 Do you see that?

21 A I do.

22 Q Have you read that before?

23 A Yes.

24 Q Okay. Now, this paragraph discusses how a  
25 tile in the '403 patent can show information from an



1 associated information source; is that fair?

2 A If you don't mind, let me just take a  
3 moment to read it.

4 Q Sure.

5 A Okay. And I'm sorry. Can you repeat your  
6 question and I'll answer it?

7 Q Yeah. This paragraph discusses how a tile  
8 can show information from an associated information  
9 source; is that fair?

10 MS. MILLER: Objection, form.

11 THE WITNESS: Yes, I think that's fair.

12 BY MR. MICALLEF:

13 Q Okay. So there are a couple of examples  
14 there, and would it be fair to say that the  
15 information that is being shown in those examples is  
16 not all of the information from the associated  
17 information source?

18 MS. MILLER: Objection, form.

19 THE WITNESS: Well, I don't know that it  
20 necessarily states that. It says that a tile may  
21 present data in any of a number of ways. There is  
22 an example of displaying part of the information.  
23 There's another example talking about a custom  
24 interface design to allow rapid access to the  
25 underlying information, which would suggest that

1 not -- not all of the information associated with or  
2 assigned to that tile may be visible in the tile.  
3 So -- so I think the answer to your question may be  
4 yes.

5 BY MR. MICALLEF:

6 Q Okay. And so, for example, the porthole  
7 view example here, which is at column 8, lines 61  
8 through 63, would you entry that that describes --  
9 well, it's like looking at a large document through  
10 a porthole, where you can only see a portion of the  
11 document? That would be an example of a porthole  
12 view?

13 A I think it would, yes.

14 Q Okay. Now, let's stick with that porthole  
15 view. Would you agree that that's a form of access  
16 to the underlying information source?

17 MS. MILLER: Objection, form.

18 THE WITNESS: Well, it says a tile may  
19 present data in any number of ways. Now, it doesn't  
20 explicitly state -- we've got two sentences here at  
21 the beginning. The first says that "A tile is  
22 associated with a program, file or datastream, in  
23 the same way that an icon and a window are." But  
24 then the second sentence says "A tile may present  
25 data in any number of ways."

1           So in the first sentence we're talking  
2   about a program which is not data that would be  
3   displayed. There's also discussion of a file or a  
4   datastream, but then it goes on to say the tile may  
5   present data in any number of ways.

6           So the data in the second sentence is not  
7   necessarily identical to the program file or  
8   datastream that the tile is associated with in the  
9   first sentence. For example, I'm not sure it would  
10   make a lot of sense to have a porthole view of a  
11   program.

12   BY MR. MICALLEF:

13       Q     Sir, that wasn't my question.

14       A     I'm sorry. If you'll ask your question  
15   again, I'll try to answer it more directly.

16       Q     My question is, in the situation where you  
17   have a porthole view of, for example, a document --

18       A     Right.

19       Q     -- isn't that a form of access to the  
20   document?

21       A     I don't think that was exactly your  
22   question but, yes, if -- if you have a porthole view  
23   of a document, that would provide access to -- to  
24   part of the document.

25       Q     Okay. And you would agree in the '403

1 patent one could get that access to the document  
2 without actually selecting that tile; is that fair?

3 MS. MILLER: Objection, form.

4 THE WITNESS: Well, let's see if it says  
5 that. Yeah, I don't -- I don't see a reference in  
6 that paragraph of the patent to a selection  
7 operation.

8 BY MR. MICALLEF:

9 Q So the fair reading of that is you get  
10 access to the underlying information source even  
11 without selecting the tile, correct?

12 MS. MILLER: Objection, form.

13 THE WITNESS: I think this paragraph  
14 discloses that a tile may present data in any number  
15 of ways, and this paragraph doesn't require a  
16 selection step.

17 BY MR. MICALLEF:

18 Q Okay. By the way, what's your  
19 understanding in this context, the context of the  
20 '403 patent, of the meaning of the word "access"?

21 MS. MILLER: Objection, form.

22 THE WITNESS: Well, I don't think -- okay.  
23 Let's see how it's used here in this paragraph.

24 So in this paragraph towards the end -- I  
25 think we're at line 64 or 65, it says, "or a custom

1 interface designed to allow rapid access to the  
2 underlying information." So I think in this  
3 paragraph, as is the case throughout the '403, a  
4 tile is a way for gaining access to underlying  
5 information. That could be a -- there could be a  
6 variety of different types of access disclosed.

7 That could be access to view information,  
8 work with information. I think there -- there are  
9 several different scenarios described in the patent  
10 whereby a tile provides access to information. We  
11 could go through and we could look at those  
12 examples.

13 BY MR. MICALLEF:

14 Q So let's just take what you just said so I  
15 understand what you're talking about. View  
16 information access -- strike that.

17 Viewing information as a form of access  
18 would be, for example, the porthole hypothetical  
19 that we just talked about; is that fair?

20 MS. MILLER: Objection, form.

21 THE WITNESS: Well, I think it's a little  
22 different. I think we're talking about a couple of  
23 different things. I think, for example, when it  
24 talks here about a custom interface designed to  
25 allow rapid access, that suggests to me that I don't

1 already have access to that same information.

2 BY MR. MICALLEF:

3 Q So my question was just, when you said one  
4 type of access would be to view information, I was  
5 just saying that the porthole example would be one  
6 example of that kind of access, even though there  
7 may be others; is that fair?

8 MS. MILLER: Objection, mischaracterizes  
9 testimony. Form.

10 THE WITNESS: Well, I think -- I think we  
11 have two things here. I think there's some  
12 information that I can see in the tile and then  
13 there's some additional information or underlying  
14 information in the language of the patent that I can  
15 gain access to via the tile, and those aren't  
16 necessarily the same thing. But if your question  
17 is, is viewing information in a porthole view on a  
18 tile a way of accessing information, then, yes, it  
19 is.

20 BY MR. MICALLEF:

21 Q Okay. I'm just trying to get what you  
22 meant by viewing. And so you said -- you also said  
23 that another form of access would be to work with  
24 the information. What did you mean by that?

25 MS. MILLER: Objection, mischaracterizes

1 testimony. Form.

2 THE WITNESS: Well, one can access  
3 information to do something with it. In the general  
4 case, one can access information to view, edit,  
5 create, change, delete. There are lots of different  
6 things one can do with information once one has  
7 accessed it.

8 BY MR. MICALLEF:

9 Q So this would be, for example if the  
10 information source is a Word document, going in and  
11 actually editing a Word document; is that fair?

12 A That would be one example of what I meant  
13 when I said work with information, yes.

14 Q Okay. Now, there's another example here  
15 that begins on column 8, line 63 through 64. It  
16 states, "A symbol indicating whether the information  
17 has been updated since it was last viewed."

18 Do you see that?

19 A I do.

20 Q And so would that be something like --  
21 well, strike that. Let me just ask you. What's  
22 your understanding of what that means?

23 A I think it's clear as stated.

24 Q You can give me your understanding, though.  
25 Thanks.

1 MS. MILLER: Objection, form.

2 THE WITNESS: I'm not sure I could say it  
3 any better. A symbol indicating whether the  
4 information has been updated since it was last  
5 viewed. I mean, do you want me to give you an  
6 example? I mean, some kind of a symbol that says,  
7 hey, this has been updated since you have looked at  
8 it last. I don't know if I can say it any better  
9 than the patent did.

10 BY MR. MICALLEF:

11 Q Okay. So let me see if I can throw an  
12 example at you. Tell me if you would agree that  
13 this is an example of this symbol indicating whether  
14 the information has been updated since it was last  
15 viewed.

16 Imagine a tile linked to a fax inbox and  
17 after a fax is received some -- the tile has some  
18 image or icon displayed in it that indicates a new  
19 fax has been received. Do you agree that would be  
20 an example of a symbol indicating whether the  
21 information has been updated?

22 MS. MILLER: Objection, form.

23 THE WITNESS: Well, maybe, but that's not  
24 the whole phrase here in the patent. It says "a  
25 symbol indicating whether the information has been



1 updated since it was last viewed," and that kind of  
2 implies to me that the -- the system being described  
3 here has to have a way of knowing when it was last  
4 viewed, or -- or it can't display that symbol.

5 So I think in the scenario that you posit,  
6 it's not necessarily true unless the system has some  
7 way of notating when -- when it was last viewed.

8 BY MR. MICALLEF:

9 Q Okay. But assuming that my hypothetical is  
10 modified as you -- as you say, would you agree that  
11 this would also be a form of access to the  
12 underlying information source?

13 MS. MILLER: Objection, form.

14 THE WITNESS: Well, no. I don't think I'd  
15 agree to that in the abstract, no.

16 BY MR. MICALLEF:

17 Q Why not?

18 MS. MILLER: Objection, form.

19 THE WITNESS: If I see an indication that  
20 information has been updated since it was last  
21 viewed, that's an indication there may be something  
22 new out there, but it doesn't tell me anything about  
23 what that new information might be. So I'm not sure  
24 I would describe that as access to the information.  
25 I just know there's information there. I know the

1 existence of information, but I don't necessarily  
2 have access to it just because I know it exists.

3 BY MR. MICALLEF:

4 Q You have a bank account?

5 A I do.

6 Q You have access to the funds in that bank  
7 account, don't you?

8 A Most of the time.

9 Q You have access as you're sitting here  
10 today, right?

11 MS. MILLER: Objection, form.

12 THE WITNESS: I expect that I do.

13 BY MR. MICALLEF:

14 Q Yeah. Even though, as you're sitting here  
15 today, you can't immediately manipulate the funds,  
16 take some out for example, right?

17 A I think that I can immediately.

18 Q Wouldn't you have to go to an ATM machine  
19 or a bank?

20 A I would have to take some action. I  
21 couldn't do it telepathically.

22 Q Right. And you couldn't do it in this  
23 room?

24 A Actually, I could.

25 Q You could get cash in this room?

1           A     Oh, I'm sorry. I could access my bank  
2     account information in this room.

3           Q     So you have access to the funds in that  
4     account even though you don't have a computer out or  
5     a phone or anything like that that could actually  
6     manipulate them, it's still fair to say that you  
7     have access even as you sit here right now, isn't  
8     it?

9                     MS. MILLER: Objection, form.

10           THE WITNESS: Well, that's not what I  
11     meant. I do have a phone, and that was the access I  
12     was talking about just a moment ago when I answered  
13     your question.

14     BY MR. MICALLEF:

15           Q     Right. But you don't have the phone out  
16     right now, and the distinction I'm making is, it's  
17     still fair to say you have access, even though you  
18     don't have the phone out in your hand manipulating  
19     it?

20                     MS. MILLER: Objection, form.

21           THE WITNESS: So just to be clear, we're  
22     departing from any discussion of the patent, because  
23     there's no discussion in the patent, as I recall, of  
24     banks or funds and so forth. So now we're -- we're  
25     leaving the forum of the patent and we're talking

1 about a plain English word "access"; is my  
2 understanding correct?

3 BY MR. MICALLEF:

4 Q I think I was asking about a bank, yeah.

5 A Okay. And so with that understanding,  
6 could you kindly repeat your last question.

7 Q Just it's fair to say that you have access  
8 to the funds in your bank account even though you're  
9 not manipulating your phone to -- to contact the  
10 bank's network and you're not sitting at an ATM or  
11 you're not in front of a teller, still fair to say  
12 that you have access to those funds as you sit here  
13 right now?

14 MS. MILLER: Objection, form.

15 THE WITNESS: In the plain English meaning  
16 of the word "access," which implies some channel  
17 that I can navigate and appropriate permissions,  
18 yes, I have access to the money in my bank account.

19 BY MR. MICALLEF:

20 Q And do you think the word "access," when  
21 used in the '403 patent, has a different meaning  
22 than that plain English meaning?

23 MS. MILLER: Objection, form.

24 THE WITNESS: I -- I think we have to look  
25 at the patent in terms of what the patent describes.

1 The patent doesn't talk about accessing funds in a  
2 bank. It talks about accessing information in a  
3 computer system, so those are two different animals.  
4 My understanding is that we have to look at the  
5 words used in a patent in the context of the patent.

6 BY MR. MICALLEF:

7 Q So your understanding is that you don't  
8 interpret words in a patent using unrelated  
9 contexts; is that your testimony?

10 A Well, I don't think I said that. That's  
11 not my testimony. I think what I said and what I  
12 stand by is that my understanding, not being a  
13 patent attorney, but my understanding is when I'm  
14 looking at the words in a patent, there are several  
15 things that should guide me. The plain and ordinary  
16 meaning of the term is one thing that guides me.  
17 The context in which the words are used, the  
18 specification, the claims, constructions that are  
19 made by judges are all things that I should take  
20 into account when interpreting the words of a  
21 patent.

22 (Exhibit 1085 was marked for  
23 identification and was attached to the deposition  
24 transcript.)

25 BY MR. MICALLEF:

1 Q I'm going to show you a document that we  
2 have marked as Exhibit 1085, and I will ask you to  
3 take a look at that.

4 A Okay.

5 MS. MILLER: Objection. Counsel, what is  
6 this?

7 MR. MICALLEF: This is a dictionary  
8 definition.

9 MS. MILLER: And is this -- what is this an  
10 exhibit from?

11 MR. MICALLEF: It's going to be an exhibit  
12 in these proceedings.

13 MR. HEINTZ: Did you provide notice to us  
14 in advance?

15 MR. MICALLEF: No.

16 DR. BONE: I believe --

17 MR. MICALLEF: Wait a second. If we're  
18 going to discuss it, I'm going to ask the witness to  
19 leave the room. If you want to go off the record  
20 and discuss this, we can do that, but not in front  
21 of the witness.

22 DR. BONE: I think we should do that.

23 BY MR. MICALLEF:

24 Q Okay. Could you step out, Mr. Weadock?

25 A Sure.

1           Q       Weadock. Thank you.

2                       (The witness left the deposition room  
3 and the following proceedings were had:)

4           MR. HEINTZ: We'll stay on the record.

5           MR. MICALLEF: Just so the record is clear,  
6 the witness has left the room.

7           DR. BONE: So it's been my understanding  
8 that we're under the managing notices option in  
9 which the parties would provide each other with  
10 notice of which exhibits they intend to rely on, and  
11 this looks like you're bringing something to the  
12 table here that you haven't previously told us about  
13 and that you intend to rely on in this deposition.

14           MR. MICALLEF: We can go look at the rules,  
15 but I think that provision applies to direct  
16 testimony.

17           DR. BONE: Okay.

18           MS. MILLER: So what is the purpose of this  
19 exhibit?

20           MR. MICALLEF: This is cross-examination.  
21 I'm going to cross-examine him on it.

22                       So, you know, there's only a couple options  
23 here, right? I'm going to cross-examine. You can  
24 object. You can instruct him not to answer, and  
25 then we'll have an issue we've got to go to the

1 Board on. If you object, it will get resolved at  
2 some point, likely not today, but I don't think we  
3 should hold up the deposition because you want to go  
4 research the rules.

5 MS. MILLER: Well, I --

6 DR. BONE: I'm just looking at --

7 MR. MICALLEF: And certainly your  
8 researching of the rules is not my time with the  
9 witness, right? We can agree on that.

10 MS. MILLER: Well, I mean what -- do you --  
11 you know, what rule is the basis for your use of an  
12 exhibit that you haven't identified to the party  
13 yet?

14 MR. MICALLEF: I don't think I have to show  
15 the rule. I'm cross-examining the witness. I can  
16 use this information to cross-examine him.

17 MR. HEINTZ: Look, why don't we just make  
18 the objection and let the deposition continue.

19 MS. MILLER: All right.

20 DR. BONE: Okay. So the objection is in  
21 the record?

22 MR. MICALLEF: You want to be more --

23 MR. HEINTZ: I'm sort of blocked.

24 MR. MICALLEF: Yeah, why don't you -- wait  
25 a second. Are you satisfied your objection's on the



1 record? Because you might as well do it before he  
2 comes in?

3 DR. BONE: Not sure. Why don't we go back  
4 on the record --

5 MR. MICALLEF: We've been on the record.

6 MS. MILLER: So we object to the use of  
7 this exhibit as improper. We didn't receive notice  
8 of this, and therefore we object appropriately and  
9 that it's outside the scope of Mr. Weadock's  
10 declarations.

11 MR. MICALLEF: Okay.

12 (The witness returned to the  
13 deposition.)

14 MR. MICALLEF: We are still on the record,  
15 and I'll just say for the record that the witness  
16 has rejoined us.

17 BY MR. MICALLEF:

18 Q Thank you, Mr. Weadock.

19 A You're welcome.

20 Q So I'm going to ask you to take a look at  
21 Exhibit 1085, and, in particular, on the third page  
22 of the exhibit, there is -- and just for the record,  
23 this is pages from Merriam-Webster's Collegiate  
24 Dictionary.

25 Do you see that on the front page?

1 MS. MILLER: Objection to the exhibit.

2 Objection, scope.

3 THE WITNESS: I do.

4 BY MR. MICALLEF:

5 Q Okay. And on the third page in the lower  
6 right-hand corner there is a definition for the  
7 word "access" as a noun.

8 Do you see that?

9 A I do.

10 MS. MILLER: Objection, use of the exhibit.

11 Objection, scope.

12 BY MR. MICALLEF:

13 Q And there's several definitions there,  
14 correct?

15 MS. MILLER: Objection, use of the exhibit.

16 Objection, scope.

17 THE WITNESS: Yes.

18 BY MR. MICALLEF:

19 Q Do you see the one that defines access as  
20 the freedom or ability to obtain or make use of?

21 MS. MILLER: Objection to the use of the  
22 exhibit. Objection, scope.

23 THE WITNESS: Yes, I do.

24 BY MR. MICALLEF:

25 Q Okay. Would you agree that that's a fair

1 definition of the word "access" as used in the '403  
2 patent?

3 MS. MILLER: Objection to the use of the  
4 exhibit. Objection, scope. Objection, form.

5 THE WITNESS: No.

6 BY MR. MICALLEF:

7 Q Why not?

8 MS. MILLER: Same objections.

9 THE WITNESS: Well, as I explained earlier,  
10 I think that that's a fair definition of access in  
11 the scenario you described about accessing funds in  
12 a bank account. That's not the subject matter of  
13 the '403 patent. They're talking about something  
14 different.

15 BY MR. MICALLEF:

16 Q Well, ordinary English words used in  
17 patents can still be given their ordinary English  
18 definitions, correct?

19 MS. MILLER: Objection, form. Objection,  
20 foundation.

21 THE WITNESS: As a general statement, I  
22 believe that's correct.

23 BY MR. MICALLEF:

24 Q Okay. And do you think the word "access"  
25 has a special meaning in the computer arts?

1 MS. MILLER: Objection, form.

2 THE WITNESS: It can have a meaning that is  
3 different than a selection of one of several  
4 definitions from a dictionary in a particular  
5 context, yes.

6 BY MR. MICALLEF:

7 Q And what's -- and do you think the  
8 word "access" has a special meaning in the context  
9 of the '403 patent?

10 MS. MILLER: Objection, form.

11 THE WITNESS: Well, I'm not sure that I  
12 would use the word "special," and I guess I would,  
13 in response to your question, try to correct what --  
14 what seems to be implicit in your question is that  
15 any definition other than the specific one that you  
16 selected here from this dictionary is somehow  
17 special. I think there -- you know, there are other  
18 definitions here.

19 For example, if we look at this, we see  
20 that access is also defined as permission, liberty,  
21 or ability to enter, approach, communicate with,  
22 pass to and from, a way or means of access, the act  
23 or an instance of accessing. And so there are lots  
24 of different ways to interpret any given English  
25 word, including the word "access."

1           When we talk about accessing information in  
2   a computer system, we often mean a different shade  
3   of meaning than mere permission, but in the computer  
4   arts, certainly we have, for example, something  
5   called access control lists and file systems that do  
6   have a permission component.

7           When I'm looking at a patent and I'm  
8   talking about accessing information, I want to  
9   understand that in the context of the patent, and  
10   this patent gives some examples of what it means by  
11   using a tile to access information, and I don't see,  
12   except in a couple of places in the patent, a focus  
13   on the permission aspect.

14           MR. MICALLEF: I'm going to object to the  
15   answer as nonresponsive.

16   BY MR. MICALLEF:

17       Q     And I'm going to ask you to answer my  
18   question, which was, do you believe that the word  
19   "access" has a special definition in the context of  
20   the '403 patent?

21           MS. MILLER: Objection, form.

22           THE WITNESS: I'm sorry. I did my best to  
23   answer your question. I thought it was responsive.  
24   I'm not sure I can give you a better answer.

25   BY MR. MICALLEF:

1 Q You can't tell me whether you believe the  
2 word "access" has a special definition within the  
3 context of the '403 patent?

4 MS. MILLER: Objection, form.  
5 Mischaracterizes testimony. Argumentative.

6 THE WITNESS: Not without knowing what you  
7 mean by the word "special."

8 BY MR. MICALLEF:

9 Q Do you think the '403 patent uses the  
10 word "access" outside of its ordinary meaning to a  
11 person of ordinary skill in the art?

12 MS. MILLER: Objection, form.

13 THE WITNESS: Its ordinary meaning to a  
14 person of skill in the art of the patent, no, I  
15 don't think it uses the word in a particularly  
16 unusual or special manner.

17 (Exhibit 1086 was marked for  
18 identification and was attached to the deposition  
19 transcript.)

20 BY MR. MICALLEF:

21 Q Mr. Weadock, I'm going to give you what  
22 we've marked as Exhibit 1086 and have you take a  
23 look at that.

24 MS. MILLER: Object to the use of the  
25 exhibit as not having notice and outside the scope.

1 BY MR. MICALLEF:

2 Q Do you have Exhibit 1086 in front of you,  
3 Mr. Weadock?

4 A I do.

5 Q And this exhibit is pages from a Microsoft  
6 computer dictionary, correct?

7 MS. MILLER: Object to the use of the  
8 exhibit. Objection, scope.

9 THE WITNESS: Yes, it is.

10 BY MR. MICALLEF:

11 Q Okay. And on the second page, there is a  
12 definition for the word "access," correct?

13 MS. MILLER: Objection to the use of the  
14 exhibit. Objection, scope.

15 THE WITNESS: There are two definitions,  
16 yes.

17 BY MR. MICALLEF:

18 Q That's right. So let's -- and one of  
19 them's for the noun "access," correct?

20 MS. MILLER: Same objections.

21 THE WITNESS: Yes.

22 BY MR. MICALLEF:

23 Q Let's talk about that one. All right?

24 A Okay.

25 Q So the first definition for access the noun

1 is the act of reading data from or writing data to  
2 memory.

3 Do you see that?

4 A I do.

5 Q Would you agree that's a fair definition of  
6 the word "access" as used in the '403 patent?

7 MS. MILLER: Objection, use of the exhibit.  
8 Objection, scope.

9 THE WITNESS: Well, this is a rather more  
10 specific definition. I guess I would agree to the  
11 extent that accessing information in the '403  
12 patent, without looking at any specific examples  
13 which might help inform the discussion, but if you  
14 want to keep it in the abstract, I'll try to do that  
15 to answer your question, but I think it's fair to  
16 say that accessing information in the context of the  
17 '403 patent will involve reading data from or  
18 writing data to memory.

19 BY MR. MICALLEF:

20 Q Just so I understand your answer, do you  
21 believe it's fair to say that accessing, in the  
22 context of the '403 patent, will always involve  
23 reading or writing data --

24 MS. MILLER: Objection, mischaracterizes  
25 testimony.



1 BY MR. MICALLEF:

2 Q -- to or from memory?

3 MS. MILLER: Objection.

4 THE WITNESS: Well, I haven't done that  
5 specific analysis, so I have to go through the '403  
6 and see every time it uses the word "access" in  
7 order to be able to answer your question. I'm happy  
8 to do that if you'd like.

9 BY MR. MICALLEF:

10 Q So what I'm trying to get at is if you  
11 think the word "access" as used in the '403 patent  
12 may be broader than this definition that I've cited  
13 you to in Exhibit 1086. Do you think it is, the  
14 word "access" as used in the '403 patent is broader  
15 than the 1086, Exhibit 1086 definition of access?

16 MS. MILLER: Objection, form. Objection to  
17 the use of the exhibit. Objection, scope.

18 THE WITNESS: It might be. If you want to  
19 point me to a specific use of the word in the  
20 patent, I can try to zero in on that for you a  
21 little bit.

22 BY MR. MICALLEF:

23 Q So without walking through the patent, you  
24 wouldn't be able to tell me one way or the other  
25 whether you think the patent's use of the

1 word "access" is broader; is that fair?

2 MS. MILLER: Objection, form.

3 Mischaracterizes testimony.

4 THE WITNESS: I suspect that there are uses  
5 of the word that may not line up exactly, may be  
6 broader than this specific first definition from  
7 this dictionary, which I note is different from the  
8 dictionary that you presented earlier, which lends  
9 some credence to what I was saying earlier, that  
10 when we look at a particular industry, the word's  
11 meaning has to be considered in that context. But  
12 I'd be happy to look at some specific examples, and  
13 we could talk about those.

14 BY MR. MICALLEF:

15 Q Well, let me -- yeah, let's talk about one  
16 specific.

17 A Okay.

18 Q Let's talk about the porthole example we  
19 were talking about a little earlier. Do you  
20 remember that?

21 A Oh, I do. Why don't you point me to that  
22 reference so I can look at it.

23 Q It's column 8, line 62.

24 A Okay. I'm still on that page.

25 Q Do you have that in front of you?

1           A       I do.

2           Q       Okay. So would that porthole view that is  
3 described at the bottom of column 8, that would be a  
4 form of access using the definition of access in  
5 Exhibit 1086; would it not?

6           MS. MILLER: Objection, form. Object to  
7 the -- objection to the use of the exhibit.  
8 Objection, scope.

9           THE WITNESS: Well, let's see. Porthole  
10 view, it would be my expectation, since this is  
11 describing an information system, that the porthole  
12 view is reading data from a memory somewhere in this  
13 information system. I think that's a fair  
14 statement.

15 BY MR. MICALLEF:

16          Q       Okay, all right. Well, how about the  
17 example of the symbol indicating whether the  
18 information has been updated since it was last  
19 viewed, which is also at the bottom of column 8,  
20 would you agree that that's also a form of access,  
21 if you use the definition in Exhibit 1086?

22          MS. MILLER: Objection, form. Objection to  
23 the use of the exhibit. Objection, scope.

24          THE WITNESS: I wouldn't. It doesn't use  
25 the word "access" in this excerpt you just quoted.

1 BY MR. MICALLEF:

2 Q That's true. So something has to use the  
3 word "access" to be access in your view?

4 A Well, I'm sorry. I thought you were asking  
5 me -- perhaps you could restate your question and  
6 I'll understand it better. I thought we've been  
7 talking about the word "access" for the past 10  
8 minutes.

9 Q Maybe I misspoke. Let me ask it again.

10 A Thank you.

11 Q I'm talking about this example of a symbol  
12 indicating et cetera, et cetera at the bottom of  
13 column 8.

14 Do you see that -- remember that example?

15 A I do.

16 Q Okay. And I want to know, using the  
17 definition of the word "access" that's in Exhibit  
18 1086, would you agree that that example of a symbol  
19 indicating, et cetera, is a form of access?

20 MS. MILLER: Objection, form. Objection to  
21 the use of the exhibit. Objection to scope.

22 THE WITNESS: No. I doesn't seem like a  
23 natural use of the word "access." I wouldn't -- I  
24 don't think I would use the word "access" to  
25 characterize that excerpt from the patent.

1 BY MR. MICALLEF:

2 Q Why not?

3 A That's just -- just doesn't seem like a  
4 natural use of the word "access." It's a symbol. I  
5 suppose the symbol is in some bitmap in memory  
6 someplace. So in that sense, then I'm accessing the  
7 bits of the symbol in order to display it on the  
8 screen, but that seems like a very unusual way to  
9 use the word "access."

10 Q I'd like you to turn to column 10 of the  
11 '403 patent.

12 A Okay.

13 Q Now, we talked about figure 6 a little  
14 while ago. Do you remember that?

15 A I do.

16 Q And I believe we were discussing the  
17 sentence that begins at line 30, but I would like --  
18 and figure 6 is actually introduced a little bit  
19 above that. Do you see that? It's at about --  
20 well, the paragraph begins at line 23 of column 10.

21 Do you see that?

22 A I do.

23 Q Okay. And you see at about line 25 it  
24 says -- indicates that what's depicted in figure 6  
25 is suitable for display in a web browser?

1 Do you see that?

2 A Well, it says the -- you have to go back a  
3 little further I think. It says "the tile is itself  
4 a document created in a markup language such as HTML  
5 or XML as shown in FIG. 6 and is suitable for  
6 display in a web-browser." Yes, I see that.

7 Q Okay. And so in this particular  
8 embodiment, it's talking about displaying the tiles  
9 in a web browser window; is that fair?

10 MS. MILLER: Objection, form.

11 THE WITNESS: Well, it doesn't say that.

12 BY MR. MICALLEF:

13 Q I didn't ask if it said that.

14 A Then it's not fair.

15 Q Oh, it's only fair if it says it expressly?

16 MS. MILLER: Objection, form.

17 THE WITNESS: Well, it doesn't indicate  
18 whether the web browser's in a window or not. I  
19 mean, normally web browsers are in windows. It  
20 wouldn't be unusual for this to be a web browser  
21 being displayed in a window, but the patent doesn't  
22 say that, so I'm not sure it's fair to say that the  
23 patent says it.

24 BY MR. MICALLEF:

25 Q Okay. Would you agree that one of ordinary

1 skill in the art would read that sentence that  
2 appears at column 10, line 23 through 26, to  
3 indicate that one could display tiles in a web  
4 browser window?

5 MS. MILLER: Objection, form.

6 THE WITNESS: Yes.

7 BY MR. MICALLEF:

8 Q Okay. Now, in most window systems that  
9 were in existence in, say, the late '90s, windows  
10 could be moved, correct?

11 MS. MILLER: Objection, form.

12 THE WITNESS: Yes, I think that's a fair  
13 statement.

14 BY MR. MICALLEF:

15 Q Is it also fair to say that in most windows  
16 systems that were available in the late '90s, the  
17 windows would be displayed on top of icons on a  
18 desktop?

19 MS. MILLER: Objection, form.

20 THE WITNESS: No, I don't think that's a  
21 fair statement.

22 BY MR. MICALLEF:

23 Q Well, okay. Would you agree that -- let's  
24 take Microsoft Windows 98. You're familiar with  
25 that, right?

1 A I am.

2 Q The windows of Microsoft Windows 98 could  
3 be displayed on top of icons; is that fair?

4 A Yes.

5 Q Yeah, okay. Are you familiar with Apple's  
6 operating systems from the late '90s?

7 MS. MILLER: Objection, form.

8 THE WITNESS: Yes. Not as familiar as with  
9 Microsoft operating systems but, yes, I used them.

10 BY MR. MICALLEF:

11 Q And would it be fair to say that that same  
12 functionality existed in Apple operating systems;  
13 that is, the windows could be displayed on top of  
14 icons?

15 A Yes, they could.

16 Q So we could characterize that as the icons  
17 would be at one layer and the windows would be at a  
18 higher layer; is that fair?

19 MS. MILLER: Objection, form.

20 THE WITNESS: One could characterize that  
21 behavior in that way, yes.

22 BY MR. MICALLEF:

23 Q Okay. And so in this embodiment that's  
24 described with respect to figure 6, a person of  
25 ordinary skill in the art would understand that you



1 could put tiles in this web browser and the web  
2 browser would obscure other things on the screen?

3 MS. MILLER: Objection, form.

4 BY MR. MICALLEF:

5 Q Excuse me. The web browser could obscure  
6 other things on the screen.

7 MS. MILLER: Objection, form.

8 BY MR. MICALLEF:

9 Q Do you agree with that?

10 A Okay. I don't have any disagreement with  
11 that.

12 Q Okay. And so in that case, imagine a  
13 situation where I'm using the tiles of the '403  
14 patent on a Windows 98 based machine and I had tiles  
15 in one browser window, other tiles in a different  
16 browser window. In that situation, I could make the  
17 tiles overlap, couldn't I?

18 MS. MILLER: Objection, form.

19 THE WITNESS: I'm sorry. You're describing  
20 something that's not in the patent and that I  
21 haven't thought about. I don't read anything in the  
22 patent that describes the situation you just  
23 presented.

24 BY MR. MICALLEF:

25 Q Can you answer my hypothetical?

1 A Not without thinking about it some more.

2 Q So I'd like to direct your attention to  
3 Column 9 --

4 A Okay.

5 Q -- line 43 there's a paragraph that  
6 begins, "In a preferred embodiment, double-clicking  
7 a tile causes that tile to occupy a substantial  
8 fraction of the whole display area."

9 Do you see that?

10 A I do.

11 Q So if I had a grid of tiles filling my  
12 screen and I double clicked on a tile to cause it to  
13 occupy a substantial fraction of the whole display,  
14 the tile that I double clicked would overlap some of  
15 the other tiles; isn't that right?

16 MS. MILLER: Objection, form.

17 THE WITNESS: Well, it's really not clear  
18 from this exactly what happens in that situation. I  
19 mean, it might be that the resulting display is no  
20 longer a tile. It might also be that the resulting  
21 display fills the entire screen. It might be that  
22 it obscures tiles without necessarily overlapping by  
23 part of a tile. So I don't know that that's  
24 something we can derive from the sentence.

25 BY MR. MICALLEF:

1 Q Well, the sentence says -- and, again, I'm  
2 reading at Column 9, line 43, beginning there --

3 A Right.

4 Q -- "double-clicking a tile causes that tile  
5 to occupy a substantial fraction of the whole  
6 display area."

7 Do you see that?

8 A I do.

9 Q It doesn't say that the tile becomes  
10 something else, does it?

11 A No, it doesn't say that.

12 Q In fact, it says that it's the tile that  
13 occupies the substantial fraction of the display?

14 A It does say that.

15 Q So this is saying that when you double  
16 click that tile, it's the title that gets bigger,  
17 right?

18 MS. MILLER: Objection, form.

19 THE WITNESS: Well, I don't know that it's  
20 quite that crystal clear. I think the meaning of  
21 this may be one could interpret this as that tile --  
22 it causes the tile to become a full window that one  
23 would no longer necessarily characterize as a tile.  
24 It's a little bit ambiguous in the -- in the context  
25 of the -- of the patent. I'm not sure it's quite as

1 crystal clear as you just discussed, but it doesn't  
2 say that it becomes something else, I would agree  
3 with that.

4 BY MR. MICALLEF:

5 Q And it says that the tile is the thing that  
6 occupies a substantial fraction of the whole display  
7 area after the double click?

8 A That's what this sentence says, yes.

9 Q Okay, all right. Up a little further on  
10 Column 9 there's a paragraph that begins at line 25,  
11 and the second sentence begins with the phrase,  
12 "When a tile is selected, whether by mouse click or  
13 otherwise."

14 Do you see that phrase?

15 A I do.

16 Q So would you agree that mouse click is not  
17 the only way -- at least this sentence suggests that  
18 a mouse click is not the only way to select a tile?

19 A I would agree to that, yes.

20 Q Okay. I know we've had a -- you've had a  
21 break, but we've been going for about an hour, so  
22 maybe we should take a break right now.

23 A Any time.

24 MR. MICALLEF: Great. Go off the record.

25 THE VIDEOGRAPHER: This concludes Disc No.

1 1 of the video deposition of Glenn Weadock. The  
2 time is 10:05:09 a.m. We are now off the record.

3 (Recess.)

4 THE VIDEOGRAPHER: This begins Disc No. 2  
5 of the video deposition of Glenn Weadock. The time  
6 is 10:21:39 a.m. We are now on the record.

7 BY MR. MICALLEF:

8 Q Great. Mr. Weadock, did you have any  
9 conversations with your counsel during the break?

10 A No.

11 Q Thank you. Now, we were looking at the  
12 '403 patent. I'd like to direct your attention back  
13 to that.

14 A Okay.

15 Q Specifically, I'd like to direct your  
16 attention to the sentence that appears at column 10,  
17 lines 54 through 56, and it reads, "Each tile is  
18 associated with a data stream or application program  
19 and allows a choice of displayed images."

20 Do you see that?

21 A I do.

22 Q You would agree that that sentence doesn't  
23 say anything about selecting a tile, wouldn't you?

24 MS. MILLER: Objection, form.

25 THE WITNESS: That sentence doesn't use the

1 word "selecting."

2 BY MR. MICALLEF:

3 Q And you would agree that the sentence  
4 doesn't say anything about how an application  
5 program may be called, wouldn't you?

6 MS. MILLER: Objection, form.

7 THE WITNESS: That's correct.

8 BY MR. MICALLEF:

9 Q If I could get you to turn to column 11 of  
10 the '43 patent.

11 A Okay.

12 Q There's a sentence that begins at line 1  
13 and goes through line 3 of column 11 and it reads as  
14 follows, "Each tile is separately associated with a  
15 source of information, for example, an application  
16 program, datastream or file, any one of which may be  
17 another grid object."

18 Do you see that?

19 A I do.

20 Q Would you agree that that sentence does not  
21 say anything about selecting a tile?

22 MS. MILLER: Objection, form.

23 THE WITNESS: Yes.

24 BY MR. MICALLEF:

25 Q And would you agree that that sentence at

1 column 11, lines 1 to 3 of the '403 patent doesn't  
2 say anything about calling an application program?

3 MS. MILLER: Objection, form.

4 THE WITNESS: Well, no. I think it's kind  
5 of implicit. It says it's associated with an  
6 application program, so that would suggest to the  
7 reader, especially in the context of the patent,  
8 calling an application program. Doesn't state it  
9 explicitly, however.

10 BY MR. MICALLEF:

11 Q Doesn't state -- that sentence also doesn't  
12 state how one calls an application program. Agree  
13 with that?

14 A I would.

15 Q Now, I'd like to direct your attention to  
16 the sentence in the '403 patent at column 11, line  
17 23 to 24 which reads, "Therefore the application  
18 resides over existing applications without replacing  
19 any of them; rather it enables them to be called  
20 from the grid itself."

21 Do you see that?

22 A I do.

23 Q Would you agree that sentence doesn't say  
24 anything about selecting a tile?

25 MS. MILLER: Objection, form.

1 THE WITNESS: That sentence doesn't seem to  
2 use the words "selecting a tile."

3 BY MR. MICALLEF:

4 Q And that sentence also doesn't say anything  
5 about how an application program is called, correct?

6 MS. MILLER: Objection, form.

7 THE WITNESS: That's correct.

8 (Exhibit 2004 was marked for  
9 identification and was attached to the deposition  
10 transcript.)

11 BY MR. MICALLEF:

12 Q Mr. Weadock, I'm going to hand you a  
13 document that has been previously marked as Exhibit  
14 2004 in this proceeding.

15 A Thank you.

16 Q And I will ask you to take a look at it. I  
17 forgot I wanted to do something else first, so you  
18 might want to put Exhibit 2004 just off to the side  
19 for the moment. We're going to get to it real fast.

20 A Okay.

21 (Exhibit 1015 was marked for  
22 identification and was attached to the deposition  
23 transcript.)

24 BY MR. MICALLEF:

25 Q Instead I'm going to hand you a document



1 that has been marked as Exhibit 1015 in this  
2 proceeding, which is the Chen '932 patent, and have  
3 you take a look at that.

4 A Okay.

5 Q I'll identify it on the record. The Chen  
6 patent is U.S. Patent No. 5,432,932; is it not,  
7 Mr. Weadock?

8 A Yes, sir.

9 Q Now, you've read the Chen patent, correct?

10 A Yes.

11 Q You've read all of it?

12 A Yes.

13 Q Okay. I'd like you to turn to figure 12c  
14 of Chen.

15 A Okay.

16 Q Okay. Now, you've looked at figure 12c  
17 before?

18 A Yes, sir.

19 Q And you've studied it?

20 A Yes.

21 Q Okay. Now, would you agree that what is  
22 depicted in figure 12c is a window full of eight  
23 instruments?

24 MS. MILLER: Objection, form.

25 THE WITNESS: Well, this patent uses

1 certain terms very specifically, so I believe that  
2 it does use instrument in a very specific way, so  
3 what I'd like you to do, if you don't mind, is take  
4 a glance in the spec where it refers to figure 12c  
5 and make sure --

6 BY MR. MICALLEF:

7 Q Sure.

8 A -- because there are some terms there -- I  
9 think there's consoles and windows and instruments,  
10 and it gets kind of confusing.

11 Q Okay.

12 A And to save time, if you can point me, if  
13 you know; otherwise, I'll hunt for it.

14 Q Well, you might want to try column 26, line  
15 60, or at least the sentence that begins at line 58.  
16 Maybe that will give you a hint.

17 A Okay, thank you.

18 Q Do you see that?

19 A Right, okay. So on line 58 it says "The  
20 types of instruments best suited for the 'Each' type  
21 skeleton instruments are the recording instruments"  
22 in figure 12c, and just checking back, skeleton  
23 instruments have a -- they use a wild card, which  
24 allows I think a disk to be referenced in a generic  
25 way. But, yes. I just wanted to make sure that

1 they use the term "instruments" in that context, and  
2 they appear to, yes.

3 Q Okay. So figure 12c depicts eight  
4 different instruments, correct?

5 A It appears to, yes.

6 Q And just to be clear, so that the record is  
7 clear what we're talking about, the eight  
8 instruments are depicted in figure 12c in a grid  
9 that's -- we'll call it 2 by 4; is that fair?

10 MS. MILLER: Objection, form.

11 THE WITNESS: I think it's fine to  
12 characterize them that way.

13 BY MR. MICALLEF:

14 Q Two columns, four rows, right?

15 A That's correct.

16 Q And would you agree that all of those  
17 instruments are the same size?

18 A They appear to be.

19 Q Now, if I could direct your attention back  
20 to -- well, to column 27.

21 A Okay.

22 Q At the very top lines 1 to 2 there's a  
23 sentence, and if you need to read a little bit more  
24 here, that's fine, but my question is, would you  
25 agree that this is how -- that that sentence

1 describes how the width of the instruments in figure  
2 12c is determined?

3 MS. MILLER: Objection, form.

4 THE WITNESS: So I think what it's  
5 referring to here is that each instrument -- each  
6 new instrument that gets created in this scenario  
7 will have the full width of the skeleton instrument,  
8 which, frankly, is a little confusing to me looking  
9 at figure 12c, because the individual instruments  
10 appear to have half the width of the skeleton  
11 instrument, if the skeleton is the -- is the large  
12 outer window.

13 But, yeah, I would agree with your question  
14 I think, that that seems to describe how the width  
15 of a created instrument is automatically determined.

16 BY MR. MICALLEF:

17 Q Okay. And at column 27, lines 3 to 6,  
18 there is a statement of how the height of each  
19 created instrument is determined; is that fair?

20 A I think that's right. It's describing that  
21 the instrument height is the total height of the  
22 skeleton divided by the number of objects or  
23 processes selected. So there seems to be an  
24 automatic calculation here as to what the height of  
25 each newly created instrument would be.

1 Q Okay. We can put that aside. And if I  
2 could direct your attention to Exhibit 2004.

3 A Okay.

4 Q Do you have that in front of you?

5 A I do.

6 Q And this is a declaration that you have  
7 submitted in this proceeding; is that right?

8 A Yes, sir.

9 Q Did you review any information from the  
10 main litigation during the time period you were  
11 preparing this report -- this declaration?

12 A I don't think I reviewed anything that  
13 was -- any document that was not also a part of this  
14 IPR proceeding. Some of the documents are active in  
15 both proceedings.

16 Q Okay.

17 A Some of the prior art documents, for  
18 example, have been asserted in both proceedings.

19 Q I'd like to direct your attention to  
20 paragraph 26 of Exhibit 2004.

21 A Okay.

22 Q And in that paragraph you talk about a web  
23 browser. Do you see that?

24 A I do.

25 Q Okay. Would you agree that a web browser

1 presents information in a graphical user interface?

2 MS. MILLER: Objection, form.

3 THE WITNESS: Hmm. Well, I'm not sure that  
4 I would use those words sitting here today. I would  
5 agree that a web browser has an interface and it  
6 does present information and it can present  
7 graphical information, certainly. Normally, when I  
8 think of graphical user interfaces, I think more of  
9 operating system software than applications. But it  
10 could certainly be said that an application has a  
11 graphical user interface.

12 BY MR. MICALLEF:

13 Q And it can be said that a web browser has a  
14 graphical user interface?

15 A It could. It's not the normal -- it's not  
16 what I would normally associate the term "graphical  
17 user interface" with sitting here today, but one  
18 could say that, I suppose.

19 (Exhibit 1088 was marked for  
20 identification and was attached to the deposition  
21 transcript.)

22 BY MR. MICALLEF:

23 Q I'm going to ask you to take a look at a  
24 document we have -- we've marked as Exhibit 1088,  
25 which is pages from a book called Internet

1 Publishing for Dummies.

2 A I'm so delighted somebody bought one of my  
3 books.

4 MS. MILLER: Objection to the use of the  
5 document without notice and objection, scope.

6 BY MR. MICALLEF:

7 Q So this Exhibit 1088 is pages from your  
8 book, right?

9 MS. MILLER: Objection to the use of the  
10 document. Objection, scope.

11 THE WITNESS: It does appear to be pages  
12 from my book, one of my books.

13 BY MR. MICALLEF:

14 Q You published this in 1997?

15 MS. MILLER: Same objections.

16 THE WITNESS: That sounds right, yeah.

17 BY MR. MICALLEF:

18 Q Okay. So if I could get you to turn to  
19 page 328, using the page numbers that are in the  
20 book.

21 A Okay.

22 Q Do you see there it has a definition of a  
23 browser?

24 A Yes.

25 Q And it says it presents web documents in a

1 graphical user interface?

2 A Yes.

3 MS. MILLER: Objection to the document.

4 Objection, scope.

5 BY MR. MICALLEF:

6 Q So that was a fair definition of a browser  
7 in 1997, right?

8 MS. MILLER: Objection, the document.

9 Objection, scope.

10 THE WITNESS: Well, that little snippet  
11 wasn't the definition. The complete definition here  
12 is "The software tool users run to 'browse' intranet  
13 and internet web servers."

14 BY MR. MICALLEF:

15 Q And -- but the definition of browser that  
16 you put in your book was a fair definition of what a  
17 browser was understood in the computer arts in 1997;  
18 agree with that?

19 MS. MILLER: Object to the document.

20 Objection, scope, and objection that the exhibit is  
21 an incomplete copy of the -- of the full book.

22 THE WITNESS: I think my definition here,  
23 which is the first sentence, is the definition, and  
24 then there's some elaboration after that, but I  
25 stand by it. It does present -- browsers do present



1 web documents in a graphical user interface. I  
2 think that was accurate at the time, and as I said,  
3 sitting here today I probably wouldn't use those  
4 same words, but I think this is a fine definition at  
5 the time.

6 BY MR. MICALLEF:

7 Q If I could ask you to turn one page back in  
8 Exhibit 1088 --

9 A Okay.

10 Q -- to the very first page of Appendix A,  
11 Glossary. Do you see that?

12 A I do.

13 Q And the first definition there is something  
14 called ActiveX. Do you see that?

15 MS. MILLER: Same objections.

16 THE WITNESS: I do.

17 BY MR. MICALLEF:

18 Q And the definition in the first line refers  
19 to object linking and embedding (OLE). Do you see  
20 that?

21 A I do.

22 Q Is that -- OLE, is that pronounced OLE?

23 A It's always been pronounced that way when  
24 I've heard the term, yes.

25 Q And can you just tell me what your

1 understanding of OLE was?

2 MS. MILLER: Objection to the document.

3 Objection, scope.

4 THE WITNESS: Sure. Object linking and  
5 embedding, or OLE, was a way to link one document  
6 via another one or actually embed the data from a  
7 document in a separate document.

8 BY MR. MICALLEF:

9 Q So would it be fair to say that OLE could  
10 be used to embed one document in another document?

11 MS. MILLER: Objection, scope.

12 THE WITNESS: Yes, that would be fair to  
13 say.

14 BY MR. MICALLEF:

15 Q Okay. And in that first sentence of the  
16 definition of ActiveX you refer to something called  
17 ActiveX controls.

18 Do you see that?

19 A I do.

20 Q What's your understanding of what an  
21 ActiveX control is?

22 MS. MILLER: Objection to the document.  
23 Objection, scope.

24 THE WITNESS: It is a program designed  
25 according to specific rules for Microsoft that

1 allows one to provide specific functionality inside  
2 of a document, for example, or inside of a browser  
3 window. They can be used to do lots of different  
4 things.

5 MR. MICALLEF: Can I have his answer read  
6 back.

7 (The reporter read the record as  
8 requested.)

9 MR. MICALLEF: Counsel, did you object that  
10 this was not the complete document? I mean, we have  
11 it here if you really want me to give it to the  
12 witness. It's killing a lot of trees.

13 MS. MILLER: I understand. You know, if  
14 the witness says he needs the full document, I just  
15 want to make sure it's available.

16 MR. MICALLEF: It's available.

17 BY MR. MICALLEF:

18 Q I'll represent to the witness it's  
19 available here. I'll even put it in reach. But my  
20 point is, if you're going to maintain that  
21 objection, I can mark this. Just seems like it's  
22 sort of silly. So just let me know. If you're  
23 going to maintain your objection, I will mark it as  
24 another exhibit.

25 MS. MILLER: Well, why don't we mark the

1 full one.

2 MR. MICALLEF: Sure. What's the next  
3 exhibit number?

4 MR. SUH: 1092.

5 MR. MICALLEF: 1092.

6 (Exhibit 1092 was marked for  
7 identification and was attached to the deposition  
8 transcript.)

9 BY MR. MICALLEF:

10 Q Okay. I'm going to put in front of you  
11 what has been marked Exhibit 1092, Mr. Weadock, and  
12 I just want you to confirm that the glossary in --  
13 in Exhibit 1088 appears in Exhibit 1092.

14 A Okay.

15 MS. MILLER: Objection to the document.  
16 It's outside the scope.

17 THE WITNESS: It does.

18 BY MR. MICALLEF:

19 Q Okay. So back to ActiveX, your -- and you  
20 can look at either glossary since you've told me  
21 they're the same. Whatever's convenient to you.  
22 You just let me know which one you're looking at.

23 A Okay. I'll look at the one in the full.

24 Q Okay, great. So looking at Exhibit 1092,  
25 back to the glossary definition of ActiveX, it

1 states, "ActiveX controls are bits of software that  
2 let a web browser do things like run  
3 ActiveX-compatible applications, such as the  
4 Microsoft Office suite, 'inside,' which is in  
5 quotes, "the browser window."

6 Do you see that?

7 A I do.

8 MS. MILLER: Objection, scope.

9 BY MR. MICALLEF:

10 Q Okay. And so does that mean that I  
11 could -- someone could use an ActiveX control to  
12 let, for example, Microsoft Word run inside a  
13 browser window?

14 MS. MILLER: Objection, form. Objection,  
15 scope.

16 THE WITNESS: I think that would have been  
17 possible with ActiveX, yes.

18 BY MR. MICALLEF:

19 Q Okay. And the Microsoft Office Suite, what  
20 different applications does that encompass?

21 MS. MILLER: Objection.

22 BY MR. MICALLEF:

23 Q Excuse me. Strike that.

24 In 1997 what different application programs  
25 did the Microsoft Office Suite include?

1 MS. MILLER: Objection, scope.

2 THE WITNESS: You're testing my memory a  
3 bit. There were I think possibly a couple different  
4 versions available back then. I believe there was a  
5 version called Office 97, if memory serves. I  
6 believe that at that time it included -- and there  
7 may have been different versions. There I think was  
8 maybe a Professional version of it and then maybe a  
9 premium version, but most versions would have  
10 included, at a minimum, the word processing program  
11 Word and the spreadsheet Excel, and I think  
12 PowerPoint was also in most, if not all, the  
13 versions at that time.

14 BY MR. MICALLEF:

15 Q At that time did Microsoft Office include  
16 Outlook?

17 MS. MILLER: Objection, scope.

18 THE WITNESS: I just don't remember. I  
19 think it may or may not have. I'm not sure about  
20 the database program too, Microsoft Access, I'm not  
21 sure if that was included. That might have just  
22 been in the premium version. We're going back a few  
23 years here.

24 BY MR. MICALLEF:

25 Q And Outlook is an e-mail program, correct?

1           A       It does other things -- sorry.

2                   MS. MILLER:  Objection, form.

3                   THE WITNESS:  Outlook does perform e-mail  
4       functions.  It does other things too.

5       BY MR. MICALLEF:

6           Q       Right.  And so with ActiveX controls,  
7       someone could create some sort of clickable portion  
8       on a web page that would call one of these Microsoft  
9       Office applications; is that fair?

10                  MS. MILLER:  Objection, form.  Objection,  
11       scope.

12                  THE WITNESS:  Oh, well, I don't know.  I  
13       mean, again, we're speaking of some hypothetical  
14       thing that somebody could write.  I don't know  
15       whether the programmer of the control -- I don't  
16       know how it would be implemented.  Presumably, there  
17       would be something somewhere that one could click,  
18       but I don't know how any specific ActiveX control  
19       might operate.  If we want to look at a particular  
20       one, we certainly could, but the technology could be  
21       used to do a lot of different things based on clicks  
22       and typing at the keyboard and so forth.

23       BY MR. MICALLEF:

24           Q       Do you have any reason to believe that an  
25       ActiveX control could not be used to create a

1 portion of a web page that when clicked would call  
2 one of the Microsoft Office application programs?

3 MS. MILLER: Objection, form. Objection,  
4 scope.

5 THE WITNESS: No. Sitting here right now,  
6 I don't have any reason to believe that.

7 BY MR. MICALLEF:

8 Q Okay. If I could get you to take a look  
9 back at your declaration, Exhibit 2004.

10 A Okay.

11 Q And, specifically, I'd like to direct your  
12 attention to the section that begins at paragraph  
13 43.

14 A Okay.

15 Q And the first sentence of that section  
16 states, "The '403 patent associates its tile with an  
17 underlying information source."

18 Do you see that?

19 A I do.

20 Q Do you agree that associates is different  
21 than assigned in the context of the '403 patent?

22 MS. MILLER: Objection, form.

23 THE WITNESS: I think that, yeah, there's  
24 a -- there's a distinction between those two words.

25 BY MR. MICALLEF:



1           Q     Would it be fair to say that if a tile  
2     provides access to an information source, that there  
3     is an association between that tile and the  
4     information source?

5           MS. MILLER:  Objection, form.

6           THE WITNESS:  Well, I think one -- one  
7     could say that, but I think applications are  
8     assigned to tiles in the context of the patent.

9     BY MR. MICALLEF:

10          Q     Or can be?

11          A     Can be, yes.

12          Q     Doesn't have to be in every tile, right, in  
13     the '403 patent?

14          MS. MILLER:  Objection, form.

15          THE WITNESS:  Gosh, I'm not sure.  I'd want  
16     to go back and look at the patent to see if there  
17     are any examples of tiles that are not associated  
18     with a program or a file or a datastream of some  
19     kind.

20     BY MR. MICALLEF:

21          Q     Okay.  Well, if a tile provides access to  
22     an information source, wouldn't it be true that that  
23     information source has been assigned to that tile?

24          MS. MILLER:  Objection, form.

25          THE WITNESS:  No, not necessarily.

1 BY MR. MICALLEF:

2 Q What's your definition of assigned in this  
3 context?

4 MS. MILLER: Objection, form.

5 THE WITNESS: Oh, I think in this context  
6 it is an act whereby an information source or  
7 program or data file is linked to a tile and -- in  
8 such a way that when the tile is selected, that  
9 information source or datastream or program is -- is  
10 activated, is accessed.

11 MR. MICALLEF: Can I have his answer read  
12 back.

13 (The reporter read the record as  
14 requested.)

15 MR. MICALLEF: Excuse me.

16 BY MR. MICALLEF:

17 Q So I'd like to ask you to turn to paragraph  
18 46 of your declaration, Exhibit 2004.

19 A Okay.

20 Q Now, in there you -- you talk about what  
21 one of ordinary skill in the art would do with  
22 respect to designing a graphical user interface.

23 Do you see that?

24 A I do.

25 Q And I think the gist of what you're saying

1 here is that one would not design a graphical user  
2 interface to be not persistent; is that fair?

3 MS. MILLER: Objection, form.

4 THE WITNESS: That's fair.

5 BY MR. MICALLEF:

6 Q Okay. But you would agree, wouldn't you,  
7 that there -- there were graphical user interfaces  
8 in the prior art of the '403 patent that were not  
9 persistent?

10 MS. MILLER: Objection, form.

11 THE WITNESS: You know, I'm not sure I  
12 would agree with that. I mean, as I say here, we're  
13 talking about graphical user interface taken in the  
14 context of this patent and in the sense of the grid  
15 of tiles being alternative or desktop replacement.  
16 So when we're talking about a graphical user  
17 interface in that sense, associated with an  
18 operating system for example, I think that at that  
19 time one would have expected them to have  
20 persistence.

21 BY MR. MICALLEF:

22 Q That wasn't my question --

23 A I'm sorry.

24 Q -- Mr. Weadock.

25 A I'm sorry.

1           Q     There were graphical user interfaces in the  
2 prior art that were not persistent. That's my  
3 question. Agree with that?

4           MS. MILLER: Objection. Objection, form.

5           THE WITNESS: Well, I'm not sure I can  
6 think of one off the top of my head in the context  
7 in which graphical user interface is used in the  
8 patent.

9 BY MR. MICALLEF:

10          Q     You read Mr. Karger's or Dr. Karger's  
11 declaration in this proceeding?

12          A     I -- I did.

13          Q     Do you recall that he said some prior  
14 systems had graphical user interfaces that were not  
15 persistent?

16          A     Not specifically. If you want to point me  
17 to that, I'd be glad to comment on it.

18          Q     Okay. So just to understand your  
19 testimony, by, say, 1999 your view is that a person  
20 of ordinary skill in the art would expect a  
21 graphical user interface to be persistent; is that  
22 fair?

23          MS. MILLER: Objection, form.

24          THE WITNESS: Yes, in the sense in which  
25 graphical user interface is used here in this patent

1 in the context of a desktop replacement or an  
2 alternative to a desktop, yes, I think that's a fair  
3 statement.

4 BY MR. MICALLEF:

5 Q Okay. Let's get outside of any limiting  
6 context such as you just mentioned. By 1999 a  
7 person of ordinary skill in the art would expect a  
8 graphical user interface to be persistent in your  
9 view; is that fair?

10 MS. MILLER: Objection, form.

11 THE WITNESS: Okay. So, again, we're  
12 departing from the world of the patent and we're  
13 just speaking in generalities. It's a little hard  
14 to answer that question because I don't know what  
15 graphical user interface we're talking about here,  
16 but I think it's a fair statement without knowing  
17 more details and more context, that a person of  
18 skill in the art generally in 1999 would expect a  
19 graphical user interface to have characteristics of  
20 persistence.

21 BY MR. MICALLEF:

22 Q And just to be clear, we're not departing  
23 from the patent. We're talking about a person of  
24 ordinary skill in the art associated with the '403  
25 patent. Do you understand that?

1 MS. MILLER: Objection, form.

2 Mischaracterizes testimony.

3 THE WITNESS: Well, I understand what you  
4 just said, but if we're -- if we're being clear, you  
5 did ask me to set aside the context of the patent in  
6 terms of my qualification, which was with reference  
7 to the patent. You said let's set that  
8 qualification aside.

9 BY MR. MICALLEF:

10 Q I said let's set aside your desktop  
11 replacement qualification, and what I'm asking you  
12 is, a person of ordinary skill in the art, in the  
13 art relevant to the '403 patent in 1999, would  
14 expect a graphical user interface to be persistent;  
15 that's your view, correct?

16 A That is my view.

17 Q Okay. And is it your view that a person of  
18 ordinary skill in the art at that time would assume  
19 that every graphical user interface has persistence?

20 MS. MILLER: Objection, form.

21 THE WITNESS: No, not necessarily. The  
22 term can be used in different ways.

23 BY MR. MICALLEF:

24 Q Which term?

25 A Graphical user interface.

1 Q I would like to ask you some questions  
2 about your paragraph 48, which starts, I believe, at  
3 page 16 of Exhibit 2004 and then goes over to page  
4 18.

5 A Okay.

6 Q Do you have that in front of you?

7 A I do.

8 Q And so -- let me find something here.

9 Okay. In -- in paragraph 48(a) you refer  
10 to bookmarks. Do you see that?

11 A I do.

12 Q And you say, "Bookmarks are persistent by  
13 definition." Do you see that?

14 A I do.

15 Q All right. Now, you had in the exhibit  
16 we've marked previously as -- well, Exhibit 1092,  
17 you have a definition for bookmark on page 328. Can  
18 you get that in front of you?

19 A Okay.

20 MS. MILLER: Objection to the document.  
21 Objection, scope.

22 BY MR. MICALLEF:

23 Q Do you see that definition of bookmark?

24 A I do.

25 Q Is that the bookmark -- are those the

1 bookmarks you're talking about in paragraph 48(a)?

2 MS. MILLER: Objection to the use of the  
3 document without notice. Objection, scope.

4 THE WITNESS: Well, it's the same concept.  
5 It's not exactly the same bookmark. In one case  
6 we're talking about the patent. In another case  
7 we're talking about a browser, but the same general  
8 concept, sure.

9 BY MR. MICALLEF:

10 Q I note the bookmark definition in your  
11 Internet Publishing for Dummies book doesn't say  
12 anything about persistence, does it?

13 A Sure, it does.

14 Q Where does it say that?

15 A Lets the user go directly to a specific web  
16 page without having to type the URL all over again.

17 Q Why does that mean persistence?

18 A Well, the URL is persistent. I can select  
19 the bookmark and go to the same URL each time. The  
20 URL is persistent. It's implicit in the sentence.

21 Q Does that mean that the bookmark is always  
22 on the screen?

23 A No.

24 Q Are you saying that indicates persistence  
25 because the bookmark is stored somewhere in memory?



1 MS. MILLER: Objection, scope.

2 THE WITNESS: Well, I think I just  
3 explained why it means persistence. But, yes, the  
4 URL is stored. I don't have to retype it. It's  
5 there. I can click it when I go -- when I want to  
6 go back to that same web page. So it is there. It  
7 is present. It's available to me from one session  
8 to the next, from one day to the next, from one week  
9 to the next. It's the nature of a bookmark to be  
10 persistent.

11 BY MR. MICALLEF:

12 Q How is it available from one session to the  
13 next?

14 MS. MILLER: Objection, form. Objection,  
15 scope.

16 THE WITNESS: It's there in my list of  
17 favorite places or bookmarks until I remove it.

18 BY MR. MICALLEF:

19 Q Well, what do you mean by session, I guess?

20 MS. MILLER: Objection, form. Objection,  
21 scope.

22 THE WITNESS: Between opening and closing  
23 the browser.

24 BY MR. MICALLEF:

25 Q So if I have a bookmark that goes away when

1 I turn off the computer, would that still be  
2 persistent?

3 MS. MILLER: Objection, form.

4 BY MR. MICALLEF:

5 Q Let me rephrase. Strike that. If I have a  
6 bookmark when I turn off my computer, then turn it  
7 on again it's no longer there, would that still be  
8 persistent?

9 MS. MILLER: Objection, form.

10 THE WITNESS: I wouldn't think of such a  
11 thing as a bookmark or as persistent, but, of  
12 course, persistent is -- can -- can have degrees.  
13 You can have things that are persistent for a  
14 thousand years, and you can have things that are  
15 persistent until you make a change. So there's not  
16 an absolute time period that's associated with  
17 persistent, but I wouldn't think that something that  
18 goes away every time you turn the computer off would  
19 be considered persistent in the art or to a person  
20 of skill in the art.

21 BY MR. MICALLEF:

22 Q That's what I'm trying to get at. Anything  
23 in a computer system -- if it's in a computer  
24 system, it exists for some period of time. So why  
25 wouldn't anything in a computer system be called --

1 fairly called persistent?

2 MS. MILLER: Objection, form.

3 THE WITNESS: I'm sorry. You lost me on  
4 that question. Perhaps you can restate it or  
5 rephrase it.

6 BY MR. MICALLEF:

7 Q Well, I mean, does persistence require that  
8 it -- that it still be there when I turn off my  
9 computer and turn it on again?

10 MS. MILLER: Objection, form.

11 THE WITNESS: I would say in general, yes,  
12 and when we're talking about operating systems and  
13 we're talking about user interfaces, I think that's  
14 a fair statement, yes.

15 BY MR. MICALLEF:

16 Q And so in a computer, that functionality  
17 would be provided by some -- by storage of the  
18 relevant information in some kind of nonvolatile  
19 memory; is that fair?

20 MS. MILLER: Objection, form.

21 THE WITNESS: Oh, I suppose it doesn't  
22 necessarily have to be that way. I guess if you had  
23 a computer that was on all the time, you could have  
24 a persistent feature that was in volatile memory.

25 BY MR. MICALLEF:

1           Q     So in that situation, a computer that's on  
2     all the time, you're saying a feature is persistent  
3     even if it's possible that if I turn the computer  
4     off and turned it on again, it's gone?

5           MS. MILLER:  Objection, form.

6           THE WITNESS:  I would say that's  
7     theoretically possible.  It's not normally how we  
8     use computers.

9     BY MR. MICALLEF:

10          Q     It's not how use the word "persistence"  
11     either, is it?  Didn't you just tell me if you turn  
12     it off and turn it on and it's gone, that's not  
13     persistent?

14          MS. MILLER:  Objection, form.

15          THE WITNESS:  Well, I mean, you were asking  
16     me a general question about nonvolatile memory, and  
17     I was trying to be very precise in my answer.  And  
18     so I said, as I recall, there might be a situation  
19     in which you have a computer that is designed to be  
20     on at all times.  In which case, the storage might  
21     be in volatile memory as opposed to nonvolatile  
22     memory.

23                 In the normal course of using the computers  
24     that are being discussed in the context of the  
25     patent, we turn those on and off.  And in the normal

1 course of that kind of system, persistence would, in  
2 my view, be presumed to persist across cross power  
3 cycles.

4 BY MR. MICALLEF:

5 Q And in order to have it persist across  
6 power cycles you have to store something in what we  
7 generally call nonvolatile memory, fair?

8 A I think that's fair.

9 Q And so your example of bookmarks, some  
10 information for a bookmark must be stored in  
11 nonvolatile memory, like a hard drive for example,  
12 correct?

13 MS. MILLER: Objection, form.

14 THE WITNESS: Sure.

15 BY MR. MICALLEF:

16 Q Okay. Now, in paragraph 48(b), you refer  
17 to -- well, you quote I believe a phrase from the  
18 '403 patent that refers to a file system, correct?

19 A Correct.

20 Q And one of ordinary skill in the art would  
21 understand a file system again to be some type of  
22 nonvolatile memory; is that fair?

23 A That's fair.

24 Q Like a hard drive would be one example,  
25 correct?

1           A     No, a hard drive would not be an example of  
2     a file system.

3           Q     I'm sorry. A hard drive would be an  
4     example of nonvolatile memory, correct?

5           A     Yes, sir.

6           Q     Okay. And in 48(c) you are talking about  
7     menus. Do you see that?

8           A     I do.

9           Q     And you say that they are persistent  
10    structures, correct?

11          A     Correct.

12          Q     And I take it you would agree in order for  
13    a menu to be persistent, it too or some information  
14    about it must be stored in a nonvolatile memory  
15    somewhere?

16          A     Yes.

17          Q     Do you know what a dynamic menu is?

18                MS. MILLER: Objection, form.

19                THE WITNESS: Yes.

20    BY MR. MICALLEF:

21          Q     What's your understanding of a dynamic  
22    menu?

23          A     A menu that can change.

24          Q     Can change?

25          A     Yes.

1 Q And would that type of menu be stored in  
2 nonvolatile memory in the ordinary sense?

3 MS. MILLER: Objection, form.

4 THE WITNESS: Well, hard to comment about  
5 some hypothetical menu, but certainly parts of it I  
6 would expect to be stored in nonvolatile memory.

7 BY MR. MICALLEF:

8 Q Okay. In figure -- I'm sorry -- paragraph  
9 48(d) you refer to something called a metabase. Do  
10 you see that?

11 A I do.

12 Q Now, that's a term that's used in the '403  
13 patent?

14 A It is.

15 Q And is it fair to say that that's a type of  
16 database?

17 A Yes.

18 Q Okay. And a person of ordinary skill in  
19 the art would understand that a database is stored  
20 on, for example, a hard drive?

21 A Yes.

22 MS. MILLER: Objection.

23 THE WITNESS: Oh, pardon me.

24 Yes.

25 BY MR. MICALLEF:

1 Q Now, in paragraph 48(e) you refer to a  
2 content store. Do you see that?

3 A I do.

4 Q And the patent describes that as part of  
5 the metabase?

6 A I'm not sure that it does. If you want to  
7 give me a moment, I can double check that.

8 Q Okay. Go ahead. You might want to look --  
9 I'll just -- the citation you have here may indicate  
10 that.

11 A Right. So, yeah, I don't think that the  
12 content store is tied to the metabase.

13 Q Can I direct your attention to column 17 of  
14 the '403 patent, lines 27 to 30? Do you see that  
15 sentence?

16 A Oh, there it is. Thank you. I skipped  
17 over that. So the metabase has a registry, a store,  
18 a content store, right. Okay. So it is a part of  
19 the metabase in this discussion.

20 Q Okay. Okay. And back to your Exhibit  
21 2004.

22 A Okay.

23 Q In paragraph 48(f) you have -- you discuss  
24 a client server scenario. Do you see that?

25 A I do.



1 Q And you quote a portion of the patent that  
2 talks about how tile content and priorities can be  
3 held over from one session to another.

4 Do you see that?

5 A I do.

6 Q And would you agree that that phrase "held  
7 over" means stored in some kind of nonvolatile  
8 memory?

9 A Yes.

10 Q Now, on page 18 of Exhibit 2004, paragraph  
11 48(g), you're citing to an example of some kind of  
12 synchronization procedure that allows a metabase to  
13 be stored on a server.

14 Do you see that?

15 A Yes.

16 Q And fair to say that this describes copying  
17 the meta database just from one computer to another?

18 MS. MILLER: Objection, form.

19 THE WITNESS: Well, I'm not sure a copy  
20 operation is disclosed.

21 BY MR. MICALLEF:

22 Q What do you understand a synchronization  
23 procedure to be?

24 A Well, what the patent says is that the  
25 synchronization procedure allows the metabase to be

1 stored on a server and queried by a device.

2 Q And what do you understand a  
3 synchronization procedure to be?

4 A Well, the device doing the querying is  
5 going to get information from the metabase and doing  
6 something with it.

7 Q And so wouldn't that indicate that -- oh, I  
8 see. So you think that that indicates the metabase  
9 is stored on a server somewhere?

10 A I think that's what it says, yes, sir.

11 Q Okay. And, again, that would be in a  
12 nonvolatile memory if it were to be persistent?

13 A One would expect so, yes.

14 Q Yeah, okay. And in paragraph 48(h) of your  
15 declaration, you refer to a repository for passwords  
16 and identifiers.

17 Do you see that?

18 A I do.

19 Q And you are using that term to indicate  
20 some kind of nonvolatile memory that stores the  
21 passwords and identifiers?

22 MS. MILLER: Objection, form.

23 THE WITNESS: So I'm using the term, but  
24 it's a term that the patent author uses. So the  
25 patent actually states repository for passwords and

1 identifiers. I would interpret -- I think a person  
2 of skill in the art would interpret repository as  
3 nonvolatile storage, if that was the question that  
4 I'm remembering.

5 BY MR. MICALLEF:

6 Q Right, okay. Thank you. I'd like to  
7 direct your attention to paragraph 57 of your  
8 Exhibit 2004.

9 A Okay.

10 Q And in that paragraph you use the  
11 phrase "entry point." Do you see that?

12 A I do.

13 Q Can you tell me what you mean by that?

14 A Yes. A means of accessing a window, an  
15 application, a datastream, a file.

16 Q Would you agree the '403 patent never uses  
17 that phrase?

18 MS. MILLER: Objection, form.

19 THE WITNESS: I haven't -- I haven't  
20 searched it for those specific words, so I don't  
21 know.

22 BY MR. MICALLEF:

23 Q Why didn't you search it?

24 A There wasn't a reason to. I don't  
25 represent that the patent uses those words.

1           Q     I know in paragraph 57 you don't cite any  
2     evidence for the notion that a person of ordinary  
3     skill in the art would have understood that a tile  
4     is an entry point to a window; is that correct?

5           A     No, that's not correct.

6           Q     What evidence do you cite?

7           A     Well, let's see. I mean, I say in that  
8     sentence I believe that based on the above, so let's  
9     see what I wrote above. So immediately above in  
10    paragraph 56 we have the patent talking about the  
11    user being able to view multiple tiles  
12    simultaneously, which is as I say, consistent with  
13    the concept of a tile as an entry point to an  
14    application.

15                So most people work with multiple  
16    applications, so I need to be able to see multiple  
17    tiles. So that's some evidence. I think we can go  
18    back a little bit, one paragraph to 55. It says the  
19    '403 refers to locally stored word processing or  
20    spreadsheet files which are accessed by tiles. So  
21    that's additional evidence that tiles are entry  
22    points or can be entry points to applications.

23                We can go back one paragraph further, 54.  
24    The '403 patent talks about an e-mail scenario in  
25    which the user gains access to an e-mail program

1 through a tile. So that's additional evidence. So  
2 I think there's certainly some evidence in this, and  
3 there's probably more than that but --

4 Q So you point to portions of the '403  
5 patent, but you never point to anything outside of  
6 the '403 patent; agree with that?

7 MS. MILLER: Objection, form.

8 BY MR. MICALLEF:

9 Q In paragraph 57?

10 A In paragraph 57 -- I'm sorry. What was  
11 your question?

12 Q Paragraph 57 you never cite to any evidence  
13 outside of the '403 patent; agree with that?

14 MS. MILLER: Objection, form.

15 THE WITNESS: Sure. I'm talking about the  
16 patent. That's what I viewed as my job.

17 BY MR. MICALLEF:

18 Q And there's no reason cited in paragraph 57  
19 for why a window can't be an entry point to another  
20 window, is there?

21 MS. MILLER: Objection, form.

22 THE WITNESS: I'm sorry. There's  
23 nothing -- that would be weird. A window being an  
24 entry point to another window? That's not normally  
25 how we think of windows. I don't explicitly

1 discount that possibility in paragraph 57 if that  
2 was your question.

3 BY MR. MICALLEF:

4 Q Direct your attention to paragraph 60 of  
5 your declaration, Exhibit 2004.

6 A Okay.

7 Q You use this phrase "aperiodic" near the  
8 end of that. Do you see that?

9 A Okay. Yes.

10 Q Okay. And what do you mean by aperiodic?

11 A Not having a defined period.

12 Q And is that -- so is that the opposite of  
13 periodic?

14 A Okay. Yeah, I think so.

15 Q Okay. Would you agree that periodic  
16 requires a recurring interval?

17 MS. MILLER: Objection, form.

18 THE WITNESS: A recurring period, recurring  
19 interval, that sounds fair.

20 BY MR. MICALLEF:

21 Q Okay. You know, I think we've been going  
22 again for a little over an hour, so why don't we  
23 take another break.

24 A Okay.

25 THE VIDEOGRAPHER: This concludes Disc No.

1 2 of the video deposition of Glenn Weadock. The --  
2 the time is 11:18:04 a.m. We are now off the  
3 record.

4 (Recess.)

5 THE VIDEOGRAPHER: This begins Video Disc  
6 No. 3 of the video deposition of Glenn Weadock. The  
7 time is 11:37:29 a.m. We are now on the record.

8 BY MR. MICALLEF:

9 Q Mr. Weadock, I'd like you -- I'd like to  
10 direct your attention back to Exhibit 2004,  
11 particularly paragraph 62. Do you have that in  
12 front of you?

13 A I do.

14 Q And in that paragraph you state that you  
15 gave some thought to whether you have ever  
16 encountered mention of the word "partition" in a  
17 context that would permit overlap of the spaces that  
18 are partitioned, correct?

19 A Correct.

20 Q Did you do anything other than just give  
21 some thought to that notion?

22 MS. MILLER: Objection, form.

23 THE WITNESS: Well, other than reading the  
24 patent and reading the documents in the case and I  
25 think I did look up the word in one of my books.

1       Yeah.  So, yeah, paragraph 64.  I looked it up in  
2       one of my books so, yes.

3       BY MR. MICALLEF:

4           Q       Anything else?

5           A       No.  I think in the context of this word,  
6       considering the patent, looking at my own writings  
7       and thinking about the term and how it's used by a  
8       person of skill in the art, I think that covers it.

9           Q       Did you perform any search for prior art  
10      patents that might show overlapping partitions?

11      A       No, I did not.

12      Q       Was there a reason you did not?

13      A       Yes.

14      Q       What was it?

15      A       I thought I had a handle on the concept.

16      Q       You didn't think that a prior art patent  
17      that showed overlapping partitions would be helpful  
18      to the Board?

19               MS. MILLER:  Objection, form.

20               THE WITNESS:  No, it wasn't that.  It's  
21      just I didn't expect to find such a thing.

22      BY MR. MICALLEF:

23      Q       So you just didn't look because you didn't  
24      expect to find it?

25      A       I didn't do a prior art patent search on



1 the word "partition," because I felt that I was  
2 already very comfortable with what partition meant  
3 in the context of the patent and my -- based on my  
4 own experience.

5 (Exhibit 1091 was marked for  
6 identification and was attached to the deposition  
7 transcript.)

8 BY MR. MICALLEF:

9 Q I'm going to ask you to take a look at what  
10 we've marked as Exhibit 1091, which is a copy of  
11 United States Patent No. 5,974,567 entitled "Ghost  
12 Partition." Have you take a look at that.

13 MS. MILLER: Objection to the document. No  
14 prior notice and outside the scope.

15 BY MR. MICALLEF:

16 Q Do you have Exhibit 1091 in front of you?

17 A Yes.

18 Q I'd like to direct your attention to the  
19 first sentence of the abstract of Exhibit 1091 which  
20 states, "An apparatus and a method for storing  
21 diagnostic software on a data storage device  
22 provides one or more ghost partitions overlapping a  
23 user partition on a data storage device."

24 Do you see that?

25 A I do.

1           Q     So you would agree that here is one example  
2     of a prior art patent which discloses overlapping  
3     partitions; would you not?

4           MS. MILLER:  Objection, form.  Foundation.  
5     Object to the document.  Scope.

6           THE WITNESS:  I haven't read this patent.  
7     I've never seen this patent before.  I don't know  
8     what it's about.

9     BY MR. MICALLEF:

10          Q     But that one sentence in the abstract  
11     certainly says that there are overlapping  
12     partitions, doesn't it?

13          MS. MILLER:  Objection, form.  Scope.

14          THE WITNESS:  The words in the first  
15     sentence says "one or more ghost partitions  
16     overlapping a user partition."  I don't know what  
17     that means.  I haven't read this patent.

18     BY MR. MICALLEF:

19          Q     Okay.  You understand that as a legal  
20     matter, a person of ordinary skill in the art is  
21     assumed to know all of the prior art, don't you?

22          MS. MILLER:  Objection, form.

23          THE WITNESS:  I'm not a patent attorney.  I  
24     would confess that if you're asking me if a person  
25     of skill in the art is assumed to have memorized all

1 of the prior art that exists, that's not my  
2 understanding.

3 BY MR. MICALLEF:

4 Q So in your view of the law, a person of  
5 ordinary skill in the art is not presumed to know  
6 the content of the prior art. Is that your view?

7 MS. MILLER: Objection, form. Misstates  
8 testimony.

9 THE WITNESS: My understanding of a person  
10 of skill in the art at the time is someone who is  
11 familiar with -- with prior art and familiar with  
12 the state of the technology at the time.

13 BY MR. MICALLEF:

14 Q And so a -- I'm sorry. Were you done?

15 A Not quite. I don't have a sufficient  
16 attorney's level definition of that term. I don't  
17 have explicit knowledge that a person of skill in  
18 the art, that that -- that that construct is someone  
19 who actually has all prior art in their head  
20 memorized, if that was your -- was your question. I  
21 just don't know the definition to that degree of  
22 precision. But my understanding is it's someone  
23 who's familiar with the art at the time.

24 Q And so I just want to get to what you mean  
25 there, because you are providing opinions on what

1     you think a person of ordinary skill in the art  
2     would understand the word "partitioning" to mean.

3           A     Yes.

4           Q     So would you agree that a person of  
5     ordinary skill in the art that's most relevant to  
6     the '403 would know that this Exhibit 1091 discloses  
7     overlapping partitions?

8           MS. MILLER:  Objection, form.

9           THE WITNESS:  No.

10          MS. MILLER:  Object to the document.

11          THE WITNESS:  Oh, pardon me.

12          MS. MILLER:  Scope.

13          THE WITNESS:  No, I -- I don't know what's  
14     in this -- what's in this document, and I don't know  
15     how they're using the words.  I don't know the  
16     context.  I don't know anything about this document.

17     BY MR. MICALLEF:

18          Q     I'm not asking you what you know,  
19     Mr. Weadock.  I'm asking you to agree with me that a  
20     person of ordinary skill in the art would know  
21     what's in this Exhibit 1091.

22          MS. MILLER:  Objection, form.

23     Argumentative.

24          THE WITNESS:  Again, I am not sure whether  
25     a person of skill in the art is expected to have

1 memorized every piece of prior art and have it in  
2 their head. My understanding is a person of skill  
3 in the art is someone who would have the requisite  
4 expertise and skill to understand prior art,  
5 certainly, but whether they have memorized it all, I  
6 just am not aware of that aspect of the definition  
7 of person of skill in the art.

8 BY MR. MICALLEF:

9 Q Nobody said anything about memorizing.

10 A You said know. I don't know what you mean  
11 by know.

12 Q Okay. So let me direct your attention to  
13 your paragraph 65 in Exhibit 2004.

14 A Okay.

15 Q You say there that it's your opinion that,  
16 "Even if one could identify isolated instances where  
17 'portioning' was used in a sense that could include  
18 overlapping, the meaning of 'partitioning' excludes  
19 the possibility of overlap to a person of ordinary  
20 skill in the art."

21 Do you see that?

22 A I do.

23 Q And what legal principle were you applying  
24 to come to that conclusion?

25 MS. MILLER: Objection, form.

1           THE WITNESS: My understanding of a person  
2 of skill in the art is someone who is fluent in the  
3 technologies of the patent and aware of prior art  
4 and, you know, able to understand the technology in  
5 the patent. When you would say to such a person  
6 partitioning, they would not think of an overlapping  
7 scenario, and I would go further and I would say  
8 that the sentence that we read from the '567 patent  
9 is pretty weird and I think would be pretty strange  
10 to a person of skill in the art.

11 BY MR. MICALLEF:

12       Q     Well, whether you think it's weird or not,  
13 you're saying that even if somebody can find an  
14 example in the prior art of overlapping partitions,  
15 in your view that wouldn't inform what a person of  
16 ordinary skill in the art would think the word  
17 "partitioning" means; that's your view, isn't it?

18           MS. MILLER: Objection, form.  
19 Argumentative.

20           THE WITNESS: Yeah, sure, I think it is my  
21 view. I think if there is a well-known  
22 understanding of a term because there may be one  
23 strange reference someplace that on the surface  
24 contradicts that understanding, doesn't mean the  
25 understanding is wrong. There are lots of

1 references out there in the world.

2 BY MR. MICALLEF:

3 Q And that's the view you applied when  
4 crafting the opinions that you've articulated in  
5 Exhibit 2004, right?

6 MS. MILLER: Objection, form.

7 THE WITNESS: I tried to use terms informed  
8 by the patent specification and claims, informed by  
9 the court's constructions, and informed by what a  
10 person of skill in the art would normally regard  
11 those terms to mean, yes, sir.

12 BY MR. MICALLEF:

13 Q I'd like to ask you to look at paragraph 94  
14 of your declaration --

15 A Okay.

16 Q -- Exhibit 2004. So in the third sentence  
17 of paragraph 94 you state that, "It is conceivable  
18 that multiple channels that are 'periodically  
19 sampled and displayed simultaneously' could be  
20 sampled and displayed at random intervals not  
21 corresponding to any refresh rate."

22 Do you see that?

23 A I do.

24 Q Okay. I want to unpack that into different  
25 parts a little bit. Is it your view that something

1 that's periodically sampled can be sampled at random  
2 intervals?

3 MS. MILLER: Objection, form.

4 THE WITNESS: Yeah, I think what I meant  
5 here -- we're talking about multiple different  
6 channels periodically sampled and displayed  
7 simultaneously. So there might be different periods  
8 that might not be the same. It does seem a little  
9 odd that I would say periodically could be random,  
10 so I'm not sure I would -- I would write this  
11 sentence this way again.

12 BY MR. MICALLEF:

13 Q Because if it's periodically sampled, it's  
14 sampled at some sort of regular interval; is that  
15 fair?

16 A One would normally understand that to be  
17 the case, yes.

18 Q Okay. Can I direct your attention to  
19 paragraph --

20 A Oh, pardon me. I think maybe -- just if I  
21 may, I can maybe clarify that answer a little bit  
22 if -- if that's okay.

23 Q Sure, go ahead.

24 A I'm not really sure what I'm quoting here,  
25 but I think it's Dr. Karger. I think he's the one



1 who said periodically sampled and displayed  
2 simultaneously, and I'm not sure if that's actually  
3 the words. I think we're talking here about one of  
4 the Duhault patents, and I'm not really sure whether  
5 the word "periodically sampled" is Dr. Karger's  
6 phrase or if it's a phrase in the Duhault patent.

7 So my meaning here might be that if the  
8 Duhault -- if these are Dr. Karger's words, that I  
9 think I'm disagreeing with them because I don't  
10 think that a regular refresh rate is disclosed in  
11 the Duhault patent about which Dr. Karger is  
12 writing. So I think the point of this paragraph may  
13 very well have been that Dr. Karger is assuming  
14 something that's not in the patent.

15 Q But my questions were just, if you're going  
16 to describe something as periodic, it's not going to  
17 occur at random intervals; you would agree with  
18 that?

19 A I think that's -- I think that's true. I  
20 would agree with that, yes, sir.

21 Q Now, if I could get you to turn to  
22 paragraph 102.

23 A Right.

24 Q Okay. So -- and you might want to -- let  
25 me ask the question and maybe you want to read this

1 before you answer. First question is this. This  
2 paragraph 102 doesn't say anything about  
3 persistence; isn't that right?

4 A Well, let's see.

5 That's right. This paragraph doesn't say  
6 anything about persistence. It doesn't use the  
7 word "persistence."

8 Q You are aware that the Board has provided  
9 an interpretation of the claim word "tile," correct?

10 A Yes, I am aware of that.

11 Q And you're aware that part of that  
12 interpretation includes this phrase "when selected,  
13 provides access to an information source"?

14 A That sounds right.

15 Q Okay. Just to confirm, paragraph 102  
16 doesn't address that portion of the Board's tile  
17 interpretation; agree with that?

18 MS. MILLER: Objection, form.

19 THE WITNESS: This specific paragraph, does  
20 it address that aspect of the Board's construction?  
21 Let me read it again with that in mind.

22 Well, I mean, there is some kind of  
23 implicit discussion of selection here. I mean, in  
24 the second sentence, "As opposed to the '403  
25 patent's system of tiles, one could not launch a

1 word processor or an e-mail program via Chen." And  
2 the way that you launch things in the '403 is  
3 selecting, so there is the concept sort of  
4 underlying some of the discussion in this paragraph.

5 BY MR. MICALLEF:

6 Q But you never mentioned that portion of the  
7 Board's tile -- tile interpretation, correct --

8 MS. MILLER: Objection.

9 BY MR. MICALLEF:

10 Q -- in this paragraph?

11 A I never mentioned that portion of the  
12 Board's tile interpretation in this paragraph, yeah,  
13 I don't see any reference to the Board in this  
14 paragraph.

15 Q And just to be clear, you don't analyze  
16 that portion of the Board's tile interpretation in  
17 paragraph 102 either; is that fair?

18 MS. MILLER: Objection, form.

19 THE WITNESS: No, I don't think that's  
20 fair. As I just said, I think this second sentence  
21 in paragraph 102 is talking about the '403 system of  
22 tiles, which is built around the concept of  
23 selecting a tile to -- to launch applications and  
24 datastreams and files and so forth. So I think it's  
25 certainly implicit here and the understanding

1 informs the paragraph.

2 BY MR. MICALLEF:

3 Q And so in your view, could the Board's  
4 claim interpretation, that portion of it, the when  
5 selected portion, be satisfied in any way other than  
6 launching a word processor or e-mail program?

7 A Sure. Those are just examples I gave.

8 Q Fair enough. So the fact that you believe  
9 that Chen could not do that would not in and of  
10 itself indicate that Chen doesn't satisfy the  
11 Board's claim interpretation?

12 A When you say could not do that, what are  
13 you referring to? What's --

14 Q You say could not launch a word processor  
15 or an e-mail program?

16 A Well, those are just exemplary. No, I  
17 think it goes -- it's very important, when looking  
18 at Chen, to understand that you can't select a  
19 window in Chen to launch something like a word  
20 processor or an e-mail program. I mean, it's not  
21 a -- it's not the invention. Chen is a viewer of  
22 performance data. So I think it's very relevant.

23 Q So whether it's relevant or not, you never  
24 say that Chen doesn't satisfy the when selected  
25 language of the Board's tile interpretation because

1 it can't launch a word processor or e-mail program  
2 here in paragraph 102. You never say that, right?

3 MS. MILLER: Objection, form.

4 THE WITNESS: I talk a lot about selecting  
5 in the next paragraph, but I don't specifically talk  
6 about selecting in this paragraph, that's correct.

7 BY MR. MICALLEF:

8 Q Great, thank you. I'd like to direct your  
9 attention to -- excuse me -- paragraph 104 of  
10 Exhibit 2004.

11 A Okay.

12 Q And here you're talking about certain  
13 functionality in Chen that indicates a user has the  
14 ability to record from a datastream where an  
15 instrument is selected; is that fair?

16 A No.

17 Q What's unfair about that?

18 A The instrument isn't selected.

19 Q Well, let me ask you this. Do you think  
20 recording a datastream is a form of access?

21 MS. MILLER: Objection, form.

22 THE WITNESS: No, I don't think recording a  
23 datastream is providing access to underlying  
24 information in the sense of the '403. That's just a  
25 way of redirecting information that's already there

1 in the display.

2 BY MR. MICALLEF:

3 Q So if I can record -- record information  
4 from a datastream, in your view I don't have access  
5 to the datastream?

6 A That's not what I said.

7 Q I know. I'm asking you a question.

8 A No, that's not true.

9 Q So if I can record information from a  
10 datastream, I do have access to the datastream --

11 A Sure.

12 Q -- would you agree with that?

13 A Yes.

14 Q Okay. I'd like you to turn to page 42 of  
15 Exhibit 2004.

16 A Okay.

17 Q Now, there's a section G that begins on  
18 that page that's entitled "Opinions Regarding Chen  
19 and MSIE Kit."

20 Do you see that?

21 A I do.

22 Q Now, the Board instituted a ground that  
23 relates to the combination of Chen and MSIE kit. Do  
24 you recall that?

25 MS. MILLER: Objection, form.

1 THE WITNESS: I don't -- I don't recall the  
2 specific words in detail, no, sir.

3 BY MR. MICALLEF:

4 Q Do you have an understanding what a ground  
5 is in the context of an IPR?

6 A If you could point me to that part of the  
7 decision, then I could tell you what they meant by  
8 ground. I have a general understanding of what  
9 ground means, a basis.

10 Q Give me the general understanding.

11 A A basis of some kind.

12 Q Well, do you recall that as far as the  
13 combination of Chen and MSIE kit, the only claim  
14 that the Board instituted on was claim 29 of the  
15 '403 patent?

16 A That sounds right.

17 Q And you say in paragraph 109 of your  
18 exhibit that you, "cannot imagine, and Dr. Karger  
19 does not explain, in any of these" -- "in any of  
20 these claims, what functionality Active Desktop  
21 would bring to Chen that does not already exist in  
22 Chen."

23 Do you see that?

24 A I do.

25 Q Now, you're welcome to look at the '403

1 patent and remind yourself of what claim 29 is about  
2 if you want, but let me just ask you this way. You  
3 would agree that claim 29 relates to associating a  
4 password with a tile?

5 A Right.

6 Q And so that was in fact the functionality  
7 of Active Desktop that Dr. Karger was saying could  
8 be used with Chen, wasn't it?

9 A You know, I don't remember Dr. Karger  
10 saying that. We could certainly look at his  
11 declaration and I could respond to that. His  
12 declaration was pretty long.

13 Q Well, let me ask you this. This section of  
14 your report, G, starts on page 42 and goes over to  
15 the very top of page 44. You never mention  
16 passwords in there; isn't that right?

17 MS. MILLER: Objection, form.

18 THE WITNESS: No, I think -- I think that's  
19 right. I'm talking about the -- the fact that the  
20 two technologies were very different and would not  
21 have been obvious to combine.

22 BY MR. MICALLEF:

23 Q Okay. Now, passwords were used with  
24 graphical user interface by 1999. You would agree  
25 with that?



1 MS. MILLER: Objection, form.

2 THE WITNESS: Sure.

3 BY MR. MICALLEF:

4 Q They were common by 1999?

5 MS. MILLER: Objection, form.

6 THE WITNESS: Passwords were in common use  
7 in 1999.

8 BY MR. MICALLEF:

9 Q And their purpose was to provide some kind  
10 of security against, for example, unauthorized use  
11 of software or hardware; is that fair?

12 MS. MILLER: Objection, form.

13 THE WITNESS: I think that's a fair  
14 statement, sure.

15 BY MR. MICALLEF:

16 Q Okay. And so I'd like to direct your  
17 attention to paragraph 111, the last sentence of  
18 paragraph 111.

19 A Okay.

20 Q It states, "The fact that two references  
21 both deal with displaying information from various  
22 information sources that are periodically updated  
23 over a network is not in itself an adequate  
24 motivation to combine them, as Dr. Karger states."

25 Do you see that?

1           A       I do.

2           Q       You agree that the '403 patent also  
3 addresses displaying information from various  
4 information sources?

5           A       Sure.

6           Q       In fact, it talks about a system that  
7 displays information from various information  
8 sources that are periodically updated over a  
9 network; is that fair?

10                   MS. MILLER:  Objection, form.

11                   THE WITNESS:  Yes, I think that's fair.

12           BY MR. MICALLEF:

13           Q       And you -- well, so I understand you don't  
14 agree with Dr. Karger's conclusion about motivation  
15 to combine, but would you agree with his view that  
16 both Active Desktop and Chen also deal with  
17 displaying information from various information  
18 sources that are periodically updated over a  
19 network?

20                   MS. MILLER:  Objection, form.

21                   THE WITNESS:  If you replace the word "are"  
22 with can, I would agree with your statement.

23           BY MR. MICALLEF:

24           Q       Okay.  I mean, that's -- in that sentence  
25 the two references you're referring to are the Chen

1 patent and the MSIE kit publication, correct?

2 A Sure, that's right. And I'm just saying  
3 that the fact that they both display information  
4 from various information sources isn't particularly  
5 special. There are lots and lots and lots of things  
6 that do that.

7 Q And so would you agree that any need or  
8 problem in the field and addressed by the patent at  
9 issue here can provide a reason to combine?

10 A No.

11 Q I'd like to direct your attention to  
12 paragraph 115 of your declaration, Exhibit 2004.

13 A Okay. I'm there.

14 Q Okay. The first sentence says that "Active  
15 Desktop is not a GUI, nor a desktop alternative."

16 Do you see that?

17 A I do.

18 Q Now, Active Desktop certainly was graphical  
19 in nature, agree?

20 MS. MILLER: Objection, form.

21 THE WITNESS: Sure.

22 BY MR. MICALLEF:

23 Q And wouldn't you agree that Active Desktop  
24 was part of a graphical user interface?

25 MS. MILLER: Objection, form.

1 THE WITNESS: It could have been part of a  
2 graphical user interface, yes.

3 BY MR. MICALLEF:

4 Q What do you mean it could have been?

5 A If someone was using it.

6 Q So when someone was using Active Desktop,  
7 it was part of a graphical user interface?

8 A It could be described as part of the  
9 graphical user interface that the user sees on their  
10 computer display, sure. Again, you know, in the  
11 sense that the '403 patent uses graphical user  
12 interface as a desktop alternative, it would not be  
13 the same thing as that kind of graphical user  
14 interface.

15 Q That's a very interesting statement because  
16 your sentence here at the beginning of paragraph 115  
17 seems to distinguish graphical user interface or GUI  
18 from a desktop alternative, doesn't it?

19 A No, they're not identical. You could have  
20 a desktop alternative that's not a GUI.

21 Q And a GUI that's not a desktop alternative,  
22 correct?

23 MS. MILLER: Objection, form.

24 THE WITNESS: You could.

25 BY MR. MICALLEF:

1 Q Okay. So it's fair to say Active Desktop  
2 itself has a graphical user interface?

3 MS. MILLER: Objection, form.

4 THE WITNESS: I wouldn't normally use that  
5 term to describe it. I mean, it's adopting a lot of  
6 the graphical user interface conventions of the  
7 operating system on which it is implemented.

8 BY MR. MICALLEF:

9 Q You agree that the system of Chen has a  
10 graphical user interface?

11 MS. MILLER: Objection, form.

12 THE WITNESS: The system of Chen has  
13 elements of a graphical user interface. It uses  
14 windows and buttons and so forth. I don't know that  
15 it has its own unique graphical user interface.  
16 And, again, you know, one normally -- unless one is  
17 talking about an application that's radically  
18 different from the operating system on which it is  
19 hosted, one normally doesn't talk about applications  
20 as having their own graphical user interface.  
21 Normally, they inherit or adopt the graphical user  
22 interface conventions of the operating systems on  
23 which they run.

24 BY MR. MICALLEF:

25 Q I want to go back to Active Desktop for a

1 second.

2 A Sure.

3 Q Now, to your understanding, an Active  
4 Desktop item that is on a user's display would show  
5 a portion of a web page; is that fair?

6 A It could. That wasn't the only thing it  
7 could show.

8 Q Okay, fair enough. So in that example  
9 where an Active Desktop item does show a portion of  
10 the web page, the web page can have ActiveX controls  
11 on it, correct?

12 MS. MILLER: Objection, form.

13 THE WITNESS: I think that's correct.

14 BY MR. MICALLEF:

15 Q And if in that example the ActiveX control  
16 was configured to launch Microsoft Word, clicking on  
17 that control would then launch Microsoft Word; is  
18 that fair?

19 A I haven't seen that functionality described  
20 in the Active Desktop documentation, so -- and I  
21 haven't actually done that myself with Active  
22 Desktop. So I can't tell you today that that would  
23 work. I haven't actually tried that, or I  
24 haven't -- I'm not sure I've seen it described, so I  
25 don't really know.

1 Q So I'd like to ask you to look at paragraph  
2 119 of your declaration, Exhibit 2004.

3 A Okay, I'm there.

4 Q Okay. And here in this paragraph you seem  
5 to be distinguishing the selection of a hyperlink in  
6 an Active Desktop item from the selection of the  
7 Active Desktop item itself; is that fair?

8 A That is fair.

9 Q And you're suggesting -- you're saying --  
10 you're not suggesting -- in the last sentence that  
11 you think "no concept is disclosed in MSIE Kit of an  
12 information source associated with an Active Desktop  
13 item in such a way that selecting the item provides  
14 access to a source of information that is associated  
15 with the item."

16 Do you see that?

17 A I do.

18 Q So I want to give you a hypothetical. I  
19 have an Active Desktop item on my desktop that is  
20 showing www.CNN.com, okay?

21 A Okay.

22 Q And there is a link in that portion that  
23 it's showing to a story on CNN.com about Ukraine.  
24 Okay?

25 A Okay.

1 Q But the story is on some other page hosted  
2 by CNN, okay?

3 A All right.

4 Q So the page that contains the Ukraine  
5 story, you would agree it's associated with that  
6 Active Desktop item?

7 A No.

8 Q Even though there's a link to it?

9 A Right. There's a link.

10 Q That would be a form of association,  
11 wouldn't it?

12 MS. MILLER: Objection, form.

13 THE WITNESS: Well, it's associated with  
14 that web page that you're looking at, but it's not  
15 associated with the Active Desktop item. It's not  
16 assigned to the Active Desktop item.

17 BY MR. MICALLEF:

18 Q The link in the Active Desktop item  
19 associates the item with the story, doesn't it?

20 MS. MILLER: Objection, form.

21 THE WITNESS: The link is a link to another  
22 page, but it's -- but I wouldn't describe that other  
23 page as information assigned to the Active Desktop  
24 item.

25 BY MR. MICALLEF:



1 Q So --

2 A The links that you can see on that page,  
3 there may be a link; there may not be a link. You  
4 could scroll around and see different links. You  
5 could bounce around to lots of different web pages  
6 and see lots of different things. You don't have an  
7 information source assigned to the Active Desktop  
8 item.

9 Q Well, if I define information source as  
10 CNN.com, that Ukraine story would be part of that  
11 information source, don't you agree?

12 MS. MILLER: Objection, form.

13 THE WITNESS: We're getting kind of strung  
14 out on hypotheticals here, and I think we're getting  
15 a little far away from the patent. Can you explain  
16 your question to me again so that I can try to  
17 answer?

18 BY MR. MICALLEF:

19 Q Yeah. An information source can be any  
20 source of information, can't it?

21 A No. No. In the context of the patent,  
22 it's an information source that is assigned to the  
23 tile.

24 Q Are you aware of any reason that an  
25 information source -- you think the definition of

1 information source requires that it be assigned to a  
2 tile?

3 A No, but the information sources that we're  
4 talking about in the context of the '403 are  
5 assigned to the tile.

6 Q I'm just talking about the meaning of  
7 information source --

8 A Okay.

9 Q -- in the context of --

10 A So we're going away --

11 Q Let me finish my question.

12 A Sure.

13 Q I'm talking about the meaning of  
14 information source as that phrased is used in the  
15 '403 patent, and you would agree that that phrase  
16 itself does not require any assignment to a tile,  
17 right?

18 A I'm not sure. I'd have to go through the  
19 patent. My recollection of the patent is that  
20 information sources are generally assigned to tiles.

21 Q Well, would you agree that CNN.com is a  
22 source of digital information?

23 A In the context of the patent or just not in  
24 the context of the patent?

25 Q Generally.

1           A       Generally, is CNN.com a source of  
2       information?  Sure.

3           Q       I'd like to direct your attention to  
4       paragraph 122.

5           A       Okay.

6           Q       Excuse me.  In the first sentence you state  
7       that "Active Desktop items are also not the same as  
8       the 'tiles' of the '403 because Active Desktop items  
9       can overlap," and then you finish the sentence.

10                  But do you see that part?

11          A       I do.

12          Q       So you do not appear to ask the Board to  
13       construe the word "tile" in a way that would not  
14       permit overlap.  Do I have that correct?

15                  MS. MILLER:  Objection, form.

16                  THE WITNESS:  I caught a couple of  
17       negatives in that question.

18       BY MR. MICALLEF:

19          Q       Yeah.

20          A       Maybe you can ask it again so I can --

21          Q       So your proposed -- the analysis you  
22       provide here as far as the definition of the  
23       word "tile," construction of the word "tile," as far  
24       as I can tell doesn't ever say that tiles may not  
25       overlap.

1 MS. MILLER: Objection, form.

2 BY MR. MICALLEF:

3 Q Isn't that right?

4 A Well, let's -- let's go back and take a  
5 look.

6 So I'm not sure whether in my declaration  
7 I've got a copy of the patent owner's preferred  
8 definition of tile. I know we talk about  
9 overlapping in the context of partitioning, but it  
10 may not be part of the definition of tile.

11 Q So whatever partitioning means, putting  
12 that aside --

13 A Right.

14 Q -- the word "tile" does not preclude  
15 overlap; agree with that?

16 MS. MILLER: Objection, form.

17 THE WITNESS: No, I'm not sure I do agree  
18 with that.

19 BY MR. MICALLEF:

20 Q Okay. So regardless of what partition  
21 means, you have never told the Board that the  
22 word "tile" should be construed to preclude overlap;  
23 agree with that?

24 MS. MILLER: Objection, form.

25 THE WITNESS: That -- that might be

1 correct. I don't recall seeing -- I think in the  
2 claims that we're -- that we're looking at and in  
3 the patent itself, and I think the patent explicitly  
4 states in a couple of places that it's a  
5 nonoverlapping kind of thing. But I know I made  
6 that a part of my definition of partition. I don't  
7 remember making that a part of my definition of  
8 tile.

9 BY MR. MICALLEF:

10 Q And just so we're clear, on Active Desktop,  
11 a user could move the tiles around wherever he or  
12 she wanted; is that fair?

13 A No.

14 MS. MILLER: Objection, form.

15 BY MR. MICALLEF:

16 Q What's not fair about it?

17 A Active Desktop items aren't tiles.

18 Q So maybe I misspoke. Let me ask it again.

19 A I think you did.

20 Q You agree that Active Desktop items could  
21 be moved around by the user on the screen?

22 A Yes.

23 Q And you agree that the user could place the  
24 Active Desktop items in a nonoverlapping  
25 configuration if desired?

1 MS. MILLER: Objection, form.

2 THE WITNESS: Yeah. Depending on how many  
3 of them there were, sure, that was possible.

4 BY MR. MICALLEF:

5 Q I'd like to direct your attention to  
6 paragraph 128 of your declaration, Exhibit 2004. Do  
7 you see that?

8 A I do.

9 Q And in the last sentence there you say that  
10 in your opinion, "incorporating the overlapping  
11 windows of Active Desktop on a small-screen device  
12 such as a mobile phone would have been  
13 counter-intuitive."

14 Do you see that?

15 A I do see it.

16 Q And when you say windows of Active Desktop,  
17 are you referring to Active Desktop items?

18 A Yes.

19 Q But you agreed just a moment ago that they  
20 could be nonoverlapping, correct?

21 MS. MILLER: Objection, form.

22 Mischaracterizes testimony.

23 THE WITNESS: Right. I think what I said  
24 earlier was that a user could, if there weren't too  
25 many and they weren't too big, arrange Active

1 Desktop items in a nonoverlapping manner. It's not  
2 the way they're created by default, but a user could  
3 arrange them that way.

4 BY MR. MICALLEF:

5 Q Well, they are described as being created  
6 in a grid by default, the first six of them in MSIE  
7 kit; are they not?

8 MS. MILLER: Objection, form.

9 THE WITNESS: They are, which is kind of  
10 contradictory with how the software works.

11 BY MR. MICALLEF:

12 Q So back to this paragraph 128, you don't  
13 cite any evidence for why -- at the end of that  
14 sentence that I read, do you?

15 MS. MILLER: Objection, form.

16 THE WITNESS: Okay. I'm sorry. You're  
17 asking me do I -- do I -- please, just repeat your  
18 question.

19 BY MR. MICALLEF:

20 Q Just the last sentence in paragraph 128,  
21 you don't cite any evidence to support it?

22 MS. MILLER: Objection, form.

23 THE WITNESS: Sure, I do. There's  
24 information in the earlier part of that same  
25 paragraph that helps to explain my opinion.

1 BY MR. MICALLEF:

2 Q Why didn't you cite it again at the end  
3 after that sentence?

4 A Well, I'm hopeful that whoever is reading  
5 my report is going to read complete paragraphs.

6 Q Now, at the bottom of that page, paragraph  
7 130 --

8 A Okay.

9 Q -- you are talking about the Brown patent,  
10 correct?

11 A Yes.

12 Q And you're pointing out that the excerpt  
13 cited by Dr. Karger says that the invention of Brown  
14 may be practiced on handheld devices, correct?

15 A Yes.

16 Q Now, the invention of Brown includes Active  
17 Desktop items, correct?

18 MS. MILLER: Objection, foundation. Form.

19 THE WITNESS: Well, let's -- let's look at  
20 Brown. Do you have Brown handy?

21 BY MR. MICALLEF:

22 Q Yeah, let's look at Brown.

23 A We can chat about Brown.

24 MR. MICALLEF: Pull Brown out.

25 (Exhibit 1030 was marked for



1 identification and was attached to the deposition  
2 transcript.)

3 BY MR. MICALLEF:

4 Q So I'm going to hand you Exhibit 1030,  
5 which is the Brown patent, U.S. Patent No.  
6 6,278,448. Let me just sharpen my question.

7 So I want to direct your attention to  
8 column 4, lines 4 to 5 of Brown.

9 A Okay.

10 Q And there Brown says that figure 6, his  
11 figure 6, illustrates a dialogue window for creating  
12 a desktop component in accordance with the present  
13 invention, correct?

14 A That's what it says.

15 Q That's what it says. And figure 6, you  
16 turn to it, that's a dialogue box for creating new  
17 Active Desktop items, correct?

18 A That's what it says, yes, sir.

19 Q And so Active Desktop items are part of  
20 Brown's invention; wouldn't you agree with that?

21 MS. MILLER: Objection, form.

22 THE WITNESS: Well, they're certainly  
23 discussed here. I don't know if they're part of the  
24 claims. So to the extent that the claims constitute  
25 the invention, I don't know without reading through

1 the claims.

2 BY MR. MICALLEF:

3 Q So back to that column 4, that passage in  
4 column 4 --

5 A Okay.

6 Q -- you notice he's referring to desktop  
7 component in column 4, lines 4 to 5?

8 A Yes.

9 Q And so when he uses that phrase, he's  
10 talking about Active Desktop items, correct?

11 MS. MILLER: Objection, form. Foundation.

12 THE WITNESS: Well, to the extent that he  
13 associates that with figure 6 and figure 6 is titled  
14 New Active Desktop Item, I think that would be a  
15 fair assumption.

16 BY MR. MICALLEF:

17 Q Right. And if you look at column 3 of  
18 Brown beginning at about line 15 --

19 A Okay.

20 Q -- he's talking about still other aspects  
21 of the invention. Do you see that?

22 A I do.

23 Q And he said, the application programming  
24 interface, or API, is provided to allow computer  
25 programs, controls, and utilities to modify the

1 composite desktop.

2 Do you see that?

3 A I do.

4 Q And then he says, "Specifically, the API  
5 allows the desktop components to be added to or  
6 deleted from the composite desktop," et cetera.

7 Do you see that?

8 A I do.

9 Q So he's talking about one aspect of his  
10 invention being -- allowing Desk- -- Active Desktop  
11 items to be added to or deleted from the desktop,  
12 isn't he?

13 MS. MILLER: Objection, form.

14 THE WITNESS: That's not what he says.

15 BY MR. MICALLEF:

16 Q Well, he says desktop components, but he  
17 means Desktop items -- Active Desktop items, doesn't  
18 he?

19 MS. MILLER: Objection, form. Foundation.

20 THE WITNESS: I don't know. I don't know.

21 MR. MICALLEF: You know, it's 12:30, so  
22 maybe we should break for lunch. I also think we  
23 should go off the record and talk about some of the  
24 other issues.

25 MS. MILLER: That's fine.

1 THE WITNESS: When do you want to  
2 reconvene?

3 MR. MICALLEF: 1:30.

4 THE VIDEOGRAPHER: The time is 12:27:20  
5 p.m. We are now off the record.

6 (Whereupon, at 12:27 p.m., the  
7 above-entitled matter was recessed until 1:37 p.m.)

8 THE VIDEOGRAPHER: The time is 1:37:19 p.m.  
9 We are now on the record.

10 (Exhibit 2063 was marked for  
11 identification and was attached to the deposition  
12 transcript.)

13 CONTINUED EXAMINATION BY COUNSEL FOR PETITIONER  
14 BY MR. MICALLEF:

15 Q Mr. Weadock -- Weadock -- excuse me -- I'm  
16 going to give you a copy of your Exhibit 2063 and  
17 have you take a look at that.

18 A Thank you.

19 MR. MICALLEF: Give me the other one too.

20 (Exhibit 1051 was marked for  
21 identification and was attached to the deposition  
22 transcript.)

23 BY MR. MICALLEF:

24 Q And I'm also going to put in front of you  
25 Exhibit 1051 in case you need to refer to it.

1 A Okay, thank you.

2 Q In fact, let's start with Exhibit 1051.

3 A Okay.

4 Q And that is a PCT patent application,  
5 correct?

6 A Yes.

7 Q Can we refer to this as the Kostas'  
8 application?

9 A Yes.

10 Q So there's a figure on the first page of  
11 the Kostas' application that shows I guess a display  
12 for a computer system; is that fair?

13 A Yes.

14 Q And it seems to have two different -- it  
15 has lots of different parts, but it seems to  
16 designate two different parts, one a main view and  
17 the other a montage view; is that fair?

18 A Yes.

19 Q Okay. Now, if you -- if you turn to page  
20 28 of the Kostas' application.

21 A Okay.

22 Q There's a full paragraph right in the  
23 middle of the page that begins with, "One example."

24 Do you see that?

25 A I do.

1 Q And about halfway down in that paragraph it  
2 talks about a Java-based web browser application.

3 Do you see that?

4 A I do.

5 Q And the next sentence says that, "This  
6 browser runs in the montage view," correct?

7 A Yes.

8 Q And so would you agree that that would mean  
9 that the Java based web browser application would  
10 run in one of the rectangles underneath montage view  
11 in that figure on the first page of the Kostas'  
12 application?

13 A That's what I would expect, yes.

14 Q So it would be either 508a, 508b, 508c,  
15 508d, or 508e?

16 A I would expect it to be one of those. I  
17 don't know that those delineating lines there are  
18 necessarily the only way this could look, but in  
19 some -- some region in the montage view.

20 Q Okay, thank you. And so if you turn to the  
21 page 31 of the Kostas' app, there's about, oh, I  
22 guess eight or nine lines down, there's a reference  
23 to a third application that is a unified inbox.

24 Do you see that?

25 A I do.

1 Q What's your understanding of what that  
2 application is?

3 MS. MILLER: Objection, form.

4 THE WITNESS: Well, let me just read this.  
5 So this document says that "Traditionally, users are  
6 required to use separate applications for e-mail,  
7 voicemail, and faxing. The unified inbox wraps all  
8 three types of incoming messagings into a single  
9 interface." So I think that describes it.

10 BY MR. MICALLEF:

11 Q Okay. And would you agree that the unified  
12 inbox application would also run in one of the  
13 rectangular portions of the montage view?

14 A Oh, I don't know. Let me -- let me go back  
15 a little and see if it says that.

16 Q I can direct your attention to page 30,  
17 second paragraph.

18 A Okay, thank you.

19 Q First full paragraph I guess. There's a  
20 second sentence that says, "All of these  
21 applications can be hosted in the montage view."

22 Do you see that sentence?

23 A Yes. Is that referring to applications  
24 that have come before or applications that are about  
25 to be described? Looks like it applies to what's

1 coming up, because the next paragraph starts, "One  
2 such application." So I think I'd agree with your  
3 interpretation.

4 Q Okay. And would you agree that in the  
5 system of Kostas, that montage view could show the  
6 unified inbox application and also the Java based  
7 web browser application at the same time but in  
8 different panels of the montage view?

9 A Oh --

10 MS. MILLER: Objection, form. Foundation.

11 THE WITNESS: That's my recollection of  
12 this application. Let me just see if it -- if it  
13 says that, and, again, feel free to point me to  
14 someplace just to save some time but -- I think you  
15 were asking about these multiple applications  
16 running at the same time. I don't -- don't remember  
17 exactly where that's disclosed in here.

18 BY MR. MICALLEF:

19 Q Well -- well, maybe this will help you if  
20 you look at page 13 of the Kostas' application.  
21 About halfway down it starts talking about the panes  
22 of the montage view. Would that help you answer the  
23 question?

24 A I'm sure it will. Thank you. I'm sorry.  
25 You've read this thing through more recently than I



1 have, I'm sure.

2 So, yes, it says each pane of the montage  
3 can contain a different application, so that sounds  
4 reasonable.

5 Q Okay. And just so the record's clear,  
6 since we had a little bit between my question and  
7 your answer, you agree that it's reasonable to read  
8 this Kostas' application to disclose that in the  
9 montage view, the Java based web browser could be  
10 displayed in one pane and the unified inbox  
11 application could be displayed in a different pane  
12 of the montage view; is that fair?

13 MS. MILLER: Objection, form.

14 THE WITNESS: That -- that to me seems  
15 consistent with the sections that we've read.

16 BY MR. MICALLEF:

17 Q Okay. Okay. Thank you. Excuse me.

18 MR. MICALLEF: Pass the witness.

19 MS. MILLER: Could we take just a 5-minute  
20 break here real quick?

21 MR. MICALLEF: We can.

22 THE VIDEOGRAPHER: The time is 1:45:29 p.m.  
23 We are now off the record.

24 (Recess.)

25 THE VIDEOGRAPHER: The time is 1:51:25 p.m.

1 We are now on the record.

2 EXAMINATION BY COUNSEL FOR PATENT OWNER

3 BY MS. MILLER:

4 Q Good afternoon, Mr. Weadock.

5 A Good afternoon.

6 Q Can I have you pull out Exhibit 1030, 1030,  
7 which is the Brown patent?

8 A I have it.

9 Q Earlier counsel asked you about the  
10 contents of this -- this reference. Do you recall  
11 that testimony?

12 A I do.

13 Q To your recollection, does this -- does  
14 this Brown patent cite to MSIE kit anywhere?

15 MR. MICALLEF: Objection, scope.

16 THE WITNESS: Not to my recollection, no.

17 BY MS. MILLER:

18 Q You can put that one aside. Earlier  
19 counsel also asked you some questions about the  
20 term "access" --

21 A Yes.

22 Q -- and whether sitting here today you could  
23 access your bank account. Do you recall that  
24 testimony?

25 A I do.

1           Q     And I believe your answer was sitting here  
2     today you could access your bank account, for  
3     example through your phone?

4           MR. MICALLEF:  Objection, leading.

5           THE WITNESS:  Yes, that's what I said.

6     BY MS. MILLER:

7           Q     And sitting here today can you access your  
8     bank account for example if I let you use my  
9     computer?

10          MR. MICALLEF:  Objection, leading.

11          THE WITNESS:  Yes, I could.

12     BY MS. MILLER:

13          Q     And could you also access your bank account  
14     if you went to your bank teller?

15          MR. MICALLEF:  Objection, leading.

16          THE WITNESS:  Yes, I could.

17     BY MS. MILLER:

18          Q     So is it true then you have multiple ways  
19     to access your bank account?

20          MR. MICALLEF:  Objection, leading.

21          THE WITNESS:  Yes, that's correct.

22     BY MS. MILLER:

23          Q     And having access via one avenue, such as  
24     through your phone, does that preclude you from  
25     having access via another method, such as going to

1 the teller?

2 MR. MICALLEF: Objection, leading.

3 THE WITNESS: No, it does not.

4 MS. MILLER: All right. I have no further  
5 questions. Pass the witness.

6 MR. MICALLEF: No further. Thank you very  
7 much.

8 MS. MILLER: Thanks. Deposition is closed.

9 THE VIDEOGRAPHER: This concludes the video  
10 deposition of Glenn Weadock -- Weadock -- excuse  
11 me.

12 This concludes the video deposition of  
13 Glenn Weadock consisting of three DVD discs. The  
14 time is 1:53:58 p.m. We are now off the record.

15 (Signature having not been discussed,  
16 the deposition of Glenn Weadock was concluded at  
17 1:54 p.m.)

18 (The following Acknowledgement of  
19 Deponent Page is included in the event at the  
20 conclusion of Glenn Weadock's deposition he elects  
21 to read and sign his deposition transcript.)

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\* \* \*

ACKNOWLEDGMENT OF DEPONENT

I, Glenn Weadock, do hereby acknowledge that I  
have read and examined the foregoing testimony, and  
the same is a true, correct and complete  
transcription of the testimony given by me, and any  
corrections appear on the attached Errata sheet  
signed by me.

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE)

## 1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

2 I, Joan V. Cain, Court Reporter, the officer  
3 before whom the foregoing deposition was taken, do  
4 hereby certify that the foregoing transcript is a  
5 true and correct record of the testimony given; that  
6 said testimony was taken by me stenographically and  
7 thereafter reduced to typewriting under my direction  
8 and that I am neither counsel for, related to, nor  
9 employed by any of the parties to this case and have  
10 no interest, financial or otherwise, in its outcome.

11 IN WITNESS WHEREOF, I have hereunto set my  
12 hand and affixed my notarial seal this 16th day of  
13 March 2014.

14  
15 My commission expires:

16 June 14, 2014  
17 \_\_\_\_\_

18 NOTARY PUBLIC IN AND FOR THE  
19 DISTRICT OF COLUMBIA  
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## 1 E R R A T A S H E E T

2 IN RE: Microsoft Corporation v. SurfCast, Inc.

3 RETURN BY: \_\_\_\_\_

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5 PAGE LINE CORRECTION AND REASON

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1 E R R A T A S H E E T C O N T I N U E D

2 IN RE: Microsoft Corporation v. SurfCast, Inc.

3 RETURN BY: \_\_\_\_\_

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5 PAGE LINE CORRECTION AND REASON

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<b>A</b>			
<b>ability</b> 41:20 43:21 116:14	72:2 <b>acknowledge</b> 148:3	124:21 <b>adopting</b> 124:5	<b>allowing</b> 138:10
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