

In the Matter of:

MICROSOFT CORPORATION

v.

SURFCAST, INC.

KLAUS LAGERMANN

March 6, 2014

M E R R I L L L A D

1325 G Street NW, Suite 200, Washington, DC
Phone: 800.292.4789 Fax: 202.861.3425

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,

IPR2013-00292, IPR2013-00294, and IPR2013-00295

VIDEOTAPED DEPOSITION OF

KLAUS LAGERMANN

Thursday, March 6, 2014, 8:59 a.m.

Page 2	Page 4
<p>1 Job No. 1-245251</p> <p>2 Pages 1 - 85</p> <p>3 Reported by: Michele E. Eddy, RPR, CRR, CLR,</p> <p>4 Videotaped Deposition of KLAUS LAGERMANN,</p> <p>5 held at the offices of:</p> <p>6 DLA PIPER, LLP</p> <p>7 500 Eighth Street, Northwest</p> <p>8 Washington, D.C. 20004</p> <p>9 (202) 799-4000</p> <p>10 Pursuant to Notice, before Michele E.</p> <p>11 Eddy, Registered Professional Reporter, Certified</p> <p>12 Realtime Reporter, and Notary public in and for the</p> <p>13 District of Columbia.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p>1 EXAMINATION INDEX</p> <p>2 PAGE</p> <p>3 EXAMINATION BY MR. SUH 8, 81</p> <p>4 EXAMINATION BY MR. HEINTZ 72</p> <p>5</p> <p>6</p> <p>7</p> <p>8 E X H I B I T S</p> <p>9 PREVIOUSLY MARKED AND REFERRED TO</p> <p>10 (Retained by Counsel)</p> <p>11 SURFCAST EXHIBITS PAGE</p> <p>12 Exhibit 2006 Declaration of Klaus Lagermann, 16</p> <p>13 13 pages</p> <p>14 Exhibit 2012 E-mail chain; top e-mail dated 61</p> <p>15 8-11-99 from Ovid Santoro to</p> <p>16 Klaus Lagermann;</p> <p>17 20130207CTRL00006281, three pages</p> <p>18 Exhibit 2018 E-mail chain; top e-mail dated 64</p> <p>19 8-10-99 from Klaus Lagermann to</p> <p>20 Richard Bone; 20130207CTRL00009608,</p> <p>21 two pages</p> <p>22</p>
Page 3	Page 5
<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF THE PETITIONER:</p> <p>4 WONJOO SUH, ESQUIRE</p> <p>5 Sidley Austin, LLP</p> <p>6 1501 K Street, Northwest</p> <p>7 Washington, D.C. 20005</p> <p>8 (202) 736-8831</p> <p>9 wsuh@sidley.com</p> <p>10</p> <p>11 ON BEHALF OF THE PATENT OWNER:</p> <p>12 JAMES M. HEINTZ, ESQUIRE</p> <p>13 DLA Piper, LLP</p> <p>14 11911 Freedom Drive, Suite 300</p> <p>15 Reston, Virginia 20190</p> <p>16 (703) 773-4148</p> <p>17 jim.heintz@dlapiper.com</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20 Richard Bone, Esquire (via teleconference)</p> <p>21 David Cooper, Videographer</p> <p>22</p>	<p>1 EXHIBIT INDEX CONTINUED</p> <p>2</p> <p>3 SURFCAST EXHIBITS PAGE</p> <p>4 Exhibit 2020 E-mail dated 8-19-99 from Klaus 67</p> <p>5 Lagermann to Richard Bone;</p> <p>6 20130207CTRL00009669, one page</p> <p>7 Exhibit 2021 E-mail dated 8-19-99 from Klaus 68</p> <p>8 Lagermann to Richard G.A. Bone;</p> <p>9 IPR2013-00292, six pages</p> <p>10 Exhibit 2022 E-mail dated 8-24-99 from Klaus 70</p> <p>11 Lagermann to Richard Bone;</p> <p>12 20130207CTRL00009693, one page</p> <p>13 Exhibit 2023 Handwritten notebook; 36</p> <p>14 IPR2013-00292, 25 pages</p> <p>15 Exhibit 2025 E-mail chain; top e-mail dated 41</p> <p>16 12-5-98 from Ovid Santoro to</p> <p>17 Klaus Lagermann;</p> <p>18 KL_SC_0005524-5525</p> <p>19 Exhibit 2036 E-mail chain; top e-mail dated 42</p> <p>20 12-2-98 from Klaus Lagermann to</p> <p>21 Ovid Santoro; SC0001016-20</p> <p>22</p>

2 (Pages 2 to 5)

<p style="text-align: right;">Page 6</p> <p>1 EXHIBIT INDEX CONTINUED</p> <p>2</p> <p>3 SURFCAST EXHIBITS PAGE</p> <p>4 Exhibit 2048 Data Structure for SurfCast 44</p> <p>5 Grid; SC0036694-97</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 8</p> <p>1 MR. HEINTZ: And James Heintz with DLA</p> <p>2 Piper representing SurfCast, Inc. Also attending by</p> <p>3 phone is Dr. Richard G.A Bone, also representing</p> <p>4 Surfcast, Inc.</p> <p>5 THE VIDEOGRAPHER: The court reporter,</p> <p>6 Michele Eddy, of Merrill LAD will now swear in the</p> <p>7 witness.</p> <p>8 PROCEEDINGS</p> <p>9 KLAUS LAGERMANN,</p> <p>10 having been duly sworn, testified as follows:</p> <p>11 EXAMINATION BY COUNSEL FOR PETITIONER</p> <p>12 BY MR. SUH:</p> <p>13 Q Good morning.</p> <p>14 A Good morning.</p> <p>15 Q Would you please state your full name and</p> <p>16 address, please.</p> <p>17 A My name is Klaus Lagermann. I live at</p> <p>18 Stock Holms Gade, number 19, in Copenhagen.</p> <p>19 Q Do you understand that you are under oath</p> <p>20 today?</p> <p>21 A I understand.</p> <p>22 Q Are you on any medications that might</p>
<p style="text-align: right;">Page 7</p> <p>1 THE VIDEOGRAPHER: Here begins video disc</p> <p>2 number 1 in the video deposition of Klaus Lagermann</p> <p>3 in the matter of Microsoft Corporation versus</p> <p>4 SurfCast, Inc., in the United States Patent and</p> <p>5 Trade Office before the Patent Trial and Appeal</p> <p>6 Board, cases number IPR2013-00292, IPR2013-00293,</p> <p>7 IPR2013-00294, IPR2013-00295.</p> <p>8 Today is Thursday, March 6th, 2014. The</p> <p>9 time on the video monitor is 9: -- correction, 8:59</p> <p>10 a.m. We are now on the record.</p> <p>11 My name is David Cooper. I'm the</p> <p>12 certified legal video specialist with Merrill LAD,</p> <p>13 21 Church Street, Suite 150, Rockville, Maryland,</p> <p>14 20850.</p> <p>15 This video deposition is taking place at</p> <p>16 DLA Piper, LLP, in the blue conference room located</p> <p>17 at 500 8th Street, Northwest, Washington, D.C.,</p> <p>18 20004.</p> <p>19 Would counsel please introduce themselves</p> <p>20 and who they represent.</p> <p>21 MR. SUH: This is Wonjoo Suh at Sidley</p> <p>22 Austin representing Microsoft Corporation.</p>	<p style="text-align: right;">Page 9</p> <p>1 affect your ability to testify today?</p> <p>2 A No, I'm not.</p> <p>3 Q Is there any reason you cannot testify</p> <p>4 truthfully today?</p> <p>5 A No.</p> <p>6 Q You've been deposed before, correct?</p> <p>7 A I have.</p> <p>8 Q It seems like you're already aware of the</p> <p>9 rules, but just as a reminder, your answers are</p> <p>10 recorded by the court reporter so please answer</p> <p>11 verbally. That means no shaking or nodding.</p> <p>12 A Understood.</p> <p>13 Q When I ask you a question, could you wait</p> <p>14 for me to finish my question before you start</p> <p>15 answering?</p> <p>16 A Yes.</p> <p>17 Q And if you don't understand the question,</p> <p>18 please ask for clarification, otherwise I'll assume</p> <p>19 that you understood the question. Is that fair?</p> <p>20 A That is fair.</p> <p>21 Q And we will try to take short breaks every</p> <p>22 hour. However, if you need a break at any time for</p>

3 (Pages 6 to 9)

<p style="text-align: right;">Page 10</p> <p>1 any reason, please let me know. All that I ask is</p> <p>2 if we're in the middle of a question, we can take a</p> <p>3 break after you finish your answer. Is that fair?</p> <p>4 A Thank you.</p> <p>5 Q Could you tell me about your educational</p> <p>6 background beginning after high school?</p> <p>7 A I have a bachelor's degree in economics</p> <p>8 from Copenhagen Business School.</p> <p>9 Q That's it?</p> <p>10 A (Nodding head.)</p> <p>11 Q And can you tell me about your employment</p> <p>12 history?</p> <p>13 A Starting from business school, from after</p> <p>14 business school, I worked at IBM in Denmark.</p> <p>15 Q What year?</p> <p>16 A From '81 until '86. And in 1986, I joined</p> <p>17 a stock brokering company called Per Storhaug.</p> <p>18 Moved on to another stock brokering company called</p> <p>19 Sankt Annae Bank. From there moved to a company</p> <p>20 called Computer Resources International.</p> <p>21 Q When was Sankt Annae Bank?</p> <p>22 A Sankt Annae Bank was '89 to '91.</p>	<p style="text-align: right;">Page 12</p> <p>1 Bygnings Import, which was a steel building trading</p> <p>2 company.</p> <p>3 Q Any other?</p> <p>4 A There were a few other company names in</p> <p>5 the group around Dansk Bygnings Import. One was</p> <p>6 called Steel Building Europe. Another was called CK</p> <p>7 Development. CK Industry. There may be a few more</p> <p>8 within the same group.</p> <p>9 Q Is that all?</p> <p>10 A There are -- there are more. I'm just</p> <p>11 trying to get the years right.</p> <p>12 Q Okay. In 2007 I took a position in a</p> <p>13 company called Speakkompagniet, and I still have</p> <p>14 that task today. I'm also with a company from 2009</p> <p>15 called Functional Foods or Functional Mad in Danish,</p> <p>16 which is a health food import company. That's my</p> <p>17 main occupation today, in the health food company.</p> <p>18 And I have a small role in a company called VBAG</p> <p>19 Company, which is a motion picture accessory --</p> <p>20 equipment accessory company. Then there are a few</p> <p>21 companies where I have, like, board positions or</p> <p>22 advisory board positions.</p>
<p style="text-align: right;">Page 11</p> <p>1 And in '91, I had a short stay at Computer</p> <p>2 Resources International and then moved on to a</p> <p>3 start-up company called HyperCOM. And in 1995, I</p> <p>4 started my own company, Cebra Technology.</p> <p>5 Cebra was merged with a company called</p> <p>6 CoCom in 1998, and was about a year later sold to</p> <p>7 Cisco Systems. And I did not join Cisco Systems. I</p> <p>8 went back to my own company.</p> <p>9 Q What is your own company, CoCom?</p> <p>10 A It was -- at the time it was called</p> <p>11 Lagermann Invest, and I was with that company until</p> <p>12 it went bankrupt in 2006.</p> <p>13 Q Any other companies?</p> <p>14 A There were -- during that time from 2000</p> <p>15 -- from 2001 until 2006, I also had consultancy</p> <p>16 roles in other companies. Do you want me to mention</p> <p>17 all of those?</p> <p>18 Q Sure.</p> <p>19 A It's from memory so I may -- I may miss</p> <p>20 one, but I was with a company called Smartcart</p> <p>21 Technology. From memory that was from 2001 to 2003.</p> <p>22 And there I was working with a company called Dansk</p>	<p style="text-align: right;">Page 13</p> <p>1 Q Which are those?</p> <p>2 A There's one called Pax Recon.</p> <p>3 Q Which year?</p> <p>4 A Excuse me?</p> <p>5 Q Which year was that?</p> <p>6 A This is probably from -- it's going to be</p> <p>7 from 2006 or something, around that time. Pax Recon</p> <p>8 has holdings in various companies. And through my</p> <p>9 involvement in Pax Recon, I have positions in those</p> <p>10 companies. One is called XtraSpace. One is called</p> <p>11 Nordisk Gestalt Institut. One is called Applied</p> <p>12 Technologies and one is called Institute for</p> <p>13 Leadership Dynamics.</p> <p>14 I think that's all of them.</p> <p>15 Q Were you ever an employee of SurfCast?</p> <p>16 A That was in -- of course, apologies for</p> <p>17 not remembering that. SurfCast was -- after the</p> <p>18 sale of my first owned company to Cisco Systems,</p> <p>19 then I started working with SurfCast people.</p> <p>20 Q And which -- when was that?</p> <p>21 A It began in '98 and in '99, 2000. I left</p> <p>22 the company in 2001.</p>

4 (Pages 10 to 13)

<p style="text-align: right;">Page 14</p> <p>1 Q Thank you.</p> <p>2 Do you have any financial interest in</p> <p>3 SurfCast?</p> <p>4 A As part of my consultancy agreement right</p> <p>5 now, I have a small monthly income from SurfCast,</p> <p>6 and I also have an option for SurfCast, yes.</p> <p>7 Q Can you please describe the options?</p> <p>8 A The option is for -- I believe it to be</p> <p>9 for half a percent of the company.</p> <p>10 Q You'd gain financially if SurfCast obtains</p> <p>11 a money judgment against Microsoft in the Maine</p> <p>12 litigation ...</p> <p>13 A Excuse me?</p> <p>14 Q You would gain financially if Microsoft --</p> <p>15 if SurfCast obtains a money judgment against</p> <p>16 Microsoft in the Maine litigation, wouldn't you?</p> <p>17 A I suppose so.</p> <p>18 Q You would agree that you have an interest</p> <p>19 in the outcome of the litigation; is that correct?</p> <p>20 MR. HEINTZ: Objection. Calls for a legal</p> <p>21 conclusion.</p> <p>22 A I suppose so.</p>	<p style="text-align: right;">Page 16</p> <p>1 (Exhibit 2006 was previously marked</p> <p>2 and referred to.)</p> <p>3 Q I'm going to hand you Exhibit 2006.</p> <p>4 A Thank you.</p> <p>5 Q Do you recognize this document?</p> <p>6 A Yes.</p> <p>7 Q What is it?</p> <p>8 A It's a declaration.</p> <p>9 Q Who wrote this declaration?</p> <p>10 A This was written by me in cooperation with</p> <p>11 DLA Piper staff.</p> <p>12 Q On paragraph 2, it's on page 2, you say,</p> <p>13 "I am currently providing services to Surfcast, Inc.</p> <p>14 in connection with this Inter Partes review."</p> <p>15 Do you see that?</p> <p>16 A Yes.</p> <p>17 Q What kind of services are you providing?</p> <p>18 A I have a consultancy agreement and it</p> <p>19 involves reviewing documents with respect to the</p> <p>20 '403 patent and to this case.</p> <p>21 Q Does it include preparation for today's</p> <p>22 deposition?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q Are there any documents that you reviewed</p> <p>2 in order to prepare for this deposition?</p> <p>3 A Yes.</p> <p>4 Q What are they?</p> <p>5 A The declaration that I submitted, the</p> <p>6 various documents that is mentioned in the</p> <p>7 declaration, as well as the '403 patent itself.</p> <p>8 Q Anything else?</p> <p>9 A Various e-mails pertaining to the</p> <p>10 communication between other SurfCast people and</p> <p>11 myself.</p> <p>12 Q Are you personally -- personally</p> <p>13 represented by counsel today, personally?</p> <p>14 A I'm uncertain.</p> <p>15 Q Are you represented by counsel today?</p> <p>16 A I don't have a personal lawyer, no.</p> <p>17 Q Is DLA Piper representing you?</p> <p>18 A Yes.</p> <p>19 Q And are you paying for the representation?</p> <p>20 A I am not.</p> <p>21 Q Do you know who's paying?</p> <p>22 A I don't know who's paying.</p>	<p style="text-align: right;">Page 17</p> <p>1 A Yes.</p> <p>2 Q Does it include taking today's deposition?</p> <p>3 MR. HEINTZ: Objection, form.</p> <p>4 A I'm actually uncertain.</p> <p>5 Q So you don't know whether your services</p> <p>6 includes taking this deposition; is that correct?</p> <p>7 MR. HEINTZ: Objection, form.</p> <p>8 A I actually don't know.</p> <p>9 Q Are you being paid for your services?</p> <p>10 A Yes.</p> <p>11 Q Are you being paid for your deposition</p> <p>12 prep time?</p> <p>13 A Yes.</p> <p>14 Q Are you being paid for your time to take</p> <p>15 the deposition today?</p> <p>16 A I'm uncertain about that, but I suppose</p> <p>17 so.</p> <p>18 Q Does your pay -- amount of the pay depend</p> <p>19 on the outcome of the case?</p> <p>20 A No.</p> <p>21 Q On page 2, the same page, if you can look</p> <p>22 at paragraph 6, you say, "I conceived of the</p>

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 inventions recited in at least independent claims 1, 2 22 and 46, and also dependent claims 2, 3, 5 to 9, 3 12, 17 to 21, 23 to 28, 30, 32 to 33, 35 to 37, 39 4 to 41, 47 and 48, of the '403 patent prior to June 5 29th, 1999." 6 Do you see that? 7 A I see that. 8 Q What claim interpretation did you use to 9 reach this conclusion? 10 A This was done in cooperation with DLA 11 Piper staff, and this series of numbers was proposed 12 to me and I believe them to be true. 13 Q So -- do you know -- perhaps you didn't 14 ask -- understand my question. 15 Do you know what claim construction you 16 used to reach this conclusion? 17 A I'm not sure I understand your question. 18 Q Did you read the Board's order instituting 19 the IPR proceeding that? 20 A Is that a document? 21 Q Yes. 22 A Do you have a copy of it?</p>	<p style="text-align: right;">Page 20</p> <p>1 the testimony. 2 A I don't know. I don't think so. 3 Q Just so that I understand, SurfCast filed 4 a motion to amend the claims in this proceeding. 5 Are you aware of that? 6 A Yes. 7 Q So just to be clear, when you say you 8 conceived the claims mentioned in paragraph 6, 9 you're referring to the claims before any of these 10 amendments were made; is that correct? 11 A I'm not aware which amendment -- amendment 12 you mean and when these took effect. 13 Q Are you aware that there were proposed 14 amendments made by SurfCast in this IPR proceeding? 15 A I believe so. 16 Q I just wanted to make sure what the scope 17 of this claims -- what you're saying is. 18 In reaching your conclusion, are you -- 19 were you looking at the amended claims or the claims 20 before amendment? 21 A I believe that I saw both so I'm uncertain 22 as to which form the basis for this.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q I don't. 2 A I've read so many documents in this case, 3 I would like to see it before I answer. 4 Q So you don't recall right now whether you 5 saw the Board's order instituting the IPR 6 proceeding; is that correct? 7 A I believe I did, but I would need to see 8 it to recognize it. 9 Q In that document, the Board adopted 10 certain interpretations of certain various words and 11 phrases in the claims. 12 Do you remember that? 13 A It sounds familiar. 14 Q Did you use the Board's construction? 15 A I'm uncertain what you mean. 16 Q You say it sounds familiar that the Board 17 interpreted certain claims in that document. Did 18 you use those interpretations from the Board to 19 reach this conclusion? 20 A I don't think I can answer that question. 21 Q Is that a no? 22 MR. HEINTZ: Objection. Mischaracterizes</p>	<p style="text-align: right;">Page 21</p> <p>1 Q So you don't know which claims you were 2 referring to in paragraph 6; is that the testimony? 3 I just want to make it clear. 4 A I'm uncertain. 5 Q On page 3, if you look at paragraph 8, you 6 say, "At the time a user had to open a variety of 7 programs to view different kinds of information," 8 correct? 9 A Yes. 10 Q What do you mean by this? 11 A I mean that if you wanted to view a web 12 page, you would open a web browser. If you wanted 13 to view a Word document, you would open a Word 14 application. 15 So depending on what you wanted to see, 16 you would have to open the application that was 17 meant for displaying what you wanted to see. 18 Q So when you say "at the time," are you 19 talking about what existed prior to June 29th, 1999? 20 A Yes. 21 Q Is it your opinion that there's nothing 22 novel about calling a variety of programs to view</p>

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>1 different kinds of information?</p> <p>2 MR. HEINTZ: Objection. Form. Calls for</p> <p>3 a legal conclusion.</p> <p>4 I'm sorry, can I hear that question again.</p> <p>5 I apologize.</p> <p>6 (Record read.)</p> <p>7 MR. HEINTZ: Same objections.</p> <p>8 A "There is nothing novel" ... I believe</p> <p>9 that what we described in our invention was novel.</p> <p>10 Q No, that's not my question. I was asking</p> <p>11 you about whether calling a variety of programs to</p> <p>12 view different kinds of information was novel or</p> <p>13 not.</p> <p>14 MR. HEINTZ: Objection, form. Objection,</p> <p>15 calls for a legal conclusion.</p> <p>16 A What I wrote here, that the user had to</p> <p>17 open the program meant for displaying the data he</p> <p>18 wanted to see was common at this time and not novel.</p> <p>19 Q Was not novel. So calling a variety of</p> <p>20 programs to view different kinds of information was</p> <p>21 not novel, correct?</p> <p>22 MR. HEINTZ: Objection. Mischaracterizes</p>	<p style="text-align: right;">Page 24</p> <p>1 A Opening a program surely must call a</p> <p>2 function to initialize the program.</p> <p>3 Q And your -- is it your position that</p> <p>4 calling a variety of programs to view different</p> <p>5 kinds of information was not novel; is that correct?</p> <p>6 MR. HEINTZ: Objection, form.</p> <p>7 A No, I -- the difference is in the user</p> <p>8 intervention, that the user is doing something</p> <p>9 actively to open each program. In our invention,</p> <p>10 this was done for him so that's why I think it's</p> <p>11 different.</p> <p>12 Q Let me step back.</p> <p>13 A Okay.</p> <p>14 Q Is it your opinion that there's nothing</p> <p>15 novel about opening a variety of programs to view</p> <p>16 different kinds of information?</p> <p>17 MR. HEINTZ: Objection, form. Objection,</p> <p>18 calls for a legal conclusion.</p> <p>19 A There was, at the time, nothing novel</p> <p>20 about a user opening various programs to view</p> <p>21 various information.</p> <p>22 Q So, then, is it your opinion that there's</p>
<p style="text-align: right;">Page 23</p> <p>1 the testimony. Objection, form.</p> <p>2 A It's -- you say calling.</p> <p>3 Q Yes.</p> <p>4 A I say the user had to open. So it's a</p> <p>5 user action. To me calling is something different.</p> <p>6 Q Let me -- how is calling different from</p> <p>7 open?</p> <p>8 A That it's a user action to open this</p> <p>9 program to view that and this program to view that.</p> <p>10 The main idea of our invention was that the SurfCast</p> <p>11 grid and tile would take care of that for you.</p> <p>12 Q So the -- are you saying the user cannot</p> <p>13 call a variety of programs; is that what you're</p> <p>14 saying?</p> <p>15 MR. HEINTZ: Objection, form.</p> <p>16 A I mean, I'm a programmer, so I know that</p> <p>17 opening a program means that you perform some user</p> <p>18 action that results in the calling of a certain</p> <p>19 function in a program.</p> <p>20 Q So you use open and calling at the same</p> <p>21 time. Do you mean that opening a program</p> <p>22 necessarily calls the program?</p>	<p style="text-align: right;">Page 25</p> <p>1 nothing novel about calling a variety of programs to</p> <p>2 view different kinds of information?</p> <p>3 MR. HEINTZ: Objection, form. Objection,</p> <p>4 calls for a legal conclusion.</p> <p>5 A I would say the same as before, that we</p> <p>6 thought that the invention we did was novel, that</p> <p>7 the SurfCast grid and tiles would take care of</p> <p>8 opening whichever system would be needed for</p> <p>9 displaying the information that the user wanted to</p> <p>10 see. That's why we did it.</p> <p>11 Q That was not my question. I wasn't asking</p> <p>12 about what SurfCast did. I was asking about your</p> <p>13 statement here in paragraph 8, and you testified</p> <p>14 that a user opening a variety of programs to view</p> <p>15 different kinds of information was not novel. And</p> <p>16 my question was whether there's anything novel about</p> <p>17 calling a variety of programs to view different</p> <p>18 kinds of information.</p> <p>19 MR. HEINTZ: Objection. Form.</p> <p>20 A I would agree to the extent that if the</p> <p>21 user did it by user interaction, then there was</p> <p>22 nothing novel, but we believed there was something</p>

7 (Pages 22 to 25)

<p style="text-align: right;">Page 26</p> <p>1 novel in the way that we did it.</p> <p>2 Q How is -- how is the way we did it?</p> <p>3 A Excuse me?</p> <p>4 MR. HEINTZ: Objection, form.</p> <p>5 Q Strike that.</p> <p>6 When you say "the way we did it," what do</p> <p>7 you mean by that?</p> <p>8 A The SurfCast grid and tile invention.</p> <p>9 Q Can you describe it in this context?</p> <p>10 MR. HEINTZ: Objection to form.</p> <p>11 A The vision we had at this time was that</p> <p>12 there would be a SurfCast grid and tile application</p> <p>13 that would display everything that you wanted to see</p> <p>14 on your screen at the same time. That was the basis</p> <p>15 for the idea. So different tile types would take</p> <p>16 care of displaying different information.</p> <p>17 Q So is it your opinion that calling a</p> <p>18 variety of programs to view different kinds of</p> <p>19 information was your invention -- strike that.</p> <p>20 Calling a variety of programs to view</p> <p>21 different kinds of information, was that SurfCast's</p> <p>22 invention?</p>	<p style="text-align: right;">Page 28</p> <p>1 A Yes.</p> <p>2 Q Why typically?</p> <p>3 MR. HEINTZ: Objection, form.</p> <p>4 Q Why did you use the word "typically" in</p> <p>5 this sentence?</p> <p>6 A In order to describe it, I would have to</p> <p>7 assume a typical use of applications on a computer</p> <p>8 screen.</p> <p>9 Q Was there any programs that did not</p> <p>10 require clicking on each window to view updated</p> <p>11 information from the information source?</p> <p>12 A This section is about -- is about how you</p> <p>13 use applications on a computer screen and if you</p> <p>14 wanted to interact with a program, for example, a</p> <p>15 web browser or a word processing program, you would</p> <p>16 have to make that program the foreground</p> <p>17 application, the one receiving the user interface</p> <p>18 actions.</p> <p>19 So if you were scrolling down a Word</p> <p>20 document and you wanted to see the next page or see</p> <p>21 another page of a web page that was in another</p> <p>22 application, then you would have to activate that</p>
<p style="text-align: right;">Page 27</p> <p>1 MR. HEINTZ: Objection. Mischaracterizes</p> <p>2 the testimony. Objection, form, and calls for a</p> <p>3 legal conclusion.</p> <p>4 A I'm sorry.</p> <p>5 MR. SUH: Can you repeat the question.</p> <p>6 (Record read.)</p> <p>7 MR. HEINTZ: Same objections.</p> <p>8 A That was not SurfCast's invention. It was</p> <p>9 more than that.</p> <p>10 Q So was that known in 1999? Was that</p> <p>11 feature known, calling a variety of programs to view</p> <p>12 different kinds of information, was that feature</p> <p>13 known at the time, which is 1999?</p> <p>14 MR. HEINTZ: Objection, form.</p> <p>15 A The feature was -- the feature was known,</p> <p>16 that you could write a program that could call</p> <p>17 functions, call other programs. So this feature was</p> <p>18 known. The SurfCast invention is something else.</p> <p>19 Q On page 4, paragraph 11, you say, "At the</p> <p>20 time the user typically had to click on each window</p> <p>21 to view updated information from the information</p> <p>22 source." Correct?</p>	<p style="text-align: right;">Page 29</p> <p>1 application to bring it to the foreground.</p> <p>2 This -- this section is about describing</p> <p>3 how SurfCast was different, that we would display</p> <p>4 any data that the user wanted to see on the screen</p> <p>5 simultaneously.</p> <p>6 Q Now, I'll get to that. But my question</p> <p>7 was, at the time you say the user typically had to</p> <p>8 click on each window --</p> <p>9 A Yes.</p> <p>10 Q -- to view updated information from the</p> <p>11 information source.</p> <p>12 And my question is, why do you use the</p> <p>13 word "typically"? Does that mean there were certain</p> <p>14 other programs that did not require this?</p> <p>15 A There were certainly applications that</p> <p>16 would -- that would display -- display -- display</p> <p>17 updated information without the user interacting.</p> <p>18 That depended on the application. For example, I</p> <p>19 told you I was in the stockbroking industry. And</p> <p>20 the updating of a stock price on the screen did not</p> <p>21 require user intervention. It was something that</p> <p>22 was triggered by outside events.</p>

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 Q What kind of outside events?</p> <p>2 A Whatever -- whatever was happening at the</p> <p>3 stock exchange providing the information.</p> <p>4 Q Any other examples you can think of?</p> <p>5 MR. HEINTZ: Objection to form.</p> <p>6 Q Are there any other samples that did not</p> <p>7 require clicking on each window to view updated</p> <p>8 information from the information source?</p> <p>9 A I can think one up right now, but -- do</p> <p>10 you want me to do that?</p> <p>11 Q Sure.</p> <p>12 A For example, I worked also in -- with</p> <p>13 television technology in my own company, and one was</p> <p>14 -- one application was teletex pages. These would</p> <p>15 update without user intervention depending on the</p> <p>16 broadcaster's priority and transmission. So if you</p> <p>17 were viewing a sports result, the page would</p> <p>18 automatically scroll to the next page whenever the</p> <p>19 broadcaster transmitted this next page. That would</p> <p>20 be an example of that.</p> <p>21 Q Thank you.</p> <p>22 Then you say in paragraph 11, the next</p>	<p style="text-align: right;">Page 32</p> <p>1 A We certainly had stock exchange</p> <p>2 information systems that would update on the</p> <p>3 screen -- the screen without the user having to do</p> <p>4 anything.</p> <p>5 Q So how is our new user interface novel to</p> <p>6 the extent that it would be updated without the user</p> <p>7 having to intervene?</p> <p>8 MR. HEINTZ: Objection, form. Calls for a</p> <p>9 legal conclusion.</p> <p>10 A The title of the SurfCast invention</p> <p>11 includes the word display, simultaneous display of</p> <p>12 multiple data streams, and the invention was about</p> <p>13 managing and controlling the display of information</p> <p>14 from multiple data streams and presenting this to</p> <p>15 the user. So that's why it was different, that it</p> <p>16 was -- it was able to manage and code these</p> <p>17 different data streams from different sources at the</p> <p>18 same time without the user having to intervene.</p> <p>19 Q So just to understand, I don't see what</p> <p>20 you just said in this statement where it says "but</p> <p>21 each new mosaic or mini screen on our new interface</p> <p>22 would be updated without the user having to</p>
<p style="text-align: right;">Page 31</p> <p>1 sentence, you say, "But each mosaic or mini screen</p> <p>2 on our new user interface would be updated without</p> <p>3 the user having to intervene," correct?</p> <p>4 A Yes.</p> <p>5 Q What do you mean by "intervene"?</p> <p>6 A The whole idea of the SurfCast grid and</p> <p>7 tile was that -- that the tiles would provide</p> <p>8 information that would update according to a</p> <p>9 configuration so the user could sit back and just</p> <p>10 watch his screen, and his tiles would update</p> <p>11 according to the configuration. The tiles would</p> <p>12 present information from various information</p> <p>13 sources, so you wouldn't have to click on the stock</p> <p>14 price for it to update. That would be triggered</p> <p>15 either by a time interval or an outside event.</p> <p>16 Q When you say "outside event," are you</p> <p>17 talking about what you just referred to in your</p> <p>18 previous example of what existed at the time when</p> <p>19 the user did not have to click on each window to</p> <p>20 view updated information?</p> <p>21 A Yes.</p> <p>22 MR. HEINTZ: Objection, form.</p>	<p style="text-align: right;">Page 33</p> <p>1 intervene."</p> <p>2 So the feature of being updated without</p> <p>3 the user having to intervene was not novel; is that</p> <p>4 correct?</p> <p>5 MR. HEINTZ: Objection, form. Objection,</p> <p>6 mischaracterizes the testimony.</p> <p>7 A If you read the sentence that's in the</p> <p>8 same paragraph, that the user could see</p> <p>9 simultaneously in one screen updated information</p> <p>10 from all the information sources that he wanted.</p> <p>11 Q Yes, but --</p> <p>12 A That's the novel part.</p> <p>13 Q So this is the novel part, and the part</p> <p>14 where the user interface is updated without the user</p> <p>15 having to intervene, that -- there's nothing novel</p> <p>16 about that; is that correct?</p> <p>17 MR. HEINTZ: Objection, form. Objection,</p> <p>18 mischaracterizes the testimony.</p> <p>19 A If you take that feature out of the</p> <p>20 context, I agree that updating information on a</p> <p>21 computer screen without the user having to intervene</p> <p>22 in itself is not novel. Our invention was about</p>

9 (Pages 30 to 33)

<p style="text-align: right;">Page 34</p> <p>1 simultaneous display of multiple data streams which 2 we believe to be novel.</p> <p>3 Q Here when you say "Our new user interface 4 would be updated without the user having to 5 intervene," so you mean that your user -- new user 6 interface would be updated without the user making 7 any selection of the tiles; is that correct?</p> <p>8 A The user would have to configure his tiles 9 and set up his grids with various tiles. And then 10 the next time he would open his SurfCast grid and 11 tiles system, they would be like he left them the 12 last time. So it -- it was set up previously the 13 way the user wanted to see his information, the 14 arrangement of the tiles and the configuration of 15 the tiles.</p> <p>16 Q I'm trying to understand what you mean 17 when you say "Our new user interface would be 18 updated without the user having to intervene." 19 Would you agree that your new user interface would 20 be updated without the user making any kind of 21 selection within the tiles?</p> <p>22 MR. HEINTZ: Objection, foundation.</p>	<p style="text-align: right;">Page 36</p> <p>1 the user interface, does that qualify as 2 intervening?</p> <p>3 A Yes.</p> <p>4 Q If the user double clicks an element of a 5 user interface, does that qualify as intervening?</p> <p>6 A Yes. 7 (Exhibit 2023 was previously marked 8 and referred to.)</p> <p>9 Q For the record, I'm handing you Exhibit 10 2023. Do you recognize this document?</p> <p>11 A Yes.</p> <p>12 Q What is this?</p> <p>13 A I recognize the handwriting, and I believe 14 this to be one of Ovid Santoro's notebooks.</p> <p>15 Q If you could turn to page 20, there's a 16 statement saying, "Tiles are like bookmarks except 17 they are a live link with the website."</p> <p>18 Do you see that?</p> <p>19 A I see that.</p> <p>20 Q Do you agree with this statement?</p> <p>21 A To a certain extent. I would have to go 22 back and tell you that Ovid Santoro is -- was at the</p>
<p style="text-align: right;">Page 35</p> <p>1 Objection, form.</p> <p>2 A Apart from the previous configuration and 3 setup, he would -- he would get updated information 4 without intervening.</p> <p>5 Q Without any selection?</p> <p>6 MR. HEINTZ: Objection, foundation. 7 Objection, form.</p> <p>8 Q Without any selection, would your new user 9 interface be updated even without any selection of 10 the tiles?</p> <p>11 A Yes.</p> <p>12 Q If the user puts a mouse over the tile --</p> <p>13 A Yes.</p> <p>14 Q -- does that qualify as intervening?</p> <p>15 MR. HEINTZ: Objection, form. Objection, 16 foundation.</p> <p>17 A There are -- yes, it qualifies as 18 intervention.</p> <p>19 Q If the user left clicks an element of the 20 user interface, does that qualify as intervening?</p> <p>21 A Yes.</p> <p>22 Q If the user right clicks the element of</p>	<p style="text-align: right;">Page 37</p> <p>1 time not a programmer or a technologist. He was a 2 man with ideas and a background in banking, among 3 many other things, and I was a programmer at the 4 time, so these -- these notes would be normally 5 taken by Ovid after our sessions and would be his 6 interpretation of the things that we talked about. 7 Sometimes he would share these with me and I would 8 comment on them and sometimes he would not share 9 them. So I believe this to be Ovid's version of 10 what we talked about at the time.</p> <p>11 Q As you read it now, are you saying that 12 what's written here, at least this statement, is not 13 accurate?</p> <p>14 A I would say tiles are a lot more than 15 that.</p> <p>16 Q But do you agree that tiles are a live 17 link with a website?</p> <p>18 A Well, there's one tile type that is a 19 browser tile type which can be configured to do what 20 it says here.</p> <p>21 Q So you do agree with this statement; is 22 that correct?</p>

10 (Pages 34 to 37)

<p style="text-align: right;">Page 38</p> <p>1 MR. HEINTZ: Objection, mischaracterizes</p> <p>2 testimony.</p> <p>3 A I disagree with this as a description of</p> <p>4 what tiles are, but this is a description of what</p> <p>5 one type of tile could be like.</p> <p>6 Q So to rephrase that, just so that I</p> <p>7 understand, are you saying tiles can be a live link</p> <p>8 with a website?</p> <p>9 A Yes, they can be, yes.</p> <p>10 Q If you can turn to page 7. It says, "So,</p> <p>11 every frame/second a new tile/channel updates."</p> <p>12 Do you see that?</p> <p>13 A I see that.</p> <p>14 Q Do you know what this means?</p> <p>15 A I don't know Mr. Santoro's meaning of it,</p> <p>16 but I can tell you what I think it is.</p> <p>17 Q Please.</p> <p>18 A Okay. In these discussions at this time,</p> <p>19 I would tell Mr. Santoro and whoever participated in</p> <p>20 the discussions about different technology areas,</p> <p>21 mostly the ones that I knew about and had worked</p> <p>22 with before this. And I had worked quite a lot with</p>	<p style="text-align: right;">Page 40</p> <p>1 method such as outside events.</p> <p>2 The round robin idea was something that</p> <p>3 came from an analogy that we used like a slide</p> <p>4 projector carousel. It displays the slides in a</p> <p>5 round robin fashion. And this was used as -- as a</p> <p>6 way to understand tile updating, but it was</p> <p>7 certainly not meant as a way to describe the tile</p> <p>8 refresh system that we envisioned or that I</p> <p>9 envisioned.</p> <p>10 Q But if you only focus on the sentence "So</p> <p>11 every frame/second a new tile/channel updates,"</p> <p>12 This is talking about the round robin fashion; is</p> <p>13 that correct?</p> <p>14 A It looks like it, yes. I believe this</p> <p>15 context was if you had a television tuner in a PC --</p> <p>16 at the time the tuners were able to be tuned to one</p> <p>17 single station at the time. We were using analog</p> <p>18 television signals at the time.</p> <p>19 So if you wanted, for example, eight tiles</p> <p>20 on your screen to display television channels, the</p> <p>21 tuner would have to tune to each station, grab a</p> <p>22 frame, tune to the next station, grab a frame. That</p>
<p style="text-align: right;">Page 39</p> <p>1 television technology and with teletex technology,</p> <p>2 which the television has frames per second</p> <p>3 properties and teletex has update technologies. I</p> <p>4 believe that Ovid would use some of these technical</p> <p>5 expressions as a way to explain to himself what this</p> <p>6 tile refresh system was about. So he would catch on</p> <p>7 to a way of formulating it, perhaps taking from</p> <p>8 different technology areas. And this is an example</p> <p>9 of that. I can see some of these -- some of these</p> <p>10 words stem from -- from television technology or</p> <p>11 teletex technology.</p> <p>12 Q So does this mean that the tiles would</p> <p>13 update -- new tiles would update every second, for</p> <p>14 example, in a round robin fashion?</p> <p>15 A The way that we talked about tile refresh</p> <p>16 was that it was configurable individual for each</p> <p>17 tile. So each individual tile could have its own</p> <p>18 refresh settings. For some application areas or</p> <p>19 some tile types, it would make sense to have</p> <p>20 frequent updates either triggered by a time</p> <p>21 interval, like is mentioned here, five, ten or 15</p> <p>22 seconds, or the update could be triggered by another</p>	<p style="text-align: right;">Page 41</p> <p>1 would be, in effect, a round robin fashion.</p> <p>2 So for the television channel tile, this</p> <p>3 could very well describe how it could update unless</p> <p>4 you had individual priority settings for the update,</p> <p>5 such as more frequent update of one channel than the</p> <p>6 other channel. But this -- this could very well</p> <p>7 describe one way of updating tiles.</p> <p>8 (Exhibit 2025 previously marked and</p> <p>9 referred to.)</p> <p>10 Q I'm going to hand you Exhibit 2025. Do</p> <p>11 you recognize this document?</p> <p>12 A No.</p> <p>13 Q What is it?</p> <p>14 A It's an e-mail trail between Mr. Santoro</p> <p>15 and myself.</p> <p>16 Q If you look on page 2 of Exhibit 2025,</p> <p>17 Mr. Santoro writes an e-mail to you with a subject</p> <p>18 line "Web EPG" and says "I have an idea."</p> <p>19 Do you see that?</p> <p>20 A Yes, I see that.</p> <p>21 Q What does this mean?</p> <p>22 Let me clarify. What does web EPG mean?</p>

11 (Pages 38 to 41)

Page 42	Page 44
<p>1 A Again, the EPG was a concept from the 2 television area. It was an abbreviation for 3 electronic program guide, which is what we today 4 think of as a TV guide, what's on on what channel. 5 I believe at this time that Ovid's initial idea 6 would be an electronic program guide for websites. 7 So he would take a technology from the television 8 area and at least envision it being used in a web 9 browser area, website area.</p> <p>10 Q Your response to Mr. Santoro's e-mail was 11 R-U-Z-Y-R-I-O-S.</p> <p>12 A Yes.</p> <p>13 Q What does this mean?</p> <p>14 A It means are you serious. And it's -- 15 it's actually about how Mr. Santoro and I 16 communicated at the time. We would throw crazy 17 ideas at each other. And I just needed to check 18 with him if he really meant this as a seed of a new 19 idea. 20 (Exhibit 2036 was previously marked 21 and referred to.)</p> <p>22 Q I'm going to hand you Exhibit 2036.</p>	<p>1 A I believe so. 2 (Exhibit 2048 was previously marked 3 and referred to.)</p> <p>4 Q I'm going to hand you Exhibit 2048. Do 5 you recognize this document?</p> <p>6 A Yes, I do.</p> <p>7 Q What is it?</p> <p>8 A It is a document that I submitted to the 9 patent attorney.</p> <p>10 Q Are you there? Are you done answering?</p> <p>11 A Yes.</p> <p>12 Q I would like to go through the example in 13 this box on page 1.</p> <p>14 A Yes.</p> <p>15 Q Starting with html. What does that mean?</p> <p>16 A Html is a language for defining websites. 17 It's called -- I think the abbreviation is hypertext 18 markup language.</p> <p>19 Q So this is an html language; is that 20 correct?</p> <p>21 A In the document I mention in the first 22 paragraph that I called this pseudocode, which is</p>
Page 43	Page 45
<p>1 This is an e-mail marked SC 000101621020 2 in the bottom, which is from the Maine litigation. 3 Do you recognize this document?</p> <p>4 A Yes, I do.</p> <p>5 Q In preparing for your deposition today, 6 did you read your prior deposition transcript?</p> <p>7 A Yes, I did.</p> <p>8 Q Do you recall testifying about this e-mail 9 in your prior deposition?</p> <p>10 A I believe so, yes.</p> <p>11 Q Do you recall testifying in that prior 12 deposition that this e-mail does not say anything 13 about assigning a refresh rate to a tile?</p> <p>14 A Let me just browse through it. 15 I can't find the word refresh rate or 16 assigning refresh rate to a tile, but I can 17 certainly find descriptions of tiles being live or 18 play, which to me is the same thing as refreshing.</p> <p>19 Q But that was not my question. My question 20 was, do you recall testifying in that prior 21 deposition that this e-mail does not say anything 22 about assigning a refresh tile -- a rate to a tile?</p>	<p>1 largely similar to html. So in order to tune in the 2 reader to my way of thinking, I'm using an html-like 3 structure.</p> <p>4 Q So when you say pseudocode, what features 5 were not similar to html?</p> <p>6 A There were -- some of the keywords in the 7 tile definition that starts with TD and ends with 8 slash TD would be something that I thought of and 9 not something that's normal in a table cell 10 definition.</p> <p>11 Q So TD is not a standard html command; is 12 that correct?</p> <p>13 A TD is a table cell definition and is a 14 normal way of marking content as something that is 15 in a table cell. I would use it in this context as 16 a tile definition and inside those two tags, TD and 17 slash TD, would be the markup defining each tile.</p> <p>18 Q Other than TD, are there other commands 19 that are not standard in html?</p> <p>20 A For example, my use of the keyword 21 "source," my use of the keyword "refresh."</p> <p>22 Q Is that it?</p>

12 (Pages 42 to 45)

<p style="text-align: right;">Page 46</p> <p>1 A The way I use the onmouseover and</p> <p>2 onmouseout is not the -- the syntax is not correct</p> <p>3 according to html so it's part of my pseudocode,</p> <p>4 just meant for displaying or showing how I thought</p> <p>5 this could be defined in a --</p> <p>6 Q So what was the definition you were</p> <p>7 thinking --</p> <p>8 MR. HEINTZ: I'm sorry, please let the</p> <p>9 witness answer his question.</p> <p>10 MR. SUH: Sorry.</p> <p>11 A -- in a language context.</p> <p>12 Q Are you done?</p> <p>13 A Yes.</p> <p>14 Q So what did onmouseover mean?</p> <p>15 A This was an example of invoking certain</p> <p>16 functions of the tile by performing user actions.</p> <p>17 For example, hovering the mouse over the tile would</p> <p>18 trigger this action 1 with an argument, if one --</p> <p>19 argument 1, in this example. And when you then</p> <p>20 remove the mouse from the tile, the onmouseout would</p> <p>21 be called -- would be -- would trigger the function</p> <p>22 action 2 with another argument.</p>	<p style="text-align: right;">Page 48</p> <p>1 the city I live in. And the argument on the</p> <p>2 mouseover could be the precision of the mouse so</p> <p>3 that the action function that was called would know</p> <p>4 where I was placing the mouse specifically on the</p> <p>5 map in order to, for example, display information</p> <p>6 about the point on the map that I was hovering over.</p> <p>7 Q So argument 1 --</p> <p>8 A Would be the precision. Sorry.</p> <p>9 Q Would be in general -- just to go over</p> <p>10 this a lot faster, it would be, in general, a</p> <p>11 variable that goes into the function action 1; is</p> <p>12 that correct?</p> <p>13 A Yes.</p> <p>14 Q You also mentioned refresh; can you</p> <p>15 describe that, please?</p> <p>16 A Yes, I've given an example of a refresh</p> <p>17 definition that one way of defining refresh rates</p> <p>18 was time-based, that these refreshes would occur</p> <p>19 after a certain time period had elapsed. In this</p> <p>20 example, refresh timeout 200 would mean it was a</p> <p>21 time-based refresh and it would occur after 200 time</p> <p>22 units had elapsed.</p>
<p style="text-align: right;">Page 47</p> <p>1 Q Can you give me an example of action 1 and</p> <p>2 action 2?</p> <p>3 A Yes, I can give you one example. If, say,</p> <p>4 I had a stock price tile with the price of, let's</p> <p>5 say, the Microsoft stock was displayed as a number,</p> <p>6 as a decimal number, I would -- like 27.35. But if</p> <p>7 I then hovered the mouse over the tile, the tile</p> <p>8 could, on that action, display further key figures</p> <p>9 derived from the stock price, for example, the price</p> <p>10 earnings ratio or the percentage gain or loss within</p> <p>11 the day. So the level of detail would be influenced</p> <p>12 by my user intervention.</p> <p>13 Q Action 1 is a function name for displaying</p> <p>14 other keys or what you just described?</p> <p>15 A It's just -- yes, it means that the user</p> <p>16 -- user intervention to move the mouse over could</p> <p>17 trigger a function in this system that could do</p> <p>18 something.</p> <p>19 Q And what is -- can you give me an example</p> <p>20 of argument 1, ARG 1?</p> <p>21 A The example would be that the tile was,</p> <p>22 for example, a map, map tile type that would show</p>	<p style="text-align: right;">Page 49</p> <p>1 Q Are the units milliseconds or seconds?</p> <p>2 A They are not defined at this time.</p> <p>3 Q But can be milliseconds?</p> <p>4 A They could be milliseconds or seconds or</p> <p>5 tens of seconds.</p> <p>6 Q So just to go through all of these three</p> <p>7 faster, would you agree that any time you had</p> <p>8 refresh or timeout and the number following the</p> <p>9 timeout in parenthesis is the refresher; is that</p> <p>10 correct?</p> <p>11 A That's one way of describing it, yes. I</p> <p>12 had -- as we talked about earlier, I had several</p> <p>13 other refresh definition styles in my mind at the</p> <p>14 time, outside events, derived events or even to</p> <p>15 update based on something completely different.</p> <p>16 Q Are those -- are those other embodiments</p> <p>17 in this example?</p> <p>18 MR. HEINTZ: Objection, form.</p> <p>19 A In this particular code we're looking at</p> <p>20 right now?</p> <p>21 Q Yes.</p> <p>22 A They're only timeout. Those are specific</p>

13 (Pages 46 to 49)

<p style="text-align: right;">Page 50</p> <p>1 timeout definition. It's in the third tile</p> <p>2 definition where it has timeout zero. That's an</p> <p>3 example of a tile type displaying some information</p> <p>4 that doesn't require refreshing after a specific</p> <p>5 time has elapsed. In this case, at least the text</p> <p>6 here indicates that it's a local document, and local</p> <p>7 documents have a tendency not to update unless the</p> <p>8 user does something.</p> <p>9 Q So if I understand correctly, when you say</p> <p>10 refresh equals timeout (zero), it's a refresh rate</p> <p>11 of zero; is that correct?</p> <p>12 A Yes.</p> <p>13 Q Can we go up to HREF equals --</p> <p>14 A Yes.</p> <p>15 Q --</p> <p>16 http://www.somewhere.com/sometarget.html?</p> <p>17 A Yes.</p> <p>18 Q What does this mean?</p> <p>19 A The HREF keyword is, again, taken from</p> <p>20 html inspiration. Along with the anchor definition,</p> <p>21 the A just before it, is a way of describing what</p> <p>22 happens if this tile is triggered to launch. And</p>	<p style="text-align: right;">Page 52</p> <p>1 A I do agree that the HREF tag exists in the</p> <p>2 html specification. But, again, I would like you to</p> <p>3 note that this is pseudocode and not necessarily</p> <p>4 html. I'm just using an html-like structure.</p> <p>5 Q Is there anything in this example,</p> <p>6 pseudocode, suggesting that the link will not appear</p> <p>7 in the tile?</p> <p>8 A Well, there is -- if we want to be</p> <p>9 inspired by html, there's something missing here in</p> <p>10 order to display the link, and that is the rest of</p> <p>11 the anchor tag that's not even included here. But</p> <p>12 the way that -- which I also explained to the</p> <p>13 recipient of this document, that the HREF is not</p> <p>14 meant as a visible link to click but, rather, as a</p> <p>15 launch address once the tile is double-clicked to</p> <p>16 launch if double-click was the launch action.</p> <p>17 Q Are you referring to the bottom of page 1</p> <p>18 where it says "The HREF keyword decides what happens</p> <p>19 if the user actually selects the tile"?</p> <p>20 A Yes, that's one way of describing that.</p> <p>21 Q So what does this mean?</p> <p>22 MR. HEINTZ: Objection, form.</p>
<p style="text-align: right;">Page 51</p> <p>1 then whichever -- whichever application is</p> <p>2 responsible for displaying html documents will</p> <p>3 launch as an application and display what data comes</p> <p>4 from this URL. This form is somewhat similar to a</p> <p>5 URL.</p> <p>6 Q Isn't the HREF followed by that command,</p> <p>7 isn't that command used to create hyperlinks in</p> <p>8 html?</p> <p>9 A Yes, it is.</p> <p>10 Q If I understand correctly, with a link</p> <p>11 "http://www.somewhere.com/sometarget.html," would</p> <p>12 this link appear in the tile?</p> <p>13 A Not necessarily. It's a way of describing</p> <p>14 that the tile, I call it the tile target, so when a</p> <p>15 tile is, for example, double-clicked, if that is</p> <p>16 what is required to launch this tile, then you would</p> <p>17 be taken to this URL using whichever application</p> <p>18 your system was configured to use for displaying</p> <p>19 html documents. In this instance it would launch a</p> <p>20 browser.</p> <p>21 Q Do you agree that the HREF command here is</p> <p>22 a standard html command?</p>	<p style="text-align: right;">Page 53</p> <p>1 A This means that if the tile is launched,</p> <p>2 that means the user has done to the tile what is</p> <p>3 needed to launch it, then this HREF is what will be</p> <p>4 launched. It's a URL and, in this case, an html</p> <p>5 document, so the resulting -- the resulting -- the</p> <p>6 result of the operation would be that a browser</p> <p>7 would appear on the screen with this particular URL</p> <p>8 document in it.</p> <p>9 Q So if I understand correctly, if the user</p> <p>10 selects the tile, the URL next to this HREF command</p> <p>11 will launch; is that correct?</p> <p>12 A Yes, if the tile is made to launch by user</p> <p>13 intervention. Launching could be done by double</p> <p>14 clicking. That means if I double click the tile, a</p> <p>15 browser would appear with whatever the content of</p> <p>16 somewhere.com/sometarget displayed in it.</p> <p>17 Q In this example, can you show me where --</p> <p>18 how -- where it describes how the user can actually</p> <p>19 select the tile?</p> <p>20 MR. HEINTZ: Objection, form.</p> <p>21 A The way that I describe this was that the</p> <p>22 content -- if you look at the source keyword, the</p>

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 source keyword points to a tile description file, 2 and this is called 3 surfcast.com/tilelibrary/tile2.til. This is a file 4 that describes what the tile can do and how it does 5 it. So if I can get you to turn the page and see 6 the next boxed content --</p> <p>7 Q Page 2?</p> <p>8 A Yes, on page 2, here is a definition -- or 9 is a more elaborate definition of a tile. And this 10 could be in this tile definition file or it could be 11 in the -- what we looked at before was actually the 12 grid definition file. Here you see more keywords 13 such as clickmap, toolbar and alarm that would 14 further specify the properties, features and 15 functions of a tile. And especially the clickmap 16 has, in this example, three different areas where 17 you can click and resulting in three different 18 functions of the system to be called. And this 19 means depending on where you click on the tile, 20 certain actions would take place. So that's why 21 I -- just before when we talk about selecting and 22 launching a tile, it's actually definable what --</p>	<p style="text-align: right;">Page 56</p> <p>1 THE VIDEOGRAPHER: This concludes disc 2 number 1 of the video deposition of Klaus Lagermann. 3 The time is 10:13:31 a.m. We are now off the 4 record. 5 (A brief recess was taken.) 6 THE VIDEOGRAPHER: This begins disc number 7 2 of the video deposition of Klaus Lagermann. The 8 time is 10:29:57 a.m. We are now on the record. 9 BY MR. SUH: 10 Q Mr. Lagermann, we left off in the middle 11 of Exhibit 2048. So just to recap, page 1 is an 12 example of the grid you mentioned, grid of tiles, 13 with three tiles. An example -- the second example 14 on page 2 is an example of a single tile. 15 A Yes. 16 Q And we were talking about this clickmap. 17 A Yes. 18 Q And I see three click functions, 19 clickfunction1, clickfunction2, clickfunction3. 20 Is it fair to characterize these as 21 different functions for different click areas? 22 A Yes.</p>
<p style="text-align: right;">Page 55</p> <p>1 what the user action of clicking on a tile would do. 2 It could be clicking in the top of the tile did 3 something, but clicking in the bottom of the tile 4 would do something different. One thing could be 5 launching it to an external application or another 6 thing could be invoking a configuration setting or 7 something like that. So that's why it's complicated 8 to talk about because it's configurable. 9 Q Are you finished? 10 A Yes. 11 Q So you mention, page 2, clickmap. I see a 12 lot of numbers. First I see -- the first line 13 starts with number 0, 0,50 and 50, and you mention 14 three different areas. Is this one of the three 15 different areas that you mention? 16 A This is -- it's my attempt at defining 17 pixel area in the tile that is clickable. So the 18 0, 0,50,50 would be X,Y of the top left corner and 19 X,Y on the bottom left corner of a rectangle on the 20 screen that is clickable, invoking clickfunction1 21 with clickargument1. 22 MR. SUH: We can take a break.</p>	<p style="text-align: right;">Page 57</p> <p>1 Q And next to that I see three click 2 arguments, clickargument1, clickargument2, 3 clickargument3. Are these variables that control 4 the individual click functions? 5 A Yes, it could be an argument passed to the 6 function from the user interface, for example, exact 7 pixel coordinates of where the user clicked. 8 Q And in this example I see three click 9 functions with three click arguments for different 10 -- three different click areas. 11 A Yes. 12 Q And do you agree that users can select a 13 tile by selecting certain areas within the tile? 14 MR. HEINTZ: Objection, form. 15 A The way this was -- this was made to 16 demonstrate that there could be different functions 17 invoked by -- by selecting the tile in different 18 locations on the tile, but all three of these would 19 mean the tile was selected. 20 Q And when you select these certain areas, 21 these certain areas need not be the entire tile; is 22 that correct?</p>

15 (Pages 54 to 57)

<p style="text-align: right;">Page 58</p> <p>1 A That would be --</p> <p>2 MR. HEINTZ: Objection, form.</p> <p>3 A That would be -- there would be specific</p> <p>4 functions called. If you clicked in these defined</p> <p>5 areas and if you clicked outside of these areas, the</p> <p>6 default behavior for this tile type would take</p> <p>7 action.</p> <p>8 Q Is it your opinion that clicking on an</p> <p>9 area within a tile, certain areas, is indeed</p> <p>10 selecting a tile itself?</p> <p>11 MR. HEINTZ: Objection, form.</p> <p>12 A I believe that clicking inside the tile</p> <p>13 area no matter where you click is selecting the</p> <p>14 tile.</p> <p>15 Q And it is your opinion that clicking on a</p> <p>16 portion of tile can be selecting the tile itself.</p> <p>17 A Yes.</p> <p>18 Q Can we go back to the first page. I think</p> <p>19 we left off at the HREF command.</p> <p>20 A Yes.</p> <p>21 Q I think you testified that examples of how</p> <p>22 users actually select a tile is shown in page 2,</p>	<p style="text-align: right;">Page 60</p> <p>1 Q Can you point me to that?</p> <p>2 A It's something that's missing. In order</p> <p>3 for the link to appear in the tile, there would need</p> <p>4 to be a further specification of what the link would</p> <p>5 look like, and it's not present in this example.</p> <p>6 Q Can you give me an example of what needs</p> <p>7 to be there in order for a link to appear?</p> <p>8 A If we, again, using the html analogy, why</p> <p>9 this is not html but html-like pseudocode, then the</p> <p>10 normal way of displaying a link is to, inside the</p> <p>11 anchor tag, the one that begins with the capital A,</p> <p>12 to have the representation of the link defined</p> <p>13 before the closure of the anchor tag. There's no</p> <p>14 representation of the link defined here. In fact,</p> <p>15 this is slightly incomplete as we are missing a</p> <p>16 closing tag.</p> <p>17 But my use of the HREF is -- also is noted</p> <p>18 below, that this is what will happen if the user</p> <p>19 selects the tile, and by selecting the tile I mean</p> <p>20 the default behavior of selecting a tile, which</p> <p>21 means launching the tile or, in fact, launching the</p> <p>22 tile HREF.</p>
<p style="text-align: right;">Page 59</p> <p>1 clickmap.</p> <p>2 A That is one example.</p> <p>3 MR. HEINTZ: Objection, form.</p> <p>4 Q Can you give me another example?</p> <p>5 A If no clickmap is defined, then the</p> <p>6 default behavior of the specific tile type would</p> <p>7 kick in on the user clicking on the tile and, as</p> <p>8 such, selecting it.</p> <p>9 Q Can the user select the tile by selecting</p> <p>10 the link?</p> <p>11 MR. HEINTZ: Objection, form. Objection,</p> <p>12 mischaracterizes the testimony. Objection,</p> <p>13 foundation.</p> <p>14 A I'm not sure what you mean by link.</p> <p>15 Q Let's go to lines -- the ninth line in</p> <p>16 this first box where it says "HREF equals" and</p> <p>17 there's a URL.</p> <p>18 A Yes.</p> <p>19 Q Is there anything in this example</p> <p>20 indicating that this link will not appear in the</p> <p>21 tile?</p> <p>22 A Yes.</p>	<p style="text-align: right;">Page 61</p> <p>1 (Exhibit 2012 was previously marked</p> <p>2 and referred to.)</p> <p>3 Q I'm handing you Exhibit number 2012.</p> <p>4 Do you recognize this document?</p> <p>5 A Yes, I do.</p> <p>6 Q You agree that this exhibit does not</p> <p>7 mention patent anywhere in the document, correct?</p> <p>8 A It does not seem to mention the patent.</p> <p>9 Q If we can go back to Exhibit 2006 on page</p> <p>10 9, paragraph 24.</p> <p>11 A I have 24 on page -- page 9. Sorry.</p> <p>12 Q Yes, page 9 of the document, page 10 of</p> <p>13 the --</p> <p>14 A I got it.</p> <p>15 Q You cite Exhibit 2012 to support your</p> <p>16 statement "I exchanged e-mails with my coinventor</p> <p>17 Ovid Santoro regarding obtaining a patent on a tile</p> <p>18 user interface invention."</p> <p>19 Correct?</p> <p>20 A I see that.</p> <p>21 Q So was the conversation regarding</p> <p>22 obtaining a patent in what is now redacted in</p>

16 (Pages 58 to 61)

<p style="text-align: right;">Page 62</p> <p>1 Exhibit 2012?</p> <p>2 MR. HEINTZ: Objection. I'm sorry, can I</p> <p>3 have that sentence reread? May I have that question</p> <p>4 reread, please?</p> <p>5 (Record read.)</p> <p>6 BY MR. SUH:</p> <p>7 Q I think my question was, was the</p> <p>8 conversation regarding "obtaining a patent" in what</p> <p>9 is now redacted in Exhibit 2012?</p> <p>10 MR. HEINTZ: I'm going to caution the</p> <p>11 witness not to reveal any attorney-client</p> <p>12 communication in answering that question.</p> <p>13 I think the question is but does it call</p> <p>14 for anything but just cautioning you not to reveal</p> <p>15 anything about the content of the communication, if</p> <p>16 you can answer that question.</p> <p>17 A The way I see this e-mail is that</p> <p>18 Mr. Santoro is writing to me while he is also in</p> <p>19 conversation Andrew Gray. So the message to me is</p> <p>20 he's -- he's asking me what are they waiting for,</p> <p>21 please, please. And I explained to Ovid, to</p> <p>22 Mr. Santoro, sorry, what they are waiting for.</p>	<p style="text-align: right;">Page 64</p> <p>1 to Pennie & Edmonds would certainly be concerning</p> <p>2 the patent application.</p> <p>3 Q And for the record, you don't know what's</p> <p>4 in this redacted box, correct?</p> <p>5 A I got this e-mail back in '99 and it was</p> <p>6 not redacted at that time so I have seen it once,</p> <p>7 but right now sitting here I don't recall what's in</p> <p>8 there.</p> <p>9 (Exhibit 2018 previously marked</p> <p>10 and referred to.)</p> <p>11 Q I'm handing you Exhibit 2018. Do you</p> <p>12 recognize this document?</p> <p>13 A I recognize it.</p> <p>14 Q What is it?</p> <p>15 A It's an e-mail from me to Richard Bone at</p> <p>16 Pennie & Edmonds.</p> <p>17 Q Do you know what was redacted?</p> <p>18 A I vaguely recall that, since any</p> <p>19 communication with Richard would be about documents</p> <p>20 about the patent application, that Richard had asked</p> <p>21 me, as is shown further down, whether or not I</p> <p>22 received a fax from him.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q Did you review the unredacted version of</p> <p>2 Exhibit 2012 before preparing your declaration?</p> <p>3 A I did not. The thing I reacted to was the</p> <p>4 -- was the call from -- the message from Ovid</p> <p>5 Santoro, from Mr. Santoro, urging me to deliver</p> <p>6 something that was missing.</p> <p>7 Q So other than you mention -- mentioning</p> <p>8 Andrew Gray in the e-mail, there's no other basis</p> <p>9 for your conclusion that this exchange of e-mails</p> <p>10 between Mr. Santoro and you was regarding obtaining</p> <p>11 a patent; is that correct?</p> <p>12 MR. HEINTZ: Objection to form.</p> <p>13 A It is to me because the "they" that we're</p> <p>14 talking about, what are they waiting for and they --</p> <p>15 they are Pennie & Edmonds, our patent attorney and</p> <p>16 --</p> <p>17 Q Yes, other than that fact --</p> <p>18 MR. HEINTZ: I'm sorry, please let the</p> <p>19 witness finish his answer.</p> <p>20 A At the time, the only communication I</p> <p>21 would have with Pennie & Edmonds would be concerning</p> <p>22 the patent, so the fact that I was to send something</p>	<p style="text-align: right;">Page 65</p> <p>1 Q So in the redacted -- I'm sorry.</p> <p>2 A No, no, not in the redacted, but in his</p> <p>3 e-mail to me, the one I'm responding to by sending</p> <p>4 this e-mail back to him, he's asking me whether or</p> <p>5 not his fax was received at my end.</p> <p>6 Q And above that there is a box that was</p> <p>7 redacted.</p> <p>8 A Yes.</p> <p>9 Q Do you know what that is?</p> <p>10 A I believe -- I believe it would be an</p> <p>11 answer to his question, whether I received the fax</p> <p>12 or not.</p> <p>13 Q Do you know or do you just speculate --</p> <p>14 are you speculating?</p> <p>15 A From -- from -- I know I've seen this</p> <p>16 e-mail back then, in '99, so I don't know -- I don't</p> <p>17 recall the words or remember the words, but it would</p> <p>18 be --</p> <p>19 MR. HEINTZ: I'm going to -- sorry to</p> <p>20 interrupt you, sir. I'm going to instruct you to be</p> <p>21 cautious not to reveal any attorney-client</p> <p>22 privileged communications in answering Mr. Suh's</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 question.</p> <p>2 THE WITNESS: Okay.</p> <p>3 BY MR. SUH:</p> <p>4 Q So are you declining to answer based on</p> <p>5 your counsel's instructing you not to answer?</p> <p>6 MR. HEINTZ: You know, I -- just -- to</p> <p>7 clarify the record. I'm not instructing you not to</p> <p>8 answer. I'm just instructing you not to reveal any</p> <p>9 attorney-client communication -- any attorney-client</p> <p>10 privileged communications --</p> <p>11 THE WITNESS: Right.</p> <p>12 MR. HEINTZ: -- in your answer. If you</p> <p>13 can answer his question --</p> <p>14 THE WITNESS: Okay.</p> <p>15 MR. HEINTZ: -- without doing so you may</p> <p>16 answer.</p> <p>17 A I sincerely believe that the redacted</p> <p>18 portion is my answer to his question, whether I</p> <p>19 received his fax or not.</p> <p>20 Q But you don't know as a matter of fact</p> <p>21 whether that is or isn't redacted; is that correct?</p> <p>22 A Sitting here today, no, I don't know for a</p>	<p style="text-align: right;">Page 68</p> <p>1 the document.</p> <p>2 Q But you don't recall what you said in</p> <p>3 these redacted boxes; is that correct?</p> <p>4 A No, I don't recall.</p> <p>5 (Exhibit 2021 was previously marked</p> <p>6 and referred to.)</p> <p>7 Q I'm handing you Exhibit 2021. Do you</p> <p>8 recognize this document?</p> <p>9 A Yes.</p> <p>10 Q What is it?</p> <p>11 A This is a document concerning input for</p> <p>12 our -- for SurfCast's patent application sent from</p> <p>13 me to Mr. Richard Bone.</p> <p>14 Q Almost everything is redacted here. Do</p> <p>15 you know what's in these redacted boxes?</p> <p>16 MR. HEINTZ: Again, I'll instruct the</p> <p>17 witness that -- not to reveal any attorney-client</p> <p>18 privileged communications. To the extent you can</p> <p>19 answer Mr. Suh's question without doing so, you may</p> <p>20 answer the question.</p> <p>21 A From a vague memory and help by the first</p> <p>22 sentence in the document, I believe this to be notes</p>
<p style="text-align: right;">Page 67</p> <p>1 fact. I believe it to be so.</p> <p>2 Q Thank you.</p> <p>3 (Exhibit 2020 was previously marked</p> <p>4 and referred to.)</p> <p>5 Q I'm handing you Exhibit 2012 -- 2020. And</p> <p>6 do you recognize this document?</p> <p>7 A Yes.</p> <p>8 Q What is it?</p> <p>9 A It's an e-mail from me to Richard Bone in</p> <p>10 continuation of the e-mail we just talked about.</p> <p>11 Q Do you know what's in this redacted box?</p> <p>12 MR. HEINTZ: Again, I'll caution the</p> <p>13 witness not to reveal any attorney-client privileged</p> <p>14 communications in answering that question.</p> <p>15 If you can answer his question without</p> <p>16 revealing those communications, you may do so.</p> <p>17 A Yes, the same as with the previous</p> <p>18 exhibit, I don't -- do not sitting right here</p> <p>19 remember the words that were redacted, but I can see</p> <p>20 that I attached a document, so my sincere guess is</p> <p>21 that it's -- it's comments accompanying the attached</p> <p>22 document, so it would be a sentence about what's in</p>	<p style="text-align: right;">Page 69</p> <p>1 and comments for figures meant for inclusion in the</p> <p>2 patent application.</p> <p>3 Q Well, the first sentence, "Here are my</p> <p>4 notes and comments for the figures and</p> <p>5 specifications."</p> <p>6 Other than that, do you know what are --</p> <p>7 what are in these redacted boxes?</p> <p>8 MR. HEINTZ: Objection, form. Objection,</p> <p>9 same instruction about revealing -- not revealing</p> <p>10 any attorney-client communications that are</p> <p>11 privileged.</p> <p>12 A I would say that the way it's laid out on</p> <p>13 the pages indicate to me that these are figures --</p> <p>14 drawings or figures meant for inclusion in the</p> <p>15 patent application.</p> <p>16 Q Do you recall which figures and which</p> <p>17 portions of the specification were listed in these</p> <p>18 redacted boxes?</p> <p>19 A I don't recall at this time. I vaguely</p> <p>20 remember many figures and diagrams that are -- that</p> <p>21 was exchanged -- that was in the patent application,</p> <p>22 but I don't recall which ones was in this document.</p>

18 (Pages 66 to 69)

<p style="text-align: right;">Page 70</p> <p>1 Q Do you recall if there were any 2 attorney-client communications in these redacted 3 portions? 4 MR. HEINTZ: Objection, calls for a legal 5 conclusion. Objection, form. 6 A Well, this is a communication between the 7 attorney, and at that time, I was the client. 8 Q Are you done? 9 A So -- so this is attorney-client 10 communication. 11 Q Yes. My -- my question was, your counsel 12 instructed you -- instructed you to caution and not 13 disclose attorney-client communications, and did you 14 decline to answer anything that you remember based 15 on that objection? 16 A No, no. I really don't remember. 17 (Exhibit 2022 previously marked 18 and referred to.) 19 Q I'm handing you Exhibit 2022. Do you 20 recognize this document? 21 A I recognize it. 22 Q What is it?</p>	<p style="text-align: right;">Page 72</p> <p>1 MR. SUH: So I think this is all, but I 2 would like to check my notes to see if -- 3 MR. HEINTZ: Yes, why don't we go off 4 record and it will give you a chance to go back and 5 see and consider what I want to do on redirect. 6 MR. SUH: Thanks. 7 THE VIDEOGRAPHER: The time is 10:52:40 8 a.m. We are now off the record. 9 (A brief recess was taken.) 10 THE VIDEOGRAPHER: The time is 11:11:36 11 a.m. We are now on the record. 12 BY MR. SUH: 13 Q Mr. Lagermann, did you talk to your 14 counsel about the case during this break or the 15 previous break? 16 A No, I did not. 17 MR. SUH: I would like to pass the 18 witness. 19 EXAMINATION BY COUNSEL FOR PATENT OWNER 20 BY MR. HEINTZ: 21 Q Mr. Lagermann, I would like you to pick 22 up, again, Exhibit 2048.</p>
<p style="text-align: right;">Page 71</p> <p>1 A It's an e-mail from myself to Richard Bone 2 at Pennie & Edmonds. 3 Q Do you know what's in this redacted boxes? 4 MR. HEINTZ: Again, I'll caution the 5 witness not to reveal any privileged attorney-client 6 communications in responding to Mr. Suh's question. 7 If you can answer his question without doing so, you 8 may answer. 9 A Given the date of this e-mail and the 10 previous communication between myself and Mr. Bone, 11 I believe this to be comments -- further comments 12 about the document that I sent to him a few days 13 earlier. 14 Q Do you know what comments that was? 15 A Sitting here today, I don't know. I don't 16 remember what the comments were. 17 Q In your answer is there any 18 attorney-client communication that you are declining 19 to reveal based on your counsel's instruction to 20 caution not to disclose any attorney-client 21 communications? 22 A No. No, I simply don't remember.</p>	<p style="text-align: right;">Page 73</p> <p>1 Can you recall your earlier testimony 2 about that exhibit? 3 A Yes. 4 Q I'll direct your attention in particular 5 to page 1 of Exhibit 2048. And on page 1, I would 6 ask you to direct your attention in particular to 7 the first line, which I think you characterize as a 8 tile definition that begins "<TD><A 9 HREF=http://www.somewhere.com/sometarget.html." 10 Do you see that? 11 A I see that. 12 Q Can you explain again what that line 13 represents. 14 A Yes. 15 Q Please do. 16 A That line represents the default launch 17 target for this tile. 18 Q Okay. And I think Mr. Suh asked you 19 earlier whether the words -- sorry, whether the URL 20 would appear as a link in the tile, in other words, 21 whether the user would be able to see 22 www.somewhere.com/sometarget.html, those letters</p>

19 (Pages 70 to 73)

<p style="text-align: right;">Page 74</p> <p>1 would appear on the tile.</p> <p>2 A Objection, form.</p> <p>3 Q Let me rephrase it.</p> <p>4 Would the letters that make up the URL in</p> <p>5 that line appear in a tile to a user?</p> <p>6 MR. SUH: Same objection.</p> <p>7 A The URL would not appear in the tile.</p> <p>8 Q What would appear in the tile?</p> <p>9 A Whatever the tile was defined to display.</p> <p>10 Q Where would the definition of what the</p> <p>11 tile was defined to display appear?</p> <p>12 A That definition would be given in what is</p> <p>13 mentioned at the source keyword where the tile --</p> <p>14 the tile definition file, which is the file</p> <p>15 tile2.til. That file would define what is actually</p> <p>16 shown in the tile screen space.</p> <p>17 Q And when you say "shown in a tile screen</p> <p>18 space," is that what the user would see?</p> <p>19 MR. SUH: Objection to form.</p> <p>20 A That is what the user would see on his</p> <p>21 screen, yes.</p> <p>22 Q You said earlier that the</p>	<p style="text-align: right;">Page 76</p> <p>1 family website. So the launch target of a tile does</p> <p>2 not necessarily have to do with what is displayed in</p> <p>3 the tile. It can be defined as something else.</p> <p>4 Q So does that mean that -- scratch that.</p> <p>5 Let me rephrase that. Actually that's fine.</p> <p>6 I'm going to ask you to direct your</p> <p>7 attention to Exhibit 2023. That is in the notebook</p> <p>8 that you have in front of you somewhere.</p> <p>9 I'll ask you to turn to page 7 of Exhibit</p> <p>10 2023. Do you recall testifying about the contents</p> <p>11 of page 7 of Exhibit 2023?</p> <p>12 A Yes.</p> <p>13 Q Do you recall in one of your answers you</p> <p>14 referred to the 5/10/15 seconds on the third line of</p> <p>15 page 7 of Exhibit 2023?</p> <p>16 MR. SUH: Objection, beyond the scope.</p> <p>17 Move to strike.</p> <p>18 Q Do you recall that, sir?</p> <p>19 A Yes.</p> <p>20 Q What do -- what is the significance of the</p> <p>21 5/10/15 seconds --</p> <p>22 MR. SUH: Objection, form.</p>
<p style="text-align: right;">Page 75</p> <p>1 somewhere.com/sometarget.html would be what would</p> <p>2 happen when the tile was launched, I believe.</p> <p>3 A Yes.</p> <p>4 Q Did the behavior of the tile when launched</p> <p>5 depend on what was visible in the tile to the user?</p> <p>6 MR. SUH: Objection, form.</p> <p>7 Q Sorry, as defined in the tile2.til file.</p> <p>8 MR. SUH: Objection, foundation.</p> <p>9 A The behavior of the tile is defined in</p> <p>10 several areas. One area is the tile type itself.</p> <p>11 For example, the browser tile type would display a</p> <p>12 portion of a web page, but it could also display</p> <p>13 something else as defined in the tile definition</p> <p>14 file even if it was a browser tile. Can I give an</p> <p>15 example?</p> <p>16 Q Yes.</p> <p>17 A If for example -- if I wanted my family</p> <p>18 website -- if I wanted access to my family website</p> <p>19 in my SurfCast grid and tile application, I could</p> <p>20 choose to depict this tile. That means the tile</p> <p>21 would show a picture of my grandson, but when I</p> <p>22 clicked on it, it would go to -- it would launch our</p>	<p style="text-align: right;">Page 77</p> <p>1 MR. HEINTZ: Sorry, let me finish the</p> <p>2 question, please.</p> <p>3 Q What is the significance of the 5/10/15</p> <p>4 seconds on the third line of Exhibit 3, if any?</p> <p>5 MR. SUH: Objection, form.</p> <p>6 MR. HEINTZ: What's the objection?</p> <p>7 MR. SUH: Form.</p> <p>8 MR. HEINTZ: What's the basis of the</p> <p>9 objection?</p> <p>10 MR. SUH: Significance.</p> <p>11 MR. HEINTZ: Meaning it's not clear what</p> <p>12 significance means?</p> <p>13 MR. SUH: Vague and ambiguous.</p> <p>14 BY MR. HEINTZ:</p> <p>15 Q Mr. Lagermann, do you have any</p> <p>16 understanding as to what the -- what the notation</p> <p>17 5/10/15 seconds on page 20 -- page 7 of Exhibit 2023</p> <p>18 refers?</p> <p>19 MR. SUH: Same objection.</p> <p>20 A In the way I read this sentence is that --</p> <p>21 that this tile would change, meaning update every 5</p> <p>22 or 10 or 15 seconds, that it was -- it was a refresh</p>

20 (Pages 74 to 77)

<p style="text-align: right;">Page 78</p> <p>1 rate setting of a tile.</p> <p>2 Q I'm sorry, I did forget to go back. I'm</p> <p>3 going to ask you to go back again to Exhibit 2048.</p> <p>4 We're done with Exhibit 2023. So please go back to</p> <p>5 Exhibit 2048.</p> <p>6 It was in the html code section.</p> <p>7 A Sorry. Got it.</p> <p>8 Q Okay. I'm going to direct your attention</p> <p>9 to the third instance where the words "HREF" appear.</p> <p>10 That's near the middle of page 1 of Exhibit 2048.</p> <p>11 Do you see that?</p> <p>12 A Yes.</p> <p>13 Q I believe you testified earlier that this</p> <p>14 section of code was a definition of a third tile.</p> <p>15 Is that correct?</p> <p>16 A Yes.</p> <p>17 Q Okay. And, again, just to speed this</p> <p>18 along, I think you said that this had to do with a</p> <p>19 tile relating to a locally stored document. Is that</p> <p>20 correct?</p> <p>21 A That's correct.</p> <p>22 Q Mr. Suh asked you a question about the</p>	<p style="text-align: right;">Page 80</p> <p>1 two definitions of timeout where in the first</p> <p>2 instance there's 200 time units, in the second</p> <p>3 that's 500 time units, in this third instance, there</p> <p>4 are no time units, meaning that there's an</p> <p>5 indefinite period of time or an infinite period of</p> <p>6 time until refresh.</p> <p>7 Does that mean that the tile does not</p> <p>8 refresh at all? Not necessarily, because the source</p> <p>9 definition of the tile could have an additional</p> <p>10 definition of what triggers this tile to refresh.</p> <p>11 Can I continue the example?</p> <p>12 Q Absolutely.</p> <p>13 A If, for example, this document that is</p> <p>14 being referenced is located on a shared drive or a</p> <p>15 shared server, and somebody else changes this</p> <p>16 document, then the nature of the document tile type</p> <p>17 would monitor this document and, based on a change</p> <p>18 in the document, would refresh the tile. But it is</p> <p>19 not based on a timeout. It's based on an external</p> <p>20 event.</p> <p>21 MR. HEINTZ: Thank you. No further</p> <p>22 questions.</p>
<p style="text-align: right;">Page 79</p> <p>1 meaning of the line "Refresh equals timeout (zero),"</p> <p>2 correct?</p> <p>3 A Yes.</p> <p>4 Q Does that mean that the tile had no</p> <p>5 refresh rate that was a function of time associated</p> <p>6 to it; in other words, there was no time at which</p> <p>7 the tile would be scheduled to refresh?</p> <p>8 MR. SUH: Objection. Mischaracterizes the</p> <p>9 testimony. Objection, foundation. Objection,</p> <p>10 leading.</p> <p>11 Q All right. Let me rephrase the question.</p> <p>12 Did this line of code result in a refresh</p> <p>13 rate specified by a time?</p> <p>14 MR. SUH: Same objections.</p> <p>15 A This example shows a tile that refreshes</p> <p>16 only at its initial display, but then does not</p> <p>17 refresh again because the timeout zero in this</p> <p>18 example means that there is no timeout triggering a</p> <p>19 refresh.</p> <p>20 Q You -- I'm sorry, I didn't mean to cut you</p> <p>21 off. Please.</p> <p>22 A Just meaning that if we look at the other</p>	<p style="text-align: right;">Page 81</p> <p>1 FURTHER EXAMINATION BY COUNSEL FOR PETITIONER</p> <p>2 BY MR. SUH:</p> <p>3 Q Can I ask you some follow-up questions.</p> <p>4 So refresh will time out (zero).</p> <p>5 Do you recall your testimony saying that</p> <p>6 this is indicating a refresh rate of zero?</p> <p>7 A Yes.</p> <p>8 MR. SUH: Thank you. No further</p> <p>9 questions.</p> <p>10 MR. HEINTZ: I don't think I get a</p> <p>11 recross. We can go off the record.</p> <p>12 THE VIDEOGRAPHER: This concludes the</p> <p>13 video deposition of Klaus Lagermann consisting of</p> <p>14 two DVD discs. The time is 11:23:44 a.m. We are</p> <p>15 now off the record.</p> <p>16</p> <p>17 (Signature having not been waived, the</p> <p>18 deposition of Klaus Lagermann was concluded at</p> <p>19 11:23 a.m.)</p> <p>20</p> <p>21</p> <p>22</p>

21 (Pages 78 to 81)

[illegible]

**VIDEOTAPED DEPOSITION OF KLAUS LAGERMANN
CONDUCTED ON THURSDAY, MARCH 6, 2014**

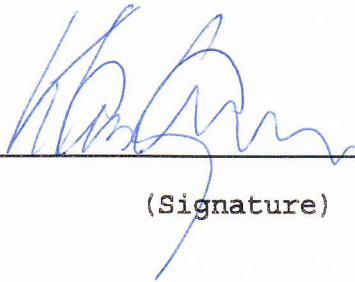
* * *

ACKNOWLEDGMENT OF DEPONENT

I, Klaus Lagermann, 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.

3/3-14

(Date)



(Signature)

Job No.: 0101-245251

**Merrill Deposition Services
21 Church Street, Suite 150, Rockville, MD 20850
(800) 292-4789**

21 Church Street, Suite 150, Rockville, MD 20850
(800) 735-6005 FAX (866) 225-4066 E-MAIL: Rebekah.Febus@merrillcorp.com
ERRATA SHEET

IN RE: Microsoft Corporation -v- SurfCast, Inc.
DEPOSITION DATE: March 6, 2014
DEPONENT/AFFIANT: Klaus Lagermann - Video
REPORTER: Michele Eddy
RETURN BY: April 17, 2014
JOB NO.: 0101-245251

31/3-14
(DATE)

SurfCast – Exhibit 2075, page 25
Microsoft Corp. v. SurfCast, Inc. IPR2013-00292

1 CERTIFICATE OF SHORTHAND REPORTER

2 I, Michele E. Eddy, Registered

3 Professional Reporter and Certified Realtime

4 Reporter, the court reporter before whom the

5 foregoing deposition was taken, do hereby certify

6 that the foregoing transcript is a true and correct

7 record of the testimony given; that said testimony

8 was taken by me stenographically and thereafter

9 reduced to typewriting under my supervision; and

10 that I am neither counsel for, related to, nor

11 employed by any of the parties to this case and have

12 no interest, financial or otherwise, in its outcome.

13

14 IN WITNESS WHEREOF, I have hereunto set my

15 hand and affixed my notarial seal this 10th day of

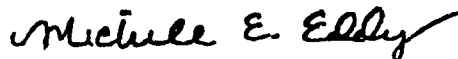
16 March, 2014.

17

18 My commission expires June 30, 2017

19

20



21 MICHELE E. EDDY

22 NOTARY PUBLIC IN AND FOR

THE DISTRICT OF COLUMBIA