

**In the Matter of:**

***MICROSOFT CORPORATION***

***v.***

***SURFCAST, INC.***

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***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

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Reported By: Joan V. Cain

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<p>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. 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 A P P E A R A N C E S C O N T I N U E D 2 3 A L S O O N B E H A L F O F P A T E N T O W N E R : 4 J A M E S M . H E I N T Z , E S Q U I R E 5 D L A P I P E R L L P ( U S ) 6 Suite 300 7 11911 Freedom Drive 8 Reston, Virginia 20190 9 Telephone: (703) 773-4000 10 E-mail: jim.heintz@dlapiper.com 11 A N D 12 R I C H A R D G . A . B O N E , P h . D . , E S Q U I R E 13 V L P L A W G R O U P , L L P 14 Suite 820 15 555 Bryant Street 16 Palo Alto, California 94301 17 Telephone: (650) 419-2010 18 E-mail: rbone@vlpawgroup.com 19 20 A L S O P R E S E N T : 21 Stacy Quan, Esquire, Microsoft 22 David Cooper, Videographer 23 24 25</p>
Page 3	Page 5
<p>1 A P P E A R A N C E S 2 3 O N B E H A L F O F P E T I T I O N E R : 4 J O S E P H M I C A L L E F , E S Q U I R E 5 W O N J O O S U H , E S Q U I R E 6 S I D L E Y A U S T I N , L L P 7 1501 K Street, Northwest 8 Washington, D.C. 20005 9 Telephone: (202) 736-8000 10 E-mail: jmicallef@sidley.com 11 wsuh@sidley.com 12 13 O N B E H A L F O F P A T E N T O W N E R : 14 T I F F A N Y C . M I L L E R , E S Q U I R E 15 D L A P I P E R L L P ( U S ) 16 Suite 1700 17 401 B Street 18 San Diego, California 92101-4297 19 Telephone: (619) 699-2700 20 E-mail: tiffany.miller@dlapiper.com 21 22 23 24 25</p>	<p>1 C O N T E N T S 2 3 E X A M I N A T I O N O F G L E N N W E A D O C K P A G E 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 D E P O S I T I O N E X H I B I T S P A G E 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- 36 15 Webster's Collegiate Dictionary 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 23 Publishing for Dummies 24 25</p>

2 (Pages 2 to 5)

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<p>1 EXHIBITS CONTINUED 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 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>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</p>
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<p>1 PROCEEDINGS 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.</p>	<p>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.</p>

3 (Pages 6 to 9)

<p style="text-align: right;">Page 10</p> <p>1 MR. MICALLEF: Fair enough. Fair enough.</p> <p>2 DR. BONE: Joe, just to observe, I don't</p> <p>3 recall the Board actually set it out that way. I</p> <p>4 think the whole debate was about whether Microsoft</p> <p>5 is entitled to more than 7 hours, and it was a</p> <p>6 question of the justification was to get more than 7</p> <p>7 hours, it was that Mr. Weadock had signed off on two</p> <p>8 declarations, and therefore we computed two amounts</p> <p>9 of time, one amount of time per declaration.</p> <p>10 I think the board was silent as to issues</p> <p>11 of whether it would be 13 hours straight and then</p> <p>12 followed by a redirect. I think we've always</p> <p>13 assumed that it would be a deposition on one</p> <p>14 declaration followed by our redirect and then a</p> <p>15 deposition on the other declaration followed by</p> <p>16 redirect.</p> <p>17 MR. MICALLEF: I agree the Board did not</p> <p>18 expressly say one way or the other, except as I</p> <p>19 recall, what was said on that call was that the</p> <p>20 redirect would be the time period set forth in the</p> <p>21 rules as would the recross, were there any. That</p> <p>22 would suggest one deposition. But I suppose one</p> <p>23 could read it differently. I actually don't think</p> <p>24 this is going to be an issue, though, so I don't</p> <p>25 know why we would use time on the record to debate</p>	<p style="text-align: right;">Page 12</p> <p>1 A No.</p> <p>2 Q So you understand that this is</p> <p>3 cross-examination?</p> <p>4 A I do.</p> <p>5 Q And you understand that the Board has very</p> <p>6 strict rules about the taking of testimony?</p> <p>7 A I'm not specifically familiar with IPR</p> <p>8 testimony rules as distinct from other</p> <p>9 proceedings --</p> <p>10 Q Okay.</p> <p>11 A -- so I may not be as up on that as I</p> <p>12 should be.</p> <p>13 Q Okay. Well, I guess you understand you</p> <p>14 have to answer my questions?</p> <p>15 A I do.</p> <p>16 Q And you have to -- and you understand that</p> <p>17 the answers have to be verbal?</p> <p>18 A Yes.</p> <p>19 Q Okay. If you don't understand a question,</p> <p>20 you'll agree to let me know?</p> <p>21 A Yes.</p> <p>22 Q Okay. And you've been deposed several</p> <p>23 times before?</p> <p>24 A Yes.</p> <p>25 Q So you understand if your counsel objects,</p>
<p style="text-align: right;">Page 11</p> <p>1 it.</p> <p>2 DR. BONE: All right. We hope it won't be</p> <p>3 an issue, yeah.</p> <p>4 MS. MILLER: Well, you know our position</p> <p>5 so --</p> <p>6 MR. MICALLEF: Okay. Okay.</p> <p>7 BY MR. MICALLEF:</p> <p>8 Q Could you state your name and residence</p> <p>9 address for the record, please?</p> <p>10 A Yes. My name is Glenn Weadock and my</p> <p>11 residence is Lakewood, Colorado, 9850 West Vassar</p> <p>12 Way.</p> <p>13 Q I'm sure I've been pronouncing it Weadock,</p> <p>14 and I will try not to. Don't hesitate to correct</p> <p>15 me.</p> <p>16 A You would not be the first. It's my lot in</p> <p>17 life to have a name that's pronounced differently</p> <p>18 than it's spelled.</p> <p>19 Q You should hear what they do to mine. You</p> <p>20 understand that this proceeding is being conducted</p> <p>21 under the rules of the Patent Trial and Appeal</p> <p>22 Board?</p> <p>23 A I do.</p> <p>24 Q Have you ever given testimony in an Inter</p> <p>25 Partes Review before?</p>	<p style="text-align: right;">Page 13</p> <p>1 unless there's an instruction based on privilege,</p> <p>2 you still have to answer my question?</p> <p>3 A I understand.</p> <p>4 Q Okay. You understand you're not allowed to</p> <p>5 converse with your attorneys now that the deposition</p> <p>6 has begun on the subject matter of this case?</p> <p>7 A I do.</p> <p>8 Q And that includes not just the substance of</p> <p>9 your answers in your testimony, but how those</p> <p>10 answers are given or how that testimony is going in.</p> <p>11 You understand that?</p> <p>12 A I do.</p> <p>13 Q Okay. Okay. If you need a break, let me</p> <p>14 know.</p> <p>15 A Okay.</p> <p>16 Q I -- I plan on taking breaks probably about</p> <p>17 once an hour.</p> <p>18 A That sounds fine.</p> <p>19 (Exhibit 1001 was marked for</p> <p>20 identification and was attached to the deposition</p> <p>21 transcript.)</p> <p>22 BY MR. MICALLEF:</p> <p>23 Q Okay. I'm going to hand you a copy of the</p> <p>24 '403 patent.</p> <p>25 MR. MICALLEF: And if you all want one --</p>

4 (Pages 10 to 13)

<p style="text-align: right;">Page 14</p> <p>1 no?</p> <p>2 BY MR. MICALLEF:</p> <p>3 <b>Q You've seen this before, right?</b></p> <p>4 A Yes, sir.</p> <p>5 <b>Q This is Exhibit 1001 in this proceeding?</b></p> <p>6 A Yes.</p> <p>7 <b>Q Okay. You've read it?</b></p> <p>8 A I have.</p> <p>9 <b>Q You've read everything in it?</b></p> <p>10 A Yes.</p> <p>11 <b>Q Okay, great. Now I'd like you to turn to</b></p> <p>12 <b>figure 6 of the '403 patent.</b></p> <p>13 A Okay.</p> <p>14 <b>Q And you've looked at this figure before?</b></p> <p>15 A I have.</p> <p>16 <b>Q Okay. By the way, have you read any of the</b></p> <p>17 <b>other depositions that have been taken in this</b></p> <p>18 <b>proceeding?</b></p> <p>19 A I have read over the Karger deposition, and</p> <p>20 I think that may be the only one.</p> <p>21 <b>Q Are you involved in the parallel litigation</b></p> <p>22 <b>in Maine?</b></p> <p>23 A Yes.</p> <p>24 <b>Q And have you received -- did you do --</b></p> <p>25 <b>strike that.</b></p>	<p style="text-align: right;">Page 16</p> <p>1 A Well, let's see what the patent describes</p> <p>2 it as. That'll help us.</p> <p>3 Right. So in the brief description of the</p> <p>4 drawings, figure 6 is described as showing one</p> <p>5 embodiment of a tile in markup language.</p> <p>6 <b>Q And in figure 6 in the very middle of it</b></p> <p>7 <b>there is the word "CLICKMAP." Do you see that?</b></p> <p>8 A I do.</p> <p>9 <b>Q Okay. Now, the CLICKMAP is an HTML</b></p> <p>10 <b>statements that causes clicks on different portions</b></p> <p>11 <b>of the file to cause different results; is that</b></p> <p>12 <b>fair?</b></p> <p>13 MS. MILLER: Objection, foundation.</p> <p>14 THE WITNESS: Well, let's -- let's see.</p> <p>15 It's -- CLICKMAP, I'm not sure that's strict HTML,</p> <p>16 so let's see what the -- what the patent describes</p> <p>17 that as doing.</p> <p>18 BY MR. MICALLEF:</p> <p>19 <b>Q Well, let me direct your attention to</b></p> <p>20 <b>column 10, line 30 --</b></p> <p>21 A Okay.</p> <p>22 <b>Q -- or the sentence that begins on line 30</b></p> <p>23 <b>through 32 which states, "In the example in FIG. 6,</b></p> <p>24 <b>the tile has a clickable map, i.e., separate areas</b></p> <p>25 <b>of the tile produce separate results when clicked."</b></p>
<p style="text-align: right;">Page 15</p> <p>1 <b>Did you review any materials from that</b></p> <p>2 <b>litigation?</b></p> <p>3 A Yes.</p> <p>4 <b>Q Did you review any materials that have been</b></p> <p>5 <b>designated confidential under the confidentiality</b></p> <p>6 <b>order in that litigation?</b></p> <p>7 A Yes.</p> <p>8 <b>Q That would include Microsoft confidential</b></p> <p>9 <b>information?</b></p> <p>10 A It would.</p> <p>11 <b>Q Did you review any deposition transcripts</b></p> <p>12 <b>in that litigation?</b></p> <p>13 A Yes.</p> <p>14 <b>Q Which ones?</b></p> <p>15 A Well, I'm trying to remember. I think</p> <p>16 there was a Karger declaration there or a Karger</p> <p>17 deposition. I'm not sure if I'm getting them mixed</p> <p>18 up. The two cases have blended together a little</p> <p>19 bit in my mind, but I've reviewed a number of</p> <p>20 materials, filings, interrogatories, and responses</p> <p>21 and so forth.</p> <p>22 <b>Q So back to figure 6 of the '403 patent --</b></p> <p>23 A Okay.</p> <p>24 <b>Q -- there's a -- generally speaking, can you</b></p> <p>25 <b>tell me what figure 6 depicts?</b></p>	<p style="text-align: right;">Page 17</p> <p>1 <b>Do you see that?</b></p> <p>2 A I do.</p> <p>3 <b>Q So my question was, is that the CLICKMAP in</b></p> <p>4 <b>figure 6 causes clicks on different portions of the</b></p> <p>5 <b>tile to cause different results; is that fair?</b></p> <p>6 MS. MILLER: Objection, form.</p> <p>7 THE WITNESS: It -- the patent says</p> <p>8 separate results. I don't know that it necessarily</p> <p>9 mandates that they be different.</p> <p>10 BY MR. MICALLEF:</p> <p>11 <b>Q Okay. They can be different, though,</b></p> <p>12 <b>right?</b></p> <p>13 A I would expect so.</p> <p>14 <b>Q All right. And I notice in -- on figure 6</b></p> <p>15 <b>after the CLICKMAP there's an equals sign and then</b></p> <p>16 <b>it looks like there's three lines of text.</b></p> <p>17 <b>Do you see that?</b></p> <p>18 A I do.</p> <p>19 <b>Q And each of the lines begins with four</b></p> <p>20 <b>numbers separated by commas. Do you see that?</b></p> <p>21 A I do.</p> <p>22 <b>Q Okay. Would you agree that that -- those</b></p> <p>23 <b>numbers indicate some kind of coordinates on the</b></p> <p>24 <b>tile?</b></p> <p>25 A That's a reasonable assumption.</p>

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 <b>Q</b> And so those numbers indicate which</p> <p>2 <b>portions that particular line is associated with --</b></p> <p>3 <b>which portions of the tile that particular line is</b></p> <p>4 <b>associated with; is that fair?</b></p> <p>5 MS. MILLER: Objection, form.</p> <p>6 THE WITNESS: I think that's a reasonable</p> <p>7 assumption.</p> <p>8 BY MR. MICALLEF:</p> <p>9 <b>Q</b> Okay. And you're not aware of anything in</p> <p>10 <b>the '403 patent which limits what portions could be</b></p> <p>11 <b>defined by these coordinates, are you?</b></p> <p>12 MS. MILLER: Objection, form.</p> <p>13 THE WITNESS: Well, I think there may</p> <p>14 actually be parts of the patent that limit what</p> <p>15 those areas can define.</p> <p>16 BY MR. MICALLEF:</p> <p>17 <b>Q</b> And are you aware of those parts of the</p> <p>18 <b>patent as you sit here today?</b></p> <p>19 A Oh, I could probably find them.</p> <p>20 <b>Q</b> Well, do you have any memory, recollection</p> <p>21 <b>of them?</b></p> <p>22 A Well, I've read the patent a few times, but</p> <p>23 I haven't committed it to memory, so I'd need to</p> <p>24 hunt for it.</p> <p>25 <b>Q</b> Okay. So you can't tell me without reading</p>	<p style="text-align: right;">Page 20</p> <p>1 <b>the clickargument word that's in each of those</b></p> <p>2 <b>lines?</b></p> <p>3 A Well, again, I don't know that the</p> <p>4 specification of the patent goes into that in</p> <p>5 detail, but normally an argument in code or</p> <p>6 pseudocode would be some parameter that is passed</p> <p>7 along to a function. So I would assume that it</p> <p>8 would do something along those lines, but I'm not</p> <p>9 sure the patent explains that.</p> <p>10 <b>Q</b> Would it be fair to conclude that the</p> <p>11 <b>clickargument would be some way to identify to the</b></p> <p>12 <b>system what the result should be from a click within</b></p> <p>13 <b>the associated coordinates?</b></p> <p>14 A Well, I don't know that it would specify</p> <p>15 what the result should be. Again, an argument is</p> <p>16 something that is normally an input to a function.</p> <p>17 So I think we're veering into a little bit of</p> <p>18 speculation here.</p> <p>19 <b>Q</b> Okay. So you don't know one way or the</p> <p>20 <b>other on that?</b></p> <p>21 A I don't know, without reading through the</p> <p>22 patent to look for a specific reference to</p> <p>23 clickargument1, 2, and 3, if the patent discloses</p> <p>24 specifically what -- what they would do.</p> <p>25 <b>Q</b> Do you recall that the '403 patent</p>
<p style="text-align: right;">Page 19</p> <p>1 <b>the patent again?</b></p> <p>2 A I have an expectation that these numbers</p> <p>3 would be restricted to the boundaries of a tile, but</p> <p>4 I can't point you to where that is from memory of</p> <p>5 the patent.</p> <p>6 <b>Q</b> Okay. I thought my question sort of</p> <p>7 <b>implicitly acknowledged that limitation, I thought</b></p> <p>8 <b>it was -- so let me just ask it again to make sure</b></p> <p>9 <b>we're on the same page.</b></p> <p>10 <b>You're not aware of anything in the patent</b></p> <p>11 <b>that would limit what portions of the tile the</b></p> <p>12 <b>coordinates could identify?</b></p> <p>13 MS. MILLER: Objection, form.</p> <p>14 THE WITNESS: Not without going through the</p> <p>15 patent again, no.</p> <p>16 BY MR. MICALLEF:</p> <p>17 <b>Q</b> Okay. And what's your understanding of the</p> <p>18 <b>phrase "clickfunction" that appears in each of those</b></p> <p>19 <b>lines on figure 6?</b></p> <p>20 A Well, I don't know that the patent refers</p> <p>21 to clickfunction1, 2, and 3 here explicitly, but my</p> <p>22 expectation would be that would be a function that</p> <p>23 is performed when a click is received within those</p> <p>24 coordinates.</p> <p>25 <b>Q</b> Okay. And what would be your reading of</p>	<p style="text-align: right;">Page 21</p> <p>1 <b>discloses that at least in some embodiments, one can</b></p> <p>2 <b>click a tile and cause it to refresh its contents?</b></p> <p>3 MS. MILLER: Objection, form.</p> <p>4 THE WITNESS: I -- I am not sure if I</p> <p>5 remember those words. I could flip through the</p> <p>6 patent to see that or you could point me somewhere</p> <p>7 and we could save time.</p> <p>8 BY MR. MICALLEF:</p> <p>9 <b>Q</b> Yeah, let me direct your attention to</p> <p>10 <b>Column 9, lines 35 to 36 where it states, "For</b></p> <p>11 <b>example, clicking on a tile will cause it to</b></p> <p>12 <b>immediately refresh its contents."</b></p> <p>13 <b>Do you see that?</b></p> <p>14 A I do.</p> <p>15 <b>Q</b> It's fair to conclude, isn't it, that that</p> <p>16 <b>would be one of the results that one might get from</b></p> <p>17 <b>clicking on a portion of the tile in figure 6?</b></p> <p>18 MS. MILLER: Objection, form.</p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. MICALLEF:</p> <p>21 <b>Q</b> Why not?</p> <p>22 A Well, that's not what it says.</p> <p>23 <b>Q</b> Is that it?</p> <p>24 A Sure, I can -- I can elaborate. Line 35</p> <p>25 here in Column 9 says clicking on a tile, so there's</p>

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>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 <b>Q Well, what kind of different results do you</b>  7 <b>think, after your reading of the '403 patent --</b>  8 <b>under your reading of the '403 patent, what kind of</b>  9 <b>different results do you think clicking on the</b>  10 <b>various regions of figure 6 would create?</b>  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 <b>Q It was column 10, line 30 I believe.</b>  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.</p>	<p style="text-align: right;">Page 24</p> <p>1 <b>associated information source; is that fair?</b>  2 A If you don't mind, let me just take a  3 moment to read it.  4 <b>Q Sure.</b>  5 A Okay. And I'm sorry. Can you repeat your  6 question and I'll answer it?  7 <b>Q Yeah. This paragraph discusses how a tile</b>  8 <b>can show information from an associated information</b>  9 <b>source; is that fair?</b>  10 MS. MILLER: Objection, form.  11 THE WITNESS: Yes, I think that's fair.  12 BY MR. MICALLEF:  13 <b>Q Okay. So there are a couple of examples</b>  14 <b>there, and would it be fair to say that the</b>  15 <b>information that is being shown in those examples is</b>  16 <b>not all of the information from the associated</b>  17 <b>information source?</b>  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</p>
<p style="text-align: right;">Page 23</p> <p>1 <b>Q So you don't have an understanding of what</b>  2 <b>results its talking about there?</b>  3 A Not from that sentence or that paragraph.  4 It doesn't really seem to give any more specifics  5 than that.  6 <b>Q But isn't it fair to conclude that when it</b>  7 <b>says clicking on portions causes a result, that</b>  8 <b>where the patent talks about clicking causing</b>  9 <b>results in other contexts, that's -- those are the</b>  10 <b>results the patent is talking about?</b>  11 A No.  12 <b>Q You don't think so?</b>  13 A No.  14 <b>Q Okay. I'm going to ask you to turn to</b>  15 <b>column 8 of the '403 patent.</b>  16 A Okay.  17 <b>Q Now, there's a paragraph at the bottom of</b>  18 <b>column 8. It starts at about line 57 and goes to</b>  19 <b>the end of the column.</b>  20 <b>Do you see that?</b>  21 A I do.  22 <b>Q Have you read that before?</b>  23 A Yes.  24 <b>Q Okay. Now, this paragraph discusses how a</b>  25 <b>tile in the '403 patent can show information from an</b></p>	<p style="text-align: right;">Page 25</p> <p>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 <b>Q Okay. And so, for example, the porthole</b>  7 <b>view example here, which is at column 8, lines 61</b>  8 <b>through 63, would you entry that that describes --</b>  9 <b>well, it's like looking at a large document through</b>  10 <b>a porthole, where you can only see a portion of the</b>  11 <b>document? That would be an example of a porthole</b>  12 <b>view?</b>  13 A I think it would, yes.  14 <b>Q Okay. Now, let's stick with that porthole</b>  15 <b>view. Would you agree that that's a form of access</b>  16 <b>to the underlying information source?</b>  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."</p>

7 (Pages 22 to 25)



<p style="text-align: right;">Page 26</p> <p>1 So in the first sentence we're talking</p> <p>2 about a program which is not data that would be</p> <p>3 displayed. There's also discussion of a file or a</p> <p>4 datastream, but then it goes on to say the tile may</p> <p>5 present data in any number of ways.</p> <p>6 So the data in the second sentence is not</p> <p>7 necessarily identical to the program file or</p> <p>8 datastream that the tile is associated with in the</p> <p>9 first sentence. For example, I'm not sure it would</p> <p>10 make a lot of sense to have a porthole view of a</p> <p>11 program.</p> <p>12 BY MR. MICALLEF:</p> <p>13 <b>Q Sir, that wasn't my question.</b></p> <p>14 A I'm sorry. If you'll ask your question</p> <p>15 again, I'll try to answer it more directly.</p> <p>16 <b>Q My question is, in the situation where you</b></p> <p>17 <b>have a porthole view of, for example, a document --</b></p> <p>18 A Right.</p> <p>19 <b>Q -- isn't that a form of access to the</b></p> <p>20 <b>document?</b></p> <p>21 A I don't think that was exactly your</p> <p>22 question but, yes, if -- if you have a porthole view</p> <p>23 of a document, that would provide access to -- to</p> <p>24 part of the document.</p> <p>25 <b>Q Okay. And you would agree in the '403</b></p>	<p style="text-align: right;">Page 28</p> <p>1 interface designed to allow rapid access to the</p> <p>2 underlying information." So I think in this</p> <p>3 paragraph, as is the case throughout the '403, a</p> <p>4 tile is a way for gaining access to underlying</p> <p>5 information. That could be a -- there could be a</p> <p>6 variety of different types of access disclosed.</p> <p>7 That could be access to view information,</p> <p>8 work with information. I think there -- there are</p> <p>9 several different scenarios described in the patent</p> <p>10 whereby a tile provides access to information. We</p> <p>11 could go through and we could look at those</p> <p>12 examples.</p> <p>13 BY MR. MICALLEF:</p> <p>14 <b>Q So let's just take what you just said so I</b></p> <p>15 <b>understand what you're talking about. View</b></p> <p>16 <b>information access -- strike that.</b></p> <p>17 <b>Viewing information as a form of access</b></p> <p>18 <b>would be, for example, the porthole hypothetical</b></p> <p>19 <b>that we just talked about; is that fair?</b></p> <p>20 MS. MILLER: Objection, form.</p> <p>21 THE WITNESS: Well, I think it's a little</p> <p>22 different. I think we're talking about a couple of</p> <p>23 different things. I think, for example, when it</p> <p>24 talks here about a custom interface designed to</p> <p>25 allow rapid access, that suggests to me that I don't</p>
<p style="text-align: right;">Page 27</p> <p>1 <b>patent one could get that access to the document</b></p> <p>2 <b>without actually selecting that tile; is that fair?</b></p> <p>3 MS. MILLER: Objection, form.</p> <p>4 THE WITNESS: Well, let's see if it says</p> <p>5 that. Yeah, I don't -- I don't see a reference in</p> <p>6 that paragraph of the patent to a selection</p> <p>7 operation.</p> <p>8 BY MR. MICALLEF:</p> <p>9 <b>Q So the fair reading of that is you get</b></p> <p>10 <b>access to the underlying information source even</b></p> <p>11 <b>without selecting the tile, correct?</b></p> <p>12 MS. MILLER: Objection, form.</p> <p>13 THE WITNESS: I think this paragraph</p> <p>14 discloses that a tile may present data in any number</p> <p>15 of ways, and this paragraph doesn't require a</p> <p>16 selection step.</p> <p>17 BY MR. MICALLEF:</p> <p>18 <b>Q Okay. By the way, what's your</b></p> <p>19 <b>understanding in this context, the context of the</b></p> <p>20 <b>'403 patent, of the meaning of the word "access"?</b></p> <p>21 MS. MILLER: Objection, form.</p> <p>22 THE WITNESS: Well, I don't think -- okay.</p> <p>23 Let's see how it's used here in this paragraph.</p> <p>24 So in this paragraph towards the end -- I</p> <p>25 think we're at line 64 or 65, it says, "or a custom</p>	<p style="text-align: right;">Page 29</p> <p>1 already have access to that same information.</p> <p>2 BY MR. MICALLEF:</p> <p>3 <b>Q So my question was just, when you said one</b></p> <p>4 <b>type of access would be to view information, I was</b></p> <p>5 <b>just saying that the porthole example would be one</b></p> <p>6 <b>example of that kind of access, even though there</b></p> <p>7 <b>may be others; is that fair?</b></p> <p>8 MS. MILLER: Objection, mischaracterizes</p> <p>9 testimony. Form.</p> <p>10 THE WITNESS: Well, I think -- I think we</p> <p>11 have two things here. I think there's some</p> <p>12 information that I can see in the tile and then</p> <p>13 there's some additional information or underlying</p> <p>14 information in the language of the patent that I can</p> <p>15 gain access to via the tile, and those aren't</p> <p>16 necessarily the same thing. But if your question</p> <p>17 is, is viewing information in a porthole view on a</p> <p>18 tile a way of accessing information, then, yes, it</p> <p>19 is.</p> <p>20 BY MR. MICALLEF:</p> <p>21 <b>Q Okay. I'm just trying to get what you</b></p> <p>22 <b>meant by viewing. And so you said -- you also said</b></p> <p>23 <b>that another form of access would be to work with</b></p> <p>24 <b>the information. What did you mean by that?</b></p> <p>25 MS. MILLER: Objection, mischaracterizes</p>

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 testimony. Form.</p> <p>2 THE WITNESS: Well, one can access</p> <p>3 information to do something with it. In the general</p> <p>4 case, one can access information to view, edit,</p> <p>5 create, change, delete. There are lots of different</p> <p>6 things one can do with information once one has</p> <p>7 accessed it.</p> <p>8 BY MR. MICALLEF:</p> <p>9 <b>Q So this would be, for example if the</b></p> <p>10 <b>information source is a Word document, going in and</b></p> <p>11 <b>actually editing a Word document; is that fair?</b></p> <p>12 A That would be one example of what I meant</p> <p>13 when I said work with information, yes.</p> <p>14 <b>Q Okay. Now, there's another example here</b></p> <p>15 <b>that begins on column 8, line 63 through 64. It</b></p> <p>16 <b>states, "A symbol indicating whether the information</b></p> <p>17 <b>has been updated since it was last viewed."</b></p> <p>18 <b>Do you see that?</b></p> <p>19 A I do.</p> <p>20 <b>Q And so would that be something like --</b></p> <p>21 <b>well, strike that. Let me just ask you. What's</b></p> <p>22 <b>your understanding of what that means?</b></p> <p>23 A I think it's clear as stated.</p> <p>24 <b>Q You can give me your understanding, though.</b></p> <p>25 <b>Thanks.</b></p>	<p style="text-align: right;">Page 32</p> <p>1 updated since it was last viewed," and that kind of</p> <p>2 implies to me that the -- the system being described</p> <p>3 here has to have a way of knowing when it was last</p> <p>4 viewed, or -- or it can't display that symbol.</p> <p>5 So I think in the scenario that you posit,</p> <p>6 it's not necessarily true unless the system has some</p> <p>7 way of notating when -- when it was last viewed.</p> <p>8 BY MR. MICALLEF:</p> <p>9 <b>Q Okay. But assuming that my hypothetical is</b></p> <p>10 <b>modified as you -- as you say, would you agree that</b></p> <p>11 <b>this would also be a form of access to the</b></p> <p>12 <b>underlying information source?</b></p> <p>13 MS. MILLER: Objection, form.</p> <p>14 THE WITNESS: Well, no. I don't think I'd</p> <p>15 agree to that in the abstract, no.</p> <p>16 BY MR. MICALLEF:</p> <p>17 <b>Q Why not?</b></p> <p>18 MS. MILLER: Objection, form.</p> <p>19 THE WITNESS: If I see an indication that</p> <p>20 information has been updated since it was last</p> <p>21 viewed, that's an indication there may be something</p> <p>22 new out there, but it doesn't tell me anything about</p> <p>23 what that new information might be. So I'm not sure</p> <p>24 I would describe that as access to the information.</p> <p>25 I just know there's information there. I know the</p>
<p style="text-align: right;">Page 31</p> <p>1 MS. MILLER: Objection, form.</p> <p>2 THE WITNESS: I'm not sure I could say it</p> <p>3 any better. A symbol indicating whether the</p> <p>4 information has been updated since it was last</p> <p>5 viewed. I mean, do you want me to give you an</p> <p>6 example? I mean, some kind of a symbol that says,</p> <p>7 hey, this has been updated since you have looked at</p> <p>8 it last. I don't know if I can say it any better</p> <p>9 than the patent did.</p> <p>10 BY MR. MICALLEF:</p> <p>11 <b>Q Okay. So let me see if I can throw an</b></p> <p>12 <b>example at you. Tell me if you would agree that</b></p> <p>13 <b>this is an example of this symbol indicating whether</b></p> <p>14 <b>the information has been updated since it was last</b></p> <p>15 <b>viewed.</b></p> <p>16 <b>Imagine a tile linked to a fax inbox and</b></p> <p>17 <b>after a fax is received some -- the tile has some</b></p> <p>18 <b>image or icon displayed in it that indicates a new</b></p> <p>19 <b>fax has been received. Do you agree that would be</b></p> <p>20 <b>an example of a symbol indicating whether the</b></p> <p>21 <b>information has been updated?</b></p> <p>22 MS. MILLER: Objection, form.</p> <p>23 THE WITNESS: Well, maybe, but that's not</p> <p>24 the whole phrase here in the patent. It says "a</p> <p>25 symbol indicating whether the information has been</p>	<p style="text-align: right;">Page 33</p> <p>1 existence of information, but I don't necessarily</p> <p>2 have access to it just because I know it exists.</p> <p>3 BY MR. MICALLEF:</p> <p>4 <b>Q You have a bank account?</b></p> <p>5 A I do.</p> <p>6 <b>Q You have access to the funds in that bank</b></p> <p>7 <b>account, don't you?</b></p> <p>8 A Most of the time.</p> <p>9 <b>Q You have access as you're sitting here</b></p> <p>10 <b>today, right?</b></p> <p>11 MS. MILLER: Objection, form.</p> <p>12 THE WITNESS: I expect that I do.</p> <p>13 BY MR. MICALLEF:</p> <p>14 <b>Q Yeah. Even though, as you're sitting here</b></p> <p>15 <b>today, you can't immediately manipulate the funds,</b></p> <p>16 <b>take some out for example, right?</b></p> <p>17 A I think that I can immediately.</p> <p>18 <b>Q Wouldn't you have to go to an ATM machine</b></p> <p>19 <b>or a bank?</b></p> <p>20 A I would have to take some action. I</p> <p>21 couldn't do it telepathically.</p> <p>22 <b>Q Right. And you couldn't do it in this</b></p> <p>23 <b>room?</b></p> <p>24 A Actually, I could.</p> <p>25 <b>Q You could get cash in this room?</b></p>

9 (Pages 30 to 33)

<p style="text-align: right;">Page 34</p> <p>1 A Oh, I'm sorry. I could access my bank 2 account information in this room. 3 <b>Q So you have access to the funds in that</b> 4 <b>account even though you don't have a computer out or</b> 5 <b>a phone or anything like that that could actually</b> 6 <b>manipulate them, it's still fair to say that you</b> 7 <b>have access even as you sit here right now, isn't</b> 8 <b>it?</b> 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 <b>Q Right. But you don't have the phone out</b> 16 <b>right now, and the distinction I'm making is, it's</b> 17 <b>still fair to say you have access, even though you</b> 18 <b>don't have the phone out in your hand manipulating</b> 19 <b>it?</b> 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</p>	<p style="text-align: right;">Page 36</p> <p>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 <b>Q So your understanding is that you don't</b> 8 <b>interpret words in a patent using unrelated</b> 9 <b>contexts; is that your testimony?</b> 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:</p>
<p style="text-align: right;">Page 35</p> <p>1 about a plain English word "access"; is my 2 understanding correct? 3 BY MR. MICALLEF: 4 <b>Q I think I was asking about a bank, yeah.</b> 5 A Okay. And so with that understanding, 6 could you kindly repeat your last question. 7 <b>Q Just it's fair to say that you have access</b> 8 <b>to the funds in your bank account even though you're</b> 9 <b>not manipulating your phone to -- to contact the</b> 10 <b>bank's network and you're not sitting at an ATM or</b> 11 <b>you're not in front of a teller, still fair to say</b> 12 <b>that you have access to those funds as you sit here</b> 13 <b>right now?</b> 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 <b>Q And do you think the word "access," when</b> 21 <b>used in the '403 patent, has a different meaning</b> 22 <b>than that plain English meaning?</b> 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.</p>	<p style="text-align: right;">Page 37</p> <p>1 <b>Q I'm going to show you a document that we</b> 2 <b>have marked as Exhibit 1085, and I will ask you to</b> 3 <b>take a look at that.</b> 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 <b>Q Okay. Could you step out, Mr. Weadock?</b> 25 A Sure.</p>

10 (Pages 34 to 37)

<p style="text-align: right;">Page 38</p> <p>1 <b>Q Weadock. Thank you.</b>  2 <b>(The witness left the deposition room</b>  3 <b>and the following proceedings were had:)</b>  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</p>	<p style="text-align: right;">Page 40</p> <p>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 <b>Q Thank you, Mr. Weadock.</b>  19 A You're welcome.  20 <b>Q So I'm going to ask you to take a look at</b>  21 <b>Exhibit 1085, and, in particular, on the third page</b>  22 <b>of the exhibit, there is -- and just for the record,</b>  23 <b>this is pages from Merriam-Webster's Collegiate</b>  24 <b>Dictionary.</b>  25 <b>Do you see that on the front page?</b></p>
<p style="text-align: right;">Page 39</p> <p>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</p>	<p style="text-align: right;">Page 41</p> <p>1 MS. MILLER: Objection to the exhibit.  2 Objection, scope.  3 THE WITNESS: I do.  4 BY MR. MICALLEF:  5 <b>Q Okay. And on the third page in the lower</b>  6 <b>right-hand corner there is a definition for the</b>  7 <b>word "access" as a noun.</b>  8 <b>Do you see that?</b>  9 A I do.  10 MS. MILLER: Objection, use of the exhibit.  11 Objection, scope.  12 BY MR. MICALLEF:  13 <b>Q And there's several definitions there,</b>  14 <b>correct?</b>  15 MS. MILLER: Objection, use of the exhibit.  16 Objection, scope.  17 THE WITNESS: Yes.  18 BY MR. MICALLEF:  19 <b>Q Do you see the one that defines access as</b>  20 <b>the freedom or ability to obtain or make use of?</b>  21 MS. MILLER: Objection to the use of the  22 exhibit. Objection, scope.  23 THE WITNESS: Yes, I do.  24 BY MR. MICALLEF:  25 <b>Q Okay. Would you agree that that's a fair</b></p>

11 (Pages 38 to 41)

<p style="text-align: right;">Page 42</p> <p>1 <b>definition of the word "access" as used in the '403</b>  2 <b>patent?</b>  3 MS. MILLER: Objection to the use of the  4 exhibit. Objection, scope. Objection, form.  5 THE WITNESS: No.  6 BY MR. MICALLEF:  7 <b>Q Why not?</b>  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 <b>Q Well, ordinary English words used in</b>  17 <b>patents can still be given their ordinary English</b>  18 <b>definitions, correct?</b>  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 <b>Q Okay. And do you think the word "access"</b>  25 <b>has a special meaning in the computer arts?</b></p>	<p style="text-align: right;">Page 44</p> <p>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 <b>Q And I'm going to ask you to answer my</b>  18 <b>question, which was, do you believe that the word</b>  19 <b>"access" has a special definition in the context of</b>  20 <b>the '403 patent?</b>  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:</p>
<p style="text-align: right;">Page 43</p> <p>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 <b>Q And what's -- and do you think the</b>  8 <b>word "access" has a special meaning in the context</b>  9 <b>of the '403 patent?</b>  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."</p>	<p style="text-align: right;">Page 45</p> <p>1 <b>Q You can't tell me whether you believe the</b>  2 <b>word "access" has a special definition within the</b>  3 <b>context of the '403 patent?</b>  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 <b>Q Do you think the '403 patent uses the</b>  10 <b>word "access" outside of its ordinary meaning to a</b>  11 <b>person of ordinary skill in the art?</b>  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 <b>Q Mr. Weadock, I'm going to give you what</b>  22 <b>we've marked as Exhibit 1086 and have you take a</b>  23 <b>look at that.</b>  24 MS. MILLER: Object to the use of the  25 exhibit as not having notice and outside the scope.</p>

12 (Pages 42 to 45)

<p style="text-align: right;">Page 46</p> <p>1 BY MR. MICALLEF:</p> <p>2 <b>Q Do you have Exhibit 1086 in front of you,</b></p> <p>3 <b>Mr. Weadock?</b></p> <p>4 A I do.</p> <p>5 <b>Q And this exhibit is pages from a Microsoft</b></p> <p>6 <b>computer dictionary, correct?</b></p> <p>7 MS. MILLER: Object to the use of the</p> <p>8 exhibit. Objection, scope.</p> <p>9 THE WITNESS: Yes, it is.</p> <p>10 BY MR. MICALLEF:</p> <p>11 <b>Q Okay. And on the second page, there is a</b></p> <p>12 <b>definition for the word "access," correct?</b></p> <p>13 MS. MILLER: Objection to the use of the</p> <p>14 exhibit. Objection, scope.</p> <p>15 THE WITNESS: There are two definitions,</p> <p>16 yes.</p> <p>17 BY MR. MICALLEF:</p> <p>18 <b>Q That's right. So let's -- and one of</b></p> <p>19 <b>them's for the noun "access," correct?</b></p> <p>20 MS. MILLER: Same objections.</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. MICALLEF:</p> <p>23 <b>Q Let's talk about that one. All right?</b></p> <p>24 A Okay.</p> <p>25 <b>Q So the first definition for access the noun</b></p>	<p style="text-align: right;">Page 48</p> <p>1 BY MR. MICALLEF:</p> <p>2 <b>Q -- to or from memory?</b></p> <p>3 MS. MILLER: Objection.</p> <p>4 THE WITNESS: Well, I haven't done that</p> <p>5 specific analysis, so I have to go through the '403</p> <p>6 and see every time it uses the word "access" in</p> <p>7 order to be able to answer your question. I'm happy</p> <p>8 to do that if you'd like.</p> <p>9 BY MR. MICALLEF:</p> <p>10 <b>Q So what I'm trying to get at is if you</b></p> <p>11 <b>think the word "access" as used in the '403 patent</b></p> <p>12 <b>may be broader than this definition that I've cited</b></p> <p>13 <b>you to in Exhibit 1086. Do you think it is, the</b></p> <p>14 <b>word "access" as used in the '403 patent is broader</b></p> <p>15 <b>than the 1086, Exhibit 1086 definition of access?</b></p> <p>16 MS. MILLER: Objection, form. Objection to</p> <p>17 the use of the exhibit. Objection, scope.</p> <p>18 THE WITNESS: It might be. If you want to</p> <p>19 point me to a specific use of the word in the</p> <p>20 patent, I can try to zero in on that for you a</p> <p>21 little bit.</p> <p>22 BY MR. MICALLEF:</p> <p>23 <b>Q So without walking through the patent, you</b></p> <p>24 <b>wouldn't be able to tell me one way or the other</b></p> <p>25 <b>whether you think the patent's use of the</b></p>
<p style="text-align: right;">Page 47</p> <p>1 <b>is the act of reading data from or writing data to</b></p> <p>2 <b>memory.</b></p> <p>3 <b>Do you see that?</b></p> <p>4 A I do.</p> <p>5 <b>Q Would you agree that's a fair definition of</b></p> <p>6 <b>the word "access" as used in the '403 patent?</b></p> <p>7 MS. MILLER: Objection, use of the exhibit.</p> <p>8 Objection, scope.</p> <p>9 THE WITNESS: Well, this is a rather more</p> <p>10 specific definition. I guess I would agree to the</p> <p>11 extent that accessing information in the '403</p> <p>12 patent, without looking at any specific examples</p> <p>13 which might help inform the discussion, but if you</p> <p>14 want to keep it in the abstract, I'll try to do that</p> <p>15 to answer your question, but I think it's fair to</p> <p>16 say that accessing information in the context of the</p> <p>17 '403 patent will involve reading data from or</p> <p>18 writing data to memory.</p> <p>19 BY MR. MICALLEF:</p> <p>20 <b>Q Just so I understand your answer, do you</b></p> <p>21 <b>believe it's fair to say that accessing, in the</b></p> <p>22 <b>context of the '403 patent, will always involve</b></p> <p>23 <b>reading or writing data --</b></p> <p>24 MS. MILLER: Objection, mischaracterizes</p> <p>25 testimony.</p>	<p style="text-align: right;">Page 49</p> <p>1 <b>word "access" is broader; is that fair?</b></p> <p>2 MS. MILLER: Objection, form.</p> <p>3 Mischaracterizes testimony.</p> <p>4 THE WITNESS: I suspect that there are uses</p> <p>5 of the word that may not line up exactly, may be</p> <p>6 broader than this specific first definition from</p> <p>7 this dictionary, which I note is different from the</p> <p>8 dictionary that you presented earlier, which lends</p> <p>9 some credence to what I was saying earlier, that</p> <p>10 when we look at a particular industry, the word's</p> <p>11 meaning has to be considered in that context. But</p> <p>12 I'd be happy to look at some specific examples, and</p> <p>13 we could talk about those.</p> <p>14 BY MR. MICALLEF:</p> <p>15 <b>Q Well, let me -- yeah, let's talk about one</b></p> <p>16 <b>specific.</b></p> <p>17 A Okay.</p> <p>18 <b>Q Let's talk about the porthole example we</b></p> <p>19 <b>were talking about a little earlier. Do you</b></p> <p>20 <b>remember that?</b></p> <p>21 A Oh, I do. Why don't you point me to that</p> <p>22 reference so I can look at it.</p> <p>23 <b>Q It's column 8, line 62.</b></p> <p>24 A Okay. I'm still on that page.</p> <p>25 <b>Q Do you have that in front of you?</b></p>

13 (Pages 46 to 49)

<p style="text-align: right;">Page 50</p> <p>1 A I do.</p> <p>2 <b>Q Okay. So would that porthole view that is</b></p> <p>3 <b>described at the bottom of column 8, that would be a</b></p> <p>4 <b>form of access using the definition of access in</b></p> <p>5 <b>Exhibit 1086; would it not?</b></p> <p>6 MS. MILLER: Objection, form. Object to</p> <p>7 the -- objection to the use of the exhibit.</p> <p>8 Objection, scope.</p> <p>9 THE WITNESS: Well, let's see. Porthole</p> <p>10 view, it would be my expectation, since this is</p> <p>11 describing an information system, that the porthole</p> <p>12 view is reading data from a memory somewhere in this</p> <p>13 information system. I think that's a fair</p> <p>14 statement.</p> <p>15 BY MR. MICALLEF:</p> <p>16 <b>Q Okay, all right. Well, how about the</b></p> <p>17 <b>example of the symbol indicating whether the</b></p> <p>18 <b>information has been updated since it was last</b></p> <p>19 <b>viewed, which is also at the bottom of column 8,</b></p> <p>20 <b>would you agree that that's also a form of access,</b></p> <p>21 <b>if you use the definition in Exhibit 1086?</b></p> <p>22 MS. MILLER: Objection, form. Objection to</p> <p>23 the use of the exhibit. Objection, scope.</p> <p>24 THE WITNESS: I wouldn't. It doesn't use</p> <p>25 the word "access" in this excerpt you just quoted.</p>	<p style="text-align: right;">Page 52</p> <p>1 BY MR. MICALLEF:</p> <p>2 <b>Q Why not?</b></p> <p>3 A That's just -- just doesn't seem like a</p> <p>4 natural use of the word "access." It's a symbol. I</p> <p>5 suppose the symbol is in some bitmap in memory</p> <p>6 someplace. So in that sense, then I'm accessing the</p> <p>7 bits of the symbol in order to display it on the</p> <p>8 screen, but that seems like a very unusual way to</p> <p>9 use the word "access."</p> <p>10 <b>Q I'd like you to turn to column 10 of the</b></p> <p>11 <b>'403 patent.</b></p> <p>12 A Okay.</p> <p>13 <b>Q Now, we talked about figure 6 a little</b></p> <p>14 <b>while ago. Do you remember that?</b></p> <p>15 A I do.</p> <p>16 <b>Q And I believe we were discussing the</b></p> <p>17 <b>sentence that begins at line 30, but I would like --</b></p> <p>18 <b>and figure 6 is actually introduced a little bit</b></p> <p>19 <b>above that. Do you see that? It's at about --</b></p> <p>20 <b>well, the paragraph begins at line 23 of column 10.</b></p> <p>21 <b>Do you see that?</b></p> <p>22 A I do.</p> <p>23 <b>Q Okay. And you see at about line 25 it</b></p> <p>24 <b>says -- indicates that what's depicted in figure 6</b></p> <p>25 <b>is suitable for display in a web browser?</b></p>
<p style="text-align: right;">Page 51</p> <p>1 BY MR. MICALLEF:</p> <p>2 <b>Q That's true. So something has to use the</b></p> <p>3 <b>word "access" to be access in your view?</b></p> <p>4 A Well, I'm sorry. I thought you were asking</p> <p>5 me -- perhaps you could restate your question and</p> <p>6 I'll understand it better. I thought we've been</p> <p>7 talking about the word "access" for the past 10</p> <p>8 minutes.</p> <p>9 <b>Q Maybe I misspoke. Let me ask it again.</b></p> <p>10 A Thank you.</p> <p>11 <b>Q I'm talking about this example of a symbol</b></p> <p>12 <b>indicating et cetera, et cetera at the bottom of</b></p> <p>13 <b>column 8.</b></p> <p>14 <b>Do you see that -- remember that example?</b></p> <p>15 A I do.</p> <p>16 <b>Q Okay. And I want to know, using the</b></p> <p>17 <b>definition of the word "access" that's in Exhibit</b></p> <p>18 <b>1086, would you agree that that example of a symbol</b></p> <p>19 <b>indicating, et cetera, is a form of access?</b></p> <p>20 MS. MILLER: Objection, form. Objection to</p> <p>21 the use of the exhibit. Objection to scope.</p> <p>22 THE WITNESS: No. I doesn't seem like a</p> <p>23 natural use of the word "access." I wouldn't -- I</p> <p>24 don't think I would use the word "access" to</p> <p>25 characterize that excerpt from the patent.</p>	<p style="text-align: right;">Page 53</p> <p>1 <b>Do you see that?</b></p> <p>2 A Well, it says the -- you have to go back a</p> <p>3 little further I think. It says "the tile is itself</p> <p>4 a document created in a markup language such as HTML</p> <p>5 or XML as shown in FIG. 6 and is suitable for</p> <p>6 display in a web-browser." Yes, I see that.</p> <p>7 <b>Q Okay. And so in this particular</b></p> <p>8 <b>embodiment, it's talking about displaying the tiles</b></p> <p>9 <b>in a web browser window; is that fair?</b></p> <p>10 MS. MILLER: Objection, form.</p> <p>11 THE WITNESS: Well, it doesn't say that.</p> <p>12 BY MR. MICALLEF:</p> <p>13 <b>Q I didn't ask if it said that.</b></p> <p>14 A Then it's not fair.</p> <p>15 <b>Q Oh, it's only fair if it says it expressly?</b></p> <p>16 MS. MILLER: Objection, form.</p> <p>17 THE WITNESS: Well, it doesn't indicate</p> <p>18 whether the web browser's in a window or not. I</p> <p>19 mean, normally web browsers are in windows. It</p> <p>20 wouldn't be unusual for this to be a web browser</p> <p>21 being displayed in a window, but the patent doesn't</p> <p>22 say that, so I'm not sure it's fair to say that the</p> <p>23 patent says it.</p> <p>24 BY MR. MICALLEF:</p> <p>25 <b>Q Okay. Would you agree that one of ordinary</b></p>

14 (Pages 50 to 53)

<p style="text-align: right;">Page 54</p> <p>1 skill in the art would read that sentence that</p> <p>2 appears at column 10, line 23 through 26, to</p> <p>3 indicate that one could display tiles in a web</p> <p>4 browser window?</p> <p>5 MS. MILLER: Objection, form.</p> <p>6 THE WITNESS: Yes.</p> <p>7 BY MR. MICALLEF:</p> <p>8 Q Okay. Now, in most window systems that</p> <p>9 were in existence in, say, the late '90s, windows</p> <p>10 could be moved, correct?</p> <p>11 MS. MILLER: Objection, form.</p> <p>12 THE WITNESS: Yes, I think that's a fair</p> <p>13 statement.</p> <p>14 BY MR. MICALLEF:</p> <p>15 Q Is it also fair to say that in most windows</p> <p>16 systems that were available in the late '90s, the</p> <p>17 windows would be displayed on top of icons on a</p> <p>18 desktop?</p> <p>19 MS. MILLER: Objection, form.</p> <p>20 THE WITNESS: No, I don't think that's a</p> <p>21 fair statement.</p> <p>22 BY MR. MICALLEF:</p> <p>23 Q Well, okay. Would you agree that -- let's</p> <p>24 take Microsoft Windows 98. You're familiar with</p> <p>25 that, right?</p>	<p style="text-align: right;">Page 56</p> <p>1 could put tiles in this web browser and the web</p> <p>2 browser would obscure other things on the screen?</p> <p>3 MS. MILLER: Objection, form.</p> <p>4 BY MR. MICALLEF:</p> <p>5 Q Excuse me. The web browser could obscure</p> <p>6 other things on the screen.</p> <p>7 MS. MILLER: Objection, form.</p> <p>8 BY MR. MICALLEF:</p> <p>9 Q Do you agree with that?</p> <p>10 A Okay. I don't have any disagreement with</p> <p>11 that.</p> <p>12 Q Okay. And so in that case, imagine a</p> <p>13 situation where I'm using the tiles of the '403</p> <p>14 patent on a Windows 98 based machine and I had tiles</p> <p>15 in one browser window, other tiles in a different</p> <p>16 browser window. In that situation, I could make the</p> <p>17 tiles overlap, couldn't I?</p> <p>18 MS. MILLER: Objection, form.</p> <p>19 THE WITNESS: I'm sorry. You're describing</p> <p>20 something that's not in the patent and that I</p> <p>21 haven't thought about. I don't read anything in the</p> <p>22 patent that describes the situation you just</p> <p>23 presented.</p> <p>24 BY MR. MICALLEF:</p> <p>25 Q Can you answer my hypothetical?</p>
<p style="text-align: right;">Page 55</p> <p>1 A I am.</p> <p>2 Q The windows of Microsoft Windows 98 could</p> <p>3 be displayed on top of icons; is that fair?</p> <p>4 A Yes.</p> <p>5 Q Yeah, okay. Are you familiar with Apple's</p> <p>6 operating systems from the late '90s?</p> <p>7 MS. MILLER: Objection, form.</p> <p>8 THE WITNESS: Yes. Not as familiar as with</p> <p>9 Microsoft operating systems but, yes, I used them.</p> <p>10 BY MR. MICALLEF:</p> <p>11 Q And would it be fair to say that that same</p> <p>12 functionality existed in Apple operating systems;</p> <p>13 that is, the windows could be displayed on top of</p> <p>14 icons?</p> <p>15 A Yes, they could.</p> <p>16 Q So we could characterize that as the icons</p> <p>17 would be at one layer and the windows would be at a</p> <p>18 higher layer; is that fair?</p> <p>19 MS. MILLER: Objection, form.</p> <p>20 THE WITNESS: One could characterize that</p> <p>21 behavior in that way, yes.</p> <p>22 BY MR. MICALLEF:</p> <p>23 Q Okay. And so in this embodiment that's</p> <p>24 described with respect to figure 6, a person of</p> <p>25 ordinary skill in the art would understand that you</p>	<p style="text-align: right;">Page 57</p> <p>1 A Not without thinking about it some more.</p> <p>2 Q So I'd like to direct your attention to</p> <p>3 Column 9 --</p> <p>4 A Okay.</p> <p>5 Q -- line 43 there's a paragraph that</p> <p>6 begins, "In a preferred embodiment, double-clicking</p> <p>7 a tile causes that tile to occupy a substantial</p> <p>8 fraction of the whole display area."</p> <p>9 Do you see that?</p> <p>10 A I do.</p> <p>11 Q So if I had a grid of tiles filling my</p> <p>12 screen and I double clicked on a tile to cause it to</p> <p>13 occupy a substantial fraction of the whole display,</p> <p>14 the tile that I double clicked would overlap some of</p> <p>15 the other tiles; isn't that right?</p> <p>16 MS. MILLER: Objection, form.</p> <p>17 THE WITNESS: Well, it's really not clear</p> <p>18 from this exactly what happens in that situation. I</p> <p>19 mean, it might be that the resulting display is no</p> <p>20 longer a tile. It might also be that the resulting</p> <p>21 display fills the entire screen. It might be that</p> <p>22 it obscures tiles without necessarily overlapping by</p> <p>23 part of a tile. So I don't know that that's</p> <p>24 something we can derive from the sentence.</p> <p>25 BY MR. MICALLEF:</p>

15 (Pages 54 to 57)



<p style="text-align: right;">Page 58</p> <p>1 <b>Q</b> Well, the sentence says -- and, again, I'm</p> <p>2 <b>reading at Column 9, line 43, beginning there --</b></p> <p>3 <b>A</b> Right.</p> <p>4 <b>Q</b> -- "double-clicking a tile causes that tile</p> <p>5 <b>to occupy a substantial fraction of the whole</b></p> <p>6 <b>display area."</b></p> <p>7 <b>Do you see that?</b></p> <p>8 <b>A</b> I do.</p> <p>9 <b>Q</b> It doesn't say that the tile becomes</p> <p>10 <b>something else, does it?</b></p> <p>11 <b>A</b> No, it doesn't say that.</p> <p>12 <b>Q</b> In fact, it says that it's the tile that</p> <p>13 <b>occupies the substantial fraction of the display?</b></p> <p>14 <b>A</b> It does say that.</p> <p>15 <b>Q</b> So this is saying that when you double</p> <p>16 <b>click that tile, it's the title that gets bigger,</b></p> <p>17 <b>right?</b></p> <p>18 <b>MS. MILLER:</b> Objection, form.</p> <p>19 <b>THE WITNESS:</b> Well, I don't know that it's</p> <p>20 <b>quite that crystal clear. I think the meaning of</b></p> <p>21 <b>this may be one could interpret this as that tile --</b></p> <p>22 <b>it causes the tile to become a full window that one</b></p> <p>23 <b>would no longer necessarily characterize as a tile.</b></p> <p>24 <b>It's a little bit ambiguous in the -- in the context</b></p> <p>25 <b>of the -- of the patent. I'm not sure it's quite as</b></p>	<p style="text-align: right;">Page 60</p> <p>1 1 of the video deposition of Glenn Weadock. The</p> <p>2 <b>time is 10:05:09 a.m. We are now off the record.</b></p> <p>3 <b>(Recess.)</b></p> <p>4 <b>THE VIDEOGRAPHER:</b> This begins Disc No. 2</p> <p>5 <b>of the video deposition of Glenn Weadock. The time</b></p> <p>6 <b>is 10:21:39 a.m. We are now on the record.</b></p> <p>7 <b>BY MR. MICALLEF:</b></p> <p>8 <b>Q</b> Great. Mr. Weadock, did you have any</p> <p>9 <b>conversations with your counsel during the break?</b></p> <p>10 <b>A</b> No.</p> <p>11 <b>Q</b> Thank you. Now, we were looking at the</p> <p>12 <b>'403 patent. I'd like to direct your attention back</b></p> <p>13 <b>to that.</b></p> <p>14 <b>A</b> Okay.</p> <p>15 <b>Q</b> Specifically, I'd like to direct your</p> <p>16 <b>attention to the sentence that appears at column 10,</b></p> <p>17 <b>lines 54 through 56, and it reads, "Each tile is</b></p> <p>18 <b>associated with a data stream or application program</b></p> <p>19 <b>and allows a choice of displayed images."</b></p> <p>20 <b>Do you see that?</b></p> <p>21 <b>A</b> I do.</p> <p>22 <b>Q</b> You would agree that that sentence doesn't</p> <p>23 <b>say anything about selecting a tile, wouldn't you?</b></p> <p>24 <b>MS. MILLER:</b> Objection, form.</p> <p>25 <b>THE WITNESS:</b> That sentence doesn't use the</p>
<p style="text-align: right;">Page 59</p> <p>1 crystal clear as you just discussed, but it doesn't</p> <p>2 <b>say that it becomes something else, I would agree</b></p> <p>3 <b>with that.</b></p> <p>4 <b>BY MR. MICALLEF:</b></p> <p>5 <b>Q</b> And it says that the tile is the thing that</p> <p>6 <b>occupies a substantial fraction of the whole display</b></p> <p>7 <b>area after the double click?</b></p> <p>8 <b>A</b> That's what this sentence says, yes.</p> <p>9 <b>Q</b> Okay, all right. Up a little further on</p> <p>10 <b>Column 9 there's a paragraph that begins at line 25,</b></p> <p>11 <b>and the second sentence begins with the phrase,</b></p> <p>12 <b>"When a tile is selected, whether by mouse click or</b></p> <p>13 <b>otherwise."</b></p> <p>14 <b>Do you see that phrase?</b></p> <p>15 <b>A</b> I do.</p> <p>16 <b>Q</b> So would you agree that mouse click is not</p> <p>17 <b>the only way -- at least this sentence suggests that</b></p> <p>18 <b>a mouse click is not the only way to select a tile?</b></p> <p>19 <b>A</b> I would agree to that, yes.</p> <p>20 <b>Q</b> Okay. I know we've had a -- you've had a</p> <p>21 <b>break, but we've been going for about an hour, so</b></p> <p>22 <b>maybe we should take a break right now.</b></p> <p>23 <b>A</b> Any time.</p> <p>24 <b>MR. MICALLEF:</b> Great. Go off the record.</p> <p>25 <b>THE VIDEOGRAPHER:</b> This concludes Disc No.</p>	<p style="text-align: right;">Page 61</p> <p>1 word "selecting."</p> <p>2 <b>BY MR. MICALLEF:</b></p> <p>3 <b>Q</b> And you would agree that the sentence</p> <p>4 <b>doesn't say anything about how an application</b></p> <p>5 <b>program may be called, wouldn't you?</b></p> <p>6 <b>MS. MILLER:</b> Objection, form.</p> <p>7 <b>THE WITNESS:</b> That's correct.</p> <p>8 <b>BY MR. MICALLEF:</b></p> <p>9 <b>Q</b> If I could get you to turn to column 11 of</p> <p>10 <b>the '43 patent.</b></p> <p>11 <b>A</b> Okay.</p> <p>12 <b>Q</b> There's a sentence that begins at line 1</p> <p>13 <b>and goes through line 3 of column 11 and it reads as</b></p> <p>14 <b>follows, "Each tile is separately associated with a</b></p> <p>15 <b>source of information, for example, an application</b></p> <p>16 <b>program, datastream or file, any one of which may be</b></p> <p>17 <b>another grid object."</b></p> <p>18 <b>Do you see that?</b></p> <p>19 <b>A</b> I do.</p> <p>20 <b>Q</b> Would you agree that that sentence does not</p> <p>21 <b>say anything about selecting a tile?</b></p> <p>22 <b>MS. MILLER:</b> Objection, form.</p> <p>23 <b>THE WITNESS:</b> Yes.</p> <p>24 <b>BY MR. MICALLEF:</b></p> <p>25 <b>Q</b> And would you agree that that sentence at</p>

16 (Pages 58 to 61)

<p style="text-align: right;">Page 62</p> <p>1 column 11, lines 1 to 3 of the '403 patent doesn't</p> <p>2 say anything about calling an application program?</p> <p>3 MS. MILLER: Objection, form.</p> <p>4 THE WITNESS: Well, no. I think it's kind</p> <p>5 of implicit. It says it's associated with an</p> <p>6 application program, so that would suggest to the</p> <p>7 reader, especially in the context of the patent,</p> <p>8 calling an application program. Doesn't state it</p> <p>9 explicitly, however.</p> <p>10 BY MR. MICALLEF:</p> <p>11 Q Doesn't state -- that sentence also doesn't</p> <p>12 state how one calls an application program. Agree</p> <p>13 with that?</p> <p>14 A I would.</p> <p>15 Q Now, I'd like to direct your attention to</p> <p>16 the sentence in the '403 patent at column 11, line</p> <p>17 23 to 24 which reads, "Therefore the application</p> <p>18 resides over existing applications without replacing</p> <p>19 any of them; rather it enables them to be called</p> <p>20 from the grid itself."</p> <p>21 Do you see that?</p> <p>22 A I do.</p> <p>23 Q Would you agree that sentence doesn't say</p> <p>24 anything about selecting a tile?</p> <p>25 MS. MILLER: Objection, form.</p>	<p style="text-align: right;">Page 64</p> <p>1 that has been marked as Exhibit 1015 in this</p> <p>2 proceeding, which is the Chen '932 patent, and have</p> <p>3 you take a look at that.</p> <p>4 A Okay.</p> <p>5 Q I'll identify it on the record. The Chen</p> <p>6 patent is U.S. Patent No. 5,432,932; is it not,</p> <p>7 Mr. Weadock?</p> <p>8 A Yes, sir.</p> <p>9 Q Now, you've read the Chen patent, correct?</p> <p>10 A Yes.</p> <p>11 Q You've read all of it?</p> <p>12 A Yes.</p> <p>13 Q Okay. I'd like you to turn to figure 12c</p> <p>14 of Chen.</p> <p>15 A Okay.</p> <p>16 Q Okay. Now, you've looked at figure 12c</p> <p>17 before?</p> <p>18 A Yes, sir.</p> <p>19 Q And you've studied it?</p> <p>20 A Yes.</p> <p>21 Q Okay. Now, would you agree that what is</p> <p>22 depicted in figure 12c is a window full of eight</p> <p>23 instruments?</p> <p>24 MS. MILLER: Objection, form.</p> <p>25 THE WITNESS: Well, this patent uses</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: That sentence doesn't seem to</p> <p>2 use the words "selecting a tile."</p> <p>3 BY MR. MICALLEF:</p> <p>4 Q And that sentence also doesn't say anything</p> <p>5 about how an application program is called, correct?</p> <p>6 MS. MILLER: Objection, form.</p> <p>7 THE WITNESS: That's correct.</p> <p>8 (Exhibit 2004 was marked for</p> <p>9 identification and was attached to the deposition</p> <p>10 transcript.)</p> <p>11 BY MR. MICALLEF:</p> <p>12 Q Mr. Weadock, I'm going to hand you a</p> <p>13 document that has been previously marked as Exhibit</p> <p>14 2004 in this proceeding.</p> <p>15 A Thank you.</p> <p>16 Q And I will ask you to take a look at it. I</p> <p>17 forgot I wanted to do something else first, so you</p> <p>18 might want to put Exhibit 2004 just off to the side</p> <p>19 for the moment. We're going to get to it real fast.</p> <p>20 A Okay.</p> <p>21 (Exhibit 1015 was marked for</p> <p>22 identification and was attached to the deposition</p> <p>23 transcript.)</p> <p>24 BY MR. MICALLEF:</p> <p>25 Q Instead I'm going to hand you a document</p>	<p style="text-align: right;">Page 65</p> <p>1 certain terms very specifically, so I believe that</p> <p>2 it does use instrument in a very specific way, so</p> <p>3 what I'd like you to do, if you don't mind, is take</p> <p>4 a glance in the spec where it refers to figure 12c</p> <p>5 and make sure --</p> <p>6 BY MR. MICALLEF:</p> <p>7 Q Sure.</p> <p>8 A -- because there are some terms there -- I</p> <p>9 think there's consoles and windows and instruments,</p> <p>10 and it gets kind of confusing.</p> <p>11 Q Okay.</p> <p>12 A And to save time, if you can point me, if</p> <p>13 you know; otherwise, I'll hunt for it.</p> <p>14 Q Well, you might want to try column 26, line</p> <p>15 60, or at least the sentence that begins at line 58.</p> <p>16 Maybe that will give you a hint.</p> <p>17 A Okay, thank you.</p> <p>18 Q Do you see that?</p> <p>19 A Right, okay. So on line 58 it says "The</p> <p>20 types of instruments best suited for the 'Each' type</p> <p>21 skeleton instruments are the recording instruments"</p> <p>22 in figure 12c, and just checking back, skeleton</p> <p>23 instruments have a -- they use a wild card, which</p> <p>24 allows I think a disk to be referenced in a generic</p> <p>25 way. But, yes. I just wanted to make sure that</p>

17 (Pages 62 to 65)

<p style="text-align: right;">Page 66</p> <p>1 they use the term "instruments" in that context, and</p> <p>2 they appear to, yes.</p> <p>3 <b>Q Okay. So figure 12c depicts eight</b></p> <p>4 <b>different instruments, correct?</b></p> <p>5 A It appears to, yes.</p> <p>6 <b>Q And just to be clear, so that the record is</b></p> <p>7 <b>clear what we're talking about, the eight</b></p> <p>8 <b>instruments are depicted in figure 12c in a grid</b></p> <p>9 <b>that's -- we'll call it 2 by 4; is that fair?</b></p> <p>10 MS. MILLER: Objection, form.</p> <p>11 THE WITNESS: I think it's fine to</p> <p>12 characterize them that way.</p> <p>13 BY MR. MICALLEF:</p> <p>14 <b>Q Two columns, four rows, right?</b></p> <p>15 A That's correct.</p> <p>16 <b>Q And would you agree that all of those</b></p> <p>17 <b>instruments are the same size?</b></p> <p>18 A They appear to be.</p> <p>19 <b>Q Now, if I could direct your attention back</b></p> <p>20 <b>to -- well, to column 27.</b></p> <p>21 A Okay.</p> <p>22 <b>Q At the very top lines 1 to 2 there's a</b></p> <p>23 <b>sentence, and if you need to read a little bit more</b></p> <p>24 <b>here, that's fine, but my question is, would you</b></p> <p>25 <b>agree that this is how -- that that sentence</b></p>	<p style="text-align: right;">Page 68</p> <p>1 <b>Q Okay. We can put that aside. And if I</b></p> <p>2 <b>could direct your attention to Exhibit 2004.</b></p> <p>3 A Okay.</p> <p>4 <b>Q Do you have that in front of you?</b></p> <p>5 A I do.</p> <p>6 <b>Q And this is a declaration that you have</b></p> <p>7 <b>submitted in this proceeding; is that right?</b></p> <p>8 A Yes, sir.</p> <p>9 <b>Q Did you review any information from the</b></p> <p>10 <b>main litigation during the time period you were</b></p> <p>11 <b>preparing this report -- this declaration?</b></p> <p>12 A I don't think I reviewed anything that</p> <p>13 was -- any document that was not also a part of this</p> <p>14 IPR proceeding. Some of the documents are active in</p> <p>15 both proceedings.</p> <p>16 <b>Q Okay.</b></p> <p>17 A Some of the prior art documents, for</p> <p>18 example, have been asserted in both proceedings.</p> <p>19 <b>Q I'd like to direct your attention to</b></p> <p>20 <b>paragraph 26 of Exhibit 2004.</b></p> <p>21 A Okay.</p> <p>22 <b>Q And in that paragraph you talk about a web</b></p> <p>23 <b>browser. Do you see that?</b></p> <p>24 A I do.</p> <p>25 <b>Q Okay. Would you agree that a web browser</b></p>
<p style="text-align: right;">Page 67</p> <p>1 <b>describes how the width of the instruments in figure</b></p> <p>2 <b>12c is determined?</b></p> <p>3 MS. MILLER: Objection, form.</p> <p>4 THE WITNESS: So I think what it's</p> <p>5 referring to here is that each instrument -- each</p> <p>6 new instrument that gets created in this scenario</p> <p>7 will have the full width of the skeleton instrument,</p> <p>8 which, frankly, is a little confusing to me looking</p> <p>9 at figure 12c, because the individual instruments</p> <p>10 appear to have half the width of the skeleton</p> <p>11 instrument, if the skeleton is the -- is the large</p> <p>12 outer window.</p> <p>13 But, yeah, I would agree with your question</p> <p>14 I think, that that seems to describe how the width</p> <p>15 of a created instrument is automatically determined.</p> <p>16 BY MR. MICALLEF:</p> <p>17 <b>Q Okay. And at column 27, lines 3 to 6,</b></p> <p>18 <b>there is a statement of how the height of each</b></p> <p>19 <b>created instrument is determined; is that fair?</b></p> <p>20 A I think that's right. It's describing that</p> <p>21 the instrument height is the total height of the</p> <p>22 skeleton divided by the number of objects or</p> <p>23 processes selected. So there seems to be an</p> <p>24 automatic calculation here as to what the height of</p> <p>25 each newly created instrument would be.</p>	<p style="text-align: right;">Page 69</p> <p>1 <b>presents information in a graphical user interface?</b></p> <p>2 MS. MILLER: Objection, form.</p> <p>3 THE WITNESS: Hmm. Well, I'm not sure that</p> <p>4 I would use those words sitting here today. I would</p> <p>5 agree that a web browser has an interface and it</p> <p>6 does present information and it can present</p> <p>7 graphical information, certainly. Normally, when I</p> <p>8 think of graphical user interfaces, I think more of</p> <p>9 operating system software than applications. But it</p> <p>10 could certainly be said that an application has a</p> <p>11 graphical user interface.</p> <p>12 BY MR. MICALLEF:</p> <p>13 <b>Q And it can be said that a web browser has a</b></p> <p>14 <b>graphical user interface?</b></p> <p>15 A It could. It's not the normal -- it's not</p> <p>16 what I would normally associate the term "graphical</p> <p>17 user interface" with sitting here today, but one</p> <p>18 could say that, I suppose.</p> <p>19 (Exhibit 1088 was marked for</p> <p>20 identification and was attached to the deposition</p> <p>21 transcript.)</p> <p>22 BY MR. MICALLEF:</p> <p>23 <b>Q I'm going to ask you to take a look at a</b></p> <p>24 <b>document we have -- we've marked as Exhibit 1088,</b></p> <p>25 <b>which is pages from a book called Internet</b></p>

18 (Pages 66 to 69)

<p style="text-align: right;">Page 70</p> <p>1 <b>Publishing for Dummies.</b>  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 <b>Q So this Exhibit 1088 is pages from your</b>  8 <b>book, right?</b>  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 <b>Q You published this in 1997?</b>  15 MS. MILLER: Same objections.  16 THE WITNESS: That sounds right, yeah.  17 BY MR. MICALLEF:  18 <b>Q Okay. So if I could get you to turn to</b>  19 <b>page 328, using the page numbers that are in the</b>  20 <b>book.</b>  21 A Okay.  22 <b>Q Do you see there it has a definition of a</b>  23 <b>browser?</b>  24 A Yes.  25 <b>Q And it says it presents web documents in a</b></p>	<p style="text-align: right;">Page 72</p> <p>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 <b>Q If I could ask you to turn one page back in</b>  8 <b>Exhibit 1088 --</b>  9 A Okay.  10 <b>Q -- to the very first page of Appendix A,</b>  11 <b>Glossary. Do you see that?</b>  12 A I do.  13 <b>Q And the first definition there is something</b>  14 <b>called ActiveX. Do you see that?</b>  15 MS. MILLER: Same objections.  16 THE WITNESS: I do.  17 BY MR. MICALLEF:  18 <b>Q And the definition in the first line refers</b>  19 <b>to object linking and embedding (OLE). Do you see</b>  20 <b>that?</b>  21 A I do.  22 <b>Q Is that -- OLE, is that pronounced OLE?</b>  23 A It's always been pronounced that way when  24 I've heard the term, yes.  25 <b>Q And can you just tell me what your</b></p>
<p style="text-align: right;">Page 71</p> <p>1 <b>graphical user interface?</b>  2 A Yes.  3 MS. MILLER: Objection to the document.  4 Objection, scope.  5 BY MR. MICALLEF:  6 <b>Q So that was a fair definition of a browser</b>  7 <b>in 1997, right?</b>  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 <b>Q And -- but the definition of browser that</b>  16 <b>you put in your book was a fair definition of what a</b>  17 <b>browser was understood in the computer arts in 1997;</b>  18 <b>agree with that?</b>  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</p>	<p style="text-align: right;">Page 73</p> <p>1 <b>understanding of OLE was?</b>  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 <b>Q So would it be fair to say that OLE could</b>  10 <b>be used to embed one document in another document?</b>  11 MS. MILLER: Objection, scope.  12 THE WITNESS: Yes, that would be fair to  13 say.  14 BY MR. MICALLEF:  15 <b>Q Okay. And in that first sentence of the</b>  16 <b>definition of ActiveX you refer to something called</b>  17 <b>ActiveX controls.</b>  18 <b>Do you see that?</b>  19 A I do.  20 <b>Q What's your understanding of what an</b>  21 <b>ActiveX control is?</b>  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</p>

19 (Pages 70 to 73)

<p style="text-align: right;">Page 74</p> <p>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 <b>Q I'll represent to the witness it's</b> 19 <b>available here. I'll even put it in reach. But my</b> 20 <b>point is, if you're going to maintain that</b> 21 <b>objection, I can mark this. Just seems like it's</b> 22 <b>sort of silly. So just let me know. If you're</b> 23 <b>going to maintain your objection, I will mark it as</b> 24 <b>another exhibit.</b> 25 MS. MILLER: Well, why don't we mark the</p>	<p style="text-align: right;">Page 76</p> <p>1 <b>states, "ActiveX controls are bits of software that</b> 2 <b>let a web browser do things like run</b> 3 <b>ActiveX-compatible applications, such as the</b> 4 <b>Microsoft Office suite, 'inside,'" which is in</b> 5 <b>quotes, "the browser window."</b> 6 <b>Do you see that?</b> 7 A I do. 8 MS. MILLER: Objection, scope. 9 BY MR. MICALLEF: 10 <b>Q Okay. And so does that mean that I</b> 11 <b>could -- someone could use an ActiveX control to</b> 12 <b>let, for example, Microsoft Word run inside a</b> 13 <b>browser window?</b> 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 <b>Q Okay. And the Microsoft Office Suite, what</b> 20 <b>different applications does that encompass?</b> 21 MS. MILLER: Objection. 22 BY MR. MICALLEF: 23 <b>Q Excuse me. Strike that.</b> 24 <b>In 1997 what different application programs</b> 25 <b>did the Microsoft Office Suite include?</b></p>
<p style="text-align: right;">Page 75</p> <p>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 <b>Q Okay. I'm going to put in front of you</b> 11 <b>what has been marked Exhibit 1092, Mr. Weadock, and</b> 12 <b>I just want you to confirm that the glossary in --</b> 13 <b>in Exhibit 1088 appears in Exhibit 1092.</b> 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 <b>Q Okay. So back to ActiveX, your -- and you</b> 20 <b>can look at either glossary since you've told me</b> 21 <b>they're the same. Whatever's convenient to you.</b> 22 <b>You just let me know which one you're looking at.</b> 23 A Okay. I'll look at the one in the full. 24 <b>Q Okay, great. So looking at Exhibit 1092,</b> 25 <b>back to the glossary definition of ActiveX, it</b></p>	<p style="text-align: right;">Page 77</p> <p>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 <b>Q At that time did Microsoft Office include</b> 16 <b>Outlook?</b> 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 <b>Q And Outlook is an e-mail program, correct?</b></p>

20 (Pages 74 to 77)

<p style="text-align: right;">Page 78</p> <p>1 A It does other things -- sorry.</p> <p>2 MS. MILLER: Objection, form.</p> <p>3 THE WITNESS: Outlook does perform e-mail</p> <p>4 functions. It does other things too.</p> <p>5 BY MR. MICALLEF:</p> <p>6 <b>Q Right. And so with ActiveX controls,</b></p> <p>7 <b>someone could create some sort of clickable portion</b></p> <p>8 <b>on a web page that would call one of these Microsoft</b></p> <p>9 <b>Office applications; is that fair?</b></p> <p>10 MS. MILLER: Objection, form. Objection,</p> <p>11 scope.</p> <p>12 THE WITNESS: Oh, well, I don't know. I</p> <p>13 mean, again, we're speaking of some hypothetical</p> <p>14 thing that somebody could write. I don't know</p> <p>15 whether the programmer of the control -- I don't</p> <p>16 know how it would be implemented. Presumably, there</p> <p>17 would be something somewhere that one could click,</p> <p>18 but I don't know how any specific ActiveX control</p> <p>19 might operate. If we want to look at a particular</p> <p>20 one, we certainly could, but the technology could be</p> <p>21 used to do a lot of different things based on clicks</p> <p>22 and typing at the keyboard and so forth.</p> <p>23 BY MR. MICALLEF:</p> <p>24 <b>Q Do you have any reason to believe that an</b></p> <p>25 <b>ActiveX control could not be used to create a</b></p>	<p style="text-align: right;">Page 80</p> <p>1 <b>Q Would it be fair to say that if a tile</b></p> <p>2 <b>provides access to an information source, that there</b></p> <p>3 <b>is an association between that tile and the</b></p> <p>4 <b>information source?</b></p> <p>5 MS. MILLER: Objection, form.</p> <p>6 THE WITNESS: Well, I think one -- one</p> <p>7 could say that, but I think applications are</p> <p>8 assigned to tiles in the context of the patent.</p> <p>9 BY MR. MICALLEF:</p> <p>10 <b>Q Or can be?</b></p> <p>11 A Can be, yes.</p> <p>12 <b>Q Doesn't have to be in every tile, right, in</b></p> <p>13 <b>the '403 patent?</b></p> <p>14 MS. MILLER: Objection, form.</p> <p>15 THE WITNESS: Gosh, I'm not sure. I'd want</p> <p>16 to go back and look at the patent to see if there</p> <p>17 are any examples of tiles that are not associated</p> <p>18 with a program or a file or a datastream of some</p> <p>19 kind.</p> <p>20 BY MR. MICALLEF:</p> <p>21 <b>Q Okay. Well, if a tile provides access to</b></p> <p>22 <b>an information source, wouldn't it be true that that</b></p> <p>23 <b>information source has been assigned to that tile?</b></p> <p>24 MS. MILLER: Objection, form.</p> <p>25 THE WITNESS: No, not necessarily.</p>
<p style="text-align: right;">Page 79</p> <p>1 <b>portion of a web page that when clicked would call</b></p> <p>2 <b>one of the Microsoft Office application programs?</b></p> <p>3 MS. MILLER: Objection, form. Objection,</p> <p>4 scope.</p> <p>5 THE WITNESS: No. Sitting here right now,</p> <p>6 I don't have any reason to believe that.</p> <p>7 BY MR. MICALLEF:</p> <p>8 <b>Q Okay. If I could get you to take a look</b></p> <p>9 <b>back at your declaration, Exhibit 2004.</b></p> <p>10 A Okay.</p> <p>11 <b>Q And, specifically, I'd like to direct your</b></p> <p>12 <b>attention to the section that begins at paragraph</b></p> <p>13 <b>43.</b></p> <p>14 A Okay.</p> <p>15 <b>Q And the first sentence of that section</b></p> <p>16 <b>states, "The '403 patent associates its tile with an</b></p> <p>17 <b>underlying information source."</b></p> <p>18 <b>Do you see that?</b></p> <p>19 A I do.</p> <p>20 <b>Q Do you agree that associates is different</b></p> <p>21 <b>than assigned in the context of the '403 patent?</b></p> <p>22 MS. MILLER: Objection, form.</p> <p>23 THE WITNESS: I think that, yeah, there's</p> <p>24 a -- there's a distinction between those two words.</p> <p>25 BY MR. MICALLEF:</p>	<p style="text-align: right;">Page 81</p> <p>1 BY MR. MICALLEF:</p> <p>2 <b>Q What's your definition of assigned in this</b></p> <p>3 <b>context?</b></p> <p>4 MS. MILLER: Objection, form.</p> <p>5 THE WITNESS: Oh, I think in this context</p> <p>6 it is an act whereby an information source or</p> <p>7 program or data file is linked to a tile and -- in</p> <p>8 such a way that when the tile is selected, that</p> <p>9 information source or datastream or program is -- is</p> <p>10 activated, is accessed.</p> <p>11 MR. MICALLEF: Can I have his answer read</p> <p>12 back.</p> <p>13 (The reporter read the record as</p> <p>14 requested.)</p> <p>15 MR. MICALLEF: Excuse me.</p> <p>16 BY MR. MICALLEF:</p> <p>17 <b>Q So I'd like to ask you to turn to paragraph</b></p> <p>18 <b>46 of your declaration, Exhibit 2004.</b></p> <p>19 A Okay.</p> <p>20 <b>Q Now, in there you -- you talk about what</b></p> <p>21 <b>one of ordinary skill in the art would do with</b></p> <p>22 <b>respect to designing a graphical user interface.</b></p> <p>23 <b>Do you see that?</b></p> <p>24 A I do.</p> <p>25 <b>Q And I think the gist of what you're saying</b></p>

21 (Pages 78 to 81)

<p style="text-align: right;">Page 82</p> <p>1 <b>here is that one would not design a graphical user</b>  2 <b>interface to be not persistent; is that fair?</b>  3 MS. MILLER: Objection, form.  4 THE WITNESS: That's fair.  5 BY MR. MICALLEF:  6 <b>Q Okay. But you would agree, wouldn't you,</b>  7 <b>that there -- there were graphical user interfaces</b>  8 <b>in the prior art of the '403 patent that were not</b>  9 <b>persistent?</b>  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 <b>Q That wasn't my question --</b>  23 A I'm sorry.  24 <b>Q -- Mr. Weadock.</b>  25 A I'm sorry.</p>	<p style="text-align: right;">Page 84</p> <p>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 <b>Q Okay. Let's get outside of any limiting</b>  6 <b>context such as you just mentioned. By 1999 a</b>  7 <b>person of ordinary skill in the art would expect a</b>  8 <b>graphical user interface to be persistent in your</b>  9 <b>view; is that fair?</b>  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 <b>Q And just to be clear, we're not departing</b>  23 <b>from the patent. We're talking about a person of</b>  24 <b>ordinary skill in the art associated with the '403</b>  25 <b>patent. Do you understand that?</b></p>
<p style="text-align: right;">Page 83</p> <p>1 <b>Q There were graphical user interfaces in the</b>  2 <b>prior art that were not persistent. That's my</b>  3 <b>question. Agree with that?</b>  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 <b>Q You read Mr. Karger's or Dr. Karger's</b>  11 <b>declaration in this proceeding?</b>  12 A I -- I did.  13 <b>Q Do you recall that he said some prior</b>  14 <b>systems had graphical user interfaces that were not</b>  15 <b>persistent?</b>  16 A Not specifically. If you want to point me  17 to that, I'd be glad to comment on it.  18 <b>Q Okay. So just to understand your</b>  19 <b>testimony, by, say, 1999 your view is that a person</b>  20 <b>of ordinary skill in the art would expect a</b>  21 <b>graphical user interface to be persistent; is that</b>  22 <b>fair?</b>  23 MS. MILLER: Objection, form.  24 THE WITNESS: Yes, in the sense in which  25 graphical user interface is used here in this patent</p>	<p style="text-align: right;">Page 85</p> <p>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 <b>Q I said let's set aside your desktop</b>  11 <b>replacement qualification, and what I'm asking you</b>  12 <b>is, a person of ordinary skill in the art, in the</b>  13 <b>art relevant to the '403 patent in 1999, would</b>  14 <b>expect a graphical user interface to be persistent;</b>  15 <b>that's your view, correct?</b>  16 A That is my view.  17 <b>Q Okay. And is it your view that a person of</b>  18 <b>ordinary skill in the art at that time would assume</b>  19 <b>that every graphical user interface has persistence?</b>  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 <b>Q Which term?</b>  25 A Graphical user interface.</p>

22 (Pages 82 to 85)

<p style="text-align: right;">Page 86</p> <p>1 <b>Q I would like to ask you some questions</b>  2 <b>about your paragraph 48, which starts, I believe, at</b>  3 <b>page 16 of Exhibit 2004 and then goes over to page</b>  4 <b>18.</b>  5 A Okay.  6 <b>Q Do you have that in front of you?</b>  7 A I do.  8 <b>Q And so -- let me find something here.</b>  9 <b>Okay. In -- in paragraph 48(a) you refer</b>  10 <b>to bookmarks. Do you see that?</b>  11 A I do.  12 <b>Q And you say, "Bookmarks are persistent by</b>  13 <b>definition." Do you see that?</b>  14 A I do.  15 <b>Q All right. Now, you had in the exhibit</b>  16 <b>we've marked previously as -- well, Exhibit 1092,</b>  17 <b>you have a definition for bookmark on page 328. Can</b>  18 <b>you get that in front of you?</b>  19 A Okay.  20 MS. MILLER: Objection to the document.  21 Objection, scope.  22 BY MR. MICALLEF:  23 <b>Q Do you see that definition of bookmark?</b>  24 A I do.  25 <b>Q Is that the bookmark -- are those the</b></p>	<p style="text-align: right;">Page 88</p> <p>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 <b>Q How is it available from one session to the</b>  13 <b>next?</b>  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 <b>Q Well, what do you mean by session, I guess?</b>  20 MS. MILLER: Objection, form. Objection,  21 scope.  22 THE WITNESS: Between opening and closing  23 the browser.  24 BY MR. MICALLEF:  25 <b>Q So if I have a bookmark that goes away when</b></p>
<p style="text-align: right;">Page 87</p> <p>1 <b>bookmarks you're talking about in paragraph 48(a)?</b>  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 <b>Q I note the bookmark definition in your</b>  11 <b>Internet Publishing for Dummies book doesn't say</b>  12 <b>anything about persistence, does it?</b>  13 A Sure, it does.  14 <b>Q Where does it say that?</b>  15 A Lets the user go directly to a specific web  16 page without having to type the URL all over again.  17 <b>Q Why does that mean persistence?</b>  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 <b>Q Does that mean that the bookmark is always</b>  22 <b>on the screen?</b>  23 A No.  24 <b>Q Are you saying that indicates persistence</b>  25 <b>because the bookmark is stored somewhere in memory?</b></p>	<p style="text-align: right;">Page 89</p> <p>1 <b>I turn off the computer, would that still be</b>  2 <b>persistent?</b>  3 MS. MILLER: Objection, form.  4 BY MR. MICALLEF:  5 <b>Q Let me rephrase. Strike that. If I have a</b>  6 <b>bookmark when I turn off my computer, then turn it</b>  7 <b>on again it's no longer there, would that still be</b>  8 <b>persistent?</b>  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 <b>Q That's what I'm trying to get at. Anything</b>  23 <b>in a computer system -- if it's in a computer</b>  24 <b>system, it exists for some period of time. So why</b>  25 <b>wouldn't anything in a computer system be called --</b></p>

23 (Pages 86 to 89)



<p style="text-align: right;">Page 90</p> <p>1 <b>fairly called persistent?</b>  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 <b>Q Well, I mean, does persistence require that</b>  8 <b>it -- that it still be there when I turn off my</b>  9 <b>computer and turn it on again?</b>  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 <b>Q And so in a computer, that functionality</b>  17 <b>would be provided by some -- by storage of the</b>  18 <b>relevant information in some kind of nonvolatile</b>  19 <b>memory; is that fair?</b>  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:</p>	<p style="text-align: right;">Page 92</p> <p>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 <b>Q And in order to have it persist across</b>  6 <b>power cycles you have to store something in what we</b>  7 <b>generally call nonvolatile memory, fair?</b>  8 A I think that's fair.  9 <b>Q And so your example of bookmarks, some</b>  10 <b>information for a bookmark must be stored in</b>  11 <b>nonvolatile memory, like a hard drive for example,</b>  12 <b>correct?</b>  13 MS. MILLER: Objection, form.  14 THE WITNESS: Sure.  15 BY MR. MICALLEF:  16 <b>Q Okay. Now, in paragraph 48(b), you refer</b>  17 <b>to -- well, you quote I believe a phrase from the</b>  18 <b>'403 patent that refers to a file system, correct?</b>  19 A Correct.  20 <b>Q And one of ordinary skill in the art would</b>  21 <b>understand a file system again to be some type of</b>  22 <b>nonvolatile memory; is that fair?</b>  23 A That's fair.  24 <b>Q Like a hard drive would be one example,</b>  25 <b>correct?</b></p>
<p style="text-align: right;">Page 91</p> <p>1 <b>Q So in that situation, a computer that's on</b>  2 <b>all the time, you're saying a feature is persistent</b>  3 <b>even if it's possible that if I turn the computer</b>  4 <b>off and turned it on again, it's gone?</b>  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 <b>Q It's not how use the word "persistence"</b>  11 <b>either, is it? Didn't you just tell me if you turn</b>  12 <b>it off and turn it on and it's gone, that's not</b>  13 <b>persistent?</b>  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</p>	<p style="text-align: right;">Page 93</p> <p>1 A No, a hard drive would not be an example of  2 a file system.  3 <b>Q I'm sorry. A hard drive would be an</b>  4 <b>example of nonvolatile memory, correct?</b>  5 A Yes, sir.  6 <b>Q Okay. And in 48(c) you are talking about</b>  7 <b>menus. Do you see that?</b>  8 A I do.  9 <b>Q And you say that they are persistent</b>  10 <b>structures, correct?</b>  11 A Correct.  12 <b>Q And I take it you would agree in order for</b>  13 <b>a menu to be persistent, it too or some information</b>  14 <b>about it must be stored in a nonvolatile memory</b>  15 <b>somewhere?</b>  16 A Yes.  17 <b>Q Do you know what a dynamic menu is?</b>  18 MS. MILLER: Objection, form.  19 THE WITNESS: Yes.  20 BY MR. MICALLEF:  21 <b>Q What's your understanding of a dynamic</b>  22 <b>menu?</b>  23 A A menu that can change.  24 <b>Q Can change?</b>  25 A Yes.</p>

24 (Pages 90 to 93)

<p style="text-align: right;">Page 94</p> <p>1 <b>Q And would that type of menu be stored in</b>  2 <b>nonvolatile memory in the ordinary sense?</b>  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 <b>Q Okay. In figure -- I'm sorry -- paragraph</b>  9 <b>48(d) you refer to something called a metabase. Do</b>  10 <b>you see that?</b>  11 A I do.  12 <b>Q Now, that's a term that's used in the '403</b>  13 <b>patent?</b>  14 A It is.  15 <b>Q And is it fair to say that that's a type of</b>  16 <b>database?</b>  17 A Yes.  18 <b>Q Okay. And a person of ordinary skill in</b>  19 <b>the art would understand that a database is stored</b>  20 <b>on, for example, a hard drive?</b>  21 A Yes.  22 MS. MILLER: Objection.  23 THE WITNESS: Oh, pardon me.  24 Yes.  25 BY MR. MICALLEF:</p>	<p style="text-align: right;">Page 96</p> <p>1 <b>Q And you quote a portion of the patent that</b>  2 <b>talks about how tile content and priorities can be</b>  3 <b>held over from one session to another.</b>  4 <b>Do you see that?</b>  5 A I do.  6 <b>Q And would you agree that that phrase "held</b>  7 <b>over" means stored in some kind of nonvolatile</b>  8 <b>memory?</b>  9 A Yes.  10 <b>Q Now, on page 18 of Exhibit 2004, paragraph</b>  11 <b>48(g), you're citing to an example of some kind of</b>  12 <b>synchronization procedure that allows a metabase to</b>  13 <b>be stored on a server.</b>  14 <b>Do you see that?</b>  15 A Yes.  16 <b>Q And fair to say that this describes copying</b>  17 <b>the meta database just from one computer to another?</b>  18 MS. MILLER: Objection, form.  19 THE WITNESS: Well, I'm not sure a copy  20 operation is disclosed.  21 BY MR. MICALLEF:  22 <b>Q What do you understand a synchronization</b>  23 <b>procedure to be?</b>  24 A Well, what the patent says is that the  25 synchronization procedure allows the metabase to be</p>
<p style="text-align: right;">Page 95</p> <p>1 <b>Q Now, in paragraph 48(e) you refer to a</b>  2 <b>content store. Do you see that?</b>  3 A I do.  4 <b>Q And the patent describes that as part of</b>  5 <b>the metabase?</b>  6 A I'm not sure that it does. If you want to  7 give me a moment, I can double check that.  8 <b>Q Okay. Go ahead. You might want to look --</b>  9 <b>I'll just -- the citation you have here may indicate</b>  10 <b>that.</b>  11 A Right. So, yeah, I don't think that the  12 content store is tied to the metabase.  13 <b>Q Can I direct your attention to column 17 of</b>  14 <b>the '403 patent, lines 27 to 30? Do you see that</b>  15 <b>sentence?</b>  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 <b>Q Okay. Okay. And back to your Exhibit</b>  21 <b>2004.</b>  22 A Okay.  23 <b>Q In paragraph 48(f) you have -- you discuss</b>  24 <b>a client server scenario. Do you see that?</b>  25 A I do.</p>	<p style="text-align: right;">Page 97</p> <p>1 stored on a server and queried by a device.  2 <b>Q And what do you understand a</b>  3 <b>synchronization procedure to be?</b>  4 A Well, the device doing the querying is  5 going to get information from the metabase and doing  6 something with it.  7 <b>Q And so wouldn't that indicate that -- oh, I</b>  8 <b>see. So you think that that indicates the metabase</b>  9 <b>is stored on a server somewhere?</b>  10 A I think that's what it says, yes, sir.  11 <b>Q Okay. And, again, that would be in a</b>  12 <b>nonvolatile memory if it were to be persistent?</b>  13 A One would expect so, yes.  14 <b>Q Yeah, okay. And in paragraph 48(h) of your</b>  15 <b>declaration, you refer to a repository for passwords</b>  16 <b>and identifiers.</b>  17 <b>Do you see that?</b>  18 A I do.  19 <b>Q And you are using that term to indicate</b>  20 <b>some kind of nonvolatile memory that stores the</b>  21 <b>passwords and identifiers?</b>  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</p>

25 (Pages 94 to 97)

<p style="text-align: right;">Page 98</p> <p>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 <b>Q Right, okay. Thank you. I'd like to</b> 7 <b>direct your attention to paragraph 57 of your</b> 8 <b>Exhibit 2004.</b> 9 A Okay. 10 <b>Q And in that paragraph you use the</b> 11 <b>phrase "entry point." Do you see that?</b> 12 A I do. 13 <b>Q Can you tell me what you mean by that?</b> 14 A Yes. A means of accessing a window, an 15 application, a datastream, a file. 16 <b>Q Would you agree the '403 patent never uses</b> 17 <b>that phrase?</b> 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 <b>Q Why didn't you search it?</b> 24 A There wasn't a reason to. I don't 25 represent that the patent uses those words.</p>	<p style="text-align: right;">Page 100</p> <p>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 <b>Q So you point to portions of the '403</b> 5 <b>patent, but you never point to anything outside of</b> 6 <b>the '403 patent; agree with that?</b> 7 MS. MILLER: Objection, form. 8 BY MR. MICALLEF: 9 <b>Q In paragraph 57?</b> 10 A In paragraph 57 -- I'm sorry. What was 11 your question? 12 <b>Q Paragraph 57 you never cite to any evidence</b> 13 <b>outside of the '403 patent; agree with that?</b> 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 <b>Q And there's no reason cited in paragraph 57</b> 19 <b>for why a window can't be an entry point to another</b> 20 <b>window, is there?</b> 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</p>
<p style="text-align: right;">Page 99</p> <p>1 <b>Q I know in paragraph 57 you don't cite any</b> 2 <b>evidence for the notion that a person of ordinary</b> 3 <b>skill in the art would have understood that a tile</b> 4 <b>is an entry point to a window; is that correct?</b> 5 A No, that's not correct. 6 <b>Q What evidence do you cite?</b> 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</p>	<p style="text-align: right;">Page 101</p> <p>1 discount that possibility in paragraph 57 if that 2 was your question. 3 BY MR. MICALLEF: 4 <b>Q Direct your attention to paragraph 60 of</b> 5 <b>your declaration, Exhibit 2004.</b> 6 A Okay. 7 <b>Q You use this phrase "aperiodic" near the</b> 8 <b>end of that. Do you see that?</b> 9 A Okay. Yes. 10 <b>Q Okay. And what do you mean by aperiodic?</b> 11 A Not having a defined period. 12 <b>Q And is that -- so is that the opposite of</b> 13 <b>periodic?</b> 14 A Okay. Yeah, I think so. 15 <b>Q Okay. Would you agree that periodic</b> 16 <b>requires a recurring interval?</b> 17 MS. MILLER: Objection, form. 18 THE WITNESS: A recurring period, recurring 19 interval, that sounds fair. 20 BY MR. MICALLEF: 21 <b>Q Okay. You know, I think we've been going</b> 22 <b>again for a little over an hour, so why don't we</b> 23 <b>take another break.</b> 24 A Okay. 25 THE VIDEOGRAPHER: This concludes Disc No.</p>

26 (Pages 98 to 101)

<p style="text-align: right;">Page 102</p> <p>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 <b>Q Mr. Weadock, I'd like you -- I'd like to</b>  10 <b>direct your attention back to Exhibit 2004,</b>  11 <b>particularly paragraph 62. Do you have that in</b>  12 <b>front of you?</b>  13 A I do.  14 <b>Q And in that paragraph you state that you</b>  15 <b>gave some thought to whether you have ever</b>  16 <b>encountered mention of the word "partition" in a</b>  17 <b>context that would permit overlap of the spaces that</b>  18 <b>are partitioned, correct?</b>  19 A Correct.  20 <b>Q Did you do anything other than just give</b>  21 <b>some thought to that notion?</b>  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.</p>	<p style="text-align: right;">Page 104</p> <p>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 <b>Q I'm going to ask you to take a look at what</b>  10 <b>we've marked as Exhibit 1091, which is a copy of</b>  11 <b>United States Patent No. 5,974,567 entitled "Ghost</b>  12 <b>Partition." Have you take a look at that.</b>  13 MS. MILLER: Objection to the document. No  14 prior notice and outside the scope.  15 BY MR. MICALLEF:  16 <b>Q Do you have Exhibit 1091 in front of you?</b>  17 A Yes.  18 <b>Q I'd like to direct your attention to the</b>  19 <b>first sentence of the abstract of Exhibit 1091 which</b>  20 <b>states, "An apparatus and a method for storing</b>  21 <b>diagnostic software on a data storage device</b>  22 <b>provides one or more ghost partitions overlapping a</b>  23 <b>user partition on a data storage device."</b>  24 <b>Do you see that?</b>  25 A I do.</p>
<p style="text-align: right;">Page 103</p> <p>1 Yeah. So, yeah, paragraph 64. I looked it up in  2 one of my books so, yes.  3 BY MR. MICALLEF:  4 <b>Q Anything else?</b>  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 <b>Q Did you perform any search for prior art</b>  10 <b>patents that might show overlapping partitions?</b>  11 A No, I did not.  12 <b>Q Was there a reason you did not?</b>  13 A Yes.  14 <b>Q What was it?</b>  15 A I thought I had a handle on the concept.  16 <b>Q You didn't think that a prior art patent</b>  17 <b>that showed overlapping partitions would be helpful</b>  18 <b>to the Board?</b>  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 <b>Q So you just didn't look because you didn't</b>  24 <b>expect to find it?</b>  25 A I didn't do a prior art patent search on</p>	<p style="text-align: right;">Page 105</p> <p>1 <b>Q So you would agree that here is one example</b>  2 <b>of a prior art patent which discloses overlapping</b>  3 <b>partitions; would you not?</b>  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 <b>Q But that one sentence in the abstract</b>  11 <b>certainly says that there are overlapping</b>  12 <b>partitions, doesn't it?</b>  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 <b>Q Okay. You understand that as a legal</b>  20 <b>matter, a person of ordinary skill in the art is</b>  21 <b>assumed to know all of the prior art, don't you?</b>  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</p>

27 (Pages 102 to 105)

<p style="text-align: right;">Page 106</p> <p>1 of the prior art that exists, that's not my 2 understanding. 3 BY MR. MICALLEF: 4 <b>Q So in your view of the law, a person of</b> 5 <b>ordinary skill in the art is not presumed to know</b> 6 <b>the content of the prior art. Is that your view?</b> 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 <b>Q And so a -- I'm sorry. Were you done?</b> 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 <b>Q And so I just want to get to what you mean</b> 25 <b>there, because you are providing opinions on what</b></p>	<p style="text-align: right;">Page 108</p> <p>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 <b>Q Nobody said anything about memorizing.</b> 10 A You said know. I don't know what you mean 11 by know. 12 <b>Q Okay. So let me direct your attention to</b> 13 <b>your paragraph 65 in Exhibit 2004.</b> 14 A Okay. 15 <b>Q You say there that it's your opinion that,</b> 16 <b>"Even if one could identify isolated instances where</b> 17 <b>'portioning' was used in a sense that could include</b> 18 <b>overlapping, the meaning of 'partitioning' excludes</b> 19 <b>the possibility of overlap to a person of ordinary</b> 20 <b>skill in the art."</b> 21 <b>Do you see that?</b> 22 A I do. 23 <b>Q And what legal principle were you applying</b> 24 <b>to come to that conclusion?</b> 25 MS. MILLER: Objection, form.</p>
<p style="text-align: right;">Page 107</p> <p>1 <b>you think a person of ordinary skill in the art</b> 2 <b>would understand the word "partitioning" to mean.</b> 3 A Yes. 4 <b>Q So would you agree that a person of</b> 5 <b>ordinary skill in the art that's most relevant to</b> 6 <b>the '403 would know that this Exhibit 1091 discloses</b> 7 <b>overlapping partitions?</b> 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 <b>Q I'm not asking you what you know,</b> 19 <b>Mr. Weadock. I'm asking you to agree with me that a</b> 20 <b>person of ordinary skill in the art would know</b> 21 <b>what's in this Exhibit 1091.</b> 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</p>	<p style="text-align: right;">Page 109</p> <p>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 <b>Q Well, whether you think it's weird or not,</b> 13 <b>you're saying that even if somebody can find an</b> 14 <b>example in the prior art of overlapping partitions,</b> 15 <b>in your view that wouldn't inform what a person of</b> 16 <b>ordinary skill in the art would think the word</b> 17 <b>"partitioning" means; that's your view, isn't it?</b> 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</p>

28 (Pages 106 to 109)

<p style="text-align: right;">Page 110</p> <p>1 references out there in the world.  2 BY MR. MICALLEF:  3 <b>Q And that's the view you applied when</b>  4 <b>crafting the opinions that you've articulated in</b>  5 <b>Exhibit 2004, right?</b>  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 <b>Q I'd like to ask you to look at paragraph 94</b>  14 <b>of your declaration --</b>  15 A Okay.  16 <b>Q -- Exhibit 2004. So in the third sentence</b>  17 <b>of paragraph 94 you state that, "It is conceivable</b>  18 <b>that multiple channels that are 'periodically</b>  19 <b>sampled and displayed simultaneously' could be</b>  20 <b>sampled and displayed at random intervals not</b>  21 <b>corresponding to any refresh rate."</b>  22 <b>Do you see that?</b>  23 A I do.  24 <b>Q Okay. I want to unpack that into different</b>  25 <b>parts a little bit. Is it your view that something</b></p>	<p style="text-align: right;">Page 112</p> <p>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 <b>Q But my questions were just, if you're going</b>  16 <b>to describe something as periodic, it's not going to</b>  17 <b>occur at random intervals; you would agree with</b>  18 <b>that?</b>  19 A I think that's -- I think that's true. I  20 would agree with that, yes, sir.  21 <b>Q Now, if I could get you to turn to</b>  22 <b>paragraph 102.</b>  23 A Right.  24 <b>Q Okay. So -- and you might want to -- let</b>  25 <b>me ask the question and maybe you want to read this</b></p>
<p style="text-align: right;">Page 111</p> <p>1 <b>that's periodically sampled can be sampled at random</b>  2 <b>intervals?</b>  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 <b>Q Because if it's periodically sampled, it's</b>  14 <b>sampled at some sort of regular interval; is that</b>  15 <b>fair?</b>  16 A One would normally understand that to be  17 the case, yes.  18 <b>Q Okay. Can I direct your attention to</b>  19 <b>paragraph --</b>  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 <b>Q Sure, go ahead.</b>  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</p>	<p style="text-align: right;">Page 113</p> <p>1 <b>before you answer. First question is this. This</b>  2 <b>paragraph 102 doesn't say anything about</b>  3 <b>persistence; isn't that right?</b>  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 <b>Q You are aware that the Board has provided</b>  9 <b>an interpretation of the claim word "tile," correct?</b>  10 A Yes, I am aware of that.  11 <b>Q And you're aware that part of that</b>  12 <b>interpretation includes this phrase "when selected,</b>  13 <b>provides access to an information source"?</b>  14 A That sounds right.  15 <b>Q Okay. Just to confirm, paragraph 102</b>  16 <b>doesn't address that portion of the Board's tile</b>  17 <b>interpretation; agree with that?</b>  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</p>

29 (Pages 110 to 113)

<p style="text-align: right;">Page 114</p> <p>1 word processor or an e-mail program via Chen." And</p> <p>2 the way that you launch things in the '403 is</p> <p>3 selecting, so there is the concept sort of</p> <p>4 underlying some of the discussion in this paragraph.</p> <p>5 BY MR. MICALLEF:</p> <p>6 <b>Q But you never mentioned that portion of the</b></p> <p>7 <b>Board's tile -- tile interpretation, correct --</b></p> <p>8 MS. MILLER: Objection.</p> <p>9 BY MR. MICALLEF:</p> <p>10 <b>Q -- in this paragraph?</b></p> <p>11 A I never mentioned that portion of the</p> <p>12 Board's tile interpretation in this paragraph, yeah,</p> <p>13 I don't see any reference to the Board in this</p> <p>14 paragraph.</p> <p>15 <b>Q And just to be clear, you don't analyze</b></p> <p>16 <b>that portion of the Board's tile interpretation in</b></p> <p>17 <b>paragraph 102 either; is that fair?</b></p> <p>18 MS. MILLER: Objection, form.</p> <p>19 THE WITNESS: No, I don't think that's</p> <p>20 fair. As I just said, I think this second sentence</p> <p>21 in paragraph 102 is talking about the '403 system of</p> <p>22 tiles, which is built around the concept of</p> <p>23 selecting a tile to -- to launch applications and</p> <p>24 datastreams and files and so forth. So I think it's</p> <p>25 certainly implicit here and the understanding</p>	<p style="text-align: right;">Page 116</p> <p>1 <b>it can't launch a word processor or e-mail program</b></p> <p>2 <b>here in paragraph 102. You never say that, right?</b></p> <p>3 MS. MILLER: Objection, form.</p> <p>4 THE WITNESS: I talk a lot about selecting</p> <p>5 in the next paragraph, but I don't specifically talk</p> <p>6 about selecting in this paragraph, that's correct.</p> <p>7 BY MR. MICALLEF:</p> <p>8 <b>Q Great, thank you. I'd like to direct your</b></p> <p>9 <b>attention to -- excuse me -- paragraph 104 of</b></p> <p>10 <b>Exhibit 2004.</b></p> <p>11 A Okay.</p> <p>12 <b>Q And here you're talking about certain</b></p> <p>13 <b>functionality in Chen that indicates a user has the</b></p> <p>14 <b>ability to record from a datastream where an</b></p> <p>15 <b>instrument is selected; is that fair?</b></p> <p>16 A No.</p> <p>17 <b>Q What's unfair about that?</b></p> <p>18 A The instrument isn't selected.</p> <p>19 <b>Q Well, let me ask you this. Do you think</b></p> <p>20 <b>recording a datastream is a form of access?</b></p> <p>21 MS. MILLER: Objection, form.</p> <p>22 THE WITNESS: No, I don't think recording a</p> <p>23 datastream is providing access to underlying</p> <p>24 information in the sense of the '403. That's just a</p> <p>25 way of redirecting information that's already there</p>
<p style="text-align: right;">Page 115</p> <p>1 informs the paragraph.</p> <p>2 BY MR. MICALLEF:</p> <p>3 <b>Q And so in your view, could the Board's</b></p> <p>4 <b>claim interpretation, that portion of it, the when</b></p> <p>5 <b>selected portion, be satisfied in any way other than</b></p> <p>6 <b>launching a word processor or e-mail program?</b></p> <p>7 A Sure. Those are just examples I gave.</p> <p>8 <b>Q Fair enough. So the fact that you believe</b></p> <p>9 <b>that Chen could not do that would not in and of</b></p> <p>10 <b>itself indicate that Chen doesn't satisfy the</b></p> <p>11 <b>Board's claim interpretation?</b></p> <p>12 A When you say could not do that, what are</p> <p>13 you referring to? What's --</p> <p>14 <b>Q You say could not launch a word processor</b></p> <p>15 <b>or an e-mail program?</b></p> <p>16 A Well, those are just exemplary. No, I</p> <p>17 think it goes -- it's very important, when looking</p> <p>18 at Chen, to understand that you can't select a</p> <p>19 window in Chen to launch something like a word</p> <p>20 processor or an e-mail program. I mean, it's not</p> <p>21 a -- it's not the invention. Chen is a viewer of</p> <p>22 performance data. So I think it's very relevant.</p> <p>23 <b>Q So whether it's relevant or not, you never</b></p> <p>24 <b>say that Chen doesn't satisfy the when selected</b></p> <p>25 <b>language of the Board's tile interpretation because</b></p>	<p style="text-align: right;">Page 117</p> <p>1 in the display.</p> <p>2 BY MR. MICALLEF:</p> <p>3 <b>Q So if I can record -- record information</b></p> <p>4 <b>from a datastream, in your view I don't have access</b></p> <p>5 <b>to the datastream?</b></p> <p>6 A That's not what I said.</p> <p>7 <b>Q I know. I'm asking you a question.</b></p> <p>8 A No, that's not true.</p> <p>9 <b>Q So if I can record information from a</b></p> <p>10 <b>datastream, I do have access to the datastream --</b></p> <p>11 A Sure.</p> <p>12 <b>Q -- would you agree with that?</b></p> <p>13 A Yes.</p> <p>14 <b>Q Okay. I'd like you to turn to page 42 of</b></p> <p>15 <b>Exhibit 2004.</b></p> <p>16 A Okay.</p> <p>17 <b>Q Now, there's a section G that begins on</b></p> <p>18 <b>that page that's entitled "Opinions Regarding Chen</b></p> <p>19 <b>and MSIE Kit."</b></p> <p>20 <b>Do you see that?</b></p> <p>21 A I do.</p> <p>22 <b>Q Now, the Board instituted a ground that</b></p> <p>23 <b>relates to the combination of Chen and MSIE kit. Do</b></p> <p>24 <b>you recall that?</b></p> <p>25 MS. MILLER: Objection, form.</p>

30 (Pages 114 to 117)

<p style="text-align: right;">Page 118</p> <p>1 THE WITNESS: I don't -- I don't recall the</p> <p>2 specific words in detail, no, sir.</p> <p>3 BY MR. MICALLEF:</p> <p>4 <b>Q Do you have an understanding what a ground</b></p> <p>5 <b>is in the context of an IPR?</b></p> <p>6 A If you could point me to that part of the</p> <p>7 decision, then I could tell you what they meant by</p> <p>8 ground. I have a general understanding of what</p> <p>9 ground means, a basis.</p> <p>10 <b>Q Give me the general understanding.</b></p> <p>11 A A basis of some kind.</p> <p>12 <b>Q Well, do you recall that as far as the</b></p> <p>13 <b>combination of Chen and MSIE kit, the only claim</b></p> <p>14 <b>that the Board instituted on was claim 29 of the</b></p> <p>15 <b>'403 patent?</b></p> <p>16 A That sounds right.</p> <p>17 <b>Q And you say in paragraph 109 of your</b></p> <p>18 <b>exhibit that you, "cannot imagine, and Dr. Karger</b></p> <p>19 <b>does not explain, in any of these" -- "in any of</b></p> <p>20 <b>these claims, what functionality Active Desktop</b></p> <p>21 <b>would bring to Chen that does not already exist in</b></p> <p>22 <b>Chen."</b></p> <p>23 <b>Do you see that?</b></p> <p>24 A I do.</p> <p>25 <b>Q Now, you're welcome to look at the '403</b></p>	<p style="text-align: right;">Page 120</p> <p>1 MS. MILLER: Objection, form.</p> <p>2 THE WITNESS: Sure.</p> <p>3 BY MR. MICALLEF:</p> <p>4 <b>Q They were common by 1999?</b></p> <p>5 MS. MILLER: Objection, form.</p> <p>6 THE WITNESS: Passwords were in common use</p> <p>7 in 1999.</p> <p>8 BY MR. MICALLEF:</p> <p>9 <b>Q And their purpose was to provide some kind</b></p> <p>10 <b>of security against, for example, unauthorized use</b></p> <p>11 <b>of software or hardware; is that fair?</b></p> <p>12 MS. MILLER: Objection, form.</p> <p>13 THE WITNESS: I think that's a fair</p> <p>14 statement, sure.</p> <p>15 BY MR. MICALLEF:</p> <p>16 <b>Q Okay. And so I'd like to direct your</b></p> <p>17 <b>attention to paragraph 111, the last sentence of</b></p> <p>18 <b>paragraph 111.</b></p> <p>19 A Okay.</p> <p>20 <b>Q It states, "The fact that two references</b></p> <p>21 <b>both deal with displaying information from various</b></p> <p>22 <b>information sources that are periodically updated</b></p> <p>23 <b>over a network is not in itself an adequate</b></p> <p>24 <b>motivation to combine them, as Dr. Karger states."</b></p> <p>25 <b>Do you see that?</b></p>
<p style="text-align: right;">Page 119</p> <p>1 patent and remind yourself of what claim 29 is about</p> <p>2 if you want, but let me just ask you this way. You</p> <p>3 would agree that claim 29 relates to associating a</p> <p>4 password with a tile?</p> <p>5 A Right.</p> <p>6 <b>Q And so that was in fact the functionality</b></p> <p>7 <b>of Active Desktop that Dr. Karger was saying could</b></p> <p>8 <b>be used with Chen, wasn't it?</b></p> <p>9 A You know, I don't remember Dr. Karger</p> <p>10 saying that. We could certainly look at his</p> <p>11 declaration and I could respond to that. His</p> <p>12 declaration was pretty long.</p> <p>13 <b>Q Well, let me ask you this. This section of</b></p> <p>14 <b>your report, G, starts on page 42 and goes over to</b></p> <p>15 <b>the very top of page 44. You never mention</b></p> <p>16 <b>passwords in there; isn't that right?</b></p> <p>17 MS. MILLER: Objection, form.</p> <p>18 THE WITNESS: No, I think -- I think that's</p> <p>19 right. I'm talking about the -- the fact that the</p> <p>20 two technologies were very different and would not</p> <p>21 have been obvious to combine.</p> <p>22 BY MR. MICALLEF:</p> <p>23 <b>Q Okay. Now, passwords were used with</b></p> <p>24 <b>graphical user interface by 1999. You would agree</b></p> <p>25 <b>with that?</b></p>	<p style="text-align: right;">Page 121</p> <p>1 A I do.</p> <p>2 <b>Q You agree that the '403 patent also</b></p> <p>3 <b>addresses displaying information from various</b></p> <p>4 <b>information sources?</b></p> <p>5 A Sure.</p> <p>6 <b>Q In fact, it talks about a system that</b></p> <p>7 <b>displays information from various information</b></p> <p>8 <b>sources that are periodically updated over a</b></p> <p>9 <b>network; is that fair?</b></p> <p>10 MS. MILLER: Objection, form.</p> <p>11 THE WITNESS: Yes, I think that's fair.</p> <p>12 BY MR. MICALLEF:</p> <p>13 <b>Q And you -- well, so I understand you don't</b></p> <p>14 <b>agree with Dr. Karger's conclusion about motivation</b></p> <p>15 <b>to combine, but would you agree with his view that</b></p> <p>16 <b>both Active Desktop and Chen also deal with</b></p> <p>17 <b>displaying information from various information</b></p> <p>18 <b>sources that are periodically updated over a</b></p> <p>19 <b>network?</b></p> <p>20 MS. MILLER: Objection, form.</p> <p>21 THE WITNESS: If you replace the word "are"</p> <p>22 with can, I would agree with your statement.</p> <p>23 BY MR. MICALLEF:</p> <p>24 <b>Q Okay. I mean, that's -- in that sentence</b></p> <p>25 <b>the two references you're referring to are the Chen</b></p>

31 (Pages 118 to 121)



<p style="text-align: right;">Page 122</p> <p>1 <b>patent and the MSIE kit publication, correct?</b></p> <p>2 A Sure, that's right. And I'm just saying</p> <p>3 that the fact that they both display information</p> <p>4 from various information sources isn't particularly</p> <p>5 special. There are lots and lots and lots of things</p> <p>6 that do that.</p> <p>7 <b>Q And so would you agree that any need or</b></p> <p>8 <b>problem in the field and addressed by the patent at</b></p> <p>9 <b>issue here can provide a reason to combine?</b></p> <p>10 A No.</p> <p>11 <b>Q I'd like to direct your attention to</b></p> <p>12 <b>paragraph 115 of your declaration, Exhibit 2004.</b></p> <p>13 A Okay. I'm there.</p> <p>14 <b>Q Okay. The first sentence says that "Active</b></p> <p>15 <b>Desktop is not a GUI, nor a desktop alternative."</b></p> <p>16 <b>Do you see that?</b></p> <p>17 A I do.</p> <p>18 <b>Q Now, Active Desktop certainly was graphical</b></p> <p>19 <b>in nature, agree?</b></p> <p>20 MS. MILLER: Objection, form.</p> <p>21 THE WITNESS: Sure.</p> <p>22 BY MR. MICALLEF:</p> <p>23 <b>Q And wouldn't you agree that Active Desktop</b></p> <p>24 <b>was part of a graphical user interface?</b></p> <p>25 MS. MILLER: Objection, form.</p>	<p style="text-align: right;">Page 124</p> <p>1 <b>Q Okay. So it's fair to say Active Desktop</b></p> <p>2 <b>itself has a graphical user interface?</b></p> <p>3 MS. MILLER: Objection, form.</p> <p>4 THE WITNESS: I wouldn't normally use that</p> <p>5 term to describe it. I mean, it's adopting a lot of</p> <p>6 the graphical user interface conventions of the</p> <p>7 operating system on which it is implemented.</p> <p>8 BY MR. MICALLEF:</p> <p>9 <b>Q You agree that the system of Chen has a</b></p> <p>10 <b>graphical user interface?</b></p> <p>11 MS. MILLER: Objection, form.</p> <p>12 THE WITNESS: The system of Chen has</p> <p>13 elements of a graphical user interface. It uses</p> <p>14 windows and buttons and so forth. I don't know that</p> <p>15 it has its own unique graphical user interface.</p> <p>16 And, again, you know, one normally -- unless one is</p> <p>17 talking about an application that's radically</p> <p>18 different from the operating system on which it is</p> <p>19 hosted, one normally doesn't talk about applications</p> <p>20 as having their own graphical user interface.</p> <p>21 Normally, they inherit or adopt the graphical user</p> <p>22 interface conventions of the operating systems on</p> <p>23 which they run.</p> <p>24 BY MR. MICALLEF:</p> <p>25 <b>Q I want to go back to Active Desktop for a</b></p>
<p style="text-align: right;">Page 123</p> <p>1 THE WITNESS: It could have been part of a</p> <p>2 graphical user interface, yes.</p> <p>3 BY MR. MICALLEF:</p> <p>4 <b>Q What do you mean it could have been?</b></p> <p>5 A If someone was using it.</p> <p>6 <b>Q So when someone was using Active Desktop,</b></p> <p>7 <b>it was part of a graphical user interface?</b></p> <p>8 A It could be described as part of the</p> <p>9 graphical user interface that the user sees on their</p> <p>10 computer display, sure. Again, you know, in the</p> <p>11 sense that the '403 patent uses graphical user</p> <p>12 interface as a desktop alternative, it would not be</p> <p>13 the same thing as that kind of graphical user</p> <p>14 interface.</p> <p>15 <b>Q That's a very interesting statement because</b></p> <p>16 <b>your sentence here at the beginning of paragraph 115</b></p> <p>17 <b>seems to distinguish graphical user interface or GUI</b></p> <p>18 <b>from a desktop alternative, doesn't it?</b></p> <p>19 A No, they're not identical. You could have</p> <p>20 a desktop alternative that's not a GUI.</p> <p>21 <b>Q And a GUI that's not a desktop alternative,</b></p> <p>22 <b>correct?</b></p> <p>23 MS. MILLER: Objection, form.</p> <p>24 THE WITNESS: You could.</p> <p>25 BY MR. MICALLEF:</p>	<p style="text-align: right;">Page 125</p> <p>1 <b>second.</b></p> <p>2 A Sure.</p> <p>3 <b>Q Now, to your understanding, an Active</b></p> <p>4 <b>Desktop item that is on a user's display would show</b></p> <p>5 <b>a portion of a web page; is that fair?</b></p> <p>6 A It could. That wasn't the only thing it</p> <p>7 could show.</p> <p>8 <b>Q Okay, fair enough. So in that example</b></p> <p>9 <b>where an Active Desktop item does show a portion of</b></p> <p>10 <b>the web page, the web page can have ActiveX controls</b></p> <p>11 <b>on it, correct?</b></p> <p>12 MS. MILLER: Objection, form.</p> <p>13 THE WITNESS: I think that's correct.</p> <p>14 BY MR. MICALLEF:</p> <p>15 <b>Q And if in that example the ActiveX control</b></p> <p>16 <b>was configured to launch Microsoft Word, clicking on</b></p> <p>17 <b>that control would then launch Microsoft Word; is</b></p> <p>18 <b>that fair?</b></p> <p>19 A I haven't seen that functionality described</p> <p>20 in the Active Desktop documentation, so -- and I</p> <p>21 haven't actually done that myself with Active</p> <p>22 Desktop. So I can't tell you today that that would</p> <p>23 work. I haven't actually tried that, or I</p> <p>24 haven't -- I'm not sure I've seen it described, so I</p> <p>25 don't really know.</p>

32 (Pages 122 to 125)

<p style="text-align: right;">Page 126</p> <p>1 <b>Q</b> So I'd like to ask you to look at paragraph 2 <b>119 of your declaration, Exhibit 2004.</b> 3 A Okay, I'm there. 4 <b>Q</b> 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 <b>Q</b> 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 <b>Q</b> 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 <b>Q</b> 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.</p>	<p style="text-align: right;">Page 128</p> <p>1 <b>Q</b> 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 <b>Q</b> 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 <b>Q</b> 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 <b>Q</b> Are you aware of any reason that an 25 information source -- you think the definition of</p>
<p style="text-align: right;">Page 127</p> <p>1 <b>Q</b> But the story is on some other page hosted 2 by CNN, okay? 3 A All right. 4 <b>Q</b> 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 <b>Q</b> Even though there's a link to it? 9 A Right. There's a link. 10 <b>Q</b> 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 <b>Q</b> 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:</p>	<p style="text-align: right;">Page 129</p> <p>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 <b>Q</b> I'm just talking about the meaning of 7 information source -- 8 A Okay. 9 <b>Q</b> -- in the context of -- 10 A So we're going away -- 11 <b>Q</b> Let me finish my question. 12 A Sure. 13 <b>Q</b> 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 <b>Q</b> 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 <b>Q</b> Generally.</p>

33 (Pages 126 to 129)

<p style="text-align: right;">Page 130</p> <p>1 A Generally, is CNN.com a source of 2 information? Sure.</p> <p>3 <b>Q I'd like to direct your attention to 4 paragraph 122.</b></p> <p>5 A Okay.</p> <p>6 <b>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?</b></p> <p>11 A I do.</p> <p>12 <b>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?</b></p> <p>15 MS. MILLER: Objection, form.</p> <p>16 THE WITNESS: I caught a couple of 17 negatives in that question.</p> <p>18 BY MR. MICALLEF:</p> <p>19 <b>Q Yeah.</b></p> <p>20 A Maybe you can ask it again so I can --</p> <p>21 <b>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.</b></p>	<p style="text-align: right;">Page 132</p> <p>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.</p> <p>9 BY MR. MICALLEF:</p> <p>10 <b>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?</b></p> <p>13 A No.</p> <p>14 MS. MILLER: Objection, form.</p> <p>15 BY MR. MICALLEF:</p> <p>16 <b>Q What's not fair about it?</b></p> <p>17 A Active Desktop items aren't tiles.</p> <p>18 <b>Q So maybe I misspoke. Let me ask it again.</b></p> <p>19 A I think you did.</p> <p>20 <b>Q You agree that Active Desktop items could 21 be moved around by the user on the screen?</b></p> <p>22 A Yes.</p> <p>23 <b>Q And you agree that the user could place the 24 Active Desktop items in a nonoverlapping 25 configuration if desired?</b></p>
<p style="text-align: right;">Page 131</p> <p>1 MS. MILLER: Objection, form.</p> <p>2 BY MR. MICALLEF:</p> <p>3 <b>Q Isn't that right?</b></p> <p>4 A Well, let's -- let's go back and take a 5 look.</p> <p>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.</p> <p>11 <b>Q So whatever partitioning means, putting 12 that aside --</b></p> <p>13 A Right.</p> <p>14 <b>Q -- the word "tile" does not preclude 15 overlap; agree with that?</b></p> <p>16 MS. MILLER: Objection, form.</p> <p>17 THE WITNESS: No, I'm not sure I do agree 18 with that.</p> <p>19 BY MR. MICALLEF:</p> <p>20 <b>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?</b></p> <p>24 MS. MILLER: Objection, form.</p> <p>25 THE WITNESS: That -- that might be</p>	<p style="text-align: right;">Page 133</p> <p>1 MS. MILLER: Objection, form.</p> <p>2 THE WITNESS: Yeah. Depending on how many 3 of them there were, sure, that was possible.</p> <p>4 BY MR. MICALLEF:</p> <p>5 <b>Q I'd like to direct your attention to 6 paragraph 128 of your declaration, Exhibit 2004. Do 7 you see that?</b></p> <p>8 A I do.</p> <p>9 <b>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."</b></p> <p>14 <b>Do you see that?</b></p> <p>15 A I do see it.</p> <p>16 <b>Q And when you say windows of Active Desktop, 17 are you referring to Active Desktop items?</b></p> <p>18 A Yes.</p> <p>19 <b>Q But you agreed just a moment ago that they 20 could be nonoverlapping, correct?</b></p> <p>21 MS. MILLER: Objection, form.</p> <p>22 Mischaracterizes testimony.</p> <p>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</p>

34 (Pages 130 to 133)

<p style="text-align: right;">Page 134</p> <p>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 <b>Q Well, they are described as being created</b> 6 <b>in a grid by default, the first six of them in MSIE</b> 7 <b>kit; are they not?</b> 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 <b>Q So back to this paragraph 128, you don't</b> 13 <b>cite any evidence for why -- at the end of that</b> 14 <b>sentence that I read, do you?</b> 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 <b>Q Just the last sentence in paragraph 128,</b> 21 <b>you don't cite any evidence to support it?</b> 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.</p>	<p style="text-align: right;">Page 136</p> <p>1 identification and was attached to the deposition 2 transcript.) 3 BY MR. MICALLEF: 4 <b>Q So I'm going to hand you Exhibit 1030,</b> 5 <b>which is the Brown patent, U.S. Patent No.</b> 6 <b>6,278,448. Let me just sharpen my question.</b> 7 <b>So I want to direct your attention to</b> 8 <b>column 4, lines 4 to 5 of Brown.</b> 9 A Okay. 10 <b>Q And there Brown says that figure 6, his</b> 11 <b>figure 6, illustrates a dialogue window for creating</b> 12 <b>a desktop component in accordance with the present</b> 13 <b>invention, correct?</b> 14 A That's what it says. 15 <b>Q That's what it says. And figure 6, you</b> 16 <b>turn to it, that's a dialogue box for creating new</b> 17 <b>Active Desktop items, correct?</b> 18 A That's what it says, yes, sir. 19 <b>Q And so Active Desktop items are part of</b> 20 <b>Brown's invention; wouldn't you agree with that?</b> 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</p>
<p style="text-align: right;">Page 135</p> <p>1 BY MR. MICALLEF: 2 <b>Q Why didn't you cite it again at the end</b> 3 <b>after that sentence?</b> 4 A Well, I'm hopeful that whoever is reading 5 my report is going to read complete paragraphs. 6 <b>Q Now, at the bottom of that page, paragraph</b> 7 <b>130 --</b> 8 A Okay. 9 <b>Q -- you are talking about the Brown patent,</b> 10 <b>correct?</b> 11 A Yes. 12 <b>Q And you're pointing out that the excerpt</b> 13 <b>cited by Dr. Karger says that the invention of Brown</b> 14 <b>may be practiced on handheld devices, correct?</b> 15 A Yes. 16 <b>Q Now, the invention of Brown includes Active</b> 17 <b>Desktop items, correct?</b> 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 <b>Q Yeah, let's look at Brown.</b> 23 A We can chat about Brown. 24 MR. MICALLEF: Pull Brown out. 25 (Exhibit 1030 was marked for</p>	<p style="text-align: right;">Page 137</p> <p>1 the claims. 2 BY MR. MICALLEF: 3 <b>Q So back to that column 4, that passage in</b> 4 <b>column 4 --</b> 5 A Okay. 6 <b>Q -- you notice he's referring to desktop</b> 7 <b>component in column 4, lines 4 to 5?</b> 8 A Yes. 9 <b>Q And so when he uses that phrase, he's</b> 10 <b>talking about Active Desktop items, correct?</b> 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 <b>Q Right. And if you look at column 3 of</b> 18 <b>Brown beginning at about line 15 --</b> 19 A Okay. 20 <b>Q -- he's talking about still other aspects</b> 21 <b>of the invention. Do you see that?</b> 22 A I do. 23 <b>Q And he said, the application programming</b> 24 <b>interface, or API, is provided to allow computer</b> 25 <b>programs, controls, and utilities to modify the</b></p>

35 (Pages 134 to 137)

<p style="text-align: right;">Page 138</p> <p>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.</p>	<p style="text-align: right;">Page 140</p> <p>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.</p>
<p style="text-align: right;">Page 139</p> <p>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.</p>	<p style="text-align: right;">Page 141</p> <p>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.</p>

36 (Pages 138 to 141)

<p style="text-align: right;">Page 142</p> <p>1 <b>Q What's your understanding of what that</b>  2 <b>application is?</b>  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 <b>Q Okay. And would you agree that the unified</b>  12 <b>inbox application would also run in one of the</b>  13 <b>rectangular portions of the montage view?</b>  14 A Oh, I don't know. Let me -- let me go back  15 a little and see if it says that.  16 <b>Q I can direct your attention to page 30,</b>  17 <b>second paragraph.</b>  18 A Okay, thank you.  19 <b>Q First full paragraph I guess. There's a</b>  20 <b>second sentence that says, "All of these</b>  21 <b>applications can be hosted in the montage view."</b>  22 <b>Do you see that sentence?</b>  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</p>	<p style="text-align: right;">Page 144</p> <p>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 <b>Q Okay. And just so the record's clear,</b>  6 <b>since we had a little bit between my question and</b>  7 <b>your answer, you agree that it's reasonable to read</b>  8 <b>this Kostas' application to disclose that in the</b>  9 <b>montage view, the Java based web browser could be</b>  10 <b>displayed in one pane and the unified inbox</b>  11 <b>application could be displayed in a different pane</b>  12 <b>of the montage view; is that fair?</b>  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 <b>Q Okay. Okay. Thank you. Excuse me.</b>  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.</p>
<p style="text-align: right;">Page 143</p> <p>1 coming up, because the next paragraph starts, "One  2 such application." So I think I'd agree with your  3 interpretation.  4 <b>Q Okay. And would you agree that in the</b>  5 <b>system of Kostas, that montage view could show the</b>  6 <b>unified inbox application and also the Java based</b>  7 <b>web browser application at the same time but in</b>  8 <b>different panels of the montage view?</b>  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 <b>Q Well -- well, maybe this will help you if</b>  20 <b>you look at page 13 of the Kostas' application.</b>  21 <b>About halfway down it starts talking about the panes</b>  22 <b>of the montage view. Would that help you answer the</b>  23 <b>question?</b>  24 A I'm sure it will. Thank you. I'm sorry.  25 You've read this thing through more recently than I</p>	<p style="text-align: right;">Page 145</p> <p>1 We are now on the record.  2 EXAMINATION BY COUNSEL FOR PATENT OWNER  3 BY MS. MILLER:  4 <b>Q Good afternoon, Mr. Weadock.</b>  5 A Good afternoon.  6 <b>Q Can I have you pull out Exhibit 1030, 1030,</b>  7 <b>which is the Brown patent?</b>  8 A I have it.  9 <b>Q Earlier counsel asked you about the</b>  10 <b>contents of this -- this reference. Do you recall</b>  11 <b>that testimony?</b>  12 A I do.  13 <b>Q To your recollection, does this -- does</b>  14 <b>this Brown patent cite to MSIE kit anywhere?</b>  15 MR. MICALLEF: Objection, scope.  16 THE WITNESS: Not to my recollection, no.  17 BY MS. MILLER:  18 <b>Q You can put that one aside. Earlier</b>  19 <b>counsel also asked you some questions about the</b>  20 <b>term "access" --</b>  21 A Yes.  22 <b>Q -- and whether sitting here today you could</b>  23 <b>access your bank account. Do you recall that</b>  24 <b>testimony?</b>  25 A I do.</p>

37 (Pages 142 to 145)

<p style="text-align: right;">Page 146</p> <p>1 <b>Q And I believe your answer was sitting here</b>  2 <b>today you could access your bank account, for</b>  3 <b>example through your phone?</b>  4 MR. MICALLEF: Objection, leading.  5 THE WITNESS: Yes, that's what I said.  6 BY MS. MILLER:  7 <b>Q And sitting here today can you access your</b>  8 <b>bank account for example if I let you use my</b>  9 <b>computer?</b>  10 MR. MICALLEF: Objection, leading.  11 THE WITNESS: Yes, I could.  12 BY MS. MILLER:  13 <b>Q And could you also access your bank account</b>  14 <b>if you went to your bank teller?</b>  15 MR. MICALLEF: Objection, leading.  16 THE WITNESS: Yes, I could.  17 BY MS. MILLER:  18 <b>Q So is it true then you have multiple ways</b>  19 <b>to access your bank account?</b>  20 MR. MICALLEF: Objection, leading.  21 THE WITNESS: Yes, that's correct.  22 BY MS. MILLER:  23 <b>Q And having access via one avenue, such as</b>  24 <b>through your phone, does that preclude you from</b>  25 <b>having access via another method, such as going to</b></p>	<p style="text-align: right;">Page 148</p> <p>1 * * *  2 ACKNOWLEDGMENT OF DEPONENT  3 I, Glenn Weadock, do hereby acknowledge that I  4 have read and examined the foregoing testimony, and  5 the same is a true, correct and complete  6 transcription of the testimony given by me, and any  7 corrections appear on the attached Errata sheet  8 signed by me.  9  10 _____  11 (DATE) (SIGNATURE)  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>
<p style="text-align: right;">Page 147</p> <p>1 <b>the teller?</b>  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.)  22  23  24  25</p>	<p style="text-align: right;">Page 149</p> <p>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  20  21  22  23  24  25</p>

38 (Pages 146 to 149)

**21 Church Street, Suite 150, Rockville, MD 20850**

## ERRATA SHEET

**IN RE: Microsoft Corporation -v- SurfCast, Inc.**

**DEPONENT/AFFIANT: Glenn Weadock – Video**

**RETURN BY: April 23, 2014**

**JOB NO.: 0101-245646**

3/29/14  
(DATE)

(SIGNATURE)



**VIDEOTAPED DEPOSITION OF GLENN WEADOCK  
CONDUCTED ON WEDNESDAY, MARCH 12, 2014**

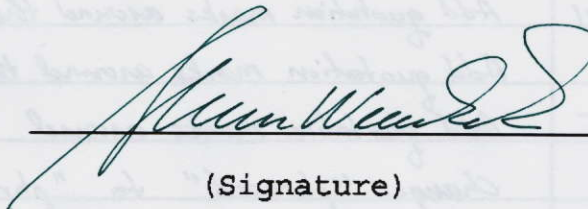
\* \* \*

**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.

3/29/14

(Date)



(Signature)

**Job No.: 0101-245646**

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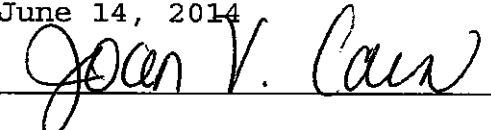
## 1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

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

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18 NOTARY PUBLIC IN AND FOR THE  
19 DISTRICT OF COLUMBIA  
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