UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COX COMMUNICATIONS, INC.

Petitioner

v.

AT&T INTELLECTUAL PROPERTY I, L.P.

Patent Owner.

Case IPR2015-01227

Patent 7,907,714

DEPOSITION OF NADER F. MIR, Ph.D.

Boston, Massachusetts

January 29, 2016

Reported by:

Dana Welch, CSR, RPR, CRR, CRC

Job no. 102670

January 29, 2016

7:57 a.m.

Deposition of NADER F. MIR, Ph.D., held at the offices of Proskauer Rose LLP, One International Place, Boston, Massachusetts, before Dana Welch, Certified Shorthand Reporter, Registered Professional Reporter, Certified Realtime Reporter, and Notary Public of the Commonwealth of Massachusetts.

APPEARANCES:

For the Patent Owner:
HAYNES AND BOONE
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- and -

HAYNES AND BOONE
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--- appearances continue ---

APPEARANCES (continued):

For the Petitioner:
PROSKAUER ROSE
SCOTT BERTULLI, ESQ.
STEVEN BAUER, ESQ.
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MIR

P R O C E E D I N G S

NADER F. MIR, Ph.D., sworn

MR. McDOLE: We should announce attorneys for the record. Jamie McDole from Haynes and Boone representing the patent holder.

MR. BAJAJ: Raghav Bajaj from Haynes and Boone representing the patent owner.

MR. BERTULLI: Scott Bertulli from Proskauer and I represent the petitioner Cox Communications, Inc. and also here with the witness.

EXAMINATION

BY MR. McDOLE:

Q. Good morning, Dr. Mir.

A. Good morning.

Q. Am I saying that right? Dr. Mir?

A. Yeah.

Q. Could you state your full name for the record.

A. Nader Mir.

Q. And could you state your residential address, please.

A. 6492 Crystal Springs Drive, San Jose, California 95120.

Q. Do you understand that you're under oath today under perjury, same as if you were in court?

A. Yes.

Q. And how many times have you had your deposition taken?

A. It could be around nine or ten. Nine is for sure.

Q. Okay. So you're familiar with the deposition process.

A. Yes.

Q. Just a few ground rules to start. If you could wait for me to finish my questions and I will wait for you to finish your answers, that way we can have a clean transcript and we can give our court reporter a break as far as trying to type both of us talking at once. I think that would be very helpful. Do you agree?

A. Yes, I do.

Q. Okay. And if at any time I step on one of your answers or I ask a question before you're finished, please just let me know and we'll go back to the previous question and let you finish the answer unless I withdraw it. Does that sound fair?

A. Sure. Thanks.

Q. Okay. Your counsel may make objections to preserve for the record, but unless he instructs you not to answer, do you understand that you must respond to my questions?

A. Yes, I do.

Q. And if at any point you do not understand any of my questions, I would ask that you let me know. Does that sound fair?

A. Sounds fair.

Q. And if you answer my question, I'll assume that you understood the question. Does that sound fair?

A. Yes.

Q. And if at any point today you need a break, just let me know. I'm happy to take short breaks and short lunches today to try to get you to your flight at 6:00.

A. Great. Thank you.

Q. What did you do to prepare for today's deposition?

A. I reviewed all the documents related to this case, reviewed my own declarations, and I had a prep session with my counsel.

Q. Okay. And how long was that prep session

with your counsel?

A. It was yesterday starting at 10:00 and I think it was extended to around 4:00 or 4:30.

Q. Okay. And did you review any documents in your preparation session with counsel?

A. Yes, we did.

Q. Is the counsel who prepared you the counsel that's here today representing you, Mr. Bertulli?

A. Yes, he is.

Q. Was anybody else in the preparation session with you yesterday besides Mr. Bertulli?

A. No.

Q. Was anybody on the phone during your preparation session with Mr. Bertulli yesterday?

A. No.

Q. Now, you talked about reviewing documents associated with this case. Are those the same documents that you have listed in your declaration?

A. Pretty much those that I listed in my declaration.

Q. Okay. Were there any documents not identified in your declaration that you reviewed in preparation for your deposition?

A. I don't recall if there was any. I don't think so.

Q. Dr. Mir, who has engaged you as an expert in this case?

A. There is a company who identifies experts for the law firms and Thomson Reuters is the company that I'm referring to, so I was retained by the law firm through Thomson Reuters.

Q. And is that the law firm that represents Cox, also known as Proskauer?

A. That is correct.

Q. So who do you submit your invoices to?

A. To Thomson Reuters.

Q. And what is your compensation rate to Thomson Reuters?

A. Compensation rate is $350 an hour and then it gets additional fees of Thomson Reuters on top of it and that will be sent to the law firm.

Q. So is it correct that Thomson Reuters is a service for experts that you work for?

A. I believe so, yeah.

Q. And Proskauer did not contact you directly as a retention in this case; they contacted instead Thomson Reuters; is that correct?

A. Correct.

Q. How many total hours have you spent on this case associated with the declaration identified as Exhibit 1014 in this matter?

A. I don't recall at all. I was not prepared to answer this question. I have my invoices. Later on I can go over the hours and then let you know. There are four different patents, as you are aware of, and I cannot really separate the number of hours per the patents, as I say. So I just send all the accumulated hours in one invoice per month, and even that, I don't -- the number of hours per month, I don't recall.

Q. For all of the matters, would you have billed over a hundred hours?

A. It's hard to recall it, but, you know, I would say that maybe around a hundred, maybe right around a hundred so far.

Q. So with respect to all four cases, you've spent approximately a hundred hours?

A. Again, approximately, yes, maybe. Maybe 130, maybe 90, maybe 80. I mean, yes, would be around that number.

Q. Okay. When were you first contacted about

this engagement?

A. I believe it was in 2015, if I'm not -- just a quick check in my CV.

(Perusing document.)

Yeah, January 2015 I started work for Cox.

Q. Okay. Now, you're looking at a document in front of you. Could you please identify what that document is.

A. This is my declaration, and it's a clean declaration, there is no writing in it.

Q. And that's the declaration that's been previously marked as Exhibit 1014?

A. Correct.

Q. And just to confirm, there's no notes or notations in the document you've identified in front of you as Exhibit 1014, correct?

A. That is correct. You can examine it if you want.

Q. That's okay. I trust you.

With respect to Exhibit 1014, is it okay if we refer to that as your declaration during this deposition?

A. That's fine.

Q. So if we refer to Exhibit 1014, or your

declaration, we understand that we're referring to the document that has been presented in front of you; is that correct?

A. Yes.

Q. Does the declaration, Exhibit 1014, contain a complete statement of all opinions that you express and the basis and reasons for those opinions?

A. Yes.

Q. Now, you have three flags in the document that's in front of you. What are those flags?

A. Sure. The first flag indicates the start of the basis of my opinion and shows where the list of the references are made in my declaration; the second flag shows the start of claim-by-claim analysis; and the third flag shows the Appendix A, which is my CV.

Q. Can you give us an approximate paragraph number for each flag that you've identified.

A. Sure. The first flag is paragraph number 35; the second flag is at paragraph 59; and the last one is the appendix.

Q. When was the first time you were contacted about this --

MR. McDOLE: Strike that.

Q. Who was the person you first talked to about this engagement from Proskauer?

A. I really don't recall. I believe there were more than one person in the interview. I really don't recall who they were.

Q. Okay. You referred to an interview. Did you have a conversation with counsel from Proskauer prior to your engagement in this matter?

A. No. The procedure was very simple: Thomson Reuters contacted me to let me know that there is a case for IPR if I'm interested. I reviewed the case and I did confirm that this case is -- this case matches my expertise and I'm interested in getting engaged.

And then, I guess there will be a -- there was a communication between Thomson Reuters and the law firm. And then the law firm probably -- I would assume that they also indicated the interest in interviewing me, and then the interview was set up. And after the interview, a retaining letter was issued. This is the best I can remember.

Q. Okay. So the interview happened before the engagement letter in this matter, correct?

A. That has been always true in all of my cases I was engaged.

Q. Okay. What questions were asked of you in the interview?

A. I do not recall what questions exactly were asked, but I could say generally they asked questions about my qualifications and questions related to patents engaged in the case. These are typical questions, typical topics for an interview.

Q. Were you provided documents prior to the interview to review?

A. To the best of my knowledge, the only documents that are provided to the experts, a candidate, are the asserted patents. I believe that these four patents were provided to me. I don't believe there was anything else.

Q. Did you review the patents in this matter prior to your interview with Proskauer?

A. I believe the typical procedure is that a few days before the interview, the patents -- the asserted patents are provided to the expert. The expert is expected to review the patents for the interview and I believe I did. And the questions mostly were about the patents and the technology

engaged in the patents.

Q. I'm going to hand you a document that's been previously marked as Cox Communications, Inc. Exhibit 1001.

Do you recognize this document that has been previously marked as Exhibit 1001?

A. Yes.

Q. What is the document that is already marked as Exhibit 1001?

A. Apparently, it is patent '714. The inventor is Baniak, B-a-n-i-a-k, and a number of other inventors are there, too.

Q. If we refer to Exhibit 1001 as the '714 patent, would that be okay with you?

A. I don't have any problem with that.

Q. All right. Is the '714 patent one of the patents that you reviewed prior to your interview with Cox's counsel in this case?

A. Again, it is more than a year after the interview. I believe this is one of those.

Q. Did you review any prior art to the '714 patent in preparation for your interview with Cox's counsel?

A. At that point, the topic of prior art was

not the topic of conversation in the interview. I believe there was no such attempt for interviewing -- for reviewing the prior art.

Q. Did Cox make any attempt to determine what your opinions were with respect to the '714 patent during the interview?

A. During the interview normally they ask questions related to the patent and whether I have a good knowledge related to the patent and how I feel about the -- how I feel about working in the area of the patent. And I confirmed that everything is fine with me.

Q. So Cox's counsel did not ask you if you believe the '714 patent was invalid during the interview?

A. It is more than a year ago. I don't know if there was any question like that. And if they asked me such a question, I definitely answered the way that I always do and say that I need time to do some research to get back to the counsel. This is my typical answer if there was any such question.

Q. How many other experts did Cox interview prior to settling on you as their expert in this matter?

A. I'm not aware of any. Actually, I should answer the question this way: that I don't know if Cox has interviewed any other people. This is not the information that was provided to me.

Q. When you first were engaged in the matter, what materials did Cox provide you to form your opinions?

A. As much as I remember, there was a time during which I was given to review the patents, the four patents, and then we had some sort of a conversation on how I think about the patents, and then I believe after a couple of months, or maybe more, we started working on the invalidity of the patents, and like any other IPR cases, we proceeded to the end of the expert report.

Q. When you say you began working on the invalidity of the patents, what do you mean?

A. We tried to identify the prior art references and see how those references can invalidate the claims of the asserted patents.

Q. So were you engaged by Proskauer counsel to determine a way to invalidate the '714 patent?

A. Yes. I was part of this process. I tried to identify the patents that or documents that I

believe -- believed to be considered as the prior art, and the law firm also identified several prior art documents, and that was the start of the process.

Q. Did you identify any prior art references with respect to the '714 patent or was it prior art that Proskauer counsel provided to you?

A. The prior art references that are listed here in my declaration were identified by Proskauer.

Q. So there were no prior art references that you individually identified as invalidating the '714 patent; is that correct?

A. No, it is not correct. I did identify several prior art references. But at the end when we put all these together, we ended up with these prior art references as the best.

Q. Okay. So to confirm, the prior art references that you identified were not used in the IPR relating to the '714 patent; is that correct?

A. That is correct, with some explanation that and I believe that one or two of the prior arts that I found actually are -- were already identified by the -- by the counsel. I don't

remember which ones.

Q. How much time did you take to search for prior art references with respect to the '714 patent?

A. I don't recall that. If I had my invoices in front of me, I could tell you the details. I don't know, probably ten hours per patent would be very fair. I might be wrong. I'd have to check my invoices.

Q. If I can have you turn to Figure 8, which is page 11 of Exhibit 1001, which is the '714 patent.

A. I'm sorry, page?

Q. It's page 11. It's sheet 8 of 8 or if you look down by the exhibit number, page 11, it says "Figure 8" at the top.

A. Page 11, Figure 8.

Q. Yes.

A. Yes.

Q. What is Figure 8 of the '714 patent?

A. (Perusing document.)

Figure 8 has a caption and the caption was indicated on column 6 of the 1001 exhibit. And it says, "Figure 8 shows an activity log according to

an aspect of the present invention."

Q. Does Figure 8, how you would under --

MR. McDOLE: Strike that.

Q. Does Figure 8 appear to be a screenshot of the invention of the '714 patent?

A. Well, it seems the caption says it is an activity log according to an aspect of the present invention. My understanding is that Figure 8 shows the -- some data logged somewhere related to the invented system.

Q. Based on your expertise, is Figure 8 what an activity log would look like if someone practiced one aspect of the inventions in the '714 patent?

A. The content of this table is user ID, positive ID number, activity, date, time, effective dates, status, and the status date and time. This, to me, is an activity log.

Q. Okay. And my question is, is Figure 8 an activity log, what an activity log would look like if someone practiced one aspect of the inventions in the '714 patent?

A. This could be one example for that, yes.

Q. Okay. Do you have any reason to not

believe that Figure 8 is an activity log of someone practicing at least one aspect of the claimed invention of the '714 patent?

A. No.

Q. Okay. If I could have you turn to paragraph --

MR. McDOLE: Strike that.

Can we take just a two-minute break real quick?

THE WITNESS: Sure.

MR. McDOLE: Be right back.

(Proceedings interrupted at 8:24 a.m. and reconvened at 8:25 a.m.)

BY MR. McDOLE:

Q. Dr. Mir, if I can have you turn to paragraph 35 of your declaration.

A. Yes.

Q. What does paragraph 35 of your declaration, Exhibit 1014, show?

A. "In order to render my opinions in this matter, I have reviewed the following materials," and I listed the materials.

Q. Are the materials listed in paragraph 35 of your declaration a complete listing of all the

materials you considered in forming your opinions in this case?

A. Yes.

Q. Are there any materials that you reviewed in this matter in forming your opinions that are not included in the documents listed in paragraph 35 of your declaration?

A. If there was, I was not using them. But these are the ones that I used for my declarations.

Q. Okay. Are there any errors in your declaration marked as Exhibit 1014?

A. I'm not aware of any, but there could be.

Q. Okay. Are there any corrections to your declaration marked as Exhibit 1014 that you believe you need to make?

A. We did not submit any error or errata or anything like that, so I believe there is no such a thing. There could be some grammatical errors typically in a declaration, but not anything that I'm aware of.

Q. Okay. So there could be grammatical errors in your declaration marked as Exhibit 1014, but not substantive errors, in your opinion?

A. That is correct.

Q. Dr. Mir, did you take care to ensure that there were no mistakes or errors in your declaration marked as Exhibit 1014?

A. When I finished my declaration, I reviewed my declaration for any errors, major errors, substantive errors and I didn't find anything.

Q. Okay. So do you believe you took care to ensure there are no mistakes or errors in your declaration marked as Exhibit 1014?

A. Yes.

(Mr. Steven Bauer now present.)

Q. Did you review a draft petition in forming your opinions that are contained in Exhibit 1014?

A. The counsel sent me the petition draft just to provide opinion, and I did review them, review all the petitions, this one -- the petition for this case and the other cases. And I did send the -- my opinion related to the petitions.

Q. Okay. What was your opinion related to the petitions?

A. Whatever it was, I don't remember. For example, if there is a paragraph, I said maybe this paragraph should be moved to another part of the draft, something like that.

Q. Okay. Do you recall any specific edits that you provided to the petition for the '714 patent in this case?

A. Yes. But it was not really a substantial edit, I believe. I just -- typical review of a draft and make some comments -- making some comments on certain parts of the draft and provided to counsel.

Q. Okay. Did you rely on the substance of the draft petition in forming your opinions in Exhibit 1014?

A. When I reviewed the petition, I tried to understand the substance of the materials in the petition, and if I agreed with some part of the petition, of course, it was a good starting point for me to use the ideas. And if I did not agree with the parts of the petition or the petition's parts were not related to my declarations, I just skipped from it.

Q. Had you drafted your declaration prior to receiving a draft petition from Cox's counsel?

A. Yes. I drafted my petition by myself. The very first draft was done by me and this is true on other cases, other patents. And then I

sent the very first draft to the counsel. And I asked for the opinion, and then back and forth we had some communications and ended up with this version of the draft.

Q. Okay. So Cox's counsel made changes to your declaration after you drafted it?

A. The person who signs this declaration is me. So if they made some comments on my declaration, I should have reviewed those comments. If I agreed, I could incorporate the idea or the opinion. Otherwise, I would have rejected it.

MR. MCDOLE: Move to strike as nonresponsive.

Q. My question was so Cox's counsel made changes to your declaration after you drafted it?

A. Making change means that they forced me to change or they suggested a change? Would you clarify this?

Q. Sure.

Did Cox's counsel suggest edits to your declaration after you drafted it?

A. Of course. The counsel suggested some parts of my declaration with some opinions. I believe they were very minor. For example,

splitting a paragraph, long paragraph into two paragraphs, something like that, and I didn't see any problem implementing those.

Q. Did Cox's counsel make any substantive edits that you recall to your draft declaration that eventually became Exhibit 1014?

A. There could be a case, for example, that I had forgotten to include in my declaration. They brought to my attention how about this, for example, that would be related to the substance of the declaration. And I don't remember what exactly it is, but if there was, again, I reviewed the idea and took into consideration.

Q. As you sit here today, can you recall any edits that you refused to implement that were suggested by Cox's counsel?

A. I do not recall that there was any case like that.

Q. So as you sit here today, based on your memory, all of Cox's counsel's suggestions for edits were implemented by you?

A. I don't know if this is true. Again, it is more than a year ago, what we're talking about. I don't believe there was any major edits suggested

by the counsel. And I worked on all the minor opinions back and forth, we communicated and ended up with this draft.

Q. Okay. When you say this was a year ago, what date did you sign your declaration?

A. (Perusing document).

I signed my declaration May 18, 2015.

Q. May 18, 2015 wasn't a year ago, correct?

A. That is correct.

Q. Okay. When did you first provide Cox's counsel with a draft of your declaration?

A. I don't recall exact dates. My e-mails can confirm it if you want me to confirm. But let's say if this draft took me around a month or two, so the draft was initiated probably in March maybe, but please do not forget that we were working on four different declarations, four different patents, so I don't recall which one started first.

This could be four months before my signing date, could be two months before signing date, but right around those dates, two to four months before the signing dates.

Q. Okay.

A. So it's about a year, I would say, approximately a year.

Q. So somewhere between two and four months before the actual declaration was signed, you provided a draft to Cox's counsel; is that correct?

A. To the best that I can remember, yes.

Q. And then somewhere between two and four months prior to the date that you signed the declaration, edits were provided from Cox's counsel that you implemented?

A. Yeah, two to four months, we started to communicate. I just initiated my draft and then received some comments and then we started to communicate and finalize it, yes.

Q. Okay. So over a two to four-month period Cox's counsel was providing suggestions and edits to your declaration; is that correct?

A. Approximately two to four months we started to communicate on the content of my declarations.

Q. Okay. If I can have you turn to --

MR. MCDOLE: Well, strike that.

Q. If you could look at paragraph 35 of your declaration again. Could you identify where you

identify the petition that Cox filed with respect to the '714 in paragraph 35?

A. The petition is not listed here.

Q. Why not?

A. So these are basically the prior art references that I used for my declaration, and the petition was something that during my declaration was being prepared.

Q. Okay. Did you rely on a draft petition or any claim charts therein in rendering your opinions in this case?

A. To the best of my understanding and my -- how I remember, the petition was not ready when I started my declaration. The petition was undergoing during the time that I was working on my declaration, and I believe in parallel with my declaration the petition was prepared. And as I said before, I also rendered my suggestions on the petition at some points, so I can say that the petition and declaration were both in parallel prepared.

Q. When you signed your declaration, though, on May 18th, 2015, was the petition ready?

A. I do not recall that.

Q. If I could have you turn to paragraph 79.

MR. BERTULLI: Gentlemen, do you have a copy of Exhibit 1014 for counsel?

MR. MCDOLE: You brought Exhibit 1014.

MR. BERTULLI: Well, Dr. Mir brought Exhibit 1014. But you're asking questions about it. Do you have a copy?

MR. MCDOLE: Happy to give you a copy, counsel. But you brought the document; I was assuming you brought a copy for yourself.

A. I'm sorry, which paragraph?

Q. Paragraph 79.

A. Okay.

Q. If I can have you read the second sentence into the record.

A. Starting with "I base"?

Q. Yes.

A. "I base this on ground B(1) in the claim chart of Table B in the IPR petition with which I agree; the disclosures of the '714 patent and Buhrmann; my own knowledge and experience; and the explanations of the laws of anticipation provided to me by Cox's counsel."

Q. Okay. The sentence refers to reviewing a

claim chart, Table B, in the IPR petition with which you agree, correct?

A. That is correct.

Q. When you reviewed Table B, the claim chart, Table B in the IPR petition, was the IPR petition ready?

A. I don't believe it was. As I said, the petition as far as I remember was sent to me for opinion, for suggestions, so that was not ready.

Q. So the claim chart of Table B in the IPR petition which you agreed was not the final claim chart that ended up in the petition with respect to the '714 patent?

A. I do not recall it. To the best of my knowledge, it was not ready.

Q. Okay. Did you --

A. It was not finalized. Maybe ready, but was not finalized.

Q. Okay. Did you rely on the claim chart of Table B in the IPR petition in rendering your opinions?

A. As I said, in my declaration, I base this on ground B(1) in the claim chart of Table B in the IPR petition, I clearly said so.

MR. McDOLE: Counsel, I would request a draft of the petitions that Dr. Mir reviewed. He's just testified he relied on them in forming his opinions and I think we're entitled to those.

Q. Dr. Mir, are your opinions contained in Exhibit 1014 or are some of your opinions contained in the IPR petition?

A. The opinions are very similar.

MR. McDOLE: Move to strike.

Q. Dr. Mir, that wasn't my question.

Are your opinions fully contained in Exhibit 1014 or are some of your opinions contained in the IPR petition?

A. I'm sorry, I do not understand otherwise what your question is. I answered the question.

Q. Okay. Let me rephrase it for you.

Are there any opinions not --

MR. McDOLE: Strike that.

Q. Are there any of your opinions with respect to the '714 patent that are not contained in Exhibit 1014, but are contained in the IPR petition?

A. I have not memorized the petition, so I cannot answer the question unless I just compare

word-by-word of these two documents and tell you if there is any difference.

Q. So you're unaware if you have stated your opinions in the petition as opposed to whether they are fully contained in Exhibit 1014?

A. I'm unaware of it, yes.

Q. Okay. Do I need to go to Cox's IPR petition to determine your opinions in this matter or can I simply look at Exhibit 1014?

A. You should only rely on Exhibit 1014 in order to see -- to find out about my opinion.

Q. Okay. So with respect to the claim charts that are in Cox's IPR petition, those are not your opinion because the claim charts are not contained in Exhibit 1014; is that correct?

A. I based those charts that I refer to in my declaration, for my declaration, those charts are referred to by me for forming my opinion.

Q. Okay. Who drafted the claim charts of Table B in Cox's IPR petition?

A. I don't know.

Q. Did you draft the claim charts of Table B in Cox's IPR petition?

A. No.

Q. So why did you base your opinion on a claim chart that you don't know who drafted?

A. Not knowing who drafted doesn't mean that it was not drafted by anyone other than Cox's counsel. So since it was drafted by Cox's counsel, then it was reliable to me.

Q. So anything that Cox's counsel drafts is reliable to you?

A. After I read and confirm, yes.

Q. How do you know that the claim charts of Table B in the IPR petition were drafted by Cox's counsel?

A. To the best of my knowledge, it was presented by Cox's counsel, so that -- when I read the first page and last page, who prepared these, they tell me that, you know, this is done by Cox counsel.

Q. So you were told that the claim charts of Table B in the IPR petition were drafted by Cox's counsel?

A. No one told me verbally. But the charts were part of a document drafted by Cox's counsel.

Q. Okay. Is the fact that --

MR. McDOLE: Strike that.

Q. Is it an assumption on your part that Cox's counsel drafted the claim charts of Table B in the IPR petition or do you have some facts to back that up?

A. That was enough to me to believe that this was done by the Cox's counsel; otherwise, I should have been notified if there is any external preparer for this claim chart.

Q. Okay. So the claim charts of Table B in the IPR petition are the opinions of Cox's counsel, correct?

A. Claim chart is done by the counsel, and my understanding is if the counsel prepares a claim chart, then that's their opinion.

Q. Okay. Are there any claim charts that you include in Exhibit 1014 with respect to the '714 patent?

A. Whatever it is should have been listed in my declarations.

Q. Okay. But all of your opinions are contained in your declaration marked as Exhibit 1014?

A. That is correct.

Q. If I can have you turn to paragraph 48 of

your declaration marked as Exhibit 1014.

A. Yes.

Q. The first sentence of paragraph 48 of Exhibit 1014, you state that "I have carefully reviewed each of the prior art references cited in the petition."

What does it mean to carefully review a prior art reference?

A. That means I carefully reviewed.

Q. Does it mean you read it more than once?

A. Yeah.

Q. Does it mean you studied it?

A. What's the meaning of studying it?

Q. Did you analyze the entire prior art reference?

A. Yes.

Q. How many times did you read, for example, the Buhrmann reference with respect to the '714 patent in its entirety?

A. I don't recall it.

Q. Do you recall reviewing the Buhrmann reference in its entirety?

A. Yes.

Q. Okay. Is it, if you review a patent once,

in your mind would that be considered carefully reviewing a prior art reference?

A. Yes.

Q. And just to verify, Dr. Mir, you did review --

MR. McDOLE: Well, strike that.

Q. Make this a little bit easier so you don't have to guess as to what I'm talking about.

Going to hand you what's been previously marked as Cox Communication Inc. Exhibit 1004.

Dr. Mir, could you take a look at Exhibit 1004 and please let me know if you recognize this document?

A. Yes.

Q. Did you review the entire contents of Exhibit 1004 or just the portions that Cox counsel pointed you to in claim charts?

A. I reviewed the entire Exhibit 1004.

Q. Okay. Do you recall if you reviewed the entire Exhibit 1004 on more than one occasion?

A. I think it is more than one occasion.

Q. How many times did you review Exhibit 1004?

A. I don't recall.

Q. In forming your --

MR. McDOLE: Strike that.

Q. In drafting your declaration, Exhibit 1014, did you take caution in using exact words in your declaration?

MR. McDOLE: Strike that. Let me ask that question a little bit differently.

Q. In drafting your declaration, were you careful with the words that you chose to state your opinion in Exhibit 1014?

A. No.

Q. So you were not careful with the words that you chose in identifying your opinion to a governmental agency of the United States Patent Office?

A. When you say careful using words, could you just elaborate what you mean exactly? I don't really get what you're -- what you exactly mean with this.

I don't change any words, I didn't pick any particular words compared to the other words. I don't know what you mean by this.

Q. Well, you chose certain words to put in your opinions in the declaration identified as

Exhibit 1014, correct?

A. Can you show me what words you're referring to for example?

Q. Any word in your declaration, sir. You chose those words, correct?

A. The question is really confusing me, I chose those words. I just prepared this draft after I reviewed the prior art and forming my opinion and rendered my opinion and chose some words to explain it. I don't exactly understand what your question is.

Q. Well, my question is were you careful in choosing those words to accurately explain your opinion to the United States Patent Office?

A. I always choose the best words to show my opinion the best, the best way.

Q. Okay. Have you ever viewed the final claim charts provided in the petition for IPR relating to the '714 in this matter?

A. I don't recall if that was the very final one or not. I think I had some review of different claim charts.

Q. Okay. Subsequent to your filing --

MR. McDOLE: Strike that.

Q. Subsequent to your signing of your declaration on May 18th, 2015, relating to the '714 patent, did you review any other claim charts provided by Cox's counsel?

A. After I signed off my declarations, I, to the best of my understanding and remembering, I did not do anything else for Cox Communications other than for preparations for this deposition yesterday we just went over several documents. I don't believe it was -- the claim chart was one of those that I reviewed.

Q. After you reviewed --

MR. McDOLE: Strike that.

Q. After the last time you reviewed the claim chart of Table B in the IPR petition, do you know whether that claim chart was changed prior to it being included in the final petition to the United States Patent and Trademark Office?

A. I was not informed of any.

Q. And do you know whether any changes were made?

A. I'm not aware of it, no.

Q. Could changes have been made to the claim charts of Table B in the IPR petition without your

knowledge?

MR. BERTULLI: Objection, calls for speculation.

A. Are you asking could it be?

Q. Uh-huh.

A. How would I know?

Q. Sir, are you aware that the patent office rejected the first filing by Cox because they included argument in their claim charts and they were required to be changed?

A. Yeah, I'm not aware of it.

Q. Are you aware that Cox actually changed its claim charts twice before the current operative petition at the patent office was accepted?

A. No, I'm not aware of it.

Q. You haven't reviewed those claim charts, have you?

A. As I said, after I signed my declarations, I did not do anything else for Cox counsel until recently that we started preparing for the deposition.

Q. Did you review a corrected amended petition in preparation for your deposition today?

A. I do not recall if there is anything like

that. I have to check to see if there is any communications from the Cox's counsel to me between the time I signed my draft and recently. I'm not aware of if there is any communications. There might be. I don't know.

Q. After you signed your declaration, did you ever review the final IPR petition that was filed the day after you signed your declaration?

A. As I said, I don't remember what documents I reviewed as of signing my draft. But I do remember I reviewed the institution of the PTAB, which was a good news to us, sent to me by the counsel, that for sure I remember. I don't remember if there is anything else. I have to really check if there is anything else.

MR. McDOLE: Move to strike as nonresponsive.

Q. After you signed your declaration, did you ever review the final IPR petition that was filed by Cox the day after you signed your declaration?

A. I don't believe so. I don't think so, to the best of my remembering.

Q. So as you --

MR. McDOLE: Strike that.

Q. Subsequent to Cox filing its original IPR petition in this case, have you ever reviewed the final IPR petition filed by Cox on May 19th, 2015?

A. I assume that you're asking the same question.

Q. There's just a little bit of a difference there.

A. Well, my answer would be the same. I believe -- I don't believe so, I don't think so. I have to check my records and communications.

Q. Okay. And to your knowledge as you sit here today, you have never reviewed the revised amended petition filed by Cox relating to the '714 patent on June 22nd, 2015?

A. I assume that this is the same question you're asking me for a third time, right?

Q. No. My first one was the original petition filed May 19th, 2015. This question related to the revised amended petition filed on June 22nd, 2015.

A. Is it after my signing the draft?

Q. Yes, sir.

A. So I have the same answer for you. I don't think I did. I don't remember it if I did.

I have to check if I did. I don't think I did.

Q. So Dr. Mir, as you sit here today without knowing the contents of the final petitions that were signed, you have no opinion as to the accuracy or correctness of the final IPR petitions or the revised amended petition filed by Cox; is that correct?

A. I don't remember it.

MR. McDOLE: I think we've been going a little over an hour. Why don't we take a break.

(Proceedings interrupted at 9:04 a.m. and reconvened at 9:15 a.m.)

BY MR. McDOLE:

Q. Welcome back, Dr. Mir.

A. Thank you.

Q. Is there any testimony you believe needs to be corrected?

A. No.

Q. Did you have any discussions with your counsel during the break?

A. Yes.

Q. About the substance of this deposition or the '714 patent?

A. Not at all.

Q. Okay. Dr. Mir, did you review the institution decision relating to the '714 patent?

A. Yes, I did.

Q. Is there anything in the institution decision that you disagreed with?

A. I agreed with the result of the Institution.

Q. Did you agree with the substance of the institution decision?

A. Yes, I did.

Q. Did you believe that the patent office made any errors in its institution decision?

A. There could be some errors, minor errors, there could be.

Q. Did you believe that the patent office correctly construed the claims of the patent?

MR. McDOLE: Strike that.

Q. Do you believe that the patent office correctly construed the claims of the '714 patent?

A. I believe so.

Q. Dr. Mir, did you review AT&T's preliminary response relating to the '714 patent?

A. No.

Q. So as you sit here today, you have never

reviewed AT&T's preliminary response relating to the '714 patent, correct?

A. Correct.

Q. Dr. Mir, in forming your opinions in this matter, did you assume that when a patent uses different terms that they mean different things?

A. Could you give me an example?

Q. Sure.

If a patent uses two terms for something, even though they may have similar meanings, did you assume that they had different meanings?

A. I do not exactly understand what you're referring to. Two words: How similar are they, how close are they? I need to be clarified in that. I cannot answer the question.

Q. So it would depend on context?

A. Yeah. Depends on the context sometimes.

(Exhibit 2039, Provisional Application for '714 patent (135 pages), marked for identification.)

Q. Okay. I'll have you turn back to Exhibit 1014, paragraph 35. I'm going to hand you a document that we've marked as Exhibit 2039, which is the provision application for the '714 patent.

A. Which paragraph was it?

Q. Paragraph 35 to your list of materials.

A. Uh-huh, okay.

Q. I've handed you what is a provisional application for the '714 patent. Did you review this document in forming your opinions?

A. Which exhibit is it in the -- among the list of my exhibits?

Q. This is an exhibit we have marked at your exhibit -- at your deposition for the first time, Exhibit 2039.

A. And this is not in the list of the references I made in paragraph 35?

Q. I certainly don't see it, but I can certainly ask you that question.

Dr. Mir, is what has been marked as Exhibit 2039 identified in your paragraph 35, Exhibit 1014?

A. And your question is whether I reviewed this before?

Q. Yes.

A. So I don't recall if I did. It could be the case that I reviewed briefly or quickly.

Q. If you would have reviewed it, it would be

included in paragraph 35.

A. I believe so.

Q. You can set that to the side.

Dr. Mir, if I could have you turn to Exhibit 1004, which is the Buhrmann patent. If I refer to Exhibit 1004 as the Buhrmann reference, will you understand what I'm referring to?

A. It would be even better.

Q. Perfect.

Is there a better acronym that we could use as opposed to the Buhrmann reference for Exhibit 1004?

A. No. Actually, if you just use the first inventor for each patent, that would be greater.

Q. That was going to be my next question.

For all the prior art references we refer to, if we refer to simply the first inventor, will you understand what I'm referring to?

A. That would be perfect.

Q. Good.

And if I refer to an institution decision, as we've done already, do you understand that to mean the board's institution decision that was issued on November 18th, 2015 with respect to the

'714 patent?

A. I don't recall the date, but I was informed of the PTAB's decision and the institution of the patents and I was communicated with.

Q. Okay. Did you review the board's institution decision? I actually think it was November 19th, 2015.

A. I reviewed the PTAB's Institution document. I don't remember when I reviewed it and when it was issued, but I believe I reviewed one.

Q. Okay. If we refer to that as the institution decision, will you understand what we're referring to?

A. That is also understood, yes.

Q. If I could have you turn to paragraph 19 of your declaration.

A. Yes.

Q. You're not a legal expert, are you, sir?

A. That is correct.

Q. And you have no legal training; is that correct?

A. Other than learning from various lawyers on some terms such as validity and anticipation, no.

Q. Okay. In order to draft the legal standards section of your declaration at Exhibit 1014 starting at paragraph 19 and going through paragraph 26, you relied on counsel to inform you of the legal standards relevant to this matter, correct?

A. I always do.

Q. And in this case, you did rely on Cox's counsel to provide you with assumptions you should make with respect to legal standards in forming your opinions, correct?

A. Yes, I did.

Q. Are you aware of any errors in your understanding of the legal standards set forth in paragraphs 19 through 26 of Exhibit 1014?

A. Not that I'm aware of.

Q. What is the difference between whether a prior art reference discloses something or teaches something?

A. I never thought of this before, but in simple words, if something is disclosed, that means something is presented, could be as the embodiment of the invention.

You know, I don't want to comment on

teaching. Teaching is teaching. There is -- teaching is something that you learn from what the sentence tells you.

Q. Okay. Does teaching refer --

MR. McDOLE: Strike that.

Q. Does disclosed refer to an express disclosure, while teaching refers to something that you infer from a paragraph?

A. I never thought of this before. Probably is not the best time for me to opine on the meaning of words like these.

Q. Okay. If I can have you turn to paragraph 22 of your declaration, Exhibit 1014.

A. Uh-huh.

Q. And in the second sentence, you see the word "disclosed" is used?

A. (Perusing document.)

Q. Do you see that?

A. I see that.

Q. What did you mean by the word disclosed used in paragraph 22 of Exhibit 1014?

A. Well, the term "disclosed" needs to be searched in the Webster to exactly define the exact meaning. I have my own understanding of

disclosing, the word disclosed.

Q. Sir, I'm looking for the definition that you were using when you wrote paragraph 22 of Exhibit 1014 of the word disclosed.

A. Could be the combination of several words together like appearing, expressed, showed. Again, I'm not really an expert in the meaning of exactly these terms. So when I say each and every limitation of the claim is disclosed in a single prior art, could have a meaning that each and every limitation of the claim appears in a single prior art, something like that.

Q. Okay. Well --

A. And expressed --

Q. I apologize.

A. -- as a combination of several words. There is no single word that I can bring here as a synonym. I can't think of a synonym for disclosed.

Q. So if it's disclosed, the words actually identify the elements in the prior art reference?

A. Maybe. And I'm not sure that it identifies exact replacement for disclose.

Q. Okay.

A. Yeah.

Q. Well, what's the difference between disclosed and in paragraph 80 where you use the term "teaches," specifically in the first line of paragraph 80?

A. It teaches, it teaches.

Do you want me to give you the meaning of teaching?

Q. I want to understand what the difference, in your opinion, is between the word "disclosed" you used in paragraph 22 and the word "teaches" you used in paragraph 80.

A. I tried to give you the best of my understanding about the meaning of disclosed so far. Teaching is the same thing. I need to have access to a dictionary to find out what the synonym for teaching is. And here what I mean by teaching is that Buhrmann -- what we learn from Buhrmann, it confirms that all of the elements for profile management method as recited in claims whatever, 1 through 7, 12 through 17, and 20 of the '714 patent.

Q. So in your opinion, does teaching and disclosed as used in your declaration mean the same thing?

A. I did not say this.

Q. Then what's the difference between teaching and disclosed?

A. I have to repeat all the things so far I did. I said that I need to be provided by a Webster dictionary to get the exact meaning of the teaching and disclosing. I have ordinary understanding of teaching and disclosing, the meanings of teaching and disclosing.

I give you an example for disclose: I said it could be identified, expressed, appeared. And I give you an example for teaching, that it's what you learn from the content that is taught by the certain paragraph or certain patent.

Q. Did you have a Webster's dictionary with you when you drafted your declaration and use that dictionary prior to using the words disclosed and teaches?

A. I did not need it at that time.

Q. Is that because you understood what the terms meant?

A. When you write a certain paragraph, you always use a dictionary? I mean, I see you -- no, of course not. You use the word as it comes to

your mind and then use that. But if someone asks you what exactly this word is about or what is the meaning of this word, either the word is something that you have a synonym for it or you need a dictionary to define a synonym.

Q. So are disclosed and teaches synonyms?

A. What is that?

Q. Are disclosed and teaches synonyms?

A. To the best of my knowledge, no; maybe different, slightly different.

Q. When you use the term disclosed and teaches in your declaration marked as Exhibit 1014, did you use the word disclosed to mean that the words are expressly stated, whereas, the word teaches means that the overall teaching discloses a particular element?

A. Could be -- could be the case. Overall, teaching mostly is what you grasp out of the idea being presented.

Q. Okay.

A. That's teaching, that's what you learn from what is expressed, right.

Q. So for teaching, it means that the exact phrase may not exactly be there but based on

expertise you can infer it's there?

A. You're asking the same question? I said that it could be, yes. Could be that -- teaching could be overall ideas from different parts of a certain passage or patent that will give you what exactly this passage or patent is about.

Q. And I understand it could be, sir. And what I'm trying to determine is what you meant, because this is my only chance to depose you. So I don't want to know what it could be. I actually want to know how you used the term teaching.

So I'll ask my question again: For teaching, when you use it in Exhibit 1014, does it mean that the exact phrase may not exactly be there but based on your expertise, you can infer that it's there?

A. I have to repeat my answer to your previous question. Again, teaching is something that you grasp an idea from overall passage or patent or certain part of the writing and you learn from what exactly this says about it.

And disclosed is something that may be expressly or maybe is a certain material, certain figure is identified or expressed or appears

somewhere.

Q. Okay. Now, in paragraph 22 of Exhibit 1014, you referred to something called "inherent," something that is inherent in the prior art. I'm referring to the bottom of paragraph 22.

Do you see that?

A. No, not yet.

Q. I think it starts with "I also understand."

A. Yes. I found it.

Q. What is your understanding of what is necessary in order for an element of a claim to be inherent?

A. My opinion is the same as what I expressed in my declaration. So an element of a patent claim is inherent in a prior art reference if the element must necessarily be present and its presence would be recognized by a person of ordinary skill in the art.

Q. And you also understand that inherency cannot be established by mere probabilities or possibilities, correct?

A. That's what my understanding from the counsel is, yes.

Q. With respect to Exhibit 1004, the Buhrmann reference, did you use the doctrine of inherency in determining that any element of this claim 1 of the '714 patent was satisfied by the Buhrmann reference?

A. So could you point me to where I just did this, if I did it?

Q. I don't know if you did it or not, sir, that's why I'm asking you.

A. If I did it, I had expressed it in my declaration.

Q. So unless it's expressed in your declaration as saying that an element is inherently present, you did not offer an opinion on inherency?

A. In my declaration, that is correct.

Q. Okay. Dr. Mir, how would one of ordinary skill in the art of the '714 patent in 1997 define a database?

A. Finding the database?

Q. Define.

A. Define the database.

Did I render any opinion on the database in my . . .

Q. You certainly used the word "database,"

sir.

A. Did I render any opinion on what the database is for a person of skill in the art?

Q. You have to -- I would ask that you look at your declaration and let me know whether you did.

A. I don't believe I did.

Q. Okay. Dr. Mir, do you know -- well, let me ask it this way: Do you know how one of ordinary skill in the art of the '714 patent in 1997 would define a database?

A. I normally do not respond to questions like this that I did not opine on it, but since this is a very basic thing in our field, I can answer the question, but not necessarily for every term that I did not opine I can make the opinion immediately in this session.

So the database is a certain storage of data or pieces of data for a certain purpose, and the database could consist of several segments and sections for different purposes. A database can be accessed by a user and a database can be fetched for a certain piece of data.

(Ms. Jinnie Reed is now present.)

MIR

MR. McDOLE: I'm going to move to strike the first part of your answer as nonresponsive.

Q. So the second part of your answer where you described the database, what you consider to be a database --

MR. McDOLE: Strike that.

Q. So is the second part of your answer where you described a database what you consider to be the definition of a database in 1997?

A. I need to do research on it.

What year you're referring to?

Q. 1997.

A. I need to do research. I cannot really answer the question.

Q. Okay. So as you sit here today, you do not have an opinion as to what the definition of a database is in 1997 to one of ordinary skill in the art?

A. The definition of a database in general was presented to you a few minutes ago. I don't believe the meaning of a database, the definition of the database would be significantly different to what a person of ordinary skill in the art would understand in 1999 compared to now.

Q. Okay. But as you sit here today, you would have to do research in order to confirm that?

A. I have to do research to confirm it, yes.

Q. So as you sit here today, you do not have an opinion as to whether the definition of a database today would be the definition of a database in 1997.

A. My opinion is that the definition of a database today that I just defined, I doubt if it would be a lot different to what it was in 1999.

Q. Okay.

A. But for any term that you're asking, I need to make an opinion and then include it in my -- the declaration in order to be official. And then I need to know in what context you are referring to the database. If it's related to Buhrmann, if it's related to An, or other references that we have. And in 1999, what exactly the definition is, I need to do the research.

Q. Okay. In forming your opinions in this case, did you assume that the terms had their meaning as you understand them today or as one of ordinary skill in the art would have understood them in 1997?

A. The second one: the term should have been understood by a person who is skilled in the art -- one of ordinary skill in the art in the time that the patent was issued.

Q. Well, then how did you --

I'm sorry. Were you done?

A. Was not issued, but was filed actually.

Q. Okay. Well, if that was the case, then why don't you have an opinion on what a database was in 1997?

A. Well, besides the database, there are so many other terms that you could refer to. There are so many technical terms. But database, to the best of my knowledge, is something that has not changed its meaning. But it's not for sure. I mean, again -- a few minutes ago I said that I need to do the research to make sure. But database, to the best of my knowledge, has not changed its meaning.

Q. Would you have to do research to understand if --

MR. McDOLE: Strike that.

Q. If I gave you any term used in the '714 patent, would you have to do research to determine

what one of ordinary skill in the art would understand that term to mean in 1997 as opposed to your opinion as to what it means today?

A. If it is needed, then yes, I have to.

Q. Have you done any of that research to determine what any of the claim terms in this claim 1 of the '714 patent mean in 1997 as opposed to today?

A. I believe I did most of them that I thought maybe a person who was skilled in the art -- ordinary skill in the art could understand at the time of asserted patent. As an example, the term "SCP" that we use a lot, I use a lot in my declaration, was defined actually by me in the introduction of my declaration. So that's the term that I thought it should have been explained for the time that the patent was filed.

Q. Okay. So the term SCP that you provide --

A. As an example.

Q. Okay. So the term SCP that you use in your declaration, the definition that you provide is something that one of ordinary skill in the art would have understood SCP to mean in 1997 as opposed to today, correct?

A. That's correct.

Q. And what research did you do to confirm that SCP meant what you stated in your declaration in 1997 as opposed to today?

A. Well, I'm the expert in the art, in the field, so I'm aware of the terms such as SCP, when it was invented, when it was created, the term. And to the best of my knowledge, SCP is a term that was used by SS7 technology, and SS7 technology was presented a long time ago, long time before the asserted patents, and did not change since then. So I did not need to do any research as an expert in the field, so I used it.

Q. What is an SSP?

A. I turn your attention to my declaration, paragraph 39. I presented a definition for SSP and I can read it for you. "Each telephone set is connected to a signal transfer point, (SSP), through a phone line. The SSP is the main switching node of the PSTN. Any phone set is directly attached to its corresponding SSP." And finally, "each SSP also acts as a point of call signaling origination and termination and therefore functions as the first signaling point for the SS7

network."

Q. So an SSP, that acronym stands for signal transfer point?

A. Oh, that's the error. Let me just make a correction. This is signal switching point. Sorry for that.

Q. So you need to make a correction to paragraph 39 of Exhibit 1014?

A. That is correct. So signal transfer point should be signal switching point.

Q. Are there any other errors that you need to correct in your declaration, Exhibit 1014?

A. Not that I'm aware of any other errors. But SSP is a very common term and you can find it in most of the telecommunications dictionaries and textbooks and it is the signal switching point.

Q. Is an SSP --

MR. McDOLE: Strike that.

Q. Is your definition of an SSP from 1997 or from your understanding of it today?

A. It is definitely based on the understanding of 1997. And I can tell you that since I worked on telecommunications equipment such as SSP and STP and SCPs those years, the definition

of SSP has not changed since then. It's been like this all the time. It is a switching point.

And I just gave you the functionality of SSP, that how exactly SSP works. Basically, SSP is the very first originating switching point for telephone calls.

Q. Okay. But an SSP is not a signal transfer point, we agree on that?

A. I think I made that correction, yes, already.

Q. Okay. How would one of ordinary skill in the art of the '714 patent in 1997 describe a subscriber --

MR. McDOLE: Strike that.

Q. How would one of ordinary skill in the art in the '714 patent in 1997 define a subscriber profile database?

A. So we already talked about the database as the data storage basically. And then in this particular case, that's the database for subscribers' profiles.

You said subscriber profile database?

Q. Uh-huh.

A. So that stores -- the database stores the

subscribers' profiles.

Q. And is that the definition that you've researched and understand to mean in 1997 or your understanding of it today?

A. Well, none of them is for today, none of the definitions that I have is for today. Everything is according to the date that the patent was filed.

Q. Well, except assessment for database, because you have to do research in order to understand whether database has the same meaning today as it did in 1997, correct?

A. No, that's not true. I said that for sure, if you want to know what exactly the database means in 1997, I need to do the more research to see if it's exactly the same as today or not. But to the best of my understanding, is that the database has not changed since long time ago, including the time before the patent started. The database is a database, it's just the storage element for storing data.

Q. How would one of ordinary skill in the art of the '714 patent in 1997 define subscriber profile data?

A. Well, that's the data that is related to subscriber's profile, such as name, phone numbers. I don't know what else, just maybe address, the preference of the subscriber.

Q. Anything else you can think of that would be considered subscriber profile data in 1997?

A. I don't recall any other ones. Probably one of the patents may have a list of those. I don't -- I don't know which one.

Q. Okay. Based on your expertise as you sit here today, can you identify any other subscriber profile data other than name, phone number, address and preference of describer [sic]?

A. And the preferences of the describer -- subscriber could include so many different items, such as opting out a certain caller, maybe the call waiting, and -- I don't know the complete list of the preferences.

Q. So based on your experience as you sit here today, can you identify any other subscriber profile data other than name, phone number, address and preference of subscriber, understanding that there may be other preferences of the subscriber?

A. Yes, I can.

Q. Which other ones?

A. Well, I need time to go over all the patents and then let you know, if you want.

Q. I'd like the complete list, sir, so please let me know.

A. So provide me with all the patents that I reviewed and give me around one or two hours. I can read all and we'll give you all the list of the best, I'll do my best.

Q. Happy to take a break and let you do that.

A. Okay.

MR. McDOLE: Take a break.

MR. BAUER: It's part of your seven hours.

MR. McDOLE: No, it's not, sir.

MR. BAUER: It's part of your seven hours.

Q. Well, I'll ask you this: Dr. Mir, as you sit here today, can you provide me any other opinion as to what subscriber profile data is other than name, phone number, address, and preference of the subscriber?

A. I can find out about it, yes.

Q. That's not what I asked you, sir.

MR. McDOLE: Move to strike.

Q. I'll ask you the question again. Dr. Mir,

as you sit here today, can you provide me any other opinion as to what subscriber profile is other than name, phone number, address, and preference of subscriber?

A. I gave you all the items that I remembered. For the rest of it in the database, it's a huge database, maybe there are so many things can exist in the database. I can do some research if you provide me with time, I can do my best. And if you need exact answer, then I need to be provided by the Google search and I can do it for you.

Q. Sir, can you look at Exhibit 1014 and identify anywhere where you identify what types of subscriber profile --

A. What is 1014?

Q. That's your declaration.

A. My declaration.

Q. Sir, if you can look at Exhibit 1014 and identify where you identify what types of subscriber profile data existed in 1997 and let me know, I'd appreciate it.

A. Okay. I can start from the first page all the way to page 52, if you'll be patient with me

just to go --

Q. If that's what you think it takes, feel free to do it.

A. I need to.

Q. I'll start my watch, see how long it takes.

A. Okay.

(Perusing document).

A. So far I have found a few things, and then I'll continue after mentioning these.

So in page 16 of my declaration, I have a section under -- entitled "Overview of Subscriber Profile Database Prior to 1997." And I started discussing about the database for the subscriber profile: "The simplest database that can be associated with subscribers in telephone networks is a messaging system."

And then I continue with "examples of personal messaging system from the 1997 time period, include," but not -- "but are not limited to paging systems, voice message systems, and e-mail systems."

And then I introduce service control point, SCP. And then in the section of SCP, I

recited that "the SCP is a node of the SS7 network that carries out advanced services. For example, when a toll-free 800 number is requested, the SCP finds the location address of the destination SSP to which the call should actually be sent."

Now, 800 number could be an information related to a profile of a subscriber that is in the database of SCP.

Q. And an 800 number is a phone number, correct?

A. 800 number is a toll-free phone number that could belong to a subscriber's profile, as part of the subscriber's profile.

Q. And you've already identified phone number as part of what could be considered subscriber profile data, correct?

A. That's correct. Regular phone number, of course.

Q. Is there anything else in your declaration that you can find that would be considered subscriber profile data?

A. Yeah, let me just continue on.

(Perusing document).

Here's another one on page 34 of my

declaration, paragraph 80. I'm reading part of the paragraph for you. "In particular, Buhrmann discloses receiving from a client via profile request field, a request to view subscriber profile data." I assume this is what you're referring to, right?

Q. I asked you about subscriber profile data.

A. "Such as schedule data or telephone numbers of authorized or unauthorized users," yes.

Q. Is schedule data subscriber profile data?

A. Sorry?

Q. Is schedule data subscriber profile data?

A. It could be. It could be. I mean, there is no set structure for the database for the subscriber profile. It really depends on the country, the city, the network manager, and the structure of the service provided to the subscriber. There is no set definition that these items must be part of the subscriber profile.

Q. Sir, does the Buhrmann reference, Exhibit 1004, in your opinion include schedule data as subscriber profile data?

A. I think if you read the rest of it, it would be more clarifying. For example, I'm writing

in the quotation, "'The subscriber is provided with a schedule display for a chosen day via the user interface 136,' which may include a graphical user interface display."

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, does the Buhrmann reference, Exhibit 1004, in your opinion include schedule data as subscriber profile data?

A. As I present it here in this paragraph, Buhrmann discloses receiving from a client via profile request field of 502 a request to view subscriber profile data such as the schedule data, that's what Buhrmann states.

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, my question is a yes-or-no answer and I'm just looking for an answer to my question.

My question is does the Buhrmann reference, Exhibit 1004, in your opinion include schedule data as subscriber profile data?

A. I think so.

Q. Sir, does the Buhrmann reference, Exhibit 1004, in your opinion include contact data

as subscriber profile data?

A. Did I mention the contact data here?

Q. Sir, you have your declaration in front of you.

A. I need to search in the Buhrmann to see if the contact data is part of the profile data. Do you mind if I spend time in the entire --

Q. If you're not prepared enough to answer my question, then you feel free to look at the Buhrmann reference.

A. I'm fully prepared to answer all of your questions, but the questions that you're asking is whether one word exists in an entire patent, one of these seven patents that I used as a reference. I need time to look for that word to see if that is there or not.

Q. Let's look at Figure 1 of Exhibit 1004.

A. 1004. Figure 1.

Q. Do you see the personal information manager, PIM?

A. Yes.

Q. Do you see the word "contact data"?

A. Yes, contact data.

Q. Okay. Does the Buhrmann reference,

Exhibit 1004, in your opinion include contact data as subscriber profile data?

A. That is under personal information data, and my understanding is that that could be part of the profile data.

Q. Okay. So do you believe that subscriber profile data can exist on the PIM?

A. The subscriber profile data are organized in a subscriber profile database of SCP in box 108, that's where the profile data are saved actually.

Q. Is it your opinion that schedule data and contact data are not saved on the personal information manager, PIM?

A. Since the Buhrmann -- Buhrmann's reference can provide a situation or facilities for a subscriber to request for viewing subscriber profile data such as the schedule data, then the answer is yes.

Q. Is schedule data and contact data always saved on personal information manager?

A. When you say "always" means in all occasions around the world?

Q. In --

MR. McDOLE: Strike that.

Q. In the Buhrmann reference, Exhibit 1004, is schedule data and contact data always saved on the personal information manager?

A. I believe so.

Q. Besides name, phone number, address, preference of subscriber, schedule data and contact data, is there any other information in your opinion in reviewing the Buhrmann reference that you would consider to be subscriber profile data?

A. I need to do research on that to see what other data could be included in the database. I presented all the items that I remembered. If there are other items, I need to do research.

Q. You carefully reviewed the Buhrmann reference, correct?

A. Yes, I did.

Q. Okay. How would one of ordinary skill in the art of the '714 patent in 1997 define a client?

A. The client is a term of the art, and you can find it in my book, my textbook published by Prentice Hall, both editions, edition one and edition two.

A client is commonly understood among experts that it is a software that requests a

service; that's the best definition of the client from the view of a person of ordinary skill in the art.

Q. So a client as used in the '714 patent refers to software?

A. Client has always been a software.

Q. Okay.

A. Unless you refer to a client as a person or a machine, then you need to mention it. But if you use client in the context of computer communication, telecommunications, the client is defined as a software that requests a service.

Q. Okay. In claim 1 of the '714 patent, Exhibit 1001, what does the word "client" mean?

A. Patent '714 has a lot of deficiencies and confusing terms. I identified a number of those and I can bring those to you.

One of those is "client." It has misused "client," the word "client." One example before answering your question, which is related to answer to your question is just please take a look at the picture on the face of the patent. You see the word "client" in the figure? And then on the right side of it, it says "client software." That

doesn't make sense to me. The client software means software software.

And then as compared to the word client, separately written under the logo of a person sitting in front of a computer, if that sole word client refers to the person, that means the human being, or whether it refers to the machine in front of it or whether it refers to the software that is installed on the machine, this is really confusing.

So now I answer your question. Your question is that the client inserted in claim 1 refers to what? After just reading several times back and forth, it may refer to the software, but then again, the software here is identified as client software, not the client.

MR. McDOLE: Move to strike everything before "so now I answer your question" as nonresponsive.

Q. Sir, did you understand what the word client meant in claim 1 of the '714 patent in rendering your opinion?

A. I'm going to repeat all the things that so far I said.

Q. That's a yes-or-no answer. I just want to

know if you understood.

A. To the best of understanding, to the best of understanding is that the client is a software.

Q. Is the client the personal information manager?

MR. McDOLE: Strike that.

Q. Can the client be the personal information manager?

A. Personal information manager is what you said?

Q. Uh-huh.

A. What is a personal --

Q. I'll say it again. What is personal information manager?

A. Personal information management -- manager?

Q. Personal information manager, sir.

A. Are you referring to a human being, manager?

Q. No, sir.

A. What is that?

Q. Well, maybe you can look at Figure 1 of the Buhrmann reference. I understand the smirk on your face. But if you can look at the Buhrmann

reference, which you're so intimately familiar with, and look at Figure 1, 122, personal information manager. You're the expert. What is a personal information manager?

A. Let me take a look at Figure 1: Well, in the context of the patent, the Buhrmann patent, a personal information manager includes the entire box of 122, that includes so many boxes here, CPU, user interface, modem, so many things.

Q. Okay. So I'll go back to my question. Can the client be a personal information manager?

A. The client that is meant to be a software is part of the personal information manager in Buhrmann's patent.

Q. Which part in Buhrmann is the client?

A. It could be user interface.

Q. It could be, sir, or it is?

A. Let me take a look at my opinion because I did provide opinion on this.

Okay. On page 19 of my declaration on the third line --

Q. Which paragraph?

A. Well, the paragraph is from the previous page, which is 50. Starting in the -- at the end

of the second line on top, I'm saying the user access is provided by a user interface 136 with a display 500. So the combination of a user interface and the display -- let me just turn your attention that the user interface 136 can be found in Figure 1 and the display 500 can be found in Figure 5.

So the combination of these two actually is the client, because it is a user access software. User access software is the client.

Q. There's no chance in your opinion that the client could actually be a subscriber?

A. The client could be subscriber? What do you mean by "subscriber" in this context? Do you mean the human being?

Q. Yes.

A. Then it goes back to the confusing point of the '714. That if we accept that the client could be a human being, the subscriber is the human being of course.

Q. Are you confused by the '714 patent?

A. '714 patent has a number of confusing terms, yes.

Q. And you don't identify any of those

confusing terms in your declaration, do you?

A. I'm telling you now.

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, you don't identify any of those confusing terms in your declaration, do you?

A. I did not mention those in my declarations.

MR. BERTULLI: Okay. We've gone a little over an hour. Why don't we take a break.

MR. McDOLE: Sounds good.

(Proceedings interrupted at 10:25 a.m. and reconvened at 10:37 a.m., at which time Mr. Bauer and Ms. Reed are no longer present.)

BY MR. McDOLE:

Q. Welcome back, Dr. Mir.

A. Okay.

Q. Is there any testimony you believe you have to fix?

A. No.

Q. Did you talk with counsel at any of the breaks?

A. Yes.

Q. Did you talk with them about any of the

substance of your deposition or your opinions in this matter?

A. No.

MR. McDOLE: And counsel, if we can get a copy of those draft petitions during lunch so we can review them.

MR. BERTULLI: We've heard you.

MR. McDOLE: And do it today so we don't have to hold it open, I would appreciate it.

MR. BERTULLI: We'll take a look at that.

Q. Dr. Mir, in 1997, what was a modem?

A. Well, modem is a modulation/demodulation module, that's just what I teach in my communication classes. And modulation/demodulation unit is a unit that modulates a signal or demodulates a signal.

Q. Can a modem transmit data?

A. The modem is actually part of a transmission system. That is the last point for -- for systems that are not wireless, let's say, as an example, is directly connected to the outside links. So then we could say, you know, the modem actually transmits the data because it receives the raw data, modulates them, and then transmits over

the links or lines.

Q. So in the context of Figure 1 of Buhrmann, information is received from the PIM and transmitted through a modem; is that correct?

A. Transmitted through the modem, yes.

Q. Okay. Does a modem receive data or retrieve data?

A. The modem receives and transmits data.

Q. Does a modem retrieve data?

A. It really depends what you mean by "retrieve" in the context of 845. Could you explain?

Q. Sure.

I'm using the word "retrieve" as used as part of the word "retrieving" as used in claim 1 of the '714 patent.

A. And that means -- any further you can clarify?

Q. Sir, did you analyze the '714 patent in evaluating what the word retrieving meant in claim 1?

A. I want to see if we are using retrieve as looking for a data, fetching the data from a certain place and then bringing back to where it

is.

Q. Sir, I'm using the word retrieve as it's used in claim 1 of the '714 patent.

A. So let's see what the '714 patent uses retrieve, I believe in claim 1.

Q. Claim 1. And that would be Exhibit 1001. Column 16, line 1.

A. Line 1. Assuming that retrieving has an ordinary meaning, then '714 patent says -- recites that "retrieving the subscriber profile data from the communications network based upon receiving the subscriber request to view the subscriber profile data from the client."

Q. Okay. My question was does a modem do retrieving or receiving?

A. The modem does receiving and transmitting.

Q. So the modem does not do retrieving; is that correct?

A. Retrieving in the sense that it goes and searches the data and then fetches the data and brings it to the modem, no, it does not.

Q. Okay. So in the context of the '714 patent, claim 1, a modem does not retrieve information; is that correct?

A. There could be a retrieving internally for certain reasons that the modem is designed to retrieve certain data of its own; that's probably a different story. In that case, we call it the modem can retrieve data.

Q. Okay. Well, let me ask you this: In the Buhrmann reference, Exhibit 1004, does the modem of Buhrmann retrieve data or receive data?

A. This modem, as far as I remember reading the specification of Buhrmann, did not disclose any possibility that the modem can retrieve data internally, but that doesn't mean that it doesn't do it; it could do it.

Q. Okay. Does it necessarily --

A. No.

Q. -- retrieve data?

A. That is correct, doesn't necessarily do it.

Q. I guess that was the question. Does the modem of Buhrmann necessarily retrieve data?

A. No.

Q. Does the modem of Buhrmann retrieve data from an external source?

A. There is no recitation on this, there is

no disclosure on this.

Q. Okay. While we're on the '714 patent, if I can have you turn to claim 20 of the '714 patent.

A. I'm sorry, could you --

Q. Sure. Claim 20 of the '714 patent, which is Exhibit 1001, and specifically claim 20, which is in column 18, somewhere around line 23.

A. Okay.

Q. What is a service management system (SMS) server?

A. I need to refresh my memory to see where exactly the SMS was defined.

Q. I think there's column 1, line 59, column 8, line 35 might be places where you can find it.

A. (Perusing document).

On column 8, line 35, '714 patent states that "The PID PC server 104 may comprise an application service to handle the PID client connections and communicates with a Service Management System (SMS) server 204 to obtain profile data on behalf of subscribers and also to submit subscriber orders."

I think it's clear what it says.

Q. Okay. And I've heard that term SMS before

as text message. Is this a text message?

A. That could also stand for text message.

Q. Well, is a service management system server a text message?

A. I don't think so.

Q. Is a service management system server a server that holds text messages?

A. I don't think it has anything to do with the SMS that average people know is related to messaging.

Q. So it would be ridiculous for me to say that a service management system would be a server would be something related to a text message?

A. It is wrong, at least, yeah.

Q. Okay. Just going back to modems one more time. Does the modem of Buhrmann receive data from an external source based on the disclosure provided in Buhrmann?

A. Receive data, what kind of data are you referring to?

Q. Subscriber profile data.

A. Can I check quickly?

Q. Sure.

A. (Perusing document.)

MIR

Okay. Turning your attention to column 7, line 21 of Buhrmann, it says, "The modem 138 is used for sending information from the PIM 122 to SCP 108 through the PSTN 114. The use of a modem for communication with external devices is well known and will not be described in detail herein."

And as I said, the modem is a general term and it's well known for a long time. And I believe that Buhrmann is using the same modem that I think it is.

Q. Okay. And my question was, does the modem of Buhrmann receive data from an external source based on the disclosure provided in Buhrmann?

A. Which external source are you talking about?

Q. Any external source.

A. Well, of course, the source that modem receives from is external to modem, yes. The answer is yes.

Q. Okay. Fair enough. Now I understand the distinction you're trying to make.

Does the modem of Buhrmann receive data from a source other than the PIM?

A. It doesn't show anything other than PIM

that provides data to modem, at least from Figure 1. Of course, one thing that is, though, to be added here, that modem is also connected to PSTN. So assuming that the modem is the bidirectional device, so then it can also communicate with the outside world which is the PSTN network.

Q. Okay. Are all modems bidirectional devices?

A. That is inherent under the definition of modem, because modulation/demodulation: Modulation is a transmission, demodulation is receiving, of course. Then my understanding is that it has to be bidirectional.

Q. Okay. Is it possible that the modem of Buhrmann simply receives data from the PIM and transmits it over the PSTN and does not receive any information from the PSTN?

A. I do not see why not, that when we have a modulation device and also demodulation device, so it has to be bidirectional. Data should be from any direction, from outside to inside or inside to outside.

Q. I understand it's possible. But in every

circumstance, does the modem of Buhrmann --

MR. McDOLE: Well, strike that.

Q. Does Buhrmann disclose that the modem receives any information from the PSTN?

A. As you notice here, that I read, that no, it doesn't say anything further what modem, it doesn't say anything. It leaves the understanding of modem to the reader because it is a very common concept that, you know, when you place a modem somewhere, you expect that the modem sends data, the modem also receives data. I would say that, you know, it is bidirectional here but even though there is no mention of it.

Q. Is it possible to use a modem for just sending data in one direction?

A. If you want to, yes.

Q. Okay.

A. What's wrong with that?

Q. Is there any disclosure in Buhrmann, Exhibit 1004, that shows that any other data --

MR. McDOLE: Strike that.

Let me start over and get a drink of water.

Q. Is there any disclosure in Buhrmann that

shows that the boxes with 102 are providing data to the modem?

MR. McDOLE: Let me rephrase. I may have skipped something.

Q. Is there any disclosure in Buhrmann that shows that data is being provided to the modem by anything other than the PIM?

A. Can you give me a second?

Q. Sure.

A. (Perusing document.)

Okay. Let's consider column 9, line 18. It recites that "links 140," which is actually the link that you're referring to that receives data by modem, "and 142" -- but 142 is not something that we're referring to, but let's focus on 140 -- "may be standard telephone links."

Okay. Well, that tells me if you're using a telephone links for a modem, then it has to be bidirectional -- it has to have bidirectional capability. So, for example, the modem can receive data. What kind of data? I mean, there's no mention of it -- I mean, as far as I've read so far -- and sending data from the modem. So both are possible.

Q. Both receiving and transmitting data are possible, but are they necessary in the disclosure of Buhrmann?

A. As I said, I haven't found yet if the modem 138 of Buhrmann receives data from PSTN. But it is very well known a device -- the modem is a very well known device for receiving and sending, and especially since Buhrmann shows that the modem is connected to PSTN. As any person of ordinary skill in the art when I go back through the years of modem use and telephone lines, I remember that my modem was connected to a telephone line. I received messages; I sent messages. So the same situation I see here, that the modem is connected to PSTN.

Q. And sir, I understand it's possible. But what I'm asking is, in the disclosure of Buhrmann, does it disclose that data is received by the modem?

A. I haven't found that one yet because I was not looking for such a situation. There may be stated in the specification of the Buhrmann's. I mean, it is a matter of time to make sure that it is stated or not stated.

Q. Let me ask you another question and we can see if this helps. Does Buhrmann disclose receiving subscriber profile data by the modem from the PSTN?

A. As I said, I haven't found that disclosure yet.

Q. Okay. And feel free to take your time.

A. And if I don't find it, that doesn't mean that the modem cannot receive or does not receive data from PSTN, that does not mean it. But let me check to make sure if there is any statement here or not.

Q. Okay.

A. (Perusing document.)

So far I haven't found explicit mention of receiving data from PSTN to modem. However, when I read one of these similar claims, such as claim 14, "the personal information manager device of claim 13 wherein said modem transmits said alert update data via a wired communication link," normally alert signal requires an acknowledgment. So that means that, you know, when you send an alert, you receive an acknowledgment, so the modem receives a certain acknowledgment data back.

Q. Is that acknowledgment data subscriber profile data?

A. I'm not sure. I don't know. I said normally when you send an alert, you would expect the other system would receive an acknowledgment. There is no mention of acknowledgment here. I'm just saying that's just a normal thing for communication systems.

Q. Okay. And you said there was no explicit disclosure --

MR. McDOLE: Strike that.

Q. You said you found no explicit mention of receiving data from the PSTN to the modem. Have you found any disclosure that subscriber profile data is received by the modem through the PSTN?

A. Not so far.

Probably, you want me to go over again the rest of it?

Q. If there's some that you haven't found after reviewing it, please.

A. It would be easier for you to tell me where if there is any disclosure on that and I would agree or disagree.

Q. Sir, I don't believe there is a

disclosure, so I can't point you to a position. But what I'm asking you is if you know of a disclosure.

A. I was not looking for such a thing because this was the least important topic of research in Buhrmann's patent, to find whether the modem receives any data back or not. So as much as the time allowed me in this session, I went over the claim constructions and claim -- all the claims of this patent. I found no explicit disclosure of the fact that the modem 138 receives any signal from the PSTN.

But as I said, this is really inherent in the modem, that, you know, it's bidirectional, the modem is used for bidirectional purposes, and when I read the alert is sent by the modem, so as a result, acknowledgment should be expected by the modem, so then the modem can operate bidirectionally in this patent.

Q. Let me ask you this then: Is it inherent in Buhrmann that subscriber profile data is received through the PSTN into the modem?

A. To the best of my knowledge, yes.

Q. Why is it inherent?

A. Because it alerts the signal. When the alert signal is sent by the modem, the modem inherently receives an acknowledgment.

Q. So it always receives an acknowledgment?

A. To the best of my knowledge, alert in communications systems should be responded by an acknowledgment. It's not a hundred percent done everywhere, but that's the typical situation, when you send alert, you need to receive a certain formatted acknowledgment.

Q. Is there any disclosure in Buhrmann of receiving an acknowledgment to an alert?

A. No. But you did ask me inherent.

Q. I understand.

A. Yeah.

Q. And you consider the acknowledgment of the alert to be subscriber profile data?

A. I do not know.

Q. So my question relates to subscriber profile information.

A. There is no mention of it.

Q. If you could let me finish my question.

A. Sure.

Q. My question relates to subscriber profile

information. Is there any disclosure inherently or expressly in the Buhrmann reference of subscriber profile information --

MR. McDOLE: Strike that.

Q. Is there any disclosure inherently or expressly in the Buhrmann reference of subscriber profile data being communicated through the PSTN and received by the modem?

A. I need time.

Q. Sure.

A. (Perusing document.)

Actually, I found a couple of, so far, more kind of explicit disclosure of responses from outside the modem to the modem. For example, if you note in the abstract of Buhrmann, let me read from the word "upon," almost in the middle of the abstract.

"Upon receipt of the profile update data by the database" -- I assume that the database is the one that is -- is SCP, that's the best database location -- "the subscriber profile data stored therein is updated in accordance with the subscriber profile update data. Thereafter, telecommunication services, including call

completion services and message reminder services, are provided to subscriber based on the updated subscriber profile data."

Well, that tells me that, you know, the subscriber receives something.

Q. Is the subscriber the cell phone in Figure 1 or is the subscriber the PIM?

A. Could be either.

Q. It could -- well, you're the expert, sir. Based on your understanding of Buhrmann is the subscriber the cell phone or is the subscriber the PIM?

A. I answered the question. The patent itself, it says either one could be the subscriber. Either you want to do it in a wired line or the wireless, however you want to do it. And I think we have that one stated clearly in the patent. We can find that one.

Q. Sure.

A. You want that one?

Q. Please. Yes.

A. (Perusing document.)

Here is the answer. Page 15, column 6, line 37. Let me read out to you: "The subscriber

profile record of a particular subscriber is updated in the database 118 via a personal information manager (PIM), such as PIM 122 (Figure 1). As used herein, a PIM is any type of electronic personal information device. For example, and without limitation, a PIM may be a program executing on a personal computer," which is -- in this case is a wired line, now -- "(e.g., Now-Up-To-Date, available from Now Software, Inc., Portland, Oregon), a handheld personal information device."

So it clearly states that it could be a personal computer or a handheld wireless device.

Q. Okay. And you consider telecommunication services to be subscriber profile data?

A. Telecommunication services to be subscriber's profile?

Q. Subscriber profile data. Because remember, my question related to subscriber profile data.

A. And the question is again, please?

Q. My question is, is telecommunication services subscriber profile data?

A. Data cannot be a service.

Q. Okay.

MR. McDOLE: I move to strike your previous answer as non-responsive. Let's go back to my question.

A. Sending data is a service.

Q. Is there any disclosure inherently or expressly in Buhrmann reference of subscriber profile data being communicated through the PSTN and received by the modem, specific to subscriber profile information?

A. But you just missed the word "communicated" in your previous question to me, in your recent question to me.

The data to be communicated is a service, yes.

Q. Okay. So let me ask it again: Are telecommunication services subscriber profile data?

A. Services could be subscriber's profile data communications.

Q. It could be or it is?

A. It could be -- one service could be that, yes.

Q. So is there a disclosure in Buhrmann that subscriber profile data is communicated through the

PSTN and received by the modem?

A. And received by the modem?

Q. Yes.

A. I just read the abstract to you.

Q. Okay. And you also said that telecommunication service is not subscriber profile data. So I want to make sure I understand what your opinion is.

A. I did not say that. I did not say the data cannot be the personal data. You said services and I said it's not services.

Q. Where does the abstract talk about a modem?

MR. McDOLE: Strike that.

Q. Where does the abstract of the Buhrmann reference talk about a modem?

A. The modem is the detailed component of the personal information manager, PIM, and PIM is already there in the abstract.

Q. So does the word "abstract" appear in -- or does the word "modem" appear anywhere in the abstract?

A. None of the details of PIM including modem can be explained and can appear in one paragraph of

abstract, of course not.

Q. Is a call completion service subscriber profile data?

A. It depends what call completion includes.

Q. Well, I'm using the word "call completion services" as utilized in the last sentence of the abstract.

A. Well, that's the abstract. So we need to find out what the call completion is recited by the Buhrmann.

Q. You're the expert, sir, if you can let me know.

A. Sure. So let's see what the call completion is.

(Perusing document.)

Column 4, on top of the column 4, this starts on the previous -- yeah. So the very first sentence, "The profile update data includes call completion update data, corresponding to the call completion requests, and alert update data, corresponding to the alert requests."

Q. Okay.

A. Could be part of the profile, yes.

Q. I understand you keep saying "could."

Is the call completion update data subscriber profile data?

A. The sentence actually is very clear. It says the profile update data that you're referring to, profile, includes call completion update data.

Q. Okay. And my original question related to call completion services. So are call completion services subscriber update data?

A. Sending that data is a service, yeah.

Q. Sending that data is a service?

A. Is a service.

Q. Okay. So is the data -- is a call completion service a service that sends call completion data?

A. Sending the data is a service; sending that kind of data is a service.

Q. Okay. And is that service always sent to a subscriber through a PIM in Buhrmann?

A. Obviously, no. Obviously, no. There could be other services. This is one of the services.

Q. So what I'm trying to understand is, is there an -- in your opinion, is there an express disclosure that subscriber profile data is received

by the modem of the PIM through the PSTN?

A. What I found so far is the profile update data that includes call completion update data corresponding to the call completion request is the ones that are received by the modem.

Q. And where does it say that those are received by the modem?

A. (Perusing document.)

The answer is the abstract, again. The abstract says, "Therefore, telecommunication services, including call completion services and message reminder services, are provided to the subscriber."

I don't see any other way than receiving these kind of services through the modem.

Q. Well, if you look at Figure 1, do you see any other way that information can go from the database -- subscriber profile database of 118 to a subscriber other than the modem?

A. That's what I say.

Q. Is there -- so in your view, Figure 1 shows no other way for information from the subscriber profile database to get communicated to a subscriber other than through the modem?

A. Through modem, according to Figure 1, yes.

Q. There can be no wireless communication of that?

A. I did mention myself that, you know, the wireless is a second option, of course. So I believe there is an explanation somewhere that it says that the PIM could be part of a handheld device, which is a wireless, or a PC, personal computer. This is a personal computer configuration, that you see that the modem is connected to the PSTN.

Q. And in the instance where it comes through the modem and the modem receives data, based on your opinion, does the client make a request to retrieve the information or is the database forwarding that information?

A. My understanding from the patent is that the request must be made by the subscriber first, should be initiated by the subscriber. In response to that, the database will respond.

Q. Okay. Is the database providing data that's already updated or is it providing data that's not updated?

A. It really depends what kind of data you're

requesting. For example, if you have already updated your data, your personal data in the database, the next time you're asking the profile of the subscriber, what is sent to you is the updated data, already updated.

But any time you want to update your personal profile data, then you request for viewing it and request for a copy of the profile. The profile gets sent to you and then you update it in a separate transaction.

Q. And where in Buhrmann does it say that when a client or a subscriber wants to update their profile, that the subscriber profile data is sent through the PSTN into a modem?

A. I guess the easiest way of finding it is just the abstract says that it's -- the telecommunications services including call completion services and message reminder services are provided to the subscriber.

Q. Well, sir, with all due respect, you left out the last part about that. It says based on the updated subscriber profile data.

So my question, if you'll listen to it carefully, relates to when a customer wants to

update their data --

MR. McDOLE: Strike that.

Q. When a customer wants to update their subscriber profile data, where in the Buhrmann reference is there any disclosure, express or inherent, that that information is retrieved from the communication network through the modem, through the PSTN and received by the modem in the PIM?

A. Okay. Let me see what my opinion was rendered regarding the Buhrmann in my declaration.

(Perusing document).

Okay. I guess the summary of it is in my declaration. So in summary, Buhrmann discloses receiving from a client, via profile request field of 502, a request to view subscriber profile data such as schedule data or telephone numbers of authorized or unauthorized users."

And you can see this in column 8, lines 20 through 25 and Figure 5. For example, the subscriber is provided with a schedule display for a chosen day via the user interface 136, which may include a graphical user interface display 500. And for this you can see column 6, 37 through 53

and column 7, 13 through 39, column 8, 4 through 14 and Figures 1, 3, 4, and 5.

The subscriber is presented through the user interface 136 with a display 500, Figure 5. And then in modem 138. I should make a correction here, "retrieve" should be "receives," not retrieves. This is a typo. Receives the subscriber data, profile data from service control point 108 through the PSTN 114 upon the request from the client. For this -- which I think that's the center of the answer to your question, column 3 at lines -- line 54 through column 4, line 4, column 7, line 36 through 39, column 7, lines 13 through 22, and Figures 1, 4, and 5.

Q. Okay. Based on the citations that you provided --

MR. McDOLE: Strike that.

Q. First of all, we found another error in your declaration, is that correct, that that word retrieves is supposed to be receives?

A. Receives, yes.

Q. You think there's no significance to that whatsoever?

A. What do you mean by no significance?

Q. Well, claim 1 of the '714 patent uses the word retrieve, correct?

A. Well, that's the claim language. Now, in my text you should expect, you know, some minor errors.

Q. So the patent office should expect errors when they read your declaration?

A. That's very common in 50, 60 pages you can find a couple of words of errors, it's very common, isn't it?

Q. Especially with the difference between the word retrieve, which is in claim 1, and receive, which is not in claim 1 of the '714 patent, that's a minor error to you?

A. I am correcting it now.

Q. Did you correct it with the patent office?

A. If I had known it, I would.

Q. Does the patent office know you made this error?

A. I'm saying that I'm just catching it right now.

Q. Do you plan on filing an errata with the patent office to correct the error?

A. I'm not the person to do all these things.

You should contact my counsel to do these things.

Q. Sir, you're the expert, you're the one who swore under perjury that your declaration was accurate. I'm asking whether you're going to file that --

A. As much as possible, to the best of my knowledge was accurate at the time that I signed it. And I'm saying right now, if there is any error, I can definitely, if there is a need for it, I can provide anyone with the errata of my declaration, which I don't think there are many, just I think it's a few word -- at the word level errors in my declarations.

Q. How much did the patent office rely on your statements in paragraph 80 in instituting this IPR?

A. I don't know.

Q. If the patent office relied on your use of the word retrieves in instituting this IPR, would the institution be incorrectly filed?

MR. BERTULLI: Objection. That calls for speculation.

A. Well, let me just explain a little bit here, that summarizing my opinion, that sometimes I

remove a sentence before or after another sentence, it might occur in a draft of 50, 60 pages, that, you know, sometimes you forget to change the word. Maybe this word belonged to the previous sentence that I just removed it.

But I explained the modem in this session today. You asked me a clear question about whether the modem retrieves or receives. I -- without even encountering this word that is an error in my draft, I explained it to you that, you know, the modem receives data. I already clarified it.

And I just caught this one here, so yeah, this should be -- so far I found two errors, which is the first one is the SSP, and it should be -- the transfer should be switch instead of transfer. But that was very common word, SSP, anywhere you see that, you know, you see what exactly the SSP stands for. That's the minor error.

Also I'm telling you this has to be receive instead of retrieve. I'm correcting it now.

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, is there anywhere in your opinion in

your declaration, which is Exhibit 1014, where you offer an opinion that Buhrmann retrieves any information from the communication network?

A. Yes. Buhrmann retrieves data from SCP. I think we went over it.

Q. Which line are you referring to in your declaration, Exhibit 1014, where you talk about retrieving information?

A. Are you referring to the word "retrieve" exactly?

Q. Referring to the word "retrieve."

A. The word "retrieve" may not be here, but you know, the word "retrieve" means that you go after a certain piece of data and cache data and fetch the data and then bring it up. I think we discussed about this.

Q. I agree you have to go out and fetch the data, correct? So let's talk about where in Buhrmann it talks about fetching the data. And specifically, I want to know where in your opinion in Exhibit 1014 do you talk about going and fetching the data or retrieving it?

A. (Perusing document).

So here is one. In fact let me just also

explain again, the modem retrieves -- the better word is "receives." However, this is a big summary of the entire process, meaning that you are actually requesting the update and then the update -- the data arrives through the modem and then you receive it. So the entire process could be a retrieve, but not necessarily through the modem. It passes through the modem.

So the better word here is "receives," of course. If I had had a chance to revise this one, yeah, "retrieve" should have been "receive."

But the entire process is a retrieving, because it goes all the way through the SCP and then it comes back with the data. And that is mentioned in column 3, lines 54. And let me just -- it's a long sentence. And let me start with at least a few of the lines.

"In one embodiment," column 3, line 54: "In one embodiment, the subscriber is presented with a user interface for entry of profile requests in conjunction with each of the timed events. Thus, for each of the timed events, the subscriber may request that the subscriber's profile be updated in a particular manner. Such profile

requests include call completion requests, in which a subscriber requests that calls placed to a communication device associated with the subscriber be routed in a particular way, and alert requests, in which a subscriber requests that a reminder message be scheduled to be sent to a communication device associated with the subscriber in conjunction with a timed event. Upon entry of the profile requests by the subscriber, the PIM transmits profile update data, based on the profile request data, based on the profile request data --"

Q. Okay.

A. -- "to a communication network" -- it shows the details of this back and forth fetching.

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, my question related to your declaration. I asked you to point me where in your declaration you talk about retrieval, going out and fetching the information in your declaration. And you've just read me a long passage from the Buhrmann reference. And I'd like to know where in your declaration it talks about retrieving the information from the communication network.

A. It is clearly mentioned "see, e.g. ID, column 3."

Q. Sir, that's not your declaration. I've asked you where it's at in your declaration. Do you know -- your declaration is Exhibit 1014. Where in your declaration do you offer an opinion about retrieving data?

A. Retrieving data is clearly in the columns and locations that I mentioned in my declaration and those are all clearly mentioned there.

Q. Okay. So what you're referring to is the citations at the bottom of paragraph 80 that starts with column 3, line 54 through 4, 4. Are those the only citations that you're aware of that -- to support your opinion that there is a retrieval of information?

A. That's exactly next one. Column 7, lines 36 through 39, column 7, lines 13 through 22 supported by Figure 1, 4, and 5.

Q. So are there any other citations besides the ones you've identified that you believe support your opinion that retrieval from the communication network of subscriber profile data happens in the Buhrmann reference?

A. Part of the retrieval and updating is also at column 9, lines 14 through 18. And in the next paragraph I mentioned it as part of the support.

Q. Okay. Well, let's take them one at a time. Let's start with the paragraph that you've decided to read into the record. When a profile request is -- when a subscriber enters a profile request, what transmits the profile update data to the clients, according to column 3?

A. That's the request for the profile, right?

Q. Yes.

A. So what is it?

Q. What component of Buhrmann transmits the profile update data to the client?

A. We go back to Figure 1 and assuming that we are using the wired line device, personal information manager transmits the information you just mentioned.

Q. So when the user requests the information, that information is provided by the personal information manager, correct?

A. That is initiated from the PIM, yeah.

Q. That is not received from the communication network, correct?

A. My understanding is that PIM initiates the request to view it.

Q. Okay.

A. To view the profile.

Q. Is the profile already on the PIM in the Buhrmann reference?

A. It could be, but personal information data is already there. But the PIM can also request for viewing it, viewing the version that is in the SCP, in the communication network.

Q. And that's where I'd like to know where you get your opinion. Where does the Buhrmann reference state that the SCP -- or that the user request from the SCP or anywhere on the communication network to provide the communication --

MR. McDOLE: Let me ask the question over again so we get it clear.

Q. Where in the Buhrmann reference is there any disclosure inherent or express that states that the subscriber profile information comes anywhere but from the PIM?

A. That's easy to answer. First we need to know what is the tool of the subscriber for

requesting. If we agree on that the Buhrmann discloses the tool of the requesting a profile is known as PIM. So then in the column that I just read out the content of it to you, clearly says that such profile requests include -- well, let me just go a line after.

"Such profile requests include call completion requests in which a subscriber requests that calls placed to a communication device associated with a subscriber be routed in a particular way." That's the answer to your question. Clearly says that, you know, the request will be placed in a communication device and then is routed to the communication network.

Q. Sir, my question was much different. So let's ask it again.

MR. McDOLE: Move to strike your answer as nonresponsive.

Q. My question related to -- well, let me ask you, how do you read that sentence that the request is to the communication network and not to the PIM? Are you simply reading that in?

A. Probably you don't pay attention. I'm sorry you should say so. Because the subscriber's

request means PIM's request, isn't it?

Q. Well, is a subscriber a person or is a subscriber the client?

A. Subscriber's device includes PIM. If you want to include a person in this scenario, then we need to see what is the equivalent of the person in '714, who is the person? We are talking about electronics, counsel, right? You're confusing me completely. Now you're moving to the persons and the human being now.

If we agree on that we have electronics are the ones that take care of the communications, so PIM is the one that belongs to the subscriber, isn't it? To me is natural electronic that is used by the subscriber.

MR. McDOLE: Move to strike everything but the first sentence as nonresponsive.

Q. Sir, if you look to the bottom of column 3 it starts, "Upon entry of a profile request by the subscriber."

Do you see that?

A. I'm sorry. Just tell me again.

Q. Sure. At the bottom of column 3, it starts with the word "Upon."

A. Which line?

Q. That is line 65.

A. Okay.

Q. Okay. "Upon entry of the profile request by the subscriber."

Do you see that?

A. I do.

Q. Does the computer enter profile requests or does a user enter profile requests?

A. The request obviously is done by a subscriber human being or it can be the program automatically to be done.

Q. This says, "Upon entry of the profile request by the subscriber," the subscriber it's referring to is a human, isn't it?

A. If you're referring to human, then I'm actually referring to the '714 that clients should also be a human.

Q. Okay.

A. Back to back, exactly just side by side, I'm just comparing these two, then.

Q. Based on your reading of this sentence, do you understand that a subscriber when it says, "Upon entry of the profile request by the

subscriber, the PIM transmits profile update data," means the subscriber there is a user or a human being?

A. Subscriber could be a certain electronic program to act as a human being. It could be a robot. It could be human being. Any of these possibilities.

Q. And that's testimony you want to give under oath to the patent office?

A. Absolutely, yes.

Q. All right. Great. And so you would agree with me then based on this sentence a subscriber and a PIM are two different things?

A. Subscriber and PIM are two different things?

Q. Based on the sentence that says, "Upon the entry of a profile request by the subscriber, PIM transmits"?

A. PIM again is the electronic device that is used to take care of the updating the profiles. Now, you can program PIM, you as a human being can program it or it can be programmed -- it can be programmed already, that it gets the update automatically, every two hours, every three hours.

Of course, a human being is behind all these communications.

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, my question was, is a subscriber -- based on your reading of the sentence that starts at the bottom of column 3, line 65, starting "Upon entry of the profile request by the subscriber, the PIM transmit profile update data," do you understand that subscriber and PIM are two different things?

A. It could be, yes.

Q. It could be or it is, sir, based on your reading of the Buhrmann reference and your expertise?

A. Let's see the bottom of this paragraph. It says a subscriber enters personal information data into a PIM. This, to me, that could be a human being that enters the data into a PIM.

Q. You keep saying could, sir.

A. Yeah.

Q. I want to know in your expertise is a subscriber a human being?

A. I'm saying there is no mention of the

subscriber as a human being or a machine, as well as the one that the client is not mentioned here in '714 as a human being or a machine. So here naturally the subscriber is a human being.

Q. Okay. Thank you.

So with the subscriber being a human being, when the subscriber requests to see its subscriber profile data, what component of Buhrmann provides the subscriber profile data to the subscriber based on your citation of column 3, lines 54 through column 4, line 4?

A. Sure. When you see a Figure 1, you see that the modem is connected to the PSTN and the PSTN eventually connected to a second network, in this case is a wireless network, and in the wireless network we have a center, we call it SCP and that SCP stores subscriber profile data in a database.

Q. Okay. And where in column 3 does it state that the information is --

MR. McDOLE: Strike that.

Q. Where in column, the citation you've provided of column 3, line 54 to column 4, line 4 does it state that the modem retrieves subscriber

profile data from the service control point through the PSTN upon a request from the client?

A. I just wanted to bring to your attention that that column is a summary of the patent. It may not have all the details. Let's find out the details.

Q. Sir, I'm asking you, with all due respect, my question relates to this passage. You've cited to this passage and I want to know where in your passage is there the support of what I asked in my question. So instead of answering a different question, I'd prefer you answer my question.

My question relates to column 3, line 54, to column 4, line 4. Where in that citation that you provide does it state that the modem retrieves subscriber profile data from the service control point through the PSTN upon a request from the client?

A. Did you say the modem retrieves?

Q. I said the modem receives. Well, you said retrieves, but we've switched that to receives now.

A. Okay. In that column, there's no mention of that. It's a summary.

Q. Why did you put it as a citation to that

exact phrase that I read out of your report?

A. Because you wanted to know how exactly the data is received by the modem. And I said the modem is part of the PIM, and I just read this passage to you that PIM is the one who sends data and receives data.

Q. Is it also the PIM that provides the schedule data and contact data to the subscriber to be updated?

A. Whatever data is that it receives from the SCP is the one that the PIM receives.

Q. But the PIM already stores schedule and contact data, correct?

A. According to Figure 1, yes, the schedule data, contact data.

Q. Well, schedule and contact data are already on the PIM and stored there, why would it need to retrieve it from the communications network when it's already present on the PIM?

A. The subscriber can do that if he wants to.

Q. Where in Buhrmann does it say that the subscriber reaches out to the communication network to request that data?

A. Let me find out where it is, if there is

any.

Q. Sure.

A. (Perusing document).

Okay. So here -- first of all, in column 5, line 57, there's a clarification of what exactly the -- what exactly the SCP does. It says, "The SCP 118 contains a database 118 which contains subscriber profiles." So subscriber profiles are stored in SCP, according to Buhrmann, that's number one.

Number two is that in column 7, line 18, starting from line 18, "The user interface 136 allows the subscriber who is using the PIM to view, enter and update personal information data." This means that the subscriber is a human being. "And otherwise interact with PIM." And then it says, "The modem 138" -- I think this is the answer to your question -- "is used for sending information from the PIM to SCP through the PSTN."

So this to me tells me that the information from PIM can be sent to SCP.

Q. And I don't dispute that with you, sir.

What I'm asking you is something completely different.

A. What is it?

Q. My question -- and once we get through this, we'll be happy to take lunch, but I'd like to get an answer to my question first. And my question is you understand in the '714 patent -- maybe we should go through this. You understand in the '714 patent -- do you agree with me that there's a logical step order --

MR. McDOLE: Strike that.

Q. Do you agree with me there's an implicit order to the steps of claim 1 of the '714 patent?

A. Claim 1 has steps, yes.

Q. And there's an implicit order to those steps that happen in a particular sequence, correct?

A. I'm saying that there are steps, yes.

Q. I understand there are steps. I'm asking if you agree with me that there's an implicit order to the steps, that they happen in a sequence?

A. Well, the step has order.

Q. So you agree with me?

A. The steps has order. You're just repeating your first statement. Step means step one and then a step two.

Q. And that's implicit in claim 1 and claim 13, correct?

A. I trust you, claim 13 should be.

Q. Well, I'm asking you in your expert opinion --

A. If you want to just waste time, yes, let me just confirm that claim 13 is the same as claim 1 in terms of stepping.

Q. And my question goes to is there an implicit order in the steps of claim 1 and claim 13?

A. Then I need to check.

Q. Okay.

A. Yes.

Q. So the first element of claim 1 is that there has to be -- the subscriber receives something, correct?

A. Let me go over claim 1.

Q. I'm sorry. Something receives a subscriber request, correct, in the first element of claim 1?

A. Something receives -- something is received?

Q. Something receives a subscriber request,

is that the first element of claim 1?

A. Something receives?

Q. Something receives a subscriber request. Specifically, the first element -- maybe it's easier to do this. "The first element is receiving a subscriber request to view a subscriber profile data from a client which hosts a user interface configured to allow the subscriber to view and update the subscriber profile data," correct?

A. That is what it is, yes.

Q. Okay. And that's where a subscriber is -- or the personal -- in Buhrmann, that's where the personal information manager receives the subscriber's request. Would you agree with that?

A. Yes.

Q. And that request is to view subscriber profile data, correct?

A. That's what this element says.

Q. Okay. And then the next element is "retrieving the subscriber profile data from the communications network based upon receiving the subscriber request to view the subscriber profile data from the client," right?

A. Yes.

Q. So where in Buhrmann is there a disclosure that -- well, what in Buhrmann is doing the retrieving of the subscriber profile data from the communication network?

A. I think somehow I answered the question. But retrieving means that you search for data, a certain piece of data, and get the data, and then make it available. That's the retrieving -- I mean, any ordinary skill in the art or any ordinary person can say what is retrieving, it may be this. In the context of the patent, the '714, I would say that this is the same thing. So going after the data, getting it, and making it available. So I'm saying clearly this is in Buhrmann.

Q. And this is where I'm trying to understand, because the passage you read to me was about the PIM sending information to the PSTN, not getting it and bringing it back. So I'd like to know where in Buhrmann discloses going to get the information and bringing it back for the user to update.

A. Well, didn't we say that the SCP stores all the profile data?

Q. Is there profile data stored on the PIM?

A. Uh-huh.

And isn't it the case that the profile data can be updated in Buhrmann?

Q. Sir, I'm not here to answer your questions. With all due respect, you're here to answer my questions, so if we can stick to answering my questions.

Where in Buhrmann is there a disclosure that there is a retrieval of information from the communication network for the subscriber to update?

A. The answer to your questions are actually within these columns that are -- I mentioned in my declaration and I read part of it for you, that how exactly the request to SCP is done. Now, the remaining part is that how exactly the data is gotten from the SCP and sent to the PIM. And all over the figures it's obvious that -- first of all, we can see that the modem is eventually connected to the SCP database for updating.

Q. Is it explicitly there or is it obvious that it's there?

A. Well, from the figure it's obvious, from the figure, so . . . But I need to go and then find the passages for you and then read out to you.

You want to do it after lunch or before lunch.

Q. Well, why don't we do it after lunch.

(Proceedings interrupted at 12:21 p.m. and reconvened at 1:03 p.m.)

BY MR. McDOLE:

Q. Welcome back, Dr. Mir.

A. Welcome back.

Q. When we left off for lunch, I had asked you about -- we were talking about retrieval of information from the communication network, and I had asked you a question: Is it explicitly there or is it obviously there?" And your answer was, "From the figure, it's obvious. But then I need to go find the passage for you and then read out to you. Do you want to do it before lunch or after lunch?"

And I wanted to give you that opportunity if there is passages that you wanted to find for me to show me where the retrieval portion is disclosed in the Buhrmann reference, please do so.

A. Okay. Just a couple of minutes, maybe.

Q. Sure.

A. (Perusing document).

Okay. On column 7 of Buhrmann, line 18, it says, "The user interface 136 allows the subscriber who is using the PIM 122 to view, enter, and update personal information data 127 and otherwise interact with the PIM 122."

So viewing and entering and updating is something that -- it is in the steps of opening up the database, update profile segment of the person's profile, and then -- and then if there's any need for updating, updates it.

Q. You would agree with me that the passage that you just read doesn't say that any information is retrieved from the communication network; is that correct?

A. Well, it is retrieving because you are viewing it.

Q. Where is it retrieving from, sir?

A. Well, I take it back. So let me just explain, the procedure of retrieving requires to view something, look for something, right, so that's what I'm trying to tell you. And then look for the piece of data and then make it available. So if you have a certain device that let's you view the data and then puts the data into your

interface, which is GUI, well the data is already retrieved, to me.

Q. Okay. But where in the passage that you just read does it state that the information is received from the communication network as opposed to the memory and the PIM?

A. Well, the communication part I'm not talking about right now. I'm talking about retrieving data.

Q. And my question goes to retrieving data from the communication network.

A. Okay. And then there is another part of Buhrmann -- I'm not done with that part, but there is another part I want to bring to your attention. Okay. I just wanted to bring to your attention this one on column 7, 2 that "Such functions" --

Q. Where are you reading from?

A. Column 7, on top. "Such functions include personal scheduling functions and contacts management functions. Such personal information management functions are well known in the art." So it's trying to say that the managing the contact information is well known in the art, probably it skipped from the details of it.

Q. Let me ask you a couple of questions and then I'll let you continue to look. With respect to the portion of column 7 that you read with respect to "the user interface allows a subscriber who is using the PIM to view, enter and update personal information data and otherwise interact with PIM 122," you would agree with me that that quotation in and of itself does not show retrieving information from the communication network, correct?

A. It explicitly doesn't say that.

Q. Okay.

A. Yeah.

Q. And what about the other passage that you just read at the top of column 7 that "such functions include personal scheduling functions and contact management functions," does that passage -- does that passage in and of itself show retrieving information from the communication network?

A. No. No. I just wanted to -- I told you, I just wanted to bring to your attention that the patent says that some part of the management of data is well known in the art.

Q. Okay.

A. I just wanted to bring it to your attention that this is well known in the art and it probably skipped from the details of it.

Q. So --

A. So --

Q. -- back to my question of looking for information being retrieved from the communication network.

A. I'm not done yet.

Q. Okay.

A. So let's also find something that is in claim 9. In claim 9 we read that a personal information manager device comprising a memory storing schedule data representing time events, "a user interface for receiving an alert request associated with one of said time events wherein said event request specifies a predetermined time for transmitting an alert message to a subscriber communication device," and it continues like that.

So this teaches me that there is an alert going on. And earlier in this session we talked about the alerts, that it was part of the profile, subscriber profile, that we recognized it, that is going on from PIM to outside and then it gets

received by the interface.

So although the time between the alert's going out and times -- and between the alert going out and it gets received could be long, but I would say that, you know, that is a procedure for updating the SCP in part.

Q. Let me ask you a quick question about that.

A. Yeah.

Q. When a subscriber receives an alert in the Buhrmann reference, as you've just mentioned in claim 9, is the subscriber receiving that alert to update the alert?

A. I thought that's what it says.

Q. It's updating the alert or the alert is updating the subscriber?

A. Alert that -- I guess alerting for updating.

Q. So how would a subscriber update its subscriber profile data after receiving an alert?

A. That's for automatic updating, probably, if there is a need for updating the profile automatically on a timely basis or just in a periodic way based, maybe.

Q. Does that happen all the time or does that --

A. I don't know.

Q. It's possible?

A. It's possible. I don't know.

Q. Okay. Well, is that -- and I'd like to compare this, and I think this is important. If we can go back to claim 1 -- and hold this side by side, claim 1 of the '714 patent, is the receipt of the alert request of Figure 9 --

MR. McDOLE: Strike that.

Q. Is the alert request that you've identified in claim 9 the step of -- in claim 1 of the '714 patent of retrieving the subscriber profile data or is that the step of forwarding an update for the subscriber profile data to the communications network based on receiving the subscriber's request to update the subscriber profile data from the client?

A. I think it could be the combination of receiving and retrieving, is the one that I just mentioned to you, that receiving the alert and then viewing the subscriber's profile, and then viewing to me is as retrieving.

Q. Let's stick with the alert. Can you describe for me where in Buhrmann, in the alert example that you've just given, where there is receiving a subscriber request to view the subscriber profile data from a client which hosts a user interface configured to allow the subscriber to view and update the subscriber profile data, which is element one of claim 1?

A. Alert is one example of a data you receive from the communication network to update. And that would be one example of it.

Q. Do you view the alert?

A. You -- I mean, I don't see why not.

Q. And so in your view the subscriber is requesting to view the alert.

A. Subscriber?

Q. Yes.

A. I mean, it could be from the communication network, that it could be from anywhere in communication network that sends the alert for updating the profile.

Q. And that's not what I asked, sir.

MR. McDOLE: Move to strike as nonresponsive.

Q. My question is do you believe in that example the subscriber requests to view the alert?

A. And then? What's the question?

Q. My question is, in your example of where an alert is received, is the alert received because the subscriber requests to view that alert?

A. No, I don't think so.

Q. Okay. Why not?

A. Alert could be automatic. Alert could be under a certain schedule that is sent, that it is time for updating data, this is the data that you have already.

Q. Okay.

A. It could be any of these. There is no mention of it, but I can see that there could be any of these.

Q. Okay. Now, sticking with your example where -- of claim 9 where an alert is received by a user, once the alert is received by the user -- well, first of all, does the user retrieve the alert or is the alert simply received by the user?

A. The alert itself could also be retrieved, but the retrieving the data we are talking about here, the profile, is something that by viewing the

data, the current profile is done.

Q. Where does it say the alert includes the current profile in claim 9 of the Buhrmann reference?

A. I read it out to you. It says subscriber -- somewhere in the patent, the subscriber can view and update the profile; the viewing aspect of it is retrieving.

Q. Where does Buhrmann say that an alert is providing a subscriber profile?

A. Alert is part of the personal data that is sent from the communication system. I think we went over this one, didn't we?

Q. No. Actually, we've been in the middle of that, sir. You said that the information could actually come from the PIM as well.

A. Yes, that's correct, both.

Q. And if it's already on the PIM, there's no reason to retrieve it from the communication network, correct?

A. But you can retrieve it from the SCP if you want to. But the problem is here that you are mixing up two things. I'm saying that alert is coming from the communication network for updating.

Q. How is a user updating an alert?

A. It can be programmed, it can be something is programmed in the network.

Q. But we agree a subscriber is a human, right?

A. Subscriber could be a human, yeah.

Q. And not "can." We've agreed that a subscriber in the Buhrmann reference is in fact a human being, right?

A. In the Buhrmann, yes.

Q. Okay. So how in the Buhrmann reference does a human being update an alert?

A. I don't think there is a mention of how it gets programmed. I don't think so, I don't think there is any explanation into how -- I don't think that's within the scope of the patent, how it gets programmed.

Q. And in fact, there's no mention that an alert is ever updated by a human being; isn't that correct?

A. Alert itself, you mean?

Q. Yes.

A. Alert itself doesn't need to be updated.

Q. And now, once the alert is received by the

subscriber, how does the subscriber forward the update to the alert to the communications network?

A. That's all over the patent, that the subscriber can then, after updating the profile, can send the profile all over the communication network, and it is repeatedly mentioned here. I can give you an example of that.

Q. And just so we're clear, Dr. Mir, I want to make sure you're answering the topic I'd like to get answered; and that is, with respect to updates, I want to know when there is an updated alert. So if you can show me in Buhrmann where there is an updated alert that is being sent to the communication network, that's what I'm looking for.

A. What the patent talks about is updates, updates to be sent to SCP.

Q. And we've agreed that a subscriber does not update an alert, right?

A. A subscriber does not -- subscriber does send the updates to the SCP through the PIM, of course. It has to be through the interface.

Q. But after receiving the alert, the subscriber does not update the alert, correct?

A. Well, the alert is just for cases that the

profile needs to be updated. At that point, the subscriber can update the profile and send the profile to the communication network, specifically in SCP.

MR. McDOLE: Move to strike as nonresponsive.

Q. We agree that an alert is not updated by the subscriber, who is a human being, correct?

A. That you keep asking and I don't know if it's done by human being or it's automatic or something like that. That is not here, the one that I'm trying to tell you.

The receiving the alert is my point.

Q. I understand that that's your point, that receiving the alert. But you also understand that the claim 1 of the '714 patent requires more than just receiving an alert, correct? It requires retrieving subscriber profile data from the communication network based on receiving the subscriber request to view the subscriber profile data from the client, correct?

A. Sure, yes.

Q. And is it your opinion that when an alert is received by --

A. By the communication network?

Q. -- by the communication network that that is because the subscriber has requested it?

A. The subscriber can request this kinds of alerts by programming the system, that is indirectly their request from the subscriber.

Q. To update data, do you always have to first view the data set?

A. I update my computer sometimes without knowing, without looking at it; sometimes I update my certain files, certain software without looking at it. Why not? Yes.

Q. Okay. In the instance of Buhrmann -- well, I just want to make sure we're clear that besides the alert of claim 9, is there any other disclosure in the Buhrmann reference that you have found that describes a subscriber using the PIM to go to the communication network to retrieve subscriber profile information?

A. I haven't found anything else yet. However, I want to just add this to you, that internally within the PIM, you can also view the profile, which we agreed on, and then it clearly states here, the function of retrieving data,

doesn't matter is it from SCP or is it internal in PIM, the information is retrieved, by viewing it, by requesting to view it and then it gets put up to view.

So fundamentally, I don't see any difference between the fashion that you view the data internally or the copy of data that is stored outside the PIM to view. So those are identical copies.

MR. McDOLE: Move to strike the last portion as nonresponsive.

Q. But if the user is viewing the information from the storage of the PIM, it's not retrieving information from the communication network, correct?

A. That is correct.

Q. And is it possible in Buhrmann that information is simply retrieved from the PIM and not the communication network, updated and then transmitted to the database without ever having received anything from the communication network?

A. That is absolutely possible.

Q. I'm going to hand you one that hasn't been marked yet, we'll mark it after we're done with it,

Figure 1 of the Buhrmann reference. If you want, you can confirm that it is the same.

A. Yes, it is the same.

Q. Okay.

MR. McDOLE: Give me one second here.

Q. In your opinion, Figure 1 of the Buhrmann reference discloses a communication network as stated in claim 1 of the '714 patent, correct?

A. I'm sorry. Counsel, could you repeat your question?

Q. Sure. In your opinion, the Buhrmann reference discloses in Figure 1 a communication network as stated in claim 1 of the '714 patent, correct?

A. Yes, right.

Q. I'm going to hand you an orange highlighter. If I can please have you outline what you believe the communication network in Figure 1 of Buhrmann is, please.

A. So any communication network that I know here in this figure, you want me to highlight?

Q. What you believe is the communication network as you would believe from Figure 1 of the '714 patent.

A. Before doing it, let me just clarify that, you know, communication network has a broad meaning. And is a network that provides communication services. It could be any network, telephone networks, computer networks, wireless networks, DSL-type networks, any type of networks. Do you want me to identify all those networks that is communication networks?

Q. Sir, I'd like you to identify based --

MR. McDOLE: Strike that.

Q. I'd like you to identify the communication network based on the definition you used in forming your opinions in this case, whatever that may be.

A. Okay. Sure. I'm seeing two communication networks in this picture. So one of them is (indicating) number 102, and I'm just highlighting it. The other one is number 114, and I'm highlighting it. And I just pass it back to you.

Q. You can keep it.

A. Okay.

Q. Okay. Claim 1 of the '714 patent also recites a profile management system, correct? That's in the first line of claim 1, line 58 of column 15.

A. Okay. Yeah. What is the question?

Q. Claim 1 recites a profile management system, correct?

A. That's correct.

Q. Is that the PIM in the Buhrmann reference, in your opinion?

A. Profile management system is one of those confusing terms I found in '714. And the reason for that is because it has been defined in three different ways, at least, I found. And which definition you would pick, then I can use that one.

Q. Sir, which definition did you pick in rendering your opinions in this case?

A. Okay. Well, let me tell you what the definitions are, first.

Q. Sir, I only want to know what definition you used in rendering --

MR. McDOLE: Strike that.

Q. Did you use a definition for a profile management system in rendering your opinions in this case?

A. Well, again --

Q. That's a yes-or-no question, sir. I'm asking you, did you use a definition for a profile

management system in rendering your opinions in this case?

A. I did.

Q. Okay. And what was that definition?

A. Well, the definition is -- could be either of these three.

Q. Sir, I asked you which one you used, I didn't ask you to recite three different ones. Which one did you use in forming your opinion?

A. Right. Let me answer the question. When you are defining a certain term three different ways, then that creates a confusion. I'm telling you that if the definition is -- let's say there are three definitions for a phrase A, B, and C. If you use definition A, you end up with a different configuration of the system than compared to the definition B or C. I can tell you that there are three definitions in the '714 patent and it's very confusing.

The first one is in column 4, as I remember that.

MR. McDOLE: Sir, with all due respect, objection, nonresponsive.

Q. I'm asking you what your definition was.

Did you use all three definitions in forming your opinions?

A. Forming the opinions about...

Q. Your opinions in this case.

A. It could be any of these three, depending on which one is correct.

Q. Well, let me ask you this way, since we can't get to the definition: Can you please identify for me the structure in Buhrmann that discloses a profile management system in claim 1?

A. Can you tell me what the profile management system is?

Q. Let me ask it a different way then, sir: Can you please identify the structure in Buhrmann that discloses the profile management system in claim 1 based on the definition you used in forming your opinions. And if you could please outline it in blue, I'd appreciate it.

A. Okay. What I'm actually reading from the asserted patent '714, directly, column 4, line 36 clearly states that the profile management system includes a client and a server and period. There is nothing to be added for the definition after that.

If I use that one, then, okay, I say clients in Buhrmann, I'm using the blue lighter [sic] that you gave me, user interface 136 as the client. And then SCP as a server, as one option of the servers. A server could also be another one inside the PIM, but let me -- I don't want to bring all the options.

The clear option that I'm seeing based on the definition of column 4, a client and a server, well, the profile management system includes 136, Box 136 and Box 108.

Q. Okay. Thank you.

A. I'm not done yet.

Q. Okay. I want to make sure, Dr. Mir, you're answering my question. And that's --

A. I have not completed my answer.

Q. Keep going then.

A. Column 5, line 8, same patent says, "the profile management system includes a server, a client, and a telecommunications network." He just contradicts his own words. Compared with the previous one, there is no network. If I use this one, then a telecommunication network would be 114, or even 102, any of these. Could be one of these

in Buhrmann.

Yet another one, another definition, column 11, line 21 clearly states that "a detailed description of exemplary interactions between the various main components of the profile management system, (i.e., the PID PC Client, the PID PC Server, the PID Status Server, and the PID Database) is now provided."

I'm confused, which one is that? What is, by the way, profile management system. There may be other contradictory data also related to this. I tried as much as I could.

Q. Are you done?

A. I'm done.

Q. Okay. Would you agree with me that based on your reading of the '714 patent, there is no ordinary and customary definition for the term profile management system?

A. There may not be.

Q. Dr. Mir, do you have an ordinary and customary meaning from 1997 that one of ordinary skill in the art would understand is a profile management system?

A. In the context of '714?

Q. Yes.

A. A system that manages the profiles of the subscribers, that's all I can say.

Q. So you do have a definition.

A. This is the definition that comes to the mind of anyone using the words of the term.

Q. Okay. And is that what you highlighted in blue on Figure 1 in front of you?

A. No. Those are coming directly from the patents.

Q. Well, sir, now we're going to have to start over because I asked you for your definition, not from what came from the patents, and you decided to go off on your own.

MR. McDOLE: So move to strike as nonresponsive.

Counsel, if we keep this up, I'll have to ask for more time.

MR. BERTULLI: Uh-huh.

Q. If I could have the document back, sir. Let's try this again. I'm going to hand you a document again.

A. Okay.

Q. If you could use the orange marker and

highlight the communications network as it is in the Buhrmann reference in Figure 1 as defined by claim 1 of the '714 patent.

A. A communication network has a generic meaning, is a network that provides communication services. And when I look at Box 102, to me is a communication network, so I highlight by orange color Box 102 as one of the cases for communication network. And then PSTN, which is number 114, is another communication network. These are the two ones I'm seeing.

Q. Okay. Now, based on your understanding of how one of ordinary skill in the art in 1997 would understand a profile management system of claim 1 after reading the '714 patent, please highlight in blue what you consider to be the profile management system in Figure 1 of the Buhrmann reference.

A. Okay. One option is that the patent '714 patent --

Q. Sir, with all due respect, I'm asking for your definition. I'm not going to go down this path with you again and have you tell me the diagram you just drew for me is incorrect because that's not what you highlighted. I'm looking for

your definition and how you applied that definition to the Buhrmann reference. Please highlight in blue what you believe is the profile management system under your opinions that you've rendered in this case.

A. A profile management system requires a certain client, a certain server, in my opinion, and for sure I can see that this is a client, which is 136, and SCP would be one example of the database, which is held in a server. So I'm just showing a database in a server and a client. So that holds the information about the profile of the subscribers and a client at one side.

Now, whether I should include a communication network or not, that's not -- that's optional. The reason is that a user interface and a server can be set up in one room without needing a communication network, that's a possibility. Or a PSTN to be in between or any communication is for in between.

Q. Sir, in forming your opinions in this case, have you highlighted in blue everything you consider to be the profile management system in the Buhrmann reference?

A. Since these are in two different places, a communication network has to be in between. Whether you include this one into the system or not is optional again.

Q. Sir, it's not optional to me.

I'm asking for what your opinion is and I'm entitled to know your opinion. When you formed your opinions in this case, I want you to highlight everything you decided was part of the profile management system in the Buhrmann reference. Please let me know once you're done completing that.

A. I'm telling you that the most important components of the profile management system is a client that is entitled to update the profile of the subscriber -- its subscriber and a server that includes or consists of a server mechanism plus a database. Based on that, these other two ones are the most necessary components and that's it.

Q. Okay.

A. But the remaining part is optional.

Q. Did you consider the optional portion, as you refer to it, in rendering your opinion in this case that the Buhrmann reference includes a profile

management system?

A. If they are separated, these two components I just mentioned, there will be a need for a communication network. If they are not separated, they are all set up in a room, there is no need for it.

Q. Sir, you're the expert on the Buhrmann reference. Will you please tell me whether it's included or not?

A. You don't seem to listen to me or you don't seem to understand me. I said that it really depends where you put this -- set up these, that's all I'm saying.

MR. BERTULLI: What if we take just a one moment break.

MR. McDOLE: That would be fine.

A. Let me just --

MR. BERTULLI: Why don't we take a break?

A. Let me just -- can we complete this one because I guess, if I set it up in one room, set these two in one room, there is no need for a communication network.

MR. McDOLE: Move to strike as nonresponsive.

A. If I set these two in two different cities, I do need a communication network, that's all I'm trying to say.

MR. McDOLE: Move to strike as nonresponsive.

A. When I say that, it really depends on where these two components are located, that is part of the definitions.

MR. McDOLE: Move to strike as nonresponsive.

Why don't we take a five-minute break.

MR. BERTULLI: Let's take a break.

THE WITNESS: Okay.

(Proceedings interrupted at 1:50 p.m. and reconvened at 1:55 p.m.)

BY MR. McDOLE:

Q. Welcome back, Dr. Mir.

A. Thank you.

Q. If you can look at the document you've been highlighting in front of you, have you accurately highlighted in blue your opinion as to what Buhrmann discloses as a profile management system?

A. Okay. In the context of Buhrmann, I'm

seeing that SCP and user interface are separated from each other. So I would say that since PSTN is a communication network, that is for this particular case is required.

Q. Okay. So in forming your opinions in this case, you considered the personal management system -- you can hang onto it -- to be the components that are highlighted in blue in the document in front of you, correct?

A. Yeah, that's correct.

Q. Going to hand you a yellow highlighter and if you can please highlight for me the client --

MR. McDOLE: Strike that.

Q. I'm handing you a yellow highlighter. Could you please highlight in yellow what you consider to be the client when you opined that the Buhrmann reference invalidates claim 1 of the '714 patent?

A. The client is Box 136. It's already highlighted by blue.

Q. Okay. So in your opinion, the client is part of the profile management system?

A. Yes.

Q. Okay. I'm going to hand you a pink

marker, and if you can please use the pink marker to highlight all of the locations of subscriber profile data in Figure 1 of the Buhrmann reference as you've opined that the Buhrmann reference invalidates the '714 patent.

A. The first and foremost is SCP, which is clearly stating that -- the subscriber profile database, and that is 118. And also, there is another location which is basic location of the profile of the subscriber itself, that I can include this one, which is Box 127, as an example. But the main part of the database is in SCP and specifically 118.

Q. What information is contained in the subscriber profile database that is not contained in the personal information data of 127?

A. The subscriber profile database is a public database, and that public, I mean that it includes the database of all subscribers, not necessarily publically accessible. But then, this personal information data is -- actually is just the data that belongs to the subscriber of PIM.

Q. Is there any information --

MR. McDOLE: Strike that.

Q. Is all of the personal information data 127 also contained in subscriber profile database 118?

A. To the best of my understanding from the patent, once the profile data is updated, a copy is sent to 118. At that point they would be different -- they would be the same. Sorry.

Q. Okay. I'm going to hand you a green highlighter, last one, my last color. If I can please have you highlight in green what you consider to be the user interface of Buhrmann when you rendered your opinion that the Buhrmann reference invalidates claim 1 of the '714 patent.

A. The user interface is the user interface.

Q. If you can highlight what you consider to be the user interface of the Buhrmann reference in green, that would be great.

A. (Indicating.)

136.

MR. McDOLE: If we can mark this document as Exhibit 2040.

(Exhibit 2040, Figure 1, U.S. Patent 5,903,845 (color markings), marked for identification.)

MR. McDOLE: And counsel, I don't know if you have a color copier, if you want to make copies of this before the court reporter takes it.

MR. BERTULLI: Yeah, I'll send a note out and do it here. Maybe at a break or something, next break. Thank you.

Q. So Dr. Mir, is it your opinion that the user interface of Buhrmann is part of the profile management system, part of the client, and the user interface as described in claim 1 of the '714 patent?

A. Let's review it again. The user interface highlighted here, 136 is a user interface that we used it in '714, is what you're talking about?

Q. Uh-huh.

A. Yeah. And it has the software to be called "client," and what was the third one?

Q. Profile management system.

A. Well, it is part of the profile management system because it is a client. And the answer is yes.

Q. Okay. In your opinion, a client is not a human being?

A. The client in the context of computer

communication networks is not human being, it is a software. Without a doubt, I can tell you repeatedly I just teach this in my classes. Professor, what is the client? The answer is a software.

Q. And in reviewing the '714 patent, there's no other definition of client that you would ascribe?

A. As I said in the beginning, the patent has confusing points, one of them is a client because it shows client and client software. And client software, to me, is a wrong term because client itself is software. You can't say software software.

But throughout the patent, my best understanding is that the client that the patent talks about is a software. Basically that the client software, that it's shortened to client, not the client that it shows under human being in the -- in Figure 1.

Q. Okay. And one of ordinary skill in the art in 1997 reading the '714 patent would believe the client is software and not a human being; is that correct?

A. Most probably he or she will get to the point that I'm at right now, that he or she believes that, you know, all the clients mentioned throughout the patent is actually software, it's not a human being.

Q. Okay. And is the same thing true with respect to subscriber in the Buhrmann reference?

A. No, the subscriber in the Buhrmann in most cases clearly says a subscriber can enter this such data or that. That's different. Sometimes the subscriber is a human, sometimes the subscribers could be part of the facilities or communication facilities, such as a PC or something like that.

Q. Okay. Dr. Mir, are patents important?

A. Sorry?

Q. Are patents important?

A. I think so.

Q. And you have a patent yourself, correct?

A. I do.

Q. Based on all your years of research, you have one patent?

A. I have 20 colleagues. I'm among one or two people that they have patents, not necessarily every professor should have a patent. I'm proud of

it.

MR. McDOLE: Move to strike as nonresponsive.

Q. Based on all your years of research, you only have one patent, correct?

A. Yes.

Q. And that patent is not currently valid because of a failure to pay maintenance fees, correct?

A. We did not pay the maintenance fee because University of Kentucky, which was the copublisher -- what do you call it? -- the sponsor, either they decided or they forgot.

Q. They decided it wasn't worth paying the maintenance fees on, correct?

A. I don't know what the reason was.

Q. Okay. Now, if we can turn back to paragraph 80 of your declaration.

A. 80?

Q. Yeah.

A. Okay.

Q. And I'd like to go back to the citations that you provide for a modem retrieves, which we've now corrected as receives the subscriber profile

data from the service control point through the PSTN upon a request from the client, okay?

A. Okay.

Q. We've already covered the first citation, and correct me if I'm wrong, but you said that's just a summary, that doesn't disclose anything relating to the sentence above. So I'd like to move on to the second portion or the second citation, that is column 7, line 36 to 39.

A. Uh-huh.

Q. If you can take a look at that passage of Buhrmann and please let me know how that passage supports a modem retrieves the subscriber profile data from the service control point through the PSTN upon a request from the client.

A. (Perusing document.)

Okay. So 7/36-39. It says, "in general, the subscriber is provided with a schedule display for a chosen day via the user interface 136. An example schedule display 400 is shown in Figure 4." And it continues, "assume for this example that the schedule is shown for March 1, 1996. The subscriber enters schedule data into the description field 404 to indicate timed events to

occur at the times indicated in the time field 402."

So a subscriber can, as I said, program the system for the updates and create a schedule for that.

Q. Okay. Well, where does it say that it gets any information -- the only information I see being displayed is a schedule display in that passage, would you agree with me?

A. Yes. That in this passage, yes, the subscriber enters the schedule data, yes.

Q. Okay. Into a schedule display that is provided to it, correct?

A. Correct.

Q. Where does it say anywhere in that passage, which is column 7, lines 36 to 39, that that schedule display comes from the service control point through the PSTN upon a request from the client?

A. Well, the subscriber client that you mentioned is entering the information into the system, and this information is used throughout the communication network for updates eventually.

Q. Sir, point me to what words in column 7,

lines 36 to 39 describe that subscriber profile data from the service control point through the PSTN upon request from the client, where in that passage does that happen?

A. Well, the combination of these three passages will imply the meaning of that. So you're just pointing to one piece out of all these three references I just provided to you.

Q. So it's not express; it's implied?

A. I said that the combination of three, column 3, lines 54 to 4, 7, lines 36 to 39, 7, 13 through 22, Figures 1, 4, 5, the combination of this implies that.

Q. Is it based on all of those citations? Is it expressly disclosed or is it implied?

A. Well, one of them is expressly because of the scheduled time.

Q. Show me where it's expressly disclosed that something is coming from the communications network and is provided to the user upon the user's request as opposed to just being provided by the PIM?

A. Yeah. Let's just go back to paragraph -- column 3, also, see if I'm done with that. 7/13,

also. So let me also read 7/13 before we go to column 3. 7/13 recites that "the CPU 124 is also connected to a user interface 136 which allows for subscriber interaction with PIM. Such a user interface 136 may be, for example, a display monitor, printer, mouse, keyboard, light pen, touchpad, or the like."

"Further, the user interface 136 may include a combination of such devices. The user interface 136 allows the subscriber who is using the PIM 122 to view, enter, and update personal information data."

We talked about this before.

And now let's go to --

Q. And with respect to that passage, sir, does that passage, column 7, lines 13 through 22, provide any disclosure that subscriber profile data is received from the communication network upon a request from the client?

A. Not expressly.

Q. Okay. Would you like to look at another passage? I'm looking for express disclosure in any of these passages that the subscriber profile data is received from the service control point through

the PSTN upon a request from the client.

A. (Perusing document.)

Okay. So now we have -- let's just have column 3, line 54. Thus, for each of the timed events, the subscriber may request that the subscriber's profile be updated in a particular manner. Such profile requests include call completion request, in which a subscriber requests that calls placed to a communication device associated with the subscriber be routed in a particular way and alert requests -- that answers your question -- in which a subscriber requests that a reminder message be scheduled to be sent to a communication device associated with a subscriber in conjunction with a timed outs -- timed event.

Q. So how does that passage show that subscriber profile data from a service control point through a PSTN --

MR. McDOLE: Well, strike that.

Q. How does that show that subscriber profile data is received by a modem from a service control point through the PSTN upon a request from a client?

A. Well, the passage clearly says that, "in

which a subscriber requests that the calls placed to a communication device." The communication device requires a modem and the modem is, indeed, shown in Figure -- one of the Figure 1, 4, or 5. I guess it's -- yeah, Figure 1, the communication device modem.

Q. So calls are being placed to that modem?

A. It passes through the modem, yes, of course.

Q. Okay. And what -- where in that passage is subscriber profile data being provided over the communication network to the modem based on a user's request?

A. Well, "user" in this context is a subscriber, user is a subscriber. So it says, "Such profile requests include all call completion requests in which a subscriber requests that calls placed to a communication device." That to me is the request is sent over the communication device.

Q. The request is sent over the communication device?

A. Yeah, isn't it? Or maybe --

Q. And it has to retrieve information, too, sir. Where in this paragraph is information

retrieved based on the user's request?

A. We went over this one, too. The alert system is something that the Buhrmann discloses, that when the update requires -- is required, a certain information in the alert is sent to PIM which reminds or tells PIM that this is the time for updates.

And I did mention that the timing between sending the alert, which is a request, and sending the updates to SCP may be different. The timing may be different to the one in '714 or any other patents. The timing is not the issue, but the procedure is the same.

Q. And I just want to make sure, I thought we had established this, but I just want to make sure.

A. Sure.

Q. In the example that you're referring to in column 3, lines 54 through column 4, line 4, when there is an alert, how does a user update that alert?

MR. McDOLE: Well, strike that.

Q. Does the -- in your alert example, does the client request the alert in order to update the alert?

A. I really don't know.

Q. Is there any disclosure in the Buhrmann reference of the client requesting the alert to update the alert?

A. I don't know the answer. I mean, if it's worth spending time and finding if there is any tiny little statement on this somewhere or not, I mean, I -- I haven't come across something like this in the patent but it could be there. I don't know.

Q. So based on your review as you sit here today, you haven't found it?

A. I haven't found it yet, yes.

Q. And is the only subscriber profile data that you identify in your opinion, in your declaration Exhibit 1014, schedule data and telephone numbers of authorized or unauthorized users?

A. Uh-huh, yes.

Q. Okay. You identify no other subscriber profile that are disclosed in Buhrmann other than schedule data and telephone numbers of authorized and unauthorized persons, correct?

A. Well, these are the examples I found.

There could be others. I mean, I don't remember it. I don't recall if there are any.

Q. But you didn't place them in your declaration if there were anymore?

A. That is correct.

Q. If you could turn to the '714 patent.

A. Yeah.

Q. And specifically, if you can turn to Figure 2, which is on page 5 of Exhibit 1001.

A. Okay.

Q. What do the lines with arrows on each side of them represent in Figure 2 of the '714 patent?

A. Which arrows are you referring to again?

Q. Well, let's talk about the arrows between the PID PC client and the PID PC server, there's a line with two arrows and an arrow on each side of the line.

A. I'm seeing it, yes.

Q. What does that line with the two arrows represent?

A. It's a bidirectional communication.

Q. Okay. And what about the line on Figure 2 of the '714 patent between the PID status server and the PID database that has one line and only an

arrow on one side of that line, what does that represent?

A. That's a one directional communication originating from PID status server, ending or testing for PID database.

Q. Now, what type of diagram would you call Figure 2? Is there a name for it?

A. Block diagram.

Q. Block diagram. Okay.

And so in block diagrams, if we have a line with an arrow on each side, that represents bidirectional communication?

A. That's very commonly understood.

Q. And that would be the bidirectional communication of data, correct?

A. Bidirectional with one explanation, that, you know, the timing is not an issue in a block diagram. Are they coming in the same time or one at a time, this is not the -- the information to be included in the definition of the a line between two arrows.

Q. Okay. Fair enough.

But in a block diagram, if you have a line with an arrow on each side, that indicates that

data, regardless of time, is flowing both ways, correct?

A. I'm sorry. The line between two arrows on two sides?

Q. Yeah.

A. Yes.

Q. And in a block diagram, if you have a line with an arrow on one side, that indicates the flow of data going one way, correct?

A. To that side.

Q. To that side.

The side with the arrow, correct?

A. With the arrow.

Q. Now, if we can turn back to Figure 1 of the Buhrmann reference, what does the lightning bolt line between what appears to be two antennas represent to one of ordinary skill in the art?

A. Well, that's the very similar definition. But this is the wireless. So I'm seeing a connection between the unit 110 and RBS 106, but then it has two arrows in both sides, in each side -- I mean, it has an arrow at one side -- at each side, so that indicates that the communication between RBS and 110 is bidirectional.

Q. Okay. So a lightning bolt type of line with two arrows indicates the flow of data in both directions regardless of timing?

A. Regardless of timing, but it's wireless.

Q. Then what about the line between the PSTN and block 108 on Figure 1 of the Buhrmann reference, which has no arrows, what does that represent?

A. Well, in this, not necessarily every block diagram is perfect. I would say that, you know, they decided not to show any arrows in a non-wireless portion. And by reading the specification of this patent, I can see that the flow of data can come from unit 102 to unit 122 or it could be from unit 122 to 102, it could be bidirectional.

Q. But you would have to read -- to determine the flow of data, you would have to read the specification of the Buhrmann reference to determine what the flow of data was; is that correct?

A. That is correct.

Q. If you could turn to Figure 3 of the Buhrmann reference. Does Figure 3 of the Buhrmann

reference provide any indication as to whether a modem receives the subscriber profile data from service control point 108 through PSTN 114 upon a request from the client?

A. Figure 3, the caption says that it is a flow chart of the steps of generating profile update data for use in updating the subscriber profile database. So it specifically shows the flow of data from PIM all the way to database. It shows the steps.

Q. Okay. Is there any flow diagram in the Buhrmann reference showing the flow of diagram -- showing the flow of information or data through the communication network to the SCP?

MR. BERTULLI: Objection, confusing.

MR. McDOLE: Let me rephrase.

Q. Is there a flow diagram in the Buhrmann reference that shows the flow of information or data through a communication network to the subscriber profile database?

A. The figure does not show the communication network portion of it that is involved -- obviously involved, according to the previous figure. It is only showing the flow chart, the flow of the data

and the steps.

Q. Okay. Is there any other figure in the Buhrmann reference which expressly discloses that information is retrieved from the subscriber profile database through the PSTN and received by modem 138?

A. There is a mention of a switching center, mobile switching center in Figure 7, if that helps.

Q. Okay.

A. Mention of route call according to call completion feature, element 712, if this counts. So, I mean, just bluntly, I'm looking at the blocks and then read out to you.

Q. Okay.

A. But we can go over the details of it.

Q. And does Figure 7 expressly show that subscriber profile data is retrieved from the subscriber profile database upon a request from the client?

A. So then I need to read the details of this figure. Figure 7 is stated here as it is a flow chart of the steps performed by processing a call in accordance with an updated subscriber profile. This shows the steps of the -- placing a call.

Q. Okay. So that would not be supportive of a modem receives a subscriber profile data from service control point 108 through the PSTN upon a request from the client; is that correct?

A. No. I would say, you know, it really depends. It could be one part of -- some part of the updating procedure, you need to place a call, so that could be one step, one of the steps of updating.

Q. So are you saying that placing the call is a request from the client to receive subscriber profile data?

A. If you just note my answer, I said could be one step, one part of the procedure, one step or some steps of the procedure.

Q. Okay.

A. You need to place a call first.

Q. Maybe I'm overcomplicating this. Let me ask this a different way. In Figure 7 of the Buhrmann reference, is there an express disclosure that a modem retrieves the subscriber profile data from the service control point 108 through PSTN 114 upon the request from the client?

A. By itself, no.

Q. Okay. If you could look at -- well, how does the client request to view subscriber profile data in the Buhrmann reference?

And let me rephrase. How does the client request to view subscriber profile data in the Buhrmann reference as you've opined in your declaration Exhibit 1014?

A. I'm sorry. You asked how the client sends the information?

Q. No. How does the client request to view subscriber profile data from the SCP in the Buhrmann reference?

A. So here we have in column 7, line 18 the user interface, which is the client, okay, allows the subscriber who is using the PIM to view, enter, and update personal information data 127 and otherwise interact with the PIM 122.

Q. And how does that indicate that a user has requested to view subscriber profile data from the SCP as opposed to the PIM?

A. Well, there is no mention of it.

Q. Okay.

A. There is no -- expressly, there is no mention of it. It could be from SCP, could be

locally. But the point is, you know, it requests a view.

Q. Okay. Is there any disclosure in the Buhrmann reference of the client requesting to view subscriber profile data contained in the subscriber profile database as opposed to the PIM? What I'm looking for is the distinction there.

A. Yeah, I'm trying to find the second part of your answer.

Q. Okay.

A. If there is. There may be there is no mention of it. They say it in general, that, you know. So far we found a general description of how the interface tries to bring up the information, but from where, it doesn't specifically say.

Q. Okay.

A. But let's see if there is any.

Q. Okay.

A. (Perusing document).

One more thing, the following sentence after the one that I just read to you, it says, "The modem 138" -- I guess we -- this is a repeat of the reading here in a different question you had earlier. But then I read it again. "The modem 138

is used for sending information from PIM 122 to the SCP, 108 through the PSTN 114." This is exactly attached to the functionality of the user interface.

Q. And I understand that, sir. But my answer goes to the data flow the other way.

MR. McDOLE: So I'm going to object as nonresponsive.

Q. Unless you believe that sentence discloses a user making a request --

MR. McDOLE: Strike that.

Q. The client requesting to view subscriber profile data from the subscriber profile database, as opposed to the other way around. Is that a request to view subscriber profile database?

A. No, what I said was that the previous -- the preceding sentence, that the user interface allows the subscriber who is using the PIM to view, that's what you said, to view, enter, and update personal information data and otherwise interact with PIM. And then it immediately says the modem is used for sending information from PIM to the SCP through the PSTN.

Q. And I'm trying to get what happens before

the view part. I'm still looking for any passage that you can identify that expressly discloses that a request is --

A. Before the view part?

Q. We're looking for a request to view subscriber profile data. So we need -- I am looking for a passage, if you can find one, that the client requests from the subscriber profile database subscriber profile information as opposed to the PIM.

A. I mean, the combination of these two sentences indirectly -- that's indirect. My understanding from these two sentences, you know, that you can use the user interface to view, enter -- view or enter -- let me see if the word "or" is there or not -- "to view, enter, and update."

Q. And my question relates to, you can do all of viewing, entering, and updating personal information in the Buhrmann reference by obtaining that information and viewing it based on the storage on the PIM, correct?

A. Based on the storage on the PIM it's possible, yes.

Q. Right. And what I'm looking for is where is the disclosure in the Buhrmann reference where the information that the client is viewing and updating is obtained from the subscriber profile database and not the PIM?

A. And when I read that sentence, the modem is used to sending -- for sending information from PIM to SCP, what does it tell you?

Q. That tells me, sir -- and again, I'm not here to answer questions, but that tells me information is being sent to the -- the update information is being sent to the subscriber profile database, not that a request is being sent to the subscriber profile database based on a user's request. Am I reading that wrong?

A. Probably with all due respect because you said "updates." Why did you say "updates"? It could be the request for view.

Q. Does it say that it's a request to view?

A. It doesn't say it's an update.

Q. Sir, it's not my burden of proof, with all due respect.

A. I know.

Q. I'm asking you if there is an express

disclosure that the user request from the client --

MR. McDOLE: Strike that.

Q. I'm asking does the client --

MR. McDOLE: Let me ask it once more.

A. I know your question, let me answer it.

Q. Well, for the record, I have to state the question.

A. Okay.

Q. My question relates to does the Buhrmann reference expressly disclose anywhere that the client requests subscriber profile information from the subscriber profile database as opposed to the PIM?

A. Explicitly, I haven't found it yet.

Q. Okay.

A. All I can say. But these two sentences to me is -- implies that, you know, it could be they're viewing it or it could be updating it to SCP.

But just one more minute to go to the rest of the patent to see if there is anything in it, and if not, I say there's no express mention of it.

Q. Sure. You've looked at the patent a lot today already, correct?

A. Not for this particular question.

Q. And I'll let you do it. I'm just trying to establish you've spent quite a bit of time today reviewing the patent and you carefully reviewed the patent prior to your opinion, correct?

A. That's correct.

Q. So feel free to go ahead and continue to look to see if there is an express disclosure in the Buhrmann reference that the client requests to view subscriber profile data from the subscriber profile database as opposed to the PIM.

A. Okay. Sure.

Okay. I found another one. Column 10, line 52. It says step 706, "The MSC 104 sends a query to database 118 via link 144 requesting the subscriber profile record of subscriber associated with the mobile station 110."

Q. And what is the MSC?

A. Mobile switching center.

Q. And where is the MSC in Figure 1 of the Buhrmann reference?

A. That's item number 104.

Q. So that has no connection to modem 138?

A. It has connection to the modem of handheld

device. It is not shown here, but there is a mention of modem.

Q. Okay. So in your opinion, column 10, lines 52 through 54 discloses expressly that the client requests to view subscriber profile data through the subscriber profile database through the MSC, which is connected to the mobile device?

A. That is correct. And one more piece of information that is earlier we talked about if you wanted to talk about the retrieving. Do you like me to give some more information that is also here?

Q. Is it in your declaration, sir?

A. This is in the patent.

Q. Sir, I'm asking -- you said all of your opinions are contained within your declaration. Is what you're about to tell me in your declaration?

A. You asked me exact location of retrieving earlier in the patent and I found right after this sentence, there's a retrieving part if you want to just look at it yourself.

Q. Sir, is there any disclosure of your opinion that column 10, lines 52 to 54 support your opinion that a request to view subscriber profile data, that a client --

MR. McDOLE: Strike that.

Q. Is there any disclosure in your opinion in Exhibit 1014 of your declaration that the Buhrmann reference discloses a client request to view subscriber profile data through the subscriber profile database?

A. Absolutely, yes.

Q. Okay. Can you point me where in your declaration you cite to column 10, lines 52 to 54?

A. I did -- no, I did not. You asked me in my declaration?

Q. Yes, sir.

A. Oh, I'm sorry. Make a correction. In my declaration it may not be there. But you said spend time in the patent to find if there is any such statements and I found it for you.

Q. So this would be a new opinion that you're disclosing for the first time today at your deposition?

A. No. In my declaration I did mention that everything in Buhrmann is similar to what '714 says. And if you want me to read that one for you, I can read it to you.

You asked me for an example of it, I'm

just giving you an example here now.

Q. Okay.

A. That's what I'm trying to do.

Q. So you've never cited to column 10, lines 52 to 54 in your declaration; is that correct?

A. That is correct.

Q. Okay. Is the MSC a client?

A. No.

Q. Okay. So when I asked where a client sends a request --

A. Of course.

Q. -- to view the subscriber profile data, the MSC is not the client?

A. No, it's not. MSC is a center for switching.

Let me just explain to you how the wireless networks work. So basically an interface that is adapted for wireless systems is inserted into a handheld device such as the cell phones that we have, and then that is the client. It's not shown in this figure. I think it is a mention of it in the patent, that the interface of the wireless one.

The signal from the antenna as is shown in

Figure 1 of Buhrmann is broadcast and is received by the RBS. And RBS is the antenna tower. And then it gets sent to MSC. MSC is a switching device, basically.

Q. With all due respect, sir, I'm going to object to the rest of your answer as nonresponsive. I think you answered it in the first question, and to the extent you'd like to make your flight, I'd appreciate it if you'd answer my question. And if your counsel wants to elicit whatever testimony you want to provide, he's welcome to do so, but I have limited time and so I'd appreciate it if we'd stick to simple answers to my questions.

A. Sure.

Q. And let me follow up on them as I deem appropriate, if that's okay.

A. No problem, sure.

Q. Going to column 10, lines 52 to 54, once the MSC 104 sends a query to database 118, and that is provided to the client, does the client update that information?

MR. McDOLE: Strike that.

Q. Going to column 10, lines 52 to 54, once the MSC 104 sends a query to database 118, is there

an express disclosure in Buhrmann that the client updates the information that is provided from database 118?

A. Yes, it does.

Q. Where?

A. The patent in this part of the patent tries to explain how a similar updating can be done through a wireless system. And it says that first, the MSC sends a query to the database and then SCP is configured to receive the request and retrieve the subscriber profile record and send the subscriber profile record containing the subscriber profile data to the MSC.

So it's a round trip of request: Request goes to SCP and it gets out of the SCP, retrieved and then it gets out of SCP and goes to the MSC. Obviously from MSC it gets sent to the handheld device.

Q. Sir, again, that wasn't my question. My question originally that you answered yes, it does, talked about does the client update the information that is provided by database 118, and you said yes, it does. And I said where, and you're simply providing me that there's a round trip.

MIR

I'd like the answer to my question of where does it disclose in the Buhrmann reference with the example you're providing in column 10, lines 52 to 54 that the client after it receives the information from database 118 updates that document?

A. Let's find that one, because --

Q. That's what I would like, if you could do that. That was my original question.

A. I thought it was well understood that between MSC and the handheld device what exactly is going on. Because if MSC makes the request, that means that the handheld device has made -- which the client has made the request --

Q. Sir, do you remember what my question was?

A. I do remember and let me just find that one, too.

MR. McDOLE: Move to strike the last answer as nonresponsive.

A. Okay. Here in the same column, on column 10, starting at line 5, it says a subscriber could use such a PIM display to request an update to the subscriber's profile. For example, assume the subscriber is entering a meeting, but is waiting

for an important call from Mary Jones, thus the subscriber wants all calls to be forward to voice mail except for call from Mary Jones' phone number, which is to be delivered to the subscriber's mobile station 110.

Q. Sir, does that photograph -- does that section in any way relate to the portion of column 10, line 52 to 54 that we were discussing and which my question pertained to?

A. I thought your question was how the request from the client is sent.

Q. Sir, I'm talking about the piece of column 10, line 52 to 54 that you've identified as something you say is a client requesting subscriber profile data from the subscriber profile database. And I said where based on that example that you've provided does the client update the data and send it back? And now you've gone all the way to a different portion.

A. No, that's exactly the portion I wanted to bring to your attention. You just stopped me in the middle of my reading.

Q. Does that portion relate to the example that you're providing now?

A. Yeah. For this portion I just wanted to say that the subscriber has a display and display is part of the client. You said that what is the client, how the client sends the update. First I just wanted to identify the client for you. With all due respect. And then the remaining portion of it, it clearly says that how exactly the client sends and requests the update. If you want me to read the rest of it, it's really long, it clearly explains how exactly the updating is done.

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, does the paragraph that you're reading right now relate to the piece of column 10 where you state in step 706 that MSC 104 sends a query to database 118 via link 144 requesting the subscriber profile record of the subscriber associated with the mobile station 110, are those two paragraphs connected?

A. Absolutely, yes.

Q. Okay. You agree that the paragraph you read from relates to call processing, correct?

A. Processing?

Q. Call processing.

A. Yeah. But --

Q. Is it yes or no, sir?

A. Yeah, of course.

Q. Thank you.

MR. McDOLE: Why don't we take a break.

(Proceedings interrupted at 3:01 p.m. and reconvened at 3:13 p.m.)

BY MR. McDOLE:

Q. Welcome back, Dr. Mir.

A. Thank you.

Q. Sticking on column 10, lines 52 to 54 in the example that you've provided of an alleged request by the client to view subscriber profile data by the subscriber profile database, is there any disclosure with respect to the information that is received by the client being updated? And specifically talking about the example from lines 52 to 54.

A. (Perusing document).

So in column 10, line 12, it says that subscriber would select entry 1102 in display. Well then, that's the request to me. And then the subscriber would then indicate a call completion request for the selected entry and then -- and the

subscriber would also indicate the start and the end time that the call completion request is to be active.

Q. Sir, is that updating data from the example in column 10, lines 52 to 54, as I asked?

A. When you pull up the profile and view it, so you actually request the data to be shown on the display, isn't it?

Q. And sir, is it your position that requesting data to be displayed is updating data?

A. Did I say "updating data"?

Q. Sir, I've asked you about updating data.

MR. McDOLE: Move to strike your previous answer as nonresponsive.

Q. Do you need me to read my question again?

A. Requesting for updating data is different to updating data.

Q. Sir, I agree.

My question goes to the example that you had, and you're reading from a previous piece of column 10. So I'm not sure how something before the piece that you've identified somehow relates to the piece that you've actually identified.

But my opinion -- what I'm asking about is

you've stated that there is a step 706 and it's in column 10, lines 52 to 54 relating to the MSC. And my question goes to is the information that is received by the mobile station, where does Buhrmann state that that information is updated by the client?

A. Again, the answer is on column 10 and the continuation of what I was trying to read for you. Line 23 now, "Upon confirmation of the request, the PIM under control of PIM program and the subscriber profile updates, API generates profile" data -- "update data containing call completion update data and sends the profile update data to the wireless cellular communication network."

Still not convinced or not --

MR. McDOLE: Objection, nonresponsive.

Q. Sir, how does that relate to the MSC that is in the call processing paragraph that starts at line 45?

A. That connects to MSC perfectly because MSC is a node that receives and sends the data. It's like an Internet node, it's like the telephone node.

Q. If I can -- Dr. Mir, is it your belief

that the '714 patent relates to the design and implementation of modems?

A. '714 relates to design and implementation of modems?

Q. Yes.

A. '714 -- internal design of modes you mean?

Q. Just the design and implementation of modems.

A. What do you mean by "design and implementation of modems"? Internally or in modem system design?

Q. Generally. Do you believe that the relevant fields for the '714 patent are the design and implementation of modems?

A. The internal design of the modem is not as stated in the '714. So '714 does not explicitly show the detail of the modem design.

Q. So is your answer no?

A. The answer is no, yes.

Q. Do you believe that a relevant field for the '714 patent is the design and implementation of routers?

A. It is partly, yes.

Q. Okay.

A. You just have one previously, MSC is one of the switches of routers.

Q. So the '714 patent -- with the MSC? We're talking about the '714 patent, sir, not the Buhrmann reference.

A. Yeah, '714 patent -- let me just make sure.

Q. And my question is, do you believe that a relevant field of the '714 patent is the design and implementation of routers?

A. (Perusing document.)

Yes, because it is -- the '714 patent requires the use of routers in the communication systems.

Q. Okay. And do you believe that the relevant field of the '714 patent is the design and implementation of cable systems?

A. Cable systems? What kind of cable are you talking about?

Q. Generally a cable system.

A. A piece of cable or you mean the home cable system?

Q. I believe home cable system.

A. Other than the -- if there is a modem

and -- let's see if there is a modem here.

(Perusing document.)

Modems, no, but I just found several routers in '714, Figure 1 SCP.

Q. Sir, we're on cable systems. I am not sure what you're doing asking -- answering questions about modems and routers at this point.

A. I -- I want --

Q. I'm trying to ask about cable systems.

A. -- I want to ask for a clarification of a previous question. I think I'm allowed to ask this kind of question on a request.

MR. McDOLE: Move to strike as nonresponsive.

A. The answer to your second question is no. The answer to the first question is extra figures I found that -- you know, that relates to the routers. Figure 2 and Figure 1 clearly this is a router, SCP is a router.

Q. Are you done?

A. SSP is a switch. Also in Figure 2, Figure 1. Yeah, I'm done.

MR. McDOLE: Move to strike as nonresponsive.

Q. Sir, let's make sure I understand what your opinion is with respect to cable systems at this point in the '714 patent. Do you believe that the relevant field of the '714 patent is the design and implementation of cable systems?

A. No.

Q. If you could turn to paragraph 33 of your declaration.

A. 33. Okay.

Q. Can you read the first sentence?

A. "Based on my opinion" -- is that right?

Q. Paragraph 33?

A. Yeah.

Based on my opinion -- "based on my review of the material, I believe that the relevant fields for the purposes of the '714 patent are the design and implementation of modems, routers, cable systems. I have been informed that the relevant time frame is on/or before the earliest effective filing date of '714 patent, namely April 3, 1997."

Q. Is the first sentence of paragraph 3 wrong?

A. The general field is modem, router, cable, communication system, yeah. It's not wrong at all.

Q. So in your expert opinion, the relevant -- one of the relevant fields of the '714 patent is a cable system now?

A. Are you noticing that I'm saying that modem, router, cable is the combination of the main elements of the communication systems? That's the area of expertise.

Q. Sir, is this a cut and paste there because you cut and pasted your declaration from the '353 patent into this patent?

A. '355?

Q. '353.

Did you just simply cut and paste your Relevant Fields section?

A. I must have. I could have, yeah.

Q. Are you just trying to explain it away now and that the '714 patent really has no relevance to the fields of modems, routers, and cable systems?

A. I'm trying to say here that the general field of '714 is communication system. I just said that modem, router, and cable, link layer, network layer, and physical layer.

Q. Okay. So the expert examiners at the patent office, you expect them to believe that the

relevant fields for the purposes of the '714 patent are the design and implementation of modems, routers, and cable systems and you have no supplement to that opinion as you sit here today?

A. Supplement of . . .

Q. You have no desire to correct that statement?

A. Well, if you are focusing on modem design, of course, no. I mean, the general field of modem, cable, and router is the field of expertise, that's what I'm trying to tell you.

Q. So you're telling me the statement is correct and you have no desire to correct -- admit that one -- one, admit that there's an error and two, correct it as you sit here today?

A. This is the general field and there is no correction I want to make on this. The general field of the expertise is something who knows the physical layer, link layer, and network layer and these are the indication of these three.

Q. Okay. If I can have you turn to the Buhrmann reference, specifically Figure 5.

A. Yeah, I'm seeing it.

Q. Is a profile request field 502 a text

field in the Buhrmann reference?

A. Hold on a second, please. Sorry. Is it Buhrmann? No, it's not Buhrmann.

Figure 1, okay.

Q. Figure 5.

A. Figure 5? Okay.

Q. Are you ready?

A. Yeah.

Q. Is the profile request field 502 in Figure 5 of the Buhrmann reference a text field?

A. Yes.

Q. Okay. Do you believe that the profile request that's identified in -- as 502 in Figure 5 of the Buhrmann reference is a request to the subscriber profile database to provide subscriber profile data to the client?

A. Figure 5 is an example of PIM scheduled display with an added profile request field. And that's the display from the PIM.

Q. Okay. And sir, my question is, and it's a yes or no answer: Do you believe that the profile request that's identified as 502 in Figure 5 of the Buhrmann reference is a request to a subscriber profile database to provide subscriber profile data

to the client?

A. Yes, could be.

Q. It could be or it is?

A. Because it doesn't say that it is in the figure, but it says that this is what the -- the subscriber can view it.

Q. Well, by the time the profile request field is provided to the client, the subscriber profile data is already on the client, correct?

A. That's correct.

Q. So the profile request field cannot be a request to view the subscriber profile data that's already at the client, correct?

A. I don't see why.

Q. Okay. Is there a disclosure in the Buhrmann reference that the profile request field 502 is a request to the subscriber profile database to send subscriber profile data to the client, even though the client, according to Figure 5, already has the subscriber profile data? Any disclosure? Feel free to look.

A. (Perusing document.)

Okay. In column 8, line 4, it says that "the subscriber is presented through a user

interface 136 with a display 500 allowing interior profile requests in a profile request field and the profile request field is added to the conventional scheduling display 400 presented by PIM."

Q. And how does that relate in any way to receiving information from the subscriber profile database as opposed to the PIM?

A. Well, it says that it is added to the conventional scheduling display presented by PIM.

Q. Sir, is that an express disclosure that the profile request field 502 is a request to the subscriber profile database to send subscriber profile data to the client?

A. 502 is the profile request field.

Q. Sir, I understand that.

MR. McDOLE: Objection, nonresponsive.

Q. Do I need to ask my question again or do you understand?

A. Well, I understand your question is. Are you -- okay. Rephrase your question, maybe, if you are not convinced with my answer.

Q. Is there a disclosure in the Buhrmann reference that the profile request field 502 is a request to the subscriber profile database to send

subscriber profile data to the client, even though the client, according to Figure 5, already has the subscriber profile data?

It's a yes-or-no question.

A. I don't think there is any explicit answer to your question in the patent.

Q. Thank you.

Does the Buhrmann reference provide a disclosure as to how the information in Figure 4 of the Buhrmann reference is received and whether it is received by the PIM or the subscriber profile database?

A. So Figure 4 that you referred to in column 7, line 36 says, "In general, the subscriber is provided with a schedule display for a chosen day via the user interface 136. An example schedule display 400 is shown in Figure 4."

And it gives something here, the example, what is the schedule display?

Q. So is the answer to my question "no"?

A. So the subscriber can enter the -- the schedule data into the subscription field so then it can be sent over the network. So the answer should be yes then, because the subscriber can

control this.

Q. Sir, when that information from the profile request field is sent over the network, is it being sent over the network to request a subscriber profile data, or is it being sent over the network to be stored in the subscriber profile database?

A. In the example I'm seeing there, the answer is no. This is an example of Figure 4, the answer is no because there is no request for the profile. You are referring to Figure 4 and I have no choice to say that based on the content of Figure 4, I'm not seeing anything that even requests a profile.

Q. Where in the Buhrmann reference does it state that the information in Figure 4 is received by the communications network of Buhrmann as opposed to the PIM?

A. (Perusing document.)

So this is a different question or the same question?

Q. It's actually the same question I had previously, sir. You just haven't answered it.

MR. McDOLE: Move to strike the last

answer as nonresponsive.

A. So in the same column in line 30, it says, "Thus, subscriber profile updates initiated by the user using PIM will affect call processing and alert messages for mobile station 110."

Q. So it says using the PIM, not the subscriber profile database, correct?

A. For this example, yes.

Q. Okay. Is there any disclosure in the Buhrmann reference that states that the data in Figure 4 of the Buhrmann reference is received from the communication network of Buhrmann?

A. In Figure 4, I don't see any.

Q. Thank you.

MR. McDOLE: Counsel, why don't you give us five minutes. I'd like to have a conversation with you real quick and without the witness present, please.

(Proceedings interrupted at 3:41 p.m. and reconvened at 3:57 p.m.)

BY MR. McDOLE:

Q. Dr. Mir, I'm going to mark what's previously been identified as Paper 2, which is the Cox's original petition for IPR in this matter.

And it's my understanding that you've never seen the final version of what's been identified as paper 2, correct?

A. I've seen either the very final one or close to final one right before I signed my declaration. I don't recall if it was the finalized, completely finalized, or near finalized, but I remember it was right about the completion date of my declaration I received the petitions. So if this is the one that I reviewed or not, I don't know.

Q. How many versions of the petition in draft form did you see?

A. I cannot recall that. The best guess I have is just maybe two, three versions.

Q. Okay. If you could turn to the Buhrmann reference while you have that out. And if you can go to column 11, lines 56 to 59.

A. 56, line 56?

Q. Line 56 to 59. It says, "The message alert processor 148 will send an instruction to message center 150 to generate the message. Message center 150 will generate the SMS message and send it to the MSC 104."

Do you see that?

A. Yes.

Q. Is a message center a service management system or an SS --

MR. McDOLE: Let me rephrase that.

Q. Is a message center as referred to in column 11, line 56 to 59 a service management server or SMS server?

A. Could you tell me what the very first thing that you said in there, this question?

Q. Sure.

Is the message center --

A. Message center.

Where is the message center?

Q. That's identified in lines 56 to 59. It says "message center 150."

And my question is, is a message center as referred to in column 11, line 56 to 59 a service management server or SMS server?

A. But it says the message center 150 would generate SMS message. That means that center is the one that generates the SMS message.

Q. Right.

The SMS message, though, is a text

message, though, right?

A. I don't think SMS is a text message. I mean, I have to check.

Q. Do you know?

A. It could be. There is no -- oh, right there. Short message service is right in the previous paragraph. I'm seeing it. SMS is a short message service.

Q. And a short message service is a text message, right?

A. Short message service, message, remember that there's a message after SMS. Short message service, in the parenthesis SMS, and then message. So SMS message, we should call it. And then your question is again?

Q. Sir, I'm just trying to figure out if the message center 150 as identified in column 11, lines 56 to 59 is a service management system server.

A. Service manager server. All I can say is the message center is the one that generates SMS messages. I don't know.

Q. Is it your opinion that the message center 150 -- yes or no. I'm trying to figure out your

opinion.

A. Yeah.

Q. Is the message center 150 in column 11, lines 56 to 59 a service management system server?

A. And where is the system management system?

Q. I'm asking you if the message center is that, sir. You're the expert.

A. In the context of...

Q. The '714 patent.

A. And where is it, service management system?

Q. If you look at claim 20 of the '714 patent.

A. Claim 20?

Q. Of the '714 patent, not the Buhrmann reference, the '714 patent.

A. Sorry.

(Perusing document). The SMS server recited in '714 is service management system. There is no mention of messages.

The SMS that is recited in Buhrmann is a short message service. I think these two are different.

Q. Thank you.

So the message center 150 in Buhrmann, column 11, lines 56 to 59 is different than the service management system server of claim 20 of the '714 patent, correct?

A. That is correct.

Q. All right. Dr. Mir, is a PSTN an intermediate system as used in claim 2 of the '714 patent?

A. It could be, yes.

Q. Based on Exhibit 2040 where you highlighted the communications network, could the PSTN be an intermediate network, given that you circled the communication network as including the PSTN?

A. The communication network in Buhrmann includes those two blue circled ones. You asked me a different question, you said that is -- the communication network is a PSTN, you didn't say "in the context of."

Q. Fair enough.

A. Okay. The answer is yes.

Q. Okay. Can the PSTN in Buhrmann be an intermediate system as recited in claim 2 of the '714 patent?

A. A PSTN is the PSTN, no matter where it is recited, and the answer is yes.

Q. So the PSTN can be an intermediate system despite the fact that you have identified it as part of the communication system in Figure 1 of the Exhibit 1004, also marked as Exhibit 2040?

A. When we say communication network, communication network can refer to a number of things, PSTN, wireless network, and et cetera. And PSTN is one of those, of course, and the answer is yes.

Q. Okay. So you can have an intermediate system within the larger system itself?

A. Yes, we can, yes, for sure.

Q. Okay. And based on your reading of the '714 patent, an intermediate system can be part of the communication system itself.

A. Yes, it can. One example is the dialup connection from home, it goes to the PSTN and gets out of PSTN and goes to the Internet, then PSTN would act as intermediate network.

Q. So let's make sure we understand this. Based on your opinion, the Buhrmann reference discloses that subscriber profile data is retrieved

from the communication network via an intermediate system?

A. That is very clear, yes.

Q. Okay. How is the PSTN intermediate to the communication network?

A. The communication network of Buhrmann is wireless network. The communication network of Buhrmann can also be PSTN. Now, PSTN is an intermediate network for the wireless network.

Q. So it can change whether it's an intermediate part of the communication system or whether it's an intermediate system, depending on how you like to arrange the blocks?

A. Depending how exactly the PSTN is located in the block diagram. In this block diagram, PSTN is between the PIM and the wireless network, clearly is between.

Q. Well --

A. Thus intermediate.

Q. PSTN is actually part of the communication network, isn't it?

A. It is part of the communication network. In the meantime, if you want to isolate them, say which one is the communication network, I say PSTN

is the communication network, of course.

Q. What's your definition of intermediate?

A. Intermediate is anything that is between two other items that they communicate with each other.

Q. Okay. So if it has to be between two things, how is the PSTN between the communication network and the PIM if the PSTN is actually part of the communication network?

A. I'm sorry, counsel, I'm confused by your question. But I try to answer the question. PSTN is a communication network, period. Wireless network is a communication network, period. In the arrangement of Buhrmann, PSTN as a communication network acts as the intermediate network.

Q. So is it your opinion that in claim 1 the PSTN is part of the communication network and in claim 2 the PSTN is not part of the communication network?

A. I'm sorry, claim of '714?

Q. Yes. Let me repeat my question so we have it clear on the record. So is it your opinion that in claim 1 of the '714 patent, the PSTN is part of the communication network, and in claim 2 of the

'714 patent, the PSTN is not part of the communication network?

A. No. Both actually are communication networks, but we are having two communication networks here in Buhrmann. One is the one that the data is retrieved and updated to; the one is that the data can pass through, which is PSTN.

Q. Okay. Is everything highlighted in yellow on Exhibit 2040 --

MR. McDOLE: Strike that.

Q. Is everything highlighted in blue on Exhibit 2042 part of the communication network you used to opine that the Buhrmann reference invalidates claim 1 of the '714 patent?

A. This is a different question now. You said "part of a communication network," you used "a." You can just check. You didn't say "a"?

Q. I can read it exactly how I framed it to you.

A. Sorry. My mistake, sorry. So then what is the question?

Q. I'll repeat it.

Is everything highlighted in blue on Exhibit 2040 part of the communication network you

used to opine that the Buhrmann reference invalidates claim 1 of the '714 patent?

A. Okay. I meant -- you said "the communication network." So here you can call -- now I understand the question. You can call the PSTN and wireless network as the communication network. You can call PSTN as a communication network. You can call wireless network as a communication network.

Q. Sir, I really don't want to know what I can call it. I want to know what you called it in opining that the claim 1 of the '714 patent is invalid.

A. That's very clear. I can rephrase my answer. When it comes to updating and sending the update to the communication network, the place that the updates actually gets moved to, that's a wireless network, which is still a communication network. When it comes to passage, an intermediate network that the data can get passed through them, it is a PSTN, that is also a communication network. And you can call both of them as communication network. Together combined is a communication network because communication network has a general

meaning.

MR. McDOLE: Move to strike the last two answers as nonresponsive.

Q. Sir, I'm going to ask you again: And I'll preface this with I just want to try to understand in your opinions where you said claim 1 of the '714 patent is invalid, you had to find that there was a communication network in the Buhrmann reference that did particular things, correct?

A. Yes.

Q. Okay. Is that the communication network that you highlighted in blue in Exhibit 2040?

A. Yes. Answer is yes.

Q. If you can turn to claim 12 of the '714 patent.

A. Okay.

Q. Where does Buhrmann teach that a time specified by the subscriber as to when the requested update for the subscriber profile should be forwarded to the communication network?

A. Figure 5 of Buhrmann shows one example of PIM schedule display with an added profile request field. So I believe that, you know, in this chart you can actually have a request for times.

Q. And that time is a time specified by the subscriber as to when the requested update for the subscriber's profile should be forwarded to the communication network?

A. I don't see why not. There may not be an explicit example of what you just said in the patent, but I don't see why not this can be done.

Q. It could be but we don't know because there's not an explicit disclosure?

A. That's right.

Q. Let's turn to claim 14.

A. Okay.

Q. Is it also your opinion, like claim 2, that the -- at least one intermediate system of claim 14 of the '714 patent is the PSTN, despite the fact that the PSTN is part of the communication network that you've identified on Exhibit 2040?

A. Absolutely yes.

Q. Okay. If we can turn to Figure 5 of the Buhrmann reference.

A. Okay.

Q. In your opinion, is meeting with John in room 4A under the description field at 9 a.m. subscriber profile data?

A. I think it depends.

Q. Depends on what?

A. Whether this meeting is something that, you know, is on a regular basis, that it should be part of the profile or it's just one time. So the answer could be yes or no. I mean, it really depends.

Q. There's no explicit disclosure of it, so we don't know; it could be, it might not be?

A. Figure 5 shows an example of a schedule display with an added profile request, so it is a profile request; that could be part of the profile.

Q. I didn't ask you about profile request, sir. I asked you about the description, meeting with John in room 4A.

A. Regularly, normally, no, that may not be part of the profile. But as I said, under some conditions you could put it under the profile, that in a regular basis or the meetings that you have on a regular basis.

Q. Okay. Is the time 9 a.m. subscriber profile data?

A. 9 a.m. related to what, to what action, to what function, to what --

Q. Talking -- let me ask it more clear. In Figure 5 of the Buhrmann reference, is the time 9 a.m. in your opinion subscriber profile data?

A. I believe time 9 a.m. ties with the description and the profile, is part of that line, the description and the profile is part of the information, we call it profile. That's the time that the profile is requested or updated, whether it is part of the profile or not, you know, this optional to think that way is it profile or not.

Q. Sir, you're the expert here. I'd like to understand what your opinion is and metes and bounds of exactly what you consider to be subscriber profile information. And I'd like to understand whether in your opinion and in forming your opinions in this case whether you considered a time such as 9 a.m. in Figure 5 of the Buhrmann reference to be subscriber profile data?

A. My best between yes and no is no.

Q. Do you see under the profile request field at 9 a.m. it says "call forward to voice mail"?

A. Yes, I do.

Q. Is call forward to voice mail subscriber profile data?

A. Yes, it can be.

Q. Sir, it can be or it is?

A. For this particular case of Buhrmann, yes. In general, it can be.

Q. Okay. How do you know that call forward to voice mail is considered subscriber profile data in the Buhrmann reference in Figure 5?

A. Because it is part of this display that is going to be updated.

Q. So is anything in the display of Figure 5 considered subscriber profile data?

A. It is not all of the profile data. It is example. I keep saying the example, Figure 5 is an example.

Q. I understand it's an example. Can you identify for me in Figure 5 in the Buhrmann reference what information you consider to be subscriber profile data?

A. It could be selective call acceptance 123-555-6666, other to voice mail. That could be a desire of a subscriber to be implemented, could be part of the profile.

Q. Could be or it is, sir?

A. In this case, it is.

MIR

Q. Okay. Anything else on Figure 5 of the Buhrmann reference that is considered to be subscriber profile information?

A. All of them -- all of the information you see in profile request and description are in this case part of the profile.

Q. So now, meeting with John in room 4A is considered subscriber profile information?

MR. McDOLE: Strike that.

Q. So now, a description of meeting with John in room 4A is considered subscriber profile data in your opinion?

A. Could be.

Q. It could be or it is, sir? You're the expert.

A. In the context of this patent, it is. It is what it says.

Q. Okay. Just five minutes ago you told me it wasn't. So now I've got two different answers and I'd like to know --

A. Let me clarify.

Q. Last chance, which one is it? Is meeting with John in room 4A under the description field of Figure 5 of the Buhrmann reference subscriber

profile data or not?

A. The profile request has a description, so then if the call forward to voice mail has a description, so a description is part of the profile, isn't it? In my opinion, yes, it is.

Q. Okay. And is 9 a.m. in that instance also considered to be subscriber profile information?

A. That I already clarified. A time could or could not be. The best answer I said was no. I already said so.

Q. All right. What about the arrows under meeting with John in room 4A at 9:30, 10 a.m. and 10:30. Are those subscriber profile information?

A. I don't know.

Q. So you don't know whether the arrows in 9:30, 10 a.m. and 10:30 a.m. are subscriber profile data; is that correct?

A. That is correct. I need to refresh my memory as to what these arrows stand for or indicating what.

Q. So why is the description field subscriber profile data and not the time field?

A. I'm sorry. I missed your question.

Q. So why is the description field such as

meeting with John in room 4A in Figure 5 of the Buhrmann reference considered subscriber profile data, but not the 9 a.m. time slot?

A. I think I already said that the time is just a function or an item that is based on a clock and, you know, if you want to consider that as the profile, it is optional to me. But the real substance of the profile is what the function says, what the time is, kind of a running clock in the left side to me is not that much related to the profile. But I don't have any problem to see that someone includes the time into the profile.

Q. Let's look at Figure 6 of the Buhrmann reference. What is described in Figure 6?

A. This is an example of a record of the subscriber.

Q. Is the record of the subscriber considered to be subscriber profile data?

A. Yes.

Q. Why?

A. Because it says the patent says Figure 6 shows an example of subscriber profile record.

Q. Is a record the same thing as a profile?

A. Profile record is the one that is recorded

somewhere.

Q. Okay. Is the information in Figure 6 profile update data?

A. No, it doesn't say anything. It says subscriber profile record.

Q. Can a subscriber profile record be updated by the client?

A. By the subscriber.

Q. Okay. Can the subscriber profile record be updated by the subscriber?

A. Subscriber can program the client to update it, yes.

Q. Would the subscriber --

MR. McDOLE: Strike that.

Q. Would the information in Figure 6 need to be modified in any way before the subscriber could update it?

A. The subscriber -- the subscriber updates the record and that's the modification to the record.

MR. McDOLE: Strike as nonresponsive.

THE WITNESS: Could you rephrase your question?

Q. Would the information in Figure 6 need to

be modified in any way before the subscriber could update it?

A. I don't see why not. It could be -- it would be possible, but I don't see any statement in the patent that it is the case, that before updating that can be modified.

Q. Isn't it true that the subscriber never directly enters information or data into the format of Figure 6 in the Buhrmann reference?

A. I don't recall it, but I have several places in the patent that says that how the subscriber can enter the data and views the data and updates the data, so I don't recall the answer to your question unless I have time to look for the answer.

Q. You're the expert, sir. You have documents in front of you. If you can't answer it, you can certainly look at documents, but I would like to understand your opinions in this matter.

A. Okay. So you want me to see if there is any way that the subscriber can modify or update this record directly?

Q. Let me ask you this: Is the format of Figure 6 something that is a result of update data

from the client being sent through the subscriber profile update API 132 in Figure 1 of the Buhrmann reference?

A. From the caption of Figure 6 which says shows an example of subscriber profile record, the answer is no.

Q. In forming your opinions in this case, did you read the specification of the '714 patent relating to Figure 6?

A. '714 patent?

Q. I'm sorry. In forming your opinions in this case, did you read the specification of the Buhrmann reference relating to Figure 6?

A. I believe I did.

Q. Okay. What do you recall the specification of the Buhrmann reference stated about Figure 6?

A. It's a long day now and I think I should refresh my memory quickly. Other than the profile record that I remember this indicates, I don't recall if there was anything else.

(Perusing document).

There is a quick description of all these in column 9 and 10. These are the profile records,

so the details of what this record is about is indicated on column 9 and 10, mostly, details.

Q. Okay. Does that refresh your memory as to whether the format of the data in Figure 6 is the format of data entered by a client after it goes through the subscriber profile update API?

A. Okay. So in the column 9, there's one little statement I guess that would answer the question. It says on line 25, it says, "subscriber profile record in database 118 after step 310 would be the record 600 shown in Figure 6." And step 310 is send profile update data to database. So the answer is yes.

Q. What is step 308?

A. Say again?

Q. You talked about step 310.

A. Uh-huh.

Q. What is step 308?

A. What is step 308?

Q. 308.

A. 308 is generate profile update data.

Q. How do you generate profile update data?

A. By specifying profile request and entering the updates.

Q. We'll start with this: Sir, do you know what a subscriber profile update API is?

A. API stands for...

Q. Sir, you're the expert. Subscriber profile update API 132 in Figure 1 of the Buhrmann reference that you rely on to claim that the '714 patent is invalid, do you know what the subscriber profile update API is?

A. Can you point me to the place?

Q. Sure. I've already pointed you to it once. Figure 1.

A. Figure 1.

Q. 132.

A. Figure 1, 132.

(Perusing document). Okay.

Q. What is a subscriber profile update API?

A. That's the local unit that is in charge of the profile data, profile update in the personal information management, PIM.

Q. Sir, isn't the subscriber profile update API a program which converts the data from a usable form for the client or subscriber for use and to be stored in the subscriber profile database?

A. I believe so.

Q. Okay. Did you know that before this deposition, before I just said it?

A. Of course, of course. Yes.

Q. Okay. When did you first learn that?

A. Don't recall.

Q. Okay. If you knew the answer to that question, why didn't you give me that answer in response to my question as to what the subscriber profile update API was?

A. I thought I did in a different way.

Q. So is the -- after a subscriber enters update information into a profile request field, is that information then converted into the form of the data in Figure 6 of the Buhrmann reference?

A. I think so. There is a -- in the process of the update, there is a format adjustment, which is the one that you just said.

Q. So the information on Figure 6 of the Buhrmann reference is information that the subscriber would not see because the subscriber would only see information on the non-network communication network side of the subscriber profile API, correct?

A. That is correct.

Q. Is schedule data and contact data, I think you previously said is subscriber profile data, correct?

A. Yes, according to the patent.

Q. Have you read the PTO's decision in institution relating to the '714 patent that says that schedule data and contact data is only associated with subscriber profile data?

A. I don't recall if I -- I don't recall that. I read the whole document. I don't recall that.

Q. Would the examiners at the patent office be incorrect in saying that the schedule and contact data in the Buhrmann reference are only associated with subscriber profile data?

A. No, I don't think there is any substantial difference between being part of the profile data or associated with the profile data.

Q. So whether it's data or whether it's associated with data, to you that means the same thing?

A. I didn't say the same thing. I don't -- I said I don't think there's a substantial difference between the two. They're all related to the

profile data.

Q. Does claim 1 of the '714 patent require subscriber profile data or to be associated with subscriber profile data?

A. Profile data.

Q. So it does matter for purposes of your invalidity analysis whether it's subscriber profile data or associated with subscriber profile data, right?

A. It is different, yes.

Q. Okay. So besides schedule data and contact data, what other types of subscriber profile data do you identify in Exhibit 1014 as being present in the Buhrmann reference?

A. Did we include the alerts also?

Q. If you can show me where in Exhibit 1014 that you've identified alerts, I'm happy to look at it.

A. So the alerts we already talked about earlier.

Q. Sir, you understand that I'm referring to your declaration, correct?

A. Oh, my declarations?

Q. That's what I referred to.

A. Well, I have to check to see whether I have included those or not.

(Perusing document).

No, I did not include it in my declaration.

Q. What are the only types of subscriber profile data that you've identified in Exhibit 1014, which is your declaration, relating to the Buhrmann reference?

A. What are the profiles, you mean?

Q. I asked you what subscriber profile data do you identify in Exhibit 1014 relating to the Buhrmann reference? What are the only things you've identified as subscriber profile data?

A. I don't recall if I classified the profile data into types of profile data. I used generally the profile data. I didn't -- did not get into the details of what exactly profile data is, unless I'm just not recalling it.

Could you point me to?

Q. Sure.

A. Okay. If I did, then I can explain.

Q. Look at paragraph 80.

A. Paragraph 80, okay. Which part?

Q. The part that talks about subscriber profile data. And my question is, what are the only types of subscriber profile data that you identify as being present in the Buhrmann reference in your declaration, which is marked as Exhibit 1014?

A. Are you referring to a schedule data?

Q. I'm referring to any type of subscriber profile data that you identified as being present in the Buhrmann reference in your declaration, which is marked as Exhibit 1014.

A. As I said, I did not provide the details of the profile data. This is just an example of a couple. That is the telephone numbers, unauthorized -- authorized or unauthorized users, an example.

Q. Beside the examples that you've just provided, is there any other subscriber profile data that you've identified in Exhibit 1014 as being contained or disclosed in the Buhrmann reference?

A. I don't recall if there is any. Here is such as the schedule data, telephone numbers. I don't think there is anything else in my report.

MIR

Q. So you've offered no opinion in Exhibit 1014 as to any data being subscriber profile data besides schedule data or telephone numbers of authorized or unauthorized users; is that correct?

A. The type of data, that's correct.

MR. McDOLE: I need to take a bio break.

(Proceedings interrupted at 4:45 p.m. and reconvened at 4:49 p.m.)

MR. McDOLE: So counsel you've told me that we're over our time. As we've explained before, I think we're going to need more time based on some of the answers that we've received. We have a significant number of questions to still ask. But I understand the witness has to catch a flight and I understand that you said we can ask no more questions. So at this point we'll reserve our rights based on the fact that there's documents we've asked for that we haven't received, and based on some of the answers, you know, I don't agree to close the deposition. But, you know, we can certainly argue about that another time and I'll pass the witness to you.

MR. BERTULLI: Very good.

EXAMINATION

BY MR. BERTULLI:

Q. Dr. Mir, I have very few questions. We'll move quickly here.

A. Yeah.

Q. You recall Exhibit 2040 that you marked up; is that correct?

A. Yes. It's marked.

Q. You marked two elements of that picture in orange. You marked the PSTN and you marked element 102 in orange; is that correct?

A. That's correct.

MR. McDOLE: Objection, leading.

Q. What does the orange marker mean again, to refresh everyone's memory?

A. Communication networks.

Q. When you circled PSTN and 102 in orange to mean communication network, does that mean that they are both together the communication network or that they are each individually a communication network?

MR. McDOLE: Objection, leading.

A. They're each individually a communication network. In the meantime, you can always call both as a communication network because communication

network has a broad meaning. So in this case, you could say that 102 is a communication network, PSTN is individually a communication network.

Q. Thank you.

Do you recall when we talked about the '714 patent, there is a Figure 2 that is a block diagram and has arrows on it?

A. Yes.

Q. Okay. And then do you recall that we looked at Figure 1 of Buhrmann and, for example, we looked at the arrows 112, the one that looks like a lightning bolt? Do you recall that in Buhrmann, Figure 1?

A. Yes.

Q. There are other lines in the figure; is that right, between elements?

MR. McDOLE: Objection, leading.

A. That is right.

Q. Are there any lines coming out of the PSTN in this figure?

MR. McDOLE: Objection, leading.

A. Yes.

Q. Okay. Where do they go?

A. There are four lines I'm seeing here: One

there is no number on it, 142, 140, and the other one also going to telephone, there is no number on it.

Q. What does that line 140 go to?

A. 140 goes to the personal information manager, PIM.

Q. And what does line 142 go to?

A. It goes to a communication network 102.

Q. Are there any other lines? Is there one on the top, PSTN, that doesn't have a number?

A. It does --

MR. McDOLE: Going to object as leading.

A. -- go to communication network 102 as well.

Q. Okay. Thank you, Dr. Mir.

A. Sure.

MR. BERTULLI: Nothing else.

MR. McDOLE: Dr. Mir, I have a couple more questions subject to our reservation of rights previously.

EXAMINATION

BY MR. McDOLE:

Q. Turning back to Exhibit 2040.

A. Yeah.

Q. When you highlighted in orange the communications network, I had asked you what did you use as a communication network in showing that claim 1 of the '714 patent was invalid as a result of the Buhrmann reference, correct?

A. That is correct.

Q. And you highlighted the orange -- you highlighted in orange what you considered to be the communication network, correct?

A. That's correct.

Q. With respect to Figure 1 of Buhrmann, you just talked about the lines out of the PSTN, correct?

A. Sorry, your question?

Q. Sure.

With respect to Figure 1 of Buhrmann, you just talked about the lines that extend out of the PSTN, and specifically, I'm talking about the one 140 that connects to the personal information manager.

Do you see that?

A. I do.

Q. Does that line have any arrows on it?

A. No.

Q. And so in order to determine which way the data flows through that line, you would have to look at the specification; is that correct?

A. That is correct.

MR. McDOLE: I have no further questions subject to our reservation of rights.

MR. BERTULLI: I think we're all set.

(Whereupon, this deposition was concluded at 4:55 p.m.)

_____

NADER F. MIR, Ph.D.

Subscribed and sworn to before me this _____ day of _____, 2016.

_____

CERTIFICATE

Commonwealth of Massachusetts
Suffolk, ss.

I, Dana Welch, Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the Commonwealth of Massachusetts, do hereby certify that NADER F. MIR, Ph.D., the witness whose deposition is hereinbefore set forth, was duly sworn by me and that such deposition is a true record of the testimony given by the witness.

I further certify that I am neither related to nor employed by any of the parties in or counsel to this action, nor am I financially interested in the outcome of this action.

In witness whereof, I have hereunto set my hand and seal this 1st day of February, 2016.

_____

Dana Welch
Notary Public
My commission expires:
October 6, 2017

I N D E X

WITNESS: NADER F. MIR, Ph.D.

EXHIBITS MARKED:

EXHIBITS PREVIOUSLY MARKED:

NOTATIONS:

Exhibits retained by reporter.

ERRATA SHEET

NAME OF CASE: Cox Communications v. AT&T Intellectual Property I, L.P.

DATE OF DEPOSITION: January 29, 2016

NAME OF WITNESS: Nader F. Mir, Ph.D.

Reason codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

Page _____ Line _____ Reason _____

From _____ to _____

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Nader F. Mir, Ph.D. _____