

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

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ACTIVISION BLIZZARD, INC.; )  
ELECTRONIC ARTS INC.; TAKE-TWO )  
INTERACTIVE SOFTWARE, INC.; ) Case No.  
2K SPORTS, INC., AND ROCKSTAR ) IPR2016-00724  
GAMES, INC., )  
Petitioners, )  
vs. )  
ACCELERATION BAY, LLC, )  
Patent Owner. )  
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CONTAINS PROTECTIVE ORDER MATERIAL  
VIDEOTAPED DEPOSITION OF MICHAEL GOODRICH, Ph.D.  
Costa Mesa, California  
Wednesday, February 22, 2017  
Volume I

Reported by:  
Gail E. Kennamer, CSR 4583, CCRR

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<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 For Petitioners:</p> <p>4</p> <p>5 WINSTON &amp; STRAWN LLP</p> <p>6 BY: ANDREW R. SOMMER, ESQ.</p> <p>7 and DAVID LIN, ESQ.</p> <p>8 1700 K Street, NW</p> <p>9 Washington, DC 20006</p> <p>10 202.282.5896</p> <p>11 asommer@winston.com</p> <p>12</p> <p>13</p> <p>14 For Patent Owner:</p> <p>15</p> <p>16 KRAMER LEVIN NAFTALIS &amp; FRANKEL LLP</p> <p>17 BY: MICHAEL LEE, ESQ.</p> <p>18 990 Marsh Road</p> <p>19 Menlo Park, California 94025-1949</p> <p>20 650.752.1716</p> <p>21 mhlee@kramerlevin.com</p> <p>22</p> <p>23</p> <p>24 ALSO PRESENT:</p> <p>25 Jennifer Williams, Videographer</p>	<p style="text-align: right;">Page 5</p> <p>1 EXHIBITS</p> <p>2 NUMBER PAGE</p> <p>3 Exhibit 1 Handwritten diagram 181</p> <p>4</p> <p>5 Exhibit 2 Handwritten diagram 223</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 Costa Mesa. California; Wednesday, February 22, 2017  2 9:06 a.m.  3  4  5 VIDEO OPERATOR: Good morning. We are on the  6 record at 9:06 a.m. on February 22nd, 2017. This is the  7 video-recorded deposition of Dr. Michael Goodrich. My  8 name is Jennifer Williams, here with our court reporter,  9 Gail Kennamer. We are here from Veritext Legal Solutions  10 at the request of Winston &amp; Strawn, counsel for  11 petitioner. This deposition is being held at 3050 Bristol  12 Street in Costa Mesa. The caption of this case is  13 Activision Blizzard, Inc., et al. versus Acceleration Bay,  14 LLC. Case number IPR2016-00724.  15 Please note that audio and video recording will take  16 place unless all parties agree to go off the record.  17 Microphones are sensitive and may pick up whispers,  18 private conversations, and cellular interference.  19 I am not related to any party in this action, nor am  20 I financially interested in the outcome in any way.  21 If there are any objections to proceeding, please  22 state them at the time of your appearance, beginning with  23 the noticing attorney.  24 MR. SOMMER: Andrew Sommer on behalf of  25 petitioner from Winston &amp; Strawn.</p>	<p style="text-align: right;">Page 8</p> <p>1 testify today about those opinions?  2 A. Yes.  3 Q. Okay. And are you prepared to testify  4 completely and truthfully about those opinions?  5 A. Yes.  6 Q. Is there any reason why you don't think you can  7 provide complete and truthful testimony today?  8 A. No.  9 Q. Okay. Now, you are a professor of computer  10 science; is that right, sir?  11 A. That's correct.  12 Q. And you've held various positions as a professor  13 of computer science since 1987; is that right?  14 A. Yes.  15 Q. One of your interests is with respect to  16 parallel and distributed computing; is that right?  17 A. That's correct.  18 Q. What is parallel and distributed computing?  19 A. Parallel and distributed computing deals with  20 algorithms, hardware, software for solving problems  21 involving more than one computer.  22 Q. Do you believe, sir, that you are an expert in  23 computer networking?  24 A. Yes.  25 Q. And do you feel that you have a firm grasp on</p>
<p style="text-align: right;">Page 7</p> <p>1 And I'm here with my colleague, David Lin.  2 MR. LEE: Michael Lee representing Acceleration  3 Bay, patent owner and the witness.  4 VIDEO OPERATOR: Thank you.  5 The witness will be sworn in, and counsel may begin  6 the examination.  7  8 MICHAEL GOODRICH, Ph.D.,  9 a witness herein, having been administered an oath, was  10 examined, and testified as follows:  11  12 -EXAMINATION-  13  14 BY MR. SOMMER:  15 Q. Good morning, sir.  16 A. Good morning.  17 Q. Would you state your full name for the record  18 for me, please.  19 A. Michael T. Goodrich.  20 Q. And Dr. Goodrich, is it?  21 A. Yes.  22 Q. Dr. Goodrich, you've rendered some opinions  23 regarding a '497 patent; is that right?  24 A. That is correct.  25 Q. And do you understand that you are here to</p>	<p style="text-align: right;">Page 9</p> <p>1 computer networking concepts and technology?  2 A. Yes.  3 Q. And did you rely on your understanding of  4 computer networking and technology to formulate the  5 opinions that you rendered in this matter?  6 A. Yes.  7 Q. Sir, have you taught any classes on computer  8 networking?  9 A. I've taught classes that included computer  10 networking topics in them.  11 Q. What types of classes were those, sir?  12 A. I teach a class on algorithms.  13 I teach a class on graph algorithms.  14 I have taught a class on Internet algorithmics, all  15 of which include networking.  16 Q. In the context of your experience with computer  17 networking and computer networking technology, have you  18 become familiar with the term channel?  19 A. Yes.  20 Q. What do you understand a channel to refer to in  21 the context of computer networking?  22 A. May I have a copy of my declaration in order to  23 answer that question?  24 Q. Well, I'm asking you just generally in the  25 context. Say I am one of your students, and you are</p>

<p style="text-align: right;">Page 230</p> <p>1 is, the first time an application attempts access to an  2 HTTP or WebFS site, the system checks for the presence  3 have first a WebFS server, and second, an HTTP server. If  4 either server exists, a directory entry is created in the  5 root WebFS directory. The name of the directory is equal  6 to the hostname of the remote server."  7 So I was here in my Paragraph 122 giving an example  8 of that, with using Yahoo.com as an example, exactly as  9 fitting that description here on the bottom of page 2.  10 And then I should have cited this yet again. I  11 apologize for that omission. But then I also cite to this  12 manual as further evidence of that understanding which  13 primarily comes from Exhibit 1007.  14 Q. When you say "that understanding," you're  15 referring to the understanding that a person of ordinary  16 skill in the art would have had reading Vahdat; correct?  17 A. That is correct.  18 Q. Is Exhibit 2028 reliable technical evidence in  19 your opinion?  20 A. I used it. I cited to it, but I didn't rely on  21 it for my conclusions. Instead, I relied directly on the  22 Vahdat reference. I was referring to it merely as  23 additional exemplary description of how the WebFS system  24 works.  25 Q. Are you saying that you cited to something that</p>	<p style="text-align: right;">Page 232</p> <p>1 Q. Where did you read that?  2 A. In the patent owner's response.  3 Q. When did you read the patent owner's response?  4 A. Last night, reviewing all the documents.  5 Q. Okay. Do you have any opinion about whether  6 it's prior art or not?  7 A. I don't have an opinion as I sit here today. I  8 don't think I -- I may have mentioned something along  9 those lines in my declaration.  10 Let me check.  11 (Indicating.)  12 Q. Let me direct you to a paragraph.  13 Paragraph 66, you say, "I understand from counsel  14 that Vahdat does not antedate the '497 Patent and is  15 therefore not prior art..."  16 You gained that in a discussion with counsel?  17 A. Yes.  18 Q. And you gained that in a discussion with counsel  19 before December 12th, 2016; correct?  20 A. That's correct.  21 Q. Tell me about the discussion with counsel.  22 MR. LEE: Caution the witness not to reveal any  23 attorney-client privilege.  24 MR. SOMMER: Is he your client?  25 MR. LEE: Otherwise, he can answer.</p>
<p style="text-align: right;">Page 231</p> <p>1 you're now believing is perhaps unreliable?  2 A. No, I'm not saying that either.  3 Q. Okay. Are you willing to testify today that  4 Exhibit 2028 is reliable evidence about WebFS?  5 A. I'm not sure what you mean by "reliable" then.  6 Are you asking -- If you are asking did I rely on it to  7 reach my conclusions, the answer is I cited to it, but I  8 relied on the Vahdat reference directly.  9 Q. Is there any reason to believe that the  10 statements in Exhibit 2028 are not technically true?  11 A. Just sitting here today, I'm not aware of any  12 that are untrue.  13 Q. Did you notice any when you reviewed and  14 analyzed the document before you cited it?  15 A. Nothing is coming immediately to mind. Again, I  16 wasn't using it for that purpose. I was using it as an  17 exemplary reference rather than the primary reference.  18 The primary reference is Vahdat.  19 Q. Do you have any idea when Exhibit 2028 was  20 created?  21 A. It's not dated.  22 Q. Do you know if it predates Vahdat?  23 A. I don't know the date. I'm confused about the  24 date for Vahdat also. I mean, I read some stuff about how  25 Vahdat is not even prior art.</p>	<p style="text-align: right;">Page 233</p> <p>1 THE WITNESS: I don't -- I don't understand how  2 to answer that question without -- I don't recall -- In  3 fact, I don't recall the specifics that led up to this,  4 other than I stand by this conclusion, that I do  5 understand from counsel that Vahdat does not antedate the  6 '497 patent.  7 BY MR. SOMMER:  8 Q. But you don't recall the discussion; correct?  9 A. I don't recall the details of that discussion.  10 MR. SOMMER: I have no further questions.  11 MR. LEE: Give me five minutes.  12 VIDEO OPERATOR: We're going off the record.  13 The time is 4:03.  14 (A recess is taken.)  15 VIDEO OPERATOR: We're back on the record.  16 The time is 4:08.  17 MR. LEE: I would like to designate the  18 transcript as Protective Order Material, and we reserve  19 the right to review and sign.  20 MR. SOMMER: Counsel, as you know, these  21 proceedings are open to the public and presumptively so.  22 Please tell me what you believe we covered today that is  23 Protective Order Material that warrants sealing the  24 transcript.  25 MR. LEE: Dr. Bims' declaration is marked as</p>

<p style="text-align: right;">Page 234</p> <p>1 Protective Order Material.</p> <p>2 MR. SOMMER: Let's go back to all of the times</p> <p>3 he referenced the Bims' transcript because I want to be</p> <p>4 able to share this with my clients without having them</p> <p>5 sign the undertaking. And I don't believe that there was</p> <p>6 any discussion of the Bims' declaration or any</p> <p>7 confidential material that was not otherwise in the public</p> <p>8 record.</p> <p>9 So can we go through and identify the lines where</p> <p>10 he's talked about the Bims' declaration?</p> <p>11 MR. LEE: The exhibit is marked -- It's marked</p> <p>12 as an exhibit in this transcript, and so this is -- the</p> <p>13 transcript is marked as Protective Order Material.</p> <p>14 MR. SOMMER: I'm sorry. Only for the purposes</p> <p>15 of Exhibit 2004, then?</p> <p>16 MR. LEE: The transcript is marked -- We don't</p> <p>17 need -- I'm saying we can discuss it offline if you</p> <p>18 want -- but I'm saying this transcript is marked as</p> <p>19 Protective Order Material.</p> <p>20 MR. SOMMER: I'm wondering why. Because I am</p> <p>21 allowed to have --</p> <p>22 MR. LEE: I gave you the reason why.</p> <p>23 MR. SOMMER: Because there's an exhibit that we</p> <p>24 discussed that is Protective Order Material?</p> <p>25 MR. LEE: Yes. That is entered into this</p>	<p style="text-align: right;">Page 236</p> <p>1 transcript as Protective Order Material.</p> <p>2 MR. SOMMER: Okay. And that is because he</p> <p>3 discussed Dr. Bims' declaration; correct?</p> <p>4 MR. LEE: That's because this declaration is</p> <p>5 entered into this deposition as an exhibit. There is no</p> <p>6 question that's designated as Protective Order Material.</p> <p>7 MR. SOMMER: I would request that any exhibits</p> <p>8 that are not -- that have been previously marked not be</p> <p>9 bound with the transcript. Does that eliminate your --</p> <p>10 MR. LEE: It's already been -- You said this has</p> <p>11 already been marked as an exhibit in here.</p> <p>12 MR. SOMMER: It's been marked in this</p> <p>13 proceeding, not to this declaration -- deposition.</p> <p>14 MR. LEE: It was marked as an exhibit in this --</p> <p>15 in this deposition.</p> <p>16 MR. SOMMER: Counsel, if we agree that the</p> <p>17 transcript not be bound with Exhibit 2004, what is the</p> <p>18 objection to the deposition transcript itself?</p> <p>19 MR. LEE: Are you going to withdraw every single</p> <p>20 question from all the exhibits that you put in?</p> <p>21 MR. SOMMER: The exhibit has been filed by your</p> <p>22 client in the record at the patent office. It doesn't</p> <p>23 need to be bound such that the whole transcript remains</p> <p>24 confidential.</p> <p>25 MR. LEE: If you want to call the Board about</p>
<p style="text-align: right;">Page 235</p> <p>1 proceeding; correct?</p> <p>2 MR. SOMMER: It is in this proceeding. So let's</p> <p>3 talk about exhibit exactly what's Protective Order --</p> <p>4 MR. LEE: No.</p> <p>5 MR. SOMMER: Yeah, we're not going off the</p> <p>6 record. We're not going off the record.</p> <p>7 Can you please point to me what was discussed such</p> <p>8 that we need to designate this entire document or the</p> <p>9 entire transcript as being Attorneys' Eyes Only</p> <p>10 information or under the Protective Order here?</p> <p>11 I know you guys have repeatedly over-designated</p> <p>12 material. You have been chastised by the Board in other</p> <p>13 proceedings for it. There are only two lines in this</p> <p>14 entire declaration that are flagged as being Protective</p> <p>15 Order Material that were redacted in the public version of</p> <p>16 this, and neither of them were discussed.</p> <p>17 So if you are unwilling to withdraw your request for</p> <p>18 redaction or designation of the transcript, then I say we</p> <p>19 need to get on the phone with the Board immediately.</p> <p>20 MR. LEE: Go ahead.</p> <p>21 MR. SOMMER: You would like to call the Board on</p> <p>22 this?</p> <p>23 MR. LEE: I don't withdraw --</p> <p>24 THE REPORTER: Repeat, please.</p> <p>25 MR. LEE: I'm not withdrawing designating the</p>	<p style="text-align: right;">Page 237</p> <p>1 this, you can. But I'm saying this is -- there is no</p> <p>2 question that this is Protective Order Material. It has</p> <p>3 been designated as an exhibit in this transcript, and</p> <p>4 that's why I'm marking this as -- transcript as Protective</p> <p>5 Order Material.</p> <p>6 MR. SOMMER: I'd like to go through the actual</p> <p>7 transcript, since we have just asked for the court</p> <p>8 reporter not to bind Exhibit 2004, for every reference to</p> <p>9 the Bims' declaration, which is the sole basis that you</p> <p>10 have identified for me as being the reason that you're</p> <p>11 going to designate the transcript in its entirety under</p> <p>12 the Protective Order because I don't want to deal with</p> <p>13 motions to seal. It's a cost issue. It's a waste of time</p> <p>14 and money for my client. So I'm going to do this right</p> <p>15 now. We're going to go through the transcript.</p> <p>16 MR. LEE: Not going to discuss this right now.</p> <p>17 MR. SOMMER: Well, Counsel, if I need to get on</p> <p>18 the phone with you to meet and confer over this again,</p> <p>19 then to call the Board, I'm going to seek my fees. I'm</p> <p>20 nearly \$900 an hour.</p> <p>21 MR. LEE: You can call the Board right now if</p> <p>22 you want.</p> <p>23 MR. SOMMER: It is 7:00 o'clock at night on the</p> <p>24 East Coast.</p> <p>25 MR. LEE: You are welcome to right now, but we</p>

<p style="text-align: right;">Page 238</p> <p>1 don't need to stay on the record to discuss this.</p> <p>2 MR. SOMMER: We do. We do. Because I want to</p> <p>3 know what --</p> <p>4 MR. LEE: I already stated my position.</p> <p>5 MR. SOMMER: Okay. Is your position --</p> <p>6 MR. LEE: If there is anything unclear about my</p> <p>7 position, you can ask me.</p> <p>8 MR. SOMMER: Yes, I'm going to right now, and</p> <p>9 I'd like a direct answer.</p> <p>10 MR. LEE: Otherwise, there is no reason to keep</p> <p>11 going on it. I already stated the position.</p> <p>12 MR. SOMMER: Okay. I'd like a direct answer;</p> <p>13 and then if you refuse to answer my question, we will get</p> <p>14 on the phone with the Board.</p> <p>15 Is it your position that the testimony that would be</p> <p>16 included in the transcript of Dr. Goodrich's testimony is</p> <p>17 confidential; and if so, what aspects of that testimony</p> <p>18 are confidential?</p> <p>19 MR. LEE: My position is that there's Protective</p> <p>20 Order Material that's been designated as an exhibit in</p> <p>21 this transcript, and this transcript should be designated</p> <p>22 as Protective Order Material. That's my position.</p> <p>23 MR. SOMMER: So you are not taking the position</p> <p>24 that he actually discussed confidential material on the</p> <p>25 record; correct?</p>	<p style="text-align: right;">Page 240</p> <p>1 MR. SOMMER: So is it your testimony -- Is it</p> <p>2 your position that if it says Protective Order Material,</p> <p>3 it's not confidential?</p> <p>4 MR. LEE: No. I'm just being clear. You are</p> <p>5 using this word confidential.</p> <p>6 MR. SOMMER: Okay.</p> <p>7 MR. LEE: To be clear, it says it's Protective</p> <p>8 Order Material.</p> <p>9 MR. SOMMER: And is it your position that only</p> <p>10 Protective Order Material can be confidential information?</p> <p>11 MR. LEE: Not sure what you are talking about,</p> <p>12 the confidential.</p> <p>13 MR. SOMMER: Let's talk about each time</p> <p>14 Dr. Bims' declaration is cited on the record.</p> <p>15 MR. LEE: We're not --</p> <p>16 MR. SOMMER: Sir, you are welcome to leave. I</p> <p>17 would like to know your position and I want to know --</p> <p>18 MR. LEE: You haven't -- I said you are welcome</p> <p>19 to ask him questions, and I have already answered them.</p> <p>20 There is no other question pending that you are asking</p> <p>21 from me.</p> <p>22 MR. SOMMER: What is your availability for a</p> <p>23 call with the Board tomorrow?</p> <p>24 MR. LEE: You can do it right now.</p> <p>25 MR. SOMMER: It's 7:00 p.m. on the East Coast.</p>
<p style="text-align: right;">Page 239</p> <p>1 MR. LEE: He did. This is the Protective Order</p> <p>2 Material, Exhibit 2004.</p> <p>3 MR. SOMMER: You do understand that --</p> <p>4 MR. LEE: It's designated as Protective Order</p> <p>5 material; correct?</p> <p>6 MR. SOMMER: Already in the case, yes.</p> <p>7 MR. LEE: Correct?</p> <p>8 MR. SOMMER: Yes. But it's not -- not going to</p> <p>9 be part of the transcript.</p> <p>10 MR. LEE: You want me to answer your question.</p> <p>11 You are not answering my question. Come on. Please.</p> <p>12 Just answer my question, please.</p> <p>13 MR. SOMMER: It is Protective Order material,</p> <p>14 but it will not be included with the transcript.</p> <p>15 MR. LEE: And this has been marked as an exhibit</p> <p>16 in this transcript; correct?</p> <p>17 MR. SOMMER: No. It's been previously filed</p> <p>18 with the Board.</p> <p>19 MR. LEE: You just told me it has. It's on the</p> <p>20 record it has.</p> <p>21 MR. SOMMER: Okay. So your position is any time</p> <p>22 a confidential exhibit is referred to on the record, the</p> <p>23 entire transcript --</p> <p>24 MR. LEE: It's marked as Protective Order</p> <p>25 Material.</p>	<p style="text-align: right;">Page 241</p> <p>1 I'm not going to track the Board.</p> <p>2 MR. LEE: We are not going to keep the</p> <p>3 deposition open for this.</p> <p>4 MR. SOMMER: Yes, we are.</p> <p>5 MR. LEE: No. You have already had the time.</p> <p>6 You can -- You can do it right now, but you can't call --</p> <p>7 keep it open until tomorrow.</p> <p>8 MR. SOMMER: I can do this right now, but it's</p> <p>9 after 7:00 --</p> <p>10 MR. LEE: You are not going to keep the</p> <p>11 deposition open until tomorrow. You can do it right now,</p> <p>12 but we're not going to keep the deposition open until</p> <p>13 tomorrow.</p> <p>14 MR. SOMMER: What is your availability for a</p> <p>15 call with the Board on Friday? Please check your</p> <p>16 calendar.</p> <p>17 MR. LEE: Friday?</p> <p>18 MR. SOMMER: Yes.</p> <p>19 MR. LEE: There is a deposition on Friday.</p> <p>20 MR. SOMMER: Will you be here?</p> <p>21 MR. LEE: Yes, I will be here. It's not going</p> <p>22 to be open until Friday. You can do it right now.</p> <p>23 MR. SOMMER: I'm not leaving this deposition</p> <p>24 open for the sole purpose of trying to figure out if this</p> <p>25 transcript should be designated confidential. What I'm</p>

<p style="text-align: right;">Page 242</p> <p>1 doing is getting you to commit to a time to call the Board</p> <p>2 so that I can move to have the -- you know, the Protective</p> <p>3 Order Material that doesn't exist in the transcript</p> <p>4 de-designated so that I don't have to file a motion to</p> <p>5 seal when I refer to it, and so that I may show it to my</p> <p>6 clients without having them sign the undertaking.</p> <p>7 If you are unwilling to agree to those provisions, I</p> <p>8 will also be seeking sanctions in the term of my costs for</p> <p>9 having to deal with this issue on Friday.</p> <p>10 So please let me know when you are available for the</p> <p>11 call with the Board.</p> <p>12 MR. LEE: I said I am available for the call for</p> <p>13 the Board today if you want to keep it open, but we're not</p> <p>14 going to keep it open until Friday.</p> <p>15 MR. SOMMER: We're not keeping this open for</p> <p>16 anything. I am telling you right now that I am going to</p> <p>17 request my fees --</p> <p>18 MR. LEE: The transcript will be closed.</p> <p>19 MR. SOMMER: The deposition is closed.</p> <p>20 MR. LEE: There is no reason to keep it on the</p> <p>21 record. Let's close the record.</p> <p>22 MR. SOMMER: I am not closing the record.</p> <p>23 (Simultaneous speaking.)</p> <p>24 THE REPORTER: You're talking at the same time.</p> <p>25 MR. LEE: You said it was closed.</p>	<p style="text-align: right;">Page 244</p> <p>1 MR. LEE: The deposition is closed. You can't</p> <p>2 keep it open like this.</p> <p>3 MR. SOMMER: Counsel, would you please give me</p> <p>4 your availability with the Board?</p> <p>5 MR. LEE: We are off the record.</p> <p>6 MR. SOMMER: I know you don't want to tell me</p> <p>7 anything on the record. You repeatedly --</p> <p>8 MR. LEE: No, there is no reason to discuss --</p> <p>9 keep the witness here --</p> <p>10 MR. SOMMER: The witness may leave.</p> <p>11 MR. LEE: No. We can't keep the witness.</p> <p>12 MR. SOMMER: Yes.</p> <p>13 MR. LEE: I need to go with him.</p> <p>14 MR. SOMMER: Why?</p> <p>15 THE WITNESS: Can I go or not go?</p> <p>16 MR. SOMMER: I would like to know when you are</p> <p>17 available for a call with the Board.</p> <p>18 MR. LEE: The deposition is closed. You already</p> <p>19 confirmed it.</p> <p>20 MR. SOMMER: So you are walking out on this?</p> <p>21 MR. LEE: We can discuss this off the record. I</p> <p>22 already said it multiple times.</p> <p>23 MR. SOMMER: If we go off the record, you will</p> <p>24 discuss it; but you won't on the record.</p> <p>25 MR. LEE: We can discuss this off the record.</p>
<p style="text-align: right;">Page 243</p> <p>1 MR. SOMMER: The witness's testimony is over. I</p> <p>2 am meeting and conferring with you.</p> <p>3 MR. LEE: Just answer my question. Is the</p> <p>4 deposition closed or not?</p> <p>5 MR. SOMMER: The witness's testimony is done, so</p> <p>6 yes.</p> <p>7 MR. LEE: Let's close the record. We don't need</p> <p>8 to be on the record anymore.</p> <p>9 MR. SOMMER: I disagree.</p> <p>10 MR. LEE: You agreed that the deposition is</p> <p>11 closed. We don't need to be on the record.</p> <p>12 MR. SOMMER: Will you let me know when you are</p> <p>13 available on Friday to call the Board?</p> <p>14 MR. LEE: The deposition is closed. We don't</p> <p>15 need to be on the record. Let's go off the record.</p> <p>16 Are you refusing to go off the record even though the</p> <p>17 deposition is closed?</p> <p>18 MR. SOMMER: Yes, I am. I am trying to hold a</p> <p>19 meet and confer.</p> <p>20 Are you refusing to give me a date and time that</p> <p>21 you're available to call the Board?</p> <p>22 The witness is free to go.</p> <p>23 MR. LEE: You cannot just keep the record open</p> <p>24 like this.</p> <p>25 MR. SOMMER: I would like --</p>	<p style="text-align: right;">Page 245</p> <p>1 There is no reason to keep it on the record. The</p> <p>2 deposition is closed.</p> <p>3 MR. SOMMER: You enjoy meeting and conferring</p> <p>4 off the record, but you won't put yourself on the record.</p> <p>5 MR. LEE: We will do this off the record.</p> <p>6 MR. SOMMER: Are you walking out?</p> <p>7 MR. LEE: I'm walking out. The deposition is</p> <p>8 closed. You confirmed it.</p> <p>9 MR. SOMMER: I would like the record to reflect</p> <p>10 he's walking out --</p> <p>11 (Simultaneous speaking.)</p> <p>12 MR. LEE: The deposition is closed, and you are</p> <p>13 trying to keep me here for no reason.</p> <p>14 MR. SOMMER: There is a very good reason, sir.</p> <p>15 MR. LEE: There is no reason. The deposition is</p> <p>16 closed. You confirmed this; yes?</p> <p>17 MR. SOMMER: The witness's testimony is --</p> <p>18 MR. LEE: "Yes" or "No," the deposition is</p> <p>19 closed; correct?</p> <p>20 MR. SOMMER: I have the luxury of a court</p> <p>21 reporter.</p> <p>22 MR. LEE: You don't answer my question ever.</p> <p>23 Is the deposition closed?</p> <p>24 MR. SOMMER: The witness's testimony is over.</p> <p>25 MR. LEE: See?</p>

<p style="text-align: right;">Page 246</p> <p>1 MR. SOMMER: What do you mean by is the 2 deposition closed? 3 MR. LEE: Is the deposition closed? The 4 deposition is closed; correct? Third time, the deposition 5 is closed; correct? 6 MR. SOMMER: The witness's testimony -- 7 MR. LEE: The deposition is closed; correct? 8 The deposition is closed; correct? You won't answer. 9 It's closed. 10 MR. SOMMER: Sir, you are being antagonistic. 11 I'm just trying to get your availability to meet and 12 confer with the Board. 13 MR. LEE: You won't answer the question. The 14 deposition is closed. We can talk off the record. 15 MR. SOMMER: The witness may leave. The witness 16 is excused. I don't -- I would like to talk with you on 17 the record. 18 MR. LEE: We don't need to be on the record 19 anymore. 20 MR. SOMMER: Sir, you are being unreasonable. 21 MR. LEE: Let's go off the record. Are you 22 refusing to go off the record? 23 MR. SOMMER: Yes, I am. 24 MR. LEE: This is unreasonable. I will call -- 25 We're going to -- I will call the Board for this, so we</p>	<p style="text-align: right;">Page 248</p> <p>1 The time is 4:26. 2 MR. SOMMER: So over the last few minutes, 3 counsel for the patent owner stepped out and attempted to 4 contact the Board and was unable to do so. 5 He is maintaining his designation of the transcript. 6 I maintain that the designation is improper; and not 7 just improper given the caveats that I offered, 8 sanctionable. 9 We will try to contact the Board, and I expect 10 counsel this evening to give me a list of times and dates 11 that he's available for the call with the Board. 12 MR. LEE: I disagree with the characterization 13 and consider this deposition closed. 14 And we still maintain that the transcript is marked 15 as Protective Order Material. 16 VIDEO OPERATOR: This concludes today's 17 testimony given by Dr. Michael Goodrich. 18 The total number of media used was four and will be 19 retained by Veritext Legal Solutions. 20 We're off the record at 4:27. 21 22 (TIME NOTED: 4:27 P.M.) 23 24 25</p>
<p style="text-align: right;">Page 247</p> <p>1 can -- we can go off the record and contact the Board. 2 MR. SOMMER: Well, I think we should contact the 3 Board on the record. 4 MR. LEE: So let's -- let's take a break, and we 5 will contact the Board. 6 MR. SOMMER: Okay. 7 THE WITNESS: So we're taking a break? 8 MR. SOMMER: You may leave, sir. 9 MR. LEE: You are refusing to go off the record 10 and keeping me here just for this; right? 11 MR. SOMMER: I would like to know your 12 availability to call the Board, and you are unwilling to 13 provide it, and now you left. 14 (Counsel and the witness leave the deposition room.) 15 THE REPORTER: Are we off the record? 16 MR. SOMMER: No. Apparently, he's trying to 17 call the Board. 18 THE REPORTER: Okay. 19 (Silence in proceedings.) 20 MR. SOMMER: Why don't we go off the record 21 until he comes back, and then we'll close it out. 22 VIDEO OPERATOR: Going off the record. 23 The time is 4:21. 24 (A recess is taken.) 25 VIDEO OPERATOR: We're back on the record.</p>	<p style="text-align: right;">Page 249</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 I, MICHAEL GOODRICH, PH.D., do hereby certify 3 that I have read the foregoing transcript of my 4 testimony taken on 2/22/17, and further certify 5 that it is a true and accurate record of my 6 testimony (with the exception of the corrections 7 listed below): 8 Page Line Correction 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 MICHAEL GOODRICH, PH.D. 23 SUBSCRIBED AND SWORN TO BEFORE ME 24 THIS ____ DAY OF _____, 20____. 25 _____ (NOTARY PUBLIC) MY COMMISSION EXPIRES:</p>



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I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby, certify:  
That the foregoing proceedings were taken before me at the time and place therein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further that the foregoing is an accurate transcription thereof.  
I further certify that I am neither financially interested in the action nor a relative or employee of any attorney or any of the parties.  
IN WITNESS WHEREOF, I have this date subscribed my name.  
Dated: February 24, 2017



GAIL E. KENNAMER, CSR 4583, CCRR