

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

SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner

V.

UNILOC LUXEMBOURG S.A.,
Patent Owner

Case No. IPR2017-01799

Patent No. 8,199,747

ORAL DEPOSITION OF WILLIAM C. EASTTOM, II

AUGUST 6, 2018

Reported By: Susan Foreman

Job No: 144981

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

SAMSUNG ELECTRONICS AMERICA, INC.,
Petitioner

V.

UNILOC LUXEMBOURG S.A.,
Patent Owner

Case No. IPR2017-01800

Patent No. 8,243,723

ORAL DEPOSITION OF WILLIAM C. EASTTOM, II
AUGUST 6, 2018

1
2 ANSWERS AND DEPOSITION OF WILLIAM C. EASTTOM,
3 II, produced as a witness at the instance of the
4 Petitioner, taken in the above-styled and -numbered
5 cause on the 6th day of August, 2018, at 9:47 a.m.,
6 before Susan M. Foreman, a Certified Shorthand Reporter
7 in and for the State of Texas, at the Renaissance Dallas
8 at Plano Legacy West Hotel, located at 6007 Legacy
9 Drive, Plano, Texas 75024, in the City of Plano, County
10 of Collin, and State of Texas, in accordance with the
11 agreement hereinafter set forth or in accordance with
12 the Federal Rules of Civil Procedure.

A P P E A R A N C E S

FOR THE PETITIONER SAMSUNG ELECTRONICS AMERICA, INC.

MR. PHILLIP CITROEN, ESQ.

MR. MICHAEL WOLFE, ESQ.

MR. JOSEPH POLYS, ESQ.(VIA TELEPHONE)

PAUL HASTINGS

875 15th Street Northwest

Washington, DC 20005

FOR THE PATENT OWNER UNILOC LUXEMBOURG S.A.

MR. RYAN LOVELESS, ESQ.

ETHERIDGE LAW GROUP

2600 East Southlake Boulevard

Southlake, TX 76092

WILLIAM C. EASTTOM, II

I N D E X

PAGE

Appearances..... 4

WILLIAM C. EASTTOM, II

Examination by Mr. Citroen..... 6

Reporter's Certificate..... 67

1 WILLIAM C. EASTTOM, II

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

3 WILLIAM C. EASTTOM, II

4 having been first duly sworn, testified as follows:

5 EXAMINATION

6 BY MR. CITROEN:

7 Q. Welcome back --

8 A. Thank you.

9 Q. -- again.

10 Okay. Can you please state your name and
11 address for the record?

12 A. William Charles Easttom, II, 5605 Woodspring
13 Drive, Plano, Texas.

14 Q. And, again, let's -- I know you know this
15 already, but let's try not to speak over each other.
16 Let me finish my question before you answer, and I'll
17 let you answer before I ask my next question. If you
18 don't understand a question or it's not clear, just let
19 me know and I'll repeat or rephrase the question.

20 Is there any reason you cannot testify
21 completely, truthfully, and accurately today?

22 A. No.

23 Q. And you understand you're under oath?

24 A. Yes.

25 Q. Okay. I'm going to hand you some documents.

1 WILLIAM C. EASTTOM, II

2 Let start...

3 Do you recognize this document?

4 A. Yes, I do.

5 Q. And can you tell me what this document is?

6 A. U.S. Patent 8,243,723 B2.

7 Q. Is it okay if we refer to this as the '723
8 patent?

9 A. Yes.

10 Q. Okay. And is there an exhibit number on this
11 document at the bottom right-hand corner?

12 A. Yes. It states Samsung Exhibit 1001.

13 MR. CITROEN: For the record, that's
14 Exhibit 1001 in IPR2017-01800.

15 Q. I'm going to hand you another document. Once
16 you've had a chance to look at that document, please let
17 me know if you recognize it.

18 A. This appears to be my declaration in reference
19 to the aforementioned patent and IPR proceedings.

20 Q. This declaration contains your opinions related
21 to the '723 patent?

22 A. That is correct.

23 Q. Okay. And is there an exhibit number on this
24 document?

25 A. Yes. It says Uniloc's Exhibit 2001.

1 WILLIAM C. EASTTOM, II

2 Q. Okay.

3 MR. CITROEN: And for the record, that's
4 Exhibit 2001 in the proceeding IPR2017-1800.

5 Q. I'm going to hand you another document. Do you
6 recognize this document?

7 A. Yes, this is a supplemental declaration of mine
8 in reference to the aforementioned IPR and patent.

9 Q. And is there an exhibit number on this
10 document?

11 A. It says Uniloc's Exhibit 2009.

12 Q. Okay.

13 MR. CITROEN: For the record, that's for
14 IPR2017-1800.

15 Q. And does this declaration also include some of
16 your opinions with respect to the '723 patent?

17 A. Yes.

18 Q. Okay. Hand you some more documents. Do you
19 recognize this document?

20 A. Yes, this is U.S. Patent 8,199,747 B2.

21 Q. Is it okay if we refer to this as the '747
22 patent?

23 A. Certainly.

24 Q. And is there an exhibit number that you see on
25 this document?

1 WILLIAM C. EASTTOM, II

2 A. Yes. It is Samsung Exhibit 1001.

3 Q. Okay.

4 MR. CITROEN: For the record, that's
5 Exhibit 1001 in IPR2017-01799.

6 Q. And one more. Do you recognize this document?

7 A. Yes, this is my declaration in reference to the
8 IPR2017-01799, the '747 patent.

9 Q. So this document includes your opinions with
10 respect to the '747 patent?

11 A. That is accurate.

12 Q. Okay. And is there an exhibit number on this
13 document?

14 A. It states Uniloc's Exhibit 2001.

15 Q. Okay.

16 MR. CITROEN: And for the record, that's
17 Exhibit 2001 for IPR2017-01799.

18 Q. I'm going to sound like a broken record, but
19 did you spend any time preparing for today's deposition?

20 A. Yes, but not since the last deposition.

21 Q. Okay. Can you tell me what you did to prepare?

22 A. Rereading these declarations, rereading the
23 patents in question, rereading other related documents
24 that are listed within my declarations.

25 Q. And when did you reread these declarations

1 WILLIAM C. EASTTOM, II

2 before you?

3 A. The most recently, this preceding weekend.

4 Q. Okay. How much time do you believe you spent
5 preparing for this deposition?

6 A. Well, it's difficult to tease out because there
7 are so many connected depositions, six IPRs in total.
8 I'm going to estimate 12 hours, roughly, of reading.

9 Q. Okay. Did you have any meetings with anyone
10 with respect to this deposition?

11 A. Yes.

12 Q. How many meetings did you have?

13 A. One with Mr. Loveless. It was via phone this
14 preceding Monday, one week ago today, I believe. It was
15 approximately an hour, hour and a half.

16 Q. Okay. Did you speak with anyone else to
17 prepare for today's deposition?

18 A. No.

19 Q. Did you speak to anyone else about this
20 deposition?

21 A. Yes.

22 Q. Who is that?

23 A. I always tell my wife where I'm going to be.

24 Q. Okay. That's a good idea.

25 So the declarations before you, do they

1 WILLIAM C. EASTTOM, II

2 identify the documents that you reviewed in preparing
3 your opinions that are contained in these declarations?

4 A. Yes.

5 Q. And which document are you looking at?

6 A. Well, to begin with, I'm looking at my original
7 declaration in the IPR that ends in 1800 for the '723
8 patent. Paragraph 4 lists reviewing the patent, its
9 prosecution file wrapper; state of the art at the time
10 of the application; the references asserted by Samsung
11 in their petition; the declaration of Dr. Haas, the
12 references relied upon in that petition, primarily
13 Zydney and Griffin; the declaration by Dr. Val DiEuliis
14 from a previous IPR; and I believe those are the ones
15 mentioned, yes.

16 Q. Are there any documents that are not identified
17 in paragraph 4 that you considered in rendering your
18 opinions for this declaration?

19 A. I don't think so.

20 MR. LOVELESS: Object, form.

21 Q. Okay. In paragraph 4 you have listed the
22 declaration of Dr. Val DiEuliis from IPR2017-01365.

23 Do you see that?

24 A. Yes, I do.

25 Q. Why did you review his declaration in preparing

1 WILLIAM C. EASTTOM, II

2 your declaration in the 1800 proceeding?

3 A. Well, this has been over a year, so best of my
4 recollection, I was attempting to acquire and review
5 every document related to this patent. I don't have any
6 specific memory of his declaration having any particular
7 impact on my opinions.

8 Q. Okay. Did you rely on his opinions in forming
9 your own?

10 A. No, I always form independent opinions.

11 Q. Okay. Do you agree with everything that's
12 stated in Dr. Val DiEuliis' declaration in the 31365
13 proceeding?

14 MR. LOVELESS: Objection, form.

15 A. Well, I don't believe any part of my analysis
16 was to agree or disagree with him. And sitting here
17 today, I don't even recall what his opinions were. So I
18 don't know if I agree or disagree.

19 Q. Okay. Did you consider declarations of any
20 other experts other than Dr. Haas and Dr. DiEuliis in
21 preparing your declaration for the 1800 proceeding?

22 A. None that I can recall sitting here.

23 Q. Did you review the declaration of Dr. DiEuliis
24 before today's deposition?

25 A. Are you asking if in preparation the preceding

WILLIAM C. EASTTOM, II

few weeks or days, had I done that?

Q. Yes.

A. No, I don't recall having looked at it since I wrote this declaration.

Q. Okay.

Okay. Do you have a similar list of items that you considered when rendering your opinions for the -- I believe it's the 1799 proceeding involving the '747 patent?

A. Yes, I do.

Q. And where is that?

A. Also in paragraph 4 --

Q. Okay.

A. -- of that separate declaration.

Q. Okay. Did you consider anything that is not listed here in paragraph 4 in rendering your opinions for the 1799 proceeding?

MR. LOVELESS: Objection, form.

A. Nothing that I recall.

Q. Okay. And do you see the declaration of Dr. Val DiEuliis from IPR2017-01257?

A. Yes, I do.

Q. And do you recall why you reviewed this declaration of Dr. DiEuliis in preparing your opinions

1 WILLIAM C. EASTTOM, II

2 for the 1799 proceeding?

3 A. I don't actually recall the why. In general, I
4 try to review everything related to the patent, but
5 nothing in his opinions stands out as having any impact
6 on my opinions or analysis.

7 Q. Do you agree with the opinions in Dr. DiEuliis'
8 declaration that you reviewed?

9 MR. LOVELESS: Objection, form.

10 A. Well, no part of my analysis was even designed
11 to agree or disagree or to evaluate his opinions; and
12 sitting here today, having not read his declaration in a
13 year, I don't even know what his opinions were.

14 Q. Is there anything you recall that you disagree
15 with in Dr. DiEuliis' declaration for the IPR2017-01257
16 proceeding?

17 MR. LOVELESS: Objection, form.

18 A. I don't recall what his opinions were, so I can
19 neither agree nor disagree with them.

20 Q. If you can go to paragraph 38 of that
21 declaration.

22 A. (Witness complies.)

23 Yes, now, this does refresh my memory. I
24 think Dr. DiEuliis utilized an analogy, and I found his
25 analogy to be useful in describing. And since it was

1 WILLIAM C. EASTTOM, II

2 his analogy, I did give him credit for the original
3 analogy.

4 Q. So the first two sentences you state: I read
5 the declaration of Dr. Val DiEuliis in IPR2017-01257.
6 While I formed my own independent opinions, I am in
7 agreement with Dr. DiEuliis.

8 I just want to understand. Does that mean
9 you're in agreement with everything stated in the
10 declaration of Dr. DiEuliis?

11 A. That wasn't a part of my analysis. If we take
12 this paragraph in its entirety, as opposed to isolating
13 a sentence, it goes on to say: Dr. DiEuliis, in
14 IPR2017-01257, which also challenged the '747 patent
15 based on Zydney, used an analogy that I find apt and
16 useful.

17 The analogy is: A container object is like
18 a box. It holds things, but it's not the things it
19 holds. For example, if a box contains paperclips, the
20 actual box itself is not a paperclip.

21 So what I'm stating in this paragraph is
22 that I agree with Dr. DiEuliis that a container is not
23 what it contains, that it's a separate entity in and of
24 itself; and I agree that his analogy is a pretty good
25 description. Beyond that, I have no opinions on his

1 WILLIAM C. EASTTOM, II

2 opinions.

3 Q. Okay. So you may agree or disagree with the
4 rest of Dr. DiEuliis' opinions in his declaration?

5 A. I don't know what they are, so I cannot agree
6 or disagree.

7 Q. You don't know what they are because you don't
8 recall or because you didn't review his entire
9 declaration?

10 MR. LOVELESS: Objection, form.

11 A. Well, anytime I reference a document, I read
12 the entire document. That's my normal practice, and I
13 don't know of any exceptions I've ever made to that.
14 Again, we're trying to recall what exactly I did over a
15 year ago.

16 But sitting here today, I don't recall what
17 his opinions were. But I certainly read the entire
18 document over a year ago. I formed my own opinions,
19 didn't base them on his. So I read his document, then
20 moved on to other more relevant items.

21 Q. Okay. So other than the six proceedings
22 involving Uniloc and Samsung before the PTAB, are you
23 involved in any other proceedings involving these Uniloc
24 patents?

25 A. I don't recall. There are a number of Uniloc's

1 WILLIAM C. EASTTOM, II

2 proceedings I'm involved in with various parties. I
3 don't recall if these specific patents are part of those
4 proceedings or not.

5 Q. Okay. Have you worked with Uniloc in any other
6 matters other than the six that we've discussed over the
7 last few days?

8 A. Yes.

9 Q. Okay. Which matters are those?

10 A. As best as I could, I listed them in my CV
11 that's attached to my declaration.

12 Sitting here today, I am currently also
13 working with some Uniloc attorneys, a different law
14 firm, regarding some cases involving Apple.

15 Many years ago I --

16 Q. Before you move on, is that before the PTAB or
17 the District Court?

18 A. I believe it was before the District Court, but
19 I believe there may also be some IPRs involved.

20 Q. Okay. Sorry to interrupt. Go ahead.

21 A. No problem.

22 And about seven or eight years ago, I
23 worked with Uniloc via the Etheridge Law Firm on a
24 patent regarding software activation. Now, in that
25 case, I was not a testifying expert; I was simply

1 WILLIAM C. EASTTOM, II

2 consulting to examine products and then to say, yes, I
3 believe this may infringe; or, no, I don't believe it
4 does.

5 Q. Okay. Do you recall any other matters that you
6 worked on that involved Uniloc?

7 A. Those ones come to mind. But for about the
8 past 18 months, I've been handling a few different
9 matters, so there are several involved.

10 Q. Okay. Have you ever worked with any of the
11 Samsung entities?

12 A. Not that I recall.

13 Q. Okay. So you have before you the '890 patent
14 -- I'm sorry, the '747 patent and the '723 patent?

15 A. Yes, I do.

16 Q. You do not have the '890 patent in front of
17 you?

18 A. No, I do not.

19 Q. Okay. Are these two patents related, the '747
20 and '723?

21 A. Yes.

22 Q. And they're part of a chain of continuations;
23 is that your understanding?

24 A. That is my understanding.

25 Q. And are these two patents also related to the

1 WILLIAM C. EASTTOM, II

2 '622 patent, the '433 patent, and the '890 patent that
3 we have discussed over the past few days?

4 A. I believe they are.

5 Q. Is it your understanding that they're all part
6 of the same chain of continuations?

7 A. That is my understanding.

8 Q. Okay. In preparing your declarations, did you
9 review the entirety of the '747 patent and the '723
10 patent?

11 A. Yes.

12 Q. Okay. And what about in preparation for
13 today's deposition, did you review the entirety of the
14 '723 patent and '747 patent?

15 A. Yes.

16 Q. Okay. And that was over this weekend?

17 A. Yes.

18 Q. I'm going to hand you a document you're
19 probably very familiar with. After you've had a chance
20 to look, can you tell me what that document is?

21 A. This is the International Patent Publication
22 Number WO 01/11824 A2, also commonly being referred to
23 throughout all these documents as Zydney.

24 Q. Okay. Is it okay if we refer to it as Zydney?

25 A. Certainly.

1 WILLIAM C. EASTTOM, II

2 Q. Okay. Is there an exhibit number on this
3 document?

4 A. It states Samsung Exhibit 1006.

5 MR. CITROEN: Just for the record, that's
6 Exhibit 1006 in both IPRs 2017-01799 and -01800.

7 Q. And did you review Zydney in its entirety when
8 preparing your declarations in the '747 and '723
9 proceedings?

10 A. That's correct.

11 Q. Okay. And did you review Zydney in its
12 entirety before today's deposition, in addition to your
13 review in preparation of your declarations?

14 A. Yes.

15 Q. And when did you review Zydney in preparation
16 for today's deposition?

17 A. At some point last week.

18 Q. Okay. And do you understand the disclosure of
19 Zydney?

20 A. I believe so, yes.

21 Q. Do you believe you've had enough time to review
22 the disclosure of Zydney?

23 A. Yes.

24 Q. Okay. If you can go to page 14 of Zydney.

25 A. I have it in front of me.

1 WILLIAM C. EASTTOM, II

2 Q. I want to ask you: What would be a person of
3 ordinary skill in the art's understanding at the time of
4 the alleged invention of software agent as described in
5 Zydney?

6 MR. LOVELESS: Objection, form, scope.

7 A. I don't believe that was part of my declaration
8 opinions, but reading Zydney sitting in front of me now,
9 the very first paragraph on the page that you directed
10 my attention to states: Software agent sender with a
11 simple software agent loaded on a personal computer or
12 other internet compatible appliance, the sender will
13 log-on, authenticate, and notify the central server of
14 its status. To create a message, the software agent
15 will address, pack, and send the message in a voice
16 container.

17 So reading what Zydney states at the top of
18 page 14, this is defining a software agent as, first of
19 all, software. It's loaded on some personal computer or
20 any other internet-compatible appliance, and it's used
21 to -- well, essentially, to log-on and notify the
22 central server of its status and to pack these voice
23 containers that are central throughout Zydney. The
24 voice container is the critical part of Zydney.

25 Q. And is it also -- you may have mentioned this

1 WILLIAM C. EASTTOM, II

2 -- a recipient software agent within Zydney's system? I
3 think it's described there as well on page 14, but if
4 you want to look at some other places, you can.

5 A. The best place to look at it is on page 14, and
6 it's two paragraphs down: Software agent recipient. If
7 the recipient is not online, the messages will be
8 transported to them when they log-on to a network. The
9 software agent will open the voice container upon
10 arrival and play the message to the user.

11 So, again, we're back to these containers,
12 and the recipient software agent is responsible for
13 opening and unpacking them.

14 Q. And what is a container, to a person of
15 ordinary skill in the art reading Zydney at the time of
16 the alleged invention?

17 A. Well, that one, I believe, I actually discuss
18 in my declaration. So if you will give me just a
19 moment. We are still on IPR 799 -- 1799?

20 Q. Yes. I'm discussing both declarations.

21 A. Well, I want to make sure I'm looking at the
22 right declaration and don't...

23 Q. Sure. Either one is fine. If you just let me
24 know which one you're looking at.

25 A. Certainly. I'm looking at the 1799, please.

1 WILLIAM C. EASTTOM, II

2 Q. Okay.

3 A. Well, a great deal of that answer to your
4 question comes from paragraph 37 of this declaration.

5 Q. Okay.

6 A. And I actually quote Zydney in there, so it's
7 directly from the Zydney patent. Zydney explains: The
8 present invention is a system and method for voice
9 exchange and voice distribution utilizing a voice
10 container.

11 Zydney, emphasis added: Those voice
12 containers can be stored, transcoded, and routed to the
13 appropriate recipients instantaneously or stored for
14 later delivery.

15 I go on to state, Zydney explains that: A
16 voice container is a container object that contains no
17 methods but contains voice data or voice data and voice
18 data properties.

19 In my opinion, a person of ordinary skill
20 in the art would have understood that Zydney's voice
21 container is an object using object-oriented programming
22 language, with which I am very familiar, such as Java or
23 C++.

24 Q. Does Zydney's voice container include an
25 identifier of the sending software agent?

1 WILLIAM C. EASTTOM, II

2 A. One moment, please.

3 Q. I just noticed this. If it's helpful, I think
4 figure 3 is an example of voice container.

5 A. I'm first checking my declaration. I see that
6 I mentioned Griffin, but I don't yet find Zydney
7 discussing those sorts of things.

8 Ah, paragraph 46: Zydney's voice container
9 is not an audio file. In fact, Zydney teaches that the
10 voice container is specifically used to carry far more
11 than just audio data. Specifically, figure 3 of Zydney
12 shows that the voice container includes a large amount
13 of other information, such as originator's code,
14 recipient's code, originating time, delivery time,
15 number of plays, voice container source, voice container
16 reuse restrictions, delivery priority, session values,
17 and repeating information.

18 Q. So the originator's code, is that referring to
19 the software agent of the originator?

20 A. One moment, please.

21 Q. Sure.

22 A. Where did you see figure 3, what page, if you
23 could refresh my memory?

24 Q. In Zydney?

25 A. Yes, please. It's a rather long document.

1 WILLIAM C. EASTTOM, II

2 Q. It is.

3 A. So I think I found it.

4 Q. Page 4 of 15, I believe.

5 A. I'm seeing it on page 45 of 56.

6 Q. Oh, are you reading the exhibit number?

7 A. No, I'm reading the page 45 of 56.

8 Q. Yeah, so the page of the exhibit. So it's

9 Exhibit 1006, page 45 of 56 of that exhibit?

10 A. That is correct.

11 Could you please repeat the question? I've
12 lost track of it in the process.

13 Q. Sure.

14 The originator's code, which is the term
15 used in your declaration, is that referring to the
16 software agent of the originator?

17 A. I don't specifically recall sitting here.
18 Allow me to look through Zydney and see what it says.

19 Well, I'm reading off page 30 of 56 in
20 Zydney, and it states: Each software agent on the
21 system will have a 32-character agent ID.

22 But it doesn't explicitly say that that
23 originator or recipient ID is the agent ID, but that
24 seems like a possibility.

25 Q. Okay. Where were you reading from? I'm sorry.

1 WILLIAM C. EASTTOM, II

2 A. I'm sorry. Page -- well, it's actually
3 numbered page 29, but it says at the bottom page 30 of
4 56. I'm not sure why the discrepancy in the numbering.

5 Q. One is an exhibit number and one is the page
6 number of Zydney itself. So the -- which number are you
7 reading, from the bottom left?

8 A. Bottom left, page 30 of 56, which is page 29
9 with the other number.

10 Q. Okay. Flipping through Zydney, it looks like
11 on page 34 --

12 A. Which page 34?

13 Q. -- of Zydney itself.

14 A. Okay.

15 Q. The first full paragraph there.

16 A. Beginning with "Each message"?

17 Q. Yes, sir.

18 A. Each message will have a unique identifier that
19 will encode the sending software agent's identifier, the
20 destination software agents, and nonregistered users,
21 the codec used, the date and time of the message, the
22 forwarding rules and permissions, the body of the
23 message, and whether the message was received, played,
24 or deleted without listening.

25 So to answer your initial question,

1 WILLIAM C. EASTTOM, II

2 apparently, yes.

3 Q. Okay. And then in figure 3, there's also a
4 recipient's code, which you also reference in paragraph
5 46 of your 1799 declaration. Just a similar question as
6 before, but is that referring to the identifier of the
7 destination software agent?

8 A. Yes.

9 Q. Okay. So we can go back to page 14. Let me
10 know when you're ready.

11 A. The first full paragraph begins with "Software
12 agent sender"?

13 Q. Correct.

14 A. Then I am ready.

15 Q. In the last paragraph that begins on page 14, I
16 think, it runs to the next page, it states: To use the
17 present invention system and method for voice exchange
18 and voice distribution, the originator selects one or
19 more intended recipients from a list of names that have
20 been previously entered into the software agent.

21 Do you see that?

22 A. Yes, I do.

23 Q. Okay. And then the next sentence states: The
24 agent permits a number of distinct modes of
25 communication based on the status of the recipient.

1 WILLIAM C. EASTTOM, II

2 Do you see that?

3 A. Yes, I do.

4 Q. What is the status of the recipient?

5 A. Well, just a --

6 MR. LOVELESS: Form.

7 A. -- few sentences down, it begins: The status
8 of all recipients entered into the software agent is
9 frequently conveyed to the software agent by the central
10 server. This includes whether the core states of
11 whether the recipient is online or offline but also
12 offers related status information, for example, whether
13 the recipient does not want to be disturbed.

14 Q. Looking on page 15, a paragraph that begins on
15 14 and ends on 15 -- I'm referring to the page numbers
16 of Zydney itself, do you see the sentence, "Considering
17 just the two core states, the software agent offers the
18 originator alternative ways to communicate with the
19 recipient"?

20 A. Yes, I see that sentence.

21 Q. The two core states, is that referring to
22 online and offline?

23 MR. LOVELESS: Objection, form.

24 A. Well, according to the sentence I just
25 previously read, it explicitly states: This includes

1 WILLIAM C. EASTTOM, II

2 whether the core states of whether the recipient is
3 online or offline.

4 Q. Okay. So the alternative ways of communicating
5 based on the two core states, are those described
6 beginning in the next two paragraphs? You have the
7 first full paragraph on 15 that says, "If online," and
8 then the second full paragraph that says, "If offline"?

9 A. That's correct.

10 Q. Okay. And so if online, Zydney explains that:
11 The originator can either begin a real-time intercom
12 call which simulates a telephone call, or a voice
13 instant messaging session, which allows for
14 interruptible conversations.

15 Do you see that?

16 A. That is precisely what the sentence says.

17 Q. So if the core state of the software agent is
18 online, the software agent can communicate with the
19 recipient using either the real-time intercom call
20 method or the voice messaging method?

21 A. To be clear and to put it in my own words, if
22 the recipient is online, the originator can choose to
23 send that voice container either intercom fashion or to
24 be opened and unpacked and utilized later.

25 Q. What do you mean by that last part? You lost

1 WILLIAM C. EASTTOM, II

2 me.

3 So you stated in either -- it can be
4 communicated in either intercom fashion or be opened and
5 unpacked.

6 A. Well, the difference between the intercom and
7 the messaging and the way they put messaging is -- he
8 explicitly states -- at least here; there's other parts,
9 of course, where he discusses it. He states: Which
10 allows for an interruptible conversation.

11 So the difference here is I have this voice
12 container that contains a bunch of different things.
13 How do I want to deliver it to you? Now, if you're
14 online, I have a couple of choices. Intercom mode means
15 I'm delivering you that container right now.
16 Presumably, your recipient agent will unpack the
17 container and extract some message from inside it in
18 real time, presumably.

19 The second option is I'm sending it to you,
20 the container, in what they're defining here as an
21 interruptible conversation. In other words, I'm
22 dropping that container on you, and at some point in the
23 future, you, using your recipient software agent, may
24 choose to unpack the container and extract whatever
25 message may be in there, along with the other stuff

1 WILLIAM C. EASTTOM, II

2 that's in the container.

3 Q. What's your understanding of Zydney's intercom
4 real-time mode that's described here?

5 MR. LOVELESS: Objection, form, scope.

6 A. Well, that is what we were just discussing
7 wherein, in the real time or intercom mode, the
8 containers are sent right now, and it's assumed that
9 they'll be unpacked right now.

10 Q. Is the intercom mode -- does that involve
11 sending a small portion of the digitized voice rather
12 than transmitting the entire conversation before it's
13 completed?

14 A. Well, that's very important because I believe I
15 actually discuss that in my declaration, if you give me
16 just a moment.

17 Q. Sure.

18 A. Well, I'm not finding it right here. It may
19 have been in the other declaration.

20 But I do recall discussing in my
21 declaration that you're going to get a portion of the
22 message in real time, not the entire message, once
23 you've unpacked the container.

24 Q. So comparing -- going back to the "if online"
25 state on page 15, comparing the intercom mode to the

1 WILLIAM C. EASTTOM, II

2 voice instant messaging session, the intercom mode,
3 you're transmitting a portion in the container of the
4 conversation; and then the second alternative, you would
5 be transmitting the entire conversation?

6 A. Well, to be totally clear -- and I'm sure this
7 is in one of these declarations. Let me check the
8 second declaration. That may be better than answering
9 off the cuff.

10 Q. Sure. And by "second declaration," which one
11 are you looking at?

12 A. This is the 1800.

13 Q. Okay.

14 A. I'm unable to find it now in either
15 declaration, but I have a specific memory of a partial
16 playback based on, in part, the capability of the
17 recipient to load. It may not be able to load the
18 entire message. It may only play a portion of it. But
19 I cannot recall specifically where in my declaration
20 where I discuss that.

21 Q. Maybe we can walk through it.

22 A. Sure.

23 Q. So we just discussed the intercom mode as being
24 -- and I think it's described some on page 16. It says:
25 If the real-time intercom mode has been invoked, a small

1 WILLIAM C. EASTTOM, II

2 portion of the digitized voice is stored to account for
3 the requirements of the internet protocol for
4 retransmission and then transmitted before the entire
5 conversation has been completed.

6 A. I'm sorry. Where exactly were you reading?

7 Q. Towards the top of page 16, the third sentence,
8 I believe.

9 A. I'm not sure I'm on the page 16.

10 Q. 16 of the referenced Zydney, yes, sir.

11 A. So you said approximately the third sentence.

12 Q. And it starts -- that's right.

13 If the real-time intercom mode has been
14 invoked, a small portion of the digitized voice is
15 stored to account for the requirements of the internet
16 protocols for retransmission and transmitted before the
17 entire conversation has been completed.

18 Do you see it now?

19 A. Yes.

20 Q. Okay.

21 A. A small portion of the digitized voice is
22 stored to account for requirements of the internet
23 protocols for retransmission.

24 Yes, that's correct. And I did recall
25 seeing that previously. I just couldn't find it

1 WILLIAM C. EASTTOM, II

2 immediately.

3 Q. Yeah, no problem.

4 And then you recall Zydney describing a
5 pack-and-send mode?

6 A. Yes, I do.

7 Q. I believe it's described at the top of page 11
8 and maybe elsewhere as well.

9 But the sentence that begins at the top of
10 page 11 of Zydney states: A pack-and-send mode of
11 operation is one in which the messages is first
12 acquired, compressed, and then stored in a voice
13 container, which is then sent to the destination.

14 A. That's correct.

15 Q. Okay. So the -- one of the differences between
16 intercom mode and pack-and-send mode is that in intercom
17 mode, you're transmitting a portion of the message; and
18 in pack-and-send mode, you're communicating the entire
19 message within a container?

20 MR. LOVELESS: Objection, form.

21 A. Well, in both you're sending a container, but
22 you're correct that in the pack-and-send mode, we've
23 compressed the voice message and stuck it into the
24 container in compressed format; and in intercom mode,
25 we're sending just a piece of the message, whatever

1 WILLIAM C. EASTTOM, II

2 seems appropriate.

3 Q. Okay.

4 So if online, Zydney allows the originator
5 -- I'm sorry. If the recipient is online, does Zydney
6 allow the originator to use either the intercom mode or
7 the pack-and-send mode?

8 A. That is accurate.

9 Q. And if the recipient is offline?

10 A. Well, at the bottom of page 15 of Zydney, he
11 describes this very clearly: If offline, the originator
12 can either begin a voicemail conversation that will be
13 delivered the next time the recipient logs in, or can be
14 delivered to the recipient's e-mail as a digitally
15 encoded MIME attachment.

16 So, in other words, we're still going to
17 put this into a container and send it, but it can either
18 be sent to your e-mail as a MIME attachment, or it can
19 be waiting for the next time the recipient logs on.

20 Q. Why, when the recipient is offline can the
21 originator not use the real-time intercom mode?

22 A. They're offline. They can't communicate in
23 real time with you. They're not there to receive
24 anything.

25 Q. So if they're online, then would the -- so the

1 WILLIAM C. EASTTOM, II

2 entire message would be stored and compressed in a voice
3 container, and then it's delivered either the next time
4 they log-in or as part of a MIME attachment to an
5 e-mail?

6 A. I believe you said if they're online. I think
7 you meant to say if they're offline, that's what
8 happens?

9 Q. Excuse me, that's correct. I meant to say
10 offline. Let me just restate it.

11 A. Please.

12 Q. So if they're offline, then would the entire
13 message be stored and compressed in a voice container,
14 and then it's delivered either the next time they log-in
15 or as part of the MIME attachment to the e-mail?

16 A. Sure. If they're offline, they're going to get
17 the whole message stuck into the container, and it will
18 either be delivered via e-mail or just stored awaiting
19 for them to log-on. But, yes, the entire message is
20 compressed and stuck into these ubiquitous voice
21 containers.

22 THE WITNESS: Is this a good time for a
23 brief restroom break?

24 MR. CITROEN: Sure. Off the record.

25 (Brief recess.)

1 WILLIAM C. EASTTOM, II

2 Q. Let's take a look at the '723 patent.

3 A. I have it in front of me.

4 Q. Okay. So looking at figure 2, I just want to
5 talk about the IVM client 208 that's shown there. But
6 I'm jumping ahead.

7 Can you just tell me what figure 2 is
8 illustrating in the '723 patent?

9 MR. LOVELESS: Objection, form.

10 A. It's an exemplary local network implementation
11 of the patented invention.

12 Q. Okay. And what is IVM client 208 as shown in
13 figure 2?

14 MR. LOVELESS: Form.

15 A. One moment, please.

16 Q. Sure.

17 A. Well, beginning towards the bottom of column 6
18 in the patent itself, it states: According to the
19 exemplary IVM system 200, the local server 202 is
20 enabled to provide instant voice messaging to one or
21 more IVM clients 206 and 208.

22 So those would be local IVM clients used in
23 conjunction with the server.

24 Q. Okay. And looking at column 7, first at line
25 4, am I accurate in saying that the IVM client 208 is a

1 WILLIAM C. EASTTOM, II

2 voice over IP soft phone?

3 Actually, let me -- did I get the right
4 line numbers there? Let me see. I did not.

5 So beginning on line 67 of column 6, which
6 is the last line, and then going on to the next column,
7 it says: The exemplary IVM client 208 is a voice over
8 IP soft phone.

9 Correct.

10 A. That is precisely what it says there.

11 Q. And IVM client 206 that you identified -- and
12 I'm looking at column 7, line 21 -- was referred to as a
13 voice over IP telephone; is that right?

14 A. That is correct; that is what it says.

15 Q. And just at a high level, what is the
16 difference between a IVM soft phone and an IVM client
17 that's the voice over IP telephone?

18 A. A voice over IP telephone is a telephone that's
19 designed to communicate over IP networks, as opposed to
20 simply using the public switch telephone network. It
21 usually has its own network card built into it for
22 plugging in network cabling, or they can do wireless,
23 today at least.

24 A soft phone is software application that's
25 placed on a computing device that already has a network

1 WILLIAM C. EASTTOM, II

2 card that can interface with a local area network, but
3 the software is there to take the voice and put it into
4 the appropriate voice over IP formatting, using
5 protocols like SIP and RTP.

6 Q. And that was the understanding at the time of
7 the alleged invention to a person of ordinary skill in
8 the art?

9 A. Yes.

10 Q. So figure 2 shows an element 212. What is
11 that?

12 A. It's a microphone attached to, presumably, a
13 computing device. And I say that because the IVM client
14 has 218, a keyboard; 216, a monitor; 214, a speaker; and
15 212, a microphone. One of ordinary skill in the art
16 would identify that as a computing device, which, of
17 course, already has its own network card and can
18 interface on a network as a network node.

19 Q. And the microphone 212 -- and I'm looking at
20 column 7, starting at line 2, that's required in order
21 to record an instant voice message?

22 A. I don't believe it says it's required. I can
23 assume there would be other modalities. But it does
24 describe a microphone being used to record voice
25 messages.

1 WILLIAM C. EASTTOM, II

2 Q. Are there other ways other than using a
3 microphone of recording voice?

4 A. Well, 212 is explicitly an external microphone.
5 Today, at least, I assume that the laptop you have in
6 front of you has an internal microphone very likely,
7 that you wouldn't see something stuck to the outside,
8 necessarily.

9 Q. Okay. I see. I see. So you would need a
10 microphone; it just may not be external; it may be
11 internal or it may be in some other form?

12 A. Well, the greatest example are your
13 smartphones. There's obviously a microphone, but it's
14 built into the device itself.

15 Q. Okay. So IVM client 206, would that also have
16 a microphone?

17 A. Sort of. It's a voice over IP phone. And
18 phones, of course, have both the speaker and microphone
19 built into the headset.

20 Q. So for the voice over IP client 206, the
21 microphone would be used as part of the process of
22 recording an instant voice message?

23 A. Or simply placing a call.

24 Q. Correct. Okay.

25 In looking at figure 2, what is device 214?

1 WILLIAM C. EASTTOM, II

2 A. That's a speaker.

3 Q. And in the context of the '723 and '747 patent,
4 is the speaker used to play received instant voice
5 messages?

6 A. Yes.

7 Q. And would the IVM client 206 also have a
8 speaker for playing instant voice messages?

9 A. In general, both microphone and speaker are
10 built into the headsets of voice over IP phones as well
11 as traditional phones.

12 Q. So for IVM client 208, you mentioned that the
13 speaker -- or maybe it was just the microphone, is
14 external from the IVM client or the computer, correct?

15 A. Well, actually, what I said is figure 2
16 displays it as external. I don't know of anything in
17 the patent that requires it to be external.

18 Q. Okay. In fact, I think if you look at column
19 7, starting at line 15, I believe it suggests that these
20 components, including the speaker and the microphone,
21 can be integral parts of the IVM client 208. So is that
22 suggesting what you were explaining, that they could be
23 part of the same device?

24 A. That is precisely correct.

25 Q. And, in your opinion, is the IVM client 208

1 WILLIAM C. EASTTOM, II

2 used to create an instant voice message as described in
3 the '723 and '747 patents?

4 A. Yes.

5 Q. And is the same true for the IVM client 206?
6 Can that be used to create an instant voice message?

7 A. Yes.

8 Q. Okay. I don't think we discussed the Legacy
9 telephone 110. That's also shown in figure 2. But is
10 it your understanding that Legacy telephone 110 can also
11 be used to create an instant voice message?

12 A. One moment, please.

13 Q. Sure.

14 A. Well, in looking at approximately, I'm going to
15 say, line 33 of column 7, the patent explicitly states:
16 The IVM system 200 supports a Legacy telephone 110 for
17 instant voice messaging according to the present
18 invention. The Legacy telephone 110 is connected to a
19 Legacy switch 112. The Legacy switch 112 is further
20 connected to a media gateway 114.

21 Q. So it can be used -- a telephone 110 can be
22 used also to create an instant voice message, along with
23 the other components that are involved?

24 MR. LOVELESS: Form.

25 A. Well, along with the other components, yes.

1 WILLIAM C. EASTTOM, II

2 Q. Okay.

3 A. By itself, no.

4 Q. Okay. Would the Legacy phone also have a
5 speaker and microphone that's used to audibly play and
6 record, respectively, the instant voice message?

7 A. Well, it certainly has a speaker and a
8 microphone, and one would presume that the user would at
9 least speak into the microphone to record and listen to
10 the speaker to hear. But I don't recall if the phone
11 itself is actually doing the playing and recording or if
12 one of these other devices in the diagram are doing that
13 part.

14 Q. Okay. One of the ways that the '723 and '747
15 patents describe creating an instant voice message is
16 what it refers to as a record mode; is that right?

17 A. Yes.

18 Q. And what's your understanding of the record
19 mode?

20 A. You're recording a message so that it might be
21 played back by the recipient at the time of the
22 recipient's choosing.

23 Q. In the record mode, is a microphone used to
24 create the instant message?

25 A. Presumably.

1 WILLIAM C. EASTTOM, II

2 Q. Does looking at column 8, line 3 help answer
3 that question, where it states: In response to the
4 start signal, the IVM client (cell phone) 208 listens to
5 the input audio device 212 and records the user's speech
6 into digitized audio file 210 (i.e., instant voice
7 message) stored on the IVM client 208?

8 A. I'm sorry. What's the question? Yes, you just
9 read that accurately. But what was the question?

10 Q. So in the record mode, is a microphone used to
11 -- as part of the process of recording an instant voice
12 message?

13 A. I'm sorry, I thought I answered in the
14 affirmative to that previously. Yes, presumably, it
15 would be.

16 Q. Okay.

17 Well, looking at figure 3, is it your
18 understanding that figure 3 displays the architecture of
19 an IVM client 208?

20 MR. LOVELESS: Objection, form.

21 A. Well, actually, in the first half of column 6,
22 it states: Figure 3 illustrates an exemplary IVM client
23 of figure 2 for enabling instant voice messaging
24 according to the present invention.

25 Q. And you see in figure 3 there is an audio file

1 WILLIAM C. EASTTOM, II

2 creation box labeled 312?

3 A. Yes, that is on the figure.

4 Q. Do you know what that is?

5 A. It's the portion of the IVM client that
6 actually creates the audio file.

7 Q. If you look at column 12, I think here is where
8 it explained what the audio creation 312 does at line
9 34.

10 Is it your understanding that audio file
11 creation creates the instant voice message as audio file
12 210 and does so by receiving input speech for the
13 instant voice message from audio input device 212 or via
14 network 204?

15 A. I'm sorry. Which line were you reading at?

16 Q. 34, of column 12.

17 MR. LOVELESS: Objection, form.

18 A. Well, my understanding is what it states right
19 here: Audio file creation 312 creates an instant voice
20 message as audio file 210, and it's responsible for
21 receiving input speech or instant voice message from
22 audio input device 212 or via network 204 and store --
23 excuse me -- the input speech into audio file 210.

24 Q. So does this confirm that the microphone may be
25 used, 212, to create the instant voice message in the

1 WILLIAM C. EASTTOM, II

2 record mode?

3 MR. LOVELESS: Objection, form.

4 A. Yes, it says it may be used -- excuse me -- the
5 instant voice message from audio input device 212 or via
6 network 204.

7 Q. Okay. So in record mode, is it your
8 understanding that the entire speech message is recorded
9 using a microphone to create an audio file before the
10 instant voice message is transmitted?

11 MR. LOVELESS: Objection, form.

12 A. One moment, please.

13 Q. Sure.

14 A. Reading from column 13, the first full
15 paragraph, which I believe begins on approximately line
16 5: Still further, with reference to figure 3, the
17 generation and transmission of an instant voice message
18 is described as follows. The user selects the available
19 one or more IVM recipients and initiates the creation of
20 an instant voice message as described above with
21 reference to figure 2. The client engine 304 detects
22 the start signal and invokes the audio file creation 312
23 of the audio file 210. The audio file 210 is
24 initialized and captures the audio voice message input
25 by the user. Once the client engine 304 detects a stop

1 WILLIAM C. EASTTOM, II

2 signal, the instant voice message is finalized in the
3 audio file 210 via audio file creation 312.

4 Then it goes on to describe adjusting some
5 facets of the audio file and perhaps compressing and
6 encrypting it.

7 And then it continues on to state: The
8 completion of these processes causes the client engine
9 304 to inform the user via display 216 that the instant
10 voice message is available to be sent. After the client
11 engine 304 detects the send signal from the user, the
12 instant voice message audio file 210 is transferred to
13 the local IVM server 202.

14 Q. So, in your opinion, this is describing the
15 record mode, where the entire message is recorded before
16 it's sent?

17 A. Yes.

18 Q. Okay. And just to confirm, is this same
19 process also described in column 8, starting at line 1?

20 A. Yes.

21 Q. I think you mentioned this when you were
22 reading from the column, and -- I'm sorry, the paragraph
23 in column 13. It states that the audio file can also be
24 compressed at 318 and encrypted at 316?

25 A. That's correct.

1 WILLIAM C. EASTTOM, II

2 Q. And element 318, that's referring to
3 compression/decompression 318 in figure 3?

4 A. That's correct.

5 Q. And 316 in column 13, that refers to
6 encryption/decryption 316 in figure 3?

7 A. Yes.

8 Q. Okay. The process of compressing and
9 decompressing, is that further described in column 10,
10 starting at line 53 and extending on to column 7 --
11 excuse me -- 11 to line 6?

12 MR. LOVELESS: Objection, form.

13 A. Yes. In fact, the specific compression
14 algorithm is referred.

15 Q. Okay. And column 11, starting at line 7 to
16 line 25, is that describing the ways of encrypting and
17 decrypting messages?

18 A. Yes. It specifically mentions Huffman
19 encoding, which may be one of the more common used, as
20 well as some others, MPEG encoding, some fractal
21 compression and wavelength compression as well. But for
22 one of ordinary skill in the art, the Huffman encoding
23 is probably the most well known.

24 Q. Okay. In column 13, the paragraph you were
25 reading from earlier that begins at line 5, if you look

1 WILLIAM C. EASTTOM, II

2 at -- I believe it's line 16. It's the sentence that
3 begins, "The audio file 210."

4 A. I see it.

5 Q. It says it's adjusted for gain, and noise is
6 removed via signal processing 314.

7 A. Yes.

8 Q. What is that referring to?

9 A. Well, when you record an audio, there's always
10 the chance of there being some deficiencies in the
11 recording, and adjusting for gain and removing noise is
12 a standard way of cleaning up a recording.

13 Q. Okay. Looking at column 12, line 38 to 39, it
14 says: Signal processing 314 performs noise removal and
15 signal optimization in the audio file 210.

16 Do you see that?

17 A. Yes, I do.

18 Q. Is that referring to the same process we were
19 just discussing with respect to the column 13?

20 A. Yes.

21 Q. Okay. Does "signal" here refer to the audio
22 signal? Is that what that means?

23 A. Well, that's interesting, because I believe
24 that is addressed in one of these declarations.

25 One moment, please.

1 WILLIAM C. EASTTOM, II

2 Q. Sure.

3 A. Yes. The declaration regarding the 01800, I
4 looked at -- I believe it's page 16, paragraph 33. I
5 describe a signal: A signal involves a physical,
6 measurable quantity, such as an electrical, optical, or
7 electromagnetic quantity. For example, an audio signal
8 is an electromagnetic wave signal carried over telephone
9 wires, fiber optic cables, or the air. I therefore --

10 Well, the rest of it isn't really relevant
11 to my opinion, but it goes on to say: I therefore
12 disagree with the petitioner's proposed definition as
13 information conveyed in the communication system.

14 Q. Okay. So based on that definition of a signal
15 you provided, in the context of this sentence in
16 column 12, line 38 to 39, what is this signal that's
17 being discussed here?

18 A. 38 to 39?

19 Q. Yes, sir, in column 12.

20 A. It's the digitized recording, which is an
21 electromagnetic signal.

22 Q. The digitized recording of the audio?

23 A. Assuming we're dealing with an IVM client as
24 opposed to a Legacy phone, in which case you have first
25 an analog, which then gets sent on to further in the

1 WILLIAM C. EASTTOM, II

2 system to be digitized. But the digitized
3 electromagnetic signal.

4 Q. Okay. So just to try and understand your
5 definition, if you have a handset phone that plays
6 audio, is that an analog audio signal that's being
7 output?

8 A. Good question. Again, referring back to
9 paragraph 33 in my declaration will help clarify this a
10 bit.

11 A signal has specific physical properties.
12 In the case of audio, just like I'm speaking now --

13 Q. Uh-huh.

14 A. -- you can measure frequency, wavelength,
15 amplitude, all sorts of elements that create an actual
16 signal, a physical signal that can be measured.

17 Q. Okay. So our discussion back and forth, these
18 are actual physical signals that can be measured?

19 A. The sound waves are.

20 Q. Okay. And so the same would be true of the
21 sound waves that come out of a telephone handset?

22 A. Yes.

23 Q. So going back to the paragraph you were reading
24 from in column 13 about the record mode.

25 A. I have it in front of me.

1 WILLIAM C. EASTTOM, II

2 Q. Okay. Once the entire conversation is
3 recorded, is the next step to then transmit the instant
4 voice message to server 202?

5 A. Well, it states clearly here: After the client
6 engine 304 detects the send signal from a user, the
7 instant voice message audio file is transferred to the
8 local IVM server 202.

9 Q. If the recipient is available, is the -- the
10 instant voice message that's retrieved or received by
11 server 202 then sent to the recipient?

12 MR. LOVELESS: Objection, form.

13 A. Well, I know that at least occurs in intercom
14 mode.

15 Q. I think it's the -- I don't see it here in
16 column 13, but if we go back to column 8, I believe on
17 line 30 to 35 of column 8.

18 A. It should be understood that only the available
19 IVM recipients currently connected to the IVM server 202
20 will receive the instant voice message. It is noted
21 that if a recipient IVM client is not currently
22 connected to the local IVM server 202, i.e., is
23 unavailable, the IVM server temporarily saves the
24 instant voice message and delivers it to the IVM client
25 when the IVM client connects to the local IVM server

1 WILLIAM C. EASTTOM, II

2 202, i.e., is available.

3 Q. Okay. I believe you started reading at line 28
4 of column 8, right?

5 A. That looks correct, yes.

6 Q. Okay. So just to confirm, if the recipient is
7 available, the server would transmit the instant voice
8 message to the recipient; but if the recipient is
9 unavailable, the server would temporarily store the
10 instant message for delivery at a later time?

11 MR. LOVELESS: Objection, form.

12 A. That is accurate.

13 Q. And then in addition to the record mode that's
14 described in '723 and '747 patent, do these patents also
15 describe what's referred to as an intercom mode?

16 A. I believe that's correct. In fact, I see it in
17 paragraph 11, starting at line 26.

18 Q. And what is the intercom mode that's described
19 in the '723 and '747 patent?

20 A. Well, reading from the aforementioned passage:
21 Lastly, with reference to figure 2, in addition to the
22 record mode of instant messaging, the instant voice
23 message system 200 also supports an intercom mode of
24 voice messaging. The intercom mode represents real-time
25 instant voice messaging. In the intercom mode, instead

1 WILLIAM C. EASTTOM, II

2 of creating an audio file 210, one or more buffers not
3 shown of a predetermined size are generated in the IVM
4 client 206, 208, or local IVM server 202. The one or
5 more buffers are used to automatically write successive
6 portions of the instant voice message. Once a buffer is
7 full, i.e., input audio of the predetermined size is
8 written to the buffer, the content of the first buffer
9 is automatically transmitted to the IVM server 202 for
10 transmission to one or more IVM recipients.

11 Q. So is it fair to say in the intercom mode,
12 instead of transmitting -- or instead of recording and
13 transmitting the entire conversation into one instant
14 voice message, you are sending portions of the
15 conversation in instant voice messages?

16 A. Well, as the patent describes them are buffers.
17 And that's kind of important for normal communication.
18 I mean, to use an analogy, we've been talking for a few
19 hours this morning. You're receiving my words one word
20 at a time.

21 Q. Uh-huh.

22 A. If somehow I could take these several hours and
23 put them into one unit and just send them to you all at
24 once, well, you can't possibly process that.

25 So the purpose here is to send chunks or

1 WILLIAM C. EASTTOM, II

2 buffers that are capable of being listened to, which
3 gives us a real-time communication.

4 Q. Okay. How would a person of ordinary skill in
5 the art understand the word "buffers" as recited here in
6 '723 and '747 at the time of the alleged invention?

7 A. Very, very commonly used in the computer
8 science and telecom. You have small segments of memory,
9 and "small" is a relative term based on your process
10 you're doing, and they contain things for a short period
11 of time.

12 Q. Okay. In intercom mode, is a microphone and
13 speaker used for recording and listening to instant
14 voice messages, respectively?

15 MR. LOVELESS: Objection, form.

16 A. Yes.

17 Q. And for intercom mode, is it your understanding
18 that the audio file creation 312 would be used for
19 creating the instant voice messages?

20 A. I'm sorry. In intercom mode?

21 Q. Yes.

22 A. Let me go back to the passage I just read. I
23 think it said it wasn't.

24 Q. Let me rephrase. I'm not sure my question was
25 clear.

1 WILLIAM C. EASTTOM, II

2 I'm just asking if the audio file creation
3 312 is employed.

4 A. Well, again, reading straight from the patent
5 in column 11, I think I'm about line 27 or 28: The
6 intercom mode represents real-time instant voice
7 messaging. In the intercom mode, instead of creating an
8 audio file 210 -- and then it goes on to describe what
9 we previously discussed.

10 Q. I see. So do you know what component in
11 figure 3 of the '723 patent is responsible for creating
12 the instant voice message in the intercom mode?

13 A. Well, I believe part of it is not shown because
14 it just said, "one or more buffers not shown."

15 Q. So you believe there's a component that's not
16 shown that's used to create the instant voice messages
17 for intercom mode?

18 A. Well, at least the buffers aren't shown, and
19 when I originally read this patent, that made perfect
20 sense to me, because buffers are such a common thing in
21 the art that I don't think one of ordinary skill in the
22 art needs you to diagram a buffer for them.

23 Q. Right. But the actual component that's used to
24 create the buffers are the instant voice message for the
25 intercom mode. Do you believe that's shown in figure 3,

1 WILLIAM C. EASTTOM, II

2 or it's -- do you think it's not shown there?

3 MR. LOVELESS: Objection, form.

4 A. Well, again, all I can do is refer back to what
5 they actually state in the patent. The inventor knew
6 best what he was diagramming. He does mention that the
7 buffers are not shown, but he does go on to say that the
8 buffers are being transmitted to the IVM server 202. So
9 we at least have the client 208 and the server 202
10 involved in transmitting these buffers. And then, of
11 course, the IVM server 202 transmits those buffers on to
12 the recipient. So I think one of ordinary skill in the
13 art would see this and understand the process well.

14 Actually, if I read further into the column
15 12, and I'm beginning at, I think, line 11: The client
16 platform 302 comprises a client engine 304, which
17 controls other components; namely, the document handler
18 306, the file manager 308, audio file creation 312,
19 signal processing 314, encryption/decryption 316, and
20 compression/decompression 318.

21 I believe one of ordinary skill in the art
22 would have understood that, ultimately, it's the client
23 engine responsible for sending the buffers to the local
24 IVM server 202.

25 Q. Okay. It just doesn't explicitly explain which

1 WILLIAM C. EASTTOM, II

2 specific component of the client engine 304 is
3 performing that operation, correct?

4 A. Well, there's sufficient detail for one of
5 ordinary skill in the art to understand the process, but
6 I don't see a section where it explicitly states which
7 piece of 208 is going to send the buffers on. And,
8 again, that's because buffers and sending buffers is
9 such a common thing in the art, it doesn't really
10 require any explanation for one of ordinary skill in the
11 art.

12 Q. But based on your prior testimony, it could not
13 be audio file creation 312 that performs that operation?

14 A. Well, again, simply reading the patent, it says
15 that that process is skipped, at least in the segment we
16 read here.

17 Q. Okay. So in intercom mode, how many instant
18 voice messages are required in order to send a voice
19 message --

20 MR. LOVELESS: Objection, form.

21 Q. -- or does it depend on the size of the voice
22 message?

23 MR. LOVELESS: Objection, form.

24 A. I'm not quite sure I understood the question.
25 How many instant voice messages are required to send an

1 WILLIAM C. EASTTOM, II

2 instant message?

3 Q. It's my understanding is the intercom mode
4 sends only a portion of a voice message. So I'm just
5 asking how many -- how many instant voice messages are
6 required in order to send the different portions of the
7 voice message.

8 A. Well --

9 MR. LOVELESS: Objection, form and scope.

10 A. -- I don't recall having ever opined on that in
11 any of my declarations. But beyond that, the best
12 answer is simply what I read previously, but I'm happy
13 to read again. It specifically states -- and we're back
14 in column 11, around line 35: Once a first buffer is
15 full, i.e., input audio of the predetermined size is
16 written to the buffer, the content of the first buffer
17 is automatically transmitted to the IVM server 202 for
18 transmission to one or more IVM recipients. A second
19 buffer is meanwhile written with the next successive
20 portion of input audio.

21 So, essentially, as soon as a buffer is
22 full, it is sent on. The size of the buffer is not
23 explicitly detailed in the patent because one of
24 ordinary skill in the art would understand that that's
25 dependent on the hardware you've implemented it on.

1 WILLIAM C. EASTTOM, II

2 For example, a computer today might have a
3 larger buffer than a computer in 2003.

4 Q. Okay. And based on the portion of the
5 specification you just read, is it one buffer is
6 transmitted at a time?

7 A. As soon as it's full, it's sent, and while it's
8 sending, the second buffer is being full.

9 Q. So if there were ten full buffers of input
10 audio, there would be ten messages that would be
11 transmitted?

12 MR. LOVELESS: Objection, form.

13 A. No. This is all one message.

14 For example, when I answer a question of
15 yours, there are a number of words involved, but those
16 aren't different answers. They're the components of a
17 single answer.

18 Q. But the buffer is transmitted -- the buffers
19 are transmitted separately?

20 A. As soon as a buffer is full, it is transmitted.

21 Q. So there are ten separate transmissions of
22 buffered input audio in this example we're discussing?

23 A. I'm not sure how to make this much clearer, but
24 I'll try.

25 The message is, as it's being recorded

1 WILLIAM C. EASTTOM, II

2 live, as soon as the buffer is full, it is sent.

3 Q. Uh-huh.

4 A. The next buffer is full, it is sent. The next
5 buffer is full, whether we have two buffers, 10, or
6 10,000, as soon as one is full, it is sent; and then the
7 next one when it's full, it is sent.

8 Q. If there are ten buffers, there would be ten
9 transmissions of buffer data?

10 A. If there were ten buffers and the voice message
11 was long enough to fill up all ten, then, yes, there
12 would be ten different transmissions of the components
13 of the message.

14 Q. Because in intercom mode you're only
15 transmitting portions, as opposed to the entire voice
16 message like in record mode?

17 A. Well, you're transferring -- "portions" is a
18 good word, but "components" is a better one. Just like
19 words are components of a sentence and really don't have
20 much meaning independently.

21 Q. Okay. I'm just using "portions" because that's
22 what the spec says.

23 A. Sure.

24 Q. But I understand.

25 So in intercom mode, is the speech data,

1 WILLIAM C. EASTTOM, II

2 can it also be compressed and encrypted like we
3 discussed earlier for the record mode?

4 MR. LOVELESS: Objection, form.

5 A. I don't believe that we have read that that
6 occurs, but I also don't recall anything that would
7 prevent that from occurring.

8 Q. Does the sentence at the bottom of the
9 paragraph that's describing intercom mode help? I think
10 it begins at line 61 --

11 A. Correct.

12 Q. -- of column 11.

13 A. Correct. It states: Finally, the audio
14 contents of the buffers may be signal processed for
15 clarity, encrypted and compressed before transmission,
16 as will be described in more detail herein below with
17 reference to figure 3.

18 Q. So the audio data in each buffer would be
19 encrypted and compressed and also signal processed?

20 A. Well, may be.

21 Q. May be. Okay.

22 So are the -- in intercom mode, are the
23 buffer messages transmitted to the server 202?

24 A. That's what we just read, yes.

25 Q. And if the recipient is available, would the

1 WILLIAM C. EASTTOM, II

2 server 202 then transmit those buffer messages to the
3 recipient -- recipient client?

4 MR. LOVELESS: Objection, form.

5 A. Yes.

6 Q. If a recipient is not available, it's in the
7 sending client device use intercom mode?

8 A. I don't recall explicitly. I think intercom
9 mode, you have to first determine if they're available.

10 Q. Do you recall whether the '723 and '747 patents
11 describe the ability to choose between the intercom mode
12 and the record mode based on whether the recipient is
13 available?

14 A. I don't have that specific recollection, but if
15 you can refresh my memory by directing me to a portion
16 of either of the patents, that would be helpful.

17 Q. Maybe column 11, starting at line 55, I think,
18 to line 59.

19 A. Column 11?

20 Q. Yes, of the '723 patent, starting at line 55
21 reads: The intercom mode may be designated as a default
22 mode when an IVM recipient is online, while the record
23 mode may be designated as default if the IVM recipient
24 is unavailable, i.e., not online.

25 Excuse me. That was "not online."

1 WILLIAM C. EASTTOM, II

2 A. Well, that, to me, simply says that I can have
3 a default mode that if the person is online, by default,
4 go to intercom mode. And if they're not online, by
5 default, go to record mode. Those are default settings
6 you could configure if you wish.

7 Q. So to a person with ordinary skill in the art,
8 is this then describing a configuration where, depending
9 on the availability of the recipient, the instant voice
10 message will either be sent using the intercom mode that
11 we discussed or using the record mode that we discussed?

12 A. Well, one of ordinary skill in the art, what
13 this is describing is I, as the sender, have configured
14 default settings. It doesn't say I have to do it that
15 way. It just says that I chose them, and by default, if
16 you're online, I would like to do intercom; and if
17 you're not, I would like to do the record mode.

18 Q. So if a -- I think we're saying the same thing,
19 but I understand your point.

20 So a user can configure their IVM client to
21 operate in this fashion?

22 A. In a default mode, yes.

23 Q. Right. So if a client or a user of a client
24 configures their device to operate in this fashion,
25 would the IVM client automatically choose intercom mode

1 WILLIAM C. EASTTOM, II

2 or record mode, based on default settings, depending on
3 the availability of the IVM recipient?

4 MR. LOVELESS: Objection, form.

5 A. The best way I know to answer that is if,
6 according to the section we just read, the user
7 configures the IVM client to operate in a specified
8 manner, then, yes, it will operate in the manner he
9 configured.

10 Q. Okay. So do you agree that configured in this
11 way, that that's how it would operate as I discussed or
12 as I described in my previous question?

13 MR. LOVELESS: Objection, form.

14 A. I agree that if the user configures it to
15 operate in a particular manner described within the
16 patent, it will operate according to its configuration.

17 Q. Are you aware of any other disclosure in '723
18 or '747 patents that describe configuration where the
19 client may choose between two ways of generating an
20 instant voice message based on the availability of the
21 recipient?

22 MR. LOVELESS: Objection, form.

23 A. I don't recall sitting here.

24 Q. Let's look at Claim 3 of the '723 patent.

25 A. Claim 3, you said?

1 WILLIAM C. EASTTOM, II

2 Q. Yes, sir.

3 A. I have it in front of me.

4 Q. And you're looking at the '723?

5 A. Yes, I am.

6 Q. Okay. Can you just read that for the record,
7 please?

8 A. The method for instant voice messaging over a
9 package switch network, according to Claim 1, further
10 comprising the steps of controlling a method of
11 generating the instant voice message based upon the
12 connectivity status of one or more recipient.

13 Q. What's your understanding of "connectivity
14 status" as recited in Claim 3?

15 MR. LOVELESS: Objection, form.

16 A. Is that recipient currently connected to the
17 IVM server.

18 Q. If they are connected, would they be considered
19 available?

20 MR. LOVELESS: Objection, form.

21 A. I don't recall if that's the only criteria, but
22 that would be at least a significant criteria.

23 Q. And if they're not connected, would they be
24 considered unavailable?

25 MR. LOVELESS: Objection, form.

1 WILLIAM C. EASTTOM, II

2 A. Correct.

3 Q. Okay. Look at Claim 3. Still it recites a
4 method of generating. Do you see that?

5 A. Yes.

6 Q. What's your understanding -- or what would be a
7 person of ordinary skills in the art's understanding of
8 a method of generating as recited in Claim 3?

9 A. Well, we've had a pretty extensive conversation
10 this morning about how this invention generates a voice
11 message, and we've talked about how it has some
12 clean-up-the-noise signal, it may compress, it may
13 encrypt, and that would be the process of generating the
14 instant voice message.

15 Q. Would the -- would a method of generating
16 include the intercom mode?

17 A. Yes, where buffers are filled and then sent as
18 required.

19 Q. And would the record mode be a method of
20 generating?

21 A. Yes.

22 Q. So does Claim 3 cover the configuration we
23 discussed earlier where a user may configure their
24 device to use the record mode if a recipient is
25 unavailable and the intercom mode if the recipient is

WILLIAM C. EASTTOM, II

available?

MR. LOVELESS: Objection, form, scope.

A. Claim 1 is -- excuse me. Claim 3 is dependent on Claim 1, and Claim 1 states: A method for instant voice messaging over a packet-switched network, the method comprising, monitoring a connectivity status of nodes within the packet-switched network, said connectivity status being available and unavailable.

Q. So the Claim 3 covers the configuration we discussed earlier where a client's device can generate a method -- excuse me -- a message using the record mode if the recipient is unavailable or using the intercom mode if the recipient is available?

MR. LOVELESS: Objection, form, scope.

A. Well, based on the reading of Claim 1, that is the independent claim that Claim 3 depends on, it certainly appears so.

MR. CITROEN: Let's take a break.

(Brief recess.)

MR. CITROEN: Thank you, Mr. Easttom. We have no further questions.

THE WITNESS: Thank you.

MR. LOVELESS: I have no questions either. We're done.

1 WILLIAM C. EASTTOM, II

2 (End of proceedings.)

20 _____
21 WILLIAM C. EASTTOM, II

22 Subscribed and sworn to before me

23 this ____ day of _____, 20__.

24 _____
25 NOTARY PUBLIC

1 WILLIAM C. EASTTOM, II

2 STATE OF TEXAS)

3 COUNTY OF DALLAS)

4
5 I, Susan M. Foreman, A Certified Shorthand
6 Reporter duly commissioned and qualified in and for the
7 State of Texas, do hereby certify that there came before
8 me on the 6th day of August, 2018, at 9:47 a.m., at the
9 Renaissance Dallas at Plano Legacy West Hotel, 6007
10 Legacy Drive, Plano, Texas 75024, the following named
11 person, to-wit: WILLIAM C. EASTTOM, who was by me duly
12 sworn to testify the truth, the whole truth, and nothing
13 but the truth of knowledge touching and concerning the
14 matters in controversy in this cause; and that he was
15 thereupon examined upon oath and his
16 Examination reduced to typewriting under my supervision;
17 that the deposition is a true record of the testimony
18 given by the witness.

19 I further certify that pursuant to the FRCP
20 Rule 30(e)(1) that the signature of the deponent:

21 _____ was requested by the deponent or a party
22 before the completion of the deposition, and that
23 signature is to be before any notary public and returned
24 within 30 days from date of receipt of the transcript;

25 ___X___ was not requested by the deponent or a

1 WILLIAM C. EASTTOM, II

2 party before the completion of the deposition.

3 I further certify that I am neither attorney
4 or counsel for, nor related to or employed by any of the
5 parties to the action in which this deposition is taken,
6 and further that I am not a relative or employee or any
7 attorney or counsel employed by the parties hereto, or
8 financially interested in the action.

9 Certified to me this 9th day of August, 2018.

10
11
12
13 Susan M. Foreman
14 Texas CSR Number 5240
15 TSG Reporting, Inc.
16 747 Third Avenue - 10th Floor
17 New York, New York 10017
18 877.702.9580
19
20
21
22
23
24
25

1 NAME OF CASE:

2 DATE OF DEPOSITION:

3 NAME OF WITNESS:

4 Reason Codes:

5 1. To clarify the record.

6 2. To conform to the facts.

7 3. To correct transcription errors.

8 Page _____ Line _____ Reason _____

9 From _____ to _____

10 Page _____ Line _____ Reason _____

11 From _____ to _____

12 Page _____ Line _____ Reason _____

13 From _____ to _____

14 Page _____ Line _____ Reason _____

15 From _____ to _____

16 Page _____ Line _____ Reason _____

17 From _____ to _____

18 Page _____ Line _____ Reason _____

19 From _____ to _____

20 Page _____ Line _____ Reason _____

21 From _____ to _____

22 Page _____ Line _____ Reason _____

23 From _____ to _____

24 _____

25 _____