

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4
5 CISCO SYSTEMS, INC.,

6 Petitioner,

7 -v-

8 CENTRIPETAL NETWORKS, INC.,

9 Patent Owner

10
11 Case IPR2018-01512

12 U.S. Patent No. 9,565,213

13
14 Deposition of Eli Fuchs

15 Friday, June 28, 2019

16 Westford Regency Inn and Conference Center

17 219 Littleton Road

18 Westford, Massachusetts 01886

19 -----Kristen C. Krakofsky-----

20 Planet Depos

21
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Transcript of Eli Fuchs
Conducted on June 28, 2019

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1	APPEARANCES	1
2		PROCEEDINGS
3	Counsel for Cisco Systems, Inc.:	2
4	Merchant & Gould	9:01 a.m.
5	Daniel R. Evans, Ph.D., Esquire	3
6	devans@merchantgould.com	Eli Fuchs,
7	191 Peachtree Street N.E., Suite 3800	4
8	Atlanta, Georgia 30303	having been satisfactorily identified by means of a
9	Phone: (404) 954-5100	5
10	Fax: (404) 954-5099	Massachusetts driver's license, was duly sworn by
11		6
12	Counsel for Centripetal Networks, Inc.:	the notary public, examined, and testified as
13		7
14	Kramer Levin Naftalis & Frankel LLP	follows:
15	Greg Proctor, Esquire	8
16	gproctor@kramerlevin.com	EXAMINATION
17	990 Marsh Road	9
18	Menlo Park, California 94025	BY MR. PROCTOR:
19	Phone: (650) 752-1781	10
20	Fax: (650) 752-1800	Q. Where do you work?
21		11
22		A. I now work at Sea Change.
		12
		Q. What is Sea Change?
		13
		A. Sea change is a company that develops
		14 software for network service providers to deliver
		15 video services to the subscribers, whether it's in
		16 the home or on the internet.
		17
		Q. How long have you been at Sea Change?
		18
		A. I started at Sea Change May 6th.
		19
		Q. May 6th of this year?
		20
		A. Yes. May of 2019.
		21
		Q. What's your title at Sea Change?
		22
		A. Vice president of product management.

<p>5</p> <p>1 Q. What are your responsibilities as VP of 2 project management? 3 A. Product management. 4 I'm responsible for the product strategy, 5 product direction, requirements for engineering, 6 interacting with customers, and -- basically 7 interacting with customers and guiding engineering 8 development priorities. 9 Q. What are your -- do you understand why 10 you're here today? 11 A. I'm here to talk about a declaration that I 12 signed while I worked at Cisco. 13 Q. Have you ever been deposed before? 14 A. I was deposed one time about 25 years ago. 15 Q. Have you been deposed in an IPR proceeding? 16 A. No. 17 Q. I'm going to hand you what is marked as 18 Exhibit 12 in the IPR. This will be your 19 declaration. 20 Do you recognize Exhibit 12? 21 A. I do. 22 Q. And what is that?</p>	<p>7</p> <p>1 A. Say that again? 2 Q. Sure. Does your declaration include all of 3 your opinions regarding the subject matter that you 4 submitted a declaration for? 5 A. It includes confirmation of the information 6 in the declaration including the reference to 7 documentation and dates. That's basically what I 8 believe, if we go through this, I signed. 9 Q. Is there anything that you'd like to add or 10 modify about the declaration at this time? 11 A. No. 12 Q. Who prepared Exhibit 12? 13 A. An attorney for Cisco. 14 Q. Did you review the final product before you 15 signed it? 16 A. Yes. 17 Q. Were you asked to provide any opinions that 18 you disagreed with? 19 A. No. 20 Q. What is your understanding of public 21 availability? 22 MR. EVANS: Objection.</p>
<p>6</p> <p>1 A. I'm sorry? 2 Q. What is Exhibit 12? 3 A. Exhibit 12 is a declaration that I signed 4 with some facts related to documentation associated 5 with a product called ACNS. 6 Q. When did you sign your declaration? 7 A. I could take a look at it. I don't 8 remember exactly. 9 Q. Sure. 10 A. It looks like July 2, 2018. 11 Q. Does Exhibit 12 include all of your 12 opinions regarding the IPR? 13 MR. EVANS: Objection; vague. 14 BY MR. PROCTOR: 15 Q. If your counsel objects, you can still 16 answer the question unless he instructs you not to 17 answer the question. 18 A. I don't have any opinions about the IPR. 19 I'm just signing the facts of this statement. 20 Q. Does the declaration contain all of your 21 opinions regarding the subject matter of your 22 declaration?</p>	<p>8</p> <p>1 A. It sounds like a legal term, and not one 2 that I'm really familiar with. I'm just familiar 3 will the availability of this document. 4 Q. Do you have any understanding of public 5 availability? 6 A. I don't know what that term means because 7 you've used it so specifically. 8 Q. Can you look at paragraph 1 of your 9 declaration, please. 10 A. Sure. 11 Q. Do you see in paragraph 1 where it says, 12 "I'm senior product line manager, Cisco services 13 provider video for Cisco systems." 14 A. Yes. 15 Q. Was that your position before you left for 16 Sea Change? 17 A. Yes. I joined Sea Change in May of 2006. 18 From November 1st until May of -- I'm sorry. I 19 joined Sea Change in May of 2019. Between 20 November 1st and May of 2019, I worked for a company 21 called Cinemedia, and Cinemedia was a result of a 22 divestiture from Cisco of Service Provider Video</p>

<p style="text-align: right;">9</p> <p>1 Technology Group. So I worked at the Service 2 Provider Video Technology Group until October 31st, 3 and then I was an employee of a company called 4 Cinemia. 5 Q. And what did you do at Cinemia? 6 A. The same position. I was the product 7 manager with the same roles and responsibilities. 8 Q. When you were a senior product line 9 manager, what were your responsibilities as a senior 10 product line manager? 11 MR. EVANS: Objection to form. 12 MR. PROCTOR: I'll rephrase. 13 BY MR. PROCTOR: 14 Q. What were your primary responsibilities as 15 a senior product line manager at Cisco? 16 A. I was responsible for a portfolio of 17 products in terms of their requirements, market 18 direction, engagement with engineering on 19 requirements, and supporting sales engagements. 20 Q. Did you work with Cisco ACNS at that time? 21 A. When I left Cisco -- when I transitioned 22 out of Cisco, no.</p>	<p style="text-align: right;">11</p> <p>1 Q. Which elements would those be? 2 A. There were three components of my 3 responsibility: an area called content routing, 4 management, and distribution. 5 Q. And what do you mean by "content routing"? 6 A. Content routing is the term we used with 7 the product to -- so ACNS consisted of a distributed 8 caching solution. End users requesting objects from 9 a distributed caching solution would need to be 10 redirected or routed to a cache in proximity to them 11 to serve the desired content. So content routing 12 was a set of software algorithms to redirect a 13 client request for an object to a proxy cache that 14 can serve that object efficiently. 15 Q. Is the proxy cache the content engine? 16 A. Yes, it is. 17 Q. So when a client requests content, they 18 would contact the content router or the content 19 engine? 20 A. There are multiple stages of what we call 21 the "control plane" or "content routing" to get a 22 client -- a user device application to a content</p>
<p style="text-align: right;">10</p> <p>1 Q. To be clear, as a senior product line 2 manager, were you involved with Cisco ACNS? 3 A. I was not. As a product line manager, I 4 was not involved with the ACNS. I was involved with 5 that earlier. 6 Q. When was the last time you were involved 7 with Cisco ACNS? 8 A. Sometime in the middle of 2007. 9 Q. What was your position at that time? 10 A. Senior engineering manager, senior research 11 and development manager at Cisco. 12 Q. I'm sorry. Senior engineering manager, and 13 what was the other one? 14 A. Well, engineering manager. I used the word 15 "R&D," but senior engineering manager. 16 Q. What were your responsibilities as the 17 senior engineering manager? 18 A. I was responsible for a development -- 19 software development team that developed some of the 20 software related to ACNS with a team of 21 approximately 40 engineers responsible for elements 22 of the overall solution.</p>	<p style="text-align: right;">12</p> <p>1 engine. 2 The first request would go to DNS, which is 3 a domain name server not part of ACNS. 4 The second request after that would go to a 5 content router, which is part of ACNS. And from 6 there it would go to a proxy engine or content 7 engine. 8 So there are multiple steps. The content 9 router is one of them. 10 Q. So what is the content engine? 11 MR. EVANS: Objection; form. 12 A. I don't know what that means. 13 Q. You don't have to worry about it. He's 14 preserving his objections for later. 15 A. Okay. 16 Q. So you can answer the question, like I 17 said, unless he instructs you not to answer. 18 A. So repeat the question? 19 Q. What is a content engine? 20 A. A content engine is a cache that serves 21 multiple types of content to a web browser or other 22 type of device that implements various protocols.</p>

<p>13</p> <p>1 It is software running on an X86 server.</p> <p>2 Q. So how does it operate as a content cache?</p> <p>3 MR. EVANS: Objection to form; outside</p> <p>4 the scope of this testimony.</p> <p>5 A. I guess I don't need to answer that, or</p> <p>6 it's not relevant.</p> <p>7 Q. You should still answer unless your counsel</p> <p>8 instructs you to not.</p> <p>9 A. I'm sorry. Repeat the question, then.</p> <p>10 MR. PROCTOR: Can you please repeat</p> <p>11 the question.</p> <p>12 (Last question read.)</p> <p>13 A. Sure. So the general principle of content</p> <p>14 cache is that client devices make a request to a</p> <p>15 cache, whether it's using an HTTP protocol or RTSP or</p> <p>16 RTMP protocol, to a cache. If that object is cached</p> <p>17 in that device, it responds with a cached object to</p> <p>18 the client.</p> <p>19 If it's not, the cache knows how to go and</p> <p>20 fetch or acquire or ingest that object from the</p> <p>21 source and cache it locally and then respond to</p> <p>22 clients to accelerate content delivery and</p>	<p>15</p> <p>1 cache and responds to the client.</p> <p>2 Q. Does the content engine perform any</p> <p>3 security analysis on the request?</p> <p>4 MR. EVANS: Objection to form.</p> <p>5 A. The content engine does not perform any</p> <p>6 inspection of data within the object, no.</p> <p>7 Q. To be specific, though, does it perform any</p> <p>8 security analysis on the request itself?</p> <p>9 MR. EVANS: Objection to form.</p> <p>10 A. If the request -- does it -- repeat the</p> <p>11 question? I'm sorry.</p> <p>12 MR. PROCTOR: Could you please repeat</p> <p>13 the question.</p> <p>14 (Last question read.)</p> <p>15 A. It does not.</p> <p>16 Q. Does it look at individual packets within</p> <p>17 the request?</p> <p>18 MR. EVANS: Objection to form.</p> <p>19 A. It does not.</p> <p>20 MR. EVANS: Counsel, I don't</p> <p>21 understand what your line of questioning is. This</p> <p>22 is the declaration -- deposition related to</p>
<p>14</p> <p>1 scalability of a website.</p> <p>2 Q. You mentioned the term "request." What is</p> <p>3 a request?</p> <p>4 MR. EVANS: Objection to form.</p> <p>5 A. A request is an application. It could be a</p> <p>6 video media player, it could be a web browser that</p> <p>7 is making a request for an image, a movie, a web</p> <p>8 page, a PDF document, any type of object that can be</p> <p>9 delivered over the relevant protocols. And that's</p> <p>10 what a request is. Generally, it's started with</p> <p>11 a -- using a browser to view or stream content.</p> <p>12 Q. And what happens when the content engine</p> <p>13 receives the request? How does it process that</p> <p>14 request?</p> <p>15 MR. EVANS: Objection to form.</p> <p>16 A. It receives the request. It looks within</p> <p>17 its storage cache to see if that object is there.</p> <p>18 If so, it just responds back with the appropriate</p> <p>19 response protocol.</p> <p>20 If it's not, it creates another session</p> <p>21 that goes to a -- what's called an "origin server"</p> <p>22 to acquire that object. Then it maintains it in the</p>	<p>16</p> <p>1 Mr. Fuchs' declaration.</p> <p>2 MR. PROCTOR: Correct. In</p> <p>3 paragraph 2, he described ACNS as setting up and</p> <p>4 managing content delivery and content caching</p> <p>5 services. We're discussing this line where he talks</p> <p>6 about how it sets up -- setting up and manages</p> <p>7 content delivery and content caching services.</p> <p>8 MR. EVANS: I don't see any of the</p> <p>9 information that you're asking him in this one</p> <p>10 sentence. But nonetheless, I will continue to</p> <p>11 object. I don't like to object just willy-nilly,</p> <p>12 but...</p> <p>13 BY MR. PROCTOR:</p> <p>14 Q. Is there any logging that goes on of the</p> <p>15 content requests from the client?</p> <p>16 A. For each object that is -- for each</p> <p>17 request, there is a transaction log typically --</p> <p>18 typically -- entered in the -- yes.</p> <p>19 Q. What is a transaction log?</p> <p>20 MR. EVANS: Objection to form.</p> <p>21 A. The transaction log -- generally, the</p> <p>22 intent of a transaction log is to indicate that an</p>

<p style="text-align: right;">17</p> <p>1 object has been delivered and some information 2 appropriate with the protocol that was used to log 3 the transaction. 4 Q. What do you mean by logging a transaction? 5 MR. EVANS: Objection to form. 6 A. If an object is delivered over HTP, there's 7 a transaction log that says there was an HTP 8 response, and HTP request responses have a standard 9 web transaction log entry. 10 Q. What type of information about the 11 transaction would be logged? 12 MR. EVANS: Objection to form. 13 A. I can tell you what I remember off the top 14 of my head, but there are specifications associated 15 with that that I don't remember. 16 Q. Sure. 17 A. But in general, the URL being requested, 18 the IP address of the client, typically how many 19 bytes are transferred, and some other information. 20 Q. Would you be able to find this information 21 in a single packet of the request, or would you have 22 to compile the packets of the request -- or</p>	<p style="text-align: right;">19</p> <p>1 MR. EVANS: Objection to form. 2 A. I'm not sure. 3 Q. If you look at paragraph 2 of your 4 declaration, do you see the last sentence where you 5 say, "The ACNS guide describes the use of the 6 content application and content networking system, 7 the ACNS system, software for setting up and 8 managing content delivery and content caching 9 services in a centrally managed environment"? 10 A. Yes, I see that. 11 Q. What did you mean by "managing content 12 delivery"? 13 A. Where is the reference to content? 14 Q. It's the last -- the second to last line in 15 paragraph 2. 16 A. Oh, paragraph 2. I'm sorry. I was reading 17 paragraph 3. Okay. 18 Okay. So the question is what's the 19 reference to managing content delivery? 20 Q. Yes. 21 A. So the reference to that is that there were 22 content engines and content routers as the</p>
<p style="text-align: right;">18</p> <p>1 reassemble the packets of the request to figure out 2 this information? 3 MR. EVANS: Objection to form. 4 You know, Counsel, I again object to 5 this. This is well outside the scope of the 6 testimony that he's provided in this matter. 7 BY MR. PROCTOR: 8 Q. I'll move on if you answer the question. 9 A. I generally don't know. There is a 10 transaction log associated with HPT requests. How 11 it gets there, I really don't know. 12 Q. I'm just trying to figure out if it's 13 logging information about a packet within the 14 transaction or the entire transaction. 15 MR. EVANS: Objection to form. 16 Is there a question, Counsel? 17 MR. PROCTOR: Yes. 18 BY MR. PROCTOR: 19 Q. In the transaction logging of ACNS, does 20 the transaction log record or log information about 21 individual packets in the transaction or the 22 transaction as a whole?</p>	<p style="text-align: right;">20</p> <p>1 applications. And then managing that would be 2 provisioning -- configuring policy, configuring 3 application functionality, and collecting 4 statistics, and reporting it in a centralized 5 manner. So it's an element provisioning and 6 monitoring system. 7 Q. What do you mean by "an element"? 8 A. Well, an element -- 9 MR. EVANS: Objection to form. 10 A. "Element" is a generic industry term to a 11 device or an application. 12 Q. Then do you also see in the same sentence 13 you say, "and content caching services"? 14 A. Yes. 15 Q. What do you mean by "content caching 16 services"? 17 A. Well, the content engine supported multiple 18 protocols, each associated with a type of a service. 19 HTP is a protocoling service, RTMP is a protocoling 20 service, RTSP is a protocoling service, and so 21 various services and various types of application 22 servers that performed caching.</p>

<p style="text-align: right;">21</p> <p>1 Q. You sound very knowledgeable on ACNS. Did</p> <p>2 you do any engineering work with ACNS? Or what was</p> <p>3 your responsibility or role in ACNS when you were</p> <p>4 working on ACNS primarily?</p> <p>5 MR. EVANS: Objection to form.</p> <p>6 A. I was a second-level engineering manager.</p> <p>7 What that meant was I had a team of three managers</p> <p>8 for most of the duration on my team who were</p> <p>9 responsible for the three major areas that we were</p> <p>10 responsible.</p> <p>11 To your question, I did not write or design</p> <p>12 or implement any software.</p> <p>13 Q. Did your role give you a thorough</p> <p>14 understanding of ACNS?</p> <p>15 A. It gave me a direction and objectives, but</p> <p>16 there were engineers and engineering managers</p> <p>17 responsible for implementation.</p> <p>18 Q. Then in that same sentence, the sentence</p> <p>19 ends with, "in a centrally managed environment."</p> <p>20 What is a centrally managed environment?</p> <p>21 A. This was the -- ACNS was a -- as we</p> <p>22 talked -- distributed caching system, which meant</p>	<p style="text-align: right;">23</p> <p>1 that I have investigated further related to the</p> <p>2 subject matter of this declaration?"</p> <p>3 A. What I meant by that was that when a Cisco</p> <p>4 attorney contacted me regarding the ACNS product and</p> <p>5 documentation, I was asked if I was in aware of the</p> <p>6 documentation. I said yes.</p> <p>7 And they asked how would they find it, and</p> <p>8 I said I could go to Google. And so I went Google</p> <p>9 and searched ACNS and found the Cisco website that</p> <p>10 had the documentation. So the investigation was to</p> <p>11 basically find the documentation associated with</p> <p>12 ACNS.</p> <p>13 Q. When did you perform that investigation?</p> <p>14 A. Probably within a 30-day period of this</p> <p>15 declaration, prior to it.</p> <p>16 Q. Was that the first time that you had</p> <p>17 searched for the ACNS guide version 5.5?</p> <p>18 A. I don't remember.</p> <p>19 Q. Can you turn to paragraph 8 of your</p> <p>20 declaration, please.</p> <p>21 A. Yeah.</p> <p>22 Q. Do you see the last sentence? It says --</p>
<p style="text-align: right;">22</p> <p>1 caches are distributed in locations to best serve</p> <p>2 the subscriber quality.</p> <p>3 A centrally managed -- there was a</p> <p>4 management application that was typically deployed</p> <p>5 in one location in which an IT administrator and our</p> <p>6 customers would use to provision and manage the</p> <p>7 system. So the management element was in a</p> <p>8 location, and the caches were distributed. So</p> <p>9 that's what I meant by centrally managed</p> <p>10 environment.</p> <p>11 Q. Can you turn to paragraph 6 of your</p> <p>12 declaration, please.</p> <p>13 A. Sure.</p> <p>14 Q. I'm sorry paragraph 5. Do you see after</p> <p>15 the comma -- strike that.</p> <p>16 Do you see that paragraph 5 says, "I'm</p> <p>17 familiar with the facts of this declaration, which</p> <p>18 is based on my personal knowledge and information,</p> <p>19 as well as matters that I have investigated further</p> <p>20 relating to the subject matter of this declaration"?</p> <p>21 A. Yes, I see that.</p> <p>22 Q. What do you mean by, "as well as matters</p>	<p style="text-align: right;">24</p> <p>1 A. Let me read the paragraph.</p> <p>2 Q. Sure.</p> <p>3 A. Okay.</p> <p>4 Q. Do you see in the last sentence it says,</p> <p>5 "It was Cisco Systems' regular practice at the time</p> <p>6 to provide all customers purchasing the ACNS system</p> <p>7 with access to the ACNS guide through the Cisco</p> <p>8 publicly available website, www.cisco.com, for each</p> <p>9 customer who purchased ACNS"?</p> <p>10 A. I see that.</p> <p>11 Q. Do you know when release 5.5 of Cisco ACNS</p> <p>12 was first available to customers?</p> <p>13 A. At this moment, I don't remember. I don't</p> <p>14 remember at this very moment.</p> <p>15 Q. Is that information in your declaration?</p> <p>16 A. The declaration says "generally available,"</p> <p>17 and with a Google search, you can find the exact</p> <p>18 date. So if you ask me, do I remember when, I don't</p> <p>19 remember the exact date.</p> <p>20 Q. So my question is when was it -- when was</p> <p>21 the release 5.5 user guide first available to</p> <p>22 customers?</p>

<p>25</p> <p>1 A. According to this declaration, it was at 2 least by 2008.</p> <p>3 Q. And how do you know that it was at least by 4 2008?</p> <p>5 A. I generally recall that when I Googled ACNS 6 5.5 documentation, the Cisco website had the 7 documentation with the date associated with it, 8 which led me to this declaration about a year ago.</p> <p>9 Q. Do you have any other basis for your 10 opinion of when the ACNS version 5.5 guide was first 11 available other than when you did this Google search 12 for it?</p> <p>13 A. Not for the date because it was a long time 14 ago.</p> <p>15 I do know that it's general practice at 16 Cisco that in order to release a product, you have 17 to release the documentation with it. But I have no 18 memory to recall exact dates. Only by Google 19 research.</p> <p>20 Q. So when a customer purchased ACNS, the 21 system, were they provided with the guide?</p> <p>22 A. Yes.</p>	<p>27</p> <p>1 web access, or that you -- that's what you recall 2 from that time?</p> <p>3 A. The guide was made available to all 4 customers through web access.</p> <p>5 Q. How was it made available to all customers 6 through web access?</p> <p>7 A. A product guide and the release notes had 8 to be posted on cisco.com for every release. And 9 customers who purchased products were generally on 10 mailing lists associated with that to be notified 11 about all software releases and documentation 12 updates.</p> <p>13 Q. How would that have been put on the mailing 14 list?</p> <p>15 A. I believe they would have subscribed. It 16 wasn't my area of responsibility. In general, 17 customers were instructed to subscribe, but that's 18 an area that I can't attest to 100 percent. It's a 19 general belief.</p> <p>20 Q. Were you responsible in any fashion for 21 putting the content on cisco.com or providing the 22 user guides to the customers?</p>
<p>26</p> <p>1 Q. Were they provided with specifically -- 2 strike that.</p> <p>3 If the current version of ACNS was release 4 5.5, were they provided with the 5.5 guide, which is 5 Exhibit 12 in this case?</p> <p>6 A. Customers would be provided the guide when 7 they purchased, and access to subsequent guide 8 revisions as well.</p> <p>9 Q. How were they provided with guides?</p> <p>10 A. The guides were generally available online. 11 At that time, I believe also available on media, 12 like a CD or a DVD.</p> <p>13 Q. So if I were to purchase -- at that time, 14 if I were to purchase the ACNS system, would I be 15 provided the user guide somehow?</p> <p>16 A. Yes, you would.</p> <p>17 Q. And did you say that I'd be provided the 18 user guide by CD or by another medium?</p> <p>19 A. I can state that at least by web access. 20 And I believe, by recollection, by a CD.</p> <p>21 Q. If I was -- I'm sorry. Did you say that 22 you know that they were provided the guide through</p>	<p>28</p> <p>1 A. I was not.</p> <p>2 Q. Were the user guides password protected on 3 the Cisco website?</p> <p>4 A. I don't recall.</p> <p>5 Q. Do you know one way or the other whether 6 they were password protected?</p> <p>7 A. I don't recall.</p> <p>8 Q. Do you know approximately how many people 9 have purchased Cisco ACNS?</p> <p>10 A. I do not.</p> <p>11 Q. Do you have any understanding of how many 12 copies of Cisco ACNS have been purchased?</p> <p>13 A. I would only be speculating. I do not.</p> <p>14 Q. Do you know whether the portion of the 15 Cisco website that has the user manual was indexed 16 on the internet?</p> <p>17 MR. EVANS: Objection to form.</p> <p>18 A. I don't know about that.</p> <p>19 Q. Do you know, at that time in 2008, I 20 believe, if a customer was to search Google or 21 another browser, if they would be able to find the 22 Cisco ACNS guide?</p>

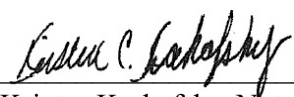
<p>29</p> <p>1 MR. EVANS: Objection to form.</p> <p>2 A. I can't speculate to what someone would do</p> <p>3 in 2008. I do not know.</p> <p>4 Q. What I'm asking is if they were to search</p> <p>5 Google or another web search engine, would they be</p> <p>6 able to find the Cisco guide in 2008?</p> <p>7 MR. EVANS: Objection.</p> <p>8 A. I do not know.</p> <p>9 Q. Do you know of any way, other than directly</p> <p>10 going to the Cisco website or signing up for that</p> <p>11 mailing list that you were talking about, where a</p> <p>12 customer would be able to receive a copy of the</p> <p>13 Cisco ACNS guide?</p> <p>14 A. I don't recall.</p> <p>15 Q. Can you turn to paragraph 9 of your</p> <p>16 declaration, please. Do you see the second</p> <p>17 sentence? It says -- you state that, "Cisco also</p> <p>18 maintains records of release notes for Cisco ACNS</p> <p>19 software -- "</p> <p>20 A. I do.</p> <p>21 Q. And then it goes on. " -- as reflected on</p> <p>22 the cisco.com website. A printout of which is</p>	<p>31</p> <p>1 software, which is attached as Exhibit 8. So</p> <p>2 release notes. It refers to release notes.</p> <p>3 Q. Are you saying that Exhibit 8 are the</p> <p>4 release notes?</p> <p>5 A. Unless -- well --</p> <p>6 MR. EVANS: Objection to form.</p> <p>7 A. This is a -- what I can see on the surface</p> <p>8 is the user guide software configuration guide.</p> <p>9 What I see is the software configuration guide on</p> <p>10 the first page of this.</p> <p>11 Q. I think that there is a typo in here, and</p> <p>12 that you did not attach the release notes for the</p> <p>13 Cisco ACNS user guide, and, in fact, Exhibit 8 is</p> <p>14 the 5.5 user guide that we've been discussing. Does</p> <p>15 that seem correct to you?</p> <p>16 MR. EVANS: Objection to form.</p> <p>17 A. What I can say in this meeting is that this</p> <p>18 does say "the user guide." If somewhere in the</p> <p>19 stack of papers is the release notes, I can't tell.</p> <p>20 I did not prepare that exhibit personally.</p> <p>21 Q. Do you know if the release notes are part</p> <p>22 of the user guide, Exhibit 8?</p>
<p>30</p> <p>1 attached as Exhibit 8."</p> <p>2 A. I do.</p> <p>3 Q. What do you mean by -- strike that.</p> <p>4 The Cisco ACNS guide is Exhibit 8 in this</p> <p>5 IPR. Are you saying that -- in this sentence that</p> <p>6 you believe the release notes are Exhibit 8, or are</p> <p>7 you trying to say something different?</p> <p>8 MR. EVANS: Objection to form.</p> <p>9 A. I'd need to see the exhibits. I don't know</p> <p>10 the exhibits and numbers.</p> <p>11 Q. I'm showing you what's been marked as</p> <p>12 Exhibit 8.</p> <p>13 A. You mean 1,008?</p> <p>14 Q. 1,008. And I'll represent that that is a</p> <p>15 true and correct copy of Exhibit 1,008 that was</p> <p>16 provided by the petitioner.</p> <p>17 A. Okay.</p> <p>18 Q. What are you referring to as Exhibit 8 in</p> <p>19 this sentence?</p> <p>20 MR. EVANS: Objection to form.</p> <p>21 A. Well, the declaration refers to release</p> <p>22 notes, release notes for ACNS -- Cisco ACNS</p>	<p>32</p> <p>1 A. I don't know if they're part of Exhibit 8.</p> <p>2 Release notes are generally a separate document that</p> <p>3 are released. There would be a user guide, and then</p> <p>4 there would be a separate document for release</p> <p>5 notes.</p> <p>6 Q. Have you provided the release notes as part</p> <p>7 of your declaration or as an attachment to your</p> <p>8 declaration?</p> <p>9 A. I did not provide the documents. I did not</p> <p>10 directly provide the documents.</p> <p>11 Q. So do you see the second to last line in</p> <p>12 the same paragraph beginning with "both"?</p> <p>13 A. Okay.</p> <p>14 Q. It says -- the line says, and your</p> <p>15 testimony is, "Both on the linked page and on the</p> <p>16 page attached hereto as Exhibit 8, each release</p> <p>17 version also provides an update date."</p> <p>18 A. Provides an update date.</p> <p>19 Let me read this for a moment.</p> <p>20 Okay. Question?</p> <p>21 Q. My question is the sentence appears to be</p> <p>22 saying that Exhibit 8 provides an update date. Do</p>

<p>33</p> <p>1 you agree with that?</p> <p>2 A. That's what it says, provides an update</p> <p>3 date. That's what it says, yes.</p> <p>4 Q. Does Exhibit 8, as I've handed to you,</p> <p>5 provide an update date for any release version of</p> <p>6 Cisco ACNS?</p> <p>7 A. Well, so far I've just seen the front cover</p> <p>8 of the guide.</p> <p>9 Q. You're welcome to open it up and, if you</p> <p>10 want to, inspect the guide. I realize it's a very</p> <p>11 large guide, but --</p> <p>12 A. Is the question is there a date on this?</p> <p>13 Q. My question is is there an update date on</p> <p>14 Exhibit 8 for the version that's printed on</p> <p>15 Exhibit 8, which is version 5.5?</p> <p>16 A. I would have to inspect it.</p> <p>17 Q. Could you let me know one way or the other</p> <p>18 whether you believe that there is?</p> <p>19 I can tell you that I've inspected it</p> <p>20 thoroughly and there isn't, but you're welcome to</p> <p>21 give me your best testimony on that question.</p> <p>22 A. I would have to inspect it to know that</p>	<p>35</p> <p>1 A. I generally recall from a year ago that I</p> <p>2 had seen that associated with the publishing date on</p> <p>3 the cisco.com website.</p> <p>4 Q. Do you have any other basis other than the</p> <p>5 testimony that you just gave for saying that release</p> <p>6 5.5.1 was updated on March 20, 2008?</p> <p>7 A. In terms of the date, no.</p> <p>8 Q. Can you please turn to paragraph 10. I'll</p> <p>9 give you a second to read it.</p> <p>10 A. Okay.</p> <p>11 Q. Do you see the first line is, "Documents,</p> <p>12 including these release notes, further establish</p> <p>13 that the ACNS guide was distributed at least as</p> <p>14 early as 2008"?</p> <p>15 A. I see that.</p> <p>16 Q. What do you mean by, "documents, including</p> <p>17 these release notes"?</p> <p>18 A. The documents being the actual user guide</p> <p>19 and the release notes published to the cisco.com</p> <p>20 site.</p> <p>21 Q. Are you saying that the user guide shows a</p> <p>22 date that indicates that the ACNS guide was</p>
<p>34</p> <p>1 there's no date. On the website this was performed,</p> <p>2 there were dates associated with the publishing.</p> <p>3 Q. So what is your basis for your testimony</p> <p>4 that there is an update date associated with</p> <p>5 Exhibit 12? Exhibit 8, excuse me.</p> <p>6 A. That there are dates associated with</p> <p>7 publishing on the website that I recall from that</p> <p>8 Google search about a year ago, both the</p> <p>9 documentation -- primary documentation guides and</p> <p>10 release notes.</p> <p>11 Q. So the last sentence of the same paragraph,</p> <p>12 paragraph 9, says, "For example, release 5.5.1 was</p> <p>13 updated on March 20, 2008"; is that correct?</p> <p>14 A. It's what I -- it's in my declaration, so I</p> <p>15 would say yes.</p> <p>16 Q. What is your basis for saying that?</p> <p>17 A. When I signed this declaration, I was able</p> <p>18 to Google search for the documentation and the</p> <p>19 release notes and those -- and validate the dates</p> <p>20 that I was signing to.</p> <p>21 Q. How did you validate that March 20, 2008,</p> <p>22 date?</p>	<p>36</p> <p>1 distributed at least as early as March 2008?</p> <p>2 A. I'm not saying that a document specifically</p> <p>3 within the document was saying that. I'm saying</p> <p>4 that the website showed that.</p> <p>5 Q. So my question is are there any</p> <p>6 documents -- my question -- so this line appears to</p> <p>7 suggest that there's other documents other than the</p> <p>8 release notes that state that the ACNS guide was</p> <p>9 released as early as March 2008.</p> <p>10 Are there any documents that you're aware</p> <p>11 of other than the release notes that form your basis</p> <p>12 for your understanding that the ACNS guides was --</p> <p>13 A. The basis for this declaration were user</p> <p>14 guides and release notes for ACNS.</p> <p>15 Q. How does the user guide help establish the</p> <p>16 March 2008 date?</p> <p>17 A. I recall that I was able to easily find it</p> <p>18 on the cisco.com site and that it was at least, if</p> <p>19 not prior to, March 2008.</p> <p>20 Q. To be clear, the user guide that's the</p> <p>21 subject of this deposition is sitting in front of</p> <p>22 you as Exhibit 8. Is there anything on Exhibit 8</p>

<p>37</p> <p>1 that helps establish your proposed date of March 2 2008?</p> <p>3 A. Well, it says at least March 2008. If you 4 want, I'll flip through this.</p> <p>5 Q. Sure.</p> <p>6 A. If you'd like to, I'll spend a little time 7 on that. It is 400 pages.</p> <p>8 Well, on the second page, I can see that 9 there's a copyright on it from Cisco of 2006. So I 10 can keep looking, but it says at least prior to 11 March 2008, and the second page says 2006 copyright 12 Cisco -- well, "ACNS software configuration guide 13 for centrally managed system -- managed deployments, 14 release 5.5, 2006, Cisco Systems, all rights 15 reserved" with a copyright symbol.</p> <p>16 Should I keep going?</p> <p>17 Q. If you want to keep going, you can. I can 18 tell you that there's no other date in there, but...</p> <p>19 A. I can keep going, but that at least 20 confirms prior to March 2008.</p> <p>21 Q. Well --</p> <p>22 A. Or based on this document.</p>	<p>39</p> <p>1 you not sure which -- you know, how they were 2 provided the ACNS guide?</p> <p>3 A. No. "Otherwise," in that statement, meant 4 we had high-touch account managers and sales 5 engineers that worked with our customers, and they 6 would verbally also notify customers of updates, any 7 software, and support that. So that's what I meant 8 by otherwise.</p> <p>9 Q. Did you provide any evidence in your 10 declaration or attached to your declaration that 11 customers who purchased ACNS were provided with 12 Exhibit 12?</p> <p>13 A. I'm sorry. Say that again?</p> <p>14 Q. Did you provide any evidence in your 15 declaration or attached as an exhibit to your 16 declaration that customers who purchased ACNS were 17 provided with Exhibit 12?</p> <p>18 A. I would have to read this right now to 19 know -- to remember if this referenced any details 20 other than that sentence.</p> <p>21 Q. Can you take a quick look and see if you 22 can answer my question one way or the other?</p>
<p>38</p> <p>1 Q. Is it your understanding that a copyright 2 date supports your opinion that the version 5.5 of 3 the Cisco ACNS guide was distributed at least prior 4 to March 2008?</p> <p>5 A. I'm just confirming what I can read on this 6 page.</p> <p>7 Q. Okay. Can you turn to paragraph 11.</p> <p>8 A. Okay.</p> <p>9 Q. I'll give you a second to read it.</p> <p>10 A. Yes.</p> <p>11 Q. Does paragraph 11 encompass your full 12 testimony of how the ACNS user guide was distributed 13 to customers who purchased ACNS?</p> <p>14 A. At the time of this writing, I -- at the 15 time of this writing, documents were available 16 online. It was, as I authorized here -- I don't 17 know what the word is, but it was Cisco's practice 18 that customers would be notified of software 19 revisions. And so the notification by email or 20 otherwise was my reference to that, based on general 21 practice at Cisco.</p> <p>22 Q. When you say "by email or otherwise," are</p>	<p>40</p> <p>1 A. Can you please read the question again so 2 that I can read this document again?</p> <p>3 (The following was read: "Did you 4 provide any evidence in your declaration or attached 5 as an exhibit to your declaration that customers who 6 purchased ACNS were provided with Exhibit 12?")</p> <p>7 A. So this declaration has one exhibit, 1,008, 8 which is the software configuration guide, and I 9 don't see any other exhibits that indicate 10 specifically how the customer -- referencing the 11 customer document acquisition process.</p> <p>12 Q. So the evidence -- the only evidence you 13 provide in your declaration would be Exhibit 8; is 14 that correct? And your testimony?</p> <p>15 A. Yes.</p> <p>16 Q. I'd like to jump back to something we were 17 talking about earlier.</p> <p>18 Would you consider the content engine to be 19 a gateway?</p> <p>20 MR. EVANS: Objection to form.</p> <p>21 A. What do you mean? What is a gateway?</p> <p>22 Q. What is your understanding of a gateway?</p>

Transcript of Eli Fuchs
Conducted on June 28, 2019

11 (41 to 44)

<p>41</p> <p>1 A. You asked me what a gateway was.</p> <p>2 MR. EVANS: Objection to form.</p> <p>3 A. A gateway is a toll on a road. I don't</p> <p>4 know.</p> <p>5 Q. Do you have any understanding of what a</p> <p>6 gateway is in the networking field?</p> <p>7 MR. EVANS: Objection to form.</p> <p>8 A. I've been in the industry a long time, and</p> <p>9 gateway has been used to reference so many things,</p> <p>10 so please be specific.</p> <p>11 Q. How about a networking gateway?</p> <p>12 MR. EVANS: Objection to form.</p> <p>13 A. You'll need to be more specific than that.</p> <p>14 Q. Do you understand have any understanding of</p> <p>15 what a gateway is?</p> <p>16 MR. EVANS: Objection to form.</p> <p>17 A. That's a generic term. You'd need to use</p> <p>18 it specifically.</p> <p>19 Q. Can you answer my question? Would you</p> <p>20 consider the content engine to be a gateway?</p> <p>21 MR. EVANS: Objection to form.</p> <p>22 A. I can't answer that question.</p>	<p>43</p> <p>1 I, Kristen C. Krakofsky, court reporter and</p> <p>2 notary public in and for the Commonwealth of</p> <p>3 Massachusetts, certify:</p> <p>4 That ELI FUCHS, the witness whose</p> <p>5 deposition is hereinbefore set forth, was duly</p> <p>6 sworn by me before the commencement of such</p> <p>7 deposition and that such deposition was taken</p> <p>8 before me and is a true record of the testimony</p> <p>9 given by such witness.</p> <p>10 I further certify that the adverse party,</p> <p>11 Cisco Systems Inc., was represented by counsel at the</p> <p>12 deposition.</p> <p>13 I further certify that the deposition of</p> <p>14 ELI FUCHS, occurred at the offices of Westford Regency</p> <p>15 Inn and Conference Center, 219 Littleton Rd, Westford,</p> <p>16 Massachusetts, on Friday, June 28, 2019, commencing at</p> <p>17 9:01 a.m. to 9:58 a.m.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p>42</p> <p>1 Q. Does the content engine perform any</p> <p>2 analysis on content requests?</p> <p>3 MR. EVANS: Objection to form.</p> <p>4 A. I don't remember.</p> <p>5 Q. Have you heard of the term "at rest"?</p> <p>6 MR. EVANS: Objection to form.</p> <p>7 A. Have I heard the term at rest in quotes?</p> <p>8 Q. Yes.</p> <p>9 A. Not in a technical sense. I'm at rest at</p> <p>10 home, in that sense, but not in the technical sense.</p> <p>11 Q. Are you familiar with the term "in</p> <p>12 transit"?</p> <p>13 MR. EVANS: Objection to form.</p> <p>14 A. Only in reference to a -- no. Only in</p> <p>15 reference to buses. No, not in a technical sense.</p> <p>16 MR. PROCTOR: I don't have any further</p> <p>17 questions.</p> <p>18 Do you have any cross, Counsel?</p> <p>19 MR. EVANS: No.</p> <p>20 MR. PROCTOR: All right. This</p> <p>21 deposition is over.</p> <p>22 (Deposition concluded at 9:58 a.m.)</p>	<p>44</p> <p>1 I further certify that I am not related</p> <p>2 to any of the parties to this action by blood or</p> <p>3 marriage, I am not employed by or an attorney to</p> <p>4 any of the parties to this action, and that I am</p> <p>5 in no way interested, financially or otherwise, in</p> <p>6 the outcome of this matter.</p> <p>7</p> <p>8</p> <p>9 IN WITNESS WHEREOF, I have hereunto set</p> <p>10 my hand this 1st day of July, 2019.</p> <p>11</p> <p>12 </p> <p>13 _____</p> <p>14 Kristen Krakofsky, Notary Public</p> <p>15 My commission expires October 25, 2024.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

A			
<p>able 17:20, 28:21, 29:6, 29:12, 34:17, 36:17 about 5:11, 5:14, 6:18, 7:10, 12:13, 16:6, 17:10, 18:13, 18:20, 25:8, 27:11, 28:18, 29:11, 34:8, 40:17, 41:11 accelerate 13:22 access 24:7, 26:7, 26:19, 27:1, 27:6 according 25:1 account 39:4 acns 6:5, 9:20, 10:2, 10:4, 10:7, 10:20, 11:7, 12:3, 12:5, 16:3, 18:19, 19:5, 19:7, 21:1, 21:2, 21:3, 21:4, 21:14, 21:21, 23:4, 23:9, 23:12, 23:17, 24:6, 24:7, 24:9, 24:11, 25:5, 25:10, 25:20, 26:3, 26:14, 28:9, 28:12, 28:22, 29:13, 29:18, 30:4, 30:22, 31:13, 33:6, 35:13, 35:22, 36:8,</p>	<p>36:12, 36:14, 37:12, 38:3, 38:12, 38:13, 39:2, 39:11, 39:16, 40:6 acquire 13:20, 14:22 acquisition 40:11 action 44:2, 44:4 actual 35:18 add 7:9 address 17:18 administrator 22:5 adverse 43:10 after 12:4, 22:14 again 7:1, 18:4, 39:13, 40:1, 40:2 ago 5:14, 25:8, 25:14, 34:8, 35:1 agree 33:1 algorithms 11:12 all 6:11, 6:20, 7:2, 24:6, 27:3, 27:5, 27:11, 37:14, 42:20 also 20:12, 26:11, 29:17, 32:17, 39:6 analysis 15:3, 15:8, 42:2 another 14:20, 26:18,</p>	<p>28:21, 29:5 answer 6:16, 6:17, 12:16, 12:17, 13:5, 13:7, 18:8, 39:22, 41:19, 41:22 any 6:18, 7:17, 8:4, 14:8, 15:2, 15:5, 15:7, 16:8, 16:14, 21:2, 21:12, 25:9, 27:20, 28:11, 29:9, 33:5, 35:4, 36:5, 36:10, 39:6, 39:9, 39:14, 39:19, 40:4, 40:9, 41:5, 41:14, 42:1, 42:16, 42:18, 44:2, 44:4 anything 7:9, 36:22 appeal 1:3 appearances 2:1 appears 32:21, 36:6 application 11:22, 14:5, 19:6, 20:3, 20:11, 20:21, 22:4 applications 20:1 appropriate 14:18, 17:2 approximately 10:21, 28:8 area 11:3, 27:16, 27:18 areas 21:9</p>	<p>ask 24:18 asked 7:17, 23:5, 23:7, 41:1 asking 16:9, 29:4 assess 27:4 associated 6:4, 17:14, 18:10, 20:18, 23:11, 25:7, 27:10, 34:2, 34:4, 34:6, 35:2 atlanta 2:8 attach 31:12 attached 30:1, 31:1, 32:16, 39:10, 39:15, 40:4 attachment 32:7 attest 27:18 attorney 7:13, 23:4, 44:3 authorized 38:16 availability 7:21, 8:3, 8:5 available 24:8, 24:12, 24:16, 24:21, 25:11, 26:10, 26:11, 27:3, 27:5, 38:15 aware 23:5, 36:10</p> <hr/> <p>B</p> <hr/> <p>back 14:18, 40:16 based 22:18, 37:22,</p>

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