

1 UNITED STATES PATENT AND TRADEMARK OFFICE

2 -----  
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD  
4 -----

5 HULU, LLC, Petitioner

6 v.

7 SITO MOBILE R&D IP, LLC and SITO MOBILE, LTD.,  
8 Patent Owner.  
9 -----

10 Case IPR2021-00158

11 U.S. Patent No. 9,026,673

12 Case IPR2021-00206

13 U.S. Patent No. 9,135,636

14 Case IPR2021-00219

15 U.S. Patent No. 9,135,636  
16 -----

17 VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF

18 MICHAEL ADAMS

19 Salida, Colorado

20 Friday, October 15, 2021

21 Volume 1

22 Reported by:

LESLIE JOHNSON

23 RPR, CCRR, CSR No. 11451

24 Job No.: 4833181

25 PAGES 1 - 189

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11 U.S. Patent No. 9,026,673

12 Case IPR2021-00206

13 U.S. Patent No. 9,135,636

14 Case IPR2021-00219

15 U.S. Patent No. 9,135,636  
16

17  
18 VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF  
19 MICHAEL ADAMS, Volume 1, taken on behalf of Petitioner, at  
20 Salida, Colorado, beginning at 9:05 a.m. and ending at  
21 4:15 p.m., on Friday, October 15, 2021, before LESLIE  
22 JOHNSON, Certified Shorthand Reporter No. 11451.  
23  
24  
25

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I N D E X

WITNESS  
MICHAEL ADAMS  
Volume 1

EXAMINATION

BY MR. BERG 7

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MICHAEL ADAMS

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MICHAEL ADAMS

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1 Salida, Colorado, Friday, October 15, 2021

2 9:05 a.m.

3

4 THE VIDEOGRAPHER: Good morning. We are

5 on the record at 9:05 a.m. on October 15, 2021. 09:06:01

6 This is the beginning of Media No. 1 of  
7 the recorded deposition of Michael Adams in the  
8 matter of Hulu, LLC versus Sito Mobile R&D IP, LLC.

9 This deposition is being conducted using Veritext  
10 Virtual Zoom technology, and all participants are 09:06:25  
11 attending remotely.

12 Please note microphones are sensitive and  
13 may pick up whispers, private conversations, and  
14 cellular interference. Until all parties agree to  
15 go off the record, audio and video recording will 09:06:39  
16 continue to take place.

17 My name is JoAnn Yager. I am the  
18 videographer. The court reporter is Leslie Johnson,  
19 and we are here with Veritext Legal Solutions.

20 If there are any objections to proceeding, 09:06:52  
21 please state them at the time of your appearance,  
22 beginning with the noticing attorney.

23 MR. BERG: Hi. This is Brad Berg for  
24 O'Melveny & Myers representing Petitioner Hulu, LLC.

25 MR. SPRENGER: And Kevin Sprenger of 09:07:08

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1 Daignault and Iyer, LLP representing Sito Mobile. 09:07:12  
2 THE VIDEOGRAPHER: The witness may be  
3 sworn in.  
4  
5 MICHAEL ADAMS, 09:07:17  
6 having been administered an oath, was examined and  
7 testified as follows:  
8  
9 EXAMINATION  
10 BY MR. BERG: 09:07:40  
11 Q Good morning, Mr. Adams.  
12 A Good morning.  
13 Q Can you please state your name for the  
14 record.  
15 A Yes. It is Michael Adams. 09:07:46  
16 Q And do you understand that you are under  
17 oath?  
18 A Yes, I do.  
19 Q Mr. Adams, have you been deposed before?  
20 A Yes, I have. 09:07:59  
21 Q And approximately how many times?  
22 A I think altogether four times.  
23 Q And have any of those four times been done  
24 remotely like we're doing today?  
25 A Yes. I believe two of them were remote. 09:08:16

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1 Q Okay. So you're familiar with how this 09:08:18  
2 remote setup works.

3 Have you ever used the Veritext platform  
4 before?

5 A Not Veritext, no. But I have used one 09:08:27  
6 which is also based on Zoom, so similar.

7 Q Okay. And so you understand that, when I  
8 introduce an exhibit, it will appear in your folder,  
9 and then you should be able to open it from there,  
10 correct? 09:08:47

11 A Yes, correct.

12 Q And I believe you can either open it kind  
13 of in your browser or you can download the document.  
14 And probably what we'll do is, early on here, I'll  
15 introduce kind of a lot of exhibits just so that we 09:08:59  
16 have the ability to kind of go back and forth  
17 between the different exhibits.

18 Is that all right with you?

19 A Of course, yes.

20 Q So I assume you're familiar with kind of 09:09:09  
21 the ground rules for a deposition?

22 A Yes, I believe I am.

23 Q So you understand that today's deposition  
24 is being recorded stenographically, so you should  
25 give verbal answers rather than nodding or shaking 09:09:22

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1 your head? 09:09:26

2 A Yes.

3 Q And you know that your attorney may object

4 to a question, but you are still required to answer

5 that question unless your attorney instructs you not 09:09:32

6 to, correct?

7 A Yes.

8 Q And, if at any point your answer gets cut

9 off, let me know and I'll give you a chance to

10 complete your answer. I'll do my best not to talk 09:09:46

11 over you and ask you to likewise try not to talk

12 over me. That way it will help the court reporter

13 keep a clear record of who said what.

14 Do you understand that?

15 A Yes. 09:10:00

16 Q And the last thing that I want to say is,

17 you know, this deposition is not an endurance test.

18 Certainly, if you need a break, just ask me. I'll

19 try to take pretty regular breaks just to keep

20 everyone fresh, but happy to take a break at any 09:10:15

21 time.

22 You know, my only request will be that if

23 there is a question pending that you answer the

24 question before we take a break.

25 A Okay. Thank you. 09:10:25

1 Q Mr. Adams, can you please state your home 09:10:30  
2 address for the record.

3 A Yes. It is 22553 Martin Street, Salida,  
4 Colorado 81201.

5 Q And can you please state your work 09:10:49  
6 address?

7 A It's actually the same address.

8 Q Let me see here. Let me introduce a  
9 couple of exhibits. Just bear with me for a second,  
10 make sure I remember how to do this. 09:11:06

11 (Exhibit 1 marked for identification.)

12 BY MR. BERG:

13 Q All right. So I introduced one exhibit.  
14 I'm going to introduce two more.

15 A Yes. Right now I see Exhibit 001. 09:11:41

16 (Exhibit 2 marked for identification.)

17 (Exhibit 3 marked for identification.)

18 BY MR. BERG:

19 Q Okay. Do you see all three of those  
20 exhibits that I've introduced? 09:12:40

21 A I see the first two of them. I think I  
22 have to figure out how to go back. Yes. A certain  
23 amount of double-clicking going on here. Yeah. Now  
24 I see all three, yes.

25 Q Okay. That's great. So let's just -- 09:12:54

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1 well, do you want to take a second and just look at 09:12:59  
2 those? I just want to ask you if you've seen these  
3 before and kind of make sure you understand what  
4 these are.

5 A Right. Yeah, let me do that. 09:13:08

6 Okay. The first one I recognize. Well, I  
7 should say I recognize the -- oh, I see. It's just  
8 a notice of deposition.

9 Q Yeah. So you may or may not have seen  
10 these before. Either way is obviously fine. 09:13:52

11 A Right. So I'm familiar, obviously,  
12 with -- I was given a notice for deposition. So,  
13 yeah, I'm familiar with the -- I may not be familiar  
14 with the individual document, but I understand what  
15 these documents are. 09:14:16

16 First of all, I thought they might be  
17 something else. So that's why --

18 Q Yep. Fair enough.

19 So let's start with -- sorry. Go ahead.

20 A Yeah. So I'm fine, yeah. 09:14:26

21 Q Okay. So let's start with Exhibit 1. So  
22 Exhibit 1 is "Petitioner Hulu, LLC's notice of  
23 deposition of Michael Adams." And this is for Case  
24 IPR 2021-00158, which covers U.S. Patent 9,026,673.

25 Are you appearing today pursuant to this 09:14:55

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1 notice of deposition? 09:14:59

2 A Yes, I am.

3 Q Okay. So let's go to Exhibit 2.

4 Exhibit 2 is similarly Petitioner Hulu,

5 LLC's Notice of Deposition of Michael Adams. And 09:15:13

6 this one is for Case IPR 2021-00206, covering U.S.

7 Patent No. 9,135,636.

8 Are you also appearing today pursuant to

9 this notice of deposition?

10 A Yes. 09:15:33

11 Q And then the last one, Exhibit 3, is also

12 Petitioner Hulu, LLC's notice of deposition of

13 Michael Adams for Case IPR 2021-00219. And this one

14 is for U.S. Patent No. 9,135,636.

15 Are you also appearing today pursuant to 09:15:57

16 this notice of deposition?

17 A Yes.

18 Q Okay. Great.

19 So you can -- I mean, feel free to keep

20 those open, but you can close them. We won't be 09:16:08

21 talking any more about those today. I just wanted

22 to get those on the record and establish kind of the

23 proceedings of this deposition and what it's going

24 to be covering.

25 A Okay. 09:16:20

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1           Q     Now, you are here today to testify as an           09:16:23  
2     expert or a consultant on behalf of the patent owner  
3     in this case, Sito Mobile R&D IP, LLC and Sito  
4     Mobile, Ltd., correct?

5           A     Yes.   09:16:39

6           Q     Will you understand if I refer to the  
7     patent owner as Sito?

8           A     Yes, I will.

9           Q     Were you retained for this matter by Sito  
10    or by Sito's counsel?                                       09:16:51

11          A     By Sito's counsel.

12          Q     Prior to this matter, have you ever worked  
13    as an expert or a consultant for Sito?

14          A     No, I have not.

15          Q     Prior to this matter, had you ever worked       09:17:05  
16    as an expert or a consultant for any of the lawyers  
17    in this matter?

18          A     No.

19          Q     Do you have any notes or other documents  
20    with you at your deposition today?                       09:17:15

21          A     No, I don't.

22          Q     All right. Let me go ahead and mark a few  
23    additional exhibits here.

24                     (Exhibit 4 marked for identification.)

25                     / / / /

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1 BY MR. BERG: 09:18:51

2 Q Okay. So I just introduced Exhibit 4.

3 It's a little bit larger exhibit, so please let me

4 know when that one pops up on your screen.

5 A Yes. I have it open now. 09:19:01

6 Q I just introduced a document that has been

7 marked as Exhibit 4.

8 Do you recognize this document, Mr. Adams?

9 A Yes, I do. This appears to be the U.S.

10 patent ending '673, which is one of the patents that 09:19:19

11 I was asked to look at.

12 Hold on a second. I wasn't -- no, it

13 isn't. No, it isn't at all. Excuse me.

14 Q No problem.

15 A I missed the critical part, which is that 09:19:39

16 this is my declaration that pertains to patent --

17 U.S. patent ending '637.

18 Q '673, correct?

19 A '673, yes.

20 Q Great. I only clarify because we actually 09:20:00

21 do have, as you know, another patent in a related

22 case that's the '673 patent, so --

23 A Yeah. It's a little confusing.

24 Q Yes. Okay.

25 And will you understand if I refer to 09:20:12

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1 Exhibit 4 as the '673 declaration? 09:20:18

2 A Yes, I will.

3 Q And is the '673 declaration accurate, to

4 the best of your knowledge?

5 A Yes, I believe it is. 09:20:35

6 Q Does it contain all the facts or data

7 considered by you in forming your opinions on the --

8 in the '673 matter?

9 A Yes.

10 Q Do you have any corrections or changes to 09:20:52

11 your '673 declaration at this time?

12 A No. Not that I know of, no.

13 Q Does this declaration accurately describe

14 the work that you performed in connection with the

15 '673 patent? 09:21:07

16 A Yes.

17 Q And you did not leave anything out?

18 A No, not as far as I know.

19 Q I just want to mention for the record that

20 the '673 declaration is marked in IPR 2021-00158 as 09:21:19

21 Sito Exhibit 2012. Each of the -- I believe each of

22 your declarations that we're going to look at today,

23 Mr. Adams, are marked with that same exhibit number

24 in the corresponding proceeding.

25 So I'm going to mark them as Exhibits 4, 09:21:54

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1 5, and 6 just to make sure that we can keep them 09:21:56  
2 straight. But I just wanted to point that out.  
3 A Yes.  
4 Q Okay. So let me introduce the next one  
5 here. 09:22:08  
6 (Exhibit 5 marked for identification.)  
7 BY MR. BERG:  
8 Q Okay. So let me know when that one --  
9 this one pops up for you.  
10 A I have it on my screen now. 09:22:35  
11 Q So I just introduced a document that's  
12 been marked as Exhibit 5.  
13 Do you recognize this document?  
14 A Yes. This appears to be my declaration  
15 for the U.S. patent ending '636. 09:22:50  
16 Q Will you understand if I refer to this as  
17 the '636 declaration?  
18 A Yes.  
19 Q And is the '636 declaration accurate?  
20 A I believe so. 09:23:14  
21 Q Does it contain all the facts or data that  
22 you considered in forming your opinions on the '635  
23 patent?  
24 A Yes.  
25 Q And do you have any corrections or changes 09:23:28

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1 at this time? 09:23:30

2 A No.

3 Q Does this declaration accurately describe

4 the work you performed in connection with the '636

5 patent? 09:23:43

6 MR. SPRENGER: Objection to form.

7 THE WITNESS: Yes.

8 BY MR. BERG:

9 Q Can you just state your answer one more

10 time, Mr. Adams? 09:23:52

11 A Yes, it does.

12 Q Great. Thank you. I just wanted a clean

13 record there.

14 Did you leave anything out of the '636

15 declaration? 09:24:07

16 A Not as far as I know.

17 MR. SPRENGER: Objection to form.

18 MR. BERG: Counsel, can you state the

19 basis for your objection.

20 MR. SPRENGER: Yeah. Vague. Ambiguous. 09:24:17

21 (Exhibit 6 marked for identification.)

22 BY MR. BERG:

23 Q Okay. Mr. Adams, I'm marking one more

24 exhibit here. Just let me know when that's popped

25 up. 09:24:44

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1           A     Yes. I have that open in front of me now.           09:25:11

2           Q     I just introduced a document that's been

3           marked Exhibit 6.

4                     Do you recognize this document?

5           A     Yes, I do.   09:25:21

6           Q     And what is it?

7           A     I see this is my declaration for the

8           patent ending '635, U.S. patent.

9           Q     Will you understand if I refer to this as

10          the '635 declaration?                                   09:25:42

11          A     Yes.

12          Q     To the best of your knowledge, is the '635

13          declaration accurate?

14          A     Yes.

15                     MR. SPRENGER: Objection to form.           09:25:51

16          BY MR. BERG:

17          Q     Is it a complete statement of all of your

18          opinions and the reasons for them?

19          A     Yes, I believe so.

20          Q     Does it contain all the facts or data that       09:26:03

21          you considered in forming your opinions on the '635

22          patent?

23          A     Yes, it does.

24          Q     Do you have any corrections or changes?

25          A     No.   09:26:16

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1 Q Does this declaration accurately describe 09:26:21  
2 the work that you performed?  
3 MR. SPRENGER: Objection to form.  
4 THE WITNESS: I believe it does.  
5 BY MR. BERG: 09:26:28  
6 Q And you did not leave anything out,  
7 correct?  
8 A No.  
9 Q Now, you would agree that there's a lot of  
10 overlap between these three declarations, correct? 09:26:40  
11 A Yes. In fact, as I looked at these, I  
12 believe that the specification is identical from one  
13 patent to the next, the difference being the claims.  
14 Q And, in fact, you also prepared four  
15 additional declarations in connection with various 09:27:10  
16 IPRs Hulu brought challenging claims from Sito's  
17 other patents, correct?  
18 A Yes, I did.  
19 Q And those also have a lot of overlap,  
20 right? 09:27:24  
21 A I believe so.  
22 Q So, if I ask you a question regarding one  
23 of your declarations, say the declaration covering  
24 the '673 patent, and there is some equivalent  
25 statement in another one of your declarations, do 09:27:41

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1       you agree that your testimony today would apply to       09:27:44  
2       both of those declarations? Or both of those  
3       statements, I should say?

4               MR. SPRENGER: Objection to form.

5               THE WITNESS: Well, I think that would       09:27:51  
6       depend on the context.

7               As I mentioned earlier, the claims do  
8       differ from one specification to the next. So  
9       they're not the same thing. And, if we're  
10       considering the claims in relation to the       09:28:09  
11       specification, then there could in fact be  
12       differences.

13       BY MR. BERG:

14              Q       Yeah. So that's a fair point and not what  
15       I'm trying to get at here.       09:28:20

16               What I'm trying to get at is, in the  
17       instance where there is not some claim language  
18       difference and your testimony in two different  
19       declarations is essentially identical.

20               For example, if we're talking about the       09:28:36  
21       background of one of the -- of one of the prior art  
22       references and you made the same statement in  
23       both -- in two different declarations.

24               If I ask you a question about one of those  
25       declarations, would you agree that your testimony       09:28:50

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1 would also apply to that same statement in the other 09:28:51  
2 declaration?

3 MR. SPRENGER: Objection to form.

4 THE WITNESS: I'm really not sure I can  
5 make that guarantee, if you like, just because of 09:29:02  
6 the context, you know, given the differing claim  
7 language. So, if we could take that on a  
8 point-by-point basis.

9 BY MR. BERG:

10 Q Yeah. I mean, so what is happening -- 09:29:20  
11 sorry. You can finish.

12 So I guess all I'm trying to do here is  
13 not ask you the exact same question three different  
14 times in the context of three different  
15 declarations. If we -- I mean, if that's how you 09:29:34  
16 want me to proceed, then I'm happy to do that. I  
17 just know you have large sections of these  
18 declarations that are verbatim, and so that just  
19 seems like kind of a waste of everyone's time.

20 A Yeah. I mean, I think if you ask me a 09:29:51  
21 question about, say, the '673 patent, a specific  
22 question, then we could maybe speed things up by  
23 then saying -- you could ask me, well, is this the  
24 same for the '636 and the same for the '635. I  
25 think I would be comfortable then checking and, you 09:30:15

Page 21

1 know, replying in the affirmative, if that's the 09:30:20  
2 case.

3 Q Okay. So I'm going to introduce a few  
4 additional exhibits here, just kind of so we can get  
5 all of these exhibits kind of introduced and out of 09:30:42  
6 the way to start. So let's see here.

7 Okay. Mr. Adams, so I've just introduced  
8 Exhibits 7, 8, and 9. Could you please let me know  
9 when you have those open.

10 A Yes. I have all three of those opened up. 09:33:27

11 (Exhibit 7 marked for identification.)

12 (Exhibit 8 marked for identification.)

13 (Exhibit 9 marked for identification.)

14 BY MR. BERG:

15 Q Okay. So let's start with Exhibit 7. 09:33:36

16 A Okay.

17 Q Do you recognize Exhibit 7?

18 A Yes, I do. It's United States Patent  
19 9,026,673 B2.

20 Q And will you understand, if I use the term 09:34:05  
21 '673 patent, to refer to this Exhibit 7 patent?

22 A Yes.

23 Q Okay. And I'll note that Exhibit 7 is  
24 marked as Exhibit 1001 in IPR 2021-00158.

25 Do you understand that? 09:34:32

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1 Exhibit 1001 in IPR 2021-00219. 09:36:22

2 Now, have you previously reviewed these

3 three patents?

4 A Yes, I have.

5 Q And I think you noted earlier that the 09:36:47

6 specification is identical or very nearly identical

7 between these three patents; is that correct?

8 A Yes. I believe it is at least very

9 similar. I have not discovered any differences in

10 the specification itself except for the claim 09:37:08

11 language.

12 Q And did you review these three patents in

13 preparing for today's deposition?

14 A Yes, I did.

15 Q And what did you do to prepare for today's 09:37:34

16 deposition in addition to reviewing these three

17 patents?

18 A Well, I went back and looked at my

19 declaration, and then I checked where I referred to

20 the patents. And then I also read through the 09:37:51

21 specification and the claim language of the patents

22 invented.

23 Q Did you meet with anyone in preparation

24 for this deposition?

25 A Yes, I did. 09:38:06

Page 24



1 Q And who did you meet with? 09:38:08

2 A With counsel at Daignault and Iyer.

3 Q And do you remember specifically which

4 counsel you met with?

5 A Yes. With Mr. Daignault. And also with 09:38:21

6 Mr. Sprenger.

7 Q And did you meet with anyone from the

8 Carmichael firm?

9 A No.

10 Q And for approximately how long did you 09:38:43

11 meet with counsel for Sito in preparation for

12 today's deposition?

13 A I would say several hours, maybe -- I

14 think in total, maybe two or three meetings, and

15 each maybe about two hours. So all together, you 09:39:05

16 know, whatever that would be.

17 Q And is that two or three meetings over the

18 past week or what kind of time frame?

19 A Yeah, over the past week. Yes.

20 Q And did you speak with anyone else in 09:39:24

21 preparation for today's deposition?

22 A No, I did not.

23 Q Now, in addition to the three patents and

24 your three declarations, did you review any

25 additional documents? 09:39:39

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A Yes. In fact, there is a list at the beginning of each declaration where I refer to documents. And so I refreshed my memory on those documents.

09:39:43

5 Q Are you aware that another expert, Michael 09:40:13  
6 Springer, prepared an expert declaration for a CBM  
7 proceeding involving a related patent, the '887  
8 patent in another proceeding?

9                   A       Yes, I do know that.

10	Q	Did you review his declaration?	09:40:35
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11                   A       I did review -- not his declaration, no.  
12                   I have not seen his declaration.

13 Q Did you review his deposition transcript  
14 from that matter?

15	A	No, I did not.	09:40:55
----	---	----------------	----------

16	Q	Have you ever spoken with Dr. Springer?
----	---	---

17	A	No, I haven't.
----	---	----------------

18 Q Did you review Dr. Henry Houh's  
19 declaration from these matters?

20           A     Yes, I have.  Not completely, but certain           09:41:14

21     sections of them.

22 Q And, as part of your preparation for  
23 today's deposition, did you conduct any independent  
24 searches, such as searches on the Internet?

25	A	No, I did not.	09:41:33
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1 Q Did you do any other independent research? 09:41:34

2 A No, I did not.

3 (Exhibit 10 marked for identification.)

4 BY MR. BERG:

5 Q Okay. Okay. So I just introduced what's 09:41:42

6 been marked as Exhibit 10.

7 Let me know when you have that open.

8 A Yes. I have it open.

9 Q Okay. And what is Exhibit 10?

10 A It appears to be my curriculum vitae. 09:43:03

11 Q And I'll just note the version of

12 Exhibit 10 that I introduced is marked as Sito's

13 Exhibit 2013 in IPR 2021-00158.

14 Do you see that?

15 A Yes. 09:43:40

16 Q And do you understand that the same CV was

17 also submitted in connection with the other two IPRs

18 that we're talking about today?

19 A Yes.

20 Q And I'll just state for the record that, 09:43:54

21 in each of those instances, it's also marked as

22 Exhibit 2013 in those proceedings.

23 So I'd like to ask you a few questions

24 about your background, Mr. Adams.

25 So, starting with your undergraduate, can 09:44:16

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1 | you please describe your education for the record? 09:44:20

2                   A       Yes.  My -- I have an undergraduate degree  
3                   in electronic and electrical engineering from the  
4                   University of Bristol in England.

5	Q	And what year did you graduate with that	09:44:44
6		Bachelor of Science degree?	

7	A	1979.
---	---	-------

8 Q And did you do any post-bachelor  
9 education?

10	A	Not at university, no.	09:45:02
----	---	------------------------	----------

11 Q And, when you say "not at university," can  
12 you describe what you mean by that?

13           A       Well, in the various roles that I've had  
14 over the years, I've attended, you know, 30, 40  
15 probably training sessions for various aspects and                      09:45:26  
16 attended many conferences and delivered many papers.  
17 So I would say my education has continued up until  
18 the present time.

19	Q	Fair enough.
----	---	--------------

20	Do you have any legal education or formal	09:45:51
21	training in the law?	

22                   A     No, I do not.

23 Q Have you ever taken any classes on  
24 intellectual property?

25	A	I have not taken formal classes, but I did	09:46:05
----	---	--	----------

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1 act as a reviewer for a book on entrepreneurship, 09:46:10  
2 and sections of that book dealt with intellectual  
3 property. So I have read extensively about  
4 intellectual property.

5 Q And are you a patent agent by chance? 09:46:29

6 A No, I'm not.

7 Q You do have several issued patents,  
8 though; is that correct?

9 A Yes, I do.

10 Q And did you work with a patent agent or 09:46:47  
11 patent attorney in submitting and getting those  
12 applications issued, or did you represent yourself  
13 in those proceedings?

14 A No. I worked with a patent attorney.

15 Q So, after you graduated with your 09:47:09  
16 bachelor's degree, can you describe what you did  
17 next professionally?

18 A Yes. I went to work for a small process  
19 control company where I developed hardware,  
20 firmware, and software systems. That was until 09:47:28  
21 1981. And, at that time, I moved to a position with  
22 Digital Equipment Corporation, where I worked on  
23 communications technologies, including ISDN, X25,  
24 and the like. And I developed software in various  
25 computing languages and also managed teams. 09:48:06

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1                   In 1988 I moved to Northern Telecom and                   09:48:14  
2                   worked for their research arm, Bell Northern  
3                   Research, where I developed -- further developed  
4                   communications, protocols and implemented software  
5                   and managed teams, including frame relay, SMDS and                   09:48:29  
6                   ATM.

7                   And then in 1993 I moved to Colorado to  
8                   take a position with Time Warner Cable, where I  
9                   worked on video-on-demand systems and set-top boxes.  
10                  Continued to work on network communications                   09:48:58  
11                  protocols. And eventually worked on the -- in fact,  
12                  I managed the engineering team for Time Warner Cable  
13                  for their RoadRunner group, which was their cable  
14                  modem initiative. So, ultimately, I managed a team  
15                  of about 100 engineers as vice president of                   09:49:28  
16                  RoadRunner Engineering.

17                  I left that position in 2003 to join a  
18                  company called Terayon, which developed MPEG  
19                  splicing equipment. And I worked on that for  
20                  approximately three years in an engineering and                   09:49:58  
21                  customer-facing role as vice president of  
22                  technology.

23                  And then in 1996 I joined a company called  
24                  Tandberg Television as a vice president, again, in  
25                  an engineering capacity. And that company was                   09:50:23

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1       acquired approximately a year later by Ericsson and       09:50:25  
2       was referred to as Ericsson TV.

3               And I stayed with Ericsson, again  
4       performing similar engineering tasks and management  
5       tasks, development tasks. And left Ericsson in       09:50:47  
6       2012.

7               I then worked independently for several  
8       cable companies as clients and was also a principal  
9       with a company called IBB Consulting in that period.

10              And I've continued to do similar work       09:51:19  
11       within the industry and also taken on expert witness  
12       roles since then as an independent consultant.

13              Q     Okay. Great. Thank you for that thorough  
14       answer. Obviously, you've had a varied career and  
15       done a lot of things. And I'd like to go through       09:51:48  
16       some of those roles and unpack a little bit more  
17       about what you did and how it's relevant to the  
18       patents today. So thank you for that, and also  
19       providing those years to give me a sense of timing.

20              So taking the first job at Kent Process       09:52:06  
21       Control, was anything that you were doing in those  
22       couple of years that you were there kind of related  
23       to the technology at issue in the three patents that  
24       we're talking about today?

25              A     No, it was not.       09:52:26

1           Q     And then moving on to your time at Digital           09:52:27  
2     Equipment Company, was anything that you were doing  
3     there relevant to the technology at issue in these  
4     patents?

5           A     In the sense of the networking technology           09:52:41  
6     that underlies these patents, yes, it was.

7           Q     And can you describe a little bit about  
8     that networking technology and how that's relevant  
9     to these patents?

10          A     Well, at Digital Equipment, I worked on a           09:52:57  
11     number of network protocol. All of these  
12     technologies, such as X25, for example, ultimately  
13     evolved into the IP network as we know it today. In  
14     other words, they were packet-based networks. And  
15     our current IP technologies are packet-based.           09:53:23  
16     Actually, the patents do not limit themselves to IP,  
17     but also talk about general packet-based networks.

18                So yes, the work I did at Digital  
19     Equipment was mainly associated with developing  
20     protocols for the evolving packet-based network           09:53:49  
21     technology that we know today as the Internet.

22          Q     And then you next went to Northern  
23     Telecom. Was any of your experience there relevant  
24     to the technology at issue in the patents we're  
25     talking about today?           09:54:18

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1                   Approximately what years were you in that                   09:56:08  
2                   role at Time Warner Cable?  
3                   A       I believe that was approximately the first  
4                   two years, so '93 to '95.  
5                   Q       And can you describe if any of the --                   09:56:23  
6                   well, let me just back up.   So strike that.  
7                   Did any of the stuff that you worked on  
8                   during your time as a senior project engineer relate  
9                   to the patents at issue in these matters?  
10                  A       Yes, they did.                                       09:56:38  
11                  Q       And can you describe how?  
12                  A       Yes.   As I say here in my CV, I worked on  
13                  network architecture, video compression, and network  
14                  adaptation functions.   These are all fundamental  
15                  underpinnings of the technologies that are specified           09:57:03  
16                  in the patent.  
17                  Q       And you mention here that you developed  
18                  the network architecture for Time Warner Full  
19                  Service Network, which was the first video-on-demand  
20                  system, correct?                                       09:57:23  
21                  A       Yes, that's correct.  
22                  Q       And can you describe a little bit about  
23                  how that Full Service Network operated?  
24                  A       Yes.   It provided video-on-demand  
25                  functionality to a set-top box, and it did that by           09:57:42

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1 delivering compressed digital media video and audio 09:57:48  
2 over the network, which included an ATM network and  
3 a cable TV network to additional set-top box.

4 Q And, when you say "over the network," what  
5 kind of network was that that the Full Service 09:58:22  
6 Network operated on?

7 A The core of the network was implemented  
8 using ATM technology. The cable portion of the  
9 network adapted that ATM to a modulated QAM 64  
10 technology. The set-top box itself received ATM 09:58:54  
11 packets, but assembled them into IP packets. And  
12 then those IP packets carried compressed audio and  
13 video information, which was decoded and presented  
14 to the subscriber.

15 Q And, if the subscriber wanted to watch a 09:59:26  
16 particular On Demand program, how would the  
17 subscriber do that in the Full Service Network  
18 system?

19 A They would select the particular program,  
20 whether it be movie or a TV show, using a menu 09:59:44  
21 system.

22 Q And how would the set-top box go about  
23 requesting that from the Full Service Network?

24 A Yes. It used an object request protocol  
25 form of remote program language to request the -- 10:00:10

1 the specific program from a server. And then the 10:00:18  
2 server would stream the program to the set-top box.

3 Q And, when you say that it would stream the  
4 program to the set-top box, can you describe a  
5 little bit about what you mean by the word "stream"? 10:00:44

6 A What I mean by "stream" there is that the  
7 compressed media would be placed into ATM packets  
8 and delivered over the network to the set-top box.

9 Q Did the -- did the users of the Full  
10 Service Network, when they were requesting On Demand 10:01:20  
11 video, have the ability to control the video by, for  
12 example, pausing or rewinding or fast-forwarding?

13 A Yes, they did.

14 Q And when a user would -- well, let me back  
15 up. 10:01:44

16 In the event where a user just requested a  
17 particular On Demand video and didn't have any other  
18 interaction with the system, would the Full Service  
19 Network just proceed to stream the entire requested  
20 video to the user? 10:01:59

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: Yes, it would.

23 BY MR. BERG:

24 Q Did the programs streamed on the Full  
25 Service Network, the On Demand programs, include any 10:02:14

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1 sort of advertisements? 10:02:18

2 A The primary -- the primary service was

3 through these On Demand, which was a pay service.

4 And, in that case, there was no advertising.

5 Q And were there any other use cases that 10:02:44

6 did include advertising?

7 A I'm not sure, to tell you the truth. I

8 wasn't familiar with all of the media that was

9 served as part of the Full Service Network.

10 Q So now let's take the case where a user 10:03:13

11 requests a particular On Demand media and partway

12 through pauses the playback of that media.

13 How would the back-end server respond to

14 that instruction to pause playback?

15 A It would stop sending any more media on 10:03:34

16 the receipt of a pause request.

17 Q And then, once the user pressed "resume,"

18 how would the back-end system handle that

19 instruction?

20 A Yeah. If the user pressed "play" again, 10:03:56

21 then it would resume sending the media to the

22 set-top box.

23 Q So the user is able to control by using

24 "pause" or "resume" whether or not the back-end

25 system was -- or the back-end server was sending 10:04:17

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1 media; is that fair? 10:04:20

2 A That's correct.

3 Q Now, it looks like from your description

4 here in your CV, that the Full Service Network also

5 included some interactive features like home 10:04:37

6 shopping and multiplayer games; is that correct?

7 A Yes, it did.

8 Q Can you describe a little bit about how

9 those features worked in the Full Service Network?

10 A Yes. Home shopping was a menu-based 10:04:57

11 system which would potentially have video assets

12 describing the products and would allow the customer

13 to buy those products online using basically a menu

14 system.

15 And then multiplayer games were either 10:05:28

16 downloaded to a separate game player, which was an

17 Atari console, or in fact they could also be played

18 on the set-top box themselves using the remote

19 control as the game controller.

20 Q And how did -- so, in these interactive 10:06:00

21 context, how was input from the user sent to the

22 remote server?

23 A Using IP packets, which were adapted to an

24 ATM network.

25 Q One other question about the 10:06:33

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1 video-on-demand system and the electronic program 10:06:35  
2 guide and so forth.

3 Was there any additional information --  
4 you know, in addition to, say, the video stream, was  
5 there any, for example, identification information 10:06:48  
6 that was sent along with the video stream to allow  
7 the system to know -- to identify the particular  
8 media that was being played?

9 MR. SPRENGER: Objection to form.

10 THE WITNESS: I'm not sure. Basically, if 10:07:08  
11 the set-top box requested media, then I believe that  
12 the response which included that media was obviously  
13 what was requested. I don't believe there was  
14 additional information in there.

15 BY MR. BERG: 10:07:37

16 Q So there was no, like, metadata, for  
17 example, multiplexed into that signal?

18 A No, there wasn't.

19 Q Now, could the Full Service Network -- you  
20 mentioned that it was primarily movies. 10:07:59

21 Could it -- did it have any feature that  
22 allowed it to handle, for example, a playlist of  
23 requested media?

24 A I don't believe so.

25 Q So then after you were a senior project 10:08:27

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1 engineer, which I think you said was from 1993 to 10:08:30  
2 1995, you became a principal network architect at  
3 Time Warner Cable; is that correct?

4 A That's correct.

5 Q And it looks like you were working on what 10:08:45  
6 your CV refers to as the Pegasus program?

7 A That's correct.

8 Q Was the Pegasus program part of the Full  
9 Service Network or related to it in some way?

10 MR. SPRENGER: Objection to form. 10:09:05

11 THE WITNESS: The Pegasus program was a  
12 large-scale development program for a digital cable  
13 system. And, yes, it did rely on some of the  
14 learnings from the Full Service Network.

15 BY MR. BERG: 10:09:26

16 Q And can you describe how your work on the  
17 Pegasus program relates to the patents at issue in  
18 these matters?

19 A It relates in the sense that the Pegasus  
20 program delivered video and audio compressed data to 10:09:54  
21 a set-top device over a network. In that sense, it  
22 is -- there are some similarities.

23 Q And was the Pegasus program a streaming  
24 program like you described the Full Service Network  
25 to be? 10:10:32

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1           A     It used a technology known as MPEG-2                               10:10:33  
2     Transport. And that is a packet-based technology.  
3     And so, yes, it does fit into the world of streaming  
4     video.

5           Q     And the Pegasus program supported video on                   10:10:55  
6     demand as well?

7           A     Actually, yes, it did. And I should say  
8     that it also supported broadcast services. And, in  
9     fact, I was referring to the video-on-demand aspects  
10    of the Pegasus program when I talked about streaming               10:11:21  
11    of data rather than, you know, broadcasted data.

12                I should also point out that, at the time  
13    we were developing the Pegasus program, we wouldn't  
14    have used the terminology "streaming," which sort of  
15    came along a little bit later and was more applied               10:11:45  
16    to specifically streaming media over Internet  
17    protocol networks.

18          Q     Yeah. That makes sense.

19                Can you describe how the video-on-demand  
20    and broadcast aspects of the Pegasus program                       10:12:14  
21    differed from each other?

22          A     They differed in the sense that the user  
23    could request a video-on-demand program, whereas the  
24    broadcast aspects, they would tune to the channel,  
25    and you would start to watch the program at the                   10:12:40

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1 point in the program that it was at, in the way that 10:12:47  
2 you would with a conventional cable system, prior to  
3 that, an analog cable system. So the difference was  
4 the way the user perceived the service.

5 I should point out that both in the 10:13:08  
6 broadcast and video-on-demand services, we used the  
7 same technology, which is called the MPEG systems  
8 layer or MPEG-2 Transport, to send the packets of  
9 compressed media to the digital set-top box.

10 Q And in the video-on-demand context of the 10:13:34  
11 Pegasus program, how would a user go about  
12 requesting media?

13 A By using a menu system.

14 Q So similar in that sense to the Full  
15 Service Network? 10:13:50

16 A Similar. A different menu, but a similar  
17 concept.

18 Q And in the on demand context, the user had  
19 the ability to pause and resume playback of a  
20 video-on-demand movie or file? 10:14:06

21 A Yes.

22 MR. SPRENGER: Objection to form.

23 BY MR. BERG:

24 Q Now, when a user requested a particular  
25 item of media on the Pegasus program, how would the 10:14:19

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1 back-end system respond to that request? 10:14:25

2 A So, in the Pegasus system, the user would

3 request a particular media program, a digital asset,

4 as we would refer to it. It would then -- it would

5 then be connected via a session to a server, a media 10:14:49

6 server. And that media server would start to send

7 MPEG-2 transport packets containing the digital

8 media to the set-top box.

9 Q And how would the back-end system respond

10 if the user provided a pause instruction? 10:15:15

11 A It would temporarily stop sending further

12 packets of compressed digital media.

13 Q And how would it respond to a "resume"

14 instruction from the user?

15 A It would start sending them again. 10:15:37

16 Q So then, like the Full Service Network in

17 the Pegasus program, the user, by using the "pause"

18 and "resume" functionality, could control whether or

19 not the back-end system was sending data, correct?

20 A Yes, it could, sending the compressed 10:16:00

21 digital media. Yes, it could.

22 Q If a user, for example, made it halfway

23 through a movie and then stopped, intending to pick

24 up that movie at another time in the next day or

25 something like that, did the Pegasus program allow a 10:16:23

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1 user to pick up where they left off, or would they 10:16:27  
2 have to start from the beginning?

3 MR. SPRENGER: Objection to form.

4 THE WITNESS: I actually think it depended  
5 on how long it had been since the user had viewed a 10:16:46  
6 movie whether or not the session remembered where  
7 they had stopped watching it. So I think the  
8 question -- the answer is, it depends.

9 BY MR. BERG:

10 Q Okay. Thank you. 10:17:06

11 I know we're talking about systems that  
12 you worked on a long time ago, so I appreciate your  
13 attempts at remembering how these worked.

14 A Yeah. I wrote a book about them, so if  
15 you'd like to know more, there's a book called 10:17:20  
16 "OpenCable Architecture" that talks about some  
17 these -- the way some of these systems worked.

18 Q Thank you for that information. I may  
19 give it a read.

20 In the broadcast aspect of the Pegasus 10:17:37  
21 program, did a user have any ability to pause and  
22 resume playback?

23 A Not initially, no.

24 Q So was that functionality added at some  
25 point later on? 10:17:57

1           A     Yeah. There was a later addition to the           10:17:58  
2     Pegasus program, and this was after I was no longer  
3     working on it, that implemented a functionality  
4     called "start over," which would allow you to join a  
5     broadcast program and skip back to the beginning of           10:18:21  
6     it. So, essentially, at that point, you were  
7     watching a broadcast program in a video-on-demand  
8     mode.  
9           Q     Do you know when that start-over feature  
10    was implemented?   10:18:40  
11           A     I'm not sure.  
12           Q     You mentioned it was after you had stopped  
13    working on the Pegasus program?  
14           A     Yes. It was after -- after 2000 at least.  
15    I worked on the Pegasus program until approximately       10:19:03  
16    the year 2000.  
17           Q     And I notice the Pegasus program also  
18    includes interactive TV.  
19                   Can you describe a little bit about how  
20    that functioned in the Pegasus program?                   10:19:25  
21           A     The interactive TV functions of the  
22    Pegasus program were not really implemented. Quite  
23    frankly, it became focused on video-on-demand and  
24    digital broadcast services.  
25                   So, although we had did intend it to       10:19:59

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1 provide a lot of interactivity, it turned out that 10:20:04  
2 users weren't particularly interested in paying for  
3 interactive TV. And so, although we specified  
4 capabilities, a lot of them were not implemented.

5 Q I understand. 10:20:23

6 In the video-on-demand context, did the  
7 Pegasus program include metadata that was sent along  
8 with the video?

9 A No, it did not.

10 Q And how about in the broadcast context? 10:20:39

11 A No, it did not.

12 Q Was the broadcast TV -- I guess was there  
13 a -- like an electronic program guide that  
14 corresponded to the broadcast TV situation?

15 A Yes, there was. 10:21:15

16 Q And how was the information for the  
17 electronic program guide provided to the user?

18 A It used a number of specifications which  
19 are part of the MPEG systems layer, which include  
20 information about the program title and description 10:21:39  
21 and so forth. And it's part of the MPEG systems  
22 specification.

23 Q And how would -- how would the set-top box  
24 link up what was in the electronic program guide  
25 with what the viewer was actually watching, if it 10:22:04

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1 did that at all? 10:22:08

2 MR. SPRENGER: Objection to form.

3 THE WITNESS: Yeah. Essentially, the MPEG

4 system specification specifies a number of tables.

5 And those tables include information about the 10:22:25

6 programs that are being broadcast. And, ultimately,

7 the tables include the specific ID of a stream and

8 the so-called PID or packet identifier of a stream.

9 So, at that point, it's possible for the

10 set-top box to understand the correspondence between 10:23:03

11 what's being sent in the MPEG streams -- it's a

12 multiplex stream -- and associate that with the

13 information that's sent in the tables, which is also

14 multiplexed.

15 BY MR. BERG: 10:23:30

16 Q I understand.

17 Going back to the video-on-demand context,

18 was there any advertisement insertion in the

19 video-on-demand service of the Pegasus program?

20 A Not in the video on demand while I worked 10:23:49

21 on it, no.

22 Q So your next role at Time Warner was as a

23 corporate vice president of network engineering; is

24 that correct?

25 A That's correct. 10:24:11

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1 Q And when did you start in that role? 10:24:14

2 A I believe it was early 2000.

3 Q And can you describe how your work in that

4 role related to the patents at issue in these cases?

5 A I think probably the part of it that is 10:24:37

6 most relevant is that I worked on something called

7 the multiple ISP trial, which was an initiative by

8 Time Warner Cable to support ISPs, Internet service

9 providers, other than RoadRunner on their cable

10 networks. And, of course, these provided cable 10:25:06

11 modem services, IP services.

12 Q And then your last role at Time Warner was

13 as a corporate vice president of the Broadband

14 Technology Group; is that correct?

15 A That's correct. 10:25:33

16 Q And when did you start in that role?

17 A In 2001.

18 Q And in that role, you managed the

19 RoadRunner product; is that right? Or the

20 RoadRunner project maybe is a better way to say it? 10:25:59

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: I managed the engineering

23 team.

24 BY MR. BERG:

25 Q And can you describe what RoadRunner was? 10:26:09



1	A	Yeah. RoadRunner was a high-speed	10:26:14
2		Internet service offered by Time Warner Cable to its	
3		subscribers via a cable modem.	

4 Q And did any of your work in that role  
5 apply to the patents at issue in these cases? 10:26:32

6	A	Yes, it did.
---	---	--------------

7 Q And can you describe how that work applied  
8 to these patents?

9                   A       Yes. As a group, we were -- Time Warner  
10       Cable was extremely interested in emerging streaming       10:26:52  
11       media over the Internet, which up until that point  
12       had been extremely limited because of dial-up  
13       modems. And so it was impossible to send anything  
14       other than very low-quality video.

15	But, given that we were now providing a	10:27:17
16	high-speed data service in the megabits per second	
17	to our subscribers, we were very aware that the	
18	world would move towards a streaming media	
19	technology base such as we see today with Amazon	
20	Prime, for example.	10:27:44

21                   So we were at the beginning of that, and  
22       we worked closely with various manufacturers and  
23       developers to understand how that service might fit  
24       with the RoadRunner service.

25	Q	You mentioned the problems with early	10:28:05
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1 streaming systems, the low quality, for example. 10:28:07

2 In addition to, you know, eventually

3 providing higher speed Internet service, did you

4 work at Time Warner on any projects to otherwise

5 improve the quality of streaming video? 10:28:29

6 A Not specifically, no. We were focused on

7 improving the quality of all services over the

8 network, so in other words, improving the quality of

9 the network layer itself.

10 Q I see. 10:28:55

11 And remind me when you left Time Warner

12 for Terayon Communication Systems.

13 A That was towards the end of 2003.

14 Q And then I think you mentioned that at

15 some point you became involved in consulting first 10:29:24

16 with IBB Consulting; is that correct?

17 A Actually, first of all, I became an

18 independent consultant. And then it was actually

19 during work for Charter Communications as an

20 independent consultant where I worked alongside IBB, 10:29:46

21 subcontracted through IBB.

22 And, in fact, after a period of time, they

23 brought me on as a full-time employee. And I

24 continued that work with Charter Communications as

25 part of IBB and with other cable TV companies. 10:30:06

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1 Q But when did you first begin consulting 10:30:10  
2 independently?

3 A Well, I actually started consulting  
4 independently in 2003. Even though I was still  
5 employed with Time Warner Cable, they allowed me to 10:30:31  
6 do that. And then I really started, I guess, as a  
7 full-time independent consultant in 2012, after I  
8 left Ericsson TV.

9 Q And, when you say "consultant," were you  
10 primarily consulting for companies or in the context 10:30:59  
11 of litigation, or what type of consulting were you  
12 doing in this time frame?

13 A In this time frame, I was consulting in  
14 engineering roles to companies.

15 Q And when did you start doing legal 10:31:17  
16 consulting or, I guess, consulting in the context of  
17 litigation?

18 MR. SPRENGER: Objection to form.

19 THE WITNESS: Yes. I started working  
20 first as an expert witness, I think, in about 2014, 10:31:33  
21 2015.

22 BY MR. BERG:

23 Q Now, looking over your CV, does your CV  
24 contain a complete list of all of your publications  
25 authored in the last 10 years? 10:31:57

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1 A I'm not sure that it does, no. 10:32:06

2 Q Do you know, sitting here today, what  
3 additional publications you have authored in the  
4 last 10 years?

A Well, there is a link in my CV to my  
LinkedIn profile, and I do try to keep that up to  
date. So, actually, by reference, the list should  
be complete.

9	Q	I understand.
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10 MR. BERG: You know, we've been going for 10:32:46  
11 coming up on an hour and a half here. Maybe it's a  
12 good time for a short break?

13 THE WITNESS: Yes. I think so.

14 MR. SPRENGER: Works for me.

15 MR. BERG: Let's go ahead and go off the 10:32:59  
16 record.

17 THE VIDEOGRAPHER: Going off the record.

18	The time is 10:32 a.m.
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19 (Recess taken.)

20	THE VIDEOGRAPHER: Back on the record.	10:45:58
21	The time is 10:45 a.m.	

22 BY MR. BERG:

23 Q Welcome back, Mr. Adams.

24	A Thank you.
----	--------------

25	Q	During the break, did you speak with your	10:46:11
----	---	---	----------

1 attorney at all? 10:46:13

2 A No, I did not.

3 Q So just a few more questions on your CV,  
4 and then we'll move on to some other things.

5 So you mentioned, I believe, that you 10:46:33  
6 started doing some consulting in the litigation  
7 context around 2014; is that correct?

8 A Yes. Approximately.

9 Q And approximately how many times have you  
10 served as an expert in litigation matters? 10:46:48

11 A I believe on approximately nine or 10  
12 occasions.

13 Q And, during your entire career,  
14 approximately how many times have you testified at a  
15 trial in a patent case? 10:47:05

16 A I've only testified once in trial.

17 Q And when was that?

18 A It was in the 2015 time frame, I believe.

19 Q And have you provided any testimony or  
20 submitted a report or declaration in any litigation 10:47:48  
21 in the last four years?

22 A Yes, I have.

23 Q And does your CV list all cases in which  
24 you testified as an expert at trial or by deposition  
25 in the last four years? 10:48:09

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1 A No, it does not. 10:48:12

2 Q Does your declaration contain that

3 information?

4 A I don't believe so, no.

5 Q Can you -- oh, yeah. Oh, yeah. Take your 10:48:30

6 time.

7 A Can I just have a look at the declaration?

8 No, it does not.

9 Q Can you list for me all of the cases that

10 you have either provided testimony by deposition or 10:49:03

11 trial in the last four years?

12 A No. I don't have that memorized, no.

13 Q Okay. Are you aware that it's a

14 requirement to submit that information under the

15 Federal Rules to be qualified as an expert? 10:49:21

16 A I wasn't aware of that. I'm quite happy

17 to do it. I just don't have it to hand at this

18 time.

19 Q Can you remember any cases that you've

20 provided that testimony in the last four years? 10:49:38

21 A Yes. Earlier this year I provided

22 testimony. I did a deposition for a company related

23 to MPEG compression. And, you know, the name has

24 kind of vanished from my memory. But yeah, I would

25 be quite happy to provide that information. 10:50:15

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1 Q Yeah. That's fine. 10:50:18

2 MR. BERG: Counsel, I just want to note

3 for the record that we requested that information

4 that was that four-year history and reserve the

5 right to resume -- you know, to keep this deposition 10:50:31

6 open and resume it to question Mr. Adams on that

7 information.

8 MR. SPRENGER: Objection noted.

9 MR. BERG: Thank you.

10 BY MR. BERG: 10:50:50

11 Q In 2021, how many cases are you working on

12 as an expert?

13 A At this time, this is the only case I'm

14 actively working on.

15 Q And in 2021, how many expert reports or 10:51:10

16 declarations have you submitted?

17 A Well, in this case, I've submitted seven.

18 In the other cases I've worked on earlier this year,

19 I believe I've submitted one or two.

20 Q Have you ever failed to qualify as an 10:51:50

21 expert in whole or in part in district court

22 litigation?

23 A No.

24 Q Have you ever failed to qualify as an

25 expert in whole or in part in proceedings before the 10:52:01

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1 Patent Trial and Appeal Board? 10:52:03

2 A No.

3 Q Has any portion of your expert opinion or

4 testimony ever been excluded from trial under

5 Daubert or for any other reason? 10:52:11

6 A No.

7 Q Has your opinion ever been criticized by a

8 judge?

9 A No.

10 Q Mr. Adams, are you a Hulu subscriber? 10:52:27

11 A No, I am not.

12 Q Were you ever a Hulu subscriber?

13 A I believe I did subscribe to Hulu briefly

14 a number of years ago, probably as much as anything

15 to understand the service as -- you know, as part of 10:52:47

16 my work as a -- in the field. But I am not a

17 longtime subscriber.

18 Q Now, just by way of context for my next

19 question, looking at the '673 declaration, it looks

20 like that declaration is dated August 3rd, 2021. 10:53:18

21 Do you see that on the last page of the

22 '673 declaration?

23 A I'm just skipping back to it.

24 Yes. August 3, 2021.

25 Q Do you recall approximately when you first 10:53:45

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1 started working on your report? 10:53:46

2 A I think it was in June or July.

3 Q And can you describe the drafting process  
4 of drafting your report?

5 A Yes. 10:54:15

6 Q How did that process begin?

7 A Well, I was asked to read the patents, to  
8 look at the petition from Hulu, to look at the prior  
9 art cited by Hulu, and then to form an opinion on  
10 the various points related to this patent and 10:54:55  
11 particularly the IPR action.

12 And then I worked closely with the  
13 attorneys at -- counsel's attorneys to -- to work on  
14 drafting this expert report.

15 Q And did you do the first draft of your 10:55:30  
16 report?

17 A Yes.

18 Q And did you draft every word in your  
19 report?

20 A No. 10:55:39

21 Q Who else contributed to the writing of  
22 your report?

23 A The team at Daignault and Iyer. And I  
24 believe there was also another legal team that  
25 contributed, although I didn't work with them 10:55:57

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1 directly. You actually referred to them earlier. 10:56:01

2 Q Yeah. Probably the Carmichael IP firm?

3 A That is correct.

4 Q Did you copy any of -- any of your various

5 declarations from another document? 10:56:17

6 A No, I did not.

7 Q In drafting your declarations, did you

8 review the declaration submitted in the CBM

9 proceeding I referenced earlier that was submitted

10 by Dr. Springer? 10:56:37

11 A No, I did not.

12 Q So in the '673 declaration, I believe

13 earlier you referenced this table of documents that

14 starts on page 4 in the section called "Materials

15 Considered." 10:57:02

16 Do you see that table?

17 A I'm just scrolling to that right now. Oh,

18 yeah. It's further down. Sorry. Couldn't find it.

19 Yes. At the bottom of page 4. Yes.

20 Q And then that table spans page 5 and 10:57:33

21 page 6 as well.

22 Do you see that?

23 A Yes. I see a lot of documents.

24 Q And this table lists all the documents

25 that you reviewed in connection with this case; is 10:57:44

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1 that correct? 10:57:46

2 A That's correct.

3 Q Are there any documents you considered or  
4 upon which you relied in forming your opinions that  
5 are not listed in this section? 10:57:58

6 A No. I don't believe so. Obviously, my  
7 general industry experience comes into play, but not  
8 specific documents.

9 Q Did you review Sito's preliminary patent  
10 owner response in this case? 10:58:23

11 A I'm not sure. Can you point me to that?  
12 I have reviewed some of the patent owner responses.  
13 I'm not sure if I've looked at all of them.

14 Q That's fair. Maybe we can ask this  
15 question a little bit different way. 10:58:50

16 Do you remember when you were first  
17 retained in this case?

18 A Yes. As I said earlier, I think it was  
19 June or July of this year.

20 Q Okay. So the same time that you started 10:59:12  
21 working on your report then?

22 A Yes.

23 Q So I'll just represent to you that Sito's  
24 preliminary patent owner responses in these cases  
25 were filed in -- you know, around kind of the 10:59:30

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1 beginning of 2021, February, March time frame. 10:59:34

2 So you wouldn't have reviewed those at the

3 time they were filed; is that correct?

4 A Not at the time they were filed, no.

5 Q Let's see. I think I will go ahead and 11:00:00

6 mark one of these as an exhibit just to -- so that

7 you can see if you've looked at any of these. Just

8 give me one second here.

9 Okay. So I just marked as Exhibit 11

10 Sito's preliminary response to the '673 IPR. 11:00:47

11 Can you let me know when you have that

12 open?

13 A Yes. I have it now.

14 (Exhibit 11 marked for identification.)

15 BY MR. BERG: 11:00:59

16 Q Can you just take a second and flip

17 through that document. I don't plan to ask anything

18 substantive in this document. I just want to know

19 if you remember reviewing this document.

20 A Yeah. I did not specifically remember 11:01:52

21 reviewing this document.

22 Q Now, there is another response, Sito's

23 patent owner response, which was filed at the same

24 time as your declaration. In fact, your declaration

25 is an exhibit to the -- Sito's patent owner 11:02:15

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1 response. 11:02:18

2 Do you recall if you reviewed that

3 document?

4 A Yes, I did review that document.

5 Q And did you review it in drafting your 11:02:32

6 declaration?

7 A No. I reviewed it after drafting my

8 declaration.

9 Q And did you review any filings from the

10 related CBM case that I've mentioned a few times? 11:03:05

11 A I have seen and looked at the CBM filing,

12 but I can't remember what it was called. But,

13 basically, it's a document that explains, I guess,

14 Sito's position on that. So I've seen one document

15 associated with that. 11:03:40

16 Q And did you review that document before

17 you drafted your declaration?

18 A No, I did not. And, in fact, I only saw

19 that document a couple of days ago.

20 Q Now, one document that I don't see listed 11:04:11

21 here in your table is the District Court's claim

22 construction order.

23 Did you review that document?

24 A I reviewed parts of it, which I refer to

25 in my expert declaration. 11:04:35

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1 Q And is there any reason why that's not 11:04:45  
2 listed in the table in Section 3?

3 A I imagine it's an oversight.

4 Q You're not aware of any other documents  
5 that were mistakenly omitted from this table? 11:04:55

6 A No.

7 Q Did you personally read all the documents  
8 listed in Section 3 yourself?

9 A I think I have, yes. I certainly made it  
10 an objective to at least look at all of them. Maybe 11:05:12  
11 not read every word, given there are so many of  
12 them. But in some cases I was familiar with them  
13 already, like, for example, RSVP specifications and  
14 other common specifications. But I at least tried  
15 to make sure I looked at them and knew what they 11:05:32  
16 were.

17 Q You mentioned the RSVP specification.  
18 How are you already familiar with the RSVP  
19 specification?

20 A Oh. It's a very well-known document that 11:05:56  
21 talks about ways of improving the quality of an  
22 Internet connection over an IP network. I should  
23 say an IP connection on an IP network. So I was  
24 familiar with it as part of my work as a network  
25 engineer. 11:06:24

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1           Q     And so that was during your time at Time           11:06:33  
2     Warner that you were -- became familiar with that  
3     protocol?

4           A     I think so.   It's dated September 1997.  
5     So, yes, it would have been in that time frame.   I           11:06:48  
6     remember when it was being drafted, so yes.

7           Q     And you mentioned that it was -- it was  
8     very well known at that time?

9           A     It was in the field of network  
10    engineering.   If you were working on IP protocols           11:07:07  
11    and IP networking, then it was quite a well-known  
12    specification, yes.

13          Q     And you mentioned that it was talking  
14    about ways of improving an IP connection on an IP  
15    network.   11:07:31

16                Can you describe how it proposed doing  
17    that?

18          A     Yes.   The way the resource reservation  
19    protocol works is to essentially discover a path in  
20    the network between a client, for example, and a           11:07:49  
21    server.   And then the particular routers along that  
22    path have agents which can be instructed to reserve  
23    certain resources, for example, buffers or bandwidth  
24    on ports to establish a connection that would then  
25    support a particular rate of connection for a           11:08:22

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1 particular period of time. 11:08:28

2 Q And in this time frame was RSVP

3 implemented to the best of your knowledge?

4 A That's an interesting question. It

5 certainly was implemented. I would not consider it 11:08:51

6 to be a tremendously widely implemented or

7 successful specification.

8 During this period, most of the traffic

9 on -- Internet protocol traffic on networks was best

10 effort and did not use RSVP. RSVP was -- let's say 11:09:12

11 it was a very good idea, but it kind of got

12 superseded by the fact that, as the bandwidth of

13 networks increased over time, it became less and

14 less used.

15 Q So it sounded like when you were 11:09:45

16 describing RSVP that it was designed to operate at

17 least in part over a public network like the

18 Internet.

19 Is that a fair characterization?

20 A It could be used on a public Internet. 11:09:58

21 But, for RSVP to work, all of the routers along the

22 path have to cooperate and have to support RSVP.

23 And I think that one of the issues with RSVP is that

24 it wasn't widely supported by the network routers

25 themselves. 11:10:23

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1 Q Going back to your list of documents, did 11:10:30  
2 you rely on any summaries of any of these documents?  
3 A No, I did not.  
4 Q So then, going back to kind of the  
5 preparation of your declarations generally, did you 11:10:42  
6 consider or rely on any conversations with any  
7 individuals in forming your opinions that are in  
8 your declarations?  
9 A I certainly had conversations with  
10 individuals, but the opinions are mine alone. 11:11:00  
11 Q And what individuals do you recall having  
12 conversations with about your opinions?  
13 A Well, specifically I worked closely with  
14 Mr. Charkow.  
15 Q And anyone else? 11:11:23  
16 A I also worked with Mr. Daignault. And I  
17 believe those were the two primary attorneys that I  
18 talked to while I was drafting this declaration.  
19 Q And did you have any conversations with  
20 any individuals employed by Sito? 11:11:47  
21 A No, I did not.  
22 Q Did you have any conversations with any  
23 other experts?  
24 A No, I did not.  
25 Q Did you have any conversations with any of 11:12:03

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1 the inventors of these patents? 11:12:04

2 A No, I did not.

3 Q So staying with the '673 declaration. Can

4 you go down to paragraphs 27 through 29?

5 A Okay. Yes. I have that in front of me 11:12:56

6 now.

7 Q What's addressed in this section of your

8 declaration?

9 A This section describes the level of

10 ordinary skill in the art, commonly known as a 11:13:11

11 person of that skill, known as a POSITA.

12 Q And, throughout your deposition today,

13 you'll understand if I use the term "POSITA" to

14 refer to such a person?

15 A Yes. 11:13:30

16 Q And in paragraph 28, you provide two

17 different possible definitions for a POSITA.

18 Can you describe what the differences are

19 in those two possibilities?

20 A Yes. In the first one, the POSITA has a 11:13:53

21 Bachelor of Science in a related field like computer

22 science or electrical engineering, computer

23 engineering, and at least two additional years of

24 experience designing and developing network stream

25 systems or media streaming. 11:14:17

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1                   And, in the second case, they wouldn't                   11:14:21  
2                   have a degree, but they would have at least five  
3                   years of work experience and training in design and  
4                   development of distributed network systems and/or  
5                   media streaming.                   11:14:35

6                   Q       And how did you come up with these  
7                   definitions of a POSITA?

8                   A       Well, these definitions are pretty common.  
9                   I have seen similar definitions in other expert  
10                  reports that I've prepared.       And so I understand       11:15:00  
11                  that these definitions are commonly accepted when  
12                  we're talking about a POSITA.

13                  You know, I don't know if -- I guess when  
14                  I did my Bachelor of Science degree, it was a  
15                  three-year degree, and then two years of experience.       11:15:25  
16                  And then a sort of equivalent thing would be not to  
17                  have a degree training at university, but to have a  
18                  similar period of time working in the field.

19                  So I understand these definitions are  
20                  commonly accepted.                   11:15:49

21                  Q       Around the time of these patents or the  
22                  claimed priority for these patents, were you  
23                  familiar with people that had approximately this  
24                  level of skill in the art?

25                  MR. SPRENGER:   Objection to form.                   11:16:15

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1 THE WITNESS: Yes. I'm sure there were 11:16:21  
2 many of the people I interacted with who would have  
3 this level of training and experience.

4 BY MR. BERG:

5 Q Do you have any reason to believe that 11:16:43  
6 Dr. Houh would not have been a person of ordinary  
7 skill in the art under either of these standards at  
8 the time of the patents?

9 A I am not familiar enough with Dr. Houh's  
10 background to say that he is or isn't a person of 11:17:04  
11 ordinary skill in the art, but I would imagine that  
12 if he was retained as an expert by Hulu, then he  
13 would most certainly have met these levels of  
14 training and experience.

15 Q So now I'd like you to skip down in your 11:17:38  
16 declaration a little bit to where you start  
17 describing Hulu's prior art references in  
18 Section 10, Roman numeral X on page 49.

19 A Okay. Just moving down there right now.

20 Okay. I'm there right now. Hulu's prior 11:18:25  
21 art references, Section Roman numeral X.

22 Q Great.

23 You see that the first prior art reference  
24 that you address here is U.S. Patent No. 6,389,467  
25 to Eyal? 11:18:49

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1 A Yes. 11:18:56

2 Q And will you understand if I refer to this

3 reference as "the Eyal reference"?

4 A Yes, I will.

5 (Exhibit 12 marked for identification.) 11:19:05

6 BY MR. BERG:

7 Q And I just introduced the Eyal reference

8 as Exhibit 12.

9 Do you have that?

10 A Yes, I do. 11:19:29

11 Q Okay. Just give me one moment to make

12 sure I have it up as well here.

13 Okay. Are you familiar with the Eyal

14 reference?

15 A Yes, I am. 11:19:48

16 Q Now, in paragraph 118, you state that

17 "Eyal discloses a media search engine which is

18 specifically configured to locate media that is

19 freely available to anyone for streaming from

20 third-party websites and identify the location of 11:20:19

21 the media to a user device."

22 Do you see that?

23 A I'm sorry. You'll have to give me a

24 moment because every time I switch windows, I seem

25 to lose my place in the document. It takes me back 11:20:35

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1 to the beginning, I think. 11:20:38

2 THE REPORTER: Dr. Adams, you can download

3 the document. That might be easier.

4 MR. BERG: Yeah. That's what I was going

5 to suggest. I have the same problem. Sometimes 11:20:56

6 it's easier just to download the documents.

7 THE WITNESS: I'll do that. So

8 downloading that document, and then I'll open it as

9 a PDF.

10 And what was that reference again? 11:21:09

11 BY MR. BERG:

12 Q So paragraph 118 in your '673 declaration.

13 A Yes. "Eyal discloses a media search

14 engine which is specifically configured to locate

15 media that's freely available," yes. 11:21:47

16 Q So is there any teaching in Eyal that

17 indicates that the system and methods described by

18 Eyal would only work in the context of locating

19 media freely available to anyone?

20 A Is the question would Eyal still work if 11:22:19

21 the media was protected?

22 Q Yeah.

23 A Well, Eyal would have to be modified in

24 that case because Eyal does not include any

25 disclosure of, you know, the systems that you would 11:22:40

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1 typically find in media that's not freely available, 11:22:45  
2 such as authentication, encryption, decryption,  
3 trusted certificates, and the like.

4 Q So, setting aside kind of the security  
5 aspects, would Eyal's search functionality work on a 11:23:10  
6 system where the servers were all commonly owned by  
7 the same party?

8 MR. SPRENGER: Objection to form.

9 THE WITNESS: It would depend on how open  
10 that system was. Eyal relies on being able to 11:23:36  
11 essentially search a third-party media server.

12 So, if those systems were open, then it  
13 would be able to discover content on them. If they  
14 were secure, then quite likely it wouldn't allow  
15 them -- it wouldn't allow Eyal to do the search. 11:24:10

16 BY MR. BERG:

17 Q So, if I were a content provider providing  
18 content only to particular users and had a search  
19 functionality to allow the users to search that --  
20 my content library, would I be able to implement the 11:24:30  
21 methods described by Eyal?

22 MR. SPRENGER: Objection to form.

23 THE WITNESS: The -- within -- it's kind  
24 of a very broad question. And let me answer the  
25 question I think you're asking, which is if Eyal -- 11:24:54

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1 the client in Eyal was part of a closed system, and 11:25:00  
2 assuming that the various protocols were in place  
3 such that the client part of Eyal could -- was  
4 authenticated to access these video servers that you  
5 talked about, then, actually, probably it wouldn't 11:25:21  
6 work this way.

7 The way Eyal is designed is to make  
8 requests to servers that it doesn't know anything  
9 about, has no knowledge of. And, therefore, it can  
10 really only, you know, follow links and discover 11:25:49  
11 media on these servers because those servers are  
12 open.

13 If we look at systems that are controlling  
14 the media, then generally these links are not open.  
15 So, no, you wouldn't be able to use the same methods 11:26:09  
16 as described in Eyal.

17 BY MR. BERG:

18 Q I'm imagining a context -- and I know that  
19 YouTube wasn't around in the time of the '673 patent  
20 or in the time of Eyal. I'm imagining a context 11:26:22  
21 like YouTube where I can go on and I can search in  
22 YouTube's search function. And it's only searching  
23 YouTube's servers, but obviously they're all  
24 publicly available and publicly searchable.

25 In that kind of a context, would Eyal's 11:26:41



1 system and method work? 11:26:44

2 MR. SPRENGER: Objection to form.

3 THE WITNESS: If the servers that we're

4 talking about allowed following of links and

5 searching those links, then, yes, Eyal would work. 11:26:57

6 Eyal relies on these links being searchable and

7 navigable without any other, you know, trust-based

8 arrangement between the client and the server.

9 So, given the proviso that the links are

10 available and searchable, then that is what Eyal 11:27:25

11 relies on. In that case, Eyal would work.

12 BY MR. BERG:

13 Q Can you flip down a couple of pages to

14 paragraph 122?

15 A Yes. 11:27:48

16 Q Now, in this paragraph you describe how

17 after a user requests media, the server module can

18 return a playlist to a media playback component.

19 And then you provide a few examples of different

20 types of playlists. 11:28:06

21 Do you see that? I mean, is that a fair

22 characterization of what you're talking about in

23 paragraph 122?

24 A Yes, I believe it is.

25 Q And you list a couple of different types 11:28:22

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1 of playlists that Eyal could return, including a 11:28:24  
2 playlist for RealNetwork Player, for Apple  
3 QuickTime, and for Microsoft Media Player.

4 Do you see that?

5 A Actually, the playlist is the same. It's 11:28:35  
6 just what the playlist is pointing to that's  
7 different.

8 So the playlist for RealNetwork Player  
9 would include references to real media assets. And  
10 so I wouldn't say the playlist is different. I 11:28:55  
11 would just say that the contents are different.

12 Q So, for example, for RealNetwork Player,  
13 are you familiar with SMIL files?

14 A Yes, I am. I think it's one of the  
15 references. 11:29:22

16 Q Yeah. Yeah, it is. And we can certainly  
17 look at it if you'd like. And I think SMIL is also  
18 referenced in the RealNetwork Player context in the  
19 '637 patent itself, which we can also go to.

20 But, in the case that a playlist was 11:29:35  
21 returned to a RealNetwork Player, would it be -- as  
22 a person of skill in the art, would you expect that  
23 to be a SMIL file?

24 A No, not necessarily.

25 Q Could it be a SMIL file? 11:29:53

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1           A     Well, I don't think it is. I think that's           11:30:00  
2     the point here. Because what Eyal is doing is  
3     discovering a series of assets and then listing a  
4     series of URLs, each URL pointing to an asset, to a  
5     media preference.   11:30:20

6                     SMIL goes -- as I'm sure you're aware,  
7     goes a lot further than that and has other  
8     capabilities which are outside of the scope of a  
9     playlist.

10           Q     So I guess what I'm trying to understand           11:30:36  
11     is, you mentioned that the playlist would be the  
12     same, regardless of the media playback component.

13                     But I'm just trying to understand,  
14     wouldn't the format of these playlists, in order for  
15     them to work on these different players, need to be           11:30:50  
16     tailored to those particular players?

17           A     No, not at all. If I hand a playlist with  
18     a series of media references to a RealNetwork  
19     Player, as long as the references themselves point  
20     to real media assets, usually with the extension           11:31:12  
21     .RM, then that's going to work.

22                     I could hand that same playlist to a  
23     Microsoft Windows Media Player, and of course the  
24     media player might refuse to play a real media  
25     asset. But, apart from that, you know, you can           11:31:36

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1 still do it. The playlist is simply a list of URLs. 11:31:42  
2 That's all it is.

3 Q So you could do it, but it wouldn't work  
4 necessarily, is what you're saying?

5 A Well, in some cases it would work. Some 11:31:56  
6 media players are tolerant of other -- in fact, more  
7 and more now. But, even in the day, certain players  
8 could support multiple formats.

9 And so, if we had a player at the time  
10 that supported, for example, both RealNetwork assets 11:32:16  
11 and Windows Media Player -- and I believe there were  
12 players at the time that did this -- then I could  
13 hand them a playlist of URLs, including some real  
14 media -- some RealNetwork assets and some windows  
15 assets, and it would happily play them because it 11:32:38  
16 would engage the right codec to play them,  
17 understanding the extension or some of the preamble  
18 in the files in order to do that.

19 Q And are you familiar with a file type at  
20 the time of the '673 patent that could play 11:33:05  
21 RealNetwork files, Apple QuickTime files, and  
22 Microsoft Windows Media Player files?

23 A I don't know if there was a specific  
24 product that was supporting all three of those media  
25 types at the time. Apple QuickTime tended to be a 11:33:26

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1       little bit more proprietary. So I think most likely       11:33:31  
2       you might find one that supported RealNetwork and  
3       Microsoft Media.

4               Whether you would find one that supported  
5       all three, I'd have to check. But certainly there       11:33:49  
6       were players that would support more than one media  
7       type.

8               Q       So, if -- in the context of Eyal, if a  
9       user using an Apple QuickTime media playback  
10       component used Eyal to generate and return a       11:34:07  
11       playlist, would Eyal generate that playlist without  
12       any consideration of the fact that the user was  
13       using Apple QuickTime?

14               MR. SPRENGER: Objection to form.

15               THE WITNESS: Having read Eyal, I       11:34:28  
16       understand that part of the function of Eyal was to  
17       look at the -- what was behind those links and  
18       determine its playability, if you'd like to verify  
19       that it was a good link.

20               And part of that process would allow Eyal       11:34:46  
21       to discover if it was actually an Apple QuickTime  
22       asset or not. For example, it could be advertised  
23       with the correct extension for Apple QuickTime, but  
24       not actually be an Apple QuickTime asset.

25               So, obviously, Eyal is trying to make sure       11:35:09

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1       that the user experience is good, and that means       11:35:12  
2       passing a playlist with assets that will actually be  
3       played to the appropriate media player.

4       BY MR. BERG:

5           Q     Right. Okay. That makes sense.       11:35:31

6                 Now, in paragraph 123, the sentence that  
7       starts with "Using the URLs" that starts on page 51  
8       and then breaks over to page 52.

9                 Do you see that sentence?

10          A     Yes, I do.       11:36:11

11          Q     So this sentence discusses -- or strike  
12       that.

13                 This sentence mentions that the media  
14       playback component can obtain the songs in the  
15       playlist.       11:36:26

16                 So, in Eyal, is the media player  
17       requesting each song in the playlist after a  
18       playlist is returned?

19          A     The way that Eyal works is that the search  
20       engine first -- if we go back a little bit to the       11:36:45  
21       beginning of 123, it searches based on some  
22       criteria. And then the result of that search is a  
23       list of URLs.

24                 And then, basically, that's passed along  
25       to the player. And then the player is designed to       11:37:10

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1 play assets in the order in which they are given. 11:37:17

2 So the player will play the first asset and then the

3 second and then the third and so on.

4 Q And how does the player go about obtaining

5 those various assets? 11:37:32

6 A The player is designed to use Internet

7 protocol to reference the media link that it's given

8 and then use a specific protocol to pull the asset

9 over the network and then to decode it and to play

10 it back. 11:37:59

11 Q So, in the Eyal context, once a player

12 receives a playlist of URLs, it will pull the first

13 asset using that URL and then will repeat that

14 process for pulling subsequent assets.

15 Is that a fair characterization? 11:38:25

16 A Yes. I believe that's the way the media

17 player is characterized in Eyal, yes.

18 Q Now, in paragraph 124, there is a

19 sentence -- I guess it's just two sentences long,

20 but the second sentence that starts with "The search 11:38:51

21 request can include."

22 Do you see that?

23 A Yes, I do.

24 Q And I think you referenced this a little

25 bit earlier, but here in citing to Eyal, you point 11:39:04

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1 out that "The search request can include one or more 11:39:08  
2 of a genre, a category, an identifier or a  
3 playlist."

4 So I just want to talk through those three  
5 categories and what a request looks like in each of 11:39:30  
6 those categories.

7 So, in the first category, I take it this  
8 would be the user just searches a particular genre  
9 like the ones that you've listed here, rock,  
10 classic, jazz, et cetera; is that correct? 11:39:45

11 A Yes.

12 Q And, using that information, how would  
13 Eyal go about generating a playlist like we've been  
14 talking about?

15 A Well, it would either perform a search or 11:39:59  
16 it would use the results of searches that it had  
17 already performed. So it could have already done a  
18 search and have built up, if you like, an inventory  
19 of media links.

20 So, either way, it's going to try to match 11:40:21  
21 the search request with search results and then pass  
22 those results to the media player.

23 Q Okay. And then, in the second category  
24 you have here, which is for a category, would it  
25 operate similarly? Just instead of a genre, you're 11:40:46



1 searching for a category as a user? 11:40:51

2 A I believe so, yes.

3 Q And then, in the third instance,

4 "identifier information," you have listed here as

5 some examples, artist, author of a specific media. 11:41:06

6 So would this also work similarly in terms

7 of, like, you search an artist, for example, and get

8 back a playlist that, you know, has titles all by

9 that artist?

10 A I believe so, yes. 11:41:27

11 Q Okay. And then the fourth example is

12 requesting a specific playlist, it looks like.

13 Can you describe a little bit how this

14 category would work?

15 A Yes. I believe this is the case where the 11:41:45

16 playlist has already been built, and the viewer in

17 this case has the name of the playlist. So the

18 end-terminal, the user device has the name of a

19 playlist.

20 So I would imagine this might be where you 11:42:07

21 had previously made a request, and you -- that you

22 wanted to make the same request again. So you can

23 do it by referring to it by a playlist rather than

24 by going back to the search again.

25 Q So, just by way of hypothetical, there may 11:42:28

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1 be a playlist called Brad's Top Songs that I know 11:42:32  
2 that I like, and so I could request that playlist  
3 directly using the Eyal system by typing in "Brad's  
4 Top Songs" Or whatever the identifier is that  
5 corresponded to that playlist, and Eyal would return 11:42:48  
6 that playlist to my player; is that correct?

7 MR. SPRENGER: Objection to form.

8 THE WITNESS: I'm not sure in Eyal whether  
9 the user could generate a playlist like that or  
10 whether it's done by the administrator of the 11:43:07  
11 system. But, yeah, it's a predefined playlist. It  
12 might be top jazz hits, for example, that any user  
13 of the system could ask for.

14 BY MR. BERG:

15 Q Fair enough. I think your example is 11:43:28  
16 better of top jazz hits as a playlist.

17 So, in the context of that hypothetical  
18 playlist, top jazz hits, that playlist could have  
19 multiple songs, correct?

20 A Yes. 11:43:45

21 Q And, by making a request for the top jazz  
22 hits playlist, would it be fair to say that the user  
23 is making a request for media?

24 A Yes.

25 Q And, in the case that there is multiple 11:44:09

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1 songs in the top jazz hits playlist, would each song 11:44:11  
2 be a portion of that playlist?

3 A I noticed you introduced the name  
4 "portion."

5 In this context, the playlist has a number 11:44:34  
6 of songs on it. And so the totality of the playlist  
7 is all of the songs one after another. And each  
8 song is a part of that playlist.

9 Q So let's go ahead and flip down a few  
10 pages to where you talk about the Wiser reference. 11:45:17

11 A Okay.

12 Q So, Mr. Adams, just to give you a sense of  
13 where I'm going, my intention is to kind of walk  
14 through each of these prior art reference summaries  
15 that you've got in your declaration. And I think 11:45:37  
16 there's a handful of them, probably five. So I  
17 anticipate that you'll want to stop for lunch at  
18 some point before we get through all five.

19 Do you have any sense of when you'd like  
20 to do that? I'm happy to do it now or we can keep 11:45:52  
21 going for a little while.

22 A Oh, I think we can keep going for a little  
23 while, maybe another half an hour.

24 Q Okay. That's good.

25 And sorry, before we skip on to the Wiser 11:46:07

1 section, I just want to ask you -- in reference to 11:46:12  
2 our previous conversation, I want to note that you  
3 have a very similar if not identical section on Eyal  
4 in each of the other declarations that we're talking  
5 about today, the '636 and the '635. 11:46:30

6 Would your answers to my questions vary in  
7 the context of those declarations? Sorry, strike  
8 that.

9 Would your answers to my questions about  
10 the section we just talked about covering Eyal vary 11:46:49  
11 if I asked you those same questions in relation to  
12 your other declarations?

13 MR. SPRENGER: Objection to form.

14 THE WITNESS: I think -- I don't think we  
15 discovered -- we discussed any claims or, you know, 11:47:05  
16 tried to link Eyal to any of the claims in the '673  
17 patent. So, yeah, I think what I said for -- for  
18 this section would stand for the two patents we're  
19 looking at today.

20 BY MR. BERG: 11:47:37

21 Q Okay. Great. Thank you.

22 I just want to be as efficient as possible  
23 and not take up too much of your time today,  
24 hopefully.

25 All right. So then going down to the 11:47:50

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1 Wiser section, let me go ahead and mark that. If 11:47:52  
2 you want to just kind of glance over that section in  
3 your declaration while I pull up this exhibit and  
4 mark it, that would be appreciated.

5 A Okay. 11:48:03

6 Q Okay. I've marked that exhibit -- just  
7 let me know when you are able to open that. And  
8 feel free to continue looking through the Wiser  
9 section if you'd like to finish that before you open  
10 the exhibit. 11:49:06

11 A Okay. Let me go back to the Exhibit  
12 Share. Oh, yes. I see I have got Wiser open in  
13 front of me.

14 Yeah. I've looked through that section,  
15 and I have the Wiser patent open. 11:50:06

16 Q Okay. Great.

17 So let's go to paragraph -- well, let's  
18 start in the Wiser patent itself.

19 A Okay.

20 (Exhibit 13 marked for identification.) 11:50:30

21 BY MR. BERG:

22 Q So that's Exhibit 13.

23 A Yeah.

24 Q And I'll just note for the record that  
25 Exhibit 13 is Hulu Exhibit 1006 in both the '673 IPR 11:50:41

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1 and the '636 IPR. 11:50:53

2 So in Exhibit 13, in column 3, Wiser

3 provides a summary of the invention that actually

4 spans over -- all the way through -- partway through

5 column 5. 11:51:14

6 Do you see that?

7 A I'm just waiting for the system to catch

8 up.

9 Yes. Summary of the invention at the top

10 of column 3. Yes. 11:51:31

11 Q So, in that first paragraph of the summary

12 of the invention, do you see that it talks about

13 three different aspects of Wiser? There's --

14 actually, four, I guess. There's selection,

15 previewing, downloading, and transporting of audio 11:51:47

16 or other digital media over the Internet.

17 Do you see that?

18 A Yes, I do.

19 Q And then flipping back to your

20 declaration, in paragraph 135 you mention at least a 11:52:01

21 couple of those roles. You have one talking about

22 the -- well, managing the purchase and preview

23 transaction, and then two, the delivery of the

24 music.

25 Do you see that? 11:52:26

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1           A     Yeah. I do apologize. For some reason,           11:52:29  
2 Acrobat -- my reader just let me down. I don't know  
3 why. I'm sure I didn't quit it. But I know I can  
4 go right back to it.

5           Q     Yeah. No problem. Take your time just           11:52:46  
6 pulling the documents back open.

7           A     Yeah. I don't know why it did that.

8           Q     It wouldn't surprise me if the same thing  
9 happened to me at some point today.

10          A     Yeah. I'm not sure exactly what happened.       11:53:19  
11 Anyway, we can fix it.

12                     So we want the '673 declaration. And  
13 sorry, remind me where we were on that. Oh. I  
14 think I've got it. The Wiser.

15          Q     Yeah. So --                                       11:53:52

16          A     Which paragraph?

17          Q     We were in, like, paragraph 135 area.

18          A     Okay.

19          Q     And then in Wiser itself, we were in  
20 column 3.   11:54:00

21          A     Right. Okay. I'm back on track.

22          Q     Okay. Perfect.

23                     So going down to paragraph 137.

24          A     Yeah.

25          Q     Here in paragraph 137, you talk about the       11:54:18

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1 purchase and delivery phase of the transaction, 11:54:21  
2 correct?  
3 A Yes.  
4 Q And, in paragraph 138, you also mention  
5 the media voucher is used in the purchase and also 11:54:35  
6 in the preview aspects of Wiser, correct?  
7 A Yes.  
8 Q And then, starting in paragraph 139, it  
9 looks like you're talking specifically now in  
10 paragraph 139 about the purchase -- the purchase of 11:55:04  
11 media, correct?  
12 A Yes. In this case, we're talking about  
13 the user selecting a song and a purchase request for  
14 the song being sent to the HTTP server, yes.  
15 Q And, looking through paragraphs 140 11:55:35  
16 through 144, it looks like all these paragraphs are  
17 specifically addressing the purchase aspect of  
18 Wiser; is that correct?  
19 A Yes, that's correct.  
20 Q And do you include any opinions in your 11:55:55  
21 declaration describing -- similarly describing how  
22 the preview aspect of Wiser works, other than  
23 noting, you know, that the media voucher is used to  
24 control the preview of media data files in paragraph  
25 138? 11:56:13



1 MR. SPRENGER: Objection to form. 11:56:15

2 THE WITNESS: I would have to look

3 carefully, but I think I focused in my declaration

4 on, you know, how Wiser is providing a secure online

5 music distribution system, which seems to be the 11:56:34

6 purchase and playback of media rather than the

7 previewing of media. So, yeah, I focused on what I

8 take to be the primary focus of Wiser.

9 BY MR. BERG:

10 Q But you do agree that Wiser also discusses 11:56:59

11 the preview aspect?

12 A Yes. As you mentioned, I noted that it

13 supports a preview, yes.

14 Q And specifically that the media voucher is

15 used in the preview context as well as the purchase 11:57:13

16 context, correct?

17 A Yes. I believe that is the way it's

18 designed.

19 Q But you don't discuss how the media

20 voucher is used in the preview context, correct? 11:57:34

21 A I haven't covered that here in the expert

22 declaration, no.

23 Q And you don't discuss here in the expert

24 declaration how the voucher idea is used in the

25 preview context? 11:57:51

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1 A No, I do not. 11:57:52

2 Q And you don't discuss here in the

3 declaration how a reservation is used in the preview

4 context, correct?

5 A Actually, I'm not considering that the 11:58:04

6 voucher is a reservation. It's an authentication.

7 And I make that clear in my declaration.

8 Q Yeah. I understand that.

9 In the context of Wiser, correct?

10 A The merchant server requests -- yeah. I'm 11:58:59

11 using the phrasing here from the Wiser patent. It's

12 basically requesting from the content manager that

13 the media data file be made available. And they

14 specifically say it verifies the requested song

15 actually exists and is available for purchase. 11:59:34

16 So that's the extent to which Wiser talks

17 about a reservation. A reservation is merely making

18 a piece of content available to the purchaser.

19 Q Okay. That's helpful. Thanks for that

20 background. 12:00:10

21 So, going back to my question about the

22 reservation, do you discuss in your declaration how

23 a reservation is used in the preview context, or is

24 this just limited to the purchase context?

25 MR. SPRENGER: Objection to form. 12:00:24

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1 THE WITNESS: I think you mean a voucher 12:00:25  
2 ID.  
3 BY MR. BERG:  
4 Q Sorry. No. I'm specifically referring to  
5 what you're calling a reservation in paragraph 141. 12:00:32  
6 I just want to confirm that that is only applicable  
7 to the purchase context and that you haven't offered  
8 an opinion -- a similar opinion with respect to the  
9 preview context.  
10 A Let me just check here. 12:00:57  
11 Yeah. This is basically saying is it  
12 available for purchase. So paragraph 141 is  
13 specific to the purchase phase, if you like, of  
14 Wiser.  
15 Q Okay. Let's -- you can go ahead and set 12:01:10  
16 Wiser aside.  
17 A Okay.  
18 Q And let's flip down to page 61 of your  
19 declaration where you talk about Madison.  
20 So it's been about 20 minutes since the 12:01:44  
21 last time I checked in with you. I imagine we'll go  
22 a similar, you know, 20 minutes to a half an hour on  
23 Madison.  
24 Would you like to break before we cover  
25 Madison or after we cover Madison, Mr. Adams? 12:01:58

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1           A     Maybe we could take just a short break, a           12:02:03  
2     comfort break, and come back. And then I'm happy to  
3     keep going until, you know, 12:30, 12:45 before  
4     taking something to eat.

5           Q     Okay. Yeah. That sounds good. Let's           12:02:22  
6     take a short break now, like five to 10 minutes.

7                     Is that -- how long would you like?

8           A     Yeah. 10 minutes is fine. Yeah.

9           Q     Let's take a short break and we'll come  
10    back. And I'll try to wrap up going through these           12:02:38  
11    prior art sections, you know, in the next half an  
12    hour or 45 minutes after that, and then we can take  
13    a lunch break.

14                    Does that sound good?

15           THE WITNESS: That sounds good, yeah.           12:02:50

16           MR. BERG: All right with you, Counsel, if  
17    we go off the record?

18           MR. SPRENGER: Works for me.

19           THE VIDEOGRAPHER: Going off the record.

20    The time is 12:02 p.m.           12:02:57

21                    (Recess taken.)

22           THE VIDEOGRAPHER: Back on the record.

23    The time is 12:13 p.m.

24    BY MR. BERG:

25           Q     Welcome back, Mr. Adams.           12:13:39

1	A Thank you.	12:13:42
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2 Q Did you have any conversations with  
3 counsel during the break?

4	A	No.
---	---	-----

5 Q So I believe we were going to talk about 12:13:51  
6 the Madison reference next, but before we do, I just  
7 wanted to -- going back to the Wiser section.

8 AS I mentioned, you have a similar section  
9 describing Wiser in the '636 declaration. If I were  
10 to ask you those same questions about Wiser in the 12:14:16  
11 context of that declaration, would your answers  
12 change at all?

13 A No, I don't believe they would.

14 Q Okay. So now going on to Madison. Let me  
15 go ahead and introduce this reference. Sorry. I 12:14:36  
16 have a little catch in my throat.

17                   Okay.  So I've introduced that exhibit.  
18           And I'm actually also going to introduce the ASX  
19           files as well, which I think is the next -- or is a  
20           later section here, but we may talk about them                   12:15:04  
21           together.

22 (Exhibit 14 marked for identification.)

23 BY MR. BERG:

24 Q Okay. Mr. Adams, so I have introduced as

25 Exhibit 14 U.S. Patent Application Publication 12:15:39

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1 No. 2004/0015703 to Madison, which I believe is 12:15:41  
2 marked as Exhibit 1007 in all three of these  
3 proceedings.

4 Do you have that document?

5 A Yes. 12:16:12

6 Q And are you familiar with the Madison  
7 reference?

8 A Yes.

9 (Exhibit 15 marked for identification.)

10 BY MR. BERG: 12:16:19

11 Q And then I have also introduced as  
12 Exhibit 15 a webpage called "All about ASX Files."

13 Do you have that exhibit as well?

14 A Yes, I do.

15 Q And are you familiar with that document? 12:16:48

16 A Yes, I am.

17 Q Now, around the time of the '673 patent,  
18 which I guess would be when you were working at Time  
19 Warner Cable, were you familiar with ASX files?

20 A Yes, I was. 12:17:16

21 Q And in what context were you familiar with  
22 them?

23 A I was familiar with the Windows Media  
24 Player. And I believe I had potentially even maybe  
25 built a website using something like this. 12:17:39

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1           Q     And, to your understanding, what is an ASX           12:17:53  
2     file?

3           A     An ASX file is essentially a syntax --  
4     well, ASX describes a syntax.   So the file follows  
5     that syntax.   And the ASX syntax allows various           12:18:10  
6     capabilities of playback of media, including  
7     playlists notably.

8                     And so an ASX file can be used to define a  
9     playlist of Windows media files.

10          Q     So then let's skip down in your           12:18:55  
11     declaration to paragraph 151.

12          A     I'm just hopping down there now.

13                     Yes, 151.

14          Q     I just want to step through a couple of  
15     these paragraphs and kind of, by doing so, step           12:19:19  
16     through kind of how some aspects of the Madison  
17     system worked as described in Madison.

18                     So, in paragraph 151, you describe a  
19     stream request link that the user can activate.

20                     Is that a fair characterization of what's       12:19:43  
21     going on in 151?

22          A     Yes.   Specifically through the webpage,  
23     the user provides various information and activates  
24     a stream request link, which requests -- thereby  
25     requesting access to a particular streaming media       12:20:05

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1 file within the link. Yeah. 12:20:09

2 Q And that link includes a host name, with

3 the playlist server and a playlist ID; is that

4 correct?

5 A Yes, that is correct. 12:20:26

6 Q And so this request is essentially a

7 request for a playlist; is that correct?

8 A That's correct.

9 Q Now, in paragraph 152, you discuss how --

10 well, I guess in paragraphs 152 and 153, you discuss 12:20:46

11 how some additional information is appended to that

12 link, including a ticket ID and a user ID.

13 Is that correct?

14 A Yes, that's correct.

15 Q And so then, at that point, as shown in 12:21:16

16 the snip, I guess, of paragraph 78 from Madison, the

17 link includes the host name and the playlist ID

18 still, and then it also includes a ticket and a user

19 ID, correct?

20 A Yes. That's correct. 12:21:37

21 Q Okay. And then in paragraph 155, you talk

22 about how the user device uses this link to send a

23 request to the playlist server. And then the

24 playlist server generates a redirector file such as

25 an ASX file; is that correct? 12:22:01

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1 A Yes. 12:22:04

2 Q So, to sum up, I guess, in response to the

3 user's request for a playlist to the playlist

4 server, the playlist server provides an ASX file; is

5 that correct? 12:22:25

6 A Yes. A redirector file, which can be an

7 ASX file, yes.

8 Q And were ASX files well known in the art

9 at this time?

10 A Yes, they were. 12:22:39

11 Q And you mentioned that around this time

12 you may have designed a website that used ASX files

13 or some sort of similar technology; is that correct?

14 A Yes. I was familiar with Windows Media,

15 and I certainly had looked at ASX files at the time, 12:23:00

16 yeah.

17 Q So, as a person of skill in the art, what

18 resources would you have relied on or perhaps what

19 resources did you rely on in building a system that

20 could use ASX files? 12:23:24

21 A You would naturally go to the Microsoft

22 documentation probably by doing a web search for

23 Eyal. He may have had it in a manual. But you

24 would go to Microsoft documentation.

25 Q Just flipping over a second to I guess 12:23:50

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1       what we marked as Exhibit 15, does this appear to be       12:23:52  
2       an example of the type of Microsoft documentation  
3       you would go to?

4             A       Yes, it does.

5             Q       Now, in your declaration -- going back to       12:24:17  
6       your declaration, you provide a couple of snips from  
7       Madison of different ASX files, one from  
8       paragraph 81 of Madison, which is on page 66 of your  
9       declaration, and one on page 67 of your declaration  
10      that's from paragraph 90 of Madison.                       12:24:36

11                Do you see those two examples of ASX  
12      files?

13             A       Yes, I do.

14             Q       And could you explain for me what the  
15      differences are between these two ASX files?                       12:24:49

16             A       Well, the first one has only one entry,  
17      whereas the second one has three entries.

18             Q       And so, for example, the playlist  
19      represented by the first one where there is a single  
20      entry would mean that that playlist only has --       12:25:26  
21      well, either that it only has one entry -- one item  
22      in it or at least the entire playlist is contained  
23      in a single ASF file; is that correct?

24             A       Yeah. It's referring to only a single  
25      media asset, which is the ASF file.                       12:25:51

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1 Q Whereas, the ASX file reproduced on 12:25:55  
2 page 67 of your declaration is for a playlist that  
3 has three different assets, correct?

4	A	Yeah. It looks like that. Stream 1,	
5		Stream 2, and Stream 3.	12:26:13

6 Q Now, did ASX files as they were known at  
7 the time allow for customization?

8 MR. SPRENGER: Objection to form.

9	THE WITNESS: Can you describe what you	
10	mean by "customization"?	12:26:51

11 BY MR. BERG:

12 Q Yeah. Yeah. In fairness, that was a

13 fairly vague question.

14               So maybe it would be easier to do in the  
15     context of Exhibit 1017.

12:27:07

16	A	Okay. "All about ASX files."
----	---	------------------------------

17 Q Yeah. So one example of the kind of  
18 customization that I'm wondering about is  
19 specifically to do with ad insertion.

20	Are you familiar with the ability of ASX	12:27:38
21	files to assist with ad insertion?	

22	A	Yes, I am.
----	---	------------

23	Q	And so can you just describe how ad	
24		insertion works in ASX files, according to your	
25		understanding?	12:27:54

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1           A     Well, there's a couple of different ways           12:27:59  
2     you can use ASX to insert ads. The first very  
3     straightforward way is that you would create a  
4     playlist of entries. And you might have the first  
5     entry as some media that the user requested. And           12:28:19  
6     the second entry might be an advertisement. And  
7     then the third entry might be some more media  
8     requested and so on and so forth.

9           I believe there is also specifically --  
10    here it is on page 4 -- a way of dynamically           12:28:46  
11    inserting some kind of an advertisement into the  
12    stream. Here it's talking about the example being a  
13    live feed over the Internet inserting an ad during a  
14    timeout.

15           So that's triggered by an event. So it's           12:29:20  
16    a slightly different mechanism. But that's  
17    specifically what All About ASX refers to for ad  
18    insertion.

19           Q     Now, on that same section on ad insertion  
20    where we just were, at the very bottom of that, do           12:29:43  
21    you see how it says that "ASPs" -- in that last  
22    sentence, "ASPs could automatically serve up ASF  
23    content that is personalized to the user's region or  
24    profile"?

25           A     Yes, I do see that. And this is           12:30:00

1 specifically an active server page. That's not part 12:30:06  
2 of ASX itself. That's another component in the  
3 system that could provide some kind of  
4 personalization of an ad.

5 Q So, in this context, would an active 12:30:22  
6 server page link be included as an entry in the ASX  
7 file, and then that would then serve up the  
8 personalized content? Is that how that would work?

9 MR. SPRENGER: Objection to form.

10 THE WITNESS: No. I don't think that's 12:30:40  
11 the way it works.

12 BY MR. BERG:

13 Q Can you describe how it would work?

14 A I believe that would use an active server  
15 page. The active server page itself -- as it says 12:30:54  
16 here, "ASPs could automatically serve up ASF  
17 content." That's personalized.

18 So, in other words, the playlist itself --  
19 well, it's not a playlist. It's an "EntryRef" in  
20 the syntax, actually. Where you see a little bit 12:31:19  
21 higher, it says "advert.asf." Essentially, the  
22 "advert.asf" doesn't point to just a single piece of  
23 media. The piece of media that is going to be  
24 served up can be multiple different pieces of media  
25 according to what the ASP active server page 12:31:44

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1 generates. 12:31:49

2 So it's not using a playlist mechanism

3 here. It's actually directly generating that link

4 on the fly, as it were.

5 Q I see. 12:32:04

6 So looking down -- so I see the "EntryRef"

7 here that you referenced to "advert.asf."

8 A Yeah.

9 Q Now, all of the elements in a place -- in

10 an ASX file are -- use that "EntryRef" tag; is that 12:32:20

11 correct?

12 A Well, it's actually different. Maybe this

13 is just a mistake that the author has made, but in

14 the "Ad Insertion" example here, they talk about

15 "EntryRef." Whereas, in "Playlists," it's talking 12:32:50

16 about entry and then a separate -- so "Entry" is

17 within angled brackets, and then there is another

18 angle bracket open "Ref." And then that defines the

19 playlist entry.

20 So actually, syntactically, it's different 12:33:19

21 within an event name than it is within a playlist.

22 Q I see.

23 So going -- flipping back to page 7 and 8

24 of the "All about ASX files," this is where it has a

25 list of ASX tags and a recap of the key tags and 12:33:54

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1       their descriptions and syntax. And I see that there       12:34:03  
2       is one that is called an "Entry tag" that starts at  
3       the bottom of page 7, and then there is one that's  
4       called an "EntryRef tag" that's on page 8.

5               Are those the two different tags that       12:34:21  
6       you're talking about in the context of the ad  
7       insertion?

8           A     Let me check.

9               Well, no. No, they're not. No. The  
10       distinction is between an event tag and an entry       12:35:00  
11       tag. EntryRef is actually just describing the entry  
12       tag.

13          Q     I see. So within an event tag, then you  
14       would have an EntryRef tag; is that correct? Like  
15       is shown on -- kind of towards the bottom of page 8?       12:35:27

16          A     Yeah. But, as you can see, syntactically,  
17       it's distinguished from what's above. And I don't  
18       know why they have that distinction. Because, in  
19       the first case, at the top of page 8, we have  
20       "entry" in angled brackets, and then we have open       12:35:51  
21       angled bracket "Ref."

22               And then in the second case, at the bottom  
23       of page 8, we have "event name" in angled brackets  
24       with some description of it, and then we have  
25       "EntryRef," all one word. So, clearly, they       12:36:11

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1 distinguish this in the protocol. And they are 12:36:19  
2 different.

3 Q And to complete the circle on this, in the  
4 middle of page 8, I see that there is an entry tag  
5 in brackets, and then underneath that entry tag, 12:36:35  
6 there's open bracket "EntryRef," correct?

7 A Yeah, there is.

8 Q So an EntryRef tag can be used either  
9 within an entry tag or within an event tag; is that  
10 fair? 12:37:08

11 A They appear to be doing that, yes.

12 And why they sometimes say "EntryRef" and  
13 sometimes just merely say "Ref," I'm not sure.  
14 Potentially, they're syntactically equivalent, or  
15 potentially this document was -- you know, has some 12:37:37  
16 errors. Microsoft documentation is -- is sometimes  
17 a little unreliable.

18 Q So going back to your declaration and the  
19 Madison ASX files.

20 A Yeah. 12:38:04

21 Q So I notice that they have entry tags in  
22 both of these files, and they have the open bracket  
23 "Ref" tag within that entry file.

24 Is it fair to say that, based on the  
25 Microsoft documentation that a person skilled in the 12:38:25

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1 art would understand, there could also be an open 12:38:27  
2 bracket "EntryRef" listing within the entry file?  
3 A I'm not sure because, as I said, I'm not  
4 sure that they're actually equivalent or not.  
5 Actually, syntactically, this example here 12:38:48  
6 in paragraph 157 is actually saying Screen 1 ASX,  
7 and if that doesn't work, Screen 2, and if that  
8 doesn't work, Screen 3.  
9 In other words, they -- the example cited  
10 in Madison is syntactically not what they're -- is 12:39:13  
11 not correct. They should have done an open angled  
12 bracket slash "entry" to close between these.  
13 In fact, what this example here is doing  
14 is actually trying to take alternative parts for a  
15 reference. So, you know, I think it's just a 12:39:43  
16 mistake.  
17 Q I see. So, looking back at Exhibit 15 on  
18 page 4, I see what you're saying here, that they --  
19 at the bottom of page 4 where they do a playlist,  
20 they have an "entry," and they have the "Ref," and 12:40:07  
21 then they close it out with another "entry," closed  
22 bracket, and then they do another one. And so that  
23 would instruct it to play those three in order; is  
24 that correct?  
25 A Exactly. Then if you look a little bit 12:40:22

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1 later -- in fact, immediately after that, they talk 12:40:25  
2 about server or protocol rollover. And, in that  
3 case, you don't close the "entry" with an angled  
4 bracket slash "entry." And then that makes the  
5 things within -- within the "entry" alternatives. 12:40:42  
6 Different servers, for example.

7 So, I mean, I imagine that the intent of  
8 Madison was to do the first thing we described, to  
9 have a list of things played out. But they maybe  
10 didn't -- maybe hadn't tried it at least because 12:41:13  
11 what they show in the patent is -- would not work  
12 the way they intend.

13 Q Right. Right. Yeah. That makes sense.

14 And I think in paragraph 158, you're  
15 acknowledging kind of the intent of Madison, that 12:41:31  
16 the ASX file may contain multiple links that are  
17 part of the requested playlist, correct?

18 A I'm certain I wasn't looking at -- which  
19 specific bit there are we talking about in my  
20 declaration? 12:41:51

21 Q Yeah. Sorry. Kind of jumping around a  
22 lot on you.

23 Paragraph 158.

24 A "May contain multiple links that are part  
25 of the requested playlist." 12:42:04

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1                   Yes. Yes. So each one is intended to be                   12:42:06  
2                   played in sequence in this case.

3                   Q       And so, setting aside kind of the syntax  
4                   errors in the ASX file, you say in the next sentence  
5                   here that the media player on the user device then                   12:42:28  
6                   makes a series of requests, one for each URL link  
7                   contained in the ASX redirector file.

8                   Is that correct?

9                   MR. SPRENGER: Objection to form.

10                  THE WITNESS: Yeah. The media player is                   12:42:45  
11                  basically, first of all, looking at the first link,  
12                  accessing it and playing it, and then going to the  
13                  second one and the third one and -- as defined by  
14                  the redirector file.

15                  BY MR. BERG:   12:43:12

16                  Q       And so it's the user device that's making  
17                  each of these individual requests, not -- kind of by  
18                  pulling those requests from the -- from the server,  
19                  correct?

20                  A       Yeah. It's -- the media player is                   12:43:28  
21                  essentially following instructions from the ASX  
22                  redirector file.

23                  Q       So, going back to Exhibit 15, which is the  
24                  "All about ASX files," and then flipping down to  
25                  paragraph 166 of your declaration.                       12:44:03

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1 MR. SPRENGER: Objection to form. 12:46:00

2 THE WITNESS: Okay. I'm just looking at

3 page 4 again. Yeah. In page 4, there's, you know,

4 some protocol around it, but I think the media list

5 from Eyal would probably -- may not have the 12:46:27

6 surrounding protocol tags, but it would be -- it

7 would nonetheless be a list of media references.

8 So, in that way, they're similar.

9 BY MR. BERG:

10 Q Now, earlier when we talked about ad 12:46:56

11 insertion, you explained to me that there was two

12 different ways -- at least two different ways that

13 you can do ad insertion using ASX files. And I

14 think the first one that you mentioned was, you

15 know, putting an entry and then having another entry 12:47:10

16 that was an advertisement and then another entry

17 that went back to the show, I think was the example

18 you used.

19 Do you recall talking about that?

20 MR. SPRENGER: Objection to form. 12:47:25

21 THE WITNESS: I don't think I put it in

22 those terms. I didn't talk about going back to the

23 show specifically. With ASX, each ASF file is, you

24 know, some piece of media. So, yeah, you might have

25 an ad and then the media that the person had 12:47:53

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1 requested. 12:48:01

2 And certainly you could, you know, have a

3 redirector or file generator that would do that,

4 would put an ad in front of the media that was

5 requested. 12:48:17

6 BY MR. BERG:

7 Q So, thinking in terms of like -- like a

8 television show like -- like an episode of Seinfeld,

9 for example, as a person of skill in the art at this

10 time, would you have been able to take an episode of 12:48:43

11 Seinfeld and create two separate ASF files, one for

12 the first 15 minutes and one for the last 15

13 minutes?

14 MR. SPRENGER: Objection to form.

15 THE WITNESS: You mean -- let me see if I 12:49:00

16 can understand the question here.

17 So are you saying that rather than

18 encoding an episode of Seinfeld as a single ASF file

19 could I generate two ASF files, one for the first

20 part and one for the second part? 12:49:24

21 Was that the question?

22 BY MR. BERG:

23 Q Oh, yeah. Sorry. Yes, that was the

24 question.

25 A Yes, you could do that. 12:49:40

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1 Q And so, if I did that and I had my two ASF 12:49:42  
2 files, could I put those together in -- kind of  
3 using this ASX protocol to put the first one,  
4 followed by an advertisement, followed by the second  
5 one? 12:50:01

6 MR. SPRENGER: Objection to form.

7 THE WITNESS: Yeah. Assuming you had the  
8 rights, the media rights. Technically, that's  
9 possible, yeah.

10 BY MR. BERG: 12:50:16

11 Q Bear with me for one second while I flip  
12 through these prior art sections and see if there is  
13 any other questions that I had.

14 I guess one question that I do have, the  
15 same as with the Wiser and the Eyal sections that we 12:50:39  
16 went through. I believe you have very similar  
17 sections on Madison and on "All about ASX" in the  
18 '636 declaration and the '635 declaration.

19 Would your answers to the questions I  
20 posed here change in the context of those two 12:50:55  
21 declarations?

22 A I don't believe so. Yeah. I mean,  
23 without going into every question again, which I  
24 don't think we have time for, yeah, I think I'm  
25 going to answer the same way. Yeah. 12:51:21

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1 Q Okay. 12:51:24

2 MR. BERG: Okay. I think that wraps it up

3 for me on going through these pieces of prior art.

4 So now might be a good time to take that lunch break

5 that we've talked about. 12:51:47

6 Do you agree?

7 THE WITNESS: Yes.

8 MR. BERG: Okay. Well, let's go ahead and

9 take a lunch break then. Let's go ahead and go off

10 the record, and then we can figure out the timing. 12:51:58

11 THE VIDEOGRAPHER: Is that okay,

12 Mr. Sprenger?

13 MR. SPRENGER: Yes, uh-huh.

14 THE VIDEOGRAPHER: Going off the record.

15 The time is 12:52 p.m. 12:52:12

16 (Recess taken.)

17 THE VIDEOGRAPHER: Back on the record.

18 The time is 1:33 p.m.

19 BY MR. BERG:

20 Q Welcome back, Mr. Adams. 01:33:10

21 A Thank you.

22 Q Did you speak with your counsel during the

23 break?

24 A Yes, I did.

25 Q And did you talk about the substance of 01:33:25

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1 your testimony at all? 01:33:27

2 A No, we did not.

3 Q Okay. So let's go ahead and turn in your  
4 declaration to where you describe streaming media  
5 technology, which starts on page 11. 01:33:54

6 A Yep.

7 Q If you want to just take a second and  
8 glance over that Section VI, A, B, C and D, up to  
9 when you get to modern commercial streaming systems.  
10 We'll start on those first four sections. 01:34:41

11 A Yeah. Okay.

12 Q So now, the first thing I wanted to ask  
13 you here is that -- I notice there aren't really any  
14 citations to any documents here.

15 Did you draft this just based on your 01:34:55  
16 knowledge and involvement in streaming media going  
17 back into the '90s?

18 A Yeah. This reflects my understanding of  
19 this technology from the perspective of somebody who  
20 was involved in it during that time frame. 01:35:22

21 Q And in paragraph 36 -- well, I guess  
22 starting in paragraph 35, you talk about existing  
23 technologies that related to the transmission of  
24 data over the Internet. And, in particular, you  
25 talk about software applications known as media 01:35:51

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1	players.	01:35:55
---	----------	----------

2 Can you talk a little bit about what a  
3 media player was during the late '90s and through  
4 2001?

5	A	Yeah. Basically, it was a software	01:36:09
---	---	------------------------------------	----------

6 application. In this context, I'm talking about a  
7 software application that can play an asset that's  
8 available as a media reference on the network. So  
9 specifically, a network media player. And that is  
10 an application that could retrieve media over the  
11 Internet and play it back to the user.

12 Q And media players at the time could work  
13 with individual pieces of media and also with sets  
14 of media like a place -- a playlist, correct?

15 MR. SPRENGER: Objection to form. 01:37:13

16 THE WITNESS: That would depend on the  
17 type of media player. But some media players, yes,  
18 would support a playlist.

19 BY MR. BERG:

20	Q	So, in paragraph 38, when you talk about a	01:37:32
21		media player could also be used to set up a list of	
22		songs commonly known as a playlist, did you have any	
23		particular kind of media player in mind when you	
24		wrote that paragraph?	

25	A	No.	01:37:45
----	---	-----	----------

1           Q     Can you think of any media players at that     01:37:49  
2     time that could not work as described in  
3     paragraph 38?

4           A     No.

5           Q     In paragraph 40 you talk about some of the     01:38:10  
6     differing views by and during 2001 regarding how to  
7     implement streaming media. And you note that the  
8     prevailing method was to store an entire program, by  
9     which you mean an entire movie or similar asset, on  
10    a single server and stream that media from the     01:38:32  
11    server to the user device.

12                   Is that correct?

13           MR. SPRENGER: Objection to form.

14           THE WITNESS: Yes. An entire program.

15    The example here is a movie, but it could be any     01:38:46  
16    piece of media. And, yeah, that media is stored in  
17    its entirety as a file on a server and served to the  
18    media player by a back-end streaming system.

19    BY MR. BERG:

20           Q     Now, I notice that you say that that was     01:39:14  
21    the prevailing method of storing an entire program.

22                   Are you aware of systems around that time  
23    that used a different method?

24           A     I am not, no.

25           Q     Are you aware of any systems that would     01:39:38

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1 break up an entire program and store it in separate 01:39:42  
2 locations?

3 A No, I'm not.

4 MR. SPRENGER: Objection to form.

5 BY MR. BERG: 01:39:49

6 Q And also in paragraph 40, you note that  
7 the streaming was controlled in the systems by the  
8 server or the back-end streaming system, correct?

9 A Yes, I do say that.

10 Q And so what -- in this context, what do 01:40:07  
11 you mean by "control"?

12 A What I mean is that, after the request to  
13 the streaming system was made, the entire media  
14 would be streamed by the streaming system to the  
15 player. 01:40:32

16 Q And is it your opinion that by and during  
17 2001 there were no commercial streaming systems  
18 that -- in which a user device controlled the  
19 streaming?

20 A No. That's not my opinion. In fact, I 01:40:58  
21 say here there were different views. And I merely  
22 here describe the prevailing method, in my view.

23 Q And, sitting here today, can you remember  
24 an example of a media streaming system that allowed  
25 the user to control the streaming instead of the 01:41:30

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1 back-end server? 01:41:34

2 MR. SPRENGER: Objection to form.

3 THE WITNESS: Well, I'm not sure, you

4 know, to what extent -- let's be more specific here

5 about controlling. I think, you know -- are you 01:41:56

6 asking me whether the user could pause the playback?

7 BY MR. BERG:

8 Q Well, sure. Let's start with pausing the

9 playback. In typical systems at this time, are you

10 aware of systems where the user could pause the 01:42:26

11 playback?

12 A Yeah. Typically, pausing could be

13 achieved in most of these players. If I think back

14 to the Windows Media Player or to the Real Media

15 Player, then it was possible to pause and resume the 01:42:41

16 playback.

17 Q And would pausing typically stop the flow

18 of streaming media from the back-end server to the

19 user device?

20 A It depended on the implementation. 01:43:05

21 Sometimes I think the -- pausing the playback, you

22 would still have streaming, but it would be buffered

23 for a period of time by the player.

24 And maybe in other cases, it would

25 actually stop the playback entirely. There were 01:43:26

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1 different implementations as to how pause was 01:43:34  
2 implemented.

3 Q Fair enough.

4 In the case of a buffer -- maybe I'll call  
5 it the play-out buffer for purposes of today -- that 01:43:42  
6 buffer would be obviously a finite amount of space.  
7 So, once the buffer was filled up, then would the  
8 streaming stop until the playback resumed,  
9 typically?

10 MR. SPRENGER: Objection to form. 01:44:02

11 THE WITNESS: It would depend on whether  
12 the buffer was smaller than the media to be  
13 streamed. So, yeah, if the buffer was smaller, then  
14 either the playing device would have to throw  
15 packets away or, you know, stop the playback from 01:44:22  
16 the server.

17 As I say, there were a number of different  
18 ways of doing it. And I think I remember at the  
19 time there was advantages to try to build up the  
20 buffer, the play-out buffer. So that was seen as an 01:44:47  
21 advantage. So pausing the play-out didn't  
22 necessarily stop the delivery of the content.

23 BY MR. BERG:

24 Q So flipping over to page 15 of your  
25 declaration, there's an example that you've given 01:45:06

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1       here of a computer -- it looks like it's requesting       01:45:09  
2       "The Matrix" over the Internet from a server.  
3               In the typical system that you've  
4       described, can you just walk through this picture  
5       for me and explain what's happening here?       01:45:24  
6               A       Yeah.  What's happening here is that the  
7       server has the asset, which is -- in this case, the  
8       example is "The Matrix" stored on the server as a  
9       file.  When the user wants to watch the video, then  
10       by using some kind of application it would send a       01:46:01  
11       request, which is the green arrow, to the server.  
12       And then the server would start streaming the video,  
13       which is the orange arrow, to the device.  
14               Q       Are you familiar, Mr. Adams, with the term  
15       "content delivery network"?       01:46:30  
16               A       Yes, I am.  
17               Q       And were content delivery networks well  
18       known before 2001?  
19               A       Yes, I believe they were.  
20               Q       And were -- I'm sorry.  Go ahead.       01:46:50  
21               A       In fact -- yeah.  I was going to say, I  
22       was aware certainly back in my -- before that time.  
23               Q       And in the context of this picture that  
24       you've got here on page 15, if we imagine that a  
25       content delivery network was involved in the       01:47:09

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1 streaming of "The Matrix," can you describe how that 01:47:13  
2 would change the process here as of 2001?

3 MR. SPRENGER: Objection to form.

4 THE WITNESS: Well, the content delivery  
5 network is actually performing the role of the 01:47:26  
6 server. And the way a content delivery network  
7 works is by using a redirection to a CDM leaf node.  
8 So, essentially, the CDM leaf node acts instead of  
9 the server. If you like, it's a proxy for the  
10 server. So the mechanism otherwise is unchanged. 01:47:54

11 BY MR. BERG:

12 Q So the request would go to the leaf node,  
13 I think you called it, and then the leaf node would  
14 send back the -- in this case, "The Matrix" movie?

15 A Yes. That's correct. 01:48:18

16 Q And in a -- you know, still talking in the  
17 2001 time frame, if the leaf node from which "The  
18 Matrix" was requested didn't have "The Matrix" in  
19 its storage, what would the leaf node typically do?

20 A Well, the way a content delivery network 01:48:45  
21 works is essentially by caching content. And so,  
22 when the first request for a file is made, it may  
23 not be on the leaf node that's closest to the  
24 client, in which case, essentially the -- it would  
25 try to fetch that content, in this case "The 01:49:21

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1       Matrix," put it onto the content delivery network       01:49:24  
2       leaf node, and then it would then play it from that  
3       node.

4           Q       And then subsequent requests for "The  
5       Matrix" in that same leaf node would be able to be       01:49:42  
6       served directly out of the cache?

7           A       Yes. Essentially, that would be a cache  
8       hit.

9           Q       Now, there's a section here after  
10       paragraph 41 that runs from paragraphs 42 through 47       01:50:04  
11       on modern-day commercial streaming systems.

12                   Do you see that?

13          A       Yes, I do.

14          Q       So, as you know, an IPR is a proceeding  
15       kind of where, you know, there's a certain filing       01:50:28  
16       date or priority date for the patent at issue, and  
17       there is prior art that, you know, is required to  
18       predate that priority date. And the determination  
19       is made whether or not that prior art invalidates  
20       the challenged patent.       01:50:45

21                   So, obviously, the operative date here --  
22       and I understand there is some dispute, but sometime  
23       in the early 2000s is the operative date.

24                   And so I guess I'm curious what the intent  
25       was of including a section on modern-day commercial       01:51:02

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1 streaming systems. 01:51:06

2 A Well, this just shows the way that these

3 systems changed and evolved over time. So you're

4 correct, this is a modern-day system. This is after

5 the priority date of the patent. But it shows how 01:51:23

6 modern-day systems are different from the earlier

7 systems.

8 Q And how did this modern-day commercial

9 streaming system session impact your opinions in

10 terms of how the patent should be understood or how 01:51:47

11 the prior art should be understood?

12 A Well, it didn't because I considered the

13 patent in the context of my knowledge back in 2001.

14 Q Is it fair to say that, as with the prior

15 art sections that we talked about earlier, that the 01:52:16

16 information that's included here in the modern-day

17 commercial streaming systems section came from your

18 experience in, you know, dealing with modern-day

19 commercial streaming systems?

20 A Yes. In fact, I've published papers on 01:52:34

21 streaming systems as well as implemented them.

22 Yeah.

23 Q Before you were contacted about this case,

24 were you familiar with the challenged patents in

25 these matters? 01:53:00

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1 by what's called an MMS in the '673 and the other 01:55:19  
2 two patents. And MMS could be different than --  
3 essentially, it's the media server. It's the switch  
4 for the media server behind it. And the media  
5 servers and the switches could be different from one 01:55:40  
6 portion of the media to the next.

7 Q In paragraph 47, in the second sentence,  
8 you talk about the user device monitoring the time  
9 it takes to download each segment and its ability to  
10 select a higher or lower quality version of the 01:56:07  
11 stream and adapt accordingly.

12 Is that a fair characterization of what  
13 you say in paragraph 47?

14 A Yeah. That's correct. This is commonly  
15 referred to as adaptive bitrate streaming. 01:56:20

16 Q Is this aspect of modern-day streaming  
17 systems described in the '673 patent, or is this a  
18 difference?

19 A In the '673 and the other two patents, it  
20 talks about providing content that is -- somehow 01:56:44  
21 understands the capabilities of the end-user device.  
22 And so it's possible that there could be different  
23 quality streams that that's describing.

24 It does not talk, as far as I can see in  
25 the patent, explicitly about the end-user device 01:57:20

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1 | being able to request different quality versions. 01:57:28
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2 Q Now, there's a term used in the patent.

3       Let me just pull it open here.  So, in the '673

4       patent -- let me make sure I'm using the right term.

5	Okay. So in column 14 it discusses how in	01:58:08
6	some instances a switch may fail during streaming or	
7	that it can no longer maintain the stream quality	
8	during media streaming.	

9	In that case, the patent describes that	
10	it's the NRP and not the user that would determine	01:58:41
11	another switch that can provide the requested	
12	media; is that correct?	

13           A     Can you point me to the specific  
14     reference?  I'm looking at column 14.

15	Q	Yeah, sure. I'd be happy to.	Column 14,	01:59:00
16		I'm looking specifically starting around line 15.	A	
17		little hard to tell where the lines match up, but		
18		that paragraph there and kind of going on.		

19	A	Yeah. This is talking about if a switch	
20		or part of a switch fails. So this is not the	01:59:21
21		normal case. This is an error case.	

22 Q And it's the NRP, not the user that would  
23 determine what alternate switch to use; is that  
24 fair?

25	A	It says "The NRP may determine a	01:59:41
----	---	----------------------------------	----------

1 different, second switch." 01:59:45

2 So yes. And, again, to be clear, this is

3 the error case, not the normal case.

4 Q Right. Right.

5 Are you aware of any embodiments or 02:00:00

6 disclosures in the '673 patent where the user

7 determines which switch to pull media from rather

8 than the NRP?

9 A Well, the user always determines which

10 switch in the sense that the user is given a play 02:00:28

11 script with the URL of that switch. And so it

12 naturally makes the call to that switch.

13 So, in that sense, the user always is

14 making the request to a specific switch that's given

15 to it in the play script. 02:00:51

16 Q Okay. Let's see here. All right. So do

17 you have the ability -- we've been kind of switching

18 back and forth between different PDFs, which is what

19 I'd like to do again. If you have the ability, it

20 may be helpful to pull up the '673 patent on one 02:01:41

21 side of your screen and the declaration on the other

22 side.

23 But, if it's easier for you to just switch

24 back and forth between the documents, that's

25 obviously fine as well. 02:01:56

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1           A     No. I can -- no. My screen is not big           02:01:58  
2           enough to read them side by side, but I can easily  
3           flip between the two without losing my place.

4           Q     Okay. Let's just do that.

5                     So what I'd like to do is walk through           02:02:14  
6           some of the stuff that you talk about in your  
7           overview of the '673 patent starting at  
8           paragraph 48, and just kind of understand some of  
9           the stuff you say here in the context of claim 1  
10          about the '673 patent.                               02:02:39

11                    Does that make sense?

12          A     Okay.

13          Q     All right. So let's see. Let's actually  
14          start in paragraph 67, which is, sorry, quite a ways  
15          down from where I was pointing you in your           02:03:02  
16          declaration. That's where you actually go through  
17          the specification here.

18          A     I'm on 63. Yes.

19          Q     So here you refer to -- when you say, "The  
20          '673 patent discloses a streaming media system in       02:03:23  
21          which a requested program can be streamed in  
22          portions, i.e., portion by portion."

23                    So the requested program, is that  
24          referring to -- in the context of claim 1, in that  
25          first limitation, I see a request for media from at     02:03:42

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1 least one communication device. 02:03:45

2 Is that request for media the request for

3 the program, as you understand it?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: Okay. I'm just going to 02:03:56

6 move down to the claims of the '673 patent.

7 So you're talking about claim 1, correct?

8 BY MR. BERG:

9 Q I am, yeah.

10 A Yeah. A request for media. I think the 02:04:19

11 request for media is a program or maybe a

12 presentation.

13 Q Okay. And then the next thing you say is

14 that the program can be streamed in portions.

15 Can you point me to the part of claim 1 02:04:50

16 that shows this streaming in portions?

17 A Yes. After the request is being made, the

18 system, the RTMS and RP work together and results --

19 we could go through that in more detail if you like,

20 but the ultimate result of what happens in the 02:05:24

21 system is a play script is transmitted to the

22 communication device. And, within that play script,

23 the first thing is an identification of at least one

24 portion of the requested media.

25 Q And then, going on, the second thing here 02:05:58

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1 in that play script is an identification of the "at 02:06:01  
2 least one other media," correct?

3 A That's correct.

4 Q So is it fair to say that in the context  
5 of claim 1 there has to be two -- at least two 02:06:16  
6 pieces of media that are referenced in the play  
7 script, one that's a portion of the requested media  
8 and another that is some other media.

9 Is that correct?

10 A Yes. It's sending back in the play script 02:06:38  
11 these two identifications as part of the play  
12 script, yes.

13 Q Would you agree with me that the at least  
14 one other media is not a portion of the requested  
15 media, right? That's a separate media, not the 02:07:04  
16 requested media, right?

17 A Yes. It's other than the requested media.

18 Q So, setting aside for a minute the at  
19 least one other media, is there any -- well, let me  
20 put it this way. 02:07:23

21 To meet the requirements of claim 1, is  
22 there any requirement for there to be at least two  
23 portions of the requested media?

24 MR. SPRENGER: Objection to form.

25 THE WITNESS: In claim 1, the 02:07:37

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1 identification has to be of at least one portion. 02:07:42  
2 So it could be one, two, three or more.  
3 BY MR. BERG:  
4 Q Okay. Jumping back to your declaration.  
5 Now, I guess this is kind of a follow-up to the last 02:08:04  
6 question I asked, but in paragraph 70, you know that  
7 the program may be made up of multiple portions of  
8 media.  
9 I note the word "may" here and in the  
10 context of your previous answer, that claim 1 could 02:08:37  
11 be satisfied by a single portion.  
12 Is it fair to say that the program could  
13 be made up of just a single portion?  
14 MR. SPRENGER: Objection to form.  
15 THE WITNESS: Well, syntactically, a 02:08:51  
16 portion is a part or a piece of something. So I  
17 don't think it makes much sense, so -- to talk about  
18 the portion being the whole thing.  
19 BY MR. BERG:  
20 Q Now, in paragraph 70, towards the bottom 02:09:22  
21 you talk about the sequencing of media clips making  
22 up the program.  
23 And, specifically, you cite to the  
24 specification where it says "The program typically  
25 identifies the sequencing, whether sequential 02:09:37

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1        paralegal timing or other in which media clips are        02:09:41  
2        to be streamed," et cetera.

3                Is that sequencing that you're referencing  
4        there related to the instructions in claim 1, which  
5        is, I think, Element V of the play script?        02:09:58

6                MR. SPRENGER:    Objection to form.

7                THE WITNESS:    Element V, one or more  
8        instructions for use.    No, I don't think so.    Here  
9        specifically, this is how to obtain the media.  
10       These are instructions to enable the communication        02:10:34  
11       device to obtain the media.    Not how to sequence it,  
12       but how to obtain it.

13       BY MR. BERG:

14               Q        Would you typically obtain the media in  
15       the order that it's sequenced or some other order,        02:10:52  
16       or does it just vary?

17               A        It would be normal to obtain the portions  
18       or the media clips in the order in which they're  
19       going to be played.

20               Q        Now, going back to your declaration and        02:11:12  
21       that -- as I mentioned, that citing to column 5,  
22       lines 39 to 93, which you're welcome to go to as  
23       well.    But I notice that the sequencing says the  
24       media clips could be sequenced sequentially, in  
25       parallel, timing, or other.        02:11:32

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1 I'm just curious what -- so I understand 02:11:38  
2 what "sequential" means, I assume. So, I mean, you  
3 know, you finish -- you play one media clip and then  
4 you play the next media clip. But I'm a little less  
5 clear what these other examples of sequencing are. 02:11:50

6 Could you describe what your understanding  
7 of those are and how that would work in this system?

8 A Yes, I can. I'm just going to go to 539  
9 so I've got that in front of me while I'm talking.

10 So, if we're talking about media clips or 02:12:22  
11 portions of a program that have audio and video,  
12 then I think we're pretty much talking about  
13 sequencing them sequentially. However, I think the  
14 inventors may here have been thinking about other  
15 kinds of media. 02:12:49

16 So, for example, maybe one of the media  
17 types is a subtitle, and then subtitle would be in  
18 parallel and overlaid over a media -- another media.  
19 So that -- that's particularly -- a particular case  
20 that's quite commonly understood. So there is an 02:13:15  
21 example of how parallel might work.

22 Q So, in that context, one media clip would,  
23 for example, be the video, and the other media clip  
24 that's sequenced in parallel would be the  
25 subtitles; is that correct? 02:13:38

1	A	Not necessarily, no.	02:13:44
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2 Q Okay. I apologize. I maybe just didn't  
3 understand.

4 So this quote says "identifies the  
5 sequencing in which media clips are to be streamed." 02:13:53

6                   And so I'm curious for an example of media  
7       clips being streamed in parallel sequencing.

8                   A       Yeah. And what we could have here is the  
9       two media clips being one media clip which could be  
10      requested from one server, for example. It could be       02:14:26  
11      a second media clip which comes even from another  
12      server. And that could be the subtitle information.  
13      And here we also have within this list timing. So  
14      that would be how the subtitling is synchronized to  
15      the play-out of the media.                               02:14:53

So all I'm saying here is that it doesn't have to be the other media that is being played in parallel. It could be the media itself. So, when you request a program, you may in fact receive portions or media clips, some of which are the video and audio, and others of which are subtitle information that could be presented in parallel with the audio and video and timed such that they appear on the screen in synchronization with the audio and video.

02:15:22

02:15:52

1 Q Okay. Great. I think I understand what 02:15:54  
2 you're saying now.

3 Let's see here. So going down to  
4 paragraph 73 of your declaration.

5 A Yes. 02:16:17

6 Q It says "The RTSMS receives a request from  
7 a viewer for a program." So just pausing there.

8 In the context of the claims we already  
9 talked about, that would be the request for media in  
10 the first limitation, correct? 02:16:39

11 A Yes. In this case, the program is the  
12 requested media, yes.

13 Q Okay. And then it says "and determines if  
14 the program is available."

15 So this determination of whether the 02:16:58  
16 program is available -- and you cite to column 9 and  
17 10, which you're welcome to go to. I'm just curious  
18 what you mean here by whether or not the program is  
19 available or how you understand that term in the  
20 context of the specification, I guess. 02:17:17

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: Okay. I'll look at the  
23 reference, as you suggested.

24 Yeah. So it's -- it's simply whether or  
25 not the program is available. 02:18:45

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1 BY MR. BERG: 02:18:59

2 Q So are you talking about whether or not

3 the program actually exists on an MMS?

4 A Yes. Has the program been populated on an

5 MMS that has capacity and which is accessible by the 02:19:25

6 communications device.

7 Q So, in other words, as part of the

8 availability check, you may be checking not only if

9 the program actually exists and has been populated,

10 but whether or not the communications device is 02:19:47

11 authorized to access that media; is that correct?

12 A Well, the second part is a different

13 clause here in paragraph 73, where I say does it

14 have any restrictions. That is media rules applied

15 by the media owner. 02:20:19

16 Q Sorry for the pause. I'm trying to let my

17 realtime catch up because I want to ask you a

18 follow-up question from something you said, but I

19 just want to make sure I'm using the right words.

20 Okay. So earlier you said that as part of 02:21:05

21 the availability that it was -- has the program been

22 populated on an MMS that has capacity and which is

23 accessible by the communications device.

24 And so I guess I'm curious about that

25 second part, what it means to be accessible by the 02:21:21

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1       communications device in terms of determining the       02:21:26  
2       program availability.

3           A       Well, part of the process that is  
4       described is that an MMS is chosen that is -- has a  
5       good network path between it and the communications       02:21:53  
6       device.

7           So, therefore, we're -- part of this  
8       process here is to determine the best way of  
9       delivering the media to the communications device.

10          Q       Okay. Fair enough. I understand what       02:22:20  
11       you're saying there.

12                So, now, going down to paragraph 76 of  
13       your declaration.

14          A       Yeah.

15          Q       Sorry. I'll back you back up to       02:22:39  
16       paragraph 74 and just have you look at 74 through 76  
17       where you're talking about the play script.

18                Do you see that?

19          A       Yeah.

20          Q       So the play script that you're talking       02:22:53  
21       about here is the play script that's referenced in  
22       claim 1 that's part of the response, correct?

23          A       That's correct.

24          Q       Okay. And the play script has -- in  
25       claim 1 at least has five different elements, which       02:23:14

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1 we've talked about some of. We've talked about the 02:23:21  
2 identification of at least a portion of the  
3 requested media and identification of at least one  
4 other media.

5 Then there is also a reservation 02:23:29  
6 identification, a universal resource locator and one  
7 or more instructions.

8 So, going back to your discussions in --  
9 your discussion at paragraph 74 through 76. So, in  
10 paragraph 74, it looks like you're referring to the 02:23:56  
11 first element there, which is the portion of the  
12 requested media, and the second portion, which is  
13 the -- one other media.

14 Is that fair?

15 MR. SPRENGER: Objection to form. 02:24:10

16 THE WITNESS: Well, I say the play script  
17 may include the requested media, one or more media  
18 clips and additional other media, such as one or  
19 more advertisements. Yes.

20 And in the play script, those first two 02:24:33  
21 items are identification of them. And then later in  
22 the play script we have the actual URL to reference.

23 BY MR. BERG:

24 Q Right. And so the -- at least in the  
25 context of this embodiment that you're quoting here 02:24:58

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1 in paragraph 74, the additional media, such as one 02:25:01  
2 or more advertisements, would map to the at least  
3 one other media, the second element of the play  
4 script; is that correct?

5 MR. SPRENGER: Objection to form. 02:25:16

6 THE WITNESS: Yes. The identification  
7 would be in the second element of the play script.

8 BY MR. BERG:

9 Q And then paragraph 75 talks about the URL.  
10 And these disclosures then I assume relate to the 02:25:32  
11 third element of the -- or, sorry, the fourth  
12 element of the play script, which is at least one  
13 universal resource locator. And then it goes on and  
14 talks about how it's associated with one portion and  
15 the other media, et cetera. 02:25:51

16 But is that what you're talking about in  
17 paragraph 75, is that element?

18 MR. SPRENGER: Objection to form.

19 THE WITNESS: I believe so. I just want  
20 to have a quick look -- go back to the claims 02:26:05  
21 because I no longer have those open. I'm just  
22 moving back to them.

23 BY MR. BERG:

24 Q No problem. Please take your time.

25 A So, yeah, Item Roman numeral IV in the 02:26:19

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1 play script, at least one URL, which goes back to 02:26:24  
2 the identification of the one portion. And one  
3 other media, at least one URL to facilitate  
4 streaming. Yes. That's what we're talking about,  
5 yes. 02:26:54

6 Q Okay. Great.

7 And then skipping down to paragraph 77 --

8 A Yeah.

9 Q -- you talk about the reservation here.

10 And is this the same reservation that is 02:27:14  
11 identified in the play script by the reservation  
12 identification?

13 A Yes, it is. In the play script, the  
14 reservation ID is a unique identifier of the  
15 reservation that the RTMS has built. 02:27:45

16 Q Now, going up to paragraph 76, you talk  
17 about how the play script is generated based on  
18 capabilities or attributes of the viewer. And you  
19 give an example from the patent in column 10 where  
20 the viewer is using a Real Network's Real Player. 02:28:08  
21 And the patent notes that that may require using a  
22 SMIL file based play script; is that correct?

23 A Yes. That's what it says in the patent,  
24 yes.

25 Q So is a SMIL file, in your understanding, 02:28:30

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1 an example of a play script or at least a file type 02:28:33  
2 that can be implemented as a play script?

3 A It's a file type that includes the  
4 capability of describing a playlist or a play  
5 script. It's actually -- as you can see here, it 02:28:53  
6 stands for synchronized multimedia integrated  
7 language. It has other functions as well.

8 Q And then coming down to paragraphs 80  
9 through 82, you talk about how in the '673 patent  
10 the viewer controls streaming of the media. 02:29:29

11 And earlier we talked a little bit about  
12 control of streaming media in the prior art and how  
13 that was typically done by the back-end server.

14 Can you just describe a little bit of what  
15 you mean here by saying that the viewer controls the 02:29:49  
16 streaming?

17 A Yeah. The play script in this case  
18 essentially transfers control to the viewer or the  
19 communication device. So, once the viewer has  
20 received the play script, then it's up to the viewer 02:30:13  
21 to request the content, the media piece by piece  
22 using the information in the play script.

23 Q So I want to direct your attention to an  
24 embodiment in the patent or a disclosure in the '673  
25 patent in column 17, the paragraph that starts at 02:31:00

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1 line 18. 02:31:08

2 A 17. Which row?

3 Q Line 18.

4 A Okay. Okay.

5 Q Would you mind just reading that paragraph 02:31:37

6 to yourself. And I'll ask you a couple of questions

7 about it or ask you to just kind of summarizes

8 what's happening there.

9 A How far down do you want me to read?

10 Q Just that paragraph. So ending at line 34 02:31:55

11 is fine. And feel free to read additionally, if you

12 feel like you need more context.

13 A Okay.

14 Yes. I've read it.

15 Q So can you just give me a summary of 02:32:26

16 what's happening in this paragraph?

17 A Yeah. In this particular embodiment,

18 rather than providing a play script that just

19 provides one media clip or one other media, in this

20 case, essentially, it's providing a series of media 02:33:00

21 clips.

22 And so then it says here "The viewer can

23 initiate a single session with a single setup

24 message such that the MMS streams all of the

25 requested media clips for" -- "in that session." 02:33:33

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1 Q And so this would be a little bit 02:33:40  
2 different scenario than the one described in  
3 paragraphs 80 through 82 of your declaration,  
4 correct?

5 A Yeah. This is an alternative embodiment. 02:33:56  
6 Although I must point out that at line 30, even in  
7 this other embodiment, it says "In another instance,  
8 the viewer transmits a separate setup message and  
9 teardown for each media clip."

10 So, even in this other embodiment, it 02:34:18  
11 still has the alternative here of retrieving each  
12 media clip one by one. So, yeah, it's a slightly  
13 different scenario than the one in my declaration.

14 Q Fair enough. I'll agree with you  
15 certainly that there's a number of embodiments 02:34:45  
16 described in the '673 patent that -- you know, lots  
17 of variations kind of on this theme and how the  
18 system all works.

19 So I guess my question then is, going back  
20 to the claim language in claim 1. 02:35:03

21 A Yeah.

22 Q So looking through claim 1, is there any  
23 reason that claim 1 won't apply to both of those  
24 scenarios that we just described? On the one hand,  
25 the user making a request for each portion; on the 02:35:35

1 other hand, the user just making a single request to 02:35:40  
2 the MMS, which then streams the entire program,  
3 including all the media clips?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: So I think it's possible 02:35:56  
6 that the play script has an identification of at  
7 least one portion of the requested media, "at least  
8 one" meaning it could be as many as all portions of  
9 the requested media, which I think is what you're  
10 asking me. 02:36:23

11 And so, in claim 1 if we're talking about  
12 an alternative embodiment, then the play script  
13 could contain all of the media clips that make up  
14 requested media. And, in that case, in this  
15 alternative embodiment, there could be a single 02:36:45  
16 setup message that would allow the viewer to receive  
17 all of the media clips.

18 So I don't think the play script is any  
19 different between these alternative embodiments. I  
20 think what's different is the behavior of the system 02:37:12  
21 to the receipt of a setup message.

22 BY MR. BERG:

23 Q Fair enough. So just to make sure I have  
24 your answer right, I think you're saying that claim  
25 1 would apply to either scenario. There is nothing 02:37:33

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1 in claim 1 that would exclude one scenario or the 02:37:37  
2 other; is that correct?

3 A Yeah. What claim 1 is describing is the  
4 mechanism by which a request for media is made and  
5 by which the computing device returns a play script 02:37:57  
6 to the communication device. And I think that  
7 mechanism is the same for the different embodiments  
8 described in the patent.

9 Q Okay. How are you doing, Mr. Adams?  
10 Would now be a good time for a break or do you want 02:38:33  
11 to keep going for a little longer? I'm good either  
12 way.

13 A Maybe we could take a break in about  
14 15 minutes. I'm okay for right now.

15 Q Sure. So let's go up to the -- 02:38:47  
16 paragraph 57 of your declaration.

17 A Okay.

18 Q So here you describe the -- in this  
19 section, you describe the solution of the '673  
20 patent. And there's just a couple of paragraphs 02:39:13  
21 here. So let's focus on paragraph 57 first.

22 So you note that one solution is that the  
23 inventors envisioned delivering requested media,  
24 e.g., a program, portion by portion and enabling the  
25 user device as opposed to the back-end streaming 02:39:39

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1 system to control the process of streaming the 02:39:42  
2 portions in order to present the user with a  
3 complete media presentation, correct?

4 A Yes. That's what I'm saying here, yeah.

5 Q Okay. So there's kind of two aspects 02:39:59  
6 here. And we've touched on both of these already.  
7 But there's the portion-by-portion aspect, and  
8 there's the control aspect. And, in the  
9 portion-by-portion aspect, again, here you mention  
10 that the -- the requested media is a program. 02:40:20

11 Now, when you say "portion by portion of a  
12 program," can you describe a little bit what you  
13 mean by "portion of a program," or I guess what a  
14 program is such that it's broken into portions?

15 MR. SPRENGER: Objection to form. 02:40:46

16 THE WITNESS: Yeah. Here a program -- an  
17 example of a program might be a TV show or a movie,  
18 for example. And it could be broken down into  
19 portions. And then when the '673 patent delivers  
20 the program, each program -- each portion of the 02:41:22  
21 program is delivered sequentially, one after the  
22 next.

23 BY MR. BERG:

24 Q So let me direct your attention to  
25 column 9 of the '673 patent starting on line 63. 02:42:24

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1 two different media to make a simple program." 02:44:09

2 A Yep.

3 Q So, in the context of this program that's

4 being talked about in column 4, is it fair to say

5 that the first movie clip is the movie trailer and 02:44:29

6 the second clip is the full-length movie?

7 A No. I don't think so.

8 Q And why is that?

9 A Because it talks about two different media

10 making a simple program. It doesn't say media 02:44:54

11 clips. Otherwise, where we're talking about, you

12 know, portions, we were also using the terminology

13 that's used in the patent here is to talk about

14 media clips. So I think here it's actually not

15 talking about that. 02:45:24

16 Q Okay. Let's -- we'll put a pin in

17 column 4 and come back to it because I want to go to

18 a couple other places, then we'll come back there,

19 just on this media clip issue.

20 A Just to finish that, though, before we 02:46:10

21 move on, I think the context of this, starting at

22 line 15, is really talking about presentations. And

23 it says, for example, "the presentation may include

24 a list of media from the program, with or without

25 other media items." And then it goes on to talk 02:46:38

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1 about, in another example, "the trailer followed by 02:46:43  
2 the full-length movie may combine two different  
3 media to make up a single program."

4 I believe in the context here that that  
5 last word "program," they're really, again, still 02:47:02  
6 talking about presentations. I think that that is  
7 the meaning of that paragraph. They kind of  
8 interchangeably used "presentation" and "program."

9 But when you read that whole section in  
10 context, I think it makes sense to think that 02:47:20  
11 they're actually still talking about making a simple  
12 presentation, which is --

13 Q Those are two separate examples, right?  
14 One being a presentation that contains a list of  
15 media, possibly with or without other media items. 02:47:37  
16 So that's one example. And then the other is a  
17 separate example where a movie trailer and a movie  
18 are combined to make a program.

19 So why are you linking those two as being  
20 part of the same example I guess is what I'm 02:47:53  
21 confused by.

22 MR. SPRENGER: Objection to form.

23 THE WITNESS: Well, it's following on  
24 where this whole section here is talking about a  
25 presentation, which is a number of programs. And so 02:48:09

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1 I -- you know, it's -- it follows immediately on, 02:48:20  
2 combined to make a simple viewing experience.

3 And then in another example, the  
4 movie trailer followed by a full-length movie may  
5 combine two different media to make up a simple 02:48:36  
6 program. But, to me, that sounds like they're still  
7 talking about the same thing.

8 BY MR. BERG:

9 Q I know this -- I'm sorry. Go ahead and  
10 finish. 02:48:48

11 A It really doesn't matter, I don't think.  
12 It's just my view.

13 Q Okay. So, just to add a little bit more  
14 context there, if you go up to the very top of that  
15 paragraph, which starts at line 7, you know, those 02:49:00  
16 first two sentences there certainly seem to be  
17 talking more about programs. So I'd almost say the  
18 presentation -- to the extent these all related to  
19 the presentation is kind of the one that's  
20 different. 02:49:18

21 Would you agree with that?

22 A Yeah. I mean, here they're talking about  
23 creating a viewing experience, aren't they? And I  
24 think they're talking about these viewing  
25 experiences as either programs or presentations. 02:49:37

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1 Q Okay. So I'd like you to flip -- we'll 02:49:41  
2 come back to column 4 in a minute, but I would like  
3 you to flip to column 19.

4 A Okay. I am looking at it now.

5 Q I want to make sure I'm directing you to 02:50:22  
6 the right part here. Just bear with me for a  
7 minute, please.

8 Okay. So, in lines 10 and 11, it talks  
9 about "A presentation might include a movie media  
10 clip and an advertisement." And then, similarly, in 02:51:17  
11 line 46 through 48, it talks about how the MMS  
12 streams the presentation, including the movie media  
13 clip and the advertisement.

14 So, given these disclosures, do you  
15 understand that a media clip could be a full-length 02:51:40  
16 movie in this context?

17 A I'm still looking for that second  
18 reference you gave me.

19 Q Sorry. Same column, line 46 is where it  
20 starts. 02:51:59

21 A Oh, 46. Right. Yeah. "The MMS streams  
22 the presentation to the viewer, including the movie  
23 media clip and the advertisement."

24 So, in this case, it sounds like it's a  
25 clip of the movie, not the whole movie. 02:52:23

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1           Q     Okay.  So then, going back up to column 4           02:52:29  
2     where we have the simple program that's a movie  
3     trailer followed by a full-length movie makes up a  
4     simple program.

5           A     Yeah.   02:52:51

6           Q     And now, thinking about this example of a  
7     program in the context of claim 11, we've talked --  
8     we've talked a lot about how the request for media  
9     in claim 11 is a request for a program.

10                  So, in the context of this example, that           02:53:05  
11     program would be the movie trailer followed by a  
12     full-length movie; is that fair?

13           A     Can you be -- yeah.  Yeah.  We're just  
14     talking about what the program content is right now,  
15     correct?   02:53:28

16           Q     Yeah.

17           A     Yeah.  The program content is the trailer  
18     and then the movie itself, yeah.

19           Q     And is it fair to say -- so then in  
20     claim 1, we've talked about, you know, that there           02:53:42  
21     can be one portion; there can be multiple portions.

22                  In the context of this simple program  
23     described in column 4, would it be fair to  
24     characterize the movie trailer as one portion of  
25     that program and the full-length movie as another           02:54:02

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1 portion of that program? 02:54:05

2 A No.

3 Q And can you describe to me why not?

4 A Well, the portions are of the -- of the

5 trailer and portions of the full-length movie. So, 02:54:26

6 you know, the program could be many, many portions,

7 not just -- I think you were suggesting that there

8 were only two portions.

9 Q Yeah. Okay. So, setting aside the fact

10 that it's possible, though not disclosed by the 02:54:51

11 patent here, that these -- that the trailer and that

12 the movie could be broken up into additional

13 portions, you know, we, I think, agree that a

14 request for media is a request for a program, and

15 then that the portions are a portion of the 02:55:07

16 requested media or, in other words, a portion of the

17 program.

18 And so I guess what I'm asking is, is why

19 couldn't the trailer be one portion and the movie be

20 another portion? 02:55:24

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: The -- I don't think that

23 really follows from this example. It's not

24 indicating in this example that any portions might

25 be -- I think that's a leap of logic that doesn't 02:55:50

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1 work. 02:55:55

2 BY MR. BERG:

3 Q Okay. So how -- in the context of

4 claim 1, what do you understand a portion to be? I

5 mean, it's just the plain and ordinary meaning of 02:56:05

6 "portion" that applies here, right?

7 A Yes. The plain and ordinary meaning of

8 "portion" is that it is part of the requested media.

9 Q And so, if the requested media is a

10 program, then isn't a trailer part of that program? 02:56:22

11 A Yes. But it's not necessarily the same

12 part that a portion of it is. Clearly, in this

13 example here, we could have the movie trailer broken

14 into 16 portions and the movie broken into 275

15 portions. 02:56:48

16 Q Okay. So they could be further broken

17 down into additional portions, but if a portion is

18 just a part, then the movie trailer is a portion of

19 the program, right?

20 MR. SPRENGER: Objection to form. 02:57:05

21 THE WITNESS: What would -- I think what

22 you're doing is you're conflating two different

23 meanings for "portion." And, as I say, I don't

24 think this -- I don't think your logic is correct.

25 / / / /

1 BY MR. BERG: 02:57:21

2 Q So sorry. I was just trying to use the

3 definition of "portion" that you gave me, which was

4 "a part of the program."

5 So what other definition am I using that 02:57:29

6 I'm conflating?

7 A Well, there is no reason to believe that,

8 just because a program contains portions, that

9 therefore part of that program is one portion. It

10 can be any number of portions. We really don't have 02:57:55

11 the information in here to know how the program is

12 portioned.

13 And you're asking me to accept that this

14 program is made up of two portions. I have no --

15 there's no logic or no information here that would 02:58:19

16 suggest to me that that's the case.

17 Q So I guess -- I guess what I'd like you to

18 do is, can you point me to anywhere in the claim

19 that indicates that that couldn't be a way to apply

20 the claim language portion in the context of 02:58:40

21 claim 1?

22 A I don't believe that I -- I don't believe

23 that is a necessary thing to -- you know, to

24 actually, if you like, prove the point one way or

25 another. 02:59:13

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1 Q Okay. 02:59:13

2 A Yeah. So, I mean, we're talking here

3 about in the claim an identification of at least one

4 portion of the requested media. That doesn't tell

5 me -- that one portion of the requested media could 02:59:30

6 be, for example, an entire movie trailer. It --

7 there's no link.

8 Q Okay. So I think maybe I see the hangup

9 we have here.

10 So I'm not asking you to limit the claim 02:59:47

11 to a portion being the movie trailer and another

12 portion being the full-length movie. I will, for

13 purposes of this discussion, stipulate that you

14 could also imagine a scenario where there were other

15 definitions of "portion" -- other portions that 03:00:10

16 would also apply to this claim language.

17 For example, if the movie was broken up

18 into 200 portions, you could also apply the claim

19 language to those portions. I'm asking if there is

20 any reason in the claims to limit it to only that 03:00:25

21 context that you seem to be pushing for instead of

22 also embracing, you know, the movie trailer being a

23 portion and the full-length movie being another

24 portion.

25 I'm asking if there is any reason that the 03:00:42

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1 claim can't be broad enough to encompass both 03:00:45  
2 scenarios.

3 MR. SPRENGER: Objection to form.

4 THE WITNESS: I think I just have to go  
5 back and say once again that we're talking about 03:00:58  
6 portions of media. And these portions of media  
7 clearly are not -- can be of arbitrary length, are  
8 not limited. And it doesn't make sense for them to  
9 be the whole media.

10 So we're -- you know, we're looking at a 03:01:31  
11 system here that is breaking media into portions for  
12 a reason. And so suggesting that a movie could be a  
13 single portion just does not make sense in the  
14 context of this patent.

15 BY MR. BERG: 03:01:57

16 Q So I feel like we're -- you were talking  
17 about media in that case, but specifically the  
18 requested media, which we've agreed is a program,  
19 right?

20 MR. SPRENGER: Objection to form. 03:02:09

21 THE WITNESS: In the example we gave, it  
22 is a program -- it could also be a presentation.

23 BY MR. BERG:

24 Q Okay.

25 A It could also be a single piece of media. 03:02:18

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1 The patent actually describes all three. 03:02:21

2	Q	Fair enough.
---	---	--------------

3                   And just by way of semantics, "media" is  
4           actually a plural word, right?

5 MR. SPRENGER: Objection to form. 03:02:35

6 THE WITNESS: Well, it's -- people don't  
7 talk about mediums or a medium. It's a word that is  
8 always used in the plural, even when it's referring  
9 to a single thing.

10	BY MR. BERG:	03:02:55
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11	Q	Fair enough.
----	---	--------------

12 But, based on the language of the claim  
13 then, "media" could be a plural or it could be a  
14 singular. Like "media" here could also be a whole  
15 set of media, correct?

16                   A       I'm not sure.    I think when you have the  
17                   definite article as in at least one portion of the  
18                   requested media, I think probably the media is most  
19                   likely singular.

20	Q	So I'll represent to you that, as a matter	03:03:33
21		of law, the definite Article B or A can be one or	
22		more than one in patent law.	

23 So, assuming that that's true information  
24 that I've given you, does that change your answer at  
25 all regarding the definite article? 03:03:49

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1 MR. SPRENGER: Objection to form. 03:03:51

2 THE WITNESS: You know, I don't want to

3 debate you on points of law. I'm going to read this

4 patent in the way, you know, that makes sense to me

5 as an engineer and, you know, in the context of my 03:04:07

6 experience.

7 So, you know, I don't think it changes.

8 You know, what you just said is -- you know, I'm

9 going to have to rely on my engineering brain

10 because I'm not a lawyer. 03:04:32

11 BY MR. BERG:

12 Q Fair enough.

13 So, in the context of the prior art, we

14 talked about playlists, right? Which are obviously

15 multiple media. 03:04:43

16 Would a request for a playlist be -- I

17 mean, would you call a request for a playlist a

18 request for media, or would you use some other word

19 to describe that?

20 A Can you repeat that? That was awfully 03:04:58

21 quick.

22 Q Yeah. Sorry, sometimes I talk too

23 quickly. So I'll just repeat what I said.

24 In the context of the prior art, we talked

25 about playlists, which are obviously multiple pieces 03:05:11

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1 of media. 03:05:15

2 So my question for you was, would a

3 request for a playlist be a request for media, or

4 would you describe that -- use some other way to

5 name that? 03:05:29

6 MR. SPRENGER: Objection to form.

7 THE WITNESS: Okay. So -- yeah. What we

8 were talking about on the prior art was the playlist

9 has multiple URLs, and each one of them points to --

10 let's use the word "piece of content," but a media 03:05:49

11 asset. So, in that case, we have multiple media

12 assets.

13 BY MR. BERG:

14 Q And so requesting that playlist would be a

15 request for media, correct? 03:06:07

16 A It would be a request for multiple media

17 assets.

18 Q And you think it's unfair to call it a

19 request for media?

20 A I think it's confusing. 03:06:34

21 Q So when we've been talking about

22 portions -- and throughout your declaration, you

23 talk about breaking a full-length movie up into

24 portions.

25 Can you point me to any example in the 03:06:54

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1 '673 specification where a full-length movie is 03:06:57  
2 broken up into portions?

3 A Yeah. Let's go to column 3, which I think  
4 is where we first talk about portions. Yeah. At  
5 line 49, "Media may include one or more media clips 03:08:04  
6 or a part of a media clip."

7 And I think then if we go to column 5 --  
8 and we looked at this earlier, I think. "The  
9 streaming system also enables a media owner to  
10 identify a program or a portion of a program made 03:08:47  
11 available for streaming."

12 So there a program could be a movie, and a  
13 portion of a program could be a portion of a movie.

14 Q So can you identify any spot in the  
15 specification where a program is an entire movie? 03:09:10  
16 That's the example you keep going back to, and it's  
17 in your declaration.

18 Is there any example in the specification  
19 of a program being defined as an entire movie?

20 A Can you point me to where I say that in my 03:09:28  
21 declaration?

22 Q Yeah. So let's take at paragraph 221 for  
23 an example.

24 A Okay.

25 Q And so the second sentence there says, 03:09:53

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1 "The claims and specifications of the '673 patent 03:09:55  
2 distinguish between requested media, e.g., an entire  
3 movie, and portions of the requested media, e.g., a  
4 portion of the movie."

5 A Right. 03:10:12

6 Q And in other places that we've talked  
7 about, you discuss that the request is for a  
8 program.

9 And so my question is, is there anywhere  
10 in the specification that gives that example of a 03:10:25  
11 program being an entire movie?

12 MR. SPRENGER: Objection to form.

13 THE WITNESS: I don't know if I can point  
14 you to it right now, but I believe there are  
15 examples of that in the specification. I could 03:10:40  
16 search for them if you like.

17 BY MR. BERG:

18 Q Yeah, sure. Take your time.

19 A So now I need to download it. There's no  
20 search in here. Give me a moment. 03:10:58

21 So the first thing I found is in column 11  
22 at line 55. And it says, "The viewer can watch  
23 movies of a designated media rating." And then  
24 later on it says -- it talks about data relevant to  
25 the publisher of the program. 03:12:09

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1                   So we're talking first about movies, and                   03:12:12  
2                   then we're talking about the publisher of the  
3                   program. So I believe there, the program could be  
4                   the movie.

5               Q     Okay. I guess I don't see the movie                   03:12:28  
6                   being -- a program being defined as the movie there,  
7                   but that's your opinion.

8               A     We can continue this exercise. I would  
9                   point out that it is also pretty common to consider  
10                  a movie to be a program in the common usage.                   03:12:49

11                   But in column 18, the program has multiple  
12                  media items, including a media clip for a movie.

13              Q     What line are you in?

14              A     Programs and movie is in the same  
15                  sentence.   03:13:17

16              Q     Sorry. Which line are you in?

17              A     I'm at line 30, column 18.

18              Q     Uh-huh.

19              A     Okay.

20              Q     So, in that one, the program is at least                   03:13:32  
21                  the media clip for the movie and an advertisement,  
22                  so not just a movie, correct?

23              A     Yeah.

24              Q     Okay. So that's similar to the program  
25                  example we looked at earlier, except for instead of                   03:13:43

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1 a trailer and a movie, it's a movie clip and an 03:13:49  
2 advertisement?

3 A Okay. At line -- just continuing on, at  
4 line 50, a viewer selects an option to obtain one or  
5 more programs which, for example, contain movie 03:14:06  
6 media clips.

7 Q Okay. So by that you understand that the  
8 program would be an entire movie?

9 A Well, the program is, as for example,  
10 contained movie media clips. If the totality of the 03:14:39  
11 media -- the movie media clips make up an entire  
12 movie, then the program would make up -- would be a  
13 movie.

14 Q So, clearly, this isn't defining a program  
15 as a movie, though, since this is referring to one 03:15:03  
16 or more programs. And there is no indication that  
17 the movie media clips come from the same movie. And  
18 I would expect across -- if we're talking about  
19 multiple programs, they certainly wouldn't, right?

20 MR. SPRENGER: Objection to form. 03:15:18

21 THE WITNESS: Well, hang on a second. One  
22 or more programs. In other words, one program is  
23 part of this.

24 BY MR. BERG:

25 Q Yeah. I agree. But all I'm saying is I 03:15:27

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1 don't see a definition of a program being a single 03:15:29  
2 movie here. I mean, I agree that possibly it could  
3 include that.

4 Any other examples?

5 A I'm going to just keep going down here. 03:15:45

6 In this case, we have a presentation  
7 including multiple movie clips or media clips.

8 So I don't see any other specific  
9 references, but I would go back to the common  
10 language, meaning that a program can be a movie. 03:16:36  
11 And I believe that's the way that "program" is being  
12 used in this patent. It's a program. It's a TV  
13 show. It's a movie. It's an opera, and so on and  
14 so forth.

15 Q So, yeah, let's talk about that common 03:16:58  
16 language that you've referred to a couple times now.

17 Because certainly we've looked at several  
18 examples, including some that you just pointed out  
19 where a program isn't merely an entire movie, right?  
20 I mean, we've looked at at least one example where a 03:17:15  
21 program was a trailer plus a movie and another  
22 example where a program was a movie clip plus an  
23 advertisement.

24 So I think it's fair to say that the  
25 patent is using this at least in a -- in not the 03:17:30

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1 common language way that you're referring to. At 03:17:32  
2 least not limited to the common language way you're  
3 referring to; is that correct?

4 A I take the patent as being inclusive in  
5 its use of "program." So I think it's using it in a 03:17:45  
6 general sense that includes -- it could be a movie  
7 or it could be a movie trailer and a movie. That  
8 could be a program.

9 Q So --

10 A I don't think it's limiting a program to 03:18:00  
11 being more than one thing.

12 Q Understood.

13 So, in the context of claim 1 where it's a  
14 request for media, which you've identified as a  
15 request for a program, that could -- that would be 03:18:15  
16 encompassing of both scenarios, in your opinion,  
17 right?

18 A Well, actually, I believe it was you that  
19 was the person that was establishing that the  
20 request for media was a request for a program. I 03:18:31  
21 think I pointed out that, in this patent, the  
22 request for media could be a single piece of media,  
23 a program, or a presentation.

24 So, actually, I don't -- I'm not limiting.  
25 I think it was you that was limiting the request for 03:18:53

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1 media to being a program. It's not limited to a 03:18:58  
2 program.

3 Q Well, certainly I don't want to put words  
4 in your mouth. I was using the language in your  
5 declaration. For example, in paragraph 73 and 74, 03:19:07  
6 you specifically say the request is a request for a  
7 program, correct?

8 A Let me have a look at that.

9 In this case, I used the requested  
10 program, and I'm using it in the common language 03:19:30  
11 meaning of program, not, you know -- not meaning  
12 just a program.

13 Q So you're using it in a different way than  
14 the patent uses it?

15 A No. I believe I'm using it -- 03:19:50

16 MR. SPRENGER: Objection to form.

17 THE WITNESS: I believe I'm using it in  
18 the same way the patent is using it.

19 BY MR. BERG:

20 Q Okay. I just misunderstood. 03:19:58

21 And in paragraph 81, you also talk about a  
22 request for a program, correct?

23 A Yeah. And I believe my language is  
24 consistent. The reason I'm using the word "program"  
25 is clearly because a program is something that's 03:20:09

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1       talked about in the patent. And I think programs       03:20:13  
2       can be made up of media clips. And I think that's  
3       clear from the patent too.

4               I think programs can be made up of, as you  
5       pointed out, movie trailer and a movie. And I think       03:20:33  
6       a program could be made up just of a movie by  
7       itself.

8               Q       Okay.

9               A       I don't see any problem with any of these  
10       uses of the word "program" consistent with the way       03:20:48  
11       the language of the patent is written.

12              Q       Okay. No. That's great. That's what I  
13       understood your testimony to be. I just wanted to  
14       make sure we were clear that it wasn't just me using  
15       the word "program" to describe the request in claim       03:21:04  
16       1. I think that was kind of how we've both been  
17       talking about it.

18              MR. SPRENGER: Brad, I think we've been  
19       going almost two hours.

20              MR. BERG: Yeah. So it's probably time       03:21:21  
21       for a break. I will -- yeah. Let's just go ahead  
22       and take a break, and then we can talk about  
23       logistics after we're off the record. If you're  
24       okay with taking a break, Mr. Adams.

25              THE WITNESS: Yes, I am.       03:21:38

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1 THE VIDEOGRAPHER: Going off the record. 03:21:39  
2 The time is 3:21 p.m.  
3 (Recess taken.)  
4 THE VIDEOGRAPHER: Back on the record.  
5 The time is 3:33 p.m. 03:33:52  
6 BY MR. BERG:  
7 Q Welcome back, Mr. Adams.  
8 A Thank you.  
9 Q Did you talk with your counsel during the  
10 break? 03:34:03  
11 A No, I did not.  
12 Q Mr. Adams, I'd like to have you turn to  
13 the claim construction portion of your declaration,  
14 which I believe starts on page 39.  
15 A Okay. Yes. 03:34:29  
16 Q So, in this section you identify four  
17 terms that you say require construction, play  
18 script, reservation, reservation identification, and  
19 media selector, correct?  
20 A Yes. Those are the four claim terms I was 03:34:49  
21 informed about, as I say here in my declaration.  
22 Q And for each of these four terms, you've  
23 reviewed Hulu's proposed construction, which was  
24 also adopted by the Board here, and also Sito's  
25 proposed construction? 03:35:12

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1           A     Yes. And I have here as well the Texas           03:35:14  
2     District Court's construction.

3           Q     Fair enough. So three different  
4     constructions.

5                     So I guess my first question is, for each           03:35:36  
6     of these claim terms, after having reviewed the  
7     three different constructions, do you agree that  
8     Sito's proposed constructions are the correct ones?

9           MR. SPRENGER: Objection to form.

10           THE WITNESS: Yeah. Just -- yeah, I           03:35:49  
11     believe they are. Correct, yes.

12     BY MR. BERG:

13           Q     Now, let's just step through each of these  
14     fairly quickly.

15                     So play script, you say in paragraph 94 a           03:36:03  
16     POSITA would understand that the play script is a  
17     file containing one more or media references and  
18     other information used by a communication device to  
19     obtain media, which is Sito's construction, correct?

20           A     Yes.           03:36:27

21           Q     So I have two questions that I want to ask  
22     you. And I'll ask you these about each of these  
23     four terms.

24                     So the first question is, in your analysis  
25     in your declaration, which construction did you           03:36:44

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1       apply or did you apply both, is the first question.       03:36:49  
2       So let me ask you that in the context of play  
3       script.  
4           A       In the context of play script, I applied  
5       the construction that's here in paragraph 94.       03:37:05  
6           Q       So, just to be clear, you didn't apply the  
7       construction adopted by the Board in its institution  
8       decision. You only applied Sito's construction; is  
9       that correct?  
10          A       Can you point me to that construction?       03:37:36  
11          Q       Yeah. The one I -- adopted by the Board?  
12          A       Yeah.  
13          Q       Yeah. And, just to be clear, the Board's  
14       constructions are preliminary at this stage. And  
15       so, obviously, they could change, which is, you       03:38:03  
16       know, I assume why Sito has put forward  
17       constructions here. Let me just pull this open.  
18                So let me mark this exhibit. I apologize.  
19       Bear with me for a second here. It looks like the  
20       institution decision itself didn't get uploaded into       03:39:40  
21       the system here. It should just take a moment,  
22       though.  
23                (Exhibit 16 marked for identification.)  
24       BY MR. BERG:  
25          Q       Okay. So I've introduced Exhibit 16,       03:40:13

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1       which is the institution decision in the '673 IPR.                   03:40:16

2           A       Okay. I have that.

3           Q       And I'll note that this Paper 9 is one

4       that's listed in your table of materials considered

5       in Section 3 of your declaration.                               03:40:47

6                   So, if you flip down to page 18 of the

7       institution decision, there's a section called

8       "Claim Construction."

9           A       Yes. I have that in front of me. Yeah.

10          Q       Okay. And there's three claim terms that           03:41:15

11       the Board says require construction, including play

12       script, reservation, and reservation identification.

13                  And, if you look at the first paragraph

14       under each of those subheadings, they -- the first

15       paragraphs all basically follow the same format. It           03:41:37

16       says, for example, under "play script," "Petitioner

17       asserts that the term 'play script' should be

18       construed" -- and it provides our construction or

19       Hulu's proposed construction. And it says "For

20       purposes of this decision, we agree with Petitioner,           03:41:52

21       as it is consistent with the claim language and

22       specification."

23                  Similar for "reservation." The first

24       paragraph similarly agrees with Petitioner's

25       construction.   03:42:07

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1                   And then finally for "reservation                   03:42:10  
2                   identification," the Board also says they adopt  
3                   Petitioner's proposed construction for purposes of  
4                   this decision.

5                   Do you see those three paragraphs?                   03:42:23

6                   A       Yes, I do.

7                   Q       And I'll represent to you that there's  
8                   similar language in the other institution decisions,  
9                   except for -- not all these terms are construed in  
10                  all -- not all these terms are present in all three           03:42:39  
11                  of these patents.

12                  So then going back to my question in the  
13                  context of your declaration, my question was, did  
14                  you only apply Sito's proposed constructions or did  
15                  you also apply the constructions that were adopted           03:42:58  
16                  by the Board in its institution decisions?

17                  MR. SPRENGER:   Objection to form.

18                  THE WITNESS:   Okay.   So let's take these  
19                  one at a time.   So I understand here that the PTAB  
20                  has construed "play script" as "a list customized           03:43:17  
21                  for the communication device containing one or more  
22                  media references and instructions executable by the  
23                  communication device"; is that correct?

24                  BY MR. BERG:

25                  Q       That's correct.                               03:43:34

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1           A     Yeah.  So no.  In my declaration, I looked           03:43:34  
2     at the construction according to the Texas District  
3     Court.  So I did not look at this -- I did not look  
4     at it in the context of this particular  
5     construction.   03:44:13  
6           Q     Okay.  So, just to back up there, did you  
7     say --  
8           A     So, just to be clear, if we go back to my  
9     declaration.  
10          Q     Yeah.   03:44:29  
11          A     That would be the easiest thing.  Yeah.  
12     It's what it says in the declaration, which is I've  
13     adopted the POSITA would understand that a  
14     play script is as I've stated in 94.  So that was  
15     the basis of my expert report, that construction.           03:45:03  
16          Q     So is that the reason that you didn't  
17     apply the construction adopted by the Board in its  
18     institution decision?  
19          A     When was that institution decision made?  
20     Because I'm not sure I -- it was available to me           03:45:22  
21     when I wrote this report.  
22          Q     Yeah.  So the institution decision, if you  
23     look at the top of that exhibit, is dated April 20,  
24     2021.  
25          A     Yes, I see that.                                   03:45:43

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1 Q And also, if you look at page 4 of your 03:45:43  
2 declaration, it's listed there in your list of  
3 materials considered.

4 A I'm sure you're right. Paper 9. Is that  
5 Paper 9? 03:46:30

6 Q Yes.

7 A Yeah. Okay. I see it. Yeah.

8 Q So then, going back to my question, is  
9 there any reason that you didn't offer opinions  
10 applying the Board's adopted constructions? 03:46:40

11 A Basically --

12 MR. SPRENGER: Objection to form.

13 THE WITNESS: Yeah, I don't have any  
14 reasoning.

15 BY MR. BERG: 03:46:57

16 Q Let me ask you another question.  
17 Obviously, you opine in your declaration that  
18 various elements aren't met by the prior art.

19 Do any of those distinctions turn  
20 specifically on the differences between the two 03:47:16  
21 constructions of "play script"?

22 A I don't know.

23 Q Okay. Okay. Let's go to the next claim  
24 term then, which is "reservation."

25 A Okay. 03:47:39

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1 Q And I'll ask you the same two questions. 03:47:39  
2 So, first, what construction did you apply  
3 in forming your opinions in your declaration?  
4 A Okay. So, again, if we go to the  
5 declaration, I think it's that -- which page was it 03:47:59  
6 again? Because I've jumped around a bit now.  
7 Q Yeah. No problem. It's on page 41,  
8 paragraph 95 through 97.  
9 A Thank you.  
10 Yes. So yes, I adopted the ordinary 03:48:31  
11 meaning, you know, which I basically took from the  
12 specification of the patent, which I refer to here  
13 in paragraph 96.  
14 Q And so, once again, that definition is  
15 slightly different than the one adopted by the Board 03:49:05  
16 in its institution decision, correct?  
17 A Let me flip back to that. Can you help me  
18 get to that page quickly?  
19 Q Absolutely. So I think it was page 18 or  
20 probably 19 where this term is discussed. 03:49:36  
21 A Okay.  
22 Q Actually, page 20. Top of page 20.  
23 A Thank you.  
24 Okay. Yeah.  
25 Q And so that construction in the 03:50:12

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1 institution decision is not the construction you 03:50:16  
2 applied, correct?

3 A That's correct.

4 Q Any reason that you didn't apply that  
5 construction in your declaration? 03:50:24

6 A No.

7 Q And do you know if the -- if your opinions  
8 would change based on that construction?

9 A I don't know.

10 Q All right. And then similarly for 03:50:43  
11 "reservation identification," did you -- what  
12 construction did you apply in your declaration?

13 A As I've stated in paragraph 99,  
14 identification of a reservation.

15 Q And that's different than the construction 03:51:17  
16 of "reservation identification" in the institution  
17 decision, correct?

18 A Yeah. Identification of a reservation  
19 versus a designator uniquely -- yeah. So it is  
20 different, yes. 03:51:47

21 Q And is there any reason why you applied --  
22 why you didn't apply the Board's adopted  
23 construction here?

24 A No.

25 Q And are you aware if your opinion would 03:51:57

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1 change based on the differences between those two 03:52:00  
2 constructions?

3 A I don't know.

4 Q And then the last term you have here is  
5 "media selector," which media selector was not a 03:52:15  
6 term that Hulu identified for construction and  
7 therefore not a term that the Board construed.

8 A Okay.

9 Q Do any of your reasons stated in your  
10 declaration for why the prior art does not 03:52:38  
11 invalidate the asserted patents hinge on the  
12 construction of "media selector," to the best of  
13 your recollection?

14 MR. SPRENGER: Objection to form.

15 THE WITNESS: Yeah. That's a very broad, 03:52:56  
16 wide-ranging question. I'd have to say I don't  
17 know. I'd have to say I can't answer that question.

18 BY MR. BERG:

19 Q Fair enough.  
20 Sitting here today, you can't recall 03:53:09  
21 whether the specific defense hinged on that or  
22 depended on that construction?

23 A Yeah. Yeah. It's simple. I don't know.  
24 I'd have to review that to provide a competent  
25 answer. 03:53:26

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1 Q Fair enough. 03:53:27  
2 Okay. Enough of talk of claim  
3 constructions. Let's go to -- you have some  
4 discussion in here of the priority applications.  
5 That's the last thing that I'd like to talk about. 03:53:44  
6 A Okay.  
7 Q Let me just find where it is.  
8 Okay. So we're in the section Roman  
9 numeral XI that starts on page 72.  
10 A Right. 03:55:06  
11 Q Okay. So a couple questions here. So, in  
12 paragraph 169 --  
13 A Yeah.  
14 Q -- well, actually, let's look at  
15 paragraph 171 first. 03:55:46  
16 So, in paragraph 171, you map the  
17 presentation ID to the claimed construction for use  
18 by the communication device. And then you quote the  
19 rest of the claim language from claim 1.  
20 So you identify the presentation ID as 03:56:06  
21 being the claim construction in the playlist; is  
22 that correct?  
23 A That's correct.  
24 Q And I note that in -- well -- so in  
25 paragraph 169 you say that "POSITA would understand 03:56:23

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1 'each entry on the playlist' can mean the 03:56:30  
2 presentation ID can be part of the URL itself or  
3 separate from the URL."

4 Do you see that?

5 A Yes. That's correct. 03:56:44

6 Q So, keeping a finger here and looking at  
7 claim 1 of the '673 patent again.

8 A Okay. Let me jump back to that.

9 Yeah. I got that.

10 Q So you say that the presentation ID could 03:57:20  
11 be part of the URL or it could be separate from the  
12 URL.

13 Based on the enumeration of the play  
14 script components in claim 11, do you understand  
15 that the claimed instructions must be separate from 03:57:35  
16 the claimed URL, or do you understand that they  
17 could be -- that the instructions could be embedded  
18 as part of the URL?

19 MR. SPRENGER: Objection to form.

20 THE WITNESS: Okay. I think you're 03:57:53  
21 pointing me here to Roman numeral V.

22 BY MR. BERG:

23 Q Yeah. Roman numerals IV and V.

24 A Yeah. So -- well, specifically V, "One or  
25 more instructions were used by the communication 03:58:05

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1 device, together with at least one URL and the 03:58:08  
2 reservation identification to enable at least one  
3 communication device."

4 So I believe this is a matter of  
5 formatting. So I think the instruction is separate 03:58:23  
6 from the URL. But, in fact, the instruction can  
7 also be embedded within the URL. I think embedding  
8 the instruction within the URL is one of the ways  
9 that -- I think we're talking here about the '044  
10 document described it. But also, it could be said 03:58:57  
11 separately.

12 So I think the case where it's said  
13 separately satisfies the limitations of the -- of  
14 claim 1.

15 Q And does the case where it's sent as part 03:59:12  
16 of the URL satisfy the limitations of claim 1 or  
17 only the separate scenario?

18 A Well, it's kind of interesting. Maybe we  
19 should look at the '044. But when it's format --  
20 the way it's formatted is, it's part of the URL 03:59:33  
21 string.

22 But, you know, that kind of -- is  
23 information transmitted in the HTTP request with the  
24 URL. So formatting is as part of the URL string  
25 doesn't actually, you know -- I don't think it 04:00:01

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1 actually changes anything, quite frankly. I think 04:00:06  
2 you're still transmitting the instructions. It's a  
3 formatting difference, quite frankly.

4 So I think actually both satisfy the  
5 claims, in my opinion, or claim 1, in my opinion. 04:00:21

6 Q Okay. In that case, I don't think we need  
7 to go to the '044 and ask any follow-up questions  
8 there because that was my question. That makes  
9 sense.

10 One other question, I guess. In 04:00:55  
11 paragraph 176, right at the bottom of page 76,  
12 there's a sentence that starts "If the URL," and it  
13 breaks over to page 77.

14 Do you see that sentence?

15 A Again, in 176 we're talking about the '044 04:01:18  
16 provisional, which is what I thought we were talking  
17 about. And I reference various aspects, yeah.

18 And I say -- yeah, we're talking about, I  
19 think, at the bottom of page 76, correct?

20 Q Yeah. 04:01:39

21 A Yeah. So yeah, if the URL did not include  
22 the presentation ID, a POSITA would understand that  
23 the presentation ID would still be included in the  
24 play script, but separate from the URL. Yeah.

25 Q I'm just curious, in this instance where 04:02:03

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1       you're saying that a POSITA would understand that it       04:02:07  
2       could be separate from the URL and not embedded in  
3       the URL, what would that look like in the play  
4       script? Like, how would that work?

5           A       Quite simply, in the play script you would       04:02:21  
6       have two separate fields. The URL and the  
7       presentation ID would be in separate fields rather  
8       than it being embedded in the URL.

9           Q       And how do you know that that would work  
10       in the context of the play script described by the       04:02:38  
11       '044 application?

12          A       I believe it would work because the same  
13       information is there. It's just formatted  
14       differently.

15          Q       So would the end user software application       04:02:56  
16       need to be programmed differently in order to parse  
17       that information that was kind of formatted  
18       differently, or would it work just kind of as it  
19       exists in the '044 application?

20               MR. SPRENGER: Objection to form.       04:03:13

21               THE WITNESS: I mean, that depends on how  
22       it was implemented. I'll tell you, it would be  
23       possible to implement it to pass the information in  
24       either way and make it flexible. It would really be  
25       up to the skill of the programmer whether or not it       04:03:33

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1 would be able to accept either form without 04:03:36  
2 modification.  
3 BY MR. BERG:  
4 Q Let me check my notes really quick, but I  
5 think we may be just about done here. 04:03:50  
6 So just a couple of clean-up questions.  
7 Mr. Adams, do you expect to supplement  
8 your report at any point?  
9 A I don't expect to, but I believe I have  
10 reserved the right to. 04:04:11  
11 Q And, sitting here today, do you plan to  
12 review any additional materials?  
13 A I don't have any plans to, no.  
14 Q Have you been asked to do anything else in  
15 connection with this case at the present time? 04:04:28  
16 A Not at the present time, no.  
17 Q Have your opinions changed at all as a  
18 result of today's deposition?  
19 A No.  
20 Q Are your opinions regarding these three 04:04:45  
21 IPRs fully contained in your three declarations that  
22 we've talked about today?  
23 A To the best of my knowledge, they are,  
24 yes.  
25 MR. BERG: Okay. Well, I have no further 04:04:56

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1 questions at this time. 04:04:59

2 MR. SPRENGER: Okay. So can we take a  
3 10-minute break?

4 MR. BERG: Sure.

5 MR. SPRENGER: Okay. Off record. 04:05:12

6 THE VIDEOGRAPHER: Going off the record.  
7 The time is 4:05 p.m.

8 (Recess taken.)

9 THE VIDEOGRAPHER: Back on the record.

10 The time is 4:15 p.m. 04:15:13

11 MR. SPRENGER: Okay. So we have no  
12 further questions, so I think we're done.

13 MR. BERG: Great. We can go off the  
14 record.

15 THE VIDEOGRAPHER: This completes today's 04:15:32  
16 deposition. We are going off the record. The time  
17 is 4:15 p.m.

18 (TIME NOTED: 4:15 P.M.)

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DECLARATION UNDER PENALTY OF PERJURY

I, MICHAEL ADAMS, the witness herein, declare under penalty of perjury that I have read the foregoing in its entirety; and that the testimony contained therein, as corrected by me, is a true and accurate transcription of my testimony elicited at said time and place.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 2021, at

\_\_\_\_\_, \_\_\_\_\_.

(City)

(State)

\_\_\_\_\_

MICHAEL ADAMS

REPORTER'S CERTIFICATION

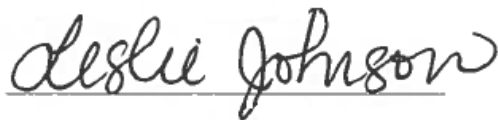
I, Leslie Johnson, a Certified Shorthand Reporter of the State of California, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were administered an oath; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a Federal Case, before completion of the proceedings, review of the transcript [ ] was [X] was not requested. I further certify I am neither financially interested in the action nor a relative or employee of any attorney or any party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: October 20, 2021

A handwritten signature in cursive script that reads "Leslie Johnson". The signature is written in dark ink and is positioned above the printed name.

LESLIE JOHNSON

CSR No. 11451, RPR, CCRR

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BRAD BERG, ESQ.

bmberg@omm.com

October 21, 2021

RE: HULU, LLC VS. SITO MOBILE R&D IP, LLC

OCTOBER 15, 2021, MICHAEL ADAMS, JOB NO. 4833181

The above-referenced transcript has been completed by Veritext Legal Solutions and review of the transcript is being handled as follows:

\_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext to schedule a time to review the original transcript at a Veritext office.

\_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF Transcript - The witness should review the transcript and make any necessary corrections on the errata pages included below, notating the page and line number of the corrections. The witness should then sign and date the errata and penalty of perjury pages and return the completed pages to all appearing counsel within the period of time determined at the deposition or provided by the Code of Civil Procedure.

\_\_\_ Waiving the CA Code of Civil Procedure per Stipulation of Counsel - Original transcript to be released for signature as determined at the deposition.

\_\_\_ Signature Waived - Reading & Signature was waived at the time of the deposition.

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1     \_\_\_ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF  
2     Transcript - The witness should review the transcript and  
3     make any necessary corrections on the errata pages included  
4     below, notating the page and line number of the corrections.  
5     The witness should then sign and date the errata and penalty  
6     of perjury pages and return the completed pages to all  
7     appearing counsel within the period of time determined at  
8     the deposition or provided by the Federal Rules.  
9     \_X\_Federal R&S Not Requested - Reading & Signature was not  
10    requested before the completion of the deposition.

1 RE: HULU, LLC VS. SITO MOBILE R&D IP, LLC  
2 MICHAEL ADAMS, JOB NO. 4833181  
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6 REASON\_\_\_\_\_  
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[statements - systems]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

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