

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 IPR2021-00265

11 U.S. Patent No. 9,591,360

12 Case IPR2021-00308

13 U.S. Patent No. 8,825,887
14 -----

15
16 VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF

17 MICHAEL ADAMS

18 Colorado Springs, Colorado

19 Wednesday, October 20, 2021

20 Volume 1
21

22 Reported by:

LESLIE JOHNSON

23 RPR, CCRR, CSR No. 11451

24 Job No.: 4833203

25 PAGES 1 - 168

Page 1

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12 Case IPR2021-00308

13 U.S. Patent No. 8,825,887
14

15
16 VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
17 MICHAEL ADAMS, Volume 1, taken on behalf of Petitioner, at
18 Colorado Springs, Colorado, beginning at 9:10 a.m. and
19 ending at 4:19 p.m., on Wednesday, October 20, 2021,
20 before LESLIE JOHNSON, Certified Shorthand Reporter
21 No. 11451.
22
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24
25

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I N D E X

WITNESS
MICHAEL ADAMS
Volume 1

EXAMINATION

BY MR. BERG 7

EXHIBITS
MICHAEL ADAMS

NUMBER	DESCRIPTION	PAGE
Exhibit 1	Petitioner Hulu, LLC's Notice of Deposition of Michael Adams; Case IPR2021-00265 U.S. Patent No. 9,591,360	9
Exhibit 2	Petitioner Hulu, LLC's Notice of Deposition of Michael Adams; Case IPR2021-00308 U.S. Patent No. 8,825,887	10
Exhibit 3	Declaration of Michael Adams; U.S. Patent No. 8,825,887	12
Exhibit 4	Declaration of Michael Adams; U.S. Patent No. 9,591,360	12
Exhibit 5	United States Patent No. 8,825,887 B2	16
Exhibit 6	United States Patent No. 9,591,360 B2	17
Exhibit 7	United States Patent No. 6,389,467 B1	27
Exhibit 8	United States Patent No. 6,385,592 B1	43
Exhibit 9	United States Patent No. 5,931,901	49
Exhibit 10	Provisional Application for Patent Cover Sheet	54

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EXHIBITS (Cont.)

MICHAEL ADAMS

NUMBER	DESCRIPTION	PAGE
Exhibit 11	United States Patent Application Publication US 2004/0083273 A1	92
Exhibit 12	United States Patent Application Publication US 2004/0015703 A1	93
Exhibit 13	United States Patent No. 6,715,126 B1	130
Exhibit 14	United States Patent No. 6,385,596 B1	144

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Colorado Springs, Colorado

Wednesday, October 20, 2021; 9:10 a.m.

THE VIDEOGRAPHER: Good morning. We are
going on the record at 9:10 a.m. on October 20, 09:10:48
2021.

Please note that the microphones may pick
up background noise, conversations and interference
if unmuted. Remember to unmute to speak. Audio and
video recording will continue to take place unless 09:11:04
all parties agree to go off the record.

This is Media Unit 1 of the video-recorded
deposition of Michael Adams taken by counsel for
Petitioner in the matter of Hulu, LLC versus Sito
Mobile R&D, LLC, et al., filed in the United States 09:11:23
Patent and Trademark Office before the Patent Trial
and Appeal Board, Case No. IPR2021-00265 U.S. Patent
No. 9,591,360.

This deposition is being conducted using
Veritext Virtual technology, and all participants 09:11:51
are attending remotely. My name is Cassia Leet from
Veritext Legal Solutions, and I am the videographer.
The court reporter is Leslie Johnson of Veritext
Legal Solutions. I am not related to any party in
this action nor am I financially interested in the 09:12:10

1 outcome. 09:12:13

2 Would counsel please state your

3 appearances and affiliations for the record.

4 MR. BERG: This is Brad Berg from

5 O'Melveny representing the petitioner in these 09:12:22

6 matters, Hulu, LLC.

7 MR. SPRENGER: And this is Kevin Sprenger

8 of Daignault & Iyer, LLP representing Sito.

9 THE VIDEOGRAPHER: Thank you.

10 Will the court reporter please swear in 09:12:37

11 the witness.

12

13 MICHAEL ADAMS,

14 having been administered an oath, was examined and

15 testified as follows: 09:12:53

16

17 EXAMINATION

18 BY MR. BERG:

19 Q Great. Thank you.

20 Mr. Adams, welcome back. Good to see you 09:12:58

21 again.

22 A Thank you.

23 Q So today I'm not going to go through

24 the -- you know, all the ground rules and things

25 like that, since we just spoke a couple days ago. 09:13:10

Page 7

1 But I just want to make sure that we're still in 09:13:12
2 agreement in general as far as how the deposition
3 proceeds.

4 A Okay. Yes.

5 Q Okay. Great. 09:13:26

6 Let's talk a little bit about your
7 preparation for today's deposition.

8 So, in addition to what you had done
9 previously to prepare for your deposition before our
10 deposition last Friday, what else did you do to 09:13:38
11 prepare for today's deposition?

12 A I've had a couple of conference calls with
13 counsel and also reviewed the various documents
14 pertaining to the two IPRs that we're talking about
15 today. 09:14:03

16 Q Did you review your -- the rough
17 transcript of your deposition testimony from
18 October 15th?

19 A No. I have not seen that.

20 Q Approximately how long would you say you 09:14:18
21 spent with counsel preparing for your deposition
22 today?

23 A I think about five hours in total.

24 Q And, in addition to the documents you
25 mentioned, can you remember any other documents that 09:14:36

Page 8

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1 |         you looked at?                                09:14:39
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2 A Yes. I remember looking at the expert
3 witness declarations that I made and the patents
4 themselves and the prior art patent cited by Hulu.

5 Q All right. Let me see here. I'd like to 09:15:12
6 introduce a couple of exhibits.

7 So you understand that today we're
8 specifically dealing with two patents, the '360
9 patent and the '887 patent; is that correct?

10	A	Yes. That's my understanding too.	09:15:26
----	---	-----------------------------------	----------

11 Q And you understand that these patents have
12 the same -- or share a specification with the
13 patents that we looked at last time?

14 A No, I don't believe they do. The

15 specification is different. 09:15:43

16 (Exhibit 1 marked for identification.)

17 BY MR. BERG:

18 Q Okay. Well, we'll get into some of those
19 differences at some point here then. Let me just go
20 ahead and introduce this exhibit first. 09:15:56

21 Okay. So I just introduced an exhibit
22 that we're marking as Exhibit 1. You can just let
23 me know when you've got that.

24 A Yes. I've got it.

25	Q	Okay. Let me just introduce this exhibit	09:16:27
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1 as Exhibit 2 as well. And we'll just talk about 09:16:29
2 both these together.
3 (Exhibit 2 marked for identification.)
4 BY MR. BERG:
5 Q Just let me know when you have Exhibit 2, 09:16:44
6 Mr. Adams.
7 A I'm just still playing with this tool.
8 Q No problem.
9 A To get a good view on the folder, I need
10 to double-click to open it. 09:17:24
11 Okay. Yes. I have both of those
12 documents open.
13 Q Okay. So let's start with Exhibit 1. And
14 Exhibit 1 is Petitioner Hulu, LLC's notice of
15 deposition of Michael Adams for Case IPR 2021-00265 09:17:43
16 for U.S. Patent No. 9,591,360.
17 So first, Mr. Adams. Have you seen this
18 document before?
19 A I don't believe I have, no.
20 Q Do you understand that you're appearing 09:18:10
21 today pursuant to this notice of deposition?
22 A Yes. I do understand that.
23 Q You understand that you're here to testify
24 as to your opinions regarding Hulu's petition
25 covering U.S. Patent No. 9,591,360? 09:18:26

Page 10

1 record that this exhibit, as noted at the bottom, is 09:23:58
2 Sito's Exhibit 2012 for IPR 2021-00265 covering the
3 '360 patent.

4 Turning back to Exhibit 3, which is the
5 '887 declaration. And I guess I should back up. 09:24:22
6 Will you understand if I refer to Exhibit 3 as the
7 '887 declaration or maybe the '887 report?

8 A Yes, I will.

9 Q Okay. Great.

10 So turning back to that one, does this 09:24:39
11 contain all of your opinions regarding the '887
12 patent?

13 MR. SPRENGER: Objection to form.

14 THE WITNESS: I just wanted to go through
15 it, look down to the end. 09:25:08

16 BY MR. BERG:

17 Q Yeah. No problem.

18 A See, it's all here. I'm sure it is.

19 Yes, it does reflect all of my opinions
20 formed up until the present time. Yes. 09:25:20

21 Q And, to the best of your knowledge, is it
22 accurate?

23 MR. SPRENGER: Objection to form.

24 THE WITNESS: Yes.

25 / / / /

1 BY MR. BERG: 09:25:37

2 Q And, if you flip down to Section 3, the

3 "Materials Considered" section.

4 Does this section appear to reflect all of

5 the materials that you considered and relied on in 09:25:49

6 forming your opinions?

7 A Yes. I believe it does. Although, of

8 course, I also relied on my experience and time in

9 the industry and general knowledge around the

10 subject matter. 09:26:10

11 Q Great.

12 And did you -- in drafting this

13 declaration, did you rely on conversations with

14 anyone?

15 A I worked with counsel, but I didn't rely 09:26:30

16 on anybody else's conversation. I formed the

17 opinions using my own knowledge and experience.

18 Q Did you have any conversations about the

19 '887 patent with anyone besides counsel?

20 A No, I did not. 09:26:57

21 Q You didn't talk with any inventors of the

22 '887 patent, for example?

23 A No, I did not.

24 Q Let's go to Exhibit 4 now.

25 A Okay. 09:27:35

Page 14

1 Q And you'll understand if I refer to this 09:27:36
2 as the '360 declaration or maybe the '360 report?
3 A Yes.
4 Q And does this contain all of your opinions
5 regarding the '360 patent formed up until the 09:27:47
6 present time?
7 A Yes, it does.
8 Q And, to the best of your knowledge, is it
9 accurate?
10 A I believe so. 09:28:27
11 Q And did you -- well, let's go to Section 3
12 here, which I believe is on page 4.
13 A Yes.
14 Q And does this reflect all of the material
15 that you considered and relied on in forming your 09:28:48
16 opinions?
17 A Yes, I believe it does, although of course
18 I do rely also on my experience and knowledge of the
19 subject matter.
20 Q And did you talk with anyone else about 09:29:27
21 the '360 patent besides counsel?
22 A No, I did not.
23 Q Have you ever had any conversations with
24 any of the inventors of the '360 patent?
25 A No. 09:29:43

Page 15

1 Q And you're aware that with -- I think 09:29:59
2 actually with both -- with respect to both the '360
3 patent and the '887 patent, there is some dispute as
4 to what priority date should apply; is that correct?

5 A Yes. I do understand that. 09:30:14

6 Q And are you aware that the patent owner in
7 this case, which is Sito Mobile R&D IP, LLC and Sito
8 Mobile, Ltd., submitted some declarations from the
9 inventors in connection with that priority
10 challenge? 09:30:38

11 A Yes. I was made aware of that.

12 Q And did you review those declarations?

13 A No, I have not.

14 Q Did you offer any opinions as to what
15 should be included in those declarations? 09:30:53

16 A No. I did not.

17 Q Okay. So a couple other exhibits that I
18 want you to have readily available in case we need
19 them.

20 I'm going to go ahead and also mark the 09:31:20
21 two patents that we're going to be talking about
22 today. Just give me one second to do that.

23 (Exhibit 5 marked for identification.)

24 BY MR. BERG:

25 Q Okay. So I've introduced Exhibit 5. Just 09:32:30

Page 16

1 let me know when you've had a chance to open that. 09:32:33

2 A Yes, I have it open.

3 Q And what is Exhibit 5?

4 A Exhibit 5 is a United States patent for

5 system and method for routing media. And this is 09:32:47

6 the patent '887 that we've already talked about.

7 Q And just before we move on to the next

8 one, I'll just note for the record that Exhibit 5 is

9 marked as Exhibit 1001 in the 887 IPR, which is IPR

10 2021-00308. 09:33:59

11 Do you agree with that, Mr. Adams?

12 A Yes. I believe that's correct.

13 (Exhibit 6 marked for identification.)

14 BY MR. BERG:

15 Q Okay. I've gone ahead and introduced 09:34:17

16 Exhibit 6. Let me know when you have that

17 downloaded.

18 A Yes. I have that in front of me now.

19 Q Okay. And what's Exhibit 6?

20 A A United States Patent 9,591,360, "System 09:34:43

21 and Method for Routing Media."

22 Q Have you seen this patent before?

23 A Yes, I have.

24 Q And I'll just note for the record that

25 this patent is marked as Hulu Exhibit 1001 in the 09:35:09

Page 17

1 '360 proceeding, which is IPR 2021-00265. 09:35:14

2 Does that sound correct to you, Mr. Adams?

3 A Yes. I believe that's correct.

4 Q Okay. So now, first thing I would like to

5 do is -- earlier today, when I asked you whether or 09:35:49

6 not these patents shared a specification with the

7 ones we looked at last week, you indicated that you

8 didn't think that they did.

9 Do you understand the specifications of

10 the '360 and the '887 patent to be identical? 09:36:10

11 A No, they're not.

12 Q Okay. And so let's pull both of those two

13 patents up kind of together. I would just like you

14 to point out to me which areas of the patents are

15 different, if you wouldn't mind. 09:36:36

16 A I'll do my best.

17 Q And I'll just point out that like, in my

18 opinion, at least vast swaths of these patents are

19 the same. So I don't think this should be an

20 exercise in doing a manual word comparison. But I 09:36:55

21 just want to get a general sense of where the

22 differences are and then talk about those

23 differences with you.

24 A Okay. I believe that the '360 patent has

25 sections that don't appear in the '887 patent. I 09:37:18

Page 18

1 believe starting in the summary of the invention. 09:37:33

2 Q So let's go to the summary of the

3 invention.

4 Okay. So I see that the summary of the

5 invention in the '887 patent is, you know, just one 09:37:53

6 paragraph. It looks like about from lines 23 to 38

7 of column 2. And the '360 patent has a summary of

8 the invention that goes from column 2, line 31 to

9 column 3, lines -- line 52.

10 Does that seem accurate to you? 09:38:19

11 A Yes. That's correct.

12 Q Okay. So maybe for the record, can you

13 just summarize for me what you view as the primary

14 differences between these two summaries of the

15 invention. 09:38:40

16 MR. SPRENGER: Objection to form.

17 THE WITNESS: Well, it's difficult to

18 summarize. As you just pointed out, there's quite a

19 large amount of additional information in the '360

20 section which describes the summary of the 09:38:57

21 invention. It's, you know, quite a few paragraphs,

22 so difficult to summarize.

23 BY MR. BERG:

24 Q Well, let me ask it this way. Are there

25 any features that you can point me to in the summary 09:39:19

Page 19

1 of the invention for the '360 that aren't described 09:39:22
2 in the summary of the invention for the '887?

3 A Yes, there are.

4 Q Can you identify one of those for me?

5 A Okay. So I believe the first one -- as 09:39:35
6 you pointed out, in the '887 there's basically just
7 one paragraph with about 20 lines, roughly, which
8 starts off "Enhanced media streaming services
9 generally compound the difficulties because" dot,
10 dot, dot. 09:40:03

11 In the '360, we appear to have the same
12 paragraph. I haven't checked it exactly, but it
13 looks like the same paragraph. And then in the '360
14 at column 2, line 47, we now have an additional
15 section, which starts off "In one aspect, the video 09:40:25
16 streaming system has one or more servers" and
17 continues on.

18 And then it appears that all of the text
19 there is additional and not in the '887
20 specification. And then there is another paragraph 09:40:46
21 again of about 20 lines or so starting at column 3,
22 line 6, and another paragraph starting at column 3,
23 line 37.

24 So all of the material described in those
25 additional sections I've just noted is not -- does 09:41:09

Page 20

1 not appear in the '887 patent, to my knowledge. 09:41:15

2 Q Okay. So, setting aside the "Summary of

3 the Invention" section and going to the "Detailed

4 Description" section, are you aware of any

5 differences in the detailed description between the 09:41:47

6 '360 patent and the '887 patent?

7 MR. SPRENGER: Objection to form.

8 THE WITNESS: I have not done a complete

9 side-by-side comparison of the detailed description.

10 But I do believe they differ in some details. 09:42:11

11 BY MR. BERG:

12 Q Can you point out one of those details for

13 me?

14 A It's quite difficult. I think the

15 differences are pertaining to the discussion around 09:42:31

16 settlement and revenue sharing. I have actually

17 looked at this in preparation for this deposition,

18 and I seem to have found -- there seem to be some

19 differences, but I'm unable to point them out

20 exactly. But I'm certainly not sure that they're 09:43:01

21 the same or identical.

22 Q In your review of these patents -- I mean,

23 so you mentioned that you identified a few

24 differences. You identified, as we talked about, a

25 significant difference in the "Summary of the 09:43:21

Page 21

1 Invention" section. 09:43:23

2 Did you identify in your review whether or
3 not the differences in the detailed description
4 correspond to the additional paragraphs in the
5 "Summary of the Invention" section, or do they seem 09:43:34
6 to be something different?

7 MR. SPRENGER: Objection to form.

8 THE WITNESS: It's difficult to say, but I
9 believe they are different from the additional
10 sections, do not relate to the additional sections 09:43:53
11 in the '360 summary of the invention.
12 BY MR. BERG:

13 Q Okay. So what I'd like to do is direct
14 your attention to the cover of the '887 patent.

15 A Okay. 09:45:15

16 Q And do you see that the '887 patent -- do
17 you see the section called "Related U.S. Application
18 Data"?

19 MR. SPRENGER: Objection to form.

20 THE WITNESS: Yes, I do. 09:45:27

21 BY MR. BERG:

22 Q And do you see the first line there says
23 "Continuation of Application No. 11/680,407, filed
24 February 28, 2007"?

25 A Yes. 09:45:47

1 Q Do you have a sense or understanding, 09:45:58
2 Mr. Adams, of what it means for a patent to be a
3 continuation of another application?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: I believe I do. I'm not an 09:46:09
6 expert on some of these legal terms, but I think I
7 understand what that means, yes.

8 BY MR. BERG:

9 Q What's your understanding of what that
10 means? 09:46:17

11 A I believe it's when you have a patent
12 application, and then that patent application is
13 continued as a -- with another application. And so,
14 essentially, all of the first application gets kind
15 of rolled into -- incorporated into the 09:46:42
16 continuation, if you like.

17 Q And do you understand whether or not you
18 can add new matter to a continuation application?

19 A I believe you can.

20 Q Okay. Let's go to -- so just taking note 09:47:02
21 there of the application number that I referenced,
22 11/680,407, let's go look at the cover of the '360
23 patent.

24 A '360?

25 Q Yeah. I want to direct your attention to 09:47:30

Page 23

1 the same "Related U.S. Application Data" section on 09:47:31
2 the cover.

3 Do you see that?

4 A Yes, I do.

5 Q Now here we have to go through a few more 09:47:40
6 steps, but you see that the three -- the application
7 that led to the '360 patent was a continuation of
8 Application 14/819,107 filed on August 5, 2015?

9 A Yes, I do.

10 Q And then do you see below that it 09:47:59
11 indicates that there's a -- that this section is
12 continued on the next page?

13 A Yes.

14 Q Okay. So, flipping to the next page then,
15 do you see where this section continues? 09:48:12

16 A It's in the section headed "Related U.S.
17 Application Data" on page --

18 Q Yes, exactly.

19 A Uh-huh.

20 Q So you see that there is another 09:48:30
21 continuation then to Application 13/842,478?

22 A Yes.

23 Q Is that correct?

24 A Yes.

25 Q Okay. And I'll just note that that patent 09:48:41

Page 24

1 is -- or that application issued as Patent 09:48:44
2 9,135,636.
3 Do you see that?
4 A Yes.
5 Q And do you recall that one of the patents 09:48:56
6 we looked at last time was that '636 patent?
7 A Yes.
8 Q And then you see that that patent was a
9 continuation of Application 11/680,407.
10 Do you see that? 09:49:14
11 A Yes.
12 Q Okay. And that '407 application, which
13 was filed on February 28, 2007, is the same
14 application that we noted on the '887 patent -- or
15 that the '887 patent was a continuation of, correct? 09:49:32
16 A Yes, that's correct.
17 Q So it's fair to say that both the '887
18 patent and the '360 patent have a direct
19 continuation line to this same '407 application; is
20 that correct? 09:49:54
21 MR. SPRENGER: Objection to form.
22 THE WITNESS: Yes, that appears to be the
23 case here, yeah.
24 BY MR. BERG:
25 Q Did you investigate -- you mentioned there 09:50:03

Page 25

1 was added material. And we identified some of those 09:50:04
2 instances in the summary of the invention. And you
3 mentioned that you know of others in the detailed
4 description.

5 A Yeah. I said -- just to clarify, I said I 09:50:17
6 really think there may be others in the detailed
7 description, having read both of them. But, you
8 know, I'm not sure of that. It's a question of --
9 probably the only way to be absolutely definitive
10 would be to do some kind of word -- you know, some 09:50:35
11 kind of compare.

12 But, of course, because all the columns
13 and everything are shifted, you can't do that very
14 easily. So, yeah, it's -- it's -- you know, it's
15 something that I certainly haven't done, so I can't 09:50:49
16 be certain.

17 Q Fair enough. And I'll think about if we
18 want to do a comparison that we can show you at
19 another junction in the deposition, and we can talk
20 through some of those differences. 09:51:02

21 Setting that aside -- and understanding I
22 wasn't trying to put words in your mouth in terms
23 of, you know, that there is added material.

24 But, in terms of the differences that you
25 have identified, did you do any investigation to see 09:51:19

Page 26

1 at what point after the '407 application those items 09:51:23
2 were added or removed to lead to two different, you
3 know, patents?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: No, I have not. 09:51:38

6 BY MR. BERG:

7 Q Okay. Let's go ahead and turn to the '887
8 declaration.

9 A Okay.

10 Q So let's start out with paragraph 91 where 09:53:14
11 you were discussing the Eyal reference.

12 A Okay. If you'd just give me a second.
13 I'm actually -- there we go.

14 Q No problem. I'm actually going to
15 introduce the Eyal. 09:53:43

16 A I'm making sure I've got it open in PDF
17 form.

18 (Exhibit 7 marked for identification.)

19 BY MR. BERG:

20 Q Okay. And just I've gone ahead and 09:54:38
21 introduced Exhibit 7.

22 Can you let me know when you've got that?

23 A Yes. I have that open.

24 Q Okay. And what's Exhibit 7, Mr. Adams?

25 A This is United States Patent No. 09:55:12

Page 27

1	6,389,467.	09:55:18
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2 Q And will you understand if I refer to this
3 patent as the Eyal patent?

4	A	Yes, I will.
---	---	--------------

5 Q And do you understand that the same patent 09:55:32
6 is marked as Exhibit -- Hulu Exhibit 1005 in both
7 the '887 IPR petition and the '360 IPR petition?

8 A Yes. I believe that's right, yeah.

9 Q Okay. Now, I know we talked about the
10 Eyal reference on Friday, and I'm hoping not to need 09:56:04
11 to repeat any of those questions, but just to give
12 us kind of a baseline for what we're talking about
13 here, could you just give me a brief description of
14 what the Eyal reference is?

15 MR. SPRENGER: Objection to form. 09:56:21

16 THE WITNESS: Yeah. It's -- you know,
17 it's obviously quite a detailed patent. So it's
18 difficult to just summarize it in a few words, but
19 basically it's a system that allows somebody to
20 discover -- or I should say the system itself 09:56:47
21 discovers -- by searching various websites,
22 discovers links to media. And then these links to
23 media could be passed to a media player, which could
24 then play them back or play them out.

25	/ / / /
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1 BY MR. BERG: 09:57:11

2 Q So, turning to paragraph 96 of your

3 declaration.

4 A Okay. You'll have to give me a second

5 here because for some reason the one that I don't 09:57:27

6 seem to be able to download is -- I'm going to do it

7 again -- is my declaration for '887.

8 Q No problem. Take your time. Let's figure

9 out getting that downloaded for you.

10 A Okay. I think I managed to break through 09:57:49

11 the system this time. Yes. Now I have it open in

12 Acrobat.

13 And which section did you want me to look

14 at?

15 Q Yeah. So paragraph 96 is where I'm at. 09:58:03

16 And that's the section discussing Eyal. And that

17 section starts on page 41.

18 A Yes. I have that open in front of me now.

19 Q Great.

20 So, in paragraph 96 you talk about some of 09:58:17

21 the same aspects we just mentioned with Eyal. You

22 said that it discloses a media search engine.

23 Do you see that in paragraph 96?

24 A Yes, I do.

25 Q Okay. And then you note that, to request 09:58:33

Page 29

1 media, a user enters search criteria in the search 09:58:36
2 engine and that based on the search criteria a
3 network or web server module can return a playlist
4 to a media playback component on a user device.

5 Is that all correct regarding Eyal? 09:58:59

6 MR. SPRENGER: Object to form.

7 THE WITNESS: Yes, it is.

8 BY MR. BERG:

9 Q Okay. And the playlist that's returned
10 can include one or more URL links to media files, 09:59:09
11 which could be, for example, songs or movies on the
12 different Internet servers that Eyal is searching.

13 Is that a fair characterization?

14 MR. SPRENGER: Objection to form.

15 THE WITNESS: Yes. I believe that's fair. 09:59:29

16 BY MR. BERG:

17 Q So, to your understanding, when a user
18 enters a search term and Eyal generates this
19 playlist, is it returning a pre-generated playlist
20 or is it identifying from these third-party sites, 09:59:53
21 you know, material to include in the playlist and
22 kind of generating the playlist based on the search
23 request?

24 MR. SPRENGER: Objection to form.

25 THE WITNESS: In this particular aspect, I 10:00:12

Page 30

1 believe that there is a matching of the search terms 10:00:17
2 with media links that the search engine has already
3 discovered. And the matching items would form the
4 playlist that's returned to the media playback
5 component. 10:00:45

6 BY MR. BERG:

7 Q I understand.

8 So what you're saying is that when someone
9 enters a search term -- I mean, say, for example,
10 they search for jazz music. Eyal is not -- at least 10:00:58
11 in this instance that you're referring to here, Eyal
12 is not going at that moment to all of these
13 thousands of third-party sites and searching for
14 music that would meet jazz music and then forming
15 that into a playlist; is that correct? 10:01:16

16 MR. SPRENGER: Objection to form.

17 THE WITNESS: Yeah. I believe the way
18 it's described in Eyal is that the search could be,
19 if you like, going on in the background, and Eyal is
20 actually building a database of sorts of media and 10:01:32
21 the links to those media.

22 And then, when the user enters a search
23 term, there is essentially a process to match those
24 terms -- those search terms with media that Eyal has
25 already discovered. Although I think it could also 10:02:02

Page 31

1 happen, you know -- but obviously -- sorry, I can 10:02:05
2 finish my sentence. It could also happen that, you
3 know, maybe when you first turn the system of Eyal
4 on that there is nothing in the database, in which
5 case then it would have to go out and start 10:02:23
6 searching websites, and the user would obviously
7 have to wait longer before they got any results.

8 But I think the notion of Eyal is that
9 these searches are -- the result of these searches,
10 if you like, the web crawling aspect of Eyal, is 10:02:44
11 saved and can you used at a later time by a search
12 from a user.

13 BY MR. BERG:

14 Q So taking -- setting aside the example
15 where you're just turning on the Eyal system for the 10:03:06
16 first time and kind of generating all this stuff
17 from scratch, it sounds like your understanding is
18 there's a database that Eyal is generating, and it's
19 kind of continuously maybe refreshing as it crawls
20 these websites, and it's creating a list of -- or a 10:03:18
21 database of all these different media items that
22 might be returned in a playlist.

23 And then, when a user enters some search
24 terms, Eyal identifies from its database links that
25 would be appropriate to include in a playlist, 10:03:37

Page 32

1 builds a playlist from those, and sends that to the 10:03:41
2 user, you know, and the playlist being multiple URL
3 links; is that correct?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: Yeah. Just to unpack that a 10:03:52
6 little bit, because there was a lot in there -- I'll
7 take one at a time, if I may.

8 BY MR. BERG:

9 Q Fair enough.

10 A Yes. I think Eyal is saving the results 10:04:05
11 of its web crawling or searches of the web and on
12 media sites that's available over the Internet. And
13 those terms then -- those results then can be used
14 by, you know -- I should say in relation to a
15 particular search or request from the user, search 10:04:38
16 criteria into the search engine.

17 And then those matching items that Eyal
18 has would form the playlist. And those -- that
19 playlist would contain a list of URLs to the various
20 media that matched the search criteria. 10:05:10

21 Q And, at least in some embodiments of Eyal,
22 just to make sure I'm understanding what you're
23 saying, that playlist is generated for that specific
24 search request, right? It's not like just
25 identifying preformed playlists, for example? 10:05:32

Page 33

1 A I believe that's the case, that the user 10:05:40
2 search criteria would -- in this case that we're
3 talking about here, would be the basis for which
4 media links are returned in the playlist.

5 Q Now, a couple of paragraphs later here, I 10:06:12
6 think in paragraph -- yeah. At the very end of
7 paragraph 102, you mention that a program can also
8 be provided through one or more playlists that can
9 be personalized for the user. And you cite to Eyal
10 column 33, lines 9 through 20. 10:06:35

11 Can you explain a little bit about what
12 you mean about the program being provided through
13 the playlist that can be personalized for the user?

14 A Yes. I'm just going to refresh my memory
15 by looking up that reference to make sure I'm giving 10:06:50
16 you the right context.

17 Q Absolutely.

18 A Yeah. So, in that reference, Eyal is
19 saying that in another embodiment the program may be
20 provided by one or more playlists. And each 10:07:44
21 playlist in the program may be generated by a
22 playlist generator, 1040 in figure 12.

23 And the playlists may be personalized for
24 the user of the end terminal. For example, a
25 playlist may be generated for preferences and 10:08:02

Page 34

1 profiles specified by the user of the terminal, of 10:08:04
2 the user terminal.

3 So really what we're talking about here is
4 that Eyal has -- the system of Eyal has some
5 understanding of a user profile or preference, and 10:08:21
6 that would change -- potentially change the results
7 from one user to another, even if they made exactly
8 the same search request.

9 Q So now I want to direct you to another
10 part of Eyal in column 13. 10:08:51

11 A Okay.

12 Q Column 13, lines 1 through 5.

13 So, based on this reference, you agree
14 that streaming media commercials may also be
15 inserted into the playlist, correct? 10:09:24

16 A I'm just going to read the paragraph.

17 Q Absolutely.

18 A "In some embodiments, links to streaming
19 media commercials may be inserted into the playlists
20 in various locations between media clips. These 10:09:39
21 commercials are targeted to the audience likely to
22 listen to the media available on the playlist."

23 Yes. What I'm reading here -- I've
24 forgotten your exact question. Maybe you could
25 reask it. 10:10:00

Page 35

1 Q Sure. So I just said that -- so based on 10:10:01
2 this reference, you would agree that streaming media
3 commercials may also be inserted into the playlist,
4 correct?

5 A Yes. I believe that's what this paragraph 10:10:17
6 is describing.

7 Q Okay. And so, kind of taking the example
8 that we were talking about earlier of -- you know,
9 of a user entering search terms and getting a
10 playlist back, if commercials were going to be -- 10:10:33
11 sorry, media streaming commercials were going to be
12 inserted into that playlist, that would be done at
13 the same time as the playlist that generated and
14 returned to the user; is that correct?

15 MR. SPRENGER: Objection to form. 10:10:51

16 THE WITNESS: I'm -- I can't be absolutely
17 sure because I'm not sure we're getting that level
18 of specificity here. But they certainly -- that
19 certainly could be the case, yes, that these
20 commercials are targeted to the audience likely to 10:11:09
21 listen to the media on the playlist.

22 So, basically, these are -- these
23 commercials are based on what the audience of this
24 media are going to be interested in. So, actually,
25 to be clear, this is a little bit different from our 10:11:34

1	other reference that we looked at a moment ago	10:11:37
2	because here the targeting appears to be based on	
3	the type of media that the user has requested;	
4	whereas, in the other example, I think we were	
5	talking about the profiles and preferences of the --	10:11:55
6	of the user, which is, you know, a little broader.	

7 BY MR. BERG:

8	Q	Yeah. Fair point.
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9	I guess I wasn't very clear in my	
10	question.	10:12:10

11 I was -- I know we did talk about that
12 customization. I was actually referring back to our
13 discussion on how these playlists are generated, you
14 know, from the point that a user makes a search, you
15 know, for example, for jazz music. And we talked 10:12:25
16 through how, you know, the system would pull from
17 its database to create this playlist.

18 And so I guess with reference to
19 column 13, what I'm asking is, in that scenario,
20 when a user is entering a search generating -- you 10:12:42
21 know, the system is generating a playlist to return
22 to the user, these media streaming commercials would
23 be inserted into the playlist after the user made
24 its search request; is that correct?

25	A	Yes. I believe so. And here inserted,	10:13:02
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Page 37

1 what we mean is that the playlist might be, you 10:13:08
2 know, one or two jazz songs that match the criteria,
3 and then there might be an ad, and then there might
4 be further jazz songs that match the criteria.

5 So, rather than just providing all of the 10:13:27
6 songs, interleaved within these media references
7 would be additional media references for
8 advertisements, or I think they use the word here
9 "commercials."

10 Q And those commercials would be chosen and 10:13:53
11 inserted in the playlist at the time the playlist
12 was generated?

13 A Again, I can't be 100 percent sure. It
14 says "inserted into the playlist." That could mean
15 they generate the playlist first, and then 10:14:11
16 afterwards, before the playlist is returned to the
17 user, these commercials or links to these
18 commercials are inserted.

19 But, in any case, I think it's clear here
20 that by the time the media player receives the 10:14:27
21 playlist, the links to commercials are in the
22 playlist.

23 Q Right.

24 And I see your point, that, like, there
25 could be two steps after the user makes the request 10:14:45

1 for getting the commercials into the playlist. So 10:14:48
2 let me just ask that question a little bit
3 differently.

4 The commercials would be added to the
5 playlist at some point after the user makes the 10:14:58
6 search request, correct?

7 A I believe so, yes.

8 Q Now, there's this word in the -- in
9 column 13. It says that these commercials may be
10 inserted between media clips. 10:15:16

11 Do you understand by "media clips" here
12 that a media clip is referring to a full media
13 asset, for example, a complete song?

14 MR. SPRENGER: Objection to form.

15 THE WITNESS: I'm not sure. I haven't 10:15:41
16 really gone back and looked at, in this patent, any
17 other use of the word "media clip." But I don't see
18 any reason why it should mean anything other than,
19 for example, a song, given that we're talking here
20 about the playlist, including media clips and the 10:16:09
21 songs, in this case. Like they could be described
22 in this case as media clips, yes.

23 BY MR. BERG:

24 Q So reading "media clip," there is nothing
25 that indicates to you that that media clip must only 10:16:31

Page 39

1 be a part of a song, for example? 10:16:34

2 A I don't believe that this patent talks
3 about the concept of a part of a song. So, yeah, I
4 would have no reason to think that it would be.

5 Q So Eyal is talking about inserting these 10:17:09
6 media streaming commercials. You know, obviously
7 you have a lot of experience in kind of the media
8 delivery space and in the streaming media space and
9 these different things.

10 Based on that experience, what is the 10:17:27
11 point of having commercials in streaming media -- in
12 the streaming media context?

13 MR. SPRENGER: Objection to form.

14 THE WITNESS: Well, it's a very broad
15 question. There are a number of different reasons 10:17:46
16 why you might want to include commercials. Let me
17 give you one example, which is to generate revenue
18 for the service.

19 BY MR. BERG:

20 Q And it seems like maybe kind of a basic 10:18:08
21 question, but why would you want to generate revenue
22 for the service?

23 A Well, let's take the example of broadcast
24 television where some of the channels are
25 ad-supported. So the funding of the purchase of 10:18:31

Page 40

1 content, the delivery system itself is funded by 10:18:38
2 revenues from advertisers.

3 Q And stepping aside from the broadcast
4 television and into, you know, particularly
5 streaming media, is it also possible to have 10:18:56
6 ad-supported streaming media?

7 A Yes, it certainly is.

8 Q And what costs are associated with
9 streaming media? Maybe they're the same as what you
10 just mentioned, but just to put it in that context. 10:19:15

11 MR. SPRENGER: Objection to form.

12 THE WITNESS: Well, I can give you a
13 partial laundry list, but it would include the cost
14 of the content, the media itself that you would pay
15 to the content owner for the use of the media. 10:19:34

16 It would include the storage of that media
17 on the systems that you are using. It would include
18 the network cost of transferring a certain number of
19 bytes across the network to stream that media, and
20 so on. 10:20:01

21 BY MR. BERG:

22 Q You mentioned earlier that there may be
23 other purposes for including advertisements as well
24 in addition to revenue generation.

25 Can you think of any of those right now? 10:20:22

Page 41

1 A Yes. Believe it or not, some providers 10:20:28
2 believe that customers actually enjoy advertisements
3 and appreciate them. And if -- you know, in some
4 systems, if you do not like the advertisement,
5 you're allowed to skip it. And so that gives 10:20:47
6 valuable feedback to the advertisers to which
7 advertises you're interested in and you watch and which
8 ones you skip.

9 So it can generate a great deal of
10 information for the advertisers beyond just simple 10:21:02
11 revenue.

12 Q And in those cases, is there usually a
13 revenue generation component as well?

14 A I think it's difficult to say there always
15 is, but it is common certainly that the notion of 10:21:21
16 inserting advertisements can have a revenue
17 component.

18 MR. BERG: You know, we've been going for
19 not quite an hour and a half, but getting well over
20 an hour. It might be a good time for a short break. 10:22:04

21 Would that be okay with you, Mr. Adams?

22 THE WITNESS: Yes. That would be great.

23 THE VIDEOGRAPHER: This marks the end of
24 Volume 1, Media No. 1 of the deposition of Michael
25 Adams. The time is 10:22 a.m. We're off the 10:22:17

1 record. 10:22:20

2 (Recess taken.)

3 THE VIDEOGRAPHER: We are back on the

4 record at 10:36 a.m. This marks the beginning of

5 Volume 1, Media No. 2 of the deposition of Michael 10:36:17

6 Adams. Please continue.

7 BY MR. BERG:

8 Q Great. Thank you.

9 Welcome back, Mr. Adams.

10 A Thank you. 10:36:28

11 Q Did you speak with your counsel during the

12 break, Mr. Adams?

13 A No, I did not.

14 Q Okay. Well, I think we were walking

15 through some of the prior art here, so let's 10:36:43

16 continue with that.

17 I'd like to direct your attention to

18 section B, starting at paragraph 103, which is

19 dealing with the Angles reference. So, if you

20 wouldn't mind just glancing over that section while 10:37:00

21 I go ahead and mark Angles as an exhibit, that would

22 be great.

23 (Exhibit 8 marked for identification.)

24 BY MR. BERG:

25 Q Okay. So I've introduced that exhibit as 10:37:57

Page 43

1 Exhibit 8. Just let me know when you have access to 10:37:59
2 that.

3 A Yes. I have the Angles patent open.

4 Q Okay. So this is marked as Exhibit 8.

5 Have you seen Exhibit 8 before, Mr. Adams? 10:38:16

6 A Yes.

7 Q And what is it?

8 A It is a U.S. Patent 6,385,592.

9 Q Will you understand if I refer to this

10 patent as Angles? 10:38:41

11 A Yes, I will.

12 Q And I'll just note for the record that

13 this is marked in the '887 IPR proceeding as Hulu

14 Exhibit 1045.

15 Do you agree with that? 10:39:01

16 A Yes.

17 Q So, at a high level, can you just describe

18 to me what the Angles patent is directed to?

19 A Yes. As I say in my declaration at

20 paragraph 103, it's a system and method for 10:39:25

21 delivering customized advertisements within

22 interactive communication systems.

23 And, basically, customized advertisements

24 are selected based on user profiles and delivered

25 with media content, which could be a selection of 10:39:48

Page 44

1 music, for example, that's requested by the user. 10:39:52

2 Q And when you say that these advertisements
3 are delivered with media content, for example, a
4 selection of music requested by the user, in what
5 way are these advertisements delivered with the 10:40:12
6 media content?

7 A Yes. Angles describes a method by which
8 the consumer accesses the content provider. And
9 then in response, the content provider gets some
10 kind of electronic document, which could be a 10:40:33
11 webpage. And embedded within that document is an
12 advertisement request.

13 And then that essentially causes the
14 consumer's computer to be redirected, if you like,
15 to an advertisement provider, which then provides a 10:40:59
16 customized advertisement.

17 Q And, turning to paragraph 107 -- and I
18 think you alluded to this earlier. But do you see
19 that sentence at the end of the page there? It says
20 "The advertisement computer runs the 'content 10:41:29
21 provider script' and using the 'consumer member code
22 22 to access the consumer's profile' selects an
23 'appropriate customized advertisement' to be sent to
24 the consumer computer 12 to be delivered with the
25 electronic page." 10:41:51

1 Is that the process that you were just 10:41:53
2 describing, Mr. Adams?

3 | A Yes. That summarizes that process, yes.

4 Q So is it fair to say that these customized
5 advertisements in Angles are customized at the level 10:42:14
6 of the individual consumer based on the consumer
7 profile?

8 MR. SPRENGER: Objection to form.

9 THE WITNESS: Yes. I believe that they
10 may be. And earlier, I think I note that the user 10:42:31
11 actually has to register with the advertisement
12 provider and, as a result, communicates some
13 information. And that directs the selection of the
14 advertisement by the advertisement provider.

15	BY MR. BERG:	10:43:07
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16 Q Now, in paragraph 108, you talk about how
17 the Angles system uses the content provider code to
18 track advertisements delivered for each content
19 provider.

20 According to your understanding, why does 10:43:26

21 the Angles -- why does Angles track advertisements

22 delivered for each content provider?

23 A Well, as I say in 108, this -- these
24 tracking indications are stored in an accounting
25 database maintaining a record of which 10:43:50

Page 46

1 advertisements have been viewed so that advertisers 10:43:54
2 can be billed based on actual delivery of the
3 advertisements.

4 Q And the revenue generated by these
5 advertisements is divided up among various parties, 10:44:12
6 according to Angles, correct?

7 A I believe it can be, yes.

8 Q So, for example, some of the revenue might
9 go to an Internet provider, as you note there in
10 paragraph 108, right? 10:44:39

11 A Yes. Specifically, the Angles system can
12 also pay an Internet provider based on the number of
13 advertisements viewed by its user.

14 Q And who else would -- in addition to the
15 Internet provider, who else would the advertisement 10:44:57
16 revenue go to in the Angles system?

17 A I believe it could also go to the content
18 provider.

19 Q Anyone else that you're aware of?

20 A I do not believe that that is specified 10:45:13
21 further by Angles. But it could be. I mean, I
22 haven't exhaustively searched his patent
23 specification to see if there is other parties that
24 could be credited.

25 Q As a person of skill in the art reading 10:45:34

Page 47

1 Angles and kind of given the costs associated with 10:45:36
2 providing media that we talked about earlier, would
3 you expect that some of that advertising revenue may
4 go to offsetting some of those other costs?

5 A I think you -- can you be specific about 10:45:59
6 the other costs?

7 Q Sure. Sure. That's a fair point.

8 So when we talked earlier -- and I
9 certainly don't want to put words in your mouth,
10 actually, so let me just ask you here again so we 10:46:11
11 have a cleaner record.

12 What costs are you familiar with as a
13 person of skill in the art associated with
14 delivering media content?

15 MR. SPRENGER: Objection to form. 10:46:23

16 THE WITNESS: Let's call those the service
17 provider costs, just to be -- give it a name.

18 BY MR. BERG:

19 Q Okay.

20 A So the service provider would have costs, 10:46:31
21 including sharing revenue with the content
22 providers, storage costs for media, streaming costs
23 for delivering of that media, and so forth.

24 Q Okay. And, as a person of skill in the
25 art reading Angles, would you expect that some of 10:46:55

Page 48

1 the advertising revenue would be used to pay for 10:46:59
2 those costs?

3 A I believe that there could be a business
4 model that shares some of the advertisement revenue
5 with the service provider, yes. 10:47:15

6 Q Okay. While we're on this topic, let's go
7 ahead and go to the section in the -- in your
8 declaration on the Wolfe patent, which I believe
9 starts at paragraph 119.

10 A Okay. 10:48:15

11 Q I'll go ahead and mark that.
12 (Exhibit 9 marked for identification.)

13 BY MR. BERG:

14 Q Okay. So I've just introduced Exhibit 9.
15 Just let me know when you've had a chance to grab 10:48:46
16 that, Mr. Adams.

17 A Okay.

18 Yes. I've just opened Exhibit 9.

19 Q And what is Exhibit 9?

20 A It's United States Patent 5,931,901. 10:49:17

21 Q Have you reviewed this patent before?

22 A Yes.

23 Q And will you understand if I refer to this
24 patent as "Wolfe"?

25 A Yes. 10:49:33

1 Q Could you just give me a brief overview of 10:49:38
2 your understanding of the Wolfe patent?

3 A Yes. It's entitled "Programmed Music on
4 Demand from the internet." And it's a system for
5 delivering music and targeted advertising messages 10:49:55
6 to Internet-based subscribers. And, specifically,
7 Wolfe states that it's desirable to provide an
8 Internet-based system for disseminating media
9 without any cost to the user or subscriber.

10 And, in order to provide that service 10:50:18
11 without charge, any charge, Wolfe discloses bundling
12 program user with targeted advertisements to
13 underwrite the costs.

14 Q I'll just note for the record that this
15 is -- this Wolfe patent is marked as Exhibit 1044 in 10:50:39
16 the '887 proceeding.

17 Is that your understanding as well,
18 Mr. Adams?

19 A Yes.

20 Q So just now you mentioned that in order to 10:50:55
21 provide program music via the Internet to
22 subscribers without any charge that Wolfe discloses
23 bundling the program music with targeted
24 advertisements to underwrite the costs, correct?

25 A That's correct. 10:51:12

Page 50

1 Q And the costs that Wolfe is referring to 10:51:14
2 here, would you expect those to be the same costs
3 that we've talked about earlier, you know,
4 specifically the service provider costs, the content
5 costs, perhaps the Internet architecture -- or the 10:51:31
6 Internet, you know, service costs, those kinds of
7 things, the same ones that we have previously talked
8 about?

9 MR. SPRENGER: Objection to form.

10 THE WITNESS: Yeah. I think those are the 10:51:44
11 three main categories, the cost of the media and the
12 content provider. The content provider will demand
13 the service provider costs, which we talked about
14 before, to actually provide the service and deliver
15 the media. And then any network costs to carry the 10:52:06
16 media to the subscriber. Yes.

17 BY MR. BERG:

18 Q And so, if Wolfe is disclosing using
19 advertisements to underwrite those costs such that
20 the music can be provided to subscribers for free, 10:52:24
21 would you understand that that advertisement revenue
22 has to be divided such that it can cover all of
23 those costs?

24 MR. SPRENGER: Objection to form.

25 THE WITNESS: For the service to break 10:52:39

Page 51

1 even or make a profit, yes, it would. 10:52:42

2 BY MR. BERG:

3 Q And, as a person of skill in the art, if

4 you were attempting to implement Wolfe, would you

5 want to break even or make a profit? 10:52:59

6 A I think that would be a business decision

7 rather than a technical decision.

8 Q Fair enough.

9 Okay. Let's see if there's anything else

10 I want to cover on these. I do want to cover the 10:53:30

11 Madison reference as well, but I think we'll do that

12 later, after lunch, once we've had a chance to nail

13 down how we're treating the previous deposition

14 because there is some relationship there with the

15 other Madison reference that I'd like to talk about 10:53:47

16 when we do that. So I'll hold off on that for now,

17 and we can skip down to some other aspects.

18 So let's actually go earlier in your

19 declaration to the section -- well, let's go to

20 paragraph 56. 10:54:18

21 A Okay.

22 Q And so here we're talking about -- we're

23 in the section of your declaration talking about

24 problems with existing streaming systems.

25 And feel free to take a second to orient 10:54:39

Page 52

1 yourself to what's going on here, but it looks like 10:54:41
2 you've pulled several quotes from the provisional
3 application that are generally talking about some of
4 the problems that the inventors allegedly identified
5 with the existing systems. 10:54:56

6 Is that a fair characterization of where
7 we're at?

8 MR. SPRENGER: Objection to form.

9 THE WITNESS: Yes. I believe that's the
10 case. And I refer here to Exhibit 1011 in addition 10:55:07
11 to Exhibit 1001. And these sections that I
12 reference are included in the declaration are
13 specific to particular, you know, difficulties with
14 enhanced media streaming services that are listed or
15 detailed by the '887 patent in its earlier 10:55:45
16 application.

17 BY MR. BERG:

18 Q Great.

19 And, of course, Exhibit 1011 -- or 1001
20 that you referred to is the '887 patent that we have 10:56:00
21 marked here and that you have access to. If you
22 need to reference that feel free.

23 Exhibit 1011 is the provisional
24 application. I think you referred it as the '044
25 provisional application? 10:56:20

Page 53

1 A Yes. I believe that is Exhibit 1011, yes. 10:56:22

2 Q So I haven't introduced that as an

3 exhibit, but as we're talking, if you'd like to

4 refer to it, please just let me know. I'm happy to

5 introduce it. Obviously, you have got a lot of 10:56:36

6 excerpts from it here, so we may not need to. But

7 I'm happy to if you'd like to see it.

8 A No. I think it would be a good idea to

9 have it available for reference.

10 Q Let me get that for you. 10:56:52

11 (Exhibit 10 marked for identification.)

12 BY MR. BERG:

13 Q I've introduced Exhibit 10. Just let me

14 know when you've got that available?

15 A Yes. I've been able to open it now. 10:57:53

16 Q And what is Exhibit 10, Mr. Adams?

17 A It's a provisional application for a

18 patent. And it's got a date of 01/19/01 on it. And

19 I'm just going to move down a little bit here to

20 where it actually says what it is. But I recognize 10:58:23

21 it as the operational concept description for a

22 media routing algorithm.

23 Q And I'll note for the record that

24 Exhibit 10 is marked as Hulu Exhibit 1011 in the --

25 in both the '887 and the '360 IPR proceedings. 10:58:49

Page 54

1 Does that sound right to you, Mr. Adams? 10:58:53

2 A Yes. I believe that's correct.

3 Q Okay. And the -- Exhibit 10 is the

4 provisional application that both the '360 patent

5 and the '887 patent claim priority to; is that 10:59:09

6 correct?

7 A Yes, that's correct.

8 Q Okay. And you'll understand if I refer to

9 this as the '044 provisional?

10 A Yes, I will. 10:59:24

11 Q And you've reviewed this document before?

12 A Yes, I have.

13 Q Did you review it in preparation for

14 today's deposition?

15 A I'm not sure, actually. I don't -- I 10:59:35

16 don't think I did, but I'm not sure.

17 Q Okay. So now turning to paragraph 56 of

18 your declaration.

19 So you state here, and quoting from the

20 '887 patent, that "Realtime media streaming can be 11:00:01

21 difficult to implement because realtime media

22 applications are resource-intensive and lack

23 sufficient state control models to ensure proper

24 quality of service."

25 Is that correct? 11:00:19

1	A	That is correct.	11:00:21
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2 Q So what's meant by "realtime media
3 applications are resource-intensive"?

4 A Well, I think what we're referring to here

5 is that streaming media in realtime can result in a 11:00:39

6 lot of resource utilization, both in the network in
7 terms of transferring potentially a rapid -- a
8 high-bandwidth stream of packets across the network
9 in the server systems that are streaming those --

10	that media, and potentially also at the client side,	11:01:15
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11 |         at the user side, where the computing device that

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12 |         the user is using is -- let's say the device the
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13 user is using, whether it's a set-top box or a

14 laptop or anything, has to be able to keep up with

15 the stream of media. And, commonly, it has to 11:01:49

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16 decode it in realtime and present it in realtime to
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17 |         the user, to the viewer.
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18 Q Now, I recall from our previous

19 conversation that you spent quite a long time, I

20 think maybe more than a decade, at Time Warner Cable 11:02:22

21 doing various forms of media delivery work; is that

22	correct?
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23 A Yes, that's correct.

24 Q As part of that work, you dealt with

25	streaming media?	11:02:36
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1	A	Yes, I did.	11:02:37
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2 Q And this is starting in the kind of early
3 to mid-'90s and going through to kind of the early
4 to mid-2000s, if I remember right; is that right?

5 | A Yes. From 1993 through the end of 2003. 11:02:49

6 Q So, when you first started working on
7 streaming media in 1993, did you notice that this
8 was a problem with realtime media streaming, this
9 kind of resource-intensive nature of realtime media
10 streaming? 11:03:12

11 MR. SPRENGER: Objection to form.

12 THE WITNESS: I was aware of these issues,
13 yes. It is well known in the art that streaming
14 media, in particular video, requires -- is
15 resource-intensive, to use this terminology. 11:03:36

16 BY MR. BERG:

17 Q And, in that time frame, kind of the early
18 to mid-'90s, what was the impact of the
19 resource-intensive nature of media streaming and
20 video streaming in particular? 11:03:59

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: At that time in particular,
23 networks and service systems and client devices were
24 less capable than they were later on and have become
25 since then. And, therefore, typically they were 11:04:27

Page 57

1 more expensive. And, quite often, certain things 11:04:33
2 that are in the software at that time required
3 hardware assist. So those were the kind of things
4 that we had to deal with.

5 BY MR. BERG: 11:04:52

6 Q And how did this kind of shortage of
7 resources to handle the intensive requirements of
8 video streaming impact the quality of the video
9 streaming?

10 A I don't think it necessarily did. Let me 11:05:20
11 give you an example. In 1994, we launched a VOD
12 service known as the Time Warner Full Service
13 Network, and the quality of that experience was very
14 high. It just came at a cost in terms of the cost
15 of the media servers, the cost of the network 11:05:42
16 implementation, and the cost of the set-top box.

17 Q Okay. Sorry about that. I had some plugs
18 that I had to deal with. And then it changed what
19 screen you were on, and I kind of lost you for a
20 second. But I should be good now. 11:06:11

21 So there wasn't necessarily a quality
22 impact from the lack of resources, but -- well, and
23 it sounds like, frankly, there wasn't a lack of
24 resources, but you just had to pay more to get the
25 appropriate resources to handle the media streaming 11:06:30

Page 58

1 at that time. 11:06:33

2 Is that a fair summation of what you were

3 saying?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: Yeah, I think that's a fair 11:06:41

6 characterization. It was resource-intensive to

7 support streaming media, but if sufficient resources

8 could be purchased or justified economically, then

9 the quality of the media streaming could be high.

10 I must point out that the system I 11:07:06

11 referred to at the time, Warner Full Service

12 Network, was a private network and not the general

13 Internet that was used to deliver the streaming

14 service.

15 I think that as we moved into later years 11:07:24

16 the biggest improvements or some of the larger

17 improvements, I should say, not necessarily the

18 biggest -- some of the largest improvements were in

19 the network, and particularly in the Internet and

20 the Internet's abilities to support streaming 11:07:40

21 sessions in megabits per second, whereas earlier it

22 would have been in tens of kilobytes or maybe, you

23 know, that kind of order of magnitude.

24 So we had a very significant improvement

25 over the time period that you referred to in the 11:08:01

Page 59

1 Internet capabilities. 11:08:05

2 BY MR. BERG:

3 Q So, in the mid to early '90s when you were

4 implementing the full-service network, it sounds

5 like you got around some of those shortcomings in 11:08:16

6 the Internet by implementing your full-service

7 network on a private network rather than over the

8 Internet; is that correct?

9 A That's correct. We were not streaming

10 over the Internet in the Time Warner Full Service 11:08:28

11 Network.

12 Q And, if you would have been streaming over

13 the Internet at that point, would you have expected

14 that the system would have worked as well?

15 MR. SPRENGER: Objection to form. 11:08:40

16 THE WITNESS: I believe it would be very

17 unlikely to have worked as well over the public

18 Internet.

19 BY MR. BERG:

20 Q And that's just a function of the public 11:08:48

21 Internet at that time not having sufficient

22 resources to handle video streaming effectively; is

23 that correct?

24 A That's correct. We really had to wait

25 until the advent of cable modem technology, which I 11:09:05

Page 60

1 was also involved in, and DSL technologies, which 11:09:10
2 started to appear commercially in the 196 -- 1996
3 sort of time frame. We did trials of cable modem
4 technology in the 1996 time frame at Time Warner
5 Cable. 11:09:32

6 Q So, setting aside the kind of private
7 streaming or private network aspect of the Full
8 Service Network, at some point the resource
9 availability for streaming over the Internet
10 improved such that streaming video over the Internet 11:09:56
11 was a viable solution; is that correct?

12 MR. SPRENGER: Objection to form.

13 THE WITNESS: I wouldn't characterize it
14 that way. It wasn't a step function.

15 BY MR. BERG: 11:10:18

16 Q So how would you characterize it?

17 A I think it was a gradual change. To begin
18 with, streaming media might have been limited to
19 audio or very low-quality video. And the quality of
20 experience wasn't good for the user. There might 11:11:05
21 have been interruptions in streaming, quite
22 commonly.

23 And then, gradually, as servers became
24 more capable and as the Internet became faster and,
25 in particular, we had a -- what's called the last 11:11:23

Page 61

1 mile, which is the connection between the last mile 11:11:29
2 to the subscriber. Could be -- the speed of that
3 connection could be improved considerably by the use
4 of things like cable modem technology.

5 And then the -- indeed, the user's device 11:11:46
6 became more capable with faster processors, more
7 memory, and so on and so forth. That gradually
8 caused streaming media to evolve from being audio
9 and low-quality video to full -- what we might call
10 a consumer electronics quality similar to a DVD, for 11:12:13
11 example, streaming by maybe the early to mid-2000
12 time frame.

13 Q And then kind of since the early to
14 mid-2000s time frame to now, have those improvements
15 in kind of the network infrastructure and consumer 11:12:41
16 devices continued to improve to the present time?

17 A Yes, they have. In fact, today it's
18 common to be able to stream media at high definition
19 and even at higher than high definition. 4K
20 resolution, for example, at high frame rates. 11:13:06

21 So, yes, this gradual change has continued
22 and probably accelerated over the last 15 years.

23 Q So, in other words, one way to overcome
24 the resource-intensive nature of streaming video is
25 to improve the resources and add more resources to 11:13:39

1 handle that functionality; is that correct? 11:13:45

2 A Yes. That is correct. Just simply adding
3 resources can be used to address the
4 resource-intensive nature of streaming media.

5 Q And, in fact, it sounds like in your 11:14:05
6 experience over the last three decades kind of
7 experiencing streaming media, that's exactly what's
8 happened is those functionalities and resources have
9 improved, and as a result, streaming has improved
10 accordingly; is that true? 11:14:21

11 MR. SPRENGER: Objection to form.

12 THE WITNESS: Yes. In general, that's the
13 case. I think there have also been advancements in
14 the management of the resources themselves, which
15 can also be an alternative way of managing this 11:14:42
16 difficulty.

17 BY MR. BERG:

18 Q Now, turning back to paragraph 56 of your
19 declaration.

20 A Yeah. 11:15:02

21 Q The other thing that you identify here as
22 a difficulty for realtime media streaming is that
23 "realtime media applications lack sufficient state
24 control models to ensure proper quality of service."

25 Can you talk to me a little bit about what 11:15:19

Page 63

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1 |         you mean by "state control models"?                               11:15:22
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2 A Yes. Well, I can talk to you about what I
3 believe the '044 provisional and the '887 patent
4 mean by those terms.

5 Q Perfect. That would be an even better 11:15:43
6 question to answer.

7 A So "state control" means monitoring and
8 managing the state of the system. And that includes
9 things like resource allocation and detecting
10 failures and what's called fail-over and preventing 11:16:10
11 things like unauthorized access and so forth.

12 Q Okay. Now, further down in paragraph 56
13 you have a long block quote from -- I think it's
14 from the '887 patent, but correct me if that's
15 wrong. I'll go ahead -- 11:17:01

16 A I believe -- I think we should probably
17 verify that it is from the '887 patent, but
18 certainly that's -- that appears to be my reference.
19 It's column 2, lines 4 to 20 of the '887 patent.

20	All right. Yes. Just checking that.	11:17:39
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21 Yes, it is. It appears at the top
22 of . . .

23 Yeah. Sorry. Found it. Yes. It is in
24 the '887 patent in column 2, starting on line 4.

25	Q	Now, at the end of that quote, do you see	11:18:43
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1 the sentence that begins "Finally, the current 11:18:45
2 streaming video networks"?

3 A Yes, I do.

4 Q So could you just read that sentence for
5 the record, and then we'll break it down a little 11:18:54
6 bit?

7 A Yes, I can.

8 "Finally, the current streaming video
9 networks lack sufficient notions or network-wide and
10 multilevel resource allocation and control trouble 11:19:19
11 detection and automatic fail-over transparent to the
12 viewer, and sophisticated anti-spoofing, denial of
13 service prevention, and unauthorized access
14 prevention techniques."

15 Q Okay. So let's go through each of these. 11:19:43
16 Hopefully, we can do this relatively quickly.

17 So there's several kind of these issues.
18 I think these are -- a lot of these are similar to
19 the state control issues that you had mentioned just
20 a few minutes ago. And I'm just curious, what 11:20:03
21 component in the '887 patent handles each of these.

22 So, first of all, with the network-wide
23 and multilevel resource allocation and control, do
24 you know what component of the '887 patent handles
25 that aspect? 11:20:30

Page 65

1 A Yes, I believe I do. 11:20:32

2 Q And what component is that?

3 A Well, actually, there are multiple

4 components that coordinate to provide it. Probably

5 the primary component is the RTSMS, which is looking 11:20:43

6 at resource allocation. And then I believe also the

7 NRP, the name routing processor, is looking at

8 network path optimization. So, basically, at least

9 those two components.

10 Q And then the next one here is "trouble 11:21:20

11 detection and automating fail-over transparent to

12 the viewer."

13 Which components in the '887 patent are

14 disclosed as handling those functions?

15 A Again, I believe there are several 11:21:36

16 components because, obviously, the first component

17 is the one that would detect a failure. I believe

18 that would be the MMS in this implementation.

19 And then there are other components that

20 would reroute to another MMS and potentially a 11:21:52

21 different network path. So I believe, again, the

22 RTSMS and the NRP would probably be involved in that

23 fail-over.

24 I should note that I haven't specifically

25 studied all of the ways that this patent describes 11:22:16

Page 66

1 this. I have read them. So I haven't studied this 11:22:19
2 bit in detail.

3 Q Understood.

4 What is meant by "automatic fail-over"?

5 A In general, automatic fail-over I 11:22:33
6 understand to be, if there is a failure within the
7 system that's delivering a particular -- in this
8 example, a particular media stream, then there is a
9 mechanism to recover from that without the viewer,
10 in this case, the communication device, having to 11:22:58
11 take further action. So that's the automatic nature
12 of it.

13 Q Okay. Moving on to the next one, we have
14 "sophisticated anti-spoofing."

15 Do you know which component disclosed by 11:23:18
16 the '887 patent handles sophisticated anti-spoofing?

17 A I'm not sure. That's something I haven't
18 really studied in detail.

19 Q How about "denial of service prevention"?

20 A Again, I -- I'm not sure I can venture an 11:23:41
21 opinion on that without further research into the
22 details of the 50 or so columns in the
23 specification.

24 Q It's a long specification.

25 Okay. And how about last one, 11:23:59

Page 67

1 "unauthorized access prevention techniques"? 11:24:00

2 A Again, I'm not sure, but I believe
3 probably the RTSMS has the ability to identify the
4 communication device. And, if it doesn't recognize
5 it, then it would -- it wouldn't allow access. 11:24:21

6 There is also another mechanism where the
7 reservation ID is checked at the MMS before a stream
8 is delivered. So a couple mechanisms that I'm aware
9 of.

10 Q Great. 11:24:43

11 Now, in paragraph 57 you say "To overcome
12 these system-related problems, the inventor sought
13 ways to improve the operation of streaming systems."
14 And you go on and I think identify two -- or maybe
15 we could say two parts of a single solution, but I 11:25:04
16 think the two here are delivering the requested
17 media, e.g., a program segment by segment, and
18 enabling the user device as opposed to the back-end
19 streaming server to control the process of streaming
20 the segments. 11:25:23

21 Is that a fair summation?

22 A Yeah. That's correct. That's -- I think
23 you've read that fairly directly from paragraph 57.
24 So yes, I would agree with that.

25 Q Okay. So, of the problems that we just 11:25:46

1 walked through, the resource allocation, trouble 11:25:49
2 detection, automatic fail-over, anti-spoofing,
3 denial of service prevention, unauthorized access
4 prevention, are any of those problems solved by
5 delivering requested media segment by segment? 11:26:08

6 A I think we should probably step through
7 those one at a time rather than trying to answer the
8 whole thing. What was the first one?

9 Q So I'm just walking through those -- the
10 things that we talked about in the previous 11:26:24
11 paragraph.

12 So the first one was "network-wide and
13 multilevel resource allocation."

14 A Yeah. I believe that the concept
15 introduced in '887 and '360 as well is that, rather 11:26:39
16 than streaming the media in its entirety, the media
17 can be broken down into parts or portions or
18 segments. All of these terms are used.

19 And, therefore, when we talk about
20 allocating resources, we're now allocating resources 11:27:10
21 for a part of the requested media rather than the
22 whole. Because a part is smaller than the whole,
23 allocating resources is more straightforward and for
24 a shorter period of time.

25 So I think, in that case, yes, there is 11:27:31

1 a -- you could call it improvement in the ability to 11:27:36
2 do resource allocation.

3 Q Can you point me to anywhere in the '887
4 patent that makes that connection between
5 segment-by-segment streaming and resource 11:27:48
6 allocation?

7 A At this point in time, I don't know if I
8 can -- I don't have a particular section of it
9 bookmarked. I was speaking as somebody, you know,
10 of ordinary skill in the art. So no. I mean, I'm 11:28:11
11 happy to go look for it if you want me to.

12 Q Well, can you -- is there anywhere in your
13 declaration where you link this solution to that
14 resource allocation problem, kind of referring to
15 the '887 patent or citing to the '887 patent? 11:28:40

16 A Well, I believe that I have done that in
17 paragraph 57 because I've listed these problems in
18 56, and then I've talked about the solutions of the
19 '887 patent, including delivering requested media
20 segment by segment. 11:29:14

21 Q So sorry, my question was a little bit
22 different. In paragraph 57, you don't actually cite
23 to the '887 patent, correct?

24 A Yeah. There isn't a specific reference
25 here. 11:29:28

Page 70

1 Q So what I'm asking is if there is anywhere 11:29:29
2 in your declaration where you do provide a specific
3 reference to the '887 patent, kind of making this
4 link between the segment-by-segment streaming and
5 the resource allocation. 11:29:40

6 A I'm not sure, actually.

7 Q Sitting here right now, you're not aware
8 of an instance where you do that; is that correct?

9 A One doesn't spring to mind as I'm sitting
10 here right now. 11:29:56

11 Q So, as you described a second ago, kind of
12 the way that you were connecting the
13 segment-by-segment streaming and solving the problem
14 of resource allocation is examining this as a person
15 of skill in the art kind of looking at what the 11:30:16
16 impact of segment-by-segment streaming would be; is
17 that correct?

18 A That's correct. As I previously stated,
19 resource allocation is made easier if the resources
20 are smaller or are required for a shorter period of 11:30:39
21 time. And by breaking the requested media down into
22 segments or portions, then I've made the problem
23 smaller, if you like.

24 Q So let's go to the next one here. So the
25 next one was "trouble detection and automatic 11:30:58

Page 71

1 fail-over transparent to the viewer." 11:31:02

2 So does delivering the requested media

3 segment by segment solve the problems associated

4 with trouble detection and automatic fail-over

5 transparent to the viewer? 11:31:17

6 A I'm not sure. I haven't studied that.

7 Q Let's go to the next one then, the

8 "sophisticated anti-spoofing."

9 Does the segment-by-segment delivery solve

10 that problem associated with sophisticated 11:31:38

11 anti-spoofing?

12 A Well, I believe sophisticated

13 anti-spoofing here is a solution, essentially. I

14 mean, they're saying -- what I mean by that is

15 they're saying current streaming in networks lack 11:32:03

16 anti-spoofing.

17 So anti-spoofing is kind of a solution.

18 If -- the idea is, if you added anti-spoofing, then

19 you would address the problem of the lack of it.

20 Q Right. That's fair. Let me rephrase my 11:32:18

21 question, in that case.

22 Does segment-by-segment streaming enable

23 sophisticated anti-spoofing?

24 A Again, I'm not able to give an opinion on

25 that without further study. 11:32:38

Page 72

1 Q Okay. Does segment-by-segment delivery 11:32:40
2 enable denial of service prevention?

3 A Again, I would have to look in more detail
4 to render an opinion on that.

5 Q Sitting here today, you're not aware of 11:32:58
6 any reason that that would be the case?

7 MR. SPRENGER: Objection to form.

8 THE WITNESS: I'm not aware of any reason
9 it would be or would not be the case. I have no
10 opinion at the present time. 11:33:13

11 BY MR. BERG:

12 Q And does -- do you have any opinion on
13 whether segment-by-segment delivery enables
14 unauthorized access prevention techniques?

15 A Certainly the system of '887 describes how 11:33:29
16 to prevent unauthorized access. As we talked
17 earlier, it's associated with the use of the
18 reservation ID. And so it's included as part of
19 the -- of the mechanism whereby a portion of media
20 is -- first you check the reservation ID before that 11:34:02
21 portion of media is streamed. So it's integral to
22 unauthorized access prevention.

23 Q So it's related to the portion-by-portion
24 or segment-by-segment delivery, but specifically
25 enabled by the reservation ID; is that correct? 11:34:22

Page 73

1 A The reservation ID is an integral part of 11:34:29
2 the mechanism to check for unauthorized access. If
3 the reservation ID is not correct, then the -- there
4 will be a denial of streaming for that portion.

5 Q Okay. Turning to the second half of the 11:34:46
6 ways that you say that the '887 improved the
7 operation of streaming systems and solved these
8 problems. It's enabling the user device to control
9 the process of streaming segments in order to
10 present a complete presentation. 11:35:09

11 So how does -- well, let me back up.

12 Does allowing the user -- or enabling the
13 user device to control the process of streaming
14 segments solve the problems associated with
15 multilevel resource allocation and control? 11:35:31

16 MR. SPRENGER: Objection to form.

17 THE WITNESS: Yes. I believe that is
18 helpful, for the same reasons that I've described.
19 We've broken the program down into portions, and now
20 each portion is requested by the user device and, if 11:35:52
21 you like, controlled by that.

22 And so, yes, I believe it -- for the same
23 reason I gave you before, it is helpful because each
24 resource allocation can be smaller and for a shorter
25 period of time. 11:36:16

Page 74

1 BY MR. BERG: 11:36:19

2 Q And is your answer also the same as

3 before, that the way you've come to this

4 understanding is based on your knowledge as a person

5 of skill in the art kind of looking at what the 11:36:26

6 impact of enabling user device control would be?

7 A Yes. I'm looking at the system. And, as

8 somebody with ordinary skill in the art, I'm

9 analyzing what the impact of breaking media down

10 into segments or portions would be when applied to 11:36:53

11 this patent specification, yes.

12 Q But, at least sitting here today, you

13 can't identify anywhere in the patent that connects

14 enabling user device to control the streaming

15 process and solving the multilevel resource 11:37:13

16 allocation and control problems, correct?

17 MR. SPRENGER: Objection to form.

18 THE WITNESS: If you're saying is it

19 explicitly stated in the patent description, then I

20 did not have a handy reference. But it may well be 11:37:28

21 explicitly stated at some point. I just don't have

22 a reference to it right now.

23 BY MR. BERG:

24 Q Understood.

25 So then, going to the next problem here, 11:37:41

Page 75

1 the problems in the prior art with trouble detection 11:37:46
2 and an automatic fail-over transparent to the
3 viewer.

4 Is that problem solved by enabling the
5 user device to control the process of streaming the 11:37:57
6 segments?

7 A Again, speaking as somebody with ordinary
8 skill in the art, it certainly can be very helpful
9 for that. For example, if I tried to stream a
10 portion of the media and it fails because the user 11:38:15
11 device has made that request, I could either
12 re-request it or I could skip over it and move on to
13 the next -- the next portion.

14 So, yeah, it does facilitate ways to deal
15 with the trouble detection and allow the 11:38:40
16 communication device in this case to implement a
17 fail-over mechanism.

18 Q Okay. Let's go down to paragraph 58 here.

19 A Yep.

20 Q So, in paragraph 58, you have a statement 11:39:17
21 at the first, which I believe is a summary of the
22 quote that you have from the '044 provisional
23 application. And I'm just -- want to make sure that
24 these are saying the same thing.

25 So would you mind just reading to yourself 11:39:36

Page 76

1 paragraph 58 and then the quote that you've 11:39:39
2 highlighted here in the box below paragraph 58?
3 A Okay.
4 Yes. I've read both.
5 Q So, starting with the quote in the '044 11:40:03
6 provisional application, particularly the last
7 sentence. So it says "The MRA is designed to
8 advance the art of streaming media out of a content
9 delivery network style architecture and move it
10 toward an interactive television architecture." 11:40:23
11 A Yes. That's correct.
12 Q So, when that quote says "to move
13 streaming media out of a content delivery network
14 style architecture and towards a television
15 architecture," what do you understand from that? 11:40:41
16 A I believe that this media routing
17 algorithm is an advancement over traditional CDN
18 style architecture.
19 Q And so what are the differences between a
20 CDN style architecture and an interactive television 11:41:10
21 architecture?
22 A It's impossible to be specific about that
23 given, you know, the generality of the question.
24 You know, for example, interactive television
25 architectures might well use CDN or may use some 11:41:34

Page 77

1 other implementation. So I'm familiar with both. 11:41:39

2 I don't think that CDNs and interactive
3 television architectures are necessarily joint, you
4 know, separate fields. It's much more subtle than
5 that. 11:41:57

6 Q So reading that quote from the
7 provisional, what aspects of the CDN style
8 architecture are -- do you understand the inventors
9 were suggesting should be discarded in favor of the
10 interactive television architecture features? 11:42:11

11 A Again, it's very difficult to answer that
12 question. I don't know what they were thinking when
13 they wrote this specifically. One of the things
14 they do, I think, say about CDN architectures is
15 that they are stateless. And I believe the MRA 11:42:36
16 architecture, the media routing algorithm, is
17 more -- has -- contains more state. And the
18 inventors are definitely in favor of a system which
19 contains more state information.

20 Q And, when you say "state information," 11:43:01
21 what are you referring to?

22 A The state of the various components. In
23 other words, whether they are operational or not,
24 how much they're used or not used. How much of
25 their resources have been allocated and how much has 11:43:23

Page 78

1 not been allocated. How much of a network path has 11:43:29
2 been allocated or not allocated. Those kinds of
3 things.

4 Q Now, in the late '90s, you were familiar
5 with the existing -- well, late '90s and early 11:43:41
6 2000s, you were familiar with the existing CDN
7 architectures, correct?

8 A Yes, I was.

9 Q For example, I think the provisional
10 application recognizes -- or I think the provisional 11:43:53
11 application mentions the Akamai CDN network; is that
12 correct?

13 A Yes. And I was very aware of Akamai at
14 that time.

15 Q So do you agree with the provisional's 11:44:06
16 characterization that the existing CDN architecture
17 such as the Akamai CDN were stateless in the way
18 that you've described?

19 MR. SPRENGER: Objection to form.

20 THE WITNESS: Yes, I do. I would say 11:44:26
21 that, you know, the CDN architectures implemented by
22 Akamai and other companies at the time, that was one
23 of their attributes. And I think, if you talk to
24 Akamai at the time, as I certainly did, they would
25 consider that an advantage of their solution. 11:44:51

Page 79

1 BY MR. BERG: 11:45:00

2 Q And are you still familiar with the Akamai

3 CDN architecture through the present day?

4 A I would say that I do not track it as

5 closely as I used to, but I'm aware of it at a high 11:45:09

6 level. I certainly haven't looked at the code or

7 detail specifications of it recently.

8 Q And, according to your understanding, is

9 that stateless nature still a feature of the modern

10 Akamai CDN? 11:45:34

11 A I really don't know.

12 Q Are there any other modern CDNs that

13 you're more familiar with than the Akamai?

14 A No. I wouldn't say I'm -- have -- you

15 know, modern CDNs are not a current field of study 11:45:56

16 for me at the moment, no.

17 Q Okay. So going down to paragraph 61 --

18 well, 60 and 61, actually.

19 A Okay.

20 Q So, in these two paragraphs, you talk 11:46:22

21 about -- you use two different terms, and you quote

22 them from the provisional application as well. But

23 you talk about a program and you talk about a

24 presentation.

25 And I'm just wondering, in your mind, 11:46:36

Page 80

1 what's the distinction between a program and a 11:46:40
2 presentation, as those terms are used in the '887
3 patent?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: Yeah. There is a 11:46:49
6 distinction between the two terms. I understand a
7 program to be something that's defined by the
8 content owner. And there is a component called the
9 ESRP, which is used to do that and to populate the
10 programs so they can be streamed. 11:47:14

11 And the distinction of a presentation is
12 that it's a dynamically created program or list of
13 programs. It can include programs -- multiple
14 programs, in fact, and I think it can also include
15 advertisements, other media and programs 11:47:37
16 requested -- and program requested by the user.

17 BY MR. BERG:

18 Q And is it your understanding that the play
19 script returned to the user comprises the list of
20 media associated with a presentation or the list of 11:48:03
21 media associated with a program?

22 A I think -- I'd have to check. I think it
23 may change according to the embodiments. But I
24 believe that the -- in at least one embodiment, the
25 play script reflects the list of media in the 11:48:27

Page 81

1 presentation. 11:48:32

2 Q Could you turn to page 29 of your

3 declaration.

4 THE REPORTER: Excuse me, Counsel. I

5 think we've lost our videographer. 11:48:33

6 MR. BERG: Let's go ahead and wait for her

7 then.

8 In fact, we've been going for a while, so

9 Mr. Adams and Kevin, do you guys want to just take a

10 break right now off the record? 11:48:33

11 THE WITNESS: Yeah. That sounds like a

12 good idea.

13 MR. BERG: Let's just take 10 minutes, and

14 we'll come back on the record. Hopefully, they'll

15 have it resolved. 11:48:33

16 THE WITNESS: Okay.

17 (Recess taken.)

18 THE VIDEOGRAPHER: We're going back on the

19 record. The time is 1:03 p.m. Mountain Time. And

20 this is the beginning of Media Unit 3. Please 01:03:05

21 continue.

22 BY MR. BERG:

23 Q Welcome back, Mr. Adams.

24 A Thank you.

25 Q During the break, did you talk with your 01:03:15

Page 82

1 and you reference that URL shown above, and you 01:04:42
2 point out there -- it identifies a server type for
3 serving the requested media, a reservation ID, NRP,
4 an order ID, a presentation ID, and a media ID.

5 Do you see that in paragraph 64? 01:04:58

6 A Yes. That's correct.

7 Q So, coming up here to the URL at the top
8 of the page, can you point out to me where in this
9 URL is identified the server type?

10 MR. SPRENGER: Objection to form. 01:05:21

11 THE WITNESS: I believe here we say where
12 the server type would be a stream representing the
13 type of server. So we have -- after the slash
14 slash, we have a field that says "server type."

15 BY MR. BERG: 01:05:50

16 Q Okay. And so then, in an actual URL that
17 was in a play script, "server type" would be
18 replaced with some stream representing the type of
19 server the media requires; is that correct?

20 A I believe that's the way we should read 01:06:05
21 this, yes.

22 Q And then in this URL, is there also a
23 location where the reservation ID would be put in?

24 A Yes. I believe that that's part of this
25 first string, server type, dot, reservation ID. 01:06:27

Page 84

1 Q Okay. And then, after that there is a dot 01:06:32
2 NRP name. So do you understand that that would be
3 the name of the NRP or, in other words, an
4 identifier of a device/server that can facilitate
5 streaming of media? 01:06:49

6 A Yes. Facilitate. Not actually stream,
7 but facilitate, yes.

8 Q Then we have a ".net" and then a slash and
9 a stream that says "order ID."

10 So is that where you'd put the order ID 01:07:12
11 for the requested media?

12 A Yes, I believe that is.

13 Q And we have another slash, and it says
14 "presentation ID."

15 And is that where you would put an 01:07:26
16 identifier, the presentation associated with the
17 requested media?

18 A Yes. That's correct.

19 Q Okay. Then last we have "/media ID."

20 Is that where you would put an identifier 01:07:38
21 of the specific or individual piece of content
22 making up a presentation?

23 MR. SPRENGER: Objection to form.

24 THE WITNESS: It says here the media ID
25 represents a unique identifier -- the unique 01:07:54

Page 85

1 identifier for an individual piece of content that's 01:07:57
2 part of a presentation.
3 BY MR. BERG:
4 Q Perfect.
5 And so then a couple other things that we 01:08:07
6 didn't cover in this URL. So there is this, at the
7 very beginning, RTCP.
8 Do you know what that RTCP is?
9 A If I recall correctly, it stands for
10 realtime control protocol. 01:08:31
11 Q And why would RTCP be at the beginning of
12 this URL?
13 A Because we're making a request to a
14 resource, an Internet or an IP resource here.
15 Behind the string is essentially identifying a 01:08:54
16 resource. And we're using the realtime control
17 protocol to make that request. So it describes the
18 type of protocol used to talk to this particular
19 server.
20 Q And what is the realtime control protocol? 01:09:16
21 A It was quite well known at the time. I
22 haven't specifically looked at it as part of this
23 case, but to my memory, it described a particular
24 protocol that was designed to start the streaming of
25 RTP. 01:09:46

1 So it was associated with RTP, which is 01:09:47
2 realtime protocol. And this was the control
3 protocol that's associated with RTP.

4 Q Were there other protocols that you were
5 familiar with that -- at the time, in addition to 01:10:03
6 realtime control protocol?

7 A Yes. There are many protocols in the art
8 that I was familiar with.

9 Q Can you give me an example of one other
10 protocol in the art at this time that was used in 01:10:23
11 connection with media streaming?

12 A The one that jumps to mind is RTSP,
13 realtime streaming protocol.

14 Q And when would you use RTSP, for example,
15 instead of RTCP? 01:10:46

16 A I believe that RTCP is the control
17 protocol. And it could be used to establish
18 sessions that would then use either RTP or RTSP to
19 stream the actual media, to my recollection.

20 Q So, in addition to RTCP and RTSP, do you 01:11:07
21 recall any other protocols that were used at this
22 time for facilitating the streaming of media?

23 MR. SPRENGER: Objection to form.

24 THE WITNESS: Not offhand, no.

25 Although, let me add to that. Certainly 01:11:29

Page 87

1 people were using UDP at the time. 01:11:31

2 BY MR. BERG:

3 Q And what was UDP?

4 A It's a datagram protocol, an

5 unacknowledged datagram protocol, which is 01:11:41

6 fundamental to TCP IP. Most things use UDP at the

7 base level.

8 Q At this time was there a specific protocol

9 associated with, for example, streaming Apple

10 QuickTime's files? 01:11:59

11 A There may have been, but I do not recall.

12 Q How about Windows Media files?

13 A Again, I'm not sure. I think when we look

14 at things like Apple QuickTime and Windows Media,

15 the underlying protocols, there was some 01:12:28

16 flexibility. Those players defined the file type of

17 the media itself, but I think it was possible to use

18 different control protocols and streaming protocols

19 underlying. Again, I'm just recalling the

20 technology as it was in the time period 20 years 01:12:58

21 ago, so I'm not sure of that.

22 Q And then the one other piece of this URL

23 that we didn't talk about is right in the middle of

24 this ".net."

25 What would -- why was ".net" included in 01:13:21

1 this URL, or typically why would ".net" be included 01:13:26
2 in a URL like this?

3 A Well, ".net," we usually associate that
4 with an abbreviation for "network." But I think
5 this would work equally well if it was ".com" or 01:13:45
6 ".org" or any other extension. It's -- it was
7 chosen by the inventors here as a convenient string.
8 It doesn't limit what they're trying to do here, I
9 don't think.

10 Q And then just one other thing to clarify. 01:14:11
11 So we talked about the server type and what that
12 was.

13 Well, actually, I want to ask about what
14 is in this snip right after the part that you have
15 underlined in red. It says "The portion of the URL 01:14:31
16 between the double slash and the first slash is
17 referred to as the host name by Internet standard
18 DNS definition."

19 Can you explain to me a little bit about
20 what you understand by "host name" here? 01:14:46

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: Okay. In a client server
23 system like the one we have here, normally the host
24 name is -- refers to the name of the server, if you
25 like, the server that's hosting the service. 01:15:08

1 BY MR. BERG: 01:15:17

2 Q Okay. And that's used to find an IP

3 address of a particular host so that it actually can

4 be formed?

5 MR. SPRENGER: Objection to form. 01:15:28

6 THE WITNESS: Basically, the host name is

7 resolved by DNS, the domain name service, to provide

8 an IP address, yes.

9 BY MR. BERG:

10 Q Let's shift gears a little bit and go down 01:15:47

11 to paragraph 83 of your declaration.

12 A Which number again?

13 Q Paragraph 83.

14 A 83. Thank you.

15 Okay. I am on page 83 -- I mean 01:16:11

16 paragraph 83.

17 Q Okay. So paragraph 83, you talk about an

18 applicant's response to a nonfinal office action.

19 And you note that they distinguished the claimed

20 invention over the prior art by adding the phrase 01:16:31

21 "via a communication network" into the claim

22 language.

23 Do you see that?

24 A Yes. That's the part highlighted in

25 yellow, uh-huh, that I've referenced, yes. 01:16:43

Page 90

1 Q And then in the snip below, you have what 01:16:50
2 appears to be an excerpt from the prosecution
3 history regarding claim 1, correct?

4 A That's correct.

5 Q Do you know if this claim 1 is the subject 01:17:06
6 of the '887 IPR?

7 A I would have to check to see whether it is
8 or not.

9 Q Let's take a look at that. Going to
10 paragraph 2 of your declaration, I think you list 01:17:40
11 all the claims that are challenged.

12 A One second. Paragraph 2.

13 Yes, that's correct.

14 Q Is claim 1 one of those claims?

15 A No. Claim 1 does not -- is not listed 01:18:07
16 here.

17 Q Going back to paragraph 83, are you aware
18 whether similar changes were made in the
19 prosecution -- or to the claims that are challenged
20 here? 01:18:26

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: No, I'm not aware of that.

23 BY MR. BERG:

24 Q Okay. So let's now go to the portion
25 discussing the Madison reference, which starts in 01:18:56

Page 91

1 paragraph 113 of your declaration. 01:18:59

2 A 113. Yes, I've got that in front of me

3 now.

4 (Exhibit 11 marked for identification.)

5 BY MR. BERG: 01:19:22

6 Q Okay. And I'm going to go ahead and

7 introduce an exhibit.

8 Okay. So I've just introduced Exhibit 11.

9 Just let me know when you have that.

10 A Okay. 01:19:52

11 Yes. Just opening it up now.

12 Q Okay. Great.

13 And, once you have that open, could you

14 just tell me what Exhibit 11 is?

15 A Yes. It's a United States patent 01:20:42

16 application publication, and it is Publication No.

17 U.S. 2004/0083273.

18 Q Okay. Great.

19 I'll just note for the record that this is

20 marked as Hulu Exhibit 1051 in both the '360 and the 01:21:14

21 '887 proceedings.

22 Does that sound right to you, Mr. Adams?

23 A Yes. I can see that they're marked on

24 each page of this document. And I do believe the

25 same exhibit number is -- as you say, refers to both 01:21:35

Page 92

1 the '360 and '887. 01:21:39

2 Q Great.

3 I'll mark one more exhibit here.

4 While we're waiting for this exhibit,

5 regarding Exhibit 11, have you reviewed this 01:22:20

6 document before?

7 A Yes, I have.

8 (Exhibit 12 marked for identification.)

9 BY MR. BERG:

10 Q Okay. I've introduced Exhibit 12. Just 01:22:32

11 let me know when you have that open.

12 A I have it open now.

13 Q Okay. So what is Exhibit 12?

14 A This is a United States patent application

15 publication. Oh, hold on a second. I think I'm 01:23:22

16 looking at the same one.

17 Q No. They're close.

18 A Yeah. They are, aren't they? Yes, they

19 are. Exactly. So right, yes. But they are

20 different. 01:23:48

21 So this is Exhibit 1007. So this is U.S.

22 2004-0015703.

23 Q Okay. And have you seen this reference

24 before?

25 A Yes, I have. 01:24:11

Page 93

1 Q And I'll just note for the record this is 01:24:12
2 Hulu Exhibit 1007 in the '360 IPR proceeding. I do
3 not believe this is an exhibit in the '887 IPR
4 proceeding.

5 Does that sound right to you, Mr. Adams? 01:24:26

6 A I believe so, yes.

7 MR. SPRENGER: Counsel, just to lodge an
8 objection, to note for the record that this
9 particular Madison reference is beyond the scope of
10 Mr. Adams' reply declaration -- I'm sorry, beyond 01:24:40
11 the scope of his declaration in the '887 case.

12 MR. BERG: Okay. Thank you. Noted,
13 Counsel.

14 Sorry, Counsel, just to clarify, but your
15 objection is only for the '887, not also for the 01:25:00
16 '360?

17 MR. SPRENGER: Do you plan to question
18 Mr. Adams on the '360 declaration as well?

19 MR. BERG: Yeah. I mean, that's part of
20 today's deposition. 01:25:15

21 THE WITNESS: So, for now, I'll just keep
22 the objection for '887, as the exhibit being beyond
23 the scope of the '887 declaration.

24 BY MR. BERG:

25 Q Okay. So, just to cover our bases on 01:25:32

1 this, can you open your '360 declaration, please, 01:25:43
2 Mr. Adams, which I believe we marked as Exhibit 4?
3 I'll double-check that.

4 A Yes. I have that as Exhibit 4. And I do
5 have that one open. 01:26:09

6 Q In the context of Exhibit 4, can you
7 please go to section 3, which is the list of
8 materials that you considered and relied on?

9 A Yeah. I'm looking at that list right now.

10 Q And do you see that this is listed in your 01:26:32
11 table there as Document 1007, this Madison reference
12 that we've just pulled up?

13 A Yes, I do.

14 Q Okay. So let's go back to your '887
15 declaration now and to the two different Madison 01:26:51
16 references. I just want to pull these up so we can
17 just avoid confusion. As you know, they're very
18 similar, and I just want to avoid confusion.

19 So the first one, which I marked as
20 Exhibit 11, which is the Hulu Exhibit 1051, will you 01:27:12
21 understand if I refer to this as Madison 273?

22 A 273. Yes, I will.

23 Q Okay. And the other Madison exhibit,
24 which is Hulu Exhibit 1007, and which we've marked
25 today as Exhibit 12, will you understand if I refer 01:27:44

Page 95

1 to that reference as Madison 703? 01:27:47

2 A Yes, I will.

3 Q Great. Okay.

4 So for now you can set aside Exhibit 1007,

5 and we'll focus on Exhibit 1051 and your discussion 01:28:04

6 of Exhibit 1051 -- excuse me. Let me strike that.

7 For now, you can set aside Madison '703,

8 and we'll focus on Madison '273 and your testimony

9 regarding Madison '273 in your '887 declaration.

10 Okay. So referring now to Madison 273, 01:28:52

11 can you just describe a little bit about your

12 understanding of this reference?

13 A Okay. I'm going to refer back to the --

14 in my report --

15 Q Absolutely. 01:29:16

16 A -- at 113, paragraph 113.

17 So it's a method and system for managing

18 digital content, including streaming media, and was

19 filed on January 18, 2002.

20 Q Now, Madison talks about playlists, 01:29:39

21 correct?

22 A I believe --

23 MR. SPRENGER: Objection to form.

24 THE WITNESS: I believe that it does, yes.

25 At 116 I note "The client is given a playlist URL 01:29:55

Page 96

1 for publishing on its website." 01:30:01

```
2 |         So yes, there is a notion of a playlist in
3 |         Madison '273.
```

4 BY MR. BERG:

5 Q And so what's your understanding of what a 01:30:09
6 playlist is in the context of Madison 273?

7 A Well, I'm just being sure that I've got
8 this straight because it talks about a link to a
9 playlist that the person can publish on a website,
10 the client can publish on a website. 01:30:51

```
11         The actual form of the playlist is
12         generated by means of the make_playlist ASP program.
13         And that's termed here a playlist redirector file.
```

14	Q	In paragraph 117 of your report you	
15		discuss how the client selects and orders stream	01:31:36
16		files for inclusion in the playlist.	

```
17         So is it fair to say that the playlist in
18         Madison can include multiple files?
```

19 MR. SPRENGER: Objection to form.

20 THE WITNESS: Yes. I believe that's 01:31:53
21 correct.

22 BY MR. BERG:

23 Q Now, in paragraph 117, you refer to that
24 the URLs in these playlists can include the stream
25 ID. 01:32:23

1 Do you see that in paragraph 116? 01:32:25

2 A Yes. Specifically, the client is given a

3 playlist URL for publishing on its website, as we

4 mentioned before. And the URL including -- so I

5 assume that means it may include or does include a 01:33:01

6 stream ID.

7 Q Are you aware of any disclosure in Madison

8 that restricts the stream ID to identifying a full

9 media asset as opposed to part of a media asset?

10 MR. SPRENGER: Objection to form. 01:33:27

11 THE WITNESS: I would say that since

12 Madison only describes full media assets, then I

13 would take the stream ID to refer to the full media

14 asset.

15 BY MR. BERG: 01:33:50

16 Q When you say Madison only describes full

17 media assets, where would you point to in Madison as

18 illustrating that it only describes full media

19 assets? Sorry. I should clarify.

20 Where in Madison '273 would you point to 01:34:10

21 to illustrate that it only includes full media

22 assets?

23 A Right. Well, when we read through Madison

24 '273, we're -- even in the abstract -- starting from

25 the abstract, there's a reference here that says 01:34:37

Page 98

1 it's a "Method and System for uploading, managing 01:34:42
2 and delivering digital content, including Streaming
3 media."

4 And then it goes on to talk about the
5 content. And then, as we get into Madison, we talk 01:35:00
6 about requesting or publishing media. You know,
7 there's a way of -- Madison has essentially a way of
8 sharing media by this mechanism from the content,
9 whoever creates the content, to an audience of
10 people that can subscribe to the content. 01:35:32

11 And, in that discussion, we don't have any
12 definition of the media being anything other than a
13 particular -- what I would call a particular asset,
14 so whether that's a song or a video or whatever.

15 So, conceptually, I just repeat my 01:35:56
16 previous observation that there's no disclosure in
17 Madison of dividing -- subdividing content at all.

18 Q So is there any disclosure in Madison --
19 well, let me rephrase it.

20 There is no disclosure in Madison of media 01:36:19
21 being a single song either, correct?

22 A No. It could be more than one song.
23 Absolutely.

24 Q There's is no disclosure in Madison of
25 media being a single movie, correct? 01:36:36

1 Q Okay. So, in other words -- 01:38:44

2 A Yeah. That would be what they publish,

3 yeah.

4 Q So, in other words, Madison is just

5 agnostic as to whether the media is a five-minute 01:38:57

6 clip or an entire movie or multiple movies. It

7 doesn't specify in that, correct?

8 MR. SPRENGER: Objection to form.

9 THE WITNESS: I don't -- I wouldn't

10 characterize it as agnostic, no. I would say that 01:39:14

11 Madison is quite clear that -- for example, in

12 paragraph 102, the content file being uploaded is

13 placed on the streaming media server.

14 So they always talk about a content file.

15 That's always the entity. And, no, they don't 01:39:34

16 specify what the content file is, but it seems to be

17 always, you know, a file, so the whole of the file.

18 BY MR. BERG:

19 Q Right. Okay. So it's a single file, but

20 the file could be a short clip. It could be 01:39:57

21 multiple media assets stitched together in a single

22 file, or it could just be a single media asset; is

23 that fair?

24 A No. I think that's pure speculation

25 because there is nothing about that in Madison. 01:40:11

Page 101

1 Q Right. There is nothing about any of 01:40:14
2 those three scenarios in Madison, correct?

3 A Well, I think, if we read Madison, we'd
4 see that they talk about the content file, and in
5 the absence of any other direction or -- in the 01:40:26
6 specification, I think the content file is just the
7 media item itself.

8 Q Okay. So can you point me to a place in
9 Madison that shows that that's the case?

10 MR. SPRENGER: Objection to form. 01:40:44

11 THE WITNESS: Well, I already just pointed
12 you to paragraph 102. The content file being
13 uploaded is placed on the streaming media server.
14 We just talk about the content file. We don't make
15 any reference to anything other than a file, and the 01:41:01
16 file being the whole thing here, the file being the
17 whole media.

18 BY MR. BERG:

19 Q Okay. So I'm just -- I think we're on the
20 same page here, but I want to make sure. 01:41:17

21 Okay. So you told me a few minutes ago
22 that a file could be -- a client could provide a
23 file, for instance, that's a five-minute clip of a
24 movie, correct?

25 A I agreed with you that Madison does not 01:41:31

Page 102

1 specify anywhere in it what's in the file. And a 01:41:34
2 content provider, if they had the -- you know, if
3 they had the rights and everything, then yes, they
4 could take a five-minute section of a movie and make
5 that -- upload that as a single file. 01:41:57

6 Q And there would be nothing -- there is
7 nothing in Madison to prohibit a content provider
8 from doing that?

9 A There is nothing to prohibit it, but
10 equally, Madison does not disclose that. 01:42:12

11 Q Okay. And a content provider could also
12 have a file that was a complete media asset, for
13 example, a complete movie, correct?

14 A I think that's actually the most likely
15 use of the Madison system from the description, that 01:42:32
16 the content file is actually the complete media
17 asset, that the -- that they want to share via the
18 Madison system.

19 Q Okay. But -- and so, at the very least,
20 Madison doesn't have any teaching that would 01:42:54
21 prohibit that use case, correct?

22 MR. SPRENGER: Objection to form.

23 THE WITNESS: Which use case?

24 BY MR. BERG:

25 Q The file being a complete movie, for 01:43:05

1 instance. 01:43:08

2 A No, I don't believe so. In fact, as I

3 said, that's -- the most likely use in my reading of

4 the patent is that, as media files or content files

5 are uploaded, each one of them is the complete media 01:43:26

6 that the client wants to share, whatever that is.

7 But it's the complete extent of what is being

8 shared.

9 Q Okay. And then, taking a last example, if

10 a client chose to create a file that had, say, 01:43:50

11 multiple media assets stitched together in a single

12 file, for example, multiple songs into a single

13 file, would there be anything in Madison that would

14 prohibit the client from uploading that file as the

15 media? 01:44:12

16 MR. SPRENGER: Objection to form.

17 THE WITNESS: Well, in that case, it would

18 still be a single file. There would be nothing in

19 the file itself that would show that it was three

20 songs rather than a single song. 01:44:32

21 And so, as far as the system is concerned,

22 the content file is just a piece of media that

23 starts and then finishes. And so that's the extent

24 of the description that Madison gives.

25 / / / /

1 BY MR. BERG: 01:44:55

2 Q Now, between those three options -- and I

3 understand that your opinion is that the -- that one

4 of the options is the most likely. But, between

5 those three options, does Madison have any explicit 01:45:07

6 disclosures that makes any of those options more

7 likely than any other option?

8 A I think if we -- if we think about what

9 the invention that Madison discloses here is doing,

10 then we're sharing these different content files. 01:45:28

11 And each one represents a piece of content that a

12 user might be interested in.

13 So I think it is definitely more likely

14 than not that each content file contains a single

15 piece of media, whether it be a single song or a 01:45:55

16 single piece of video content. That would be, you

17 know, my opinion as to what Madison has intended to

18 do, reading the description.

19 Q Is there an explicit disclosure in Madison

20 you can point me to? 01:46:19

21 A I can't point you to one. I doubt there

22 is one because I don't think Madison considers it.

23 Q In paragraph 117, at the end on page 56 of

24 your report --

25 A Paragraph 117. Yes, I'm looking at that. 01:47:00

Page 105

1 Q At the end of that paragraph you say "In 01:47:06
2 this way, the playlist details are stored on the CM
3 database and are accessible by the playlist server
4 to dynamically generate playlist redirector files."

5 What do you mean here in paragraph 117 01:47:19
6 when you say "dynamically generate playlist
7 redirector files"? What does that mean?

8 A Yeah. I think that is explained in the
9 next paragraph where the URL -- playlist URL
10 actually refers to a program, which is a 01:47:39
11 "makeplaylist.asp" program, active server page
12 program. And that program actually generates the
13 playlist as a redirector file.

14 Q So, after the request is made, the
15 playlist is generated. And that's what's meant by 01:48:07
16 dynamically generating it; is that correct?

17 A No, not after it's made.

18 Q Sorry. After it's requested?

19 A Yes. When the end user selects the URL --
20 this is the playlist URL -- at that point, the 01:48:24
21 system executes a "makeplaylist" program to dynamic
22 play and dynamically generate a playlist redirector
23 file.

24 Q Now, towards the end of Madison and in
25 this section we're talking about with the dynamic 01:49:08

Page 106

1 playlist redirector file creation -- well, let's 01:49:11
2 just walk through kind of this process.

3 So, in paragraph 106 and 107 -- actually,
4 just paragraph 107. Can you explain to me what is
5 shown in paragraph 107 of Madison '273? 01:49:38

6 MR. SPRENGER: Objection to form.

7 THE WITNESS: I think you said
8 paragraph 107?

9 BY MR. BERG:

10 Q Yes, that's correct. 01:49:53

11 A Okay. Paragraph 107. Paragraph 107 is
12 simply a piece of -- a little fragment of protocol
13 that -- what it describes is that there's a
14 reference to a playlist server. The name of the
15 playlist server apparently is 01:50:40
16 "playlistserver.company.com," and one of the
17 arguments given to that server is a
18 "makeplaylist.asp" reference. That's the active
19 server page that's going to be invoked.

20 And, after the question mark in this 01:51:02
21 string, we're passing along an ID, in this case,
22 "12345."

23 Q And then, after the user clicks on this
24 link, then the "makeplaylist" program functions
25 to -- well, basically to dynamically generate the 01:51:24

Page 107

1 playlist redirector file that we've been discussing, 01:51:27
2 right? And that's in paragraph 109?

3 MR. SPRENGER: Objection to form.

4 THE WITNESS: The "makeplaylist" program
5 functions to cause the playlist server to make a 01:51:40
6 call to the CM database -- that's content management
7 to database -- content manager database -- to
8 retrieve the data necessary to dynamically generate
9 the playlist redirector file.

10 And it goes on to provide a little bit 01:52:00
11 more detail about how that's done.

12 BY MR. BERG:

13 Q And then at the bottom of paragraph 109,
14 it describes -- Madison '273 describes creating
15 these URLs that will be included in the playlist, 01:52:15
16 correct?

17 A Can you point me exactly to which -- I
18 want to make sure I'm referring to the right --

19 Q Yeah. So I'm looking -- in paragraph 109,
20 if you're on page 39 of 46, just looking at the 01:52:43
21 bottom right-hand corner, there's a sentence that
22 starts right at the very end of that page "Using the
23 URL."

24 And I'm asking about that sentence
25 starting there, and then through the end of 01:52:56

Page 108

1 paragraph 109, which goes over to the next page. 01:52:59

2 A Okay. "Using the URL prefix, the

3 hostname, and stream filename, the 'makeplaylist'

4 dynamically generates a URL for each stream file."

5 Yep, I see that. 01:53:21

6 Q And an example of one of those URLs is

7 down there between paragraphs 109 and 110, correct?

8 A Yes, it is.

9 Q And then paragraph 110 discusses

10 generating a redirector file, which is then going to 01:53:44

11 be passed to the media player stored on the user's

12 computer, correct?

13 A Yes. It says that at the beginning of

14 paragraph 110, yes.

15 Q Okay. And then it provides an example of 01:54:05

16 a redirector files for use with Windows Media

17 Technologies there below, right, in the form of an

18 ASX file?

19 MR. SPRENGER: Objection to form.

20 THE WITNESS: Yeah, it does. We should 01:54:21

21 note it's syntactically flawed, but I think we get

22 the gist of what they're suggesting here.

23 BY MR. BERG:

24 Q Yeah. So that's what I wanted to ask you

25 about, actually, or just address. 01:54:35

Page 109

1 So, looking at that ASX file that's in 01:54:38
2 paragraph 110, and then going to the Madison '703
3 reference.

4 A Are we still talking about '887? Because
5 I believe that -- 01:54:58

6 Q Yeah. We're still talking about '887.

7 A So I think the other Madison reference
8 is -- I think we agreed it's out of the scope.

9 MR. BERG: Yeah. Your counsel made an
10 objection to that effect. 01:55:13

11 THE WITNESS: Yeah.

12 BY MR. BERG:

13 Q I'm still asking you to go there, though.

14 A Okay. That's fine. That's fine. I just
15 wanted to -- 01:55:20

16 Q Yeah, no problem.

17 A So we're all on the same page here.

18 Q Yeah.

19 A I'm going to -- you know what I'm going to
20 do? I'm going to download this one and open it 01:55:29
21 because otherwise I'll just lose this reference to
22 it, knowing how the system works. So just give me a
23 minute to do that.

24 That was at paragraph 110, wasn't it? Got
25 that. And now I'm going to switch over to the next 01:56:06

Page 110

1 file, which is Madison '703. Yeah. 01:56:09

2 Q But do you recall that we discussed the

3 Madison '703 reference at length during your

4 previous deposition?

5 MR. SPRENGER: Objection. The Madison 01:56:21

6 '703 reference is beyond the scope of Mr. Adams'

7 declaration and the '887 patent.

8 You can answer.

9 BY MR. BERG:

10 Q You can go ahead and answer, Mr. Adams. 01:56:34

11 A Yeah, I'm happy to answer the question. I

12 do recall that we looked at '703 on October 15th.

13 Q And do you recall that we looked at the

14 ASX files there below paragraph 90 and also below

15 paragraph 95? 01:56:54

16 A Let me just see if I can refresh my memory

17 on that.

18 Yeah. I think so.

19 Q And, in fact, when we were going through

20 the -- these ASX files, we went to another exhibit, 01:57:13

21 the "All About ASX Files" exhibit.

22 Do you recall that?

23 A Yes, I do.

24 Q And I think, as we were going through that

25 "All about ASX Files" exhibit and comparing that to 01:57:28

Page 111

1 the ASX files here in Madison, you identified this 01:57:35
2 syntax here that you just referenced in Madison
3 '273; is that correct?

4 A I think so. Yes, I think so.

5 Q So I guess my question is, looking at the 01:57:50
6 ASX files in Madison '703 and looking at the ASX
7 file in Madison '273, do you see any significant
8 differences between those two examples of ASX files?

9 A So we're looking -- just to be clear,
10 we're comparing what's cited in -- or what's 01:58:15
11 described in paragraph 90 of '703 -- Madison '703
12 with -- and I'm going to have to click over to it --
13 paragraph 110 of Madison. Which one is this, '273?

14 Q '273. Yeah.

15 A Yeah. So what's in 110, they are 01:58:42
16 different.

17 Q And can you describe some of those
18 differences?

19 A Okay. So let's start with Madison '273.
20 Because that's the -- the shorter version. 01:59:02

21 At 110 of Madison '273, we have a
22 reference, an "HREF" to "mediaserver.company.com/
23 stream" and then a number ".ASF," ASF being a
24 server -- a file name format that's used by Windows
25 Media. 01:59:37

Page 112

1	And then, if I flip back to paragraph 90	01:59:41
2	of Madison '703, we have -- essentially, the first	
3	part of it is the same, but we have some arguments	
4	that are passed after the question mark. And those	
5	arguments appear to be an ID, which is a number, a	02:00:02
6	ticket, which is an alphanumeric string, a user ID,	
7	which is an alphanumeric string.	

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8           So the difference is in the additional
9           arguments that are being, if you like, generated in
10          this file.

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02:00:29

11 Q How, if at all, would those additional
12 arguments affect how the ASX files operate in
13 Madison '703 compared to Madison '273?

14 MR. SPRENGER: Objection to form.

15	THE WITNESS: It's difficult to say	02:00:51
16	without knowing what's consuming them. Obviously,	
17	they could be used because they're passing	
18	information. For example, the ID is being passed.	
19	But this paragraph here does not describe how	
20	they're used.	02:01:17

21 BY MR. BERG:

22 Q So turning back to Madison '273 --

23	A	Yeah.
----	---	-------

24	Q	-- what is your understanding of how	
25		Madison is saying that this ASX file in	02:01:32

Page 113

1 paragraph 110 is used? 02:01:35

2 A I believe that the media player will
3 consume this ASX file. And it will, first of all,
4 make a call, if you like, a reference to the first
5 stream, "Stream1.ASF," and -- well, again, I just 02:02:03
6 want to note there's a syntactic error here, but if
7 we ignore that, I think the intent here is to play
8 Stream 1, Stream 2, and Stream 3.

9 Actually, unfortunately what Madison said
10 here is play Stream 1, and if you can't get it, play 02:02:26
11 Stream 2, and if you can't get it, Stream 3. So
12 it's using another functionality.

13 But, given that that doesn't really make
14 sense, I'm going to ignore the syntactic error in
15 this file and assume that what Madison is 02:02:43
16 illustrating here is -- you know, reading it in
17 context of the words around it, is that it's going
18 to play Stream 1, Stream 2, and Stream 3 in
19 sequence.

20 Q And, as a person of skill in the art, 02:03:01
21 would you have, you know, obviously, relying on
22 appropriate resources such as Microsoft resources,
23 been able to rewrite this ASX file so that it
24 operated as intended by Madison?

25 MR. SPRENGER: Objection to form. 02:03:22

Page 114

1 THE WITNESS: I think what you're saying 02:03:24
2 is could I fix this syntactic error?
3 BY MR. BERG:
4 Q Yeah.
5 A Yes, I could. 02:03:30
6 Q Would that be difficult to do?
7 A No, not particularly. Once you recognize
8 there's an error, if you implement it, Madison and
9 the redirector file was generated in this form, then
10 it wouldn't work. So a person of ordinary skill in 02:03:48
11 the art would doubtless recognize the flaw.
12 And then, once you've recognized the
13 syntactical error, it's quite straightforward, I
14 would say, for a person of ordinary skill in the art
15 to be able to rectify it. 02:04:11
16 Q So I have a couple other questions I'd
17 like to ask you in the context of Madison '703.
18 So let's go to paragraph 152 of your '887
19 declaration.
20 A Paragraph 152. Yes. 02:04:52
21 Q Could you just read to yourself paragraph
22 152 and 153, please.
23 A Yes, I've read those.
24 Q Okay. So I just want to -- Madison uses a
25 couple of different terms, and I just want to make 02:05:17

Page 115

1 sure we're in agreement on how those terms are used. 02:05:19

2 So, when Madison talks about clients, do

3 you understand that clients are content providers or

4 maybe content providers -- they're people or

5 entities, I guess, that are uploading content to be 02:05:33

6 consumed?

7 MR. SPRENGER: Objection. Madison '703 is

8 beyond the scope of Mr. Adams' '887 declaration.

9 MR. BERG: Counsel, I certainly meant to

10 refer to Madison '273. I apologize if I referred to 02:05:52

11 Madison '703.

12 THE WITNESS: Okay. Yeah. I was actually

13 looking at -- yeah, looking at this and -- so, yeah,

14 absolutely. This -- because in this report,

15 paragraph 152 and 153 that you've pointed me to, 02:06:09

16 yeah, I'm talking about Madison '273.

17 BY MR. BERG:

18 Q I apologize. Looking back at the

19 transcript here, I see I did reference Madison '703.

20 So let me just restate my question in the context of 02:06:22

21 Madison '273.

22 A Okay.

23 Q So Madison '273 uses a couple of different

24 terms that I want to make sure we're in agreement on

25 how those terms are used. 02:06:36

Page 116

1 So, in the -- when Madison '273 talks 02:06:38
2 about clients, do you understand that clients are
3 content providers or at least entities that are
4 uploading content for consumption?

5 A Yes, I do. 02:06:55

6 Q And then, when Madison '273 talks about
7 end users, do you understand that those are
8 individuals who are consuming streaming media?

9 A Yes, I believe so. I'm not sure if
10 they're end users or just users, but yes, there's a 02:07:14
11 distinction between a client and a user that we make
12 in Madison.

13 Q So just looking at paragraph 20 of Madison
14 '273 --

15 A Okay. 02:07:43

16 Q -- the last sentence there states "In
17 general the system 100 allow clients 102 to upload
18 streaming media content to the system 100, manage
19 such content, and make the content available to
20 end-users 104 via a website on the Internet." 02:07:47

21 So at least here they're using
22 "end-users." They may use "users" other places.
23 I'm fine using either term.

24 But you understand that those terms would
25 be referring to the same type of individuals? 02:08:16

Page 117

1 MR. SPRENGER: Objection to form. 02:08:21

2 THE WITNESS: Yeah. I'm just rereading

3 that.

4 "Clients 102" and "end-users 104." So,

5 indeed, Madison is using the term "end-user" here, 02:08:37

6 yes. I agree.

7 BY MR. BERG:

8 Q But, in your report where you use the term

9 "user," you're referring to the same concept,

10 correct? 02:08:51

11 MR. SPRENGER: Objection to form.

12 BY MR. BERG:

13 Q For example, on paragraph 153.

14 A Okay. I'm just going to look. 153. "Can

15 never be shared so that other users" -- yes. Here, 02:09:02

16 by "user," I'm referring to what Madison in that

17 reference you showed me is saying is an end-user.

18 So, yeah, I'm not making a distinction here between

19 "end-user" and "user" in my report.

20 Q Now, skipping down to paragraph 155. So 02:09:26

21 this is talking about Madison's reference to an ad

22 tag that can be used to place an advertisement in

23 media.

24 Do you recall Madison's disclosure on ad

25 tags? 02:09:48

Page 118

1 A I do. And I believe that that -- as I say 02:09:51
2 here, that that particular reference is singular in
3 the specification.

4 Q I understand.

5 Are you saying it's singular in that it's 02:10:11
6 "ad tag" instead of "ad tags"?

7 A I don't see -- I did a quick search. I
8 don't see "ad tags" at all. I just see "ad tag."

9 Q Right.

10 So, in paragraph 155, when you say "only a 02:10:31
11 singular reference to an ad tag," you're saying that
12 there is only -- it only discloses "ad tag" as
13 opposed to "ad tags." You're not saying that "ad
14 tag" is referenced only once in Madison '273; is
15 that correct? 02:10:47

16 A I'm not -- yeah. I mean, I believe it's
17 actually referenced -- just checking here. I think
18 it might be referenced a couple of times. It's in
19 paragraph 37 of Madison. It's also in one of the
20 figures, Figure 8d, and in paragraph 32. So those 02:11:11
21 are the only references I see to "ad tag."

22 Q Okay. Now, in paragraph 155 of your
23 declaration, you say it's clear that -- or it's
24 clear Madison does not rely on or see advertising as
25 particularly important. 02:11:37

Page 119

1 Do you see that? 02:11:38

2 A Yes. I did -- that is my opinion, given

3 that it's -- it talks about "ad tag" briefly, but it

4 doesn't go into any further detail about

5 advertising. 02:12:02

6 Q So are you equating importance to the

7 system with how frequently Madison discloses "ad

8 tag"?

9 A No, no. Not at all. I'm equating

10 importance to the depth and clarity and completeness 02:12:14

11 of a description of advertising which I do not see

12 in Madison.

13 Q I understand.

14 So you're not saying that advertising

15 wouldn't be important to implementing the system 02:12:37

16 described in Madison in the real world. You're

17 saying, in the disclosure of Madison, it occupies

18 relatively little space?

19 A I would rephrase that and say what I said

20 here, that Madison doesn't rely on nor does it see 02:12:59

21 advertising as particularly important.

22 Q If you were to implement Madison in the

23 real world, would you assume that advertisements

24 weren't important to that implementation, based on

25 the sparse disclosure in Madison '273? 02:13:32

Page 120

1 MR. SPRENGER: Objection to form. 02:13:36

2 THE WITNESS: Well, that's kind of a very

3 hypothetical question. But I would just say that

4 when I was reading Madison, I certainly was not

5 aware or made aware by the specification that 02:13:54

6 advertising was, as I say, particularly important.

7 BY MR. BERG:

8 Q Now, you've applied for a number of

9 patents, correct, Mr. Adams?

10 A I have, yes. 02:14:16

11 Q And you have several issued patents as

12 well, as I recall. Correct?

13 A That's correct.

14 Q Are there things in your patents that you

15 describe using less detail because they would 02:14:33

16 already be familiar to a person of skill in the art?

17 MR. SPRENGER: Objection to form.

18 THE WITNESS: I really have no idea how to

19 answer that question without, you know, looking at

20 the specific patent and a specific example. 02:14:50

21 BY MR. BERG:

22 Q Okay. Well, we might do that a little bit

23 later. But, in the meantime, was ad insertion

24 something that was well known to a person of skill

25 in the art at the time of Madison? 02:15:07

Page 121

1 kilobytes." 02:17:04

2 Do you see that?

3 A Uh-huh. Yes, I do.

4 Q All right. So the -- can you read for the

5 record the sentence following that parenthetical? 02:17:09

6 A Yes, I can. "It is within the scope of

7 the present invention to implement security features

8 to maintain the integrity of the content." And then

9 it goes on to describe a co-pending International

10 Application" -- and I won't read the whole 02:17:40

11 reference.

12 Q Fair enough.

13 A It has to do with system and method for

14 controlling access to content.

15 Q Okay. And then, following that 02:17:55

16 incorporation by reference, there's another

17 sentence.

18 Would you mind reading that one for the

19 record as well?

20 MR. SPRENGER: Objection to form. 02:18:05

21 THE WITNESS: Can you --

22 BY MR. BERG:

23 Q Yeah. Starting with "as such." Yeah, "as

24 such."

25 A Oh, yeah. "As such, the table includes 02:18:15

Page 123

1 security-related information, including default 02:18:18
2 preferences indicating whether or not the content is
3 secure (allows security), and if so, a cryptographic
4 key used for accessing such content (default sec
5 key) and a time for which the key will be valid 02:18:36
6 (default sec. interval)."

7 Q Okay. Perfect.

8 So, based on this disclosure in Madison,
9 do you understand that Madison in fact is compatible
10 with security features? 02:18:59

11 A Yes. There does seem to be a link here to
12 a way of extending Madison to implement some
13 security features, yes.

14 Q And the -- there were two PCT -- at least
15 two, maybe three PCT application numbers that were 02:19:23
16 incorporated by reference here.

17 Do you see the one that is PCT/USS01/18324
18 filed on June 6, 2001?

19 A Yes. I was reading along with you. Yes,
20 I do see that. 02:19:47

21 Q Now, can you flip back over to Madison
22 '703?

23 A '703. Oh, yes. I've got that here. Yep.

24 Q And do you see on the cover there, there's
25 a PCT number? Field 86. 02:20:06

Page 124

1 A No. I can't find it. Oh, yeah. "(86) 02:20:22
2 PCT No., " yes.
3 Q And do you see that that number matches
4 the number incorporated and referenced in Madison
5 '273? 02:20:34
6 A I'm sure it does, if you're pointing it
7 out to me, but I'll just check for the record.
8 Yes. It appears to be the same PCT
9 number.
10 Q So, by this, do you understand that the 02:20:54
11 Madison '703 is incorporated into the Madison '273?
12 A Right. So Madison '703 must have been
13 filed earlier, I believe. But, again, I think I'll
14 take your word for it. That would seem to be the
15 logical conclusion. 02:21:33
16 Q And, just looking at the Madison '703
17 reference for a minute. I know you've already
18 testified at length about the '703 reference, so we
19 won't spend a lot of time here. But I just want to
20 go to paragraph 6. 02:21:52
21 A Yes. Looking at paragraph 6 of Madison
22 '703.
23 Q Do you see that one of the issues that
24 Madison '703 is addressing here is -- deals with
25 limiting access to streaming content by the 02:22:23

Page 125

1 authenticating of end users? 02:22:28

2 A I'm just reading through. Yeah. Well,
3 they say a need exists for an improved system and
4 method for controlling access and authorizing end
5 users. 02:23:01

6 Q And then in paragraphs 32 and 33 it talks
7 about the authentication application for
8 authenticating end users; is that correct?

9 A Yes. It -- just looking at 32 and 33 --
10 yeah. It talks about authentication, yes. 02:23:38

11 Q So then, going back to your declaration,
12 paragraph 156 --

13 A Uh-huh.

14 Q -- where you say that -- you know, because
15 in Wolfe, the subscribers can only stream music 02:24:00
16 after they are authenticated, you say that, "As
17 such, the content owner, Wolfe, is a very different
18 entity than in Madison."

19 In view of kind of what we've just looked
20 at, do you -- I guess in what ways would you still 02:24:16
21 say that the content owner in Wolfe is a very
22 different entity than in Madison?

23 MR. SPRENGER: Objection to form.

24 THE WITNESS: Yeah. I would say that if
25 we look at the beginning of paragraph 156, when we 02:24:33

Page 126

1 look at Wolfe, it describes a system that has to 02:24:37
2 subscribe to the database. And the subscribed
3 database has information about the subscriber, which
4 is held in these subscriber dossiers. And I think
5 Wolfe uses those -- that mechanism for, I believe, 02:25:03
6 advertising -- targeting of advertising.

7 I think the difference with Madison that I
8 see here is that it describes a system where a
9 client can merely sign -- sorry, an end user can
10 merely create an account and then immediately start 02:25:25
11 to use the system without providing any information
12 about itself.

13 So that, to me, is different. It seems
14 like Madison is almost like a community sharing
15 platform to allow clients and end users -- clients 02:25:50
16 to share media with end users, whereas Wolfe is
17 something that's a more commercial system with, you
18 know, information -- specific information about
19 subscribers being necessary as part of this
20 subscriber database. 02:26:15

21 BY MR. BERG:

22 Q You agree in both Wolfe and Madison there
23 is at least embodiments where subscribers can only
24 stream media once they're authenticated, correct?

25 MR. SPRENGER: Objection to form. 02:26:31

Page 127

1 THE WITNESS: Yes. I do agree with that. 02:26:32

2 And I would also say that nowhere here do I say that

3 Madison did or did not include an authentication

4 method.

5 BY MR. BERG: 02:26:53

6 Q Now, you just noted this kind of community

7 sharing aspect of Madison, at least in your opinion,

8 that there is kind of a community sharing aspect.

9 Can you tell me a little bit more about

10 what you mean by that? 02:27:07

11 A Yeah. Reading the patent description of

12 Madison, it describes a number of clients. And they

13 can upload media files to a system, and then they

14 can share links to those media files as web pages.

15 And then the end users can access those web pages 02:27:42

16 and, as a result, will be able to retrieve the

17 media.

18 I'm abbreviating the mechanism, of course,

19 but that's the -- if you like, the big picture that

20 I read when I see Madison. And that, to me, sounds 02:28:06

21 very much like a system that's oriented towards

22 sharing of media rather than anything more than

23 that.

24 MR. BERG: Okay. I think we've been going

25 for close to an hour and a half now. Would it be a 02:28:29

Page 128

1 good time for a little break? 02:28:33

2 THE WITNESS: Yes, absolutely.

3 MR. BERG: Okay. Let's go ahead and take

4 a short break then, if your counsel agrees.

5 MR. SPRENGER: That's fine. 02:28:45

6 THE WITNESS: So 10 minutes perhaps?

7 MR. BERG: Yeah. Let's say 2:40 your

8 time?

9 THE WITNESS: That sounds great.

10 MR. BERG: Perfect. 02:28:56

11 THE VIDEOGRAPHER: We are going off the

12 record. The time is 2:28 p.m. Mountain Time, and

13 this is the end of Media Unit 3.

14 (Recess taken.)

15 THE VIDEOGRAPHER: We're going back on the 02:42:32

16 record. The time is 2:42 p.m. Mountain Time, and

17 this is the beginning of Media Unit 4.

18 Please continue.

19 BY MR. BERG:

20 Q Welcome back, Mr. Adams. 02:42:43

21 A Thank you.

22 Q Did you speak with your counsel during the

23 break?

24 A No.

25 Q Okay. Let's -- so I just have a couple of 02:42:53

Page 129

1 questions on the Chang reference in the '887 patent. 02:43:02
2 So let me go ahead and mark that.
3 (Exhibit 13 marked for identification.)
4 BY MR. BERG:
5 Q All right. I've introduced Exhibit 13. 02:44:03
6 Just let me know when you have that, Mr. Adams.
7 A I have it now.
8 Q Now, just to orient you in your
9 declaration, I think you talk about Chang -- the
10 Chang reference starting in 109, paragraph 109. 02:44:16
11 But can you tell me what Exhibit 13 is?
12 A Yes. It's United States Patent No.
13 6,715,126 entitled "Efficient Streaming of
14 Synchronized Web Content From Multiple Sources."
15 Q Okay. Great. 02:44:53
16 And I'll note that Exhibit 13 is marked as
17 Exhibit 1009 in the '887 IPR.
18 Does that sound right to you?
19 A Yes.
20 Q And will you understand if I refer to this 02:45:08
21 exhibit as the Chang reference?
22 A Yes, I will.
23 Q Have you reviewed the Chang reference
24 before?
25 A Yes, I have. 02:45:20

Page 130

1 Q And can you describe just briefly what is 02:45:23
2 being discussed in the Chang reference?

3 A Yeah. I'm going to flip back to my
4 report. And you said paragraph -- oh, yeah,
5 paragraph 109. 02:45:37

6 Q 109.

7 A Yeah, I have it.

8 So "Chang discloses a method 'for
9 efficiently delivering a presentation of web content
10 comprised of media, such as audio or video content, 02:45:53
11 having defined in time increments, together with one
12 or more other content sources, such as images or
13 events, to be displayed on a monitor, synchronized
14 so that one or more other images or events are
15 displayed at the predetermined time increments in 02:46:13
16 the media presentation.'"

17 Q Chang uses something called a HotAudio
18 file as part of this synchronization; is that
19 correct?

20 MR. SPRENGER: Objection to form. 02:46:28

21 THE WITNESS: Yes. Chang describes these
22 HotAudio files, which he used to deliver media
23 streams made up of what he calls primary content,
24 which could be audio or video, for example, and
25 secondary content, which may be, for example, 02:46:51

Page 131

1 images. 02:46:55

2 BY MR. BERG:

3 Q Now, in the HotAudio file, Chang discloses

4 that fields specifying frame rate, bit rate and

5 sequence, among other things, can be included, 02:47:13

6 correct?

7 MR. SPRENGER: Objection to form.

8 THE WITNESS: Yeah. I believe I talk

9 about that at the end of paragraph 111 of my

10 declaration. The media information block, which is 02:47:31

11 part of the HotAudio file, may include frame rates

12 and frame numbers.

13 BY MR. BERG:

14 Q Now, let's see. Can you flip to

15 paragraph 191 of your declaration, please? 02:47:58

16 A Yes. I am at 191.

17 Q So here we are talking about claim 105 in

18 the '887 patent. And you have the claim language

19 from claim 105 duplicated there in paragraph 190.

20 And you say in paragraph 191 that "Chang does not 02:48:33

21 disclose a communication sent to the end user that

22 is generated based on rules that specify frame rate,

23 bit rate, or sequence." And you say "Chang merely

24 discloses that frame rate, bit rate and sequence are

25 included in a HotAudio file." 02:48:53

Page 132

1 A Yes, that's correct. 02:48:56

2 Q Do you see that?

3 So I guess my question to you, you

4 acknowledge that these elements, you know, frame

5 rate, bit rate, sequence, are included in the 02:49:09

6 HotAudio file.

7 What does it mean then for the playlist to

8 be generated based on rules associated with a frame

9 rate, for instance?

10 MR. SPRENGER: Objection to form. 02:49:30

11 THE WITNESS: Well, what I'm talking about

12 here, referring back to claim 105, is that that

13 claim is specifically transmitting a communication

14 based on one or more rules and transmitting that

15 to -- so I'm not sure that's the complete claim. 02:50:09

16 It's just part of it.

17 But, basically, what '887 -- the claim in

18 '887 is describing is there are rules in the -- that

19 are defined. And it's based on those rules that you

20 could generate a communication, which -- that could 02:50:47

21 specify a frame rate, bit rate, and sequence to what

22 we -- to the -- in the case of '887, the

23 communication device; in the case of Chang, to the

24 end user.

25 So I'm merely saying here that Chang does 02:51:10

Page 133

1 not disclose that specific aspect. 02:51:15

2 BY MR. BERG:

3 Q So just including the frame rate in the
4 communication isn't sufficient?

5 A Yes. I believe that it's a little bit 02:51:27
6 more than that in the 105 claim or, you know,
7 distinct from that in the 105 claim, in the sense
8 that these things are dictated by these one or more
9 other rules rather than, if you like, maybe just
10 provisioned, as they could be in Chang. 02:51:53

11 Q And the same is true for a frame rate,
12 meaning that just including a frame rate in a
13 communication is not -- does not meet the limitation
14 to basic communication on a rule that specifies a
15 frame rate; is that correct? 02:52:15

16 A Well, I don't believe that Chang includes
17 it in a communication at all. So that would be the
18 first part of that answer.

19 Q So the HotAudio file is not a
20 communication in Chang? 02:52:36

21 A No, I don't believe it is.

22 Q What distinguishes the HotAudio file in
23 Chang from the play script in the '887 patent that
24 would make one a communication and one not a
25 communication? 02:52:53

Page 134

1 A Well, I think we need to look at Chang to 02:53:02
2 see how the HotAudio file is used.

3 Q Mr. Adams, are you looking at Chang right
4 now to answer that question, or are you waiting for
5 a follow-up question from me? 02:54:19

6 A Yeah. I was waiting for a follow-up
7 question.

8 Q Oh. Sorry.

9 So, I mean, I guess I would say why don't
10 you take a second to look at Chang, and then I'll 02:54:31
11 ask you the same question again.

12 What distinguishes the HotAudio file in
13 Chang from the play script in the '887 patent?

14 A Okay. I'm looking at Chang now.

15 And, as I'm looking through this, I see a 02:56:29
16 lot of description and specification of the HotAudio
17 file itself and the way it functions. Maybe you
18 could help me because I don't see anywhere where it
19 specifically talks about how a HotAudio file is
20 communicated. 02:57:00

21 Q So I guess, going back to your statement
22 earlier that the HotAudio file in Chang isn't a
23 communication that could meet the requirements of
24 claim 105, was your basis for saying that just that
25 you're not aware of anywhere in Chang that teaches 02:57:20

Page 135

1 the HotAudio file is communicated? 02:57:23

2 A Yeah. I mean, there are many other ways
3 that would be fundamental to it, yes. But there are
4 many other ways that a play script in the 105 claim
5 is different. 02:57:44

6 Q So, on paragraph 191 -- so, setting aside
7 whether or not the audio file is communicated to the
8 end user or not, looking at kind of the second and
9 third paragraphs in your declaration in
10 paragraph 191, that at least isn't the distinction 02:58:15
11 you rely on here, correct?

12 A No, it isn't.

13 Q I guess what I'm trying to just understand
14 is is what the distinction is that you're relying on
15 in these sentences. 02:58:38

16 So, for example, Chang's HotAudio file
17 includes a frame rate. How is that different than
18 being generated based on rules that specify a frame
19 rate?

20 MR. SPRENGER: Objection to form. 02:58:55

21 THE WITNESS: Well, it's different in the
22 sense that Chang is describing -- I think, in fact,
23 she describes a tool to create a HotAudio file. And
24 that appears to be -- I would describe it as some
25 kind of an authoring tool, which would include these 02:59:15

Page 136

1 elements within the HotAudio file. So that would be 02:59:22
2 the way Chang is describing it.

3 The way that the '887 patent is describing
4 it is rather that according to rules which are
5 associated with the requested media that are 02:59:42
6 specifying such things as frame rate -- at least one
7 of frame rate, bit rate or sequence, it then
8 generates and transmits the communication to, in
9 this case, the communication device.

10 BY MR. BERG: 03:00:15

11 Q So what would be an example of a rule that
12 specifies a frame rate? Or can you point me to an
13 example in the '887?

14 A Yes, I believe I can. Let's just go to
15 '887. 03:00:28

16 So claim 105, of course, is a dependent
17 claim that refers back to claim 98. And, as we've
18 talked about here, it basically adds this
19 limitation, which is generating and transmitting the
20 communication that is specified in claim 98. 03:01:10

21 And that communication -- I think you're
22 basically looking at the limitation of one of the
23 other dependent claims where it says where that
24 communication is a playlist; is that correct?

25 Q Yeah. 03:01:42

Page 137

1 earlier than the provisional list on the cover page, 03:05:28
2 which was filed January 18, 2001, correct?

3 A Yes. I believe -- yes. That's what it
4 says here. I believe that's the case, yes.

5 Q Okay. Do you have any reason to dispute 03:05:45
6 that Madison '273 is entitled to the January 18,
7 2001 priority date?

8 MR. SPRENGER: Objection to form.

9 THE WITNESS: Well, yeah, basically, I
10 understand, as I say here, the priority date is as 03:06:23
11 listed from the provisional on the cover page,
12 January 18, 2001. Yeah.

13 Was that the question?

14 BY MR. BERG:

15 Q Yeah, that was the question. I mean, I 03:06:48
16 just wanted to confirm that you didn't have any
17 opinion that Madison wasn't entitled to the priority
18 date of the provisional application listed on its
19 cover.

20 A No. I think -- I think we agree on that. 03:07:04

21 Q Okay. Let me see if there is anything
22 else here. All right. So just one more question.

23 So can you go to paragraphs 87 through 90
24 of your '887 declaration?

25 A Yes. I have that in front of me. 03:08:40

Page 139

1 Q Do you see the blue highlighting on those 03:08:43
2 paragraphs?

3 A Yes, I do.

4 Q Do you know -- or I guess why did you
5 include blue highlighting on those paragraph 03:08:53
6 numbers?

7 A I don't think I did. I don't believe I
8 added those highlights.

9 Q Okay. So I'll represent to you that those
10 highlights were in the version that Sito provided to 03:09:09
11 us in this case. So it sounds like those weren't
12 added by you or at least they were inadvertent?

13 A I certainly didn't add them. I'm sure
14 that the version that I provided did not have blue
15 highlights. 03:09:24

16 Q Okay. And then also on -- in paragraph
17 192, there is also some highlighting in
18 paragraph 192.

19 Is your answer the same for this
20 highlighting or is there some reason that you 03:09:39
21 included that highlighting?

22 A I certainly don't believe that's my
23 highlighting. I recall that when I provided this
24 document I did -- there was no highlighting in it,
25 or not that highlighting. There is other 03:09:59

Page 140

1 highlighting. 03:10:01

2 Q Right. The emphasis that you had.

3 A In the excerpts of things.

4 But no, there's -- to my mind, there is no

5 significance to that, and I don't recall it being 03:10:11

6 there in the document that I signed.

7 Q Okay. Did you review a draft of Sito's

8 patent owner response in this case?

9 A I don't know if it was a draft. I have

10 seen Sito's patent owner response. 03:10:42

11 Q Let me just mark that really quickly here.

12 Well, actually, before I mark this, let me

13 just ask you a question.

14 Did you -- do you recall writing any edits

15 to Sito's patent owner response? 03:11:20

16 A No, I did not. I mean, I don't recall,

17 but I also would answer in the negative to having

18 done that.

19 Q Then we're not even going to introduce

20 that exhibit. 03:11:44

21 Okay. I think that pretty much covers the

22 '887 declaration and what I wanted to ask you about

23 there. So you can set that aside.

24 A Okay.

25 Q We may pick it up again at some point, but 03:12:02

Page 141

1 I don't expect that we will. 03:12:04

2 So, in the -- let's go ahead and mark --

3 or we've already marked the '360 declaration. But

4 why don't you go ahead and pull that up for me.

5 A Yes. I believe that's Exhibit 4. 03:12:48

6 Q Sounds right to me.

7 And, if you want to go to paragraph 107.

8 A Yes. I have 107 in front of me.

9 Q Actually, you know what, before I --

10 before we talk about the Wiser reference, let's do a 03:13:20

11 couple of quick housekeeping things.

12 So, going up to paragraph 95, where you

13 start talking about Eyal, this is a, you know, very

14 similar section to the one that we already talked

15 about. Maybe it's identical, actually, to the one 03:13:45

16 we talked about in the context of the '887

17 declaration.

18 If I asked you the same questions

19 regarding Eyal in the context of this '360

20 declaration, would your answers change? 03:13:57

21 MR. SPRENGER: Objection to form.

22 THE WITNESS: I really don't know. I

23 think we'd have to go through that exercise to be

24 sure.

25 / / / /

1 BY MR. BERG: 03:14:20

2 Q Okay. Can you identify any differences

3 between your section here covering Eyal and in your

4 '887 declaration?

5 A Yeah. I believe, you know, if memory 03:14:29

6 serves, that this is -- it is the same text. Of

7 course, I believe the references will be different

8 because we identified that difference in the

9 specifications. So I believe it's -- it's

10 essentially the same, except for different 03:14:55

11 references. That's the case.

12 Q Okay. And turning to -- let's see --

13 paragraph 123 of your '360 declaration.

14 A Yes. This refers to Madison.

15 Q Yeah. And this is the same Madison 03:15:29

16 reference that we talked about in context with the

17 '887, right, Madison '273?

18 A It is indeed, yes.

19 Q And is your recollection, once again, that

20 this section is identical or nearly identical to the 03:15:43

21 one in the '887 declaration?

22 MR. SPRENGER: Objection to form.

23 THE WITNESS: I believe it will be pretty

24 much the same, again, with the exception that any

25 references here are made to -- actually, I don't 03:16:02

Page 143

1 think that I've got any references here to the '887 03:16:10
2 or '360 patents. So it looks like it is -- to the
3 best of my recollection, it's the same --
4 BY MR. BERG:
5 Q Okay. 03:16:28
6 A -- as the section in the other
7 declaration.
8 Q Okay. So now let's turn to the Wiser
9 reference, which is -- it starts in paragraph 107.
10 And I'll go ahead and introduce this reference. 03:16:40
11 Just let me know when you're able to open
12 that.
13 A Yeah. I've opened it.
14 (Exhibit 14 marked for identification.)
15 BY MR. BERG: 03:17:16
16 Q And so I've marked this as Exhibit 14.
17 Can you please tell me what Exhibit 14 is,
18 Mr. Adams?
19 A Yes. It's a United States Patent
20 6,385,596 entitled "Secure Online Music Distribution 03:17:29
21 System."
22 Q And will you understand if I refer to this
23 exhibit as the Wiser reference?
24 A Yes.
25 Q And I'll just note for the record that the 03:17:52

Page 144

1 Wiser reference is marked as Exhibit 1006 in the IPR 03:17:54
2 dealing with the '360 patent.

3 Have you reviewed the Wiser reference
4 before, Mr. Adams?

5 A Yes. 03:18:08

6 Q And do you recall that we discussed the
7 Wiser reference during the deposition we had
8 together on October 15th?

9 A I do think that was the case, yes.

10 Q So I'm not going to spend a lot of time 03:18:23
11 with the Wiser reference today, but there is --
12 there are a couple of aspects that I'd like to talk
13 about. So let me make sure I've got it up here so
14 we can go through this together.

15 Okay. So, in the "Field of the Invention" 03:19:22
16 section in the Wiser reference, which is column 1,
17 lines 5 through 9, I think.

18 Do you see that?

19 A Yes.

20 Q So do you agree that Wiser is related to 03:19:38
21 system and methods for the online distribution of
22 digital media data over a public communication
23 network?

24 A "This invention relates generally to the
25 field of online comments and more particularly to 03:20:02

Page 145

1 system and methods for online distribution of 03:20:05
2 digital media over public communication networks."

3 Yes, I believe that's an accurate
4 description of the field of invention.

5 Q Okay. And then, going down to the 03:20:17
6 background of the invention, there are several
7 places here in the background where it talks about
8 digital media.

9 So, for example, in column 1, lines 24
10 through 25, do you agree that the digital media 03:20:36
11 that's being referred to here can be both video and
12 audio?

13 A Yes, I believe it can.

14 Q And then, going down a little bit further,
15 lines 27 through 29, again, do you agree that the 03:20:55
16 digital media being referred to here can be both
17 video and audio?

18 A Yes. I think so.

19 Q Okay. And then going to column 1, line 55
20 through 57, do you agree that the digital media here 03:21:22
21 can be both audio and video data?

22 A Which -- sorry, which column is that in?

23 Q Sorry, column 1, lines 55 through 57.

24 A Yes.

25 Q And do you understand that when Wiser 03:21:55

Page 146

1 refers to "digital media," this is -- he's referring 03:21:58
2 to -- the Wiser reference is referring to it
3 consistently in this context?

4 MR. SPRENGER: Objection to form.

5 THE WITNESS: You kind of faded out there. 03:22:13
6 Could you repeat the question?

7 BY MR. BERG:

8 Q Yeah. I apologize.

9 So I just said, do you understand that
10 when Wiser uses the term "digital media," this is 03:22:19
11 the context that the Wiser reference is referring to
12 "digital media" in?

13 MR. SPRENGER: Objection to form.

14 THE WITNESS: The context being "digital
15 media" being could be audio, video, or something 03:22:39
16 else?

17 BY MR. BERG:

18 Q Yes.

19 A Yeah. I believe that's part of what --
20 yeah. That is included in Wiser's definition of 03:22:51
21 "digital media," yes.

22 Q Can you turn to paragraph -- well, let's
23 go to Section 10, Roman numeral X, which is on
24 page 51 of your declaration.

25 A Okay. Yes. I'm looking at -- 03:23:20

Page 147

1 paragraph 129? 03:23:29

2 Q Yeah. Starting with paragraph 129.

3 A Okay. Yeah.

4 Q So, just looking at this section here,

5 which is paragraphs 129 through 139, what is this 03:23:41

6 section of your report directed to?

7 A It's directed to the priority claim of the

8 '360 patent.

9 Q And, in particular, you are opining that

10 certain limitations in the claims of the '360 patent 03:24:17

11 were found in what you call the January 13, 2001

12 application; is that correct?

13 MR. SPRENGER: Objection to form.

14 THE WITNESS: What -- yeah. The '519

15 application originated from an application which, 03:24:47

16 yes, is -- I refer to as the one -- as the

17 January 13, 2001 application, yes.

18 BY MR. BERG:

19 Q And so you are identifying disclosures

20 from the January 13, 2001 application that support 03:25:03

21 certain claim elements of the '360 patent claims,

22 correct?

23 MR. SPRENGER: Objection to form.

24 THE WITNESS: Yes, that's correct.

25 / / / /

1 BY MR. BERG: 03:25:24

2 Q Now, in this section, you don't walk

3 through all of the limitations of the challenged

4 claims of the '360 patent, correct?

5 A No, I do not. 03:25:38

6 Q Is there any reason that you focused on

7 only specific claim limitations here?

8 MR. SPRENGER: Objection to form.

9 THE WITNESS: I think I focused here on

10 the ones that I thought were relevant. 03:25:56

11 BY MR. BERG:

12 Q And how did you determine which

13 limitations were relevant for your analysis?

14 A Well, I think that it would probably be

15 better to talk about that point by point rather than 03:26:17

16 to answer that generally.

17 Q Okay. Well, let me ask the flip side of

18 it.

19 How did you determine which claim elements

20 not to include in your analysis? 03:26:32

21 A Well, I think, if we look at the claim

22 elements that I did include, we can talk about -- we

23 can see why they're included. And the ones I didn't

24 include were not included because they didn't seem

25 to be pertinent to this discussion. 03:27:03

Page 149

1 Q So, for the claim elements that are 03:27:16
2 included in this discussion here, you don't have any
3 opinion one way or another whether there is written
4 description support for those limitations in the
5 January 13, 2001 application, correct? 03:27:31

6 MR. SPRENGER: Objection to form.

7 THE WITNESS: I think I may have
8 misunderstood or misheard the question. Could you
9 ask that question again?

10 BY MR. BERG: 03:27:49

11 Q Sure.

12 A I think I may have missed something.

13 Q So, for the claim limitations of the '360
14 patent that you don't address in this section, do
15 you have any opinion as to whether or not the 03:27:59
16 January 13, 2001 application provides written
17 description support for those claim limitations?

18 A I haven't yet formed an opinion, would be
19 the right way of answering that, I think.

20 Q Okay. Turning to paragraph 178. 03:28:39

21 A Yeah.

22 Q So, in paragraph 178, you talk about the
23 claims and the specification of the '360 patent
24 distinguished between video, e.g., an entire movie,
25 and segments of the video, e.g., a segment of a 03:29:22

Page 150

1 movie. 03:29:26

2 Is there a difference between "segment" as

3 used in the claims of the '360 patent and "portion"

4 as used in the claims of the '887 and other patents

5 in this family? 03:29:42

6 MR. SPRENGER: Objection to form.

7 THE WITNESS: I haven't given opinion on

8 that in my report. My report did not include or nor

9 was I asked to compare the claims of one of these

10 patents, '360, for example, with another patent, 03:30:07

11 '887, for example. So, no, I haven't formed an

12 opinion on that.

13 BY MR. BERG:

14 Q So, sitting here today, do you have any

15 opinion as to whether there's a difference between 03:30:24

16 "segment" and "portion"?

17 MR. SPRENGER: Objection to form.

18 THE WITNESS: As I say, I haven't formed

19 an opinion on that. I think that would be, you

20 know, to form a -- you know, an opinion that I would 03:30:38

21 want to stand behind, if you like, a proper

22 considered opinion, I would want to go back and look

23 at that specific question, looking at both patents

24 side by side, looking at the claims side by side.

25 And that simply isn't an exercise that I've taken on 03:30:59

Page 151

1 or been asked to take on. 03:31:04

2 BY MR. BERG:

3 Q So, other than in the "Summary of the

4 Invention" section of the '360 patent, are you aware

5 of any place in the specification that provides 03:31:21

6 written description support for the term "segment"?

7 MR. SPRENGER: Objection to form.

8 THE WITNESS: Other than the summary of

9 the invention. I think the best way to answer that

10 is to have a look because that's not a specific -- 03:31:40

11 so segments are -- yes, they do appear in the

12 abstract of the patent. So, to answer your

13 question, yes.

14 BY MR. BERG:

15 Q Okay. Fair enough. 03:32:11

16 So, outside of the abstract of the patent

17 and the summary of the invention of the patent, are

18 you aware of anywhere else in the specification that

19 provides written description support for the word

20 "segment"? 03:32:23

21 A No, I'm not.

22 Q And while we're sitting here, did you do a

23 word search for the word "segment" by chance?

24 A I didn't. And "segment" does appear in

25 other parts of the patent specification, but it's 03:33:01

Page 152

1 not used in the same sense as it's used in the 03:33:04
2 abstract and the summary.

3 Q Okay. So, when you say here in
4 paragraph 178 that the specification of the '360
5 patent distinguishes between an entire movie and 03:33:37
6 segments -- or, sorry, between video and segments of
7 the video, where in the specification are you
8 referring to?

9 A I'm referring to similar language in the
10 specification. Let me find it for you. 03:34:10

11 Starting off at the bottom of column 6,
12 line 56, "The streaming system also enables a media
13 owner to identify a program or a portion of a
14 program that's made available for streaming."

15 And it goes on to say "a program typically 03:35:05
16 identifies sequencing," et cetera, et cetera, "where
17 the media clips are to be placed."

18 So I believe that when I read the patent
19 claims of '360, it's using "segment" interchangeably
20 with the specification here, which is saying 03:35:35
21 "portion."

22 Q So can you flip over to the '887 patent
23 for just a second, please?

24 A Yes, I can.

25 Yes. I've got the '887 patent open. 03:36:20

Page 153

1 Q And do you see that the same paragraph 03:36:24
2 appears in column 5, starting at line 37?
3 A Yes. That appears to be a similar or, in
4 fact, most likely the same paragraph.
5 Q And, if I asked you in the context of the 03:37:10
6 '887 patent to point me to where the patent
7 distinguished between a video and portions of a
8 video, is this one example of where you would point
9 me?
10 A Yes. I believe I would. 03:37:25
11 Q So at least in this example, as you read
12 "segment" and "portion," the two would be the same;
13 is that fair?
14 A In this specific instance, yes.
15 Q So let's go to paragraph 209 -- or sorry, 03:38:13
16 210 of your '360 report.
17 A Okay. I'll go back to the '360
18 declaration. I'll make sure I've got the right one.
19 Yeah. Which paragraph again?
20 Q Let's just go to, actually, paragraph 193, 03:38:51
21 just so you can be oriented here.
22 A Yeah. I'm looking at 193.
23 Maybe, before you ask me the next
24 question, this might be a good time to take a short
25 break. 03:39:18

Page 154

1 Q Yeah, absolutely. Happy to do that. 10 03:39:19
2 minutes?

3 A Yeah. That sounds good.

4 MR. BERG: Good with you, Kevin?

5 THE WITNESS: That would be coming back at 03:39:33
6 3:50 my time.

7 MR. BERG: Perfect. Let's go ahead and go
8 off the record then, and we'll do that.

9 THE VIDEOGRAPHER: We're going off the
10 record. The time is 3:39 p.m. and the -- this is 03:39:42
11 the end of Media Unit 4.

12 (Recess taken.)

13 THE VIDEOGRAPHER: We're going back on the
14 record. The time is 3:50 p.m. And this is the
15 beginning of Media Unit 5. Please continue. 03:50:52

16 BY MR. BERG:

17 Q Okay. So I think we were just going to --
18 well, we went to paragraph 193 of your '360 report.

19 Can you just go ahead and go there,
20 Mr. Adams? 03:51:16

21 A Yes. I'm looking at that now.

22 Q Okay. So do you see that this section is
23 dealing with your opinions as to why Eyal and Wiser
24 do not disclose or suggest additional depending
25 claims? 03:51:34

Page 155

1	A	Yes.	03:51:35
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2 Q And then you'll see that section continues
3 down through paragraphs 210 and 211.

4	Do you see that?
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5	A	Yes, it does. Yeah.	03:51:52
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6 Q Okay. So, in paragraph 210, you talk
7 about dynamically generating advertisements,
8 referring to making a determination of an
9 advertisement to insert into a video at the time the
10 video is being played. 03:52:16

11	Do you see that?
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12	A	That's correct.
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13 Q What do you mean by "at the time the video
14 is being played" here in this sentence?

15 A Well, following on, I refine it to mean in 03:52:33
16 particular that the '360 patent specification
17 discusses dynamic generation being performed by the
18 RTSMS after the RTSMS receives a request for media
19 from a user device.

20 So that's what I mean by that. 03:52:57

21 Q So it's after the request has been
22 received, but not necessarily during the actual
23 playback of the media?

24 A The -- yeah. To be clear, as I understand

25 the '360 patent specification, the decision on what 03:53:23

Page 156

1 advertisement is to be placed is made when -- after 03:53:32
2 the RTSMS receives the request for media. That is,
3 if you like, the start of the playback process.

4 Q I see.

5 A And then that continues on as described in 03:53:53
6 the specification.

7 Q I see. That makes sense. Thank you for
8 that clarification.

9 Now, in paragraph 211, you say "Systems
10 for dynamic generation of advertisements are 03:54:14
11 sophisticated and therefore cannot simply be
12 incorporated into the Madison system."

13 First of all, I assume "Madison" here is
14 just a typo and should say "Eyal"?

15 MR. SPRENGER: Objection to form. 03:54:31

16 THE WITNESS: I am not sure. I think
17 you're probably right. It does seem that we're
18 talking about Eyal. And we're -- we then -- it
19 seems like here Madison is a little -- yeah. It
20 could well be a typo and should say "Eyal." 03:54:59

21 BY MR. BERG:

22 Q And I'll just point out that the same
23 sentence is used in the context of Madison in
24 paragraph 241.

25 A Okay. Let me check that. 241. 03:55:09

Page 157

1 Yes, it does appear there. And there it's 03:55:26
2 clearly referring to Madison because the whole
3 section is. Yeah.

4 Q So, going back to 211, you say that these
5 systems for dynamic generation are sophisticated. 03:55:40

6 What do you mean when you say that they're
7 sophisticated?

8 A I mean that they are complex and can
9 include quite a degree of complexity and
10 sophistication. 03:56:05

11 Q What sophistication does the '360 patent
12 disclose related to dynamically generated
13 advertisements?

14 A It discloses matching the ads according
15 to, I believe, media rules and maybe other rules as 03:56:25
16 well, and also deciding on which ad to be placed
17 based on characteristics of the -- of the dealer,
18 which could be demographic information, for example,
19 age, location, that kind of thing.

20 So there's quite a lot in the '360 03:56:59
21 specification about the various ways that
22 advertisements can be selected when a request for
23 media is made by the viewer.

24 Q Okay. Now, let me just ask you a handful
25 of additional questions, Mr. Adams, and then we can 03:57:44

Page 158

1 wrap up for today. 03:57:50

2 So we've talked today about the '887

3 declaration and the '360 declaration.

4 Do you expect to supplement the '887

5 declaration at any point? 03:58:02

6 A I do not expect to do that at this time,

7 no.

8 Q Do you plan to supplement the '360

9 declaration at any point?

10 A I have no plan at this time to supplement 03:58:15

11 it.

12 Q Sitting here today, do you plan to review

13 any additional materials?

14 MR. SPRENGER: Objection to form.

15 THE WITNESS: No, I do not. 03:58:27

16 BY MR. BERG:

17 Q Have your opinions changed as a result of

18 today's deposition?

19 A No, they have not.

20 Q Are your opinions regarding these three 03:58:40

21 IPRs fully contained in your -- sorry. Let me

22 strike that.

23 Are your opinions regarding the '360 IPR

24 fully contained in your '360 declaration?

25 MR. SPRENGER: Objection to form. 03:58:55

Page 159

1 THE WITNESS: Yeah. With respect to the 03:59:01
2 IPR relating to the '360 patent, I believe it's
3 fully contained in the declaration.
4 BY MR. BERG:
5 Q And are your opinions regarding the IPR 03:59:16
6 addressing the '887 patent fully contained in your
7 '887 declaration?
8 MR. SPRENGER: Objection to form.
9 THE WITNESS: I believe they are.
10 MR. BERG: In that case, I have no further 03:59:32
11 questions at this time. Thank you for your time
12 today, Mr. Adams.
13 THE WITNESS: You're welcome.
14 MR. SPRENGER: Okay. Why don't we go off
15 record. 03:59:48
16 THE VIDEOGRAPHER: We are going off the
17 record. The time is 3:59 p.m. And this concludes
18 today's testimony given by Michael Adams. The total
19 number of media units used was five and will be
20 retained by Veritext Legal Solutions. 04:00:06
21 MR. SPRENGER: I'm sorry. I wasn't -- I
22 was intending to just take a break, not conclude.
23 THE VIDEOGRAPHER: I apologize. In that
24 case, this is the end of Media Unit 5, and the time
25 is 4:00 p.m. Mountain. 04:00:21

Page 160

1 (Recess taken.) 04:16:42

2 THE VIDEOGRAPHER: We are going back on

3 the record. The time is 4:16 p.m. Mountain. And

4 this is the beginning of Media Unit 6. Please

5 continue. 04:17:02

6 MR. SPRENGER: Okay. Thank you,

7 Mr. Adams, for your time today. I have no further

8 questions for Mr. Adams, but I just did want to take

9 the time --

10 MR. BERG: Sorry. Hold on a second. 04:17:14

11 I apologize. I had my volume turned off,

12 so I didn't -- I was like, why is no one talking?

13 MR. SPRENGER: So, to restate, I have no

14 further questions for Mr. Adams. But I just wanted

15 to take the opportunity to state two objections for 04:17:33

16 the record.

17 The first is just to the line of

18 questioning of Mr. Adams on the Madison '703

19 reference in the context of the '887 patent. We

20 object to the line of questioning because the 04:17:48

21 Madison '703 reference was not relied upon by Hulu

22 in their petition for the '887 patent. And it's

23 therefore beyond the scope of the '887 petition as

24 well as Mr. Adams' declaration in the '887 petition.

25 And we reserve the right to file motions 04:18:10

Page 161

1 to strike, motions to exclude, to the extent that 04:18:13
2 Hulu relies on that line of questioning in their
3 reply.

4 The second objection is on the line of
5 questioning about the written description support 04:18:26
6 for the term "segment." The written description
7 alludes to a Section 112 issue, which is outside the
8 scope of this IPR proceeding. So we'd, like,
9 similarly object to that line of questioning.

10 But aside from that, I have no further 04:18:45
11 questions.

12 MR. BERG: Okay. So Hulu obviously
13 disagrees with those objections. And, to the extent
14 the second one was not stated on the record at the
15 time, we believe it has been waived by Sito. It may 04:18:56
16 have been stated on the record at the time. We'll
17 have to see that. But I understand that you reserve
18 your right to object to that evidence.

19 MR. SPRENGER: Okay. So, otherwise, I'm
20 ready to go off record for real this time. 04:19:12

21 THE VIDEOGRAPHER: We're going off the
22 record. The time is 4:19 p.m. Mountain. And this
23 concludes today's testimony given by Michael Adams.

24 The total number of media units used was
25 six and will be retained by Veritext Legal 04:19:29

Page 162

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Solutions.

04:19:30

(TIME NOTED: 4:19 P.M.)

Page 163

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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:

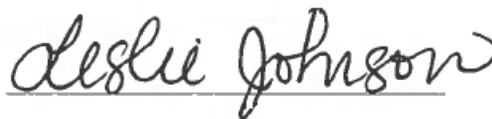
That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were administered an oath; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my 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 [] 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: 10/27/2021

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

BRAD BERG, ESQ.

bmberg@omm.com

October 27, 2021

RE: HULU, LLC v. SITO MOBILE R&D IP, LLC and SITO MOBILE, LTD.

10/20/2021, MICHAEL ADAMS, JOB NO. 4833203

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.

Page 166

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 HULU, LLC v. SITO MOBILE R&D IP, LLC and SITO MOBILE, LTD.
2 MICHAEL ADAMS (JOB NO. 4833203)
3 E R R A T A S H E E T
4 PAGE_____ LINE_____ CHANGE_____
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24 WITNESS _____ Date _____
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&	1044 50:15	129 138:17,21	196 61:2
& 3:4,11 7:8 166:23 167:9	1045 44:14	148:1,2,5	1993 57:5,7
0	105 132:17,19 133:12 134:6,7 135:24 136:4 137:16 138:2,8	13 5:7 35:10,12 37:19 39:9 130:3 130:5,11,16 148:11,17,20 150:5,16	1994 58:11
01/19/01 54:18 044 53:24 55:9 64:3 76:22 77:5 83:16	1051 92:20 95:20 96:5,6	13/842,478 24:21	1996 61:2,4 1:03 82:19
1	106 107:3	130 5:7	2
1 1:20,25 2:17 4:4 4:11 6:12 9:16,22 10:13,14 35:12 42:24,24 43:5 91:3,5,14,15 114:8 114:10,18 145:16 146:9,19,23 167:1	107 45:17 107:3,4 107:5,8,11,11 142:7,8 144:9	139 148:5	2 4:13 10:1,3,5 11:6,7 19:7,8 20:14 43:5 64:19 64:24 91:10,12 114:8,11,18
10 4:13,24 54:11 54:13,16,24 55:3 82:13 129:6 147:23 155:1	108 46:16,23 47:10	14 5:8 144:14,16 144:17	20 1:19 2:19 6:2,5 20:7,21 34:10 64:19 88:20 117:13
10/20/2021 166:5	109 108:2,13,19 109:1,7 130:10,10 131:5,6	14/819,107 24:8	2000 62:11
10/27/2021 165:21	10:22 42:25	144 5:8	2000s 57:4 62:14 79:6
100 38:13 117:17 117:18	10:36 43:4	15 62:22	2001 124:18 139:2 139:7,12 148:11 148:17,20 150:5 150:16
1001 17:9,25 53:11 53:19	11 5:4 92:4,8,14 93:5 95:20	150 3:13	2002 96:19
1005 28:6	11/680,407 22:23 23:22 25:9	152 115:18,20,22 116:15	2003 57:5
1006 145:1	110 109:7,9,14 110:2,24 112:13 112:15,21 114:1	153 115:22 116:15 118:13,14	2004-0015703 93:22
1007 93:21 94:2 95:11,24 96:4	111 132:9	155 118:20 119:10 119:22	2004/0015703 5:6
1009 130:17	112 162:7	156 122:9 126:12 126:25	2004/0083273 5:4 92:17
1011 53:10,19,23 54:1,24	113 92:1,2 96:16 96:16	15th 8:18 111:12 145:8	2007 22:24 25:13
102 34:7 101:12 102:12 117:17 118:4	11451 1:23 2:21 165:25	16 4:19	2012 12:13 13:2
103 43:18 44:20	116 96:25 98:1	168 1:25	2015 24:8
104 117:20 118:4	117 97:14,23 105:23,25 106:5	17 4:20	2021 1:19 2:19 6:2 6:6 164:9 166:3
1040 34:22	119 49:9	178 150:20,22 153:4	2021-00265 10:15 13:2 18:1
	12 4:16,17 5:5 34:22 45:24 93:8 93:10,13 95:25	17th 3:6	2021-00308 11:9 12:13 17:10
	123 143:13	18 96:19 139:2,6 139:12	2025.520 166:9,12
	12345 107:22	190 132:19	209 154:15
		191 132:15,16,20 136:6,10	
		192 140:17,18	
		193 154:20,22 155:18	

<p>210 154:16 156:3,6 211 156:3 157:9 158:4 22 45:22 22182 3:14 23 19:6 24 146:9 241 157:24,25 25 146:10 265 12:23 27 4:21 146:15 166:3 273 95:21,22 96:8 96:9,10 97:3,6 98:20,24 107:5 108:14 112:3,7,13 112:14,19,21 113:13,22 116:10 116:16,21,23 117:1,6,14 119:14 120:25 122:21 125:5,11 139:6 143:17 28 22:24 25:13 29 82:2 83:8,11 122:20 146:15 2:28 129:12 2:40 129:7 2:42 129:16</p>	<p>360 9:8 11:3 12:24 13:3 15:2,2,5,21 15:24 16:2 18:1 18:10,24 19:7,19 20:1,11,13 21:6 22:11 23:22,24 24:7 25:18 28:7 54:25 55:4 69:15 92:20 93:1 94:2 94:16,18 95:1 142:3,19 143:13 144:2 145:2 148:8 148:10,21 149:4 150:13,23 151:3 151:10 152:4 153:4,19 154:16 154:17 155:18 156:16,25 158:11 158:20 159:3,8,23 159:24 160:2 37 20:23 119:19 154:2 38 19:6 39 108:20 3:39 155:10 3:50 155:6,14 3:59 160:17</p>	<p>49 4:23 4:00 160:25 4:16 161:3 4:19 2:19 162:22 163:2 4k 62:19</p>	<p>60 80:18 138:24 61 80:17,18 610 3:6 636 25:6 64 83:14,24 84:5 6637 165:23</p>
		5	7
		<p>5 4:19 16:23,25 17:3,4,8 24:8 35:12 145:17 154:2 155:15 160:24 5,931,901 4:23 49:20 50 67:22 51 147:24 519 148:14 52 19:9 54 4:24 55 146:19,23 56 52:20 55:17 63:18 64:12 70:18 105:23 153:12 57 68:11,23 70:17 70:22 146:20,23 58 76:18,20 77:1,2 59 138:24</p>	<p>7 4:6,21 27:18,21 27:24 703 96:1,7 110:2 111:1,3,6,12 112:6 112:11,11 113:2 113:13 115:17 116:7,11,19 124:22,23 125:11 125:12,16,18,22 125:24 161:18,21</p>
			8
		6	<p>8 4:22 43:23 44:1 44:4,5 8,825,887 1:13 2:13 4:15,16,19 11:10,19 823-6937 3:8 83 90:11,13,14,15 90:16,17 91:17 86 124:25 125:1 8618 3:13 87 139:23 887 9:9 11:22 12:10,14 13:5,7,7 13:11 14:19,22 16:3 17:6,9 18:10 18:25 19:5 20:2,6 20:19 21:1,6 22:14,16 25:14,15 25:17 27:7 28:7 29:7 44:13 50:16 53:15,20 54:25 55:5,20 64:3,14,17</p>
3	4		
<p>3 4:16 12:2,5,8,9 12:12 13:4,6 14:2 15:11 19:9 20:21 20:22 82:20 95:7 114:8,11,18 129:13 30 167:1 31 19:8 32 119:20 126:6,9 33 34:10 126:6,9</p>	<p>4 4:17 12:17,19,22 14:24 15:12 64:19 64:24 95:2,4,6 129:17 142:5 155:11 407 25:12,19 27:1 41 29:17 43 4:22 46 108:20 47 20:14 4833203 1:24 166:5 168:2</p>		

[887 - advertisements]

64:19,24 65:21,24 66:13 67:16 69:15 70:3,15,15,19,23 71:3 73:15 74:6 81:2 83:9 91:6 92:21 93:1 94:3 94:11,15,22,23 95:14 96:9 110:4 110:6 111:7 115:18 116:8 130:1,17 132:18 133:17,18,22 134:23 135:13 137:3,13,15 138:11,14,18 139:24 141:22 142:16 143:4,17 143:21 144:1 151:4,11 153:22 153:25 154:6 159:2,4 160:6,7 161:19,22,23,24 8d 119:20	949 3:8 95 111:15 142:12 96 29:2,15,20,23 98 137:17,20 9:10 2:18 6:2,5	accurate 13:22 15:9 19:10 146:3 164:6 acknowledge 133:4 acrobat 29:12 action 6:25 67:11 90:18 165:17,18 active 106:11 107:18 actual 47:2 84:16 87:19 97:11 156:22 ad 38:3 40:25 41:6 118:21,24 119:6,6 119:8,8,11,12,13 119:13,21 120:3,7 121:23 122:4,4 158:16 adams 1:17 2:17 4:4,9,11,14,16,17 5:2 6:13 7:13,20 10:6,15,17 11:9 12:8,22 17:11 18:2 23:2 27:24 42:21,25 43:6,9,12 44:5 46:2 49:16 50:18 54:16 55:1 82:9,23 92:22 94:5,10,18 95:2 111:6,10 116:8 121:9 129:20 130:6 135:3 144:18 145:4 155:20 158:25 160:12,18 161:7,8 161:14,18,24 162:23 164:3,17 166:5 168:2 add 23:18 62:25 87:25 140:13	added 26:1,23 27:2 39:4 72:18 140:8,12 adding 63:2 90:20 addition 8:8,24 41:24 47:14 53:10 87:5,20 additional 11:25 19:19 20:14,19,25 22:4,9,10 38:7 113:8,11 155:24 158:25 159:13 address 63:3 72:19 90:3,8 109:25 150:14 addressing 125:24 160:6 adds 137:18 administered 7:14 165:7 ads 158:14 advance 77:8 advancement 77:17 advancements 63:13 advantage 79:25 advent 60:25 advertisement 42:4 45:12,15,16 45:20,23 46:11,14 46:14 47:15 49:4 51:21 118:22 156:9 157:1 advertisements 38:8 41:23 42:2 42:16 44:21,23 45:2,5 46:5,18,21 47:1,3,5,13 50:12 50:24 51:19 81:15 120:23 156:7
9	a		
9 4:11,23 34:10 49:12,14,18,19 145:17 9,135,636 25:2 9,591,360 1:11 2:11 4:12,18,20 6:18 10:16,25 17:20 90 111:14 112:11 113:1 139:23 90s 57:3,18 60:3 79:4,5 91 27:10 92 5:4 92660 3:7 93 5:5	a.m. 2:18 6:2,5 42:25 43:4 a1 5:4,6 abbreviating 128:18 abbreviation 89:4 abilities 59:20 ability 68:3 70:1 able 12:20 29:6 54:15 56:14 62:18 72:24 114:23 115:15 128:16 144:11 absence 102:5 absolutely 26:9 34:17 35:17 36:16 96:15 99:23 116:14 129:2 155:1 abstract 98:24,25 152:12,16 153:2 accelerated 62:22 access 44:1 45:22 53:21 64:11 65:13 68:1,5 69:3 73:14 73:16,22 74:2 123:14 125:25 126:4 128:15 accesses 45:8 accessible 106:3 accessing 124:4 account 127:10 accounting 46:24 accounts 122:22		

[advertisements - asp]

<p>157:10 158:13,22</p> <p>advertisers 41:2</p> <p>42:6,10 47:1</p> <p>advertising 48:3</p> <p>49:1 50:5 119:24</p> <p>120:5,11,14,21</p> <p>121:6 127:6,6</p> <p>adverts 42:7</p> <p>affect 113:12</p> <p>affiliations 7:3</p> <p>afternoon 3:18</p> <p>age 158:19</p> <p>agnostic 101:5,10</p> <p>ago 7:25 37:1</p> <p>65:20 71:11 88:21</p> <p>102:21</p> <p>agree 6:11 17:11</p> <p>35:13 36:2 44:15</p> <p>68:24 79:15 83:21</p> <p>118:6 127:22</p> <p>128:1 139:20</p> <p>145:20 146:10,15</p> <p>146:20</p> <p>agreed 102:25</p> <p>110:8</p> <p>agreement 8:2</p> <p>116:1,24</p> <p>agrees 129:4</p> <p>ahead 9:20 11:6</p> <p>11:24 16:20 17:15</p> <p>27:7,20 43:21</p> <p>49:7,11 64:15</p> <p>82:6 92:6 111:10</p> <p>129:3 130:2 142:2</p> <p>142:4 144:10</p> <p>155:7,19</p> <p>akamai 79:11,13</p> <p>79:17,22,24 80:2</p> <p>80:10,13</p> <p>al 6:15</p>	<p>algorithm 54:22</p> <p>77:17 78:16</p> <p>allegedly 53:4</p> <p>allocated 78:25</p> <p>79:1,2,2</p> <p>allocating 69:20</p> <p>69:20,23</p> <p>allocation 64:9</p> <p>65:10,23 66:6</p> <p>69:1,13 70:2,6,14</p> <p>71:5,14,19 74:15</p> <p>74:24 75:16</p> <p>allow 68:5 76:15</p> <p>117:17 127:15</p> <p>allowed 42:5</p> <p>100:22</p> <p>allowing 74:12</p> <p>allows 28:19 124:3</p> <p>alluded 45:18</p> <p>alludes 162:7</p> <p>alphanumeric</p> <p>113:6,7</p> <p>alternative 63:15</p> <p>amount 19:19</p> <p>analysis 149:13,20</p> <p>analyzing 75:9</p> <p>angles 43:19,21</p> <p>44:3,10,18 45:7</p> <p>46:5,17,21,21 47:6</p> <p>47:11,16,21 48:1</p> <p>48:25</p> <p>answer 64:6 69:7</p> <p>75:2 78:11 111:8</p> <p>111:10,11 121:19</p> <p>122:7 134:18</p> <p>135:4 140:19</p> <p>141:17 149:16</p> <p>152:9,12</p> <p>answering 150:19</p> <p>answers 142:20</p>	<p>anti 65:12 67:14</p> <p>67:16 69:2 72:8</p> <p>72:11,13,16,17,18</p> <p>72:23</p> <p>anybody 14:16</p> <p>apologize 116:10</p> <p>116:18 147:8</p> <p>160:23 161:11</p> <p>apparently 107:15</p> <p>appeal 1:3 2:3</p> <p>6:17</p> <p>appear 14:4 18:25</p> <p>20:11 21:1 61:2</p> <p>113:5 152:11,24</p> <p>158:1</p> <p>appearances 3:1</p> <p>7:3</p> <p>appearing 10:20</p> <p>11:13 166:18</p> <p>167:7</p> <p>appears 12:9</p> <p>20:18 25:22 37:2</p> <p>64:18,21 83:18</p> <p>91:2 125:8 136:24</p> <p>154:2,3</p> <p>apple 88:9,14</p> <p>applicant's 90:18</p> <p>application 4:24</p> <p>5:4,5 22:17,23</p> <p>23:3,12,12,13,14</p> <p>23:18,21 24:1,6,8</p> <p>24:17,21 25:1,9,12</p> <p>25:14,19 27:1</p> <p>53:3,16,24,25</p> <p>54:17 55:4 76:23</p> <p>77:6 79:10,11</p> <p>80:22 92:16 93:14</p> <p>123:10 124:15</p> <p>126:7 139:18</p> <p>148:12,15,15,17</p> <p>148:20 150:5,16</p>	<p>applications 55:22</p> <p>56:3 63:23</p> <p>applied 75:10</p> <p>121:8</p> <p>apply 16:4</p> <p>appreciate 42:3</p> <p>appropriate 32:25</p> <p>45:23 58:25</p> <p>114:22</p> <p>approximately</p> <p>8:20</p> <p>architecture 51:5</p> <p>77:9,10,14,15,18</p> <p>77:20,21 78:8,10</p> <p>78:16 79:16 80:3</p> <p>architectures</p> <p>77:25 78:3,14</p> <p>79:7,21</p> <p>areas 18:14</p> <p>arguments 107:17</p> <p>113:3,5,9,12</p> <p>art 9:4 43:15</p> <p>47:25 48:13,25</p> <p>52:3 57:13 70:10</p> <p>71:15 75:5,8 76:1</p> <p>76:8 77:8 87:7,10</p> <p>90:20 114:20</p> <p>115:11,14 121:16</p> <p>121:25 122:3</p> <p>asf 112:23,23</p> <p>aside 11:5 21:2</p> <p>26:21 32:14 41:3</p> <p>61:6 96:4,7 136:6</p> <p>141:23 162:10</p> <p>asked 18:5 83:8</p> <p>142:18 151:9</p> <p>152:1 154:5</p> <p>asking 37:19 71:1</p> <p>108:24 110:13</p> <p>asp 97:12</p>
---	---	---	--

[aspect - berg]

aspect 20:15 30:25 32:10 61:7 65:25 128:7,8 134:1 aspects 29:21 52:17 78:7 83:25 145:12 asset 39:13 98:9,9 98:14 99:13 101:22 103:12,17 assets 98:12,17,19 98:22 101:21 104:11 assist 58:3 associate 89:3 associated 41:8 48:1,13 72:3,10 73:17 74:14 81:20 81:21 85:16 87:1 87:3 88:9 133:8 137:5 assume 98:5 114:15 120:23 157:13 asx 109:18 110:1 111:14,20,21,25 112:1,6,6,8 113:12 113:25 114:3,23 attempting 52:4 attending 6:21 attention 22:14 23:25 43:17 attorney 165:17 attributes 79:23 audience 35:21 36:20,23 99:9 audio 6:9 61:19 62:8 131:10,24 136:7 146:12,17 146:21 147:15 august 24:8	authenticated 122:12 126:16 127:24 authenticating 126:1,8 authentication 126:7,10 128:3 authoring 136:25 authorizing 126:4 automatic 65:11 67:4,5,11 69:2 71:25 72:4 76:2 automating 66:11 availability 61:9 available 16:18 33:12 35:22 54:9 54:14 117:19 153:14 avoid 95:17,18 aware 16:1,6,11 21:4 47:19 57:12 68:8 71:7 73:5,8 79:13 80:5 91:17 91:22 98:7 121:5 121:5 135:25 152:4,18	154:17 155:5,13 158:4 161:2 background 6:8 31:19 146:6,7 bandwidth 56:8 base 88:7 based 30:2,22 35:13 36:1,23 37:2 40:10 44:24 46:6 47:2,12 50:6 50:8 75:4 120:24 122:3 124:8 132:22 133:8,14 133:19 136:18 158:17 baseline 28:12 bases 94:25 basic 40:20 134:14 basically 20:6 28:19 36:22 44:23 66:8 90:6 100:1 107:25 133:17 137:18,22 139:9 basis 34:3 135:24 beach 3:7 bear 138:13 beginning 2:18 43:4 82:20 86:7 86:11 109:13 126:25 129:17 155:15 161:4 begins 65:1 behalf 2:17 believe 9:14 10:19 14:7 15:10,12,17 17:12 18:3,24 19:1 20:5 21:10 22:9 23:5,11,19 28:8 30:15 31:1 31:17 34:1 36:5 37:25 39:7 40:2	42:1,2 46:9 47:7 47:17,20 49:3,8 53:9 54:1 55:2 60:16 64:3,16 66:1,6,15,17,21 68:2 69:14 70:16 72:12 74:17,22 76:21 77:16 78:15 81:24 83:16,23 84:11,20,24 85:12 87:16 92:24 94:3 94:6 95:2 96:22 96:24 97:20 100:5 104:2 110:5 114:2 117:9 119:1,16 122:1,17 125:13 127:5 132:8 134:5 134:16,21 137:14 138:6 139:3,4 140:7,22 142:5 143:5,7,9,23 146:3 146:13 147:19 153:18 154:10 158:15 160:2,9 162:15 berg 3:5 4:6 7:4,4 7:18 9:17 10:4 12:3,18 13:16 14:1 16:24 17:14 19:23 21:11 22:12 22:21 23:8 25:24 27:6,19 29:1 30:8 30:16 31:6 32:13 33:8 37:7 39:23 40:19 41:21 42:18 43:7,24 46:15 48:18 49:13 51:17 52:2 53:17 54:12 57:16 58:5 60:2 60:19 61:15 63:17 73:11 75:1,23
	b b 43:18 167:1 b1 4:21,22 5:7,8 b2 4:19,20 back 7:20 13:4,5 13:10 28:24 36:10 37:12 39:16 43:3 43:9 63:18 68:18 74:11 82:14,18,23 91:17 95:14 96:13 113:1,22 116:18 124:21 126:11 129:15,20 131:3 133:12 135:21 137:17 151:22		

80:1 81:17 82:6 82:13,22 84:15 86:3 88:2 90:1,9 91:23 92:5 93:9 94:12,19,24 97:4 97:22 98:15 101:18 102:18 103:24 105:1 107:9 108:12 109:23 110:9,12 111:9 113:21 115:3 116:9,17 118:7,12 121:7,21 122:19 123:22 127:21 128:5,24 129:3,7,10,19 130:4 132:2,13 134:2 137:10 139:14 143:1 144:4,15 147:7,17 148:18 149:1,11 150:10 151:13 152:2,14 155:4,7 155:16 157:21 159:16 160:4,10 161:10 162:12 166:1 best 13:21 15:8 18:16 144:3 152:9 better 64:5 149:15 beyond 42:10 94:9 94:10,22 111:6 116:8 161:23 big 128:19 biggest 59:16,18 billed 47:2 bit 8:6 33:6 34:11 36:25 39:2 54:19 63:25 65:6 67:2 70:21 89:19 90:10 96:11 108:10	121:22 128:9 132:4,23,24 133:5 133:21 134:5 137:7 138:4 146:14 block 64:13 132:10 blue 140:1,5,14 bmberg 3:9 166:2 board 1:3 2:3 6:17 bookmarked 70:9 bottom 13:1 108:13,21 153:11 box 56:13 58:16 77:2 brad 3:5 7:4 166:1 break 29:10 42:20 43:12 51:25 52:5 65:5 82:10,25 129:1,4,23 154:25 160:22 breaking 71:21 75:9 brief 28:13 50:1 briefly 83:2 120:3 131:1 broad 40:14 broadcast 40:23 41:3 broader 37:6 broke 83:7 broken 69:17 74:19 building 31:20 builds 33:1 bundling 50:11,23 business 49:3 52:6 bytes 41:19	c ca 166:9,12,20 cable 56:20 60:25 61:3,5 62:4 california 3:7 165:3 call 48:16 62:9 70:1 99:13 108:6 114:4 148:11 called 22:17 61:25 64:10 81:8 131:17 calls 8:12 131:23 capabilities 60:1 capable 57:24 61:24 62:6 carry 51:15 case 1:10,12 2:10 2:12 4:12,14 6:17 10:15 11:9 16:7 16:18 25:23 32:5 34:1,2 36:19 38:19 39:21,22 53:10 63:13 67:10 69:25 72:21 73:6 73:9 76:16 86:23 94:11 102:9 103:21,23 104:17 107:21 133:22,23 137:9 139:4 140:11 141:8 143:11 145:9 160:10,24 165:14 cases 42:12 cassia 3:17 6:21 categories 51:11 cause 108:5 caused 62:8 causes 45:13 ccp 166:9,12 ccrr 1:23 165:25	cdn 77:17,20,25 78:7,14 79:6,11,16 79:17,21 80:3,10 cdns 78:2 80:12,15 center 3:6,13 certain 26:16 41:18 58:1 148:10 148:21 certainly 21:20 26:15 36:18,19 41:7 42:15 48:9 64:18 73:15 76:8 79:24 80:6 87:25 116:9 121:4 140:13,22 certification 165:1 certified 2:20 165:2 certify 165:3,16 cetera 153:16,16 challenge 16:10 challenged 91:11 91:19 149:3 chance 17:1 49:15 52:12 152:23 chang 130:1,9,10 130:21,23 131:2,8 131:17,21 132:3 132:20,23 133:23 133:25 134:10,16 134:20,23 135:1,3 135:10,13,14,22 135:25 136:22 137:2 chang's 136:16 change 35:6,6 61:17 62:21 81:23 142:20 168:4,7,10 168:13,16,19 changed 58:18 159:17
---	---	--	---

[changes - concludes]

changes 91:18 channels 40:24 characteristics 158:17 characterization 30:13 53:6 59:6 79:16 characterize 61:13 61:16 101:10 charge 50:11,11 50:22 check 73:20 74:2 81:22 83:2 91:7 95:3 125:7 157:25 checked 20:12 68:7 checking 64:20 119:17 chose 104:10 chosen 38:10 89:7 cihlar 3:18 cite 34:9 70:22 cited 9:4 112:10 citing 70:15 city 164:11 civil 166:19,20 claim 55:5 90:21 91:3,5,14,15 132:17,18,19 133:12,13,15,17 134:6,7 135:24 136:4 137:16,17 137:17,20 138:8 148:7,21 149:7,19 149:21 150:1,13 150:17 claimed 90:19 claims 91:11,14,19 137:23 148:10,21 149:4 150:23 151:3,4,9,24	153:19 155:25 clarification 157:8 clarify 26:5 89:10 94:14 98:19 clarity 120:10 cleaner 48:11 clear 36:25 37:9 38:19 101:11 112:9 119:23,24 156:24 clearly 158:2 click 10:10 112:12 clicks 107:23 client 56:10 57:23 89:22 96:25 97:10 97:15 98:2 102:22 104:6,10,14 117:11 122:22 127:9 clients 116:2,3 117:2,2,17 118:4 127:15,15 128:12 clip 39:12,17,24 39:25 100:12 101:6,20 102:23 clips 35:20 39:10 39:11,20,22 153:17 close 93:17 128:25 closely 80:5 cm 106:2 108:6 code 45:21 46:17 80:6 166:9,12,19 166:20 colorado 1:18,18 2:18,18 6:1,1 column 19:7,8,9 20:14,21,22 34:10 35:10,12 37:19 39:9 64:19,24 145:16 146:9,19	146:22,23 153:11 154:2 columns 26:12 67:22 com 89:5 come 75:3 82:14 comes 83:16 coming 84:7 155:5 comments 145:25 commercial 127:17 commercially 61:2 commercials 35:14,19,21 36:3 36:10,11,20,23 37:22 38:9,10,17 38:18,21 39:1,4,9 40:6,11,16 common 42:15 62:18 commonly 56:15 61:22 communicated 135:20 136:1,7 communicates 46:12 communication 44:22 67:10 68:4 76:16 90:21 132:21 133:13,20 133:23 134:4,13 134:14,17,20,24 134:25 135:23 137:8,9,20,21,24 138:2 145:22 146:2 community 127:14 128:6,8 companies 79:22 compare 26:11 151:9	compared 113:13 comparing 111:25 112:10 comparison 18:20 21:9 26:18 compatible 122:14 124:9 complete 21:8 39:13 74:10 103:12,13,16,25 104:5,7 133:15 completed 166:7 166:17 167:6 completeness 120:10 completion 165:14 167:10 complex 158:8 complexity 158:9 component 30:4 31:5 42:13,17 65:21,24 66:2,5,16 67:15 81:8 components 66:4 66:9,13,16,19 78:22 compound 20:9 comprised 131:10 comprises 81:19 computer 45:14 45:20,24 109:12 computing 56:11 concept 40:3 54:21 69:14 118:9 conceptually 99:15 concerned 104:21 conclude 160:22 concludes 160:17 162:23
--	---	--	--

[conclusion - cover]

conclusion 125:15 conducted 6:19 conference 8:12 confirm 139:16 confusion 95:17 95:18 connecting 71:12 connection 16:9 62:1,3 70:4 87:11 connects 75:13 consider 79:25 considerably 62:3 considered 14:3,5 15:15 95:8 100:13 151:22 considers 105:22 consistently 147:3 consume 114:3 consumed 116:6 consumer 45:8,21 45:24 46:6,6 62:10,15 consumer's 45:14 45:22 consuming 113:16 117:8 consumption 117:4 cont 5:1 contact 166:9 contain 13:11 15:4 33:19 contained 159:21 159:24 160:3,6 164:5 contains 78:17,19 105:14 content 41:1,14,15 44:25 45:3,6,8,9 45:20 46:17,18,22 47:17 48:14,21	51:4,12,12 77:8,13 81:8 85:21 86:1 96:18 99:2,5,8,9 99:10,17 100:2 101:12,14,16 102:4,6,12,14 103:2,7,11,16 104:4,22 105:10 105:11,14,16 108:6,7 116:3,4,5 117:3,4,18,19,19 123:8,14 124:2,4 125:25 126:17,21 130:14 131:9,10 131:12,23,25 context 34:16 40:12 41:10 83:15 95:6 97:6 114:17 115:17 116:20 122:4 142:16,19 143:16 147:3,11 147:14 154:5 157:23 161:19 continuation 22:23 23:3,16,18 24:7,21 25:9,15,19 continue 6:10 43:6 43:16 82:21 129:18 155:15 161:5 continued 23:13 24:12 62:16,21 continues 20:17 24:15 156:2 157:5 continuously 32:19 control 55:23 63:24 64:1,7 65:10,19,23 68:19 74:8,13,15 75:6,14 75:16 76:5 86:10	86:16,20 87:2,6,16 88:18 controlled 74:21 controlling 123:14 126:4 convenient 89:7 conversation 14:16 56:19 conversations 6:8 14:13,18 15:23 coordinate 66:4 copyright 100:23 corner 108:21 correct 9:9 16:4 17:12 18:2,3 19:11 24:23 25:15 25:16,20 30:5 31:15 33:3 35:15 36:4,14 37:24 39:6 47:6 50:24 50:25 55:2,6,7,25 56:1,22,23 60:8,9 60:23,24 61:11 63:1,2 64:14 68:22 70:23 71:8 71:17,18 73:25 74:3 75:16 77:11 79:7,12 83:23 84:6,19 85:18 91:3,4,13 96:21 97:21 99:21,25 101:7 102:2,24 103:13,21 106:16 107:10 108:16 109:7,12 112:3 118:10 119:15 121:9,12,13 122:12,13,15 126:8 127:24 131:19 132:6 133:1 134:15	136:11 137:24 138:19 139:2 148:12,22,24 149:4 150:5 156:12 corrected 164:6 corrections 166:14 166:15 167:3,4 correctly 86:9 correspond 22:4 cost 41:13,18 50:9 51:11 58:14,14,15 58:16 costs 41:8 48:1,4,6 48:12,17,20,22,22 49:2 50:13,24 51:1,2,4,5,6,13,15 51:19,23 counsel 6:13 7:2 8:13,21 14:15,19 15:21 43:11 82:4 83:1 94:7,13,14 110:9 116:9 129:4 129:22 166:18,21 167:7 couple 7:25 8:12 9:6 16:17 34:5 68:8 86:5 115:16 115:25 116:23 119:18 129:25 142:11 145:12 course 14:8 15:17 26:12 53:19 128:18 137:16 143:7 court 6:23 7:10 cover 4:24 22:14 23:22 24:2 51:22 52:10,10 86:6 94:25 124:24 138:16 139:1,11
--	--	--	---

[cover - description]

139:19 covering 10:25 13:2 143:3 covers 141:21 craig 3:18 crawling 32:10 33:11 crawls 32:19 create 37:17 104:10 127:10 136:23 created 81:12 100:2 creates 99:9 creating 32:20 108:14 creation 107:1 credited 47:24 criteria 30:1,2 33:16,20 34:2 38:2,4 cryptographic 124:3 csr 1:23 165:25 curious 65:20 current 65:1,8 72:15 80:15 customers 42:2 customization 37:12 customized 44:21 44:23 45:16,23 46:4,5	database 31:20 32:4,18,21,24 37:17 46:25 106:3 108:6,7,7 127:2,3 127:20 datagram 88:4,5 date 16:4 54:18 138:25 139:7,10 139:18 165:19 166:16 167:5 168:24 dated 165:21 day 80:3 164:9 days 7:25 deal 42:9 58:4,18 76:14 dealer 158:17 dealing 9:8 43:19 145:2 155:23 deals 125:24 dealt 56:24 decade 56:20 decades 63:6 deciding 158:16 decision 52:6,7 156:25 declaration 4:16 4:17 12:9,23 13:5 13:7 14:13 15:2 27:8 29:3,7 44:19 49:8 52:19,23 53:12 55:18 63:19 70:13 71:2 82:3 83:9,9 90:11 91:10 92:1 94:10 94:11,18,23 95:1 95:15 96:9 111:7 115:19 116:8 119:23 126:11 130:9 132:10,15 136:9 139:24	141:22 142:3,17 142:20 143:4,13 143:21 144:7 147:24 154:18 159:3,3,5,9,24 160:3,7 161:24 164:1 declarations 9:3 16:8,12,15 declare 164:3 decode 56:16 default 124:1,4,6 defined 81:7 88:16 100:19 131:11 133:19 definitely 78:18 105:13 definition 62:18 62:19 89:18 99:12 147:20 definitive 26:9 degree 158:9 deliver 51:14 59:13 131:22 delivered 44:24 45:3,5,24 46:18,22 68:8 delivering 44:21 48:14,23 50:5 67:7 68:16 69:5 70:19 72:2 99:2 131:9 delivery 40:8 41:1 47:2 56:21 72:9 73:1,13,24 77:9,13 demand 50:4 51:12 demographic 158:18 denial 65:12 67:19 69:3 73:2 74:4	dependent 137:16 137:23 depending 155:24 deposition 1:16 2:16 4:11,14 6:13 6:19 8:2,7,9,10,11 8:17,21 10:15,21 11:8,15 21:17 26:19 42:24 43:5 52:13 55:14 94:20 111:4 145:7 159:18 165:13 166:19,22,24 167:8,10 depth 120:10 describe 44:17 96:11 112:17 113:19 121:15 123:9 131:1 136:24 described 20:1,24 31:18 39:21 71:11 74:18 79:18 86:23 100:3 112:11 120:16 157:5 describes 19:20 45:7 66:25 73:15 86:17 98:12,16,18 100:1 107:13 108:14,14 122:18 122:22 127:1,8 128:12 131:21 136:23 describing 36:6 46:2 133:18 136:22 137:2,3 description 4:10 5:3 21:4,5,9 22:3 26:4,7 28:13 54:21 75:19 103:15 104:24
d			
d 4:1 daignault 3:11 7:8 daignaultiyer.com 3:15 data 22:18 24:1,17 108:8 145:22 146:21			

[description - dynamically]

105:18 120:11 128:11 135:16 146:4 150:4,17 152:6,19 162:5,6 designed 77:7 86:24 desirable 50:7 detail 67:2,18 73:3 80:7 108:11 120:4 121:15 detailed 21:3,5,9 22:3 26:3,6 28:17 53:15 details 21:10,12 67:22 106:2 detect 66:17 detecting 64:9 detection 65:11 66:11 69:2 71:25 72:4 76:1,15 determination 156:8 determine 149:12 149:19 determined 166:18,22 167:7 device 30:4 56:11 56:12 62:5 67:10 68:4,18 74:8,13,20 75:6,14 76:5,11,16 85:4 133:23 137:9 156:19 devices 57:23 62:16 dictated 134:8 differ 21:10 difference 21:25 113:8 127:7 143:8 151:2,15 differences 9:19 18:22,23 19:14	21:5,15,19,24 22:3 26:20,24 77:19 112:8,18 143:2 different 9:15 18:15 22:6,9 27:2 30:12 32:21 36:25 40:9,15 66:21 70:22 80:21 88:18 93:20 95:15 105:10 112:16 115:25 116:23 126:17,22 127:13 136:5,17,21 143:7 143:10 differently 39:3 difficult 19:17,22 21:14 22:8 28:18 42:14 55:21 78:11 113:15 115:6 difficulties 20:9 53:13 difficulty 63:16,22 digital 96:18 99:2 145:22 146:2,8,10 146:16,20 147:1 147:10,12,14,21 direct 22:13 23:25 25:18 35:9 43:17 directed 44:18 148:6,7 direction 102:5 165:9 directly 68:23 directs 46:13 disagrees 162:13 discarded 78:9 disclose 103:10 132:21 134:1 155:24 158:12 disclosed 66:14 67:15	discloses 29:22 50:11,22 105:9 119:12 120:7 131:8 132:3,24 158:14 disclosing 51:18 disclosure 98:7 99:16,18,20,24 105:19 118:24 120:17,25 124:8 disclosures 105:6 148:19 discover 28:20 discovered 31:3 31:25 discovers 28:21,22 discuss 83:4 97:15 discussed 111:2 131:2 145:6 discusses 109:9 156:17 discussing 27:11 29:16 91:25 108:1 discussion 21:15 37:13 96:5 99:11 149:25 150:2 displayed 131:13 131:15 dispute 16:3 139:5 disseminating 50:8 distinct 134:7 distinction 81:1,6 81:11 117:11 118:18 122:10 136:10,14 distinguished 90:19 150:24 154:7 distinguishes 134:22 135:12	153:5 distribution 144:20 145:21 146:1 divided 47:5 51:22 dividing 99:17 dns 89:18 90:7 document 10:18 11:11 45:10,11 55:11 92:24 93:6 95:11 140:24 141:6 documents 8:13 8:24,25 10:12 doing 18:20 56:21 103:8 105:9 domain 90:7 dossiers 127:4 dot 20:9,10,10 84:25 85:1 double 10:10 89:16 95:3 doubt 105:21 doubtless 115:11 download 12:20 29:6 110:20 downloaded 17:17 29:9 draft 141:7,9 drafting 14:12 draw 122:9 drive 3:6,13 dsl 61:1 duplicated 132:19 dvd 62:10 dynamic 106:21 106:25 156:17 157:10 158:5 dynamically 81:12 106:4,6,16,22 107:25 108:8
--	--	---	---

109:4 156:7 158:12	emphasis 141:2 employee 165:17 enable 72:22 73:2 enabled 73:25 enables 73:13 153:12 enabling 68:18 74:8,12 75:6,14 76:4 engine 29:22 30:2 31:2 33:16 enhanced 20:8 53:14 enjoy 42:2 enjoys 138:25 ensure 55:23 63:24 entering 36:9 37:20 enters 30:1,18 31:9,22 32:23 entire 101:6 150:24 153:5 entirety 69:16 164:5 entities 116:5 117:3 entitled 50:3 130:13 139:6,17 144:20 entity 101:15 126:18,22 equally 89:5 103:10 equating 120:6,9 errata 166:14,16 167:3,5 error 114:6,14 115:2,8,13 esq 3:5,12 166:1	esrp 81:9 essentially 23:14 31:23 45:13 72:13 86:15 99:7 113:2 143:10 establish 87:17 et 6:15 153:16,16 events 131:13,14 evidence 162:18 evolve 62:8 exact 35:24 exactly 20:12 21:20 24:18 35:7 63:7 93:19 108:17 examination 4:3 7:17 examined 7:14 examining 71:14 example 14:22 30:11 31:9 32:14 33:25 34:24 36:7 37:4,15 39:13,19 40:1,17,23 45:1,3 47:8 58:11 62:11 62:20 67:8 76:9 77:24 79:9 87:9 87:14 88:9 100:14 101:11 103:13 104:9,12 109:6,15 113:18 118:13 121:20 131:24,25 136:16 137:11,13 146:9 151:10,11 154:8,11 158:18 examples 112:8 138:7 exception 143:24 excerpt 91:2 excerpts 54:6 141:3	exclude 162:1 excuse 82:4 96:6 executed 164:9 executes 106:21 exercise 18:20 142:23 151:25 exhaustively 47:22 exhibit 4:11,13,16 4:17,19,20,21,22 4:23,24 5:4,5,7,8 9:16,20,21,22,25 10:1,3,5,13,14 11:6,7 12:2,5,8,9 12:11,12,13,17,19 12:22 13:1,2,4,6 14:24 16:23,25 17:3,4,8,9,13,16 17:19,25 27:18,21 27:24 28:6,6 43:21,23,25 44:1,4 44:5,14 49:12,14 49:18,19 50:15 53:10,11,19,23 54:1,3,11,13,16,24 54:24 55:3 92:4,7 92:8,14,20,25 93:3 93:4,5,8,10,13,21 94:2,3,22 95:2,4,6 95:20,20,23,24,25 96:4,5,6 111:20,21 111:25 130:3,5,11 130:16,17,21 141:20 142:5 144:14,16,17,23 145:1 exhibits 4:8 5:1 9:6 11:25 16:17 existing 52:24 53:5 79:5,6,16
-----------------------	---	---	--

[exists - form]

exists 126:3 expect 48:3,25 51:2 142:1 159:4 159:6 expected 60:13 expensive 58:1 experience 14:8 14:17 15:18 40:7 40:10 58:13 61:20 63:6 experiencing 63:7 expert 9:2 23:6 explain 34:11 89:19 107:4 explained 106:8 explicit 105:5,19 explicitly 75:19,21 extending 124:12 extension 89:6 extent 104:7,23 162:1,13 eyal 27:11,15 28:3 28:10,14 29:16,21 30:5,12,18 31:10 31:11,18,19,24 32:3,8,10,15,18,24 33:10,17,21 34:9 34:18 35:4,4,10 40:5 142:13,19 143:3 155:23 157:14,18,20	fail 64:10 65:11 66:11,23 67:4,5 69:2 72:1,4 76:2 76:17 fails 76:10 failure 66:17 67:6 failures 64:10 fair 25:17 26:17 30:13,15 33:9 37:8 46:4 48:7 52:8 53:6 59:2,5 68:21 72:20 97:17 101:23 123:12 152:15 154:13 fairly 68:23 familiar 48:12 78:1 79:4,6 80:2 80:13 87:5,8 121:16 family 151:5 far 8:2 104:21 faster 61:24 62:6 favor 78:9,18 feature 80:9 features 19:25 78:10 122:15,18 123:7 124:10,13 february 22:24 25:13 federal 165:13 167:1,8,9 feedback 42:6 feel 52:25 53:22 field 80:15 84:14 124:25 145:15,25 146:4 fields 78:4 132:4 figure 29:8 34:22 119:20 figures 119:20	file 88:16 97:13 101:12,14,16,17 101:17,19,20,22 102:4,6,12,14,15 102:16,16,22,23 103:1,5,12,16,25 104:10,12,13,14 104:18,19,22 105:14 106:13,23 107:1 108:1,9 109:4,10,18 110:1 111:1 112:7,24 113:10,25 114:3 114:15,23 115:9 131:18 132:3,11 132:25 133:6 134:19,22 135:2 135:12,17,19,22 136:1,7,16,23 137:1 161:25 filed 6:15 22:23 24:8 25:13 96:19 124:18 125:13 139:2 filename 109:3 files 30:10 88:10 88:12 97:16,18 104:4,4 105:10 106:4,7 109:16 111:14,20,21,25 112:1,6,8 113:12 128:13,14 131:22 finally 65:1,8 financially 6:25 165:16 find 90:2 125:1 153:10 fine 110:14,14 117:23 129:5 finish 32:2	finishes 104:23 first 9:20 10:17 18:4 20:5 22:22 23:14 32:3,16 38:15 57:6 65:22 66:16 69:8,12 73:20 76:21 84:25 89:16 95:19 113:2 114:3,4 134:18 157:13 161:17 five 8:23 100:12 100:21,24 101:5 102:23 103:4 160:19 fix 115:2 flaw 115:11 flawed 109:21 flexibility 88:16 flip 14:2 113:1 124:21 131:3 132:14 149:17 153:22 flipping 24:14 floor 3:6 focus 96:5,8 focused 149:6,9 folder 10:9 follow 135:5,6 following 123:5,15 156:15 follows 7:15 166:8 foregoing 164:4 165:4,6,10,12 forgotten 35:24 form 13:13,23 19:16 21:7 22:7 22:19 23:4 25:21 27:4,17 28:15 30:6,14,24 31:3,16 33:4,18 36:15 39:14 40:13 41:11
f			
facilitate 76:14 85:4,6,7 facilitating 87:22 fact 62:17 63:5 81:14 82:8 104:2 111:19 124:9 136:22 154:4 faded 147:5			

[form - going]

46:8 48:15 51:9 51:24 53:8 57:11 57:21 59:4 60:15 61:12 63:11 73:7 74:16 75:17 79:19 81:4 84:10 85:23 87:23 89:21 90:5 91:21 96:23 97:11 97:19 98:10 100:6 101:8 102:10 103:22 104:16 107:6 108:3 109:17,19 113:14 114:25 115:9 118:1,11 121:1,17 122:16 123:20 126:23 127:25 131:20 132:7 133:10 136:20 139:8 142:21 143:22 147:4,13 148:13,23 149:8 150:6 151:6,17,20 152:7 157:15 159:14,25 160:8 format 112:24 formatted 83:22 formed 13:20 14:16 15:5 90:4 150:18 151:11,18 forming 14:6 15:15 31:14 forms 56:21 forth 48:23 62:7 64:11 165:5 found 21:18 64:23 148:11 fragment 107:12 frame 57:17 61:3 61:4 62:12,14,20 132:4,11,12,22,24	133:4,8,21 134:3 134:11,12,15 136:17,18 137:6,7 137:12 138:3 frankly 58:23 frcp 167:1 free 51:20 52:25 53:22 frequently 120:7 friday 8:10 28:10 front 17:18 29:18 92:2 139:25 142:8 full 39:12 58:12 59:11 60:4,6,10 61:7 62:9 98:8,12 98:13,16,18,21 fully 159:21,24 160:3,6 function 60:20 61:14 functionalities 63:8 functionality 63:1 114:12 functions 66:14 107:24 108:5 135:17 fundamental 88:6 136:3 funded 41:1 funding 40:25 further 38:4 47:21 64:12 67:11,21 72:25 120:4 122:6 146:14 160:10 161:7,14 162:10 165:12,16	67:5 100:15,16 117:17 generality 77:23 generally 20:9 53:3 145:24 149:16 generate 38:15 40:17,21 42:9 106:4,6,22 107:25 108:8 133:20 generated 30:19 33:23 34:21,25 36:13 37:13 38:12 47:4 97:12 106:15 113:9 115:9 132:22 133:8 136:18 158:12 generates 30:18 106:12 109:4 137:8 generating 30:22 32:16,18 37:20,21 106:16 109:10 137:19 156:7 generation 41:24 42:13 156:17 157:10 158:5 generator 34:22 getting 29:9 36:9 36:17 39:1 42:19 gist 109:22 give 11:17 16:22 27:12 28:11,13 29:4 40:17 41:12 48:17 50:1 58:11 72:24 87:9 110:22 given 39:19 48:1 77:23 96:25 98:2 107:17 114:13 120:2 151:7 160:18 162:23	165:11 gives 42:5 104:24 giving 34:15 glancing 43:20 go 6:11 7:23 9:19 11:6,24 13:14 14:24 15:11 16:20 19:2 23:20,22 24:5 27:7,13 32:5 43:21 47:9,16,17 48:4 49:6,7,11 52:18,19 64:15 65:15 68:14 70:11 71:24 72:7 76:18 82:6 90:10 91:24 92:6 95:7,14 110:13 111:10 115:18 120:4 125:20 129:3 130:2 137:14 138:17 139:23 142:2,4,7,23 144:10 145:14 147:23 151:22 154:15,17,20 155:7,7,19,19 160:14 162:20 goes 19:8 99:4 108:10 109:1 123:9 138:24 153:15 going 6:5 7:23 16:20,21 21:3 27:14 29:6 31:12 31:19 34:14 35:16 36:10,11,24 42:18 53:1 54:19 57:3 75:25 80:17 82:8 82:18 91:9,17 92:6 96:13 107:19 109:10 110:2,19
	g		
	gears 90:10 general 8:2 14:9 18:21 59:12 63:12		

<p>110:19,20,25 111:19,24 112:12 114:14,17 118:14 126:11 128:24 129:11,15 131:3 135:21 141:19 142:12 145:10 146:5,14,19 155:9 155:13,17 158:4 160:16 161:2 162:21 good 6:4 7:20 10:9 42:20 54:8 58:20 61:20 82:12 129:1 154:24 155:3,4 grab 49:15 gradual 61:17 62:21 gradually 61:23 62:7 great 7:19 8:5 12:25 13:9 14:11 29:19 42:9,22 43:8,22 53:18 68:10 92:12,18 93:2 96:3 129:9 130:15 ground 7:24 guess 13:5 37:9,18 112:5 116:5 126:20 133:3 135:9,21 136:13 140:4 guys 82:9</p>	<p>handle 58:7,25 60:22 63:1 handled 166:8 handles 65:21,24 67:16 handling 66:14 handy 75:20 happen 32:1,2 happened 63:8 happening 83:3 happy 54:4,7 70:11 111:11 155:1 hardware 58:3 headed 24:16 held 127:4 help 135:18 helpful 74:18,23 76:8 high 44:17 56:8 58:14 59:9 62:18 62:19,20 80:5 higher 62:19 highlighted 77:2 90:24 highlighting 140:1 140:5,17,20,21,23 140:24,25 141:1 highlights 140:8 140:10,15 history 91:3 hold 52:16 93:15 161:10 hopefully 65:16 82:14 hoping 28:10 host 89:17,20,23 90:3,6 hosting 89:25 hostname 109:3</p>	<p>hotaudio 131:17 131:22 132:3,11 132:25 133:6 134:19,22 135:2 135:12,16,19,22 136:1,16,23 137:1 hour 42:19,20 128:25 hours 8:23 housekeeping 11:25 142:11 href 112:22 huh 24:19 90:25 123:3 126:13 hulu 1:5 2:5 4:11 4:13 6:14 7:6 9:4 10:14 11:8 17:25 28:6 44:13 54:24 92:20 94:2 95:20 95:24 161:21 162:2,12 166:4 168:1 hulu's 10:24 11:18 hypothetical 121:3</p>	<p>identifier 85:4,16 85:20,25 86:1 identifies 32:24 84:2 153:16 identify 20:4 22:2 63:21 68:3,14 75:13 143:2 153:13 identifying 30:20 33:25 86:15 98:8 148:19 ignore 114:7,14 illustrate 98:21 illustrating 98:18 114:16 images 131:12,14 132:1 immediately 127:10 impact 57:18 58:8 58:22 71:16 75:6 75:9 implement 52:4 55:21 76:16 115:8 120:22 123:7 124:12 implementation 58:16 66:18 78:1 120:24 implemented 79:21 implementing 60:4,6 120:15 importance 120:6 120:10 important 119:25 120:15,21,24 121:6 impossible 77:22 improve 62:16,25 68:13</p>
<p>h</p>		<p>i</p>	
<p>h 168:3 half 42:19 74:5 128:25 hand 108:21 handful 158:24</p>		<p>idea 54:8 72:18 82:12 121:18 identical 18:10 21:21 142:15 143:20,20 identification 9:16 10:3 12:2,17 16:23 17:13 27:18 43:23 49:12 54:11 92:4 93:8 130:3 144:14 identified 21:23 21:24 26:1,25 53:4 84:9 112:1 143:8</p>	

[improved - job]

<p>improved 61:10 62:3 63:9,9 74:6 126:3 improvement 59:24 70:1 improvements 59:16,17,18 62:14 inadvertent 140:12 include 30:10,21 32:25 40:16 41:13 41:16,17 81:13,14 97:18,24 98:5,5 128:3 132:11 136:25 140:5 149:20,22,24 151:8 158:9 included 16:15 53:12 73:18 88:25 89:1 108:15 132:5 132:25 133:5 140:21 147:20 149:23,24 150:2 166:14 167:3 includes 64:8 98:21 123:25 134:16 136:17 including 39:20 41:23 48:21 70:19 96:18 98:4 99:2 124:1 134:3,12 inclusion 97:16 incorporated 23:15 124:16 125:4,11 157:12 incorporation 123:16 increments 131:11 131:15 indicated 18:7</p>	<p>indicates 24:11 39:25 indicating 124:2 indications 46:24 individual 46:6 85:21 86:1 individuals 117:8 117:25 industry 14:9 information 19:19 42:10 46:13 78:19 78:20 113:18 124:1 127:3,11,18 127:18 132:10 158:18 infrastructure 62:15 insert 156:9 inserted 35:15,19 36:3,12 37:23,25 38:11,14,18 39:10 inserting 40:5 42:16 insertion 121:23 instance 31:11 71:8 102:23 104:1 133:9 154:14 instances 26:2 integral 73:21 74:1 integrity 123:8 intended 105:17 114:24 intending 160:22 intensive 55:22 56:3 57:9,15,19 58:7 59:6 62:24 63:4 intent 114:7 interactive 44:22 77:10,20,24 78:2</p>	<p>78:10 interchangeably 153:19 interested 6:25 36:24 42:7 105:12 165:16 interference 6:8 interleaved 38:6 international 123:9 internet 30:12 33:12 47:9,12,15 50:4,6,8,21 51:5,6 59:13,19 60:1,6,8 60:10,13,18,21 61:9,10,24 86:14 89:17 117:20 internet's 59:20 interruptions 61:21 interval 124:6 introduce 9:6,20 9:25 11:24 12:15 27:15 54:5 92:7 141:19 144:10 introduced 9:21 12:4,19 16:25 17:15 27:21 43:25 49:14 54:2,13 69:15 92:8 93:10 130:5 invention 19:1,3,5 19:8,15,21 20:1,2 21:3 22:1,5,11 26:2 90:20 105:9 122:5 123:7 145:15,24 146:4,6 152:4,9,17 inventor 68:12 inventors 14:21 15:24 16:9 53:4</p>	<p>78:8,18 89:7 investigate 25:25 investigation 26:25 invoked 107:19 involved 61:1 66:22 ip 1:7 2:7 16:7 86:14 88:6 90:2,8 166:4 168:1 ipr 10:15 11:9 12:13,24 13:2 17:9,9 18:1 28:7,7 44:13 54:25 91:6 94:2,3 130:17 145:1 159:23 160:2,5 162:8 ipr2021-00265 1:10 2:10 4:12 6:17 ipr2021-00308 1:12 2:12 4:14 iprs 8:14 159:21 issue 162:7 issued 25:1 121:11 issues 57:12 65:17 65:19 125:23 item 102:7 items 27:1 31:3 32:21 33:17 iyer 3:11 7:8</p>
j			
<p>january 96:19 139:2,6,12 148:11 148:17,20 150:5 150:16 jazz 31:10,14 37:15 38:2,4 job 1:24 166:5 168:2</p>			

johnson 1:22 2:20 6:23 165:2,24 joint 78:3 jumps 87:12 junction 26:19 june 124:18 justified 59:8	53:13 54:4,14 59:23 65:24 67:15 70:7,9 77:23,24 78:4,12 79:21 80:11,15 86:8 91:5 92:9 93:11 95:17 99:6 100:6 100:17,21 101:17 103:2 105:17 110:19 114:16,21 121:19 122:6 125:17 126:14 127:18 130:6 133:4 134:6 140:4 141:9 142:9,13,22 143:5 144:11 151:20,20 knowing 110:22 113:16 knowledge 13:21 14:9,17 15:8,18 21:1 75:4 known 57:13 58:12 86:21 121:24 ksprenger 3:15	led 24:7 leet 3:17 6:21 legal 6:22,24 23:6 160:20 162:25 166:7 length 111:3 125:18 leslie 1:22 2:20 6:23 165:2,24 level 36:17 44:17 46:5 80:6 88:7 limit 89:8 limitation 134:13 137:19,22 limitations 148:10 149:3,7,13 150:4 150:13,17 limited 61:18 limiting 125:25 line 19:8,9 20:14 20:22,23 22:22 25:19 64:24 146:19 153:12 154:2 161:17,20 162:2,4,9 166:15 167:4 168:4,7,10 168:13,16,19 lines 19:6,9 20:7 20:21 34:10 35:12 64:19 145:17 146:9,15,23 link 70:13 71:4 97:8 107:24 124:11 links 28:22,22 30:10 31:2,21 32:24 33:3 34:4 35:18 38:17,21 128:14 list 32:20 33:19 41:13 81:12,19,20	81:25 91:10 95:7 95:9 139:1 listed 53:14 70:17 91:15 95:10 139:11,18 listen 35:22 36:21 little 8:6 33:6 34:11 36:25 37:6 39:2 54:19 63:25 65:5 70:21 89:19 90:10 96:11 107:12 108:10 120:18 121:22 128:9 129:1 134:5 146:14 157:19 llc 1:5,7 2:5,7 6:14 6:15 7:6 16:7 166:4,4 168:1,1 llc's 4:11,13 10:14 11:8 llp 3:11 7:8 location 84:23 158:19 locations 35:20 locked 166:12 167:1 lodge 94:7 logical 125:15 long 8:20 56:19 64:13 67:24 longer 32:7 look 13:15 23:22 29:13 70:11 73:3 88:13 91:9 118:14 126:25 127:1 135:1,10 149:21 151:22 152:10 looked 9:1,13 18:7 21:17 25:6 37:1 39:16 80:6 86:22 111:12,13 126:19
k			
keep 56:14 94:21 kevin 3:12 7:7 82:9 155:4 key 124:4,5,5 kilobytes 59:22 123:1 kind 11:25 18:13 23:14 26:10,11 28:12 30:22 32:16 32:19 36:7 40:7 40:20 45:10 48:1 57:2,3,9,17 58:3,6 58:19 59:23 61:6 62:13,15 63:6 65:17 70:14 71:3 71:11,15 72:17 75:5 100:2 107:2 121:2 122:23 126:19 128:6,8 136:8,25 147:5 158:19 kinds 51:6 79:2 know 7:24 9:23 10:5 11:18 12:5 12:15,20 17:1,16 19:5,21 26:3,8,10 26:14,23 27:3,22 28:9,16 30:21 32:1,3 33:2,14 36:8 37:6,11,14,15 37:16,21 38:2 40:6 41:4 42:3,18 44:1 49:15 51:3,6	lack 55:22 58:22 58:23 63:23 65:9 72:15,19 language 90:22 132:18 153:9 laptop 56:14 large 19:19 larger 59:16 largest 59:18 late 79:4,5 launched 58:11 laundry 41:13 lead 27:2 100:5		
l			

[looking - media]

looking 9:2 34:15 66:5,7 71:15 75:5 75:7 93:16 95:9 105:25 108:19,20 110:1 112:5,6,9 116:13,13,18 117:13 121:19 125:16,21 126:9 135:3,14,15 136:8 137:22 147:25 148:4 151:23,24 154:22 155:21 looks 19:6 20:13 53:1 144:2 lose 110:21 lost 58:19 82:5 lot 33:6 40:7 54:5 56:6 65:18 83:25 125:19 135:16 145:10 158:20 low 61:19 62:9 lunch 52:12	113:13,22,25 114:9,15,24 115:8 115:17,24 116:2,7 116:10,11,16,19 116:21,23 117:1,6 117:12,13 118:5 118:16 119:14,19 119:24 120:7,12 120:16,17,20,22 120:25 121:4,25 122:17,21 124:8,9 124:12,21 125:4 125:11,11,12,16 125:21,24 126:18 126:22 127:7,14 127:22 128:3,7,12 128:20 138:25 139:6,17 143:14 143:15,17 157:12 157:13,19,23 158:2 161:18,21 madison's 118:21 118:24 122:3,14 magnitude 59:23 main 51:11 maintain 123:8 maintaining 46:25 makeplaylist 106:21 107:24 108:4 109:3 makeplaylist.asp 106:11 107:18 making 27:16 71:3 85:22 86:13 118:18 156:8 manage 117:18 managed 29:10 management 63:14 108:6 manager 108:7	managing 63:15 64:8 96:17 99:1 manual 18:20 mark 16:20 43:21 49:11 93:3 107:20 113:4 130:2 141:11,12 142:2 marked 9:16 10:3 12:2,5,12,17 16:23 17:9,13,25 27:18 28:6 43:23 44:4 44:13 49:12 50:15 53:21 54:11,24 92:4,20,23 93:8 95:2,19,24 130:3 130:16 142:3 144:14,16 145:1 marking 9:22 marks 42:23 43:4 match 31:23 38:2 38:4 matched 33:20 matches 125:3 matching 31:1,3 33:17 158:14 material 15:14 20:24 26:1,23 30:21 materials 14:3,5 95:8 159:13 matter 6:14 14:10 15:19 23:18 matters 7:6 mean 21:22 31:9 34:12 38:1,14 39:18 47:21 64:1 64:4 70:10 72:14 72:14 90:15 94:19 100:18,19 106:5,7 119:16 128:10 133:7 135:9 136:2	139:15 141:16 156:13,15,20 158:6,8 meaning 134:12 means 23:2,7,10 64:7 97:12 98:5 meant 56:2 67:4 106:15 116:9 mechanism 67:9 68:6 73:19 74:2 76:17 99:8 100:3 127:5 128:18 mechanisms 68:8 media 6:12 17:5 17:21 20:8 28:22 28:23,23 29:22 30:1,4,10 31:2,4 31:20,21,24 32:21 33:12,20 34:4 35:14,19,20,22 36:2,11,21,24 37:3 37:22 38:6,7,20 39:10,11,12,12,17 39:20,22,24,25 40:6,7,8,11,12 41:5,6,9,14,15,16 41:19 42:24 43:5 44:25 45:3,6 48:2 48:14,22,23 50:8 51:11,15,16 53:14 54:22 55:20,21 56:2,5,10,15,21,25 57:7,8,9,14,19 58:15,25 59:7,9 61:18 62:8,18 63:4,7,22,23 67:8 68:17 69:5,16,16 69:21 70:19 71:21 72:2 73:19,21 75:9 76:10 77:8 77:13,16 78:16
m			
machine 165:8 madison 52:11,15 91:25 94:9 95:11 95:15,21,23 96:1,7 96:8,9,10,20 97:3 97:6,18 98:7,12,16 98:17,20,23 99:5,7 99:17,18,20,24 100:1 101:4,11,25 102:2,3,9,25 103:7 103:10,15,18,20 104:13,24 105:5,9 105:17,19,22 106:24 107:5 108:14 110:2,7 111:1,3,5 112:1,2 112:6,7,11,13,19 112:21 113:2,13			

81:15,20,21,25 82:20 84:3,4,19 85:5,11,17,19,24 87:11,19,22 88:12 88:14,17 96:18 98:9,9,12,13,17,18 98:21 99:3,6,8,12 99:20,25 100:2,6,8 100:10,13,20 101:5,13,21,22 102:7,13,17 103:12,16 104:4,5 104:11,15,22 105:15 109:11,16 112:25 114:2 117:8,18 118:23 127:16,24 128:13 128:14,17,22 129:13,17 131:10 131:16,22 132:10 137:5 138:4,5 145:22 146:2,8,10 146:16,20 147:1 147:10,12,15,21 153:12,17 155:11 155:15 156:18,23 157:2 158:15,23 160:19,24 161:4 162:24 mediaserver.co... 112:22 meet 31:14 134:13 135:23 megabits 59:21 member 45:21 memory 34:14 62:7 86:23 111:16 143:5 mention 34:7 100:4,7	mentioned 8:25 12:14 21:23 25:25 26:3 29:21 41:10 41:22 50:20 65:19 98:4 mentions 79:11 merely 127:9,10 132:23 133:25 messages 50:5 method 17:5,21 44:20 45:7 96:17 99:1 123:13 126:4 128:4 131:8 methods 145:21 146:1 michael 1:17 2:17 4:4,9,11,14,16,17 5:2 6:13 7:13 10:15 11:9 42:24 43:5 160:18 162:23 164:3,17 166:5 168:2 microphones 6:7 microsoft 114:22 mid 57:3,4,18 60:3 62:11,14 middle 88:23 122:23,25 mile 62:1,1 mind 18:15 43:20 71:9 76:25 80:25 83:10 87:12 123:18 141:4 minute 100:12 101:5 102:23 103:4 110:23 125:17 minutes 65:20 82:13 100:21,24 102:21 129:6 138:10 155:2	misheard 150:8 missed 138:15 150:12 misunderstood 150:8 mms 66:18,20 68:7 mobile 1:7,7 2:7,7 6:15 16:7,8 166:4 166:4 168:1,1 model 49:4 models 55:23 63:24 64:1 modem 60:25 61:3 62:4 modern 80:9,12 80:15 module 30:3 moment 31:12 37:1 80:16 monitor 131:13 monitoring 64:7 morning 3:17 6:4 motions 161:25 162:1 mountain 82:19 129:12,16 160:25 161:3 162:22 mouth 26:22 48:9 move 17:7 54:19 76:12 77:9,12 moved 59:15 movie 99:25 100:12,21,25 101:6 102:24 103:4,13,25 150:24 151:1 153:5 movies 30:11 101:6	moving 67:13 mra 77:7 78:15 multilevel 65:10 65:23 69:13 74:15 75:15 multiple 33:2 66:3 81:13 97:18 101:6 101:21 104:11,12 130:14 music 31:10,14,14 37:15 45:1,4 50:3 50:5,21,23 51:20 122:11 126:15 144:20 myers 3:4 n n 4:1 nail 52:12 name 6:21 48:17 66:7 85:2,3 89:17 89:20,24,24 90:6,7 107:14 112:24 165:20 nature 57:9,19 62:24 63:4 67:11 80:9 nearly 143:20 necessarily 58:10 58:21 59:17 78:3 156:22 necessary 108:8 127:19 166:14 167:3 need 10:9 16:18 28:10 53:22 54:6 126:3 135:1 negative 141:17 neither 165:16 net 85:8 88:24,25 89:1,3
---	--	---	---

network 30:3 41:18,19 51:15 56:6,8 58:13,15 59:12,12,19 60:4,7 60:7,11 61:7,8 62:15 65:9,22 66:8,21 69:12 77:9,13 79:1,11 89:4 90:21 138:6 145:23 networks 57:23 65:2,9 72:15 146:2 never 118:15 new 23:18 newport 3:6,7 noise 6:8 nonfinal 90:18 normally 89:23 notating 166:15 167:4 note 6:7 12:11,25 17:8,24 23:20 24:25 29:25 44:12 46:10 47:9 50:14 54:23 66:24 90:19 92:19 94:1,8 96:25 109:21 114:6 130:16 138:24 144:25 noted 13:1 20:25 25:14 94:12 128:6 163:2 notice 4:11,13 10:14,21 11:8,14 57:7 noting 122:10 notion 32:8 42:15 97:2 notions 65:9	nrp 66:7,22 84:3 85:2,3 number 4:10 5:3 23:21 40:15 41:18 47:12 90:12 92:25 112:23 113:5 121:8 124:25 125:3,4,9 128:12 160:19 162:24 166:15 167:4 numbers 124:15 132:12 140:6 numeral 147:23 o o'melveny 3:4 7:5 oath 7:14 165:7 object 30:6 161:20 162:9,18 objection 13:13,23 19:16 21:7 22:7 22:19 23:4 25:21 27:4 28:15 30:14 30:24 31:16 33:4 36:15 39:14 40:13 41:11 46:8 48:15 51:9,24 53:8 57:11,21 59:4 60:15 61:12 63:11 73:7 74:16 75:17 79:19 81:4 84:10 85:23 87:23 89:21 90:5 91:21 94:8 94:15,22 96:23 97:19 98:10 101:8 102:10 103:22 104:16 107:6 108:3 109:19 110:10 111:5 113:14 114:25 116:7 118:1,11 121:1,17 122:16	123:20 126:23 127:25 131:20 132:7 133:10 136:20 139:8 142:21 143:22 147:4,13 148:13 148:23 149:8 150:6 151:6,17 152:7 157:15 159:14,25 160:8 162:4 objections 161:15 162:13 observation 99:16 obviously 28:17 32:1,6 40:6 54:5 66:16 113:16 114:21 162:12 occupies 120:17 october 1:19 2:19 6:2,5 8:18 111:12 145:8 166:3 offer 16:14 offhand 87:24 office 1:1 2:1 6:16 90:18 166:11 offsetting 48:4 oh 93:15 123:25 124:23 125:1 131:4 135:8 okay 8:4,5 9:18,21 9:25 10:11,13 12:4,8,19,22 13:9 14:25 16:17,25 17:15,19 18:4,12 18:24 19:4,12 20:5 21:2 22:13 22:15 23:20 24:14 24:25 25:12 27:7 27:9,12,20,24 28:9 29:4,10,25 30:9	35:11 36:7 42:21 43:14,25 44:4 48:19,24 49:6,10 49:14,17 52:9,21 55:3,8,17 58:17 64:12 65:15 67:13 67:25 68:25 73:1 74:5 76:18 77:3 80:17,19 82:16 83:13,21 84:16 85:1,19 89:22 90:2,15,17 91:24 92:6,8,10,12,18 93:10,13,23 94:12 94:25 95:14,23 96:3,10,13 101:1 101:19 102:8,19 102:21 103:11,19 104:9 107:11 109:2,15 110:14 112:19 115:24 116:12,22 117:15 118:14 119:22 121:22 122:20 123:15 124:7 128:24 129:3,25 130:15 135:14 138:10,18,22 139:5,21 140:9,16 141:7,21,24 143:2 143:12 144:5,8 145:15 146:5,19 147:25 148:3 149:17 150:20 152:15 153:3 154:17 155:17,22 156:6 157:25 158:24 160:14 161:6 162:12,19 omm.com 3:9 166:2
--	--	---	---

[once - parties]

<p>once 52:12 92:13 115:7,12 119:14 127:24 143:19 ones 18:7 42:8 51:7 149:10,23 online 144:20 145:21,25 146:1 open 10:10,12 12:21 17:1,2 27:16,23 29:11,18 44:3 54:15 92:13 93:11,12 95:1,5 110:20 144:11 153:25 opened 49:18 144:13 opening 92:11 operate 113:12 operated 114:24 operation 68:13 74:7 operational 54:21 78:23 opining 148:9 opinion 18:18 67:21 72:24 73:4 73:10,12 105:3,17 120:2 128:7 139:17 150:3,15 150:18 151:7,12 151:15,19,20,22 opinions 10:24 11:17 13:11,19 14:6,17 15:4,16 16:14 155:23 159:17,20,23 160:5 opportunity 161:15 opposed 68:18 98:9 119:13</p>	<p>optimization 66:8 option 105:7 options 105:2,4,5 105:6 order 50:10,20 59:23 74:9 84:4 85:9,10 orders 97:15 ordinary 70:10 75:8 76:7 115:10 115:14 org 89:6 orient 52:25 130:8 oriented 128:21 154:21 original 165:13 166:10,21 originated 148:15 outcome 7:1 outside 152:16 162:7 overcome 62:23 68:11 overview 50:1 owner 1:8 2:8 3:10 16:6 41:15 81:8 126:17,21 141:8 141:10,15 153:13</p>	<p>106:11 107:19 108:20,22 109:1 110:17 138:24,24 139:1,11 147:24 166:15 167:4 168:4,7,10,13,16 168:19 pages 1:25 128:14 128:15 166:14,17 166:17 167:3,6,6 paragraph 19:6 20:7,12,13,20,22 27:10 29:2,15,20 29:23 34:6,7 35:16 36:5 43:18 44:20 45:17 46:16 47:10 49:9 52:20 55:17 63:18 64:12 68:11,23 69:11 70:17,22 76:18,20 77:1,2 80:17 83:14,24 84:5 90:11,13,16,17 91:10,12,17 92:1 96:16 97:14,23 98:1 101:12 102:12 105:23,25 106:1,5,9 107:3,4 107:5,8,11,11 108:2,13,19 109:1 109:9,14 110:2,24 111:14,15 112:11 112:13 113:1,19 114:1 115:18,20 115:21 116:15 117:13 118:13,20 119:10,19,20,22 122:9,20,24 125:20,21 126:12 126:25 130:10 131:4,5 132:9,15</p>	<p>132:19,20 136:6 136:10 138:17,20 138:21 140:5,16 140:18 142:7,12 143:13 144:9 147:22 148:1,2 150:20,22 153:4 154:1,4,15,19,20 155:18 156:6 157:9,24 paragraphs 19:21 22:4 34:5 80:20 109:7 126:6 136:9 139:23 140:2 148:5 156:3 parenthetical 122:25 123:5 part 35:10 40:1,3 56:24 69:21,22 73:18 74:1 84:24 86:2,22 89:14 90:24 94:19 98:9 100:18 113:3 127:19 131:18 132:11 133:16 134:18 147:19 partial 41:13 participants 6:20 particular 11:19 30:25 33:15 53:13 57:14,20,22 61:25 67:7,8 70:8 86:18 86:23 90:3 94:9 99:13,13 119:2 148:9 156:16 particularly 41:4 59:19 77:6 115:7 119:25 120:21 121:6 145:25 parties 6:11 47:5 47:23</p>
	<p>p</p>		
	<p>p.m. 2:19 82:19 129:12,16 155:10 155:14 160:17,25 161:3 162:22 163:2 packets 56:8 page 4:10 5:3 15:12 24:12,14,17 29:17 45:19,25 82:2 83:8,11 84:8 90:15 92:24 102:20 105:23</p>		

[parts - point]

<p>parts 68:15 69:17 152:25</p> <p>party 6:24 30:20 31:13 165:18</p> <p>passed 28:23 109:11 113:4,18</p> <p>passing 107:21 113:17</p> <p>patent 1:1,3,8,11 1:13 2:1,3,8,11,13 3:10 4:12,15,16,18 4:19,20,21,22,23 4:24 5:4,5,7,8 6:16,16,17 9:4,9,9 10:16,25 11:3,3,10 11:19,22,22 12:10 12:14,24 13:3,12 14:19,22 15:5,21 15:24 16:3,3,6 17:4,6,20,22,25 18:10,24,25 19:5,7 21:1,6,6 22:14,16 23:2,11,12,23 24:7 24:25 25:1,6,8,14 25:15,18,18 27:25 28:3,3,5,17 39:16 40:2 44:3,8,10,18 47:22 49:8,20,21 49:24 50:2,15 53:15,20 54:18 55:4,5,20 64:3,14 64:17,19,24 65:21 65:24 66:13,25 67:16 70:4,15,15 70:19,23 71:3 75:11,13,19 81:3 92:15 93:14 104:4 111:7 121:20 128:11 130:1,12 132:18 134:23 135:13 137:3</p>	<p>138:5,12 141:8,10 141:15 144:19 145:2 148:8,10,21 149:4 150:14,23 151:3,10 152:4,12 152:16,17,25 153:5,18,22,25 154:6,6 156:16,25 158:11 160:2,6 161:19,22</p> <p>patents 9:3,8,11 9:13 16:21 18:6 18:13,14,18 21:22 25:5 27:3 121:9 121:11,14 144:2 151:4,10,23</p> <p>path 66:8,21 79:1 83:22</p> <p>pay 41:14 47:12 49:1 58:24</p> <p>pct 124:14,15,17 124:25 125:2,8</p> <p>pdf 27:16 166:12 167:1</p> <p>penalty 164:1,4 166:16 167:5</p> <p>pending 123:9</p> <p>people 88:1 99:10 116:4</p> <p>percent 38:13</p> <p>perfect 64:5 86:4 124:7 129:10 155:7</p> <p>performed 156:17</p> <p>period 59:25 69:24 71:20 74:25 88:20 100:17 166:18 167:7</p> <p>perjury 164:1,4 166:17 167:6</p>	<p>person 47:25 48:13,24 52:3 71:14 75:4 97:9 114:20 115:10,14 121:16,24 122:2</p> <p>personalized 34:9 34:13,23</p> <p>pertaining 8:14 21:15</p> <p>pertains 165:12</p> <p>pertinent 149:25</p> <p>petition 10:24 11:18 28:7,7 161:22,23,24</p> <p>petitioner 1:5 2:5 2:17 3:3 4:11,13 6:14 7:5 10:14 11:8</p> <p>phrase 90:20</p> <p>pick 6:7 141:25</p> <p>picture 128:19</p> <p>piece 85:21 86:1 88:22 104:22 105:11,15,16 107:12</p> <p>place 6:10 102:8 118:22 152:5 164:7 165:5</p> <p>placed 101:13 102:13 153:17 157:1 158:16</p> <p>places 117:22 146:7</p> <p>plan 94:17 159:8 159:10,12</p> <p>platform 127:15</p> <p>play 28:24,24 81:18,25 83:22,25 84:17 106:22 114:7,10,10,18 134:23 135:13</p>	<p>136:4</p> <p>playback 30:4 31:4 156:23 157:3</p> <p>played 156:10,14</p> <p>player 28:23 38:20 109:11 114:2</p> <p>players 88:16</p> <p>playing 10:7</p> <p>playlist 30:3,9,19 30:19,21,22 31:4 31:15 32:22,25 33:1,2,18,19,23 34:4,13,21,22,25 35:15,22 36:3,10 36:12,13,21 37:17 37:21,23 38:1,11 38:11,14,15,16,21 38:22 39:1,5,20 96:25 97:2,6,9,11 97:12,13,16,17 98:3 106:2,3,4,6,9 106:13,15,20,22 107:1,14,15 108:1 108:5,9,15 133:7 137:24 138:3</p> <p>playlists 33:25 34:8,20,23 35:19 37:13 96:20 97:24</p> <p>playlistserver.co... 107:16</p> <p>please 6:7 7:2,10 43:6 54:4 82:20 95:1,7 115:22 129:18 132:15 144:17 153:23 155:15 161:4</p> <p>plugs 58:17</p> <p>point 9:19 18:14 18:17 19:25 21:12 21:19 27:1 37:8 37:14 38:24 39:5</p>
---	---	--	--

40:11 48:7 59:10 60:13 61:8 70:3,7 75:21 84:2,8 98:17,20 100:14 102:8 105:20,21 106:20 108:17 137:12 141:25 149:15,15 154:6,8 157:22 159:5,9 pointed 19:18 20:6 102:11 116:15 pointing 125:6 populate 81:9 portion 73:19,21 73:23,23 74:4,20 76:10,13 89:15 91:24 151:3,16 153:13,21 154:12 portions 69:17 71:22 74:19 75:10 154:7 possible 41:5 88:17 100:23 potentially 35:6 56:7,10 66:20 pre 30:19 predetermined 131:15 preference 35:5 preferences 34:25 37:5 124:2 prefix 109:2 preformed 33:25 preparation 8:7 21:17 55:13 prepare 8:9,11 prepared 11:17 preparing 8:21 present 3:16 13:20 15:6 56:16 62:16 73:10 74:10 80:3	123:7 presentation 74:10 80:24 81:2 81:11,20 82:1 84:4 85:14,16,22 86:2 131:9,16 pretty 141:21 143:23 prevent 73:16 preventing 64:10 prevention 65:13 65:14 67:19 68:1 69:3,4 73:2,14,22 previous 52:13 56:18 69:10 99:16 111:4 previously 8:9 51:7 71:18 primary 19:13 66:5 131:23 prior 9:4 43:15 76:1 90:20 165:6 priority 16:4,9 55:5 138:25 139:7 139:10,17 148:7 private 59:12 60:7 61:6,7 probably 26:9 62:22 64:16 66:4 66:22 68:3 69:6 149:14 157:17 problem 10:8 13:17 27:14 29:8 57:8 70:14 71:13 71:22 72:10,19 75:25 76:4 110:16 problems 52:24 53:4 68:12,25 69:4 70:17 72:3 74:8,14 75:16 76:1	procedure 166:19 166:20 proceeding 18:1 44:13 50:16 94:2 94:4 162:8 proceedings 54:25 92:21 165:4,6,8,14 proceeds 8:3 process 31:23 46:1 46:3 68:19 74:9 74:13 75:15 76:5 107:2 157:3 processor 66:7 processors 62:6 profile 35:5 45:22 46:7 profiles 35:1 37:5 44:24 profit 52:1,5 program 34:7,12 34:19,21 50:12,21 50:23 68:17 74:19 80:23 81:1,7,12,16 81:21 97:12 106:10,11,12,12 106:21 107:24 108:4 138:6 153:13,14,15 programmed 50:3 programs 81:10 81:13,13,14,15 prohibit 103:7,9 103:21 104:14 proper 55:23 63:24 151:21 properly 122:8 prosecution 91:2 91:19 protocol 86:10,17 86:18,20,24 87:2,3 87:6,10,13,17 88:4	88:5,8 107:12 protocols 87:4,7 87:21 88:15,18,18 provide 50:7,10,21 51:14 66:4 71:2 90:7 102:22 108:10 provided 34:8,12 34:20 51:20 140:10,14,23 166:19 167:8 provider 45:8,9,15 45:21 46:12,14,17 46:19,22 47:9,12 47:15,18 48:17,20 49:5 51:4,12,12,13 103:2,7,11 providers 42:1 48:22 116:3,4 117:3 provides 45:15 109:15 150:16 152:5,19 providing 38:5 48:2 127:11 provisional 4:24 53:2,23,25 54:17 55:4,9 64:3 76:22 77:6 78:7 79:9,10 80:22 83:16 139:1 139:11,18 provisional's 79:15 provisioned 134:10 public 60:17,20 145:22 146:2 publication 5:4,6 92:16,16 93:15 publish 97:9,10 100:3,22,24 101:2
---	---	--	---

[published - reference]

<p>published 100:6 100:11,19 publishing 97:1 98:3 99:6 100:8 100:20 pull 18:12 37:16 95:16 142:4 pulled 53:2 95:12 purchase 40:25 purchased 59:8 pure 101:24 purposes 41:23 pursuant 10:21 put 26:22 41:10 48:9 84:23 85:10 85:15,20</p>	<p>158:25 160:11 161:8,14 162:11 quick 119:7 142:11 quickly 65:16 141:11 quicktime 88:14 quicktime's 88:10 quite 19:18,21 21:14 28:17 42:19 56:19 58:1 61:21 86:21 101:11 115:13 158:9,20 quote 64:13,25 76:22 77:1,5,12 78:6 80:21 quotes 53:2 quoting 55:19</p>	<p>76:25 78:6 104:3 105:18 114:16 121:4 122:7 123:18 124:19 126:2 128:11 166:23 167:9 ready 162:20 real 120:16,23 162:20 really 26:6 35:3 39:16 60:24 67:18 80:11 114:13 121:18 141:11 142:22 realtime 55:20,21 56:2,5,16,16 57:8 57:9 63:22,23 86:10,16,20 87:2,6 87:13 reask 35:25 reason 29:5 39:18 40:4 73:6,8 74:23 100:9 139:5 140:20 149:6 168:6,9,12,15,18 168:21 reasons 40:15 74:18 recall 25:5 56:18 86:9 87:21 88:11 111:2,12,13,22 118:24 121:12 140:23 141:5,14 141:16 145:6 recalling 88:19 received 156:22 receives 38:20 156:18 157:2 recess 43:2 82:17 129:14 155:12 161:1</p>	<p>recognize 54:20 68:4 115:7,11 recognized 115:12 recognizes 79:10 recollection 87:19 143:19 144:3 record 6:5,11 7:3 11:7 13:1 17:8,24 19:12 43:1,4 44:12 46:25 48:11 50:14 54:23 65:5 82:10,14,19 92:19 94:1,8 123:5,19 125:7 129:12,16 144:25 155:8,10 155:14 160:15,17 161:3,16 162:14 162:16,20,22 165:7,10 recorded 6:12 recording 6:10 recover 67:9 rectify 115:15 red 89:15 redirected 45:14 redirector 97:13 106:4,7,13,22 107:1 108:1,9 109:10,16 115:9 refer 11:2,21 13:6 15:1 28:2 44:9 49:23 53:10 54:4 55:8 95:21,25 96:13 97:23 98:13 116:10 130:20 144:22 148:16 reference 27:11 28:10,14 34:15,18 35:13 36:2 37:1 37:18 43:19 52:11 52:15 53:12,22</p>
q	r		
<p>quality 55:24 58:8 58:13,21 59:9 61:19,19 62:9,10 63:24 question 26:8 35:24 37:10 39:2 40:15,21 64:6 70:21 72:21 77:23 78:12 94:17 100:15,16 107:20 111:11 112:5 113:4 116:20 121:3,19 122:8 133:3 135:4,5,7,11 139:13,15,22 141:13 147:6 150:8,9 151:23 152:13 154:24 questioning 161:18,20 162:2,5 162:9 questions 28:11 115:16 130:1 138:11 142:18</p>	<p>r 168:3,3 r&d 1:7 2:7 6:15 16:7 166:4 168:1 r&s 167:1,9 rapid 56:7 rate 132:4,4,22,23 132:24,24 133:5,5 133:9,21,21 134:3 134:11,12,15 136:17,19 137:6,7 137:7,12 138:3,4 rates 62:20 132:11 read 26:7 35:16 65:4 67:1 68:23 77:4 84:20 98:23 102:3 115:21,23 123:4,10 128:20 153:18 154:11 164:4 readily 16:18 reading 35:23 39:24 47:25 48:25</p>		

[reference - result]

<p>54:9 64:18 70:24 71:3 75:20,22 84:1 91:25 93:23 94:9 95:11 96:1 96:12 98:25 102:15 107:14,18 110:3,7,21 111:3,6 112:22 114:4 116:19 118:17,21 119:2,11 122:3 123:11,16 124:16 125:17,18 130:1 130:10,21,23 131:2 138:25 142:10 143:16 144:9,10,23 145:1 145:3,7,11,16 147:2,11 161:19 161:21 referenced 23:21 90:25 112:2 119:14,17,18 125:4 166:6 references 38:6,7 95:16 119:21 143:7,11,25 144:1 referred 53:20,24 59:11,25 89:17 116:10 138:8 146:11,16 referring 31:11 37:12 39:12 51:1 56:4 70:14 78:21 96:10 108:18 117:25 118:9,16 133:12 147:1,2,11 153:8,9 156:8 158:2 refers 89:24 92:25 106:10 137:17 143:14 147:1</p>	<p>refine 156:15 reflect 13:19 14:4 15:14 reflects 81:25 refresh 34:14 111:16 refreshing 32:19 regarding 10:24 11:18 12:14 13:11 15:5 30:5 91:3 93:5 96:9 142:19 159:20,23 160:5 regards 12:10 register 46:11 relate 22:10 related 6:24 22:17 24:1,16 68:12 73:23 124:1 145:20 158:12 relates 145:24 relating 12:23 160:2 relation 33:14 relationship 52:14 relative 165:17 relatively 65:16 120:18 released 166:21 relevant 149:10,13 relied 14:5,8 15:15 95:8 161:21 relies 162:2 rely 14:13,15 15:18 119:24 120:20 136:11 relying 114:21 136:14 remember 6:9 8:25 9:2 57:4 remotely 6:21</p>	<p>removed 27:2 render 73:4 repeat 28:11 99:15 147:6 rephrase 72:20 99:19 120:19 replaced 84:18 reply 94:10 162:3 report 13:7 15:2 96:14 97:14 105:24 116:14 118:8,19 131:4 138:17,18 148:6 151:8,8 154:16 155:18 reported 1:22 reporter 2:20 6:23 7:10 82:4 165:3 reporter's 165:1 represent 140:9 representing 7:5,8 84:12,18 represents 85:25 105:11 request 29:25 30:23 33:15,24 35:8 37:24 38:25 39:6 45:12 76:11 76:12 86:13,17 106:14 156:18,21 157:2 158:22 requested 37:3 45:1,4 68:16 69:5 69:21 70:19 71:21 72:2 74:20 81:16 81:16 84:3 85:11 85:17 106:18 137:5 138:4 165:15 167:1,9,10 requesting 99:6</p>	<p>required 58:2 71:20 requirements 58:7 135:23 requires 57:14 84:19 rereading 118:2 reroute 66:20 research 67:21 reservation 68:7 73:18,20,25 74:1,3 84:3,23,25 reserve 161:25 162:17 resolution 62:20 resolved 82:15 90:7 resource 55:22 56:3,6 57:9,15,19 59:6 61:8 62:24 63:4 64:9 65:10 65:23 66:6 69:1 69:13 70:2,5,14 71:5,14,19 74:15 74:24 75:15 86:14 86:14,16 resources 58:7,22 58:24,25 59:7 60:22 62:25,25 63:3,8,14 69:20,20 69:23 71:19 78:25 114:22,22 respect 16:2 160:1 response 11:14 45:9 90:18 141:8 141:10,15 restate 116:20 161:13 restricts 98:8 result 32:9 46:12 56:5 63:9 128:16</p>
--	---	---	--

[result - see]

159:17 results 32:7 33:10 33:13 35:6 retained 160:20 162:25 retrieve 108:8 128:16 return 30:3 37:21 166:17 167:6 returned 30:9 31:4 32:22 34:4 36:14 38:16 81:19 returning 30:19 revenue 21:16 40:17,21 41:24 42:11,13,16 47:4,8 47:16 48:3,21 49:1,4 51:21 revenues 41:2 review 8:16 16:12 21:22 22:2 55:13 141:7 159:12 165:14 166:8,10 166:13 167:2 reviewed 8:13 49:21 55:11 93:5 130:23 145:3 rewrite 114:23 right 9:5 11:5 28:8 33:24 34:16 38:23 41:25 47:10 55:1 57:4,4 64:20 71:7 71:10 72:20 75:22 82:10 83:11 88:23 89:14 92:22 93:19 94:5 95:9 98:23 101:19 102:1 108:2,18,21,22 109:17 119:9 123:4 125:12 130:5,18 135:3	139:22 141:2 142:6 143:17 150:19 154:18 157:17 161:25 162:18 rights 100:22 103:3 rolled 23:15 roman 147:23 rough 8:16 roughly 20:7 routing 17:5,21 54:22 66:7 77:16 78:16 rpr 1:23 165:25 rtcp 83:19 86:7,8 86:11 87:15,16,20 rtp 86:25 87:1,3 87:18 rtsms 66:5,22 68:3 156:18,18 157:2 rtsp 87:12,14,18 87:20 rule 134:14 137:11 rules 7:24 132:22 133:8,14,18,19 134:9 136:18 137:4 138:6,6,7,7 158:15,15 167:8 runs 45:20	153:20 says 22:22 38:14 39:9 45:19 54:20 77:7,12 84:14 85:9,13,24 89:15 98:25 109:13 122:25 137:23 139:4 scenario 37:19 scenarios 102:2 schedule 166:10 scope 94:9,11,23 110:8 111:6 116:8 123:6 161:23 162:8 scratch 32:17 screen 58:19 script 45:21 81:19 81:25 83:22,25 84:17 134:23 135:13 136:4 search 29:22 30:1 30:1,2,18,22 31:1 31:2,9,10,18,22,24 32:11,23 33:15,15 33:16,20,24 34:2 35:8 36:9 37:14 37:20,24 39:6 119:7 152:23 searched 47:22 searches 32:9,9 33:11 searching 28:21 30:12 31:13 32:6 sec 124:4,6 second 16:22 27:12 29:4 52:25 58:20 59:21 71:11 74:5 91:12 93:15 135:10 136:8 138:13 153:23	161:10 162:4,14 secondary 131:25 section 14:2,3,4 15:11 19:20 20:15 21:3,4 22:1,5,17 24:1,11,15,16 29:13,16,17 43:18 43:20 49:7 52:19 52:23 70:8 95:7 103:4 106:25 142:14 143:3,20 144:6 145:16 147:23 148:4,6 149:2 150:14 152:4 155:22 156:2 158:3 162:7 sections 18:25 20:25 22:10,10 53:11 secure 124:3 144:20 security 122:15,18 123:7 124:1,3,10 124:13 see 7:20 9:5 13:18 19:4 22:16,17,22 24:3,6,10,15,20 25:3,8,10 26:25 29:23 38:24 39:17 45:18 47:23 52:9 54:7 64:25 83:17 84:5 90:23 91:7 92:23 95:10 98:1 100:9,10 102:4 109:5 111:16 112:7 116:19 119:7,8,8,21,24 120:1,11,20 122:24 123:2 124:17,20,24 125:3,23 127:8
	s		
	s 168:3 saved 32:11 saving 33:10 saying 31:8 33:23 34:19 59:3 72:14 72:15 75:18 76:24 113:25 115:1 118:17 119:5,11 119:13 120:14,17 133:25 135:24		

<p>128:20 132:14 133:2 135:2,15,18 139:21 140:1 143:12 145:18 149:23 154:1 155:22 156:2,4,11 157:4,7 162:17 seen 8:19 10:17 11:11 17:22 44:5 93:23 141:10 segment 68:17,17 69:5,5 70:5,5,20 70:20 71:4,4,13,13 71:16,16 72:3,3,9 72:9,22,22 73:1,1 73:13,13,24,24 150:25 151:2,16 152:6,20,23,24 153:19 154:12 162:6 segments 68:20 69:18 71:22 74:9 74:14 75:10 76:6 150:25 152:11 153:6,6 selected 44:24 158:22 selection 44:25 45:4 46:13 selects 45:22 97:15 106:19 sends 33:1 sense 18:21 23:1 114:14 134:7 136:22 153:1 157:7 sent 45:23 132:21 sentence 32:2 45:19 65:1,4 77:7 108:21,24 117:16 123:5,17 138:23</p>	<p>156:14 157:23 sentences 136:15 separate 78:4 sequence 114:19 132:5,23,24 133:5 133:21 137:7 138:4 sequencing 153:16 server 30:3 56:9 68:19 84:2,9,12,13 84:14,17,19,25 85:4 86:19 89:11 89:22,24,25 101:13 102:13 106:3,11 107:14 107:15,17,19 108:5 112:24 servers 20:16 30:12 58:15 61:23 serves 143:6 service 40:18,22 48:16,20 49:5 50:10 51:4,6,13,14 51:25 55:24 57:23 58:12,12 59:11,14 60:4,6,10 61:8 63:24 65:13 67:19 69:3 73:2 89:25 90:7 services 20:8 53:14 serving 84:3 sessions 59:21 87:18 set 11:5 56:13 58:16 96:4,7 141:23 165:5 setting 21:2 26:21 32:14 61:6 136:6 settlement 21:16</p>	<p>share 9:12 103:17 104:6 127:16 128:14 shared 18:6 104:8 118:15 shares 49:4 sharing 21:16 48:21 99:8 105:10 127:14 128:7,8,22 sheet 4:24 shift 90:10 shifted 26:13 short 42:20 100:18 101:20 129:4 154:24 shortage 58:6 shortcomings 60:5 shorter 69:24 71:20 74:24 100:17 112:20 shorthand 2:20 165:2,8 show 26:18 104:19 showed 118:17 shown 84:1 107:5 shows 102:9 side 21:9,9 56:10 56:11 149:17 151:24,24,24,24 sign 127:9 166:16 167:5 signature 165:23 166:21,23,23 167:9 signed 141:6 significance 141:5 significant 21:25 59:24 112:7 similar 62:10 65:18 91:18 95:18 142:14 153:9</p>	<p>154:3 similarly 162:9 simple 42:10 simply 63:2 107:12 151:25 157:11 single 68:15 99:21 99:25 101:19,21 101:22 103:5 104:11,12,18,20 105:14,15,16 singular 119:2,5 119:11 sir 11:11 sites 30:20 31:13 33:12 sito 1:7,7 2:7,7 6:14 7:8 16:7,7 140:10 162:15 166:4,4 168:1,1 sito's 13:2 141:7 141:10,15 sitting 71:7,9 73:5 75:12 151:14 152:22 159:12 six 162:25 skill 47:25 48:13 48:24 52:3 70:10 71:15 75:5,8 76:8 114:20 115:10,14 121:16,24 122:2 skip 42:5,8 52:17 76:12 skipping 118:20 122:23 slash 84:13,14 85:8,13 89:16,16 smaller 69:22 71:20,23 74:24 snip 83:15,17 89:14 91:1</p>
--	---	--	--

[software - state]

software 58:2 solution 61:11 68:15 70:13 72:13 72:17 79:25 solutions 6:22,24 70:18 160:20 163:1 166:7 solve 72:3,9 74:14 solved 69:4 74:7 76:4 solving 71:13 75:15 somebody 28:19 70:9 75:8 76:7 100:2 song 39:13,19 40:1 40:3 99:14,21,22 104:20 105:15 songs 30:11 38:2,4 38:6 39:21 104:12 104:20 sophisticated 65:12 67:14,16 72:8,10,12,23 157:11 158:5,7 sophistication 158:10,11 sorry 32:1 36:11 58:17 64:23 70:21 94:10,14 98:19 106:18 127:9 135:8 138:13 146:22,23 153:6 154:15 159:21 160:21 161:10 sort 61:3 sorts 31:20 sought 68:12 sound 18:2 55:1 92:22 94:5 130:18	sounds 32:17 58:23 60:4 63:5 82:11 128:20 129:9 140:11 142:6 155:3 sources 130:14 131:12 space 40:8,8 120:18 sparse 120:25 speak 6:9 43:11 129:22 speaking 70:9 76:7 specific 33:23 48:5 53:13 70:24 71:2 77:22 85:21 88:8 100:14 121:20,20 127:18 134:1 149:7 151:23 152:10 154:14 specifically 9:8 47:11 50:6 51:4 66:24 73:24 78:13 86:22 98:2 133:13 135:19 specification 9:12 9:15 18:6 20:20 47:23 67:23,24 75:11 102:6 119:3 121:5 135:16 138:5 150:23 152:5,18,25 153:4 153:7,10,20 156:16,25 157:6 158:21 specifications 18:9 80:7 143:9 specificity 36:18 specified 35:1 47:20 137:20	specifies 134:14 137:12 specify 101:7,16 103:1 132:22 133:21 136:18 specifying 132:4 137:6 speculation 101:24 speed 62:2 spend 125:19 145:10 spent 8:21 56:19 spoke 7:25 spoofing 65:12 67:14,16 69:2 72:8,11,13,16,17 72:18,23 spot 122:24 sprenger 3:12 7:7 7:7 13:13,23 19:16 21:7 22:7 22:19 23:4 25:21 27:4 28:15 30:6 30:14,24 31:16 33:4 36:15 39:14 40:13 41:11 46:8 48:15 51:9,24 53:8 57:11,21 59:4 60:15 61:12 63:11 73:7 74:16 75:17 79:19 81:4 84:10 85:23 87:23 89:21 90:5 91:21 94:7,17 96:23 97:19 98:10 101:8 102:10 103:22 104:16 107:6 108:3 109:19 111:5 113:14 114:25 116:7	118:1,11 121:1,17 122:16 123:20 126:23 127:25 129:5 131:20 132:7 133:10 136:20 139:8 142:21 143:22 147:4,13 148:13 148:23 149:8 150:6 151:6,17 152:7 157:15 159:14,25 160:8 160:14,21 161:6 161:13 162:19 spring 71:9 springs 1:18 2:18 6:1 stand 151:21 standard 89:17 stands 86:9 start 10:13 27:10 32:5 86:24 112:19 127:10 142:13 157:3 started 57:6 61:2 starting 19:1 20:21,22 43:18 57:2 64:24 77:5 98:24 108:25 123:23 130:10 148:2 153:11 154:2 starts 20:8,15 29:17 49:9 83:18 91:25 104:23 108:22 138:23 144:9 state 7:2 55:19,23 63:23 64:1,7,8 65:19 78:17,19,20 78:22 161:15
---	---	---	--

<p>164:11 165:3 166:9,12 stated 71:18 75:19 75:21 162:14,16 stateless 78:15 79:17 80:9 statement 76:20 135:21 states 1:1 2:1 4:19 4:20,21,22,23 5:4 5:5,7,8 6:15 17:4 17:20 27:25 49:20 50:7 92:15 93:14 117:16 130:12 144:19 step 61:14 69:6 stepping 41:3 steps 24:6 38:25 stipulation 166:20 stitched 101:21 104:11 storage 41:16 48:22 stored 46:24 106:2 109:11 straight 97:8 straightforward 69:23 115:13 stream 41:19 56:8 56:15 62:18 67:8 68:7 76:9 84:12 84:18 85:6,9 87:19 97:15,24 98:6,8,13 109:3,4 112:23 114:5,8,8,8 114:10,11,11,18 114:18,18 122:11 126:15 127:24 stream1.asf 114:5 streamed 73:21 81:10</p>	<p>streaming 20:8,16 35:14,18 36:2,11 37:22 40:6,8,11,12 41:5,6,9 48:22 52:24 53:14 55:20 56:5,9,25 57:7,8 57:10,13,19,20 58:8,9,25 59:7,9 59:13,20 60:9,12 60:22 61:7,9,10,18 61:21 62:8,11,24 63:4,7,9,22 65:2,8 68:13,19,19 69:16 70:5 71:4,13,16 72:15,22 74:4,7,9 74:13 75:14 76:5 77:8,13 85:5 86:24 87:11,13,22 88:9,18 96:18 99:2 101:13 102:13 117:8,18 125:25 130:13 153:12,14 streams 131:23 strike 96:6 159:22 162:1 string 84:25 86:15 89:7 107:21 113:6 113:7 studied 66:25 67:1 67:18 72:6 study 72:25 80:15 stuff 32:16 style 77:9,14,18,20 78:7 subdividing 99:17 subject 14:10 15:19 91:5 submitted 16:8 subscribe 99:10 127:2</p>	<p>subscribed 127:2 165:20 subscriber 50:9 51:16 62:2 127:3 127:4,20 subscribers 50:6 50:22 51:20 122:11 126:15 127:19,23 substance 83:4 subtle 78:4 sufficient 55:23 59:7 60:21 63:23 65:9 134:4 suggest 155:24 suggesting 78:9 109:22 suite 3:13 summaries 19:14 summarize 19:13 19:18,22 28:18 summarizes 46:3 summary 19:1,2,4 19:7,20,25 20:2 21:2,25 22:5,11 26:2 76:21 152:3 152:8,17 153:2 summation 59:2 68:21 supplement 159:4 159:8,10 support 59:7,20 148:20 150:4,17 152:6,19 162:5 supported 40:25 41:6 sure 8:1 13:18 21:20 26:8 27:16 33:22 34:15 36:1 36:17,17 38:13 39:15 48:7,7</p>	<p>55:15,16 67:17,20 68:2 71:6 72:6 76:23 88:13,21 97:7 102:20 108:18 116:1,24 117:9 125:6 133:15 138:15 140:13 142:24 145:13 150:11 154:18 157:16 swaths 18:18 swear 7:10 switch 110:25 synchronization 131:18 synchronized 130:14 131:13 syntactic 114:6,14 115:2 syntactical 115:13 syntactically 109:21 syntax 112:2 system 17:5,20 20:16 28:19,20 29:11 32:3,15 35:4 37:16,21 41:1 44:20 46:17 47:11,16 50:4,8 59:10 60:14 64:8 67:7 68:12 73:15 75:7 78:18 89:23 96:17 99:1 103:15 103:18 104:21 106:21 110:22 117:17,18 120:7 120:15 123:13 126:3 127:1,8,11 127:17 128:13,21 144:21 145:21 146:1 153:12</p>
---	--	--	---

157:12 systems 41:17 42:4 44:22 52:24 53:5 56:9 57:23 68:13 74:7 157:9 158:5	talked 17:6 21:24 28:9 37:15 48:2,8 51:3,7,13 69:10 70:18 73:16 89:11 137:18 142:14,16 143:16 159:2	tens 59:22 term 30:18 31:9 31:23 117:23 118:5,8 147:10 152:6 162:6 termed 97:13 terminal 34:24 35:1,2 terminology 57:15 terms 23:6 26:22 26:24 31:1,24,24 32:24 33:13 36:9 56:7 58:14 64:4 69:18 80:21 81:2 81:6 115:25 116:1 116:24,25 117:24 testified 7:15 125:18 testify 10:23 11:14 testifying 165:7 testimony 8:17 83:5 96:8 160:18 162:23 164:5,7 165:11 text 20:18 143:6 thank 7:9,19,22 43:8,10 82:24 90:14 94:12 129:21 138:9 157:7 160:11 161:6 thing 18:4 63:21 69:8 76:24 89:10 100:5 102:16 158:19 things 7:24 40:9 51:7 58:1,3 62:4 64:9,11 69:10 78:13 79:3 86:5 88:6,14 121:14 132:5 134:8 137:6	141:3 142:11 think 8:23 11:12 16:1 18:8,19 21:14 23:6 26:6 26:17 29:10 31:25 32:8 33:10 34:6 37:4 38:8,19 40:4 41:25 42:14 43:14 45:18 46:10 48:5 51:10 52:6,11 53:24 54:8 55:16 56:4,20 58:10 59:5,15 61:17 63:13 64:13,16 65:18 68:14,16,22 69:6,25 78:2,14 79:9,10,23 81:14 81:22,22 82:5 83:7 88:13,17 89:4,9 91:10 93:15 101:24 102:3,6,19 103:14 105:8,8,13,22 106:8 107:7 109:21 110:7,8 111:18,24 112:4,4 114:7 115:1 119:17 125:13 127:4,7 128:24 130:9 135:1 136:22 137:21 138:6,7,14 139:20 139:20 140:7 141:21 142:23 144:1 145:9,17 146:18 149:9,14 149:21 150:7,12 150:19 151:19 152:9 155:17 157:16
t	talking 8:14 16:21 28:12 34:3 35:3 36:8 37:5 39:19 40:5 52:22,23 53:3 54:3 106:25 110:4,6 116:16 118:21 132:17 133:11 142:13 157:18 161:12 talks 40:2 96:20 97:8 116:2 117:1 117:6 120:3 126:6 126:10 135:19 146:7 targeted 35:21 36:20 50:5,12,23 targeting 37:2 127:6 tcp 88:6 teaches 135:25 teaching 103:20 technical 52:7 techniques 65:14 68:1 73:14 technologies 61:1 109:17 technology 6:20 60:25 61:4 62:4 88:20 television 40:24 41:4 77:10,14,20 77:24 78:3,10 tell 92:14 128:9 130:11 144:17		
t 168:3,3 table 95:11 123:25 tag 118:22 119:6,8 119:11,12,14,21 120:3,8 122:4,4 tags 118:25 119:6 119:8,13 take 6:10 29:8 33:7 40:23 52:25 67:11 82:9,13 91:9 98:13 103:4 125:14 129:3 135:10 152:1 154:24 160:22 161:8,15 taken 2:17 6:13 43:2 82:17 100:21 129:14 151:25 155:12 161:1 165:4 talk 8:6 10:1 14:21 15:20 18:22 26:19 29:20 37:11 46:16 52:15 63:25 64:2 69:19 79:23 80:20 80:23,23 82:25 83:13 86:18 88:23 90:17 99:4,5 100:11 101:14 102:4,14 130:9 132:8 138:10 142:10 145:12 149:15,22 150:22 156:6			

[thinking - underwrite]

thinking 78:12 122:7 third 30:20 31:13 136:9 thought 138:1 149:10 thousands 31:13 three 24:6 51:11 63:6 102:2 104:19 105:2,5 124:15 159:20 ticket 113:6 time 9:13 13:20 14:8 15:6 25:6 29:8,11 32:11,16 33:7 36:13 38:11 38:20 42:20,25 56:19,20 57:17,22 58:2,12 59:1,11,25 60:10,21 61:3,4,4 62:12,14,16 69:7 69:24 70:7 71:21 73:10 74:25 79:14 79:22,24 82:19,19 86:21 87:5,10,22 88:1,8,20 121:25 124:5 125:19 129:1,8,12,12,16 129:16 131:11,15 145:10 154:24 155:6,10,14 156:9 156:13 159:6,10 160:11,11,17,24 161:3,7,9 162:15 162:16,20,22 163:2 164:7 165:5 166:10,18,24 167:7 times 119:18 today 7:23 8:15,22 9:7 10:21 11:2,14	16:22 18:5 62:17 73:5 75:12 95:25 145:11 151:14 159:1,2,12 160:12 161:7 today's 8:7,11 55:14 94:20 159:18 160:18 162:23 told 102:21 tool 10:7 136:23 136:25 top 56:13 58:16 64:21 83:17 84:7 topic 49:6 total 8:23 160:18 162:24 track 46:18,21 80:4 tracking 46:24 trademark 1:1 2:1 6:16 traditional 77:17 transcribed 165:9 transcript 8:17 116:19 165:10,13 165:15 166:6,8,10 166:13,13,21 167:2,2 transcription 164:6 transferring 41:18 56:7 transmits 137:8 transmitting 133:13,14 137:19 transparent 65:11 66:11 72:1,5 76:2 treating 52:13 trial 1:3 2:3 6:16	trials 61:3 tried 76:9 trouble 65:10 66:10 69:1 71:25 72:4 76:1,15 true 63:10 134:11 164:6 165:10 trying 26:22 69:7 89:8 136:13 turn 11:6 27:7 32:3 82:2 83:8 122:20 144:8 147:22 turned 161:11 turning 13:4,10 29:2 32:15 45:17 55:17 63:18 74:5 83:10 113:22 143:12 150:20 two 8:14 9:8 16:21 18:12 19:14 27:2 38:2,25 66:9 68:14,15,16 80:20 80:21 81:6 95:15 112:8 124:14,15 154:12 161:15 type 37:3 84:2,9 84:12,13,14,17,18 84:25 86:18 88:16 89:11 117:25 typically 57:25 89:1 153:15 typo 157:14,20	udp 88:1,3,6 uh 24:19 90:25 123:3 126:13 unable 21:19 unacknowledged 88:5 unauthorized 64:11 65:13 68:1 69:3 73:14,16,22 74:2 underlined 89:15 underlying 88:15 88:19 understand 9:7,11 10:20,22,23 11:2 11:13,21 13:6 15:1 16:5 18:9 23:7,17 28:2,5 31:7 39:11 44:9 49:23 51:21 55:8 67:6 77:15 78:8 81:6 85:2 89:20 95:21,25 105:3 116:3 117:2,7,24 119:4 120:13 124:9 125:10 130:20 136:13 139:10 144:22 146:25 147:9 156:24 162:17 understanding 9:10 23:1,9 26:21 30:17 32:17 33:22 35:5 46:20 50:2 50:17 75:4 80:8 81:18 96:12 97:5 113:24 understood 67:3 75:24 122:3 underwrite 50:13 50:24 51:19
---	--	---	--

unfortunately 114:9 unique 85:25,25 unit 6:12 82:20 129:13,17 155:11 155:15 160:24 161:4 united 1:1 2:1 4:19 4:20,21,22,23 5:4 5:5,7,8 6:15 17:4 17:20 27:25 49:20 92:15 93:14 130:12 144:19 units 160:19 162:24 unmute 6:9 unmuted 6:9 unpack 33:5 upload 103:5 117:17 128:13 uploaded 101:12 102:13 104:5 uploading 99:1 104:14 116:5 117:4 url 30:10 33:2 83:18,22 84:1,7,9 84:16,22 86:6,12 88:22 89:1,2,15 96:25 98:3,4 106:9,9,19,20 108:23 109:2,4 urls 33:19 97:24 108:15 109:6 use 38:8 39:17 41:15 57:15 62:3 73:17 77:25,25 80:21 87:14,18 88:6,17 103:15,21 103:23 104:3 109:16 117:22	118:8 122:4 127:11 user 30:1,4,17 31:22 32:6,12,23 33:2,15 34:1,9,13 34:24 35:1,2,5,7 36:9,14 37:3,6,14 37:20,22,23 38:17 38:25 39:5 44:24 45:1,4 46:10 47:13 50:9,12 56:11,12,13,17 61:20 68:18 74:8 74:12,13,20 75:6 75:14 76:5,10 81:16,19 105:12 106:19 107:23 113:6 117:11 118:5,9,16,17,19 118:19 127:9 132:21 133:24 136:8 156:19 user's 62:5 109:11 users 117:7,10,10 117:20,22,22 118:4,15 126:1,5,8 127:15,16 128:15 uses 46:17 115:24 116:23 127:5 131:17 147:10 uss01/18324 124:17 usually 42:12 89:3 utilization 56:6	56:21 78:22 158:21 vast 18:18 venture 67:20 verify 64:17 veritext 6:20,22 6:23 160:20 162:25 166:7,9,11 version 112:20 140:10,14 versus 6:14 viable 61:11 video 6:10,12 20:15 57:14,20 58:8,8 60:22 61:10,19 62:9,24 65:2,8 99:14 105:16 131:10,24 146:11,17,21 147:15 150:24,25 153:6,7 154:7,8 156:9,10,13 videoconference 1:16 2:16 videographer 3:17 3:18 6:4,22 7:9 42:23 43:3 82:5 82:18 129:11,15 155:9,13 160:16 160:23 161:2 162:21 videotaped 1:16 2:16 vienna 3:14 view 10:9 19:13 126:19 viewed 47:1,13 viewer 56:17 65:12 66:12 67:9 72:1,5 76:3 158:23	violating 100:23 virginia 3:14 virtual 6:20 vod 58:11 volume 1:20 2:17 4:4 42:24 43:5 161:11
			w
			wait 32:7 60:24 82:6 waiting 93:4 135:4 135:6 waived 162:15 166:23,23 waiving 166:20 walk 83:24 107:2 149:2 walked 69:1 walking 43:14 69:9 want 8:1 16:18 18:21 23:25 26:18 29:13 35:9 40:16 40:21 48:9 52:5 52:10,10 70:11 76:23 82:9 83:13 89:13 95:16,18 102:20 103:17 108:18 114:6 115:24,25 116:24 125:19 138:15 142:7 151:21,22 161:8 wanted 13:14 109:24 110:15 138:16 139:16 141:22 161:14 wants 104:6 warner 56:20 58:12 59:11 60:10 61:4

[watch - yep]

watch 42:7 way 19:24 26:9 31:17 45:5 61:14 62:23 63:15 71:12 75:3 79:17 84:20 99:7,7 100:11 106:2 124:12 135:17 137:2,3 150:3,19 152:9 ways 66:25 68:13 74:6 76:14 126:20 136:2,4 158:21 we've 17:6 42:18 51:3 52:12 74:19 82:5,8 95:12,24 108:1 126:19 128:24 137:17 142:3 159:2 web 30:3 32:10 33:11,11 128:14 128:15 130:14 131:9 webpage 45:11 website 97:1,9,10 98:3 117:20 websites 28:21 32:6,20 wednesday 1:19 2:19 6:2 week 18:7 welcome 7:20 43:9 82:23 129:20 160:13 went 111:20 155:18 westwood 3:13 whereof 165:19 wide 65:9,22 69:12 windows 88:12,14 109:16 112:24	wiser 142:10 144:8,23 145:1,3,7 145:11,16,20 146:25 147:2,10 147:11 155:23 wiser's 147:20 witness 4:3 7:11 9:3 13:14,24 19:17 21:8 22:8 22:20 23:5 25:22 27:5 28:16 30:7 30:15,25 31:17 33:5 36:16 39:15 40:14 41:12 42:22 46:9 48:16 51:10 51:25 53:9 57:12 57:22 59:5 60:16 61:13 63:12 73:8 74:17 75:18 79:20 81:5 82:11,16 84:11 85:24 87:24 89:22 90:6 91:22 94:21 96:24 97:20 98:11 101:9 102:11 103:23 104:17 107:7 108:4 109:20 110:11 113:15 115:1 116:12 118:2 121:2,18 122:17 123:21 126:24 128:1 129:2,6,9 131:21 132:8 133:11 136:21 139:9 142:22 143:23 147:5,14 148:14 148:24 149:9 150:7 151:7,18 152:8 155:5 157:16 159:15	160:1,9,13 164:3 165:19 166:13,16 167:2,5 168:24 witnesses 165:6 wolfe 49:8,24 50:2 50:7,11,15,22 51:1 51:18 52:4 122:10 122:10 126:15,17 126:21 127:1,5,16 127:22 wondering 80:25 word 18:20 26:10 38:8 39:8,17 125:14 152:19,23 152:23 words 26:22 28:18 48:9 62:23 78:23 85:3 101:1,4 114:17 work 56:21,24 89:5 115:10 worked 14:15 60:14,17 working 57:6 works 110:22 world 120:16,23 wrap 159:1 writing 141:14 written 150:3,16 152:6,19 162:5,6 wrong 64:15 wrote 78:13	51:10 59:5 63:20 64:23 68:22 69:14 70:24 76:14 81:5 82:11 93:18 94:19 95:9 101:2,3 106:8 108:19 109:20,24 110:6,9 110:11,16,18 111:1,11,18 112:14,15 113:23 115:4 116:12,13 116:13,16 118:2 118:18 119:16 123:23,23,25 125:1 126:2,10,24 128:11 129:7 131:3,4,7 132:8 135:6 136:2 137:25 138:1,19 139:9,12,15 143:5 143:15 144:13 147:8,19,20 148:2 148:3,14 150:21 154:19,22 155:1,3 156:5,24 157:19 158:3 160:1 years 59:15 62:22 88:20 yellow 90:25 yep 76:19 109:5 124:23
		x	
		x 4:1 147:23 167:9	
		y	
		yeah 12:21 13:17 23:25 25:23 26:5 26:14 28:8,16 29:15 31:17 33:5 34:6,18 37:8 40:3	

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.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

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.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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