

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

CASE IPR2021-00458/IPR2021-00465

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NETNUT LTD., :

Petitioner, :
v. :
BRIGHT DATA LTD. (F/k/a Luminati :
Networks Ltd.), :

Patent Owner. :
-----X

Zoom Deposition of KEITH TERUYA

Thursday, October 28, 2021

12:05 p.m.

Reported by:

Cassandra E. Ellis, CSR-HI,

CCR-WA, RPR, CRR, REALTIME SYSTEMS

ADMINISTRATOR

Job No.: 3483

Zoom video Deposition of KEITH
TERUYA, held pursuant to agreement before
Cassandra E. Ellis, Certified Shorthand
Reporter - Hawaii, Certified Shorthand
Reporter - Virginia, Certified Court
Reporter - Washington, Registered
Professional Reporter, Certified Realtime
Reporter, Realtime Systems Administrator,
and Notary Public.

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C O N T E N T S

EXAMINATION OF KEITH TERUYA	PAGE
By Mr. Dunham	7

E X H I B I T S

(Attached to the Transcript)

KEITH TERUYA EXHIBIT DESCRIPTION	PAGE
Exhibit 2014-00458 Patent Owner's Notice of Deposition of Keith J. Teruya	13
Exhibit 2014-00465 Patent Owner's Notice of Deposition of Keith J. Teruya	13
Exhibit 1012 Book: Squid The Definitive Guide by Duane Wessels	164
Exhibit 1014 Book: Web Proxy Servers by Ari Luotonen	122
Exhibit 1017 United States Patent Application Publication No. US2011/0087733 A1	21
Exhibit 1018 European Patent Application No. EP 2 597 869 A1	89
Exhibit 1021 United States Patent Application Publication No. US2013/0080575 A1	125

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

2 THE VIDEOGRAPHER: Good

3 afternoon. This is the beginning of
4 the deposition of Keith Teruya,
5 taken in the matter of Netnut LTD,
6 petitioner, versus Bright Data LTD,
7 formerly known as Luminati Networks
8 LTD, patent owner, held in the
9 United States Patent and Trademark
10 Office before the Patent Trial and
11 Appeal Board. With Case Numbers
12 IPR2021-00458, as well as Case
13 Number IPR2021-00465.

14 Today's date is October 28th,
15 2021, and the time on the monitor is
16 approximately 12:05 p.m. My name is
17 Joseph Ellis, I am the certified
18 legal videographer, the court
19 reporter is Cassandra Ellis, and we
20 are here representing Transperfect
21 Legal Solutions.

22 Starting with the noticing
23 attorney, please state your
24 appearance, whom you represent, and
25 agree on the record that there's no

1 objection to this deposition officer
2 administering a binding oath to the
3 witness via Zoom conference.

4 MR. DUNHAM: So this is Tom
5 Dunham, for patent owner, Bright
6 Data Limited, I'm with RuyakCherian
7 LLP. With me today is Elizabeth
8 O'Brien, also of RuyakCherian. And
9 we have no objection to doing the
10 oath in the manner you described.

11 MR. ABRAMSON: This is
12 Ronald -- Ronald Abramson of the
13 firm of Liston Abramson, LLP,
14 representing the petitioner, Netnut
15 Limited, and the witness, and may be
16 joined from time to time by Michael
17 Lewis, of my firm. And we have no
18 objection to the matter of the
19 administration of the oath.

20 THE VIDEOGRAPHER: Will the
21 court reporter please swear the
22 witness and then you may proceed.

23 (Witness sworn)

24 MR. ABRAMSON: So I take it
25 we're -- as we agreed, we're going

1 to stop any recording of this video
2 from this point forward.

3 MR. DUNHAM: Agreed. And from
4 this point forward there will be
5 audio recording only, no video
6 recording.

7 MR. ABRAMSON: Very good.

8 THE VIDEOGRAPHER: Can I
9 resume the audio recording?

10 MR. DUNHAM: Yes, please.

11 KEITH TERUYA
12 having been sworn, testified as follows:

13 EXAMINATION

14 BY MR. DUNHAM:

15 Q Okay. Mr. Teruya, good
16 morning.

17 A Good morning.

18 Q I understand you wanted to make
19 a very brief statement before we get
20 started on the record, so please feel
21 free to do so now.

22 A Yes, I wanted to state that I'm
23 severely dyslexic, so I need additional
24 time if you ask me to read something on
25 screen or review a document or something

1 like that, please afford me that time to
2 review things.

3 I -- you know, my reading is
4 very slow, sometimes my process is slow,
5 and I want to make sure that I provide
6 appropriate context and accuracy. So
7 please afford me the time if I ask for
8 it.

9 Q Thank you.

10 Sir, have you ever been deposed
11 before?

12 A Yes, I have.

13 Q How many times?

14 A Oh, I would say four or five
15 times.

16 Q Can you tell me, generally, the
17 nature of the different matters in which
18 you have been deposed? And by that I
19 mean were they district court cases, were
20 they patent office proceedings, just very
21 general.

22 A Some of them were civil cases,
23 some of them were -- I imagine they were
24 patent cases, in one particular I was
25 deposed under Mr. Abramson for another

1 case.

2 Q Was that for an IPR proceeding
3 or was that a district court proceeding?

4 THE WITNESS: I believe it was
5 an IPR, wasn't it, Ron?

6 MR. ABRAMSON: Well --

7 MR. DUNHAM: You're not able
8 to confer with counsel during the
9 deposition.

10 THE WITNESS: Oh, okay. I'm
11 sorry.

12 MR. ABRAMSON: I'm happy to
13 supply the details, if you want.
14 But I'm not going to do that unless
15 Mr. Dunham asks me to.

16 MR. DUNHAM: No, I'd just like
17 to get the witness's recollection.

18 BY MR. DUNHAM:

19 Q Well, sir, then let me just
20 review for you the basics of the
21 deposition, sounds like you've done this
22 before, but I'll be asking you a series
23 of questions.

24 From time to time Mr. Abramson
25 may object. Unless he instructs you not

1 to answer please answer each of my
2 questions.

3 The court reporter is taking
4 down everything that any of us say
5 today. So it is important that we try
6 to only speak one person at a time.
7 It makes a much cleaner record and
8 keeps the court reporter much happier
9 throughout the day if we only speak
10 one at a time.

11 So I will do my best, when I
12 ask you a question, to stop and wait
13 for your response. And I would ask
14 you to do the same for me, that when
15 I'm asking a question if you'll wait
16 until I'm finished before you start
17 answering.

18 Do you agree with that
19 process?

20 A Yes.

21 Q Thank you. We'll also be
22 taking breaks from time to time. I try
23 to take a break every hour. But if at
24 any point in time you need a break,
25 please ask me and we'll get you a break

1 as quickly as we can.

2 Also, we are all in very
3 different time zones, so if there comes a
4 point when you need to take a more
5 extended break, for example, to eat or
6 something like that, please just let me
7 know and we'll work with you to
8 accommodate this.

9 I want this to be as easy
10 for you on your schedule as possible
11 today. Understood?

12 A All right. Thank you.

13 Q Great. Also, this question is
14 a little unusual, but I want to make sure
15 that we have a clear record: Is there
16 any reason today, such as medication or
17 illness, that you are unable to give
18 complete, truthful answers to my
19 questions?

20 A No.

21 Q You understand that you are
22 here today testifying as a technical
23 expert; is that right?

24 A Yes.

25 Q Have you ever been qualified by

1 a district court to testify as a
2 technical expert?

3 A Not that I'm aware of.

4 Q Okay. And how many times have
5 you testified, to your knowledge, as a
6 technical expert in any sort of
7 proceeding?

8 A I would say two or three times.

9 Q Tell me what you can, that you
10 recall, about the two or three times that
11 you may have testified as a technical
12 expert previously.

13 A I -- I was -- I was called upon
14 to verify existence of prior art.

15 Q And what do you mean by: To
16 verify existence of prior art?

17 A I was called upon, in a couple
18 of cases, to verify that a product I
19 created actually did what was being
20 litigated in those cases.

21 Q Do you recall whether you were
22 testifying as a technical expert about
23 that product or as a fact witness
24 explaining what the product was and/or
25 how it worked?

1 A I don't know how to answer that
2 question.

3 Q Okay. I want to get you
4 familiar, briefly, with the AgileLaw
5 system, just to the extent we need to use
6 it today.

7 A Okay.

8 (Exhibit Nos. 2014-00458 and
9 2014-00465 were identified for the
10 record.)

11 BY MR. DUNHAM:

12 Q What I want to do is reveal to
13 you two documents that I have previously
14 marked. And you should see, now, the
15 ability to see two particular documents.
16 And the first document is Exhibit 2014,
17 and we've appended to that the IPR
18 number, so dash 00458, and that is the
19 deposition notice that we served on you
20 for the IPR2021-00458, and the second
21 document is -- we've premarked as Exhibit
22 No. 2014-00465, which is our deposition
23 notice for the IPR with the same number
24 2021-00465.

25 I would ask you just to take a

1 moment, sir, first, let me know, are you
2 able to see those two documents?

3 A I see the icons in the
4 left-hand menu. I have not opened them
5 yet.

6 Q Will you please open both of
7 them? I just want to confirm that the
8 system is working and just get you
9 familiar with how it works, give you an
10 opportunity to flip through the pages of
11 the documents?

12 A Okay. I was able to open them
13 successfully and navigate through the
14 pages.

15 Q Great. Thank you.

16 Now, it's my understanding that
17 your counsel has already made available
18 to you, and by agreement with us, you
19 have the IPR petitions, the declarations
20 and the cited references, and the
21 institution decisions, that you have
22 those available to you today already;
23 correct?

24 A Yes.

25 Q Okay. So I will not be placing

1 those in the AgileLaw system. This will
2 be for any supplemental materials that we
3 use.

4 Are you using, today,
5 electronic copies of the patent office
6 materials that have been made
7 available to you or do you have hard
8 copies available to you at your -- at
9 your position?

10 A I have both.

11 Q Okay.

12 A On some documents, not all
13 documents.

14 Q Fair enough.

15 As we proceed, I may ask you if
16 you're looking at a paper copy of
17 something, but with respect to the hard
18 copy documents that you have, have you
19 made any notations or highlighting or
20 Post-Its or anything of that nature of
21 those documents?

22 A No, I have not.

23 Q Great. And with respect to the
24 electronic copies of the documents that
25 you have available to you today, have you

1 made any sort of electronic notations or
2 highlighting in any of those documents?

3 A I have not.

4 Q Great. Now, you submitted a
5 declaration in support of petitioner's
6 IPR in the proceeding that's numbered
7 IPR2021-00458; correct?

8 A I -- I don't refer them using
9 those numbers, so I would have to check
10 for you. But, you know, the answer is
11 probably yes. I -- I have generally
12 worked on these by the patent numbers.

13 Q Okay. So do you recall
14 submitting a declaration in support of
15 petitioner's IPR petition for the
16 petition directed to patent number
17 9,241,044?

18 A Yes.

19 Q Can you just tell me,
20 generally, the process by which you
21 prepared that declaration?

22 A I reviewed the material, had
23 discussions with Mr. Abram's staff,
24 Abramson's staff, giving them the
25 information, and they drafted a

1 declaration, and I went back and forth
2 and reviewed it until it accurately
3 represented what I conveyed to them as to
4 what my opinion was.

5 Q Did you, yourself, search for
6 prior art or was the prior art just
7 reflected in the declaration associated
8 with the '044 patent? Was that prior art
9 provided to you by Mr. Abramson and/or
10 some of his staff?

11 A I would say both.

12 Q Can you identify any of the
13 specific prior art that you recall that
14 you brought to the picture, yourself?

15 A I brought the Squid document to
16 Mr. Abramson. You know, I -- I -- I
17 can't specifically tell you, you know,
18 accurately, unless I really kind of look
19 through my notes or something what I may
20 have brought, because we went through a
21 number of things that made it in and
22 things that didn't make it in.

23 Q I see. And did you keep notes
24 throughout the process of preparing the
25 declarations?

1 A Not as accurately as I should,
2 you know, some, perhaps.

3 Q Do you still have those notes
4 today?

5 A I don't have them with me
6 today.

7 Q Do they still exist?

8 A I -- I think so. I'm not sure.

9 Q If you --

10 A This was, you know, over a year
11 ago. I tend to clean house fairly
12 regularly.

13 Q Was the process for preparing
14 the declaration associated with patent
15 number 9,742,866 much the same as the
16 process that you described for your
17 declaration in the '044 proceeding?

18 A Yes.

19 Q And with respect to the '866
20 patent, is there any specific prior art
21 that you brought to the discussion that
22 you can recall?

23 A No, because I think when we
24 began, things were discussed more
25 generally about the technology.

1 Q Can you tell me, generally,
2 what you did to prepare for the
3 deposition today?

4 A Do you mean today?

5 Q What you did in preparation to
6 be deposed today?

7 A Oh, I -- I reviewed my -- my
8 declarations and I, you know, briefly
9 read through some of the information that
10 I called out, wouldn't say I, you know,
11 combed through it in minute detail, but I
12 did review it, because, you know, it's
13 been -- it's been almost a year that this
14 declaration was prepared.

15 Q And how many hours, in total,
16 have you spent in connection with these
17 two IPR proceedings for the '044 and '866
18 patents?

19 A I would have to go back and
20 review the time in our accounting system
21 in order to give you an accurate answer.

22 Q And can you estimate for me how
23 many hours you have billed to these
24 particular matters?

25 A You know, I wouldn't want to

1 guess. I -- I -- I would want to go back
2 and have our accounting people -- I
3 don't -- I don't keep totals around, I'm
4 not -- I don't do a lot of work on -- on
5 a time basis, so that's not a standard
6 process that I -- I employ every day.

7 I do for projects, but, you
8 know, I can't remember, you know, times I
9 spent a year ago. I -- I would have to
10 look it up.

11 Q And you were paid on an hourly
12 basis for the work you did in connection
13 with these proceedings; correct?

14 A Yes.

15 Q And what was your hourly rate
16 that you charged for the work you've
17 done?

18 A \$450 an hour.

19 Q What I'd like to do now is I'm
20 going to ask -- I'd like to ask you a
21 series of questions about the Shribman
22 '733 published patent application, which
23 is exhibit -- actually, I'm -- I don't
24 have the exhibit number in front of me,
25 I'll have to pull it up, but do you have

1 the Shribman '733 application available
2 to you?

3 A I'm sure I do. I will try to
4 find it, here. There are two copies.

5 (Exhibit No 1017 was
6 identified for the record.)

7 BY MR. DUNHAM:

8 Q And that will be Exhibit 1017.

9 A Okay. For the '866 or the
10 '044?

11 Q Well, I'm interested in
12 discussing that particular piece of prior
13 art. So I -- it doesn't matter to me
14 which proceeding you pull it from, I'm
15 just specifically interested in Exhibit
16 1017. It's in the '044, for example.

17 A Okay. The -- the difference
18 between the two are I believe one is much
19 shorter than the other. Oh, no, I stand
20 corrected. They're both the same size.

21 All right.

22 Q Okay. Do you have the Exhibit
23 1017, the Shribman published patent
24 application No. US 2011/0087733 available
25 to you?

1 A I do.

2 Q You would agree that the focus
3 of the Shribman application was on
4 accelerating internet content retrieval;
5 right?

6 MR. ABRAMSON: Object to the
7 extent that's beyond the scope of
8 this declaration.

9 BY MR. DUNHAM:

10 Q Sir, I need your answer to the
11 question.

12 A From a context standpoint,
13 which is important to me, I didn't do an
14 evaluation of Shribman as an evaluation
15 of the Shribman application, itself. My
16 analysis was to look at Shribman as a
17 source of appropriate application to
18 evaluating the '044, the '866 patent.

19 Q Well, sir, in paragraph 52 of
20 the declaration that you submitted in
21 support of the IPR petition for the '044
22 patent, and you say, quote, the focus of
23 Shribman was on accelerating internet
24 content retrieval, close quote.

25 A Okay.

1 Q So is the statement that you
2 made in your declaration a statement that
3 you still stand behind today?

4 A I represented that position. I
5 believe that that is the position of the
6 abstract of that application.

7 Q Well, do you agree with the
8 statement you included in your report
9 that says, quote, the focus of
10 Shribman --

11 A I do. I do.

12 Q Okay. Please allow me to
13 finish my question, sir, just so I have a
14 clear record, okay?

15 A Okay. I'm sorry.

16 Q Thank you. No problem.
17 Would you agree, then, that
18 the focus of Shribman was on
19 accelerating internet content
20 retrieval?

21 A Yes.

22 Q I'd like you to turn to
23 paragraph number 72 in the Shribman
24 reference, and I'm really pointing you
25 there mostly for context.

1 Please let me know when you're
2 there.

3 A Paragraph 72?

4 Q Yes, sir.

5 A Okay.

6 Q When initializer 222 of the
7 communication device 200 starts up, it
8 first communicates with the acceleration
9 server 162 to, quote, sign up with the
10 acceleration server; right?

11 A Okay. Are you asking me if
12 that's what's written there?

13 Q I'm asking if that's how you
14 understand the disclosure of Shribman.

15 A The context of me answering
16 that question should be related to what I
17 represented in my declaration, that's how
18 I evaluated each section of these
19 documents as it pertained to the claims
20 of the patent.

21 So what specific paragraph are
22 you relating this to in my declaration?

23 Q Sir, you don't get to ask the
24 questions. I'm sorry, the way this works
25 is I ask the questions, and I'm just

1 asking you to answer them honestly,
2 whether you know or don't know the
3 answer, and that's how the day will go.

4 A Okay. Can you refer, for my
5 reference, so I can accurately answer the
6 question, where in my declaration are you
7 relating this paragraph?

8 Q Sir, again, it doesn't work
9 that way. You've advanced the Shribman
10 reference as a reference in this case,
11 and I'm entitled to test your
12 understanding of the reference.

13 MR. ABRAMSON: I'm going to --
14 I'm going to object to the extent --
15 this -- this deposition is limited
16 to the scope of Mr. Teruya's direct
17 testimony, which has been contained
18 in his declaration.

19 So I think that is a
20 legitimate concern on his part,
21 Mr. Dunham.

22 MR. DUNHAM: And again, I
23 believe that this directly relates
24 to his testimony of how Shribman
25 allegedly invalidates the claims.

1 And so I'm just trying to ask
2 him if he agrees that when
3 initializer 222 of the communication
4 device 200 starts up it first
5 communicates with the acceleration
6 server 162 to sign up with the
7 acceleration server.

8 A In the paragraph here, of
9 Shribman, in their example, they are
10 indicating that this initializer 222
11 starts its first communication with the
12 acceleration server, which they number
13 162, to sign up with that acceleration
14 server, that's what it states.

15 Q Do you agree that's how
16 Shribman operates?

17 A I did not evaluate Shribman's
18 operational ability. I take -- I take
19 their example as an indicator that that
20 was what they were trying to -- to
21 document in their -- their process.

22 Q Sir, would you agree that to
23 obtain content from a web server 152
24 client 102 first registers with
25 acceleration server 162 providing

1 acceleration server 162 the IP address of
2 client 102?

3 A Can you repeat the question,
4 please?

5 Q Certainly. Would you agree
6 that to obtain content from a web server
7 152 client 102 first registers with
8 acceleration server 162 providing
9 acceleration server 162 the IP address of
10 client 102?

11 A And are you asking me, can I
12 infer that from paragraph 72?

13 Q I'm asking you if that's your
14 understanding of Shribman.

15 A I -- I -- I'm missing some
16 context, here. There is no reference in
17 what you asked me to review here in
18 paragraph 72 for the web server.

19 Q Okay. So if you turn to page
20 66 -- I'm sorry, paragraph 66 of your
21 declaration, in support of the IPR of the
22 '044 patent, please.

23 A Let me bring that up. Sorry,
24 what paragraph did you say?

25 Q 66. Do you have paragraph 66

1 of your declaration for the '044 patent
2 in front of you?

3 A Yes, I do.

4 Q You'll probably see that the
5 question I asked you is verbatim of the
6 first sentence of paragraph 66.

7 So my question to you now is,
8 is it your testimony today that paragraph
9 72 of Shribman does not have any mention
10 of a web server?

11 A I'm sorry, repeat the question.

12 Q Is it your testimony that
13 paragraph 72 of Shribman does not in any
14 way reference a web server?

15 A Yes, it does not reference any
16 web server.

17 Q So in paragraph 66 of your
18 report, when you made the statement: To
19 obtain content from a web server 152
20 client 102 first registers with
21 acceleration server 162 providing
22 acceleration server 162 the IP address of
23 client 102, then you cite paragraph 72 of
24 Shribman.

25 Do you see that?

1 A Yes.

2 Q So is it your testimony that
3 paragraph 72 of Shribman does not support
4 the statement that you made in the first
5 sentence of paragraph 66?

6 A Say that again, please.

7 Q Sure. Is it your testimony
8 today that the paragraph of Shribman that
9 you cited after the first sentence of
10 paragraph 66 of your report does not
11 fully support the first sentence that you
12 got of paragraph 66 of your declaration?

13 A That is not -- that is not the
14 appropriate context to my first answer to
15 the question in which I previously asked
16 you to reference my declaration so I
17 could give you a more accurate answer.

18 When I gave you the response
19 that, in paragraph 72, 152 is not
20 mentioned, the web server 152 is not
21 mentioned, that is what I provided to you
22 as an answer.

23 Q Sir, when initializer 222 of
24 the communication device 200 of Shribman
25 starts up, and signs up with the

1 acceleration server, does the device
2 provide the acceleration server with all
3 IP addresses and MAC addresses of the
4 interfaces on communication device 200?

5 A Let me review this a minute,
6 please. Okay. Can you ask me the
7 question again, please?

8 MR. DUNHAM: I'll ask the
9 court reporter to read it back,
10 please.

11 THE WITNESS: Okay.

12 (Question, "Sir, when
13 initializer 222 of the communication
14 device 200 of Shribman starts up,
15 and signs up with the acceleration
16 server, does the device provide the
17 acceleration server with all IP
18 addresses and MAC addresses of the
19 interfaces on communication device
20 200," read back by the reporter.)

21 MR. ABRAMSON: Objection, lack
22 of foundation.

23 BY MR. DUNHAM:

24 Q Mr. Teruya, unless your counsel
25 instructs you not to answer, I would ask

1 you to answer, please.

2 A Okay.

3 MR. ABRAMSON: You can answer.

4 A I can. I'm going to answer the
5 question, but please let me read through
6 the material that I used as the source
7 for this paragraph. I've asked you for
8 more time. I need to read through it.

9 Q Certainly. I was unaware if
10 you knew I was expecting an answer,
11 that's all.

12 A Oh, no, no, I'm perfectly aware
13 that you would like an answer.

14 I believe you asked "all" is in
15 your question, the word "all"? And I --
16 I would not -- I don't know if it's all,
17 but it will return a list of agents and
18 include IP addresses as an object. It --
19 it, in likelihood, will include IP
20 addresses.

21 Q In paragraph 72 of Shribman,
22 that you cited in your declaration, do
23 you agree with the third sentence, that
24 states, quote: This is performed by
25 providing the acceleration server 162

1 with the hostname, and all IP addresses
2 and media access control, MAC, addresses
3 of the interfaces on the communication
4 device 200 having the initializer 222
5 thereon?

6 MR. ABRAMSON: Sorry,
7 Mr. Dunham, where are you reading
8 from? I don't see this.

9 MR. DUNHAM: Paragraph 72 of
10 the Shribman reference, as cited in
11 Mr. Teruya's declaration.

12 MR. ABRAMSON: Oh, going back
13 to that? Okay.

14 THE WITNESS: Can you have the
15 court reporter read back the
16 original question, please?

17 MR. DUNHAM: Sir, I don't know
18 what you mean by the original
19 question. Do you mean --

20 MR. ABRAMSON: Well, the
21 question she read back to me, which
22 was the question you asked her to
23 read back to me.

24 MR. DUNHAM: Well, sure, if
25 the court reporter could please read

1 back that question that you just
2 read back a moment ago.

3 (Question, "Sir, when
4 initializer 222 of the communication
5 device 200 of Shribman starts up,
6 and signs up with the acceleration
7 server, does the device provide the
8 acceleration server with all IP
9 addresses and MAC addresses of the
10 interfaces on communication device
11 200," read back by the reporter.)

12 THE WITNESS: And your
13 question, now, again, please?

14 BY MR. DUNHAM:

15 Q My question is: Do you agree
16 with the last sentence of paragraph 72 of
17 Shribman, which states, quote, this is
18 performed by providing the acceleration
19 server with the host name, and all IP
20 addresses and media access control, MAC,
21 addresses of the interfaces on the
22 communication device 200 having the
23 initializer 222 thereon?

24 A Conditionally.

25 Q Why do you --

1 A Yes.

2 Q So why --

3 A Conditionally, conditionally,
4 because if it's not logged in it won't
5 get the IP address.

6 Q If what's not logged in?

7 A If all the initializer devices,
8 okay, that exist in the system do not
9 send a first element in the system for
10 the domain of the operation of the
11 system, it could not know what all the IP
12 addresses are.

13 Q Is it your understanding that
14 the communication device 200 referenced
15 in paragraph 72 of Shribman is referring
16 to all devices in the domain?

17 A I don't know that from that
18 sentence.

19 Q Again, if this helps you, with
20 reference to paragraph 75 of the Shribman
21 application, would you agree the next
22 step disclosed in Shribman is that the
23 initializer launches the client module of
24 communication device 200?

25 A Are we still talking about the

1 prior IP addresses?

2 Q Sir, I'm asking you about your
3 understanding of the operation of
4 Shribman, which you've read, you've
5 applied as a reference against the
6 challenged claims.

7 A Yes. Would it -- can we
8 resolve the first one about the "all"?

9 Q Sir, I've moved on to ask you
10 another question.

11 A Okay.

12 Q My question is --

13 A I'm sorry, I'm sorry, I -- I
14 need -- I need you to segment the switch
15 in context, please.

16 Q Sir, I referenced you to
17 paragraph 75 for your assistance, and I
18 asked you, would you agree, the next step
19 disclosed in Shribman is that the
20 initializer launches the client module of
21 communication device 200?

22 A Okay. I've reviewed that
23 paragraph, what is your comment --
24 question again?

25 Q My question is: Would you

1 agree that the next step disclosed in
2 Shribman is that the initializer launches
3 the client module of communication device
4 200?

5 MR. ABRAMSON: Objection, lack
6 of foundation.

7 A Are we talking about a
8 sequential process, here, or are we --
9 with -- the example given here indicates
10 that that is the process flow, are we
11 logged in already?

12 Q Sir, I'm just asking you
13 questions about your understanding of the
14 disclosure of Shribman. In your
15 declaration you extensively discuss
16 different messages that flow to and from
17 different devices.

18 And I'm just getting your
19 understanding of how the Shribman
20 disclosure operates as related to the
21 various messaging flows. And I'm working
22 through those questions with you.

23 So please just answer my
24 questions as best you can, okay?

25 A Okay. From an operational

1 context, assuming the obviousness of a
2 product that would have implemented this,
3 that is correct.

4 Q Okay. And if it's helpful to
5 you, sir, with respect to paragraph 76 of
6 Shribman, will you agree that after
7 launching the client module the
8 initializer also launches the agent
9 module and the peer module?

10 MR. ABRAMSON: Object to the
11 extent that's beyond the scope of
12 his declaration. You can answer.

13 A Given the example and the
14 explanation, I -- I would -- I would
15 assume that to be true in that context.

16 Q So would you agree, then, that
17 in every embodiment in Shribman all three
18 modules, client, agent, and peer are
19 launched in each communication device
20 that signs up?

21 A Without more analysis of the
22 actual possible permutations and
23 fallbacks that would be necessarily built
24 into the architecture, I can't accurately
25 answer that question by just looking at

1 three paragraphs.

2 Q Do you know from your study of
3 the Shribman reference, as you discussed
4 extensively in your declaration, whether
5 in every embodiment in Shribman all three
6 modules, client, agent, and peer, are
7 launched in each communication device
8 that signs up?

9 A I would like to review my
10 declaration, because the approach that I
11 utilized in analyzing Shribman, relative
12 to the claim provided, did not go to
13 every single permutation and condition
14 that Shribman could possibly provide.

15 I -- I -- my analysis was based
16 around the mechanics of what Shribman can
17 provide relative to the claims of the
18 '044 patent.

19 Q So did you then start with the
20 claim -- just so I understand what you're
21 explaining to me, sir, let me ask a
22 better question.

23 So in the analysis that you
24 performed, did you begin with the
25 claim and then look to Shribman to see

1 if you could find within Shribman
2 disclosure that corresponded to the
3 elements of the claims?

4 A For the most part, yes.

5 Q Okay. That's helpful.

6 A I -- I -- I found things
7 that -- I found examples that were
8 analogous and evaluated their relevance.

9 Q Okay. And just to help me
10 understand, then, the way you did that
11 was you would start with a claim, read
12 the elements of the claim, and then go
13 back to look at Shribman to see if you
14 could find either the exact disclosure or
15 something you felt was analogous; is that
16 fair?

17 A Yes.

18 Q Okay. Let me ask you about
19 paragraph 78 of Shribman, and just for
20 your context, you do cite this in a
21 number of places in your declaration,
22 including, for example, paragraph 69.
23 Please let me know when you have
24 paragraph 78 of Shribman available.

25 A Okay. I have 78 available.

1 Q So would you agree, to make a
2 request for content an application
3 running on the client first initiates a
4 request for a resource on a network?

5 A Can you -- can you state that
6 question again, please?

7 Q Absolutely.

8 Would you agree that to make a
9 request for content an application
10 running on the client first initiates a
11 request for a resource on a network?

12 A I'm sorry, I need you to do
13 that again.

14 Q Sure. Would you agree to make
15 a request for content, an application
16 running on the client first initiates a
17 request for a resource on a network?

18 A Are you asking: Is that the
19 first thing that it does or is that what
20 needs to take place in order for it to
21 request content?

22 Q Well, tell me your
23 understanding. How does that work? How
24 does an application running on a client
25 make a request for content?

1 A Well, it has to connect first.

2 Q Okay.

3 A It has -- it has to -- it has
4 to establish a connection with a relevant
5 domain in which the content that it would
6 like exists.

7 Q Okay. And with reference to
8 paragraph 78, would you agree that to
9 make a request for content an application
10 running on the client first initiates the
11 request for a resource on a network?

12 A Can you provide me some more
13 context? Because if you only look at
14 paragraph 78, and I previously stated
15 that we need to know do we have a
16 connection, can we hit a DNS server? Are
17 we in the right domain?

18 If those things line up, then,
19 yes, you could put out a GET request, as
20 it states. But those other things need
21 to have taken place first. Hence,
22 paragraph 78 has a lot of preconditions
23 before it that have taken place in order
24 for us to get the paragraph 78 and be
25 looking at block 352.

1 Q Would you agree, sir, that the
2 example shown in Shribman of the GET
3 request is the full GET
4 HTTP://WWW.AOL.com/index.HTML HTTP/1.1?

5 A That's the example in that
6 paragraph.

7 Q Are you aware of any other
8 examples shown in Shribman of a request
9 for content?

10 A By example of a -- of a GET?

11 Q My question is: Are you aware
12 of any other example of a request for
13 content, that is disclosed in Shribman,
14 other than the particular request I
15 quoted to you from paragraph 78?

16 A Oh, I -- I would have to
17 review, you know, Shribman to -- to see.
18 There are contextual discussions of
19 requesting content, but I don't know -- I
20 would have to look and review the
21 document again to see if there are any
22 specific requests that uses a formal, you
23 know, mnemonic like that.

24 Q Sir, and, again, if it's
25 helpful to you, with reference to

1 paragraph 79 of Shribman, which you also
2 cite in your declaration, after the
3 application initiates a request for
4 content would you agree that the client
5 module then looks up the IP address of
6 the web server 152 that is the target of
7 the request?

8 A Applications don't usually do
9 that process.

10 Q So let me ask my question
11 again, so you have it firmly in mind,
12 sir. And I'm getting to it, to help you,
13 I'm pointing you to paragraph 172.

14 After the application
15 initiates a request for content --

16 A I'm sorry, excuse me, 172 in
17 which document?

18 Q Oh, I said paragraph 79, sir.

19 A Oh, paragraph 79.

20 Q And my question is: After the
21 application initiates a request for
22 content would you agree that the client
23 module then looks up the IP address of
24 the web server 152 that is the target of
25 the request?

1 A That is what is in paragraph
2 179. I know it is an example. I take it
3 that that's what it's intended to do.
4 But mechanically, you know, it just
5 doesn't happen that way.

6 Q Okay. So -- so -- and just so
7 the record is clear, you stated in
8 paragraph 179, did you mean to refer to
9 paragraph 79?

10 A I'm sorry, 79.

11 Q Thank you. Oh, no problem,
12 sir, I just want to make sure our record
13 is clear.

14 So is it your testimony that
15 notwithstanding the language of paragraph
16 79, you believe that in reality the
17 system would operate differently; is that
18 a fair statement?

19 MR. ABRAMSON: Object to the
20 form.

21 A IP addresses are -- although
22 they are physical, they're managed by
23 different mechanisms and processes within
24 the client that can be a workstation,
25 laptop, phone, whatever, the mechanics of

1 looking up the IP address is generally
2 not a process of client module of an
3 application, that's all that I'm saying.

4 So the -- so to accurately
5 answer your question, I have to
6 provide that as an augment to my -- to
7 the -- the -- the example, here, that
8 is being given, is very general in
9 that it's assuming that because we're
10 on the internet every address
11 resolution is going to be an IP
12 address, which is generally the case.

13 Q If I could ask you to look at
14 the second sentence of paragraph 79 of
15 Shribman, and my question is going to be:
16 Do you agree or disagree with this
17 sentence?

18 And the sentence reads, quote:
19 The client module 224 then looks up the
20 IP address of the server 152 that is the
21 target of the resource request (e.g., the
22 IP address of the web server that is the
23 host of www.aol.com in the example
24 above); do you agree with that portion of
25 the second sentence?

1 A Given my prior comment on
2 appropriate context of how things work,
3 yes, that example is valid.

4 Q Would you agree, then, that the
5 client module sends the IP address of the
6 web server to the acceleration server
7 162?

8 A Not unless I know exactly how
9 that application is constructed, because
10 generally, as I explained in my prior
11 answer, an application-level program
12 would generally not be manipulating IP
13 addresses.

14 Q So when you analyzed the
15 Shribman reference, did you apply the
16 teachings of the reference as they
17 literally appeared within the four
18 corners of the document, or did you bring
19 to your analysis additional knowledge and
20 experience that you have gained over the
21 years?

22 A I analyzed it with the
23 obviousness of a person working in this
24 area, which is, as I explained to you, if
25 you have just a basic understanding about

1 the layers in which an application
2 operates on a network, especially on the
3 internet, you would know the responsible
4 areas of address resolution.

5 And I can understand why
6 patents are written this way, because
7 they want to provide these examples.
8 But applications in the real world of
9 implementation and engineering operate
10 a little bit differently.

11 Q So were you including your
12 knowledge of how applications in the real
13 world operate when you were reading the
14 disclosure of Shribman 733?

15 MR. ABRAMSON: Object to the
16 form.

17 A I -- I -- I applied in my
18 thinking the -- the -- the obvious notion
19 about what they were trying to
20 communicate.

21 Q Okay.

22 A Not necessarily in the exact
23 process explanation, saying using an IP
24 address, but there needed to be, in this
25 instance, and by example in my

1 declaration, address resolution taking
2 place.

3 Q Sir, and then still with
4 reference to paragraph 79 of Shribman,
5 would you agree that the client module
6 does not send the GET request to the
7 acceleration server 162?

8 A I -- I would agree in the
9 example -- in examples given in Shribman,
10 that it does not send that request to
11 that device.

12 MR. DUNHAM: Counsel, I always
13 promise the witness a break after an
14 hour, and I see we've gone just
15 about an hour, if this is a good
16 time we can take a short 10-minute
17 break.

18 MR. ABRAMSON: It's up to you.
19 How are you?

20 THE WITNESS: I'm fine.

21 MR. DUNHAM: Okay. Let's go a
22 little longer.

23 MR. ABRAMSON: If you want, I
24 don't object.

25 MR. DUNHAM: I mean, I'm happy

1 to continue, but I always -- in
2 fact, let's take 10. I'd like to.
3 I want to reset a few things based
4 on the testimony, and I'd like to
5 give the witness just a short break,
6 as well.

7 MR. ABRAMSON: Sure.

8 THE VIDEOGRAPHER: The time is
9 1:03 p.m. We are off the record.

10 (Recess.)

11 THE VIDEOGRAPHER: The time is
12 1:13 p.m. We're back on the record.
13 Please proceed.

14 BY MR. DUNHAM:

15 Q Mr. Teruya, during the break
16 did you have any interaction with
17 Mr. Abramson or any member of his team?

18 A No.

19 Q If helpful to you, I'm going to
20 ask you some questions that -- that, in
21 part, refer to paragraph 80 of the
22 Shribman reference. And my question,
23 sir, is: In response to receiving the IP
24 address of the web server from the client
25 module would you agree that the

1 acceleration server prepares a list of
2 agents that may be suitable to handle the
3 request for the particular IP address
4 that was provided?

5 A What is the question again?

6 Q My question, sir, is: In
7 response to receiving the IP address of
8 the web server from the client module
9 would you agree that the acceleration
10 server prepares a list of agents that may
11 be suitable to handle the request for the
12 particular IP address that was provided?

13 MR. ABRAMSON: Object to the
14 form.

15 A That is not so stated in that
16 paragraph, because it generically says:
17 Server 152.

18 Q So other than clarifying that
19 the server is 152, would you agree with
20 the remainder of that statement?

21 MR. ABRAMSON: Object to the
22 form.

23 A I would agree that that's what
24 paragraph 80 states.

25 Q And I'm asking you for your

1 understanding, sir, of the Shribman
2 reference as you applied it in your
3 declaration.

4 A My application --

5 MR. ABRAMSON: Object to form.

6 A My application of Shribman is
7 taking their example and explanation
8 of -- that supports their -- their
9 application for a patent, and apply it to
10 the claims of the '044 patent, that's
11 what I did in my evaluation.

12 So if we want to take a part of
13 Shribman, and look at it in context with
14 what I state in my declaration, we can go
15 through that.

16 But I did not do a
17 top-to-bottom analysis of all the -- the
18 intricacies of Shribman to see what --
19 what possible, you know, methods and
20 processes could be compounded in -- in
21 their application to provide, you know,
22 alternate examples of what I used.

23 Q Would you agree that in
24 Shribman, in response to receiving a
25 request from the client module,

1 acceleration server 162 sends a list of
2 agents to client 102?

3 A That's what they state. I
4 agree that that's what they state.

5 Q Do you agree that's what
6 Shribman teaches?

7 MR. ABRAMSON: Object to the
8 form. Withdrawn. You can answer
9 that.

10 A That -- that's -- that's what's
11 written. I agree with what's written.
12 That's what they're indicating that that
13 process that they're -- that they're
14 trying to define, as an example, that's
15 what it states.

16 Q Would you agree that the list
17 necessarily includes the IP address of
18 each agent?

19 A I would -- I would say that
20 that is a dependency on the implementer,
21 because even in that paragraph it states
22 that, you know, that it could handle
23 requests from the IP address. You know,
24 people have designed things that don't
25 necessarily use IP addresses, sometimes.

1 Q So you --

2 A And that would not be a
3 limitation on the application of
4 Shribman.

5 Q I see. So is it fair that the
6 way you reviewed Shribman, the reference
7 to the IP address in paragraph 80 is
8 something you felt could be also read as
9 something different than an IP address?

10 A The context of which I made my
11 evaluation was something operating on the
12 internet, which is what '044 states. So
13 in my thinking, and in answering or
14 documenting in my declaration, I made the
15 assumption in my evaluation that we were
16 always talking about the internet.

17 So I think that if you would
18 like me to evaluate Shribman in its
19 entirety, which is kind of where we're
20 going with all these questions, I would
21 need to look at the appropriate context
22 of evaluation of Shribman, because my
23 evaluation of Shribman was narrowly
24 focused to -- to look at how it -- it
25 applied to the '044 patent.

1 Q Sir, would you agree that
2 according to Shribman the list of agents
3 that acceleration server 162 sends to
4 client 102 necessarily includes the IP
5 address of each agent?

6 A Are we -- what paragraph are
7 you referring to?

8 Q I'm asking for your
9 understanding of Shribman.

10 A Okay. In the context of a
11 person applying Shribman to an actual
12 developed product, I would say that would
13 be a choice of the implementer, as an
14 example, an implementer could choose to
15 use a different entity as address
16 resolution, it could choose to use an
17 addressing scheme that did not use what
18 we would know as an outside IP address.

19 There are a number of things
20 that -- that would change the answer to
21 your question based on, is this an
22 internal application, network application
23 using IP addresses, is it an external
24 outside firewall implementation?

25 So generically speaking, you

1 could apply that answer. It would work.
2 But to get to an absolute, more context
3 is needed.

4 Q So when you reviewed Shribman,
5 for purposes of your analysis in this
6 case, did you take into account these
7 other possibilities that you've just been
8 testifying about?

9 A No, because I only sought to
10 find an analogous reference to '044 to
11 provide example that existed previously
12 or in other implementations.

13 Q So if in your declaration you
14 stated, quote, this list necessarily
15 includes the IP address of each agent,
16 close quote, do you now mean that that
17 statement had some conditionality
18 associated with it?

19 A No. That is what is stated in
20 Shribman. You are asking me a
21 hypothetical about Shribman.

22 Q I'm not asking you --

23 A I see that that could be
24 different.

25 Q I'm asking you about the

1 teachings of Shribman, sir. I'm not
2 posing any hypotheticals.

3 I'm simply asking for your
4 understanding of the disclosure and how
5 you applied it in your analysis.

6 A My analysis was, I quoted
7 Shribman, understanding what that
8 particular instance could satisfy, and I
9 quoted him directly.

10 Q Would you agree, sir, that in
11 response to receiving the list of agents
12 from the acceleration server the client
13 module of Shribman then sends a GET
14 request to all of the agents in the list?

15 A What example are you pointing
16 me to, what paragraph?

17 Q I'm asking you, first, for your
18 understanding of the disclosure of
19 Shribman, sir.

20 A Possibly.

21 Q Under what circumstance is yes
22 and under what circumstance is no?

23 A Did I provide an -- did I
24 provide this response in my declaration?

25 Q Sir, can you first try to

1 answer my question, and then we'll work
2 from there, please?

3 A Well, I believe the specificity
4 of my answer requires some context.
5 However, you could have cache exhaustion
6 occurring to where one of the agents or
7 all of the agents no longer have current
8 information, in which case the
9 response -- the request would not
10 necessarily occur that way.

11 Q So let me make sure you have my
12 question squarely in mind, sir. And my
13 question is: In response to receiving
14 the list of agents from the acceleration
15 server, would you agree that the client
16 module then sends the GET request to each
17 of the agents in the list?

18 A I'm not sure, without --
19 without reviewing this, because I believe
20 there is a condition. I believe there is
21 a condition exists that that would not be
22 the case.

23 Q If you look at the first
24 sentence of paragraph 67 of your
25 declaration, do you agree that the direct

1 testimony you provided reads, quote:

2 Client 102 reaches out to each agent in
3 the receipt list, sending each agent the
4 URL of the desired content, close quote.

5 A All right.

6 Q Would you agree that that --
7 that I accurately read the sentence that
8 you included in your declaration?

9 A That is an example of Shribman.

10 Q Is there any discussion in your
11 declaration of any other embodiment or
12 operation of Shribman with respect to
13 that issue?

14 A No.

15 Q Would you agree that in
16 Shribman, in response to receiving the
17 GET request from the client module, each
18 agent responds to the client 200 with
19 whether it has information regarding the
20 request?

21 A If you are asking me to
22 specifically look at Shribman, without
23 the context of 404, I would have to
24 review the document and see if that
25 scenario is true in all use cases.

1 Q Sir, did you review the
2 Shribman 733 reference prior to your
3 deposition today?

4 A Yes.

5 Q Okay. If it helps you, let's
6 look at paragraph 83 of Shribman, which
7 you also cite in your declaration.
8 Please let me know when you're there.

9 A I'm here.

10 Q In paragraph 83 would you agree
11 with the second sentence, which reads:
12 As shown by block 382, upon receiving the
13 request from the client, each agent that
14 received the request from the client
15 responds to the client 200 with whether
16 it has information regarding the request,
17 which can help the client to download the
18 requested information from peers in the
19 network, close quote?

20 MR. ABRAMSON: I'm going to
21 object to all questions that ask if
22 the witness agrees with literal
23 disclosure in the document. I think
24 the proper question in all these
25 examples, and you've been doing it

1 repeatedly today, the proper
2 question is: Do you see where the
3 document states X. He can -- he can
4 answer, subject to that objection.

5 MR. DUNHAM: Well, counsel,
6 I'm going to ask you to not make
7 speaking objections. If you have a
8 form objection, please make it.

9 I've asked the witness
10 initially his understanding of the
11 reference. And he has had some
12 difficulty with that, and he has
13 asked me repeatedly for context.
14 I've simply been trying to help the
15 witness by giving him that context.

16 BY MR. DUNHAM:

17 Q So with that, Mr. Teruya, let
18 me ask you a fresh question.

19 Would you agree that in
20 response to receiving the GET request
21 from the client module each agent
22 responds to the client with whether it
23 has information regarding the request?

24 A Conditionally, yes.

25 Q Under what condition are you --

1 do you believe an agent does not respond
2 with information regarding the request?

3 A In the state where that
4 information doesn't exist in any agent.

5 Q Would you agree that in the
6 disclosure of Shribman, in response to
7 receiving a request from a client, the
8 agent does not respond with the actual
9 content that the client has requested?

10 A Can you state that again,
11 please?

12 Q Certainly. Would you agree
13 that in response to receiving a request
14 from a client, the agent does not respond
15 with the actual content that the client
16 has requested?

17 MR. ABRAMSON: Objection,
18 ambiguous.

19 A Where is that referenced in
20 Shribman?

21 Q Sir, I'm asking you, first, for
22 your understanding of Shribman.

23 A I would like to review where
24 that discussion takes place in Shribman.

25 Q So are you asking me to point

1 you to the portion of Shribman that you
2 need to review, is that what you're
3 asking for?

4 A That's what I'm asking you to
5 do.

6 Q Well, in your report you cite
7 paragraph 83 of Shribman for that
8 proposition, so I'm really following your
9 report.

10 A Now, what is your question?

11 Q My question is: In response to
12 receiving a request from a client would
13 you agree that the agent in Shribman does
14 not respond with the actual content that
15 the client has requested?

16 MR. ABRAMSON: Objection, lack
17 of foundation.

18 A I can see that that is
19 inferred.

20 Q So is that your understanding
21 of Shribman?

22 MR. ABRAMSON: Objection,
23 form.

24 A I'll -- I'll state again, I
25 believe that that is what is inferred.

1 Q Would you agree that in
2 Shribman each agent sends to the client a
3 list of peers and checksums of chunks of
4 the desired content that the peers have?

5 A That is what is stated in
6 paragraph 83.

7 Q And is that your understanding
8 of what Shribman discloses with respect
9 to the agent's response to the client
10 upon receiving the request for --

11 MR. ABRAMSON: Asked and
12 answered.

13 A I can only respond by saying:
14 This is the representation provided by
15 Shribman.

16 Q Do you have some disagreement
17 with that language from Shribman?

18 A No, my -- I -- I pass no
19 judgment on Shribman. Shribman was used
20 as a reference for me. My -- my -- I was
21 not paid to evaluate Shribman. I was --
22 I was paid to evaluate my opinion as to
23 how Shribman could be applied, as well as
24 other documents that -- or instruments
25 that could apply to each patent.

1 Q And, sir, I'm only asking about
2 the way I've read your declaration and
3 how it appeared to me you may have
4 applied Shribman, that's all I'm trying
5 to work through with you.

6 A I understand that. And if you
7 need more context from what I provided in
8 my declaration, I would be happy to
9 provide that to you if you would
10 reference the section of my declaration
11 that you would like to have a discussion
12 about.

13 Q Sir, unfortunately, in
14 depositions the questioning attorney
15 selects the order and manner of question.
16 I'm trying to be very linear with you,
17 and not jumping around, so let me
18 continue my cross-examination, please.

19 If it's helpful to you, with
20 reference to Shribman paragraph 84, and
21 that's for your benefit, but would you
22 agree that after receiving responses from
23 each agent in the list the client then
24 decides which agent to use as its agent
25 for the particular information request?

1 A That is what is being stated by
2 Shribman in that paragraph.

3 Q Would you agree that after
4 selecting an agent, according to
5 Shribman, the client notifies the
6 selected agent that the client is going
7 to use that agent and notifies the other
8 agents that the client is not going to be
9 using them for a particular request?

10 A Is that relevant to a
11 particular paragraph or in the teaching
12 in its entirety? Because I believe there
13 are conditions that could possibly
14 introduce a different scenario based on a
15 use case, a specific use case.

16 Q Sir, I'm just trying to gain
17 your understanding of Shribman. And
18 would you agree that --

19 A I -- I'm providing you an
20 answer. You asked me to something
21 specific, I said it is conditional based
22 on whether or not we're looking at this
23 narrow example in this paragraph or are
24 we looking at Shribman in its entirety,
25 that introduce other examples in other

1 paragraphs.

2 Q Sir, would you agree that
3 according to Shribman, after deciding
4 which agent to use, client 102 sends a
5 request for specific chunks of content to
6 the selected agent?

7 A Say that again, please.

8 Q Sure. Would you agree that,
9 according to Shribman, after deciding
10 which agent to use, client 102 sends a
11 request for specific chunks of content to
12 the selected agent?

13 A I -- I believe that Shribman --
14 I believe that Shribman states that once
15 you have the agent that you're going to
16 use that the client does this specific
17 request to that agent.

18 Q And are those requests from the
19 client to that agent requests for
20 specific chunks of content, according to
21 Shribman?

22 A Ask that again, please.

23 Q Once the client has selected a
24 particular agent would you agree that the
25 client sends a request to that agent for

1 specific chunks of content?

2 A I believe how it works is -- I
3 believe how it works, if I understand --
4 if I remember correctly, is the response
5 for the request -- the -- the -- you
6 know, the chunk request or the media
7 request or whatever, from the client goes
8 out, and I believe the -- the agent needs
9 to determine whether or not it can
10 respond to the client, meaning, does it
11 have that information or doesn't it have
12 that information.

13 Q Would you agree that in
14 responding to the client each agent sends
15 to the client a list of peers and
16 checksums of chunks of the desired
17 content that the peers have?

18 MR. ABRAMSON: Object to the
19 form.

20 A I don't have a -- I don't have
21 a recollection of the exchange of
22 checksums.

23 Q So that's just not something
24 you recall today, is that your testimony?

25 A That's something I don't recall

1 today.

2 Q Do you know, according to
3 Shribman, whether the client, in order to
4 obtain content from a peer, do you know
5 whether the client sends the GET request
6 to the peer in order to obtain the
7 desired content?

8 MR. ABRAMSON: Object.

9 MR. DUNHAM: I didn't hear the
10 objection.

11 MR. ABRAMSON: Objection with
12 regard to the scope of direct. You
13 can answer.

14 A I don't recall whether or not
15 that request is from a client to an agent
16 necessarily has to be an HTTP GET.

17 Q Sir, would you agree that
18 Shribman discloses a primarily
19 peer-to-peer file sharing system and
20 method?

21 MR. ABRAMSON: Object to the
22 form, vague, ambiguous.

23 A I -- I don't know that I would
24 characterize Shribman to be that.

25 Q So do you --

1 A It is a possible application.

2 However, I don't know that that was
3 the -- I don't believe that was the
4 entirely the implementation of Shribman.

5 Q So if you look at paragraph 65
6 of your declaration, do you disagree with
7 the first sentence, that says: Quote,
8 Shribman discloses a primarily
9 peer-to-peer file sharing system and
10 method, close quote?

11 A I'm sorry, what paragraph is
12 that again?

13 Q 65.

14 A Okay.

15 Q Well, sir, I'm sorry, my
16 question I'm trying to get to, is I
17 asked: Would you agree that Shribman
18 discloses a primarily peer-to-peer file
19 sharing system and method?

20 A I'll -- that's what I wrote.
21 I -- you know, I think there's a -- I
22 think the scope can be larger. However,
23 you know, that's a disclosure that they
24 made.

25 Q Well, do you agree with that

1 characterization as it appears verbatim
2 in paragraph 65 of your declaration?

3 A I'm -- you're asking me to
4 agree at what I wrote there?

5 Q Well, I asked you --

6 A It is -- it is a possible
7 implementation. It is a possible
8 implementation.

9 Q Sir. Sir, I'm not going to
10 engage in a discussion with you, but when
11 I asked you the question the first time
12 you took issue with it, so to assist you
13 I pointed you to a specific paragraph of
14 your declaration.

15 A Okay. What is the question?

16 Q Sir, would you agree that an
17 object of Shribman is to reduce the need
18 for any client to go directly to the
19 origin server to retrieve desired
20 content?

21 A That wasn't your original
22 question. Are we moving to a different
23 question?

24 Q Each question, sir, I ask you
25 stands alone. So please, as I ask them,

1 just do your best to answer. If you need
2 clarification I'm happy to, and I'm happy
3 to repeat that question if helpful to
4 you.

5 A Okay. I was not aware that we
6 were finished with the previous question.
7 I'm sorry.

8 Q So let me ask you a question,
9 sir.

10 Would you agree that an
11 object of Shribman is to reduce the
12 need for any client to go directly to
13 the origin server to retrieve desired
14 content?

15 MR. ABRAMSON: Object to the
16 extent that's beyond the scope of
17 his declaration.

18 A I believe that that is one of
19 the motivations. I don't know that it's
20 the primary tenet of the -- of the system
21 and methods. I believe they were trying
22 to create a more efficient methodology to
23 retrieve data.

24 So given that, given that
25 scenario, it's within the scope of the

1 objective.

2 Q I'm sorry, it's within the
3 scope of what?

4 A The object -- the overall
5 objective.

6 Q Objective? Yes, thank you,
7 sir.

8 Would you agree that
9 Shribman teaches getting cached
10 content from peers in order to reduce
11 the burden on the web server?

12 A That is one of its -- that it
13 follows with the scope of their objective
14 of providing more efficient retrieval of
15 data.

16 Q I'm going to refer to paragraph
17 66 of your declaration for a moment.

18 You cited in paragraph 72 of
19 Shribman as support for client 102
20 sending its IP address to the
21 acceleration server; right?

22 A That is Shribman's example,
23 yes.

24 Q And this citation refers to the
25 signup request shown in Figure 13 of

1 Shribman; correct?

2 A I believe so.

3 Q Now, you cite in paragraph 79,
4 as support for client 102 sending the IP
5 address of the web server 152 to the
6 acceleration server 162 to obtain a list
7 of agents; correct?

8 A I -- I did.

9 Q And this citation to paragraph
10 79 refers to the find agent request shown
11 in Figure 13; correct?

12 A I'm sorry, the what?

13 Q This citation refers to the
14 find agent request that is shown in
15 Figure 13; correct?

16 A I believe so.

17 Q Do you agree that the
18 acceleration server 162 is then looking
19 for agents with an IP address that is
20 numerically close to the IP address of
21 the web server 152?

22 A I believe that is in the scope
23 of their discussion to look for, you
24 know, geographically geolocated IP
25 address for facilitation of efficient

1 communication.

2 The address mechanism is,
3 you know, I don't recall all the
4 specifics, but I -- I did see that
5 discussion.

6 Q Sir, then do you agree that the
7 IP address of the client is, therefore,
8 not relevant to which agents will be in
9 the list?

10 A The client's IP address --
11 MR. ABRAMSON: Object, beyond
12 the scope of the direct. You can
13 answer.

14 A The client's IP address is
15 independent of the process, other than to
16 respond to the client with regard to an
17 agent list.

18 Q Would you agree that the signup
19 request, as referenced in paragraph 72 of
20 Shribman and cited in your declarations,
21 paragraph -- let me start again, I want
22 to make this clearer for you. I don't
23 mean for that question to be confusing.

24 So with reference to
25 paragraph 66 of your report, and the

1 citations therein to Shribman, would
2 you agree that the signup request and
3 the find agent request are two
4 different types of requests?

5 A Can you restate that question,
6 please?

7 Q Sure. With respect to
8 paragraph 66 of your declaration, and the
9 citations that you provide therein, would
10 you agree that the signup request and the
11 find agent request of Shribman are two
12 different types of requests?

13 A I believe I referred to that as
14 a registration, correct? Your term of
15 signup is that the client will register
16 with the acceleration server, and in that
17 context, that is a separate request than
18 requesting addresses of the agent from
19 the acceleration server.

20 Q Is it your understanding that
21 Shribman refers to that communication
22 that you cite in paragraph 72 as a signup
23 request?

24 A I -- I don't recall that
25 language. It -- it may -- it may be very

1 well the case, but I don't recall the
2 language.

3 Q Would you agree that, according
4 to Shribman, it is the agent, not the
5 client, that determines where to obtain
6 the requested content?

7 A Conditionally.

8 Q Under what condition does the
9 agent not determine where to obtain
10 content requested by a client?

11 A When the agents don't have the
12 content.

13 Q And when an agent doesn't have
14 the content, according to Shribman, what
15 happens?

16 A I believe the content is
17 directly -- directly responded to by
18 the -- the server that holds the data.

19 Q Following up on your answer,
20 when a -- when an agent does not have
21 information regarding the content, and
22 the content needs to be obtained from a
23 server, according to Shribman what is
24 your understanding of how that process
25 works?

1 A To be accurate, let me find and
2 review what I wrote about that scenario.

3 Q That's fine. And just for the
4 record, if you're looking at specific
5 passages in your report, I'll just ask
6 you to please note those for us.

7 A Okay.

8 Q Thank you.

9 A Okay. Can you ask your
10 question again, please?

11 Q Sure. I had asked you what is
12 your understanding of how Shrib- -- of
13 Shribman's disclosure when the agent
14 determines that the requested information
15 sought by the client is not available?

16 A Is not available to the agent?

17 Q Sure, let's take that case.

18 A In that scenario the agent
19 makes the request to the server.

20 Q Okay. So -- and that's what I
21 was trying to get to. Is it your
22 understanding, then, that when an agent
23 receives a request for content from
24 client, and the agent does not have that
25 content available, the agent requests

1 that content from the web server?

2 A That is correct, that is stated
3 by Shribman.

4 Q Could you refer, please, to
5 paragraph 100 of your declaration? And
6 please let me know when you're there.

7 A I'm there.

8 Q In paragraph 100 you stated,
9 quote, selecting additional devices from
10 a group selection when one is already
11 selected would be obvious to a POSITA; do
12 you see that?

13 A Yes.

14 Q How would it be obvious to use
15 multiple devices given that Shribman
16 expressly discloses the client selecting
17 a single agent?

18 A It would be -- it's obvious by
19 use case, suppose the agent goes away?
20 There is a discussion about deficiencies
21 based on geolocation. Suppose, you know,
22 that path has now become degraded?

23 You know, degradation, dynamic
24 degradation is probably the number one
25 example of -- in a use case to -- to have

1 more than one connection.

2 Q Are you talking about a
3 specific disclosure that's in Shribman or
4 are you talking about your knowledge of
5 just how the internet works?

6 (Reporter clarification.)

7 MR. DUNHAM: I'm sorry, did
8 you get what you need.

9 THE REPORTER: I need the
10 answer.

11 BY MR. DUNHAM:

12 Q So Mr. Teruya, I think she
13 would like you to repeat your answer, if
14 possible.

15 A Wow. Okay. I don't know if I
16 can do that verbatim, but I would -- I
17 said: It's an obvious conclusion because
18 of the nature of the internet and the --
19 the dynamic nature of the internet and --
20 and path resolution. Paths degrade, you
21 know, with great frequency.

22 So if you're looking for an
23 efficient communication methodology in
24 order to provide faster delivery of data,
25 in a data communication scenario, it --

1 it's obvious that you would -- you would
2 put in the mechanics and the process to
3 be able to dynamically change your
4 connections in order to have the
5 efficiencies of -- of transfer.

6 Q Sir, would you agree that the
7 Shribman reference does not disclose
8 selecting more than one agent by the
9 client device?

10 MR. ABRAMSON: Object to the
11 form.

12 A I don't recall that it
13 states -- it states: Simultaneous
14 connectivity. I -- I merely stated in
15 my -- my paragraph, there, that you have
16 the ability to select additional devices,
17 whether that be static or dynamic, you
18 know, it's -- it's -- it -- it's an
19 obvious mechanism to how things work.

20 Q Please refer to paragraph 101
21 of your declaration.

22 A Okay.

23 Q And to help with the context,
24 paragraph 101 states: Claim 94 depends
25 from claim 89 and covers the second

1 device being randomly selected from the
2 group. It would have been obvious to a
3 POSITA to have made this selection
4 randomly, especially in view of the fact
5 that dependent claims in Shribman
6 disclosed particular rules for selection.

7 Do you see that?

8 A Yes.

9 Q And my question I wanted to try
10 to understand is: Was there disclosure
11 in Shribman for making that selection of
12 the second device randomly from the
13 group?

14 A I -- I don't recall. However,
15 the mechanics of Shribman infers that
16 geolocation for -- for enhanced
17 communication delivery, was one of the
18 factors that it used in a selection
19 process. It would seem to reason that
20 if -- if that is your criteria, then
21 design of the pool would necessarily be
22 weighted with that attribute.

23 So the randomness of
24 connectivity is largely structured and
25 architected in a way that you would pick

1 randomly, rather than specifically, from
2 a list that would -- would meet that
3 criteria, much like in -- in -- you know,
4 in round robin DNS selection.

5 Q Was the round robin DNS
6 selection disclosed in Shribman?

7 A No, it's an obviousness of --
8 it's an example of obviousness.

9 Q So when you're using
10 obviousness, I just want to understand,
11 do you mean obvious beyond what's
12 disclosed in Shribman, is that how I
13 should understand you?

14 A Yes. Yes, in most cases,
15 that's true.

16 Q Could you go to paragraph 115
17 of your declaration, please.

18 A Okay.

19 Q Down near the bottom of page
20 42, and spilling over to page 43, there's
21 a sentence that reads, quote, in
22 addition, a POSITA would understand that
23 in the circumstances described in
24 Shribman the agent must be doing DNS
25 lookups in order to request the content

1 as described; do you see that sentence?

2 A Yes.

3 Q Now, would you agree that in
4 Shribman it is the client, not the agent,
5 that sends the IP address of the web
6 server to the acceleration server?

7 A I'm sorry, state that again.

8 Q Would you agree that in
9 Shribman it is the client device that --
10 not the agent, that sends the IP address
11 of the web server to the acceleration
12 server?

13 A I don't recall that, at this
14 time.

15 Q And in the sentence that we
16 just reviewed together, in paragraph 115
17 of your declaration, I just want you to
18 focus on the word: "Must be doing DNS
19 lookups."

20 Do you see that phrase?

21 A Yes.

22 Q Why is it that you have
23 testified that the agent must be doing
24 DNS lookups?

25 A Because one of the criteria of

1 Shribman, that there was discussion, was
2 to geolocate IP addresses in order to
3 facilitate faster retrieval. You don't
4 want to present the server that an agent
5 that is in Hong Kong, when you're in LA,
6 and there's another agent in LA.

7 You would want the agent for
8 that client, at the top of its list of
9 selection, to be in LA. The most
10 convenient way to order that list is by
11 doing a DNS lookup and getting geolocated
12 addresses.

13 Q And my question, sir, is: What
14 support do you have for your statement
15 that the agent must be doing the DNS
16 lookup in Shribman?

17 A I -- I don't know that there is
18 a specific methodology defined in
19 Shribman for that. I'm saying that it
20 would be obvious that that would be
21 occurring.

22 Q Sir, could you look at
23 paragraph 79 of the Shribman reference,
24 and please let me know when you're there.

25 A I'm there.

1 Q In the second sentence of
2 paragraph 79, would you agree that
3 Shribman describes that the client module
4 224 then looks up the IP address of the
5 server 152 that is the target of the
6 resource request.

7 Do you see that?

8 A Yes.

9 Q Are you aware of any disclosure
10 in Shribman that says that the agent
11 looks up the IP address of the server
12 that is the target of the resource
13 request?

14 A I don't recall, at this time.
15 I would have to review this more
16 carefully.

17 Q In your declaration, did you
18 cite any support for the notion that the
19 agent of Shribman does a DNS lookup in
20 order to request content sought by a
21 client device?

22 A A DNS lookup is an address
23 translation in order to effectively do
24 things. You know, it's -- it's an
25 inherent process at using the internet.

1 It -- its use is generally inferred.

2 Q And my request, sir, is simple:

3 I just was unable to find this, so I'm
4 asking for your assistance. Is there any
5 place in your declaration where you
6 provide support for the statement that a
7 POSITA would understand that in the
8 circumstances described in Shribman the
9 agent must be doing DNS lookups in order
10 to request the content as described?

11 A I -- I believe that every
12 element that in using an IP address is
13 using some form of DNS lookup no matter
14 what that device is.

15 Q Is it --

16 A Because part of address
17 resolution on the internet is an inherent
18 process of address resolution, every
19 device must do it.

20 Q So if a client device sends to
21 an agent the IP address for a domain
22 posted on the server, is it your
23 understanding that the agent that
24 received that IP address from the client
25 device --

1 MR. ABRAMSON: Objection, lack
2 of foundation.

3 MR. DUNHAM: Sir, I haven't
4 finished my question. Please allow
5 me to finish. I'm just trying to
6 elucidate further from the witness's
7 explanation.

8 MR. ABRAMSON: You might want
9 to rephrase it, because it sounded
10 like an incomplete question to me.
11 Lack of foundation.

12 MR. DUNHAM: Please allow me
13 to ask my questions, counsel.

14 MR. ABRAMSON: Go ahead.

15 BY MR. DUNHAM:

16 Q Mr. Teruya, is it your
17 understanding that if a client device has
18 performed a DNS lookup and has the IP
19 address for the location where a domain
20 is hosted on a server on the internet,
21 and the client device provides that IP
22 address to an agent, must the agent
23 necessarily do another DNS lookup to
24 determine the IP address for that domain?

25 MR. ABRAMSON: Objection, lack

1 of foundation.

2 A I don't know how to answer
3 that, because the connectivity chain you
4 just described would -- would not --
5 would not map correctly in order to
6 provide an answer to that question.

7 MR. DUNHAM: Okay. We've been
8 going over -- a little bit over an
9 hour, so let's take another
10 10-minute break.

11 THE WITNESS: Okay.

12 MR. ABRAMSON: You good?

13 THE VIDEOGRAPHER: The time is
14 2:18 p.m. We are off the record.

15 (Recess.)

16 THE VIDEOGRAPHER: The time is
17 2:31 p.m. We're back on the record.
18 Please proceed.

19 BY MR. DUNHAM:

20 Q Mr. Teruya, just as a
21 housekeeping note, I believe you're in a
22 different time zone than me, so if it
23 comes to a point that you would like to
24 take a break for lunch, please do not
25 hesitate to let me know.

1 A Okay.

2 Q Great.

3 A Thank you.

4 (Exhibit No. 1018 was
5 identified for the record.)

6 BY MR. DUNHAM:

7 Q I'd like to take -- you're
8 welcome.

9 I would like you to take out
10 Exhibit 1018, the reference referred
11 to as Sharp KK. And please keep your
12 declaration available to you, as well.

13 A Okay.

14 Q Mr. Teruya, you would agree
15 that Sharp KK discloses a content
16 delivery system; correct?

17 A Yeah, that's -- yeah, that's
18 what they purport.

19 Q Do you agree that a POSITA
20 would understand the content delivery
21 system of Sharp KK to be a closed system?

22 MR. ABRAMSON: Object to the
23 form.

24 A I -- I would not agree with
25 that.

1 Q Why not?

2 A I believe it could be applied
3 either publicly or privately. You know,
4 it could be open or closed. I don't -- I
5 don't -- I don't find that specific
6 constraint.

7 Q Would you agree that all of the
8 desired content available within the
9 system disclosed in Sharp KK, must be
10 located within the system?

11 MR. ABRAMSON: Object to the
12 form.

13 A Could you -- could you provide
14 that question again, please?

15 Q Sure. Would you agree that all
16 of the content that is available within
17 the content delivery system disclosed in
18 Sharp KK, must exist within the system
19 itself?

20 A As it is disclosed in Sharp, in
21 the embodiment that I reviewed, I
22 would -- I would say that would be true,
23 generally.

24 Q Why only generally, sir?

25 A Because we don't know what

1 connections are between the servers and
2 the proxy for those storage sections.
3 What is that, is it an internal network,
4 is it a HSSI link, is it an ATM link to a
5 data cluster? We don't know what those
6 are, so we can't make a determination to
7 say they're all enclosed in this -- in
8 this system. It could -- it could be
9 taking a hop across the river.

10 Q Would you agree that within the
11 disclosure of Sharp KK all of the content
12 that -- that is available within the
13 system must be in -- must be on at least
14 one of the devices that are shown within
15 the system?

16 A I would agree that in order to
17 evaluate the structure being explained in
18 the embodiment, we can infer that that is
19 an architecture that could exist.

20 Q Are you aware of any disclosure
21 in Sharp KK that would permit one of the
22 client devices to make a request for
23 content that is not included on any of
24 the other devices that are disclosed in
25 the content delivery system?

1 A I'm not absolutely sure about
2 that inference. Is there -- is there an
3 example in my declaration that -- that
4 you are -- that you used in order to ask
5 that question?

6 Q You've included various figures
7 and cited various paragraphs in Sharp KK
8 in your declaration, and I've reviewed
9 all of them, and I'm just trying to
10 confirm if it's your understanding that
11 in the content delivery system of Sharp
12 KK all of the content that could be
13 requested by any of the clients must
14 already be within the system, itself.

15 A As I stated before, my
16 evaluation of Sharp KK, specifically
17 embodiment number three, is relevant to
18 finding analogous examples to the patent
19 in question.

20 So if you would like me to
21 provide additional content, context, to
22 what example I cited in Sharp KK,
23 relevant to the claims we're talking
24 about in the patent, I would be happy to
25 answer that.

1 But I didn't do an overall
2 evaluation of Sharp KK as a standalone
3 evaluation of what every single
4 embodiment of Sharp defines. That was
5 not what I was paid to do.

6 Q And my question -- thank you
7 for that, sir.

8 My question is: In your review
9 of Sharp KK did you identify any
10 disclosure that would permit a client
11 device within the system to obtain
12 content that was on a server that is not
13 part of the system?

14 MR. ABRAMSON: Object to form.

15 A I don't recall at this time.

16 However, to give you a more
17 accurate answer, let me review the
18 section of my declaration where I
19 specifically go through Sharp KK, if you
20 would allow me to.

21 Q Certainly.

22 A Okay. What was your question
23 again?

24 Q My question is: Are you aware
25 of any disclosure in Sharp KK that would

1 permit a client device to seek content
2 from a web server that is not within the
3 content delivery system of Sharp KK?

4 A I do not believe there is a --
5 a specific disclosure. I believe its
6 ability to exist is inferred.

7 Q Is there a particular portion
8 of Sharp KK you would point to, to
9 support your belief that such a use would
10 be inferred?

11 A I should say the possibility is
12 inferred.

13 Q With reference to paragraph 151
14 of your declaration --

15 A Yes.

16 Q -- if you could turn there,
17 please, let me know when you're there.

18 A I'm there.

19 Q The second sentence of that
20 paragraph states, quote, the proxies are
21 caching HTTP proxies, then you have a --
22 some additional quoted language in the
23 citation. I'm interested in that phrase
24 caching HTTP -- strike that.

25 I'm interested in the phrase:

1 Caching HTTP proxies. Do you see that
2 phrase?

3 A Yes.

4 Q What did you mean by caching
5 HTTP proxies, as used in paragraph 151 of
6 your declaration?

7 A Sharp calls out a -- a cache
8 methodology, which I guess because the
9 Japanese translation they misspelled
10 cache, but it's disclosed in the
11 embodiment that they have caching
12 storage. It's -- it's -- it's spelled
13 out below the proxies in the diagram. I
14 think it's 8B, or something.

15 Q I would agree that the caching
16 HTTP proxies disclosed in Sharp KK are
17 HTTP proxy servers.

18 A I -- yeah, they could be, you
19 know, they could be proxy in function,
20 you know? Proxy's a fairly generic term.
21 So a proxy server within a specific
22 internet configuration may be different
23 than the translation proxy, for instance.

24 Q Well, sir, my question is
25 specifically about the caching HTTP

1 proxies disclosed in Sharp KK. Would you
2 agree that those are HTTP proxy servers
3 that are disclosed?

4 A In what embodiment section that
5 I reviewed, I would -- I would consider
6 those caching at HTTP proxies.

7 Q I'm sorry, I didn't understand
8 your answer. Could you repeat that,
9 please?

10 A I said: In the embodiment that
11 I reviewed, they could be construed to be
12 HTTP proxies. But I believe somewhere in
13 there, not under the strict definition of
14 something like SOCKS. Cache is a
15 relative term. You can cache a web page.

16 Q In paragraph 61 of your
17 declaration --

18 A Yes.

19 Q -- do you understand that the
20 Sharp KK discloses proxies deployed for
21 load balancing; do you see that?

22 MR. ABRAMSON: Which
23 paragraph, Tom?

24 MR. DUNHAM: 61.

25 MR. ABRAMSON: Of his

1 declaration?

2 MR. DUNHAM: Yes, sir.

3 MR. ABRAMSON: On the '044
4 patent?

5 MR. DUNHAM: Yes, sir.

6 THE WITNESS: Okay. I'm
7 there.

8 BY MR. DUNHAM:

9 Q When you reference the proxies,
10 in the first sentence of paragraph 61,
11 were you referring to the HTTP proxy
12 servers that are disclosed in Sharp KK?

13 A Not necessarily.

14 Q So what were you referring to,
15 then, sir, when you referenced proxies
16 deployed for load balancing in paragraph
17 61 of your declaration?

18 A Well, this -- I'd have to go
19 through -- I -- I don't -- I really don't
20 recall it, it's generally understood by
21 the -- by the -- by what sharp has
22 defined itself to be, that -- that these
23 multiple devices were attempting to load
24 balance in delivering the content.

25 And because the information

1 appears to be -- have some level of
2 redundancy, you know, that -- that was
3 my -- my definition and explanation.

4 Q Would you agree that Figure 20
5 of Sharp KK is the figure that
6 corresponds to embodiment number three
7 that you referenced earlier?

8 A Yes, I believe so. I can
9 double check that right now. Yes.

10 Q So can you put Figure 20 up on
11 your screen in front of you, sir?

12 A I have it.

13 Q Would you agree that in Figure
14 20 there are two clients shown, and they
15 are labeled 4E and 4F?

16 A Yes, that's correct.

17 Q And would you agree there are
18 two HTTP proxies shown, labeled 3a -- I'm
19 sorry, strike that.

20 Three HTTP proxies shown,
21 labeled 3a, 3b, and 3c?

22 A There are three proxies
23 indicated in the figure. They did not
24 specifically state that they were HTTP
25 proxies.

1 Q Would you agree that the three
2 proxies shown, 3a, 3b, and 3c are each
3 caching proxies?

4 A It would -- I would agree
5 with -- I would agree that that could be
6 their designation.

7 Q Okay. Do you see corresponding
8 to each of the three proxies, 3a, 3b, 3c,
9 do you see the associated cache storage
10 section 6a, 6b, and 6c?

11 A Yes.

12 Q Taking proxy 3a as an example,
13 what is your understanding of the
14 functionality provided by cache storage
15 section 6a of Sharp KK?

16 A Specifically?

17 Q Yes, sir.

18 A I -- I -- I would just -- my
19 analysis of Sharp KK, in my declaration,
20 didn't specifically break down the
21 structure of that particular proxy.

22 Q Is that your answer, sir?

23 A Yes, it's a device that -- it's
24 a device that provides a function in the
25 example provided by Sharp. I didn't -- I

1 did not break down the specificity of
2 what -- how that proxy is constructed.

3 Q Just so my record is clear,
4 sir, and I apologize if I asked you this
5 previously, you did review embodiment 3
6 of Sharp KK; correct?

7 A I certainly did.

8 Q Do you have an understanding of
9 the functionality provided by cache
10 storage section 6a as associated with
11 proxy 3a?

12 A I'm sorry, what was that
13 question again?

14 Q Sure. Do you have an
15 understanding of the functionality
16 provided by cache storage section 6a as
17 associated with proxy 3a and as shown in
18 Figure 20 of Sharp KK?

19 A Not with any specificity. I
20 treat the proxy and the -- its caching
21 capability as a -- as an entity. I don't
22 know the specific mechanics.

23 Q In paragraph 61 of your
24 declaration, you indicate that proxies
25 are assigned to users by a central

1 server; correct?

2 A Correct.

3 Q When you refer to the central
4 server, in that particular statement of
5 your declaration, which component shown
6 on Figure 20 were you referring to?

7 A The -- I'm sorry, what
8 paragraph are you looking at, again?

9 Q 61 of your declaration, sir.

10 A Yes. I believe that -- I
11 believe I'm referring to the
12 communications server, if I'm correct. I
13 think the communications server, if I
14 accurately remember, is the one that
15 assigns the -- the connection.

16 Q Again, with reference --

17 A Let me -- let me review my --
18 in my declaration, where I take that
19 apart.

20 Okay. What was the question
21 again?

22 Q In paragraph 61 of your
23 declaration you stated that proxies are
24 assigned to users by a central server.
25 And my question is: Is that server 2

1 that's shown on Figure 20?

2 A Yes.

3 Q With reference to paragraph 151
4 of your declaration, can you please let
5 me know when you're there.

6 A I'm here. I'm there.

7 Q Sure. Thank you.

8 In the first sentence you state
9 that: Server 2 assigns one of a
10 plurality of proxy devices, 3a, 3b, 3c,
11 to handle requests for content, from
12 clients. And then the sentence goes on.

13 MR. ABRAMSON: Objection to
14 form, misstates the document.

15 BY MR. DUNHAM:

16 Q Do you see that language in the
17 first sentence of paragraph 151 of your
18 declaration?

19 A You dropped out there, so can
20 you -- can you provide that question
21 again?

22 Q Absolutely. I'm just trying to
23 get you to look at particular language
24 that is in the first sentence --

25 A Okay.

1 Q -- of paragraph 151 of your
2 declaration. And the language I'm
3 interested in is: The server 2 assigns
4 one of a plurality of proxy devices, 3a,
5 3b, 3c, to handle requests for content
6 from clients.

7 Do you see that passage?

8 A Yes.

9 Q Is it your understanding --

10 MR. ABRAMSON: Object to the
11 form. Objection to form, partial
12 quote.

13 MR. DUNHAM: The witness is
14 free to read the entire sentence to
15 himself.

16 MR. ABRAMSON: I know, Tom,
17 but you're quoting it, and then
18 you're quoting it incorrect. It's
19 usually -- I said: You are quoting
20 it in a -- in a confusing way, but
21 he can answer.

22 MR. DUNHAM: Counsel, I ask
23 you to limit your objections to
24 nonspeaking objections, please.

25 ///

1 BY MR. DUNHAM:

2 Q Mr. Teruya, with reference to
3 the first sentence of paragraph 151 of
4 your declaration, will you agree that
5 Sharp KK teaches that server 2 assigns a
6 proxy device 3a, 3b, 3c to handle
7 requests for content from clients?

8 MR. ABRAMSON: Again, object
9 to the form.

10 A Let me review one thing. I
11 believe that to be true, but let me
12 review something to make sure that that's
13 an accurate answer.

14 Can you state your question
15 again, please?

16 Q Sure. So you would agree that
17 Sharp KK teaches that server 2 assigns a
18 proxy 3a, 3b, 3c to be used by client 4;
19 correct?

20 MR. ABRAMSON: Same objection.

21 A Eventually.

22 Q Is there another device within
23 Sharp KK that assigns a proxy to be used
24 by a client, other than server 2?

25 A No, not -- not in the

1 embodiment that I reviewed.

2 Q Are you aware of any disclosure
3 in Sharp KK where a device other than
4 server 2 assigns a proxy to be used by a
5 client?

6 A I did not review in any detail
7 or specificity any embodiment, aside from
8 embodiment number three.

9 Q In paragraph 151 of your
10 declaration, you use the phrase: Proxy
11 devices; do you see that?

12 A Yes.

13 Q What do you mean by proxy
14 devices?

15 A So as I stated before, I
16 treated all the elements of what is in --
17 in Figure 20, that indicates a proxy,
18 from the cache storage section to the
19 proxy communications section, to the
20 response requests extract execution
21 section, I treated those as a device that
22 provided functionality and -- and role as
23 a proxy.

24 Q Do you know whether the Sharp
25 reference, itself, ever uses the phrase,

1 quote, proxy device, close quote?

2 A I -- I don't recall.

3 Q Would you agree that in Sharp
4 KK the client 4 directly contacts the
5 server 2 to re -- make a request for
6 content?

7 A I'm -- I'm sorry, what? Can
8 you repeat that again?

9 Q Certainly. Would you agree
10 that in Sharp KK the client 4 directly
11 contacts the server 2 to make a request
12 for content?

13 A In order to give you an
14 accurate answer, let me review a section
15 of my declaration that handles, I
16 believe, the scenario of exhaustion.

17 Can you ask your question
18 again, please?

19 Q You agree that in Sharp KK the
20 client 4 directly contacts the server 2
21 to make a request for content; right?

22 MR. ABRAMSON: Object to the
23 form.

24 A I think the difficulty in that
25 question, to be absolutely accurate,

1 would be that are we treating server 2 in
2 that illustration of embodiment 3 as a
3 singular role as a server or are we
4 parsing out the functionality of what, in
5 essence, is the acceleration server in
6 the context of the patent to assign an
7 agent address, which is the proxies, but
8 it is a subset of server 2.

9 Q So with reference to Figure 20
10 of Sharp KK --

11 A Yes.

12 Q -- would you agree that client
13 4 directly contacts the box shown as
14 server 2 to make a request for content?

15 A Eventually.

16 Q In order to obtain content in
17 sharp KK, does the client always have to
18 make a request for content of server 2?

19 MR. ABRAMSON: Object to the
20 form.

21 A It -- in appropriate context,
22 it will, at some point. But in the
23 acceleration of the delivery, in the load
24 balancing delivery, that content will
25 come from the proxy caches.

1 So in order to get the
2 assignment, the answer would be yes. In
3 subsequent sessions, the answer would be
4 no. So I don't really know how to answer
5 that question with a singular answer.

6 Q Sure. And I understand your
7 explanation. Let me -- let me try and
8 break it into two pieces, and I'm
9 recognizing the difference between
10 requesting content and obtaining content.

11 So I just want to make sure
12 the record is clear in terms of how
13 you're applying the teachings of Sharp
14 KK in connection with your
15 declaration.

16 So my first question is:
17 You would agree that Sharp -- in Sharp
18 KK the client 4 directly contacts
19 server 2 to make a request for
20 content; correct?

21 A Eventually. Again, eventually.

22 Q Okay. Well, would you agree
23 that always has to happen at some point
24 in the process? That's all I'm trying to
25 establish.

1 A Let me review this again,
2 because I -- I don't know that that use
3 case is always the case.

4 Okay. There's multiple use
5 cases defined by Sharp. So there is the
6 case where Sharp discloses that either
7 the clients can fetch content from server
8 2 via the proxies. Okay?

9 The other use cases, server 2
10 may receive a request from the client,
11 which may transmit directly from the
12 client, so it would respond.

13 So technically, in that use
14 case, but not in every use case, that
15 statement could be true.

16 Q Can you identify for me any use
17 case in Sharp where the client does not
18 make a request for content of server 2 at
19 some point in that particular use case?

20 A That it does not -- I'm sorry,
21 can you repeat the question.

22 Q Sure. Can you identify for me
23 any use case in Sharp where the client
24 does not make a request of server 2 for
25 content at some part in the process of

1 the client requesting and obtaining
2 content?

3 A Well, the use case would be
4 that the client fetches the content from
5 the proxy.

6 Q Prior to a client fetching
7 content from a proxy, 3a and 3b shown in
8 Figure 20, would you agree that the
9 client previously had to contact server 2
10 in order to be assigned to one of the
11 proxies?

12 A Yes, that is stated by -- by
13 Sharp.

14 Q Would you agree that server 2
15 keeps track of each request for content
16 that's made by any of the clients in the
17 system?

18 A Well, can you be more specific?
19 What is keep track?

20 Q My question is: Would you
21 agree that server 2 keeps track of each
22 request for content that is made by any
23 clients within the system?

24 A Does that mean does it keep a
25 log or what -- what does that mean?

1 Q I'm simply asking for your
2 understanding of the disclosure, sir.

3 A Well, I'm -- I'm -- I'm trying
4 to -- I'm trying to understand the
5 specificity of the question. Keeping
6 track is -- is -- what -- what is keeping
7 track?

8 Q Are you aware of any
9 circumstances within Sharp KK where
10 server 2 is able to determine if content
11 requested by any client was previously
12 requested by another client?

13 A So the use case example that
14 you are stating is -- let's use the
15 example clients, which is 4 -- what is
16 it, 4e and "f"? Is that right? Clients
17 4e and 4f, the use case is: Does the
18 server know that 4e or 4f are -- are
19 making the same request?

20 Q Do you know if this ever --
21 will have some way to determine if 4f,
22 for example, is requesting content that
23 had been previously requested by 4e?

24 A I -- I -- I'm not aware of a
25 scenario like that, since typically the

1 request will be coming to the proxy is --
2 is what I would assume to be obvious,
3 since this is a load balancing network.

4 It's going to make a request
5 for specific content. And the server
6 will respond or the proxy will respond to
7 returning the requested content.

8 Now, the server or proxy may
9 have a process within it in order to log
10 that information so it can sequentially
11 be able to track at some later date.

12 But I don't know if that
13 exists in any specific architecture or
14 design that I -- I see existing in --
15 in the embodiment.

16 Q With reference to Figure 20 of
17 Sharp KK, would you agree that client 4e
18 will not contact any of the proxies, 3a,
19 3b, or 3c for content until after client
20 4e has made a request to server 2?

21 A Can you ask that question
22 again, please?

23 Q Sure. Would you agree that
24 embodiment 3, shown in Figure 20 of Sharp
25 KK, before client 4e goes out to proxy

1 3a, 3b, or 3c to obtain content, client
2 4e must have previously contacted server
3 2?

4 A I -- I would say that in most
5 cases that would be true.

6 Q Are you able to point to any
7 disclosure in Sharp KK showing a case
8 where client 4e did not first have to
9 contact server 2 before being directed to
10 one of the proxies to obtain content?

11 A Not without more analysis to
12 all the other embodiments in Sharp.

13 Q Well, with respect to the
14 embodiment you said you analyzed, are you
15 aware of any disclosure in Sharp KK where
16 client 4e could be directed to proxies
17 3a, 3b, or 3c without first having
18 contacted server 2?

19 MR. ABRAMSON: I'm going to
20 object to this line of questioning
21 on the grounds that it's beyond the
22 scope of his direct examination.

23 I don't believe this relates
24 to anything he stated in his
25 declaration and I don't think this

1 is admissible.

2 MR. DUNHAM: Counsel, I
3 disagree completely. The analysis
4 that Mr. Teruya provided, for
5 example, in paragraph 152 through
6 163, specifically goes into the
7 messaging between the different
8 alleged elements of the network.

9 And I'm merely having the
10 witness explain to me his
11 understanding of the operation so I
12 can understand his analysis.

13 MR. ABRAMSON: Yeah, you're
14 asking him for his opinion on an
15 order of events. And I don't
16 believe that his declaration
17 addresses that, at all, but if you
18 can point to it?

19 MR. DUNHAM: I don't have to
20 justify that to you now, counsel.
21 I'm going to ask, if you have an
22 objection, please make it, and then
23 I'll ask the witness to answer the
24 question.

25 MR. ABRAMSON: I'll state my

1 objection and then, you know, if and
2 when it's appropriate we'll argue
3 that that's not admissible. He can
4 answer.

5 THE WITNESS: Can you ask your
6 question again? I'm sorry.

7 BY MR. DUNHAM:

8 Q Sure. I just want to know,
9 within the embodiments that you reviewed
10 within Sharp KK, are you aware of any
11 embodiment where client 4e would obtain
12 content from any of the proxies that are
13 shown without first having made a
14 connection to server 2?

15 A Not that I'm aware of.

16 Q Okay.

17 A Not that I recall.

18 Q And if you look at paragraph
19 155 of your declaration, in the very
20 first sentence there's a quote that
21 states: Request executing section 33 of
22 client 4 receives a response message to
23 instruct the request executing section 33
24 to acquire content -- a content from a
25 designated proxy, close quote; do you see

1 that statement?

2 A Yes.

3 Q And do you see the phrase:

4 Response message, that you -- the words,
5 response message, a response message that
6 are used in that paragraph?

7 A Yes.

8 Q Would you agree that in order
9 for request executing section 33 of
10 client 4 to receive a response message,
11 something must have preceded that in
12 order for it to be a response, would you
13 agree with that?

14 A Generically, yes.

15 Q So there is a sequence of the
16 flow of messages that you described in
17 your declaration, including your
18 reference to a response message; correct?

19 A Yes, I would assume that there
20 is a response to every request. Well,
21 generally, generally, there are
22 conditions where you won't receive a
23 response.

24 Q But with respect to paragraph
25 155, you're specifically discussing the

1 sequence of messaging that occurs as
2 you've analyzed Sharp KK; correct?

3 MR. ABRAMSON: Object to the
4 form.

5 A As it's stated, as Sharp KK
6 states that is what they are describing.

7 Q Now, in paragraph 159 of your
8 declaration, and I would ask you to turn
9 to that -- strike that.

10 Let me just ask you to turn to
11 paragraph 159, and let me know when
12 you're there.

13 A I'm there.

14 Q And please take a moment and
15 read paragraph 159 to yourself. I have
16 questions about both of the sentences in
17 that paragraph.

18 A Okay. Your question?

19 Q First, with respect to the
20 first sentence of paragraph 159, it
21 states: In the principal embodiment
22 shown in Sharp KK the functionality of
23 the first and second servers are combined
24 into one unit.

25 Do you see that language?

1 A Yes.

2 Q Are you aware of any disclosure
3 in Sharp KK that shows the functionality
4 of the first and second servers being
5 separated and not combined into one unit?

6 A I -- I did not apply that
7 constraint to the entire -- the entire
8 Sharp document.

9 Q Okay. And again, I -- we'll
10 get to the second sentence, too, but I
11 just want to make sure I understood in
12 the first sentence, you used the word
13 principal embodiment.

14 So my question, sir, is: Are
15 you aware of any disclosure in Sharp KK
16 that shows the functionality of what
17 you're referring to as the first and
18 second servers, where they are not
19 combined into one unit?

20 A I can't answer that without
21 reviewing the entire document, which I
22 did not specifically do with the
23 specificity that I did for embodiment 3.

24 Q Okay. So with respect to
25 embodiment 3, are you aware of any

1 disclosure within Sharp KK that the
2 functionality of what you're referring to
3 as the first and second servers, in the
4 first sentence of paragraph 159, are not
5 combined into one unit?

6 A Yeah, I -- I don't know that to
7 be true, either. I believe that -- I
8 believe Sharp is talking about
9 functionality and role more from a Meta
10 standpoint than a physical device, per
11 se.

12 It's much like a Window's --
13 Microsoft Window's server having multiple
14 virtual roles in a physical server, it
15 could embody actual multiple physical
16 server, a physical server with multiple
17 virtual server instances.

18 So that the fact that Figure 20
19 was drawn like it was, I -- I cannot
20 assume that that is a physical unit as
21 opposed to a virtual unit, in which case
22 it could be singular or it could be
23 separated, you know, by the M function.

24 Q Is there any portion of the
25 disclosure that -- in Sharp KK that you

1 can point me to that would state that the
2 server could -- is virtual and could be
3 divided into more than one component?

4 A No, that -- I mean, this is
5 pretty common knowledge about, you know,
6 VMs and virtualization. Virtualization
7 is how -- how we have the cloud today.
8 Virtualization is a basic tenet of
9 computing, you know, in this era, I mean,
10 going back 20 years.

11 Q Is it your testimony that in
12 preparing your declaration, with respect
13 to Sharp KK, the only embodiment that you
14 analyzed and are relying on for alleged
15 invalidity would be embodiment 3?

16 A That's the one that --
17 embodiment 3 represented the most, I
18 would say, compelling and analogous
19 example to the claims in the patent.

20 Q And my question, sir, is: In
21 performing your analysis, as set forth in
22 your declaration, and in forming the
23 opinions that you formed regarding Sharp
24 KK, is embodiment 3 the only embodiment
25 that you are relying on to support your

1 opinions?

2 A I think that can be answered to
3 the principal extent, I believe I
4 referred to another embodiment, may not
5 be in the '044 patent, but I may have
6 done it in the other patent. I'm not
7 entirely sure. I have -- I would have to
8 review them both side-by-side as to
9 whether or not I did make a reference to
10 another embodiment.

11 MR. DUNHAM: And I see we've
12 been going a little bit over an
13 hour, so what I would propose is a
14 short lunch break. We can do, say,
15 30 minutes or 45, if that works for
16 you? But if you need more time,
17 that's perfectly fine, sir.

18 MR. ABRAMSON: It's up to the
19 witness. I've got very convenient
20 food. Keith, it's up to you.

21 THE WITNESS: How about 45
22 minutes?

23 MR. ABRAMSON: Sounds great.

24 MR. DUNHAM: That's perfect.

25 Thank you.

1 THE VIDEOGRAPHER: The time is
2 3:32 p.m. We are off the record.

3 (Recess.)

4 THE VIDEOGRAPHER: The time is
5 4:16 p.m. We are back on the
6 record. Please proceed.

7 (Exhibit No. 1014 was
8 identified for the record.)

9 BY MR. DUNHAM:

10 Q Mr. Teruya, I'd ask you to take
11 out a copy of the Luotonen reference,
12 which was Exhibit 1014 in the '866 IPR
13 proceeding.

14 A Okay.

15 Q Please let me know when you
16 have that available.

17 A Okay.

18 Q So I'd like you to take a look
19 and, for yourself, review the terminology
20 on page 20 of -- strike that. Let me
21 start -- let me make this easier for you.

22 Would you please turn to the
23 page number 22 of the Luotonen
24 reference.

25 MR. ABRAMSON: What do you

1 mean by page 22?

2 MR. DUNHAM: The copy I have
3 says page 22 in the lower corner.

4 MR. ABRAMSON: Okay. What's
5 the -- what's the first line in the
6 page?

7 MR. DUNHAM: Sure. It's the
8 page that says, at the top, I guess
9 it's chapter four, web proxy
10 servers, and then it says:
11 Terminology, in bold letters across
12 the page.

13 MR. ABRAMSON: Yeah. Yeah.
14 Okay.

15 THE WITNESS: Okay.

16 BY MR. DUNHAM:

17 Q Okay. So Mr. Teruya, do you
18 have page 22 of Luotonen available to
19 you?

20 A Yes.

21 Q What I'm going to ask you to do
22 is just read to yourself the terminology
23 that's down near the bottom of the page,
24 that says: Proxy (server).

25 I'm going to have some

1 questions about specific language within
2 that, that terminology, but I would like
3 you to have an opportunity to read the
4 whole statement that's in Luotonen.

5 A Okay.

6 Q So I'd like to direct your
7 attention to the portion of that
8 statement, it's the beginning of the
9 second sentence, and, again, feel free to
10 read as much of it as you need, but it's
11 the language that says: A proxy acts
12 both as a server as well as a client, and
13 then it goes on from there.

14 Do you see that terminology?

15 A Yes.

16 Q With your understanding --
17 strike that.

18 Did you review the Luotonen
19 reference in connection with the
20 preparation of your declaration and
21 the '866 IPR petition in this case?

22 A Not the entire volume, only
23 what is relevant to what I used as an
24 example in my declaration.

25 Q Well, do you believe that

1 Luotonen's discussion of proxy servers
2 would have been relevant to the
3 discussion of your declaration?

4 A Yes, it is relevant.

5 Q Okay. So my question, sir, is:
6 When Luotonen states a proxy acts as both
7 a server as well as a client, was it your
8 understanding that the proxies disclosed
9 in Luotonen can simultaneously act as
10 both a server and a client?

11 A It could.

12 (Exhibit No. 1021 was
13 identified for the record.)

14 BY MR. DUNHAM:

15 Q Could you also pull out the
16 Prince reference, sir?

17 A Okay.

18 Q Get that available to you.

19 A Prince is from the '044 patent?

20 Q And that would be Exhibit 1021
21 yes, sir from the '044.

22 A Okay. I have that open.

23 Q And if it's helpful to you in
24 your '044 declaration -- I mean, I'll
25 just generally reference you to the

1 section starting at paragraph 172, and
2 again, that's just -- if that's a helpful
3 for you I'll note that's where you
4 discuss in Prince?

5 A Okay. I'm there.

6 MR. ABRAMSON: Sorry, what's
7 the declaration?

8 MR. DUNHAM: The '044
9 declaration, for Prince, starting at
10 paragraph 172.

11 MR. ABRAMSON: 172? Okay.

12 MR. DUNHAM: Yes, sir.

13 MR. ABRAMSON: Sorry.

14 BY MR. DUNHAM:

15 Q Mr. Teruya, do you have the
16 Prince reference available?

17 A Yes, I do.

18 Q Would you agree that Prince
19 discloses a cloud-based proxy service
20 provision through DNS?

21 A I -- I don't know what -- do
22 you want to provide me a definition of
23 cloud in -- in a -- in your context?

24 Q Well, do you have an
25 understanding of how a person of ordinary

1 skill in the art would understand the
2 word "cloud" in the context of the Prince
3 reference?

4 A That a person of -- a POSITA
5 would ask me the same question. What
6 is -- what are we talking about is a
7 specific cloud, are we talking an AWS
8 cloud, meaning, you know, what Google and
9 Amazon runs as cloud service or are we
10 talking the internet as a cloud?

11 Q Well, if you look at paragraph
12 23 of Prince, sir, tell me when you're
13 there.

14 A Paragraph 23?

15 Q Yes, sir.

16 A Okay. Let me read that.

17 Okay. I reviewed that section.

18 Q What is your view of how a
19 POSITA would understand the third
20 sentence, that says: The cloud-based
21 proxy service is provisioned through DNS?

22 A Today or when that document
23 was -- or that book was written? Because
24 I think given the time this specific, you
25 know, time reference would -- you would

1 interpret it differently.

2 Q Going in connection with your
3 analysis and the opinions you formed in
4 this case, what timeframe did you apply
5 when you read, for example, the Prince
6 reference?

7 A I used the time reference
8 relevant to the analysis of the patent,
9 which is, what, 2000 -- 2013 or something
10 like that?

11 Q Okay. So the question I asked
12 for you is a POSITA -- can we agree,
13 then, that a POSITA is a person of
14 ordinary skill in the art at the time of
15 the invention of the '044 and '866
16 patents?

17 A Okay. Or before.

18 Q Pardon?

19 A Or before. I mean, you
20 could -- you could -- I mean, you could
21 be 50 years old, you know, but your
22 knowledge of the skill is not going to go
23 away, it travels with you.

24 Q Sure. And I'm just trying to
25 get agreement with you that if I say

1 POSITA I mean as of the time of the
2 invention of the '044 and '866 patents,
3 so our questions can be clear and your
4 answers can be clear; is that fair?

5 A That's not accurate, because
6 you -- you -- it's, like, you can't
7 un-hear something. You know, if you have
8 the experience, you may apply -- you may
9 apply a point in time where things are
10 naturally understood, as I am doing in
11 this case.

12 When you are talking about
13 cloud-based service is when Luotonen was
14 written we didn't have AWS. We didn't
15 have Microsoft out there with Azure. We
16 didn't have things like that that are
17 commonly used today as cloud-based
18 services. In that time, cloud was --
19 it's on the internet.

20 Q So when you cite, in paragraph
21 23 of your declaration, what timeframe
22 did you apply for the perspective from
23 which you understood that paragraph?

24 MR. ABRAMSON: All right.

25 Which reference are you referring

1 to?

2 MR. DUNHAM: I'm sorry?

3 MR. ABRAMSON: Which reference
4 is your question referring to.

5 MR. DUNHAM: Paragraph 23.

6 MR. ABRAMSON: Of?

7 MR. DUNHAM: Prince reference.

8 MR. ABRAMSON: Oh.

9 THE WITNESS: And -- and what
10 is my reference, time period
11 reference in my declaration?

12 MR. DUNHAM: That's what I'm
13 trying to ask you, is when you
14 say --

15 MR. ABRAMSON: I don't know
16 that I introduced any time relevance
17 in my declaration.

18 BY MR. DUNHAM:

19 Q So let me try to ask a clear
20 question to you, sir.

21 What I'm asking you is, when
22 you cited the Prince reference and, for
23 example, paragraph 23, and described what
24 you understood Prince to be disclosing,
25 was there a particular point in time that

1 you were using as the date from which you
2 would interpret that particular
3 disclosure?

4 A Let me review my Prince
5 response, here, because I don't recall
6 quoting paragraph 23.

7 Okay. Can you ask your
8 question again, please?

9 Q Sure. My question is -- it's a
10 straightforward question, I'm just trying
11 to understand -- what timeframe did you
12 utilize when you formed your
13 understanding and opinion about what the
14 Prince reference disclosed, including,
15 for example, paragraph 23?

16 A My specific reference to
17 paragraph 23 has no time reference based
18 on it, my comment was about records and
19 the DNS server are changed so it points
20 to proxy servers.

21 Q And -- and again, my question
22 is: Is your statement, for example, that
23 you're talking about in your report, is
24 that formed on your knowledge as of the
25 time you drafted your declaration or some

1 different point in time?

2 A My comments in this particular
3 section are about the mechanics, what is
4 trying to be explained as to how Prince
5 can be applied to the claims in the
6 patent for each particular section and
7 claim of the patent and how I can view
8 the two and determine what their
9 references are, and if -- if there is in
10 any kind of analogous taxonomy between
11 the two.

12 Q Sure. And when you did that,
13 were you bringing to bear the knowledge
14 that you have at the time you prepared
15 your declaration or the knowledge that
16 you may have had at some other point in
17 time?

18 A I -- I don't understand the
19 question. I brought -- I brought my
20 experience to doing the analysis.

21 Q Sure. And with respect to the
22 experience that you brought -- maybe I'll
23 try to make it easier for you to see what
24 I'm asking.

25 So you said you brought your

1 experience to do your analysis; is that
2 correct?

3 A You know, this is a very
4 confusing line of questioning. You asked
5 me originally about section 23, and we
6 were having a conversation about what
7 cloud-based -- what -- what cloud means,
8 okay?

9 And I said, it has time
10 relevance as to what a cloud is at the
11 time Luotonen was written as opposed to
12 what a cloud is now.

13 Now you're talking about my
14 time reference in using my experience in
15 explaining the relevance of these two
16 documents that I was asked to reference
17 with each other.

18 Q And my question, sir, is the
19 same question. I'm just trying to
20 understand that when you read Prince what
21 experience base were you drawing on, your
22 experience as of the time you drafted the
23 declaration or your experience as of some
24 other time?

25 A My experience.

1 Q As of what point in time, sir?

2 A As of the moment that I'm
3 reading and trying to do the analysis.

4 Q Okay. And that's all I'm
5 trying to understand. So you were
6 drawing on and reading Prince from the
7 experience you had at the time you read
8 Prince to do your analysis; is that
9 correct?

10 MR. ABRAMSON: Object to the
11 form.

12 A You know, I -- I'm not
13 understanding what you're saying. I'm --
14 I'm really sorry, but I'm -- I'm not
15 getting it.

16 Q No, and I'm just trying to make
17 it a clear understanding that -- let me
18 break it down in a few --

19 (Reporter clarification).

20 MR. ABRAMSON: Apologies, just
21 commenting on Mr. Dunham, he's
22 trying to confuse the record.

23 MR. DUNHAM: Counsel, I am not
24 trying to confuse the record. I am
25 giving the witness every opportunity

1 to explain the analysis he's
2 performed, and I'm actually trying
3 to assist him.

4 So please, if you have an
5 objection, state it, and please do
6 not disrupt my examination further.

7 BY MR. DUNHAM:

8 Q So Mr. Teruya, when you
9 reviewed the -- strike that.

10 What year did you review the
11 Prince reference in connection with
12 your work in this case?

13 A 2020.

14 Q Okay. So when you read the
15 Prince reference in 2020, did you bring
16 to that review and your understanding of
17 Prince the knowledge and experience that
18 you had acquired up through 2020?

19 A I would assume so.

20 Q Okay. That's all I was trying
21 to understand, sir, so thank you.

22 So if we go back now to
23 paragraph 23 of Prince, and in
24 particular this sentence, the third
25 sentence, that says: The cloud-based

1 proxy service is provisioned through
2 DNS.

3 When you reviewed Prince,
4 what was your understanding of what
5 the cloud-based proxy service was?

6 A Isn't paragraph 23 in Luotonen?

7 Q I'm referring to the Prince
8 patent application publication, this is
9 the exhibit that I asked you to bring
10 out.

11 A Okay. You also asked me to
12 bring out Luotonen. You asked me about
13 paragraph 23 of Luotonen.

14 Q I asked you about page 22 of
15 Luotonen, and then I asked you to bring
16 out Prince. So let's make sure you have
17 the right document.

18 MR. ABRAMSON: Can we please
19 get on the same page, gentlemen.

20 THE WITNESS: Sorry.

21 BY MR. DUNHAM:

22 Q As I begin each line of
23 questioning, sir, do you have available
24 to you the Prince reference? And this
25 would be Exhibit 1021.

1 A Oh, I'm looking at the Prince
2 reference, and you're asking me about
3 paragraph 23, now, correct?

4 Q Yes, sir.

5 A Okay.

6 Q So my question is -- the third
7 sentence says: The cloud-based proxy
8 service is provisioned through DNS; do
9 you see that?

10 A Yes.

11 Q So what is your understanding
12 of how you interpreted cloud-based proxy
13 service as used in paragraph 23 of Prince
14 when you reviewed it in this matter?

15 A I do not believe that I used --
16 I do not believe that I gave any weight
17 to the fact that it was cloud-based. I
18 do not believe that in my thinking at the
19 time that whether it was cloud-based or
20 internet-based factored into my analysis
21 because, frankly, don't think there's --
22 there is difference, but there's not that
23 much difference in -- in referencing what
24 we needed to show.

25 Q If you could look at paragraph

1 172 of your '044 declaration, please.

2 A Okay.

3 Q And do you see Figure 1 from
4 Prince's replicated in your declaration?

5 A Yes.

6 Q Again, do what you like, sir,
7 but, again, I'm just trying to help you.
8 You may find it easier to look at the
9 first page of the Prince patent, because
10 that same figure appears but it's a whole
11 lot bigger and easier to read. But I
12 leave it to you. I'm just trying to help
13 you.

14 So can you tell me when you
15 have Figure 1 so you can take a look at
16 it?

17 A Okay. Let me see if I can
18 rotate it. Okay. I have it.

19 Q Perfect. Would you agree that,
20 according to Prince, the customers, 135A
21 through L, can register for the
22 cloud-based proxy service 185 using the
23 service server 125?

24 A Can you repeat the question?

25 Q Sure. Would you agree that

1 according to Prince the customers, 135A
2 through L, can register for the
3 cloud-based proxy service 185 using the
4 service server 125?

5 A I'm -- I'm sorry, let me parse
6 your question again. Can you -- can you
7 ask me again, please?

8 Q Sure. Would you agree that the
9 customers, 135A through L, can register
10 for the cloud-based proxy service 185 of
11 Prince, using the service server 125?

12 A I'm having difficult with the
13 use of the word cloud-based service.

14 Q Do you see the title of Prince,
15 at the top of the page, of the first page
16 of the Prince patent, the patent
17 application, more correctly.

18 Are you able to see the title,
19 sir?

20 A Yes.

21 Q Would you agree that Prince is
22 directed to distributing transmission of
23 requests across multiple IP addresses of
24 a proxy server in a cloud-based proxy
25 service?

1 MR. ABRAMSON: Object to the
2 question, it's beyond the scope of
3 the direct. Go ahead, you can
4 answer.

5 A Again, whenever this document
6 is claiming to be a cloud-based proxy
7 service, all right, may not -- I may not
8 share the same definition of cloud-based
9 proxy, and I have treated it as a proxy
10 server.

11 Now, the diagram that you gave
12 me makes no specific reference for that
13 service server 125 to be cloud-based.
14 The assumption is made, however, but the
15 specificity of cloud-based isn't provided
16 to me. That is not how -- that was not
17 part of my analysis to break down
18 cloud-based service.

19 Q Sir, would you agree that,
20 again, with reference to Figure 1, that
21 the customer's 135A through L, register
22 for service 185 using the service server
23 125?

24 A Yes, I can -- I can state that
25 that is -- that is represented there.

1 Q Okay. And would you agree that
2 the customers in Prince are the owners of
3 domains?

4 A I don't know that. I don't
5 have that information.

6 Q So you don't know whether in
7 Prince the customers that are discussed
8 in the patent are actually the owners of
9 the domains; is that your testimony?

10 A I don't have information to
11 answer that. Do you need -- do you need
12 me to further my answer?

13 Q If you have more to say, please
14 say it.

15 A A client could be a customer
16 that has their own domain name, right?
17 In that case, do they own their domain
18 name? We don't really know, in the
19 application, how the customers are being
20 identified. If the customer is
21 identified using their e-mail address
22 they may be using a domain identifier
23 that doesn't even belong to them.

24 So there isn't enough
25 information for me to give you a very

1 specific answer of what you're asking.

2 Q Do you know whether, according
3 to the disclosure of Prince, the
4 customers 135A through L own or control
5 domains that are hosted on the origin
6 servers?

7 A I don't know. Let me review
8 the record here and I will -- give me a
9 few minutes, and I will see what -- and
10 refresh my memory if -- if I did come
11 across that.

12 MR. ABRAMSON: Objection.

13 What was your question again?

14 BY MR. DUNHAM:

15 Q Would you agree that, according
16 to Prince, the customers, 135A through L,
17 own or control domains that are hosted on
18 the origin servers?

19 A With respect to domain names, I
20 have -- I don't have sufficient
21 information to answer one way or the
22 other.

23 MR. ABRAMSON: Hang on.

24 Objection. This is way beyond the
25 scope of his declaration,

1 Mr. Dunham.

2 MR. DUNHAM: Counsel, you can
3 make your objection. The witness
4 testified in his deposition
5 extensively about the message flow
6 in the nodes and the network. And
7 I'm working through with him -- I'm
8 trying to work through with him his
9 understanding of the nodes and what
10 messages flow. I'm barely started
11 with my examination.

12 This is directly relevant to
13 his declaration. I'm actually using
14 the figure right out of his report.
15 So I disagree with you completely,
16 counsel. But in the future just
17 please state your objection and let
18 me continue my examination.

19 MR. ABRAMSON: Go ahead.

20 BY MR. DUNHAM:

21 Q Mr. Teruya, would you agree
22 that according to Prince a customer 135
23 can change DNS records such that the
24 domain of that customer is mapped to one
25 or more IP addresses of the proxy servers

1 120.

2 A Repeat the question, please.

3 Q Sure. Would you agree that
4 according to Prince a customer 135 can
5 change DNS records such that the domain
6 of that customer is mapped to one or more
7 IP addresses of proxy servers 120?

8 A I don't know that I can answer
9 that question, as presented, because the
10 address resolution using DNS, we have no
11 presumption on what the origin of those
12 domains are and the mechanism by which
13 the claim is being made that the customer
14 is changing that DNS address.

15 Q Sir, would you agree that a DNS
16 query from a client for a particular
17 domain, according to Prince, will resolve
18 to an IP address of the proxy server 120
19 and not the IP address of the origin
20 server that hosts that domain?

21 A It would depend on the
22 architecture.

23 Q Well, I'm asking you if,
24 according to Prince, do you --

25 A In the example that Prince is

1 giving, that I stated in my declaration,
2 following each step that they were
3 given -- giving in their in -- in their
4 documentation, that I referenced, that
5 that's accurate in that regard.

6 Q Okay. Would you agree that
7 within Prince the customer 135 selects
8 which IP address or addresses of proxy
9 server are included in the DNS records?

10 A Say that again. Ask me again,
11 please.

12 Q Sure. Would you agree that the
13 customer 135 within Prince selects which
14 IP address or addresses of proxy server
15 120 are included in the DNS records?

16 A I'm -- I'm really sorry, but I
17 need to hear that again.

18 Q Sure. Would you agree that the
19 customer 135 selects which IP address or
20 addresses of proxy server 120 are
21 included in the DNS records?

22 A Given -- there are some givens
23 here -- given that the client is able
24 in -- in the deployment of -- of this
25 example is able to make a selection, that

1 could be accurate.

2 Q Would you agree that customer
3 135, changing the DNS records, according
4 to Prince, alters the flow of traffic to
5 the origin server 130 -- 130 by directing
6 it through proxy server 120?

7 MR. ABRAMSON: Objection.

8 A You know, I -- I need your -- I
9 need to review my declaration here,
10 because you are asking me, if I get your
11 question correctly, that the client is
12 changing the DNS record; correct.

13 Q No, I said the customer?

14 A The customer? Customer,
15 client, synonymous, to me. So 135 is
16 changing the DNS record?

17 Q Yes, is that your
18 understanding?

19 A No, I'm asking you, is that
20 your question?

21 Q Sorry, what I'm asking you, is:
22 Do you agree that the customer 135
23 changing the DNS record alters the flow
24 of traffic going to the origin server
25 from the client by redirecting that flow

1 through the proxy servers 120?

2 A In the manner in which the
3 question was asked, no, I do not agree.

4 Q And is that because you feel
5 that the customer doesn't change the DNS
6 record?

7 A That isn't -- it's an
8 interaction issue as to a customer could
9 change a DNS record given the authority
10 to do so, and the mechanics to do so.

11 But in the manner in which the
12 question was asked, with appropriate
13 context, no, I can't agree, unless we
14 define more specificity to what you're
15 asking.

16 Q Would you agree that, according
17 to Prince, the DNS record for any given
18 domain is changed such that the IP
19 address that is returned when that
20 particular domain is resolved will be the
21 IP address of a proxy server rather than
22 the IP address of an origin server that
23 hosts that domain?

24 A Present that question to me
25 again.

1 Q Will you agree that, according
2 to Prince, the DNS records are changed
3 such that the IP address that is returned
4 to a DNS resolved request for any given
5 domain is changed to be the IP address of
6 the proxy server rather than the IP
7 address of the origin server on which
8 that domain resides?

9 A The mechanics for that to
10 happen are documented in Prince for that
11 to occur. So in that context, I agree
12 that that is what has been defined.

13 Q And still with reference to
14 Figure 1 from paragraph 172 of your
15 report, will you agree that according to
16 Prince there is no direct flow of traffic
17 between the client devices 110 and the
18 origin servers 130?

19 MR. ABRAMSON: Object, beyond
20 the scope.

21 A I will have to look at that for
22 a little bit before I can give you an
23 answer.

24 MR. DUNHAM: And counsel, in
25 response to your request, I'm loathe

1 to do this, I would just invite you
2 to read paragraphs 173 and 174 of
3 Mr. Teruya's deck, which directly
4 discuss exactly the flow of messages
5 and the routing of messages that I
6 am currently questioning him about.

7 MR. ABRAMSON: That doesn't --
8 yeah, I am fully aware of those
9 paragraphs, believe me. But that
10 does not -- that's not your
11 question.

12 You're fishing for information
13 to support amendment, Mr. Dunham,
14 that's what this deposition has been
15 about so far, so let's get that on
16 the table. But go ahead ask your
17 questions. You have my objections
18 not that -- I'm not going to tell
19 him not to answer. Just go ahead
20 and let's get this done.

21 MR. DUNHAM: Motion to strike
22 in an absolutely improper objection,
23 which we will call to the attention
24 the board, sir.

25 MR. ABRAMSON: It's -- it's

1 really beyond -- you're using this
2 deposition as a -- as an opportunity
3 to fish for information to support a
4 motion to amend.

5 MR. DUNHAM: I am directly
6 questioning the witness about his
7 understanding of Prince and how he
8 has applied it. It's coming
9 directly from his report.

10 MR. ABRAMSON: Proceed.

11 THE WITNESS: Can you ask your
12 question, again?

13 MR. DUNHAM: Certainly, sir.

14 BY MR. DUNHAM:

15 Q Would you agree that, according
16 to Prince, there's no direct flow of
17 traffic between the client devices 110
18 and the origin servers 130?

19 MR. ABRAMSON: Objection. You
20 can answer.

21 A I don't know that that's the
22 case in that I applied the examples
23 relevant to the claim and method being
24 used in the patent.

25 So to look at models outside of

1 what I defined here, in the flow in 173
2 and 174, beyond the scope of that answer
3 on how that interchange is documented
4 there, I don't know that I -- I -- I'm
5 not in a position to agree with that
6 unless I'm given the opportunity to -- to
7 do that analysis.

8 Q Well, sir, in paragraph 174, do
9 you state, quote, records in DNS server
10 140 are changed so as to point to proxy
11 servers 120?

12 A Yes.

13 Q And then, in my -- in the next
14 sentence of paragraph 174 of your
15 declaration, which states: When client
16 110 requests content from origin server
17 130 client 110 is instead directed to
18 proxy server 120.

19 Do you see that?

20 A Yes.

21 Q And my question to you, sir,
22 I'll ask it again, is: Are you aware of
23 any disclosure of Prince where when
24 client 110 requests content from origin
25 server 130 client 110 contacts origin

1 server 130?

2 MR. ABRAMSON: Same objection.

3 You can answer.

4 A I never made that
5 investigation.

6 Q So is it your testimony you
7 just don't know whether Prince discloses
8 that functionality?

9 MR. ABRAMSON: Same objection.

10 A Yeah, I -- I -- I'm -- I
11 can't -- the -- the way in which you pose
12 the question is, do I agree. I can't
13 agree, at this time. I don't have
14 sufficient information.

15 Q Would you agree, according to
16 Prince, it is the client device 110 that
17 performs the DNS query and not the proxy
18 server 120?

19 A I -- I -- I can't agree to that
20 absolute.

21 Q Why not?

22 A Because there are address
23 translations that are occurring that --
24 that may not necessarily be seen, in
25 which case that would not be an accurate

1 answer.

2 Q Is there anything in the Prince
3 reference you can point to that would
4 show that proxy server 120 performs a DNS
5 query?

6 A It's a given. Mr. Dunham, it's
7 a given that that has to take place.

8 Q Okay. So when -- when you read
9 Prince did you just assume that these
10 things that you feel are given were part
11 of the disclosure of the reference?

12 A Yeah, you know, there are a lot
13 of things in here that you -- you don't
14 need to specify. That's the mechanics of
15 how things work.

16 Q Would you agree that, according
17 to Prince, a client device 110 will not
18 know that the DNS response that it
19 received provides the IP address of a
20 proxy server instead of the IP address of
21 the origin server?

22 A Can you -- can you give me that
23 question again?

24 Q Certainly. Would you agree
25 that, according to Prince, a client

1 device 110 will not know that the DNS
2 response that it received would be the IP
3 address of the proxy server instead of
4 the IP address of the origin server?

5 A The analysis of that would
6 require that I know what the -- what the
7 specific state and process of 110 wants
8 to see and does it matter. If it's doing
9 a content retrieval, it doesn't matter.
10 But if it's used for some other purpose,
11 it may matter.

12 So I -- I don't know how to
13 answer that. I -- I -- I don't know how
14 to agree, and your question is if I
15 agree, I don't know how to agree without
16 knowing more.

17 Q Sir, with respect to the
18 disclosure of Prince will you agree that
19 the client device 110 is unaware that a
20 proxy server is being used in -- in
21 connection with obtaining responses to
22 requests?

23 MR. ABRAMSON: Object to form.

24 A I think you asked me the same
25 question.

1 Q I'm just asking for your
2 understanding of how you interpreted the
3 Prince reference and how you applied it.

4 A The method at which I applied
5 Prince is, as I explained before, is to
6 go back, look at the claim in the patent,
7 and ascertain whether or not there are
8 analogous taxonomies between Prince and
9 the '404 patent. That was my mission.

10 My mission was not to dissect
11 and take apart and know all the nuances
12 of Prince. I only looked at things that
13 were relevant to look for analogous
14 taxonomies between these two examples,
15 one from the patent, one from Prince.

16 Q Well, when you reviewed the
17 Prince reference did you read all of the
18 reference?

19 A Not in its entirety.

20 Q Would you agree, then, that,
21 according to Prince, the client device
22 110 transmits an IP packet with an HTTP
23 request to the IP address of the proxy
24 server 120?

25 A At some point.

1 Q What does the proxy server do
2 to your understanding, when it receives
3 an HTTP request from one of the client
4 devices?

5 A In -- in -- in what context?

6 Q When the proxy server receives
7 an HTTP request from a client device.

8 A A content request?

9 Q Pardon?

10 A A content request?

11 Q Yes, sir. What does the proxy
12 server then do?

13 A It generally fulfills the
14 content request in -- in -- in the manner
15 in which the -- the flow takes place to
16 return and satisfy that request in its
17 reply structure.

18 Q Would you agree that upon
19 receiving the requests the proxy server
20 forwards the request to the origin
21 server?

22 MR. ABRAMSON: Object to the
23 form.

24 A I -- I would -- I would -- I
25 would assume that the conditions exist

1 that that would take place based on
2 whether or not the information was
3 available where that step was not
4 necessary.

5 Q I mean, paragraph 174 of your
6 declaration on the '044 patent, in the
7 fourth sentence you stated: Upon
8 receiving this request proxy server 120
9 forwards the request to origin server
10 130; do you see that?

11 A Yes.

12 Q What does the proxy server 120
13 need to do in order to forward the
14 request to the origin server 130?

15 A It makes that request, in order
16 to return to -- to satisfy -- to fulfill
17 the chain of events for the request for
18 data.

19 Q According to your understanding
20 of Prince, does the proxy server have to
21 do anything with the IP header of the
22 request?

23 A Proxies always do something
24 with the IP header.

25 Q And I'm asking for your

1 understanding of how this process works
2 according to the sentence you cited in
3 your declaration. What does the proxy of
4 Prince need to do in order to forward the
5 request to the origin server?

6 A I'm sorry, ask your question
7 again.

8 Q Sure. I'm asking for your
9 understanding, specifically, of how
10 Prince achieves the proxy server 120
11 forwarding the request to the origin
12 server 130 as you have stated in
13 paragraph 174 of your declaration?

14 A It -- it -- it's kind of
15 clearly written there, the client 110
16 sends a request to resource request to
17 the proxy server. And then it says:
18 Upon receiving this request a proxy
19 server forwards the request to the origin
20 server.

21 Q Does the proxy server have to
22 change anything in the request in order
23 to forward it to the origin server?

24 A That would depend on the chain
25 of events that occurred before, in what

1 was pointed where, with DNS, with the DNS
2 servers.

3 Q Well, I'm asking you according
4 to Prince, sir, does the proxy server --

5 A I am quoting Prince.

6 Q Okay. Where are you quoting
7 from, sir?

8 A It -- in the beginning of my --
9 of 174 I say: Records in the DNS server
10 are changed to point to the proxy
11 servers. And it says: If the client
12 requests contact from the -- from the
13 origin server, client 110, instead,
14 directs to the proxy server. Those are
15 all defined in DNS.

16 Q Sir, my question is about the
17 proxy server 120 forwarding the request
18 to the origin server. And let me ask you
19 specifically.

20 Does the proxy server in
21 forwarding the request to the origin
22 server need to change the source IP
23 address of the packets?

24 A I don't have enough information
25 to know how the internal mapping is

1 working.

2 Q In connection with preparing
3 your declaration and forming your
4 opinions, did you seek to determine the
5 information at that level of detail or
6 not?

7 A I did not.

8 Q In the next sentence of
9 paragraph 174 of your declaration, you
10 state that: Origin server 130 responds
11 to this request sending the requesting
12 information to proxy 120; do you see
13 that?

14 A I'm sorry, where are you --
15 where are you at?

16 Q Still in paragraph 174 of your
17 declaration, and now I'm --

18 A Okay.

19 Q -- moving to the next sentence,
20 and I'm just going to ask you about it,
21 so I'm only quoting it to you to make it
22 clear what I'm referring to, in paragraph
23 174 you state: Origin server 130
24 responds to this request sending the
25 requested information to proxy 120.

1 Do you see that?

2 A Yes.

3 Q What destination address,
4 according to Prince, goes in the packets
5 that the origin server is sending as that
6 response?

7 A I don't know. I will have to
8 review that, because it doesn't -- it
9 doesn't necessarily need something
10 specific because the request chain has
11 the return address. It's responding to a
12 request.

13 So if there is special
14 handling, that is managed by Prince, that
15 isn't relevant to this claim or method,
16 that I didn't apply here, I would have to
17 look that up and answer that for you.

18 Q So as you testify today, do you
19 know specifically whether Prince
20 discloses any sort of special handling,
21 to use your phrase, regarding how the
22 origin server 130 responds to the request
23 from the proxy server 120?

24 A I -- can you ask that again?

25 Q Sure. I'm just trying to

1 understand that, sitting here today, as
2 you testified, do you know whether the
3 origin server invokes any sort of special
4 handling, just to use the phrase you
5 used, in responding to the request from
6 the proxy server 120?

7 A Not without further
8 investigation.

9 Q Is that an investigation that
10 you previously performed or not?

11 A Likely not.

12 Q And then the last sentence --
13 and strike that, I'm sorry.

14 The next sentence in paragraph
15 174 of your declaration, says: Proxy 120
16 then forwards this response to client
17 device 110.

18 Do you see that?

19 A Yes.

20 Q Is there anything that you're
21 aware of, according to Prince, that proxy
22 120 has to do to the packets in order to
23 forward the response to client device
24 110?

25 A Other than a classic handoff in

1 special use case?

2 Q I'm just asking you for your
3 understanding of the disclosure of
4 Prince, that's all, sir.

5 A The disclosure of Prince that I
6 used is a straightforward example, it is
7 not all encompassing.

8 If you would like me to give --
9 to make a statement to you that I agreed
10 with something Prince is doing, that I
11 haven't investigated, I can't do that.

12 Q Well, I'm just asking you, sir,
13 if you have an understanding of whether
14 proxy 120 needs to make any changes to
15 the packets that it received from origin
16 server 130 in order to forward the
17 response to client device 110?

18 A I have no investigation on what
19 the packet manipulation that a real life
20 implementation of Prince would use that
21 just from a process level of what is
22 stated here, that proxy 120 forwards the
23 response to the client device, whether
24 there are any secondary use cases,
25 abnormal use cases, recovery, any of that

1 kind of stuff, I don't know.

2 I don't know how to answer
3 that. I didn't investigate it. What I
4 do know is what -- what Prince says
5 happens between proxy 120 forwarding the
6 response back to the client.

7 Any other manipulations in
8 that path is not obvious to me, not
9 with the information that I've been
10 provided in order to answer the
11 question.

12 (Exhibit No. 1012 was
13 identified for the record.)

14 BY MR. DUNHAM:

15 Q I'd like you to turn -- to take
16 out Exhibit 1012, which is the Squid
17 reference, please.

18 MR. ABRAMSON: Sorry, I didn't
19 hear the reference there.

20 MR. DUNHAM: It's Squid,
21 Exhibit 1012.

22 MR. ABRAMSON: Squid? Okay.
23 Squid?

24 THE WITNESS: Okay.

25 ///

1 BY MR. DUNHAM:

2 Q And feel free to refer to any
3 portion of the reference, of course,
4 that's helpful. But by way of example, I
5 would direct you to page 24, PDF page 24
6 of Squid, and it has a picture at the top
7 showing a client device, a Squid server,
8 and then three different servers.

9 A I'm sorry, what page was that,
10 PDF page?

11 Q PDF page 24, sir.

12 A Okay. Okay. I'm on page 24.

13 Q And if it's helpful to you,
14 I'll also reference you to your '044
15 declaration, starting at approximately
16 page 46 -- I'm sorry -- paragraph 46.

17 MR. ABRAMSON: 4-6.

18 MR. DUNHAM: 4-6, yes.

19 BY MR. DUNHAM:

20 Q Just to give you context.

21 A Okay.

22 Q Sir, and I'm pointing to page
23 24 of the PDF Figure 1-1 on Squid, as
24 just a convenient way to ask the
25 questions, but please, I'm asking you for

1 your knowledge and understanding of
2 Squid.

3 So would you agree that
4 Squid teaches having an HTTP proxy
5 server in between a client and some
6 other type of server, such as an HTTP
7 serve, an FTP server and a gopher
8 server, as examples.

9 A Yeah, that's a basic example.

10 Q Okay. Would you agree that
11 according to Squid, the Squid server in
12 the middle, can simultaneously act as
13 both a server to the requesting client
14 and as a client to the web servers shown
15 off to the right?

16 A That's a classic definition,
17 yes.

18 Q Now, if you could turn to
19 paragraph 116 of your declaration, in the
20 '044. And please let me know when you're
21 there.

22 A Okay. I'm there.

23 Q And please read paragraph 116
24 to yourself, if would you, because I have
25 questions about portions of the paragraph

1 but I certainly want you to have an
2 opportunity to review the whole
3 paragraph.

4 A Okay. Okay. What is your
5 question?

6 Q Do you see the quoted language
7 included at the very end of paragraph 116
8 of your declaration, that states: Squid
9 uses a pool of external processes to make
10 queries in parallel; do you see that
11 language?

12 A Yes.

13 Q And that's citing to page
14 Exhibit 112 (sic) at page 46; right, PDF
15 page 46?

16 A Let me make sure that that's
17 accurate. Okay. What's your question?

18 Q Sure. If you could, please,
19 take a look at the disabled-internal-DNS
20 discussion that appears on PDF page 46 of
21 Squid. And I ask you to read that to
22 yourself and let me know when you've had
23 a chance to review it.

24 A Okay.

25 Q Okay. Can we agree that the

1 last clause, which is the quotation in
2 the last sentence of paragraph 116 of
3 your declaration, which reads: Squid
4 uses a pool of external processes to make
5 queries in parallel, can we agree that
6 that quote comes out of this
7 disable-internal-DNS section of the Squid
8 reference on page PDF page 46?

9 A For the disabled-ident lookups.

10 Q No, the disable-internal-DNS?

11 A Oh, I'm sorry. Read the wrong
12 section.

13 Q Okay. Please, then, let me
14 make sure the record is clear. Please
15 take a moment to read the
16 disable-internal-DNS section that appears
17 on PDF page 46 of Squid.

18 A Okay. What is your question?

19 Q I'm trying to make sure I have
20 the right citation, first. So if you
21 look at the last clause of paragraph 116
22 of your declaration and, in particular,
23 the quote about Squid using a pool of
24 external processes, I want to make sure
25 that the citation that you provided in

1 your declaration is to that same language
2 that appears in the disable-internal-DNS
3 section of Squid on PDF page 46?

4 A Yes.

5 Q Would you agree, then, that the
6 disable-internal-DNS section of Squid is
7 referring to the resolution of DNS
8 queries?

9 A Say that again? Ask me again,
10 please.

11 Q Sure. Would you agree that the
12 disable-internal-DNS section of Squid, on
13 PDF page 46, and, in particular, the
14 quote that Squid uses a pool of external
15 processes to make queries in parallel, is
16 referring to making DNS queries in
17 parallel?

18 A I would say that the statement
19 of Squid using pools for external
20 processes to make parallel queries is
21 accurate.

22 Q And would you agree, though,
23 that according to this disclosure of
24 Squid that you cited, this is describing
25 DNS queries?

1 A What I quoted here was the
2 process by which Squid uses parallel
3 queries. This option is a daemon option
4 within basically UNIX to, in the function
5 of this module of DNS to run, this is
6 a -- this is a -- an option, a command
7 line option in the launch of -- of the
8 DNS service.

9 Q And if this option is enabled
10 then is it fair to say that what it
11 permits is doing DNS queries in parallel?

12 A No, this -- this option has
13 nothing to do with the parallel or
14 nonparallel use. This is a -- this is an
15 option that controls internal and
16 external functionality.

17 Q So does this particular option
18 bear on making requests for content from
19 a web server in parallel?

20 A No, this is a DNS process.

21 Q Okay. And that's what I'm
22 trying to understand. So this is a DNS
23 process?

24 A This is a DNS process, and the
25 one option is using one mechanism, the

1 other is using the C library, and the
2 other is avoiding the use of the C
3 library.

4 But the fact that it's stating
5 that it's giving you the -- the reasoning
6 on why you would -- may want to choose
7 one or the other -- other, basically from
8 a load standpoint in these early servers,
9 that issues like this today they don't
10 matter anymore. We have plenty of
11 resource in machines in order to make it
12 happen, not at the time of the invention
13 of Squid, where people would pay
14 attention to this kind of stuff.

15 Now you would not be impacted
16 by parallel queries as what was being
17 concerned about then, this was a very
18 novel thing at this point in time, to be
19 doing parallel queries. It was very
20 early in the day to be doing parallel
21 queries.

22 MR. DUNHAM: Mr. Abramson, if
23 we take a break, and I'm -- I'm sure
24 I can be ready by quarter of, I'm
25 very close to wrapping up. I would

1 like to confer with my colleague,
2 just check my final notes, and I
3 think we will only have to go a few
4 minutes beyond that.

5 MR. ABRAMSON: Okay. That's
6 great. How much time do you want?

7 MR. DUNHAM: 'Til quarter of
8 the hour, how is that? So it's
9 about 13 minutes or so.

10 MR. ABRAMSON: I'm good.

11 THE VIDEOGRAPHER: The time is
12 5:32 p.m. We are off the record.

13 (Recess.)

14 THE VIDEOGRAPHER: The time is
15 5:47 p.m. We are back on the record
16 please proceed.

17 BY MR. DUNHAM:

18 Q Mr. Teruya, when we were just
19 coming back on you said you wanted to say
20 something; is that correct?

21 A Yes, I -- I -- I misstated in
22 my last answer to you that the switch,
23 configuration switch for Squid, which was
24 for the application, and in reality in
25 that time of use these were compiler

1 options because in order to configure
2 these applications these switches needed
3 to have been passed and the application
4 would compile with these configurations.

5 So I was inaccurate in
6 stating that it was a -- an option for
7 the operation. It was a compiler
8 switch.

9 Q Thank you. With that,
10 Mr. Teruya, I have nothing further for
11 you today, and I pass the witness to
12 Mr. Abramson.

13 MR. ABRAMSON: We have no
14 questions. I think we're done.

15 MR. DUNHAM: We would ask that
16 the witness read and sign the
17 transcript for standard procedure.

18 MR. ABRAMSON: Yes, we shall.
19 We shall we reserve the right to
20 read and sign thank you.

21 MR. DUNHAM: Thank you.

22 MR. ABRAMSON: Mr. Teruya,
23 thank you again. I appreciate your
24 time today.

25 Go off the record.

1 THE VIDEOGRAPHER: One second,
2 please.

3 The time is 5:49 p.m. We are
4 off the record.

5 THE REPORTER: Mr. Dunham, I
6 understand you have a standing
7 order?

8 MR. DUNHAM: Yes, we would
9 like a rough today and a rush
10 tomorrow.

11 THE REPORTER: And
12 Mr. Abramson, when do you want your
13 copy?

14 MR. ABRAMSON: We will take
15 a -- if we could, we would like a
16 rush to that -- no, a rough, a rough
17 today, a rough today, and on the --
18 on the other one, just standard
19 delivery.

20 (Signature having not been
21 waived, the deposition of Keith
22 Teruya was concluded at 5:49 p.m.)
23
24
25

ACKNOWLEDGMENT OF DEPONENT

I, Keith Teruya, do hereby acknowledge
that I have read and examined the foregoing
testimony, and the same is a true, correct
and complete transcription of the testimony
given by me and any corrections appear on
the attached Errata sheet signed by me.

(DATE)

(SIGNATURE)

1 CERTIFICATE OF SHORTHAND REPORTER

2 I, Cassandra E. Ellis, Registered
3 Professional Reporter, the officer before
4 whom the foregoing proceedings were taken,
5 do hereby certify that the foregoing
6 transcript is a true and correct record of
7 the proceedings; that said proceedings were
8 taken by me stenographically and thereafter
9 reduced to typewriting under my supervision;
10 and that I am neither counsel for, related
11 to, nor employed by any of the parties to
12 this case and have no interest, financial or
13 otherwise, in its outcome.

14 IN WITNESS WHEREOF, I have hereunto set
15 my hand this 29th day of October 2021.
16
17
18
19
20

21 _____
22 CASSANDRA E. ELLIS, CSR-HI, CCR-WA, RPR, CRR
23 REALTIME SYSTEMS ADMINISTRATOR
24 NOTARY PUBLIC
25

1 E R R A T A S H E E T

2 IN RE: NETNUT v. Bright Data

3 RETURN BY: _____

4 PAGE LINE CORRECTION AND REASON

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25 (DATE) (SIGNATURE)

1 E R R A T A S H E E T C O N T I N U E D

2 IN RE: NETNUT v. Bright Data

3 RETURN BY: _____

4 PAGE LINE CORRECTION AND REASON

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A				
A1 4:20,22,25	absolute 55:2	46:19 78:9 80:16	60:21 61:1,4,8,14	95:15 96:2 98:4
ability 13:15 26:18	152:20	92:21 94:22	62:13 63:2 64:23	98:13,17 99:1,4,5
80:16 94:6	absolutely 40:7	address 27:1,9	64:24,24 65:4,6,7	104:4,16 106:3,9
able 9:7 14:2,12	92:1 102:22	28:22 34:5 43:5	66:4,6,10,12,15	106:19 107:12
80:3 111:10	106:25 149:22	43:23 45:1,10,12	66:17,19,24,25	108:17,22 110:8
112:11 113:6	abstract 23:6	45:20,22 46:5	67:8,14 68:15	110:14,21 112:17
139:18 145:23,25	accelerating 22:4	47:4,24 48:1	73:10,14 74:17	112:23 116:8,13
abnormal 163:25	22:23 23:19	49:24 50:3,7,12	75:3,11,18 76:4,9	126:18 128:12
Abram's 16:23	acceleration 24:8	52:17,23 53:7,9	76:13,20 77:13,16	138:19,25 139:8
Abramson 3:3,4	24:10 26:5,7,12	54:5,15,18 55:15	77:18,22,24,25	139:21 140:19
6:11,12,13,24 7:7	26:13,25 27:1,8,9	72:20 73:5,19,20	78:17,19 80:8	141:1 142:15
8:25 9:6,12,24	28:21,22 30:1,2	73:25 74:2,7,10	82:24 83:4,10,23	143:21 144:3,15
17:9,16 22:6	30:15,17 31:25	74:14 83:5,10	84:4,6,7,15 85:10	145:6,12,18 146:2
25:13 30:21 31:3	33:6,8,18 46:6	85:4,11,22 86:12	85:19 86:9,21,23	146:22 147:3,13
32:6,12,20 36:5	48:7 50:1,9 52:1	86:16,18,21,24	87:22,22 107:7	147:16 148:1,11
37:10 44:19 47:15	54:3 56:12 57:14	87:19,22,24 107:7	agent's 63:9	148:15 150:15
48:18,23 49:7,17	72:21 73:6,18	141:21 144:10,14	agents 31:17 50:2	151:5 152:12,13
50:13,21 51:5	75:16,19 83:6,11	144:18,19 145:8	50:10 52:2 54:2	152:15,19 153:16
52:7 59:20 61:17	107:5,23	145:14,19 147:19	56:11,14 57:6,7	153:24 154:14,15
62:16,22 63:11	access 32:2 33:20	147:21,22 148:3,5	57:14,17 65:8	154:15,18 155:20
67:18 68:8,11,21	accommodate 11:8	148:7 152:22	73:7,19 74:8	156:18 166:3,10
71:15 74:11 80:10	account 55:6	153:19,20 154:3,4	76:11	167:25 168:5
87:1,8,14,25	accounting 19:20	155:23 159:23	AgileLaw 13:4 15:1	169:5,11,22
88:12 89:22 90:11	20:2	161:3,11	ago 18:11 20:9 33:2	agreed 6:25 7:3
93:14 96:22,25	accuracy 8:6	addresses 30:3,3,18	agree 5:25 10:18	163:9
97:3 102:13	accurate 19:21	30:18 31:18,20	22:2 23:7,17	agreement 2:2
103:10,16 104:8	29:17 77:1 93:17	32:1,2 33:9,9,20	26:15,22 27:5	14:18 128:25
104:20 106:22	104:13 106:14,25	33:21 34:12 35:1	31:23 33:15 34:21	agrees 26:2 59:22
107:19 113:19	129:5 145:5 146:1	44:21 46:13 52:25	35:18 36:1 37:6	ahead 87:14 140:3
114:13,25 117:3	152:25 167:17	54:23 75:18 84:2	37:16 40:1,8,14	143:19 149:16,19
121:18,23 122:25	169:21	84:12 114:17	41:8 42:1 43:4,22	alleged 114:8
123:4,13 126:6,11	accurately 17:2,18	139:23 143:25	45:16,24 46:4	120:14
126:13 129:24	18:1 25:5 37:24	144:7 145:8,14,20	48:5,8 49:25 50:9	allegedly 25:25
130:3,6,8,15	45:4 58:7 101:14	addressing 54:17	50:19,23 51:23	allow 23:12 87:4,12
134:10,20 136:18	achieves 158:10	administering 6:2	52:4,5,11,16 54:1	93:20
140:1 142:12,23	acknowledge 175:2	administration	56:10 57:15,25	alternate 51:22
143:19 146:7	ACKNOWLED...	6:19	58:6,15 59:10	alters 146:4,23
148:19 149:7,25	175:1	Administrator 1:24	60:19 61:5,12	Amazon 127:9
150:10,19 152:2,9	acquire 115:24	2:8 176:23	62:13 63:1 64:22	ambiguous 61:18
154:23 156:22	acquired 135:18	admissible 114:1	65:3,18 66:2,8,24	68:22
164:18,22 165:17	act 125:9 166:12	115:3	67:13 68:17 69:17	amend 150:4
171:22 172:5,10	acts 124:11 125:6	advanced 25:9	69:25 70:4,16	amendment 149:13
173:12,13,18,22	actual 37:22 54:11	afford 8:1,7	71:10 72:8 73:17	analogous 39:8,15
174:12,14	61:8,15 62:14	afternoon 5:3	74:6,18 75:2,10	55:10 92:18
Abramson's 16:24	119:15	agent 37:8,18 38:6	76:3 80:6 83:3,8	120:18 132:10
	addition 82:22	52:18 54:5 55:15	85:2 89:14,19,24	155:8,13
	additional 7:23	58:2,3,18 59:13	90:7,15 91:10,16	analysis 22:16

37:21 38:15,23 46:19 51:17 55:5 56:5,6 99:19 113:11 114:3,12 120:21 128:3,8 132:20 133:1 134:3,8 135:1 137:20 140:17 151:7 154:5 analyzed 46:14,22 113:14 117:2 120:14 analyzing 38:11 and/or 12:24 17:9 answer 10:1,1 13:1 16:10 19:21 22:10 25:1,3,5 29:14,17 29:22 30:25 31:1 31:3,4,10,13 36:23 37:12,25 45:5 46:11 52:8 54:20 55:1 57:1,4 60:4 65:20 68:13 71:1 74:13 76:19 79:10,13 88:2,6 92:25 93:17 96:8 99:22 103:21 104:13 106:14 108:2,3,4,5 114:23 115:4 118:20 140:4 141:11,12 142:1 142:21 144:8 148:23 149:19 150:20 151:2 152:3 153:1 154:13 161:17 164:2,10 172:22 answered 63:12 121:2 answering 10:17 24:15 53:13 answers 11:18 129:4 anymore 171:10 apart 101:19 155:11	Apologies 134:20 apologize 100:4 Appeal 1:2 5:11 appear 175:6 appearance 5:24 appeared 46:17 64:3 appears 70:1 98:1 138:10 167:20 168:16 169:2 appended 13:17 application 4:19,22 4:24 20:22 21:1 21:24 22:3,15,17 23:6 34:21 40:2,9 40:15,24 41:9 43:3,14,21 45:3 46:9 47:1 51:4,6,9 51:21 53:3 54:22 54:22 69:1 136:8 139:17 141:19 172:24 173:3 application-level 46:11 applications 43:8 47:8,12 173:2 applied 35:5 47:17 51:2 53:25 56:5 63:23 64:4 90:2 132:5 150:8,22 155:3,4 apply 46:15 51:9 55:1 63:25 118:6 128:4 129:8,9,22 161:16 applying 54:11 108:13 appreciate 173:23 approach 38:10 appropriate 8:6 22:17 29:14 46:2 53:21 107:21 115:2 147:12 approximately 5:16 165:15 architected 81:25 architecture 37:24	91:19 112:13 144:22 area 46:24 areas 47:4 argue 115:2 Ari 4:17 art 12:14,16 17:6,6 17:8,13 18:20 21:13 127:1 128:14 ascertain 155:7 aside 105:7 asked 27:17 28:5 29:15 31:7,14 32:22 35:18 60:9 60:13 63:11 65:20 69:17 70:5,11 77:11 100:4 128:11 133:4,16 136:9,11,12,14,15 147:3,12 154:24 asking 9:22 10:15 24:11,13 25:1 27:11,13 35:2 36:12 40:18 50:25 54:8 55:20,22,25 56:3,17 58:21 61:21,25 62:3,4 64:1 70:3 86:4 111:1 114:14 130:21 132:24 137:2 142:1 144:23 146:10,19 146:21 147:15 155:1 157:25 158:8 159:3 163:2 163:12 165:25 asks 9:15 assign 107:6 assigned 100:25 101:24 110:10 assignment 108:2 assigns 101:15 102:9 103:3 104:5 104:17,23 105:4 assist 70:12 135:3 assistance 35:17	86:4 associated 17:7 18:14 55:18 99:9 100:10,17 assume 37:15 112:2 116:19 119:20 135:19 153:9 156:25 assuming 37:1 45:9 assumption 53:15 140:14 ATM 91:4 attached 4:6 175:7 attempting 97:23 attention 124:7 149:23 171:14 attorney 5:23 64:14 attribute 81:22 audio 7:5,9 augment 45:6 authority 147:9 available 14:17,22 15:7,8,25 21:1,24 39:24,25 77:15,16 77:25 89:12 90:8 90:16 91:12 122:16 123:18 125:18 126:16 136:23 157:3 Avenue 3:6 avoiding 171:2 aware 12:3 31:12 42:7,11 71:5 85:9 91:20 93:24 105:2 111:8,24 113:15 115:10,15 118:2 118:15,25 149:8 151:22 162:21 AWS 127:7 129:14 Azure 129:15 <hr/> B <hr/> B 4:5 back 17:1 19:19 20:1 30:9,20 32:12,15,21,23 33:1,2,11 39:13	49:12 88:17 120:10 122:5 135:22 155:6 164:6 172:15,19 balance 97:24 balancing 96:21 97:16 107:24 112:3 barely 143:10 base 133:21 based 38:15 49:3 54:21 65:14,21 78:21 131:17 157:1 basic 46:25 120:8 166:9 basically 170:4 171:7 basics 9:20 basis 20:5,12 bear 132:13 170:18 began 18:24 beginning 5:3 124:8 159:8 BEHALF 3:2,13 belief 94:9 believe 9:4 21:18 23:5 25:23 31:14 44:16 57:3,19,20 61:1 62:25 65:12 66:13,14 67:2,3,8 69:3 71:18,21 73:2,16,22 75:13 76:16 86:11 88:21 90:2 94:4,5 96:12 98:8 101:10,11 104:11 106:16 113:23 114:16 119:7,8 121:3 124:25 137:15,16 137:18 149:9 belong 141:23 benefit 64:21 best 10:11 36:24 71:1 better 38:22 beyond 22:7 37:11
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71:16 74:11 82:11 113:21 140:2 142:24 148:19 150:1 151:2 172:4 bigger 138:11 billed 19:23 binding 6:2 bit 47:10 88:8 121:12 148:22 block 41:25 59:12 board 1:2 5:11 149:24 bold 123:11 book 4:14,16 127:23 bottom 82:19 123:23 box 107:13 break 10:23,24,25 11:5 48:13,17 49:5,15 88:10,24 99:20 100:1 108:8 121:14 134:18 140:17 171:23 breaks 10:22 brief 7:19 briefly 13:4 19:8 Bright 1:7 5:6 6:5 177:2 178:2 bring 27:23 46:18 135:15 136:9,12 136:15 bringing 132:13 brought 17:14,15 17:20 18:21 132:19,19,22,25 Building 3:5 built 37:23 burden 72:11	caches 107:25 caching 94:21,24 95:1,4,11,15,25 96:6 99:3 100:20 call 149:23 called 12:13,17 19:10 calls 95:7 capability 100:21 carefully 85:16 case 1:3 5:11,12 9:1 25:10 45:12 55:6 57:8,22 65:15,15 76:1 77:17 78:19 78:25 109:3,3,6 109:14,14,17,19 109:23 110:3 111:13,17 113:7 119:21 124:21 128:4 129:11 135:12 141:17 150:22 152:25 163:1 176:12 cases 8:19,22,24 12:18,20 58:25 82:14 109:5,9 113:5 163:24,25 Cassandra 1:22 2:3 5:19 176:2,22 CCR-WA 1:23 176:22 central 100:25 101:3,24 certainly 27:5 31:9 61:12 93:21 100:7 106:9 150:13 153:24 167:1 CERTIFICATE 176:1 certified 2:3,4,5,7 5:17 certify 176:5 chain 88:3 157:17 158:24 161:10 challenged 35:6 chance 167:23 change 54:20 80:3	143:23 144:5 147:5,9 158:22 159:22 changed 131:19 147:18 148:2,5 151:10 159:10 changes 163:14 changing 144:14 146:3,12,16,23 chapter 123:9 characterization 70:1 characterize 68:24 charged 20:16 check 16:9 98:9 172:2 checksums 63:3 67:16,22 choice 54:13 choose 54:14,16 171:6 Chrysler 3:5 chunk 67:6 chunks 63:3 66:5 66:11,20 67:1,16 circumstance 56:21 56:22 circumstances 82:23 86:8 111:9 citation 72:24 73:9 73:13 94:23 168:20,25 citations 75:1,9 cite 28:23 39:20 43:2 59:7 62:6 73:3 75:22 85:18 129:20 cited 14:20 29:9 31:22 32:10 72:18 74:20 92:7,22 130:22 158:2 169:24 citing 167:13 civil 8:22 claim 38:12,20,25 39:11,12 80:24,25 132:7 144:13	150:23 155:6 161:15 claiming 140:6 claims 24:19 25:25 35:6 38:17 39:3 51:10 81:5 92:23 120:19 132:5 clarification 71:2 79:6 134:19 clarifying 50:18 classic 162:25 166:16 clause 168:1,21 clean 18:11 cleaner 10:7 clear 11:15 23:14 44:7,13 100:3 108:12 129:3,4 130:19 134:17 160:22 168:14 clearer 74:22 clearly 158:15 client 26:24 27:2,7 27:10 28:20,23 34:23 35:20 36:3 37:7,18 38:6 40:3 40:10,16,24 41:10 43:4,22 44:24 45:2,19 46:5 48:5 49:24 50:8 51:25 52:2 54:4 56:12 57:15 58:2,17,18 59:13,14,15,17 60:21,22 61:7,9 61:14,15 62:12,15 63:2,9 64:23 65:5 65:6,8 66:4,10,16 66:19,23,25 67:7 67:10,14,15 68:3 68:5,15 70:18 71:12 72:19 73:4 74:7,16 75:15 76:5,10 77:15,24 78:16 80:9 83:4,9 84:8 85:3,21 86:20,24 87:17,21 91:22 93:10 94:1	104:18,24 105:5 106:4,10,20 107:12,17 108:18 109:10,12,17,23 110:1,4,6,9 111:11,12 112:17 112:19,25 113:1,8 113:16 115:11,22 116:10 124:12 125:7,10 141:15 144:16 145:23 146:11,15,25 148:17 150:17 151:15,17,24,25 152:16 153:17,25 154:19 155:21 156:3,7 158:15 159:11,13 162:16 162:23 163:17,23 164:6 165:7 166:5 166:13,14 client's 74:10,14 clients 92:13 98:14 102:12 103:6 104:7 109:7 110:16,23 111:15 111:16 close 22:24 55:16 58:4 59:19 69:10 73:20 106:1 115:25 171:25 closed 89:21 90:4 cloud 120:7 126:23 127:2,7,8,9,10 129:18 133:7,10 133:12 cloud-based 126:19 127:20 129:13,17 133:7 135:25 136:5 137:7,12,17 137:19 138:22 139:3,10,13,24 140:6,8,13,15,18 cluster 91:5 CLVS 3:23 colleague 172:1 combed 19:11
--	--	---	---	---

C

C 3:1 4:1 5:1 171:1
171:2 178:1
cache 57:5 95:7,10
96:14,15 99:9,14
100:9,16 105:18
cached 72:9

combined 117:23 118:5,19 119:5 come 107:25 142:10 comes 11:3 88:23 168:6 coming 112:1 150:8 172:19 command 170:6 comment 35:23 46:1 131:18 commenting 134:21 comments 132:2 common 120:5 commonly 129:17 communicate 47:20 communicates 24:8 26:5 communication 24:7 26:3,11 29:24 30:4,13,19 32:3 33:4,10,22 34:14,24 35:21 36:3 37:19 38:7 74:1 75:21 79:23 79:25 81:17 communications 101:12,13 105:19 compelling 120:18 compile 173:4 compiler 172:25 173:7 complete 11:18 175:5 completely 114:3 143:15 component 101:5 120:3 compounded 51:20 computing 120:9 concern 25:20 concerned 171:17 concluded 174:22 conclusion 79:17 condition 38:13	57:20,21 60:25 76:8 conditional 65:21 conditionality 55:17 conditionally 33:24 34:3,3 60:24 76:7 conditions 65:13 116:22 156:25 confer 9:8 172:1 conference 6:3 configuration 95:22 172:23 configurations 173:4 configure 173:1 confirm 14:7 92:10 confuse 134:22,24 confusing 74:23 103:20 133:4 connect 41:1 connection 19:16 20:12 41:4,16 79:1 101:15 108:14 115:14 124:19 128:2 135:11 154:21 160:2 connections 80:4 91:1 connectivity 80:14 81:24 88:3 consider 96:5 constraint 90:6 118:7 constructed 46:9 100:2 construed 96:11 contact 110:9 112:18 113:9 159:12 contacted 113:2,18 contacts 106:4,11 106:20 107:13 108:18 151:25 contained 25:17 content 22:4,24	23:19 26:23 27:6 28:19 40:2,9,15 40:21,25 41:5,9 42:9,13,19 43:4 43:15,22 58:4 61:9,15 62:14 63:4 66:5,11,20 67:1,17 68:4,7 70:20 71:14 72:10 76:6,10,12,14,16 76:21,22 77:23,25 78:1 82:25 85:20 86:10 89:15,20 90:8,16,17 91:11 91:23,25 92:11,12 92:21 93:12 94:1 94:3 97:24 102:11 103:5 104:7 106:6 106:12,21 107:14 107:16,18,24 108:10,10,20 109:7,18,25 110:2 110:4,7,15,22 111:10,22 112:5,7 112:19 113:1,10 115:12,24,24 151:16,24 154:9 156:8,10,14 170:18 context 8:6 22:12 23:25 24:15 27:16 29:14 35:15 37:1 37:15 39:20 41:13 46:2 51:13 53:10 53:21 54:10 55:2 57:4 58:23 60:13 60:15 64:7 75:17 80:23 92:21 107:6 107:21 126:23 127:2 147:13 148:11 156:5 165:20 contextual 42:18 continue 49:1 64:18 143:18 control 32:2 33:20 142:4,17	controls 170:15 convenient 84:10 121:19 165:24 conversation 133:6 conveyed 17:3 copies 15:5,8,24 21:4 copy 15:16,18 122:11 123:2 174:13 corner 123:3 corners 46:18 correct 14:23 16:7 20:13 37:3 73:1,7 73:11,15 75:14 78:2 89:16 98:16 100:6 101:1,2,12 104:19 108:20 116:18 117:2 133:2 134:9 137:3 146:12 172:20 175:4 176:6 corrected 21:20 CORRECTION 177:4 178:4 corrections 175:6 correctly 67:4 88:5 139:17 146:11 corresponded 39:2 corresponding 99:7 corresponds 98:6 counsel 9:8 14:17 30:24 48:12 60:5 87:13 103:22 114:2,20 134:23 143:2,16 148:24 176:10 couple 12:17 course 165:3 court 2:5 5:18 6:21 8:19 9:3 10:3,8 12:1 30:9 32:15 32:25 covers 80:25 create 71:22 created 12:19	criteria 81:20 82:3 83:25 cross-examination 64:18 CRR 1:23 176:22 CSR-HI 1:22 176:22 current 57:7 currently 149:6 customer 141:15 141:20 143:22,24 144:4,6,13 145:7 145:13,19 146:2 146:13,14,14,22 147:5,8 customer's 140:21 customers 138:20 139:1,9 141:2,7 141:19 142:4,16
D				
D 5:1 178:1 D.C 3:19 daemon 170:3 dash 13:18 data 1:7 5:6 6:6 71:23 72:15 76:18 79:24,25 91:5 157:18 177:2 178:2 date 5:14 112:11 131:1 175:10 177:25 178:25 day 10:9 20:6 25:3 171:20 176:15 decides 64:24 deciding 66:3,9 decisions 14:21 deck 149:3 declaration 16:5,14 16:21 17:1,7 18:14,17 19:14 22:8,20 23:2 24:17,22 25:6,18 27:21 28:1 29:12 29:16 31:22 32:11 36:15 37:12 38:4				

38:10 39:21 43:2 48:1 51:3,14 53:14 55:13 56:24 57:25 58:8,11 59:7 64:2,8,10 69:6 70:2,14 71:17 72:17 75:8 78:5 80:21 82:17 83:17 85:17 86:5 89:12 92:3,8 93:18 94:14 95:6 96:17 97:1,17 99:19 100:24 101:5,9,18,23 102:4,18 103:2 104:4 105:10 106:15 108:15 113:25 114:16 115:19 116:17 117:8 120:12,22 124:20,24 125:3 125:24 126:7,9 129:21 130:11,17 131:25 132:15 133:23 138:1,4 142:25 143:13 145:1 146:9 151:15 157:6 158:3,13 160:3,9 160:17 162:15 165:15 166:19 167:8 168:3,22 169:1 declarations 14:19 17:25 19:8 74:20 deficiencies 78:20 define 52:14 147:14 defined 84:18 97:22 109:5 148:12 151:1 159:15 defines 93:4 definition 96:13 98:3 126:22 140:8 166:16 Definitive 4:15 degradation 78:23	78:24 degrade 79:20 degraded 78:22 delivering 97:24 delivery 79:24 81:17 89:16,20 90:17 91:25 92:11 94:3 107:23,24 174:19 depend 144:21 158:24 dependency 52:20 dependent 81:5 depends 80:24 deployed 96:20 97:16 deployment 145:24 DEPONENT 175:1 deposed 8:10,18,25 19:6 deposition 1:12 2:1 4:9,12 5:4 6:1 9:9 9:21 13:19,22 19:3 25:15 59:3 143:4 149:14 150:2 174:21 depositions 64:14 described 6:10 18:16 82:23 83:1 86:8,10 88:4 116:16 130:23 describes 85:3 describing 117:6 169:24 DESCRIPTION 4:7 design 81:21 112:14 designated 115:25 designation 99:6 designed 52:24 desired 58:4 63:4 67:16 68:7 70:19 71:13 90:8 destination 161:3 detail 19:11 105:6 160:5	details 9:13 determination 91:6 determine 67:9 76:9 87:24 111:10 111:21 132:8 160:4 determines 76:5 77:14 developed 54:12 device 24:7 26:4 29:24 30:1,4,14 30:16,19 32:4 33:5,7,10,22 34:14,24 35:21 36:3 37:19 38:7 48:11 80:9 81:1 81:12 83:9 85:21 86:14,19,20,25 87:17,21 93:11 94:1 99:23,24 104:6,22 105:3,21 106:1 119:10 152:16 153:17 154:1,19 155:21 156:7 162:17,23 163:17,23 165:7 devices 34:7,16 36:17 78:9,15 80:16 91:14,22,24 97:23 102:10 103:4 105:11,14 148:17 150:17 156:4 diagram 95:13 140:11 difference 21:17 108:9 137:22,23 different 8:17 11:3 36:16,17 44:23 53:9 54:15 55:24 65:14 70:22 75:4 75:12 88:22 95:22 114:7 132:1 165:8 differently 44:17 47:10 128:1 difficult 139:12 difficulty 60:12	106:24 direct 25:16 57:25 68:12 74:12 113:22 124:6 140:3 148:16 150:16 165:5 directed 16:16 113:9,16 139:22 151:17 directing 146:5 directly 25:23 56:9 70:18 71:12 76:17 76:17 106:4,10,20 107:13 108:18 109:11 143:12 149:3 150:5,9 directs 159:14 disable-internal-... 168:7,10,16 169:2 169:6,12 disabled-ident 168:9 disabled-internal... 167:19 disagree 45:16 69:6 114:3 143:15 disagreement 63:16 disclose 80:7 disclosed 34:22 35:19 36:1 42:13 81:6 82:6,12 90:9 90:17,20 91:24 95:10,16 96:1,3 97:12 125:8 131:14 discloses 63:8 68:18 69:8,18 78:16 89:15 96:20 109:6 126:19 152:7 161:20 disclosing 130:24 disclosure 24:14 36:14,20 39:2,14 47:14 56:4,18 59:23 61:6 69:23 77:13 79:3 81:10	85:9 91:11,20 93:10,25 94:5 105:2 111:2 113:7 113:15 118:2,15 119:1,25 131:3 142:3 151:23 153:11 154:18 163:3,5 169:23 discuss 36:15 126:4 149:4 discussed 18:24 38:3 141:7 discussing 21:12 116:25 discussion 18:21 58:10 61:24 64:11 70:10 73:23 74:5 78:20 84:1 125:1 125:3 167:20 discussions 16:23 42:18 disrupt 135:6 dissect 155:10 distributing 139:22 district 8:19 9:3 12:1 divided 120:3 DNS 41:16 82:4,5 82:24 83:18,24 84:11,15 85:19,22 86:9,13 87:18,23 126:20 127:21 131:19 136:2 137:8 143:23 144:5,10,14,15 145:9,15,21 146:3 146:12,16,23 147:5,9,17 148:2 148:4 151:9 152:17 153:4,18 154:1 159:1,1,9 159:15 169:7,16 169:25 170:5,8,11 170:20,22,24 document 7:25 13:16,21 17:15 26:21 42:21 43:17
---	---	---	---	---

46:18 58:24 59:23 60:3 102:14 118:8 118:21 127:22 136:17 140:5 documentation 145:4 documented 148:10 151:3 documenting 53:14 documents 13:13 13:15 14:2,11 15:12,13,18,21,24 16:2 24:19 63:24 133:16 doing 6:9 59:25 82:24 83:18,23 84:11,15 86:9 129:10 132:20 154:8 163:10 170:11 171:19,20 domain 34:10,16 41:5,17 86:21 87:19,24 141:16 141:17,22 142:19 143:24 144:5,17 144:20 147:18,20 147:23 148:5,8 domains 141:3,9 142:5,17 144:12 double 98:9 download 59:17 drafted 16:25 131:25 133:22 drawing 133:21 134:6 drawn 119:19 dropped 102:19 Duane 4:15 Dunham 3:14 4:3 6:4,5 7:3,10,14 9:7,15,16,18 13:11 21:7 22:9 25:21,22 30:8,23 32:7,9,17,24 33:14 48:12,21,25 49:14 60:5,16 68:9 79:7,11 87:3	87:12,15 88:7,19 89:6 96:24 97:2,5 97:8 102:15 103:13,22 104:1 114:2,19 115:7 121:11,24 122:9 123:2,7,16 125:14 126:8,12,14 130:2 130:5,7,12,18 134:21,23 135:7 136:21 142:14 143:1,2,20 148:24 149:13,21 150:5 150:13,14 153:6 164:14,20 165:1 165:18,19 171:22 172:7,17 173:15 173:21 174:5,8 dynamic 78:23 79:19 80:17 dynamically 80:3 dyslexic 7:23 <hr/> E E 1:22 2:3 3:1,1,23 4:1,5 5:1,1 176:2 176:22 177:1,1,1 178:1,1,1,1 e-mail 141:21 e.g 45:21 earlier 98:7 early 171:8,20 easier 122:21 132:23 138:8,11 easy 11:9 eat 11:5 effectively 85:23 efficiencies 80:5 efficient 71:22 72:14 73:25 79:23 either 39:14 90:3 109:6 119:7 electronic 15:5,24 16:1 element 34:9 86:12 elements 39:3,12 105:16 114:8	Elizabeth 3:15 6:7 Ellis 1:22 2:3 3:23 5:17,19 176:2,22 elucidate 87:6 embodiment 37:17 38:5 58:11 90:21 91:18 92:17 93:4 95:11 96:4,10 98:6 100:5 105:1 105:7,8 107:2 112:15,24 113:14 115:11 117:21 118:13,23,25 120:13,15,17,24 120:24 121:4,10 embodiments 113:12 115:9 embody 119:15 employ 20:6 employed 176:11 enabled 170:9 enclosed 91:7 encompassing 163:7 engage 70:10 engineering 47:9 enhanced 81:16 entire 103:14 118:7 118:7,21 124:22 entirely 69:4 121:7 entirety 53:19 65:12,24 155:19 entitled 25:11 entity 54:15 100:21 EP 4:22 era 120:9 Errata 175:7 especially 47:2 81:4 ESQUIRE 3:3,14 3:15 essence 107:5 establish 41:4 108:25 estimate 19:22 European 4:21 evaluate 26:17 53:18 63:21,22	91:17 evaluated 24:18 39:8 evaluating 22:18 evaluation 22:14 22:14 51:11 53:11 53:15,22,23 92:16 93:2,3 events 114:15 157:17 158:25 eventually 104:21 107:15 108:21,21 exact 39:14 47:22 exactly 46:8 149:4 examination 4:2 7:13 113:22 135:6 143:11,18 examined 175:3 example 11:5 21:16 26:9,19 36:9 37:13 39:22 42:2 42:5,10,12 44:2 45:7,23 46:3 47:25 48:9 51:7 52:14 54:14 55:11 56:15 58:9 65:23 72:22 78:25 82:8 92:3,22 99:12,25 111:13,15,22 114:5 120:19 124:24 128:5 130:23 131:15,22 144:25 145:25 163:6 165:4 166:9 examples 39:7 42:8 47:7 48:9 51:22 59:25 65:25 92:18 150:22 155:14 166:8 exchange 67:21 excuse 43:16 executing 115:21 115:23 116:9 execution 105:20 exhaustion 57:5 106:16 exhibit 4:7,8,11,14	4:16,18,21,23 13:8,16,21 20:23 20:24 21:5,8,15 21:22 89:4,10 122:7,12 125:12 125:20 136:9,25 164:12,16,21 167:14 exist 18:7 34:8 61:4 90:18 91:19 94:6 156:25 existed 55:11 existence 12:14,16 existing 112:14 exists 41:6 57:21 112:13 expecting 31:10 experience 46:20 129:8 132:20,22 133:1,14,21,22,23 133:25 134:7 135:17 expert 11:23 12:2,6 12:12,22 explain 114:10 135:1 explained 46:10,24 91:17 132:4 155:5 explaining 12:24 38:21 133:15 explanation 37:14 47:23 51:7 87:7 98:3 108:7 expressly 78:16 extended 11:5 extensively 36:15 38:4 143:5 extent 13:5 22:7 25:14 37:11 71:16 121:3 external 54:23 167:9 168:4,24 169:14,19 170:16 extract 105:20 <hr/> F f 111:16
---	---	---	---	--

F/k/a 1:7	firewall 54:24	106:23 107:20	173:10	51:14 70:18 71:12
facilitate 84:3	firm 6:13,17	117:4 134:11	future 143:16	82:16 87:14 93:19
facilitation 73:25	firmly 43:11	154:23 156:23		97:18 128:22
fact 12:23 49:2	first 13:16 14:1	formal 42:22	G	135:22 140:3
81:4 119:18	24:8 26:4,11,24	formed 120:23	G 5:1	143:19 149:16,19
137:17 171:4	27:7 28:6,20 29:4	128:3 131:12,24	gain 65:16	155:6 172:3
factored 137:20	29:9,11,14 34:9	formerly 5:7	gained 46:20	173:25
factors 81:18	35:8 40:3,10,16	forming 120:22	general 8:21 45:8	goes 67:7 78:19
fair 15:14 39:16	40:19 41:1,10,21	160:3	generally 8:16	102:12 112:25
44:18 53:5 129:4	56:17,25 57:23	forth 17:1 120:21	16:11,20 18:25	114:6 124:13
170:10	61:21 69:7 70:11	forward 7:2,4	19:1 45:1,12	161:4
fairly 18:11 95:20	97:10 102:8,17,24	157:13 158:4,23	46:10,12 86:1	going 6:25 9:14
fallbacks 37:23	104:3 108:16	162:23 163:16	90:23,24 97:20	20:20 25:13,14
familiar 13:4 14:9	113:8,17 115:13	forwarding 158:11	116:21,21 125:25	31:4 32:12 45:11
far 149:15	115:20 117:19,20	159:17,21 164:5	156:13	45:15 49:19 53:20
faster 79:24 84:3	117:23 118:4,12	forwards 156:20	generic 95:20	59:20 60:6 65:6,8
feel 7:20 124:9	118:17 119:3,4	157:9 158:19	generically 50:16	66:15 70:9 72:16
147:4 153:10	123:5 138:9	162:16 163:22	54:25 116:14	88:8 112:4 113:19
165:2	139:15 168:20	found 39:6,7	gentlemen 136:19	114:21 120:10
felt 39:15 53:8	fish 150:3	foundation 30:22	geographically	121:12 123:21,25
fetch 109:7	fishing 149:12	36:6 62:17 87:2	73:24	128:2,22 146:24
fetches 110:4	five 8:14	87:11 88:1	geolocate 84:2	149:18 160:20
fetching 110:6	flip 14:10	four 8:14 46:17	geolocated 73:24	good 5:2 7:7,15,17
figure 72:25 73:11	Floor 3:7	123:9	84:11	48:15 88:12
73:15 98:4,5,10	flow 36:10,16	fourth 157:7	geolocation 78:21	172:10
98:13,23 100:18	116:16 143:5,10	frankly 137:21	81:16	Google 127:8
101:6 102:1	146:4,23,25	free 7:21 103:14	getting 36:18 43:12	gopher 166:7
105:17 107:9	148:16 149:4	124:9 165:2	72:9 84:11 134:15	great 11:13 14:15
110:8 112:16,24	150:16 151:1	frequency 79:21	give 11:17 14:9	15:23 16:4 79:21
119:18 138:3,10	156:15	fresh 60:18	19:21 29:17 49:5	89:2 121:23 172:6
138:15 140:20	flows 36:21	front 20:24 28:2	93:16 106:13	grounds 113:21
143:14 148:14	focus 22:2,22 23:9	98:11	141:25 142:8	group 78:10 81:2
165:23	23:18 83:18	FTP 166:7	148:22 153:22	81:13
figures 92:6	focused 53:24	fulfill 157:16	163:8 165:20	guess 20:1 95:8
file 68:19 69:9,18	following 62:8	fulfills 156:13	given 36:9 37:13	123:8
final 172:2	76:19 145:2	full 42:3	45:8 46:1 48:9	Guide 4:15
financial 176:12	follows 7:12 72:13	fully 29:11 149:8	71:24,24 78:15	
find 21:4 39:1,14	food 121:20	function 95:19	127:24 145:3,22	H
55:10 73:10,14	foregoing 175:3	99:24 119:23	145:23 147:9,17	H 4:5 177:1 178:1
75:3,11 77:1 86:3	176:4,5	170:4	148:4 151:6 153:6	hand 176:15
90:5 138:8	form 44:20 47:16	functionality 99:14	153:7,10 175:6	handle 50:2,11
finding 92:18	50:14,22 51:5	100:9,15 105:22	givens 145:22	52:22 102:11
fine 48:20 77:3	52:8 60:8 62:23	107:4 117:22	giving 16:24 60:15	103:5 104:6
121:17	67:19 68:22 80:11	118:3,16 119:2,9	134:25 145:1,3	handles 106:15
finish 23:13 87:5	86:13 89:23 90:12	152:8 170:16	171:5	handling 161:14,20
finished 10:16 71:6	93:14 102:14	further 87:6 135:6	go 19:19 20:1 25:3	162:4
87:4	103:11,11 104:9	141:12 162:7	38:12 39:12 48:21	handoff 162:25

Hang 142:23 happen 44:5 108:23 148:10 171:12 happens 76:15 164:5 happier 10:8 happy 9:12 48:25 64:8 71:2,2 92:24 hard 15:7,17 Hawaii 2:4 header 157:21,24 hear 68:9 145:17 164:19 held 2:2 5:8 help 39:9 43:12 59:17 60:14 80:23 138:7,12 helpful 37:4 39:5 42:25 49:19 64:19 71:3 125:23 126:2 165:4,13 helps 34:19 59:5 hereunto 176:14 hesitate 88:25 highlighting 15:19 16:2 hit 41:16 holds 76:18 honestly 25:1 Hong 84:5 hop 91:9 host 33:19 45:23 hosted 87:20 142:5 142:17 hostname 32:1 hosts 144:20 147:23 hour 10:23 20:18 48:14,15 88:9 121:13 172:8 hourly 20:11,15 hours 19:15,23 house 18:11 housekeeping 88:21 HSSI 91:4	HTTP 68:16 94:21 94:24 95:1,5,16 95:17,25 96:2,6 96:12 97:11 98:18 98:20,24 155:22 156:3,7 166:4,6 HTTP/1.1 42:4 HTTP://WWW.... 42:4 hypothetical 55:21 hypotheticals 56:2 <hr/> I <hr/> icons 14:3 identified 13:9 21:6 89:5 122:8 125:13 141:20,21 164:13 identifier 141:22 identify 17:12 93:9 109:16,22 illness 11:17 illustration 107:2 imagine 8:23 impacted 171:15 implementation 47:9 54:24 69:4 70:7,8 163:20 implementations 55:12 implemented 37:2 implementer 52:20 54:13,14 important 10:5 22:13 improper 149:22 inaccurate 173:5 include 31:18,19 included 23:8 58:8 91:23 92:6 145:9 145:15,21 167:7 includes 52:17 54:4 55:15 including 39:22 47:11 116:17 131:14 incomplete 87:10 incorrect 103:18	independent 74:15 indicate 100:24 indicated 98:23 indicates 36:9 105:17 indicating 26:10 52:12 indicator 26:19 infer 27:12 91:18 inference 92:2 inferred 62:19,25 86:1 94:6,10,12 infers 81:15 information 16:25 19:9 57:8 58:19 59:16,18 60:23 61:2,4 64:25 67:11,12 76:21 77:14 97:25 112:10 141:5,10 141:25 142:21 149:12 150:3 152:14 157:2 159:24 160:5,12 160:25 164:9 inherent 85:25 86:17 initializer 24:6 26:3 26:10 29:23 30:13 32:4 33:4,23 34:7 34:23 35:20 36:2 37:8 initially 60:10 initiates 40:3,10,16 41:10 43:3,15,21 instance 47:25 56:8 95:23 instances 119:17 institution 14:21 instruct 115:23 instructs 9:25 30:25 instruments 63:24 intended 44:3 interaction 49:16 147:8 interchange 151:3	interest 176:12 interested 21:11,15 94:23,25 103:3 interfaces 30:4,19 32:3 33:10,21 internal 54:22 91:3 159:25 170:15 internet 22:4,23 23:19 45:10 47:3 53:12,16 79:5,18 79:19 85:25 86:17 87:20 95:22 127:10 129:19 internet-based 137:20 interpret 128:1 131:2 interpreted 137:12 155:2 intricacies 51:18 introduce 65:14,25 introduced 130:16 invalidates 25:25 invalidity 120:15 invention 128:15 129:2 171:12 investigate 164:3 investigated 163:11 investigation 152:5 162:8,9 163:18 invite 149:1 invokes 162:3 IP 27:1,9 28:22 30:3,17 31:18,19 32:1 33:8,19 34:5 34:11 35:1 43:5 43:23 44:21 45:1 45:11,20,22 46:5 46:12 47:23 49:23 50:3,7,12 52:17 52:23,25 53:7,9 54:4,18,23 55:15 72:20 73:4,19,20 73:24 74:7,10,14 83:5,10 84:2 85:4 85:11 86:12,21,24 87:18,21,24	139:23 143:25 144:7,18,19 145:8 145:14,19 147:18 147:21,22 148:3,5 148:6 153:19,20 154:2,4 155:22,23 157:21,24 159:22 IPR 9:2,5 13:17,23 14:19 16:6,15 19:17 22:21 27:21 122:12 124:21 IPR2021-00458 5:12 13:20 16:7 IPR2021-00458/I... 1:3 IPR2021-00465 5:13 issue 58:13 70:12 147:8 issues 171:9 <hr/> J <hr/> J 4:10,13 Japanese 95:9 Job 1:25 joined 6:16 Joseph 3:23 5:17 judgment 63:19 jumping 64:17 justify 114:20 <hr/> K <hr/> keep 17:23 20:3 89:11 110:19,24 keeping 111:5,6 keeps 10:8 110:15 110:21 Keith 1:12 2:1 4:2 4:7,9,12 5:4 7:11 121:20 174:21 175:2 kind 17:18 53:19 132:10 158:14 164:1 171:14 KK 89:11,15,21 90:9,18 91:11,21 92:7,12,16,22
---	---	---	--	---

93:2,9,19,25 94:3 94:8 95:16 96:1 96:20 97:12 98:5 99:15,19 100:6,18 104:5,17,23 105:3 106:4,10,19 107:10,17 108:14 108:18 111:9 112:17,25 113:7 113:15 115:10 117:2,5,22 118:3 118:15 119:1,25 120:13,24 knew 31:10 know 8:3 11:7 13:1 14:1 16:10 17:16 17:17 18:2,10 19:8,10,12,25 20:8,8 24:1 25:2,2 31:16 32:17 34:11 34:17 38:2 39:23 41:15 42:17,19,23 44:2,4 46:8 47:3 51:19,21 52:22,23 54:18 59:8 67:6 68:2,4,23 69:2,21 69:23 71:19 73:24 74:3 78:6,21,23 79:15,21 80:18 82:3 84:17,24 85:24 88:2,25 90:3,25 91:5 94:17 95:19,20 98:2 100:22 102:5 103:16 105:24 108:4 109:2 111:18,20 112:12 115:1,8 117:11 119:6,23 120:5,9 122:15 126:21 127:8,25 128:21 129:7 130:15 133:3 134:12 141:4,6,18 142:2 142:7 144:8 146:8 150:21 151:4 152:7 153:12,18	154:1,6,12,13,15 155:11 159:25 161:7,19 162:2 164:1,2,4 166:20 167:22 knowing 154:16 knowledge 12:5 46:19 47:12 79:4 120:5 128:22 131:24 132:13,15 135:17 166:1 known 5:7 Kong 84:5 <hr/> L L 3:17 138:21 139:2,9 140:21 142:4,16 LA 84:5,6,9 labeled 98:15,18,21 lack 30:21 36:5 62:16 87:1,11,25 language 44:15 63:17 75:25 76:2 94:22 102:16,23 103:2 117:25 124:1,11 167:6,11 169:1 laptop 44:25 largely 81:24 larger 69:22 launch 170:7 launched 37:19 38:7 launches 34:23 35:20 36:2 37:8 launching 37:7 layers 47:1 leave 138:12 left-hand 14:4 legal 5:18,21 legitimate 25:20 let's 48:21 49:2 59:5 77:17 88:9 111:14 136:16 149:15,20 letters 123:11	level 98:1 160:5 163:21 Lewis 6:17 Lexington 3:6 library 171:1,3 life 163:19 likelihood 31:19 limit 103:23 limitation 53:3 limited 6:6,15 25:15 line 41:18 113:20 123:5 133:4 136:22 170:7 177:4 178:4 linear 64:16 link 91:4,4 list 31:17 50:1,10 52:1,16 54:2 55:14 56:11,14 57:14,17 58:3 63:3 64:23 67:15 73:6 74:9,17 82:2 84:8,10 Liston 3:4 6:13 literal 59:22 literally 46:17 litigated 12:20 little 11:14 47:10 48:22 88:8 121:12 148:22 LLP 3:4,16 6:7,13 load 96:21 97:16,23 107:23 112:3 171:8 loathe 148:25 located 90:10 location 87:19 log 110:25 112:9 logged 34:4,6 36:11 longer 48:22 57:7 look 17:18 20:10 22:16 38:25 39:13 41:13 42:20 45:13 51:13 53:21,24 57:23 58:22 59:6 69:5 73:23 84:22	102:23 115:18 122:18 127:11 137:25 138:8,15 148:21 150:25 155:6,13 161:17 167:19 168:21 looked 155:12 looking 15:16 37:25 41:25 45:1 65:22,24 73:18 77:4 79:22 101:8 137:1 looks 43:5,23 45:19 85:4,11 lookup 84:11,16 85:19,22 86:13 87:18,23 lookups 82:25 83:19,24 86:9 168:9 lot 20:4 41:22 138:11 153:12 lower 123:3 Luminati 1:7 5:7 lunch 88:24 121:14 Luotonen 4:17 122:11,23 123:18 124:4,18 125:6,9 129:13 133:11 136:6,12,13,15 Luotonen's 125:1 <hr/> M M 119:23 MAC 30:3,18 32:2 33:9,20 machines 171:11 making 81:11 111:19 169:16 170:18 managed 44:22 161:14 manipulating 46:12 manipulation 163:19 manipulations	164:7 manner 6:10 64:15 147:2,11 156:14 map 88:5 mapped 143:24 144:6 mapping 159:25 marked 13:14 material 16:22 31:6 materials 15:2,6 matter 5:5 6:18 21:13 86:13 137:14 154:8,9,11 171:10 matters 8:17 19:24 mean 8:19 12:15 19:4 32:18,19 44:8 48:25 55:16 74:23 82:11 95:4 105:13 110:24,25 120:4,9 123:1 125:24 128:19,20 129:1 157:5 meaning 67:10 127:8 means 133:7 mechanically 44:4 mechanics 38:16 44:25 80:2 81:15 100:22 132:3 147:10 148:9 153:14 mechanism 74:2 80:19 144:12 170:25 mechanisms 44:23 media 32:2 33:20 67:6 medication 11:16 meet 82:2 member 49:17 memory 142:10 mention 28:9 mentioned 29:20 29:21 menu 14:4 merely 80:14 114:9
---	--	---	--	--

message 115:22 116:4,5,5,10,18 143:5 messages 36:16 116:16 143:10 149:4,5 messaging 36:21 114:7 117:1 Meta 119:9 method 68:20 69:10,19 150:23 155:4 161:15 methodology 71:22 79:23 84:18 95:8 methods 51:19 71:21 Michael 6:16 Microsoft 119:13 129:15 middle 166:12 mind 43:11 57:12 minute 19:11 30:5 minutes 121:15,22 142:9 172:4,9 missing 27:15 mission 155:9,10 misspelled 95:9 misstated 172:21 misstates 102:14 models 150:25 module 34:23 35:20 36:3 37:7,9 37:9 43:5,23 45:2 45:19 46:5 48:5 49:25 50:8 51:25 56:13 57:16 58:17 60:21 85:3 170:5 modules 37:18 38:6 moment 14:1 33:2 72:17 117:14 134:2 168:15 monitor 5:15 morning 7:16,17 motion 149:21 150:4 motivations 71:19 moved 35:9	moving 70:22 160:19 multiple 78:15 97:23 109:4 119:13,15,16 139:23 <hr/> N <hr/> N 3:1 4:1,1 5:1 178:1,1 name 5:16 33:19 141:16,18 names 142:19 narrow 65:23 narrowly 53:23 naturally 129:10 nature 8:17 15:20 79:18,19 navigate 14:13 near 82:19 123:23 necessarily 37:23 47:22 52:17,25 54:4 55:14 57:10 68:16 81:21 87:23 97:13 152:24 161:9 necessary 157:4 need 7:23 10:24 11:4 13:5 22:10 31:8 35:14,14 40:12 41:15,20 53:21 62:2 64:7 70:17 71:1,12 79:8,9 121:16 124:10 141:11,11 145:17 146:8,9 153:14 157:13 158:4 159:22 161:9 needed 47:24 55:3 137:24 173:2 needs 40:20 67:8 76:22 163:14 neither 176:10 Netnut 1:4 5:5 6:14 177:2 178:2 network 40:4,11,17	41:11 47:2 54:22 59:19 91:3 112:3 114:8 143:6 Networks 1:8 5:7 never 152:4 New 3:8,8 nodes 143:6,9 nonparallel 170:14 nonspeaking 103:24 Northwest 3:17 Nos 13:8 Notary 2:9 176:24 notations 15:19 16:1 note 77:6 88:21 126:3 notes 17:19,23 18:3 172:2 notice 4:9,12 13:19 13:23 noticing 5:22 notifies 65:5,7 notion 47:18 85:18 notwithstanding 44:15 novel 171:18 nuances 155:11 number 5:13 13:18 13:23 16:16 17:21 18:15 20:24 23:23 26:12 39:21 54:19 78:24 92:17 98:6 105:8 122:23 numbered 16:6 numbers 5:11 16:9 16:12 numerically 73:20 <hr/> O <hr/> O 4:1 5:1 178:1 O'Brien 3:15 6:8 oath 6:2,10,19 object 9:25 22:6 25:14 31:18 37:10 44:19 47:15 48:24 50:13,21 51:5	52:7 59:21 67:18 68:8,21 70:17 71:11,15 72:4 74:11 80:10 89:22 90:11 93:14 103:10 104:8 106:22 107:19 113:20 117:3 134:10 140:1 148:19 154:23 156:22 objection 6:1,9,18 30:21 36:5 60:4,8 61:17 62:16,22 68:10,11 87:1,25 102:13 103:11 104:20 114:22 115:1 135:5 142:12,24 143:3 143:17 146:7 149:22 150:19 152:2,9 objections 60:7 103:23,24 149:17 objective 72:1,5,6 72:13 obtain 26:23 27:6 28:19 68:4,6 73:6 76:5,9 93:11 107:16 113:1,10 115:11 obtained 76:22 obtaining 108:10 110:1 154:21 obvious 47:18 78:11,14,18 79:17 80:1,19 81:2 82:11 84:20 112:2 164:8 obviousness 37:1 46:23 82:7,8,10 occur 57:10 148:11 occurred 158:25 occurring 57:6 84:21 152:23 occurs 117:1 October 1:13 5:14	176:15 office 1:1 5:10 8:20 15:5 officer 6:1 176:3 Oh 8:14 9:10 19:7 21:19 31:12 32:12 42:16 43:18,19 44:11 130:8 137:1 168:11 okay 7:15 9:10 12:4 13:3,7 14:12,25 15:11 16:13 21:9 21:17,22 22:25 23:12,14,15 24:5 24:11 25:4 27:19 30:6,11 31:2 32:13 34:8 35:11 35:22 36:24,25 37:4 39:5,9,18,25 41:2,7 44:6 47:21 48:21 54:10 59:5 69:14 70:15 71:5 77:7,9,20 79:15 80:22 82:18 88:7 88:11 89:1,13 93:22 97:6 99:7 101:20 102:25 108:22 109:4,8 115:16 117:18 118:9,24 122:14 122:17 123:4,14 123:15,17 124:5 125:5,17,22 126:5 126:11 127:16,17 128:11,17 131:7 133:8 134:4 135:14,20 136:11 137:5 138:2,17,18 141:1 145:6 153:8 159:6 160:18 164:22,24 165:12 165:12,21 166:10 166:22 167:4,4,17 167:24,25 168:13 168:18 170:21 172:5 old 128:21
--	---	--	--	---

once 66:14,23 open 14:6,12 90:4 125:22 opened 14:4 operate 44:17 47:9 47:13 operates 26:16 36:20 47:2 operating 53:11 operation 34:10 35:3 58:12 114:11 173:7 operational 26:18 36:25 opinion 17:4 63:22 114:14 131:13 opinions 120:23 121:1 128:3 160:4 opportunity 14:10 124:3 134:25 150:2 151:6 167:2 opposed 119:21 133:11 option 170:3,3,6,7 170:9,12,15,17,25 173:6 options 173:1 order 19:21 40:20 41:23 64:15 68:3 68:6 72:10 79:24 80:4 82:25 84:2 84:10 85:20,23 86:9 88:5 91:16 92:4 106:13 107:16 108:1 110:10 112:9 114:15 116:8,12 157:13,15 158:4 158:22 162:22 163:16 164:10 171:11 173:1 174:7 ordinary 126:25 128:14 origin 70:19 71:13 142:5,18 144:11 144:19 146:5,24	147:22 148:7,18 150:18 151:16,24 151:25 153:21 154:4 156:20 157:9,14 158:5,11 158:19,23 159:13 159:18,21 160:10 160:23 161:5,22 162:3 163:15 original 32:16,18 70:21 originally 133:5 outcome 176:13 outside 54:18,24 150:25 overall 72:4 93:1 owner 1:9 3:13 5:8 6:5 Owner's 4:8,11 owners 141:2,8 <hr/> P P 3:1,1 5:1 p.m 1:14 5:16 49:9 49:12 88:14,17 122:2,5 172:12,15 174:3,22 packet 155:22 163:19 packets 159:23 161:4 162:22 163:15 page 4:2,7 27:19 82:19,20 96:15 122:20,23 123:1,3 123:6,8,12,18,23 136:14,19 138:9 139:15,15 165:5,5 165:9,10,11,12,16 165:22 167:13,14 167:15,20 168:8,8 168:17 169:3,13 177:4 178:4 pages 14:10,14 paid 20:11 63:21 63:22 93:5 paper 15:16	paragraph 22:19 23:23 24:3,21 25:7 26:8 27:12 27:18,20,24,25 28:6,8,13,17,23 29:3,5,8,10,12,19 31:7,21 32:9 33:16 34:15,20 35:17,23 37:5 39:19,22,24 41:8 41:14,22,24 42:6 42:15 43:1,13,18 43:19 44:1,8,9,15 45:14 48:4 49:21 50:16,24 52:21 53:7 54:6 56:16 57:24 59:6,10 62:7 63:6 64:20 65:2,11,23 69:5 69:11 70:2,13 72:16,18 73:3,9 74:19,21,25 75:8 75:22 78:5,8 80:15,20,24 82:16 83:16 84:23 85:2 94:13,20 95:5 96:16,23 97:10,16 100:23 101:8,22 102:3,17 103:1 104:3 105:9 114:5 115:18 116:6,24 117:7,11,15,17,20 119:4 126:1,10 127:11,14 129:20 129:23 130:5,23 131:6,15,17 135:23 136:6,13 137:3,13,25 148:14 151:8,14 157:5 158:13 160:9,16,22 162:14 165:16 166:19,23,25 167:3,7 168:2,21 paragraphs 38:1 66:1 92:7 149:2,9 parallel 167:10	168:5 169:15,17 169:20 170:2,11 170:13,19 171:16 171:19,20 Pardon 128:18 156:9 parse 139:5 parsing 107:4 part 25:20 39:4 49:21 51:12 86:16 93:13 109:25 140:17 153:10 partial 103:11 particular 8:24 13:15 19:24 21:12 42:14 50:3,12 56:8 64:25 65:9 65:11 66:24 81:6 94:7 99:21 101:4 102:23 109:19 130:25 131:2 132:2,6 135:24 144:16 147:20 168:22 169:13 170:17 parties 176:11 pass 63:18 173:11 passage 103:7 passages 77:5 passed 173:3 patent 1:1,2,9 3:13 4:8,11,18,21,23 5:8,9,10 6:5 8:20 8:24 15:5 16:12 16:16 17:8 18:14 18:20 20:22 21:23 22:18,22 24:20 27:22 28:1 38:18 51:9,10 53:25 63:25 92:18,24 97:4 107:6 120:19 121:5,6 125:19 128:8 132:6,7 136:8 138:9 139:16,16 141:8 150:24 155:6,9,15 157:6	patents 19:18 47:6 128:16 129:2 path 78:22 79:20 164:8 Paths 79:20 pay 171:13 PDF 165:5,10,11 165:23 167:14,20 168:8,17 169:3,13 peer 37:9,18 38:6 68:4,6 peer-to-peer 68:19 69:9,18 peers 59:18 63:3,4 67:15,17 72:10 people 20:2 52:24 171:13 perfect 121:24 138:19 perfectly 31:12 121:17 performed 31:24 33:18 38:24 87:18 135:2 162:10 performing 120:21 performs 152:17 153:4 period 130:10 permit 91:21 93:10 94:1 permits 170:11 permutation 38:13 permutations 37:22 person 10:6 46:23 54:11 126:25 127:4 128:13 perspective 129:22 pertained 24:19 petition 16:15,16 22:21 124:21 petitioner 1:5 3:2 5:6 6:14 petitioner's 16:5,15 petitions 14:19 phone 44:25 phrase 83:20 94:23
---	---	---	--	---

94:25 95:2 105:10 105:25 116:3 161:21 162:4 physical 44:22 119:10,14,15,16 119:20 pick 81:25 picture 17:14 165:6 piece 21:12 pieces 108:8 place 40:20 41:21 41:23 48:2 61:24 86:5 153:7 156:15 157:1 places 39:21 placing 14:25 please 5:23 6:21 7:10,20 8:1,7 10:1 10:25 11:6 14:6 23:12 24:1 27:4 27:22 29:6 30:6,7 30:10 31:1,5 32:16,25 33:13 35:15 36:23 39:23 40:6 49:13 57:2 59:8 60:8 61:11 64:18 66:7,22 70:25 75:6 77:6 77:10 78:4,6 80:20 82:17 84:24 87:4,12 88:18,24 89:11 90:14 94:17 96:9 102:4 103:24 104:15 106:18 112:22 114:22 117:14 122:6,15 122:22 131:8 135:4,5 136:18 138:1 139:7 141:13 143:17 144:2 145:11 164:17 165:25 166:20,23 167:18 168:13,14 169:10 172:16 174:2 plenty 171:10 plurality 102:10	103:4 pneumonic 42:23 point 7:2,4 10:24 11:4 61:25 88:23 94:8 107:22 108:23 109:19 113:6 114:18 120:1 129:9 130:25 132:1,16 134:1 151:10 153:3 155:25 159:10 171:18 pointed 70:13 159:1 pointing 23:24 43:13 56:15 165:22 points 131:19 pool 81:21 167:9 168:4,23 169:14 pools 169:19 portion 45:24 62:1 94:7 119:24 124:7 165:3 portions 166:25 pose 152:11 posing 56:2 POSITA 78:11 81:3 82:22 86:7 89:19 127:4,19 128:12,13 129:1 position 15:9 23:4 23:5 151:5 possibilities 55:7 possibility 94:11 possible 11:10 37:22 51:19 69:1 70:6,7 79:14 possibly 38:14 56:20 65:13 Post-Its 15:20 posted 86:22 preceded 116:11 preconditions 41:22 premarked 13:21 preparation 19:5	124:20 prepare 19:2 prepared 16:21 19:14 132:14 prepares 50:1,10 preparing 17:24 18:13 120:12 160:2 present 3:23 84:4 147:24 presented 144:9 presumption 144:11 pretty 120:5 previous 71:6 previously 12:12 13:13 29:15 41:14 55:11 100:5 110:9 111:11,23 113:2 162:10 primarily 68:18 69:8,18 primary 71:20 Prince 125:16,19 126:4,9,16,18 127:2,12 128:5 130:7,22,24 131:4 131:14 132:4 133:20 134:6,8 135:11,15,17,23 136:3,7,16,24 137:1,13 138:9,20 139:1,11,14,16,21 141:2,7 142:3,16 143:22 144:4,17 144:24,25 145:7 145:13 146:4 147:17 148:2,10 148:16 150:7,16 151:23 152:7,16 153:2,9,17,25 154:18 155:3,5,8 155:12,15,17,21 157:20 158:4,10 159:4,5 161:4,14 161:19 162:21 163:4,5,10,20	164:4 Prince's 138:4 principal 117:21 118:13 121:3 prior 12:14,16 17:6 17:6,8,13 18:20 21:12 35:1 46:1 46:10 59:2 110:6 privately 90:3 probably 16:11 28:4 78:24 problem 23:16 44:11 procedure 173:17 proceed 6:22 15:15 49:13 88:18 122:6 150:10 172:16 proceeding 9:2,3 12:7 16:6 18:17 21:14 122:13 proceedings 8:20 19:17 20:13 176:4 176:7,7 process 8:4 10:19 16:20 17:24 18:13 18:16 20:6 26:21 36:8,10 43:9 45:2 47:23 52:13 74:15 76:24 80:2 81:19 85:25 86:18 108:24 109:25 112:9 154:7 158:1 163:21 170:2,20 170:23,24 processes 44:23 51:20 167:9 168:4 168:24 169:15,20 product 12:18,23 12:24 37:2 54:12 Professional 2:7 176:3 program 46:11 projects 20:7 promise 48:13 proper 59:24 60:1 propose 121:13 proposition 62:8	provide 8:5 30:2,16 33:7 38:14,17 41:12 45:6 47:7 51:21 55:11 56:23 56:24 64:9 75:9 79:24 86:6 88:6 90:13 92:21 102:20 126:22 provided 17:9 29:21 38:12 50:4 50:12 58:1 63:14 64:7 99:14,25 100:9,16 105:22 114:4 140:15 164:10 168:25 provides 87:21 99:24 153:19 providing 26:25 27:8 28:21 31:25 33:18 65:19 72:14 provision 126:20 provisioned 127:21 136:1 137:8 proxies 94:20,21 95:1,5,13,16 96:1 96:6,12,20 97:9 97:15 98:18,20,22 98:25 99:2,3,8 100:24 101:23 107:7 109:8 110:11 112:18 113:10,16 115:12 125:8 157:23 proxy 4:16 91:2 95:17,19,21,23 96:2 97:11 99:12 99:21 100:2,11,17 100:20 102:10 103:4 104:6,18,23 105:4,10,13,17,19 105:23 106:1 107:25 110:5,7 112:1,6,8,25 115:25 123:9,24 124:11 125:1,6 126:19 127:21 131:20 136:1,5
---	---	---	---	--

137:7,12 138:22 139:3,10,24,24 140:6,9,9 143:25 144:7,18 145:8,14 145:20 146:6 147:1,21 148:6 151:10,18 152:17 153:4,20 154:3,20 155:23 156:1,6,11 156:19 157:8,12 157:20 158:3,10 158:17,18,21 159:4,10,14,17,20 160:12,25 161:23 162:6,15,21 163:14,22 164:5 166:4 Proxy's 95:20 Public 2:9 176:24 publication 4:19,24 136:8 publicly 90:3 published 20:22 21:23 pull 20:25 21:14 125:15 purport 89:18 purpose 154:10 purposes 55:5 pursuant 2:2 put 41:19 80:2 98:10	27:3 28:5,7,11 29:15 30:7,12 31:5,15 32:16,19 32:21,22 33:1,3 33:13,15 35:10,12 35:24,25 37:25 38:22 40:6 42:11 43:10,20 45:5,15 49:22 50:5,6 54:21 57:1,12,13 59:24 60:2,18 62:10,11 64:15 69:16 70:11,15,22 70:23,24 71:3,6,8 74:23 75:5 77:10 81:9 84:13 87:4 87:10 88:6 90:14 92:5,19 93:6,8,22 93:24 95:24 100:13 101:20,25 102:20 104:14 106:17,25 108:5 108:16 109:21 110:20 111:5 112:21 114:24 115:6 117:18 118:14 120:20 125:5 127:5 128:11 130:4,20 131:8,9,10,21 132:19 133:18,19 137:6 138:24 139:6 140:2 142:13 144:2,9 146:11,20 147:3 147:12,24 149:11 150:12 151:21 152:12 153:23 154:14,25 158:6 159:16 164:11 167:5,17 168:18 questioning 64:14 113:20 133:4 136:23 149:6 150:6 questions 9:23 10:2 11:19 20:21 24:24	24:25 36:13,22,24 49:20 53:20 59:21 87:13 117:16 124:1 129:3 149:17 165:25 166:25 173:14 quickly 11:1 quotation 168:1 quote 22:22,24 23:9 24:9 31:24 33:17 45:18 55:14 55:16 58:1,4 59:19 69:7,10 78:9 82:21 94:20 103:12 106:1,1 115:20,25 151:9 168:6,23 169:14 quoted 42:15 56:6 56:9 94:22 167:6 170:1 quoting 103:17,18 103:19 131:6 159:5,6 160:21	reading 8:3 32:7 47:13 134:3,6 reads 45:18 58:1 59:11 82:21 168:3 ready 171:24 real 47:8,12 163:19 reality 44:16 172:24 really 17:18 23:24 62:8 97:19 108:4 134:14 141:18 145:16 150:1 Realtime 1:23 2:7,8 176:23 reason 11:16 81:19 177:4 178:4 reasoning 171:5 recall 12:10,21 16:13 17:13 18:22 67:24,25 68:14 74:3 75:24 76:1 80:12 81:14 83:13 85:14 93:15 97:20 106:2 115:17 131:5 receipt 58:3 receive 109:10 116:10,22 received 59:14 86:24 153:19 154:2 163:15 receives 77:23 115:22 156:2,6 receiving 49:23 50:7 51:24 56:11 57:13 58:16 59:12 60:20 61:7,13 62:12 63:10 64:22 156:19 157:8 158:18 Recess 49:10 88:15 122:3 172:13 recognizing 108:9 recollection 9:17 67:21 record 5:25 7:20 10:7 11:15 13:10	21:6 23:14 44:7 44:12 49:9,12 77:4 88:14,17 89:5 100:3 108:12 122:2,6,8 125:13 134:22,24 142:8 146:12,16,23 147:6,9,17 164:13 168:14 172:12,15 173:25 174:4 176:6 recording 7:1,5,6,9 records 131:18 143:23 144:5 145:9,15,21 146:3 148:2 151:9 159:9 recovery 163:25 redirecting 146:25 reduce 70:17 71:11 72:10 reduced 176:9 redundancy 98:2 refer 16:8 25:4 44:8 49:21 72:16 78:4 80:20 101:3 165:2 reference 23:24 25:5,10,10,12 27:16 28:14,15 29:16 32:10 34:20 35:5 38:3 41:7 42:25 46:15,16 48:4 49:22 51:2 53:6 55:10 59:2 60:11 63:20 64:10 64:20 74:24 80:7 84:23 89:10 94:13 97:9 101:16 102:3 104:2 105:25 107:9 112:16 116:18 121:9 122:11,24 124:19 125:16,25 126:16 127:3,25 128:6,7 129:25 130:3,7,10 130:11,22 131:14 131:16,17 133:14
---	--	---	---	--

Q

qualified 11:25
quarter 171:24
172:7
queries 167:10
168:5 169:8,15,16
169:20,25 170:3
170:11 171:16,19
171:21
query 144:16
152:17 153:5
question 10:12,15
11:13 13:2 22:11
23:13 24:16 25:6

questioning 64:14

113:20 133:4
136:23 149:6
150:6
questions 9:23 10:2
11:19 20:21 24:24

R

R 3:1 5:1 177:1,1
178:1,1
randomly 81:1,4
81:12 82:1
randomness 81:23
rate 20:15
reaches 58:2
read 7:24 19:9 30:9
30:20 31:5,8
32:15,21,23,25
33:2,11 35:4
39:11 53:8 58:7
64:2 103:14
117:15 123:22
124:3,10 127:16
128:5 133:20
134:7 135:14
138:11 149:2
153:8 155:17
166:23 167:21
168:11,15 173:16
173:20 175:3

receipt 58:3
receive 109:10
116:10,22
received 59:14
86:24 153:19
154:2 163:15
receives 77:23
115:22 156:2,6
receiving 49:23
50:7 51:24 56:11
57:13 58:16 59:12
60:20 61:7,13
62:12 63:10 64:22
156:19 157:8
158:18
Recess 49:10 88:15
122:3 172:13
recognizing 108:9
recollection 9:17
67:21
record 5:25 7:20
10:7 11:15 13:10

reference 23:24
25:5,10,10,12
27:16 28:14,15
29:16 32:10 34:20
35:5 38:3 41:7
42:25 46:15,16
48:4 49:22 51:2
53:6 55:10 59:2
60:11 63:20 64:10
64:20 74:24 80:7
84:23 89:10 94:13
97:9 101:16 102:3
104:2 105:25
107:9 112:16
116:18 121:9
122:11,24 124:19
125:16,25 126:16
127:3,25 128:6,7
129:25 130:3,7,10
130:11,22 131:14
131:16,17 133:14

133:16 135:11,15 136:24 137:2 140:12,20 148:13 153:3,11 155:3,17 155:18 164:17,19 165:3,14 168:8 referenced 34:14 35:16 61:19 74:19 97:15 98:7 145:4 references 14:20 132:9 referencing 137:23 referred 75:13 89:10 121:4 referring 34:15 54:7 97:11,14 101:6,11 118:17 119:2 129:25 130:4 136:7 160:22 169:7,16 refers 72:24 73:10 73:13 75:21 reflected 17:7 refresh 142:10 regard 68:12 74:16 145:5 regarding 58:19 59:16 60:23 61:2 76:21 120:23 161:21 register 75:15 138:21 139:2,9 140:21 Registered 2:6 176:2 registers 26:24 27:7 28:20 registration 75:14 regularly 18:12 related 24:16 36:20 176:10 relates 25:23 113:23 relating 24:22 25:7 relative 38:11,17 96:15 relevance 39:8	130:16 133:10,15 relevant 41:4 65:10 74:8 92:17,23 124:23 125:2,4 128:8 143:12 150:23 155:13 161:15 relying 120:14,25 remainder 50:20 remember 20:8 67:4 101:14 repeat 27:3 28:11 71:3 79:13 96:8 106:8 109:21 138:24 144:2 repeatedly 60:1,13 rephrase 87:9 replicated 138:4 reply 156:17 report 23:8 28:18 29:10 62:6,9 74:25 77:5 131:23 143:14 148:15 150:9 Reported 1:21 reporter 2:4,5,6,7,8 5:19 6:21 10:3,8 30:9,20 32:15,25 33:11 79:6,9 134:19 174:5,11 176:1,3 represent 5:24 representation 63:14 represented 17:3 23:4 24:17 120:17 140:25 representing 5:20 6:14 request 40:2,4,9,11 40:15,17,21,25 41:9,11,19 42:3,8 42:12,14 43:3,7 43:15,21,25 45:21 48:6,10 50:3,11 51:25 56:14 57:9 57:16 58:17,20	59:13,14,16 60:20 60:23 61:2,7,13 62:12 63:10 64:25 65:9 66:5,11,17 66:25 67:5,6,7 68:5,15 72:25 73:10,14 74:19 75:2,3,10,11,17 75:23 77:19,23 82:25 85:6,13,20 86:2,10 91:22 106:5,11,21 107:14,18 108:19 109:10,18,24 110:15,22 111:19 112:1,4,20 115:21 115:23 116:9,20 148:4,25 155:23 156:3,7,8,10,14 156:16,20 157:8,9 157:14,15,17,22 158:5,11,16,16,18 158:19,22 159:17 159:21 160:11,24 161:10,12,22 162:5 requested 59:18 61:9,16 62:15 76:6,10 77:14 92:13 111:11,12 111:23 112:7 160:25 requesting 42:19 75:18 108:10 110:1 111:22 160:11 166:13 requests 42:22 52:23 66:18,19 75:4,12 77:25 102:11 103:5 104:7 105:20 139:23 151:16,24 154:22 156:19 159:12 170:18 require 154:6 requires 57:4 reserve 173:19	reset 49:3 resides 148:8 resolution 45:11 47:4 48:1 54:16 79:20 86:17,18 144:10 169:7 resolve 35:8 144:17 resolved 147:20 148:4 resource 40:4,11,17 41:11 45:21 85:6 85:12 158:16 171:11 respect 15:17,23 18:19 37:5 58:12 63:8 75:7 113:13 116:24 117:19 118:24 120:12 132:21 142:19 154:17 respond 61:1,8,14 62:14 63:13 67:10 74:16 109:12 112:6,6 responded 76:17 responding 67:14 161:11 162:5 responds 58:18 59:15 60:22 160:10,24 161:22 response 10:13 29:18 49:23 50:7 51:24 56:11,24 57:9,13 58:16 60:20 61:6,13 62:11 63:9 67:4 105:20 115:22 116:4,5,5,10,12 116:18,20,23 131:5 148:25 153:18 154:2 161:6 162:16,23 163:17,23 164:6 responses 64:22 154:21 responsible 47:3 restate 75:5	resume 7:9 retrieval 22:4,24 23:20 72:14 84:3 154:9 retrieve 70:19 71:13,23 return 31:17 156:16 157:16 161:11 177:3 178:3 returned 147:19 148:3 returning 112:7 reveal 13:12 review 7:25 8:2 9:20 19:12,20 27:17 30:5 38:9 42:17,20 58:24 59:1 61:23 62:2 77:2 85:15 93:8 93:17 100:5 101:17 104:10,12 105:6 106:14 109:1 121:8 122:19 124:18 131:4 135:10,16 142:7 146:9 161:8 167:2,23 reviewed 16:22 17:2 19:7 35:22 53:6 55:4 83:16 90:21 92:8 96:5 96:11 105:1 115:9 127:17 135:9 136:3 137:14 155:16 reviewing 57:19 118:21 right 11:12,23 21:21 22:5 24:10 41:17 58:5 72:21 98:9 106:21 111:16 129:24 136:17 140:7 141:16 143:14 166:15 167:14 168:20 173:19
--	--	--	---	--

river 91:9	71:16,25 72:3,13	segment 35:14	serve 166:7	158:5,10,12,17,19
robin 82:4,5	73:22 74:12	select 80:16	served 13:19	158:20,21,23
role 105:22 107:3	113:22 140:2	selected 65:6 66:6	server 24:9,10 26:6	159:4,9,13,14,17
119:9	142:25 148:20	66:12,23 78:11	26:7,12,14,23,25	159:18,20,22
roles 119:14	151:2	81:1	27:1,6,8,9,18	160:10,23 161:5
Ron 9:5	screen 7:25 98:11	selecting 65:4 78:9	28:10,14,16,19,21	161:22,23 162:3,6
Ron.abramson@...	se 119:11	78:16 80:8	28:22 29:20 30:1	163:16 165:7
3:10	search 17:5	selection 78:10	30:2,16,17 31:25	166:5,6,7,8,11,13
Ronald 3:3 6:12,12	second 13:20 45:14	81:3,6,11,18 82:4	33:7,8,19 41:16	170:19
rotate 138:18	45:25 59:11 80:25	82:6 84:9 145:25	43:6,24 45:20,22	servers 4:17 91:1
rough 174:9,16,16	81:12 85:1 94:19	selects 64:15 145:7	46:6,6 48:7 49:24	95:17 96:2 97:12
174:17	117:23 118:4,10	145:13,19	50:1,8,10,17,19	117:23 118:4,18
round 82:4,5	118:18 119:3	send 34:9 48:6,10	52:1 54:3 56:12	119:3 123:10
routing 149:5	124:9 174:1	sending 58:3 72:20	57:15 70:19 71:13	125:1 131:20
RPR 1:23 176:22	secondary 163:24	73:4 160:11,24	72:11,21 73:5,6	142:6,18 143:25
rules 81:6	section 24:18 64:10	161:5	73:18,21 75:16,19	144:7 147:1
run 170:5	93:18 96:4 99:10	sends 46:5 52:1	76:18,23 77:19	148:18 150:18
running 40:3,10,16	99:15 100:10,16	54:3 56:13 57:16	78:1 83:6,6,11,12	151:11 159:2,11
40:24 41:10	105:18,19,21	63:2 66:4,10,25	84:4 85:5,11	165:8 166:14
runs 127:9	106:14 115:21,23	67:14 68:5 83:5	86:22 87:20 93:12	171:8
rush 174:9,16	116:9 126:1	83:10 86:20	94:2 95:21 101:1	service 126:19
RuyakCherian	127:17 132:3,6	158:16	101:4,12,13,24,25	127:9,21 129:13
3:16 6:6,8	133:5 168:7,12,16	sentence 28:6 29:5	102:9 103:3 104:5	136:1,5 137:8,13
	169:3,6,12	29:9,11 31:23	104:17,24 105:4	138:22,23 139:3,4
S	sections 91:2	33:16 34:18 45:14	106:5,11,20 107:1	139:10,11,13,25
S 3:1 4:1,5 5:1	see 13:14,15 14:2,3	45:17,18,25 57:24	107:3,5,8,14,18	140:7,13,18,22,22
177:1 178:1	17:23 28:4,25	58:7 59:11 69:7	108:19 109:7,9,18	170:8
satisfy 56:8 156:16	32:8 38:25 39:13	82:21 83:1,15	109:24 110:9,14	services 129:18
157:16	42:17,21 48:14	85:1 94:19 97:10	110:21 111:10,18	sessions 108:3
saying 45:3 47:23	51:18 53:5 55:23	102:8,12,17,24	112:5,8,20 113:2	set 120:21 176:14
63:13 84:19	58:24 60:2 62:18	103:14 104:3	113:9,18 115:14	severely 7:23
134:13	74:4 78:12 81:7	115:20 117:20	119:13,14,16,16	share 140:8
says 23:9 50:16	83:1,20 85:7 95:1	118:10,12 119:4	119:17 120:2	sharing 68:19 69:9
69:7 85:10 123:3	96:21 99:7,9	124:9 127:20	123:24 124:12	69:19
123:8,10,24	102:16 103:7	135:24,25 137:7	125:7,10 131:19	sharp 89:11,15,21
124:11 127:20	105:11 112:14	151:14 157:7	138:23 139:4,11	90:9,18,20 91:11
135:25 137:7	115:25 116:3	158:2 160:8,19	139:24 140:10,13	91:21 92:7,11,16
158:17 159:11	117:25 121:11	162:12,14 168:2	140:22 144:18,20	92:22 93:2,4,9,19
162:15 164:4	124:14 132:23	sentences 117:16	145:9,14,20 146:5	93:25 94:3,8 95:7
scenario 58:25	137:9 138:3,17	separate 75:17	146:6,24 147:21	95:16 96:1,20
65:14 71:25 77:2	139:14,18 142:9	separated 118:5	147:22 148:6,7	97:12,21 98:5
77:18 79:25	151:19 154:8	119:23	151:9,16,18,25	99:15,19,25 100:6
106:16 111:25	157:10 160:12	sequence 116:15	152:1,18 153:4,20	100:18 104:5,17
schedule 11:10	161:1 162:18	117:1	153:21 154:3,4,20	104:23 105:3,24
scheme 54:17	167:6,10	sequential 36:8	155:24 156:1,6,12	106:3,10,19
scope 22:7 25:16	seek 94:1 160:4	sequentially 112:10	156:19,21 157:8,9	107:10,17 108:13
37:11 68:12 69:22	seen 152:24	series 9:22 20:21	157:12,14,20	108:17,17 109:5,6

109:17,23 110:13 111:9 112:17,24 113:7,12,15 115:10 117:2,5,22 118:3,8,15 119:1 119:8,25 120:13 120:23 sheet 175:7 short 48:16 49:5 121:14 shorter 21:19 Shorthand 2:3,4 176:1 show 137:24 153:4 showing 113:7 165:7 shown 42:2,8 59:12 72:25 73:10,14 91:14 98:14,18,20 99:2 100:17 101:5 102:1 107:13 110:7 112:24 115:13 117:22 166:14 shows 118:3,16 Shrib- 77:12 Shribman 20:21 21:1,23 22:3,14 22:15,16,23 23:10 23:18,23 24:14 25:9,24 26:9,16 27:14 28:9,13,24 29:3,8,24 30:14 31:21 32:10 33:5 33:17 34:15,20,22 35:4,19 36:2,14 36:19 37:6,17 38:3,5,11,14,16 38:25 39:1,13,19 39:24 42:2,8,13 42:17 43:1 45:15 46:15 47:14 48:4 48:9 49:22 51:1,6 51:13,18,24 52:6 53:4,6,18,22,23 54:2,9,11 55:4,20 55:21 56:1,7,13	56:19 58:9,12,16 58:22 59:2,6 61:6 61:20,22,24 62:1 62:7,13,21 63:2,8 63:15,17,19,19,21 63:23 64:4,20 65:2,5,17,24 66:3 66:9,13,14,21 68:3,18,24 69:4,8 69:17 70:17 71:11 72:9,19 73:1 74:20 75:1,11,21 76:4,14,23 78:3 78:15 79:3 80:7 81:5,11,15 82:6 82:12,24 83:4,9 84:1,16,19,23 85:3,10,19 86:8 Shribman's 26:17 72:22 77:13 sic 167:14 side-by-side 121:8 sign 24:9 26:6,13 173:16,20 Signature 174:20 175:10 177:25 178:25 signed 175:7 signs 29:25 30:15 33:6 37:20 38:8 signup 72:25 74:18 75:2,10,15,22 simple 86:2 simply 56:3 60:14 111:1 Simultaneous 80:13 simultaneously 125:9 166:12 single 38:13 78:17 93:3 singular 107:3 108:5 119:22 sir 8:10 9:19 14:1 22:10,19 23:13 24:4,23 25:8 26:22 29:23 30:12	32:17 33:3 35:2,9 35:16 36:12 37:5 38:21 42:1,24 43:12,18 44:12 48:3 49:23 50:6 51:1 54:1 56:1,10 56:19,25 57:12 59:1 61:21 64:1 64:13 65:16 66:2 68:17 69:15 70:9 70:9,16,24 71:9 72:7 74:6 80:6 84:13,22 86:2 87:3 90:24 93:7 95:24 97:2,5,15 98:11 99:17,22 100:4 101:9 111:2 118:14 120:20 121:17 125:5,16 125:21 126:12 127:12,15 130:20 133:18 134:1 135:21 136:23 137:4 138:6 139:19 140:19 144:15 149:24 150:13 151:8,21 154:17 156:11 159:4,7,16 163:4 163:12 165:11,22 sitting 162:1 size 21:20 skill 127:1 128:14 128:22 slow 8:4,4 SOCKS 96:14 Solutions 5:21 sorry 9:11 23:15 24:24 27:20,23 28:11 32:6 35:13 35:13 40:12 43:16 44:10 69:11,15 71:7 72:2 73:12 79:7 83:7 96:7 98:19 100:12 101:7 106:7 109:20 115:6	126:6,13 130:2 134:14 136:20 139:5 145:16 146:21 158:6 160:14 162:13 164:18 165:9,16 168:11 sort 12:6 16:1 161:20 162:3 sought 55:9 77:15 85:20 sounded 87:9 sounds 9:21 121:23 source 22:17 31:6 159:22 speak 10:6,9 speaking 54:25 60:7 special 161:13,20 162:3 163:1 specific 17:13 18:20 24:21 42:22 65:15,21 66:5,11 66:16,20 67:1 70:13 77:4 79:3 84:18 90:5 94:5 95:21 100:22 110:18 112:5,13 124:1 127:7,24 131:16 140:12 142:1 154:7 161:10 specifically 17:17 21:15 58:22 82:1 92:16 93:19 95:25 98:24 99:16,20 114:6 116:25 118:22 158:9 159:19 161:19 specificity 57:3 100:1,19 105:7 111:5 118:23 140:15 147:14 specifics 74:4 specify 153:14 spelled 95:12 spent 19:16 20:9	spilling 82:20 squarely 57:12 Squid 4:14 17:15 164:16,20,22,23 165:6,7,23 166:2 166:4,11,11 167:8 167:21 168:3,7,17 168:23 169:3,6,12 169:14,19,24 170:2 171:13 172:23 staff 16:23,24 17:10 stand 21:19 23:3 standalone 93:2 standard 20:5 173:17 174:18 standing 174:6 standpoint 22:12 119:10 171:8 stands 70:25 start 10:16 38:19 39:11 74:21 122:21 started 7:20 143:10 starting 5:22 126:1 126:9 165:15 starts 24:7 26:4,11 29:25 30:14 33:5 state 5:23 7:22 40:5 51:14 52:3,4 61:3 61:10 62:24 83:7 98:24 102:8 104:14 114:25 120:1 135:5 140:24 143:17 151:9 154:7 160:10,23 stated 41:14 44:7 50:15 55:14,19 63:5 65:1 78:2,8 80:14 92:15 101:23 105:15 110:12 113:24 117:5 145:1 157:7 158:12 163:22 statement 7:19
---	---	---	--	---

23:1,2,8 28:18 29:4 44:18 50:20 55:17 84:14 86:6 101:4 109:15 116:1 124:4,8 131:22 163:9 169:18 states 1:1 4:18,23 5:9 26:14 31:24 33:17 41:20 50:24 52:15,21 53:12 60:3 66:14 80:13 80:13,24 94:20 115:21 117:6,21 125:6 151:15 167:8 static 80:17 stating 111:14 171:4 173:6 stenographically 176:8 step 34:22 35:18 36:1 145:2 157:3 stop 7:1 10:12 storage 91:2 95:12 99:9,14 100:10,16 105:18 straightforward 131:10 163:6 Street 3:17 strict 96:13 strike 94:24 98:19 117:9 122:20 124:17 135:9 149:21 162:13 structure 91:17 99:21 156:17 structured 81:24 study 38:2 stuff 164:1 171:14 subject 60:4 submitted 16:4 22:20 submitting 16:14 subsequent 108:3 subset 107:8 successfully 14:13	sufficient 142:20 152:14 suitable 50:2,11 Suite 3:18 supervision 176:9 supplemental 15:2 supply 9:13 support 16:5,14 22:21 27:21 29:3 29:11 72:19 73:4 84:14 85:18 86:6 94:9 120:25 149:13 150:3 supports 51:8 suppose 78:19,21 sure 8:5 11:14 18:8 21:3 29:7 32:24 40:14 44:12 49:7 57:11,18 66:8 75:7 77:11,17 90:15 92:1 100:14 102:7 104:12,16 108:6,11 109:22 112:23 115:8 118:11 121:7 123:7 128:24 131:9 132:12,21 136:16 138:25 139:8 144:3 145:12,18 158:8 161:25 167:16,18 168:14,19,24 169:11 171:23 swear 6:21 switch 35:14 172:22,23 173:8 switches 173:2 sworn 6:23 7:12 synonymous 146:15 system 13:5 14:8 15:1 19:20 34:8,9 34:11 44:17 68:19 69:9,19 71:20 89:16,21,21 90:9 90:10,17,18 91:8 91:13,15,25 92:11	92:14 93:11,13 94:3 110:17,23 Systems 1:23 2:8 176:23 <hr/> T T 4:1,1,5 177:1,1 178:1,1,1 table 149:16 take 6:24 10:23 11:4 13:25 26:18 26:18 40:20 44:2 48:16 49:2 51:12 55:6 77:17 88:9 88:24 89:7,9 101:18 117:14 122:10,18 138:15 153:7 155:11 157:1 164:15 167:19 168:15 171:23 174:14 taken 5:5 41:21,23 176:4,8 takes 61:24 156:15 talking 34:25 36:7 53:16 79:2,4 92:23 119:8 127:6 127:7,10 129:12 131:23 133:13 target 43:6,24 45:21 85:5,12 taxonomies 155:8 155:14 taxonomy 132:10 teaches 52:6 72:9 104:5,17 166:4 teaching 65:11 teachings 46:16 56:1 108:13 team 49:17 technical 11:22 12:2,6,11,22 technically 109:13 technology 18:25 tell 8:16 12:9 16:19 17:17 19:1 40:22 127:12 138:14	149:18 tend 18:11 tenet 71:20 120:8 term 75:14 95:20 96:15 terminology 122:19 123:11,22 124:2 124:14 terms 108:12 Teruya 1:12 2:2 4:2,7,10,13 5:4 7:11,15 30:24 49:15 60:17 79:12 87:16 88:20 89:14 104:2 114:4 122:10 123:17 126:15 135:8 143:21 172:18 173:10,22 174:22 175:2 Teruya's 25:16 32:11 149:3 test 25:11 testified 7:12 12:5 12:11 83:23 143:4 162:2 testify 12:1 161:18 testifying 11:22 12:22 55:8 testimony 25:17,24 28:8,12 29:2,7 44:14 49:4 58:1 67:24 120:11 141:9 152:6 175:4 175:5 thank 8:9 10:21 11:12 14:15 23:16 44:11 72:6 77:8 89:3 93:6 102:7 121:25 135:21 173:9,20,21,23 thereon 32:5 33:23 thing 40:19 104:10 171:18 things 8:2 17:21,22 18:24 39:6 41:18 41:20 46:2 49:3	52:24 54:19 80:19 85:24 129:9,16 153:10,13,15 155:12 think 18:8,23 25:19 53:17 59:23 69:21 69:22 79:12 95:14 101:13 106:24 113:25 121:2 127:24 137:21 154:24 172:3 173:14 thinking 47:18 53:13 137:18 third 31:23 127:19 135:24 137:6 three 12:8,10 37:17 38:1,5 92:17 98:6 98:20,22 99:1,8 105:8 165:8 Thursday 1:13 time 5:15 6:16,16 7:24 8:1,7 9:24,24 10:6,10,22,22,24 11:3 19:20 20:5 31:8 48:16 49:8 49:11 70:11 83:14 85:14 88:13,16,22 93:15 121:16 122:1,4 127:24,25 128:7,14 129:1,9 129:18 130:10,16 130:25 131:17,25 132:1,14,17 133:9 133:11,14,22,24 134:1,7 137:19 152:13 171:12,18 172:6,11,14,25 173:24 174:3 timeframe 128:4 129:21 131:11 times 8:13,15 12:4 12:8,10 20:8 title 139:14,18 today 6:7 10:5 11:11,16,22 13:6 14:22 15:4,25
--	---	--	---	---

18:4,6 19:3,4,6 23:3 28:8 29:8 59:3 60:1 67:24 68:1 120:7 127:22 129:17 161:18 162:1 171:9 173:11,24 174:9 174:17,17 Today's 5:14 Tom 3:14 6:4 96:23 103:16 Tomd@ruyakch... 3:21 tomorrow 174:10 top 84:8 123:8 139:15 165:6 top-to-bottom 51:17 total 19:15 totals 20:3 track 110:15,19,21 111:6,7 112:11 Trademark 1:1 5:9 traffic 146:4,24 148:16 150:17 transcript 4:6 173:17 176:6 transcription 175:5 transfer 80:5 translation 85:23 95:9,23 translations 152:23 transmission 139:22 transmit 109:11 transmits 155:22 Transperfect 5:20 travels 128:23 treat 100:20 treated 105:16,21 140:9 treating 107:1 Trial 1:2 5:10 true 37:15 58:25 82:15 90:22 104:11 109:15 113:5 119:7 175:4	176:6 truthful 11:18 try 10:5,22 21:3 56:25 81:9 108:7 130:19 132:23 trying 26:1,20 47:19 52:14 60:14 64:4,16 65:16 69:16 71:21 77:21 87:5 92:9 102:22 108:24 111:3,4 128:24 130:13 131:10 132:4 133:19 134:3,5,16 134:22,24 135:2 135:20 138:7,12 143:8 161:25 168:19 170:22 turn 23:22 27:19 94:16 117:8,10 122:22 164:15 166:18 two 12:8,10 13:13 13:15 14:2 19:17 21:4,18 75:3,11 98:14,18 108:8 132:8,11 133:15 155:14 type 166:6 types 75:4,12 typewriting 176:9 typically 111:25 <hr/> U U 178:1 un-hear 129:7 unable 11:17 86:3 unaware 31:9 154:19 understand 7:18 11:21 24:14 38:20 39:10 47:5 64:6 67:3 81:10 82:10 82:13,22 86:7 89:20 96:7,19 108:6 111:4 114:12 127:1,19	131:11 132:18 133:20 134:5 135:21 162:1 170:22 174:6 understanding 14:16 25:12 27:14 34:13 35:3 36:13 36:19 40:23 46:25 51:1 54:9 56:4,7 56:18 60:10 61:22 62:20 63:7 65:17 75:20 76:24 77:12 77:22 86:23 87:17 92:10 99:13 100:8 100:15 103:9 111:2 114:11 124:16 125:8 126:25 131:13 134:13,17 135:16 136:4 137:11 143:9 146:18 150:7 155:2 156:2 157:19 158:1,9 163:3,13 166:1 understood 11:11 97:20 118:11 129:10,23 130:24 unfortunately 64:13 unit 117:24 118:5 118:19 119:5,20 119:21 United 1:1 4:18,23 5:9 UNIX 170:4 unusual 11:14 URL 58:4 US2011/0087733 4:20 US2013/0080575 4:25 use 13:5 15:3 52:25 54:15,16,17 58:25 64:24 65:7,15,15 66:4,10,16 78:14 78:19,25 86:1 94:9 105:10 109:2	109:4,9,13,14,16 109:19,23 110:3 111:13,14,17 139:13 161:21 162:4 163:1,20,24 163:25 170:14 171:2 172:25 users 100:25 101:24 uses 42:22 105:25 167:9 168:4 169:14 170:2 usually 43:8 103:19 utilize 131:12 utilized 38:11 <hr/> V v 1:6 177:2 178:2 vague 68:22 valid 46:3 various 36:21 92:6 92:7 verbatim 28:5 70:1 79:16 verify 12:14,16,18 versus 5:6 video 2:1 7:1,5 videographer 5:2 5:18 6:20 7:8 49:8,11 88:13,16 122:1,4 172:11,14 174:1 view 81:4 127:18 132:7 Virginia 2:5 virtual 119:14,17 119:21 120:2 virtualization 120:6,6,8 VMs 120:6 volume 124:22 <hr/> W wait 10:12,15 waived 174:21 want 8:5 9:13 11:9 11:14 13:3,12	14:7 19:25 20:1 44:12 47:7 48:23 49:3 51:12 74:21 82:10 83:17 84:4 84:7 87:8 108:11 115:8 118:11 126:22 167:1 168:24 171:6 172:6 174:12 wanted 7:18,22 81:9 172:19 wants 154:7 Washington 2:6 3:19 wasn't 9:5 70:21 way 24:24 25:9 28:14 39:10 44:5 47:6 53:6 57:10 64:2 81:25 84:10 103:20 111:21 142:21,24 152:11 165:4,24 we'll 10:21,25 11:7 57:1 115:2 118:9 we're 6:25,25 45:9 49:12 53:19 65:22 88:17 92:23 173:14 we've 13:17,21 48:14 88:7 121:11 web 4:16 26:23 27:6,18 28:10,14 28:16,19 29:20 43:6,24 45:22 46:6 49:24 50:8 72:11 73:5,21 78:1 83:5,11 94:2 96:15 123:9 166:14 170:19 weight 137:16 weighted 81:22 welcome 89:8 went 17:1,20 Wessels 4:15 WHEREOF 176:14 Window's 119:12
---	--	---	---	--

119:13	x 1:4,10 4:5 60:3	21:23	140 151:10	107:9 110:8
Withdrawn 52:8	Y	10174 3:8	151 94:13 95:5	112:16,24 119:18
witness 6:3,15,22	yeah 89:17,17	1018 4:21 89:4,10	102:3,17 103:1	120:10 122:20
6:23 9:4,10 12:23	95:18 114:13	102 26:24 27:2,7,10	104:3 105:9	200 24:7 26:4 29:24
30:11 32:14 33:12	119:6 123:13,13	28:20,23 52:2	152 26:23 27:7	30:4,14,20 32:4
48:13,20 49:5	149:8 152:10	54:4 58:2 66:4,10	28:19 29:19,20	33:5,11,22 34:14
59:22 60:9,15	153:12 166:9	72:19 73:4	43:6,24 45:20	34:24 35:21 36:4
88:11 97:6 103:13	year 18:10 19:13	1021 4:23 125:12	50:17,19 73:5,21	58:18 59:15
114:10,23 115:5	20:9 135:10	125:20 136:25	85:5 114:5	2000 128:9
121:19,21 123:15	years 46:21 120:10	110 148:17 150:17	155 115:19 116:25	20036 3:19
130:9 134:25	128:21	151:16,17,24,25	159 117:7,11,15,20	2011/0087733
136:20 143:3	York 3:8,8	152:16 153:17	119:4	21:24
150:6,11 164:24	Z	154:1,7,19 155:22	162 24:9 26:6,13,25	2013 128:9
173:11,16 176:14	zone 88:22	158:15 159:13	27:1,8,9 28:21,22	2014 13:16
witness's 9:17 87:6	zones 11:3	162:17,24 163:17	31:25 46:7 48:7	2014-00458 4:8
word 31:15 83:18	Zoom 1:12 2:1 6:3	112 167:14	52:1 54:3 73:6,18	13:8
118:12 127:2	0	115 82:16 83:16	163 114:6	2014-00465 4:11
139:13	00458 13:18	116 166:19,23	164 4:14	13:9,22
words 116:4	044 17:8 18:17	167:7 168:2,21	172 43:13,16 126:1	202)838-1567 3:20
work 11:7 20:4,12	19:17 21:10,16	12:05 1:14 5:16	126:10,11 138:1	2020 135:13,15,18
20:16 25:8 40:23	22:18,21 27:22	120 144:1,7,18	148:14	2021 1:13 5:15
46:2 55:1 57:1	28:1 38:18 51:10	145:15,20 146:6	173 149:2 151:1	176:15
64:5 80:19 135:12	53:12,25 55:10	147:1 151:11,18	174 149:2 151:2,8	2021-00465 13:24
143:8 153:15	97:3 121:5 125:19	152:18 153:4	151:14 157:5	21 4:18
worked 12:25	125:21,24 126:8	155:24 156:20	158:13 159:9	212)257-1643 3:9
16:12	128:15 129:2	157:8,12 158:10	160:9,16,23	22 122:23 123:1,3
working 14:8 36:21	138:1 157:6	159:17 160:12,25	162:15	123:18 136:14
46:23 143:7 160:1	165:14 166:20	161:23 162:6,15	179 44:2,8	222 24:6 26:3,10
works 14:9 24:24	1	162:22 163:14,22	185 138:22 139:3	29:23 30:13 32:4
67:2,3 76:25 79:5	1 138:3,15 140:20	164:5	139:10 140:22	33:4,23
121:15 158:1	148:14	122 4:16	1901 3:17	224 45:19 85:4
workstation 44:24	1-1 165:23	125 4:23 138:23	2	23 127:12,14
world 47:8,13	1:03 49:9	139:4,11 140:13	2 4:22 101:25 102:9	129:21 130:5,23
wouldn't 19:10,25	1:13 49:12	140:23	103:3 104:5,17,24	131:6,15,17 133:5
Wow 79:15	10 49:2	13 4:8,11 72:25	105:4 106:5,11,20	135:23 136:6,13
wrapping 171:25	10-minute 48:16	73:11,15 172:9	107:1,8,14,18	137:3,13
written 24:12 47:6	88:10	130 146:5,5 148:18	108:19 109:8,9,18	24 165:5,5,11,12,23
52:11,11 127:23	100 78:5,8	150:18 151:17,25	109:24 110:9,14	28 1:13
129:14 133:11	101 80:20,24	152:1 157:10,14	110:21 111:10	28th 5:14
158:15	1012 4:14 164:12	158:12 160:10,23	112:20 113:3,9,18	29th 176:15
wrong 168:11	164:16,21	161:22 163:16	115:14	3
wrote 69:20 70:4	1014 4:16 122:7,12	135 143:22 144:4	2:18 88:14	3 100:5 107:2
77:2	1017 4:18 21:5,8,16	145:7,13,19 146:3	2:31 88:17	112:24 118:23,25
www.aol.com		146:15,22	20 98:4,10,14	120:15,17,24
45:23		135A 138:20 139:1	100:18 101:6	3:32 122:2
X		139:9 140:21	102:1 105:17	30 121:15
		142:4,16		

33 115:21,23 116:9	52 22:19	869 4:22		
3483 1:25	597 4:22	89 4:21 80:25		
352 41:25		8B 95:14		
382 59:12	6			
3a 98:18,21 99:2,8	61 96:16,24 97:10	9		
99:12 100:11,17	97:17 100:23	9,241,044 16:17		
102:10 103:4	101:9,22	9,742,866 18:15		
104:6,18 110:7	65 69:5,13 70:2	94 80:24		
112:18 113:1,17	66 27:20,20,25,25			
3b 98:21 99:2,8	28:6,17 29:5,10			
102:10 103:5	29:12 72:17 74:25			
104:6,18 110:7	75:8			
112:19 113:1,17	67 57:24			
3c 98:21 99:2,8	69 39:22			
102:10 103:5	6a 99:10,15 100:10			
104:6,18 112:19	100:16			
113:1,17	6b 99:10			
	6c 99:10			
4	7			
4 104:18 106:4,10	7 4:3			
106:20 107:13	700 3:18			
108:18 111:15	72 23:23 24:3 27:12			
115:22 116:10	27:18 28:9,13,23			
4-6 165:17,18	29:3,19 31:21			
4:16 122:5	32:9 33:16 34:15			
404 58:23 155:9	72:18 74:19 75:22			
405 3:6	733 20:22 21:1			
42 82:20	47:14 59:2			
43 82:20	75 34:20 35:17			
45 121:15,21	76 37:5			
450 20:18	78 39:19,24,25 41:8			
46 165:16,16	41:14,22,24 42:15			
167:14,15,20	79 43:1,18,19 44:9			
168:8,17 169:3,13	44:10,16 45:14			
46th 3:7	48:4 73:3,10			
4e 98:15 111:16,17	84:23 85:2			
111:18,23 112:17				
112:20,25 113:2,8	8			
113:16 115:11	80 49:21 50:24 53:7			
4f 98:15 111:17,18	83 59:6,10 62:7			
111:21	63:6			
	84 64:20			
5	866 18:19 19:17			
5:32 172:12	21:9 22:18 122:12			
5:47 172:15	124:21 128:15			
5:49 174:3,22	129:2			
50 128:21				