UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD., et al.,

            Petitioner,

-v-

MEMORYWEB, LLC,

            Patent Owner.

* *

            Patent No. 10,621,228

       Inter Partes Review No. IPR2022-00222

          DEPOSITION OF DR. PHILIP GREENSPUN

     Zoom examination taken by agreement of counsel
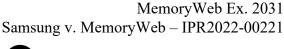on Thursday, January 19, 2023, commencing at 10:15
a.m.

Court Reporter via Zoom:
Darline Marie West, RPR, FPR

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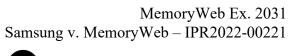
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18
19                - - -
20
21
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1          P R O C E E D I N G S
2               - - -
3        THE COURT REPORTER:  Okay.  Sir, if you'll
4    raise your right hand.
5        Do you solemnly swear to tell the truth,
6    the whole truth, and nothing but the truth?
7        THE WITNESS:  I do.
8    THEREUPON,
9          DR. PHILIP GREENSPUN,
10   called as a witness on behalf of the Petitioner
11   herein, having been remotely first duly sworn, was
12   examined and testified as follows:
13          DIRECT EXAMINATION
14   BY MR. WERBER:
15     Q.  Good morning, Dr. Greenspun.  Could you
16   please state and spell your full name for the record.
17     A.  Sure.  It's Philip Greenspun.  P-H-I-L-I-P.
18   And G-R-E-E-N-S-P-U-N.
19     Q.  And I posted to chat -- we'll go through
20   some of the -- the typical routine.  I posted to chat
21   a Notice of Deposition.  If you're able to open it
22   and take a look.
23     A.  Okay.  I can see it in Acrobat.
24     Q.  Okay.  Just one second.
25        This is a deposition notice asking you to
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1    appear and testify under oath in relation to the
2    matter captioned at the top.
3        You understand you're here to testify about
4    your opinions in this case?
5      A.  Yes.
6      Q.  You understand you are here to provide
7    truthful and accurate answers in response to my
8    questions?
9      A.  Yes.
10     Q.  Do you understand the oath just
11   administered is the same oath used in a courtroom in
12   front of a judge and jury?
13     A.  Yes.
14        MR. WERBER:  Did we do an oath?  We did
15   agree that we would do the oath remotely,
16   right?
17        (A discussion was held off the record with
18   the reporter.)
19        MR. WERBER:  Sounds good.  Everybody
20   understands we are testifying under oath
21   now.
22   BY MR. WERBER:
23     Q.  Is there anything you can think of that may
24   prevent you from hearing and understanding my
25   questions today?
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1   A. No.
2   Q. Is there anything you can think of that may
3 prevent you from testifying truthfully that you want
4 to mention?
5   A. No.
6   Q. Can you tell me where you are sitting
7 today?
8   A. I'm at 133 Barcelona Drive in Jupiter,
9 Florida, in my home office.
10   Q. We've been through this routine before. I
11 just want to confirm, is there anything in the room
12 besides the computer you are using for Zoom that is
13 powered up and -- and functional?
14   A. Well, there's -- there's an iPad behind me
15 that's updating its software. But it's not connected
16 to anything right now. Everything else is closed or
17 powered down.
18   Q. Okay. And just to confirm, under the
19 rules, we -- any kind of communication devices,
20 screens, we prefer that you keep those powered down
21 while you're under oath, no conversations with
22 counsel, no text messages, e-mails. If you do need
23 to turn something on and communicate with the outside
24 world other than something personal during a break,
25 just let me know.

1   And also if you need a break for any
2 reason, which you've done before, just let me know
3 and we'll -- we'll come to a pause, so long as
4 they're no question pending, and we can take a break.
5 I like to take a break probably every hour anyway.
6 But let me know if it's an appropriate time for you
7 and I haven't done that yet.
8   Again, we're doing this remotely. We still
9 have a court reporter, Darline. She's recording what
10 is said for a transcript. To help the court
11 reporter, please answer verbally with words, yes, no,
12 rather than nodding your head and the like.
13   Does that make sense?
14   A. Yes.
15   Q. I posted a few items to chat starting with
16 Exhibit 1001. And, actually, I'll -- I'll say a
17 couple more things.
18   I believe you are reviewing the exhibits on
19 your laptop, right, electronically?
20   A. Well, my desktop computer, but, yes.
21   Q. Okay. And are you reviewing in -- in --
22 most of the exhibits have already been premarked in
23 this case, such as Exhibit 1001.
24   Are you using your own copy, or are you
25 using the one clean that I posted to chat.

1   A. Well, I have a printed copy of my -- a
2 clean printed copy of my second declaration.
3   Q. Okay.
4   A. Which I may refer to, if that's okay with
5 everybody.
6   Q. Sure.
7   A. I'm -- I'm looking at, so far, the versions
8 that I've downloaded from the links that you've
9 provided. I do also have a full directory downloaded
10 just a few days ago from the folks at Fish of
11 everything filed in the case. So I should have, you
12 know, already on my computer authoritative copies of
13 anything that's been filed with the Patent Office in
14 this case.
15   Q. Okay. Just to confirm -- and, again, a
16 housekeeping matter that you're familiar with -- the
17 declaration that you have a paper copy of, is that
18 the only item that you have within your reach that's
19 a paper copy?
20   A. Correct.
21   Q. Okay. And that doesn't have any additional
22 notes or marks on it. It's just a clean copy of the
23 declaration?
24   A. Correct. I just printed it out about half
25 an hour ago.

1   Q. Okay. Perfect. And then for any other
2 exhibits you may open or pleadings or anything else,
3 if you don't have it in front of you, you let me.
4 I'm going to still try to post everything for chat so
5 the court reporter at least has a clean record of
6 everything that was introduced and shown to you.
7   The -- the software copies that you may see
8 on your Adobe browsing software, none of those have
9 any notes or marks or extra things on them. They are
10 the clean originals that you downloaded from or
11 received -- you know, received clean through the
12 pleadings system?
13   A. Yes, I believe so.
14   Q. Okay. So I did post to chat Exhibit 1001,
15 the '228 Patent. I posted to chat Exhibit 1041,
16 1-0-4-1, which is your second declaration. And then
17 I will also paste, in case we need to get there, your
18 first declaration, which is Exhibit 1003. Okay.
19   So those three -- three items that I
20 mentioned to you, do you have those available to you?
21   A. Yes.
22   Q. Okay. Let's start with Exhibit 1041, which
23 I'll call your second declaration.
24   Can you tell me who wrote the declaration?
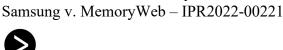25   A. I believe that this was drafted by an

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1   attorney at Fish and edited and finalized by myself.
2   Q.   Page 1 of Exhibit 1041, that is your
3   signature or at least an image of your signature?
4   A.   Yes.
5   Q.   And these are your opinions?
6   A.   They are.
7   Q.   Okay. I am also going to post to chat a
8   copy of the Petition because I think the Petition has
9   the -- a set of claims with the actual item,
10 lettering, you know, identifiers, A, B, C, all the
11 way through G, H identified. Let me just make sure
12 it's not in here. Yeah. I think the Petition is
13 where we see...
14   Have you reviewed the Petition before?
15   A.   Not in detail, no.
16   Q.   Okay. The only reason I'm bringing up the
17 Petition for the time being is -- and I just posted
18 it to chat -- I think right around PDF Page 8 we have
19 a listing of challenged claims. And they're item
20 numbers -- for example, Claim 1, it starts at, you
21 know, No. 1, Preamble, all the way through 1k.
22 Somewhere around Page 6, PDF Page 6, PDF Page 7.
23   Do you see that?
24   A.   I do.
25   Q.   Okay. So we may call those out.

1   Let's focus for a moment on Claim Elements
2   1g and 1i because you've rendered some opinions about
3   this claim limitation.
4   Do you see that?
5   A.   Yes.
6   Q.   Okay. And do you recognize Claim Elements
7   G, H, and I, reciting claim language relating to a
8   people view?
9   A.   Yes.
10   Q.   And you discussed these claim limitations
11 in your second declaration, Exhibit 1041, right?
12   A.   Yes, I think that's true. Although, now
13 that I'm looking at the declaration, the claim --
14 specific claims aren't -- aren't mentioned, but some
15 of the words of the claims and phrases within the
16 claims are mentioned.
17   MR. WERBER: Thank you. Let me -- I'm
18 just going to mute. We can go off the
19 record for a second. I have somebody from
20 tech here to help me with my real-time feed.
21   (A discussion was held off the record.)
22   (Samuel Kim, law student in training, has
23 joined the deposition.)
24 BY MR. WERBER:
25   Q.   Dr. Greenspun, you're ready to go back on

1   the record now?
2   A.   Yes.
3   Q.   Okay. Just to orient ourselves, you did
4   render opinions in your second declaration in
5   relation to the word "responsive to." Is that right?
6   A.   Yes.
7   Q.   And that's a claim term that's recited in
8   relation to the people view?
9   A.   Yes, I believe so.
10   Q.   Okay. Including Claim Elements G and I
11 that we just looked at before the break, correct?
12   A.   Yes. It's the -- the phrase occurs in
13 Claim Element 1g.
14   Q.   Okay. And then in Paragraph 4 of your
15 second declaration, you identify a position that you
16 understand patent owner has taken in this litigation
17 regarding the word "responsive to," right? Or the
18 phrase, the term.
19   A.   Maybe it's my Internet, but some of what
20 you just said dropped out. Could you please repeat
21 it.
22   Q.   Yeah, I will repeat.
23   In Paragraph 4 of your declaration, you
24 identify a position you understand patent owner in
25 this case has taken in relation to the term

1   "responsive to," right?
2   A.   Yes.
3   Q.   You also identify -- explain the patent
4   owner, you know, has cited Figure 32 of the '228
5   Patent, right?
6   A.   Yes.
7   Q.   Then you continue around Paragraph 5. I
8   want to direct your attention to the annotated
9   reproduction of Figure 32.
10   Do you see that?
11   A.   Yes.
12   Q.   And I believe if you look at the '228
13 Patent, Figure 32 has two figures inside it,
14 confusingly.
15   A.   Yes, I do see that.
16   Q.   Yeah. And just to confirm, this is a
17 reproduction of the -- the top of Figure 32.
18   Does that make sense?
19   A.   Actually, some of that dropped out. Is
20 everybody else hearing his question clearly? I'm
21 wondering if it's just my Internet connection.
22   MR. GREEN: I'm hearing it okay, Phil.
23 So I don't know.
24   THE WITNESS: Can we take about a
25 five-minute break? I want to unplug and

4 (Pages 10 to 13)

1 plug back in, which sometimes causes
2 dropouts like this.
3   MR. WERBER: That's fine. Let's do
4 that. You know, and then we can -- because
5 I have my microphone turned up to maximum.
6 I might be blasting you people's ears for --
7 for all I know. And then we can run
8 smoothly. Sounds good.
9   THE WITNESS: Okay. Sorry about that.
10   (A discussion was held off the record.)
11 BY MR. WERBER:
12   Q. So back on the record.
13   I wanted to reorient ourselves. I want to
14 note that we are looking at the annotated
15 reproduction of Figure 32 immediately below Figure 5
16 of your second declaration, Exhibit 1041.
17   Do you see that?
18   A. Yes, I see the annotated Figure 32 in
19 between Paragraphs 5 and 6.
20   Q. And to the left is a thumbnail image of Jon
21 Smith, right?
22   A. Correct.
23   Q. And immediately below we see text, "Jon
24 Smith," right?
25   A. Yes. Below -- below the face, the drawing

1 of a face, we see the text "Jon Smith."
2   Q. Correct. Okay. Thank you. And you
3 referred to that as a captioned photo, right?
4 Before.
5   A. Yes.
6   Q. Okay. Sometimes I might use the word
7 "caption." I think based on the two or three other
8 times we've used depositions, I just want to -- we
9 can kind of generally understand when you add text
10 near a photo, sometimes, we -- you know, you called
11 those captions. So I may do that too from time to
12 time.
13   Does that make sense?
14   A. Yes.
15   Q. So in Paragraph 5, you make a -- you render
16 an opinion in relation to what you call requiring the
17 additional selection of a desired display order. And
18 you're referring to drop-down box 1402, right?
19   A. Correct.
20   Q. And this relates to the sequence -- as
21 disclosed in the specification, the sequence
22 corresponding to displaying the people view, right?
23   A. Sorry. I'm not sure I understand your
24 question.
25   Q. So Paragraph 5 -- in Paragraph 5, you are

1 discussing the specifications disclosures in relation
2 to Figure 32, right?
3   A. Yes.
4   Q. And you are discussing your view of what
5 the specification is disclosing in terms of when and
6 how the people view gets shown, according to the
7 specification, right?
8   A. Yes.
9   Q. And you state that "The people view that
10 gets shown to the user can require not only the
11 initial pressing of 'People'" -- and that's shown in
12 red -- "but also the additional selection of a
13 desired display order through the selection in a
14 drop-down list (1402) (shown in purple)," correct?
15   A. Yes.
16   Q. And then you continue with Paragraph 6.
17 And I'll read it for the record: "That is, the '228
18 patent itself contemplates having intermediate user
19 actions between the first event ('cause')" -- "(i.e.
20 'cause') and the second event (i.e. 'effect'). Thus,
21 the people view displays that are shown as a direct
22 result of the drop-down selection are still
23 'responsive to' and would not have occurred apart
24 from the initial pressing of 'People.'"
25   Does that make sense? Did I read that

1 correctly?
2   A. I hope it makes sense since I wrote it.
3   Q. Yeah.
4   A. But, yes, I think you did read it
5 correctly.
6   Q. And you are discussing the specification
7 disclosing a sequence of events that result in the
8 display of the people view; is that right?
9   A. The way you've phrased it doesn't
10 completely make sense to me. You know, the people
11 view is essentially a computer application that can
12 be displayed in different ways at different times,
13 depending on, you know, the sort by selection that's
14 been made and the items per page selection that's
15 been made at the bottom right. I think that's marked
16 1405.
17   So there is not just a single display of a
18 people view any more than there's, you know, a single
19 display, let's say, of Microsoft Excel, which is an
20 application. So that's what I was getting at, I
21 think, that -- that people view has variety of
22 capabilities and actual screens that the user might
23 see, depending on these additional user actions after
24 the people button is pressed.
25   Q. Just a moment.

5 (Pages 14 to 17)

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1   And I want to be clear here. Paragraph 5,
2 you make a statement: "The people view that gets
3 shown to the user can require," and then you go on
4 and dis- -- you know, discuss different user actions.
5   Is -- is that -- that's what we're talking
6 about, right?
7   A. Yes.
8   Q. Okay. And I want to make sure I clearly
9 understand the sequence of user actions you are
10 referring to, right? In Paragraphs 5 and 6. And
11 tell me if I'm correct or I'm incorrect.
12   You are referring to the specification
13 disclosing the following sequence: The people menu
14 item, 1401, is selected, right? And you call that
15 the initial pressing of "People"?
16   A. Yes.
17   Q. And then the people view shown at the top
18 of Figure 32 displays after you click people menu
19 item, 1401?
20   A. I'm not a hundred percent sure. Let me
21 look at the description in the patent.
22   Q. Okay.
23   A. If that is the initial screen that somebody
24 sees with the people view.
25   Q. And if you want to take a look, I believe

1 it is around Column 22, near the end of Column 22.
2   A. Yeah. I think it's -- it's unclear from
3 the spec whether what we see at the top of Figure 32
4 is the very first screen the user sees after pressing
5 the people button. They don't say, for example,
6 whether the sort order newest to oldest is the
7 default or if that's something that maybe a user has
8 selected.
9   Q. So you're saying the specification is
10 unclear?
11   MR. GREEN: Objection. Form.
12   THE WITNESS: Well, just to the bottom
13 of 22, I don't know if I would say it's
14 unclear, but it's not specific. It says,
15 "The people can be listed in various sort
16 orders through a drop-down (1402) such as:
17 Newest to Oldest, Oldest to Newest,
18 Alphabetical (A to Z), Alphabetical (Z to
19 A)," and then it says, "Additional sorts are
20 contemplated such as age sort."
21   So as I tried to explain earlier, it's
22 not a hundred percent clear whether the top
23 of Figure 32 shows the first screen of the
24 people view that -- that appeared or if
25 that's the result of the user having clicked

1 on people and then made some selections for,
2 for example, the sort by drop-down and also
3 the items per page. The spec doesn't say
4 what the default items per page is.
5   So it's possible that the marked-up
6 figure we're seeing here in my second
7 declaration is something that is the result
8 of re- -- re-user actions; clicking the
9 people button and picking a sort order and
10 then picking 20 items per page.
11 BY MR. WERBER:
12   Q. Okay. Let's, for the time being, put aside
13 the sort order. The top of Figure 32 -- Figure 32 at
14 the top shows four thumbnails and four name captions.
15   Do you see that?
16   A. I do.
17   Q. And right now, the figure indicates that
18 that drop-down list is sorted newest to oldest.
19   Do you see that?
20   A. I do.
21   Q. Okay. And then you can use the drop-down
22 to change the sort order, correct?
23   A. Yes. That's my understanding from the
24 bottom of Column 22 of the '228 Patent.
25   Q. Okay. And I want to ask you about not the

1 sort order immediately, but instead, have you
2 rendered an opinion -- just a moment. Withdraw.
3   Under Paragraph 5 you use the phrase "the
4 people view that gets shown to the user can require."
5   Do you see that phrase?
6   A. Yes.
7   Q. And I just want to be clear about your
8 opinion.
9   And when you're talking about the people
10 view that gets shown to the user, for the time being
11 I'm just asking you about a people view that has
12 multiple thumbnail images and multiple name captions.
13 Okay?
14   A. Yes.
15   Q. Is it your opinion that the specification
16 discloses that you must select the people menu item
17 first and then you must also choose the drop-down
18 before a people view is displayed with multiple
19 thumbnail images and multiple name captions?
20   MR. GREEN: Object to the form.
21   THE WITNESS: I think the spec leaves
22 that to the reader to some extent. It's not
23 explicit. I haven't -- I haven't gone
24 through the entire spec looking for the
25 answer to this question. But based on the

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1   bottom of 22 and the top of Column 23, the
2   spec is not explicit regarding what is
3   initially seen in the people view.
4   In other words, it may default to some
5   number of items per page in some sort order,
6   and then the user would have to change
7   those, if, for example, the most recently
8   added photos were not of primary interest.
9   But it could also be the case, based on
10   reading the spec, that no images are
11   displayed until a sort order is chosen.
12   BY MR. WERBER:
13   Q. Okay. So is it your opinion that the
14   specification discloses that clicking people can
15   result in a view that includes no images or captions
16   and only until the user chooses a sort order then do
17   we see images and captions?
18   A. It's -- it's not specific one way or the
19   other. As I tried to explain, the text itself could
20   be describing a system where, you know, the system
21   defaults to, let's say, 50 items per page and
22   alphabetical and does show you some images in
23   accordance with those defaults, or there could be a
24   screen that just has the sort order and items per
25   page buttons and no images. So it's -- it's just not

1   made explicit in the spec which design choice the
2   authors of the disclosed embodiment made.
3   Q. But in Paragraph 5 of your declaration --
4   let me start with Paragraph 4 of your declaration,
5   and maybe your declaration is more equivocal than I
6   perceived when I was studying it.
7   In the middle of Paragraph 4, you note that
8   patent owner cites Figure 32 of the '228 patent and
9   then argues that pressing "People" (1401) displays
10   the people view without the need for any further user
11   interaction.
12   You were responding to that, correct?
13   A. Yes.
14   Q. And I can represent to you it wasn't just
15   Figure 32, but the Patent Owner Response, I believe,
16   also cited to the passage of the specification near
17   the end of Column 22, discussing the selection of
18   that people menu item and the display of the people
19   view.
20   Does that sound fair?
21   A. Yes.
22   Q. Okay. And I want to be clear.
23   You state: "I do not agree that this
24   illustration from the '228 patent supports Patent
25   Owner's position." And you're only -- I'm noticing

1   now you're only referring to this illustration.
2   A. That -- that's true. Although, here in
3   this deposition, you got me to focus on the bottom of
4   Column 22 and the top of 23 in some additional
5   detail, you know. And I realize that there is a
6   design choice here.
7   It would depend on the bandwidth. You
8   know, if you were trying to conserve network
9   bandwidth to a mobile device, for example, you might
10   not want to show images until the sort order had been
11   picked.
12   But, you know, I personally, if I were
13   designing this for a desktop user on a gigabit fiber
14   link, would probably choose to show something at
15   first and then let the user adjust.
16   Q. Give me a moment.
17   I'm going to attach the patent's owner
18   response to chat. Let me know when you're able to
19   view it.
20   A. I have it open now.
21   Q. Okay. And if you turn to Page 13 -- and
22   that would be PDF Page 21 -- you did review the
23   Patent Owner's Response.
24   It is cited in your declaration, right?
25   A. Yes.

1   Q. Okay. And you cite to Paragraph 13 --
2   sorry -- Page 13 of the POR in your Paragraph 4 of
3   your second declaration, right?
4   A. Yes.
5   Q. Okay. And you see that there's a
6   discussion in -- on Page 13 of the Patent Owner's
7   Response discussing Figure 32, and it -- Figure 32 is
8   reproduced.
9   Do you see that?
10   A. Yes.
11   Q. And then it also talks about the
12   specifications written description starting at
13   lines -- Column 22:59 all the way through 23:41.
14   Do you see that?
15   A. Yes.
16   Q. And then it states: "The specification
17   discloses that the People Application View of
18   Figure 32 displayed in response to selecting 'People'
19   (1401) include" -- and we call that the second
20   input -- "includes the text 'Jon Smith' (first name)
21   and does not disclose that any further user
22   interaction is needed."
23   Do you see that?
24   A. Yes, I do. Although, like I said, now that
25   I read Column 22 more carefully, I think it's a

1   mischaracterization of Column 22. It -- it doesn't
2   disclose either way whether images are shown
3   immediately and before a sort order or an items per
4   page is picked. It -- it leaves that up to the --
5   the reader.
6   But, of course, if you're reading it on a
7   desktop computer with a high speed connection, you
8   may just assume that you're gonna get photos
9   immediately. But that's something that a reader
10   wouldn't actually add to the spec. It's not in the
11   spec itself.
12   So whoever wrote this Patent Owner Response
13   maybe just assumed its system would -- would always
14   work that way with -- in a world of unlimited
15   bandwidth and computing power and battery power.
16   MR. WERBER: I want to object and move
17   to strike that response as nonresponsive.
18   BY MR. WERBER:
19   Q. My only question is: Did you see that in
20   relation to my reading of Page 13 of the Patent Owner
21   Response? Did you see that?
22   A. Yes.
23   Q. Now, moving on to your -- and I want to be
24   clear here.
25   Back to Paragraph 4 of your declaration,

1   you cite to this passage of the Patent Owner's
2   Response on Paragraph -- on Page 13, right?
3   A. Correct.
4   Q. And that Page 13 cites to Figure 32, and
5   then it also cites to the passage of the
6   specification we have been talking about. Right?
7   A. Yes.
8   Q. And I just want to understand, you say, "I
9   do not agree that the illustration supports patent
10   owner's position."
11   And I want to make sure you purposefully
12   made sure that you were only referring to the
13   illustration, right, not the specification passage?
14   MR. GREEN: Objection.
15   BY MR. WERBER:
16   Q. In -- in authoring -- you know, in
17   finalizing and, you know, offering this opinion as
18   written?
19   MR. GREEN: Same objection.
20   THE WITNESS: No. I don't think I was
21   being that specific. You know, when I talk
22   about an illustration in a patent, I think I
23   am also generally including the description
24   from the spec that's relevant to that figure
25   or illustration.

1   BY MR. WERBER:
2   Q. Okay. So just to confirm, although you
3   only mention the illustration, you didn't intend to
4   be so specific that your statement related only to
5   the illustration, the figure, right?
6   A. Correct. I was including any text from the
7   specification that would be necessary to understand
8   the illustration.
9   Q. Okay. And then you say, "Rather, as I show
10   below, the people view that gets shown to the user
11   can require not only" -- and you -- sorry. withdraw.
12   I will place emphasis on "can require."
13   "Rather, the people view that gets shown to
14   the user can require not only the initial pressing of
15   'People' (1401) (shown in red) but also the
16   additional selection of a desired display order
17   through the selection in a drop-down list (1402)
18   (shown in purple)."
19   So, to be clear, it is your view that a
20   POSITA, studying 32 and also reading Column 22 at the
21   end, would understand that pressing "People," 1401,
22   does not display four images and four captions;
23   instead, it's your opinion that a POSITA would
24   understand that the specification states that you
25   must make this additional user action, selecting

1   drop-down list 1402, before you can see four images
2   and four captions.
3   Is that what your testimony is?
4   A. Well, sort of. I think that you have to
5   look at two aspects, as I said: One is, is the
6   system designed for a desktop computer user who has
7   unlimited power and Internet bandwidth and,
8   therefore, it makes sense to show photos before the
9   user has expressed any kind of intention regarding
10   the desired sort order or number of items per page or
11   whether it's on mobile or battery power and Internet
12   are both scarce. And you also have to look at what
13   the user's interested in, you know, if we assume a
14   real world database of the system contemplates at
15   least a hundred items per page.
16   So let's say there's at least a hundred
17   items -- hundred groups under individual persons in
18   this database. The user may have to provide some
19   additional selections in order to get to the point
20   that the people that the user is interested in are
21   displayed.
22   So those are two scenarios where additional
23   selections may be required: One, for the user to see
24   the photos that he or she is interested in; and, two,
25   to see any photos at all if the system designers have

8 (Pages 26 to 29)

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1 made the choice, which is not inconsistent with
2 Columns 22 and 23 to require a sort order or an
3 items per page selection before any photos are shown.
4 Q. Going back to Claim 1 of the '228 Patent,
5 Claim Elements G and I, and then there's another
6 one -- I think it's -- I think it's "H" -- does not
7 require any more than two thumbnails and two name
8 captions, right?
9 A. I think that's true, yes.
10 Q. And so is it your testimony that the
11 specification -- withdraw.
12 In the answer you gave to me just a minute
13 ago, discussing computer power, is it your testimony
14 that -- or withdraw.
15 When you discussed in that -- in that
16 answer to me a minute ago, Internet bandwidth and
17 computing power, is it your testimony that the
18 specification discloses that the people view may or
19 may not display multiple thumbnail images and
20 multiple name captions upon the selection of the
21 people menu item, 1401, depending on the amount of
22 Internet bandwidth or computing power?
23 A. I think the specification leaves it open.
24 As I said, if we carefully read Columns 22 and 23,
25 it's not specific as to whether images are displayed

1 immediately or only after a sort order is picked.
2 You know, people have kind of forgotten that this is
3 a choice.
4 You know, users of web browsers in the '90s
5 had a pretty prominent button they could flip on or
6 off as to whether web pages should be loaded without
7 images at all. So the browser would load all the
8 text first, and then the user could, if desired,
9 click and ask the browser to download an image, and
10 that interface made sense on a slower link like a
11 dial-up connection.
12 So there's no -- there's no technical
13 requirement that the system show any images until the
14 user's desires are made a little bit more clear. But
15 there's also nothing in the spec that would -- that
16 would stop Figure 32 -- the top of Figure 32 from
17 being shown immediately on clicking the people
18 button. It's extremely unlikely that those are the
19 four out of a hundred or more people that the user
20 would happen to be interested in, but I guess it's
21 possible.
22 Q. And to be clear, I am not asking you about
23 what would be consistent with technical requirements
24 or capabilities. I'm just talking about what is
25 stated in the spec.

1 And is it your testimony that the passage
2 of the spec we have been reading discloses that
3 people menu item be selected and then that -- the
4 result of that would be not showing any images until
5 the sort order selection 1402 is used? And, again,
6 this is a yes-or-no question.
7 A. I don't have a yes-or-no answer,
8 unfortunately. But it's the same answer as before.
9 The -- the spec leaves it up to the reader.
10 Q. Okay. And if we look at that passage of
11 the spec one more time -- and we'll read the exact
12 words of the spec.
13 Starting Column 22 -- I'm looking at
14 Exhibit 1001. Starting at Column 22, Line 60: "The
15 first People Application View (1400) is used to
16 display all the people that were created within the
17 user's application."
18 Do you see that?
19 A. Yes.
20 Q. And earlier in that paragraph it refers to
21 Figure 32, right?
22 A. Yes.
23 Q. It continues around Line 62: "This view
24 can be seen by selecting 'People' (1401) from any of
25 the application views within the application."

1 A. Yes, I see that.
2 Q. So can we agree that the specification
3 discloses that the view shown at the top of 30 --
4 Figure 32 can be seen by selecting only the people
5 menu item, 1401?
6 A. Sure. We could agree on that if the
7 successive text said that there was a default sort
8 order and a default items per page and that those
9 would be applied, you know, in the absence of a user
10 selection. But the following sentences don't say
11 anything about that. They're silent on that subject.
12 So that's what stops me from agreeing with you.
13 Q. Your declaration does not discuss the
14 presence or absence of a default sort order, right?
15 A. That's true.
16 Q. And the specification does not disclose
17 that?
18 A. Yes.
19 Q. The view may -- the view may be blank
20 absent the selection of a sort order?
21 A. That's true. It doesn't say one way or the
22 other whether there are defaults, and, therefore, an
23 initial try at a set of images that might be of
24 interest to the user is shown or whether there are no
25 defaults, and, therefore, the user must make some

9 (Pages 30 to 33)

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1 selection before images are shown.
2   Q. Would you agree that that portion --
3 withdraw.
4   Would you agree that that portion of the
5 specification does not say the application needs
6 multiple user inputs to display the people
7 application view --
8   MR. GREEN: Object to the --
9 BY MR. WERBER:
10   Q. -- with -- with the images and captions
11 shown on Figure 32?
12   MR. GREEN: My apologies. I thought
13   you were finished.
14   Object to the form.
15   THE WITNESS: I mean, as I said
16 earlier, the people view is a computer
17 program, and the specific screen at the top
18 of Figure 32 is presumably an example of
19 what that computer program and display, but
20 it's simply unclear from the description how
21 many user clicks, if you will, or user
22 selections were made before we got to that
23 display.
24   It -- it's possible that it was just
25 clicking on the people button in the top

1 menu bar. That's 1401. But it's also
2 possible that additional selections were
3 made to get this particular view and that
4 additional selections beyond the button 1401
5 would have to be made to see any thumbnails.
6 BY MR. WERBER:
7   Q. Would it be fair to say that a POSITA would
8 infer that just clicking people, that people menu
9 item, would result in at least one caption photo
10 appearing on the screen?
11   A. Yes and no. I think, if you said that the
12 system was a desktop computer hooked up to a gigabit
13 Internet, that that would be a reasonable assumption
14 about the system, or at least a reasonable design
15 choice for implementation.
16   Q. So your answer to that question is yes or
17 no, correct?
18   MR. GREEN: Object to the form.
19   MR. WERBER: I withdraw.
20 BY MR. WERBER:
21   Q. It was yes and no, right?
22   A. Well, it was a conditional yes that -- you
23 know, if you assume a powerful computer plugged into
24 the wall and plugged into a fiber-optic connection,
25 sure. The computer's got nothing better to do with

1 its power and its screen space than to display some
2 thumbnails that are probably not gonna be of interest
3 to the user.
4   Q. Let me -- you were deposed in this matter,
5 this Samsung '228 IPR matter back in August; do you
6 recall that?
7   A. Yes.
8   Q. I just posted your prior deposition
9 transcript to chat. And I want to direct your
10 attention to Page 50. Starting around Line 4 -- let
11 me know when you have it open.
12   A. Okay.
13   Q. So starting around Line -- at Line 4, I
14 say: "And thank you. I'll maybe simplify it." And
15 then Line 5: "Nowhere does that portion of the
16 specification say that the application needs multiple
17 user inputs to display the people application view
18 with the caption Jon Smith."
19   And then you answer: "That's true. You
20 know, the user could put in, it says, I think,
21 additional" user -- sorry -- "additional input to
22 adjust the view, for example, to show more items or
23 fewer items on the page. But I think it's fair to
24 say that a POSITA would infer that just clicking
25 people would result in at least one caption photo

1 appearing on the screen."
2   Did I read that correctly?
3   A. Yes.
4   Q. And you did not say it's yes and no --
5   A. That's true.
6   Q. -- in that answer back in August, correct?
7 Instead, you said -- instead, you said, "That's
8 true"?
9   A. Well, I said it was an inference. But you
10 know, you -- you asked me that question while I was
11 sitting on my plugged-in desktop computer, hooked up
12 to what Comcast claims is gigabit Internet.
13   So now that you're forcing me to look at
14 Columns 22 and 23 more carefully, I realize that, you
15 know, that -- that is an inference that a POSITA
16 would -- would add to the patent, knowing that, you
17 know, unlimited bandwidth and computing power are
18 available. But it wouldn't be the correct choice
19 with limited communications or power to the machine.
20   So -- so, yeah. It does depend on -- now
21 that I look at it more carefully, on -- on what kind
22 of hardware and bandwidth is available. So I think
23 it was correct for me to say that it was an
24 inference, but it was also an inference that depended
25 on some assumptions.

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1   Q.   So you mentioned your desktop computer
2 hooked up to Comcast gigabit Internet. That's what
3 you were using when you testified back in August?
4   A.   Correct.
5   Q.   And the answer you gave back in August was
6 impacted by the computer and Internet connection you
7 were using then?
8   A.   I think so, yes. I mean, I stand by those
9 words. I still think it's a reasonable inference,
10 but that doesn't mean it's a requirement.
11   Q.   Next I want to turn back to the language of
12 the claims. And we can look at the -- you can look
13 at the Petition around PDF Page 6, and that's 1g.
14   A.   Okay.
15   Q.   And 1g reads: "Responsive to a second
16 input that is subsequent to the first input, causing
17 a people view to be displayed on the interface, the
18 people view including:"
19   Do you see that?
20   A.   I do.
21   Q.   Would you agree that "responsive to" --
22 withdraw.
23   Would you agree that the term "responsive
24 to" and the term "subsequent to" mean different
25 things in the claim?

1   A.   I don't know. I didn't look at -- pull --
2 try to pull apart the pieces of this claim quite as
3 closely as you have.
4   Q.   Okay. Well, let's turn to Paragraph 12 of
5 your declaration.
6   A.   Okay.
7   Q.   And you discuss the items per page button,
8 right?
9   A.   Yes.
10   Q.   And that is visually shown at the top of
11 Figure 32. Agreed?
12   A.   Yes. At the bottom right of the top screen
13 of Figure 32.
14   Q.   And Paragraph 12 of your opinion discusses
15 the claimed people view, right?
16   A.   Yes.
17   Q.   And then in -- you know, I want to ask you
18 about this sentence: "Figure 32 of the '228 patent,
19 for example, has a 'Items Per Page' button that
20 determines how many of the photos are visible at one
21 time. That is, although there may be other photos
22 that are part of the 'people view,' such photos are
23 not visible until the user additionally clicks on
24 these buttons."
25   Did I read that from your opinion

1 correctly?
2   A.   Yes.
3   Q.   Now, going back to Figure 32, there is an
4 items per page button, and then it gives you the
5 option of 20, 50, 100.
6   Do you see that?
7   A.   Yes, I see that. And -- and 20 has been
8 selected.
9   Q.   And when you're saying "Such photos are not
10 visible until the user additionally clicks on these
11 buttons," are you referring to a scenario where there
12 are 21 or more people thumbnails to be displayed at
13 the same time and you don't see all until you click
14 50? Is that the scenario you're discussing?
15   A.   Yes. That would be one example.
16   Q.   If we go back to Claim 1, starting around
17 Claim Element G, Claim 1 requires a first person --
18 sorry. Withdraw.
19   Claim 1 requires a first person selectable
20 thumbnail image and a second person selectable
21 thumbnail image, right?
22   A.   Yes.
23   Q.   So in terms of -- and I'm just asking about
24 the -- the thumbnail images of the people view. I
25 want to confirm, the people view of Claim 1 requires

1 displaying only two or more thumbnail images at the
2 same time, right?
3   A.   That wasn't the question I was asked. So
4 I'm not a hundred percent sure. It might depend on
5 the device. You know, on a smart watch, for example,
6 you actually might only have one selectable image at
7 a time displayed in the people view and you might
8 have to swipe left and right to see a second or a
9 third thumbnail image. So I think that would be an
10 implementation choice.
11   Q.   Okay. But I'm -- I'm referring -- and
12 again, this discussion is about what your
13 Paragraph 12 of your declaration. And you were
14 discussing what's specifically stated in the
15 specification and then comparing that to the claim
16 language of the people view. And you rendered an
17 opinion, and that related to a scenario where there
18 may be more than 20 thumbnail images to be shown at
19 the same time. Correct?
20   A.   Correct.
21   Q.   And then it was your testimony that if you
22 need to show more than 20 at the same time, you can't
23 do that until you select the 50 items per page
24 button, right?
25   A.   Yes. In the specific -- you know, I got a

1　little confused as to whether we were just talking
2　about the claim language or the specific embodiment
3　one screen of which is shown in -- or two screens of
4　which are shown in Figure 32. But in the specific
5　embodiment, yes, you could see 20 on a screen, for
6　example; and if there were 21 in the database,
7　clicking on 50 would make that 21st thumbnail image
8　or 21 clusters, I guess, would make that thumbnail
9　related to the 21st cluster available on the screen
10　at the same time, assuming the screen were large
11　enough and didn't -- you didn't have to scroll.
12　　　Q. Yeah. And here's where I'm a little
13　confused, then: Your Paragraph 12 refers to photos
14　not being visible until the user additionally clicks
15　on these buttons. You're referring to the 20, 50,
16　100, right?
17　　　A. Yes.
18　　　Q. And you discuss the claim language of the
19　people view also in your Paragraph 12, right?
20　　　A. That's true.
21　　　Q. And I want to be clear. Paragraph -- the
22　claim language we're talking about does not require
23　displaying 21 or more thumbnail images at the same
24　time, right?
25　　　A. That's true.

1　　　Q. Instead, it requires displaying two or more
2　thumbnail images at the same time, right?
3　　　A. As I said before, I don't -- I actually
4　don't think that it's a requirement of the claim that
5　those thumbnails would have to always be shown at the
6　same time to still be part of the people view, and I
7　gave you that smart watch example where you might not
8　want them to be displayed at the same time, but you
9　would still be inside the people view application.
10　　　Q. But the example in the specification, the
11　scenario you were describing in relation to the claim
12　language -- let me withdraw that question.
13　　　　In Paragraph 12, you're disputing that the
14　claim requires that everything that's part of the
15　people view must be visible. That's what you're
16　disputing, right?
17　　　A. I don't know about disputing. I'm just
18　pointing out that there's no limitation in the claim
19　that any or all of the elements of the people view
20　have to be shown simultaneously.
21　　　Q. But you state: "The claim doesn't say that
22　everything that's part of the people view must all be
23　visible." Correct?
24　　　A. Yes. Probably it would be more better or
25　more clear if I added the word "simul-" --

1　"simultaneously."
2　　　Q. Okay. And even if you used the word
3　"simultaneously," you continue by discussing
4　Figure 32 of the '228 Patent and certain disclosures
5　of the specification, right?
6　　　A. Yes.
7　　　Q. And studying this opinion of yours, are
8　you -- is it correct that you're trying to introduce
9　a counter-example in the specification where there
10　may be elements of the people view not all visible
11　until you make an additional user input, such as
12　items per page?
13　　　A. Yes. This particular narrow example -- you
14　know, we're still living in the desktop world,
15　because I think that's what's being shown in these
16　figures are conventional desktop computers with
17　fairly large screens. And I'm just pointing out that
18　if you have the screen space with an additional
19　input, you, as the user, can see additional
20　components of the people view that wouldn't have been
21　visible with a selection of a smaller number of items
22　per page.
23　　　Q. You use the smart watch example, right?
24　　　A. Yes.
25　　　Q. And, again, you -- you -- your opinion at

1　Paragraph 12 relates to the "responsive to" issue,
2　correct?
3　　　A. I guess -- I think it relates to whether
4　something can be considered responsive to an input if
5　some additional user gesture or input is,
6　nonetheless, required.
7　　　Q. So you just mentioned, although it's not in
8　your declaration, a smart-watch scenario, right?
9　　　A. Yes. It's not in my declaration because
10　you asked me a new question that I hadn't been asked
11　before.
12　　　Q. And the scenario you're describing is
13　somebody is running an embodiment disclosed in the --
14　in the specification where the people menu item is
15　selected, correct?
16　　　　MR. WERBER: Can you guys hear me? I
17　think we lost --
18　　　　THE COURT REPORTER: I can hear you.
19　　　　MR. GREEN: Did we lose Dr. --
20　　　　MR. WERBER: -- Dr. Greenspun.
21　　　　MR. GREEN: -- Greenspun? Yeah.
22　　　　THE COURT REPORTER: Yeah. He's
23　frozen.
24　　　　MR. GREEN: Do you want to go off the
25　record for a second and try to sort this

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1   out?
2   MR. WERBER: Yeah, we'll go off the
3   record.
4   MR. GREEN: Oh, wait. There he is.
5   (A discussion was held off the record.)
6   MR. WERBER: I'll re-ask.
7   BY MR. WERBER:
8   Q. Dr. Greenspun, are we -- are we live in
9   terms of you hearing what I'm saying? And I do want
10   to be fair. I can go back to where we were, to make
11   sure we're caught up.
12   A. Yeah, I -- everything's -- everything's
13   unfrozen on my end here.
14   Q. All right. So I referred to the scenario
15   you're describing. We're talking about the
16   embodiment to the specification of the claim
17   language.
18   You mentioned a smart-watch scenario,
19   right?
20   A. Yes. That was in response to a question I
21   had never been asked before, which is --
22   Q. Sure. Sure.
23   A. Yeah.
24   Q. And then the scenario you're describing is
25   somebody is running -- running the -- you know,

1   running an embodiment disclosed in the specification
2   with a smart -- with a smart watch, right?
3   A. I don't know if it would be the embodiment
4   disclosed in the specification, but it could be an
5   embodiment in accordance with the claims that was
6   optimized for a very small screen, like you have on a
7   smart watch.
8   Q. Okay. Let's put aside that phrase
9   "specification."
10   You were talking about an embodiment of the
11   claim -- a claimed embodiment, according to what you
12   believe is claimed, where a second input is selected,
13   right?
14   A. I'm not sure what we're talking about here.
15   Are we still talking about your question
16   about whether the two thumbnail images had to be
17   displayed simultaneously, in accordance with --
18   Q. Well, I'm trying to understand the
19   smart-watch scenario that you mentioned. So perhaps,
20   just to make sure I'm understanding your answer, you
21   mentioned a smart-watch scenario, correct?
22   A. Can you repeat that? I think I did have a
23   bit of a glitch. It's ironic that I was talking
24   about how you would adapt the implementation when you
25   had poor Internet.

1   Q. You mentioned a smart watch, and I believe
2   you mentioned that in reference to a scenario where
3   only one thumbnail could -- in relation to a possible
4   scenario where only one thumbnail could be seen at a
5   time?
6   A. Correct.
7   Q. And let's assume in that thumbnail -- and I
8   understand that's what you're talking about -- a user
9   could use that smart watch to select the second
10   impute, whatever it is, but not immediately see two
11   thumbnails.
12   Is that what you're saying?
13   A. Yes. I think, you know, that would be
14   probably the most sensible implementation with very
15   limited screen space, just show one thumbnail at a
16   time and enable a user to scroll left and right with
17   swiping gestures. That -- that would be the
18   conventional, I think, implementation on a smart
19   watch of what's claimed in Claim 1.
20   Q. And it's your opinion that that may be an
21   example where not all of the claimed people view is
22   shown is visible at one time, right?
23   A. Yes. I mean, we have a better example or
24   we have a simpler example and that I highlight in my
25   Paragraph 12, which is that the people view, you

1   know, can include, for example, more than a hundred
2   clusters of around individual faces, which would
3   require paging. And it can also include, let's say,
4   more than 20 clutters around faces, and with
5   sufficient screen space, those could be rendered
6   simultaneously on the screen or not depending on the
7   items per page button position.
8   Q. Okay. But the people view limitations of
9   Claim 1 only require two thumbnails, right?
10   A. That's true.
11   Q. So the scenario that's in the specification
12   shows four thumbnails, correct? That's Figure 32.
13   A. Yes. The top of Figure 32 shows a screen
14   that the user has navigated to. We're not exactly
15   sure in how many button presses. And the result is
16   four thumbnails.
17   Q. So let's assume -- and you testified that
18   can be a reasonable inference -- that people -- the
19   people menu item has been selected, and responsive to
20   that selection you see the four thumbnail images and
21   the four names simultaneously, just as shown in
22   Figure 32, correct?
23   A. Yes. I think, you know, it is a reasonable
24   inference that given a -- a plugged-computer and a
25   high-speed Internet connection that the system could

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1 show some thumbnails with a default sort order and a
2 default number of items per page.
3   Q. And even if I clicked the -- and by the
4 way, that Figure 32 at the top shows 20, right, 20
5 per page?
6   A. It shows that either there was a default of
7 20 items per page or the user selected 20 items per
8 page, but it may be irrelevant --
9   Q. But that's the same.
10   A. -- because -- sorry.
11   Q. 20 per page is the setting that we are on,
12 as shown in the figure?
13   A. Yes. I was going to say, it may be
14 irrelevant, because it appears that this is -- you
15 know, there's a -- an example database or a toy
16 database, if you will, of -- of only four people.
17   Q. That's -- that's what I wanted to just make
18 sure of.
19   So even if I click 50, that would not
20 change that it is showing only four, right?
21   A. I think in -- yeah, with this particular
22 database of only four people, I think that that's --
23 that's correct, or that's -- again, that's an
24 inference. But I think it's probably the correct
25 inference.

1   Q. So, just to be clear, your -- it -- it is
2 not your opinion that the specification explicitly
3 discloses a scenario where there are more thumbnails
4 than what would fit on the page under the
5 20 items per page scenario, right?
6   A. No. I think that that is explicitly shown
7 by having the page control on the bottom left and the
8 items per page selection. So it's clear that the
9 disclosed embodiment at least would have that
10 behavior if loaded with a larger database.
11   Q. Because there's the option to increase it
12 to -- from 20 to 50 or from 50 to a hundred, right?
13   A. Yes. And also because there's the -- the
14 pagination control at the -- the bottom left of the
15 top screen in Figure 32.
16   Q. But in terms of the claim language -- I
17 just want to be -- I want to make sure we can agree,
18 the claim language requires no more than two
19 thumbnail images, right?
20   A. Okay. I had a little bit of an Internet
21 glitch. So I'm gonna ask you to repeat that.
22   Q. In terms of the claim language, I want to
23 make sure we can agree that the claim language
24 requires no more than two thumbnail images?
25   A. I think that's right. Yes.

1   Q. Now, I want to turn to Figure 32 in the
2 bottom.
3   Do you see that?
4   A. Sorry. Figure 32 in the where?
5   Q. The bottom of Figure 32. And there is
6 something called "the single people profile
7 application view." Right?
8   A. Yes, I see that.
9   Q. And you have discussed this in relation to
10 Claim 18, right?
11   A. I'm not sure where in my second dec- --
12 second declaration you're referring to.
13   Q. Okay. Just give me a moment.
14   So you're saying your second declaration at
15 Paragraph 13 identifies Claim 18.
16   Do you see that?
17   A. I do.
18   Q. And then you -- you state: "The patent
19 owner appears to argue that being 'responsive to an
20 input' required the direct and automatic display of
21 'the first name and a representation of each digital
22 file,' with no other additional user input permitted,
23 POR 18."
24   And you did -- you did read Page 18 of the
25 Patent Owner's Response, right?

1   And for the record, are you -- are you just
2 refreshing your memory as to what is said on Page 18
3 of the Patent Owner's Response?
4   A. Yes. I'm -- I'm rereading it right now.
5   Q. Sure.
6   A. So I did read it before, and I'm giving it
7 a quick reread, just -- just in the last minute.
8   Q. Sure. Please do. I just want to make sure
9 we're clear on the record what we're talking about.
10   A. Okay. I've -- I've reread it, I think, a
11 little bit.
12   Q. Okay. And there's a reference to Figure 32
13 in relation -- you know, the -- in Page 18, there's a
14 reference to the "Single People Application View
15 1430."
16   Do you see that?
17   A. Yes, I do see that.
18   Q. In Page 18, and that's -- sorry -- you
19 know, at the bottom of Figure 32. And the discussion
20 relates to Claim 18.
21   A. Yes. I see that 1430 is the lower half of
22 Figure 32.
23   Q. And then Claim 18 includes a limitation, "A
24 representation of each digital file in the third set
25 of digital files."

14 (Pages 50 to 53)

1   Do you see that?
2   A. Yes.
3   Q. So back to Page 13 -- sorry -- Paragraph 13
4   of your second declaration, Exhibit 1041.
5   That's what you're talking about, right?
6   A. Generally speaking, yes.
7   Q. Okay.
8   MR. GREEN: Mr. Werber, if we're at a
9   point where we can take a break, it might be
10   nice for the -- for everyone, especially the
11   court reporter. She can obviously speak for
12   itself. But I just happened to look at the
13   clock and see how long we've been going.
14   MR. WERBER: Yeah, that's fine. I'm
15   ready -- you want to take ten minutes?
16   MR. GREEN: I'll defer to the group.
17   I'm good with anything.
18   MR. WERBER: Sure. Thank you.
19   (A recess was taken.)
20   BY MR. WERBER:
21   Q. All right. The -- ready to go back on the
22   record?
23   A. I am.
24   Q. Okay. And counsel is back. So we're back
25   on the record.

1   Let's look at Figure 32, bottom.
2   Do you see that?
3   A. I do.
4   Q. And there is a single people profile
5   application view, and that's what we were discussing
6   before the break, correct?
7   A. Yes.
8   Q. And like the -- you know, the Figure --
9   like the drawing at the top of Figure 2, the single
10   people profile application view also has an items per
11   page button.
12   Do you see that?
13   A. Correct. To the bottom right.
14   Q. And there are four thumbnail images shown,
15   correct?
16   A. Yes, there are. I'm not sure if that's in
17   relationship to these -- yeah, the four photos.
18   There's an additional user interface control, looks
19   like under "JC Tags" that caused the four -- maybe
20   caused the four thumbnails to be displayed. I have
21   to review the spec here for a moment.
22   Q. Yeah. If you want, you could look around
23   Column 23. You can look wherever you want. But I'm
24   really just going to kind of make sure a couple
25   things around Column 23, Line 20, thereabouts.

1   A. I see that, right.
2   So there's a submenu bar within this view
3   that controls whether you see photos, collections,
4   locations, recipe -- anyway.
5   Okay. Now I'm oriented to the figure.
6   Yes, there's at least three controls on here, which
7   is -- are the page on the bottom left, the submenu
8   bar selection, if you will, and the items per page.
9   Q. So in reference to this photo, there's a
10   passage starting Column 23 around Line 22 in the
11   specification, and it says, "In this example, the
12   system illustrates that there are four photos (1452)
13   associated with that person and will also illustrate
14   thumbnails of each of the four photos (1466)."
15   Do you see that?
16   A. Sorry. What line are you starting at?
17   Q. Column 23. I think it's around Line 22.
18   A. Yes, I found that passage. And I think
19   that you did read it correctly.
20   Q. Okay. So the items per page, as we see it,
21   in Figure 32, bottom, is 20, right?
22   A. Yes. The lower portion of Figure 32 shows
23   this view. Once again, we don't know how many clicks
24   or selections were made to get there, because the
25   text in Column 23 is not explicit regarding what the

1   defaults are or if there are any -- if there are any
2   defaults.
3   Q. Okay. But I just want to confirm, as we
4   see in this figure, the particular embodiment of the
5   single people profile application view, there is no
6   indication that the number of photos exceeds what can
7   be shown on one page, which is 20, right?
8   MR. GREEN: Object to the form.
9   THE WITNESS: No, I don't think that's
10   right. There's a -- a page control at the
11   bottom left. So, obviously, the system is
12   set up to -- for the situation in which the
13   number of photos would exceed 20 or 50 or
14   even a hundred.
15   BY MR. WERBER:
16   Q. I -- I'm just sticking with the -- the
17   example shown at the bottom of Figure 32 and the
18   explicit description in the specification around
19   Line 22.
20   This single people profile application view
21   shows thumbnails associated with that person, right?
22   A. Well, if -- if the -- if the photos submenu
23   has been selected, yes, it would maybe show a recipe,
24   if the recipe menu item had been selected. But in
25   this case, it shows that photos has been selected or

15 (Pages 54 to 57)

1 possibly it was a default.
2   Q. Okay.
3   A. And, therefore, thumbnail photos are
4 selected.
5   Q. And I want to be clear.
6   In terms of what's expressly stated in the
7 specification, the specification says: "The system
8 illustrates that there are four photos (1452)
9 associated with that person."
10   A. Yes. It says in this example there are
11 four photos. Yes, I see that in Lines 22 and 23 of
12 Column 23.
13   Q. So in terms of what is expressed -- sorry.
14   In terms -- withdraw.
15   In terms of what is expressly disclosed in
16 the specification for the example shown at the bottom
17 of Figure 32, there is no indication that the number
18 of photos or number of thumbnails exceeds what can be
19 shown on one page?
20   A. Well, as I said earlier, that page control
21 on the bottom left tells a person of ordinary skill
22 that the database either can or will grow to the
23 point where not all of the photos can be displayed on
24 one page. But you're also correct that with only
25 four photos they can all be shown -- or their

1 thumbnails can only be shown on one page.
2   Q. And in terms of the example expressly
3 described in the specification, there are only four
4 photos, right?
5   A. Yes. I think that's true for this
6 particular person in this particular example on this
7 particular screen, there are only four photos.
8   Q. And I'll grant you that. We are only
9 referring to this express example.
10   And all four are shown on the screen
11 because four is the less than the limit of 20, right?
12   A. Yes.
13   Q. I want to turn back to Limitation G, and if
14 you want, you can look back to how it's identified in
15 the Petition.
16   Limitation 1g reads: "Responsive to a
17 second input that is subsequent to the first input,
18 causing a people view to be displayed on the
19 interface, the people view including:"
20   (A discussion was held off the record.)
21   MR. WERBER: I will read it again, and
22   it was probably my fault. Withdraw.
23 BY MR. WERBER:
24   Q. Limitation 1g, do you see that,
25 Dr. Greenspun?

1   A. I do.
2   Q. And it states: "Responsive to a second
3 input that is subsequent to the first input, causing
4 a people view to be displayed on the interface, the
5 people view including:"
6   Do you see that?
7   A. I do.
8   Q. The word "including" is part of this
9 limitation, right?
10   A. Yes, I think so.
11   Q. Did you interpret the word "including" in
12 rendering your opinions?
13   A. I read and understood the word "including,"
14 but to say that I interpreted it, I think, might be
15 an overstatement.
16   Q. So, sitting here right now, you do not have
17 an opinion as to what the word "including" means in
18 the context of this claim limitation?
19   MR. GREEN: Object to the form.
20   THE WITNESS: I don't think I have an
21   opinion about the word "including" that's
22   separate from the phrase in which it occurs.
23 BY MR. WERBER:
24   Q. Do you agree -- just one moment.
25   Skipping back to Limitation 1g, we see the

1 word "including," right?
2   A. Yes.
3   Q. And then we also see 1h begins with a first
4 person selectable thumbnail image, right?
5   A. Yes.
6   Q. And then we also see a second person
7 selectable thumbnail image, right? That's down at
8 1j.
9   A. Yes, I see it.
10   Q. Do you agree a first person selectable
11 thumbnail image and a second person thumbnail image
12 must be included in the people view of Claim 1?
13   A. Yes.
14   Q. Do you agree that, to include both
15 thumbnail images, they must be displayed
16 simultaneously?
17   A. I mean, the question doesn't even make
18 sense, because the user has control over how big a
19 window these systems are rendered in. So even if --
20 even if the screen itself were large enough to show
21 multiple thumbnails at the same time, the user could
22 be operating the system in a small window, such that
23 it was -- scrolling was required to see both -- both
24 of the two claimed thumbnails.
25   Q. Is it your testimony you can -- that you

16 (Pages 58 to 61)

1 can include two thumbnails in a view but -- but only
2 one may be visible at any given time, unless the user
3 scrolls? Isn't that --
4   A. Yes.
5   Q. -- what you're saying?
6   A. Yes. That's just one example of how the
7 thumbnail could be included in a view and yet not
8 visible on the screen at a particular time.
9   Q. Do you have any other examples where that
10 may be the case, other than the screen-size scenario?
11   A. Sure. We've been talking about it. You
12 know, we have images that are included in a view that
13 aren't visible until the sort order is suggested or
14 the number of items per page is adjusted or the
15 particular page of the view is changed or a submenu
16 bar is selected, as in the application view. You
17 know, remember, you can go between recipes and photos
18 or between photos and collections.
19   So there -- there are a lot of ways that --
20 you know, since the view is a running computer
21 program, essentially, there are a lot of ways in
22 which something could be part of the view and not on
23 the screen at any one moment.
24   Q. Just one moment.
25   The claim, however, refers to -- withdraw.

1   The claim only requires including two or
2 more thumbnails, right?
3   A. I think that's true, yes.
4   Q. So the sort order would not change whether
5 or not two or more thumbnail images are included in
6 the people view, right?
7   A. That's true. If you had the window shrunk
8 down to a small size, you know, within a larger
9 screen or if you were browsing on a device with a
10 very small screen, like the watch that we talked
11 about, it might affect which of the two images that
12 you were seeing, but it wouldn't change the fact that
13 they were both there within the view.
14   Q. You mentioned a number of items, but the
15 number of items, at least according to your opinions,
16 would not be impacted if the screen is capable of
17 showing two thumbnails, right?
18   A. I don't -- I don't understand that
19 question.
20   Q. You mentioned number of items per page,
21 right?
22   A. Yes. Which would change the display -- I
23 guess has the potential to change the display any
24 time there are more than 20 items in the database, or
25 I guess it would have the potential to change the

1 display in a lower bandwidth situation, where the
2 system elected not to display any photos until a
3 number of items choice had been made.
4   Q. Okay. And you are referring to a scenario
5 where a number of items selection could impact
6 whether at least two thumbnails are included in the
7 people view, right?
8   A. No. I think the -- the number of items
9 selection just affects how the people view is
10 rendered. I don't think it changes what's in or out
11 of the people view.
12   Q. In paragraph 11 of your declaration, you
13 state -- and let me know -- this is your second
14 declaration.
15   You state: "There is nothing in the claim
16 language of the '228 Patent to suggest that the first
17 name and the second name must both be simultaneously
18 visible to the user at all times."
19   Do you see that?
20   A. I do.
21   Q. You used the phrase "at all times" in that
22 paragraph, right?
23   A. Yes.
24   Q. Here's a slight variation: Would you agree
25 the claim requires at least a single instance when

1 both names are visible?
2   MR. GREEN: Object to the form.
3   THE WITNESS: The question doesn't
4 makes sense for the same reason that I
5 explained a little bit earlier. The
6 operator of the preferred embodiment doesn't
7 have any control over how big a window the
8 user chooses to use the system through.
9   So even without the smart watch
10 hardware change, it may be the case that two
11 thumbnails won't fit within the view port
12 that the user has selected at the same time,
13 and, therefore, it wouldn't even begin to
14 make sense to show two names at the same
15 time, because we don't have two images.
16 BY MR. WERBER:
17   Q. Do you agree that to satisfy the people
18 view requirements of Claim 1 two names must be
19 included?
20   A. Yes. 1g says that -- lists the things
21 that -- or is a preamble to the things that the
22 people view must include. And then we have 1i and
23 1k, each of which requires a name. So, yes, I think
24 two names have to be included within the -- the view
25 application or subapplication.

1   Q. And you're drawing a distinction between
2   included and visible, right?
3   A. I mean, it's not me. It's -- that's just
4   how computers work. There's an application, which
5   may be a web page or even a desktop application
6   program, and then there's a rendering process. So
7   during the rendering process different -- different
8   elements of the application may or may not be on the
9   screen, depending on the user's window size, maybe
10 some choices they've made.
11   If they're on a dial-up line, they may say,
12 look, I don't want you to load the images, by
13 default, the inline images.
14   So, yeah, that's not my distinction.
15 That's just how computers work. There's -- there's
16 the application, in this case referred to as a view,
17 and then there's how it's rendered, which depends on
18 a whole lot of things, including the window size that
19 the user has adjusted the window to.
20   Q. And one of the things you're focusing on is
21 that the phrases we've been discussing uses the word
22 "including," not "visible," right?
23   A. I'm not sure. If -- if you wanted to make
24 this a patent claim about, you know, a screen or a
25 rendering, you would just use completely different

1   language. So I'm not sure if the word "visible"
2   would be there. It -- it would be a considerably
3   narrower claim.
4   Q. Let me ask a follow-up question.
5   You testified before that you agreed that
6   the people view of Claim 1 must include -- withdraw.
7   Just a second.
8   You testified before that to satisfy the
9   people view requirements of Claim 1, two names must
10 be included, right?
11   A. Yes.
12   Q. Would you agree that to satisfy the people
13 view requirement of Claim 1, two names must be
14 included simultaneously in at least one instance?
15   MR. GREEN: Object to the form.
16   THE WITNESS: I mean, I don't know what
17   you mean by "at least one instance."
18   Do you mean in at least one rendering
19   on the screen?
20 BY MR. WERBER:
21   Q. Sure. And I'm back to -- you -- you made a
22 statement in Paragraph 11, "at all times." And I
23 just want to make sure that we're not holding up
24 understanding your opinions by -- by kind of
25 incorporating this "at all times" disclaimer.

1   I'm asking just is there a single -- at
2   least just a single instance where two names must be
3   included simultaneously, even if not at all times?
4   A. I see. No, I don't think so.
5   You know, as I explained earlier, it could
6   be for the simple practical reason that this
7   application is being rendered in a very small window
8   or on a very small physical screen.
9   Q. But I'm only talking about the word
10 "included," not "visible." And I thought you were
11 discussing screen size in relation to what's visible,
12 not what's included.
13   A. Yes. It has to be in the view. It has to
14 be included in the view. So there has to be some way
15 for the user to experience these or see these
16 thumbnails and names.
17   Q. So back to my question -- withdraw.
18   I believe you testified before that there
19 may be a distinction between the verb "include" and
20 the verb "visible" -- or the word "include" and the
21 word "visible," right?
22   A. I didn't draw that distinction. I think
23 that's something that you drew, but the claim
24 language talks about including in the application.
25 And in this proceeding, the patent owner seems to be

1   focusing on visibility and a rendering. So it's not
2   really distinguished -- it's not really a difference
3   in wording. It's really looking at two different
4   aspects of the system. And -- and as I read the
5   claim, it's about an application. It's not about a
6   specific rendering.
7   Q. Let me make sure I understand your opinion
8   and your testimony.
9   You testified before that you agree that
10 the people view must include at least two names,
11 right?
12   A. Yes. I think that's the plain language of
13 the claim, or Claim 1.
14   Q. And then my next question is: Would you
15 agree that the people view must include two names
16 simultaneously in at least -- at least once? Putting
17 aside the qualifier "at all times."
18   A. No. I don't think that's required.
19   I might have to take a break soon. I'm
20 looking at Chris, and it looks like he's being bored
21 to death. He's gonna need coffee or something far
22 stronger.
23   MR. WERBER: Can we go a couple more
24   minutes?
25   MR. GREEN: For sure. But I appreciate

18 (Pages 66 to 69)

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1   Dr. Greenspun looking after me.
2   BY MR. WERBER:
3   Q.   All right. I'm gonna introduce a new
4   exhibit, just to make sure I understand your
5   testimony.
6   MR. WERBER: This will be a new
7   exhibit, No. 2024.
8   (Dr. Philip Greenspun Deposition Exhibit
9   2024, Six renderings, was marked for identification.)
10 BY MR. WERBER:
11   Q.   My apologies.
12   A.   Okay. I see --
13   Q.   Six views?
14   A.   Well, six renderings. I'm not sure they're
15 really -- I don't know who made these annotations.
16 I'm not sure I would call these six different views
17 so much as six different screens from the same view,
18 but --
19   Q.   Okay. Well, I can use the word No. 1,
20 No. 2, No. 3.
21   Do you understand that No. 1, what's
22 labeled as View No. 1, is a reproduction of the
23 multiple people application view from Figure 32?
24 Which is basically the top half of Figure 32.
25   A.   Yes. That -- that looks right.

1   Q.   And View No. 1 shows a screen, and -- and
2   we can accept your disclaimer that you may not
3   consider these views. I was just kind of reusing
4   what it's called in the spec. It shows a screen with
5   four thumbnails, and all four are captioned with
6   names.
7   Do you see that?
8   A.   In what's labeled View No. 1 within
9   Exhibit 2024?
10   Q.   Yes.
11   A.   Yes, I do see that.
12   Q.   And No. 2 shows a screen with four
13 thumbnails, but none are captioned with names, right?
14   A.   Yes, I see that. It looks like it's been
15 edited out. Yeah. It's not from the patent.
16   Q.   This is not -- No. 2 is not what is
17 specifically shown in the patent.
18   A.   Okay.
19   Q.   These are variations of what's shown in the
20 patent. I just want to make sure we have your
21 opinions clear.
22   No. 3 shows four thumbnails, but only one
23 is captioned with the name Jon Smith. No other names
24 are shown.
25   Do you see that?

1   A.   I do.
2   Q.   No. 4 is similar, four thumbnails, but only
3   one is captioned with a name, and that is Jane Smith.
4   Do you see that?
5   A.   I do.
6   Q.   No. 5 shows only one thumbnail and one
7   caption. That's Jon Smith?
8   A.   Yes.
9   Q.   And No. 6 shows only one thumbnail and one
10 caption. That is Jane Smith.
11   Do you see that?
12   A.   I do.
13   Q.   And I want to direct your attention back to
14 the claim language of the people view. And we've
15 already discussed the -- I think it's Element 1g that
16 says, "the people view including."
17   Do you remember that?
18   A.   Yes.
19   Q.   And then it refers to "a first person
20 selectable thumbnail image." So that's a first
21 thumbnail image, right?
22   A.   Correct.
23   Q.   And then it continues. This is the
24 letter i, according to the numbering assigned: A
25 first name displayed adjacent to that thumbnail

1   image. Agreed?
2   A.   Correct. Yes, I see that.
3   Q.   And then there's word "displayed adjacent."
4   Now we have a second person selectable
5   thumbnail image, and that's, you know, sub Item j in
6   the claim.
7   Do you see that?
8   A.   I do.
9   Q.   And -- and then, it's "and." A second name
10 displayed adjacent to that second thumbnail image,
11 right?
12   A.   Yes.
13   Q.   And we have already seen that we have the
14 phrase "responsive to" in relation to the people
15 view.
16   A.   Yes. In 1g.
17   Q.   And 1g states: "Responsive to a second
18 input that is subsequent to the first input, causing
19 the people view to be displayed on the interface, the
20 people view including:"
21   You've -- you've seen that, right?
22   A.   Yes.
23   Q.   So at one point the people view is not yet
24 displayed, and then at some point -- and we've had
25 discussions about when or how or what causes it --

19 (Pages 70 to 73)

1   the people view is displayed?
2   A. Okay.
3   Q. So let's say View No. 1 is the view that
4   displays responsive to the second input.
5   A. Okay. You're saying to assume that what's
6   printed in this PDF is what is seen on the user's
7   screen as soon as the people button is pressed?
8   Q. Responsive to the second input.
9   And I know there's -- we've had a
10   discussion earlier in the day and at other times
11   whether or not there may be other buttons or user
12   controls or interactions, you know, after the people
13   button is pressed. I am just focusing now on once
14   the people view displays.
15   Because the claim eventually requires the
16   people view to be displayed, right?
17   A. That's true.
18   Q. So -- and you may have a broader view about
19   what it means to display responsive to the second
20   input, and you can apply your -- your opinion about
21   what "responsive to" means and whether it's a
22   narrower or broader interpretation. But I want you
23   to -- I want to ask you, let's assume that View No. 1
24   is the view that displays responsive to the second
25   input.

1   Does View No. 1 meet the requirements of
2   the people view including a first name displayed
3   adjacent and a second name displayed adjacent?
4   A. I mean, that would be a great question if
5   this were a patent on what's coming out of a laser
6   printer and, therefore, it was -- could not be
7   affected by the user once the paper was pulled out of
8   the laser printer. But the question doesn't really
9   make sense in the context of what's claimed, which is
10   a computer application that is rendered in different
11   ways depending on window size, further user
12   selections, maybe additional mouse gestures.
13   So, yeah, I think we're kind of talking
14   about two different things. You're -- you're really
15   talking about rendering, and the claim, as I read it,
16   talks about what the application can do, which I
17   think is consistent with the preferred embodiment,
18   which is an interaction between the user and the
19   computer with lots of buttons. So if -- if we just
20   talk about, you know, static screens that could just
21   as well be printer output, that really is
22   inconsistent with the disclosed embodiment.
23   Q. Well, let's assume this is a computer
24   screen.
25   A. Okay.

1   Q. And what is shown to the user is exactly
2   what we see under Figure 32, under the label of "View
3   No. 1." And you've testified before that, if it's
4   interactive computer program, things might change. I
5   am just talking about the instant that the view
6   displays responsive to the second input.
7   Does View No. 1 meet the requirements of
8   the claimed people view including a first name
9   displayed adjacent and a second name displayed
10   adjacent?
11   A. I think so. With the caveat that depending
12   on how the user has sized the browser or application
13   window. Not everything that's in this printout might
14   be visible to the user at once.
15   Q. And you made that qualification of not
16   everything that's in this printout might be visible
17   to the user all at once.
18   Are you saying that you may not qualify
19   under the requirements of the people view if not all
20   names are visible to the user all at once?
21   A. No. I'm just pointing out that the
22   assumption that this is what the user sees on the
23   screen, even if, let's say, this is a web page, even
24   if all this information could be rendered on a wide
25   window, it -- nonetheless, this particular screen

1   might still require scrolling by a user to see
2   everything that's included in your printed drawing.
3   Q. So your qualification is -- or relates to a
4   screen size and what might be rendered on a window.
5   I want you to assume what you see under View No. 1 is
6   what fits and is rendered and is visible on a window.
7   A. Okay. I can do that. So it's a nice wide
8   browser window, for example. And everything that we
9   see here in View No. 1 is on the screen at the same
10   time with no scrolling.
11   Q. Then it's your opinion that View No. 1 does
12   meet the requirements of the claimed people view
13   including a first name displayed adjacent and a
14   second name displayed adjacent?
15   A. Yes, I think so.
16   Q. Let's say same qualifications. The screen
17   size is big enough to show the entirety of, you know,
18   what we're calling a view.
19   Let's say View No. 2 is the view that
20   displays responsive to the second input.
21   Does View No. 2 meet the requirements of
22   the claimed people view including a first name
23   displayed adjacent and a second name displayed
24   adjacent?
25   A. I don't think there's enough information

1   from this printout, if you will, to say yes or no.
2   Q. Okay. Well, we're following the language
3   of the claim and a view is caused to be displayed
4   responsive to a second input, and I'm applying your
5   broader interpretation: It's either in response to
6   selecting that people button or maybe selecting that
7   people button and having potentially additional user
8   inputs beyond that. And what the user sees on the
9   screen responsive to the second input -- and this is
10   a -- this is a browser screen -- is exactly View
11   No. 2, and it's all visible to the user. The
12   entirety of what I've labeled as View No. 2 is
13   visible to the user.
14   Does that meet the requirements of the
15   claimed people view including a first name displayed
16   adjacent and a second name displayed adjacent?
17   A. It's -- it's not possible to say from a
18   static printout like this.
19   Q. Okay. You're qualifying this as a static
20   printout, but let's assume that this a browser and
21   it's a user using a -- you know, a browser
22   application. That is what is displayed responsive to
23   the second input, under your interpretation of
24   "responsive to."
25   Is your testimony you cannot tell me if

1   View No. 2 falls within the requirements of the
2   claimed people view including a first name displayed
3   adjacent and a second name displayed adjacent?
4   MR. GREEN: Object to the form.
5   THE WITNESS: Correct. We don't know
6   what else this application can do.
7   BY MR. WERBER:
8   Q. Okay.
9   A. We just see, you know, in your
10   hypothetical, what it was doing at a particular
11   moment in time. So if that's all the application can
12   do and it can never show anybody's name, then I don't
13   see how it could meet the claim, but you can't --
14   (A discussion was held off the record with
15   the reporter.)
16   THE WITNESS: No, I don't see how it
17   could meet the claim.
18   Yeah, I don't see how it could meet the
19   claim if this screen that was captured in a
20   particular moment in time was everything
21   that the application could do.
22   BY MR. WERBER:
23   Q. Okay.
24   MR. WERBER: Why don't we break for
25   lunch and continue. I think I'm probably a

1   little more than half done.
2   Is now a good time? It's okay to take
3   a break for lunch?
4   MR. GREEN: Fine with me.
5   MR. WERBER: And we can go off the
6   record for a moment.
7   (A lunch recess was taken.)
8   - - -
9   A F T E R N O O N S E S S I O N
10   - - -
11   BY MR. WERBER:
12   Q. Dr. Greenspun, we're back on the record
13   after the break.
14   I just want to confirm you had no
15   communications with others regarding your testimony
16   during the break?
17   A. No. I spent the whole break with Mindy,
18   the crippler.
19   Q. Who is Mindy?
20   A. Mindy, the crippler, is our golden
21   retriever.
22   (A discussion was held off the record.)
23   MR. WERBER: Back on the record again.
24   BY MR. WERBER:
25   Q. So, prior to the break, we were looking at

1   View No. -- we were looking at View No. 2. And you
2   testified you could not tell me if View No. 2 falls
3   within the requirements of the claimed people view
4   including a first name displayed adjacent and a
5   second name displayed adjacent; is that correct?
6   A. Yes. I think it -- I think it would -- as
7   I think I said, that it would depend on what -- what
8   else this application was able to do. For example,
9   depending on the user's mouse hovering gestures.
10   Q. Okay. Let's -- let's continue with that
11   scenario and assume -- withdraw.
12   You also testified, in relation to
13   View No. 2, that, if View No. 2 is the view that
14   displays responsive to the second input and
15   View No. 2, which has zero name captions, none of
16   them are captions, is the only view you're --
17   you'll -- you'll ever see, then you testified that
18   View No. 2 would not meet the requirements of the
19   claimed people view, correct?
20   A. Correct. If what you've labeled View No. 2
21   is the only rendering of this multiple people
22   application view that's ever produced by the
23   software, then, no, I don't think that software would
24   meet Claim 1.
25   Q. And you used the word "rendered."

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1   Can you share with us what you mean when
2   you use the word "rendered." And I know this is your
3   field.
4   A.   Sure. Well, I mean, it's pretty simple
5   with the web application. The publisher sends out,
6   for example, HTML, and then the browser renders that
7   according to some combination of what's in -- what's
8   downloaded from the publisher what the user's
9   preferences are and how big the user has sized the
10 browser. So the rendering is what's on the screen at
11 any moment, and the application, I guess, is the
12 starting point for that rendering and view port of
13 pixels that the user can see on the screen.
14   Q.   Are the boundaries of the rendering --
15 let's assume -- let's assume we have a hundred items,
16 a hundred thumbnails but only 20, based on the screen
17 size, only 20 thumbnails can be -- only 20 thumbnails
18 can fit within the boundaries of the screen based on
19 screen size.
20   A.   Okay.
21   Q.   You would need to scroll down with the --
22 you know, the scroll down arrow to see the next 20
23 and the next 20 until you've finally seen, only 20 at
24 a time, all 100, after you've scrolled down enough.
25   Is it your testimony that, when you use --

1   when you -- when you use the word "rendered," are you
2   referring to what -- the boundaries of what is
3   visible to the user on the screen, which is just 20
4   at a time, or is it all are rendered, you just need
5   to scroll down to see them, in your view?
6   A.   I mean, that wasn't part of my analysis,
7   but --
8   Q.   Okay.
9   A.   -- you could perhaps look at it either way.
10   But I think the -- the computer -- the most
11 standard computer graphics term would probably be
12 that what you're seeing at any one moment is the
13 rendering, and the view port needs to be re-rendered
14 in response to the user's scroll gesture.
15   Q.   Let's continue with the example of
16 View No. 3, and I suspect I may get a similar answer
17 from you.
18   Let's assume View No. 3 is the view that
19 displays responsive to the second input.
20   Does View No. 3 or can you tell me if View
21 No. 3 meets the requirements of the claimed people
22 view including a first name displayed adjacent and a
23 second name displayed adjacent?
24   A.   I would need some more information to
25 answer that question.

1   Q.   And is it your testimony that it may or may
2   not be, depending on what can happen next?
3   A.   Yes. And also what is happening. You
4   didn't say where the mouse was, for example. Maybe
5   the mouse is hovering somewhere over nearby the first
6   thumbnail and that's why the caption is displayed.
7   Q.   And why does the position of the mouse
8   matter in terms of whether or not the requirements of
9   the claimed people view are satisfied?
10   A.   Well, if the caption appeared on this
11 rendering because the mouse was hovered over that
12 thumbnail, that would suggest that moving the mouse a
13 little bit to hover over the second thumbnail, for
14 example, would also result in a name being displayed,
15 and that could be the second name of the claim; and
16 therefore, you know, this particular capture of a
17 moment in time from this running application that
18 would suggest to the person of ordinary skill that
19 the software had all of the required elements of
20 Claim 1.
21   Q.   So it is your opinion that -- and we'll
22 also incorporate View No. 4.
23   If View No. 3 is displayed responsive to a
24 second input, it may or may not satisfy the
25 requirements of the claimed people view. However, if

1   View No. 4 can -- sorry.
2   If View No. 3 can transition to View No. 4,
3   which shows Jane Smith but not Jon Smith's caption,
4   then it is your opinion that would meet the
5   requirements of the claimed people view?
6   A.   Yes. It would at least meet the display of
7   two different name -- two different names requirement
8   from 1i and 1k.
9   Q.   So just to confirm, View No. 3 appears but
10 only Jon Smith is shown, is displayed adjacent. Then
11 we transition to View No. 4, and only Jane Smith is
12 displayed adjacent, but not Jon Smith. At no times
13 were both names displayed adjacent simultaneously.
14   That sequence, in your view, can still meet
15 the limitations of the people view of Claim 1, right?
16   A.   Yes.
17   Q.   Let's move to View No. 5 for a moment.
18   Let's's assume that View No. 5 is the view
19 of the display responsive to the second input. And
20 as you see, it only has one thumbnail at this point
21 in time, and it's captioned with one name: Jon
22 Smith.
23   Can you tell me if View No. 5 meets the
24 requirements of the claimed people view including a
25 first thumbnail and a first name displayed adjacent

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1 that thumbnail and a second name --
2   A. If there's no way --
3   Q. -- displayed adjacent to a second
4 thumbnail?
5   A. If there is no way to stay within this view
6 and see a second thumbnail and ultimately a second
7 name, then -- for example, with a scroll bar or
8 changing the sort order or changing the items per
9 page or changing which page of the view we're on,
10 if -- if none of those user actions could result in
11 seeing a second thumbnail, ultimately with a second
12 name, then I don't think it would meet the required
13 elements of Claim 1.
14   Q. And when you say "stay within this view,"
15 you're referring to kind of the border around 32,
16 that's populated within edges and names and other
17 items? Is that what you're saying -- what you meant
18 when you said "stayed within the view"?
19   A. Well, not the outermost border. I would
20 exclude the menu bar at the very top, which includes
21 the search field and buttons like family tree or
22 recipe. So I think if we clicked on one of those
23 buttons, other than people, which is already
24 selected, that would be navigating away from the --
25 the view.

1   But changing the sort order, changing the
2 page -- right now there's only one option -- changing
3 the items per page, those would be examples of
4 staying within the view but seeing possibly some
5 additional items that were included in the view.
6   Q. So in this context, you consider the menu
7 items not part of the view we've been discussing.
8 It's -- it's the box below the menu items, the --
9 that you're considering the view that's relevant,
10 right?
11   A. Yes. Which starts with the word "sort by"
12 in the top left of the box.
13   Q. So let's ask about one more variation.
14 Let's say View No. 5 is the view that displays
15 responsive to the second input.
16   Does View No. 5 meet the requirements of
17 the claimed people view including a first name
18 displayed adjacent a first thumbnail and a second
19 name displayed adjacent to a second thumbnail? And I
20 believe you previously testified a few moments ago
21 that, if it stays on View No. 5 and never changes,
22 then it wouldn't meet the requirements of the claimed
23 people view, right?
24   A. Correct.
25   Q. And then let's say View No. 5 transitions

1 to View No. 6 and the Jon Smith thumbnail image
2 disappears and the Jon Smith name disappears and the
3 Jane Smith thumbnail appears and the Jane Smith name
4 caption appears but never were they displayed at the
5 same time.
6   It's your view that it could meet the
7 requirements of the claimed people view, right?
8   A. Yes. And, in fact, if we just took
9 View No. 1 and rendered it into a very narrow window,
10 you would end up with View No. 5 and something that
11 was almost like View No. 6 by going back and forth
12 with the horizontal scroll bar.
13   Q. If you look at Claim Limitation No. 1i, it
14 recites the words "a first name...displayed adjacent
15 to the first selectable thumbnail image."
16   Do you see that?
17   A. Yes. I see 1i here on Page 7 of the
18 Petition PDF.
19   Q. Do you agree that limitation requires that
20 the first name and first person selectable thumbnail
21 image must, at some point in time, be together
22 displayed simultaneously?
23   A. I don't know. That wasn't the question I
24 was asked to analyze.
25   It does say that it's gonna be adjacent to

1 the first person selectable thumbnail. So the
2 implication is that you would have enough screen
3 space to show both at once, which is the most
4 sensible thing to do.
5   As I've said I think in the previous
6 deposition and maybe my declarations, you know,
7 captioning a photo is -- is the convention, going
8 back to before computers existed.
9   Q. What if we're in a scenario --
10   (A discussion was held off the record with
11 the reporter.)
12 BY MR. WERBER:
13   Q. You opined in Paragraph 11 of your second
14 declaration that the claim merely requires that the
15 first name be displayed at some unspecified time and
16 that the second name also be displayed at some
17 unspecified time.
18   Do you see that?
19   A. Yes. But just to clarify, that's not my
20 opinion. I'm just quoting the board here. Or
21 summarize -- I'm summarizing what the board said, as
22 I understand it.
23   Q. So would it be fair to say, then, that is
24 not your opinion? That is only the board's opinion,
25 and you have not adopted it?

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1   A. Well, you know, I'm not the boss of
2   everyone and everything. So if the board says
3   something, you know, it's -- it's no longer a -- a
4   live issue for expert analysis, to the extent that's
5   something that the board hasn't pointed out.
6   But, no, I think I do agree with the board.
7   It's just that at this point, I'm not sure why my
8   opinion is relevant when we have the board's opinion.
9   Q. So you didn't independently study --
10   withdraw.
11   When you prepared the -- withdraw again.
12   I want you to turn to Exhibit 1003 and just
13   look at the first page. That's your first
14   declaration.
15   A. Okay.
16   Q. And you signed that December 3rd, 2021?
17   A. Yes.
18   Q. Okay. You did not form any opinion in
19   relation to whether or not the people view requires
20   or does not require the simultaneous display of two
21   names, right? As of the time of this declaration.
22   A. I'm -- I'm looking at page 78 of
23   Exhibit 1003.
24   Q. Page 78 or Paragraph 78?
25   A. Page 78.

1   Q. Sorry.
2   A. Yeah. I don't think -- I don't think I
3   addressed that question in my original declaration
4   one -- one way or the other.
5   Q. Okay. At some point, you understood that
6   there may be a dispute as to whether or not the
7   people view limitation requires or does not require
8   the simultaneously -- the simultaneous display of two
9   names, right?
10   A. Yes.
11   Q. You didn't know, at the time of
12   Exhibit 1003, that that was even a possibility;
13   otherwise, you would have rendered an opinion,
14   assuming that was a possible claim construction,
15   right?
16   MR. GREEN: Object to form.
17   THE WITNESS: I'm not a hundred percent
18   sure what you're asking.
19   You're saying if -- if I had been aware
20   of the dispute, then I would have tried to
21   address it?
22   BY MR. WERBER:
23   Q. Yeah.
24   A. Well, if I'd been asked to, yes, I think
25   that's true. As I think I've said somewhere, you

1   know, whether to show captions, whether to show
2   captions only with a mouse hover, you know, to me,
3   that's a simple design choice, and it was never
4   something that I thought was an innovative or unusual
5   part of the claimed invention.
6   Q. I want to be fair here.
7   Your first declaration -- and this is a
8   yes-or-no question.
9   Your first declaration did not offer any
10   opinion as to whether or not the claim limitation
11   itself requires the simultaneous display of two
12   names, right?
13   MR. GREEN: Object to the form.
14   THE WITNESS: I mean, since the word
15   "simultaneous" doesn't appear anywhere in
16   the claim language, it wouldn't have made
17   sense to address that. So I think what
18   you're saying is true, that I didn't address
19   it. But primarily because nobody had
20   pointed out to me that the word
21   "simultaneous" shows up in any of the
22   claims.
23   BY MR. WERBER:
24   Q. And, similarly, you did discuss the
25   obviousness of Limitation 1k, and that's the second

1   name displayed adjacent limitation.
2   Nobody had pointed out or asked you to
3   opine on the obviousness of limitation 1k under the
4   alternative assumption that Limitation 1k requires
5   the simultaneous display of both names, right?
6   A. I think -- I think that's right, yes.
7   Q. So I want to go back to Paragraph 11 of
8   your second declaration, and I believe you said you
9   think it was right.
10   Now that you're -- you know, but you said
11   you did a second declaration, right, much more
12   recently, in the December '22 timeframe, right?
13   A. Yes.
14   Q. And you offered what the board said in your
15   opinion, that the first name can be displayed at some
16   unspecified -- unspecified time and that the second
17   name can also be displayed at some unspecified time,
18   right?
19   A. Yes.
20   Q. You don't think that's wrong, right?
21   A. Yes. As I think I tried to say in
22   Paragraph 11, since the claim language doesn't say
23   "simultaneous," the board correctly points out that
24   the claim doesn't require simultaneous, even if, you
25   know, there may be an illustrated embodiment that

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1 happens to display the name simultaneously.
2 Q. And if we were to look at View No. 5 for a
3 moment and we discussed the scenario where View No. 5
4 is displayed and it transitions to View No. 6. So we
5 see the Jon Smith thumbnail, and then Jon Smith
6 disappears, and then Jane Smith appears sometime
7 later, right?
8 A. Yes. Essentially, that's View No. 1
9 rendered in a very narrow window, and a user could
10 scroll back and forth between what would essentially
11 be View 5 and what would be View 6, just seeing one
12 caption coming out at a time.
13 Q. Is it your opinion -- well, let's -- let's
14 put a couple more specifics on this scenario.
15 Jon Smith displays, and then a whole year
16 passes, and it only shows Jon Smith, and then we
17 transition to Jane Smith 365 days later.
18 A. Okay.
19 Q. At that point in time, by the time we've
20 seen Jane Smith, then we've satisfied that claim step
21 of displaying the people view including the first
22 name displayed adjacent and the second name displayed
23 adjacent?
24 A. I don't know. You know, again, that wasn't
25 something I was asked to analyze, but I've had

1 servers that have run for more than a year, and I
2 guess a user could leave a browser window up for a
3 year --
4 (A discussion was held off the record with
5 the reporter.)
6 THE WITNESS: Okay.
7 So I -- I said I think I've had servers
8 that have been up for more than a year, and
9 the user could have a browser window open
10 for more than a year on a very reliable
11 desktop computer perhaps.
12 So, you know, even though it's kind of
13 a ridiculous scenario, I think that it
14 wouldn't be any different than if the --
15 let's say it's a horizontal scroll, for
16 example. It results in one image at a time
17 being displayed but changing which image it
18 is.
19 Yeah. So I don't think it makes a
20 difference whether it's 365 days, 365 hours,
21 365 minutes or, you know, 365 milliseconds.
22 BY MR. WERBER:
23 Q. I want to direct you to a passage of the
24 specification I'm looking at. I believe it's
25 Column 13. Just give me a moment.

1 Column 13, Line 31, I'll read the passage
2 for you. Are you there? Do you have it available to
3 you?
4 A. Not quite. Give me --
5 Q. Sure.
6 A. -- a moment here.
7 13. Which line?
8 Q. Line 31.
9 A. Okay.
10 Q. And I'll read it just to make sure.
11 "As disclosed in detail herein, the
12 application provides the much needed platform that
13 saves a user significant time, provides significant
14 information with minimal screen space, and provides
15 an appealing and customizable interface that will
16 enhance the user experience."
17 The scenario we've just described where it
18 takes -- where only one thumbnail and name is
19 displayed and then it may take as much as a year for
20 the second thumbnail to be displayed and only one
21 image and thumbnail -- sorry -- one thumbnail and
22 name pairing is shown at any given time, would you
23 agree that's consistent with saving a user
24 significant time and providing significant
25 information with minimal screen space?

1 A. It depends on why there was a long time
2 interval.
3 You know, if somebody builds up a shopping
4 cart on Amazon and doesn't check out until two weeks
5 later, that's not because the Amazon application has
6 failed to support a quicker purchase. It's because,
7 you know, the end user is trying to decide whether
8 perhaps there's some alternative, superior
9 alternative, to what's in the shopping cart.
10 Similarly here, the scenario that I gave
11 you of the user who shrunk a window down so that what
12 you've marked as View 1 ends up rendering as
13 essentially View 5, just a narrower version of
14 View 5, and going to a separate image or the second
15 image would require a little bit of movement of a
16 horizontal scroll bar, that's -- and if the scrolling
17 is happening on a very slow time scale, you know,
18 that's because the user is maybe busy doing something
19 else, not because there's something deficient about
20 the software or the web browser.
21 Q. The claim recites two names and two
22 thumbnails -- recites including two names and two
23 thumbnails, correct?
24 A. Yes.
25 Q. And we -- the discussion we're having

1   doesn't relate to a hundred thumbnails and a hundred
2   names. It's just a minimum of two names and two
3   thumbnails, right?
4   A.   Sure. If we're just talking about the bare
5   minimum to meet the claim and not a practical or
6   useful system, sure, we can limit it to the two
7   thumbnails, each of which has a caption.
8   Q.   And let's assume the first thing the user
9   sees after -- withdraw.
10   We have two scenarios now that you're
11   referring to. There's View No. 1 that shows four
12   names simultaneously and four thumbnails, right?
13   Just four, right?
14   A.   Yes.
15   Q.   And then we have View No. 5 and the
16   View No. 6 scenario, where only one at a time is
17   displayed.
18   Do you see that?
19   A.   Yes.
20   Q.   We also discussed. And -- and you believed
21   the View No. 5 transitioning to View No. 6 scenario,
22   can also meet the limitations of the claimed people
23   view, right?
24   A.   Yes. And more to the point, you know,
25   Rendering No. 5, if you will, and Rendering No. 6 are

1   still the same as Rendering No. 1 but with the user
2   having narrowed the application or browser window to
3   the point that scrolling is required. So 1, 5, and 6
4   could actually all be the same thing in terms of the
5   application itself.
6   Q.   And that's depending on the scrolling?
7   A.   Depending on the user's choice of how wide
8   a window to use when using this application.
9   Q.   Would you agree that the scenario of
10   View No. 1 alone is more consistent with saving a
11   user significant time and providing significant
12   information with minimal screen space as compared to
13   the View No. 5 than View No. 6 scenario?
14   And just to be clear, I want to make sure,
15   we're comparing it to the View No. 5 transitioning to
16   the View No. 6 scenario that we've been discussing in
17   comparison.
18   A.   We're comparing 1 to 5 and 6?
19   Q.   Yeah. One on one hand. View No. 1 alone,
20   where you see four thumbnails and four names
21   simultaneously. And comparing it to 5, where you
22   only see one thumbnail and one name, transitioning to
23   View No. 6, where you only see one thumbnail and one
24   name but it's different.
25   A.   Well, the question doesn't really make

1   sense to me, because, as I said, the easiest way --
2   the only way I can really think of to get to Views 5
3   and 6 would be for a user to adjust the window size
4   so that it was wide enough for only one thumbnail and
5   then scroll back and forth.
6   So it's not that one application is
7   different from another, better than another, more
8   consistent or less consistent with those lines you've
9   quoted, 13, starting at 31. They're all the same
10   application, just showing a different window size,
11   which is the user's choice, not the application
12   author's choice, and different horizontal scroll bar
13   positions, which is also the user's choice and
14   nothing to do with the application developer.
15   Q.   Okay. Let's say we are talking about
16   different applications. And, again, Paragraph 30
17   refers to what the application provides. So I want
18   you to assume we are talking about two different
19   applications.
20   In one application, the application shows
21   View No. 1. The application is programmed to show
22   View No. 1, where you see four thumbnails and four
23   name captions.
24   The View No. 5 and View No. 6 scenario,
25   however, is a different application, and that

1   application is only capable of showing, no matter how
2   wide or narrow or how big the screen is, the
3   View No. 5 transitioning to View No. 6 scenario is an
4   entirely different application that is only capable
5   of showing one thumbnail and one caption at a time.
6   Would you agree that the application that
7   I've just described can meet the requirements of the
8   claimed people view including a first name displayed
9   adjacent and a second name displayed adjacent?
10   A.   I mean, the hypothetical is a little bit
11   hard to process because the renderings, as you've
12   drawn them here, you know, looks like broken
13   software, promises to display up to 20 items per page
14   and it's only displaying one. But if we assume that
15   there is some reason why the programmer would want to
16   just show one image at a time and have the user do
17   something to cause View 5 to turn into View 6, then,
18   yes, I think that could still meet the claim even
19   though, you know, we're in a very strange
20   hypothetical world where somebody just decided to
21   waste a huge amount of screen space, which I don't
22   know why something like that would ever be built.
23   And I wasn't asked to analyze something
24   like that, you know, probably because, I don't think
25   -- I've never seen anything like that.

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1   Q. So just to confirm, an application
2 developer has decided, for whatever reason, to create
3 an application that's limited to showing only one
4 thumbnail and one thumbnail name caption at a time,
5 no matter how big the screen is, and you -- a user
6 using that application sees View No. 5 and then
7 transitions to View No. 6. The two thumbnails are
8 never displayed simultaneous to each other. You
9 transition from View No. 5 directly to View No. 6.
10   It's your opinion that application, when
11 being used that manner, still satisfies the method
12 step of displaying a people view including a first
13 name displayed adjacent and a second name displayed
14 adjacent, right?
15   MR. GREEN: Object to form.
16   THE WITNESS: I think I answered that
17   already in the context of the smart watch.
18   So if you built that as a smart watch
19   application with no wasted screen space, you
20   know, it would make sense, from an
21   engineering point of view, and I think it
22   would meet the elements of the claim. The
23   claim doesn't say it has to be good software
24   or aesthetic software.
25   So I think if that's my answer for the

1 smart watch, which it is, that can also be
2 the answer for this hypothetical for which I
3 currently can't think of any reason why
4 anybody would want to build it, you know, on
5 a desktop computer, just leaving a lot of
6 screen space blank.
7   So, like I said, right now, the only
8 situation that I can think of where it would
9 make sense and where somebody might actually
10 build something that was functionally like
11 what you've drawn in -- what you've labeled
12 Views No. 5 and No. 6 is the smart-watch
13 scenario.
14 BY MR. WERBER:
15   Q. So just to confirm, even if it's not --
16 even if that application we're talking about is not
17 displayed on a smart watch, let's say it's displayed
18 on a -- on a, you know, 15-inch computer monitor,
19 it's your testimony that the application designed to
20 transition from View No. 5 to View No. 6 could meet
21 the requirements of the claimed people view, right?
22   A. Yes. I think so.
23   MR. WERBER: I am ready -- we've gone
24   about an hour, if you want to take a
25   ten-minute break. And I'm going to turn to

1 a new topic.
2   THE WITNESS: Okay.
3   MR. GREEN: Fine with me.
4   MR. WERBER: All right. We'll go off
5   the record.
6   (A recess was taken.)
7 BY MR. WERBER:
8   Q. I want to revisit momentarily the topic we
9 took before the break. And, again, we were comparing
10 two applications, and I wanted to -- there's one
11 question I -- I don't think I -- I asked, and I
12 wanted to make sure I covered it.
13   So, again, before the break, we were
14 comparing two applications. Application A is
15 programmed such that View No. 1 can be displayed, and
16 that would be four thumbnails and four names
17 displayed simultaneously, you know, programmed such
18 that View No. 1 is possible.
19   And then Application B is the application I
20 asked you to consider in comparison, and that is an
21 application that is only capable of displaying one
22 name and one caption at a time and a second name --
23 and a second caption -- or a second name and a second
24 caption at any given time rather than displaying both
25 of them simultaneous.

1   Do you recall that?
2   A. Yes.
3   Q. Back to -- and I believe you testified that
4 you didn't understand why anybody would design a
5 program that operates like an application that
6 operates like Application B that we've been
7 discussing, right?
8   A. Well, I think I -- I did say that, if you
9 were rendering this system on a smart phone, it might
10 end up like that. What I did say, I think, is that
11 one that specifically produced what you've labeled
12 Views 5 and 6 in Exhibit 2024 with a lot of screen
13 space, most of it blank, that that's something I
14 didn't -- that I wasn't able to envision somebody
15 building intentionally.
16   Q. Okay. So, again, we talked about
17 Paragraph 13 and -- sorry -- Column 13 in the '228
18 Patent right around Line 31, and there is the phrase
19 that we discussed: "The application provides the
20 much needed platform that saves a user significant
21 time, provides significant information with minimal
22 screen space, and provides an appealing and
23 customizable interface that will enhance the user
24 experience."
25   My question for you is: If you were to

1 compare Application A that can display four
2 thumbnails and four name captions simultaneously or
3 Application B that can only disclose one caption
4 thumbnail at a time, would you agree that
5 Application B is more consistent with that passage of
6 the specification I just read?
7   A. You're saying -- sorry.
8   Did you say Application B was more
9 consistent?
10   Q. Would you agree that Application A is more
11 consistent with that passage of the specification I
12 just read?
13   A. It would depend on the screen size. So on
14 a smart phone, I would say that Application B might
15 actually be better, requiring swiping to go from one
16 thumbnail with caption to another. But that on a --
17 a desktop computer with a reasonable-size display,
18 that Application A would be more consistent with that
19 statement from Column 13.
20   Q. What about for a smart phone?
21   A. I don't know. That wasn't part of my
22 analysis.
23   The -- it would probably depend, to some
24 extent, on the screen size of the smart phone and
25 user preference. It might be controllable by the end

1 user. Somebody with young eyes might prefer to see
2 more photos even if they're each rendered small, and
3 somebody with older eyes might prefer to see just a
4 handful at a time or maybe even one at a time.
5 And --
6   Q. Okay.
7   A. -- you can see -- and you can see that in
8 real world photo browsers, you know, Google Picasa, I
9 think, is one that I referenced in my original
10 declaration, and that lets you choose whether to see
11 a smaller number of large thumbnails or a larger
12 number of small thumbnails within the selected view
13 port or window that the user has sized.
14   Q. I want to turn to Paragraph 15 of the
15 second declaration, Exhibit 1041. In that
16 paragraph -- just one moment.
17   You state -- and I'm going to Sentence
18 No. 2. You state -- sorry. I'm -- I'm looking in
19 the middle of that paragraph, starting with "In
20 particular." It states: "In particular, the use of
21 mouse hovering to obtain 'pieces of information' a
22 user might otherwise have to'" get -- "'click to get'
23 is a well-known strategy commonly employed to provide
24 the user with the desired result without cluttering
25 the screen with excessive content."

1   So you are mentioning "mouse hovering"
2 here, because that's a topic that's been discussed in
3 the -- in the briefs and in the various expert
4 opinions, right?
5   A. Yes. That it's part of Okamura.
6   Q. Okay. That's fair.
7   So you mentioned "mouse hovering" because
8 Okamura discloses displacing a mouse over a thumbnail
9 to reveal informational text, such as a name caption;
10 is that right?
11   A. Correct.
12   Q. And Okamura and -- you know, is it fair to
13 say -- and I think this is how I understand
14 Paragraph 15. Okamura's mouse hovering feature
15 avoids covering the screen with excessive content by
16 not displaying name captions unless the user
17 indicates they want to see the name captioned; is
18 that right?
19   A. Yes. It's also a standard on the web for
20 the ALT text that's associated with the images,
21 depending on the browser the publisher has provided
22 alternative text to go with an image, like a caption,
23 for example. Sometimes the browser will show that
24 when a user hovers.
25   Q. Now, I want to turn to your first

1 declaration, Exhibit 1003, around Paragraph 143. Let
2 me know when you're there. I think that's PDF
3 Page 78.
4   And you see Limitation 1i at the very top
5 of that page, just above the start of Paragraph 143.
6   Do you see that?
7   A. Yes.
8   Q. So, in relation to the people view, that
9 claim refers to displaying the person's name adjacent
10 to the first person selectable thumbnail image,
11 right?
12   A. Yes.
13   Q. And you discuss the obviousness of this
14 limitation in Paragraph 143?
15   A. Yes, I see that in the last sentence.
16   Q. And then it's a lengthy paragraph, but in
17 the end, you reach a conclusion that "Displaying the
18 name adjacent to the thumbnail image would have been
19 obvious and a POSITA would have been motivated to do
20 so for allowing the user to avoid confusion on which
21 face index belongs to whom."
22   That's the final sentence of that
23 paragraph, right?
24   A. Yes.
25   Q. And that's the conclusion of the opinion

1   you reached in this paragraph in terms of rendering
2   Limitation 1i obvious, right?
3   A. Well, it stands on its own, and I guess it
4   can also be to the rest of the paragraph.
5   (A discussion was held off the record with
6   the reporter.)
7   THE WITNESS: Oh, yeah. Sorry.
8   So I meant to say it stands on its own,
9   but it can also be considered a conclusion
10   to the rest of the paragraph.
11   BY MR. WERBER:
12   Q. And the phrase "avoid confusion on which
13   face index belongs to whom," at the end of that final
14   sentence, that relates to making sure the name is
15   adjacent to the thumbnail image it belongs to rather
16   than being placed somewhere elsewhere where there may
17   be confusion as to which face belongs to which name,
18   right?
19   A. Well, sure. I mean, if you want the text,
20   just so you know what the photo relates to; hence,
21   the standard captioning of illustrations and photos
22   going back, you know, perhaps a couple hundred years,
23   even before photography. You know, if newspapers had
24   an illustration or a drawing, it might have a
25   caption. But certainly going back at least a hundred

1   years.
2   Q. And I was going to ask a better question.
3   You want -- you want the caption adjacent
4   the name, not -- not captioned somewhere else remote
5   from the name, right?
6   A. You want the caption close to the photo
7   and -- so that it's obvious to the user or reader
8   which caption corresponds to which photo.
9   Q. And that's -- that's -- that's the opinion
10   you're -- you're offering here in relation -- in
11   Paragraph 143, right?
12   A. Yes. In addition to the description of
13   what Okamura actually does, yes.
14   Q. I want to turn to Paragraph 16 of your
15   second declaration. Strike that.
16   I want to turn to Paragraph 18 of your
17   declaration.
18   A. Okay.
19   Q. You're referring to displaying the name
20   adjacent to the first person selectable thumbnail
21   image. I think the word "selectable" might have been
22   misspelled or there's a typo.
23   Do you see that in Paragraph 18?
24   A. Yes.
25   Q. You meant selectable, right, not electable?

1   A. Well, it's a quote from --
2   Q. Oh, Okamura.
3   A. I think it might be a quote from my
4   previous declaration, yeah. And in the previous
5   declaration, it was spelled correctly as selectable.
6   Q. Okay. Yes. So you're quoting your first
7   declaration.
8   And then you add -- after the quote, you
9   add, "without additional mouse hovering." And then
10   it continues. And let me withdraw.
11   I want to go back to Paragraph 16. There's
12   a similar phrasing that you've used. And, again,
13   you're quoting your prior declaration near the top of
14   Paragraph 16. "Display the name adjacent to the
15   first person" -- we'll understand it's "selectable
16   thumbnail image," and then it continues, "without
17   additional mouse hovering," and then the text
18   continues from there.
19   So you are proposing a modification of
20   Okamura that does not require mouse hovering to
21   display the name caption, right?
22   A. Yes, that's true. Again, as -- as I
23   explained in my first deposition, that capability can
24   be added to Okamura without taking away the
25   capability of a cleaner display that doesn't have the

1   captions. You don't have to choose one or the other.
2   You would have to choose one or the other in any
3   particular moment. But there could be a user control
4   to show or hide all the captions.
5   MR. WERBER: Okay. Objection. Move to
6   strike as nonresponsive.
7   BY MR. WERBER:
8   Q. I'm just focusing on what's happening in
9   Paragraph 11. And what you said in your prior
10   deposition is on the record.
11   I just want to confirm in Paragraph 11 of
12   your second declaration, you're proposing a
13   modification of Okamura that does not require mouse
14   hovering to display the name caption, right?
15   A. Which paragraph are you referring to?
16   Q. I'll say it the third time and -- and this
17   time I won't mess up the paragraph number.
18   I'm just focusing on Paragraph 16 of your
19   second declaration, and I want to confirm what we're
20   looking at.
21   You're proposing a modification of Okamura
22   that does not require mouse hovering to display the
23   name caption, right?
24   A. Yes. With the understanding that that
25   modification does not take away the ability for

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1 Okamura to display photos without captions until the
2 mouse is hovered.
3   Q. I'm not sure I understood that
4 qualification.
5   And, conditionally, I object and move to
6 strike as nonresponsive again.
7   I want to make sure what you're proposing
8 here.
9   And here in Paragraph 16, you are proposing
10 a modification of Okamura that does not require mouse
11 hovering to display the name caption, right? And I
12 believe you already testified "Yes."
13   Is that correct?
14   A. I mean, sort of. You're -- you're the one
15 who's using the term "modification." So I just want
16 to clarify that I'm talking about adding the
17 capability to Okamura and not subtracting any
18 capabilities from Okamura. And that's captured, for
19 example, where I said, you know, maybe it's a
20 function of user preferences. So that's my way of
21 saying that it's something that the user can control.
22 Just like in Google Maps where a user can control
23 whether to look at the street schematic or a
24 satellite view. Adding -- adding the satellite view
25 to Google Maps didn't take away the capability of

1 showing the schematic of streets.
2   Q. Paragraph 16 doesn't refer to adding
3 functionality, whereas it's possible to display the
4 name without mouse hovering or it's also displays the
5 name only with mouse hovering. Paragraph 16 talks
6 about a scenario that you believe would have been
7 obvious, right?
8   A. I'm not sure I understand the question.
9 But I think it's clear. It says here, as I stated
10 during my deposition, whether to show captions all
11 the time or only just part of the time. It's simply
12 a matter of design choice and maybe a function of
13 user preference. So what I was trying to communicate
14 there is that this is an added feature to
15 Okamura-Belitz.
16   For the court reporter that's
17 Okamura-Belitz. B-E-L-I-T-Z.
18   That's how you get to the only just part of
19 the time, most obviously, that it's something that
20 the user can turn on or off. Depending on personal
21 preference, you might turn it off if all or your
22 photos are of close family members. It wouldn't make
23 any sense to need labels. You're supposed to know
24 what your own children look like.
25   Q. I have another follow-up question.

1   Whether you're proposing to add this
2 feature to Okamura to not recover mouse hovering to
3 display a name or it's a modification to Okamura --
4 and we can debate what you've proposed -- to simply
5 always display the name without mouse hovering, that
6 added functionality or modified functionality was
7 discussed, at least according to your view, in your
8 deposition testimony from back in August, right?
9 That's what you just quoted?
10   A. Sorry. I missed a couple words.
11   You said from your deposition testimony
12 back in --
13   Q. August.
14   A. Okay. Yes. I think the answer is yes.
15 I'm not sure I got the whole question.
16   Q. All right. I just want to make sure we're
17 clear, though, because we're kind of debating two
18 things, and I just want to make sure I'm clear.
19   I've asked if you've proposed a
20 modification to Okamura that would eliminate the need
21 for additional mouse hovering to display a name, and
22 you answered to me, yes, or alternatively, its
23 additional functionality; whereas, you can pick or
24 choose as to whether the house -- the mouse hovering
25 is needed, right?

1   A. I don't know that I said "or
2 alternatively." Basically, I was just clarifying
3 that, you know, modifying a system to have the
4 capability in the software world doesn't mean that
5 you lose any of the previous capabilities.
6   Q. Okay. All right. So with that disclaimer
7 that you made, you may still keep the previous
8 capabilities. You know, you are in Paragraph 16
9 proposing to modify Okamura in a matter such that --
10 that the feature does not require additional mouse
11 hovering, right?
12   A. Yes.
13   Q. And you do quote your prior deposition
14 transcript for that prospect, right?
15   A. Yes.
16   Q. I just want to be clear.
17   Even if that was said during your prior
18 deposition, that is not something that you stated in
19 your first deposition, Exhibit 1- -- sorry -- in your
20 first declaration, Exhibit 1003?
21   A. Well, I'm quoting in this Paragraph 16 my
22 original declaration, Paragraph 143. So I think I
23 did say that in my original --
24   Q. In 143?
25   A. Yes.

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1   Q. We can look at 143 again, but I believe you
2 previously testified that 143 relates to the premise
3 of displaying the name adjacent, not mouse hovering.
4   Let's look at 143, and you can let me know
5 if it discusses anything about the feature requiring
6 mouse hovering.
7   A. I think that last sentence is kind of a
8 catch-all. I was trying to say, you know, displaying
9 the name adjacent to the thumbnail image would have
10 been obvious.
11   As I've explained here and at my last
12 deposition, that's probably because it's a caption.
13 It's always -- the sentence says it's always obvious
14 to display the name of a person adjacent to the
15 thumbnail image of a person.
16   Q. Yeah. But let's be fair.
17   You weren't proposing in Paragraph 143
18 eliminating mouse hovering. In Paragraph 143 -- and
19 I thought this would be noncontroversial. In 143,
20 you were talking about the premise that the name
21 would be adjacent. I didn't see anything about mouse
22 hovering in Paragraph 143. You talked about it at
23 your deposition, though.
24   A. Well, you know, I didn't realize there was
25 gonna be this big focus on mouse hovering. But there

1 wasn't a big focus in my mind on it. It would be, as
2 I said, in that sentence, you know, it's always --
3 it's always obvious to display -- I should have even
4 made it broader, probably.
5   You know, it's always obvious to display a
6 caption next to a photo. It really doesn't matter
7 that it's a photo of a person and that the caption is
8 the name of the person.
9   Q. Paragraph 18 states -- and I'm going back
10 to your second declaration.
11   Paragraph 18 is under the heading relating
12 to first name and second name, right, in your second
13 declaration, Exhibit 1041?
14   A. Yes.
15   Q. So under Paragraph -- in Paragraph 18, you
16 make a similar statement similar to Paragraph 16,
17 relating to displaying the name adjacent, and then
18 you add "without additional mouse hovering."
19   We've just covered that, right?
20   A. Yes.
21   Q. And you cite to two paragraphs,
22 Samsung-1003; that it's your first declaration --
23 Paragraph 130 we've already talked about. And
24 Paragraph 144.
25   I want to make sure we're looking at

1 Paragraph 144 of Exhibit 1003.
2   A. Okay.
3   Q. Paragraph 144 doesn't even mention
4 displaying a name, right?
5   A. That's true.
6   Q. At most, it refers to the operations that
7 can be applied to the first person selectable
8 thumbnail image, and you say they're equally
9 applicable, right?
10   A. Yes.
11   Q. But even if we were to kind of accept that
12 you've incorporated everything you said about the
13 first person -- the first name being adjacent to the
14 first thumbnail image in 143, Paragraph 144 doesn't
15 add anything in terms of displaying the name, right?
16   A. Yeah. That might be a typo, actually.
17 It's possible. I have to look at it a little bit
18 more.
19   But I think I meant to reference
20 Paragraph 145 as well just to -- as -- as you pointed
21 out, 145 is about the -- the display of the second
22 name adjacent to the second person's thumbnail image.
23   Q. Okay. But 145 is similar to 143 in terms
24 of you add that the second name would be different
25 than the first name. And -- and you say that would

1 have been obvious for Okamura, right?
2   A. Yes.
3   Q. And then -- and then you focus on the
4 premise of displaying a second name adjacent to that
5 second thumbnail image, right?
6   A. Yes. I think so.
7   Q. So between 143 and 145, we don't expressly
8 mention mouse hovering or eliminating the need for
9 mouse hovering, right?
10   A. I think that's true, yes.
11   Q. Going back to Paragraph 18 of your new
12 declaration, you also say: "As I stated during my
13 deposition" -- and that's later in Paragraph 18 --
14 "whether to show names all of the time or only just
15 part of the time is simply a matter of design
16 choice."
17   So Paragraph 18 of your current
18 declaration -- your second declaration opines that it
19 would have been obvious to display all the names all
20 of the time, right?
21   A. Yes. Depending on screen resolution and
22 maybe the user's preference, I think. Maybe we
23 talked about this in the deposition.
24   An event photographer might be using this
25 after photographing a corporate event or a wedding

31 (Pages 118 to 121)

1 and wouldn't be very familiar with the names and
2 faces of the subjects. So that event photographer
3 might prefer to see the names always in the
4 interface; whereas, a person who only has -- or
5 primarily has images of close family members would
6 prefer a cleaner display and would be happy to wait
7 for caption information by hovering the mouse.
8   MR. WERBER: I want to object and move
9 to strike as -- as non -- nonresponsive.
10 BY MR. WERBER:
11   Q. I just wanted to confirm that Paragraph 18
12 of your current declaration -- and I'm only focusing
13 on what's offered in the words of your second
14 declaration. I want to confirm that a time that it
15 would have been obvious to display all of the names
16 all of the time?
17   A. Well, I mean, that's what -- that's what it
18 says. I don't know why you want my opinion on that
19 here.
20   Q. Okay. Thank you.
21   Now, you quote your deposition testimony in
22 offering that opinion. That's your August deposition
23 testimony, right?
24   A. Yes, I believe so.
25   Q. You did not cite your declaration -- your

1 first declaration for that opinion, right, the all
2 the time portion of that opinion?
3   A. Yes. I think that's true.
4   MR. WERBER: All right. I think we've
5 been going about 50 minutes. I have maybe
6 about one hour left. Can we take a break?
7   THE WITNESS: Fine with me.
8   MR. GREEN: Fine here.
9   MR. WERBER: All right. I can do a
10 five. I can do ten. I just need a refill
11 on tea.
12   MR. GREEN: I always defer to the court
13 reporter.
14   THE WITNESS: Ten might be better.
15   MR. WERBER: Ten, okay. We'll say
16 4:20.
17   (A recess was taken.)
18 BY MR. WERBER:
19   Q. So I want to turn to Paragraph 34 of your
20 declaration.
21   Are you there?
22   A. Yes. I think it's missing a word. But
23 I -- I do see the paragraph.
24   Q. Well, where are we missing a word, just in
25 case I'm not misreading things that you intended to

1 write.
2   A. I think it should say in the second
3 sentence: "However, for reasons explained above"
4 comma.
5   Q. Okay.
6   A. So the word "above" was left out.
7   Q. Understood. And part of my question refers
8 to that.
9   So Paragraph 34 relates to the obviousness
10 of Claim 18 and in relation to Okamura, right?
11   A. Paragraph 34, yes, refers to Claims 18 and
12 19. And so Claim 18 is covered, yes.
13   Q. And you're addressing here patent owner
14 arguing that Okamura is deficient, right?
15   A. Yes. That's my summary of -- of what's
16 in -- on Page 62 of the Patent Owner Response.
17   Q. Okay. And then you are referring to --
18 you've rendered an opinion that if "responsive to" is
19 adopted -- here in Paragraph 34 -- if -- if a broader
20 definition of "responsive to" is adopted that does
21 not require the second event to always occur
22 automatically without further interaction, then you
23 explain here in Paragraph 34 that Okamura is not
24 deficient, right?
25   A. Correct.

1   Q. Okay. Isn't it true, though, that Okamura
2 requires several user actions and at least one
3 decision between the input of Claim 18 and the
4 display of what you've identified as the first person
5 view?
6   A. I'm gonna just look at the full text of 18.
7 I thought we looked at this in the last deposition.
8   I remember Okamura not being a hundred
9 percent exhaustive about the ways to navigate among
10 its various screens. So I don't think it's clear
11 from Okamura exactly how many mouse gestures or
12 inputs would be required to get to Figure 24.
13   Q. Okay. Well, I just want to confirm a few
14 things, and hopefully, we can go through this
15 quickly, because we've had a few depositions. Some
16 have been in this proceeding; some have been in a
17 different one. But I want to make sure the record's
18 clear.
19   If you look at Okamura, Figure 21, and
20 Okamura is Exhibit 1003 -- sorry -- Okamura is
21 Exhibit 1005, I believe, that I don't know if I've
22 attached. But I will attach it just in case.
23   (Reporter clarification.)
24   MR. WERBER: Go off the record for just
25 a second.

32 (Pages 122 to 125)

1   (A discussion was held off the record.)
2   MR. WERBER: We can go back on.
3   And just to clarify for the record,
4 essentially every exhibit that we've asked
5 about in this deposition and shown to the
6 witness has been previously mark.
7 Exhibit 2024 is the only Exhibit I have
8 actually marked during the course of this
9 deposition today. And I just introduced
10 Exhibit 1005, which is the Okamura
11 reference, and that was previously marked as
12 Exhibit 1005.
13 BY MR. WERBER:
14   Q. I have a couple questions. So Figure 21,
15 if you want to look at that page of Okamura
16 Exhibit 1005.
17   A. Yes, I can see it.
18   Q. Now I need to get to it.
19   So Figure 21, we've discussed this several
20 times before.
21   This is what you've identified as
22 representing the people view, right?
23   A. Yes. I believe so.
24   Q. Okay. And then if you want to look, for
25 example, at Paragraph 246, for example, each of the

1 thumbnail images -- these are face thumbnail
2 images -- they represent a face cluster, right? And
3 it says that in Paragraph 246?
4   A. Yes. I see that.
5   Q. And then I want to skip to Figure 22 for a
6 moment.
7   If you look at paragraph -- so Figure --
8 Figure 22 shows content playback screen 440.
9   Do you see that?
10   A. Yes.
11   Q. And if you go to Paragraph 251 of
12 Okamura --
13   A. Okay.
14   Q. -- near the top -- near the top of
15 Paragraph 251, there is a reference to "The
16 proceeding content display area 442," and "The
17 succeeding content display area 443."
18   So 442, if you look at the figures on the
19 left, 443 is on the right.
20   Is that fair?
21   A. Yes. I see that.
22   Q. 251 at the very end, I believe it's the
23 last sentence, talks about "The contents displayed in
24 the content display area 441" -- that's kind of like
25 the center, right? That's the middle? And then it

1 says: "The preceding content display area 442, and
2 the succeeded content display area 443 are displayed
3 while being made to slide over one another."
4   Do you see that?
5   A. Yes.
6   Q. So, in studying Okamura, you've understood
7 that Figure 22 in a way represents almost like a
8 slideshow feature, where previous content and
9 succeeding content, you know, it slides from one to
10 the next to the next.
11   Is that your understanding?
12   A. Well, that's explicit in Okamura. In
13 Paragraph 250, it says in the first -- at the end of
14 the first sentence that it's gonna be a slideshow.
15   Q. Okay. Yeah. And that's Figure 22 that
16 operates as a slideshow, right?
17   A. Correct.
18   Q. And then Okamura -- I just want to make
19 sure. Okamura also states that content playback
20 screen 440, it scrolls on -- from one to the next in
21 that slideshow format until the user performs "a user
22 operation, for example, a mouse operation" on a
23 desired content to reach content screen 450."
24   And that's Figure 23. And I'm looking at
25 Paragraph 252.

1   A. Okay. I see that.
2   Q. So what Paragraph 252 is describing is, the
3 user has the option of performing a user operation
4 when a -- essentially when a -- when a desired slide
5 arrives, right?
6   A. Yes.
7   Q. And then we display Figure 23, correct?
8   A. Yes. That's the pause slideshow, if you
9 will.
10   Q. That's the pause slideshow.
11   And then in Figure 23, I just want to make
12 sure we can agree that once you've arrived at
13 Figure 23, Screen 450, and that's Figure 23,0
14 attaches face boxes to any faces included. And that
15 is Paragraph -- that's Paragraph 259.
16   Do you see that?
17   A. Yes, I do see that.
18   Q. And once the face boxes are placed, the
19 user can survey the four face boxes in content
20 playback screen 450 shown in Figure 23, and the user
21 would choose one of the four face boxes, right?
22   A. Yes. That's one of the things a user could
23 do. Presumably there would be a way to continue on
24 with the slideshow and not click on any face.
25   Q. Okay. If the user chooses -- and I believe

33 (Pages 126 to 129)

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1 we spoke about this before. If the user chooses,
2 once the user chooses one of those four face box, a
3 desired face, that is when we get to Figure 24,
4 right?
5   A. Yes. That's at least one of the ways to
6 get to Figure 24.
7   Q. And then Figure 24 has the content playback
8 screen 460. That's -- that's -- that's Figure 24,
9 right?
10   A. Yes.
11   Q. And then that content listing that you rely
12 on, that appears in Figure 24 -- sorry, yeah. That
13 appears -- withdraw.
14   The content listing that -- that you are
15 relying on as the "representation of each digital
16 file at the film strip," that displays after you've
17 arrived at Figure 24, right?
18   A. Yes.
19   Q. Okay. Let's turn to a new topic,
20 Paragraph 23 of your second declaration.
21   A. Okay.
22   Q. At the top of Paragraph 23, you say:
23 "Furthermore, contrary to Patent Owner's assertions,
24 Belitz's thumbnails and Okamura's cluster maps are
25 functionally equivalent in the sense that they

1 both" --
2   (A discussion was held off the record with
3 the reporter.)
4 BY MR. WERBER:
5   Q. Okay. I withdraw, and I will start again.
6   I'm looking at the top of Paragraph 23, and
7 I want to ask you about a few of the things you've
8 said in Paragraph 23.
9   The first -- the first sentence says:
10 "Furthermore, contrary to Patent Owner's assertions,
11 Belitz's thumbnails and Okamura's cluster maps are
12 functionally equivalent in the sense that they both
13 convey geographic information."
14   Did I read that correctly?
15   A. Yes, I think so.
16   Q. So let's -- I want to be clear.
17   If we're talking about the thumbnail images
18 themselves, have you opined that the thumbnail images
19 alone convey geographic information, or is it your
20 opinion that it relates to the context in Belitz in
21 which the thumbnail's placed on the map, and that's
22 how it conveys geographic information?
23   A. Yes. Unless the thumbnail is a reduced map
24 of some kind. I don't think I've said that a
25 thumbnail photograph conveys geographic information.

1 What I was referring to is putting thumbnails on a
2 map in positions that correspond to where the photo
3 was taken. That's a means of conveying geographical
4 information about the photos.
5   Q. Let's turn to Paragraph 24.
6   In Paragraph 24, you refer to Okamura's
7 discussion of "related art references (Fujiwara and
8 Takakura)."
9   Do you see that?
10   A. I do.
11   Q. And then, second sentence of Paragraph 24,
12 you say: "However, in both Fujiwara and Takakura, it
13 can be difficult to grasp the geographic
14 correspondence between digital files because their
15 thumbnails are not placed directly on the map."
16   Do you see that?
17   A. Yes.
18   Q. I want to make sure I'm understanding the
19 opinion you're offering.
20   Just to confirm, you are opining that the
21 difficulties Okamura observed with Fujiwara and
22 Takakura occurred because their thumbnails are not
23 placed directly on the map?
24   A. I don't think I said that, no.
25   Q. Okay. Then what are you trying to say?

1   So you're not saying that Okamura said
2 that, right?
3   A. Let me have a look at that section of
4 Okamura. But I think that you're correct,
5 that that's not a quote or even a summary of exactly
6 what Okamura said about these prior art references.
7   Q. Sure.
8   A. Well, actually, come to think of it, that
9 is -- that is one of the things that Okamura may say.
10 In Paragraph 8 of Okamura, it says that "images
11 representing contents," which I think means the
12 contents of the photo database, "and marks indicating
13 the generated positions of these contents," which if
14 memory serves -- you know, analyzing these two
15 references wasn't my primary task, but if memory
16 serves, the marks are kind of like pins on the map.
17 It says they're "displayed relatively far apart from
18 each other."
19   Q. Let's be clear here, though.
20   If I was to ask you about the difference
21 between placing thumbnails on a map -- that's what
22 Belitz does -- and instead -- withdraw.
23   Let's assume we're talking about the
24 difference between placing markers on a map, arrows
25 or dots or whatever is in Fujiwara and Takakura, and,

34 (Pages 130 to 133)

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1 on the other hand, placing thumbnail images directly
2 on the map.
3   Is it your opinion that Okamura expresses
4 that the difficulties observed with these two related
5 art -- art references relate to placing markers on a
6 map rather than thumbnail images on a map?
7   A. I think one thing that Okamura is trying to
8 say about these prior art references is that you
9 can't see as many thumbnail photos at a time and
10 where they are on the map, that you -- if memory
11 serves, you may have to click on one pin at a time to
12 see if the pictures are of an art museum at that
13 location or a sports event.
14   So it's just a -- it's a very navigation
15 and user input intensive way of seeing what's in the
16 photo database compared to something like Belitz
17 where you're seeing a bunch of thumbnails on a map
18 all at once.
19   Q. Is it your testimony that Okamura is trying
20 to say that a problem that Okamura is trying to solve
21 is the ability to see many thumbnails at a time? In
22 relation to Takakura and Fujiwara.
23   A. Well, Okamura actually starts out by
24 describing in text something that sounds an awful lot
25 like Belitz, and Paragraph 12 talks about displaying

1 superimposed images associated with positions in a
2 background image that can be easily grasped as far as
3 their correspondence to the background image.
4   And then Okamura elaborates on the next
5 page, maybe starting at Paragraph 16, their
6 innovative cluster maps, I believe. So I think
7 actually they do kind of refer to a Belitz style of
8 superimposed images on a -- on a map, but then they
9 go on to elaborate their cluster map idea.
10   Q. Yeah. But if you continue, when they're
11 referring to superimposed images, they are talking
12 about using that to create its cluster maps, not
13 superimposed images in the way that Belitz teaches,
14 right?
15   A. I don't know. I don't have an OCR version
16 of this. But I think the first time the word
17 "superimposed" appears it's in Paragraph 12. I'd
18 have to look at this again, but I think it's possible
19 that they do describe a system that can do the
20 relatively simple task of just placing thumbnails on
21 a map, which -- which was already known at the time
22 of Okamura.
23   Q. Okay. Well, if we were to look at
24 Paragraph 272, for example, in the middle of
25 Paragraph 272, we are talking about superimposed in

1 relation to generating a cluster map, which you
2 already referred to, right?
3   A. Yeah. Here again, though, I think they're
4 using the word "superimposed" to mean, you know, the
5 most obvious thing, which is that they're
6 superimposed during the display.
7   Q. Okay.
8   A. And -- and the clustering, you know,
9 grouping of images that happen to be at a similar
10 geographic position or within a close proximity
11 geographically, as described separately as
12 clustering, not as superimposition.
13   Q. Okamura itself did not proceed to disclose,
14 you know, superimposing background images directly on
15 a map, does it? Let me withdraw that question.
16   Okamura does not disclose placing thumbnail
17 images directly on the map, right? Instead, Okamura
18 proposes superimposing cluster maps directly on the
19 background map, right?
20   A. I think, you know, Okamura talks about
21 what's new in Okamura, not about what's old. But I
22 do think that Paragraph 12 may be a reference to the
23 known practice of simply superimposing smallish
24 images, otherwise known as thumbnails, on a
25 background map. I'd have to go back and look at it a

1 little bit more carefully.
2   Q. Okay.
3   A. But they're not describing that as their
4 invention. I think they're describing that as an
5 alternative to the pins of the patent applications
6 that they reference. And then there's fairly
7 extensive discussion of that before we segue into the
8 description of the cluster map system that's -- you
9 know, one of the -- one of the main subjects of
10 Okamura.
11   Q. Let's be clear here, though. If you look
12 at Paragraph 12, isn't it quite possible that
13 Paragraph 12 is using the word "images" pretty
14 broadly, because it's not referring to displaying
15 superimposed images associated with positions in a
16 background map. It is referring to "Displaying
17 superimposed images associated with positions in a
18 background image."
19   Do you see that?
20   A. Sure. But unless the background is a map,
21 there's no way for a superimposed image to have a
22 position within it.
23   Q. Well, if "image" means map in Paragraph 12,
24 wouldn't it also be true that you're displaying
25 superimposed maps associated with positions in a

35 (Pages 134 to 137)

1   background map, which are the cluster map embodiments
2   you've -- you've been -- you were discussing in your
3   declaration?
4   A. Yes. That's also true that, when -- when
5   Okamura is talking about what's new, they refer to
6   these zoomed-in map sections that are displayed in
7   their geographical position on a larger background
8   map, larger scale background map.
9   Q. So, again, I want -- and this kind of goes
10   back. I want to make sure I'm understanding your
11   opinion.
12   Are you opining that the difficulties
13   Okamura observed with Fujiwara and Takakura occurred
14   because their thumbnails -- thumbnail images are not
15   placed directly on the map in Paragraph 24 of your
16   second declaration?
17   A. Yes. I think that is what -- what
18   Paragraph 8 of Okamura is saying that the images that
19   represent the contents -- and by "contents," I
20   believe they mean a cluster of images all taken at,
21   roughly, the same place, and the marks, being the
22   pins on the map, are displayed relatively far apart
23   from each other on the screen. And they're saying
24   that makes it difficult to grasp the correspondence
25   between these images and the geographical positions.

1   I don't have --
2   Q. What's the -- oh.
3   A. I was gonna say I don't have the underlying
4   references up right in front of me, but if memory
5   serves, the images that were displayed somewhere off
6   the map.
7   Q. Okay. But wouldn't it be true that marks
8   indicating the generated positions would be displayed
9   relatively far apart just the same as images would be
10   displayed relatively far apart, right? Whether it's,
11   you know, thumbnail images or markers, they would
12   still be displayed relatively far apart from each
13   other, right?
14   A. I mean, I don't -- I don't think so.
15   'Cause a main subject of Okamura is, what if you have
16   a lot of pictures taken in a relatively small
17   geographic area, like Japan, and then some other
18   pictures that are taken, you know, at various
19   locations around the world.
20   Q. And under that scenario, you would have the
21   scaling problem that we've discussed in two prior
22   depositions. The marks around Tokyo would look
23   possibly even like they're the same marker, and the
24   mark over in Hawaii would either be off the map or
25   barely visible, right?

1   A. Well, you would just have -- you wouldn't
2   have very precise information about where
3   specifically within Tokyo a cluster of images have
4   been taken if you were looking at a map that was
5   zoomed out to a large scale.
6   But, no, it's definitely not the case.
7   They're not complaining about the fact that the pins
8   in the -- I think it's Exhibit 2002 and 2003 -- that
9   the pins would be too far apart.
10   Q. It says: "Marks indicating the generated
11   positions of these contents are displayed relatively
12   far apart."
13   Do you see that?
14   A. Well, you didn't read the whole thing.
15   But, yes, "Images representing contents, and marks
16   indicating the generated positions of these contents
17   are displayed relatively far apart from each other."
18   So the way I read that is they're saying
19   the pin and the thumbnails are displayed in two
20   different parts of the screen.
21   Q. Okay. Now, Okamura, Paragraph 20 --
22   Paragraph 009. And we were talking about this
23   scenario a minute ago. Paragraph 009 of Okamura
24   refers to a "map at a scale sufficiently large to
25   show the countries of the world," right?

1   A. Yes.
2   Q. And then it says: "In this case, marks
3   indicating the generated positions of the images
4   taken in Tokyo and its vicinity" -- and then it gives
5   an example -- "are displayed at substantially the
6   same position, which may make it difficult to grasp
7   the geographic correspondence."
8   Do you see that?
9   A. Yes. This is what I was referring to
10   earlier. And it's the opposite of the problem that
11   you were suggesting they were talking about. This is
12   the marks -- they're not -- they're not too far
13   apart for -- the marks aren't too far apart from each
14   other. They're actually too close together. They're
15   all, you know, on a -- on a world map going to,
16   basically, end up at the same place, in central
17   Japan.
18   And that's a second problem with using
19   the Fujiwara -- and let me just refer to it as
20   Exhibit 2002 and 2003 so that our court reporter
21   doesn't have to spell these names correctly. But,
22   yeah, that's -- that's the second problem.
23   One is that the pins are too far separated
24   from the thumbnails, and the other is that, if you
25   zoom out and you happen to live in Japan and take

36 (Pages 138 to 141)

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1   most of your pictures in Japan, all of the pins are
2   going to essentially be at the same place on the
3   screen.
4   Q. Okay. You said a lot there. I need to
5   dissect that now.
6   You said, pins too far separated from the
7   thumbnails. I want to try to break that apart to
8   make sure I understand.
9   The scenario of Okamura 0009, that refers
10   to a zoomed-out situation, right, to show the
11   countries of the world, correct?
12   A. Correct. A large-scale map, if you would,
13   on a fairly small screen.
14   Q. Okay. And then it refers to marks
15   indicating the generated positions of the images
16   taken in Tokyo are displayed at substantially the
17   same position, right? I just want to make sure
18   that's what we're talking about, the -- the
19   zoomed-out scenario?
20   A. Yes. All the images from greater Tokyo
21   would essentially be at the same pixel or two on a
22   map of the whole world.
23   Q. Okay. And can we agree that whether or not
24   you're using markers or thumbnail images, the -- the
25   large-scale map scenario described in Paragraph 9 of

1   Okamura would be the same, right?
2   A. The problem that they would all end up at
3   the same place would be the same, yes, I think that's
4   true. If you had a more conventional display of
5   thumbnails on a map --
6   Q. Okay.
7   A. -- you would -- you would get into the same
8   problem that is identified in Paragraph 9, which
9   is -- they'd be more or less on top of each other on
10   a large-scale map if -- if they were taken within the
11   same city.
12   Q. And then Paragraph 10 continues. Instead
13   of countries of the world large-scale situation, we
14   have a small-scale situation to show regions in the
15   vicinity of Tokyo, right? That's what Paragraph 10
16   is talking about?
17   Do you see that?
18   A. Yes. They're saying that the system
19   will -- will work a lot better if you zoom in so that
20   the -- the pins are separated sufficiently.
21   Q. Correct. And then near the end it says:
22   "However, it is not possible to display the generated
23   positions of images taken in other regions (for
24   example, the United States or United Kingdom)."
25   So this is the scenario where the pins

1   fall -- or the markers fall off the map? You don't
2   even see those markers, right?
3   A. Off the screen, yes. Yes.
4   Q. Off the screen. Off the screen. Okay.
5   And I just want to be -- be clear here.
6   That would be the same difficulty or the
7   same situation would happen in terms of markers
8   falling off the screen whether or not we're using
9   markers on the map or thumbnail images on the map.
10   We would still have the same difficulty,
11   according to Okamura, right?
12   A. Yes. I think so. You could -- you could
13   think of a thumbnail as just a big marker; and
14   therefore, you'd have the same problem or even a
15   worse one than if you're using small pins.
16   Q. Paragraph 26 of your declaration I'll ask
17   about next. Well, we can start just for context at
18   Paragraph 25.
19   And you observed -- in Paragraph 25 there's
20   a small reproduction. I think patent owner
21   reproduced a portion of one of the graphics that you
22   created from your opinion, right?
23   I think what is happening is you created a
24   graphic based on Figure 41 of Okamura, and you put
25   some thumbnail images on it to -- to -- you know,

1   for -- for your representation of what the
2   combination would look like. I think that's what was
3   happening. And now you're -- you're discussing that.
4   A. Yeah, I just -- sorry. I got distracted.
5   I wanted to augment one of my earlier answers.
6   I think Paragraph 16 may be relevant to the
7   Belitz-style display. It talks about the background
8   images and image representing a map and the
9   superimposed images can represent the plurality of
10   contents, and they just say the images -- they say
11   "the reference image is placed at the set coordinates
12   on the map." So I think that's -- that may be where
13   the Belitz style of display is -- is described.
14   But anyway. So I'm finished -- I'm
15   finished with that.
16   I'd have to take another careful look at
17   this. It's been -- it's been more than a year since
18   I did my initial examination, I think.
19   Okay. So what was the question.
20   Q. Just one minute. Now that you brought up
21   00 -- just one second.
22   So you don't -- I just want to -- I
23   don't -- you don't cite Paragraph 16 anywhere in your
24   first declaration, Paragraph 16 of Okamura, right?
25   A. I don't remember -- I don't remember

37 (Pages 142 to 145)

1　noticing it before. I think I may have skipped ahead
2　to Paragraph 18 where -- I think 18 is where --
3　　　Q. Oh, it was 18 that you were just
4　mentioning?
5　　　A. Well, I think -- I think 18 is where
6　Okamura begins to talk about the cluster maps.
7　　　Q. Okay.
8　　　A. So I -- I'm not sure that I noticed 16
9　before, that it's -- you know, since there's no
10　figures in Okamura showing that more conventional way
11　of just putting the thumbnails on the maps, I'm not
12　sure that I was paying careful attention to
13　Paragraph 16, which describes but does not illustrate
14　the simpler technique of just using a thumbnail image
15　as the -- a reference image for a cluster and placing
16　it at the set coordinates on the map.
17　　　It's 109 pages I'm going to note. So I
18　don't feel too bad for having noticed something new.
19　　　Q. Okay. The -- I want to go back to
20　Paragraph 26, 25 and 26, and I just want to -- want
21　to -- want to clarify and confirm something.
22　　　A. Okay.
23　　　Q. Paragraph 25 of your declaration discusses
24　"Belitz's stated objection [sic] of reducing
25　overlap," right? We can agree that Belitz wanted to

1　reduce overlap; is that correct?
2　　　A. Yes, I think so. And -- and I think Belitz
3　adjusted its clustering procedures with the goal
4　of -- of eliminating overlaps.
5　　　Q. So -- and then you noted, I believe, the
6　Patent Owner's Response provided a cropped
7　reproduction of a -- of a graphic that you created
8　based on -- on Figure 42 of Okamura.
9　　　Do you see that?
10　　　A. Yes.
11　　　Q. And then you noted that it's true that at
12　least the -- the cropped reproduction for the -- you
13　know, the portion shown below in Figure 25, there is
14　some overlap, right?
15　　　A. Yes, there is some overlap in the section
16　that's here reproduced between Paragraphs 25 and 26.
17　　　Q. Correct.
18　　　And then 26 you wanted to note that there
19　was another portion of your illustration that was not
20　shown by patent owner, and that showed that the
21　combination could be achieved without any overlap,
22　right?
23　　　A. Correct.
24　　　Q. Okay.
25　　　A. And -- and that would depend on the scale

1　that the map is presented at. It would depend on how
2　images are clustered, how many are put into a
3　cluster, and how far away you treat images as being
4　eligible to be clustered. But, yes. My point is
5　that it's certainly possible to combine Belitz and
6　Okamura such that --
7　　　Q. Okay.
8　　　A. -- an overlap-free view is available.
9　　　Q. I just want to know -- 'cause you're
10　relying on another section of your -- another portion
11　of your -- of your -- of your graphic that does not
12　show overlap, right?
13　　　A. Yes.
14　　　Q. Now, so long as we're there, what your
15　proposal was, was to replace the cluster maps of
16　Okamura with thumbnail images, at least according to
17　the graphic you created, right? That's your first
18　combination?
19　　　A. Yes.
20　　　Q. And -- and I believe on your second
21　combination is slightly different, but you don't have
22　any cluster maps in the second com- -- combination.
23　　　You're just showing Belitz's screen
24　altogether, right?
25　　　A. Yes. Provide Belitz's screen as an

1　alternative way to browse the photo database that's
2　in Okamura.
3　　　Q. Sure. And now, to be fair, though, this
4　corner of your illustration that you're showing below
5　Paragraph 26, you are not even showing thumbnail
6　image -- thumbnail images for every cluster map
7　there. You're showing only three thumbnail images,
8　right?
9　　　A. Yes, that's true.
10　　　Q. And if you were to do a one-for-one and
11　replace each cluster map with a thumbnail image, you
12　may have -- and there are ones just beneath -- you
13　would have had at least four, maybe five, right?
14　　　A. Yes. I think at least four. I think
15　that's right.
16　　　Q. And there may be two below if you zoom in
17　enough.
18　　　So, under that scenario, there may be
19　overlap again, at least according to what we've been
20　talking about here, right?
21　　　A. True.
22　　　Q. I want to turn to Paragraph 27 for a
23　minute.
24　　　A. Okay.
25　　　Q. And then we have Okamura Figure 41.

38 (Pages 146 to 149)

1   If you want to look briefly at Okamura
2   Figure 41.
3   A.   Okay.
4   Q.   And it discloses a content listing display
5   area 782? Do you see that? That's the film strip
6   with the thumbnail images?
7   A.   Yes.
8   Q.   And you can click on the cluster map 784 to
9   see that film strip at the bottom, correct?
10   A.   I believe so. Yes.
11   Q.   Okay. And you refer to this at the end of
12 your Paragraph 27. I'm focusing on the last sentence
13 of Paragraph 27 of your second declaration.
14   You're opining -- you're stating: "That
15 is, instead of having to click on individual clusters
16 as in Okamura to ascertain which pictures are
17 associated with which locations, Belitz provides a
18 easy-to-implement way for Okamura to provide such
19 information all at once for multiple locations on the
20 map."
21   Do you see that?
22   A.   I do.
23   Q.   So I want to be clear.
24   You're opining that there's a motivation to
25 turn to Belitz because the combination eliminates

1   needing to click on individual clusters and show --
2   and -- and the combination shows thumbnails for
3   multiple locations all at once, right?
4   A.   Correct.
5   It would provide a more comprehensive
6   overview of the photo database in terms of the actual
7   photo content than the cluster map view. So a
8   cluster map view is -- emphasizes giving the user a
9   preview of geographic locations, maybe more precisely
10 than could be achieved through more conventional
11 prior art views.
12   And the Belitz view, which actually may
13 also be the paragraph -- I think it was 16 view of
14 Okamura gives you a quicker sample of the photos in
15 the photo database and -- and less precision
16 regarding where exactly they were taken.
17   Q.   And part of that is eliminating having to
18 click on individual clusters? That was part of what
19 you described as a motivation, right?
20   A.   Yes. Certainly, if you're willing to click
21 about, I don't know, eight or nine times, let's say,
22 in Figure 41, you would get a good sample of what
23 photos were in the database.
24   Q.   In Paragraph 90 and 91 of your original
25 declaration, that's what you're citing to in this

1   paragraph. That original declaration does not
2   discuss the motivation relating to needing to click
3   on individual clusters or eliminating the need to
4   click on individual clusters, right?
5   A.   I don't know. I haven't looked at that in
6   a little while.
7   Q.   Well, you do cite it in your second
8   declaration, right?
9   A.   Well, I meant I haven't -- I haven't
10 focused on that paragraph in the last few days, which
11 is what I would need to know exactly what was in
12 there.
13   Q.   All right. Take a look, if you want, for a
14 moment. Or it might be that -- that you didn't say
15 it, but you're saying it now. I just want to
16 confirm.
17   A.   All right. I have to -- I have to restart
18 my Adobe Acrobat, which it's saying it's out of
19 memory.
20   Q.   I've blown up your Adobe Acrobat.
21   A.   Hold on here.
22   There's plenty of memory on my computer, so
23 I don't know what it's complaining about. But let me
24 quit out of here and start this up again. I'll
25 search for Paragraph 90.

1   Well, I think I do talk about it being
2   essentially easier to preview pictures in the
3   Okamura-Belitz combination than if you're just using
4   the Okamura cluster map. So since it's clear from
5   Okamura that the user has eventual access to every
6   photo in the database, I think this statement is an
7   -- inherently a statement about how it's gonna save
8   the user some navigation in clicking.
9   Q.   Okay. And I just want to make sure,
10 Paragraph 91 and 90, they do not specifically refer
11 to the concept of eliminating needing that extra
12 click, right?
13   A.   I think they do. Because that's what --
14   Q.   Where?
15   A.   -- it means to allow a user to preview. So
16 it's --
17   (A discussion was held off the record with
18   the reporter.)
19   THE WITNESS: That's what it means to
20   allow a user to preview. Anything in the
21   database can be viewed if you're willing to
22   do enough clicking. The preview is, by
23   definition, something that you're able to
24   see in fewer clicks. It's a preview of
25   what's underneath.

MAGNA
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1   BY MR. WERBER:
2   Q. But isn't it true that a thumbnail image
3 itself, can also be a preview, before you see the
4 full-size image, right?
5   A. Correct. Yes. For example, you could have
6 a -- a film strip of 20 thumbnails, and that gives
7 you a -- a preview of the 20 full-size images.
8   Q. So when you referred to a preview before,
9 it's possible you were just referring to the fact
10 that you're shown thumbnails, which is a preview of
11 the larger image rather than a preview without
12 needing a click, right?
13   A. I don't know. That doesn't make sense to
14 me. It's not a preview unless -- if you have to
15 click, click, click to see a bunch of things,
16 that's -- that means you didn't have a preview. If
17 you can see a bunch of items without clicking, then
18 that is a preview.
19   Q. It's your testimony if you -- if you have
20 to make one click and then you see a film strip with
21 thumbnail images, those thumbnail images don't
22 qualify as a preview of the -- the full-size image?
23   A. Sure. They -- they are.
24   But what I was trying to say here is that
25 the -- the Belitz system lets you look at -- you

1 could probably say preview pictures associated with
2 multiple locations, not just a given location. But
3 it lets you preview the pictures at any given
4 location on the map without doing any clicking.
5   Q. Now, so we have an arrangement in Okamura
6 where you can click on a cluster map in Figure 41 and
7 see at one time multiple locations per cluster,
8 right?
9   A. Multiple images per cluster or multiple --
10   Q. Multiple -- multiple thumbnail images per
11 cluster, right?
12   A. Yes. I -- I believe so. And --
13   Q. Okay. And I just want to -- I want
14 rephrase and withdraw and just ask it again the right
15 way.
16   In the arrangement in Okamura, Figure 41,
17 you have functionality where you can click on an
18 individual cluster and you see a film strip with
19 multiple thumbnail images for that individual
20 cluster, right?
21   A. Correct.
22   So you click and you get a preview of all
23 of the images that you are in that cluster.
24   Q. And in the arrangement of Belitz, you may
25 see, to some extent, multiple thumbnail images on the

1 map for separate clusters, correct?
2   A. Correct. Each -- each thumbnail represents
3 a cluster.
4   Q. But you would only see one thumbnail image
5 at a time on the map for each cluster location,
6 right?
7   A. True.
8   Q. And if you were to apply Belitz's --
9 Belitz's functionality to avoid overlap, you may see
10 fewer thumbnail images on the map compared to how
11 many cluster maps would be shown on the map in
12 Okamura, depending on the size of the thumbnail
13 images, et cetera, right?
14   A. Yes. I guess that's true. If you -- if,
15 when combining Belitz with Okamura, you insisted on a
16 no-overlap situation for the thumbnails, you would
17 end up having larger clusters, I think.
18   Q. And then some -- and we've discussed this
19 at a prior deposition.
20   But if you eliminate a cluster map and
21 replace it with a thumbnail image, some of the
22 geographic details inside the cluster map circles,
23 roads or landmarks, additional cities may be lost and
24 you would only see one image at that location, right?
25   A. Yes. That's true in the first combination

1 that I described in my first declaration, where you,
2 for example, use a thumbnail instead of the cluster
3 map; you would get more information about the photos
4 and less information about where precisely the photos
5 were taken.
6   Q. And that's true for the second combination
7 too; you're just taking the entirety of the Belitz
8 map wholesale, right? You -- you wouldn't have
9 cluster maps anymore?
10   A. Yes. That's also true for the second
11 approach.
12   Q. So would it be fair to say it's -- it's a
13 trade-off, at least in your view? You could have --
14 there may be benefits to one or there may be benefits
15 to the other? Would you agree that it's a trade-off?
16   A. Yes. I mean, but -- but all of the
17 multiple ways of browsing the Okamura database, the
18 multiple views, if you will, they have their
19 advantages and disadvantages.
20   So this combination of which has become one
21 more alternative for the user. And the users who
22 were more interested in specific geography might
23 choose the cluster map, and either the same user, who
24 is more interested in finding a particular type of
25 photo, might choose the Belitz-style view.

40 (Pages 154 to 157)

MAGNA
LEGAL SERVICES

1   You know, concretely, suppose the user were
2 looking for a photo of a soccer game, a good photo of
3 a soccer game, he or she might not really care where
4 it was taken exactly. So the Belitz view would be
5 better. It would enable quick navigation to a photo
6 of a soccer game.
7   If, on the other hand, a user needed a
8 photo of a specific house, you know, let's -- or a
9 building -- let's say it's an architectural
10 photographer -- that user might choose the Okamura
11 Figure 41 view.
12   Q. Okay. I got just a couple more questions.
13   If you turn to Paragraph 31 of your
14 declaration, your second declaration --
15   A. Okay.
16   Q. -- and you note -- and you are referring to
17 Patent Owner's Response, Paragraphs -- Pages 55
18 through 56.
19   Do you see that?
20   A. Yes.
21   Q. And you refer to patent owner adding a
22 large -- what you call a large and opaque border
23 around Belitz's thumbnail images, right?
24   A. Yes.
25   Q. If -- at least if we take Figure 41

1 unmodified, there -- there -- would you agree there
2 are seven cluster maps on the left side and -- and --
3 and I believe there are five on the right side?
4   A. That sounds right.
5   Q. And if we were to -- and it's not an exact
6 science, but if we were to try to apply Belitz's
7 feature to avoid overlaps, we may only end up with,
8 at this zoom level, just two thumbnail images, right?
9   A. Yes. If we insisted on a -- if we insisted
10 on a display with -- where two thumbnails never
11 overlapped --
12   Q. Okay.
13   A. -- we might have, I'd say, maybe -- maybe
14 three on the left at the most and one, two, three, on
15 the right.
16   Q. And once you do that, some of -- at least
17 some of the geographic information inside the circles
18 may be -- well -- well, let me say it this way: The
19 more that it consolidates, the fewer thumbnail images
20 you'll see, right?
21   A. That's true.
22   Q. Or if you place seven thumbnail images on
23 the left and five thumbnail images on the right, one
24 for one, you would be hiding the geographic
25 information beneath, right?

1   A. That's true. You might be able to address
2 that with some mouse hovering gestures that would
3 bring the map back to the foreground. But if we
4 assume, you know, again, that somehow this is more
5 like a printed out and you can't adjust the display
6 in real-time with the mouse, then, yes, you'd have to
7 pick one or the other, the map or the thumbnail.
8   MR. WERBER: Those are all the
9 questions I have. I pass the witness.
10   MR. GREEN: Let me look. Just a
11 second.
12   MR. WERBER: Sure.
13   MR. GREEN: I don't think we have any.
14 So we are complete.
15   MR. WERBER: Thank you again,
16 Dr. Greenspun. And we can talk to Darline
17 about the transcript orders. And I will see
18 you as soon as, I think, next week.
19   THE WITNESS: All right. I'll say
20 good-bye. Thanks, everybody.
21   MR. WERBER: We're off the record.
22   (A discussion was held off the record with
23 the reporter.)
24   MR. GREEN: We don't really need a
25 rough or a rush or anything.

1   MR. WERBER: From my side, Darline,
2 we're the ones with the brief due soon.
3 We'll take the rough tonight, and then maybe
4 by Monday, do you think you could get a
5 transcript to us? I guess it would be a
6 rush.
7   THE COURT REPORTER: Sure.
8 (Signature was not waived. The deposition
9 adjourned at 5:52 p.m.)
10
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CERTIFICATE OF OATH

1
2
3 STATE OF FLORIDA
4 COUNTY OF PALM BEACH
5
6
7   I, the undersigned authority, certify that DR.
8 PHILIP GREENSPUN personally appeared before me and
9 was duly sworn on January 19, 2023.
10
11   WITNESS my hand and official seal this 23rd day
12 of January 2023.
13
14
15   _____
16   DARLINE MARIE WEST
         Notary Public
17
18
19 My Commission Expires:
    October 26, 2025
20 #HH 161248
21
22
23
24
25

REPORTER'S CERTIFICATE

1
2
3 STATE OF FLORIDA
   COUNTY OF PALM BEACH
4
5   I, DARLINE MARIE WEST, RPR, certify that I was
6 authorized to and did stenographically report the
7 foregoing deposition; and that the transcript is a
8 true record thereof.
9
10   I further certify that I am not a relative,
11 employee, attorney, or counsel of any of the parties,
12 nor am I a relative or employee of any of the
13 parties' attorney or counsel connected with the
14 action, nor am I financially interested in the
15 action.
16
17   Dated this 23rd day of January 2023.
18
19
20
21   _____
22   DARLINE MARIE WEST, RPR
23
24
25

JURAT PAGE

1
2
3 STATE OF FLORIDA
   COUNTY OF PALM BEACH
4
5   I, DR. PHILIP GREENSPUN, hereby certify that
6 I have read the foregoing transcript of my deposition
7 and that the statements contained therein, together
8 with any additions or corrections made on the
9 attached Errata Sheet, are true and correct.
10
11   Dated this _____ day of _____, 2023.
12
13   _____
         DR. PHILIP GREENSPUN
14
15
16   The foregoing certificate was subscribed to
17 before me this _____ day of _____, 2023,
18 by the witness who has produced a
19 _____ as identification and who did
20 not take an additional oath.
21
22
23 _____
24 Notary Public
25 my commission expires:

1   E R R A T A S H E E T
2   IN RE: Samsung Electronics Co., Ltd., et al. v.
           MemoryWebb, LLC
3
    DEPOSITION OF: DR. PHILIP GREENSPUN
4
    TAKEN: 01/19/2023
5
    Reported by: Darline Marie West, RPR, FPR, CLR
6
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9   _____
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19 Please forward the original signed errata sheet to
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20 parties.
21 Under penalty of perjury, I declare that I have read
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25

42 (Pages 162 to 165)

MAGNA
LEGAL SERVICES

A

a.m
1:18
ability
113:25 134:21
able
4:21 24:18 81:8
105:14 153:23
160:1
absence
33:9,14
absent
33:20
accept
71:2 120:11
access
153:5
accurate
5:7
achieved
147:21 151:10
Acrobat
4:23 152:18,20
action
28:25 163:14,15
actions
16:19 17:23 18:4,9
20:8 86:10 125:2
actual
10:9 17:22 151:6
adapt
47:24
add
15:9 26:10 37:16
112:8,9 116:1
119:18 120:15,24
added
22:8 43:25 112:24
115:14 116:6
adding
114:16,24,24 115:2
158:21
addition
111:12
additional

8:21 15:17 16:12
17:23 19:19 24:4
28:16,25 29:19,22
35:2,4 36:21,21
44:11,18,19 45:5
52:22 55:18 75:12
78:7 87:5 112:9,17
116:21,23 117:10
119:18 156:23
164:20
additionally
39:23 40:10 42:14
additions
164:8
address
91:21 92:17,18 160:1
addressed
91:3
addressing
124:13
adjacent
72:25 73:3,10 75:3,3
76:9,10 77:13,14,23
77:24 78:16,16 79:3
79:3 81:4,5 83:22
83:23 85:10,12,13
85:25 86:3 87:18,19
88:14,25 93:1 94:22
94:23 101:9,9
102:13,14 109:9,18
110:15 111:3,20
112:14 118:3,9,14
118:21 119:17
120:13,22 121:4
adjourned
161:9
adjust
24:15 36:22 100:3
160:5
adjusted
62:14 66:19 147:3
administered
5:11
Adobe
9:8 152:18,20
adopted

89:25 124:19,20
advantages
157:19
aesthetic
102:24
affect
63:11
age
19:20
ago
8:10,25 30:13,16
87:20 140:23
agree
5:15 23:23 27:9 33:2
33:6 34:2,4 38:21
38:23 51:17,23
60:24 61:10,14
64:24 65:17 67:12
69:9,15 88:19 90:6
96:23 99:9 101:6
106:4,10 129:12
142:23 146:25
157:15 159:1
agreed
39:11 67:5 73:1
agreeing
33:12
agreement
1:16
ahead
146:1
al
1:5 165:2
allow
153:15,20
allowing
109:20
alphabetical
19:18,18 22:22
ALT
108:20
alternative
93:4 97:8,9 108:22
137:5 149:1 157:21
alternatively
116:22 117:2

altogether
148:24
Amazon
97:4,5
amount
30:21 101:21
analysis
83:6 90:4 106:22
analyze
88:24 94:25 101:23
analyzing
133:14
annotated
13:8 14:14,18
annotations
70:15
answer
7:11 21:25 30:12,16
32:7,8 35:16 36:19
37:6 38:5 47:20
83:16,25 102:25
103:2 116:14
answered
102:16 116:22
answers
5:7 145:5
anybody
103:4 105:4
anybody's
79:12
anymore
157:9
anyway
7:5 56:4 145:14
apart
16:23 39:2 133:17
138:22 139:9,10,12
140:9,12,17 141:13
141:13 142:7
apologies
34:12 70:11
APPEAL
1:2
appealing
96:15 105:22
appear

5:1 92:15
APPEARANCES
2:1
appeared
19:24 84:10 162:8
appearing
35:10 37:1
appears
50:14 52:19 85:9
88:3,4 94:6 130:12
130:13 135:17
applicable
120:9
application
17:11,20 25:17 32:15
32:17,25,25 34:5,7
36:16,17 43:9 52:7
53:14 55:5,10 57:5
57:20 62:16 65:25
66:4,5,8,16 68:7,24
69:5 70:23 75:10,16
76:12 78:22 79:6,11
79:21 81:8,22 82:5
82:11 84:17 96:12
97:5 99:2,5,8 100:6
100:10,11,14,17,20
100:20,21,25 101:1
101:4,6 102:1,3,6
102:10,19 103:16
103:19 104:14,19
104:19,21 105:5,6
105:19 106:1,3,5,8
106:10,14,18
applications
100:16,19 104:10,14
137:5
applied
33:9 120:7
apply
74:20 156:8 159:6
applying
78:4
appreciate
69:25
approach
157:11

appropriate
7:6
architectural
158:9
area
127:16,17,24 128:1,2
139:17 150:5
argue
52:19
argues
23:9
arguing
124:14
arrangement
155:5,16,24
arrived
129:12 130:17
arrives
129:5
arrow
82:22
arrows
133:24
art
132:7 133:6 134:5,5
134:8,12 151:11
ascertain
150:16
aside
20:12 47:8 69:17
asked
37:10 41:3 45:10,10
46:21 88:24 91:24
93:2 94:25 101:23
104:11,20 116:19
126:4
asking
4:25 21:11 31:22
40:23 68:1 91:18
aspects
29:5 69:4
assertions
130:23 131:10
assigned
72:24
associated

56:13 57:21 58:9
108:20 135:1
137:15,17,25
150:17 155:1
assume
26:8 29:13 35:23
48:7 49:17 74:5,23
75:23 77:5 78:20
81:11 82:15,15
83:18 85:18 98:8
100:18 101:14
133:23 160:4
assumed
26:13
assuming
42:10 91:14
assumption
35:13 76:22 93:4
assumptions
37:25
Atlanta
2:5
attach
24:17 125:22
attached
3:19 125:22 164:9
attaches
129:14
attention
13:8 36:10 72:13
146:12
attorney
10:1 163:11,13
augment
145:5
August
36:5 37:6 38:3,5
116:8,13 122:22
author's
100:12
authoring
27:16
authoritative
8:12
authority
162:7

authorized
163:6
authors
23:2
automatic
52:20
automatically
124:22
available
9:20 37:18,22 42:9
96:2 148:8
avoid
109:20 110:12 156:9
159:7
avoids
108:15
aware
91:19
awful
134:24

B

B
3:11 10:10 104:19
105:6 106:3,5,8,14
B-E-L-I-T-Z
115:17
back
11:25 14:1,12 26:25
30:4 36:5 37:6 38:3
38:5,11 40:3,16
46:10 54:3,21,24,24
59:13,14 60:25
67:21 68:17 72:13
80:12,23 88:11 89:8
93:7 94:10 100:5
105:3 110:22,25
112:11 116:8,12
119:9 121:11 126:2
136:25 138:10
146:19 160:3
background
135:2,3 136:14,19,25
137:16,18,20 138:1
138:7,8 145:7
bad

146:18
bandwidth
24:7,9 26:15 29:7
30:16,22 37:17,22
64:1
bar
35:1 56:2,8 62:16
86:7,20 88:12 97:16
100:12
Barcelona
6:8
bare
98:4
barely
139:25
based
15:7 21:25 22:9
82:16,18 144:24
147:8
basically
70:24 117:2 141:16
battery
26:15 29:11
BEACH
162:4 163:3 164:3
begins
61:3 146:6
behalf
2:2,11 4:10
behavior
51:10
believe
7:18 9:13,25 12:9
13:12 18:25 23:15
47:12 48:1 68:18
87:20 93:8 95:24
105:3 114:12 115:6
118:1 122:24
125:21 126:23
127:22 129:25
135:6 138:20 147:5
148:20 150:10
155:12 159:3
believed
98:20
Belitz

131:20 133:22
134:16,25 135:7,13
145:13 146:25
147:2 148:5 150:17
150:25 151:12
154:25 155:24
156:15 157:7 158:4
Belitz's
130:24 131:11
146:24 148:23,25
156:8,9 158:23
159:6
Belitz-style
145:7 157:25
belongs
109:21 110:13,15,17
beneath
149:12 159:25
benefits
157:14,14
better
35:25 43:24 48:23
100:7 106:15 111:2
123:14 143:19
158:5
beyond
35:4 78:8
big
61:18 65:7 77:17
82:9 101:2 102:5
118:25 119:1
144:13
bit
31:14 47:23 51:20
53:11 65:5 84:13
97:15 101:10
120:17 137:1
blank
33:19 103:6 105:13
blasting
14:6
blown
152:20
board
1:2 89:20,21 90:2,5,6
93:14,23

board's
89:24 90:8
border
86:15,19 158:22
bored
69:20
boss
90:1
bottom
17:15 19:12 20:24
22:1 24:3 39:12
51:7,14 52:2,5
53:19 55:1,13 56:7
56:21 57:11,17
58:16,21 150:9
boundaries
82:14,18 83:2
box
15:18 87:8,12 130:2
boxes
129:14,18,19,21
break
6:24 7:1,4,5 12:11
13:25 54:9 55:6
69:19 79:24 80:3,13
80:16,17,25 103:25
104:9,13 123:6
142:7
brief
161:2
briefly
150:1
briefs
108:3
bring
160:3
bringing
10:16
broader
74:18,22 78:5 119:4
124:19
broadly
137:14
broken
101:12
brought

145:20
browse
149:1
browser
31:7,9 76:12 77:8
78:10,20,21 82:6,10
95:2,9 97:20 99:2
108:21,23
browsers
31:4 107:8
browsing
9:8 63:9 157:17
build
103:4,10
building
105:15 158:9
builds
97:3
built
101:22 102:18
bunch
134:17 154:15,17
busy
97:18
button
17:24 19:5 20:9 31:5
31:18 34:25 35:4
39:7,19 40:4 41:24
49:7,15 55:11 74:7
74:13 78:6,7
buttons
22:25 39:24 40:11
42:15 74:11 75:19
86:21,23

C

C
4:1 10:10
call
9:23 10:25 15:16
18:14 25:19 70:16
158:22
called
4:10 15:10 52:6 71:4
calling
77:18

capabilities
17:22 31:24 114:18
117:5,8
capability
112:23,25 114:17,25
117:4
capable
63:16 101:1,4 104:21
caption
15:7 35:9 36:18,25
72:7,10 84:6,10
85:3 88:4 94:12
98:7 101:5 102:4
104:22,23,24 106:3
106:16 108:9,22
110:25 111:3,6,8
112:21 113:14,23
114:11 118:12
119:6,7 122:7
captioned
5:2 15:3 71:5,13,23
72:3 85:21 108:17
111:4
captioning
89:7 110:21
captions
15:11 20:14 21:12,19
22:15,17 28:22 29:2
30:8,20 34:10 81:15
81:16 92:1,2 100:23
106:2 108:16 113:1
113:4 114:1 115:10
capture
84:16
captured
79:19 114:18
care
158:3
careful
145:16 146:12
carefully
25:25 30:24 37:14,21
137:1
cart
97:4,9
case

5:4 7:23 8:11,14 9:17
12:25 22:9 57:25
62:10 65:10 66:16
123:25 125:22
140:6 141:2
catch-all
118:8
caught
46:11
cause
101:17 139:15 148:9
cause'
16:19,20
caused
55:19,20 78:3
causes
14:1 73:25
causing
38:16 59:18 60:3
73:18
caveat
76:11
center
127:25
central
141:16
certain
44:4
certainly
110:25 148:5 151:20
certificate
3:5,6 162:1 163:1
164:16
certify
162:7 163:5,10 164:5
cetera
156:13
Cgreen@fr.com
2:7
challenged
10:19
change
20:22 22:6 50:20
63:4,12,22,23,25
65:10 76:4 165:7
changed

62:15
changes
64:10 87:21 165:6,22
changing
86:8,8,9 87:1,1,2
95:17
chat
3:18 4:19,20 7:15,25
9:4,14,15 10:7,18
24:18 36:9
check
97:4
Chicago
2:14
children
115:24
choice
23:1 24:6 30:1 31:3
35:15 37:18 41:10
64:3 92:3 99:7
100:11,12,13
115:12 121:16
choices
66:10
choose
21:17 24:14 107:10
113:1,2 116:24
129:21 157:23,25
158:10
chooses
22:16 65:8 129:25
130:1,2
chosen
22:11
Chris
69:20
CHRISTOPHER
2:8
circles
156:22 159:17
cite
25:1 27:1 119:21
122:25 145:23
152:7
cited
13:4 23:16 24:24

cites
23:8 27:4,5
cities
156:23
citing
151:25
city
143:11
claim
10:20 11:1,3,6,7,10
11:13 12:7,10,13
30:4,5 38:25 39:2
40:16,17,17,19,25
41:15 42:2,18,22
43:4,11,14,18,21
46:16 47:11 48:19
49:9 51:16,18,22,23
52:10,15 53:20,23
60:18 61:12 62:25
63:1 64:15,25 65:18
66:24 67:3,6,9,13
68:23 69:5,13,13
72:14 73:6 74:15
75:15 78:3 79:13,17
79:19 81:24 84:15
84:20 85:15 86:13
88:13 89:14 91:14
92:10,16 93:22,24
94:20 97:21 98:5
101:18 102:22,23
109:9 124:10,12
125:3
claimed
39:15 47:11,12 48:19
48:21 61:24 75:9
76:8 77:12,22 78:15
79:2 81:3,19 83:21
84:9,25 85:5,24
87:17,22 88:7 92:5
98:22 101:8 103:21
claims
10:9,19 11:14,15,16
37:12 38:12 47:5
92:22 124:11
clarification
125:23

MAGNA
LEGAL SERVICES

clarify
89:19 114:16 126:3
146:21
clarifying
117:2
clean
7:25 8:2,22 9:5,10,11
cleaner
112:25 122:6
clear
18:1 19:22 21:7
23:22 26:24 28:19
31:14,22 42:21
43:25 51:1,8 53:9
58:5 71:21 99:14
115:9 116:17,18
117:16 125:10,18
131:16 133:19
137:11 144:5
150:23 153:4
clearly
13:20 18:8
click
18:18 31:9 40:13
50:19 107:22
129:24 134:11
150:8,15 151:1,18
151:20 152:2,4
153:12 154:12,15
154:15,15,20 155:6
155:17,22
clicked
19:25 50:3 86:22
clicking
20:8 22:14 31:17
34:25 35:8 36:24
42:7 153:8,22
154:17 155:4
clicks
34:21 39:23 40:10
42:14 56:23 153:24
clock
54:13
close
111:6 115:22 122:5
136:10 141:14

closed
6:16
closely
39:3
CLR
165:5
cluster
42:9 127:2 130:24
131:11 135:6,9,12
136:1,18 137:8
138:1,20 140:3
146:6,15 148:3,15
148:22 149:6,11
150:8 151:7,8 153:4
155:6,7,9,11,18,20
155:23 156:3,5,11
156:20,22 157:2,9
157:23 159:2
clustered
148:2,4
clustering
136:8,12 147:3
clusters
42:8 49:2 150:15
151:1,18 152:3,4
156:1,17
cluttering
107:24
clutters
49:4
coffee
69:21
collections
56:3 62:18
Column
19:1,1 20:24 22:1
23:17 24:4 25:13,25
26:1 28:20 32:13,14
55:23,25 56:10,17
56:25 58:12 95:25
96:1 105:17 106:19
Columns
30:2,24 37:14
com-
148:22
combination

82:7 145:2 147:21
148:18,21,22
150:25 151:2 153:3
156:25 157:6,20
combine
148:5
combining
156:15
Comcast
37:12 38:2
come
7:3 133:8
coming
75:5 94:12
comma
124:4
commencing
1:17
commission
162:19 164:25
commonly
107:23
communicate
6:23 115:13
communication
6:19
communications
37:19 80:15
compare
106:1
compared
99:12 134:16 156:10
comparing
41:15 99:15,18,21
104:9,14
comparison
99:17 104:20
complaining
140:7 152:23
complete
160:14
completely
17:10 66:25
components
44:20
comprehensive

151:5
computer
6:12 7:20 8:12 17:11
26:7 29:6 30:13
34:16,19 35:12,23
37:11 38:1,6 62:20
75:10,19,23 76:4
83:10,11 95:11
103:5,18 106:17
152:22
computer's
35:25
computers
44:16 66:4,15 89:8
computing
26:15 30:17,22 37:17
concept
153:11
conclusion
109:17,25 110:9
concretely
158:1
conditional
35:22
conditionally
114:5
confirm
6:11,18 8:15 13:16
28:2 40:25 57:3
80:14 85:9 102:1
103:15 113:11,19
122:11,14 125:13
132:20 146:21
152:16
confused
42:1,13
confusingly
13:14
confusion
109:20 110:12,17
connected
6:15 163:13
connection
13:21 26:7 31:11
35:24 38:6 49:25
conserve

24:8
consider
71:3 87:6 104:20
considerably
67:2
considered
45:4 110:9
considering
87:9
consistent
31:23 75:17 96:23
99:10 100:8,8 106:5
106:9,11,18
consolidates
159:19
construction
91:14
contained
164:7
contemplated
19:20
contemplates
16:18 29:14
content
107:25 108:15 127:8
127:16,17,24 128:1
128:2,8,9,19,23,23
129:19 130:7,11,14
150:4 151:7
contents
127:23 133:11,12,13
138:19,19 140:11
140:15,16 145:10
context
60:18 75:9 87:6
102:17 131:20
144:17
continue
13:7 16:16 44:3
79:25 81:10 83:15
129:23 135:10
continues
32:23 72:23 112:10
112:16,18 143:12
contrary
130:23 131:10

control
51:7,14 55:18 57:10
58:20 61:18 65:7
113:3 114:21,22
controllable
106:25
controls
56:3,6 74:12
convention
89:7
conventional
44:16 48:18 143:4
146:10 151:10
conversations
6:21
convey
131:13,19
conveying
132:3
conveys
131:22,25
coordinates
145:11 146:16
copies
8:12 9:7 165:19
copy
7:24 8:1,2,17,19,22
10:8
corner
149:4
corporate
121:25
correct
8:20,24 12:11 14:22
15:2,19 16:14 18:11
20:22 23:12 27:3
28:6 35:17 37:6,18
37:23 38:4 41:19,20
43:23 44:8 45:2,15
47:21 48:6 49:12,22
50:23,24 55:6,13,15
58:24 72:22 73:2
79:5 81:5,19,20
87:24 97:23 108:11
114:13 124:25
128:17 129:7 133:4

142:11,12 143:21
147:1,17,23 150:9
151:4 154:5 155:21
156:1,2 164:9
165:22
corrections
164:8
correctly
17:1,5 37:2 40:1
56:19 93:23 112:5
131:14 141:21
correspond
132:2
correspondence
132:14 135:3 138:24
141:7
corresponding
15:22
corresponds
111:8
counsel
1:16 6:22 54:24
163:11,13
counter-example
44:9
countries
140:25 142:11
143:13
COUNTY
162:4 163:3 164:3
couple
7:17 55:24 69:23
94:14 110:22
116:10 126:14
158:12
course
26:6 126:8
court
1:20 4:3 7:9,10 9:5
45:18,22 54:11
115:16 123:12
141:20 161:7
courtroom
5:11
covered
104:12 119:19

124:12
covering
108:15
create
102:2 135:12
created
32:16 144:22,23
147:7 148:17
crippler
80:18,20
cropped
147:6,12
current
121:17 122:12
currently
103:3
customizable
96:15 105:23

D

D
3:1 4:1
Darline
1:21 7:9 160:16
161:1 162:16 163:5
163:22 165:5
database
29:14,18 42:6 50:15
50:16,22 51:10
58:22 63:24 133:12
134:16 149:1 151:6
151:15,23 153:6,21
157:17
DATE
165:23
Dated
163:17 164:11
day
74:10 162:11 163:17
164:11,17
days
8:10 94:17 95:20
152:10
death
69:21
debate

116:4
debating
116:17
dec-
52:11
December
90:16 93:12
decide
97:7
decided
101:20 102:2
decision
125:3
declaration
8:2,17,23 9:16,18,23
9:24 11:11,13 12:4
12:15,23 14:16 20:7
23:3,4,5 24:24 25:3
26:25 33:13 39:5
41:13 45:8,9 52:12
52:14 54:4 64:12,14
89:14 90:14,21 91:3
92:7,9 93:8,11
107:10,15 109:1
111:15,17 112:4,5,7
112:13 113:12,19
117:20,22 119:10
119:13,22 121:12
121:18,18 122:12
122:14,25 123:1,20
130:20 138:3,16
144:16 145:24
146:23 150:13
151:25 152:1,8
157:1 158:14,14
declarations
89:6
declare
165:21
default
19:7 20:4 22:4 33:7,8
33:14 50:1,2,6 58:1
66:13
defaults
22:21,23 33:22,25
57:1,2

defer
54:16 123:12
deficient
97:19 124:14,24
definitely
140:6
definition
124:20 153:23
depend
24:7 37:20 41:4 81:7
106:13,23 147:25
148:1
depended
37:24
depending
17:13,23 30:21 49:6
66:9 75:11 76:11
81:9 84:2 99:6,7
108:21 115:20
121:21 156:12
depends
66:17 97:1
DEPONENT
165:24
deposed
36:4
deposition
1:14 3:15 4:21,25
11:23 24:3 36:8
70:8 89:6 112:23
113:10 115:10
116:8,11 117:13,18
117:19 118:12,23
121:13,23 122:21
122:22 125:7 126:5
126:9 156:19 161:8
163:7 164:6 165:3
165:21
depositions
15:8 125:15 139:22
describe
135:19
described
59:3 96:17 101:7
136:11 142:25
145:13 151:19

157:1
describes
146:13
describing
22:20 43:11 45:12
46:15,24 129:2
134:24 137:3,4
description
3:14 18:21 25:12
27:23 34:20 57:18
111:12 137:8
design
23:1 24:6 35:14 92:3
105:4 115:12
121:15
designed
29:6 103:19
designers
29:25
designing
24:13
desired
15:17 16:13 28:16
29:10 31:8 107:24
128:23 129:4 130:3
desires
31:14
desktop
7:20 24:13 26:7 29:6
35:12 37:11 38:1
44:14,16 66:5 95:11
103:5 106:17
detail
10:15 24:5 96:11
details
156:22
determines
39:20
developer
100:14 102:2
device
24:9 41:5 63:9
devices
6:19
dial-up
31:11 66:11

difference
69:2 95:20 133:20,24
different
17:12,12 18:4 38:24
66:7,7,25 69:3
70:16,17 75:10,14
85:7,7 95:14 99:24
100:7,10,12,16,18
100:25 101:4
120:24 125:17
140:20 148:21
difficult
132:13 138:24 141:6
difficulties
132:21 134:4 138:12
difficulty
144:6,10
digital
52:21 53:24,25
130:15 132:14
direct
3:4 4:13 13:8 16:21
36:9 52:20 72:13
95:23
directly
102:9 132:15,23
134:1 136:14,17,18
138:15
directory
8:9
dis-
18:4
disadvantages
157:19
disappears
88:2,2 94:6
disclaimer
67:25 71:2 117:6
disclose
25:21 26:2 33:16
106:3 136:13,16
disclosed
15:21 23:2 45:13
47:1,4 51:9 58:15
75:22 96:11
discloses

21:16 22:14 25:17
30:18 32:2 33:3
51:3 108:8 150:4
disclosing
16:5 17:7 18:13
disclosures
16:1 44:4
discuss
18:4 33:13 39:7
42:18 92:24 109:13
152:2
discussed
11:10 30:15 52:9
72:15 94:3 98:20
105:19 108:2 116:7
126:19 139:21
156:18
discusses
39:14 118:5 146:23
discussing
16:1,4 17:6 23:17
25:7 30:13 40:14
41:14 44:3 55:5
66:21 68:11 87:7
99:16 105:7 138:2
145:3
discussion
5:17 11:21 14:10
25:6 41:12 46:5
53:19 59:20 74:10
79:14 80:22 89:10
95:4 97:25 110:5
126:1 131:2 132:7
137:7 153:17
160:22
discussions
73:25
displacing
108:8
display
15:17 16:13 17:8,17
17:19 23:18 28:16
28:22 30:19 32:16
34:6,19,23 36:1,17
52:20 63:22,23 64:1
64:2 74:19 85:6,19

90:20 91:8 92:11
93:5 94:1 101:13
106:1,17 112:14,21
112:25 113:14,22
114:1,11 115:3
116:3,5,21 118:14
119:3,5 120:21
121:19 122:6,15
125:4 127:16,17,24
128:1,2 129:7 136:6
143:4,22 145:7,13
150:4 159:10 160:5
displayed
17:12 21:18 22:11
25:18 29:21 30:25
38:17 40:12 41:7
43:8 47:17 55:20
58:23 59:18 60:4
61:15 72:25 73:3,10
73:19,24 74:1,16
75:2,3 76:9,9 77:13
77:14,23,23 78:3,15
78:16,22 79:2,3
81:4,5 83:22,23
84:6,14,23 85:10,12
85:13,25 86:3 87:18
87:19 88:4,14,22
89:15,16 93:1,15,17
94:4,22,22 95:17
96:19,20 98:17
101:8,9 102:8,13,13
103:17,17 104:15
104:17 127:23
128:2 133:17 138:6
138:22 139:5,8,10
139:12 140:11,17
140:19 141:5
142:16
displaying
15:22 41:1 42:23
43:1 94:21 101:14
102:12 104:21,24
108:16 109:9,17
111:19 118:3,8
119:17 120:4,15
121:4 134:25

137:14,16,24
displays
16:21 18:18 23:9
74:4,14,24 76:6
77:20 81:14 83:19
87:14 94:15 115:4
130:16
dispute
91:6,20
disputing
43:13,16,17
dissect
142:5
distinction
66:1,14 68:19,22
distinguished
69:2
distracted
145:4
distributed
165:19
doing
7:8 79:10 97:18
155:4
dots
133:25
download
31:9
downloaded
3:18 8:8,9 9:10 82:8
Dr
1:14 3:3,15 4:9,15
11:25 45:19,20 46:8
59:25 70:1,8 80:12
160:16 162:7 164:5
164:13 165:3
drafted
9:25
draw
68:22
drawing
14:25 55:9 66:1 77:2
110:24
drawn
101:12 103:11
drew

68:23
Drive
6:8
drop-down
15:18 16:14,22 19:16
20:2,18,21 21:17
28:17 29:1
dropouts
14:2
dropped
12:20 13:19
due
161:2
duly
4:11 162:9

E

E
3:1,11 4:1,1 80:9,9
165:1,1,1
E-mail
2:7,16
e-mails
6:22
earlier
19:21 32:20 34:16
58:20 65:5 68:5
74:10 141:10 145:5
ears
14:6
easier
153:2
easiest
100:1
easily
135:2
easy-to-implement
150:18
edges
86:16
edited
10:1 71:15
effect'
16:20
eight
151:21

either
26:2 50:6 58:22 78:5
  83:9 139:24 157:23
elaborate
135:9
elaborates
135:4
electable
111:25
elected
64:2
electronically
7:19
Electronics
1:5 165:2
Element
12:13 40:17 72:15
elements
11:1,6 12:10 30:5
  43:19 44:10 66:8
  84:19 86:13 102:22
eligible
148:4
eliminate
116:20 156:20
eliminates
150:25
eliminating
118:18 121:8 147:4
  151:17 152:3
  153:11
embodiment
23:2 42:2,5 45:13
  46:16 47:1,3,5,10
  47:11 51:9 57:4
  65:6 75:17,22 93:25
embodiments
138:1
emphasis
28:12
emphasizes
151:8
employed
107:23
employee
163:11,12

enable
48:16 158:5
ends
97:12
engineering
102:21
enhance
96:16 105:23
ENTER
165:6
entered
165:22
entire
21:24
entirely
101:4
entirety
77:17 78:12 157:7
envision
105:14
equally
120:8
equivalent
130:25 131:12
equivocal
23:5
errata
3:8 164:9 165:19
especially
54:10
ESQ
2:8,9,17
essentially
17:11 62:21 94:8,10
  97:13 126:4 129:4
  142:2,21 153:2
et
1:5 156:13 165:2
event
16:19,20 121:24,25
  122:2 124:21
  134:13
events
17:7
eventual
153:5

eventually
74:15
everybody
5:19 8:5 13:20
  160:20
everything's
46:12,12
exact
32:11 159:5
exactly
49:14 76:1 78:10
  125:11 133:5
  151:16 152:11
  158:4
examination
1:16 3:4 4:13 145:18
examined
4:12
example
10:20 19:5 20:2 22:7
  24:9 34:18 36:22
  39:19 40:15 41:5
  42:6 43:7,10 44:13
  44:23 48:21,23,24
  49:1 50:15 56:11
  57:17 58:10,16 59:2
  59:6,9 62:6 77:8
  81:8 82:6 83:15
  84:4,14 86:7 95:16
  108:23 114:19
  126:25,25 128:22
  135:24 141:5
  143:24 154:5 157:2
examples
62:9 87:3
exceed
57:13
exceeds
57:6 58:18
Excel
17:19
excessive
107:25 108:15
exclude
86:20
exhaustive

125:9
exhibit
3:15,18 7:16,23 9:14
  9:15,18,22 10:2
  11:11 14:16 32:14
  54:4 70:4,7,8 71:9
  90:12,23 91:12
  105:12 107:15
  109:1 117:19,20
  119:13 120:1
  125:20,21 126:4,7,7
  126:10,12,16 140:8
  141:20
exhibits
7:18,22 9:2
existed
89:8
experience
68:15 96:16 105:24
expert
90:4 108:3
expires
162:19 164:25
explain
13:3 19:21 22:19
  124:23
explained
65:5 68:5 112:23
  118:11 124:3
explicit
21:23 22:2 23:1
  56:25 57:18 128:12
explicitly
51:2,6
express
59:9
expressed
29:9 58:13
expresses
134:3
expressly
58:6,15 59:2 121:7
extensive
137:7
extent
21:22 90:4 106:24

155:25
extra
9:9 153:11
extremely
31:18
eyes
107:1,3

F

F
80:9
face
14:25 15:1 109:21
110:13,17 127:1,2
129:14,18,19,21,24
130:2,3
faces
49:2,4 122:2 129:14
fact
63:12 88:8 140:7
154:9
failed
97:6
fair
23:20 35:7 36:23
46:10 89:23 92:6
108:6,12 118:16
127:20 149:3
157:12
fairly
44:17 137:6 142:13
fall
144:1,1
falling
144:8
falls
79:1 81:2
familiar
8:16 122:1
family
86:21 115:22 122:5
far
8:7 69:21 133:17
135:2 138:22 139:9
139:10,12 140:9,12
140:17 141:12,13

141:23 142:6 148:3
fault
59:22
feature
108:14 115:14 116:2
117:10 118:5 128:8
159:7
feed
11:20
feel
146:18
fewer
36:23 153:24 156:10
159:19
fiber
24:13
fiber-optic
35:24
field
82:3 86:21
figure
13:4,9,13,17 14:15
14:15,18 16:2 18:18
19:3,23 20:6,13,13
20:17 23:8,15 25:7
25:7,18 27:4,24
28:5 31:16,16 32:21
33:4 34:11,18 39:11
39:13,18 40:3 42:4
44:4 49:12,13,22
50:4,12 51:15 52:1
52:4,5 53:12,19,22
55:1,8,9 56:5,21,22
57:4,17 58:17 70:23
70:24 76:2 125:12
125:19 126:14,19
127:5,7,8 128:7,15
128:24 129:7,11,13
129:13,20 130:3,6,7
130:8,12,17 144:24
147:8,13 149:25
150:2 151:22 155:6
155:16 158:11,25
figures
13:13 44:16 127:18
146:10

file
53:24 130:16
file,'
52:22
filed
8:11,13
files
53:25 132:14
film
130:16 150:5,9 154:6
154:20 155:18
final
109:22 110:13
finalized
10:1
finalizing
27:17
finally
82:23
financially
163:14
finding
157:24
fine
14:3 54:14 80:4
104:3 123:7,8
finished
34:13 145:14,15
first
4:11 9:18 16:19 19:4
19:23 21:17 24:15
25:20 31:8 32:15
38:16 40:17,19
52:21 59:17 60:3
61:3,10 64:16 72:19
72:20,25 73:18 75:2
76:8 77:13,22 78:15
79:2 81:4 83:22
84:5 85:25,25 87:17
87:18 88:14,15,20
88:20 89:1,15 90:13
90:13 92:7,9 93:15
94:21 98:8 101:8
102:12 108:25
109:10 111:20
112:6,15,23 117:19

117:20 119:12,22
120:7,13,13,14,25
123:1 125:4 128:13
128:14 131:9,9
135:16 145:24
148:17 156:25
157:1
Fish
2:3 8:10 10:1
fit
51:4 65:11 82:18
fits
77:6
five
123:10 149:13 159:3
159:23
five-minute
13:25
flip
31:5
Florida
6:9 162:3 163:2
164:2
focus
11:1 24:3 118:25
119:1 121:3
focused
152:10
focusing
66:20 69:1 74:13
113:8,18 122:12
150:12
folks
8:10
follow-up
67:4 115:25
following
18:13 33:10 78:2
follows
4:12
forcing
37:13
foregoing
163:7 164:6,16
foreground
160:3

forgotten
31:2
form
19:11 21:20 34:14
35:18 57:8 60:19
65:2 67:15 79:4
90:18 91:16 92:13
102:15 165:22
format
128:21
forth
88:11 94:10 100:5
forward
165:19
found
56:18
four
20:14,14 28:22,22
29:1,2 31:19 49:12
49:16,20,21 50:16
50:20,22 55:14,17
55:19,20 56:12,14
58:8,11,25 59:3,7
59:10,11 71:5,5,12
71:22 72:2 98:11,12
98:13 99:20,20
100:22,22 104:16
104:16 106:1,2
129:19,21 130:2
149:13,14
FPR
1:21 165:5
front
5:12 9:3 139:4
frozen
45:23
Fujiwara
132:7,12,21 133:25
134:22 138:13
141:19
full
4:16 8:9 125:6
full-size
154:4,7,22
function
114:20 115:12

functional
6:13
functionality
115:3 116:6,6,23
155:17 156:9
functionally
103:10 130:25
131:12
further
23:10 25:21 75:11
124:22 163:10
Furthermore
130:23 131:10

_____
G
_____

G
4:1 10:11 11:7 12:10
30:5 40:17 59:13
G-R-E-E-N-S-P-U-N
4:18
game
158:2,3,6
generally
15:9 27:23 54:6
generated
133:13 139:8 140:10
140:16 141:3
142:15 143:22
generating
136:1
geographic
131:13,19,22,25
132:13 136:10
139:17 141:7 151:9
156:22 159:17,24
geographical
132:3 138:7,25
geographically
136:11
geography
157:22
Georgia
2:5
gesture
45:5 83:14
gestures

48:17 75:12 81:9
125:11 160:2
get'
107:22
getting
17:20
gigabit
24:13 35:12 37:12
38:2
give
24:16 52:13 95:25
96:4
given
49:24 62:2 96:22
104:24 155:2,3
gives
40:4 141:4 151:14
154:6
giving
53:6 151:8
glitch
47:23 51:21
go
4:19 11:18,25 18:3
40:16 45:24 46:2,10
54:21 62:17 69:23
80:5 93:7 104:4
106:15 108:22
112:11 125:14,24
126:2 127:11 135:9
136:25 146:19
goal
147:3
goes
138:9
going
9:4 10:7 11:18 24:17
30:4 40:3 50:13
54:13 55:24 88:11
89:7 97:14 103:25
107:17 110:22,25
111:2 119:9 121:11
123:5 141:15 142:2
146:17
golden
80:20

gonna
26:8 36:2 51:21
69:21 70:3 88:25
118:25 125:6
128:14 139:3 153:7
good
4:15 5:19 14:8 54:17
80:2 102:23 151:22
158:2
good-bye
160:20
Google
107:8 114:22,25
grant
59:8
graphic
144:24 147:7 148:11
148:17
graphics
83:11 144:21
grasp
132:13 138:24 141:6
grasped
135:2
great
75:4
greater
142:20
GREEN
2:8 13:22 19:11
21:20 27:14,19 34:8
34:12 35:18 45:19
45:21,24 46:4 54:8
54:16 57:8 60:19
65:2 67:15 69:25
79:4 80:4 91:16
92:13 102:15 104:3
123:8,12 160:10,13
160:24
Greenspun
1:14 3:3,15 4:9,15,17
11:25 45:20,21 46:8
59:25 70:1,8 80:12
160:16 162:8 164:5
164:13 165:3
group

54:16
grouping
136:9
groups
29:17
grow
58:22
guess
31:20 42:8 45:3
63:23,25 82:11 95:2
110:3 156:14 161:5
guys
45:16

H

H
3:11 10:11 11:7 30:6
165:1
half
8:24 53:21 70:24
80:1
hand
4:4 99:19 134:1
158:7 162:11
handful
107:4
happen
31:20 84:2 136:9
141:25 144:7
happened
54:12
happening
84:3 97:17 113:8
144:23 145:3
happens
94:1
happy
122:6
hard
101:11
hardware
37:22 65:10
Hawaii
139:24
head
7:12

heading
119:11
hear
45:16,18
hearing
5:24 13:20,22 46:9
held
5:17 11:21 14:10
46:5 59:20 79:14
80:22 89:10 95:4
110:5 126:1 131:2
153:17 160:22
help
7:10 11:20
HH
162:20
hide
113:4
hiding
159:24
high
26:7
high-speed
49:25
highlight
48:24
Hold
152:21
holding
67:23
home
6:9
hooked
35:12 37:11 38:2
hope
17:2
hopefully
125:14
horizontal
88:12 95:15 97:16
100:12
hour
7:5 8:25 103:24
123:6
hours
95:20

house
116:24 158:8
housekeeping
8:16
hover
84:13 92:2
hovered
84:11 114:2
hovering
81:9 84:5 107:21
108:1,7,14 112:9,17
112:20 113:14,22
114:11 115:4,5
116:2,5,21,24
117:11 118:3,6,18
118:22,25 119:18
121:8,9 122:7 160:2
hovers
108:24
HTML
82:6
huge
101:21
hundred
18:20 19:22 29:15,16
29:17 31:19 41:4
49:1 51:12 57:14
82:15,16 91:17 98:1
98:1 110:22,25
125:8
hypothetical
79:10 101:10,20
103:2
HYUN
2:9

I

i.e
16:19,20
idea
135:9
identification
70:9 164:19
identified
10:11 59:14 125:4
126:21 143:8

identifiers
10:10
identifies
52:15
identify
12:15,24 13:3
Illinois
2:14
illustrate
56:13 146:13
illustrated
93:25
illustrates
56:12 58:8
illustration
23:24 24:1 27:9,13
27:22,25 28:3,5,8
110:24 147:19
149:4
illustrations
110:21
image
10:3 14:20 31:9
40:20,21 41:6,9
42:7 61:4,7,11,11
72:20,21 73:1,5,10
88:1,15,21 95:16,17
96:21 97:14,15
101:16 108:22
109:10,18 110:15
111:21 112:16
118:9,15 120:8,14
120:22 121:5 135:2
135:3 137:18,21,23
145:8,11 146:14,15
149:6,11 154:2,4,11
154:22 156:4,21,24
images
21:12,19 22:10,15,17
22:22,25 24:10 26:2
28:22 29:1 30:19,25
31:7,13 32:4 33:23
34:1,10 40:24 41:1
41:18 42:23 43:2
47:16 49:20 51:19
51:24 55:14 61:15

62:12 63:5,11 65:15
66:12,13 108:20
122:5 127:1,2
131:17,18 133:10
134:1,6 135:1,8,11
135:13 136:9,14,17
136:24 137:13,15
137:17 138:14,18
138:20,25 139:5,9
139:11 140:3,15
141:3 142:15,20,24
143:23 144:9,25
145:8,9,10 148:2,3
148:16 149:6,7
150:6 154:7,21,21
155:9,10,19,23,25
156:10,13 158:23
159:8,19,22,23
immediately
14:15,23 21:1 26:3,9
31:1,17 48:10
impact
64:5
impacted
38:6 63:16
implementation
35:15 41:10 47:24
48:14,18
implication
89:2
impute
48:10
include
25:19 49:1,3 61:14
62:1 65:22 67:6
68:19,20 69:10,15
included
61:12 62:7,12 63:5
64:6 65:19,24 66:2
67:10,14 68:3,10,12
68:14 77:2 87:5
129:14
includes
22:15 25:20 53:23
86:20
including

12:10 27:23 28:6
38:18 59:19 60:5,8
60:11,13,17,21 61:1
63:1 66:18,22 68:24
72:16 73:20 75:2
76:8 77:13,22 78:15
79:2 81:4 83:22
85:24 87:17 94:21
97:22 101:8 102:12
inconsistent
30:1 75:22
incorporate
84:22
incorporated
120:12
incorporating
67:25
incorrect
18:11
increase
51:11
independently
90:9
index
109:21 110:13
indicates
20:17 108:17
indicating
133:12 139:8 140:10
140:16 141:3
142:15
indication
57:6 58:17
individual
29:17 49:2 150:15
151:1,18 152:3,4
155:18,19
infer
35:8 36:24
inference
37:9,15,24,24 38:9
49:18,24 50:24,25
information
76:24 77:25 83:24
96:14,25 99:12
105:21 122:7

131:13,19,22,25
132:4 140:2 150:19
157:3,4 159:17,25
information'
107:21
informational
108:9
inherently
153:7
initial
16:11,24 18:15,23
28:14 33:23 145:18
initially
22:3
inline
66:13
innovative
92:4 135:6
input
25:20 36:21 38:16,16
44:11,19 45:4,5
47:12 52:22 59:17
59:17 60:3,3 73:18
73:18 74:4,8,20,25
76:6 77:20 78:4,9
78:23 81:14 83:19
84:24 85:19 87:15
125:3 134:15
input'
52:20
inputs
34:6 36:17 78:8
125:12
inside
13:13 43:9 156:22
159:17
insisted
156:15 159:9,9
instance
64:25 67:14,17 68:2
instant
76:5
intend
28:3
intended
123:25

intensive
134:15
intention
29:9
intentionally
105:15
Inter
1:12
interaction
23:11 25:22 75:18
124:22
interactions
74:12
interactive
76:4
interest
22:8 33:24 36:2
interested
29:13,20,24 31:20
157:22,24 163:14
interface
31:10 38:17 55:18
59:19 60:4 73:19
96:15 105:23 122:4
intermediate
16:18
Internet
12:19 13:21 29:7,11
30:16,22 35:13
37:12 38:2,6 47:25
49:25 51:20
interpret
60:11
interpretation
74:22 78:5,23
interpreted
60:14
interval
97:2
introduce
44:8 70:3
introduced
9:6 126:9
invention
92:5 137:4
iPad

6:14
IPR
36:5
IPR2022-00222
1:12
ironic
47:23
irrelevant
50:8,14
issue
45:1 90:4
item
8:18 10:9,19 18:14
18:19 21:16 23:18
30:21 32:3 33:5
35:9 45:14 49:19
57:24 73:5
items
7:15 9:19 17:14 20:3
20:4,10 22:5,21,24
26:3 29:10,15,17
30:3 33:8 36:22,23
39:7,19 40:4 41:23
44:12,21 49:7 50:2
50:7,7 51:5,8 55:10
56:8,20 62:14 63:14
63:15,20,24 64:3,5
64:8 82:15 86:8,17
87:3,5,7,8 101:13
154:17

J
---

j
73:5
Jane
72:3,10 85:3,11 88:3
88:3 94:6,17,20
January
1:17 162:9,12 163:17
Japan
139:17 141:17,25
142:1
JC
55:19
JIN
2:9

joined
11:23
Jon
14:20,23 15:1 25:20
36:18 71:23 72:7
85:3,10,12,21 88:1
88:2 94:5,5,15,16
judge
5:12
Jupiter
6:8
JURAT
3:7 164:1
jury
5:12

K
---

keep
6:20 117:7
Kim
11:22
kind
6:19 15:9 29:9 31:2
37:21 55:24 67:24
71:3 75:13 86:15
95:12 116:17 118:7
120:11 127:24
131:24 133:16
135:7 138:9
Kingdom
143:24
know
6:25 7:2,6 8:12 9:11
10:10,21 13:4,23
14:4,7 15:10 17:10
17:13,18 18:4 19:13
22:20 24:5,8,12,18
27:16,17,21 29:13
31:2,4 33:9 35:23
36:11,20 37:10,15
37:17 39:1,17 41:5
41:25 43:17 44:14
46:25 47:3 48:13
49:1,23 50:15 53:13
53:19 55:8 56:23
62:12,17,20 63:8

64:13 66:24 67:16
68:5 70:15 73:5
74:9,12 75:20 77:17
78:21 79:5,9 82:2
82:22 84:16 88:23
89:6 90:1,3 91:11
92:1,2 93:10,25
94:24,24 95:12,21
97:3,7,17 98:24
101:12,19,22,24
102:20 103:4,18
104:17 106:21
107:8 108:12 109:2
110:20,22,23
114:19 115:23
117:1,3,8 118:4,8
118:24 119:2,5
122:18 125:21
128:9 133:14
135:15 136:4,8,14
136:20 137:9
139:11,18 141:15
144:25 146:9
147:13 148:9
151:21 152:5,11,23
154:13 158:1,8
160:4
knowing
37:16
known
135:21 136:23,24

L
---

label
76:2
labeled
70:22 71:8 78:12
81:20 103:11
105:11
labels
115:23
landmarks
156:23
language
11:7 38:11 41:16
42:2,18,22 43:12

46:17 51:16,18,22
51:23 64:16 67:1
68:24 69:12 72:14
78:2 92:16 93:22
laptop
7:19
large
42:10 44:17 61:20
107:11 140:5,24
158:22,22
large-scale
142:12,25 143:10,13
larger
51:10 63:8 107:11
138:7,8 154:11
156:17
laser
75:5,8
law
11:22
leave
95:2
leaves
21:21 26:4 30:23
32:9
leaving
103:5
left
14:20 41:8 48:16
51:7,14 56:7 57:11
58:21 87:12 123:6
124:6 127:19 159:2
159:14,23
LEGAL
1:23
lengthy
109:16
let's
9:22 11:1 14:3 17:19
20:12 22:21 29:16
39:4 47:8 48:7 49:3
49:17 55:1 74:3,23
75:23 76:23 77:16
77:19 78:20 81:10
81:10 82:15,15
83:15,18 85:17

87:13,14,25 94:13
94:13 95:15 98:8
100:15 103:17
118:4,16 130:19
131:16 132:5
133:19,23 137:11
151:21 158:8,9
Let's's
85:18
letter
72:24
lettering
10:10
level
159:8
limit
59:11 98:6
limitation
11:3 43:18 53:23
59:13,16,24 60:9,18
60:25 88:13,19 91:7
92:10,25 93:1,3,4
109:4,14 110:2
limitations
11:10 49:8 85:15
98:22
limited
37:19 48:15 102:3
line
32:14,23 36:10,13,13
36:15 55:25 56:10
56:16,17 57:19
66:11 96:1,7,8
105:18 165:7
lines
25:13 58:11 100:8
link
24:14 31:10
links
8:8
list
16:14 20:18 28:17
29:1
listed
19:15
listing

10:19 130:11,14
150:4
lists
65:20
litigation
12:16
little
31:14 42:1,12 51:20
53:11 65:5 80:1
84:13 97:15 101:10
120:17 137:1 152:6
live
46:8 90:4 141:25
living
44:14
LLC
1:8 165:2
load
31:7 66:12
loaded
31:6 51:10
location
134:13 155:2,4 156:5
156:24
locations
56:4 139:19 150:17
150:19 151:3,9
155:2,7
long
7:3 54:13 97:1
148:14
longer
90:3
look
4:22 13:12 18:21,25
29:5,12 32:10 37:13
37:21 38:12,12 39:1
54:12 55:1,22,23
59:14 66:12 83:9
88:13 90:13 94:2
114:23 115:24
118:1,4 120:17
125:6,19 126:15,24
127:7,18 133:3
135:18,23 136:25
137:11 139:22

145:2,16 150:1
152:13 154:25
160:10
looked
12:11 125:7 152:5
looking
8:7 11:13 14:14
21:24 32:13 69:3,20
70:1 80:25 81:1
90:22 95:24 107:18
113:20 119:25
128:24 131:6 140:4
158:2
looks
55:18 69:20 70:25
71:14 101:12
lose
45:19 117:5
lost
45:17 156:23
lot
62:19,21 66:18 103:5
105:12 134:24
139:16 142:4
143:19
lots
75:19
lower
53:21 56:22 64:1
lunch
79:25 80:3,7

M

machine
37:19
Madison
2:13
MAGNA
1:23
main
137:9 139:15
making
110:14
manner
102:11
map

131:21,23 132:2,15
132:23 133:16,21
133:24 134:2,6,6,10
134:17 135:8,9,21
136:1,15,17,19,25
137:8,16,20,23
138:1,1,6,8,8,15,22
139:6,24 140:4,24
141:15 142:12,22
142:25 143:5,10
144:1,9,9 145:8,12
146:16 148:1 149:6
149:11 150:8,20
151:7,8 153:4 155:4
155:6 156:1,5,10,11
156:20,22 157:3,8
157:23 160:3,7
maps
114:22,25 130:24
131:11 135:6,12
136:18 137:25
146:6,11 148:15,22
156:11 157:9 159:2
Marie
1:21 162:16 163:5,22
165:5
mark
3:18 126:6 139:24
marked
17:15 70:9 97:12
126:8,11
marked-up
20:5
marker
139:23 144:13
markers
133:24 134:5 139:11
142:24 144:1,2,7,9
marks
8:22 9:9 133:12,16
138:21 139:7,22
140:10,15 141:2,12
141:13 142:14
matter
5:2 8:16 36:4,5 84:8
101:1 102:5 115:12

117:9 119:6 121:15
MATTHEW
2:17
maximum
14:5
mean
34:15 38:8,10,24
48:23 61:17 66:3
67:16,17,18 75:4
82:1,4 83:6 92:14
101:10 110:19
114:14 117:4
122:17 136:4
138:20 139:14
157:16
means
60:17 74:19,21 132:3
133:11 137:23
153:15,19 154:16
meant
86:17 110:8 111:25
120:19 152:9
meet
75:1 76:7 77:12,21
78:14 79:13,17,18
81:18,24 85:4,6,14
86:12 87:16,22 88:6
98:5,22 101:7,18
102:22 103:20
meets
83:21 85:23
members
115:22 122:5
memory
53:2 133:14,15
134:10 139:4
152:19,22
MEMORYWEB
1:8
MemoryWebb
165:2
mention
6:4 28:3 120:3 121:8
mentioned
9:20 11:14,16 38:1
45:7 46:18 47:19,21

48:1,2 63:14,20
108:7
mentioning
108:1 146:4
menu
18:13,18 21:16 23:18
30:21 32:3 33:5
35:1,8 45:14 49:19
57:24 86:20 87:6,8
merely
89:14
mess
113:17
messages
6:22
method
102:11
microphone
14:5
Microsoft
17:19
middle
23:7 107:19 127:25
135:24
milliseconds
95:21
mind
119:1
Mindy
80:17,19,20
minimal
96:14,25 99:12
105:21
minimum
98:2,5
minute
30:12,16 53:7 140:23
145:20 149:23
minutes
54:15 69:24 95:21
123:5
mischaracterization
26:1
misreading
123:25
missed

116:10
missing
123:22,24
misspelled
111:22
mobile
24:9 29:11
modification
112:19 113:13,21,25
114:10,15 116:3,20
modified
116:6
modify
117:9
modifying
117:3
moment
11:1 17:25 21:2
24:16 52:13 55:21
60:24 62:23,24
79:11,20 80:6 82:11
83:12 84:17 85:17
94:3 95:25 96:6
107:16 113:3 127:6
152:14
momentarily
104:8
moments
87:20
Monday
161:4
monitor
103:18
morning
4:15
motivated
109:19
motivation
150:24 151:19 152:2
mouse
75:12 81:9 84:4,5,7
84:11,12 92:2
107:21 108:1,7,8,14
112:9,17,20 113:13
113:22 114:2,10
115:4,5 116:2,5,21

116:24 117:10
118:3,6,18,21,25
119:18 121:8,9
122:7 125:11
128:22 160:2,6
move
26:16 85:17 113:5
114:5 122:8
movement
97:15
moving
26:23 84:12
multiple
21:12,12,18,19 30:19
30:20 34:6 36:16
61:21 70:23 81:21
150:19 151:3 155:2
155:7,9,9,10,10,19
155:25 157:17,18
museum
134:12
mute
11:18
Mwerber@nixonp...
2:16

N

N
3:1 4:1 80:9,9,9
name
4:16 20:14 21:12,19
25:20 30:7,20 52:21
64:17,17 65:23
71:23 72:3,25 73:9
75:2,3 76:8,9 77:13
77:14,22,23 78:15
78:16 79:2,3,12
81:4,5,15 83:22,23
84:14,15 85:7,21,25
86:1,7,12 87:17,19
88:2,3,14,20 89:15
89:16 93:1,15,17
94:1,22,22 96:18,22
99:22,24 100:23
101:8,9 102:4,13,13
104:22,22,23 106:2

108:9,16,17 109:9
109:18 110:14,17
111:4,5,19 112:14
112:21 113:14,23
114:11 115:4,5
116:3,5,21 118:3,9
118:14,20 119:8,12
119:12,17 120:4,13
120:15,22,24,25
121:4
names
49:21 65:1,14,18,24
67:9,13 68:2,16
69:10,15 71:6,13,23
76:20 85:7,13 86:16
90:21 91:9 92:12
93:5 97:21,22 98:2
98:2,12 99:20
104:16 121:14,19
122:1,3,15 141:21
narrow
44:13 88:9 94:9
101:2
narrowed
99:2
narrower
67:3 74:22 97:13
navigate
125:9
navigated
49:14
navigating
86:24
navigation
134:14 153:8 158:5
NE
2:4
near
15:10 19:1 23:16
112:13 127:14,14
143:21
nearby
84:5
necessary
28:7
need

6:22 7:1 9:17 23:10
41:22 69:21 82:21
83:4,24 115:23
116:20 121:8
123:10 126:18
142:4 152:3,11
160:24
needed
25:22 96:12 105:20
116:25 158:7
needing
151:1 152:2 153:11
154:12
needs
34:5 36:16 83:13
network
24:8
never
46:21 79:12 87:21
88:4 92:3 101:25
102:8 159:10
new
45:10 70:3,6 104:1
121:11 130:19
136:21 138:5
146:18
newest
19:6,17,17 20:18
newspapers
110:23
nice
54:10 77:7
nine
151:21
NIXON
2:12
no-overlap
156:16
nodding
7:12
non
122:9
noncontroversial
118:19
nonresponsive
26:17 113:6 114:6

122:9
Notary
162:16 164:24
note
3:17 14:14 23:7
146:17 147:18
158:16
noted
147:5,11
notes
8:22 9:9
notice
4:21,25
noticed
146:8,18
noticing
23:25 146:1
number
22:5 29:10 44:21
50:2 57:6,13 58:17
58:18 62:14 63:14
63:15,20 64:3,5,8
107:11,12 113:17
numbering
72:24
numbers
10:20

O

O
4:1 80:9,9,9
oath
3:5 5:1,10,11,14,15
5:20 6:21 162:1
164:20
object
21:20 26:16 34:8,14
35:18 57:8 60:19
65:2 67:15 79:4
91:16 92:13 102:15
114:5 122:8
objection
19:11 27:14,19 113:5
146:24
observed
132:21 134:4 138:13

144:19
obtain
107:21
obvious
109:19 110:2 111:7
115:7 118:10,13
119:3,5 121:1,19
122:15 136:5
obviously
54:11 57:11 115:19
obviousness
92:25 93:3 109:13
124:9
occur
124:21
occurred
16:23 132:22 138:13
occurs
12:12 60:22
OCR
135:15
October
162:19
offer
92:9
offered
93:14 122:13
offering
27:17 111:10 122:22
132:19
office
1:1 6:9 8:13 165:19
official
162:11
oh
46:4 110:7 112:2
139:2 146:3
Okamura
108:5,8,12 111:13
112:2,20,24 113:13
113:21 114:1,10,17
114:18 116:2,3,20
117:9 121:1 124:10
124:14,23 125:1,8
125:11,19,20,20
126:10,15 127:12

P-H-I-L-I-P
4:17
p.m
161:9
page
3:2,7,14 10:2,18,22
10:22,22 17:14 20:3
20:4,10 22:5,21,25
24:21,22 25:2,6
26:4,20 27:2,4
29:10,15 30:3 33:8
36:10,23 38:13 39:7
40:4 41:23 44:12,22
49:7 50:2,5,7,8,11
51:4,5,7,8 52:24
53:2,13,18 54:3
55:11 56:7,8,20
57:7,10 58:19,20,24
59:1 62:14,15 63:20
66:5 76:23 86:9,9
87:2,3 88:17 90:13
90:22,24,25 101:13
109:3,5 124:16
126:15 135:5 164:1
165:7
Page'
39:19
pages
31:6 146:17 158:17
pagination
51:14
paging
49:3
pairing
96:22
PALM
162:4 163:3 164:3
paper
8:17,19 75:7
paragraph
12:14,23 13:7 15:15
15:25,25 16:16 18:1
21:3 23:3,4,7 25:1,2
26:25 27:2 32:20
39:4,14 41:13 42:13
42:19,21 43:13 45:1

48:25 52:15 54:3
64:12,22 67:22
89:13 90:24 93:7,22
100:16 105:17
107:14,16,19
108:14 109:1,5,14
109:16,23 110:1,4
110:10 111:11,14
111:16,23 112:11
112:14 113:9,11,15
113:17,18 114:9
115:2,5 117:8,21,22
118:17,18,22 119:9
119:11,15,15,16,23
119:24 120:1,3,14
120:20 121:11,13
121:17 122:11
123:19,23 124:9,11
124:19,23 126:25
127:3,7,11,15
128:13,25 129:2,15
129:15 130:20,22
131:6,8 132:5,6,11
133:10 134:25
135:5,17,24,25
136:22 137:12,13
137:23 138:15,18
140:21,22,23
142:25 143:8,12,15
144:16,18,19 145:6
145:23,24 146:2,13
146:20,23 149:5,22
150:12,13 151:13
151:24 152:1,10,25
153:10 158:13
paragraphs
14:19 18:10 119:21
147:16 158:17
part
39:22 43:6,14,22
60:8 62:22 83:6
87:7 92:5 106:21
108:5 115:11,18
121:15 124:7
151:17,18
Partes

1:12
particular
35:3 44:13 50:21
57:4 59:6,6,7 62:8
62:15 76:25 79:10
79:20 84:16 107:20
107:20 113:3
157:24
parties
163:11 165:20
parties'
163:13
parts
140:20
pass
160:9
passage
23:16 27:1,5,13 32:1
32:10 56:10,18
95:23 96:1 106:5,11
passes
94:16
paste
9:17
patent
1:1,2,9,11 2:11 8:13
9:15 12:16,24 13:3
13:5,13 16:18 18:21
20:24 23:8,8,15,24
23:24 24:23 25:6
26:12,20 27:1,9,22
30:4 37:16 39:18
44:4 52:18,25 53:3
64:16 66:24 68:25
71:15,17,20 75:5
105:18 124:13,16
130:23 131:10
137:5 144:20 147:6
147:20 158:17,21
patent's
24:17
pause
7:3 129:8,10
paying
146:12
PDF

10:18,22,22 24:22
38:13 74:6 88:18
109:2
PEABODY
2:12
Peachtree
2:4
penalty
165:21
pending
7:4
people
11:8 12:8 15:22 16:6
16:9,21 17:8,10,18
17:21,24 18:2,13,15
18:17,18,24 19:5,15
19:24 20:1,9 21:4,9
21:11,16,18 22:3,14
23:9,10,18,18 25:17
28:10,13,21 29:20
30:18,21 31:2,17,19
32:3,15,16 33:4
34:6,16,25 35:8,8
36:17,25 38:17,18
39:15,22 40:12,24
40:25 41:7,16 42:19
43:6,9,15,19,22
44:10,20 45:14
48:21,25 49:8,18,19
50:16,22 52:6 53:14
55:4,10 57:5,20
59:18,19 60:4,5
61:12 63:6 64:7,9
64:11 65:17,22 67:6
67:9,12 69:10,15
70:23 72:14,16
73:14,19,20,23 74:1
74:7,12,14,16 75:2
76:8,19 77:12,22
78:6,7,15 79:2 81:3
81:19,21 83:21 84:9
84:25 85:5,15,24
86:23 87:17,23 88:7
90:19 91:7 94:21
98:22 101:8 102:12
103:21 109:8

126:22
People'
 16:11 25:18 28:15
   32:24
people's
 14:6
People.'
 16:24
perceived
 23:6
percent
 18:20 19:22 41:4
   91:17 125:9
Perfect
 9:1
performing
 129:3
performs
 128:21
perjury
 165:21
permitted
 52:22
person
 40:17,19,20 56:13
   57:21 58:9,21 59:6
   61:4,6,10,11 72:19
   73:4 84:18 88:20
   89:1 109:10 111:20
   112:15 118:14,15
   119:7,8 120:7,13
   122:4 125:4
person's
 109:9 120:22
personal
 6:24 115:20
personally
 24:12 162:8
persons
 29:17
Petition
 10:8,8,12,14,17
   38:13 59:15 88:18
Petitioner
 1:6 2:2 4:10
Phil

13:22
Philip
 1:14 3:3,15 4:9,17
   70:8 162:8 164:5,13
   165:3
phone
 2:6,15 105:9 106:14
   106:20,24
photo
 15:3,10 35:9 36:25
   56:9 89:7 107:8
   110:20 111:6,8
   119:6,7 132:2
   133:12 134:16
   149:1 151:6,7,15
   153:6 157:25 158:2
   158:2,5,8
photograph
 131:25
photographer
 121:24 122:2 158:10
photographing
 121:25
photography
 110:23
photos
 22:8 26:8 29:8,24,25
   30:3 39:20,21,22
   40:9 42:13 55:17
   56:3,12,14 57:6,13
   57:22,25 58:3,8,11
   58:18,23,25 59:4,7
   62:17,18 64:2 107:2
   110:21 114:1
   115:22 132:4 134:9
   151:14,23 157:3,4
phrase
 12:12,18 21:3,5 47:8
   60:22 64:21 73:14
   105:18 110:12
phrased
 17:9
phrases
 11:15 66:21
phrasing
 112:12

physical
 68:8
Picasa
 107:8
pick
 116:23 160:7
picked
 24:11 26:4 31:1
picking
 20:9,10
pictures
 134:12 139:16,18
   142:1 150:16 153:2
   155:1,3
pieces
 39:2 107:21
pin
 134:11 140:19
pins
 133:16 137:5 138:22
   140:7,9 141:23
   142:1,6 143:20,25
   144:15
pixel
 142:21
pixels
 82:13
place
 28:12 138:21 141:16
   142:2 143:3 159:22
placed
 110:16 129:18
   131:21 132:15,23
   138:15 145:11
placing
 133:21,24 134:1,5
   135:20 136:16
   146:15
plain
 69:12
platform
 96:12 105:20
playback
 127:8 128:19 129:20
   130:7
pleadings

9:2,12
please
 4:16 7:11 12:20 53:8
   165:19
plenty
 152:22
plug
 14:1
plugged
 35:23,24
plugged-computer
 49:24
plugged-in
 37:11
plurality
 145:9
point
 29:19 54:9 58:23
   73:23,24 82:12
   85:20 88:21 90:7
   91:5 94:19 98:24
   99:3 102:21 148:4
pointed
 90:5 92:20 93:2
   120:20
pointing
 43:18 44:17 76:21
points
 93:23
poor
 47:25
populated
 86:16
POR
 25:2 52:23
port
 65:11 82:12 83:13
   107:13
portion
 34:2,4 36:15 56:22
   123:2 144:21
   147:13,19 148:10
POSITA
 28:20,23 35:7 36:24
   37:15 109:19
position

12:15,24 23:25
27:10 49:7 84:7
136:10 137:22
138:7 141:6 142:17
positions
100:13 132:2 133:13
135:1 137:15,17,25
138:25 139:8
140:11,16 141:3
142:15 143:23
possibility
91:12
possible
20:5 31:21 34:24
35:2 48:3 78:17
91:14 104:18 115:3
120:17 135:18
137:12 143:22
148:5 154:9
possibly
58:1 87:4 139:23
post
9:4,14 10:7
posted
4:19,20 7:15,25 9:15
10:17 36:8
potential
63:23,25
potentially
78:7
power
26:15,15 29:7,11
30:13,17,22 36:1
37:17,19
powered
6:13,17,20
powerful
35:23
practical
68:6 98:5
practice
136:23
preamble
10:21 65:21
preceding
128:1

precise
140:2
precisely
151:9 157:4
precision
151:15
prefer
6:20 107:1,3 122:3,6
preference
106:25 115:13,21
121:22
preferences
82:9 114:20
preferred
65:6 75:17
premarked
7:22
premise
118:2,20 121:4
prepared
90:11
presence
33:14
presented
148:1
pressed
17:24 74:7,13
presses
49:15
pressing
16:11,24 18:15 19:4
23:9 28:14,21
presumably
34:18 129:23
pretty
31:5 82:4 137:13
prevent
5:24 6:3
preview
151:9 153:2,15,20,22
153:24 154:3,7,8,10
154:11,14,16,18,22
155:1,3,22
previous
89:5 112:4,4 117:5,7
128:8

previously
87:20 118:2 126:6,11
primarily
92:19 122:5
primary
22:8 133:15
printed
8:1,2,24 74:6 77:2
160:5
printer
75:6,8,21
printout
76:13,16 78:1,18,20
prior
36:8 80:25 112:13
113:9 117:13,17
133:6 134:8 139:21
151:11 156:19
probably
7:5 24:14 36:2 43:24
48:14 50:24 59:22
79:25 83:11 101:24
106:23 118:12
119:4 155:1
problem
134:20 139:21
141:10,18,22 143:2
143:8 144:14
procedures
147:3
proceed
136:13
proceeding
68:25 125:16 127:16
process
66:6,7 101:11
produced
81:22 105:11 164:18
profile
52:6 55:4,10 57:5,20
program
34:17,19 62:21 66:6
76:4 105:5
programmed
100:21 104:15,17
programmer

101:15
prominent
31:5
promises
101:13
proposal
148:15
proposed
116:4,19
proposes
136:18
proposing
112:19 113:12,21
114:7,9 116:1 117:9
118:17
prospect
117:14
provide
5:6 29:18 107:23
148:25 150:18
151:5
provided
8:9 108:21 147:6
provides
96:12,13,14 100:17
105:19,21,22
150:17
providing
96:24 99:11
proximity
136:10
Public
162:16 164:24
publisher
82:5,8 108:21
pull
39:1,2
pulled
75:7
purchase
97:6
purple
16:14 28:18
purposefully
27:11
put

put
20:12 36:20 47:8
94:14 144:24 148:2
putting
69:16 132:1 146:11

Q

qualification
76:15 77:3 114:4
qualifications
77:16
qualifier
69:17
qualify
76:18 154:22
qualifying
78:19
question
7:4 13:20 15:24
21:25 26:19 32:6
35:16 37:10 41:3
43:12 45:10 46:20
47:15 61:17 63:19
65:3 67:4 68:17
69:14 75:4,8 83:25
88:23 91:3 92:8
99:25 104:11
105:25 111:2 115:8
115:25 116:15
124:7 136:15
145:19
questions
5:8,25 126:14 158:12
160:9
quick
53:7 158:5
quicker
97:6 151:14
quickly
125:15
quit
152:24
quite
39:2 96:4 137:12
quote
112:1,3,8 117:13

122:21 133:5
quoted
100:9 116:9
quoting
89:20 112:6,13
117:21

R

R
4:1 80:9 165:1,1
raise
4:4
re-
20:8
re-ask
46:6
re-rendered
83:13
re-user
20:8
reach
8:18 109:17 128:23
reached
110:1
read
16:17,25 17:4 25:25
30:24 32:11 37:2
39:25 52:24 53:6
56:19 59:21 60:13
69:4 75:15 96:1,10
106:6,12 131:14
140:14,18 164:6
165:21
reader
21:22 26:5,9 32:9
111:7
reading
22:10 26:6,20 28:20
32:2
reads
38:15 59:16
ready
11:25 54:15,21
103:23
real
29:14 107:8

real-time
11:20 160:6
realize
24:5 37:14 118:24
really
55:24 69:2,2,3 70:15
75:8,14,21 99:25
100:2 119:6 158:3
160:24
reason
7:2 10:16 65:4 68:6
101:15 102:2 103:3
165:7
reasonable
35:13,14 38:9 49:18
49:23
reasonable-size
106:17
reasons
124:3
recall
36:6 105:1
received
9:11,11
recess
54:19 80:7 104:6
123:17
recipe
56:4 57:23,24 86:22
recipes
62:17
recited
12:7
recites
88:14 97:21,22
reciting
11:7
recognize
11:6
record
4:16 5:17 9:5 11:19
11:21 12:1 14:10,12
16:17 45:25 46:3,5
53:1,9 54:22,25
59:20 79:14 80:6,12
80:22,23 89:10 95:4

104:5 110:5 113:10
125:24 126:1,3
131:2 153:17
160:21,22 163:8
record's
125:17
recording
7:9
recover
116:2
red
16:12 28:15
reduce
147:1
reduced
131:23
reducing
146:24
refer
8:4 115:2 132:6
135:7 138:5 141:19
150:11 153:10
158:21
reference
48:2 53:12,14 56:9
120:19 126:11
127:15 136:22
137:6 145:11
146:15
referenced
107:9
references
132:7 133:6,15 134:5
134:8 139:4
referred
15:3 46:14 66:16
136:2 154:8
referring
15:18 18:10,12 24:1
27:12 40:11 41:11
42:15 52:12 59:9
64:4 83:2 86:15
98:11 111:19
113:15 124:17
132:1 135:11
137:14,16 141:9

154:9 158:16
refers
32:20 42:13 62:25
72:19 100:17 109:9
120:6 124:7,11
140:24 142:9,14
refill
123:10
refreshing
53:2
regarding
12:17 22:2 29:9
56:25 80:15 151:16
regions
143:14,23
relate
98:1 134:5
related
28:4 41:17 42:9
132:7 134:4
relates
15:20 45:1,3 53:20
77:3 110:14,20
118:2 124:9 131:20
relating
11:7 119:11,17 152:2
relation
5:1 12:5,8,25 15:16
16:1 26:20 43:11
48:3 52:9 53:13
68:11 73:14 81:12
90:19 109:8 111:10
124:10 134:22
136:1
relationship
55:17
relative
163:10,12
relatively
133:17 135:20
138:22 139:9,10,12
139:16 140:11,17
relevant
27:24 87:9 90:8
145:6
reliable

95:10
rely
130:11
relying
130:15 148:10
remember
62:17 72:17 125:8
145:25,25
remote
111:4
remotely
4:11 5:15 7:8
render
12:4 15:15
rendered
11:2 21:2 41:16 49:5
61:19 64:10 66:17
68:7 75:10 76:24
77:4,6 81:25 82:2
83:1,4 88:9 91:13
94:9 107:2 124:18
rendering
60:12 66:6,7,25
67:18 69:1,6 75:15
81:21 82:10,12,14
83:13 84:11 97:12
98:25,25 99:1 105:9
110:1
renderings
3:15 70:9,14 101:11
renders
82:6
reorient
14:13
repeat
12:20,22 47:22 51:21
rephrase
155:14
replace
148:15 149:11
156:21
report
163:6
Reported
165:5
reporter

1:20 3:18 4:3 5:18
7:9,11 9:5 45:18,22
54:11 79:15 89:11
95:5 110:6 115:16
123:13 125:23
131:3 141:20
153:18 160:23
161:7
REPORTER'S
3:6,17 163:1
represent
23:14 127:2 138:19
145:9
representation
52:21 53:24 130:15
145:1
representing
126:22 133:11
140:15 145:8
represents
128:7 156:2
reproduced
25:8 144:21 147:16
reproduction
13:9,17 14:15 70:22
144:20 147:7,12
require
16:10 18:3 21:4
28:11,12,14 30:2,7
42:22 49:3,9 77:1
90:20 91:7 93:24
97:15 112:20
113:13,22 114:10
117:10 124:21
required
29:23 45:6 52:20
61:23 69:18 84:19
86:12 99:3 125:12
requirement
31:13 38:10 43:4
67:13 85:7
requirements
31:23 65:18 67:9
75:1 76:7,19 77:12
77:21 78:14 79:1
81:3,18 83:21 84:8

84:25 85:5,24 87:16
87:22 88:7 101:7
103:21
requires
40:17,19,25 43:1,14
51:18,24 63:1 64:25
65:23 74:15 88:19
89:14 90:19 91:7
92:11 93:4 125:2
requiring
15:16 106:15 118:5
reread
53:7,10
rereading
53:4
resolution
121:21
responding
23:12
response
5:7 23:15 24:18,23
25:7,18 26:12,17,21
27:2 46:20 52:25
53:3 78:5 83:14
124:16 147:6
158:17
responsive
12:5,17 13:1 16:23
38:15,21,23 45:1,4
49:19 52:19 59:16
60:2 73:14,17 74:4
74:8,19,21,24 76:6
77:20 78:4,9,22,24
81:14 83:19 84:23
85:19 87:15 124:18
124:20
rest
110:4,10
restart
152:17
result
3:19 16:22 17:7
19:25 20:7 22:15
32:4 35:9 36:25
49:15 84:14 86:10
107:24

results
95:16
retriever
80:21
reusing
71:3
reveal
108:9
review
1:12 24:22 55:21
reviewed
10:14
reviewing
7:18,21
revisit
104:8
RICHARDSON
2:3
ridiculous
95:13
right
4:4 5:16 6:16 7:19
10:18 11:11 12:5,17
13:1,5 14:21,24
15:3,18,22 16:2,7
17:8,15 18:6,10,14
20:17 24:24 25:3
27:2,6,13 28:5 30:8
32:21 33:14 35:21
39:8,12,15 40:21
41:2,8,24 42:16,19
42:24 43:2,16 44:5
44:23 45:8 46:14,19
47:2,13 48:16,22
49:9 50:4,20 51:5
51:12,19,25 52:7,10
52:25 53:4 54:5,21
55:13 56:1,21 57:7
57:10,21 59:4,11
60:9,16 61:1,4,7
63:2,6,17,21 64:7
64:22 66:2,22 67:10
68:21 69:11 70:3,25
71:13 72:21 73:11
73:21 74:16 85:15
87:2,10,23 88:7

90:21 91:9,15 92:12
93:5,6,9,11,12,18
93:20 94:7 98:3,12
98:13,23 102:14
103:7,21 104:4
105:7,18 108:4,10
108:18 109:11,23
110:2,18 111:5,11
111:25 112:21
113:14,23 114:11
115:7 116:8,16,25
117:6,11,14 119:12
119:19 120:4,9,15
121:1,5,9,20 122:23
123:1,4,9 124:10,14
124:24 126:22
127:2,19,25 128:16
129:5,21 130:4,9,17
133:2 135:14 136:2
136:17,19 139:4,10
139:13,25 140:25
142:10,17 143:1,15
144:2,11,22 145:24
146:25 147:14,22
148:12,17,24 149:8
149:13,15,20 151:3
151:19 152:4,8,13
152:17 153:12
154:4,12 155:8,11
155:14,20 156:6,13
156:24 157:8
158:23 159:3,4,8,15
159:20,23,25
160:19
roads
156:23
room
6:11
rough
160:25 161:3
roughly
138:21
routine
4:20 6:10
RPR
1:21 163:5,22 165:5

rules
6:19
run
14:7 95:1
running
45:13 46:25,25 47:1
62:20 84:17
rush
160:25 161:6

————————————— **S** —————————————

S
3:11 4:1 80:9,9,9
165:1
sample
151:14,22
Samsung
1:5 36:5 165:2
Samsung-1003
119:22
Samuel
11:22
satellite
114:24,24
satisfied
84:9 94:20
satisfies
102:11
satisfy
65:17 67:8,12 84:24
save
153:7
saves
96:13 105:20
saving
96:23 99:10
saying
19:9 40:9 46:9 48:12
52:14 62:5 74:5
76:18 86:17 91:19
92:18 106:7 114:21
133:1 138:18,23
140:18 143:18
152:15,18
says
19:14,19 36:20 56:11

58:7,10 65:20 72:16
90:2 115:9 118:13
122:18 127:3 128:1
128:13 131:9
133:10,17 140:10
141:2 143:21
scale
97:17 138:8 140:5,24
147:25
scaling
139:21
scarce
29:12
scenario
40:11,14 41:17 43:11
45:8,12 46:14,18,24
47:19,21 48:2,4
49:11 51:3,5 62:10
64:4 81:11 89:9
94:3,14 95:13 96:17
97:10 98:16,21 99:9
99:13,16 100:24
101:3 103:13 115:6
139:20 140:23
142:9,19,25 143:25
149:18
scenarios
29:22 98:10
schematic
114:23 115:1
science
159:6
screen
18:23 19:4,23 22:24
34:17 35:10 36:1
37:1 39:12 42:3,5,9
42:10 44:18 47:6
48:15 49:5,6,13
51:15 59:7,10 61:20
62:8,23 63:9,10,16
66:9,24 67:19 68:8
68:11 71:1,4,12
74:7 75:24 76:23,25
77:4,9,16 78:9,10
79:19 82:10,13,16
82:18,19 83:3 89:2

96:14,25 99:12
101:2,21 102:5,19
103:6 105:12,22
106:13,24 107:25
108:15 121:21
127:8 128:20,23
129:13,20 130:8
138:23 140:20
142:3,13 144:3,4,4
144:8 148:23,25
screen-size
62:10
screens
6:20 17:22 42:3
44:17 70:17 75:20
125:10
scroll
42:11 48:16 82:21,22
83:5,14 86:7 88:12
94:10 95:15 97:16
100:5,12
scrolled
82:24
scrolling
61:23 77:1,10 97:16
99:3,6
scrolls
62:3 128:20
seal
162:11
search
86:21 152:25
second
4:24 8:2 9:16,23
11:11,19 12:4,15
14:16 16:20 20:6
25:3,19 38:15 40:20
41:8 45:25 47:12
48:9 52:11,12,14
54:4 59:17 60:2
61:6,11 64:13,17
67:7 73:4,9,10,17
74:4,8,19,24 75:3
76:6,9 77:14,20,23
78:4,9,16,23 79:3
81:5,14 83:19,23

84:13,15,24 85:19
86:1,3,6,6,11,11
87:15,18,19 89:13
89:16 92:25 93:8,11
93:16 94:22 96:20
97:14 101:9 102:13
104:22,23,23,23
107:15 111:15
113:12,19 119:10
119:12,12 120:21
120:22,24 121:4,5
121:18 122:13
124:2,21 125:25
130:20 132:11
138:16 141:18,22
145:21 148:20,22
150:13 152:7 157:6
157:10 158:14
160:11
section
133:3 147:15 148:10
sections
138:6
see
4:23 9:7 10:13,23
11:4 13:10,15 14:17
14:18,23 15:1 17:23
19:3 20:15,19 21:5
22:17 25:5,9,14,23
26:19,21 29:1,23,25
32:18 33:1 35:5
38:19 40:6,7,13
41:8 42:5 44:19
48:10 49:20 52:3,8
52:16 53:16,17,21
54:1,13 55:2,12
56:1,3,15,20 57:4
58:11 59:24 60:6,25
61:3,6,9,23 64:19
68:4,15 70:12 71:7
71:11,14,25 72:4,11
73:2,7 76:2 77:1,5,9
79:9,13,16,18 81:17
82:13,22 83:5 85:20
86:6 88:16,17 89:18
94:5 98:18 99:20,22

99:23 100:22 107:1
107:3,7,7,10 108:17
109:4,6,15 111:23
118:21 122:3
123:23 126:17
127:4,9,21 128:4
129:1,16,17 132:9
132:16 134:9,12,21
137:19 140:13
141:8 143:17 144:2
147:9 150:5,9,21
153:24 154:3,15,17
154:20 155:7,18,25
156:4,9,24 158:19
159:20 160:17
seeing
20:6 63:12 83:12
86:11 87:4 94:11
134:15,17
seen
22:3 32:24 33:4 48:4
73:13,21 74:6 82:23
94:20 101:25
sees
18:24 19:4 76:22
78:8 98:9 102:6
segue
137:7
select
21:16 41:23 48:9
selectable
40:19,20 41:6 61:4,7
61:10 72:20 73:4
88:15,20 89:1
109:10 111:20,21
111:25 112:5,15
120:7
selected
18:14 19:8 32:3 40:8
45:15 47:12 49:19
50:7 57:23,24,25
58:4 62:16 65:12
86:24 107:12
selecting
25:18 28:25 32:24
33:4 78:6,6

selection
15:17 16:12,13,22
17:13,14 23:17
28:16,17 30:3,20
32:5 33:10,20 34:1
44:21 49:20 51:8
56:8 64:5,9
selections
20:1 29:19,23 34:22
35:2,4 56:24 75:12
sends
82:5
sense
7:13 13:18 15:13
16:25 17:2,10 29:8
31:10 61:18 65:4,14
75:9 92:17 100:1
102:20 103:9
115:23 130:25
131:12 154:13
sensible
48:14 89:4
sentence
39:18 107:17 109:15
109:22 110:14
118:7,13 119:2
124:3 127:23
128:14 131:9
132:11 150:12
sentences
33:10
separate
60:22 97:14 156:1
separated
141:23 142:6 143:20
separately
136:11
sequence
15:20,21 17:7 18:9
18:13 85:14
servers
95:1,7
serves
133:14,16 134:11
139:5
SERVICES

1:23
set
 10:9 33:23 53:24
   57:12 145:11
   146:16
setting
 50:11
seven
 159:2,22
share
 82:1
sheet
 3:8 164:9 165:19
shopping
 97:3,9
show
 22:22 24:10,14 28:9
   29:8 31:13 36:22
   41:22 48:15 50:1
   57:23 61:20 65:14
   77:17 79:12 89:3
   92:1,1 100:21
   101:16 108:23
   113:4 115:10
   121:14 140:25
   142:10 143:14
   148:12 151:1
showed
 147:20
showing
 32:4 50:20 63:17
   100:10 101:1,5
   102:3 115:1 146:10
   148:23 149:4,5,7
shown
 9:6 16:6,10,11,14,21
   18:3,17 21:4,10
   26:2 28:10,13,15,18
   30:3 31:17 33:3,24
   34:1,11 39:10 41:18
   42:3,4 43:5,20
   44:15 48:22 49:21
   50:12 51:6 55:14
   57:7,17 58:16,19,25
   59:1,10 71:17,19,24
   76:1 85:10 96:22

126:5 129:20
   147:13,20 154:10
   156:11
shows
 19:23 20:14 49:12,13
   50:4,6 56:22 57:21
   57:25 71:1,4,12,22
   72:6,9 85:3 92:21
   94:16 98:11 100:20
   127:8 151:2
shrunk
 63:7 97:11
sic
 146:24
side
 159:2,3 161:1
signature
 10:3,3 161:8 165:24
signed
 90:16 165:19
significant
 96:13,13,24,24 99:11
   99:11 105:20,21
silent
 33:11
similar
 72:2 83:16 112:12
   119:16,16 120:23
   136:9
similarly
 92:24 97:10
simple
 68:6 82:4 92:3
   135:20
simpler
 48:24 146:14
simplify
 36:14
simply
 34:20 115:11 116:4
   121:15 136:23
simul-
 43:25
simultaneous
 90:20 91:8 92:11,15
   92:21 93:5,23,24

102:8 104:25
simultaneously
 43:20 44:1,3 47:17
   49:6,21 61:16 64:17
   67:14 68:3 69:16
   85:13 88:22 91:8
   94:1 98:12 99:21
   104:17 106:2
single
 17:17,18 52:6 53:14
   55:4,9 57:5,20
   64:25 68:1,2
Sir
 4:3
sitting
 6:6 37:11 60:16
situation
 57:12 64:1 103:8
   142:10 143:13,14
   144:7 156:16
six
 3:15 70:9,13,14,16
   70:17
size
 63:8 66:9,18 68:11
   75:11 77:4,17 82:17
   82:19 100:3,10
   106:13,24 156:12
sized
 76:12 82:9 107:13
skill
 58:21 84:18
skip
 127:5
skipped
 146:1
Skipping
 60:25
slide
 128:3 129:4
slides
 128:9
slideshow
 128:8,14,16,21 129:8
   129:10,24
slight

64:24
slightly
 148:21
slow
 97:17
slower
 31:10
small
 47:6 61:22 63:8,10
   68:7,8 107:2,12
   139:16 142:13
   144:15,20
small-scale
 143:14
smaller
 44:21 107:11
smallish
 136:23
smart
 41:5 43:7 44:23 47:2
   47:2,7 48:1,9,18
   65:9 102:17,18
   103:1,17 105:9
   106:14,20,24
smart-watch
 45:8 46:18 47:19,21
   103:12
Smith
 14:21,24 15:1 36:18
   71:23 72:3,7,10
   85:3,10,11,12,22
   88:1,2,3,3 94:5,5,6
   94:15,16,17,20
Smith'
 25:20
Smith's
 85:3
smoothly
 14:8
soccer
 158:2,3,6
software
 6:15 9:7,8 81:23,23
   84:19 97:20 101:13
   102:23,24 117:4
solemnly

4:5
solve
 134:20
somebody
 11:19 18:23 45:13
  46:25 97:3 101:20
  103:9 105:14 107:1
  107:3
soon
 69:19 74:7 160:18
  161:2
sorry
 14:9 15:23 25:2
  28:11 36:21 40:18
  50:10 52:4 53:18
  54:3 56:16 58:13
  85:1 91:1 96:21
  105:17 106:7
  107:18 110:7
  116:10 117:19
  125:20 130:12
  145:4
sort
 17:13 19:6,15,20
  20:2,9,13,22 21:1
  22:5,11,16,24 24:10
  26:3 29:4,10 30:2
  31:1 32:5 33:7,14
  33:20 45:25 50:1
  62:13 63:4 86:8
  87:1,11 114:14
sorted
 20:18
sorts
 19:19
sound
 23:20
sounds
 5:19 14:8 134:24
  159:4
space
 36:1 44:18 48:15
  49:5 89:3 96:14,25
  99:12 101:21
  102:19 103:6
  105:13,22

speak
 54:11
speaking
 54:6
spec
 19:3 20:3 21:21,24
  22:2,10 23:1 26:10
  26:11 27:24 31:15
  31:25 32:2,9,11,12
  55:21 71:4
specific
 11:14 19:14 22:18
  27:21 28:4 30:25
  34:17 41:25 42:2,4
  69:6 157:22 158:8
specifically
 41:14 71:17 105:11
  140:3 153:10
specification
 15:21 16:5,7 17:6
  18:12 19:9 21:15
  22:14 23:16 25:16
  27:6,13 28:7,24
  30:11,18,23 33:2,16
  34:5 36:16 41:15
  43:10 44:5,9 45:14
  46:16 47:1,4,9
  49:11 51:2 56:11
  57:18 58:7,7,16
  59:3 95:24 106:6,11
specifications
 16:1 25:12
specifics
 94:14
speed
 26:7
spell
 4:16 141:21
spelled
 112:5
spent
 80:17
spoke
 130:1
sports
 134:13

stand
 38:8
standard
 83:11 108:19 110:21
stands
 110:3,8
start
 9:22 23:4 109:5
  131:5 144:17
  152:24
starting
 7:15 25:12 32:13,14
  36:10,13 40:16
  56:10,16 82:12
  100:9 107:19 135:5
starts
 10:20 87:11 134:23
state
 4:16 16:9 23:23
  43:21 52:18 64:13
  64:15 107:17,18
  162:3 163:2 164:2
stated
 31:25 41:14 58:6
  115:9 117:18
  121:12 146:24
statement
 18:2 28:4 67:22
  106:19 119:16
  153:6,7
statements
 164:7
states
 1:1 25:16 28:24 60:2
  73:17 107:20 119:9
  128:19 143:24
static
 75:20 78:18,19
stating
 150:14
stay
 86:5,14
stayed
 86:18
staying
 87:4

stays
 87:21
stenographically
 163:6
step
 94:20 102:12
sticking
 57:16
stop
 31:16
stops
 33:12
strange
 101:19
strategy
 107:23
street
 2:4,13 114:23
streets
 115:1
strike
 26:17 111:15 113:6
  114:6 122:9
strip
 130:16 150:5,9 154:6
  154:20 155:18
stronger
 69:22
student
 11:22
study
 90:9
studying
 23:6 28:20 44:7
  128:6
style
 135:7 145:13
sub
 73:5
subapplication
 65:25
subject
 33:11 139:15 165:22
subjects
 122:2 137:9
submenu

56:2,7 57:22 62:15
subscribed
164:16
subsequent
38:16,24 59:17 60:3
73:18
substance
165:22
substantially
141:5 142:16
subtracting
114:17
succeeded
128:2
succeeding
127:17 128:9
successive
33:7
sufficient
49:5
sufficiently
140:24 143:20
suggest
64:16 84:12,18
suggested
62:13
suggesting
141:11
summarize
89:21
summarizing
89:21
summary
124:15 133:5
superimposed
135:1,8,11,13,17,25
136:4,6 137:15,17
137:21,25 145:9
superimposing
136:14,18,23
superimposition
136:12
superior
97:8
support
97:6

supports
23:24 27:9
suppose
158:1
supposed
115:23
sure
4:17 8:6 10:11 15:23
18:8,20 27:11,12
33:6 35:25 41:4
46:11,22,22 47:14
47:20 49:15 50:18
51:17,23 52:11 53:5
53:8,8 54:18 55:16
55:24 62:11 66:23
67:1,21,23 69:7,25
70:4,14,16 71:20
82:4 90:7 91:18
96:5,10 98:4,6
99:14 104:12
110:14,19 114:3,7
115:8 116:15,16,18
119:25 125:17
128:19 129:12
132:18 133:7
137:20 138:10
142:8,17 146:8,12
149:3 153:9 154:23
160:12 161:7
survey
129:19
suspect
83:16
swear
4:5
swipe
41:8
swiping
48:17 106:15
sworn
4:11 162:9
system
9:12 22:20,20 26:13
29:6,14,25 31:13
35:12,14 49:25
56:12 57:11 58:7

61:22 64:2 65:8
69:4 98:6 105:9
117:3 135:19 137:8
143:18 154:25
systems
61:19

T

T
3:11 80:9 165:1,1
Tags
55:19
Takakura
132:8,12,22 133:25
134:22 138:13
take
4:22 7:4,5 13:24
18:25 54:9,15 69:19
80:2 96:19 103:24
113:25 114:25
123:6 141:25
145:16 152:13
158:25 161:3
164:20
taken
1:16 12:16,25 54:19
80:7 104:6 123:17
132:3 138:20
139:16,18 140:4
141:4 142:16
143:10,23 151:16
157:5 158:4 165:4
takes
96:18
talk
27:21 75:20 146:6
153:1 160:16
talked
63:10 105:16 118:22
119:23 121:23
talking
18:5 21:9 27:6 31:24
42:1,22 46:15 47:10
47:14,15,23 48:8
53:9 54:5 62:11
68:9 75:13,15 76:5

98:4 100:15,18
103:16 114:16
118:20 131:17
133:23 135:11,25
138:5 140:22
141:11 142:18
143:16 149:20
talks
25:11 68:24 75:16
115:5 127:23
134:25 136:20
145:7
task
133:15 135:20
tea
123:11
teaches
135:13
tech
11:20
technical
31:12,23
technique
146:14
tell
4:5 6:6 9:24 18:11
78:25 81:2 83:20
85:23
tells
58:21
ten
54:15 123:10,14,15
ten-minute
103:25
term
12:7,18,25 38:23,24
83:11 114:15
terms
16:5 40:23 46:9
51:16,22 58:6,13,14
58:15 59:2 84:8
99:4 110:1 120:15
120:23 144:7 151:6
testified
4:12 38:3 49:17 67:5
67:8 68:18 69:9

76:3 81:2,12,17
87:20 105:3 114:12
118:2
testify
5:1,3
testifying
5:20 6:3
testimony
29:3 30:10,13,17
32:1 41:21 61:25
69:8 70:5 78:25
80:15 82:25 84:1
103:19 116:8,11
122:21,23 134:19
154:19
text
6:22 14:23 15:1,9
22:19 25:20 28:6
31:8 33:7 56:25
108:9,20,22 110:19
112:17 125:6
134:24
thank
11:17 15:2 36:14
54:18 122:20
160:15
Thanks
160:20
thereabouts
55:25
thereof
163:8
they'd
143:9
thing
89:4 98:8 99:4 134:7
136:5 140:14
things
7:17 9:9 38:25 55:25
65:20,21 66:18,20
75:14 76:4 116:18
123:25 125:14
129:22 131:7 133:9
154:15
think
5:23 6:2 10:8,12,18

11:12 15:7 17:4,15
17:21 19:2 21:21
25:25 27:20,22 29:4
30:6,6,9,23 35:11
36:20,23 37:22 38:8
38:9 41:9 43:4
44:15 45:3,17 47:22
48:13,18 49:23
50:21,22,24 51:6,25
53:10 56:17,18 57:9
59:5 60:10,14,20
63:3 64:8,10 65:23
68:4,22 69:12,18
72:15 75:13,17
76:11 77:15,25
79:25 81:6,6,7,23
83:10 86:12,22 89:5
90:6 91:2,2,24,25
92:17 93:6,6,9,20
93:21 95:7,13,19
100:2 101:18,24
102:16,21,25 103:3
103:8,22 104:11
105:8,10 107:9
108:13 109:2
111:21 112:3 115:9
116:14 117:22
118:7 120:19 121:6
121:10,22 123:3,4
123:22 124:2
125:10 131:15,24
132:24 133:4,8,11
134:7 135:6,16,18
136:3,20,22 137:4
138:17 139:14
140:8 143:3 144:12
144:13,20,23 145:2
145:6,12,18 146:1,2
146:5,5 147:2,2
149:14,14 151:13
153:1,6,13 156:17
160:13,18 161:4
third
41:9 53:24 113:16
thought
34:12 68:10 92:4

118:19 125:7
three
9:19,19 15:7 56:6
149:7 159:14,14
thumbnail
14:20 21:12,19 30:19
40:20,21,24 41:1,9
41:18 42:7,8,23
43:2 47:16 48:3,4,7
48:15 49:20 51:19
51:24 55:14 58:3
61:4,7,11,11,15
62:7 63:5 72:6,9,20
72:21,25 73:5,10
84:6,12,13 85:20,25
86:1,4,6,11 87:18
87:19 88:1,3,15,20
89:1 94:5 96:18,20
96:21,21 99:22,23
100:4 101:5 102:4,4
106:4,16 108:8
109:10,18 110:15
111:20 112:16
118:9,15 120:8,14
120:22 121:5 127:1
127:1 131:17,18,23
131:25 134:1,6,9
136:16 138:14
139:11 142:24
144:9,13,25 146:14
148:16 149:5,6,7,11
150:6 154:2,21,21
155:10,19,25 156:2
156:4,10,12,21
157:2 158:23 159:8
159:19,22,23 160:7
thumbnail's
131:21
thumbnails
20:14 30:7 35:5 36:2
40:12 43:5 48:11
49:9,12,16 50:1
51:3 55:20 56:14
57:21 58:18 59:1
61:21,24 62:1 63:2
63:17 64:6 65:11

68:16 71:5,13,22
72:2 82:16,17,17
97:22,23 98:1,3,7
98:12 99:20 100:22
102:7 104:16 106:2
107:11,12 130:24
131:11 132:1,15,22
133:21 134:17,21
135:20 136:24
138:14 140:19
141:24 142:7 143:5
146:11 151:2 154:6
154:10 156:16
159:10
Thursday
1:17
time
7:6 10:17 15:11,12
20:12 21:10 32:11
39:21 40:13 41:2,7
41:19,22 42:10,24
43:2,6,8 48:5,16,22
61:21 62:2,8 63:24
65:12,15 77:10
79:11,20 80:2 82:24
83:4 84:17 85:21
88:5,21 89:15,17
90:21 91:11 93:16
93:17 94:12,19,19
95:16 96:13,22,24
97:1,17 98:16 99:11
101:5,16 102:4
104:22,24 105:21
106:4 107:4,4
113:16,17 115:11
115:11,19 121:14
121:15,20 122:14
122:16 123:2 134:9
134:11,21 135:16
135:21 155:7 156:5
timeframe
93:12
times
15:8 17:12 64:18,21
67:22,25 68:3 69:17
74:10 85:12 126:20

151:21
to'
16:23 107:22
today
5:25 6:7 126:9
Tokyo
139:22 140:3 141:4
142:16,20 143:15
tonight
161:3
top
5:2 13:17 18:17 19:3
19:22 20:13,14 22:1
24:4 31:16 33:3
34:17,25 39:10,12
49:13 50:4 51:15
55:9 70:24 86:20
87:12 109:4 112:13
127:14,14 130:22
131:6 143:9
topic
104:1,8 108:2 130:19
toy
50:15
trade-off
157:13,15
TRADEMARK
1:1
training
11:22
transcript
3:19 7:10 36:9
117:14 160:17
161:5 163:7 164:6
165:6,21
transition
85:2,11 94:17 102:9
103:20
transitioning
98:21 99:15,22 101:3
transitions
87:25 94:4 102:7
treat
148:3
tree
86:21

TRIAL
1:2
tried
19:21 22:19 91:20
93:21
true
11:12 24:2 30:9
33:15,21 36:19 37:5
37:8 42:20,25 49:10
59:5 63:3,7 74:17
91:25 92:18 112:22
120:5 121:10 123:3
125:1 137:24 138:4
139:7 143:4 147:11
149:9,21 154:2
156:7,14,25 157:6
157:10 159:21
160:1 163:8 164:9
165:21
truth
4:5,6,6
truthful
5:7
truthfully
6:3
try
9:4 33:23 39:2 45:25
142:7 159:6
trying
24:8 44:8 47:18 97:7
115:13 118:8
132:25 134:7,19,20
154:24
turn
6:23 24:21 38:11
39:4 52:1 59:13
90:12 101:17
103:25 107:14
108:25 111:14,16
115:20,21 123:19
130:19 132:5
149:22 150:25
158:13
turned
14:5
two

13:13 15:7 29:5,22
29:24 30:7,7 41:1
42:3 43:1 47:16
48:10 49:9 51:18,24
61:24 62:1 63:1,5
63:11,17 64:6 65:10
65:14,15,18,24 67:9
67:13 68:2 69:3,10
69:15 75:14 85:7,7
90:20 91:8 92:11
97:4,21,21,22,22
98:2,2,6,10 100:18
102:7 104:10,14
116:17 119:21
133:14 134:4
139:21 140:19
142:21 149:16
159:8,10,14
type
157:24
typical
4:20
typo
111:22 120:16

U
---

ultimately
86:6,11
unable
3:18
unclear
19:2,10,14 34:20
underlying
139:3
underneath
153:25
undersigned
162:7
understand
5:3,6,10 12:16,24
15:9,23 18:9 27:8
28:7,21,24 47:18
48:8 63:18 69:7
70:4,21 89:22 105:4
108:13 112:15
115:8 142:8

understanding
5:24 20:23 47:20
67:24 113:24
128:11 132:18
138:10
understands
5:20
understood
60:13 91:5 114:3
124:7 128:6
unfortunately
32:8
unfrozen
46:13
United
1:1 143:24,24
unlimited
26:14 29:7 37:17
unmodified
159:1
unplug
13:25
unspecified
89:15,17 93:16,16,17
unusual
92:4
updating
6:15
use
15:6 20:21 21:3
44:23 48:9 65:8
66:25 70:19 82:2,25
83:1 99:8 107:20
157:2
useful
98:6
user
16:10,18 17:22,23
18:3,4,9 19:4,7,25
21:4,10 22:6,16
23:10 24:13,15
25:21 28:10,14,25
29:6,9,18,20,23
31:8,19 33:9,24,25
34:6,21,21 36:3,17
36:20,21 39:23

40:10 42:14 44:11
44:19 45:5 48:8,16
49:14 50:7 52:22
55:18 61:18,21 62:2
64:18 65:8,12 66:19
68:15 74:11 75:7,11
75:18 76:1,12,14,17
76:20,22 77:1 78:7
78:8,11,13,21 82:9
82:13 83:3 86:10
94:9 95:2,9 96:13
96:16,23 97:7,11,18
98:8 99:1,11 100:3
101:16 102:5
105:20,23 106:25
107:1,13,22,24
108:16,24 109:20
111:7 113:3 114:20
114:21,22 115:13
115:20 125:2
128:21,21 129:3,3
129:19,20,22,25
130:1,2 134:15
151:8 153:5,8,15,20
157:21,23 158:1,7
158:10

user's
29:13 31:14 32:17
66:9 74:6 81:9 82:8
83:14 99:7 100:11
100:13 121:22

users
31:4 157:21

uses
66:21

V

v
165:2

v-
1:7

variation
64:24 87:13

variations
71:19

variety

17:21

various
19:15 108:3 125:10
139:18

verb
68:19,20

verbally
7:11

version
97:13 135:15

versions
8:7

vicinity
141:4 143:15

view
11:8 12:8 15:22 16:4
16:6,9,21 17:8,11
17:18,21 18:2,17,24
19:24 21:4,10,11,18
22:3,15 23:10,19
24:19 25:17 28:10
28:13,19 30:18
32:15,23 33:3,19,19
34:7,16 35:3 36:17
36:22 38:17,18
39:15 40:24,25 41:7
41:16 42:19 43:6,9
43:15,19,22 44:10
44:20 48:21,25 49:8
52:7 53:14 55:5,10
56:2,23 57:5,20
59:18,19 60:4,5
61:12 62:1,7,12,15
62:16,20,22 63:6,13
64:7,9,11 65:11,18
65:22,24 66:16 67:6
67:9,13 68:13,14
69:10,15 70:17,22
70:23 71:1,8 72:14
72:16 73:15,19,20
73:23 74:1,3,3,14
74:16,18,23,24 75:1
75:2 76:2,5,7,8,19
77:5,9,11,12,18,19
77:19,21,22 78:3,10
78:12,15 79:1,2

81:1,1,2,3,13,13,13
81:15,16,18,19,20
81:22 82:12 83:5,13
83:16,18,18,20,20
83:22 84:9,22,23,25
85:1,2,2,5,9,11,14
85:15,17,18,18,23
85:24 86:5,9,14,18
86:25 87:4,5,7,9,14
87:14,16,17,21,23
87:25 88:1,6,7,9,10
88:11 90:19 91:7
94:2,3,4,8,11,11,21
97:12,13,14 98:11
98:15,16,21,21,23
99:10,13,13,15,16
99:19,23 100:21,22
100:24,24 101:3,3,8
101:17,17 102:6,7,9
102:9,12,21 103:20
103:20,21 104:15
104:18 107:12
109:8 114:24,24
116:7 125:5 126:22
148:8 151:7,8,12,13
157:13,25 158:4,11

view,'
39:22

viewed
153:21

views
32:25 70:13,16 71:3
100:2 103:12
105:12 151:11
157:18

visibility
69:1

visible
39:20,23 40:10 42:14
43:15,23 44:10,21
48:22 62:2,8,13
64:18 65:1 66:2,22
67:1 68:10,11,20,21
76:14,16,20 77:6
78:11,13 83:3
139:25

visually
39:10

W

wait
46:4 122:6

waived
161:8

wall
35:24

want
6:3,11 13:8,25 14:13
15:8 18:1,8,25
20:25 21:7 23:22
24:10 26:16,23 27:8
27:11 36:9 38:11
39:17 40:25 42:21
43:8 45:24 46:9
51:17,17,22 52:1
53:8 54:15 55:22,23
57:3 58:5 59:13,14
66:12 67:23 71:20
72:13 74:22,23 77:5
80:14 90:12 92:6
93:7 95:23 99:14
100:17 101:15
103:4,24 104:8
107:14 108:17,25
110:19 111:3,3,6,14
111:16 112:11
113:11,19 114:7,15
116:16,18 117:16
119:25 122:8,14,18
123:19 125:13,17
126:15,24 127:5
128:18 129:11
131:7,16 132:18
138:9,10 142:7,17
144:5 145:22
146:19,20,20,21
148:9 149:22 150:1
150:23 152:13,15
153:9 155:13,13

wanted
14:13 50:17 66:23
104:10,12 122:11

145:5 146:25
147:18
wasn't
23:14 41:3 83:6
88:23 94:24 101:23
105:14 106:21
119:1 133:15
waste
101:21
wasted
102:19
watch
41:5 43:7 44:23 47:2
47:7 48:1,9,19
63:10 65:9 102:17
102:18 103:1,17
way
10:11,21 17:9 22:18
25:13 26:2,14 33:21
50:4 68:14 83:9
86:2,5 91:4 100:1,2
114:20 128:7
129:23 134:15
135:13 137:21
140:18 146:10
149:1 150:18
155:15 159:18
ways
17:12 62:19,21 75:11
125:9 130:5 157:17
we'll
4:19 7:3,3 32:11 46:2
84:21 104:4 112:15
123:15 161:3
we're
7:8 18:5 20:6 42:22
44:14 46:11,15
47:14 49:14 53:9,9
54:8,24 67:23 75:13
77:18 78:2 80:12
86:9 89:9 97:25
98:4 99:15,18
101:19 103:16
113:19 116:16,17
119:25 131:17
133:23 142:18

144:8 148:14
160:21 161:2
we've
6:10 15:8 54:13
62:11 66:21 72:14
73:24 74:9 87:7
94:19,20 96:17
99:16 103:23 105:6
119:19,23 123:4
125:15 126:4,19
139:21 149:19
156:18
web
31:4,6 66:5 76:23
82:5 97:20 108:19
wedding
121:25
week
160:18
weeks
97:4
well-known
107:23
Werber
2:17 3:4 4:14 5:14,19
5:22 11:17,24 14:3
14:11 20:11 22:12
26:16,18 27:15 28:1
34:9 35:6,19,20
45:16,20 46:2,6,7
54:8,14,18,20 57:15
59:21,23 60:23
65:16 67:20 69:23
70:2,6,10 79:7,22
79:24 80:5,11,23,24
89:12 91:22 92:23
95:22 103:14,23
104:4,7 110:11
113:5,7 122:8,10
123:4,9,15,18
125:24 126:2,13
131:4 154:1 160:8
160:12,15,21 161:1
weren't
118:17
West

1:21 2:13 162:16
163:5,22 165:5
wholesale
157:8
wide
76:24 77:7 99:7
100:4 101:2
willing
151:20 153:21
window
61:19,22 63:7 65:7
66:9,18,19 68:7
75:11 76:13,25 77:4
77:6,8 88:9 94:9
95:2,9 97:11 99:2,8
100:3,10 107:13
withdraw
21:2 28:11 30:11,14
34:3 35:19 38:22
40:18 43:12 58:14
59:22 62:25 67:6
68:17 81:11 90:10
90:11 98:9 112:10
130:13 131:5
133:22 136:15
155:14
witness
3:2 4:7,10 13:24 14:9
19:12 21:21 27:20
34:15 57:9 60:20
65:3 67:16 79:5,16
91:17 92:14 95:6
102:16 104:2 110:7
123:7,14 126:6
153:19 160:9,19
162:11 164:18
wondering
13:21
word
12:5,17 15:6 43:25
44:2 60:8,11,13,17
60:21 61:1 66:21
67:1 68:9,20,21
70:19 73:3 81:25
82:2 83:1 87:11
92:14,20 111:21

123:22,24 124:6
135:16 136:4
137:13
wording
69:3
words
7:11 11:15 22:4
32:12 38:9 88:14
116:10 122:13
work
26:14 66:4,15 143:19
world
6:24 26:14 29:14
44:14 101:20 107:8
117:4 139:19
140:25 141:15
142:11,22 143:13
worse
144:15
wouldn't
26:10 37:18 44:20
63:12 65:13 87:22
92:16 95:14 115:22
122:1 137:24 139:7
140:1 157:8
write
124:1 165:6
written
25:12 27:18
wrong
93:20
wrote
9:24 17:2 26:12
www.MagnaLS.com
1:24

X

X
3:1,11

Y
---
yeah
10:12 12:22 13:16
17:3 19:2 37:20
42:12 45:21,22 46:2
46:12,23 50:21

54:14 55:17,22
66:14 71:15 75:13
79:18 91:2,23 95:19
99:19 110:7 112:4
118:16 120:16
128:15 130:12
135:10 136:3
141:22 145:4
year
94:15 95:1,3,8,10
96:19 145:17
years
110:22 111:1
yes-or-no
32:6,7 92:8
young
107:1

Z

Z
19:18,18
zero
81:15
zoom
1:16,20 2:1 3:18 6:12
141:25 143:19
149:16 159:8
zoomed
140:5
zoomed-in
138:6
zoomed-out
142:10,19

0

00
145:21
0009
142:9
009
140:22,23
01/19/2023
165:4

1

1

10:2,20,21 30:4
40:16,17,19,25
48:19 49:9 61:12
65:18 67:6,9,13
69:13 70:19,21,22
71:1,8 74:3,23 75:1
76:3,7 77:5,9,11
81:24 84:20 85:15
86:13 88:9 94:8
97:12 98:11 99:1,3
99:10,18,19 100:21
100:22 104:15,18
1-
117:19
1-0-4-1
9:16
10
143:12,15
10,621,228
1:11
10:15
1:17
100
40:5 42:16 82:24
1001
7:16,23 9:14 32:14
1003
9:18 90:12,23 91:12
109:1 117:20 120:1
125:20
1005
125:21 126:10,12,16
1041
9:15,22 10:2 11:11
14:16 54:4 107:15
119:13
109
146:17
11
64:12 67:22 89:13
93:7,22 113:9,11
1180
2:4
12
39:4,14 41:13 42:13
42:19 43:13 45:1

48:25 134:25
135:17 136:22
137:12,13,23
13
24:21 25:1,2,6 26:20
27:2,4 52:15 54:3,3
95:25 96:1,7 100:9
105:17,17 106:19
130
119:23
133
6:8
1400
32:15
1401
18:14,19 23:9 25:19
28:15,21 30:21
32:24 33:5 35:1,4
1402
15:18 16:14 19:16
28:17 29:1 32:5
1405
17:16
143
109:1,5,14 111:11
117:22,24 118:1,2,4
118:17,18,19,22
120:14,23 121:7
1430
53:15,21
144
119:24 120:1,3,14
145
120:20,21,23 121:7
1452
56:12 58:8
1466
56:14
15
107:14 108:14
15-inch
103:18
16
111:14 112:11,14
113:18 114:9 115:2
115:5 117:8,21

119:16 135:5 145:6
145:23,24 146:8,13
151:13
161248
162:20
162
3:5
163
3:6
164
3:7
165
3:8
18
52:10,15,23,24 53:2
53:13,18,20,23
111:16,23 119:9,11
119:15 121:11,13
121:17 122:11
124:10,11,12 125:3
125:6 146:2,2,3,5
19
1:17 124:12 162:9
1g
11:2 12:13 38:13,15
59:16,24 60:25
65:20 72:15 73:16
73:17
1h
61:3
1i
11:2 65:22 85:8
88:13,17 109:4
110:2
1j
61:8
1k
10:21 65:23 85:8
92:25 93:3,4

2

2
55:9 70:20 71:12,16
77:19,21 78:11,12
79:1 81:1,2,13,13
81:15,18,20 107:18

20
20:10 40:5,7 41:18
41:22 42:5,15 49:4
50:4,4,7,7,11 51:5
51:12 55:25 56:21
57:7,13 59:11 63:24
82:16,17,17,22,23
82:23 83:3 101:13
140:21 154:6,7
2002
140:8 141:20
2003
140:8 141:20
2021
90:16
2023
1:17 162:9,12 163:17
164:11,17
2024
3:15 70:7,9 71:9
105:12 126:7
2025
162:19
21
24:22 40:12 42:6,8
42:23 125:19
126:14,19
21st
42:7,9
22
19:1,1,13 20:24 22:1
23:17 24:4 25:25
26:1 28:20 30:2,24
32:13,14 37:14
56:10,17 57:19
58:11 93:12 127:5,8
128:7,15
22:59
25:13
228
9:15 13:4,12 16:17
20:24 23:8,24 30:4
36:5 39:18 44:4
64:16 105:17
23
22:1 24:4 30:2,24

37:14 55:23,25
56:10,17,25 58:11
58:12 128:24 129:7
129:11,13,20
130:20,22 131:6,8
23,0
129:13
23:41
25:13
23rd
162:11 163:17
24
125:12 130:3,6,7,8
130:12,17 132:5,6
132:11 138:15
246
126:25 127:3
25
144:18,19 146:20,23
147:13,16
250
128:13
251
127:11,15,22
252
128:25 129:2
259
129:15
26
144:16 146:20,20
147:16,18 149:5
162:19
27
149:22 150:12,13
272
135:24,25

———————————
3
———————————
3
70:20 71:22 83:16,18
83:20,21 84:23 85:2
85:9
30
33:3 100:16
30309
2:5

31
96:1,8 100:9 105:18
158:13
312.977.4458
2:15
32
13:4,9,13,17 14:15
14:18 16:2 18:18
19:3,23 20:13,13
23:8,15 25:7,7,18
27:4 28:20 31:16,16
32:21 33:4 34:11,18
39:11,13,18 40:3
42:4 44:4 49:12,13
49:22 50:4 51:15
52:1,4,5 53:12,19
53:22 55:1 56:21,22
57:17 58:17 70:23
70:24 76:2 86:15
34
123:19 124:9,11,19
124:23
365
94:17 95:20,20,21,21
3rd
90:16

———————————
4
———————————
4
3:4 12:14,23 23:4,7
25:2 26:25 36:10,13
72:2 84:22 85:1,2
85:11
4:20
123:16
404.892.5005
2:6
41
144:24 149:25 150:2
151:22 155:6,16
158:11,25
42
147:8
440
127:8 128:20
441

127:24
442
127:16,18 128:1
443
127:17,19 128:2
450
128:23 129:13,20
460
130:8

———————————
5
———————————
5
13:7 14:15,19 15:15
15:25,25 18:1,10
21:3 23:3 36:15
72:6 85:17,18,23
87:14,16,21,25
88:10 94:2,3,11
97:13,14 98:15,21
98:25 99:3,13,15,18
99:21 100:2,24
101:3,17 102:6,9
103:12,20 105:12
5:52
161:9
50
22:21 36:10 40:5,14
41:23 42:7,15 50:19
51:12,12 57:13
123:5
55
158:17
56
158:18

———————————
6
———————————
6
10:22,22 14:19 16:16
18:10 38:13 72:9
88:1,11 94:4,11
98:16,21,25 99:3,13
99:16,18,23 100:3
100:24 101:3,17
102:7,9 103:12,20
105:12
60

 32:14
60602
 2:14
62
 32:23 124:16

7

7
 10:22 88:17
70
 2:13 3:15
78
 90:22,24,24,25 109:3
782
 150:5
784
 150:8

8

8
 10:18 133:10 138:18
866.624.6221
 1:25

9

9
 142:25 143:8
90
 151:24 152:25
  153:10
90s
 31:4
91
 151:24 153:10