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# Transcript of Henry Houh, Ph.D.

**Date:** January 9, 2026

**Case:** Amazon.com, Inc, et al. -v- AlmondNet, Inc. (PTAB - IPR2025-00545)

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1 UNITED STATES PATENT AND TRADEMARK OFFICE

2  
3 BEFORE THE PATENT TRIAL AND APPEAL BOARD

4  
5 AMAZON.COM, INC., AMAZON WEB SERVICES, INC.,

6 and AMAZON.COM SERVICES LLC,

7 Petitioners,

8 v.

9 ALMONDNET, INC.,

10 Patent Owner.

11  
12 Case IPR2025-00545

13 U.S. Patent No. 8,494,904

14  
15  
16 Deposition of HENRY HOUH, PH.D.

17 - Conducted Virtually -

18 Friday, January 9, 2026

19 10:31 a.m.

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21 Pages: 1 - 113

22 Reported By: Michelle Keegan, RMR, CRR, CSR

1                   Deposition of HENRY HOUH, PH.D., conducted  
2                   virtually, pursuant to notice, before Michelle  
3                   Keegan, Registered Merit Reporter and Notary  
4                   Public in and for the Commonwealth of  
5                   Massachusetts.

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A P P E A R A N C E S

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C O N T E N T S

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E X H I B I T S  
(None marked.)

PREVIOUSLY MARKED EXHIBITS

(Not attached to transcript.)

Exhibit 1001	37
Exhibit 1002	5
Exhibit 1004	41
Exhibit 1008	59

(Note: All quotations from exhibits are reflected in the manner they were read and do not denote an exact quote from the document.)

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P R O C E E D I N G S

HENRY HOUH, PH.D.,

having been satisfactorily identified and duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR  
PATENT OWNER ALMONDNET, INC.

BY MR. MILKEY:

Q. Good morning, Dr. Houh. I'm uploading Exhibit 1002 into the chat. If you could, please download that and let me know when you have it open.

(Exhibit 1002, previously marked, is not attached to the transcript.)

A. All right. I just -- I'm getting it now. I just want to make a folder for it.

Okay. I have it open. I also have a printout of it here, of Exhibit 1002.

Q. Okay. Feel free to refer to the printout as you wish. That's totally fine.

A. Thank you.

Q. Do you recognize Exhibit 1002?

1 A. Yes, I do.

2 Q. Okay. And is that the declaration that  
3 you've prepared in this proceeding regarding the  
4 '904 patent?

5 A. Yes, it is.

6 Q. Okay. So before we get started in detail,  
7 did you do anything to prepare for today's  
8 deposition?

9 A. Yes, I did.

10 Q. And what did you do to prepare for today's  
11 deposition?

12 A. I met with attorneys and I reviewed a  
13 number of documents.

14 Q. Okay. Approximately how long did you  
15 spend preparing for today's deposition?

16 A. I don't know if I'd be able to give you an  
17 exact number, but probably 20-plus hours.

18 Q. And how did you prepare your declaration  
19 that you submitted in this proceeding?

20 MS. LIN: Objection. I'd caution the  
21 witness not to reveal privileged information.

22 A. I reviewed a number of documents, and then

1 there was a lot of back-and-forth between the  
2 attorneys.

3 Q. Okay. Approximately how long did you  
4 spend preparing your declaration in this  
5 proceeding?

6 A. It was some time ago. I don't remember.

7 Q. Do you know if it was more or less than  
8 40 hours?

9 A. I work on a lot of cases. I don't know  
10 how -- I'd have to go back and think about just  
11 this case.

12 Q. Okay. For the prior art references relied  
13 on in your declaration, did you identify those  
14 prior art references or is that something that was  
15 provided to you by counsel?

16 MS. LIN: Objection, form.

17 A. I don't think I was the one who identified  
18 them. I think some came from previous cases. I  
19 don't know where -- I don't know where the source  
20 was for all of them --

21 Q. Okay.

22 A. -- with respect to whether it was

1 attorneys or just another case.

2 Q. Okay. You were involved in a previous  
3 case involving AlmondNet. Correct?

4 A. Yes. Several.

5 Q. Okay. And one of the cases that you were  
6 involved in was the AlmondNet versus Amazon case  
7 that went to trial. Correct?

8 A. Yes.

9 Q. And did you testify at that trial?

10 A. I did. Yes.

11 Q. Do you recall what the subjects of your  
12 testimony were at that trial?

13 MS. LIN: Objection, outside the scope.

14 A. I don't remember which patents the trial  
15 was directed to, but it was about the patents  
16 somehow. I don't remember which topics I  
17 testified on.

18 Q. Okay. Do you recall if you testified  
19 regarding DoubleClick or Engage at the previous  
20 trial?

21 MS. LIN: Objection, scope.

22 A. I don't remember. I mean, I recognize

1 those terms, but I don't remember what I testified  
2 on.

3 Q. Okay. Do you recall if any witnesses --  
4 any other witnesses at the AlmondNet versus Amazon  
5 trial testified regarding DoubleClick or Engage?

6 MS. LIN: Objection, scope.

7 A. I believe they did, I think. I believe  
8 maybe both, but I don't remember the exact topics.

9 Q. Okay. Did you review any of the testimony  
10 from the AlmondNet versus Amazon trial in  
11 preparing your declaration in this proceeding?

12 A. I don't recall doing that, but it's been a  
13 while, so I don't know.

14 Q. Okay. And sitting here today, do you  
15 recall reviewing any of the deposition transcripts  
16 from the AlmondNet versus Amazon litigation that  
17 went to trial? Do you recall reviewing any of  
18 those deposition transcripts in preparing your  
19 declaration?

20 MS. LIN: Objection, form.

21 A. No. I don't recall any of that.

22 You mean in preparation for this

1 deposition?

2 Q. So let's do this in two parts. First, did  
3 you review any of those deposition transcripts in  
4 preparation for this deposition?

5 A. I don't recall doing that. No.

6 From the previous case, you mean?

7 Q. Yes.

8 A. No, I don't remember doing that.

9 Q. Okay. Thank you. And then I think the  
10 question -- I may have misstated it, but what I  
11 was intending to ask is if you reviewed any of  
12 those deposition transcripts from the previous  
13 case that went to trial, if you had reviewed any  
14 of those deposition transcripts in preparing your  
15 declaration in this proceeding?

16 A. I mean, it's been a long time, but I don't  
17 remember doing that. I don't have a memory of  
18 everything I did roughly a year ago.

19 Q. No. Understood. Other than the documents  
20 that you reviewed, do you have any personal  
21 knowledge of how the DoubleClick advertising  
22 system operated?

1 MS. LIN: Objection, form.

2 A. I mean, I may have heard or seen other  
3 materials earlier, but to the extent I didn't cite  
4 them as exhibits in my declaration, I wouldn't  
5 have relied on any of that knowledge.

6 So whatever I've cited to is really what I  
7 relied on for the purposes of this declaration.

8 Q. And other than the documents that you  
9 reviewed, do you have any personal knowledge of  
10 how any of the advertising systems operated by  
11 Engage Technologies operated?

12 MS. LIN: Objection, form.

13 A. I mean, I may have heard some or read --  
14 reviewed something in the past. But to the extent  
15 I would have relied on it for purposes of this  
16 declaration, I would have cited to it.

17 Q. Do you have any specific work experience  
18 in the field of targeted advertising?

19 A. I do.

20 Q. And what is that experience?

21 A. So early on in the beginning of the web  
22 around '93, '94, I started a company. We targeted

1 ads toward specific viewers on the Internet based  
2 on where they were viewing from. That's one thing  
3 I did early on.

4 And then I worked for a company in the  
5 late 2000s that we started an advertising network.  
6 And we utilized available tools to build the  
7 back-end advertising. It was all targeted  
8 advertising. It was called the "Boom Network."  
9 It was a network of websites frequented by people  
10 kind of 50 years old and older.

11 Q. Okay. Could you please turn to  
12 Paragraph 33 of your declaration.

13 A. Okay.

14 Q. And do you see that in Paragraph 33 you  
15 set forth your understanding of what the  
16 experience of a POSITA would have been?

17 A. Yes.

18 Q. Okay. And so I'm going to ask some  
19 specific questions, but at a high level I want  
20 to -- you say a few different things in this  
21 paragraph. And what I'm trying to understand is  
22 what your actual definition for what the minimum

1 level of a person of ordinary skill in the art  
2 would be.

3 So with that understanding in mind, the  
4 first sentence of Paragraph 33 says, "In my  
5 opinion, a POSITA would have had experience in  
6 online advertising and computer science."

7 So is it your opinion that any person  
8 having experience in online advertising and  
9 computer science would have been a person of  
10 ordinary skill in the art?

11 A. I think you have to look at the totality  
12 here. And there's also -- at the end I talk about  
13 how a person could have qualified with more formal  
14 education and less technical experience.

15 So I think any one sentence in isolation  
16 isn't my definition.

17 Q. Okay. Can you provide a definition of a  
18 person of ordinary skill in the art? Because,  
19 frankly, I wasn't seeing it in this paragraph.

20 A. Well, that person would have had  
21 experience in online advertising and computer  
22 science. And education could include a bachelor's

1 degree in business or economics with an emphasis  
2 on the use of technology in marketing or  
3 advertising or have similar knowledge gained  
4 through actual work experience.

5 Such a person could also hold a bachelor's  
6 degree in computer science or equivalent industry  
7 experience and work with a team that includes  
8 software engineers.

9 And a person could also have qualified  
10 with more formal education and less technical  
11 experience or vice versa.

12 Q. Okay. So would a person who had a  
13 bachelor's degree in business or economics with an  
14 emphasis on the use of technology in marketing or  
15 advertising or have similar knowledge gained  
16 through actual work experience, would that person  
17 be a person of ordinary skill in the art?

18 A. Well, I mean, that meets that part of the  
19 qualification.

20 And if a POSITA had online experience,  
21 experience in online advertising and computer  
22 science, that's another thing I add to the

1 qualifications for a POSITA.

2 And if that person -- they could have had  
3 also a bachelor's degree in computer science or  
4 equivalent industry experience to that. But also  
5 if that person had more formal education and less  
6 technical experience, they could have qualified.  
7 Or if they had a more technical experience and  
8 less formal education, they could have qualified  
9 as well.

10 Q. So understanding people -- I know your  
11 last sentence here says a person with more formal  
12 education and less technical experience or vice  
13 versa would qualify.

14 What I'm asking about, though, is just  
15 your sentence where you say, "A POSITA's education  
16 could include a bachelor's degree in business or  
17 economics with an emphasis on the use of  
18 technology in marketing or advertising or have  
19 similar knowledge gained through actual work  
20 experience."

21 And what I'm asking is, would a person  
22 with that education and knowledge meet the

1 requirement of a POSITA?

2 MS. LIN: Objection, form.

3 A. It could if they also met everything else  
4 that I talk about here and they had -- and  
5 depending on what level of experience or education  
6 they may have.

7 Q. Okay. So you said they could if they meet  
8 the requirements of everything else that you  
9 talked about in this paragraph.

10 So would a person who had a bachelor's  
11 degree in business or economics with an emphasis  
12 on the use of technology in marketing or  
13 advertising also need to hold a bachelor's degree  
14 in computer science or equivalent industry  
15 experience and work with a team that includes  
16 software engineers or have, you know, an  
17 equivalent level of experience in order to qualify  
18 as a POSITA?

19 MS. LIN: Objection, form.

20 A. A POSITA could have that additional  
21 knowledge and experience and education. That's  
22 what I say here in the next sentence. They could

1 also have worked with a team that includes  
2 software engineers.

3 And likewise, you know, if they have more  
4 experience maybe they wouldn't need a bachelor's  
5 degree, if they had more industry experience.  
6 They might not need a bachelor's degree depending  
7 on, you know, what level of experience.

8 So there are many different things I talk  
9 about in this paragraph.

10 Q. So your answer referred to a lot of things  
11 that a POSITA could have.

12 As I read it, Paragraph 33 has only one  
13 statement about requirements that a POSITA would  
14 have. And that's the first sentence, which  
15 states, "In my opinion, a POSITA would have  
16 experience in online advertising and computer  
17 science."

18 Can you name anything else that you  
19 believe a POSITA would have?

20 MS. LIN: Objection, form.

21 A. Well, I mean, it says that. They could  
22 have these other qualifications. But regardless,

1 I do say that depending upon the level of  
2 education and industry experience, they could  
3 balance for each other, even including the first  
4 statement there, if they have more formal  
5 education, a little less experience, or a little  
6 more experience and less formal education.

7 Q. Okay. How much experience in online  
8 advertising and computer science does a POSITA  
9 need?

10 A. Well, it's the level of experience, say,  
11 in computer science that could have been gained  
12 through getting a bachelor's degree in computer  
13 science or equivalent industry experience to that  
14 kind of degree. And they could gain experience  
15 potentially through working with a team that  
16 includes software engineers. They could have  
17 worked in industry in those areas for more and  
18 have maybe less formal education and vice versa.

19 Q. Okay. So is it fair to say that someone  
20 who has a bachelor's degree in computer science or  
21 equivalent industry experience and that person has  
22 some experience in online advertising and computer

1 science would qualify as a POSITA?

2 A. Well, I mean, I think if they had -- that  
3 statement earlier about computer science was  
4 mostly focused on the computer science part. But  
5 if they had some -- more experience in online  
6 advertising or a bachelor's degree in business or  
7 economics with an emphasis on the technology and  
8 marketing or advertising, that could qualify.

9 But if they have maybe less formal  
10 education and had more practical experience, they  
11 could also qualify.

12 Q. Okay. So you said that if they maybe had  
13 less formal education and more practical  
14 experience, they could also qualify.

15 I'm not asking about people who have more  
16 or less experience. I'm asking about specifically  
17 the person I'm asking about.

18 And so with that in mind, my question is,  
19 would a person who holds a bachelor's degree in  
20 computer science or equivalent industry experience  
21 and works with a team that includes software  
22 engineers who also has at least some experience in

1 online advertising, would that person qualify as a  
2 POSITA?

3 A. I mean, that's a very vague statement in  
4 terms of quantity of experience. But, you know,  
5 if it's insufficient experience in online  
6 advertising, they have a higher level of  
7 education, sure, that could be possible.

8 Q. What, to you, is insufficient experience  
9 in online advertising?

10 A. Well, I think if someone had, for  
11 example -- my personal experience is that I did  
12 start a company that was -- the business model was  
13 to sell advertisements that were targeted towards  
14 specific groups of people on the Internet.

15 And then I also was chief technology  
16 officer at a company that started an advertising  
17 network where we utilized, you know, tools for  
18 targeting advertisements.

19 I feel like, personally, my experience is  
20 sufficient to meet these qualifications.

21 Q. But you can't give a generalized answer as  
22 to what the minimum qualifications for a POSITA

1 would need to be?

2 MS. LIN: Objection to form.

3 A. Well, I mean, the POSITA definition here  
4 is -- allows for some flexibility in terms of  
5 level of education versus the technical  
6 experience.

7 And so it depends on a combination of  
8 factors that I've laid out here.

9 Q. Okay. Dr. Houh, I'm a little bit confused  
10 because I'll say, frankly, most definitions of a  
11 POSITA provided in litigations involve something  
12 like a bachelor's degree in computer science plus  
13 two years in work experience including online  
14 advertising.

15 Your declaration doesn't give anything  
16 like that. And those definitions can also say,  
17 you know, that more work experience, less  
18 education will work as well.

19 But frankly, I don't even know from your  
20 declaration what you believe the minimum  
21 requirements for a POSITA are.

22 So this is your opportunity. If you have

1 some generalized definition of what a POSITA is  
2 and you can provide that to me today, I would  
3 appreciate it.

4 So with all that in mind, can you tell  
5 me -- understanding that more or less work  
6 experience could qualify -- the type of degree and  
7 the amount of years of work experience in a  
8 particular field that you believe a POSITA would  
9 need to have?

10 MS. LIN: Objection, form.

11 A. There was a lot of stuff in that question,  
12 a lot of assumptions. And I would kind of  
13 disagree with part of the premise of your question  
14 because most of the POSITA definitions that I have  
15 seen allow for more technical experience and less  
16 academic experience or vice versa.

17 And so I wouldn't say there's a minimum in  
18 any of those that I've seen because of the  
19 statements in pretty much most or maybe almost all  
20 the definitions of a POSITA that I've seen or been  
21 involved with allow for such trade-offs in  
22 experience and education regardless of how many

1 years it says.

2 So I wouldn't say that even in those  
3 definitions there's a minimum for any part of the  
4 definitions. And I would agree on many of them I  
5 do see a couple of years of practical experience.

6 But my declaration here says what it says,  
7 and I stand by this. I don't think -- I don't  
8 think it's really that much different from most  
9 other definitions I've seen, especially since, you  
10 know, more education, less technical experience,  
11 or vice versa, is part of pretty much all those --  
12 most other ones I've seen or been involved with.

13 Q. Is it possible for someone with just a  
14 bachelor's degree to meet your definition of a  
15 POSITA, and no work experience?

16 A. Well, I mean, what do you mean by "no work  
17 experience"? No, like, job in online advertising?  
18 Would that person have -- if they built their own  
19 website and built their own targeted advertising  
20 system and wasn't working for a company when they  
21 did that -- I'm not sure what you mean by "only a  
22 bachelor's degree."

1 Q. Okay. Let's say that someone didn't do  
2 any side projects, didn't do any commercial work,  
3 but they did a bachelor's degree. And as part of  
4 that bachelor's degree, they learned some  
5 fundamentals of online advertising. Would it be  
6 possible for such a person to meet the minimum  
7 levels of a POSITA under your definition?

8 A. And when you say they have just a  
9 bachelor's degree, you don't mean that they -- you  
10 mean, they have nothing else -- and no further  
11 degrees or education besides only a bachelor's  
12 degree?

13 Q. Correct.

14 A. And you're saying the totality of their  
15 personal experience or anything they've done does  
16 not include any online advertising?

17 Q. I believe I mentioned in my previous  
18 question that, you know, they were exposed to the  
19 fundamentals of online advertising through their  
20 bachelor's degree but they have no work experience  
21 in that field.

22 A. I think you said they had no -- they did

1 no projects or did no side projects or didn't do  
2 any projects in online advertising.

3 Is that what you said also?

4 Q. Yeah. No side projects, for example,  
5 outside of their bachelor's degree.

6 A. And what would their -- what did they  
7 learn about online advertising through their  
8 bachelor's degree?

9 Q. For example, they learned how DoubleClick  
10 and Engage operated.

11 A. At what level of detail did they learn  
12 that?

13 Q. At the same level of detail, for example,  
14 that you present in your declaration.

15 MS. LIN: Objection, form.

16 A. All right. I don't remember what level.  
17 I would have to look at my declaration.

18 Q. And to be clear, I also mean, you know --  
19 I generally understand that the Merriman and Jaye  
20 references relate to the DoubleClick and Engage  
21 systems as well.

22 A. So you're saying that this hypothetical

1 person you're talking about could review those --  
2 all those documents and make and use those systems  
3 that are claimed in both the patent -- because it  
4 talks about the patent -- and the Merriman and  
5 Jaye and -- the two Merriman and Jaye references,  
6 the Rosenberg references? That's the person?

7 Q. They would have the level of details  
8 presented in those references. Yes.

9 In terms of making a commercial system, I  
10 don't know that that's feasible, you know, for  
11 someone with a bachelor's degree and no  
12 education -- bachelor's degree and no work  
13 experience. But that's maybe a separate issue.

14 A. And say this person was -- did you say  
15 with what degree -- what bachelor's degree did you  
16 say it was, what kind of bachelor's degree?

17 Q. In computer science.

18 MS. LIN: Objection, form.

19 A. I mean, it may depend on, you know, how  
20 long they've studied these references or how  
21 long -- like, how much -- and their level of skill  
22 generally. I mean, there may be people without

1 bachelor's degrees that could build these  
2 advertising systems based on their level of  
3 knowledge and their review of all these references  
4 in detail. It depends how long -- their level of  
5 innate ability and how long they studied this.

6 Q. Okay. Is it your opinion that someone  
7 would need to be able to have the skills to  
8 construct the DoubleClick system in order to meet  
9 the level of a POSITA?

10 MS. LIN: Objection, form.

11 A. I mean, the -- if you look at the level of  
12 a POSITA, I think they would be the ones to be  
13 able to look at the '904 patent and be able to  
14 understand that and make and use -- be able to  
15 practice it by being taught what the invention is  
16 by the '904 patent specification.

17 And to the extent someone can do that,  
18 regardless of their -- of, you know, what their  
19 level of education or exposure -- previous  
20 exposure to online advertising, my point is the  
21 type of person that would be able to do that kind  
22 of -- and the perspective from which I took to

1 analyze the '904 patent itself would be the person  
2 that's outlined in my Paragraph, I think, 33 that  
3 we're looking at. And that's the kind of person.

4 Of course, there's varying skills of  
5 people and varying levels of education and some  
6 varying levels of innate ability. But the person  
7 who can look at the patent, understand it, and  
8 know it in the context of what's going on at the  
9 time and be able to, you know, practice that  
10 invention as claimed, that person would be the  
11 type of person that could qualify as a POSITA.

12 And what I've laid out in Paragraph 33 are  
13 generally characteristics of those types of  
14 people. But people vary in all sorts of things.  
15 And so what I've tried to lay out is a range of  
16 things, including the ability to have more  
17 technical experience, less education -- formal  
18 education or vice versa, and the types of degrees  
19 that those people might have had or could have  
20 had.

21 Q. When you say "more technical experience,"  
22 more technical experience than what?

1 MS. LIN: Objection, form.

2 A. Well, more technical experience, you know,  
3 and less educational experience -- formal  
4 education based on the type of -- generally, the  
5 type of person that could look at the patent, the  
6 '904 patent, understand it, and be able to  
7 practice it.

8 Q. What technical experience do you reference  
9 in Paragraph 33 of your declaration that provides  
10 the baseline for more or less technical  
11 experience?

12 MS. LIN: Objection, form.

13 A. Well, there's some experience in computer  
14 science that would be technical experience. There  
15 is experience in online advertisement from a  
16 technical perspective, not just I browsed a bunch  
17 of websites that used online -- targeted  
18 advertising or online advertising. The ability to  
19 be able to do kind of work in that area, maybe  
20 working with software engineers in that area as  
21 well, as I've laid out.

22 So those are the types of things that

1 could be applicable to a POSITA.

2 Q. For a person with a bachelor's degree in  
3 computer science, how many years of technical  
4 experience would that person typically have --  
5 strike that.

6 For a person who only has the level of  
7 education of a bachelor's degree in computer  
8 science, how many years of work experience in  
9 content targeting would that person typically need  
10 to have in order to be qualified as a POSITA?

11 MS. LIN: Objection, form.

12 A. Well, I mean, I don't really know what  
13 this person you are talking about is. That  
14 person, they only have a bachelor's degree in  
15 computer science? They've never had any  
16 internships or any work or any side personal  
17 projects, any projects in online advertising?

18 To my knowledge, the coursework I did when  
19 I was an undergrad didn't include any talk about  
20 online advertising.

21 Is that the person you're asking about?

22 Q. Yeah. And I'm asking how many years of

1 work experience would they need to have in order  
2 to qualify as a POSITA?

3 A. Well, they would have to have enough work  
4 experience to have experience in online  
5 advertising.

6 But if they had more education, maybe they  
7 may -- if that person only has a bachelor's degree  
8 but maybe they completed several years of advanced  
9 studies specializing in business economics and  
10 maybe online advertising and they didn't actually  
11 receive a degree for it, that would be some more  
12 education that may trade off for less formal work  
13 experience in online advertising, for example.

14 I mean, there's -- I mean, that could  
15 be -- that person could meet -- could be a POSITA.  
16 That's because they have more education, less  
17 technical experience.

18 Q. Okay. But in general, though, you would  
19 agree that a POSITA would have at least something  
20 more than just a bachelor's degree in computer  
21 science?

22 MS. LIN: Objection, form.

1 Q. Stated differently -- I'll strike that.

2 You would agree that typically a  
3 bachelor's degree in computer science alone would  
4 not qualify someone as a POSITA. Correct?

5 A. I mean, you're limiting it to various  
6 aspects of this. Without saying anything more  
7 about these hypothetical people that, you know --  
8 I don't know what you're asking about.

9 They have no other experience? They  
10 didn't finish their undergrad education and take a  
11 lot of advanced courses as an undergrad while  
12 they -- and specializing in certain topics before  
13 they got their bachelor's degree? And as part of  
14 their credits that they were able to amass -- I  
15 don't know what hypothetical person you're talking  
16 about here.

17 What I've laid out is generally the type  
18 of skills a POSITA would possess, the types of  
19 degrees they could possess, the fact that more  
20 education or education and technical experience  
21 could have been traded off for each other.

22 You're now breaking this down into

1 individual people. And I just don't know enough  
2 about what you're thinking about what these people  
3 have.

4 But generally what I've laid out are the  
5 types of skills and in what areas and the types of  
6 experience they may have had. And that could  
7 include certain types of degrees, could include,  
8 you know, things like working with software  
9 engineers.

10 It could include things like more  
11 experience, less academic training, or vice versa.  
12 And those are general characteristics that a  
13 POSITA would have, as I've laid out.

14 Q. Is it your opinion that everyone who is a  
15 fresh graduate with a computer science bachelor's  
16 degree is a person of skill in the art?

17 MS. LIN: Objection, form.

18 A. If you say every possible person with a  
19 bachelor's degree, no, that's not what I'm saying  
20 here. And no experience whatsoever? You haven't  
21 even said what type of degree.

22 But, you know, some of those people may

1 be. If they had experience in online advertising,  
2 internships, work experience, they've done their  
3 own projects, they've studied a lot more, they're  
4 the type of person . . .

5 I mean, it depends on the people. You  
6 can't say everybody that has a bachelor's degree  
7 and that's it would be a POSITA. That's not what  
8 I'm saying here in this paragraph.

9 I think you're misunderstanding the  
10 paragraph if you make broad generalizations like  
11 you just did in that question.

12 Q. Okay. So that's helpful. I think that  
13 we're on the same page here. And I'm really just  
14 trying to understand your opinion.

15 I think I understand your position. To be  
16 clear, though, my question did specify the type of  
17 degree. My question is specifically if it's your  
18 opinion that everyone who is a fresh graduate with  
19 a computer science bachelor's degree is a person  
20 of skill in the art.

21 A. That's not what this paragraph is saying.  
22 And again, it depends on the person.

1           Some people might be. I'm certainly not  
2 saying everybody with only that qualification is.  
3 And certainly I'm saying that, you know, maybe  
4 they have a lot more technical experience in the  
5 area or a lot more education.

6           These things balance. So this is a  
7 general overview of the POSITA. You're trying to  
8 cram it into certain things, and that's not what  
9 I'm saying here.

10          Q. Okay. That's very helpful.

11           So, for example, in this third sentence of  
12 your declaration in Paragraph 33 you say, "Such a  
13 person could also hold a bachelor's degree in  
14 computer science or equivalent industry experience  
15 and work with a team that includes software  
16 engineers."

17           I just want to be clear that it's not your  
18 opinion that any person who holds a bachelor's  
19 degree in computer science or equivalent industry  
20 experience and works with a team that includes  
21 software engineers -- it's not your opinion that  
22 any such person is necessarily a POSITA. Correct?

1           A. You've switched from using the word --  
2 from using the word "every" in a previous question  
3 to "any."

4           Sure. There could be some people that  
5 would be a POSITA. It's just depending on who the  
6 people are. But not everyone that -- my point is,  
7 in your previous question does everyone who  
8 possesses a bachelor's degree in computer science  
9 qualify.

10           I'm not saying that everybody with a  
11 bachelor's degree in computer science is a POSITA.  
12 As I said, you're misunderstanding what I'm laying  
13 out here as the level of skill of a POSITA if you  
14 took that away from reading this paragraph.

15           Q. Okay. Could you please turn to  
16 Paragraph 175 of your declaration.

17           A. Okay.

18           Q. And do you see Paragraph 175, it has  
19 additional sentences beyond this, but the first  
20 sentence says "Merriman '061 further discloses  
21 that the ads are 'third-party advertisements'?"

22           A. Yes, I see that.

1 Q. Okay. What is your understanding of what  
2 is meant by "third-party advertisements" in  
3 Claim 1 of the '904 patent?

4 A. I have a copy of the '904 patent here.  
5 Can I take a look at it?

6 Q. Yes.

7 MR. MILKEY: For the record, the '904  
8 patent is Exhibit 1001 in this proceeding. And  
9 I'll upload that into the chat for the benefit of  
10 the reporter, to the extent that we get into  
11 discussions about it.

12 (Exhibit 1001, previously marked, is not  
13 attached to the transcript.)

14 Q. Feel free to refer to your paper copy.

15 A. I thought I printed it out. I might have  
16 left it somewhere else. I do have an electronic  
17 copy.

18 Is it okay to refer to that?

19 Q. Yes.

20 A. I think what a person would understand is  
21 that a third-party advertisement as used in the  
22 claim would be the type of discussion that's in

1 the '904 patent with respect to the target  
2 advertisements that are placed on these publisher  
3 sites that are -- I think talk about it as  
4 unaffiliated third parties.

5 And Merriman is really disclosing the same  
6 thing as a POSITA would understand from the '904  
7 patent, which is there is a publisher website,  
8 there's a separate ad server that places an  
9 advertisement -- is allowed to place an  
10 advertisement on this publisher website, just  
11 as -- and the advertisements are -- I mean, it's a  
12 very similar system in Merriman '061 with respect  
13 to what's described in the '904 patent itself.

14 So I think a POSITA would understand that  
15 what I've laid out in 175 and with respect to  
16 Merriman is directed to the same type of claim.  
17 Third-party advertisement would be an example  
18 that's used in the claim of the '904 patent.

19 And in fact, the quote from Merriman uses  
20 the phrase "third-party advertisement." But more  
21 than just the words matching, it's the similar  
22 concept disclosed.

1 Q. So when Merriman '061 refers to  
2 third-party advertisements, do you understand that  
3 to be advertisements that are different than the  
4 website that the ad is displayed on or different  
5 than the profile information that is collected?  
6 What do you understand Merriman '061 to be  
7 referring to there?

8 MS. LIN: Objection, form.

9 A. I mean, Merriman talks about contracting  
10 with the entity providing the advertising server  
11 to permit third-party advertisements to be  
12 displayed on their websites.

13 And it's very similar in concept to what  
14 the '904 patent is talking about. And so -- and  
15 it's using the same wording that's phrased. I  
16 mean, the plain element that this is directed to  
17 includes the phrase "data used in targeting  
18 third-party advertisements to the user computer  
19 over the global network."

20 And what I'm laying out here is in  
21 Merriman, a POSITA would recognize that what I'm  
22 discussing in 175 are examples of those

1 third-party advertisements as claimed. And those  
2 are similar to the concepts laid out in the  
3 specification of the '904 patent.

4 And so that's an example. And that's an  
5 example a POSITA recognizes disclosing third-party  
6 advertisements as claimed.

7 Q. So what is your understanding of what  
8 Merriman '061 is referring to when it talks about  
9 third-party advertisements being displayed on  
10 these affiliate websites?

11 A. Sorry. Could you repeat the question,  
12 please?

13 Q. Yeah. When Merriman '061 says that  
14 affiliate websites contract with the entity  
15 providing the advertisement server to permit  
16 third-party advertisements to be displayed on  
17 their websites, what does "third-party  
18 advertisements" mean in the context of  
19 Merriman 061?

20 MS. LIN: Objection, form.

21 A. By the way, I have Merriman, a hard copy  
22 of the '061, but I also have an electronic copy.

1           Is it okay if I refer to that?

2           Q. Absolutely. And I've just uploaded that  
3 document as Exhibit 1004 into the chat.

4           (Exhibit 1004, previously marked, is not  
5 attached to the transcript.)

6           A. Thank you. So what a POSITA would  
7 understand looking at Merriman with respect to  
8 what it's talking about in the third-party  
9 advertisements, if you look in the Merriman '061,  
10 at the bottom of Column 2 into the top of  
11 Column 3, that's what I cite to partly in  
12 Paragraph 175.

13           It does talk about these third-party  
14 advertisements, but those are the ones that  
15 are . . .

16           So it then goes on to say, "When a user  
17 using a browser accesses or 'visits' a website of  
18 an affiliate, an advertisement provided by the  
19 advertisement server 19 will be superimposed on  
20 the display of the affiliate's web page displayed  
21 by the user's browser. Examples of appropriate  
22 affiliates include locator services, service

1 providers, and entities that have popular websites  
2 such as museums, movie studios, etc."

3 So this is an advertisement in Merriman  
4 that the advertising server provides to the  
5 affiliates.

6 And I talk about the affiliates elsewhere  
7 in my declaration. Those are -- what I'm talking  
8 about is where the patent claims unaffiliated  
9 third parties for the reasons I discuss.

10 And a POSITA would recognize that these  
11 advertisements are an example of what the claimed  
12 third-party advertisements are in the claim  
13 element that we're doing the analysis for here.

14 Because the '904 patent talks about the  
15 server -- a server using profile information to  
16 target the advertisements. And Merriman is an  
17 example of the claim.

18 A POSITA would recognize that Merriman is  
19 disclosing right here an example of these  
20 third-party advertisements.

21 Q. Okay. And when Merriman is referring to  
22 these third-party advertisements, is that meaning,

1 for example, that the affiliate website might  
2 place an advertisement on its own website and that  
3 would be a third-party advertisement?

4 MS. LIN: Objection, form.

5 A. Merriman is talking about an advertising  
6 server that an affiliate allows to place ads on  
7 its website. And so it's the advertising server  
8 that -- well, affiliates -- it says here in the  
9 bottom of Column 2, affiliates are -- sorry.

10 Line 62, in the Merriman '061, "Affiliates  
11 are one or more entities that generally for a fee  
12 contract with the entity providing the  
13 advertisement server permit third party  
14 advertisements to be displayed on their websites."

15 So this is the affiliate or publisher,  
16 someone with a website, working with a company  
17 that has an advertising server, contracting with  
18 them to permit them to show these third-party  
19 advertisements on their website. And that's what  
20 Merriman is talking about.

21 And I think that's an example of the third  
22 party -- unaffiliated third parties being able to

1 have ads placed on them, as discussed in the '904  
2 patent itself.

3 And so these unaffiliated third parties I  
4 discuss in another section of my declaration with  
5 respect to what Merriman is disclosing. But here  
6 for the third-party advertisements, I think it's  
7 recognized that that's the advertising server  
8 website.

9 The website is allowing this advertising  
10 server to display these third-party advertisements  
11 on their website of the publisher.

12 MR. MILKEY: We've been going for just  
13 about an hour. Would now be an okay time for a  
14 break?

15 THE WITNESS: Sure.

16 MR. MILKEY: Let's go off the record.

17 (Recess, 11:34 a.m. to 11:42 a.m.)

18 BY MR. MILKEY:

19 Q. So welcome back, Dr. Houh. If you could  
20 please turn to Exhibit 1004, that's Merriman '061,  
21 at Figure 1.

22 A. Yes, I see Figure 1.

1 Q. Okay. And do you see that Figure 1 of  
2 Merriman '061 shows the affiliate website 12 being  
3 different than the advertiser's website 18?

4 A. Yes, I see that.

5 Q. Okay. Are you aware --

6 A. Sorry. 18. Sorry.

7 Q. Thank you. Are you aware of any instances  
8 in Merriman '061 where the advertiser's website is  
9 the same as the affiliate website on which the  
10 advertisement is being shown?

11 A. I'm just taking a quick look -- search  
12 through the Merriman '061 patent for 18, the  
13 advertiser's websites. I don't see an example of  
14 what you are saying, which is that -- an example  
15 where it's the same as 12. I don't see anything  
16 that precludes them from potentially being the  
17 same either.

18 Q. So in your opinion, if the affiliate  
19 website were the same as the advertiser website,  
20 the advertisement being placed on the affiliate  
21 website would still be a third-party  
22 advertisement?

1 MS. LIN: Objection, form.

2 A. I don't think I've laid anything out like  
3 that in my declaration. So I don't know if I  
4 really have an opinion about that right now.

5 Q. Okay. So in this -- going back to the  
6 sentence of Merriman '061 that we were talking  
7 about earlier on Column 2, line 62 through 65,  
8 when Merriman '061 says the "Affiliates are one or  
9 more entities that generally for a fee contract  
10 with the entity providing the advertisement server  
11 permit third party advertisements to be displayed  
12 on their websites," do you understand that as  
13 including situations in which the affiliates  
14 provide their own advertisements to be displayed  
15 on the affiliate websites?

16 A. So, I mean, just to be clear, there's a  
17 separate advertiser server here, advertisement  
18 server, 19 in Figure 1. But there are these  
19 affiliate websites 12 and 19. Again, I don't see  
20 why -- I didn't see anything here precluding an  
21 affiliate to run ads as an advertiser described in  
22 Merriman.

1           Regardless, the advertisement server 19 is  
2 still the one managing. It could be distinct. In  
3 Figure 1 it's shown as a separate entity.

4           Q. Okay. So in your opinion or do you have  
5 an opinion, rather, as to whether it's enough for  
6 there to be a third-party advertisement that the  
7 advertisement is served by an ad server that's  
8 different from the affiliate website or whether  
9 the advertiser itself needs to be different than  
10 the affiliate website?

11           MS. LIN: Objection, form.

12           A. I'm not sure I understand what you're  
13 asking about. I don't think I address any -- your  
14 particular question -- I don't know what's  
15 imposing some requirement that you're asking about  
16 either.

17           Are you asking about did the claims  
18 require something? Something else require  
19 something? Merriman itself? I'm not sure what  
20 your question is directed to.

21           Q. I'm actually asking about what Merriman  
22 '061 describes. So when Merriman '061 in Column 2

1 talks about permitting third-party advertisements  
2 to be displayed on their websites, is Merriman  
3 '061 talking about an affiliate website allowing  
4 advertisements that it itself designed to be  
5 displayed on their own websites?

6 A. I guess you're referring to the case where  
7 the advertisement server and the affiliate web  
8 server that's showing advertisements are one and  
9 the same. Is that what you're asking about? Is  
10 that some hypothetical you're asking about?

11 Q. No. I'm asking about a situation where --  
12 let's just use Nike as an example. Nike is the  
13 affiliate website 12 in this example. And Nike  
14 wants to run ads on its own website and still  
15 DoubleClick is the advertising server that's  
16 serving the ad, but it's a Nike-designed ad.

17 Would Nike using DoubleClick to display  
18 its own ad on its own website be a third-party  
19 advertisement within the scope of Merriman '061's  
20 disclosure?

21 A. You're asking about a very specific  
22 example I don't think I discussed in my

1 declaration.

2           The point here is that Merriman is  
3 disclosing that there are certainly advertisers  
4 that are distinct from the publishers. I don't  
5 give an example of Nike being both an advertiser  
6 or -- and a website in my declaration. So I  
7 haven't addressed what you're asking about, but  
8 that's some hypothetical situation.

9           Merriman is talking about an advertiser  
10 website which when an ad is run on an affiliate  
11 website, if a user clicks the advertisement  
12 eventually the browser is taken to the  
13 advertiser's website based on a URL I think that  
14 may come from the advertisement server.

15           And so, again, I didn't see an example,  
16 looking quickly in Merriman, discussing where the  
17 advertiser's website and the affiliate website  
18 were one and the same. I also didn't see it  
19 precluded.

20           So, I mean, you're asking about a very  
21 specific example. I'm not sure -- I didn't look  
22 at that particular example of Nike in my

1 declaration.

2 Q. So I'm not asking about Nike in  
3 particular. I was just using that as an example.

4 Did you see any disclosure in Merriman  
5 '061 where the advertiser for a particular  
6 advertisement is the same entity as the affiliate  
7 website?

8 MS. LIN: Objection.

9 A. Based on my quick look-through of Merriman  
10 '061, I didn't see that specific example. But I  
11 also didn't see where it was precluded from doing  
12 so, from that also.

13 But based on a quick -- I don't know  
14 Merriman word for word, every concept that, you  
15 know, from memory. So I have to look through it.

16 And I searched for 18. I reviewed those.  
17 And I didn't see any explicit example where it  
18 talked about 18 being the same as 12, but I didn't  
19 see anything where it said 18 can't be the same as  
20 12 either.

21 So nothing precluded -- sorry. I didn't  
22 see an example explicitly where it said 18 and 12

1 are the same. I didn't see an example where it  
2 said they had to be different or it precluded them  
3 from being the same.

4 Q. Okay. Could you please turn to  
5 Paragraph 182 of your declaration. Do you see --  
6 oh, hold on. Let me know when you're there.

7 A. Okay. Okay. I'm there.

8 Q. And do you see the first sentence of  
9 Paragraph 182 says, "If patent owner argues that  
10 Claim 5 requires maintaining a record of which  
11 unaffiliated third party contributed to the  
12 maintained profile, the profile attributes that  
13 were actually used to target the advertisements,  
14 then Claim 5 is also obvious in view of Merriman  
15 '061 and Jaye."

16 A. Yes, I see that.

17 Q. Okay. Did you set forth any claim  
18 construction opinions in your declaration  
19 regarding whether that is the correct  
20 understanding of Claim 5?

21 MS. LIN: Objection, form.

22 A. I think I laid this out as an alternative

1 to the extent that AlmondNet, or patent owner, is  
2 going to claim that this is required.

3 I guess this is with respect to Claim 5, I  
4 believe, for Ground 1, which is Merriman '061 and  
5 Jaye. And I've laid out -- let's call it half of  
6 the discussion above discusses why I believe  
7 Merriman and Jaye discloses Claim 5.

8 But to the extent that patent owner has a  
9 more restrictive understanding or sets forth a  
10 more restrictive understanding of the claim  
11 element added by Claim 5 to Claim 1, I think, then  
12 if they argue -- if the patent owner then were to  
13 argue that Claim 5 requires maintaining a record  
14 of which unaffiliated third party contributed to  
15 the maintained profile, the profile attributes  
16 that were actually used to target the  
17 advertisements, then I have laid out why that  
18 would be obvious in view of Merriman '061 and Jaye  
19 here.

20 So I don't have a claim construction  
21 opinion, I don't think, about this particular  
22 interpretation. I'm just saying that -- I lay out

1 in the first half of this discussion for Claim 5  
2 why it's disclosed by Merriman and Jaye.

3 And to the extent that patent owner is  
4 going to come back and say you have not  
5 interpreted it correctly in your first half, it  
6 has to require what I lay out here in the  
7 beginning of 182, then it's still obvious in light  
8 of -- in view of Merriman '061 and Jaye. And I  
9 say why in the second half of my discussion with  
10 respect to Claim 5.

11 Q. Okay. So in this section of your  
12 declaration, you considered whether this claim was  
13 disclosed or obvious based on the prior art under  
14 two alternative interpretations. Is that fair?

15 A. Well, I would say that if the patent owner  
16 pushes an alternative, more -- well, I don't know  
17 how to characterize it.

18 If the patent owner sets forth an  
19 interpretation of Claim 5 which requires  
20 maintaining a record of which unaffiliated third  
21 party contributed to the maintained profile, the  
22 profile attributes that were actually used to

1 target advertisements.

2 And I haven't taken a claim construction  
3 position either way. I'm just saying here in this  
4 section, to the extent that that patent owner sets  
5 forth that requirement for this claim, then it's  
6 still obvious in view of Merriman '061 and Jaye.

7 Q. Okay. So if patent owner were to argue  
8 that Claim 5 requires a maintaining a record of  
9 which unaffiliated third party contributed to the  
10 maintained profile, the profile attributes that  
11 were actually used to target the advertisements,  
12 do you have an opinion as to whether that's the  
13 correct interpretation of Claim 5?

14 MS. LIN: Objection, form.

15 A. That's not what I'm saying. I'm trying to  
16 anticipate some potential arguments that the  
17 patent owner may make.

18 So I'm not saying that's my opinion of how  
19 it should be interpreted. I'm saying if the  
20 patent owner interprets it that way and says  
21 that's the right interpretation, then it's  
22 still -- as I set forth here, then it's still

1 obvious in view of Merriman '061 and Jaye.

2           The first half was about how Merriman '061  
3 and Jaye disclose Claim 5. And now to the extent  
4 that patent owner argues there's a different  
5 interpretation or misinterpretation, as I've laid  
6 out here, it's still obvious in view of Merriman  
7 '061 and Jaye.

8           Q. Okay. So is it your opinion that Claim 5  
9 does not require maintaining a record of which  
10 unaffiliated third party contributed to the  
11 maintained profile, the profile attributes that  
12 were actually used to target the advertisements?

13           A. I don't think I'm laying out an opinion  
14 about what the right claim construction is here.

15           I'm saying that, you know, under --  
16 there's a first half where I ask you, you know, my  
17 view of why Merriman -- the combination of  
18 Merriman '061 and Jaye disclose Claim 5.

19           But then to the extent the patent owner  
20 would argue that there's this requirement that I  
21 lay out in 182, it's still obvious in view of  
22 Merriman '061 and Jaye for the reasons that I lay

1 out in the second half of my discussion with  
2 respect to Claim 5.

3 Q. And did you do any claim construction  
4 analysis regarding this potential argument by  
5 patent owner that Claim 5 might require  
6 maintaining a record of which unaffiliated third  
7 party contributed to the maintained profile, the  
8 profile attributes that were actually used to  
9 target the advertisements?

10 MS. LIN: Objection, form.

11 A. I don't think I have any analysis. There  
12 is a claim construction section earlier. I'm not  
13 providing a claim construction opinion here.

14 I'm just saying that Claim 5 is -- my  
15 belief is Claim 5 is disclosed by Merriman '061  
16 and Jaye. That's what I typed on the first half.

17 And to the extent the patent owner  
18 requires -- argues that Claim 5 requires -- what I  
19 say at the beginning of 182, then, it's still  
20 obvious in view of Merriman '061 and Jaye.

21 I don't think that's a claim construction.  
22 I don't think I'm providing an opinion one way or

1 the other of which of these two alternatives is  
2 the construction.

3 But I do consider the plain and ordinary  
4 meaning of words that aren't construed or a patent  
5 owner hasn't proposed a construction or a patent  
6 owner hasn't proposed limitations for what the  
7 plain and ordinary meaning is.

8 And I lay that out in the claim  
9 construction section. And I don't think the  
10 Claim 5 was specifically addressed in that  
11 section.

12 We can go look at it. It says what it  
13 says. I don't remember talking about it back  
14 there.

15 My point is that there may -- the patent  
16 owner may come back and make this argument with  
17 respect to Claim 5. And to the extent they do --  
18 and I've anticipated what the patent owner may  
19 argue -- then it's still obvious in view of  
20 Merriman '061 and Jaye.

21 Q. Okay. And then do you see in  
22 Paragraph 183, the second sentence of

1 Paragraph 183 says, "For example, it would have  
2 been obvious for the ad server to maintain records  
3 indicating that a particular advertiser subscribed  
4 to receive profile attributes related to sports  
5 information from a particular affiliate website  
6 and records indicating how the advertiser used  
7 those profile attributes for ad targeting"?

8 A. I do see that.

9 Q. Are there any references that you cite  
10 that show the disclosure of keeping records  
11 indicating how an advertisement used particular  
12 profile attributes for ad targeting?

13 A. I don't have a cite after that sentence,  
14 but I do go on to say that "A POSITA would have  
15 been motivated to maintain these records for  
16 reporting and financial reasons, e.g., to charge  
17 subscription and ad targeting fees to advertisers  
18 and to compensate the party that provided the  
19 profile information."

20 I do cite to Exhibit 1008, page 59. I  
21 think that's a reference called Zeff, if I  
22 remember correctly. And I think that does talk

1 about and support the statement there.

2 The previous thing is really just a  
3 specific example of a more general case of  
4 charging subscription and ad targeting fees to  
5 advertisers and to compensate the party that  
6 provided the profile information.

7 Q. Okay. So I've uploaded Zeff, which is  
8 Exhibit 1008, into the chat. Feel free to refer  
9 to that or any other copy you may have.

10 (Exhibit 1008, previously marked, is not  
11 attached to the transcript.)

12 Q. What I'm interested in, what in Zeff are  
13 you pointing to as indicating the benefit of  
14 recording how any particular advertisement  
15 actually used profile attributes for ad targeting?

16 MS. LIN: Objection, form.

17 A. So if you look at the cited page, 59,  
18 which is really 59 as the page number at the lower  
19 right-hand corner of Exhibit 1008, it does talk  
20 about how advertising on sites -- it gives an  
21 example of content sites -- is more costly because  
22 the audience is more targeted.

1           So that is just saying that better  
2 targeting yields higher advertising prices. And  
3 advertisers will pay more, higher fees or contract  
4 fees, to put ads on sites that are better  
5 targeted.

6           And there's an example here of subscribing  
7 to a banner ad placed on a targeted content site  
8 that costs a lot more.

9           And so to the extent people are  
10 contributing profile information to a profile, as  
11 discussed in Merriman '061, it's obvious to track  
12 that kind of information as to who provided  
13 profile information. It's important to rate the  
14 pricing to be able to compensate parties that  
15 provided the profile information.

16           So if that's valuable, for example, better  
17 targeting for, say, sports, then a POSITA would  
18 have been motivated to keep records like who  
19 contributed the profile information to be able to  
20 compensate people who provide more valuable  
21 profile targeting information over those who may  
22 not have contributed to that profiling, that

1 targeted type of ad.

2 So that's why I'm citing to page 59 there.

3 Q. Okay. So I'm looking at page 59. And  
4 what you were just referring to is the paragraph  
5 that follows the bolded heading "Content Sites."  
6 Is that correct?

7 A. That's part of it. That's part of what's  
8 on page 59. And I was referring to that just now.

9 Q. Okay. Does that paragraph disclose  
10 keeping a record of which websites contributed  
11 particular profile attributes to be used in  
12 targeting later advertisements?

13 MS. LIN: Objection.

14 A. I just want to add to the next paragraph.  
15 "Ad Network" talks about advertisers purchasing  
16 impressions in certain categories provided by the  
17 ad server, like sports, you know, and may be able  
18 to run banners on various websites that other  
19 websites, they might provide that, for a person  
20 who they know is interested in that category.

21 And so -- and that's the reason why a  
22 person of ordinary skill would have been motivated

1 to keep track of who's providing the profile  
2 information that's actually used to target the  
3 advertisements because it's more valuable.

4 That's why in Zeff on page 59 is laying  
5 out here, is that there are types of ads that may  
6 be more valuable to the advertisers. And they  
7 would be targeted toward people with a profile --  
8 that advertisers may be able to select that type  
9 of category in targeting their ads, of a category  
10 that fits the viewer or the user or the browser,  
11 the person that's browsing across affiliated  
12 websites.

13 And so because it's more valuable, certain  
14 types of profile information, and people may pay  
15 different rates for different profile attributes,  
16 who contributed the profile information that  
17 determined that a user was in that category, a  
18 POSITA would be notified and can keep track of  
19 that so they can charge these higher fees to the  
20 advertisers for certain categories, as indicated  
21 by their contributed profile information, and then  
22 compensate parties that provided the information.

1           And so that would be why a person would be  
2 motivated to keep records of that, as I lay out in  
3 Paragraph 183.

4           MR. MILKEY: I'll move to strike that  
5 answer as nonresponsive.

6           Q. Dr. Houh, my question specifically is,  
7 does the paragraph that follows the bolded heading  
8 "Content Sites" on page 59 disclose keeping a  
9 record of which websites contributed particular  
10 profile attributes to be used in targeting later  
11 advertisements?

12           MS. LIN: Objection, form.

13           A. Well, I want to add to that. The page 59,  
14 which I've cited, including "Ad Network," talks  
15 about profile attributes of users. And "Content  
16 Sites" does talk about sports sites.

17           So clearly people who have the profile saw  
18 this as a sports site. And advertisers are  
19 willing to pay a lot more for, you know, a  
20 sports-owned website banner ad. So they're more  
21 valuable to some advertisers who have people who  
22 fit that profile.

1           And it doesn't explicitly say that. You  
2 track it. But that's -- what I'm saying here is  
3 that this provides support for the motivation for  
4 why someone would want to keep those records for  
5 reporting and financial reasons.

6           And this is laying out financial reasons  
7 why people who have a certain profile may be worth  
8 more to an advertiser, as does the following  
9 paragraph.

10           So I think that supports what I'm saying  
11 here. It may not -- it doesn't talk about -- I  
12 think the exact issue you're asking about in that  
13 one paragraph after "Content Sites."

14           But this is really motivation why people  
15 would want to maintain and keep those types of  
16 records because the valuable information, you  
17 know -- one reason they may want to is to charge  
18 subscription ad targeting fees to advertisers.  
19 And that is laid out in the "Content Sites"  
20 paragraph on page 59.

21           And they may want to compensate the  
22 parties that provided that profile information

1 used to determine whether that user fits in this  
2 higher value advertising category, for example.

3 MR. MILKEY: Okay. I'll move to strike as  
4 nonresponsive.

5 MS. LIN: I disagree that that was  
6 nonresponsive. He did answer --

7 MR. MILKEY: That's fine, Counsel. You  
8 can do redirect. You have plenty of time for  
9 redirect.

10 Q. Dr. Houh, my question specifically is,  
11 does the paragraph that follows the bolded heading  
12 "Content Sites" on page 59 disclose keeping a  
13 record of which websites contributed particular  
14 profile attributes to be used in targeting later  
15 advertisements?

16 MS. LIN: Object to form.

17 A. As I said, that paragraph contains part of  
18 the motivation why a POSITA would want to maintain  
19 those records.

20 It may not explicitly say that's what it's  
21 doing, but it's clear that that profile  
22 information, some profile information is worth

1 more than other profile information.

2 And that's laid out in the paragraph after  
3 "Content Sites" and in "Ad Network." Page 59  
4 generally is what I cited, and those provide  
5 motivations to keep those records.

6 It may not say that, what you're asking  
7 about, in that one paragraph you're directing me  
8 to, but it certainly provides motivation why a  
9 POSITA would want to keep those records.

10 Q. Okay. And a similar question for the  
11 following paragraph in Zeff. Specifically, does  
12 the paragraph that follows the bolded heading of  
13 "Ad Network" in Zeff on page 59 disclose keeping a  
14 record of which websites contributed particular  
15 profile attributes that were actually used in  
16 targeting later advertisements?

17 MS. LIN: Object to form.

18 A. Well, the paragraph after "Ad Network"  
19 certainly does talk about specific profiles or  
20 categories that advertisers can purchase through  
21 DoubleClick.

22 Remember, while Merriman -- Merriman is a

1 patent. It was -- I think Merriman was  
2 DoubleClick or was one of the founders.

3 But we're looking at a support document  
4 here. This is what I'm providing as support for  
5 why a POSITA would be motivated to do certain  
6 things, specifically maintain these records we're  
7 talking about.

8 But Merriman itself does talk about  
9 profiles and collecting profile information. And  
10 now we see here this Zeff page talking about some  
11 categories appear to have premium ad purchase  
12 fees. So this is part of the motivation.

13 While it may not say that records are  
14 saved in this way, it certainly is supporting the  
15 motivation why a POSITA would want to do so to  
16 maintain these records because -- but it is saying  
17 that there are categories and profiles --  
18 categories that certain users would -- when  
19 landing on a website, those users may be shown  
20 advertisements that are more valuable than other  
21 general advertisements or other categories of  
22 advertisements.

1           So there are these premium categories or  
2 these categories that advertisers are able to  
3 charge more for. And while it may not say that  
4 you would say that -- it doesn't say it in that  
5 paragraph explicitly, it's providing the  
6 motivation that would cause a POSITA to maintain  
7 those records.

8           Q. Okay. I'm having a little bit of  
9 difficulty following why you believe it would be  
10 obvious to maintain those records. Is that so you  
11 could compensate the websites who provided the  
12 valuable profile information?

13           MS. LIN: Objection, form.

14           A. That's one example, as I lay out.

15           So, you know, you have to motivate -- a  
16 POSITA would understand that, you know, people  
17 would provide profile information, but they may  
18 want to be compensated if they're providing  
19 information that's very valuable.

20           And that's generally speaking, I think --  
21 that's -- and then these statements, what I've  
22 cited to, what's on this page does support my

1 statement here about why a POSITA would be  
2 motivated to maintain these types of records we're  
3 talking about for both reporting and financial  
4 reasons.

5 Q. Do you know if DoubleClick actually ever  
6 compensated any website for providing particular  
7 types of profile information?

8 MS. LIN: Objection, scope.

9 A. I don't think I see that as something  
10 directed to that specific question in this section  
11 of my report. I don't think I've provided an  
12 opinion about that question.

13 Q. And sitting here today, you don't have any  
14 personal knowledge of whether DoubleClick actually  
15 ever compensated any website for providing  
16 particular types of profile information?

17 MS. LIN: Objection, scope.

18 A. I mean, my report is not really about  
19 DoubleClick. It's directed to Merriman '061 and  
20 so that's what the report focuses on.

21 I think I mentioned DoubleClick elsewhere,  
22 but I don't recall talking about that specific

1 issue in my report.

2 Q. Okay. I thought earlier you said that you  
3 understood Merriman '061 was relating to  
4 DoubleClick.

5 But setting that aside, do you have any  
6 opinion as to whether Merriman '061 discloses  
7 compensating any website for providing any  
8 particular types of profile information?

9 A. I did say that earlier. I think on the  
10 face of Merriman '061 it's assigned to  
11 DoubleClick.

12 What's the second part -- what was the  
13 second part of your question, again, please?

14 Q. Yeah. Do you have any opinion as to  
15 whether Merriman '061 discloses any website for  
16 providing any particular types of profile  
17 information?

18 MS. LIN: Objection, form.

19 A. I mean, if you look at Merriman '061, it  
20 does talk about how information on web pages that  
21 the user is viewing are transmitted back to the  
22 advertisement server. And so it does talk -- it

1 has some discussion about which websites are  
2 providing information like that.

3 Q. Okay. So my question is, do you have any  
4 opinion on whether Merriman '061 discloses  
5 compensating any website for providing any  
6 particular types of profile information?

7 A. So, I mean, I think that's -- this part of  
8 the discussion in Paragraph 182 and 183 is really  
9 about it's obvious. I didn't point to anything in  
10 Merriman where there's compensation for that.

11 But Merriman is clearly providing this  
12 type of information on the web pages that a user  
13 is visiting and that is collected by the ad  
14 server.

15 My point here is that's why a POSITA would  
16 be motivated to maintain these types of records,  
17 for the reasons I list, looking at Paragraph 183.

18 So it's obvious in light of what's laid  
19 out in Merriman and Jaye in view of Merriman and  
20 Jaye. And that's what I'm saying here.

21 Q. Okay. I understand your opinion is that  
22 it's obvious.

1           My question is whether Merriman '061  
2 actually discloses compensating any website for  
3 providing any particular types of profile  
4 information.

5           MS. LIN: Objection, form.

6           A. You know, I think there's -- it does  
7 discuss here that affiliates -- this is page --  
8 Column 2, line 62. "Affiliates are one or more  
9 entities that generally for a fee contract with an  
10 entity providing the advertisement server permit  
11 third-party advertisements to be displayed on  
12 their websites."

13           But it also talks in that section we just  
14 looked at about how these affiliate web servers  
15 are providing the advertisement server the web  
16 page that the user is visiting on their website as  
17 part of information transmitted to the advertising  
18 server.

19           And, you know, it doesn't say payment one  
20 way or the other. But a contract can include all  
21 these things where people find the most value.  
22 And it's obvious that there's value in both having

1 an ad placed on your site, you find space for an  
2 advertisement. It's also obvious -- it's known,  
3 rather -- let me say known, not obvious.

4 It's known that there's fees that go all  
5 sorts of ways. And if the data you're providing  
6 as an affiliate to the advertisement server is  
7 valuable, then that could be captured in the  
8 contract that's negotiated between the affiliate  
9 website and the advertisement server company.

10 And it was known that it's valuable to --  
11 that some types of profile information are  
12 valuable, more valuable than other types.

13 And so I think knowing all that, it is  
14 obvious that a person -- a POSITA would want to  
15 maintain records of who provided the profile  
16 information that was used in targeting because  
17 that may be part of and captured in a contract  
18 between the entities that, Hey, if I provide you  
19 on the site you really think based on the pages  
20 that people visit on my site it's valuable to you,  
21 then that should be part of a contract.

22 And so Merriman '061 does mention the

1 contract. But contracts can both, you know,  
2 capture fees for payment for valuable things.

3 One valuable thing is I have space to run  
4 an ad. You can run an ad on it so you should pay  
5 me when I run an ad for you. If I give you  
6 information, you can also pay me for the valuable  
7 information I give you.

8 I think a person of ordinary skill would  
9 recognize and be motivated for all the reasons  
10 that we've been talking about here, partly  
11 supported by page 59 of Zeff. That could be a  
12 part of a contract.

13 And I think that could be -- it would be  
14 obvious that valuable things -- that if people  
15 provide something of value, they would negotiate  
16 fees for what they provided of value in a  
17 contract. I think that's part of the contract  
18 negotiation process.

19 MR. MILKEY: Move to strike as  
20 nonresponsive.

21 Q. Dr. Houh, sitting here today, are you able  
22 to identify a single reference that discloses an

1 ad server paying a website more money for  
2 providing a profile attribute that is actually  
3 used in targeting an advertisement than for  
4 providing a profile attribute that is not used in  
5 targeting an advertisement?

6 MS. LIN: Object to form.

7 A. In this section of -- the second half of  
8 the Claim 5 analysis is talking about how it's  
9 obvious in view of Merriman '061 and Jaye.

10 Part of that is because it may not be  
11 explicitly mentioned that there's a payment for  
12 the profile information used to target an  
13 advertisement.

14 What I'm saying is it's obvious in light  
15 of what's disclosed in Merriman and Jaye and  
16 what's known by, you know, this person of ordinary  
17 skill supported by some other secondary  
18 references, perhaps we'd call them.

19 And so -- but Merriman does talk about  
20 explicitly having a contract between an  
21 advertiser -- advertisement server company -- or  
22 affiliate. Having a contract -- a fee contract

1 between the affiliates, which are these  
2 third-party publishers, unaffiliated third  
3 parties, and the entity providing the  
4 advertisement servers. So that's whoever is  
5 running the advertisement server.

6 And there's a contract. And so a contract  
7 would capture payments for things that are  
8 valuable to both parties. And so it's obvious  
9 that in light of what's valuable to companies,  
10 such as profile information they use to target  
11 more valuable ads that could be captured in a  
12 contract. And it's obvious.

13 So I'm not pointing to a specific thing  
14 that says here is where -- in Merriman where fees  
15 for providing profile information that's used to  
16 target ads -- where it says it expressly. But  
17 this contract is -- captures fees for whatever is  
18 valuable to the parties involved in negotiating a  
19 contract.

20 And I think it's obvious that there are  
21 things that are valuable and a person would  
22 maintain records for the purposes that I've laid

1 out in that contract.

2 MR. MILKEY: Move to strike as  
3 nonresponsive.

4 Q. Dr. Houh, sitting here today, are you able  
5 to identify a single reference that discloses an  
6 ad server paying a website more money for  
7 providing a profile attribute that is actually  
8 used in targeting an advertisement than for  
9 providing a profile attribute that is not used in  
10 targeting an advertisement?

11 MS. LIN: Object to form.

12 A. What was the second part? Could you  
13 repeat the question, please?

14 Q. It's the same question I asked before,  
15 Dr. Houh.

16 Dr. Houh, sitting here today, are you able  
17 to identify a single reference that discloses an  
18 ad server paying a website more money for  
19 providing a profile attribute that is actually  
20 used in targeting an advertisement than for  
21 providing a profile attribute that is not used in  
22 targeting an advertisement?

1 MS. LIN: Object to form.

2 A. So you asked about any reference. My  
3 declaration is with respect to really, at least in  
4 Ground 1, Merriman and Jaye, Merriman '061 and  
5 Jaye. So it's those references.

6 But in light of those references and what  
7 a POSITA -- a POSITA would find it obvious to do  
8 that. I didn't point to Merriman or Jaye for --  
9 to disclose expressly exactly what you asked, my  
10 analysis in the second half of Claim 5 with  
11 respect to why it's obvious.

12 And why it's obvious is because it's known  
13 that certain types of profile information can --  
14 when used to target ads could result in a lot more  
15 ad revenue.

16 I mean, generally that's the case. But  
17 certainly some types of profile information may be  
18 more valuable than others. And that was known, as  
19 laid out in secondary references that I cited.

20 And Merriman '061 talks about a contract  
21 between the affiliate web servers, a fee contract,  
22 and the advertisement server.

1           So what's valuable to each party would  
2           have been part of a negotiation and it would have  
3           been obvious that -- to a POSITA to include those  
4           kinds of records, maintaining a record of which  
5           profile information was used to target which ads,  
6           because part of the contract, you know -- it's  
7           valuable.

8           So parties would -- an example of why  
9           someone would want to maintain those records is  
10          that they can charge subscription and  
11          advertising -- ad targeting fees to advertisers  
12          and to compensate the party that provided that  
13          valuable profile information because that is --  
14          has value.

15          And contracts capture fees and exchange  
16          fees for things that are valuable to both parties  
17          undergoing a contract negotiation.

18          MR. MILKEY: Move to strike as  
19          nonresponsive, everything after "I didn't point to  
20          Merriman or Jaye to disclose expressly exactly  
21          what you asked."

22          MS. LIN: Objection.

1 Q. Dr. Houh, are you familiar with the Engage  
2 knowledge product?

3 MS. LIN: Objection, scope.

4 A. I don't remember product names. I'm not  
5 sure. It's not one of the references that I  
6 opined on in my declaration. I may have discussed  
7 Engage a little bit, but it's not one of the  
8 references I analyzed.

9 Q. Do you understand that Engage is -- strike  
10 that.

11 Do you understand that the Jaye reference  
12 that you cited is related to the Engage system?

13 MS. LIN: Objection, scope.

14 A. From the face of the Jaye patent, it does  
15 say that it's assigned to Engage, but I don't know  
16 whether it's related to the product you're asking  
17 about. I didn't do that analysis. My analysis is  
18 with respect to the Jaye reference itself.

19 Q. Okay. And are you aware that Daniel Jaye,  
20 the inventor of the Jaye reference, testified at  
21 his deposition that the Engage system had no  
22 knowledge of how people that received its profile

1 attributes actually used those profile attributes  
2 to target advertisements?

3 MS. LIN: Objection, scope.

4 A. I don't think I cited to any of Jaye's  
5 deposition in some other matter.

6 But my analysis with respect to what the  
7 Jaye patent discloses and why as a combination  
8 with Merriman '061 it renders the challenged  
9 claims in Ground 1 obvious.

10 So my analysis with respect to Jaye, I  
11 didn't look at --

12 Q. Okay.

13 A. -- these deposition transcripts. I  
14 analyzed the Jaye reference in my declaration.

15 So I didn't look at them for the purposes  
16 of my declaration, the deposition transcripts.

17 Q. Do you know if Daniel Jaye is a person of  
18 ordinary skill in the art?

19 MS. LIN: Objection to scope.

20 A. I don't have an opinion about that in my  
21 declaration.

22 Q. Do you know who Dwight Merriman is?

1 MS. LIN: Objection, scope.

2 A. He is listed as an inventor on both the  
3 Merriman '061 and the Merriman '154 patents that I  
4 analyzed for my declaration.

5 Q. Do you know if Dwight Merriman is a person  
6 of ordinary skill in the art?

7 MS. LIN: Objection, form.

8 A. I don't have an opinion about that in my  
9 report or declaration.

10 Q. And just confirming, you don't have any  
11 opinion as to whether the DoubleClick system  
12 compensated -- strike that.

13 You don't have an opinion as to whether  
14 the DoubleClick system compensated websites for  
15 providing profile attributes that were actually  
16 used in targeting advertisements. Correct?

17 MS. LIN: Objection, form.

18 A. I wasn't analyzing the DoubleClick system  
19 for the purposes of the grounds in my report,  
20 either Ground 1 or Ground 2. I was analyzing the  
21 Merriman '061 reference patent and the Merriman  
22 '154 patent. That's what I was analyzing.

1           So I don't have an opinion about  
2 DoubleClick's system with respect to any of the  
3 grounds. That's not what I was analyzing.

4           MR. MILKEY: Let's go off the record.

5           (Lunch recess, 12:48 p.m. to 1:31 p.m.)  
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1                   A F T E R N O O N   S E S S I O N

2   BY MR. MILKEY:

3           Q. Okay. Welcome back, Dr. Houh. I'd like  
4   to ask you about your opinions with regard to what  
5   the petition calls "Ground 2," but this is a  
6   combination of Rosenberg and Merriman '154. This  
7   analysis starts on page 104 of your declaration.  
8   If you can turn there.

9           A. Okay.

10          Q. And do you see that this is the beginning  
11   of Section B of your analysis regarding various  
12   claims being obvious over Rosenberg and Merriman  
13   '154?

14          A. Yes. I see that.

15          Q. Okay. And Rosenberg, as I understand it,  
16   is Exhibit 1006 in this proceeding and Merriman  
17   '154 is Exhibit 1007.

18                I've uploaded those to the chat, but feel  
19   free to use any copies of those documents that you  
20   have in answering any questions today.

21          A. Okay. Thank you. I have printed versions  
22   of those too. I'll use both. I've got them

1 downloaded.

2 Q. Okay. Great. Turning to Paragraph 209 of  
3 your declaration. And just let me know when  
4 you're there.

5 A. Okay.

6 Q. Okay. And then turning to the last  
7 sentence of Paragraph 209, you state, "A POSITA  
8 would have understood that by using URL  
9 redirection to communicate the cookie identifier  
10 to the database server, the database server can  
11 beneficially set a cookie containing the  
12 identifier in the user's browser and be able to  
13 recognize the user in subsequent interactions."

14 Do you see that?

15 A. Yes.

16 Q. Okay. So I understand that this sentence  
17 is talking about your opinion regarding what a  
18 POSITA would have understood. But my question  
19 specifically is -- actually, strike that.

20 How would the database server actually go  
21 about setting a cookie in the user's browser?

22 MS. LIN: Objection, form.

1           A. Well, I think a POSITA would have  
2 understood many ways that that could occur. For  
3 example, to the extent the API for the database is  
4 through a web browser, the web -- sorry -- server,  
5 that could be done through the web server.

6           To the extent there's a direct API, then  
7 by convention it can be agreed upon to read a  
8 value or provide a value or read a value and  
9 create a text file containing any such information  
10 that would be, in a broad sense, a cookie.

11           That's among the few ways that POSITAs  
12 would know.

13           Q. Okay. How does the database server get  
14 access to the user's browser in order to set the  
15 cookie?

16           A. To the extent the API is through a web  
17 interface, then the database -- the web -- it was  
18 working in conjunction with a web server. So  
19 that's how a cookie could be set, that one way, as  
20 I mentioned earlier.

21           Q. Does Rosenberg disclose an API through a  
22 web browser?

1           A. I do that all the time, too. I call it  
2 "Rosenberger," but I think it's just Rosenberg.  
3 That's what you're referring to?

4           Q. Yes. That's correct.

5           A. So Rosenberg does disclose storing the  
6 information in a cookie in a database. We can  
7 look for that. But I was just looking at that. I  
8 don't know what column.

9           But Rosenberg also discloses in Column 4,  
10 line 21, "The database function, which is  
11 described below, may be performed on another  
12 server, say server computer 24A, even though it is  
13 illustrated in FIG. 1 as operating on a separate  
14 server 25."

15           So it could be operating on Server 24A,  
16 which is a server, but it's describing it as --  
17 one example is a web server somewhere in  
18 Rosenberg. It's part of a web system. And so  
19 it's describing the database running on the  
20 Server 24A.

21           And databases are accessible through web  
22 pages all the time, so it is disclosing the

1 database running on, for example, a web server.

2 Q. Okay. Turning to Paragraph 210 of your  
3 declaration.

4 The second sentence of Paragraph 210 of  
5 your declaration states, "Specifically, each web  
6 server stores a user's web browsing activity in  
7 its access logs and then passes this information  
8 to the database server."

9 Do you see that?

10 A. Yes, I do.

11 Q. Okay. Does Rosenberg teach that these  
12 access logs are transmitted to the database server  
13 via redirection?

14 MS. LIN: Objection, form.

15 A. I don't think it specifically refers to  
16 redirection as a method to transfer the access  
17 logs.

18 But what I talk about in my declaration is  
19 that it had been obvious to substitute the methods  
20 taught in Rosenberg for transferring the access  
21 logs as a simple substitution, to transfer them  
22 using a redirect, as taught in Merriman '154, with

1 respect to, I think, a spotlight tag.

2 And I disclose that and maybe some more in  
3 my declaration.

4 Q. Okay. So it's your opinion that using a  
5 spotlight tag would be suitable for transferring  
6 an access log of profile information to the  
7 database server?

8 MS. LIN: Objection, form.

9 A. I think what I'm saying -- if you look at  
10 Paragraph 217, that "A POSITA would have  
11 understood that Merriman '154's 'spotlight tag'  
12 feedback path involves the ad server receiving an  
13 electronically URL-redirected partial profile of a  
14 user."

15 And then they go on to talk about, in  
16 Paragraph 220, "a POSITA would have found it  
17 obvious to modify Rosenberg to use spotlight tags  
18 to pass partial profile information about website  
19 activity because it is a simple substitution of  
20 one known technique (spotlight tags) for another  
21 (bulk transfer)."

22 And it's the information in the logs, for

1 example, can be transmitted as part of the  
2 spotlight tag as a user is browsing a particular  
3 server, in the case of Rosenberg.

4 Sorry. If I say Rosenberg, I do mean  
5 Rosenberg, by the way. I've done that a lot. I'm  
6 not sure what I said.

7 But with Merriman '154, those spotlight  
8 tags can transfer information, as disclosed. And  
9 that can convey the information in the logs in  
10 little bits at a time that would effectively  
11 transfer the contents of the log.

12 Q. Okay. So it's not your opinion that the  
13 entire access log would be transmitted in bulk via  
14 spotlight tag but rather the information within  
15 the access log would be transmitted sort of  
16 piecemeal as it's being created?

17 A. Well, that's one way of transferring the  
18 information to the access log.

19 So Rosenberg does teach -- I think it's  
20 Rosenberg that teaches that the access log  
21 information that's sent in bulk or schedule to the  
22 database server. And when combined with Merriman

1 using spotlight tags -- remember the web server or  
2 the -- what Merriman calls "the server" . . .

3 They call it the advertiser website. It  
4 is getting a request for a particular page, and  
5 that page request is logged in the access log for  
6 every page request.

7 So for every page request that can be -- a  
8 response can be generated where it embeds that log  
9 information in the response.

10 And the spotlight tag, that's part of the  
11 response. So that -- that information can be  
12 transmitted via the browser to the database server  
13 of Rosenberg or the advertising server.

14 So that's how -- that's the one simple  
15 method substitution for transferring the  
16 information in Rosenberg to the database server by  
17 using the spotlight tag.

18 Q. Okay. So as part of that substitution,  
19 you essentially get rid of the transfer of the  
20 entire access log and instead transfer each piece  
21 of profile information within the access log as  
22 it's observed. Is that fair?

1           A. That's fair. So all that information --  
2           so if a person requests a web page from a web  
3           server, that request gets logged in the access  
4           log. It has a number of things in the standard  
5           access log.

6           And it's done one by one. It's not a  
7           large bit of information. It's typically smaller  
8           than the web page, that information that goes into  
9           the access log about access to a web page.

10          And that can be very succinctly included  
11          with a spotlight tag that's included in the page  
12          as it's customized.

13          And then in that way, the spotlight tag  
14          would be received by the web browser and the  
15          information transmitted would be -- referring to  
16          an image on the advertising server or database  
17          server, then that information can be transmitted  
18          using that spotlight tag in Merriman '154.

19          Q. Okay. And so for purposes of various  
20          questions I'm going to talk about the database  
21          server. The database server is -- it's provided  
22          as an example of 25, numbered element 25 in

1 Rosenberg's Figure 1.

2 I believe you mentioned earlier that it  
3 could be implemented as, for example, 24A. So  
4 I'll refer to the database server as the server  
5 having the database. And then the other servers  
6 that communicate with the database server, for  
7 example 24A, 24B, as being participating servers.  
8 Is that fair?

9 A. I'll try to remember that.

10 Q. If there's another terminology that you'd  
11 prefer for sort of the, you know -- I view there  
12 being two separate types of servers: one is the  
13 database server, and then the other type is all of  
14 the other servers that communicate with the  
15 database server. But if there's some terminology  
16 you prefer to use, please let me know.

17 A. "Participating" is fine.

18 But I do want to point out that Rosenberg  
19 talks about the server, but it also talks about  
20 the function of the database. The database  
21 function itself can be run on the Server 24A,  
22 which I think it just generically calls a server.

1 It's clear that an example of the server in  
2 Rosenberg is a web server.

3 Q. Understood. Okay. So in the instance  
4 where the database server is one of the  
5 participating servers, for example 24A, does 24A  
6 need to send information to itself? Strike that.

7 I guess, in the instance where the  
8 database server is operating on Server 24A, for  
9 example, there doesn't need to be any redirection  
10 because the database server already has the  
11 profile information by virtue of it being  
12 Server 24A. Is that fair?

13 MS. LIN: Objection, form.

14 A. Well, certainly other participating  
15 servers, 24B and other ones, they still need to  
16 have redirection to the database server. And  
17 again, it's the database function that it says can  
18 be run on the Server 24A. So they're combined.

19 But certainly other participating servers  
20 still need to have information sent in the  
21 combination that would be sent through the use of  
22 a spotlight tag as a substitution for the bulk

1 transfer.

2 But in addition, there's other discussion  
3 of what partial profile information is sent,  
4 including the identifier. So it's not just the  
5 logged information that I discussed.

6 But, I mean, oftentimes servers can make  
7 references to themselves through maybe a specific  
8 URI that would invoke a particular function of the  
9 database server; for example, to load something  
10 into the database.

11 So it could still make reference to itself  
12 through a redirection to a specific different page  
13 that invokes the database function or utilizes the  
14 database through a database functionality  
15 integrated with Server 24A or web Server 24A.

16 And that happens all the time, and that's  
17 known. Which is web servers can access databases,  
18 but you might have to refer to another web page on  
19 the same server to invoke a particular function or  
20 cause something specific to occur, like use of a  
21 CGI script. And I think there's some discussion  
22 about it somewhere I recall -- I don't remember

1 which reference.

2 Q. Okay. So in the situation where the  
3 database server is receiving profile information  
4 from a different server -- so for example, in the  
5 situation where the database server is implemented  
6 as 25 and it's receiving profile information from  
7 Server 24B, what incentive does Server 24B have to  
8 implement spotlight tags on all of its pages so  
9 that it sends piecemeal data to the database  
10 server as opposed to just doing what Rosenberg  
11 itself teaches, which is a bulk transfer?

12 MS. LIN: Objection, form.

13 A. I wanted to add something to my previous  
14 answer about redirection.

15 It's actually very somewhat common that  
16 people would redirect a server to a -- a page on a  
17 server to a different page on a server, say when  
18 they restructure the pages. So if you want to get  
19 the "about" page, and it might have been "about  
20 HTML," but now they've moved it to "about slash."  
21 So then you could set up a redirect from about  
22 that HTML to "about slash."

1           And that's very common to redirect to a  
2 different page within your own server. But with  
3 respect to the incentive, one is -- it's just a  
4 simple substitution.

5           So the bulk transfer may already happen.  
6 Maybe it's a lot of information to transfer.  
7 Rosenberg talks about doing it when -- you know,  
8 scheduling these transfers when it's not busy.

9           But by doing things in little bites all  
10 the time, it's not a burden -- not much of an  
11 additional burden. So that is potentially one  
12 incentive.

13           But it is a simple substitution of one  
14 method with a different method. But there are  
15 many -- if you do it with every page access -- and  
16 a log entry in a typical database is like one line  
17 of text. It might be 100 characters long or  
18 something like that. It typically contains the  
19 date, the time, the IP address, the URL requested,  
20 the status code, in some cases byte transfer.

21           All that information is a small number --  
22 a small amount of information relative to a web

1 page. And, you know, by doing that with every web  
2 page request, embedding a spotlight page, is  
3 discussed in Merriman '154.

4 And you don't have to figure out when your  
5 web server is not busy and set up a firm job or  
6 some other job that you hope is not at a busy  
7 time.

8 But by breaking up the transfer into --  
9 putting the information in a spotlight tag, you  
10 don't have to worry about setting up bulk  
11 transfers anymore.

12 But it is a simple substitution of one  
13 method by another method.

14 Q. Okay. So from an implementation  
15 perspective, do you think it's simpler to add a  
16 spotlight tag to every web page on a particular  
17 website every time a new web page is created than  
18 it is to schedule a bulk transfer every night at  
19 midnight?

20 A. One benefit of doing it all the time is  
21 that the database can be updated immediately as  
22 having, like, on average, half-day-old stale

1 information in the database.

2 So I mean, there are benefits to using a  
3 spotlight tag to do so, and I think a POSITA would  
4 have recognized some of these benefits.

5 But again, it is just a change in -- a  
6 substitution of one way of transmitting data with  
7 a different way. And both of them are known.  
8 Spotlight tags were taught by Merriman, and bulk  
9 transfers were known.

10 Q. Okay.

11 MR. MILKEY: So move to strike as  
12 nonresponsive.

13 Q. So from an implementation perspective for  
14 participating Server 24B, do you think it's  
15 simpler to add a spotlight tag to every web page  
16 on a particular website every time a new web page  
17 is created than it is to schedule a bulk transfer  
18 every night at midnight?

19 MS. LIN: Objection, form.

20 A. You know, these are straightforward  
21 methods of programming. There are some web  
22 servers often, and web server platforms often have

1 the capability to add a header specific to every  
2 single page.

3 So in that type of system, it actually  
4 would be very simple to add a spotlight tag. In  
5 fact, I have run servers where you have to add ad  
6 tags to every page, and it's just a simple change  
7 of one item on the web application server that  
8 includes such a tag on every single page of the  
9 web server.

10 So that thing can be very, very simple to  
11 do. I mean, these are -- and even setting up a  
12 bulk transfer can be straightforward too. They're  
13 all well within the knowledge of a POSITA.

14 Q. Okay. So turning to Paragraph 217 of your  
15 declaration. And just let me know when you're  
16 there.

17 A. Okay.

18 Q. Do you see the second sentence of  
19 Paragraph 217 in your declaration states, "A  
20 spotlight tag is 'a minimal graphic (e.g., a one  
21 pixel image) containing a redirect message back to  
22 the advertising server...placed on web pages by

1 the advertiser.'" "

2 A. I think -- yeah. I wasn't looking at it  
3 when you started reading it, but I think I see it.

4 Q. Okay. And does Merriman '154 disclose its  
5 spotlight tag being used for anything other than  
6 transferring information from an advertiser's  
7 website?

8 A. Sorry. Could you repeat the question,  
9 please? I think I know the answer. I just want  
10 to make sure I answer your question.

11 Q. Yeah. Does Merriman '154 disclose its  
12 spotlight tag being used for anything other than  
13 transferring information from an advertiser's  
14 website?

15 A. So just to be clear about the -- what  
16 Merriman '154 is talking about when it's talking  
17 about transferring from an advertiser's website,  
18 an advertiser here wants to put ads -- target ads  
19 to the user based on the fact that they come to  
20 visit their website.

21 And again, I'll use Nike as an example.  
22 It doesn't say Nike.

1           But if you went to look at a tennis shoe,  
2 a particular shoe on Nike's website, and then you  
3 left, you might see the ad pop up on any other  
4 website you visited that is part of the ad  
5 network, based on the fact that you visited a  
6 particular page on a website which it describes as  
7 an advertiser website, but it's describing that  
8 because they want to target an ad when you go on  
9 another site or anywhere elsewhere the ad server  
10 can place ads, base on the fact that you visited a  
11 particular page.

12           And it talks about that on -- for example,  
13 this is page 11, which is Column 4, around  
14 lines 51 through 60. And then the next  
15 Paragraph 62 through Column 5, that paragraph.

16           So in effect it's a content website and  
17 the information being transmitted is with respect  
18 to the pages that a user has visited on that  
19 content website that now becomes part of the  
20 profile in the database so later when a user is  
21 seen anywhere else, they can retarget an ad to the  
22 user who has visited a particular product page on

1 a Nike website.

2 They happen to call it an advertiser  
3 website because they're advertising -- they're  
4 going to target an ad for that shoe later when  
5 you're browsing some other website, which the  
6 advertising server has the ability to detect the  
7 same user and know that they -- based on the  
8 profile information of their ID and that they  
9 visited a particular page on a particular website,  
10 targeting an ad based on that.

11 And so -- but that's how the spotlight tag  
12 in Merriman '154 is used. And I think a POSITA  
13 would use the same method on any content site  
14 where you're collecting information about a user  
15 and the pages they visit. And I think that's part  
16 of the discussion in my declaration.

17 Q. Okay. So I think we're on the same page  
18 about what an advertiser site is in the context of  
19 Merriman '154.

20 And so just to be clear, is it your  
21 opinion that Merriman '154 discloses that its  
22 spotlight tag is used for anything other than

1 transferring information from an advertiser's  
2 website?

3 A. I think the examples that I looked at just  
4 now were with respect to the user's visits on a  
5 particular website. But I think they call it an  
6 advertiser website in Merriman '154. It's the use  
7 of the spotlight tag that might discuss in more  
8 detail my combination.

9 It can use -- it's used to transfer  
10 information from any site. And in this example,  
11 the '154, it's any site where you can place the  
12 spotlight tag on a page, which is any website  
13 that's got the capability to do insertions like  
14 that, and then that information that's conveyed is  
15 a user ID and a particular URL or a particular  
16 page on that content site that was visited. And  
17 that's what's transmitted in the spotlight tag.

18 And so I don't think the examples that I  
19 looked at in Merriman '154 just now were from  
20 anything other than the content sites where  
21 they're trying to retarget ads to -- onto the same  
22 user later based on the browsing activity on that

1 content site, which Merriman happens to call an  
2 advertiser site.

3 So I think that was -- with the examples I  
4 was looking at just now in Merriman '154 with  
5 respect to what I call a content site here, a  
6 publisher site.

7 Q. Okay. That's helpful.

8 Does Merriman '154 disclose using the  
9 information received from spotlight tags from a  
10 particular advertiser site to target ads for  
11 someone other than the advertiser? And I'll give  
12 a concrete example of this.

13 For example, using -- let's say Nike is  
14 the advertiser site, as we've discussed. And Nike  
15 puts spotlight tags on its website and then  
16 DoubleClick receives or the ad server receives  
17 information from that spotlight tag and then uses  
18 information from that spotlight tag to target  
19 advertisements that are not Nike's; for example,  
20 Adidas ads.

21 So in line with that example, are you  
22 aware of anything like that where Merriman '154

1 discloses using information received from  
2 spotlight tags from a specific advertiser site in  
3 order to target ads for someone other than that  
4 specific advertiser?

5 MS. LIN: Objection, form.

6 A. I mean, I can look through Merriman '154  
7 if you want me to. For something like that, I'd  
8 have to look through it.

9 Is that what you want me to do?

10 Q. Yeah. That would be great.

11 A. I don't see anything in Merriman '154 that  
12 specifically limits the advertisement to the  
13 entity that the activity was gathered from.

14 I mean, it really doesn't say one way or  
15 the other. It's clear that there are many  
16 different advertisers that can be part of the  
17 system described in Merriman '154. It's not  
18 limited to just one advertiser server, you know.

19 And I don't see any explicit prohibitions  
20 about activity from one server not being able to  
21 be used to target ads that are not from the owner  
22 of that server.

1           So, I mean, you know, in the early days of  
2 search, people would game us all the time. They  
3 would put other competitors' names in every web  
4 page of theirs so that if you're searching for  
5 Converse -- they'd do this in various ways just as  
6 tags. Sometimes they colorized the text the same  
7 as the background so it would be there as text but  
8 the user couldn't see it.

9           I mean, so, I mean, people did -- it was  
10 known that people tried and did do all these  
11 things to do this.

12           I don't see a prohibition in the Merriman  
13 '154 that retargeted advertisement has to be from  
14 the same owner of the website from which the  
15 information was generated.

16           Q. Okay.

17           A. I mean, it's clear that that is one thing  
18 it would do, but I don't see a restriction to that  
19 anywhere in Merriman '154.

20           Q. Understood. Are you aware that aspects of  
21 the DoubleClick system used spotlight tags?

22           MS. LIN: Objection, scope.

1           A. My declaration is limited to Merriman '154  
2 and -- for this ground, anyway -- and  
3 Merriman '061 for the other ground.

4           That's what I've analyzed. I'm not  
5 talking about the booklet system. I'm not  
6 providing analysis for the purposes of any of  
7 these grounds of DoubleClick's actual system.

8           Q. Okay. Fair enough.

9           Do you know one way or the other whether  
10 the DoubleClick system used spotlight tags for  
11 anything other than retargeting of advertisements?

12           MS. LIN: Objection, form.

13           A. I mean, sitting here right now, I wouldn't  
14 remember that one way or the other, even if I did  
15 know at one point.

16           Q. Okay. In your opinion, would a person of  
17 ordinary skill in the art as of the time of the  
18 priority date of the '904 patent have been  
19 generally familiar with the way that the  
20 DoubleClick systems operated?

21           MS. LIN: Objection, form.

22           A. I don't think I've talked about that.

1           But with respect to the grounds, the  
2 grounds are limited to the Merriman '154 and  
3 Merriman '061 for the two different grounds in  
4 combination with two other Rosenberg for the  
5 Merriman '154 and Jaye for the Merriman '061.

6           That's my analysis for what's disclosed  
7 and why the challenged claims are obvious. It  
8 doesn't have anything to do with what actually  
9 happened in DoubleClick's system. That's not what  
10 my analysis was directed to.

11          Q. Do you have an opinion as to whether a  
12 person of ordinary skill in the art deciding how  
13 to implement these teachings of, for example,  
14 Merriman, who was a DoubleClick engineer, and  
15 Jaye, who was an Engage engineer, would actually  
16 look to implementations in DoubleClick and Engage  
17 to understand how it would be beneficial to  
18 implement the teachings in the Jaye and Merriman  
19 references?

20           MS. LIN: Objection, form.

21          A. I mean, I don't know what POSITAs would do  
22 generally. But what I did with respect to this

1 declaration is I only looked at Merriman -- the  
2 Merriman references and the Jaye reference for the  
3 various grounds and analyzed those and provided  
4 reasons a POSITA would make combinations of  
5 various issues within the two references. That's  
6 what I did.

7 So I don't know for what purpose you're  
8 talking about that a POSITA would want to look at  
9 these other systems, but that's not part of the  
10 analysis that I did, considering what's  
11 actually -- what you asked about.

12 Q. Are you aware that Amazon has previously  
13 relied on Merriman '154 as evidence of how the  
14 DoubleClick system operated?

15 MS. LIN: Objection, form.

16 A. I don't remember that now. So I don't  
17 know one way or the other if that's true or not.

18 Q. Okay. And have you spoken with counsel  
19 during any breaks today?

20 A. I did have one conversation but not about  
21 the substance of testimony.

22 Q. Okay. Did it relate -- did that

1 conversation relate to your testimony at all  
2 today?

3 MS. LIN: Objection, form.

4 A. I mean, nothing substantive.

5 Q. And what did that conversation relate to?

6 MS. LIN: You can answer.

7 THE WITNESS: Sorry. Did you say  
8 something?

9 MS. LIN: You can answer.

10 A. Maybe not rambling on too long. It wasn't  
11 about substance. Maybe style.

12 Q. Fair enough.

13 MR. MILKEY: All right. Thank you,  
14 Dr. Houh. I will pass the witness. Unless  
15 there's further questions, I think that's it. But  
16 obviously there might be redirect.

17 MS. LIN: Let's do a quick break, like ten  
18 minutes.

19 MR. MILKEY: Yup. That works.

20 (Recess, 2:28 p.m. to 2:36 p.m.)

21 MS. LIN: We don't have any further  
22 questions.

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MR. MILKEY: Let's go off the record.  
(Off the record at 2:36 p.m.)

1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

2 I, Michelle Keegan, Registered Merit  
3 Reporter and Notary Public within and for the  
4 Commonwealth of Massachusetts, do hereby certify:

5 That HENRY HOUH, PH.D., the witness whose  
6 deposition is hereinbefore set forth, was duly  
7 sworn by me before the commencement of such  
8 deposition and that such deposition was taken  
9 before me and is a true record of the testimony  
10 given by such witness.

11 I further certify that the adverse party  
12 was represented by counsel at the deposition.

13 I further certify that the deposition of  
14 HENRY HOUH, PH.D. occurred virtually via Zoom on  
15 Friday, January 9, 2026, commencing at 10:31 a.m.  
16 to 2:36 p.m.

17 I further certify that I am not related to  
18 any of the parties to this action by blood or  
19 marriage, I am not employed by or an attorney to  
20 any of the parties in this action, and that I am  
21 in no way interested, financially or otherwise, in  
22 the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 16th day of January, 2026.  
My commission expires May 15, 2026.



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