

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ACTIVISION BLIZZARD, INC.
Petitioner
v.

MILESTONE ENTERTAINMENT, LLC
Patent Owner

Case No. IPR2025-00708
U.S. Patent No. 8,529,336

The Zoom Videotaped Deposition of
DWIGHT CREVELT, taken pursuant to Notice of
Taking Deposition, before Staci A. Heichert,
RDR, CRR, CRC, and a Notary Public in and for
the County of Scott, State of Minnesota, on
December 19, 2025, commencing at
approximately 10:00 a.m.

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Page 2

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19 ALSO PRESENT:
20 Scott Jensen, EVP and COO of Milestone
21 Jason White, Videographer
22
23
24 REPORTER'S NOTE: All quotations
25 from documents are reflected in the manner in
which they were read into the record and do
not necessarily indicate an exact quote from

Page 3

1 INDEX
2 EXAMINATION OF DWIGHT CREVELT
3 PAGE
4 Mr. Nelson 5
5 EXHIBITS
6 No exhibits marked.
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Page 4

1 PROCEEDINGS
2 THE VIDEOGRAPHER: Good morning.
3 We are now on the record.
4 This begins the video deposition of
5 Dwight Crevelt in the matter of Activision
6 Blizzard Inc., versus Milestone
7 Entertainment, LLC.
8 Today's date is December 19th,
9 2025, and the time is 10:01 a.m.
10 This deposition is being taken via
11 Zoom. The videographer is Jason White and
12 the court reporter is Staci Heichert of Magna
13 Legal Services.
14 Will counsel please state their
15 appearances -- please state their appearances
16 beginning with the noticing attorney, after
17 which the court reporter may swear in the
18 witness.
19 MR. NELSON: Good morning. My name
20 is William Nelson from the Tensegrity Law
21 Group on behalf of the patent owner,
22 Milestone Entertainment.
23 With me today is Mr. Scott Jensen,
24 who is the EVP and COO of Milestone.
25 MS. NGUYEN: Good morning. This is

Page 5

1 Lisa --
2 MR. NELSON: That's all.
3 MS. NGUYEN: Good morning, this is
4 Lisa Nguyen of Paul Hastings representing
5 Activision Blizzard, the petitioner.
6
7 DWIGHT CREVELT
8 having been first sworn to tell the truth,
9 the whole truth and nothing but the truth,
10 was examined and testified as follows:
11
12 BY MR. NELSON:
13 Q. Well, good morning, Mr. Crevelt. How are you
14 today?
15 A. Just fine.
16 Q. Good. So my name is Will Nelson. I'm with
17 Milestone Entertainment or here on behalf of
18 Milestone Entertainment.
19 Would you please state your full
20 name for the record, please.
21 A. Dwight Crevelt.
22 Q. And you're testifying today from Missouri; is
23 that right?
24 A. Yes.
25 Q. Okay. Have you had your deposition taken



Page 6

1 before, Mr. Crevelt?
2 A. Yes, I have.
3 Q. And have you had your deposition taken before
4 in a matter concerning patents?
5 A. Yes.
6 Q. Have you had your deposition taken before in
7 an inter partes review proceeding?
8 A. Yes.
9 Q. All right. Well, it sounds like you are a
10 veteran of these types of things, but I will
11 just go over a few housekeeping matters as we
12 get started, if that's okay with you, all
13 right?
14 A. That's fine.
15 Q. Okay. So from time to time, your lawyer may
16 object to a question that I ask. As you
17 likely know, this is really to preserve the
18 objection for the record. And unless your
19 lawyer instructs you not to answer a question
20 that I have asked, you should answer the
21 question to the extent you have an answer.
22 Do you understand?
23 A. Yes.
24 Q. Okay. Particularly since we are proceeding
25 remotely in an online format, it's important

Page 7

1 that you try to listen until I finish my
2 question and not start speaking before I
3 finish asking my question.
4 Do you -- will you try that?
5 A. Yes, I'll try.
6 Q. Okay. Me too. I will my -- I will do my
7 best to give you the same courtesy, sir,
8 which is to let you finish anything you've
9 got to say before I ask the next question,
10 okay?
11 A. Okay.
12 Q. Good. It's important, here, that you answer
13 with words rather than shaking your head or
14 nodding, giving a verbal answer is going to
15 help the court reporter have the best record,
16 okay?
17 A. Yes. Understand.
18 Q. Okay. If you have any questions about the
19 questions that I've asked, will you please
20 ask me to clarify them?
21 A. Yes, I will.
22 Q. Otherwise, I'm going to assume you understood
23 what I asked, okay?
24 A. Okay.
25 Q. I will -- I will try and take a break every

Page 8

1 hour or so, just so that we can all take care
2 of whatever we need to take care of.
3 But if you need a break, will you
4 just say so?
5 A. Yeah, yes, I will.
6 Q. Okay. Is there any reason that you cannot
7 testifying truthfully, accurately, or
8 completely today?
9 A. None that I'm aware of.
10 Q. Very good.
11 So you understand that you are here
12 today in connection with a series of
13 declarations you have filed in support of
14 petitions for inter partes review concerning
15 certain patents owned by Milestone, correct?
16 A. Correct.
17 Q. And, in fact, you are here today to testify,
18 just like you'd to confirm, in connection
19 with the IPR proceedings numbered
20 IPR2025-00708, 00709, 00710, '711, and '712.
21 Is that your understanding?
22 A. That's my understanding, yes.
23 Q. Okay. When were you first engaged to provide
24 consultant or expert services in connection
25 with these IPR proceedings?

Page 9

1 A. I honestly don't remember.
2 Q. Okay. At the time that you were engaged,
3 understanding that you don't remember the
4 specific time, prior to that date, had you
5 ever heard of Milestone Entertainment?
6 A. Not that I know of.
7 Q. Have you -- had you ever seen any of the
8 Milestone patents, to your knowledge?
9 A. Not to my knowledge.
10 Q. Had you ever seen the patent that we'll be
11 calling Kelly683 prior to being engaged for
12 your service here?
13 A. I don't know whether I'd seen that one
14 previously or not.
15 Q. Prior to being engaged to provide expert
16 opinions for these matters, had you ever seen
17 the patent -- the patent that we'll be
18 calling Walker?
19 A. And I don't recall if I had seen that one in
20 the past or not either.
21 Q. Okay. How about the -- the patent that we'll
22 be calling Schneier today, had you seen that
23 patent before being engaged to serve as an
24 expert?
25 A. I don't think so, but I don't know for sure.



Page 10

1 Q. Okay. I'll ask it a different way.
 2 Are any of the patents that -- that
 3 you relied upon in your declaration here,
 4 other than your own, obviously, I know you've
 5 seen those, had you seen before being engaged
 6 to perform expert services?
 7 A. I don't remember if I had seen those patents
 8 or found them or how I became acquainted with
 9 those.
 10 Q. Very well.
 11 Okay. Mr. Crevelt, do you have any
 12 hard copy or paper documents in front of you
 13 today?
 14 A. You did some send here, and I -- and there
 15 are hard copy documents here.
 16 Q. I -- and that's a fair -- fair answer. I'm
 17 asking a slightly different question.
 18 Since I'm not in the room with you,
 19 I don't see what you have in front of you.
 20 Do -- do you have any paper
 21 document that you're planning to rely on
 22 today? Or are you just going to look at
 23 exhibits online?
 24 A. I did not bring any paper documents with me.
 25 Q. Okay.

Page 11

1 A. I would prefer to have paper documents to use
 2 versus --
 3 Q. Of course.
 4 A. -- trying to scroll through a computer.
 5 Q. That's -- that's completely fine with me.
 6 And so I assume those -- those documents
 7 are -- are nearby.
 8 I'd first like you to turn to
 9 Exhibit 1001 from the '336 IPR, which is
 10 IPR202500708, that would be the '336 patent
 11 from Milestone, just so that you have that in
 12 front of you.
 13 A. Okay. I'm going to try to bring that up
 14 here, or get that here.
 15 Q. Yeah. I -- it should be in front of you in
 16 AgileLaw, but if you want to work in paper,
 17 that's just fine with me, Mr. Crevelt.
 18 A. Yes. Again, I would prefer paper and --
 19 Q. That's just fine.
 20 A. And counsel has just -- '336, yes.
 21 Q. Okay. Do you recognize this Exhibit 1001
 22 from the '708 IPR?
 23 A. Yes.
 24 Q. This is the '336 patent assigned to Milestone
 25 Entertainment, correct?

Page 12

1 A. Correct.
 2 Q. This is one of the patents about which you've
 3 offered certain opinions regarding the
 4 validity of this patent. Is that right?
 5 A. Yes, this is -- this is one of the patents.
 6 Q. Very good.
 7 And I'd just like to ask you to
 8 turn to -- one second here -- page 49 using
 9 the -- the stamping on the lower right, just
 10 so that you have claim 1 of the '336 patent
 11 in front of you.
 12 A. Okay.
 13 Q. And let me know when you're there, sir.
 14 A. I'm there.
 15 Q. Okay. So you see claim 1 of the '336 patent
 16 in front of you; is that right?
 17 A. Yes.
 18 Q. And this claim 1 is one of the claims of the
 19 '336 patent that you have opined in a -- in a
 20 declaration, is disclosed or rendered obvious
 21 by a certain prior art reference.
 22 Is that right?
 23 A. That is correct.
 24 Q. Okay. And it -- you can keep that exhibit
 25 nearby, because I think you'll -- we may want

Page 13

1 to refer back to it. But I'd like to ask you
 2 to next turn to Exhibit 1003 in the '708 IPR,
 3 which is your declaration or your corrected
 4 declaration. And that will show up in front
 5 of you.
 6 MR. NELSON: But I'd like, like to
 7 ask counsel to hand that to you, please.
 8 THE WITNESS: Okay. I have that.
 9 BY MR. NELSON:
 10 Q. This is Exhibit 1003 is a copy of the
 11 declaration you filed in support of a
 12 petition for inter partes review of the '336
 13 patent, correct?
 14 A. Yes, it is.
 15 Q. Okay. You wrote this declaration?
 16 A. Yes, I did.
 17 Q. I'd like you to turn to paragraph 71 of your
 18 declaration here, and that is going to be on
 19 your page 36 using the numbering at the
 20 bottom.
 21 Let me know when you're there.
 22 A. Yes, I'm here.
 23 Q. Paragraph 61 says:
 24 Notably, Kelly683 discloses
 25 mandated parameters for the system as a whole



Page 14

1 to achieve in the form of prize payout,
 2 parenthesis, here, quote, global payout
 3 percentage and then there's a citation, end
 4 quote, win ratios, end quote, period.
 5 Do you see that sentence?
 6 A. Yes, I do.
 7 Q. So Kelly683 -- so Kelly683 refers to a patent
 8 assigned or invented by a gentleman named
 9 Kelly, that is one of the prior art
 10 references you relied on in your declaration.
 11 Is that correct?
 12 A. That is one of the prior art references, yes.
 13 Q. Okay. And, here, I'm -- am I correct that
 14 you're addressing whether or not the Kelly683
 15 reference discloses mandated parameters as
 16 recited, for example, in claim 1 of the '336
 17 patent; is that right?
 18 A. This section of an overview of the Kelly
 19 patent. And in addressing that issue, it is
 20 not the specific language necessarily that I
 21 used in the actual claim.
 22 Q. Mm-hmm. Okay. Well, we can turn there, but
 23 you did write this, right?
 24 A. Yes.
 25 Q. This is in your declaration, this paragraph

Page 15

1 71, right?
 2 A. Yes.
 3 Q. Okay. So -- so you wrote paragraph 71, and
 4 you believed it was true at the time you
 5 signed the declaration, right?
 6 A. Yes.
 7 Q. Okay. And so here you wrote that Kelly683
 8 discloses mandated parameters, and one of the
 9 disclosures of Kelly that you contend
 10 discloses the use of mandated parameters, as
 11 claimed in the Milestone patents, is the
 12 disclosure of a global payout percentage.
 13 Do you see that?
 14 A. Yes.
 15 Q. And that is your opinion, that because Kelly
 16 discloses -- or discusses a global payout
 17 percentage, it discloses, in your opinion,
 18 the mandated parameters that are described in
 19 the '336 patent, correct?
 20 A. That is -- that is one of the parameters that
 21 Kelly discloses that would qualify as a
 22 mandated parameter.
 23 Q. And what's your understanding of what a
 24 global payout percentage is?
 25 A. That's a pretty straightforward term. It

Page 16

1 would be the percentages of what you'd want
 2 to make the system pay.
 3 Q. Is -- just to make sure I understand your
 4 answer, Mr. Crevelt. Your understanding of a
 5 global payout percentage is that it's
 6 a -- the percentage of the income taken in
 7 that is paid back to players of a game; is
 8 that right?
 9 MS. NGUYEN: Objection,
 10 mischaracterizes the witness's testimony.
 11 THE WITNESS: Yeah, that is trying
 12 to narrow that to, a global payout percentage
 13 would be what you expect the entire system to
 14 payout percentage-wise, just like the win
 15 ratios is what you expect the win ratios on
 16 the games to be. These are the kind of
 17 parameters that is required in the claim 1,
 18 and these are examples of them. It's not the
 19 only ones. But it doesn't need to be
 20 specifically additional ones.
 21 BY MR. NELSON:
 22 Q. So I get that, Mr. Crevelt, but you just told
 23 me that a global payout percentage is what
 24 you expect the entire system to payout
 25 percentage-wise, so as a percentage of what,

Page 17

1 sir? What -- what does the percentage refer
 2 to in global payout percentage, in your
 3 understanding?
 4 A. The return to players based on play.
 5 Q. The return to players based on play. And you
 6 understand that a percentage is -- is
 7 essentially one number over another, right, a
 8 percentage of something, so what is the
 9 percentage of here in global payout
 10 percentage, percentage of money taken in?
 11 A. It's wherever you're using for your payout
 12 money, points, whatever you're using to play
 13 with, whatever the percentage of that played,
 14 with that returned.
 15 Q. So it's a pretty -- pretty broad term --
 16 A. Yes.
 17 Q. -- is that what you're telling -- okay.
 18 And you've heard the term "global payout
 19 percentage" before in the gaming industry?
 20 A. It's familiar.
 21 Q. Did you -- had you heard that term before you
 22 read Kelly683?
 23 A. Oh, I'm sure.
 24 Q. And -- and is the meaning of global payout
 25 percentage that you just described to me a --



Page 18

1 commonly understood in the gaming industry?
 2 A. Yes, it would be.
 3 Q. And was that the case in 2004?
 4 A. Yes.
 5 Q. Okay. And if -- if it helps you, we can go
 6 to paragraph 90 now of your declaration here,
 7 exhibit -- or Exhibit 1003 for the '708
 8 patent.
 9 And if you look on page 37, just
 10 before paragraph 89, you'll see a heading.
 11 Do you see that heading that says:
 12 1A, receiving mandated parameters,
 13 the mandated parameters being those which
 14 must be achieved by the system as a whole.
 15 Do you see that?
 16 A. That's correct, yes.
 17 Q. Okay. And so that's a claim limitation for
 18 the '336 patent, correct?
 19 A. Yes.
 20 Q. And here, this, in this section, beginning at
 21 paragraph 89 and running through
 22 90 -- paragraph 93, it is true that you're
 23 offering your opinion as to why Kelly683
 24 discloses the mandated parameters limitation
 25 of this claim. Is that right?

Page 19

1 A. Yes, it is.
 2 Q. Okay. So, and, in fact, in paragraph 91 of
 3 your declaration in the '708 IPR, you have a
 4 discussion of this global payout percentage.
 5 Is that right?
 6 A. It's a discussion of the mandated parameters,
 7 of which global payout percentage is won. It
 8 also talks about win ratio. It also defines
 9 finished payout, the number of prizes, the
 10 form of prizes.
 11 Q. Mm-hmm. Are you finished? I don't want to
 12 speak over you.
 13 A. Yes.
 14 Q. Okay. So Mr. Crevelt, why would a person
 15 still in the art in 2004 have understood
 16 Kelly683's discussions of a global payout
 17 percentage to disclose the use of mandated
 18 parameters as claimed in the Milestone
 19 patents?
 20 A. Mandated parameter would be something that is
 21 required by the system to meet, as described
 22 here, a global payout percentage would be one
 23 of those items.
 24 You have multiple payout
 25 percentages for different machines and games,

Page 20

1 but have you to have a global payout
 2 percentage so that you know that your entire
 3 system is profitable.
 4 Q. Within the -- you have experience in the
 5 casino industry; isn't that right?
 6 A. Yes, I do.
 7 Q. Do casinos typically establish a global
 8 payout percentage for the games that any
 9 operate?
 10 A. Generally, yes.
 11 Q. In your experience, what's the typical level
 12 payout percentage for a casino?
 13 A. That would depend on how management is trying
 14 to do, but it's usually in the, you know,
 15 high 90s.
 16 Q. Sometimes around 95 percent to 98 percent,
 17 typical kind of casino global payout
 18 percentage?
 19 A. In terms of gaming machines, I would say it
 20 is in the 90s. In terms of gaming tables,
 21 other things in the casino, that would be
 22 different.
 23 Q. Lower or higher?
 24 A. Lower.
 25 Q. And for gaming machines, in your experience

Page 21

1 in the casino industry, global payout --
 2 payout percentages are in the
 3 90th percentile?
 4 A. Unless otherwise mandated by states, yes,
 5 they are, they are in the higher, higher
 6 range.
 7 Q. Do you have experience with public lotteries,
 8 state lotteries?
 9 A. I have some with that, yes.
 10 Q. Do you have an understanding of what the
 11 global, typical global payout percentage for
 12 a lottery game is?
 13 A. My understanding is much lower.
 14 Q. Yeah, 50 percent sometimes?
 15 A. Sometimes, or less.
 16 Q. Understood.
 17 A bad bet, right?
 18 Okay. And as you note, you also -- the --
 19 your opinion is also that Kelly683 discloses
 20 something called a win ratio, which you also
 21 contend discloses mandated parameters as used
 22 in the Milestone patents. Is that right?
 23 A. Win ratio is listed there, yes.
 24 Q. Is -- is a win ratio the same as a win rate?
 25 A. I would use win ratio to describe the -- how



Page 22

1 often something hits. So win rate is a
 2 similar term.
 3 Q. Okay. I just want to make sure I understand
 4 your testimony.
 5 You -- you think win -- so, in your
 6 view, a win ratio is how often something
 7 hits, you mean that there's a win or a
 8 winning event or a prize award versus not?
 9 A. Yes. There's particularly a ratio on a
 10 gaming device or system that the win ratio is
 11 how often the game hits or you get a winner.
 12 And that may be based on number of
 13 games played or type of game, sometimes it is
 14 referred to as a hit frequency.
 15 Q. And you, prior to providing service in these
 16 matters, you had heard the term "win ratio"
 17 in -- in the industry?
 18 A. Yes.
 19 Q. It's a commonly used term?
 20 A. It's a common term, along with hit frequency
 21 and similar things. Anyone skilled in the
 22 art understands these terms.
 23 Q. And that was true in 2004 as well?
 24 A. That is correct.
 25 Q. And why would a person of skill in the art

Page 23

1 reading Kelly683 understand the discussion of
 2 win ratios to be a disclosure of mandated
 3 parameters as claimed in the Milestone
 4 patents?
 5 A. As described by Kelly, these are parameters
 6 that are set up for the entire system to
 7 maintain, which are mandated parameters,
 8 according to the claim structure, so they
 9 qualify for those values, and it is something
 10 that you would want to do with your system is
 11 set up these kind of parameters so you know
 12 you're going to make money.
 13 Q. A few more questions about win ratio and --
 14 and win rates. Is a defined number of wins
 15 in a game over X number of plays of a game a
 16 win rate?
 17 MS. NGUYEN: Objection, vague.
 18 THE WITNESS: That probably is a
 19 formula that could be used, depending on your
 20 situation, you might calculate it that way.
 21 BY MR. NELSON:
 22 Q. And can a defined number of wins awarded for
 23 every X number of plays be a mandated
 24 parameter in the context of the Milestone
 25 patent?

Page 24

1 A. Yes, it would be as far as the system level
 2 is, you want to make sure you have enough
 3 wins over the amount of place. You would
 4 typically refer to it, however, as
 5 the -- through this many plays, I want to
 6 have this many wins.
 7 So the X would be in the wins, you
 8 would have a defined number of plays,
 9 typically, in the industry.
 10 Q. X would represent the number of wins over Y
 11 number of plays. Is that fair?
 12 A. And you would -- yeah, those numbers would be
 13 mandated, yes.
 14 Q. And that's a win ratio, too, right? I mean,
 15 X number of wins and Y number of plays,
 16 right?
 17 A. Yes, that's a win ratio.
 18 Q. And so that's a mandated parameter, in your
 19 view?
 20 MS. NGUYEN: Objection, vague.
 21 THE WITNESS: That is -- that can
 22 be a mandated parameter, yes. And for the
 23 system, you would have a systemwide mandated
 24 parameter for that, yes.
 25 MR. NELSON: Let's turn to global

Page 25

1 payout percentages for just a moment.
 2 BY MR. NELSON:
 3 Q. Is a 75 percent global payout percentage a
 4 mandated parameter?
 5 A. In the Milestone patents?
 6 MS. NGUYEN: Objection, vague.
 7 THE WITNESS: If you are setting
 8 that up as your global parameter so that the
 9 whole system is going to maintain 75 percent,
 10 that would be an example of what you could
 11 set as a global parameter.
 12 BY MR. NELSON:
 13 Q. As a mandated parameter?
 14 A. It would -- it would qualify as a mandated
 15 parameter under the claim 1, yes.
 16 Q. You are you familiar with the term "GLEPS,"
 17 G-L-E-P-S?
 18 A. I am familiar with that from seeing it in the
 19 patent. In the industry, I had not run in to
 20 that acronym before, but it is defined in --
 21 in the patents as a specific acronym.
 22 Q. But you had not heard that term before in the
 23 industry prior to reading the Milestone
 24 patents?
 25 A. I have not heard that acronym.



Page 26

1 Q. Have you heard the term, "guaranteed low in
2 prizing structure"?

3 A. I have heard similar references that you want
4 to make sure you have a minimum prizing
5 structure, whether it is termed guaranteed
6 prizing structure or low prizing structure.
7 I'm familiar with the concept and may --
8 again, not in the term of that acronym.

9 Q. Hmm-hmm. So you're familiar with the
10 concept. What, in your understanding, is the
11 concept of a GLEPS or a minimum prizing
12 structure?

13 A. Again, you want to make sure you have a, a
14 minimum level of prizes to keep player
15 interest. So you are going to have -- it
16 will be one of your prizing structure
17 strategies and -- in a game.

18 So again, you want to make money
19 but you want to make sure people think they
20 have a chance to win something.

21 Q. So an example of a GLEPS or a minimum prizing
22 structure would be to seek, for instance, to
23 guarantee that a certain number of game plays
24 will result in a certain number of -- minimum
25 number of prizes being awarded across that

Page 27

1 set of game plays. Is that fair?
2 MS. NGUYEN: Objection, vague.

3 THE WITNESS: You would set up a
4 parameters so that you're going to try and
5 reach that level.

6 Most games do operate with some
7 state of randomness so that you have a chance
8 to fit within that range.

9 But you would set a range and try
10 and -- and your goal would be to meet -- make
11 sure you at least hit that level; and if not,
12 you need to do something to adjust it.

13 BY MR. NELSON:

14 Q. You were you -- were you familiar with the
15 concept -- I understand you're not -- you
16 hadn't heard the term before. But were you
17 familiar with the concept of a GLEPS or a
18 minimum prizing structure in 2004?

19 A. Yes.

20 Q. Were others in the industry familiar with
21 those concepts?

22 A. Yes --

23 MS. NGUYEN: Objection, vague.
24 THE WITNESS: Yes.
25 BY MR. NELSON:

Page 28

1 Q. Can a GLEPS structure or a minimum prizing
2 structure, as you described it, be a mandated
3 parameter in the context of the Milestone
4 patents?

5 MS. NGUYEN: Objection, incomplete
6 hypothetical.

7 THE WITNESS: Yes, a GLEPS could be
8 used -- could be considered a mandated
9 parameter.

10 BY MR. NELSON:

11 Q. And that's because, as you testified, a GLEPS
12 or a minimum prizing structure is a parameter
13 that you're going -- or the operator is going
14 to try and reach; is that right?

15 A. Yeah, that's a parameter that you're setting
16 up to start with and you're going to try and
17 reach that, that's correct.

18 Q. Okay. And if you could turn to the '336
19 patent, Exhibit 1001, which you should have
20 next to you. Let me know when you have it.

21 A. Yes.

22 Q. If you could turn to column 15 of the '336
23 patent, Exhibit 1001 in the '708 IPR, let me
24 know when you're there.

25 A. Column 15?

Page 29

1 Q. Yeah. Are you there, sir?
2 A. Yes.

3 Q. Okay. If you look at line 32 -- do you know
4 how the column line number works --

5 A. Yes.

6 Q. I assume you do but I can -- okay. If you
7 look at line 32, I'm going to read to you,
8 okay?

9 The '336 patent says: Parameters
10 may, in one context, be a, quote, mandated,
11 end quote, parameter and in yet another
12 context of a, quote, variable, end quote,
13 parameter.

14 For example, comma, in one game,
15 the lottery may mandate a certain prizing
16 structure, such as the use of a GLEPS
17 structure, comma, wherein, other game, the
18 lottery does not provide such a mandate but
19 rather, the system determines to utilize a
20 GLEPS type structure as a variable parameter.
21 Do you see that?

22 A. Yes.

23 Q. Do you disagree with that, that
24 characterization of -- of using a GLEPS as a
25 mandated parameter or as a variable



Page 30

1 parameter?
 2 A. It's an example of where it could be used
 3 both ways.
 4 Q. In your -- in your experience, can a GLEPS or
 5 a minimum prizing instruction of the sort
 6 we've been discussing be applied to a group
 7 of players of a given game?
 8 MS. NGUYEN: Objection, vague,
 9 incomplete hypothetical.
 10 THE WITNESS: It's common in the
 11 industry to have different levels of players
 12 have different prizing structures, so I would
 13 agree that yes, you could probably do that,
 14 the flexibility on prizing and meeting your
 15 parameters is very great.
 16 BY MR. NELSON:
 17 Q. And was that true in 2004?
 18 A. Yes.
 19 Q. Okay. In your experience, can a GLEPS or
 20 minimum prizing structure of the sort we've
 21 been describing be applied to a single player
 22 of a game? Across a series of plays?
 23 A. Again, you've great flexibility in your
 24 system, so choosing a specific player would
 25 be a little bit unusual but there's nothing

Page 31

1 that would probably prohibit it.
 2 Q. Okay. Let's turn back to your declaration,
 3 to page 40, paragraph 94. Let me know when
 4 you're there.
 5 A. Okay.
 6 Q. Just directly above paragraph 94 is a heading
 7 that says 1B, quote, storing in a memory
 8 coupled to the input at least the mandated
 9 parameters.
 10 Do you see that?
 11 A. Yes.
 12 Q. So what follows here in paragraphs 94 and 95
 13 is your opinion regarding whether and how the
 14 Kelly683 reference discloses this limitation
 15 of claim 1 of the '336 patent. Is that
 16 right?
 17 A. Yes. This is how Kelly discloses it.
 18 Q. Okay. So here, in paragraph 94, you point
 19 out in the second full sentence that Kelly683
 20 discloses that the gaming system server 108
 21 contains a storage memory device; is that
 22 right?
 23 A. Yes.
 24 Q. Okay. You don't here or in paragraph 95
 25 point to any disclosure in Kelly that there

Page 32

1 are mandated parameters being stored in the
 2 memory, right?
 3 A. As referenced in the previous paragraph up in
 4 93: Kelly discloses receiving the global
 5 payout percentages and win ratios from an
 6 operator or other source, upon which the
 7 server 108 processes and stores those
 8 parameters.
 9 Kelly also disclosed the prize
 10 input is received from the operator, other
 11 sources, or remote server and displayed in
 12 the prize table.
 13 Kelly teaches the global payout
 14 percentages and the win ratios stored in the
 15 prize table. The information and prize table
 16 can be stored locally or central location can
 17 be downloaded when needed.
 18 And that is referenced there, and,
 19 again, this is -- the prize table is where --
 20 is stored in server 108.
 21 Q. Okay. So let's, if you could pull out, then,
 22 Exhibit 1005 from IPR2025-00708 which is the
 23 Kelly reference.
 24 Let me know when you're there.
 25 A. Okay. I have Kelly.

Page 33

1 Q. So if you could turn to column 44, line 29.
 2 Let me know when you're there.
 3 A. I'm there.
 4 Q. This section of the Kelly683 patent,
 5 Exhibit 1005, is what you've pointed to in
 6 paragraph 93 as showing that the global
 7 payout percentage and win ratios are stored
 8 in the prize tables; isn't that right?
 9 A. This is something the prize data being stored
 10 in the -- the table of the prize data being
 11 stored in the -- in the server, yes.
 12 Q. No part of column 44, lines 29 to 35 that you
 13 rely on disclosed storing that global payout
 14 percentage, does it?
 15 A. We're also referring to figure 9A, which
 16 figured 9A says, "prize setup screen," this
 17 is the input screen that would be used to
 18 provide those parameters to the system for
 19 storage in -- in the prize table.
 20 Q. There's no reference in figure 9 or 9A to
 21 storing anything, is there?
 22 A. This references is showing the data being
 23 stored that has previously been indicated in
 24 the -- in the patent.
 25 Q. Sir, you're -- you're inferring



Page 34	Page 36
<p>1 that because there's a memory and because</p> <p>2 this data is enter into a table that's being</p> <p>3 stored; isn't that fair?</p> <p>4 A. No. Kelly discloses that the prize table is</p> <p>5 stored in the server, and this is an example</p> <p>6 of the prize table on the input screen.</p> <p>7 Anyone skilled in the art knows</p> <p>8 that when you're going to input it, you got</p> <p>9 to store it someplace. And it has to be</p> <p>10 stored in this case, it will be stored in the</p> <p>11 prize server, or any other memory that</p> <p>12 was -- the designer chose to use.</p> <p>13 Q. So you agree with me, a person skilled in the</p> <p>14 art would know, even though the word "store"</p> <p>15 isn't being used, they would infer from this,</p> <p>16 there's a memory and there's these parameters</p> <p>17 and there's this input, so, of course, it's</p> <p>18 being stored, right?</p> <p>19 MS. NGUYEN: Objection,</p> <p>20 mischaracterizes the testimony.</p> <p>21 THE WITNESS: Again, the Kelly does</p> <p>22 disclose storing the prize table in the</p> <p>23 gaming server 108, and this is describing the</p> <p>24 prize input screen, which is what the user</p> <p>25 would use to input that data so it could be</p>	<p>1 any explicit reference in Kelly683 to storing</p> <p>2 those mandated parameters in that table, have</p> <p>3 you?</p> <p>4 A. I believe I have.</p> <p>5 Q. Sir, you wrote in paragraph 94, this is at</p> <p>6 the bottom of page 40:</p> <p>7 A POSITA would have thus understood</p> <p>8 that server 108 is used to process and store</p> <p>9 information in its memory, including the</p> <p>10 mandated parameters.</p> <p>11 Do you see that?</p> <p>12 A. Yes. That is correct.</p> <p>13 Q. You're saying that a person skilled in the</p> <p>14 art would have understood, from what you've</p> <p>15 pointed to, that the mandated parameters are</p> <p>16 being stored; isn't that right?</p> <p>17 A. Absolutely.</p> <p>18 Q. You're not saying Kelly explicitly says the</p> <p>19 mandated parameters are stored, correct?</p> <p>20 A. No, Kelly does say that the prize structure</p> <p>21 is stored in the 108 server, and the mandated</p> <p>22 parameters are part of that.</p> <p>23 Q. That's not in paragraph 94, is it?</p> <p>24 A. That's in the previous paragraphs.</p> <p>25 Q. I'm asking about paragraph 94. Is there</p>
Page 35	Page 37
<p>1 stored.</p> <p>2 So it's -- it's incredibly obvious</p> <p>3 that that's how it works.</p> <p>4 BY MR NELSON:</p> <p>5 Q. Understood. Understood that's your view.</p> <p>6 Nothing in the section of column 44, lines 29</p> <p>7 to 35 describe storing anything, correct?</p> <p>8 There's no use of the term there?</p> <p>9 A. Again, this is teaching that, here's the data</p> <p>10 I'm inputting and I've got to store it</p> <p>11 someplace.</p> <p>12 Q. And that's -- that's your view, even though</p> <p>13 nothing that you've cited actually recites</p> <p>14 storing, correct?</p> <p>15 A. This is the data that's being stored and</p> <p>16 referred to as the prize table.</p> <p>17 Q. And that's true, even though you haven't</p> <p>18 pointed to any description of that being</p> <p>19 stored, correct?</p> <p>20 A. Again, I said that the prize table, Kelly</p> <p>21 discloses that that's stored in 108, and this</p> <p>22 is an example of what that prize table looks</p> <p>23 like and how it is input into the system. So</p> <p>24 yes, it does get stored there.</p> <p>25 Q. You have not pointed in your declaration to</p>	<p>1 any --</p> <p>2 A. It's --</p> <p>3 Q. -- disclosure -- is there any disclosure,</p> <p>4 sir, in paragraph 94 of -- in -- you that</p> <p>5 point to in Kelly683 of storing what you've</p> <p>6 called the mandated parameters in the server</p> <p>7 108?</p> <p>8 A. Again, the second line there:</p> <p>9 Kelly discloses the global payout</p> <p>10 percentage and win parameters ratios are</p> <p>11 received as prize input from an operator or</p> <p>12 remote server and then processed and stored</p> <p>13 by the server in the prize table.</p> <p>14 Q. And you haven't cited a single thing for</p> <p>15 that, have you? That's just your say so,</p> <p>16 correct?</p> <p>17 A. No, it's, Kelly discloses the gaming system</p> <p>18 108 storage and memory device as a hard drive</p> <p>19 or memory or where you would store it.</p> <p>20 That is the storage device that</p> <p>21 Kelly discloses.</p> <p>22 Q. You've pointed to no disclosure that in</p> <p>23 Kelly, those parameters, the global payout</p> <p>24 percentage and win ratio, are actually</p> <p>25 stored.</p>



Page 38

1 You've just pointed to the fact
 2 that there's a server with storage and that
 3 there's a table with a global payout
 4 percentage; isn't that right?
 5 A. Again, a person skilled in the art
 6 understands that this teaches this very
 7 clearly and very plainly.
 8 Q. And the what is -- is being taught very
 9 clearly and very plainly, is that if there's
 10 memory in a server and then there's mandated
 11 parameters, a person of ordinary skill and
 12 art would understand that, that's where you
 13 stored those parameters; is that right?
 14 A. They have to be stored someplace and that is
 15 the storage device provided, so that's where
 16 they're going to be stored.
 17 Q. Perfect. Thank you.
 18 Let's turn back to your declaration
 19 in the '708 IPR here on page 41, beginning
 20 with paragraph 96.
 21 Are you there?
 22 A. Okay. 96?
 23 Q. Mm-hmm. And here there's a heading 1C just
 24 above it.
 25 Do you see that?

Page 39

1 A. Yes.
 2 Q. And that heading is, reads, quote:
 3 Processing in a processing system,
 4 coupled to the memory for implementing the
 5 mandated parameters by utilizing variable
 6 parameters, comma, the processing system
 7 utilizing the variable parameters to achieve
 8 the mandated parameters.
 9 Do you see that?
 10 A. Correct.
 11 Q. And so you understand that what you're
 12 describe below that heading in paragraphs 96
 13 through 99, is your opinion regarding how in
 14 Kelly683, in your view, discloses that
 15 limitation of the '336 Milestone patent; is
 16 that right?
 17 A. Yeah, those next few paragraphs describe my
 18 opinion as to how Kelly meets that claim
 19 limitation, yes.
 20 Q. Okay. And this is the claim limitation that
 21 introduces in claim 1 of the '336 patent, the
 22 concept of a variable parameter; is that
 23 right?
 24 A. It's -- it indicates using variable
 25 parameters to help achieve the mandated

Page 40

1 parameters, yes.
 2 Q. Okay. And let's turn to paragraph 98 of this
 3 section in Exhibit 1003 for the '708 IPR.
 4 Are you there?
 5 A. Mm-hmm.
 6 Q. It's on page 42.
 7 A. Yes.
 8 Q. You write:
 9 Like the '336 patent, the gaming
 10 system of Kelly683 uses both a game structure
 11 and prizing structure as variable parameters.
 12 Do you see that?
 13 A. Yes.
 14 Q. And then you write:
 15 For game structure, Kelly683
 16 explains that the global payout percentage
 17 and win ratio can be achieved, and I'll skip
 18 the parentheses, by adjusting the game
 19 structure.
 20 Do you see that?
 21 A. Yes.
 22 Q. Okay. And so in -- and I'm correct, am I
 23 not, that, here, you're saying that Kelly683
 24 discloses first -- at least two kinds of
 25 mandated parameters, global payout percentage

Page 41

1 and win ratio, correct?
 2 A. It -- it discloses at least those two, yes.
 3 Q. Yes.
 4 And then in your opinion, Kelly683
 5 further discloses, for this paragraph, that
 6 its system can adjust the game structure to
 7 achieve a global payout percentage or a win
 8 ratio. Is that right?
 9 A. Yes.
 10 Q. Okay.
 11 MR. NELSON: Why don't we take a
 12 break for ten minutes and then we'll come
 13 back and pick up where we left off on this
 14 paragraph, okay?
 15 THE WITNESS: Okay.
 16 MR. NELSON: Thank you.
 17 THE VIDEOGRAPHER: We are off the
 18 record at 11:02.
 19 (Whereupon, a break was taken.)
 20 THE VIDEOGRAPHER: We are on the
 21 record at 11:12.
 22 BY MR. NELSON:
 23 Q. Okay. Mr. Crevelt, before we broke, we were
 24 looking at the section of your declaration,
 25 Exhibit 1003 from the '708 IPR concerning the



Page 42	Page 44
<p>1 use of variable parameters to achieve 2 mandated parameters. 3 And I'd like to ask you to look at 4 paragraph 98 of your declaration, on page 42. 5 A. Okay. 6 Q. You write: 7 Like the '336 patent, the gaming 8 system of Kelly683 uses both a game structure 9 and prizing structure as variable parameters. 10 Do you see that? 11 A. Yes. 12 Q. And you write: 13 For game structure, Kelly683 14 explains that the global payout percentage 15 and win ratio can be achieved by adjusting 16 the game structure. 17 Correct? 18 A. Yes. 19 Q. And then you, just below that, running on to 20 page 43 of Exhibit 1003, you give 21 a -- provide a quotation from Kelly683. Is 22 that right? 23 A. Yes. 24 Q. Okay. And here, Kelly683 and this is at 25 column 38, line 65, to column 39, line 7,</p>	<p>1 A. Absolutely. 2 Q. And why is that? 3 A. Well, again, your game is based on what 4 you're playing and the structure and the 5 degree of difficulty of how fast things are 6 going and how fast it is moving has a 7 definite impact on the performance of the 8 player and is part of that structure. 9 Q. And your opinion is that a person skilled in 10 the art would recognize adjusting the speed 11 of a controlled object as a variable 12 parameter that adjusts the game structure? 13 A. Yes. 14 Q. Okay. The next part of the quotation from 15 Kelly683 in your declaration that you're 16 relying on recites: 17 In card games, the frequencies of 18 winning combinations of cards can be 19 adjusted. 20 Do you see that? 21 A. Yes. 22 Q. You understand that to be a reference to 23 essentially forcing certain winning 24 combinations to occur more frequently than 25 they otherwise would, or less frequently than</p>
Page 43	Page 45
<p>1 Kelly683 discloses that, for example, in an 2 action game, the speed of controlled objects 3 responsive input devices, and the like, can 4 be adjusted so that most players don't 5 receive a score higher than, I think it must 6 want to say, a particular value. 7 Do you see that? 8 A. Yes. 9 Q. Okay. Your opinion is that Kelly's closure 10 of adjusting the speed of controlled objects 11 is a variable parameter that relates to game 12 structure? 13 A. Yes. 14 Q. How does altering the speed of a controlled 15 object relate or represent a variable 16 parameter that adjusts the game structure? 17 A. It changes the degree of difficulty in the 18 game. 19 Q. Anything else? 20 A. The ability to -- you know, again, the 21 ability to do it, but changing, that's a very 22 easy way to change the degree of difficulty 23 is one way of -- 24 Q. Is the degree of difficulty a game, an aspect 25 of game structure?</p>	<p>1 they otherwise would, correct? 2 A. Yes. 3 Q. This is -- this is describing putting a thumb 4 on the scale of a game, for instance, right? 5 A. I wouldn't characterize it that way but it 6 does -- it is a method of changing the -- the 7 payouts available for the game, yes. 8 Q. It's a form of forcing an outcome, isn't it? 9 A. It can -- it's a way of changing the outcome, 10 whether it's forcing it higher or lower 11 is -- depends on which way you go. 12 Q. But changing the frequencies of winning 13 combinations can result, if you're lowering 14 the frequencies of winning combinations, in 15 more losses, right? 16 A. I believe that's correct, yes. 17 Q. And we'll see if we agree on the -- on the 18 other way. 19 Increasing the numbers of winning 20 combinations, that is intended to result in 21 more wins across a series of plays, correct? 22 A. Correct. 23 Q. A person skilled in the art would recognize 24 Kelly's disclosure of changing the frequency 25 of winning combinations as a variable</p>

Page 46

1 parameter; is that right?

2 A. Yes.

3 Q. Would a person skilled in the art recognize

4 forcing a certain number of losing outcomes

5 across a series of games as a variable

6 parameter?

7 MS. NGUYEN: Objection, vague.

8 THE WITNESS: I think that's what

9 you just said a second ago, but yes, changing

10 the combination of cards and adjusting it

11 would be a variable parameter.

12 BY MR. NELSON:

13 Q. Would person skilled in the art recognize,

14 generally, that forcing a certain number of

15 winning outcomes across a series of games as

16 a variable parameter?

17 MS. NGUYEN: Objection, vague.

18 THE WITNESS: Again, yes, that is a

19 method of increasing the payouts and a person

20 skilled in the art would understand that.

21 BY MR. NELSON:

22 Q. Are you familiar with the concept of certain

23 games having, for a given instance of game

24 play, predetermined outcome?

25 A. Would you rephrase that question again?

Page 47

1 Repeat that question?

2 Q. Are you familiar with the concept of certain

3 games having, for a given instance of game

4 play, a predetermined outcome, the outcome's

5 predetermined?

6 A. I'm aware of a lot of games and especially in

7 the gaming industry where the outcome is

8 predetermined.

9 Q. Can you give me some examples?

10 A. Slot machines.

11 Q. How about a lottery ticket, like a scratcher,

12 is that a predetermined outcome, each ticket?

13 A. In a lottery game, a scratch off, each

14 ticket -- I've seen tickets that could have

15 potential winners or potential losers on it,

16 each one.

17 But I'm not sure if it fits the

18 total category as predetermined. My

19 knowledge of lottery scratch offs and the

20 usage I've had with them is that they would

21 be -- you have a predetermined number of

22 winners that you know are going to happen and

23 based on the overall number of tickets

24 issued, you're going to have an appropriate

25 payback percentage.

Page 48

1 However, if some of those winning

2 tickets don't materialize, you're going to

3 have a higher pickup -- or higher win ratio

4 or, I should say, a higher revenue.

5 So I'm not sure as it's exactly the

6 same thing you're asking -- what you're

7 asking for, but I'm familiar with the concept

8 of a scratch off.

9 Q. Okay. And why is a slot machine an example

10 in the gaming industry of a game in which

11 the outcome is predetermined?

12 A. In most slot machines or gambling devices of

13 that style, a player instigated action is

14 used to select the winning combination. So

15 that may be the coin in, it may be a handle

16 pull, it may be a button push, but at that

17 moment in time, a random number generator or

18 whatever is used to preselect the winning

19 outcome.

20 And then the rest of it is just

21 display, whether it is video, whether it is

22 spinning reels or whatever that

23 predetermination has occurred separate from

24 the action of the game play in a lot of basic

25 slot machine games or slot machine style

Page 49

1 games.

2 Q. In a -- in a predetermined outcome game like

3 a slot machine, is altering the frequency at

4 which a predetermined win occurs so that that

5 predetermined win occurs more frequently the

6 use of variable parameters?

7 A. Could you repeat that question? I don't

8 quite understand what you're asking.

9 Q. Okay. Well, you -- you described to me the

10 way in which you understand slot games to the

11 games with predetermined outcomes, correct?

12 A. Yes, most gaming machines, slot machine type

13 games are determined.

14 Q. If the operator programmatically alters the

15 frequency at which those predetermined wins

16 occur in a slot machine, would you understand

17 that to be a use of variable parameters?

18 A. If you were in a gaming environment that

19 allowed the modification of that, of a

20 parameter, such as that, it would be a

21 variable parameter.

22 Q. Looking back at paragraph 98, the quote from

23 Kelly683, page 42, the next bit of Kelly683

24 recites that:

25 In quiz games, the difficulty of



Page 50

1 the questions at various times during the
 2 game can be adjusted so the average players
 3 will typically win a certain number of prize
 4 credits per game.
 5 Do you see that?
 6 A. Yes.
 7 Q. You're presenting that as an example from
 8 Kelly683 of the use of a variable parameter
 9 concerning game structure to achieve a
 10 mandated parameter?
 11 A. Yes, degree of difficulty, again, is a factor
 12 that you can increase or decrease based on
 13 the player to change the prize credits or to,
 14 you know, guarantee a prize or make it more
 15 difficult to reach a prize, yes.
 16 Q. And that's a variable parameter, in your
 17 view, concerning game structure?
 18 A. The degree of difficulty of the question
 19 would be a variable parameter, yes.
 20 Q. And returning back up to the discussion of,
 21 in card games the frequencies of winning
 22 combinations of cards can be adjusted, how
 23 would a -- why would a person of skill in the
 24 art understand adjusting the frequencies of
 25 winning combinations in any game to be a

Page 51

1 variable parameter concerning game structure?
 2 A. The structure of the game lists is
 3 essentially what -- what the game -- how the
 4 game is played and the odds of the games
 5 coming up, of getting a winning combination,
 6 and if you're changing the combinations,
 7 you're changing the odds, and that's making
 8 the game more difficult or easier to win, so
 9 someone skilled in the art understands that.
 10 Q. In this paragraph where you're quoting
 11 Kelly683 reference, the last sentence there,
 12 and this is on page 43, Mr. Crevelt:
 13 Durations of games, which have a
 14 fixed duration, can also be adjusted to
 15 achieve an average payout level of prize
 16 credits.
 17 Do you see that?
 18 A. Yes.
 19 Q. I take it you quoted this part because it's
 20 your opinion that the duration of a game can
 21 be a variable parameter used to achieve a
 22 mandated parameter.
 23 Is that right?
 24 A. Yes, this entire section is an example that
 25 Kelly lists of type of changes, variables you

Page 52

1 can change, to effect the overall payouts,
 2 mandated parameters, etc., and that's why I
 3 quoted each of these as examples of variable
 4 parameters.
 5 Q. Okay. And your -- your opinion is that a
 6 person skilled in the art would recognize
 7 each of those as being a variable parameter?
 8 A. Yes.
 9 Q. Is the selection of a game to be presented to
 10 a game player a variable parameter that can
 11 be used to achieve set of mandated
 12 parameters?
 13 MS. NGUYEN: Objection, incomplete
 14 hypothetical.
 15 THE WITNESS: Letting a player
 16 choose a -- which -- which of several games
 17 to play, that could be -- that's an option to
 18 the player. Each of those games would have
 19 its own structure and play and variable
 20 parameters associated with it. But it would
 21 be a variable overall in the system.
 22 BY MR. NELSON:
 23 Q. What about the selection by the system of a
 24 set of games to present to the user for
 25 selection?

Page 53

1 Is that -- could that be a variable
 2 parameter?
 3 A. You could use that as a variable parameter,
 4 probably.
 5 Q. We talked about the adjusting the frequency
 6 of winning as a variable parameter.
 7 Are -- or can adjustments to the
 8 prizing amount to be awarded for a win be
 9 used as a variable parameter to achieve a
 10 mandated parameter?
 11 A. Yes, it can.
 12 Q. And can -- can you give me an example?
 13 A. Change -- changing the prize level based on
 14 an individual's level or qualification or
 15 something like that is something you've
 16 previously mentioned, and that would be an
 17 example of, a variable parameter would be a
 18 player's level would change a prize
 19 structure.
 20 Q. Is a system that lowers the value of prizes
 21 awarded to players in order to maintain a
 22 given global payout percentage using variable
 23 parameters to achieve mandated parameters?
 24 A. A system that did that would -- would fall
 25 within that category.

Page 54

1 Q. Are you finished, I don't want to cut you
2 off, Mr. Crevelt.
3 A. Yeah.
4 Q. Okay. Conversely, is a system that increases
5 the value of prizes awarded to players in
6 order to maintain a given global payout
7 percentage using variable parameters to
8 achieve mandated parameters as described in
9 the Milestone patents?
10 A. Again, yes, you would increase or decrease
11 the prize amount or prize level to maintain
12 those parameters, whether, again, a previous
13 one is lower again or it is higher, those
14 would qualify as changing the -- using
15 variable parameters to change them -- to
16 reach the mandated payout structure or payout
17 level.
18 Q. Is a system that adjusts game structure to
19 ensure that a win occurs every Y number of
20 game plays utilizing variable parameters to
21 achieve mandated parameters?
22 MS. NGUYEN: Objection, vague.
23 THE WITNESS: Again, that is an
24 example of something you might use variable
25 parameters for, to accomplish that.

Page 55

1 BY MR. NELSON:
2 Q. Using variable parameters to achieve a win
3 rate, right?
4 A. It's -- it's any of the mandated parameters.
5 That could be win rate, prize structure,
6 could be global payout percentage.
7 Again, whatever the mandated
8 parameters are, and I've given several
9 examples of them, which you -- could be
10 change anything that you want to try and
11 adjust to get to those levels.
12 Q. Okay. Is a system that adjusts game
13 structure to increase the frequency of wins
14 in order to achieve a higher payout rate than
15 would be provided by chance utilizing
16 variable parameters to achieve mandated
17 parameters?
18 A. A system that is modifying or using variable
19 parameters to change the game structure, game
20 play, or win frequency, etc., to achieve a
21 global payout would qualify for that.
22 Whether it is a skill-based or game of
23 chance, it -- that's -- that doesn't matter.
24 Q. Is a system that forces a series of game
25 outcomes across a series of play in order to

Page 56

1 guarantee a global payout percentage
2 utilizing variable parameters?
3 MS. NGUYEN: Objection, vague.
4 THE WITNESS: Again, you're
5 describing a system that is forcing payouts.
6 It doesn't say how it's forcing those
7 payouts. You're not describing what it's
8 doing to say that that's a variable
9 parameter.
10 So I don't know that that
11 restriction would fit into this category or
12 not because you have not identified what
13 parameters or what kind of a parameter is
14 being changed. You're just saying, it's not
15 forcing a play.
16 BY MR. NELSON:
17 Q. Is a system that predetermines a series of
18 loss outcomes for game play in order to
19 guarantee a global payout percentage
20 utilizing variable parameters to achieve
21 mandated parameters?
22 A. You haven't described using a -- the system
23 as using anything to change the -- the game
24 play or the structure or the prize structure
25 to modify those -- to reach those levels.

Page 57

1 So without making a change and
2 describing how you would make a change, I
3 don't see a variable parameter being used
4 there in your -- in your description.
5 Q. Well, it may be that I'm -- I'm just not
6 using a magic word for you. I've asked you
7 about a system that alters a series of game
8 outcomes to be a predetermined loss, yeah? A
9 losing hand?
10 A. Yeah. Depending on how they are altering the
11 game, if they are altering the game to make a
12 predetermined win or loss, that would be
13 changing a parameter, i.e., a game -- some
14 game parameter to force a loss, that would be
15 using some sort of parameter to change
16 that -- that game, so yes.
17 Q. Is a system that increases the value of
18 prizes to raise a global payout percentage
19 from 50 percent to 75 percent utilizing
20 variable parameters?
21 A. Again, the system here describes using
22 variable parameters to raise -- to change the
23 payout structure to meet that -- to meet a
24 specific level or to meet the global,
25 depending on what you were using, again, as a

Page 58

1 variable to make that change.
 2 So if you're going to change the
 3 prize -- prize payouts to reach a certain
 4 level, it would appear that your variable
 5 that you're looking at is the amount of
 6 prizes paid, so, again, have you to have a
 7 variable in there to identify what you're
 8 changing, but as long as that variable is
 9 there, changing that structure would qualify,
 10 yes.
 11 Q. Is a system that forces the delivery of a
 12 winning hand in a card game in order to
 13 assure that a GLEPS or minimum prizing
 14 structure is met across a series of games
 15 utilizing variable parameters to achieve
 16 mandated parameters?
 17 A. You have identified using a changing the game
 18 structure or the -- or the payouts to achieve
 19 those global mandated parameters.
 20 You have not in that, however,
 21 identified what variable they are using to
 22 make that change, so it would depend on what
 23 variable is being used, if a variable is
 24 being used to make that change.
 25 Q. Is a system that increases the likelihood of

Page 59

1 delivery of a winning hand in a card game to
 2 probabilities greater than chance in order to
 3 assure that a GLEPS or minimum prizing
 4 structure is met across a series of games
 5 utilizing variable parameters to achieve
 6 mandated parameters?
 7 A. You, again, keep going after specific types
 8 and methods of doing this. My opinion here
 9 is that Kelly discloses that you can do this
 10 in this manner and using a number of variable
 11 parameters, game changes, prizing structure
 12 changes, it's not limited to any of those
 13 specific types of requests that you are
 14 asking about.
 15 These are just examples of what can
 16 be done, and Kelly teaches how it can be done
 17 and how it meets the claim language here.
 18 Q. Is your answer to my question yes, but that's
 19 just one example?
 20 A. It's a very narrowed example of what could
 21 happen. Again, Kelly is much more flexible
 22 in how it does it and what it does and
 23 teaches a number of items. And to go through
 24 an infinite list of items is not what I
 25 opined on.

Page 60

1 Q. The example I gave you is an example, in your
 2 opinion, of using variable parameters to
 3 achieve a mandated parameter, but just an
 4 example; is that right?
 5 A. These are examples of ways you can do it,
 6 yes.
 7 Q. And a person skilled in the art in 2004 would
 8 have recognized those examples as -- as being
 9 examples of using variable parameters to
 10 achieve mandated parameters; is that right?
 11 A. Yes.
 12 Q. You could look at your paragraph 97, which is
 13 just above. And this is in Exhibit 1003, the
 14 '336 deposition -- or '336 declaration.
 15 Are you there?
 16 A. Yes.
 17 Q. At the bottom half of -- well, this
 18 paragraph, you're describing what the '336
 19 patent discloses about variable parameters;
 20 is that right?
 21 A. This lists a number of examples the '336
 22 patent uses for variable parameters.
 23 Q. Yep. And so you -- so you write in the
 24 second sentence of paragraph 97:
 25 The '336 patent discloses that a

Page 61

1 variable parameter may be the game structure
 2 itself, such as in the use of decision
 3 points, number of levels of game play, and/or
 4 duration of game play.
 5 Do you see that?
 6 A. Yes.
 7 Q. Okay. And so you agree that the '336 patent
 8 describes, as examples of the variable
 9 parameter, the use of decision points, number
 10 of levels of game play, and/or the duration
 11 of game play, that's right?
 12 A. Those are examples of variable parameters,
 13 yes.
 14 Q. And a person of skill in the art would
 15 recognize each of them as such?
 16 A. Again, they recognize those are examples of
 17 variable parameters. It's not an
 18 all-inclusive list or a mandated list, yes.
 19 Q. What -- what was your understanding of the
 20 '336 patent's description of the use of
 21 decision points as a variable parameter
 22 concerning game structure?
 23 A. Again, decision point and as listed here, a
 24 variable parameter may be gained for -- such
 25 as use of decision points is one of them.



Page 62

1 Number of level of game play,
2 duration of game.
3 Decision point would be something
4 like a decision point in a game where you
5 would have to make a choice to go left or
6 right, up or down, take something, not
7 something, something within the game
8 structure that is being used where --
9 Q. And you -- I apologize, sir. Go ahead.
10 A. Yeah. Again, something where the -- the
11 player is probably making a decision in the
12 play process of the game.
13 Q. And how would a person skilled in the art
14 understand that a decision point can be used
15 as a variable parameter to achieve a mandated
16 parameter?
17 A. Adding more or taking them away. If you've
18 got to go into different rooms to find a
19 treasure, if you add more rooms, it makes it
20 harder. You take them away, it makes it
21 easier.
22 Q. Understood.
23 And in paragraph 97 you wrote on
24 the bottom:
25 Variable parameters may also be a

Page 63

1 prizing structure which, quote, may included
2 the desired payout amount, GLEPS or other
3 allocation variables, the frequency of wins,
4 parentheses, 1 colon X, overall number of
5 winners and prizing structure and allocation
6 of prizes.
7 Do you see that?
8 A. Yes.
9 Q. So -- so the '336 patent says all of these
10 things can be used as a variable parameter to
11 achieve a mandated parameter; is that right?
12 A. Those are examples of things that you could
13 use as a -- to -- as variable parameters to
14 change the mandated ones, yes.
15 Q. How would a person of skill in the art
16 understand that a GLEPS or a minimum prizing
17 structure could be used as a variable
18 parameter?
19 A. Well, if you -- simple changing the prize
20 structure, the -- changing the amount paid,
21 something like that is exactly what this is
22 referring to, where you can change that
23 payout to accomplish a higher or lower
24 mandated parameter or global payout.
25 Q. So if I understand your testimony, a person

Page 64

1 skilled in the art would understand that
2 altering a GLEPS or minimum prizing structure
3 to accomplish a higher payout would be the
4 use of a variable parameter, yes?
5 A. Again, a GLEP -- GLEPS, as it has been
6 described, is a minimum payout level,
7 guaranteed lowest payout level.
8 Well, if you have a person whose
9 ranking is novice, they may get the lowest
10 payout level. However, have you an expert,
11 you may actually give them a higher
12 guaranteed payout level based on an expert by
13 some other criteria so that you get a higher
14 payout for that person.
15 And in combination of these, you
16 maintain your overall payout percentage. So
17 that -- again, that's one way a -- of skill
18 in the art understands that you can change
19 these variables to change the overall
20 payouts.
21 Q. And a person of skill in the art would have
22 known how to do that with a GLEPS or minimum
23 prizing structure in 2004?
24 A. Absolutely.
25 Q. Okay. Okay. Let's go to page 44 of

Page 65

1 Exhibit 1003 from the '708 IPR. You'll see a
2 heading that lists 1D, Storing information
3 regarding particulars game play events as
4 determined by the processor.
5 Do you see that?
6 A. Yes.
7 Q. Okay. And if I understand your declaration
8 correctly, what follows in paragraphs 100 and
9 101 is really your opinion regarding how
10 Kelly683 discloses or renders obvious this
11 limitation of claim 1 of the '336 patent. Is
12 that right?
13 A. That's my opinion, yes.
14 Q. Okay. And -- and do you -- it's fair to say
15 that you think that Kelly683 renders this
16 limitation obvious, as you say; is that
17 right?
18 A. Yes.
19 Q. Okay. And that's because your view is, as it
20 reads in the second sentence of paragraph
21 100, Kelly683 discloses that the game play
22 information provided by the game processor
23 includes information on an initial game play
24 event based on user input; is that right?
25 A. That's what's stated there, yes.

Page 66

1 Q. And then you've got this quotation from
2 Exhibit 1005 at column 10, lines 12 to 15
3 about -- that reads: Each type of user input
4 can provide a particular game command to the
5 game process -- and the game processor
6 interprets the commands and influences game
7 states and game events in the game process
8 accordingly.
9 Is that right?
10 A. Yes.
11 Q. Okay. So I'd like to ask you a little bit
12 about what it means to store information
13 regarding particular game play events.
14 Is storing the amount of money won
15 in an individual instance of a game play,
16 storing information regarding a game play
17 event in the meaning of this patent?
18 MS. NGUYEN: Objection, incomplete
19 hypothetical.
20 THE WITNESS: Again, this is
21 storing information of the game play events,
22 what's happened, what's done, the stakes in
23 the game, the levels the game, whatever has
24 happened in the game is being stored and
25 obviously, you know, wins and losses, etc.,

Page 67

1 would logically be one of those items stored
2 but not all of those items stored. We're not
3 limited to that item.
4 BY MR. NELSON:
5 Q. Understood.
6 Is storing a record that an
7 individual or particular game player won a
8 \$1,000 prize storing a game play event?
9 MS. NGUYEN: Objection, incomplete
10 hypothetical.
11 THE WITNESS: Again, we're -- I'm
12 talking about game play events, that would be
13 a game play event, and could very well be
14 stored.
15 BY MR. NELSON:
16 Q. Is storing a record that a player of a game
17 won a free play of the game for the next time
18 around storing a game play event?
19 A. We could go through thousands of examples of
20 game play events. This is not limited to any
21 specific number or type of game play event.
22 Q. I promise not to do a thousand such examples,
23 but can you answer the one example I did ask
24 which is --
25 A. Yes.

Page 68

1 Q. -- winning of free play --
2 A. It could be an example of --
3 Q. Okay.
4 A. -- something you were storing.
5 Q. Okay. Good.
6 And on my promise of a thousand, I
7 just have a couple of more, not -- not a
8 thousand.
9 Is the date and time a game was
10 played a game play event that can be stored?
11 A. There's no reason why it could not be stored.
12 Q. And it's a game play event, in your view?
13 A. Yes.
14 Q. How about the amount of time a game was
15 played for by a particular user, is that a
16 game play event that could be stored in the
17 meaning of this patent?
18 A. That could be stored either as a game play or
19 details so that it could be analyzed, yes.
20 Q. Is providing a link to another different
21 game, like a mini game, during the course of
22 game play, a game play event?
23 A. A game play event would be, again, anything
24 that occurs in the game, and if you're going
25 to a secondary game or a tertiary game, that

Page 69

1 would be -- again, be a logical game play
2 event to be stored.
3 Q. Okay. Let's turn to page 46 of Exhibit 1003
4 from the '708 IPR matter, your declaration.
5 Let me know when you're there.
6 A. I'm there.
7 Q. Okay. You'll see a heading 7 that reads,
8 I.F, quote, Performing game analytics on the
9 game play events, comma, end quote.
10 Do you see that?
11 A. Yes.
12 Q. So it's your understanding that what -- what
13 we see in paragraph 104, that follows, is
14 your opinion regarding how, in your view,
15 Kelly683 discloses this limitation; is that
16 right?
17 A. Yes, this is what I opined on.
18 Q. And you write here in paragraph 104:
19 In my opinion, Kelly683 discloses a
20 process for, quote, providing statistical
21 information, end quote, and then parentheses,
22 performing game analytics on the game play
23 events.
24 Do you see that?
25 A. Yes.

Page 70

1 Q. You're pointing to Kelly's disclosure of
 2 providing statistical information as
 3 disclosing this limitation or performing game
 4 analytics; is that right?
 5 A. Yes, my citations there in 104 and -- do
 6 indicate that Kelly does do analysis and
 7 statistics on the game play, including such
 8 play events, again, as a number of games a
 9 person has played, the time the player took
 10 to play a game, the number of times a player
 11 has participated in similar tournaments, and
 12 the like, number of times a prize -- a
 13 specific prize was -- was hit.
 14 Again, this is an analysis of the
 15 game play events that has occurred, so they
 16 can adjust to make any related goals or
 17 achieve -- again, achieve the game-related
 18 goal, number of times they've won something.
 19 This is an analysis of that data
 20 they describe.
 21 Q. So you, for instance, point to Kelly683 at
 22 column 32; is that right?
 23 A. I point to several places here, but 32 is one
 24 of them, yes.
 25 Q. Yeah , column 32, lines 72 to 73, let's go

Page 71

1 there in Exhibit 1005, the Kelly reference,
 2 if you will, please.
 3 Are you there?
 4 A. Yes.
 5 Q. At line 27 Kelly teaches, quote:
 6 In other embodiments, additional
 7 information can also be stored in the
 8 tournament list which can be used to
 9 determine a winner or to provide statistical
 10 information for the operator of the
 11 tournament.
 12 That's the quote you that pointed
 13 to, right?
 14 A. That is the quote also including, for
 15 example, the time a player took to play a
 16 game, the number of times the player has
 17 played a particular or similar tournament,
 18 and the like, yes.
 19 Q. And -- and this -- this block of text is
 20 where you pulled the quote -- the quote
 21 providing statistical information from,
 22 right?
 23 A. This is one example of where it's analyzing
 24 data and creating statistical information.
 25 When you're analyzing your data, you're going

Page 72

1 to create statistical information. You're
 2 not going to look at every underlying piece
 3 of data individually. You're going to have
 4 to combine it and put it into ranges and
 5 things, and a person of skill in the art
 6 knows how to do that.
 7 Q. Understood. But that wasn't my question.
 8 You -- you provide a phrase in quotes here,
 9 providing statistical information, paragraph
 10 104, very top, right?
 11 A. Yes.
 12 Q. Yes.
 13 A. Providing statistical information, yes.
 14 Q. Yes. And -- and you pulled that from column
 15 32, lines 27 and 32, that's where that
 16 appears in Kelly --
 17 A. That's where it appears, yes.
 18 Q. Okay. And you know that Kelly683's
 19 discussion of providing statistical
 20 information here is to provide statistical
 21 information for the operator of the
 22 tournament, right?
 23 A. In this one embodiment, yes.
 24 Q. Why is providing statistical information to
 25 an operator of a system performing game

Page 73

1 analytics on game play events?
 2 A. Well, you've got to analyze some data, and
 3 the data that you're collecting is your game
 4 play events, and you're going to use that in
 5 any analysis. That's the data you are
 6 collecting in the system is the game play
 7 events, and therefore, any analysis you do on
 8 it, for whatever purpose, is going to be on
 9 those game play events.
 10 Q. And a person of skill in the art in 2004
 11 would have recognized that right away, right?
 12 A. Yes.
 13 Q. Okay. All right. I'd like you to turn to
 14 page 59 of your declaration, Exhibit 1003 in
 15 the '708 IPR.
 16 MR. NELSON: And Mr. Crevelt and
 17 Counsel, we're going to switch over to the
 18 Walker grounds here. I have been going for
 19 an hour and I know it is his noontime.
 20 Do you want to break for a quick
 21 lunch, do you want me to press ahead? I
 22 could do either one.
 23 MS. NGUYEN: I know you wanted to
 24 eat.
 25 THE WITNESS: Yeah. Fine.



Page 74

1 Yeah --
 2 MR. NELSON: Do you want to --
 3 because this is a whole new thing, so do you
 4 want to pause here for awhile and we'll pick
 5 it up when we come back?
 6 THE WITNESS: We can do that.
 7 MR. NELSON: Okay. That's fine
 8 with me. How much do you need, 30 minutes,
 9 45 minutes? What do you want?
 10 THE WITNESS: I don't know, what's
 11 it going to take?
 12 MS. NGUYEN: I don't know because
 13 it's --
 14 THE WITNESS: We don't know if the
 15 food is here.
 16 MS. NELSON: Oh, do you want to
 17 take a moment to see that and then --
 18 MS. NGUYEN: Yeah, I think if the
 19 food is here, then just 30 minutes but if is
 20 the food is not, maybe 45.
 21 MR. NELSON: Yeah, do you want to
 22 check on that and then we can decide what to
 23 do?
 24 MS. NGUYEN: Sure.
 25 THE VIDEOGRAPHER: All right. We

Page 75

1 are off the record at 12:15.
 2 (Whereupon, a break was taken.)
 3 THE VIDEOGRAPHER: We are on the
 4 record at 1:53.
 5 BY MR. NELSON:
 6 Q. Okay. Mr. Crevelt, looking at page 59 of
 7 Exhibit 1003 in the '708 IPR, you'll see a
 8 heading that refers to Ground 2 and a
 9 reference called Walker.
 10 Do you see that?
 11 A. Yes.
 12 Q. Okay. And it's your opinion, as I understand
 13 it, that the Walker prior art reference
 14 discloses or renders obvious certain of the
 15 claims of the '336 patent. Is that right?
 16 A. That's correct.
 17 Q. Okay. And this section 11 of your
 18 declarations walks through the bases for your
 19 opinions; is that right?
 20 A. Yes.
 21 Q. Okay. Let's go -- and you may want to have
 22 with you Exhibit 1006 from the '708 IPR
 23 proceeding, which is the Walker reference
 24 itself, so that we can --
 25 A. Yes.

Page 76

1 Q. -- have that handy.
 2 Okay. You have that with you?
 3 A. Yes.
 4 Q. Okay. Very, very good.
 5 All right. If we could go to page
 6 63 of Exhibit 1003, your declaration, in the
 7 '708 IPR, there's a -- it's on page 62. You
 8 let me know when you're there.
 9 A. You said page 62 or 63?
 10 Q. You know what, I may have said 62 but I meant
 11 to say 63.
 12 Are you there?
 13 A. Yeah, I'm on 63.
 14 Q. Okay. And, again, we have the heading 1A,
 15 Receiving mandated parameters, comma, the
 16 mandated parameters being those which must be
 17 achieved by the system as a whole.
 18 And so, in your opinion, in
 19 paragraphs 149 through 151, or rather, the
 20 paragraphs 149 through 151, present your
 21 opinions regarding how, in your view, Walker
 22 discloses this limitation 1A of the '336
 23 patent. Is that right?
 24 A. Yes, this section is what I have opined on,
 25 yes.

Page 77

1 Q. Okay. And in paragraph 149, you write, that:
 2 Walker discloses one or more
 3 predetermined criteria, parentheses, mandated
 4 parameters, in parentheses, that must be
 5 satisfied during game play, and then there's
 6 a parentheses that must -- that says, must be
 7 achieved by the system as a whole.
 8 Do you see that?
 9 A. Yes.
 10 Q. Okay. So you're pointing, are you not, to a
 11 discussion in Walker regarding the term
 12 "predetermined criteria." Is that right?
 13 A. You -- that's what the first part is I have
 14 stated there, yes.
 15 Q. And in fact, your opinion as stated here in
 16 paragraph 149, is that a person skilled in
 17 the art in 2004 would have recognized that
 18 Walker's discussion of, quote, predetermined
 19 criteria, would disclose the use of mandated
 20 parameters as described in the Milestone
 21 patents. Isn't that right?
 22 A. Yes.
 23 Q. And what about a predetermined criteria, as
 24 discussed in Walker, that causes you to
 25 believe that a person of skill in the art



Page 78

1 would recognize the reference to
 2 predetermined criteria as being a reference
 3 to a mandated parameter?
 4 A. Yes, so as I stated in this section, that the
 5 mandated parameters would equate that to the
 6 predetermined criteria, that would be used to
 7 adjust game results to maintain that the
 8 percentage within is an appropriate range or
 9 trying to maintain the global payout level,
 10 for example.
 11 But the -- these predetermined
 12 criteria would be these mandated parameters
 13 to start with.
 14 Q. Thank you.
 15 And my question was really about
 16 why, why would a person of skill in the art
 17 recognize a discussion of predetermined
 18 criteria to be a disclosure of mandated
 19 parameters as used in the Milestone patents?
 20 A. Again, you've got to set your goals for your
 21 system as to what you're going to do and how
 22 it's going to perform so that you're going to
 23 make money, so you're going to have some
 24 criteria specified, and you're going to
 25 then -- as we see, you're going to have to

Page 79

1 collect, monitor, analyze, and make sure that
 2 you meet those goals and, in turn, adjust the
 3 game parameters to make sure you meet those.
 4 Skill in the art understands that
 5 that's what you -- what you want to do to
 6 keep profitable.
 7 Q. Okay. And when you were analyzing this
 8 disclosure of Walker and you saw the phrase
 9 "predetermined criteria," what meaning did
 10 you ascribe to predetermined?
 11 A. Again, it can be any criteria that you want
 12 to use, particularly, it's going to be a
 13 payout percentage, it's going to be frequency
 14 of plays, whatever the implementer wants to
 15 use to meet whatever requirements their goals
 16 are.
 17 Q. I think you answered my question as to
 18 criteria. I was asking you about the word
 19 "predetermined." What -- what meaning did
 20 you have in your mind as you formed your
 21 opinions regarding Walker and its disclosure
 22 of predetermined criteria with respect to the
 23 word "predetermined"?
 24 A. Well, predetermining would be setting those
 25 goals.

Page 80

1 Q. In advance of something? Is that what
 2 predetermined means to you?
 3 A. Predetermined, you'd -- most of the criteria
 4 would be predetermined criteria you want to
 5 meet. You want to meet these kind of levels,
 6 these kind of ranges. These kind of goals
 7 you had in your -- in the operation, and
 8 adjust as necessary to maintain them.
 9 Q. Well, I appreciate all of that, and I just
 10 want to make sure we're on the same page as
 11 to the meaning you ascribed to predetermined.
 12 What -- what meaning did that word
 13 have to you in your analysis? We understand
 14 criteria. It's a test or a standard or some
 15 metric, right?
 16 What meaning did you ascribe to
 17 predetermined?
 18 A. It's determined that the, you know, for the
 19 beginning of the game or the design of the
 20 game system.
 21 Q. Okay. Before you read the Walker patent,
 22 that is, Exhibit 1005, had you heard the term
 23 "predetermined criteria" in the industry?
 24 A. Most everything in the gaming industry has a
 25 lot of predetermined criteria, the payout

Page 81

1 percentages and designs, and absolutely.
 2 Q. So is it, your answer is "yes," I had heard
 3 that term in the industry?
 4 A. Yes, I have heard that term.
 5 Q. And -- and a person of skill in the art in
 6 2004 would have heard that term and know what
 7 it meant; is that right?
 8 A. Yes.
 9 Q. Now, in paragraph 149, you, in the middle of
 10 that paragraph, provide an example of
 11 Walker's predetermined criteria, I think I'm
 12 going to read it to you. You write:
 13 The Walker system achieves the
 14 mandated parameters by, quote, adjustment of
 15 a game in order to help ensure that a set of
 16 results obtained during a plurality of game
 17 plays of a game satisfy one or more
 18 predetermined criteria, parentheses, e.g.
 19 comma, that a standard deviation of the
 20 results is not greater than a maximum
 21 predetermined standard deviation and not
 22 lower than a minimum predetermined standard
 23 deviation, end parentheses, end quote.
 24 Do you see that?
 25 A. Yes.



Page 82

1 Q. So the use of e.g. there, a person of skill
 2 in the art would understand that -- that
 3 Walker is saying that what follows is an
 4 example of his predetermined criteria?
 5 A. That is an example of one, yes.
 6 Q. Okay. And -- and the specific example is
 7 that a standard deviation -- the standard
 8 deviation of the results is not greater than
 9 a maximum predetermined standard deviation
 10 and not lower than a minimum predetermined
 11 standard deviation.
 12 But what did that mean to you?
 13 Could you explain that?
 14 A. This is explaining that in the analysis of
 15 your criteria, your mandated parameter, as
 16 I'm referring to them on, so it is a game
 17 payout could be one of those parameters or a
 18 number of games played.
 19 You're going to track the data,
 20 analyze it, and, in this case, they're using
 21 the standard deviation as an example of one
 22 method of analyzing that data to see if it
 23 falls within a predetermined range, and if
 24 so, then you're fine.
 25 If it is outside that range, you

Page 83

1 might want to adjust the game so that you can
 2 better reach your goal.
 3 Q. So at bottom here, your understanding of what
 4 Walker is describing as an example is that
 5 the game play results, whether it's the
 6 number of wins, whether it's the payout or
 7 some other metric, like the amount of time
 8 played, should fall within an acceptable
 9 range.
 10 That's the predetermined criteria,
 11 right?
 12 A. That's -- that's the intention of the system,
 13 yes.
 14 Q. Okay. And that's the mandated parameter
 15 in -- in your view?
 16 A. Those various criteria you're going to
 17 measure and track are your mandated
 18 parameters. You want the number of games,
 19 for example, adjust game results such that
 20 they are -- they are maintained within the
 21 range. That may be payouts, it may be number
 22 of games played. It may be whatever that
 23 specific parameter, mandated parameter you
 24 want -- you want to be. I want to be an
 25 80 percent game or 80 percent payback or

Page 84

1 70 percent payback. You're going to track
 2 those activities to make sure that the game
 3 is falling within that range and adjust, if
 4 necessary, to make sure it falls within that
 5 range.
 6 Q. Okay. And we'll talk about that adjustment,
 7 if necessary, in a second, but I take it that
 8 your opinion is that Walker's disclosure of
 9 adjusting certain variables is a disclosure
 10 of utilizing variable parameters to achieve a
 11 set of mandate parameters. Is that right?
 12 A. Yes.
 13 Q. Okay. And why would a person with skill in
 14 the art consider Walker's example of
 15 maintaining game play results within a given
 16 range to be a disclosure of the mandated
 17 parameters of the Milestone patents?
 18 A. Again, your mandated parameters are what
 19 you're trying to achieve with the system and
 20 to do that, you measure it and analyze it to
 21 make sure you're there, whether you're high
 22 or low, and Walker is describing that
 23 process.
 24 Q. And -- and your opinion, just to make sure,
 25 is that a person with skill in the art in

Page 85

1 2004 who read a discussion of predetermined
 2 criteria for a game would know that those are
 3 mandated parameters; is that right?
 4 A. They are the parameters -- they are the
 5 parameters that you were trying to achieve in
 6 the game, and those fit into the disclosure
 7 of -- as the mandated parameter, yes.
 8 Q. Thank you.
 9 Let's go on to page 66 of
 10 Exhibit 1003, your declaration in the '708
 11 IPR.
 12 This is has got a heading, 1C,
 13 which is, again, the recitation of processing
 14 in a processing system coupled to the memory
 15 for implementing the mandated parameters by
 16 utilizing variable parameters, comma, the
 17 processing system utilizing the variable
 18 parameters to achieve the mandated
 19 parameters.
 20 And I'm correct, am I not, that
 21 paragraphs 156, 157, all the way through 161,
 22 presents your -- the bases for your opinion
 23 that the Walker reference discloses this
 24 limitation?
 25 A. Those are the pages I have here, and that's

Page 86

1 what I have opined on, yes.
 2 Q. Okay. Paragraph 158 on page 68, are you
 3 there?
 4 A. Okay.
 5 Q. The second sentence to paragraph 158, you
 6 write:
 7 For gaming structure, Walker
 8 explains that the predetermined criteria can
 9 be achieved by adjusting one or more game
 10 parameters that, quote, may be variables that
 11 affect the performance, scoring, difficulty,
 12 outcome or other aspects of the game.
 13 Do you see that?
 14 A. Yes.
 15 Q. Okay. So your opinion is that Walker's
 16 description of adjusting, quote, one or more
 17 game parameters, end quote, is disclosing the
 18 use of variable parameters to achieve a set
 19 of mandated parameters. Is that right?
 20 A. Yes.
 21 Q. Okay. And you further quote Walker that the
 22 game parameters include factors that affect
 23 the difficulty of a game, e.g., complexity of
 24 a game, hits provided, sensitivity of
 25 controls, difficulty of question -- trivia

Page 87

1 questions, and number of opponents.
 2 Are -- is it your opinion that each
 3 of those is a variable parameter or could be
 4 a variable parameter used to help achieve a
 5 predetermined criteria or a mandated
 6 parameter?
 7 A. Yeah, these are examples of game parameters
 8 that would be used as variable parameters.
 9 Q. And why would a person with skill in the art
 10 understand that adjusting the hints provided
 11 in a game could be used as a variable
 12 parameter to achieve a set of mandated
 13 parameters?
 14 A. Again, it depends on the type of game you're
 15 looking at. But if you are looking at a quiz
 16 game or something like that, different types
 17 of hints, some easy, some others, would
 18 affect the ability of a person to play and
 19 win. Adding more hints, taking hints away.
 20 Again, any of these items, based on
 21 the structure of what game you're playing,
 22 can be used to increase or decrease the
 23 difficulty or -- of the play or the frequency
 24 of the wins or all of those items to
 25 necessarily reach the goals you're trying to

Page 88

1 get to.
 2 Q. Mm-hmm.
 3 You go on in this paragraph
 4 to -- to describe just after that a quote
 5 from Walker mentioning the rules of a game,
 6 e.g., number of strikes allowed in a baseball
 7 game, cost of vowels in a word guessing game.
 8 Do you see that?
 9 A. Yes.
 10 Q. Those disclosures of the rules of a game in
 11 your view are disclosures in Walker of
 12 variable parameters that could be used to
 13 achieve a set of mandated parameters. Is
 14 that right?
 15 A. Yes, I quote from 156, and I go all the down
 16 through to 166 in Walker, which lists a
 17 number of factors that can be used to adjust
 18 the game structure, to affect those as
 19 variable parameters to adjust the game
 20 structure to meet your mandated parameters or
 21 your predetermined criterias in this case.
 22 Mm-hmm.
 23 Q. And your opinion is that a person of skill in
 24 the art in 2004 would have recognized that
 25 the rules of a game can be variable

Page 89

1 parameters to reach a predetermined criteria
 2 or mandated parameter. Is that right?
 3 A. Yes, any one of these items could be used and
 4 altered to change the parameter, and someone
 5 would understand that, yes.
 6 Q. And that would have been true in 2004?
 7 A. Yes.
 8 Q. How about 2002?
 9 A. Yes.
 10 Q. And I take it your answer is the same for the
 11 other things you've listed here in 158,
 12 including the factors that affect the
 13 duration of the game, e.g., a number of
 14 rounds, a number of lives, and an amount of
 15 time that the player is allowed to achieve an
 16 event in a game or complete the game play of
 17 a game, is that right, these are all variable
 18 parameters?
 19 A. They're all variable parameters, yes.
 20 Q. Why in your view is there any limit to what
 21 could be a variable parameter, as long as it
 22 is affecting the likelihood of obtaining a
 23 predetermined criteria or mandated parameter?
 24 MS. NGUYEN: Objection, vague.
 25 THE WITNESS: A variable parameter

Page 90	Page 92
<p>1 would be associated with whatever game you're 2 playing and the goals you have in mind, so 3 it's, it comes down to who is implementing it 4 and what they're trying to implement. 5 So it's more of a design choice as 6 to what you're going to use. 7 BY MR. NELSON: 8 Q. So in your view, a variable parameter, the 9 term "variable parameters" as used in the 10 Milestone patents, really covers effectively 11 any programmatic change that might be made to 12 the game system to achieve a predetermined 13 criteria or mandated parameter. Is that 14 right? 15 MS. NGUYEN: Objection, vague. 16 Mischaracterizes the witness's testimony. 17 THE WITNESS: Again, the number of 18 variable parameters is -- is listed here as 19 an example thereof. There is no requirement 20 that any one of these or any specific one of 21 any type is used. So it was up to the 22 designer to choose which variable parameters 23 they want to use. And -- 24 BY MR. NELSON: 25 Q. And that's a broad universe, right? That's a</p>	<p>1 information regarding particular game play 2 events as determined by the processor. 3 Do you see that? 4 A. Yes. 5 Q. Okay. And in paragraph 162, this is 6 your -- this is essentially setting out the 7 bases for your opinion that Walker discloses 8 this limitation 1D of the '336 patent. Is 9 that right? 10 A. Yeah, 162 is where I have listed that, yes. 11 Q. And -- and you've highlighted what you 12 contend is a discussion of -- of storing the 13 number of lives or rounds or rounds of game 14 play that have occurred. Is that right? 15 A. Yeah, I have included those as examples, yes. 16 Q. A number of lives that have been played. Is 17 that -- is that a game play event? 18 A. Yes, that would be a game play event. 19 Q. How about a number of rounds that have been 20 played? Would that be a game play event? 21 A. Yes, that would be a game play event. 22 Q. The number of levels achieved, is that a game 23 play event? 24 A. Yes, that would be a game play event. 25 Q. Any person of skill in the art would have</p>
Page 91	Page 93
<p>1 broad category of -- 2 A. That's a -- 3 Q. -- programmatic changes. 4 A. Yes. 5 Q. Yes? 6 A. It's a very broad category of potential 7 variables. 8 THE VIDEOGRAPHER: Did we lose 9 Ms. Nguyen? 10 MS. NGUYEN: I don't know why it 11 looks like my Zoom is updating. But -- 12 MR. NELSON: She's in the same 13 room. How could we lose her? 14 MS NGUYEN: My Zoom is updating. 15 That's why. 16 MR. NELSON: That would be 17 something if we lost her right out. 18 Okay. Lisa, can I just go ahead? 19 I mean, I assume it is fine. 20 MS. NGUYEN: Yeah, please go ahead. 21 I can still hear. Yeah. 22 MR. NELSON: Okay. 23 BY MR. NELSON: 24 Q. Let's go to page 70 in your declaration of 25 the IPR. You'll see a subheading 1D, Story</p>	<p>1 recognized that in -- in 2002? 2 A. Yes. 3 Q. And you confirmed already, haven't you, that 4 the amount of time a particular player has 5 played a game is a game play event? That's 6 right? 7 A. Yes, I believe so, yes. 8 Q. Okay. If you turn to -- okay. Actually, 9 let's change gears here. I would like you to 10 pull out your declaration from IPR -- one 11 second, please. 12 Right, IPR202500712. This is your 13 corrected declaration in connection with the 14 '279 patent from Milestone, so if you could 15 ask your counsel to hand that to you. 16 A. Okay. I've got that. 17 Q. Okay. And that's Exhibit 1003 of the '712 18 IPR. 19 I would also ask that you pull out 20 Exhibit 1001 from the '712 IPR, which would 21 be a copy of the '279 patent from Milestone. 22 A. I have that also. 23 Q. Okay, very good. 24 And So can you confirm for me that 25 Exhibit 1003 from the '712 inter partes</p>

Page 94

1 review, is the corrected version of your
 2 declaration putting forth your opinions and
 3 the bases for those opinions regarding
 4 whether the prior art that you discussed
 5 discloses or renders obvious certain claims
 6 of the '279 patent. Is that correct?
 7 A. Yes, this is the corrected version.
 8 Q. And this is your opinions regarding
 9 Milestone's '279 patent, yes?
 10 A. Correct.
 11 Q. Okay. Very good.
 12 I'm just going to put that up on
 13 the screen so everybody else can have it.
 14 Okay. Very good.
 15 If you could please turn to, bear with me,
 16 page 54 of the exhibit.
 17 A. Page 54?
 18 Q. Yes.
 19 A. Okay.
 20 Q. And here you'll setting for -- that has one
 21 I.B.i, followed by, quote, Store mandated and
 22 programmable variable parameters for the
 23 use -- for use in the course of game play,
 24 end quote.
 25 Do you see that?

Page 95

1 A. Yes.
 2 Q. And so here in the paragraphs that follow,
 3 paragraphs 122 through 128, you are
 4 presenting your opinions, and the bases of
 5 those opinions for why you believe that
 6 the -- excuse me -- Kelly reference is
 7 disclosing this limitation. Is that right?
 8 A. That is correct.
 9 Q. Okay. And if I could draw your attention to
 10 126 on page 57. You write:
 11 A POSITA would have understood that
 12 the game and prizing structure programmable
 13 because they are adjustable by the operator.
 14 Do you see that?
 15 A. Yes.
 16 Q. O okay. And first of all, did you mean to
 17 say, a POSITA would have understood that the
 18 game and prizing structure are programmable
 19 because they are adjustable by the operator?
 20 We're just missing that word?
 21 A. Probably are is -- probably fits in there
 22 okay. I don't see a grammatical difference
 23 at this point.
 24 Q. Okay. Programmable means adjustable by the
 25 operator. Is that what programmable means?

Page 96

1 A. So the program -- the operator can program
 2 the game structure parameters to make the
 3 game less difficult. So the operator can
 4 input those parameters to change them.
 5 Q. So the -- so the meaning of programmable you
 6 applied here in assessing whether Kelly683
 7 disclosed programmable variable parameters
 8 was this definition, are they adjustable by
 9 an operator, yes?
 10 MS. NGUYEN: Objection,
 11 mischaracterizes the testimony.
 12 THE WITNESS: The operator would be
 13 inputting or theoretically use the term
 14 program -- "program" or putting them into the
 15 program, the mandated parameters such as
 16 global payout percentages and win ratio.
 17 There, again, also variable
 18 parameters that the operator would be
 19 identifying and those can be changed
 20 programmatically by the system or, again,
 21 someone could go in and change those if
 22 you're modifying the system in some way.
 23 BY MR. NELSON:
 24 Q. So what makes a variable parameter
 25 programmable in your view?

Page 97

1 A. Well, the variable program -- the variable
 2 parameters are changed by a program or an
 3 analysis of software in the system under
 4 normal circumstances, and that's the way it
 5 would operate.
 6 The mandated parameters are
 7 typically input directly by the operator to
 8 set up the overall structure.
 9 Q. So the meaning you applied to programmable
 10 variable parameter for this claim limitation
 11 was that a parameter -- or, excuse me, a
 12 variable parameter is programmable when it is
 13 changed by a program or by analysis of
 14 software in the system. Is that right?
 15 A. The term "programmable" means it can be
 16 changed and in the case of the mandated
 17 parameters, the operator is the one that
 18 typically makes those changes and stores that
 19 information so that the system can, in turn,
 20 change and -- programmatically change through
 21 software, the other variables.
 22 And those variables have been
 23 programmed into the system, again, by the
 24 operator.
 25 Q. So a programmable variable parameter is a

Page 98	Page 100
<p>1 parameter that can be adjusted 2 programmatically? 3 A. It can be adjusted programmatically or it can 4 be adjusted directly. 5 Q. By an operator? 6 A. Potentially by an operator, but, most likely, 7 it would be programmable by an algorithm 8 somewhere in the system. 9 Q. Do you think '279 patent claim 1 encompasses, 10 within its scope, a human operator changing 11 the variable parameters of a game? 12 A. No. The human operator would not be changing 13 the variable parameters during the operation. 14 They would be setting those variable 15 parameters and maybe thresholds associated 16 with them prior to the game but not during 17 the game. 18 Q. In operation, the -- the program or some 19 program would be selecting which variable 20 parameters to change or implement. Is that 21 right? 22 A. That is correct. 23 Q. We can turn to page 66 of Exhibit 1003 for 24 the '712 IPR. This is on page 66. 25 A. Okay.</p>	<p>1 Q. Yeah. We're on the same page, I think. 2 Let's just make sure. 3 Your opinion is that when Kelly 4 describes recording which games the user 5 previously played, it is describing an 6 example of recording a game play event, yes? 7 A. It is an example of recording a game play 8 event, yes, it is. 9 Q. Yeah. 10 And -- and, in particular, you've 11 outlined in -- or maybe Kelly has, I'd have 12 to go look, item 2, a game identifier 13 relating to a particular game played by the 14 user of the network. 15 Do you see that? 16 A. Yes. 17 Q. Of the network gaming system? 18 Is recording a game identifier 19 relating to a particular game played by a 20 user of the network gaming system recording a 21 game play event? 22 A. You have to know what game they're playing 23 and you have to have some sort of identifier 24 to identify that game; so yes, it would be. 25 Q. And a person of skill in the art in 2002</p>
Page 99	Page 101
<p>1 Q. Are you there? 2 A. Okay. 3 Q. There's a heading there, 1.B. romanette ii, 4 quote: 5 Record game play information 6 regarding particular game play events and. 7 And so this section, running from 8 paragraph 141 to 143, is your opinion and the 9 bases for your opinion that Kelly683 10 discloses this limitation of the '279 patent. 11 Is that right? 12 A. That is correct. 13 Q. Okay. And here, if we could take a look at 14 paragraph 143, you write: 15 Kelly683 -- or sorry, further, 16 Kelly683 discloses recording which games the 17 user previously played. 18 Do you see that? 19 A. Yes. 20 Q. So I take it your opinion is that recording 21 the games, or which games the user has 22 previously played, is recording a game plan 23 event, yeah? 24 A. That is one game play event that is being 25 recorded.</p>	<p>1 would have recognized that, yes? 2 A. Yes. 3 Q. Let's take a look page 74 of Exhibit 1003, 4 your declaration from the '712 IPR. Let me 5 know when you're there. 6 A. Okay. 7 Q. So here we've got a heading 10 with 1.C. 8 romanette ii, quote: 9 Modify one or most programmable 10 variables parameters to provide a second set 11 of programmable variable parameters providing 12 a second game play experience, wherein the 13 first game play experience differs from the 14 second game play experience, comma, and, end 15 quote. 16 And so your -- this section of your 17 declaration, paragraphs 162 through 166, set 18 out your opinions and the bases for those 19 opinions regarding how you believe Kelly683 20 discloses this limitation of claim 1 of the 21 '279 patent. Is that right? 22 A. Yes, it does, and the references thereof, 23 yes. 24 Q. Okay. 25 And you write in paragraph 164:</p>

<p style="text-align: right;">Page 102</p> <p>1 First, Kelly683 discloses adjusting 2 the parameters, parentheses, programmable 3 variable parameters, characterizing the game 4 structure, and then to provide a more 5 difficult game play. 6 Do you see that? 7 A. Yes. 8 Q. And so you're pointing to a disclosure in 9 Kelly that you understand makes the game more 10 difficult and, thereby provides a second game 11 play experience. Is that right? 12 A. Yes, as disclosed, that I have here, that 13 changing the parameters, because the second 14 game play would be more difficult from the 15 first game play experience and difficult to 16 achieve a higher score than a particular 17 value, frequencies of winning, combinations 18 lower, difficulty is a different experience. 19 Q. And so what you're saying is that once Kelly 20 discloses making the game more difficult, 21 that provides a new or second game play 22 experience, yes? 23 A. Yes. That can provide a newer game play 24 experience. 25 Q. And that --</p>	<p style="text-align: right;">Page 104</p> <p>1 8,000 games to be -- consoles are to be 2 awarded. If it is randomly determined that a 3 third video console is to be awarded within 4 the three thousandth game, than a different 5 prize can be awarded so the desired odds are 6 better met. 7 So, again, we've been talking about 8 playing the -- changing the parameters of the 9 game and making it more difficult or easy 10 difficult or changing the probabilities 11 thereof, and that changes the experience for 12 the player. 13 BY MR. NELSON: 14 Q. And a person of skill in the art in 2004 15 would have recognized that in Kelly683, 16 correct? 17 A. Yes. 18 Q. And also in 2002? 19 A. Yes. 20 Q. Okay. Let's talk about that. 21 You moved to paragraph 165, 22 correct? 23 A. Yes. 24 Q. To give me an example? 25 Okay. And -- and if we look at</p>
<p style="text-align: right;">Page 103</p> <p>1 A. With the probabilities, yes. 2 Q. Yes. 3 And that new or second game play 4 experience is different from the first or 5 earlier game play experience because it is 6 harder, is that your opinion? 7 A. That is correct. 8 Q. Okay. And so your opinion is that a change 9 to the difficulty level of a game discloses 10 modifying programmable parameters to have a 11 different game experience, yes? 12 MS. NGUYEN: Objection, vague, 13 incomplete hypothetical. 14 THE WITNESS: Again, when you 15 modify the game play parameters and make it 16 more or less difficult, you are changing the 17 probability of the person getting a win or 18 winning and successfully completing that 19 game. That is a new game play experience. 20 And, in fact, if we look at -- like 21 I said, changing the difficulty changes the 22 probability of the game, which would be a new 23 experience, and like I say, in 165, also 24 changing the prizing structure, such as it 25 describes here in Kelly, for example, every</p>	<p style="text-align: right;">Page 105</p> <p>1 paragraph 165, there is a discussion 2 beginning at the bottom of page 74 that -- 3 that you referred to. I'm just going to read 4 it to you, okay? 5 A. Okay. 6 Q. Quote, For example, every 8,000 games, comma, 7 two video consoles are to be awarded. If it 8 is randomly determined that a third video 9 console is to be awarded within, e.g., the 10 three thousandth game, then a different prize 11 can be awarded so that the desired odds are 12 better met. 13 And that's a quote from Kelly683; 14 is that right? 15 A. Right. 16 Q. Okay. So I want to make sure we're on the 17 same page here. 18 In this example provided by Walker 19 of every 8,000 games, two video consoles are 20 to be awarded. 21 The video consoles are prizes; is 22 that right? In your understanding? 23 A. The video consoles are your game, where 24 you're playing the game on. So two different 25 players would be awarded a prize.</p>

Page 106

1 Q. Some prize?
 2 A. Yeah.
 3 Q. Very good.
 4 A. Yeah.
 5 Q. Right.
 6 Okay. And is the description that
 7 for every 8,000 games, two players are -- are
 8 to win or to receive an award, is that a
 9 description of a mandated parameter in your
 10 view?
 11 A. I would list that as a -- again, part of the
 12 prizing structure, you're going to award
 13 certain prizes at certain frequencies so
 14 you're going to give a particular at every
 15 8,000 plays, you're going to give a different
 16 award at every 15,000 plays. This is part of
 17 your prize table, your frequency.
 18 So changing that, again, the
 19 players are expecting this and suddenly they
 20 find out they've got something else coming at
 21 them, it gives them a different game play
 22 experience.
 23 Q. I understand all of that. I mean, you agree
 24 with me that what this is describing, don't
 25 you, is that this system is trying to ensure

Page 107

1 that no more than two video consoles get an
 2 award, get a win every 8,000 games, correct?
 3 MS. NGUYEN: Objection, vague.
 4 THE WITNESS: It is not trying to
 5 assure that. This is giving you an example
 6 of changing the prize structure to change the
 7 game experience for a player.
 8 If a player is expecting, based on
 9 the standard prize structure, to get two
 10 people in out of the 8,000 plays are going to
 11 get an award and suddenly you find out that
 12 someone at 3,000 plays gets an award, again,
 13 it is a different experience. They are now
 14 playing a different prize structure. So the
 15 game experience has changed.
 16 BY MR. NELSON:
 17 Q. Is altering the prizing to be awarded in a
 18 game, disclosing modifying variable
 19 parameters to provide a different game play
 20 experience?
 21 MS. NGUYEN: Objection, vague.
 22 THE WITNESS: It is modifying the
 23 prizing structure to provide a different game
 24 playing experience. And, yes, it is, because
 25 it's modifying the data there or the prize

Page 108

1 structure so that the player has a different
 2 experience and, in turn, it's being modified
 3 to meet the global mandated parameters,
 4 whether it's up or down.
 5 BY MR. NELSON:
 6 Q. How about the scenario where every 8,000
 7 games, two video consoles are to be awarded
 8 but upon the eight thousandth game, there's
 9 only been one award provided, would a system
 10 that then forces or alters the prizing to
 11 award a video console on that eight
 12 thousandth game, is that providing a
 13 different game play experience by modifying a
 14 programmable variable parameter?
 15 A. Would you repeat that question? It seems --
 16 Q. Sure. If you don't understand --
 17 A. Yeah.
 18 Q. -- I'll repeat it.
 19 The starting point for this example
 20 is Kelly683's discussion that, for example,
 21 every 8,000 games, two video consoles are to
 22 be awarded, right?
 23 A. Yes.
 24 Q. And so what's desired is that across 8,000
 25 games, there will have been two different

Page 109

1 awards handed out, wins, essentially, yeah, a
 2 prize of some kind, follow me?
 3 A. Right.
 4 Q. Okay. And if, upon the eight thousandth
 5 game, chance and randomness have resulted in
 6 only one video console getting an award,
 7 would a system that then forced an outcome to
 8 provide a second video console with an award
 9 to meet that 8,000 game metric, would that be
 10 providing a game play, a different game play
 11 experience, by modifying a programmable
 12 random -- or programmable variable parameter?
 13 A. Again, modifying the pay table in any way
 14 would qualify as a modifying a variable
 15 parameter to give a different experience.
 16 And it doesn't really matter whether it's
 17 8,000 games in, 3,000 games in, or 50,000
 18 games in.
 19 If the system determines that it
 20 needs to modify it, it has the ability to
 21 modify it.
 22 Q. And a person skilled in the art in 2004 would
 23 recognize that that type of thing would meet
 24 this limitation, yes?
 25 A. That's the type of discussion we're having,

Page 110

1 is that the person skilled in the art would
 2 know how to change the pay table to meet
 3 these requirements, yes.
 4 Q. If you could turn to page 77 of Exhibit of
 5 the IPR. You'll see a heading 12. Let me
 6 know when you're there.
 7 A. Yes.
 8 Q. All right. That heading has a 1.D and then
 9 recites, quote:
 10 A decision engine coupled to the
 11 memory and operating with a Processor 2.
 12 And you agree with me, don't you,
 13 that paragraphs 173 through 178 is your
 14 opinion and the bases for your opinion
 15 concerning how you understand or believe
 16 Kelly683 discloses this particular limitation
 17 of the '279 patent. Is that correct?
 18 A. Yes.
 19 Q. Okay. Now, Kelly683, I'm looking at
 20 paragraph 173, Kelly683 doesn't use the term
 21 "decision engine," does it?
 22 A. No, the term "decision engine" is not used in
 23 Kelly, no.
 24 Q. Okay. But if I understand your opinion,
 25 you've identified disclosures in Kelly that

Page 111

1 you believe a person of skill in the art
 2 would recognize as a decision engine as
 3 claimed in the '279 patent; is that right?
 4 A. As I state right here, in the '279 patent
 5 explains:
 6 The decision engine uses data,
 7 including uses specific play such as number
 8 of times a game is played during a one
 9 contact session, contact or session, where
 10 the player continuously plays that game
 11 without interruptions or diverting to other
 12 forms of entertainment or information, and
 13 the frequency between player visits, such as
 14 to a sponsored website, etc., not to minimize
 15 prizing structure for desired goal, end goal,
 16 and maximizing game play.
 17 That decision engine functionality
 18 there is a software program somewhere in the
 19 system.
 20 Q. And so any time -- or rather, let me back up.
 21 And your opinion is that while Kelly does not
 22 use the term "decision engine," it discloses
 23 the functional aspects of a decision engine
 24 as claimed in the '279 patent. Is that
 25 right?

Page 112

1 A. That is correct.
 2 Q. Okay. And so, for instance, you, at
 3 paragraph 174 of your declaration, refer,
 4 again, to, I think, some language we've
 5 already looked at, which is providing
 6 statistical information, and that's at column
 7 32 of -- of the Kelly reference. Is that
 8 right?
 9 A. That's in column 32, yes.
 10 Q. Yeah. Okay.
 11 And then you say in paragraph 175
 12 on paragraph 78, that:
 13 The gaming system of Kelly683 uses
 14 the statistical information to optimize the
 15 prizing structure for a desired goal. Is
 16 that right?
 17 A. That's the beginning of paragraph 175, yes.
 18 Q. Okay. And I take it that it's your -- it's
 19 the descriptions in Kelly683 that occur in
 20 paragraph 174 about what Kelly683 does that
 21 disclose to a person skilled in the art of
 22 the claim decision engine. Is that right?
 23 A. I have a number of citations to Kelly. All
 24 together, you look at them, it shows what is
 25 being analyzed and to analyze and change hit

Page 113

1 ratios and frequency of games, some games may
 2 have a different hit ratio than other games
 3 depending on the nature of the game,
 4 randomness or the like, and difficulty of the
 5 specific prize or goal, normalization factor
 6 can be used to indicate how much of an
 7 individual ratio should be adjusted based on
 8 the particular game play.
 9 That's example 105.
 10 Q. Mm-hmm.
 11 A. That's at -- of that column. So if you
 12 continue to read this entire paragraph and
 13 the reference is yes, these references and
 14 the descriptions thereof indicate that Kelly
 15 is doing the analysis and modifications that
 16 are purported to be for the decision engine.
 17 Q. Is a gaming system that uses statistical
 18 information about game play events to
 19 optimize a prizing structure for desired
 20 goal, a gaming system that utilizes a
 21 decision engine?
 22 A. Again, a decision engine is a software module
 23 to do something, is what someone skilled in
 24 the art would look at Kelly -- or look at the
 25 '279 and understand. And in Kelly, we're

Page 114

1 disclosing where you're using statistical
 2 information, game play information to analyze
 3 and adjust the game play structure or game
 4 play itself.
 5 And, yes, that would be equivalent
 6 software application of the software
 7 application of a decision engine that's in
 8 '279.
 9 Q. Okay. Let's go on to --
 10 MR. NELSON: You know, this has
 11 been, like, an hour and 15. I think I have
 12 another hour of time. Do you want to take a
 13 short break and then reconvene?
 14 MS. NGUYEN: Yeah.
 15 THE WITNESS: Want to do that?
 16 Okay.
 17 MR. NELSON: Yeah. Thanks.
 18 10 minutes. Thanks, guys.
 19 THE VIDEOGRAPHER: We are off the
 20 record at 2:01.
 21 (Whereupon, a break was taken.)
 22 THE VIDEOGRAPHER: We are on the
 23 record 2:13.
 24 BY MR. NELSON:
 25 Q. Okay. Mr. Crevelt, could you turn to page 84

Page 115

1 of Exhibit 1003 from the '712 IPR, the one in
 2 front of you right now.
 3 A. Okay.
 4 Q. You'll see a heading 14, with 1.D. romanette
 5 ii, that reads, quote:
 6 Determine the selection of the
 7 first or second programmable variable
 8 parameter sets, utilizing the recorded game
 9 play information, with predefined criteria,
 10 including at least one of, colon, a game
 11 structure and a prizing structure.
 12 Do you see that?
 13 A. Yes.
 14 Q. What is your understanding of this limitation
 15 in the '279 patent?
 16 A. Again, Kelly discloses this, as we've
 17 discussed before, with all of the variable
 18 parameters, first and second parameters, that
 19 can either be a -- either a game structure
 20 verbal parameter as modified and/or a prizing
 21 structure is modified.
 22 And as we've seen in the last
 23 paragraph 1, Kelly does both prize structure
 24 and game structure variable parameters.
 25 Q. Mr. Crevelt, I already knew that you thought

Page 116

1 Kelly discloses it.
 2 My question was slightly different,
 3 which is what you want -- what you or a
 4 person of skill in the art would understand
 5 this limitation to be describing. What's
 6 occurring in the limitation and what
 7 understanding did you apply in reading Kelly?
 8 A. Again, as a person of skill in the art,
 9 you're going to determine the selection of a
 10 first or second programmable variable
 11 parameter sets, utilizing the game play that
 12 has been recorded, and with information for
 13 the predefined criteria and it has to include
 14 at least one -- it includes one of a game
 15 structure or -- and/or, it says, "a prizing
 16 structure," it has to include one of those in
 17 those analysis, while Kelly includes both of
 18 those in the analysis.
 19 Q. You've read me the limitation but I want to
 20 make sure we're in agreement on what it
 21 means.
 22 What did you mean predetermined
 23 criteria means in the context of this
 24 limitation?
 25 A. Again, as I've -- as my opinion lists here,

Page 117

1 it goes back to each of the sections we've
 2 discussed previously about predefined
 3 criteria, about game play structure, about
 4 prizing structure. Each of those sections
 5 that we have described are listed here.
 6 If you want, we can go back to each
 7 one of those individually, if you'd like, to
 8 go through those. But this criteria is
 9 saying that it needs to include one of those,
 10 and in this case, we've discussed and I've
 11 listed these here as XC9, XC14, etc., we can
 12 go back and look at these individually if you
 13 want, but again, they've all -- showing that
 14 we have not only just one of those, Kelly
 15 discloses both of those, which meets this
 16 claim criteria.
 17 Q. Let me just ask you again. If you need to go
 18 to another section, you can. But what did
 19 you understand predefined criteria to mean in
 20 this limitation when you were analyzing
 21 Kelly? What is it?
 22 A. It's the same as the predefined criteria we
 23 discussed earlier in the previous claims.
 24 Q. I would be interested to know that because
 25 this is the first time predefined criteria

Page 118

1 appears in claim 1 of the '279 patent. If
 2 you want to go look in those other sections,
 3 you may. But I'm, like, just trying to
 4 understand what is the definition of
 5 predefined criteria as was recited here,
 6 utilizing prerecorded game play information
 7 with predefined criteria. What do you think
 8 it means?
 9 A. Your predefined criteria is the mandated
 10 parameters and variable parameters that
 11 you're using and the ranges criteria you set
 12 for those -- for that analysis.
 13 Q. So your view in performing this analysis was
 14 that the predefined criteria of this
 15 limitation was a mandated parameter or
 16 included mandated parameters?
 17 A. It can include mandated parameters and it can
 18 include the thresholds used for the analysis.
 19 Q. And that's your opinion in paragraph 185,
 20 right, which is that, Kelly further discloses
 21 determining the selection of the game or
 22 prizing structures parameter sets by
 23 utilizing the difficulty or past wins based
 24 on a threshold related to the global payout
 25 or win ratios.

Page 119

1 Is that right?
 2 A. Yeah, because it's the -- we've discussed the
 3 analysis of these criteria of the mandated
 4 parameters, the variable parameters, to make
 5 changes to the game. That is the criteria
 6 you're using to make changes to the game.
 7 And this is saying that one of
 8 those criteria must at least include a game
 9 structure or one must include a prize
 10 structure. So the predefined criteria is the
 11 data that we have analyzed, either mandated
 12 parameters and how the variable parameters
 13 fit into those categories and the game play
 14 has met the requirements for the mandated
 15 parameters.
 16 Q. And it's your opinion that if -- if Kelly
 17 discloses that the game play has met the
 18 predefined criteria, the threshold for
 19 mandated parameters, then no alteration to
 20 variable parameters would be required. Is
 21 that right?
 22 A. Would you repeat that question, please?
 23 Q. Sure.
 24 It's your opinion that Kelly
 25 discloses that if game play has met whatever

Page 120

1 predetermined criteria have been established,
 2 whatever threshold for mandated parameters is
 3 present, then no alteration or variable
 4 parameters would be required. It's meeting
 5 the mandated parameters, so no variation is
 6 required, correct?
 7 A. Kelly discloses the ability to change the
 8 mandated parameters, if necessary. You're
 9 providing a hypothetical of, well, if it's
 10 not necessary, he doesn't have to change
 11 anything.
 12 Well, it still provides that
 13 disclosure and teaching that it can be
 14 changed, that win, when it's change, will
 15 depend on the game play information and what
 16 has occurred. And it may occur frequently.
 17 It may occur infrequently. That's not at
 18 issue here.
 19 Q. Well, this limitation does describe
 20 determining a selection of a first or a
 21 second programmable variable parameter set,
 22 yes?
 23 A. Yes.
 24 Q. And you know already, because we've discussed
 25 it, that the second programmable variable set

Page 121

1 provides a second game play experience that
 2 is different than the first, yes?
 3 A. The second game play experience is designed
 4 to provide a different game play experience,
 5 yes.
 6 Q. Yes. And so this limitation is describing
 7 picking one set of variable parameters or
 8 another set of variable parameters based on a
 9 comparison of game play information with some
 10 predefined criteria, yes?
 11 A. I'm sorry, that -- I didn't get that
 12 question. Would you repeat that, please?
 13 Q. This limitation we're discussing right here
 14 is describing picking one set of variable
 15 parameters, a first set, or another set of
 16 variable parameters, a second set, based on
 17 comparing recorded game play information with
 18 some predefined criteria, yes?
 19 A. As I've listed here, the -- Kelly does
 20 disclose having both first and second
 21 programmable parameter sets, including one of
 22 which is a game structure, one is a prize
 23 structure.
 24 This claim says, Determining the
 25 selection of either the first or the second,

Page 122	Page 124
<p>1 utilizing recorded game play information, 2 with predefined criteria, and for example, as 3 discussed, Kelly discloses past wins and 4 difficulty and recorded game play information 5 as is listed in Ground 1 limitation there and 6 in -- and it further discloses determining 7 the selection of the game prizing structure, 8 for example, utilizing the difficulty of past 9 wins based on thresholds related to the 10 global payout, win ratio, with predefined 11 criteria. 12 Or it says, with respect to game 13 structure, it discloses that the game is too 14 easy or too difficult, the game can be 15 adjusted during the course of play, as in 16 Ground 1 up there, and discussing ways to 17 adjust difficulty in action games, card 18 games, quiz games, etc. 19 With respect to the prizing 20 structure, again, the global payout system 21 win ratio is too high based on past wins, the 22 prizing structure can be adjusted to that 23 limitation. 24 And it goes to this. This is 25 saying it is using the game play information</p>	<p>1 And as an example you give, I 2 think, in paragraph 185, Kelly further 3 discloses determining the selection of the 4 game or prizing structure parameter sets by 5 utilizing the difficulty or past wins based 6 on a threshold related to global pay out or 7 win ratio. 8 And then you say, with respect to 9 game structure as discussed in 1.D.i, if the 10 game is too easy or difficult, the difficulty 11 can be adjusted during the course of play. 12 Do you see that? 13 A. Yes. 14 Q. So you're pointing to a disclosure in Kelly 15 that says, if the analysis of recorded game 16 play shows that the game, for instance, is 17 too easy, we can adjust the difficulty to 18 make it more difficult, right? That's what 19 Kelly is disclosing? 20 A. That is one example of what Kelly is 21 disclosing. 22 Q. That's fine. 23 And that is one example of Kelly 24 disclosing this limitation, in your view, 25 yes?</p>
Page 123	Page 125
<p>1 and predetermined -- predefined criteria to 2 choose either a game or a prizing structure 3 change. And that's what Kelly does. 4 Q. I'm going to ask you again, to see if you can 5 answer it, this limitation, yes or no, 6 describes picking one set of variable 7 parameters or a different set of variable 8 parameters based on a comparison of recorded 9 game play information with some predefined 10 criteria, yes or no? 11 MS. NGUYEN: Objection, asked and 12 answered. 13 THE WITNESS: Yeah, I believe 14 that's just what I said. 15 BY MR. NELSON: 16 Q. So that's what this limitation is describing, 17 yes? 18 A. It's using the game play information and with 19 predefined criteria to choose a variable -- a 20 set of variable parameters, whether that 21 be -- 22 Q. Okay. 23 A. -- structure or game -- game structure or 24 prize structure, yes. 25 Q. Okay. Good.</p>	<p>1 A. Yes, it is. 2 Q. Okay. And if I understand your opinion here, 3 it's that the easy play that the user 4 experienced is under a particular set of 5 variable parameters, correct? Whatever they 6 are, whatever was put in place, the game has 7 proven too easy under that set of parameters, 8 yes? 9 MS. NGUYEN: Objection, vague. 10 THE WITNESS: Yeah. The set of 11 parameters that Kelly discloses can include 12 game play structure, and the structure of the 13 game. It can also include the prize 14 structure. And Kelly discloses how you can 15 use either of those, or both of them, to 16 modify the game play. And this claim is 17 saying, you must use at least one of those. 18 And Kelly discloses both of them. 19 BY MR. NELSON: 20 Q. Yeah. No, I understand that. But listen to 21 my question. I'm asking you about game 22 difficulty as a variable parameter, okay? 23 Can you -- you following me so far? 24 This is your example that you've got in 25 paragraph 185.</p>

Page 126

1 If the game is too easy or
 2 difficult, the difficulty can be adjusted
 3 during the course of play.
 4 Do you see that?
 5 Top of page 85.
 6 A. Yeah.
 7 Q. Okay. And you agree with me that that
 8 example is an example of Kelly683 disclosing
 9 this limitation of determining a selection of
 10 a first or second programmable variable set,
 11 yes?
 12 A. Yes.
 13 Q. Okay. And when Kelly683 discloses that the
 14 difficulty can be adjusted during the course
 15 of play, that's selecting a second set of
 16 variable parameters for game play, isn't it,
 17 in accordance with this limitation?
 18 A. This limitation only requires one set of
 19 variable parameters be selected, not two.
 20 Q. Yeah, that's right. This limitation
 21 describes choosing between the first or
 22 second variable parameter sets, doesn't it?
 23 A. It's choosing between two variable parameter
 24 sets. It's choosing -- it's choosing a
 25 variable parameter set, and in the case of

Page 127

1 the game structure, the ease or difficulty of
 2 the game would be based on the play, and that
 3 is one of those structure -- that's one of
 4 those variable sets.
 5 Q. Well, let's -- let's go back. In this
 6 example you've given, when the Kelly683
 7 adjusts the difficulty during the course of
 8 play, how does that meet determining the
 9 selection of a first or second program
 10 programmable variable parameter set?
 11 A. It is one of the programmable variable sets,
 12 so it would meet that limitation, as either
 13 being the first or the second.
 14 Q. Is a system that analyzes recorded game play
 15 information and determines that the game does
 16 not need to be made more easy or difficult
 17 meet this limitation?
 18 A. Again, Kelly is disclosing that it has the
 19 ability to do that. In operation, when and
 20 where that modification occurs is
 21 indeterminate.
 22 Q. Is a system that has implemented a first set
 23 of variable parameters providing a first game
 24 play experience and then decides no
 25 modification is necessary because the game is

Page 128

1 neither too easy, nor too difficult, and
 2 maintains the existing set of variable
 3 parameters, meeting this limitation or not?
 4 A. System described as this will make those
 5 modifications when necessary. If they're not
 6 necessary, they obviously don't have to make
 7 them but they will make them when they are
 8 necessary.
 9 And at the very, very beginning, if
 10 they're in -- within range, you're not going
 11 to make a modification, so the time frame in
 12 which it's indeterminate -- is -- when that
 13 modification is going to happen is
 14 indeterminate.
 15 Q. Is this -- I'll ask my question again. Is a
 16 system that implements a first set of
 17 variable parameters that provide a first game
 18 play experience, that's what this claim
 19 recites, is a system that does that and then
 20 analyzes recorded game play information
 21 against some threshold value and determines
 22 that that first set of programmable variable
 23 parameters is appropriate because it is
 24 neither too easy, nor too difficult, for the
 25 player meeting this limitation or not?

Page 129

1 A. It would be a system that following this
 2 limitation, it would, at that point in time,
 3 not make an adjustment. So yes, it would fit
 4 the overall concept but it's not required to
 5 make an adjustment at any given moment.
 6 Again, your time frame is, when do
 7 I have to make that adjustment?
 8 Q. So a system -- why don't you look at. I
 9 think this will be helpful if you look at
 10 Exhibit 1001, the '279 patent, claim 1, which
 11 is at column 45. Let me know when you're
 12 there.
 13 A. I'm there.
 14 Q. If you look at claim 1 at the bottom of
 15 column 45. Are you there?
 16 A. Yes.
 17 Q. One of the things that claim 1 recites is a
 18 play engine couple to the memory and
 19 operating of the Processor 2.
 20 Do you see that?
 21 A. Yes.
 22 Q. The first limitation under that play engine
 23 is to implement a first set of programmable
 24 variable parameters to provide a first game
 25 play experience, right?

Page 130

1 A. Yes.

2 Q. So that's the -- you understand, don't you,

3 that this claim is describing what that first

4 set of programmable variable parameters, a

5 first game play experience as a baseline,

6 initial gaming experience, right?

7 A. Yes. The initial gaming experience would be

8 the first set.

9 Q. That's right. And then the claim describes

10 that you can modify one or more programmable

11 variable parameters to provide a second set

12 of programmable variable parameters,

13 providing a second game play experience,

14 wherein the first game play experience

15 differs from the second game play experience.

16 Do you see that?

17 A. That is correct, yes.

18 Q. And so what's claimed here is a system that

19 can move off of the baseline or the initial

20 game play parameters to a different set,

21 correct?

22 A. Correct.

23 Q. And that, for instance, could be the

24 difficulty of the game, right, changes made

25 to adjust the difficulty of the game,

Page 131

1 correct?

2 A. Correct.

3 Q. Okay. And a little further down is the

4 limitation we're talking about which is a

5 decision coupled with the memory and

6 operating with the Processor 2.

7 Do you see that?

8 A. Yes.

9 Q. And it says, 2, Determine the selection of

10 the first or second programmable variable

11 parameter sets.

12 Now, you understand, don't you,

13 that that's a reference with respect to the

14 first set to the initial or baseline game

15 play experience, right?

16 A. Yes.

17 Q. And the second, reference to the second

18 programmable variable parameter sets is the

19 altered game play experience, something

20 changed, perhaps difficulty, as an example.

21 Yes?

22 A. That would be the -- that would be one

23 example, yes.

24 Q. Okay. Just looking for an example. Not

25 trying to lock you down to -- right.

Page 132

1 And so what this limitation is

2 saying, is you're going to select either the

3 first, which is the baseline or initial

4 programmable variable parameter set, or

5 you're going to pick the second set, which is

6 the changed experience, based on or utilizing

7 recorded game play information, right?

8 That's what it's saying?

9 A. It's going to -- it's going to utilize the

10 game play information, yes.

11 Q. To decides A, can I stay with the baseline

12 game experience, yes, the first set of

13 programmable variable parameters, right?

14 A. Yes.

15 Q. You with me?

16 A. Yes.

17 Q. Or -- or do I need to change, right?

18 A. Yes.

19 Q. So let me ask my question again. Is a system

20 that implements an initial or baseline set of

21 difficulty for the game, and then determines

22 that no change to the difficulty of the game

23 is needed because the mandated parameters are

24 being met, is it meeting this limitation of

25 determining selection of the first or second

Page 133

1 parameters?

2 MS. NGUYEN: Objection, incomplete

3 hypothetical.

4 THE WITNESS: Again, it would meet

5 the recommendations provided it has the

6 ability to change, if it had not met those

7 characteristics and not met those

8 requirements.

9 BY MR. NELSON:

10 Q. And so I take it your answer is then,

11 if -- if the system did determine on the

12 basis of recorded game play information, as

13 compared with some predefined criteria or

14 threshold, that this game is too easy or too

15 difficult for this user, it can -- it then

16 changes the difficulty of the game, it is

17 meeting this limitation, yes?

18 A. It would have to have the ability to

19 change -- change it, yes.

20 Q. So a system, a game system, that has two play

21 states, a base or initial game play state,

22 and then a higher difficulty if the game is

23 proving to be too easy, is that meeting this

24 limitation?

25 A. It would, again, depend on, you're saying two

Page 134	Page 136
<p>1 different levels of play is what you've 2 just -- of difficulty. Again, it would 3 depend on whether or not it has the ability 4 to switch between those or the criteria 5 required to switch between those to meet this 6 claim. 7 Q. But it could? 8 A. If -- if it -- if it has all those 9 requirements to switch, yeah, it doesn't 10 mean, you know, the -- a system that has this 11 capability to change doesn't necessarily have 12 to change on every given play, it will change 13 when necessary, but it must have the ability 14 to change. If it doesn't have the ability to 15 change, it does not meet this -- this 16 criteria. 17 Q. All right. Let's talk about prizing 18 structure with respect to the same 19 limitation. You discussed that in paragraph 20 185, and this is running on to page 85. Will 21 you go to page 85 for me? 22 A. Page 58, yes. 23 Q. Yeah. You write, as another example from 24 Kelly683: 25 With respect to prizing structure</p>	<p>1 practicing this limitation, yes? 2 A. Yes. 3 Q. Okay. And so does a system that has an 4 initial or base prizing table but is able to 5 alter the frequency or value of awarded 6 prizes based on a comparison of recorded game 7 play with some threshold, is that practicing 8 this limitation? 9 MS. NGUYEN: Objection, incomplete 10 hypothetical. 11 THE WITNESS: Yeah, a system that 12 is going to meet this -- this criteria has 13 the ability to adjust up or down and down in 14 the case of what you just stated. 15 BY MR. NELSON: 16 Q. Would meet this limitation, yes? 17 A. It would have to have the capability to go up 18 or down, yes. 19 Q. Okay. And in the example we're discussing 20 here with respect to the claim language of 21 their being a first variable or second 22 programmable variable parameter set, in the 23 example we're discussing, the first variable 24 parameter set would be the baseline prize 25 table, just standard play, and the second</p>
Page 135	Page 137
<p>1 as discussed in I.D. romanette i, if the 2 global payout or win ratio was too high, the 3 prizing -- or based on past wins, sorry, the 4 prizing structure can be adjusted to achieve 5 the global payout or win ratio. 6 Do you see that? 7 A. Yes. 8 Q. And so that's describing a system which, in 9 this example, is adjusting the prizing 10 structure downward in some respect in -- in a 11 new phase of game play because the global 12 payout or win ratio was too high. Is that 13 right? 14 A. That would be reasonable, yes. 15 Q. Yep. So it is either in -- I mean, this is 16 your description, so I just want to make 17 sure. You're saying that -- that the 18 Kelly683 system is describing here either 19 reducing the value of prize awards or the 20 frequency of prize awards, right? 21 A. That's two examples of what it could adjust. 22 It's not -- 23 Q. Right. 24 A. -- a whole limit of what could adjust. 25 Q. But those are two examples of -- of</p>	<p>1 variable parameter set would be the altered 2 prize table, yes? 3 A. In that case, yes, that's what -- that would 4 be the way it would probably work. 5 Q. And then at the bottom of -- of paragraph 6 495, you have this example from Kelly again 7 of the every 8,000 games, two video consoles 8 are to be awarded, and then if it is randomly 9 determined that a third video console is to 10 be awarded within e.g., the three thousandth 11 game, then a different prize can be awarded 12 so that the desired odds are better met. 13 Do you see that? 14 A. Yes. 15 Q. Is that an example, in your mind, of -- of 16 performing this limitation of determining the 17 selection of a first or a second programmable 18 variable parameter set? 19 A. That is one way in which it could be done, 20 yes. 21 Q. What is the first programmable variable 22 parameter set in this example? 23 A. Whatever the original pay table was. 24 Q. The initial or baseline? 25 A. Initial or baseline pay table, yes.</p>

Page 138

1 Q. Okay. And what's the second set of variable
 2 parameters?
 3 A. Again, where they changed or added that to,
 4 like, add a -- an additional award at 3,000
 5 games.
 6 Q. And what's the recorded game play information
 7 and what's the predefined criteria?
 8 A. Well, again, the recorded game play
 9 information is all the plays that are
 10 happening and obviously, the -- in this one,
 11 it would be the number of games played and
 12 number of games won had anyone won
 13 those -- those bonuses.
 14 Q. And what's the predefined criteria?
 15 A. Again, it's trying to meet the overall payout
 16 structure based on those number of games and
 17 determine if it's paid out enough. If not,
 18 it needs to pay out more.
 19 Q. Okay.
 20 And a system that does that, that
 21 tries to meet the overall payout criteria
 22 based on the number of games and determine if
 23 it's paid out enough, and if not, it needs to
 24 pay out more, it's practicing this
 25 limitation?

Page 139

1 A. The system would have to do that to -- to
 2 practice this limitation among everything
 3 else, yes.
 4 Q. Okay. Let's go to page 98 of Exhibit 1003
 5 from the '712 IPR. You'll see a claim 28,
 6 which is a dependent claim, at the top of the
 7 page there. Let me know when you're there.
 8 A. Okay. I'm on page 98.
 9 Q. Yeah. Thank you.
 10 And claim 28 recites the system for
 11 electronic game play of claim 1, wherein the
 12 predefined criteria is the amount of time
 13 played.
 14 Do you see that?
 15 A. Yes.
 16 Q. Okay. And -- and you understand this claim
 17 28, when it refers to "the predefined
 18 criteria," is referring to the limitation we
 19 just looked at, which is 1D2, describing,
 20 determine the selection of the first or
 21 second programmable variable parameter sets
 22 utilizing the recorded game play information
 23 with predefined criteria, right?
 24 A. It is a dependent claim from claim 1, yes.
 25 Q. Right. And so what claim 28 is saying that

Page 140

1 the pre -- is that the predefined criteria
 2 that will be used with recorded game play
 3 information is the amount of time played,
 4 right? That's going to be the predefined
 5 criteria, the threshold, right?
 6 A. That is the predefined criteria, yes.
 7 Q. Okay. The amount of time played, yes?
 8 A. Yes. The amount of time played.
 9 Q. Okay. So here, you've said that -- sorry,
 10 here we go.
 11 Paragraph 226, as discussed in 1D2,
 12 that's the section we just spent a fair
 13 amount of time on, right?
 14 Kelly683 discloses that the
 15 predefined criteria can be difficulty, which
 16 can be adjusted based on the duration of the
 17 game.
 18 Do you see that?
 19 A. Yes.
 20 Q. So here, what you've said is that the
 21 predefined criteria discloses -- Kelly
 22 discloses that the predefined criteria can be
 23 the difficulty of the game, yeah?
 24 A. It can be the difficulty of the game, yeah,
 25 based upon the duration of the game.

Page 141

1 Q. Well --
 2 A. And the duration is the amount of time
 3 played.
 4 Q. But you're -- but here, all you've said is
 5 that the predefined criteria can be
 6 difficulty, which can't -- and the difficulty
 7 can be adjusted based on the duration of the
 8 game. Right?
 9 A. No, this is saying that the duration of the
 10 game or the amount of time played is the
 11 predefined criteria and it's adjusting
 12 difficulty.
 13 Predefined criteria can be the
 14 duration of the game and difficulty, which
 15 can be adjusted based on the duration of the
 16 game.
 17 So it's adjusting the difficulty
 18 based on the duration of the game. So it's
 19 using the your overall time that's been
 20 recorded to decide that, eh, this guy has
 21 been playing too long and hasn't won
 22 anything, let's make it a little easier for
 23 him or let's make it a little harder for him.
 24 The difficulty is the item being
 25 changed, the criteria it is using is actually

Page 142

1 the duration of the game.
2 MR. NELSON: Move to strike
3 everything after the "no."
4 BY MR. NELSON:
5 Q. Sir, you said in paragraph 226:
6 Kelly discloses that the predefined
7 criteria can be difficult. And that
8 difficulty can be adjusted based on the
9 duration of the game.
10 That is literally what you said,
11 correct?
12 I'm not asking for your new
13 opinion. I'm asking what you wrote.
14 You wrote that Kelly --
15 A. That is what I said, yes.
16 Q. Okay. And you understand, don't you, yes or
17 no, that this dependent claim requires that
18 the predefined criteria be the amount of time
19 played, yes?
20 A. Yes.
21 Q. Okay. All right. Let's turn, if we could,
22 to something completely different. I would
23 like you to obtain from your counsel your
24 declaration from IPR2025710 with respect to
25 the '294 patent, will be Exhibit 1003 from

Page 143

1 the '294 patent, the 7/10 IPR.
2 Let me know when you have that.
3 A. Okay. I have that.
4 Q. And let's pull out, as well, Exhibit 1001,
5 the '294 patent itself, from IPR2025710. It
6 will be Exhibit 1001, just so you have it.
7 Do you have that in front of you?
8 A. Not yet.
9 Q. Okay.
10 A. Okay.
11 Q. Just one sec.
12 Okay. So I only put the
13 Exhibit 1001, the '294 patent in front of you
14 to make this less of a memory test.
15 Do you want to look at claim 1,
16 beginning on column 46 of Exhibit 1001?
17 Let me know when you're there.
18 A. Okay. I'm there.
19 Q. Great.
20 So do you see the start of the
21 claim 1 of the '249 patent at the top where
22 it says -- or it is at the bottom of -- of
23 column 46, where it says, One, a system for
24 affecting user experience on a user
25 communication device in a multilevel

Page 144

1 electronic game environment comprising.
2 Do you see that?
3 A. Yes.
4 Q. Okay. So let's go on to column 47. I just
5 want to remind you, I'll let you take a look
6 at the claim to remind you that this patent,
7 the '294 patent is really directed to
8 something a little bit different than the
9 claims we've been talking about, which, is
10 here, the use of -- of virtual money.
11 Does that refresh your recollection
12 as to what this patent is about?
13 A. I see that, yes.
14 Q. Okay. And, in particular, the claim recites,
15 a processor, coupled to the memory,
16 generating game play information.
17 Do you see that?
18 A. Yes.
19 Q. And it states that, A, the game play
20 information includes game play with virtual
21 money?
22 A. Yes.
23 Q. And it says that, B, the virtual money is
24 being acquired through game play and
25 purchase.

Page 145

1 Do you see that?
2 A. Yes.
3 Q. And then it says, See the virtual money
4 acquired by cash purchase being subject to a
5 multiplier.
6 Do you see that?
7 A. Yes.
8 Q. What did you understand when you were doing
9 your analysis of the prior art references,
10 the -- the phrase "virtual money acquired by
11 cash purchase being subject to a multiplier"
12 to mean?
13 A. If you'd like to go to that appropriate
14 section.
15 Q. Sure. I can help you get there if you'd
16 like. Do you want to go to page 44?
17 A. Page 44, yes.
18 Q. Yes, this is a discussion of Schneier 143,
19 one of the prior art references?
20 A. Right.
21 Q. Okay. So go ahead and look at what you need
22 to look at and tell me what you understood
23 the "virtual money acquired by cash
24 purchasing subject to a multiplier" meant.
25 A. Okay. The virtual money acquired by a cash

Page 146

1 purchase would be subject to a multiplier.
 2 Q. Yes?
 3 A. That would -- yes.
 4 As it states here, like in Schneier
 5 for -- well, first of all, it states -- '294
 6 states that, A monitoring amount may be
 7 subject to a multiplier on numerical value,
 8 such as, \$1 could equal 500 V-coins, the
 9 multiplier would be 500, obviously, there.
 10 Or it could be any -- any other usual amount
 11 of 150, 1,000, or any other amount may be
 12 used.
 13 But if you look at Schneier
 14 "virtual money acquired by cash purchase
 15 subject to multiplier," again, the number of
 16 credits the player receives per dollar may be
 17 a variable. A purchase of ten credits may be
 18 \$0.50 each, while a purchase of 20 credits
 19 may be \$0.30 each, so that is a multiplier.
 20 Q. And -- and that's the understanding of a
 21 multiplier that you apply here in doing your
 22 analysis, yes?
 23 A. A multiplier is a number in which you're
 24 converting the values from one value to
 25 another. It can be large to small or

Page 147

1 anything -- anything you want.
 2 Q. Okay. Let's take a look, then, with that in
 3 mind, at your declaration, at -- one second
 4 here, page 65 of your declaration in this
 5 '710 IPR, with respect to the '294 patent.
 6 Let me know when you're there.
 7 A. Okay.
 8 Q. Are you there?
 9 A. Yes.
 10 Q. Okay. So claim 8 recites the -- the system
 11 of claim 1, wherein the multiplier is
 12 variable over time. Is that right? Can you
 13 agree with me on that?
 14 A. Yes, I see that.
 15 Q. Okay. And what you've pointed to in
 16 paragraph 154, you say, Schneier 143
 17 discloses that the multiplier is variable
 18 over time.
 19 Specifically, Schneier discloses
 20 that the, quote, the number of credits that a
 21 player receives per dollar may also be
 22 variable. A purchase of ten credits may cost
 23 \$0.50 each, while a purchase of 20 credits
 24 may cost \$0.30 each.
 25 And you cite to -- to Schneier 143

Page 148

1 at column 63, lines 31 to 34.
 2 Do you see that?
 3 A. Yes.
 4 Q. So that -- that passage discloses that the
 5 credits that a player receives per dollar may
 6 be variable, for instance, if you -- you
 7 could use \$0.50 and get ten credits or,
 8 rather, a purchase of ten credits would cost
 9 \$0.50 each but if you want to buy more, like,
 10 the purchase of 20 credits, the individual
 11 cost drops down to \$0.30 each, right?
 12 A. Yes. That's the example I stated there.
 13 Q. Yeah. That's showing that the multiplier is
 14 variable over currency amounts or credit
 15 purchases.
 16 It isn't disclosing that the
 17 multiplier varies over time, does it?
 18 A. That is one example of where the multiplier
 19 is variable and it's variable based on the
 20 time you buy and the amount you bought it in,
 21 because not everybody buys in at the same
 22 amount.
 23 However, if we continue through the
 24 rest of the paragraph, we talk about the fact
 25 that a flowchart of updating cost information

Page 149

1 for the meter -- let's see. A variable cost
 2 option is being used in various activities to
 3 transfer or convert that -- those funds.
 4 In addition, in 156, Schneier
 5 discloses in lieu of purchasing one game,
 6 each credit may be entitled to play for a
 7 certain period of time. The multiplier can
 8 then change based on dollars spent. For
 9 instance, one credit could buy five minutes
 10 of play, while two credits may buy 12 minutes
 11 of play, for example.
 12 In addition, multiplier may change
 13 based on time. For instance, the multiplier
 14 may be reduced during a period of high
 15 demand, while also decreasing during a period
 16 of low demand.
 17 Q. Are you done with your testimony?
 18 A. Hmm?
 19 Q. Are you done with your testimony? I don't
 20 want to cut you off.
 21 A. Yes.
 22 Q. So let's start with that last sentence you
 23 read to me, and I think you read it
 24 accurately.
 25 You don't cite anything for that

Page 150	Page 152
<p>1 principle that, for instance, the multiplier 2 may be reduced during a period of high demand 3 while also increased during a period of low 4 demand. 5 There's -- you have no citation to 6 Kelly for that, do you -- or, excuse me, to 7 Schneier for that -- 8 A. Schneier. 9 Q. -- do you? 10 I'm only asking the question 11 looking at your declaration. You don't cite 12 anything, do you, there? 13 I'm not asking you to find it. I'm 14 asking if you cite it in your declaration. 15 A. I don't have a citation on that specific 16 line, but I don't know whether it may or may 17 not be included in these other citations, so 18 I'd have to look those up. 19 Q. Understood. Let's -- let's keep moving 20 backwards then, in paragraph 156. 21 You -- you -- you read me this 22 quote that Schneier 143 also discloses that 23 in lieu of purchasing one game, each credit 24 may entitle the player to play for a certain 25 period of time. The multiplier can change</p>	<p>1 change on base. 2 The other section here above that, 3 in the -- I think it refers to it as variable 4 cost mode, starting here at, for example, 5 Schneier explains that it -- describe the 6 meter, 502, can determine the price per game 7 credit from data instructions associated with 8 the central control block, which is the 9 central system, of the game program, the 10 price per game may store within the 11 value -- with the meter's nonvault memory and 12 can be manipulated with codes from the 13 central computer to alter or change the 14 pricing structure, for particular games via 15 updating cost information protocol as 16 described above, and going through the rest 17 of this, these other sections, the discovery 18 of the flowchart for updating the cost 19 information from the server where it is 20 changing the updated cost to make it variable 21 over a period of time and discloses that this 22 protocol is used to change the amount that 23 can be for a given period of time or given 24 amount of credits produced. 25 So it is a method, it is also</p>
Page 151	Page 153
<p>1 based on dollars spent, for instance, one 2 credit may buy five minutes of play, while 3 two credits may buy 12 -- buy 12 minutes of 4 play, okay? 5 So this section of Schneier is 6 describing the amount of time that may be 7 purchased with credits, correct? The amount 8 of playtime that may be purchased with 9 credits, correct? 10 A. Wrong column here. No, that doesn't make 11 sense. 12 Q. Would it be useful to have Schneier in front 13 of you? I can get that in front of you, sir. 14 A. I have Schneier in front of me now. 15 Okay. Schneier does indicate, like 16 I said, the -- there is a -- that it is 17 variable over time, "time" being a relative 18 term, that you may be playing the game where 19 it's -- you're able to, at that time, buy 20 additional credits, and based on the amount 21 of your purchase. 22 Again, also in 156, it is talking 23 about, the multiplier can change based on how 24 much you spend. One credit can buy 5 minutes 25 of play, or two minutes for 12. And that can</p>	<p>1 showing a method where that can change based 2 on instructions from the -- through the 3 central control system. So it is showing an 4 option where no matter what -- whatever time 5 frame it is happening, it may have a variable 6 multiplier. 7 Q. Well, that was a mouth full, Mr. Crevelt, and 8 I appreciate your efforts to salvage this 9 section. 10 Let's start with 156, okay? 11 First of all, looking at paragraph 12 156, that quoted language, that is not a 13 quote from Schneier 143, is it? 14 MS. NGUYEN: Objection, vague. 15 THE WITNESS: I believe that's in 16 there someplace. 17 BY MR. NELSON: 18 Q. Let's look at column 63, lines 43 to 45 of 19 Schneier. 20 A. Yeah. 21 Q. That's where you said -- you say it is, 22 right? 23 A. (No verbal response.) 24 Q. Are you there? 25 A. Yeah, I'm getting there -- to it.</p>

Page 154

1 Q. That section does not say that the multiplier
 2 can change based on dollars spent, does it?
 3 A. This says one credit may buy -- it says, in
 4 lieu of purchasing one game or the play of a
 5 game, which would be a normal credit, each
 6 credit may entitle the person to play for a
 7 certain period of time. The credit may buy
 8 five minutes while the play -- two credits
 9 may buy 12 minutes of play.
 10 As described above, the meter
 11 502 -- okay. That's the next -- that's the
 12 next section.
 13 Q. Yep. And so let's look at your paragraph
 14 156. Schneier 143 does not say a multiplier
 15 can change based on dollars spent.
 16 You added that, right?
 17 A. Here, the multiplier is being change based on
 18 the amount of time being purchased.
 19 Q. Well, my question was different. I
 20 appreciate that answer, sir. But my question
 21 is: Schneier doesn't ever say in either
 22 column 63, lines 42 to 45 that quote, the
 23 multiplier can change based on dollars spent,
 24 end quote. That's not from Schneier,
 25 correct?

Page 155

1 A. Okay. That statement, multiplier can change
 2 based on dollars spent should be outside of
 3 the quotes. The quote should be on both ends
 4 of it.
 5 Q. Okay. That's -- thank you.
 6 So that was just a mistake, right?
 7 A. Yeah, that should -- that statement
 8 is -- should not be within the quotes, you're
 9 right.
 10 Q. Yeah. And -- and you agree that -- that
 11 Schneier 143 never uses the term "multiplier"
 12 in connection with purchases of virtual
 13 currency, correct?
 14 A. (No verbal response.)
 15 Q. Maybe a fairer question is: You're not aware
 16 of it? It saying that, correct?
 17 A. I cannot say that at this point.
 18 Q. Okay. And this discussion that you presented
 19 in which Schneier discusses that, you know,
 20 one credit might buy five minutes of play and
 21 two credits might buy 12 -- 12 minutes of
 22 play, that's a discussion of how much
 23 playtime can be purchased through a credit,
 24 correct?
 25 Yes or no?

Page 156

1 A. That is about playtime that you can purchase,
 2 that's one of the examples, yes.
 3 Q. Okay. But the claim limitation requires that
 4 the multiplier vary over time. Those two
 5 scenarios are happening right in one instant,
 6 right? You can either buy five minutes of
 7 play or you can buy 12 minutes of play,
 8 right?
 9 A. Well, Schneier is showing multiple
 10 embodiments of this and in multiple -- and in
 11 the system, depending on your system, you may
 12 be able to, at one time, buy at a given
 13 price, fixed price. You may be able to buy
 14 by time. Or you may be able to use this
 15 variable transfer and credit variable costs.
 16 Q. I'm just asking about --
 17 A. So because of that --
 18 Q. -- this example.
 19 A. -- my -- my analysis is because Schneier does
 20 show different ways that you can make these
 21 credits at different times, at different
 22 times during playing, that it would qualify,
 23 it would meet this claim limitation.
 24 Q. Well, you called this quote -- or misquote an
 25 embodiment, didn't you? It's an embodiment

Page 157

1 of the idea of a multiplier varying over
 2 time, so let's just talk about this purported
 3 embodiment.
 4 One credit may buy five minutes of
 5 play while two credits may buy 12 minutes of
 6 play. That's, right now, in one instant,
 7 right, that you can -- you have a choice, you
 8 can either --
 9 A. That's within a given time frame.
 10 Q. -- send one credit -- yeah.
 11 A. In another time frame it may be based on
 12 whatever credit, how much you buy, how many
 13 credits you get.
 14 The multiplier embodiments in this
 15 is something that Schneier is showing, you
 16 have multiple ways you can do this and the
 17 person skilled in the art know they could
 18 implement any or all of these at any given
 19 time.
 20 Q. Sir, you -- you are haven't pointed to
 21 anything in your declaration, saying that
 22 this example, given by Schneier, can be
 23 different at different times, have you?
 24 A. I --
 25 Q. You pointed to the original text, which you

<p style="text-align: right;">Page 158</p> <p>1 misquoted, and then you add this thing about, 2 "the multiplier can change based on time" 3 without any citation at all, correct? 4 A. All right, figure 19 in Schneier does talk 5 about updating cost information and variable 6 cost for metered type play. 7 This is where you have a metered 8 amount of time or credits transferred to you 9 to play from the central computer system, and 10 if -- the discussion of figure 19 is quite 11 extensive in here, and spends a lot of time 12 on communications protocol and security. 13 But, in essence, it is describing 14 where, in one option, the value of what you 15 buy into is either -- can be metered play or 16 metered time or metered games and that can 17 change over time based on this updated 18 information that the central system is 19 sending. 20 And so if you run out of time, you 21 then have to buy more. And such time -- or 22 run out of credits, you'd have to buy more. 23 And whatever latest price from that 24 updated cost information coming from the 25 central site is -- is variable, it's variable</p>	<p style="text-align: right;">Page 160</p> <p>1 time to time, do you? 2 A. No, I disagree. Section 155 discusses a very 3 complicated method of metered play where that 4 cost varies over time based on the central 5 system's control. 6 So 155 is an entire page, 7 paragraph, describing that basic 8 functionality. 9 Q. And you'll show me in paragraph 155 where it 10 says that this varies over time, I assume? 11 A. If you look -- 12 Q. Let's do -- 13 A. -- figure 19, it talks about updating the 14 cost information from the central computer 15 for metered programs that the player is 16 using, and the entire section, we can go from 17 the description of figure 19, which starts at 18 basically the top of column 56 in the 19 Schneier patent, and goes to, it's figure 21, 20 so it must be -- to number 29 on column 56, 21 describes this process in detail of how the 22 information is transferred from one place to 23 the other and updated. 24 It's very highly technical in the 25 encryption and communications pieces, but is</p>
<p style="text-align: right;">Page 159</p> <p>1 as time proceed. It's a -- it's a, much of a 2 complicated section, and -- but the 3 information is in the Schneier patent and 4 shows that it could have -- it should change 5 over time. 6 Q. Are you done? Are you finished? 7 A. Yes. 8 Q. Okay. I applaud your effort on that one. 9 Let's look at what you actually said in your 10 declaration, though, because that's what 11 matters, right. 12 MR. NELSON: And move to strike 13 anything that is not recited in your 14 declaration. 15 BY MR. NELSON: 16 Q. Your declaration never -- 17 MS. NGUYEN: And -- go ahead and 18 move to strike but please hold off on 19 commentary. 20 MR. NELSON: Decline to hold off. 21 BY MR. NELSON: 22 Q. But let's look at paragraph 156 or anything 23 in this section. You point to no disclosure 24 that the value of a multiplier for the cash 25 purchase of virtual currency is variable from</p>	<p style="text-align: right;">Page 161</p> <p>1 showing that it is updating that cost value 2 that is being used to -- for a metered play 3 where you're buying so much time or so many 4 credits or so many games on a specific game 5 and when it runs out, then have you to buy 6 more, and that variable can change over time. 7 Q. You have not pointed me to a single word of 8 any of disclosure of Schneier that that 9 multiplier changes over time, have you? 10 A. I disagree with you. 11 Q. Did you use the word "time"? Did you point 12 me to any disclosure of the -- of the 13 multiplier changing over time? 14 A. The entire description of 19 talks about 15 changing that metered value and changing that 16 metered value from a central site, which 17 means it can change over time. 18 Q. Nowhere in any part of Schneier is the word 19 or the words that this credit cost changes or 20 can change over time? You haven't pointed me 21 to a single thing. Here's your last chance. 22 MS. NGUYEN: Objection, asked and 23 answered. 24 BY MS. NGUYEN: 25 Q. Last chance, sir --</p>

Page 162

1 A. I believe --
 2 Q. Show me where it says variable over time?
 3 A. I believe I have answered that question.
 4 Q. Do you also agree that you've not shown me
 5 the presence of the word "time" or even the
 6 concept of airing over time?
 7 A. I believe I have answered question.
 8 Q. Last chance, sir. The Board is going to see
 9 this. Where does it say that this process
 10 that you've described at length and told me
 11 it was too technical for me to understand
 12 describe varying the multiplier for cash
 13 purchase of virtual currency over time?
 14 A. I believe I have answered that question.
 15 MS. NGUYEN: Mischaracterizes the
 16 testimony.
 17 Go ahead.
 18 THE WITNESS: Again, I believe I
 19 have answered that question.
 20 BY MR. NELSON:
 21 Q. You see the word "time" in anything you've
 22 presented or read to me?
 23 A. I believe I have answered the question.
 24 Q. Sir, it's a different question. Where in the
 25 presentation you just gave me over several

Page 163

1 minutes did the word "time" appear or even
 2 the concept of varying a multiplier over
 3 time?
 4 A. Again, I have answered that question.
 5 Q. Sir, last chance. Where in your description
 6 or Schneier is a disclosure that it varies
 7 over time using --
 8 A. I've answered that question.
 9 Q. -- that concept?
 10 A. I've answered that question.
 11 Q. Do me a favor and tell me again where it says
 12 "time." Just as a courtesy.
 13 A. Is that the last, last, last, last, last
 14 chance? I'm sorry, I have answered that
 15 question.
 16 Q. So as you sit here today, you cannot point to
 17 any disclosure of time as the thing that
 18 determines the variance in the multiplier,
 19 you haven't, have you?
 20 A. I have answered that question.
 21 Q. Time is not expressively mentioned in
 22 anything you've pointed to, is it?
 23 A. Again, I have answered that question.
 24 Q. That's not a question you've answered. Can
 25 you answer my question, sir?

Page 164

1 A. I believe I have --
 2 Q. Time is not expressly mentioned in anything
 3 you have pointed me to?
 4 A. Again, I believe I have answered that
 5 question.
 6 Q. If you did, what's the answer? Is it
 7 expressly mentioned in your declaration or
 8 not?
 9 A. I have answered that question.
 10 Q. Is it expressly mentioned in Schneier 143,
 11 the concept of varying over time?
 12 A. I have answered that question.
 13 Q. Well, we're going to have to reconvene this
 14 deposition and if your counsel can't
 15 remonstrate with you to answer my question.
 16 Is that what you want?
 17 A. I have answered that question.
 18 Q. So what's the answer? If it's that simple
 19 and have you it clearly in your head, what's
 20 the answer?
 21 A. Again, I believe I have answered that
 22 question.
 23 Q. Well, what's the answer? What is the answer?
 24 I have searched in vain for an answer to the
 25 question. I can look now over five minutes

Page 165

1 of testimony, do you or can you point to any
 2 expressed disclosure of varying a multiplier
 3 over time?
 4 A. Again, I believe --
 5 Q. Yes or no?
 6 A. -- I have answered that question.
 7 Q. And so what is the answer? Yes or no? Is
 8 there a processing problem? Do you not
 9 understand the question?
 10 A. Again, I have answered the question.
 11 Q. And so what is your answer?
 12 A. (No verbal response.)
 13 Q. You agree with me, don't you, that there is
 14 no expressed disclosure in Schneier 143 of
 15 varying the multiplier associated with a cash
 16 purchase of virtual currency that varies over
 17 time. That word is never mentioned. You
 18 agree, don't you?
 19 MS. NGUYEN: Objection,
 20 mischaracterizes the witness's testimony.
 21 THE WITNESS: Again, I believe I
 22 have answered the question.
 23 BY MR. NELSON:
 24 Q. What's the answer?
 25 MR. NELSON: We've been going for

Page 166

1 almost an hour and a half, so whenever you're
 2 ready for a break.
 3 MS. NGUYEN: No, we're going to
 4 keep going until we get an answer.
 5 BY MR. NELSON:
 6 Q. Where is it if it is expressly, where is it
 7 in Schneier 143 --
 8 MS. NGUYEN: Counsel--
 9 BY MR. NELSON:
 10 Q. -- the concept, varying over time?
 11 MS. NGUYEN: Counsel, I'm going to
 12 object. Asked and answered. You can look
 13 through the testimony, through the
 14 transcript.
 15 MR. NELSON: I have and there is
 16 no --
 17 MS. NGUYEN: But, you know, once we
 18 get to an hour and a half, we're going to
 19 take a break.
 20 BY MR. NELSON:
 21 Q. Sir, yes or no, is there an express
 22 disclosure in Schneier 143 that the
 23 multiplier for the purchase of virtual
 24 currency varies from time to time?
 25 A. I have answered that question. It may not be

Page 167

1 to your satisfaction, but I believe I have
 2 answered that question.
 3 Q. Please point me to where in Schneier 143 that
 4 express disclosure is made.
 5 A. Again, I have answered that question.
 6 Q. That's a new question. Please point to me
 7 where in Schneier 143 that disclosure is
 8 made.
 9 A. Again, I have answered that question.
 10 Q. Sir, where in Schneier 143 is there an
 11 express disclosure of the use or the variance
 12 of a multiplier for the virtual purchase or
 13 the cash purchase of virtual currency that
 14 varies from time to time, where?
 15 A. Again, I believe I've answered that question.
 16 Q. Is there one?
 17 MS. NGUYEN: Objection, vague.
 18 BY MR. NELSON:
 19 Q. Is there such an express disclosure? Yes or
 20 no?
 21 A. I have answered that question.
 22 Q. Yes or no, sir. Is there such a disclosure
 23 in Schneier 143?
 24 A. I have answered that question, yes.
 25 Q. And the answer is "yes," there is such a

Page 168

1 disclosure?
 2 A. I have answered the question.
 3 Q. And what -- where is it?
 4 A. I have answered that.
 5 Q. Where is it? We're going to seek sanctions
 6 if you cannot answer this simple question
 7 and --
 8 MS. NGUYEN: Counsel.
 9 BY MR. NELSON:
 10 Q. -- and the sanction will be at least payment
 11 of --
 12 MR. NELSON: Excuse me. I'm not
 13 finished. I'm not finished.
 14 MS. NGUYEN: We're going to take a
 15 break but you're asking the same question in
 16 different ways, so --
 17 MR. NELSON: And to which I have
 18 never received an answer.
 19 MS. NGUYEN: -- seven hours but --
 20 MR. NELSON: We'll go seven
 21 hours --
 22 MS. NGUYEN: I'm going to --
 23 MR. NELSON: We'll go seven hours
 24 on this because we're either going to get an
 25 answer to the question or we're not.

Page 169

1 MS. NGUYEN: He answered the
 2 question.
 3 MR. NELSON: And if we don't --
 4 MS. NGUYEN: He answered the
 5 question.
 6 MR. NELSON: Can you point to me
 7 where he answered the question?
 8 MS. NGUYEN: So you may not like
 9 his answer but asking it ten different ways
 10 is not going to make him change it.
 11 MR. NELSON: Can you show me where
 12 he answered that question?
 13 MS. NGUYEN: You can look back at
 14 the transcript.
 15 MR. NELSON: There is no such
 16 answer.
 17 MS. NGUYEN: And you can --
 18 MR. NELSON: We'll stay on for
 19 seven hours.
 20 MS. NGUYEN: You can point that out
 21 in your PRO and we will respond accordingly.
 22 MR. NELSON: No. There is no
 23 answer to my questions.
 24 MS. NGUYEN: There was an answer to
 25 your question.

Page 170

1 MR. NELSON: So we're either going
 2 to get an answer or we're not.
 3 MS. NGUYEN: There was an answer to
 4 your question.
 5 MR. NELSON: So where is the
 6 answer?
 7 MR. NGUYEN: So we have going for
 8 an hour and a half. We're going to take a
 9 break --
 10 MR. NELSON: We're going to go for
 11 seven hours --
 12 MS. NGUYEN: -- because --
 13 MR. NELSON: -- until we get an
 14 answer to this question. And I --
 15 MS. NGUYEN: We will move for fees
 16 for you asking the same question that he
 17 already answered.
 18 MR. NELSON: I urge you to do your
 19 best to avoid sanctions here. Remonstrate
 20 with your client and get an answer to my
 21 question, and when he comes back --
 22 MS. NGUYEN: He has answered the
 23 question.
 24 MR. NELSON: -- he's going to give
 25 me an answer.

Page 171

1 MS. NGUYEN: He has.
 2 MR. NELSON: No, he's not. He's
 3 just repeated the --
 4 MS. NGUYEN: He has answered the
 5 question.
 6 MR. NELSON: If you leave the
 7 deposition, I'm going to hold the deposition
 8 open and note that --
 9 MS. NGUYEN: That's fine.
 10 MR. NELSON: -- you left.
 11 MS. NGUYEN: That's fine.
 12 MR. NELSON: Go ahead.
 13 MS. NGUYEN: Because he answered --
 14 MR. NELSON: Go ahead.
 15 MS. NGUYEN: -- the question and
 16 you're trying to get him to change his answer
 17 and he won't change --
 18 MR. NELSON: I have no answer to
 19 the question of where there is an express
 20 disclosure --
 21 MS. NGUYEN: And he answered that.
 22 MR. NELSON: -- of variables over
 23 time?
 24 No, there isn't -- there is no such
 25 answer.

Page 172

1 MS. NGUYEN: He did.
 2 MR. NELSON: I encourage you.
 3 Let's take 15 minutes. You can go look and
 4 you can tell me where you think that answer
 5 is. It is not there.
 6 MS. NGUYEN: You can point that out
 7 in your motion. If you're going to move, go
 8 ahead and move. We will respond accordingly.
 9 MR. NELSON: Sure.
 10 MS. NGUYEN: And I don't have a
 11 real-time feed, so...
 12 BY MR. NELSON:
 13 Q. So, sir --
 14 MS. NGUYEN: We're taking a break.
 15 BY MR. NELSON:
 16 Q. Where --
 17 MS. NGUYEN: We're taking a break.
 18 BY MR. NELSON:
 19 Q. -- in --
 20 MS. NGUYEN: It has been an hour
 21 and a half.
 22 BY MR. NELSON:
 23 Q. Where in the disclosure of Schneier 143 is
 24 there an express reference to varying this
 25 purchase --

Page 173

1 MS. NGUYEN: We are taking -- going
 2 to take a break.
 3 BY MR. NELSON:
 4 Q. -- from time to time.
 5 MS. NGUYEN: We're going to take a
 6 break. You've asked the same question for
 7 the last 15 minutes. We are taking a
 8 break --
 9 BY MR. NELSON:
 10 Q. Where is it, sir?
 11 MS. NGUYEN: We've been going for
 12 an hour and a half.
 13 BY MR. NELSON:
 14 Q. Where is it, sir?
 15 A. I have answered that question.
 16 Q. And just tell -- it's -- is there a
 17 problem with answering --
 18 MS. NGUYEN: I'm need to take a
 19 break. I really need to go to the restroom.
 20 I'm sorry. We need to take a break.
 21 BY MR. NELSON:
 22 Q. Is there a problem with answering the
 23 question, sir?
 24 MS. NGUYEN: He's already answered
 25 the question. We need to take a break. We



Page 174

1 have been going for an hour and half and I --
 2 I'm sorry, I really need to go to the
 3 restroom.
 4 MR. NELSON: Let's -- let's take a
 5 10-minute break then.
 6 MS. NGUYEN: Thank you.
 7 THE VIDEOGRAPHER: We are off the
 8 record at 3:44.
 9 (Whereupon, a break was taken.)
 10 THE VIDEOGRAPHER: We are on the
 11 record at 3:53.
 12 BY MR. NELSON:
 13 Q. Okay. Mr. Crevelt, have you had a change of
 14 heart? Are you willing to tell me where in
 15 Schneier 143 you see an express disclosure
 16 that the multiplier for cash purchases of
 17 virtual currency is variable over time?
 18 MS. NGUYEN: Objection,
 19 argumentive, asked and answered.
 20 THE WITNESS: I have already
 21 answered that question.
 22 BY MR. NELSON:
 23 Q. And I looked back over the testimony and I
 24 asked you about ten different times to tell
 25 me, just point to me, where such a disclosure

Page 175

1 is in Schneier 143 of an express statement
 2 that the multiplier for cash purchases for
 3 virtual currency are variable over time?
 4 And you just repeated the same
 5 thing again. Are you comfortable with that
 6 answer?
 7 A. I have answer -- I have answered the
 8 question, yes.
 9 Q. That -- that's not my question. Are you
 10 comfortable with what you said -- testified
 11 about today?
 12 A. I'm comfortable with the answer I have
 13 previously given, yes.
 14 Q. And would you just remind me what the answer
 15 is?
 16 A. I have answered that already.
 17 Q. And what is the answer?
 18 A. Again, I have answered it.
 19 Q. And the answer is no, there is no express
 20 disclosure, correct?
 21 A. I have answered the question.
 22 Q. That's a different question. The answer to
 23 my question that you've given is no, there is
 24 no express disclosure in Schneier 143 that
 25 the cash purchase of virtual currency has a

Page 176

1 multiplier that can vary over time, right?
 2 A. I have already answered that question.
 3 Q. That's a different question. Do you agree
 4 with my statement, there is no express
 5 disclosure in Schneier 143 that a multiplier
 6 for cash purchase of virtual currency can
 7 vary over time. Agree or disagree?
 8 A. I agree. I have answered that question that
 9 it does.
 10 Q. It does, in your mind, disclose explicitly
 11 the concept of time as being the same over
 12 which a multiple varies? That's your
 13 opinion.
 14 A. I have answered that question.
 15 Q. And your answer is "yes," it does explicitly
 16 disclose that is?
 17 A. I have answered that it does disclose it,
 18 yes.
 19 Q. And the only thing left is where does it
 20 disclose it? Where does it disclose that?
 21 Explicitly?
 22 A. I have answered that.
 23 Q. Can you just tell me, where does it expressly
 24 disclose that?
 25 A. I have not --

Page 177

1 Q. You're not getting an objection about asked
 2 and answered. You're just refusing to answer
 3 the question.
 4 A. No, I --
 5 MS. NGUYEN: Objection, repetitive.
 6 THE WITNESS: I have already
 7 answered that question.
 8 BY MR. NELSON:
 9 Q. And where is it? If it's -- if you're sure
 10 you've answered it, it can't be difficult for
 11 you to say, I answered it when I said X,
 12 here, in this part of Schneier 143. Can you
 13 do that?
 14 A. I answered it when I described my testimony
 15 as listed on those pages, including 155,
 16 paragraph 155, so yes, I have answered that.
 17 Q. Paragraph 155. Can you show me in paragraph
 18 155 an express disclosure from Schneier 143
 19 of varying the multiplier over time?
 20 A. Again, I have --
 21 Q. In paragraph--
 22 A. -- already answered that.
 23 Q. You have not, sir. Paragraph 155, it is a
 24 different question.
 25 In paragraph 155 in your

Page 178	Page 180
<p>1 declaration, where do you point to an express 2 disclosure of variance over time? 3 A. I have answered that -- 4 MS. NGUYEN: Objection, 5 argumentive. 6 THE WITNESS: I have answered that 7 in the past. Yes, I have answered that. 8 BY MR. NELSON: 9 Q. No, sir. You have not -- that is a different 10 question. Let's look at paragraph 155 11 together. 12 Are you there? 13 A. I have -- I have answered question. 14 Q. Sir? 15 A. And 155 describes the technique and the 16 technology used to vary the metered value for 17 metered play over a period of time. 18 Q. Where in -- 19 A. That's clearly laid out in figure 19, and in 20 the description of that, that I have 21 previously given you in Schneier. 22 So yes, I have answered the 23 question. It's there. You may not like it, 24 but that's my answer. 25 Q. Sir, in paragraph 155, where do you point to</p>	<p>1 paragraph 155 and I'm going to read, and 2 we're going to do it a little differently. 3 The moment you hear an express disclosure 4 from that reading of varying the multiplier 5 over time, I ask you to stop me, okay, 6 interrupt me and just stop me, okay? 7 You ready? 8 MS. NGUYEN: Objection, vague. 9 BY MR. NELSON: 10 Q. Schneier 143 explains that, as described 11 above, the meter 502 can determine the price 12 per gain credit from the data or instructions 13 associated with software control block 706 of 14 game program 26. 15 The price per game may be stored 16 within the meter's 502 nonvolatile memory and 17 can be manipulated with codes from the 18 central computer 12 to alter or change the 19 pricing structure for particular games via 20 the updating cost information protocol 21 described above. 22 You haven't stopped me yet. 23 X1008 at 634552, emphasis added. 24 Figure 19 of Schneier 143 discloses, quote, a 25 flowchart of an updating cost information</p>
Page 179	Page 181
<p>1 a disclosure that it varies over time, 2 express disclosure? 3 A. I just answered that. 4 Q. You did not, sir. You -- you mentioned a 5 bunch of gobbledygook about paragraph 19. 6 I'm asking you where in paragraph 7 155 do you point to an express disclosure in 8 Schneier of the multiplier varying from one 9 time to another? 10 MS. NGUYEN: Objection. 11 BY MR. NELSON: 12 Q. That's my question. 13 MS. NGUYEN: Argumentive, 14 mischaracterizes the witness's testimony. 15 BY MR. NELSON: 16 Q. If I got it wrong, tell me, sir. Where do 17 you do it? 18 A. I answered that question. 19 Q. And the answer that you gave is that I can 20 find it in paragraph 155? 21 A. Again, I have answered that question. 22 Q. Is that right? I can find it in 155? 23 A. Everything referenced is there in 155, yes. 24 Q. Okay. Sir, I've got a different question for 25 you. I'm going to start at the top of</p>	<p>1 protocol for the meter, period, end quote. 2 Exhibit 1008 at 948 to 49, emphasis added. 3 See also id at figure 19. 4 In a section titled, quote, Updating cost 5 information, parenthesis, optional variable 6 costs, end parentheses, parentheses, figure 7 19, end parentheses, Schneier 143 discloses 8 that this protocol is used when the meter 9 requires updated cost information from the 10 central computer 12 for meter programs 503 11 that the player is currently using, period, 12 end quote. 13 You haven't stopped me yet. 14 A. That -- 15 Q. Exhibit -- 16 A. -- paragraph as written, as -- as you read 17 describes the entire procedure, including the 18 references to figure 19 and its description, 19 and that is how the system does it. 20 Q. And nowhere in there was there a description 21 of varying the multiplier over time, is 22 there? 23 A. That's the process it's describing, updating 24 the cost and information in variable timing. 25 That is updating the variable -- updating the</p>

Page 182

1 metered value, which is your transfer, your
 2 multiplier, essentially, for over time. The
 3 system does do that. And it's described very
 4 clearly there and in greater detail in the
 5 description of figure 19, which I have
 6 previously identified to you.
 7 Q. Well, that wasn't so hard, was it?
 8 MR. NELSON: Okay. I have no
 9 further questions. Thank you for your time.
 10 MS. NGUYEN: Nothing for me.
 11 THE VIDEOGRAPHER: Before we go off
 12 the record, Mr. Nelson, would you like your
 13 video synced today with transcript?
 14 MR. NELSON: No. God no.
 15 THE VIDEOGRAPHER: All right.
 16 Ms. Nguyen, would you like to order a copy of
 17 the transcript and/or the video?
 18 MS. NGUYEN: The transcript.
 19 THE VIDEOGRAPHER: Okay.
 20 Ms. Heichert, anything you need on the record
 21 before we go off?
 22 THE COURT REPORTER: I think I'm
 23 good. Thank you.
 24 THE VIDEOGRAPHER: All right. We
 25 are off the record at 4:03.

Page 183

1 (Deposition concluded at 4:03 p.m.)
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Page 184

1 STATE OF MINNESOTA)
 2)
 3 COUNTY OF SCOTT)
 4)
 5 Be it known that I took the
 6 deposition of DWIGHT CREVELT on December 19,
 7 2025
 8 That I was then and there a notary
 9 public in and for the County of Scott, State
 10 of Minnesota, and that by virtue thereof I
 11 was duly authorized to administer an oath;
 12)
 13 That the witness before
 14 testifying was by me first duly sworn to
 15 testify the whole truth and nothing but the
 16 truth relative to said cause;
 17 That the testimony of said
 18 witness was recorded in stenotype by myself
 19 and transcribed into typewriting under my
 20 direction, and that the deposition is a true
 21 record of the testimony given by the witness
 22 to the best of my ability;
 23)
 24 That I am not related to any of
 25 the parties hereto nor interested in the
 outcome of the action;
 Witness my hand and seal this
 24th day of December, 2025.
 STACI A. HEICHERT
 COURT REPORTER



A			
ability	8:7 149:24	Adding	affecting
43:20,21 87:18	achieve	62:17 87:19	89:22 143:24
109:20 120:7	14:1 39:7,25 41:7	addition	after
127:19 133:6,18	42:1 50:9 51:15,21	149:4,12	4:16 59:7 88:4 142:3
134:3,13,14 136:13	52:11 53:9,23 54:8	additional	again
184:13	54:21 55:2,14,16,20	16:20 71:6 138:4	11:18 26:8,13,18
able	56:20 58:15,18 59:5	151:20	30:23 32:19 34:21
136:4 151:19 156:12	60:3,10 62:15 63:11	addressing	35:9,20 37:8 38:5
156:13,14	70:17,17 84:10,19	14:14,19	43:20 44:3 46:18,25
about	85:5,18 86:18 87:4	adjust	50:11 54:10,12,13
7:18 9:21 12:2 19:8	87:12 88:13 89:15	27:12 41:6 55:11	54:23 55:7 56:4
23:13 36:25 47:11	90:12 102:16 135:4	70:16 78:7 79:2	57:21,25 58:6 59:7
52:23 53:5 57:7	achieved	80:8 83:1,19 84:3	59:21 61:16,23
59:14 60:19 66:3,12	18:14 40:17 42:15	88:17,19 114:3	62:10 64:5,17 66:20
67:12 68:14 77:23	76:17 77:7 86:9	122:17 124:17	67:11 68:23 69:1
78:15 79:18 84:6	92:22	130:25 135:21,24	70:8,14,17 76:14
89:8 92:19 104:7,20	achieves	136:13	78:20 79:11 84:18
108:6 112:20	81:13	adjustable	85:13 87:14,20
113:18 117:2,3,3	acquainted	95:13,19,24 96:8	90:17 96:17,20
125:21 131:4	10:8	adjusted	97:23 103:14 104:7
134:17 144:9,12	acquired	43:4 44:19 50:2,22	106:11,18 107:12
148:24 151:23	144:24 145:4,10,23	51:14 98:1,3,4	109:13 112:4
156:1,16 157:2	145:25 146:14	113:7 122:15,22	113:22 115:16
158:1,5 160:13	acronym	124:11 126:2,14	116:8,25 117:13,17
161:14 174:24	25:20,21,25 26:8	135:4 140:16 141:7	122:20 123:4
175:11 177:1 179:5	across	141:15 142:8	127:18 128:15
above	26:25 30:22 45:21	adjusting	129:6 132:19 133:4
31:6 38:24 60:13	46:5,15 55:25 58:14	40:18 42:15 43:10	133:25 134:2 137:6
152:2,16 154:10	59:4 108:24	44:10 46:10 50:24	138:3,8,15 146:15
180:11,21	action	53:5 84:9 86:9,16	151:22 162:18
absolutely	43:2 48:13,24 122:17	87:10 102:1 135:9	163:4,11,23 164:4
36:17 44:1 64:24	184:15	141:11,17	164:21 165:4,10,21
81:1	Activision	adjustment	167:5,9,15 175:5,18
acceptable	1:5 2:2 4:5 5:5	81:14 84:6 129:3,5,7	177:20 179:21
83:8	activities	adjustments	against
accomplish	84:2 149:2	53:7	128:21
54:25 63:23 64:3	actual	adjusts	AgileLaw
accordance	14:21	43:16 44:12 54:18	11:16
126:17	actually	55:12 127:7	ago
according	35:13 37:24 64:11	administer	46:9
23:8	93:8 141:25 159:9	184:7	agree
accordingly	add	advance	30:13 34:13 45:17
66:8 169:21 172:8	62:19 138:4 158:1	80:1	61:7 106:23 110:12
accurately	added	affect	126:7 147:13
	138:3 154:16 180:23	86:11,22 87:18 88:18	155:10 162:4
	181:2	89:12	165:13,18 176:3,7,8



agreement 116:20	125:13 147:21 149:15 150:3,22 151:22 152:25 162:4 181:3	analyzed 68:19 112:25 119:11	176:2,8,14,17,22 177:2,7,10,11,14,16 177:22 178:3,6,7,13 178:22 179:3,18,21
ahead 62:9 73:21 91:18,20 145:21 159:17 162:17 171:12,14 172:8	alter 136:5 152:13 180:18	analyzes 127:14 128:20	answering 173:17,22
airing 162:6	alteration 119:19 120:3	analyzing 71:23,25 79:7 82:22 117:20	any 7:18 8:6 9:7 10:2,11 10:20,24 20:8 31:25 34:11 35:18 36:1 37:1,3 50:25 55:4 59:12 67:20 70:16 73:5,7 79:11 87:20 89:3,20 90:11,20,20 90:21 92:25 109:13 111:20 129:5 146:10,10,11 157:18,18 158:3 161:8,12,18 163:17 165:1 184:14
algorithm 98:7	altered 89:4 131:19 137:1	and/or 61:3,10 115:20 116:15 182:17	anyone 22:21 34:7 138:12
all 2:23 5:2 6:9,12 8:1 63:9 67:2 73:13 74:25 76:5 80:9 85:21 87:24 88:15 89:17,19 95:16 106:23 110:8 112:23 115:17 117:13 134:8,17 138:9 141:4 142:21 146:5 153:11 157:18 158:3,4 182:15,24	altering 43:14 49:3 57:10,11 64:2 107:17	another 17:7 29:11 68:20 114:12 117:18 121:8,15 134:23 146:25 157:11 179:9	anything 7:8 33:21 35:7 43:19 55:10 56:23 68:23 120:11 141:22 147:1,1 149:25 150:12 157:21 159:13,22 162:21 163:22 164:2 182:20
allocation 63:3,5	alters 49:14 57:7 108:10	answer 6:19,20,21 7:12,14 10:16 16:4 59:18 67:23 81:2 89:10 123:5 133:10 154:20 163:25 164:6,15,18,20,23 164:23,24 165:7,11 165:24 166:4 167:25 168:6,18,25 169:9,16,23,24 170:2,3,6,14,20,25 171:16,18,25 172:4 175:6,7,12,14,17,19 175:22 176:15 177:2 178:24 179:19	apologize 62:9
allowed 49:19 88:6 89:15	Alto 2:5	answered 79:17 123:12 161:23 162:3,7,14,19,23 163:4,8,10,14,20,23 163:24 164:4,9,12 164:17,21 165:6,10 165:22 166:12,25 167:2,5,9,15,21,24 168:2,4 169:1,4,7 169:12 170:17,22 171:4,13,21 173:15 173:24 174:19,21 175:7,16,18,21	APPEAL 1:3
all-inclusive 61:18	am 14:13 25:18 40:22 85:20 184:14		appear 58:4 163:1
almost 166:1	among 139:2		appearances 2:1 4:15,15
along 22:20	amount 24:3 53:8 54:11 58:5 63:2,20 66:14 68:14 83:7 89:14 93:4 139:12 140:3,7,8,13 141:2,10 142:18 146:6,10,11 148:20 148:22 151:6,7,20 152:22,24 154:18 158:8		appears 72:16,17 118:1
already 93:3 112:5 115:25 120:24 170:17 173:24 174:20 175:16 176:2 177:6 177:22	amounts 148:14		applaud 159:8
also 2:13 19:8,8 21:18,19 21:20 32:9 33:15 51:14 62:25 71:7,14 93:19,22 96:17 103:23 104:18	analysis 70:6,14,19 73:5,7 80:13 82:14 97:3,13 113:15 116:17,18 118:12,13,18 119:3 124:15 145:9 146:22 156:19		application 114:6,7



30:6,21 96:6 97:9	174:19,24 177:1	23:22 26:25 53:8,21	153:1 154:2,15,17
apply	asking	54:5 104:2,3,5	154:23 155:2
116:7 146:21	7:3 10:17 36:25 48:6	105:7,9,11,20,25	157:11 158:2,17
appreciate	48:7 49:8 59:14	107:17 108:7,22	160:4
80:9 153:8 154:20	79:18 125:21	136:5 137:8,10,11	baseline
appropriate	142:12,13 150:10	awards	130:5,19 131:14
47:24 78:8 128:23	150:13,14 156:16	109:1 135:19,20	132:3,11,20 136:24
145:13	168:15 169:9	aware	137:24,25
approximately	170:16 179:6	8:9 47:6 155:15	bases
1:14	aspect	away	75:18 85:22 92:7
argumentive	43:24	62:17,20 73:11 87:19	94:3 95:4 99:9
174:19 178:5 179:13	aspects	awhile	101:18 110:14
around	86:12 111:23	74:4	basic
20:16 67:18	assessing	a.m	48:24 160:7
art	96:6	1:14 4:9	basically
12:21 14:9,12 19:15	assigned		160:18
22:22,25 34:7,14	11:24 14:8	B	basis
36:14 38:5,12 44:10	associated	B	133:12
45:23 46:3,13,20	52:20 90:1 98:15	144:23	bear
50:24 51:9 52:6	152:7 165:15	back	94:15
60:7 61:14 62:13	180:13	13:1 16:7 31:2 38:18	became
63:15 64:1,18,21	assume	41:13 49:22 50:20	10:8
72:5 73:10 75:13	7:22 11:6 29:6 91:19	74:5 111:20 117:1,6	because
77:17,25 78:16 79:4	160:10	117:12 127:5	12:25 15:15 28:11
81:5 82:2 84:14,25	assure	169:13 170:21	34:1,1 51:19 56:12
87:9 88:24 92:25	58:13 59:3 107:5	174:23	65:19 74:3,12 95:13
94:4 100:25 104:14	attention	backwards	95:19 102:13 103:5
109:22 110:1 111:1	95:9	150:20	107:24 117:24
112:21 113:24	attorney	bad	119:2 120:24
116:4,8 145:9,19	4:16	21:17	127:25 128:23
157:17	authorized	base	132:23 135:11
ascribe	184:7	133:21 136:4 152:1	148:21 156:17,19
79:10 80:16	available	baseball	159:10 168:24
ascribed	45:7	88:6	170:12 171:13
80:11	Avenue	based	been
ask	2:4	17:4,5 22:12 44:3	5:8 30:6,21 33:23
6:16 7:9,20 10:1 12:7	average	47:23 50:12 53:13	64:5 73:18 89:6
13:1,7 42:3 66:11	50:2 51:15	64:12 65:24 87:20	92:16,19 97:22
67:23 93:15,19	avoid	107:8 113:7 118:23	104:7 108:9,25
117:17 123:4	170:19	121:8,16 122:9,21	114:11 116:12
128:15 132:19	award	123:8 124:5 127:2	120:1 141:19,21
180:5	22:8 106:8,12,16	132:6 135:3 136:6	144:9 165:25
asked	107:2,11,12 108:9	138:16,22 140:16	172:20 173:11
6:20 7:19,23 57:6	108:11 109:6,8	140:25 141:7,15,18	174:1
123:11 161:22	138:4	142:8 148:19 149:8	before
166:12 173:6	awarded	149:13 151:1,20,23	1:3,12 6:1,3,6 7:2,9



9:23 10:5 17:19,21 18:10 25:20,22 27:16 41:23 80:21 115:17 182:11,21 184:8	83:2 104:6 105:12 137:12	11:16 13:1,6 14:22 16:19,22 20:1,14 25:20,22 26:19 27:9 27:16 29:6,18 30:25 43:21 45:5,12 46:9 47:17 48:7,16 52:20 58:8 59:18 60:3 67:2,23 70:23 72:7 74:19 76:10 78:11 82:12 84:7 87:15 91:11 98:6,16 108:8 110:24 116:19 117:8,13,18 118:3 125:20 128:7 129:4 134:7,13 135:25 136:4 141:4,4 146:13 148:9 150:16 154:20 156:3 158:13 159:2 159:18,22 160:25 166:17 167:1 168:15,19 169:9 178:24 184:9	called 21:20 37:6 75:9 156:24
beginning 4:16 18:20 38:19 80:19 105:2 112:17 128:9 143:16	between 111:13 126:21,23 134:4,5	calling 9:11,18,22	cannot 8:6 155:17 163:16 168:6
begins 4:4	bit 30:25 49:23 66:11 144:8	can't 141:6 164:14 177:10	capability 134:11 136:17
behalf 2:2,7 4:21 5:17	blizzard 1:5 4:6 5:5	card 44:17 50:21 58:12 59:1 122:17	cards 44:18 46:10 50:22
being 4:10 9:11,15,23 10:5 18:13 26:25 32:1 33:9,10,22 34:2,15 34:18 35:15,18 36:16 38:8 52:7 56:14 57:3 58:23,24 60:8 62:8 66:24 76:16 78:2 99:24 108:2 112:25 127:13 132:24 136:21 141:24 144:24 145:4,11 149:2 151:17 154:17,18 161:2 176:11	block 71:19 152:8 180:13	care 8:1,2	case 1:9 18:3 34:10 82:20 88:21 97:16 117:10 126:25 136:14 137:3
both 30:3 40:10 42:8 115:23 116:17 117:15 121:20 125:15,18 155:3	Board 1:3 162:8	cash 145:4,11,23,25 146:14 159:24 162:12 165:15 167:13 174:16 175:2,25 176:6	casino 20:5,12,17,21 21:1
bottom 13:20 36:6 60:17 62:24 83:3 105:2 129:14 137:5 143:22	bonuses 138:13	casinos 20:7	categories 119:13
bought 148:20	both 30:3 40:10 42:8 115:23 116:17 117:15 121:20 125:15,18 155:3	category 47:18 53:25 56:11 91:1,6	cause 184:10
break 7:25 8:3 41:12,19 73:20 75:2 114:13 114:21 166:2,19 168:15 170:9 172:14,17 173:2,6,8 173:19,20,25 174:5 174:9	bottom 13:20 36:6 60:17 62:24 83:3 105:2 129:14 137:5 143:22	causes 77:24	central 32:16 152:8,9,13 153:3 158:9,18,25
believe 36:4 45:16 77:25 93:7 95:5 101:19 110:15 111:1 123:13 153:15 162:1,3,7,14,18,23 164:1,4,21 165:4,21 167:1,15	bought 148:20	buying 161:3	
believed 15:4	break 7:25 8:3 41:12,19 73:20 75:2 114:13 114:21 166:2,19 168:15 170:9 172:14,17 173:2,6,8 173:19,20,25 174:5 174:9	buys 148:21	
below 39:12 42:19	bring 10:24 11:13		
best 7:7,15 170:19 184:13	broad 17:15 90:25 91:1,6	C	
bet 21:17	broke 41:23	C 4:1	
better	bunch 179:5	CA 2:5,10	
	but 5:9 6:10 8:3 9:25	calculate 23:20	
		California 2:4	



160:4,14 161:16 180:18 181:10 certain 8:15 12:3,21 26:23 26:24 29:15 44:23 46:4,14,22 47:2 50:3 58:3 75:14 84:9 94:5 106:13,13 149:7 150:24 154:7 chance 26:20 27:7 55:15,23 59:2 109:5 161:21 161:25 162:8 163:5 163:14 change 43:22 50:13 52:1 53:13,18 54:15 55:10,19 56:23 57:1 57:2,15,22 58:1,2 58:22,24 63:14,22 64:18,19 89:4 90:11 93:9 96:4,21 97:20 97:20 98:20 103:8 107:6 110:2 112:25 120:7,10,14 123:3 132:17,22 133:6,19 133:19 134:11,12 134:12,14,15 149:8 149:12 150:25 151:23 152:1,13,22 153:1 154:2,15,17 154:23 155:1 158:2 158:17 159:4 161:6 161:17,20 169:10 171:16,17 174:13 180:18 changed 56:14 96:19 97:2,13 97:16 107:15 120:14 131:20 132:6 138:3 141:25 changes 43:17 51:25 59:11,12 91:3 97:18 103:21 104:11 119:5,6 130:24 133:16	161:9,19 changing 43:21 45:6,9,12,24 46:9 51:6,7 53:13 54:14 57:13 58:8,9 58:17 63:19,20 98:10,12 102:13 103:16,21,24 104:8 104:10 106:18 107:6 152:20 161:13,15,15 characteristics 133:7 characterization 29:24 characterize 45:5 characterizing 102:3 check 74:22 choice 62:5 90:5 157:7 choose 52:16 90:22 123:2,19 choosing 30:24 126:21,23,24 126:24 chose 34:12 circumstances 97:4 citation 14:3 150:5,15 158:3 citations 70:5 112:23 150:17 cite 147:25 149:25 150:11,14 cited 35:13 37:14 claim 12:10,15,18 14:16,21 16:17 18:17,25 23:8 25:15 31:15 39:18 39:20,21 59:17	65:11 97:10 98:9 101:20 112:22 117:16 118:1 121:24 125:16 128:18 129:10,14 129:17 130:3,9 134:6 136:20 139:5 139:6,10,11,16,24 139:24,25 142:17 143:15,21 144:6,14 147:10,11 156:3,23 claimed 15:11 19:18 23:3 111:3,24 130:18 claims 12:18 75:15 94:5 117:23 144:9 clarify 7:20 clearly 38:7,9 164:19 178:19 182:4 client 170:20 closure 43:9 codes 152:12 180:17 coin 48:15 collect 79:1 collecting 73:3,6 colon 63:4 115:10 column 28:22,25 29:4 33:1 33:12 35:6 42:25,25 66:2 70:22,25 72:14 112:6,9 113:11 129:11,15 143:16 143:23 144:4 148:1 151:10 153:18 154:22 160:18,20 com	2:11 combination 46:10 48:14 51:5 64:15 combinations 44:18,24 45:13,14,20 45:25 50:22,25 51:6 102:17 combine 72:4 come 41:12 74:5 comes 90:3 170:21 comfortable 175:5,10,12 coming 51:5 106:20 158:24 comma 29:14,17 39:6 69:9 76:15 81:19 85:16 101:14 105:6 command 66:4 commands 66:6 commencing 1:14 commentary 159:19 common 22:20 30:10 commonly 18:1 22:19 communication 143:25 communications 158:12 160:25 compared 133:13 comparing 121:17 comparison 121:9 123:8 136:6 complete 89:16
--	--	--	---



completely 8:8 11:5 142:22	consultant 8:24	120:6 125:5 130:17 130:21,22 131:1,2	68:7 129:18
completing 103:18	contact 111:9,9	142:11 151:7,9	coupled 31:8 39:4 85:14 110:10 131:5 144:15
complexity 86:23	contains 31:21	154:25 155:13,16 155:24 158:3 175:20	course 11:3 34:17 68:21 94:23 122:15 124:11 126:3,14 127:7
complicated 159:2 160:3	contend 15:9 21:21 92:12	corrected 13:3 93:13 94:1,7	court 4:12,17 7:15 182:22 184:20
comprising 144:1	context 23:24 28:3 29:10,12 116:23	correctly 65:8	courtesy 7:7 163:12
computer 11:4 152:13 158:9 160:14 180:18 181:10	continue 113:12 148:23	cost 88:7 147:22,24 148:8 148:11,25 149:1 152:4,15,18,20 158:5,6,24 160:4,14 161:1,19 180:20,25 181:4,9,24	covers 90:10
concept 26:7,10,11 27:15,17 39:22 46:22 47:2 48:7 129:4 162:6 163:2,9 164:11 166:10 176:11	continuously 111:10	costs 156:15 181:6	CRC 1:13
concepts 27:21	control 152:8 153:3 160:5 180:13	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	create 72:1
concerning 6:4 8:14 41:25 50:9 50:17 51:1 61:22 110:15	controlled 43:2,10,14 44:11	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	creating 71:24
concepts 27:21	controls 86:25	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	credit 148:14 149:6,9 150:23 151:2,24 152:7 154:3,5,6,7 155:20,23 156:15 157:4,10,12 161:19 180:12
concerning 6:4 8:14 41:25 50:9 50:17 51:1 61:22 110:15	Conversely 54:4	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	credits 50:4,13 51:16 146:16 146:17,18 147:20 147:22,23 148:5,7,8 148:10 149:10 151:3,7,9,20 152:24 154:8 155:21 156:21 157:5,13 158:8,22 161:4
convert 149:3	converting 146:24	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	Crevelt 1:12 3:2 4:5 5:7,13 5:21 6:1 10:11 11:17 16:4,22 19:14 41:23 51:12 54:2 73:16 75:6 114:25 115:25 153:7
concluded 183:1	COO 2:14 4:24	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	
confirm 8:18 93:24	copy 10:12,15 13:10 93:21 182:16	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	
confirmed 93:3	correct 8:15,16 11:25 12:1 12:23 13:13 14:11 14:13 15:19 18:16 18:18 22:24 28:17 35:7,14,19 36:12,19 37:16 39:10 40:22 41:1 42:17 45:1,16 45:21,22 49:11 75:16 85:20 94:6,10 95:8 98:22 99:12 103:7 104:16,22 107:2 110:17 112:1	could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	
connection 8:12,18,24 93:13 155:12		could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	
consider 84:14		could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	
considered 28:8		could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	
console 104:3 105:9 108:11 109:6,8 137:9		could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	
consoles 104:1 105:7,19,21,23 107:1 108:7,21 137:7		could 23:19 25:10 28:7,8 28:18,22 30:2,13 32:21 33:1 34:25 47:14 49:7 52:17 53:1,3 55:5,6,9 59:20 60:12 63:12 63:17 67:13,19 68:2 68:11,16,18,19 73:22 76:5 82:13,17 87:3,11 88:12 89:3 89:21 91:13 93:14 94:15 95:9 96:21 99:13 110:4 114:25 130:23 134:7 135:21,24 137:19 142:21 146:8,10 148:7 149:9 157:17 159:4	



174:13 184:4	180:12	definition	106:24 116:5 121:6
criteria	date	96:8 118:4	121:14 123:16
64:13 77:3,12,19,23	4:8 9:4 68:9	degree	130:3 135:8,18
78:2,6,12,18,24	day	43:17,22,24 44:5	139:19 151:6
79:9,11,18,22 80:3	184:17	50:11,18	158:13 160:7
80:4,14,23,25 81:11	December	delivery	181:23
81:18 82:4,15 83:10	1:14 4:8 184:4,17	58:11 59:1	description
83:16 85:2 86:8	decide	demand	35:18 57:4 61:20
87:5 89:1,23 90:13	74:22 141:20	149:15,16 150:2,4	86:16 106:6,9
115:9 116:13,23	decides	depend	135:16 160:17
117:3,8,16,19,22,25	127:24 132:11	20:13 58:22 120:15	161:14 163:5
118:5,7,9,11,14	decision	133:25 134:3	178:20 181:18,20
119:3,5,8,10,18	61:2,9,21,23,25 62:3	dependent	182:5
120:1 121:10,18	62:4,11,14 110:10	139:6,24 142:17	descriptions
122:2,11 123:1,10	110:21,22 111:2,6	depending	112:19 113:14
123:19 133:13	111:17,22,23	23:19 57:10,25 113:3	design
134:4,16 136:12	112:22 113:16,21	156:11	80:19 90:5
138:7,14,21 139:12	113:22 114:7 131:5	depends	designed
139:18,23 140:1,5,6	declaration	45:11 87:14	121:3
140:15,21,22 141:5	10:3 12:20 13:3,4,11	deposition	designer
141:11,13,25 142:7	13:15,18 14:10,25	1:11,12 4:4,10 5:25	34:12 90:22
142:18	15:5 18:6 19:3 31:2	6:3,6 60:14 164:14	designs
criteria	35:25 38:18 41:24	171:7,7 183:1 184:4	81:1
88:21	42:4 44:15 60:14	184:12	desired
CRR	65:7 69:4 73:14	describe	63:2 104:5 105:11
1:13	76:6 85:10 91:24	21:25 35:7 39:12,17	108:24 111:15
currency	93:10,13 94:2 101:4	70:20 88:4 120:19	112:15 113:19
148:14 155:13	101:17 112:3	152:5 162:12	137:12
159:25 162:13	142:24 147:3,4	described	detail
165:16 166:24	150:11,14 157:21	15:18 17:25 19:21	160:21 182:4
167:13 174:17	159:10,14,16 164:7	23:5 28:2 49:9 54:8	details
175:3,25 176:6	178:1	56:22 64:6 77:20	68:19
currently	declarations	117:5 128:4 152:16	determine
181:11	8:13 75:18	154:10 162:10	71:9 115:6 116:9
cut	Decline	177:14 180:10,21	131:9 133:11
54:1 149:20	159:20	182:3	138:17,22 139:20
	decrease	describes	152:6 180:11
	50:12 54:10 87:22	57:21 61:8 100:4	determined
D	decreasing	103:25 123:6	49:13 65:4 80:18
4:1	149:15	126:21 130:9	92:2 104:2 105:8
data	defined	160:21 178:15	137:9
33:9,10,22 34:2,25	23:14,22 24:8 25:20	181:17	determines
35:9,15 70:19 71:24	defines	describing	29:19 109:19 127:15
71:25 72:3 73:2,3,5	19:8	30:21 34:23 45:3	128:21 132:21
82:19,22 107:25	definite	56:5,7 57:2 60:18	163:18
111:6 119:11 152:7	44:7	83:4 84:22 100:5	determining



118:21 120:20 121:24 122:6 124:3 126:9 127:8 132:25 137:16 deviation 81:19,21,23 82:7,8,9 82:11,21 device 22:10 31:21 37:18,20 38:15 143:25 devices 43:3 48:12 did 10:14,24 13:16 14:23 17:21 53:24 67:23 79:9,19 80:12,16 82:12 91:8 95:16 116:7,22 117:18 133:11 145:8 161:11,11 163:1 164:6 172:1 179:4 didn't 121:11 156:25 difference 95:22 different 10:1,17 19:25 20:22 30:11,12 62:18 68:20 87:16 102:18 103:4,11 104:4 105:10,24 106:15 106:21 107:13,14 107:19,23 108:1,13 108:25 109:10,15 113:2 116:2 121:2,4 123:7 130:20 134:1 137:11 142:22 144:8 154:19 156:20,21,21 157:23,23 162:24 168:16 169:9 174:24 175:22 176:3 177:24 178:9 179:24 differently 180:2	differs 101:13 130:15 difficult 50:15 51:8 96:3 102:5,10,14,15,20 103:16 104:9,10 122:14 124:10,18 126:2 127:16 128:1 128:24 133:15 177:10 difficulty 43:17,22,24 44:5 49:25 50:11,18 86:11,23,25 87:23 102:18 103:9,21 113:4 118:23 122:4 122:8,17 124:5,10 124:17 125:22 126:2,14 127:1,7 130:24,25 131:20 132:21,22 133:16 133:22 134:2 140:15,23,24 141:6 141:6,12,14,17,24 142:7,8 directed 144:7 direction 184:12 directly 31:6 97:7 98:4 disagree 29:23 160:2 161:10 176:7 disclose 19:17 34:22 77:19 112:21 121:20 176:10,16,17,20,20 176:24 disclosed 12:20 32:9 33:13 96:7 102:12 discloses 13:24 14:15 15:8,10 15:16,17,21 18:24 21:19,21 31:14,17	31:20 32:4 34:4 35:21 37:9,17,21 39:14 40:24 41:2,5 43:1 59:9 60:19,25 65:10,21 69:15,19 75:14 76:22 77:2 85:23 92:7 94:5 99:10,16 101:20 102:1,20 103:9 110:16 111:22 115:16 116:1 117:15 118:20 119:17,25 120:7 122:3,6,13 124:3 125:11,14,18 126:13 140:14,21 140:22 142:6 147:17,19 148:4 149:5 150:22 152:21 180:24 181:7 disclosing 70:3 86:17 95:7 107:18 114:1 124:19,21,24 126:8 127:18 148:16 disclosure 15:12 23:2 31:25 37:3,3,22 45:24 70:1 78:18 79:8,21 84:8,9,16 85:6 102:8 120:13 124:14 159:23 161:8,12 163:6,17 165:2,14 166:22 167:4,7,11,19,22 168:1 171:20 172:23 174:15,25 175:20,24 176:5 177:18 178:2 179:1 179:2,7 180:3 disclosures 15:9 88:10,11 110:25 discovery 152:17 discussed	77:24 94:4 115:17 117:2,10,23 119:2 120:24 122:3 124:9 134:19 135:1 140:11 discusses 15:16 155:19 160:2 discussing 30:6 121:13 122:16 136:19,23 discussion 19:4,6 23:1 50:20 72:19 77:11,18 78:17 85:1 92:12 105:1 108:20 109:25 145:18 155:18,22 158:10 discussions 19:16 display 48:21 displayed 32:11 diverting 111:11 document 10:21 documents 2:24 10:12,15,24 11:1,6 does 17:1 29:18 33:14 34:21 35:24 36:20 43:14 45:6 59:22,22 70:6 101:22 110:21 111:21 112:20 115:23 120:19 121:19 123:3 127:8 127:15 128:19 134:15 136:3 138:20 144:11 148:17 151:15 154:1,2,14 156:19 158:4 162:9 176:9 176:10,15,17,19,20 176:23 181:19
---	--	--	---



182:3	drive	eat	181:1,6,7,12
doesn't	2:9 37:18	73:24	ends
16:19 55:23 56:6	drops	effect	155:3
109:16 110:20	148:11	52:1	engaged
120:10 126:22	duly	effectively	8:23 9:2,11,15,23
134:9,11,14 151:10	184:7,9	90:10	10:5
154:21	duration	effort	engine
doing	51:14,20 61:4,10	159:8	110:10,21,22 111:2,6
56:8 59:8 113:15	62:2 89:13 140:16	efforts	111:17,22,23
145:8 146:21	140:25 141:2,7,9,14	153:8	112:22 113:16,21
dollar	141:15,18 142:1,9	eh	113:22 114:7
146:16 147:21 148:5	Durations	141:20	129:18,22
dollars	51:13	eight	enough
149:8 151:1 154:2,15	during	108:8,11 109:4	24:2 138:17,23
154:23 155:2	50:1 68:21 77:5	either	ensure
Dolphin	81:16 98:13,16	9:20 68:18 73:22	54:19 81:15 106:25
2:9	111:8 122:15	115:19,19 119:11	enter
done	124:11 126:3,14	121:25 123:2	34:2
59:16,16 66:22	127:7 149:14,15	125:15 127:12	entertainment
137:19 149:17,19	150:2,3 156:22	132:2 135:15,18	1:7 4:7,22 5:17,18
159:6	Dwight	154:21 156:6 157:8	9:5 11:25 111:12
don't	1:12 3:2 4:5 5:7,21	158:15 168:24	entire
9:1,3,13,19,25,25	184:4	170:1	16:13,24 20:2 23:6
10:7,19 19:11 31:24		electronic	51:24 113:12 160:6
41:11 43:4 48:2	E	139:11 144:1	160:16 161:14
49:7 54:1 56:10	E	else	181:17
57:3 74:10,12,14	4:1,1	43:19 94:13 106:20	entitle
91:10 95:22 106:24	each	139:3	150:24 154:6
108:16 110:12	47:12,13,16 52:3,7	embodiment	entitled
128:6 129:8 130:2	52:18 61:15 66:3	72:23 156:25,25	149:6
131:12 142:16	87:2 117:1,4,6	157:3	environment
149:19,25 150:11	146:18,19 147:23	embodiments	49:18 144:1
150:15,16 165:13	147:24 148:9,11	71:6 156:10 157:14	equal
165:18 169:3	149:6 150:23 154:5	emphasis	146:8
172:10	earlier	180:23 181:2	equate
down	103:5 117:23	encompasses	78:5
62:6 88:15 90:3	ease	98:9	equivalent
108:4 131:3,25	127:1	encourage	114:5
136:13,13,18	easier	172:2	especially
148:11	51:8 62:21 141:22	encryption	47:6
downloaded	easy	160:25	ESQ
32:17	43:22 87:17 104:9	end	2:4,8
downward	122:14 124:10,17	14:3,4 29:11,12 69:9	essence
135:10	125:3,7 126:1	69:21 81:23,23	158:13
draw	127:16 128:1,24	86:17 94:24 101:14	essentially
95:9	133:14,23	111:15 154:24	17:7 44:23 51:3 92:6



109:1 182:2	5:10	exhibits	163:21
establish	example	3:5,6 10:23	expressly
20:7	14:16 25:10 26:21	existing	164:2,7,10 166:6
established	29:14 30:2 34:5	128:2	176:23
120:1	35:22 43:1 48:9	expect	extensive
etc	50:7 51:24 53:12,17	16:13,15,24	158:11
52:2 55:20 66:25	54:24 59:19,20 60:1	expecting	extent
111:14 117:11	60:1,4 67:23 68:2	106:19 107:8	6:21
122:18	71:15,23 78:10	experience	e.g
even	81:10 82:4,5,6,21	20:4,11,25 21:7 30:4	81:18 82:1 86:23
34:14 35:12,17 162:5	83:4,19 84:14 90:19	30:19 101:12,13,14	88:6 89:13 105:9
163:1	100:6,7 103:25	102:11,15,18,22,24	137:10
event	104:24 105:6,18	103:4,5,11,19,23	
22:8 65:24 66:17	107:5 108:19,20	104:11 106:22	F
67:8,13,18,21 68:10	113:9 122:2,8 124:1	107:7,13,15,20,24	fact
68:12,16,22,23 69:2	124:20,23 125:24	108:2,13 109:11,15	8:17 19:2 38:1 77:15
89:16 92:17,18,20	126:8,8 127:6	121:1,3,4 127:24	103:20 148:24
92:21,23,24 93:5	131:20,23,24	128:18 129:25	factor
99:23,24 100:6,8,21	134:23 135:9	130:5,6,7,13,14,15	50:11 113:5
events	136:19,23 137:6,15	131:15,19 132:6,12	factors
65:3 66:7,13,21	137:22 148:12,18	143:24	86:22 88:17 89:12
67:12,20 69:9,23	149:11 152:4	experienced	fair
70:8,15 73:1,4,7,9	156:18 157:22	125:4	10:16,16 24:11 27:1
92:2 99:6 113:18	examples	expert	34:3 65:14 140:12
ever	16:18 47:9 52:3 55:9	8:24 9:15,24 10:6	fairer
9:5,7,10,16 154:21	59:15 60:5,8,9,21	64:10,12	155:15
every	61:8,12,16 63:12	explain	fall
7:25 23:23 54:19	67:19,22 87:7 92:15	82:13	53:24 83:8
72:2 103:25 105:6	135:21,25 156:2	explaining	falling
105:19 106:7,14,16	excuse	82:14	84:3
107:2 108:6,21	95:6 97:11 150:6	explains	falls
134:12 137:7	168:12	40:16 42:14 86:8	82:23 84:4
everybody	exhibit	111:5 152:5 180:10	familiar
94:13 148:21	11:9,21 12:24 13:2	explicit	17:20 25:16,18 26:7
everything	13:10 18:7,7 28:19	36:1	26:9 27:14,17,20
80:24 139:2 142:3	28:23 32:22 33:5	explicitly	46:22 47:2 48:7
179:23	40:3 41:25 42:20	36:18 176:10,15,21	far
EVP	60:13 65:1 66:2	express	24:1 125:23
2:14 4:24	69:3 71:1 73:14	166:21 167:4,11,19	fast
exact	75:7,22 76:6 80:22	171:19 172:24	44:5,6
2:25	85:10 93:17,20,25	174:15 175:1,19,24	favor
exactly	94:16 98:23 101:3	176:4 177:18 178:1	163:11
48:5 63:21	110:4 115:1 129:10	179:2,7 180:3	feed
EXAMINATION	139:4 142:25 143:4	expressed	172:11
3:2	143:6,13,16 181:2	165:2,14	fees
examined	181:15	expressively	170:15



<p>few 6:11 23:13 39:17</p> <p>figure 33:15,20 158:4,10 160:13,17,19 178:19 180:24 181:3,6,18 182:5</p> <p>figured 33:16</p> <p>filed 8:13 13:11</p> <p>find 62:18 106:20 107:11 150:13 179:20,22</p> <p>fine 5:15 6:14 11:5,17,19 73:25 74:7 82:24 91:19 124:22 171:9 171:11</p> <p>finish 7:1,3,8</p> <p>finished 19:9,11 54:1 159:6 168:13,13</p> <p>first 5:8 8:23 11:8 40:24 77:13 95:16 101:13 102:1,15 103:4 115:7,18 116:10 117:25 120:20 121:2,15,20,25 126:10,21 127:9,13 127:22,23 128:16 128:17,22 129:22 129:23,24 130:3,5,8 130:14 131:10,14 132:3,12,25 136:21 136:23 137:17,21 139:20 146:5 153:11 184:9</p> <p>fit 27:8 56:11 85:6 119:13 129:3</p> <p>fits 47:17 95:21</p> <p>five</p>	<p>149:9 151:2 154:8 155:20 156:6 157:4 164:25</p> <p>fixed 51:14 156:13</p> <p>flexibility 30:14,23</p> <p>flexible 59:21</p> <p>flowchart 148:25 152:18 180:25</p> <p>follow 95:2 109:2</p> <p>followed 94:21</p> <p>following 125:23 129:1</p> <p>follows 5:10 31:12 65:8 69:13 82:3</p> <p>food 74:15,19,20</p> <p>force 57:14</p> <p>forced 109:7</p> <p>forces 55:24 58:11 108:10</p> <p>forcing 44:23 45:8,10 46:4 46:14 56:5,6,15</p> <p>form 14:1 19:10 45:8</p> <p>format 6:25</p> <p>formed 79:20</p> <p>forms 111:12</p> <p>formula 23:19</p> <p>forth 94:2</p> <p>found 10:8</p>	<p>frame 128:11 129:6 153:5 157:9,11</p> <p>free 67:17 68:1</p> <p>frequencies 44:17 45:12,14 50:21 50:24 102:17 106:13</p> <p>frequency 22:14,20 45:24 49:3 49:15 53:5 55:13,20 63:3 79:13 87:23 106:17 111:13 113:1 135:20 136:5</p> <p>frequently 44:24,25 49:5 120:16</p> <p>from 2:24,25 4:20 5:22 6:15 11:9,11,22 25:18 32:5,10,22 34:15 36:14 37:11 41:25 42:21 44:14 48:23 49:22 50:7 57:19 65:1 66:1 69:4 71:21 72:14 75:22 88:5,15 93:10 93:14,20,21,25 99:7 101:4,13 102:14 103:4 105:13 115:1 130:15 134:23 137:6 139:5,24 142:23,24,25 143:5 146:24 152:7,12,19 153:2,13 154:24 158:9,23,24 159:25 160:14,16,22 161:16 166:24 167:14 173:4 177:18 179:8 180:4 180:12,17 181:9</p> <p>front 10:12,19 11:12,15 12:11,16 13:4 115:2 143:7,13 151:12,13 151:14</p>	<p>full 5:19 31:19 153:7</p> <p>functional 111:23</p> <p>functionality 111:17 160:8</p> <p>funds 149:3</p> <p>further 41:5 86:21 99:15 118:20 122:6 124:2 131:3 182:9</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 4:1</p> <p>gain 180:12</p> <p>gained 61:24</p> <p>gambling 48:12</p> <p>games 16:16 19:25 20:8 22:13 27:6 44:17 46:5,15,23 47:3,6 48:25 49:1,10,11,13 49:25 50:21 51:4,13 52:16,18,24 58:14 59:4 70:8 82:18 83:18,22 99:16,21 99:21 100:4 104:1 105:6,19 106:7 107:2 108:7,21,25 109:17,17,18 113:1 113:1,2 122:17,18 122:18 137:7 138:5 138:11,12,16,22 152:14 158:16 161:4 180:19</p> <p>game-related 70:17</p> <p>gaming 17:19 18:1 20:19,20 20:25 22:10 31:20 34:23 37:17 40:9</p>
--	---	--	---



42:7 47:7 48:10 49:12,18 80:24 86:7 100:17,20 112:13 113:17,20 130:6,7	7:14 107:5 GLEP 64:5 GLEPS 25:16 26:11,21 27:17 28:1,7,11 29:16,20 29:24 30:4,19 58:13 59:3 63:2,16 64:2,5 64:22	goals 70:16 78:20 79:2,15 79:25 80:6 87:25 90:2	179:16,24
gave 60:1 162:25 179:19	global 14:2 15:12,16,24 16:5,12,23 17:2,9 17:18,24 19:4,7,16 19:22 20:1,7,17 21:1,11,11 24:25 25:3,8,11 32:4,13 33:6,13 37:9,23 38:3 40:16,25 41:7 42:14 53:22 54:6 55:6,21 56:1,19 57:18,24 58:19 63:24 78:9 96:16 108:3 118:24 122:10,20 124:6 135:2,5,11	gobbledygook 179:5	grammatical 95:22
gears 93:9		God 182:14	grater 81:20
generally 20:10 46:14		goes 117:1 122:24 160:19	great 30:15,23 143:19
generating 144:16		going 7:14,22 10:22 11:13 13:18 23:12 25:9 26:15 27:4 28:13,13 28:16 29:7 34:8 38:16 44:6 47:22,24 48:2 58:2 59:7 68:24 71:25 72:2,3 73:4,8,17,18 74:11 78:21,22,22,23,24 78:25 79:12,13 81:12 82:19 83:16 84:1 90:6 94:12 105:3 106:12,14,15 107:10 116:9 123:4 128:10,13 132:2,5,9 132:9 136:12 140:4 152:16 162:8 164:13 165:25 166:3,4,11,18 168:5 168:14,22,24 169:10 170:1,7,8,10 170:24 171:7 172:7 173:1,5,11 174:1 179:25 180:1,2	greater 59:2 82:8 182:4
generator 48:17			Ground 75:8 122:5,16
gentleman 14:8			grounds 73:18
get 6:12 11:14 16:22 22:11 35:24 55:11 64:9,13 88:1 107:1 107:2,9,11 121:11 145:15 148:7 151:13 157:13 166:4,18 168:24 170:2,13,20 171:16	go 6:11 18:5 45:11 59:23 62:5,9,18 64:25 67:19 70:25 75:21 76:5 85:9 88:3,15 91:18,20,24 96:21 100:12 114:9 117:6,8,12,17 118:2 127:5 134:21 136:17 139:4 140:10 144:4 145:13,16,21 159:17 160:16 162:17 168:20,23 170:10 171:12,14 172:3,7 173:19 174:2 182:11,21		group 2:8 4:21 30:6
gets 107:12			guarantee 26:23 50:14 56:1,19
getting 51:5 103:17 109:6 153:25 177:1			guaranteed 26:1,5 64:7,12
give 7:7 42:20 47:9 53:12 64:11 104:24 106:14,15 109:15 124:1 170:24			guessing 88:7
given 30:7 46:23 47:3 53:22 54:6 55:8 84:15 127:6 129:5 134:12 152:23,23 156:12 157:9,18,22 175:13,23 178:21 184:13	goal 27:10 70:18 83:2 111:15,15 112:15 113:5,20		guy 141:20
gives 106:21			guys 114:18
giving			G-L-E-P-S 25:17
			H
			had 5:25 6:3,6 9:4,7,10 9:16,19,22 10:5,7 17:21 22:16 25:19 25:22 47:20 80:7,22 81:2 133:6 138:12 174:13
			hadn't 27:16
			half 60:17 166:1,18 170:8 172:21 173:12 174:1
			hand 13:7 57:9 58:12 59:1 93:15 184:17
			handed



109:1 handle 48:15 handy 76:1 happen 47:22 59:21 128:13 happened 66:22,24 happening 138:10 153:5 156:5 hard 10:12,15 37:18 182:7 harder 62:20 103:6 141:23 has 11:20 33:23 34:9 44:6 48:23 64:5 66:23 70:9,11,15 71:16 80:24 85:12 93:4 94:20 99:21 100:11 107:15 108:1 109:20 110:8 114:10 116:12,13 116:16 119:14,17 119:25 120:16 125:6 127:18,22 133:5,20 134:3,8,10 136:3,12 141:20 170:22 171:1,4 172:20 175:25 hasn't 141:21 Hastings 2:3 5:4 haven't 35:17 37:14 56:22 93:3 157:20 161:20 163:19 180:22 181:13 having 5:8 46:23 47:3 109:25 121:20 he 120:10 169:1,4,7,12 170:16,21,22 171:1	171:4,13,17,21 172:1 head 7:13 164:19 heading 18:10,11 31:6 38:23 39:2,12 65:2 69:7 75:8 76:14 85:12 99:3 101:7 110:5,8 115:4 hear 91:21 180:3 heard 9:5 17:18,21 22:16 25:22,25 26:1,3 27:16 80:22 81:2,4 81:6 heart 174:14 Heichert 1:12 4:12 182:20 184:20 help 7:15 39:25 81:15 87:4 145:15 helpful 129:9 helps 18:5 her 91:13,17 here 5:17 7:12 8:11,17 9:12 10:3,14,15 11:14,14 12:8 13:18 13:22 14:2,13 15:7 17:9 18:6,20 19:22 31:12,18,24 38:19 38:23 40:23 42:24 57:21 59:8,17 61:23 69:18 70:23 72:8,20 73:18 74:4,15,19 77:15 83:3 85:25 89:11 90:18 93:9 94:20 95:2 96:6 99:13 101:7 102:12	103:25 105:17 111:4 116:25 117:5 117:11 118:5 120:18 121:13,19 125:2 130:18 135:18 136:20 140:9,10,20 141:4 144:10 146:4,21 147:4 151:10 152:2 152:4 154:17 158:11 163:16 170:19 177:12 hereto 184:15 here's 35:9 161:21 he's 170:24 171:2,2 173:24 high 20:15 84:21 122:21 135:2,12 149:14 150:2 higher 20:23 21:5,5 43:5 45:10 48:3,3,4 54:13 55:14 63:23 64:3,11,13 102:16 133:22 highlighted 92:11 highly 160:24 him 141:23,23 169:10 171:16 hints 87:10,17,19,19 his 73:19 82:4 169:9 171:16 hit 22:14,20 27:11 70:13 112:25 113:2 hits 22:1,7,11 86:24	Hmm 149:18 Hmm-hmm 26:9 hold 159:18,20 171:7 honestly 9:1 hour 8:1 73:19 114:11,12 166:1,18 170:8 172:20 173:12 174:1 hours 168:19,21,23 169:19 170:11 housekeeping 6:11 how 5:13 9:21 10:8 20:13 21:25 22:6,11 29:4 31:13,17 35:3,23 39:13,18 43:14 44:5 44:6 47:11 50:22 51:3 56:6 57:2,10 59:16,17,22 62:13 63:15 64:22 65:9 68:14 69:14 72:6 74:8 76:21 78:21 89:8 91:13 92:19 101:19 108:6 110:2 110:15 113:6 119:12 125:14 127:8 151:23 155:22 157:12,12 160:21 181:19 however 24:4 48:1 58:20 64:10 148:23 human 98:10,12 hypothetical 28:6 30:9 52:14 66:19 67:10 103:13 120:9 133:3 136:10
--	--	---	--



I			
id	89:12 111:7 115:10	34:15	130:23 148:6 149:9
181:3	121:21 177:15	inferring	149:13 150:1 151:1
idea	181:17	33:25	instant
157:1	income	infinite	156:5 157:6
identified	16:6	59:24	instigated
56:12 58:17,21	incomplete	influences	48:13
110:25 182:6	28:5 30:9 52:13	66:6	instruction
identifier	66:18 67:9 103:13	information	30:5
100:12,18,23	133:2 136:9	32:15 36:9 65:2,22	instructions
identify	increase	65:23 66:12,16,21	152:7 153:2 180:12
58:7 100:24	50:12 54:10 55:13	69:21 70:2 71:7,10	instructs
identifying	87:22	71:21,24 72:1,9,13	6:19
96:19	increased	72:20,21,24 92:1	intended
ii	150:3	97:19 99:5 111:12	45:20
99:3 101:8 115:5	increases	112:6,14 113:18	intention
impact	54:4 57:17 58:25	114:2,2 115:9	83:12
44:7	increasing	116:12 118:6	inter
implement	45:19 46:19	120:15 121:9,17	6:7 8:14 13:12 93:25
90:4 98:20 129:23	incredibly	122:1,4,25 123:9,18	interest
157:18	35:2	127:15 128:20	26:15
implemented	indeterminant	132:7,10 133:12	interested
127:22	128:12	138:6,9 139:22	117:24 184:15
implementer	indeterminate	140:3 144:16,20	interprets
79:14	127:21 128:14	148:25 152:15,19	66:6
implementing	INDEX	158:5,18,24 159:3	interrupt
39:4 85:15 90:3	3:1	160:14,22 180:20	180:6
implements	indicate	180:25 181:5,9,24	interruptions
128:16 132:20	2:25 70:6 113:6,14	infrequently	111:11
important	151:15	120:17	into
6:25 7:12	indicated	initial	2:24 34:2 35:23
Inc	33:23	65:23 130:6,7,19	56:11 62:18 72:4
1:5 4:6	indicates	131:14 132:3,20	85:6 96:14 97:23
include	39:24	133:21 136:4	119:13 158:15
86:22 116:13,16	individual	137:24,25	184:12
117:9 118:17,18	66:15 67:7 113:7	input	introduces
119:8,9 125:11,13	148:10	31:8 32:10 33:17	39:21
included	individually	34:6,8,17,24,25	invented
63:1 92:15 118:16	72:3 117:7,12	35:23 37:11 43:3	14:8
150:17	individual's	65:24 66:3 96:4	IPR
includes	53:14	97:7	8:19,25 11:9,22 13:2
65:23 116:14,17	industry	inputting	19:3 28:23 38:19
144:20	17:19 18:1 20:5 21:1	35:10 96:13	40:3 41:25 65:1
including	22:17 24:9 25:19,23	instance	69:4 73:15 75:7,22
36:9 70:7 71:14	27:20 30:11 47:7	26:22 45:4 46:23	76:7 85:11 91:25
	48:10 80:23,24 81:3	47:3 66:15 70:21	93:10,18,20 98:24
	infer	112:2 124:16	101:4 110:5 115:1



139:5 143:1 147:5 IPR2025-00708 1:9 8:20 32:22 IPR202500708 11:10 IPR202500712 93:12 IPR2025710 142:24 143:5 isn't 20:5 33:8 34:3,15 36:16 38:4 45:8 77:21 126:16 148:16 171:24 issue 14:19 120:18 issued 47:24 item 67:3 100:12 141:24 items 19:23 59:23,24 67:1 67:2 87:20,24 89:3 its 36:9 41:6 52:19 79:21 98:10 181:18 itself 61:2 75:24 114:4 143:5 it's 6:25 7:12 16:5,18 17:11,15,20 19:6 20:14 22:19,20 30:2 30:10 34:17 35:2,2 37:2,17 39:24 40:6 45:8,9,10 48:5 51:19 55:4,4 56:6,7 56:14 59:12,20 61:17 65:14 68:12 69:12 71:23 74:13 75:12 76:7 78:22 79:12,13 80:14,18 83:5,6 90:3,5 91:6 107:25 108:2,4 109:16 112:18,18 117:22 119:2,16,24	120:4,9,14 123:18 125:3 126:23,24,24 128:12 129:4 132:8 132:9,9 135:22 138:15,17,23,24 141:11,17,18 148:19 151:19 156:25 158:25 159:1,1 160:19,24 162:24 164:18 173:16 177:9 178:23 181:23 182:3 I'd 9:13 11:8 12:7 13:1,6 13:17 42:3 66:11 73:13 100:11 150:18 I'll 7:5 10:1 40:17 108:18 128:15 144:5 I'm 5:16 7:22 8:9 10:16 10:18 11:13 12:14 13:22 14:13 17:23 26:7 29:7 33:3 35:10 36:25 40:22 47:6,17 48:5,7 57:5 57:5 67:11 69:6 76:13 81:11 82:16 85:20 94:12 105:3 110:19 118:3 121:11 123:4 125:21 129:13 139:8 142:12,13 143:18 150:10,13 150:13 153:25 156:16 163:14 166:11 168:12,13 168:22 171:7 173:18,20 174:2 175:12 179:6,25 180:1 182:22 I've 7:19 35:10 47:14,20	55:8 57:6 93:16 116:25 117:10 121:19 163:8,10 167:15 179:24 i.e 57:13 <hr/> J <hr/> Jason 2:14 4:11 Jensen 2:14 4:23 just 5:15 6:11 8:1,4,18 10:22 11:11,17,19 11:20 12:7,9 16:3 16:14,22 17:25 18:9 22:3 25:1 31:6 37:15 38:1,23 42:19 46:9 48:20 56:14 57:5 59:15,19 60:3 60:13 68:7 74:19 80:9 84:24 88:4 91:18 94:12 95:20 100:2 105:3 117:14 117:17 118:3 123:14 131:24 134:2 135:16 136:14,25 139:19 140:12 143:6,11 144:4 155:6 156:16 157:2 162:25 163:12 171:3 173:16 174:25 175:4,14 176:23 177:2 179:3 180:6 <hr/> K <hr/> K 2:4 keep 12:24 26:14 59:7 79:6 150:19 166:4 Kelly 14:9,18 15:9,15,21 23:5 31:17,25 32:4	32:9,13,23,25 34:4 34:21 35:20 36:18 36:20 37:9,17,21,23 39:18 51:25 59:9,16 59:21 70:6 71:1,5 72:16 95:6 100:3,11 102:9,19 103:25 110:23,25 111:21 112:7,23 113:14,24 113:25 115:16,23 116:1,7,17 117:14 117:21 118:20 119:16,24 120:7 121:19 122:3 123:3 124:2,14,19,20,23 125:11,14,18 127:18 137:6 140:21 142:6,14 150:6 Kelly's 43:9 45:24 70:1 Kelly683 9:11 13:24 14:7,7,14 15:7 17:22 18:23 21:19 23:1 31:14,19 33:4 36:1 37:5 39:14 40:10,15,23 41:4 42:8,13,21,24 43:1 44:15 49:23,23 50:8 51:11 65:10,15 65:21 69:15,19 70:21 96:6 99:9,15 99:16 101:19 102:1 104:15 105:13 110:16,19,20 112:13,19,20 126:8 126:13 127:6 134:24 135:18 140:14 Kelly683's 19:16 72:18 108:20 kind 16:16 20:17 23:11 56:13 80:5,6,6 109:2 kinds
---	--	---	--



40:24	6:15,19	53:14,18 54:11,17	132:1,24 133:17,24
knew	least	57:24 58:4 62:1	134:19 136:1,8,16
115:25	27:11 31:8 40:24	64:6,7,10,12 78:9	137:16 138:25
know	41:2 115:10 116:14	103:9	139:2,18 156:3,23
6:17 9:6,13,25 10:4	119:8 125:17	levels	limited
12:13 13:21 20:2,14	168:10	30:11 55:11 56:25	59:12 67:3,20
23:11 28:20,24 29:3	leave	61:3,10 66:23 80:5	line
31:3 32:24 33:2	171:6	92:22 134:1	29:3,4,7 33:1 37:8
34:14 43:20 47:22	left	lieu	42:25,25 71:5
50:14 56:10 66:25	41:13 62:5 171:10	149:5 150:23 154:4	150:16
69:5 72:18 73:19,23	176:19	like	lines
74:10,12,14 76:8,10	Legal	6:9 8:18 11:8 12:7	33:12 35:6 66:2
80:18 81:6 85:2	1:16 4:13	13:1,6,6,17 16:14	70:25 72:15 148:1
91:10 100:22 101:5	length	35:23 40:9 42:3,7	153:18 154:22
110:2,6 114:10	162:10	43:3 47:11 49:2	link
117:24 120:24	less	53:15 62:4 63:21	68:20
129:11 134:10	21:15 44:25 96:3	66:11 68:21 70:12	Lisa
139:7 143:2,17	103:16 143:14	71:18 73:13 83:7	2:4 5:1,4 91:18
147:6 150:16	let	87:16 91:11 93:9	list
155:19 157:17	7:8 12:13 13:21	103:20,23 113:4	59:24 61:18,18 71:8
166:17	28:20,23 31:3 32:24	114:11 117:7 118:3	106:11
knowledge	33:2 69:5 76:8	138:4 142:23	listed
9:8,9 47:19	101:4 110:5 111:20	145:13,16 146:4	21:23 61:23 89:11
known	117:17 129:11	148:9 151:15 169:8	90:18 92:10 117:5
64:22 184:4	132:19 139:7 143:2	178:23 182:12,16	117:11 121:19
knows	143:17 144:5 147:6	likelihood	122:5 177:15
34:7 72:6	Letting	58:25 89:22	listen
<hr/>	52:15	likely	7:1 125:20
L	let's	6:17 98:6	lists
laid	24:25 31:2 32:21	limit	51:2,25 60:21 65:2
178:19	38:18 40:2 64:25	89:20 135:24	88:16 116:25
language	69:3 70:25 75:21	limitation	literally
14:20 59:17 112:4	85:9 91:24 93:9	18:17,24 31:14 39:15	142:10
136:20 153:12	100:2 101:3 104:20	39:19,20 65:11,16	little
large	114:9 127:5,5	69:15 70:3 76:22	30:25 66:11 131:3
146:25	134:17 139:4	85:24 92:8 95:7	141:22,23 144:8
last	141:22,23 142:21	97:10 99:10 101:20	180:2
51:11 115:22 149:22	143:4 144:4 147:2	109:24 110:16	lives
161:21,25 162:8	149:1,22 150:19,19	115:14 116:5,6,19	89:14 92:13,16
163:5,13,13,13,13	153:10,18 154:13	116:24 117:20	LLC
163:13 173:7	157:2 159:9,22	118:15 120:19	1:7 4:7
latest	160:12 172:3 174:4	121:6,13 122:5,23	LLP
158:23	174:4 178:10	123:5,16 124:24	2:3,8
Law	level	126:9,17,18,20	locally
2:8 4:20	20:11 24:1 26:14	127:12,17 128:3,25	32:16
lawyer	27:5,11 51:15 53:13	129:2,22 131:4	location



32:16	47:6 48:24 80:25	128:2	81:20 82:9
lock	158:11	make	may
131:25	lotteries	16:2,3 22:3 23:12	4:17 6:15 12:25
logical	21:7,8	24:2 26:4,13,18,19	22:12 26:7 29:10,15
69:1	lottery	27:10 50:14 57:2,11	48:15,15,16 57:5
logically	21:12 29:15,18 47:11	58:1,22,24 62:5	61:1,24 62:25 63:1
67:1	47:13,19	70:16 78:23 79:1,3	64:9,11 75:21 76:10
long	low	80:10 84:2,4,21,24	83:21,21,22 86:10
58:8 89:21 141:21	26:1,6 84:22 149:16	96:2 100:2 103:15	113:1 118:3 120:16
look	150:3	105:16 116:20	120:17 146:6,11,16
10:22 18:9 29:3,7	lower	119:4,6 124:18	146:17,19 147:21
42:3 60:12 72:2	12:9 20:23,24 21:13	128:4,6,7,11 129:3	147:22,24 148:5
99:13 100:12 101:3	45:10 54:13 63:23	129:5,7 135:16	149:6,10,12,14
103:20 104:25	81:22 82:10 102:18	141:22,23 143:14	150:2,16,16,24
112:24 113:24,24	lowering	151:10 152:20	151:2,3,6,8,18
117:12 118:2 129:8	45:13	156:20 169:10	152:10 153:5 154:3
129:9,14 143:15	lowers	makes	154:6,7,9 156:11,13
144:5 145:21,22	53:20	62:19,20 96:24 97:18	156:14 157:4,5,11
146:13 147:2	lowest	102:9	166:25 169:8
150:18 153:18	64:7,9	making	178:23 180:15
154:13 159:9,22	lunch	51:7 57:1 62:11	maybe
160:11 164:25	73:21	102:20 104:9	74:20 98:15 100:11
166:12 169:13		management	155:15
172:3 178:10		20:13	me
looked	M	mandate	4:23 7:6,20 10:24
112:5 139:19 174:23	machine	29:15,18 84:11	11:5,17 12:13 13:21
looking	48:9,25,25 49:3,12	manipulated	16:23 17:25 28:20
41:24 49:22 58:5	49:16	152:12 180:17	28:23 31:3 32:24
75:6 87:15,15	machines	manner	33:2 34:13 47:9
110:19 131:24	19:25 20:19,25 47:10	2:24 59:10	49:9 53:12 69:5
150:11 153:11	48:12 49:12	many	73:21 74:8 76:8
looks	made	24:5,6 157:12 161:3	93:24 94:15 95:6
35:22 91:11	90:11 127:16 130:24	161:4	97:11 101:4 104:24
lose	167:4,8	marked	106:24 109:2 110:5
91:8,13	magic	3:6	110:12 111:20
losers	57:6	materialize	116:19 117:17
47:15	Magna	48:2	125:23 126:7
losing	1:16 4:12	matter	129:11 132:15,19
46:4 57:9	maintain	4:5 6:4 55:23 69:4	134:21 139:7 143:2
loss	23:7 25:9 53:21 54:6	109:16 153:4	143:17 145:22
56:18 57:8,12,14	54:11 64:16 78:7,9	matters	147:6,13 149:23
losses	80:8	6:11 9:16 22:16	150:6,21 151:14
45:15 66:25	maintained	159:11	160:9 161:7,12,20
lost	83:20	maximizing	162:2,4,10,11,22,25
91:17	maintaining	111:16	163:11,11 164:3
lot	84:15	maximum	165:13 167:3,6
	maintains		



168:12 169:6,11 170:25 172:4 174:14,25,25 175:14 176:23 177:17 179:16 180:5,6,6,22 181:13 182:10 184:9	mentioned 53:16 163:21 164:2,7 164:10 165:17 179:4 mentioning 88:5 met 58:14 59:4 104:6 105:12 119:14,17 119:25 132:24 133:6,7 137:12 meter 149:1 152:6 154:10 180:11 181:1,8,10 metered 158:6,7,15,16,16 160:3,15 161:2,15 161:16 178:16,17 182:1 meter's 152:11 180:16 method 45:6 46:19 82:22 152:25 153:1 160:3 methods 59:8 metric 80:15 83:7 109:9 middle 81:9 might 23:20 54:24 83:1 90:11 155:20,21 Milestone 1:7 2:7,14 4:6,22,24 5:17,18 8:15 9:5,8 11:11,24 15:11 19:18 21:22 23:3,24 25:5,23 28:3 39:15 54:9 77:20 78:19 84:17 90:10 93:14 93:21 Milestone's 94:9 mind 79:20 90:2 137:15	147:3 176:10 mini 68:21 minimize 111:14 minimum 26:4,11,14,21,24 27:18 28:1,12 30:5 30:20 58:13 59:3 63:16 64:2,6,22 81:22 82:10 Minnesota 1:13 184:1,7 minutes 41:12 74:8,9,19 114:18 149:9,10 151:2,3,24,25 154:8 154:9 155:20,21 156:6,7 157:4,5 163:1 164:25 172:3 173:7 mischaracterizes 16:10 34:20 90:16 96:11 162:15 165:20 179:14 misquote 156:24 misquoted 158:1 missing 95:20 Missouri 5:22 mistake 155:6 Mm-hmm 14:22 19:11 38:23 40:5 88:2,22 113:10 mode 152:4 modification 49:19 127:20,25 128:11,13 modifications 113:15 128:5 modified	108:2 115:20,21 modify 56:25 101:9 103:15 109:20,21 125:16 130:10 modifying 55:18 96:22 103:10 107:18,22,25 108:13 109:11,13 109:14 module 113:22 moment 25:1 48:17 74:17 129:5 180:3 money 17:10,12 23:12 26:18 66:14 78:23 144:10 144:21,23 145:3,10 145:23,25 146:14 monitor 79:1 monitoring 146:6 more 23:13 44:24 45:15,21 49:5 50:14 51:8 59:21 62:17,19 68:7 77:2 81:17 86:9,16 87:19 90:5 102:4,9 102:14,20 103:16 104:9 107:1 124:18 127:16 130:10 138:18,24 148:9 158:21,22 161:6 morning 4:2,19,25 5:3,13 most 27:6 43:4 48:12 49:12 80:3,24 98:6 101:9 motion 172:7 mouth 153:7 move
--	---	--	--



130:19 142:2 159:12,18 170:15 172:7,8 moved 104:21 moving 44:6 150:19 Ms 4:25 5:3 16:9 23:17 24:20 25:6 27:2,23 28:5 30:8 34:19 46:7,17 52:13 54:22 56:3 66:18 67:9 73:23 74:12,16,18 74:24 89:24 90:15 91:9,10,14,20 96:10 103:12 107:3,21 114:14 123:11 125:9 133:2 136:9 153:14 159:17 161:22,24 162:15 165:19 166:3,8,11 166:17 167:17 168:8,14,19,22 169:1,4,8,13,17,20 169:24 170:3,12,15 170:22 171:1,4,9,11 171:13,15,21 172:1 172:6,10,14,17,20 173:1,5,11,18,24 174:6,18 177:5 178:4 179:10,13 180:8 182:10,16,18 182:20 much 21:13 59:21 74:8 113:6 151:24 155:22 157:12 159:1 161:3 multilevel 143:25 multiple 19:24 156:9,10 157:16 176:12 multiplier 145:5,11,24 146:1,7	146:9,15,19,21,23 147:11,17 148:13 148:17,18 149:7,12 149:13 150:1,25 151:23 153:6 154:1 154:14,17,23 155:1 155:11 156:4 157:1 157:14 158:2 159:24 161:9,13 162:12 163:2,18 165:2,15 166:23 167:12 174:16 175:2 176:1,5 177:19 179:8 180:4 181:21 182:2 must 18:14 43:5 76:16 77:4,6,6 119:8,9 125:17 134:13 160:20 my 4:19 5:16 7:1,3,6,6 8:22 9:9 21:13 39:17 47:18 59:8,18 65:13 68:6 69:19 70:5 72:7 78:15 79:17 91:11,14 116:2,25 125:21 128:15 132:19 154:19,20 156:19 156:19 163:25 164:15 169:23 170:20 175:9,23 176:4 177:14 178:24 179:12 184:12,13,17 myself 184:11 <hr/> N <hr/> N 4:1 name 4:19 5:16,20 named 14:8	narrow 16:12 narrowed 59:20 nature 113:3 nearby 11:7 12:25 necessarily 2:25 14:20 87:25 134:11 necessary 80:8 84:4,7 120:8,10 127:25 128:5,6,8 134:13 need 8:2,3 16:19 27:12 74:8 117:17 127:16 132:17 145:21 173:18,19,20,25 174:2 182:20 needed 32:17 132:23 needs 109:20 117:9 138:18 138:23 neither 128:1,24 network 100:14,17,20 never 155:11 159:16 165:17 168:18 new 74:3 102:21 103:3,19 103:22 135:11 142:12 167:6 newer 102:23 next 7:9 13:2 28:20 39:17 44:14 49:23 67:17 154:11,12 Nguyen 2:4 4:25 5:3,4 16:9 23:17 24:20 25:6	27:2,23 28:5 30:8 34:19 46:7,17 52:13 54:22 56:3 66:18 67:9 73:23 74:12,18 74:24 89:24 90:15 91:9,10,14,20 96:10 103:12 107:3,21 114:14 123:11 125:9 133:2 136:9 153:14 159:17 161:22,24 162:15 166:17 167:17 168:8,14,19,22 169:1,4,8,13,17,20 169:24 170:3,7,12 170:15,22 171:1,4,9 171:11,13,15,21 172:1,6,10,14,17,20 173:1,5,11,18,24 174:6,18 177:5 178:4 179:10,13 180:8 182:10,16,18 no 1:9,10 3:6 33:12,20 34:4 35:8 36:20 37:17,22 68:11 90:19 98:12 107:1 110:22,23 119:19 120:3,5 123:5,10 125:20 127:24 132:22 141:9 142:3 142:17 150:5 151:10 153:4,23 155:14,25 159:23 160:2 165:5,7,12,14 166:3,16,21 167:20 167:22 169:15,22 169:22 171:2,18,24 171:24 175:19,19 175:23,24 176:4 177:4 178:9 182:8 182:14,14 nodding 7:14 None
--	---	---	--



8:9	83:21 87:1 88:6,17	obvious	61:25 64:17 67:1,23
nonvault	89:13,14 90:17	12:20 35:2 65:10,16	70:23 71:23 72:23
152:11	92:13,16,19,22	75:14 94:5	73:22 77:2 81:17
nonvolatile	111:7 112:23	obviously	82:5,17,21 86:9,16
180:16	138:11,12,16,22	10:4 66:25 128:6	89:3 90:20,20 93:10
noontime	146:15,23 147:20	138:10 146:9	94:20 97:17 99:24
73:19	160:20	occur	101:9 108:9 109:6
nor	numbered	44:24 49:16 112:19	111:8 115:1,10
128:1,24 184:15	8:19	120:16,17	116:14,14,16 117:7
normal	numbering	occurred	117:9,14 119:7,9
97:4 154:5	13:19	48:23 70:15 92:14	121:7,14,21,22
normalization	numbers	120:16	123:6 124:20,23
113:5	24:12 45:19	occurring	125:17 126:18
Notably	numerical	116:6	127:3,3,11 129:17
13:24	146:7	occurs	130:10 131:22
notary	O	49:4,5 54:19 68:24	137:19 138:10
1:13 184:6	O	127:20	143:11,23 145:19
note	4:1 95:16	odds	146:24 147:3
2:23 21:18 171:8	oath	51:4,7 104:5 105:11	148:18 149:5,9
nothing	184:7	137:12	150:23 151:1,24
5:9 30:25 35:6,13	object	off	154:3,4 155:20
182:10 184:9	6:16 43:15 44:11	41:13,17 47:13 48:8	156:2,5,12 157:4,6
Notice	166:12	54:2 75:1 114:19	157:10 158:14
1:12	objection	130:19 149:20	159:8 160:22
noticing	6:18 16:9 23:17	159:18,20 174:7	167:16 179:8
4:16	24:20 25:6 27:2,23	182:11,21,25	ones
novice	28:5 30:8 34:19	offered	16:19,20 63:14
64:9	46:7,17 52:13 54:22	12:3	online
now	56:3 66:18 67:9	offering	6:25 10:23
4:3 18:6 81:9 107:13	89:24 90:15 96:10	18:23	only
110:19 115:2	103:12 107:3,21	OFFICE	16:19 108:9 109:6
131:12 151:14	123:11 125:9 133:2	1:1	117:14 126:18
157:6 164:25	136:9 153:14	offs	143:12 150:10
nowhere	161:22 165:19	47:19	176:19
161:18 181:20	167:17 174:18	often	open
number	177:1,5 178:4	22:1,6,11	171:8
17:7 19:9 22:12	179:10 180:8	Oh	operate
23:14,15,22,23 24:8	objects	17:23 74:16	20:9 27:6 97:5
24:10,11,15,15	43:2,10	once	operating
26:23,24,25 29:4	obtain	102:19 166:17	110:11 129:19 131:6
46:4,14 47:21,23	142:23	one	operation
48:17 50:3 54:19	obtained	9:13,19 12:2,5,8,18	80:7 98:13,18 127:19
59:10,23 60:21 61:3	81:16	14:9,12 15:8,20	operator
61:9 62:1 63:4	obtaining	17:7 19:22 26:16	28:13 32:6,10 37:11
67:21 70:8,10,12,18	89:22	29:10,14 43:23	49:14 71:10 72:21
71:16 82:18 83:6,18		47:16 54:13 59:19	72:25 95:13,19,25



96:1,3,9,12,18 97:7 97:17,24 98:5,6,10 98:12 opined 12:19 59:25 69:17 76:24 86:1 opinion 15:15,17 18:23 21:19 31:13 39:13,18 41:4 43:9 44:9 51:20 52:5 59:8 60:2 65:9 65:13 69:14,19 75:12 76:18 77:15 84:8,24 85:22 86:15 87:2 88:23 92:7 99:8,9,20 100:3 103:6,8 110:14,14 110:24 111:21 116:25 118:19 119:16,24 125:2 142:13 176:13 opinions 9:16 12:3 75:19 76:21 79:21 94:2,3 94:8 95:4,5 101:18 101:19 opponents 87:1 optimize 112:14 113:19 option 52:17 149:2 153:4 158:14 optional 181:5 order 53:21 54:6 55:14,25 56:18 58:12 59:2 81:15 182:16 ordinary 38:11 original 137:23 157:25 other 10:4 20:21 29:17 32:6,10 34:11 45:18	63:2 64:13 71:6 83:7 86:12 89:11 97:21 111:11 113:2 118:2 146:10,11 150:17 152:2,17 160:23 others 27:20 87:17 otherwise 7:22 21:4 44:25 45:1 out 31:19 32:21 91:17 92:6 93:10,19 101:18 106:20 107:10,11 109:1 124:6 138:17,18,23 138:24 143:4 158:20,22 161:5 169:20 172:6 178:19 outcome 45:8,9 46:24 47:4,7 47:12 48:11,19 49:2 86:12 109:7 184:15 outcomes 46:4,15 49:11 55:25 56:18 57:8 outcome's 47:4 outlined 100:11 outside 82:25 155:2 over 6:11 17:7 19:12 23:15 24:3,10 73:17 147:12,18 148:14 148:17 151:17 152:21 156:4 157:1 158:17 159:5 160:4 160:10 161:6,9,13 161:17,20 162:2,6 162:13,25 163:2,7 164:11,25 165:3,16 166:10 171:22 174:17,23 175:3	176:1,7,11 177:19 178:2,17 179:1 180:5 181:21 182:2 overall 47:23 52:1,21 63:4 64:16,19 97:8 129:4 138:15,21 141:19 overview 14:18 own 10:4 52:19 owned 8:15 owner 1:7 4:21 <hr/> P <hr/> P 2:8 4:1 page 3:2 12:8 13:19 18:9 31:3 36:6 38:19 40:6 42:4,20 49:23 51:12 64:25 69:3 73:14 75:6 76:5,7,9 80:10 85:9 86:2 91:24 94:16,17 95:10 98:23,24 100:1 101:3 105:2 105:17 110:4 114:25 126:5 134:20,21,22 139:4 139:7,8 145:16,17 147:4 160:6 pages 85:25 177:15 paid 16:7 58:6 63:20 138:17,23 Palo 2:5 paper 10:12,20,24 11:1,16 11:18 paragraph 13:17,23 14:25 15:3	18:6,10,21,22 19:2 31:3,6,18,24 32:3 33:6 36:5,23,25 37:4 38:20 40:2 41:5,14 42:4 49:22 51:10 60:12,18,24 62:23 65:20 69:13 69:18 72:9 77:1,16 81:9,10 86:2,5 88:3 92:5 99:8,14 101:25 104:21 105:1 110:20 112:3,11,12 112:17,20 113:12 115:23 118:19 124:2 125:25 134:19 137:5 140:11 142:5 147:16 148:24 150:20 153:11 154:13 159:22 160:7,9 177:16,17 177:17,21,23,25 178:10,25 179:5,6 179:20 180:1 181:16 paragraphs 31:12 36:24 39:12,17 65:8 76:19,20 85:21 95:2,3 101:17 110:13 parentheses 40:18 63:4 69:21 77:3,4,6 81:18,23 102:2 181:6,6,7 parenthesis 14:2 181:5 part 33:12 36:22 44:8,14 51:19 77:13 106:11 106:16 161:18 177:12 partes 6:7 8:14 13:12 93:25 participated 70:11 particular
--	---	--	--



43:6 66:4,13 67:7 68:15 71:17 92:1 93:4 99:6 100:10,13 100:19 102:16 106:14 110:16 113:8 125:4 144:14 152:14 180:19	patent's 61:20 Paul 2:3 5:4 paulhastings.com 2:6 pause 74:4 pay 16:2 109:13 110:2 124:6 137:23,25 138:18,24 payback 47:25 83:25 84:1 payment 168:10 payout 14:1,2 15:12,16,24 16:5,12,14,23,24 17:2,9,11,18,24 19:4,7,9,16,22,24 20:1,8,12,17 21:1,2 21:11 25:1,3 32:5 32:13 33:7,13 37:9 37:23 38:3 40:16,25 41:7 42:14 51:15 53:22 54:6,16,16 55:6,14,21 56:1,19 57:18,23 63:2,23,24 64:3,6,7,10,12,14 64:16 78:9 79:13 80:25 82:17 83:6 96:16 118:24 122:10,20 135:2,5 135:12 138:15,21 payouts 45:7 46:19 52:1 56:5 56:7 58:3,18 64:20 83:21 people 26:19 107:10 per 50:4 146:16 147:21 148:5 152:6,10 180:12,15 percent	20:16,16 21:14 25:3 25:9 57:19,19 83:25 83:25 84:1 percentage 14:3 15:12,17,24 16:5,6,12,23,25 17:1,2,6,8,9,10,10 17:13,19,25 19:4,7 19:17,22 20:2,8,12 20:18 21:11 25:3 33:7,14 37:10,24 38:4 40:16,25 41:7 42:14 47:25 53:22 54:7 55:6 56:1,19 57:18 64:16 78:8 79:13 percentages 16:1 19:25 21:2 25:1 32:5,14 81:1 96:16 percentage-wise 16:14,25 percentile 21:3 Perfect 38:17 perform 10:6 78:22 performance 44:7 86:11 performing 69:8,22 70:3 72:25 118:13 137:16 perhaps 131:20 period 14:4 149:7,14,15 150:2,3,25 152:21 152:23 154:7 178:17 181:1,11 person 19:14 22:25 34:13 36:13 38:5,11 44:9 45:23 46:3,13,19 50:23 52:6 60:7 61:14 62:13 63:15 63:25 64:8,14,21	70:9 72:5 73:10 77:16,25 78:16 81:5 82:1 84:13,25 87:9 87:18 88:23 92:25 100:25 103:17 104:14 109:22 110:1 111:1 112:21 116:4,8 154:6 157:17 petition 13:12 petitioner 1:5 5:5 petitions 8:14 phase 135:11 phrase 72:8 79:8 145:10 PH-Activision-Mil... 2:5 pick 41:13 74:4 132:5 picking 121:7,14 123:6 pickup 48:3 piece 72:2 pieces 160:25 place 24:3 125:6 160:22 places 70:23 plainly 38:7,9 plan 99:22 planning 10:21 played 17:13 22:13 51:4 68:10,15 70:9 71:17 82:18 83:8,22 92:16 92:20 93:5 99:17,22
---	---	--	---



100:5,13,19 111:8 138:11 139:13 140:3,7,8 141:3,10 142:19	point 31:18,25 37:5 61:23 62:3,4,14 70:21,23 95:23 108:19 129:2 155:17 159:23 161:11 163:16 165:1 167:3,6 169:6 169:20 172:6 174:25 178:1,25 179:7	predetermined 46:24 47:4,5,8,12,18 47:21 48:11 49:2,4 49:5,11,15 57:8,12 77:3,12,18,23 78:2 78:6,11,17 79:9,10 79:19,22,23 80:2,3 80:4,11,17,23,25 81:11,18,21,22 82:4 82:9,10,23 83:10 85:1 86:8 87:5 88:21 89:1,23 90:12 116:22 120:1 123:1	9:14 33:23 53:16 99:17,22 100:5 117:2 175:13 178:21 182:6
player 26:14 30:21,24 44:8 48:13 50:13 52:10 52:15,18 62:11 67:7 67:16 70:9,10 71:15 71:16 89:15 93:4 104:12 107:7,8 108:1 111:10,13 128:25 146:16 147:21 148:5 150:24 160:15 181:11	pointed 33:5 35:18,25 36:15 37:22 38:1 71:12 147:15 157:20,25 161:7,20 163:22 164:3	predetermines 56:17	price 152:6,10 156:13,13 158:23 180:11,15
players 16:7 17:4,5 30:7,11 43:4 50:2 53:21 54:5 105:25 106:7 106:19	pointing 70:1 77:10 102:8 124:14	predetermining 79:24	pricing 152:14 180:19
player's 53:18	points 17:12 61:3,9,21,25	prefer 11:1,18	principle 150:1
playing 44:4 87:21 90:2 100:22 104:8 105:24 107:14,24 141:21 151:18 156:22	POSITA 36:7 95:11,17	pre-recorded 118:6	prior 9:4,11,15 12:21 14:9 14:12 22:15 25:23 75:13 94:4 98:16 145:9,19
plays 23:15,23 24:5,8,11 24:15 26:23 27:1 30:22 45:21 54:20 79:14 81:17 106:15 106:16 107:10,12 111:10 138:9	potential 47:15,15 91:6	preselect 48:18	prize 14:1 22:8 32:9,12,15 32:15,19 33:8,9,10 33:16,19 34:4,6,11 34:22,24 35:16,20 35:22 36:20 37:11 37:13 50:3,13,14,15 51:15 53:13,18 54:11,11 55:5 56:24 58:3,3 63:19 67:8 70:12,13 104:5 105:10,25 106:1,17 107:6,9,14,25 109:2 113:5 115:23 119:9 121:22 123:24 125:13 135:19,20 136:24 137:2,11
playtime 151:8 155:23 156:1	Potentially 98:6	presence 162:5	prizes 19:9,10 26:14,25 53:20 54:5 57:18 58:6 63:6 105:21 106:13 136:6
please 4:14,15 5:19,20 7:19 13:7 71:2 91:20 93:11 94:15 119:22 121:12 159:18 167:3,6	practice 139:2	present 2:13 52:24 76:20 120:3	prizing 26:2,4,6,6,11,16,21 27:18 28:1,12 29:15 30:5,12,14,20 40:11 42:9 53:8 58:13 59:3,11 63:1,5,16 64:2,23 95:12,18 103:24 106:12
plurality 81:16	practicing 136:1,7 138:24	presentation 162:25	
	pre 140:1	presented 52:9 155:18 162:22	
	predefined 115:9 116:13 117:2 117:19,22,25 118:5 118:7,9,14 119:10 119:18 121:10,18 122:2,10 123:1,9,19 133:13 138:7,14 139:12,17,23 140:1 140:4,6,15,21,22 141:5,11,13 142:6 142:18	presenting 50:7 95:4	
	predetermination 48:23	presents 85:22	
		preserve 6:17	
		press 73:21	
		pretty 15:25 17:15,15	
		previous 32:3 36:24 54:12 117:23	
		previously	



107:17,23 108:10 111:15 112:15 113:19 115:11,20 116:15 117:4 118:22 122:7,19,22 123:2 124:4 134:17 134:25 135:3,4,9 136:4	20:3 79:6 program 96:1,1,14,14,15 97:1 97:2,13 98:18,19 111:18 127:9 152:9 180:14 programmable 94:22 95:12,18,24,25 96:5,7,25 97:9,12 97:15,25 98:7 101:9 101:11 102:2 103:10 108:14 109:11,12 115:7 116:10 120:21,25 121:21 126:10 127:10,11 128:22 129:23 130:4,10,12 131:10,18 132:4,13 136:22 137:17,21 139:21 programmatic 90:11 91:3 programmatically 49:14 96:20 97:20 98:2,3 programmed 97:23 programs 160:15 181:10 prohibit 31:1 promise 67:22 68:6 protocol 152:15,22 158:12 180:20 181:1,8 proven 125:7 provide 8:23 9:15 29:18 33:18 42:21 66:4 71:9 72:8,20 81:10 101:10 102:4,23 107:19,23 109:8 121:4 128:17 129:24 130:11	provided 38:15 55:15 65:22 86:24 87:10 105:18 108:9 133:5 provides 102:10,21 120:12 121:1 providing 22:15 68:20 69:20 70:2 71:21 72:9,13 72:19,24 101:11 108:12 109:10 112:5 120:9 127:23 130:13 proving 133:23 public 1:13 21:7 184:6 pull 32:21 48:16 93:10,19 143:4 pulled 71:20 72:14 purchase 144:25 145:4,11 146:1,14,17,18 147:22,23 148:8,10 151:21 156:1 159:25 162:13 165:16 166:23 167:12,13 172:25 175:25 176:6 purchased 151:7,8 154:18 155:23 purchases 148:15 155:12 174:16 175:2 purchasing 145:24 149:5 150:23 154:4 purported 113:16 157:2 purpose 73:8 pursuant	1:12 push 48:16 put 72:4 94:12 125:6 143:12 putting 45:3 94:2 96:14 p.m 183:1 <hr/> Q <hr/> qualification 53:14 qualify 15:21 23:9 25:14 54:14 55:21 58:9 109:14 156:22 questions 7:18,19 23:13 50:1 87:1 169:23 182:9 quick 73:20 quite 49:8 158:10 quiz 49:25 87:15 122:18 quotation 42:21 44:14 66:1 quotations 2:23 quote 2:25 14:2,4,4 29:10 29:11,12,12 31:7 39:2 49:22 63:1 69:8,9,20,21 71:5 71:12,14,20,20 77:18 81:14,23 86:10,16,17,21 88:4 88:15 94:21,24 99:4 101:8,15 105:6,13 110:9 115:5 147:20 150:22 153:13 154:22,24 155:3 156:24 180:24 181:1,4,12
--	--	---	---



<p>quoted 51:19 52:3 153:12</p> <p>quotes 72:8 155:3,8</p> <p>quoting 51:10</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R 4:1</p> <p>raise 57:18,22</p> <p>random 48:17 109:12</p> <p>randomly 104:2 105:8 137:8</p> <p>randomness 27:7 109:5 113:4</p> <p>range 21:6 27:8,9 78:8 82:23,25 83:9,21 84:3,5,16 128:10</p> <p>ranges 72:4 80:6 118:11</p> <p>ranking 64:9</p> <p>rate 21:24 22:1 23:16 55:3,5,14</p> <p>rates 23:14</p> <p>rather 7:13 29:19 76:19 111:20 148:8</p> <p>ratio 19:8 21:20,23,24,25 22:6,9,10,16 23:13 24:14,17 37:24 40:17 41:1,8 42:15 48:3 96:16 113:2,7 122:10,21 124:7 135:2,5,12</p> <p>ratios 14:4 16:15,15 23:2 32:5,14 33:7 37:10 113:1 118:25</p>	<p>RDR 1:13</p> <p>reach 27:5 28:14,17 50:15 54:16 56:25 58:3 83:2 87:25 89:1</p> <p>read 2:24 17:22 29:7 80:21 81:12 85:1 105:3 113:12 116:19 149:23,23 150:21 162:22 180:1 181:16</p> <p>reading 23:1 25:23 116:7 180:4</p> <p>reads 39:2 65:20 66:3 69:7 115:5</p> <p>ready 166:2 180:7</p> <p>really 6:17 65:9 78:15 90:10 109:16 144:7 173:19 174:2</p> <p>real-time 172:11</p> <p>reason 8:6 68:11</p> <p>reasonable 135:14</p> <p>recall 9:19</p> <p>receive 43:5 106:8</p> <p>received 32:10 37:11 168:18</p> <p>receives 146:16 147:21 148:5</p> <p>receiving 18:12 32:4 76:15</p> <p>recitation 85:13</p> <p>recited 14:16 118:5 159:13</p> <p>recites</p>	<p>35:13 44:16 49:24 110:9 128:19 129:17 139:10 144:14 147:10</p> <p>recognize 11:21 44:10 45:23 46:3,13 52:6 61:15 61:16 78:1,17 109:23 111:2</p> <p>recognized 60:8 73:11 77:17 88:24 93:1 101:1 104:15</p> <p>recollection 144:11</p> <p>recommendations 133:5</p> <p>reconvene 114:13 164:13</p> <p>record 2:24 4:3 5:20 6:18 7:15 41:18,21 67:6 67:16 75:1,4 99:5 114:20,23 174:8,11 182:12,20,25 184:13</p> <p>recorded 99:25 115:8 116:12 121:17 122:1,4 123:8 124:15 127:14 128:20 132:7 133:12 136:6 138:6,8 139:22 140:2 141:20 184:11</p> <p>recording 99:16,20,22 100:4,6 100:7,18,20</p> <p>reduced 149:14 150:2</p> <p>reducing 135:19</p> <p>Redwood 2:10</p> <p>reels 48:22</p>	<p>refer 13:1 17:1 24:4 112:3</p> <p>reference 12:21 14:15 31:14 32:23 33:20 36:1 44:22 51:11 71:1 75:9,13,23 78:1,2 85:23 95:6 112:7 113:13 131:13,17 172:24</p> <p>referenced 32:3,18 179:23</p> <p>references 14:10,12 26:3 33:22 101:22 113:13 145:9,19 181:18</p> <p>referred 22:14 35:16 105:3</p> <p>referring 33:15 63:22 82:16 139:18</p> <p>refers 14:7 75:8 139:17 152:3</p> <p>reflected 2:24</p> <p>refresh 144:11</p> <p>refusing 177:2</p> <p>regarding 12:3 31:13 39:13 65:3,9 66:13,16 69:14 76:21 77:11 79:21 92:1 94:3,8 99:6 101:19</p> <p>relate 43:15</p> <p>related 70:16 118:24 122:9 124:6 184:14</p> <p>relates 43:11</p> <p>relating 100:13,19</p> <p>relative</p>
--	--	---	---



151:17 184:10	requirements	10:18 91:13	79:8
relied	79:15 110:3 119:14	rooms	say
10:3 14:10	133:8 134:9	62:18,19	7:9 8:4 20:19 36:20
rely	requires	rounds	37:15 43:6 48:4
10:21 33:13	126:18 142:17 156:3	89:14 92:13,13,19	56:6,8 65:14,16
relying	181:9	rules	76:11 95:17 103:23
44:16	respect	88:5,10,25	112:11 124:8
remember	79:22 122:12,19	run	147:16 153:21
9:1,3 10:7	124:8 131:13	25:19 158:20,22	154:1,14,21 155:17
remind	134:18,25 135:10	running	162:9 177:11
144:5,6 175:14	136:20 142:24	18:21 42:19 99:7	saying
remonstrate	147:5	134:20	36:13,18 40:23 56:14
164:15 170:19	respond	runs	82:3 102:19 117:9
remote	169:21 172:8	161:5	119:7 122:25
32:11 37:12	response		125:17 132:2,8
remotely	153:23 155:14	S	133:25 135:17
6:25	165:12	S	139:25 141:9
rendered	responsive	2:4 4:1	155:16 157:21
12:20	43:3	said	says
renders	rest	35:20 46:9 76:9,10	13:23 18:11 29:9
65:10,15 75:14 94:5	48:20 148:24 152:16	103:21 123:14	31:7 33:16 36:18
repeat	restriction	140:9,20 141:4	63:9 77:6 116:15
47:1 49:7 108:15,18	56:11	142:5,10,15 151:16	121:24 122:12
119:22 121:12	restroom	153:21 159:9	124:15 131:9
repeated	173:19 174:3	175:10 177:11	143:22,23 144:23
171:3 175:4	result	184:10,11	145:3 154:3,3
repetitive	26:24 45:13,20	salvage	160:10 162:2
177:5	resulted	153:8	163:11
rephrase	109:5	same	scale
46:25	results	7:7 21:24 48:6 80:10	45:4
reporter	78:7 81:16,20 82:8	89:10 91:12 100:1	scenario
4:12,17 7:15 182:22	83:5,19 84:15	105:17 117:22	108:6
184:20	return	134:18 148:21	scenarios
REPORTER'S	17:4,5	168:15 170:16	156:5
2:23	returned	173:6 175:4 176:11	Schneier
represent	17:14	sanction	9:22 145:18 146:4,13
24:10 43:15	returning	168:10	147:16,19,25 149:4
representing	50:20	sanctions	150:7,8,22 151:5,12
5:4	revenue	168:5 170:19	151:14,15 152:5
requests	48:4	satisfaction	153:13,19 154:14
59:13	review	167:1	154:21,24 155:11
required	6:7 8:14 13:12 94:1	satisfied	155:19 156:9,19
16:17 19:21 119:20	romanette	77:5	157:15,22 158:4
120:4,6 129:4 134:5	99:3 101:8 115:4	satisfy	159:3 160:19 161:8
requirement	135:1	81:17	161:18 163:6
90:19	room	saw	164:10 165:14



166:7,22 167:3,7,10 167:23 172:23 174:15 175:1,24 176:5 177:12,18 178:21 179:8 180:10,24 181:7	68:25 section 14:18 18:20 33:4 35:6 40:3 41:24 51:24 75:17 76:24 78:4 99:7 101:16 117:18 140:12 145:14 151:5 152:2 153:9 154:1,12 159:2,23 160:2,16 181:4	9:7,10,13,16,19,22 10:5,5,7 47:14 115:22 select 48:14 132:2 selected 126:19 selecting 98:19 126:15 selection 52:9,23,25 115:6 116:9 118:21 120:20 121:25 122:7 124:3 126:9 127:9 131:9 132:25 137:17 139:20	session 111:9,9 set 23:6,11 25:11 27:1,3 27:9 52:11,24 78:20 81:15 84:11 86:18 87:12 88:13 97:8 101:10,17 118:11 120:21,25 121:7,8 121:14,15,15,16 123:6,7,20 125:4,7 125:10 126:10,15 126:18,25 127:10 127:22 128:2,16,22 129:23 130:4,8,11 130:20 131:14 132:4,5,12,20 136:22,24 137:1,18 137:22 138:1
scope 98:10 score 43:5 102:16 scoring 86:11 Scott 1:13 2:14 4:23 184:2 184:6 scratch 47:13,19 48:8 scratcher 47:11 screen 33:16,17 34:6,24 94:13 scroll 11:4 seal 184:17 searched 164:24 sec 143:11 second 12:8 31:19 37:8 46:9 60:24 65:20 84:7 86:5 93:11 101:10 101:12,14 102:10 102:13,21 103:3 109:8 115:7,18 116:10 120:21,25 121:1,3,16,20,25 126:10,15,22 127:9 127:13 130:11,13 130:15 131:10,17 131:17 132:5,25 136:21,25 137:17 138:1 139:21 147:3	sections 117:1,4 118:2 152:17 security 158:12 see 10:19 12:15 14:5 15:13 18:10,11,15 29:21 31:10 36:11 38:25 39:9 40:12,20 42:10 43:7 44:20 45:17 50:5 51:17 57:3 61:5 63:7 65:1 65:5 69:7,10,13,24 74:17 75:7,10 77:8 78:25 81:24 82:22 86:13 88:8 91:25 92:3 94:25 95:14,22 99:18 100:15 102:6 110:5 115:4,12 123:4 124:12 126:4 129:20 130:16 131:7 135:6 137:13 139:5,14 140:18 143:20 144:2,13,17 145:1,3,6 147:14 148:2 149:1 162:8 162:21 174:15 181:3 seeing 25:18 seek 26:22 168:5 seems 108:15 seen	send 10:14 157:10 sending 158:19 sense 151:11 sensitivity 86:24 sentence 14:5 31:19 51:11 60:24 65:20 86:5 149:22 separate 48:23 series 8:12 30:22 45:21 46:5,15 55:24,25 56:17 57:7 58:14 59:4 serve 9:23 server 31:20 32:7,11,20 33:11 34:5,11,23 36:8,21 37:6,12,13 38:2,10 152:19 service 9:12 22:15 services 1:16 4:13 8:24 10:6	sets 115:8 116:11 118:22 121:21 124:4 126:22,24 127:4,11 131:11,18 139:21 setting 25:7 28:15 79:24 92:6 94:20 98:14 setup 33:16 seven 168:19,20,23 169:19 170:11 several 52:16 55:8 70:23 162:25 shaking 7:13 She's 91:12 Shores 2:10 short 114:13 should 6:20 11:15 28:19 48:4 83:8 113:7
secondary			



155:2,3,7,8 159:4	81:5 82:1 84:13,25	27:12 33:9 53:15,15	spinning
show	87:9 88:23 92:25	54:24 62:3,6,7,7,10	48:22
13:4 156:20 160:9	100:25 104:14	63:21 68:4 70:18	sponsored
162:2 169:11	111:1 116:4,8	80:1 87:16 91:17	111:14
177:17	skilled	106:20 113:23	Staci
showing	22:21 34:7,13 36:13	131:19 142:22	1:12 4:12 184:20
33:6,22 117:13	38:5 44:9 45:23	144:8 157:15	stakes
148:13 153:1,3	46:3,13,20 51:9	sometimes	66:22
156:9 157:15 161:1	52:6 60:7 62:13	20:16 21:14,15 22:13	stamping
shown	64:1 77:16 109:22	somewhere	12:9
162:4	110:1 112:21	98:8 111:18	standard
shows	113:23 157:17	sorry	80:14 81:19,21,22
112:24 124:16 159:4	skill-based	99:15 121:11 135:3	82:7,7,9,11,21
signed	55:22	140:9 163:14	107:9 136:25
15:5	skip	173:20 174:2	start
similar	40:17	sort	7:2 28:16 78:13
22:2,21 26:3 70:11	slightly	30:5,20 57:15 100:23	143:20 149:22
71:17	10:17 116:2	sounds	153:10 179:25
simple	slot	6:9	started
63:19 164:18 168:6	47:10 48:9,12,25,25	source	6:12
since	49:3,10,12,16	32:6	starting
6:24 10:18	small	sources	108:19 152:4
single	146:25	32:11	starts
30:21 37:14 161:7,21	software	speak	160:17
sir	97:3,14,21 111:18	19:12	state
7:7 12:13 17:1 29:1	113:22 114:6,6	speaking	1:13 4:14,15 5:19
33:25 36:5 37:4	180:13	7:2	21:8 27:7 111:4
62:9 142:5 151:13	some	specific	133:21 184:1,6
154:20 157:20	10:14 21:9 27:6 47:9	9:4 14:20 25:21	stated
161:25 162:8,24	48:1 57:13,15 64:13	30:24 57:24 59:7,13	65:25 77:14,15 78:4
163:5,25 166:21	73:2 78:23 80:14	67:21 70:13 82:6	136:14 148:12
167:10,22 172:13	83:7 87:17,17 96:22	83:23 90:20 111:7	statement
173:10,14,23	98:18 100:23 106:1	113:5 150:15 161:4	155:1,7 175:1 176:4
177:23 178:9,14,25	109:2 112:4 113:1	specifically	states
179:4,16,24	121:9,18 123:9	16:20 147:19	1:1 21:4 66:7 133:21
sit	128:21 133:13	specified	144:19 146:4,5,6
163:16	135:10 136:7	78:24	statistical
site	someone	speed	69:20 70:2 71:9,21
158:25 161:16	51:9 89:4 96:21	43:2,10,14 44:10	71:24 72:1,9,13,19
situation	107:12 113:23	spend	72:20,24 112:6,14
23:20	someplace	151:24	113:17 114:1
skill	34:9 35:11 38:14	spends	statistics
22:25 38:11 50:23	153:16	158:11	70:7
61:14 63:15 64:17	something	spent	stay
64:21 72:5 73:10	17:8 19:20 21:20	140:12 149:8 151:1	132:11 169:18
77:25 78:16 79:4	22:1,6 23:9 26:20	154:2,15,23 155:2	stenotype



184:11	subheading	32:12,15,15,19 33:10	technology
still	91:25	33:19 34:2,4,6,22	178:16
19:15 91:21 120:12	subject	35:16,20,22 36:2	tell
stop	145:4,11,24 146:1,7	37:13 38:3 106:17	5:8 145:22 163:11
180:5,6	146:15	109:13 110:2 136:4	172:4 173:16
stopped	successfully	136:25 137:2,23,25	174:14,24 176:23
180:22 181:13	103:18	tables	179:16
storage	such	20:20 33:8	telling
31:21 33:19 37:18,20	29:16,18 49:20 61:2	take	17:17
38:2,15	61:15,24 67:22 70:7	7:25 8:1,2 41:11	ten
store	83:19 96:15 103:24	51:19 62:6,20 74:11	41:12 146:17 147:22
34:9,14 35:10 36:8	111:7,13 146:8	74:17 84:7 89:10	148:7,8 169:9
37:19 66:12 94:21	158:21 167:19,22	99:13,20 101:3	174:24
152:10	167:25 169:15	112:18 114:12	Tensegrity
stored	171:24 174:25	133:10 144:5 147:2	2:8 4:20
32:1,14,16,20 33:7,9	suddenly	166:19 168:14	term
33:11,23 34:3,5,10	106:19 107:11	170:8 172:3 173:2,5	15:25 17:15,18,21
34:10,18 35:1,15,19	Suite	173:18,20,25 174:4	22:2,16,19,20 25:16
35:21,24 36:16,19	2:9	taken	25:22 26:1,8 27:16
36:21 37:12,25	support	1:12 4:10 5:25 6:3,6	35:8 77:11 80:22
38:13,14,16 66:24	8:13 13:11	16:6 17:10 41:19	81:3,4,6 90:9 96:13
67:1,2,14 68:10,11	sure	75:2 114:21 174:9	97:15 110:20,22
68:16,18 69:2 71:7	9:25 16:3 17:23 22:3	taking	111:22 151:18
180:15	24:2 26:4,13,19	1:12 62:17 87:19	155:11
stores	27:11 47:17 48:5	172:14,17 173:1,7	termed
32:7 97:18	74:24 79:1,3 80:10	talk	26:5
storing	84:2,4,21,24 100:2	84:6 104:20 134:17	terms
31:7 33:13,21 34:22	105:16 108:16	148:24 157:2 158:4	20:19,20 22:22
35:7,14 36:1 37:5	116:20 119:23	talked	tertiary
65:2 66:14,16,21	135:17 145:15	53:5	68:25
67:6,8,16,18 68:4	172:9 177:9	talking	test
92:12	swear	67:12 104:7 131:4	80:14 143:14
Story	4:17	144:9 151:22	testified
91:25	switch	talks	5:10 28:11 175:10
straightforward	73:17 134:4,5,9	19:8 160:13 161:14	testify
15:25	sworn	taught	8:17 184:9
strategies	5:8 184:9	38:8	testifying
26:17	synced	teaches	5:22 8:7 184:9
strike	182:13	32:13 38:6 59:16,23	testimony
142:2 159:12,18	systemwide	71:5	16:10 22:4 34:20
strikes	24:23	teaching	63:25 90:16 96:11
88:6	system's	35:9 120:13	149:17,19 162:16
structures	160:5	technical	165:1,20 166:13
30:12 118:22	_____	160:24 162:11	174:23 177:14
style	T	technique	179:14 184:11,13
48:13,25	_____	178:15	text
	table		



71:19 157:25	thereof	44:5 63:10,12 72:5	thousands
than	90:19 101:22 104:11	89:11 129:17	67:19
7:13 10:4 43:5 44:24	113:14 184:7	think	thousandth
44:25 55:14 59:2	there's	9:25 12:25 22:5	104:4 105:10 108:8
81:20,22 82:8,10	14:3 22:7,9 30:25	26:19 43:5 46:8	108:12 109:4
102:16 104:4 107:1	33:20 34:1,16,16,17	65:15 74:18 79:17	137:10
113:2 121:2 144:8	35:8 38:2,3,9,10,23	81:11 98:9 100:1	three
thank	68:11 76:7 77:5	112:4 114:11 118:7	104:4 105:10 137:10
38:17 41:16 78:14	99:3 108:8 150:5	124:2 129:9 149:23	threshold
85:8 139:9 155:5	these	152:3 172:4 182:22	118:24 119:18 120:2
174:6 182:9,23	6:10 8:25 9:16 16:16	third	124:6 128:21
Thanks	16:18 22:15,22 23:5	104:3 105:8 137:9	133:14 136:7 140:5
114:17,18	23:11 34:16 52:3	those	thresholds
their	59:15 60:5 63:9	10:5,7,9 11:6,6 18:13	98:15 118:18 122:9
4:14,15 79:15 136:21	64:15,19 78:11,12	19:23 23:9 24:12	through
them	80:5,6,6 87:7,20	27:21 32:7 33:18	11:4 18:21 24:5
7:20 10:8 16:18	89:3,17 90:20 110:3	36:2 37:23 38:13	39:13 59:23 67:19
47:20 54:15 55:9	113:13 117:11,12	39:17 41:2 48:1	75:18 76:19,20
61:15,25 62:17,20	119:3 150:17	49:15 52:7,18 54:12	85:21 88:16 95:3
64:11 70:24 80:8	152:17 156:20	54:13 55:11 56:6,25	97:20 101:17
82:16 96:4,14 98:16	157:18	56:25 58:19 59:12	110:13 117:8
106:21,21 112:24	they	60:8 61:12,16 63:12	144:24 148:23
125:15,18 128:7,7	2:24 21:5,5 23:8	67:1,2 73:9 76:16	152:16 153:2
then	26:19 34:15 38:14	79:2,3,24 82:17	155:23 166:13,13
14:3 32:21 37:12	44:25 45:1 47:20	83:16 84:2 85:2,6	thumb
38:10 40:14 41:4,12	57:10,11 58:21	85:25 87:3,24 88:10	45:3
42:19 48:20 66:1	61:16 64:9 70:15,20	88:18 92:15 94:3	thus
69:21 74:17,19,22	83:20,20 85:4,4	95:5 96:4,19,21	36:7
77:5 78:25 82:24	90:23 95:13,19 96:8	97:18,22 98:14	ticket
102:4 105:10	98:14 106:19	101:18 116:16,17	47:11,12,14
108:10 109:7 110:8	107:13 125:5 128:6	116:18 117:4,7,8,9	tickets
112:11 114:13	128:7,7 138:3	117:14,15 118:2,12	47:14,23 48:2
119:19 120:3 124:8	157:17	119:8,13 125:15,17	times
127:24 128:19	they're	127:3,4 128:4 133:6	50:1 70:10,12,18
130:9 132:21	38:16 82:20 89:19	133:7 134:4,5,8	71:16 111:8 156:21
133:10,15,22 137:5	90:4 100:22 128:5	135:25 138:13,13	156:22 157:23
137:8,11 145:3	128:10	138:16 149:3	174:24
147:2 149:8 150:20	they've	150:18 156:4	timing
158:1,21 161:5	70:18 106:20 117:13	177:15	181:24
174:5 184:6	thing	though	titled
theoretically	37:14 48:6 74:3	34:14 35:12,17	181:4
96:13	109:23 158:1	159:10	today
thereby	161:21 163:17	thought	4:23 5:14,22 8:8,12
102:10	175:5 176:19	115:25	8:17 9:22 10:13,22
therefore	things	thousand	163:16 175:11
73:7	6:10 20:21 22:21	67:22 68:6,8	182:13



Today's 4:8	true 15:4 18:22 22:23 30:17 35:17 89:6 184:12	typical 20:11,17 21:11	90:25
together 112:24 178:11	truth 5:8,9,9 184:9,10	typically 20:7 24:4,9 50:3 97:7 97:18	unless 6:18 21:4
told 16:22 162:10	truthfully 8:7	<hr/> U <hr/>	until 7:1 166:4 170:13
too 7:6 24:14 122:13,14 122:21 124:10,17 125:7 126:1 128:1,1 128:24,24 133:14 133:14,23 135:2,12 141:21 162:11	try 7:1,4,5,25 11:13 27:4 27:9 28:14,16 55:10	under 25:15 97:3 125:4,7 129:22 184:12	unusual 30:25
took 70:9 71:15 184:4	trying 11:4 16:11 20:13 78:9 84:19 85:5 87:25 90:4 106:25 107:4 118:3 131:25 138:15 171:16	underlying 72:2	up 11:13 13:4 23:6,11 25:8 27:3 28:16 32:3 41:13 50:20 51:5 62:6 74:5 90:21 94:12 97:8 108:4 111:20 122:16 136:13,17 150:18
top 72:10 126:5 139:6 143:21 160:18 179:25	turn 11:8 12:8 13:2,17 14:22 24:25 28:18 28:22 31:2 33:1 38:18 40:2 69:3 73:13 79:2 93:8 94:15 97:19 98:23 108:2 110:4 114:25 142:21	understand 6:22 7:17 8:11 16:3 17:6 22:3 23:1 27:15 39:11 44:22 46:20 49:8,10,16 50:24 62:14 63:16 63:25 64:1 65:7 75:12 80:13 82:2 87:10 89:5 102:9 106:23 108:16 110:15,24 113:25 116:4 117:19 118:4 125:2,20 130:2 131:12 139:16 142:16 145:8 162:11 165:9	updated 152:20 158:17,24 160:23 181:9
total 47:18	Twin 2:9	understanding 8:21,22 9:3 15:23 16:4 17:3 21:10,13 26:10 61:19 69:12 83:3 105:22 115:14 116:7 146:20	updating 91:11,14 148:25 152:15,18 158:5 160:13 161:1 180:20,25 181:4,23 181:25,25
tournament 71:8,11,17 72:22	two 40:24 41:2 105:7,19 105:24 106:7 107:1 107:9 108:7,21,25 126:19,23 133:20 133:25 135:21,25 137:7 149:10 151:3 151:25 154:8 155:21 156:4 157:5	understands 22:22 38:6 51:9 64:18 79:4	upon 10:3 32:6 108:8 109:4 140:25
tournaments 70:11	type 22:13 29:20 49:12 51:25 66:3 67:21 87:14 90:21 109:23 109:25 158:6	understood 7:22 18:1 19:15 21:16 35:5,5 36:7 36:14 38:12 62:22 67:5 72:7 95:11,17 145:22 150:19	usage 47:20
track 82:19 83:17 84:1	types 6:10 59:7,13 87:16	UNITED 1:1	use 11:1 15:10 19:17 21:25 29:16 34:12 34:25 35:8 42:1 49:6,17 50:8 53:3 54:24 61:2,9,20,25 63:13 64:4 73:4 77:19 79:12,15 82:1 86:18 90:6,23 94:23 94:23 96:13 110:20 111:22 125:15,17 144:10 148:7 156:14 161:11 167:11
TRADEMARK 1:1	typewriting 184:12	universe	
transcribed 184:12			
transcript 166:14 169:14 182:13,17,18			
transfer 149:3 156:15 182:1			
transferred 158:8 160:22			
treasure 62:19			
TRIAL 1:3			
tries 138:21			
trivia 86:25			



used 14:21 21:21 22:19 23:19 28:8 30:2 33:17 34:15 36:8 48:14,18 51:21 52:11 53:9 57:3 58:23,24 62:8,14 63:10,17 71:8 78:6 78:19 87:4,8,11,22 88:12,17 89:3 90:9 90:21 110:22 113:6 118:18 140:2 146:12 149:2 152:22 161:2 178:16 181:8	39:5,7 54:20 55:15 56:2,20 57:19 58:15 59:5 84:10 85:16,17 115:8 116:11 118:6 118:23 122:1,8 124:5 132:6 139:22 U.S 1:10 <hr/> V <hr/> v 1:6 vague 23:17 24:20 25:6 27:2,23 30:8 46:7 46:17 54:22 56:3 89:24 90:15 103:12 107:3,21 125:9 153:14 167:17 180:8 vain 164:24 validity 12:4 value 43:6 53:20 54:5 57:17 102:17 128:21 135:19 136:5 146:7,24 152:11 158:14 159:24 161:1,15,16 178:16 182:1 values 23:9 146:24 variables 51:25 63:3 64:19 84:9 86:10 91:7 97:21,22 101:10 171:22 variance 163:18 167:11 178:2 variation 120:5 varies 148:17 160:4,10 163:6 165:16	166:24 167:14 176:12 179:1 various 50:1 83:16 149:2 vary 156:4 176:1,7 178:16 varying 157:1 162:12 163:2 164:11 165:2,15 166:10 172:24 177:19 179:8 180:4 181:21 verbal 7:14 115:20 153:23 155:14 165:12 version 94:1,7 versus 4:6 11:2 22:8 very 8:10 10:10 12:6 30:15 38:6,7,8,9 43:21 59:20 67:13 72:10 76:4,4 91:6 93:23 94:11,14 106:3 128:9,9 160:2 160:24 182:3 veteran 6:10 via 4:10 152:14 180:19 video 4:4 48:21 104:3 105:7,8,19,21,23 107:1 108:7,11,21 109:6,8 137:7,9 182:13,17 videographer 2:14 4:2,11 41:17,20 74:25 75:3 91:8 114:19,22 174:7,10 182:11,15,19,24 Videotaped 1:11 view 22:6 24:19 35:5,12	39:14 50:17 65:19 68:12 69:14 76:21 83:15 88:11 89:20 90:8 96:25 106:10 118:13 124:24 virtual 144:10,20,23 145:3 145:10,23,25 146:14 155:12 159:25 162:13 165:16 166:23 167:12,13 174:17 175:3,25 176:6 virtue 184:7 visits 111:13 vowels 88:7 V-coins 146:8 <hr/> W <hr/> Walker 9:18 73:18 75:9,13 75:23 76:21 77:2,11 77:24 79:8,21 80:21 81:13 82:3 83:4 84:22 85:23 86:7,21 88:5,11,16 92:7 105:18 Walker's 77:18 81:11 84:8,14 86:15 walks 75:18 want 11:16 12:25 16:1 19:11 22:3 23:10 24:2,5 26:3,13,18 26:19 43:6 54:1 55:10 73:20,21 74:2 74:4,9,16,21 75:21 79:5,11 80:4,5,10 83:1,18,24,24,24 90:23 105:16
--	---	--	---



114:12,15 116:3,19 117:6,13 118:2 135:16 143:15 144:5 145:16 147:1 148:9 149:20 164:16	117:5,6,11,14,22 119:11 124:17 139:18 140:10,12 142:21 148:23,24 160:16 166:4,17 169:3,21 170:7,13 170:15 172:8 173:1 173:7,20,25,25 174:7,10 182:11,21 182:24	112:4 115:16,22 117:1,10 119:2 120:24 144:9 165:25 173:11	153:1,4,21 158:7,14 160:3,9 161:3 162:2 162:9,24 163:5,11 166:6,6 167:3,7,10 167:14 168:3,5 169:7,11 170:5 171:19 172:4,16,23 173:10,14 174:14 174:25 176:19,20 176:23 177:9 178:1 178:18,25 179:6,16
wanted 73:23	website 111:14	whatever 8:2 17:12,13 48:18 48:22 55:7 66:23 73:8 79:14,15 83:22 90:1 119:25 120:2 125:5,6 137:23 153:4 157:12 158:23	wherein 29:17 101:12 130:14 139:11 147:11
wants 79:14	well 5:13 6:9 10:10 14:22 22:23 44:3 49:9 57:5 60:17 63:19 64:8 67:13 73:2 79:24 80:9 97:1 120:9,12,19 127:5 138:8 141:1 143:4 146:5 153:7 154:19 156:9,24 164:13,23 182:7	what's 15:23 20:11 65:25 66:22,22 74:10 108:24 116:5 130:18 138:1,6,7,14 164:6,18,19,23 165:24	Whereupon 41:19 75:2 114:21 174:9
was 5:10 15:4 18:3 22:23 30:17 34:12 41:19 61:19 68:9,14 70:13 70:13 75:2 78:15 79:18 90:21 96:8 97:11 114:21 116:2 118:5,13,15 125:6 135:2,12 137:23 153:7 154:19 155:6 162:11 169:24 170:3 174:9 181:20 182:7 184:6,7,9,11	we're 2:24 8:23 9:2 27:14 27:14,16,20 41:23 49:18 57:25 68:4 79:7 85:5 117:20 145:8	when 8:23 12:13 13:21 28:20,24 31:3 32:17 32:24 33:2 34:8 69:5 71:25 74:5 76:8 79:7 97:12 100:3 101:5 103:14 110:6 117:20 120:14 126:13 127:6,19 128:5,7,12 129:6,11 134:13 139:7,17 143:2,17 145:8 147:6 161:5 170:21 177:11,14 181:8	wherever 17:11
wasn't 72:7 182:7	we'll 9:10,17,21 41:12 45:17 74:4 84:6 168:20,23 169:18	whenever 166:1	whether 9:13 14:14 26:5 31:13 45:10 48:21 48:21 54:12 55:22 83:5,6 84:21 94:4 96:6 108:4 109:16 123:20 134:3 150:16
way 10:1 23:20 43:22,23 45:5,9,11,18 49:10 64:17 85:21 96:22 97:4 109:13 137:4 137:19	we're 33:15 67:2,11 73:17 80:10 95:20 100:1 105:16 109:25 113:25 116:20 121:13 131:4 136:19,23 164:13 166:3,18 168:5,14 168:24,25 170:1,2,8 170:10 172:14,17 173:5 180:2	where 30:2 32:19 37:19 38:12,15 41:13 47:7 51:10 62:4,8,10 63:22 71:20,23 72:15,17 92:10 105:23 108:6 111:9 114:1 127:20 138:3 143:21,23 148:18 151:18 152:19	which 2:24 4:17 7:8 11:9 12:2 13:3 18:13 19:7 21:20 23:7 28:19 32:6,22 33:15 34:24 45:11 48:10 49:4,10,15 51:13 52:16,16 55:9 60:12 63:1 67:24 71:8 75:23 76:16 85:13 88:16 90:22 93:20 98:19 99:16,21 100:4 103:22 112:5 116:3 117:15 118:20 121:22 128:12 129:10 131:4 132:3,5 135:8 137:19 139:6,19 140:15 141:6,14
ways 30:3 60:5 122:16 156:20 157:16 168:16 169:9	we 4:3 6:11,24 8:1,2 12:25 14:22 18:5 41:11,13,17,20,23 41:23 45:17 53:5 67:19 69:13 74:5,6 74:14,22,25 75:3,24 76:5,14 78:25 80:13 91:8,13,17 98:23 99:13 103:20 104:25 114:19,22		



<p>144:9 146:23 152:8 154:5 155:19 157:25 160:17 161:16 168:17 176:12 182:1,5 while 111:21 116:17 146:18 147:23 149:10,15 150:3 151:2 154:8 157:5 White 2:14 4:11 who 4:24 85:1 90:3 whole 5:9 13:25 18:14 25:9 74:3 76:17 77:7 135:24 184:9 whose 64:8 why 18:23 19:14 22:25 41:11 44:2 48:9 50:23 52:2 68:11 72:24 78:16,16 84:13 87:9 89:20 91:10,15 95:5 129:8 will 4:14 5:16 6:10 7:4,6 7:6,19,21,25,25 8:3 8:5 13:4 26:16,24 34:10 50:3 71:2 108:25 120:14 128:4,7 129:9 134:12,20 140:2 142:25 143:6 168:10 169:21 170:15 172:8 William 2:8 4:20 william.nelson@te... 2:10 willing 174:14 win 14:4 16:14,15 19:8</p>	<p>21:20,23,24,24,25 22:1,5,6,7,10,16 23:2,13,14,16 24:14 24:17 26:20 32:5,14 33:7 37:10,24 40:17 41:1,7 42:15 48:3 49:4,5 50:3 51:8 53:8 54:19 55:2,5 55:20 57:12 87:19 96:16 103:17 106:8 107:2 118:25 120:14 122:10,21 124:7 135:2,5,12 winner 22:11 71:9 winnings 47:15,22 63:5 winning 22:8 44:18,23 45:12 45:14,19,25 46:15 48:1,14,18 50:21,25 51:5 53:6 58:12 59:1 68:1 102:17 103:18 wins 23:14,22 24:3,6,7,10 24:15 45:21 49:15 55:13 63:3 66:25 83:6 87:24 109:1 118:23 122:3,9,21 124:5 135:3 within 20:4 27:8 53:25 62:7 78:8 82:23 83:8,20 84:3,4,15 98:10 104:3 105:9 128:10 137:10 152:10 155:8 157:9 180:16 without 57:1 111:11 158:3 witness 4:18 13:8 16:11 23:18 24:21 25:7 27:3,24 28:7 30:10 34:21 41:15 46:8,18 52:15 54:23 56:4</p>	<p>66:20 67:11 73:25 74:6,10,14 89:25 90:17 96:12 103:14 107:4,22 114:15 123:13 125:10 133:4 136:11 153:15 162:18 165:21 174:20 177:6 178:6 184:8 184:11,13,17 witness's 16:10 90:16 165:20 179:14 won 19:7 66:14 67:7,17 70:18 138:12,12 141:21 won't 171:17 word 34:14 57:6 79:18,23 80:12 88:7 95:20 161:7,11,18 162:5 162:21 163:1 165:17 words 7:13 161:19 work 11:16 137:4 works 29:4 35:3 wouldn't 45:5 write 14:23 40:8,14 42:6 42:12 60:23 69:18 77:1 81:12 86:6 95:10 99:14 101:25 134:23 written 181:16 wrong 151:10 179:16 wrote 13:15 15:3,7 36:5 62:23 142:13,14</p>	<p>www.MagnaLS.com 1:17 <hr/> X <hr/> X 23:15,23 24:7,10,15 63:4 177:11 XC14 117:11 XC9 117:11 X1008 180:23 <hr/> Y <hr/> Y 24:10,15 54:19 yeah 8:5 11:15 16:11 21:14 24:12 28:15 29:1 39:17 54:3 57:8,10 62:10 70:25 73:25 74:1,18,21 76:13 87:7 91:20,21 92:10,15 99:23 100:1,9 106:2,4 108:17 109:1 112:10 114:14,17 119:2 123:13 125:10,20 126:6,20 134:9,23 136:11 139:9 140:23,24 148:13 153:20,25 155:7,10 157:10 Yep 60:23 135:15 154:13 yet 29:11 143:8 180:22 181:13 you'd 8:18 16:1 80:3 117:7 145:13,15 158:22 you'll 12:25 18:10 65:1 69:7 75:7 91:25 94:20 110:5 115:4</p>
---	---	---	--



<p>139:5 160:9 you've 7:8 10:4 12:2 17:18 30:23 33:5 35:13 36:14 37:5,22 38:1 53:15 62:17 66:1 73:2 78:20 89:11 92:11 100:10 110:25 116:19 125:24 127:6 134:1 140:9,20 141:4 147:15 162:4,10,21 163:22,24 173:6 175:23 177:10</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>Zoom 1:11 4:11 91:11,14</p> <hr/> <p style="text-align: center;">\$</p> <hr/> <p>\$0.30 146:19 147:24 148:11</p> <p>\$0.50 146:18 147:23 148:7 148:9</p> <p>\$1 146:8</p> <p>\$1,000 67:8</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>00709 8:20</p> <p>00710 8:20</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 12:10,15,18 14:16 16:17 25:15 31:15 39:21 63:4 65:11 98:9 101:20 115:23 118:1 122:5,16 129:10,14,17 139:11,24 143:15</p>	<p>143:21 147:11</p> <p>1A 18:12 76:14,22</p> <p>1B 31:7</p> <p>1C 38:23 85:12</p> <p>1D 65:2 91:25 92:8</p> <p>1D2 139:19 140:11</p> <p>1,000 146:11</p> <p>1.B 99:3</p> <p>1.B.i 94:21</p> <p>1.C 101:7</p> <p>1.D 110:8 115:4 135:1</p> <p>1.D.i 124:9</p> <p>1.F 69:8</p> <p>1:53 75:4</p> <p>10 66:2 101:7 114:18</p> <p>10-minute 174:5</p> <p>10:00 1:14</p> <p>10:01 4:9</p> <p>100 65:8,21</p> <p>1001 11:9,21 28:19,23 93:20 129:10 143:4 143:6,13,16</p> <p>1003 13:2,10 18:7 40:3 41:25 42:20 60:13 65:1 69:3 73:14 75:7 76:6 85:10</p>	<p>93:17,25 98:23 101:3 115:1 139:4 142:25</p> <p>1005 32:22 33:5 66:2 71:1 80:22</p> <p>1006 75:22</p> <p>1008 181:2</p> <p>101 65:9</p> <p>104 69:13,18 70:5 72:10</p> <p>105 113:9</p> <p>108 31:20 32:7,20 34:23 35:21 36:8,21 37:7 37:18</p> <p>11 75:17</p> <p>11:02 41:18</p> <p>11:12 41:21</p> <p>1117 2:4</p> <p>12 66:2 110:5 149:10 151:3,3,25 154:9 155:21,21 156:7 157:5 180:18 181:10</p> <p>12:15 75:1</p> <p>122 95:3</p> <p>126 95:10</p> <p>128 95:3</p> <p>14 115:4</p> <p>141 99:8</p>	<p>143 99:8,14 145:18 147:16,25 150:22 153:13 154:14 155:11 164:10 165:14 166:7,22 167:3,7,10,23 172:23 174:15 175:1,24 176:5 177:12,18 180:10 180:24 181:7</p> <p>149 76:19,20 77:1,16 81:9</p> <p>15 28:22,25 66:2 114:11 172:3 173:7</p> <p>15,000 106:16</p> <p>150 146:11</p> <p>151 76:19,20</p> <p>154 147:16</p> <p>155 160:2,6,9 177:15,16 177:17,18,23,25 178:10,15,25 179:7 179:20,22,23 180:1</p> <p>156 85:21 88:15 149:4 150:20 151:22 153:10,12 154:14 159:22</p> <p>157 85:21</p> <p>158 86:2,5 89:11</p> <p>161 85:21</p> <p>162 92:5,10 101:17</p> <p>164 101:25</p> <p>165</p>
---	--	--	---



103:23 104:21 105:1 166 88:16 101:17 173 110:13,20 174 112:3,20 175 112:11,17 178 110:13 185 118:19 124:2 125:25 134:20 19 1:14 158:4,10 160:13 160:17 161:14 178:19 179:5 180:24 181:3,7,18 182:5 184:4 19th 4:8 <hr/> 2 <hr/> 2 75:8 100:12 110:11 129:19 131:6,9 2:01 114:20 2:13 114:23 20 146:18 147:23 148:10 2002 89:8 93:1 100:25 104:18 2004 18:3 19:15 22:23 27:18 30:17 60:7 64:23 73:10 77:17 81:6 85:1 88:24 89:6 104:14 109:22 2025 1:14 4:9 184:5,17	21 160:19 226 140:11 142:5 24th 184:17 249 143:21 26 180:14 27 71:5 72:15 279 93:14,21 94:6,9 98:9 99:10 101:21 110:17 111:3,4,24 113:25 114:8 115:15 118:1 129:10 28 139:5,10,17,25 29 33:1,12 35:6 160:20 294 142:25 143:1,5,13 144:7 146:5 147:5 <hr/> 3 <hr/> 3,000 107:12 109:17 138:4 3:44 174:8 3:53 174:11 30 74:8,19 31 148:1 32 29:3,7 70:22,23,25 72:15,15 112:7,9 336 11:9,10,20,24 12:10 12:15,19 13:12 14:16 15:19 18:18 28:18,22 29:9 31:15	39:15,21 40:9 42:7 60:14,14,18,21,25 61:7,20 63:9 65:11 75:15 76:22 92:8 34 148:1 35 33:12 35:7 36 13:19 37 18:9 38 42:25 39 42:25 <hr/> 4 <hr/> 4:03 182:25 183:1 40 31:3 36:6 41 38:19 42 40:6 42:4 49:23 154:22 43 42:20 51:12 153:18 44 33:1,12 35:6 64:25 145:16,17 45 74:9,20 129:11,15 153:18 154:22 46 69:3 143:16,23 47 144:4 49 12:8 181:2 495 137:6 <hr/> 5 <hr/> 5	3:3 151:24 50 21:14 57:19 50,000 109:17 500 146:8,9 502 152:6 154:11 180:11 180:16 503 181:10 54 94:16,17 555 2:9 56 160:18,20 57 95:10 58 134:22 59 73:14 75:6 <hr/> 6 <hr/> 61 13:23 62 76:7,9,10 63 76:6,9,11,13 148:1 153:18 154:22 634552 180:23 65 42:25 147:4 650 2:9 66 85:9 98:23,24 68 86:2 <hr/> 7 <hr/> 7
---	--	---	--



<p>7/10 143:1 70 84:1 91:24 706 180:13 708 11:22 13:2 18:7 19:3 28:23 38:19 40:3 41:25 65:1 69:4 73:15 75:7,22 76:7 85:10 71 13:17 15:1,3 710 147:5 711 8:20 712 8:20 93:17,20,25 98:24 101:4 115:1 139:5 72 70:25 73 70:25 74 101:3 105:2 75 25:3,9 57:19 77 110:4 78 112:12</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 147:10 8,000 104:1 105:6,19 106:7 106:15 107:2,10 108:6,21,24 109:9 109:17 137:7 8,529,336 1:10 80</p>	<p>83:25,25 84 114:25 85 126:5 134:20,21 866-624-6221 1:17 89 18:10,21</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 33:20 9A 33:15,16,20 90 18:6,22 90s 20:15,20 90th 21:3 91 19:2 93 18:22 32:4 33:6 94 31:3,6,12,18 36:5,23 36:25 37:4 94065 2:10 94303 2:5 948 181:2 95 20:16 31:12,24 96 38:20,22 39:12 97 60:12,24 62:23 98 20:16 40:2 42:4 49:22 139:4,8 99 39:13</p>		
---	---	--	--

