

EXHIBIT 1

(REDACTED)

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MICHAEL D. MITZENMACHER, PH.D. - 03/28/2019 Pages 18..21

<p style="text-align: right;">Page 18</p> <p>1 (The Reporter rebooted the attorneys'</p> <p>2 realtime-display iPads, which had lost Internet</p> <p>3 connectivity.)</p> <p>4 THE VIDEOGRAPHER: 9:16, back on the</p> <p>5 record.</p> <p>6 BY MS. CARSON:</p> <p>7 Q. Let's turn to paragraph 43 of your</p> <p>8 declaration, please. This paragraph talks about the</p> <p>9 language in the patent embodied in. Do you see</p> <p>10 that?</p> <p>11 A. Yes.</p> <p>12 Q. Is embodied in synonymous with</p> <p>13 referenced?</p> <p>14 MS. HEDVAT: Objection, form.</p> <p>15 A. I don't think I would consider those</p> <p>16 terms generally synonyms.</p> <p>17 Q. Would you consider embedded to be a</p> <p>18 synonym with referenced?</p> <p>19 MS. HEDVAT: Objection, form.</p> <p>20 A. Embedded to be a synonym with</p> <p>21 referenced? Like generally I wouldn't consider</p> <p>22 those two terms to be synonyms. There may be some</p> <p>23 context where they have a similar meaning, but I</p> <p>24 think it would depend a lot on the context. If we</p> <p>25 have a thesaurus, we could....</p>	<p style="text-align: right;">Page 20</p> <p>1 scenarios as well.</p> <p>2 Q. So as of today, do you have an opinion</p> <p>3 one way or another whether the SRX alone infringes</p> <p>4 claim 9 of the '780 patent?</p> <p>5 A. The SRX alone? So I'd have to go back</p> <p>6 and look, but I can't recall that in the</p> <p>7 declaration. Again, I have some understanding or</p> <p>8 thoughts outside the declaration but they haven't</p> <p>9 been fully formed or put into the report because my</p> <p>10 understanding is, you know, the full report will</p> <p>11 have to come later after the summary judgment issues</p> <p>12 are decided.</p> <p>13 Q. Okay. So I'm just trying to get a</p> <p>14 sense, I just want to confirm: At least insofar as</p> <p>15 your declaration in connection with the summary</p> <p>16 judgment motion, you are not offering an opinion</p> <p>17 that the SRX loan infringes claim 9 of the '780</p> <p>18 patent. Is that fair?</p> <p>19 MS. HEDVAT: Objection, form.</p> <p>20 A. My recollection is that here I'm focused</p> <p>21 on the SRX as it connects or interfaces with the ATP</p> <p>22 appliance for the purpose of this declaration.</p> <p>23 Q. Do you know when the SRX first supported</p> <p>24 interfacing with the ATP appliance?</p> <p>25 MS. HEDVAT: Objection, form.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Okay, I want to turn now to your</p> <p>2 infringement analysis. Okay? Did you perform any</p> <p>3 infringement analysis regarding whether the SRX</p> <p>4 infringes claim 9 of the '780 patent?</p> <p>5 MS. HEDVAT: Objection, form.</p> <p>6 A. So I'd say in the context of the</p> <p>7 declaration for summary judgment, my recollection is</p> <p>8 the SRX Gateway comes in as one of the possible</p> <p>9 collectors of the ATP appliance. I believe I</p> <p>10 mentioned that, for instance, at paragraph 51.</p> <p>11 I would have to look to see if there were other</p> <p>12 aspects of the SRX but that's one of the places</p> <p>13 I remember it coming into play in this analysis.</p> <p>14 Q. Did you perform any analysis to</p> <p>15 determine whether the SRX alone infringes claim 9 of</p> <p>16 the '780 patent?</p> <p>17 A. So my recollection is for the purpose of</p> <p>18 this declaration that the SRX was again one of the</p> <p>19 collectors. Just to be clear, my understanding was</p> <p>20 that this was for the summary judgment and that</p> <p>21 depending on the outcome of this and the various</p> <p>22 legal issues that are associated with it, that I</p> <p>23 would have the ability later, again, depending on</p> <p>24 the outcome of this, to have a more detailed</p> <p>25 infringement report that could cover additional</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Today I can't recall. I'd have to go</p> <p>2 back and check.</p> <p>3 Q. That's not something that you analyzed</p> <p>4 in connection with your infringement analysis?</p> <p>5 MS. HEDVAT: Objection, form.</p> <p>6 A. I would say I probably did. I just</p> <p>7 can't remember it offhand.</p> <p>8 Q. Do you know if it was before or after</p> <p>9 November of 2017?</p> <p>10 A. Again, I can't recall a specific date,</p> <p>11 so I'd have to go back and look. I just can't</p> <p>12 recall.</p> <p>13 Q. Did you perform any analysis to</p> <p>14 determine whether Sky ATP infringes claim 9 of the</p> <p>15 '780 patent?</p> <p>16 A. I don't believe I'm discussing Sky ATP</p> <p>17 in this declaration is my recollection. Again, I</p> <p>18 understand that I may have a chance later to discuss</p> <p>19 Sky ATP depending on the outcomes of this part of</p> <p>20 the case.</p> <p>21 Q. When did the '780 patent expire?</p> <p>22 A. Can you provide me the '780 patent?</p> <p>23 (Deposition Exhibit 2329 marked for</p> <p>24 identification.)</p> <p>25 BY MS. CARSON:</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q. So the court reporter has handed you</p> <p>2 Exhibit 2329, which is a copy of the '780 patent.</p> <p>3 Does that refresh your recollection as to when the</p> <p>4 '780 patent expired?</p> <p>5 A. No. I was checking, but I don't recall</p> <p>6 the expiration date.</p> <p>7 Q. When performing your infringement</p> <p>8 analysis, did you limit your review to versions of</p> <p>9 the ATP appliance product that were released before</p> <p>10 the '780 patent expired?</p> <p>11 MS. HEDVAT: Objection, form.</p> <p>12 A. That's my recollection, that the</p> <p>13 functionalities I'm talking about existed I guess</p> <p>14 both before and after the expiration date.</p> <p>15 Q. And what did you do to confirm that the</p> <p>16 functionalities that you're relying upon existed in</p> <p>17 the ATP appliance before the '780 patent expired?</p> <p>18 MS. HEDVAT: Objection, form.</p> <p>19 A. I think I'd say generally speaking</p> <p>20 that's based on the material I had, the</p> <p>21 documentation, deposition testimony and so on.</p> <p>22 Q. Did you confirm it in the source code?</p> <p>23 MS. HEDVAT: Objection, form.</p> <p>24 A. One sec. (Pause) Again, my</p> <p>25 recollection is that there was sufficient</p>	<p style="text-align: right;">Page 24</p> <p>1 documents, the deposition testimony, source code,</p> <p>2 and all the materials. But typically such documents</p> <p>3 provide insight into the functioning of the system.</p> <p>4 But as is the case for all documentation and</p> <p>5 testimony and so on, you need to examine for</p> <p>6 consistency.</p> <p>7 Q. Is there any documentation or deposition</p> <p>8 testimony that you relied on to form your</p> <p>9 infringement opinion that you didn't specifically</p> <p>10 cite in your declaration?</p> <p>11 A. I would say that's certainly not the</p> <p>12 intention. I can't recall any as I sit here now.</p> <p>13 Q. Would you agree as a general matter that</p> <p>14 a product's source code shows how the product</p> <p>15 actually works?</p> <p>16 MS. HEDVAT: Objection, form.</p> <p>17 A. Generally that is one of the places</p> <p>18 I would look to understand how a product functions,</p> <p>19 yes.</p> <p>20 Q. Would you agree as a general matter that</p> <p>21 it's important to review the source code when you</p> <p>22 perform an infringement analysis?</p> <p>23 MS. HEDVAT: Objection, form.</p> <p>24 A. I would say that can be one of the</p> <p>25 useful materials to examine. It's certainly not the</p>
<p style="text-align: right;">Page 23</p> <p>1 information in the additional documentation and so</p> <p>2 on. I can't recall specifically dates associated</p> <p>3 with the printed source code, so I'd have to go back</p> <p>4 and check the dates, but I believe my recollection</p> <p>5 from Rubin's report is that the source code is</p> <p>6 consistent with everything I've described here.</p> <p>7 Q. Did you endeavor to rely on</p> <p>8 documentation for the ATP appliance that predated</p> <p>9 the expiration date of the patent?</p> <p>10 MS. HEDVAT: Objection, form.</p> <p>11 A. I would say in general I've relied on</p> <p>12 all of the documentation. I certainly relied on,</p> <p>13 tried to rely on things that would have been before</p> <p>14 as well as things that came after, with the</p> <p>15 understanding that there had been a change in this</p> <p>16 functionality, again, through the various</p> <p>17 documentation, which I think is pretty consistent on</p> <p>18 this point.</p> <p>19 Q. Would you agree that a development</p> <p>20 document that postdates the expiration date of the</p> <p>21 '780 patent might not reflect the functionality of</p> <p>22 the ATP appliance during the relevant time period?</p> <p>23 MS. HEDVAT: Objection, form.</p> <p>24 A. I would say again in such situations,</p> <p>25 you look for consistency across the range of</p>	<p style="text-align: right;">Page 25</p> <p>1 only one that can be examined, depends on the</p> <p>2 context, but generally it's useful to look at the</p> <p>3 source code.</p> <p>4 Q. I think we went over this at your last</p> <p>5 deposition, but you haven't actually reviewed the</p> <p>6 ATP appliance source code on the review computer.</p> <p>7 Correct?</p> <p>8 A. Yes, my recollection is because of</p> <p>9 scheduling reasons, I wasn't able to get out to see</p> <p>10 it, although we've tried recently. But, again, in</p> <p>11 this declaration I'm responding in large part to</p> <p>12 points raised by Dr. Rubin, and Dr. Rubin's report</p> <p>13 laid out a useful framework or, you know, base, so</p> <p>14 I was able to respond, I think, effectively based on</p> <p>15 the printouts, the documentation, and so on.</p> <p>16 Q. And just to be clear, you didn't attempt</p> <p>17 to go review the source code while you were</p> <p>18 preparing your declaration for claim 9 of the '780</p> <p>19 patent. Correct?</p> <p>20 MS. HEDVAT: Objection, form.</p> <p>21 A. I think I would state it differently</p> <p>22 that for various scheduling reasons, I don't think</p> <p>23 it worked out.</p> <p>24 Q. You don't cite any source code in your</p> <p>25 declaration. Correct?</p>

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<p style="text-align: right;">Page 26</p> <p>1 A. I'd have to go back through and check</p> <p>2 but that I believe may be correct.</p> <p>3 Q. Did you identify any hashing function in</p> <p>4 the ATP appliance code?</p> <p>5 MS. HEDVAT: Objection, form.</p> <p>6 A. I mean, I think I identified it by way</p> <p>7 of documentation and so on, that being in the code.</p> <p>8 There's discussion of in fact multiple hash</p> <p>9 functions that are used in conjunction with the ATP</p> <p>10 appliance.</p> <p>11 Q. You haven't actually identified the</p> <p>12 source code module that performs those hashing</p> <p>13 functions in the ATP appliance code. Correct?</p> <p>14 MS. HEDVAT: Objection, form.</p> <p>15 A. I mean, if you're stating did I like</p> <p>16 cite them by line number, I don't believe I have.</p> <p>17 But, on the other hand, the hash functions that are</p> <p>18 being used as I discuss in my report are sort of the</p> <p>19 standard hash functions, including things such as</p> <p>20 sha1, and there are references to them within the</p> <p>21 various documentation and so on.</p> <p>22 Q. Do you know which component of the ATP</p> <p>23 appliance performs those hashing functions?</p> <p>24 A. I would have to go back and check, but</p> <p>25 my recollection from one of the depositions is it's</p>	<p style="text-align: right;">Page 28</p> <p>1 A. Well, so my recollection is there was</p> <p>2 discussion of a hashing module related to Kuchabara</p> <p>3 and that some form of that was included or ported</p> <p>4 over or, you know, added to the ATP appliance.</p> <p>5 Again, I would have to go back and look over the</p> <p>6 depositions. Again, I think what I cite is the</p> <p>7 documentation which discusses at various places the</p> <p>8 use of sha1 and other hash functions in like the ATP</p> <p>9 appliance guide, I believe some other documents, and</p> <p>10 my recollection also -- perhaps you could pass me</p> <p>11 the Rubin report -- is that it was -- Yeah, if you'd</p> <p>12 pass me the Rubin report, I don't recall it being a</p> <p>13 point of distinction or the suggestion that the</p> <p>14 appliance itself did not hash the objects, so...</p> <p>15 Q. Have you ever seen the source code</p> <p>16 whether on a computer or in a printout form from the</p> <p>17 ATP appliance that's responsible for performing the</p> <p>18 hash functions that you talk about in your report?</p> <p>19 MS. HEDVAT: Objection, form.</p> <p>20 A. I don't recall specifically.</p> <p>21 Q. Now, did you identify any function in</p> <p>22 the ATP appliance source code that fetches software</p> <p>23 components?</p> <p>24 A. (Pause) So I don't believe I specify</p> <p>25 like filenames and line numbers in the declaration,</p>
<p style="text-align: right;">Page 27</p> <p>1 one of, at least in some cases it's sort of the</p> <p>2 entry point for the ATP appliance. Again, I'd have</p> <p>3 to go back and check. I think it may be referred to</p> <p>4 as Kuchabara in some cases.</p> <p>5 Q. Your understanding is that there's a</p> <p>6 Kuchabara module on the ATP appliance?</p> <p>7 MS. HEDVAT: Objection, form.</p> <p>8 A. I would have to go back and recall if</p> <p>9 that's what it was called in the deposition</p> <p>10 testimony. It referred to it as, you know, sort</p> <p>11 of -- I recall the testimony discussing it as sort</p> <p>12 of being the entry point or the sort of first stage</p> <p>13 in the ATP appliance before further analysis is</p> <p>14 done.</p> <p>15 Q. And what deposition are you referring</p> <p>16 to?</p> <p>17 A. I'd have to go back and check. I don't</p> <p>18 remember the names related to depositions.</p> <p>19 Q. Is it cited in your declaration?</p> <p>20 A. I don't know. I can look through and</p> <p>21 check.</p> <p>22 Q. And just I'm honestly confused because</p> <p>23 there haven't been any depositions of any fact</p> <p>24 witnesses on ATP appliance. I'm just trying to</p> <p>25 figure out who you're referring to.</p>	<p style="text-align: right;">Page 29</p> <p>1 and the source code would correspond to the pieces</p> <p>2 that relate to the various documentation that I cite</p> <p>3 describing the fetching functionalities starting at,</p> <p>4 for example, paragraph 59.</p> <p>5 Q. Have you ever seen the source code,</p> <p>6 whether on a computer or in printout form, from the</p> <p>7 ATP appliance that is responsible for the alleged</p> <p>8 fetching function that you identify in your report?</p> <p>9 MS. HEDVAT: Objection, form.</p> <p>10 A. I can't recall specific code aspects as</p> <p>11 I sit here. If I had the printouts, I could again</p> <p>12 look through them and see if I can find specific</p> <p>13 references.</p> <p>14 Q. But you definitely didn't cite them in</p> <p>15 your report. Correct?</p> <p>16 MS. HEDVAT: Objection, form.</p> <p>17 A. I don't recall code citations in the</p> <p>18 report. Again, I think that the documentation and</p> <p>19 so on speaks for itself with regard to responding to</p> <p>20 aspects of Dr. Rubin's report.</p> <p>21 Q. I want to step back a moment and just</p> <p>22 make sure that I fully understand your infringement</p> <p>23 theory. So in your infringement theory, the</p> <p>24 communications engine is the collector. Correct?</p> <p>25 MS. HEDVAT: Objection, form.</p>

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1 A. Yes, I would say the collectors
2 correspond to the communication engines that obtain
3 downloadables.
4 Q. And in your infringement theory, you've
5 identified the SmartCore as the ID generator.
6 Correct?
7 MS. HEDVAT: Objection, form.
8 A. Yes, I would say it's typically referred
9 to as the SmartCore. That is what I refer to in the
10 report. You know, it's meant to correspond to that
11 part of the component that does the ID generation.
12 Q. Sorry. I'm just not sure I understand
13 your answer. You said it's meant to correspond to
14 that part of the component that does the ID
15 generation. Do you mean that part of the SmartCore
16 that does the ID generation?
17 MS. HEDVAT: Objection, form.
18 A. So I think what I would say is what
19 I've found in general in coding documentation is
20 that people are sometimes fuzzy on, you know, what
21 they say corresponds exactly to one component or
22 another. So I believe in the references typically
23 it says that these actions take place in the
24 SmartCore, but I wouldn't want to somehow limit
25 myself if someone said, aha, it's actually like this

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1 little piece over here which we've named something
2 that looks different than the SmartCore. My
3 understanding is it's typically referred to as the
4 SmartCore.
5 Q. Now, in paragraph 54 you provide some
6 examples of downloadables that would satisfy claim
7 element 9(a). Correct?
8 A. That appears correct.
9 Q. One of the examples you point to is an
10 HTML file that includes a tag to a script. Correct?
11 MS. HEDVAT: Objection, form.
12 A. That would be one possible example, yes.
13 Q. Now, in your HTML example, are the tags
14 embedded within the HTML or are they just
15 referenced?
16 MS. HEDVAT: Objection, form.
17 A. I think I'm not clear on your question.
18 Q. So you understand that in an HTML file,
19 a script could be embedded in the HTML file or there
20 could be a reference to a script that's external to
21 the HTML file. Correct?
22 A. Yes, I understand that.
23 MS. HEDVAT: Objection, form. Sorry.
24 THE WITNESS: Sorry.
25 A. Yes, I understand that. That's slightly

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1 different than your previous question.
2 Q. Okay. So I'm trying to figure out
3 whether your infringement opinion covers both of
4 those situations or just one of them and, if just
5 one of them, which one?
6 A. So if I recall, my understanding is that
7 -- Well, with respect to this claim element, it's
8 possible that both of those would correspond to the
9 claim element. But when we're looking at other
10 claim elements, I'm focused on the case where the
11 script code is within the document or within the
12 HTML.
13 Q. Okay. So your opinion on the HTML
14 example is that an HTML file that has a script
15 that's embedded in the file meets the limitation of
16 a downloadable that includes one or more references
17 to software components required to be executed by
18 the downloadable?
19 MS. HEDVAT: Objection, form.
20 A. I think if I understood your question
21 correctly, I think that's correct. But, yes, if you
22 had an HTML that had one or more script components,
23 the script included that would correspond to a
24 downloadable, I guess that meets the claim language,
25 heh heh, that I think you were reciting.

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1 Q. Yeah, so I'm just trying to confirm that
2 it was your understanding that when the script is
3 actually embedded in the HTML file, that meets the
4 requirement that the downloadable include one or
5 more references to software components required to
6 be executed by the downloadable?
7 MS. HEDVAT: Objection, form.
8 A. So, as I discussed, the reference then
9 is given for instance by the tags that denote or
10 describe or give reference to that what follows will
11 be a code component.
12 Q. When the reference -- Strike that.
13 When the script is embedded in the HTML
14 file, how does it get fetched?
15 A. So I believe that's discussed for
16 instance in paragraph 59, that there are various
17 ways that can be fetched depending on how things are
18 transmitted from the collector to the ATP appliance.
19 Q. Okay, so let's maybe just walk through
20 this example. So the ATP appliance receives an HTML
21 file that has a script embedded within the file.
22 Are you with me?
23 MS. HEDVAT: Objection, form.
24 A. At some point in the process, sure.
25 Q. Okay. When does the fetching of that

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