Exhibit 28

Case 1:14-cv-02396-PGG-SN Document 239-10 Filed 11/12/20 Page 2 of 6

| | Page 1 | | Page 2 |
|--------|---|--------|---|
| | UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK | 1 2 | A P P E A R A N C E S: |
| | | 3 | RUSS AUGUST & KABAT |
| | NETWORK-I TECHNOLOGIES, INC.,) | 4 | Attorneys for Plaintiff |
| | Plaintiff.) | 5 | 12424 Wilshire Boulevard, 12th floor |
| |) Civ. No. | 6 | Los Angeles, California 900 |
| | vs.) 1:14-cv-02396 | 7 | BY: BRIAN D. LEDHAL, ESQ. |
| |) (PGG) | 8 | |
| | GOOGLE, INC. and YOUTUBE, LLC,) | 9 | |
| |) Defendants | 10 | SKADDEN ARPS SLATE MEAGHER & FLOM LLP |
| | X | 11 | Attorneys for Defendants |
| | June 12, 2015 | 12 | 90 Park Avenue |
| | 9:00 a.m. | 13 | New York, New York 10036 |
| | * CONFIDENTIAL * | 14 | BY: DOUGLAS R. NEMEC, ESQ. |
| | * C O N F I D E N I I A L * UNDER THE PROTECTIVE ORDER | 15 | ANDREW GISH, ESO. |
| | CADER THE INCIDENTIAL ONDER | 16 | |
| | VIDEOTAPED DEPOSITION OF | 17 | |
| | INGEMAR J. COX, Ph.D., taken by Defendants, | 18 | ALSO PRESENT: |
| | held at the offices of Amster Rothstein & | 19 | JAMES ROBERTS, Legal video specialist |
| | Ebenstein LLP, 90 Park Avenue, New York, New York, new | 2.0 | ······································ |
| | Cintrsn Ahmed a Registered Merit Reporter. | 21 | |
| | Certified Realtime Reporter, and Notary | 22 | |
| | Public of the State of New York. | 2.3 | |
| | | 24 | |
| | Job No. CS2079659 | 25 | |
| | Dama 2 | | Dama 4 |
| 1 | Page 3 | 1 | Page 4 |
| 2 | THE VIDEOGRAPHER: Good morning | | versus Google, Incorporated and VouTube |
| 2 | We are now on the record | 3 | LLC |
| 4 | Dlease note that the microphones | | The case is held in the U.S. |
| т 5 | are sensitive and may nick up | 5 | District Court, Southern District of |
| 6 | whispering and private conversations | 6 | New York Case No. 1:14 av 02206 BGG |
| 7 | Deese turn off all cell phones or | | The name of the witness is |
| 8 | place them away from the migrophones as | | Incomer L Cox |
| a | they can interfere with the deposition | 0 | Councel will magaze state their |
| 10 | audio | 10 | Counsel will, please, state their |
| 11 | audio. | | Appearances for the record. |
| 10 | Recording will continue until an | | MR. NEMEC: Douglas Nemec and |
| 12 | parties agree to go off the record. | | Andrew Gisn from Skadden Arps for the |
| 1.0 | My name is Jim Roberts | 1.3 | Defendants, Google and YouTube. |
| 14 | representing veritext Corporate | 14 | MR. LEDAHL: And Brian Ledahl of |
| 15 | Services with offices in New York City, | 15 | Russ August & Kabat on behalf of the |
| 10 | New York. | 10 | Plaintiff, Network-1. |
| 1/ | Today's date is June 12, 2015. | | THE VIDEOGRAPHER: Our court |
| 18 | The time is approximately 9:00 a.m. | 18 | reporter, Mayleen Ahmed, also of |
| 19 | The deposition is being held at | 19 | Veritext will please swear in the |
| 20 | Amster Rothstein & Ebenstein located at | 20 | witness. |
| 21 | 90 Park Avenue, New York City, New York | 21 | |
| 22 | and is being taken by counsel for the | 22 | INGEMAR J. COX, |
| 23 | Defendant. | 23 | called as a witness, having been duly |
| 24 | The caption of the case is | 24 | sworn by a Notary Public, was examined |
| | | | |
| 25 | Network-1 Technologies, Incorporated | 25 | and testified as follows: |

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| | Page 65 | | Page 66 |
|---|---|---|---|
| 1 | | 1 | |
| 2 | extraction. correct? | 2 | some vague recollections, but I I don't |
| 3 | A. Yes. | 3 | want to guess. |
| 4 | O. And the examples that are | 4 | Q. Do you have a recollection of what |
| 5 | enumerated, for example, between about | 5 | these enumerated types of feature extraction |
| 6 | lines 20 and 43, those are techniques for | 6 | techniques were generally used for prior to |
| 7 | feature extraction that were known prior to | 7 | your patent application? |
| 8 | your invention correct? | 8 | A I think they could be used for a |
| 9 | A About between 20 and 43 you said? | 9 | range of possibilities. So no nothing |
| 10 | O Roughly | 10 | specific |
| 11 | A I believe that this represents a | 11 | O You're not aware of any specifics |
| 12 | sort of general description of of what | 12 | within that range of possibility? |
| 13 | features could could be and what have been | 13 | A Well for example you know |
| 14 | used in the past yes | 14 | something like a discrete cosine transform |
| 15 | O All right Had you personally | 15 | you know would be used for MPEG compression |
| 16 | used any of those enumerated feature | 16 | for example |
| 17 | extraction techniques prior to filing your | 17 | O Okay Have you over used discrete |
| 1.8 | extraction techniques prior to ming your | 10 | Q. Okay. Have you even used discrete |
| 10 | A I may have done in in the context | | is seen and a size to see in the set of the |
| 19 | A. I may have done in, in the context | 19 | in your work prior to your invention? |
| 20 | or, for example, a Pic Hunter work. | 20 | A. I believe we did in the context of |
| 21 | Q. Do you remember what, what type of | 21 | digital watermarking. |
| 22 | Die Unstanten | 22 | Q. Had you ever used principal |
| 23 | Pic Hunter? | 23 | component analysis for feature extraction in |
| 24 | A. No. The short answer is I have to | 24 | your work at in your work, in your work |
| 25 | look at the Pic Hunter paper. I mean, I have | 25 | anywhere prior to your invention? |
| | | 1 | |
| | Page 67 | | Page 68 |
| 1 | Page 67 | 1 | Page 68 |
| 1 2 | Page 67 A. I can't remember, but I have a | 1 2 | Page 68 Q. Do you understand what's what's |
| 1 2 3 | Page 67 A. I can't remember, but I have a vague feeling that I may have done. | 1 2 3 | Page 68 Q. Do you understand what's what's meant by "recognition literature" there? |
| 1 2 3 4 | Page 67 A. I can't remember, but I have a vague feeling that I may have done. Q. Do you recall ever having used | 1 2 3 4 | Page 68 Q. Do you understand what's what's meant by "recognition literature" there? A. Well, I'll be thinking of |
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| | Page 77 | | Page 78 |
|---|--|---|---|
| 1 | | 1 | |
| 2 | A. I can't remember. I'm sorry. | 2 | A. Yes. I think it does. |
| 3 | O. Take a look, if you would, at | 3 | O. What specific neighbor searching |
| 4 | column 22 in the '988 patent. | 4 | techniques are called out there? |
| 5 | Does column 2 describe any | 5 | A. Well, I'm just reading from the |
| 6 | technique for neighbor searching within the | 6 | paragraph here. But I mean, it says a number |
| 7 | context of your application, your patent? | 7 | of possible data structures are applicable, |
| 8 | MR. LEDAHL: I'm sorry. 2 or 22? | 8 | kd-trees, vantage point trees, excluded |
| 9 | MR. NEMEC: I meant to say 22. I | 9 | middle vantage point forest. Those are the |
| 10 | may have said 2. | 10 | only ones I, I see at the moment. |
| 11 | MR. LEDAHL: That's okay. I just | 11 | Q. And you understand those to be |
| 12 | wanted to make sure. | 12 | examples of neighbor searching for use in |
| 13 | A. And the question again, please? | 13 | connection with your invention, correct? |
| 14 | Q. Does column 22 describe techniques | 14 | A. Well, I'm I'm hesitating due |
| 15 | for neighbor searching within the context of | 15 | just to, to know whether there's specific |
| 16 | your invention? | 16 | examples of a nearest neighbor or a neighbor, |
| 17 | A. Let me just, again, take a look at | 17 | and I can't remember, you know, which, which |
| 18 | it. | 18 | ones are which at the moment. |
| 19 | (Witness perusing document.) | 19 | Q. Okay. But do you, do you recall |
| 20 | A. And one more time, the question? | 20 | ever using kd-trees for either neighbor |
| 21 | Sorry. | 21 | searching or nearest neighbor searching prior |
| 22 | Q. Does the text in that column | 22 | to your invention? |
| 23 | describe examples of neighbor searching | 23 | A. Not that I can remember. |
| 24 | techniques within the context of your | 24 | Q. Do you recall ever using vantage |
| 25 | invention? | 25 | point trees for either neighbor searching or |
| | | 1 | |
| | | | |
| | Page 79 | | Page 80 |
| 1 | Page 79 | 1 | Page 80 |
| 1 2 | Page 79 nearest neighbor searching prior to your | 1 2 | Page 80 considered to be a neighbor. Excuse me. |
| 1 2 3 | Page 79 nearest neighbor searching prior to your invention? | 1 2 3 | Page 80 considered to be a neighbor. Excuse me. One of those points will be |
| 1 2 3 4 | Page 79 nearest neighbor searching prior to your invention? A. Not that I can remember. | 1 2 3 4 | Page 80 considered to be a neighbor. Excuse me. One of those points will be closest, so that will be the nearest |
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| | Page 81 | | Page 82 |
|---|--|---|---|
| 1 | _ | 1 | _ |
| ⊥ 2 | (Witness nonusing decomment) | | mind if wa taka a break? |
| 2 | (whitess perusing document.) | 2 | O Sure That will be fine. This is |
| 1 | A. Tes. Tsee a feference to | | Q. Sure. That will be line. This is |
| 4 | excluded middle vanlage point forest, yes. | 4 5 | a good time. |
| 5 | Q. And do you understand excluded | | THE VIDEOGRAPHER: Going oil the |
| 6 | middle vantage point forest to be a technique | | record at 10:36 a.m. This is the end |
| / | for neighbor searching in the context of your | | of disc one in the deposition of |
| 8 | invention? | 8 | Ingemar J. Cox. |
| 9 | A. I can't remember. I can't | 9 | (Whereupon, a short recess was |
| 10 | remember. | 10 | taken.) |
| 11 | Q. Do you know if it's a technique | | THE VIDEOGRAPHER: Going back on |
| 12 | for nearest neighbor searching? | 12 | the record. 10:48 a.m. This is the |
| 13 | A. I haven't looked at these, these | 13 | beginning of disc two in the deposition |
| 14 | algorithms for years, so I'm just don't | 14 | of Ingemar J. Cox. |
| 15 | want to make a mistake and say one is one and | 15 | BY MR. NEMEC: |
| 16 | another is another. | 16 | Q. Dr. Cox, before the break we were |
| 17 | Q. Okay. Do you propose in your | 17 | talking about some of the terminology that |
| 18 | in your patent, in the '988 patent, any | 18 | appears in your patents, and I want to turn |
| 19 | techniques for neighbor searching that were | 19 | to another term. |
| 20 | not known prior to your invention? | 20 | The term "non-exhaustive search" |
| 21 | A. I don't believe that I did, no. | 21 | is used in the context of your patents, |
| 22 | Q. Do you pose any techniques for | 22 | correct? |
| 23 | nearest neighbor searching that were not | 23 | A. Yes. |
| 24 | known prior to your invention? | 24 | Q. For example, in the '988 patent, |
| 25 | A. I don't remember doing so. Do you | 25 | the term "non-exhaustive search" appears in |
| | | | |
| | | | |
| | Page 83 | | Page 84 |
| 1 | Page 83 | 1 | Page 84 |
| 1 | Page 83 | 1 | Page 84 |
| 1 2 | Page 83 Claim 15, correct? | 1 2 3 | Page 84 documents. |
| 1 2 3 | Page 83 Claim 15, correct? A. So we're on Exhibit 17? | 1 2 3 | Page 84 documents. And even that same algorithm, I |
| 1 2 3 4 | Page 83 Claim 15, correct? A. So we're on Exhibit 17? Q. We are, yes. | 1 2 3 4 | Page 84 documents. And even that same algorithm, I mean, it might be that you could stop before |
| 1 2 3 4 5 | Page 83 Claim 15, correct? A. So we're on Exhibit 17? Q. We are, yes. A. And we're on | 1 2 3 4 5 | Page 84 documents. And even that same algorithm, I mean, it might be that you could stop before you see, see the end in that if you found an |
| 1 2 3 4 5 6 | Page 83 Claim 15, correct? A. So we're on Exhibit 17? Q. We are, yes. A. And we're on Q. I gave Claim 15 as an example. | 1 2 3 4 5 6 | Page 84 documents. And even that same algorithm, I mean, it might be that you could stop before you see, see the end in that if you found an identical document, you know, at that point, |
| 1 2 3 4 5 6 7 | Page 83 Claim 15, correct? A. So we're on Exhibit 17? Q. We are, yes. A. And we're on Q. I gave Claim 15 as an example. (Witness perusing document.) | 1 2 3 4 5 6 7 | Page 84 documents. And even that same algorithm, I mean, it might be that you could stop before you see, see the end in that if you found an identical document, you know, at that point, you know, it would not be no point in |
| 1 2 3 4 5 6 7 8 | Page 83 Claim 15, correct? A. So we're on Exhibit 17? Q. We are, yes. A. And we're on Q. I gave Claim 15 as an example. (Witness perusing document.) A. Yes. I see that term in there. | 1 2 3 4 5 6 7 8 | Page 84 documents. And even that same algorithm, I mean, it might be that you could stop before you see, see the end in that if you found an identical document, you know, at that point, you know, it would not be no point in trying to look for something more similar |
| 1 2 3 4 5 6 7 8 9 | Page 83 Claim 15, correct? A. So we're on Exhibit 17? Q. We are, yes. A. And we're on Q. I gave Claim 15 as an example. (Witness perusing document.) A. Yes. I see that term in there. Q. What's your understanding of the | 1 2 3 4 5 6 7 8 9 | Page 84 documents. And even that same algorithm, I mean, it might be that you could stop before you see, see the end in that if you found an identical document, you know, at that point, you know, it would not be no point in trying to look for something more similar than an identical one. So you could stop. |
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