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<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 ----- 3 BEFORE THE PATENT TRIAL AND APPEAL BOARD 4 ----- 5 6 AMERICAN EXPRESS COMPANY, AMERICAN EXPRESS TRAVEL 7 RELATED SERVICES COMPANY, INC., EXPEDIA, INC., 8 HOTELS.COM LP, HOTELS.COM GP, LLC, HOTWIRE, INC., 9 ORBITZ WORLDWIDE, INC., PRICELINE.COM, INC., 10 TRAVELOCITY.COM LP, and YAHOO! INC., 11 Petitioner, 12 v. 13 METASEARCH SYSTEMS, LLC 14 Patent Owner 15 ----- 16 Case CBM2014-00001 17 Patent 8,326,924 18 ----- 19 20 DEPOSITION OF DR. KEVIN ALMEROOTH 21 Taken Tuesday, August 26, 2014 22 Scheduled for 9:00 a.m. 23 24 25 REPORTED BY: Dana S. Anderson-Linnell</p>	<p>1 APPEARANCES (continued): 2 3 On Behalf of Metasearch Systems, LLC: 4 Ryan M. Schultz, Esquire 5 ROBINS, KAPLAN, MILLER & CIRESI, LLP 6 2800 LaSalle Plaza 7 800 LaSalle Avenue 8 Minneapolis, Minnesota 9 Phone: 612.349.8500 10 Email: rmschultz@rkmc.com 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
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<p>1 DEPOSITION OF DR. KEVIN ALMEROOTH taken on Tuesday, 2 August 26, 2014, commencing at 8:49 a.m. at Robins, 3 Kaplan, Miller and Ciresi, 2800 LaSalle Plaza, 800 4 LaSalle Plaza, Minneapolis, Minnesota before 5 Dana S. Anderson-Linnell, a Notary Public in and of 6 the State of Minnesota. 7 ***** 8 9 APPEARANCES 10 11 On Behalf of Petitioners American Express Company, 12 et al.: 13 Kristen P. Lantz Reichenbach, Ph.D., Esquire 14 John D. Vandenberg, Esquire 15 KARQUIST SPARKMAN, LLP 16 One World Trade Center 17 121 S.W. Salmon Street 18 Portland, Oregon 97204 19 Phone: 503.595.5300 20 Email: kristen.reichenbach@klarquist.com 21 john.vandenberg@klarquist.com 22 23 (Appearances continued on the next page.) 24 25</p>	<p>1 INDEX 2 3 WITNESS: Dr. Kevin Almeroth PAGE 4 EXAMINATION BY: 5 Ms. Reichenbach 6 6 7 INSTRUCTIONS NOT TO ANSWER: (None.) 8 9 PRODUCTION REQUESTS: (None.) 10 11 INDEX OF EXHIBITS REFERRED TO: 12 13 Exhibit 1001 - U.S. Patent Number 8,326,924 6 14 15 Exhibit 2001 - U.S. Patent Number 6,789,073 7 16 17 Exhibit 2018 - Substitute Claim 13 8 18 19 Exhibit 2019 - Substitute Claim 14 8 20 21 Exhibit 2023 - U.S. Patent Number 6,185,598 27 22 23 Exhibit 2024 - U.S. Patent Number 6,108,703 30 24 25</p>

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1	INDEX OF EXHIBITS REFERRED TO (continued): PAGE	1	A. Yes.
2		2	Q. How carefully did you read it?
3	Exhibit 2025 - WWW Caches and Search Engines 34	3	A. Carefully enough to understand it.
4		4	Q. Did you skim it or how much time
5	Exhibit 2027 - Declaration of Dr. Kevin	5	approximately spending on each page?
6	Almeroth 60	6	A. Oh, I don't think I could tell you how
7		7	much time on each page. I've looked at it
8		8	multiple times, sometimes searching for
9		9	specific words or phrases.
10		10	Q. So would you say you read it -- excuse
11		11	me.
12		12	A. I mean, to answer your question, I think
13		13	I've spent hours reading it.
14		14	Q. Okay. Placing before you an exhibit
15		15	marked Exhibit 2001.
16		16	Do you see the patent number 6,789,073 in
17		17	the upper right-hand corner?
18		18	A. (Reviews document.) Yes.
19		19	Q. Okay. Have you seen this before?
20		20	A. Yes.
21		21	Q. Do you see that this application for
22		22	patent was filed in February 2000? It's on
23		23	the left column there?
24		24	A. I do.
25		25	Q. And I'm going to refer to this as the
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1	DR. KEVIN ALMEROOTH,	1	2000 patent application.
2	called as a witness, being first duly sworn, was	2	A. Okay.
3	examined and testified as follows:	3	Q. Have you read the 2000 patent
4		4	application?
5	EXAMINATION	5	A. I have.
6		6	Q. All of it?
7	BY MS. REICHENBACH:	7	A. Yes.
8	Q. Good morning, Dr. Almeroth. My name is	8	Q. And as thoroughly as you state you read
9	Kristen Reichenbach, and I'm going to ask you	9	the '924 Patent?
10	some questions this morning about your	10	A. Generally I think I have. I mean,
11	declaration that was submitted in this	11	there's a lot of overlap between the two.
12	proceeding. First I'm going to start off with	12	Obviously the '924 has more material. But I
13	a couple exhibits. I'm placing before you an	13	think I've read it as much as the '924.
14	exhibit marked Exhibit 1001.	14	Q. Okay. I'm handing you two documents.
15	Do you see the Patent Number 8,326,924 in	15	One is labeled Exhibit Number 2018, which is
16	the upper right-hand corner?	16	the text of claim 13, substitute claim 13 that
17	A. (Reviews document.) Yes.	17	has been submitted in this proceeding. And
18	Q. And have you seen this document before?	18	the second document is Exhibit Number 2019,
19	A. Yes.	19	which is the text of substitute claim 14
20	Q. I'm going to refer to this as the	20	submitted in this proceeding.
21	'924 Patent, okay?	21	Have you seen both of these documents
22	A. Okay.	22	before?
23	Q. Have you read the '924 Patent?	23	A. (Reviews documents.) Yes.
24	A. Yes, I have.	24	Q. And have you read claims 13 and 14?
25	Q. Have you read all of it?	25	A. Yes.

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1 Q. Have you tried to understand them from
 2 the perspective of someone in 2000 who had
 3 ordinary skill in the art of metasearching?
 4 **A. Yes.**
 5 Q. Okay. Please look at step A of claim 13.
 6 Do you see where the claim states that the
 7 request from the client device is associated
 8 with at least one travel-related item that may
 9 be ordered? Do you see that?
 10 **A. Yes.**
 11 Q. Does this term "travel-related" have any
 12 special meaning that you are aware of?
 13 **A. Not that I'm aware of. I think the task**
 14 **that I was given was largely to focus on the**
 15 **amendments.**
 16 Q. Okay.
 17 **A. So --**
 18 Q. But you stated --
 19 **A. Sorry. I'm not finished.**
 20 Q. Okay.
 21 **A. So part of what I was trying to do in my**
 22 **declarations was to use the assumption that**
 23 **all of the limitations other than what's been**
 24 **proposed were found in the knowledge broker in**
 25 **the Mamma.com references, and so I primarily**

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1 **focused on the distinctions in the amended**
 2 **portions of the claims.**
 3 Q. Okay. But you did state that you read
 4 the entirety of the claim and considered it
 5 from the perspective of someone in 2000 who
 6 had ordinary skill in the art, correct?
 7 **A. That's correct.**
 8 Q. Okay. So the term "travel-related item"
 9 doesn't to you have a special meaning in the
 10 field of computer science, for example?
 11 **A. Again, generally I don't believe so. But**
 12 **I wasn't really focused on defining the scope**
 13 **of the claims or attributing any special**
 14 **meaning or looking at claim construction**
 15 **issues in particular in the limitations where**
 16 **I had assumed were already present in prior**
 17 **art references.**
 18 Q. Well, let's just think about the term
 19 from the perspective of your background in
 20 computer science. Do you see the word
 21 "travel-related" as having some special
 22 definition in the field of computer science so
 23 that when that word is used in computer
 24 science, it has a meaning that's different
 25 from an ordinary conversational meaning?

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1 **A. Well, to be clear, if we're -- just so**
 2 **that I understand your question, if you're**
 3 **removing that term from the claim and then**
 4 **asking about it generally, I don't think it**
 5 **has any special meaning. But certainly there**
 6 **are instances where the context of how that**
 7 **term is used might have special meaning.**
 8 Q. Do you think there's a particular context
 9 in this -- in the claim or any language in the
 10 claim that gives it a special particular
 11 meaning?
 12 **A. As I said, I really haven't looked to do**
 13 **claim construction issues or attribute meaning**
 14 **or special meaning or really analyze the terms**
 15 **beyond what I've identified or what I've**
 16 **considered as part of the amendment.**
 17 Q. Well, so just looking at the term today,
 18 I realize that you haven't discussed this
 19 specifically before, but from your perspective
 20 as how the claim is -- or how the term
 21 "travel-related" is used in the claim, do you
 22 see a particular definition of that word in
 23 the claim?
 24 MR. SCHULTZ: Objection, outside
 25 the scope of his declaration.

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1 THE WITNESS: As I sit here now, I
 2 don't. But it's a question that I would spend
 3 more time on analyzing before I would give you
 4 a definitive answer. I haven't really looked
 5 at the claim to see if it defines
 6 travel-related items within the claim, so
 7 it's -- it would be hard for me to give you my
 8 expert opinion on that topic.
 9 BY MS. REICHENBACH:
 10 Q. If you want, you can take time to look
 11 through the claim again right now if that
 12 would help.
 13 **A. I'm not sure that it would. I think if I**
 14 **were asked my expert opinion as to whether or**
 15 **not the claim provided a definition, it's**
 16 **something I would want to think carefully**
 17 **about. I don't think I really, you know, can**
 18 **sit here now -- I certainly can read the**
 19 **claims. I don't see anything in here that**
 20 **gives it a specific definition, but that**
 21 **really is just giving a very superficial look.**
 22 Q. Okay. So based on your experience just
 23 in the field of computer science and
 24 considering the phrase "travel-related" and
 25 "travel-related item," you would say that you

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<p>1 do not know of any technology-based test for 2 determining whether or not an item is 3 travel-related or not? 4 MR. SCHULTZ: Objection. 5 THE WITNESS: I'm not sure what you 6 mean by "technology-based test." I think 7 outside of the scope of claim 13 there 8 certainly might be a test. It really depends 9 on the system or how it's used or what I'm 10 looking at or how it's defined or what the 11 characteristics are. So I don't really think 12 I have enough information to answer that 13 question. 14 BY MS. REICHENBACH: 15 Q. Okay. Let's look again at the -- you 16 have claim 13, which is Exhibit 2018, in front 17 of you, correct? 18 A. Yes. 19 Q. Okay. Let's look at step C of the claim. 20 A. Okay. 21 Q. Do you see the requirement where it says: 22 The database comprises at least one previously 23 stored search result comprising price 24 information received in response to at least 25 one previous search query sent by the</p>	<p>1 particular aspect of the claim. 2 Q. So do you agree, though, that the claim 3 would make sense with that understanding, that 4 previous search queries sent by the metasearch 5 engine means previous to step C? 6 A. As I said, as I look at it right now, I 7 don't see anything that jumps out of the page 8 to me as to why that wouldn't be a reasonable 9 reading. But as I said, I haven't really gone 10 through to try and establish the ordering of 11 steps. I understand in a method claim there's 12 no presumption of ordering unless it's 13 dictated by the claim, but I haven't had to go 14 into that level of detail in forming my 15 opinions as to whether or not that previous 16 search query could happen or must happen or 17 might happen before step C. 18 Q. So as you look at the claim now, do you 19 see any order dictated by the language of that 20 phrase, "previous search query sent by the 21 metasearch engine"? 22 A. Nothing definitive with respect to -- 23 maybe the better way to say it is I just 24 haven't looked. It seems a reasonable 25 interpretation, but I really haven't looked to</p>
<p>1 metasearch engine? 2 A. I see those words. 3 Q. Do you see the phrase "previous search 4 query sent by the metasearch engine" that's in 5 the last two lines of step C? 6 A. Yes. 7 Q. So I want you to consider this phrase 8 from the perspective of the skilled artisan in 9 2000 in the area of metasearching. Might this 10 phrase "previous search query sent by the 11 metasearch engine" mean that the metasearch 12 engine sent the query previous to step C? 13 A. I haven't really looked to answer that 14 question before. The best I can say in 15 answering your question is it might. It 16 certainly seems like looking at the claim that 17 it would be possible to have sent that search 18 query previously. 19 Q. So there's nothing in your view in the 20 claim that rules out that reading? 21 A. I haven't really looked at it to answer 22 the question of ordering of parts of the 23 limitation with respect to the limitation as a 24 whole. I would have to think about it more 25 carefully. I just haven't looked at that</p>	<p>1 answer that question and sort of trace out 2 where I think the boundaries are of the timing 3 relationships even within limitation C. 4 Q. Okay. Well, let's consider might that 5 phrase "previous search query" mean that the 6 metasearch engine sent the search query 7 previous to step B? 8 A. I have not even really tried to answer 9 that question. 10 Q. Does that seem like the claim would make 11 sense with that reading to you? 12 A. I haven't looked to answer that question 13 or sit down with the claim and try and assess 14 the requirements of ordering. I just haven't 15 tried to answer that question as part of 16 offering my opinions in the declaration. 17 Q. Okay. But you don't see anything today 18 in your review of the claim that would rule 19 out that reading of the claim? 20 MR. SCHULTZ: Objection, outside 21 the scope of his declaration. 22 THE WITNESS: As I sit here right 23 now, I don't see anything that requires or 24 precludes the possibility that that previous 25 search query couldn't have happened before</p>

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<p>1 step B. But again, I haven't really looked at 2 it in detail and it wasn't really a necessary 3 question I needed to answer in order to 4 perform the analysis in my declaration. 5 BY MS. REICHENBACH: 6 Q. Okay. So I will have you consider just 7 one more meaning here as that might the phrase 8 "previous search query" mean prior to step A? 9 MR. SCHULTZ: Objection. 10 THE WITNESS: I think like the 11 previous questions, I haven't really looked at 12 the ordering requirements of claim 13 to see 13 whether or not the previous search query term 14 in limitation C has any temporal relation to 15 happening before or after step B. I just -- 16 sorry, step A. I just haven't looked. 17 BY MS. REICHENBACH: 18 Q. But is your answer again the same, that 19 you don't see anything today in the claims 20 that would rule out that meaning? 21 MR. SCHULTZ: Objection. 22 THE WITNESS: Well, that's not 23 quite what I said earlier with respect to the 24 claims. Taking a very cursory examination of 25 the claim as I sit here right now, I don't see</p>	<p>1 '924 specification that would rule out any of 2 those meanings. But again, as the line of 3 questioning has hopefully communicated, it 4 wasn't a level of detail I needed to get into 5 as part of my analysis. 6 Q. Does your answer change for the 2000 7 patent application? 8 A. It does not. 9 Q. Okay. Let's talk about caching. In 10 2000, caching was a well-known technique, 11 wasn't it? 12 A. It's a fairly broad question. There's 13 different kinds of caching. Certainly at 14 least some of the types of caching were fairly 15 well known in -- more specifically, I think 16 known to persons of skill in the art at the 17 time. 18 Q. Okay. Did a person of ordinary skill in 19 the art in metasearching in 2000 have a 20 well-accepted understanding of the word 21 "caching"? 22 A. From that particular perspective, I think 23 such a person would need some context on what 24 caching was. There's memory caching. There's 25 caching of the kind I've talked about in my</p>
<p>1 anything. But I don't think that's 2 representative of my expert opinion, because I 3 really haven't had a chance to look at it in 4 detail. 5 BY MS. REICHENBACH: 6 Q. You stated previously, though, that your 7 focus was on the added portions of the claim, 8 which step C is part of the added portion of 9 the claim, is it not? 10 A. Absolutely. But as part of my analysis I 11 didn't need to consider the ordering of the 12 steps, because from the perspective of the 13 prior art and the assumptions I needed to make 14 it wasn't really a question that created a 15 distinctiveness over the prior art. There 16 wasn't prior art that did everything here but 17 in a different order and so I had to analyze 18 what I thought the order was. That level of 19 detail really never needed to be addressed in 20 the analysis that I did. 21 Q. Do you recall reading anything in the 22 '924 Patent that addressed this issue and 23 would rule out any of these three alternative 24 meanings? 25 A. I don't recall anything from reading the</p>	<p>1 declaration, web object caching, file caching. 2 It exists in lots of different contexts. Even 3 a person of skill in the art, and you've 4 mentioned a person of skill in the art of 5 metasearching which I mean I have my 6 definition I'm not sure I would call that a 7 person of skill in the art in metasearching a 8 person of skill in the art as it relates to 9 the patents in suit I think would be aware of 10 many kinds of caching. 11 Q. Well let's use that term as you 12 understand it in your declaration. So what 13 definition of caching would the person as you 14 understand it of ordinary skill in the art 15 have for the term caching? 16 A. I think caching generally and I don't 17 know that I can give you sort of a textbook 18 definition I can probably give you some 19 examples of caching but generally caching was 20 of the type where objections in particular 21 static objects were stored in places other 22 than what I will call the origin server such 23 that that content could be more easily 24 retrieved from somebody who was trying to get 25 it.</p>
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