		178	•		180
1		1	EVHIDITO		100
1 2	UNITED STATES DISTRICT COURT	2	EXHIBITS DESCRIPTION	PAGE	
2	DISTRICT OF NEW JERSEY	3	(Mattaway Exhibit 4 for	180	
3	x		Identification, US Patent		
4	NET2PHONE, INC.	4	6,108,704.)		
5	Plaintiff,	5	AL	400	
6	V.	6	(Mattaway Exhibit 5 for 23 Identification, US Patent	180	
7	EBAY, INC., SKYPE TECHNOLOGIES, S.A.,	0	6,108,704 history, Bates Nos.		
	SKYPE, INC., and JOHN DOES 1-10,	7	SKYPE-N2P 00290310 through 2	90904.)	
8	Defendants.	8			
9 10	X		(Mattaway Exhibit 6 for	214	
11		9	Identification, US Patent		
12		10	6,131,121.)		
13	September 10, 2007	11	(Mattaway Exhibit 7 for	259	
	2:11 p.m.		Identification, Source Code,	200	
14	Volume 2	12	Bates stamped CBS 836 - 895.) -	retained	
15		13			
16	Videotaped deposition of SHANE MATTAWAY,		(Mattaway Exhibit 8 for	268	
	pursuant to notice, taken by Plaintiffs,	14	Identification, Mattaway notes on	mpod	
17	at 500 Brickell Key Drive, Miami, Florida,	15	business development, Bates star CBS 54 - 56.) - retained	niped	
40	before Kelli Ann Willis, a Registered	16	ODO 04 OO.) Totalliou		
18	Professional Reporter, Certified Realtime	17			
19	Reporter and Notary Public within and for the State of Florida.	18			
20	ior the state of Florida.	19			
21		20 21			
22		22			
23		23			
24		24			
25		25			
		179			181
1		1	(This is the beginning of Vo	lume 2.)	
2	APPEARANCES:	2	(Thereupon, the two docum	ents were marked	
3	WILLIAMS & CONNOLLY, LLP	3	by the court reporter for Identif		
	Attorneys for Plaintiff.	4		iodion do	
4	725 Twelfth Street, N.W. Washington, DC 20005		Mattaway Exhibits 4 and 5.)		
5	BY: NICHOLAS J. BOYLE, ESQ. and	5	THE VIDEOGRAPHER: W	e are on the record.	
	KEVIN HARDY, ESQ.	6	CONTINUED EXAMI	NATION	
6	-and-	7	BY MR. HEINRICH:		
_	ELLIOT ROTHSTEIN, ESQ., In-house counsel, IDT.	8	Q. Welcome back, Mr. Mattav	way.	
7	IRELL & MANELLA, LLP	9	A. Why thank you.		
8	Attorneys for the Defendants	10	Q. I'm going to now show you	what I have had	
	1800 Avenue of the Stars	11	marked as Mattaway Exhibit 4, wh		
9	Suite 900	12	6,108,704; and I'm also going to s		
	Los Angeles, CA 90067			•	
10	BY: ALAN HEINRICH, ESQ.	13	have had marked as Exhibit No. 5		
11 12		14	history for US Patent No. 6,108,70		
13	INDEX	15	Bates numbers SKYPE-N2P 0029	90310 through 290904.	
14	Continued Examination by Mr. Heinrich 180	16	MR. BOYLE: Do you have	copies?	
	Examination by Mr. Boyle	17	THE WITNESS: I knew to	work out before I	
15		18	came here.		
16 17		19	MR. HEINRICH: I do have	a copy of the	
17 18					
19		20	'704 patent, but I did not bring		
20		21	MR. BOYLE: Eight point fo	nt.	
21		22	BY MR. HEINRICH:		
22		23	Q. So first, starting with the '7	'04 patent,	
23		24	is this a United States patent that	you are named as	
24 25		25	an inventor on?		

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182 184 A. So it says. BY MR. HEINRICH: 2 Q. Do you recognize this as the '704 patent Q. So you signed this, the declaration, you where you are named as the co-inventor? submitted this to the United States Patent Office 3 A. I see my name. It says "Point to point signing it under penalty of perjury? 5 Internet Protocol." A. Apparently so. Q. And you reviewed this patent in Q. So I would like to direct your attention 7 preparation for your deposition? to the third paragraph --8 A. I think I did, yeah. A. Paragraph 3. 9 Q. And you are familiar with the subject Q. -- when you refer to the conception of the 9 10 matter of this patent? inventive subject matter. Do you see that? 11 MR. BOYLE: Objection, vague. A. Yeah. 11 THE WITNESS: To the extent that I'm not a 12 12 Q. What specific inventive subject matter 13 patent attorney, yes. 13 were you referring to there? 14 BY MR. HEINRICH: A. I don't know. What are we talking about? 14 15 Q. I would like to call your attention to the 15 You are referencing this point-to-point protocol? file history now, we will go back to the '704 patent Q. So I will again repeat that this is from 16 16 17 in a few minutes. But if you could turn to Page 17 the file history of --18 290672, which is about two-thirds of the way through 18 A. This patent that stack. 19 Q. -- the '704 patent. 19 20 In particular, I would like to turn your 20 MR. BOYLE: To be fair, you have given him 21 21 attention to the two-page document that starts at several hundred pages, and you are asking him 22 that page, 290672, and then goes on to the next 22 about one single page in the middle of that. MR. HEINRICH: I'm asking about a 23 page, 290673. 23 declaration he signed and submitted to the 24 24 Do you recognize this as a declaration that you submitted to the United States Patent 25 patent office. 183 185 Office? MR. BOYLE: That is in the middle of a 2 2 A. No. stack of papers. 3 Q. Well, let's turn to Page 290673. Do you THE WITNESS: It seems true to me, No. 3. BY MR. HEINRICH: recognize your signature on that page? 5 A. Yes. There it is. Q. Okay. So what was the inventive subject Q. Do you have any reason to doubt that you matter that you were referring to? MR. BOYLE: Objection, asked and answered. signed this document? A. No. You asked me if I recognized it. No, THE WITNESS: You mean that this is 8 8 9 I didn't recognize it. 9 referring to? 10 Q. And by your signature, you were declaring 10 BY MR. HEINRICH: 11 that all of the statements in this declaration were 11 Q. Yes. That you are referring to in your of your own knowledge and true, and that all declaration to the patent office. 12 12 statements made on information and belief are A. It says, "After a number of weeks of the 13 believed to be true, and that further, these conception of the inventive subject matter," and 14 14 15 statements were made with the knowledge that willful 15 this is apparently referring to the point-to-point false statements and the like were punishable by Internet protocol patent, which according to you, is 16 16 17 fine and imprisonment? 17 Patent No. 6,108,704, if all of this ties together, 18 MR. BOYLE: I was going to object to the 18 then it has to deal with the content of this patent. 19 form because that isn't exactly what it says. 19 Q. So could you explain to me, in your own 20 THE WITNESS: Obviously, the last 20 understanding --21 paragraph here says. "I hereby declare all 21 A. Right. 22 statements made herein are true," and I 22 Q. -- what the inventive subject matter is of 23 obviously signed it. So then I believed them 24 to be true. 24 MR. BOYLE: Objection, asked and answered

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25

THE WITNESS: Well, the patent sort of



25

			Mattaway, Shane v. 2 9/10/2007 9:	00:00 AM
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1	speaks for itself. I'm not a patent attorney,	1	point-to-point connection through a connection	
2	and asking me to give you my interpretation	2	server. That is really what it is. Step by step.	
3	is you know, you can read it yourself and	3	No different than what I have already told you.	
4	see precisely what the content and the concept	4	Q. Well, I didn't ask you about the '704	
5	and the purpose of this the claims of this	5	patent this morning.	
6	patent are. Why are you asking me to give you	6	A. No, but this is basically a consolidation	
7	my opinion of it?	7	of everything we talked about so far this morning,	
8	BY MR. HEINRICH:	8	almost everything anyway.	
9	Q. Do you know what the inventive subject	9	Q. Who conceived well, let's turn to the	
10	matter is of the '704 patent?	10	claims. Why don't you take a look at claim 1.	
11	A. Yes, in an overall 10,000-foot	11	A. Which is?	
12	understanding, yeah.	12	Q. Which is on Page 329.	
13	Q. Could you please explain that to me?	13	A. 329. Claim 1. Okay.	
14	A. I will read it to you.	14	Q. And if you could just read that to	
15	"Abstract: A point-to-point Internet	15	yourself.	
16	protocol. Exchanges Internet protocol addresses	16	A. Okay.	
17	between processed units to establish a	17	Q. Are you an inventor of claim 1?	
18	point-to-point communication link between the	18	MR. BOYLE: Objection, calls for a legal	
19	processing units through the Internet.	19	conclusion.	
20	"A first point-to-point Internet protocol	20	THE WITNESS: Am I the inventor.	
21	includes Step A, storing in a database respective IP	21	What do you mean by truly your definition	
22	address of a set of processing units that have	22	of inventor? Is it the person who implements	
23	online status with respect to the Internet; B,	23	it? The person who conceives of it? What are	
24	transmitting a query from a first processing unit to	24	you talking about?	
25	a connection server to determine the online status	25		
		187		189
1	of the second processing unit, and retrieve the IP	1	BY MR. HEINRICH:	
2	address of the second unit from the database using	2	Q. Let's start with conception. Did you	
3	the connection server in response to the termination	3	conceive of claim 1?	
4	of a positive online status of the second processing	4	MR. BOYLE: Objection. Calls for a legal	
5	unit for establishing a point-to-point	5	conclusion.	
6	communications link."	6	THE WITNESS: In part, yes, and in part,	
7	And I don't need to read any further, but	7	no. I would have to say that Glenn, when he	
8	that is the gist of this patent.	8	said to me, you know you know, "I have an	
9	Q. Do you have any understanding of what the	9	idea for establishing the point to point," way	
10	inventive subject matter is of the '704 patent	10	back before, you know, we started actually the	
11	without reading, say, from the abstract of the	11	company, but using the POP server is what is	
12	patent?	12	embodied in 1, that implementation.	
13	A. Well, yes, certainly. As, you know, its	13	My contribution thereafter would have	
14	co-inventor, of course, I do.	14	been, you know, discussions with Glenn at that	
15	Q. Could you tell me what your understanding	15	time and thereafter that, you know, we may	
16	is of the inventive subject matter of the '704	16	we probably ended up using another mechanism	
17	patent without reading something that is on the page	17	for the connection server because, you know,	
18	here?	18	email is pretty darn slow, and our requirements	
19	A. I have explained that to you in your prior	19	need to be realtime.	
	inquires and questions to me as to how the	20	So in answer to your question, am I the	
20	inquired and queenene to me do to non the			
20 21	connection server worked, what implementations we	21	conceiver of 1? As far as the connection	
		21 22	conceiver of 1? As far as the connection service process, no. Am I the conceiver of	
21	connection server worked, what implementations we			
21 22	connection server worked, what implementations we used.	22	service process, no. Am I the conceiver of	
21 22 23	connection server worked, what implementations we used. This is just basically an overview or a	22 23	service process, no. Am I the conceiver of literally a voice over IP phone system that	

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			Mallaway, Shahe v. 2 9/10/2007	9.00.00 AW
		190		192
1	conversations with Glenn pertaining to	1	network protocol address received by the first	
2	alternative mechanisms to implement the	2	process following connection to the computer	
3	connection services. And that is, you know,	3	network?	
4	that is, I guess, my answer. As well as I can	4	MR. BOYLE: Objection, vague, and calls	
5	give you one.	5	for a legal conclusion.	
6	BY MR. HEINRICH:	6	THE WITNESS: You know, I don't know what	
7	Q. So is there a particular element of	7	you are after here. I think I answered your	
8	claim 1 that you can direct me to and say, okay, I	8	question.	
9	contributed to this particular element of claim 1?	9	I mean, claim 1 describes two processes,	
10	MR. BOYLE: Objection, calls for a legal	10	establishing a point-to-point connection	
11	conclusion.	11	through a connection server process where one	
12	THE WITNESS: Well, all of claim 1 I	12	makes an inquiry for the IP address of the	
13	contributed to, other than, as I said I	13	other, and then once received, makes a point to	
14	would say the conception of how to get the	14	point.	
15	conception of the connection service process in	15	At the outset I have told you, when I	
16	claim 1 was Glenn's because he said, "Look, I	16	first met Glenn, he said, "I have a way of	
17	have an idea about how to get the point to	17	doing the point to point in my mind." Hence,	
18	point."	18	the POP3 mechanism for the connection server.	
19	Subsequent to that, I contributed to	19	Subsequent to that there was no question	
20	enhancing that connection service portion of	20	that there was discussions between Glenn and I	
21	claim 1. But all in all, claim 1 pretty much	21	prior to even starting Itel that that mechanism	
22	embodies how you establish a point-to-point	22	may not suit us because of its time	
23	connection via a connection server as a lookup	23	constraints, and we may need another mechanism.	
24	mechanism.	24	So with that said, I would tell you that	
25	And again, I believe I was the co-inventor	25	the original conceiver of the connection	
1	of that, as well, and its, you know, final	1	service mechanism was Glenn via the POP server,	
2	embodiment.	2	and subsequent manifestations of the connection	
3	BY MR. HEINRICH:	3	server implementations were co-conceived by	
4	Q. So you stated that you contributed to	4	Glenn and I.	
5	enhancing the connection service portion of claim 1.	5	BY MR. HEINRICH:	
6	And keeping the focus on claim 1, what	6	Q. Why don't you take a look at claim 10? If	
7	particular elements here would you say that you	7	you could read that to yourself.	
8	contributed to in terms of enhancing?	8	A. Okay.	
9	MR. BOYLE: This is exactly the same	9	Q. Are you an inventor of claim 10?	
10	question. Asked and answered.	10	MR. BOYLE: Objection, calls for a legal	
11	THE WITNESS: I agree, I answered the	11	conclusion.	
12	question.	12	THE WITNESS: Um, you know, I guess I	
13	BY MR. HEINRICH:	13	would have to say, you know, in this it is	
14	Q. I guess I really don't understand your	14	sort of multi-part. Okay? Because the first	
15	answer, then.	15	part reiterates claim 1 in a way, establishing	
16	What in particular, what elements here	16	a point to point through a connection server,	
17	would you say that you contributed to?	17	and then you are dealing with points A, B and	
18	MR. BOYLE: Same objection.	18	C, which relates a point-to-point connection to	
19	THE WITNESS: Why don't you point out each	19	a communication line embodied in the user	
20	element and I will tell you.	20	interface. And that being the case, yes, I'm	
21	BY MR. HEINRICH:	21	the inventor of that. Okay?	
22	Q. We can do that.	22	BY MR. HEINRICH:	
23	A. Okay.	23	Q. If you could turn to claim 32 and read	
24	Q. So did you contribute to the conception of	24	that to yourself.	
25	the program code for transmitting to the server a	25	A. Okay. Okay.	

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194 196 Q. Are you an inventor of claim 32? The fact that we have, you know, put it 2 MR. BOYLE: Same objection. 2 into implementation in this paradigm, in this 3 THE WITNESS: Claim 32 pertains to specific application is what makes it unique, and maintaining the map or the table that hence, obviously, the patent clerk saw fit to issue 5 associates the identifier of a WebPhone client us a patent in that regard. to its IP address, which is a connection But the overall concept of, you know, I want your phone number, I need your name, I need an service process. 8 It is sort of an it-goes-without-saying identifier to link it to your phone number or any 9 kind of thing that the connection service, no other kind of table where here is an identifier. 10 matter how it is implemented, has that table. give me a parameter related to it, that goes back 11 Because that is what you are doing, you are 11 through antiquity. 12 doing a lookup. I give you the identifier, you 12 So this is just an implementation is 13 give me the IP address. 13 what -- in this application is what is unique. So at the end of the day, I would have to Q. You were familiar with the concept of 14 14 15 say, no, this was part of Glenn's initial, you 15 lookup tables for a long time, right, before you --16 know, connection service mechanism, because, A. It is standard computer science, standard 16 17 you know, there had to be -- actually, let me 17 anything. You know, I mean, there is a table for 18 think about this a second. Let me retract that everything. You know. Q. So the concept of a lookup table is 19 momentarily. 19 20 Actually, I have to tell you that 32 is my basically, it is the same concept, regardless of 21 invention. And it is going to be both. I will 21 what particular data happens to be in the lookup 22 tell you why, because when we were discussing 22 table: right? 23 alternatives to the POP server and using a 23 A. A lookup table is a lookup table. 24 proprietary connection server, this is an 24 Q. It doesn't matter what the particular 25 obvious thing, we had to have a table that had content of the lookup table is; right? 195 197 the identifier and the IP address. A. Well, that is what makes it unique, 2 So I would have to say that Glenn and I though, and what application it is involved in. 3 both in our discussions, you know, said, okay, 3 You know, the concept of a lookup table. well, let's -- this is how we are going to have yeah, has been around, but if you are applying it to 5 to do it. So I would say co-inventor some new technology or a new -- you know, a new BY MR. HEINRICH: program, you know, then, okay, you are unique in Q. Are there any documents of any sort that that regard. would help you identify the particular date in which I mean, I would like to give you an 8 9 you co-conceived claim 32? 9 example off the top of my head of things that are 10 MR. BOYLE: Objection. 10 obvious around the world that need to be patented 11 THE WITNESS: None that I know of. I 11 because they are specifically applied to unique mean it is -- this is like -- no none that I 12 12 applications, then, you know, I would give it to 13 know of that would answer your question as 13 you. But I think you get what I'm saying. Q. So you think the fact that one of the 14 to -- as to evidence as to who conceived it or 14 15 at what time. I don't know any of that. parameters in the lookup table happen to be IP 15 16 BY MR. HEINRICH: addresses is what made your invention unique in your 16 17 Q. Did you at any point write it down and 17 18 say, "I just came up with a nifty idea," write it in 18 MR. BOYLE: Objection, mischaracterizes 19 a journal entry or a lab notebook or something like 19 his testimony. 20 20 THE WITNESS: No, I'm going to tell you 21 A. Not to sound flippant, but -- and granted 21 what made this unique, okay? And I gave you 22 it got -- it was issued a patent, so it is unique, 22 the example when we first started. The POTS 23 but this concept of maintaining a lookup table is, 23 environment for looking up a phone number is a I'm sorry to say, obvious. I mean, it is an obvious 24 24 lookup table. You call 411, you get

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information, they look it up in a lookup table,



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