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Crossroads Systems (Texas), Inc.

V.

Chaparral Network Storage, Inc., a Delaware Corporation

30(b)(6) Oral Deposition of Geoff Hoese

August 6, 2001

COMPRESSED TRANSCRIPT

CONFIDENTIAL ATTORNEYS' EYES ONLY

2300 red village driver media tome 18756 (512) with oaks

CROSSROADS EXHIBIT 2302
Oracle Corp. v. Crossroads Systems, Inc.
IPR2015-0

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Dage 3
                                                     Dage 1
              IN THE UNITED STATES DISTRICT COURT
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                                                                                         INDEX
              FOR THE WESTERN DISTRICT OF TEXAS
                                                               2
                       AUSTIN DIVISION
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    CROSSROADS SYSTEMS
                                                               4
                                                                   Exhibits - - - - - - - 3
    (TEXAS), INC.
                                                                   GEOFF HOESE
                                          Civil Action No.
                                                                     Examination by Mr. Bahler - - - - - -
                                           A-00CA-217-55
                                                                   Changes and Signature - - - - - 68
 6
    CHAPARRAL NETWORK STORAGE.
                                                                   Reporter's Certification - - - - - - -
    INC., A DELAWARE CORPORATION
                                                               9
                                                              10
                                                              11
 9
                                                                                      EXHIBITS
                 30(b)(6) ORAL DEPOSITION OF
10
                                                              12
                         GEOFF HOESE
                                                              13
                                                                   NO.
                                                                            DESCRIPTION
                                                                                                                   PAGE
11
                                                              14
                                                                   22
                                                                            Notice of Deposition
                       August 6, 2001
12
                                                              15
                                                                   23
                                                                             U.S. Patent No. 5,941,972
                                                                                                                    26
                                                              16
                                                                             Abstract of Provisional Router
13
                  ORAL DEPOSITION OF GEOFF HOESE, produced
                                                              17
    as a witness at the instance of the Defendant and duly
15
                                                              18
    sworn, was taken in the above styled and numbered cause
                                                              19
17
    on the 6th day of August, 2001, from 1:38 p.m. to 4:15
    p.m., before Sandra 5. Givens, CSR, in and for the
18
                                                              20
19
    State of Texas, reported by machine shorthand method,
                                                              21
    at the offices of Fulbright & Jaworski, 600 Congress
                                                              22
    Avenue, 1900 One American Center, Austin, Texas 78701, pursuant to the Federal Rules of Civil Procedure.
22
                                                              23
                                                              24
24
                                                              25
25
                                                     Dage 2
                                                                                                                   1206-4
                                                                                      GEOFF HOESE.
                         APPEARANCES
 2
                                                                   having been first duly sworn, testified as follows:
 3
                                                               3
                                                                                       EXAMINATION
      FOR THE PLAINTIFF:
                                                                                 (Exhibit Nos. 22, 23, and 24 marked.)
 4
                 Alan D Albright
                                                                   BY MR. BAHLER:
                 Gray, Cary, Ware & Freidenrich, LLP
 5
                                                                       Q
                                                                           Good morning, Mr. Roese.
                 1221 S. MOPAC Expressway
                                                               7
 6
                 Suite 400
                 Austin, Texas 78746
                                                               8
                                                                           Let me hand you what's been marked as Hoese
                                                                   Exhibit 22. Before I do that let me just ask you, are
 8
      FOR THE DEFENDANT:
                                                              10
                                                                   you the Geoffrey Hoese that's named as an inventor on
 9
                                                              11
                                                                   the natent in this case?
                 David D. Bahler
                                                              12
                                                                          Yes.
10
                 Fulbright & Jaworski, LLP
                                                              13
                                                                       0
                                                                           And you're the same Geoffrey Hoese that's been
                 1900 One American Center
11
                 600 Congress Avenue
                                                              14
                                                                   deposed before?
                 Austin, Texas 78701
                                                              15
12
                                                              16
                                                                           Do you still live in the same place?
13
14
15
                                                              17
                                                                           Yes. I do.
                                                              18
                                                                           All right, Still the same age?
16
                                                              19
17
18
19
                                                              20
                                                                           Okay. Probably older. You're over 18, you're
                                                                       0
                                                              21
                                                                   still over 187
20
                                                              22
                                                                           Still over 18.
21
                                                                           Take a look at Exhibit 22. That is a copy of
                                                              23
23
                                                                   Chaparral's Third Notice of Deposition under Rule
24
                                                                   30(b)(6) to Crossroads, the plaintiff in this case, and
```

1 (Dages 1 to 4)

Givens Court Reporting

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Dage 5
                                                                                                                Dage 7
                                                                     A I have not billed Crossroads for my time as of
1 it's our understanding you have been designated to
    speak on behalf of Crossroads about topics 5 and 6. Is
                                                                 this day.
    that your understanding?
                                                             3
                                                                    Q
                                                                         Do you have an agreement that you're going to
                                                                 bill them?
       A Yeah.
                  MR. ALBRIGHT: These two, Yeah.
                                                             5
                                                                         Not specifically. No.
                 THE WITNESS: Yes. That is my
                                                             6
                                                                     0
                                                                         Do you have a personal understanding that
6
                                                                 you're going to be paid?
    understanding.
                                                                         I've considered it and may well do so.
8
       0 (By Mr. Bahler) Are you prepared to do so
9
    today?
                                                                         Have you let them know that?
10
            Yes, I an.
                                                                         I've mentioned the possibility.
       A
            what did you do to prepare for your
                                                             11
                                                                         And what was their response?
11
        Q
12
     deposition?
                                                             12
                                                                     A Her response?
                                                            13
                                                                     Q well, her or their. What was its response?
13
       A Briefly met with my counsel before this
    deposition. That's about it.
                                                            14 How about that.
14
       Q Did you look at any documents?
                                                            25
                                                                    A They seemed open to the possibility, and it
15
        A I believe I looked at this one document. Yes.
                                                            16
                                                                 was just not a topic for further discussion.
16
        q which has been previously marked as
                                                                     q okay. Do you have any sort of financial
17
18
    Exhibit 24?
                                                                 arrangement between Crossroads and yourself regarding
       A No. Exhibit 22, paragraph 5.
                                                                 your testimony here today?
20
        Q Oh, that notice. Dkay. Exhibit 22.
                                                             20
                                                                    A Not specifically. No.
       A I looked at Section 5 of 22.
                                                             21
21
                                                                     Q Generally7
        Q And 67
                                                             22
                                                                    A Recording my testimony here, no.
71
        A Actually, no. I didn't look at 6 until now.
                                                             23
                                                                    O Let's take a look at Exhibit 24. Can you tell
23
24
        Q But you're the 6 guy?
                                                                 me what that is?
                  MR. ALBRIGHT: Yeah. He's the 6 quy.
                                                                    A It's a document I wrote describing the
                                                    Date 6
                                                                                                                 DAGE !
        Q (By Mr. Bahler) All right. I know.
                                                                characteristics of the 972 patent at the initial
    Mr. Hoese, that when we last spoke you were employed by
                                                                 conception.
    Crossroads. Is that still the case?
                                                              3
                                                                     Q Is that your handwriting on the front?
       A I don't believe that was correct when we last
                                                                     A On the fax cover page?
 5
     snoke.
                                                             5
                                                                     O Yes, sir.
                                                             6
           Are you employed by Crossroads today?
                                                                     A Yes, it is.
        0
            No. I'm not.
                                                                                MR. ALBRIGHT: And let me just out down
            When did you leave Crossroads?
                                                             8
                                                                 on the record it's my handwriting on the three pages
            In October of 2000.
                                                                  where it says "attorneys' eyes only," since we produced
            Okay. Do you have a job right now?
                                                             10
                                                                it. I mean, I just --
            No. I do not.
11
                                                             11
                                                                                MR. BAHLER: That's fine.
            what do you do for a living?
12
                                                             12
                                                                    Q (By Mr. Bahler) Okay. Why did you prepare
        A I do some different consulting kind of
                                                             13 this document?
13
14 arrangements with different firms where I have an
                                                             14
                                                                    A I prepared this document because I had a
IS advisory role in a couple different companies of a very
                                                             15 concept and an invention that I felt was worth
                                                                  pursuing, and so I prepared this document to initiate
       Q Do you perform any consulting or advising for
                                                                 the patent filing.
18 Crossroads?
                                                             18
                                                                     Q okay. And this document was prepared when?
19
       A I've been involved with things relating to
                                                             19 Can you tell from looking at it?
20 this trial.
                                                             20
                                                                    A Between March 22nd and May 15th, prior to May
                                                             22 15th 1997
21
       O Do you have a consultancy arrangement with
22 Crossroads for this trial?
                                                             22
                                                                    Q All right. And then this was sent to
            No. Not specifically, No.
                                                                Mr. Anthony Peterman on May 28th, 1997?
23
24
        Q
             Are you being compensated for your time here
                                                                     A I believe so. Yes. That's what's indicated
   today?
                                                             25 by the cover sheet, and that makes sense.
```

2 (Dages 5 to 8)

Givens Court Reporting

```
Dage II
                                                     Dage 9
                                                                      A That was the date that I documented that I had
                                                               1
        Q was this document communicated to anybody
1
                                                                  the ideas that assembled to cover the material
    prior to that date?
            I don't specifically recall.
                                                                  presented here.
                                                                     Q Okay. You documented something on March 22nd,
            All right. So as far as you recall, the first
                                                               4
    time that this information included in Exhibit 24 was
                                                               5 1997?
    communicated to anybody was May 28, 19977
                                                               6
                                                                      A I'm not sure what documented -- what do you
        A I believe it would be prior to that.
                                                               7
                                                                  mean by "documented"?
                                                                      Q well, in that answer you said "that's the date
                                                               8
R
           Okay.
        A I would expect that I reviewed it with my
                                                                  that I documented," and then you mentioned something
9
                                                                  that you documented.
    co-inventor on the patent, things of that sort.
10
        Q Other than Mr. Russell, anybody else?
                                                                      A I documented that date as the date that I had
11
        A I don't specifically recall. It's possible.
                                                              12 the concept.
12
    I way very possibly have shown it to Brian Smith.
                                                                      Q How did you arrive at that date?
                                                                       A That was the day that the idea in whole as
15
        A I'm certain I did at some point prior to
                                                              15 presented occurred to me,
                                                                      Q Okay. How is it that you picked -- how is it
16 actually faxing it.
                                                              16
        Q what I'm asking for is specific recollection
                                                              17 that on May 15th or perhaps as late as May 28th you
17
                                                                   remembered specifically that May 22nd, 1997 was the
18 of any communication to anybody other than Mr. Peterman
                                                              18
    before May 28th, 1997.
                                                              19
                                                                   date of conception?
19
        A I don't specifically recall that. No.
                                                                      A The date wasn't May 22nd as you just stated.
20
             Now, on the last page at the bottom, the very
                                                              21 It was March 22nd.
    bottom line, it says "Concept by Geoff Hoese, March 22,
                                                              22
                                                                      Q Well, May 15th -- well, you did the first
    1997," and it continues "First draft, May 15th, 1997."
                                                              23 draft May 15th, and then I don't know when this May or
                                                                   March 22nd of 1997 date was added, but it was added
24 And then as we've already discussed, you faxed this to
                                                                   certainly no later than May 28th, 1997. So the
25 Mr. Peterman on May 28th, 1997, right?
                                                    Date 10
                                                                                                                   Dage 12
                                                                   question is, what made you decide or what made you
```

```
1
           That appears to be correct.
 2
            Pardon me?
 3
             That appears to be correct.
             Dkay. Now, I'd like to ask you some questions
    about that. This says "First draft, May 15th, 1997."
    What does that mean?
       A I would believe that's when I took my notes
    and created this particular word document that this was
    generated from. So this would be when I first started
    putting this into word to create this specific
    document.
        O Okay. Do you have those notes?
13
        A I don't recall if I have them or not.
         Q If you had them, they would have been produced
15
    in this case, correct?
16
        A Actually, that would clarify my answer of, I
    most certainly don't have them. The attorneys may have
17
    them in the files they might have collected. I don't
18
19
     know if they were there or not.
20
            Okay. And if they weren't produced, they
21
    don't any longer exist?
```

A That would be my belief. Yeah.

March 22nd, 1997." What does that mean?

And then in that line also, as we've just

discussed, it talks about "Concept by Geoffrey Hoese.

recall either on May 15th, '97 or on May 28th, '97 that March 22nd, '97 was the date of conception? (At this time the proceedings were interrupted by a telephone call.) 6 MR, ALBRIGHT: Can I take this real 7 autck? В MR. BAHLER: Sure. 9 (At this time the proceedings went momentarily off the record.) 10 11 MR. BAHLER: Last question, please. 12 (The referenced portion was read back by 13 14 THE WITHESS: At the time the material 15 was very fresh in my mind. It was actively the material I was working on. I suspect, although I don't specifically recall, that I had documented it in notes 17 and draft drawings and documents that I had used, but I 19 don't specifically recall. Q (By Mr. Bahler) Okay. Do you -- what sort of

notes and drawings did you make?

A I don't specifically recall.

Q Okay. If those notes and drawings were not 23 produced to us in this case, then they no longer exist,

correct?

21

22

3 (Dages 9 to 12)

Givens Court Reporting

(512) 301-7088

22

col	t Docac		Caken August 6, 20
	Dage 13		Page 15
1	A I would assume so. Yes.	1	conception of your invention that you discussed with
2	Q Okay. Did you communicate to anybody this	2	Nr. Hulsey, then why did you create the document that
3	conception that you had of the invention on March	3	has been marked as Exhibit 247
4	22nd, '97?	4	A If I had existing documents, I probably
5	A I don't recall.	5	desired to increase the clarity and the focus.
6	q Okay. Between March 22nd '97 and May	6	Q Okay. Do you specifically recall having such
7	28th, '97 did you communicate with anybody your ideas	7	documents?
8	other than Mr. Russell?	В	A I recall having some drawings that I'd done,
9	A I most certainly I don't specifically	9	and sketches. I don't know if that fits what you're
10	recall a conversation as such, but I most certainly	10	calling documents or whatnot, but
11	would have discussed it with Mr. Smith.	11	Q Well, I'm just trying to figure out what
12	Q Do you have any documentation of that	12	existed prior to this Exhibit 24, and specifically wha
13	disclosure?	13	documents existed prior to the existence of Exhibit 24
14	A Not to my knowledge.	14	A Relating, I presume, to the conception
15	Q Okay.	15	Q Yes.
16	A There may be document to further answer	16	A of the document?
17	that, the attorney, the approval to use the attorney	17	Q Exactly,
18	and spend the money associated with that was connected	18	A So, I'm sorry, is that a question as to what
19	to that. So there may be documentation. I don't know	19	document?
20	that's but I don't specifically have knowledge	20	Q Yes.
21	of it.	21	A There were a body of documents relating to the
22	Q Okay. Other than Mr. Peterman did you show	22	Verrazano project describing characteristics of storage
23	this document or this concept to anybody outside of	23	routers, et cetera. There almost certainly were
24	Crossroads?	24	sketches on white board and things of that sort. That
25	A I would believe Bill Hulsey.	25	was common practice. Specifically relating to the
	Dage 14		Dage I
1	Q Okay. He's also one of Crossroads' lawyers?	1	conception, I don't recall what documents there might
2	A He was at the time an outside attorney for	2	have been other than that.
3	patent work.	3	Q Okay, After you sent this fax to
4	Q When did you reveal the concept to Mr. Hulsey?	4	Anthony Peterman on May 28th, 1997 what else did you d
5	A Sometime prior to the probably prior to May	5	with respect to the preparation of the patent
6	15th.	6	application for the 972 patent? What did you do next?
7	Q Okay. On you have a specific recollection of	7	Put it that way,
8	that fact?	8	A In general, I worked with Mr. Peterman to
9	A I recall discussing the material of the	9	further describe the characteristics to him so that he
10	disclosure with him prior and the process of	10	could prepare the patent. I don't really specifically
11	determining what it is that I should create in terms of	111	recall those events.
12	there being a document of this sort and what material	12	Q Did you provide him additional documents?
13	I should incorporate. So I don't specifically recall,	13	A Very likely.
14	you know, when that was.	14	Q Which ones? What documents?
13	Q Okay, Did you have documents with you during	15	A I don't recall.
16	your discussions with Mr. Hulsey?	16	Q Okay. Did Mr. Peterman provide you with a
17	A Don't specifically recall. Possibly,	17	draft patent application?
18	Q Okay. Let me ask you this. If you had such	18	A Eventually, yes, he did.
19	documents, why did you create a new document, which is	19	Q Do you know how long that took?
20	Exhibit 247	20	A Not specifically.
21	MR. ALBRIGHT: Objection. Assumes facts	21	Q After you got the whenever it was when you
22	not in evidence. You can answer.	22	got it well, strike that. You do recall getting a
23	THE WITNESS: Can you repeat the	23	draft patent application, correct?
	The witheast can job repeat the	1	- 4.32 apprinterion, contect;

4 (Pages 13 to 16)

Sometime before the thing was filed December

Givens Court Reporting

(512) 301-7088

,co	# Doese		Taken August 6, 20
	Page 17		Page 19
1	31st '97, right?	1	storage." See that?
2	A I assume that was the date, but I did get a	2	A Yes.
3	draft,	3	Q Okay, Did you and Mr. Peterman discuss what
4	Q Did you get one draft or many drafts or what,	4	"access controls" meant?
5	do you recall?	5	A I don't specifically recall that discussion.
6	A I don't specifically recall.	6	It's probably reasonable to assume at some point we
7	Q Okay, Well, you got at least one, right?	7	did.
8	A Yes.	8	Q Okay. Do you know when those discussions
9	Q Okay. What did you do with that draft?	9	occurred?
O	A I reviewed it as well as providing it to	10	A Not specifically. No.
1	Mr. Russell for review.	11	Q Were they documented?
2	Q Okay. Did anybody else within Crossroads	12	A I don't recall that they were or not.
3	review it?	13	Q Then the next sentence says, "Methods are
4	A I don't recall.	14	provided that allow for configuration and modification
5	Q Okay. And after you reviewed it what did you	15	of the storage allocated to each workstation attached.
6	do?	15	See that?
17	A Again, I don't specifically recall, but I do	17	A Ch-huh.
8	recall that there was generally a draft review cycle	18	Q Are those methods disclosed in this document,
9	and submitting changes and communications with	19	Exhibit 247
0	Mr. Petermam on changes to it.	20	A I'm not sure.
21	Q Oo you recall when that review took place?	21	Q Okay. Well, it's only two pages, right? Can
22	A Na.	22	you find for me within this document any methods or any
23	Q Did you in any way document that review?	23	disclosure of any methods that allow for configuration
24	A It's possible that, you know, that it might	24	and modification of the storage allotted to each
25	have been noted in my notes. I don't specifically	25	workstation attached?
	Daye 18		Dage 2
1	recall documenting it.	1	A I would say that there are implicit methods in
2	Q Okay. Did you keep the draft?	2	that the storage is described as being segmented and
3	A I don't recall.	3	configured. The implementation methods are left open.
4	Q If you had kept it, where would you have kept	4	Q Okay. Why were they left open?
5	it?	5	A I would say that there are a variety of
5	A It would be in the files that were submitted	6	methods within the context mentioned that could be used
7	for the	7	so that it was not pertinent to the invention itself.
В	Q Okay.	8	Q 50 once
9	A It would have been in my files.	9	A But that's, you know, that's I don't really
0	Q So if you kept that draft, your lawyers would	10	specifically recall.
1	have given it to us?	11	Q 50, and you were referring a second ago to th
L2	A I fully expect they would have.	12	allocation of storage. I'm not sure if I used the
13	Q All right. Let's take a look at Exhibit 24.	13	right word, but you were referring to drawing 3 on the
4	This is 24?	14	last page of Exhibit 24, correct?
15	A (Nods head.)	15	A well, I was referring in toto to the
	The state of the second st		A PROPERTY OF THE PROPERTY OF

5 (Dages 17 to 20)

16 demonstration through the document that the storage, as

17 described in Figure 3, is configured and modified as a

20 configured with reference to Figure 3 in Exhibit 24,

21 you mean the drawing or the depiction of the storage

device on the right-hand side that shows global data,and it shows a storage device on the right-hand side

24 that has partitioning for workstation 1, workstation 2,

25 workstation 3, workstation 4; and them you've got the

Q Okay. You mentioned "configured," and by

18 contrast of Figures 1 and 2.

Givens Court Reporting

18 correct?

19

Q Let's go back to Exhibit 24, On the second

Q The last paragraph in the section called

second sentence -- that says, "Access controls and

23 routing are implemented such that each workstation has

24 access to a specific subset of the data store, which 25 has the appearance and characteristics of local

17 page of that exhibit -- there's only three pages,

21 "Abstract" there's a sentence that says -- it's the

A Including cover, that's correct.

(512) 301-7088

,co	r Doese		Сакеп Ацдият 6, 20
	})age 21		Page 2
1	bottom storage device is dedicated to workstation S.	1	method for modification of the storage allocated?
2	That's what you mean by "configured," right?	2	A Again, I would say that that's implicit in the
3	A I was generically alluding to the fact that	3	storage router.
4	multiple configurations of data or multiple	4	Q Okay. Shown in Figure 3, right?
5	configurations are demonstrated in that drawing.	S	A Yes.
6	Q Okay. And that's what you meant by	6	Q Okay. And how what in Figure 3 shows
7	"configuration"?	7	modification of the allocated storage?
8	A No. That's too generic. I wouldn't mail	8	A The statement that methods are provided that
9	it down that much. I'm just globally commenting that	9	allow for configuration and modification of the storage
10	in order to have a demonstrated configuration you'd	10	allocated to each workstation attached.
11	have to have it follows that there is a	11	Q Okay. And in your mind that's all that's
12	configuration method. That's the only comment I was	12	necessary to show the ability to modify?
13	really making.	13	A Yeah,
14	Q Okay. So back to the sentence that was on	14	Q Okay. Nothing more?
15	the second page of Exhibit 24, it says, "Methods	15	A In the context, absolutely. Nothing more.
16	are provided that allow for configuration and	16	Q Now, in Figure 3 there are shown five
17	modification." One such method for configuration, at	17	workstations, correct?
18	least, is illustrated in Figure 3, right?	18	A Yes.
19	A One such method I'm sorry. I didn't follow	19	Q And there are shown three storage devices.
20	your question there.	20	correct7
1	Q Let me back up and ask the fundamental	21	A Whether those are three storage devices or
22	question again. This sentence on the second page, the	22	what could be subject to question, but I'll allow that,
23	last sentence of the third paragraph on the second page	23	Q well, they're storage devices, correct?
24	of Exhibit 24 says, "Methods are provided that allow	24	A There are three storage elements shown. One
25	for configuration and modification of the storage	25	is subdivided into four storage elements. Whether
	Dage 22		Dage 2
1	allocated to each workstation attached." Okay?	1	those are individual devices
2	A Okay.	2	Q Okay.
	Annual Manager Control		The state of the s

```
Q My question to you is, first part, where is
                                                             3
                                                                    A -- is a matter of the perspective, and that's,
    the method in this document that is provided that
                                                                 you know, that kind of relates, I think, in part to the
    allows for a configuration of that storage?
                                                              S characteristics of the invention as to what perspective
       A I would suggest that the method is defined in
                                                                 they're being looked at, but --
    the storage router as drawn, but that's an open
                                                             7
                                                                  Q All right. Where's the method for modifying
    question. It's -- it's implicit in the drawing and in
                                                                  that storage in that view?
                                                                    A It's --
    the text that there is such a method. The specific
                                                             9
10 method, whether that's, you know, some given
                                                             10
                                                                    0
                                                                         Modifying the storage allocation in that
                                                             11 figure.
11 implementation, isn't described here that I can see.
       Q Why isn't it described?
                                                             12
                                                                  A Reading the text, it's provided in the storage
13
       A I don't specifically recall any reason to
                                                             13 router.
14 describe it or to not describe it when I produced the
                                                             14
                                                                   Q Okay. Modification is provided in the storage
                                                             15 router?
16
     Q Okay. Is the method of configuration
                                                             16
                                                                  A The capability to modify and configure is
17 important to your invention?
                                                             17 provided.
       A You know, that's kind of a question that dets
18
                                                             18
                                                                    Q Okay, Well, the only thing that's connected
19 into -- clearly, at the time I probably didn't think
                                                             19 that can modify in this figure are the workstations,
20 that it was, and I would probably hold that opinion;
                                                             20 correct?
    but that requires a level of analysis and thought that
                                                             21
                                                                               MR. ALBRIGHT: Could you read that back,
    I'm really not prepared to give right now.
                                                             22
                                                                 please?
      Q This sentence also says, "Methods are provided
                                                             23
                                                                               (The referenced portion was read back by
24 that allow for modification of the storage allocation."
                                                             24
                                                                  the court reporter.)
25 Where in this document is there disclosure of the
                                                             25
                                                                               THE WITNESS: The purpose of the drawing
```

6 (Dages 21 to 24)

Givens Court Reporting

```
Dage 21
                                                    Date 25
 1 isn't to address the modification and configuration.
                                                              1
                                                                      Q
                                                                          okay.
   The purpose of the drawing, I think, is to show the
                                                                         And I'm confused, if I may interject.
    connectivity from that perspective. So we're showing
                                                              3
    the workstations are connected that's described in the
                                                                      A My understanding, again referring back to
                                                                  number 5 here, was that these were corporate
 6
       Q (By Mr. Bahler) Is modification of the
                                                                  perspective of date of invention. Yet, you're
    allocated storage, is that important for your
                                                                  questioning me on elements of invention. This is all
                                                                  prior material that we've covered in other depositions.
       A The ability to do so. Yes.
                                                                                So I'm concerned that we're repeating
10
       Q And how would that be done with reference to
                                                              10
                                                                  ground as well as, you know, going off on tangents that
11 Figure 37
                                                              11 we've already been through, and I really don't feel
     A It's -- I don't know that the Figure 3 shows
                                                             12 real comfortable with that.
12
13 or describes how that is done.
                                                                     Q Well, Mr. Hoese, when you were deposed before
                                                              13
        Q Okay. Is there any disclosure of how that
                                                              14 we didn't have this Exhibit 24, and every question I've
15 would be done within this Exhibit 24?
                                                                  asked you has been about Exhibit 24. All right?
       A I don't know of one, but it could be done over
                                                              16
                                                                                THE WITNESS: Is that correct?
17 the interconnects shown. It could be done through
                                                              17
                                                                                 MR. ALBRIGHT: Every question he's asked
18 another interconnect.
                                                              18 you I think has been about that document.
19
       q It could be done over the interconnects shown
                                                              19
                                                                    Q (By Mr. Bahler) Now, take a look at
20 to the workstations, correct?
                                                              20 Exhibit 23 --
71
            Hypothetically possible. Yeah.
                                                              21
                                                                                MR. ALBRIGHT: I'm sorry. But if
             So as conceived, your invention contemplated
                                                                  there's something you feel like you need to add to make
23 that modification of the storage allocated could be by
                                                                  your answers complete that goes outside of that, then
24 the individual workstations, right?
                                                                  you certainly need to add that in.
                                                              24
                  MR. ALBRIGHT: Objection.
                                                              25
                                                                      Q (8y Mr. Bahler) All right?
                                                    Dage 26
                                                                                                                  Dage 28
 I Mischaracterizes his testimony.
 7
                  THE WITNESS: Your question -- can you
                                                                      Q Now, referring to Exhibit 23, which is a copy
3
    read that back to me, please?
                                                                  of your patent, Figure 3, just to lay the predicate
                                                                  again, that is a block diagram of one embodiment of
                  (The referenced portion was read back by
5
    the court reporter.)
                                                                  your invention, correct?
                  THE WITNESS: Yes. As conceived, that's
                                                                      A Correct.
    one of the methods that could be used for
7
                                                              7
                                                                           And shown in that figure are workstations,
8
   configuration.
                                                                   right?
Q
     Q (By Mr. Bahler) And in fact, referring to
                                                              9
10
   Figure 3, it's the only method shown, correct?
                                                              10
                                                                          And shown are storage devices, correct?
     A I don't think that's a fair characterization.
                                                                     A Correct.
13
                                                              11
12 as the text refers to multiple methods. Other
                                                              12
                                                                     O And also storage routers are shown there.
13 documents probably refer to other methods of
                                                              13 right?
14 communicating with the storage router, 50 in the
15 context of all the -- of a storage router and the
                                                              15
                                                                      Q And all three of those things are also shown
16 definitions that are around that, I would agree with
                                                              16 in Figure 3 of Exhibit 24, right?
17 that.
                                                              17
                                                                     A Correct.
18
        Q All right. Let's take a look at Exhibit 23.
                                                              18
                                                                      Q Okay. Also shown in Figure 3 of Exhibit 23,
19 which is a copy of your patent, the 972 patent. And
                                                              19 which is your patent, is something called a "management
    Figure 1, which is -- actually, this is Figure 3 on the
                                                              20
                                                                  station." Do you see that?
21 very face. That's a drawing of your invention,
                                                              21
                                                                     A Correct.
    correct, conceptual drawing, block diagram of your
                                                              22
                                                                           Now, that's not shown in Figure 3 of
    invention, right, Figure 37
                                                                  Exhibit 24, is it7
                                                              23
24
     A That is one such block diagram. That's
                                                              24
                                                                      A That's correct.
25 correct.
                                                              25
                                                                          When did you conceive of the management
```

7 (Dages 25 to 28)

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Dage 20 Dage 31 station? A I don't recall that there is. 1 A I would say it was March 22nd. '97. o okay, would tables have been an obvious way 2 2 1 Okay. Where is that? Show me specifically to do it? where in Exhibit 24 there's a conception of the A I don't know that I'd use the word "obvious." management station. They may have been -- I can conjecture they give it the A Again, it's implicit with the storage router context of the state of the projects ongoing at that 7 point in time, the stated definitions. That may have concept. B Okay. So once you have a drawing like Figure been a natural way to implement things or to design 9 things, but I don't specifically recall. 9 3 which shows workstations and storage devices in a storage router, implicit in that disclosure is an 10 O Now, where in this document, Exhibit 24, does independent management workstation, correct? 11 it say that access controls are implemented in the 11 12 I would say that any contemporaneous documents storage router? Oh, never mind. I've got it. I that refer to a storage router and the concept of a storage router at that point did allow for and provide 14 Okay. After you created this document, 15 interconnects for an external management station. Yes. 15 Exhibit 24, Mr. Hoese, did you create any other 16 0 What contemporaneous documents? 16 documents subsequent to this date of May 28th, '97 that 17 A There's the Verrazano specification, Probably 17 further and more completely described access control? 18 other documents. I don't specifically recall all of 18 A I don't know. I would say yes, that I created 19 documents that described specific elements of access 19 them. q okay. 20 20 control or specific characteristics of certain types of

24

1

3

7

2

9

10

21

22

Date 30

Schematics were present at that point that

showed interconnects to those devices. 22

23 Q Do any of those other documents talk about modifying access control through that management

station?

Doge 32

I A I would not believe that any did prior to this 2 document.

Q Okay. And this document itself doesn't show 3 that either, right?

A Doesn't show what either?

Q Using an independent management station to 2 modify access control.

R A implicit in the definition of a storage 9 router, that connectivity is implicit along with the 10 statement that methods are provided.

Okay. The statement in Exhibit 24 that methods are provided, is that a statement that that 13 portion of your invention is in software rather than in 14 bardware?

15 A I wouldn't characterize it that way.

Okay. So would using software have been a natural choice in your mind?

A It is neither exclusively a hardware or a software characteristic. Software is an element, could very well be considered a necessary element, and 21 hardware could very well be considered a necessary 22 element.

23 Q Naw, there's no disclosure in this document, Exhibit 24, of any use of any sort of tables to keep 25 track of access control, is there?

Patent filing, for example. when? 0

23 say that, answer that question.

25 some documents about access control.

I don't specifically recall.

Q Okay. The patent application is one, right?

I would say, yeah, that's fine.

what other documents were there?

21 access control; but access control, as described in the

concept in the patent, I don't know that I can globally

Q You just mentioned that you do recall creating

A I really don't specifically recall.

Q Okay. When did you create those other documents?

Again, I don't recall what the document -- I 11 know that I did work on things that talked about different elements and different types of access control. whether they specifically referred to the types that might be out of the patent, I can't really 14 15 answer, and I just don't recall.

16 Q Okay. Now, between this date, May 28th '97, 17 and the date that the patent application was filed, which was December 31st: '97, was the patent 18 19 application the only thing that you were working on?

A

What else were you working on?

Oh, many, many things. I really don't recall 23 my projects that were ongoing at the time. I do recall 24 that I was very, very busy.

Q Do you know how many other things you were

8 (Dages 29 to 32)

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16

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Days 35
                                                     Dage 33
                                                                        A There are a very large number of pages. Do
    working on?
                                                                  you want me to look through them all and answer that?
 2
        A No. I don't know the number.
        O How often did you work on the patent
                                                                       Q well, I guess the point is, I don't think
    application during that period?
                                                                    there are any gaps in those Bates numbers, which means
        A A number of times. I don't -- again, I don't
                                                                    that that is exactly how these documents came from your
                                                                    records within Crossroads.
    specifically recall.
        Q Do you recall how many times during those
                                                                       A Oh, that's entirely possible.
                                                                8
                                                                        O So I quess the -- so, all right, the
    months between May 28th, '97 and December 31st, '97
                                                               9
                                                                    fundamental question is, can you tell me what is the
    that you actually did work on the patent application?
       A No. T don't.
                                                                    year of those notes?
10
                                                               11
                                                                       A It appears to me that a large number of these
11
        O Did you record any -- did you make any time
    entries or anything to in any way record the time that
                                                                    notes are of loose-leaf paper out of legal pads that,
17
13
    you spent working on the patent application?
                                                                    you know, may have been disconnected. They may have
                                                                    been in connective pads. They may have been put into
14
             No. I didn't record that kind of data.
                                                               14
             Did you create any documents that would be
                                                               15
                                                                    files sorted by maybe topic or not sorted at all rather
    able to indicate that you were working on the patent
                                                               16
                                                                    than sorted by date. So I'm not getting any -- that's
                                                                    not helping me in determining the date.
17
                                                               17
      A Not that I recall. It's possible that, you
                                                               18
                                                                                  Some of the documents do have more
18
                                                                    accurate -- more complete dates on them. Some of the
    know, I might have made notations or had other
                                                               19
19
    documents, but I don't remember.
                                                                    pages do, but again, I'm not seeing a consistency.
       Q Okay. So all we have to rely upon is your
                                                                           with years?
21
    testimony?
                                                               22
                                                                            Yeah. There's some stuff back here with
                                                               23 years.
        A I don't know.
            Let me show what was marked at your previous
                                                               24
                                                                       Q What year?
                                                                        A I've seen '97, I've seen '98. I'd have to
    deposition as what I think are all of your notebooks.
                                                               25
                                                     Dane 34
                                                                                                                    Date 36
 1 Focusing in now on topic 5, part B of the deposition
                                                                1 Took through and find things, Here's a 12/19/96 page.
                                                                    This comes after material relating to EGIO stuff that
    notice. Let's take a look at what was previously marked
    as Hoese Deposition Exhibit 6. Can you just reconfirm
                                                                    I'm fairly confident was significantly after that.
    for me that that is one of your notebooks that you made
                                                                        Q So some of that was before December 31st '97.
    while at Crossroads?
                                                                    at least some of it, right?
        A It certainly appears to be.
                                                                       A I'm sorry, What was the date I just read to
                                                                7
                                                                    you?
         Q That's your writing?
         A Yes, it is.
                                                                8
                                                                           December '96.
 9
         Q Can you tell me what date that notebook spans?
                                                                9
                                                                       A So, yes, at least one page was prior to '97.
            There's a date of 12/15 on here. I don't know
10
                                                               30
                                                                    That's dated '96.
11
                                                               11
                                                                       Q Can you find within that Exhibit 6 any mention
     what year.
12
       Q Is there any way at all for you to tell we
                                                                    of access controls?
     what date, what year that document covers, Hoese
                                                               13
                                                                                  MR. ALBRIGHT: If you're going to ask
     Exhibit 6? And you can look within it for any sort of
                                                                    him to do that, we're uping to take a break.
     refreshing events or whatever.
                                                               15
                                                                                  MR. BAHLER: That's fine.
15
26
      A There may be. It's very difficult. I'm
                                                               16
                                                                                  MR. ALBRIGHT: And he's going to go
17 seeing jumps and dates and gaps and things here that
                                                               17
                                                                    through and he's going to read each page.
    indicate much later dates, but I'm also seeing some
                                                               18
18
                                                                                  MR. BAHLER: That's fine. I've got
19 things that indicate dates more contemporaneous with
                                                               19
                                                                    these top.
20 the invention. So I'm very confused by this. It seems
                                                               20
                                                                                  THE WITHESS: It's going to take me a
                                                                    couple of days to do this. Do you really want me to do
                                                               22
         O Okay. Could you -- well, could you just
23 confirm for us that the Bates numbers, which are the
                                                               23
                                                                        Q (By Mr. Bahler) Well, yeah. We can continue
24 production numbers applied, for example, these, are
                                                               24
                                                                    this. That's no problem.
25 there any gaps in those numbers?
                                                               25
                                                                                  MR. ALBRICHT: This is an inappropriate
```

9 (Dages 33 to 36)

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```
Dage 37
                                                                                                                  Dage 39
    way of doing this. I mean, it's not appropriate --
                                                               1 notepads, note pages, perhaps, together. It could
2
                  MR, BAHLER: I can't find it.
                                                               2 be -- I'm not quite sure what the collection is. There
3
                  MR. ALBRIGHT: It's not an appropriate
                                                               3
                                                                  are different elements all bunched together in here.
4
    way to hand a witness a couple hundred pages of his
                                                                  Yes.
5
    logs at a deposition and ask him to try and find
                                                                          Well, within -- you don't know -- okay. So
    something. That's not appropriate, and you know it.
                                                                   the first date, December 15th, you don't know what year
                  If you want to go through and ask him
                                                                   that is?
                                                                    A I don't.
    about anything that's on any of those pages, you're
                                                               8
9
   free to do so; but he's not going to go through each
                                                              9
                                                                          Okay. And within Exhibit 6 there's Bates
                                                                   number 42305. It's dated November 5th, right?
10 page and try and see what he can find. It's not his
                                                              10
                                                                     A That's correct.
11 obligation to do it.
                                                              11
       Q (By Mr. Bahler) well, find me the page -- can
12
                                                              12
                                                                      and do you know what year that is?
13 you find me any pages that you absolutely can tell me
                                                                     A Ng. I don't.
                                                              11
    that are dated May 28th '97 and December 31st, '977
                                                                      Q Any way to tell by looking at the contents?
        A In that document?
                                                                      A I don't know.
16
                 MR. ALBRIGHT: He's not going to do it.
                                                                      Q Dkay. And we have the next page, November
17
                  THE WITNESS: I don't know.
                                                              17 9th. It runs for three pages. Do you know what year
18
                  MR. ALBRIGHT: He's not here to go
                                                              18 that is?
19 through these journals page by page and find this
                                                              19
20 stuff. You have the documents, and you've had it for
                                                              20
                                                                      O Dkay. Now, the next page within Exhibit 6
21 months, years probably. You know, it's just not the
                                                              21 bears Bates number 42310, and it has what looks like a
27
    witness' role to do that.
                                                                   folder that says "Intel" on it. See that?
23
                  MR. BAHLER: Well, it's his notebooks.
                                                              23
                                                                          Yes.
24
                  MR. ALBRIGHT: And you're free to go
                                                              24
                                                                          Is that your handwriting?
25 through every page you want and ask him any questions
                                                              25
                                                                          Yes.
                                                    Dayse 38
                                                                                                                  Dape 40
                                                                      Q Can you tell me -- can you pick out of this
 1 on that, but he's not here to go through the documents
    on a goose chase and try and find something, and he's
                                                                   exhibit where that folder stops?
3
   not gaing to do it.
                                                               3
                                                                     A I don't know.
                  MR. BAHLER: It's not a goose chase. I
                                                                          Okay. Well, within -- or behind that sheet
5
    want him to confirm it's not there.
                                                                   there's a date beginning November 4th and continuing
                  MR. ALBRIGHT: He's not going to go
                                                                   through Bates number 42328. November 4th begins in
7
    through each page and confirm that it's not there or go
                                                                   42312 and continues through 42318. Do you know what
   through and confirm that it is. It's not his burden to
                                                                   date -- do you know what year those page pages were?
                                                               9
10
        Q (By Nr. Bahler) All right, why don't we do
                                                              10
                                                                      Q The next two pages are both dated June 10th.
11 it this way. The first page is December 15th. Do you
                                                              11
                                                                   Do you know what year those are?
12 know what year that is? Do you have any idea?
                                                              12
                                                                     A No.
13
        A I'M not -- np.
                                                              13
                                                                      O All right, sir. The next two pages are dated
                                                                   December 6th -- December, what was it?
        Q Can you tell where these set of notes end and
15 the next set -- you mentioned that this looks to you as
   if it were a collection of individual notebooks or
                                                              16
                                                                      Q 1996. So that was created on or about
17
    individual notepads. I think is --
                                                              17
                                                                   December 12, 1996, correct?
18
       A I'm not sure what your question is right now.
                                                              18
                                                                     A Yes.
19
        O Do you know where the notepad -- well.
                                                              19
                                                                      Q Is there anything on those two pages that
```

10 (Dages 37 to 40)

deal -- actually, I don't know whether this is part of

Is there anything on those sheets that deal

A The copies are too illegible for me to answer,

it too, but possibly it is.

A I don't know.

24 with access control?

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23 stuck together --

24

assuming that you are correct in your understanding or

in your assessment that this is a collection, Exhibit 6

A On my examination that I just went through of

25 it, it appears to be a collection of different

is a collection of individual notepads that were just

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20

21

22

	Dage 4	e I	Dage 43
1	but I don't see anything that does.	1	access control?
2	Q Okay. The next dated document within	2	A I see no mention of access control.
3	Exhibit 6 is dated 4/14, and that bears Bates number	3	Q Do they deal in any way with the preparation
4	42338. Do you know what year that document is?	4	of the patent application?
5	A No.	5	A I can see no reference to that.
6	Q The next document I'm going to talk about	6	Q The next document in Exhibit 6 1'd like to
7	within 6 bears production number 42356. Do you know	7	talk about is Crossroads 42453. There's dates in
8	what that document fs7	8	October. Do you know what year those are, sir?
9	A Page of notes in my handwriting.	9	A No. I do not.
10	Q Do you know what it deals with?	10	Q All right.
13	A Reference is made to a staff meeting.	11	MR. ALBRIGHT: If you're ging to move to
12	Q Does that document deal in any way with access	12	the next stack, I'd like to take a break.
13	control?	13	MR, BAHLER: Okay. Fine with me.
14	A I don't see anything regarding access control.	14	(At 2:45 p.m. the proceedings recessed,
15	Q And that's May, correct?	15	continuing at 2:59 p.m.)
16	A I'd have to look. It's 5/12/97.	15	Q (By Ar. Bahler) Let me show you what was
17	Q The next dated document within Exhibit 6 is	17	marked in your previous deposition as Hoese Exhibit 12.
18	42371, Crossroads production number 42371, It's dated	18	Now, Mr. Hoese, in contrast with the previous
19	October 15th. Do you know what year that is?	19	exhibit we just went through, Hoese 6, this appears to
20	A I don't recall,	20	be a bound notebook. Can you confirm that for me?
21	Q The next document I'd like to talk about	21	A It does appear to be.
22	within Exhibit 6 is production number 42423 dated	22	Q And its first date in the document is February
23	December 13th. Do you know what year that is, sir?	23	16th, 1997, correct?
24	Here's the second page of that document.	24	A That is correct. I'm sprry. That does appear
25	A I don't know.	25	to be February 10th.
	Days 4.		Раде 44
1	q You don't know?	1	· ·
2	A (Shakes head,)		D Okav.
3	A (SHARES HEAU)	2	Q Okay. A It might be 16th.
2	Q The next document is 42425. Is that	2	A It might be 16th.
4			A It might be 16th. Q And it continues through August 4th, is the
	Q The next document is 42425. Is that	3	A It might be 16th.
4	Q The next document is 42425. Is that a first of all, is that your handwriting?	3	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year
4 5	Q The next document is 42425. Is that a first of all, is that your handwriting? A No.	3 4 5	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97.
4 5 6	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is?	3 4 5 6	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97.
4 5 6 7	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes.	3 4 5 6 7	A It might be 16th. Q and it continues through august 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes
4 5 6 7 8	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it?	3 4 5 6 7 8	A It might be 16th. Q and it continues through august 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between
4 5 6 7 8 9	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's.	3 4 5 6 7 8	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97?
4 5 6 7 8 9 10	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q be you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend?	3 4 5 6 7 8 9	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly.
4 5 6 7 8 9 10 11	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh.	3 4 5 6 7 8 9 10	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound
4 5 6 7 8 9 10 11 12	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at	3 4 5 6 7 8 9 10 11 12	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"?
4 5 6 7 8 9 10 11 12	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all?	3 4 5 6 7 8 9 10 11	A It might be 16th. Q And it continues through august 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and august 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that
4 5 6 7 8 9 10 11 12 13 14	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so.	3 4 5 6 7 8 9 10 11 12 13	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to
4 5 6 7 8 9 10 11 12 13 14 15	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah. I don't think so.	3 4 5 6 7 8 9 10 11 12 13 14 15	A It might be 16th. Q And it continues through august 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and august 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to Exhibit 24, which was the document that we discussed at
4 5 6 7 8 9 10 11 12 13 14 15 16	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah, I don't think so. A Testimony to the completeness of you getting	3 4 5 6 7 8 9 10 11 12 13 14 15 16	A It might be 16th. Q And it continues through august 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and august 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to twhibit 24, which was the document that we discussed at length, that you had a concept of the invention on
4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q The next document is 42425. Is that a first of all, is that your handwriting? A NO. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah, I don't think so. A Testimony to the completeness of you getting my records.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to Exhibit 24, which was the document that we discussed at length, that you had a concept of the invention on March 22nd, '97, and I believe you testified that you
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q The next document is 42425. Is that a first of all, is that your handwriting? A NO. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah, I don't think so. A Testimony to the completeness of you getting my records. MR. ALBRICHT: Her name is Access Control.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to Exhibit 24, which was the document that we discussed at length, that you had a concept of the invention on March 22nd, '97, and I believe you testified that you made some contemporaneous documents that you thought
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah. I don't think so. A Testimony to the completeness of you getting my records. MR. ALBRIGHT: Her name is Access Control. Q (By Mr. Bahler) I have a series of three	3 4 5 6 7 8 9 10 11 12 13 14 15 16 27 18	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to Exhibit 24, which was the document that we discussed at length, that you had a concept of the invention on March 22nd, '97, and I believe you testified that you made some contemporaneous documents that you thought were dated about that time.
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah. I don't think so. A Testimony to the completeness of you getting my records. MR. ALBRIGHT: Her name is Access Control. Q (By Mr. Bahler) I have a series of three documents, 42427, 28, and 29, both dated in December.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to Exhibit 24, which was the document that we discussed at length, that you had a concept of the invention on March 22nd, '97, and I believe you testified that you made some contemporaneous documents that you thought were dated about that time. On Rates 41189 within Exhibit 12 there's
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah. I don't think so. A Testimony to the completeness of you getting my records. MR. ALBRIGHT: Her name is Access Control. Q (By Mr. Bahler) I have a series of three documents, 42427, 28, and 29, both dated in December. Do you know what year those documents were created?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to Exhibit 24, which was the document that we discussed at length, that you had a concept of the invention on March 22nd, '97, and I believe you testified that you made some contemporaneous documents that you thought were dated about that time. On Mates 41189 within Exhibit 12 there's a date at the top, March 10th, and the last date on
4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q The next document is 42425. Is that a first of all, is that your handwriting? A No. Q Do you know whose it is? A Yes. Q whose is it? A It's ex-girlfriend's. Q An ex-girlfriend? A Uh-huh. Q Does it have anything to do with this case at all? A I don't think so. Q Yeah. I don't think so. A Testimony to the completeness of you getting my records. MR. ALBRIGHT: Her name is Access Control. Q (By Mr. Bahler) I have a series of three documents, 42427, 28, and 29, both dated in December. Do you know what year those documents were created?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A It might be 16th. Q And it continues through August 4th, is the last day I can find on here. Do you know what year that is? A It appears to be '97. Q So does this exhibit constitute your notes that you were making while at Crossroads between February 10th, '97 and August 4th, '97? A A subset of them certainly. Q Why do you say "a subset"? A It was my habit to not only use my bound notebook, but to use loose-leaf pads and things of that sort to maintain notes. Q All right. You mentioned with reference to Exhibit 24, which was the document that we discussed at length, that you had a concept of the invention on March 22nd, '97, and I believe you testified that you made some contemporaneous documents that you thought were dated about that time. On Rates 41189 within Exhibit 12 there's

11 (Dages 41 to 44)

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Page 45
                                                                                                                 Dage 47
    deals with access control?
                                                                      A I don't believe so. I don't recall the
1
                                                                  specific topic.
           I don't see anything there.
             Okay. Continuing within Exhibit 12 and to
                                                                      q Is there any reference on any of this page
    Bates number 41205. Okay?
                                                                   41206 to access control?
        A I'm sorry, you're saying --
                                                                      A T don't see anything.
           412 ---
                                                                          Okay, Please turn forward to 41210. This is
 6
            Are you saying pages 41189 to 41205, or are
                                                                  a page dated 5/19. That's 1997 again, right?
    you saying that specific page?
                                                                      A Correct.
        Q I'm saying 41205.
                                                                          Okay. And there's a reference -- these are
        A 205?
                                                                   notes with respect to a meeting or a telephone
                                                                   conference or something with Bill Hulsey, correct?
12
        A Okay.
                                                              12
                                                                      A I believe so.
13
        Q There's a reference on that page -- first of
                                                              13
                                                                      Q Is there any mention on this page about access
                                                                  control?
    all, that page is dated May 13th, '97, correct?
                                                              14
14
             5/13/97. Correct.
                                                              15
                                                                      A I'm having a lot of trouble with the
15
16
             And there's a reference to a conversation with
                                                              16
                                                                   handwriting here. I don't see any reference to access
17
    Bill Hulsey: is that right?
                                                              17
18
                                                              18
                                                                      Q Mr. Hoese, back up just briefly to page 41189.
             He's the patent lawyer for Crossroads, right?
                                                                   That's the page that included entries starting at March
19
                                                              19
20
             He was one of them. Yes.
                                                              20
                                                                   10th and ending in March 24th, Okay? Now, in the
21
             Is there anything on this page that deals with
                                                                   middle of that page there's an entry, 3/15 to 3/21.
22
    access controls?
                                                              22
                                                                  See that, sir? It says travel to Adic, Exabyte, and
                                                                  Spectra tooic.
23
       A Not that I see.
                                                              23
24
        Q Okay. Between the page that we just talked
                                                              24
                                                                      A Yes. I see that.
    about, 41189, and this one, 41205, can you just look at
                                                                      Q Okay. Now, according to the writing that's on
                                                    Date 46
                                                                                                                  Deck 48
    those sheets and tell me whether there's anything in
                                                                  Exhibit 24, you believe that you originally conceived
     any of those sheets that deal with access control?
                                                                   of your invention on March 27th, '97, correct?
            41189 makes reference to addressing, which may
                                                                      A No.
    be in relation to access control. I don't specifically
                                                                           Well --
 5
    recall.
                                                                      A Did you say March 27th?
 6
        Q okay. Now you're up to 41205?
                                                                      Q
                                                                          March 22nd.
                                                                      A That's correct.
        A Correct.
            we've already talked about that page, right?
                                                                      Q Okay. And that was just after you made the
    There's nothing on 41205 that deals with access
                                                                  trip to Adic, Exabyte, and Spectra Logic, correct?
                                                                      A I don't know that that refers directly to my
        A There's a reference to Bill Hulsey that may
                                                                   travel or if I made that trip -- maybe. I don't
    have been in relation to that. I don't know.
13
        Q Okay. But there's nothing written down here
                                                              13
                                                                      Q Is there anything about the trip to Adic,
    that deals with that?
14
                                                                  Exabyte, or Spectra Logic that made you think of access
15
            Not that I see,
                                                              15
                                                                   control?
             Okay. Please turn to 41210. well, hang on.
16
                                                              16
                                                                      A I don't think so.
17
    I'm sorry. Back up just a second to 41206. I
                                                              17
                                                                          where were we? We got up through, I think,
                                                                   41210. Okay? Could you take me through the rest of
    apologize. In the middle of that page there's a
19
     reference to Bill Hulsey again, correct?
                                                              19
                                                                   that document and tell me, number one, if there's any
20
        A Correct.
                                                                   mention of access control or any entries that say
            And specifically it says, "Ask Bill Hulsey
21
                                                              21
                                                                   access control; or two, whether there's any entries
                                                                   that deal with the patent application?
    about IP issues with HP." right?
22
                                                              22
23
                                                              23
                                                                     A The rest of that document being 41210
             That doesn't have anything to do with access
                                                                   through --
                                                              24
24
                                                              25
                                                                      Q Yeah. Exactly. Through the end.
25
   controls, correct?
```

12 (Dages 45 to 48)

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	Уладе 49		Dage
1	A Through	1	invention.
2	Q 41259. So with those two things in mind, one,	2	A Oh. I'm sorry. Could you repeat the last
3	access control, and number two, patent application.	3	question?
4	MR, ALBRIGHT: He's not going to do	4	Q On page 41213 is there any reference to access
5	that, He's not going to look through a group of	5	control or your patent application?
6	documents. You know, if you want to ask him about	6	A I don't see any specific references to it.
7	pages on there, I've allowed you to go on and do that	7	Q Next page, 41215, same question.
8	for an hour, but he's not here to look through a	8	A I don't see any direct references.
9	document like that. That's not proper.	9	Q All right. Next page, 41216, is there any
10	MR. BAHLER: We can do it one at a time	10	reference there to access control or the patent
11	then.	11	application?
12	MR. ALBRIGHT: Do it one at a time.	12	A I don't see any.
13	Q (By Mr. Bahler) All right, Starting on page	13	Q Next page, 41217, is there any reference on
34	41211, is there any mention there of access control?	14	that page to access control or your patent application
15	This is dated May 19th, '97, correct?	15	A Don't see any.
16	A It's dated 5/19/97. Correct.	16	Q 41218 same question.
17	Q Are there any entries on that page dealing	17	A Same answer.
18	with access control?	18	G 41219.
		100000	
19	A To the degree I recall the topics discussed,	19	A Some of the pages are illegible. I don't see
20	no.	20	any.
21	Q Or the patent application?	21	Q Okay. Next page, 41220, is there any
22	A Same answer.	22	reference there to either access control or the patent
23	Q Next page, 41212, at the top it says "B&B	23	application?
24	continued." What does that meah?	24	A Page 412207
25	A I believe that's referring to Bob, B-O-B.	25	Q Yes, sir.
	Page 30		Dage 5
1	Q B-O-B. Okay. Is there any mention on that	1	A I don't see any.
2	page are there any entries on that page that deal	5	Q Okay, Now, that page 41220 was dated May 2nd
3	with either access control or the patent application?	3	1997, correct?
4	A There's a reference to work with Bob on fibre	4	A 5/2/97. Correct.
5	channel to SCSI mapping that may have been related. I	5	Q Right. And the next page, 41221, is dated as
6	don't specifically recall.	6	June 2nd. See that?
7	Q is mapping the same as access control?	7	A I see that.
8	A No. It may be related.	8	Q Is that '97?
9	Q May not be related?	9	A I don't specifically recall. It seems a fair
	· · · · · · · · · · · · · · · · · · ·	P	A Section of Property and Prope
10	A It may not be.	10	assumption.
10 11	A It may not be. Q Okay. Where is that entry?	10	Q bo you have any reason do you have any
		3	Q Do you have any reason do you have any
11	Q Okay. Where is that entry? A The second to the last line of handwriting on	11	Q bo you have any reason do you have any
11 12	q okay. Where is that entry?	11	Q Do you have any reason do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses,
11 12 13 14	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212?	11 12 13	Q Do you have any reason do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses, Q Hy specific question is, do you know why
11 12 13 14	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking	11 12 13 14 15	Q Bo you have any reason do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses, Q My specific question is, do you know why there's a gap of a month in this notebook?
11 12 13 14 15	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not?	11 12 13 14 15 16	Q Bo you have any reason do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses, Q Hy specific question is, do you know why there's a gap of a month in this notebook? A I would presume because I did not put notes in
11 12 13 14 15 16	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is	11 12 13 14 15 16 17	Q bo you have any reason do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q My specific question is, do you know why there's a gap of a month in this notebook? A I would presume because 1 did not put notes in this notebook during that month. I don't know why I
11 12 13 14 15 16 17 18	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is there any reference there to access control or patent	11 12 13 14 15 16 17 18	Q bo you have any reason — do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q My specific question is, do you know why there's a gap of a month in this notebook? A I would presume because 1 did not put notes in this notebook during that month. I don't know why I did not.
11 12 13 14 15 16 17 18	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is there any reference there to access control or patent application?	11 12 13 14 15 16 17 18	Q bo you have any reason — do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q My specific question is, do you know why there's a gap of a month in this notebook? A I would presume because 1 did not put notes in this notebook during that month. I don't know why I did not. Q Okay. That's good enough. Do you see
11 12 13 14 15 16 17 18 19	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is there any reference there to access control or patent application? A Just for clarification, since you asked the	11 12 13 14 15 16 17 18 19	Q bo you have any reason — do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q My specific question is, do you know why there's a gap of a month in this notebook? A I would presume because 1 did not put notes in this notebook during that month. I don't know why I did not. Q Okay. That's good enough. Do you see anything on 41221 that deals with either access control
11 12 13 14 15 16 17 18 19 20 21	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is there any reference there to access control or patent application? A Just for clarification, since you asked the question, you're asking broadly "is there anything	11 12 13 14 15 16 17 18 19 20 21	Q bo you have any reason — do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q My specific question is, do you know why there's a gap of a month in this notebook? A I would presume because I did not put notes in this notebook during that month. I don't know why I did not. Q Okay. That's good enough. Do you see anything on 41221 that deals with either access controor the patent application?
11 12 13 14 15 16 17 18 19 20 21	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is there any reference there to access control or patent application? A Just for clarification, since you asked the question, you're asking broadly "is there anything related to." How narrow? You know, you're saying,	11 12 13 14 15 16 17 18 19 20 21	Q bo you have any reason — do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q My specific question is, do you know why there's a gap of a month in this notebook? A I would presume because I did not put notes in this notebook during that month. I don't know why I did not. Q Okay. That's good enough. Do you see anything on 41221 that deals with either access controor the patent application? A I do not.
11 12 13 14 15 16 17 18 19 20 21 22 23	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is there any reference there to access control or patent application? A Just for clarification, since you asked the question, you're asking broadly "is there anything related to." How narrow? You know, you're saying, "well, it may or may not be," and that may or may not	11 12 13 14 15 16 17 18 19 20 21 22 23	Q bo you have any reason — do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q Hy specific question is, do you know why there's a gap of a month in this notebook? A I would presume because I did not put notes in this notebook during that month. I don't know why I did not. Q Okay. That's good enough. Do you see anything on 41221 that deals with either access contro or the patent application? A I do not. Q Same question for 41222.
11 12 13 14 15 16 17 18 19 20 21	Q Okay. Where is that entry? A The second to the last line of handwriting on the page. Q This is on 41212? A That was the page number you were asking about, was it not? Q Okay. All right. The next page, 41213, is there any reference there to access control or patent application? A Just for clarification, since you asked the question, you're asking broadly "is there anything related to." How narrow? You know, you're saying,	11 12 13 14 15 16 17 18 19 20 21	Q bo you have any reason — do you have any explanation for the month gap between those two pages? A I could come up with a number of hypotheses. Q My specific question is, do you know why there's a gap of a month in this notebook? A I would presume because I did not put notes in this notebook during that month. I don't know why I did not. Q Okay. That's good enough. Do you see anything on 41221 that deals with either access contro or the patent application? A I do not.

13 (Dages 49 to 52)

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	Dage 53		Page:
1	A I don't.	1	Q That's '97?
2	Q Okay. 41224?	2	A I would presume so.
3	A Nope.	3	Q Is there anything on this page, 41248, that
4	Q All right. Keep your finger on 41225 for a	4	deals with either access control or the patent
5	second and move forward to 41232.	5	application?
6	A 412327	6	A I don't see anything specifically. No.
7	Q Yes, sir. And there's a reference that's	7	Q Same question with respect to 41250.
8	dated June 19th, correct?	8	A And for the record, there's no 41249. I don't
9	A It's dated 6/19.	9	see any references.
10	Q And that's 1997?	10	Q Okay. On page turn to page 41256 and 57.
11	A I don't see any reason to think that it's not.	11	Those pages are all dated, have entries dated 8/4. Is
12	Q Okay, And this is a discussion with Baker &	12	that 1997?
	Botts?	13	8 99.9
13		14	A Yes, if these are all in order, which I assume they are.
	A I don't know, It's in reference to the head note is Baker & Botts. I don't know		
15		15	Q Is there anything on those two pages, 41256 of
16	Q Does any of that entry have anything to do	16	57, that deals with either access control or the 972
17	with either access control or the patent application	17	parent application?
18	for the 972 patent?	18	A I don't see anything.
19	A I don't recall.	19	Q Okay. Please refer to what's marked in your
20	Q Can you tell by referring to those notes	20	previous deposition as Hoese Ocposition Exhibit 13.
51	whether	21	this another spiral-bound notebook of yours?
22	A There are elements of it that certainly do	22	A I don't believe that either of these are
23	not. I don't think that it does. It doesn't suggest	23	spiral-bound notebooks.
24	to me that it refers to the 972 patent.	24	Q Is this a well, what is this?
25	Q Okay, Back to 41225, is there anything	25	A I use bound notebooks. They weren't
		1	
)Dage 54		Page
1	between 41225 and 41232, when you discussed something	1	page spiral-bound.
2	between 41225 and 41232, when you discussed something with Baker & Botts, that deal with either access	1 2	ALC PRO
	between 41225 and 41232, when you discussed something with Baker & Botts, that deal with either access control or the patent, the 972 patent application?	0.000	spiral-bound.
2	between 41225 and 41232, when you discussed something with Baker & Botts, that deal with either access	2	spiral-bound, \mathbf{Q} So this is another of your bound notebooks,
2 3 4 5	between 41225 and 41232, when you discussed something with Baker & Botts, that deal with either access control or the patent, the 972 patent application?	3	spiral-bound. Q So this is another of your bound notebooks, correct?
2 3 4	between 41225 and 41232, when you discussed something with Baker & Botts, that deal with either access control or the patent, the 972 patent application? A I don't have a page 41231. Q No, you don't. A There are a couple of illegible spots, but I	2 3 4	spiral-bound. Q So this is another of your bound notebooks, correct? A Morum & Pease.
2 3 4 5	between 41225 and 41232, when you discussed something with Baker & Botts, that deal with either access control or the patent, the 972 patent application? A I don't have a page 41231. Q No, you don't.	2 3 4 5	spiral-bound. Q So this is another of your bound notebooks, Correct? A Morum & Pease. Q Pardon?
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2 3 4 5 6 7 8	between 41225 and 41232, when you discussed something with Baker & Botts, that deal with either access control or the patent, the 972 patent application? A I don't have a page 41231. Q No, you don't. A There are a couple of illegible spots, but I didn't see any references to it. Q Please turn to page 41234. Is there any reference on that page to either access control or the 972 patent application? A I don't see any. Q Please turn to page 41238. Is there anything on there that deals with either access control or the patent application? A Just for the record, I also note that there's no 41237. I don't see any. Q Okay. Please turn to page 41241 and also 41232. Is there anything on either of those two pages that deals with access control or the 972 patent application? A I don't see anything on either of those two pages that deals with access control or the 972 patent application? A I don't see anything specific that addresses them.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	spiral-bound. Q so this is another of your bound notebooks, correct? A Borum & Pease. Q Pardon? A Borum & Pease. Q Borum & Pease. Exactly. And this is a notebook that you created while at Crossroads, correct A I assume so. Q The first date that I can see is 2/20, that's on page 1; and the last date that I see on page 43, which bears production number 41308, is 5/29. See that, sir? A Yes, I do. Q Do you know what year this notebook deals with? A Not specifically. No. I don't. Q Is there any way for you to tell what year this notebook is? A I can only look for it and look for clues. I don't know. Q Well, I didn't see any years, but I was just
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	with Baker & Botts, that deal with either access control or the patent, the 972 patent application? A I don't have a page 41231. Q No, you don't. A There are a couple of illegible spots, but I didn't see any references to it. Q Please turn to page 41234. Is there any reference on that page to either access control or the 972 patent application? A I don't see any. Q Please turn to page 41238. Is there anything on there that deals with either access control or the patent application? A Just for the record, I also note that there's no 41237. I don't see any. Q Okay. Please turn to page 41241 and also 41232. Is there anything on either of those two pages that deals with access control or the 972 patent application? A I don't see anything on either of those two pages that deals with access control or the 972 patent application? A I don't see anything specific that addresses	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q So this is another of your bound notebooks, correct? A Borum & Pease. Q Pardon? A Borum & Pease. Q Rorum & Pease. Exactly. And this is a notebook that you created while at Crossroads, correct A I assume so. Q The first date that I can see is 2/20, that's on page 1; and the last date that I see on page 43, which bears production number 41308, is 5/29. See that, sir? A Yes, I do. Q Do you know what year this notebook deals with? A Not specifically. No. I don't. Q Is there any way for you to tell what year this notebook is? A I can only look for it and look for clues. I don't know.

14 (Dages 53 to 56)

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Page 57 Dage 59 deposition? 1 one, which is a bound notebook, in sequential order, on 2 Q Not to this extent. No. Not as it deals with a page-by-page basis? A Roughly. the tonic in the 10(b)(6) antice. A But specifically referring to the year, I seem Q Okay. So is the first entry, October 31st, is 5 to recall that we had a notebook that I was unable to that October 31st, 1997 then? 6 determine the year. There's a phone number in this A I don't specifically know, but it seems like a very reasonable assumption. notebook that I've been needing to find completely unrelated to the task at hand. Q Okay. Now, turn within the document to page 41337. That page bears a date of 1/5/98, correct? 0 Page 1 of the notebook makes reference q A Yes, it does. 10 10 to a schedule, for what I'm not sure, but it refers to 11 advance datasheets on 5/22/95. I -- although I 11 Q And the page just before that, 41336, it 145 doesn't have a year on it, but there's entries 12/19 12 don't --and 12/23. Do you see that? 13 Q There's also a --2 of '96 I don't believe I worked for That is correct. 14 15 Crossroads, so that doesn't quite make sense. When did 15 Q Is that 1997? I start? That's kind of an odd -- I may have just made That seems a fair presumption. 16 a mistake in writing it. I don't know. Okay. This 17 Q Okay. So within this notebook just the first 18 notebook appears to precede my employment with nine pages -- well, it's not. It's more than that, 19 Crossrpads. actually. You wrote on the index, didn't you? Q Is this your handwriting? A Efficiency. 20 20 A Yes, it is. This natebook should not be in Q Yeah. Exactly. The first -- well, within 21 21 22 evidence. This notebook is -this notebook, production number 41324 through 41336 23 Q Okay. So this notebook, Exhibit 13, has are entries made by you in 1997, correct? 24 nothing to do with any of the work that you did at A Yeah. Just for the record, there's a page 25 that bears no production number on it. 25 Crossroads? Days 60 DATE 58 It's blank, right? That's fine with me. Okay. Finally, I refer It does appear to be a page of the notebook. you to Hoese Exhibit 14 marked at your previous Yeah. So I'm sorry, rould you repeat your question? deposition. Once again, is this a notebook that you Q Within this notebook, Hoese Exhibit 14, the prepared while at Crossroads? entries made by you from pages 41324 through 41336 are A Let me look a little closer and make sure entries made by you in 1997, correct? about it. A I believe that's the case. Q Okay. Q From the end of October to the end of 9 A Yes, it is. 9 December, '97 specifically, correct? Okay. Can you tell me -- let's turn to the 10 A That would appear to be the case. 11 first dated entry. I have October 31st, You see that, 11 Q Now, the other notebook we had that we 12 discussed a bit ago, Exhibit 12, ended in August -- I'm sir? 13 13 sorry, the last entry was August 4th, '97. Do you On page -- well, it's an indexed page, but it 14 recall that? bears production number 41324. Do you see that? 15 A NOT really. Okay. Here's Exhibit 12. The last entry in 16 A Correct. 17 And then do you know what -- well, and then that notebook was August 4th, and that's in 1997, 18 there's dated entries after that. Do you know what 18 correct? 19 year or years this notebook spans? A Sorry. I've looked at too many notebooks. I A Flipping through it I see January '98 dates. don't recall how we got to that date on this. It's not 20 20 Where are you? dated. 21 22 A On page 41340 there it bears the date 1/15/98. tast page, last couple pages.

15 (Dages 57 to 60)

It's dated 8/4. I don't recall how we arrived

Q well, I think you did testify that that's

at a year or if we did arrive at a year.

Givens Coure Reporting

Page 41335 bears the date 12/16/97.

Okay. So the first entry -- well, was it your

practice to make entries in your notebooks such as this

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Dept. 63 Date 61 1 applications that had been filed prior to this time. 1997, August 4th, '97, but the record is what it is. A This is 12. Okay. Or not to this time. It makes reference to two other Yes, sir. patent applications in addition to the 972 patent. A I think we did just go through this. O Okav. And that's item 2 dated November 25th? A I'm sorry -- oh, in the list on page 41331, Q My question is, between August 4th, '97 and October 31st, '97, which is the date of the first entry 11 -- it appears to be 11/25. It's a little blurred. in your notebook Exhibit 14, were you making entries in Q Yeah. And you provided comments back to Baker other notebooks? & Botts or Anthony Peterman regarding the patent A It's very possible. I definitely recall that 9 application draft before this time? 10 That's what the note indicates. 10 there was one notebook that I lost. 13 Q So it's possible that if there were notes made 11 a Okay. Can you tell when you provided comments 12 in that time frame, it's possible it was in a notebook 12 back? 13 that you lost? Not specifically, A That is correct. And it's also possible that Did you keep a draft of those comments? 14 15 I had notes in another notebook that's no longer here, 15 I don't recall that I did or did not. or it could be in loose-leaf pages or --16 Do you recall what those comments were? 16 17 Q Okay. 17 A No. 18 All right. Take a look at the next page. 18 A I don't know. 0 41332. 19 Q Now, could you take a look at these 12 pages 19 in Exhibit 14 bearing production number 41324 through A Additionally, on page 41331, to complete that 20 41336 and tell me whether there's any entries in those question, there is reference to a patent review pages that deal with, number one, access control, or meeting, which -number two, the patent application for the 972 patent? 23 Where is that? 24 A There is discussion on page 41329 of the 24 12/1, engineering staff, second item in the middle of the page. 25 conversation with Bill Hulsey apparently regarding Day: 64 Dage 62 departure of a staff person and discussion about Q proprietary information. And I know that at some point in time, and Q That's Hawkins -obviously prior to this point in time, we had a number Hawkins Yao, Y-A-O. of filings in progress and were establishing review Q All right. And did any of those discussions meetings to review various patent applications and deal with either access control or the 972 patent their status. Q Okay. At this time how many patent A I do not specifically recall. They did applications does Crossroads have in the works? 9 generically refer to proprietary information, and A There's evidence on this page that there are there's direct reference to issues regarding patent 10 three at least. There may have been more. I don't 11 applications. So it may have been surrounding that, 11 12 And one of which was the 972 patent Q application? 13 Okay. But you don't see any specific 13 14 references in those entries to conception or -- to 14 A That's correct. I think there would be at least four at that point. conception of access controls or the completion of the 15 15 Q And it's November of '97? 16 patent application for access controls? 16 17 No specific reference. 17 That seems to be consistent with the notes.

16 (Pages 61 to 64)

So Baker & Botts at the time was preparing not

one, but, in fact, four patent applications for

A I see at least three referred to here.

one other application that's not on this list that

Q But in your previous answer you mentioned

A I seem to recall that in this period there was

Crossroads at this time?

four. Why do you recall four?

Givens Court Reporting

patent application.

Okay, Next page.

There's reference on page 41331 relating to a

It also makes reference to several

conversation with Bill Hulsey referring to comments on

storage router back with A. Peterman, "follow up next

week," which I believe would specifically refer to the

other, three other -- oh, okay, two other patent

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	Дъре 65		Dage 67
1	comes to mind.	1	Q Okay. Now, we had confirmed earlier that
2	Q Okay.	2	beginning on page 41337 that those entries are
3	A I'm not positive that it would fit in that	3	starting well, the first entry is January 5th, 1998.
4	date, but I kind of think it would.	1	A Yeah.
		5	Q Can you confirm for me that the entries after
5	Q Okay. Is there anything else on that page,	6	that page from production number 41337 were all made
6	41331, that either deals with access controls or the		
7	972 patent application?	7	in '98 or later?
8	A You said that page, 413317	В	A They appear to be consistent.
9	Q Yes.	9	Q So the answer is yes?
10	A I don't see anything else.	10	A I can't confirm it for you. They appear to be
11	MR. ALBRIGHT: We're going to take a	11	consistent.
12	break.	12	Q Okay. Considering the practice that you
13	(At 3:54 p.m. the proceedings recessed,	13	mentioned earlier of making consecutive entries in your
14	continuing at 4:06 p.m.)	14	notebooks, do you have any reason to believe that the
15	Q (By Mr. Bahler) Mr. Hoese, remaining just for	15	entries you made beginning on page 41337 which bears a
16	a second on 41331, item 2, you mentioned on the	16	date lanuary 5th '98 and continuing to the end of this
17	November 25th entry it refers to comments that you had	17	notebook, Hoese Exhibit 14, were do you have any
18	given back to Baker Anthony Peterman regarding the	18	reason to believe other than those entries were made in
19	972 patent application, correct?	19	1998 or later?
20		20	A I have no reason.
1516	A That is the apparent reference.	21	
21	Q How much before this date, November 25th, had	5/7/23	MR. BAHLFR: No further questions.
22	you returned those calls?	22	MR. ALBRIGHT: I'll reserve mine.
23	A I have no specific recollection.	23	
24	Q Please turn to 41332. And just so we know	24	
25	what the questions are, are there any entries on that	25	
1	Page 66 page that deal with either access control or with the	1	page 68 Changes and Signature
2	972 patent application?	2	PAGE LINE CHANGE REASON
3	A I don't see any.	3	
4	Q Same question with respect to the next page,	4	
5	41333.	5	
6	A Don't see any.	6	
7	Q Same question with respect to the next page.	7	
8	41314.	8	
9	A Don't see any.	9	
10	100 ESCONOCIONEN SENSON CONTROL CONTRO	10	5 10 10 10 10 10 10 10 10 10 10 10 10 10
1		1939	
11	page that deal with either access controls or the 972	11	
12	patent application?	12	
13	A There is a note referencing Bill Hulsey that	13	
14	appears to be a reminder to call him regarding labeling	14	
15	of patent pending for a product going to QEM something.	15	
16	Can't quite read the rest.	15	
17	Q Did that have anything to do with the 972	17	
18	patent application?	18	
19	A I suspect it was a general question. I don't	19	
20	specifically recall it. It looks like it was a general	20	2.00
21	question.	21	
22	Q Okay. Going to the next page, 41336, any	22	0 98980235E
23	references on that page to either access control or the	23	
24	972 patent application?	74	
25	A I don't see any.	25	S WIND O W
1 "	E T WALL C DEC MAILS	"	in the second se
L		1	

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Givens Courc Reporting

	Page 69		Dage VI
1	I,, have read the	1	A CONTRACTOR OF THE PROPERTY O
1		2	T for the second for the true control of the
2	foregoing deposition and hereby affix my signature that	3	I further certify that I am neither counsel for,
3	same is true and correct, except as noted on the	1 8	related to, nor employed by any of the parties or
4	preceding page,	4	attorneys in the action in which this proceeding was
5		5	taken, and further, that I am not financially or
6		6	otherwise interested in the autome of the action.
7	With the second	7	Certified to by me this 8th day of August, 2001.
1	GEOFF HOESE	l °	
8		9	GIVENS COURT REPORTING 8006 Red Willow Drive
9	STATE OF TEXAS)	1 2	Austin, Texas 78736
)	10	(512) 301-7088
10	COUNTY OF TRAVIS)	11	(312) 301-7080
11	Before me (name	111	
12	of officer) on this day personally appeared	12	SANDRA S. GIVENS, CSR
13	, known to we (or proved to	1	Certification No. 5000
14	me under path or through (description	13	Certificate Expires 12/31/01
15	of identity card or other document)) to be the person	14	
16	whose name is subscribed to the foregoing instrument	15	# sg-417
27	and acknowledged to me that they executed the same for	16	
18	the purposes and consideration therein expressed,	17	
19	Given under my hand and seal of office on this	18	
20	day of, A.D.,	19	
21		20	
22		21	
23		22	
	Notary Public in and for	23	
24	the State of Texas	24	
25		25	26
-		1.2	
-			
	Dage 10		
1	REPORTER'S CERTIFICATION		
2	DEPOSITION OF GEOFF HOESE	ł	
		1	648
3	August 6, 2001		
4	I. Sandra S. Givens, Certified Shorthand Reporter	1	
5	in and for the State of Texas, hereby certify to the	1	
6	following:	i	
7	That the witness, GEOFF HOESE, was duly sworn by		
В	the officer and that the transcript of the oral		
9	deposition is a true record of the testimony given by		
10	the witness;		
11	That the deposition transcript was submitted on		
12	August 8, 2001 to the witness or to the attorney for		
13	the witness for examination, signature, and return to		
10000000	The state of the s		
14	me by September 7, 2001;		
15	That \$465.75 is the deposition officer's charges		
16	to the Defendant for preparing the original deposition		
17	transcript and any copies of exhibits; that the amount		
18	of time used by each party at the deposition is as		
19	follows:		
20	David D. Bahler - 2 hours, 11 minutes	1	
21	That pursuant to information given to the	Ī	
22	deposition officer at the time said testimony was		
1000000	properties and provider of the properties and the properties of the properties and the pr		
23	taken, the following includes counsel for all parties		
24	of record:		
25	David D. Bahler - Attorney for Defendant		
†	Alan O Albright - Attorney for Plaintiff		
1			

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