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Transcript of John C. Hart, Ph.D.

Date: December 22, 2017

Case: Samsung Electronics Co., LTD, et al. -v- Image Processing Technologies LLC(PTAB)

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Exhibit 2011

IPR2017-01218

Petitioner - Samsung Electronics Co., Ltd., et al.

Patent Owner - Image Processing Technologies LLC

<p>1 UNITED STATES PATENT AND TRADEMARK OFFICE 2 BEFORE THE PATENT TRIAL AND APPEAL BOARD 3 SAMSUNG ELECTRONICS CO., LTD. > 4 AND SAMSUNG ELECTRONICS AMERICA, > 5 INC., > 6 > 7 PETITIONER, > CASE NO. IPR2017-01190 8 > 9 VS. > PATENT NO. 6,717,518 10 > 11 IMAGE PROCESSING TECHNOLOGIES > 12 LLC, > CASE NO. IPR2017-01218 13 > PATENT NO. 8,983,134 14 PATENT OWNER. > 15 _____> 16 EXPERT DEPOSITION OF JOHN C. HART, PH.D. 17 FRIDAY, DECEMBER 22, 2017 18 JOB NO. 117834 19 REPORTED BY KIMBERLY EDELEN, C.S.R. NO. 9042, CRR, RPR. 20 21 22 23 24 25</p>	<p>1 I N D E X 2 3 WITNESS EXAMINATION PAGE 4 JOHN C. HART, Ph.D. 5 BY MR. COULSON 6 6 7 8 9 E X H I B I T S 10 11 NO. PAGE DESCRIPTION 12 EX. 2012 13 PRINTOUT FROM PARALLEL 13 COMPUTING INSTITUTE RE: JOHN C. HART 14 EX. 2013 13 PRINTOUT FROM COMPUTER 15 GRAPHICS ILLINOIS RE: JOHN C. HART 16 EX. 2014 79 HAND-DRAWN SKETCH 17 EX. 2015 131 EYE DIAGRAM 18 19 20 REFERENCED EXHIBITS PREVIOUSLY MARKED 21 NO. PAGE DESCRIPTION 22 EX. 1001 15 UNITED STATES PATENT 23 NO. 8,983,134 B2 DATED MARCH 17, 2015 24 25 (EXHIBITS CONTINUED ON FOLLOWING PAGE)</p>
<p>1 EXPERT DEPOSITION OF JOHN C. HART, Ph.D., TAKEN ON 2 BEHALF OF THE PATENT OWNER IMAGE PROCESSING TECHNOLOGIES 3 LLC, AT 9:24 A.M., FRIDAY, DECEMBER 22, 2017, AT 4 400 SOUTH HOPE STREET, 18TH FLOOR, LOS ANGELES, 5 CALIFORNIA, BEFORE KIMBERLY A. EDELEN, C.S.R. NO. 9042, 6 CRR, RPR. 7 8 APPEARANCES OF COUNSEL 9 10 FOR THE PETITIONER SAMSUNG ELECTRONICS CO., LTD. AND SAMSUNG ELECTRONICS AMERICA, INC.: 11 O'MELVENY & MYERS LLP BY: BRIAN M. COOK, ESQ. NICHOLAS J. WHILT, ESQ. 12 400 SOUTH HOPE STREET 13 18TH FLOOR LOS ANGELES, CALIFORNIA 90071 14 213.430.6000 BCOOK@OMM.COM NWHILT@OMM.COM 15 16 17 18 FOR THE PATENT OWNER IMAGE PROCESSING TECHNOLOGIES LLC: 19 ANDREWS KURTH KENYON LLP BY: CHRIS J. COULSON, ESQ. 20 ONE BROADWAY NEW YORK, NEW YORK 10004 21 212.425.7200 CHRISCOULSON@KENYON.COM 22 23 24 25</p>	<p>1 REFERENCED EXHIBITS PREVIOUSLY MARKED 2 NO. PAGE DESCRIPTION 3 EX. 1002 16 DECLARATION OF DR. JOHN C. HART 4 IN SUPPORT OF PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 8,983,134 5 6 EX. 1005 109 "A REAL-TIME VIDEO TRACKING SYSTEM" BY ALTON L. GILBERT 7 8 EX. 1006 127 UNITED STATES PATENT NO. 5,521,843 DATED MAY 28, 1996 9 EX. 1007 174 UNITED STATES PATENT NO. 5,805,720 DATED SEPTEMBER 8, 1998 10 11 EX. 1009 169 UNITED STATES PATENT NO. 5,008,946 DATED APRIL 16, 1996 12 13 EX. 1013 40 UNITED STATES PATENT NO. 5,481,622 DATED JANUARY 2, 1996 14 15 EX. 1014 104 UNITED STATES PATENT NO. 6,044,166 DATED MARCH 28, 2000 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: center;">5</p> <p>1 LOS ANGELES, CALIFORNIA; FRIDAY, DECEMBER 22, 2017; 2 9:24 A.M. 3 4 5 THE REPORTER: Pursuant to Federal Rules of 6 Civil Procedure, I am required to state the following: 7 My name is Kim Edelen. My business address is 8 14520 Sylvan Street, Van Nuys, California 91411. This 9 is the deposition of Dr. John Hart in the matter of 10 Samsung Electronics and Image Processing Technologies, 11 beginning at 9:24 a.m., on December 22, 2017. This 12 deposition is taking place at the law offices of 13 O'Melveny & Myers at 400 South Hope Street, Los Angeles, 14 California. 15 Counsel, will you please state your appearances 16 for the record, and then I will swear in the witness. 17 MR. COULSON: For patent owner Image Processing 18 Technologies, my name is Chris Coulson, Andrews Kurth 19 Kenyon. 20 MR. COOK: And I'm Brian Cook. I'm 21 representing -- from O'Melveny and Myers. I'm 22 representing Samsung in this case. And I just want to 23 put on the record that the witness, Dr. Hart, is 24 appearing in -- for a deposition in IPR 2017-1218 which 25 deals with Patent 8983134. And IPR 2017-1190 which</p>	<p style="text-align: center;">7</p> <p>1 one of my questions, will you ask me so I can rephrase 2 it? 3 A Sure. 4 Q And you're doing a good job of answering orally 5 but you'll -- you'll answer orally, not nod your head in 6 response to questions. Okay? 7 A Okay. 8 Q So, Dr. Hart, what's your hourly rate for the 9 services you're providing to Samsung? 10 A I charge an hourly rate but it goes through a 11 company that then bills Samsung. And I'm not sure what 12 the rules are for that disclosure with respect to my 13 contract with that company, so I don't know that I'm at 14 liberty to say. 15 Q Well, it's true this transcript will be 16 publicly available, but I guess we will have the 17 opportunity to mark material as confidential if 18 necessary. So given -- with Samsung's counsel we can 19 work on that after the deposition. 20 So given that we'll have that option, can you 21 tell me the hourly rate that's being charged for your 22 services? 23 A I don't know. I'm not sure what the group that 24 I send my invoices to charges Samsung for my hourly 25 rate.</p>
<p style="text-align: center;">6</p> <p>1 deals with Patent 6717518, and that's the scope of his 2 deposition today. 3 Sorry. With me also is my colleague Nick 4 Whilt. 5 JOHN C. HART, Ph.D., 6 having been first duly sworn by the reporter, was 7 examined and testified as follows: 8 9 EXAMINATION 10 BY MR. COULSON: 11 Q Good morning, Dr. Hart. 12 A Good morning. 13 Q Would you state your name for the record, 14 please. 15 A John C. Hart. 16 Q And what university are you based at? 17 A The University of Illinois. 18 Q And you've testified -- it appears you've 19 testified before in an ITC trial; is that right? 20 A Yes. 21 Q And given depositions before? 22 A Yes. 23 Q So you're generally familiar with the process? 24 A Yes. 25 Q So just as a reminder, if you don't understand</p>	<p style="text-align: center;">8</p> <p>1 Q Well, what's the rate that you are receiving? 2 A I don't know that I can disclose that based on 3 my contract with that company that charges for my 4 services. 5 Q Okay. So you won't tell me? 6 A It's something over \$500 an hour. I'm not sure 7 of the exact amount. 8 Q Okay. We'll work with that. Try to work with 9 that. 10 Can you give me an idea roughly when you were 11 retained by Samsung? 12 A I don't remember the exact date. It's been 13 over a year. 14 Q And rather than drilling in on the rate, can 15 you give me a sense of the total amount that you've 16 received for your services to Samsung? 17 A I really don't know. I haven't added it up. 18 Q Can you -- apologies. About when were you 19 retained? 20 A It's been over a year. It hasn't been a year's 21 worth of work front to back. It's been as needed. 22 Q And what -- approximately how many IPRs have 23 you worked on for the Samsung v. Image Processing IPRs? 24 A I don't have the exact account. It's at least 25 these two and there's been others, but I don't remember</p>

<p>9</p> <p>1 the exact number. 2 Q More than five? 3 A I don't think it was more than five. 4 Q Around five? 5 A I don't know. 6 Q Okay. And have you submitted invoices to the 7 company that submits invoices to Samsung? 8 A Yes, I did. 9 Q Approximately how many have you sent? 10 A I don't know. There's been months where there 11 was no invoice sent. So something less than, you know, 12 12, but... 13 Q Can you give me -- what's an amount -- can you 14 recall the amount of any of the invoices roughly? 15 A No. I add it up and send it off, and I don't 16 remember the specific amounts. 17 Q And how much time have you spent -- what did 18 you do to prepare for this deposition today? 19 A I read through the patents, the declarations 20 and the other materials for the IPR. 21 Q Did you meet with Samsung counsel? 22 A Yes, I did. 23 Q For about how long? 24 A I don't know. At least a day. 25 Q Is that here in L.A.?</p>	<p>11</p> <p>1 Q Did Samsung counsel assist you in preparing 2 your declaration? 3 A Yes, they did. 4 Q Were you provided with the prior references 5 that you -- that are the subject of your declaration by 6 Samsung counsel? 7 A I believe they pointed me to a lot of 8 references. I found -- I looked at references as well 9 and I don't recall exactly, you know, how each one of 10 the references was selected. 11 Q Can you identify any of the references for the 12 '134 patent, Gilbert, Bassman, Gerhardt and Hashima that 13 were not provided to you by Samsung counsel? 14 A No. I really don't recall going through all 15 the references that we went through, how each and every 16 one of them was found. 17 Q And for the '518, the references are Stringa, 18 Ando and Suenaga. Do you recall any of those that were 19 not provided to you by Samsung counsel? 20 A No. I don't recall any specifics, how we got 21 to any of those references. 22 Q Can you recall any of the references that are 23 at issue in the '134 or '518 IPR declarations that you 24 located? 25 A No. I don't remember specifically which ones</p>
<p>10</p> <p>1 A Yes. 2 Q And who did you meet with? 3 A I met with Brian and Nick. 4 Q About how much time roughly does it -- have you 5 spent on preparing the declaration for the two IPRs at 6 issue today? 7 A I don't have an exact number. I didn't really 8 look at how much time. If you add it up on the 9 declarations and then reviewing all the materials needed 10 for the deposition today, so I'm really not sure exactly 11 how much time that would have been. 12 Q So sitting here today, you can't give me -- can 13 you give me a rough estimate? 14 A No. I wouldn't feel comfortable giving you a 15 rough estimate. I'm not exactly sure even, you know, 16 order of magnitude how long that was. 17 Q And do you know in the approximate -- 18 approximate one year that you worked with Samsung for 19 the Image Processing v. Samsung matters, how many months 20 did you have no activity? 21 A So first I think it's been more than a year. 22 Q Thank you. 23 A And I don't know how many months it's been 24 without activity. I know there's been months where 25 there's not been activity. I don't remember how many.</p>	<p>12</p> <p>1 and how they were found. 2 Q Did you locate any of the references that are 3 the subject matter of your two declarations, the '134 4 and '518 declarations? 5 A I don't recall. I know I found some 6 references. I don't remember which and how they came 7 about for each one. I just didn't document the -- you 8 know, how these were located as part of my declaration. 9 Q It would be pretty memorable if you found a 10 reference that was used in an IPR petition, wouldn't it? 11 MR. COOK: Objection. Form. 12 THE WITNESS: I find references all the time. 13 You know, I pride myself on knowing the literature, and 14 often I point to things that I'm aware of and those get 15 incorporated. It's not unusual. 16 BY MR. COULSON: 17 Q But nothing is coming to mind for the '134 and 18 '518 petition references? 19 A No. I don't have that specific of a 20 recollection of what we did to find those references. 21 Q Well, let me hand you, and I will mark a 22 couple, I think, University of Illinois web pages we 23 located. We'll mark these as 2012 and 2013, please. 24 Exhibit 2012 is a printout of a web page from 25 Parallel.Illinois.edu. The top is labeled Parallel</p>

<p style="text-align: right;">13</p> <p>1 Computing Institute. 2 (Deposition Exhibit No. 2012 3 was marked for identification.) 4 BY MR. COULSON: 5 Q Do you recognize Exhibit 2012? 6 A Yes, I do. 7 Q What is it? 8 A It's a printout of the -- of a page describing 9 my membership in the Parallel Computing Institute. 10 Q What is the Parallel Computing Institute? 11 A It's kind of an umbrella organization at the 12 University of Illinois that collects faculty and others 13 that have interest in parallel computing that have 14 worked on projects for parallel computing. 15 My main work with the Parallel Computing 16 Institute was as one of the members of the Universal 17 Parallel Computing Research Center, the UPCRC that was 18 sponsored by Intel and Microsoft at the University of 19 Illinois, I think, from around 2007 to 2012 and a little 20 bit beyond that. 21 Q Can you turn to the next exhibit, 2013, please. 22 (Deposition Exhibit No. 2013 23 was marked for identification.) 24 BY MR. COULSON: 25 Q That has at the top John C. Hart, Computer</p>	<p style="text-align: right;">15</p> <p>1 Q What is shape and modeling? 2 A Shape modeling is a general field. It would 3 include things like Computer Aided Design and the 4 ability to describe a shape, for example, like this 5 bottle of water, numerically, so that it could be 6 represented computationally. 7 Q You can put aside those two exhibits, Dr. Hart. 8 I'm going to hand you a copy of the '134 patent 9 that has been previously marked as Exhibit 1001 in 10 IPR 2017-1218. 11 You're prepared to talk about the '134 patent? 12 A Yes, I am. 13 Q Can you turn -- all set? 14 A Yeah. 15 Q Can you turn to the end of the '134 patent, the 16 claims section. 17 A Okay. 18 Q And I wanted to give you an opportunity to look 19 at Claim 3, and it's independent Claim 1 for the next 20 series of questions. 21 Do you have those? Bottom right column. 22 A Yeah. 23 Q You understand that Claim 3 depends from 24 Claim 1 and includes all the limitations of Claim 1, 25 right?</p>
<p style="text-align: right;">14</p> <p>1 Graphics Illinois. 2 Do you see that? 3 A Yes, I do. 4 Q Do you recognize Exhibit 2013? 5 A Yes, I do. 6 Q And what is it? 7 A This is the -- from the website 8 Graphics.cs.Illinois.EDU. There are entries for faculty 9 and students and others, and this is the entry for 10 pointing to me describing some of my work in computer 11 graphics. 12 Q Can you look under "Title & Interests" next to 13 your photograph on Exhibit 2013, please. It says "CS - 14 high performance graphics, shape modeling." 15 Do you see that? 16 A Yes. 17 Q What's high performance graphics? 18 A High performance graphics is -- it's working 19 with algorithms, methods, approaches for doing computer 20 graphics and related techniques on high performance 21 platforms, often parallel platforms, special purpose 22 hardware platforms, or even general purpose computer 23 platforms focusing on speed and getting things 24 accomplished at a higher rate of speed than was possible 25 before.</p>	<p style="text-align: right;">16</p> <p>1 A Yes. 2 Q For Claim 1 I understand that you have used 3 lettering, I think both parties have used lettering for 4 certain claim elements, so I wanted to make sure we're 5 on the same page with the lettering before we get into 6 the claim. Okay. 7 If you can refer to -- I see you're looking at 8 your declaration. You can refer to wherever you want, 9 of course, but let me point you to Page 53, 55. 10 MR. COOK: Of course the declaration you're 11 referring to is marked as Exhibit 1002; is that right? 12 MR. COULSON: That's a good point. I'll hand 13 it out. I see the witness has brought declarations with 14 him, but I should hand out copies, so I'll do that now. 15 MR. COOK: I have a copy of it, actually. 16 BY MR. COULSON: 17 Q So, Dr. Hart, I'll hand you a copy of Samsung 18 Exhibit 1002 for the '134 patent, IPR. This is a 19 stapled double-sided version. Maybe that will help you. 20 That's been previously marked. And you can refer to the 21 one you brought or Exhibit 1002 that I've handed you, 22 whichever you prefer. 23 A Okay. Thanks. 24 Q You see for Claim 1, the claim paragraph 25 beginning with "forming at least one histogram" that you</p>

<p style="text-align: right;">17</p> <p>1 referred to on Page 55, Section B of your declaration, 2 Exhibit 1002? 3 A Yes. "Forming at least one histogram of the 4 pixels." 5 Q Yes. So if we refer to Exhibit -- excuse me. 6 Strike that. 7 If we refer to Claim Element 1A you'll 8 understand we're referring to the claim element "forming 9 at least one histogram of the pixels in the one or more 10 of a plurality of classes in the one or more of a 11 plurality of domains, said at least one histogram 12 referring to classes defining said target." 13 A Yes. 14 Q And for Element 1B, I'll refer you to Page 57 15 of your declaration. 16 Do you have that? 17 A Uh-huh. 18 Q If we refer to Element 1B today, you'll 19 understand that to refer to "identifying the target in 20 said at least one histogram itself"? 21 A Yes. 22 Q Element 1C is on Page 59, among other places in 23 your declaration. 24 If we refer to Element 1C we can agree that 25 we're referring to "wherein forming the at least one</p>	<p style="text-align: right;">19</p> <p>1 interpretation is as I've demonstrated it in comparison 2 with in this case Gerhardt and Bassman. 3 Q I'd like to ask you about the claim limitation 4 and you applied, I understand, essentially plain meaning 5 to your interpretation of the claim elements, right? 6 You didn't apply any special meaning to the elements of 7 Claim 1 or Claim 3? 8 A I applied plain and ordinary meaning of what a 9 person of ordinary skill in the art would have utilized 10 at the time of the patent based on what was disclosed in 11 the patent itself. And that was sufficient for -- to 12 understand how each of the claims was applied with 13 respect to both the embodiments in the patent and in the 14 prior art that I examined. 15 Q For Element 1B, does identifying the target 16 require locating the target in space? 17 A I didn't come up with a formal definition of 18 "identifying." I used the term "identifying" to look at 19 how the histogram was being used, and with respect to 20 the target in each of the cases that I applied this 21 claim limitation to, and in each case it was clear what 22 was meant by "identifying." So in some cases, yes, 23 "identifying" meant locating, but in other cases it 24 didn't necessarily mean "locating." 25 Q So if I understand you correctly, your</p>
<p style="text-align: right;">18</p> <p>1 histogram further comprises determining X minima and 2 maxima and Y minima and maxima of boundaries of the 3 target"; is that right? 4 A Yes. I believe in -- here on Page 59, I've got 5 it as "wherein identifying the target in said at least 6 one histogram," and I believe it's wherein forming this 7 copy of the patent, so given that, yes. 8 Q Okay. So I'll just do this quickly. Looking 9 at the patent, we'll agree that Element 1C refers to 10 "wherein forming the at least one histogram further 11 comprises determining X minima and maxima and Y minima 12 and maxima of boundaries of the target," right? 13 A Right. 14 Q Let me point you back to Page 57 of your 15 declaration, Exhibit 1002 of the '134. And I'll just 16 note we'll be going through the '134 declaration, which 17 is the IPR 2017-1218. So that's Exhibit 1002 I'm 18 referring to. 19 Are you with me on that page? 20 A Yes. Page 57. 21 Q Yes. 22 What's your interpretation of Element 1B, 23 "identifying the target in said at least one histogram 24 itself"? 25 A It's as the declaration states, it's -- my</p>	<p style="text-align: right;">20</p> <p>1 interpretation of Element 1B is that identifying, it 2 doesn't require locating the target? 3 MR. COOK: Objection. Misstates testimony. 4 THE WITNESS: As I said before, it depends on 5 the example. So there were examples where -- there were 6 examples where that met this claim limitation where 7 identifying was referring to locating and other examples 8 where identifying was not referring to locating. 9 BY MR. COULSON: 10 Q So if they're examples and your interpretation 11 of Claim Element 1B where identifying doesn't require 12 locating, then I understand correctly your 13 interpretation of Element 1B is that it doesn't require 14 locating the target? 15 MR. COOK: Objection. Misstates testimony. 16 THE WITNESS: I think all I'm saying is that in 17 some cases when I applied Claim Limitation 1B to prior 18 art, there were examples where I felt the prior art met 19 the claim limitation. But the identification of the 20 target was not necessarily a location. 21 BY MR. COULSON: 22 Q So you would read Element 1B to encompass 23 identifying that does not identify a location of the 24 target? 25 A I don't believe I made any statement about</p>

<p style="text-align: right;">21</p> <p>1 encompassing or defining the word "identifying." I 2 think all I'm saying is that when I applied Claim 3 Element 1B to the prior art, there were cases where it 4 was clear that Claim Element 1B applied to the prior art 5 but the result was not a location of the target. 6 Q Claim Element 1B would include cases that -- 7 where identification does not locate the target then? 8 A I was able to find examples where that was the 9 case. 10 Q So that's in the scope of 1B under your 11 interpretation? 12 A I don't know about scope. I know that I was 13 able to apply it to cases that did not result in a 14 location. 15 Q So you don't limit -- Strike that. 16 You did not limit in your analysis Element 1B 17 to cases where location of the target was found? 18 A That's a rather broad statement. I applied 19 each of these claim elements relative to the other claim 20 elements referring to targets, referring to histograms, 21 in the specific examples of each of the prior art cases 22 that I looked at. 23 And 1B could be applied in some of those cases 24 where the process of identifying the target in said at 25 least one histogram itself did not end up -- did not in</p>	<p style="text-align: right;">23</p> <p>1 I'll ask you to confine yourself to the 2 objections set forth in the Trial Practice Guide such as 3 "objection, form." Specifically "objection, vague" is 4 one of them that the board has stated specifically must 5 not be made in these proceedings. 6 BY MR. COULSON: 7 Q So let's try -- 8 MR. COOK: Okay. I'll let -- I'll do my best 9 to conform my objections to that. I believe I'm 10 entitled to state a brief word to explain the basis for 11 my objection. I didn't realize "vague" is one that's 12 prohibited. I can check that, if you'd like. But my 13 objections, I don't believe they're leading. I believe 14 they're just a very brief statement of the basis for my 15 objection. 16 MR. COULSON: I just wanted to point the issue 17 out, and I'd ask you to not do that in the future. 18 MR. COOK: Okay. 19 BY MR. COULSON: 20 Q Dr. Hart, let me get back to our questions. So 21 how do you understand the word "characteristic"? 22 A The word "characteristic," I don't know that 23 that's a term used in the '134. 24 Q I think that's true. 25 A But it is used in the '518.</p>
<p style="text-align: right;">22</p> <p>1 that particular portion give a location. 2 Q Under your interpretation of Element 1B, would 3 identifying a characteristic of a target -- Strike that. 4 Under your interpretation of Element 1B, would 5 finding a characteristic of the target through forming a 6 histogram satisfy Element 1B? 7 MR. COOK: Objection. Vague, incomplete 8 hypothetical. 9 THE WITNESS: So I believe characteristic is 10 one of the claim elements from the '518, and so I don't 11 want to -- you know, I don't want to refer to those 12 claim elements, for example, when looking at the '134. 13 I basically applied the claim elements from 14 '134 to the prior art using the terms from the '134 15 based on the context of the prior art and how those 16 terms were used in the specification of the '134 17 MR. COULSON: Can we go off the record for a 18 second. 19 (Brief discussion held off the record.) 20 MR. COULSON: Can we go back on, please. 21 Okay. So, Counsel, you're making objections 22 that are -- the Trial Practice Guide specifically 23 prohibits, and I've let it go on a little bit. I've 24 tried to solve the issue off the record, but was 25 unsuccessful.</p>	<p style="text-align: right;">24</p> <p>1 Q Well, so I'm asking you about -- if this helps, 2 I'm asking you about the '134 patent. 3 A Yes. 4 Q So I'm trying to understand your interpretation 5 of Element 1B that you applied. 6 A Uh-huh. 7 Q So I would like to -- we talked about location 8 a minute ago. You recall that. I'd like to understand 9 if you understand Element 1B such that finding any 10 characteristic about a target, say, for example, its 11 color, would satisfy Element 1 -- satisfy the 12 identifying of Element 1B? 13 MR. COOK: Objection. Form. 14 THE WITNESS: So I didn't make any statement in 15 the declaration regarding the definition of 16 "identifying" or the scope or what it encompasses. What 17 I did do is I applied 1B to the prior art in some very 18 specific cases and the context of the prior art and the 19 context of the specification and made a judgment, 20 expressed an opinion that -- whether or not that prior 21 art met the limitation of identifying the target in one 22 histogram. 23 And in some cases it did that without finding a 24 location of the target. 25 \\\</p>

<p style="text-align: right;">25</p> <p>1 BY MR. COULSON: 2 Q Maybe this will be easier for you. Can you 3 give me some examples of what would satisfy identifying 4 in Element 1B? 5 A Sure. So on Page 116 of my declaration, 6 Paragraph 158, "Gerhardt selects an intensity threshold 7 to identify pixels within the intensity histogram that 8 correspond to the expected area of the user's pupil." 9 Q I'm sorry. What paragraph, please? 10 A 158. 11 Q Would finding colors that characterize a target 12 satisfy identifying of Element 1B? 13 A In this example of Gerhardt I'm finding the 14 identification is of the area -- the expected area of 15 the user's pupil. And so that's an identification. 16 There's a bunch of other examples in the charts starting 17 at Page 143. 18 Q Well, if it would help -- I don't know if 19 this will help or not. We'll get to the prior art. 20 Right now, before I get to this particular prior art 21 applications, I'm asking you a question about 22 Element 1B. And let me try to restate the -- restate 23 the question one more time. 24 Would color, would finding the color of a 25 target satisfy identifying of Element 1B?</p>	<p style="text-align: right;">27</p> <p>1 A Given a specific example, I would be quite 2 sure. 3 Q Based on your analysis that you completed so 4 far, you don't -- you can't say one way or another? 5 A I could say one way or another given a specific 6 example. I did not provide an opinion generalizing 7 Claim Element 1B in a vacuum. 8 Q Well, let me back up. So in rendering your 9 opinion you looked at the patent, the '134 patent. And 10 what we're talking about is your opinion in the '134 11 declaration. Okay? 12 A I'm sorry. Was there a question there? 13 Q Yes. I wanted to make sure we're on the same 14 page. We're talking about -- you understand we're 15 talking about your opinion in the '134 declaration. 16 Okay? 17 A Correct. We're talking about '134. 18 Q So in doing your analysis, you looked at the 19 disclosures of the '134 patent, right? 20 A Yes, I did. 21 Q You looked at the prosecution history for the 22 '134, right? 23 A Yes, I did. 24 Q And you also looked at the several prior art 25 references?</p>
<p style="text-align: right;">26</p> <p>1 A I don't -- I didn't make a statement that broad 2 in the declaration. But there are examples of utilizing 3 a histogram of brightness, of luminance that identified 4 a target. 5 Q So would finding a color range characteristic 6 of a target satisfy -- through forming a histogram 7 satisfy Element 1B? 8 MR. COOK: Objection. Form. 9 THE WITNESS: I didn't make that statement. I 10 do have some examples where looking at a luminance 11 histogram was a form of identification of a target in 12 the histogram that satisfies Claim Element 1B. 13 BY MR. COULSON: 14 Q So you don't know whether finding a color range 15 characteristic of a target through forming a histogram 16 satisfies Element 1B under your interpretation of the 17 element? 18 MR. COOK: Objection. Form. 19 THE WITNESS: I would need to see a specific 20 example so I could look at the context of what was 21 occurring, if it was meeting all of the requirements as 22 made in the specification for the claim element, than 23 the claim as a whole. 24 BY MR. COULSON: 25 Q So you're not sure?</p>	<p style="text-align: right;">28</p> <p>1 A Yes, I did. 2 Q And based on those things, you haven't reached 3 a conclusion as to whether Element 1B -- for Element 1B 4 as to whether finding a characteristic color range of a 5 target would satisfy identifying for Element 1B; is that 6 right? 7 MR. COOK: Objection. Form. 8 THE WITNESS: What I did do is showed some 9 examples where using a luminance or an intensity 10 histogram could be used in a specific example to 11 identify a target that meets the limitation of Claim 1B. 12 BY MR. COULSON: 13 Q I just want to be clear on the record as to 14 the -- based on your analysis, you can't say right now 15 whether finding a characteristic color of a target would 16 satisfy identifying of element -- Claim Element 1B? 17 MR. COOK: Objection. Form. 18 THE WITNESS: I didn't do any general analysis 19 of individual claim elements in absence of the other 20 claim elements, and I did not do any general analysis of 21 the claim elements without applying them to any prior 22 art. So the limits of my opinion are based on the 23 application of these elements to the prior art and the 24 elements as a whole. 25 \\\</p>

<p style="text-align: right;">29</p> <p>1 BY MR. COULSON: 2 Q So you don't have an opinion one way or another 3 on that? 4 MR. COOK: Objection. Form. 5 THE WITNESS: I did not enter an opinion 6 stating the general interpretation of 1B as it could be 7 applied to anything. 8 BY MR. COULSON: 9 Q Well, I'm asking you specifically about 10 identifying a color range that is characteristic of a 11 target. Do you understand that's what I'm asking you 12 about? 13 MR. COOK: Objection. Form. 14 THE WITNESS: Do you have a copy of Gilbert? 15 BY MR. COULSON: 16 Q I do have copies of prior art. But I'm not 17 asking about Gilbert or the other references right now. 18 Why do you need Gilbert to answer that? 19 A I could show you an example in Gilbert of a -- 20 where a range of color values would satisfy Element 1B. 21 Q So your opinion is that finding a range of 22 color values that is characteristic of a target does 23 satisfy Element 1B identifying; is that right? 24 MR. COOK: Objection. Misstates testimony. 25 THE WITNESS: No. I can give you an example</p>	<p style="text-align: right;">31</p> <p>1 that is characteristic of a target using a histogram, 2 would that satisfy Element 1B under your interpretation 3 of the claim? 4 MR. COOK: Objection. Form 5 THE WITNESS: I don't know. I would have to 6 see the specific example. And I don't recall looking at 7 any examples that used hue and saturation that I 8 analyzed to determine if they met the requirements of 9 Element 1B. 10 BY MR. COULSON: 11 Q Did you look at any examples in your analysis 12 that used hue? 13 A I don't recall any that used hue. 14 Q Did you look at any examples that used 15 saturation? 16 A I don't recall any that used saturation. 17 Q Well, let me go back to Element 1B. Do you 18 need a second to review the patent or whatever you're 19 looking at? 20 A I'm just looking at the abstract of '134. The 21 bottom sentence mentions the domains include luminance, 22 hues, saturation, speed, oriented direction, time 23 concept, first axis and second axis. 24 Q Would identifying -- I'm going back to 25 Element 1B. Do you have the patent claims?</p>
<p style="text-align: right;">30</p> <p>1 where Gilbert identifies based on a -- based on an 2 intensity histogram in that particular instance 3 satisfies Claim Element 1B. 4 BY MR. COULSON: 5 Q I want to make sure I'm not technically 6 misunderstanding. Is intensity the same thing as color? 7 A Intensity is a single value. Color is often 8 represented three dimensionally, multi dimensionally. 9 Depending on the representation of the color you could 10 have a single axis of intensity, another axis of, for 11 example, saturation, and another axis of hue. And so 12 intensity is part of color, but you wouldn't talk about 13 the two synonymously. 14 Q Okay. I wanted to make sure we weren't 15 miscommunicating. 16 A In the declaration, Paragraph 31 of the 17 declaration describes the relationship between intensity 18 and color referring to it as luminance or brightness. 19 There are subtle differences between luminance, 20 brightness and intensity, but they talk about the same 21 basic concept of that component of a color. 22 Q Okay. Let me try to use the language from this 23 Page 11 of your declaration to maybe be more precise. 24 Maybe that will help. We'll see. 25 Would identifying a range of hue and saturation</p>	<p style="text-align: right;">32</p> <p>1 No need to do it from memory. 2 A Okay. 3 Q Would identifying a group of possible targets 4 satisfy -- through a histogram satisfy Element 1B? 5 MR. COOK: Objection. Form. 6 THE WITNESS: The claim language said 7 identifying the target, so I didn't really consider 8 cases where you had multiple targets. 9 BY MR. COULSON: 10 Q Would identifying a group of -- Strike that. 11 Would identifying several possible targets 12 through using a histogram satisfy Element 1B? 13 MR. COOK: Objection. Form. 14 THE WITNESS: So Figure 20 in '134 shows the 15 screen described in -- starting in Column 23, 16 Paragraph -- or Line 35. It says "Another application 17 of the invention relates to automatic tracking of a 18 target, by, for example, a spotlight or a camera." 19 And it continues in the next paragraph, 20 Column 23, Line 59, "In the example shown in Figure 20 21 Monitor 212 is shown with five simulated objects, which 22 may be, for example, vehicles or performers on a stage, 23 including four background targets and one target to be 24 tracked." 25 So based on that disclosure from '134, there is</p>

<p style="text-align: right;">33</p> <p>1 a target to be tracked, but there could be other targets 2 in the input. 3 BY MR. COULSON: 4 Q Are you saying that Element 1B is satisfied by 5 identifying several possible targets? 6 MR. COOK: Objection. Form. 7 THE WITNESS: In the examples I applied Claim 8 Element 1B to, those examples focused on a single 9 target. So I did not have to look at an example where 10 multiple targets were used for satisfying Claim 1B. 11 BY MR. COULSON: 12 Q Okay. So the portion you read from Column 23 13 of the '134 in Figure 20, tell me again what was that 14 disclosure telling you about Element 1B? 15 MR. COOK: Objection. Form. 16 THE WITNESS: I read Claim Element 1B in the 17 context of Claim 1, and I read Claim 1 in the context of 18 the specification, and the specification includes an 19 example which refers to additional targets, background 20 targets, and then a main target. Four background 21 targets and one target to be tracked. 22 BY MR. COULSON: 23 Q And the example you just read from in the 24 patent at the bottom of Column 23, the user selects by 25 clicking on one of the objects; is that right?</p>	<p style="text-align: right;">35</p> <p>1 For example, the fact that the user needs to make that 2 selection means that the others could have been viable 3 targets. 4 BY MR. COULSON: 5 Q That the user could have chosen from to select? 6 A Yes. 7 Q I just want to make sure I understand what 8 you're saying. You're not saying that the -- that the 9 '134 patent discloses the system doing some analysis 10 that then results in five potential targets shown in 11 Figure 20? 12 MR. COOK: Objection. Form. 13 THE WITNESS: I didn't say that the system 14 could not do that. What I am saying is I'm giving an 15 example from the specification where there are multiple 16 targets, and one solution that the specification 17 provides towards figuring out which target should be 18 tracked. 19 BY MR. COULSON: 20 Q I think I may have asked the question in the 21 negative. Let me try it in the positive. That may be 22 easier for you to answer. 23 Does the '134 patent disclose a method or 24 procedure whereby five potential targets are identified 25 as shown in Figure 20?</p>
<p style="text-align: right;">34</p> <p>1 A In this example, yes. The paragraph goes on 2 around Line 63, the user of the system selects the 3 target for tracking by moving Icon 220 over Target 218 4 and depressing a predetermined button on a mouse, on 5 Mouse 210. 6 Q So the system doesn't identify five possible 7 targets shown in Figure 20, right? Is that right? 8 A I wasn't asked to form an opinion on that 9 particular topic, but going by what is specified here at 10 the bottom of Column 20, the specification is referring 11 to these five objects as four background targets and one 12 target to be tracked. It's using the term "targets" to 13 describe the four background objects. 14 Q Are you saying that the two -- excuse me. 15 Strike that. 16 Are you saying that the '134 patent discloses a 17 way for the system to identify five potential targets in 18 Figure 20? 19 MR. COOK: Objection. Form. 20 THE WITNESS: In applying the elements from the 21 claims to the prior art, I never needed to look at 22 multiple targets in order to apply those elements. 23 In this particular example from '134, the fact 24 that the user selects the target using an icon means 25 that the user could select any of the other targets.</p>	<p style="text-align: right;">36</p> <p>1 MR. COOK: Objection. Form. 2 THE WITNESS: I would have to look in more 3 detail at '134 to look at how it handles multiple 4 targets. But multiple targets did not really factor 5 into understanding Claim 1. Claim 1 does not appear to 6 specify anything about multiple targets. It refers to 7 the process of tracking a target and then discusses the 8 target. 9 And that was the scope of what I analyzed 10 regarding Claim 1, and specifically Element 1B, to the 11 prior art. And in each case I was able to identify one 12 target that was being operated on, so I did not do an 13 analysis of '134 where it focuses on multiple targets, 14 so I don't really have an opinion in this declaration 15 based on how '134 handles multiple targets because it 16 wasn't necessary to apply Element 1 to the prior art. 17 BY MR. COULSON: 18 Q Do you have an opinion -- 19 A Or Claim 1 to the prior art. Sorry. 20 Q Do you have an opinion as to whether '134 21 handles multiple potential targets? 22 MR. COOK: Objection. Form. 23 THE WITNESS: I didn't make an opinion in the 24 declaration. Sitting here on the spot I've pointed to 25 this Figure 20 as an example where '134 looks at</p>

37

1 multiple targets.
2 BY MR. COULSON:
3 Q You're not sitting here today saying that '134
4 patent discloses doing an analysis that results in
5 identifying multiple potential targets?
6 MR. COOK: Objection. Form.
7 THE WITNESS: That's not part of my opinion. I
8 would have to give that -- to make a statement like
9 that, I would have to give that analysis as much
10 analysis as I gave the other parts that did form my
11 opinion. So I'm not prepared today to make a statement
12 to that extent since it didn't really apply to my
13 application of Claim 1 to the examples of prior art.
14 BY MR. COULSON:
15 Q Does Claim Element 1B require separating the
16 target from the rest of the image as a result of --
17 Strike that.
18 Does Element 1B require separating the target
19 from the rest of the image?
20 MR. COOK: Objection. Form.
21 THE WITNESS: Claim Element 1B just talks about
22 identifying the target in a histogram, in at least one
23 histogram itself. The process of forming that histogram
24 is described in Claim Element 1A, so I'm not sure what
25 you're asking for in terms of -- I'm not sure what that

38

1 question is asking with respect to 1B.
2 BY MR. COULSON:
3 Q Let me try to rephrase it. Would identifying
4 pixels that are not in the ultimate target satisfy
5 identifying of Element 1B?
6 **A It would depend how the histogram was formed
7 and comes out of Element 1A, forming at least one
8 histogram of the pixels and one or more of the plurality
9 of classes, in the one or more plurality of domains.
10 And identifying the target based on the
11 histogram, it would depend on what the histogram was
12 composed of in order to determine how that target was
13 identified. And in each of the prior art cases, I was
14 able to determine that identification. And my opinions
15 are limited to how those prior art cases did that
16 identification.**
17 Q You are willing to explain how you're
18 interpreting the claims so that we can understand your
19 analysis, right?
20 **A Absolutely.**
21 Q Would identifying only some pixels within a
22 target satisfy the identifying of Element 1B?
23 MR. COOK: Objection. Form.
24 THE WITNESS: Can you repeat that question?
25 ∞

39

1 BY MR. COULSON:
2 Q Certainly.
3 Would identifying only some pixels from within
4 a target satisfy the identifying of Claim Element 1B?
5 MR. COOK: Same objection.
6 THE WITNESS: So Gerhardt is an example
7 where -- before I continue, can you repeat the question
8 one more time, that way I can answer specifically with
9 Gerhardt.
10 BY MR. COULSON:
11 Q Maybe that will be easier for me to get the
12 information. Why don't we look at Gerhardt.
13 **A Well, I'd like to answer the question if you
14 can restate it.**
15 Q Certainly. I can restate it.
16 Would identifying -- you understand I'm asking
17 you your opinion of the scope of Claim 1B under your
18 interpretation. I'm not asking you about particular
19 prior art at this point.
20 **A Yes. And I wanted to answer that question with
21 an example from Gerhardt.**
22 Q Okay. So can you answer the question without
23 referring to specific prior art?
24 **A My opinions are based on the application of
25 these claim elements to the prior art. So I think -- I**

40

**1 can give you an answer using Gerhardt as an example.
2 That may give you the answer you're looking for.**
3 Q Okay. Well, let's look at Gerhardt. Are you
4 on --
5 **A I'm on Page 77. It's in the charts for -- 77
6 is in the charts for Claim 1A, but the same passage is
7 referred to in Claim 1B.**
8 MR. WHILT: Do you have another copy of
9 Gerhardt, Counsel?
10 BY MR. COULSON:
11 Q Yeah. Let me give out Gerhardt. Maybe that
12 will help.
13 Okay. I'm handing the witness Exhibit 1013
14 from the '134 IPR.
15 **A So Column 9, Line 39 talks about Figure 5
16 describing "Figure 5 illustrates a histogram with
17 several bins of pixel intensity data corresponding to
18 the image of Figure 4."**
19 **And Gerhardt satisfies Claim 1, but Claim 1A
20 and 1B, in particular, and it's looking at an intensity
21 histogram of Figure 4, and that's shown in Figure 5
22 designed to identify the pupil which is the target in
23 Figure 6.**
24 **And you'll notice that Figure 5, the values are
25 in that lower I think it's five percent, marked at 80 --**

41

1 marked as 80. Its values are different than 80.
2 And those are the -- those are the values that
3 identify the target, the pupil here in Figure 6. So I
4 think that demonstrates -- that's one of the -- this
5 Gerhardt satisfies Claim 1B and the rest of the elements
6 of Claim 1, and also gives you an example where a
7 portion of the histogram that corresponds to the target
8 is used to identify the target in the histogram, even
9 though the histogram is of all the values, all the
10 grayscale values, all the intensity values besides the
11 one in the target.
12 Q Why don't we look at -- can you look at
13 Paragraph 113 of your declaration on Page 57 on this
14 point. It's Page 57, Paragraph 113.
15 A Yes. I'm there.
16 Q And you say here in Paragraph 113 that the data
17 to the left of the arrow 80 in Figure 5 of Gerhardt
18 possibly corresponds to the pupil; is that right?
19 A Yes. Left of the arrow as possibly
20 corresponding to the pupil.
21 Q So the data to the left of arrow 80 in Figure 5
22 of Gerhardt may or may not, for any particular data,
23 correspond to the pupil, right?
24 A Correct. That data corresponds to intensities
25 that are dark.

42

1 Q So solely based on forming the histogram of
2 Figure 5 in Gerhardt, we can't tell where the pupil
3 target is? We have to do additional processing, right?
4 MR. COOK: Objection. Form.
5 THE WITNESS: So this example in Gerhardt of
6 finding dark values using an intensity histogram --
7 BY MR. COULSON:
8 Q And you're referring to Figure 5.
9 A Yeah. Figure 5. And Figure 5 identifies that
10 there are pixels that are likely of the pupil in the
11 image. And so the target has been identified as being
12 in the image on the basis that the expected values from
13 the target in the image appear in the histogram.
14 Q Do we know where the pupil is solely based on
15 the histogram of Figure 5?
16 A No. Only that it exists and likely exists in
17 the image. That there are pixels of intensity that one
18 would expect from the pupil in the image.
19 Q In Figure 5 the dark bars at Item 80 and to the
20 left, those are intensity values, not specific pixel
21 locations, right?
22 MR. COOK: Objection. Form.
23 THE WITNESS: Figure 5 shows pixel intensity
24 values on the horizontal axis and then counts the number
25 of pixels that have that value vertically. So those are

43

1 pixel intensity values horizontally.
2 BY MR. COULSON:
3 Q That don't correspond to a particular location,
4 each bar is a count of the intensity values for that
5 particular intensity?
6 MR. COOK: Objection. Form.
7 THE WITNESS: That's correct. The histogram of
8 pixel intensities does not include the location of the
9 pixels, other than that they are in the image.
10 MR. COOK: Counsel, are you getting to a point
11 where we can take a break? We've been going over an
12 hour.
13 MR. COULSON: Certainly.
14 BY MR. COULSON:
15 Q And let me just, for IPR proceedings, you
16 understand that you're not to talk to Samsung counsel
17 during the break about your testimony?
18 A Yes. I understand that.
19 Q And these -- because this is a *inter partes*
20 review proceeding, so we're on the same page about that?
21 A Yes. We're on the same page about that.
22 MR. COULSON: Let's take a break. Thank you.
23 (Recess taken from 10:42 - 10:52 a.m.)
24 MR. COULSON: Let's go back on the record.
25 \\\

44

1 BY MR. COULSON:
2 Q So I understand, Dr. Hart, you -- can you tell
3 me your hourly rate at this point?
4 A Yeah. It is \$500 an hour.
5 Q Okay. Let's go back to discussing Gerhardt.
6 Can you turn to Column 11 of Gerhardt, Exhibit 1013 to
7 the '134 patent IPR.
8 A Column 11?
9 Q Yes, sir. And I'll start at the top of
10 Column 11. So the process of the histogram of Figure 5
11 has -- identifies as a result of the histogram a
12 threshold number for intensity, right?
13 A Effectively, yes. I'm looking to see if they
14 use the word "threshold" or not, but what they're
15 pointing at in 80 of looking at intensity values less
16 than or equal to that value would be a threshold.
17 Q And using the threshold value, the system of --
18 or the description in Gerhardt, the next step is
19 segmenting the image into dark and light pixels, right?
20 A Yes.
21 Q And there are typical several dark regions that
22 are -- Strike that.
23 There are typical several dark regions in the
24 segmented binary image, right?
25 A Yes. There can be.

<p style="text-align: right;">45</p> <p>1 Q Are you looking at the figures? Figures 7C and 2 8C, for example, show multiple dark regions in the 3 image? 4 A Correct. 5 Q The next step is the dark regions need to be 6 converted into blobs, right? 7 That's b-l-o-b-s. 8 Right? 9 A Well, they're not converted into blobs as much 10 as they are blobs. A blob is just what we use to refer 11 to a -- in general, though a contiguous region of 12 pixels. 13 Q Well, I'm looking at Column -- we're in 14 Column 11, the paragraph that begins at Line 25 through 15 approximately 37. I'll give you a second to look at 16 that. 17 A Okay. 18 Q So in Gerhardt, the dark regions need to be 19 explicitly defined as blobs through a -- through 20 assigning them to groups of contiguous sets of dark 21 pixels; is that right? 22 MR. COOK: Objection. Form. 23 THE WITNESS: Gerhardt refers to them as blobs. 24 The line here is each of these contiguous sets is called 25 a blob. What Gerhardt is describing here is determining</p>	<p style="text-align: right;">47</p> <p>1 to pixel blobs is using a single-pass method; is that 2 right? 3 A Yes. 4 Q How does that method work? 5 A It identifies pixels in a raster scan approach, 6 top to bottom, left to right. When each new pixel is 7 examined it determines if that pixel is connected to 8 another pixel of the same color. In this case to 9 another similarly dark pixel. And then grows regions in 10 that method. 11 Q And once the pixel blobs are defined by a 12 method such as raster scan, they're then analyzed for 13 properties such as size, dimensions to attempt to 14 determine which of the blobs is the pupil, right? 15 MR. COOK: Objection. Form. 16 THE WITNESS: So Gerhardt describes several 17 steps in further determination of the pupil segmentation 18 and so on of the pupil in the image. This step is 19 describing taking the thresholded dark pixels wherever 20 they appear on the screen and then finding the 21 individual connected components of that segmentation. 22 There are subsequent steps that are further employed to 23 determine where the pupil is in the image. 24 BY MR. COULSON: 25 Q By this step, you're referring to the</p>
<p style="text-align: right;">46</p> <p>1 of those pixels which are in the same contiguous set. 2 BY MR. COULSON: 3 Q And there's one way to determine the pixels in 4 the dark region that are in contiguous sets as described 5 in this article mentioned in Column 11 by Robert 6 Cunningham, right? 7 MR. COOK: Objection. Form. 8 THE WITNESS: Yes. That's cited as one method 9 for -- one segmentation approach that may be adapted for 10 use with the present invention. 11 BY MR. COULSON: 12 Q In looking at the next paragraph, there are 13 other approaches that could be used to segment images 14 into contiguous sets, such as gradient magnitude and 15 direction or intensity or RGB based methods, right? 16 MR. COOK: Objection. Form. 17 THE WITNESS: There are a number of 18 segmentation approaches. The -- what's being described 19 here is what different approaches might use. For 20 example, pixel intensity, RGB color or gradient 21 magnitude and gradient direction. 22 BY MR. COULSON: 23 Q And the next -- I'm looking at the next 24 paragraph of Gerhardt, Column 11, Line 52 and on, the 25 preferred approach of Gerhardt for converting dark areas</p>	<p style="text-align: right;">48</p> <p>1 single-pass method at Column 11, Line 52 as the 2 preferred approach? 3 A Yes. That single-pass method is taking the 4 dark pixels that were identified in the threshold on the 5 histogram and then determining which of those dark 6 pixels are in the same connective component. 7 Q Let me ask you about a part of the -- following 8 that step, the other steps include analyzing properties 9 of the blob such as dimensions or size or, et cetera, 10 right? 11 A Yes. I mean, there's pages and pages of 12 subsequent processes that happen to, you know, achieve 13 the goals of this particular patent. 14 Q Let me ask you about one on Column 13, Line 25. 15 A Okay. 16 Q This is -- it's the second moment of inertia 17 for the blob. Do you see that? I'll give you a chance 18 to read it. I just want to ask how is that determined 19 for a blob, if you're familiar with that. 20 A Yeah. The second moment of inertia is a 21 statistic about a shape. The first moment might be the 22 center of the mass and the second moment would be some 23 additional statistics about the shape. 24 That, and other statistics about the blob can 25 be computed in the process of determining the pupil.</p>

49

1 Q Can we look -- if you wouldn't mind keeping the
2 reference Gerhardt available, I'd like to point you
3 to -- in your declaration as well, to Page 60,
4 Paragraph 116.
5 **A I'm sorry. Page 60?**
6 Q You're on the right page. We're on Page 60,
7 Paragraph 116. It begins on the prior page. And I'm
8 asking you about Figure 10 which appears on Page 60 of
9 your declaration, Exhibit 1002.
10 Are you with me?
11 **A I understand.**
12 Q Can you refer to -- do you have Gerhardt with
13 you as well?
14 Can you refer to Column 12, Line 52.
15 **A Okay.**
16 Q Figure 10 of Gerhardt is a simplified case,
17 right?
18 **A What do you mean by "simplified"?**
19 Q Paragraph -- are you on Column 12, Line 51? I
20 did that a little fast. Do you have the reference
21 before you?
22 **A Yes. I'm at Column 12, Line 51. I got you.**
23 **"Figure 10 illustrates some preferred blob properties.**
24 **Specifically, a first blob and a second blob are shown**
25 **for a simplified case." Okay.**

50

1 Q So Figure 10 of Gerhardt is a simplified case,
2 right?
3 **A According to the specification, yes.**
4 Q And you don't disagree?
5 **A I didn't look at the simplicity of the**
6 **examples, but I understand that Figure 10 is what**
7 **they're referring to here.**
8 Q As a simplified case?
9 **A Yes.**
10 Q And if you can look at the figures, can you
11 direct -- I direct you to Figure 13, Figure 14 of
12 Gerhardt. With me?
13 **A Yes.**
14 Q These Figure 13 and Figure 14 of Gerhardt are
15 also examples showing several defined blobs, right?
16 **A Yes.**
17 Q And the figures show some bounding boxes, but,
18 in fact, there would be more bounding boxes. They're
19 just simplified diagrams for illustrative purposes,
20 right?
21 MR. COOK: Objection. Form.
22 THE WITNESS: Yes. The specification states
23 that bounding rectangles are only shown for a few blobs
24 for illustrative purposes.
25 ∞

51

1 BY MR. COULSON:
2 Q Let's look at Column 21 of Gerhardt. And I'd
3 like to refer you in your specification -- Strike that.
4 I'd like to give you a reference in your
5 declaration to Paragraph 65 on Page 28, if I have that
6 right. Do you see a reference in Column 21 there?
7 **A Yes. I'm there.**
8 Q Column 21, the section starting at Line 1
9 through approximately 18, that's referring to doing the
10 blob definition operation on a smaller part of the image
11 than the full image, right?
12 **A Yes.**
13 Q So looking at -- if you need it, I can refer
14 you to Column 20 at Line 50. The image size is 640 by
15 480 pixels, the full image, right?
16 **A Of one specific prototype system, yes.**
17 Q And that's discussed at the bottom of
18 Column 20, that prototype?
19 **A Yeah. The Sun SPARCstation2.**
20 Q So the -- what I want to ask you is at
21 Column 21 at the top, there's the smaller image examples
22 they give, one of them at Line 5 is 320 by 240.
23 Do you see that? That's Line 5.
24 **A Yes. I see it.**
25 Q And that's half of the full window?

52

1 **A Actually it's a quarter.**
2 Q Well, the horizontal dimensions are half and
3 the vertical is half, and that results in it being a
4 quarter image?
5 **A That's correct. I could fit four 320 by 240**
6 **pixel rectangles not overlapping into a 640 by 480**
7 **screen.**
8 Q And the other example, 220 by 160, that's
9 about -- the horizontal dimensions are about a third of
10 the horizontal dimension of the full image?
11 **A It's a bit larger than the third horizontally**
12 **and I believe it's exactly a third vertically. Three**
13 **times 160 is 480.**
14 Q I meant to do the easy one. I guess that would
15 have been the vertical one.
16 And the pupil size typically is -- it says in
17 Gerhardt about ten percent of the image; is that right?
18 **A Yes. That's what Gerhardt says.**
19 Q So do I understand the smaller windows in the
20 examples in Figure -- at Column 21 are bigger than the
21 expected pupil area?
22 **A So you said 220 was about a third of 640 and**
23 **160 was a third of 480. So that would be one-third**
24 **horizontally, one-third vertically, that would be about**
25 **one-ninth of the size of the screen. That would be**

<p style="text-align: right;">53</p> <p>1 about 11 percent.</p> <p>2 And the pupil occupies about ten percent of the</p> <p>3 total video image, so it very well could be that the</p> <p>4 pupil occupied a decent amount of that 220 by 160 pixel</p> <p>5 subset.</p> <p>6 Q And do I understand that the example given here</p> <p>7 in Figure 21 of Gerhardt, the smaller window can be</p> <p>8 incrementally increased in size; is that right, until</p> <p>9 the -- if it needs to attempt to locate the pupil in</p> <p>10 larger windows?</p> <p>11 A Yes. That's the -- the size of the active</p> <p>12 window could be incrementally increased.</p> <p>13 Q There's no provision for decreasing the size of</p> <p>14 the active window?</p> <p>15 A Actually that paragraph concludes once the</p> <p>16 pupil blob is again successfully detected, then the</p> <p>17 active window size can be reduced to its baseline size.</p> <p>18 Q During the detection process there's no</p> <p>19 provision for decreasing the window, active window size.</p> <p>20 It happens after the pupil has been detected; is that</p> <p>21 right?</p> <p>22 A It's not stated in this paragraph.</p> <p>23 Q What do you mean?</p> <p>24 A The paragraph -- this paragraph doesn't state</p> <p>25 that the window size is reduced during the detection.</p>	<p style="text-align: right;">55</p> <p>1 updates over time? As frames come over time it updates</p> <p>2 the centroid location expected for the pupil; is that</p> <p>3 right?</p> <p>4 A The running average is accumulated for</p> <p>5 previously selected pupil blobs.</p> <p>6 Q So for a single current frame that's being</p> <p>7 analyzed by the process of 21, the center doesn't</p> <p>8 change? It's based on the running average centroid</p> <p>9 which is determined from previous frames?</p> <p>10 MR. COOK: Objection. Form.</p> <p>11 THE WITNESS: I'd really have to analyze that</p> <p>12 to know -- it doesn't say it's not being updated. It</p> <p>13 does say it's a running average for previously selected</p> <p>14 pupil blobs that could include the current pupil blob,</p> <p>15 and as you're increasing the window size you could be</p> <p>16 adding additional pixels to that currently-selected</p> <p>17 pupil blob that would adjust its centroid location when</p> <p>18 averaged with the others from previous frames.</p> <p>19 BY MR. COULSON:</p> <p>20 Q Do I understand -- let me try to understand</p> <p>21 that answer. Do I understand that the window -- the</p> <p>22 active window is increased when there is a failure to</p> <p>23 select a pupil blob?</p> <p>24 MR. COOK: Objection. Form.</p> <p>25 THE WITNESS: The specification states "In some</p>
<p style="text-align: right;">54</p> <p>1 Q And --</p> <p>2 A Until it's successful, and then it's reduced.</p> <p>3 Q I'd like to ask you about the center --</p> <p>4 centering. Have you had a chance to read through these</p> <p>5 paragraphs? I'll just ask you. You can read if you</p> <p>6 need to.</p> <p>7 The center of the smaller window described in</p> <p>8 Gerhardt at the top of Column 21 is based on the running</p> <p>9 average centroid location, right?</p> <p>10 A It does state "By keeping a running average of</p> <p>11 the centroid location for previously-selected pupil</p> <p>12 blobs, an active imagery region can be examined that is</p> <p>13 centered about the running average centroid location."</p> <p>14 Q So there's no provision for changing the center</p> <p>15 of the active window in the process described here in</p> <p>16 the top of the Column 21. Do I have that right?</p> <p>17 MR. COOK: Objection. Form.</p> <p>18 THE WITNESS: I believe the running average of</p> <p>19 the centroid location is updating the centroid location.</p> <p>20 That's what the running average means.</p> <p>21 BY MR. COULSON:</p> <p>22 Q Yeah. That's a good point. Let me rephrase</p> <p>23 the question. So within a particular frame -- Let me</p> <p>24 back up a little bit.</p> <p>25 Do I understand that running average centroid</p>	<p style="text-align: right;">56</p> <p>1 cases the use of a smaller active image region will</p> <p>2 result in a failure to select the pupil blob. In these</p> <p>3 cases, the size of the active window can be</p> <p>4 incrementally increased until the pupil blob is again</p> <p>5 successfully selected."</p> <p>6 BY MR. COULSON:</p> <p>7 Q So under what circumstances is the active</p> <p>8 window size incrementally increased in the process</p> <p>9 described in the top of Column 21 of this Exhibit 1013?</p> <p>10 A This paragraph states that it's increased when</p> <p>11 the active image region results in failure to select the</p> <p>12 pupil blob.</p> <p>13 Q Are there any other circumstances in which the</p> <p>14 active window is incrementally increased that are</p> <p>15 disclosed here in Column 21?</p> <p>16 A It just refers to that -- the case where the --</p> <p>17 a failure to select the pupil blob.</p> <p>18 Q And if there's a failure to select a pupil</p> <p>19 blob, do I understand correctly there would be no</p> <p>20 centroid of the -- of a pupil identified --</p> <p>21 MR. COOK: Objection. Form.</p> <p>22 BY MR. COULSON:</p> <p>23 Q -- as a result of the failure?</p> <p>24 MR. COOK: Objection. Form.</p> <p>25 THE WITNESS: Not necessarily. There could be</p>

57

1 all sorts of reasons why you could expect the failure to
2 select the pupil blob. You could, for example, have
3 some of the pupil blob but not all of that.
4 You may want to ensure that you've got all the
5 pixels in the blob within your smaller window, and only
6 have a portion of them
7 BY MR. COULSON:
8 Q Is there any disclosure in Exhibit 1013 of a
9 failed process for selecting a pupil resulting in a
10 centroid value?
11 A I don't recall any specific failure cases, but
12 we are looking at an optimized implementation of one of
13 the embodiments, so I would really have to re-analyze
14 the patent to -- on those grounds to see if there were
15 other failure cases like that, but I don't recall any.
16 Q How is the running average centroid calculated
17 in Exhibit 1013?
18 A I don't recall seeing a specific formula for
19 computing the centroid of a potential pupil or a blob.
20 Column 12, Line 49 describes "Figure 10 illustrating
21 some preferred blob properties. A blob has a bounding
22 rectangle that corresponds to the X and Y coordinate
23 maxima and minima for the pixels within that blob."
24 They show a centroid there, after describing
25 those maxima and minima, and they also describe what you

58

1 could refer to as the aspect ratio, the ratio of the
2 horizontal dimensions to the vertical dimensions.
3 All of those could be computed based on the
4 bounding box parameters of the minima and maxima of the
5 X and Y coordinates of the blob pixels.
6 Q And how is the running average over time
7 calculated generally?
8 A I don't recall seeing a specific formula for
9 the running average over time, and there is a variety of
10 methods for doing that. The windowing over time could
11 be uniformly weighted for previous and current
12 centroids, or it could weight the more recent centroids
13 more heavily than prior centroids. I don't think it
14 really specifies how that average is computed. If it
15 does, I don't recall a specific formula.
16 Q Let's look at Page 13 of your declaration. And
17 we'll still be with Gerhardt.
18 Sorry. That's the wrong -- Page 23. My
19 apologies.
20 Do you see Figure 1 and 2 of Gerhardt?
21 A Yes.
22 Q Do I understand -- and what does Figure 1 and 2
23 show generally?
24 A The physical construction design of the
25 hardware of a video camera mounted on a helmet pointed

59

1 at the eye.
2 Q And do I understand -- is it correct that the
3 camera is in a fixed position with respect to the eye?
4 A Based on this design, the eye rotates in its
5 socket, so a fixed position with respect to the eye
6 would be a bit misleading. Certainly not a fixed
7 orientation with respect to the eye and there may even
8 be motions of the eye as it's rotating.
9 Q Well, let me -- maybe I'm not using the right
10 terms. Let me refer you to the bottom of Column 5 of
11 Gerhardt.
12 Sorry. Bottom of Column 6. The very bottom
13 Either one.
14 Is the camera in Gerhardt in a fixed position
15 with respect to the eye socket?
16 A It states that it's in a fixed position
17 relative to the eyes. And that's advantageous because
18 it eliminates costly computation overhead associated
19 with either head sensing or additional image processing.
20 Q I'd like to refer you to -- I'd like to ask
21 about the calibration process. Could you please refer
22 to Paragraph 65 of your declaration.
23 A My declaration.
24 Q And I'm looking on Page 29. That's a multipage
25 paragraph. I'll give you a second to look at that.

60

1 It's referring, I believe, to the calibration process of
2 Gerhardt.
3 A Okay.
4 Q And you may wish to refer to Columns 18 and 19
5 of Gerhardt. I think you're citing Column 18 here.
6 It's the section labeled System Calibration of Gerhardt.
7 Let me know when you've got that before you.
8 A Okay.
9 Q This calibration process is to determine a
10 relationship between the user's pupil and the location
11 and the screen location where the pupil is looking; is
12 that right?
13 MR. COOK: Objection. Form.
14 THE WITNESS: The first paragraph of System
15 Calibration states that it's used to determine a mapping
16 relationship between the relative position of the
17 pupil's center and the point of regard on a display
18 screen. I think "point of regard" is intended to mean
19 the point that the pupil would be looking at.
20 BY MR. COULSON:
21 Q And that process requires the user to
22 repeatedly look at different spots on the screen; is
23 that right?
24 A Yes. And that's documented in the subsequent
25 paragraph.

<p style="text-align: right;">61</p> <p>1 Q Okay. You can put that aside for now and I'll 2 go ahead and I'll ask you something else. 3 If you could go to your declaration, please, at 4 Page 5, Paragraph 24. 5 A Okay. 6 Q You're citing to this Exhibit 1009, character 7 recognition article by Glaubergerman. Do you see that? 8 Oh, excuse me. I misstated that. Exhibit 1009 9 I believe is the Trier article. 10 A Yes. Exhibit 1009 is Trier, Jain and Taxt. 11 It's a survey article from Pattern Recognition. 12 Q What's a survey article? 13 A So in journals -- and this is true in computer 14 vision and many other fields -- you can have a research 15 article that introduces a new idea, a new concept. And 16 then you can have a survey article. And a survey 17 article takes recent results, recent research articles 18 and collects them together to kind of get a higher level 19 picture of what's been developed as a whole instead of 20 each individual piece. 21 Q And what's the relevance of feature extraction 22 for character recognition to the issue of the '134 23 patent? 24 A So we cited Trier, Jain and Taxt for the use of 25 histograms to identify and track image features. And so</p>	<p style="text-align: right;">63</p> <p>1 to the specification, to need to happen at the time the 2 histogram is formed. 3 And there are a couple of examples in the 4 specification where it would not be formed at the time 5 the histogram was being formed, that the minima and 6 maxima of the target would not be decided. 7 One example is Figure 17. So Figure 17 8 shows -- is designed to find the target of a user's head 9 in a video conference system. And what's being shown 10 here is velocities. The data is the velocity of the 11 pixels. 12 And the idea is that if pixels have a lot of 13 pixel velocity in the way they're measuring -- the way 14 '134 measures pixel velocity is the change in the gray 15 value over time, so from one frame to another frame the 16 difference in the pixel value indicates the velocity of 17 the change of the pixel value. 18 So it's going to detect the outline of the head 19 based on head motion, and the likely event that the gray 20 values will have changed from skin tone to some 21 background color or from hair to some background color. 22 And you can see in these -- in these projection 23 histograms of those pixel velocity values, those pixel 24 change values, it's bi-mobile, there are two humps. And 25 the goal here is not to find the smallest and highest X</p>
<p style="text-align: right;">62</p> <p>1 there are examples of histograms, in particular the 2 Glaubergerman reference, character recognition on business 3 machines that dates back to 1956 on the use of 4 histograms for feature extraction. 5 Q Why don't we just put that aside. 6 We went off to the particular prior art, but 7 I'd like to get back to the patent we were discussing, 8 the '134 patent. So we'll be at the claims for a moment 9 here. It's at the end, obviously. 10 I'd like to ask you about Element 1C, which we 11 explained what that referred to earlier. Do you recall 12 that? 13 A Yes. "Wherein forming the at least one 14 histogram further comprises determining X minima and 15 maxima and Y minima and maxima of boundaries of the 16 target." 17 Q Is it your opinion that the -- this Element 1C 18 does or does not require the determining of the minima 19 and maxima boundaries of the target to be part of the 20 forming of the histogram? 21 MR. COOK: Objection. Form. 22 THE WITNESS: So in applying 1C, "wherein 23 forming the at least one histogram that determines" -- 24 "that comprises determining X minima and maxima and Y 25 minima and maxima," does not appear, at least according</p>	<p style="text-align: right;">64</p> <p>1 value of that projection histogram. The boundary of the 2 target and -- that's in the claim language for that 3 Element 1C, the boundary of the target is actually at 4 the peaks. And there's no provision in the construction 5 of any of the embodiments that would keep track of the 6 values at those peaks during the construction of this 7 histogram. 8 This is something that gets extracted after the 9 histogram is built. Let me just double-check to see if 10 there's any other examples there. 11 Yeah. There's another example in Figure 12. 12 And Figure 12, these are also velocity points, pixel 13 velocity points where the X coordinate is the velocity 14 of the pixels -- the X coordinate of the velocity of the 15 pixels, the Y coordinate is the -- the Y coordinate of 16 the velocity of the pixels, but you'll see here that the 17 bounds that they're after, the la, lb -- little l, and 18 lc -- it's labeled with la, lb, lc and ld. The lower 19 case ls indicate the values and the upper case Ls 20 indicate the bounding box. 21 Those do not occur at the absolute minima and 22 maxima of the -- of the histogram. They occur after the 23 fact at these values based on the shape of the 24 histogram, based on a variety of analyses that you can 25 make of the data, and so these bounds that bound the</p>

65

1 target, the X and Y extents of the target, are not
2 computed on the fly but after the fact.
3 So based on -- just to conclude, so based on
4 those examples from the specification, I -- and in the
5 application of that Element 1C, I did not see a need to
6 require that the prior art computed the X minima and
7 maxima and Y minima and maxima of the boundaries of the
8 target on the fly.
9 There are some cases where they were computed
10 on the fly, both in the specification there is -- you
11 know, it keeps -- the specification has registers that
12 will keep track of the minima and maxima -- minimum and
13 maximum extent of a projection histogram. It will keep
14 track of that as the histogram is being constructed.
15 But we saw two examples where they were using different
16 values for the minima and maxima of the target that
17 would be computed afterwards. So it's got examples of
18 both.
19 Similarly, there are examples in the prior art
20 where it was computed after the fact and there are
21 examples in the prior art, specifically Gilbert, where
22 it was computed on the fly.
23 BY MR. COULSON:
24 Q A projection history, an X or Y projection
25 histogram, minimum and maximum need not be the same as

66

1 the minimum and maximum boundaries of a target?
2 A So Claim 1C states "wherein forming the at
3 least one histogram further comprises determining X
4 minima and maxima and Y minima and maxima of boundaries
5 of the target."
6 I think in several cases we've seen examples
7 where that X minima and maxima and Y minima and maxima
8 are the smallest and highest values of a projection
9 histogram, but there are two examples in the
10 specification of '134 where the boundaries of the target
11 were not those smallest and largest values in the
12 histogram.
13 Q Yes. So I have a general question not about
14 1C. Is it true that the minima and maxima of an X and Y
15 projection histogram need not be the same as the minima
16 and maxima of a target?
17 MR. COOK: Objection. Form.
18 THE WITNESS: I can show you an example where
19 in both Figure 12 and Figure 17. In Figure 17 -- and I
20 want to be very careful when we say minima and maxima of
21 the target, the boundaries of the target. Here these
22 are -- these are determined by the '134 specification to
23 be the boundaries of the target. And those are not what
24 the specification determines X MIN, X MAX as the
25 greatest coordinate and least coordinate of the

67

1 projection histogram.
2 BY MR. COULSON:
3 Q So X MIN and X MAX as shown in Figure 17, for
4 example of a projection histogram, need not be the same
5 as the X boundaries of the target that the histogram is
6 analyzing; is that right? That's what you're saying,
7 right?
8 MR. COOK: Objection. Form.
9 THE WITNESS: To be very specific about what
10 I'm saying, the X -- to be very specific let me refer to
11 the definition of X MIN and X MAX.
12 So these are described in Column 20. We have
13 MIN, MAX, NBPTS, RMAX and POSRMAX, P-O-S-R-M-A-X. And
14 these are various statistics on the histogram that are
15 collected on the fly by one of the embodiments of '134.
16 And MIN and MAX are specified in Column 19 in
17 the -- from Lines 51 to 57. And so the MIN value is the
18 value of the smallest pixel accumulated in a histogram,
19 and the MAX value is the value of the pixel -- is the
20 highest value used that was received in the construction
21 of the histogram.
22 So using those definitions of MIN and MAX, we
23 have a case where the MIN value is here and the MAX
24 value is here on the projection histogram of Figure 16.
25 Basically to the smallest then highest values of that --

68

1 of the X coordinate at the bottom of Figure 16.
2 Those do not correspond to the boundaries of
3 the target in Figure 16 which are actually the peaks
4 that are used, Lines 126A and 126B.
5 BY MR. COULSON:
6 Q You mean Figure 17, right?
7 A Yeah. I'm sorry. Figure 17. Figure 16 is
8 very close to it, but yeah it's Figure 17. Thank you.
9 Q So the X MIN and MAX of the projection
10 histogram need to not be the same as the X MIN and MAX
11 of the target?
12 MR. COOK: Objection. Form.
13 THE WITNESS: So Element 1C says "the X minima
14 and maxima and Y minima and maxima of boundaries of the
15 target," that in some cases will be the MIN and MAX
16 histogram statistics that we saw but in some cases it
17 won't be.
18 BY MR. COULSON:
19 Q Right. So the MIN and MAX of a projection
20 histogram and the MIN and MAX of a target boundary are
21 different things?
22 MR. COOK: Objection. Form.
23 THE WITNESS: That's what's shown in Figure 17.
24 The MIN and MAX values accumulated in the construction
25 of the histogram along the X axis. That projection

69

1 histogram in Figure 17 on the X axis, those MIN and MAX
2 values do not correspond to the MIN and MAX extent of
3 the target or specifically in 1C's language. They are
4 different than the X minima and X maxima of the
5 boundaries of the target.
6 BY MR. COULSON:
7 Q Well, let me go back through some of what you
8 said.
9 Let me go to Figure 12 of '134. And can I
10 refer you in the text of '134 to Column 8, Lines 54 to
11 55. This is the description of the -- brief description
12 of the drawings.
13 **A Uh-huh. I'm there.**
14 Q Do you agree that Figure 12 shows a
15 two-dimensional histogram of a moving area?
16 **A The full description of Figure 12 in the spec**
17 **here is that it shows the formation of a two-dimensional**
18 **histogram of a moving area from two one-dimensional**
19 **histograms.**
20 **What it's showing in the central area here**
21 **labeled 40 is referred to in the spec in the longer**
22 **description of Figure 12.**
23 Q Is that Column 21, Line 40?
24 **A Yes. That's where I'm at.**
25 Q Okay. So what is the dotted area, the dotted

70

1 collection of dots of Figure 40 of -- excuse me.
2 In Figure 12 what is Item 40, the collection of
3 black dots?
4 **A The black dots correspond to the X and Y**
5 **coordinates of pixel velocity data.**
6 Q And the pixel velocity data is for pixels that
7 have speeds that are significant speeds; is that right?
8 **A The significant speeds mean that the speeds are**
9 **greater than -- in the X coordinate greater than value**
10 **La and greater than value Lc in the Y direction. So if**
11 **the pixels had zero velocity they would be at the**
12 **origin -- so they're off the origin, so they have what**
13 **was characterized as a significant velocity.**
14 Q Maybe we should back up. So what is speed,
15 speed V? We should back up even more. Speed V is one
16 of the parameters. I think you mentioned it earlier in
17 the abstract discussed in the '134 patent, right?
18 **A Yeah. In the abstract I did mention it, but**
19 **it's a domain. The domains include, among other things,**
20 **speed V.**
21 Q And how is -- another domain -- sorry -- is
22 oriented direction DI, right?
23 **A The abstract says oriented direction. I think**
24 **that's DI.**
25 Q DI or DI. Oriented direction is one of the

71

1 domains, right?
2 **A Yes. Referred to in the abstract.**
3 Q And how is speed V domain calculated for a
4 pixel?
5 Let me break it down and go step by step. It
6 might be easier for you.
7 Can I refer you to Page 14 of your declaration
8 which should have Figure 13 from the patent on it.
9 **A Okay.**
10 Q So this is the -- Figure 13 is the -- shows the
11 histogram formation -- or excuse me. It shows the
12 histogram block 25 for the domain V; is that right?
13 **A What was the number you were referring to? Oh,**
14 **25a, the histogram formation?**
15 Q I actually think I changed the question in the
16 middle, so I apologize.
17 **A Okay.**
18 Q Figure 25 -- Strike that.
19 Figure 13 of the Patent '134 which on Page 14
20 of your declaration shows the histogram block 25 for the
21 parameter for the domain speed designated V, letter V,
22 right?
23 I'll refer you to the bottom of Column 17, for
24 your reference, and top of 18 of the patent,
25 specifically starting at Line 65 of Column 17. That

72

1 should be your reference to describing Figure 13? I'll
2 let you read that and I'll just ask you again. Okay?
3 **A Okay.**
4 Q Is Figure 13 showing the histogram block for
5 the domain V called speed?
6 **A Yes. In the description of Figure 13 it says,**
7 **for example, with respect to speed, which is preferably**
8 **in the value of the range from zero to seven, classifier**
9 **25b.**
10 Q And 25a is the histogram formation portion in
11 Figure 13 for that domain, right?
12 **A Right. Yeah. 25b talks about the classifier.**
13 **25a is the histogram formation.**
14 Q And that includes a memory 100, right?
15 **A Yes. There's a memory labeled 100.**
16 Q And you can see memory 100 referenced say
17 Line 66 of Column 17 throughout to the top of the middle
18 of Column 18.
19 **A Okay.**
20 Q So I'll actually move to Column 19 of the
21 patent for your reference starting at Line 20,
22 Column 19. So to form the histogram for the V domain
23 speed, that's done on a pixel-by-pixel basis, right?
24 **A So this section of '134 talks about the**
25 **validation signal is updated on a pixel-by-pixel basis,**

<p style="text-align: right;">73</p> <p>1 but the data coming in, for example, would be pixels.</p> <p>2 Q That's a fair point. Maybe we should have</p> <p>3 stayed at Column 18 at the top.</p> <p>4 You can look at whatever you want. I'm just</p> <p>5 trying to help point you to the parts --</p> <p>6 A Sure.</p> <p>7 Q -- that may be helpful.</p> <p>8 So my question is for forming the histogram for</p> <p>9 speed, each pixel speed value is used to increment the</p> <p>10 histogram if it meets certain speed criteria, and not</p> <p>11 used to increment the histogram if it doesn't meet the</p> <p>12 speed criteria, right?</p> <p>13 MR. COOK: Objection. Form.</p> <p>14 THE WITNESS: So the classifier, 25B, can be</p> <p>15 used to consider only data within a particular speed</p> <p>16 category or categories, for example, speed one, speed</p> <p>17 three or five, speeds three to six. So you could set</p> <p>18 the classifier to only increment the histogram from a</p> <p>19 pixel if it represented a speed of one, or you could set</p> <p>20 it to increment the histogram -- the appropriate</p> <p>21 histogram entry if its speed was three or five, or you</p> <p>22 could have it increment the histogram if it was -- if</p> <p>23 the input was a speed of anything from three to six, in</p> <p>24 those examples.</p> <p>25 \\\</p>	<p style="text-align: right;">75</p> <p>1 increment memory location four by one.</p> <p>2 Q And as pixel data is evaluated it will be used</p> <p>3 to continue to form the histogram, depending on whether</p> <p>4 it passes the classification criteria of three to six in</p> <p>5 this example?</p> <p>6 A I'm sorry. Can you repeat that question.</p> <p>7 Q Yeah. Sorry.</p> <p>8 For the example of a certain window of image</p> <p>9 data that's being -- for which a histogram is being</p> <p>10 formed, as each -- each pixel will be used if it meets</p> <p>11 the speed criteria to increment the histogram memory 100</p> <p>12 for that window of pixels, right?</p> <p>13 A So the design of the classifier is to limit</p> <p>14 based on the value used for the histogram which pixels</p> <p>15 are used to increment the histogram.</p> <p>16 Q So for a certain window, XY window of pixels,</p> <p>17 the pixels that meet the classification criteria will</p> <p>18 increment the memory 100 for the speed value for each</p> <p>19 pixel, right?</p> <p>20 MR. COOK: Objection. Form.</p> <p>21 THE WITNESS: In a particular example where you</p> <p>22 are just plotting a histogram of velocities and using a</p> <p>23 classifier to limit those velocities for a histogram of</p> <p>24 velocity, then that is the proper use of the classifier.</p> <p>25 There are other examples in '134 where these</p>
<p style="text-align: right;">74</p> <p>1 BY MR. COULSON:</p> <p>2 Q Certainly. So let's take a speed of three to</p> <p>3 six as an example for the classifier 25B. Okay. Are</p> <p>4 you with me on that example?</p> <p>5 A Yes.</p> <p>6 Q For particular pixel values, if a pixel has a</p> <p>7 speed value of, say, two, it will not be used -- the</p> <p>8 data for that pixel will not be used to increment the</p> <p>9 histogram in memory 100; is that right?</p> <p>10 A If the classifier was set to consider only data</p> <p>11 with speeds from three to six, then a pixel with a speed</p> <p>12 of two would not increment the histogram stored in</p> <p>13 memory 100.</p> <p>14 Q For a pixel that has a speed of four in this</p> <p>15 example, the memory location four in the histogram 100</p> <p>16 would be incremented by one based on that pixel data; is</p> <p>17 that right?</p> <p>18 A In that particular example the pixel with speed</p> <p>19 four would pass the classifier, and that pixel's value</p> <p>20 would be used to contribute to the histogram.</p> <p>21 Q And specifically what happens is memory</p> <p>22 location four of histogram 100 would be incremented?</p> <p>23 A Yes. And the example described in Column 18,</p> <p>24 that paragraph from 11 to about 28, that would be</p> <p>25 plotting a speed histogram, so that speed of four would</p>	<p style="text-align: right;">76</p> <p>1 units shown in Figure 13 are used in concert with each</p> <p>2 other as shown in Figure 11, where you've got multiple</p> <p>3 inputs and those multiple inputs can influence each</p> <p>4 other through that shared bus. The shared bus shown</p> <p>5 in -- as Item 23 in Figure 13.</p> <p>6 BY MR. COULSON:</p> <p>7 Q I'd like to ask about the incrementing of the</p> <p>8 memory 100. Is the incrementing of memory 100, for</p> <p>9 example, memory 100 in Figure 13, is that forming the</p> <p>10 histogram for speed?</p> <p>11 A Forming the histogram is one of the terms in</p> <p>12 the claims, and I think it's illustrated by</p> <p>13 disembodiment, including memory 100. So a portion of</p> <p>14 forming the histogram as demonstrated by this embodiment</p> <p>15 is that they -- the memory keeps at its memory locations</p> <p>16 the current count of the valid and classified data that</p> <p>17 it receives on the input.</p> <p>18 Q What do you mean by a portion of forming? Did</p> <p>19 you say "a portion of forming"?</p> <p>20 A You tell me.</p> <p>21 Q Let me ask it again. Is the incrementing of</p> <p>22 the histogram 100 -- Strike that.</p> <p>23 Is the incrementing of the histogram memory 100</p> <p>24 the forming of the histogram for speed for the histogram</p> <p>25 block 25 in Figure 13, for example?</p>

<p style="text-align: right;">77</p> <p>1 A Is the word "forming" used in Column 12? We're 2 referring to Figure 13. I forget which column we were 3 in. 4 Q Yeah. I can help. I can point you to 5 Column -- we started at Column 17, Line 55 where it 6 begins "Referring to Figure 13." 7 A Is the term "forming" used in this section? 8 Q Yeah. 9 A I don't recall. 10 Q It's in the column and line I just pointed you 11 to. 12 A Oh, 17, Line -- 13 Q 55. 14 A Thanks. Oh, the histogram forming portion. 15 25a, for histogram formation. 16 So in referring, for example, to Claim 1, 17 Element 1A, "forming at least one histogram of pixels in 18 the one or more of a plurality of classes in the one or 19 more of a plurality of domains," that this embodiment 20 addresses, you know, the forming of at least one 21 histogram, and -- but the forming of that histogram, you 22 know, is performed by the whole -- you know, by the 23 whole machinery, the whole embodiment. 24 Certainly the current version of the histogram 25 is held in memory 100 and, you know, these</p>	<p style="text-align: right;">79</p> <p>1 in it? Or would you prefer I do it? 2 A Why don't you go ahead and then I can try to 3 figure out what you're drawing. 4 Q I guess we'll have to mark it. 5 THE REPORTER: 2014. 6 (Deposition Exhibit No. 2014 7 was marked for identification.) 8 BY MR. COULSON: 9 Q Please let counsel have a look at it before you 10 look at it, sir. 11 MR. COOK: Okay. Thanks. 12 MR. COULSON: It's publicly available now. 13 BY MR. COULSON: 14 Q What I'm trying to get at is I want to set up 15 an example. So what I've tried to draw at Exhibit 2014 16 is a portion of a frame of pixels, in other words, a 17 portion of an image. Okay. 18 Does that make sense? 19 A Yes. 20 Q And I've labeled the portion box? 21 A Yes. 22 Q When we form a histogram such as by using the 23 histogram formation, Unit 25, it will use the pixel data 24 only within -- only for the pixel within that box if 25 that's what we set it to do, right?</p>
<p style="text-align: right;">78</p> <p>1 embodiments -- yeah. This embodiment that's described 2 meets those requirements of the forming of at least one 3 histogram. 4 Q I'm looking for a box here. Let me -- to ask 5 you a question, let's look at Figure 12, please, of the 6 patent. 7 A Okay. 8 Q It's either that or I draw a box. 9 Let's consider a box in the image, in other 10 words, a subset of the image, an XY subset such as the 11 box in the middle of Figure 12 as an example. I wonder 12 if that's easier or harder than just drawing a separate 13 box. 14 Do you have a preference? 15 A Are you referring to the box bounded by La, Lb, 16 Lc and Ld? 17 Q Yes. So for the box -- as an example, for the 18 box bounded by La, Lb, Lc and Ld in an image, let's say 19 we form a histogram of speed for the pixels in that box. 20 Those pixels -- the pixel data will be used to increment 21 the memory 100, right? 22 A So Figure 12 shows two histograms. 23 Q Maybe I'll draw it. I thought it might be 24 confusing to try to use that figure. Let me try it this 25 way: Would it be easier if you draw an image with a box</p>	<p style="text-align: right;">80</p> <p>1 A It depends how it's been configured. There's 2 multiple histogram formation units that share the same 3 bus. And that bus sends a validation signal back into 4 the histogram formation. They can select which pixels 5 you're using and what you're creating a histogram of. 6 So you have to be very specific when 7 configuring all of these different domains with these 8 different histogram formation units to create a 9 histogram of something. 10 Q All right. Well, I think I can do that. If 11 you can look at Column 21, please, of the patent. 12 A I'm at Column 21. 13 Q Line 12, referring to a user defined area. 14 A Okay. 15 Q So if we -- referring to Exhibit 2014, the 16 drawing, if we set the user defined area for X and Y to 17 the size of the box I've drawn, only pixel data for 18 pixels within the box will be used to form a histogram, 19 right? 20 A For how many histogram formation units? 21 Q I'll take the example of just the speed 22 histogram we've been working with. Just one. But I 23 don't think it matters for the example. 24 A Well, how are you setting the X coordinate 25 limitations of the box and the Y coordinate limitations</p>

<p style="text-align: right;">81</p> <p>1 of the box? 2 Q I'll have a user selected X and Y limitation in 3 accordance with the box of Figure 2014, and I'd like to 4 form a speed histogram without any restriction in the 5 classifier. 6 A Okay. The speed data coming in data V will be 7 for all pixels. How are you going to limit that? 8 Q I will be limiting it strictly by the X and the 9 Y limits of the box. 10 A And how are you configuring the embodiment to 11 do that? 12 Q I'll set the -- do you see Item 108 on 13 Figure 13? It's also on your -- I want to use the term 14 coincidence unit or validation unit, but I want to use a 15 term that you understand. 16 The box in the lower right of Figure 13. 17 A Yes. So it's -- the reproduction there -- 18 okay. 108. Got you. Okay. 19 Q What shall we call 108? 20 A Let's just call it 108. 21 Q Okay. So we set 108 so that only speed X and Y 22 are admitted into the histogram formation units. Okay? 23 A So the speed data V comes in to the mux on data 24 V. So what are you setting 108 to do? 25 Q To check for an X, whether the X limitations</p>	<p style="text-align: right;">83</p> <p>1 pixels -- for all the pixels in the XY box in the middle 2 of Figure 2014, we have finished forming the histogram; 3 is that right? 4 A If that's when you want to finish the 5 histogramming and query the histogram, then that's your 6 decision. 7 Q And if I made that decision, then once I formed 8 a histogram -- once I've used the velocity datas for all 9 pixels in the XY box in the middle of Exhibit 2014, I've 10 completed forming the histogram, right? 11 A Sure, by declaration. You want to consider the 12 pixels in that box, so once all of those pixels that you 13 have with those X and Y coordinates have been sent to 14 the machine, then you can query the histogram formation 15 unit for the resulting histogram. 16 Q And at that point histogram memory 100 will 17 have formed a histogram -- Strike that. 18 If we then -- could we then add an additional 19 set of pixels, say to the right of the box I've shown in 20 Figure 2014, and add those -- that pixel data in through 21 to the histogram formation unit and continue forming the 22 histogram in memory 100? 23 A The embodiment described -- this embodiment 24 described in '134 would allow that. 25 MR. COULSON: Okay. Let's take a lunch break.</p>
<p style="text-align: right;">82</p> <p>1 are satisfied, the Y limitations are satisfied. 2 A Okay. And so how is 108 set to do that? 3 Q Well, the X histogram unit 28 will be set for 4 that range. And the Y histogram formation unit will be 5 set to the Y range to get my box. 6 A Okay. 7 Q So for this example, a histogram will be formed 8 in memory 100 for speed for only the pixels in the box, 9 right? 10 A So if you configure the X coordinate histogram 11 unit and the Y coordinate histogram unit to create a 12 validation signal through Box 108 to only allow velocity 13 data, speed data from the pixels for Xs lying between 14 those two -- the left and right bounds and Y coordinates 15 between those two bounds, then that box -- then the only 16 velocities that would go into the memory would be the 17 ones corresponding the pixels in that box. 18 Q How do we -- when do we know that we're 19 finished forming that histogram? Maybe that was a bad 20 question. 21 Once we form the histogram for the pixels 22 within the XY box drawn on Exhibit 2014, we're finished 23 forming the histogram, correct? 24 A What was the beginning of that question? 25 Q Once we formed the speed histogram for the</p>	<p style="text-align: right;">84</p> <p>1 MR. COOK: Okay. 2 3 (Lunch recess taken at 12:31 p.m.) 4 \\\ 5 \\\ 6 \\\ 7 \\\ 8 \\\ 9 \\\ 10 \\\ 11 \\\ 12 \\\ 13 \\\ 14 \\\ 15 \\\ 16 \\\ 17 \\\ 18 \\\ 19 \\\ 20 \\\ 21 \\\ 22 \\\ 23 \\\ 24 \\\ 25 \\\</p>

85

1 LOS ANGELES, CALIFORNIA; FRIDAY, DECEMBER 22, 2017;
2 1:17 P.M.
3
4
5 JOHN C. HART, Ph.D.,
6 having been previously duly sworn by the reporter, was
7 examined and testified further as follows:
8
9 MR. COULSON: Let's go back on the record.
10
11 EXAMINATION (resumed.)
12 BY MR. COULSON:
13 Q Dr. Hart, welcome back from lunch. I'd like to
14 go through some of the disclosures you mentioned from
15 the '134 patent. Can you get that before you?
16 We talked about speed, right? Do you recall
17 that?
18 A Yes.
19 Q Speed is a disclosure we looked at, speed at
20 the value of the zero to seven.
21 A All right.
22 Q In your mind, is speed different -- a different
23 domain than velocity in the disclosure of the '134
24 patent?
25 A I think speed is a scalar value. Velocity is a

86

1 vector value. And I think they're using V to say speed,
2 so it may be referring to it as velocity. But speed is
3 defined in the patent separately, so I believe when they
4 used the term V they're actually talking about speed and
5 they have a separate direction.
6 Q Yes. Direction being -- it's in various
7 places. You can look where you want, but let's look
8 at -- for example, at the top of Column 4. I'd just
9 like to talk about speed oriented direction velocity.
10 So are you at a disclosure of oriented
11 direction?
12 A I see it at the top of Column 4, that speed and
13 oriented direction are the -- are two of the domains
14 that are preferably selected from.
15 Q I think I can do a little better. Maybe
16 Column 14 of the patent, '134 patent, around Lines 10 to
17 20, to try to help orient you.
18 A So I'm there. Was there a question?
19 Q What is oriented direction?
20 A So in the description here in Column 14, it
21 corresponds to what's called a Freeman code which is
22 basically a number from one -- from zero to seven that
23 tells you a direction in increments of 45 degrees, so
24 basically zero, 45 degrees, 90 degrees, 180 degrees, so
25 on, all the way back around to 360 degrees.

87

1 Q So oriented direction is perhaps obviously
2 different than speed as domains, right?
3 A Right. Those are two separate domains.
4 Q Is it your position, your understanding that
5 velocity is a different domain than speed or oriented
6 direction?
7 A I think I was using velocity to refer to that V
8 value which is actually speed. So I'm not sure that
9 velocity is defined in those terms in '134.
10 Q Okay. So let's look at Figure 12. You'll
11 recall perhaps Column 21 -- Columns 20 and 21 have some
12 disclosures about that for your reference.
13 A Okay. I'm there.
14 Q Okay. I'd like to ask you about Figure 12. Is
15 the data that's used to form histograms shown in
16 Figure 12 for a limited set of speed values, or does it
17 include all speed values for the pixels under
18 consideration?
19 A So I will note they do use the term velocity
20 histogram based on POSRMAX and that's in Column 20 at
21 Line 30. So given the discussion in Column 20 it looks
22 like we are actually looking at velocities with an X
23 coordinate and Y coordinate in Figure 12.
24 Q Do you consider velocity to be a separate
25 domain from speed or oriented direction?

88

1 A Velocity is a combination of the domain of
2 speed and oriented direction.
3 Q And what is the -- Strike that.
4 How is velocity calculated for a particular
5 pixel?
6 A I don't recall a specific definition from '134.
7 It wasn't the specific definition of velocity that was
8 used in that -- in Figure 12. It wasn't part of what I
9 needed to apply the claims. So I don't recall a
10 specific definition of what they were using for
11 velocity.
12 There's a bit of a description of it in
13 Column 20, but it was -- it wasn't necessary for me to
14 apply the elements of Claim 1 to the prior art, so I
15 didn't do a full analysis of that.
16 Q Are the pixel -- Strike that.
17 Is the pixel data that's used to form the
18 histograms of Figure 12 for pixels that have a subset of
19 velocity values indicating motion, or is it including
20 pixels with all velocity values?
21 A So can you repeat the question.
22 Q Yes.
23 What I'm trying to get at -- I'll go back to
24 that question but I'm trying to make it as easy as
25 possible. Are the -- is the set of pixels used to form

89

1 the histograms in Figure 12 limited in some way, and if
2 so by what, is what I'm trying to get at?
3 **A Sure. I understand what you're asking.**
4 **In Column 21 halfway down starting at Line 25**
5 **discusses Figure 12 and mentions La, Lb, Lc and Ld that**
6 **represent the limits of the range of significant or**
7 **interesting speeds.**
8 **And I'll mention that speed is being mentioned**
9 **here and velocity is being mentioned in Column 20, so**
10 **they're being used somewhat interchangeably in the**
11 **specification.**
12 **These limits may be set up by a user or an**
13 **application program using the system. Or they may be**
14 **set up as a ratio of the maximum of the histogram, the**
15 **maximum value, the highest peak of the histogram or**
16 **maybe set depending on the application.**
17 **So what's being shown here are all of the**
18 **values, the interesting ones are the ones that lie**
19 **between La, Lb, Lc and Ld.**
20 **Q You're referring to Figure 12 when you're**
21 **saying "shown here"?**
22 **A Yes.**
23 **Q And Figure 12 is showing all of what values?**
24 **A It depends on where you look, but in Column 21**
25 **they're referred to as speeds and velocity data.**

90

1 **So they're referred to as velocity data at**
2 **Line 27, and they're referred to as speeds at Line 31.**
3 **And perhaps they're referred to as speeds in terms of**
4 **the X coordinate of velocity with a Y coordinate of**
5 **velocity, that projection would remove the**
6 **directionality of the velocity and turn it back into a**
7 **speed, because it would be a single value along the**
8 **coordinate direction.**
9 **Q Let me -- so Figure 12, let's try to break this**
10 **down so I can understand what you're saying about**
11 **Figure 12.**
12 **You mentioned before I believe that you saw two**
13 **histograms in Figure 12, two one-dimensional histograms;**
14 **is that right?**
15 **A There is a histogram on the X axis and a**
16 **histogram on the Y axis of Figure 12.**
17 **Q What is, in your understanding, the histogram**
18 **shown on the X axis of Figure 12?**
19 **A So Column 21, Line 27 refers to Figure 12 as**
20 **velocity data. And velocities have a speed and a**
21 **direction. And I believe that's being derived from some**
22 **analysis that happens in Column 20.**
23 **So for these pixels to be velocity data, the**
24 **magnitude, which would be the distance from the origin,**
25 **would be their speed and their direction would be the**

91

1 **direction from an origin.**
2 **Q Let me focus just on the X axis -- let me back**
3 **up a little bit. Figure 12, there's an X axis and a Y**
4 **axis. Is that the same as the X axis and Y axis of a**
5 **frame of image data going from zero to, for example,**
6 **255, if that was the full size of the frame?**
7 **A Without knowing the exact formulation of the**
8 **velocity, it's difficult to tell. But typically a**
9 **velocity is a vector value, and so you can represent it**
10 **as an X component and a Y component where the X is the X**
11 **component of the velocity vector and the Y is the Y**
12 **component of the velocity vector.**
13 **Q Are you saying Figure 12, Item 40 is a plot of**
14 **velocity vectors for all pixels in an image frame?**
15 **MR. COOK: Objection. Form.**
16 **THE WITNESS: So Column 21, starting at Line 25**
17 **states that "Figure 12 diagrammatically represents the**
18 **envelopes of histograms in X and Y coordinates for**
19 **velocity data."**
20 **BY MR. COULSON:**
21 **Q Well, I'm not sure I heard an answer to my**
22 **question. Maybe -- can you try describing what Figure**
23 **12 represents? Maybe that's easier for you. I'm having**
24 **trouble understanding what you're saying Figure 12**
25 **represents.**

92

1 **A Sure. Based on my understanding from**
2 **Columns 20 and 21, it is a plot of velocity data for**
3 **pixels and it's showing the histograms -- the X**
4 **coordinate -- the X coordinate projection histogram and**
5 **the Y coordinate projection histogram of that velocity**
6 **data.**
7 **Q Can you look at the bottom of Column 21 --**
8 **excuse me, bottom of Column 20.**
9 **A Okay.**
10 **Q Do you agree or disagree that Figure 12 is**
11 **something that is to be used to find the moving area of**
12 **an image?**
13 **MR. COOK: Objection. Form.**
14 **THE WITNESS: Well, this section states that**
15 **the various histograms and composite signal that are**
16 **output are used to determine if there is a moving area**
17 **in the image to localize this area and/or to determine**
18 **its speed and oriented direction. So it would be used**
19 **to determine if there was motion, where the motion**
20 **occurred and the speed and direction of that motion.**
21 **BY MR. COULSON:**
22 **Q How under your interpretation of Figure 12**
23 **could we determine the location of the moving area?**
24 **A If motion is detected then you would have to**
25 **look at the other data associated with the pixels for**

<p style="text-align: right;">93</p> <p>1 which that motion was detected to determine their 2 locations. 3 Q How would you know which pixels to look at? 4 A The configuration shown in Figure 11 has a 5 shared bus, 23, and this shared bus can use the output 6 of one classification unit in order to set a validation 7 signal for other classification units, so you could then 8 refer to one domain that satisfies a condition from 9 another domain. 10 Q So what criteria would we use to find the 11 moving area as a result of Figure 12? 12 A So there are significant motions defined by 13 these bounds, La, Lb, Lc and Ld. If those were set up 14 as classification units, the pixel satisfying those 15 classifiers could trigger a validation signal to one of 16 the other units to validate the data reflecting the 17 coordinates of the pixel's position. 18 Q So we would need to make histograms using La, 19 Lb, Lc and Ld as the criteria, and then look at the area 20 that -- of the image that results? 21 A You would use La, Lb, Lc and Ld in the 22 classifier units. I don't think you would do anything 23 with those histograms that were generated other than 24 trigger the validation signal. 25 Q Are you saying that we need to make a new</p>	<p style="text-align: right;">95</p> <p>1 analysis of the histograms, but not as the MIN value and 2 MAX values of those histograms. 3 BY MR. COULSON: 4 Q So we have found as a result of Figure 12 the 5 limits of either speed or velocity that represent -- 6 Strike that. 7 So as a result of forming the histograms shown 8 in Figure 12, we have found limits for either speed or 9 velocity? 10 A No. I think Figure 12 shows a process where 11 you're using projection histograms of velocity on the 12 two coordinate axes in order to inform your decision 13 what the actual bounds of the target should be, and 14 those bounds are set by La, Lb, Lc, Ld. And those 15 bounds form X minima and maxima and Y minima and maxima 16 that serve as boundaries for the target. 17 Q Does the fact that Figure 12 is disclosed in 18 the '134 patent mean to you that Claim 1 should read on 19 the disclosures of Figure 12? 20 MR. COOK: Objection. Form 21 THE WITNESS: I used the disclosure of 22 Figure 12 and Figure 17 and the other figures to 23 understand Claim 1, specifically that final limitation 24 regarding the X minima, maxima, Y minima, maxima of the 25 boundaries of the target in applying it to other</p>
<p style="text-align: right;">94</p> <p>1 histogram using La, Lb, Lc -- Strike that. 2 Are you saying that we'd need to make new 3 histogram or histograms using La, Lb, Lc and Ld as 4 limitations to find the moving area? 5 MR. COOK: Objection to form. 6 THE WITNESS: I'm not sure what it is you're 7 trying to do. If you're trying to find where those 8 pixels are, one of the ways you could find out the 9 location of those pixels is through a projection 10 histogram of the X coordinate and the Y coordinate of 11 the pixel locations based on the validation signal of 12 pixels passing these particular tests. 13 BY MR. COULSON: 14 Q To define "location" we would make different 15 projection histograms than the projection histograms 16 shown in Figure 12 on the X and Y axis? 17 A If you want to define the location of those 18 pixels, then, yes, that's one way you could do it. 19 Q What have we determined as a result of the 20 histograms formed in Figure 12? 21 MR. COOK: Objection to the form. 22 THE WITNESS: I believe that Column 21 is 23 describing the process of setting the bounds of 24 significant motion that set up minimum and maximum 25 bounds of the target. And those can be obtained through</p>	<p style="text-align: right;">96</p> <p>1 examples of the prior art. 2 These two examples both show situations where 3 the boundaries of the target don't necessarily coincide 4 with what was labeled as MIN and MAX in the histogram 5 formation unit in this Box 112. And so that claim 6 limitation should not be limited to only the calculation 7 on the fly of MIN and MAX during the formation of a 8 histogram, but can also include the analysis of a 9 histogram after it's been formed as it was done in 10 Figure 12 and in Figure 17. 11 BY MR. COULSON: 12 Q Let me just make sure I understand your 13 position on Figure 12. Are you saying that there's no 14 particular limitation on speed or velocity or anything 15 else on which pixels are used to form histograms on 16 Figure 12? 17 MR. COOK: Objection. Form. 18 THE WITNESS: I have to go by Figure 12 as it's 19 displayed. And as it's displayed I see histograms of 20 all of the data. I see data plotted outside of La, Lb, 21 Lc and Ld. And I see a description of the process 22 that's being used in Column 21 to set those limits. 23 So those limits could be used for further 24 processing of that velocity data. But given the way 25 that those La, Lb, Lc and Ld are chosen with respect</p>

<p style="text-align: right;">97</p> <p>1 specifically to the shapes of these projection 2 histograms, provides me with an understanding of what 3 the boundaries of a target should look like and how they 4 should be chosen. 5 BY MR. COULSON: 6 Q So you can't tell for sure whether there's a 7 limitation on the types of pixel data input to the 8 histograms in Figure 12? 9 MR. COOK: Objection to form. 10 THE WITNESS: So there's a paragraph in 11 Column 21 starting at Line 11 that says "In order to 12 process pixels only within a user-defined area, the 13 x-direction histogram formation unit may be set to 14 process pixels only in a class of pixels defined by 15 boundaries, i.e., X MIN and X MAX. 16 And the next paragraph says Figure 12 17 represents the envelopes of histograms 38 and 39, and 18 then using those envelopes of the histograms to choose 19 La, Lb, Lc and Ld, and that these limits may be set. 20 These limits form a rectangle that surrounds 21 the area of significant speeds. And that a few smaller 22 areas noted as 41 are typically ignored. 23 And so that language leads me to understand 24 that the embodiment could be configured to ignore these 25 outliers, these 41 dots outside of the rectangle. But</p>	<p style="text-align: right;">99</p> <p>1 A I mean, the language that the patent uses in 2 Column 21, you know, may be set. Yeah. May be set. 3 These are things that could happen. I don't think they 4 are happening in this particular example, because we can 5 see the data being plotted. We can see the histograms, 6 including the tails that should have been excluded if 7 the data was actually being limited by La, Lb, Lc and 8 Ld. 9 So I think they are suggesting that the 10 embodiment can indeed filter out the data outside of 11 that box, but in this particular example of Figure 12 12 they -- they're focusing on how you figure out where La, 13 Lb, Lc and Ld are, and you do that by looking at the 14 projection histograms. And you do that to determine the 15 boundaries of the target data. 16 Q And your basis for an opinion of whether or not 17 the histograms -- or whether or not the data being used 18 for the histograms at Figure 12 is limited or not is the 19 shape of the Item 40 in Figure 12? 20 MR. COOK: Objection. Form 21 THE WITNESS: I'm using Figure 12 to understand 22 the specification and how -- and how the claims should 23 be read in light of the specification. 24 So Figure 12 tells me a lot of things. It 25 tells me how to set the boundary of the target. The</p>
<p style="text-align: right;">98</p> <p>1 in the process of setting those bounds to configure the 2 device to ignore those outliers, they analyze the 3 histograms, the projection histograms of the data, and 4 it's that process that leads me to understand how the 5 embodiment is used in order to set those bounds in order 6 to define the boundaries of the target. 7 BY MR. COULSON: 8 Q You referred to the possibility of a user-bound 9 area for X MIN and X MAX at the top of Column 21. 10 That's a possible way to limit the data used in forming 11 the histograms, right? You're saying that's a possible 12 way to limit it? 13 A Yes. That paragraph in Column 21, Line 11 14 describes the use -- the ability to set an X MIN and 15 X MAX to limit the input data. And then the following 16 paragraph describes how you can use the information, the 17 analysis, for example, provided by the projection 18 histograms to set those bounds using, for example, La, 19 Lb, Lc and Ld. 20 Q But the patent doesn't disclose specifically 21 limiting the pixel data used to form the Figure 12 22 histograms? 23 MR. COOK: Objection. Form. 24 BY MR. COULSON: 25 Q One way or another.</p>	<p style="text-align: right;">100</p> <p>1 text in Column 21 tells me how those boundaries could be 2 used to limit the consideration of data in the creation 3 of a histogram. It tells me a lot of things. 4 I don't think Figure 12 itself is -- I think if 5 I look at Figure 12 in and of itself I see all the 6 additional data, so I'm not seeing the case where the 7 data is being excluded if it's outside of La, Lb, Lc and 8 Ld other than the indication with Label 41 of that 9 outlier data lying outside of that, and that you could 10 set up the embodiment to do that. 11 BY MR. COULSON: 12 Q But other than looking at the shape of Item 40 13 in Figure 12, you don't rely on any disclosure in the 14 patent text itself as to whether or not the input data 15 is limited by luminance or DP=1 or any other particular 16 criteria? 17 MR. COOK: Objection to form. 18 THE WITNESS: There's a description of how this 19 is set up in Column 20. But other than that -- I mean, 20 other than that, I'm not aware of any other disclosure 21 of how Figure 12 was set up. 22 BY MR. COULSON: 23 Q And which disclosure -- which lines are you 24 referring to? 25 A So Line 55 of Column 20 starts the discussion</p>

<p style="text-align: right;">101</p> <p>1 of Figure 12. And the paragraphs preceding that are 2 discussion of computations that could be used for 3 velocity values and motion. There's no statement that 4 explicitly says one is being used for the other, but it 5 wasn't really necessary for my understanding of what the 6 specific definition is of the data shown in Figure 12. 7 Whatever data is being shown in Figure 12, it's 8 clear from the specification and the figure that I have 9 a projection histogram on the X axis and a projection 10 histogram on the Y axis. Those are being used to 11 determine the boundary of the target. And those 12 determinations are not the minimum and maximum values of 13 the histograms. 14 Q That's what you're taking away from Figure 12? 15 MR. COOK: Objection to form. 16 THE WITNESS: That's one of the things I took 17 away from Figure 12, yes. 18 BY MR. COULSON: 19 Q Let's look at Figure 14A. I can refer you to 20 Paragraph 38 of your declaration. 21 A Figure 14A you said? 22 Q Yes. I believe they may be a little out of 23 order. Let me give you a sheet number. Do you have it? 24 A It's Page 9. 25 Q Okay. 14A below Figure 12, right?</p>	<p style="text-align: right;">103</p> <p>1 as an envelope, which is a smooth version of that 2 discretized bar graph. 3 Q Let's turn to Figure 17. Figure 17 is -- shows 4 histograms formed for only pixels with DP value equals 5 one, right? 6 A Yes. 7 Q Let's look at the embodiment of Figures 20 8 through 23. It's in Columns 23, 24 paragraphs. 9 A All right. Figures -- 21 through 23? 10 Q Yes. 11 A And you said Columns...? 12 Q 23 and 24. 13 A Okay. 14 Q Does this show formation of histograms for only 15 pixels with DP=1? 16 MR. COOK: Objection to form. 17 THE WITNESS: So the discussion in Column 24 18 which is describing Figure 21, which is illustrating the 19 growth of regions of those windows, is -- is giving an 20 example where DP=1 is a criterion to consider only a 21 subset of the pixels for use in the projection 22 histograms. But the last sentence says "Alternatively, 23 the system may be set to detect a velocity greater than 24 zero, or any other criteria that define the edges of the 25 object."</p>
<p style="text-align: right;">102</p> <p>1 A Yes. 2 Q And I could refer you to disclosure in 3 Column 20, Line 49 to 54. 4 A Column 20, Line what to 54? 5 Q Look at Line 49. 6 A 49. 7 Q See Figure 14A? 8 A Yes. 9 Q What I wanted to ask is Figure 14A -- what is 10 being shown in Figure 14A? Let's start with that. 11 A Figure 14A shows a hypothetical velocity 12 histogram. 13 Q Is Figure 14A used in the example shown in 14 Figure 12, or is it a separate disclosure? 15 A I don't recall the discussion of Figure 12 16 referring to Figure 14A. Figure 14A is discussed in the 17 paragraph prior to Figure 12, prior to the paragraph 18 discussing Figure 12, and it's discussing a hypothetical 19 velocity histogram. And Figure 12 shows histograms of 20 velocity, so they're related in that sense. 21 Q Does Figure 14A show a hypothetical histogram 22 where all values of velocity are included? 23 A Figure 14A is hypothetical. The specification 24 says it's referring to a velocity that's categorized for 25 up to 16 velocities, and it's showing 15 of them as well</p>	<p style="text-align: right;">104</p> <p>1 So that approach that's illustrated in 2 Figures -- I think it's 21 through 23 could be used with 3 other criteria other than DP=1. 4 BY MR. COULSON: 5 Q Okay. I'm going to refer you -- we're going to 6 talk about something else. I'm going to refer you in 7 your declaration -- if you can put the patent aside. 8 It's available for your reference at any time. I'd like 9 to refer you to Paragraph 115 of your declaration in the 10 '134 case. It's on Page 58. 11 I will also hand you a copy of Bassman 12 Exhibit 1014 in the '134 IPR for your reference. 13 You can see Bassman -- the discussion in 14 Paragraph 115 is in the section for Element 1B of the 15 '134 patent? 16 A Okay. 17 Q My question is do you -- is it your -- are you 18 asserting that Bassman satisfies Element 1B -- Strike 19 that. 20 Is it your opinion that the disclosure of 21 Bassman satisfies Element 1B? 22 A Yes. I make the statement Gerhardt and Bassman 23 each disclose the step of identifying the target in said 24 at least one histogram, 1B. 25 Q And I've given you Bassman. Can you explain</p>

105

1 how the Bassman reference discloses step 1B?
2 **A Okay. Element 1B identifying the target in**
3 **said at least one histogram itself. Bassman states at**
4 **the bottom of Column 6 "One technique for object**
5 **detection at each strip pixel position is to compute a**
6 **histogram of the image intensity values within the**
7 **integration window centered at that pixel position.**
8 **Based on attributes of this histogram, for example, the**
9 **number or percentage of pixels over some threshold**
10 **value, you can classify that strip pixel as either**
11 **detection or background."**
12 **Presumably vehicles would have a higher pixel**
13 **value than the street, a darker street, which would be**
14 **the background. By performing this operation on each**
15 **strip pixel, one can construct a one-dimensional array**
16 **that essentially serves to identify the target.**
17 **Q Can you look at Figure 5 of Bassman. Are the**
18 **histograms you're referring to formed of pixels in**
19 **the -- what's labeled as the image zone here in Figure 5**
20 **which is equivalent to a lane of a road?**
21 **A I believe so. I believe that's the strip**
22 **that's being referred to, because of the strip of pixels**
23 **in the bottom of Column 6.**
24 **Q Is one histogram formed for each row of pixels**
25 **Y in the image zone of Figure 5?**

106

1 **A No. There is an integration window centered at**
2 **that pixel position, a little neighborhood, and the**
3 **histogram is computed for that neighborhood.**
4 **Q What do you mean by "neighborhood"?**
5 **A The bottom of Column 6, it says that at each**
6 **strip pixel position, you compute a histogram of the**
7 **image intensity values within the integration window**
8 **centered at that pixel position. So an integration**
9 **window is a neighborhood surrounding that pixel. It's**
10 **pixels nearby that pixel.**
11 **Q So the pixels, are they -- the histogram is --**
12 **the histograms you're referring to described at the**
13 **bottom of Column 6 for Bassman are not formed just at**
14 **one -- in one line of pixels?**
15 **MR. COOK: Objection. Form.**
16 **THE WITNESS: Specification says there's an**
17 **integration window centered at that pixel position, so**
18 **an integration window means that there's some breach in**
19 **some neighborhood of surrounding pixels for which you're**
20 **computing the histogram.**
21 **BY MR. COULSON:**
22 **Q Can you look at Column 6, Line 28. Does that**
23 **explain of -- of Bassman, does that explain what the**
24 **integration window is?**
25 **A It does in especially the last sentence of that**

107

1 **paragraph that says "Other types of integration windows**
2 **not described here may also be used."**
3 **Q Let's take the first example of an integration**
4 **window being -- that's Item A in the paragraph at**
5 **Column 6, Line 28 of Bassman. That's all image pixels**
6 **on a row Y within the boundaries of a lane.**
7 **Do you see that?**
8 **A Yes.**
9 **Q In that case is a histogram formed for each Y**
10 **value in the image and an average intensity calculated**
11 **as a result of each histogram?**
12 **MR. COOK: Objection. Form.**
13 **THE WITNESS: So the process at the bottom of**
14 **Column 6 for computing the histogram states that you**
15 **have some threshold value, and pixels with values below**
16 **that threshold value would be classified in one way and**
17 **values above that threshold value would be classified**
18 **the other way.**
19 **Let's say darker values would correspond to the**
20 **background and lighter values would correspond to**
21 **detection.**
22 **In your Example A where the window is all of**
23 **the pixels in that row that are within the delineated**
24 **lane bounds, you'd be looking at a horizontal subset of**
25 **pixels and using that as your integration window.**

108

1 **So it would be horizontal set of pixels within**
2 **that lane bound, and you would be using the histogram,**
3 **the same histogram for all of those pixels to determine**
4 **if each of those pixels was detection meaning a vehicle**
5 **or background meaning a street.**
6 **BY MR. COULSON:**
7 **Q So within a lane, say the lane shown in**
8 **Figure 5, you form numerous histograms for each Y value,**
9 **and then you -- once each Y value of histogram is**
10 **formed, you analyze the histogram and categorize that**
11 **Y line as either a detection or a background; is that**
12 **right?**
13 **A Yes, according to that definition A of the**
14 **integration window. And you might want to do that, for**
15 **example, if there was glare or different contrast up**
16 **closer to you than farther away. Closer to you tends to**
17 **be towards the bottom of the screen. Farther away tends**
18 **to be towards the top of the screen.**
19 **And that would give you the ability to have**
20 **different thresholds separating street from vehicle for**
21 **closer portions of the street than farther away. There**
22 **could also be varying illumination conditions of the**
23 **street that would be valuable.**
24 **Q And the categorization of each lane Y within**
25 **the lane is stored in the 1-D strip shown to the right**

<p style="text-align: right;">109</p> <p>1 of Figure 5, right?</p> <p>2 A I believe so. The text refers to cars 504-1</p> <p>3 and 504-2 in that 1-D strip. So I think what you said</p> <p>4 would be consistent with what was indicated. It just</p> <p>5 says the 1-D strip is computed by a converter.</p> <p>6 Q Is it the calculation of the 1-D strip that you</p> <p>7 assert discloses limitation 1B identifying the target in</p> <p>8 said at least one histogram itself?</p> <p>9 A No. It's the process of computing a histogram</p> <p>10 of the image intensity values within an integration</p> <p>11 window that I used to identify a target in a histogram.</p> <p>12 Q Are you referring to the process of computing a</p> <p>13 histogram of image intensity values within an</p> <p>14 integration window that's performed prior to forming the</p> <p>15 1-D strip shown on the right of Figure 5?</p> <p>16 A Yes.</p> <p>17 Q I'm going to refer you to Paragraph 157. I'm</p> <p>18 going to hand you Gilbert. Gilbert has already been</p> <p>19 marked as Exhibit 1005, I believe.</p> <p>20 I have the same series of questions. Do you</p> <p>21 assert Gilbert discloses Element 1B of Claim 1 of the</p> <p>22 '134 patent?</p> <p>23 A Yes, I do.</p> <p>24 Q And how does it disclose Element 1B? I believe</p> <p>25 we probably covered that this morning.</p>	<p style="text-align: right;">111</p> <p>1 the existence of the target within the window identifies</p> <p>2 the target.</p> <p>3 BY MR. COULSON:</p> <p>4 Q Is it the result of forming the three</p> <p>5 histograms for the TR, BR and PR windows that's used to</p> <p>6 form a rule for classifying intensity values?</p> <p>7 A Form a what?</p> <p>8 Q A rule for classifying intensity values.</p> <p>9 A So the video processor section of Gilbert</p> <p>10 describes a rather intricate amount of analysis to</p> <p>11 identify the target in those windows. One of the</p> <p>12 elements of that identification is an intensity</p> <p>13 histogram. And the intensity histogram provides the</p> <p>14 information needed to identify target in the window.</p> <p>15 Q I'd like to focus in, if I may, on the -- I</p> <p>16 guess it's the Bayesian classifiers on the left of</p> <p>17 Page 50 of Gilbert.</p> <p>18 A Okay.</p> <p>19 Q I want to see if we're in agreement on a fact</p> <p>20 question about this reference in Gilbert.</p> <p>21 Let me just ask it as a question: The way in</p> <p>22 which the histograms that are formed for the windows TR,</p> <p>23 BR and PR are used is as inputs to the process of making</p> <p>24 a Bayesian classifier; is that right?</p> <p>25 MR. COOK: Objection to form.</p>
<p style="text-align: right;">110</p> <p>1 A Partially.</p> <p>2 Q So it might be short.</p> <p>3 A I'm just trying to find the charts. So Gilbert</p> <p>4 satisfies 1B in several ways. One way is in the</p> <p>5 identification of the target in the intensity histogram,</p> <p>6 and another way as the identification of the target in a</p> <p>7 projection histogram.</p> <p>8 Q As to the intensity histogram, are you</p> <p>9 referring to the finding of the threshold Item 80 in</p> <p>10 Figure 5?</p> <p>11 A Item 80 in Figure 5 of...?</p> <p>12 Q Strike that.</p> <p>13 Gilbert, is it the formation of intensity value</p> <p>14 histograms for the windows TR, BR and PR in and of</p> <p>15 itself that satisfies Element 1B?</p> <p>16 MR. COOK: Objection to form.</p> <p>17 THE WITNESS: That is one example of how</p> <p>18 Gilbert satisfies Element 1B.</p> <p>19 BY MR. COULSON:</p> <p>20 Q Simply forming those histograms of intensity</p> <p>21 for TR, BR and PR satisfies 1B?</p> <p>22 MR. COOK: Objection to form.</p> <p>23 THE WITNESS: The process of forming those</p> <p>24 histograms are used to derive information about the</p> <p>25 target, the existence of the target in the window, and</p>	<p style="text-align: right;">112</p> <p>1 THE WITNESS: Yes. I specify in Gilbert a</p> <p>2 Bayesian classifier can be used to decide whether a</p> <p>3 given feature acts as background plume or target point.</p> <p>4 BY MR. COULSON:</p> <p>5 Q And the formation -- without further</p> <p>6 processing, the formation of the intensity histograms</p> <p>7 for TR, BR and PR is not enough to identify the target?</p> <p>8 MR. COOK: Objection to form.</p> <p>9 THE WITNESS: Can you repeat the question.</p> <p>10 BY MR. COULSON:</p> <p>11 Q Yeah. Certainly.</p> <p>12 I want to see if it's your opinion -- I'll set</p> <p>13 it up a little bit. I want to see if it's your opinion</p> <p>14 that the formation of the three histograms I'll ask</p> <p>15 about by itself is enough to satisfy 1B, or whether it's</p> <p>16 your opinion that additional processing using those</p> <p>17 histograms is required to satisfy 1B.</p> <p>18 A Okay.</p> <p>19 Q So do you need to get a reference before I ask?</p> <p>20 A I'm going to look up the claim language again</p> <p>21 to be precise.</p> <p>22 Q Ready?</p> <p>23 A Yes.</p> <p>24 Q Does the formation of the TR, BR and PR window</p> <p>25 histograms itself without further processing satisfy</p>

<p style="text-align: right;">113</p> <p>1 Element 1B of the '134 patent? 2 A So in looking at Element 1B, I think there are 3 several examples in the '134 spec where simply creating 4 a histogram was not enough to identify the target. 5 There's further processing in their examples. 6 We talked through some further processing in 7 Figure 12, in Figure -- I think it was 17, and other 8 examples. 9 The formation of the histogram and the 10 identification of the target in the histogram is an 11 important piece of that process, but there are other 12 subsequent steps of those processes, both in Gilbert and 13 in '134. 14 Q So the formation of the three intensity 15 histograms of Gilbert is not enough by itself to satisfy 16 Element 1B, right? 17 A I analyze Gilbert as a whole. I didn't pick 18 apart individual pieces to analyze the subset of 19 Gilbert. 20 The values of the target, the pixel values, the 21 intensities that form the target are in the histogram of 22 the target, the intensity histogram of that target 23 window. 24 The subsequent analysis illuminates what those 25 values are, but the subsequent analysis depends on the</p>	<p style="text-align: right;">115</p> <p>1 histogram is formed, doing analysis to determine the 2 boundaries of the target can satisfy Element 1C; is that 3 right? 4 A I believe that's right. What I said before was 5 that both examples in '134 and in some of the other 6 references I saw examples where a histogram was formed 7 and then the targets -- the boundaries of the target, 8 the bounding box consisting of the minima and maxima and 9 the X and Y coordinates were determined after the 10 histogram was formed. 11 Q Is there any limitation on how much additional 12 processing can be done after the histogram is formed in 13 order to find boundaries? 14 A I don't see any limitation on the amount of 15 computation or analysis. I think '134, Claim 1 and 16 specifically Element 1C says that you form a histogram 17 and determine the X and Y minima and maxima as 18 boundaries of the target. 19 And I think that determination is based on the 20 formation of that histogram, and in all the examples it 21 has been based on the creation of that histogram, then 22 you've satisfied -- certainly if -- then you satisfied 23 the restrictions of Element 1C. 24 MR. COULSON: Okay. Why don't we take a break. 25 (Recess taken from 2:35 - 2:48 p.m.)</p>
<p style="text-align: right;">114</p> <p>1 creation of the histogram. And that subsequent 2 analysis, along with the creation of the histogram, 3 identify the target in those histograms as those 4 intensity values. 5 Q So you're asserting the formation of three 6 intensity histograms plus additional analysis is what 7 satisfies Element 1B in Gilbert? 8 A I believe I have an opinion that Gilbert as a 9 whole satisfies, in fact, each and every element of 10 Claim 1. I didn't delineate which components of Gilbert 11 satisfy any of the elements of Claim 1. 12 Q So you can't say? 13 A I didn't do the analysis. 14 Q Let's go on to Element 1C. I have a follow-up 15 question on Element 1C -- do you have that before 16 you? -- of the claim. We're done with the prior art 17 reference. 18 A Okay. 19 Q It was kind of a general question. 20 A Okay. 1C, "wherein forming the at least one 21 histogram further comprises the X minima and maxima and 22 Y minima and maxima." 23 Q Right. So I understand -- do I understand 24 correctly from your earlier testimony that you're of the 25 opinion that forming a histogram, and then after the</p>	<p style="text-align: right;">116</p> <p>1 MR. COULSON: Back on the record. 2 BY MR. COULSON: 3 Q Dr. Hart, can you please get Gilbert in front 4 of you, Exhibit 1005, and open it up to Figure 2. And 5 I'd like you to -- for your convenience, I'd like to 6 also refer you to Paragraph 79 of your declaration. 7 A Okay. 8 Q So Figure 2 shows a window TR, a window or 9 subregion BR, and also window or subregion PR, right? 10 A Right. 11 Q And there's a description -- at Column 48 12 there's a description of -- do you see the paragraph 13 beginning "The basic assumption" at the top of the right 14 column of Page 48? 15 A "The basic assumption"? 16 Q Yes. 17 A Yes. I'm there. 18 Q So there's no disclosure in Gilbert as to how 19 the tracking window is initially placed at the very 20 start of the process, right? 21 A Yeah. I don't recall anything specific about 22 initialization. 23 Q And there is no disclosure -- let me set it up 24 again. Look one paragraph down, paragraph beginning 25 with "The tracking window frame is partitioned."</p>

<p style="text-align: right;">117</p> <p>1 A Uh-huh.</p> <p>2 Q There's no disclosure in Gilbert of how the</p> <p>3 window or how the partitioning is done between the</p> <p>4 region BR and the region PR and the region TR, right?</p> <p>5 A Yes. I don't recall seeing anything of how</p> <p>6 those are initialized to ensure they contain background</p> <p>7 or plume.</p> <p>8 Q In fact, there's no disclosure later in the</p> <p>9 process of how to partition BR, PR and TR, right?</p> <p>10 A Yeah. I don't recall seeing anything about how</p> <p>11 those are initialized, but at the same time I wasn't --</p> <p>12 I didn't need to see the initialization of those</p> <p>13 elements to determine that Gilbert satisfied the</p> <p>14 elements of Claim 1 and the other claims.</p> <p>15 Q Look at Page 52 of Gilbert, left column, the</p> <p>16 first full paragraph below the formulas starts with "The</p> <p>17 tracker processor"?</p> <p>18 A Okay.</p> <p>19 Q It says the tracker processor is what controls</p> <p>20 position and shape of the target tracking window, right?</p> <p>21 A Among other things. In addition to the windows</p> <p>22 also the servo, s-e-r-v-o, motors that orient the camera</p> <p>23 and lensing.</p> <p>24 Q So the tracker processor controls the target</p> <p>25 tracking window and it also controls other things. Is</p>	<p style="text-align: right;">119</p> <p>1 example, what's shown in Figure 5 on the previous page?</p> <p>2 A Yes. As defined by that SI formula on the left</p> <p>3 column of Page 51.</p> <p>4 Q And to identify target shape, we need to</p> <p>5 transform the projection functions into a parametric</p> <p>6 model for the structural analysis, right?</p> <p>7 A So Page 51 describes the parametric model for</p> <p>8 structural analysis, and that forms, for example, the</p> <p>9 target shape used for the tracker processor.</p> <p>10 Q In looking at the paragraph below all the</p> <p>11 formulas above the tracker processor paragraph we looked</p> <p>12 at a minute ago, you see where it says for I equals 1, 2</p> <p>13 to 6 on -- I think I went a little fast there.</p> <p>14 Can you go to Page 52 on the left-hand column?</p> <p>15 A This one?</p> <p>16 Q That's the page. It lists the five inputs to</p> <p>17 the tracker processor?</p> <p>18 A Uh-huh.</p> <p>19 Q If you can look below the formulas SX_i and SY_i,</p> <p>20 can you verify for me that the very first and the very</p> <p>21 last of the equal area rectangles are not used in</p> <p>22 calculating the target shape?</p> <p>23 A There's a statement that says "Observe that the</p> <p>24 first and last equal area subintervals are not used in</p> <p>25 the shape description, since they are quite sensitive to</p>
<p style="text-align: right;">118</p> <p>1 that what you're saying?</p> <p>2 A Yes.</p> <p>3 Q The inputs -- we're going to say on the</p> <p>4 left-hand column of Page 52. Look at the first full</p> <p>5 paragraph, if you'd like. There's a series of five</p> <p>6 inputs for the tracker processor listed here, right?</p> <p>7 A Yes.</p> <p>8 Q And the third one is orientation?</p> <p>9 A Yes.</p> <p>10 Q And orientation is calculated by looking at the</p> <p>11 two different center points of the two halves of the</p> <p>12 target estimation shown in Figure 4?</p> <p>13 A The formula for orientation is on Page 50.</p> <p>14 It's the arctangent of the -- of that ratio of Y</p> <p>15 coordinates over X coordinates.</p> <p>16 Q For two different center points, right, are</p> <p>17 used as input to that?</p> <p>18 A Yes.</p> <p>19 Q Target shape is also an input to the target</p> <p>20 processor -- Strike that.</p> <p>21 Target shape Item 5 is also an input to the</p> <p>22 tracker processor, right?</p> <p>23 A Yes.</p> <p>24 Q And to get to target shape, is that -- that's</p> <p>25 based on rectangles, equal length of rectangles, for</p>	<p style="text-align: right;">120</p> <p>1 noise."</p> <p>2 Q So they're not used? You have to answer</p> <p>3 orally.</p> <p>4 A Yes. They are not used in the shape</p> <p>5 description in this example.</p> <p>6 Q Can you -- I want to ask you about the tracker</p> <p>7 processor a little further. Can you open your</p> <p>8 declaration. I would stay with Gilbert. Open your</p> <p>9 declaration to Page 121. That should be Paragraph 166.</p> <p>10 I'll let you read it.</p> <p>11 A Okay.</p> <p>12 Q You have the opinion that the tracker processor</p> <p>13 of Gilbert is analogous to the temporal processing unit</p> <p>14 of the '134 patent; is that right?</p> <p>15 A Yes. As stated in Paragraph 166, for example.</p> <p>16 Q Why do you have -- can you explain that</p> <p>17 opinion? Why are they analogous?</p> <p>18 A So the tracker processor I referred to in</p> <p>19 Paragraph 166 is one of many examples of a temporal</p> <p>20 processing in Gilbert that served to satisfy Claim 3.</p> <p>21 There's a full list in the charts.</p> <p>22 Q Can you give me a reference, please.</p> <p>23 A Sure. Page 155.</p> <p>24 Q Where on the page? Which --</p> <p>25 A Oh, Page 155 of my declaration. On the left --</p>

<p style="text-align: right;">121</p> <p>1 it's a chart. On the left is Claim 3 and on the right 2 side starts all of the references of Gilbert that have 3 been identified as satisfying that claim, in particular 4 the -- which includes the temporal processing. 5 So the role of the temporal process or in '134 6 is given in Column 10, Line 16 -- 15 and 16. It shows 7 "The operation of a temporal processing unit 15, the 8 function of which is to smooth the video signal and 9 generate a number of outputs that are utilized by 10 spatial processing unit 17." 11 There's a number of examples in Gilbert -- the 12 tracker processor is one of them -- that are designed to 13 smooth the video signal to provide inputs over time that 14 can be used for further processing. 15 Q How does the tracking -- Strike that. 16 How does the tracker processor smooth the 17 signal? Is that using the confidence weight? 18 A So the tracking processor uses a number of 19 input -- one of them is confidence -- to control a 20 number of camera parameters. One of which is lensing, 21 so that you keep the image in focus. 22 Q Could you turn in Gilbert, please, to Figure 7. 23 It's on Page 55. 24 A 55? 25 Q Yes. And you discuss -- I believe you discuss</p>	<p style="text-align: right;">123</p> <p>1 Q What are they? Can you tell what they are from 2 the disclosure of Gilbert is my question? 3 A Gilbert says "In addition to the digitized 4 images, the simulation displays the target and plume 5 tracking windows and the projections accumulated for 6 each video field." 7 Q Just for the record can you give me where 8 you're getting that from in Gilbert? 9 A Sure. It's Gilbert, Page 55, left column, 10 middle of the second paragraph. 11 Q Okay. Is there a disclosure of a -- Strike 12 that. 13 Is there a disclosure of a background region, 14 BR, in Figure 7? 15 A Not according to this description of Figure 7. 16 It just says that they're showing the target and plume 17 tracking windows. 18 Q And are you aware of any disclosure of how to 19 determine the background window? 20 A Certainly in the specification earlier in the 21 paper, Figure 2, for example. 22 Q Yes. 23 Is there any disclosure -- Strike that. 24 We discussed earlier Figure 2 and some 25 description of Figure 2 in the right-hand column of</p>
<p style="text-align: right;">122</p> <p>1 this on Page 85 of your declaration for your reference. 2 Anyway, there's a reproduction of Figure 7 on Page 43 of 3 your declaration. 4 A Okay. So Page 43? 5 Q Yes. It's also Paragraph 85. 6 A Okay. 7 Q So Figure 7, to orient us, these are 8 representative simulation outputs, right? 9 A Yes. 10 Q Can you tell, based on the disclosures of 11 Gilbert, what the boxes are that roughly surround what 12 you've labeled in red as target rocket, R? Like which 13 windows they are? 14 A Which boxes are you referring to? 15 Q Yeah. I think I went a little fast there. I 16 apologize. 17 If we look at the left of Figure 7, and we look 18 at your -- Page 43 of your declaration, you have 19 something circled in red there which you label "target 20 rocket," right? 21 A Yes. 22 Q And there's I guess it appears to be two 23 rhombuses that are around that red circled item. 24 Do you see those? 25 A Yes.</p>	<p style="text-align: right;">124</p> <p>1 Page 48. And I believe we established there's no 2 specific disclosure of how to determine the size or 3 location of the background window, the BR, the 4 background region; is that right? 5 MR. COOK: Objection to form. 6 THE WITNESS: So the first full paragraph on 7 the right column of Page 48 characterizes the tracking 8 window as surrounding the target. 9 And the next paragraph partitions that tracking 10 window into a background region and a plume region, and 11 then the region inside the frame is called the target 12 region, and that's what's shown in Figure 2. 13 And so from this description in this paragraph 14 illustrated by Figure 2, the background region of the 15 tracking window doesn't contain the target. The target 16 is in the target region and the plume region contains at 17 least a portion of the plume. 18 BY MR. COULSON: 19 Q Other than that description in the two first 20 full paragraphs on the right-hand column of Page 48, 21 there's no disclosure in Gilbert of how to make those -- 22 the selection of where BR, TR and PR will specifically 23 be located, right? 24 MR. COOK: Objection. Form. 25 THE WITNESS: I don't believe that's part of my</p>

<p style="text-align: right;">125</p> <p>1 opinion. My opinion is on Gilbert -- the analysis I 2 performed on Gilbert was to address the claims of '134, 3 which were based on specifically forming histograms and 4 identifying a target using a histogram, and then using 5 that histogram to bound the target. 6 In the cases of bootstrapping Gilbert, the 7 assumption is that the target lies within these regions 8 in order to use those histograms to determine the 9 parameters that are subsequently used to determine if 10 the -- to identify the target. 11 So based on the setup in Gilbert, the 12 subsequent histograms that are generated are used to 13 identify the target. And that's -- that was sufficient 14 to meet the requirements of Claim 1, regardless of how 15 the target initially gets into the target window. 16 BY MR. COULSON: 17 Q I just want to verify. Other than the first 18 two paragraphs on the right-hand side of Page 48 of 19 Gilbert, you're not aware of any disclosure of how the 20 background -- the BR, background region, is set? 21 A In that first full paragraph, right column of 22 Page 48, the background sample, the tracking window is 23 placed about the target image to sample the background 24 intensities immediately adjacent to the target image. 25 So that's where the background samples come</p>	<p style="text-align: right;">127</p> <p>1 background region is set, if I am reading from it 2 correctly, according to the first two paragraphs on the 3 right-hand column of Page 48; is that right? That's 4 what you're relying on. 5 MR. COOK: Objection to form. 6 THE WITNESS: I mean, I'm not offering an 7 opinion on the initialization of those regions. I'm 8 pointing to those two paragraphs of Gilbert to 9 characterize the definitions of those regions. It was 10 the definition of those regions, the histograms that 11 were generated from them, and the use of the -- the use 12 of the data from those histograms to identify the target 13 that I based my opinion on. 14 BY MR. COULSON: 15 Q You can put that aside. We're going to go to 16 Hashima, Exhibit 1006, previously marked Exhibit 1006. 17 I'll hand counsel and the witness a copy of 18 Exhibit 1006. 19 A Thank you. 20 Q Can you turn to Figure 7 and 8, please, of 21 Hashima, Exhibit 1006. 22 A Okay. 23 Q Can you verify for me, so Figure 7 shows the 24 binarized image that's formed based on the intensity 25 threshold. That's done in Hashima, right?</p>
<p style="text-align: right;">126</p> <p>1 from. And then I've got the illustration of the 2 background region in Figure 2 and as characterized in 3 that second full paragraph on the right column of 4 Page 48. 5 I didn't do an analysis of Gilbert to determine 6 how they initialized the system. It wasn't necessary 7 for me to determine the -- I already had enough 8 information based on the description of the Gilbert 9 system to meet with -- meet the requirements of the 10 claims of '134 that were the focus of my analysis 11 without trying to understand how the initial tracking 12 window position was set or how those individual regions 13 were initialized. 14 Q So you're not offering an opinion as to how the 15 background region is specifically located? 16 A Initially, that's correct. I'm not offering an 17 opinion how those regions are initialized. 18 Q Are you offering an opinion as to how the 19 background region is determined later in the process? 20 A Sure. In that the process describes a way of 21 maintaining the target in a target window, and 22 maintaining a background region that doesn't contain the 23 target, and maintaining a plume region that continues to 24 track the plume. 25 Q So you're offering an opinion that the</p>	<p style="text-align: right;">128</p> <p>1 A Yes. 2 Q And Figure 8 is the -- shows the same image but 3 indicating that eight group of dark pixels have been 4 identified, right? 5 A Yes. 6 Q And if you can turn to Column 8, please. The 7 bottom of Column 8, Step S7. And you can refer to 8 Figure 5, S7, if you'd like, if that's easier for you as 9 well, of Hashima. 10 A Okay. 11 Q Can you verify for me that the eight groups 12 shown in Figure 8, for example, are checked to see 13 whether they satisfy a size or area criteria before they 14 are checked for a number of peaks and projection 15 histograms? 16 A Okay. Yeah. The description of Step 6 says 17 "Figure 9 shows an example in which a target detecting 18 process is effected on an image having the group 19 number 3 which represents the target mark." 20 Q So you agree? 21 A With what? 22 Q I'll read it again. I wasn't clear on the 23 answer. I'm going to reask the question. We all have 24 the same issue. 25 Do you agree that for the eight groups shown in</p>

<p style="text-align: right;">129</p> <p>1 Figure 8, for example, they're checked to see whether 2 they satisfy a size or area criteria before they are 3 checked for a number of peaks in projection histograms? 4 A No. Figure 9 is separated because of a -- oh, 5 Step 6, which separates group number n from the other 6 image data by the labeling process and it's separated by 7 window process. 8 Step 7 is the area filter and it says "Figure 9 9 shows an example in which the target detecting process 10 is effected on an image having the group number 3 which 11 represents the target mark." 12 So the process that gets you from Figure 8 to 13 Figure 9 is not based on area. It's just based on 14 selecting number 3. 15 Q I am asking about what happens after Figure 9. 16 A Okay. 17 Q So let's get on the same page. So Figure 8 we 18 have eight groups. Figure 9 shows that we're taking one 19 of the groups that happens to be Group 3 and we're 20 making a window around Group 3, right? 21 A Okay. 22 Q After that, S7, is performed, which is an area 23 filter, to see if the group passes an area criteria or 24 not. 25 A Okay.</p>	<p style="text-align: right;">131</p> <p>1 A Correct. 2 Q And 39D is selecting pixels of the portion of 3 the image having characteristics corresponding to the 4 feature to be detected, right? 5 A Okay. 6 Q Next one, 39E, is forming at least one 7 histogram of the selected pixels, right? 8 A Yes. 9 Q F is analyzing the at least one histogram over 10 time to identify characteristics of the feature to be 11 detected? 12 A Yes. 13 Q And G is said feature being the iris, pupil or 14 cornea, right? 15 A Yes. 16 Q Eye diagram for you. 17 Please mark this. 18 THE REPORTER: 2015. 19 (Deposition Exhibit No. 2015 20 was marked for identification.) 21 MR. COULSON: Thank you. 22 Counsel, I think I gave you my copy. Could you 23 possibly share with the witness? 24 MR. COOK: Sure. 25 \\\</p>
<p style="text-align: right;">130</p> <p>1 Q And only after that area criteria step, then 2 the number of peaks in projection histograms Steps 8 3 through 10 is performed? 4 A Okay. I agree with that. 5 Q That's the end of that question. We can put 6 that aside. We're going to move to the '518. 7 A Okay. 8 Q I'll send you 1001 where we're discussing 9 2017-01190. This is the '518 patent. I'll hand you 10 your declaration, Exhibit 1002, for IPR 2017-01190. 11 Do you need a copy, Counsel? 12 MR. COOK: If you have an extra one. 13 MR. COULSON: I do. 14 BY MR. COULSON: 15 Q And if you'll open the patent to Claim 39. 16 A Okay. 17 Q To make sure we're using the right letters, 18 I'll just start on Columns 37 through 39. You can look 19 wherever you'd like. I'll open your declaration to 20 Page 54. 21 So we can agree that 39C element is the 22 identifying a portion of the image of the face 23 comprising the feature to be detected using an 24 anthropomorphic model based on the location of the 25 identified facial characteristic, right?</p>	<p style="text-align: right;">132</p> <p>1 BY MR. COULSON: 2 Q I just want to get our terminology and basic 3 eye anatomy straight before we dive in. 4 Exhibit 2015 is some eye anatomy diagrams. Do 5 you have any disagreement, looking at the top image, 6 with the fact that the cornea is separate from the 7 sclera, s-c-l-e-r-a, which is the white part of the eye? 8 The cornea is shown in light blue. The sclera 9 is shown in darker purple. You would agree those are 10 separate parts of the eye? 11 A I'm not an expert in anatomy. The notation of 12 iris, pupil and cornea were referred to in those terms 13 in both the '518 and in the other elements that I 14 utilized, the prior art and so on. So I'm not sure. Is 15 there a situation where the sclera needs to be separate 16 from the cornea? 17 Q Well, let me do this: We're going to talk 18 about prior art, et cetera. The material does mention 19 the sclera, which is the white part of the eye. 20 Do we agree that the sclera is the white part 21 of the eye or should we -- you're not recalling at this 22 point? 23 A I don't know that eye anatomy was part of my 24 opinion. Certainly the feature being the iris, pupil or 25 cornea was part of the opinion. The references all</p>

133

1 describe the term iris, pupil and cornea. And I think
2 when we go over those, if there's a question maybe we
3 can refer back to this. But I don't have an opinion on
4 the anatomy of the eye.
5 Q Okay. Well, let me just set the table here so
6 that -- and then we'll move on as you suggest.
7 So the top of Exhibit 2015 shows the sclera and
8 cornea, and the bottom of Exhibit 2015 shows the cornea,
9 iris and pupil.
10 And just sitting here so far you don't have
11 any -- you don't disagree with how these are laid out
12 based -- in 2015?
13 A No. I don't have any disagreement of how
14 they're laid out.
15 Q Well, we'll move on, and if at any time you
16 would like to come back to Exhibit 2015 or refer to it,
17 we can do it. Hopefully this will help with the
18 process.
19 A Okay.
20 Q Now, let's go -- having that out of the way,
21 let's go to the Claim Element 39D, please.
22 This is claim of the '518.
23 A Okay.
24 Q Do I understand -- we've obviously read your
25 declaration. I'd like to see if I understand your

134

1 opinion correctly about how you're interpreting 39D.
2 Are you interpreting 39D selecting pixels of
3 the portion of the image having characteristics
4 corresponding to the feature to be detected to mean
5 selecting pixels of the portion of the image
6 including -- Actually, strike that. I need to do a
7 little bit more set up.
8 Okay. We've read Element 39D and 39E. My
9 question is this -- are you looking at something else?
10 I'll give you a minute to look at it.
11 A I'm just looking at 39 as you read it.
12 Q 39E, are you interpreting forming at least one
13 histogram of the selected pixels to mean forming at
14 least one histogram including the selected pixels?
15 A I will have to check the references in order to
16 determine if in every case it was what the histogram was
17 to be able to make that determination. So let me take a
18 look.
19 (Brief pause from 3:38 - 3:41 p.m.)
20 BY MR. COULSON:
21 Q Why don't I come back to that question. Let me
22 ask you about a specific reference.
23 A Okay. That would be helpful. I was almost
24 done, but...
25 Q Would you prefer to keep looking or shall we

135

1 come back to it?
2 A It's up to you.
3 Q If you're almost done, go ahead.
4 A Okay.
5 So in looking at Claim 39, you have to look at
6 the claim elements relative to each other. And there's
7 a process here identifying the characteristics of the
8 face other than the feature to be detected, and then
9 identifying a portion of the image of the face
10 comprising the feature to be detected using an
11 anthropomorphic model.
12 When you identify that -- the portion of the
13 image comprising the feature to be detected, then you
14 are selecting pixels of the portion of the image having
15 characteristics corresponding to the feature to be
16 detected. That selection -- I understood that selection
17 not to necessarily be equal to the portion of the image
18 of the face comprising the feature to be detected. And
19 so that selection is just selecting pixels of a portion
20 of the image having characteristics corresponding to the
21 feature being detected, and then forming a histogram on
22 the selected pixels.
23 So the only reason you would select those
24 pixels is to perform that histogram, because you've
25 already identified a portion of the image comprising the

136

1 feature to be detected.
2 So I believe -- I believe I was expecting that
3 selection to be -- the selection of pixels to be the
4 selection of the pixels that would be used for the
5 histogram.
6 Q Let me break that down a little bit. So
7 figure -- 39C we're selecting a portion of the image
8 that includes, for example, an iris? Do you follow me?
9 A Are you talking about a specific reference?
10 Q No. I want to understand your opinion about
11 39D, so I want to ask some follow up -- I would like to
12 ask some follow-up questions.
13 A Okay.
14 Q So 39C, we're identifying part of the image of
15 the face that includes the feature to be detected which
16 would be the iris, pupil or cornea, right?
17 A Uh-huh.
18 Q Does 39D require selecting part of the portion
19 of the image identified in 39C, or can 39D be all of the
20 portion of the image identified in 39C?
21 A No. No. I believe those are different
22 portions. And I'm looking at my analysis of Eriksson.
23 And I believe in identifying the individual steps for
24 this, in fact, the histogram is -- when I did the
25 analysis forming at least one histogram of the selected

<p style="text-align: right;">137</p> <p>1 pixels isn't necessarily the histogram – I mean, the 2 pixels I used for the histogram aren't necessarily all 3 of the pixels that were selected from the image having 4 characteristics corresponding to the feature to be 5 detected. And I believe this Eriksson example – this 6 Eriksson example demonstrates that. 7 So in 39E – I'm on Page 45 of the report. 8 Forming at least one histogram of the selected pixels, 9 Eriksson forms a histogram of a line passing through the 10 pupil. 11 And for 39D, selecting pixels of a portion of 12 the image having characteristics corresponding to the 13 feature to be detected, in order to get to that point 14 where you can find a histogram of a line passing through 15 the pupil, you have to find the eyes first. And so I 16 outlined that. 17 So I believe I misspoke a moment ago. The 18 selection of pixels that are used for the histogram is 19 not necessarily the selection of the portion of the 20 image having characteristics corresponding to the 21 feature to be detected. 22 And I believe that's also the case for the '518 23 patent. When I was looking at their – at '518's 24 disclosure, the specification, I believe the parts of 25 their examples that I mapped to – let me take a quick</p>	<p style="text-align: right;">139</p> <p>1 whether the eye is open or closed. That's what you mean 2 by open frame, closed frame, right? 3 A Yes. That's my understanding. 4 Q And the matching function -- Strike that. 5 The way the match value is determined is by the 6 matching function, $M(x,y)$ I guess in the middle of the 7 left hand column of 318; is that right? 8 A Yes. 9 Q And the matching function is determined from 10 three points, a computed center of the pupil, and then 11 two other points, a radius away from the computed center 12 of the pupil on Line Y; is that right? 13 A Yes. The match function is computed at three 14 points. 15 Q So the figure -- or the graph shown in Figure 5 16 is not used in calculating the match value, right? 17 A No. Wrong. There's some unknown variables 18 here. One is -- one set of variables is XY, the center 19 of the eye, of the pupil, center of the pupil, and 20 another variable is R, the radius about the eye, which 21 is the radius of the iris. And I believe those 22 parameters need to be set according to the histogram. 23 Q There's a template, an iris template disclosed 24 on Pages 316 and 317, right? 25 A Yes.</p>
<p style="text-align: right;">138</p> <p>1 look here. 2 So one example is Figure 27 of the '518. You 3 can see histograms generated of the eye area there. And 4 that eye area is significantly refined from the eye area 5 located in Figure 26. 6 Q Let me hand you Eriksson exhibit previously 7 marked as 1005. Can you refer to Paragraph 103 of your 8 declaration, which I believe you may have been looking 9 at. 10 So I'd like to ask you about the -- it looks 11 like you've opened to Page 317, 318 of Eriksson, right? 12 A Uh-huh. 13 Q Let's talk about the detection of fatigue as 14 disclosed in this reference. Okay. So I'm looking at 15 the Detection of Fatigue header on Page 317, in that 16 section. 17 A Yes. 18 Q So what Eriksson does is it determines a match 19 value for each frame. For example, there's an average 20 match value found for the first number of frames during 21 initialization, right? 22 A So there's a match value that -- when the match 23 is significantly lower than the average, then it's a 24 closed frame, otherwise it's an open frame. 25 Q And that match value is how Eriksson determines</p>	<p style="text-align: right;">140</p> <p>1 Q And the center of the pupil is determined from 2 the template, right? 3 A It doesn't say what they use for X and Y for 4 that equation on Page 318. They do mention that when 5 the eye is closed they have trouble keeping track of the 6 center of the pupil, and so they use the minimum peak at 7 distance R from the pupil, and that leads to a good 8 match when the eye reopens. 9 So I think when the eye is closed, there's an 10 example where X and Y are recomputed from the histogram. 11 Q And where is the disclosure of X and Y being 12 computed from the histogram, what you called a 13 histogram? 14 A Yeah. Right above results and future work on 15 Page 318. When the eye is open the valley in this 16 intensity curve corresponds -- corresponding to the 17 pupil will be surrounded by two large peaks 18 corresponding to the sclera. When the eye is closed 19 this curve is usually very flat in the center. However, 20 the latter case there is no pupil to center the curve on 21 which can lead to very unpredictable shape. 22 In order to minimize the risk of having one big 23 peak nearby due to noise, we always use the minimum peak 24 at the distance R from the pupil. This will lead to a 25 very good match when the eye is open and very likely a</p>

<p style="text-align: right;">141</p> <p>1 bad match when the eye is closed. 2 Q And that's what you're relying on for your 3 basis for saying Figure 5 is used? 4 A Yes. 5 Q Let's talk about Figure 5. What does it mean? 6 And you have your declaration still open. 7 A Yes, I do. 8 Q It's Paragraph 103. 9 So what is the characteristic curve -- I'm 10 reading from the section you quoted on Paragraph 103, 11 okay, in Eriksson. What is the characteristic curve 12 generated by plotting the image intensities along the 13 line going through the pupil from left to right? 14 A This is described by Eriksson in the title of 15 this section as a horizontal histogram across the pupil. 16 Q Do you -- are you asserting that the curve 17 generated by plotting image intensities along a line 18 going through the pupil from left to right is a 19 histogram? 20 A Yes. I'm following Eriksson's disclosure that 21 it is a histogram. 22 Q Other than Eriksson calling it a histogram, do 23 you have any other basis for calling a plot, a 24 horizontal plot of image intensities for, on one line, a 25 histogram in accordance with the claim?</p>	<p style="text-align: right;">143</p> <p>1 papers have been peer reviewed. We believe you will 2 agree their quality is excellent." These papers plus 3 several sessions have been organized into a variety of 4 tracks. 5 So this paper went through a peer-review 6 process. So in addition to the authors, who are -- who 7 work in the artificial intelligence, robotics and vision 8 laboratory, you have the reviewers for an IEEE 9 conference that would agree that this is a histogram. 10 Q Does the plot of image intensities along the 11 line going through the pupil from left to right of 12 Eriksson, does that count anything? 13 A Yes. 14 Q What does it count? 15 A Anytime that you're looking at luminance -- for 16 example, when you're using a luminance histogram, an 17 intensity histogram, you're looking at a region of the 18 image. Intensity is basically a count of power, of 19 radiometric power, numbers of photons, so in this case 20 you've got a histogram of the number of photons coming 21 off of the eye in a single line. And this is a -- this 22 is a histogram of those photons. 23 Q Does the curve generated by plotting the image 24 intensity across the line going through the pupil from 25 left to right of Eriksson show the frequency of</p>
<p style="text-align: right;">142</p> <p>1 A Well, in addition to them referring to it as a 2 histogram, they are using it as a histogram and not as 3 an image. So the -- they're analyzing peaks and valleys 4 in the same way that you would analyze peaks and valleys 5 of a histogram. 6 Q And that qualifies it as a histogram in 7 accordance with the use of histogram in Claim 39? 8 MR. COOK: Objection. Form. 9 THE WITNESS: I think we've seen several 10 different forms of histograms, projection histogram and 11 luminance histogram. These are all referred to in 12 general as histograms. And this example here is also 13 referred to as a histogram. 14 BY MR. COULSON: 15 Q Are you using the ordinary and customary 16 meaning of histogram in your analysis or are you 17 applying a special meaning based on the disclosure of 18 '518 patent? 19 A I'm not using a special definition of histogram 20 that '518 would have produced because '518 didn't give 21 me a specialized definition of histogram. I'm using 22 customary and ordinary usage of this. 23 Eriksson was published in the IEEE conference 24 on Intelligent Transportation Systems. It says here 25 "All papers received in response to their call for</p>	<p style="text-align: right;">144</p> <p>1 occurrence of anything? 2 A Yes. It shows the frequency of occurrence of 3 photons. 4 Q And how does it show the frequency of 5 occurrence of photons? 6 A The intensity value is the number of photons 7 that would be emitted or received or detected in a given 8 amount of time. 9 Q If you look at the very -- let's look at 10 Figure 5. The very left-hand bar on the left-hand side, 11 are you with me on that? 12 A Yes. I see the left-hand bar. 13 Q What does that bar represent? 14 A I believe that bar represents the intensity of 15 a left most pixel in that line. 16 Q Do the bars on the graph of Figure 5 show how 17 many pixels on the line going through the pupil have a 18 certain intensity value? 19 A Yes. I believe each of these bars indicates 20 the intensity value of a pixel on that line going 21 through the pupil. They also indicate the frequency of 22 photons or other radiometric energy, radiometric power 23 specifically, from that line going through the eye. 24 Q Let's look at the left-hand bar, again, on 25 Figure 5. Let's say that's a value of 255 for</p>

<p style="text-align: right;">145</p> <p>1 intensity, for assumption purposes. Are you with me? 2 A I can assume that. That would be 255 sure. 3 Q I say that because it's kind of at the top of 4 the levels. 5 A Sure. It's an assumption because we don't have 6 a vertical scale. 7 Q Does the curve generated by plotting the image 8 intensities along the line going through the pupil from 9 left to right shown in Figure 5 count how many pixels on 10 that line have an intensity of 255? 11 A No. This is not a histogram of intensity. 12 Q Is there a requirement that the plot of image 13 intensities along the line going through the pupil count 14 how many pixels on the line have certain intensity 15 value? 16 A No. A projection histogram, for example, 17 doesn't count the number of pixels that have the same 18 intensity. 19 Q Is the curve shown on Figure 5 a projection 20 histogram? 21 A I didn't try to formulate it as a projection 22 histogram. I treated it as a histogram as denoted by 23 the title of this section, as denoted by the caption of 24 Figure 5 stating these two are histograms corresponding 25 to an open and closed eye respectively.</p>	<p style="text-align: right;">147</p> <p>1 second example I'm looking at a projection histogram. 2 And they are -- they're identical. So you can have the 3 same data. In one case it's an image scan line, in the 4 second case it's a histogram. It's just how you define 5 it, how you use it, what it's being used for. And in 6 the second case it would be a projection histogram. 7 BY MR. COULSON: 8 Q So was that a yes? 9 A To which question? 10 Q I asked you if the curve -- intensity curve 11 shown on Figure 5 can be represented as a 12 one-dimensional array of intensity values at each value 13 of X. 14 A And the answer is what you see there shown as a 15 histogram is also a plot of the intensity values along 16 that scan line. So it's yes, but it's yes because they 17 happen to be coincident. They happen to be the same 18 data. But just because they're the same data doesn't 19 mean that they're the same thing. 20 A scan line isn't necessarily a histogram. In 21 this case we have a histogram in the same way that I 22 could make a projection histogram of a single row of 23 binary image data, and that projection histogram would 24 be identical to the scan line of binary image data. 25 Q Does the fact that you can represent the</p>
<p style="text-align: right;">146</p> <p>1 Q So you're not offering the opinion that the 2 intensity curve of Figure 5 is a projection histogram; 3 is that right? 4 A There could be a formulation where it becomes a 5 projection histogram. I didn't need to make it a 6 projection histogram in order to have it meet this claim 7 element, so I didn't try to formulate it as a projection 8 histogram. I'm treating it just as a histogram, as it's 9 provided here. 10 Q So you're not offering an opinion that it's a 11 projection histogram? 12 A That's right. 13 Q Could the curve of intensity shown in Figure 5 14 be represented as a one-dimensional array of intensity 15 values at each position X in the line through the pupil? 16 MR. COOK: Objection to form. 17 THE WITNESS: That's an alternative 18 interpretation of this plot in the same way that you 19 could take a one dimensional -- you could take a line of 20 binary pixel values. If I have a -- if I have just a 21 single one dimensional row of pixels, they're either 22 black or white. If I make a projection histogram of 23 that, I get the exact same thing. 24 So in the first case I'm looking at a binarized 25 image, a scan line from a binarized image. In the</p>	<p style="text-align: right;">148</p> <p>1 intensity curve of Figure 5 as a one-dimensional array 2 of intensity values at each value of X disqualify the 3 curve of Figure 5 from being a histogram? 4 A No. The curve in Figure 5 is a histogram. 5 It's labeled a histogram. 6 Q But it's your opinion then that there's no 7 requirement to sort the data of the intensities at -- 8 along a line in Figure 5 in order for it to be a 9 histogram? It can just be the intensity values along a 10 line Y for each X value? 11 MR. COOK: Objection. Form. 12 THE WITNESS: I think Figure 5, the order of 13 these elements is useful for ensuring the distance R of 14 the pupil, ensuring the -- that the statistics, the 15 pupil center and other values remain consistent even 16 when the eye is closed. So I think the ordering of the 17 elements is the same. 18 Another way of looking at this histogram, when 19 we have a projection histogram we're looking at a 20 projection of all of the values onto a single axis. And 21 this is in the IEEE in signal processing, common to 22 computer vision researchers and electrical engineers, 23 it's common to look at projections and slices. And what 24 you're looking at here is a characterization of a 25 two-dimensional image by a single slice.</p>

<p style="text-align: right;">149</p> <p>1 And in signal processing Fourier, 2 F-o-u-r-i-e-r, transforms you have the projection slice 3 there, which shows an equivalence between projections 4 and slices in fourier space. So it's fairly common for 5 computer vision researchers, electrical engineers, 6 anybody working in signal processing, especially with 7 images, to think about projections and slices in the 8 same terms. 9 And what you have here is a slice version of a 10 slice counterpart to a projection histogram. And it's a 11 characterization of your two-dimensional image by just 12 looking at one slice. 13 BY MR. COULSON: 14 Q Well, let me be clear. The image intensity 15 plot of Figure 5, it doesn't explicitly include any data 16 from any other line Y other than the middle -- or other 17 than the line going through the pupil, right? 18 A Yeah. The center of the pupil. 19 Q You're saying it just reflects the information 20 from the image? 21 A Yes. To the point because we're going through 22 the center of the pupil, the eye is -- the eyeball 23 itself is fairly radially symmetric. It's hidden by 24 eyelids, but it's fairly radially symmetric. There's no 25 more information we care about above or below the eye,</p>	<p style="text-align: right;">151</p> <p>1 identified that meets 39C what pixels are selected of 2 that portion for 39D. 3 It seems like you may be making multiple 4 options here so I want to understand your opinion. 5 Okay? 6 A Okay. 7 Okay. So for the example I'm talking about in 8 Paragraph 95, so let's see, this is 39C, so -- and you 9 wanted me to -- this is Page 41. This is where you 10 wanted me to start? 11 Q You can start wherever you'd like. I want -- I 12 see this has your section on 39C and 39D. 13 A Yeah. Okay. So you want 39C and 39D, the 14 regions used for 39C and 39D? 15 Q That's right. 16 A Okay. 17 Q And we're on the same page if you identify -- 18 if you identify a portion of the image in 39C, then that 19 same portion of the image I'd like to know what you're 20 saying is selected from that portion. 21 A Okay. 22 Q We'll try to be organized about it. 23 A Sure. 24 Q Okay. 25 A So 39C, there's an example given on Page 41. I</p>
<p style="text-align: right;">150</p> <p>1 so we've figured out an eye region and then we are 2 passing one line through at precisely the right location 3 that characterizes everything we need to know about the 4 entire region for the purposes of the technology. 5 So that's part of the mind-set behind calling 6 this a histogram. It's a statistical representation of 7 the entire region, of everything you need to know about 8 the entire region in a single one-dimensional graph in 9 the same way that a projection histogram can often give 10 you everything you need to know about a two-dimensional 11 region in a one-dimensional graph. 12 MR. COULSON: Actually, why don't we take a 13 break. Off the record. 14 (Recess taken from 4:20 - 4:29 p.m.) 15 MR. COULSON: Let's go back on the record, 16 please. 17 BY MR. COULSON: 18 Q I'd like to continue to ask about Eriksson. 19 We're going to turn to Page 41 and 42, 43, 44 of your 20 declaration. 21 A Okay. Starting at 41? 22 Q That's correct. 39C and 39D are at issue. 23 I would -- I'd like your help to tell me what 24 you're asserting for Eriksson is the portion that's 25 identified in 39C, and then for each portion you say is</p>	<p style="text-align: right;">152</p> <p>1 think there's other -- going to be others in the chart, 2 but let's look at the example in Paragraphs 94 and 95 3 and so on. 4 There is a vertical center of the face, the 5 centerline, and an area around that line, so I think the 6 specific term is fairly close. 7 So there's a region of the face that is fairly 8 close to that centerline, and that bounds the left and 9 right sides of the search space. 10 And then the vertical bounds are from the 11 histogram of the projected edges. It's a projection 12 histogram of the edge image shown in Figure 2. 13 Q Is that the middle of Figure 2? 14 A Yes. That's the edge image. And then there's 15 projection histogram of that on the right side and the 16 two ends of that largest peak denote the top and bottom 17 of a region. 18 And so that's the region used for identifying a 19 portion of the image of the face comprising the future 20 to be detected using anthropomorphic model based on the 21 location of the identified facial characteristic, so 22 that's the portion of the image identified in 39C. 23 Q So can you summarize for this first option 39C 24 what are the bounds of the portion? 25 A So, for the example I have here starting at</p>

<p style="text-align: right;">153</p> <p>1 Paragraph 94, the left and right bounds are a region 2 fairly close to the centerline. And the top and bottom 3 bounds are the top and bottom of the largest peak of 4 that projection histogram of the edge image. 5 Q Let me stick with this example. Where do you 6 assert that Eriksson bounds a region from the top and 7 bottom -- actually, let me back up. 8 When you say the top and bottom of the peak, 9 what do you mean? The top and bottom of the largest 10 peak? Is that what you said? 11 A Yes. So here's the largest peak and there's 12 the top and there's the bottom. 13 Q So if we have the white peak in the middle of 14 the right of Figure 2, you're pointing to the top and 15 bottom of the -- that peak as the top and bottom 16 vertical, right? 17 A Right. That peak has a valley to the left of 18 it and a valley to the right of it, so I'm pointing to 19 those two valleys. 20 Q The valleys. And where in the reference do you 21 see it -- are you relying on for bounding -- for 22 creating a region with those boundaries of two valleys? 23 A On Page 316 of the lower left corner of the 24 page, since both eyes are likely to be positioned at the 25 same row, HY will have a strong peak on that row.</p>	<p style="text-align: right;">155</p> <p>1 that whole region than in the surrounding regions. So 2 I'm inferring that we use the region instead of your 3 suggestion that we use a single scan line. 4 Q So I understand your 39C, the first option is 5 a -- I guess a rectangular area with the minimum X 6 and -- the minimum X and maximum X values being fairly 7 close to the symmetric center of the face and the 8 vertical minimum and maximum being the top and bottom 9 valley next to the largest peak in the -- shown on the 10 right of Figure 2? 11 A Uh-huh. 12 Q So what's -- tell me about the next element, 13 39D for this option. What's selected? 14 A Are you talking about the selecting pixels of 15 the portion of the image having characteristics 16 corresponding to the feature to be detected, 17 specifically selecting pixels of the portion of the 18 image. And so you want to know what portion of the 19 image I'm using for 39D? 20 Q Well, not exactly. I believe you've identified 21 39C, the portion of the image. 22 A Okay. 23 Q Now I'd like you to tell me in 39D, where 24 selecting pixels of the portion of the image that have 25 characteristics, and can you tell me which pixels you're</p>
<p style="text-align: right;">154</p> <p>1 However, in order to reduce the risk of air we consider 2 the three best peaks for further search. 3 And so the idea is that the eyes are likely to 4 correspond to those peaks. And I'm going by the bounds 5 of that peak, separating that peak from the other two 6 peaks, or any of the other peaks in the image. 7 Q And where in the reference are you asserting it 8 discloses that the peak is not a line, but a vertical 9 region between the two valleys? 10 A Well, the alternative I think you're suggesting 11 is that if I just define the region as the tip of that 12 peak, then I've got a single line. That's not enough 13 room for the eyes at all. There's no region there that 14 the eyes could be in. 15 And in the next section we're finding the exact 16 location of the eyes. We're searching over -- you need 17 to have a search space. Someplace to search for the 18 eyes. 19 And for this to work, I don't think -- I 20 wouldn't expect it to work with a single line being the 21 search region. I think you need a region. The 22 anthropomorphic model used to identify this, the eyes is 23 that -- the eyes have a lot of edges associated with 24 them. 25 This peak indicates that there's more edges in</p>	<p style="text-align: right;">156</p> <p>1 selecting from that portion of the image? 2 A So there's a step in there that furthermore 3 thresholds dark regions. That's in the finding "Exact 4 location of the eyes" section. Following that there's 5 the "Estimate the position of the iris." 6 And so if I can read the language again. So 7 one of the characteristics are that the eyes are darker, 8 and so the section "Finding the exact location of the 9 eyes" is creating a threshold that looks for intensity 10 valleys. It's a threshold of intensity. And then does 11 a raster scan to find four or five regions that could be 12 potential eye locations. 13 Q So for 39C, you told me about a rectangular box 14 that was the portion of the image. For 39D can you tell 15 me -- I'm not sure. Can you break it down for me which 16 pixels are being selected? 17 A Yeah. In that example of looking at the 18 intensity valleys, the selecting pixels of a portion of 19 the image having characteristics corresponding to the 20 feature to be detected, the characteristic is that the 21 eye tends to be darker than -- the eye region tends to 22 be darker than other areas of the face, and you're 23 selecting those pixels that are darker than other pixels 24 in that region that we've already outlined. 25 Q So we're selecting dark pixels?</p>

<p style="text-align: right;">157</p> <p>1 A Yes. That's one of the examples. That's the 2 one I describe in Paragraph 101. So the region in that 3 example in 101 would be the darker -- the darker pixels. 4 Those would be the pixels that were selected. 5 Q And for -- let's just stay on this Option 1 for 6 a second. Let me ask you this: The next element, 39E, 7 where do we form a histogram of the selected pixels? 8 A Right. We're forming a histogram of pixels 9 from a line going through the center of the pupil. And 10 that's -- and that line is in the pixels selected 11 because they were darker. 12 Q You're referring to Figure 5 for satisfying 13 39E? 14 A Yes. 15 Q Okay. That's Option 1. How many other options 16 do we have to go through? 17 A As many as you'd like. 18 Q Well, how many have you identified there in 19 your report? 20 A Certainly 101 describes one of the options, 21 along with Paragraph 100. That sets up the search 22 region. 23 If you go to the charts -- 24 Q Well, why don't we do 101 first and then we can 25 go to the charts, just due to time.</p>	<p style="text-align: right;">159</p> <p>1 A The template as a whole. You are -- you're 2 finding a match for that template and the -- and so then 3 you're selecting pixels in the box surrounding that iris 4 that are then used to support 39E's histogram. 5 Q And can you point me to the box? You're 6 referring to Figure 4? 7 A Yes. The box around the template. The iris 8 template in the example shown in Figure 4. 9 Q Okay. So for Option 2, the box shown in 10 Figure 4 is what you're saying satisfies 39D, right? 11 A Uh-huh. 12 Q And is 39E Figure 5? 13 A Yes. 14 Q Is that for all the options? 15 A Yes. 16 Q So we've covered two options. Is there a third 17 option we have to respond to? 18 A I think those are the only two that I'm aware 19 of. 20 Q All right. Let's go on to something else. 21 Let's go to Stringa 1006. I'll give you that. This is 22 pre marked as 1006, Page 41 in your declaration. 23 A Okay. 24 Q I'm not sure that's the right cite. 25 I guess my question for Stringa is similar to</p>
<p style="text-align: right;">158</p> <p>1 A Okay. 2 Q So this -- we'll call this Option 2. Take me 3 through Option 2. That's in the text of your report. 4 A I don't believe I have charts in here, 5 actually. Yeah. I don't see any charts. 6 So another -- another option is for 39 -- 7 another option for 39D is to use the iris template. 8 Q Oh, I'm sorry. Let's start on 39C, the 9 selecting the portion, or you can tell me it's the same 10 portion. 11 A Yeah. I think 39C is going to be the same 12 portion. 13 Q For all your options? 14 A For at least these two options, yes. 15 Q Again, 39D? 16 A 39D, you could also look at the position of the 17 iris using the template. 18 Q Is that the same as -- the same dark pixels you 19 mentioned before? 20 A No. In Eriksson you do this after you found 21 the dark pixels, but it's another element of Eriksson 22 that satisfies 39D. 23 Q Are you referring to the template? 24 A Yes. 25 Q Which circle in the template is satisfying 39D?</p>	<p style="text-align: right;">160</p> <p>1 what I just asked you. If you could tell me what 2 your -- what portion of the image you're saying is 3 identified for 39D, please. I may not have given you 4 the right cite. 5 A So you want 39C or 39D? 6 Q Let's start with 39C. 7 A Okay. So the example pointed to in 8 Paragraph 98 is the expectation zone of the two eyes. 9 Q Do we have multiple examples to go through? 10 A Yes. So for Stringa that's one location. 11 Q Oh, sorry. Can you point to a box in the 12 reference for the expectation zone so we're clear on 13 what you're saying? 14 A Sure. 15 Q Thanks. 16 A Okay. So that expectation zone is mounted 17 vertically. There's this -- in Figure 6 there is the 18 eye connecting line. 19 Q Is that Z? 20 A Yeah. Z. 21 Q Okay. 22 A It's the maximum of the filtered vertical 23 histogram. And the zone extends above and below it by 24 an amount L1 and L2. 25 Q Okay. Are you referring to the formula at the</p>

<p style="text-align: right;">161</p> <p>1 top of Page 377? 2 A Yes, I am. 3 Q Okay. That's vertical? 4 A Yes. 5 Q What about horizontal? 6 A And then horizontal is -- 7 Q Is it left limit of face and nose axis? 8 A Yes. 9 Q Okay. What is -- I don't mean to put words in 10 your mouth. 11 A Yeah. It also refines that in the next line, 12 but I think left limit of the face and nose axis is more 13 than enough to meet the requirements of the claim. 14 Q And what is selected then? That was 39C. 15 Let's do 39D. What pixels are selected? 16 Is it your opinion 39D is disclosed by Stringa? 17 A Stringa, yes. I'm pointing to the expectation 18 zones of the two eyes. 19 Q Isn't that the same area you identified for 20 39C? 21 A Yeah. I believe so. If they need to be 22 different areas, we could also use the subset of XN 23 minus L3 and XN minus L4, where the L3 and L4 are 24 suitable parameters for the left and right side of the 25 eye. And that's illustrated by those bounds -- those</p>	<p style="text-align: right;">163</p> <p>1 suitable parameter; is that correct? 2 A Right. Suitable means anthropomorphic. 3 Q And how do you know that? 4 A It's suitable. The whole point of this is 5 finding the eyes given the landmarks of the face. And 6 so that distance from the sides of the face to the 7 insides of the eyes is similar to some of the 8 anthropomorphic measurements used -- used in '518, which 9 I've got here someplace. 10 You've got Figure 32 where you're starting from 11 a nostril and finding your way to an eye using 12 measurements. 13 Q Is that your basis for saying suitable means 14 anthropomorphic? 15 A I'm saying suitable means anthropomorphic 16 because I'm reading this as a person of ordinary skill 17 in the art at the time would read this. 18 Q Do you have any other evidence you could point 19 to to support -- do you have any other evidence to 20 support that other than Figure 32 in the '518 patent? 21 A Figure 32 is an example of a process in '518. 22 Q Let me just, to save time -- 23 MR. WHILT: The witness hasn't finished his 24 answer yet. I want to note that for the record. You're 25 cutting him off.</p>
<p style="text-align: right;">162</p> <p>1 tighter bounds in Figure 9. 2 Q Are you referring, for 39D, to the rectangular 3 boundaries in Figure 9, the rectangular shapes in Figure 4 9? I just want to make sure I understood you. 5 A Yeah. Yes. 6 Q And how are those rectangles shown in Figure 9 7 selected from the expectation zone? 8 A Through the parameters L3 and L4. 9 Q And what are L3 and L4? 10 A Those are suitable parameters. 11 Q Is there a disclosure in Stringa of how to come 12 up with L3 and L4? 13 A Those are suitable. They're based on 14 characteristics of a feature to be detected, in this 15 case the eye. So if the boundaries of the sides of the 16 face are where they're expected to be, then L3 and L4 17 would be based on some estimate of how far inset the 18 eyes are from the side of the face. 19 Q How do you know that L3 and L4 are based on any 20 particular characteristic? 21 Well, let's back up. So let me make sure I 22 understand. The disclosure -- let me ask you just about 23 the disclosure of Stringa. 24 The disclosure of Stringa for L3 and L4 is only 25 this statement here on Page 377 where each L is a</p>	<p style="text-align: right;">164</p> <p>1 BY MR. COULSON: 2 Q Anything other than the '518 patent? 3 A I'm showing an example in the '518 patent of 4 similar anthropomorphic measurements that are used in 5 the process disclosed in '518 to indicate that the 6 choice of a suitable parameter in Stringa is also 7 anthropomorphic. 8 Q Right. So anything other than the '518 patent? 9 A I was going to use that as an example. 10 Q Okay. Let me -- can you tell me the next 11 element? We've covered 39D which you, I believe, said 12 is the boxes shown in Figure 9? 13 A Uh-huh. 14 Q What is 39E for that example? 15 A So 39E -- sorry. So Stringa conducts a search 16 for the pupil in that area based on the horizontal gray 17 level distribution. That's on Page 377. 18 Q Is the horizontal gray level distribution on 19 Page 377 what you're pointing to as satisfying the 20 forming at least one histogram of the selected pixels? 21 A Yes. In Paragraph 105. 22 Q And how is the horizontal gray level 23 distribution a histogram? 24 A It's a histogram of the intensity value for 25 each pixel. For each line Y the relative horizontal</p>

<p style="text-align: right;">165</p> <p>1 density is calculated and a band pass filter is applied. 2 And part of that is a histogram of intensity values. 3 Q The band pass, is this -- is the horizontal 4 gray level distribution described in formula Figure -- 5 Formula 12 of Stringa on Page 377? 6 A Yes. That equation is used in the computation 7 of the relative horizontal density. 8 Q And do I understand correctly that -- do I say 9 $G_{sub R}$ and $G_{sub S}$ -- what's that letter? -- S, would you 10 understand -- yes. $G_{sub R}$ and $G_{sub S}$ to refer to the 11 two things on the right of the equals on Equation 12? 12 A Yes. Sub R and sub S. 13 Q Are those filtration functions of the type of 14 Equation 3 in Stringa? That's on Page 372. 15 A Yes. It says that it was obtained as an 16 Equation 4 and Equation 4 is obtained through 17 Equation 3. 18 Q So it's essentially -- do I understand 19 correctly that the horizontal gray level distribution is 20 essentially a smoothed plot of the intensity at a 21 certain horizontal line Y within the box of Figure 9? 22 A Yes. It's an average intensity. 23 Q Is there anything being counted by the 24 horizontal gray level distribution? 25 A Well, there's a summation in Formula 3. These</p>	<p style="text-align: right;">167</p> <p>1 represented by one-dimensional array of intensity values 2 for each value X on the line Y? 3 A Well, I think it's defined as it is here in 12. 4 Is there something more specific than that that we need 5 to address? 6 Q I'd like to address, to make sure I understand 7 the horizontal gray level distribution you're pointing 8 to, it's the values -- the smooth values of intensity at 9 each X position on a particular line Y, right? 10 A Right. 11 Q So we -- 12 A That's $G_{super Y}$ of X. 13 Q We could represent a smooth value -- a smooth 14 intensity value for each value of X on a line Y by a 15 one-dimensional array with Index X, right? 16 A Right. X is the parameter there. 17 Q Does the horizontal gray level distribution 18 represent a frequency of occurrence of anything? 19 A I think it's being treated as a characteristic. 20 I don't know that it measures -- other than as in the 21 previous example, it's a smooth version of a measure of 22 the intensity which is a sub of, for example, photons of 23 radiometric power. 24 Q Why are you calling the horizontal gray level 25 distribution a histogram?</p>
<p style="text-align: right;">166</p> <p>1 average densities could be computed through histograms. 2 They represent the average value of the histogram, a 3 weighted version of a histogram. I don't know 4 specifically how they were computed, what machinery they 5 were computed on. The details just aren't there. 6 Q Other than the filtered functions of Formula 3, 7 is there any other way that horizontal gray level 8 distribution is counting anything? 9 A The horizontal gray level distribution is going 10 to be an average gray level distribution. That will 11 basically be the weighted center bar of the -- of a 12 histogram, for example, of those -- of those pixels. A 13 gray level histogram of those pixels. So this could 14 have been computed with a histogram. 15 Q There's no specific disclosure of that, right? 16 A No. It's a horizontal gray level distribution. 17 That's the extent of the disclosure and the formula that 18 it relates. 19 Q Is the horizontal gray level distribution a 20 smooth intensity plot of only the intensities on the 21 line Y or does it include intensity values from other Y 22 values? 23 A No. I think it's just horizontal. It's just 24 using the value X and it's indexed by Y. 25 Q Could the horizontal gray level distribution be</p>	<p style="text-align: right;">168</p> <p>1 A So Eriksson cites Stringa. Eriksson refers to 2 a similar quantity as a histogram. And I was following 3 Eriksson's nomenclature in looking at a similar quantity 4 here as a histogram. 5 Q The disclosure in Eriksson, is that the 6 material we covered earlier? 7 A Yes. Figure 5. 8 In addition, it's not referred to as a 9 horizontal gray level scan line or horizontal gray level 10 image. It's a horizontal gray level distribution. And 11 it's being treated as a distribution. 12 A distribution is, you know, a statistical 13 graph, and that's how histograms are treated, as 14 distributions, so this is being characterized and 15 utilized as a histogram. 16 And so I'm treating it as a distribution and 17 referring to it with the same tools that you would use 18 for a histogram, because that's how it's being used in 19 Stringa. It's not being used as a simple scan line. 20 Q Is the way in which the data is being used 21 important in characterizing it as a histogram according 22 to the claim? 23 A Yes. 24 Q And how does it make sense to take a second 25 derivative of the horizontal gray level distribution if</p>

<p style="text-align: right;">169</p> <p>1 it's a histogram?</p> <p>2 A A histogram is a distribution. It's not</p> <p>3 uncommon to take the second derivative of a distribution</p> <p>4 to find additional information about a distribution.</p> <p>5 Q So it's -- again, the way the information is</p> <p>6 being treated that helps you in characterizing it as a</p> <p>7 histogram?</p> <p>8 MR. COOK: Objection. Form.</p> <p>9 THE WITNESS: I'm going by how Stringa</p> <p>10 characterizes the data, sets up the data. He very</p> <p>11 easily could have set this up, very simply could have</p> <p>12 set this up and described this as a smooth scan line.</p> <p>13 But he didn't. He set this up as a horizontal gray</p> <p>14 level distribution. That means it's being treated as a</p> <p>15 distribution, similar to how a histogram is a</p> <p>16 distribution, of various pixel characteristics.</p> <p>17 And then the further analysis of that, in this</p> <p>18 case a second derivative is similar to the analysis we</p> <p>19 do of a histogram. For example, looking at the tails of</p> <p>20 the histogram to find appropriate boundaries of a target</p> <p>21 edge, for example.</p> <p>22 BY MR. COULSON:</p> <p>23 Q Let me mark -- you can put that aside. Let me</p> <p>24 hand out what's been previously marked as Exhibit 1009,</p> <p>25 Ando. We'll refer to Paragraph 130 of your declaration</p>	<p style="text-align: right;">171</p> <p>1 pixels. So that's why it's a gradation -- a</p> <p>2 differential gradation histogram, because of what it's</p> <p>3 representing the frequency of.</p> <p>4 Q All right. So just a basic "what" question</p> <p>5 first. Do I understand then that the -- what's being</p> <p>6 called the differential gradation histogram is what's</p> <p>7 shown in the formula at approximately Line 25 of</p> <p>8 Column 18 of Ando, Exhibit 1009?</p> <p>9 A Well, it goes on to say it's also possible to</p> <p>10 calculate the average of the absolute values of every</p> <p>11 difference.</p> <p>12 Q Which one are you relying on as a histogram?</p> <p>13 A I think they both work as histograms.</p> <p>14 Q So do I understand that the -- what's being</p> <p>15 shown in the formula at Column 18 approximately at</p> <p>16 Line 25 is one of the things you're relying on as a</p> <p>17 histogram for Claim 39 based on Ando?</p> <p>18 A Yes.</p> <p>19 Q And what's the other thing you're relying on</p> <p>20 alternatively as a histogram for Claim 39 of Ando?</p> <p>21 A The next sentence says it is also possible to</p> <p>22 calculate the average of the absolute values of every</p> <p>23 difference instead of the sum of the squares.</p> <p>24 Q Just a variation on the formula?</p> <p>25 A Yes.</p>
<p style="text-align: right;">170</p> <p>1 in the '518. And I'm going to ask you to explain how</p> <p>2 the different -- how the, quote, differential gradation</p> <p>3 histogram is a histogram according to claim. Okay?</p> <p>4 A Okay. So this is described in Column 35 in a</p> <p>5 paragraph starting at Row 52, 35, 52.</p> <p>6 Q Okay.</p> <p>7 A Differential gradation histogram is created</p> <p>8 from the region SD. The threshold value TH used for</p> <p>9 detection of the right eye is determined from the</p> <p>10 histogram.</p> <p>11 So that's my determination of a differential</p> <p>12 gradation histogram, is from that paragraph.</p> <p>13 Q Can you look at Column 18 of Ando, please,</p> <p>14 Line 15 and forward.</p> <p>15 Is this providing more detail on the gradation</p> <p>16 that, quote, differential gradation histogram, or am I</p> <p>17 mistaken?</p> <p>18 A No. It says then it creates a differential</p> <p>19 gradation histogram of the region SD.</p> <p>20 Q The differential gradation histogram referred</p> <p>21 to, is that explained in this formula before it,</p> <p>22 Line 25, or no? Is that something else?</p> <p>23 A So this forms a distribution, DFMi, Line 25 as</p> <p>24 the sums of the differences between the J pixel and the</p> <p>25 J minus one pixel squared divided by the number of</p>	<p style="text-align: right;">172</p> <p>1 Q And what's being counted by DMFi, Column 18,</p> <p>2 Line 25?</p> <p>3 A The mean square of the difference.</p> <p>4 Q Could you be more explicit? The mean square of</p> <p>5 the difference of what?</p> <p>6 A The mean square of the difference of each pixel</p> <p>7 with a pixel beneath it in the image. Beneath it</p> <p>8 meaning having -- if it's on -- the -- sorry, the pixel</p> <p>9 next to it, it's the J and J minus one pixel located in</p> <p>10 the same Y direction.</p> <p>11 Q So the Index I for DMF sub i is gray level,</p> <p>12 right, zero to 255?</p> <p>13 A Yeah. It says that there on Line 21.</p> <p>14 Q So, for example, for gray level ten, what is</p> <p>15 being -- what is being counted in that for Index I?</p> <p>16 A So it's the difference between the gray level I</p> <p>17 of the J pixel and the gray level of the J minus one</p> <p>18 pixel next to it. So it's only being computed for the</p> <p>19 pixels at the gray level I, and it's looking at the mean</p> <p>20 difference of the pixels next to those pixels.</p> <p>21 So it's being computed over I which are the</p> <p>22 gray level values. The thing that's being computed is a</p> <p>23 mean square of the difference of neighboring pixels for</p> <p>24 pixels of that value.</p> <p>25 Q And so sorry. What's being counted? Is</p>

<p style="text-align: right;">173</p> <p>1 anything being counted?</p> <p>2 A Yes. It's being counted because there's a</p> <p>3 summation there. It's also being counted per gray</p> <p>4 level. The thing that's being counted is the squared</p> <p>5 difference of the pixel next to it. So if you have a</p> <p>6 pixel of that value I, you're adding up the squared</p> <p>7 difference of the pixel next to it, and then taking an</p> <p>8 average of that over the total number of pixels of that</p> <p>9 same value.</p> <p>10 Q Is what actually goes in, when the process is</p> <p>11 completed to the DMF sub i for a particular eye, an</p> <p>12 average single number that represents an average?</p> <p>13 A So for each element DMFi, yes, it's a single</p> <p>14 number. It's not an average. I mean, it's computed as</p> <p>15 the sum of squares. It's a mean square just for the</p> <p>16 pixels -- just computed for the pixels whose value are</p> <p>17 i.</p> <p>18 Q So each DMFi indirectly reflects a count of</p> <p>19 pixels through some mathematical process?</p> <p>20 A Yes.</p> <p>21 Q And that meets the definition of histogram in</p> <p>22 your opinion?</p> <p>23 A It's not a count of pixels. But, yes, it</p> <p>24 matches the definition of a histogram and it's called a</p> <p>25 histogram here in the specification.</p>	<p style="text-align: right;">175</p> <p>1 A No. And, in fact, I don't have an opinion</p> <p>2 of -- to that effect. I show that in Ando, but it's the</p> <p>3 combination with Suenaga that renders that -- Suenaga in</p> <p>4 combination with Ando makes that element obvious.</p> <p>5 Q You explain that in your report?</p> <p>6 A Only in stating in the ground that the</p> <p>7 combination meets the limitations.</p> <p>8 MR. COULSON: Let's go off the record.</p> <p>9 (Discussion held off the record</p> <p>10 from 5:36 - 5:42 p.m.)</p> <p>11 MR. COULSON: Let's go back on.</p> <p>12 I'm going to pass the witness. I thank you,</p> <p>13 Dr. Hart.</p> <p>14 THE WITNESS: Thanks.</p> <p>15 MR. COOK: We don't have any questions at this</p> <p>16 time either.</p> <p>17 MR. COULSON: Thank you. Let's go off.</p> <p>18 THE REPORTER: The time of the proceedings</p> <p>19 ending is 5:42.</p> <p>20 And you guys wanted a rough?</p> <p>21 MR. COOK: Yes, please.</p> <p>22 MR. WHILT: Yes, please.</p> <p>23 THE REPORTER: And you want this by the 2nd?</p> <p>24 MR. COULSON: The 2nd would be great, if that's</p> <p>25 possible, if that's okay for you.</p>
<p style="text-align: right;">174</p> <p>1 Q Let me give you -- you can put that aside. I'm</p> <p>2 going to give you Suenaga, exhibit previously marked</p> <p>3 1007.</p> <p>4 A Thank you.</p> <p>5 Q Declaration Page 61, Paragraph 133, if you</p> <p>6 would.</p> <p>7 A Okay.</p> <p>8 Q I'll give you -- if you would open to Figure 2</p> <p>9 just so you have it available.</p> <p>10 And in Paragraph 133 of your '518 declaration</p> <p>11 you reproduced part of Figure 2, right?</p> <p>12 A Yes.</p> <p>13 Q What's being -- what are the black areas being</p> <p>14 shown in Figure 2?</p> <p>15 A These black areas are thresholded images of, in</p> <p>16 this case, an eye.</p> <p>17 Q The whole eye?</p> <p>18 A The portion of the eye that satisfies the</p> <p>19 threshold.</p> <p>20 Q Can you differentiate the iris, pupil or cornea</p> <p>21 within the black areas shown in Figure 2 of Ando? Let</p> <p>22 me reask that. Thank you.</p> <p>23 Can you differentiate the iris, pupil or cornea</p> <p>24 from within the black area shown in Figure 2 of Suenaga,</p> <p>25 Exhibit 1007?</p>	<p style="text-align: right;">176</p> <p>1 THE REPORTER: No problem.</p> <p>2 And you guys wanted yours by the 2nd as well?</p> <p>3 MR. COOK: That's fine.</p> <p>4 MR. WHILT: That's fine.</p> <p>5</p> <p>6 (Whereupon, at 5:44 p.m., the deposition of</p> <p>7 JOHN C. HART, Ph.D. was concluded.)</p> <p>8</p> <p>9 ---oOo---</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

A			
ability	149:7, 149:25, 150:3, 150:7, 150:10, 150:18, 151:7, 151:22, 155:12, 155:14, 156:13, 161:5, 162:22, 169:4	activity	adverse
15:4, 98:14, 108:19		10:20, 10:24, 10:25	178:11
able		acts	after
21:8, 21:13, 36:11, 38:14, 134:17		112:3	7:19, 53:20, 57:24, 64:8, 64:17, 64:22, 65:2, 65:20, 96:9, 114:25, 115:9, 115:12, 129:15, 129:22, 130:1, 158:20
about	above	actual	afterwards
8:18, 9:23, 10:4, 12:7, 15:11, 19:3, 20:25, 21:12, 24:1, 24:2, 24:7, 24:10, 25:21, 27:10, 27:14, 27:15, 27:17, 29:9, 29:12, 29:17, 30:12, 30:20, 33:14, 36:6, 37:21, 39:18, 40:15, 43:17, 43:20, 43:21, 48:7, 48:14, 48:21, 48:23, 48:24, 49:8, 52:9, 52:17, 52:22, 52:24, 53:1, 53:2, 54:3, 54:13, 59:21, 62:10, 66:13, 67:9, 72:12, 72:24, 74:24, 76:7, 85:16, 86:4, 86:9, 87:12, 87:14, 90:10, 104:6, 110:24, 111:20, 112:15, 116:21, 117:10, 120:6, 125:23, 129:15, 132:18, 134:1, 134:22, 136:9, 136:10, 138:10, 138:13, 139:20, 141:5,	107:17, 119:11, 140:14, 149:25, 160:23	95:13	65:17
	absence	actually	again
	28:19	16:15, 52:1, 53:15, 64:3, 68:3, 71:15, 72:20, 86:4, 87:8, 87:22, 99:7, 134:6, 150:12, 153:7, 158:5, 173:10	33:13, 53:16, 56:4, 72:2, 76:21, 112:20, 116:24, 128:22, 144:24, 156:6, 158:15, 169:5
	absolute	adapted	ago
	64:21, 171:10, 171:22	46:9	24:8, 119:12, 137:17
	absolutely	add	agree
	38:20	9:15, 10:8, 83:18, 83:20	17:24, 18:9, 69:14, 92:10, 128:20, 128:25, 130:4, 130:21, 132:9, 132:20, 143:2, 143:9
	abstract	added	agreement
	31:20, 70:17, 70:18, 70:23, 71:2	8:17	111:19
	accomplished	adding	ahead
	14:24	55:16, 173:6	61:2, 79:2, 135:3
	accordance	addition	aided
	81:3, 141:25, 142:7	117:21, 123:3, 142:1, 143:6, 168:8	15:3
	according	additional	air
	50:3, 62:25, 108:13, 123:15, 127:2, 139:22, 168:21, 170:3	33:19, 42:3, 48:23, 55:16, 59:19, 83:18, 100:6, 112:16, 114:6, 115:11, 169:4	154:1
	account	address	algorithms
	8:24	5:7, 125:2, 167:5, 167:6	14:19
	accumulated	addresses	all
	55:4, 67:18, 68:24, 123:5	77:20	10:9, 11:14, 12:12, 15:13, 15:24, 20:16, 21:2, 26:21, 41:9, 41:10, 57:1, 57:3,
	achieve	adjacent	
	48:12	125:24	
	across	adjust	
	141:15, 143:24	55:17	
	active	admitted	
	53:11, 53:14, 53:17, 53:19, 54:12, 54:15, 55:22, 56:1, 56:3, 56:7, 56:11, 56:14	81:22	
		advantageous	
		59:17	

<p>57:4, 58:3, 80:7, 80:10, 81:7, 83:1, 83:8, 83:12, 85:21, 86:25, 87:17, 88:20, 89:17, 89:23, 91:14, 96:20, 100:5, 102:22, 103:9, 107:5, 107:22, 108:3, 115:20, 119:10, 121:2, 128:23, 132:25, 136:19, 137:2, 142:11, 142:25, 148:20, 154:13, 158:13, 159:14, 159:20, 171:4 allow 82:12, 83:24 almost 134:23, 135:3 along 68:25, 90:7, 114:2, 141:12, 141:17, 143:10, 145:8, 145:13, 147:15, 148:8, 148:9, 157:21 already 109:18, 126:7, 135:25, 156:24 also 6:3, 27:24, 41:6, 50:15, 57:25, 64:12, 81:13, 96:8, 104:11, 107:2, 108:22, 116:6, 116:9, 117:22, 117:25, 118:19, 118:21, 122:5, 137:22, 142:12, 144:21, 147:15, 158:16, 161:11, 161:22, 164:6, 171:9, 171:21,</p>	<p>173:3 alternative 146:17, 154:10 alternatively 103:22, 171:20 alton 4:9 always 140:23 america 1:5, 2:11 among 17:22, 70:19, 117:21 amount 8:7, 8:15, 9:13, 9:14, 53:4, 111:10, 115:14, 144:8, 160:24 amounts 9:16 analogous 120:13, 120:17 analyses 64:24 analysis 21:16, 27:3, 27:18, 28:14, 28:18, 28:20, 31:11, 35:9, 36:13, 37:4, 37:9, 37:10, 38:19, 88:15, 90:22, 95:1, 96:8, 98:17, 111:10, 113:24, 113:25, 114:2, 114:6, 114:13, 115:1, 115:15, 119:6, 119:8, 125:1, 126:5, 126:10, 136:22, 136:25, 142:16, 169:17, 169:18 analyze 55:11, 98:2, 108:10, 113:17,</p>	<p>113:18, 142:4 analyzed 31:8, 36:9, 47:12, 55:7 analyzing 48:8, 67:6, 131:9, 142:3 anatomy 132:3, 132:4, 132:11, 132:23, 133:4 ando 11:18, 169:25, 170:13, 171:8, 171:17, 171:20, 174:21, 175:2, 175:4 andrews 2:25, 5:18 angeles 2:4, 2:18, 5:1, 5:13, 85:1, 177:2, 178:17 another 27:4, 27:5, 29:2, 30:10, 30:11, 32:16, 40:8, 47:8, 47:9, 63:15, 64:11, 70:21, 93:9, 98:25, 110:6, 139:20, 148:18, 158:6, 158:7, 158:21 answer 7:5, 29:18, 35:22, 39:8, 39:13, 39:20, 39:22, 40:1, 40:2, 55:21, 91:21, 120:2, 128:23, 147:14, 163:24 answering 7:4 anthropomorphic 130:24, 135:11, 152:20, 154:22,</p>	<p>163:2, 163:8, 163:14, 163:15, 164:4, 164:7 any 9:14, 11:11, 11:18, 11:20, 11:21, 11:22, 12:2, 19:6, 20:25, 24:9, 24:14, 28:18, 28:20, 28:21, 31:7, 31:11, 31:13, 31:14, 31:16, 34:25, 41:22, 56:13, 57:8, 57:11, 57:15, 64:5, 64:10, 81:4, 100:13, 100:15, 100:20, 103:24, 104:8, 114:11, 115:11, 115:14, 123:18, 123:23, 125:19, 132:5, 133:11, 133:13, 133:15, 141:23, 149:15, 149:16, 154:6, 158:5, 162:19, 163:18, 163:19, 166:7, 175:15 anybody 149:6 anything 29:7, 36:6, 73:23, 93:22, 96:14, 116:21, 117:5, 117:10, 143:12, 144:1, 164:2, 164:8, 165:23, 166:8, 167:18, 173:1 anytime 143:15 anyway 122:2 apart 113:18</p>
---	---	--	--

<p>apologies 8:18, 58:19 apologize 71:16, 122:16 appeal 1:3 appear 36:5, 42:13, 47:20, 62:25 appearances 2:8, 5:15 appearing 5:24 appears 6:18, 49:8, 122:22 application 28:23, 32:16, 37:13, 39:24, 65:5, 89:13, 89:16 applications 25:21 applied 19:4, 19:8, 19:12, 19:20, 20:17, 21:2, 21:4, 21:18, 21:23, 22:13, 24:5, 24:17, 29:7, 33:7, 165:1 apply 19:6, 21:13, 34:22, 36:16, 37:12, 88:9, 88:14 applying 28:21, 34:20, 62:22, 95:25, 142:17 approach 46:9, 46:25, 47:5, 48:2, 104:1 approaches 14:19, 46:13, 46:18, 46:19</p>	<p>appropriate 73:20, 169:20 approximate 10:17, 10:18 approximately 8:22, 9:9, 45:15, 51:9, 171:7, 171:15 april 4:19 arctangent 118:14 area 25:8, 25:14, 52:21, 69:15, 69:18, 69:20, 69:25, 80:13, 80:16, 92:11, 92:16, 92:17, 92:23, 93:11, 93:19, 94:4, 97:12, 97:21, 98:9, 119:21, 119:24, 128:13, 129:2, 129:8, 129:13, 129:22, 129:23, 130:1, 138:3, 138:4, 152:5, 155:5, 161:19, 164:16, 174:24 areas 46:25, 97:22, 156:22, 161:22, 174:13, 174:15, 174:21 aren't 137:2, 166:5 around 9:4, 13:19, 34:2, 86:16, 86:25, 122:23, 129:20, 152:5, 159:7 array 105:15, 146:14, 147:12, 148:1, 167:1, 167:15</p>	<p>arrow 41:17, 41:19, 41:21 art 19:9, 19:14, 20:18, 21:3, 21:4, 21:21, 22:14, 22:15, 24:17, 24:18, 24:21, 25:19, 25:20, 27:24, 28:22, 28:23, 29:16, 34:21, 36:11, 36:16, 36:19, 37:13, 38:13, 38:15, 39:19, 39:23, 39:25, 62:6, 65:6, 65:19, 65:21, 88:14, 96:1, 114:16, 132:14, 132:18, 163:17 article 46:5, 61:7, 61:9, 61:11, 61:12, 61:15, 61:16, 61:17 articles 61:17 artificial 143:7 aside 15:7, 61:1, 62:5, 104:7, 127:15, 130:6, 169:23, 174:1 ask 7:1, 19:3, 23:1, 23:17, 48:7, 48:14, 48:18, 51:20, 54:3, 54:5, 59:20, 61:2, 62:10, 72:2, 76:7, 76:21, 78:4, 87:14, 102:9, 111:21, 112:14, 112:19, 120:6, 134:22, 136:11, 136:12, 138:10, 150:18, 157:6, 162:22, 170:1 asked 34:8, 35:20, 147:10, 160:1 asking 24:1, 24:2, 25:21, 29:9, 29:11, 29:17, 37:25, 38:1, 39:16, 39:18, 49:8, 89:3, 129:15 aspect 58:1 assert 109:7, 109:21, 153:6 asserting 104:18, 114:5, 141:16, 150:24, 154:7 assigning 45:20 assist 11:1 associated 59:18, 92:25, 154:23 assume 145:2 assumption 116:13, 116:15, 125:7, 145:1, 145:5 attempt 47:13, 53:9 attributes 105:8 authors 143:6 automatic 32:17 available 7:16, 49:2,</p>
--	--	---

<p>79:12, 104:8, 174:9 average 54:9, 54:10, 54:13, 54:18, 54:20, 54:25, 55:4, 55:8, 55:13, 57:16, 58:6, 58:9, 58:14, 107:10, 138:19, 138:23, 165:22, 166:1, 166:2, 166:10, 171:10, 171:22, 173:8, 173:12, 173:14 averaged 55:18 aware 12:14, 100:20, 123:18, 125:19, 159:18 away 101:14, 101:17, 108:16, 108:17, 108:21, 139:11 axes 95:12 axis 30:10, 30:11, 31:23, 42:24, 68:25, 69:1, 90:15, 90:16, 90:18, 91:2, 91:3, 91:4, 94:16, 101:9, 101:10, 148:20, 161:7, 161:12</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>b-l-o-b-s 45:7 b2 3:25 back 8:21, 18:14, 22:20, 23:20, 27:8, 31:17,</p>	<p>31:24, 43:24, 44:5, 54:24, 62:3, 62:7, 69:7, 70:14, 70:15, 80:3, 85:9, 85:13, 86:25, 88:23, 90:6, 91:2, 116:1, 133:3, 133:16, 134:21, 135:1, 150:15, 153:7, 162:21, 175:11 background 32:23, 33:19, 33:20, 34:11, 34:13, 63:21, 105:11, 105:14, 107:20, 108:5, 108:11, 112:3, 117:6, 123:13, 123:19, 124:3, 124:4, 124:10, 124:14, 125:20, 125:22, 125:23, 125:25, 126:2, 126:15, 126:19, 126:22, 127:1 bad 82:19, 141:1 band 165:1, 165:3 bar 43:4, 103:2, 144:10, 144:12, 144:13, 144:14, 144:24, 166:11 bars 42:19, 144:16, 144:19 based 6:16, 8:2, 19:10, 22:15, 27:3, 28:2, 28:14, 28:22, 30:1, 32:25, 36:15, 38:10, 39:24, 42:1,</p>	<p>42:14, 46:15, 54:8, 55:8, 58:3, 59:4, 63:19, 64:23, 64:24, 65:3, 74:16, 75:14, 87:20, 92:1, 94:11, 105:8, 115:19, 115:21, 118:25, 122:10, 125:3, 125:11, 126:8, 127:13, 127:24, 129:13, 130:24, 133:12, 142:17, 152:20, 162:13, 162:17, 162:19, 164:16, 171:17 baseline 53:17 basic 30:21, 116:13, 116:15, 132:2, 171:4 basically 22:13, 67:25, 86:22, 86:24, 143:18, 166:11 basis 23:10, 23:14, 42:12, 72:23, 72:25, 99:16, 141:3, 141:23, 163:13 bassman 11:12, 19:2, 104:11, 104:13, 104:18, 104:21, 104:22, 104:25, 105:1, 105:3, 105:17, 106:13, 106:23, 107:5 bayesian 111:16, 111:24, 112:2 bcook@omm 2:20 because 36:15, 43:19,</p>	<p>59:17, 90:7, 99:4, 105:22, 129:4, 135:24, 142:20, 145:3, 145:5, 147:16, 147:18, 149:21, 157:11, 163:16, 168:18, 171:2, 173:2 becomes 146:4 been 6:6, 8:12, 8:20, 8:21, 8:25, 9:10, 10:11, 10:21, 10:23, 10:24, 10:25, 15:9, 16:20, 35:2, 42:11, 43:11, 52:15, 53:20, 61:19, 80:1, 80:22, 83:13, 85:6, 96:9, 99:6, 109:18, 115:21, 121:3, 128:3, 138:8, 143:1, 143:3, 166:14, 169:24 before 1:3, 2:5, 6:19, 6:21, 14:25, 16:5, 20:4, 25:20, 39:7, 49:21, 60:7, 79:9, 85:15, 90:12, 112:19, 114:15, 115:4, 128:13, 129:2, 132:3, 158:19, 170:21, 178:8, 178:9 beginning 5:11, 16:25, 82:24, 116:13, 116:24 begins 45:14, 49:7,</p>
---	--	--	---

<p>77:6 behalf 2:2 behind 150:5 being 7:21, 19:19, 36:12, 42:11, 46:18, 52:3, 55:6, 55:12, 63:5, 63:9, 65:14, 75:9, 86:6, 89:8, 89:9, 89:10, 89:17, 90:21, 96:22, 99:5, 99:7, 99:17, 100:7, 101:4, 101:7, 101:10, 102:10, 105:22, 107:4, 131:13, 132:24, 135:21, 140:11, 147:5, 148:3, 154:20, 155:6, 155:8, 156:16, 165:23, 167:19, 168:11, 168:14, 168:18, 168:19, 168:20, 169:6, 169:14, 171:5, 171:14, 172:1, 172:15, 172:18, 172:21, 172:22, 172:25, 173:1, 173:2, 173:3, 173:4, 174:13 believe 11:7, 18:4, 18:6, 20:25, 22:9, 23:9, 23:13, 52:12, 54:18, 60:1, 61:9, 86:3, 90:12, 90:21, 94:22, 101:22, 105:21, 109:2, 109:19, 109:24,</p>	<p>114:8, 115:4, 121:25, 124:1, 124:25, 136:2, 136:21, 136:23, 137:5, 137:17, 137:22, 137:24, 138:8, 139:21, 143:1, 144:14, 144:19, 155:20, 158:4, 161:21, 164:11 below 101:25, 107:15, 117:16, 119:10, 119:19, 149:25, 160:23 beneath 172:7 besides 41:10 best 23:8, 154:2 better 86:15 between 30:17, 30:19, 60:10, 60:16, 82:13, 82:15, 89:19, 117:3, 149:3, 154:9, 170:24, 172:16 beyond 13:20 bi-mobile 63:24 big 140:22 bigger 52:20 bills 7:11 binarized 127:24, 146:24, 146:25 binary 44:24, 146:20, 147:23, 147:24 bins 40:17</p>	<p>bit 13:20, 22:23, 52:11, 54:24, 59:6, 88:12, 91:3, 112:13, 134:7, 136:6 black 70:3, 70:4, 146:22, 174:13, 174:15, 174:21, 174:24 blob 45:10, 45:25, 48:9, 48:17, 48:19, 48:24, 49:23, 49:24, 51:10, 53:16, 55:14, 55:17, 55:23, 56:2, 56:4, 56:12, 56:17, 56:19, 57:2, 57:3, 57:5, 57:19, 57:21, 57:23, 58:5 blobs 45:6, 45:9, 45:10, 45:19, 45:23, 47:1, 47:11, 47:14, 50:15, 50:23, 54:12, 55:5, 55:14 block 71:12, 71:20, 72:4, 76:25 blue 132:8 board 1:3, 23:4 bootstrapping 125:6 both 16:3, 19:13, 65:10, 65:18, 66:19, 96:2, 113:12, 115:5, 132:13, 153:24,</p>	<p>171:13 bottle 15:5 bottom 15:21, 31:21, 33:24, 34:10, 47:6, 51:17, 59:10, 59:12, 68:1, 71:23, 92:7, 92:8, 105:4, 105:23, 106:5, 106:13, 107:13, 108:17, 128:7, 133:8, 152:16, 153:2, 153:3, 153:7, 153:8, 153:9, 153:12, 153:15, 155:8 bound 64:25, 108:2, 125:5 boundaries 18:2, 18:12, 62:15, 62:19, 65:7, 66:1, 66:4, 66:10, 66:21, 66:23, 67:5, 68:2, 68:14, 69:5, 95:16, 95:25, 96:3, 97:3, 97:15, 98:6, 99:15, 100:1, 107:6, 115:2, 115:7, 115:13, 115:18, 153:22, 162:3, 162:15, 169:20 boundary 64:1, 64:3, 68:20, 99:25, 101:11 bounded 78:15, 78:18 bounding 50:17, 50:18, 50:23, 57:21,</p>
---	--	--	---

<p>58:4, 64:20, 115:8, 153:21 bounds 64:17, 64:25, 82:14, 82:15, 93:13, 94:23, 94:25, 95:13, 95:14, 95:15, 98:1, 98:5, 98:18, 107:24, 152:8, 152:10, 152:24, 153:1, 153:3, 153:6, 154:4, 161:25, 162:1 box 58:4, 64:20, 78:4, 78:8, 78:9, 78:11, 78:13, 78:15, 78:17, 78:18, 78:19, 78:25, 79:20, 79:24, 80:17, 80:18, 80:25, 81:1, 81:3, 81:9, 81:16, 82:5, 82:8, 82:12, 82:15, 82:17, 82:22, 83:1, 83:9, 83:12, 83:19, 96:5, 99:11, 115:8, 156:13, 159:3, 159:5, 159:7, 159:9, 160:11, 165:21 boxes 50:17, 50:18, 122:11, 122:14, 164:12 br 110:14, 110:21, 111:5, 111:23, 112:7, 112:24, 116:9, 117:4, 117:9, 123:14, 124:3, 124:22,</p>	<p>125:20 breach 106:18 break 43:11, 43:17, 43:22, 71:5, 83:25, 90:9, 115:24, 136:6, 150:13, 156:15 brian 2:14, 5:20, 10:3 brief 22:19, 23:10, 23:14, 69:11, 134:19 brightness 26:3, 30:18, 30:20 broad 21:18, 26:1 broadway 2:27 brought 16:13, 16:21 built 64:9 bunch 25:16 bus 76:4, 80:3, 93:5 business 5:7, 62:2 button 34:4</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>calculate 171:10, 171:22 calculated 57:16, 58:7, 71:3, 88:4, 107:10, 118:10, 165:1 calculating 119:22, 139:16 calculation 96:6, 109:6</p>	<p>calibration 59:21, 60:1, 60:6, 60:9, 60:15 california 2:5, 2:18, 5:1, 5:8, 5:14, 85:1, 177:1, 177:8, 177:12, 178:4, 178:17, 178:26 call 81:19, 81:20, 142:25, 158:2 called 45:24, 72:5, 86:21, 124:11, 140:12, 171:6, 173:24 calling 141:22, 141:23, 150:5, 167:24 came 12:6 camera 32:18, 58:25, 59:3, 59:14, 117:22, 121:20 can't 10:12, 27:4, 28:14, 42:2, 97:6, 114:12 caption 145:23 care 149:25 careful 66:20 cars 109:2 case 1:8, 1:13, 5:22, 19:2, 19:21, 21:9, 36:11, 47:8, 49:16, 49:25, 50:1, 50:8, 56:16, 64:19, 67:23, 100:6,</p>	<p>104:10, 107:9, 134:16, 137:22, 140:20, 143:19, 146:24, 147:3, 147:4, 147:6, 147:21, 162:15, 169:18, 174:16 cases 19:20, 19:22, 19:23, 20:17, 21:3, 21:6, 21:13, 21:17, 21:21, 21:23, 24:18, 24:23, 32:8, 38:13, 38:15, 56:1, 56:3, 57:11, 57:15, 65:9, 66:6, 68:15, 68:16, 125:6 categories 73:16 categorization 108:24 categorize 108:10 categorized 102:24 category 73:16 center 13:17, 48:22, 54:3, 54:7, 54:14, 55:7, 60:17, 118:11, 118:16, 139:10, 139:11, 139:18, 139:19, 140:1, 140:6, 140:19, 140:20, 148:15, 149:18, 149:22, 152:4, 155:7, 157:9, 166:11 centered 54:13, 105:7, 106:1, 106:8, 106:17 centering 54:4</p>
--	--	---	---

<p>centerline 152:5, 152:8, 153:2 central 69:20 centroid 54:9, 54:11, 54:13, 54:19, 54:25, 55:2, 55:8, 55:17, 56:20, 57:10, 57:16, 57:19, 57:24 centroids 58:12, 58:13 certain 16:4, 73:10, 75:8, 75:16, 144:18, 145:14, 165:21 certainly 39:2, 39:15, 43:13, 59:6, 74:2, 77:24, 112:11, 115:22, 123:20, 132:24, 157:20 certificate 178:1 certified 178:3 certify 177:6, 178:5, 178:11, 178:14 cetera 48:9, 132:18 chance 48:17, 54:4 change 55:8, 63:14, 63:17, 63:24 changed 63:20, 71:15 changing 54:14 character 61:6, 61:22, 62:2</p>	<p>characteristic 22:3, 22:5, 22:9, 23:21, 23:22, 24:10, 26:5, 26:15, 28:4, 28:15, 29:10, 29:22, 31:1, 130:25, 141:9, 141:11, 152:21, 156:20, 162:20, 167:19 characteristics 131:3, 131:10, 134:3, 135:7, 135:15, 135:20, 137:4, 137:12, 137:20, 155:15, 155:25, 156:7, 156:19, 162:14, 169:16 characterization 148:24, 149:11 characterize 25:11, 127:9 characterized 70:13, 126:2, 168:14 characterizes 124:7, 150:3, 169:10 characterizing 168:21, 169:6 charge 7:10 charged 7:21 charges 7:24, 8:3 chart 121:1, 152:1 charts 25:16, 40:5, 40:6, 110:3, 120:21, 157:23, 157:25, 158:4, 158:5 check 23:12, 81:25,</p>	<p>134:15 checked 128:12, 128:14, 129:1, 129:3 choice 164:6 choose 97:18 chosen 35:5, 96:25, 97:4 chris 2:26, 5:18 chriscoulson@ken- yon 2:30 circle 158:25 circled 122:19, 122:23 circumstances 56:7, 56:13 cite 159:24, 160:4 cited 46:8, 61:24 cites 168:1 citing 60:5, 61:6 civil 5:6 claim 15:19, 15:23, 15:24, 16:2, 16:4, 16:6, 16:24, 17:7, 17:8, 19:3, 19:5, 19:7, 19:21, 20:6, 20:11, 20:17, 20:19, 21:2, 21:4, 21:6, 21:19, 22:10, 22:12, 22:13, 26:12, 26:22, 26:23, 27:7, 28:11, 28:16,</p>	<p>28:19, 28:20, 28:21, 30:3, 31:3, 32:6, 33:7, 33:10, 33:16, 33:17, 36:5, 36:10, 36:19, 37:13, 37:15, 37:21, 37:24, 39:4, 39:17, 39:25, 40:6, 40:7, 40:19, 41:5, 41:6, 64:2, 66:2, 77:16, 88:14, 95:18, 95:23, 96:5, 109:21, 112:20, 114:10, 114:11, 114:16, 115:15, 117:14, 120:20, 121:1, 121:3, 125:14, 130:15, 133:21, 133:22, 135:5, 135:6, 141:25, 142:7, 146:6, 161:13, 168:22, 170:3, 171:17, 171:20 claims 15:16, 19:12, 31:25, 34:21, 38:18, 62:8, 76:12, 88:9, 99:22, 117:14, 125:2, 126:10 class 97:14 classes 17:10, 17:12, 38:9, 77:18 classification 75:4, 75:17, 93:6, 93:7, 93:14 classified 76:16, 107:16, 107:17 classifier 72:8, 72:12,</p>
--	---	--	--

<p>73:14, 73:18, 74:3, 74:10, 74:19, 75:13, 75:23, 75:24, 81:5, 93:22, 111:24, 112:2 classifiers 93:15, 111:16 classify 105:10 classifying 111:6, 111:8 clear 19:21, 21:4, 28:13, 101:8, 128:22, 149:14, 160:12 clicking 33:25 close 68:8, 152:6, 152:8, 153:2, 155:7 closed 138:24, 139:1, 139:2, 140:5, 140:9, 140:18, 141:1, 145:25, 148:16 closer 108:16, 108:21 code 86:21 coincide 96:3 coincidence 81:14 coincident 147:17 colleague 6:3 collected 67:15 collection 70:1, 70:2 collects 13:12, 61:18 color 24:11, 25:24,</p>	<p>26:5, 26:14, 28:4, 28:15, 29:10, 29:20, 29:22, 30:6, 30:7, 30:9, 30:12, 30:18, 30:21, 46:20, 47:8, 63:21 colors 25:11 columns 60:4, 87:11, 92:2, 103:8, 103:11, 130:18 com 2:20, 2:21, 2:30 combination 88:1, 175:3, 175:4, 175:7 come 19:17, 55:1, 125:25, 133:16, 134:21, 135:1, 162:11 comes 38:7, 81:23 comfortable 10:14 coming 12:17, 73:1, 81:6, 143:20 commencement 178:8 commencing 178:18 commission 178:22 common 148:21, 148:23, 149:4 company 7:11, 7:13, 8:3, 9:7 comparison 19:1 completed 27:3, 83:10,</p>	<p>173:11 component 30:21, 48:6, 91:10, 91:11, 91:12 components 47:21, 114:10 composed 38:12 composite 92:15 comprises 18:1, 18:11, 62:14, 62:24, 66:3, 114:21 comprising 130:23, 135:10, 135:13, 135:18, 135:25, 152:19 computation 59:18, 115:15, 165:6 computationally 15:6 computations 101:2 compute 105:5, 106:6 computed 48:25, 58:3, 58:14, 65:2, 65:6, 65:9, 65:17, 65:20, 65:22, 106:3, 109:5, 139:10, 139:11, 139:13, 140:12, 166:1, 166:4, 166:5, 166:14, 172:18, 172:21, 172:22, 173:14, 173:16 computer 3:15, 13:25, 14:10, 14:19, 14:22, 15:3, 61:13, 148:22, 149:5 computing 3:13, 13:1,</p>	<p>13:9, 13:10, 13:13, 13:14, 13:15, 13:17, 57:19, 106:20, 107:14, 109:9, 109:12 concept 30:21, 31:23, 61:15 concert 76:1 conclude 65:3 concluded 176:7 concludes 53:15 conclusion 28:3 condition 93:8 conditions 108:22 conducts 164:15 conference 63:9, 142:23, 143:9 confidence 121:17, 121:19 confidential 7:17 configuration 93:4 configure 82:10, 98:1 configured 80:1, 97:24 configuring 80:7, 81:10 confine 23:1 conform 23:9 confusing 78:24 connected 47:7, 47:21</p>
--	---	---	--

<p>connecting 160:18</p> <p>connective 48:6</p> <p>consider 32:7, 73:15, 74:10, 78:9, 83:11, 87:24, 103:20, 154:1</p> <p>consideration 87:18, 100:2</p> <p>consistent 109:4, 148:15</p> <p>consisting 115:8</p> <p>construct 105:15</p> <p>constructed 65:14</p> <p>construction 58:24, 64:4, 64:6, 67:20, 68:24</p> <p>contain 117:6, 124:15, 126:22</p> <p>contains 124:16</p> <p>context 22:15, 24:18, 24:19, 26:20, 33:17</p> <p>contiguous 45:11, 45:20, 45:24, 46:1, 46:4, 46:14</p> <p>continue 39:7, 75:3, 83:21, 150:18</p> <p>continued 3:28</p> <p>continues 32:19, 126:23</p> <p>contract 7:13, 8:3</p> <p>contrast 108:15</p> <p>contribute 74:20</p>	<p>control 121:19</p> <p>controls 117:19, 117:24, 117:25</p> <p>convenience 116:5</p> <p>converted 45:6, 45:9</p> <p>converter 109:5</p> <p>converting 46:25</p> <p>cook 2:14, 5:20, 12:11, 16:10, 16:15, 20:3, 20:15, 22:7, 23:8, 23:18, 24:13, 26:8, 26:18, 28:7, 28:17, 29:4, 29:13, 29:24, 31:4, 32:5, 32:13, 33:6, 33:15, 34:19, 35:12, 36:1, 36:22, 37:6, 37:20, 38:23, 39:5, 42:4, 42:22, 43:6, 43:10, 45:22, 46:7, 46:16, 47:15, 50:21, 54:17, 55:10, 55:24, 56:21, 56:24, 60:13, 62:21, 66:17, 67:8, 68:12, 68:22, 73:13, 75:20, 79:11, 84:1, 91:15, 92:13, 94:5, 94:21, 95:20, 96:17, 97:9, 98:23, 99:20, 100:17, 101:15, 103:16, 106:15,</p>	<p>107:12, 110:16, 110:22, 111:25, 112:8, 124:5, 124:24, 127:5, 130:12, 131:24, 142:8, 146:16, 148:11, 169:8, 175:15, 175:21, 176:3</p> <p>coordinate 57:22, 64:13, 64:14, 64:15, 66:25, 68:1, 70:9, 80:24, 80:25, 82:10, 82:11, 87:23, 90:4, 90:8, 92:4, 92:5, 94:10, 95:12</p> <p>coordinates 58:5, 70:5, 82:14, 83:13, 91:18, 93:17, 115:9, 118:15</p> <p>copies 16:14, 29:16</p> <p>copy 15:8, 16:15, 16:17, 18:7, 29:14, 40:8, 104:11, 127:17, 130:11, 131:22</p> <p>cornea 131:14, 132:6, 132:8, 132:12, 132:16, 132:25, 133:1, 133:8, 136:16, 174:20, 174:23</p> <p>corner 153:23</p> <p>correct 27:17, 41:24, 43:7, 45:4, 52:5, 59:2, 82:23, 126:16, 131:1, 150:22, 163:1, 177:9</p>	<p>correctly 19:25, 20:12, 56:19, 114:24, 127:2, 134:1, 165:8, 165:19</p> <p>correspond 25:8, 41:23, 43:3, 68:2, 69:2, 70:4, 107:19, 107:20, 154:4</p> <p>corresponding 40:17, 41:20, 82:17, 131:3, 134:4, 135:15, 135:20, 137:4, 137:12, 137:20, 140:16, 140:18, 145:24, 155:16, 156:19</p> <p>corresponds 41:7, 41:18, 41:24, 57:22, 86:21, 140:16</p> <p>costly 59:18</p> <p>could 15:5, 21:23, 26:20, 27:5, 28:10, 29:6, 29:19, 30:9, 33:1, 34:25, 35:2, 35:5, 35:14, 46:13, 52:5, 53:3, 53:12, 55:14, 55:15, 56:25, 57:1, 57:2, 58:1, 58:3, 58:10, 58:12, 59:21, 61:3, 73:17, 73:19, 73:22, 83:18, 92:23, 93:7, 93:15, 94:8, 94:18, 96:23, 97:24, 99:3, 100:1, 100:9,</p>
---	--	---	--

<p>101:2, 102:2, 104:2, 108:22, 121:22, 131:22, 146:4, 146:13, 146:19, 147:22, 154:14, 156:11, 158:16, 160:1, 161:22, 163:18, 166:1, 166:13, 166:25, 167:13, 169:11, 172:4 counsel 2:8, 5:15, 7:18, 9:21, 11:1, 11:6, 11:13, 11:19, 22:21, 40:9, 43:10, 43:16, 79:9, 127:17, 130:11, 131:22, 178:12 count 43:4, 76:16, 143:12, 143:14, 143:18, 145:9, 145:13, 145:17, 173:18, 173:23 counted 165:23, 172:1, 172:15, 172:25, 173:1, 173:2, 173:3, 173:4 counterpart 149:10 counting 166:8 counts 42:24 county 177:2 couple 12:22, 63:3 course 16:9, 16:10 covered 109:25, 159:16, 164:11, 168:6 create 80:8, 82:11</p>	<p>created 170:7 creates 170:18 creating 80:5, 113:3, 153:22, 156:9 creation 100:2, 114:1, 114:2, 115:21 criteria 73:10, 73:12, 75:4, 75:11, 75:17, 93:10, 93:19, 100:16, 103:24, 104:3, 128:13, 129:2, 129:23, 130:1 criterion 103:20 crr 1:20, 2:6 cs 14:8, 14:13 cunningham 46:6 current 55:6, 55:14, 58:11, 76:16, 77:24 currently-select- ed 55:16 curve 140:16, 140:19, 140:20, 141:9, 141:11, 141:16, 143:23, 145:7, 145:19, 146:2, 146:13, 147:10, 148:1, 148:3, 148:4 customary 142:15, 142:22 cutting 163:25</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>d1 70:24, 70:25</p>	<p>dark 41:25, 42:6, 42:19, 44:19, 44:21, 44:23, 45:2, 45:5, 45:18, 45:20, 46:4, 46:25, 47:9, 47:19, 48:4, 48:5, 128:3, 156:3, 156:25, 158:18, 158:21 darker 105:13, 107:19, 132:9, 156:7, 156:21, 156:22, 156:23, 157:3, 157:11 data 40:17, 41:16, 41:21, 41:22, 41:24, 63:10, 64:25, 70:5, 70:6, 73:1, 73:15, 74:8, 74:10, 74:16, 75:2, 75:9, 76:16, 78:20, 79:23, 80:17, 81:6, 81:23, 82:13, 83:20, 87:15, 88:17, 89:25, 90:1, 90:20, 90:23, 91:5, 91:19, 92:2, 92:6, 92:25, 93:16, 96:20, 96:24, 97:7, 98:3, 98:10, 98:15, 98:21, 99:5, 99:7, 99:10, 99:15, 99:17, 100:2, 100:6, 100:7, 100:9, 100:14, 101:6, 101:7, 127:12, 129:6, 147:3,</p>	<p>147:18, 147:23, 147:24, 148:7, 149:15, 168:20, 169:10 datas 83:8 date 8:12 dated 3:25, 4:11, 4:14, 4:18, 4:22, 4:26 dates 62:3 day 9:24, 177:10, 178:21 deals 5:25, 6:1 december 1:18, 2:3, 5:1, 5:11, 85:1, 178:17 decent 53:4 decide 112:2 decided 63:6 decision 83:6, 83:7, 95:12 declaration 4:3, 10:5, 11:2, 11:5, 12:8, 16:8, 16:10, 17:1, 17:15, 17:23, 18:15, 18:16, 18:25, 24:15, 25:5, 26:2, 27:11, 27:15, 30:16, 30:17, 30:23, 36:14, 36:24, 41:13, 49:3, 49:9, 51:5, 58:16, 59:22, 59:23,</p>
--	---	--	---

<p>61:3, 71:7, 71:20, 83:11, 101:20, 104:7, 104:9, 116:6, 120:8, 120:9, 120:25, 122:1, 122:3, 122:18, 130:10, 130:19, 133:25, 138:8, 141:6, 150:20, 159:22, 169:25, 174:5, 174:10 declarations 9:19, 10:9, 11:23, 12:3, 12:4, 16:13 decreasing 53:13, 53:19 define 94:14, 94:17, 98:6, 103:24, 147:4, 154:11 defined 45:19, 47:11, 50:15, 80:13, 80:16, 86:3, 87:9, 93:12, 97:14, 119:2, 167:3 defining 17:12, 21:1 definition 19:17, 24:15, 51:10, 67:11, 88:6, 88:7, 88:10, 101:6, 108:13, 127:10, 142:19, 142:21, 173:21, 173:24 definitions 67:22, 127:9 degrees 86:23, 86:24, 86:25 delineate 114:10 delineated 107:23</p>	<p>demonstrated 19:1, 76:14 demonstrates 41:4, 137:6 denote 152:16 denoted 145:22, 145:23 densities 166:1 density 165:1, 165:7 depend 38:6, 38:11 depending 30:9, 75:3, 89:16 depends 15:23, 20:4, 80:1, 89:24, 113:25 deposition 1:17, 2:1, 5:9, 5:12, 5:24, 6:2, 7:19, 9:18, 10:10, 13:2, 13:22, 79:6, 131:19, 176:6, 178:7, 178:8, 178:9, 178:13, 178:14 depositions 6:21 depressing 34:4 derivative 168:25, 169:3, 169:18 derive 110:24 derived 90:21 describe 15:4, 34:13, 57:25, 133:1, 157:2 described 32:15, 37:24,</p>	<p>46:4, 46:18, 54:7, 54:15, 56:9, 67:12, 74:23, 78:1, 83:23, 83:24, 106:12, 107:2, 141:14, 165:4, 169:12, 170:4 describes 30:17, 47:16, 57:20, 98:14, 98:16, 111:10, 119:7, 126:20, 157:20 describing 13:8, 14:10, 40:16, 45:25, 47:19, 57:24, 72:1, 91:22, 94:23, 103:18 description 3:11, 3:23, 4:2, 44:18, 69:11, 69:16, 69:22, 72:6, 86:20, 88:12, 96:21, 100:18, 116:11, 116:12, 119:25, 120:5, 123:15, 123:25, 124:13, 124:19, 126:8, 128:16 design 15:3, 58:24, 59:4, 75:13 designated 71:21 designed 40:22, 63:8, 121:12 detail 36:3, 170:15 details 166:5 detect 63:18, 103:23 detected 53:16, 53:20,</p>	<p>92:24, 93:1, 130:23, 131:4, 131:11, 134:4, 135:8, 135:10, 135:13, 135:16, 135:18, 135:21, 136:1, 136:15, 137:5, 137:13, 137:21, 144:7, 152:20, 155:16, 156:20, 162:14 detecting 128:17, 129:9 detection 53:18, 53:25, 105:5, 105:11, 107:21, 108:4, 108:11, 138:13, 138:15, 170:9 determination 47:17, 115:19, 134:17, 170:11 determinations 101:12 determine 31:8, 38:12, 38:14, 46:3, 47:14, 47:23, 60:9, 60:15, 92:16, 92:17, 92:19, 92:23, 93:1, 99:14, 101:11, 108:3, 115:1, 115:17, 117:13, 123:19, 124:2, 125:8, 125:9, 126:5, 126:7, 134:16 determined 48:18, 55:9, 66:22, 94:19, 115:9, 126:19, 139:5, 139:9, 140:1, 170:9 determines 47:7, 62:23, 66:24, 138:18, 138:25</p>
--	---	--	--

<p>determining 18:1, 18:11, 45:25, 48:5, 48:25, 62:14, 62:18, 62:24, 66:3 developed 61:19 device 98:2 dfmi 170:23, 173:13 di 70:22, 70:25 diagram 3:19, 131:16 diagrammatically 91:17 diagrams 50:19, 132:4 did 9:8, 9:17, 9:21, 9:22, 10:2, 10:20, 11:1, 11:3, 12:2, 12:20, 21:13, 21:16, 21:25, 24:17, 24:23, 27:6, 27:20, 27:23, 28:1, 28:8, 28:20, 29:5, 31:11, 31:14, 33:9, 36:4, 36:12, 37:10, 38:15, 49:20, 65:5, 70:18, 76:18, 136:24 didn't 10:7, 12:7, 19:6, 19:17, 19:24, 23:11, 24:14, 26:1, 26:9, 28:18, 32:7, 35:13, 36:23, 37:12, 50:5, 88:15, 113:17, 114:10,</p>	<p>114:13, 117:12, 126:5, 142:20, 145:21, 146:5, 146:7, 169:13 difference 63:16, 171:11, 171:23, 172:3, 172:5, 172:6, 172:16, 172:20, 172:23, 173:5, 173:7 differences 30:19, 170:24 different 41:1, 46:19, 60:22, 65:15, 68:21, 69:4, 80:7, 80:8, 85:22, 87:2, 87:5, 94:14, 108:15, 108:20, 118:11, 118:16, 136:21, 142:10, 161:22, 170:2 differential 170:2, 170:7, 170:11, 170:16, 170:18, 170:20, 171:2, 171:6 differentiate 174:20, 174:23 difficult 91:8 digitized 123:3 dimension 52:10 dimensional 146:19, 146:21 dimensionally 30:8 dimensions 47:13, 48:9, 52:2, 52:9, 58:2 direct 50:11 direction 31:22, 46:15,</p>	<p>46:21, 70:10, 70:22, 70:23, 70:25, 86:5, 86:6, 86:9, 86:11, 86:13, 86:19, 86:23, 87:1, 87:6, 87:25, 88:2, 90:8, 90:21, 90:25, 91:1, 92:18, 92:20, 172:10 directionality 90:6 disagree 50:4, 92:10, 133:11 disagreement 132:5, 133:13 disclose 8:2, 35:23, 98:20, 104:23, 109:24 disclosed 19:10, 56:15, 95:17, 138:14, 139:23, 161:16, 164:5 discloses 34:16, 35:9, 37:4, 105:1, 109:7, 109:21, 154:8 disclosure 7:12, 32:25, 33:14, 57:8, 85:19, 85:23, 86:10, 95:21, 100:13, 100:20, 100:23, 102:2, 102:14, 104:20, 116:18, 116:23, 117:2, 117:8, 123:2, 123:11, 123:13, 123:18, 123:23, 124:2, 124:21, 125:19, 137:24, 140:11,</p>	<p>141:20, 142:17, 162:11, 162:22, 162:23, 162:24, 166:15, 166:17, 168:5 disclosures 27:19, 85:14, 87:12, 95:19, 122:10 discretized 103:2 discuss 121:25 discussed 51:17, 70:17, 102:16, 123:24 discusses 36:7, 89:5 discussing 44:5, 62:7, 102:18, 130:8 discussion 22:19, 87:21, 100:25, 101:2, 102:15, 103:17, 104:13, 175:9 disembodiment 76:13 display 60:17 displayed 96:19 displays 123:4 disqualify 148:2 distance 90:24, 140:7, 140:24, 148:13, 163:6 distribution 164:17, 164:18, 164:23, 165:4, 165:19, 165:24, 166:8, 166:9, 166:10, 166:16, 166:19, 166:25, 167:7, 167:17,</p>
--	--	--	--

<p>167:25, 168:10, 168:11, 168:12, 168:16, 168:25, 169:2, 169:3, 169:4, 169:14, 169:15, 169:16, 170:23 distributions 168:14 dive 132:3 divided 170:25 dmf 172:11, 173:11 dmfi 172:1, 173:18 document 12:7 documented 60:24 does 10:4, 19:15, 20:23, 21:7, 29:22, 35:23, 36:5, 37:15, 37:18, 43:8, 47:4, 54:10, 55:13, 58:15, 58:22, 62:18, 62:25, 79:18, 87:16, 95:17, 102:21, 103:14, 106:22, 106:23, 106:25, 109:24, 112:24, 121:15, 121:16, 132:18, 136:18, 138:18, 141:5, 143:10, 143:12, 143:14, 143:23, 144:4, 144:13, 145:7, 147:25, 156:10, 166:21, 167:17, 168:24 doesn't 20:2, 20:11, 20:13, 34:6,</p>	<p>53:24, 55:7, 55:12, 73:11, 98:20, 124:15, 126:22, 140:3, 145:17, 147:18, 149:15 doing 7:4, 14:19, 27:18, 35:9, 37:4, 51:9, 58:10, 115:1 domain 70:19, 70:21, 71:3, 71:12, 71:21, 72:5, 72:11, 72:22, 85:23, 87:5, 87:25, 88:1, 93:8, 93:9 domains 17:11, 31:21, 38:9, 70:19, 71:1, 77:19, 80:7, 86:13, 87:2, 87:3 don't 6:25, 7:13, 7:23, 8:2, 8:12, 8:17, 8:24, 8:25, 9:3, 9:5, 9:10, 9:15, 9:24, 10:7, 10:23, 10:25, 11:9, 11:14, 11:20, 11:25, 12:5, 12:6, 12:19, 20:25, 21:12, 21:15, 22:10, 22:11, 23:13, 23:22, 25:18, 26:1, 26:14, 27:4, 29:2, 31:5, 31:6, 31:13, 31:16, 36:14, 39:12, 41:12, 43:3, 50:4, 57:11, 57:15,</p>	<p>57:18, 58:8, 58:13, 58:15, 62:5, 77:9, 79:2, 80:23, 88:6, 88:9, 93:22, 96:3, 99:3, 100:4, 100:13, 102:15, 115:14, 115:24, 116:21, 117:5, 117:10, 124:25, 132:23, 133:3, 133:10, 133:11, 133:13, 134:21, 145:5, 150:12, 154:19, 157:24, 158:4, 158:5, 161:9, 166:3, 167:20, 175:1, 175:15 done 72:23, 96:9, 114:16, 115:12, 117:3, 127:25, 134:24, 135:3 dots 70:1, 70:3, 70:4, 97:25 dotted 69:25 double-check 64:9 double-sided 16:19 down 71:5, 89:4, 90:10, 116:24, 136:6, 156:15 dp 103:4 dp=1 100:15, 103:15, 103:20, 104:3 dr 4:3, 5:9, 5:23, 6:11, 7:8, 15:7, 16:17, 23:20, 44:2, 85:13,</p>	<p>116:3, 175:13 draw 78:8, 78:23, 78:25, 79:15 drawing 78:12, 79:3, 80:16 drawings 69:12 drawn 80:17, 82:22 drilling 8:14 due 140:23, 157:25 duly 6:6, 85:6, 178:7 during 43:17, 53:18, 53:25, 64:6, 96:7, 138:20</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>e's 159:4 each 11:9, 11:15, 12:7, 19:12, 19:20, 19:21, 21:19, 21:21, 36:11, 38:13, 43:4, 45:24, 47:6, 61:20, 73:9, 75:10, 75:18, 76:1, 76:3, 104:23, 105:5, 105:14, 105:24, 106:5, 107:9, 107:11, 108:4, 108:8, 108:9, 108:24, 114:9, 123:6, 135:6, 138:19, 144:19, 146:15, 147:12, 148:2, 148:10, 150:25, 162:25, 164:25,</p>
--	--	--	--

<p>167:2, 167:9, 167:14, 172:6, 173:13, 173:18 earlier 62:11, 70:16, 114:24, 123:20, 123:24, 168:6 easier 25:2, 35:22, 39:11, 71:6, 78:12, 78:25, 91:23, 128:8 easily 169:11 easy 52:14, 88:24 edelen 1:20, 2:5, 5:7, 178:3, 178:24 edge 152:12, 152:14, 153:4, 169:21 edges 103:24, 152:11, 154:23, 154:25 edu 12:25, 14:8 effect 175:2 effected 128:18, 129:10 effectively 44:13 eight 128:3, 128:11, 128:25, 129:18 either 59:13, 59:19, 78:8, 95:5, 95:8, 105:10, 108:11, 146:21, 175:16 electrical 148:22, 149:5 electronics 1:4, 1:5, 2:10, 2:11, 5:10, 178:12</p>	<p>element 17:7, 17:8, 17:14, 17:18, 17:22, 17:24, 18:9, 18:22, 19:15, 20:1, 20:11, 20:13, 20:22, 21:3, 21:4, 21:6, 21:16, 22:2, 22:4, 22:6, 24:5, 24:9, 24:11, 24:12, 25:4, 25:12, 25:22, 25:25, 26:7, 26:12, 26:16, 26:17, 26:22, 27:7, 28:3, 28:5, 28:16, 29:20, 29:23, 30:3, 31:2, 31:9, 31:17, 31:25, 32:4, 32:12, 33:4, 33:8, 33:14, 33:16, 36:10, 36:16, 37:15, 37:18, 37:21, 37:24, 38:5, 38:7, 38:22, 39:4, 62:10, 62:17, 64:3, 65:5, 68:13, 77:17, 104:14, 104:18, 104:21, 105:2, 109:21, 109:24, 110:15, 110:18, 113:1, 113:2, 113:16, 114:7, 114:9, 114:14, 114:15, 115:2, 115:16, 115:23, 130:21, 133:21, 134:8, 146:7, 155:12, 157:6, 158:21, 164:11, 173:13, 175:4</p>	<p>elements 16:4, 19:5, 19:6, 21:19, 21:20, 22:10, 22:12, 22:13, 28:19, 28:20, 28:21, 28:23, 28:24, 34:20, 34:22, 39:25, 41:5, 88:14, 111:12, 114:11, 117:13, 117:14, 132:13, 135:6, 148:13, 148:17 eliminates 59:18 else 61:2, 96:15, 104:6, 134:9, 159:20, 170:22 embodiment 76:14, 77:19, 77:23, 78:1, 81:10, 83:23, 97:24, 98:5, 99:10, 100:10, 103:7 embodiments 19:13, 57:13, 64:5, 67:15, 78:1 emitted 144:7 employed 47:22 encompass 20:22 encompasses 24:16 encompassing 21:1 end 15:15, 21:25, 62:9, 130:5 ending 175:19 ends 152:16</p>	<p>energy 144:22 engineers 148:22, 149:5 enough 112:7, 112:15, 113:4, 113:15, 126:7, 154:12, 161:13 ensure 57:4, 117:6 ensuring 148:13, 148:14 enter 29:5 entire 150:4, 150:7, 150:8 entitled 23:10 entries 14:8 entry 14:9, 73:21 envelope 103:1 envelopes 91:18, 97:17, 97:18 equal 44:16, 118:25, 119:21, 119:24, 135:17 equals 103:4, 119:12, 165:11 equation 140:4, 165:6, 165:11, 165:14, 165:16, 165:17 equivalence 149:3 equivalent 105:20 eriksson 136:22, 137:5, 137:6, 137:9, 138:6, 138:11,</p>
--	---	--	--

<p>138:18, 138:25, 141:11, 141:14, 141:22, 142:23, 143:12, 143:25, 150:18, 150:24, 153:6, 158:20, 158:21, 168:1, 168:5 eriksson's 141:20, 168:3 especially 106:25, 149:6 esq 2:14, 2:15, 2:26 essentially 19:4, 105:16, 165:18, 165:20 established 124:1 estimate 10:13, 10:15, 156:5, 162:17 estimation 118:12 et 48:9, 132:18 evaluated 75:2 even 10:15, 14:22, 41:8, 59:7, 70:15, 148:15 event 63:19 every 11:15, 114:9, 134:16, 171:10, 171:22 everything 150:3, 150:7, 150:10 evidence 163:18, 163:19 ex 3:12, 3:15, 3:18, 3:19, 3:24, 4:3, 4:8,</p>	<p>4:10, 4:13, 4:17, 4:21, 4:25 exact 8:7, 8:12, 8:24, 9:1, 10:7, 91:7, 146:23, 154:15, 156:3, 156:8 exactly 10:10, 10:15, 11:9, 52:12, 155:20 examination 3:3, 6:9, 85:11 examined 6:7, 19:14, 47:7, 54:12, 85:7 examples 20:5, 20:6, 20:7, 20:10, 20:18, 21:8, 21:21, 25:3, 25:16, 26:2, 26:10, 28:9, 31:7, 31:11, 31:14, 33:7, 33:8, 37:13, 50:6, 50:15, 51:21, 52:20, 62:1, 63:3, 64:10, 65:4, 65:15, 65:17, 65:19, 65:21, 66:6, 66:9, 73:24, 75:25, 96:1, 96:2, 113:3, 113:5, 113:8, 115:5, 115:6, 115:20, 120:19, 121:11, 137:25, 157:1, 160:9 excellent 143:2 excluded 99:6, 100:7 excuse 17:5, 34:14,</p>	<p>61:8, 70:1, 71:11, 92:8 executed 177:10 exhibit 12:24, 13:2, 13:5, 13:21, 13:22, 14:4, 14:13, 15:9, 16:11, 16:18, 16:21, 17:2, 17:5, 18:15, 18:17, 40:13, 44:6, 49:9, 56:9, 57:8, 57:17, 61:6, 61:8, 61:10, 79:6, 79:15, 80:15, 82:22, 83:9, 104:12, 109:19, 116:4, 127:16, 127:18, 127:21, 130:10, 131:19, 132:4, 133:7, 133:8, 133:16, 138:6, 169:24, 171:8, 174:2, 174:25 exhibits 3:22, 3:28, 4:1, 15:7 existence 110:25, 111:1 exists 42:16 expect 42:18, 57:1, 154:20 expectation 160:8, 160:12, 160:16, 161:17, 162:7 expected 25:8, 25:14, 42:12, 52:21, 55:2, 162:16 expecting 136:2</p>	<p>expert 1:17, 2:1, 132:11 expires 178:22 explain 23:10, 38:17, 104:25, 106:23, 120:16, 170:1, 175:5 explained 62:11, 170:21 explicit 172:4 explicitly 45:19, 101:4, 149:15 expressed 24:20 extends 160:23 extent 37:12, 65:13, 69:2, 166:17 extents 65:1 extra 130:12 extracted 64:8 extraction 61:21, 62:4 eye 3:19, 59:1, 59:3, 59:4, 59:5, 59:7, 59:8, 59:15, 131:16, 132:3, 132:4, 132:7, 132:10, 132:19, 132:21, 132:23, 133:4, 138:3, 138:4, 139:1, 139:19, 139:20, 140:5, 140:8, 140:9, 140:15, 140:18, 140:25, 141:1, 143:21,</p>
---	---	--	--

144:23, 145:25, 148:16, 149:22, 149:25, 150:1, 156:12, 156:21, 160:18, 161:25, 162:15, 163:11, 170:9, 173:11, 174:16, 174:17, 174:18 eyeball 149:22 eyelids 149:24 eyes 59:17, 137:15, 153:24, 154:3, 154:13, 154:14, 154:16, 154:18, 154:22, 154:23, 156:4, 156:7, 156:9, 160:8, 161:18, 162:18, 163:5, 163:7	faculty 13:12, 14:8 failed 57:9 failure 55:22, 56:2, 56:11, 56:17, 56:18, 56:23, 57:1, 57:11, 57:15 fair 73:2 fairly 149:4, 149:23, 149:24, 152:6, 152:7, 153:2, 155:6 familiar 6:23, 48:19 far 27:4, 133:10, 162:17 farther 108:16, 108:17, 108:21 fast 49:20, 119:13, 122:15 fatigue 138:13, 138:15 feature 61:21, 62:4, 112:3, 130:23, 131:4, 131:10, 131:13, 132:24, 134:4, 135:8, 135:10, 135:13, 135:15, 135:18, 135:21, 136:1, 136:15, 137:4, 137:13, 137:21, 155:16, 156:20, 162:14 features 61:25 federal 5:5 feel 10:14	felt 20:18 few 50:23, 97:21 field 15:2, 123:6 fields 61:14 figured 150:1 figures 45:1, 50:10, 50:17, 95:22, 103:7, 103:9, 104:2 figuring 35:17 filter 99:10, 129:8, 129:23, 165:1 filtered 160:22, 166:6 filtration 165:13 final 95:23 find 12:12, 12:20, 21:8, 63:8, 63:25, 92:11, 93:10, 94:4, 94:7, 94:8, 110:3, 115:13, 137:14, 137:15, 156:11, 169:4, 169:20 finding 22:5, 24:9, 24:23, 25:11, 25:13, 25:24, 26:5, 26:14, 28:4, 28:15, 29:21, 42:6, 47:20, 110:9, 154:15, 156:3, 156:8, 159:2, 163:5, 163:11 fine 176:3, 176:4	finish 83:4 finished 82:19, 82:22, 83:2, 163:23 first 6:6, 10:21, 31:23, 48:21, 49:24, 60:14, 107:3, 117:16, 118:4, 119:20, 119:24, 124:6, 124:19, 125:17, 125:21, 127:2, 137:15, 138:20, 146:24, 152:23, 155:4, 157:24, 171:5 fit 52:5 five 9:2, 9:3, 9:4, 32:21, 34:6, 34:11, 34:17, 35:10, 35:24, 40:25, 73:17, 73:21, 118:5, 119:16, 156:11 fixed 59:3, 59:5, 59:6, 59:14, 59:16 flat 140:19 floor 2:4, 2:17 fly 65:2, 65:8, 65:10, 65:22, 67:15, 96:7 focus 91:2, 111:15, 121:21, 126:10 focused 33:8 focuses 36:13 focusing 14:23, 99:12
F			
f-o-u-r-i-e-r 149:2 face 130:22, 135:8, 135:9, 135:18, 136:15, 152:4, 152:7, 152:19, 155:7, 156:22, 161:7, 161:12, 162:16, 162:18, 163:5, 163:6 facial 130:25, 152:21 fact 34:23, 35:1, 50:18, 64:23, 65:2, 65:20, 95:17, 111:19, 114:9, 117:8, 132:6, 136:24, 147:25, 175:1 factor 36:4			

<p>follow 136:8, 136:11 follow-up 114:14, 136:12 following 3:28, 5:6, 48:7, 98:15, 141:20, 156:4, 168:2 follows 6:7, 85:7 foregoing 177:8 forget 77:2 form 12:11, 23:3, 24:13, 26:8, 26:11, 26:18, 28:7, 28:17, 29:4, 29:13, 31:4, 32:5, 32:13, 33:6, 33:15, 34:8, 34:19, 35:12, 36:1, 36:22, 37:6, 37:10, 37:20, 38:23, 42:4, 42:22, 43:6, 45:22, 46:7, 46:16, 47:15, 50:21, 54:17, 55:10, 55:24, 56:21, 56:24, 60:13, 62:21, 66:17, 67:8, 68:12, 68:22, 72:22, 73:13, 75:3, 75:20, 78:19, 79:22, 80:18, 81:4, 82:21, 87:15, 88:17, 88:25, 91:15, 92:13, 94:5, 94:21, 95:15, 95:20, 96:15, 96:17, 97:9,</p>	<p>97:20, 98:21, 98:23, 99:20, 100:17, 101:15, 103:16, 106:15, 107:12, 108:8, 110:16, 110:22, 111:6, 111:7, 111:25, 112:8, 113:21, 115:16, 124:5, 124:24, 127:5, 142:8, 146:16, 148:11, 157:7, 169:8 formal 19:17 formation 69:17, 71:11, 71:14, 72:10, 72:13, 77:15, 79:23, 80:2, 80:4, 80:8, 80:20, 81:22, 82:4, 83:14, 83:21, 96:5, 96:7, 97:13, 103:14, 110:13, 112:5, 112:6, 112:14, 112:24, 113:9, 113:14, 114:5, 115:20 formed 38:6, 63:2, 63:4, 63:5, 75:10, 82:7, 82:25, 83:7, 83:17, 94:20, 96:9, 103:4, 105:18, 105:24, 106:13, 107:9, 108:10, 111:22, 115:1, 115:6, 115:10, 115:12, 127:24 forming 16:25, 17:3, 17:8, 17:25, 18:6, 18:10, 22:5, 26:6,</p>	<p>26:15, 37:23, 38:7, 42:1, 62:13, 62:20, 62:23, 66:2, 73:8, 76:9, 76:11, 76:14, 76:18, 76:19, 76:24, 77:1, 77:7, 77:14, 77:17, 77:20, 77:21, 78:2, 82:19, 82:23, 83:2, 83:10, 83:21, 95:7, 98:10, 109:14, 110:20, 110:23, 111:4, 114:20, 114:25, 125:3, 131:6, 134:12, 134:13, 135:21, 136:25, 137:8, 157:8, 164:20 forms 119:8, 137:9, 142:10, 170:23 formula 57:18, 58:8, 58:15, 118:13, 119:2, 160:25, 165:4, 165:5, 165:25, 166:6, 166:17, 170:21, 171:7, 171:15, 171:24 formulas 117:16, 119:11, 119:19 formulate 145:21, 146:7 formulation 91:7, 146:4 forth 23:2, 178:7 forward 170:14 found 11:8, 11:16, 12:1, 12:5,</p>	<p>12:9, 21:17, 95:4, 95:8, 138:20, 158:20 four 32:23, 33:20, 34:11, 34:13, 52:5, 74:14, 74:15, 74:19, 74:22, 74:25, 75:1, 156:11 fourier 149:1, 149:4 frame 54:23, 55:6, 63:15, 79:16, 91:5, 91:6, 91:14, 116:25, 124:11, 138:19, 138:24, 139:2 frames 55:1, 55:9, 55:18, 138:20 freeman 86:21 frequency 143:25, 144:2, 144:4, 144:21, 167:18, 171:3 friday 1:18, 2:3, 5:1, 85:1, 178:17 front 8:21, 116:3 full 51:11, 51:15, 51:25, 52:10, 69:16, 88:15, 91:6, 117:16, 118:4, 120:21, 124:6, 124:20, 125:21, 126:3 function 121:8, 139:4, 139:6, 139:9, 139:13 functions 119:5, 165:13, 166:6</p>
--	--	---	---

<p>further 18:1, 18:10, 47:17, 47:22, 62:14, 66:3, 85:7, 96:23, 112:5, 112:25, 113:5, 113:6, 114:21, 120:7, 121:14, 154:2, 169:17, 178:11, 178:14 furthermore 156:2 future 23:17, 140:14, 152:19</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gave 37:10, 131:22 general 14:22, 15:2, 28:18, 28:20, 29:6, 45:11, 66:13, 114:19, 142:12 generalizing 27:6 generally 6:23, 58:7, 58:23 generate 121:9 generated 93:23, 125:12, 127:11, 138:3, 141:12, 141:17, 143:23, 145:7 gerhardt 11:12, 19:2, 25:6, 25:13, 39:6, 39:9, 39:12, 39:21, 40:1, 40:3, 40:9, 40:11, 40:19, 41:5, 41:17, 41:22, 42:2, 42:5,</p>	<p>44:5, 44:6, 44:18, 45:18, 45:23, 45:25, 46:24, 46:25, 47:16, 49:2, 49:12, 49:16, 50:1, 50:12, 50:14, 51:2, 52:17, 52:18, 53:7, 54:8, 58:17, 58:20, 59:11, 59:14, 60:2, 60:5, 60:6, 104:22 get 12:14, 16:5, 23:20, 25:19, 25:20, 39:11, 61:18, 62:7, 79:14, 82:5, 85:15, 88:23, 89:2, 112:19, 116:3, 118:24, 129:17, 132:2, 137:13, 146:23 gets 64:8, 125:15, 129:12 getting 14:23, 43:10, 123:8 gilbert 4:9, 11:12, 29:14, 29:17, 29:18, 29:19, 30:1, 65:21, 109:18, 109:21, 110:3, 110:13, 110:18, 111:9, 111:17, 111:20, 112:1, 113:12, 113:15, 113:17, 113:19, 114:7, 114:8, 114:10, 116:3, 116:18, 117:2, 117:13, 117:15, 120:8, 120:13, 120:20,</p>	<p>121:2, 121:11, 121:22, 122:11, 123:2, 123:3, 123:8, 123:9, 124:21, 125:1, 125:2, 125:6, 125:11, 125:19, 126:5, 126:8, 127:8 give 8:10, 8:15, 9:13, 10:12, 10:13, 15:18, 22:1, 25:3, 29:25, 37:8, 37:9, 40:1, 40:2, 40:11, 45:15, 48:17, 51:4, 51:22, 59:25, 101:23, 108:19, 120:22, 123:7, 134:10, 142:20, 150:9, 159:21, 174:1, 174:2, 174:8 given 6:21, 7:18, 7:20, 18:7, 27:1, 27:5, 53:6, 87:21, 96:24, 104:25, 112:3, 121:6, 144:7, 151:25, 160:3, 163:5, 178:10 gives 41:6 giving 10:14, 35:14, 103:19 glare 108:15 glauberman 61:7, 62:2 go 22:17, 22:20, 22:23, 31:17, 43:24, 44:5,</p>	<p>61:2, 61:3, 69:7, 69:9, 71:5, 79:2, 82:16, 85:9, 85:14, 88:23, 96:18, 114:14, 119:14, 127:15, 133:2, 133:20, 133:21, 135:3, 150:15, 157:16, 157:23, 157:25, 159:20, 159:21, 160:9, 175:8, 175:11, 175:17 goal 63:25 goals 48:13 goes 7:10, 34:1, 171:9, 173:10 going 11:14, 15:8, 18:16, 31:24, 34:9, 43:11, 63:18, 81:7, 91:5, 104:5, 104:6, 109:17, 109:18, 112:20, 118:3, 127:15, 128:23, 130:6, 132:17, 141:13, 141:18, 143:11, 143:24, 144:17, 144:20, 144:23, 145:8, 145:13, 149:17, 149:21, 150:19, 152:1, 154:4, 157:9, 158:11, 164:9, 166:9, 169:9, 170:1, 174:2, 175:12 good 6:11, 6:12, 7:4, 16:12, 54:22, 140:7, 140:25</p>
--	--	--	--

<p>got 11:20, 18:4, 49:22, 57:4, 60:7, 65:17, 76:2, 81:18, 126:1, 143:20, 154:12, 163:9, 163:10 gradation 170:2, 170:7, 170:12, 170:15, 170:16, 170:19, 170:20, 171:1, 171:2, 171:6 gradient 46:14, 46:20, 46:21 graph 103:2, 139:15, 144:16, 150:8, 150:11, 168:13 graphics 3:16, 14:1, 14:8, 14:11, 14:14, 14:17, 14:18, 14:20 gray 63:14, 63:19, 164:16, 164:18, 164:22, 165:4, 165:19, 165:24, 166:7, 166:9, 166:10, 166:13, 166:16, 166:19, 166:25, 167:7, 167:17, 167:24, 168:9, 168:10, 168:25, 169:13, 172:11, 172:14, 172:16, 172:17, 172:19, 172:22, 173:3 grayscale 41:10 great 175:24 greater 70:9, 70:10,</p>	<p>103:23 greatest 66:25 ground 175:6 grounds 57:14 group 7:23, 32:3, 32:10, 128:3, 128:18, 129:5, 129:10, 129:19, 129:20, 129:23 groups 45:20, 128:11, 128:25, 129:18, 129:19 grows 47:9 growth 103:19 guess 7:16, 52:14, 79:4, 111:16, 122:22, 139:6, 155:5, 159:25 guide 22:22, 23:2 guys 175:20, 176:2</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>had 32:8, 54:4, 70:11, 126:7 hair 63:21 half 51:25, 52:2, 52:3 halfway 89:4 halves 118:11 hand 12:21, 15:8, 16:12, 16:14, 16:17, 104:11,</p>	<p>109:18, 127:17, 130:9, 138:6, 139:7, 169:24, 178:21 hand-drawn 3:18 handed 16:21 handing 40:13 handles 36:3, 36:15, 36:21 happen 48:12, 63:1, 99:3, 147:17 happening 99:4 happens 53:20, 74:21, 90:22, 129:15, 129:19 harder 78:12 hardware 14:22, 58:25 hart 1:17, 2:1, 3:4, 3:14, 3:17, 4:3, 5:9, 5:23, 6:5, 6:11, 6:15, 7:8, 13:25, 15:7, 16:17, 23:20, 44:2, 85:5, 85:13, 116:3, 175:13, 176:7, 177:17, 178:6, 178:15 has 13:25, 15:9, 16:13, 23:4, 42:11, 44:11, 53:20, 57:21, 65:11, 74:6, 74:14, 93:4, 109:18, 115:21, 151:12, 153:17 hashima 11:12, 127:16,</p>	<p>127:21, 127:25, 128:9 hasn't 8:20, 163:23 haven't 8:17, 28:2 having 6:6, 85:6, 91:23, 128:18, 129:10, 131:3, 133:20, 134:3, 135:14, 135:20, 137:3, 137:12, 137:20, 140:22, 155:15, 156:19, 172:8 head 7:5, 59:19, 63:8, 63:18, 63:19 header 138:15 heard 91:21 heavily 58:13 held 22:19, 77:25, 175:9 helmet 58:25 help 16:19, 25:18, 25:19, 30:24, 40:12, 73:5, 77:4, 86:17, 133:17, 150:23 helpful 73:7, 134:23 helps 24:1, 169:6 here 9:25, 10:12, 18:4, 34:9, 36:24, 37:3, 41:3, 41:16, 45:24, 45:25, 46:19, 50:7,</p>
--	--	--	---

<p>53:6, 54:15, 56:15, 60:5, 62:9, 63:10, 63:25, 64:16, 66:21, 67:23, 67:24, 69:17, 69:20, 78:4, 86:20, 89:9, 89:17, 89:21, 105:19, 107:2, 118:6, 133:5, 133:10, 135:7, 138:1, 139:18, 142:12, 142:24, 146:9, 148:24, 149:9, 151:4, 152:25, 158:4, 162:25, 163:9, 167:3, 168:4, 173:25 here's 153:11 hereby 177:6, 178:5 hereinbefore 178:7 hereunto 178:20 hidden 149:23 high 14:14, 14:17, 14:18, 14:20 higher 14:24, 61:18, 105:12 highest 63:25, 66:8, 67:20, 67:25, 89:15 him 16:14, 163:25 his 6:1, 163:23 histograming 83:5 histograms 21:20, 61:25,</p>	<p>62:1, 62:4, 63:23, 69:19, 78:22, 87:15, 88:18, 89:1, 90:13, 91:18, 92:3, 92:15, 93:18, 93:23, 94:3, 94:15, 94:20, 95:1, 95:2, 95:7, 95:11, 96:15, 96:19, 97:2, 97:8, 97:17, 97:18, 98:3, 98:11, 98:18, 98:22, 99:5, 99:14, 99:17, 99:18, 101:13, 102:19, 103:4, 103:14, 103:22, 105:18, 106:12, 108:8, 110:14, 110:20, 110:24, 111:5, 111:22, 112:6, 112:14, 112:17, 112:25, 113:15, 114:3, 114:6, 125:3, 125:8, 125:12, 127:10, 127:12, 128:15, 129:3, 130:2, 138:3, 142:10, 142:12, 145:24, 166:1, 168:13, 171:13 history 27:21, 65:24 hope 2:4, 2:16, 5:13, 178:16 hopefully 133:17 horizontal 42:24, 52:2, 52:9, 52:10, 58:2, 107:24, 108:1, 141:15, 141:24, 161:5,</p>	<p>161:6, 164:16, 164:18, 164:22, 164:25, 165:3, 165:7, 165:19, 165:21, 165:24, 166:7, 166:9, 166:16, 166:19, 166:23, 166:25, 167:7, 167:17, 167:24, 168:9, 168:10, 168:25, 169:13 horizontally 43:1, 52:11, 52:24 hour 8:6, 43:12, 44:4 hourly 7:8, 7:10, 7:21, 7:24, 44:3 however 140:19, 154:1 hue 30:11, 30:25, 31:7, 31:12, 31:13 hues 31:22 humps 63:24 hy 153:25 hypothetical 22:8, 102:11, 102:18, 102:21, 102:23</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>i'll 16:12, 16:14, 16:17, 17:14, 18:8, 18:15, 23:1, 23:8, 44:9, 45:15, 48:17, 54:5, 59:25, 61:1, 61:2, 71:23,</p>	<p>72:1, 72:2, 72:20, 78:23, 80:21, 81:2, 81:12, 88:23, 89:8, 112:12, 112:14, 120:10, 127:17, 128:22, 130:8, 130:9, 130:18, 130:19, 134:10, 159:21, 174:8 i've 16:21, 18:4, 19:1, 22:23, 36:24, 79:15, 79:20, 80:17, 83:8, 83:9, 83:19, 104:25, 126:1, 154:12, 163:9 icon 34:3, 34:24 idea 8:10, 61:15, 63:12, 154:3 identical 147:2, 147:24 identification 13:3, 13:23, 20:19, 21:7, 25:14, 25:15, 26:11, 38:14, 38:16, 79:7, 110:5, 110:6, 111:12, 113:10, 131:20 identified 26:3, 35:24, 38:13, 42:11, 48:4, 56:20, 121:3, 128:4, 130:25, 135:25, 136:19, 136:20, 150:25, 151:1, 152:21, 152:22, 155:20, 157:18, 160:3, 161:19 identifies 30:1, 42:9,</p>
--	---	--	---

<p>44:11, 47:5, 111:1 identify 11:11, 20:23, 25:7, 28:11, 34:6, 34:17, 36:11, 40:22, 41:3, 41:8, 61:25, 105:16, 109:11, 111:11, 111:14, 112:7, 113:4, 114:3, 119:4, 125:10, 125:13, 127:12, 131:10, 135:12, 151:17, 151:18, 154:22 identifying 17:19, 18:5, 18:23, 19:15, 19:18, 19:22, 19:23, 20:1, 20:7, 20:8, 20:11, 20:23, 21:1, 21:24, 22:3, 24:12, 24:16, 24:21, 25:3, 25:12, 25:25, 28:5, 28:16, 29:10, 29:23, 30:25, 31:24, 32:3, 32:7, 32:10, 32:11, 33:5, 37:5, 37:22, 38:3, 38:5, 38:10, 38:21, 38:22, 39:3, 39:4, 39:16, 104:23, 105:2, 109:7, 125:4, 130:22, 135:7, 135:9, 136:14, 136:23, 152:18 ieee 142:23, 143:8, 148:21 ignore 97:24, 98:2</p>	<p>ignored 97:22 illinois 3:16, 6:17, 12:22, 12:25, 13:12, 13:19, 14:1, 14:8 illuminates 113:24 illumination 108:22 illustrated 76:12, 104:1, 124:14, 161:25 illustrates 40:16, 49:23 illustrating 57:20, 103:18 illustration 126:1 illustrative 50:19, 50:24 imagery 54:12 images 46:13, 123:4, 149:7, 174:15 immediately 125:24 implementation 57:12 important 113:11, 168:21 inc 1:6, 2:11 include 15:3, 21:6, 31:21, 43:8, 48:8, 55:14, 70:19, 87:17, 96:8, 149:15, 166:21 included 102:22 includes 15:24, 33:18, 72:14, 121:4, 136:8, 136:15</p>	<p>including 32:23, 76:13, 88:19, 99:6, 134:6, 134:14 incomplete 22:7 incorporated 12:15 increased 53:8, 53:12, 55:22, 56:4, 56:8, 56:10, 56:14 increasing 55:15 increment 73:9, 73:11, 73:18, 73:20, 73:22, 74:8, 74:12, 75:1, 75:11, 75:15, 75:18, 78:20 incrementally 53:8, 53:12, 56:4, 56:8, 56:14 incremented 74:16, 74:22 incrementing 76:7, 76:8, 76:21, 76:23 increments 86:23 indeed 99:10 independent 15:19 index 167:15, 172:11, 172:15 indexed 166:24 indicate 64:19, 64:20, 144:21, 164:5 indicated 109:4 indicates 63:16, 144:19,</p>	<p>154:25 indicating 88:19, 128:3 indication 100:8 indirectly 173:18 individual 28:19, 47:21, 61:20, 113:18, 126:12, 136:23 inertia 48:16, 48:20 inferring 155:2 influence 76:3 inform 95:12 information 39:12, 98:16, 110:24, 111:14, 126:8, 149:19, 149:25, 169:4, 169:5 initial 126:11 initialization 116:22, 117:12, 127:7, 138:21 initialized 117:6, 117:11, 126:6, 126:13, 126:17 initially 116:19, 125:15, 126:16 input 33:2, 73:23, 76:17, 97:7, 98:15, 100:14, 118:17, 118:19, 118:21, 121:19 inputs 76:3, 111:23, 118:3, 118:6, 119:16, 121:13 inset 162:17</p>
--	--	---	---

<p>inside 124:11 insides 163:7 instance 30:2 instead 61:19, 155:2, 171:23 institute 3:13, 13:1, 13:9, 13:10, 13:16 integration 105:7, 106:1, 106:7, 106:8, 106:17, 106:18, 106:24, 107:1, 107:3, 107:25, 108:14, 109:10, 109:14 intel 13:18 intelligence 143:7 intelligent 142:24 intended 60:18 intensities 41:24, 43:8, 113:21, 125:24, 141:12, 141:17, 141:24, 143:10, 145:8, 145:13, 148:7, 166:20 intensity 25:6, 25:7, 28:9, 30:2, 30:6, 30:7, 30:10, 30:12, 30:17, 30:20, 40:17, 40:20, 41:10, 42:6, 42:17, 42:20, 42:23, 43:1, 43:4, 43:5, 44:12, 44:15,</p>	<p>46:15, 46:20, 105:6, 106:7, 107:10, 109:10, 109:13, 110:5, 110:8, 110:13, 110:20, 111:6, 111:8, 111:12, 111:13, 112:6, 113:14, 113:22, 114:4, 114:6, 127:24, 140:16, 143:17, 143:18, 143:24, 144:6, 144:14, 144:18, 144:20, 145:1, 145:10, 145:11, 145:14, 145:18, 146:2, 146:13, 146:14, 147:10, 147:12, 147:15, 148:1, 148:2, 148:9, 149:14, 156:9, 156:10, 156:18, 164:24, 165:2, 165:20, 165:22, 166:20, 166:21, 167:1, 167:8, 167:14, 167:22 inter 4:5, 43:19 interchangeably 89:10 interest 13:13 interesting 89:7, 89:18 interests 14:12 interpretation 18:22, 19:1, 19:5, 20:1, 20:10, 20:13, 21:11, 22:2, 22:4, 24:4, 26:16, 29:6, 31:2, 39:18, 92:22, 146:18</p>	<p>interpreting 38:18, 134:1, 134:2, 134:12 into 16:5, 36:5, 44:19, 45:6, 45:9, 46:14, 52:6, 80:3, 81:22, 82:16, 90:6, 119:5, 124:10, 125:15, 143:3 intricate 111:10 introduces 61:15 invention 32:17, 46:10 invoice 9:11 invoices 7:24, 9:6, 9:7, 9:14 ipr 1:8, 1:13, 5:24, 5:25, 9:20, 11:23, 12:10, 15:10, 16:18, 18:17, 40:14, 43:15, 44:7, 104:12, 130:10 iprs 8:22, 8:23, 10:5 iris 131:13, 132:12, 132:24, 133:1, 133:9, 136:8, 136:16, 139:21, 139:23, 156:5, 158:7, 158:17, 159:3, 159:7, 174:20, 174:23 isn't 137:1, 147:20, 161:19 issue 10:6, 11:23,</p>	<p>22:24, 23:16, 61:22, 128:24, 150:22 itc 6:19 item 42:19, 70:2, 76:5, 81:12, 91:13, 99:19, 100:12, 107:4, 110:9, 110:11, 118:21, 122:23 its 24:10, 41:1, 53:17, 55:17, 59:4, 73:21, 76:15, 92:18 itself 17:20, 18:24, 19:11, 21:25, 37:23, 100:4, 100:5, 100:14, 105:3, 109:8, 110:15, 112:15, 112:25, 113:15, 149:23</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>jain 61:10, 61:24 january 4:23, 178:22 job 1:19, 7:4 john 1:17, 2:1, 3:4, 3:14, 3:17, 4:3, 5:9, 6:5, 6:15, 13:25, 85:5, 176:7, 177:17, 178:6, 178:15 journals 61:13 judgment 24:19 just 5:22, 6:25, 12:7, 18:8,</p>
---	--	--	---

<p>18:15, 23:14, 23:16, 28:13, 31:20, 33:23, 35:7, 37:21, 43:15, 45:10, 48:18, 50:19, 54:5, 56:16, 62:5, 64:9, 65:3, 72:2, 73:4, 75:22, 77:10, 78:12, 80:21, 80:22, 81:20, 86:8, 91:2, 96:12, 106:13, 109:4, 110:3, 111:21, 123:7, 123:16, 125:17, 129:13, 130:18, 132:2, 133:5, 133:10, 134:11, 135:19, 146:8, 146:20, 147:4, 147:18, 148:9, 149:11, 149:19, 154:11, 157:5, 157:25, 160:1, 162:4, 162:22, 163:22, 166:5, 166:23, 171:4, 171:24, 173:15, 173:16, 174:9</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep 64:5, 65:12, 65:13, 121:21, 134:25 keeping 49:1, 54:10, 140:5 keeps 65:11, 76:15 kenyon 2:25, 5:19 kim 5:7 kimberly 1:20, 2:5,</p>	<p>178:3, 178:24 kind 13:11, 61:18, 114:19, 145:3 know 7:13, 7:23, 8:2, 8:17, 9:5, 9:10, 9:11, 9:24, 10:15, 10:17, 10:23, 10:24, 11:9, 12:5, 12:8, 12:13, 21:12, 22:11, 23:22, 25:18, 26:14, 31:5, 42:14, 48:12, 55:12, 60:7, 65:11, 77:20, 77:22, 77:25, 82:18, 93:3, 99:2, 132:23, 150:3, 150:7, 150:10, 151:19, 155:18, 162:19, 163:3, 166:3, 167:20, 168:12 knowing 12:13, 91:7 kurth 2:25, 5:18</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>11 160:24 12 160:24 13 161:23, 162:8, 162:9, 162:12, 162:16, 162:19, 162:24 14 161:23, 162:8, 162:9, 162:12, 162:16, 162:19, 162:24 la 64:17, 64:18,</p>	<p>70:10, 78:15, 78:18, 89:5, 89:19, 93:13, 93:18, 93:21, 94:1, 94:3, 95:14, 96:20, 96:25, 97:19, 98:18, 99:7, 99:12, 100:7 label 100:8, 122:19 labeled 12:25, 60:6, 64:18, 69:21, 72:15, 79:20, 96:4, 105:19, 122:12, 148:5 labeling 129:6 laboratory 143:8 laid 133:11, 133:14 landmarks 163:5 lane 105:20, 107:6, 107:24, 108:2, 108:7, 108:24, 108:25 language 30:22, 32:6, 64:2, 69:3, 97:23, 99:1, 112:20, 156:6 large 140:17 larger 52:11, 53:10 largest 66:11, 152:16, 153:3, 153:9, 153:11, 155:9 last 103:22, 106:25, 119:21, 119:24 later 117:8, 126:19</p>	<p>latter 140:20 law 5:12 laws 177:7 lb 64:17, 64:18, 78:15, 78:18, 89:5, 89:19, 93:13, 93:19, 93:21, 94:1, 94:3, 95:14, 96:20, 96:25, 97:19, 98:19, 99:7, 99:13, 100:7 lc 64:18, 70:10, 78:16, 78:18, 89:5, 89:19, 93:13, 93:19, 93:21, 94:1, 94:3, 95:14, 96:21, 96:25, 97:19, 98:19, 99:7, 99:13, 100:7 ld 64:18, 78:16, 78:18, 89:5, 89:19, 93:13, 93:19, 93:21, 94:3, 95:14, 96:21, 96:25, 97:19, 98:19, 99:8, 99:13, 100:8 lead 140:21, 140:24 leading 23:13 leads 97:23, 98:4, 140:7 least 8:24, 9:24, 16:25, 17:3,</p>
--	--	--	---

<p>17:9, 17:11, 17:20, 17:25, 18:5, 18:10, 18:23, 21:25, 37:22, 38:7, 62:13, 62:23, 62:25, 66:3, 66:25, 77:17, 77:20, 78:2, 104:24, 105:3, 109:8, 114:20, 124:17, 131:6, 131:9, 134:12, 134:14, 136:25, 137:8, 158:14, 164:20 left 41:17, 41:19, 41:21, 42:20, 47:6, 82:14, 111:16, 117:15, 119:2, 120:25, 121:1, 122:17, 123:9, 139:7, 141:13, 141:18, 143:11, 143:25, 144:15, 145:9, 152:8, 153:1, 153:17, 153:23, 161:7, 161:12, 161:24 left-hand 118:4, 119:14, 144:10, 144:12, 144:24 length 118:25 lensing 117:23, 121:20 less 9:11, 44:15 let 12:21, 16:9, 18:14, 22:23, 23:8, 23:20, 25:22, 27:8, 30:22, 31:17, 35:21, 38:3,</p>	<p>40:11, 43:15, 48:7, 48:14, 54:22, 54:23, 55:20, 59:9, 59:10, 60:7, 64:9, 67:10, 69:7, 69:9, 71:5, 72:2, 76:21, 78:4, 78:24, 79:9, 90:9, 91:2, 96:12, 101:23, 111:21, 116:23, 120:10, 132:17, 133:5, 134:17, 134:21, 136:6, 137:25, 138:6, 149:14, 153:5, 153:7, 157:6, 162:21, 162:22, 163:22, 164:10, 169:23, 174:1, 174:21 let's 23:7, 40:3, 43:22, 43:24, 44:5, 51:2, 58:16, 74:2, 78:5, 78:9, 78:18, 81:20, 83:25, 85:9, 86:7, 87:10, 90:9, 101:19, 102:10, 103:3, 103:7, 107:3, 107:19, 114:14, 129:17, 133:20, 133:21, 138:13, 141:5, 144:9, 144:24, 144:25, 150:15, 151:8, 152:2, 157:5, 158:8, 159:20, 159:21, 160:6, 161:15, 162:21, 175:8, 175:11, 175:17 letter 71:21, 165:9</p>	<p>lettering 16:3, 16:5 letters 130:17 level 61:18, 164:17, 164:18, 164:22, 165:4, 165:19, 165:24, 166:7, 166:9, 166:10, 166:13, 166:16, 166:19, 166:25, 167:7, 167:17, 167:24, 168:9, 168:10, 168:25, 169:14, 172:11, 172:14, 172:16, 172:17, 172:19, 172:22, 173:4 levels 145:4 liberty 7:14 lie 89:18 lies 125:7 light 44:19, 99:23, 132:8 lighter 107:20 like 15:3, 15:4, 19:3, 23:12, 24:7, 24:8, 37:8, 39:13, 49:2, 51:3, 51:4, 54:3, 57:15, 59:20, 62:7, 62:10, 76:7, 81:3, 85:13, 86:9, 87:14, 87:22, 97:3, 104:8, 111:15, 116:5, 118:5, 122:12, 128:8, 130:19,</p>	<p>133:16, 133:25, 136:11, 138:10, 138:11, 150:18, 150:23, 151:3, 151:11, 151:19, 155:23, 157:17, 167:6 likely 42:10, 42:16, 63:19, 140:25, 153:24, 154:3 limit 21:15, 21:16, 75:13, 75:23, 81:7, 98:10, 98:12, 98:15, 100:2, 161:7, 161:12 limitation 19:3, 19:21, 20:6, 20:17, 20:19, 24:21, 28:11, 81:2, 95:23, 96:6, 96:14, 97:7, 109:7, 115:11, 115:14 limitations 15:24, 80:25, 81:25, 82:1, 94:4, 175:7 limited 38:15, 87:16, 89:1, 96:6, 99:7, 99:18, 100:15 limiting 81:8, 98:21 limits 28:22, 81:9, 89:6, 89:12, 95:5, 95:8, 96:22, 96:23, 97:19, 97:20 line 32:16, 32:20, 34:2, 40:15, 45:14, 45:24,</p>
---	--	--	--

<p>46:24, 48:1, 48:14, 49:14, 49:19, 49:22, 51:8, 51:14, 51:22, 51:23, 57:20, 69:23, 71:25, 72:17, 72:21, 77:5, 77:10, 77:12, 80:13, 87:21, 89:4, 90:2, 90:19, 91:16, 97:11, 98:13, 100:25, 102:3, 102:4, 102:5, 106:14, 106:22, 107:5, 108:11, 121:6, 137:9, 137:14, 139:12, 141:13, 141:17, 141:24, 143:11, 143:21, 143:24, 144:15, 144:17, 144:20, 144:23, 145:8, 145:10, 145:13, 145:14, 146:15, 146:19, 146:25, 147:3, 147:16, 147:20, 147:24, 148:8, 148:10, 149:16, 149:17, 150:2, 152:5, 154:8, 154:12, 154:20, 155:3, 157:9, 157:10, 160:18, 161:11, 164:25, 165:21, 166:21, 167:2, 167:9, 167:14, 168:9, 168:19, 169:12, 170:14, 170:22, 170:23, 171:7, 171:16, 172:2, 172:13 lines 67:17, 68:4, 69:10, 86:16,</p>	<p>100:23 list 120:21 listed 118:6 lists 119:16 literature 12:13 little 13:19, 22:23, 49:20, 54:24, 64:17, 86:15, 91:3, 101:22, 106:2, 112:13, 119:13, 120:7, 122:15, 134:7, 136:6 llc 1:13, 2:3, 2:24 llp 2:13, 2:25 localize 92:17 locate 12:2, 21:7, 53:9 located 11:24, 12:8, 12:23, 124:23, 126:15, 138:5, 172:9 locating 19:16, 19:23, 19:24, 20:2, 20:7, 20:8, 20:12, 20:14 location 20:20, 20:23, 21:5, 21:14, 21:17, 22:1, 24:7, 24:24, 43:3, 43:8, 54:9, 54:11, 54:13, 54:19, 55:2, 55:17, 60:10, 60:11, 74:15, 74:22,</p>	<p>75:1, 92:23, 94:9, 94:14, 94:17, 124:3, 130:24, 150:2, 152:21, 154:16, 156:4, 156:8, 160:10 locations 42:21, 76:15, 93:2, 94:11, 156:12 long 9:23, 10:16 longer 69:21 look 10:8, 14:12, 15:18, 19:18, 26:20, 31:11, 31:14, 33:9, 34:21, 36:2, 36:3, 39:12, 40:3, 41:12, 45:15, 49:1, 50:5, 50:10, 51:2, 58:16, 59:25, 60:22, 73:4, 78:5, 79:9, 79:10, 80:11, 86:7, 87:10, 89:24, 92:7, 92:25, 93:3, 93:19, 97:3, 100:5, 101:19, 102:5, 103:7, 105:17, 106:22, 112:20, 116:24, 117:15, 118:4, 119:19, 122:17, 130:18, 134:10, 134:18, 135:5, 138:1, 144:9, 144:24, 148:23, 152:2, 158:16, 170:13 looked 11:8, 21:22, 27:9, 27:18,</p>	<p>27:21, 27:24, 85:19, 119:11 looking 16:7, 18:8, 22:12, 26:10, 31:6, 31:19, 31:20, 40:2, 40:20, 44:13, 44:15, 45:1, 45:13, 46:12, 46:23, 51:13, 57:12, 59:24, 60:11, 60:19, 78:4, 87:22, 99:13, 100:12, 107:24, 113:2, 118:10, 119:10, 132:5, 134:9, 134:11, 134:25, 135:5, 136:22, 137:23, 138:8, 138:14, 143:15, 143:17, 146:24, 147:1, 148:18, 148:19, 148:24, 149:12, 156:17, 168:3, 169:19, 172:19 looks 36:25, 87:21, 138:10, 156:9 los 2:4, 2:18, 5:1, 5:13, 85:1, 177:2, 178:17 lot 11:7, 63:12, 99:24, 100:3, 154:23 lower 40:25, 64:18, 81:16, 138:23, 153:23 ls 64:19 ltd 1:4, 2:10 luminance 26:3, 26:10,</p>
--	---	---	---

28:9, 30:18, 30:19, 31:21, 100:15, 142:11, 143:15, 143:16 lunch 83:25, 84:3, 85:13 lying 82:13, 100:9 <hr/> <p style="text-align: center;">M</p> <hr/> machine 83:14 machinery 77:23, 166:4 machines 62:3 made 20:25, 23:5, 24:19, 26:22, 83:7 magnitude 10:16, 46:14, 46:21, 90:24 main 13:15, 33:20 maintaining 126:21, 126:22, 126:23 make 16:4, 24:14, 26:1, 26:9, 27:13, 30:5, 30:14, 35:1, 35:7, 36:23, 37:8, 37:11, 64:25, 79:18, 88:24, 93:18, 93:25, 94:2, 94:14, 96:12, 104:22, 124:21, 130:17, 134:17, 146:5, 146:22, 147:22, 162:4, 162:21, 167:6, 168:24 makes 175:4	making 22:21, 111:23, 129:20, 151:3 many 8:22, 9:9, 10:19, 10:23, 10:25, 61:14, 80:20, 120:19, 144:17, 145:9, 145:14, 157:15, 157:17, 157:18 mapped 137:25 mapping 60:15 march 3:26, 4:27 mark 7:17, 12:21, 12:23, 79:4, 128:19, 129:11, 131:17, 169:23 marked 3:22, 4:1, 13:3, 13:23, 15:9, 16:11, 16:20, 40:25, 41:1, 79:7, 109:19, 127:16, 131:20, 138:7, 159:22, 169:24, 174:2 mass 48:22 match 138:18, 138:20, 138:22, 138:25, 139:5, 139:13, 139:16, 140:8, 140:25, 141:1, 159:2 matches 173:24 matching 139:4, 139:6, 139:9 material 7:17, 132:18,	168:6 materials 9:20, 10:9 mathematical 173:19 matter 5:9, 12:3 matters 10:19, 80:23 max 66:24, 67:3, 67:11, 67:13, 67:16, 67:19, 67:22, 67:23, 68:9, 68:10, 68:15, 68:19, 68:20, 68:24, 69:1, 69:2, 95:2, 96:4, 96:7, 97:15, 98:9, 98:15 maxima 18:2, 18:11, 18:12, 57:23, 57:25, 58:4, 62:15, 62:19, 62:24, 62:25, 63:6, 64:22, 65:7, 65:12, 65:16, 66:4, 66:7, 66:14, 66:16, 66:20, 68:14, 69:4, 95:15, 95:24, 114:21, 114:22, 115:8, 115:17 maximum 65:13, 65:25, 66:1, 89:14, 89:15, 94:24, 101:12, 155:6, 155:8, 160:22 may 4:12, 32:22, 35:20, 35:21, 40:2, 41:22, 46:9, 57:4, 59:7, 60:4,	73:7, 86:2, 89:12, 89:13, 97:13, 97:19, 99:2, 101:22, 103:23, 107:2, 111:15, 138:8, 151:3, 160:3 maybe 16:19, 25:2, 30:23, 30:24, 39:11, 40:11, 59:9, 70:14, 73:2, 78:23, 82:19, 86:15, 89:16, 91:22, 91:23, 133:2 mean 19:24, 48:11, 49:18, 53:23, 60:18, 68:6, 70:8, 76:18, 95:18, 99:1, 100:19, 106:4, 127:6, 134:4, 134:13, 137:1, 139:1, 141:5, 147:19, 153:9, 161:9, 172:3, 172:4, 172:6, 172:19, 172:23, 173:14, 173:15 meaning 19:4, 19:6, 19:8, 108:4, 108:5, 142:16, 142:17, 172:8 means 34:24, 35:2, 54:20, 106:18, 163:2, 163:13, 163:15, 169:14 meant 19:22, 19:23, 52:14 measure 167:21 measurements 163:8, 163:12,
--	--	--	---

<p>164:4 measures 63:14, 167:20 measuring 63:13 meet 9:21, 10:2, 73:11, 75:17, 125:14, 126:9, 146:6, 161:13 meeting 26:21 meets 28:11, 73:10, 75:10, 78:2, 151:1, 173:21, 175:7 members 13:16 membership 13:9 memorable 12:9 memory 32:1, 72:14, 72:15, 72:16, 74:9, 74:13, 74:15, 74:21, 75:1, 75:11, 75:18, 76:8, 76:9, 76:13, 76:15, 76:23, 77:25, 78:21, 82:8, 82:16, 83:16, 83:22 mention 70:18, 89:8, 132:18, 140:4 mentioned 46:5, 70:16, 85:14, 89:8, 89:9, 90:12, 158:19 mentions 31:21, 89:5 met 10:3, 20:6, 20:18, 24:21,</p>	<p>31:8 method 35:23, 46:8, 47:1, 47:4, 47:10, 47:12, 48:1, 48:3 methods 14:19, 46:15, 58:10 microsoft 13:18 middle 71:16, 72:17, 78:11, 83:1, 83:9, 123:10, 139:6, 149:16, 152:13, 153:13 might 46:19, 48:21, 71:6, 78:23, 108:14, 110:2 min 66:24, 67:3, 67:11, 67:13, 67:16, 67:17, 67:22, 67:23, 68:9, 68:10, 68:15, 68:19, 68:20, 68:24, 69:1, 69:2, 95:1, 96:4, 96:7, 97:15, 98:9, 98:14 mind 12:17, 49:1, 85:22 mind-set 150:5 minima 18:1, 18:2, 18:11, 57:23, 57:25, 58:4, 62:14, 62:15, 62:18, 62:24, 62:25, 63:5, 64:21, 65:6, 65:7, 65:12, 65:16, 66:4,</p>	<p>66:7, 66:14, 66:15, 66:20, 68:13, 68:14, 69:4, 95:15, 95:24, 114:21, 114:22, 115:8, 115:17 minimize 140:22 minimum 65:12, 65:25, 66:1, 94:24, 101:12, 140:6, 140:23, 155:5, 155:6, 155:8 minus 161:23, 170:25, 172:9, 172:17 minute 24:8, 119:12, 134:10 miscommunicating 30:15 misleading 59:6 misspoke 137:17 misstated 61:8 misstates 20:3, 20:15, 29:24 mistaken 170:17 misunderstanding 30:6 model 119:6, 119:7, 130:24, 135:11, 152:20, 154:22 modeling 14:14, 15:1, 15:2 moment 48:16, 48:20, 48:21, 48:22, 62:8, 137:17 monitor 32:21</p>	<p>months 9:10, 10:19, 10:23, 10:24 more 9:2, 9:3, 10:21, 17:9, 17:10, 25:23, 30:23, 36:2, 38:8, 38:9, 39:8, 50:18, 58:12, 58:13, 70:15, 77:18, 77:19, 134:7, 149:25, 154:25, 161:12, 167:4, 170:15, 172:4 morning 6:11, 6:12, 109:25 most 144:15 motion 63:19, 88:19, 92:19, 92:20, 92:24, 93:1, 94:24, 101:3 motions 59:8, 93:12 motors 117:22 mounted 58:25, 160:16 mouse 34:4, 34:5 mouth 161:10 move 72:20, 130:6, 133:6, 133:15 moving 34:3, 69:15, 69:18, 92:11, 92:16, 92:23, 93:11, 94:4 much 9:17, 10:4, 10:8, 10:11, 37:9, 45:9,</p>
--	---	---	---

115:11 multi 30:8 multipage 59:24 multiple 32:8, 33:10, 34:22, 35:15, 36:3, 36:4, 36:6, 36:13, 36:15, 36:21, 37:1, 37:5, 45:2, 76:2, 76:3, 80:2, 151:3, 160:9 must 23:4 mux 81:23 myers 2:13, 5:13, 5:21, 178:16 myself 12:13 <hr/> <p style="text-align: center;">N</p> <hr/> name 5:7, 5:18, 6:13 nbpts 67:13 nearby 106:10, 140:23 necessarily 19:24, 20:20, 56:25, 96:3, 135:17, 137:1, 137:2, 137:19, 147:20 necessary 7:18, 36:16, 88:13, 101:5, 126:6 need 26:19, 29:18, 31:18, 32:1, 45:5, 45:18, 51:13, 54:6, 63:1, 65:5,	65:25, 66:15, 67:4, 68:10, 93:18, 93:25, 94:2, 112:19, 117:12, 119:4, 130:11, 134:6, 139:22, 146:5, 150:3, 150:7, 150:10, 154:16, 154:21, 161:21, 167:4 needed 8:21, 10:9, 34:21, 88:9, 111:14 needs 35:1, 53:9, 132:15 negative 35:21 neighborhood 106:2, 106:3, 106:4, 106:9, 106:19 neighboring 172:23 never 34:21 new 2:28, 47:6, 61:15, 93:25, 94:2 next 13:21, 14:12, 15:19, 32:19, 44:18, 45:5, 46:12, 46:23, 97:16, 124:9, 131:6, 154:15, 155:9, 155:12, 157:6, 161:11, 164:10, 171:21, 172:9, 172:18, 172:20, 173:5, 173:7 nicholas 2:15 nick 6:3, 10:3	nod 7:5 noise 120:1, 140:23 nomenclature 168:3 nose 161:7, 161:12 nostril 163:11 notary 178:1, 178:4, 178:25 notation 132:11 note 18:16, 87:19, 163:24 noted 97:22 nothing 12:17 notice 40:24 now 16:14, 25:20, 28:14, 29:17, 61:1, 79:12, 133:20, 155:23 number 9:1, 10:7, 42:24, 44:12, 46:17, 71:13, 86:22, 101:23, 105:9, 121:9, 121:11, 121:18, 121:20, 128:14, 128:19, 129:3, 129:5, 129:10, 129:14, 130:2, 138:20, 143:20, 144:6, 145:17, 170:25, 173:8, 173:12, 173:14 numbers 143:19 numerically 15:5	numerous 108:8 nuys 5:8 nwhilt@omm 2:21 <hr/> <p style="text-align: center;">O</p> <hr/> o'melveny 2:13, 5:13, 5:21, 178:16 object 103:25, 105:4 objection 12:11, 20:3, 20:15, 22:7, 23:3, 23:11, 23:15, 24:13, 26:8, 26:18, 28:7, 28:17, 29:4, 29:13, 29:24, 31:4, 32:5, 32:13, 33:6, 33:15, 34:19, 35:12, 36:1, 36:22, 37:6, 37:20, 38:23, 39:5, 42:4, 42:22, 43:6, 45:22, 46:7, 46:16, 47:15, 50:21, 54:17, 55:10, 55:24, 56:21, 56:24, 60:13, 62:21, 66:17, 67:8, 68:12, 68:22, 73:13, 75:20, 91:15, 92:13, 94:5, 94:21, 95:20, 96:17, 97:9, 98:23, 99:20, 100:17, 101:15, 103:16, 106:15, 107:12, 110:16, 110:22, 111:25, 112:8, 124:5,
---	--	--	--

<p>124:24, 127:5, 142:8, 146:16, 148:11, 169:8 objections 22:21, 23:2, 23:9, 23:13 objects 32:21, 33:25, 34:11, 34:13 observe 119:23 obtained 94:25, 165:15, 165:16 obvious 175:4 obviously 62:9, 87:1, 133:24 occupied 53:4 occupies 53:2 occur 64:21, 64:22 occurred 92:20, 178:15 occurrence 144:1, 144:2, 144:5, 167:18 occurring 26:21 off 9:15, 22:17, 22:19, 22:24, 62:6, 70:12, 143:21, 150:13, 163:25, 175:8, 175:9, 175:17 offering 126:14, 126:16, 126:18, 126:25, 127:6, 146:1, 146:10 office 1:2 offices 5:12, 178:15</p>	<p>often 12:14, 14:21, 30:7, 150:9 oh 61:8, 71:13, 77:12, 77:14, 120:25, 129:4, 158:8, 160:11 once 47:11, 53:15, 82:21, 82:25, 83:7, 83:8, 83:12, 108:9 one-dimensional 69:18, 90:13, 105:15, 146:14, 147:12, 148:1, 150:8, 150:11, 167:1, 167:15 one-ninth 52:25 one-third 52:23, 52:24 ones 11:25, 82:17, 89:18 only 38:21, 39:3, 42:16, 50:23, 57:5, 73:15, 73:18, 74:10, 79:24, 80:17, 81:21, 82:8, 82:12, 82:15, 96:6, 97:12, 97:14, 103:4, 103:14, 103:20, 130:1, 135:23, 159:18, 162:24, 166:20, 172:18, 175:6 onto 148:20 open 116:4, 120:7, 120:8, 130:15, 130:19, 138:24, 139:1, 139:2,</p>	<p>140:15, 140:25, 141:6, 145:25, 174:8 opened 138:11 operated 36:12 operation 51:10, 105:14, 121:7 opinion 24:20, 27:6, 27:9, 27:10, 27:15, 28:22, 29:2, 29:5, 29:21, 34:8, 36:14, 36:18, 36:20, 36:23, 37:7, 37:11, 39:17, 62:17, 99:16, 104:20, 112:12, 112:13, 112:16, 114:8, 114:25, 120:12, 120:17, 125:1, 126:14, 126:17, 126:18, 126:25, 127:7, 127:13, 132:24, 132:25, 133:3, 134:1, 136:10, 146:1, 146:10, 148:6, 151:4, 161:16, 173:22, 175:1 opinions 38:14, 39:24 opportunity 7:17, 15:18 optimized 57:12 option 7:20, 152:23, 155:4, 155:13, 157:5, 157:15, 158:2, 158:3, 158:6, 158:7, 159:9, 159:17 options 151:4, 157:15,</p>	<p>157:20, 158:13, 158:14, 159:14, 159:16 orally 7:4, 7:5, 120:3 order 10:16, 34:22, 38:12, 93:6, 95:12, 97:11, 98:5, 101:23, 115:13, 125:8, 134:15, 137:13, 140:22, 146:6, 148:8, 148:12, 154:1 ordering 148:16 ordinary 19:8, 19:9, 142:15, 142:22, 163:16 organization 13:11 organized 143:3, 151:22 orient 86:17, 117:22, 122:7 orientation 59:7, 118:8, 118:10, 118:13 oriented 31:22, 70:22, 70:23, 70:25, 86:9, 86:10, 86:13, 86:19, 87:1, 87:5, 87:25, 88:2, 92:18 origin 70:12, 90:24, 91:1 other 9:20, 17:22, 19:23, 20:7, 21:19, 25:16, 28:19, 29:17, 33:1, 34:25,</p>
---	--	---	---

<p>37:10, 43:9, 46:13, 48:8, 48:24, 52:8, 56:13, 57:15, 61:14, 64:10, 70:19, 75:25, 76:2, 76:4, 78:9, 79:16, 92:25, 93:7, 93:16, 93:23, 95:22, 95:25, 100:8, 100:12, 100:15, 100:19, 100:20, 101:4, 103:24, 104:3, 107:1, 107:18, 113:7, 113:11, 115:5, 117:14, 117:21, 117:25, 124:19, 125:17, 129:5, 132:13, 135:6, 135:8, 139:11, 141:22, 141:23, 144:22, 148:15, 149:16, 152:1, 154:5, 154:6, 156:22, 156:23, 157:15, 163:18, 163:19, 163:20, 164:2, 164:8, 166:6, 166:7, 166:21, 167:20, 171:19</p> <p>others 8:25, 13:12, 14:9, 35:2, 55:18, 152:1</p> <p>otherwise 138:24</p> <p>our 23:20, 132:2</p> <p>out 16:13, 16:14, 23:17, 35:17, 38:7, 40:11, 79:3, 94:8, 99:10, 99:12, 101:22, 133:11,</p>	<p>133:14, 133:20, 150:1, 169:24</p> <p>outlier 100:9</p> <p>outliers 97:25, 98:2</p> <p>outline 63:18</p> <p>outlined 137:16, 156:24</p> <p>output 92:16, 93:5</p> <p>outputs 121:9, 122:8</p> <p>outside 96:20, 97:25, 99:10, 100:7, 100:9</p> <p>over 8:6, 8:13, 8:20, 34:3, 43:11, 55:1, 58:6, 58:9, 58:10, 63:15, 105:9, 118:15, 121:13, 131:9, 133:2, 154:16, 172:21, 173:8</p> <p>overhead 59:18</p> <p>overlapping 52:6</p> <p>owner 1:15, 2:2, 2:24, 5:17</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>p-o-s-r-m-a-x 67:13</p> <p>page 3:3, 3:11, 3:23, 3:28, 4:2, 12:24, 13:8, 16:5, 16:9, 17:1, 17:14, 17:22, 18:4, 18:14, 18:19, 18:20, 25:5,</p>	<p>25:17, 27:14, 30:23, 40:5, 41:13, 41:14, 43:20, 43:21, 49:3, 49:5, 49:6, 49:7, 49:8, 51:5, 58:16, 58:18, 59:24, 61:4, 71:7, 71:19, 101:24, 104:10, 111:17, 116:14, 117:15, 118:4, 118:13, 119:1, 119:3, 119:7, 119:14, 119:16, 120:9, 120:23, 120:24, 120:25, 121:23, 122:1, 122:2, 122:4, 122:18, 123:9, 124:1, 124:7, 124:20, 125:18, 125:22, 126:4, 127:3, 129:17, 130:20, 137:7, 138:11, 138:15, 140:4, 140:15, 150:19, 151:9, 151:17, 151:25, 153:23, 153:24, 159:22, 161:1, 162:25, 164:17, 164:19, 165:5, 165:14, 174:5</p> <p>pages 12:22, 48:11, 139:24</p> <p>paper 123:21, 143:5</p> <p>papers 142:25, 143:1, 143:2</p> <p>paragraph 16:24, 25:6, 25:9, 30:16, 32:16, 32:19, 34:1, 41:13,</p>	<p>41:14, 41:16, 45:14, 46:12, 46:24, 49:4, 49:7, 49:19, 51:5, 53:15, 53:22, 53:24, 56:10, 59:22, 59:25, 60:14, 60:25, 61:4, 74:24, 97:10, 97:16, 98:13, 98:16, 101:20, 102:17, 104:9, 104:14, 107:1, 107:4, 109:17, 116:6, 116:12, 116:24, 117:16, 118:5, 119:10, 119:11, 120:9, 120:15, 120:19, 122:5, 123:10, 124:6, 124:9, 124:13, 125:21, 126:3, 138:7, 141:8, 141:10, 151:8, 153:1, 157:2, 157:21, 160:8, 164:21, 169:25, 170:5, 170:12, 174:5, 174:10</p> <p>paragraphs 54:5, 101:1, 103:8, 124:20, 125:18, 127:2, 127:8, 152:2</p> <p>parallel 3:12, 12:25, 13:9, 13:10, 13:13, 13:14, 13:15, 13:17, 14:21</p> <p>parameter 71:21, 163:1, 164:6, 167:16</p> <p>parameters 58:4, 70:16, 121:20, 125:9,</p>
---	--	--	--

<p>139:22, 161:24, 162:8, 162:10 parametric 119:5, 119:7 part 12:8, 30:12, 37:7, 48:7, 51:10, 62:19, 88:8, 124:25, 132:7, 132:19, 132:20, 132:23, 132:25, 136:14, 136:18, 150:5, 165:2, 174:11 partes 4:5, 43:19 partially 110:1 particular 22:1, 25:20, 30:2, 34:9, 34:23, 39:18, 40:20, 41:22, 43:3, 43:5, 48:13, 54:23, 62:1, 62:6, 73:15, 74:6, 74:18, 75:21, 88:4, 94:12, 96:14, 99:4, 99:11, 100:15, 121:3, 162:20, 167:9, 173:11 parties 16:3 partition 117:9 partitioned 116:25 partitioning 117:3 partitions 124:9 parts 37:10, 73:5, 132:10, 137:24 party 178:11</p>	<p>pass 74:19, 165:1, 165:3, 175:12 passage 40:6 passes 75:4, 129:23 passing 94:12, 137:9, 137:14, 150:2 patent 1:2, 1:3, 1:10, 1:14, 1:15, 2:2, 2:24, 3:24, 4:6, 4:10, 4:13, 4:17, 4:21, 4:25, 5:17, 5:25, 6:1, 11:12, 15:8, 15:11, 15:15, 16:18, 18:7, 18:9, 19:10, 19:11, 19:13, 24:2, 27:9, 27:19, 31:18, 31:25, 33:24, 34:16, 35:9, 35:23, 37:4, 44:7, 48:13, 57:14, 61:23, 62:7, 62:8, 70:17, 71:8, 71:19, 71:24, 72:21, 78:6, 80:11, 85:15, 85:24, 86:3, 86:16, 95:18, 98:20, 99:1, 100:14, 104:7, 104:15, 109:22, 113:1, 120:14, 130:9, 130:15, 137:23, 142:18, 163:20, 164:2, 164:3, 164:8 patents 9:19 pattern 61:11</p>	<p>pause 134:19 peak 89:15, 140:6, 140:23, 152:16, 153:3, 153:8, 153:10, 153:11, 153:13, 153:15, 153:17, 153:25, 154:5, 154:8, 154:12, 154:25, 155:9 peaks 64:4, 64:6, 68:3, 128:14, 129:3, 130:2, 140:17, 142:3, 142:4, 154:2, 154:4, 154:6 peer 143:1 peer-review 143:5 penalty 177:7 per 173:3 percent 40:25, 52:17, 53:1, 53:2 percentage 105:9 perform 135:24 performance 14:14, 14:17, 14:18, 14:20 performed 77:22, 109:14, 125:2, 129:22, 130:3 performers 32:22 performing 105:14 perhaps 87:1, 87:11, 90:3</p>	<p>perjury 177:7 person 19:9, 163:16 petition 4:4, 12:10, 12:18 petitioner 1:8, 2:10 ph 1:17, 2:1, 3:4, 6:5, 85:5, 176:7, 177:17, 178:6, 178:15 photograph 14:13 photons 143:19, 143:20, 143:22, 144:3, 144:5, 144:6, 144:22, 167:22 physical 58:24 pick 113:17 picture 61:19 piece 61:20, 113:11 pieces 113:18 pixel 40:17, 42:20, 42:23, 43:1, 43:8, 46:20, 47:1, 47:6, 47:7, 47:8, 47:9, 47:11, 52:6, 53:4, 63:13, 63:14, 63:16, 63:17, 63:23, 64:12, 67:18, 67:19, 70:5, 70:6, 71:4, 73:9, 73:19, 74:6, 74:8, 74:11, 74:14, 74:16,</p>
---	---	--	--

<p>74:18, 75:2, 75:10, 75:19, 78:20, 79:23, 79:24, 80:17, 83:20, 88:5, 88:16, 88:17, 93:14, 94:11, 97:7, 98:21, 105:5, 105:7, 105:10, 105:12, 105:15, 106:2, 106:6, 106:8, 106:9, 106:10, 106:17, 113:20, 144:15, 144:20, 146:20, 164:25, 169:16, 170:24, 170:25, 172:6, 172:7, 172:8, 172:9, 172:17, 172:18, 173:5, 173:6, 173:7 pixel's 74:19, 93:17 pixel-by-pixel 72:23, 72:25 place 5:12 placed 116:19, 125:23 places 17:22, 86:7 plain 19:4, 19:8 platforms 14:21, 14:22, 14:23 please 5:15, 6:14, 12:23, 13:21, 14:13, 22:20, 25:9, 59:21, 61:3, 78:5, 79:9, 80:11, 116:3, 120:22, 121:22, 127:20, 128:6, 131:17, 133:21, 150:16,</p>	<p>160:3, 170:13, 175:21, 175:22 plot 91:13, 92:2, 141:23, 141:24, 143:10, 145:12, 146:18, 147:15, 149:15, 165:20, 166:20 plotted 96:20, 99:5 plotting 74:25, 75:22, 141:12, 141:17, 143:23, 145:7 plume 112:3, 117:7, 123:4, 123:16, 124:10, 124:16, 124:17, 126:23, 126:24 plurality 17:10, 17:11, 38:8, 38:9, 77:18, 77:19 plus 114:6, 143:2 point 12:14, 16:9, 16:12, 18:14, 23:16, 39:19, 41:14, 43:10, 44:3, 49:2, 54:22, 60:17, 60:18, 60:19, 73:2, 73:5, 77:4, 83:16, 112:3, 132:22, 137:13, 149:21, 159:5, 160:11, 163:4, 163:18 pointed 11:7, 36:24, 58:25, 77:10, 160:7 pointing 14:10, 44:15, 127:8, 153:14,</p>	<p>153:18, 161:17, 164:19, 167:7 points 64:12, 64:13, 118:11, 118:16, 139:10, 139:11, 139:14 portion 22:1, 33:12, 41:7, 57:6, 72:10, 76:13, 76:18, 76:19, 77:14, 79:16, 79:17, 79:20, 124:17, 130:22, 131:2, 134:3, 134:5, 135:9, 135:12, 135:14, 135:17, 135:19, 135:25, 136:7, 136:18, 136:20, 137:11, 137:19, 150:24, 150:25, 151:2, 151:18, 151:19, 151:20, 152:19, 152:22, 152:24, 155:15, 155:17, 155:18, 155:21, 155:24, 156:1, 156:14, 156:18, 158:9, 158:10, 158:12, 160:2, 174:18 portions 108:21, 136:22 position 59:3, 59:5, 59:14, 59:16, 60:16, 87:4, 93:17, 96:13, 105:5, 105:7, 106:2, 106:6, 106:8, 106:17, 117:20, 126:12, 146:15, 156:5, 158:16, 167:9 positioned 153:24</p>	<p>positive 35:21 posrmax 67:13, 87:20 possibility 98:8 possible 14:24, 32:3, 32:11, 33:5, 34:6, 88:25, 98:10, 98:11, 171:9, 171:21, 175:25 possibly 41:18, 41:19, 131:23 potential 34:17, 35:10, 35:24, 36:21, 37:5, 57:19, 156:12 power 143:18, 143:19, 144:22, 167:23 pr 110:14, 110:21, 111:5, 111:23, 112:7, 112:24, 116:9, 117:4, 117:9, 124:22 practice 22:22, 23:2 pre 159:22 preceding 101:1 precise 30:23, 112:21 precisely 150:2 predetermined 34:4 prefer 16:22, 79:1, 134:25 preferably 72:7, 86:14 preference 78:14</p>
---	--	---	--

<p>preferred 46:25, 48:2, 49:23, 57:21 prepare 9:18 prepared 15:11, 37:11 preparing 10:5, 11:1 present 46:10 presumably 105:12 pretty 12:9 previous 55:9, 55:18, 58:11, 119:1, 167:21 previously 3:22, 4:1, 15:9, 16:20, 55:5, 55:13, 85:6, 127:16, 138:6, 169:24, 174:2 previously-selected 54:11 pride 12:13 printout 3:12, 3:15, 12:24, 13:8 prior 11:4, 19:14, 20:17, 20:18, 21:3, 21:4, 21:21, 22:14, 22:15, 24:17, 24:18, 24:20, 25:19, 25:20, 27:24, 28:21, 28:23, 29:16, 34:21, 36:11, 36:16, 36:19, 37:13, 38:13, 38:15, 39:19,</p>	<p>39:23, 39:25, 49:7, 58:13, 62:6, 65:6, 65:19, 65:21, 88:14, 96:1, 102:17, 109:14, 114:16, 132:14, 132:18 probably 109:25 problem 176:1 procedure 5:6, 35:24 proceeding 43:20 proceedings 23:5, 43:15, 175:18 process 6:23, 21:24, 36:7, 37:23, 44:10, 48:25, 53:18, 54:15, 55:7, 56:8, 57:9, 59:21, 60:1, 60:9, 60:21, 94:23, 95:10, 96:21, 97:12, 97:14, 98:1, 98:4, 107:13, 109:9, 109:12, 110:23, 111:23, 113:11, 116:20, 117:9, 121:5, 126:19, 126:20, 128:18, 129:6, 129:7, 129:9, 129:12, 133:18, 135:7, 143:6, 163:21, 164:5, 173:10, 173:19 processes 48:12, 113:12 processing 1:12, 2:2, 2:24, 5:10,</p>	<p>5:17, 8:23, 10:19, 42:3, 59:19, 96:24, 112:6, 112:16, 112:25, 113:5, 113:6, 115:12, 120:13, 120:20, 121:4, 121:7, 121:10, 121:14, 148:21, 149:1, 149:6 processor 111:9, 117:17, 117:19, 117:24, 118:6, 118:20, 118:22, 119:9, 119:11, 119:17, 120:7, 120:12, 120:18, 121:12, 121:16, 121:18 produced 142:20 program 89:13 prohibited 23:12 prohibits 22:23 projected 152:11 projection 63:22, 64:1, 65:13, 65:24, 66:8, 66:15, 67:1, 67:4, 67:24, 68:9, 68:19, 68:25, 90:5, 92:4, 92:5, 94:9, 94:15, 95:11, 97:1, 98:3, 98:17, 99:14, 101:9, 103:21, 110:7, 119:5, 128:14, 129:3, 130:2, 142:10, 145:16, 145:19, 145:21, 146:2,</p>	<p>146:5, 146:6, 146:7, 146:11, 146:22, 147:1, 147:6, 147:22, 147:23, 148:19, 148:20, 149:2, 149:10, 150:9, 152:11, 152:15, 153:4 projections 123:5, 148:23, 149:3, 149:7 projects 13:14 proper 75:24 properties 47:13, 48:8, 49:23, 57:21 prosecution 27:21 prototype 51:16, 51:18 provide 27:6, 121:13 provided 11:4, 11:13, 11:19, 98:17, 146:9 provides 35:17, 97:2, 111:13 providing 7:9, 170:15 provision 53:13, 53:19, 54:14, 64:4 public 178:1, 178:4, 178:25 publicly 7:16, 79:12 published 142:23 pupil 25:8, 25:15, 40:22, 41:3, 41:18, 41:20,</p>
---	---	--	---

<p>41:23, 42:2, 42:10, 42:14, 42:18, 47:14, 47:17, 47:18, 47:23, 48:25, 52:16, 52:21, 53:2, 53:4, 53:9, 53:16, 53:20, 54:11, 55:2, 55:5, 55:14, 55:17, 55:23, 56:2, 56:4, 56:12, 56:17, 56:18, 56:20, 57:2, 57:3, 57:9, 57:19, 60:10, 60:11, 60:19, 131:13, 132:12, 132:24, 133:1, 133:9, 136:16, 137:10, 137:15, 139:10, 139:12, 139:19, 140:1, 140:6, 140:7, 140:17, 140:20, 140:24, 141:13, 141:15, 141:18, 143:11, 143:24, 144:17, 144:21, 145:8, 145:13, 146:15, 148:14, 148:15, 149:17, 149:18, 149:22, 157:9, 164:16, 174:20, 174:23</p> <p>pupil's 60:17</p> <p>purple 132:9</p> <p>purpose 14:21, 14:22</p> <p>purposes 50:19, 50:24, 145:1, 150:4</p> <p>pursuant 5:5</p> <p>put 5:23, 15:7,</p>	<p>61:1, 62:5, 104:7, 127:15, 130:5, 161:9, 169:23, 174:1</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>qualifies 142:6</p> <p>quality 143:2</p> <p>quantity 168:2, 168:3</p> <p>quarter 52:1, 52:4</p> <p>query 83:5, 83:14</p> <p>question 25:21, 25:23, 27:12, 35:20, 38:1, 38:24, 39:7, 39:13, 39:20, 39:22, 54:23, 66:13, 71:15, 73:8, 75:6, 78:5, 82:20, 82:24, 86:18, 88:21, 88:24, 91:22, 104:17, 111:20, 111:21, 112:9, 114:15, 114:19, 123:2, 128:23, 130:5, 133:2, 134:9, 134:21, 147:9, 159:25, 171:4</p> <p>questions 7:1, 7:6, 15:20, 23:20, 109:20, 136:12, 175:15</p> <p>quick 137:25</p> <p>quickly 18:8</p> <p>quite 27:1, 119:25</p> <p>quote 170:2, 170:16</p>	<p>quoted 141:10</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>radially 149:23, 149:24</p> <p>radiometric 143:19, 144:22, 167:23</p> <p>radius 139:11, 139:20, 139:21</p> <p>range 26:5, 26:14, 28:4, 29:10, 29:20, 29:21, 30:25, 72:8, 82:4, 82:5, 89:6</p> <p>raster 47:5, 47:12, 156:11</p> <p>rate 7:8, 7:10, 7:21, 7:25, 8:1, 8:14, 14:24, 44:3</p> <p>rather 8:14, 21:18, 111:10</p> <p>ratio 58:1, 89:14, 118:14</p> <p>re-analyze 57:13</p> <p>reached 28:2</p> <p>read 9:19, 20:22, 33:12, 33:16, 33:17, 33:23, 48:18, 54:4, 54:5, 72:2, 95:18, 99:23, 120:10, 128:22, 133:24, 134:8, 134:11, 156:6, 163:17</p> <p>reading 127:1, 141:10,</p>	<p>163:16</p> <p>ready 112:22</p> <p>real-time 4:8</p> <p>realize 23:11</p> <p>really 8:17, 10:7, 10:10, 11:14, 32:7, 36:4, 36:14, 37:12, 55:11, 57:13, 58:14, 101:5</p> <p>reask 128:23, 174:22</p> <p>reason 135:23</p> <p>reasons 57:1</p> <p>recall 9:14, 11:9, 11:14, 11:18, 11:20, 11:22, 12:5, 24:8, 31:6, 31:13, 31:16, 57:11, 57:15, 57:18, 58:8, 58:15, 62:11, 77:9, 85:16, 87:11, 88:6, 88:9, 102:15, 116:21, 117:5, 117:10</p> <p>recalling 132:21</p> <p>received 8:16, 67:20, 142:25, 144:7</p> <p>receives 76:17</p> <p>receiving 8:1</p> <p>recent 58:12, 61:17</p> <p>recess 43:23, 84:3, 115:25, 150:14</p>
--	---	--	--

<p>recognition 61:7, 61:11, 61:22, 62:2 recognize 13:5, 14:4 recollection 12:20 recomputed 140:10 record 5:16, 5:23, 6:13, 22:17, 22:19, 22:24, 28:13, 43:24, 85:9, 116:1, 123:7, 150:13, 150:15, 163:24, 175:8, 175:9, 178:9 rectangle 57:22, 97:20, 97:25 rectangles 50:23, 52:6, 118:25, 119:21, 162:6 rectangular 155:5, 156:13, 162:2, 162:3 red 122:12, 122:19, 122:23 reduce 154:1 reduced 53:17, 53:25, 54:2 refer 16:7, 16:8, 16:20, 17:5, 17:7, 17:14, 17:18, 17:19, 17:24, 22:11, 45:10, 49:12, 49:14, 51:3, 51:13, 58:1, 59:10, 59:20, 59:21, 60:4,</p>	<p>67:10, 69:10, 71:7, 71:23, 87:7, 93:8, 101:19, 102:2, 104:5, 104:6, 104:9, 109:17, 116:6, 128:7, 133:3, 133:16, 138:7, 165:10, 169:25 reference 12:10, 49:2, 49:20, 51:4, 51:6, 62:2, 71:24, 72:1, 72:21, 87:12, 104:8, 104:12, 105:1, 111:20, 112:19, 114:17, 120:22, 122:1, 134:22, 136:9, 138:14, 153:20, 154:7, 160:12 referenced 3:22, 4:1, 72:16 references 11:4, 11:8, 11:10, 11:11, 11:15, 11:17, 11:21, 11:22, 12:2, 12:6, 12:12, 12:18, 12:20, 27:25, 29:17, 115:6, 121:2, 132:25, 134:15 referred 17:1, 40:7, 62:11, 69:21, 71:2, 89:25, 90:1, 90:2, 90:3, 98:8, 105:22, 120:18, 132:12, 142:11, 142:13, 168:8, 170:20 referring 16:11, 17:8,</p>	<p>17:12, 17:25, 18:18, 20:7, 20:8, 21:20, 30:18, 34:10, 39:23, 42:8, 47:25, 50:7, 51:9, 60:1, 71:13, 77:2, 77:6, 77:16, 78:15, 80:13, 80:15, 86:2, 89:20, 100:24, 102:16, 102:24, 105:18, 106:12, 109:12, 110:9, 122:14, 142:1, 157:12, 158:23, 159:6, 160:25, 162:2, 168:17 refers 18:9, 33:19, 36:6, 45:23, 56:16, 90:19, 109:2, 168:1 refined 138:4 refines 161:11 reflecting 93:16 reflects 149:19, 173:18 regard 60:17, 60:18 regarding 24:15, 36:10, 95:24 regardless 125:14 region 45:11, 46:4, 54:12, 56:1, 56:11, 117:4, 123:13, 124:4, 124:10, 124:11, 124:12, 124:14, 124:16, 125:20, 126:2, 126:15,</p>	<p>126:19, 126:22, 126:23, 127:1, 143:17, 150:1, 150:4, 150:7, 150:8, 150:11, 152:7, 152:17, 152:18, 153:1, 153:6, 153:22, 154:9, 154:11, 154:13, 154:21, 155:1, 155:2, 156:21, 156:24, 157:2, 157:22, 170:8, 170:19 regions 44:21, 44:23, 45:2, 45:5, 45:18, 47:9, 103:19, 125:7, 126:12, 126:17, 127:7, 127:9, 127:10, 151:14, 155:1, 156:3, 156:11 registers 65:11 related 14:20, 102:20 relates 32:17, 166:18 relationship 30:17, 60:10, 60:16 relative 21:19, 59:17, 60:16, 135:6, 164:25, 165:7 relevance 61:21 rely 100:13 relying 127:4, 141:2, 153:21, 171:12, 171:16, 171:19 remain 148:15 remember 8:12, 8:25,</p>
--	--	--	--

<p>9:16, 10:25, 11:25, 12:6 reminder 6:25 remove 90:5 rendering 27:8 renders 175:3 reopens 140:8 repeat 38:24, 39:7, 75:6, 88:21, 112:9 repeatedly 60:22 rephrase 7:1, 38:3, 54:22 report 137:7, 157:19, 158:3, 175:5 reported 1:20 reporter 5:5, 6:6, 79:5, 85:6, 131:18, 175:18, 175:23, 176:1, 178:1, 178:3 represent 89:6, 91:9, 95:5, 144:13, 147:25, 166:2, 167:13, 167:18 representation 30:9, 150:6 representative 122:8 represented 15:6, 30:8, 73:19, 146:14, 147:11, 167:1, 178:12 representing 5:21, 5:22,</p>	<p>171:3 represents 91:17, 91:23, 91:25, 97:17, 128:19, 129:11, 144:14, 173:12 reproduced 174:11 reproduction 81:17, 122:2 require 19:16, 20:2, 20:11, 20:13, 37:15, 37:18, 62:18, 65:6, 136:18 required 5:6, 112:17 requirement 145:12, 148:7 requirements 26:21, 31:8, 78:2, 125:14, 126:9, 161:13 requires 60:21 research 13:17, 61:14, 61:17 researchers 148:22, 149:5 respect 7:12, 19:13, 19:19, 38:1, 59:3, 59:5, 59:7, 59:15, 72:7, 96:25 respectively 145:25 respond 159:17 response 7:6, 142:25 rest 37:16, 37:19, 41:5 restate 25:22, 39:14,</p>	<p>39:15 restriction 81:4 restrictions 115:23 result 21:5, 21:13, 37:16, 44:11, 56:2, 56:23, 93:11, 94:19, 95:4, 95:7, 107:11, 111:4 resulting 57:9, 83:15 results 35:10, 37:4, 52:3, 56:11, 61:17, 93:20, 140:14 resumed 85:11 retained 8:11, 8:19 review 4:5, 31:18, 43:20 reviewed 143:1 reviewers 143:8 reviewing 10:9 rgb 46:15, 46:20 rhombuses 122:23 right-hand 123:25, 124:20, 125:18, 127:3 risk 140:22, 154:1 rmax 67:13 road 105:20 robert 46:5 robotics 143:7</p>	<p>rocket 122:12, 122:20 role 121:5 room 154:13 rotates 59:4 rotating 59:8 rough 10:13, 10:15, 175:20 roughly 8:10, 9:14, 10:4, 122:11 row 105:24, 107:6, 107:23, 146:21, 147:22, 153:25, 170:5 rpr 1:20, 2:6 rule 111:6, 111:8 rules 5:5, 7:12 running 54:8, 54:10, 54:13, 54:18, 54:20, 54:25, 55:4, 55:8, 55:13, 57:16, 58:6, 58:9</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>s-c-l-e-r-a 132:7 s-e-r-v-o 117:22 s7 128:7, 128:8, 129:22 said 17:11, 17:12, 17:20, 18:5, 18:23, 20:4, 21:24, 32:6,</p>
---	--	---	---

<p>52:22, 69:8, 101:21, 103:11, 104:23, 105:3, 109:3, 109:8, 115:4, 131:13, 153:10, 164:11 same 16:5, 27:13, 30:6, 30:20, 39:5, 40:6, 43:20, 43:21, 46:1, 47:8, 48:6, 65:25, 66:15, 67:4, 68:10, 80:2, 91:4, 108:3, 109:20, 117:11, 128:2, 128:24, 129:17, 142:4, 145:17, 146:18, 146:23, 147:3, 147:17, 147:18, 147:19, 147:21, 148:17, 149:8, 150:9, 151:17, 151:19, 153:25, 158:9, 158:11, 158:18, 161:19, 168:17, 172:10, 173:9 sample 125:22, 125:23 samples 125:25 samsung 1:4, 1:5, 2:10, 2:11, 5:10, 5:22, 7:9, 7:11, 7:24, 8:11, 8:16, 8:23, 9:7, 9:21, 10:18, 10:19, 11:1, 11:6, 11:13, 11:19, 16:17, 43:16, 178:12 samsung's 7:18 satisfied 33:4, 82:1,</p>	<p>115:22, 117:13 satisfies 26:12, 26:16, 30:3, 40:19, 41:5, 93:8, 104:18, 104:21, 110:4, 110:15, 110:18, 110:21, 114:7, 114:9, 158:22, 159:10, 174:18 satisfy 22:6, 24:11, 25:3, 25:12, 25:25, 26:6, 26:7, 28:5, 28:16, 29:20, 29:23, 31:2, 32:4, 32:12, 38:4, 38:22, 39:4, 112:15, 112:17, 112:25, 113:15, 114:11, 115:2, 120:20, 128:13, 129:2 satisfying 33:10, 93:14, 121:3, 157:12, 158:25, 164:19 saturation 30:11, 30:25, 31:7, 31:15, 31:16, 31:22 save 163:22 saw 65:15, 68:16, 90:12, 115:6 say 7:14, 24:10, 27:4, 27:5, 28:14, 35:13, 41:16, 55:12, 55:13, 66:20, 72:16, 74:7, 76:19, 78:18, 83:19, 86:1, 107:19, 108:7,</p>	<p>114:12, 118:3, 140:3, 144:25, 145:3, 150:25, 153:8, 165:8, 171:9 saying 20:16, 21:2, 33:4, 34:14, 34:16, 35:8, 35:14, 37:3, 67:6, 67:10, 89:21, 90:10, 91:13, 91:24, 93:25, 94:2, 96:13, 98:11, 118:1, 141:3, 149:19, 151:20, 159:10, 160:2, 160:13, 163:13, 163:15 says 14:13, 32:16, 52:16, 52:18, 68:13, 70:23, 72:6, 97:11, 97:16, 101:4, 102:24, 103:22, 106:5, 106:16, 107:1, 109:5, 115:16, 117:19, 119:12, 119:23, 123:3, 123:16, 128:16, 129:8, 142:24, 165:15, 170:18, 171:21, 172:13 scalar 85:25 scale 145:6 scan 47:5, 47:12, 146:25, 147:3, 147:16, 147:20, 147:24, 155:3, 156:11, 168:9, 168:19, 169:12 sclera 132:7, 132:8,</p>	<p>132:15, 132:19, 132:20, 133:7, 140:18 scope 6:1, 21:10, 21:12, 24:16, 36:9, 39:17 screen 32:15, 47:20, 52:7, 52:25, 60:11, 60:18, 60:22, 108:17, 108:18 sd 170:8, 170:19 search 152:9, 154:2, 154:17, 154:21, 157:21, 164:15 searching 154:16 second 22:18, 31:18, 31:23, 45:15, 48:16, 48:20, 48:22, 49:24, 59:25, 123:10, 126:3, 147:1, 147:4, 147:6, 157:6, 168:24, 169:3, 169:18 section 15:16, 17:1, 51:8, 60:6, 72:24, 77:7, 92:14, 104:14, 111:9, 138:16, 141:10, 141:15, 145:23, 151:12, 154:15, 156:4, 156:8 see 14:2, 14:15, 16:7, 16:13, 16:24, 26:19, 30:24, 31:6, 44:13, 48:17, 51:6, 51:23,</p>
--	--	--	---

<p>51:24, 57:14, 58:20, 61:7, 63:22, 64:9, 64:16, 65:5, 72:16, 81:12, 86:12, 96:19, 96:20, 96:21, 99:5, 100:5, 102:7, 104:13, 107:7, 111:19, 112:12, 112:13, 115:14, 116:12, 117:12, 119:12, 122:24, 128:12, 129:1, 129:23, 133:25, 138:3, 144:12, 147:14, 151:8, 151:12, 153:21, 158:5 seeing 57:18, 58:8, 100:6, 117:5, 117:10 seems 151:3 seen 66:6, 142:9 segment 46:13 segmentation 46:9, 46:18, 47:17, 47:21 segmented 44:24 segmenting 44:19 select 34:25, 35:5, 55:23, 56:2, 56:11, 56:17, 56:18, 57:2, 80:4, 135:23 selected 11:10, 55:5, 55:13, 56:5, 81:2, 86:14, 131:7, 134:13, 134:14, 135:22,</p>	<p>136:25, 137:3, 137:8, 151:1, 151:20, 155:13, 156:16, 157:4, 157:7, 157:10, 161:14, 161:15, 162:7, 164:20 selecting 57:9, 129:14, 131:2, 134:2, 134:5, 135:14, 135:19, 136:7, 136:18, 137:11, 155:14, 155:17, 155:24, 156:1, 156:18, 156:23, 156:25, 158:9, 159:3 selection 35:2, 124:22, 135:16, 135:19, 136:3, 136:4, 137:18, 137:19 selects 25:6, 33:24, 34:2, 34:24 send 7:24, 9:15, 130:8 sends 80:3 sense 8:15, 79:18, 102:20, 168:24 sensing 59:19 sensitive 119:25 sent 9:9, 9:11, 83:13 sentence 31:21, 103:22, 106:25, 171:21 separate 78:12, 86:5, 87:3, 87:24, 102:14, 132:6,</p>	<p>132:10, 132:15 separated 129:4, 129:6 separately 86:3 separates 129:5 separating 37:15, 37:18, 108:20, 154:5 september 4:15 series 15:20, 109:20, 118:5 serve 95:16 served 120:20 serves 105:16 services 7:9, 7:22, 8:4, 8:16 servo 117:22 sessions 143:3 set 15:13, 23:2, 46:1, 73:17, 73:19, 74:10, 79:14, 79:25, 80:16, 81:12, 81:21, 82:2, 82:3, 82:5, 83:19, 87:16, 88:25, 89:12, 89:14, 89:16, 93:6, 93:13, 94:24, 95:14, 96:22, 97:13, 97:19, 98:5, 98:14, 98:18, 99:2, 99:25, 100:10, 100:19, 100:21, 103:23, 108:1, 112:12,</p>	<p>116:23, 125:20, 126:12, 127:1, 133:5, 134:7, 139:18, 139:22, 169:11, 169:12, 169:13, 178:7, 178:20 sets 45:20, 45:24, 46:4, 46:14, 157:21, 169:10 setting 80:24, 81:24, 94:23, 98:1 setup 125:11 seven 72:8, 85:20, 86:22 several 27:24, 32:11, 33:5, 40:17, 44:21, 44:23, 47:16, 50:15, 66:6, 110:4, 113:3, 142:9, 143:3 shall 81:19, 134:25 shape 14:14, 15:1, 15:2, 15:4, 48:21, 48:23, 64:23, 99:19, 100:12, 117:20, 118:19, 118:21, 118:24, 119:4, 119:9, 119:22, 119:25, 120:4, 140:21 shapes 97:1, 162:3 share 80:2, 131:23 shared 76:4, 93:5 sheet 101:23</p>
---	---	---	--

<p>short 110:2 shorthand 178:1 should 16:14, 35:17, 70:14, 70:15, 71:8, 72:1, 73:2, 95:13, 95:18, 96:6, 97:3, 97:4, 99:6, 99:22, 120:9, 132:21 show 29:19, 45:2, 50:17, 57:24, 58:23, 66:18, 96:2, 102:21, 103:14, 143:25, 144:4, 144:16, 175:2 showed 28:8 showing 50:15, 69:20, 72:4, 89:23, 92:3, 102:25, 123:16, 164:3 shown 32:20, 32:21, 34:7, 35:10, 35:25, 40:21, 49:24, 50:23, 63:9, 67:3, 68:23, 76:1, 76:2, 76:4, 83:19, 87:15, 89:17, 89:21, 90:18, 93:4, 94:16, 95:7, 101:6, 101:7, 102:10, 102:13, 108:7, 108:25, 109:15, 118:12, 119:1, 124:12, 128:12, 128:25, 132:8, 132:9, 139:15, 145:9,</p>	<p>145:19, 146:13, 147:11, 147:14, 152:12, 155:9, 159:8, 159:9, 162:6, 164:12, 171:7, 171:15, 174:14, 174:21, 174:24 shows 32:14, 42:23, 63:8, 69:14, 69:17, 71:10, 71:11, 71:20, 78:22, 95:10, 102:11, 102:19, 103:3, 116:8, 121:6, 127:23, 128:2, 128:17, 129:9, 129:18, 133:7, 133:8, 144:2, 149:3 si 119:2 side 121:2, 125:18, 144:10, 152:15, 161:24, 162:18 sides 152:9, 162:15, 163:6 signal 72:25, 80:3, 82:12, 92:15, 93:7, 93:15, 93:24, 94:11, 121:8, 121:13, 121:17, 148:21, 149:1, 149:6 signature-dtu4g 178:23 significant 70:7, 70:8, 70:13, 89:6, 93:12, 94:24, 97:21 significantly 138:4, 138:23 similar 159:25, 163:7,</p>	<p>164:4, 168:2, 168:3, 169:15, 169:18 similarly 47:9, 65:19 simple 168:19 simplicity 50:5 simplified 49:16, 49:18, 49:25, 50:1, 50:8, 50:19 simply 110:20, 113:3, 169:11 simulated 32:21 simulation 122:8, 123:4 since 37:12, 119:25, 153:24 single 30:7, 30:10, 33:8, 55:6, 90:7, 143:21, 146:21, 147:22, 148:20, 148:25, 150:8, 154:12, 154:20, 155:3, 173:12, 173:13 single-pass 47:1, 48:1, 48:3 sir 44:9, 79:10 sitting 10:12, 36:24, 37:3, 133:10 situation 132:15 situations 96:2 six 73:17, 73:23, 74:3, 74:11, 75:4</p>	<p>size 47:13, 48:9, 51:14, 52:16, 52:25, 53:8, 53:11, 53:13, 53:17, 53:19, 53:25, 55:15, 56:3, 56:8, 80:17, 91:6, 124:2, 128:13, 129:2 sketch 3:18 skill 19:9, 163:16 skin 63:20 slice 148:25, 149:2, 149:9, 149:10, 149:12 slices 148:23, 149:4, 149:7 smaller 51:10, 51:21, 52:19, 53:7, 54:7, 56:1, 57:5, 97:21 smallest 63:25, 66:8, 66:11, 67:18, 67:25 smooth 103:1, 121:8, 121:13, 121:16, 166:20, 167:8, 167:13, 167:21, 169:12 smoothed 165:20 socket 59:5, 59:15 solely 42:1, 42:14 solution 35:16 solve 22:24</p>
---	---	---	---

<p>some 12:5, 14:10, 19:22, 20:17, 21:23, 24:17, 24:23, 25:3, 26:10, 28:8, 35:9, 38:21, 39:3, 48:22, 49:23, 50:17, 55:25, 57:3, 57:21, 63:20, 63:21, 65:9, 68:15, 68:16, 69:7, 85:14, 87:11, 89:1, 90:21, 105:9, 106:18, 106:19, 107:15, 113:6, 115:5, 123:24, 132:4, 136:11, 136:12, 139:17, 162:17, 163:7, 173:19 someplace 154:17, 163:9 something 8:6, 9:11, 61:2, 64:8, 80:9, 92:11, 104:6, 122:19, 134:9, 159:20, 167:4, 170:22 somewhat 89:10 sorry 6:3, 25:9, 27:12, 36:19, 49:5, 58:18, 59:12, 68:7, 70:21, 75:6, 75:7, 158:8, 160:11, 164:15, 172:8, 172:25 sort 148:7 sorts 57:1 south 2:4, 2:16,</p>	<p>5:13, 178:16 space 19:16, 149:4, 152:9, 154:17 sparcstation2 51:19 spatial 121:10 spec 69:16, 69:21, 113:3 special 14:21, 19:6, 142:17, 142:19 specialized 142:21 specific 9:16, 12:19, 21:21, 24:18, 26:19, 27:1, 27:5, 28:10, 31:6, 39:23, 42:20, 51:16, 57:11, 57:18, 58:8, 58:15, 67:9, 67:10, 80:6, 88:6, 88:7, 88:10, 101:6, 116:21, 124:2, 134:22, 136:9, 152:6, 166:15, 167:4 specifically 11:25, 22:22, 23:3, 23:4, 29:9, 36:10, 39:8, 49:24, 65:21, 69:3, 71:25, 74:21, 95:23, 97:1, 98:20, 115:16, 124:22, 125:3, 126:15, 144:23, 155:17, 166:4 specification 22:16, 24:19, 26:22, 33:18, 34:10, 35:15,</p>	<p>35:16, 50:3, 50:22, 51:3, 55:25, 63:1, 63:4, 65:4, 65:10, 65:11, 66:10, 66:22, 66:24, 89:11, 99:22, 99:23, 101:8, 102:23, 106:16, 123:20, 137:24, 173:25 specifics 11:20 specified 34:9, 67:16 specifies 58:14 specify 36:6, 112:1 speed 14:23, 14:24, 31:22, 70:14, 70:15, 70:20, 71:3, 71:21, 72:5, 72:7, 72:23, 73:9, 73:10, 73:12, 73:15, 73:16, 73:19, 73:21, 73:23, 74:2, 74:7, 74:11, 74:14, 74:18, 74:25, 75:11, 75:18, 76:10, 76:24, 78:19, 80:21, 81:4, 81:6, 81:21, 81:23, 82:8, 82:13, 82:25, 85:16, 85:19, 85:22, 85:25, 86:1, 86:2, 86:4, 86:9, 86:12, 87:2, 87:5, 87:8, 87:16, 87:17, 87:25, 88:2, 89:8, 90:7,</p>	<p>90:20, 90:25, 92:18, 92:20, 95:5, 95:8, 96:14 speeds 70:7, 70:8, 73:17, 74:11, 89:7, 89:25, 90:2, 90:3, 97:21 spent 9:17, 10:5 sponsored 13:18 spot 36:24 spotlight 32:18 spots 60:22 square 172:3, 172:4, 172:6, 172:23, 173:15 squared 170:25, 173:4, 173:6 squares 171:23, 173:15 ss 177:2 stage 32:22 stapled 16:19 start 44:9, 102:10, 116:20, 130:18, 151:10, 151:11, 158:8, 160:6 started 77:5 starting 25:16, 32:15, 51:8, 71:25, 72:21, 89:4, 91:16, 97:11, 150:21, 152:25,</p>
--	---	--	---

<p>163:10, 170:5 starts 100:25, 117:16, 121:2 state 5:6, 5:15, 6:13, 23:10, 53:24, 54:10, 177:1, 177:7, 178:4, 178:26 stated 23:4, 53:22, 120:15 statement 20:25, 21:18, 23:14, 24:14, 26:1, 26:9, 37:8, 37:11, 101:3, 104:22, 119:23, 162:25 states 1:2, 3:24, 4:10, 4:13, 4:17, 4:21, 4:25, 18:25, 50:22, 55:25, 56:10, 59:16, 60:15, 66:2, 91:17, 92:14, 105:3, 107:14 stating 29:6, 145:24, 175:6 statistic 48:21 statistical 150:6, 168:12 statistics 48:23, 48:24, 67:14, 68:16, 148:14 stay 120:8, 157:5 stayed 73:3 step 44:18, 45:5, 47:18, 47:25,</p>	<p>48:8, 71:5, 104:23, 105:1, 128:7, 128:16, 129:5, 129:8, 130:1, 156:2 steps 47:17, 47:22, 48:8, 113:12, 130:2, 136:23 stick 153:5 still 58:17, 141:6 stored 74:12, 108:25 straight 132:3 street 2:4, 2:16, 5:8, 5:13, 105:13, 108:5, 108:20, 108:21, 108:23, 178:16 strictly 81:8 strike 17:6, 21:15, 22:3, 32:10, 34:15, 37:17, 44:22, 51:3, 71:18, 76:22, 83:17, 88:3, 88:16, 94:1, 95:6, 104:18, 110:12, 118:20, 121:15, 123:11, 123:23, 134:6, 139:4 stringa 11:17, 159:21, 159:25, 160:10, 161:16, 161:17, 162:11, 162:23, 162:24, 164:6, 164:15, 165:5, 165:14, 168:1, 168:19, 169:9 strip 105:5, 105:10,</p>	<p>105:15, 105:21, 105:22, 106:6, 108:25, 109:3, 109:5, 109:6, 109:15 strong 153:25 structural 119:6, 119:8 students 14:9 sub 165:9, 165:10, 165:12, 167:22, 172:11, 173:11 subintervals 119:24 subject 11:5, 12:3 submits 9:7 submitted 9:6 subregion 116:9 subsequent 47:22, 48:12, 60:24, 113:12, 113:24, 113:25, 114:1, 125:12 subsequently 125:9 subset 53:5, 78:10, 88:18, 103:21, 107:24, 113:18, 161:22 subtle 30:19 successful 54:2 successfully 53:16, 56:5 such 23:2, 24:9, 46:14, 47:12, 47:13, 48:9, 78:10, 79:22,</p>	<p>178:8, 178:9, 178:10 suenaga 11:18, 174:2, 174:24, 175:3 sufficient 19:11, 125:13 suggest 133:6 suggesting 99:9, 154:10 suggestion 155:3 suitable 161:24, 162:10, 162:13, 163:1, 163:2, 163:4, 163:13, 163:15, 164:6 sum 171:23, 173:15 summarize 152:23 summation 165:25, 173:3 sums 170:24 sun 51:19 super 167:12 support 4:4, 159:4, 163:19, 163:20 sure 7:3, 7:11, 7:23, 8:6, 10:10, 10:15, 16:4, 25:5, 26:25, 27:2, 27:13, 30:5, 30:14, 35:7, 37:24, 37:25, 73:6, 83:11, 87:8, 89:3, 91:21, 92:1, 94:6, 96:12, 97:6, 120:23,</p>
--	---	--	---

<p>123:9, 126:20, 130:17, 131:24, 132:14, 145:2, 145:5, 151:23, 156:15, 159:24, 160:14, 162:4, 162:21, 167:6 surround 122:11 surrounded 140:17 surrounding 106:9, 106:19, 124:8, 155:1, 159:3 surrounds 97:20 survey 61:11, 61:12, 61:16 swear 5:16 sworn 6:6, 85:6, 178:7 sxi 119:19 syi 119:19 sylvan 5:8 symmetric 149:23, 149:24, 155:7 synonymously 30:13 system 4:9, 34:2, 34:6, 34:17, 35:9, 35:13, 44:17, 51:16, 60:6, 60:14, 63:9, 89:13, 103:23, 126:6, 126:9 systems 142:24</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>table 133:5</p>	<p>tails 99:6, 169:19 take 43:11, 43:22, 74:2, 80:21, 83:25, 107:3, 115:24, 134:17, 137:25, 146:19, 150:12, 158:2, 168:24, 169:3 taken 2:1, 43:23, 84:3, 115:25, 150:14, 178:9 takes 61:17 taking 5:12, 47:19, 48:3, 101:14, 129:18, 173:7 talk 15:11, 30:12, 30:20, 43:16, 86:9, 104:6, 132:17, 138:13, 141:5 talked 24:7, 85:16, 113:6 talking 27:10, 27:14, 27:15, 27:17, 86:4, 136:9, 151:7, 155:14 talks 37:21, 40:15, 72:12, 72:24 target" 18:3 targets 21:20, 32:3, 32:8, 32:11, 32:23, 33:1, 33:5, 33:10, 33:19, 33:20, 33:21, 34:7, 34:11, 34:12, 34:17, 34:22,</p>	<p>34:25, 35:3, 35:10, 35:16, 35:24, 36:4, 36:6, 36:13, 36:15, 36:21, 37:1, 37:5, 115:7 taxt 61:10, 61:24 technically 30:5 technique 105:4 techniques 14:20 technologies 1:12, 2:2, 2:24, 5:10, 5:18 technology 150:4 tell 7:21, 8:5, 33:13, 42:2, 44:2, 76:20, 91:8, 97:6, 122:10, 123:1, 150:23, 155:12, 155:23, 155:25, 156:14, 158:9, 160:1, 164:10 telling 33:14 tells 86:23, 99:24, 99:25, 100:1, 100:3 template 139:23, 140:2, 158:7, 158:17, 158:23, 158:25, 159:1, 159:2, 159:7, 159:8 temporal 120:13, 120:19, 121:4, 121:5, 121:7 ten 52:17, 53:2,</p>	<p>172:14 tends 108:16, 108:17, 156:21 term 19:18, 23:23, 34:12, 77:7, 81:13, 81:15, 86:4, 87:19, 133:1, 152:6 terminology 132:2 terms 22:14, 22:16, 37:25, 59:10, 76:11, 87:9, 90:3, 132:12, 149:8 testified 6:7, 6:18, 6:19, 85:7 testimony 20:3, 20:15, 29:24, 43:17, 114:24, 177:8, 178:10 tests 94:12 text 69:10, 100:1, 100:14, 109:2, 158:3 th 2:4, 2:17, 170:8 than 8:14, 9:2, 9:3, 9:11, 10:21, 14:24, 26:22, 41:1, 43:9, 44:16, 51:11, 52:11, 52:20, 58:13, 69:4, 70:9, 70:10, 78:12, 85:23, 87:2, 87:5, 93:23, 94:15, 100:8, 100:12,</p>
---	--	--	--

<p>100:19, 100:20, 103:23, 104:3, 105:13, 108:16, 108:21, 124:19, 125:17, 135:8, 138:23, 141:22, 149:16, 149:17, 155:1, 156:21, 156:22, 156:23, 161:13, 163:20, 164:2, 164:8, 166:6, 167:4, 167:20 thank 10:22, 43:22, 68:8, 127:19, 131:21, 174:4, 174:22, 175:12, 175:17 thanks 16:23, 77:14, 79:11, 160:15, 175:14 their 90:25, 93:1, 113:5, 137:23, 137:25, 142:25, 143:2 them 11:16, 23:4, 28:21, 45:20, 45:23, 51:22, 57:6, 61:18, 102:25, 121:12, 121:19, 127:11, 142:1, 154:24 then 5:16, 7:11, 10:9, 20:12, 21:7, 33:20, 35:10, 36:7, 42:24, 47:9, 47:12, 47:20, 48:5, 53:16, 54:2, 61:16, 67:25, 74:11, 75:24, 79:2, 82:15, 83:5,</p>	<p>83:7, 83:14, 83:18, 92:24, 93:7, 93:19, 94:18, 97:18, 98:15, 108:9, 114:25, 115:7, 115:21, 115:22, 124:11, 125:4, 126:1, 130:1, 133:6, 135:8, 135:13, 135:21, 138:23, 139:10, 148:6, 150:1, 150:25, 151:18, 152:10, 152:14, 154:12, 156:10, 157:24, 159:2, 159:4, 161:6, 161:14, 162:16, 169:17, 170:18, 171:5, 173:7 there 9:10, 14:8, 20:5, 20:18, 21:3, 26:2, 27:12, 30:19, 32:25, 33:1, 35:15, 41:15, 42:10, 42:17, 44:21, 44:23, 44:25, 46:12, 46:17, 47:22, 50:18, 51:6, 51:7, 55:22, 56:13, 56:19, 56:25, 57:8, 57:14, 57:24, 58:9, 59:7, 62:1, 63:3, 63:24, 64:10, 65:9, 65:10, 65:19, 65:20, 66:9, 69:13, 75:25, 81:17, 86:18, 87:13, 90:15, 92:16, 92:19, 93:12, 106:1, 108:15,</p>	<p>108:21, 113:2, 113:11, 115:11, 116:17, 116:23, 119:13, 122:15, 122:19, 123:11, 123:13, 123:23, 132:15, 138:3, 140:20, 145:12, 146:4, 147:14, 149:3, 152:4, 154:13, 156:2, 157:18, 159:16, 160:17, 162:11, 165:23, 166:5, 166:7, 167:4, 167:16, 172:13, 173:3 there's 8:25, 9:10, 10:24, 10:25, 25:16, 46:3, 48:11, 51:21, 53:13, 53:18, 54:14, 56:18, 64:4, 64:10, 64:11, 72:15, 80:1, 88:12, 91:3, 96:13, 97:6, 97:10, 100:18, 101:3, 106:16, 106:18, 113:5, 116:11, 116:12, 116:18, 117:2, 117:8, 118:5, 119:23, 120:21, 121:11, 122:2, 122:22, 124:1, 124:21, 133:2, 135:6, 138:19, 138:22, 139:17, 139:23, 140:9, 148:6, 149:24, 151:25, 152:1, 152:7, 152:14, 153:11, 153:12, 154:13, 154:25, 156:2, 156:4, 160:17,</p>	<p>165:25, 166:15, 173:2 these 8:25, 12:8, 12:23, 21:19, 23:5, 28:23, 34:11, 39:25, 43:19, 45:24, 50:14, 54:4, 56:2, 63:22, 64:12, 64:23, 64:25, 66:21, 66:22, 67:12, 67:14, 75:25, 77:25, 80:7, 89:12, 90:23, 93:13, 94:12, 96:2, 97:1, 97:19, 97:20, 97:24, 97:25, 99:3, 122:7, 125:7, 133:11, 142:11, 143:2, 144:19, 145:24, 148:13, 158:14, 165:25, 174:15 they 11:3, 11:7, 12:1, 12:6, 30:20, 31:8, 43:9, 44:13, 45:10, 47:20, 51:22, 57:24, 57:25, 64:22, 65:9, 65:15, 69:3, 70:11, 70:12, 76:15, 80:4, 86:3, 86:5, 87:19, 88:10, 89:13, 97:3, 98:2, 99:3, 99:9, 99:12, 101:22, 106:11, 117:6, 119:25, 120:4, 120:17, 122:13, 123:1, 126:6, 128:13, 129:2,</p>
---	--	---	---

<p>140:3, 140:4, 140:5, 140:6, 142:2, 144:21, 147:2, 147:16, 147:17, 157:11, 161:21, 166:2, 166:4, 171:13 they're 20:10, 23:13, 23:14, 44:14, 45:9, 47:12, 50:7, 50:18, 63:13, 64:17, 70:12, 86:1, 86:4, 89:10, 89:25, 90:1, 90:2, 90:3, 99:12, 102:20, 120:2, 123:16, 129:1, 133:14, 142:3, 146:21, 147:2, 147:18, 147:19, 162:13, 162:16 thing 30:6, 146:23, 147:19, 171:19, 172:22, 173:4 things 12:14, 14:23, 15:3, 28:2, 68:21, 70:19, 99:3, 99:24, 100:3, 101:16, 117:21, 117:25, 165:11, 171:16 think 9:3, 10:21, 12:22, 13:19, 16:3, 20:16, 21:2, 23:24, 35:20, 39:25, 40:25, 41:4, 58:13, 60:5, 60:18, 66:6, 70:16, 70:23, 71:15, 76:12, 80:10, 80:23,</p>	<p>85:25, 86:1, 86:15, 87:7, 93:22, 95:10, 99:3, 99:9, 100:4, 104:2, 109:3, 113:2, 113:7, 115:15, 115:19, 119:13, 122:15, 131:22, 133:1, 140:9, 142:9, 148:12, 148:16, 149:7, 152:1, 152:5, 154:10, 154:19, 154:21, 158:11, 159:18, 161:12, 166:23, 167:3, 167:19, 171:13 third 52:9, 52:11, 52:12, 52:22, 52:23, 118:8, 159:16 though 41:9, 45:11 thought 78:23 three 30:8, 52:12, 73:17, 73:21, 73:23, 74:2, 74:11, 75:4, 111:4, 112:14, 113:14, 114:5, 139:10, 139:13, 154:2 threshold 25:6, 44:12, 44:14, 44:16, 44:17, 48:4, 105:9, 107:15, 107:16, 107:17, 110:9, 127:25, 156:9, 156:10, 170:8, 174:19 thresholded 47:19, 174:15 thresholds 108:20, 156:3</p>	<p>through 7:10, 9:19, 11:14, 11:15, 18:16, 22:5, 26:6, 26:15, 32:4, 32:12, 45:14, 45:19, 51:9, 54:4, 69:7, 76:4, 82:12, 83:20, 85:14, 94:9, 94:25, 103:8, 103:9, 104:2, 113:6, 130:3, 130:18, 137:9, 137:14, 141:13, 141:18, 143:5, 143:11, 143:24, 144:17, 144:21, 144:23, 145:8, 145:13, 146:15, 149:17, 149:21, 150:2, 157:9, 157:16, 158:3, 160:9, 162:8, 165:16, 166:1, 173:19 throughout 72:17 tighter 162:1 time 9:17, 10:4, 10:8, 10:11, 12:12, 19:10, 25:23, 31:22, 39:8, 55:1, 58:6, 58:9, 58:10, 63:1, 63:4, 63:15, 104:8, 117:11, 121:13, 131:10, 133:15, 144:8, 157:25, 163:17, 163:22, 175:16, 175:18 times 52:13</p>	<p>tip 154:11 title 14:12, 141:14, 145:23 today 6:2, 9:18, 10:6, 10:10, 10:12, 17:18, 37:3, 37:11 together 61:18 told 156:13 tone 63:20 took 101:16 tools 168:17 top 12:25, 13:25, 44:9, 47:6, 51:21, 54:8, 54:16, 56:9, 71:24, 72:17, 73:3, 86:8, 86:12, 98:9, 108:18, 116:13, 132:5, 133:7, 145:3, 152:16, 153:2, 153:3, 153:6, 153:8, 153:9, 153:12, 153:14, 153:15, 155:8, 161:1 topic 34:9 total 8:15, 53:3, 173:8 towards 35:17, 108:17, 108:18 tr 110:14, 110:21, 111:5, 111:22, 112:7, 112:24,</p>
--	--	--	--

<p>116:8, 117:4, 117:9, 124:22 track 61:25, 64:5, 65:12, 65:14, 126:24, 140:5 tracked 32:24, 33:1, 33:21, 34:12, 35:18 tracker 117:17, 117:19, 117:24, 118:6, 118:22, 119:9, 119:11, 119:17, 120:6, 120:12, 120:18, 121:12, 121:16 tracking 4:8, 32:17, 34:3, 36:7, 116:19, 116:25, 117:20, 117:25, 121:15, 121:18, 123:5, 123:17, 124:7, 124:9, 124:15, 125:22, 126:11 tracks 143:4 trademark 1:2 transcript 7:15 transform 119:5 transforms 149:2 transportation 142:24 treated 145:22, 167:19, 168:11, 168:13, 169:6, 169:14 treating 146:8, 168:16 trial 1:3, 6:19,</p>	<p>22:22, 23:2 tried 22:24, 79:15 trier 61:9, 61:10, 61:24 trigger 93:15, 93:24 trouble 91:24, 140:5 true 7:15, 23:24, 61:13, 66:14, 177:8, 178:9 try 8:8, 23:7, 25:22, 30:22, 35:21, 38:3, 55:20, 78:24, 79:2, 86:17, 90:9, 91:22, 145:21, 146:7, 151:22 trying 24:4, 73:5, 79:14, 88:23, 88:24, 89:2, 94:7, 110:3, 126:11 turn 13:21, 15:13, 15:15, 44:6, 90:6, 103:3, 121:22, 127:20, 128:6, 150:19 two 8:25, 10:5, 12:3, 15:7, 30:13, 34:14, 63:24, 65:15, 66:9, 69:18, 74:7, 74:12, 78:22, 82:14, 82:15, 86:13, 87:3, 90:12, 90:13, 95:12, 96:2, 118:11, 118:16, 122:22,</p>	<p>124:19, 125:18, 127:2, 127:8, 139:11, 140:17, 145:24, 152:16, 153:19, 153:22, 154:5, 154:9, 158:14, 159:16, 159:18, 160:8, 161:18, 165:11 two-dimensional 69:15, 69:17, 148:25, 149:11, 150:10 type 165:13 types 97:7, 107:1 typical 44:21, 44:23 typically 52:16, 91:8, 97:22</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>uh-huh 17:17, 24:6, 69:13, 117:1, 119:18, 136:17, 138:12, 155:11, 159:11, 164:13 ultimate 38:4 umbrella 13:11 uncommon 169:3 under 14:12, 21:10, 22:2, 22:4, 26:16, 31:2, 39:17, 56:7, 87:17, 92:22, 177:6, 177:7 undersigned 177:6 understand 6:25, 15:23, 16:2, 17:8,</p>	<p>17:19, 19:4, 19:12, 19:25, 20:12, 23:21, 24:4, 24:8, 24:9, 27:14, 29:11, 35:7, 38:18, 39:16, 43:16, 43:18, 44:2, 49:11, 50:6, 52:19, 53:6, 54:25, 55:20, 55:21, 56:19, 58:22, 59:2, 81:15, 89:3, 90:10, 95:23, 96:12, 97:23, 98:4, 99:21, 114:23, 126:11, 133:24, 133:25, 136:10, 151:4, 155:4, 162:22, 165:8, 165:10, 165:18, 167:6, 171:5, 171:14 understanding 36:5, 87:4, 90:17, 91:24, 92:1, 97:2, 101:5, 139:3 understood 135:16, 162:4 uniformly 58:11 unit 79:23, 81:14, 82:3, 82:4, 82:11, 83:15, 83:21, 93:6, 96:5, 97:13, 120:13, 121:7, 121:10 united 1:2, 3:24, 4:10, 4:13, 4:17, 4:21, 4:25 units 76:1, 80:2,</p>
---	---	--	---

<p>80:8, 80:20, 81:22, 93:7, 93:14, 93:16, 93:22 universal 13:16 university 6:16, 6:17, 12:22, 13:12, 13:18 unknown 139:17 unpredictable 140:21 unsuccessful 22:25 until 53:8, 54:2, 56:4 unusual 12:15 upcrc 13:17 updated 55:12, 72:25 updates 55:1 updating 54:19 upper 64:19 usage 142:22 use 30:22, 44:14, 45:10, 46:10, 46:19, 56:1, 61:24, 62:3, 75:24, 78:24, 79:23, 81:13, 81:14, 87:19, 93:5, 93:10, 93:21, 98:14, 98:16, 103:21, 125:8, 127:11, 140:3, 140:6, 140:23, 142:7, 147:5, 155:2,</p>	<p>155:3, 158:7, 161:22, 164:9, 168:17 used 12:10, 16:2, 16:3, 19:18, 19:19, 22:16, 23:23, 23:25, 28:10, 31:7, 31:12, 31:13, 31:14, 31:16, 33:10, 41:8, 46:13, 60:15, 67:20, 68:4, 73:9, 73:11, 73:15, 74:7, 74:8, 74:20, 75:2, 75:10, 75:14, 75:15, 76:1, 77:1, 77:7, 78:20, 80:18, 83:8, 86:4, 87:15, 88:8, 88:17, 88:25, 89:10, 92:11, 92:16, 92:18, 95:21, 96:15, 96:22, 96:23, 98:5, 98:10, 98:21, 99:17, 100:2, 101:2, 101:4, 101:10, 102:13, 104:2, 107:2, 109:11, 110:24, 111:5, 111:23, 112:2, 118:17, 119:9, 119:21, 119:24, 120:2, 120:4, 121:14, 125:9, 125:12, 136:4, 137:2, 137:18, 139:16, 141:3, 147:5, 151:14, 152:18, 154:22, 159:4, 163:8, 164:4, 165:6, 168:18,</p>	<p>168:19, 168:20, 170:8 useful 148:13 user 33:24, 34:2, 34:24, 34:25, 35:1, 35:5, 60:21, 80:13, 80:16, 81:2, 89:12 user's 25:8, 25:15, 60:10, 63:8 user-bound 98:8 user-defined 97:12 uses 99:1, 121:18 using 22:14, 28:9, 31:1, 32:12, 34:12, 34:24, 40:1, 42:6, 44:17, 47:1, 59:9, 65:15, 67:22, 75:22, 79:22, 80:5, 86:1, 87:7, 88:10, 89:13, 93:18, 94:1, 94:3, 95:11, 97:18, 98:18, 99:21, 107:25, 108:2, 112:16, 121:17, 125:4, 130:17, 130:23, 135:10, 142:2, 142:15, 142:19, 142:21, 143:16, 152:20, 155:19, 158:17, 163:11, 166:24 usually 140:19 utilized 19:9, 121:9,</p>	<p>132:14, 168:15 utilizing 26:2 <hr/> <p style="text-align: center;">V</p> <hr/> <p>v 71:12 vacuum 27:7 vague 22:7, 23:3, 23:11 valid 76:16 validate 93:16 validation 72:25, 80:3, 81:14, 82:12, 93:6, 93:15, 93:24, 94:11 valley 140:15, 153:17, 153:18, 155:9 valleys 142:3, 142:4, 153:19, 153:20, 153:22, 154:9, 156:10, 156:18 valuable 108:23 value 30:7, 42:25, 44:16, 44:17, 57:10, 63:15, 63:16, 63:17, 64:1, 67:17, 67:18, 67:19, 67:20, 67:23, 67:24, 70:9, 70:10, 72:8, 73:9, 74:7, 74:19, 75:14, 75:18, 85:20, 85:25, 86:1, 87:8, 89:15, 90:7, 91:9, 95:1, 103:4,</p> </p>
--	---	---	---

<p>105:10, 105:13, 107:10, 107:15, 107:16, 107:17, 108:8, 108:9, 110:13, 138:19, 138:20, 138:22, 138:25, 139:5, 139:16, 144:6, 144:18, 144:20, 144:25, 145:15, 147:12, 148:2, 148:10, 164:24, 166:2, 166:24, 167:2, 167:13, 167:14, 170:8, 172:24, 173:6, 173:9, 173:16 values 29:20, 29:22, 40:24, 41:1, 41:2, 41:9, 41:10, 42:6, 42:12, 42:20, 42:24, 43:1, 43:4, 44:15, 63:20, 63:23, 63:24, 64:6, 64:19, 64:23, 65:16, 66:8, 66:11, 67:25, 68:24, 69:2, 74:6, 87:16, 87:17, 88:19, 88:20, 89:18, 89:23, 95:2, 101:3, 101:12, 102:22, 105:6, 106:7, 107:15, 107:17, 107:19, 107:20, 109:10, 109:13, 111:6, 111:8, 113:20, 113:25, 114:4, 146:15, 146:20, 147:12, 147:15, 148:2, 148:9, 148:15, 148:20, 155:6, 165:2,</p>	<p>166:21, 166:22, 167:1, 167:8, 171:10, 171:22, 172:22 van 5:8 variable 139:20 variables 139:17, 139:18 variation 171:24 variety 58:9, 64:24, 143:3 various 67:14, 86:6, 92:15, 169:16 varying 108:22 vector 86:1, 91:9, 91:11, 91:12 vectors 91:14 vehicle 108:4, 108:20 vehicles 32:22, 105:12 velocities 63:10, 75:22, 75:23, 82:16, 87:22, 90:20, 102:25 velocity 63:10, 63:13, 63:14, 63:16, 63:23, 64:12, 64:13, 64:14, 64:16, 70:5, 70:6, 70:11, 70:13, 75:24, 82:12, 83:8, 85:23, 85:25, 86:2, 86:9, 87:5, 87:7, 87:9, 87:19, 87:24, 88:1,</p>	<p>88:4, 88:7, 88:11, 88:19, 88:20, 89:9, 89:25, 90:1, 90:4, 90:5, 90:6, 90:20, 90:23, 91:8, 91:9, 91:11, 91:12, 91:14, 91:19, 92:2, 92:5, 95:5, 95:9, 95:11, 96:14, 96:24, 101:3, 102:11, 102:19, 102:20, 102:22, 102:24, 103:23 verify 119:20, 125:17, 127:23, 128:11 version 16:19, 77:24, 103:1, 149:9, 166:3, 167:21 vertical 52:3, 52:15, 58:2, 145:6, 152:4, 152:10, 153:16, 154:8, 155:8, 160:22, 161:3 vertically 42:25, 52:12, 52:24, 160:17 very 23:14, 24:17, 53:3, 59:12, 66:20, 67:9, 67:10, 68:8, 80:6, 116:19, 119:20, 140:19, 140:21, 140:25, 144:9, 144:10, 169:10, 169:11 viable 35:2 video 4:8, 53:3,</p>	<p>58:25, 63:9, 111:9, 121:8, 121:13, 123:6 vision 61:14, 143:7, 148:22, 149:5 vs 1:10</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>want 5:22, 16:8, 22:11, 28:13, 30:5, 35:7, 48:18, 51:20, 57:4, 66:20, 73:4, 79:14, 81:13, 81:14, 83:4, 83:11, 86:7, 94:17, 108:14, 111:19, 112:12, 112:13, 120:6, 125:17, 132:2, 136:10, 136:11, 151:4, 151:11, 151:13, 155:18, 160:5, 162:4, 163:24, 175:23 wanted 15:18, 16:4, 23:16, 27:13, 30:14, 39:20, 102:9, 151:9, 151:10, 175:20, 176:2 was 6:6, 9:3, 9:11, 10:16, 11:10, 11:16, 12:10, 13:3, 13:16, 13:17, 13:23, 14:24, 19:10, 19:11, 19:12, 19:19, 19:21, 19:22, 20:7, 20:8, 20:20, 21:4, 21:5,</p>
---	---	---	--

21:8, 21:12, 21:17, 22:24, 26:11, 26:20, 26:21, 27:12, 33:13, 36:9, 36:11, 36:12, 38:6, 38:11, 38:12, 38:13, 52:22, 52:23, 63:5, 65:20, 65:22, 67:20, 70:13, 71:13, 73:21, 73:22, 73:23, 74:10, 79:7, 82:19, 82:24, 85:6, 86:18, 87:7, 88:7, 88:13, 91:6, 92:19, 93:1, 96:4, 96:9, 99:7, 100:21, 108:4, 108:15, 109:4, 113:4, 113:7, 114:19, 115:4, 115:6, 115:10, 125:2, 125:13, 126:12, 127:9, 131:20, 132:23, 132:25, 134:16, 134:23, 136:2, 137:23, 142:23, 147:8, 156:14, 161:14, 164:9, 165:15, 168:2, 176:7, 178:7, 178:9, 178:12 wasn't 34:8, 36:16, 88:7, 88:8, 88:13, 101:5, 117:11, 126:6, 128:22 water 15:5 way 27:4, 27:5, 29:2, 34:17,	39:8, 46:3, 63:13, 78:25, 86:25, 89:1, 94:18, 96:24, 98:10, 98:12, 98:25, 107:16, 107:18, 110:4, 110:6, 111:21, 126:20, 133:20, 139:5, 142:4, 146:18, 147:21, 148:18, 150:9, 163:11, 166:7, 168:20, 169:5 ways 94:8, 110:4 we'd 94:2 we'll 7:20, 8:8, 12:23, 18:9, 18:16, 25:19, 30:24, 58:17, 62:8, 79:4, 133:6, 133:15, 151:22, 158:2, 169:25 we're 16:4, 17:8, 17:25, 27:10, 27:13, 27:14, 27:17, 43:20, 43:21, 45:13, 49:6, 77:1, 82:18, 82:22, 104:5, 111:19, 114:16, 118:3, 127:15, 129:18, 129:19, 130:6, 130:8, 130:17, 132:17, 136:7, 136:14, 148:19, 149:21, 150:19, 151:17, 154:15, 154:16, 156:25, 157:8, 160:12 we've 43:11, 66:6,	80:22, 133:24, 134:8, 142:9, 150:1, 156:24, 159:16, 164:11 web 12:22, 12:24 website 14:7 weight 58:12, 121:17 weighted 58:11, 166:3, 166:11 welcome 85:13 well 7:15, 8:1, 11:8, 12:21, 24:1, 25:18, 27:8, 29:9, 31:17, 39:13, 40:3, 45:9, 45:13, 49:3, 49:13, 52:2, 53:3, 59:9, 69:7, 80:10, 80:24, 82:3, 91:21, 92:14, 102:25, 128:9, 132:17, 133:5, 133:15, 142:1, 149:14, 154:10, 155:20, 157:18, 157:24, 162:21, 165:25, 167:3, 171:9, 176:2 went 11:15, 62:6, 119:13, 122:15, 143:5 were 8:10, 8:18, 11:4, 11:13, 11:18, 12:1, 12:8, 20:5, 20:18, 21:3, 22:16, 33:10, 48:4, 57:14,	62:7, 65:9, 65:15, 66:11, 71:13, 77:2, 88:10, 93:13, 93:23, 115:9, 125:3, 126:10, 126:13, 127:11, 132:12, 137:3, 157:4, 157:11, 166:4, 166:5 weren't 30:14 what's 7:8, 8:1, 9:13, 14:17, 18:22, 46:18, 61:12, 61:19, 61:21, 63:9, 68:23, 86:21, 89:17, 105:19, 119:1, 124:12, 155:12, 155:13, 165:9, 169:24, 171:5, 171:6, 171:14, 171:19, 172:1, 172:25, 174:13 whatever 31:18, 73:4, 101:7 when 8:10, 8:18, 20:17, 21:2, 22:12, 47:6, 55:17, 55:22, 56:10, 60:7, 66:20, 79:22, 80:6, 82:18, 83:4, 86:3, 89:20, 133:2, 135:12, 136:24, 137:23, 138:22, 140:4, 140:8, 140:9, 140:15, 140:18, 140:25, 141:1, 143:16, 148:16, 148:18, 153:8, 173:10 where 9:10, 10:24,
--	---	--	---

20:5, 20:6, 20:8, 20:11, 20:18, 21:3, 21:7, 21:8, 21:17, 21:24, 26:10, 28:9, 29:20, 30:1, 32:8, 33:9, 35:15, 36:13, 36:25, 39:7, 41:6, 42:2, 42:14, 43:11, 47:23, 56:16, 60:11, 63:4, 64:13, 65:9, 65:15, 65:20, 65:21, 66:7, 66:10, 66:18, 67:23, 69:24, 75:21, 75:25, 76:2, 77:5, 86:7, 89:24, 91:10, 92:19, 94:7, 95:10, 96:2, 99:12, 100:6, 102:22, 103:20, 107:22, 113:3, 115:6, 119:12, 120:24, 123:7, 124:22, 125:25, 130:8, 132:15, 137:14, 140:10, 140:11, 146:4, 151:9, 153:5, 153:20, 154:7, 155:23, 157:7, 161:23, 162:16, 162:25, 163:10 whereby 35:24 wherein 17:25, 18:5, 18:6, 18:10, 62:13, 62:22, 66:2, 114:20 whereof 178:20	whereupon 176:6 wherever 16:8, 47:19, 130:19, 151:11 whether 24:20, 26:14, 28:3, 28:4, 28:15, 36:20, 75:3, 81:25, 97:6, 99:16, 99:17, 100:14, 112:2, 112:15, 128:13, 129:1, 139:1 which 5:24, 5:25, 11:25, 12:6, 18:16, 32:21, 33:19, 35:17, 40:22, 46:1, 47:14, 48:5, 49:8, 55:9, 56:13, 62:10, 68:3, 71:8, 71:19, 72:7, 75:9, 75:14, 77:2, 80:4, 86:21, 87:8, 90:24, 93:1, 93:3, 96:15, 100:23, 103:1, 103:18, 105:13, 105:20, 106:19, 111:22, 114:10, 120:24, 121:4, 121:8, 121:20, 122:12, 122:14, 122:19, 125:3, 128:17, 128:19, 129:5, 129:9, 129:10, 129:22, 132:7, 132:19, 136:15, 138:8, 139:20, 140:21, 147:9, 149:3, 155:25, 156:15, 158:25, 163:8,	164:11, 167:22, 168:20, 171:12, 172:21 whichever 16:22 whilt 2:15, 6:4, 40:8, 163:23, 175:22, 176:4 white 132:7, 132:19, 132:20, 146:22, 153:13 who 10:2, 143:6 whole 26:23, 28:24, 61:19, 77:22, 77:23, 113:17, 114:9, 155:1, 159:1, 163:4, 174:17 whose 173:16, 178:6 why 29:18, 39:12, 41:12, 57:1, 62:5, 79:2, 115:24, 120:16, 120:17, 134:21, 150:12, 157:24, 167:24, 171:1 will 5:15, 5:16, 7:1, 7:15, 7:16, 12:21, 16:19, 25:2, 25:19, 30:24, 39:11, 40:12, 56:1, 63:20, 65:12, 65:13, 68:15, 74:7, 74:8, 75:2, 75:10, 75:17, 78:20, 79:23, 80:18, 81:6, 81:8, 82:3, 82:4, 82:7, 83:16,	87:19, 104:11, 124:22, 133:17, 134:15, 140:17, 140:24, 143:1, 153:25, 166:10 willing 38:17 window 51:25, 53:7, 53:12, 53:14, 53:17, 53:19, 53:25, 54:7, 54:15, 55:15, 55:21, 55:22, 56:3, 56:8, 56:14, 57:5, 75:8, 75:12, 75:16, 105:7, 106:1, 106:7, 106:9, 106:17, 106:18, 106:24, 107:4, 107:22, 107:25, 108:14, 109:11, 109:14, 110:25, 111:1, 111:14, 112:24, 113:23, 116:8, 116:9, 116:19, 116:25, 117:3, 117:20, 117:25, 123:19, 124:3, 124:8, 124:10, 124:15, 125:15, 125:22, 126:12, 126:21, 129:7, 129:20 windowing 58:10 windows 52:19, 53:10, 103:19, 107:1, 110:14, 111:5, 111:11, 111:22, 117:21, 122:13, 123:5, 123:17 wish 60:4 with 5:25, 6:1, 6:3,
---	---	---	--

<p>6:23, 7:12, 7:13, 7:18, 8:3, 8:8, 9:21, 10:2, 10:3, 10:18, 11:4, 13:15, 14:19, 16:5, 16:13, 16:25, 18:19, 19:2, 19:12, 19:17, 19:19, 32:21, 38:1, 39:8, 39:20, 40:16, 46:10, 48:19, 49:10, 49:12, 50:12, 55:18, 58:17, 59:3, 59:5, 59:7, 59:15, 59:19, 64:18, 72:7, 74:4, 74:11, 74:18, 76:1, 78:25, 80:7, 80:22, 81:3, 83:13, 87:22, 88:20, 90:4, 92:25, 93:23, 96:4, 96:25, 97:2, 100:8, 102:10, 103:4, 103:15, 104:2, 107:15, 109:4, 114:2, 114:16, 116:25, 117:16, 120:8, 126:9, 128:21, 130:4, 131:23, 132:6, 133:11, 133:17, 141:25, 142:7, 144:11, 145:1, 149:6, 153:5, 153:22, 154:20, 154:23, 155:5, 157:21, 160:6, 162:12, 166:14, 167:15, 168:17, 172:7, 175:3, 175:4 within 25:7, 38:21,</p>	<p>39:3, 54:23, 57:5, 57:23, 73:15, 79:24, 80:18, 82:22, 97:12, 105:6, 106:7, 107:6, 107:23, 108:1, 108:7, 108:24, 109:10, 109:13, 111:1, 125:7, 165:21, 174:21, 174:24, 178:4 without 10:24, 24:23, 28:21, 39:22, 81:4, 91:7, 112:5, 112:25, 126:11 witness 3:3, 5:16, 5:23, 12:12, 16:13, 20:4, 20:16, 22:9, 24:14, 26:9, 26:19, 28:8, 28:18, 29:5, 29:14, 29:25, 31:5, 32:6, 32:14, 33:7, 33:16, 34:20, 35:13, 36:2, 36:23, 37:7, 37:21, 38:24, 39:6, 40:13, 42:5, 42:23, 43:7, 45:23, 46:8, 46:17, 47:16, 50:22, 54:18, 55:11, 55:25, 56:25, 60:14, 62:22, 66:18, 67:9, 68:13, 68:23, 73:14, 75:21, 91:16, 92:14, 94:6, 94:22, 95:21, 96:18, 97:10, 99:21,</p>	<p>100:18, 101:16, 103:17, 106:16, 107:13, 110:17, 110:23, 112:1, 112:9, 124:6, 124:25, 127:6, 127:17, 131:23, 142:9, 146:17, 148:12, 163:23, 169:9, 175:12, 175:14, 178:6, 178:10, 178:20 won't 8:5, 68:17 wonder 78:11 word 21:1, 23:10, 23:21, 23:22, 44:14, 77:1 words 78:10, 79:16, 161:9 work 7:19, 8:8, 8:21, 13:15, 14:10, 47:4, 140:14, 143:7, 154:19, 154:20, 171:13 worked 8:23, 10:18, 13:14 working 14:18, 80:22, 149:6 worth 8:21 wouldn't 10:14, 12:10, 30:12, 49:1, 154:20 wrong 58:18, 139:17 <hr/> X <hr/> x 139:6</p>	<p>x-direction 97:13 xn 161:22, 161:23 xs 82:13 xy 75:16, 78:10, 82:22, 83:1, 83:9, 139:18 <hr/> Y <hr/> y 139:6, 139:12 yeah 15:14, 15:22, 40:11, 42:9, 44:4, 48:20, 51:19, 54:22, 64:11, 68:7, 68:8, 70:18, 72:12, 75:7, 77:4, 77:8, 78:1, 99:2, 112:11, 116:21, 117:10, 122:15, 128:16, 140:14, 149:18, 151:13, 156:17, 158:5, 158:11, 160:20, 161:11, 161:21, 162:5, 172:13 year 8:13, 8:20, 10:18, 10:21 year's 8:20 yet 163:24 york 2:28 you'd 23:12, 107:24, 118:5, 128:8, 130:19, 151:11, 157:17 you'll 7:5, 17:7,</p>
--	---	--	---

17:18, 40:24, 64:16, 87:10, 130:15 you're 6:23, 7:4, 7:9, 15:11, 16:7, 16:10, 22:21, 26:25, 31:18, 35:8, 37:3, 37:25, 38:17, 40:2, 42:8, 43:16, 47:25, 48:19, 49:6, 55:15, 60:5, 61:6, 67:6, 79:3, 80:5, 89:3, 89:20, 90:10, 91:24, 94:6, 94:7, 95:11, 98:11, 101:14, 105:18, 106:12, 106:19, 114:5, 114:24, 118:1, 123:8, 125:19, 126:14, 126:25, 127:4, 132:21, 134:1, 135:3, 141:2, 143:15, 143:16, 143:17, 146:1, 146:10, 148:24, 149:19, 150:24, 151:19, 153:14, 154:10, 155:25, 156:22, 157:12, 159:1, 159:3, 159:5, 159:10, 160:2, 160:13, 163:10, 163:24, 164:19, 167:7, 171:16, 171:19, 173:6 you've 6:18, 8:15, 57:4, 60:7, 76:2, 115:22, 122:12, 135:24, 138:11, 143:20,	155:20, 163:10 yours 176:2 yourself 23:1 <hr/> z <hr/> zero 70:11, 72:8, 85:20, 86:22, 86:24, 91:5, 103:24, 172:12 zone 105:19, 105:25, 160:8, 160:12, 160:16, 160:23, 162:7 zones 161:18 <hr/> \$ <hr/> \$500 8:6, 44:4 <hr/> \' <hr/> 's 137:23 <hr/> . .6000 2:19 .7200 2:29 <hr/> 0 <hr/> 01190 1:8, 130:9, 130:10 01218 1:13 <hr/> 1 85:2, 109:2 1-d 108:25, 109:3, 109:5, 109:6, 109:15	10 43:23, 49:8, 49:16, 49:23, 50:1, 50:6, 57:20, 86:16, 121:6, 130:3, 172:15 100 72:14, 72:15, 72:16, 74:9, 74:13, 74:15, 74:22, 75:11, 75:18, 76:8, 76:9, 76:13, 76:22, 76:23, 77:25, 78:21, 82:8, 83:16, 83:22, 157:21 10004 2:28 1001 3:24, 15:9, 130:8 1002 4:3, 16:11, 16:18, 16:21, 17:2, 18:15, 18:17, 49:9, 130:10 1005 4:8, 109:19, 116:4, 138:7 1006 4:10, 127:16, 127:18, 127:21, 159:21, 159:22 1007 4:13, 174:3, 174:25 1009 4:17, 61:6, 61:8, 61:10, 169:24, 171:8 101 157:2, 157:3, 157:20, 157:24 1013 4:21, 40:13,	44:6, 56:9, 57:8, 57:17 1014 4:25, 104:12 103 138:7, 141:8, 141:10 104 4:25 105 164:21 108 81:12, 81:18, 81:19, 81:20, 81:21, 81:24, 82:2, 82:12 109 4:8 11 30:23, 44:6, 44:8, 44:10, 45:14, 46:5, 46:24, 48:1, 53:1, 74:24, 76:2, 93:4, 97:11, 98:13 112 96:5 113 41:13, 41:14, 41:16 115 104:9, 104:14 116 25:5, 49:4, 49:7 117834 1:19 1190 5:25 12 9:12, 49:14, 49:19, 49:22, 57:20, 64:11, 64:12, 66:19, 69:9, 69:14, 69:16, 69:22, 70:2, 77:1,
--	---	---	---

<p>78:5, 78:11, 78:22, 80:13, 84:3, 87:10, 87:14, 87:16, 87:23, 88:8, 88:18, 89:1, 89:5, 89:20, 89:23, 90:9, 90:11, 90:13, 90:16, 90:18, 90:19, 91:3, 91:13, 91:17, 91:23, 91:24, 92:10, 92:22, 93:11, 94:16, 94:20, 95:4, 95:8, 95:10, 95:17, 95:19, 95:22, 96:10, 96:13, 96:16, 96:18, 97:8, 97:16, 98:21, 99:11, 99:18, 99:19, 99:21, 99:24, 100:4, 100:5, 100:13, 100:21, 101:1, 101:6, 101:7, 101:14, 101:17, 101:25, 102:14, 102:15, 102:17, 102:18, 102:19, 113:7, 165:5, 165:11, 167:3 121 120:9 1218 5:24, 15:10, 18:17 126 68:4 127 4:10 13 3:12, 3:15, 48:14, 50:11, 50:14, 58:16, 71:8, 71:10,</p>	<p>71:19, 72:1, 72:4, 72:6, 72:11, 76:1, 76:5, 76:9, 76:25, 77:2, 77:6, 81:13, 81:16 130 169:25 131 3:19 133 174:5, 174:10 134 11:12, 11:23, 12:3, 12:17, 15:8, 15:11, 15:15, 16:18, 18:15, 18:16, 22:12, 22:14, 22:16, 23:23, 24:2, 27:9, 27:10, 27:15, 27:17, 27:19, 27:22, 31:20, 32:14, 32:25, 33:13, 34:16, 34:23, 35:9, 35:23, 36:3, 36:13, 36:15, 36:20, 36:25, 37:3, 40:14, 44:7, 61:22, 62:8, 63:14, 66:10, 66:22, 67:15, 69:9, 69:10, 70:17, 71:19, 72:24, 75:25, 83:24, 85:15, 85:23, 86:16, 87:9, 88:6, 95:18, 104:10, 104:12, 104:15, 109:22, 113:1, 113:3, 113:13, 115:5, 115:15, 120:14, 121:5, 125:2,</p>	<p>126:10 14 50:11, 50:14, 71:7, 71:19, 86:16, 86:20, 101:19, 101:21, 101:25, 102:7, 102:9, 102:10, 102:11, 102:13, 102:16, 102:21, 102:23 143 25:17 14520 5:8 15 3:24, 102:25, 121:6, 121:7, 170:14 155 120:23, 120:25 157 109:17 158 25:6, 25:10 16 4:3, 4:19, 67:24, 68:1, 68:3, 68:7, 102:25, 121:6 160 52:8, 52:13, 52:23, 53:4 166 120:9, 120:15, 120:19 169 4:17 17 3:26, 63:7, 66:19, 67:3, 68:6, 68:7, 68:8, 68:23, 69:1, 71:23, 71:25, 72:17, 77:5, 77:12, 85:2, 95:22, 96:10, 103:3,</p>	<p>113:7, 121:10 174 4:13 18 2:4, 2:17, 51:9, 60:4, 60:5, 71:24, 72:18, 73:3, 74:23, 170:13, 171:8, 171:15, 172:1 180 86:24 19 60:4, 67:16, 72:20, 72:22 1956 62:3 1996 4:12, 4:19, 4:23 1998 4:15 1a 17:7, 37:24, 38:7, 40:6, 40:19, 77:17 1b 17:14, 17:18, 18:22, 19:15, 20:1, 20:11, 20:13, 20:17, 20:22, 21:3, 21:4, 21:6, 21:10, 21:16, 21:23, 22:2, 22:4, 22:6, 24:5, 24:9, 24:12, 24:17, 25:4, 25:12, 25:22, 25:25, 26:7, 26:12, 26:16, 27:7, 28:3, 28:5, 28:11, 28:16, 29:6, 29:20, 29:23, 30:3, 31:2, 31:9,</p>
--	--	--	--

<p>31:17, 31:25, 32:4, 32:12, 33:4, 33:8, 33:10, 33:14, 33:16, 36:10, 37:15, 37:18, 37:21, 38:1, 38:5, 38:22, 39:4, 39:17, 40:7, 40:20, 41:5, 104:14, 104:18, 104:21, 104:24, 105:1, 105:2, 109:7, 109:21, 109:24, 110:4, 110:15, 110:18, 110:21, 112:15, 112:17, 113:1, 113:2, 113:16, 114:7 1c 17:22, 17:24, 18:9, 62:10, 62:17, 62:22, 64:3, 65:5, 66:2, 66:14, 68:13, 114:14, 114:15, 114:20, 115:2, 115:16, 115:23 1c's 69:3</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 109:3, 115:25 20 32:14, 32:20, 33:13, 34:7, 34:10, 34:18, 35:11, 35:25, 36:25, 51:14, 51:18, 67:12, 72:21, 86:17, 87:11, 87:20, 87:21, 88:13, 89:9, 90:22, 92:2, 92:8,</p>	<p>100:19, 100:25, 102:3, 102:4, 103:7, 150:14, 177:11 2000 4:27 2007 13:19 201 178:21 2012 3:12, 12:23, 12:24, 13:2, 13:5, 13:19 2013 3:15, 12:23, 13:21, 13:22, 14:4, 14:13 2014 3:18, 79:5, 79:6, 79:15, 80:15, 81:3, 82:22, 83:2, 83:9, 83:20 2015 3:19, 3:26, 131:18, 131:19, 132:4, 133:7, 133:8, 133:12, 133:16 2017 1:8, 1:13, 1:18, 2:3, 5:1, 5:11, 5:24, 5:25, 15:10, 18:17, 85:1, 130:9, 130:10, 178:17 2019 178:22 21 51:2, 51:6, 51:8, 51:21, 52:20, 53:7, 54:8, 54:16, 55:7, 56:9, 56:15, 69:23, 80:11, 80:12,</p>	<p>87:11, 89:4, 89:24, 90:19, 91:16, 92:2, 92:7, 94:22, 96:22, 97:11, 98:9, 98:13, 99:2, 100:1, 103:9, 103:18, 104:2, 172:13 210 34:5 212 32:21 212. 425 2:29 213. 430 2:19 218 34:3 22 1:18, 2:3, 5:1, 5:11, 85:1, 178:17 220 34:3, 52:8, 52:22, 53:4 23 32:15, 32:20, 33:12, 33:24, 58:18, 76:5, 93:5, 103:8, 103:9, 103:12, 104:2 24 2:3, 5:2, 5:11, 61:4, 103:8, 103:12, 103:17, 178:18 240 51:22, 52:5 25 45:14, 48:14, 71:12, 71:14, 71:18, 71:20, 72:9, 72:10, 72:12, 72:13, 73:14, 74:3, 76:25, 77:15,</p>	<p>79:23, 89:4, 91:16, 170:22, 170:23, 171:7, 171:16, 172:2 255 91:6, 144:25, 145:2, 145:10, 172:12 26 138:5 27 90:2, 90:19, 138:2 28 4:12, 4:27, 51:5, 74:24, 82:3, 106:22, 107:5 29 59:24, 150:14 2nd 175:23, 175:24, 176:2</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 134:19 30 87:21, 178:22 31 30:16, 84:3, 90:2 316 139:24, 153:23 317 138:11, 138:15, 139:24 318 138:11, 139:7, 140:4, 140:15 32 163:10, 163:20, 163:21 320 51:22, 52:5 35 32:16, 115:25, 170:4, 170:5</p>
---	---	--	--

<p>36 175:10 360 86:25 37 45:15, 130:18 372 165:14 377 161:1, 162:25, 164:17, 164:19, 165:5 38 97:17, 101:20, 134:19 39 40:15, 97:17, 130:15, 130:18, 130:21, 131:2, 131:6, 133:21, 134:1, 134:2, 134:8, 134:11, 134:12, 135:5, 136:7, 136:11, 136:14, 136:18, 136:19, 136:20, 137:7, 137:11, 142:7, 150:22, 150:25, 151:1, 151:2, 151:8, 151:12, 151:13, 151:14, 151:18, 151:25, 152:22, 152:23, 155:4, 155:13, 155:19, 155:21, 155:23, 156:13, 156:14, 157:6, 157:13, 158:6, 158:7, 158:8, 158:11, 158:15, 158:16, 158:22, 158:25, 159:4, 159:10, 159:12, 160:3, 160:5, 160:6, 161:14, 161:15, 161:16, 161:20, 162:2, 164:11,</p>	<p>164:14, 164:15, 171:17, 171:20 <hr/>4 <hr/>4 71:19, 150:14 40 4:21, 69:21, 69:23, 70:1, 70:2, 91:13, 99:19, 100:12 400 2:4, 2:16, 5:13, 178:16 41 97:22, 97:25, 100:8, 134:19, 150:19, 150:21, 151:9, 151:25, 159:22 42 43:23, 150:19, 175:10, 175:19 43 122:2, 122:4, 122:18, 150:19 44 150:19, 176:6, 178:18 45 86:23, 86:24, 137:7 48 115:25, 116:11, 116:14, 124:1, 124:7, 124:20, 125:18, 125:22, 126:4, 127:3 480 51:15, 52:6, 52:13, 52:23 49 57:20, 102:3, 102:5, 102:6 <hr/>5 <hr/>5 175:10, 175:19,</p>	<p>176:6, 178:18 5,008,946 4:18 5,481,622 4:22 5,521,843 4:11 5,805,720 4:14 50 51:14, 111:17, 118:13 504 109:2, 109:3 51 49:19, 49:22, 67:17, 119:3, 119:7 518 11:17, 11:23, 12:4, 12:18, 22:10, 23:25, 130:6, 130:9, 132:13, 133:22, 137:22, 137:23, 138:2, 142:18, 142:20, 163:8, 163:20, 163:21, 164:2, 164:3, 164:5, 164:8, 170:1, 174:10 52 43:23, 46:24, 48:1, 49:14, 117:15, 118:4, 119:14, 170:5 53 16:9 54 69:10, 102:3, 102:4, 130:20 55 16:9, 17:1, 69:11, 77:5, 77:13, 100:25, 121:23, 121:24, 123:9 57 17:14, 18:14,</p>	<p>18:20, 41:13, 41:14, 67:17 58 104:10 59 17:22, 18:4, 32:20 <hr/>6 <hr/>6,044,166 4:26 6,717,518 1:10 60 49:3, 49:5, 49:6, 49:8 61 174:5 63 34:2 640 51:14, 52:6, 52:22 65 51:5, 59:22, 71:25 66 72:17 6717518 6:1 <hr/>7 <hr/>77 40:5 79 3:18, 116:6 7c 45:1 <hr/>8 <hr/>8,983,134 1:14, 3:25, 4:6 80 40:25, 41:1, 41:17, 41:21, 42:19, 44:15, 110:9, 110:11 85 122:1, 122:5</p>
--	--	---	---

<p>8983134 5:25 8c 45:2</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 2:3, 5:2, 5:11, 178:18 90 86:24 90071 2:18 9042 1:20, 2:5, 178:24 91411 5:8 94 152:2, 153:1 95 151:8, 152:2 98 160:8</p> <hr/> <p style="text-align: center;">\</p> <hr/> <p>\\\</p> <p>24:25, 28:25, 38:25, 43:25, 50:25, 73:25, 84:4, 84:5, 84:6, 84:7, 84:8, 84:9, 84:10, 84:11, 84:12, 84:13, 84:14, 84:15, 84:16, 84:17, 84:18, 84:19, 84:20, 84:21, 84:22, 84:23, 84:24, 84:25, 131:25</p>	
---	--