

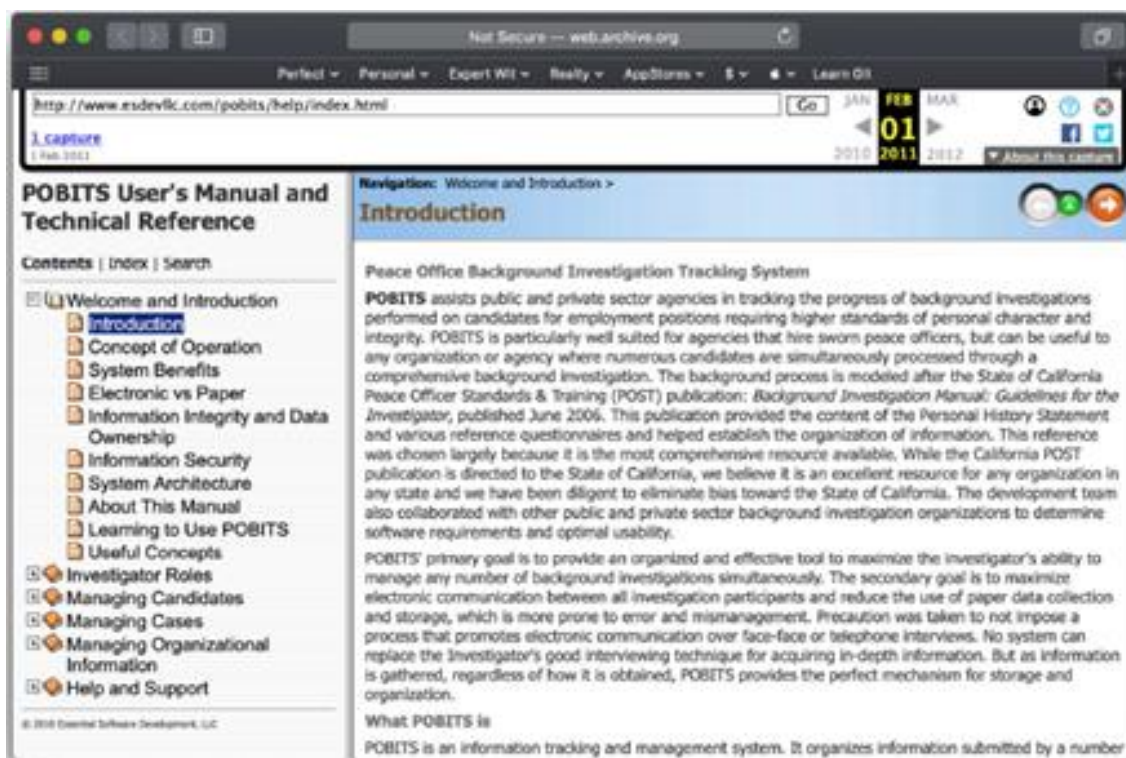
Rick and Kurt -

Thanks for making time for the call this afternoon. It sounds like it wasn't the most convenient time to get you both in the same place, so we appreciate it.

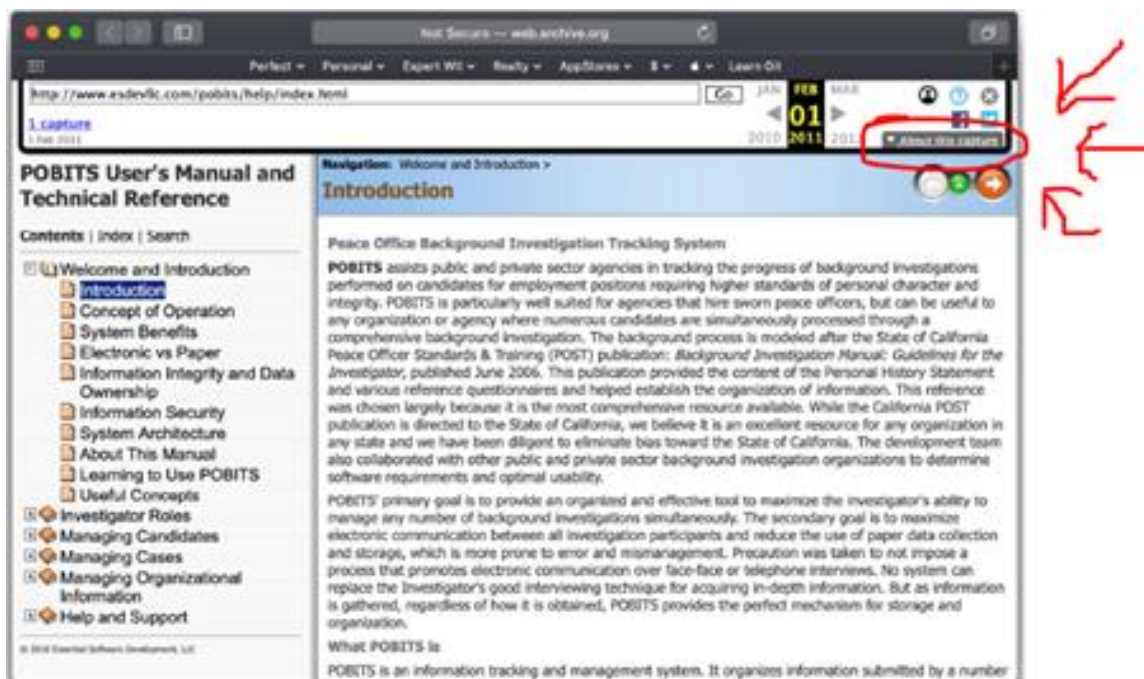
If you couldn't tell, Jordan and I were completely caught off-guard by your accusation that somebody on our legal team "forged" Ex. 1004 to the Petition. As we said on the call, we roundly reject your serious accusation against us (and against our client).

When we first reviewed the section of the POPR and Howell declaration that suggested something was purportedly amiss with the timing of Ex. 1004, we never expected that we would be personally accused of anything nefarious.

Before you publicly damage our professional reputations with baseless allegations of forgery, we want to make sure you are both aware that Mr. Howell's declaration suggests that his understanding of the Internet Archive's Wayback Machine is seriously flawed. Take, for example, the screenshot that appears at paragraph 70 of his declaration:



After this paragraph Mr. Howell spends many paragraphs in his declaration needlessly explaining how he examined HTML source code to try to understand when the screenshots that comprise Ex. 1004 were archived from the Internet. Given the purported goal and nature of his inquiry, it is surprising that Mr. Howell completely fails in his declaration to first review the "About this capture" page (available in the upper righthand corner of every archived page):



Selecting that “About this capture” dropdown page for each of the links/crawls in question would have revealed that each of those links/crawls were archived by the Alexa Crawls project (run by Alexa Internet, Inc. (a wholly-owned subsidiary of Amazon)) on the date set forth as the “archive date” set forth in the masthead of Internet Explorer (i.e., FEB 01, 2011) and (as acknowledged on the “About this capture” page) later uploaded to Archive.org:



So, with just one click, it would have been abundantly clear to Mr. Howell (and you) that a third-party organization known for archiving webpages and subsequently providing the archived pages to Internet Archive (<http://blog.archive.org/2013/10/25/fixing-broken-links/>) was responsible for archiving the information contained in Ex. 1004 (on February 1, 2011), not Guardian nor anyone else associated with Guardian, and especially not the lawyers that submitted Ex. 1004 to the U.S. Patent Trial and Appeal Board.

Frankly, we have contemplated raising Mr. Howell's mischaracterization of the operation of the Internet Archive at trial (assuming the Board decides to institute). However, now we are contemplating the possibility of moving for leave to file a three-page reply to debunk that portion of Mr. Howell's Declaration (and particularly the paragraphs that suggest foul play on behalf of Guardian (i.e. paragraphs 79-80)) before the Board's institution decision. We would be willing to entertain an unopposed motion by Patent Owner to file an amended declaration (and amended POPR) that remove these issues instead. Please let us know your thoughts on this, so we know what permission to seek from the Board.

At a minimum, after you have reviewed the information provided by the Internet Archive and Alexa Internet for yourselves, please confirm that today's call is the last anyone will hear your baseless "forgery" allegations. If you somehow continue to believe something is amiss with Ex. 1004 after reviewing the information readily available on the Internet Archive, please provide the "additional" evidence/authority you alluded to on yesterday afternoon's call by close of business eastern time today, as the timing of our request for a call with the Board over Petitioner's Motion to Correct is a factor in consideration of such motions.

We will quickly review the information you provide, let you know our thoughts, and submit a request to the Board for a teleconference regarding whatever motions (including Petitioner's request for leave to file a Motion to Correct) no later than the following evening (Friday).

Regards,

Evan