UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CODE200, UAB; TESO LT, UAB; METACLUSTER LT, UAB; OXYSALES, UAB; AND CORETECH LT, UAB, Petitioners,	:	CASE IPR2022-00861
v. BRIGHT DATA LTD., Patent Owner.	:	PATENT NO. 10,257,319

Zoom Videotaped Deposition of KEITH TERUYA

Thursday, December 15, 2022

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Pages 1 Through 128

Reported By: Cassandra E. Ellis, CSR-CA #14448, CCR-WA #3484, CSR-HI #475, RPR #823848, CRR, Realtime Systems Administrator

Deposition of KEITH TERUYA, held pursuant to agreement, before Cassandra E. Ellis, Certified Shorthand Reporter - California - #14448, Certified Shorthand Reporter - Hawaii #475, Certified Court Reporter - Washington #3484, Registered Professional Reporter #823848, Certified Realtime Reporter, Realtime Systems Administrator.

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C O N T E N T S

E X H I B I T S

(Attached to the Transcript)

P R O C E E D I N G S

THE VIDEOGRAPHER: Good morning. This is the beginning of the media in the deposition of Keith J. Teruya, taken in the matter of -- before the Patent Trial and Appeal Board, in re: Code200 UAB; TESA Limited, UAB; Metacluster Limited, UAB; Oxysales, UAB; and Coretech Limited UAB, petitioners, versus Bright Data Limited, patent owner, with Case Number IPR2022-00861, Patent Number 10,257,319, held before the Patent Trial and Appeal Board in the United States Patent and Trademark Office.

Today's date is December 15th, 2022, and the time on the monitor is approximately 12:05 p.m. My name is Joseph Ellis, I'm the certified legal videographer, the court reporter is Cassandra Ellis, and we are here representing Transperfect Legal Solutions.

Counsel appearances will be

noted on the stenographic record only.

Will the court reporter please swear in the witness, then you may proceed.

(WITNESS HAS BEEN SWORN).

MR. DUNHAM: Okay. We can stop the video recording, now, if it was started, and we'll just proceed with audio recording and the stenographer, please.

MR. TOLLIVER: And -- and Mister -- Mr. Dunham, before we get started, just a housekeeping matter, I don't know whether you're planning on using Agile Law? Last time I tried to -- to log in it, I don't know, about 10 or 15 minutes ago, it -- it said it was -- the deposition was not live. I don't know if it's currently working or not.

THE WITNESS: I just tried it, and it's not.

MR. TOLLIVER: Okay.

MR. DUNHAM: If -- if we need it, we will enable it -- for it to be live. I don't -- I don't anticipate needing it, but you never know how things will go.

MR. TOLLIVER: Okay.

MR. BARTLETT: And shall we also state, on the record, that by stipulation of counsel this deposition is also being taken in IPR2022-915 and 916?

MR. DUNHAM: Absolutely, and I was just going to do that, so thank you for the house -- housekeep --

MR. BARTLETT: Okay. Great.

MR. DUNHAM: I was going to say that this, by agreement of the parties, is the deposition of Mr. Teruya that's covering, potentially, up to six IPR numbers, the 861 and 862, as the court reporter announced, the 915 and 916, and also the 1492, 1493 to -- to whatever in- -- incarnation these end up as, but if -- can I have a verbal

agreement, from counsel, that we're -- we're taking this to cover all of those today?

MR. TOLLIVER: Yes, agreed.

MR. BARTLETT: Yes. Yes, agreed.

MR. DUNHAM: Great. Thank you, gentlemen.

KEITH TERUYA

having been sworn, testified as follows:

EXAMINATION

BY MR. DUNHAM:

Q Mr. Teruya, good morning.

A Good morning.

Q Can I ask where you are today?

A I'm in McMinnville, Oregon.

Q Okay. And I ask just because I want to try to keep an eye on the time, to be sensitive to when it might be your lunchtime and things, because we're in quite a few different time zones.

A I'm on the left coast.

Q You're almost on the left coast, as we say from Alaska.

A Oh, yes, that's true. Okay.

Q Okay. Thank you, sir.

Good morning, sir, and thank you again. I know we have engaged before, in this same format of a deposition, so I will just remind you the basic rules. I will be asking a series of questions, I will do my best to make those questions clear and understandable.

If you have any questions about anything I've said, please don't hesitate to ask and I'll -- I will do my best to either rephrase or clarify my question; can we agree on that?

A Yes.

Q Thank you. And from time to time, your counsel may object. And unless you are instructed not to answer, even if there's been an objection, you need to answer each question; do you understand that, as well?

A Yes.

Q Okay. As a little bit of background, here, do you recall being retained as the testifying expert, originally by NetNut Limited, in

connection with the US patent numbers 10,257,319 and 10,484,510?

A Before I answer that question, may I remind you, in my previous depositions with you, that I'm severely dyslexic. So if you give me something to read, you have to allow me sufficient time to review, as well as I have difficulty with context, so you need to -- you know, I may ask the question more than once, in order that I assemble the right context for myself.

The answer to your question is, yes.

Q And yes -- and I -- I do remember our discussion about the -- the most effective way for us to have this deposition, and I will do my best to work with you on that.

If -- can we agree to refer to the two patents at issue just by the last three digits, the '319 and the '510 patents?

A Yes.

Q Okay. Do you recall submitting

a declaration in support of a petition in the IPR that ends in the number 1492?

A Not off the top of my head, but if you show it to me for review I -- I can -- I can comment.

Q Okay. Do you remember submitting declarations on behalf of NetNut?

A Yes.

Q Okay. Do you also remember submitting declarations on behalf of Major Data?

A Yes.

Q Okay. Do you recall when Major Data first contacted you to become involved in the declarations for them?

A I believe it was at the beginning of April. I -- I can -- if need be, I -- I -- I can -- I can check that date by my earliest correspondence with them.

Q Okay. And then, would that be April of 2022?

A Yes.

Q Okay. And do you remember

submitting declarations for these two patents on behalf of Code200?

A I don't believe so.

Q Okay. So who engaged you, other than Major Data and NetNut, if anyone, for declarations in connection with these two patents?

MR. TOLLIVER: Objection, form.

A I'm -- I don't -- I don't know that I was engaged with any particular objective. I -- I was engaged by all three parties.

Q Sure.

A And that --

Q Go ahead, I'm sorry.

A I -- you know, I have -- I have engagement agreements with them all, and I've reviewed things, you know, for them as far back as -- as that date of engagement.

Q Okay.

A You know, I would say to NetNut much earlier.

Q Do you recall the names of the three parties that engaged you in

connection with the declarations for these two patents?

A I will -- I would have to review my correspondence to get the names, because I've interacted with so many people and in various firms.

Q And I'm not asking the names of the lawyers, I'm asking the names of the parties. So you've mentioned NetNut, and we've mentioned Major Data, what other party, if any, engaged you to assist with the IPRs for these two patents?

A I -- I was engaged by the attorneys so, you know, these -- these filings have multiple listings on them, so I -- I don't know which specific one you're referring to.

Q Do -- do you have an understanding -- and this is a yes or no question -- do you have an understanding if you've been engaged on behalf of Code200 to provide declarations relating to these two patents?

A Yes.

Q And what is that understanding?

A Well, that my -- my declaration is being used in its IPR filings. It's -- it's virtually the same -- it is essentially the same declaration that I filed under NetNut.

Q Okay. Do you recall when you were first contacted by anyone on behalf of Code200 to provide a declaration relating to these patents?

A I -- I believe it was around this -- April of this year.

Q So would that be April of 2022, just for clarity?

A Yes.

Q Thank you.

A Yes.

Q And you just mentioned the similarity of the declarations, other than identifying the party who engaged you, and perhaps the date of the declaration, are there any differences between the declarations that you've submitted on behalf of NetNut, Major Data, and Code200 pertaining to these two patents?

A Not that I'm aware of.
Q And I always ask this, I -- I hope to always remember to ask this, sitting here today, before we dig in, are there any corrections, that you are aware of, that you need to make to any of your declarations?
A Nothing substantive.
Q Are there any corrections, at all, that you have in mind?
A Well, for instance, in, you know, the CV block there was a letter dropped in, you know, one of the -- one of the references of my history that I was involved in.
Q Okay. And how about within the -- the substance of the declarations, themselves --
A No.
Q -- are there any corrections you wish to make today, before we get started?
A No.
Q Okay. Thank you. Can -- can you tell me how you prepared for your

deposition today?

A I reviewed my declaration, and I reviewed the references that were used in my declaration.

Q About how many hours did you spend preparing for the deposition today?

A I -- I don't know. I haven't added it up.

Q As you sit here --

A You know, I would say -- you know, I did it over several days, so I would do -- you know, I have reading difficulties, so I -- I would do small blocks of time and, you know, oftentimes I would use a reader. So, you know, readers take a lot longer than if you, you know, read it, because I -- I do it both by audio and -- and visual, in order to read the documents properly, to make sure I have the right context.

Q In addition to reviewing your declarations, and the cited references, did you have any discussions or meetings with counsel to prepare for the deposition today?

A Yes.

Q And can you tell me about those meetings or discussions, what you had in connection with the preparation for today?

A Well, they -- they wanted to make sure that I had all the materials necessary to do this deposition, and review my declaration, and my meetings with them were pretty much restricted to them asking me if I needed anything.

Q Okay. Do you recall which attorneys you spoke with in connection with preparation -- preparing for your deposition?

A Mainly Mr. Tolliver and Mr. Bartlett, Mr. Huang was on a few calls, I don't recall the others, but my interaction, it was mainly with Mr. Tolliver.

Q Okay. Are you aware of any relationship between the petitioners, Code200 and Major Data?

A In what way?

Q In any -- any relationship

between those particular entities?

MR. TOLLIVER: Objection, form.

A In -- in -- can you provide me some context of the question? I mean, they're both involved in this action, right?

Q Sure. So let -- let me state this --

A So -- all right -- so you know, in -- in that form, is -- is that the relationship we're talking about?

Q Okay. Sure. No, it's a fair question.

So other than the fact that both Code200 and Major Data are involved in these IPRs, are you aware of any connection or relationship between those entities?

A No.

Q I know we've provided you a link, to your counsel, with documents that we want to use. I wanted to start talking a little bit about your declarations.

So do you have any materials in

front of you, in hard copy, or are you going to be working off the electronic copies today?

A I -- I will look at the electronic copy.

(Exhibit No. 1005 re the '319 patent was identified for the record.)

BY MR. DUNHAM:

Q Okay. I'd like you to open up from the 1492 IPR, Exhibit 1005, and that's going to be your declaration pertaining to the '319 patent.

A All right. I have it open.

MR. TOLLIVER: Tom -- Tom, I'm sorry, which -- which -- Exhibit 1005, which IPR number are -- are we in right now?

MR. DUNHAM: I was using the 1492, but they're still the same, obviously.

MR. TOLLIVER: Okay. Thank you.

MR. DUNHAM: Sure.

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BY MR. DUNHAM:

Q And I'm sorry, Mr. Teruya, do you have Exhibit 1005, your declaration on the '319 patent; do you have that open?

A Yes.

Q Great. Could you please turn to paragraph number 27.

A Okay.

Q I know from our prior deposition and your -- and your earlier statements sometimes it's helpful for you to take a look at things before we discuss them. Do you need a minute to review this paragraph? I do have some questions about it.

A I -- I -- I -- if I can refer back to it, after you ask me the question, you know, I -- I know the -- the basics of the paragraph, so --

Q Okay. Perfect. Why don't you just --

A -- I wouldn't just -- so the -- you know, question.

Q Sure. Sure. I just wanted to

make sure I was trying to accommodate your request.

So do you understand, in paragraph 27, you've set forth the qualifications of a person skilled in the art that you believe are appropriate for the particular technology at issue in these patents as of the date of invention?

A Yes.

Q Can we call this definition of a POSITA, are you comfortable with that?

A Yeah. Yes. Yes.

Q Great. So is the definition of a POSITA, set forth in paragraph 27, something that you came up with or is this something that the lawyers presented to you?

A It is something -- you -- you mean relative to this declaration?

Q Yes.

A I'm familiar with the term, because of my involvement in other patent cases. So, you know, I -- when I came to this declaration, it -- it was common

knowledge to me, because of my involvement, over the years, in -- in different patent cases.

Q Sure. And I'm -- I'm sorry, let me ask a better question. I was not focusing on the word POSITA. What I'm particularly interested in is in paragraph 27 of your declaration you provide what you think are the appropriate qualifications that a POSITA would have had in connection with these IPRs.

And my question is: Did you come up with those particular qualifications that are listed here or did the attorneys present them to you?

A I mean, you know, it's a block that I've used in declarations, you know, in prior declarations, to explain, you know, a position, you know, a person skilled in the arts. I mean, this -- it's -- it's not new to me, I've -- I've done these technical declarations before, so it's to -- you know, it really is kind of boilerplate.

Q Sure. So let -- let me focus you to the two different qualifications that you've recited.

A Okay.

Q Do you see -- do you see in paragraph 27 that you offer two alternatives, and they're numbered either one or two as the qualifications and experience that a POSITA would have in connection with these patents; do you see those two alternatives?

A Yes.

Q And that's what I'm interested in, specifically. Did you come up with the particulars of the two alternatives, numbered one and two in paragraph 27, or did the lawyers present those particular qualifications to you?

A No, I was asked what I thought, you know, a -- a person in the -- skilled in the art would need to have at the time of the patent in 2009.

Q Okay.

A And that was what I said, off the top of my head, but it's a pretty

standard answer. Most of these network-related, you know, cases that come up, you know, if you ask me about cases earlier in the 2000s, I would have it -- a different answer for, you know, what the person would have, skill-wise, because, you know, things change over time.

Q Okay. If we look at the first alternative that's presented in paragraph 27, and that's the one that starts with a Bachelor's degree or equivalent in a particular field, plus two or more years of practical, academic or industry experience, do you see that particular alternative?

A Yes.

Q Would you agree that -- that the Bachelor's degree in those fields listed here, plus two or more years of practical experience would -- would mean the person has approximately six years total of educational and academic experience -- I'm sorry -- of academic and industry experience?

A Yes.
Q Okay. And I --
A On its face, more or less, yes.
Q Sure.
A You know, the -- the reality is you don't go to college and start a technical field, you know? You started before that.
Q Okay. I'd like you to look at the second alternative, now.
A Yes.
Q That's in paragraph 27, which is at least three years full-time technical experience or an equivalent combination of academic study and work; do you see that alternative?
A Yes.
Q So would you agree that that, as it says, is approximately three years of full-time experience as -- as listed in the particular field?
A Yes.
Q When you analyzed the prior art and the patents in suit in this case, did you -- did your opinions change whether

you were looking at this from the perspective of a POSITA having the experience under the first alternative in paragraph 27, as compared to a person having experience under the second alternative?

A Can -- can you -- can you ask me that again? And I'm -- I'm trying to -- I'm trying to get the context of what you're looking for.

Q Sure. So if we -- if -- as we've discussed, under the first alternative, the person has approximately six years of academic and industry experience, whereas, under the second alternative, the person has at least three years of technical experience.

And my question is: Because of the difference in the total amount of experience, did that in any way affect your analysis of either the patents at issue or the prior art references that you reviewed?

MR. TOLLIVER: Objection, form.

A No, in -- in that -- in that

context I -- I -- I don't believe so. I think that you had to have a certain level of fundamental understanding in order to, you know, understand the prior -- the -- the application and prior art. As well as, you know, the evaluation at hand.

I think number two has a faster track than number one, mainly because of what's taught in academia, always lags what is happening day-to-day in the industry. So you know, I -- I think they're equivalent.

I think if you take number one and, in some cases, depending on, you know, timelines of evaluation, it may -- may take somebody in number one longer than somebody in number two.

Q Now, at the time that you prepared your declaration, do you believe that you had more experience than the POSITA that you've listed here as either under option one or option two?

A Yes, I mean, just chronologically, yes.

Q Sure. But -- and so in connection with the analysis that you performed, did you rely on the experience that you have as of the time that you prepared your declaration?

A Only to the extent that I was given the directive to make the analysis based on the level of experience of the POSITA, and that I needed to evaluate as -- as I investigated what I was being asked to do, and the fact is that you can't make that evaluation unless you know more than what the POSITA is supposed to -- to know in order to -- to make that evaluation.

Q And why is it that you could not make that evaluation unless you, as you said, know more than what a POSITA would have known?

A Because you wouldn't understand the limitations. You would not understand what that person would need to know if you didn't need -- know more than the -- than that individual. It would be like a manager in a company trying to

hire an IT individual and he has no IT experience. You know, it just doesn't work.

Q Now, what if the manager in the company, as you hypothesized, had the same level of experience in IT as the person that that manager was seeking to hire, is it your position that that wouldn't work?

A Well, I think you would have great difficulty, because as things progress the limitations of that pairing would move more slowly than if you had somebody of more experience that would evaluate the necessity, perhaps, to hire somebody of greater skill.

How would he know that he needed to do that if he didn't know more? He would move -- he would move in parallel with that individual that was his peer in knowledge.

So it's always better in -- in a technical capacity, to have somebody with more experience that could provide that guidance, mentorship, and evaluation

for a given situation.

Q Did the fact that you personally have more experience than a POSITA, as recited in paragraph 27, did that fact help you in terms of your analysis of the two patents at issue in the prior art references?

A I don't think so.

Q Did you rely -- in connection with your analysis, did you rely on any of the additional experience that you have, over and above the experience of a POSITA, as recited in paragraph 27?

A No.

Q I have some questions now about how you analyzed the prior art references in this case, and we will get to the specific references in due course.

So in connection with performing your analysis, did you start by looking at the claims in the '319 and '510 patent and then going into any particular piece of prior art and looking to see if you could find those claim limitations in the prior

art?

A I had a list of the claims, and I had a list of reference materials, and I went into the various references to see how applicable they were in order to determine how those claims applied.

Q And -- and how did you do that, did you take the list of claims and -- let -- let's take an example, did you take, like, claim one of the '319 patent and then one of the references, let's say Crowds, and did you look at the claim limitations in claim one of the '319 and try to see if you could find those same disclosures in Crowds?

MR. TOLLIVER: Objection, form.

A Not exactly. I had a list of the claims, I had a general understanding of what was being sought, you know, as how the -- the claims would relate to any prior art, and then I -- I would -- I went through each reference to find which were more relevant than others to use as reference. And then I -- then I went back and did an analysis to -- to see

step-by-step how -- how, you know, it would match up with claim -- with the claims.

Q So these are method claims that we're dealing with; correct?

A Yes.

Q So like, for example, did you take the steps of claim one of the '319 patent and for each step would you go to a particular prior art reference, such as Crowds, and look to see if that step was present; is that how you performed your analysis?

MR. TOLLIVER: Objection. Objection, form. Sorry.

A No, I -- I -- I had a general understanding of flow, and I would take that flow to see if that flow was consistent with the mech- -- mechanics of flow in the references.

Q And by general understanding of flow, are you referring to the flow recited in the method steps of the claims that you were reviewing?

A No, it was more in -- it was

more in the sense of the data interaction of how -- how something got from point A to point B, and what all the interactive points were in between. And that's how I determined whether or not something is applicable or not.

Q And wouldn't you --

A And -- and to, you know, come down to, you know, this -- this particular technology is -- you know, it's -- it's pretty common and it's pretty old.

Q When you say: To determine if something was applicable, tell me what you mean by that.

A Well, whether or not they were -- the -- their flows were similar enough to where it would warrant my investigation of that particular reference to look at, you know, how the -- the claim elements would match up with what was going on in the prior art.

Q So once you determined that a particular piece of prior art, to use your phrase, was applicable, how did you

go about comparing the claim limitations that you were looking at with that particular piece of prior art?

A I would look at the claim in a patent and I would see if the description of that particular claim could be -- could be -- could exist in the prior art.

Q So -- so -- and I -- I'm just trying to make sure I understand your analysis. So would you take, for example, a look at the first step of the claim and then go look in the prior art reference to see if that step was present?

MR. TOLLIVER: Objection, form.

A Not exactly. Not exactly, because I would have already made a determination that the steps in the patent describe its flow. And since I already made a determination that the flow is applicable, I just made sure that those elements were consistent in -- in -- in the comparison.

Q And that's what I'm trying to understand, is that when you were trying

to make sure the elements were consistent in the comparison did you take a look at the particulars of each step of a claim and then compare those particulars from the claim to the disclosure of a particular piece of prior art?

MR. TOLLIVER: Objection, form.

A I'm not getting the context, because, you know, this is pretty obvious. If you compare one thing to another you're making a determination whether they -- that -- that process, you know, exists in both places.

Now, you know, I -- I don't know how to answer your question, other than that.

Q Well, sure, I'm trying to understand, for example, when -- when a par- -- when a claim element recites something very particular, how do you go about determining if what that claim element recited was in a particular piece of prior art?

A By definition or by function?

Q What do you mean by definition

or by function?

A Well, are -- are -- are you asking me by definition or asking me its existence by function?

Q Well, I'm asking how you performed your analysis.

A Well, I'm -- I'm asking you to give me some context of it, because those two things are completely different.

Q Well, then, tell me what you mean if it was by definition.

A Well, I'm not understanding what you're asking me, in the first place, so how can I do that?

Q Well, you've said: Am I asking you by definition or by function, so I --

A That's right, but you're -- you're not -- you're not telling me one way or the other.

Q Well, I'm asking you, now, by definition.

A By definition, I would see if the definitions are compatible.

Q Okay. And how about by function?

A I would see if that function exists.

Q So again, let's say if you were looking to see if the function exists, did you look at the claim limitations, see what the functions were, and then go to a particular piece of prior art to see if those functions were present?

MR. TOLLIVER: Objection, form.

A Well, if I'm in the comparison I'm looking at it. But as I said, I look at the flow, to begin with, and I made a selection of the reference, because my understanding told me that I -- I believe that it was a viable reference to be used.

Q Sure. So I want to go to the next step of your analysis now. Let's say you've decided that a particular reference is a viable reference to be used; do you understand where we are in -- in this context?

A Okay.

Q So then how did you, once you've determined that a particular

reference is a viable reference to be used, how did you go about determining if each of the particulars recited in the steps of the claim was or was not disclosed in that particular reference?

A I first took a 30,000 foot view, and I went through the claims, and then I reviewed the reference material, and then more carefully refined my selection of the, say, top five references that I picked to see which ones I believed might give me the opportunity to match up the best in the least amount of time.

Q Okay. And when you were actually trying to do that comparison to match them up, as you said, did you look at the claim limitations and then try to find disclosure in a particular reference that you would match up?

A Only at --

MR. TOLLIVER: Objection to form.

A Only at the end.

Q And tell me what you mean:

Only at the end?

A Well, you drill down. You drill down by -- in the selection process. And when it's time to actually document all the steps con- -- contained in the claim on -- on its progression of what is being, you know, stated, that's the point at which I start looking at, you know, all the nuts and bolts, you know, how -- how carefully do they match up with one another. Do they even exist? Do they not exist? You know, I -- that's my process. It's a process for me.

Q And in your process of comparing the nuts and bolts, as you say, did you read the claim to see what the particular nuts and bolts were and then go look at the reference to see if those same nuts and bolts were present?

A Of -- of course, otherwise how would I have been able to make a selection of the references? I had to have a basic understanding of, you know, what the invention was and what it's claiming in order to -- to pick the

appropriate references.

Q Okay. Could you please turn to paragraph 13 in your declaration and let me know when you are there?

A Okay.

Q So in performing your analysis, in connection with the -- the declarations here, did you give all of the claim terms their ordinary and customary -- customary meaning, in light of the specification?

A I -- I don't know what -- what -- what do you mean by that?

Q Well --

A Most of these terms are very ordinary and, you know, I mean, you know, a web server is a web server, right? Is that what you're talking about?

Q So you're telling me -- let me -- I'm sorry, hold on.

You're telling me a web server is a web server, is that what you said?

A Well, if I read something as a web server, my understanding is that it's a web server.

Q So you're -- so I -- thank you.
So my question for you, then, sir, would be: So what's a web server? What was your understanding of a web server when you analyze these particular patents?
A Really? Are you really asking me this?
Q Sir, it's very serious today. This is an important proceeding. Yes.
A Okay. Web server is something that serves HTML pages, media data, sits on the internet, is -- conforms to the standard of providing, you know, browser based content, you know, provides a -- a response to requests by clients to provide HTTP conforming data.
Q Okay. And how did you come to the understanding of what you were looking for when you saw the phrase web server in the claims, how did you form that understanding you just articulated to me?
A How did I form my understanding of a web server?

Q Yeah, as that term is used in these patents?

A I -- I -- I take that term of a web server as a term of understanding that I know what a web -- web server is, and a web server is pretty common knowledge.

Q Was -- has a web server changed from 2005 to 2015?

A Not really. Not substantively.

Q Okay. In connection with your analysis, did you apply a specific construction for the claim term: First client device?

A Could you -- can you ask me that again?

Q Certainly. So we -- we talked about the definition you used for a web server in performing your analysis, and I'd like to know what was the definition that you used for the -- the phrase: First client device, as that phrase is used, for example, in claim one of the '319 patent?

A I viewed it as a -- a -- a

device that functions in the role of a client.

Q Okay. And what definition, if any, did you apply for the term: Second server, as used in claim one of the '319 patent?

A I -- I really viewed it as a -- as a device that -- that is operating in the role of the server.

Q And could that be any kind of device that's operating in the role of a server or did you have an understanding it had to be some particular type of device?

A In -- in what -- what context are you asking me that?

Q In terms of your understanding of the -- of the term "second server," as used in claim one of the '319 patent?

A You know, a -- a -- a device, meaning -- you know, I -- I define it more of a role than a device. A device is generally a reference to a -- some kind of entity, right, either some physical manifestation or a virtual

manifestation of a -- of an entity, whereas, the definitions of -- of client or server, really, functional definitions role.

Q So in performing the analysis that you did, in connection with the '319 and '510 patents, for both the servers and clients that were recited in the claims, were you really applying a -- a definition that was functional and looking at just the role that a device performs, as distinct from looking at the characteristics of a device, itself?

MR. TOLLIVER: Objection, form.

A Can you provide me some context of what you're asking me of -- you know, like, am I looking for a specific piece of hardware or what -- what are we talking about?

Q Well, I'm asking you to explain -- help me understand the definition that you used for, say, second server, when you did your analysis of the case?

A Okay. Yeah --

Q Sir, I'm sorry, please let me finish my questions --

A Okay.

Q -- so we have a clear record. So let me ask again.

What I'm trying to understand is what was the definition that you applied to the term "second server," as used in the claims of the '319 and '510 patents in connection with the analysis that you performed?

MR. TOLLIVER: Objection, form.

THE WITNESS: Can you ask me that again?

MR. DUNHAM: Sure.

BY MR. DUNHAM:

Q Let me give you a little more context, then.

A Okay.

Q You earlier testified -- and -- and -- and you can correct me if I misquote you -- but I believe earlier you testified that your understanding of second server was a device that is operating in the role of a server.

And my question is: In connection with performing your analysis, were you looking for any particular type of device or was your focus when you reviewed these claims that you're just looking for any device that is operating in the role of a server?

MR. TOLLIVER: Objection, form.

A The -- you know, the -- the term of server and client, to me, are, you know, role-based definitions. They're not -- they're not, you know -- they're not necessarily tagged to a device.

A device can be a client device, if that clients device has a client function. But, you know, the example is you could take a computer and you can function in the role of a client device and have a -- another service available when -- in -- in that stack of the device that is functioning as a server in that same physical device, you know, as long as it's communicating on a network it can -- can serve multiple

functions based on the role that has been given and installed in that particular devi- -- device.

And it's generally by, you know, what software packages are -- are put in it, for instance, if you take a Windows server 2000 -- or I mean 20 -- like 2012, 2019, you know, even going back to, you know, server 2003, there's a menu in there, and you can install different roles.

It automatically functions as a client because it's Windows, but you can install roles and give that device multiple roles, it can be a web server, a DNS server, an FTP server, proxy server, even a -- a common Windows device can be a server and a client at the same time. People, you know, very commonly use ICS. ICS makes their server.

Q So under the understanding that you applied for the terms first client device and second server, from the claims of the '319 and '510 patents, was it your

understanding that a single device could perform both in the role of a client and in the role of a server at the same time?

A Yes.

MR. TOLLIVER: Objection.

Objection, form.

BY MR. DUNHAM:

Q And I'm sorry, what was your answer, sir?

A Yes.

Q Okay. Could you look at -- turn to -- I'm sorry, paragraph 37 of your declaration?

A Okay.

Q And I just want to confirm, is it -- is it your opinion, sitting here today, that claim one of the '319 patent recites, quote, little more than the basic functionality of a proxy server, which was well known to a POSITA well before 2009, close quote?

A It is -- you mean is that what I wrote there?

Q I'm asking if that's still your opinion today.

A Yeah, yeah, it's my opinion.
Q So is -- is your understanding that claim one, in terms of your analysis of it, what you were looking for was prior art, art that showed the basic functionality of a proxy server, is that how you analyzed claim one?
MR. TOLLIVER: Objection, form.
A No. My analysis of claim one that -- and, I mean, before I even started to delve into the specifics of, you know, the objective, my objective was it was -- it was pretty clear that this was a, you know, a proxy type service. I mean, proxies are very common.
Q So what did you mean then, sir, referring again to paragraph 37 of your declaration, what did you me when -- when you said claim one recites little more than the basic functionality of a proxy server?
A What did I mean? I -- well, you know, it's -- to be -- to be honest, I -- I thought that, you know, you're picking words to -- to change up, to --

so that you're not describing a proxy server, but, really, it's a proxy server.

Q Okay. So -- so in your view, then, claim one really recites a proxy server but they're just in different words, is that what you're saying?

A Yeah, for the most part.

Q Okay. Would you agree that as of 2009 that a POSITA would also know that a proxy server could be placed between a requesting client device and a web server?

A Yes.

Q I'm going to want to come back to the declaration that we've just been looking at on the '319, but I would ask you to take out your declaration now for the '510 patent, which would be from the 1493 IPR, same exhibit number, 1005, and I am going to want to go back and forth between them a bit, sir. So this would be the 1493 IPR, Exhibit 1005, again, which is your declaration on the '510 patent.

(Exhibit No. 1005 re the '510

patent was identified for the record.)

THE WITNESS: Okay.

MR. DUNHAM: And Craig, do you have it, too?

MR. TOLLIVER: Almost.

MR. DUNHAM: Okay. Let me know when you've got it up. It looked like you were still looking for it, so I was holding off.

MR. TOLLIVER: Yeah, I know, my -- my screen did something I don't think it was supposed to do. So -- okay. Go ahead. I have it. Thank you.

BY MR. DUNHAM:

Q Sure. If we can turn to paragraph 13 of your declaration for the '510 patent, and please let me know when you're there.

A Okay.

Q And for context, I'm just trying to make sure I have a complete record, here, sir.

So I just want to understand:

Did you use the same understanding for first client device and second server when you analyzed the '510 patent claims did you use the same understanding that you used and just testified about that you applied when you analyzed the '319 patent claims?

A Yes.

Q Were there any differences in your understanding of first client device or second server in the '510 patent that -- that you utilized in that analysis as compared to the analysis you did for the '319 patent?

A Not that I recall, off the top of my head.

Q And if you could turn to paragraph 37 of your declaration in the '510 patent. Please let me know when you're there?

A I'm there.

Q Great. And I have, really, the same question I asked you before: Is your understanding of the invention of claim one of the '510 patent essentially

the same as your understanding of the invention of claim one in the '319 patent, in that, as you say in your declaration, claim one recites little more than the basic functionality of a proxy server?

MR. TOLLIVER: Objection, form.

A I -- I believe so.

Q And again, I appreciate you working with me on that, because, again, it's just trying to have a complete record.

I would like now to go back to your declaration for the '319 patent, so Exhibit 1005 from the 1492 IPR.

A Okay.

MR. DUNHAM: Okay. And Mr. Teruya, we've been going about an hour, and I am always one, as you know from prior experience, I like to give the witness a break regularly. I'm about to start a lengthy line of questions, would you like to take a short break now?

THE WITNESS: Okay.

MR. DUNHAM: Okay. Okay. Why don't we take a 10-minute break, then.

THE WITNESS: All right.

THE VIDEOGRAPHER: The time is 12:59 p.m. We are off the record.

(Recess.)

THE VIDEOGRAPHER: The time is 1:11 p.m. We are back on the record. Please proceed.

BY MR. DUNHAM:

Q Mr. Teruya, right before the break I asked you to take out your declaration in connection with the '319 patent and turn to paragraph 165; are you there now, sir?

A Sorry, I didn't hear the paragraph, 165?

Q Oh, yes, sir, could you please then turn to paragraph 165 of your '319 declaration and let me know when you are there.

A Okay.

Q Okay, I'd like to focus your attention on the -- the second sentence

in paragraph 165, and I'll read it for you, it says, quote, that a node can act as a client in one relation and as the server in another, is consistent with the meanings of, quote, client and, quote, server as a POSITA knows; do you see that sentence, sir?

A Yes.

Q What did you mean when you said that a node can act as a client in one relation, what did you mean by that?

A In -- in the -- in the act of responding and providing information, for requesting and receiving information in the case of the client.

Q So what did the word -- you mean by the word relation?

A That the relation as in the relationship of the connection, because we were talking --

Q Okay. So --

A -- about circuits here, right?

Q So let me -- let me ask you a hypothetical, then: If -- if we have three nodes in a row, and we'll call

those nodes node A, node B, and node C, does B's relationship relative to C dictate whether B would be a client or a server?

MR. TOLLIVER: Objection, form.

A Well, there's a lot of specificity that needs to be provided in order to make that determination. What -- what is the path of the information? What is the objective of -- of, you know, that architecture? Can you describe the architecture and the objective of the connectivity?

Q Sure. Let me ask you this way -- and if it's helpful, feel free to refer to paragraph 166, as well.

Is it your opinion that within the meaning of the '319 and '510 patents that a node that is sending a request is a client?

MR. TOLLIVER: Objection, form.

A I would say that that's -- that could be -- that could be the case in a -- in a specific context, yes.

Q Okay. And if a particular --

A But not the -- but not the only one, of course.

Q Well, of course. And I -- and I'm asking for your understanding of client and server as they're used in the '319 and '510 patents.

So let me ask you this: If -- if a node -- if a first node sends a request to a second node, does the fact that the second node receives that request from the first node make that second node a server, within your understanding of the -- the terms as they're used in the '319 and '510 patents?

MR. TOLLIVER: Objection to form. Objection, foundation.

A Can you provide more context to that question? And what is the architecture?

Q Sure. If I've got a -- a first node that is sending a request to a second node, is that first node, under your understanding, a client as that term is used in the '319 and '510?

MR. TOLLIVER: Objection, form. Objection, foundation.

A I -- I -- I need more specificity of what the request is, what -- what is the software stacks we're talking about, and what is the -- what -- what is the architecture? Is it a -- is it a connection? You know, is it a connection between the two? Is it connection lists? Is it a datagram? Is it a -- are we talking TCPIP? What layer? What -- what are we talking about?

Q So in -- in your understanding of the term "first client device" used in the '319 patent, does it --

A Okay.

Q -- matter if the first client device has either a connection or if there's a connectionless route that messages are coming out of that first client device?

A Well, by the specification of the patent we're talking about TCPIP. TCPIP is not a connectionless protocol,

so yes, there is a connection that had to have been established in the first place.

Q Okay. So -- so let me ask you this way: If we have a first node that has a TCPIP connection to a second node, and that first node sends a request for content to the second node, is it your understanding that that first node would be a client device within the meaning of the '319 and '510 patent claims?

MR. TOLLIVER: Objection, form. Objection, foundation.

A It could be.

Q Under what circumstances would you agree that the first node is a client?

A By -- by function.

Q Okay. So purely by function you would be able to make that determination; correct?

A Well, it -- it would have to have a defined function. Defined function is generally, you know, derived by -- you know, what -- what software and process has been loaded to give it that

definition of role.

Q Okay. But -- so it would be the definition of role that would allow you to determine if that first node met the phrase client device as used in '319 and '510; is that correct?

A Well, it --

MR. TOLLIVER: Objection, form. Objection, foundation. Go ahead.

A In -- in -- in -- in the appropriate context, if you want to, you know, provide more context, if it has been assigned to be a client then it will -- it would have the requisite software and definition of functionality to act as a client. And, therefore, that role of a client would be assumed in that case.

Q I'll ask you to take out or open up a copy of the '319 patent, please.

A Okay.

Q And please let me know when you have that available?

A Well, is it numbered in your

exhibit list here?

(Exhibit No. 1001 was identified for the record.)

BY MR. DUNHAM:

Q It should be Exhibit 1001. It should be the very first exhibit.

A No, the very first exhibit is 1010.

Q I'm not sure how you've sorted your exhibits, but it's --

A I haven't, I just opened what was sent to me in Box.

Q Sure. So it's the 1492 IPR, Exhibit 1001. And that would be the '319 patent.

MR. TOLLIVER: And if I -- if I can help, because I have not sorted my exhibits, either, on my screen it's towards the end of page 1, looks like the third from the bottom.

THE WITNESS: Oh, I see. It's -- it's got Shribman next to it. Okay.

BY MR. DUNHAM:

Q Okay. Do you have the '319

patent available, sir?

A Yeah, it's loading now, yes.

Q In performing the analysis that you've done, did you review the '319 patent in its entirety?

A Yes.

Q And did you review each of the figures of the '319 patent?

A Yes, I probably did.

Q I'm sorry, you did or you probably did?

A I -- I -- I'm sure I did. I'm sure I did.

Q Okay. Just for housekeeping, when you reviewed the '510 patent, did you review that patent in its entirety?

A Yes.

Q And did you review each of the figures in the '510 patent?

A I'm sure I did.

Q I'd like you to turn to Figure 1 of the '319 patent, please.

A Okay.

Q Okay. I'd like you to focus on the portion of Figure 1 that shows proxy

server six, between client device 14 and client device 16, on the one hand, and web server 32 on the other hand; do you see that portion of Figure 1?

A Yes.

Q According to the '319 patent, is it your understanding that client 14 can send requests for content to proxy server six?

MR. TOLLIVER: Objection, form.

A I don't recall that terminology being used in the claim proxy server.

Q I'm asking about Figure 1, sir, to be clear. So my question is: Do you understand -- is it -- strike that.

With res- -- with reference to Figure 1, is it your understanding that a POSITA would understand that client device 14 can send requests for content to proxy server six?

MR. TOLLIVER: Objection, form.

A I -- I -- I -- I think it would depend on what -- what the structure was of that proxy server.

Q Do you understand -- strike

that.

What is your understanding of the lines drawn between client device 14 and proxy server six?

A That there's a connection that exists between proxy server and -- and what's -- what is defined to be the client device 14 there.

Q And do you have an understanding that client device 14 can send requests ultimately directed to web server 32, client device 14 can send those requests first to proxy server six?

MR. TOLLIVER: Objection, form.

A What I'm saying, that -- that could be a -- a setup there, we -- we don't really have the particulars of the specification or what all those connections are, proxy server could contain a firewall that doesn't allow them to do that.

Q So --

A Many proxy servers were installed in companies so that people couldn't get out on the internet.

Q So --
A So I -- I don't really know what the structure of that particular proxy server is.
Q Sir, what is your understanding of the line that is on the right-hand side of proxy server six that extends out of the proxy server six and into the internet cloud as shown?
A It looks like there's a connection out to the internet, but we don't have any specification as to the open courts, what's allowed, what's not allowed, we don't -- we don't know.
Q So sitting here today, is it your sworn testimony that you don't understand whether client device 14, as shown in Figure 1, can send a request to web server 32 through proxy server six?
MR. TOLLIVER: Objection, form.
A That -- that's not what I said. I said that it could, but we need more specifics as to what is installed in those devices and what is the permission profile that has been defined for that

architecture.

Q So I'd like you to assume that the permission profiles and configurations of the device -- client device 14, proxy server six, and web server 32, shown in Figure 1, are such that client device 14 can send requests for content to web server 32 through proxy server six; do you understand that?

A Yes.

Q Okay. At the point in time, with that understanding, at the point in time when client device 14 sends a request to proxy server six, is client device 14 operating in the role of a client under your understanding of the terms of the '319 patent?

MR. TOLLIVER: Objection, form. Objection, foundation.

A Can you give me more context of client device 14? Is client device 14 defined in the role of a -- of a client only device?

Q I'm asking you in the context of client device 14, sending a request

for content to web server 32, where client device 14 sends that request to proxy server six, and my question is: In that transaction of client device 14, sending a request for content that goes to proxy server six, is client device 14 operating in the role of a client the way you have understood the terms and the '319 and '510 patents?

MR. TOLLIVER: Objection, form. Objection foundation.

A If -- if client device 14 has -- has been designated to be a -- to function in the role of the client, and sends the request to the proxy server, yes, it is functioning as a client.

Q Well, sir, in your answer I believe you testified that you said: If client device 14 is operating in the role of a client; is that correct?

A Yes.

Q So does the fact that client device 14 sends a request for proxy -- request for content to proxy server six, is that part of determining whether

client device 14 is a client device, or are you saying that client device 14 just has to be configured to be a client device?

A Can you run that by me again?

Q Sure. I'm trying to understand, is it your testimony that client device 14 is or is not a client device based on the way it is configured --

A Okay.

Q -- or -- or do we need to look at what client device 14 is doing, such as sending a request for content to proxy server six?

MR. TOLLIVER: Objection, form. Objection, foundation.

A In -- in this diagram, client device 14 says it's a client device by just stating it's a client device. And I'm saying if that client device has been designated in the role of a client, then sending a request on the basis of that role it can be considered to be the client.

It doesn't preclude it, it doesn't preclude the client device of being able to do something else, because it's a device as opposed to the definition of what you're asking that initiates the request as part of a process of a client that ha- -- that is functioning in the role of a client.

Q And is that distinct from a client that would be functioning in the role of a server?

A A client defined as a client is a client. A client device, that may have a -- a server process running on it, can operate as a server even though it were the -- the physical device happens to be tagged as a client device.

Q So when --

A But in the role of the client, it can -- it's functioning as a client making requests.

Q So in -- in your analysis of the claims of the '319 and '510 patents, sir, when the claim says first client device, is it your understanding that

that must both be a client device and something that's operating in the role of a client or were you looking just in -- at whether something was operating in the role of a client?

MR. TOLLIVER: Objection, form.

A I -- I -- I took the common definition of -- that -- that you -- you would use since there was no specificity as to the -- the differentiation between a -- the device and a role that a client device, in my mind, as I was doing my evaluation, is that that -- that device is operating in the role of a client.

Q So can you take out the MorphMix reference, please. And that's a reference you reviewed; right?

A Yes. Do you want to give me that exhibit number?

(Exhibit No. 1008 was identified for the record.)

MR. DUNHAM: Sure. It's Exhibit 1008. I lost my list of exhibits, here. Hang on.

MR. TOLLIVER: Mr. Dunham, when

I just clicked on Exhibit 1008 it tells me: We're sorry, the document may be protected and it didn't -- it didn't load. That was not the case with the others, this is the first time it's done that to me.

THE WITNESS: Well, it kind of closed down my access, here.

MR. DUNHAM: I bet the -- can you drop that one in the chat, then? It's opening fine for me. And -- and Craig, it appears in both IPRs 1492 and 1493, have you tried both just to see if there's just a glitch in the download?

MR. TOLLIVER: That's a good point, I was trying 1493. No, it says the same thing.

A Okay, you're -- you're saying Exhibit 1008; is that correct?

Q Yes, sir.

A Okay. Looks like both Betsy and I have dropped it into the chat, if you're having any trouble.

MR. TOLLIVER: As he's looking

to the chat, it -- it looks like, for whatever reason, certain of the exhibits will pull up from the Box, the Box site, and -- and certain won't, and they say that they're protected, at least from -- from my -- from my access.

THE WITNESS: Okay. I -- I have it. It keeps spinning. It must be large.

MR. DUNHAM: Let me know when you -- when you have it available. And you should be able to download it from the chat, as well, now.

And Craig, if it helps, it might be because the file size is more than typical Gateway limits. If you just download all of the exhibits from Box you'll get a Zip file that expands, and that's how I downloaded them, and they work just fine.

MR. TOLLIVER: I have -- I have it up now, but I did it from the chat, yep.

THE WITNESS: What would you --

BY MR. DUNHAM:

Q Sorry, Mr. Teruya. Do you have MorphMix available, sir?

A Yes.

Q You mentioned it must be very large. Did you read the entire MorphMix reference in connection with the work you did in this case?

A I -- I went -- I went through most of it.

Q And what do you mean by most of it?

A Well, when it got into the weeds about statistical analysis and things like that, I -- you know, I just glossed -- I just skimmed over those types of parts. You know, when -- when I looked at, you know, the equations of participant probabilities and things like that, I didn't need to get into those things, so I -- I would be more selective about my chapter reviews. I looked at -- I -- I tended to concentrate more on reading through sections of -- of structure and architecture.

Q Okay. I'd like you to turn to the page in MorphMix that has Figure 5.1, and there's two different numbering schemes, there's the internal document number on the upper left, which would be page 98, and then there's the exhibit numbering on the bottom right, which would be page 118. And I -- I will refer to whichever one is easier for you, sir.

A Okay. 118.

Q Yes, sir, and it should show Figure 5.1.

A Okay.

Q Are you at that point?

A I am.

Q Okay. With reference to Figure 5.1 of MorphMix, is it your understanding that node A sends a request to node B?

A Is -- is that what's being defined here in this overview?

Q I'm asking you for your understanding of what is shown in Figure 5.1 by the bold line between A -- node A and node B.

A Well, I -- I -- I make the

observation that it's a connection between the two.

Q And in terms of the disclosure of MorphMix, is it your understanding that node A can send requests to node B?

A What -- what are you -- what particular paragraph of my declaration reference are you asking me about?

Q I'm asking you about your understanding of MorphMix.

A Okay. I did an analysis of MorphMix, and can you refer to my declaration as to what the question is of what -- what I've determined?

Q I'm asking you about your understanding of the MorphMix reference right now. We'll get to your declaration later. And my question is: With reference to Figure 5.1 of MorphMix, is it your understanding that node A can send requests to node B?

A It could, yes.

Q Okay. And in turn, then, could node B send the requests onto node C?

A Yes.

Q And then would node C then be able to send those requests onto the S in the circle, the server?

A Yes.

Q So I want to focus on that pathway and what happens when a request is sent from node A to node B then on to node C and onto the server. So for context, that's what I'd like to focus on.

And my -- my first question is: At the point in time that node A, as shown in Figure 5.1 of MorphMix, sends a request to node B, is it your understanding that node A is operating in the role of a client?

MR. TOLLIVER: Objection, form. Objection, foundation.

A In -- in this hypothetical, let's assign him to be a client, yes.

Q Well, I'm -- I'm not assigning A to be a client, sir. I'm asking --

A Well, if he's functioning in the role of sending a request as a client then we have to consider him a client.

Q And -- and I'm just asking for your understanding, sir. So at that --

A My understanding would be that he can do that if he is functioning in the role of a client.

Q Okay. And at the point in time, when node B receives that request from node A, is node B operating in the role of a client or a server?

MR. TOLLIVER: Objection, form.

A I can -- let -- let's -- let's give it a role. Let's give it a role.

Q I'm asking for your understanding, sir.

A My understanding is whatever the role is defined as, as that request comes in, he's going to act upon that request appropriate to the role that he has been assigned, if he is a -- assigned as a role of a proxy that's a passthrough proxy then he's going to take that request and pass it on to -- to node C.

If he's a caching proxy, and is not making a request that needs to be passed on, then he's going to look at his

cache in B and return that data.

I don't -- you -- you haven't defined for me the specificity of role, here, for me to say that it's one thing or another.

Q Sir, are you aware of any disclosure in MorphMix where node B would cache information that it could return --

A I -- I --

Q Sir, please, I allow you to finish your answers, I need to ask you to slow down and let me ask my questions. Thank you.

Are you aware of any disclosure in MorphMix where node B operates as a caching proxy, as you just testified?

A Not that I'm aware of.

Q Are you aware of disclosure in MorphMix where node B will receive a request from node A and then send that request on to node C?

A That is one of the described functions and paths that were defined by MorphMix.

Q Okay. So for that described function and path, where node A sends a request to node B, under your understanding of the terms of the '319 and '510 patents, would node B be operating in the role of a client or in the role of a server?

MR. TOLLIVER: Objection, form. Objection, foundation.

A I -- I believe that node B could -- could function as a server.

Q Okay. And I'm asking about during that particular transaction, when node A sends a request for node B, is it your understanding that at that point in time node B is operating in the role of a server?

MR. TOLLIVER: Same objections.

THE WITNESS: Can you say that again, please?

MR. DUNHAM: Sure.

BY MR. DUNHAM:

Q I'm asking about that particular point in time, where, as shown in Figure 5.1, node A sends a request to

node B, is it your understanding that node B is operating in the role of a server?

MR. TOLLIVER: Same objections.

A If -- if node B, in the context of the '319 patent, is returning data from a request coming in, then it's operating in the role of a server.

Q So I want to -- I want to walk with you, sir, the flow where node A as shown in Figure 5.1 of MorphMix is sending request to node B, node B sends that request on to node C, node C goes out and sends that request to the server S, I want to first focus on that flow; do you understand that?

A Okay.

Q So in that flow, when node A sends a request to node B, is node B operating in the role of a server under your understanding of the terms?

MR. TOLLIVER: Same objections.

A Role, yes.

Q Okay. And then when node B further, as shown in Figure 5.1, sends

that request on to node C, is node B operating in the role of a client or a server?

MR. TOLLIVER: Same objections.

A I -- I would say that it would have -- it would be functioning in the role of a server.

Q So when B sends the request on to C, is it your testimony that B is functioning in the role of a server?

MR. TOLLIVER: Same objections.

A In -- in -- in that example here, in that context, I would say so.

Q Okay. And then, when node C sends a request on to the server S, what role is node C operating in?

A It depends on which side of that connection you're looking at.

Q I'm asking you when node C --

A Yes.

Q -- sends a request on to server S, is node C operating in the role of a client or a server under your understanding of the terms?

A Give me --

MR. TOLLIVER: Same objections.

A Give me the context. From the server it's going -- server S is going to look like a client.

Q Okay. And -- and what other context do you have in mind when you say with respect --

A Well, that is the context. You -- you know, the other context would be what is it operating as, you know, what is C operating as? C could have a dual role.

Q Sir --

A Has a dual role. It could act as a -- as a client that's making a request to the server for -- because -- you know, MorphMix is getting into obfuscation, you -- you could have a different stack then that operates to pass that data back to B as a server role as opposed to a client role in providing them anonymity to go to server S, so it could have a dual role.

Q So is it your understanding of Figure 5.1 of MorphMix that node C has a

dual role, some of the time it's a client, some of the time it's a server?

MR. TOLLIVER: Same objections.

A I -- I -- I don't know that -- I -- I would say that from -- from dataflow I could -- I could see that being defined that way, so that -- it's not a very clear definition, but I -- I could see that.

Q Well, I'm asking for your understanding of the nodes of MorphMix as relates to the term first client device and second server in the '319 patent.

Is node C of MorphMix a first client device or a second server in connection with the relation of MorphMix to the asserted patent claims?

MR. TOLLIVER: Same objections.

A I would say that point C is -- is functioning as a client and a server.

Q When is C, node C functioning as a client?

A When it's making requests to server S.

Q And when is node C functioning

as a server?

A Well, they could function as a server in the case of sending a request onto server S if -- if that request came in from node B.

Q So in -- in the flow of A to B, B to C, and C to S, I'm trying to understand specifically your understanding of whether node C, which is receiving the request from B, and sending that on to server S, is node C functioning -- operating in the role of a client or a server?

MR. TOLLIVER: Same objections.

A MorphMix is a peer-based mixture. If you're -- if we're analyzing MorphMix, and you're applying it to the '319 patent, then what you have -- have to ask me to do is apply the architecture of the '319 patent onto MorphMix because MorphMix defines itself very differently because it has more flexibility in its connection capability because of its objectives. And what it contains can be mapped to '319, but it can function very

differently at the same time.

Q Well, sir, then I'll take you up on your invitation. Let's take out the '319 patent and I'll ask you to refer to Figure 1 -- I'm sorry, to claim one, and we're also going to look at MorphMix Figure 5.1.

A Okay. Where would you like me to go?

Q Well, I believe you testified that you could take the functionality shown in the figure of MorphMix and map it onto the '319 patent, so I'm -- I'm going to ask you, how did you do that?

A How did I do that? By -- by dataflow, as I described to you earlier. Where -- where are we going in the '319 patent?

Q Claim one, please.

A Okay. Okay.

Q So -- so sir, I'm -- I'm -- I'm taking you up on your invitation, sir, and when you said that you could map the function of MorphMix onto claim one of the '319 patent, so I'd like you to show

me how you've done that.

A Well, I don't -- I don't remember the exact numbers, okay, rather -- can we reference Figure 3 in the patent?

Q I -- I'm asking you to -- sir, I'm asking you specifically, as you said --

A Because I -- I don't remember the numbers that were assigned in the -- in the Figure 3 that I can match up with what's on MorphMix. If I could refer back to Figure 3 in the patent that would be helpful to me.

Q So, I mean, you're free to look at anything you like, but is it -- is it your testimony that when you compared MorphMix to the '319 patent you tried to map MorphMix onto Figure 3 of the patent; is that what you're saying?

MR. TOLLIVER: Object.

Objection to form.

A No. I'm -- I'm -- I'm asking you if I'm use -- can use it as a reference, because you're asking me to

map it to Figure 5.1, in real-time right now, and -- and I need some -- I need some reference context for you so I can tell you where each one of those pieces match up. That's what you asked me to do, right?

Q Sir, did you offer an opinion that the MorphMix reference anticipates claim one --

A Yes.

Q -- of the '319 --

A Yes, I did.

Q Please -- please allow me to ask my question, sir. The court reporter can only take down one of us at a time.

So my question is: Did you offer an opinion that MorphMix discloses each and every element of claim one of the '319 patent?

A I believe I did.

Q So I'm asking you, sir, to walk me through the steps of claim one of the '319 patent and show me where you find that corresponding disclosure in MorphMix?

MR. TOLLIVER: Objection, form.

A Okay. Let me put this example out for myself.

Okay. Okay. Claim one says a method for use with the first client device, right? In MorphMix the first client device is node C.

Q What makes node C a first client device, under your understanding?

A The first client device, according to claim 1, is issuing a request to the -- to the first server.

Q So how does that make node C of MorphMix the first client device?

A Because it's the only one that can talk to the server.

Q Oh, so that --

A That's --

Q So is that --

A That's --

Q Okay. So is it the fact that node C and MorphMix can talk to server S is what makes node C a client device?

MR. TOLLIVER: Objection, form.

Objection, foundation.

A I -- you're asking me did it -- to explain the mapping I came up with, and I'm -- I'm trying to do that for you.

Q Sure. And I'm trying to understand the reasoning behind your mapping. So my question is --

A Dataflow.

Q So is it the fact that node C can send requests to server S in MorphMix, is that what makes node C correspond to the first client device of the -- of the '319 claims?

MR. TOLLIVER: Same objections.

A By definition, yes.

Q Okay. So let's keep going now in the -- the '319 claim. You had -- you had identified for me the first client device, so keep going, please.

A Okay. The first server is server S, the web server, it receives the content requests from the client, right? And the -- the second -- the second server is -- the second server is B.

Q And why is node B of MorphMix the -- correspond to the second server of

claim one of the '319 patent?

MR. TOLLIVER: Same objections.

A Well, because the -- it's -- it's described here that it has a connection to the client, the second server has a connection to the client. It's the only node that has a connection to the client.

Q What about the other nodes shown in Figure 5.1 of MorphMix that showed connections to node C like the node in the upper right; do you see that node?

A Yes.

Q So is that upper right node that also has a connection to -- to node C, is that a client or a server?

MR. TOLLIVER: Same objections.

A I don't have enough information for that. These dark lines between these nodes assume that there's some connectivity. That is a -- a -- a network that, you know, we don't know if the connections are -- exist or not. It's -- it's just a -- a path definition

in 5.1, assuming that we take 5.1 as the example I would say that the dark lines determine the connectivity.

Q Okay. So let's look at the first step of claim one of the '319, it says: Receiving from the second server the first content identifier; do you see that step?

A Yes.

Q So tell me where in MorphMix with reference to Figure 5.1 you see the first client device receiving from the second server the first content identifier?

A Between the connection between B and C.

Q So -- so is it your testimony C receives the request for content from B, B is the second server and C is a first client device?

A Say that again.

Q Sure. Is it -- is -- with reference to the -- the first step of the '319 claims, when the first client device receives from the second server the first

content identifier, is it -- is it your testimony that C, as shown in MorphMix, is the first client device because it's receiving a request from node B? That's what I'm trying to understand.

A That -- please say that again. I -- you're -- that -- that was confusing to me.

Q Okay. It -- a minute ago did you testify that node C is the first client device shown in Figure 5.1 of MorphMix?

A Yes, I did.

Q Was that because node C is able to talk to server S?

A Correct.

MR. TOLLIVER: Objection, form.

BY MR. DUNHAM:

Q And I'm sorry, sir --

A Well, it has a connection to, yes.

Q Okay.

A And -- and we're making the assumption that it can talk to it, yes.

Q Well, what is your

understanding of MorphMix, does node C talk to server S or not?

A You're asking me to lay '319 on top of MorphMix. MorphMix has more functionality, but in the context of the '319 laying on top of MorphMix, I'm saying that the client device is defined in this particular example as node C.

Q So, again, I'm trying to understand, was your objective then to -- to -- to lay '319, as you said, onto MorphMix, is that what you were trying to do when you did your analysis?

MR. TOLLIVER: Objection, form. Objection, foundation.

A I -- that -- I -- I used it as an example, it wasn't like I was, like, you know, laying something on top of it. I'm -- I was looking at dataflow and functionality, I -- I explained that earlier. It wasn't a -- not taking a cells that I've drawn things out and trying to match them on top of each other.

I'm looking at the dataflow and

what could be supported by these references. And I -- I believe that the dataflow that's defined by the '319 patent can certainly be supported in the dataflow that is -- is supported by MorphMix.

Q So let's look at claim one of the '319 patent, and let's look at that first step together, and you understand this is a method by the first client device; correct?

A That's what it says.

Q Okay. So in the first step of '319 it says receiving, so this would be the first client device receiving from the second server the first content identifier. When we look at MorphMix Figure 5.1, why do you conclude that node C is the first client device?

A Because -- because it can get the data from server S.

Q And -- and where in your understanding of client device is that a device is a client device because it can get data from a server?

A No, it's --

MR. TOLLIVER: Object. Hold on. Hold on. Let me give me one second to lodge an objection, sir.

THE WITNESS: I'm sorry.

MR. TOLLIVER: Sure. Objection, form. Objection, foundation.

THE WITNESS: Do you want to ask the question again?

MR. DUNHAM: Sure. BY MR. DUNHAM:

Q When I asked you about your understanding of client device earlier you talked about a device that operates in the role of a client, and I'm trying to understand why do you say that, because node C can obtain data from server S, that's what makes it a client device?

MR. TOLLIVER: Same objections.

BY MR. DUNHAM:

Q And what is the basis for your statement that because node C can obtain data from node S, that's what makes node

C a client device?

MR. TOLLIVER: Same objections.

A Client devices and server devices are request/reply.

Q So looking at Figure 5.1 of MorphMix, do you understand that node B sends requests to node C?

A I -- I assume it can.

Q Is it your --

A That -- that -- that is one of the possible roles.

Q Is it further your understanding of MorphMix that node C can respond to those requests for node B?

A It -- it could, based on its definition in MorphMix, that's correct.

Q Okay. So in connection with the flow, as you've been saying, where node B sends a request to node C in MorphMix, and thereafter node C responds to that request and returns information to node B, what role is node B operating in?

A Say that again, please.

Q Sure. Within the flow, as

you've used that phrase, and we look at the connection between node B and node C in Figure 5.1 of MorphMix, when node B makes a request for content and sends it to node C, and node C thereafter responds to that request and sends information back to node B, is node B operating in the role of a client or a server?

MR. TOLLIVER: Objection, form. Objection, foundation.

A I'm -- I'm really sorry, run that by me again.

Q Sure. In connection with the flow of information, as described in MorphMix, when node B, as shown in Figure 5.1 of MorphMix, makes a request to node C, and node C thereafter responds to that request and sends information back to node B, is node B operating in the role of a client or a server?

MR. TOLLIVER: Same objections.

A You -- you ask me on the one hand to give you a referential example of 5.1 to Figure 5.1. In your question that you gave me right now, you asked me how

this is working in MorphMix. MorphMix's architecture can support what the '319 patent describes but MorphMix can operate differently, as well.

The '31- -- the -- the functional aspects of the '319 patent is in many ways a subset of what MorphMix can deliver in its ability to do connectivity in that some of the MorphMix nodes can act as relays, they don't necessarily need to get something back in MorphMix, they can operate as a relay and just pass on path, not necessarily operate in -- in the context of server or client, but an additional role of relay in order to help the context of the privacy that it's trying to achieve in the main objective of MorphMix.

Q Sir, I'm going to ask you to answer my questions. So I'm going to ask it again, politely, but I'm going to ask you to answer the question that I'm asking you.

And the question is: As shown in Figure 5.1 of MorphMix, when node B

sends a request to node C, and then node C responds to that request with information, is node B, under your understanding, operating in the role of a client or a server?

MR. TOLLIVER: Objection, form. Objection, foundation.

A My opinion is node B in this example is the second server.

Q And when node C receives a request from node C and sends it on to server S, is it your testimony that you believe node C is operating in the role of a client?

A Has a role of a client, yes.

Q What do you mean by has the role of a client?

A Can -- can have multiple roles, it's a -- it's a -- you -- you drop the term device, the device isn't necessarily a role.

Q So is it -- I want to make sure your sworn -- sworn testimony today, I want this to be really clear on the record, sir, is that when node B --

A It --
Q -- of MorphMix shown in Figure 5.1 sends a request for content to node C, is it your testimony that node B is operating in the role of a server?
A It depends on how it was defined.
Q I'm asking you for your understanding and analysis --
A My understanding and analysis is --
Q Sir, please allow me to finish my questions. I've asked you multiple times --
A All right.
Q -- please.
My question here, under oath, today, is when node B, as shown in Figure 5.1 of MorphMix, sends a request for content to node C, is it your testimony that node B is operating in the role of a client or a server?
MR. TOLLIVER: Objection, form. Objection, foundation. Sorry, I

might have been muted.

A I need more clarity here. I'm -- I'm sorry, I'm in the weeds here.

Q Sir, I'm asking you a very straightforward question. If you don't know the answer you're free to tell me that.

A It -- it -- it --

Q Sir, allow me to finish my question. I just want to have a clear record. As shown in Figure 5.1 of MorphMix, when node B sends a request for content to node C, is node B operating in the role of a client or a server?

MR. TOLLIVER: Same objections.

A In that -- in that narrow context, and defining that as a second server, I -- I -- I'm defining it -- node B as a second server.

Q So is it -- is node B operating in the role of a client or a server? I'm still asking the same question of you, sir.

MR. TOLLIVER: Objection, form.

A I'm -- its role in that

particular dataflow is a server. As -- as I say, it -- I believe it to be the second server.

MR. DUNHAM: Okay. We've been going an hour. Why don't we take a 10-minute break?

MR. TOLLIVER: Sounds good.

THE VIDEOGRAPHER: The time is 2:13 p.m. We are off the record.

(Recess.)

THE VIDEOGRAPHER: The time is 2:37 p.m. We're back on the record. Please proceed.

MR. DUNHAM: Mr. Teruya, I'd like you to take out the Crowds reference, Exhibit 1006, please, and let me know when you have it?

(Exhibit No. 1006 was identified for the record.)

THE WITNESS: I'm trying to load it up here, give me a minute. Sorry.

MR. DUNHAM: No problem, take your time.

THE WITNESS: Okay. What page

would you like me to go to?
BY MR. DUNHAM:
Q If you could, sir, please --
MR. DUNHAM: And I'm sorry, Mr. Tolliver, do you have the reference, as well?
MR. TOLLIVER: I do, yes.
MR. DUNHAM: Great.
BY MR. DUNHAM:
Q If you could turn to PDF page 9 out of 27, and it's the page that shows Figure 2?
A Okay.
Q Mr. Teruya, in connection with the analysis that you performed, did you analyze the mapped path shown in Figure 2 with the numbers 5, 4, 6, to server 5?
A I did.
Q Okay. And what is your understanding of what is shown in the mapped path of 5, 4, 6, 5 in Figure 2 of Crowds?
A It -- it's a path that I -- I -- I used as a -- as a reference. Hang on. I -- my -- my screen just went away

on that.

Q Okay. No problem.

A Let me try to get it back, here. Okay. What -- what is your question again?

Q My question was: What is your understanding of what is shown in the path 5, 4, to 6 to server 5 as depicted in Figure 2 of Crowds?

A It's a connection path to talk to server number 5 that, you know, has a path from 5 to 4 to 6 to 5.

Q And is it your understanding that the circles shown, for example, 5, 4, and 6, that those are Jondo's, J-o-n-d-o, Jondo's?

A Yes.

Q And is the -- is the square around number five, does that mean that five is a server in that path of 5, 4, 6, 5?

A Yeah, they define those squares as web servers, yes.

Q Okay. And what is your understanding of arrows in Figure 2 such

as the arrow that's shown at the end of the dotted line between Jondo5 and Jondo4.

A I -- I view those as being the -- the datapath.

Q Would you agree that the arrows -- strike that -- would you agree that the arrows shown between Jondo 5 and Jondo 4, that represents a request?

A Yes, it's a request that goes from Jondo5 to Jondo 4.

Q Okay. And then when Jondo 5 sends that request to Jondo 4, does Jondo 4, in turn, send that request to Jondo6?

A Yes.

Q And when Jondo6 receives that request from Jondo 4, does Jondo 6 send that request on to web server 5?

A Yes.

Q Okay. So at the point in time when Jondo 5 sends a request to Jondo 4, what role is Jondo 5 operating in?

A Jondo 5?

Q Yes, sir.

A I would say that Jondo 5, in

this example, is probably acting as a client.

Q Okay. And when Jondo 4 receives a request from Jondo 5, what role is Jondo 4 operating in?

A I believe Jondo 4 is operating as a server.

Q Okay. And when Jondo 6 receives a request from Jondo 4, what role is Jondo 6 operating in?

A It -- it's operating as a client.

Q So can you explain for me why, when Jondo 4 receives a request from Jondo 5, it's operating in the role of a server, but when Jondo 6 receives a request from Jondo 4, Jondo 6 is operating in the role of a client?

A Because a client makes -- it -- it's a client relationship in talking to the web server, as I described in MorphMix, as well, that -- that -- that node number six is making a request and getting a reply from the web server, server 5.

Q So is any node that makes a request of a web server and gets a reply from it, is that node a client?

MR. TOLLIVER: Objection, form. Objection, foundation.

A I don't know how to answer that. I --

Q Well --

A Any is a big word, right? Any is a -- all -- you know, an all-encompassing word.

Q So with respect to the nodes shown in Figure 2 of Crowds, is any node that makes a request of a web server a client, under your understanding of the terms?

MR. TOLLIVER: Objection, form. Objection, foundation.

A Can you say that again? Because I -- I need to -- for you -- based on specificity in what you're asking that I -- that I'm having difficulty with.

Q I'm asking you for the nodes, the Jondos shown in Figure 2 of Crowds,

is any Jondo that makes a request of a web server a client?

MR. TOLLIVER: Same objections.

A It -- in the -- in the example you gave me, I defined client six operating as a role of the client when it's talking to server number five.

Q Why did you define node 6 as operating in the role of a client when it's talking to server five?

A Because you asked me why is it a client, and I -- and I gave you a relationship between five -- server five and -- and node six, and -- and I -- and I defined it because of the request reply nature with the web server.

Q So does node four -- Jondo 4 have a request reply relationship with Jondo 6?

A I believe it does.

Q So with respect to the request for reply relationship between Jondo 4 and Jondo 6, would Jondo 4 be a client and Jondo 6 be a server?

A Well -- ask -- ask me that

again, please.

Q Sure. With regard to the request, reply relationship between Jondo 4 and Jondo 6, would Jondo 4 be a client and Jondo 6 be a server?

MR. TOLLIVER: Objection, form.

A I would consider Jondo 4 -- Jondo 4 to be a server.

Q And what would you consider Jondo 6 to be within the request reply relationship between Jondo 4 and Jondo 6?

MR. TOLLIVER: Objection, form.

A Well, I -- I -- I already said it was the client.

Q I'm asking you to --

A Oh, you're saying between 5 and 6?

Q No, I'm asking you to focus on the relationship between Jondo 4 -- strike that, let me start again and give you the complete question.

I'm asking you between the request reply relationship between Jondo 4 and Jondo 6, would you agree Jondo 4 is a client making the request

and Jondo 6 is the server that's going to be responding to that request?

MR. TOLLIVER: Objection, form.

A I -- I believe that Jondo 6 can have multiple functions as from a role standpoint.

Q Okay. So when -- when Jondo 4 is making a request of Jondo 6, at that point in time is Jondo 6 operating in the role of a server?

A No, I -- I would really classify it as a client device.

Q So does Jondo 6 -- in -- strike that.

In the path of 5, 4, 6, 5, does Jondo 6 ever have the role of a server?

A Not -- not -- not in -- in the generic context, not in the generic context, but it could, it could.

Q Okay.

A It depends on -- it depends on what passes, it depends on what passes.

Q Okay. And in the pathway of 5, 4, 6, 5 still, does Jondo 4 operate in both the role of a client some of the

time and the server some of the time?
MR. TOLLIVER: Objection, form.
THE WITNESS: Ask me again, please.
MR. DUNHAM: Sure.
BY MR. DUNHAM:
Q Within the path of 5, 4, 6, server 5, does Jondo 4 operate some of the time in the role of a client and some of the time in the role of a server?
MR. TOLLIVER: Objection, form.
A I think that Jondo 4 operates more as a -- can be defined more as a server in -- in this context, in -- in the context of that illustration.
Q And why is Jondo 4 -- why would you define it, in your words, more as a server?
A Because of its role between 5, 4, and 6 in this example.
Q And what about the role of 4 in this example makes it more of a server, in your view?
A Because it's -- it's servicing requests for node number 5.

Q Okay. Would you agree that node 6 is servicing requests for node number 4?

A Not necessarily. It -- it -- it -- it could act as a passthrough in which it's -- it's really the origin of the request could be node number 5.

Q Sir, would you agree, under your sworn testimony today, that node 6 services requests for node number 4?

MR. TOLLIVER: Objection, form.

A Well, it's connected to it.

Q Yeah, what --

A At what -- what -- you know, a request is -- you know, a -- a passthrough is different than a request reply architecture at the HTTP level. So for instance, if -- you know, node number -- node 6 is the requester to return the data from the web server, server 5, okay? So that's why I define it as a client.

Q But with respect to the transaction between node 4 and node 6, would you agree that node 6 is returning

the data that's been requested by node 4?

MR. TOLLIVER: Objection, form.

A Returning in what way?

Q Would you agree that node 6 responds to requests that have been made by node 4?

A Well, I need more specificity with that, because it could be a -- a -- a passthrough address relay, you know, that's not necessarily a request reply transaction between node 4. Node 4 could be passing, you know, information to node 6 that needs to -- to traverse the connection in order to -- to transact something with, you know, server number 5.

Q Sir, is it your understanding that the arrows between the nodes shown in Figure 2 of Crowds represent requests for content that ultimately reside -- resides on the web servers?

A Yes, it -- this is, you know, an example instance, yeah.

Q So would you agree that node 4 is going to return content to node 5 that

has been requested by node 5?

A Yeah, node 4 will return -- will return the information of the request of node number 5.

Q And would you agree that node 6 will return the information of the request that has been sought by node 4?

A I -- I would -- I would more aptly say that node 6 provides a path for that to happen.

Q So do you believe that the -- strike that. Let me ask my question again. I want to make sure I have a clear record.

Would you agree that node 6 returns the content that has been requested by node 4?

A It provides a path, as I said.

Q Does node 4 provide a path for content requested by node 5?

A Yes.

Q So in that respect, are nodes 4 and nodes 6 the same?

A No.

Q What's different between node 4

and node 6?

A I -- I believe because node number 5 is deemed as a client there's -- there's more interaction in the setup of this connection than there is with node number 6.

Q What additional --

A That's fin- -- that's -- you know, that's what I surmise from this drawing, okay?

Q So that's your surmise; is that correct?

A Yes.

Q Okay. Do you understand the path of node 4 to node 4 to web server 4 as shown in Figure 2?

A Say that again?

Q Sure. Do you see Jondo 4?

A Yes.

Q Do you see the circular -- the semicircular comes around with an arrowhead on it where it originates in node 4, Jondo 4 and also ends in Jondo 4?

A Yes.

Q Did you read the entire Crowds

reference?

A Yes. Well, caveat, I didn't -- I didn't pour through and analyze the statistical analysis. I really only looked at form, structure, and architecture. I mean, I just passed through the sections of statistical analy- -- analysis in looking at the probabilities of anonymity.

Q What is your understanding of what the circle with the arrowhead on it represents with Jondo 4?

A A Jondo in the crowd.

Q Not the circle around the 4, sir, I'm sorry, the circle -- the semicircle with the arrowhead on Jondo 4, what is your understanding of that?

MR. TOLLIVER: Objection, outside the scope of direct.

A I -- I -- I -- what --

MR. DUNHAM: Counsel, if I may, I'll respond to that objection. The witness testified he reviewed the entirety of the reference for the function and flow, and I'm asking him

a specific question about the function and flow.

MR. TOLLIVER: And same -- same -- same objection, outside direct. You can answer.

A I -- I -- I don't recall.

Q Mr. Teruya, did you consider any of the other mapped paths shown in Figure 2, other than the path of Jondo 5 to Jondo 4 to Jondo 6 to web server 5?

A Only in -- in context to understanding its structure and architecture of what it was trying to do.

Q Okay. So within that context, what is your understanding of the semicircle shown that starts at Jondo 4 and returns to Jondo 4?

A I -- I don't recall at this point. It's been awhile since I really took this thing apart. And once I started to do the analysis of whether -- whether this, which is, again, like MorphMix, a super set of what paths are available to answer the claims in the '319 patent, you know, the other -- other

issues or other observations about Crowds became less important than how I -- I saw the paths able to be supported, the '319 paths able to be supported by Crowds.

MR. TOLLIVER: And I -- I would -- I would kind -- I would just -- I'm sorry, I would kindly ask the witness to -- to pause just for a moment longer between que- -- after the questions to give me a chance to lodge any objections, and as to that last question I do have the same objection as being outside the scope of direct.

BY MR. DUNHAM:

Q Mr. Teruya, I would ask you to turn to paragraph 99 of your declaration for the '319 patent, please?

A Okay. Let me pull that up.

Q Okay. I have some questions about the second sentence, and I'm not going to read it verbatim, you're free to read as much as you need, but I want to help focus you on the part of the sentence that I'm interested in, okay?

A Okay.

Q Okay. So in paragraph 99 of your declaration, in the second sentence, you state: To improve performance a POSITA could have put some higher powered devices in the mix to run as proxy servers without, in those instances, running their own web browsers, and as I said I eliminated some of the words to make it a little clearer; do you see that sentence?

A Let -- let -- let me read this, if you would.

Q Sure.

A Okay. What is your question?

Q Certainly. My question is: Are you aware of any disclosure, in Crowds, of a Jondo that does not run its own web browser?

A I am not, primarily because the browser is used to con- -- for its crowd connectivity in Crowds.

Q So would you agree that for every Jondo that is disclosed in the Crowds reference, that Jondo runs its own

web browser?

A I believe that Crowds have -- you know, you -- you -- you could provide a path using Crowds where the browser becomes benign, you know, by establishing a persistent path for those Jondos, but, you know, that's a -- that's an implementation issue. I think it's an implementation issue.

Q So --

A To -- to improve the -- the path performance.

Q So -- so is it your testimony that -- that in paragraph 99 you're describing a way that someone could alter Crowds to improve its performance?

MR. TOLLIVER: Objection, form.

A Yeah, I -- I would say that, yeah, that -- that's true, that -- that could be true, yeah.

Q Okay. And again, just so my record is clear, would you agree that every Jondo disclosed in Crowds runs its own web browser?

A You know, I'd have to go back

through Crowds to make sure that there wasn't an exclusion that I may have missed, but my, you know, initial observation is to initiate most connections since Crowds was really, you know, structured in a way where, you know, you -- you'd have a -- a collection of computers that make up the crowd that the connection mechanism was, you know, browser-based.

MR. DUNHAM: Okay. Counsel, why don't we take a break? I'm very close to wrapping up, I'd just like to look at my notes. And we can either do it on a short break, maybe 10 minutes, or if the witness wants to take a lunch break, whatever is better for the witness is fine by me.

MR. TOLLIVER: I -- I would definitely defer to the witness. A short break is fine by me.

MR. DUNHAM: Mr. Teruya, your call.

THE WITNESS: That -- that's fine with me, short break.

MR. DUNHAM: Okay, let's take about 10.

THE VIDEOGRAPHER: The time is 3:07 p.m. We are off the record.

(Recess.)

THE VIDEOGRAPHER: The time is 3:19 p.m. We're back on the record. Please proceed.

MR. DUNHAM: Mr. Teruya, thank you for your time today. I'll pass the witness.

MR. TOLLIVER: On behalf of the Code200 the defendant -- or petitioners, I'm sorry, I have no questions.

Mr. Bartlett: No redirect from Major Data.

MR. DUNHAM: Great. Thank you.

Well, sir, again, thank you very much. I appreciate your time. Always a pleasure to see you.

THE WITNESS: Okay. Thank you.

MR. TOLLIVER: Thanks everybody.

MR. DUNHAM: Okay. Let's go

off the record.

THE VIDEOGRAPHER: And with that, that concludes the deposition of Mr. Keith J. Teruya. The time is 3:20 p.m. We are off the record.

(Signature having not been waived, the deposition of KEITH TERUYA was concluded at 3:20 p.m.)

ACKNOWLEDGMENT OF DEPONENT

I, KEITH TERUYA, do hereby acknowledge that I have read and examined the foregoing testimony, and the same is a true, correct and complete transcription of the testimony given by me and any corrections appear on the attached Errata sheet signed by me.

_____ _____

(DATE) (SIGNATURE)

CERTIFICATE OF SHORTHAND REPORTER

I, Cassandra E. Ellis, Registered Professional Reporter, the officer before whom the foregoing proceedings were taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of December 2022.

_____

CASSANDRA E. ELLIS, CSR-HI, CSR-VA, CCR-WA, RPR, CRR
REALTIME SYSTEMS ADMINISTRATOR
NOTARY PUBLIC

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