

# Exhibit A

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PAGES 1 - 255

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE MARILYN HALL PATEL, JUDGE

APPLE COMPUTER, )  
)  
PLAINTIFF, )  
)  
VS. )  
)  
BURST.COM. )  
)  
DEFENDANT. )  
\_\_\_\_\_ )

NO. C 06-0019 MHP

SAN FRANCISCO, CALIFORNIA  
THURSDAY, FEBRUARY 8, 2007

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

FOR PLAINTIFF: WEIL, GOTSHAL & MANGES  
201 REDWOOD SHORES PARKWAY  
REDWOOD SHORES, CA 94065  
BY: **MATTHEW D. POWERS**  
**GARLAND T. STEPHENS**  
**NICHOLAS A. BROWN**  
ATTORNEYS AT LAW

FOR DEFENDANT: SUSMAN GODFREY LLP  
1201 THIRD AVENUE  
SEATTLE, WASHINGTON 98101  
BY: **PARKER C. FOLSE III**  
**IAN B. CROSBY**  
**FLOYD G. SHORT**  
ATTORNEYS AT LAW

**(APPEARANCES CONTINUED ON FOLLOWING PAGE)**

REPORTED BY: JAMES YEOMANS, CSR #4039, RPR  
OFFICIAL REPORTER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

COMPUTERIZED TRANSCRIPTION BY ECLIPSE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**APPEARANCES: (CONTINUED)**

FOR DEFENDANT: HEIMPAYNE  
CHORUSH  
6710 CHASE TOWER  
600 TRAVIS  
HOUSTON, TEXAS 77002  
BY: **MICHAEL F. HEIM**  
**LESLIE V. PAYNE**  
**ATTORNEYS AT LAW**

1 THURSDAY, FEBRUARY 8, 2007

9:00 A.M.

2 (THE FOLLOWING PROCEEDINGS WERE HEARD IN OPEN COURT:)

3 **THE CLERK:** CALLING CASE NUMBER C 06-0019, APPLE  
4 COMPUTER VERSUS BURST.COM, INC.

5 WILL COUNSEL PLEASE MAKE THEIR APPEARANCES FOR THE  
6 RECORD.

7 **MR. POWERS:** MATT POWERS, GARLAND STEPHENS AND  
8 NICHOLAS BROWN FOR APPLE.

9 **MR. FOLSE:** PARKER FOLSE ON BEHALF OF BURST. WITH ME  
10 AT COUNSEL TABLE ARE MY CO-COUNSEL MIKE HEIM, LES PAYNE,  
11 RANDALL GARD AND FLOYD SHORT.

12 AND AS THE COURT REQUESTED, DR. HEMAMI IS ALSO HERE  
13 AGAIN WITH US, IN THE EVENT THE COURT HAS QUESTIONS, AS IS  
14 MR. LANG, THE INVENTOR, AND HIS WIFE AND CO-FOUNDER LISA.

15 **THE COURT:** THANK YOU. GOOD MORNING.

16 NOW, YOU DIVIDED UP THE PRESENTATIONS INTO GROUPINGS,  
17 AND WHO'S GOING TO START WITH RESPECT TO YOUR FIRST GROUP?

18 AND WHAT IS THAT GROUP, FIRST GROUP YOU'RE GOING TO  
19 DEAL WITH?

20 **MR. POWERS:** IF IT HELPS, WE HAVE A SHEET OF PAPER  
21 THAT DESCRIBES THE GROUPS AND HOW WE'RE DIVIDING THEM UP.

22 **MR. FOLSE:** I WAS GOING TO COME TO THAT. ONE OF THE  
23 SLIDES WE'LL SHOW WHEREIN THE HEARING BINDER THE DIFFERENT  
24 GROUPINGS OCCUR.

25 **THE COURT:** WHAT YOUR GOING TO ESSENTIALLY USE THIS

1 POWER POINT, OR SLIDE, WHATEVER, FOR THE PURPOSE OF THE  
2 HEARING, CORRECT?

3 **MR. FOLSE:** YES, I HAVE BINDERS.

4 **THE COURT:** WE HAVE BINDERS IN CHAMBERS, I DIDN'T  
5 BRING THEM OUT, BUT AM I GOING TO NEED THEM, DO YOU THINK?  
6 ARE YOU GOING TO PRETTY MUCH HAVE EVERYTHING HERE?

7 **MR. FOLSE:** WHAT I HAVE HERE, THE BINDERS OF THE  
8 SLIDES WE'RE GOING TO USE TODAY, THAT THE COURT DOES NOT YET  
9 HAVE.

10 **THE COURT:** WHY DON'T WE SEE IF WE NEED, AND THOSE ARE  
11 NOT AS EXTENSIVE AS THE BINDERS WE HAVE, I ASSUME THEN, THAT  
12 YOU SUBMITTED EARLIER, OR ARE THEY?

13 **MR. FOLSE:** THIS JUST THE BINDER OF THE SLIDES. WE  
14 MAY NOT COVER ALL THE SLIDES, PROBABLY WON'T.

15 **THE COURT:** OKAY. LET'S SEE IF WE REALLY NEED THOSE  
16 BINDERS. IF SO, WE'LL BRING THEM OUT. A LOT OF OTHERS THEY'RE  
17 BOXES IN THERE, TOO. WE NEED ALL THAT OUT HERE, I DON'T KNOW,  
18 WE'LL SEE.

19 **MR. FOLSE:** I'M NOT -- THESE MAY BE MORE OF  
20 DISTRACTION AS WE TALK TODAY THEN ANYTHING ELSE.

21 **THE COURT:** WHY DON'T YOU LEAVE IT DOWN THERE.

22 **MR. FOLSE:** THE COURT WILL HAVE THEM.

23 **THE COURT:** I GOT THIS AND I GOT THAT, PRESUMABLY  
24 THEY'RE BOTH GOING TO LOOK ALIKE, BUT GO AHEAD.

25 ARE YOU THE ONE THAT'S GOING TO START?

1           **MR. FOLSE:** I'M GOING TO START. AND REALLY WHAT --  
2 AND WHAT I'M GOING TO DO, IS EXPLAIN HOW WE INTEND TO DIVIDE  
3 THIS BETWEEN MYSELF AND MY CO-COUNSEL. I'M GOING TO PROVIDE A  
4 BRIEF INTRODUCTION THAT WILL CONSIST OF COVERING THREE TOPICS.

5           THE FIRST, IS TO GIVE THE COURT AN OVERVIEW OF THE  
6 PRESENTATION.

7           THE SECOND, ARE SOME COMMENTS BY WAY OF BACKGROUND.

8           AND THE THIRD, VERY BRIEF REVIEW OF KEY CLAIM  
9 CONSTRUCTION PRINCIPLES AND THE LAW.

10          SO THE OVERVIEW --

11          **THE COURT:** HASN'T CHANGED IN THE LAST WEEK, HAS IT?

12          **MR. FOLSE:** IT HAS NOT CHANGE. I THINK, THE COURT IS  
13 QUITE FAMILIAR WITH IT.

14          **THE COURT:** YOU SPEND LESS TIME ON THAT.

15          **MR. FOLSE:** SO HERE'S HOW WE DIVIDED THE PRESENTATION  
16 WITH REGARD TO CLAIM TERMS.

17          THE FIRST GROUPING CONSISTS OF THE COMPRESSION TERMS  
18 AND TERMS RELATING TO BURST TIME PERIOD. MR. HEIM IS GOING TO  
19 COVER THAT. HE WILL THEN SIT DOWN AND APPLE'S COUNSEL WILL  
20 THEN COVER THE SAME GROUP OF TERMS.

21          THEN THE SECOND GROUP OF TERMS, WHICH I WILL COVER,  
22 CONSISTS OF TRANSMISSION TERMS AND TERMS RELATING TO THE  
23 HANDLING OF AUDIO/VIDEO INFORMATION. AND THEN, AGAIN, I'LL SIT  
24 DOWN, APPLE WILL RESPOND.

25          AND THEN THE THIRD GROUPING CONSISTS OF MEANS PLUS

1 FUNCTION ISSUES AND TERMS.

2 AND TO LOOK AT THE HEARING BINDER, AGAIN, NOT THAT THE  
3 COURT NEEDS IT, BUT I PREPARED THIS IN THE EVENT THE COURT  
4 WANTED TO BE LOOKING AT IT DURING THE PRESENTATION.

5 BUT THIS FIRST GROUPING MR. HEIM WILL COVER ARE THE  
6 TERMS LISTED UNDER SUBPARTS A AND B OF THE CLAIM TERMS AND THEN  
7 THE GROUPING I WILL COVER. I'M NOT AT ALL SURE THAT I'M GOING  
8 TO COVER EVERY ONE OF THESE BECAUSE IN THE INTEREST OF TIME,  
9 BUT THAT'S THE GROUPING THAT I WILL COVER.

10 AND THEN THIS THIRD GROUPING WHICH WILL BE COVERED BY  
11 MR. PAYNE AND, ACTUALLY, MR. HEIM WILL COVER, SIMPLY BECAUSE  
12 THEY'RE COMPRESSION MEANS ISSUES IN THAT THIRD GROUPING WHICH  
13 ARE RELATED TO THE CLAIM CONSTRUCTION TERMS THAT HE'LL BE  
14 DISCUSSING IN THE FIRST SET.

15 ONE QUESTION, I DID THAT IN ORDER TO DETERMINE THE  
16 COURT'S PREFERENCE. WE WOULD LIKE SOME OPPORTUNITY TO RESPOND,  
17 TO PROVIDE A REBUTTAL TO APPLE'S ARGUMENTS, AND I CAN THINK OF  
18 TWO WAYS, IF THE COURT PERMITS, THAT IT COULD BE DONE.

19 ONE IS, AS APPLE SITS DOWN, MODULE BY MODULE, WHAT MAY  
20 ACTUALLY HOPEFULLY SAVE TIME AND BE FASTER TO HAVE ONE REBUTTAL  
21 NEAR THE END.

22 **THE COURT:** I THINK, PROBABLY THE LATTER OPTION. BUT  
23 IF YOU HAVE REBUTTAL ARE WE GOING TO HEAR ABOUT SURREBUTTAL?

24 **MR. POWERS:** DEPENDS ON THE REBUTTAL.

25 **THE COURT:** WE MAY WANT TO STOP THE TENNIS MATCH



1 BEFORE WE GET TO REBUTTAL THEN. SEEMS TO ME PLENTY OF PAPER  
2 HERE. PLENTY TO GO THROUGH, AND SO I THINK --

3 **MR. FOLSE:** THAT WAS OUR FEELING.

4 **THE COURT:** FORGET REBUTTAL. FORGET REBUTTAL, NO  
5 REBUTTAL.

6 **MR. FOLSE:** ALL TOGETHER?

7 **THE COURT:** ALL TOGETHER. OTHERWISE IT JUST KEEPS  
8 GOING ON AND ON.

9 **MR. FOLSE:** WE CERTAINLY DIDN'T THINK IT MADE ANY  
10 SENSE TO HAVE REBUTTAL IN THE MIDDLE OF A TENNIS MATCH.

11 WHAT WE DID HOPE, IF THERE WAS SOMETHING IN ORDER OF  
12 15 AND 20 MINUTES AT THE VERY END, WE COULD, IF WE FELT THERE  
13 WERE ISSUES.

14 **THE COURT:** I THINK NOT. I THINK NOT. IF I THINK WE  
15 NEED IT I'LL LET YOU KNOW. OKAY.

16 **MR. FOLSE:** LET ME TURN TO THE BACKGROUND COMMENTS  
17 THAT I WANTED TO MAKE TO THE COURT BY WAY OF OVERVIEW BEFORE WE  
18 GET INTO THE CLAIM CONSTRUCTION TERMS.

19 AND THE COURT HAS HEARD SOME OF THESE POINTS BEFORE.  
20 IT'S DISCUSSED IN OUR BRIEF, DR. HEMAMI DISCUSSED IT. WE DO  
21 THINK IT IS IMPORTANT THAT THE COURT SHOULD APPRECIATE THE  
22 CONTEXT IN WHICH THESE INVENTIONS OCCURRED.

23 WE BELIEVE THAT THEY REPRESENTED A TRUE PARADIGM SHIFT  
24 IN THE EDITING, STORAGE AND DELIVERY OF AUDIO/VIDEO  
25 INFORMATION.

1 AND IN 1988 WHEN THE PATENT APPLICATIONS WERE FILED,  
2 THE APPLICATION FIRST TO THE ISSUED PATENTS AUDIO AND VIDEO, AT  
3 THAT TIME WERE BEING TRANSMITTED PRIMARILY THROUGH BROADCAST IN  
4 REAL TIME, WHICH MEANT THAT THE TIME REQUIRED TO TRANSMIT THE  
5 AUDIO AND VIDEO WAS NOT DIFFERENT THEN THE TIME REQUIRED TO  
6 VIEW OR LISTEN TO IT.

7 THERE WAS A CONTINUOUS TRANSMISSION OF CONTENT AND  
8 CONSUMERS WOULD TUNE IN AS THE TRANSMISSION WAS OCCURRING AND  
9 VIEW OR LISTEN TO IT AS THE TRANSMISSION WAS OCCURRING.

10 THERE WERE TECHNOLOGIES IN THE ART AT THAT TIME THAT  
11 PROVIDED OR DIGITIZING ANALOG AUDIO/VIDEO AND FOR COMPRESSING  
12 IT, BUT THOSE TECHNOLOGIES WERE NOT APPLIED IN A WAY AT THAT  
13 TIME THAT ALTERED THE TIME REQUIRED FOR TRANSMISSION.

14 THE TRANSMISSION TIME STILL, EVEN WITH THE USE OF  
15 THOSE TECHNOLOGIES, DID NOT DIFFER FROM THE TIME REQUIRED FOR  
16 VIEWING OR LISTENING.

17 INSTEAD, SYSTEM DESIGNERS USED THOSE TECHNOLOGIES TO  
18 PERMIT MORE CHANNELS TO BROADCAST OVER IN REAL TIME OVER THE  
19 SAME GIVEN AMOUNT OF BANDWIDTHS.

20 THE BURST INVENTION, MR. LANG'S INVENTION DID WERE TO  
21 ESTABLISH A NEW MODEL FOR DIGITAL MEDIA DELIVERY. THEY  
22 REFLECTED THE INNOVATION THAT DELIVERY OF AUDIO AND VIDEO WORKS  
23 COULD BE ACCOMPLISHED FASTER THAN REAL TIME.

24 THAT IS, MORE RAPIDLY THAN THE TIME REQUIRED TO VIEW  
25 OR LISTEN TO THE CONTENT AND THE REPRESENT -- THE INNOVATION

1 THAT CONSUMERS COULD BE RECEIVED COMPRESSED WORKS THAT THEY  
2 COULD THEN SAVE, EDIT, PLAYBACK OR TRANSMIT TO OTHER DEVICES,  
3 RATHER THAN SIMPLY VIEWING THE AUDIO AND VIDEO AS THE  
4 TRANSMISSION OCCURRED. AND THOSE INNOVATIONS REFLECTED, WE  
5 BELIEVE, NOT ONLY IN THE PATENTS THEMSELVES, BUT ALSO IN THE  
6 PROSECUTION HISTORY.

7 AND I'VE JUST PUT ONE EXAMPLE ON THIS SLIDE FROM THE  
8 PROSECUTION HISTORY OF THE '705 PATENT, WHICH DISCUSSES EXACTLY  
9 THE KINDS OF CHANGES AND INNOVATIONS THAT I JUST SUMMARIZED.

10 IT REFERS TO THE SYSTEM DESIGNERS FROM THE ADVENT OF  
11 COMPRESSION TECHNIQUES, NOTING THAT A SYSTEM IMPLEMENTING  
12 COMPRESSION COULD SERVICE MORE CLIENTS IN REAL TIME THEN A  
13 SYSTEM WITHOUT COMPRESSION.

14 AND THAT BETTER COMPRESSION ENABLED THE SYSTEM TO  
15 SERVICE EVEN MORE CLIENTS, BUT SYSTEM DESIGNERS DID NOT  
16 RECOGNIZE THAT TIME-COMPRESSED REPRESENTATIONS COULD BE SENT IN  
17 A BURST TIME PERIOD THAT IS SHORTER THAN THE TIME PERIOD NEEDED  
18 FOR REAL TIME VIEWING BY RECEIVING --

19 **THE COURT:** I HAVE TO STOP YOU RIGHT THERE. I HAVE A  
20 PHONE CALL I HAVE TO TAKE, SO I'M GOING TO TAKE A MOMENT AND  
21 HOPEFULLY WON'T TAKE VERY LONG.

22 IN THE MEANTIME I DO HAVE A QUESTION, THOUGH, SO YOU  
23 CAN TAKE A LOOK.

24 YOU KNOW, THE SUMMARY OF THE INVENTION GIVES YOU AN  
25 IDEA OF WHY IS THIS NEW OR WHAT'S, YOU KNOW, WHAT'S IMPORTANT

1 ABOUT AND SO FORTH, IS THERE ANYTHING IN THE SUMMARY OF THE  
2 INVENTION THAT TELLS US THAT?

3 IF YOU CAN TAKE A LOOK THROUGH WHILE I TAKE THIS PHONE  
4 CALL AND THEN YOU CAN ANSWER THAT QUESTION FOR ME WHEN I GET  
5 BACK.

6 **MR. FOLSE:** THANK YOU.

7 **THE COURT:** THANK YOU.

8 (RECESS TAKEN.)

9 (PROCEEDINGS RESUMED.)

10 **THE COURT:** SORRY ABOUT THAT. BUT NOW DID YOU  
11 UNDERSTAND MY QUESTION?

12 **MR. FOLSE:** I THINK SO.

13 **THE COURT:** AS I GAVE YOU HOMEWORK AND LEFT THE BENCH.

14 **MR. FOLSE:** I THINK I DO. IF I'M NOT ANSWERING THE  
15 QUESTION YOU ASKED, PLEASE LET ME KNOW.

16 BUT LET ME REFER THE COURT, I GUESS, IN SEQUENCE, IN  
17 THE CONTEXT OF THE '995 PATENT. IN THE ABSTRACT THE FINAL  
18 SENTENCE REFERS TO THE FACT THAT THE RECORDER TRANSMITTER HAS  
19 CAPABILITY TO TRANSMIT AND RECEIVE PROGRAM INFORMATION IN  
20 EITHER COMPRESSED OR DECOMPRESSED FORMAT OVER FIBEROPTIC LINES.

21 **THE COURT:** NOW, WHICH -- WHERE IS THAT? IN WHICH  
22 COLUMN?

23 **MR. FOLSE:** THAT IS --

24 **THE COURT:** OF THE '995?

25 **MR. FOLSE:** THAT IS IN THE ABSTRACT OF THE '955 PATENT

1 ON THE FIRST PAGE, AND I'M GOING TO JUST MOVE THROUGH A COUPLE  
2 OF PASSAGES, BUT THAT'S AN APPROPRIATE PLACE TO START.

3 **THE COURT:** OKAY.

4 **MR. FOLSE:** THEN TURNING TO COLUMN ONE IN THE SUMMARY  
5 OF THE INVENTION, WHICH BEGINS AT LINE 64, IT REFERS TO AN  
6 IMPROVED AUDIO/VIDEO RECORDER BEING PROVIDED ADDED FEATURES AND  
7 FUNCTIONS WHICH SIGNIFICANTLY ENHANCED ITS USEFULNESS AND  
8 FUNCTIONALITY.

9 THEN IN VOLUME TWO THE OBJECT OF THE INVENTION ARE  
10 DESCRIBED. I WILL REFER THE COURT TO LINE 46 IN COLUMN TWO  
11 WHICH STATES:

12 "A STILL FURTHER OBJECT OF THE INVENTION IS TO  
13 PROVIDE AN AUDIO/VIDEO RECORDER UTILIZING A DATA  
14 COMPRESSION TECHNIQUE FOR EFFICIENT STORAGE,  
15 TRANSMISSION AND RECEPTION OF A DIGITIZED AUDIO/VIDEO  
16 PROGRAM OVER TELEPHONE LINES OR BY OTHER EXTERNAL  
17 DIGITAL MEANS, SUCH AS SATELLITE TRANSMISSION OR  
18 RECEPTION."

19 AND IN MOVING, FINALLY, TO COLUMN 7, AND THIS TIES  
20 BACK TO THE REFERENCE TO FIBEROPTIC LINES. THIS IS THE  
21 DISCUSSION OF THE PREFERRED EMBODIMENT IN COLUMN 7 BEGINNING AT  
22 LINE 55, IT STATES:

23 "THE FIBEROPTIC LINE CARRIES DIGITAL SIGNALS IN THE  
24 FORM OF LIGHT WAVES OVER GREAT DISTANCES WITH A HIGH  
25 DEGREE OF ACCURACY AND RELIABILITY AND AT A HIGH

1 SPEED."

2 AND GIVES AN EXAMPLE. THE VCRET CAN RECEIVE THE VIDEO  
3 PROGRAM AT AN ACCELERATED RATE VIA FIBEROPTIC PORT 18 E.G. FROM  
4 A VARIETY OF SOURCES.

5 FOR EXAMPLE, A VIDEO PROGRAM MAY BE COMMUNICATED AT AN  
6 ACCELERATED RATE FROM THE FIRST VCRET TO A SECOND VCRET IN LESS  
7 TIME THEN IT WOULD TAKE TO VIEW THE PROGRAM, THUS, IT IS NOT  
8 NECESSARY TO ACCESS THE OPTICAL FIBER FOR LONG PERIODS OF TIME  
9 TO TRANSMIT A LONG VIDEO PROGRAM.

10 IT'S ALSO ENVISIONED IN THE FUTURE A VIDEO LIBRARY  
11 MAYBE ESTABLISHED WHICH DOWN LOADS VIDEO PROGRAMS AT AN  
12 ACCELERATED RATE VIA OPTICAL FIBERS TO SUBSCRIBERS VCR DT, SO I  
13 THINK THOSE PASSAGES MOST DIRECTLY --

14 **THE COURT:** THOSE PASSAGES DO, BUT I JUST FOUND IT  
15 INTERESTING, I DIDN'T SEE ANYTHING IN THE SUMMARY OF THE  
16 INVENTION THAT REALLY HIGHLIGHTED -- I MEAN, THE PORTIONS YOU  
17 READ ARE FAIRLY OPAQUE, OPAQUE AND NOTHING REALLY SORT OF  
18 FOCUSED ON, HEY, THIS REALLY IS TRANSMISSION MUCH FASTER,  
19 THINGS OCCUR IN A MUCH -- IN MUCH LESS TIME IN REAL TIME, ET  
20 CETERA, AND PLACING EMPHASIS ON THAT.

21 AND BECAUSE SO I WONDER IF WAS -- THIS ENDED UP -- DID  
22 THIS END UP -- BECAUSE IN THE PROSECUTION HISTORY BEING A  
23 PATCHWORK WAS DONE AND MAYBE SOME -- MAYBE THE CLAIMS WERE  
24 CHANGED, BUT OTHER PARTS OF IT WEREN'T CHANGED OF THE  
25 APPLICATION.

1           **MR. FOLSE:** I THINK NOT, YOUR HONOR. I THINK, PART OF  
2 THE EXPLANATION, IS THAT THIS INVENTION PULLED TOGETHER A LOT  
3 OF IDEAS.

4           THE APPARATUS AND THE METHOD BEING DESCRIBED IN HERE  
5 INCLUDES INFORMATION ABOUT THE RECEPTION OF INFORMATION IN  
6 ANALOG FORM AND DIGITAL FORM, THE CONVERSION OF ANALOG TO  
7 DIGITAL. DESCRIBES USING DATA KEPT COMPRESSION TO COMPRESS THE  
8 DIGITAL CONTENT, REFERS TO STORING IT.

9           THERE'S A LOT IN THE PREFERRED EMBODIMENT AND IN MANY  
10 OF THE CLAIMS THAT DISCUSS THE ABILITY TO THEN EDIT AND SEGMENT  
11 BY SEGMENT BASIS, TO TAKE CONTENT FROM DIFFERENT SOURCES AND  
12 MIX THEM TOGETHER AND CREATE NEW WORKS, AND THEN TO TRANSMIT  
13 THE PROGRAMS OVER A VARIETY OF COMMUNICATION CHANNELS,  
14 INCLUDING THESE VERY HIGH SPEED FIBEROPTIC LINES, IN WHAT -- IN  
15 ORDER TO ENABLE RECIPIENTS TO HAVE THE CONTENT, SAVE IT, STORE  
16 IT, EDIT IT THEMSELVES ON SIMILAR DEVICES AND, OF COURSE, VIEW  
17 IT.

18           AND SO, I THINK, THE PATENT TALKS ABOUT A LOT OF  
19 THINGS FROM THE STANDPOINT OF WHERE WE STAND HERE TODAY IN  
20 2007. LOOKING BACK CLEARLY THE PART OF THE INNOVATION THAT  
21 MAYBE THE MOST SIGNIFICANT IS THE PART WE'RE TALKING ABOUT  
22 TODAY.

23           WHETHER OR NOT THE PATENT, THE DRAFTERS OF THE PATENT  
24 SPECIFICATION, THE ABSTRACT SHOULD HAVE DONE A BETTER JOB  
25 HIGHLIGHTING IT, PROBABLY, IN HINDSIGHT I WOULD SAY, YES, FROM

1 MY INTERESTED PROSPECTIVE HERE, BUT I THINK THE INNOVATION IS  
2 DISCLOSED IN THE PATENT AND MORE POSSIBLY IN THE PATENT CLAIMS.

3 **THE COURT:** OKAY. I WON'T KEEP YOU ON THIS ANYMORE.  
4 I'LL LET YOU MOVE ALONG.

5 **MR. FOLSE:** OKAY. SO WE REALLY BELIEVE WITH THAT  
6 BACKGROUND, THAT APPLE'S CLAIM CONSTRUCTION POSITION IN A  
7 NUTSHELL REPRESENT AN ATTEMPT TO REWRITE THE PATENTS.

8 THEY HAVE IN FAIRLY OBVIOUS WAYS DEVELOPED CLAIM  
9 CONSTRUCTION POSITIONS, BECAUSE OF THE ABILITY OF THOSE  
10 POSITIONS IF ADOPTED BY THE COURT TO PROVIDE A DEFENSES TO  
11 INFRINGEMENT.

12 THEIR POSITIONS AS WELL EXPLAIN TODAY WE THINK ARE  
13 WRONG, AND IN PART THEY CANNOT BE SUPPORTED BECAUSE APPLE  
14 DEFENDS THEM IN LARGE PART BY TURNING A BLIND EYE TO THE BEST  
15 EVIDENCE, WHICH IS THE PATENT DOCUMENT ITSELF.

16 THEY PROPOSE CONSTRUCTIONS THAT ARE DIRECTLY AT ODDS  
17 WITH WHAT THE PATENT DISCLOSES, AND THEY HAVE MISCHARACTERIZED  
18 AND TAKEN OUT OF CONTEXT THE PROSECUTION HISTORY.

19 AND MUCH OF THEIR APPROACH TO CLAIM CONSTRUCTION WE  
20 THINK RUNS AFOUL OF SOME KEY LEGAL PRINCIPLES, AND I WILL GO  
21 THROUGH THESE VERY QUICKLY, AND ACTUALLY EXTRACTED THEM FROM  
22 THREE OPINIONS OF THIS COURT.

23 AND I DON'T THINK THE COURT WAS PURPORTING TO MAKE ANY  
24 NEW LAW, BUT WAS COLLECTING VERY CLEAR LAW FROM THE FEDERAL  
25 CIRCUIT APPLICABLE TO CLAIM CONSTRUCTION. THE THREE DECISIONS



1 BEING: COLLABORATION PROPERTIES, IXYS CORPORATION AND NIKON  
2 VERSUS ASM LITHOGRAPHY.

3 **THE COURT:** ALL OF WHICH, I THINK, SETTLED SHORTLY  
4 AFTER.

5 **MR. FOLSE:** SORRY?

6 **THE COURT:** ALL OF WHICH SETTLED AFTER CLAIM  
7 CONSTRUCTION.

8 **MR. FOLSE:** I'M SURE THE COURT KNOWS THAT IS A -- NOT  
9 UNCOMMON PHENOMENON.

10 BUT, AGAIN, VERY, VERY QUICKLY, THE COURT HAS  
11 RECOGNIZED, AGAIN, THESE ARE ALL PASSAGES FROM THE COURT'S  
12 OPINION AND THE INTERNAL QUOTES VARIOUS FEDERAL CIRCUIT'S  
13 DECISION, THE COURT QUITE CLEARLY RECOGNIZED IN ALL THREE  
14 DECISION THE FOCUS ON INTRINSIC EVIDENCE.

15 IT ACTUALLY PROVIDES A HIERARCHY, REFER TO IT AS KIND  
16 OF ORDER OF OPERATIONS IN CLAIM CONSTRUCTION, WHICH IS TO LOOK  
17 AT THE CLAIM LANGUAGE THEN USE THE SPECIFICATIONS TO AID IN  
18 DEFINING THE TERMS USED IN THE CLAIMS.

19 IF THAT IS NECESSARY, IF THE CLAIM LANGUAGE IS  
20 AMBIGUOUS IN SOME RESPECT AND, FINALLY, TURNING TO THE  
21 PROSECUTION HISTORY IF THAT IS NECESSARY.

22 AMONG THE SOURCES OF INTRINSIC EVIDENCE THE COURT HAS  
23 RECOGNIZED THAT THE SPECIFICATIONS THE SINGLE BEST GUIDE AND  
24 MAY ASSIST IN RESOLVING THE AMBIGUITY.

25 THE COURT HAS ALSO RECOGNIZED THAT A CLAIM

1 CONSTRUCTION THAT WOULD NOT COVER A PREFERRED EMBODIMENT IN THE  
2 SPECIFICATION IS RARELY, IF EVER, CORRECT, AND WOULD REQUIRE  
3 HIGHLY PERSUASIVE EVIDENTIARY SUPPORT.

4 THAT IS CLEARLY AN ISSUE WITH REGARD TO SOME OF THE  
5 COMPRESSION TERMS HERE, WHERE BY ITS OWN ADMISSION APPLE  
6 PROPOSING A CLAIM CONSTRUCTION THAT WOULD EXCLUDE THE PREFERRED  
7 EMBODIMENT.

8 AND THE CASE LAW DOESN'T SAY THAT IS NEVER PROPER, AND  
9 APPLE CITED THREE CASES IN THEIR BRIEF IN WHICH THAT OCCURRED,  
10 BUT IN EACH OF THOSE CASES THERE WERE VERY, VERY CLEAR  
11 AMENDMENTS THAT WERE ADOPTED DURING THE PROSECUTION HISTORY, IN  
12 ORDER TO OVERCOME PRIOR ART AND THE CLAIM LANGUAGE. AND THE  
13 DISCLAIMER OF SUBJECT MATTER, SCOPE IN THE PROSECUTION HISTORY  
14 WAS EXTRAORDINARILY CLEAR, THAT IS NOT OUR CASE, AS MR. HEIM  
15 WILL TALK ABOUT.

16 ONLY DEFINITIVE STATEMENTS OF CLAIMS SCOPE ABANDONMENT  
17 ARE JUDICIALLY COGNIZABLE AT THIS STAGE OF THE PROCEEDING, AS  
18 FEDERAL CIRCUIT HAS DECLINED TO APPLY THE DOCTRINE OF  
19 PROSECUTION DISCLAIMER WHERE THE ALLEGED DISAVOWAL OF CLAIM  
20 SCOPE IS AMBIGUOUS.

21 THE LAST POINT ON THIS SLIDE JUST SIMPLY REFERS TO  
22 EXTRINSIC EVIDENCE. AND, OBVIOUSLY, EXTRINSIC EVIDENCE AND  
23 EXPERT TESTIMONY CAN BE USEFUL TO HELP THE COURT COME TO A  
24 PROPER UNDERSTANDING, BUT IT CAN NEVER BE USED TO VARY OR  
25 CONTRADICT THE CLAIM LANGUAGE WHERE THE PATENT DOCUMENTS ARE

1 AMBIGUOUS, EXPERT TESTIMONY REGARDING THE MEANING OF THE CLAIM  
2 IS ENTITLED TO KNOW WHY THAT IS IMPORTANT ALSO.

3 BECAUSE APPLE'S POSITION WITH REGARD TO THE  
4 COMPRESSION TERMS REALLY STARTS WITH EXPERT TESTIMONY, THAT IS  
5 THE FOUNDATION FOR THEIR ATTEMPT TO CONVINCING THE COURT THAT THE  
6 CLAIMS MEAN SOMETHING ENTIRELY DIFFERENT FROM WHAT THE  
7 SPECIFICATION DISCLOSES.

8 SKIP THROUGH THESE SLIDES. I THINK, WITH THAT  
9 OVERVIEW, YOUR HONOR, I'M NOW GOING TO TURN TO THE -- TURNOVER  
10 TO MR. HEIM TO ADDRESS THE FIRST MODULE OF CLAIM TERMS WHICH  
11 CONCERN COMPRESSION AND BURST TIME PERIODS.

12 **THE COURT:** THANK YOU.

13 **MR. FOLSE:** THANK YOU.

14 **MR. HEIM:** GOOD MORNING, YOUR HONOR.

15 **THE COURT:** WOULD YOU SPELL YOUR LAST NAME?

16 **MR. HEIM:** HEIM, H-E-I-M.

17 **THE COURT:** OKAY. SO YOU'RE NOT THE GENTLEMAN WHOSE  
18 NAME APPEARS AS THE ATTORNEY ON THE PATENT, THAT GETS VERY  
19 CLOSE.

20 **MR. HEIM:** IT'S INTERESTING YOU SHOULD SAY THAT. I  
21 WAS SHOCKED WHEN I SAW THE ATTORNEY PROSECUTED THIS WAS A  
22 WILLIAM HEIN, H-E-I-N. THE FIRST CONCERN I HAD WAS THAT  
23 SOMEBODY WAS GOING TO THINK THAT WAS MY UNCLE, OR MY BROTHER,  
24 OR SOMETHING LIKE THAT.

25 THERE'S NO RELATION WHATSOEVER, YOUR HONOR.

1           **THE COURT:** NOT EVEN SPELLED THE SAME.

2           **MR. HEIM:** BUT THEY'RE CLOSE, PEOPLE MISSPELL MY NAME  
3 THAT WAY ALL THE TIME.

4           **THE COURT:** OKAY.

5           **MR. HEIM:** IF I COULD JUST FOLLOW-UP ON ONE POINT  
6 MR. FOLSE RAISED.

7                   HE WAS IDENTIFYING THE VARIOUS PASSAGES IN THE '995  
8 SPECIFICATION THAT TALKED ABOUT TRANSMISSION FASTER THAN REAL  
9 TIME, THERE'S ONE OTHER THING WE NEED TO ADD TO THAT ANSWER.  
10 THAT IS, WE NEED TO LOOK AT THE ORIGINAL CLAIMS AS WELL.

11                   BECAUSE THE ORIGINAL CLAIMS RIGHT FROM THE GETGO WERE  
12 TRYING TO CLAIM THIS FASTER THAN REAL TIME CONCEPT. AND WE  
13 KNOW FROM THE CASE LAW FROM THE FEDERAL CIRCUIT THAT THE  
14 ORIGINAL CLAIMS ARE PART OF THE APPLICATION, THE SPECIFICATION  
15 AS FILED.

16                   SO WE NEED TO TAKE A LOOK AT THOSE. WE'LL LOOK AT  
17 THEM A LITTLE BIT LATER. WE'RE GOING TO TALK ABOUT THE  
18 PROSECUTION HISTORY.

19                   IN PARTICULAR, YOUR HONOR, IF YOU'LL LOOK AT CLAIMS 1  
20 THROUGH 4, AND THE OTHER CLAIMS, I THINK, ARE --

21           **THE COURT:** WE'RE LOOKING AT THE '995?

22           **MR. HEIM:** '995 PROSECUTION HISTORY CLAIMS 1 THROUGH 4  
23 AND 18 THROUGH 19. AND YOU CAN FIND THEM AS EXHIBIT A TO  
24 APPLE'S BRIEF AND THE BATES NUMBERS ARE 038 THROUGH 042.

25                   AND THE THING THAT YOU'LL NOTICE IS THE CLAIMS ARE

1 DRAFTED A LITTLE BIT INARTFULLY, BUT THEY'RE TRYING TO CAPTURE  
2 THE CONCEPT SENDING FASTER THEN REAL TIME.

3 THERE'S COMPRESSION TERMS IN THERE AND SENDING FASTER  
4 THAN REAL TIME. WHAT HAPPENED -- AND, AGAIN, WE'LL GET INTO IT  
5 IN MORE DETAIL -- WHAT HAPPENED THOSE CLAIMS WERE REJECTED AND  
6 THAT CONCEPT WAS REFINED AND THOSE ARE THE CLAIMS THAT  
7 ULTIMATELY ISSUED IN THE '995 PATENT. WE'LL TALK ABOUT THAT IN  
8 A LITTLE MORE DETAIL IN A FEW MINUTES HERE.

9 WHAT I'D LIKE TO TALK ABOUT, YOUR HONOR, TODAY,  
10 THERE'S FIVE COMPRESSION TERMS, AND WE'RE GOING TO SPLIT UP THE  
11 PRESENTATION A LITTLE BIT BECAUSE THE LAST THREE ARE MEANS PLUS  
12 FUNCTION TERMS, AND SO WE'LL ADDRESS THOSE WHEN WE ADDRESS THE  
13 MEANS PLUS FUNCTION TERMS.

14 WE'RE GOING TO FOCUS ON THE FIRST TWO COMPRESSING,  
15 THEN THE VARIOUS PHRASES, THE TIME-COMPRESS REPRESENTATION, I  
16 IDENTIFIED THREE VARIANTS OF THAT.

17 WE'RE NOT GOING TO SPEND A LOT OF TIME ON THE  
18 DIFFERENT VARIATIONS, BUT IT IS IMPORTANT FOR THE COURT TO  
19 REALIZE, THAT THE TIME-COMPRESS REPRESENTATIONS THE PHRASE IS  
20 NOT ALWAYS THE SAME.

21 WE'RE GOING TO ADDRESS GLOBAL ISSUES THAT APPLY ACROSS  
22 THE BOARD, BUT NONETHELESS THE TERMS ARE DIFFERENT.

23 GLOBAL ISSUE, THIS IS THE BIG ISSUE, PROBABLY, THE  
24 BIGGEST ISSUE IN THE BRIEFING, AND CERTAINLY THE ISSUE THAT THE  
25 PARTIES SPENT THE MOST PAGES ON, AND THAT IS THIS:

1           DOES COMPRESSING SOURCE INFORMATION MEAN THAT YOU DO  
2 DATA COMPRESSION?

3           DOES IT INVOLVE DATA COMPRESSION TO REDUCE THE NUMBER  
4 OF BITS?

5           OR IS IT THE SITUATION LIKE APPLE IS PROPOSING HERE,  
6 THAT YOU COMPRESS IN TIME WITHOUT DATA COMPRESSION?

7           THAT'S THE LANGUAGE THAT THEY USE.

8           LET'S TURN TO THE COMPRESSING TERM. WE HAVE AN  
9 INTERESTING SITUATION. THE COMPRESSING AUDIO/VIDEO SOURCE  
10 INFORMATION IS ACTUALLY FOUND IN THE FUNCTION OF A LOT OF MEANS  
11 PLUS FUNCTION CLAIMS, ESPECIALLY THE ONES THAT REQUIRE  
12 COMPRESSING.

13           YOU CAN THINK ABOUT THE CLAIMS, I GUESS, AT TWO  
14 DIFFERENT LEVELS. THERE ARE CLAIMS THAT REQUIRE THE  
15 COMPRESSING AND THERE ARE CLAIMS THAT RECEIVE A COMPRESSED  
16 REPRESENTATION, WHERE THE COMPRESSING HAS OCCURRED ALREADY.

17           WITH RESPECT TO THE CLAIMS THAT REQUIRE COMPRESSION,  
18 SUCH AS '995 CLAIM 1, THE COMPRESSING IS PART OF THE FUNCTION  
19 OF THE COMPRESSING MEANS.

20           AND THEN IN THE SITUATION OF THE '839 PATENT, CLAIM 1,  
21 WHICH IS NOT IN MEANS PLUS FUNCTION FORMAT, IT'S A METHOD  
22 CLAIM, IT'S THE ACTUAL ACT COMPRESSING THAT YOU'LL SEE IN THAT  
23 CLAIM.

24           SO THE LANGUAGE IN THE PATENT '995 CLAIM 1 IS THE  
25 EXAMPLE IS COMPRESSING SAID AUDIO/VIDEO SOURCE INFORMATION INTO

1 A TIME-COMPRESSED REPRESENTATION, THE COMPRESSING OCCURS ON THE  
2 AUDIO/VIDEO SOURCE INFORMATION TO CAUSE THE TIME-COMPRESSED  
3 REPRESENTATION.

4 THAT'S THE WAY THE CLAIM LANGUAGE READS. FIRST  
5 CONSTRUCTION OF THAT TERM IS FOCUSED ON DATA COMPRESSION,  
6 REDUCE THE NUMBER OF BITS NECESSARY TO REPRESENT THE  
7 AUDIO/VIDEO SOURCE INFORMATION.

8 APPLE TAKEN A PASS ON THIS ONE. THEY SAY THAT NO  
9 CONSTRUCTION IS NECESSARY. I THINK, WE HAVE TO ASK OURSELVES  
10 WHY?

11 WHY ARE THEY NOT TRYING TO PROPOSE A DEFINITION FOR  
12 THIS TERM?

13 AND, I THINK, THE REASON IS, YOUR HONOR, THEY'RE  
14 CAUGHT BETWEEN A ROCK AND A HARD PLACE A LITTLE BIT ON THIS  
15 ONE. THEY WANT TO SAY THE CLAIMS, THE TIMES REPRESENTATION  
16 MEANS THEIR VERSION OF TIME COMPRESSION, BUT THEY REALIZE THE  
17 SPECIFICATION IS VERY CLEAR, THAT COMPRESSING MEANS DATA  
18 COMPRESSION.

19 AND SO WHEN WE LOOK AT THE SPECIFICATION COLUMNS 4,  
20 LINE 63, CONTINUES ONTO CLAIM 5, IT'S REALLY CRYSTAL CLEAR  
21 WHAT'S BEING DISCUSSED HERE, IT'S DATA COMPRESSION THAT IS  
22 OCCURRING.

23 WHAT THE PASSAGE SAYS IS VARIOUS ALGORITHMS MAYBE  
24 EMPLOYED IN THE COMPRESSION PROCESS, WHICH ENABLE THE  
25 REPRESENTATION OF A SERIES OF NUMBERS BY REDUCED NUMBER OF

1 BITS.

2 LET'S TAKE THAT PASSAGE AGAIN.

3 COMPRESSION PROCESS WHICH ENABLES THE REPRESENTATION  
4 OF A SERIES OF NUMBERS BY REDUCED NUMBER OF BITS. IT'S TELLING  
5 US WHAT THE COMPRESSION PROCESS IS IN THESE PATENTS.

6 AND SO I'VE DONE A SIMPLE ILLUSTRATION AT THE BOTTOM.  
7 YOU HAVE A SITUATION WHERE YOU HAVE AUDIO VISUAL INFORMATION  
8 WITH LOTS OF ZEROES AND ONES. YOU DO THIS DIGITAL COMPRESSION  
9 AND THE RESULT IN REDUCED NUMBER OF BITS, THAT'S WHAT'S  
10 DESCRIBED IN THE PATENT. AND BURST CONSTRUCTION FOR  
11 COMPRESSED.

12 **THE COURT:** IS THAT NOW DATA COMPRESSION THAT YOU'RE  
13 TALKING ABOUT?

14 **MR. HEIM:** ABSOLUTELY, YOUR HONOR, THAT IS DATA  
15 COMPRESSION.

16 **THE COURT:** RIGHT.

17 **MR. HEIM:** THE REDUCED NUMBER OF BITS IS DATA  
18 COMPRESSION. YOUR TAKING DATA OF A CERTAIN SIZE AND YOUR  
19 MAKING IT SMALLER. THERE'S LESS DATA.

20 **THE COURT:** THAT'S WHAT'S OBVIOUS FROM THE BOTTOM.  
21 NOW, WHAT DOES THE TERM "REPRESENTATION" REALLY MEAN IN THIS  
22 CONTEXT?

23 WHY IS THAT TERM USED?

24 IS THERE A TERM THAT COULD BE USED THAT'S BETTER, MORE  
25 ARTFUL?



1           **MR. HEIM:** WELL, THE TERM THAT BURST USED, WE'LL FIND  
2 IT IN A SECOND, IS A VERSION OF THE AUDIO/VISUAL SOURCE  
3 INFORMATION.

4           APPLE IN THEIR CONSTRUCTION ON TIME-COMPRESSED  
5 REPRESENTATION JUST PARROTS THAT WORD REPRESENTATION. I THINK,  
6 THAT TERM IS VERY IMPORTANT, YOUR HONOR. IT'S VERY IMPORTANT,  
7 I THOUGHT ABOUT IT A LOT.

8           I THINK REPRESENTATION HERE MEANS THAT SOMETHING HAS  
9 CHANGED. YOU KNOW, NOT THE EXACT SAME THING OR YOU WOULDN'T  
10 SAY IT'S A REPRESENTATION. SOMETHING CHANGED ABOUT THAT  
11 AUDIO/VISUAL SOURCE INFORMATION. WHAT CHANGED?

12           IT'S GOTTEN SMALLER. IT'S SOMETHING THAT'S  
13 REPRESENTED WITH DIFFERENT ZEROES AND ONES. SO I THINK THAT  
14 TERM IS VERY IMPORTANT AND WE CAN'T MAKE LIGHT OF IT.

15           FIRST CONSTRUCTION WITH RESPECT TO COMPRESSING IS,  
16 REDUCING THE NUMBER OF BITS NECESSARY TO REPRESENT THE  
17 AUDIO/VIDEO SOURCE INFORMATION. THIS IS INTENDED TO PARROT  
18 REALLY WHAT IS STATED EXPLICITLY IN THE SPECIFICATION, THAT'S  
19 THE GOAL. APPLE'S EXPERT HAS ADMITTED DATA COMPRESSION IS THE  
20 ONLY THING.

21           **THE COURT:** BACK UP FOR JUST A MOMENT.

22           **MR. HEIM:** ABSOLUTELY.

23           **THE COURT:** WHAT YOU WERE JUST SHOWING THERE AND WHAT  
24 COLUMN?

25           **MR. HEIM:** COLUMN 4. THE SAME THING FROM THE PAGE

1 BEFORE, COLUMN 4, 63 THROUGH 68, YOUR HONOR.

2 OKAY. SO WE TOOK IT RIGHT OUT OF THE SPECIFICATION.

3 **THE COURT:** OKAY.

4 **MR. HEIM:** IT'S ABOUT AS CLOSE TO EXPLICIT DEFINITION,  
5 I THINK, AS YOU'LL SEE.

6 **THE COURT:** GO AHEAD, I'M SORRY TO INTERRUPT YOU.

7 **MR. HEIM:** THE NEXT POINT I WAS GOING TO MAKE,  
8 SOMETHING, I THINK, WE ALL AGREE, DATA COMPRESSION WAS  
9 DISCLOSED IN THE SPECIFICATION. THE TIME COMPRESSION APPLE'S  
10 ADVOCATING HERE IS NOT DISCLOSED AT ALL IN THE SPECIFICATION.

11 SPECIFICATION SAYS NOTHING ABOUT IT, THEIR EXPERT SAID  
12 THAT AND, I BELIEVE, MR. POWERS SAID THAT LAST WEEK. HE SAID  
13 BOTH SIDES ARE IN AGREEMENT TIME COMPRESSION IS NOT DISCUSSED  
14 OR DISCLOSED IN THE SPECIFICATION, FIGURE 2 OR ANYWHERE ELSE.

15 NO DEBATE ABOUT THAT. FIGURE 2 ONLY DATA COMPRESSION,  
16 I THINK, WE'RE IN AGREEMENT ON THAT POINT. THE SPECIFICATION  
17 ONLY DISCLOSES DATA COMPRESSION, IT DOESN'T DISCLOSE APPLE'S  
18 VERSION OF TIME COMPRESSION.

19 **THE COURT:** THEN WHY IN CLAIM 1, FOR EXAMPLE, AND  
20 THROUGHOUT THIS ONE USE THE TERM A "TIME-COMPRESSED  
21 REPRESENTATION?"

22 **MR. HEIM:** YOUR HONOR, I THINK THE REASON THEY CHOSE  
23 THAT PHRASE, IS THEY WERE ATTEMPTING TO EXPLAIN IN LAY TERMS  
24 EXACTLY THE FUNCTION THAT WAS BEING ACHIEVED HERE.

25 YOU KNOW, LET'S TAKE THE WORDS APART. YOU GOT A

1 REPRESENTATION, IT'S A DIFFERENT VERSION THEN THE ORIGINAL  
2 SOURCE INFORMATION. IT'S COMPRESSED. IT'S DATA COMPRESSED.  
3 IT'S SQUEEZED DOWN. IT'S REDUCED.

4 TIME-COMPRESSED TAKEN TOGETHER MEANS THERE'S SOME SORT  
5 OF TEMPORAL REDUCTION THAT OCCURRED. WHAT SORT OF TEMPORAL  
6 REDUCTION?

7 THE CLAIM TELLS US WHAT SORT OF TEMPORAL REDUCTION,  
8 IT'S A TEMPORAL REDUCTION, SO THAT YOU CAN TRANSMIT IT FASTER  
9 THAN REAL TIME.

10 IT IS THAT SHIFT, THAT PARADIGM SHIFT MR. FOLSE TALKED  
11 ABOUT TIME-COMPRESSED REPRESENTATION, WASN'T SOME SORT OF  
12 MAGICAL INVOCATION HERE TO BRING IN A COMPLETELY DIFFERENT  
13 FIELD.

14 THAT'S NOT TALKED ABOUT IN THE SPECIFICATION, IT WAS  
15 AN ATTEMPT BY THE INVENTOR AND THE PATENT ATTORNEY TO EXPLAIN  
16 IN SIMPLE TERMS THE CONCEPT THAT THEY WERE TRYING TO CAPTURE.

17 **THE COURT:** AND IS THERE IN THE -- IN THE  
18 SPECIFICATION, IS THERE ANYTHING THAT TELLS YOU HOW TO ACHIEVE  
19 TIME COMPRESSION?

20 **MR. HEIM:** YOUR HONOR, I DON'T THINK IT'S IN THE -- A  
21 SINGLE PLACE, BUT WHEN YOU PIECE TOGETHER THE DIFFERENT PIECES  
22 FROM THE OBJECTS OF THE INVENTION FROM THE PASSAGES THAT 4 AND  
23 5, THEY TALK ABOUT DATA COMPRESSION, TO THE PASSAGES THAT TALK  
24 ABOUT THE ACCELERATED TRANSMISSION TO THE ORIGINAL CLAIMS, ONE  
25 SKILLED IN THE ART COULD CERTAINLY PIECE TOGETHER THE CONCEPT

1 YOU WERE COMPRESSING IN ORDER TO SEND FASTER THAN REAL TIME,  
2 YOU WERE TRYING TO ACHIEVE THIS PARADIGM SHIFT.

3 **THE COURT:** CAN YOU HELP ME OUT?

4 WHERE IN THE SPECIFICATION WOULD IT TELL SOMEONE  
5 SKILLED IN THE ART THAT THIS IS HOW YOU'RE GOING TO, NOT ONLY  
6 COMPRESSED THE DATA, BUT THIS IS HOW YOU'RE GOING TO TRANSMIT  
7 IT FASTER OR MOVE IT FASTER?

8 **MR. HEIM:** YOUR HONOR, IT'S ESSENTIALLY THE SAME  
9 PASSAGES MR. FOLSE IDENTIFIED. IT'S THAT PASSAGE REALLY IN  
10 COLUMN 2, I THINK, IS ONE PRIME PLACE, WHERE IT INDICATES THE  
11 OBJECT OF THE INVENTION IS TO USE A DATA COMPRESSION TECHNIQUE,  
12 BUT IF YOU LOOK AT -- LET'S BACK UP FOR A SECOND.

13 IF YOU'RE IN COLUMN 2 AND YOU LOOK AT LINE 42, THE  
14 FIRST THING IT SAYS IS THAT IT'S AN OBJECT OF THE INVENTION TO  
15 PROVIDE AN IMPROVED AUDIO/VIDEO RECORDER WHICH MAXIMIZES A  
16 GIVEN STORAGE CAPACITY, THROUGH THE USE OF A DATA COMPRESSION  
17 TECHNIQUE. USE DATA COMPRESSION YOU HAVE MORE MEMORY AVAILABLE  
18 TO YOU, YOU CAN STORE MORE AUDIO/VISUAL INFORMATION ON IT.

19 **THE COURT:** THAT'S DOESN'T MEAN IT'S GOING TO MOVE  
20 FASTER.

21 **MR. HEIM:** YOU'RE RIGHT. LET'S LOOK AT THE NEXT  
22 PARAGRAPH HERE. UNTIL FURTHER OBJECT OF THE INVENTION PROVIDE  
23 --

24 **THE COURT:** DON'T TIME-COMPRESS YOUR COMMENTS. OKAY.

25 **MR. HEIM:** A STILL FURTHER OBJECT OF THE INVENTION IS

1 TO PROVIDE AN AUDIO/VIDEO RECORDER, UTILIZING A DATA  
2 COMPRESSION TECHNIQUE FOR EFFICIENT STORAGE.

3 THAT'S VERY SIMILAR TO WHAT THEY SAID IN THE PREVIOUS  
4 PARAGRAPH, RIGHT. AGAIN, THAT MAKES PERFECT SENSE, YOU  
5 COMPRESSED THE SIDES OF THE DATA YOU'RE GOING TO HAVE MORE  
6 STORAGE CAPACITY.

7 **THE COURT:** RIGHT.

8 **MR. HEIM:** NOW, LOOK WHAT IT'S SAYING, ALL FOR  
9 EFFICIENT TRANSMISSION AND RECEPTION.

10 **THE COURT:** YOU KNOW, THIS IS ONE OF THE PROBLEMS.  
11 THERE'S A COMMA THERE, RIGHT?

12 IT DOESN'T SAY EFFICIENT STORAGE AND TRANSMISSION, IN  
13 WHICH CASE EFFICIENT WOULD MODIFY TRANSMISSION. IT SAYS  
14 EFFICIENT STORAGE COMMA TRANSMISSION AND RECEPTION, DOES  
15 EFFICIENT MODIFY RECEPTION ALSO?

16 **MR. HEIM:** YES, I BELIEVE SO, YOUR HONOR.

17 **THE COURT:** WELL, ONE CAN BE ONE'S OWN, AS I SAID IN  
18 OTHER CASES, ONE CAN BE ONE'S OWN LEXICOGRAPHER, WHETHER ONE'S  
19 OWN GRAMMARIAN I DON'T KNOW ABOUT THAT.

20 BECAUSE THE WAY I READ THAT EFFICIENT MODIFIED  
21 STORAGE, BUT IT DOESN'T MODIFY TRANSMISSION RECEPTION. I MEAN,  
22 I'M JUST -- I'M PUZZLED BY THE FACT EFFICIENT SUPPOSE TO TELL  
23 US AND THIS MOST -- FASTER -- EFFICIENT CAN MEAN A LOT OF  
24 DIFFERENT THINGS.

25 **MR. HEIM:** UNDERSTAND.

1           **THE COURT:** SAVINGS, YOU KNOW, ON POWER OR ALL KINDS  
2 OF OTHER SAVINGS THAT MAYBE, YOU KNOW, RENDERED MORE EFFICIENT.

3           **MR. HEIM:** RIGHT.

4           **THE COURT:** MAYBE I DON'T KNOW WHAT OTHER KIND OF  
5 THINGS CAN HAPPEN. WHETHER YOU DON'T GET INTERFERENCE, OR  
6 STATIC, OR ANYTHING LIKE THAT, WHATEVER IT MIGHT BE. COULD BE  
7 RENDER IT MORE EFFICIENT.

8           WHY NOT SAY FASTER IF, IN FACT, THAT'S WHAT HAPPENING?

9           **MR. HEIM:** THEN THEY DID WHEN THEY GOT DOWN TO TALKING  
10 ABOUT THE TRANSMISSION IN COLUMN 7. THE PASSAGES THAT  
11 MR. FOLSE JUST IDENTIFIED. COLUMN 7 LINE 58 THE VCET CAN  
12 RECEIVE A VIDEO PROGRAM AT AN ACCELERATED RATE.

13           **THE COURT:** NOW, IS THAT SOLELY BY VIRTUE OF USING  
14 FIBEROPTIC CABLES, OR FIBEROPTIC SIGNALS, OR IS THAT BY VIRTUE  
15 OF SOMETHING IN THE PATENT?

16           **MR. HEIM:** YOUR HONOR, IT'S BY VIRTUE OF A COMBINATION  
17 OF THE COMPRESSION. WHEN YOU COMPRESS YOU MAKE THE FILE  
18 SMALLER, AND THE POINT, IF YOU FOLLOW THIS THROUGH, IS THAT  
19 EVEN FOR THE HIGH SPEED TYPES OF TRANSMISSION LIKE FIBEROPTIC  
20 YOU'RE GOING TO USE LESS OF THAT BANDWIDTH, YOU'RE GOING TO  
21 ABLE TO SEND IT FAST, NOT CONSUME A LARGE PART OF IT.

22           AND WOULD SUGGEST, EVEN BACK ON THE PASSAGE THEY READ  
23 IN COLUMN 2, YOU'RE GOING TO BE ABLE TO SEND THIS INFORMATION,  
24 DEPENDING ON THE SIZE OF THE FILE, DEPENDS ON THE SIZE OF THE  
25 FILE HOW MUCH YOU COMPRESS IT, YOU CAN SEND IT BY OTHER MEANS

1 AS WELL AND THE PATENT TALKS ABOUT SEVERAL OF THOSE THAT WE'LL  
2 DEVELOP A LITTLE BIT FURTHER.

3 CERTAINLY TALKS ABOUT THE MICROWAVE AND SATELLITE AS  
4 WELL. ALSO, TALKS ABOUT TELEPHONE LINES. CLEARLY THERE'S  
5 GOING TO BE SOME INSTANCES WHERE YOU CANNOT SEND IT FASTER THAN  
6 REAL TIME OVER THE TELEPHONE AND THERE'S GOING TO BE INSTANCES  
7 WHERE YOU CAN.

8 OKAY. DEPENDS ON SIZE OF THE FILE, DEPENDS ON THE  
9 BANDWIDTH OF THE TELEPHONE LINE, BUT THE OTHER THING THAT --  
10 KEEP IN MIND --

11 **THE COURT:** YOU'RE MIRACULOUSLY ABLE NOW, YOU KNOW, I  
12 DON'T KNOW WHETHER IT'S BY VIRTUE OF THIS OR BY VIRTUE OF SOME  
13 OTHER PROCESS, TO TAKE SOMETHING.

14 I JUST DOWNLOADED PART I OF THE HISTORY OF THE  
15 PELOPONNESIAN WARS, WHY I DID THAT? I DON'T KNOW. BUT AUDIBLE  
16 VERSION NINE HOURS. OKAY. OF LISTENING. NINE HOURS OF  
17 INTENSE LISTENING. AND, I THINK, IT TOOK ALL OF ABOUT TWO AND  
18 A HALF MINUTES TO DOWNLOAD IT.

19 NOW, OBVIOUSLY, SOMETHING IS AT WORK HERE, SOME KIND  
20 OF TIME COMPRESSION, HOWEVER IT'S ACHIEVED. BUT IT JUST SEEMS  
21 TO ME THAT THIS PATENT WOULD HAVE EMPHASIZED THIS IF, IN FACT,  
22 IT WAS ABLE TO DO SOMETHING ALONG THOSE LINES.

23 AND SO, I THINK, THAT -- I THINK, YOUR STRUGGLING WITH  
24 THE GRAMMAR HERE. FOR EXAMPLE, GOING BACK TO THIS BUSINESS OF  
25 EFFICIENT THAT WE TALKED ABOUT AND WHAT IT MODIFIES TO GET, BUT

1 I DON'T SEE THAT THERE'S ANYTHING IN HERE THAT REALLY TELLS US  
2 THAT THAT'S WHAT THIS PARTICULAR INVENTION DOES, AS OPPOSED TO  
3 IT'S ENABLED MORE BY THE, YOU KNOW, THE HIGH SPEED TRANSMISSION  
4 LINES OF SOME SORT. WHETHER IT BE FIBEROPTIC OR SOMETHING  
5 ELSE.

6 **MR. HEIM:** I THINK, IT'S -- IS THE CASE WHEN YOU LOOK  
7 COMPRESSION ALGORITHMS THAT ARE DESCRIBED. BURST WAS NOT  
8 INVENTING ANY NEW COMPRESSION ALGORITHMS, THEY WERE AMENDING TO  
9 USE EXISTING TECHNOLOGY.

10 WHAT MR. LANG WAS TRYING TO DO WAS TO CHANGE THE  
11 BROADCAST PARADIGM. WHAT EXISTED BEFORE, WAS PEOPLE SENT  
12 AUDIO/VISUAL INFORMATION, THE DELIVERY MECHANISM WAS TO SEND IT  
13 IN REAL TIME.

14 OKAY. YOU COULD USE COMPRESSION THERE, BUT YOU DIDN'T  
15 USE IT TO SEND IT FASTER THEN REAL TIME, YOU USED IT TO HAVE  
16 MORE CHANNELS ON YOUR CABLE.

17 **THE COURT:** LET ME ASK YOU THIS:

18 THE ALGORITHMS THAT ARE USED IN CONNECTION WITH OR  
19 WHAT ARE REFERRED TO AT, I GUESS, WHERE YOU WERE READING FROM,  
20 THE BOTTOM OF COLUMN FOUR, TOP COLUMN FIVE, THOSE ARE  
21 ALGORITHMS USED FOR DATA COMPRESSION IN THIS CASE?

22 **MR. HEIM:** YES, YOUR HONOR.

23 **THE COURT:** CAN THEY ALSO -- THOSE SAME ALGORITHMS BE  
24 USED FOR TIME COMPRESSION?

25 **MR. HEIM:** REALLY DEPENDS WHAT YOU MEAN BY TIME



1 COMPRESSION. IF YOU MEAN, APPLE'S VERSION OF TIME COMPRESSION,  
2 THE ANSWER IS, NO.

3 **THE COURT:** NO, YOUR VERSION?

4 **MR. HEIM:** YES. THOSE ARE EXACTLY THE COMPRESSION  
5 TECHNIQUES THAT ARE USED IN ORDER TO GENERATE THE  
6 TIME-COMPRESSED REPRESENTATIONS.

7 **THE COURT:** WELL, THEY'RE, APPARENTLY, TO SOMEONE  
8 SKILLED IN THE ART, THEY WOULD UNDERSTAND WHEN IT SAYS  
9 ALGORITHMS, LIKE CCIDTT GROUP MAYBE USED, RIGHT?

10 **MR. HEIM:** THAT'S ABSOLUTELY CORRECT.

11 **THE COURT:** SO THAT WOULD HAVE SOME MAGICAL  
12 CONNOTATION TO PEOPLE OF ORDINARY SKILL IN THE ART?

13 **MR. HEIM:** THAT'S RIGHT.

14 **THE COURT:** BUT CAN YOU USE THOSE SAME ALGORITHMS FOR  
15 THIS TIME-COMPRESSSION FEATURE?

16 **MR. HEIM:** YOU WOULD USE IT FOR THE TIME -- FOR  
17 GENERATING THE TIME-COMPRESSED REPRESENTATION.

18 AS DR. HEMAMI EXPLAINED LAST WEEK, THERE ARE TWO  
19 DIFFERENT CATEGORIES OF COMPRESSION. DATA COMPRESSION THAT IS  
20 DESCRIBED IN THE BURST PATENTS, HER CATEGORY 1, WHICH IS --  
21 WHICH SHE REFERRED TO AS COMPRESSING A FRAME INDEPENDENTLY.

22 MR. POWERS REFERS TO IT LATER AS INTRAFRAME TYPE  
23 COMPRESSION. THAT'S ONE SORT OF COMPRESSION THAT'S DESCRIBED  
24 IN THESE PATENTS THAT SOMEBODY SKILLED IN THE ART WOULD  
25 RECOGNIZE.

1 THE SECOND TYPE OF COMPRESSION THAT IS DISCLOSED IN  
2 THESE PATENTS, IS THE DEPENDENT TYPE OF COMPRESSION. WHERE YOU  
3 LOOK OFF A TIME INTERVAL, YOU LOOK AT FRAMES SPACED IN TIME AND  
4 YOU CODE DIFFERENCES BETWEEN THE FRAMES.

5 OKAY. SO THAT'S THE SECOND TYPE. THAT'S THE CATEGORY  
6 TWO TYPE OF COMPRESSION. ALSO, REFERRED TO, YOUR HONOR, AS  
7 TO -- ASKED A QUESTION ABOUT IT LAST WEEK, ALSO REFERRED TO IT  
8 AS TEMPORAL COMPRESSION, COMPRESSION OVER TIME.

9 THOSE TWO DIFFERENT ALGORITHMS CAN BE USED TOGETHER OR  
10 THEY CAN BE USED SEPARATELY TO REDUCE THE AMOUNT OF DATA IN THE  
11 FILE, TO ENABLE TRANSMISSION FASTER THAN REAL TIME.

12 **THE COURT:** NOW, ARE BOTH OF THOSE ALGORITHMS REFERRED  
13 TO IN THIS PATENT OR IN THE --

14 **MR. HEIM:** ABSOLUTELY.

15 **THE COURT:** -- IN THE SPECIFICATION?

16 **MR. HEIM:** IN COLUMN 5, EVERYBODY AGREES ABOUT THAT.  
17 THAT BOTH THE INDEPENDENT AND THE DEPENDENT TYPES OF  
18 COMPRESSION WHICH APPLE HAS REFERRED TO AS INTRAFRAME,  
19 INTERFRAME ARE DISCLOSED IN THE PATENT.

20 **THE COURT:** OKAY. GO AHEAD. I'M SORRY TO INTERRUPT  
21 YOU.

22 **MR. HEIM:** THE -- ONE OF THE POINTS, I WAS JUST GOING  
23 TO COMPLETE ANSWERING YOUR OTHER QUESTION YOU ASKED, AGAIN,  
24 ABOUT WHERE IT'S DESCRIBED, AGAIN, IT IS DESCRIBED IN THE  
25 CLAIMS.

1           THERE'S THE ATTEMPT TO CAPTURE THAT CONCEPT, THAT  
2           PARADIGM SHIFT. SO IF WE LOOK AT CLAIMS 1 THROUGH 4 AND 18 AND  
3           19, WE'LL SEE THAT THEY ARE TRYING TO CAPTURE THE CONCEPT OF  
4           RECEIVING AUDIO/VIDEO INFORMATION AT A FIRST SPEED, AND THEN  
5           SENDING IT AT A FASTER SPEED TO AN AUDIO PORT, AND PART OF THE  
6           WAY THEY DO THAT IN THE CLAIMS, CLAIMS 1 AND 4, 18 AND 19 IS BY  
7           COMPRESSION.

8           OKAY. SO THAT SPEED CONCEPT WAS THERE RIGHT FROM THE  
9           GETGO. THAT'S NOT SOMETHING THAT CAME IN LATER.

10          OKAY. TIME-COMPRESSED REPRESENTATION, WE CAN MOVE  
11          THROUGH THIS RELATIVELY QUICKLY.

12          THREE VARIANTS I DESCRIBED. THE FIRST IS  
13          TIME-COMPRESSED REPRESENTATION. THIS IS IN THE FUNCTION CLAIM  
14          1 OF THE '995.

15          "A TIME-COMPRESSED REPRESENTATION HAVING AN  
16          ASSOCIATED TIME PERIOD THAT IS SHORTER THAN THE TIME  
17          PERIOD ASSOCIATED WITH THE REAL TIME REPRESENTATION."

18          THAT'S THE FIRST VARIANT OF THE PHRASE "HAVING  
19          ASSOCIATED TIME PERIOD."

20          NOW BURST HAS CONSTRUED THE PHRASE IN ITS ENTIRETY.  
21          THE REASON IS HAVING AN ASSOCIATED TIME PERIOD REALLY DESCRIBES  
22          THE TIME-COMPRESSED REPRESENTATION.

23          WHEN THEY STARTED TO USE THE TIME-COMPRESSED  
24          REPRESENTATION, THEY PUT IN THIS OTHER VERBIAGE AS WELL TO  
25          REALLY MAKE CLEAR WHAT THEY WERE TRYING TO CAPTURE HERE.

1           THEY WEREN'T TRYING TO CAPTURE THIS OTHER VARIANT,  
2 APPLE'S VERSION OF TIME COMPRESSION, THEY WERE TRYING TO  
3 CAPTURE THIS CONCEPT OF BEING ABLE TO SEND FASTER THAN REAL  
4 TIME. THAT WAS THE TIME COMPRESSION, SENDING FASTER THAN REAL  
5 TIME.

6           NOW, AS I SAID, THERE ARE THREE DIFFERENT VARIANTS I  
7 GOT UP HERE ON THE TIME-COMPRESSED REPRESENTATION PHRASE. I  
8 DON'T WANT TO TRY TO NITPICK BETWEEN THE DIFFERENT VARIATIONS  
9 HERE BECAUSE WE HAVE SUCH A LIMITED TIME. WHAT I'D LIKE TO DO  
10 IS TALK ABOUT THE TWO GLOBAL ISSUES THAT REALLY APPLY ACROSS  
11 THE BOARD.

12           THE FIRST, OF COURSE, IS DATA COMPRESSION ISSUE, WE  
13 TALKED ABOUT ALREADY AND WE'LL DEVELOP FURTHER.

14           THE SECOND ISSUE THAT COMES INTO PLAY, IS THAT APPLE'S  
15 DEFINITION REQUIRES A DEFINITE DURATION, THAT IS KNOWN AT THE  
16 TIME OF COMPRESSION, WE'LL PICK THAT UP A LITTLE BIT LATER.

17           ONE OTHER POINT I NEED TO MAKE, YOUR HONOR, IS THAT  
18 WHEN YOU LOOK AT THE CHARTS AND THE DIFFERENT CONSTRUCTIONS,  
19 YOU'LL SEE BURST HAS CONSTRUED THE PHRASE TIME-COMPRESSED  
20 REPRESENTATION VARIANTS, IT'S CONSTRUED THAT ENTIRE PHRASE.

21           APPLE'S TAKEN A DIFFERENT APPROACH, THEY'VE BROKEN IT  
22 INTO CHUNKS AND THEY CONSTRUED THE CHUNKS. I'M NOT HERE TO  
23 ARGUE ONE APPROACH OR THE OTHER, I'D LIKE TO FOCUS ON THE TWO  
24 DIFFERENT, YOU KNOW, THE TWO MAJOR DIFFERENCES BETWEEN THE  
25 PARTIES AND ADDRESS THOSE.

1 SO SECOND VARIANT, THE BEING RECEIVED OVER OR IN AN  
2 ASSOCIATED BURST TIME PERIOD. WE HAVE THE SAME TWO GENERAL  
3 ISSUES HERE, SAME TWO GLOBAL ISSUES ABOUT COMPRESSING IN TIME  
4 WITHOUT USING DATA COMPRESSION AND WE HAVE THE DEFINITE  
5 DURATION ISSUE. AND THAT ALSO OCCURS IN THE -- IS CAPABLE TYPE  
6 OF LANGUAGE WHICH APPEARS IN '705 CLAIM 1.

7 WE TALKED ABOUT THE VIDEO ISSUE.

8 LET'S TALK ABOUT WHAT TIME-COMPRESS REPRESENTATION  
9 MEANS ACCORDING TO BURST, AND I GOT SOME GRAPHICS HERE TO  
10 DESCRIBE THAT.

11 IT'S REALLY A TWO-STEP PROCESS. THAT PHRASE REALLY  
12 DESCRIBES A TWO-STEP PROCESS. FIRST, YOU DATA COMPRESS THE  
13 AUDIO/VISUAL INFORMATION TO REDUCE THE NUMBER OF BITS.

14 SO YOU START WITH THE LARGER AUDIO/VIDEO, ORIGINAL  
15 AUDIO/VIDEO SOURCE INFORMATION. YOU GO THROUGH THE COMPRESS  
16 PROCESS, WHICH THE PATENT SAYS IS DATA COMPRESSION AND YOU GET  
17 THIS COMPRESSED REPRESENTATION.

18 AND REMEMBER THEY USE THE WORD REPRESENTATION TO  
19 INDICATE SOMETHING HAD CHANGED HERE, THE BITS HAD CHANGED.

20 THEN STEP TWO, WAS TO ALLOW THIS FASTER THAN REAL TIME  
21 TRANSMISSION TO ANOTHER DEVICE. THAT'S THE SECOND PART, AND  
22 IT'S A CRITICAL PART OF THE TIME-COMPRESSED REPRESENTATION  
23 PHRASE, THAT APPEARS IN THE LANGUAGE OF THAT PHRASE ITSELF.  
24 AND HERE THE POINT IS THIS:

25 AUDIO/VIDEO SOURCE INFORMATION HAS A TEMPORAL ASPECT.

1 WHEN YOU TALK ABOUT SONGS, WHEN YOU TALK ABOUT A TV PROGRAM OR  
2 A MUSIC VIDEO IT HAS A TIME COMPONENT, IT HAS A COMPONENT. YOU  
3 KNOW, YOU CAN TURN ON THE STOPWATCH DR. HEMAMI SAID LAST WEEK,  
4 AND IT WILL TELL YOU HOW LONG IT PLAYS.

5 TELLS YOU A MUSIC VIDEO IS THREE-MINUTES LONG, AND SO  
6 WHEN YOU START PLAYBACK, UNTIL YOU END PLAYBACK THERE'S A TIME  
7 COMPONENT ASSOCIATED WITH THAT.

8 THE TIME-COMPRESSED REPRESENTATION, THE TEMPORAL  
9 REDUCTION THAT'S BEING DESCRIBED IN THAT PHRASE, IS THE  
10 REDUCTION RELATIVE TO THE TRANSMISSION TIME.

11 YOUR ABLE TO SEND THAT DATA COMPRESSED FILE IN LESS  
12 TIME THAN IT WOULD TAKE TO PLAY IT BACK. THAT'S ALL THAT'S  
13 INTENDED BY THAT PHRASE. THAT'S BURST'S CONSTRUCTION.

14 APPLE'S CONSTRUCTION, APPLE'S POSITION IS DIFFERENT,  
15 OF COURSE. THEY SAY YOU HAVE SOURCE INFORMATION. IT GOES  
16 THROUGH THEIR COMPRESSION PROCESS, WHICH THEIR EXPERT DESCRIBES  
17 AS JUST INCREASING THE SIGNALING RATE.

18 WHEN YOU READ OUT THE DATA FROM MEMORY AND YOU GET  
19 THEIR VERSION, THEIR SOURCE INFORMATION THAT HAS A HIGHER OR  
20 FASTER SIGNALING RATE, BUT THE DATA ITSELF IS IDENTICAL. IT IS  
21 BIT-FOR-BIT IDENTICAL. THERE HAS BEEN NO DATA COMPRESSION  
22 WHATSOEVER.

23 IN FACT, IT'S NOT EVEN A REPRESENTATION AT ALL, IT'S  
24 NOT DIFFERENT AT ALL, IT'S THE EXACT SAME DATA. SO THAT'S  
25 APPLE'S POSITION ON THE TIME COMPRESSION.

1 OKAY. AND, OF COURSE, THE EXAMPLE THEY GIVE IS THE  
2 CHIPMUNK-SPEED PLAYBACK OF AN ALBUM. YOU HAVE A 33 RPM ALBUM  
3 YOU PLAY FASTER, THAT'S WHAT THEY'RE TRYING TO MAKE THE ANALOGY  
4 TO. OKAY.

5 WHAT I WANT TO DO NOW, I WANT TO FOCUS ON THE  
6 INTRINSIC EVIDENCE. THE REASON IS, OF COURSE, THAT'S WHAT  
7 PHILLIPS TELLS US WE HAVE TO DO.

8 BEFORE WE DO THAT, I WANT TO POINT OUT TO THE COURT,  
9 THE TERM TIME COMPRESSION DID NOT HAVE A SINGLE MEANING AS  
10 APPLE IS SUGGESTING HERE, THAT IS NOT THE CASE.

11 DR. HEMAMI TESTIFIED THAT THERE WERE, AT LEAST, FOUR  
12 DIFFERENT -- FOUR DIFFERENT USES OF THE TERM TIME COMPRESSION  
13 WHICH SHE HAD SEEN, AND THAT'S IN HER EXPERT REPORT PAGES 42  
14 AND 43.

15 JUST NOT IN THE BURST VERSUS MICROSOFT CASE, MOTZ  
16 DEALT WITH THIS ISSUE, AND JUDGE MOTZ CONCLUDED THE TERM TIME  
17 COMPRESSION HAD MANY USES.

18 IN PARTICULAR, THE USE THAT JUDGE MOTZ THOUGHT WAS  
19 RELEVANT, THE MOST COMMON USE FOR TIME COMPRESS REFERRED TO  
20 DISCARDING VIDEO FRAMES SO YOU CAN SEND SOMETHING FASTER.

21 YOU JUST DROP OUT THE VIDEO FRAMES, SO YOU THAT CAN  
22 SEND IT IN REAL TIME VIDEO, VERY LARGE. SO IN ORDER TO MEET  
23 THAT REAL TIME PARADIGM, WHAT EXISTED BEFORE WAS TO COMPRESS BY  
24 JUST DROPPING OUT THE FRAMES. SO THAT'S ANOTHER USE THAT YOU  
25 SEE OF THE WORD TIME COMPRESSION.

1           **THE COURT:** NOW, BUT IS THAT, IN FACT, DATA  
2 COMPRESSION THAT RESULTS IN TIME COMPRESSION?

3           **MR. HEIM:** IT -- YOUR HONOR, I DON'T KNOW IF YOU WOULD  
4 CHARACTERIZE THAT AS DATA COMPRESSION, JUST TAKING OUT THE  
5 FRAMES.

6           I GUESS, YOU COULD SAY IT IS, BUT IT DIDN'T RESULT IN  
7 TIME COMPRESSION. THE REASON IT DIDN'T, IS THEY WERE SENDING  
8 IT AT REAL TIME.

9           **THE COURT:** BUT YOU'RE REMOVING -- YOU WOULD BE  
10 REMOVING, IF YOU'RE DOING IT, YOU WOULD BE REMOVING X NUMBER OF  
11 BITS FOR EACH FRAME, RIGHT?

12           **MR. HEIM:** THAT'S EXACTLY RIGHT. BUT THEY'RE DOING IT  
13 TO MEET THE REAL TIME PARAMETERS. THEY CAN'T GET THE  
14 INFORMATION THERE FAST ENOUGH FOR REAL TIME, SO THEY'RE TAKING  
15 OUT BITS TO MEET THE REAL TIME PARAMETERS.

16           **THE COURT:** THIS WHOLE BUSINESS OF, YOU KNOW, WAS USED  
17 THE OTHER DAY IN THE TUTORIAL, TIME COMPRESSION MULTIPLEXING.  
18 I KNOW I'M TAKING AWAY FROM YOUR TIME, RIGHT, WELL --

19           **MR. HEIM:** IT'S MORE IMPORTANT.

20           **THE COURT:** -- YOUR TIME IS MY TIME, MY TIME IS YOUR  
21 TIME, RIGHT?

22           THE WHOLE CONCEPT OF TIME-COMPRESSION MULTIPLEXING, IS  
23 THAT TERM USED ACTUALLY IN THE PATENT AT ALL?

24           **MR. HEIM:** NO.

25           **THE COURT:** AND WHAT IS MEANT BY THAT, AS FAR AS YOU



1 UNDERSTAND?

2 **MR. HEIM:** TIME-COMPRESSION MULTIPLEXING?

3 **THE COURT:** YES.

4 **MR. HEIM:** YOUR HONOR, THAT IS A TECHNIQUE THAT  
5 EXISTED. IT WAS USED IN THE MULTIPLEXING ENVIRONMENT WHERE,  
6 FOR EXAMPLE, YOU MIGHT WANT TO SEND A LOT OF DIFFERENT TV  
7 CHANNELS ON THE SINGLE COMMUNICATION CHANNEL, IT'S A WAY TO  
8 SHARE THAT SINGLE COMMUNICATION CHANNEL AMONG MULTIPLE SOURCES.

9 CAN ALSO BE USED IN THE DUPLEX, WHERE YOU'RE TALKING  
10 ON THE PHONE, YOU SEND IT BACK AND FORTH. WHAT IT MEANS IS,  
11 YOU GET THE INFORMATION IN, YOU STORE IT AND THEN YOU READ IT  
12 OUT FASTER.

13 THAT'S THE WAY YOU DO THE -- THAT'S HOW YOU REDUCE THE  
14 TIME ASPECT. YOU CLOCK IT OUT FASTER. YOU HAVE A HIGHER  
15 SIGNALING RATE COMES OUT AND THEN YOU INTERLEAVED IT WITH A LOT  
16 OF OTHER PIECES, A LOT OF SOURCE INFORMATION AND IT TRAVELS  
17 DOWN THE PIPE IN REAL TIME. THAT'S WHAT WE MEANT.

18 CAN WE PLAY, AGAIN, THE ANIMATION?

19 JUSTIN, DO YOU HAVE THAT UP?

20 THIS IS AN EXAMPLE OF TIME-COMPRESSION MULTIPLEXING.  
21 THIS IS ONE OF THE REFERENCES THAT APPLE WAS USING AT THE  
22 TUTORIAL, THE SKLAR REFERENCE.

23 THE WAY THAT TIME-COMPRESSION MULTIPLEXING WORKED,  
24 YOUR HONOR, YOU WOULD HAVE THESE VARIOUS SOURCES OVER HERE ON  
25 THE LEFT, YOU HAVE THESE VARIOUS DIFFERENT SOURCES.

1 AND WHAT THEY DO, THEY HAVE DATA THAT'S COMING OUT AND  
2 GOING INTO A COMMON PIPE. THAT DATA IS -- WE CAN SEE ON THIS  
3 NEXT SLIDE IS BEING INTERLEAVED TOGETHER, SO ALL THE DATA BEING  
4 INTERLEAVED TOGETHER.

5 OKAY. SO IT'S ALL BEING JAMMED TOGETHER IN A SPECIFIC  
6 TIME SLOT. YOU -- IT'S LIKE YOU HAVE A PRE-DEFINED TIME SLOT  
7 WHERE YOU GET TO TALK, THEN YOU GET TO TALK, THEN YOU GET TO  
8 TALK, THAT'S WHAT MULTIPLEXING MEANS, WE'RE TAKING TURNS.

9 SO THEY'RE TAKING TURNS HAVING A PIECE OF THAT PIPE,  
10 AND THE WAY THEY FIT THEM ALL TOGETHER, THEY HAVE THIS THING  
11 GOING FASTER ON THIS SIDE THEN THEY DO ON THIS SIDE.

12 SO THAT DATA COMES IN, GETS STORED AND GETS RIGHT OUT  
13 FASTER. GETS JAMMED TOGETHER WITH A BUNCH OF OTHER STUFF, THEN  
14 IT GOES ACROSS THE PIPE.

15 THE THING TO NOTICE ABOUT THIS, YOUR HONOR, IF YOU  
16 JUST SEND IT DIRECTLY ACROSS HERE, YOU KNOW, IN REAL TIME,  
17 THAT'S EXACTLY THE SPEED THAT THIS THING IS GOING ACROSS. IT'S  
18 NOT JETTING ACROSS HERE FASTER, IT'S GETTING INTERLEAVED AND  
19 GETTING SENT ACROSS THE REAL TIME.

20 THAT'S THE WAY THESE TCM TYPE SYSTEMS WORK, THEY WORK  
21 IN REAL TIME. THEY'RE THE KIND OF SYSTEMS THAT THE BURST  
22 PATENTS WERE TRYING TO CHANGE THE PARADIGM FROM.

23 YOU KNOW, THEY WERE THE REAL TIME SITUATIONS. HOW DO  
24 WE SHARE THAT COMMUNICATION CHANNEL? WE'RE GOING TO GIVE  
25 EVERYBODY A SLOT, WE'RE GOING TO CLOCK THE DATA OUT FASTER,

1 THAT'S THE WAY IT'S GOING TO WORK.

2 **THE COURT:** THESE OPERATE ONLY WITH FIBEROPTIC CABLE  
3 OR COULD THEY USE OTHER TRANSMISSION MEANS AS WELL?

4 **MR. HEIM:** THEY COULD USE OTHER TRANSMISSION MEANS AS  
5 WELL.

6 LET'S TALK ABOUT THE INTRINSIC EVIDENCE. THREE THINGS  
7 WE WANT TO TALK ABOUT HERE TODAY.

8 WE WANT TO TALK ABOUT THE SPECIFICATION; WE WANT TO  
9 TALK ABOUT THE CLAIM CONTEXT; WE WANT TO TALK ABOUT THE  
10 PROSECUTION HISTORY.

11 THAT'S WHAT WE'RE GOING TO TALK ABOUT. THAT'S THE  
12 FOCUS OF BURST'S CASE. IT'S ALL CONSISTENT WITH THOSE. YOU  
13 USE DATA COMPRESSION TO ACHIEVE THE TIME-COMPRESSED  
14 REPRESENTATION.

15 APPLE COMES AT IT A DIFFERENT WAY THAT'S INCONSISTENT  
16 WITH WHAT PHILLIPS TELLS US. THEY START BY GOING TO THE  
17 TREATISES, GOING TO THE THIRD-PARTY ARTICLES.

18 WHAT THEY SAY, YOU USE TIME-COMPRESSED REPRESENTATION,  
19 THAT MUST MEAN THIS OVER HERE. THAT DOESN'T MEAN WHAT YOU HAVE  
20 IN THE -- YOUR SPECIFICATION, THIS -- IT MEANS THIS OVER HERE.

21 THE ONLY LINK, THE ONLY WAY THEY HAVE TO JUSTIFY IT,  
22 THEY TRY TO SAY, THERE WAS A DISCLAIMER, OCCURRED IN THE  
23 PROSECUTION HISTORY, AS WE SAY FROM MISSOURI "THAT JUST AIN'T  
24 THE CASE".

25 SO SPECIFICATION, WE'VE LOOKED AT THESE PASSAGES

1 BEFORE, AND I DON'T THINK WE HAVE TO SPEND A LOT OF TIME ON IT,  
2 YOUR HONOR, BUT THE POINT IS, DATA COMPRESSION.

3 THE ONLY THING THAT'S DISCLOSED, I'M NOT GOING TO BEAT  
4 A DEATH HORSE, IT'S THE ONLY DATA COMPRESSION. THAT'S -- THE  
5 ONLY COMPRESSION DESCRIBED IS DATA COMPRESSION.

6 APPLE'S CONSTRUCTION THAT SAYS THAT YOU GOT TO DO THE  
7 COMPRESSION IN TIME WITHOUT USING DATA COMPRESSION, IS  
8 EXCLUDING THE PREFERRED EMBODIMENT.

9 THEY ACKNOWLEDGE IT, THEY SAY THEY'RE TRYING TO MEET  
10 THE UNUSUAL CASE. QUITE FRANKLY, THEY JUST CAN'T DO IT.

11 CLAIM CONTEXT, YOUR HONOR, WE TALKED ABOUT THIS A  
12 LITTLE BIT. THE CLAIMS GIVE US A CONTEXT HERE THAT'S VERY  
13 IMPORTANT. THE REASON IS THESE CLAIMS DEFINE AN ORDER OF  
14 OPERATION. DATA COMPRESSION IS CONSISTENT WITH THAT ORDER OF  
15 OPERATION.

16 APPLE'S TIME COMPRESSION, THAT TCM TYPE COMPRESSION IS  
17 NOT. SO IF WE LOOK AT THE CLAIMS, I JUST PICKED 9839 CLAIM 1,  
18 THERE'S AN ORDER OF OPERATION THAT'S DEFINED BY THESE CLAIMS.

19 THE FIRST LIMITATION, RECEIVING AUDIO/VIDEO SOURCE  
20 INFORMATION. THAT OCCURS FIRST.

21 NEXT, COMPRESSED THE RECEIVED AUDIO/VIDEO SOURCE  
22 INFORMATION. COMPRESSING REFERS TO WHAT HAPPENED BEFORE, HAS  
23 TO COME AFTER. RIGHT.

24 DOES IT MEAN YOU HAVE TO COMPLETELY RECEIVE EVERYTHING  
25 BEFORE YOU START COMPRESSION, BUT COMPRESSING DOESN'T OCCUR

1 UNTIL YOU RECEIVE IT?

2 YOU STORE. WHAT DO YOU STORE? YOU STORE THE  
3 TIME-COMPRESSED REPRESENTATION. HAS TO COME AFTER COMPRESSING  
4 BECAUSE THAT'S WHAT THE CLAIM TELLS US.

5 TRANSMITTING. YOU TRANSMIT THE STORED TIME-COMPRESSED  
6 REPRESENTATION. INDICATES YOUR TRANSMITTING WHAT'S BEEN  
7 STORED. THIS IS A SITUATION WHERE THE CLAIM CONTEXT IS VERY  
8 SPECIFIC AND SAYS, YOU GOT TO DO THEM IN THIS ORDER.

9 THIS IS THE RIGHT ORDER. THE ORDER IS RECEIVED,  
10 COMPRESSED, STORE THAT TIME-COMPRESSED REPRESENTATION AND  
11 TRANSMIT FASTER THAN REAL TIME.

12 THE DATA COMPRESSION THAT IS DISCLOSED IN THE PATENT  
13 IS ENTIRELY CONSISTENT WITH THE CLAIM ORDER. WHAT THE  
14 SPECIFICATION DESCRIBES IS RECEIVING THE AUDIO/VIDEO SOURCE  
15 INFORMATION.

16 UP HERE AT THE TOP, NEXT THING THAT HAPPENS IS GOES  
17 INTO THE COMPRESSOR DECOMPRESSOR 26. DR. HEMAMI REFERRED TO  
18 THAT AS CODEC, JUST TAKING THE FIRST COUPLE OF LETTERS FROM  
19 EACH OF TERMS. THAT'S A COMMON WAY TO REFER TO THAT IS CODEC.

20 THE THIRD STEP, YOU STORE THE COMPRESSED AUDIO/VIDEO  
21 REPRESENTATION IN MEMORY.

22 SO YOU RECEIVED IT, YOU COMPRESSED IT, YOU STORED IT,  
23 NOW YOU TRANSMIT THAT COMPRESSED REPRESENTATION FASTER THAN  
24 REAL TIME. THAT'S WHAT THE PATENT DISCLOSED, IT'S ENTIRELY  
25 CONSISTENT WITH DATA COMPRESSION. YOU RECEIVE IT, YOU COMPRESS

1 IT, YOU STORE IT, YOU TRANSMIT IT.

2 WE LOOK AT THE TCM REFERENCES, DR. HEMAMI WENT OVER  
3 THIS LAST WEEK, AND I'M NOT GONG TO GO THROUGH IT IN GORY  
4 DETAIL, BUT THE ORDER IS DIFFERENT.

5 WHAT YOU DO, YOU RECEIVE OVER HERE ON THE LEFT AT THE  
6 TERMINAL, THAT'S THE INPUT TERMINAL RIGHT THERE. YOU RECEIVE  
7 IT. GOT THIS SORT OF SIGNALING, RIGHT, GETS PUT INTO THE  
8 BUFFER WHERE IT'S STORED AND THEN IT'S READ OUT OF THERE.

9 IT'S CLOCKED OUT AT A HIGHER SIGNALING RATE. YOU CAN  
10 SEE THAT THE SIGNALING RATE GETS HIGHER. OCCURS MORE  
11 FREQUENTLY THEN OVER HERE. SPACED TOGETHER AND THEN IT GETS  
12 TRANSMITTED. SO THE COMPRESSION IN THE TRANSMISSION REALLY  
13 OCCUR TOGETHER, BUT THE ORDER --

14 **THE COURT:** THE COMPRESSION IN THIS CASE?

15 **MR. HEIM:** YES, YOUR HONOR.

16 **THE COURT:** IS REALLY WHERE THE MULTIPLEXING IS GOING  
17 ON, SO TO SPEAK?

18 **MR. HEIM:** IT IS.

19 **THE COURT:** WOULD IT BE INCONSISTENT WITH THE WHOLE  
20 NOTION OF MULTIPLEXING TO HAVE STORAGE AFTER THE MULTIPLEXING?

21 **MR. HEIM:** IT DOESN'T MAKE SENSE AND HERE'S WHY.

22 WHEN YOU DO THIS SORT OF OPERATION, YOU KNOW, AT STEP  
23 THREE, WHERE YOU'RE DOING THE COMPRESSING, YOUR CHANGING THE  
24 SIGNALING RATE. IF YOU NOW GO AND STORE IT YOU LOSE THAT  
25 CHANGE. BECAUSE ALL YOU'RE GOING TO STORE IN MEMORY, ARE

1 ZEROES AND ONES.

2 THE SIGNALING RATE DOESN'T GET STORED, IT JUST GETS  
3 PUT IN THERE, IT FILLS UP THE BUFFER WITH ZEROES AND ONES.  
4 THAT WHOLE SIGNALING RATE TCM COMPRESSION IT'S GONE.

5 IF YOU NEED TO COMPRESS THE -- YOU GOT TO DO IT AGAIN.  
6 WHEN IT'S STORED YOU DON'T HAVE THE TIME-COMPRESSED, YOU DON'T  
7 HAVE COMPRESS REPRESENTATION ANYMORE, YOU JUST HAVE THE  
8 ORIGINAL ZEROES AND ONES AND THAT'S IT.

9 IS IT POSSIBLE THEORETICALLY THAT SOMEBODY MIGHT DO  
10 IT?

11 I SUPPOSE THEY MIGHT, BUT THEN THEY HAVE TO COMPRESS  
12 IT AGAIN. YOU HAVE TO RECOMPRESS IT. SO DOESN'T REALLY MAKE  
13 SENSE TO DO IT.

14 AND THAT'S ONE OF THE KEY PROBLEMS WE HAVE HERE. IS  
15 THEY'RE TAKING TIME-COMPRESSED REPRESENTATION AND THEY'RE  
16 SAYING, LISTEN, THAT MEANS TIME COMPRESSION, LIKE THESE TCM  
17 REFERENCES. OKAY, WELL, YOU KNOW, OBVIOUSLY, WE DON'T LIKE --  
18 THAT EXCLUDES THE PREFERRED EMBODIMENT, BUT THERE'S OTHER  
19 PROBLEMS, TOO.

20 THE OTHER PROBLEM IS INCONSISTENT TECHNICALLY THE  
21 CLAIM CONTEXT ORDER. IT DOESN'T MAKE ANY SENSE. AND WE GOT A  
22 THIRD PROBLEM WHEN WE GOT TO THE PROSECUTION HISTORY AS WELL.  
23 SO IT'S OUT OF ORDER. DOESN'T MAKE ANY SENSE TO DO IT THAT  
24 WAY.

25 AND ONE OF THE POINTS ON THE BTTTCM WHICH I MADE

1 ALREADY I WANT TO REITERATE, '839 SAYS RECEIVED COMPRESSED  
2 STORE, TRANSMIT FASTER THAN REALTIME. TCM RECEIVES, STORES OUT  
3 OF ORDER, COMPRESSES, THEN TRANSMITS IN REAL TIME. IT'S QUITE  
4 A BIT DIFFERENT.

5 NOW, I BELIEVE LAST WEEK THAT MR. POWERS ADMITTED  
6 THAT, HE SAID CERTAINLY TRUE THAT THIS REFERENCE, I BELIEVE HE  
7 WAS REFERRING TO GITLAND, IT'S NOT ENTIRELY TRUE. THE SEQUENCE  
8 OF STORAGE AND COMPRESSION, THE CASE TIME COMPRESSING IS  
9 DIFFERENT FROM THE SEQUENCE IN THE CLAIMS OF COMPRESSING AND  
10 THEN STORING.

11 THERE'S NO DEBATE ABOUT THAT, APPLE AGREES. WHAT I  
12 HEARD MR. POWERS SAY LAST WEEK IS, BUT YOU'RE TALKING ABOUT  
13 VALIDITY, WE'RE NOT TALKING ABOUT VALIDITY HERE. AND THAT'S  
14 NOT TRUE WE'RE NOT TALKING ABOUT VALIDITY.

15 WE'RE TALKING ABOUT THE SITUATION WHERE THEY'RE TRYING  
16 TO DRAFT A LIMITATION ONTO THIS CLAIM THAT EXCLUDES THE  
17 PREFERRED EMBODIMENT AND TAKES -- REALLY STANDS THE ORDER OF  
18 THE CLAIMED OPERATIONS ON THEIR HEAD. NOT A VALIDITY POSITION,  
19 THIS IS THE REASON THAT THEIR TIME COMPRESSION IS JUST WRONG.

20 LET'S SKIP THE ANIMATION WITH THAT. I'D LIKE TO GO TO  
21 THE PROSECUTION HISTORY.

22 THERE'S THREE PROSECUTION HISTORY WE NEED TO TALK  
23 ABOUT, THE '995, THE '932 AND THE '705.

24 LET ME JUST GLOBALLY SUMMARIZE APPLE'S POSITION IN  
25 THEIR BRIEFS. THEY SAY, IN THE '995 AND THE '932 CLAIMS WERE



1 AMENDED. THEY EVEN TAKE THE POSITION THAT THE ORIGINAL CLAIMS  
2 COVERED THE DATA COMPRESSION.

3 THEY SAY, THAT THE CLAIMS WERE AMENDED TO GIVE UP THE  
4 DATA COMPRESSION. THAT'S THEIR POSITION OVERCOME DATA  
5 COMPRESSION PRIOR ART. IT'S NOT THE CASE. WE'RE GOING TO LOOK  
6 AT IT VERY CLOSELY, WE'RE GOING TO SEE IT'S NOT THE CASE.

7 '705 PROSECUTION HISTORY, THEY PULL A SINGLE SENTENCE  
8 OUT OF A VERY LONG PROSECUTION HISTORY, AND THEY SAY, LOOK,  
9 THERE'S A DISCLAIMER HERE, THIS IS WHERE YOU GAVE UP DATA  
10 COMPRESSION. AGAIN, IT'S NOT THE CASE, WE'RE GOING TO LOOK AT  
11 THAT.

12 WHAT I'VE GOT UP HERE IS THE FAMILY TREE OF THE PATENT  
13 IN SUIT. I GOT THE '995 AT THE TOP, THE '932 IS THE CIP OF THE  
14 '995, ADDED SOME NEW STUFF. ADDED, FOR EXAMPLE, THE MICROWAVE,  
15 USING THE MICROWAVE TRANSCEIVER TO SEND FASTER THAN REAL TIME.

16 WE HAVE THE VISUAL OF THE '839 AND THEN WE HAVE  
17 ANOTHER DIVISIONAL THAT ULTIMATELY RESULTED IN THE '705 DOWN  
18 HERE. YELLOW THE FOUR PATENTS IN SUIT.

19 CAN YOU SEE THE '705, DIDN'T JUST COME -- DIDN'T  
20 SPROUT RIGHT OUT OF THE '839, IT CAME THROUGH A SERIES OF THREE  
21 APPLICATIONS.

22 FIRST THE '542, THEN THE '958 AND THEN THE LAST ONE  
23 THE '727 APPLICATION, AT ISSUE AS THE '705. THAT'S IMPORTANT,  
24 WE'LL TALK ABOUT IT IN A FEW MINUTES.

25 OKAY. REASON IT'S IMPORTANT, QUITE FRANKLY, IS THAT

1 APPLE IN ITS DISCLAIMER ARGUMENT FOCUSES ONLY ON A SINGLE  
2 STATEMENT, A SINGLE STATEMENT THAT OCCURS UP HERE. THERE'S A  
3 LOT THAT GOES ON AFTER THAT.

4 '995 PROSECUTION HISTORY, YOUR HONOR, THESE ARE THE  
5 ORIGINAL CLAIMS. YOU ASKED SOME QUESTIONS ABOUT IT. WE TALKED  
6 ABOUT IT A LITTLE BIT EARLIER. LET'S TAKE A LOOK WHAT THEY'RE  
7 TRYING TO CLAIM HERE.

8 THEY GOT A FIRST MEANS FOR CONVERTING ANALOG VIDEO,  
9 THIS -- SO THIS INTO SIGNALS, DIGITAL DATA SIGNALS. SO YOU  
10 RECEIVE ANALOG VIDEO, YOU CONVERT TO DIGITAL.

11 NEXT YOU TRANSMIT THOSE DIGITAL DATA SIGNALS TO OUTPUT  
12 PORT AT A SPEED GREATER THAN THE SPEED OF THE ANALOG VIDEO  
13 SIGNALS RECEIVED. SO YOU RECEIVE ANALOG VIDEO HERE, YOU HAVE  
14 SOME MEANS THAT SPEED IT UP, TO GET IT OVER HERE TO THE OUTPUT  
15 PORT.

16 OKAY. CLAIMS TWO AND THREE THAT WE DON'T HAVE HERE,  
17 IDENTIFY THE OUTPUT PORT IS CONNECTED TO FIBEROPTIC CHANNEL AND  
18 TO A TELEPHONE LINE. AND THEN FOUR ADDS THE CONCEPT HERE OF  
19 COMPRESSING.

20 OKAY. THIS IS WHERE THE COMPRESSING COMES IN. SAYS,  
21 THE FIRST MEANS, THIS GUY RIGHT HERE THAT DID THE A TO D  
22 CONVERSION, THE ANALOG, THE DIGITAL CONVERSION, ALSO GOES  
23 COMPRESSION, THOSE ARE THE ORIGINALS CLAIMS.

24 WHAT HAPPENS, THOSE CLAIMS 1 THROUGH 4, I'M SORRY, 1  
25 AND 4 AND ALSO 18 AND 19 WE TALKED ABOUT AS WELL, THAT HAD THAT

1 FASTER SPEED REJECTED BY THIS BALDWIN REFERENCE, BY THIS  
2 BALDWIN PATENT, YOUR HONOR.

3 APPLE TAKES THE POSITION THAT THE CLAIMS ULTIMATELY  
4 WERE AMENDED TO OVERCOME THE PRIOR ART AND THE PRIOR ART WAS  
5 DATA COMPRESSION, JUST NOT TRUE.

6 BALDWIN IS NOT DATA COMPRESSION, BALDWIN CONVERSION  
7 TALKS ABOUT STRETCHING OUT SIGNALS. IT'S TALKING ABOUT READING  
8 OUT AT ONE AND ONE THIRD INPUT SPEED TO BUNCH THE DATA. IT  
9 TALKS ABOUT EMPTYING THE SOURCE, EMPTIED QUICKER THEN THEY ARE  
10 FILLED.

11 THOSE ARE ALL CONCEPTS WHERE YOU'RE CHANGING SIGNALING  
12 RATES, THOSE ARE ALL CONCEPTS KIND OF LIKE TIME COMPRESSION, A  
13 LITTLE DIFFERENT THAN APPLE'S TCM TYPE STUFF.

14 IT'S A VERSION, A FLAVOR OF TIME COMPRESSION, IT'S NOT  
15 DATA COMPRESSION. WHAT HAPPENS IN RESPONSE THEY, BURST,  
16 CANCELS THOSE CLAIMS, PUTS IN NEW CLAIMS AND THEIR CLAIMS  
17 ISSUED IN THE CLAIMS.

18 OKAY. WITH THAT SAME SORT OF ORDER, YOUR HONOR, THAT  
19 WE SAW BEFORE, AND BURST HIGHLIGHTS THAT ORDER IN THE REMARKS  
20 TO THE PATENT & TRADEMARK OFFICE.

21 IT SAYS THE CLAIMS ARE DIRECTED TO AN AUDIO/VIDEO  
22 TRANSCEIVER, AUDIO/VIDEO SOURCE INFORMATION, COMPRESS THE  
23 AUDIO/VIDEO SOURCE INFORMATION STORE AND TRANSMIT IT.

24 THEN IT'S SO IMPORTANT THEY SAY IT AGAIN, THEY SAY  
25 THIS SUMMARY, THESE IMPORTANT FEATURES: RECEIVE, COMPRESS,

1 STORE, TRANSMIT. THAT'S THAT ORDER WE TALKED ABOUT IN THE  
2 CLAIMS A LITTLE WHILE AGO. THEY OVERCAME THAT TIME COMPRESSION  
3 BALDWIN REFERENCE BY PUTTING IN THIS ORDER.

4 SO CONTRARY TO WHAT APPLE SAYS THE CLAIMS WERE AMENDED  
5 TO DISTINGUISH DATA COMPRESSION, THAT'S JUST FACTUALLY NOT  
6 TRUE. THE CLAIMS WERE AMENDED TO RECITE THAT ORDER TO OVERCOME  
7 A VERSION OF TIME COMPRESSION.

8 THAT'S WHAT HAPPENED IN THE '995. WHAT THIS REFERENCE  
9 SHOWS, WHAT THIS SHOWS, WHAT THIS HISTORY SHOWS, YOUR HONOR,  
10 THESE CLAIMS DIDN'T COVER THAT TCM TYPE COMPRESSION. IN FACT,  
11 IT WAS DISCLAIMED, THE CLAIMS WERE NARROWED IN ORDER TO AVOID  
12 THAT TYPE OF REFERENCE.

13 THE '932 PROSECUTION HISTORY. GOT THE CLAIMS UP HERE  
14 9 THROUGH 11, THOSE ARE THE CLAIMS APPLE FOCUSES ON AGAIN.  
15 THESE ARE THE ORIGINALS CLAIMS FILED IN THAT APPLICATION. IT  
16 HAS THE LIMITATIONS AND IT INCLUDES THE COMPRESSING AS PART OF  
17 THE MEANS FOR DIGITIZING.

18 AND THEN IT HAS THE TRANSMISSION MEANS THAT TRANSMITS,  
19 BUT IT DOESN'T TRANSMIT AWAY FASTER THEN REAL TIME. YOU DON'T  
20 GET THAT SORT OF FASTER SPEED THING UNTIL YOU GET DOWN TO CLAIM  
21 11.

22 CLAIM 11 SAYS, YOU TRANSMIT OR RECEIVE THE COMPRESSED  
23 DIGITAL DATA IS LESS -- SAYS -- I'M SORRY, THE TIME REQUIRED TO  
24 TRANSMIT AND RECEIVE THE COMPRESSED DIGITAL DATA IS LESS THAN  
25 THE TIME REQUIRED TO MONITOR THE AUDIO SIGNAL CORRESPONDING TO