

Exhibit 4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE SAUNDRA BROWN ARMSTRONG, JUDGE

GOOGLE, INC.,	}	PAGES 1 - 196
PLAINTIFF,	}	
VS.	}	NO. C 08-04144SBA
NETLIST, INC.,	}	
DEPENDANT.	}	OAKLAND, CALIFORNIA
		THURSDAY, NOVEMBER 12, 2009

TRANSCRIPT OF PROCEEDINGS

APPEARANCES:

FOR PLAINTIFF:

BY:	FISH & RICHARDSON, P.C. 500 ARGUELLO STREET, SUITE 500 REDWOOD CITY, CALIFORNIA 94063
	SHELLEY K. MACK HOWARD G. POLLACK, ATTORNEYS AT LAW

FOR DEFENDANT:

BY:	PRUETZ LAW GROUP, LLP 200 NORTH SEPULVEDA BOULEVARD, SUITE 1525 EL SEGUNDO, CALIFORNIA 90245
	ADRIAN M. PRUETZ, ATTORNEY AT LAW

BY:	LEE TRAN & LIANG 601 S. FIGUEROA STREET, SUITE 4025 LOS ANGELES, CALIFORNIA 90017
	STEVEN R. HANSEN, ATTORNEY AT LAW

REPORTED BY: RAYNEE H. MERCADO, CSR NO. 8258

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1 MR. POLLACK: AND THEN ALSO FROM GOOGLE TODAY, WE
2 HAVE CHESTER DAY AND TIM PHAM.
3 GOOD MORNING, MR. DAY AND MR....?
4 MR. POLLACK: PHAM.
5 THE COURT: PHAM. GOOD MORNING.
6 MR. POLLACK: THANK YOU, YOUR HONOR.
7 MS. PRUETZ: MORNING, YOUR HONOR. ADRIAN PRUETZ FOR
8 THE DEFENDANT NETLIST.
9 THE COURT: PRIEST (PHONETIC), YOU SAID?
10 MS. PRUETZ: PRUETZ, P-R-U-E-T-Z.
11 THE COURT: OKAY.
12 MS. PRUETZ: AND WITH ME TODAY ALSO REPRESENTING
13 NETLIST MR. STEVEN HANSEN.
14 THE COURT: GOOD MORNING.
15 MR. HANSEN: GOOD MORNING.
16 AND OUR EXPERT WHO WILL BE PRESENTING THE TUTORIAL
17 HERE WITH US, MR. WAUGH, MARTIN WAUGH.
18 THE COURT: MARTIN WAUGH.
19 MS. PRUETZ: IT'S W-A-U-G-H.
20 THE COURT: OH, WAUGH. GOOD MORNING.
21 MS. PRUETZ: AND ALSO FROM NETLIST IS MR. JOHN --
22 THE COURT: WHEN YOU TURN YOUR HEAD THAT WAY, I CAN'T
23 HEAR WHAT YOU'RE SAYING. SO YOU SAID HIS NAME WHEN YOU TURNED
24 YOUR HEAD, SO WHAT IS HIS NAME?
25 MS. PRUETZ: I'M SORRY, YOUR HONOR. HIS NAME IS JOHN

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1 THURSDAY, NOVEMBER 12, 2009 9:08 A.M.
2 PROCEEDINGS
3 THE CLERK: CALLING CIVIL ACTION 08-4144, GOOGLE,
4 INC., VS. NETLIST, INC.
5 AND, COUNSEL, PLEASE STATE YOUR APPEARANCES.
6 MR. POLLACK: GOOD MORNING, YOUR HONOR.
7 THE COURT: GOOD MORNING.
8 MR. POLLACK: HOWARD POLLACK FROM FISH &
9 RICHARDSON --
10 THE COURT: MR. POLLACK.
11 MR. POLLACK: -- FOR GOOGLE. WITH ME TODAY IS
12 SHELLEY MACK, ALSO OF FISH & RICHARDSON.
13 THE COURT: SHELLEY MACK?
14 MR. POLLACK: THAT'S CORRECT.
15 THE COURT: OKAY. GOOD MORNING.
16 MR. POLLACK: AND I'D LIKE TO INTRODUCE MR. DESI
17 RHODEN, WHO IS OUR TECHNICAL EXPERT. HE IS GOING TO BE
18 PRESENTING THE TECHNOLOGY TUTORIAL THIS MORNING.
19 THE COURT: OKAY. YOU SAID RHODEN?
20 MR. POLLACK: RHODEN.
21 THE COURT: R-O-D-E-N? OR A-N?
22 MR. RHODEN: R-H-O-D-E-N.
23 THE COURT: EXCUSE ME?
24 MR. RHODEN: R-H-O-D-E-N.
25 THE COURT: OH, THANK YOU.

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1 SIANN, S-I-A-N-N.
2 THE COURT: OKAY. GOOD MORNING.
3 MR. SIANN: GOOD MORNING.
4 THE COURT: OH, OKAY. IS THAT EVERYONE?
5 THIS MATTER'S ON THE COURT'S CALENDAR FOR THE
6 TUTORIAL AND THE CLAIMS CONSTRUCTION HEARING IN THIS CASE.
7 FOR THE RECORD, I HAVE RECEIVED, READ, AND CONSIDERED
8 THE PAPERS THAT YOU ALL HAVE FILED IN ANTICIPATION OF THESE
9 PROCEEDINGS. BEFORE WE GET STARTED, HOWEVER, I DO WANT TO NOTE
10 FOR THE RECORD THAT AFTER THE CLOSE OF BUSINESS ON TUESDAY,
11 NETLIST FILED A DOCUMENT WHICH IS CHARACTERIZED AS, QUOTE,
12 OBJECTION TO GOOGLE, INC.'S USE OF THE '386 PATENT PROSECUTION
13 HISTORY WHICH IS NOT IN EVIDENCE IN ITS CLAIM CONSTRUCTION
14 PRESENTATION.
15 I'M INCLINED TO OVERRULE THE OBJECTION. FIRST, IF
16 GOOGLE'S ASSERTIONS ARE CORRECT, WHICH I'M INCLINED TO BELIEVE
17 THEY ARE, SINCE NETLIST HASN'T -- HASN'T REPRESENTED TO THE
18 CONTRARY, THERE'S NO MEET-AND-CONFER EFFORT THAT WAS MADE
19 BEFORE -- PRIOR TO FILING THIS MOTION, AND MY STANDING ORDER
20 REQUIRES THAT THE PARTIES NOT ONLY MEET AND CONFER PRIOR TO
21 FILING ANY MOTION WITH THE COURT BUT ALSO INDICATE THAT YOU HAVE
22 DONE SO.
23 AND THE REASON I DO THAT IS BECAUSE OF MY BELIEF THAT
24 I DON'T REALLY KNOW IF THERE IS AN OBJECTION UNTIL YOU'VE TRIED
25 TO RESOLVE IT. ONCE YOU'VE TRIED TO RESOLVE IT, THEN YOU

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1 THE COMPUTER SYSTEM THAT THE MEMORY MODULE HAS A CERTAIN THING;
 2 IN THIS CASE, A NUMBER OF RANKS.
 3 THEN THE COMPUTER SYSTEM GENERATES AND TRANSMITS A
 4 SET OF OUTPUT CONTROL SYSTEMS CORRESPONDING TO THE TWO RANKS.
 5 IT'S TOLD BY THE SPD THAT IT HAS ONE RANK. IT GENERATES CONTROL
 6 SIGNALS THAT CORRESPOND TO THE ONE RANK, AND THEN THE LOGIC
 7 DEVICE CONTROL GENERATES SIGNALS THAT CORRESPOND TO THE TWO
 8 RANKS THAT ARE ACTUALLY THERE.
 9 THE COURT: OKAY. WHERE ARE YOU LOOKING AT
 10 'GENERATING'?

11 MR. POLLACK: OKAY. SO FOR EXAMPLE, IF THE --
 12 THE COURT: WHERE IS THE GENERATION LANGUAGE THAT YOU
 13 JUST BEEN READING?

14 MR. POLLACK: THE LOGIC ELEMENT RECEIVES --
 15 THE COURT: RIGHT.
 16 MR. POLLACK: -- THE SET OF INPUT CONTROL SIGNALS
 17 CORRESPONDING TO THE SIGNAL RANK FROM THE COMPUTER SYSTEMS
 18 MEMORY CONTROLLER.
 19 THE COURT: I KNOW, BUT THEN YOU'RE USING THE WORD
 20 'GENERATING' --

21 MR. POLLACK: OH, AND THEN I WAS READING WHAT THE
 22 MODULE DOES WITH THEM. THE LOGIC DEVICE TAKES THOSE AND
 23 GENERATES THE ONES THAT MATCH UP WITH THE ACTUAL NUMBER OF
 24 RANKS, WHICH IS TWO.
 25 IN EACH CASE, WHERE THE 'CORRESPONDING TO' LANGUAGE

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1 COMES IN, IT'S PRECEDED BY THE DISCUSSION OF THE SPD DEVICE
 2 CHARACTERIZING TO THE COMPUTER SYSTEM THE DIFFERENT NUMBER OF
 3 DEVICES.
 4 SO WHEN -- WHEN THE CLAIM SAYS THAT THE SIGNALS
 5 RECEIVED FROM THE COMPUTER SYSTEM CORRESPOND TO THIS SECOND
 6 NUMBER OF DEVICES, IT'S BECAUSE THE COMPUTER SYSTEMS BEEN
 7 INSTRUCTED THAT THOSE -- THAT THAT'S WHAT'S THERE. AND THAT'S
 8 WHY YOU NEED A LOGIC DEVICE. THE WHOLE POINT OF THE LOGIC
 9 DEVICE WOULD GO AWAY, AS YOU POINTED OUT EARLIER, IF THE
 10 COMPUTER SYSTEM KNEW EXACTLY HOW MANY DEVICES WERE ON THERE.
 11 THE COURT: BUT ARE WE -- IN CONSTRUING THE PHRASE,
 12 ARE WE -- ARE WE MAKING JUDGMENTS AS TO WHY AS OPPOSED TO WHAT?
 13 I MEAN, YOU'RE SAYING IT CORRESPONDS TO A -- IT'S BECAUSE OF
 14 THIS THAT IT CORRESPONDS TO.
 15 IN TERMS OF THE CONSTRUCTION OF THE PHRASE ITSELF,
 16 WHY WOULD WE BUILD INTO THE CONSTRUCTION OF WHAT THE PHRASE
 17 MEANS 'CORRESPONDING TO' THE REASON WHY THE -- IT HAS DETERMINED
 18 THAT IT'S APPROPRIATE TO 'CORRESPOND TO'?

19 MR. POLLACK: WELL, WHAT IT MEANS FOR THE -- THE
 20 SIGNALS, RIGHT -- THE SIGNALS ARE COMING FROM THE COMPUTER
 21 SYSTEM. RIGHT? THE CORRESPONDING LANGUAGE IS CHARACTERIZING
 22 THOSE SIGNALS.
 23 THE COURT: BUT --
 24 MR. POLLACK: RIGHT?
 25 THE COURT: YOU DON'T UNDERSTAND THE QUESTION THAT I

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1 ASKED YOU, 'CAUSE WHAT I'M -- WHAT I AM PERCEIVING IS -- IS AN
 2 OVERBREADTH IN TERMS OF INCORPORATING IN THE CONSTRUCTION OF THE
 3 PHRASE ITSELF THE REASON OR THE MOTIVATION FOR WANTING TO HAVE
 4 THE PHRASE INCLUDED IN THE FIRST PLACE.
 5 AND -- AND MY CONCERN IS THAT WHY IS THAT APPROPRIATE
 6 TO -- TO -- TO INCORPORATE IN THE DEFINITION OF WHAT THE PHRASE
 7 MEANS THE REASON WHY THE PHRASE IS THERE AND THE REASON WHY
 8 THERE'S A -- BEEN A DECISION TO -- TO MAKE IT IN THAT WAY.
 9 MR. POLLACK: BECAUSE IT -- I DON'T SEE IT AS
 10 INCORPORATING THE REASON. IT'S THE WHY --
 11 THE COURT: YOU SAID 'IT'S BECAUSE.'
 12 MR. POLLACK: THE -- THE CHARACTERIZATION -- THE
 13 CLAIM CHARACTERIZES THE SIGNALS AS CORRESPONDING TO SOMETHING.
 14 THE COURT: YEAH, BUT WHAT DO WE CARE WHETHER THE
 15 COMPUTER UNDERSTANDS IT OR NOT, AS LONG AS IT CORRESPONDS?
 16 MR. POLLACK: WELL, THE ONLY WAY IT CAN CORRESPOND --
 17 THE COURT: WELL, I DON'T KNOW WHETHER THAT'S TRUE OR
 18 NOT.
 19 MR. POLLACK: THE --
 20 THE COURT: I'M TRYING TO UNDERSTAND --
 21 (SIMULTANEOUS COLLOQUY.)
 22 THE COURT: -- THE FACT OF THE CORRESPONDENCE. NOW
 23 YOU'RE SAYING THAT'S THE ONLY WAY THAT THE FACT OF THE
 24 CORRESPONDENCE CAN OCCUR. I DON'T KNOW WHETHER IT CAN OR NOT.
 25 BUT WE CAN CERTAINLY ACCOMMODATE THE FACT OF THE CORRESPONDING.

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1 WE CAN DEFINE WHAT 'TO CORRESPOND' MEANS.
 2 NOW, YOU MIGHT BE RIGHT THAT IT WILL ONLY BE
 3 ACTUALIZED IF THE COMPUTER UNDERSTANDS WHATEVER, OR MAYBE NOT.
 4 BUT -- BUT WE WILL ALWAYS BE ABLE TO DETERMINE WHETHER OR NOT
 5 THE CORRESPONDENCE IS TRANSPIRING, RIGHT?
 6 MR. POLLACK: IF THE SIGNALS THAT ARE COMING FROM THE
 7 COMPUTER SYSTEM --
 8 THE COURT: YOU DON'T KNOW HOW TO ANSWER THE
 9 QUESTIONS 'YES' OR 'NO.'
 10 MR. POLLACK: WE CAN --
 11 THE COURT: WELL, THEN WHY DON'T YOU JUST ANSWER THE
 12 QUESTION? I MEAN, BECAUSE IT DOESN'T DO MUCH FOR YOUR
 13 CREDIBILITY WHEN YOU JUST SIDE-STEP QUESTIONS THAT OBVIOUSLY YOU
 14 CAN ANSWER AND YOU CHOOSE NOT TO. I ASK THE QUESTIONS, AND YOU
 15 GIVE THE ANSWERS. AND THEN AFTER THAT, IF WE HAVE TIME TO
 16 DISCUSS WHAT YOU WANT TO DISCUSS, WE'LL DISCUSS.
 17 I'M ASKING QUESTIONS. I'M TRYING TO ADVANCE THIS
 18 DISCUSSION AND NARROW DOWN TO WHAT REALLY IS THE ESSENCE OF THE
 19 DISPUTE HERE.
 20 MR. POLLACK: I APOLOGIZE, YOUR HONOR. I'M NOT SURE
 21 I UNDERSTOOD YOUR QUESTION. THAT'S WHY I WAS TRYING TO REPHRASE
 22 IT TO -- TO UNDERSTAND WHAT YOU MEANT.
 23 THE COURT: OKAY. THEN TELL ME THAT NEXT TIME.
 24 MR. POLLACK: IF WHAT YOU MEAN IS THAT YOU CAN
 25 TELL -- THAT THE SIGNALS THEMSELVES CORRESPOND TO A THING BASED

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1 MR. POLLACK: THE COURT --
 2 THE COURT: -- WHAT YOU ARE ASKING ME -- WHAT YOU'VE
 3 JUST PROPOSED, YOU KNOW, "MATCHING UP" -- THE LANGUAGE YOU
 4 PROPOSED FOR THE TWO WORDS THAT YOU AGREE ARE THE ONLY ONES THAT
 5 YOU ALL DISPUTE MEANS EXACTLY THE SAME THING AS THE TWO WORDS
 6 THAT ARE HERE. I MEAN, I UNDERSTAND THAT YOU ALL KNOW THE
 7 CONTEXT AND YOU HAVE A LOT OF OTHER -- A LOT OF OTHER ISSUES
 8 THAT YOU'RE CONCERNED ABOUT.
 9 BUT FROM MY PART, LISTENING TO YOU ALL AND LISTENING
 10 TO THE DISPUTE, AS YOU CHARACTERIZE IT, AND LISTENING TO YOUR
 11 PROPOSALS AS YOU'RE PROPOSING TO ME, THE LANGUAGE THAT YOU ARE
 12 SUGGESTING TO SUBSTITUTE IN ITS -- INSTEAD OF THE TWO WORDS THAT
 13 YOU DISPUTE MEANS EXACTLY THE SAME THING THAT THESE TWO WORDS
 14 MEAN. AND SO I CAN ONLY CONCLUDE THAT THERE'S NO SUBSTANTIVE
 15 DISPUTE.
 16 MR. POLLACK: ACTUALLY, YOUR HONOR, I'M SORRY. I
 17 WASN'T JUST SUGGESTING THAT YOU JUST REPLACE "CORRESPONDING TO"
 18 WITH "MATCH UP":--
 19 THE COURT: WELL, YOU SAID "CONFORM." "CONFORM"
 20 MEANS THE SAME THING AS "CORRESPONDING TO."
 21 MR. POLLACK: I WAS ACTUALLY ATTEMPTING TO MODIFY
 22 NETLIST'S PROPOSED CONSTRUCTION IN THAT --
 23 THE COURT: WHAT?
 24 MR. POLLACK: -- THAT'S -- WHAT I WAS -- WHEN WE WERE
 25 TALKING ABOUT BEFORE --

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1 ANY WAY THAT YOU CAN DEFINE "SIGNAL" TO BE CONFIGURED AS HE'S --
 2 (OFF-THE-RECORD DISCUSSION.)
 3 MR. POLLACK: AND IT'S A SET OF SIGNALS.
 4 THE COURT: WHAT'S YOUR DEFINITION?
 5 (OFF-THE-RECORD DISCUSSION.)
 6 MR. POLLACK: I'VE GOT IT. WE'VE CONSTRUED IT AS
 7 "VARYING ELECTRICAL IMPULSE THAT CONVEYS INFORMATION FROM ONE
 8 POINT TO ANOTHER."
 9 THE COURT: EXCUSE ME?
 10 MR. POLLACK: "A SIGNAL IS A VARYING ELECTRICAL
 11 IMPULSE THAT CONVEYS INFORMATION FROM ONE POINT TO ANOTHER."
 12 THE COURT: RIGHT. AND SO YOU'RE SUGGESTING
 13 CONFIGURING --
 14 MR. POLLACK: A SET OF SIGNALS MAY BE CONFIGURED.
 15 MS. PRUETZ: OH, I MEAN, THAT -- THAT IS REALLY A
 16 DISCUSSION FOR SOME EXPERTS, BUT I CAN'T QUITE IMAGINE USING
 17 "CONFIGURED" THAT WAY.
 18 THE COURT: AND I DON'T -- IT DOESN'T -- WELL, IT MAY
 19 BE -- IT MAY BE SOMETHING THAT IS POSSIBLE, BUT IT'S NOT READILY
 20 APPARENTLY TO ME. AND GIVEN THE WAY THIS -- THIS PROPOSED
 21 PHRASE READS, IT'S CERTAINLY A LOT CLEARER IN THE PHRASE AS IT'S
 22 PRESENTED NOW THAN IT WOULD BE IF I INCLUDED THAT LANGUAGE IN
 23 THAT FASHION.
 24 (OFF-THE-RECORD DISCUSSION.)
 25 THE COURT: OKAY. SO THE LAST ONE IS THE -- WELL, I

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1 THE COURT: OKAY. SO WHAT LANGUAGE DID YOU SUGGEST
 2 TO -- TO SUBSTITUTE THE WORDS -- BECAUSE WE'RE -- WE'RE DOWN TO
 3 "CORRESPONDING TO."
 4 MR. POLLACK: RIGHT. AND I SUGGESTED THAT WHERE
 5 THEY -- IF WE SAID THAT THE CONTROL --
 6 THE COURT: NO, WHAT --
 7 (SIMULTANEOUS COLLOQUY.)
 8 THE COURT: EXCUSE ME.
 9 WHAT -- WHAT WORDS ARE YOU SUGGESTING THAT I
 10 SUBSTITUTE FOR "CORRESPONDING TO"?
 11 MR. POLLACK: "ARE CONFIGURED TO USE."
 12 THE COURT: SO YOU'RE SAYING, "THE SET OF INPUT
 13 CONTROL SIGNALS ARE CONFIGURED TO USE."
 14 MR. POLLACK: A SECOND NUMBER OF DEVICES.
 15 THE COURT: I'M -- NO, THAT DOESN'T -- NO.
 16 OKAY. I'M NOT GOING TO CONSTRUE THIS TERM. I DON'T
 17 THINK IT REQUIRES CONSTRUCTION BASED ON MY UNDERSTANDING OF WHAT
 18 YOU ALL ARE DISPUTING.
 19 AND -- AND TO SUGGEST THAT CONTROL SIGNALS, GIVEN
 20 YOUR -- GIVEN YOUR -- THE CONSTRUCTION OF WHAT A SIGNAL IS, IS
 21 CONFIGURING CONTROL SIGNALS IS JUST NONSENSICAL TO ME.
 22 MR. POLLACK: IT -- IT WOULD MEAN THAT YOU CHOOSE --
 23 THE SET OF SIGNALS ARE CHOSEN, ARE CONFIGURED, ARE DESIGNED, TO
 24 MATCH UP TO -- TO THE SECOND NUMBER OF DEVICES.
 25 MS. PRUETZ: YOUR HONOR, I JUST DON'T THINK THERE'S

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1 GUESS THIS -- PROBABLY HAS SOME BEARING ON THE LAST ONE. "THE
 2 FIRST COMMAND SIGNAL CORRESPONDING TO THE SECOND NUMBER OF
 3 RANKS." AND THE ONLY DIFFERENCE HERE IS THREE WORDS BY GOOGLE
 4 "GENERATED BY" -- OR NO, "GENERATED BY TWO" COMMAND -- AND THEN
 5 NETLIST SAYS "RECEIVED FROM," WHICH IS CONFIGURED TO UTILIZE.
 6 OKAY. ANY -- ANY COMMENTS?
 7 MS. PRUETZ: THIS IS REALLY THE SAME SITUATION WE HAD
 8 BEFORE. I MEAN, IT'S THE FIRST COMMAND SIGNAL THAT'S
 9 CORRESPONDING TO THE SECOND NUMBER OF MEMORY RANKS, WHICH IS
 10 ALSO THE SMALLER NUMBER OF MEMORY RANKS. IT'S JUST USING
 11 "RANKS" INSTEAD OF "DEVICES."
 12 THE COURT: YEAH.
 13 MS. PRUETZ: SO I THINK OUR ARGUMENT WOULD BE THE
 14 SAME, THAT IT'S CLEAR THE WAY IT IS.
 15 THE COURT: COUNSEL?
 16 MR. POLLACK: AGAIN, YOUR HONOR, WITH THE -- WITH THE
 17 UNDERSTANDING THAT THE COMMAND SIGNALS, THE WAY THEY'RE OPERATED
 18 ON IS DIFFERENT, AND WHAT WE'VE -- THAT'S WHY WE USED "COMMAND"
 19 AGAIN TO EMPHASIZE THAT WHAT WE'RE DOING HERE IS THE COMPUTER
 20 SYSTEM'S COMMANDING WITH THESE COMMAND SIGNALS A MEMORY MODULE
 21 HAVING A SECOND NUMBER OF RANKS.
 22 THAT'S THE -- THE COMMAND SIGNALS ALSO ARE INTENDED
 23 AND GENERATED TO WORK WITH THE COMPUTER -- THE SECOND NUMBER OF
 24 RANKS, WHICH IS DIFFERENT FROM THE NUMBER OF RANKS THAT'S
 25 ACTUALLY THERE.