EXHIBIT 26 PART 3

possible context.

It talks about here's the application. You're using the document. You're using it in that application and the stuff you're doing with in that. And that's another example of a context.

Then if we go on, it says the context component dynamically storing the context information in metadata associated with the user-defined data.

Now, we saw that in the history list, the history list says here's the data. That is the name of the file that we're working on and here's all the activities that people are doing on it.

Q. Is there a portion of the iManage documentation that describes some of the other metadata that may also be captured?

A. Yes. And I believe I've identified that.

If we can bring that up. So this is the part of the iManage manual and I can't recall what page it's on.

Q. Could it be in chapter 3?

A. It's very possible. So here this is the section of the manual that says history of document activity. This is what we're talking about, the activities or metadata that can be captured.

And it says displaying history of document activity. And it says -- let me just try to go to the bottom just above the bullet point. The line says the types of activities typically recorded in the document activity record.

So this is of the history. Right, the history system you saw are things like opening and closing the document in an integrated application that we saw an example of that with Word, how long the document was open. Whether the document's profile was edited, changing the access rights of the document.

Q. What does that mean?

A. It means who can actually see, read or edit the document usually. Printing a document and how many pages were printed.

And this is, for example, if you want to do an accounting and actually charge

people for printing, that would be a use of that.

Checking out, copying and/or checking in the document. So that's who has copies currently out. So that if I know that you have a copy of a document out, maybe if you're editing it, then I may not want to change it, because otherwise we'll have two different versions and it will enter into confusion.

Whether the document is viewed or who's viewing it. Whether the document was mailed, whether somebody created a new version of the document. A computer location where the activity took place.

Q. What does that mean?

A. It means essentially what computer did you do all this activity from? So was this from your home computer, your laptop, your office computer, internet cafe? Where did you do your work?

And finally, any comments the user wanted to make about their own activities. So this is a free-form field where you can put in any information you want.

So really this captures a lot of information about what people are doing.

Q. And what about the rest of the elements of Claim 1?

A. Well, let's go back to Claim 1. So we were -- where were we?

Here?

Q. I think.

A. So we talked about capturing context information. We're in the first element.

So we talked about what -- where are we? Okay.

Q. I think we're at the part of the storage.

A. So the context component dynamically --

THE REPORTER: Could you please slow down.

THE WITNESS: Thanks. Keep reminding me.

The context component dynamically storing the context information in metadata. We saw that associated with the user-defined data.

We saw that.

That's -- it's like -- that's the document people are using.

The user-defined data and metadata stored on a storage component of the network-based system. And early identified that iManage has those storage components. In fact, that was also in that graphic that I showed up.

The second element talks about a computer-implemented tracking component of the network-based system. And this is software that's also part of the history system, because we saw how it could track what people are doing across computer locations, across applications and, in fact, across many activities for tracking a change of the user from the first context to a second context.

And we saw that in the history window where you could see the sequence of events, how people would do things in one place and then they would actually do things in a different or separate context.

We saw it. It was a network-based system and as well, this is dynamic, because

this history list is -- this history record is created on the fly.

As people do things, the system will actually record all the events that they're doing. And then finally, it says, Wherein the user can access the data from the second context. And I have a slide here -- sorry, not a slide, but a part of the reference manual that I'd like to illustrate for this one.

Yes.

Q. Where are we in the document?

A. So we're on Chapter 3, Page 3, Figure 3.26.

So if we expand that. This is the figure we've seen before, but now if you look at the very bottom, we're in the history tab. But if you look over one, two, three left, we see something called Quick View.

And Quick View is an ability to look at that document and read a read-only version of that document. So here we have that last part of that claim element where users can access the data.

I should add that you can also

that -- iManage lets you do more. You can also manage the document version. And there's a tab for that or even related documents or the profile of that document you can access.

Q. So after all of that, Dr. Greenberg, do you have an opinion regarding the Swartz, the iManage publication and how it relates to Claim 1 of the '761 patent?

A. Yes, I do.

Q. And what is that?

A. That the iManage reference manual discloses each and every element of Claim 1.

Q. Do you have an opinion regarding the iManage documentation vis-a-vis Claim 4 of the '761 patent?

A. Yes, I do. So here we see -- I've mentioned this before in talking about Swartz, that this adds a relationship between the user and at least one of an application data and user environments is clearly disclosed in the history table.

I've shown you -- we saw the user -- we saw the application data, which is the document name, user environment, things like the

application they're using, and so on.

Q. Do you have an opinion regarding claim four?

A. Yes.

Q. What is your opinion regarding claim four and the iManage reference manual?

A. That the iManage reference manual discloses claim four.

Q. And I'm sorry we have to go through this with such tedium, but the law makes us do it.

Do you have an opinion regarding claim seven?

A. Claim seven adds "where data created in the first context is associated with data created in the second context." We saw that again in the history system, where it was shown as a record of here's what happened at one step versus another versus another.

So it shows a movement between these and thus the relationship.

Q. What is your opinion regarding the iManage reference manual and claim seven?

A. That the iManage reference manual

discloses claim seven.

Q. Do you have an opinion regarding claim nine?

A. Claim nine.

THE COURT: Let me interrupt before we go to claim nine. We'll take a break for fifteen minutes.

MS. KEEFE: Thank you, Your Honor.

THE CLERK: All rise.

(The jury exited the courtroom at 2:59 p.m.)

THE COURT: Feel free to step down.

Mr. Andre.

MR. ANDRE: Your Honor, based on counsel representation, I had our expert fly in last night to be prepared to testify this morning, and obviously I don't think we'll be lucky to get this witness off the stand at this point, so do I have your permission to send him home?

THE COURT: Ms. Keefe, how much longer do you think this will be?

MS. KEEFE: It all depends on how

can get it all done Monday. The only thing I want you to think about, if the first witness goes on and off and we go to late morning, then you instruct --

THE COURT: Let's talk about this after we get through the evidence today.

THE CLERK: All rise.

(The jury entered the courtroom at 3:18 p.m.)

THE CLERK: Please be seated.

THE COURT: Welcome back, and let's get started.

MS. KEEFE: That's fine. Just -- you don't need to put it back. Thank you, though.

BY MS. KEEFE:

Q. Dr. Greenberg, I think right before the break we were going to dive into the claim nine and apply it to the iManage Reference Manual.

A. That's correct.

Q. Do you have an opinion regarding claim nine and the iManage Reference Manual?

A. Yes, I do.

Q. What is that opinion?

A. That iManage discloses each and every element of claim nine.

Q. Why is that?

A. If we go through this, we see a computer-implemented method of managing data comprising computer-executable acts, so iManage defines a computer system; therefore, it's a computer-implemented method.

We see creating data within the user environment of a web-based computing platform. I believe I've identified some parts of the iManage manual that show it's web based if we could bring that up, so here's one part, which is on --

Q. Where are we in the document?

A. Unfortunately it's hidden by this. Chapter three, page three.

It says "In order to send a document URL link, your system must include an iManage worksite web component server." So this illustrates that iManage has web capabilities. It's a web platform.

If we can go on, and there's

another one where it says here, on page seventy-four, it says you can send a copy of a document, a link of a document, or URL link of a document through e-mail from iManage desk site. The fact that you can send a URL to a document also says that iManage must be web based.

Q. Anything else?

A. I believe there's one more, and here it says -- in chapter six, page fifty-seven, it says in the worksite box, you can enter the URL for accessing the iManage worksite in the base path field, and there's further things that talk about sending document to URL link or sending folder to URL link.

Q. Was there a figure that showed that in the reference manual?

A. Yes. Well, it doesn't show this. It shows another capability where we see that iManage itself, in fact, has an address bar, and this is where it says web URL. That's directly from their image, so you can access things from the web, so yet again shows capabilities of a web-based platform.

Q. What about the remaining elements

of claim nine?

A. Let's take a look. So it continues in the first paragraph "via user interaction with the user environment by a user using an application." The data, in the form of at least files and documents.

We've seen that before. We're not talking about user environment. The Court has defined the context to be the same as environment.

Regardless of that, the iManage system, all these contexts are user environments where users do their work.

The next element says dynamically associating metadata with the data, and we've seen that before. We saw that in the history list.

The data and metadata stored on a storage component or a web-based computing platform, which is the same as claim one, but it now has web-based computing platform.

And we saw that the metadata includes information related to the user, the data, the application, and the user environment.

And again we saw that before as part of the history record as well as the documents that list what iManage can, do and there it all is right there.

So if we can go on --

Q. What about the remaining elements of claim nine?

A. Back to claim nine. So now we're at the third element or third paragraph, where it says "tracking movement of the user from the user environment of the web-based computing platform to a second user environment of the web-based computing platform."

This is all things we've seen before except that it uses different words, "user environment," that we addressed, "web-based computing platform" that we addressed, so this is all covered.

Q. What about the last section?

A. Again very similar to what we've seen before.

"Dynamically associating the stored metadata with an association of the data, the application, and the

second user environment, wherein the user employs at least one of the application and the data from the second user from the second environment."

And again this is all things we've seen before. We saw that in the history record. I've shown how you can access information through those tabs on the bottom of the history window. I've shown how you dynamically update the stored metadata as part of this history record.

Q. So what is your opinion regarding claim nine and how it applies to the iManage Reference Manual?

A. That iManage discloses each and every element of claim nine.

Q. Do you have an opinion regarding claim eleven?

A. Yes, I do.

Q. What is that?

A. That iManage discloses claim eleven.

Q. What does claim eleven add to claim nine?

A. Claim eleven adds "further comprising indexing content to the user environment such that a plurality of users can access the content from an associated plurality of user environments."

Q. Where is that in the iManage Reference Manual?

A. I showed a quote previously. We'll bring it up again.

When the iManage system describes itself, it describes itself as having three distinct entities: A file server, a set of information tables, or database. And these, by the way, have indexes to them and then it also says a set of index collections to the full-text documents in the library.

Q. Where is this in the iManage Reference Manual?

A. This is chapter one, page nineteen. If you look at the bottom, it says these three components work together to organize and index your documents, so for emphasis of that.

Q. With that, what is your opinion regarding how the iManage Reference Manual applies to claim eleven?

A. My opinion is that iManage discloses what's in claim eleven.

Q. Do you have an opinion regarding claim sixteen and how it applies to the iManage Reference Manual?

A. Yes, this is one we haven't seen before, at least not in my testimony. It's the method of claim nine further comprising accessing the user environment by importable wireless device.

Q. What does that mean?

A. Well, it essentially means can we access the -- we can access all the stuff from a wireless device such as laptop or PDA or something like that.

Q. What is your opinion regarding claim sixteen?

A. That iManage discloses claim sixteen.

Q. How does it do that?

A. I brought an identified part in

the reference manual that talks about iManage portable, and if we look at the first paragraph, it says a portable mode of operation allows you to take an iManage desk site document management system on the road with you, and it helps you synchronize your work with the network.

So this is around the year 2000 and -- sorry. 1999. I can't recall the exact date, but at that time there was a lot of stuff about what we called road warriors. These are people who would work in the office and then would take their stuff on the road and access their materials from computers elsewhere, a portable computer, or wireless laptop computer.

And what iManage has in this disclosure, it says that you can take your stuff on the road with you, and you can access -- not only will we let you work disconnected, but if you're connected at any time -- and that could be through your wireless device -- you would be able to access all the information as if you were wired.

Q. And where in the iManage Reference Manual are we looking at?

A. We're on the first page of chapter eight.

Q. What is your opinion regarding claim sixteen and the iManage Reference Manual?

A. That the iManage Reference Manual discloses the information in claim sixteen.

Q. Do you have an opinion regarding claim twenty-one and how it applies to the iManage Reference Manual?

A. Yes.

Q. What is that?

A. That the iManage discloses what each and every element of claim twenty-one.

Q. How is that?

A. Again we see the computer-readable medium for storing computer-executable instructions, and this is -- again iManage Reference Manual describes a computer system; therefore, one skilled in the art would know it would be on a computer-readable medium for storing computer-executable instructions.

And the system manages data and then it says "creating data related to user interaction of a user within a user workspace of

a web-based computing platform."

We talked about all this before. The only difference is that it's a user workspace. IManage gives a place for people to do their work, so by definition it gives them a user workspace, so that's covered.

The second elements is dynamically associated metadata with the data. We saw that on the history system. The data and metadata stored on the web-based computing platform, and again we talked about all this before.

The metadata includes information related to the user of the user workspace to the data, to the application, and to the user workspace. We saw that before in the history record plus the section that describes what the information captured.

Q. How about the tracking?

A. So we see tracking movement of the user from the user workspace to a second user workspace of the web-based computing platform, and again we've seen that this is just now in the context of a user workspace.

Do I have to read each and every

one of these?

Q. Unfortunately we have to go through each one so we know that each reference applies to every element.

A. Okay.

Q. What about the dynamic association of the data and the application with the second user workspace and the metadata?

A. Again we've seen that before. We talked about the history record shows the data and the application and the second user workspace, and that's stored as metadata.

Q. What about the user employing the application and data from the second user workspace?

A. Again we've seen that before. We saw that we have a history record people can see. They can actually bring up the document, and they have other means for accessing versions of that document.

Q. And finally, what about the iManage Reference Manual's discussion of indexing the data created in the user workspace such that a plurality of different users can

access the data via the metadata from a corresponding plurality of different user workspaces?

A. Again we've seen that before in the previous claim about indexes, so this is covered as well.

Q. What is your opinion regarding claim twenty-one and the iManage Reference Manual?

A. That -- that the iManage Reference Manual discloses each and every element of the claim twenty-one.

Q. What about claim twenty-three?

A. Claim twenty-three talks about a computer-implemented system that facilitates management of data. The iManage Reference Manual talked about a computer-implemented system.

Q. Does the iManage Reference Manual have a computer-implemented context component?

A. Yes, it does, and in this case, it also says it's of a web-based server. You can access things from it via the web; therefore, there has to be a server as well.

Q. Does the iManage Reference Manual disclose workspaces?

A. Yes, it does, and we already spoke about user workspaces.

Q. What about capturing context data associated with user interaction of a user while in the first user workspace?

A. Yes, it does, and we talked about.

Q. What about the rest?

A. All this was spoken about previously. It dynamically stores the context data as metadata on a storage component.

In this case it's on a web-based server, which it is, and data is associated with data created in the first user workspace.

Q. What about the computer-implemented tracking component of the web-based server for tracking change in information associated with a change in access of the user from the first user workspace to the second user workspace? Is that in the iManage Reference Manual?

A. Yeah, it is.

Q. What about the rest?

A. Essentially it's a rewording of everything I've covered already.

Q. What is your opinion regarding claim twenty-three as it applies to the iManage Reference Manual prior art?

A. That iManage covers -- discloses each and every element of claim twenty-three.

Q. Almost there.

What about claim twenty-five? Do you have an opinion on claim twenty-five?

A. Okay. So claim 1025 is that the context component capturing relationship data associated with a relationship between the first user workspace and at least one other user workspace, and I've already described that, in that people are working, user workspace, and this is shown as part of the history system.

Q. Where is that? Here?

A. Yes.

Q. And here, for the record, would be in figure 3.26; is that correct?

A. That's correct. We see that as part of the user's view of the history.

Q. What is your opinion regarding

claim twenty-five?

A. That the iManage Reference Manual discloses claim twenty-five.

Q. With respect to claim thirty-one, do you have an opinion?

A. Yes, this claim says that the storage component stores the data and the metadata according to at least one of a relational or object storage methodology, and we've seen that before in the description of what iManage does. It actually talks about databases. It talks about tables and things like this.

Q. Where is that in reference manual?

A. I believe I identified it.

If we look at this here, there we see the second one talks about information tables or databases. We talked about the file server and source of file. Files are objects, so all that's covered.

Q. If we go back to the claim language, and why does the mention simply of tables tell us that we have relational and/or object storage methodology?

A. It said databases before, and it said a table, so that's a relational database.

Q. What's your opinion regarding claim thirty-one?

A. That iManage discloses claim thirty-one.

Q. And finally, claim thirty-two. Do you have an opinion regarding thirty-two?

A. Yes, I do.

Q. What is your opinion regarding claim thirty-two and the iManage Reference Manual?

A. IManage discloses claim thirty-two.

Q. Why is that?

A. Here we have -- this speaks to the Many2Many functionality of data and iManage as a document management system. That's what it's for. As I mentioned at the beginning, it says so thousands of users can access millions of documents and all the information within them. This is for multiple people to access multiple things.

Q. What is your opinion regarding

claim thirty-two vis-a-vis the iManage Reference Manual?

A. That the iManage Reference Manual discloses what is found in claim thirty-two.

Q. Have you heard of the term enabling reference or enables prior art?

A. Yes, I have.

Q. What does that mean?

A. It means that the description is rich enough that one of ordinary skill in the art could build a system that has those characteristics.

Q. As far as the claims of the 761 patent -- just have those in mind -- is it your opinion that the iManage Reference Manual is an enabling reference?

MR. ANDRE: Objection, Your Honor. Outside the scope of this expert's report.

THE COURT: We'll note the objection. You may answer if you have the question in mind.

THE WITNESS: Can you read back the question, please, or restate the question.

BY MS. KEEFE:

THE COURT: Objection noted.

THE WITNESS: Except for the differences -- except for all the disclosures, the text, the figures are identical, yes.

BY MS. KEEFE:

Q. Are there particular features of the system disclosed by Hubert in the European patent application and the U.S.?

Let me back up. Are there features in the Hubert reference that are comparable to the elements of the claims in the 761 patent?

A. Yes, there are.

Q. And using claim one first as an example, can we walk through the language and compare it to the Hubert reference, please.

A. Sure. Here's claim one.

I think what I'd like to also do is I have a PowerPoint slide that -- like with Swartz, there's a lot of similar language that's used, so like in Swartz we saw that they used similar language.

Well Hubert, it's also the same. Here's from the 761 patent from claim one, one

of the elements.

It says, "dynamically storing the context information in metadata associated with the user defined data." The user defined data and metadata stored on the storage component, this is what Hubert says. He says certain additional data called metadata is stored with the document.

Metadata is simply data about data. Again similar words.

If we keep going, 761 describes the tracking component for tracking a change of the user from a first context to a second context. Hubert says there is also a need for a system and method managing documents which tracks all of the information about what happened to a document during its whole lifetime.

I guess there is a further need for a system and method of managing documents that can track a document's path of distribution, so by path we're talking about its movement from environment to environment, context to context. It's very similar language

that Hubert uses.

Q. Thank you. We now go back and try to apply the language you found in Hubert to claim one of the 761 patent, please.

A. Sure. So we see a computer-implemented, network-based system. That's what Hubert is describing, that it's network based. Well, it's running over the internet, and we see the first element, a computer-implemented context component of the network-based system for capturing context information.

Now I've identified places in Hubert that shows us if we could bring that up, so here we have page four of Hubert. It talks about the -- what's something that in part behaves as a context component. It says optional tool eighteen is shown in metadocument ten, and let me find the relevant part to it.

To continue in this embodiment, tool eighteen is an embedded software program which generates and stores processing information for this, and associated metadata for indexing and retrieving the processing

information, it follows by saying whenever the metadocument is accessed or processed, the tool generates a piece of processing information and metadata to record that fact. And this is exactly what a context component is supposed to do.

I should mention there's another embodiment or method where this system, instead of being part of the metadocument, is part of the source or environment. Hubert has several ways of describing a context component.

Q. What about the remaining elements of claim one?

A. Let's take a look where are we.

Q. We're at dynamically storing the context information.

A. That claim essentially says the same thing, that information is captured and stored as it happens.

Then for the second element, it talks about a computer-implemented tracking component for tracking a change of the user from a first context to a second context of the computer-based system.

And I've identified a part in the Hubert that shows this. Okay. So if we go to -- let me see here.

Okay. So at the end of that first line, it says Source 32 includes a processing program, if we can highlight that, and which processes the document information by copying the document text and storing it in a new document.

But most importantly, if you go to the, let's see, the next line. Sorry, skip a line. And it says a record of the fact that the meta-document 20 was received at Source 32 is stored as processing information and processing information is part of the metadata. So this is tracking the movement.

We see that we have this processing program that tracks the movement in this case, the receipt of this document of the second source. So there is one example of a -- of a tracking component.

Q. And what about the next portion of the claim that talks about dynamic updates?

A. Well, yes. As I mentioned before,

all this is happening on the fly and stored as part of the document. So this is also disclosed by Hubert.

Q. And what about the final portion wherein the user accesses the data from the second context?

A. Well, again, Hubert is all about we have documents, and people should be able to access that document and all the information at any time. This is precisely what Hubert was trying to do.

Q. So what is your opinion regarding Claim 1 of the '761 patent vis-a-vis the prior art Hubert patent?

A. My opinion is that Hubert discloses each and every element of Claim 1.

Q. Do you have an opinion regarding Claim 4 of the '761 patent vis-a-vis the Hubert patent?

A. Yes, I do.

Q. And what is that?

A. So here we -- they add a relationship between the user and at least one of the application data and user environment.

Q. And where is that in Hubert?

A. I believe I've identified here -- let's see. So if we look at the second sentence, it says namespaces. It says each of them is, more or less, dedicated to an application or a domain.

So it's talking about this as part of the metadata model. Maybe I should start from the beginning.

It says clearly, part of the value of the metadata model depends on namespaces and some of these namespaces are associated to an application or domain.

Q. Dr. Greenberg, what is a namespace?

A. A namespace is a way to essentially uniquely identify a set of data. So in this case, the name space would say, Here are things that happen within this application or within this domain.

So later on it's the last -- the second to last line. It says suppose we want to encode the identity of the reader, the rating he or she gives an associated comment. So we --

here we see that the system also will capture the user and that's enough to satisfy that claim element.

Q. So what is your opinion regarding claims regarding this Claim 4?

A. That Hubert discloses Claim 4.

Q. Do you have an opinion regarding Claim 7?

A. Sure. Claim 7 says wherein data created in the first context is associated with data created in the second context.

Now, remember, we talked about the meta for -- of the bee carrying pollen from place to place. So there's the association. It's capturing -- the meta-document is capturing not only what happens in one environment, but also what's happening between environments as things are moved around between these contexts.

Q. So what is your opinion regarding Claim 7 vis-a-vis the Hubert prior art patent?

A. That Hubert discloses everything in Claim 7.

Q. Do you have an opinion regarding Claim 9?

A. Yeah.

Q. And what is that?

A. So here we have a computer-implemented method. You know, Hubert is a computing system, so it discloses that.

We talked -- in the first element, now it talks about a user environment. You know, in fact, Hubert uses that term and uses the term environment. And so we have that.

Hubert is a web-based computing platform. I've shown you that Hubert says it runs over the internet. And I believe I have a few other places.

Do I? I can't remember.

Let me see.

Q. So what are we seeing here in Paragraph 9?

A. I -- this isn't -- I don't think this is the right one.

Q. But Hubert is a system that works over the internet; is that right?

A. That's correct.

Q. And so is that really all you need to establish that element?

A. Well, it's not all you need. It certainly is one of skilled in the art would know that. And I believe there's later references I have that talk about it working over at the -- over the web. So....

Q. What about the next element of Claim 9?

A. Okay. So we have dynamically associating metadata with the data. We saw that Hubert had stored on the storage component. We saw that.

We saw information related to the user, the data, the application and the user environment. I've actually covered that already.

We saw this tracking of movement and we have -- and that's already been discussed. And we also saw the dynamic updating stored metadata with all the other parts of that element.

Q. And what about the last portion of the user employing at least one of the application and the data from the second environment?

A. Yes. Well, this -- again, this is the whole point of the system that as you -- you can access your document at any time and see what's happened to it. So clearly this is what Hubert was all about.

Q. So what is your opinion regarding Claim 9 and the Hubert prior art patent?

A. That -- that Hubert discloses each and every element of Claim 9.

Q. Do you have an opinion regarding Claim 11?

A. Okay. Let's take a look.

So this is the one that talks about indexing the content of the user environment.

Q. Does Hubert disclose indexing?

A. Yes, he does.

Q. Where is that?

A. So here we see in -- if you look at the end of the second line or it's -- well, there it says information pertaining to each processing step is stored with the document along with metadata for indexing and retrieving the processing information.

Q. So do you have an opinion regarding Claim 11 vis-a-vis the Hubert patent?

A. Yes, I do.

Q. And what is that opinion?

A. That Hubert discloses Claim 11.

Q. Do you have an opinion regarding Claim 21?

A. Yes, I do.

Q. And what is that?

A. So that Hubert discloses each and every element of Claim 21.

Q. Why is that?

A. Well, let's look at this again. Hubert discloses a competing system.

So one skilled in the art would know that's on the computer readable medium. We've pretty well seen everything in the first element with the exception that we're talking about a user workspace. And again, we're talking about a meta- document.

This is a place where people are supposed to do their work. So, by definition, this is a user workspace.

The second element talks about

dynamically associating metadata with the data. We've seen that.

That's stored on web-based computing platform. We talked about this. This is on the internet. It's stored.

Q. What about the tracking of the movement of the user from a first user workspace to a second user workspace?

A. Yes. We've already seen that where, in fact, in Figure 2 you saw how it actually tracks the movement of a person from one source or environment, which is also their user workspace. And it's over the internet. So it's a web-based computing platform.

Q. And we can remember Hubert best because of the little bumble bee; is that right?

A. Yeah. That's a whole tracking of the movement thing. This whole idea of pollenization, if you think of this little bee going from flower to flower to flower, which in this case would be user workspace collecting stuff that's happened in each place and bringing it to the next one and leaving it behind and taking some more stuff that's happening and then

going onto the next. That's the knowledge that's being captured.

Q. And what about the dynamic association of the data and the application with the second user workspace in the metadata?

A. Yeah. So that's -- well, we saw that this is -- we've actually covered all of that before and we've -- I've also described how the person should be able to access all that from any context. It's the whole point of Hubert.

Q. And the last element of indexing?

A. That's essentially a remix of what I discussed previously. I've shown you the index in regard to this does do indexing and it's just been remixed into here. I think I covered that in Claim 11.

Q. Yes.

A. Yes.

Q. So what is your opinion regarding Claim 21?

A. That Hubert discloses each and every element of Claim 21.

Q. I'm sorry. We're almost there.

What about Claim 23? Do you have an opinion there?

A. Yes, I do.

Q. And what is that?

A. That Hubert discloses each and every element of Claim 23.

Q. And why?

A. So now we're talking about a computer-implemented system. Again, this is back to the same thing. Hubert's talking about a computer system.

We now see a computer-implemented context component of a web-based server. The fact that you can access this information over the internet would make it a web-based server.

We saw the first user workspace before. In fact, we saw all of this. All of this was essentially covered on the previous screens on my discussion. We saw capturing of context data associated with user interaction.

We saw dynamically storing the context data as metadata on a storage. We saw metadata being dynamically associated with data created in the first user workspace.

Q. And does Hubert also disclose the computer-implemented tracking component?

A. Yes, it does, in much the came same way that I said before. Remember the bee with its pollen.

There's a track component, that processing part of the system that tracks the change information associated with a user moving between these user workspaces.

Q. And so what is your opinion regarding Claim 23 vis-a-vis the prior art Hubert patent?

A. That Hubert discloses each and every element of Claim 23.

Q. Do you have an opinion on Claim 25?

A. Let's take a look. So here we're talking about a relationship capturing a relationship between the first user workspace and at least one other user workspace. And I've actually addressed this before.

But remember that bee with the pollen. This is essentially -- it is capturing their relationship, in this case, in the

meta-document itself.

Q. And so what is your opinion regarding Claim 25?

A. That Hubert discloses Claim 25.

Q. Only two more. So what about Claim 31, do you have an opinion?

A. Sure. So here it says the storage component stores the data and the metadata according to at least one of a relational and an object storage methodology.

Q. And does Hubert disclose that?

A. Yes, he does.

Q. Where does he do that?

A. I have a call out here. Here we see emerging technology such as RDF metadata and DOM, document object model, will readily enable implementation of meta-documents.

I should mention that RDF is a standard that's developed for the web. So again, it's, you know, another argument about all this being web-based platform, web-based system.

Q. So what is your opinion regarding Claim 31?

A. That Hubert discloses Claim 31.

Q. And finally, do you have an opinion regarding Claim 32?

A. Yes, I do.

Q. And what is that?

A. That Hubert discloses Claim 32.

Q. And why is that?

A. So this goes back to the many-to-many functionality. And again, Hubert was all about how can people access information about these documents?

And this is -- you know, goes to the heart of the Hubert system. It's all about multiple people accessing information.

He even uses the example of people trying to access ratings that people may give on documents. So it's all about finding what's happened.

Q. And so what is your opinion regarding Claim 32 vis-a-vis the prior art Hubert patent?

A. That Hubert discloses what's in Claim 32.

Q. Could you please pull back up the

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEADER TECHNOLOGIES, INC.,	)	Trial Day 6
Plaintiff,	)	C.A. No. 08-862-JJF-LPS
v.	)	
FACEBOOK, INC., a Delaware corporation,	)	
Defendant.	)	

Monday, July 26, 2010
9:00 a.m.

BEFORE: THE HONORABLE LEONARD P. STARK
United States District Court Magistrate

APPEARANCES:

POTTER, ANDERSON & CORROON, LLP
BY: PHILIP A. ROVNER, ESQ.

-and-

KING & SPALDING
BY: PAUL ANDRE, ESQ.
BY: LISA KOBIALKA, ESQ.
BY: JAMES HANNAH, ESQ.

Counsel for Plaintiff

A. That's right. I'm one of the inventors of that patent.

MS. KOBIALKA: Okay. At this time, Your Honor, I'd like to tender Dr. Herbsleb as an expert in computer science for his opinions.

MS. KEEFE: No objection.

THE COURT Ms. Keefe. Okay.

BY MS. KOBIALKA:

Q. What is your opinion with respect to whether or not the provisional application discloses all the elements of the asserted claims of the '761 patent?

A. That -- my opinion is that the provisional application does disclose all of the elements of the asserted claims of the '761 patent.

Q. We'll go through that in more detail. What is your opinion with respect to whether the asserted claims of the '761 patent is valid in light of the prior art that Dr. Greenberg relied upon?

A. All right. My opinion is all those claims are valid in light of the prior art

that is in Dr. Greenberg's report.

Q. What information did you review in order to come to your opinion?

A. Well, I reviewed Dr. Greenberg's report and all of the citations or all of the references cited in his report.

I reviewed the '761 patent. I reviewed the claim construction order. I reviewed the prosecution history of the patent.

And I think that completes the list.

Q. And you reviewed the provisional application?

A. Of course, I did review the provisional application.

Q. For all of your analysis, did you understand that you needed to identify who constitutes one of ordinary skill in the art as it relates to the '761 patent?

A. Yes, I did.

Q. Who would that person be?

A. Well, it might be one of ordinary skill in the art would be someone with a bachelor's degree in computer science or related

field, and/or perhaps several years of experience.

Q. And would someone with let's say Master's degree in computer science fit within the scope of one of ordinary skill in the art?

A. Sure. I think so.

I mean, it's increasingly common for developers in industrial settings to have bachelor's degree. So I don't think that would be unusual.

Q. And as you get more advanced in degrees, is it typical to specialize in a certain area?

A. Yeah. I think by the time someone is studying for Ph.D., the things that the person is studying for are extremely narrow and aren't typically all that helpful in real world in building things like web applications.

So I think a Bachelor's degree or higher would be -- people in that category would be fairly equivalent when it comes to building applications like this.

Q. Did you do all your analysis for the opinions that you're going to provide today

from the perspective of one of ordinary skill in the art at the time of the '761 patent invention?

A. Yes, I did.

Q. So let's turn to the provisional application.

A. Okay.

Q. You can maybe show that up on the screen here. Do you -- this is PTX 3. Do you recognize that document?

A. I do.

Q. And on the face of it, do you see where the inventors are listed?

A. Yes, I do. Michael McKibben and Jeff Lamb.

Q. And are those the same inventors listed on the '761 patent?

A. Yes, they are.

Q. Now, if we turn to the face of the '761 patent, maybe we can enlarge for the jury where the inventors are listed as well as -- yes, all of that information.

Thank you.

And do you see where the inventors

are listed on the '761 patent?

A. I do. Yes.

Q. Does the '761 patent identify the provisional application on the cover?

A. Yeah. I believe that's down on Line 60 provisional application, which is the line that you're referring to.

Q. And based on your review of the provisional application, does it disclose all of the asserted elements or all of the elements of the asserted claims of the '761 patent?

A. Yes. In my opinion, it discloses all of the elements of all the claims.

Q. Is it based on anything other than it's just a review of the provisional application?

A. Yes. Actually, I have two things that I did to sort of answer that question. One was to review the provisional application.

And based upon that, I reached the opinion that it discloses everything that the '761 patent does. So in a way that allows someone to make and use the invention. But to test that, I took another step and I identified