hear a lot of in patent law is enabling. Do you know what that means?

A. Yes, I do.

Q. What does it mean to be enabled or enabling technology?

A. It mean that is -- this description has to be enough that somebody of ordinary skill in the art could go and build it. It doesn't have to say everything, but it should be rich enough that you can say, here's what it says, and you can do something about it.

Q. And in your opinion, was the text and code in the back of the provisional application enabling technology?

A. It was enabling in the sense that I understood enough to determine it's about creating boards and setting the relationships between those boards. In that sense, it's enabling.

But it's not a full specification. There's a lot of stuff missing, such as in those import files. I could tell from the code in the description that it matches the description I told you, but in terms of enabling what's in the

761 patent, I would say it's not.

Q. So the -- in your -- in your opinion, did the disclosure from the provisional application, including the code at the back, enable one of skill in the art to build or understand what was in the claims of the 761?

A. No.

Q. In your opinion, does the provisional patent application disclose each and every element fully of the asserted claims of the 761 patent?

A. No, they do not.

MS. KEEFE: This is a good place for a break, Your Honor, or we can go to the next topic.

THE COURT: I know the next topic will take more than six minutes.

MS. KEEFE: I promise it will.

THE COURT: Based on that promise, we'll start our lunch a little early today and have the jurors back in time to start again at 1:30.

THE CLERK: All rise.

(The jury exited the courtroom at

12:22 p.m.)

THE COURT: You can step down, and the rest of you can sit.

Just talk briefly about where we are.

You're free to go.

THE WITNESS: What time?

THE COURT: Talk to your attorneys about that.

I've been advised that a new declaration of the special verdict form has been filed as I directed, so I'll start taking a look at this, and I figure we would have our prayer conference after we finish testimony today, which I'm guessing will be 4:30, but if it were all wrapped up before then, we would go to the prayer conference.

Any questions or needs to be addressed?

MR. ANDRE: No, thank you, Your Honor.

THE COURT: Mr. Rhodes?

MR. RHODES: No, thank you, Your Honor.

THE COURT: We'll see you back at 1:30 then.

THE CLERK: All rise.

(A recess was taken at 12:23 p.m.)

THE CLERK: All rise. Court's now in session.

THE COURT: Let's bring the jury in.

MS. KEEFE: I have the special verdict form, just to hand up physical copies.

THE COURT: Okay. That's fine.

You can do that as we're bringing the jury in. Thank you.

THE CLERK: All rise.

(Jury entering the courtroom at 1:50 p.m.)

THE CLERK: Please be seated.

THE COURT: Good afternoon, ladies and gentlemen. Welcome back.

And let me apologize. I had some other matters come up. I wish this was the only case I was dealing with, but I actually have a few others.

And there was some other urgent

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things I had to take care of and I apologize for keeping you waiting. And welcome back and let me keep you waiting no longer.

Ms. Keefe.

MS. KEEFE: Dr. Greenberg.

Go ahead and put up the summary slide.

BY MS. KEEFE:

Q. Good afternoon, Dr. Greenberg.

A. Hi.

Q. So before lunch, I think we were talking about your first opinion; is that correct?

A. That's correct.

Q. And what was your first opinion, again?

A. So just to summarize, the provisional patent application does not disclose every element of each asserted claim of the '761 patent.

Q. Thank you.

I'd like for us now to move on to your second opinion. Now, before we dive into that, I think one of the terms that we keep

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hearing is prior art.

What is prior art?

A. Well, prior art is essentially stuff that's been -- that's been created before the critical date. So it could be publications. It could be systems or other things like that.

Essentially anything that discloses ideas and inventions.

Q. And what are the names of the four things that you have here next to the bullets?

A. Do I have to recite the numbers or?

Q. No, just the names is fine.

A. So Swartz was the inventor of the first patent. And the iManage is actually a system, and it's a reference manual that I've been using to base my opinion on.

Hubert is an invention of a European patent. And Ausem is the inventor of the U.S. patent.

Q. Can you please turn in your binder to PTX 0919.

A. I see it.

Q. You see it? And what is that?

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A. That's the Swartz patent that I've used.

MS. KEEFE: Your Honor, at this time, I'd like to move the Swartz patent into evidence.

MR. ANDRE: No objection.

THE COURT: It's admitted.

BY MS. KEEFE:

Q. Dr. Greenberg, you've stated that you have an opinion on the Swartz patent and how -- as to how it relates to the asserted claims of the patent in this case.

What is that opinion?

A. So my opinion is that Swartz essentially discloses all of the ideas or inventions in the -- in each one of the elements of the asserted claims of the '761 patent.

Q. Now, I noticed you essentially disclose everything, every single one. I'm sorry.

A. Yes. It discloses every single one.

Q. Can you explain what are the dates that we're seeing here on the screen?

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A. So the bottom date is the date that this patent was filed, which we see is June 29th, 1998, which is quite a long time before the '761 patent. And in fact, the patent was actually granted by the Patent Office and obviously very publicly available on May 2nd, 2001, which is also well before the date of both the provisional and the '761 application filings.

Q. Have you read and studied the Swartz patent?

A. Oh, yes.

Q. And what is the Swartz patent about?

A. So I actually have a -- maybe there's a graphic that I could use to just kind of give a high-level view of it. It's power point.

Q. Do you have the --

A. No.

Q. You mean the animation that you worked on?

A. No. It's -- oh, sorry. I believe it's Figure 1.

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Q. Figure 1. Okay.
A. Yeah.
Q. Can we find Figure 1 of the Swartz patent?
A. Yeah. So this is kind of an abstract figure, but essentially Swartz was really interested in or really concerned about what happened when people would be using a variety of systems in a fairly serious process.
So he was looking, for example, and this is his example of what are all the things that people do when they're developing a drug, and eventually they're going to file it to a regulatory agency for approval.
And the problems of the time was that people would be using a variety of systems to do all the work. So these systems are essentially the context and environments where they do their work.
So, for example, those bottom three bubbles are EDMS. That would be enterprise document management system.
They may use that. Then they may use an imaging management system to manage all

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the images they produce and an enterprise workflow system.
And the problem that existed was that as people would be doing their work through this, essentially their information would be fragmented and not captured.
So what he -- what his invention essentially --
Q. Could you give us an example of that? You said people using these systems, our work could be fragmented.
A. Sure. So, for example, if somebody is developing a drug, there's lots of documentation and other things that happen with that, so if they're doing a little bit on one system and moving over to another system or another different environment or context, then essentially that all this stuff they do is separate.
And as part of a -- when you're in the business of doing things like drug regulatory approval, you need to be able to track all the stuff that happens along the way: When your ideas were created, the documents, and

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so on.
So his concept was to trying to integrate the systems by this thing called knowledge integration, which would monitor what people could do within a particular context or system, track as they move between them, essentially, to use Swartz's term, to create a knowledge path of all the things they did across the systems.
That's the big picture view of what Swartz was looking at.
Q. What words in the patent itself led you to the this?
A. There are words very similar in the 761 patent talks about context tracking, metadata. I think that will come up -- I prepared other slides to look at later.
Q. What are we looking at here?
A. So this is an example from the Swartz patent, and we can see some -- in fact, we can see some of the words he uses here.
He says, "Such a system also preferably captures metadata associated with the information shared, stored, and

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accessed by the users of the data so as to characterize the context in which the information is being used."
The context is the things they're doing within the system and also going between systems.
Q. Now, can this system be used to change the data itself, like the document about the drug?
A. Of course. This is all an evolutionary thing. As people are doing the work, they're creating things, changing things, adding to things, and all the usual stuff I would expect.
Q. Are there other portions of the specification that led you to believe that Swartz has invented this idea first?
A. Oh, yes. I believe I've identified some other places. Maybe we could bring that up.
This is kind of a high-level view of the concept that I stated previously. So on the left and right here, we are actually seeing two different systems that he was talking about.

Doesn't really matter what they are.

For this example, we see a customer-data analysis application that somebody could be working in that context, then they could be moving to customer document application in the middle, that data docket software.

That's what Swartz calls the knowledge integration part. This is what's monitoring what people are doing in the left and right context, tracking as they move between them, and storing that as metadata, which is what we saw in the previous excerpt.

Q. How does the text of the patent describe this data docket software?

A. Very similarly. In fact, this is something I identified within the patent, so here's the data docket phase. We see that up on top, and that's the thing in the middle. That's watching what's going on.

We see words in it like point number C generation of an audit trail to represent the flow of data an audit trail is all these things that happened with that data as people use it over time.

Q. What's another way of thinking about an audit trail in terms of the language in the patent?

A. It's tracking context information across everything that happens. We see burgeoning after analysis data. We're capturing data as well and all the data as it changes over time.

We see number eight -- we see using stored context information to provide access to the historical information about how a report was created. This is like, if you think about capturing context, we're talking about how a person would create a report, who actually did the work, when it was completed, as well as other things.

So he talks about this as historical information. So when Swartz is talking about capturing the stuff, he's not talking about capturing a little bit about what they're doing. He's talking about a flow of events that captures what happens over a course of time, all the decisions made, and that's referred to later as a knowledge pattern.

Q. Is there a figure in the patent that describes more detail about the information that's being gathered?

A. Yes, and I've identified that, so this is, kind of, a portion of the figure -- I don't remember the figure number.

Q. Five?

A. Sounds about right.

-- where we see -- and again it's kind of abstract. We see at the top this thing called the knowledge repository, and this is the stuff that the system is keeping track of.

If we look at the left, we see the top three things, and maybe we can highlight those where it says record of transactions. It keeps a record of the transactions. It keeps a record of the context information from users and their applications, and it has this information, metadata catalog, so we see the metadata is there as well.

More importantly than that, if you look at the bottom of the picture, there's a bubble that says "knowledge integration," and below that, vertical text called "knowledge

path." And this is the aspect of the system that says, let's capture this as a sequence of events that occurs as people do their work over time.

We're not just talking about within a system, here's what people are doing, but also as they flow from system to system to system, and this is the essence of tracking movement.

Q. And did you find other quotations in the patent that also describe this figure?

A. Yes, I've identified some. Let's take a look at this quote.

Q. Where are we here?

A. We're in either column five or six. It's hidden away.

Q. Is it fair to say column six, line seventeen?

A. Sounds right.

This is in the Swartz patent. Let's look at what we says here, and as used herein, the term knowledge integration middleware represents -- and that's that thing at the bottom.

If you remember, that has -- the knowledge path represents any software used to assist in the integration of disparate information sources and the corresponding applications for the purpose of recording distributing and activating knowledge, knowledge application, knowledge services.

And I think the next line is really a good one to match to the 761 patent because he says "more specifically, knowledge integration middleware is preferably employed to identify and hereby identified --" he says, including tracking monitoring as well as analyzing.

Here we're monitoring what people do in the system. We're tracking what they do in between the systems in the context, and he uses that word, the context, in which information is employed so as to enable the user of such context in the management knowledge.

We're seeing wording that's similar to the 761 patent.

Q. Are there other paragraphs in the Swartz patent that also --

A. Sure, there are numerous examples.

Here is another one. So this is again from the Swartz patent from column seven, where Swartz says he's describing why this is a good thing.

So he says some key advantages of the present invention are the saving of context. Again we see context comes in. That's important.

And having the ability to visualize and explore past, present, and potential decisions. There's two contexts, first, to visualize. We're accessing all this stuff, not collecting and sticking it on a computer, but it's for the people to access all this information, context information, and the stuff they do to explore past, present, and potential decisions.

There we have again the concept of the knowledge path. There's a flow of events that happen over time as people do these things both between and within the context. So that's really the major thing that I wanted to point out in this passage.

Q. Did you prepare some graphics to show how the Swartz patent could operate?

A. Yes. So this is -- what I've done is I've taken Figure 2 and which shows the data docket software and in this case two different contexts or two different systems on the left and right. And I've added the bottom part of Figure 5, which is essentially the knowledge.

Sorry. This is the top part of Figure 5. It's essentially the knowledge repository.

Now, if we abstract a little and the data docket software, that's doing the context monitoring. And the tracking is shown in the middle of Figure 2A.

So if we abstract this a little bit, we have our two contexts in this case, the customer data analysis software and enterprise document management system.

And at the bottom, if we abstract that, we have our knowledge repository. This is where stuff gets stored.

So what Swartz does, if we continue on from here, is essentially we're --

well, this quote kind of captures it. We're watching what people do as they do their work in a particular system.

And here he says such a system also preferably captures metadata associated with the information shared, stored and accessed by the users of the data. And again, so as to characterize the context in which the information is being used.

So this is all -- you know, clearly this is what's happened. You are capturing the context. There's software that captures the context information and that's being stored in this knowledge repository.

Now, if we keep on going, so this is also -- now, we get to the tracking. So here's another quote, which you've actually seen before where it says knowledge integration middleware is preferably employed to identify -- and here we see the including tracking, monitoring and analyzing the context in which information is employed.

So here we have a person moving across context and that's also tracking and

captured and put in the knowledge repository.

If we go on. And, in fact, even in the claims of Swartz, Swartz actually says that his system generates this audit trail to represent the flow of data. So, again, we have this notion of tracking in one of the claims.

And in Claim 5, he actually says that all this is dy -- that the system dynamically stores information about these transactions. So this is all happening as people are doing their work.

Q. Now, how do these features that you've just described compare to the claims of the '761 patent?

A. Well, they pretty well -- well, not pretty well. They describe using Claim 1 as an example. This describes what Claim 1 is doing.

Q. Can we go through the animation again and have you use the language of Claim 1?

A. Okay. I just want to get the language of Claim 1 in front of me to see.

Q. Why don't you put it up on the white board to the side of you, so we can have

it at both places at the same time.

A. Okay. That would be helpful.

Q. Just make sure it's clean for us.

So Dr. Greenberg, I'm going to have you help us step through the Swartz patent and what it discloses with each and every one of the limitations from Claim 1.

A. Sure. But let's back up one more step, because -- and even again remember that I'm talking about the data docket software is kind of watching what's going on, and the data docket software actually has software that's equivalent to the -- what we'll see here is a context component and also the tracking component. So now we can move through that.

Later I'll talk about it being a network-based system. But here we have the data docket context software is a context component and it captures the context information associated with the user-defined data.

So if we step through this, again we see here at the bottom, it's talking about a captured metadata associated with the information. So it's characterized in context.

So there we go, we're characterizing context.

And then it says, the context component dynamically storing the context information in metadata. And that's mentioned. That quote also captures that.

We see the captures metadata and so it's there.

Q. So Dr. Greenberg, I'm sorry. Just to slow down one second.

A. Yeah.

Q. So which portions of Claim 1 are you saying map to the quote that we have here on the screen?

A. Okay. Right now I'm looking at the first element of Claim 1.

Q. So is that computer-implemented context component of the network-based system for capturing context information associated with user-defined data created by user interaction of a user in the first context of the network-based system?

A. That's correct.

Q. Okay.

A. And then I went on to talk about

the context component dynamically storing the context information metadata. And we see the metadata over there.

Q. And which -- which portion of this language -- seems a little obvious, but which portion of this language tells you that?

A. Well, captures meradata associated with the information shared, stored and accessed by the users of the data.

Q. So is that just generic metadata or is that a specific type of metadata?

A. No, this is -- well, it's very specific, because it says below, so as to characterize the contents. Right.

This is all about what are people doing in a context? What exactly is happening? As in this case, they're using that customer data analysis software system.

Q. Thank you. Please go on.

A. Okay. Can I see the next animation just to -- okay.

So we have in the second claim, we have a computer-implemented tracking component of the network-based system for tracking a

change of the user from the first context to a second context of the system and then dynamically updating the stored metadata based on the change.

Now, here in this quote, he says we have this knowledge integration middleware so that does some of the tracking that's preferably employed to identify, including tracking, monitoring and analyzing the context in which information is employed.

So, again, we have the tracking coming into play, which is what that claim is all about. And if we keep on going.

And here we see in the claim, it generates an audit trail. And that's part of the storage functionality. Right.

As people are doing what they're doing, it's being stored. And we see that in Claim 5 as well. That is the dynamically stored. Right.

So we're dynamically storing information about these transactions as people are doing them.

Q. How do we know that it's the same

metadata that's being updated?

A. Well, this is a whole point of the system. Right.

It's about capturing this knowledge path, which I mentioned before. It's about what is it that people are doing and can we actually create that as a knowledge path.

So it's all related. It's not just different stuff. It's related from what happens within a context.

How do we track what people are doing as they move from one context to the other? How do we store what happens in the second context? How do we store all that as metadata?

So it presents this knowledge path.

Q. And where was Mr. Swartz when he wrote this patent?

A. I'm not sure where he went to. I do know that the patent was assigned to -- was assigned to Xerox. So I can assume that he was working for Xerox at the time or he had some relationship with them.

But I don't know that for sure. All I know is that Xerox is, in fact, the actual assignee.

Q. And when was this, again?

A. I'll have to look back on that first page, but I said it was late '90s.

Could I just have it right in front of me?

Q. That's okay. So when was that filed again?

A. So he filed it in 1998, and I think this is, what, five years before the '761. So quite a long time before the '761 patent.

Q. Dr. Greenberg, what is your opinion as to whether or not Swartz discloses each and every element of Claim 1 of the '761 patent?

A. My opinion is that it does disclose each and every element of the -- of Claim 1 of the '761 patent.

Q. And what does that mean?

A. Well, what it means is essentially -- well, what it means is that the ideas that are presented in the '761 patent

appear in the Swartz patent. So -- so and I should be more specific.

The ideas that are present in each and every element of Claim 1 are presented in Swartz. Swartz actually had these ideas well before that and published it.

Q. And do you have an opinion as to whether or not that affects the validity of the '761 patent, Claim 1?

A. Yes. My understanding of patent law is that prior art essentially discloses each and every element in the claim and that that claim would be invalid.

Q. Have you also applied the teachings from the Swartz patent to the other claims of the '761 patent?

A. Yes, I have.

Q. And can we go through those now?

A. Sure.

Q. Put up Claim 4.

A. I think before that, I had something that actually looked at the language of Claim 1.

Q. Absolutely.

A. Yeah, because I think -- I don't think I finished with Claim 1 because there's another point that I -- well.

Q. Oh, no. Thank you very much.

Sorry if I missed a step.

A. So what I wanted to say, these are -- on the left, we see excerpts from Claim 1 from the elements of Claim 1. On the right, we see language from Swartz.

And I think you've seen some of this before. But I really want to stress that not only are the ideas that Swartz talks about essentially or they disclose what's in those claims, but he uses almost exactly the same language. So we have -- it's not just, oh, Here's an idea. There's debates about it.

But the language in it is very, very similar language. So in the '761 patent, the element -- one of the elements talks about dynamically storing the context information and in metadata associated with the user-defined data, the user-defined data metadata stored, and a storage component.

And we look at Swartz, and he says such a system also preferably captures metadata associated with the information shared, stored and accessed by users of the data, so as characterized the context in which information is being used.

So we see the words are the same. Well, the ideas are the same and the words are the same.

If we can keep on going here in the '761 patent element in the of Claim 1, we see the tracking component of a network-based system for tracking a change of the user from the first context to a second context. And you see in the quotes on the right where he talks about his knowledge integration middleware that is employed to identify.

And here he talks about including tracking the context so as to enable the use of such context in the management of knowledge. So, again, we see the idea of tracking context and other things in the Swartz.

Furthermore, in the '761, it talks about dynamically updating metadata on the

database.

On a change in Swartz, he says the recording of the data should be done automatically, electronically, with dynamic linkages to the source information, so as this is happening as things occur.

I believe there's one more at the end of claim one. It says "wherein the user accesses the data from the second context," and in Swartz, Swartz says "such a system also preferably captures metadata associated with the system changed, stored, and accessed by the users of the data so as to characterize the context in which the information is being used."

Very similar words. There's many ways to describe the invention. What I found compelling about Swartz is not only does he have the same ideas, the words he uses are identical to what the 761 patent had five years later.

Q. Thank you. Can we move on to claim four.

A. Sure, I think that's it on that.

Q. Here's claim four. Are you

familiar with claim four?

A. Yes.

Q. And do you have an opinion as to whether or not the Swartz patent discloses as prior art the information claimed in claim four?

A. Yes, they do, and my opinion is that it does disclose it.

Q. Why is that?

A. Well, claim four adds that the context information includes a relationship between the users and at least one of an application, application data user, and environment.

I've already spoken about how Swartz defines a knowledge path. That captures everything that's going on. We showed a quote that says this is the user information and the application data. That's satisfied here.

Q. What is your opinion about claim four?

A. That Swartz essentially discloses what's in claim four.

Q. Essentially or --

A. It does. Sorry. It does disclose

what's in claim four.
Q. Do you have an opinion regarding claim seven?
A. Yes, I do.
Q. Is this claim seven?
A. Yes.
Q. What does claim seven add?
A. Claim seven adds that data created in the first context is associated with data created in the second context.
I addressed this with the tracking and by Swartz's use of language like "knowledge path," that essentially it's not just recapturing what happens here, and they're disconnected.
He really is interested in the whole path of knowledge as a sequence over time. We already saw terms like audit trails. All these things are to take the data and relate them together across all these contexts.
Q. What is your opinion regarding Swartz and claim seven?
A. Swartz anticipates claim seven.
Q. When you say anticipate, what do

you mean?
A. It means it discloses the idea in claim seven.
Q. Do you have an opinion as to claim nine?
A. I do.
Q. What is your opinion regarding claim nine?
A. So claim nine is a variation of claim one. In claim one it -- so here we have -- in claim nine -- instead of --
So we talk about a computer-implemented method. Now, Swartz is describing a system, so it's obviously a computer-implemented method, and it comprises computer-executable acts. We're talking about a computer system, so it does that.
Creating data within a user environment. Now, this is one of the differences. In claim one, it talks about context. In claim seven, it talks about user environment. The Court has actually construed context to be the same as environment. That's how it defines it. In one sense, that's

satisfied.
More generally, Swartz is describing all the stuff people are doing in a system, so that's their environment for doing their work, so that's all satisfied by Swartz.
Then it says of a web-based computing platform. And this is also another difference from claim one, and I identified parts in the patent that shows Swartz discloses the web-based computing platform.
Q. This one of those?
A. Yes, it is. Here's an excerpt from Swartz.
He says, "Knowledge management level also includes data docket web-based knowledge reporter." So clearly this is a web-based system or it has capabilities of a web-based system, so this is a web-based platform.
At the bottom we see the data docket being accessed by the web browser. Clearly this is a web-based platform.
Q. What about the other elements of claim nine?

A. So okay. So the rest of claim one is pretty well -- the rest of the first element of claim one is what we've seen before in a user interaction with the user environment or context by user using an application. The data and form and files and documents. We talked about this.
The second paragraph says "dynamically associates metadata with the data and the data and metadata stored on a storage component of the web-based computing platform." We've already seen it's web based.
Q. Is it stored?
A. Yes.
Q. And is the metadata dynamically associated with the data?
A. We -- all that before when I talked about dynamic, the bottom part says the information includes -- metadata includes the information related to the user, the data, the application, and the user environment.
The third element 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 computer

platform, and we talked about that in claim one, except here it's web based, and we showed that's web based.

Finally, dynamically updating stored metadata with an association of the data to the application and the second user environment. For this entire claim, we've already covered -- we talked about dynamically updated stored metadata.

Q. For the very last portion?

A. Remember that this is all about users being able to review their decisions and to see all the things that have happened, so this is where a person can employ at least one application from the data to the second environment, second context in fact, at any time.

Q. What does that mean to you? The user employed one of the applications and the data?

A. It means they can look at the data at a later time. It's not just stored in the system for nobody to look at it. This is something for people to use and review.

Q. What is your opinion regarding claim nine and the Swartz patent?

A. That claim nine anticipates the 761 patent. That is, it discloses each and every element.

Sorry. Said that wrong. Swartz discloses each and every element of claim nine of the 761 patent.

Q. Thank you.

Do you have an opinion regarding claim eleven of the 761 patent regarding the Swartz reference?

A. Claim eleven essentially adds comprising indexing contents of the user environment such that a plurality of users can access the content from an associate plurality of user environments.

Q. Let's start from the --

A. Okay.

Q. -- very beginning --

A. Claim nine.

Q. -- claim eleven.

A. Sorry. Claim eleven adds the method of claim nine further comprising indexing

content of the user environment subset of plurality of users can access the content from an associated plurality of user environments.

Q. From a plurality of user --

A. Plurality of users can access the content from an associated plurality of user environments.

Q. What does that mean?

A. Essentially this means that the content is indexed, so an index is created so that one or more people can access it from one or more user environments.

Q. Is that disclosed in the Swartz patent?

A. Yes, it is. I believe I identified the part. Here it is.

Here's an example. This is something that's fairly familiar to most people is part of searching. So the ability to initiate and retrieve information that indexes documents across the enterprise by accessing industry standard databases and presenting the results its an easy-to-use and read format.

Q. What is your opinion regarding

claim eleven and the Swartz patent as it relates to the 761 patent?

A. My opinion is that Swartz anticipates or discloses claim eleven of the 761 patent.

Q. Do you have an opinion regarding claim twenty-one --

A. Yes, I do.

Q. -- of the 761 patent as it relates to Swartz?

A. Yes, my opinion as before is that Swartz discloses each and every element of claim twenty-one.

Q. How is that?

A. Again there's a lot of similarities between this and the previous claims. I'm going to highlight the differences.

We're talking about a computer-readable medium for storing computer-executable instructions. Essentially this means we have a computer program that's stored somewhere.

And again Swartz describes a computer-based system, so anyone skilled in the

art knows that would be on a computer-readable medium.

And the first element, he talks now about the user workspace instead of a context or user environment. There's parts of the patent where the 761 patent talks about a user workspace as being the same as an environment or context, but it's safe to say that Swartz is describing a system where people are working within that system, so that's their using workspace, so whether or not we look at the definitions, that this is what Swartz is all about as well.

Then he talks about a web-based computing platform. We talked about that. We talked about dynamically associating metadata with data. We talked about everything in that second element before. We talk about tracking movement, and I've talked about web-based computing platform.

In the third element, we have tracking movement from the user workspace to the second user workspace of the web-based computing platform. Swartz talks about tracking movement.

Essentially the systems are using workspaces, and it's a web-based computing platform.

Then the fourth element says dynamically associated with data and the application of the second user workspace and the metadata such that the user employed the application and data from the second user workspace --

I remember to slow down.

-- and again we've seen all that before. This is just done in the context of a user workspace instead of environment.

And the final one, he adds indexing the data creating the user workspace such that a plurality of different users can access the data via the metadata from a corresponding plurality of the different user workspaces. It's just bringing what is -- I think it was claim eleven that talks about indexing, so I've already spoken about how Swartz discloses that.

Q. What is your opinion regarding claim twenty-one of the 761 patent vis-a-vis Swartz?

A. My opinion is that Swartz discloses each and every element of claim twenty-one of the 761 patent.

Q. Do you have an opinion regarding claim twenty-three?

A. This is very much the same with some minor differences. I know it seems tedious.

Here he talks about a computer-implemented system, and again Swartz is talking about a computer system, so it's a computer-implemented system.

Now he's talking about a computer-implemented context component. Swartz is talking about the data docket system, which is software, computer-implemented context component.

Now, a web-based server instead of a web-based platform, I believe, and we saw how we can access this system via the web, so this would give it the functionality of a web-based server for defining, first, user work space of the web-based server assigning one or more applications to the first user work space

capturing context data associated with user interaction of the user while in the first user workspace.

Essentially I've already spoken about that in terms of how Swartz says we try to capture everything people are doing. Within the system context user workspace, this includes applications and other things and then it says for dynamically storing the context data as metadata on a storage component of a web-based server.

Again I addressed all this before. We talked about how it's dynamically stored. We talked about how this is a web-based server, and it says metadata which is dynamically associated with data created in the first user workspace. That's all things I mentioned before.

The second element is very similar to what was previously seen. You have a computer-implemented tracking component, and again the data docket software includes the computer software, so it's computer implemented and does tracking.

We talked about the server aspect

and tracking change information associated with the change in access from the first user workspace to a second user workspace, and we talked about storage component as part of the metadata and the user accessing that data from the second workspace.

Q. What is your opinion regarding twenty-three?

A. That Swartz discloses each and every element of the twenty-three.

Q. Do you have an opinion regarding claim twenty-five?

A. Sure.

So claim twenty-five adds on to claim twenty-three where he says the context component captures relationship data associated with the relationship between the first user workspace and at least one other workspace.

I spoke about this earlier when I talked about the knowledge path. It's capturing the relationship within a context or system or user workspace and how they move to the next one over the knowledge path, what happens over time.

Q. Do you have an opinion regarding

claim twenty-three?

A. Yes, that, Swartz anticipates.

Q. I'm sorry. Twenty-five. I said it wrong.

With respect to claim twenty-five, do you have an opinion?

A. Yes, Swartz anticipates or discloses claim twenty-five of the 761 patent.

Q. Do you have an opinion regarding claim thirty-one?

A. Sure. Claim thirty-one says essentially -- takes -- I have to stop using essentially.

Takes claim twenty-three and adds that the storage component stores the data and the metadata according to at least one other relational and object storage methodology, so it has to do at least one or the other.

Q. What is a relational storage methodology?

A. Well, a relational storage method is a relational database. It's a method used for many decades in the industry to store data on tables for later retrieval.

Q. Does Swartz disclose this?

A. Yes, I believe what he discloses specifically is the second part of that, where there's an object.

Can we go back to the claim. Just go back one.

So what he disclosed specifically is an object storage methodology, although relational storage would be known to one skilled in the art as well.

If we go back, we see Swartz says another aspect of the present invention visualizes objects and linkages maintained in the integration knowledge base, so here he talks about objects being maintained in the knowledge base.

Q. Do you have an opinion regarding thirty-one?

A. Yes.

Q. What is that?

A. That Swartz anticipates or discloses the claim.

Q. Thirty-one?

A. Thirty-one.

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

A. Yes. So Claim 32 adds onto Claim 23 where it says storing of the metadata in the storage component in association with data facilitates many-to-many functionality of the data via the metadata.

Q. What does that mean?

A. Well, what the Court has construed is that many to many means that essentially two or more people can access -- I'm trying to remember what the Court's construction was.

Q. You used --

A. Two or more people. I used the Court's. Essentially it means that two or more people can access two or more things in here.

And what we're really getting at is that this isn't just a system for one person to access one thing. It's for many people to access many things from many different places.

I think that's the essence of it. Now, just to remind you what Swartz is all about is about this knowledge path.

Right. He's talked about this big

system where people from a whole bunch of different places can query to find out what is it that people did? What is it that they did in this context and that context? Where were decisions made? How can I understand what's happened over time?

So -- so this is exactly what Swartz is about. This isn't a single user system. It's an enterprise-wide system that allows multiple people to access data from multiple places.

Q. So what is your opinion regarding Claim 32?

A. That Swartz anticipates Claim 32 of the '761 patent.

Q. Can we pull up the face page of the '761 patent, please? Can we highlight the box that's titled References Cited, please?

Dr. Greenberg, do you see the Swartz patent mentioned here?

A. No, I do not.

Q. So just in sum, what is your opinion as it relates to how the prior art Swartz patent applies to the asserted claims of

the '761 patent?

A. So overall, Swartz, which was, as I said, about five years before the patent application, the '761 application discloses each and every element of the asserted claims of the '761 patent.

Q. Can we go back to your summary slide, please?

What is the next piece of prior art that you studied?

A. The next piece of prior art is the iManage Desk Site User Reference Manual which describes the workings of the iManage 6.0 system.

Q. Can you pull that up, the face page of iManage, Ken?

What is iManage?

A. So -- well, iManage is a document management system, and I will have some disclosures in there that talk about what it is. But essentially iManage is a way for people, groups of people to manage all their documents.

Q. And I apologize, this may be a little bit tedious, but we're going to have to

go through this kind of just the same way we did with the last one.

So when was iManage published?

A. Well, if we look at the second page of the manual, it includes a date in it. So this would be the second page of the iManage Reference Manual.

No. No, it's not power point. It's the reference manual itself. There.

There, that's it. Oh, it is power point.

So the second page actually says when this manual was last updated and we see that the date is July 26th, 2001. Again, before the filing date of -- well before the filing date of either the provisional or the '761 patent.

Q. Can you please turn to DTX 1010 in your binder?

A. I see it.

Q. And what is that document?

A. That's the iManage Desk Site 6.0 User Reference Manual that I used.

MS. KEEFE: Your Honor, may I

please move DTX 1010 into evidence?

MR. ANDRE: No objection.

THE COURT: It's admitted.

MS. KEEFE: Thank you.

BY MS. KEEFE:

Q. So can you give us a little bit of a description of what iManage is and what this document describes?

A. Sure. And I believe what I identified, a part of this manual that gives an overall summary of that. But iManage Desk Site if you pull out that little bit at the bottom.

So this is using their own words. It's essentially a -- it's an enterprise-wide mission critical DMS or document management system.

And this quote captures by, With iManage DeskSite, you can simplify the task of managing repositories of millions of documents and making them available to thousands of users.

So here what we're talking about is -- this isn't like using your own personal computers where you're trying to manage your own files. This is all about how can we

actually create a system, a document management system that will manage documents created by, for example, people in your company, so we can keep them in a safe and one place where all those people can access all those documents.

And iManage, you know, in its own flavor has a whole variety of functions that it has. Now, I'm not going to walk through each one of them, but it wants to bring your attention to the last one where it says -- where it tracks document usage and history because that's the part of iManage that really spoke to what we saw in the '761 patent.

Q. And so what do you -- what do you understand that to mean?

A. Well, so in high-level terms, what we're -- what iManage does, just as in Swartz, it tries to track what people are actually doing with their stuff as they -- you know, with one or more documents as they do the work.

And when it says and history, it means that we really want to create a record of what's happening over time as people do the work from different places with all these documents.

Q. And why would someone want to do that?

A. Well, it's really important if you're trying to figure out what happens in the evolution of a document. So if you see the terms above, we see create new version of documents and check in and check out documents.

If you have people in an organization working on a document, that this could be like either a document for reading or could be a program code, you often -- what happens is that you will take a document, you will check it out for your own use, so at any time people know who has a copy of that document.

You can create a new version of it. And from that version, you can actually do your own work and maybe somebody else will also create a new version. And they'll do their own work and maybe want to combine it at a later time.

So all this is really part of how do documents evolve over time? And it's real important, if you're going to coordinate with

each other as a team or organization, that you know what's happening to documents when and where, and that you can actually go back and review what's happened.

Q. Have you actually created some graphics to help us understand how iManage works?

A. Yes, I have. So what I'm going to start with is a very -- is essentially -- well, I'm going to start with what a user would see in terms of the history system.

So remember that last thing says that it tracks document use as a use and history. And that is from the iManage manual?

Q. When you say "this", you mean the box that we see here?

A. Yes. That window entitled history - document. And I'm going to use this as a context for explaining some of the inner workings, because in the end this is a user accessing some of the information.

So we see that at the top that this window is referring to a particular document underscored which is title 2_2.

Document. And actually this references a certain topic. In this case, the topic is iManage Travel Policy.

And typically documents are created with a topic in mind what we see at the bottom is a example of the information that iManage -- that is tracked on the histories of that document.

So starting at the first row, we see that initially we had a user whose name was Bowen.

Q. Now, where are you? Where are you in the document?

A. The very first row right under where it says -- so really it is the third line of the window, the first highlighted line that's highlighted in gray. Keep going.

Q. And just so our record is clear, how do we know that we're in -- we're accessing the history information of this iManage document? Is there something on the bottom that helps you with that?

A. Well, if you look at the tab on the bottom right, it says History. And, in

fact, the title bar says History.

So this is the history and it's in the section of the manual titled History. So this is the history system.

Q. Okay. So when you were talking about the first row, what did you want to have us know?

A. Okay. So this is the -- kind of the after the fact. This is a user viewing some of the things that the system has tracked.

So we see that in the first line that the system has tracked that there is a user named Bowen by their log-in name, using an application WinWord, which is likely Microsoft Word, has checked in a document at a certain time and has had that for a certain duration.

That person hadn't printed out any pages from it. And it's at the location Bowen, which because it's the same as the name, I would assume is the user's computer; that they named their computer the same as their log-in name.

And that the person has not added any comments. So that's kind of the very last thing that they did.

If you look at this list, it's kind of in reverse time order, the last -- very last thing they did at the top. Previous to that, they had -- they had that same user using WinWord, had actually modified the document.

And before that --

Q. And how do you know that?

A. Well, because it says modified activities. The activity says modified.

In fact, let me just flip the order of this. I think it will be easier to understand.

Let's start with the bottom. So we -- here we see at the bottom Bowen user, Bowen using the Manage 32 system has created a new version of this document.

Q. And what is a Manage 32 system?

A. This would probably be an iManage document, the repository system itself.

So it's a different context. They are using simply a different application. They're going to the iManage system and saying, I want to use -- I want to create a version. And, in fact, the person has added a comment

that says created from version one.

And the next thing that they did is that they checked out that version from the Manage 32 system and then using WinWord or Microsoft Windows. They modified that version.

So essentially -- well, what's happening is they're really -- as I would read this, they're starting with what's likely an empty document and they're adding, starting to create it.

And then they -- after doing some work on it, they checked it back in. They're checking it back in from Microsoft Windows.

Now, the reason we're seeing that for Microsoft Windows is that the iManage system also has parts of it that integrate with many of the standard Windows applications like Office, like Microsoft Window, Excel and those kinds of things.

So what we have here is a history of what's happened to the document as people move between applications as they work over time, and also, although we see only one location here, it's also as they move across

different computers or different locations. So all these define essentially context of work.

Q. Have you created a graphic to demonstrate how the iManage system would work?

A. Yes, I have.

Q. Would you please walk us through that?

A. Sure. So here we have what we've seen before in that history system.

We have in this case a person using Microsoft Word and that document and all the activities that happen around that really are what defines a context. So, as I mentioned, the iManage Desk Site system is actively integrated with most major Windows applications.

So you can actually change Windows to interact with the iManage system that's from Page 125 of the reference manual.

So we have a person comes in, if we animate. Oh, sorry. And at the bottom, we have the iManage library. And this is where things are stored.

And here's a quote from Page 19 of the manual, that phrase that, What is an iManage

library? And at the bottom, it says, Each iManage library is actually composed of these three parts a file server that stores the actual documents, a set of information tables or database that stores information about the documents, that's the metadata, and a set of index collections of the full text of documents in the library, which is used for searching.

So this is -- if we animate again, that's the storage component. So all the activity that a person does in their first context -- in this case, they're using Microsoft Word creating a document -- in a certain location is captured by the iManage history system.

Now, if you go on,

It's stored in the library as part of that. In this case, it's part of that history record.

And we actually see here some of the things that are attached to documents. And again, this is something -- some of the information captured by the system.

We see that every document has a

document profile record that includes things like the author of the document, the operator who or the user had entered into the library, the date it was created, the version number, the user who last edited it. So all these are being tracked by the system.

Q. And what would -- is there a word in the '761 patent that would apply to what you just described?

A. Yeah, so this is metadata. We're talking about capturing and storing metadata here.

And now if we go on, I've shown before how the history window will track what people do across the different contexts. In this case, they move from one application setting where they're working on documents to another one.

And in the manual itself on Page 13, it says that one of the functions of the iManage system is to track document uses and history. So we saw that history window. This person had moved over to a different context.

And if we go on. Then that kind

of activity is actually captured and stored. And here's an example from Page 828 to 83.

Some of the things that may be captured, things like opening a document, editing the document's profile, checking out, copying or checking in a document, whether somebody viewed it or whether somebody created a new version.

This is just a system sampling of the content information that can be tracked. And now if we go on. I think there's one more.

The person can access that information from any time. We saw them accessing their history record from the history window. But I believe there's also means to access the document itself.

Q. Are there particular features -- so are the particular features of the system you just described applicable to the claims of the '761 patent?

A. Well, yes.

Q. Can you use Claim 1 as an example and walk us through it?

A. Sure. So here's Claim 1.

And we saw in the first part here -- well, first it says a computer-implemented network-based system. iManage -- first, it should say that iManage is network based and I believe I've identified a part of the manual that shows that.

Do we have that? Yes, there it is.

So here -- here's the way that iManage shows itself. We see a client-server relationship which is vernacular for -- for one application talking to another kind of -- sorry, one system using -- usually on a PC talking to another system called the server or the network.

And we see that -- that we have all -- all these things are networked together. Essentially these little lightning bolts that says that we can access those stored across different cities or places. So the network-based system.

Q. Just so the record is clear, where is this in the document?

A. Well, this is Figure 1.1.

Q. Thank you.

Does the iManage documentation include other elements from Claim 1?

A. Yes. So we then have in the first element, it says the computer-implemented context component. I've already described how the history system can capture information that happens within a certain application setting of the document. That is, people are using with this that setting or from particular locations.

We already talked about how it's network based. And I've shown you how it captures context information. We saw that in that history window.

That is associated with user-defined data which is the third line. When the user-defined data -- in this case, the documents they're working on, we saw that Microsoft Window document.

Clearly the user is interacting in a first context of a network-based system in this case, iManage actually has many different contexts that you could use. It talks about the location the computer's using it on and the things you're doing on that computer is one

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

long his cross is.
THE COURT: How much time do you anticipate?
MS. KEEFE: I hope to finish it by four o'clock. I think it will get faster at this point.
THE COURT: We really need to have the doctor slow down.
MR. ANDRE: They're going to have the rest of the claims, another reference, after this obviousness. If we get our witness up on the stand at all, it will be five or ten minutes. He flew from Pittsburgh to be here. I'd like to get him home.
THE COURT: I think it's okay to let him go. We're going to start our prayer conference, so if we start a little earlier, that's fine. We'll see you at 3:15.
(The proceedings reconvened at 3:17 p.m.)
THE CLERK: All rise. Court now in session.
MR. RHODES: Your Honor, we were just talking about scheduling, and I think we

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:

Q. Do you believe that the iManage Reference Manual is an enabling reference?
A. Yes, I do.
Q. Can you pull up the front page of the patent and pull up the references cited section, please. I think we're missing one from the very bottom. The references cited are in two places.
Dr. Greenberg, do you see the iManage Reference Manual listed here?
A. No, I do not.
Q. So in conclusion, regarding the prior art, iManage Reference Manual, what is your opinion regarding the asserted claims of the 761 patent?
A. So my opinion is that the iManage Reference Manual discloses each and every element of all of the certified claims of the 761 patent.
Q. And what does that mean for validity of the 761 claims?
A. It means that the patent is invalid. The ideas were expressed in this publication well before the 761 patent was

filed.
Q. Thank you.
Can we pull up the summary slide again, please. We're getting there. I promise.
What is the third document that we see under the second opinion?
A. The third document is a European patent application, by EP 1087306 A2, and the inventor is Hubert, and I believe this patent was assigned to Xerox.
Q. Do you have an opinion regarding the Hubert patent?
A. I do.
Q. What is that?
A. That Hubert discloses all but claim sixteen of each and every element of -- all but claim sixteen of the asserted claims of the 761 patent.
Q. Can you please turn to DTX 0922 in your binder.
A. I have it.
Q. Do you recognize that?
A. Yes, that is the Hubert patent.
MS. KEEFE: Your Honor, I would

move the DTX 0922 into evidence, please.
MR. ANDRE: No objection.
THE COURT: It's admitted.
BY MS. KEEFE:
Q. Pull up the front page of the Hubert patent. When was it published, Dr. Greenberg?
A. If we look at it, we see the date of filing is August 29th of the year 2000, and it was published on March 28, 2001. That's at the very top.
Q. What does that mean, date of publication?
A. Well, this is the date --
Q. Not a tricky question.
A. It means it's when it was published.
Q. What -- does it mean is it publicly available?
A. Publicly available, yes.
Q. What is the Hubert patent about?
A. The Hubert patent is actually quite similar at a high level to what we saw before with Swartz and with iManage. It was

really about --

Hubert was concerned as well with how can we track all the activities as people work across or within and between environments, in particular within documents and the data that they were using.

Q. Before I move on, I realized I forgot to ask you another question about Hubert. Could you please turn to DTX 0604.

A. I have it.

Q. And what is that?

A. This is the U.S. patent that was granted to Hubert, where it's essentially the same as the European patent application.

MS. KEEFE: I would also move DTX 0604 into evidence.

MR. ANDRE: Your Honor, may I have one moment.

THE COURT: Sure.

MS. KEEFE: It relates back to the European patent application.

MR. ANDRE: No objection, Your Honor.

THE COURT: It's admitted.

BY MS. KEEFE:

Q. You were just talking about what the Hubert patent was about. Have you prepared some graphics to illustrate what Hubert was trying to accomplish?

A. Yes, I have.

Q. What was Hubert all about?

A. Hubert was -- again he had a similar notion he had, that he wants to track how data or documents would move between different sources or different environments, so in this case, we're talking about context.

If you look at the quote on the bottom, it says "In some organizations the document will be indexed and described in terms of important keywords and stored in a document-management repository where it may be accessed via an intranet or over the internet."

So here we have the storage component as well. These are terms of Hubert. He talked about sources and environments. If we go on, Hubert came up with this idea, what he calls a metadocument, and this is an object that

conveys, as we see in the quote, that conveys document information, processing information pertaining to the processing of the metadocument, and metadata for indexes and retrieving the processing information.

That's a bit of a mouthful. If we go on to the next slide, this is what we have here. So the idea in Hubert is that you have those documents, a thing called the metadocument. This is the picture on the right, figure one from his patent.

And the idea is that the metadocument would contain data, but it would also contain metadata as well as the processing information, which is yet another form of metadata that captures all the things that people are doing to that document over time, and that information would be stored.

Now, if we go on some more, Hubert talks about -- and this is a quote from him -- "when metadocument is transmitted from source to source and processing information is created --"

So this is -- the things that are done to a document, this is similar to a bee

traveling to a flower and picking up pollen. So this is his own words. It's rare you find metaphors like this in patents.

He had this idea that the document would see all the things that would happen to it, would capture all the things happening to it in a certain source of environment, and move it across the network from one environment to another or from one context to another, that that information would spread to other places. It would keep on collecting pollen, so to speak, or knowledge as metadata that it would store.

So if you go on, all that captured knowledge is essentially, as it says here on the quote, on the left is stored in the metadocument, and we have that captured in this figure on the right where you see stored data processing information, metadata that describes all the things that happen to this document in these different environments.

Q. Are there other things in the Hubert patent that help illustrate this?

A. If we look another figure two, so we see Hubert drew three different sources or

environments, and again he uses the word environment or context interchangeably, which is defined as context by the Court, interchangeably.

What we see in that little square if the bottom is the metadocument, which is seeing what's happening, what a person is doing in each location, and as you move that document from one source to another, one context to another, in this case, over the internet, it captures what goes on in those places as well, and it pollinates it, which means it makes that information available to those other sources.

Q. Before I forget to tie one loose end, we mentioned Hubert filed his first patent in Europe?

A. Yes.

Q. And then he filed in the United States?

A. That's correct.

Q. Are the filings he made in Europe and the United States similar?

MR. ANDRE: Objection. Outside the scope of his report.

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

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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.

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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,

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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.

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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.

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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

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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

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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.

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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.