

Deposition of  
**ANTHONY PIRRI**

**Date:** September 23, 2008

**Volume:** 1

**Case:** NORTHEASTERN/JARG v. GOOGLE

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1 Volume 1, Pages 1 - 69 Exhibits: 1 - 8

2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF TEXAS  
4 MARSHALL DIVISION

5 \_\_\_\_\_  
6 NORTHEASTERN UNIVERSITY and  
7 JARG CORP.,

8 Plaintiffs,

9 v. C.A. No. 2:07-CV-486 (TJW)

10 GOOGLE, INC.,

11 Defendant.  
12 \_\_\_\_\_

13 RULE 26 and RULE 30(b)(6) VIDEOTAPED  
14 DEPOSITION OF NORTHEASTERN UNIVERSITY, ANTHONY  
15 N. PIRRI, designee, called by counsel for the  
16 Defendant, taken pursuant to the applicable  
17 provisions of the Federal Rules of Civil  
18 Procedure, before Dana Welch, CSR, Registered  
19 Professional Reporter, Certified Realtime  
20 Reporter, and Notary Public, in and for the  
21 Commonwealth of Massachusetts, at the offices  
22 of Fish & Richardson, P.C., 225 Franklin  
23 Street, Boston, Massachusetts 02110, on  
24 September 23, 2008, commencing at 9:11 a.m.  
25

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1 APPEARANCES:  
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20  
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22 Northeastern University  
23 Assistant University Counsel  
24 Tom Tracy, Videographer  
25

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1 I N D E X  
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1 P R O C E E D I N G S  
2 THE VIDEOGRAPHER: This is the video  
3 operator, Tom Tracy, of Budd Legal Video,  
4 Boston. Today's date is September 23rd, 2008.  
5 The time is 9:11 a.m.  
6 We are here at the offices of Fish &  
7 Richardson, located in Boston, Massachusetts,  
8 to take the videotaped deposition of Anthony  
9 Pirri, 30(b)(6) representative of JRG  
10 Corporation in the matter of Northeastern  
11 University and JRG or Jarg Corporation versus  
12 Google, Incorporated in the U.S. District  
13 Court, Eastern District of Texas, Marshall  
14 Division, Civil Action No. 2:07-CV-486 (TJW).  
15 Would counsel please voice identify  
16 yourselves and state whom you represent.  
17 MR. STOUT: My name is Stephen Stout. I'm  
18 counsel for the plaintiffs, Northeastern  
19 University and Jarg.  
20 And before we get started, I want to make  
21 sure we correct this: Mr. Pirri is actually  
22 representing Northeastern University, not  
23 Jarg.  
24 THE VIDEOGRAPHER: Okay. Sorry about  
25 that. So just make a correction that Anthony

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1 Pirri is representing Northeastern University.  
2 MR. WOLFF: Also present with you...  
3 MR. STOUT: Also present with me is  
4 Michael Valek and Karen Abbott with the  
5 University Counsel's Office.  
6 MR. WOLFF: Jason Wolff for Fish &  
7 Richardson San Diego, representing defendant  
8 Google, Inc.  
9 THE VIDEOGRAPHER: And would the court  
10 reporter please swear in the witness.  
11 ANTHONY N. PIRRI,  
12 having been satisfactorily identified by the  
13 production of his driver's license, and duly sworn  
14 by the Notary Public, was examined and testified as  
15 follows:  
16 EXAMINATION  
17 BY MR. WOLFF:  
18 Q. Good morning --  
19 A. Good morning.  
20 Q. -- Mr. Pirri. I have a little bit of a --  
21 I don't mean to snap on my microphone. Sorry.  
22 I have a little bit of a cold I picked up  
23 on the plane over, so if you can't understand me at  
24 any time, please stop me and ask me to ask the  
25 question again.

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1 Could you please state your address for  
2 the record.  
3 A. My address is 26 Alcott Way, North  
4 Andover, Massachusetts.  
5 Q. All right. Have you ever been deposed  
6 before?  
7 A. Yes.  
8 Q. How many times?  
9 A. Once.  
10 Q. And in what context was that deposition?  
11 A. I was a third-party to -- the university  
12 was a third-party to a lawsuit between two  
13 California companies, and I was asked to basically  
14 discuss a license arrangement that we had with one  
15 of the parties.  
16 Q. All right. I'll go over the format of the  
17 deposition real quickly. I'm sure your counsel has  
18 probably explained some of that to you.  
19 I will ask you questions. I will assume  
20 if you answer the questions that you've understood  
21 the questions. If you have any questions or  
22 concerns about the question, please correct me.  
23 Your attorney will obviously object to  
24 some of the questions I will ask. Unless he's  
25 instructing you not to answer based on privilege,

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1 you are generally required to answer the question.  
2 We try not to talk over each other so that  
3 the reporter can get down all of our exchanges.  
4 I will do my best to take a break every  
5 hour or so. If you need a break more frequently  
6 than that or if for any reason you need to take a  
7 break, just let me know. There are obviously  
8 refreshments in the back as I referred to earlier.  
9 But I do ask that before we take a break, we finish  
10 the answer to any question that's pending. Is that  
11 all right?  
12 A. Yes.  
13 Q. Understood?  
14 A. Yes.  
15 Q. Is there any reason you can't give me your  
16 best testimony today?  
17 A. No.  
18 Q. All right. What is your present role at  
19 the university?  
20 A. I am director of the division of  
21 technology transfer at Northeastern University.  
22 Q. Okay. How long have you been involved or  
23 been associated with the university?  
24 A. It will be ten years on July 1st of 2009.  
25 Q. Okay. And what is your relationship to

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1 this case?  
2 A. Jarg is a small company that's spun out of  
3 the university and has licensed technology that was  
4 developed at the university.  
5 Q. Okay. Is Jarg the exclusive licensee of  
6 that technology?  
7 A. That's correct.  
8 Q. How long have you been involved in this  
9 case?  
10 A. Since early 2007.  
11 Q. That's you personally or the university?  
12 A. That is both.  
13 Q. Did you know anything about this case  
14 prior to September 2007?  
15 A. Not September. Early 2007.  
16 Q. I'm sorry. Approximately when in 2007?  
17 A. I would guess the winter of 2007 is when  
18 we first were contacted by Jarg.  
19 Q. The winter of 2007?  
20 A. Yeah.  
21 Q. I thought you said early 2007.  
22 A. Well, January 2007.  
23 Q. Oh, right. I understand.  
24 A. January -- winter to early spring, in that  
25 time frame.

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1 Q. Okay. Do you have personal knowledge of  
2 the complaint that's been served in this case?  
3 A. I have the knowledge that was provided in  
4 -- do you have copies of the documents? There was  
5 a complaint document and infringement document.  
6 Q. Yes. I do have both of those.  
7 A. Can I -- I can refer to those documents.  
8 Q. All right. Well, I'll just ask these  
9 questions and then we'll get to the documents.  
10 A. Okay.  
11 Q. And you have personal knowledge of the  
12 contentions as well; is that correct?  
13 A. Yes.  
14 MR. WOLFF: I will have the reporter mark  
15 as Exhibit 1, Google's Amended Notice of  
16 Deposition to Plaintiff Northeastern  
17 University.  
18 (Exhibit 1, Defendant Google Inc.'s  
19 Amended Notice of Deposition to Plaintiff  
20 Northeastern University, marked for  
21 identification.)  
22 BY MR. WOLFF:  
23 Q. And if you could refer to that and see if  
24 -- tell me if you've read that prior to your  
25 deposition.

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1 A. I've seen it, yes.  
2 Q. If you will turn to the Schedule A, in  
3 fact, it's the last page, "Deposition Topics."  
4 Did you read these deposition topics prior  
5 to your deposition?  
6 A. Yes.  
7 Q. Okay. And do you understand these  
8 deposition topics?  
9 A. Yes.  
10 Q. Are you prepared to answer questions as to  
11 these deposition topics?  
12 A. Yes.  
13 Q. All right. What did you do to prepare  
14 your answers to these topics?  
15 A. We met yesterday with the two attorneys  
16 from Vinson & Elkins, and they basically presented  
17 to me this document, the infringement contentions  
18 document, and also the -- the document that  
19 basically is the complaint.  
20 Q. All right.  
21 A. Do you have those documents?  
22 Q. I do have those documents.  
23 A. May I see those documents also?  
24 Q. I will enter those as exhibits shortly.  
25 A. Thank you.

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1 Q. How long did you meet with your counsel?  
2 A. The afternoon yesterday, several hours.  
3 Q. Beyond the complaint and the contentions,  
4 were there any other documents you referred to in  
5 your preparation?  
6 A. No.  
7 Q. No papers, no other materials related to  
8 the suit?  
9 A. No.  
10 Q. Have you read the patent?  
11 A. Yes.  
12 Q. Have you read the file history?  
13 A. I have read the patent.  
14 Q. Okay. Have you read the Google papers  
15 referred to in the infringement contentions?  
16 A. I have only seen what's in the public  
17 information issued by Google. I've basically seen  
18 what's on the Web about Google and their history,  
19 and also seen what's in the documents that we  
20 talked about that was prepared by counsel.  
21 Q. Okay. But did you see the papers that are  
22 referred to in those infringement contentions?  
23 A. No.  
24  
25

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1 (Exhibit 2, Complaint for Damages and  
2 Injunctive Relief for Patent Infringement,  
3 marked for identification.)  
4 BY MR. WOLFF:  
5 Q. I will hand you Exhibit 2. This is  
6 Plaintiff's Complaint for Damages and Injunctive  
7 Relief.  
8 Now, is this one of the documents you  
9 referred to --  
10 A. Yes.  
11 Q. -- examining in your preparation?  
12 A. Yes.  
13 Q. Did the university review this complaint  
14 before it was filed?  
15 A. No.  
16 Q. So when --  
17 A. Not to my knowledge.  
18 Q. Pardon?  
19 A. Not to my knowledge.  
20 Q. All right. When did you first see the  
21 complaint or the university first see the  
22 complaint?  
23 A. I saw this yesterday.  
24 Q. Okay. And you hadn't seen the complaint  
25 prior to yesterday?

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1 A. No.  
2 Q. And had anybody at the university seen the  
3 complaint prior to yesterday?  
4 A. I don't know.  
5 Q. That is one of the topics, though, right,  
6 topic one in the deposition notice, which is  
7 Exhibit 1.  
8 A. You mean, "This is an action for patent  
9 infringement arising under the patent laws of the  
10 United States"?  
11 Q. No. The last page of Exhibit 1: "The  
12 basis and foundation for Northeastern's  
13 contentions" --  
14 A. I'm sorry. "In paragraphs 26 to 29."  
15 Well, Northeastern believes that Google  
16 has directly and/or indirectly infringed upon one  
17 or more claims of the '593 patent, and enlisted  
18 counsel from Vinson & Elkins and let -- them being  
19 experts, and elicited their expertise since we're  
20 not attorneys at the university. I'm not an  
21 attorney; I'm an engineer. And we relied upon them  
22 to prepare the documents to basically enforce our  
23 claims.  
24 Q. All right. But you didn't see the  
25 complaint before it was filed.

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1 A. No.  
2 MR. STOUT: Objection. Form.  
3 BY MR. WOLFF:  
4 Q. And part of the relief that's requested in  
5 the complaint is an injunction against Google; is  
6 that correct?  
7 MR. STOUT: Objection as to form.  
8 A. Yes. I think that's in the title:  
9 Complaint for Damages and Injunctive Relief.  
10 Q. What is the basis for your request for  
11 injunctive relief?  
12 MR. STOUT: Objection to form.  
13 A. The basis for injunctive relief is as it  
14 says here, Google makes, uses, imports, sells  
15 and/or offers for sale search engine services and  
16 systems that infringe upon the claims of the '593  
17 patent and continue to infringe upon the patent.  
18 Q. And is Northeastern practicing the patent?  
19 MR. STOUT: Objection to form.  
20 A. Northeastern has licensed the patent to  
21 Jarg, so Jarg is practicing the patent.  
22 Q. All right. And are you familiar with the  
23 Jarg products that actually practice the patent?  
24 MR. STOUT: Objection to form.  
25 A. I know there are patents that were

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1 subsequently prepared by Jarg in addition to the  
2 Northeastern patent that was licensed to Jarg.  
3 Q. My question is --  
4 A. If that's what your question is.  
5 Q. -- are there products that you're familiar  
6 with that are Jarg's products that are practicing  
7 the patents at issue in this case?  
8 MR. STOUT: Objection. Form.  
9 A. Repeat the question again. Are there --  
10 Q. All right.  
11 A. Try it again.  
12 Q. Are there products of Jarg's that you are  
13 familiar with that are practicing the patent in  
14 suit?  
15 MR. STOUT: Objection. Form.  
16 A. They have a search engine product --  
17 Q. All right.  
18 A. -- that I am minimally aware of.  
19 Remember, all of this took place before our office  
20 was formed, before I joined the university, the  
21 license took place at that point.  
22 Q. All right. And is that product still  
23 offered for sale?  
24 MR. STOUT: Objection. Form.  
25 A. I believe so.

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1 Q. All right. And how do you know this  
2 information about Jarg?  
3 MR. STOUT: Objection. Form.  
4 A. My information about Jarg comes from their  
5 annual meeting notices and any additional  
6 information that I've had in a couple of meetings  
7 that I've had with Michael Belanger, who is the  
8 present CEO of Jarg.  
9 Q. Okay. Does the university participate in  
10 the annual meetings of Jarg?  
11 MR. STOUT: Objection. Form.  
12 A. We are invited.  
13 Q. And do you receive papers or other  
14 materials for these annual meetings?  
15 MR. STOUT: Objection. Form.  
16 A. We receive notification of the meetings  
17 and an invitation to attend the meetings as a  
18 shareholder of Jarg; and unfortunately, I've not  
19 been able to attend any of the meetings.  
20 Q. Okay. And are you the person that would  
21 typically receive those materials?  
22 MR. STOUT: Objection to form.  
23 A. I receive the notices.  
24 Q. All right. So did Northeastern test any  
25 Google products prior to filing the complaint?

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1 A. Northeastern itself has done no tests on  
2 Google products.  
3 Q. Okay. So without having done any tests,  
4 what was the basis of filing the complaint?  
5 A. I think it's spelled out in the document  
6 as prepared by our attorneys, who have had the  
7 expertise to file a document, which you have not  
8 given me yet, the infringement contentions  
9 document.  
10 Q. All right. But I'm asking about the  
11 complaint because that document existed after the  
12 complaint was filed.  
13 MR. STOUT: Object to the extent your  
14 question calls for privileged communications  
15 between Northeastern and its counsel.  
16 MR. WOLFF: I'm asking about the factual  
17 basis.  
18 BY MR. WOLFF:  
19 Q. What was the basis for the complaint  
20 before it was filed?  
21 MR. STOUT: Renew my objection.  
22 A. On the advice of counsel, I will not  
23 respond to the question.  
24 Q. All right. So you're not going to answer  
25 the question because your counsel has objected on

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1 the grounds of privilege?  
2 A. Yes.  
3 MR. WOLFF: All right. Have the reporter  
4 mark as Exhibit 3 a Disclosure of Asserted  
5 Claims and Infringement Contentions, and  
6 Exhibit 4, which is Attachment A to those  
7 disclosures.  
8 (Exhibit 3, Disclosure of the Asserted  
9 Claims and Infringement Contentions, marked  
10 for identification.)  
11 (Exhibit 4, Exhibit A, marked for  
12 identification.)  
13 BY MR. WOLFF:  
14 Q. Are you familiar with Exhibit 3?  
15 A. Yes.  
16 Q. How are you familiar with Exhibit 3?  
17 A. It was presented to me yesterday in  
18 meetings with counsel.  
19 Q. All right. When is the first time  
20 Northeastern University saw Exhibit 3?  
21 A. First time I saw Exhibit 3 was yesterday.  
22 Q. When did the university first see  
23 Exhibit 3?  
24 A. I don't know.  
25 Q. Did the university have any role or anyone

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1 at the university have any role in preparing  
2 Exhibit 3 or Exhibit 4?  
3 MR. STOUT: Objection to form.  
4 A. I don't know.  
5 Q. Let me ask the question again because it  
6 may have been compound.  
7 Did the university have anyone work on the  
8 preparation for Exhibit 3?  
9 MR. STOUT: Objection to form.  
10 A. I don't know. Again, we relied upon the  
11 expertise of counsel to prepare these exhibits.  
12 Q. All right. Did the university have  
13 anybody work on Exhibit 4?  
14 MR. STOUT: Objection. Form.  
15 A. Not to my knowledge.  
16 Q. All right. Stepping back a minute, when  
17 was the university first notified by Jarg that  
18 Google may be infringing the patent?  
19 A. That was in, again, winter of -- around  
20 January -- winter, early spring of 2007.  
21 Q. So prior to that time, Northeastern  
22 University was unaware of the alleged infringement?  
23 A. Yes.  
24 Q. Was the university aware of the Google  
25 search engine?

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1 A. Yes.  
2 Q. How long has the university been aware of  
3 the Google search engine?  
4 A. I can only speak for myself. I have been  
5 aware of the Google search engine ever since I've  
6 been using it.  
7 Q. How long has that been; do you know?  
8 MR. STOUT: Objection to form.  
9 A. Maybe 15 years.  
10 Q. All right.  
11 A. 10 to 15 years.  
12 Q. Did you have any role in the preparation  
13 or the prosecution of the patent-in-suit?  
14 A. No.  
15 Q. How about the licensing of that patent to  
16 Jarg?  
17 A. No.  
18 Q. All right. So it never occurred to you  
19 that Google might be infringing the patent?  
20 MR. STOUT: Objection to form.  
21 A. No.  
22 Q. At least not until Jarg informed the  
23 university --  
24 MR. STOUT: Objection to form.  
25 Q. -- that there may be some infringement?

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1 A. Yes.  
2 Q. All right. If you would turn to  
3 Exhibit 3. Did you review or have you reviewed the  
4 Patent Rules --  
5 MR. STOUT: Objection to form.  
6 BY MR. WOLFF:  
7 Q. -- in East Texas?  
8 A. No.  
9 Q. All right. So are you familiar with what  
10 these disclosures are intended to convey?  
11 MR. STOUT: Objection to form.  
12 A. No.  
13 Q. I'm going to hand you Appendix M, Patent  
14 Rules for the Eastern District of Texas, and have  
15 this marked as Exhibit 5.  
16 (Exhibit 5, Appendix M, Patent Rules,  
17 marked for identification.)  
18 BY MR. WOLFF:  
19 Q. Now, these may help to put these, what's  
20 been marked as Exhibit 3 and Exhibit 4 into context  
21 to look at the rules real quick. But if you take  
22 Exhibit 5 and you turn to patent rule 3-1, you will  
23 see a definition or explanation of what these  
24 disclosures are. Please take a moment to review  
25 those and let me know when you're done.

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1 A. You want me to read --  
2 Q. Section 3-1.  
3 A. -- 3-1?  
4 Q. And each subparagraph in 3-1.  
5 A. Yes.  
6 Q. All right. And let's turn back to  
7 Exhibit 3 and we'll work through the contentions.  
8 And we'll start with 3-1(b).  
9 Now, is it Northeastern's position that  
10 all versions of the Google Web Search infringe the  
11 patent-in-suit?  
12 MR. STOUT: Objection to form.  
13 A. Repeat the question.  
14 Q. Is it Northeastern's contention that all  
15 versions of Google Web Search infringe the  
16 patent-in-suit?  
17 MR. STOUT: Objection. Form.  
18 A. I'll read what it says here: The version  
19 called Google Web Search service is infringing and  
20 continues to infringe the asserted claims of the  
21 '593 patent.  
22 Q. All right. So which -- are you -- how  
23 many versions of the Google Web Search do you think  
24 have been offered to the public?  
25 MR. STOUT: Objection to form.

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1 A. I don't know.  
2 Q. Did the university undertake any research  
3 to figure out how many versions of Google Web  
4 Search there were?  
5 MR. STOUT: Objection to form.  
6 A. No.  
7 Q. So is it your contention that all versions  
8 of Google Web Search infringe the patent?  
9 MR. STOUT: Objection. Form.  
10 A. I will again read the sentence, all I can  
11 read is that it says that Google Web Search, what  
12 version that is, has infringed them.  
13 Q. Well, it's a yes or no question. Do you  
14 think all versions of Google Web Search infringe  
15 the patent?  
16 MR. STOUT: Objection to form.  
17 A. I don't know.  
18 Q. Well, how can I tell which specific  
19 version is referred to in the 3-1(b) disclosure?  
20 A. Again, we relied upon the expertise of  
21 counsel to prepare these documents. And I know the  
22 relationship between this and this (indicating) was  
23 indeed prepared by counsel to support our claim  
24 that Google has infringed the --  
25 Q. And when you say this and this, you're

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1 referring to Exhibit 3 and Exhibit 5.  
2 A. I'm referring to Exhibit 3 and 5, that's  
3 correct.  
4 No. I guess it's called 4, the  
5 infringement contentions.  
6 Q. All right. Well, I'm asking about, you  
7 know, with respect to the rules, does this identify  
8 any specific version of the Google Web Search? And  
9 if it doesn't, is it your contention that all  
10 versions of the Google Web Search infringe?  
11 MR. STOUT: Objection. Form.  
12 A. Again, all I can do is say -- is read what  
13 it says here, that what's called Google Web Search,  
14 and I don't know the answer to your question.  
15 Q. All right. What is Google Web Search?  
16 What is your understanding of what Google Web  
17 Search is?  
18 A. It's the Internet search service that is  
19 the methodology by which Google does search.  
20 Q. All right. And can you describe how  
21 somebody would use it?  
22 A. When you "Google" something, you are  
23 looking for information about a specific topic, and  
24 you do www.google.com, and when it comes up, you  
25 put in key words, and you punch "search" and out

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1 comes information about where you may find  
2 information regarding specific topic areas.  
3 Q. All right. And that's your understanding  
4 of what Google Web Search is?  
5 A. That is correct.  
6 Q. Is it anything else?  
7 MR. STOUT: Objection. Form.  
8 A. That's how I use it.  
9 Q. All right. Are you aware of any other  
10 Google Web Search that is implicated by your 3-1(b)  
11 disclosure?  
12 MR. STOUT: Objection. Form. Objection,  
13 privilege also. To the extent that that  
14 question calls for things that are not  
15 disclosed in the infringement contentions,  
16 instruct the witness not to answer.  
17 A. I will not answer.  
18 Q. So you're going to follow your counsel's  
19 advice and not answer the question on privilege  
20 grounds?  
21 A. Yes.  
22 Q. All right.  
23 MR. WOLFF: We disagree with that  
24 instruction. Are you willing to reconsider  
25 it?

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1 MR. STOUT: To the extent your question is  
2 calling for things that are not disclosed in  
3 the infringement contentions, that's where we  
4 have the objection.  
5 BY MR. WOLFF:  
6 Q. Can you answer the question as your  
7 counsel has qualified it?  
8 A. No.  
9 Q. And the basis being the privilege  
10 instruction?  
11 A. Yes.  
12 Q. All right. We're going to skip 1(c) and  
13 move on to 1(e) -- skip 1(c) and (e.)  
14 A. You want --  
15 Q. Tell you what, we'll skip (e) as well.  
16 We'll turn to patent rule 3-1(f), your disclosure  
17 there. And if I could have you turn to Exhibit 5  
18 and the definition of 3-1(f).  
19 A. I'm sorry. What do you want me to look  
20 at? I read the first sentence: "A prototype  
21 system that practiced at least the asserted claims  
22 was described in the '593 patent."  
23 Q. Right.  
24 A. Now, what --  
25 Q. What I want you to do is look at the rule

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1 in Exhibit 5 for 3-1(f).  
2 A. Point me to a page.  
3 Q. Six.  
4 A. Okay.  
5 Q. Are you finished reading the rule?  
6 A. Yes.  
7 Q. All right. So you understand the rule?  
8 MR. STOUT: Objection. Form.  
9 A. Again, I believe what you're trying to do  
10 is help me to perform the task that our attorneys  
11 performed, which is to basically prepare the  
12 documents. And I'm relying upon their expertise to  
13 prepare these documents.  
14 I'm not sure what you want me to say here.  
15 Yes. I read it, I read what it says.  
16 Q. And you understand it.  
17 A. What it says to do.  
18 MR. STOUT: Objection to form.  
19 BY MR. WOLFF:  
20 Q. Do you understand the rule?  
21 MR. STOUT: Objection. Form.  
22 A. The rule appears to say to me that we must  
23 prepare Exhibit 4. The party must identify for  
24 each asserted claim each and such apparatus,  
25 product, device, process, method and act or other

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1 instrumentality that incorporates or reflects that  
2 particular claim.  
3 Q. The first sentence says -- I guess there's  
4 one sentence here, "If a party claiming patent  
5 infringement wishes to preserve the right to rely  
6 for any purpose on the assertion that its own  
7 apparatus, product, device, process, method, act or  
8 other instrumentality practices the claimed  
9 invention, the party must identify separately for  
10 each asserted claim, each such apparatus, product,  
11 device, process, method, act or other  
12 instrumentality," et cetera.  
13 Can you tell me with regard to the  
14 disclosure in Exhibit 3 whether the -- whether  
15 Northeastern or Jarg's own product is identified  
16 for each asserted claim?  
17 MR. STOUT: Objection. Form.  
18 A. No.  
19 Q. Can you tell me what the prototype system  
20 is that's described in the '593 patent?  
21 A. No. I'm not a computer scientist and so I  
22 don't really understand all the details of what's  
23 in the '593 patent.  
24 Q. All right. Well, is there a product  
25 described in the '593 patent?

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1 MR. STOUT: Objection. Form.  
2 A. It's a search engine.  
3 Q. All right. But is there a Jarg product  
4 that's described in the '593 patent?  
5 MR. STOUT: Objection. Form.  
6 A. No.  
7 MR. WOLFF: All right. If you'd like, we  
8 can take a short break and move on to the next  
9 line of questions.  
10 MR. STOUT: That's fine.  
11 THE VIDEOGRAPHER: It is 9:45 a.m. We're  
12 going off the record on tape number 1.  
13 (Proceedings interrupted at 9:45 a.m. and  
14 reconvened at 9:54 a.m.)  
15 THE VIDEOGRAPHER: It is 9:54 a.m. We're  
16 going back on the record on tape 1.  
17 BY MR. WOLFF:  
18 Q. All right. Are you ready?  
19 A. Sure.  
20 Q. All right. Before I move on to the next  
21 line of questions, regarding the license to Jarg  
22 from Northeastern, what rights does the university  
23 retain to the '593 patent?  
24 MR. STOUT: Objection. Form.  
25 A. The university -- if I recall properly,

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1 the university retains the right to do research.  
2 Q. To practice the patent, too, or not?  
3 MR. STOUT: Objection. Form.  
4 A. To do research.  
5 Q. What does "to do research" mean?  
6 A. Internal research.  
7 Q. What does that mean?  
8 A. As part of its education mission.  
9 Q. What does that mean?  
10 MR. STOUT: Objection. Form.  
11 A. It means that the university can use the  
12 information in the patent as part of its research  
13 program.  
14 Q. Could the university practice the '593  
15 patent?  
16 MR. STOUT: Objection. Form.  
17 A. Not for commercial purposes.  
18 Q. But for its own educational purposes,  
19 could the university practice the patent?  
20 MR. STOUT: Objection. Form.  
21 A. Yes.  
22 Q. And is Jarg the exclusive licensee of the  
23 patent?  
24 MR. STOUT: Objection. Form.  
25 A. Yes.

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1 Q. Does the university receive any financial  
2 benefit from the '593 patent?  
3 MR. STOUT: Objection. Form.  
4 A. Only as a result of the -- as a result of  
5 the license with Jarg.  
6 Q. And what is that?  
7 MR. STOUT: Object to form.  
8 A. Well, I don't recall the actual terms of  
9 the license, but I believe there is a royalty  
10 percentage.  
11 Q. A percentage of any royalties that Jarg  
12 receives as a result of --  
13 A. A percentage of --  
14 MR. STOUT: Object to form.  
15 A. Percentage of sales of Jarg.  
16 Q. So if Jarg licenses the '593 patent, does  
17 the university receive any money from that license?  
18 MR. STOUT: Objection. Form.  
19 A. Yes.  
20 Q. Do you know approximately what percentage?  
21 MR. STOUT: Objection. Form.  
22 A. I don't remember.  
23 Q. All right. Let's turn to Exhibit 4. And  
24 if I recall your earlier testimony, you did not see  
25 or Northeastern did not see these contentions until

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1 yesterday; is that correct?  
2 MR. STOUT: Objection. Form.  
3 A. I did not see these until yesterday.  
4 Q. Okay. Do you know if anybody at the  
5 university reviewed these prior to yesterday?  
6 MR. STOUT: Object. Form. Also going to  
7 object on the grounds it calls for  
8 attorney/client communication.  
9 A. I will not respond based upon advice of  
10 counsel.  
11 MR. WOLFF: How is that privileged?  
12 MR. STOUT: You're asking for  
13 communications between Northeastern --  
14 MR. WOLFF: I'm asking if the university  
15 received or reviewed a copy of contentions  
16 prior to yesterday.  
17 MR. VALEK: You're asking about  
18 communications between Jarg's outside counsel  
19 and university counsel prior to the  
20 preparation of these contentions.  
21 MR. WOLFF: I'm not asking about those  
22 communications. I'm asking if the university  
23 received or reviewed a copy of Exhibit 4.  
24 MR. VALEK: Are you asking if those  
25 communications occurred or the substance?

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1 MR. WOLFF: I'm not asking about the  
2 substance. I'm just asking if they received  
3 it. It's a yes or no question.  
4 MR. STOUT: So you may answer to the  
5 extent that you're not revealing  
6 communication. So factual things, you may  
7 disclose those, but not the substance of any  
8 communication.  
9 A. So repeat the question again.  
10 Q. I'll do my best.  
11 A. Yes.  
12 Q. Prior to yesterday, do you know whether  
13 the university reviewed Exhibit 4?  
14 A. Do I know if the university reviewed  
15 Exhibit 4?  
16 Q. Prior to yesterday.  
17 A. No. I do not know if the university  
18 reviewed Exhibit 4 prior to yesterday.  
19 MR. WOLFF: All right. So there is no  
20 privilege.  
21 Q. All right. Let's open up Exhibit 4 and  
22 move through it.  
23 Do I understand that you did not review  
24 the actual references cited in Exhibit 4.  
25 A. Yes. I did not review.

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1 Q. Okay.  
2 A. We are not attorneys at the university.  
3 We did not prepare this document. So all I'm going  
4 to do is cite what's in the document, that's all I  
5 can do.  
6 Q. All right. Well, you understand I just  
7 have to go through and ask the questions anyway.  
8 A. I understand. I understand.  
9 MR. WOLFF: All right. Let's mark as  
10 Exhibit 6 a document entitled, "The Anatomy of  
11 a Large-Scale Hypertextual Web Search Engine."  
12 (Exhibit 6, "The Anatomy of a Large-Scale  
13 Hypertextual Web Search Engine," marked for  
14 identification.)  
15 BY MR. WOLFF:  
16 Q. And I guess I'll just confirm that you  
17 haven't seen Exhibit 6 before?  
18 A. That's correct.  
19 MR. WOLFF: Have the reporter mark as  
20 Exhibit 7, "Web Search for a Planet: The  
21 Google Cluster Architecture."  
22 (Exhibit 7, "Web Search for a Planet: The  
23 Google Cluster Architecture," marked for  
24 identification.)  
25 Q. And Mr. Pirri, would I be correct in

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1 assuming you haven't reviewed Exhibit 7 before?  
2 A. Yes.  
3 Q. All right. Let's turn back to Exhibit 4.  
4 I'll just represent to you that I understand these  
5 to be the two papers that are referred to in  
6 Exhibit 4 in the right-most column.  
7 How many infringement contentions did  
8 Northeastern and Jarg serve on Google?  
9 A. There are two.  
10 Q. All right. And can you tell me what the  
11 difference between the first and the second  
12 contentions are?  
13 MR. STOUT: Objection. Form.  
14 A. No.  
15 Q. Turning to page 2 of Exhibit 4, the first  
16 contention says in the right-most column, "To the  
17 extent the preamble is a limitation on the scope of  
18 the claim, this element is present."  
19 Is it Northeastern's position that the  
20 preamble is a limitation or not?  
21 MR. STOUT: Objection. Form.  
22 A. I don't know what that means. I don't  
23 know.  
24 Q. Did the university prepare a claim  
25 construction analysis for the '593 patent?

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1 MR. STOUT: Objection. Form.  
2 A. Not to my knowledge.  
3 Q. Do you know who you would ask whether that  
4 was done?  
5 A. I assume it was done by the patent  
6 attorneys who filed the patent.  
7 Q. All right. And if it was done, was it  
8 communicated to Northeastern University?  
9 MR. STOUT: Objection. Privileged. To  
10 the extent you're asking him about anything  
11 that's not disclosed, I'm going to instruct my  
12 client not to answer the question.  
13 BY MR. WOLFF:  
14 Q. Are you going to follow your counsel's  
15 instruction?  
16 A. I will follow his instruction, yes.  
17 Q. So can you tell me what a non-relational,  
18 distributed database is?  
19 MR. STOUT: Objection. Form.  
20 A. I am not a computer scientist. I was  
21 trained as an aerospace engineer. I can't help  
22 you.  
23 Q. You've read the patent, correct?  
24 A. Yes.  
25 Q. And can you tell me what the patent

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1 describes a non-relational, distributed database  
2 is?

3 MR. STOUT: Objection. Form.

4 A. I don't understand a lot of the details of  
5 the patent. So I can't. I can only read to you  
6 what it says here.

7 Q. If I gave you a copy of the patent, could  
8 you explain to me what a non-relational,  
9 distributed database is?

10 MR. STOUT: Objection. Form.

11 A. Probably not.

12 Q. All right. Going to make me give you a  
13 copy of the patent.

14 MR. STOUT: Jason, I don't want to  
15 interrupt, but when you're asking him about  
16 things that the university did, are you asking  
17 university or university's attorneys, its  
18 lawyers, agents?

19 MR. WOLFF: I'm asking about the  
20 university.

21 MR. STOUT: Exclusive of the attorneys, of  
22 its agents?

23 MR. WOLFF: You can answer that however  
24 you think is appropriate to answer that  
25 question. I think that it's the university.

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1 And if you've got an objection to make on  
2 privilege grounds, then I propose you need to  
3 make it.

4 MR. VALEK: I don't think that that's what  
5 he's getting at. All these objection to  
6 forms, when you say university, it's unclear  
7 whether you're asking about just Northeastern  
8 or Northeastern and any lawyers acting on its  
9 behalf.

10 MR. WOLFF: I'm talking about  
11 Northeastern.

12 MR. VALEK: So we can clear up a lot of  
13 these objection, form, create a cleaner record  
14 if we settle that issue.

15 MR. WOLFF: I'm talking about  
16 Northeastern.

17 MR. VALEK: So just the university.

18 MR. WOLFF: I thought that it defined it  
19 in the deposition notice.

20 MR. STOUT: Just so it's clear for  
21 Mr. Pirri, are you asking about things  
22 Northeastern's attorneys did or things that  
23 employees not attorneys of Northeastern did.

24 MR. WOLFF: I'm talking about Northeastern  
25 University, its employees, its agents.

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1 MR. STOUT: So that would extend to then  
2 its attorneys?

3 MR. WOLFF: Its in-house attorneys, yes;  
4 its outside counsel, no, I'm not including  
5 that.

6 Do you maintain your objections?

7 MR. STOUT: Well, to the extent that those  
8 questions involved activities by attorneys,  
9 I'm going to object as privileged, as work  
10 product, and if any of that was communicated  
11 to other employees at the university, also is  
12 privileged communication.

13 MR. WOLFF: Are you aware of any  
14 communications to other employees at the  
15 university?

16 MR. STOUT: I don't know that I can answer  
17 that question.

18 MR. WOLFF: It's a yes/no question. If  
19 you're going to maintain a privilege  
20 objection, you've got to identify whether  
21 there are any communications you're objecting  
22 to.

23 MR. STOUT: There are communications  
24 between attorney counsel and its employees and  
25 outside counsel and the university.

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1 MR. WOLFF: Pertaining to what?  
2 (Simultaneous speaking.)

3 MR. STOUT: The entire case. Infringement  
4 contentions, everything.

5 BY MR. WOLFF:

6 Q. All right. Are you aware of any  
7 communications between the university and counsel  
8 regarding claim construction?

9 A. I am not aware of it. Remember, all of  
10 this was done before our office was formed, before  
11 I joined the university.

12 Q. Right. But the suit was filed after you  
13 joined the university.

14 A. But when you talk about claim  
15 construction, I assume you're talking about claim  
16 construction in the preparation of the patent.

17 Q. No. And I'm glad you clarified that. I'm  
18 talking about in regard to this lawsuit.

19 MR. STOUT: I'll object to the form. He  
20 clearly doesn't understand what these terms  
21 mean.

22 A. Yeah. I'm not a lawyer. I guess I really  
23 completely misinterpreted your questions, because I  
24 assumed you were asking about claim construction in  
25 the preparation of the '593 patent, which occurred

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1 in the mid-1990s time period.  
2 Claim construction that was done as part  
3 of the preparation for the suit, again, I am not an  
4 attorney. I don't know.  
5 Q. All right. But outside of any  
6 communications with counsel, are you aware of any  
7 claim construction analysis that was done by the  
8 university pertaining to the infringement  
9 contentions which are Exhibit 4?  
10 MR. STOUT: Objection. Form.  
11 A. I am not aware.  
12 Q. All right. I will hand you what will be  
13 marked as Exhibit 8. This is a copy of U.S. Patent  
14 No. 5,694,593.  
15 (Exhibit 8, U.S. Patent No. 5,694,593,  
16 marked for identification.)  
17 MR. WOLFF: I assume the designation of  
18 confidential attorneys' eyes only is  
19 incorrect.  
20 MR. STOUT: What's that?  
21 MR. WOLFF: Do you want to withdraw the  
22 confidential attorneys' eyes only designation  
23 on this document?  
24 MR. STOUT: We can for this document,  
25 sure.

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1 MR. WOLFF: Appreciate that. Secret copy  
2 of the patent nobody has seen before.  
3 Q. Had you seen Exhibit 8 before?  
4 A. Yes.  
5 Q. Okay. When's the last time you saw  
6 Exhibit 8?  
7 A. I read it. The last time I read it was  
8 probably in the 2007 time period, between January  
9 of 2007 and November of 2007. I read it once  
10 during that time period, when I became aware from a  
11 telephone conversation with Jarg that there was a  
12 potential lawsuit.  
13 Q. All right.  
14 A. And so --  
15 Q. Did you review the prosecution history for  
16 the patent, too?  
17 MR. STOUT: Object to form.  
18 A. No, I did not.  
19 Q. Have you ever seen the prosecution history  
20 for this patent?  
21 MR. STOUT: Objection. Form.  
22 A. No.  
23 Q. All right.  
24 A. I know it exists, but I did not see it --  
25 have not seen it.

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1 Q. All right. And do you recall what  
2 Exhibit 8 describes?  
3 MR. STOUT: Objection. Form.  
4 A. Describes the '593 patent. It's a  
5 description of the distributed computer database  
6 system and method as invented by Ken Baclawski.  
7 Q. Do you know Ken Baclawski?  
8 A. Yes.  
9 Q. Okay. How many times have you met with  
10 him?  
11 A. Several times.  
12 Q. All right. Prior to 2007, did you meet  
13 with Ken Baclawski?  
14 A. Yes. He and I have served on an  
15 occasional committee together.  
16 Q. All right. Was any of that in connection  
17 with Jarg or was this separate?  
18 A. No. That was separate, separate matters.  
19 Q. Had you ever discussed Jarg with Ken  
20 Baclawski?  
21 MR. STOUT: Objection. Form.  
22 A. Not that I recall.  
23 Q. All right. So apart from the patent, just  
24 reciting what the patent says, are you able to --  
25 is Northeastern able to describe the '593 patent?

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1 MR. STOUT: Object to form.  
2 A. I am not able to describe in detail the  
3 '593 patent.  
4 Q. All right. Let's go back to Exhibit 4.  
5 And my question, which was, are you able to  
6 describe to me a non -- what a non-relational,  
7 distributed database is?  
8 MR. STOUT: Object to form.  
9 A. No.  
10 Q. Are you able to tell me why Northeastern  
11 believes that Google has a non-relational,  
12 distributed database?  
13 MR. STOUT: Object to form.  
14 A. No.  
15 Q. All right. Are you able to tell me what a  
16 home node is?  
17 MR. STOUT: Objection. Form.  
18 A. No.  
19 Q. Are you able to tell me why Northeastern  
20 believes Google has a home node?  
21 MR. STOUT: Objection. Form. You're  
22 continuing to ask questions that call for a  
23 legal conclusion. The contentions are set out  
24 in the infringement disclosures, and  
25 Northeastern is not a patent attorney.

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1 MR. WOLFF: I object to your speaking,  
2 coaching objection. And the witness -- I'm  
3 asking if he is able to explain what the  
4 factual basis for the contentions are and to  
5 better help Google understand the contentions  
6 that are made with respect to the patent.  
7 A. I believe some of the questions you're  
8 asking are more appropriately directed at the  
9 inventor.  
10 Q. All right. I guess one of the issues is,  
11 is Northeastern going to show up at trial and  
12 explain this patent?  
13 MR. STOUT: Objection. Form.  
14 A. We will listen to advice of counsel at  
15 that -- as to whether we should do that.  
16 Q. All right. Because one of the things we  
17 want to do is understand Northeastern's basis for  
18 their infringement contentions and for the  
19 allegations --  
20 A. But they're presented in this document --  
21 Q. That's right.  
22 A. -- in the legal manner as was prepared by  
23 Vinson & Elkins, because we enlisted their  
24 expertise for this.  
25 When you start asking technical questions

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1 about what's in the patent, like I said, I believe  
2 those are more appropriately directed toward the  
3 inventor and not toward me.  
4 Q. All right. I'll move through a few more  
5 of these and maybe we'll just get a general  
6 statement from you that says you don't know what  
7 any of this stuff is.  
8 MR. STOUT: Objection. Form.  
9 MR. WOLFF: There wasn't a question.  
10 A. There wasn't a question.  
11 Q. Can you tell me what a plurality of query  
12 nodes are, according to the patent?  
13 MR. STOUT: Objection. Form.  
14 A. No.  
15 Q. Are you able to tell me why Northeastern  
16 believes Google has a plurality of query nodes?  
17 MR. STOUT: Objection. Form.  
18 A. I can read you the document here that  
19 indicates the basis upon the contention, first  
20 infringement contention. Would you like me to read  
21 it? I can read it word for word.  
22 Q. You can answer the question however you'd  
23 like.  
24 THE VIDEOGRAPHER: I'm sorry. I didn't  
25 really hear that very clearly. I don't know

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1 if your mic got moved.  
2 A. Oh, it may have moved.  
3 I can read you the document: "Document  
4 servers handle this job" function, [sic] "fetching  
5 each document from disk to extract the title and  
6 the key-word-in-context snippet."  
7 "Each cluster has around a few thousand  
8 machines."  
9 "The strategy is to partition the  
10 processing of all documents by having multiple  
11 server replicas responsible for handling each  
12 shard."  
13 "Google's document servers literally meet  
14 the limitation of a plurality of query nodes.  
15 These servers also meet the limitation under the  
16 doctrine of equivalents."  
17 Q. So other than reading the document, are  
18 you able to answer the question?  
19 MR. STOUT: Objection. Form. And I'm  
20 also going to object to privilege to the  
21 extent you're asking about anything that's not  
22 disclosed in those infringement contentions.  
23 A. I'll not answer the question based upon  
24 the advice of counsel.  
25 Q. All right. So you're not going to answer

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1 any part of my question based on his privilege  
2 objection; is that correct?  
3 MR. STOUT: I want to clarify, my  
4 objection is to the extent you're asking about  
5 anything that's not disclosed in those  
6 documents, that's privileged communication or  
7 work product. He's free to answer, but he  
8 can't step beyond what's already been  
9 disclosed.  
10 BY MR. WOLFF:  
11 Q. All right. Can you answer the question  
12 given your counsel's qualification on his  
13 objection?  
14 A. No.  
15 Q. Is your answer going to be the same every  
16 time I ask one of these questions on these claim  
17 elements?  
18 MR. STOUT: Objection. Form.  
19 A. Yes.  
20 MR. WOLFF: All right. And will your  
21 objection on privilege be the same every time  
22 I ask one of these questions?  
23 MR. STOUT: If you're asking about stuff  
24 outside of the disclosures, yes.  
25 Q. All right. Given your counsel's

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1 qualifications on his privilege objection, would  
2 you be able to answer any of the other questions on  
3 the claim elements in this chart which is in  
4 Exhibit 4?  
5 A. I will not be able to.  
6 Q. Would you be able to reconcile any  
7 inconsistencies in the contentions in Exhibit 4?  
8 MR. STOUT: Objection. Form.  
9 A. Would I be able to recognize any con --  
10 any inconsistencies?  
11 Q. Would you be able to reconcile --  
12 A. Reconcile.  
13 Q. -- any inconsistencies between the  
14 contentions, the first contention and the second  
15 contention found in Exhibit 4?  
16 A. No.  
17 MR. WOLFF: Let's take a break.  
18 THE VIDEOGRAPHER: It is 10:18 a.m. We're  
19 going off the record on tape number 1.  
20 (Proceedings interrupted at 10:18 a.m. and  
21 reconvened at 10:32 a.m.)  
22 THE VIDEOGRAPHER: It is 10:32 a.m. We're  
23 back on the record on tape number 1.  
24 A. Before we start, I want to make a  
25 correction. You -- there was a line of questioning

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1 that had to do with Northeastern's awareness of the  
2 documents that had been filed by our attorneys.  
3 And when I was speaking, I was speaking of my  
4 awareness as the director of technology transfer.  
5 I'm informed that our university counsel's  
6 office indeed was aware of and reviewed all of the  
7 documents that was prepared by Vinson & Elkins  
8 before they submitted it.  
9 Q. All right.  
10 A. So I was speaking from what was my  
11 knowledge.  
12 Q. Okay. All right. Well, let's turn back  
13 to Exhibit 4 and finish this up.  
14 If you could turn to page 3, the clause  
15 that reads, "Randomly selecting a first one of said  
16 plurality of home nodes," can you tell me what that  
17 clause means to Northeastern?  
18 MR. STOUT: Objection to form.  
19 A. It means to Northeastern what's basically  
20 stated in the document.  
21 Q. Well, what does that clause mean to  
22 Northeastern?  
23 MR. STOUT: Objection. Form.  
24 A. I don't know.  
25 Q. And I suppose I know your answer to this

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1 question, too. How does that understanding apply  
2 to Google?  
3 MR. STOUT: Object to form.  
4 A. I will read you what it says in the right  
5 column if you would like me to read it to you.  
6 Q. That's all right. I can read the  
7 document, too.  
8 A. Okay.  
9 Q. Do you have any understanding of what the  
10 term "randomly selecting" means?  
11 MR. STOUT: Objection. Form.  
12 A. No.  
13 Q. All right. Moving to the next clause,  
14 "Fragmenting, by said selected home node, a query  
15 from a user into a plurality of query fragments,"  
16 do you understand what this clause means?  
17 MR. STOUT: Objection. Form.  
18 A. No.  
19 Q. Do you understand how this clause applies  
20 to Google?  
21 MR. STOUT: Objection. Form.  
22 A. Only through this document.  
23 Q. All right. And are you able to enlighten  
24 in any way the description that's laid out in the  
25 right-most column of Exhibit 4?

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1 MR. STOUT: Objection. Form.  
2 A. I can read you the document.  
3 Q. All right. But you can't enlighten me any  
4 further about the basis for your contention that  
5 Google infringes or satisfies this element; is that  
6 correct?  
7 MR. STOUT: Objection. Form.  
8 A. That's correct.  
9 Q. Next page, "hashing, by said selected home  
10 node, each said query fragment of said plurality of  
11 query fragments, said hashed querying fragment  
12 having a first portion and a second portion." Have  
13 you read that clause?  
14 A. I can read it here, yes.  
15 Q. All right. What does that clause mean to  
16 Northeastern?  
17 MR. STOUT: Objection. Form.  
18 A. Again, it means -- I don't know.  
19 Q. All right. Can you tell me how that  
20 clause applies to Google?  
21 MR. STOUT: Objection. Form.  
22 A. Only as it is presented in this document.  
23 Q. All right. And you're not able to tell me  
24 anything more than what's stated in the right-most  
25 column of that document, meaning Exhibit 4?

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1 MR. STOUT: Objection. Form.  
2 A. That is correct.  
3 Q. The next clause, "Transmitting, by said  
4 selected home node," are you able to tell me what  
5 this clause means to Northeastern?  
6 MR. STOUT: Objection. Form.  
7 A. No.  
8 Q. Are you able to tell me how this clause  
9 applies to Google?  
10 MR. STOUT: Objection. Form.  
11 A. Only as presented in this document.  
12 Q. All right. And you're not able to tell me  
13 beyond the words in the right-most column of  
14 Exhibit 4 how the clause applies to Google?  
15 MR. STOUT: Objection. Form.  
16 A. That is correct.  
17 Q. Next clause beginning, "using," scrolls to  
18 page five as well. Are you able to tell me what  
19 this clause means to Northeastern?  
20 MR. STOUT: Objection. Form.  
21 A. No.  
22 Q. Are you able to tell me how this clause  
23 applies to Google?  
24 MR. STOUT: Object to form.  
25 A. Only as presented in the document.

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1 Q. And again, you are unable to tell me  
2 anything beyond the language in this document.  
3 MR. STOUT: Objection. Form.  
4 A. That is correct.  
5 Q. All right. Next clause, returning --  
6 excuse me. Strike that.  
7 Next clause, beginning, "returning." Are  
8 you able to tell me Northeastern's understanding of  
9 this clause?  
10 MR. STOUT: Objection. Form.  
11 A. No.  
12 Q. Are you able to tell me how this clause  
13 applies to Google?  
14 MR. STOUT: Objection. Form.  
15 A. Only as presented in this document.  
16 Q. Next claim, which is claim 2, are you able  
17 to tell me what this claim means to Northeastern?  
18 MR. STOUT: Objection. Form.  
19 A. No.  
20 Q. Are you able to tell me how this claim  
21 applies to Google?  
22 MR. STOUT: Objection. Form.  
23 A. Only as presented in the document.  
24 Q. Next claim, claim 3, are you able to tell  
25 me what claim 3 means to Northeastern?

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1 MR. STOUT: Objection. Form.  
2 A. No.  
3 Q. Are you able to tell me how this claim  
4 applies to Google?  
5 MR. STOUT: Objection. Form.  
6 A. Only as presented in this document.  
7 Q. Now, would it be beneficial or not for me  
8 to continue to go through every claim in the same  
9 manner I went through the first claim set?  
10 MR. STOUT: Objection. Form.  
11 A. No.  
12 Q. I would get the same answers for questions  
13 as to every one of the claims in the contentions;  
14 is that correct?  
15 MR. STOUT: Objection. Form.  
16 A. Yes.  
17 Q. So Northeastern is not able to at this  
18 time tell me what any of the clauses mean to it?  
19 MR. STOUT: Objection. Form.  
20 A. Only as presented in this document, as  
21 prepared by Vinson & Elkins.  
22 Q. In this document --  
23 A. As prepared by Vinson & Elkins.  
24 Q. -- in this form.  
25 Are you able to explain it with regard to

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1 the patent?  
2 MR. STOUT: Objection. Form.  
3 A. No.  
4 Q. Are you able to describe it with regard to  
5 the prosecution history?  
6 MR. STOUT: Objection. Form.  
7 A. No.  
8 Q. Are you able to describe it with regard to  
9 Exhibit 6, which is the Google paper, "The Anatomy  
10 of a Hypertextual Web Search Engine"?  
11 MR. STOUT: Objection. Form.  
12 A. No.  
13 Q. Are you able to describe it in any greater  
14 detail with regard to Exhibit 7, which is the  
15 document entitled, "Web Search for a Planet: The  
16 Google Cluster Architecture"?  
17 MR. STOUT: Objection. Form.  
18 A. No.  
19 Q. Are you able to explain to me the  
20 difference between the first contention and the  
21 second contention --  
22 MR. STOUT: Objection. Form.  
23 BY MR. WOLFF:  
24 Q. -- in Exhibit 4?  
25 MR. STOUT: Objection. Form.

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1 A. No.  
2 MR. WOLFF: All right. I have no further  
3 questions at this time.  
4 MR. STOUT: I have a few questions for  
5 redirect.  
6 EXAMINATION  
7 BY MR. STOUT:  
8 Q. Mr. Pirri, what do Exhibits 3 and 4 set  
9 out?  
10 MR. WOLFF: Object to form.  
11 A. They set out that -- the preparation  
12 basically of our contention that Google has  
13 infringed upon claims 1, 2, 3, 8, 9 and 13 of the  
14 '593 patent.  
15 Q. And how were those contentions prepared?  
16 A. They were prepared by Vinson & Elkins, our  
17 attorneys.  
18 Q. And did anyone at --  
19 A. Jarg and Northeastern University's  
20 attorneys, Vinson & Elkins.  
21 Q. Okay. And did anyone at Northeastern  
22 University review those contentions before they  
23 were submitted?  
24 A. It's my understanding that they were  
25 reviewed by university counsel.

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1 Q. Does Northeastern believe that Google  
2 infringes the '593 patent?  
3 A. Yes.  
4 Q. And where is the basis and foundation for  
5 that belief set forth?  
6 A. It is set forth in Exhibit 4.  
7 Q. And to your knowledge as Northeastern  
8 University, as the representative of Northeastern  
9 University, do Exhibits 3 and 4 set forth the basis  
10 for Northeastern's contentions as to each claim  
11 element?  
12 MR. WOLFF: Object to form.  
13 A. Yes.  
14 MR. STOUT: That's it.  
15 MR. WOLFF: Couple of follow-up questions.  
16 EXAMINATION  
17 BY MR. WOLFF:  
18 Q. Who was the university counsel at  
19 Northeastern that reviewed the contentions?  
20 A. They were reviewed by the office of  
21 university counsel, would be Vincent Lembo and  
22 Karen Abbott.  
23 Q. All right. And did both attorneys -- are  
24 both of those attorneys?  
25 A. Yes.

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1 Q. And were you consulted or any non-lawyer  
2 staff consulted regarding the contentions?  
3 MR. STOUT: Objection. Privilege. I'm  
4 going to instruct the witness not to answer to  
5 the extent that calls for communication  
6 between university counsel's office and its  
7 employees.  
8 BY MR. WOLFF:  
9 Q. It's a yes or no question.  
10 A. I will not respond based upon advice of  
11 counsel.  
12 MR. VALEK: Wait. Are you asking him if  
13 communications occurred?  
14 MR. WOLFF: Yes.  
15 MR. VALEK: All right. He can answer.  
16 MR. STOUT: You can answer whether or not  
17 communications occurred. You can't disclose  
18 what those were.  
19 BY MR. WOLFF:  
20 Q. I don't want to know the substance of your  
21 communications.  
22 A. I can tell you there was no communication  
23 between me. Whether or not there was any  
24 communication with other employees of Northeastern  
25 University, I have no knowledge.

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1 Q. All right. And beyond the contentions  
2 themselves, are you able to provide to me any  
3 factual basis other than Exhibit 4 for  
4 Northeastern's contention that Google infringes the  
5 '593 patent?  
6 MR. STOUT: Objection. Form. Also object  
7 on a privilege basis to the extent your  
8 question is calling for anything not disclosed  
9 in those initial disclosures.  
10 A. I will adhere to my advice of counsel.  
11 BY MR. WOLFF:  
12 Q. And there's no part of my question that  
13 you're able to answer, given your attorney's  
14 instruction?  
15 A. No.  
16 Q. Prior to university counsel's receipt of  
17 the infringement contentions prepared by its  
18 lawyers, what was the basis of filing the complaint  
19 against Google?  
20 MR. STOUT: Objection. Form.  
21 A. The basis of filing was that we believed,  
22 Jarg and Northeastern University believed that  
23 Google was infringing upon the '593 patent and we  
24 sought out counsel to indeed follow-up.  
25 Q. All right. Why did Northeastern believe

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1 that Google was infringing the patent?  
2 A. We believed that you were infringing the  
3 patent based upon initial conversation with Jarg.  
4 And preliminary information that we had based upon  
5 public information that was on the Web about the  
6 history of Google and a look at the '593 patent --  
7 Q. All right.  
8 A. -- led us to believe that, indeed, we  
9 should seek more expertise and help to make the  
10 decision as to whether to go forth.  
11 Q. Does that mean that you believed that  
12 there was infringement at that time or you weren't  
13 sure whether there was infringement at that time?  
14 MR. STOUT: Objection to form.  
15 A. We believed that there was possible  
16 infringement, so we sought counsel.  
17 Q. Okay. And what public information did you  
18 review about Google that led you to that  
19 conclusion?  
20 A. It was information that was on the  
21 website. I "Googled" Google to learn more about  
22 Google. And based upon what I saw on the website  
23 and what I read in the '593 patent and discussions  
24 with Jarg, we proceeded -- we decided we needed  
25 more expertise.

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1 Q. All right. But today, when I walked you  
2 through these contentions, you were unable to  
3 enlighten me on anything beyond the exact text in  
4 the contentions themselves in Exhibit 4.  
5 A. Yes.  
6 Q. Right. So when you made up your -- when  
7 you made your earlier conclusion that there was  
8 infringement, what was it based upon?  
9 MR. STOUT: Object to form.  
10 A. It was based upon a suspicion that led us  
11 to seek additional expertise to make that  
12 determination.  
13 Q. We're going in circles here, aren't we?  
14 A. That's all I can say to you.  
15 Q. So -- what -- how did you reach the  
16 conclusion that you thought Google might be  
17 infringing the patent which led you to seek  
18 counsel?  
19 MR. STOUT: Objection. Form.  
20 A. I read what was on the Google website  
21 about how Google's search engine worked and looked  
22 at, to my best -- the best of my knowledge, the  
23 '593 patent, and said there could be infringement,  
24 and then relied upon the judgment of Jarg, who was  
25 more familiar with the process, and then we decided

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1 that we needed more expertise.  
2 Q. All right. Now, when you compared the  
3 stuff you saw on the Internet to the patent, how  
4 did you do that?  
5 MR. STOUT: Objection. Form.  
6 A. I read them.  
7 Q. You read what?  
8 A. I read the patent and I read on my  
9 computer screen what it said about the Google  
10 search engine.  
11 Q. On the Internet.  
12 A. Yes.  
13 Q. Okay. And what did you look at in the  
14 patent? Did you walk through the claims of the  
15 patent and compare those claims to the information  
16 you saw on the Internet?  
17 MR. STOUT: Objection. Form.  
18 A. Just superficially.  
19 Q. What do you mean superficially?  
20 A. I am not a computer scientist. I knew  
21 that if I read all the details, I would not  
22 understand them. And I basically relied upon  
23 expertise of our attorneys and also Jarg and any  
24 brief discussions with the inventor.  
25 Q. Okay. Do you recall what documents you

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1 saw on the Internet that lead you to your  
2 conclusion about how the Google product worked?  
3 MR. STOUT: Object to form.  
4 A. Not explicitly.  
5 Q. Do you recall the general nature?  
6 A. Under Google, Inc., "The Story of Google"  
7 and how a search engine works.  
8 Q. Okay. What about "The Story of Google"  
9 made you conclude that it satisfied the claims in  
10 the '593 patent?  
11 MR. STOUT: Objection to form.  
12 A. I believe that the elements of basically,  
13 the basic superficial elements in the '593 patent  
14 sounded familiar, from what I read on the Internet.  
15 Q. All right. So what are the basic  
16 superficial elements of the '593 patent?  
17 MR. STOUT: Objection to form.  
18 A. That it is a search engine, and a search  
19 engine which uses various nodes and components to  
20 put together all of the pieces of information.  
21 Q. So is it your --  
22 A. Remember, I'm not a computer scientist.  
23 Q. Right.  
24 Is it Northeastern's belief that any  
25 search engine infringes its patent?

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1 MR. STOUT: Objection. Form.  
 2 A. I don't think I can comment on that.  
 3 Q. You don't think you can comment on that?  
 4 A. I don't know. I don't know.  
 5 Q. All right. Well, let's look at one claim  
 6 element and see how you came to that conclusion.  
 7 Let's look at two claim elements. I'm going to  
 8 change it on you.  
 9 Page 3: "Fragmenting, by said selected  
 10 home node, a query from a user into a plurality of  
 11 query fragments." So when you were looking at this  
 12 information on the Internet and arriving at the  
 13 conclusion that Google satisfied this limitation,  
 14 what was it you saw in the documents on the  
 15 Internet that led you to the conclusion that this  
 16 element was satisfied?  
 17 A. I did not --  
 18 MR. STOUT: Objection. Form.  
 19 A. I did not address that specific element.  
 20 Q. All right. So let's go to the next  
 21 element. "Hashing, by said selected home node,"  
 22 beginning on page 4 of Exhibit 4, what was it that  
 23 you saw on the Internet that led you to the  
 24 conclusion that Google satisfied this claim  
 25 element?

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1 MR. STOUT: Object to form.  
 2 A. I did not address that element.  
 3 Q. All right. Let's move to the next one:  
 4 "Transmitting, by said selected home node." Do you  
 5 see that claim element on page 4?  
 6 A. Yes.  
 7 Q. All right. And what was it that you saw  
 8 on the Internet that led you to believe that this  
 9 element was satisfied by Google?  
 10 MR. STOUT: Object to form.  
 11 A. I did not address the specific elements.  
 12 Q. Did you address any of the elements of the  
 13 claims in performing your analysis?  
 14 MR. STOUT: Objection. Form.  
 15 A. No.  
 16 MR. WOLFF: All right. No further  
 17 questions at this time.  
 18 MR. STOUT: Okay.  
 19 THE VIDEOGRAPHER: It is 10:51 a.m. We're  
 20 going off the record on tape number 1. End of  
 21 the deposition.  
 22 (Whereupon, this deposition was concluded  
 23 at 10:51 a.m.)  
 24  
 25

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C E R T I F I C A T E

1  
 2  
 3 I, ANTHONY N. PIRRI, do hereby certify that  
 4 I have read the foregoing transcript of my  
 5 testimony, and further certify that it is a true  
 6 and accurate record of my testimony (with the  
 7 exception of the corrections listed below):  
 8 Page Line Correction  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19 Signed under the pains and penalties of  
 20 perjury this \_\_\_\_ day of \_\_\_\_\_, 2008.  
 21  
 22 \_\_\_\_\_  
 23 ANTHONY N. PIRRI  
 24  
 25

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C E R T I F I C A T E

1  
 2 Commonwealth of Massachusetts  
 3 Suffolk, ss.  
 4  
 5 I, Dana Welch, Registered Professional  
 6 Reporter, Certified Realtime Reporter and Notary  
 7 Public in and for the Commonwealth of  
 8 Massachusetts, do hereby certify that ANTHONY N.  
 9 PIRRI, the witness whose deposition is hereinbefore  
 10 set forth, was duly sworn by me and that such  
 11 deposition is a true record of the testimony given  
 12 by the witness.  
 13 I further certify that I am neither related  
 14 to nor employed by any of the parties in or counsel  
 15 to this action, nor am I financially interested in  
 16 the outcome of this action.  
 17 In witness whereof, I have hereunto set my  
 18 hand and seal this 29th day of September, 2008.  
 19  
 20 \_\_\_\_\_  
 21 Dana Welch  
 22 Notary Public  
 23 My commission expires:  
 24 October 22, 2010  
 25