

# EXHIBIT T

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

EMG TECHNOLOGY, LLC,

Plaintiff,

vs.

APPLE, INC., AMERICAN AIRLINES,  
INC., DELL, INC., HYATT  
CORPORATION, MARRIOTT  
INTERNATIONAL, INC. & BARNES &  
NOBLE, INC.,

Defendants.

)  
)  
)  
)  
) Case No.  
) 6:08-cv-447(LED)

)  
) VOLUME I

\*\*\* CONFIDENTIAL - ATTORNEYS' EYES ONLY \*\*\*  
(PAGES 307 TO 311)

\*\*\* CONFIDENTIAL\*\*\*  
(PAGES 312 TO 345)

DEPOSITION OF:

ELLIOT GOTTFURCHT  
TUESDAY, DECEMBER 15, 2009  
10:07 A.M.

Reported by: SUSAN LYNN POBOR  
CSR No. 5132

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1 ideas within a few minutes.  
 2 Do you remember how many minutes?  
 3 A. No.  
 4 Q. Was it more than five?  
 5 A. I don't know.  
 6 Q. Could it have been?  
 7 A. Could -- could have -- could have been.  
 8 I don't recall.  
 9 Q. Less than an hour?  
 10 A. Probably so, but I still -- I don't  
 11 recall.  
 12 Q. Less than a half an hour?  
 13 A. I don't recall.  
 14 Q. I'm just asking for your best  
 15 recollection.  
 16 A. Okay. I -- I -- I --  
 17 Q. Okay.  
 18 A. It was ten years ago.  
 19 Q. Okay. All right. So within a few  
 20 minutes, you and Grant came up with the ideas we've  
 21 talked about.  
 22 And all -- all of them were your ideas  
 23 except for the manipulating the region of the screen  
 24 for scrolling and zooming.  
 25 Is that right?

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1 A. That's my recollection, but it may have  
 2 been more than a few minutes. So I -- I think we  
 3 clarified that.  
 4 Q. Okay. But definitely less than an hour.  
 5 Right?  
 6 A. I do not recall.  
 7 Q. Okay. Probably less than an hour, I  
 8 think you said.  
 9 A. I don't recall, but it was -- it was  
 10 that day.  
 11 Q. Okay.  
 12 A. It --  
 13 Q. It was a short time.  
 14 Right?  
 15 A. Well, it's relative.  
 16 Q. Was there anybody else there?  
 17 A. No.  
 18 Q. Now, you mentioned that you wrote down  
 19 these things.  
 20 Did you keep that writing?  
 21 A. I don't recall.  
 22 Q. Have -- have you seen it any time in  
 23 connection with this case?  
 24 A. I don't --  
 25 MR. BECKER: Object to form.

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1 THE WITNESS: I -- I don't think so.  
 2 BY MR. STEPHENS:  
 3 Q. Do you recall what you wrote it on?  
 4 A. No.  
 5 Q. Do you recall what you did with the  
 6 thing you wrote it on?  
 7 A. No.  
 8 Q. Have you ever built your invention?  
 9 MR. BECKER: Object to form.  
 10 THE WITNESS: Personally?  
 11 BY MR. STEPHENS:  
 12 Q. Well, either personally or asked someone  
 13 to do it who worked at your direction or control, yes.  
 14 A. Could you define "built" for me?  
 15 Q. Made a system that practiced your  
 16 invention.  
 17 MR. BECKER: Object. Form.  
 18 THE WITNESS: I'm not sure I'm qualified to  
 19 answer that question.  
 20 BY MR. STEPHENS:  
 21 Q. So you don't know whether you've ever  
 22 built your invention?  
 23 A. Well, we have developed some of the  
 24 invention, I believe, but I -- I'm not qualified to  
 25 respond to your question. I'm not --

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1 Q. So --  
 2 A. I -- I don't have the expertise to -- to  
 3 answer your question.  
 4 Q. So you, as the inventor, don't know  
 5 whether you've ever made your invention.  
 6 Is that right?  
 7 A. I don't -- no, I said I don't have the  
 8 expertise to res -- answer your question.  
 9 Q. Do you know the answer or not?  
 10 A. I don't have the expertise to answer it.  
 11 Q. So you don't know.  
 12 Right?  
 13 A. I don't have the expertise to answer it.  
 14 Q. What do you mean when you say you don't  
 15 have the expertise to answer it?  
 16 A. I'm not an engineer.  
 17 Q. Okay. And --  
 18 A. I've had --  
 19 Q. Go ahead.  
 20 A. I'm not an engineer, and I've had no  
 21 educational experience to answer the question.  
 22 Q. Okay. Well, what additional experience  
 23 do you think you'd need to have in order to tell  
 24 whether you built the invention?  
 25 A. That's the whole idea. I would not know

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1 because I'm not qualified.  
 2 Q. Well, that's what I'm trying to  
 3 understand, is what is it that -- what aspect of your  
 4 invention is it that you don't understand whether  
 5 you've made it or not?  
 6 MR. BECKER: Object. Form.  
 7 THE WITNESS: I, again, say, I was -- not  
 8 qualified to answer your question.  
 9 BY MR. STEPHENS:  
 10 Q. So you can't even tell me what parts of  
 11 it you are unsure whether you've built or not.  
 12 Is that right?  
 13 A. I cannot recall at this time what -- I'm  
 14 unable to answer your question --  
 15 Q. Okay.  
 16 A. -- at this time.  
 17 Q. Have you tried to build your invention?  
 18 A. Again, it would fall into the category  
 19 of that I lack the expertise to know what I have done  
 20 and what I have not done, so I'm unable to answer your  
 21 question.  
 22 Q. Well, what have you done?  
 23 A. Well, over the years, we -- I -- with --  
 24 with help, developed a prototype that would illustrate  
 25 some of the elements of the invention.

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1 Q. And you're not qualified to say whether  
 2 or not that prototype actually is the invention or  
 3 not.  
 4 Is that right?  
 5 A. That's correct.  
 6 Q. Okay. Who has been involved in that  
 7 effort to build a prototype?  
 8 A. Rick Soss, S-o-s-s. His company is  
 9 called Protovu.  
 10 Q. Okay. Anyone else?  
 11 A. That's all I can think of at the time.  
 12 Q. Is Mr. Soss an engineer?  
 13 A. I do not know.  
 14 Q. What is his area of expertise?  
 15 A. I don't have his qualifications, so --  
 16 that I can recall at this time.  
 17 Q. Is he a computer programmer?  
 18 A. I -- I just don't have his  
 19 qualifications.  
 20 Q. What -- what has he done -- what has  
 21 been his involvement in the project?  
 22 A. He developed MailTV, the -- the demo of  
 23 MailTV, the website, the PC website of MailTV, and  
 24 other illustrations or graphics that I used to show  
 25 third parties.

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1 Q. At what point did you first have a  
 2 prototype that would illustrate some of the elements  
 3 of the invention?  
 4 A. I think probably -- I'm just -- just  
 5 guessing now -- in 2001.  
 6 Q. And who built that prototype?  
 7 A. I do not recall who that person was. It  
 8 was someone that I had hired. I don't recall his name  
 9 at this time.  
 10 But MailTV had several different  
 11 editions over the years. I think that may have  
 12 been -- I mean, it may have started with -- in July of  
 13 1999 when we first envisioned how the Internet would  
 14 be displayed and navigated on mobile devices and  
 15 television. And then it -- throughout the years, I  
 16 tried to improve upon that.  
 17 Q. But it was around 2001 when you first  
 18 had something you would call a prototype of how it  
 19 worked.  
 20 Is that right?  
 21 A. It -- it may have been in 2000.  
 22 Q. Is there anything you can tie it to,  
 23 like the presidential election in 2000?  
 24 Did it happen before that or after it?  
 25 A. I don't recall.

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1 Q. Anything else in time that might help  
 2 you place when that prototype was completed or built?  
 3 A. I don't recall.  
 4 Q. What was it called?  
 5 A. Prior to MailTV, I think I called it  
 6 Fogie & Jack.  
 7 If you had the production of documents,  
 8 it -- that would be very helpful.  
 9 Q. When did it change from Fogie & Jack to  
 10 MailTV?  
 11 A. I could only guess.  
 12 Q. Go ahead and give me your best guess.  
 13 MR. BECKER: Object. Form.  
 14 THE WITNESS: 2001.  
 15 BY MR. STEPHENS:  
 16 Q. Okay. Now, you mentioned that you are  
 17 not an engineer and you're not qualified to say  
 18 whether the prototype that you have today practices  
 19 all the elements of your invention.  
 20 Right?  
 21 A. Correct.  
 22 Q. Were you capable of implementing your  
 23 invention, yourself?  
 24 MR. BECKER: Object. Form.  
 25 THE WITNESS: Implementing it into --

<p style="text-align: right;">Page 126</p> <p>1 A. What would I -- my process be?                  2 Q. Yes.                  3 A. Well, first process would be -- is to                  4 call Tom Coester --                  5 Q. Okay.                  6 A. -- and review it with him, to explain                  7 what this means.                  8 Q. So you'd ask Mr. Coester to explain what                  9 the patent means?                  10 A. No, no -- well, yes. Again, I haven't                  11 looked at this for ten years.                  12 Q. Okay. And then what?                  13 A. I would review it with him to refresh my                  14 recollection, and then I would be better equipped to                  15 answer your question.                  16 Q. Okay.                  17 A. I'm sorry. We had this review with --                  18 Q. So --                  19 A. -- Tom.                  20 Q. -- is it possible you did try to develop                  21 a custom browser and you just don't remember?                  22 A. I -- I don't understand what this                  23 language means, so I -- I'm unable to answer your                  24 question.                  25 Q. Okay. You understood it when you filed</p>	<p style="text-align: right;">Page 128</p> <p>1 that would give me information explained here.                  2 Q. Okay.                  3 A. I'm not an engineer.                  4 Q. Can you show me where in this patent it                  5 talks about scrolling or zooming with a finger?                  6 A. I believe the language is, "manipulating                  7 region of the screen."                  8 Q. Okay.                  9 A. And I'd have to read the whole patent to                  10 remember where that is.                  11 But I re -- my recollection is that the                  12 patent talked about manipulating a region of the                  13 screen for zooming and scrolling.                  14 Q. Okay. Other than the word "manipulate,"                  15 are you aware of any disclosure in this patent that                  16 describes using a finger to scroll or zoom?                  17 A. Understanding that my definition of                  18 "manipulation" includes a finger.                  19 Q. I --                  20 A. Are you saying other than using the word                  21 "manipulation"?                  22 Q. Yes.                  23 Other than that one word, are you aware                  24 of anything in the patent that discloses using a                  25 finger to scroll --</p>
<p style="text-align: right;">Page 127</p> <p>1 the patent application?                  2 A. Yeah, I -- I read the document several                  3 times and had -- in meetings with Tom Coester, and I                  4 had a lot of questions and he explained them to me.                  5 Q. Okay. But you don't understand it                  6 today?                  7 A. That's correct.                  8 Q. Okay.                  9 A. Can't recall ten years later.                  10 Q. In that same place in Column 2, just a                  11 little bit further on, it says, "Content partners,                  12 such as content partner node 14 provide content in a                  13 special -- specified format that facilitates its use                  14 by the client nodes."                  15 Do you see that?                  16 A. Yes.                  17 Q. What format was that?                  18 A. Again, I'm not an expert, and I would                  19 have to rely on a review with Tom Coester.                  20 Q. Okay. So you just don't know?                  21 A. I just -- I don't remember. I'm not an                  22 expert.                  23 Q. When you say you're not an expert, what                  24 are you not an expert in?                  25 A. I'm not a expert in the -- in the field</p>	<p style="text-align: right;">Page 129</p> <p>1 A. I would have to take some time and read                  2 this.                  3 Q. Go ahead.                  4 A. It could take an hour.                  5 You want me to do it?                  6 Okay.                  7 Can I mark on this exhibit?                  8 Q. Sure.                  9 A. Okay. All right.                  10 Q. If it helps, Column 5, it's talking                  11 about Figure 5-B being a flow diagram of client side                  12 manipulation of a segmented page.                  13 A. So you're referring me to Column 5?                  14 Q. I am --                  15 A. Okay.                  16 Q. -- Line 5.                  17 A. Line 5.                  18 You said I couldn't -- I could mark on                  19 this?                  20 Q. You can, yes.                  21 A. Okay. You're asking me to find the word                  22 "manipulation"?                  23 Q. No, I'm asking you to point to me where                  24 it discloses using a finger to scroll or zoom.                  25 A. The word "finger", you're asking me if</p>

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1 Q. "Primary navigation options as used  
 2 herein are those navigation options that necessarily  
 3 change between successive matrix layers changing from  
 4 general to more specific with increases in depth in  
 5 the matrix."  
 6 Is that what you're referring to?  
 7 A. Yes.  
 8 Q. What does that mean, an option that  
 9 necessarily changes between successive matrix layers?  
 10 MR. BECKER: Same objections.  
 11 THE WITNESS: And that would be  
 12 attorney-client privilege.  
 13 BY MR. STEPHENS:  
 14 Q. So you can't tell me anything about your  
 15 understanding of that phrase without revealing  
 16 attorney-client privileged information.  
 17 Is that right?  
 18 A. I do not believe so. I -- I -- I  
 19 believe that that's something which I had reviewed  
 20 early on with Tom Coester.  
 21 Q. That same quote that I read refers to  
 22 increases in depth in the matrix.  
 23 What does -- what does the depth of the  
 24 matrix mean?  
 25 A. Well, I'll go to, from July 1st to

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1 July 7, what I would think about at that time.  
 2 Q. Okay.  
 3 A. And at that time, one of the embodiments  
 4 would be that there would be a drill-down from general  
 5 to more specific.  
 6 Q. Kind of like Yahoo had at the time?  
 7 A. Pardon me?  
 8 Q. Like Yahoo had at the time --  
 9 MR. BECKER: Object to form.  
 10 BY MR. STEPHENS:  
 11 Q. -- where you have categories and you can  
 12 get more specific?  
 13 A. Right.  
 14 Q. Okay.  
 15 A. It would be like that.  
 16 Q. And depth refers to how many links in a  
 17 hierarchy of categories, something like that?  
 18 A. At that particular moment in time, I  
 19 would think that -- probably thought that that was an  
 20 embodiment that I had thought about during the period  
 21 of July 1st to July 7, 1999.  
 22 Q. Okay. And that -- that's what you meant  
 23 when you said, in some of your documents in that  
 24 period, that you were working on a filtered Yahoo.  
 25 Is that right?

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1 A. I don't recall that.  
 2 Q. You don't remember that?  
 3 Okay. We'll get to that.  
 4 Now, earlier, you mentioned Online Labs  
 5 and that that was where Albert-Michel Long was  
 6 employed.  
 7 Is that right?  
 8 A. I don't know what his relationship with  
 9 Online was, whether it was an employee or consultant.  
 10 Q. What was Online Labs' role in connection  
 11 with your invention?  
 12 A. They were referred to me by legal  
 13 counsel.  
 14 Q. Mr. Coester?  
 15 A. No, by Jill Pitriani at -- at Manatt.  
 16 Q. How do you spell that name?  
 17 A. G -- G -- J-i-l-l.  
 18 Q. J-i-l-l?  
 19 A. Yeah.  
 20 Q. What's the last name?  
 21 A. P-i-t-r-i-n-i, I believe.  
 22 Q. Jill Pitriani?  
 23 A. Yes.  
 24 Q. Okay. And how did that happen?  
 25 How did Jill Pitriani happen to refer

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1 Online Labs to you?  
 2 A. I decided sometime, I think in July,  
 3 that I would need to engage experts, for them to  
 4 prepare their component, another component of the  
 5 invention, other than what Grant and I had supplied to  
 6 Tom Coester.  
 7 So I wanted to engage consultants,  
 8 experts that could work on preparing a document for  
 9 Tom Coester pertaining to some of the components of  
 10 the invention.  
 11 Q. What components are you referring to?  
 12 A. It was ten years ago, and I was guessing  
 13 that it was -- would have to do with some of the  
 14 technology, the HTML, XML technology.  
 15 Q. Did you have any understanding of HTML  
 16 prior to your interaction with Online Labs?  
 17 A. I did not have any knowledge of it prior  
 18 to meeting Tom Coester. So my knowledge of it would  
 19 have been from Tom Coester. My understanding would  
 20 have been from Tom Coester prior to hiring  
 21 Online Labs.  
 22 And I don't recall what that -- what --  
 23 that knowledge I would have had or understanding I  
 24 would have had during that period of time in 1999.  
 25 Q. What was Manatt's role in your

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1 invention?  
 2 MR. BECKER: I'll instruct you, to the extent  
 3 it requires you to divulge any privileged  
 4 conversations or advice, I instruct you not to answer.  
 5 THE WITNESS: I don't believe they were  
 6 involved in the invention at all other than a  
 7 referral.  
 8 BY MR. STEPHENS:  
 9 Q. And how did you happen to get the  
 10 referral from Manatt?  
 11 MR. BECKER: Same instruction.  
 12 THE WITNESS: Can I answer that?  
 13 MR. BECKER: As long as you don't divulge the  
 14 contents of our privileged conversation.  
 15 THE WITNESS: Jill recommended Tom Coester and  
 16 recommended Online Labs, and I had been a client of  
 17 Manatt for many years.  
 18 BY MR. STEPHENS:  
 19 Q. In patent matters or other things?  
 20 A. No, real estate matters.  
 21 Q. So what happened next after you were  
 22 introduced to Online Labs?  
 23 A. I asked them to assemble a group of  
 24 experts that I could work with, that Tom Coester could  
 25 work with, to prepare a component which -- of the

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1 invention, write a report, and to give that  
 2 information to Tom Coester, who would write the patent  
 3 document.  
 4 Q. And when did you ask him to do that?  
 5 A. I'm guessing it was in July or early  
 6 August of 1999.  
 7 Q. Okay. Who wrote the application that  
 8 led to the 845 patent?  
 9 A. The application?  
 10 Q. Yeah.  
 11 A. Tom Coester would have written the -- he  
 12 would have prepared the patent document.  
 13 Q. Now, was Tom Coester at  
 14 Morrison & Foerster at the time?  
 15 A. No, Blakely Sokoloff.  
 16 Q. Did you change law firms during the  
 17 course of prosecution of the 845 patent?  
 18 A. I think the prosecution was over with.  
 19 I believe it was over with. And I -- I believe that  
 20 the board had written its report, its brief, reversing  
 21 the examiner's decision.  
 22 It was on that process, several-month  
 23 process where it goes back to the examiner.  
 24 Q. And that's when you changed law firms?  
 25 A. I believe so.

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1 Q. And why did you change?  
 2 A. That's attorney-client privilege.  
 3 Q. So you -- you changed on advice of  
 4 counsel?  
 5 A. No, I'm saying that it was  
 6 attorney-client privilege.  
 7 Q. Well, your decision to change counsel is  
 8 not attorney-client privileged unless you did it  
 9 because an attorney advised you to do it.  
 10 A. It --  
 11 Q. If you made up -- if you made up your  
 12 own mind to do, it's not privileged.  
 13 A. Okay. I -- it was in conversation with  
 14 Tom Coester.  
 15 Q. And you can't tell me what the reason  
 16 was without revealing --  
 17 A. Well, I -- I may be able to, if I can go  
 18 off record and speak to --  
 19 Q. Sure.  
 20 A. Because I don't mind telling you. It's  
 21 just, I want to make sure I do it right.  
 22 Q. Okay.  
 23 MR. BECKER: Is this a good time for a break,  
 24 anyways?  
 25 MR. STEPHENS: Sure.

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1 THE VIDEOGRAPHER: This marks the end of tape  
 2 Number 2 in the deposition of Elliot Gottfurcht.  
 3 Going off the record.  
 4 The time is 3:02 p.m.  
 5 (Whereupon a recess was taken)  
 6 THE VIDEOGRAPHER: Back on the record.  
 7 Here marks the beginning of tape  
 8 Number 3 in the deposition of Elliot Gottfurcht.  
 9 The time is 3:32 p.m.  
 10 BY MR. STEPHENS:  
 11 Q. Mr. Gottfurcht, before the break, we  
 12 were talking about Online Labs, and you mentioned that  
 13 you had asked them to assemble some experts to put  
 14 together a report that would then work -- Mr. Coester  
 15 would then use, in part, to draft the patent document.  
 16 Right?  
 17 A. Yes.  
 18 Q. And Online Labs did that.  
 19 Right?  
 20 A. Yes, they did.  
 21 Q. And that report was dated sometime in  
 22 October.  
 23 Does that sound right?  
 24 A. That sounds about right.  
 25 Q. Did they have an ongoing involvement

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1 after that?  
 2 A. No, after they -- the co-inventors  
 3 signed off on the patent application, that terminated  
 4 their engagement, and I continued to engage  
 5 Albert Long.  
 6 Q. So Online --  
 7 Well, I guess -- let me -- let me back  
 8 up.  
 9 Did Online Labs ever try to actually  
 10 implement anything for you?  
 11 A. No.  
 12 Q. Did Mr. Long separate from whatever  
 13 relationship he had with Online Labs at that point?  
 14 A. Yes, I believe so.  
 15 Q. And he worked directly for you at that  
 16 point?  
 17 A. Yes.  
 18 Q. And how long did he continue to work for  
 19 you?  
 20 A. This would have been from approximately  
 21 November 1999, approximately May of 2000.  
 22 Q. So Mr. Long worked directly for you from  
 23 November '99 to about May of 2000?  
 24 A. Correct.  
 25 Q. About six months?

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1 A. That would be correct.  
 2 Q. And what did Mr. Long do for you in that  
 3 period?  
 4 A. He worked on the -- the 845 patent and  
 5 another patent that we had filed where Mr. Long was a  
 6 co-inventor.  
 7 Q. What was that other patent?  
 8 A. I think it was "Make My Tune" patent.  
 9 Q. What was that about?  
 10 A. That was about converting a photograph  
 11 on the fly into a cartoon.  
 12 Q. Did you get a patent on that?  
 13 A. No.  
 14 Q. How many other patents do you have  
 15 that -- or sorry, let me ask it differently.  
 16 How many patent applications have you  
 17 filed that claim priority to the parent of the patents  
 18 in this lawsuit, in other words, the 497 that was  
 19 filed in November 1999?  
 20 A. Can you rephrase the question?  
 21 Q. Yeah.  
 22 How many applications have you filed  
 23 that are based in any way on the 497 patent that was  
 24 originally filed in November of 1999?  
 25 A. I don't recall.

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1 Q. More than three?  
 2 A. Yes.  
 3 Q. More than five?  
 4 A. Yes.  
 5 Q. More than ten?  
 6 A. I don't recall.  
 7 Q. How many patents have issued in that  
 8 family?  
 9 A. Four.  
 10 Q. So at least some have gone abandoned.  
 11 Right?  
 12 A. Yes.  
 13 Q. Have you instructed your lawyers to turn  
 14 those documents over, the -- the patent filings and  
 15 the -- the file histories for those abandoned  
 16 applications in this litigation?  
 17 A. I don't believe so.  
 18 Q. Okay.  
 19 MR. STEPHENS: We need those, Rob. We should  
 20 have had those before this deposition.  
 21 THE WITNESS: Are -- are you -- let me just  
 22 clarify something.  
 23 Are you talking about new -- new  
 24 specifications or off the same original  
 25 specifications?

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1 BY MR. STEPHENS:  
 2 Q. I'm talking about anything that claims  
 3 any benefit of any kind from the original filing of  
 4 the 497, whether it's a continuation in part or merely  
 5 a related application that says, This is a related  
 6 application.  
 7 A. Or a continuation?  
 8 Q. Or a continuation.  
 9 A. So you're talking about any continuation  
 10 of the 845?  
 11 Q. For the 497.  
 12 A. For the 497?  
 13 Q. Yes.  
 14 A. Okay.  
 15 Q. So between five and ten is your best of  
 16 how many applications --  
 17 A. I -- I -- I can't recall how many. I  
 18 think there may have been more than ten.  
 19 Q. I've seen a document, and we'll probably  
 20 look at it here in a minute, that said you had 30  
 21 patent applications pending.  
 22 Does that ring a bell?  
 23 A. I don't call -- recall how many, but  
 24 there were a number of applications that were pending.  
 25 Q. Could there have been 30 applications?



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1 Q. Has he been continuing to develop the  
 2 MallTV.com website during the course of this  
 3 litigation?  
 4 A. No, we have -- we've put it on hold.  
 5 Q. When did you put it on hold?  
 6 A. I would say about the time that the  
 7 litigation commenced.  
 8 Q. What did you tell Mr. Soss about that?  
 9 A. I don't recall if I told him anything.  
 10 Q. How did it get put on hold?  
 11 A. I just didn't call him to do additional  
 12 work.  
 13 Q. I see.  
 14 And he didn't have any projects  
 15 outstanding?  
 16 A. He didn't -- pardon me?  
 17 Q. He did not have any projects outstanding  
 18 at the time the litigation commenced?  
 19 A. Any projects?  
 20 Q. Changes to the MallTV.com site?  
 21 A. I -- I think that we didn't change the  
 22 MallTV.com site except that -- at the bottom of it  
 23 where it says "copyright," we added 2009, at the  
 24 bottom of the web page.  
 25 I don't know if he did it for the mobile

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1 site. He may have made that change for the mobile  
 2 site.  
 3 Q. When did the iPhone version of MallTV go  
 4 online?  
 5 MR. BECKER: Object. Form.  
 6 THE WITNESS: I don't recall.  
 7 BY MR. STEPHENS:  
 8 Q. Was it 2008?  
 9 A. It's possible 2008.  
 10 Q. 2007?  
 11 A. It's possible.  
 12 Q. 2009?  
 13 A. No, I think it was 2007, 2008.  
 14 Q. Okay. Who else has been involved in  
 15 constructing prototypes of your invention for you?  
 16 A. Bob Bajor -- Bajaris at Art & Logic.  
 17 Q. How do you spell his last name?  
 18 A. I -- I don't recall.  
 19 Q. Okay. B-a-j-a-r-i-s or something like  
 20 that?  
 21 A. Something like that.  
 22 Q. Now, did you say that Mr. Soss is at  
 23 Protovu?  
 24 Was that the name?  
 25 A. Protovu is his company.

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1 Q. Anyone else besides Mr. Soss and  
 2 Mr. Bajaris that was -- has been involved in creating  
 3 prototypes for you?  
 4 A. I think that was -- that was -- it was  
 5 just those two.  
 6 Q. Who is Angel Gulermovich?  
 7 A. She works for Art & Logic. She was a  
 8 consultant for Art & Logic.  
 9 Q. And who is Daisy Trayham?  
 10 A. She is also a consultant for  
 11 Art & Logic.  
 12 Q. Are there any other people that have  
 13 been involved in creating prototypes for you?  
 14 A. I think that Angel's -- was not involved  
 15 in prototypes. I think that Daisy was involved in the  
 16 mobile site, working under the direction of -- of Bob.  
 17 Q. What was Angel's role?  
 18 A. She was a -- a consultant for  
 19 Art & Logic.  
 20 Q. But what was her role in connection with  
 21 any project for you?  
 22 A. I think she was just someone that Bob  
 23 had said had some knowledge, may have wanted to talk  
 24 to her.  
 25 Q. And did you talk to her?

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1 A. I did.  
 2 Q. And what was the nature of that  
 3 conversation?  
 4 A. I discussed certain components of the --  
 5 that were on my mind.  
 6 Q. What components?  
 7 A. I don't recall. I think one had to do  
 8 with transcoding.  
 9 Q. Anything else?  
 10 A. I don't recall. There may have been  
 11 something else.  
 12 Q. And how did you come to talk to Angel  
 13 about transcoding?  
 14 A. Bob had recommended that if I wanted to  
 15 have discussions, that she was a knowledgeable person  
 16 and she's located in Los Angeles, and that I could  
 17 have some conversation with her.  
 18 Q. About transcoding specifically?  
 19 A. No, just about whatever, generally, that  
 20 I -- you know, would come to my mind.  
 21 Q. What's -- what kind of work has  
 22 Art & Logic, generally speaking, done for you?  
 23 A. They've done -- the bulk of the work was  
 24 that they had prepared the -- the mobile website,  
 25 MallTV mobile website.

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1 Q. That includes the iPhone portion?  
 2 A. Yes.  
 3 Q. And there are other portions, as well?  
 4 A. I think so. I think it could be  
 5 accessed from a BlackBerry.  
 6 Q. So Mr. Soss did the Flash prototype, and  
 7 Art & Logic did the mobile por -- version.  
 8 Is that right?  
 9 A. Art -- they may have worked together on  
 10 some of the layout, put them in touch with each other.  
 11 Q. Now, Flash is not XML.  
 12 Right?  
 13 A. I -- I don't believe so.  
 14 Q. How many discussions did you have with  
 15 Angel?  
 16 A. A guess, a half a dozen.  
 17 Q. And when did those -- what period did  
 18 those take place?  
 19 A. I think they took place in 19 -- 2008.  
 20 Q. All of them in 2008?  
 21 A. I believe so.  
 22 Q. You talked to her about transcoding.  
 23 Do you remember any -- anything else  
 24 that you talked to her about?  
 25 A. I do not recall. I may have talked to

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1 her about some other things. I just don't recall.  
 2 Q. So what do you remember about your  
 3 discussions with her?  
 4 A. I wanted to ask her just -- I'm very  
 5 curious about -- about mobile websites and -- and  
 6 things like that, and I -- if I had a question during  
 7 that period of time, I'd call her up and I would ask  
 8 her.  
 9 Q. Did Angel do any work for your lawyers?  
 10 A. No, I don't believe so.  
 11 Q. Did she do any work directly or  
 12 indirectly under their direction or control?  
 13 A. No, not -- not that I can recall. I  
 14 don't believe so.  
 15 Q. Did Mr. Bajaris do any work for your  
 16 lawyers?  
 17 A. No, I don't believe so.  
 18 Q. Did anyone at Art & Logic do any work  
 19 for your lawyers?  
 20 A. I do not believe so.  
 21 Q. Is that also true for the people at  
 22 Protovu?  
 23 A. Yes.  
 24 Q. So they really had no involvement in  
 25 this lawsuit?

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1 A. That's correct.  
 2 Q. Or any other lawsuit.  
 3 Is that right?  
 4 A. Any other lawsuit?  
 5 Q. Yeah.  
 6 A. Any other lawsuit --  
 7 Q. Involving you, I should say.  
 8 A. No.  
 9 Q. Okay.  
 10 MR. STEPHENS: Rob, I was asking you about  
 11 preserving Mr. Soss' e-mails, and you -- you said you  
 12 don't have any obligation to do that.  
 13 Do I understand that right?  
 14 MR. BECKER: I just --  
 15 The question is to me?  
 16 MR. STEPHENS: Yeah.  
 17 MR. BECKER: That's what I think I said.  
 18 MR. STEPHENS: Well, do you have an ob -- do  
 19 you believe that --  
 20 MR. BECKER: I have --  
 21 MR. STEPHENS: -- you or Mr. Gottfurcht have  
 22 an obligation to preserve?  
 23 MR. BECKER: I -- I don't know. I -- I  
 24 wouldn't -- I haven't been handling that, so I would  
 25 have to consult with the others.

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1 But I -- I don't think he's an employee  
 2 of Elliot's. He's a consultant that works for another  
 3 firm.  
 4 COURT REPORTER: I don't think he's an  
 5 employee of what?  
 6 MR. BECKER: He's an employee of  
 7 Mr. Gottfurcht's, but rather, a consultant that  
 8 works for someone else.  
 9 BY MR. STEPHENS:  
 10 Q. Is he an employee of EMG, Mr. Soss?  
 11 A. Oh, no.  
 12 Q. Okay. Have you ever corresponded with  
 13 Mr. Soss at the request of Manatt?  
 14 A. Request of who?  
 15 Q. Your lawyers.  
 16 A. No.  
 17 MR. STEPHENS: Rob, is Manatt representing  
 18 Mr. Soss?  
 19 THE WITNESS: No.  
 20 MR. BECKER: No.  
 21 BY MR. STEPHENS:  
 22 Q. Okay. Is Manatt representing any of the  
 23 folks at Protovu?  
 24 A. No.  
 25 Q. Are they representing any of the people

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1 he sent was one that I had deleted.  
 2 Q. Okay. But he told you he sent some  
 3 e-mails --  
 4 A. He said, "I sent you an e-mail."  
 5 And I said -- I said, "Oh, I didn't  
 6 receive an e-mail."  
 7 But then I went back and I looked, and  
 8 it was in my junk e-mail.  
 9 Now, I thought that his e-mail would be  
 10 Albert Long, so that's what I looked for, but it  
 11 wasn't. It was some initials.  
 12 And so it's possible it went in there  
 13 automatically or it's possible that when I delete junk  
 14 e-mails, that I wasn't familiar with it and I would  
 15 have deleted it.  
 16 Q. Did you or -- see an e-mail from him or  
 17 not in your junk e-mail?  
 18 A. Yeah, I did. I went back to junk e-mail  
 19 and it was, like, confirmed for Hous --  
 20 Oh, I think he -- he may have asked,  
 21 "Are you talking about the Houston's in Century City  
 22 or the Houston's in Santa Monica?"  
 23 I think -- I remember getting something  
 24 like that.  
 25 Q. Okay. And then you think you may have

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1 deleted it?  
 2 A. I may or may not have deleted it.  
 3 Q. Okay. Have you taken any steps to  
 4 preserve voicemails?  
 5 A. No, but I seldom receive messages by  
 6 voicemail.  
 7 Q. Have you taken any steps to preserve  
 8 text messages?  
 9 A. No.  
 10 Q. And you did receive some from Mr. Long  
 11 that you deleted, right, or they --  
 12 A. If there were text messages on my phone,  
 13 whatever he sent me on my phone, I lost because my  
 14 battery went dead and I had to go buy a new iPhone.  
 15 Q. Okay. And you didn't take any steps to  
 16 preserve those.  
 17 Right?  
 18 A. Oh, in between?  
 19 Q. Yes.  
 20 A. No, I did not.  
 21 Q. Okay. And you're not taking any steps  
 22 now to preserve text messages or voicemail messages.  
 23 Right?  
 24 A. That's correct.  
 25 MR. STEPHENS: I'd like that marked, please.

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1 (Whereupon E. Gottfurcht Exhibit 3 was  
 2 marked for identification)  
 3 THE WITNESS: Do you want me to keep those,  
 4 still?  
 5 BY MR. STEPHENS:  
 6 Q. Yes, you can keep those.  
 7 The court reporter has handed you the  
 8 exhibit marked E. Gottfurcht 3, and that's  
 9 U.S. Patent 6,604,97.  
 10 Right?  
 11 A. That's correct.  
 12 Q. And you're an inventor on that patent.  
 13 Right?  
 14 A. Yes.  
 15 Q. And that's the parent to the two patents  
 16 in this lawsuit.  
 17 Is that right?  
 18 A. Yes.  
 19 Q. I'm reminded that we took a break  
 20 sometime earlier today so you guys could consult and  
 21 figure out whether you could tell me why you decided  
 22 to change law firms.  
 23 A. Uh-huh.  
 24 Q. And what did you determine?  
 25 A. That I could tell you.

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1 Q. Okay. Go ahead and tell me, please.  
 2 A. Could you repeat the question?  
 3 Q. Yeah.  
 4 Why did you decide to switch from  
 5 Blakely Sokoloff Taylor & Zafman to  
 6 Morrison & Foerster when prosecuting the 845 patent?  
 7 A. Well, I don't believe it was for  
 8 prosecuting of the 845. I think that it had been  
 9 fully prosecuted and was in that period between the  
 10 appeal board sending its decision reversing the  
 11 examiner's decision back to the examiner.  
 12 So I don't think there was any  
 13 prosecution.  
 14 At that particular time, Tom Coester was  
 15 going on I believe a four-month sabbatical that his  
 16 firm offers I think every eight years.  
 17 And Jonathan Miller, who did the bulk of  
 18 the work at that time, was leaving the firm.  
 19 That left me without my two attorneys  
 20 that I had worked with, and so that is the reason why  
 21 I left the firm.  
 22 Q. Okay. Looking at the 497 patent,  
 23 there's a number of inventors there.  
 24 Can you tell me which of those inventors  
 25 were associated with Online Labs?

Page 202

1 he sent was one that I had deleted.  
 2 Q. Okay. But he told you he sent some  
 3 e-mails --  
 4 A. He said, "I sent you an e-mail."  
 5 And I said -- I said, "Oh, I didn't  
 6 receive an e-mail."  
 7 But then I went back and I looked, and  
 8 it was in my junk e-mail.  
 9 Now, I thought that his e-mail would be  
 10 Albert Long, so that's what I looked for, but it  
 11 wasn't. It was some initials.  
 12 And so it's possible it went in there  
 13 automatically or it's possible that when I delete junk  
 14 e-mails, that I wasn't familiar with it and I would  
 15 have deleted it.  
 16 Q. Did you or -- see an e-mail from him or  
 17 not in your junk e-mail?  
 18 A. Yeah, I did. I went back to junk e-mail  
 19 and it was, like, confirmed for Hous --  
 20 Oh, I think he -- he may have asked,  
 21 "Are you talking about the Houston's in Century City  
 22 or the Houston's in Santa Monica?"  
 23 I think -- I remember getting something  
 24 like that.  
 25 Q. Okay. And then you think you may have

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1 deleted it?  
 2 A. I may or may not have deleted it.  
 3 Q. Okay. Have you taken any steps to  
 4 preserve voicemails?  
 5 A. No, but I seldom receive messages by  
 6 voicemail.  
 7 Q. Have you taken any steps to preserve  
 8 text messages?  
 9 A. No.  
 10 Q. And you did receive some from Mr. Long  
 11 that you deleted, right, or they --  
 12 A. If there were text messages on my phone,  
 13 whatever he sent me on my phone, I lost because my  
 14 battery went dead and I had to go buy a new iPhone.  
 15 Q. Okay. And you didn't take any steps to  
 16 preserve those.  
 17 Right?  
 18 A. Oh, in between?  
 19 Q. Yes.  
 20 A. No, I did not.  
 21 Q. Okay. And you're not taking any steps  
 22 now to preserve text messages or voicemail messages.  
 23 Right?  
 24 A. That's correct.  
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 10 Right?  
 11 A. That's correct.  
 12 Q. And you're an inventor on that patent.  
 13 Right?  
 14 A. Yes.  
 15 Q. And that's the parent to the two patents  
 16 in this lawsuit.  
 17 Is that right?  
 18 A. Yes.  
 19 Q. I'm reminded that we took a break  
 20 sometime earlier today so you guys could consult and  
 21 figure out whether you could tell me why you decided  
 22 to change law firms.  
 23 A. Uh-huh.  
 24 Q. And what did you determine?  
 25 A. That I could tell you.

Page 205

1 Q. Okay. Go ahead and tell me, please.  
 2 A. Could you repeat the question?  
 3 Q. Yeah.  
 4 Why did you decide to switch from  
 5 Blakely Sokoloff Taylor & Zafman to  
 6 Morrison & Foerster when prosecuting the 845 patent?  
 7 A. Well, I don't believe it was for  
 8 prosecuting of the 845. I think that it had been  
 9 fully prosecuted and was in that period between the  
 10 appeal board sending its decision reversing the  
 11 examiner's decision back to the examiner.  
 12 So I don't think there was any  
 13 prosecution.  
 14 At that particular time, Tom Coester was  
 15 going on I believe a four-month sabbatical that his  
 16 firm offers I think every eight years.  
 17 And Jonathan Miller, who did the bulk of  
 18 the work at that time, was leaving the firm.  
 19 That left me without my two attorneys  
 20 that I had worked with, and so that is the reason why  
 21 I left the firm.  
 22 Q. Okay. Looking at the 497 patent,  
 23 there's a number of inventors there.  
 24 Can you tell me which of those inventors  
 25 were associated with Online Labs?

<p style="text-align: right;">Page 206</p> <p>1 A. Yes, Manuel Beltran, Steven Woesner,  2 John Marinuzzi, Albert Long, Donald Dukeshire.  3 Q. And who is Teague McKnight?  4 A. Teague McKnight? I hired Teague I think  5 starting in July of 1999 to work on the graphics of  6 the interface and the advertising, part of those  7 graphics.  8 Q. Uh-huh. And how did you come to hire  9 Mr. McKnight?  10 A. He was a friend of a friend.  11 Q. And who was the friend he was a friend  12 of?  13 A. I don't remember his name, because he  14 was a friend of another friend.  15 Q. Okay. What was Mr. McKnight's  16 background?  17 A. He -- graphics, graphic design, the  18 Internet, computers. He had graduated college, I  19 believe, and was in that period before going to  20 business school.  21 Q. So can you just run through the  22 inventors, here, and tell me what they contributed  23 to of the invention?  24 A. Well, I'm not able to tell you  25 specifically, because there were times when we all met</p>	<p style="text-align: right;">Page 208</p> <p>1 What figure? Figure 8?  2 Q. Figure 8, yeah.  3 A. Just some slight changes.  4 Q. Not in the 845, is there?  5 A. Between the 845 and the --  6 Q. Figure 8 in the -- Figure 8 in the 497,  7 and Figure 8 in the 845 -- oh, I see. The F and J  8 changed --  9 A. Correct.  10 Q. -- in this. Yeah, you're right.  11 I think you mentioned that  12 Alber-Michel Long contributed Figure 8 in the 845  13 patent.  14 Did he also contribute part of Figure 8  15 in the 497?  16 A. He may have.  17 Q. Was his contributions to the 497 patent  18 primarily graphical?  19 A. He worked with the team, so they -- they  20 were a team and they worked together. And so I was  21 not privy to all their conversations and meetings.  22 They did write a report.  23 I'm able to -- I'm unable to distinguish  24 what part of that report was contributed to each  25 co-inventor.</p>
<p style="text-align: right;">Page 207</p> <p>1 together and everybody threw out a contribution.  2 But the report was prepared by  3 Manuel Beltran. He was the leader of the group. And  4 Steven -- Steven Woesner, John Marinuzzi, and  5 Albert Long and Donald Dukeshire, they worked on the  6 report.  7 Q. Did they provide contributions to the  8 invention other than the things that are described in  9 the report?  10 A. Not that I recall.  11 Q. Could you just leaf through the figures  12 of the 497 patent and tell me what, if anything, you  13 can identify as a contribution of Mr. McKnight?  14 A. He may have worked on Figure 4-A; he  15 may have worked on Figure 5; 4-B is questionable;  16 Figure 8; Figure 9-A, is my recollection; Figure 9-B;  17 Figure 9-C; Figure 9-D; Figure 10-A; 10-B; 10-C; 10-D;  18 10-E; 10-F; 10-G; 11; 12-A; 12-B; 13.  19 That's the best of my recollection.  20 Q. Now, Figure 8 is the same as Figure 8 in  21 the later patents.  22 Right?  23 A. Figure what?  24 Q. Figure 8?  25 A. 8?</p>	<p style="text-align: right;">Page 209</p> <p>1 Q. Okay. So you don't really know exactly  2 who contributed what to the 497 invention.  3 Right?  4 A. That would be generally correct.  5 Q. Okay. Is there anything that you can  6 specifically identify with any of the individual  7 inventors?  8 A. Well, I remember going to a meeting. We  9 had a -- I think the co-inventors had day jobs, and  10 they worked at night and the weekends. And I recall a  11 couple times I reserved a room at a hotel in  12 Orange County.  13 I thought during that meeting -- I could  14 be wrong, here -- that Manuel Beltran, being the  15 leader of the team, said to Albert, Did you complete  16 the history portion of Figure 11?  17 That's my recollection.  18 Q. Okay. Is there any other individual  19 contribution of any inventor that you can recall?  20 A. No, I -- individually, no. It was the  21 report that they all worked on collectively.  22 MR. STEPHENS: Mark that, please.  23 (Whereupon E. Gottfurcht Exhibit 4 was  24 marked for identification)  25 MR. STEPHENS: This is Number 4.</p>

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1 A. I believe so.  
 2 Q. Okay. Does the document that you see on  
 3 Page 1412 reflect notes of a conversation you had with  
 4 Mr. Coester?  
 5 A. I don't believe so.  
 6 Q. Why do you say that?  
 7 A. I don't recall taking notes of a  
 8 conversation I've had with Tom Coester.  
 9 Q. Ever?  
 10 A. No, not -- not in this document, and --  
 11 and -- so I don't recall that that would have been  
 12 notes from conversations with Tom Coester.  
 13 Q. Okay. But it's ten years ago.  
 14 It could have happened.  
 15 Right?  
 16 You just don't remember?  
 17 A. I don't think so.  
 18 MR. BECKER: I'll object to form.  
 19 BY MR. STEPHENS:  
 20 Q. How are you so sure?  
 21 A. Because I don't recall it.  
 22 Q. Okay. But there's a lot of things you  
 23 don't recall.  
 24 A. I understand.  
 25 Q. There's a lot of things you don't recall

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1 from ten years ago.  
 2 Right?  
 3 A. That's correct.  
 4 Q. But you do recall that this is not notes  
 5 from a conversation with Tom Coester.  
 6 Right?  
 7 A. I do not -- I do not recall. I do not  
 8 believe that it is.  
 9 Q. But you don't know why you read his name  
 10 on the page, either.  
 11 Right?  
 12 A. That's correct.  
 13 Q. Okay. If you turn to Page 1424, it  
 14 says, "Fogies.com, enjoying a longer life."  
 15 Do you see that?  
 16 A. Yes.  
 17 Q. And then to the left of that, there's  
 18 some words that are written down, "Jill and Tom," and  
 19 then there's letter -- words to the left of that.  
 20 Can you read those?  
 21 A. Looks like "trademark" next to Jill, and  
 22 Tom -- portal? I can't -- I don't know what that  
 23 says.  
 24 Q. And who was Jill?  
 25 A. I don't recall.

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1 Q. And who was Tom?  
 2 A. I don't recall.  
 3 Q. Is that Tom Coester?  
 4 A. I don't recall.  
 5 Q. And if you'll turn to Page 1428, the top  
 6 of that page says, "Business Plan"?  
 7 A. Yes.  
 8 Q. Did you develop a business plan around  
 9 your invention?  
 10 A. I don't recall.  
 11 Q. How much money have you spent trying to  
 12 exploit your invention?  
 13 MR. BECKER: Object to form.  
 14 THE WITNESS: From 1999?  
 15 BY MR. STEPHENS:  
 16 Q. Yes.  
 17 A. A guess?  
 18 Q. Your best guess, sure.  
 19 A. About \$2 million or more.  
 20 Q. And how much of that is -- was spent on  
 21 patent filings and prosecuting?  
 22 A. Well, that would be included as part of  
 23 that.  
 24 Q. Well, no, I'm asking you to break it  
 25 down.

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1 A. I don't know how -- I couldn't break  
 2 that down.  
 3 Q. You spent more than a million on  
 4 patents?  
 5 A. No, I think I -- I -- I think that it  
 6 was about \$2 million for patent prosecution,  
 7 prototypes, and any other related expenses.  
 8 Q. Has that all been your own money?  
 9 A. Yes.  
 10 Q. No investors?  
 11 A. No.  
 12 Q. Do you have records of what you've  
 13 spent?  
 14 A. I don't recall.  
 15 Q. You don't have anybody in charge of  
 16 keeping records?  
 17 A. Well, I'd have to go see if I could find  
 18 records pertaining to that.  
 19 That go back ten years?  
 20 Q. Any period of time.  
 21 A. Yeah, I'd have to check to see if I have  
 22 those records.  
 23 Q. You didn't check to see if you have  
 24 those records in connection with this lawsuit already?  
 25 A. No.

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1 documents. But to my memory, at Time Warner, AT&T,  
 2 Fox, Yahoo, Comcast, I think Microsoft, Cisco. Those  
 3 are some of the companies I believe that I talked to.  
 4 Q. And which of those companies did you  
 5 have meetings with?  
 6 A. Time Warner, Fox, NBC, AT&T.  
 7 That's all I can think of then.  
 8 Q. So you didn't meet with Yahoo?  
 9 A. I -- I spoke to them on the phone.  
 10 Q. You didn't meet with Comcast?  
 11 A. I spoke to them on the phone.  
 12 Q. You didn't meet with Microsoft?  
 13 A. I spoke to them on the phone.  
 14 Q. And you didn't meet with Cisco?  
 15 A. I talked to them on the phone.  
 16 Q. Okay. Does EMG have any employees?  
 17 A. No.  
 18 Q. Where is its office?  
 19 A. The office is at my residence, and we  
 20 have an office in Tyler, Texas.  
 21 Q. And is the office in Tyler, Texas, the  
 22 office operated by your lawyer, local counsel?  
 23 MR. BECKER: Object. Form.  
 24 THE WITNESS: It's an office where we have our  
 25 original documents stored.

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1 BY MR. STEPHENS:  
 2 Q. Anything else happen there?  
 3 A. I think we have a computer, telephone  
 4 service, I think maybe a safe for the documents.  
 5 Q. Is that -- was that office arranged for  
 6 by your lawyer in Tyler?  
 7 MR. BECKER: And I'll instruct you not to  
 8 answer, only to the extent that you have to divulge  
 9 attorney-client advice --  
 10 MR. STEPHENS: Right.  
 11 MR. BECKER: -- or communication.  
 12 MR. STEPHENS: It's got to be legal advice.  
 13 Renting a space for him does not qualify as legal  
 14 advice.  
 15 MR. BECKER: I didn't tell him that.  
 16 BY MR. STEPHENS:  
 17 Q. Okay. Did the lawyer arrange for your  
 18 space in Tyler?  
 19 A. Did he arrange for the space in Tyler?  
 20 I think I did.  
 21 Q. And who did you call?  
 22 A. I called Charlie Ainsworth's office, our  
 23 local counsel.  
 24 Q. And you talked to Charlie and said, I  
 25 want some space?

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1 A. I can't recall who I talked to.  
 2 I said, "We're sending documents to you.  
 3 We'd like you to arrange for a space and we'll pay  
 4 rent to store the documents -- the original  
 5 documents."  
 6 Q. You paid your rent to  
 7 Parker Bunt & Ainsworth?  
 8 A. No. No, no, no.  
 9 Q. Who do you pay your rent to?  
 10 A. I don't know who it is, but it's the  
 11 landlord of the building.  
 12 Q. Okay. But Mr. Ainsworth arranged for  
 13 the --  
 14 A. I'm not sure whether he did. I -- I'm  
 15 not testifying to that.  
 16 Q. Okay. But he's the one you talked to,  
 17 to make that happen --  
 18 A. I can't -- I'm not -- somebody --  
 19 Q. -- that you talked to, to get the space?  
 20 A. I don't recall.  
 21 Q. Do you write a check every month for  
 22 that rent?  
 23 A. Does EMG write a check?  
 24 Q. Yes.  
 25 A. Yes.

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1 Q. And who does that check -- who is that  
 2 paid to?  
 3 A. I don't recall the name.  
 4 Q. Okay. It doesn't show up on your legal  
 5 bill?  
 6 A. No, no, not at all.  
 7 Q. Is there any activity that occurs there  
 8 other than storing documents?  
 9 A. As far as activity that I know of?  
 10 Q. Yeah.  
 11 A. No.  
 12 Q. Have you ever been there?  
 13 A. No.  
 14 Q. Do you know anyone who has ever been in  
 15 that space?  
 16 A. Well, I would think that there's  
 17 somebody from the local counsel's office that had been  
 18 there to arrange our original documents.  
 19 Q. But do you know of anyone who's ever  
 20 been there, specific person?  
 21 A. No.  
 22 Q. Okay. Now, tell me about your  
 23 education, please.  
 24 A. I graduated from University of  
 25 Southern California, I think in 1962.

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1 MR. LANE: Let me just add -- I just want to  
 2 add one thing on the record for American, since we  
 3 haven't -- I think that we have been prejudiced by the  
 4 deposition, given the number of questions the witness  
 5 hasn't been able to answer.  
 6 It's caused the deposition to take an  
 7 inordinate amount of time, the amount of time it took  
 8 to review documents, as well as now, we found out a  
 9 lot of documents haven't been produced.  
 10 So just for American Airlines, we will  
 11 need to seek additional time to depose Mr. Gottfurcht.  
 12 Thank you.  
 13 MR. BECKER: And we disagree with that  
 14 characterization.  
 15 MR. STEPHENS: Okay.  
 16 THE WITNESS: Thank you very much.  
 17 THE VIDEOGRAPHER: This concludes Volume I in  
 18 the deposition of Elliot Gottfurcht.  
 19 The number of tapes used was four. The  
 20 original videotapes will be retained by Merrill Legal  
 21 Solutions, Woodland Hills, California.  
 22 Going off the record.  
 23 The time is 7:51 p.m.  
 24 COURT REPORTER: Okay. And you both wanted  
 25 roughs?

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1 MR. STEPHENS: Yes.  
 2 MR. BECKER: Yes.  
 3 MR. GENET: And I'll just take a copy.  
 4 COURT REPORTER: Okay. Did you need the  
 5 roughs tonight, or is it okay for the morning?  
 6 MR. STEPHENS: Tomorrow is fine.  
 7 MR. BECKER: That's fine.  
 8 (Whereupon the deposition was concluded  
 9 at 7:52 p.m.)  
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1 PENALTY OF PERJURY  
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 3  
 4  
 5 I hereby declare I am the deponent in the  
 6 within matter; that I have read the foregoing  
 7 proceeding and know the contents thereof and I declare  
 8 that the same is true of my knowledge except as to the  
 9 matters which are therein stated upon my information  
 10 or belief, and as to those matters I believe it to be  
 11 true.  
 12 I declare under penalty of perjury that the  
 13 foregoing is true and correct.  
 14 Executed on the \_\_\_\_\_ day of  
 15 \_\_\_\_\_, 2009, at \_\_\_\_\_,  
 16 California.  
 17  
 18  
 19  
 20  
 21 \_\_\_\_\_  
 22 ELLIOT GOTTFURCHT  
 23  
 24  
 25

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1 STATE OF CALIFORNIA )  
 2 )  
 3 ) ss.  
 4 COUNTY OF LOS ANGELES )  
 5  
 6 I, SUSAN LYNN POBOR, Certified Shorthand  
 7 Reporter No. 5132 for the State of California, do  
 8 hereby certify:  
 9 That prior to being examined, the witness  
 10 named in the foregoing deposition, was duly sworn to  
 11 testify the truth, the whole truth, and nothing but  
 12 the truth;  
 13 That said deposition was taken down by me in  
 14 shorthand at the time and place therein named and  
 15 thereafter reduced by me to typewritten form and that  
 16 the same is a true, correct, and complete transcript  
 17 of said proceedings.  
 18 Before completion of the deposition, review of  
 19 the transcript [X] was [ ] was not requested. If  
 20 requested, any changes made by the deponent (and  
 21 provided to the reporter) during the period allowed  
 22 are appended hereto.  
 23 I further certify that I am not interested in  
 24 the outcome of the action.  
 25 Witness my hand this \_\_\_\_\_ day of  
 \_\_\_\_\_, 2009.  
 \_\_\_\_\_  
 Susan Lynn Pobor, CSR No. 5132