UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASHLEY M. GJOVIK,) Case No. 23-cv-04597-EMC
)
Plaintiff,)
)
v.)
)
APPLE INC.,)
)
Defendant.)
_____)

DEPOSITION OF ROBERT MCKEON ALOE
VOLUME 1, PAGES 1 THROUGH 107
FRIDAY, APRIL 3, 2026

Reported by:
Kathleen Madden Keenaghan
CSR No. 14577
Job No. 10187852

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASHLEY M. GJOVIK,) Case No. 23-cv-04597-EMC
)
Plaintiff,)
)
v.)
)
APPLE INC.,)
)
Defendant.)
_____)

DEPOSITION OF ROBERT MCKEON ALOE commencing at the hour of 1:04 p.m., on Friday, April 3, 2026, taking place over the Zoom application before Kathleen Madden Keenaghan, Certified Shorthand Reporter Number 14577, in and for the State of California.

APPEARANCES

For the Plaintiff:
BY: ASHLEY GJOVIK (PRO SE)
A.M. GJOVIK CONSULTING, L.L.C.
2108 N Street, Suite 4553
Sacramento, CA 95816
Telephone: (415) 964-6272

For the Defendant:
BY: MELINDA SHENA RIECHERT (SBN 65504)
BY: KATHRYN MANTOAN (SBN 239649)
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, California 94025-1015
Telephone: 650-614-7423
Email: mriechert@orrick.com

I N D E X

Witness: ROBERT MCKEON ALOE

Examination by: Page
ASHLEY GJOVIC 7

E X H I B I T S

Number	Description	Page
Exhibit 1	PL_PROD_7-547	13
Exhibit 2	PL_PROD_7-917 - PL_PROD_7-924	14
Exhibit 3	PL_PROD_7-781	32
Exhibit 4	PL_PROD_7-040 - PL_PROD_7-042	42
Exhibit 5	PL_PROD_7-778	50
Exhibit 6	PL_PROD_7-886	50
Exhibit 7	PL_PROD_7-789	50
Exhibit 8	PL_PROD_7-990 - PL_PROD_7-991	50
Exhibit 9	APL-GAELG_00002770	51
Exhibit 10	APL-GAELG_00002762 - 00002763 (duplicative of Exhibit 18)	51
Exhibit 11	APL-GAELG_00002765 - 00002769	52
Exhibit 12	APL-GAELG_00002757 - 00002758 (duplicative of Exhibit 17)	52
Exhibit 13	APL-GAELG_00002761 (duplicative of Exhibit 16)	52
Exhibit 14	APL-GAELG_00002771 - 00002772	53
Exhibit 15	APL-GAELG_00002773	53

Number	Description	Page
Exhibit 16	APL-GAELG_00002761 (duplicative of Exhibit 13)	53
Exhibit 17	APL-GAELG_00002757 - 00002758 (duplicative of Exhibit 12)	54
Exhibit 18	APL-GAELG_00002762 - 00002763 (duplicative of Exhibit 10)	54
Exhibit 19	PL_PROD_7-788	55
Exhibit 20	PL_PROD_7-783	56
Exhibit 21	PL_PROD_7-509 - PL_PROD_7-518	72
Exhibit 22	PL_PROD_7-723 - PL_PROD_7-728	75
Exhibit 23	PL_PROD_7-035 - PL_PROD_7-039	77
Exhibit 24	PL_PROD_7-992 - PL_PROD_7-996	79
Exhibit 25	PL_PROD_7-519 - PL_PROD_7-523	80
Exhibit 26	PL_PROD_7-529 - PL_PROD_7-533	82
Exhibit 27	PL_PROD_7-540 - PL_PROD_7-546	84
Exhibit 28	PL_PROD_7-461 - PL_PROD_7-469	84
Exhibit 29	PL_PROD_7-718 - PL_PROD_7-722	87
Exhibit 30	PL_PROD_7-795 - PL_PROD_7-798	88
Exhibit 31	PL_PROD_7-799 - PL_PROD_7-804	90
Exhibit 32	PL_PROD_7-792 - PL_PROD_7-794	95
Exhibit 33	PL_PROD_7-816 - PL_PROD_7-821	96
Exhibit 34	PL_PROD_7-805 - PL_PROD_7-815	97
Exhibit 35	PL_PROD_7-101 - PL_PROD_7-111	98

Friday, April 3, 2026

1:04 p.m.

THE COURT REPORTER: Good afternoon. We are now on the record. Today's date is April 3rd, 2026, and the time is 1:04 p.m.

We are here for the remote deposition of Dr. Robert McKeon Aloe in the matter of Ashley Gjovik versus Apple Inc., matter number 23-CV-04597-EMC taking place over the Zoom application with all attendees appearing remotely.

My name is Kathleen Keenaghan. I am a California certified shorthand reporter and code compliant deposition officer for today's proceeding. My California license number is 14577. Will counsel please state your appearances for the record, beginning with noticing attorney.

PRO SE GJOVIK: I am not an attorney. I am a lawyer. I have a law degree. I am representing myself pro se, and my name is Ashley Gjovik.

ATTORNEY RIECHERT: My name is Melinda Reichert, and I am representing Apple and the witness.

ATTORNEY MANTOAN: Kathryn Mantoan from Orrick representing Apple and the witness.

THE COURT REPORTER: Thank you. We also have Ms. Perez with us, Apple in-house counsel.

Dr. McKeon, will you please raise your right hand so I may swear you in?

DR. ROBERT MCKEON ALOE,

having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY PRO SE GJOVIK:

Q Thank you so much. First of all, this is my very first deposition. So I going to try my best. Thank you for being with me today. Good morning. My name is Ashley. I am the plaintiff, and I am not an attorney, and I am appearing pro se. First, I want to say that you and I --

THE COURT REPORTER: I'm sorry, Ms. Gjovik.

ATTORNEY RIECHERT: Way too fast.

THE COURT REPORTER: Yes. Will you please slow down a little just for me to record everything. And speak clearly so that I can get every word down clearly. Thank you.

BY PRO SE GJOVIK:

Q Good morning. My name is Ashley Gjovik, and I am the plaintiff in this matter. I have a law degree, but I am not an attorney. I am representing myself pro se.

Mr. McKeon, we were coworkers at Apple, and I am pursuing claims under labor laws with in solidarity and in support with my coworkers including yourself. So I want to make clear at the onset that nothing that I ask you today is to discourage them from exercising your own labor laws,

including your rights under the NLRA and the California labor code.

Now, I'm going to ask you some questions today and before we get started, I'm going to ask you some foundational matters so we are on the same page.

Is that okay? Am I speaking too fast still?

THE COURT REPORTER: It's still a little fast, but you're okay.

ATTORNEY RIECHERT: Also, I want to object that you're misrepresenting the nature of your case, but you may proceed.

BY PRO SE GJOVIK:

Q Okay. You were just sworn in by the court reporter. Do you understand now that you are testifying as if you are in a courtroom before a judge and jury?

A Yes.

Q Thank you. And do you understand that means you are required to give truthful answers to my questions today?

A Yes.

Q You understand that even though we are in a conference room or on Zoom and this feels informal, giving false testimony under oath can subject you to penalties for perjury?

A Yes.

Q Yeah. And I know you see the court reporter today.

Page 9

She is taking down everything that is said today, everything you ask and everything that I give. And it is going to be made into a written transcript, and before she can take down words, I need you to give verbal answers. So if your answer is yes, please say yes rather than nodding your head. Can you do that for me?

A Yes.

Q Along the same lines, please let me finish my question before you start your answer, and I will do my best to let you finish your answer before I ask my next question. If I interrupt you though, please let me know, and that way you and I do not talk over each other, and the court reporter can get a clean record. Is that fair?

A Yes.

Q If at any point you don't understand a question I have asked, I want you to tell me, and I will try my best to rephrase it in a way that you can understand. Will you do that?

A Yes.

Q Is it fair to say that if you answer a question, I am entitled to assume that you understood that question?

A Yes.

Q If you need to take a break at any point to use the restroom, get water, or stretch, that is fine, just let me know. The only thing I ask is if there is a question

Page 10

pending that you please answer it before we go off the record. Is that agreeable?

A Yes.

Q Is there any reason you might not be able to give your best testimony today? Are you feeling okay, ill, or distracted?

A I am ready.

PRO SE GJOVIK: Did you get that, Kat? I didn't hear.

(Reporter nods.)

BY PRO SE GJOVIK:

Q Are you under the influence of medication or anything that would affect your ability to answer and give truthful answers to my questions?

A No.

Q Did you meet with anyone to prepare for today's deposition?

A Yes.

Q Without telling me what you and any attorneys discussed before -- I understand it is privileged -- did you or anyone else tell you what your answer should be to any of my questions today?

ATTORNEY RIECHERT: Objection. Attorney-client privilege. Instruct you not to answer.

BY PRO SE GJOVIK:

Page 11

Q I think he still has to answer.

ATTORNEY RIECHERT: Don't answer.

THE WITNESS: I don't have to answer.

BY PRO SE GJOVIK:

Q Can you say?

A I don't have to answer. I am not going to answer.

Q Did you review any documents to prepare for today?

A I am not going to answer that either.

ATTORNEY RIECHERT: You can tell her what documents you reviewed.

THE WITNESS: Okay. I reviewed some of the exhibits. I don't think I reviewed all of them.

BY PRO SE GJOVIK:

Q Okay. Thank you. Do you understand that your answers today need to be based on your own personal knowledge and recollection, and if you are guessing or speculating, I need you to tell me that?

A Yes.

Q Thank you. And I am going to ask you to try not to speculate or guess, and if you don't know, say you don't know or you don't remember.

A Okay.

Q Is that okay?

A Yes.

Q And one last thing. If at any point during today,

Page 12

you realize an answer you gave earlier was incorrect or incomplete, will you let me know so that we can correct the record and make sure we have your complete and final answer?

A Yes.

Q Thank you. Okay. So let's get started. Please state your full name and current title at Apple.

A My name is Robert Thomas Aloe. And my title that Apple is -- I actually don't remember what it is. It is, like, Generative AI Safety -- I guess you could say Safety Engineer. I am on a different team now.

Q Do know what you are coded in Merlin for a rule code?

ATTORNEY RIECHERT: Wait for the end of her question.

THE WITNESS: Sorry. I do not.

BY PRO SE GJOVIK:

Q Okay. How long have you worked at Apple?

A Eleven years.

Q From the time you started, what roles have you held?

A I have been an algorithm engineer. I have been a manager, and I have worked on a few teams.

Q I would like to show the first two exhibits, which is just to have you authenticate your public LinkedIn profile.

ATTORNEY RIECHERT: Are you marking this as Exhibit

Page 13

Number 1?
PRO SE GJOVIK: If you would like me to put numbers like that, we can. I was just going to refer to the Bates numbers.
ATTORNEY RIECHERT: We should put numbers.
THE COURT REPORTER: Yes. We would need to mark them with exhibit numbers.
PRO SE GJOVIK: Okay. So should we start with 1 and then go through and mark them sequentially?
THE COURT REPORTER: Correct. Yes.
(Exhibit 1 was marked for identification.)
BY PRO SE GJOVIK:
Q Okay. Sorry. I did not mark them beforehand. So for Exhibit Number 1, we have the Bates number 7547. This is a printout of your LinkedIn profile that I captured on April 2nd, 2026. Does this look correct to you?
A Yes.
ATTORNEY RIECHERT: I don't know if we are seeing the whole document. There we go. And I don't know if that is the whole document either.
THE WITNESS: Yes.
BY PRO SE GJOVIK:
Q This is the first page of it just to show the URL. So the URL is Dr. Robert McKeon Aloe 01581595. And then the full one is Exhibit 2.

Page 14

ATTORNEY RIECHERT: Will this be Exhibit 2?
PRO SE GJOVIK: Thank you, Melinda.
(Exhibit 2 was marked for identification.)
BY PRO SE GJOVIK:
Q Bates number 7-917, and I will show you each of the pages. There are eight pages on this. And I would just like you to confirm that this does represent your public LinkedIn profile.
ATTORNEY RIECHERT: Go slowly.
BY PRO SE GJOVIK:
Q Yes. This is the first page. Let me know when you are done, and I will go to the next.
A Okay. You can go to the next page. Okay. You can go to the next page. Okay. You can go to the next page. Okay. You can go to the next page. Okay. You can go to the next page. Okay. You can go to the next page. Okay. You can go to the next page. Yes. That's all mine.
Q Thank you. And can you authenticate that is your LinkedIn profile with the full content?
A Yes.
Q Thank you. And that is public right now?
A Yes.
Q And has that information been public since you have worked at Apple as you accumulate related experience, you update and that information is on LinkedIn?

Page 15

A I'm sorry. Can you repeat that?
Q Have you always had a public LinkedIn profile while you worked at Apple?
A Yes.
Q And have you -- when was the first time that you made public on your LinkedIn profile that you were working on a face ID?
A After face ID launched.
Q What about biometrics generally?
A After I had worked on biometric projects.
Q What about when you were working at Apple and saying that you are working on biometrics at Apple?
A I don't believe I published anything on biometrics at Apple until we reached face ID.
Q And what year do you think it was that you updated your LinkedIn to say that you worked on biometrics and face ID at Apple?
A I suspect 2017.
Q Probably shortly after launch? That's tradition. Okay. So then probably no later than 2018?
A Probably. Yes.
Q Okay. Thank you. And did all the job titles that were on this profile look in the line that was either in line as what your job title was coded as or generally what your managers will designate your title as when you were in

Page 16

those roles?
A Yes. Roughly.
Q And then the information that you shared about the projects that you were working on, all of that looks accurate to you, the work you did?
A Yes.
Q Thank you. During 2017 you were working on face ID and biometrics work at Apple prior to the announcement of face ID; is that correct?
A Yes.
Q What was your group doing related to face ID development prior to the launch of face ID?
ATTORNEY RIECHERT: Don't reveal anything that is confidential.
THE WITNESS: We were collecting data to train the algorithm and understanding how we were failing and what data we needed to collect to fix the algorithm.
BY PRO SE GJOVIK:
Q I'm sorry. Are you able to move the microphone closer to you?
A Is this the one? That one. Sorry. I will move closer. We were collecting data to train the algorithm and then looking for data for what parts of the algorithm did not have the training parts or the training to add to that to the training.

Page 17

Q What kind of things were you doing to gather that data?
A User studies.
Q Can you tell me about the user studies?
A I believe they are confidential.
Q Everything about these user studies?
ATTORNEY RIECHERT: This is a good time, Ashley, for us to make clear. He may testify to confidential information, but only if you commit not to disclose that information that he testifies to in any location at any time to any person until after the court has ruled whether it is confidential or not. So I can designate testimony as confidential pursuant to the protective order. And you have to commit to me that it will remain confidential unless and until a judge rules it is not confidential. If you don't want to agree to that, then I will instruct him not to answer any questions that call for confidential information.
PRO SE GJOVIK: It's my understanding that if we are going to be using the protective order for this, which I was expecting to ask questions that would have somewhat confidential information as part of the answers, that it would be up to Apple's counsel to designate that testimony when it is made during this deposition as confidential, and they would need to substantiate their designations through that process. As of now, it sounds like that protective

Page 18

order is still in place, and if it is real designations, that is supposed to be the tool for it. And it is my understanding that Apple would need to answer my questions during a deposition. If there is a protective order in place that Apple had requested exactly for designating confidential information that is in place, then that is the tool they are supposed to use. It cannot decline to answer requiring I stipulate to things beyond the protective order. So if you want to refuse to answer questions under an objection that is confidential, even though you could designate under the protective order, that is your choice, and we can dispute that later, but it is up to you how you want to handle it.
ATTORNEY RIECHERT: What I need your commitment to do is when I designate staff as confidentially pursuant to the protective order, I need your commitment that you will keep it confidential under the protective order unless and until a judge rules that it is not confidential. This is the problem that we have.
PRO SE GJOVIK: So that's not required. It's not in any rule. And I have said repeatedly if there is real confidential good faith designations, and if they could be colorably confidential, and I said I am expecting some answers today will be colorably confidential, if not actually confidential, and I would respect that. And I have

Page 19

to do that under my intellectual property agreement and the valid terms anyway. So I'm not stipulating with you over this. It is up to you guys. You either designate stuff as confidential under the protective order and its terms without further required deposition stipulations from me, or you refuse to answer, claiming whatever excuse you want, and I will just explain to the judge that you refuse to answer.
ATTORNEY RIECHERT: But you will recall at your deposition, I designated stuff as confidential.
PRO SE GJOVIK: I'm paying a lot of money for this deposition, Melinda. We are not going to bicker about this. I need a binary from you of which direction you want to go. I am not going to argue, and I'm not going to do some weird stipulation with you about the deposition.
ATTORNEY RIECHERT: Okay. Unless you agree to keep what I designate as confidential as confidential, I will not let this witness give you any confidential information.
PRO SE GJOVIK: That's a very vague statement, Melinda. I am telling you right now if you designate under the protective order as confidential, and I am assuming this is not going to have -- assuming that you do it in good faith, the stuff that could be colorably confidential, then I have to respect that both with the protective order and the confidentiality agreement, and I have never indicated I would not do that. But if you start designating his work

Page 20

conditions confidential, that might be a dispute. But it is up to you. We can handle it outside of this. I am not going to argue with you on this. So I need you to decide, are you going to refuse to answer stuff that is confidential because I would not agree to extra terms, and that is why or are you going to answer and designate --
ATTORNEY RIECHERT: So at your deposition, I designated stuff as confidential --
PRO SE GJOVIK: I am asking you -- Melinda, we are wasting a lot of time. It is very expensive time. I need an answer.
ATTORNEY RIECHERT: Okay. I want your commitment to keep --
PRO SE GJOVIK: No.
ATTORNEY RIECHERT: -- any confidential information confidential. If not, I will instruct this witness not to give you any confidential information at this deposition.
PRO SE GJOVIK: Confidential is an extremely broad term, Melinda, and you are -- and I am objecting for speaking objection actually. This is a very broad and coercive speaking objection, and Melinda, I would also argue that it is probably an NLRA violation as well because the things you are saying are coercive to the worker. He has a right to say stuff that he may think is not confidential. And there's actually going to be a lot at this deposition.

Page 21

That why I said what I said at the beginning, that he does have rights, and I do not want to coerce him.

So I need you to make this decision right now. I am not agreeing to anything beyond the protective order. You can use the protective order you want to use, or you could just refuse to answer and you can explain to Judge Westmore why.

ATTORNEY RIECHERT: I will instruct the witness not to answer any questions that are confidential unless you commit to me that you will keep his answers confidential pursuant to the protective order.

PRO SE GJOVIK: That's not. That's not -- okay. So objecting to counsel's speaking objection. Refusing to answer the question. Whatever version of harassing the other party.

BY PRO SE GJOVIK:

Q And I am going to ask Mr. McKeon again if there is anything he can tell me about his work on the face ID user studies in 2017 prior to the announcement of face ID other than there were user studies?

A There were user studies, and I worked on them, and I designed some of them.

Q What is a user study?

A User study is where we ask for volunteers to use a device or series of devices to run a protocol and collect

Page 22

data which that data is then used for training and algorithm or testing and algorithm. And all of that data is collected under informed consent.

Q And you have run user studies in prior roles?

A Yes.

Q At Apple before?

A Yes.

Q Can you tell me anything about those user studies?

A They involved people and devices and user experiences. They were all voluntary, and they all required informed consent. And the data was kept in accordance to the privacy that we set out in the informed consent.

Q Okay. Thank you. And you are speaking about the user studies at Apple?

A Yes.

Q And did you conduct user studies at companies or institutions prior to Apple?

A Yes.

Q Are there any differences in process or procedure that you notice between Apple and other entities where you did similar stuff that was not Apple?

A Apple felt more private, and I was more certain that the data was being kept encrypted and that the number of people that had access to the data was limited to the algorithm engineers. Whereas prior employment, I did not

Page 23

feel the same.

Q I'm sorry. Can you get closer to the microphone again?

A Yeah.

Q Thank you. And you said informed consent. Did you manage informed consent processes either at the pre-Apple institution or companies and/or at Apple?

A At the -- not before Apple. While at Apple, I managed them for the user studies that I was the engineering DRI of.

Q Can you tell me about your views about informed consent for user studies?

A What do you mean by views on informed consent?

Q What would you believe represents informed consent? What are the principles of informed consent? What would not be informed consent to you?

A Sorry. Can you split up the questions?

Q Yes. So I am just asking for your general view of what informed consent generally looks like as a practice? So what does voluntary, kind of, look like to you? Can you describe, maybe, what a process that looks like to you that -- because you said -- I believe you said that the Apple user studies were voluntary, and there was informed consent. So what kind of things, what kind of criteria do you use for you to personally say this is voluntary to me?

Page 24

This makes me feel confident to say this was voluntary and otherwise informed consent?

A Voluntary.

ATTORNEY RIECHERT: Wait for the end of the question.

PRO SE GJOVIK: I'm sorry. What?

ATTORNEY RIECHERT: He interrupted you. So I told him to wait for the end of the question.

BY PRO SE GJOVIK:

Q He can answer. Go ahead.

A Voluntary to me means that in the recruitment effort no specific individual is targeted but that a broad net is cast to people of a -- either whatever demographic you are looking for or just a broad graphic group in Apple, people that are exposed to a certain piece of hardware or software, asking if they are interested in participating in a user study.

I believe it also does not involve either large positive rewards or punishment. So a large positive reward would be thousands of dollars to join a user study internally which potentially would make someone's ability to consent to lessen because of the coercive nature of money. While at the same time, usually there is some kind of small monetary thing given like a meal voucher for most user studies at Apple. And then as part of the ICF and privacy in terms of

Page 25

voluntary, the ability to withdraw from a study at any time either before the study starts, in the middle of the study or after the study, to request the data to be deleted at any time.

Additionally, having some kind of data retention policy, both in terms of security of data, as well as the length of time that the data is retained for any potential training.

Q Thank you. Do you think it is important for informed consent and voluntary for the folks to know the details in the nature of the study before they would start the recruitment process? So they -- let me clarify then. They may receive an e-mail trying to recruit for a study. Do you think people can meaningfully engage in informed consent and voluntarily agree to the process without actually knowing the details of what is entailed in the study if it is not included in that recruitment e-mail?

A That is not the process that we run by at Apple. So typically when someone says that they want to volunteer for a user study, they meet with a user study engineer who goes over the ISTF as well as what the user study is about.

So I think the challenge of telling people that everyone that is interested in what the user study is could be revealing confidential information because sometimes a user study requires an extra level of disclosure.

Q I understand. Do you think that it might challenge

Page 26

a typical informed consent process where there generally is an upfront disclosure of the general nature of the study where Apple might not have that up front? So people might start the recruitment process and sit down with someone to hear the details and then they hear the details, but they haven't actually started the recruitment process, and today may feel more coerced or less willing to withdraw compared to if they had known the details at the beginning and not started the process?

ATTORNEY RIECHERT: Objection. Vague. Compound. Lacks foundation.

BY PRO SE GJOVIK:

Q Okay. He still has to answer.

A I don't believe that is a fair assessment of the process because when you sit down with someone to start to go over an ICF, not only is the discussion of what the study entails in the ICF itself for you to read, but we have instigated processes to point out those specific parts of the ICF and the voluntary nature and the date of retention to make sure that the subject is well-informed, and they have the ability to withdraw from the user study at any point. And I don't think it makes a difference whether they start the recruitment process or not in terms of their ability to have it feel like it is a voluntary process.

Q How many people have withdrawn from studies after

Page 27

they have started that recruitment process either sitting down to read the ICF or either midway?

A I don't know the answer to that.

Q Do you know if any have?

A I know that two people have withdrawn from user studies that we had to delete their data.

Q And that is for all the user studies you have worked on at Apple, you have two examples?

A Yes.

Q Do you have any information that they provided as to why they withdraw?

A They do not need to provide a reason for why they withdraw.

Q Did they provide a reason?

A I don't recall, and we don't ask.

Q And when folks ask to withdraw, what does that process look like?

A An infrastructure team goes through and deletes all of their images and e-mails are sent out to the engineers to see if any engineer has local copies and all the engineers are instructed to delete their local copies.

Q Thank you. So for example, I was part of a Gobbler user study in 2017 prior to the announcement of face ID. I had one where I was at a, kind of, thing in a parking lot, and we were doing stuff with sunlight. If I had -- let's

Page 28

see. And I will show you the e-mails and have you authenticate them and if you don't remember, we can look at them first. Let me know. And it did not show me exactly what was happening until I showed up, and there was something in the parking lot and it had NPS there. If I wanted to decline at that point, what would have been my process to decline? If I was already on the list and registered and NPS was checking me in?

ATTORNEY RIECHERT: Objection. Very compound, but if you want to ask what is the process to withdraw from that study, that is fine.

THE WITNESS: I was not running that user study.

BY PRO SE GJOVIK:

Q Okay. The parking lot one or Gobbler generally?

A I don't know which user study you are referring to.

Q Okay. We will go through the e-mails. I will raise it again here. Did you run any user studies related to an application called Gobbler or Glimmer?

A Yes.

Q Can you tell me about when you started those user studies?

A In the spring or -- studies, I ran a few test fests.

Q What year?

A 2017.

Q And who developed the concept for the Gobbler and

Page 29

Glimmer user studies?
A What do you mean by concept?
Q Did you use a term directly or responsible individual for the Gobbler studies, was there a DRI for the Gobbler studies?
A I was the DRI for Test Fest and the Test Fest used Glimmer as it's upload mechanism.
Q Was there a DRI for Glimmer Gobbler?
A I was also the DRI for Glimmer.
Q And were you --
A I --
Q Go ahead.
A I don't recall exactly when I became the DRI in the summer, but someone else was the DRI before.
Q Do you remember who?
A No. I do not.
Q Do you know why that person was not doing it anymore?
A I do not recall.
Q And when you started that -- when you took over that project, what was the current status of that project? Did it already have plans for the user study?
A It wasn't -- sorry. Plans for which user study?
Q Were there multiple user studies related to Gobbler and Glimmer?

Page 30

A Yes.
Q Okay. Can you tell me about -- were there a lot of them or just a few?
A I would like to clarify that Glimmer is not a user study itself. It is an upload app. It is an internal application, that it is not a user study in and of itself.
Q Okay. Thank you. Is there a term or a proper term to use for the user studies that utilized Gobbler Glimmer?
A Whatever user studies wanted to use that as the upload application, they could.
Q Was -- so you are saying there might be other user studies doing a variety of stuff that use the tool as part of their user study?
A Correct.
Q And I think I'm trying to -- thank you. I think I'm trying to narrow in on were there user studies specific to just getting the face ID development through Gobbler Glimmer, like, specifically targeting for the development of face ID?
A All of our data collection efforts were to develop the algorithm.
Q And were there general user studies for targeting that data versus a larger update for a software update?
A No. All the user studies we were doing were to develop the algorithm. I don't understand what the

Page 31

difference would be.
Q So I thought your earlier answer indicated that there was a user study that was a larger effort where it was using Gobbler Glimmer to gather face ID as part of developing maybe a larger application or project. And I was trying to differentiate that versus just a user study only to gather the data just for the face ID development?
ATTORNEY RIECHERT: Objection. Misstates the prior testimony.
THE WITNESS: I actually don't understand the question.
BY PRO SE GJOVIK:
Q Okay. I am trying to clarify because you said that Gobbler and Glimmer are not user studies.
A Correct.
Q Thank you. And counsel for Apple for several years has referred to them as user studies. So I'm trying to tease apart the distinction. So I apologize if my questions are not clear because this was a new concept for me on this. So can you elaborate for me on this -- maybe this is a better way to do this. Can you elaborate on why the tool called Gobbler Glimmer, you don't consider that a user study?
A Because the Glimmer tool is a tool to securely, like, encrypt data from the phone, and send it to a backend

Page 32

server. And whether it is face ID data or other data that is written into the API, that does not matter. Like, Glimmer, in and of itself is only there to display data and logs that are already on the phone. It does not have a capture capability.
Q Can you explain what you mean by a capture capability?
A If you have a phone with Glimmer on it, and you delete Glimmer, it does not delete the face ID logs that are on the phone. Because the face ID logging is to the internal system. So Glimmer is only looking at files that already exist. It does not maintain the directory of files that already exist.
Q What tool or application does capture the data that has been displayed in Gobbler Glimmer?
A I don't know.
(Exhibit 3 was marked for identification.)
BY PRO SE GJOVIK:
Q You don't know. Okay. So I want to quickly show one of the exhibits. This one is Bates number 7781. This will be Exhibit 3. This is a photo taken of me from my phone I viewed on the Gobbler Glimmer app in 2021. I blurred any type of code or text on this. So it is just of the photo. Is this the type of image you would expect to see when someone opened Gobbler Glimmer and looking at data

Page 33

that is captured through it?
A Yes. This is an image I would expect to see in Glimmer. It is just called Glimmer.
Q Say again?
A It is just called Glimmer.
Q So I am using Burns because when I was enrolled, it was called Gobbler. Do know the history -- is Gobbler the same thing as Glimmer, and it was just renamed, or are they separate? Are they different?
A Gobbler was renamed as Glimmer in 2017.
Q Do you know why it was renamed?
A I was not told directly.
Q Do you have an opinion of why you think it was renamed?
A Probably because the word Gobbler can be seen as offensive in the word in the United Kingdom.
Q Yeah. Why do you think it would be offensive?
ATTORNEY RIECHERT: Do we really need to go into this?
PRO SE GJOVIK: Yeah. Absolutely.
ATTORNEY RIECHERT: Well, you go look it up if you want to see why it is offensive. He does not need to tell you.
PRO SE GJOVIK: No. I want him to tell me.
THE WITNESS: I don't think it's offensive

Page 34

personally.
BY PRO SE GJOVIK:
Q Why do -- you suggested that other people might. Why do you think other people think it might be?
A Because it could be used as a sexual term.
Q Were there any complaints that you know about that people made about the term Gobbler?
A I did not hear of any complaints.
Q Do you know who decided to change it to Glimmer?
A I do not know.
Q Thank you. The photo I am showing you -- we will just call it Glimmer since you are used to it being called Glimmer and now that we've established it is the same thing. So this is a photo that someone might see in Glimmer. Do you know what function on the phone is capturing these photos?
A I do not know exactly what function. I believe on face ID, the module is capturing the image, but I do not know the exact path that it takes to get onto the system.
Q Okay. And you said it is your understanding that Glimmer, kind of, displays data that is already on the phone. It itself is not capturing any data; is that correct?
A Correct.
Q Okay. So you said if someone was to delete the

Page 35

Gobbler app or Glimmer app off there and found that, if data were still being gathered through the underlying stuff, that just deleting the app would not stop that data from being gathered?
A Yes. In the same way that other system logging occurs for internal builds.
Q Thank you. And then if someone wanted to, let's say -- sorry. Let me back up. Do you know if the type of data that would be shown in Gobbler such as this photo, for example, is something that would be captured on an employee's phone without opting into any kind of Gobbler or Glimmer study? Is this something that might be captured on any employee's phone?
A It depends on if the employee has a development-fused device and if the employee has the logging.
ATTORNEY RIECHERT: Karen Sullivan.
THE WITNESS: -- if the employee has the logging toggle turned on and off.
BY PRO SE GJOVIK:
Q What is the logging -- sorry. Go ahead.
A There is a toggle in internal settings to turn on or off any logging that is occurring on a device.
Q And so anyone who is an employee could decide to just allow their phone to gather their images like what I

Page 36

showed you if they went into the settings and toggle that on?
A Yes. That's with the caveat that the images stay encrypted on the device because they are considered in the same category as held data in terms of data encryption.
Q Okay. So let's say when people were enrolling in at least 2017 and 2018, and they are joining what has been advertised as a Glimmer or Gobbler user study program, and they are installing that app on their phone, was part of the process of installing that and onboarding those employees to toggle that switch so stuff was captured?
A I don't recall the exact process. But if someone volunteered to join the study, then they were sent instructions and in those instructions, it involves setting up Glimmer and whatever was necessary for Glimmer to be able to function to upload logs for a file reader.
Q Okay. And then so you are saying whether assuming whether it is through the onboarding of the Gobbler Glimmer program, or whether someone went in and turned on that switch themselves, the device, the phone would start gathering that information, which at least like the photo I showed you, for example?
A Yes. That sounds correct.
Q Okay. And the Gobbler Glimmer application also shared things like the timestamps. There were timestamps,

Page 37

right, for each of the images?
A Yes.
Q And there is GPS information too, right?
A I don't recall.
Q Okay. And then it was -- when you would play those images, it was kind of, like, there was a stop motion animation where it is multiple photos and it looks like a video; is that right?
A Yes.
Q How would you describe that? What it is gathering and, kind of, that video presentation?
A That is an unlocked sequence.
Q Do you refer to that file that is, kind of, an image and a video? What do you describe that as?
A I don't know aside from just calling it a video or a sequence.
Q Video or sequence. Okay. And then it sounds like it might gather additional data too. Do you know what kind of information was being -- or sorry. Let me rephrase.
So the GPS information is being displayed in the Glimmer app, but whatever application or function is gathering those sequences would assumedly be gathering that GPS data, it would not be Gobbler and Glimmer itself?
ATTORNEY RIECHERT: Objection. Misstates his testimony about GPS.

Page 38

THE WITNESS: I don't recall the GPS being in the file. So I would be hard-pressed to answer about it.
BY PRO SE GJOVIK:
Q Do you know if the application Gobbler Glimmer or the underlying functionality was gathering audio?
A No, it was not.
Q It was not gathering audio?
A No.
Q And would Gobbler Glimmer be able to -- if there was audio being gathered by underlying functionality, would Gobbler Glimmer be able to display that?
A If they had it written in the application to feed into the API of Glimmer, and if we had modified Glimmer specifically, it would be able to playback audio.
Q Did you ever do that intentionally?
A I don't recall.
Q Have you ever reviewed records that were gathered through your DRI role for Gobbler Glimmer with data being gathered as part of the Gobbler Glimmer effort that included audio in addition to the sequence and videos?
A No.
Q Do you know who would be reviewing that?
A I don't know of the existence of any data of face ID with audio.
Q And are there any risks with using the application?

Page 39

Could it potentially cause any injuries?
A Not to my knowledge.
Q What about the lasers, the face ID lasers?
A I am not qualified to speak on that.
Q Okay. If you were recruiting employees for a user study related to the Glimmer application and it was using face ID on prototypes, would there be a risk of potential injuries from lasers?
A If there was potential risk identified from DHS, it would have been included in the ICF document.
Q And we were talking earlier about voluntariness and informed consent. What would you expect if there was a risk of injuries from lasers, how that would be treated in disclosures in the process?
A I would expect it to be taken very seriously.
Q Do you think it would be ethical for Apple to state as part of an informed consent form that if someone was injured by lasers that they could not tell anyone other than Apple?
A I am not sure.
Q If you are presented in an informed consent from for a study like Glimmer using a tool with the phone like lasers and it warned that there could be injuries from lasers, but said it would be secret if anyone was hurt and they could not tell anyone other than Apple, would you sign that

Page 40

informed consent from?
ATTORNEY RIECHERT: These are all hypotheticals. This witness is not an expert witness. He is not required to answer hypotheticals. And they are very incomplete hypotheticals. He has already said he knows nothing about lasers or risks from lasers. So object on that basis.
PRO SE GJOVIK: Understood. He still has to answer.
THE WITNESS: I have not seen that at Apple particularly because during the user studies with the prototype, we were required to take laser safety training to better understand, and some of the prototypes that had protections removed have unsafe lasers were required only to be in laser labs. So the level of care that was taken to make sure that the lasers were safe and that we avoided laser injuries was very -- it seemed very responsible.
BY PRO SE GJOVIK:
Q Thank you. Let me ask more directly. If you are DRI for a project from Glimmer, and there is a risk that people could be harmed from lasers from a user study and using it, would you object, put your foot down, if Apple wanted to state that injuries from those lasers had to be kept secret and confidential?
ATTORNEY RIECHERT: Same objections.
PRO SE GJOVIK: Understood.

Page 41

ATTORNEY RIECHERT: You use the word laser when there weren't. It assumes. It's an incomplete hypothetical, and it is calling for an opinion from a witness that is not here as an expert witness.

PRO SE GJOVIK: Just to clarify, I am asking him as an employee at Apple. I assume he gets recruitment e-mails too, and he is managing these user studies, and a directly responsible individual at Apple is, by the nature of the term, solely accountable for making decisions about how the projects run, and they are, kind of, looked at if something goes wrong or people complain. So these are expected decisions that they would be making, probably in partnership with the BPN if they are not. So it would be reasonable to ask this. So I am going to ask again.

ATTORNEY RIECHERT: You are asking hypothetical questions. If there are lasers, and he already said there were not lasers. So what difference does it make to ask that hypothetical and I object on the basis it is an incomplete hypothetical, and he is not here as an expert witness.

BY PRO SE GJOVIK:

Q Understood. He still has to answer.

A I would just like to comment that the face ID did use a dot laser projection. So there were lasers, but they were deemed safe.

Page 42

(Exhibit 5 was marked for identification.)

PRO SE GJOVIK: Okay. So I would like to show Exhibit 5 now.

ATTORNEY RIECHERT: Don't say anything confidential.

THE WITNESS: Okay.

PRO SE GJOVIK: What did you say?

ATTORNEY RIECHERT: I said don't say anything confidential.

PRO SE GJOVIK: Speaking objection. I object to that.

ATTORNEY RIECHERT: It was an instruction to the witness. That was not an objection.

PRO SE GJOVIK: I know it's a speaking objection coercing the witness to not make statements with a vague declaration of confidentiality, which I already objected, in addition to a being an improper objection and a coercive speaking objection, and it probably also violates his labor rights. So I am objecting to your objection.

(Exhibit 4 was marked for identification.)

BY PRO SE GJOVIK:

Q This is Exhibit 4. This was a document produced by Apple. The Bates number is 7040. It is three pages. Can you see it, Mr. McKeon?

A Yes.

Page 43

Q Thank you. So I will show you all three pages, and you can -- I would like you to read it to. And tell me when you are done with each page, and I will go to the next one.

A Sure.

Q Okay.

A Okay. You can go to the next page. You can go to the next page. Okay.

Q Thank you. Have you seen this document before?

A Yes.

Q Can you tell me about where you saw it?

A I have signed one before.

Q You have signed one too?

A Yes.

Q It noted that this study, the Gobbler study was recording audio, but prior you said you did not think it was recording audio. Do you know why it says it was recording audio for this?

A I'm sorry. Where does it say that?

Q So it says what data will be collected, video and image recording of your face, and it says photo, audio, video, photo, video, audio?

A If you go back up to page one.

Q The purpose of the study says it will be to collect audio, video and photo images of the face.

A So where it says what data will be collected, it

Page 44

says as part of the study of the information that may be collected, you may include the following information, including contact information, photo, video, audio sensitive, health and document study data.

Q I'm sorry. Can you get closer to the microphone again?

A So the use of the word may means that we may collect these things, and we may not collect these things.

Q It says why is this study being done, and it says the purpose is to collect audio. So would it be safe to assume then this study would be collecting audio?

A In the second line, it says the results of this study may be used to develop and improve technologies to -- images, video and/or audio data products.

So while it says that in the user study, I believe we were trying to be more broad in case we had any other video equipment to look out to how people were using the phones, but I cannot be certain of this for this specific user study.

Generally, we included that in ICS -- in these user studies because sometimes we had other video equipment that did collect audio, but inherent on the device, audio was not collected --

Q Thank you.

A -- for these.

Page 45

ATTORNEY RIECHERT: He's not finished.
THE WITNESS: Audio was not collected for these types of user studies.
BY PRO SE GJOVIK:
Q Can you define this type of user study?
A Using face recognition system.
Q Okay. And you are saying you signed this. So you participated in the study with the thing in the parking lot and the sunlight? You did that too?
A I don't recall whether it was in a parking lot or somewhere else.
Q It says this study will take place in Mariani B, and it will take 20 minutes?
A Oh, yes. Mariani 3B.
Q So it was a while ago, but do you recall -- what I, kind of, remember it was this round compound with tall fences, and maybe two camp gates, and it was kind of a luau, where they had a task list for you to do to go through the data?
A I don't recall exactly.
Q Okay. So this says that the study will last approximately 20 minutes, and the date of it is 2017. Do you recall that when you signed this and participated in whatever version of this, 2017 was probably the year?
A I believe so.

Page 46

Q Would -- if you were signing this informed consent form to participate in this program, and it said this program will last approximately 20 minutes, would you expect that this study would last for years after that 20 minute period without the additional ICF?
A No. I would not expect that.
Q All right. So if they wanted to extend or do something different, there would be another ICF to sign that was ongoing because it was limited to 20 minutes, right?
A I would expect so. Yes.
Q Yeah. And especially since it says the only compensation would be food -- I think you saw that the compensation would be food and beverage after the study, that further kind of implies that it would be that one time thing?
A Yes.
Q Yeah. I think so too. And then where it says your confidentiality obligations, this says by agreeing to participate in the study, you acknowledge that any information in the study, including any study detail or the fact of your participation are considered Apple confidential information and are covered by the applications under your agreements with Apple.
Can you tell me what you think that would mean after the product is announced that the study was preparing for? So in this case specifically, I'm going to ask what you think this would mean after face ID was announced?
A I presume it means that you follow the same confidentiality agreement we have with the company and don't reveal anything that was not already publicly revealed about the company.
Q Do you think the fact that there was even a study would be confidential?
A Yes.
Q Do you think the fact that there would be any studies for this would be confidential?
A I think the confidentiality would be more tied to the specific studies rather than there are studies because it was a public fact known that they did do studies for this product and other known products to collect data.
Q Thank you. And I know you are not an expert witness, but you are a doctor, and it seems like you have some expertise in this field. How many years have you worked on biometrics development?
A Fifteen.
Q That's a long time. And so in your experience when something is generally announced if there was confidentiality about, you know, preparing for it, but once it is announced, does the fact that there are studies -- wouldn't it be kind of expected that in order to prepare something and develop it and that in order to ship it, there would be some kind of data collection or data collection process whether it required a user study or not, would you say that is expected to be a normal development practice?
ATTORNEY RIECHERT: Objection. Calls for expert testimony for my non-expert witness.
PRO SE GJOVIK: Understood. He can still answer.
THE WITNESS: Sorry. Can you repeat that?
ATTORNEY RIECHERT: I totally lost the question too.
BY PRO SE GJOVIK:
Q Sorry. Now I lost it. Would you say the user -- whether you call it a user study or not, but like what we've been talking about with what Apple does for their user studies in gathering this type of data and data collection, would you say it is a typical product development process and standard? The fact that there was this user study to prepare this product to launch seems kind of intuitive for product design?
A I think it is intuitive that there are user studies, but specific user studies and what the user studies are studying or even the code names used, I would consider that to be confidential.
Q Why do you distinguish that?
A Because they could give information in part or in

Page 47

Page 48

Page 49

full that could aid someone else, a competitor or a hacker, to harm Apple.

Q So whatever information that you might consider confidential, it would have to be something that would actually cause some kind of competitive harm?

ATTORNEY RIECHERT: Objection. Calls for an expert opinion from a nonexpert witness. You can ask him about what he did and what he knows, not about expert opinions on other subjects.

PRO SE GJOVIK: Okay. Let me rephrase.

ATTORNEY RIECHERT: This would be a good time for a break.

PRO SE GJOVIK: We can take a break.

THE COURT REPORTER: Off the record at 2:09 p.m.

(Recess taken.)

THE COURT REPORTER: On the record at 2:15 p.m.

PRO SE GJOVIK: Thank you. I want to be mindful of our court reporter who has a hard stop at 4:00 p.m. is my understanding. So I do have a batch of documents I would like to authenticate. So I think we can go through that now on the next phase before I go to the next question. They should be fairly straightforward.

And I believe our last exhibit was 4; is that correct?

THE COURT REPORTER: Yes.

Page 50

(Exhibit 5 was marked for identification.)

BY PRO SE GJOVIK:

Q So for Bates 7778 would be Exhibit 5, Mr. McKeon. Would you tell me if this document looks familiar to you and it is an e-mail you sent?

A Yes.

Q Thank you. And then I believe this is just a different UI version of the same e-mail; is that correct?

(Exhibit 6 was marked for identification.)

BY PRO SE GJOVIK:

Q This is 7886, and this will be Exhibit 6. Is this the same e-mail?

A I think so.

Q This looks like an e-mail you sent?

A Yes.

(Exhibit 7 was marked for identification.)

BY PRO SE GJOVIK:

Q And then Exhibit -- 7789 will be Exhibit 7. This is a confluence page using Glimmer. It says it was last modified by you on October 15, 2018 that you edited. Does this look like a screen you edited?

A Hold on. Yes.

Q Thank you.

ATTORNEY RIECHERT: Is it more than one page?

(Exhibit 8 marked for identification.)

Page 51

BY PRO SE GJOVIK:

Q That was one page, but I have a second version with two pages. I think it's a different UI Bates 7990, and this will be Exhibit 8. Does this look like the same page that we talked about that you edited?

A Can you go to the next page? Yes.

Q We already went over this one. This is a document produced by Apple. This is Apple's Bates number 2770. This is an e-mail that you sent me in 2017. Does this look accurate? Like an e-mail you sent me in 2017?

A Yes. With the caveat that around this time, I sent a lot of e-mails to a lot of people.

(Exhibit 9 and Exhibit 10 were marked for identification.)

BY PRO SE GJOVIK:

Q We emailed. So this would be Exhibit 9. Exhibit 10 we have a document produced by Apple, and this would be Bates number 2762. I could show you the first page. Let me know you want to see the second page.

A Okay. Go ahead to the second page. That looks correct.

Q And that looks like an e-mail that you sent? That looks right?

A Yes.

Q Thank you. Exhibit 11, this is five pages.

ATTORNEY RIECHERT: Do you have the Bates number?

Page 52

(Exhibit 11 was marked for identification.)

BY PRO SE GJOVIK:

Q Yes. Just make sure it was not a duplicate. Bates numbers 2765, Exhibit 11. I will show you the first page. Let me know when you want to go to the next.

A Okay. You can go to the next page. Okay. Go to the next page. Go to the next page. Go to the next page. Okay. This is it. Okay.

Q Does that look like an e-mail you sent?

A Yes.

(Exhibit 12 was marked for identification.)

BY PRO SE GJOVIK:

Q Thank you. And Exhibit 12 is 2757. This email is two pages. Again, I will go to the first one and then let me know when you are ready for me to show you the second one.

A Go to the second. Okay.

Q Is this an e-mail you sent?

A Yes.

Q Is it accurate?

A Yes.

(Exhibit 13 was marked for identification.)

BY PRO SE GJOVIK:

Q Then Exhibit 13 it is Bates number 2761. This is just one page. Is this an e-mail you sent?

Page 53

A Yes.
(Exhibit 14 was marked for identification.)
BY PRO SE GJOVIK:
Q Thank you. Exhibit 14 is Bates 2771, it's two pages. This is the first page. Let me know when you want to see the second.
A Okay. You can go to the second.
Q Is that an e-mail you sent?
A Yes.
(Exhibit 15 was marked for identification.)
BY PRO SE GJOVIK:
Q Thank you. And then for Exhibit 15, this is Bates 2773, one page. Is this an e-mail you sent?
A This looks like an e-mail I received.
Q It looks like there are two. There is one from you and from me to you.
A Yes.
Q Okay. So that's accurate to the best of your recollection?
A Yes.
Q Thanks. And then for Exhibit 15 --
ATTORNEY RIECHERT: 16.
(Exhibit 16 was marked for identification.)
BY PRO SE GJOVIK:
Q Thank you, Melinda. For 2761, the Bates number. It

Page 54

is one page that you sent -- is this an e-mail that you sent?
A Yes.
(Exhibit 17 was marked for identification.)
BY PRO SE GJOVIK:
Q Thank you. And then for Exhibit 17, it is two pages and Bates number is 2757 from Apple. This looks like a different version of the same one we looked at earlier.
A I'm not sure. If it is a different date, yeah, it is a different version.
Q Does this look like an e-mail you sent?
A Yes.
Q Thank you. And then for Exhibit 18 -- 18, Melinda?
ATTORNEY RIECHERT: Yes.
(Exhibit 18 was marked for identification.)
BY ATTORNEY RIECHERT:
Q Exhibit 18 is 2762. It is an email, subject line announcement. It is two pages. Let me know when you want to see the second one.
ATTORNEY RIECHERT: It's Exhibit 18 and Bates 2752?
BY PRO SE GJOVIK:
Q Bates 2762.
A Okay. Go to the next page. Okay. Yeah.
Q Is that an e-mail you sent?
A Yes.

Page 55

(Exhibit 19 was marked for identification.)
BY PRO SE GJOVIK:
Q Thank you. And then for Exhibit 19, this is Plaintiff's Production 7788. This was an informed consent form that we were looking at earlier today. I believe it was Exhibit 3.
Do you know where the informed consent forms were being stored, or how they were supposed to access the documents that they supposedly signed prior?
A Yes.
Q Can you tell me?
A They were using an application called Attache.
Q So this was an error I saw when I tried to access a form in my e-mail, and I saw this error. Have you seen this before, this kind of error?
A I have not.
Q Would it be expected -- go ahead.
A Sorry. I have not -- I have seen this error for other websites but not for this particular website.
Q You have not seen this error ever for Attache?
A Not that I recall.
Q Okay. Would you expect when you're running the programs for DRI that employees should be able to access the consent forms that they signed as part of that process?
A Yes. With the caveat that we stopped using Attache

Page 56

at some point.
Q Okay.
A And we started putting the consent forms on the Box.
Q Okay.
A And once we did that, the Attache links died, and I also think the Attache links were time-limited. I don't know how long.
Q Interesting.
A I don't know if they last forever.
(Exhibit 20 was marked for identification.)
BY PRO SE GJOVIK:
Q Okay. Thank you. And then this is -- so this would be Exhibit 20.
Melinda, correct me if I'm wrong.
Bates 7783. This is a screenshot I took on my customer phone when I was no longer an employee on iCloud look up, and it said this com.apple.vtap.thegobbler was trying to look at my iCloud. Are you familiar with this URI?
A No.
Q This warning message. Have you ever seen this before?
A No.
Q Based on your understanding of the Gobbler app -- well, let me back up. First question, when you see something like this with something using the term the

Page 57

Gobbler, would you expect that that was referencing some type of configuration prior to the name change to Glimmer?

A Probably.

Q Probably. And if you are running an internal study using development phones, would you expect that the configuration would be trying to access a customer phone that is not used for work?

A I don't.

Q And what would the process be if, like, someone had left Apple, and they no longer work there, and they had their own personal device that they were seeing this kind of message that the Gobbler was trying to access their iCloud. How would they handle that?

A I don't know that. I have not looked at that.

Q Okay. Thank you. That's fine. And do you have any understanding of the backend or functionality of the Gobbler Glimmer application where they explain why it was trying to access a personal iCloud account?

A I don't think so.

Q Okay. That's fine. Thank you. We are going to stop there on those. I did want to ask you a couple of additional questions about these documents. So going back to 7789 -- I really should have marked these with exhibits. I'm sorry. I will do that next time. On this document --

ATTORNEY RIECHERT: It's Exhibit Number 7.

Page 58

PRO SE GJOVIK: Thank you, Melinda. It's nice to have a partner in a law firm who is helpful from the other side.

BY PRO SE GJOVIK:

Q It says captured in public in the United States. Why is the United States called out specifically in these instructions?

A Because in the United States when you are in public, you do not have a right to privacy.

Q I'm sorry. Can you get closer to the microphone and say that again?

A In the United States, you do not have a right to privacy in public or in areas where you would not expect to have a right to privacy. So any captures -- any captures there, would -- we would not need an informed consent or we would not have to worry about anyone getting mad that we were capturing either them or the background that we were capturing. However, we also instructed the people to make sure no else was in the image.

Q And when it says the United States, does that mean that folks should not -- at that point, when it was written that folks should not be uploading data in other countries?

A It is only in countries where you had signed the appropriate ICF if there was one. Because some countries do not allow you -- employees to collect data or employees to give consent.

Q Tell me more about that please.

A France and Germany don't believe that employees can give informed consent for data collection to their employer.

Q Interesting. So you are DRI of the applications and the studies. Had you had any experiences with employees trying to upload data that was being captured in France or Germany?

A No.

Q Were employees told expressly not to use it in France and Germany?

A They were told not to operate in those countries, and we were told to put in guardrails so that they were not able to.

Q What were the guardrails?

A A geo-fence. So if the device was in the US, you would have had to sign the US ICF, and if the device was in another country that we did not have an ICF to cover it, you would not be allowed to upload the data in the Glimmer app.

Q What does not allowed look like technically?

A I don't recall.

Q Okay. So it could be an error message or maybe it doesn't upload in the background, but the idea or the concept was some type of geo-fence that would prevent it from being uploaded?

Page 60

A Yes.

Q And then it says captured in public, and so you mentioned your idea was you don't want folks that might accidentally get in the pictures that weren't the employees, that had not signed the ICF and would be upset that it was captured, but you are saying there no expectation of privacy in public. So that is why the employees were being instructed that it is okay in public?

A I'm sorry. Could you repeat the question?

Q Can you explain, again, why the employees were being told it was okay to upload information gathered in public even if it captured other people who had not signed ICF?

A Because in the United States, you don't have a reasonable expectation of privacy when you are in public. So you only need a reasonable -- you need an ICF for capturing video or photos or audio when there is an expectation of privacy like in someone's home or business, but not when you are outside on the street.

Q Were there ever concerns expressed about using the data, even if it was capturing people in public for commercial development if it's not being used for commercial development?

A Not that I am aware of.

Q Thank you. This document we looked at earlier, this was Bates 2765, this one also talked about the same thing we

Page 61

just read, uploading in the United States in public, and on the second page, it says don't, under the don'ts, upload data in bathrooms, changing rooms, locker rooms or similar areas. And you sent this email. Why was this line here?

A We don't want any data from those places, and we don't want any accidental nudity.

Q Understandable. And when it says don't, is that left up to the employee to decide that they are supposed to review and they unilaterally would decide that there is not the information being uploaded?

A The employee has to review every image that they upload, and they have to decide to upload or not. So it is also up to their discretion. So they could also delete images where they feel like they look unflattering, where it is outside of the section of -- and we encourage people not to upload any photo that makes them feel uncomfortable.

So like the line at the top of the page, it says make sure any photo you upload would not be deemed inappropriate, including due to nudity or partial nudity.

Q And some of these instructions are with the intention that it is up to the employee then to use the app that has the front end showing the background data as you are explaining on Glimmer. And that they need to review the image and then they need to make the decision of whether it is appropriate or not, or has nudity or not, and they would

Page 62

offend people or not, and they would upload it to Apple, and then if there is an issue, it is kind of on the employee for uploading the data?

A Oh, sorry. Was there two questions there?

Q There were probably three. Let me rephrase. So the way this e-mail is framed, is the expectation that it is up to the employee who's phone captured the information to make the decision whether all these criteria are met on all the data they are uploading?

A Yes. It is up to the employee, but if engineers run across data that would be inappropriate or that we see as inappropriate, we would work towards deleting it.

Q And what happens if data is uploaded that have non-employees and is not appropriate?

ATTORNEY RIECHERT: Objection. Compound.

BY PRO SE GJOVIK:

Q Okay. Withdrawn.

What would happen if engineers find data that is uploaded that does contain nudity?

A What would happen is we would delete it, but I never saw or heard of a case where images were uploaded with nudity.

Q Okay. Were there any complaints from nonemployees that their data was being gathered?

A No.

Page 63

Q Thank you. And then we talked about France and Germany. We talked about this one. Okay.

So now I want to ask you about a term. And looking at -- I am showing you this document 2761, that we looked at earlier that you had authenticated, and this is an email sent to a group Gobbler whitelisted, and it says everyone that is whitelisted for Gobbler is whitelisted for Glimmer. Glimmer is just the new name of Gobbler. No need to fill out new authorization request. What does whitelisted mean?

ATTORNEY RIECHERT: So that's Exhibit 13.

PRO SE GJOVIK: Say that again.

ATTORNEY RIECHERT: That's Exhibit 13.

PRO SE GJOVIK: Thank you, Melinda.

THE WITNESS: Whitelisted was a group that could download the Glimmer application.

BY PRO SE GJOVIK:

Q I'm sorry. Could you go closer to the microphone?

A Whitelisted was an e-mail group of people that were authorized to download the Glimmer application.

Q And then the term listed for Glimmer, what does that mean?

A That means that they had gone through a process of signing the ICF, and that they had the correct disclosures and once they were verified, they were put on the white list.

Page 64

Q And so anyone using that Gobbler Glimmer application would be on a whitelist?

A Yes. They had to be whitelisted to use the application.

Q Okay. So there would be nothing specifically unique about being on the whitelist, other than you would be using the application so you could download it. Sorry. That was just me talking to myself. You can ignore that. I withdraw that.

Was there a point where they changed the process when employees could download it either on Attache or another tool that has special whitelisting and special approval links?

A It changed -- yes. It did change.

Q When did it change?

A I don't remember exactly when.

Q Okay. In 2017 -- this e-mail is from 2017. The term whitelisted, did it mean what you described earlier, or did it mean anything else about, like, what data could be uploaded?

A I don't understand the question.

Q This e-mail in 2017, August 2017, uses this term whitelisted, and we just established that Apple had changed the process at least once and how people are installing the application and having access to it. We talked about how

Page 65

whitelisted meant -- at least at one point meant that you could at least install it at all. I am asking as of August 2017, if that was all whitelist meant, or if whitelisted meant at that point, it was uploading data in a way that might be intended for QA team intended for a user study?

A Whitelisted is intended for the data. So if someone was in a user study or in QA, they had to be waitlisted in some way. And I don't recall exactly how the user study was used to upload in Glimmer, but you had to be whitelisted. That is the only function it served, the term you had to be whitelisted.

Q And was there a function or term in 2018 that they did not have to review the data? It was just automatically upload?

A No, there was not.

Q Would there be anywhere someone's data was being auto uploaded, and they did not have to review it?

A There is not a function in Glimmer that allowed an auto upload of people's images.

Q That is for QA teams too, not just user studies?

A Correct.

Q And if -- so I personally, in my version of it, saw data that appeared to be auto uploaded and did not see a workflow that looked like a review work flow.

Page 66

Do you have any idea after being on a different workflow because I was brought into the study earlier, back in August of 2017?

A There were no images that were auto uploaded from Glimmer.

Q And there is an e-mail too of -- I was helping Dan West's product assistant development team, and they asked me to do -- and they asked me to be whitelisted with what happened to be a QA whitelist. Could there be a separate whitelist term for the QA teams to allow auto upload of data associated with the employee IDs?

A Not to my recollection.

Q That would have been around July or August 2017. So that might have been before you joined and took over the project?

A That was not before I joined.

Q Okay.

A But I don't recall when I exactly took over the project.

Q Understood. And let me look. There was one other e-mail I wanted to ask you about. So this e-mail, this is Bates number -- Bates number 2762.

Do you have that, Melinda?

ATTORNEY RIECHERT: 18.

BY PRO SE GJOVIK:

Page 67

Q Thank you. This is an e-mail you sent. I want to clarify data to upload. There are some legal restrictions which we didn't have to worry about because certain test scenarios were not likely as a result of the carry restrictions. Please review the following and verify all your data before upload. Do you remember what that was about?

A No. Not exactly.

Q Yeah. So there are some legal restrictions that we didn't have which we didn't have to worry about, certain scenarios were not likely as a result of the carry restrictions. What were the carry restrictions prior to September 2017?

A I don't recall the carry restrictions, but to carry the device, you had a list of things you are restricted in where you could use the device.

Q Yeah. And that iPhone, the first one with face ID, had a different one of a form factor and a UI, right? It was kind of noticeable that it was something new and different?

A Yes.

Q Yeah. And so either if you remember, or Apple typically, when they have carry programs like that with employees, generally, don't they put them in some sort of stealth case to hide the form factor or just say don't use

Page 68

it at all, just keep it on your campus or your home and that is it?

A Each carry program has its own restrictions.

Q Do you remember for this one?

A It's not always ubiquitous. This, I don't recall exactly.

Q Do you have any recollection of having the -- maybe, the whitelisting and the data set up, that there were far less restrictions because there was an expectation that the new form factor was not going to leave Apple's campus or if it was, it would be in someone's private office?

A I suspect the restrictions were having other people that were -- that had not signed an ICF being involved in the capture, simply because you could not be around people that did not know about the device.

Q Thank you. And then for people who were enrolled earlier in, like, 2017, was there data captured or stored in any different way? Here is my question. If I were to ask now, I want to delete all my Gobbler data. I withdraw from any of the studies. Can I actually get all of my data deleted?

A Pretty reasonably, yes.

Q What would be the process for me requesting that?

A You would e-mail either the study DRI or someone at Apple who could get you to whoever took over the study and

Page 69

who is responsible for the data, and then they would go through a process to delete the data on the infrastructure servers, and then they would e-mail anyone who might have access to your data or downloaded your data or used your data locally and ask them to delete it and do their best efforts to do that.

Q So does it track if anyone was accessing any of the data gathered, if there was an audit trail showing who did that?

A I am not sure how the infrastructure set up for auditing who accesses the metadata.

Q Okay. Thank you. And I am going to ask you a question. Has there been -- what do you know about Apple's -- the type of VPN profiles required to install on employee phones that generally grant full disk access to Apple global security and allow them to monitor and access activity? Can it access that Gobbler data and that Glimmer data?

A Can what access Gobbler or Glimmer data?

Q The profiles that employees are required to install on their phones that give new product security and global security full disk access to the devices so they can do their own backups of the data and monitor employee activity.

A I am not sure.

Q Are you familiar with those profiles? Have you

Page 70

installed those on your devices?

A Yes. I have installed them on my devices.

Q They generally say they give full disk access, right?

A I don't recall.

Q Does it -- when you install them, do you remember any terms when it tells you about how much access it is going to give Apple to your device?

A I don't recall.

Q Would you think that it did give full disk access -- what does disk access mean?

A I am not sure.

Q Appear --

A I would assume that it means, like, access to anything.

Q Yeah. That's generally what I thought too. And so if the Gobbler is also like the UI of that backend data being gathered by other backend processes that you mentioned you are not even sure exactly what they are. Assuming that data is being stored in the disk on the phone, right?

A The data, from my understanding, is stored encrypted on the disk, and can only -- is only decrypted when the device is unlocked.

Q What kind of encryption is used?

ATTORNEY RIECHERT: Don't say anything

Page 71

confidential.

THE WITNESS: Whatever the iOS -- it's confidential, I'm sure, but I don't know what it is. I just know that it is.

BY PRO SE GJOVIK:

Q You don't know how it is encrypted? Is it stored in the iOS in the cloud or just on device?

A Just on device.

Q Just on device. But if there is a profile giving full disk access, it would give full disk access on that device too?

ATTORNEY RIECHERT: Objection. Hypothetical -- improper hypothetical.

THE WITNESS: I do not have an answer for that. I don't know.

BY PRO SE GJOVIK:

Q Have you ever heard employee questions, concerns, complaints, about whether that data can be accessed by global security?

A No, I have not.

Q Have you ever heard any communications where it sounds like global security was trying to access that information?

A No. I have not.

PRO SE GJOVIK: Okay. Now I would like to go to --

Page 72

Now, what was our last -- Exhibit Number 20. I have 20. Yes. No. Exhibit 20 is the last one. 21 is next.

(Exhibit 21 was marked for identification.)

BY PRO SE GJOVIK:

Q Mr. McKeon, I'm sorry to do this to you. You are an excellent writer, and I'm glad you talk about the stuff you do, and I want to tell you again, I support you as a coworker and your right to speak out and talk about working conditions. And I hope you do not face retaliation from Apple for what we are about to do. But I would like to go through some of your public postings and the information you are sharing and why you thought it was okay to share this information and did not think it was confidential.

So we are going to go through some of your articles. We are going to go through some of your articles, and I am going to have them added as exhibits. These were produced to Apple as well. And I am just going to, kind of, ask you for each of them when you talk about Apple to comment on why you found that it was a fine thing to make public, and I honestly don't see anything confidential. So I think you are fine, but let's start with this one. This will be Exhibit 21.

ATTORNEY RIECHERT: Do you want him to read the article?

PRO SE GJOVIK: Say that again.

Page 73

ATTORNEY RIECHERT: Are you asking him to read the article?
PRO SE GJOVIK: I would like him to authenticate to them. If you would like him to look at each page of each of the articles, we can do that, or we can use the URL if he is -- are you very familiar with these articles? I am assuming you are since you authored them.
ATTORNEY RIECHERT: You should look at every page.
THE WITNESS: I should look. I have not seen these in many years.
BY PRO SE GJOVIK:
Q So this would be Exhibit 21. This would be Plaintiff's Exhibit 7509, it's called Balancing Creativity and Focus. This is the first page.
A Okay. You can go to the next page. Okay. You can go to the next page.
ATTORNEY RIECHERT: Is that middle section yours?
PRO SE GJOVIK: I'm sorry. What?
ATTORNEY RIECHERT: I was wondering if that middle section is his?
PRO SE GJOVIK: That looks like an advertisement.
BY PRO SE GJOVIK:
Q Are you ready for the next page?
A Not yet. Go ahead. Go to the next page. Go on to the next page. Go to the next page. Go to the next page.

Page 74

Go to the next page. Go ahead to the next page. Okay.
Q Is this an article that you published?
A Yes.
Q And to be clear, it looks like the recommended for Medium and trending AI, those are advertisements, but the rest of it was your content, right?
A Yes.
Q Thank you. This is Exhibit 21, and we are talking about face ID, and we're going to talk about this article, methodology and process for managing projects. And you are talking about managing face ID and showing some little tables here and user studies, and how you organize the study. Can you tell me why you shared about that and why you thought it was important?
A Because the thesis --
Q I'm sorry. Can you get closer to the microphone again?
A The thesis of the article, I was talking about creating balance and creativity and focus, and I thought it was interesting to write about and interesting to share.
Q I agree. And with the tables, what were you trying to show people by giving them examples of those tables?
A What I did for my organization.
Q So maybe we could learn from you, like, if you have some tips to share, something they could apply to their own work?
A Hopefully.
(Exhibit 22 was marked for identification.)
BY PRO SE GJOVIK:
Q Yeah. Thank you. And then next one will be Exhibit 22. And it is 7723. This is from Medium. The heading is a Fruit Company stories/page. It is six pages. So me know when you go through, and I will go to the next.
A Okay. Okay. Go to the next. You can go to the next. Okay. You can go to the next. Okay. You can go to the next. You can go to the next.
Q Is this an article you published?
A Yes.
Q Thanks. And then other than the recommended by Medium which looks like an advertisement, this is content you wrote, right?
A Yes.
Q And this looks like it is, kind of, an index where people are. I saw you have several of these. So you have a topical index of, kind of, the recommended articles that you have written on those topics, and you did one for Apple called Fruit Company. Is that what this is?
A Yes.
Q And you have multiple different articles about Apple, and you mentioned -- you have a few stories that you can share. And these are the stories that you can share. Can you tell me more about that and your framing of deciding these are things you can share?
A I felt like they were stories that --
Q Sorry. Can you get closer to the microphone again?
A They were stories that I felt did not violate confidentiality.
Q Why?
A Because they didn't reveal confidential information.
Q I agree, but can you tell me more?
A I don't understand the question.
Q Yes. What is confidential information in that sense? You said these don't include confidential information, and so you must've made a determination of what assumedly counts as confidential and assumedly doesn't. And assumedly, you think this doesn't. Based on your framing that, you can tell. So are there any other details you can provide of thinking and discerning what is confidential and what is not?
A Not that I recall. I wrote these articles a while ago, but just that at the time, I did not think the information was confidential.
Q Okay. And then on this page, we have an article called Apple's best product. We have face recognition, 3D face recognition from infancy to product. Those are on the

Page 75

Page 76

Page 77

first page, and you have your patent at Apple. That's amazing. Congrats.

So you shared your patent for risk detection algorithm on this as well. So some of this product is related, but by the framing here, you felt like you can talk about this, right?

A Yes.

Q And I agree, and I support you. Again, I like your articles. So for Exhibit 22, we are going to have Plaintiff's Exhibit 7035 --

THE COURT REPORTER: And, Counsel, this is Exhibit 23.

(Exhibit 23 was marked for identification.)

BY PRO SE GJOVIK:

Q Let me know when I can go to the next page.

A Okay. You can go to the next page. Okay. You can go to the next page. You can go to the next page. Okay. You can go to the next page. Okay.

Q Other than the recommended by Medium, a section which appears to be advertisements as this content that you wrote and published?

A Yes.

Q And when you said a collection of school and work stories, those work stories here include Apple, yes?

A Yes. Oh, sorry. I don't recall.

Page 78

Q One of the sections says fruit company stories. Who is the fruit company?

A Apple.

Q So then this collection of work stories would include Apple stories too?

A Oh, yes. Sorry. I thought you were mentioning a different link in there.

Q That's why I said definitely clarify it. We want to make sure we have the correct testimony. No worries. And this section also has images, and you have your patent again. Your patent is beautiful. And this image is at a desk. Is that your Apple desk?

A No. It is not.

Q Where is it? It is the upper right hand corner, so there are six images. There are three on the top and three below, and I'm asking the top right of the patent image?

A I believe it is my desk at my previous company.

Q Previous company. Okay. And we were on Exhibit 23.

THE COURT REPORTER: 24.

PRO SE GJOVIK: So sorry. Thank you.

ATTORNEY RIECHERT: Before we get to this exhibit, may we take our last break?

PRO SE GJOVIK: Yes. That works.

THE COURT REPORTER: Off the record at 3:04.

(Recess taken.)

Page 79

THE COURT REPORTER: On the record at 3:08 p.m.

(Exhibit 24 was marked for identification.)

BY PRO SE GJOVIK:

Q Okay. We are back, and we are looking at Exhibit 7992, or Bates number 7992, which is Exhibit 24, and this one is Work Character/Page. So another one of those, it sounds like, indexes that you create. We are going to do the same thing where I have you look at each page please and then let me know.

A Okay. You can go to the next. Go to the next page. Go to the next page. Go to the next page. Okay.

Q Okay. So other than the advertisements, this is something, an article your wrote, other than the advertisements?

A Yes.

Q Okay. And work stories about different jobs that you have had?

A That sounds accurate.

Q What is the gist of this section that you were trying to put forward?

A How I build character.

Q Sorry. Can you get closer to the microphone again?

A How I build character.

Q How you build character at work?

A I am not sure if it is explicitly at work. And

Page 80

these articles were written, like, five or six years ago. So I don't recall the content of the full articles.

(Exhibit 25 was marked for identification.)

BY PRO SE GJOVIK:

Q That's fine. And then we have Exhibit 25 which will be Bates number 7519 and this is a link to an article I called Chaos Induced characterization that you wrote July 2, 2018, and I am going to have you look and tell me if it looks right.

A Okay. Go to the next page. Go to the next page. Okay. You can go to the next page. Go to the next page. Okay.

Q So other than the explore content carrier -- explore content categories on the center and the comment starts at times, is a post that you made on the LinkedIn?

A Yes.

Q Thank you. And in it, you are talking about how, it sounds like Apple's, kind of, strategy and very high level methodology for how it converges before it is getting ready to release something?

ATTORNEY RIECHERT: Objection. Compound.

BY PRO SE GJOVIK:

Q Tell me what you were trying to explain by publishing this article?

A Just how we go about getting quality and how chaotic

Page 81

it can be.
Q Sorry. Can you go closer to the mic again?
A Just the process at Apple from a high level, and how we go from vision to product at a high quality level.
Q Yeah. And you are not the only one that writes stuff like this. I've seen EPM's write stuff like this too.
And you are not the only one that uses the word chaos in the development process. You used the word chaos, right?
A Yes.
Q So it is, kind of, just your honest take as someone who has watched these convergences of what your opinion is of the high level summary of what that process is?
A Yes.
Q And you did not think this was confidential, right?
A No.
Q Why didn't you think this was confidential?
A I didn't think it was confidential.
Q I mean, I agree, but is there anything that is, like, a flag for you that that can't be confidential. It's kind of inherent, like, a gut feeling, like, it should be fine?
A No. To me, it is not just a doubt, the feeling. It is whether it could actually harm Apple or harm Apple by revealing products or revealing confidential information that could cause harm to the company.

Page 82

Q And you don't think this would harm Apple in any way, right?
A I don't think so.
(Exhibit 26 was marked for identification.)
BY PRO SE GJOVIK:
Q Yeah. I don't either. Okay. Thank you. We will go to Exhibit 26. This is Plaintiff Exhibit 7529 -- or not exhibit, Bates number 7529.
This is another LinkedIn article I found with your account called Computer Vision Fundamental. It's five pages. We are going to do that thing where you tell me you are ready to tell me when you are ready for the next.
A Sure. Go to the next page. Go to the next page. Go to the next page. Go to the next page. Okay.
Q And so other than the footer, explore more, is this another article that you wrote and published on LinkedIn?
A Yes.
Q And what were you trying to convey in this article?
A I just wanted to talk about the fundamentals of computer vision.
Q Yeah. And your LinkedIn profile that we talked about earlier clearly says that you work at Apple, right?
A Yes.
Q And that you work on computer vision, right?
A Yes.

Page 83

Q And the stuff that you talked about in this article that you published, does that reference stuff that you do work on at Apple?
A Does this article reference stuff that I worked on at Apple?
Q Yes.
A No, it does not.
Q So do you do -- at Apple, have you Attunity computer vision techniques?
A So I talked about the methods in the article.
Q Yes.
A But this article does not reference the work I do at Apple or did at Apple.
Q Do you do pattern recognition methods at Apple?
A Yes. But I did not mention in the article specifically referencing Apple.
Q Okay.
A This was meant to be an overview of the fundamentals that I thought were important for a computer vision engineer, and I could have easily written this article before I joined Apple.
Q Yes. Because this does not really expose anything that is not industry-standard, right?
A Correct.

Page 84

(Exhibit 27 was marked for identification.)
BY PRO SE GJOVIK:
Q Yeah. Okay. Thank you. And now we are on Exhibit 27 with Bates number plaintiff production 7540. This is an article that I found. Again, I love your articles. I found this on Medium, Decisions by Consensus, and it is seven pages. We will do that thing where you tell me to go to the next.
A Go ahead to the next. Okay. Go ahead to the next. Go to the next. Go to the next. Go ahead to the next. Go ahead to the next. All right.
Q So other than the Explorer, footer and advertisements, is this an article that you wrote and published on Medium?
A Yes.
Q Yeah. And you talk about 3D face recognition in the article, yeah?
A Yes.
Q And your Medium profile identifies you as an Apple employee, right?
A Yes.
Q Did you think any of that was confidential?
A No.
(Exhibit 28 was marked for identification.)
BY PRO SE GJOVIK:

Page 85

Q I don't think so either. Okay. Exhibit 28 will be Plaintiff production Bates 7461. This one is called Apple's Best Product, and we are going to do that same thing again. I'm sorry. I keep doing the repetitious thing, but I appreciate you taking the time to do it. Let me know when you are ready to go to the next page.

A Okay. Okay. Go to the next.

Q And on this one, it looks like the header is covering up that line. So I am sorry about that. So we can note that the format of the header appears to be covering up one line of the text.

A Okay. Go to the next. Okay. Go to the next. Okay. Go to the next. Okay. Go to the next. Go to the next. Okay. Go to the next. Okay. Go to the next. Okay.

Q And same caveat, other than the explore more and advertisements, is this a Medium post that you drafted and published?

A Yes.

Q Yeah. And what were you trying to convey with this post?

A Apple's best product.

Q It seemed, kind of, like, a motivating post of trying to get people excited and encourage them and talking to them maybe about personal growth?

A Sure.

Page 86

Q And you talked about Apple products in this, yes?

A Yes.

Q You even included a picture from the campus itself, right? This picture we are looking at right now from the campus on page two?

A Yes. It's in the day that there were rainbows and a similar picture was posted by Tim Cook on Twitter.

Q It's a beautiful photo. And you did not think any of this was confidential about this photo?

A Yes.

Q Okay. Exhibit 28 will be plaintiff production 7718 and this is an article published on LinkedIn associated with your account called Farewell Computer Vision. So we are going to do that thing where you let me know to go to the next.

A Could you zoom in a little?

Q Yes.

ATTORNEY RIECHERT: Ms. Court Reporter, I have this as 29, not 28.

THE COURT REPORTER: Okay. I'm sorry, Counsel. Thank you. I was just going back through the transcript to confirm.

PRO SE GJOVIK: I'm so sorry to both of you. I'll do the exhibit numbers on the next one.

Page 87

(Exhibit 29 was marked for identification.)

BY PRO SE GJOVIK:

Q Go ahead, Mr. McKeon.

A Okay. Go to the next page. Okay. Go to the next page. Okay. Go to the next page.

Q And I am going to ask you to validate the time comments just to validate your own content.

A Okay. You can go to the next page. Okay. Is that it?

Q So other than the advertisements, comments, header and footer, is this an article that you drafted yourself?

A Yes.

Q Thank you. And in it, you talk about face ID and Apple?

A Yes.

Q Yeah. And for face ID, you said after years of traditional methods, face ID became a reality mostly because of data feeding the machine, not because of some super crafty algorithm; is that true?

A Yes. I wrote that.

Q Yeah. And so what did you mean by that?

A I meant what I wrote.

Q I'm sorry. Can you speak up?

A I said I meant what I wrote. That data is more important than an algorithm.

Page 88

Q So there is not really some secret algorithm to be leaked that would somehow expose these inner workings of face ID?

A No. There is still an algorithm that could be leaked. There is still an algorithm that is confidential, and the data also could be leaked, and the data is also confidential.

Q You are saying it still has to be protected because there is a lot of personal data. So when you said that face ID became a reality mostly because of the data, what did you mean by that data compared to an algorithm?

A I'm sorry. Can you repeat the question?

Q Yeah. So you are saying face ID became a reality mostly because of data, so data gathered like data caption and user studies, rather than some super crafty algorithm. What did you mean by that?

ATTORNEY RIECHERT: Objection. Asked and answered.

BY PRO SE GJOVIK:

Q Okay. Did you think any of the things you published in this article were confidential?

A I don't.

Q I don't either. Okay. We are onto Exhibit 29 now.

ATTORNEY RIECHERT: 30.

(Exhibit 30 was marked for identification.)

BY PRO SE GJOVIK:

Page 89

Q 30. Plaintiff production 7795. This was a post here that I found on your LinkedIn. Let me know when you want to move to the next page.

A Okay. You can go to the next page. Okay. You can go to the next page. Okay. You can go to the next page. All right.

Q So other than a footer, header and comments and all that stuff, is this an article that you drafted and published yourself on LinkedIn?

A Yes.

Q And you talk about working at Apple, working on face ID, working on a specific iOS release and converting the product and shipping it?

A Yes.

Q Yeah. And you did not think any of this was confidential?

A No. I did not.

Q Yeah. You included a screenshot of what looks like release notes for iOS 15.4; is that true?

A Yes.

Q And you annotated it highlight the new stuff you are including with a new face ID feature, including masks?

A Yes.

Q And you did not think it was confidential?

A It was released with everyone else with the release

Page 90

of the update.

Q Yeah. I agree. And your comments even include people saying this one, Satchel Pachgar, this is what I love about Apple.

You talking about face ID and products and stuff and sharing some of this information actually caused people to say that is why they love Apple, right?

ATTORNEY RIECHERT: Objection. Lacks foundation as to what he meant by that.

BY PRO SE GJOVIK:

Q In this post, you're talking about Apple products, product development, product releases, face ID, you and I agree that this is not confidential in our opinion, and the comments seem quite positive. These two comments listed here, would you agree they seem positive towards Apple based on your post?

A Sure.

(Exhibit 31 was marked for identification.)

BY PRO SE GJOVIK:

Q Yeah. And then we are going to go to Exhibit 31. Exhibit 31 is plaintiff production 7799 this is still -- I like this post a lot. This Medium post, Face Recognition 3D face recognition from infancy to product, a dream turned reality faster than I could have imagined. It says you published it on November 17, 2020, and it is 6 pages and we will go through each page again.

Page 91

THE WITNESS: Can I have a quick break to use the restroom?

ATTORNEY RIECHERT: Of course.

THE COURT REPORTER: Off the record at 3:36 p.m.

(Recess taken.)

THE COURT REPORTER: On the record at 3:38 p.m.

BY PRO SE GJOVIK:

Q We are back. This is Exhibit 31, and we were going to do that thing where you look at each page. Let me know when you are ready.

A Okay. Go to the next page.

Q And I apologize, again. It look like there is a UI covering up one or two lines of codes at the bottom, so just confirming you will not be able to validate that.

A Okay. Go to the next one. Okay. Go to the next page. Okay. Go to the next page. Okay. Go to the next page. All right.

Q Other than headers, footers and other Medium advertisements and stuff, is this an article that you drafted and published yourself?

A Yes.

Q What was your objective in publishing this article?

A Just to share my experience.

Q Can you say more?

Page 92

A I don't know many people who worked on research in grad school that then got to see it go into product or at least a product as big as the iPhone.

Q I'm sorry. Can you get closer to the microphone?

A I said I do not know many people whose research went from grad school to product in this field and went into a product as big as the iPhone and as broadly used, so I thought it was an interesting experience to share.

Q I agree. You are probably rare to do and especially to do at that time, and you talk quite a bit about face ID in this and convergence and aggressors and how Apple went about preparing it for launch, right?

A In broad terms, yes.

Q Yeah. And you are basically using industry-standard terminology here?

A I am not sure which industry standard is.

Q Do you feel like you shared anything in the here, but could not be copied and pasted into a different company if you are doing the same research for a different company?

A I am not sure.

Q Did you think anything in here was confidential?

A No.

Q Why didn't you think it was confidential?

A I just did not think it was confidential. Again, this article was written years ago, and I don't recall my

Page 93

thinking at the time when I wrote it.
Q I don't think it is confidential either. Have you gotten feedback on this article from anyone?
A No.
Q And I will ask you when we are done looking at a few more too, but in terms of we have seen so far, including this one, has Apple told you that your articles include confidential information?
A They have not.
Q And to be something published Eric we are looking at 2018, 2019, 2020 -- it is going back now eight years of articles, right? And you have never had any feedback from Apple that you are publishing confidential information?
A No. I have never been told I was publishing confidential information.
Q Yeah. Have you ever been disciplined for publishing confidential information in these articles?
A I have not been disciplined.
Q Yeah. You are a manager, correct? Or you have worked as a manager at Apple?
A I have worked as a manager.
Q Yeah. If you had team members publishing the articles that you are publishing, would you tell them that it included confidential information?
A I would not.

Page 94

Q Would you discipline them saying that it was leaking confidential information?
A I am not sure what the process is for leaking confidential information, in the sense that I have not gone through it, and I have not had an employee that has gone through it.
Q If it was up to you to decide if your employee was publishing articles that included confidential information and you needed to seek guidance from HR about whatever the process is about determining whether to discipline them or not, would the articles that we showed, if that were your employees, would that trigger you to go to HR about that discipline process?
A No. It would not.
Q I agree. Have you gotten any positive feedback about the articles from any folks that we have looked at so far?
A I am not sure from who, but people have made comments on the articles.
Q And you do -- it looks like interviews, podcast interview sometimes. Mostly it looks like with the coffee work, but you will talk about Apple too sometimes with the projects?
A I only mentioned that I work at Apple when talking about Apple.

Page 95

Q You will say you work on the face ID and biometrics generally, it looks like, right?
A I will say I worked at Apple while working on those projects.
Q Yeah. And that's not confidential, right?
A I don't think so.
(Exhibit 32 was marked for identification.)
BY PRO SE GJOVIK:
Q Okay. I don't think so either. So now we are going to have Exhibit 32. This is Plaintiff Exhibit 7792. And this is -- it looks like a LinkedIn post that you made.
A Yeah.
Q And can you let me know when you are ready to go to the next page?
A Can you zoom in?
ATTORNEY RIECHERT: Can you zoom in? It is too small.
THE WITNESS: Okay. Okay. You can go to the next page okay. You can go to the next page. You are good.
BY PRO SE GJOVIK:
Q So this is an article that you wrote and published on LinkedIn?
A Yes.
Q And you are writing about interacting with Tim Cook on campus?

Page 96

A Yes.
Q Is that a photo of you with Tim on campus?
A Yes.
Q Did you think any of this was confidential?
A No.
(Exhibit 33 was marked for identification.)
BY PRO SE GJOVIK:
Q I don't either. And I am going to be thoughtful, our court reporter has a hard stop at 4:00, and I am not going to be able to go through all of my exhibits. So I want to see and make sure if there are others I want to include, and go through all that I need to include. Yeah. Let's do this one. This will be Exhibit 33. This is Plaintiff Production 7816. This is an article on LinkedIn called Machine Learning Data -- sorry. Examining the Test Set. Let's do that thing. Let me know when I can go to the next page.
A Okay. Go to the next page. Okay. You can go to the next page. You can go to the next page here. Okay. You can go to the next page. Okay. You can go to the next page here. All right.
Q Okay. Other than the caveats, header, footer, advertisements, is this an article that you drafted on LinkedIn?
A Yes.

Page 97

Q And did you think anything was confidential that you shared a message?
A No.
(Exhibit 34 was marked for identification.)
BY PRO SE GJOVIK:
Q I agree. And then we are going to do one more of your articles because we are almost out of time. This is going to be Plaintiff Exhibit 34, production 7805 called Privacy in Machine Learning, PII. Let me know when I can go to the next page.
A Okay. Can you zoom in please?
Q Yes.
A Thanks. Okay. You can go to the next page. Go to the next page. Oh, scroll back up.
Q Okay. So based on the timing we are not going to have time to finish this so I'm going to ask you if those first two pages look accurate from the article that you published?
A Yes.
Q Thank you. And this article talks about your work on face ID at Apple among other things?
A It appears to.
Q And you did not think anything you posted in this article was confidential?
A No.

Page 98

(Exhibit 35 was marked for identification.)
BY PRO SE GJOVIK:
Q I don't either. I think it is a good article. And Plaintiff Exhibit 35, production 7101, are you aware of this article? It is called Apple Cares about Privacy Unless You Work At Apple. It was published at the Verge on August 30th, 2021.
A Yes. I'm aware of this article.
Q Yeah. Did you think this included confidential information?
A Could you just scroll down?
Q I'm sorry. I'm not going to be able to go through the whole thing. She will have to wrap up, but based on your recollection of the article, do you remember ever thinking that it included confidential information specifically about face ID and Gobbler and Glimmer?
A Were there images in this article?
Q There was -- yes, of the sequences. I don't think they show up on this though.
A Okay.
Q But did you, assuming since you work on --
A When I saw this article and saw those images, I thought confidential information had been leaked.
Q Why?
A Because those images are confidential.

Page 99

Q So the image I showed you earlier on our exhibit of my face, you thought that was confidential?
A Yes.
Q Why?
A Because it shows what the customer doesn't see in terms of the camera quality and resolution, as well as the flash quality and resolution. And those things are confidential in how our algorithm functions and how our algorithm could be broken by hackers.
Q Okay. So how does that harm Apple by that information being revealed?
A It gives hackers a better idea of a piece of information they would need to break into face ID, and it gives more information to our competitors on how, if they wanted to implement face ID themselves, how they would be able to do it.
Q How would they use that image to get that information?
A That information would be -- that image would be helpful for how our camera system works, and our flash system works in terms of the resolution and the quality, and it would be helpful information for them.
ATTORNEY RIECHERT: I'm going to instruct you not to answer any confidential information beyond that.
PRO SE GJOVIK: I cannot hear you, Melinda.

Page 100

ATTORNEY RIECHERT: I'm telling him not to answer any confidential information about it beyond that. He is giving you the nonconfidential version.
PRO SE GJOVIK: Okay. Can you -- one last question. Can you distinguish for me why that image would be confidential, but none of the other information that you shared that you shared prior was not confidential?
A Sorry. Could you repeat the question?
Q Actually, I am going to asking a new question. Are you aware that Apple's state of justification to my termination is that image that you are mentioning, and you are saying is confidential?
A Is that -- I think so.
Q Can you say that more clearly please?
A I think so.
Q Yeah. So would you be concerned, if you were to say it's not confidential, would you feel like it might upset Apple because that is their stated justification supposedly for legitimately terminating me?
ATTORNEY RIECHERT: Objection. Assumes facts not in evidence. Misstates his testimony.
BY PRO SE GJOVIK:
Q He just admitted he thinks so, that that is Apple's -- that its public that Apple's stated justification for terminating me. And it's my right to ask him if is

Page 101

concerned if he says it was not confidential, or if he would be afraid of Apple for retaliation for saying that?

ATTORNEY RIECHERT: You totally lost me. Can you ask the question again?

BY PRO SE GJOVIK:

Q I already asked the question. He can answer the question I asked.

A I -- I expect if I publish those images, I would be fired.

Q And so if Apple ever published those images in their own advertisements of inside that app and how it worked?

ATTORNEY RIECHERT: Objection. Improper hypothetical. Vague.

THE WITNESS: I don't know. I just know if I had published those images, I would expect to be fired. And if I had employees reporting to me that published those images, I would go through the similar process of taking it to the people team because it is a violation of confidentiality.

BY PRO SE GJOVIK:

Q Thank you for answering my questions, Mr. McKeon. I appreciate your time. We need to let our court reporter go. I am complete with this deposition.

THE COURT REPORTER: And Counsel Reichert, would you like a copy of the transcript? Sorry?

ATTORNEY RIECHERT: Yes. I would like an expedited

Page 102

and a rough please.

THE COURT REPORTER: Okay. And how soon do you need the final?

ATTORNEY RIECHERT: I need the rough and expedited final as soon as you can get it.

THE COURT REPORTER: Okay. So you need a rough right away, and then the final will be regular delivery? Okay.

ATTORNEY RIECHERT: No. I need the rough, and the final expedited.

THE COURT REPORTER: Okay. So can you let me know how soon you want the final. The rough I will have to you by tomorrow. I will work to get you tonight, I just don't know. And then how soon you need the final?

ATTORNEY RIECHERT: What is standard? Ten days?

THE COURT REPORTER: Ten business days is regular delivery.

ATTORNEY RIECHERT: I need it as soon as you can get it to me.

THE COURT REPORTER: Okay. If you just tell me what day you need it by, then I'll work have it to you by that day.

ATTORNEY RIECHERT: Does Tuesday work?

THE COURT REPORTER: Sure. Tuesday next week, the 7th. Okay. And then would you like a rough transcript as

Page 103

well, Ms. Gjovic?

PRO SE GJOVIK: No. I am trying to keep cost down. For the expedite, if I am not requesting it, who is responsible?

THE COURT REPORTER: No. That goes to the person ordering it.

PRO SE GJOVIK: Okay. Thank you.

THE COURT REPORTER: Sure. Going off the record at 4:01 p.m.

(The deposition concluded at 4:01 p.m.)

Page 104

REPORTER'S CERTIFICATE

I, Kathleen Madden Keenaghan, a Certified Shorthand Reporter for the State of California, do hereby certify:

That the foregoing transcript of proceedings was taken before me at the time and place set forth; that the testimony and proceedings were reported stenographically by me and later transcribed by computer-aided transcription under my direction and supervision; that the foregoing is a true record of the testimony and proceedings taken at that time.

I further certify that I am in no way interested in the outcome of said action.

I have hereunto subscribed my name this 7th day of April, 2026.

Kathleen Madden Keenaghan
CSR No. 14577

(The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)

Page 105

DECLARATION UNDER PENALTY OF PERJURY

Case Name: Ashley Gjovik
vs. Apple Inc.
Date of Deposition: 04/03/2026
Job No.: 10187852

I, ROBERT MCKEON ALOE, hereby certify under penalty of perjury under the laws of the State of _____ that the foregoing is true and correct.

Executed this _____ day of _____, 2026, at _____.

_____
ROBERT MCKEON ALOE

NOTARIZATION (If Required)

State of _____
County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20__, by_____, proved to me on the basis of satisfactory evidence to be the person who appeared before me.

Signature: _____ (Seal)

Page 106

DEPOSITION ERRATA SHEET

Case Name: Ashley Gjovik
vs. Apple Inc.
Name of Witness: Robert McKeon Aloe
Date of Deposition: 04/03/2026
Job No.: 10187852

Reason Codes: 1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____

Page 107

DEPOSITION ERRATA SHEET

Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____
Page _____ Line _____ Reason _____
From _____ to _____

_____ Subject to the above changes, I certify that the transcript is true and correct

_____ No changes have been made. I certify that the transcript is true and correct.

_____
ROBERT MCKEON ALOE