

<p style="text-align: right;">25</p> <p>1 attention --</p> <p>2 ARBITRATOR GRISSOM: Oh, okay.</p> <p>3 MR. PELZ: -- so that you could -- you may not</p> <p>4 have yet had time to have read those. We would want to have</p> <p>5 called your attention to that testimony before some witnesses</p> <p>6 would testify. We will surely try to keep that to a minimum.</p> <p>7 We maybe could try to do that at times if there's things at the</p> <p>8 end of the day where there's a half-hour gap where we could</p> <p>9 submit that same kind of information to you, I mean --</p> <p>10 ARBITRATOR GRISSOM: Okay.</p> <p>11 MR. PELZ: -- before -- a time before a break or</p> <p>12 something like that when we're waiting for a witness so that we</p> <p>13 don't otherwise take time that would be more productively used</p> <p>14 with a witness. But we could anticipate instances where we</p> <p>15 think it would be important for you to have heard specific</p> <p>16 testimony before we offer the next witness.</p> <p>17 ARBITRATOR GRISSOM: Okay. Well, if that is the</p> <p>18 case, you need to let me know because otherwise, when I -- when</p> <p>19 people say, here is some deposition testimony for you to read,</p> <p>20 sometimes I'm not going to have time to read that until the</p> <p>21 case -- you know, you-all are on your planes and gone. And I</p> <p>22 just -- I will treat that, I guess, as hearing time because</p> <p>23 I'll be reading evidence at that point. If there's something</p> <p>24 that you need for me to read prior to an event that you know is</p> <p>25 coming, I would appreciate some warning on that just so that</p>	<p style="text-align: right;">27</p> <p>1 to that, but I just wanted to make sure we're on the same page</p> <p>2 about any changes to the record that we already have.</p> <p>3 Now, it sounds like the parties have pretty well</p> <p>4 stipulated that Mr. Fokas, again, is probably going to testify</p> <p>5 at two intervals in the case. And so I feel like we have</p> <p>6 covered everything that the parties have raised.</p> <p>7 MS. NEISWENDER: I fear I have one question.</p> <p>8 ARBITRATOR GRISSOM: Okay.</p> <p>9 MS. NEISWENDER: What is our timing for your --</p> <p>10 schedule of your day? It's an easy one.</p> <p>11 ARBITRATOR GRISSOM: Oh, okay.</p> <p>12 MS. NEISWENDER: Do you intend on holding the</p> <p>13 hearing until 6 o'clock? What's the -- what's your preferred</p> <p>14 start and stop times?</p> <p>15 ARBITRATOR GRISSOM: Well, it seems to work to</p> <p>16 start at 9:00 pretty well. If there's some day that we need to</p> <p>17 have an earlier start, that's okay. I have found, however,</p> <p>18 when we do that, that people run into different traffic</p> <p>19 patterns between 8:00 and 8:30 than there are at 8:30 and 9:00,</p> <p>20 and we don't end up starting at 8:30 anyway. I'm happy to</p> <p>21 accommodate you. You know, I can be here, but sometimes it</p> <p>22 doesn't seem to do any good. But if that's what we need do, I</p> <p>23 want to accommodate you so we can get the case tried in an</p> <p>24 efficient way and to accommodate witnesses, if possible. And</p> <p>25 we'll break, you know, a couple of short breaks mid-morning,</p>
<p style="text-align: right;">26</p> <p>1 I -- I will try to find the time to read it if it's -- if it's</p> <p>2 not referred to in the hearing. I want to try to accommodate</p> <p>3 you, but I can't see around the corners like you-all know where</p> <p>4 the corners are. So if you'll just give me a little warning,</p> <p>5 and if it's not like a huge stack of pages or something for me</p> <p>6 to read after a long day -- you probably don't want me reading</p> <p>7 it in that state anyway, but if you need me to read something</p> <p>8 prior to a -- another witness's testimony, just talk about it,</p> <p>9 make it clear what the offer is for, and if there's some time</p> <p>10 feature to that, and I will try to work with you.</p> <p>11 I think there's going to be some -- it sounds</p> <p>12 like an agreed process for amending the designated testimony of</p> <p>13 Mr. Meek, so I don't think we need to dwell on that. And also,</p> <p>14 if there are exhibits that have already been tendered and that</p> <p>15 are going to be amended with either wrong pages removed or</p> <p>16 missing pages, if we can simply have a way of referring to that</p> <p>17 either -- if we're off the record, we need to clearly do it so</p> <p>18 everybody can say amen to it. I would prefer, if possible,</p> <p>19 that we do it tersely with a record notation so that everybody</p> <p>20 at the end of the case knows that what is Exhibit 49 today will</p> <p>21 become a different 49 exhibit after that point. And when</p> <p>22 referring to it, we'll be referring to the amended one and we</p> <p>23 don't have to keep saying the amended 49. So we have a very</p> <p>24 clear and clean record about what our exhibits are if they're</p> <p>25 going to be changed. All right? I know you all are accustomed</p>	<p style="text-align: right;">28</p> <p>1 mid-afternoon, and possibly other very short breaks if needed.</p> <p>2 We'll try to stop around noon for lunch, and</p> <p>3 you-all can tell me if you need 45 minutes or an hour or</p> <p>4 whatever you need. You know, a normal lunch interval. We</p> <p>5 often work until 6:00, but there are some cases where somebody</p> <p>6 can only be here that day and we need to go after that. And if</p> <p>7 we need to do that, and we really need to, then we can, you</p> <p>8 know, try to do that. And we will do it for both sides. I</p> <p>9 think everybody understands the cost of going late every day,</p> <p>10 because it makes everybody tired, maybe a little cranky and a</p> <p>11 little bit less efficient in terms of how we get the testimony</p> <p>12 in the record.</p> <p>13 So that's the -- that's how -- my general</p> <p>14 guideline, but I understand every case has its own needs, and</p> <p>15 we'll try to accommodate those.</p> <p>16 MS. NEISWENDER: Okay. Thank you.</p> <p>17 ARBITRATOR GRISSOM: Sure. At the risk of any</p> <p>18 further delay in the opening statements, is there anything else</p> <p>19 y'all want to talk about? All right. Then we can move on to</p> <p>20 the next stage and hear opening statements.</p> <p>21 CLAIMANT'S OPENING STATEMENT</p> <p>22 MR. PELZ: Good morning, again, Arbitrator</p> <p>23 Grissom.</p> <p>24 ARBITRATOR GRISSOM: Good morning.</p> <p>25 MR. PELZ: I'm Joel Pelz on behalf of Jenner &amp;</p>

<p style="text-align: right;">29</p> <p>1 Block.</p> <p>2 My opening statement this morning is going to</p> <p>3 be, I think, remarkably sort of low tech, at least by today's</p> <p>4 standards. What I do have is two handouts that I would give to</p> <p>5 you and give to Mr. Alibhai. I have a second copy I could give</p> <p>6 to Mr. Lowenstein. What we have is one PowerPoint presentation</p> <p>7 and one timeline. I did provide the timeline because I recall</p> <p>8 on one of the motions you asked us specifically to submit</p> <p>9 timelines, and I generally find them a very helpful tool and I</p> <p>10 believe it might be helpful to you. The timeline has dates of</p> <p>11 when certain events occurred that are going to be relevant to</p> <p>12 the proceeding, and it also identifies the exhibit number that</p> <p>13 we believe will support the statement that that event occurred</p> <p>14 on that day. I do not intend to address everything that's on</p> <p>15 that timeline this morning, but hopefully if we put in the</p> <p>16 evidence that we believe we will put in, all of the items on</p> <p>17 this timeline will be addressed during the course of the</p> <p>18 presentation -- not this presentation but the presentation of</p> <p>19 evidence.</p> <p>20 I'm guided in making this opening statement by</p> <p>21 what you said at the very beginning of your introduction that</p> <p>22 this is the evidentiary hearing. You have received extensive</p> <p>23 briefs submitted by the parties, talking about the law. We</p> <p>24 understand that you probably read those briefs, maybe at least</p> <p>25 once, maybe a couple of times, and you've read some of those</p>	<p style="text-align: right;">31</p> <p>1 there was -- if there was a recovery in the QuinStreet or the</p> <p>2 Oracle cases. And as we now know, there has been a recovery in</p> <p>3 the -- both of those cases. There has been a recovery of</p> <p>4 <u>850,000</u> in the QuinStreet case. There's been a recovery</p> <p>5 already of <u>16-and-a-half million</u> in the Oracle case. And there</p> <p>6 is the potential opportunity for another <u>13 million</u> in the</p> <p>7 Oracle case, at least according to testimony as it's been</p> <p>8 received so far in the depositions; and that we will ask you to</p> <p>9 make some fair allocation of that money to the lawyers who</p> <p>10 spent their time -- the law firm that spent 25,000 hours of</p> <p>11 time in reliance on the terms of the contract that had been</p> <p>12 proposed by Parallel Networks.</p> <p>13 We believe that anything other than enforcing</p> <p>14 the contract, the contract that was proposed by Mr. Fokas who's</p> <p>15 here today, was sent by Mr. Fokas to Jenner &amp; Block saying this</p> <p>16 is the contract that he wanted, it was the one that he told</p> <p>17 us -- the provisions he told us he wanted, it had the</p> <p>18 termination terms that he said he wanted, it had the</p> <p>19 compensation terms that he said he wanted. And we ask simply</p> <p>20 at the end of the day to enforce the contract.</p> <p>21 Second guiding principle we suggest that you</p> <p>22 should use is look at what parties are saying now and what they</p> <p>23 said before we started litigation. It's easy to change your</p> <p>24 memory, your thoughts, your positions, after the fight starts.</p> <p>25 But one thing doesn't change. The contemporaneous documents</p>
<p style="text-align: right;">30</p> <p>1 cases. Many of the issues in those briefs were also raised to</p> <p>2 you in motions that you heard during the course of the process</p> <p>3 getting us to this hearing. So I do not intend to spend any</p> <p>4 significant amount of time talking about those cases or those</p> <p>5 issues that you've already had exposure to. What I hope to</p> <p>6 address is the testimony, the evidence, what people -- the</p> <p>7 documents and what people will say, at least what we anticipate</p> <p>8 they will say in the course of this hearing.</p> <p>9 In hearing the evidence and in looking at the</p> <p>10 exhibits, we respectfully suggest that we -- at the end of the</p> <p>11 day, we'd like you to consider and do three things. First, we</p> <p>12 want you to enter an award that is fair and just. We believe</p> <p>13 that's in the spirit of the case, it's in the spirit of the</p> <p>14 contract, it's in the spirit of the arbitration clause that's</p> <p>15 in the contract which says that the matter was supposed to go</p> <p>16 to arbitration and not go to litigation if the parties had a</p> <p>17 dispute. We will at the end of the day ask you to be what we</p> <p>18 think is fair and just, not only to Jenner &amp; Block, but also to</p> <p>19 Parallel Networks.</p> <p>20 We suggest that the dollar amounts that you</p> <p>21 award to Jenner &amp; Block are solely in your discretion, but we</p> <p>22 will present expert testimony that provides you with options</p> <p>23 with respect to dollar amounts to award Jenner &amp; Block that are</p> <p>24 clearly within what the parties anticipated would be the</p> <p>25 division of monies to both the client and to the lawyers if</p>	<p style="text-align: right;">32</p> <p>1 don't change. What the parties told each other in 2008 and</p> <p>2 2009 as reflected in the documents that they wrote and</p> <p>3 exchanged between each other doesn't change. We believe you</p> <p>4 will find that one party here has taken a consistent position</p> <p>5 with respect to the key issues. That party is Jenner &amp; Block.</p> <p>6 One party has taken a consistently opposite position in</p> <p>7 litigation from what it said at the time of the events in 2008</p> <p>8 and 2009. That party is Parallel Networks.</p> <p>9 We also ask that you carefully review the</p> <p>10 contemporaneous documents. When you evaluate the testimony and</p> <p>11 the party positions, look at those documents because there's</p> <p>12 one thing that doesn't change. Those documents were there.</p> <p>13 They can't change the print on those documents of what they</p> <p>14 said and what the parties told each other at the time in 2008</p> <p>15 and 2009. We ask you to consider not only what the parties did</p> <p>16 and said, but what they didn't do and what they didn't say at</p> <p>17 that time as opposed to today.</p> <p>18 Now, I've identified what I call six key</p> <p>19 questions. We can quibble there may be some more. There's</p> <p>20 probably a lot of other things, but the six key questions, and</p> <p>21 you've seen these types of things -- go to the second page of</p> <p>22 the PowerPoint. So you've seen these issues argued to you</p> <p>23 already at some length in the papers that you've received.</p> <p>24 There is a question of the assertion of whether or not the</p> <p>25 contingent fee agreement that was proposed by Parallel Networks</p>