Lex Rosetta

Functional Segmentation and Key Section Extraction for Adjudicatory Decisions in Multi-(jurisdictional, lingual, domain) Settings

1 THIS DOCUMENT

You are reading this document because you have been invited to participate in the project the goal of which is to put together cross-lingual/cross-jurisdictional data set of annotated adjudicatory decisions. Furthermore, the project aims to assess the feasibility of applying ML/NLP techniques on such a data set (e.g., training a prediction model on documents in one language and evaluating their performance on documents in a different langauge).

If you have just received this document, please, read Section 2 and briefly skim the other sections. Please, let us know before Monday, 2020-11-16 if you are interested to participate in the project and indicate your availability to attend 90 minutes long meeting between Wednesday, 2020-11-18 and Friday, 2020-11-20. Finally, please, follow the instructions in Section 4.1 to setup your account in Gloss (unless you already have one).

After the initial meeting, please, learn to apply the annotation type system by careful study of Sections 5, 6, and 7 and proceed to the annotation of the assigned dry-run cases. Section 5 contains detailed annotation guidelines. You should read this section first. Section 6 describes the suggested process of annotating a document. You should read the section next. Finally, we have included a shorthand reference for type definitions (Section 7). Before proceeding to the annotations, please, learn how to use Gloss (Section 4).

2 Project Timeline

- **Monday, 2020-11-16**
  - Deadline for notification of interest.
  - Deadline for selection of annotators. We recommend choosing 1-2 people who will perform the annotations in the system. We estimate the total time requirement per person to be around 20-25 hours over the coming month per person. We are grateful for teams with multiple annotators, as this enables us to perform inter-annotator agreement studies, but one annotator per team is sufficient.
  - Deadline for registration of annotators in GLOSS (see Section 4.1) and submission of names, usernames in GLOSS and email-addresses of annotators to us.
- **Wednesday, 2020-11-18 - Friday, 2020-11-20** - Initial online Zoom meeting. Explanation of annotation procedure and demo. Assignment of 10 cases for dry-run annotation.
- **Friday, 2020-11-27**
  - Deadline for submission of 100 court cases (see Section 3).
  - Deadline for annotation of 10 dry-run cases.
- **Monday, 2020-11-30** - Documents added to gloss by us. Start of annotation period.
- **Wednesday, 2020-12-9 - Friday, 2020-12-11** - Mid-annotation check-in meeting.
- **Friday, 2020-12-18** - End of annotation period. Deadline for annotations by all annotators.

3 Dataset Assembly

In this section, we describe the steps and policies to follow when putting together a dataset. The data set needs to consist from at least 100 documents. The documents are either judicial or administrative adjudicatory decisions. This means that there is usually one or more parties petitioning a court or an administrative body. The document then describes the decision of the respective decision maker. In this project we are only interested in decisions that generally have, among other parts, the three following constituents:

1. **Context** - What is being decided by whom. What are the factual circumstances. Who claims what. What has happened in the proceedings so far.
2. **Reasoning** - Why does the decision maker decides in a particular way.
3. **Outcome** - What is the decision's outcome.

These constituents may either be contiguous or inter-leaved. If contiguous then the decision would typically contain an uninterrupted piece of text explaining the context followed by an uninterrupted piece of text laying down the reasoning. If inter-leaved then a small piece of

context would usually be followed by reasoning related to that piece of context. Another piece of context would follow with the related reasoning. This pattern would repeat several times. At this stage of the project we are only interested in those decisions where the constituents are contiguous.

The first step then is to define a type of decisions where a dataset of the desired size consisting of documents with desired properties is available. The definition of a decision type would typically be based on one or more of the following criteria:

- **Language (required)**
- **Country (required)**
- Decision-making Body
- Domain
- Time Range

At minimum, a single language and a single country need to be specified. Optionally, one may decide to limit the scope of interest further. For example, one may decide to focus on decisions in English (language) from the United States (country) produced by the Supreme Court (decision-making body) that are about marriage equality (domain) and have been issued between 1900 and 2000 (time range). Other criteria are acceptable as long as they can be explicitly expressed.

The second step is identifying an appropriate source of the decisions. In most cases an appropriate source would be a publicly available database. Since we would eventually like to release the dataset to the public this is a recommended path. In most countries such a use of data would be permissible (e.g., fair use doctrine in the US, PSI re-use in EU). Alternatively, the documents may be obtained from a commercial legal information publisher or the decision-making body itself. However, in those cases one would most likely need to also secure a permission from the provider to release the documents to the public.

The third step is to specify a sampling strategy, i.e., the procedure of selecting the documents (that meet the definition) into the dataset. The methodology could be as simple as random. It could also be as simple as picking N top documents returned by the database as a response to a specific search. On the other hand, the methodology could also be a sophisticated stratified sampling the goal of which would be to make sure that the sample is representative. While any of these approaches is acceptable it is important to clearly state the method that has been employed.

The final step is obtaining the documents in plain text format. While it is a responsibility of each researcher to collect the individual files we can provide support with mass conversion from common document file types (docx, doc, pdf, rtf, odt). In some cases, a manual cleaning of the documents might be required.

The dataset should be submitted in a zip file to the organisers by the data specified above in 2. They should be sent via email or a file sharing service, such as google drive or dropbox.

4 GLOSS TUTORIAL

Gloss is an annotation environment located at `http://gloss.savelka.net`. The following sections describe how to setup an account and annotate documents.

4.1 SIGN UP

To setup an account go to `http://gloss.savelka.net` and click the "Create an account" link. On the "Sign up" page fill in your desired username and a password. Please, do remember the password as resetting it is not an automated process. Once you have registered a new account you will be let into the system but you will not be allowed to use any applications. At this point, please, logout and inform Jaromir Savelka (jsavelka@andrew.cmu.edu) that you have setup the account providing the username. Soon you will receive an acknowledgment that you have been assigned privileges to use the "Annotator" application. From now on, you can start using the system.

Please make sure that all selected annotators have registered on GLOSS by the date specified above under 2 and that their user account names have been submitted via email so that we can give them access to the system.

4.2 TEXT ANNOTATION

Please, avoid using Internet Explorer or Edge for annotation. The annotation interface behaves abnormally in these browsers and the annotations you create would be unusable. While you can safely use Safari and Firefox we highly recommend you use Chrome.

After you log into Gloss you should see the landing page with one or more links to the applications. Click the "Annotator" link. At this point you should be presented with a view similar to the one shown in Figure 4.1. The pane on the left (1) lists the available types. Any type can be expanded to show summary information including the list of annotations marked with the type (as shown in the left part of Figure 4.2). At the top of the pane the "Annotations" tab can be selected to show the list of annotations. Any annotation can be expanded to show summary information (as shown in the right part of Figure 4.2). The pane in the center (2) shows the text of the document that should be annotated. The pane on the right (3) provides a bird-eye's view of the document. At the top there are two drop-down menus allowing the selection of a task (4) and a document (5). The Done toggle (6) is a convenience function that you can use to mark the documents that you have already finished with a green color.

In order to create a new annotation use the mouse pointer to highlight the desired text span in the central pane. After releasing the left mouse button a pop-up menu listing the available types appears. Select the appropriate type from the menu. The menu disappears and the newly created annotation appears. It is possible to delete or edit the type of an already created annotation. In order to do so, expand the annotation by clicking on its markup in the text or its listing in the Annotations list on the left. The annotation type can be changed after clicking the "Edit" button at the top of the left pane as shown in the middle portion of Figure 4.2 (1). After changing the type do not forget to save the edit by clicking the "Save" button at the top of the left pane. To delete the annotation click the "Del" button at the top of the left pane as shown

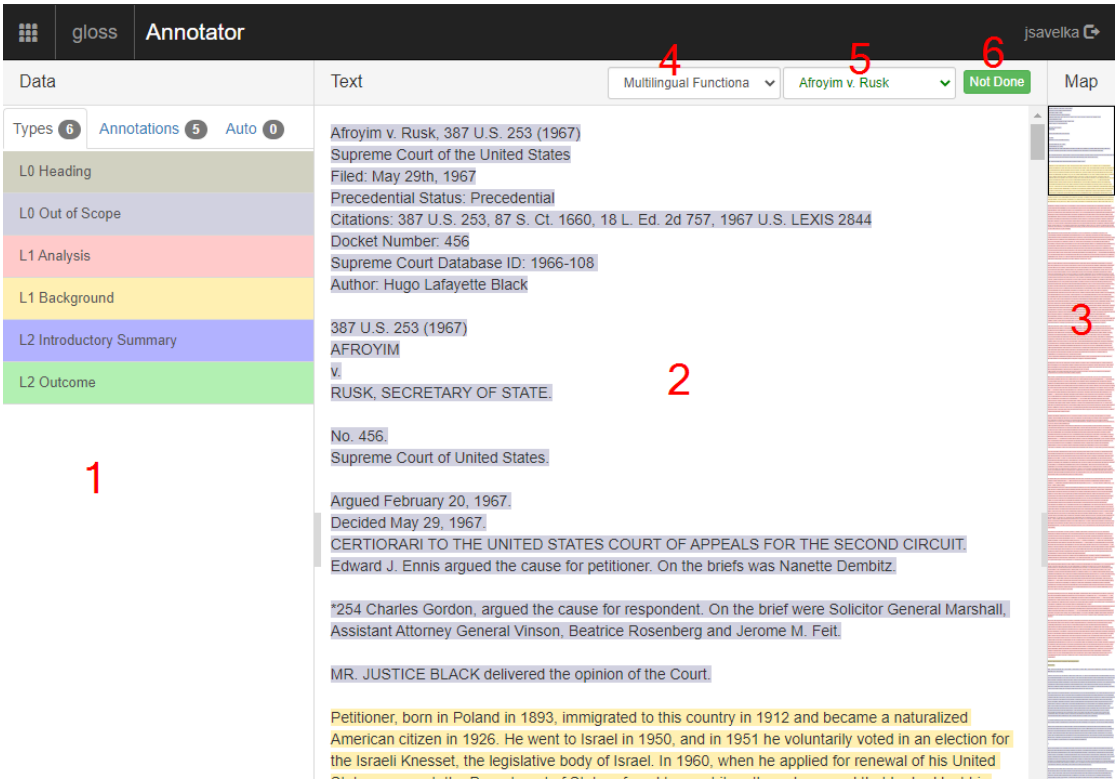

Figure 4.1: Gloss Annotator interface including the Types pane (1), the Text pane (2), the Minimap (3), the Task selector (4), the Document selector (5), and the Done toggle (6).

in the middle portion of Figure 4.2 (2). Note that it is not possible to edit the annotation offsets (i.e., its start and end) after it has been created. In case, these needs to be edited you need to delete the original annotation and create a new one. All the work is automatically saved online. You can leave the system at any point and get back to your work wherever you left it off.

5 Detailed Document Annotation Guidelines

Note that the individual examples do not contain all the markup that a fully annotated document would. The examples always contain the markup of the type the example illustrates (e.g., Example 14 contains a markup for the one type it focuses on). In addition, there might be markup for additional type to help illustrate the point (e.g., Example 10 contains a markup for one additional type to illustrate how they interact). Importantly, only the examples from the section focused on the specific type should be used as the source of truth for that type. The markups contained (or omitted) in sections dedicated to other types are only meant to improve clarity of exposition for those other types.

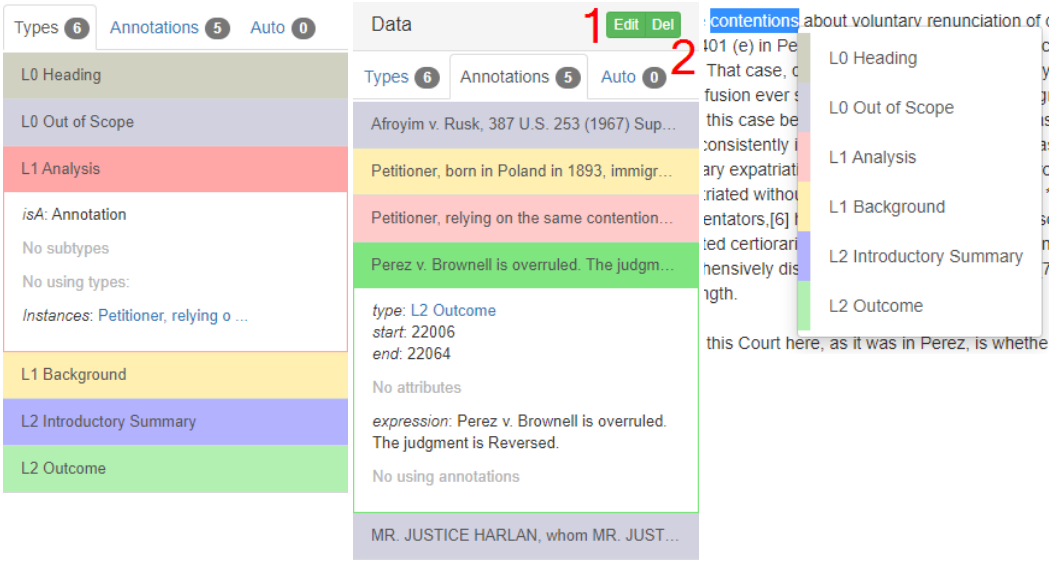

Figure 4.2: The Types pane on the left shows the list of available annotation types with the L1 Analysis type expanded. The Annotations pane in the middle shows the list of annotations with one of the annotations expanded. The illustration on the right shows a pop-up menu of available type which appears after

5.1 Sanitation (Layer 0)

This layer contains a set of types, the goal of which is to ensure that we can separate the parts of the document that are most likely going to be country, court, or domain specific. The separation allows us to focus on the important aspects of the task early and deal with the details later. The layer contains two types:

- L0 Out of Scope - This type is used to filter out the parts of a document that do not constitute the main decision body. These parts need to be identified since they would almost always be country/court specific and would only confuse and clutter the AI systems. This mostly applies to the metadata at the beginning or at the end, some specific proclamations, footnotes, dissents, etc. These elements are simply out of scope of this effort.
- L0 Heading - This type is used to annotate headings because these will often be extra suggestive about the segmentation. Their utilization could be undesirable because the resulting system could rely on headings instead of the semantics of the sentences. The annotations might be used in the experiments, e.g., to mask the headings.

5.1.1 Out of Scope Document Parts

The first step in annotating a document is to use the *L0 Out of Scope* type to mark the parts of the document that are going to be excluded from the analysis. These are the parts of the

document that do not constitute the main body of the decision, such as the metadata at the beginning or at the end of the decision, some specific proclamations, footnotes/end notes, or dissents/concurrences. Conversely, the main body of the document, i.e., the part that is not supposed to be marked with the *L0 Out of Scope* type, contains sentences describing the facts of the case, procedural history, court's reasoning, and outcome.

The *L0 Out of Scope* block at the beginning of the document typically consists of lines indicating the deciding court, judges, the case citation, parties, etc. Sometimes a court or legal publisher may attach certain information in front of a decision. Such information would usually consist of selected meta-data but it can also contain syllabus of the case. These are parts of the *L0 Out of Scope* too. The *L0 Out of Scope* block at the beginning extends from the beginning of the text and finishes right before the court starts laying out its opinion. Note that quite often the court starts the opinion with a brief summary of the case (typically one but sometimes multiple paragraphs). In the introductory summary the court typically describes actions parties already took in the proceedings (if there were any) and what is the issue(s) the court is asked to resolve. Quite often the court will finish the introductory summary with a sentence stating the outcome. The introductory summary provided by the court should not be marked as part of the *L0 Out of Scope* (unlike the editorial syllabus/summary).

The *L0 Out of Scope* block at the end of the document typically starts after the court states the outcome of the decision. The block usually consists of concurrences, dissents, any other appendices, or footnotes/end notes. A concurrence or a dissent is the part where a court presents opinions of concurring or dissenting judges. There may be dedicated sections for each concurrence/dissent but there could also be just a single sentence containing the list of concurring/dissenting judges. An appendix is a document a court attaches to a decision as supplemental material. Footnotes/end notes form a list the indices of which are references to different parts of text. Each item of the list provides additional information to what is in the text at the place of reference. The indices are typically numbers but it could also be symbols (e.g., asterisks). All these elements would typically form a unified *L0 Out of Scope* block (oftentimes sizeable) at the end of the document. Footnotes could also interleave with the main opinion. These also need to be marked as *L0 Out of Scope*.

Example 1. This is a beginning part of the document containing metadata about the decision (e.g., the deciding court, the filing date, the docket number) and finishes with the usual proclamation stating who of the justices/judges delivered the opinion. The *L0 Out of Scope* segment is marked in blue-grey.

> New Jersey v. TLO, 469 U.S. 325 (1985)
> Supreme Court of the United States
> Filed: January 15th, 1985
> Precedential Status: Precedential
> Citations: 469 U.S. 325, 105 S. Ct. 733, 83 L. Ed. 2d 720, 1985 U.S. LEXIS 41
> Docket Number: 83-712
> Supreme Court Database ID: 1984-022
> Author: Byron Raymond White
>
> [. . .]
>
> Briefs of amici curiae urging affirmance were filed for the American Civil Liberties Union et al. by Mary L. Heen, Burt Neuborne, E. Richard Larson, Barry S. Goodman, and Charles S. Sims; and for

the Legal Aid Society of the City of New York et al. by Janet Fink and Henry Weintraub.

-Julia Penny Clark and Robert Chanin filed a brief for the National Education Association as amicus curiae.

JUSTICE WHITE delivered the opinion of the Court.

We granted certiorari in this case to examine the appropriateness of the exclusionary rule as a remedy for searches carried out in violation of the Fourth Amendment by public school authorities. Our consideration of the proper application of the Fourth Amendment to the public schools, however, has led us to conclude that the search that gave rise to *328 the case now before us did not violate the Fourth Amendment.

Example 2. This is also a beginning part of the document containing decision metadata. Here, the main body starts with a heading. The *L0 Out of Scope* segment is marked in blue-grey.

Editor's note: Corrigendum released on March 6, 2015. Original judgment has been corrected with text of corrigendum appended.

QUEEN'S BENCH FOR SASKATCHEWAN

Citation: 2014 SKQB 386
Date: 2014 12 04
Docket: QB 303 of 2012
Judicial Centre: Yorkton

BETWEEN:

HER MAJESTY THE QUEEN
RESPONDENT

- and -

DAVID JOHN LUNDRIGAN
APPELLANT

Counsel:
Andrew Wyatt for the respondent
David Lundrigan self represented, appellant

JUDGMENT BARRINGTON-FOOTE J.
December 4, 2014

A. INTRODUCTION

The appellant, David John Lundrigan, was convicted of having care and control of a motor vehicle on April 16, 2005, while his blood alcohol content exceeded 80 milligrams of alcohol in 100 millilitres of blood, contrary to s. 253(b) of the Criminal Code, RSC 1985, c C-46. He has appealed that conviction pursuant to s. 813 of the Criminal Code. As is more fully explained below, the extraordinary feature of this appeal is that the trial which resulted in Mr. Lundrigan's conviction – which was held March 22, 2012 – was the third trial of this charge.

For the reasons that follow, I have decided to allow Mr. Lundrigan's appeal, and, rather than ordering a fourth trial, to stay the proceedings.

Example 3. In this excerpt the final part of the main document body is shown; finishing with the outcome of the decision (reversed). The outcome is followed by a dissent which should be marked as *L0 Out of Scope* (blue-grey).

[. . .]

Because the legislative history of the Fourteenth Amendment and of the expatriation proposals which preceded and followed it, like most other legislative history, contains many statements from which conflicting inferences can be drawn, our holding might be unwarranted if it rested entirely or principally upon that legislative history. But it does not. Our holding we think is the only one that can stand in view of the language and the purpose of the Fourteenth Amendment, and our construction of that Amendment, we believe, comports more nearly than Perez with the principles of liberty and equal justice to all that the entire Fourteenth Amendment was adopted to guarantee. Citizenship is no light trifle *268 to be jeopardized any moment Congress decides to do so under the name of one of its general or implied grants of power. In some instances, loss of citizenship can mean that a man is left without the protection of citizenship in any country in the world as a man without a country. Citizenship in this Nation is a part of a co-operative affair. Its citizenry is the country and the country is its citizenry. The very nature of our free government makes it completely incongruous to have a rule of law under which a group of citizens temporarily in office can deprive another group of citizens of their citizenship. We hold that the Fourteenth Amendment was designed to, and does, protect every citizen of this Nation against a congressional forcible destruction of his citizenship, whatever his creed, color, or race. Our holding does no more than to give to this citizen that which is his own, a constitutional right to remain a citizen in a free country unless he voluntarily relinquishes that citizenship.

Perez v. Brownell is overruled. The judgment is

Reversed.

MR. JUSTICE HARLAN, whom MR. JUSTICE CLARK, MR. JUSTICE STEWART, and MR. JUSTICE WHITE join, dissenting.

Almost 10 years ago, in Perez v. Brownell, 356 U.S. 44, the Court upheld the constitutionality of § 401 (e) of the Nationality Act of 1940, 54 Stat. 1169. The section deprives of his nationality any citizen who has voted in a foreign political election. The Court reasoned that Congress derived from its power to regulate foreign affairs authority to expatriate any citizen who intentionally commits acts which may be prejudicial to the foreign relations of the United States, and which reasonably may be deemed to indicate a dilution of his allegiance to this country. Congress, it was held, could appropriately consider *269 purposeful voting in a foreign political election to be such an act.

[. . .]

Example 4. Here, the final part of the document, including the decision about the costs, is shown. It is followed by a list of footnotes. The *L0 Out of Scope* segment is marked in blue-grey.

[. . .]

III. CONCLUSION

The en banc court reversed the district court's grant of Limelight's motion for JMOL of non-infringement of the '703 patent. For the foregoing reasons, we conclude that the outstanding arguments in Limelight's cross-appeal have no merit. Thus, this case is remanded with instructions to reinstate the jury verdict and the jury's damages award. This court's previously 1382*1382 reinstated affirmance of the district court's judgment of non-infringement of the '413 and '645 patents is also reconfirmed.

AFFIRMED-IN-PART, REVERSED-IN-PART, AND REMANDED

COSTS

Each party shall bear its own costs.

[1] Limelight argues that the district court erred in its construction, and that the jury lacked sufficient evidence to find infringement in light of the correct construction.

[2] Limelight argues both that the claim construction was erroneous, and that the subsequent jury instruction improperly left claim construction to the jury.

-[3] An adjusted market share is the calculated market share Akamai would have had absent infringement.

Example 5. This is also the final part of the document stating the outcome. Here, the footnotes start with a heading. The *L0 Out of Scope* segment is marked in blue-grey.

[. . .]

For the foregoing reasons, we affirm the order of the district court granting summary judgment to iParadigms as to plaintiffs' copyright infringement claim. As to iParadigms' counterclaims, however, we reverse the grant of summary judgment to plaintiffs and remand for further consideration.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED

NOTES

[1] The comparison occurs as follows: "[T]he Turnitin system makes a 'fingerprint' of the work by applying mathematical algorithms to its content. This fingerprint is merely a digital code. Using the digital fingerprint made of the student's work, the Turnitin system compares the student's work electronically to content available on the Internet . . . and student papers previously submitted to Turnitin." S.J.A. 2.

[. . .]

5.1.2 HEADING

L0 Heading is a sequence of tokens the role of which is to start (and possibly describe) a document or a section of a document. If a sequence of tokens is (i) an incomplete sentence which (ii) stands on its own (i.e., is not a part of a paragraph), (iii) starts a document or a new section in a document, and (iv) it contains high-level information about what to expect in the document (or the section) then it is most likely *L0 Heading*.

L0 Heading can sometimes be preceded by structural numbering token (or a sequence of tokens) the role of which is to define a position of the attached text within a structure such as a list (or a tree). Structural numbering is considered to be a part of heading. Note that heading could also consist of structural numbering exclusively.

In this annotation task, we only mark *L0 Heading* type in the block of text that has **not** been marked with *L0 Out of Scope* type.

Example 6. This is a portion of the text that has not been marked as *L0 Out of Scope* containing *L0 Heading*. The *L0 Heading* describes the contents of the following block of text (i.e., discussion). The *L0 Heading* segment is marked in green-grey.

[. . .]

Following the first jury trial, the district court upheld the jury's infringement, dilution, and validity findings over Samsung's post-trial motion. The district court also upheld $639,403,248 in damages, but ordered a partial retrial on the remainder of the damages because they had been awarded for a

period when Samsung lacked notice of some of the asserted patents. The jury in the partial retrial on damages awarded Apple $290,456,793, which the district court upheld over Samsung's second post-trial motion. On March 6, 2014, the district court entered a final judgment in favor of Apple, and Samsung filed a notice of appeal. We have jurisdiction under 28 U.S.C. § 1295(a)(1).

DISCUSSION

We review the denial of Samsung's post-trial motions under the Ninth Circuit's procedural standards. See Revolution Eyewear, Inc. v. Aspex Eyewear, Inc., 563 F.3d 1358, 1370-71 (Fed.Cir. 2009). The Ninth Circuit reviews de novo a denial of a motion for judgment as a matter of law. Id. "The test is whether the evidence, construed in the light most favorable to the nonmoving party, permits only one reasonable conclusion, and that conclusion is contrary to that of the jury." Id. (citing Theme Promotions, Inc. v. News Am. Mktg. FSI, 546 F.3d 991, 999 (9th Cir.2008)).

[. . .]

Example 7. This is also a portion of the text that has not been marked as *L0 Out of Scope* containing *L0 Heading*. Here, the *L0 Heading* also contains a numbering token at the beginning. The *L0 Heading* segment is marked in green-grey.

[. . .]

For these reasons, there is no error in the district court's construction of "an optimal server," nor in the jury instruction.

C. Damages

To collect lost profits, a "patentee must show 'a reasonable probability that 'but for' the infringing activity, the patentee would have made the infringer's sales." Ericsson, Inc. v. Harris Corp., 352 F.3d 1369, 1377 (Fed.Cir.2004) (citations omitted). This is done by determining what profits the patentee would have made absent the infringing product. Id. This analysis must be supported by "sound economic proof of the nature of the market and likely outcomes with infringement factored out of the economic picture." Id. (citing Grain Processing Corp. v. Am. Maize-Prods. Co., 185 F.3d 1341, 1350 (Fed.Cir. 1999)).

[. . .]

Example 8. This is another portion of a text that has not been marked as *L0 Out of Scope* containing *L0 Heading*. Here, the *L0 Heading* consists of a numbering token only. The *L0 Heading* segment is marked in green-grey.

[. . .]

*332 Although we originally granted certiorari to decide the issue of the appropriate remedy in juvenile court proceedings for unlawful school searches, our doubts regarding the wisdom of deciding that question in isolation from the broader question of what limits, if any, the Fourth Amendment places on the activities of school authorities prompted us to order reargument on that question.[2] Having heard argument on *333 the legality of the search of T. L. O.'s purse, we are satisfied that the search did not violate the Fourth Amendment.[3]

II

In determining whether the search at issue in this case violated the Fourth Amendment, we are faced initially with the question whether that Amendment's prohibition on unreasonable searches and seizures applies to searches conducted by public school officials. We hold that it does.

[. . .]

Example 9. This is yet one more portion of a text that has not been marked as *L0 Out of Scope* containing *L0 Heading*. Here, two *L0 Heading* segments are present. One that contains a numbering token and a description and one that consists of a numbering token only (i.e., "A."). The *L0 Heading* segments are marked in green-grey (each one separately).

> [. . .]
>
> In sum, we conclude, viewing the evidence in the light most favorable to the plaintiffs, that iParadigms' use of the student works was "fair use" under the Copyright Act and that iParadigms was therefore entitled to summary judgment on the copyright infringement claim.[8]
>
> III. iParadigms' Cross Appeal
>
> A.
>
> iParadigms asserted a counterclaim against plaintiff A.V. under the Computer Fraud and Abuse Act ("CFAA"), see 18 U.S.C. § 1030, a statute generally intended to deter computer hackers.[9] Although the CFAA is primarily a criminal statute, it permits private parties to bring a cause of action to redress a violation of the CFAA: "Any person who suffers damage or loss by reason of a violation of this section may maintain a civil action . . . to obtain compensatory damages and injunctive relief or other equitable relief." 18 U.S.C. § 1030(g). iParadigms alleged that by gaining unauthorized access to Turnitin through a password assigned to UCSD students, plaintiff A.V. violated § 1030(a)(5)(A)(iii), which prohibited any person from "intentionally access[ing] a protected computer without authorization, and as a result of such conduct, caus[ing] damage," and, by such conduct, caused, in violation of § 1030(a)(5)(B)(i), "loss to 1 or more persons during any 1-year period. . . aggregating at least $5,000 in value." Additionally, the CFAA imposed this limit: "Damages for a violation involving only. . . [§ 1030(a)(5)(B)(i)] are limited to economic damages." 18 U.S.C. § 1030(g) (emphasis added).[10]
>
> [. . .]

5.2 Segmentation (Layer 1)

This layer contains types the goal of which is to segment the parts that have not been marked as *L0 Out of Scope* into two non-overlapping types:

- L1 Background - This type is used for the dedicated segment where a court describes procedural history of the case, relevant facts, as well as what the parties are claiming. Its tone is mostly descriptive, i.e., the court refrains from expressing its own opinions on what is being stated in this part.
- L1 Analysis - This type is used for the part where the court discusses and reasons about the issues of the case. Quite often the tone is deliberative, i.e., the court expresses opinions on the issues, arguments, claims, etc. However, it is quite common for a court to explain certain concepts important for the understanding of these issues. Such explanations are to be considered part of *L1 Analysis*. It is also common for a court to include content that would appear under *L1 Background* (i.e., facts, procedure, parties' claims). The difference is that, here, such content does not have a dedicated section and inter-leaves with court's reasoning.

5.2.1 L1 Background

L1 Background typically describes the procedural history of the case, the relevant facts, as well as what the parties are claiming. Its tone is usually descriptive, i.e., the court refrains from expressing its own opinions on what is being stated in this part. This is not a rule that is always followed. *L1 Background* extends from the end of the *L0 Out of Scope* beginning block (if present; if not then from the beginning of a document) and finishes right before the court starts its own analysis (*L1 Opinion*).

While many times *L1 Background* would start directly with the exposition of preceding procedure or facts of the case, it is not uncommon for it to start with an introductory summary (typically one but sometimes multiple paragraphs). In the introductory summary the court typically describes actions parties already took in the proceedings (if there were any) and what is the issue(s) the court is asked to resolve. Quite often the court will finish the introductory summary with a sentence stating the outcome. The introductory summary should be included in *L1 Background*.

Example 10. This is a beginning part of the document containing metadata about the decision (e.g., the deciding court, the filing date, the docket number) and finishes with the usual proclamation stating who of the justices/judges delivered the opinion. The *L0 Out of Scope* segment is marked in blue-grey. The beginning part is followed with the opening paragraph of the main body of the decision (introductory summary in this case). The *L1 Background* segment is marked in yellow.

> New Jersey v. TLO, 469 U.S. 325 (1985)
> Supreme Court of the United States
> Filed: January 15th, 1985
> Precedential Status: Precedential
> Citations: 469 U.S. 325, 105 S. Ct. 733, 83 L. Ed. 2d 720, 1985 U.S. LEXIS 41
> Docket Number: 83-712
> Supreme Court Database ID: 1984-022
> Author: Byron Raymond White
>
> [. . .]
>
> Briefs of amici curiae urging affirmance were filed for the American Civil Liberties Union et al. by Mary L. Heen, Burt Neuborne, E. Richard Larson, Barry S. Goodman, and Charles S. Sims; and for the Legal Aid Society of the City of New York et al. by Janet Fink and Henry Weintraub.
>
> Julia Penny Clark and Robert Chanin filed a brief for the National Education Association as amicus curiae.
>
> JUSTICE WHITE delivered the opinion of the Court.
>
> We granted certiorari in this case to examine the appropriateness of the exclusionary rule as a remedy for searches carried out in violation of the Fourth Amendment by public school authorities. Our consideration of the proper application of the Fourth Amendment to the public schools, however, has led us to conclude that the search that gave rise to *328 the case now before us did not violate the Fourth Amendment.
>
> [. . .]

Example 11. This is also a beginning part of the document containing decision metadata. Here, the main body starts with an exposition of the preceding procedure (not an introductory summary since the outcome is not mentioned). The *L0 Out of Scope* segment is marked in blue-grey. The *L1 Background* segment is marked in yellow.

> [. . .]
>
> On Appeal From: Provincial Court
> Appeal Heard: April 12, 2001
> Appeal Allowed: April 12, 2001 (orally)
> Written Reasons: April 19, 2001
> Reasons By: The Honourable Mr. Justice Lane
> In Concurrence: The Honourable Mr. Justice Tallis
> The Honourable Mr. Justice Vancise
> LANE J.A. (orally)
>
> [1] The Crown seeks leave appeal the sentence imposed on the respondent after a sentencing circle. After pleading guilty to committing the offences of robbery and robbery with threats of violence contrary to s. 348(1)(b) and 334(2) respectively of the Criminal Code, he was sentenced to nine months time served, plus two years less one day conditional, including three months on electronic monitoring, plus two years probation with a ten-year firearms prohibition on each charge to be served concurrently. The respondent committed the offences while on probation.
>
> [. . .]

Example 12. This is also a beginning part of the document containing decision metadata. Here, the main body starts with a heading. The *L0 Out of Scope* segment is marked in blue-grey. The *L1 Background* segment is marked in yellow.

> Editor's note: Corrigendum released on March 6, 2015. Original judgment has been corrected with text of corrigendum appended.
>
> QUEEN'S BENCH FOR SASKATCHEWAN
>
> Citation: 2014 SKQB 386
> Date: 2014 12 04
> Docket: QB 303 of 2012
> Judicial Centre: Yorkton
>
> BETWEEN:
>
> HER MAJESTY THE QUEEN
> RESPONDENT
>
> - and -
>
> DAVID JOHN LUNDRIGAN
> APPELLANT
>
> Counsel:
> Andrew Wyatt for the respondent
> David Lundrigan self represented, appellant
>
> JUDGMENT BARRINGTON-FOOTE J.
> December 4, 2014
>
> A. INTRODUCTION

The appellant, David John Lundrigan, was convicted of having care and control of a motor vehicle on April 16, 2005, while his blood alcohol content exceeded 80 milligrams of alcohol in 100 millilitres of blood, contrary to s. 253(b) of the Criminal Code, RSC 1985, c C-46. He has appealed that conviction pursuant to s. 813 of the Criminal Code. As is more fully explained below, the extraordinary feature of this appeal is that the trial which resulted in Mr. Lundrigan's conviction—which was held March 22, 2012—was the third trial of this charge.

-For the reasons that follow, I have decided to allow Mr. Lundrigan's appeal, and, rather than ordering a fourth trial, to stay the proceedings.

[. . .]

Example 13. This is a part of the main body of the document where *L1 Background* segment ends. Here, the "Discussion" heading follows which is a very typical heading terminating *L1 Background*. The *L1 Background* segment is marked in yellow. For the sake of clarity, we omit the annotation in this example.

[. . .]

C. Trial Court's Ruling

The anti-SLAPP motion was heard on March 12, 2008, and taken under submission. By minute order dated May 6, 2008, the trial court denied the motion, concluding that the case did not involve a public issue. (See § 425.16, subds. (b)(1), (e)(3).) The R.'s appealed.

II

DISCUSSION

We review de novo the trial court's ruling on an anti-SLAPP motion. (See Flatley v. Mauro (2006) 39 Cal. 4th 299, 325 [46 Cal.Rptr.3d 606, 139 P.3d 2].)

The R.'s argue that R.R.'s posted message was "jocular humor" entitled to First Amendment protection under the anti-SLAPP statute. We disagree for two reasons. First, the R.'s evidence as to whether R.R.'s message was protected speech is self-contradictory. Accordingly, we cannot say they demonstrated that the message is protected speech. Second, assuming that R.R.'s message was a "joke" and thus constitutionally protected, it was not a statement made in connection with a "public issue" as that term is used in the anti-SLAPP statute. (See § 425.16, subds. (b)(1), (e)(3).) Rather, it was merely part of a "joke" among teenagers.

[. . .]

Example 14. This is also a part of the main body of the document where *L1 Background* segment ends. Notice the "Plaintiffs' Appeal" heading which could be misleading since parties' claims are considered part of *L1 Background*. Here, the text that follows clearly contains court's analysis of the appeal (not a description of plaintiff's claims). The *L1 Background* segment is marked in yellow.

[. . .]

iParadigms asserted four counterclaims, but only two are now at issue: (1) that plaintiff A.V. gained unauthorized access to Turnitin by using passwords designated for use by college students enrolled at UCSD, in violation of the Computer Fraud and Abuse Act ("CFAA"), see 18 U.S.C. § 1030; and (2) that plaintiff A.V., based on the aforementioned unauthorized access, violated the Virginia Computer Crimes Act ("VCCA"), see Va.Code Ann. § 18.2–152.3.

The district court rejected both counterclaims, granting summary judgment to plaintiff A.V. on the grounds that there was no evidence of actual or economic damages suffered by iParadigms as a result of the alleged violations under the CFAA and the VCCA.

II. Plaintiffs' Appeal

We first consider the summary judgment order as to plaintiffs' copyright infringement claim. The owner of a copyright enjoys "a bundle of exclusive rights" under section 106 of the Copyright Act, Harper & Row, Publishers, Inc. v. Nation Enters., 471 U.S. 539, 546, 105 S. Ct. 2218, 85 L. Ed. 2d 588 (1985), including the right to copy, the right to publish and the right to distribute an author's work, see id. at 547, 105 S. Ct. 2218; see also 17 U.S.C. § 106 (also including among fundamental rights in copyrighted works rights to display, to perform, and to prepare derivative works). These rights "vest in the author of an original work from the time of its creation." Harper & Row, 471 U.S. at 547, 105 S. Ct. 2218. "'Anyone who violates any of the exclusive rights of the copyright owner,' that is, anyone who trespasses into his exclusive domain by using or authorizing the use of the copyrighted work . . . 'is an infringer of the copyright.'" Sony Corp. of America v. Universal City Studios, Inc., 464 U.S. 417, 433, 104 S. Ct. 774, 78 L. Ed. 2d 574 (1984) (quoting 17 U.S.C. § 501(a)).

[. . .]

Example 15. This is yet another part of the main body of the document where *L1 Background* segment ends. There is no heading terminating *L1 Background*. However, the paragraph that follows clearly contains court's reasoning. The *L1 Background* segment is marked in yellow.

[. . .]

Petitioner, born in Poland in 1893, immigrated to this country in 1912 and became a naturalized American citizen in 1926. He went to Israel in 1950, and in 1951 he voluntarily voted in an election for the Israeli Knesset, the legislative body of Israel. In 1960, when he applied for renewal of his United States passport, the Department of State refused to grant it on the sole ground that he had lost his American citizenship by virtue of § 401 (e) of the Nationality Act of 1940 which provides that a United States citizen shall "lose" his citizenship if he votes "in a political election in a foreign state." [1] Petitioner then brought this declaratory judgment action in federal district court alleging that § 401 (e) violates both the Due Process Clause of the Fifth Amendment and § 1, cl. 1, of the Fourteenth Amendment [2] which grants American citizenship to persons like petitioner. Because neither the Fourteenth Amendment nor any other provision of the Constitution expressly grants Congress the power to *255 take away that citizenship once it has been acquired, petitioner contended that the only way he could lose his citizenship was by his own voluntary renunciation of it. Since the Government took the position that § 401 (e) empowers it to terminate citizenship without the citizen's voluntary renunciation, petitioner argued that this section is prohibited by the Constitution. The District Court and the Court of Appeals, rejecting this argument, held that Congress has constitutional authority forcibly to take away citizenship for voting in a foreign country based on its implied power to regulate foreign affairs. Consequently, petitioner was held to have lost his American citizenship regardless of his intention not to give it up. This is precisely what this Court held in Perez v. Brownell, 356 U.S. 44.

Petitioner, relying on the same contentions about voluntary renunciation of citizenship which this Court rejected in upholding § 401 (e) in Perez, urges us to reconsider that case, adopt the view of the minority there, and overrule it. That case, decided by a 5-4 vote almost 10 years ago, has been a source of controversy and confusion ever since, as was emphatically recognized in the opinions of all the judges who participated in this case below.[3] Moreover, in the other cases decided with[4] and since[5]Perez, this Court has consistently invalidated on a case-by-case basis various other statutory sections providing for involuntary expatriation. It has done so on various grounds and has refused to hold that citizens can be expatriated without their voluntary renunciation of *256 citizenship. These cases, as well as many commentators,[6] have cast great doubt upon the soundness of Perez.

> Under these circumstances, we granted certiorari to reconsider it, 385 U.S. 917. In view of the many recent opinions and dissents comprehensively discussing all the issues involved,[7] we deem it unnecessary to treat this subject at great length.
>
> [. . .]

5.2.2 L1 Analysis

L1 Analysis typically discusses and reasons about the issues of the case or cites legal sources. Quite often the tone is deliberative, i.e., the court expresses opinions on the issues, arguments, claims, etc. However, it is quite common for a court to explain certain concepts important for the understanding of these issues. Such explanations are to be considered part of *L1 Analysis*. It is also common for a court to include content that would appear under *L1 Background* (i.e., facts, procedure, parties' claims). The difference is that, here, such content does not have a dedicated section and interleaves with court's reasoning.

L1 Analysis is almost always finished by a statement of the outcomes of the case. This could be a single sentence, a paragraph, or even a dedicated section. The statement is part of the analysis. After the outcome statement there is usually a concurrence, dissent, footnotes, or some other element that does not belong to the main body of the document and hence is marked as *L0 Out of Scope*.

Example 16. This is a part of the main body of the document where *L1 Analysis* segment begins. Here, it is opened by the "Discussion" heading which is very typical. The *L1 Background* segment is marked in yellow. The *L1 Analysis* segment is marked in red.

> [. . .]
>
> C. Trial Court's Ruling
>
> The anti-SLAPP motion was heard on March 12, 2008, and taken under submission. By minute order dated May 6, 2008, the trial court denied the motion, concluding that the case did not involve a public issue. (See § 425.16, subds. (b)(1), (e)(3).) The R.'s appealed.
>
> II
>
> DISCUSSION
>
> We review de novo the trial court's ruling on an anti-SLAPP motion. (See Flatley v. Mauro (2006) 39 Cal. 4th 299, 325 [46 Cal.Rptr.3d 606, 139 P.3d 2].)
>
> The R.'s argue that R.R.'s posted message was "jocular humor" entitled to First Amendment protection under the anti-SLAPP statute. We disagree for two reasons. First, the R.'s evidence as to whether R.R.'s message was protected speech is self-contradictory. Accordingly, we cannot say they demonstrated that the message is protected speech. Second, assuming that R.R.'s message was a "joke" and thus constitutionally protected, it was not a statement made in connection with a "public issue" as that term is used in the anti-SLAPP statute. (See § 425.16, subds. (b)(1), (e)(3).) Rather, it was merely part of a "joke" among teenagers.
>
> [. . .]

Example 17. This is also a part of the main body of the document where *L1 Analysis* segment begins. Notice the "Plaintiffs' Appeal" heading which could be misleading since parties' claims are considered part of *L1 Background*. Here, the text that follows clearly contains court's

analysis of the appeal (not a description of plaintiff's claims). The *L1 Background* segment is marked in yellow. The *L1 Analysis* segment is marked in red.

> [. . .]
>
> iParadigms asserted four counterclaims, but only two are now at issue: (1) that plaintiff A.V. gained unauthorized access to Turnitin by using passwords designated for use by college students enrolled at UCSD, in violation of the Computer Fraud and Abuse Act ("CFAA"), see 18 U.S.C. § 1030; and (2) that plaintiff A.V., based on the aforementioned unauthorized access, violated the Virginia Computer Crimes Act ("VCCA"), see Va.Code Ann. § 18.2–152.3.
>
> The district court rejected both counterclaims, granting summary judgment to plaintiff A.V. on the grounds that there was no evidence of actual or economic damages suffered by iParadigms as a result of the alleged violations under the CFAA and the VCCA.
>
> II. Plaintiffs' Appeal
>
> We first consider the summary judgment order as to plaintiffs' copyright infringement claim. The owner of a copyright enjoys "a bundle of exclusive rights" under section 106 of the Copyright Act, Harper & Row, Publishers, Inc. v. Nation Enters., 471 U.S. 539, 546, 105 S. Ct. 2218, 85 L. Ed. 2d 588 (1985), including the right to copy, the right to publish and the right to distribute an author's work, see id. at 547, 105 S. Ct. 2218; see also 17 U.S.C. § 106 (also including among fundamental rights in copyrighted works rights to display, to perform, and to prepare derivative works). These rights "vest in the author of an original work from the time of its creation." Harper & Row, 471 U.S. at 547, 105 S. Ct. 2218. "'Anyone who violates any of the exclusive rights of the copyright owner,' that is, anyone who trespasses into his exclusive domain by using or authorizing the use of the copyrighted work . . . 'is an infringer of the copyright.'" Sony Corp. of America v. Universal City Studios, Inc., 464 U.S. 417, 433, 104 S. Ct. 774, 78 L. Ed. 2d 574 (1984) (quoting 17 U.S.C. § 501(a)).
>
> [. . .]

Example 18. This is yet another part of the main body of the document where *L1 Analysis* segment begins. There is no heading opening *L1 Analysis*. However, the paragraph clearly contains court's reasoning. The *L1 Background* segment is marked in yellow. The *L1 Analysis* segment is marked in red.

> [. . .]
>
> Petitioner, born in Poland in 1893, immigrated to this country in 1912 and became a naturalized American citizen in 1926. He went to Israel in 1950, and in 1951 he voluntarily voted in an election for the Israeli Knesset, the legislative body of Israel. In 1960, when he applied for renewal of his United States passport, the Department of State refused to grant it on the sole ground that he had lost his American citizenship by virtue of § 401 (e) of the Nationality Act of 1940 which provides that a United States citizen shall "lose" his citizenship if he votes "in a political election in a foreign state." [1] Petitioner then brought this declaratory judgment action in federal district court alleging that § 401 (e) violates both the Due Process Clause of the Fifth Amendment and § 1, cl. 1, of the Fourteenth Amendment [2] which grants American citizenship to persons like petitioner. Because neither the Fourteenth Amendment nor any other provision of the Constitution expressly grants Congress the power to *255 take away that citizenship once it has been acquired, petitioner contended that the only way he could lose his citizenship was by his own voluntary renunciation of it. Since the Government took the position that § 401 (e) empowers it to terminate citizenship without the citizen's voluntary renunciation, petitioner argued that this section is prohibited by the Constitution. The District Court and the Court of Appeals, rejecting this argument, held that Congress has constitutional authority forcibly to take away citizenship for voting in a foreign country based on its implied power to regulate foreign affairs. Consequently, petitioner was held to have

lost his American citizenship regardless of his intention not to give it up. This is precisely what this Court held in Perez v. Brownell, 356 U.S. 44.

Petitioner, relying on the same contentions about voluntary renunciation of citizenship which this Court rejected in upholding § 401 (e) in Perez, urges us to reconsider that case, adopt the view of the minority there, and overrule it. That case, decided by a 5-4 vote almost 10 years ago, has been a source of controversy and confusion ever since, as was emphatically recognized in the opinions of all the judges who participated in this case below.[3] Moreover, in the other cases decided with[4] and since[5]Perez, this Court has consistently invalidated on a case-by-case basis various other statutory sections providing for involuntary expatriation. It has done so on various grounds and has refused to hold that citizens can be expatriated without their voluntary renunciation of *256 citizenship. These cases, as well as many commentators,[6] have cast great doubt upon the soundness of Perez. Under these circumstances, we granted certiorari to reconsider it, 385 U.S. 917. In view of the many recent opinions and dissents comprehensively discussing all the issues involved,[7] we deem it unnecessary to treat this subject at great length.

[...]

Example 19. In this excerpt the final part of the main document body marked as *L1 Analysis* is shown; finishing with the outcome of the decision (reversed). The outcome is followed by a dissent marked as *L0 Out of Scope* (blue-grey). The *L1 Analysis* segment is marked in red.

[...]

Because the legislative history of the Fourteenth Amendment and of the expatriation proposals which preceded and followed it, like most other legislative history, contains many statements from which conflicting inferences can be drawn, our holding might be unwarranted if it rested entirely or principally upon that legislative history. But it does not. Our holding we think is the only one that can stand in view of the language and the purpose of the Fourteenth Amendment, and our construction of that Amendment, we believe, comports more nearly than Perez with the principles of liberty and equal justice to all that the entire Fourteenth Amendment was adopted to guarantee. Citizenship is no light trifle *268 to be jeopardized any moment Congress decides to do so under the name of one of its general or implied grants of power. In some instances, loss of citizenship can mean that a man is left without the protection of citizenship in any country in the world as a man without a country. Citizenship in this Nation is a part of a co-operative affair. Its citizenry is the country and the country is its citizenry. The very nature of our free government makes it completely incongruous to have a rule of law under which a group of citizens temporarily in office can deprive another group of citizens of their citizenship. We hold that the Fourteenth Amendment was designed to, and does, protect every citizen of this Nation against a congressional forcible destruction of his citizenship, whatever his creed, color, or race. Our holding does no more than to give to this citizen that which is his own, a constitutional right to remain a citizen in a free country unless he voluntarily relinquishes that citizenship.

Perez v. Brownell is overruled. The judgment is

Reversed.

MR. JUSTICE HARLAN, whom MR. JUSTICE CLARK, MR. JUSTICE STEWART, and MR. JUSTICE WHITE join, dissenting.

Almost 10 years ago, in Perez v. Brownell, 356 U.S. 44, the Court upheld the constitutionality of § 401 (e) of the Nationality Act of 1940, 54 Stat. 1169. The section deprives of his nationality any citizen who has voted in a foreign political election. The Court reasoned that Congress derived from its power to regulate foreign affairs authority to expatriate any citizen who intentionally commits acts which may be prejudicial to the foreign relations of the United States, and which reasonably may be deemed to indicate a dilution of his allegiance to this country. Congress, it was held, could appropriately consider *269 purposeful voting in a foreign political election to be such an act.

[. . .]

Example 20. Here, the final part of the document, including the decision about the costs, is marked as *L1 Analysis*. It is followed by a list of footnotes. The *L0 Out of Scope* segment is marked in blue-grey. The *L1 Analysis* segment is marked in red.

[. . .]

III. CONCLUSION

The en banc court reversed the district court's grant of Limelight's motion for JMOL of non-infringement of the '703 patent. For the foregoing reasons, we conclude that the outstanding arguments in Limelight's cross-appeal have no merit. Thus, this case is remanded with instructions to reinstate the jury verdict and the jury's damages award. This court's previously 1382*1382 reinstated affirmance of the district court's judgment of non-infringement of the '413 and '645 patents is also reconfirmed.

AFFIRMED-IN-PART, REVERSED-IN-PART, AND REMANDED

COSTS

Each party shall bear its own costs.

[1] Limelight argues that the district court erred in its construction, and that the jury lacked sufficient evidence to find infringement in light of the correct construction.

[2] Limelight argues both that the claim construction was erroneous, and that the subsequent jury instruction improperly left claim construction to the jury.

[3] An adjusted market share is the calculated market share Akamai would have had absent infringement.

Example 21. This is also the final part of the document stating the outcome marked as *L1 Analysis*. Here, the footnotes start with a heading. The *L0 Out of Scope* segment is marked in blue-grey. The *L1 Analysis* segment is marked in red.

[. . .]

For the foregoing reasons, we affirm the order of the district court granting summary judgment to iParadigms as to plaintiffs' copyright infringement claim. As to iParadigms' counterclaims, however, we reverse the grant of summary judgment to plaintiffs and remand for further consideration.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED

NOTES

[1] The comparison occurs as follows: "[T]he Turnitin system makes a 'fingerprint' of the work by applying mathematical algorithms to its content. This fingerprint is merely a digital code. Using the digital fingerprint made of the student's work, the Turnitin system compares the student's work electronically to content available on the Internet . . . and student papers previously submitted to Turnitin." S.J.A. 2.

[. . .]

5.3 Key Section Extraction (Layer 2)

This layer contains semantic types that correspond to selected key elements located in the main body of the document (i.e., the parts that have not been marked as *L0 Out of Scope*). The layer contains two types:

- L2 Introductory Summary - This type is used for the segment where a court briefly summarizes actions parties already took in the proceedings (if there were any) and what is the issue(s) it is asked to resolve. The *L2 Introductory Summary* is finished with one or more sentences stating the outcome.
- L2 Outcome - This type is used for the segment where the court states the outcome of its analysis, i.e., what decision it has reached. Usually, the *L0 Outcome* consists of one or just a couple of sentences. There could also be a dedicated *L0 Outcome* section which would most likely be quite short.

5.3.1 L2 Introductory Summary

Often, a court starts the opinion (i.e., the main body of a document that has not been marked as *L0 Out of Scope*) with a brief summary of the case (usually one but sometimes multiple paragraphs). Hence, the *L2 Introductory Summary* (if present) is located at the beginning of the *L1 Background*. In the *L2 Introductory Summary* the court typically describes actions parties already took in the proceedings (if there were any) and what is the issue(s) the court is asked to resolve. The *L2 Introductory Summary* is finished with one or more sentences stating the outcome. The inclusion of the outcome statement is what distinguishes *L2 Introductory Summary* from the details of the proceedings, factual background, and parties' claims.

Example 22. This is the part of the document where the *L1 Background* starts (not marked) at the "A. INTRODUCTION" heading. In this document, there is a dedicated section for the *L2 Introductory Summary* segment (marked purple).

> [. . .]
>
> BETWEEN:
>
> HER MAJESTY THE QUEEN
> RESPONDENT
>
> - and -
>
> DAVID JOHN LUNDRIGAN
> APPELLANT
>
> Counsel:
> Andrew Wyatt for the respondent
> David Lundrigan self represented, appellant
>
> JUDGMENT BARRINGTON-FOOTE J.
> December 4, 2014
>
> A. INTRODUCTION

[1] The appellant, David John Lundrigan, was convicted of having care and control of a motor vehicle on April 16, 2005, while his blood alcohol content exceeded 80 milligrams of alcohol in 100 millilitres of blood, contrary to s. 253(b) of the Criminal Code, RSC 1985, c C-46. He has appealed that conviction pursuant to s. 813 of the Criminal Code. As is more fully explained below, the extraordinary feature of this appeal is that the trial which resulted in Mr. Lundrigan's conviction—which was held March 22, 2012—was the third trial of this charge.

For the reasons that follow, I have decided to allow Mr. Lundrigan's appeal, and, rather than ordering a fourth trial, to stay the proceedings.

B. BACKGROUND: PRIOR PROCEEDINGS

[2] This appeal relates to the decision of the trial decision, which is reported at 2012 SKPC 129 (CanLII), 402 Sask R 236 [the trial decision]. The trial judge there describes the history of this prosecution, as follows:

2 The facts of the case are unremarkable. Itś (sic) tortured progress through the Canadian criminal justice system makes it much more remarkable than the facts.

[. . .]

Example 23. This is the part of the document where the *L1 Background* starts (not marked) at the paragraph beginning with "Plaintiffs brought." This paragraph also begins the *L2 Introductory Summary* segment (marked purple).

[. . .]

Before WILKINSON, MOTZ, and TRAXLER, Circuit Judges.

Affirmed in part, reversed in part, and remanded by published opinion. Judge TRAXLER wrote the opinion, in which Judge WILKINSON and Judge MOTZ joined.

OPINION

TRAXLER, Circuit Judge:

Plaintiffs brought this copyright infringement action against defendant iParadigms, *634 LLC, based on its use of essays and other papers written by plaintiffs for submission to their high school teachers through an online plagiarism detection service operated by iParadigms. See 17 U.S.C. § 501. iParadigms asserted counterclaims alleging that one of the plaintiffs gained unauthorized access to iParadigms' online service in violation of the Computer Fraud and Abuse Act, see 18 U.S.C. §§ 1030(a)(5)(A)(iii) & (B)(i), and the Virginia Computer Crimes Act, see Va.Code Ann. § 18.2-152.1-18.2-152.16. The district court granted summary judgment in favor of iParadigms on plaintiffs' copyright infringement claim based on the doctrine of fair use. See 17 U.S.C. § 107. On the counterclaims, the district court granted summary judgment against iParadigms based on its conclusion that iParadigms failed to produce evidence that it suffered any actual or economic damages.

The parties cross appeal. We affirm the grant of summary judgment on the plaintiffs' copyright infringement claim, but reverse the summary judgment order as to iParadigms' counterclaims and remand for further consideration.

I.

Defendant iParadigms owns and operates "Turnitin Plagiarism Detection Service," an online technology system designed to "evaluate[ ] the originality of written works in order to prevent plagiarism." S.J.A. 1. According to iParadigms, Turnitin offers high school and college educators an automated means of verifying that written works submitted by students are originals and not the products of plagiarism. When a school subscribes to iParadigms' service, it typically requires its students to submit their written assignments "via a web-based system available at www.turnitin.com or via an integration between Turnitin and a school's course management system." S.J.A. 1-2. In order to

submit papers online, students “must be enrolled in an active class” and must “enter the class ID number and class enrollment password” supplied by the assigning professor. J.A. 240.

[. . .]

Example 24. This is the part of the document where the *L1 Background* starts (not marked) at the paragraph beginning with “We granted certiorari.” This paragraph does not constitute *L2 Introductory Summary* as it does not state the outcome.

[. . .]

Julia Penny Clark and Robert Chanin filed a brief for the National Education Association as amicus curiae.

JUSTICE WHITE delivered the opinion of the Court.

We granted certiorari in this case to examine the appropriateness of the exclusionary rule as a remedy for searches carried out in violation of the Fourth Amendment by public school authorities. Our consideration of the proper application of the Fourth Amendment to the public schools, however, has led us to conclude that the search that gave rise to *328 the case now before us did not violate the Fourth Amendment. Accordingly, we here address only the questions of the proper standard for assessing the legality of searches conducted by public school officials and the application of that standard to the facts of this case.

I

On March 7, 1980, a teacher at Piscataway High School in Middlesex County, N. J., discovered two girls smoking in a lavatory. One of the two girls was the respondent T. L. O., who at that time was a 14-year-old high school freshman. Because smoking in the lavatory was a violation of a school rule, the teacher took the two girls to the Principal’s office, where they met with Assistant Vice Principal Theodore Choplick. In response to questioning by Mr. Choplick, T. L. O.’s companion admitted that she had violated the rule. T. L. O., however, denied that she had been smoking in the lavatory and claimed that she did not smoke at all.

[. . .]

Example 25. This is the part of the document where the *L1 Background* starts (not marked) at the paragraph beginning with “[1].” While the paragraph beginning with “[1]” appears to be a viable candidate for *L2 Introductory Summary* it turns out it does not meet the definition of the type (no outcome statement). The paragraph rather provides the usual summary of the preceding procedure.

[. . .]

On Appeal From: Provincial Court
Appeal Heard: April 12, 2001
Appeal Allowed: April 12, 2001 (orally)
Written Reasons: April 19, 2001
Reasons By: The Honourable Mr. Justice Lane
In Concurrence: The Honourable Mr. Justice Tallis
The Honourable Mr. Justice Vancise
LANE J.A. (orally)

[1] The Crown seeks leave appeal the sentence imposed on the respondent after a sentencing circle. After pleading guilty to committing the offences of robbery and robbery with threats of violence

contrary to s. 348(1)(b) and 334(2) respectively of the Criminal Code, he was sentenced to nine months time served, plus two years less one day conditional, including three months on electronic monitoring, plus two years probation with a ten-year firearms prohibition on each charge to be served concurrently. The respondent committed the offences while on probation.

[2] The facts are essentially agreed and are as follows: On March 19, 2000, the respondent, Nelson Kahnapace, and a co-accused, Wayne Moshenko, did break and enter a dwelling house in Regina, the residence of 68 year-old man who lives alone, and committed robbery. The respondent was very intoxicated and did not participate in the beginning of the transaction. The co-accused told him they were going there because the victim had the keys to Moshenkoś vehicle. Moshenko had given the victim the keys as security for some money. Once inside, though, the co-accused assaulted the victim, and when the respondent entered, he propped a board against a door to prevent the victim from escaping. The co-accused threatened to cut off the victim's fingers and when he went to look for a knife the respondent held the victim. The respondent took about § 25 in cash from the premises. Apparently, the intruders were looking for money for drugs.

[...]

5.3.2 L2 Outcome

Usually, a court finishes the opinion (i.e., the main body of a document that has not been marked as *L0 Out of Scope*) with stating the outcome (i.e., how it decided). *L2 Outcome* segment is located at the end of an *L1 Analysis* section. Usually, the *L0 Outcome* consists of one or just a couple of sentences. There could also be a dedicated *L2 Outcome* section which would most likely be quite short. The goal is to identify one contiguous *L2 Outcome* segment. At minimum the segment should contain the statement about who won the case (or if the decision is affirmed, reversed, remanded, etc.). In case of a dedicated Conclusion section, the entire section should be marked as *L2 Outcome*, e.g. the segment may also include the conclusions of law or the decision about the costs. Note that only the decision about the costs may be included—not a full Costs section including the reasoning. Finally, if Conclusions of Law or Costs are stated separately from the Outcome (who has won) then they cannot be marked as *L0 Out of Scope* because there should be only one *L0 Out of Scope* segment.

Example 26. The example shows the ending part of the main body of the decision (i.e., the part not marked as *L0 Out of Scope*) and part of the *L0 Out of Scope* segment (not marked) beginning with "NOTES." Here, a whole section is dedicated to *L2 Outcome* (marked green).

[...]

We conclude that the evidence of consequential damages presented by iParadigms came within the "any damages" language of the VCCA, and therefore that the district court erroneously granted summary judgment because there was no evidence of "actual or economic damages." We express no opinion, however, as to whether iParadigms is a "person whose property or person is injured by reason of a violation of [the VCCA]," Va.Code Ann. § 18.2-152.12, or whether this claim is otherwise viable.

IV.

For the foregoing reasons, we affirm the order of the district court granting summary judgment to iParadigms as to plaintiffs' copyright infringement claim. As to iParadigms' counterclaims, however, we reverse the grant of summary judgment to plaintiffs and remand for further consideration.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED

NOTES

[1] The comparison occurs as follows: "[T]he Turnitin system makes a 'fingerprint' of the work by applying mathematical algorithms to its content. This fingerprint is merely a digital code. Using the digital fingerprint made of the student's work, the Turnitin system compares the student's work electronically to content available on the Internet . . . and student papers previously submitted to Turnitin." S.J.A. 2.

[. . .]

Example 27. The example shows the ending part of the main body of the decision (i.e., the part not marked as *L0 Out of Scope*) and part of the *L0 Out of Scope* segment (not marked) beginning with "MR. JUSTICE HARLAN." *L2 Outcome* is constituted by the last sentence (marked green) clearly separated from the preceding paragraph.

[. . .]

Because the legislative history of the Fourteenth Amendment and of the expatriation proposals which preceded and followed it, like most other legislative history, contains many statements from which conflicting inferences can be drawn, our holding might be unwarranted if it rested entirely or principally upon that legislative history. But it does not. Our holding we think is the only one that can stand in view of the language and the purpose of the Fourteenth Amendment, and our construction of that Amendment, we believe, comports more nearly than Perez with the principles of liberty and equal justice to all that the entire Fourteenth Amendment was adopted to guarantee. Citizenship is no light trifle *268 to be jeopardized any moment Congress decides to do so under the name of one of its general or implied grants of power. In some instances, loss of citizenship can mean that a man is left without the protection of citizenship in any country in the world as a man without a country. Citizenship in this Nation is a part of a co-operative affair. Its citizenry is the country and the country is its citizenry. The very nature of our free government makes it completely incongruous to have a rule of law under which a group of citizens temporarily in office can deprive another group of citizens of their citizenship. We hold that the Fourteenth Amendment was designed to, and does, protect every citizen of this Nation against a congressional forcible destruction of his citizenship, whatever his creed, color, or race. Our holding does no more than to give to this citizen that which is his own, a constitutional right to remain a citizen in a free country unless he voluntarily relinquishes that citizenship.

Perez v. Brownell is overruled. The judgment is

Reversed.

MR. JUSTICE HARLAN, whom MR. JUSTICE CLARK, MR. JUSTICE STEWART, and MR. JUSTICE WHITE join, dissenting.

[. . .]

Example 28. The example shows the ending part of the main body of the decision (i.e., the part not marked as *L0 Out of Scope*) and part of the *L0 Out of Scope* segment (not marked) beginning with "[1]." *L2 Outcome* is constituted by the last paragraph and the Costs section (marked green).

[. . .]

Finally, Samsung complained that Apple's expert in the first damages trial, Mr. Musika, failed to explain his Georgia-Pacific analysis and identified no evidence supporting his royalty rates.

Upon Apple's response, Samsung acknowledges that Mr. Musika did in fact identify and discuss specific Georgia-Pacific factors and that Mr. Musika referred to an exhibit during his testimony. Samsung now contends that the analysis was not meaningful and the cited exhibit did not discuss the Georgia-Pacific's factors at all. Samsung's fault-finding is meritless.

We therefore affirm the district court's denial of Samsung's motion for judgment as a matter of law on the invalidity of claim 50 of the '163 patent and claim 8 of the '915 patent, as well as the damages awarded for utility patent infringement. We also affirm the district court's denial of Samsung's motions for a new trial on these same issues. We remand for immediate entry of final judgment on all damages awards not predicated on Apple's trade dress claims and for any further proceedings necessitated by our decision to vacate the jury's verdicts on the unregistered and registered trade dress claims.

AFFIRMED-IN-PART, REVERSED-IN-PART, VACATED-IN-PART and REMANDED

COSTS

Each party shall bear its own costs.

[1] Amici 27 Law Professors argues that an award of a defendant's entire profits for design patent infringement makes no sense in the modern world. Those are policy arguments that should be directed to Congress. We are bound by what the statute says, irrespective of policy arguments that may be made against it.

Example 29. The example shows the ending part of the main body of the decision (i.e., the part not marked as *L0 Out of Scope*) and part of the *L0 Out of Scope* segment (not marked) beginning with "[1]." *L2 Outcome* is constituted by the last sentence (marked green) which is a part of the last paragraph.

[. . .]

[7] The trial judge further erred in first failing to determine whether a penitentiary term was appropriate. A conviction for either offence could lead to a penitentiary term given the respondent's record and his repeated failure to obey court imposed conditions.

[8] This court has often expressed its condemnation of these activities and in particular its condemnation of home invasion robberies and the robberies of highly vulnerable businesses. See: R. v. Stroshein;[Footnote [1]] R. v. Severight; [Footnote [2]] R. v. Daniels; [Footnote [3]] R. v. Sangwais. [Footnote [4]] The public must be protected from this type of criminal behaviour and a more severe sentence is called for. The appeal is therefore allowed, the sentence imposed below set aside and a sentence of four years imprisonment from this date on each charge to be served concurrently is hereby imposed. This sentence takes into account the time the respondent served both on remand and on electronic monitoring.

[1] [2001] S.J. No. 90, Q.L.

[2] (1996), 1996 CanLII 4934 (SK CA), 137 Sask. R. 306.

[3] [2001] S.J. No. 82, Q.L.

[4] (2000), 2000 SKCA 49 (CanLII), 189 Sask. R. 291.

Example 30. The example shows the beginning part of the *L1 Analysis*) segment (not marked) beginning with "CONCLUSIONS OF LAW." Often, the *L2 Outcome* contains the "Conclusions of Law" portion. Note that here *L2 Outcome* would be located at the end of the *L1 Analysis* (not shown here). In such a case, we do not mark the Conclusions of Law segment as as *L2 Outcome*.

[. . .]

The Veteran has been diagnosed with PTSD related to in-service stressors that have been corroborated by credible supporting evidence.

CONCLUSION OF LAW

The criteria for service connection for PTSD have been met. 38 U.S.C.A. §§ 1131, 5107 (West 2002 & Supp. 2011); 38 C.F.R. §§ 3.102, 3.303, 3.304 (2011).

REASONS AND BASES FOR FINDING AND CONCLUSION

VA's Duties to Notify and Assist

VA has a duty to notify and assist claimants in substantiating a claim for VA benefits. 38 U.S.C.A. §§ 5100, 5102, 5103, 5103A, 5107, 5126 (West 2002 & Supp. 2011); 38 C.F.R. §§ 3.102, 3.156(a), 3.159 and 3.326(a) (2011).

[. . .]

6 Suggested Document Annotation Process

This section contains a brief summary of the suggested steps to follow when annotating a case. These are not exhaustive explanations of the different sections, you will have to refer to the reference sheet and the Main Annotation Guidelines to make the determination of which tag to apply if it is unclear.

1. L0 Out of scope
    - Start at the beginning of the document and tag the metadata at the beginning as *L0 Out of Scope*.
    - Skim the document to look for footnotes in the main body. These should also be tagged as *L0 Out of Scope*.
    - Once you spot the legal conclusion of the case, tag everything following after as *L0 Out of Scope*.
2. L0 Headings
    - Scan through the parts of the document not designated *L0 Out of Scope*. Tag each heading as *L0 Heading*.
3. L1 Background
    - Go back to the beginning of the main body, e.g. the first part not designated *L0 Out of Scope*. Start skimming the case until you spot the first section where the court voices an opinion. Tag everything up until this point as *L1 Background*.
4. L1 Analysis
    - Tag everything after the end of the block *L1 Background* until the beginning of the *L0 Out of Scope* section at the end as *L1 Analysis*.
5. L2 Introductory Summary

- Go back to the beginning of the main body. See if the first few sentences summarize the case and the outcome. If so, annotate them as *L2 Introductory Summary*. Otherwise, skip this section.

6. L2 Outcome
   - Go to the end of the main body. Annotate the last few sentences or a section, containing the legal conclusion of the case, as *L2 Outcome*.

7 Annotation Types Reference

This section contains a quick reference table, giving an overview over the annotation types. The list is intended to give an overview over the types, but you should refer back to the main annotation guidelines in Section 5 for more detail.

Note that some text sequences can be annotated with multiple annotations. For example, Headings can also be part of Background or Analysis. In these cases, highlight the same sequence multiple times. However, each text sequence can only be annotated with a single type from the same layer, e.g. no sequence can be both Background and Analysis. Further, if something is marked as out of scope, it is only out of scope. So for any section that is out of scope, the headings and other types do not have to be annotated.

Name	Description	What should be included?	What should NOT be included?
L0 - Out of Scope	Parts of the decision that do not constitute the main decision body. See Section 5.1.1	Anything not said in the "voice" of the court, such as: - Metadata at the beginning, such as deciding court, judge, docket number, date etc. - Anything that comes after the legal conclusion, such as dissents, footnotes, appendixes. - Footnotes interleaved in the main text.	Introductory summaries by the court. The heading at the beginning of a decision, e.g. "INTRODUCTION." Any text that falls under another type.
L0 - Heading	Any heading that is not marked Out of Scope, e.g. an incomplete sentence which starts a section. See Section 5.1.2	Examples: - "DISCUSSION" - "Analysis" - "C. Damages" - "II."	Anything that is not a heading.

L1 - Background	The court describes procedural history of the case, relevant facts, as well as what the parties are claiming. Its tone is mostly descriptive, i.e., the court refrains from expressing its own opinions on what is being stated in this part. See Section 5.2.1	- The procedural history of the case - The relevant facts - The claims of the parties - An introductory summary of a case - The heading introducing the case, e.g. INTRODUCTION	Ends before the heading (or paragraph) introducing the analysis section of the case (see below). Any paragraph which starts to voice the opinion of the court on an issue. Background facts interleaved with analysis of the issues—these are considered analysis. A quoted section of the law.
L1 - Analysis	The section discussing reasoning and issues of the case. The court uses a deliberative tone to start discussing the application of the law to the facts. See Section 5.2.2	- The headings starting the section of analysis, e.g. DISCUSSION. - The continuous block from where the court first deliberates something to the outcome at the end. - Background interleaved in the analysis. - A pasted section of explanation of laws of concepts the courts plans to apply to the case. - A section where the facts are analyzed by the court, for example for trustworthiness.	- Dissents or footnotes after the outcome -> Out of scope. - Footnotes interspersed in the analysis section.
L2 - Introductory Summary	A brief summary of the case at the beginning of the background section. Optional, only there in some cases. Finishes with sentences stating the outcome of a case. See Section 5.3.1	A section where the judge summarizes the entire case and states the outcome.	A summary of the proceedings, where the procedural history is discussed without mentioning the outcome.
L2 - Outcome	A few sentences where the court states the outcomes of a case. Usually at the end of the Analysis section. Can be an entire section or just a few sentences at the end of another paragraph. See Section 5.3.2	A section where the judge draws a conclusion from the previously discussed legal reasoning. For example, sections containing: - Therefore, we affirm ... - The appeal is therefore allowed. The heading introducing the results section.	