

1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3

4 FORESIGHT DIAGNOSTICS INC.,

5 Petitioner,

6 v.

7 PERSONALIS, INC.,

8 Patent Owner.
9

10 Case No. IPR2023-00317

11 U.S. Patent No. 11,408,033
12

13
14 DEPOSITION OF JONATHAN MACQUITTY, PH.D.
15

16 Friday, December 1, 2023

17 Redwood City, California
18
19
20
21
22

23 Stenographically Reported By:

24 Hanna Kim, CLR, CSR 13083

25 Job No. 6319888

Page 1

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11 U.S. Patent No. 11,408,033
12

13
14 Deposition of JONATHAN MACQUITTY, PH.D.,
15 taken on behalf of the Petitioner, at the law
16 offices of Weil Gotshal & Manges, LLP, 201 Redwood
17 Shores Parkway, Redwood City, California 94065, on
18 Friday, December 1, 2023, before Hanna Kim, CLR,
19 Certified Shorthand Reporter, No. 13083.
20
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22
23
24
25

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1 Redwood City, California

2 Friday, December 1, 2023; 9:33 a.m.

3 --oOo--

4 JONATHAN MacQUITTY, PH.D.,

5 having been duly administered an oath,

6 was examined and testified as follows:

7

8 EXAMINATION

9 BY MR. NAINI:

10 Q. Good morning. Would you please state your 09:33:02
11 full name for the record.

12 A. Jonathan MacQuitty.

13 Q. And, Dr. MacQuitty, I presume you have a
14 Ph.D.; is that right?

15 A. Correct. 09:33:17

16 Q. So -- so I'll call you Dr. MacQuitty
17 today.

18 A. Yes, although M.D.s I think probably
19 deserve that designation more than me, but I'm happy
20 to be called Dr. MacQuitty. 09:33:28

21 Q. Very well. We'll proceed that way. I'm
22 happy to call you Dr. MacQuitty even though you do
23 not have an M.D., but a Ph.D. instead.

24 A. Thank you.

25 Q. Dr. MacQuitty, do you understand that 09:33:41

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1 you're under oath today just as if you were
2 testifying in a court of law or other tribunal that
3 administers oaths?

4 A. I do.

5 Q. And is there any reason why you will not 09:33:49
6 be able to give truthful and accurate testimony
7 today?

8 A. No.

9 Q. Now, as you know, there's a court reporter
10 who's taking down our words as we speak them, so I 09:33:59
11 will try to speak slowly and clearly. I'll ask you
12 to do so as well.

13 She will tell us if -- if there's a word
14 or two that she needs to be repeated. But,
15 otherwise, we'll just be speaking and trying very 09:34:11
16 hard not to speak over one another, because then the
17 transcription becomes very difficult, obviously.

18 Do you understand all of that?

19 A. I understand.

20 Q. And have you ever been deposed before? 09:34:22

21 A. I -- I have.

22 Q. Can you tell me when that was?

23 A. In 1994, the company I was CEO of was sued
24 by a competitor, and I was deposed as part of that
25 litigation. 09:34:41

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1 Q. And was that the only time you were
2 deposed?

3 A. I was deposed in the late eighties in a
4 case where -- a defamation case where I was an
5 unrelated witness. The individual claimed that one 09:35:02
6 of our board members had defamed him, and I was --
7 gave a deposition as part of that.

8 Q. Okay. And were there any other
9 depositions in the past?

10 A. I think around 2000 I was asked to affirm 09:35:15
11 some documentation. It was a relatively short
12 deposition. So, yes, I -- I have been in
13 depositions.

14 Q. Okay. And is that all the depositions
15 that you've -- are -- are those all the times you've 09:35:37
16 been deposed?

17 A. Yes.

18 Q. Okay. And let's start with that last one.
19 Around 2000 you said you were asked to affirm some
20 documentation. 09:35:50

21 What -- which -- were you affiliated with
22 a company that --

23 A. It was a company I was no longer
24 affiliated with. And there were documents that were
25 going out under my signature, and I was asked to 09:36:02

1 affirm the documents.

2 Q. What was that company?

3 A. I think it was Genencor. It was a company
4 that I had used to work for.

5 Q. Okay. And the -- do you know what the 09:36:16
6 nature of that case was? Was it a patent
7 infringement action?

8 A. I believe it was a -- a -- a -- a -- a
9 patent dispute of some kind, yes.

10 And certainly the 1994 one was a -- an 09:36:24
11 intellectual property dispute.

12 Q. Okay. Well, staying for a moment with the
13 2001, do you know who the other party was other than
14 Genencor?

15 A. I don't recall. 09:36:35

16 Q. And for the 1994 one, what company was
17 involved -- were you affiliated with a company?

18 A. I was the CEO of a company called
19 GenPharm.

20 Q. GenPharm? 09:36:47

21 A. G-E-N, capital P, H-A-R-M.

22 Q. And you were deposed in your capacity as
23 the CEO?

24 A. Correct. And we were sued by a company
25 called Cell Genesis. 09:36:58

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1 Q. Okay.

2 A. And that would have been February of 1994.
3 February the 1st, 1994, to be precise.

4 Q. Okay. Well, it sounds like you're at
5 least somewhat familiar with the rules of the road 09:37:07
6 for deposition -- depositions, as it were.

7 But, again, I will ask questions. If your
8 attorney has any objections, he'll state them for
9 the record. And then if you understand my question,
10 you should answer it to the best of your ability. 09:37:26

11 A. I understand.

12 Q. You mentioned two of the cases were patent
13 infringement actions.

14 Now, separate from those, but including
15 those as well, are you an inventor on any patents? 09:37:40

16 A. I am not.

17 Q. Are you familiar with patents?

18 A. I would say from a commercial standpoint,
19 yes.

20 Q. And -- and what do you mean when you say 09:37:54
21 that you're familiar with patents "from a commercial
22 standpoint"?

23 A. That they're useful things for companies
24 to have to protect the technology that they invent.

25 Q. You say they're useful things for 09:38:08

1 companies to have to protect their technology that
2 they invent.

3 How are they useful for those purposes?

4 A. At some subsequent point in time, the
5 company might be acquired, and part of the 09:38:19
6 acquirer's interest will be a -- intellectual
7 property associated with the -- whether a trade
8 secret or -- or patent.

9 Q. When there's a patent filing that's going
10 on with the company with which you've been involved 09:38:35
11 in the past, was it -- did you have a practice of
12 being aware of the patent filing, reviewing it,
13 giving comments, things like that?

14 MR. LUMAN: I would just caution the
15 witness not to reveal any third-party confidential 09:38:47
16 information.

17 You can answer the question.

18 THE WITNESS: I -- I did not.

19 BY MR. NAINI:

20 Q. So what -- what was the process that -- 09:38:54
21 what's the process that's been used in the companies
22 you've been involved with when there have been
23 patent filings?

24 Did you have others handle it for you?

25 A. Yes. 09:39:06

Page 11

1 Q. Okay. Who -- who -- who typically handled
2 it?

3 A. There was generally an outside legal firm
4 that would help them with prosecution, and the --
5 the company would have inventors who helped in 09:39:19
6 writing parts of the -- of the patent application,
7 but it was not something I was involved in.

8 Q. Okay. Now, you've been involved with
9 Personalis in the past, and we'll talk about that
10 more later, but you've been involved with them; 09:39:37
11 right?

12 A. Correct.

13 Q. And Personalis has filed patent
14 applications and has obtained issued patents; right?

15 A. Yes, to -- they have. 09:39:44

16 Q. Were you involved with any of the
17 Personalis patent application filings?

18 A. No.

19 Q. Were you aware that they were occurring?

20 A. I was aware that they were occurring. 09:39:52

21 Q. Who handled the patent application filing
22 processes at Personalis when it was first founded in
23 its first couple years?

24 A. John West.

25 Q. Was there anyone else involved? 09:40:05

1 A. Not at the company.

2 Q. When you say "not at the company," then
3 were there people involved outside the company?

4 A. I believe so, yes.

5 Q. Who? 09:40:17

6 A. I don't recall their names.

7 Q. Well, what do you recall about who they
8 were?

9 A. They were outside law firms who
10 specialized in helping companies file patent 09:40:26
11 applications.

12 Q. Other than those outside law firms, was
13 there anyone else, other than John West, involved in
14 Personalis patent application filings?

15 A. I assume there were other people at the 09:40:37
16 company who were involved in -- in helping to draft
17 the patent applications.

18 Q. Okay. You say you assume, but you don't
19 have personal knowledge of it?

20 A. I do not have personal knowledge. 09:40:50

21 Q. Why did you assume that that was true?

22 A. John West was responsible for filing
23 the -- the patent applications. That was something
24 that he took as his personal responsibility.

25 Q. Okay. How familiar with patent law are 09:41:05

1 you?

2 A. I would say I have some -- some knowledge
3 of it, but it's not detailed knowledge.

4 Q. Do you have an understanding of what it
5 means to conceive of a claimed invention in a 09:41:17
6 patent?

7 A. I have an -- an understanding of the idea
8 of -- of -- of conceiving an invention, but in the
9 abstract, not in the specific.

10 Q. Okay. What is your understanding? 09:41:35

11 MR. LUMAN: I'm just going to object that
12 this is outside the scope of his declaration, and
13 it's also calling for a legal conclusion.

14 BY MR. NAINI:

15 Q. I -- I'm simply ask- -- asking for your 09:41:45
16 understanding, not a legal conclusion. You said
17 that you have an understanding of the idea of
18 conceiving an invention. I simply want to
19 understand what you mean by that.

20 A. That it describes what the technology was 09:41:55
21 in a way that -- that allows you to obtain, you
22 know, patent claims.

23 Q. I see.

24 So -- so is it fair to say that your
25 understanding is that an inventor or a group of 09:42:26

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1 inventors -- co-inventors need to conceive of an
2 invention before they can obtain a patent for it?

3 MR. LUMAN: Objection. Outside the scope
4 and calls for a legal conclusion.

5 THE WITNESS: I -- I am not an expert on 09:42:42
6 the process of -- of -- of this. I will just say
7 that.

8 BY MR. NAINI:

9 Q. So other than -- than that, you -- you
10 can't answer my question further? 09:42:53

11 A. I don't think I can.

12 Q. Dr. MacQuitty, I'm going to hand you
13 what's been previously marked as Personalis
14 Exhibit 2033.

15 You can take a moment just to take a look 09:43:20
16 through it, and you'll have a chance to look through
17 it as we're asking questions --

18 A. Okay.

19 Q. -- as you see fit, but I'll be asking you
20 some questions about this document. 09:43:28

21 A. Okay.

22 MR. LUMAN: Oh, thank you.

23 MR. MOORE: Oh, thanks.

24 (Previously marked IPR Exhibit 2033 was
25 referenced.) 09:43:37

1 BY MR. NAINI:

2 Q. I mean, first, just to start, this is a
3 declaration that you have signed; right?

4 A. Yes, it is a declaration I signed.

5 Q. And on the last page, page 12, is that 09:43:54
6 your electronic signature?

7 A. It is.

8 Q. And it's dated October 4th, 2023; right?

9 A. Correct.

10 Q. And that's the date you signed this 09:44:05
11 document?

12 A. Correct.

13 Q. Did you review this document before you
14 signed it?

15 A. Yes. 09:44:10

16 Q. And you're -- at the time that you signed
17 it, did you understand the certification that you
18 were making in Paragraph 52 on the last page?

19 A. Yes.

20 Q. So you understand you signed this document 09:44:28
21 under penalty of perjury?

22 A. Yes.

23 Q. When -- so I assume someone at Personalis
24 approached you for purposes of your preparing and
25 submitting this declaration; right? 09:44:56

Page 16

1 A. Someone representing Personalis.

2 Q. Okay. And -- and -- and when you say
3 that, was it a lawyer representing Personalis?

4 A. Personalis.

5 Q. And, again, I'm not asking you for any of 09:45:08
6 the content of your discussions with any attorneys
7 at Personalis, but I am entitled to know what the
8 process was. That's what I'll ask about.

9 Who were the people representing
10 Personalis who approached you? 09:45:24

11 A. The -- the people here (indicating).

12 MR. NAINI: Let the record reflect that
13 the witness pointed to Nate Luman and Steve Moore.

14 BY MR. NAINI:

15 Q. Is -- is that correct? 09:45:40

16 A. That is correct.

17 Q. When did they first approach you?

18 A. I would say maybe a -- a week before the
19 date of this.

20 Q. Okay. So -- so the date you're referring 09:45:53
21 to is the October 4th, 2023, date?

22 A. Correct.

23 Q. And your recollection is they approached
24 you approximately a week before that date?

25 A. Yes, four or five days before. 09:46:06

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1 Q. If you can turn to the first page of your
2 declaration, Exhibit --

3 A. Yes.

4 Q. -- 2033.

5 Do you -- do you see at the top that -- 09:46:22
6 that this declaration has been submitted in a case
7 that Personalis is involved with, and the other
8 party in it is Foresight Diagnostics?

9 A. Yes.

10 Q. Do you see that? 09:46:38

11 Are you familiar with Foresight
12 Diagnostics?

13 A. In general terms, yes.

14 Q. Okay. What do you mean by "general
15 terms"? 09:46:45

16 A. I know that they're developing, you know,
17 cancer diagnostics.

18 Q. When did you first learn of the existence
19 of Foresight Diagnostics?

20 A. I -- I don't recall the exact 09:46:59
21 circumstance. It -- it was a company amongst many
22 who were doing cancer diagnostics.

23 Q. Were you aware of Foresight Diagnostics
24 before you prepared your declaration?

25 A. Yes. 09:47:18

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1 Q. Were you aware of Foresight Diagnostics
2 when you were on the board at Personalis?

3 A. Aware of it.

4 I think so, yes.

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 Q. Were you aware of any communications 09:47:51
11 between Personalis and Foresight Diagnostics while
12 you were at Personalis?

13 A. I was not.

14 Q. Were there any discussions of Foresight
15 Diagnostics at any of the board meetings that you 09:48:04
16 attended for --

17 MR. LUMAN: Oh --

18 BY MR. NAINI:

19 Q. -- Personalis?

20 MR. LUMAN: -- hold on. 09:48:07

21 I want to caution the witness not to
22 reveal any privileged discussions that may have
23 taken place during the board meetings.

24 So if you can answer that question without
25 revealing any privileged information, please go 09:48:19

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1 ahead and do so.

2 THE WITNESS: Could you repeat the
3 question?

4 BY MR. NAINI:

5 [REDACTED] [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] [REDACTED]
9 [REDACTED] [REDACTED]
10 [REDACTED] [REDACTED]
11 [REDACTED] [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED] [REDACTED]

15 Q. Is Foresight Diagnostics a competitor to 09:49:01
16 Personalis?

17 A. I assume so.

18 Q. Why do you assume that?

19 A. It's a cancer diagnostic company.

20 Q. Okay. So why can't you be more certain 09:49:12
21 than simply assuming?

22 A. I'm not familiar enough with that --
23 Foresight Diagnostics to know exactly what their
24 plans are.

25 Q. Did you research Foresight Diagnostics at 09:49:24

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1 all in the process of preparing your declaration?

2 A. I did not.

3 Q. If you look a little bit farther down on

4 the first page of your declaration, Exhibit 2033,

5 you see there are a couple of case numbers here, 09:49:56

6 Case Numbers IPR2023-00224 and IPR2023-00317.

7 Do you see those?

8 A. I do.

9 Q. Do you -- these are case numbers, I'll

10 represent to you, for inter partes review 09:50:13

11 proceedings in the U.S. Patent and Trademark Office.

12 Are you familiar with IPR proceedings?

13 A. I am familiar with IPR proceedings.

14 Q. Okay. What is your understanding of IPR

15 proceedings? 09:50:26

16 A. They're disputes about intellect- --

17 intellectual property claims which go in front of

18 a -- of an appeal board to be determined by such

19 board.

20 Q. And -- and what is your understanding of 09:50:44

21 what is determined by such board?

22 A. I'm not a patent expert, so I'm not

23 certain I can answer that question.

24 Q. Okay. Is it your understanding that the

25 board determines the patent validity in IPR 09:51:01

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1 proceedings?

2 A. Possibly.

3 Q. Are there other possibilities for what's
4 determined in IPR proceedings in your understanding?

5 A. I assume they determine, you know, which 09:51:18
6 claims are allowed and which claims are not allowed.

7 Q. On the next line you see there are two
8 U.S. patent numbers listed, and I'll read them for
9 the record. They're U.S. Patent Numbers 11,384,394
10 and 11,408,033. 09:51:38

11 Do you see those?

12 A. I do.

13 Q. I'll represent to you that those are the
14 patents that are in the two IPR case numbers
15 respectively; each IPR has one patent in it. 09:51:47

16 Do you recognize those patent numbers?

17 A. I do not.

18 Q. Have you ever looked at those patents?

19 A. I have not.

20 Q. Did you review those patents for purposes 09:51:57
21 of preparing this declaration?

22 A. I did not.

23 Q. Do you know who owns those patents?

24 A. I assume Personalis owns those patents.

25 Q. Dr. MacQuitty, let's step back a bit. 09:52:07

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1 You said that you were con- -- first
2 contacted for the purposes of preparing your
3 declaration approximately a week before you signed
4 it.

5 How long did you spend preparing your 09:52:25
6 declaration?

7 A. Over the course of several days. Several
8 hours, let's say.

9 Q. Did you write your declaration yourself?

10 A. I did not. 09:52:40

11 Q. Can -- can you tell me what the process
12 was for preparing your declaration?

13 A. I was shown drafts of various things, and
14 I then edited them -- reviewed them and edited them.

15 Q. When you say "edited them," you -- you 09:52:58
16 mean you edited drafts of your declaration?

17 A. Correct.

18 Q. And you reviewed the -- the final draft of
19 your declaration before you signed it?

20 A. I did. 09:53:11

21 Q. And you're comfortable with -- or were you
22 comfortable with everything in your declaration when
23 you signed it?

24 A. I was and I am.

25 Q. And for preparing for your deposition 09:53:19

1 today, what did you do?

2 A. I spent some time yesterday afternoon
3 talking with counsel.

4 Q. Okay. And by "counsel," again, let the
5 record reflect that the witness is pointing to Nate 09:53:42
6 Luman and presumably Steve Moore as well --

7 A. Correct.

8 Q. -- who are here in the room.
9 And yesterday afternoon, how -- how much
10 time? 09:53:56

11 A. A couple of hours.

12 Q. And did you do anything else other than
13 meet with counsel yesterday afternoon for a couple
14 of hours to prepare for your declaration?

15 A. I did not. 09:54:09

16 Q. I'm sorry, to prepare for your deposition?

17 A. I did not.

18 Q. You didn't speak with anyone else?

19 A. I did not.

20 Q. Was anyone called during your meeting? 09:54:17

21 MR. LUMAN: Hold on.

22 I want to caution the witness -- I mean,
23 you're asking about what went on during his meeting
24 with counsel, which is a privileged meeting.

25 MR. NAINI: I'm not asking about the 09:54:35

1 communications. I'm asking about the individuals
2 involved, how much time, when it occurred. All this
3 is discoverable.

4 MR. LUMAN: What was your question?

5 BY MR. NAINI: 09:54:46

6 Q. Was anyone called during your meeting?

7 A. Not during the meeting.

8 Q. Did you speak with anyone outside of the
9 meeting for purposes of preparing for your
10 deposition? 09:54:55

11 A. I informed Lightspeed counsel that the
12 meeting was taking place.

13 Q. Other than informing them that it was
14 taking place, did you -- you can answer this "yes"
15 or "no" -- did you discuss anything else about your 09:55:11
16 meeting with Personalis counsel or preparing for
17 your deposition with Lightspeed counsel?

18 A. I did not discuss anything associated with
19 the deposition.

20 Q. Have you spoken to John West about your 09:55:25
21 deposition?

22 A. I have not.

23 Q. Have you spoken to John West about your
24 declaration?

25 A. I have not. 09:55:35

Page 25

1 Q. When was the last time you spoke with John
2 West?

3 A. A few weeks ago.

4 Q. And what did you speak with him about?

5 A. Ano- -- another company he's involved in. 09:55:43

6 Q. What was the last -- when was the last
7 time you spoke with John West about Personalis
8 matters?

9 A. We touched briefly on Personalis at the
10 time. 09:55:56

11 Q. Okay. What did you discuss about
12 Personalis at the time?

13 A. The -- the plans for developing products.

14 Q. Is John West still involved with
15 Personalis? 09:56:11

16 A. I don't know the answer to that, but I
17 don't believe so.

18 Q. Are you still involved with Personalis?

19 A. I represent a shareholder that's a
20 shareholder in Personalis, but I have no other 09:56:22
21 involvement.

22 Q. Who is that other shareholder that you
23 represent?

24 A. Lightspeed. Lightspeed Management manages
25 some funds, which owns shares in Personalis. 09:56:30

1 Q. And you represent them in what capacity?

2 A. I'm a venture partner at Lightspeed. And
3 I help advise them as to investments that they could
4 make and having made the investments, help them
5 manage the investment after the investment is made. 09:56:50

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED] [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 THE COURT REPORTER: One person at a time,
24 please.

25 THE WITNESS: Sorry.

1 [REDACTED]

2 [REDACTED]

3 [REDACTED] [REDACTED]

4 [REDACTED]

5 [REDACTED] [REDACTED] [REDACTED]

6 [REDACTED]

7 [REDACTED] [REDACTED]

8 [REDACTED]

9 [REDACTED] [REDACTED]

10 Q. What -- what's your understanding of the 09:58:12

11 current price?

12 A. I haven't checked the price recently, but

13 I believe it's around 1.50 a share.

14 [REDACTED] [REDACTED]

15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] [REDACTED] [REDACTED]

21 [REDACTED]

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15 BY MR. NAINI: 10:03:43

16 Q. Are you aware that Personalis sued
17 Foresight Diagnostics for patent infringement in
18 2022?

19 A. I received public notification of that
20 event, yes. 10:03:57

21 Q. What do you mean by "public notification"?

22 A. A press release announcing the lawsuit was
23 sent to me.

24 Q. Did that occur after you ended your
25 involvement -- your -- you -- strike that. Let me 10:04:12

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1 state it again.

2 Did you receive the press release
3 announcing the lawsuit after you had resigned your
4 position from the -- on the Personalis board?

5 A. Yes.

10:04:29

6 Q. Were you aware before receiving that press
7 release that Personalis was planning on suing
8 Foresight?

9 A. No.

10 [REDACTED] [REDACTED]
11 [REDACTED]
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10 [REDACTED] [REDACTED] [REDACTED]
11 [REDACTED]

12 MR. NAINI: We've been going about an
13 hour. You want to take a short break now?

14 (Short recess taken.)

15 THE COURT REPORTER: We're back on. 10:11:37

16 BY MR. NAINI:

17 Q. Dr. MacQuitty, did you ask to see the
18 patents during the preparation of your declaration?

19 A. I did not.

20 Q. Do you think it was important to see the 10:11:57
21 patents that were at issue in the case you were
22 submitting a declaration for?

23 A. I was asked to look at some documents and
24 reflect my knowledge of them. That's all this
25 was -- declaration was about. 10:12:29

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1 Q. Did you understand at the time that the
2 declaration was being submitted in IPR proceedings
3 that concerned certain Personalis patents?

4 A. I understood it was being submitted.

5 Q. And did you understand that it was being 10:12:41
6 submitted in IPR proceedings that concerned certain
7 Personalis patents?

8 A. Yes.

9 Q. Was it important for you to see those
10 patents before signing the declaration? 10:12:51

11 MR. LUMAN: Asked and answered.

12 THE WITNESS: I did not.

13 BY MR. NAINI:

14 Q. Was it important?

15 A. I -- I did not think it was important for 10:13:00
16 me to see the patent applications. Patents. Excuse
17 me.

18 Q. Why not?

19 A. Because the declaration was focused on
20 documents which were part of the Personalis record, 10:13:10
21 and that was the focus of the declaration.

22 Q. Now, you wrote in Paragraph 1 of your
23 declaration -- on the page that's numbered 1, in the
24 first paragraph, you wrote that you were -- you were
25 making this declaration in connection with IPR 10:13:29

1 proceedings that concerned the two Personalis
2 patents.

3 Do you see that?

4 A. I do.

5 Q. And you wrote that in your declaration; 10:13:36
6 right?

7 A. I did.

8 Q. But you didn't think to look at the
9 patents?

10 A. I did not think the declaration required 10:13:43
11 me to look at the patents.

12 Q. Sitting here today, do you wish you had
13 looked at the patents first?

14 A. I do not.

15 Q. Separate from any investments, any equity 10:13:56
16 in Personalis, have you received any payment for --
17 in -- in connection with your declaration?

18 A. No.

19 Q. Are you being paid to appear today for
20 your deposition? 10:14:17

21 A. No.

22 Q. Do you have any understanding of -- do you
23 understand that the -- the result of the patent
24 dispute between Personalis and Foresight might end
25 up being favorable to Personalis; right? 10:14:43

1 A. I assume that, like other disputes, it
2 might be favorable to Personalis, and it might be
3 favorable to Foresight.

4 [REDACTED]
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20 [REDACTED] [REDACTED]
21 [REDACTED]

22 Q. And -- and you're involved with a venture
23 fund that will benefit as well?

24 A. Correct.

25 Q. And you oversee that investment in

10:16:07

1 Personalis --

2 A. Correct.

3 Q. -- for the venture fund?

4 [REDACTED]

5 [REDACTED]

[REDACTED]

6 [REDACTED]

7 [REDACTED] [REDACTED] [REDACTED]

8 [REDACTED]

9 [REDACTED] [REDACTED]

10 [REDACTED]

[REDACTED]

11 BY MR. NAINI:

12 Q. Are there any other benefits?

13 A. Lightspeed likes its investments to do
14 well. This is an investment I'm responsible with.

15 If the share price increases, that will be something 10:16:40
16 that people look on favorably.

17 Q. That makes sense to me.

18 You said you're -- you're still in
19 communications with John West. You know, at least
20 over the last few months you've -- you've been 10:16:58
21 speaking with him?

22 A. Yes.

23 MR. LUMAN: Mischaracterizes the
24 testimony.

25 THE WITNESS: I have been in touch with 10:17:03

1 John West, yes.

2 BY MR. NAINI:

3 Q. Are you -- are you personal friends with
4 John West?

5 A. I am not. 10:17:09

6 Q. So you just -- business friends, as it
7 were?

8 A. Correct.

9 Q. All right. But -- but you've been working
10 with John West in business for many years; right? 10:17:17

11 A. Correct.

12 Q. When did that first start?

13 A. It would have started back in 2003/2004.

14 Q. And was it fairly continuous, starting in
15 2003/2004? 10:17:37

16 A. There was a gap between 2007 and 2010.

17 Q. Okay. But then after 2010, un- -- until
18 now, you've -- you've been involved with him in some
19 capacity in business?

20 A. Yes. 10:17:51

21 Q. Do you cons- -- do you consider John West
22 to be a candid person?

23 A. Yes.

24 Q. Why do you think you were never informed
25 that Personalis planned to sue Foresight 10:18:02

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1 Diagnostics?

2 A. I was not on the board of directors.

3 Q. Right. But you've communicated with John
4 West afterwards; right?

5 A. Yes. 10:18:14

6 Q. And the first you learned of the lawsuit
7 filed against Foresight Diagnostics was through a
8 press release?

9 A. Yes.

10 Q. Were you surprised that you didn't hear 10:18:22
11 about it earlier?

12 A. No.

13 Q. Why not?

14 A. Decisions to make lawsuits are ones which
15 are not generally discussed outside the company, 10:18:33
16 particularly a public company.

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] [REDACTED]
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[REDACTED]

Q. Do you know whose idea it was to sue
Foresight?

A. I do not.

Q. John West has never discussed with you 10:19:14
after the -- the fact whose idea it was?

A. He has not.

Q. Do you think there's some reason why he
hasn't discussed it with you?

A. I'm speculating here, but I imagine it's a 10:19:29
sensitive topic, and he has not -- chosen not to
discuss it with me.

Q. Why do you think it might be a sensitive
topic?

A. Because it -- it's litigation. 10:19:41

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

Q. Do you have any understanding on the likely effect on Personalis' stock if the disputes with Foresight resolve in favor of Personalis? 10:20:32

MR. LUMAN: Incomplete hypothetical. Calls for speculation.

BY MR. NAINI:

Q. So just to be clear, if the disputes -- the patent disputes with Foresight resolved in favor of Personalis, do you have any understanding on the likely effect on Personalis' stock price? 10:20:46

MR. LUMAN: Same objections.

THE WITNESS: I -- I think it might have an effect, but it might not have an effect. 10:20:58

BY MR. NAINI:

Q. If it has an effect, what effect do you think it will have?

MR. LUMAN: Same objections.

THE WITNESS: I -- I just said, I'm -- I'm unclear as to what the effect on the stock price will be. 10:21:06

BY MR. NAINI:

Q. Okay. So just to be clear, you do not know what effect there will be on the stock price if 10:21:14

1 the patent disputes with Foresight resolve in favor
2 of Personalis?

3 A. Correct.

4 Q. And would -- would you give the same
5 answer at Lightspeed, if the -- if the venture 10:21:28
6 capitalist there asked you the question?

7 A. I would.

8 Q. Turning to your declaration, in Paragraph
9 3 on page 1, do you -- do you see that paragraph?

10 A. I do. 10:21:48

11 Q. It says that you're a venture partner at
12 Lightspeed Management Company LLC. You were
13 there -- "I have held this role from 2016 until
14 present." And "Lightspeed has invested in many life
15 sciences companies." 10:22:03

16 In Paragraph 4, you write that you were
17 chairman of the Board of Directors in Personalis
18 from 2011 to 2022, and then you also list a number
19 of companies in the next sentence for which you --
20 you served as a board member. 10:22:19

21 Do you see those? If my count is right, I
22 think there are about 14 of them there.

23 MR. LUMAN: Objection. Form.

24 THE WITNESS: Yes.

25 BY MR. NAINI: 10:22:29

1 Q. So -- so I agree that that's many life
2 science companies. Congratulations.

3 In the course of your work as an investor
4 and a board member for many life sciences companies,
5 have you ever heard of The Scientist magazine? 10:22:46

6 A. The -- The Scientist magazine?

7 I'm -- I'm aware of the -- the name, yes.

8 Q. Okay. How are you aware of the name?

9 A. It's one of the, sort of, general --
10 general purpose scientific magazines. 10:22:59

11 Q. Is it a magazine that you consult
12 regularly?

13 A. I don't consult it.

14 Q. Are you aware that they have an annual top
15 ten list for top innovations? 10:23:13

16 A. I am not.

17 MR. LUMAN: Outside of the scope.

18 BY MR. NAINI:

19 Q. Have -- are you aware of any of the
20 companies with which you have been involved having 10:23:21
21 an innovation that's been listed as a top ten
22 innovation by The Scientist magazine?

23 A. I am not.

24 Q. If they -- if any, of your companies had
25 an innovation listed as a top ten innovation by The 10:23:37

1 Scientist magazine, would you think that was
2 important?

3 MR. LUMAN: Outside of the scope.

4 THE WITNESS: There are other magazines
5 which I would attach import- -- importance to that 10:23:48
6 statement, but not to The -- The Scientist.

7 BY MR. NAINI:

8 Q. What other magazines do you have in mind?

9 A. Endpoints. There are various magazines
10 that have top ten listings. 10:24:03

11 Q. Are there any others other than -- other
12 than Endpoints that come to mind now?

13 MR. LUMAN: Outside the scope.

14 THE WITNESS: I think Fortune does.

15 BY MR. NAINI: 10:24:19

16 Q. I'm going to have you turn to Paragraph
17 16. This is in a section where you discuss "Board
18 of Directors Meetings At Personalis." [As read] I'm
19 just reading from the heading at the top on page 3.

20 And then in Paragraph 13, you discuss 10:24:44
21 Personalis Exhibit 2110. And I'll give you a copy
22 of that.

23 MR. LUMAN: Mischaracterizes the document.

24 MR. NAINI: Here's a copy of Exhibit 2110.

25 (Previously marked IPR Exhibit 2110 was 10:25:11

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1 referenced.)

2 BY MR. NAINI:

3 Q. And, Dr. MacQuitty, I'm not trying to
4 characterize or mischaracterize the document. I'm
5 just trying to set the scene here. 10:25:23

6 A. Okay.

7 Q. You -- you discuss this particular
8 document in your declaration. You cite to it,
9 starting in Paragraph 16. I just wanted to orient
10 you. 10:25:36

11 You can take time at any point if you want
12 to review any -- either of these documents to answer
13 my questions. But if it's okay, I'll -- I'll start
14 asking.

15 A. Please. 10:25:52

16 Q. So in Paragraph 16, you wrote in the first
17 sentence, "Exhibit 2110 appears to be a true and
18 correct copy of the Minutes of the Meeting of the
19 Board of Directors of Personalis, Inc. held on
20 July 26, 2011." [As written] 10:26:14

21 Do you see where you wrote that?

22 A. Yes.

23 Q. I want to understand what you meant by
24 "appears to be a true and correct copy."

25 Why did you write "appears to be"? 10:26:24

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1 A. Well, I don't have very specific
2 recollection of these minutes, but it looks -- it's
3 in the form of and has the attendees that I remember
4 from that meeting and describes the meeting in ways
5 that are certainly consistent with my memory.

10:26:41

6 Q. Okay. I want to try to separate what you
7 recall independent from the document from what the
8 document says, because we can all see what the
9 document says, but I want to understand what you
10 mean by your recollection. 10:26:58

11 So I want to understand what you mean

12 by "appears to be."

13 Do you recognize this to be --

14 Exhibit 2110 to be the minutes from the July 26th,

15 2011, meeting? 10:27:13

16 MR. LUMAN: Objection. Form. There's two
17 questions there.

18 THE WITNESS: Could you restate the
19 question?

20 BY MR. NAINI: 10:27:20

21 Q. Do you recognize Exhibit 2110 to be the
22 minutes from the July 26th, 2011, meeting?

23	A. They appear to be.
----	-----------------------

24 Q. What do you mean by "appear to be"?

25 A. As I said before, they're in the form that 10:27:34

1 I remember minutes being in, and it has the
2 attendees that I remember at the meeting, and it
3 lists the topics that were discussed at that meeting
4 in a way that's consistent with what I remember.

5 Q. Did you see the minutes in Exhibit 2110 at 10:27:54
6 any time before you prepared your declaration?

7 A. I assume back in 2011 when they were
8 approved.

9 Q. You assume that, but do you re- -- do you
10 have a specific recollection of having seen them? 10:28:12

11 A. I do not have a specific recollection.

12 Q. So I'm curious, but let's try to do it
13 this way.

14 Do you know where Exhibit 2110 comes from?
15 Whose files are they from? 10:28:28

16 A. I assume the company's files.

17 Q. So they're not from your files?

18 A. Correct.

19 Q. Now, you -- you obviously looked at them
20 before you wrote your declaration; right? 10:29:02

21 A. Correct.

22 Q. Do you know how they were obtained for
23 purposes of preparing your declaration?

24 A. I don't.

25 Q. So they were given to you by your lawyers? 10:29:12

1 A. Correct.

2 Q. Was it -- was it your idea to find these
3 copies of alleged minutes and to try to summarize
4 them, or -- or was it someone else's?

5 MR. LUMAN: Objection. Mischaracterizes 10:29:35
6 the document.

7 THE WITNESS: I was shown this document,
8 and it was included in a draft declaration, and I
9 amended the declaration to make it consistent with
10 what I remembered. 10:29:54

11 BY MR. NAINI:

12 Q. Now, just to -- just to try to make this
13 efficient, I'm going to point you to some paragraphs
14 now that -- that repeat this "appears to be a true
15 and correct copy" language, and I want to find out 10:30:07
16 if your answers with respect to why you're
17 saying "appears to be" rather than "is a true and
18 correct copy" are the same for the other exhibits --

19 A. Okay.

20 Q. -- as they were for Exhibit 2110. 10:30:20

21 Okay?

22 So in paragraph 20, it says, "Exhibit 2043
23 appears to be a true and correct copy," and it goes
24 on.

25 Do you see that? 10:30:29

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1 A. Yes.

2 Q. And is your answer with respect to why you
3 wrote "appears to be a true and correct copy" for
4 Exhibit 2043 the same as it was for Exhibit 2110?

5 A. Yes. 10:30:52

6 Q. And in paragraph 27 you write that
7 "Exhibit 2064 appears to be a true and correct
8 copy,"
9 and then it goes on.

10 Do you see that? 10:31:03

11 A. Yes.

12 Q. Same answer for why you wrote "appears to
13 be" there as you gave for Exhibit 2110?

14 A. Yes.

15 Q. And in paragraph 32, you wrote 10:31:12
16 "Exhibit 2073 appears to be a true and correct
17 copy," and it goes on.

18 Is your answer for why you wrote "appears
19 to be a true and correct copy" the same for Exhibit
20 2073 as it was for Exhibit 20- -- 2110? 10:31:30

21 A. Yes.

22 Q. And in paragraph 37, you wrote, "Exhibit
23 2087 appears to be a true and correct," and it goes
24 on.

25 THE COURT REPORTER: Could you slow down a 10:31:37

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1 little bit, please.

2 BY MR. NAINI:

3 Q. And in -- in paragraph 37, "Exhibit 2087
4 appears to be a true and correct copy," and it goes
5 on.

10:31:48

6 Do you see that?

7 A. Yes.

8 Q. And is your answer for why you
9 wrote "appears to be a true and correct copy" for --
10 in paragraph 37 for Exhibit 2087 the same as why you 10:31:54
11 wrote that for Exhibit 2110?

12 A. Yes.

13 Q. And in Paragraph 42, you wrote,
14 "Exhibit 2111 appears to be a true and correct
15 copy," and it goes on? 10:32:11

16 A. Yes.

17 Q. And is the reason you wrote "appears to be
18 a true and correct copy" for Exhibit 2111 the same
19 as the reasons you gave for Exhibit 2110?

20 A. Yes. 10:32:23

21 Q. And in Paragraph 47, you wrote,
22 "Exhibit 2107 appears to be a true and correct
23 copy," and it goes on.

24 Do you see that?

25 A. Yes. 10:32:35

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1 Q. And is the reason you wrote "appears to be
2 a true and correct copy" in Paragraph 47 for
3 Exhibit 2107 the same as the reasons that you gave
4 for Exhibit 2110?

5 A. Yes. 10:32:46

6 Q. And do you -- let's go back to Paragraph
7 16 where we started talking about the -- this set of
8 exhibits that you reference in your declaration.

9 Do you see in the -- starting in the
10 second sentence of that paragraph, you wrote, "The 10:33:24
11 meeting took place at 10:30 a.m. at Mohr Davidow
12 Venture's office at 3000 Sand Hill Road, Building 3,
13 Suite 290, Menlo Park, California." [As read]

14 And then there's a citation that says,
15 "See" -- that's a signal -- and -- and then it says 10:33:46
16 "July 26, 2011 Meeting Minutes, Exhibit 2110, at
17 page 1."

18 That's what you wrote; right?

19 A. Yes.

20 Q. Is -- I want to understand why you wrote 10:33:55
21 "See" and then cited a particular page of the
22 minutes.

23 Why did you write it that way?

24 A. Because on the first page of the minutes,
25 it shows where the meeting was. 10:34:07

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1 Q. Okay. So what I want to understand,
2 Dr. MacQuitty, is do -- do you have an independent
3 recollection of the things that you wrote in the
4 sentence before the -- before the citation that
5 starts with "See" in paragraph 16, or are you simply 10:34:20
6 summarizing the document without having an
7 independent recollection of that information?

8 A. In some cases, I have an independent
9 recollection.

10 Q. Okay. Well, let's go through them. 10:34:36

11 For paragraph 16, do you have an
12 independent recollection for the -- of the facts
13 that are listed in paragraph 16?

14 A. I do.

15 Q. Are there any facts in paragraph 16 that 10:34:49
16 you do not have an -- a recollection independent of
17 the meeting minutes exhibit?

18 A. I'm not certain it started at 10:30.

19 Q. Anything else?

20 A. It -- it certainly took place at Mohr 10:35:04
21 Davidow's office.

22 Q. Is there anything else that you do not
23 have a recollection independent of the meeting
24 minutes exhibit?

25 A. I'm not sure I understand the question. 10:35:21

1 Q. Well, do you understand that you have a
2 memory? That's what I mean by a "recollection."

3 Do you understand that?

4 A. Yes.

5 Q. Do you understand that there's an exhibit 10:35:30
6 that you're citing in your declaration,
7 Exhibit 2110?

8 A. Yes.

9 Q. It has certain words in it; right?

10 A. I just said that I recollect that it took 10:35:39
11 place in Mohr Davidow's office.

12 Q. Right.

13 A. That's a recollection.

14 Q. And I'm now trying to understand -- you
15 said that you don't have an independent recollection 10:35:48
16 that it started at 10:30 a.m.; right?

17 MR. LUMAN: Mischaracterizes testimony.

18 BY MR. NAINI:

19 Q. Did you say that or not?

20 A. I -- I don't recall the time it started. 10:35:58

21 Q. Okay. Is there anything else that you do
22 not recall that you write in paragraph 16?

23 A. No.

24 Q. Okay. Paragraph 17, same question, is
25 there anything in paragraph 17 that you do not have 10:36:13

1 an independent recollection of?

2 A. I have a recollection of all those things.

3 Q. So you recall, for example, that Doctors
4 Altman, Ashley, and Snyder participated for only a
5 portion of the meeting? 10:36:35

6 A. Yes.

7 Q. Do you have an independent recollection of
8 which portion of the meeting each of those
9 individuals participated?

10 A. I do not. 10:36:43

11 Q. Paragraph 18, do you have an independent
12 recollection of that?

13 A. I don't have a precise recollection of
14 that.

15 Q. I want to understand why you used the 10:37:06
16 word "precise" in that answer.

17 A. John West frequently chaired meetings. I
18 believe he chaired this meeting. It was normal for
19 him to chair meetings. But I don't have a specific
20 recollection that he started the meeting and chaired 10:37:28
21 the meeting.

22 Q. Okay. In paragraph 19 -- I mean, I won't
23 belabor it -- you're basically just stating that the
24 minutes state a certain thing.

25 Do you see that? 10:37:40

1 A. Yes, although I do remember the doctor
2 actually gave a presentation.

3 Q. Okay. Fair enough.

4 Let's go to paragraph 20.

5 Do you have an independent recollection of 10:37:55
6 the -- of paragraph 20?

7 A. Could I be given a copy of the minutes?

8 Q. Sure.

9 You -- you can't answer my question about
10 what you have a memory of without seeing a copy of 10:38:09
11 Exhibit 2043?

12 A. I would like to make certain that all of
13 the things that are present in the minutes I have a
14 recollection of.

15 Q. No, I -- that's not my question. 10:38:19

16 My question is, do you, sitting here
17 today, have an independent recollection of the facts
18 that you recite in paragraph 20 of your declaration
19 that you signed under oath?

20 MR. LUMAN: And he has asked to see a copy 10:38:30
21 of an exhibit to answer that question.

22 MR. NAINI: I understand.

23 BY MR. NAINI:

24 Q. And I'm not going to give you a copy of
25 that exhibit until you answer the question I've 10:38:42

1 asked that is independent of the exhibit.

2 A. Counsel is asking a -- a misleading
3 question.

4 I've already said that this exhibit
5 appears to be a copy. 10:38:47

6 Okay?

7 Q. Mm-hmm.

8 A. You're now asking me to go beyond that,
9 something that's not in the declaration, and I would
10 like to see the exhibit so I can do that. 10:38:52

11 Q. Okay. No, I'm asking now that
12 Exhibit 2043 -- all right.

13 So do you re- -- do you recall whether or
14 not there was a board of director meeting on
15 May 8th, 2012? 10:39:08

16 A. I don't recall the specific day.

17 Q. Okay. Do you recall whether any document
18 that purports to be meeting minutes of a meeting
19 held on May 8th, 2012, by the Personalis board would
20 have included an Exhibit A that concerns Personalis 10:39:35
21 stock options?

22 A. Exhibit A normally contains stock options,
23 and I would assume that that -- that was not
24 provided as part of the documents.

25 Q. Here, I'm handing you a copy of 10:40:06

1 Exhibit 2043.

2 MR. LUMAN: Thank you.

3 (Previously marked IPR Exhibit 2043 was
4 referenced.)

5 BY MR. NAINI: 10:40:17

6 Q. Now, please refer to the exhibit as -- as
7 you need to for -- to answer my questions that will
8 be directed to your declaration.

9 In paragraph 21, you make certain
10 statements. 10:40:32

11 Do you have an independent recollection of
12 any of those statements?

13 A. I remember it took place at the company
14 offices. I don't have a recollection of the time
15 that it started. 10:40:48

16 Q. Paragraph 22, do you have an independent
17 recollection of any of the facts set forth in that
18 paragraph?

19 A. I remember all those pre- -- people being
20 present. 10:41:05

21 THE COURT REPORTER: Dr. MacQuitty, could
22 you keep your voice up for me, please.

23 THE WITNESS: Oh, sorry.

24 BY MR. NAINI:

25 Q. Paragraph 23, do you remember those facts 10:41:13

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1 independent of your declaration -- I'm sorry,
2 independent of Exhibit 2043?

3 A. Yes.

4 Q. Paragraph 24, do you have an independent
5 recollection of those facts? 10:41:24

6 A. Yes.

7 Q. Paragraph 25, do you have an independent
8 recollection of those facts?

9 A. Some of them.

10 Q. Which ones do you not have an independent 10:41:54
11 recollection?

12 A. May I have a copy of the -- the exhibit?

13 Q. There's no exhibit cited in paragraph 25,
14 but --

15 MR. LUMAN: Objection. Mischaracterizes 10:42:08
16 the document.

17 BY MR. NAINI:

18 Q. Oh, you're talking about Exhibit 2112 --

19 A. Yes.

20 Q. -- Dr. MacQuitty? 10:42:19

21 Oh, sure. Certainly.

22 (Previously marked IPR Exhibit 2112 was
23 referenced.)

24 THE WITNESS: John West gave a -- an
25 update at every board meeting. It was, in my view, 10:42:34

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1 the most important part of the board meeting. It
2 was the CEO giving his perspective, his plan, and --
3 and how he would carry that out. And some of this I
4 have a clear recollection of.

5 THE COURT REPORTER: A what recollection 10:43:13
6 of?

7 THE WITNESS: Clear.

8 BY MR. NAINI:

9 Q. And I think you -- you'll know what I --
10 what I want to establish here; right? I want to 10:43:20
11 understand what you have a clear recollection of and
12 what you're simply relying on the document for
13 without an independent recollection.

14 Well, let's go back. In paragraph 25 --

15 A. Yes. 10:43:32

16 Q. -- you -- you write -- well, first of all,
17 this presentation that -- that -- that we're
18 discussing that -- that -- that -- that you're
19 saying is, at each board meeting, the most important
20 part of the board meeting -- 10:43:49

21 A. Yes.

22 Q. -- this particular board presentation was
23 about the Accuracy Program; is that right?

24 A. It was about a number of things, including
25 the Accuracy Program, yes. 10:44:00

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1 Q. Right. Okay. So it included a discussion
2 of the Accuracy Program, and that's what you write
3 in paragraph 25?

4 A. Yes.

5 Q. And then the next sentence you wrote was, 10:44:09
6 "The Accuracy Program was the most important
7 technical program at Personalis at the time."

8 Do you see that?

9 A. Yes.

10 Q. Why was it the most important technical 10:44:19
11 program at Personalis at the time?

12 A. Personalis's claim for differentiation was
13 the ability to improve the coverage and accuracy of
14 sequencing.

15 Q. And that's what the Accuracy Program was 10:44:46
16 about?

17 A. Yes.

18 Q. Did the Accuracy -- Accuracy Program ever
19 result in a -- in a commercial product or service?

20 A. Yes. It helped develop products that we 10:45:13
21 ended up selling to pharmaceutical companies --
22 Personalis ended up selling to pharmaceutical
23 companies.

24 It helped in obtaining the contract with
25 the Veteran's Administration and in supplying 10:45:33

1 information to the Veteran's Administration.

2 Q. So can you let me know which products that
3 Personalis ended up selling to pharmaceutical
4 companies resulted from the Accuracy Program?

5 A. I think all of the products. 10:46:14

6 Q. All of the products that Personalis has
7 ever sold to any pharmaceutical company resulted
8 from the Accuracy Program?

9 A. Rely on the Accuracy Program, yes.

10 Q. Okay. And can you tell me what those 10:46:27
11 products were?

12 A. They were products to help pharmaceutical
13 companies characterize the tumors of patients who
14 are undergoing -- in clinical trials who are
15 undergoing treatment with -- with cancer drugs. 10:46:52

16 Q. Okay. Do you recall when the -- when the
17 first one was sold to a pharmaceutical company?

18 A. I think it was 2013.

19 Q. Do you remember what that product's name
20 was? 10:47:11

21 A. I do not remember the name.

22 Q. Okay. Do you consider the -- the -- the
23 Personalis NeXT Personal Test to -- to have resulted
24 from the Accuracy Program?

25 A. I think all of the products that 10:47:31

1 Personalis has developed have relied on the -- the
2 Accuracy Program.

3 Q. Okay. And the -- and the first one you
4 recall from -- being from 2013?

5 A. Yes. 10:47:44

6 Q. And do you recall when the next one was?

7 A. At the time they had products they were
8 selling to the pharmaceutical industry, but also
9 they were providing exomes and other sequencing to
10 the Veteran's Administration. Those were two 10:48:03
11 different product lines.

12 Q. I understand.

13 So I'm asking about the products that --
14 that were sold to the pharmaceutical industry first,
15 and we'll get to the Veteran [verbatim] 10:48:14
16 Administration program later.

17 But for the products sold to the
18 pharmaceutical industry, after the first one in
19 2013 --

20 A. Yes. 10:48:23

21 Q. -- when was the next one?

22 A. I think they were all very much the same
23 kind of product that was sold. There were
24 improvements made to the product, but it was
25 basically the same product. 10:48:33

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1 Q. I see.

2 Starting in 2013 --

3 A. Yes.

4 Q. -- and then continuously --

5 A. Yes.

6 Q. -- until the present?

7 (Simultaneous speaking.)

8 THE COURT REPORTER: Wait. One second.

9 Can you slow down --

10 THE WITNESS: Sorry.

11 THE COURT REPORTER: -- and speak one at a
12 time, please?

13 BY MR. NAINI:

14 Q. So -- so let me ask a complete answer
15 [sic]. 10:48:43

16 A. Yeah.

17 Q. Is -- is it your testimony, then,
18 Dr. MacQuitty, that starting in 2013 and then
19 continuously until the present, Personalis has been
20 selling products to the pharmaceutical industry that 10:48:51
21 have -- that have resulted from the Accuracy Program
22 that -- that was discussed at the May 8th, 2012,
23 board of directors meeting?

24 A. Yes.

25 Q. And you said "all the products." 10:49:08

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1 So are you aware of any Personalis
2 products, outside of the VA sequencing program, that
3 have not resulted from the Accuracy Program?

4 A. They have all benefited from the Accuracy
5 Program. 10:49:29

6 Q. Okay. But we've been using different
7 words.

8 My question is, using a specific word --
9 and tell me if there's any problem with the word
10 from your perspective, but my question was, are you 10:49:39
11 aware of any Personalis products outside the
12 sequencing program for the VA that have re- -- not
13 resulted from the Accuracy Program?

14 A. Let me restate my answer. They have all
15 benefited from the Accuracy Program. 10:49:55

16 Q. What do you mean by "benefited from" as
17 opposed to "resulted from"?

18 A. The -- the -- the techniques that came
19 from the Accuracy Program allowed better quality
20 products to be developed, and they all benefited 10:50:08
21 from -- from the Accuracy Program.

22 Q. All right.

23 So here's one thing I'm confused about.
24 I'm confused about why there have been multiple
25 products if the product in 2013 was a product that 10:50:25

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1 could be sold to pharmaceutical companies, that, you
2 know, it was good enough to sell to pharmaceutical
3 companies.

4 Why were there more products after that?

5 Why were they differentiated into -- 10:50:40

6 A. Some of. Some of the products were
7 improvements of the existing product. They had
8 deeper coverage, or they included specific genes
9 that were of interest to the pharmacy industry. So
10 they -- but it -- it all built on the Accuracy 10:50:55
11 Program.

12 Q. You're familiar, I'm sure, with the --
13 with the -- with the -- with the NeXT Personal Test;
14 right?

15 A. What do you mean by "familiar with"? 10:51:10

16 Q. Well, it was introduced to the marketplace
17 while you were on the board at Personalis --

18 A. Yes.

19 Q. -- right?

20 A. Yes. 10:51:16

21 (Simultaneous speaking.)

22 THE COURT REPORTER: Wait. If we can just
23 speak one at a time --

24 THE WITNESS: Sorry.

25 THE COURT REPORTER: -- question, answer. 10:51:24

1 THE WITNESS: Sorry.

2 BY MR. NAINI:

3 Q. I'll just repeat the question just so the
4 record is clear.

5 The NeXT Personal Test was introduced to 10:51:31
6 the marketplace while you were on the board at
7 Personalis; right?

8 A. Yes.

9 Q. And you were familiar with the product
10 when it was introduced? 10:51:39

11 A. In general terms, yes.

12 Q. Do you recall when it was introduced?

13 A. I do not.

14 Q. Do you recall generally when it was
15 introduced? 10:51:47

16 MR. LUMAN: Asked and answered.

17 THE WITNESS: I don't recall the exact
18 time.

19 BY MR. NAINI:

20 Q. If I represent to you that it was 10:51:51
21 introduced in late 2021, does that -- does that
22 refresh your recollection?

23 A. That sounds about right.

24 Q. So it wasn't introduced in 2013; right?

25 A. Correct. 10:52:05

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1 Q. It was introduced at -- at a
2 significantly -- a later point in time; right?

3 A. You're telling me.

4 Q. Do you recall whether it was introduced in
5 2013 or later? 10:52:17

6 A. It was introduced later.

7 Q. Okay. And -- and it was introduced
8 significantly later; right? Not in -- in 2014;
9 right?

10 A. It was intro- -- introduced several years 10:52:26
11 later, yes.

12 Q. Okay. What differentiated the -- how did
13 Personalis decide to call the -- the NeXT Personal
14 Test by -- let me phrase it another way. Strike
15 that. 10:52:42

16 Was the NeXT Personal Test an improved
17 technology when it was introduced?

18 A. It was an improved product.

19 Q. Okay. And what were the improvements?

20 A. As I think they indicated, it had added 10:52:54
21 some specific genes that it was testing for and gave
22 increased coverage, increased depth in certain --
23 for certain types of genes.

24 Q. Were there any other improvements that you
25 recall? 10:53:14

1 A. Not that I recall.

2 Q. Was the sensitivity of the test improved?

3 A. I don't recall.

4 Q. Do you recall the -- what the sensitivity

5 of the test is? 10:53:26

6 A. I do not.

7 Q. If I tell you that it's been advertised as

8 being -- as having a sensitivity of one part per

9 million, does that refresh your recollection?

10 A. I remember one part per million being 10:53:36

11 stated.

12 Q. Mm-hmm.

13 And do you recall if prior Personalis

14 tests had sensitivity of one part per million?

15 MR. LUMAN: Objection. Foundation. 10:53:48

16 THE WITNESS: I don't recall the target

17 sensitivities.

18 BY MR. NAINI:

19 Q. If you turn back to Paragraph 25 of your

20 declaration -- 10:54:06

21 A. Yes.

22 Q. -- on page 5.

23 A. Yes.

24 Q. In that last sentence, you write, "To the

25 best of recollection, Exhibit 2112 appears to be a 10:54:12

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1 true and correct copy of the slides presented by
2 Mr. West during the meeting."

3 Do you see that?

4 A. I do.

5 Q. What do you mean by "to the best of 10:54:24
6 recollection"?

7 A. Well, it -- it's in the format that John
8 West used for his presentation. It's consistent
9 with my memory. And in certain cases, I have very
10 specific recollections of it. 10:54:41

11 Q. Okay. Well, can -- let's turn to
12 Exhibit 2112. And can you let me know, we'll go
13 page by page --

14 A. Okay.

15 Q. -- and tell me what you have specific 10:54:57
16 recollections of in Exhibit 2112. And then, also,
17 you know, I'll assume that anything that you don't
18 point out, you do not have a specific recollection
19 of; okay?

20 MR. LUMAN: Objection. 10:55:07

21 THE WITNESS: I understand.

22 MR. LUMAN: Yeah, that's --

23 BY MR. NAINI:

24 Q. Okay. So on the first page of
25 Exhibit 2112 is just the company name, Personalis, 10:55:14

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1 Inc., CEO Overview, Board of Directors Meeting,
2 May 8th, 2012.

3 A. Yes.

4 Q. We can move to the second page with a
5 bullet list here. 10:55:30

6 Do you have a specific recollection of any
7 of the items on -- you know, on the bullet list on
8 page 2 of Exhibit 2112?

9 A. No.

10 Q. Okay. On page 3 of Exhibit 2112, there's 10:55:43
11 another bullet list. Do you have a specific
12 recollection of anything?

13 A. The sa- -- last two bullets, I recall John
14 West being invited to speak.

15 Q. Okay. Page 4 -- 10:55:58

16 A. Yes.

17 Q. -- do you have a specific recollection of
18 any items on this page?

19 A. I don't.

20 Q. Page 5, do you have a specific 10:56:05
21 recollection of any items here?

22 A. Not of the -- the page, but of the
23 Accuracy Program.

24 Q. So the Accuracy Program generally?

25 A. Yes. 10:56:20

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1 Q. Do you have a specific recollection of any
2 of the specifics as it were, on page 5?

3 A. The objective of trying to improve the --
4 the -- the coverage of the sequencing, so the -- you
5 included regions that were not easily sequenceable. 10:56:35

6 Q. Where do you see that, Dr. MacQuitty?

7 A. You asked me about the description of the
8 Accuracy Program.

9 Q. Yes. No, about page 5 --

10 A. Oh. 10:56:45

11 Q. -- are there any items on it specifically
12 that you recall?

13 A. Let me refresh your memory with my answer.
14 I remember the Accuracy Program.

15 Q. I'm asking about page 5. 10:56:57

16 A. I don't remember anything specifically
17 from this page.

18 Q. Okay. Do you recall that -- that the
19 Accuracy Program concerned a whole genome sequencing
20 and analysis? 10:57:08

21 A. In -- in -- the idea of the Accuracy
22 Program was to improve the coverage and accuracy of
23 sequencing generally for the whole genome and exome.

24 Q. I see. So -- all right. So let me
25 understand. 10:57:22

1 Exome -- it -- can you explain to me what
2 exome sequencing is then?

3 A. Exome is a subset of the whole genome, and
4 whole genome is the entire genome.

5 Q. The entire genome. 10:57:32

6 So -- but you also said that there were
7 gaps in -- in genome sequencing --

8 A. In -- in --

9 (Simultaneous speaking.)

10 THE COURT REPORTER: Wait, please. 10:57:40

11 THE WITNESS: Sorry.

12 When sequencing was used at the time,
13 there were regions of the genome, which were how --
14 how -- to impossibly sequence. And that was due to
15 the technology at the time. 10:57:59

16 Can I give a detailed answer; is that okay
17 or...

18 MR. LUMAN: Yes, you can give a -- you can
19 give a -- a complete answer.

20 THE WITNESS: The Illumina sequencing 10:58:10
21 machines, at the time, gave relatively short reads.
22 And so, you had to align those reads, and this meant
23 that in certain parts of the genome, the coverage
24 was -- was not -- not good, and the accuracy was --
25 was not good. 10:58:30

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1 BY MR. NAINI:

2 Q. Were there sequence -- were there regions
3 of the genome at the time that were not sequenced at
4 all in whole genome sequencing?

5 A. There were gaps. 10:58:41

6 Q. And those gaps were sequences that were in
7 the genome, but were not reflected in the sequencing
8 that was done?

9 A. Exactly.

10 Q. But that was still whole genome 10:58:50
11 sequencing?

12 A. Correct.

13 Q. Okay. Turning to page 6, do you have an
14 independent recollection of anything on page 6 of
15 Exhibit 2112? 10:59:03

16 A. No.

17 Q. Same question for page 7?

18 A. No.

19 Q. How about page 8?

20 A. Yes. 10:59:18

21 Q. What do you recall specifically?

22 A. I recall these -- these diagrams. I have
23 a clear recollection of them.

24 Q. They're very colorful.

25 A. And they're indicative of the objective. 10:59:31

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1 Q. Explain what you mean by that.

2 A. The idea of trying to fill in parts of the
3 genome to -- to get a -- a more accurate whole
4 genome. The objective was whole genome sequencing.

5 Q. Mm-hmm. 10:59:55

6 A. But in many cases it was 95 percent,
7 96 percent, 97 percent of the whole genome. There
8 were parts that you were not able to sequence.

9 Q. Mm-hmm.

10 A. And the -- the -- the Accuracy Program was 11:00:06
11 designed to address that.

12 Q. So -- so that was interesting.

13 So, you know, 95 or 96 percent of the
14 sequence of the whole genome, saying, that -- that,
15 you know, that was sometimes reported as -- as the 11:00:34
16 sequence of a genome; right?

17 A. Correct.

18 Q. And then --

19 A. At the time.

20 Q. At the time. 11:00:41

21 And the -- and the -- and one of the
22 purposes of the Accuracy Program was to -- was to --

23 A. Increase the percentage.

24 Q. Increase the percent -- can it be
25 increased to 100 percent? 11:00:52

1 A. I don't know if that's achievable.

2 Q. But it's still considered a whole genome
3 sequencing?

4 A. Whole genome seq- -- sequencing has
5 traditionally been accepted with not sequencing the 11:01:04
6 entire genome.

7 Q. Well, what's the lower bound -- well, what
8 percentage of the genome is sequenced in exome
9 sequencing?

10 A. It's a subset. That's only the exomes -- 11:01:14

11 Q. And --

12 A. -- that are being sequenced.

13 Q. And roughly what percentage is that?

14 A. I think it's about 5 percent.

15 Q. Okay. So it's a lot less? 11:01:24

16 A. Yes.

17 Q. Where's the break point? When -- when
18 does one consider sequencing to be whole genome
19 sequencing?

20 MR. LUMAN: Objection. Outside of the 11:01:33
21 scope. Calls for expert testimony.

22 THE WITNESS: I'm not an expert on this,
23 but I would say that when the whole genome -- the --
24 the human genome was published, okay, it still had
25 gaps and errors associated with it even though it 11:01:47

1 was referred to as, you know, the whole human
2 genome.

3 BY MR. NAINI:

4 Q. Mm-hmm. And -- well, just -- I -- I
5 understand that you're not appearing as an expert 11:01:57
6 witness today, but you have a Ph.D.; right,
7 Dr. MacQuitty?

8 A. From 1977, so...

9 Q. I understand.

10 And -- and then since that time, you've 11:02:08
11 been involved with many, many life co- -- life
12 sciences companies; right?

13 A. Yes.

14 Q. Many of them have been involved with DNA
15 sequencing technologies; right? 11:02:15

16 A. Yes.

17 Q. Okay. And the -- and when you -- when you
18 just answered about when the whole genome was
19 published, what publication were you --

20 A. It was a -- 11:02:26

21 Q. -- talking about?

22 A. -- big announcement --

23 (Simultaneous speaking.)

24 THE COURT REPORTER: Wait. One second. I
25 need to get the whole -- 11:02:32

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1 THE WITNESS: Sorry.

2 THE COURT REPORTER: -- question out,
3 please.

4 BY MR. NAINI:

5 Q. What publication were you talking about 11:02:35
6 when you just answered that the whole genome was
7 published at -- at some time?

8 A. The initial publication took place, Bill
9 Clinton was president, and he had an announcement of
10 the completion. There were two different groups who 11:02:50
11 were coming up with the -- the human genome. But it
12 did not actually cover the whole of the human
13 genome.

14 Q. Right. And -- and this was before the
15 Accuracy Program; right? 11:03:04

16 A. Correct.

17 Q. In fact, this was before the founding of
18 Personalis; right?

19 A. Correct.

20 Q. Okay. Let's turn back to Exhibit 2112, 11:03:10
21 and go to the next page, page 9 --

22 A. Yes.

23 Q. -- where we left off. And then I just
24 want to know if you have an independent recollection
25 of any of the information on page 9? 11:03:22

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1 A. I do not.

2 Q. Same question for page 10?

3 A. I do not.

4 Q. Page 11?

5 A. I do not. 11:03:30

6 Q. Page 12?

7 A. I do not.

8 Q. Page 13?

9 A. I do not.

10 Q. And, I mean, we can cover page 14, it just 11:03:37

11 says "Next: VP Finance Report."

12 Do you have an independent recollection of

13 there being a -- a VP finance report?

14 A. I have a recollection that was report. I
15 don't have a recollection of the report. 11:03:53

16 Q. Very good.

17 MR. NAINI: Let's take a short break.

18 (Short recess taken.)

19 BY MR. NAINI:

20 Q. Dr. MacQuitty, before the break, we talked 11:18:01
21 a little bit about exome sequencing.

22 Do you recall that?

23 A. Yes.

24 Q. And we talked about whole genome
25 sequencing at bit. Do you recall that? 11:18:14

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1 A. Yes.

2 Q. And those are two -- those are two
3 different things; right?

4 A. Yes.

5 Q. Okay. And exome sequencing, you estimated 11:18:19
6 was about 5 percent or so of the genome?

7 A. Something like that.

8 Q. Okay. And -- and whole genome sequencing
9 is presumably more than that?

10 A. It should be 100 percent. But in 11:18:29
11 practice, it is somewhere between 95 and 100
12 percent, and that percentage has been increasing
13 steadily.

14 Q. Okay. If I sequenced 80 percent of the
15 human genome, would that be considered whole genome 11:18:42
16 sequencing?

17 MR. LUMAN: Objection. Outside the scope.
18 Incomplete hypothetical. Calls for expert
19 testimony.

20 THE WITNESS: I would not anticipate 11:18:49
21 80 percent being possible to call it a whole genome.

22 BY MR. NAINI:

23 Q. Okay. What percentage of the human genome
24 would I need to sequence for it to be considered
25 whole genome sequencing? 11:19:05

1 MR. LUMAN: Outside the scope. Incomplete
2 hypothetical. Calls for expert testimony.

3 THE WITNESS: I think that's varied over
4 time. But I think perhaps 95 percent.

5 BY MR. NAINI: 11:19:16

6 Q. Okay. Let's -- in 2012, what percentage
7 of the genome would one need to sequence for it to
8 be considered whole genome sequencing?

9 MR. LUMAN: Outside the scope. Incomplete
10 hypothetical. Calls for expert testimony. 11:19:29

11 THE WITNESS: Yeah, I'm not a -- I'm not
12 certain I can answer that question. I would
13 anticipate more than 95 percent.

14 BY MR. NAINI:

15 Q. And how has it -- the answer varied over 11:19:46
16 time?

17 MR. LUMAN: Same objections.

18 THE WITNESS: It's got [verbatim] steadily
19 better.

20 BY MR. NAINI: 11:19:57

21 Q. So your answer of "perhaps 95 percent,"
22 that -- that was for the 2012 timeframe?

23 A. Correct.

24 MR. LUMAN: Same objections.

25 BY MR. NAINI: 11:20:05

1 Q. What's your basis for saying approximately
2 95 percent?

3 A. You mean, 95 percent when, or...

4 Q. In 2012.

5 A. My recollection of -- of how much was not 11:20:34
6 sequenced very well and that in order to -- to be
7 called a whole genome, you had to be at least
8 95 percent.

9 Q. Dr. MacQuitty, you referenced and cited
10 certain Personalis documents in your declaration; 11:21:02
11 right? There's a list of them on the exhibit list
12 right after the table of contents.

13 Do you see those?

14 A. I do.

15 Q. Okay. And -- and you -- and you cite and 11:21:16
16 discuss those documents in various ways in your --
17 in your declaration, and we've been discussing that
18 today.

19 Now, my question is, again, just -- just
20 to be sure, you did not obtain any of the exhibits 11:21:27
21 that you cite in your declaration from your personal
22 files; right?

23 A. Correct.

24 [REDACTED]
25 [REDACTED]

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[REDACTED]

[REDACTED]

Q. So you don't have any meeting minutes?

A. I do not.

Q. You don't have any CEO overview

11:21:50

presentations?

A. I do not.

Q. You don't have any documents that

specifically concern the Accuracy Program?

A. I do not.

11:22:00

Q. Do you -- during the board meetings that

you reference in your declaration, do you recall

whether anyone took notes?

A. I believe the -- the lawyer present

would -- would take -- would take notes.

11:22:19

Q. Do you recall if anyone other than the

lawyer present took notes?

A. John West.

Q. Anyone else?

A. Not that I recall.

11:22:29

Q. Do you know where those notes might be

now?

A. I do not.

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

Q. Do you know whether John West has copies
of his notes from Personalis board of directors
meetings?

11:23:03

A. I do not.

Q. Do you know if John West has any
Personalis documents concerning the Accuracy
Program?

A. I do not.

11:23:15

Q. Do you know if Personalis had a policy at
the time when John West left the company for -- that
would have required him to return any Personalis
documents that were in his possession?

A. I don't know the answer to that question.

11:23:30

MR. NAINI: I don't have any further
questions. Thank you for your time, Dr. MacQuitty.

MR. LUMAN: So we may have some redirect.
Why don't we take 15 minutes, and we'll come back.

(Short recess taken.)

11:23:48

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EXAMINATION

BY MR. LUMAN:

Q. Dr. MacQuitty, I have a few questions for
you.

Was your last Personalis board of
directors meeting in April of 2022?

11:45:28

A. It was.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. Were you at the Personalis board of
directors meeting that took place in May of 2022?

A. I was not.

Q. And why not?

11:46:35

1 A. I had left the board at that point in
2 time.

3 Q. Earlier today, do you remember being asked
4 questions about Exhibit 2112?

5 A. I do. 11:46:48

6 Q. And do you have a copy of that available?

7 A. I do.

8 Q. Would you please turn with me to Slide 5?

9 A. Is this Slide 5?

10 Is this the slide? Okay. 11:47:04

11 Q. Are there things about the Accuracy
12 Program that are shown on Slide 5 that you recall as
13 being part of the Accuracy Program in May of 2012?

14 MR. NAINI: Objection.

15 THE WITNESS: As I indicated in my prior 11:47:30
16 testimony, the Accuracy Program was very important
17 to Personalis, and I was aware of that program. And
18 so, some of the things on this slide were -- were, I
19 know, part of that program.

20 BY MR. LUMAN: 11:47:46

21 Q. Do you recall some of the algorithms
22 discussed on Slide 5 as being part of the Accuracy
23 Program in May of 2012?

24 MR. NAINI: Objection. Leading.

25 THE WITNESS: Well -- well, let me go 11:48:01

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1 through the things on the slide that I remember as
2 being part of the Accuracy Program.

3 So advances in -- in algorithms and
4 aligners, both third party and -- and Personalis'
5 own algorithms. 11:48:22

6 The ways to deal with indels and
7 structural variance. The importance of phasing.

8 John West had his sequence done with his
9 family and had used phasing. John felt that phasing
10 was an important element in trying to improve the 11:48:46
11 accuracy and -- and coverage. So there are several
12 things on this slide that I remember as being part
13 of the Accuracy Program.

14 BY MR. LUMAN:

15 Q. Is there anything on Slide 5 that is 11:49:01
16 inconsistent with your recollection of the Accuracy
17 Program in May of 2012?

18 A. As I said, there are things on this slide
19 that I remember being part of the Accuracy Program.

20 MR. LUMAN: No further questions. 11:49:25

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FURTHER EXAMINATION

BY MR. NAINI:

Q. Dr. MacQuitty, before we took a break, the last break, right before your redirect, did you discuss the substance of your testimony during any of the breaks with Counsel? 11:49:39

A. I had some discussion about this slide with Counsel.

Q. Right. No. Prior to our last break -- 11:49:52

A. No.

Q. -- did you have any discussions --

A. No.

Q. -- about the testimony, when I was asking the questions? 11:49:58

A. No.

Q. And -- but -- now, at the last break, did you discuss the substance of what you would testify to during your redirect with your counsel?

A. Yes. 11:50:07

Q. Do you know if Mr. Luman is your attorney for purposes of this deposition?

A. I believe he is.

Q. And is Mr. Luman or Mr. Moore representing you separate from your declaration or this 11:50:34

1 deposition?

2 A. No.

3 Q. Do you know if either Mr. Luman or
4 Mr. Moore are representing Lightspeed in any
5 capacity?

11:50:48

6 A. I don't believe they are.

7 Q. So the counsel that you spoke to who
8 represented Lightspeed was -- was someone else;
9 right?

10 A. Correct.

11:50:59

11 MR. NAINI: No further questions.

12 (Proceedings concluded, 11:52 a.m.,

13 December 1, 2023.)
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JURAT

I, JONATHAN MACQUITTY, do hereby certify under penalty of perjury that I have read the foregoing transcript of my deposition taken on Friday, December 1, 2023; that I have made such corrections as appear noted herein in ink, initialed by me; that my testimony as contained herein, as corrected, is true and correct.

Dated this _____ day of _____, 20____,
at _____.

JONATHAN MACQUITTY

CERTIFICATE OF REPORTER

I, Hanna Kim, a Certified Shorthand Reporter, do hereby certify:

That prior to being examined, the witness in the foregoing proceedings was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said proceedings were taken before me at the time and place therein set forth and were taken down by me in shorthand and thereafter transcribed into typewriting under my direction and supervision;

I further certify that I am neither counsel for, nor related to, any party to said proceedings, not in anywise interested in the outcome thereof.

Further, that if the foregoing pertains to the original transcript of a deposition in a federal case, before completion of the proceedings, review of the transcript [x] was [] was not requested.

In witness whereof, I have hereunto subscribed my name: December 15, 2023.



Hanna Kim, CLR, CSR No. 13083

1 NATHANAEL LUMAN, PH.D. ESQ.

2 nate.luman@knobbe.com

3 DECEMBER 15, 2023

4 RE: FORESIGHT DIAGNOSTICS vs. PERSONALIS

5 DECEMBER 1, 2023, JONATHAN MACQUITTY, PH.D., JOB NO. 6319888

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext
10 to schedule a time to review the original transcript at
11 a Veritext office.

12 ___ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF
13 Transcript - The witness should review the transcript and
14 make any necessary corrections on the errata pages included
15 below, notating the page and line number of the corrections.
16 The witness should then sign and date the errata and penalty
17 of perjury pages and return the completed pages to all
18 appearing counsel within the period of time determined at
19 the deposition or provided by the Code of Civil Procedure.

20 ___ Waiving the CA Code of Civil Procedure per Stipulation of
21 Counsel - Original transcript to be released for signature
22 as determined at the deposition.

23 ___ Signature Waived - Reading & Signature was waived at the
24 time of the deposition.

25

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1 _X_Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF

2 Transcript - The witness should review the transcript and
3 make any necessary corrections on the errata pages included
4 below, notating the page and line number of the corrections.
5 The witness should then sign and date the errata and penalty
6 of perjury pages and return the completed pages to all
7 appearing counsel within the period of time determined at
8 the deposition or provided by the Federal Rules.

9 ___ Federal R&S Not Requested - Reading & Signature was not
10 requested before the completion of the deposition.

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1 FORESIGHT DIAGNOSTICS vs. PERSONALIS
2 JONATHAN MACQUITTY, PH.D., JOB NO. 6319888
3 E R R A T A S H E E T
4 PAGE_____ LINE_____ CHANGE_____
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[4 - answer]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted

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