UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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HUNTER'S MANUFACTURING COMPANY, INC. d/b/a TENPOINT CROSSBOW TECHNOLOGIES, Petitioner,	)	IPR2023-00407
vs.	)	
RAVIN CROSSBOWS, LLC, Patent Owner.	)	U.S. Patent No. 9,354,015
	)	Volume I

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Videotaped deposition of STEPHEN A. BATZER, Ph.D, P.E., a witness herein, called by the Patent Owner for Cross-Examination pursuant to 37 CFR Section 42.53, taken before me, the undersigned, Binnie Denise Purser, a Registered Diplomate Reporter, Certified Realtime Reporter and Notary Public in and for the State of Ohio, pursuant to Notice and agreement of counsel at the law offices of Roetzel & Andress, 222 South Main Street, Suite 400, Akron, Ohio, on Thursday, the 24th day of August, 2023, commencing at 9:04 o'clock a.m.

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I N D E X

CROSS-EXAMINATION BY MS. JELENCHICK 5

Patent Owner Exhibit 2021 8
Patent Owner Exhibit 2022 78
Patent Owner Exhibit 2023 118
Patent Owner Exhibit 2024 224

- - -

P R O C E E D I N G S

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THE VIDEOGRAPHER: We are on the record. This is media number 1 in the deposition of Stephen Batzer, Ph.D., in the case of Hunter's Manufacturing Company, Inc., versus Ravin Crossbows, LLC, Case Number IPR2023-00407.

Today's date is August 24th. The time is approximately 9:04 a.m.

My name is Jim Torok. I am the videographer.

If counsel will please state their appearance for the record.

MS. JELENCHICK: Kadie Jelenchick of Foley & Lardner LLP. Here with me is my colleague, Sarah Rieger, and also as a representative of Ravin, the Patent Owner, Barry Sutton.

MR. SKERIOTIS: This is John -- and I am John Skeriotis, on behalf of the Petitioner, Hunter's Manufacturing Company, Inc., representing Hunter's, as well as Dr. Batzer here today.

THE VIDEOGRAPHER: Please swear the witness.

STEPHEN A. BATZER, Ph.D, P.E.,
of lawful age, a witness herein, having been first duly sworn, as hereinafter certified, deposed and said as follows:

CROSS-EXAMINATION

BY MS. JELENCHICK:

Q. Mr. Batzer, Dr. Batzer, which is your preference?

A. Well, Dr. Batzer, because I went to school for so long. But whatever you are more comfortable with.

Q. Good morning. As I just said before we started, I introduced myself, I am Kadie Jelenchick, and I represent the Patent Owner, Ravin Crossbows, LLC, in this matter.

If I refer to the Patent Owner as Ravin, do you understand what I am talking about?

A. Yes, ma'am.

Q. And will you similarly refer to Patent Owner or Ravin when you are speaking of Ravin Crossbows, LLC?

A. Yes.

Q. Do you have a concealed firearm with you today?

A. I do not.

Q. I understand you have been deposed before. Is my understanding correct?

A. Yes.

Q. When was your last deposition?

A. I don't have my testimony history in front of me. I think it was within the last two weeks.

Q. What kind of case?

A. I don't recall. I am sorry. I am focused on this case.

Q. Have you ever provided testimony in an inter partes review proceeding before today?

A. Yes.

Q. Do you recall when that was?

A. I believe I testified in Helena, Montana, in the Trebro Manufacturing case. And if that is on my testimony history, that would give the date. If not, it was before -- it was more than four years ago.

Q. Were you offering testimony on behalf of the Petitioner or the Patent Owner in this particular proceeding?

A. Actually, if I can revise my previous response. That was not an IPR. That was simply

whether there was infringement or not. So I think the answer to that previous question is no.

Q. So before today, you have not sat for a deposition in connection with an IPR proceeding?

A. I believe that's correct.

Q. About how many times have you been deposed?

A. I believe more than 300.

Q. Of those more than 300 times, what percentage related to testimony in connection with a patent dispute?

And I should say, in front of you is a copy of the petition for IPR that TenPoint has filed, including the associated exhibits, for your reference.

A. Thank you.

Q. Should you need it.

A. Yes. I brought with me some of my credentials, anticipating your questions.

Q. May I take a look at that?

A. Oh, sure.

Q. Is this the only --

A. I only have one copy, though.

(Handing.)

Q. Let's go off the record.

THE VIDEOGRAPHER: We are off the record at 9:09.

(Thereupon, a discussion was held off the record.)

(Thereupon, Patent Owner Exhibit 2021 to the S.A. Batzer, Ph.D., P.E., deposition was marked for purposes of identification.)

THE VIDEOGRAPHER: We are back on the record, 9:14.

BY MS. JELENCHICK:

Q. During the break, I went ahead and duplicated a copy of the notes that you brought with you today. And we marked as Patent Owner Exhibit 2021, a copy of those notes and they are sitting in front of you.

A. Yes.

Q. How did you decide what to include in your notes for today?

A. I looked over my curriculum vitae and my testimony history of past cases, and if there was something I thought reasonably had relevance to patent analysis or archery, I included it.

Q. Any other criterion for inclusion into

your notes?

A. I don't think so.

Q. Before the break, you had indicated that you had offered deposition testimony in more than 300 matters. Is that correct?

A. I think that's correct.

Q. I had asked you how many of those depositions related to patent disputes.

In review of Exhibit 2021, does that refresh your recollection?

A. Yes. So in paragraph 9, there are my patent cases, and I have given, as I recall, testimony in Evolusion versus Juggernaut, I believe Kore Essentials versus Nexbelt, Novatek versus Sollami. The Schmeisser case I have given a report. I don't recall if I have testified or not. Trebro versus Firefly, I was deposed. And TTC Performance Products, I may have been deposed, but I am not certain.

So that would be, I believe, the envelope of my patent cases.

Q. Paragraph 9 identifies consulting cases for mechanical device patents; is that correct?

A. Yes.

Q. Do you have any patent consulting cases

outside of the mechanical arts space?

A. No.

Q. The cases that are listed in paragraph 9, are these only the consulting cases that you have been involved in for the past four years?

A. No, this is the complete list, as far as I can recall, from my records.

Q. Are any of these matters still active?

A. Schmeisser versus AC-Unity is. I didn't include the instant case in this. I believe that is it.

Q. In the Avenue versus Mishan -- excuse me?

A. Mishan.

Q. In the Avenue versus Mishan case, which party did you offer testimony on behalf of?

A. I didn't testify, I simply consulted. So I did not go forward with that case, after having reviewed the claims of the patent holder and the putatively infringing product, and I indicated to the patent holder that the putatively infringing product, in fact, did not infringe on the asserted claims.

Q. Was Avenue the patent holder?

A. I believe so.

Q. Were you paid for your time in connection with your consulting work on behalf of the patent holder?

A. Yes.

Q. In the Evolusion versus Juggernaut matter, I believe you indicated that you did offer testimony in that matter.

Was that deposition testimony or trial testimony or both?

A. Simply deposition testimony.

Q. Which party did you offer deposition testimony on behalf of?

A. Evolusion.

Q. Is Evolusion the patent holder?

A. Yes.

Q. What were the general basis of your opinions?

A. The claims. That Juggernaut infringed the claims of the patent of interest.

Q. How about with respect to the Kore Essentials versus Nexbelt matter, you indicated you offered testimony in that case.

A. I believe I did, yes, and I believe that the Nexbelt -- but I am not certain whether I gave a deposition on this or not. I believe I

wrote a report and that that case settled prior to testimony.

Q. On which party were you working in Kore Essentials versus Nexbelt, Nexbelt?

A. No, Kore Essentials, the patent holder.

Q. What were the general bases of the opinions you offered?

A. Just the claims, the claims say, what is the putatively infringing product, what does it do.

Q. In the Kyntec versus ITT Enidine matter, for which party did you work?

A. ITT Enidine.

Q. What was the nature of your consulting in that matter?

A. That was a firearms case for a hydraulic buffer for a semi-automatic rifle. As I recall, I wrote a report, but was not deposed in that case. In that case, there was a sale of intellectual property, and then there was an allegation of infringement of some sort.

That is far enough in the past that I don't recall the details on that.

Q. Were you offering opinions that your client did not infringe the pertinent patent?

A. I am sorry, I don't recall.

Q. Do you recall whether you offered any opinions regarding the validity or invalidity of any patents in that matter?

A. And I am sorry, I just can't recall.

Q. The Novatek versus Sollami case, what was the nature of your consulting relationship?

A. Mr. Sollami is an owner of a business in Illinois, where he makes road milling bits. And in that case, the attachment of the bit to the drum that grinds the road was at issue, where Novatek slavishly copied his invention, with the only difference of using a diamond bit rather than a carbide bit.

And so that was an assertion of infringement by Novatek with regard to the Sollami patents, saying that using the doctrine of equivalents, it is still a road milling bit if you use a diamond and form as the cutting tool rather than a piece of carbide.

Q. Who was your client in that matter?

A. An attorney whose name I don't recall.

Q. For which party were you offering opinions?

A. Sollami.

Q. And again, those were opinions relating to potential infringement?

A. Yes, ma'am.

Q. In the Schmeisser versus AC-Unity and RTG Parts case, what was the nature of the opinions that you offered?

A. That was regarding the validity of the patent, based upon the prior art, such that Schmeisser has a quad stack magazine patent for a semi-automatic rifle. AC-Unity produces quad stack magazines for semi-automatic rifles. Schmeisser indicates that AC-Unity says it is an invalid patent.

And I have written a report, and as I recall, I have been deposed.

Q. For which client did you offer your opinions?

A. AC-Unity.

Q. Generally speaking, in offering your opinions challenging the validity of the asserted patent, what particular invalidity challenges did you raise?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: As I recall, most

quad stack magazines start from a dual feed at the lips, which go -- which are situated adjacent to the chamber. They move in an axial, typically downward direction. As a dual stack, there is a transition region and then there is a quad stack region with two pairs of dual stack ammunition.

The patent first, for Schmeisser, first issued in Germany, it was copied verbatim into English and issued.

And my task was to examine that in light of previous magazines, such as are used -- were used with the Sollami submachine gun in Finland, the Spectre submachine gun and another magazine in the United States, and we could show that by obviousness, that this claim should not have issued, and ironically, they didn't infringe the patent either.

BY MS. JELENCHICK:

Q. Did you offer opinions on noninfringement on behalf of AC-Unity?

A. No.

Q. Other than obviousness, did you challenge the validity of the asserted patent in any other way?

A. I don't believe so. I don't think we made an anticipation claim. It may have been. I didn't review that prior to this deposition.

Q. Was AC-Unity successful in invalidating the asserted patent?

A. I haven't spoken to my clients in probably a year.

My understanding is that due to Supreme Court legal matters, the case has gone somewhat cold.

Q. Did AC-Unity file an IPR, or other post-grant review proceedings, challenging the patentability of the asserted patent?

A. Yes, ma'am.

Q. Were you involved in those IPR proceedings?

A. Yes.

Q. So when I asked you earlier today if you have testified in any prior IPR proceedings, you indicated that you had not.

Did you offer a declaration in support of any IPR proceedings on behalf of AC-Unity?

A. I believe I did. I did. I wrote a report in that case. I believe I testified in a deposition.

Q. So other than the instant case and the AC-Unity IPR, are there any other IPRs that you have been involved in?

A. No. I think this listing is comprehensive. If it is not in there, I don't think I have done it.

Q. In the Trebro versus Firefly matter in paragraph 9 of Exhibit 2021, for which party were you consulting?

A. Trebro.

Q. What was the nature of the work that you did for Trebro?

A. They are -- it is a patent dispute in which Firefly makes sod harvesters, as does Trebro.

And the allegation was that Firefly infringed on Trebro patents.

Q. Is it fair to say you offered opinions alleging or substantiating Firefly's alleged infringement?

A. Yes, ma'am.

Q. Did you offer any rebuttal report supporting the validity of the asserted patent or patents?

A. I don't believe -- not that I recall.

I think I issued an infringement report. I remember being deposed in that case once, or giving testimony in court. I may have done both. Gosh. That was a few years ago.

But I may have done other work as well.

Q. In any of the other cases that we have talked about where you offered infringement opinions, did you similarly offer rebuttal opinions supporting the validity of the Avenue patent or the Evolusion patent or the Kore Essentials patent?

A. I don't believe so.

Q. How about TTC Performance Products versus Mossberg, what was the nature of your consulting relationship?

A. Mossberg contacted me because they make pump-action shotguns that will accept a detachable box magazine. There is a patent on that by TTC Performance, which used to supply them to Mossberg. Mossberg decided, as companies do, that rather than pay an outside supplier, they would design and manufacture and sell them themselves.

So TTC Performance sued, indicating "We have a patent on that type of receiver."

Mossberg replied, "Yes, you do. However, this -- your patent covers an aftermarket receiver used to modify an existing firearm, not for primary manufacture. Our receivers are primary manufacturer, so we don't meet one of the limitations of your patent and we don't infringe."

Q. Is it fair to say you offered non-infringement opinions on behalf of Mossberg?

A. Yes, ma'am.

Q. Did you offer any opinions challenging the validity of the asserted patent on behalf of Mossberg?

A. No. No, that was just assumed.

Q. If paragraph 9 is the sum total of the patent-related consulting cases, based on the numbers, it is less than 5 percent of the cases in which you have offered deposition, what is the nature of the other 95 percent of the cases in which you have been deposed?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: I am a forensic engineer, so most of my work is forensic engineering, looking at incidents and

determining what occurred.
BY MS. JELENCHICK:
Q. What is a forensic engineer?
A. A forensic engineer is a -- typically a degreed engineer who has an area of expertise and applies that expertise to disputes regarding a variety of inquiries, sequence of events or quality of a product, and it is almost exclusively for the legal domain.
Q. What do you consider your area of expertise in forensic engineering?
A. I am a degree in mechanical engineer. I also have expertise in material science. I do intellectual property and patent work. I do a limited amount of accident reconstruction when my clients ask me to do it. I also do firearms work and archery.
Q. The accident reconstruction work you do, what kind of accidents are you focused on, if any, in particular?
A. Motor vehicle accidents.
Q. When you say you do firearms work, what do you mean by that?
A. My typical case for a firearm is one which is inadvertently discharged or has

self-destructed.

But I have also done shooting scenery construction.

I also have a current case where I am opining as to the forensic validity -- or of the validity of testimony by a lab technician saying that a casing matches a firearm.

Q. You said you do intellectual property and patent work. Is that referring to the consulting engagements described in paragraph 9 of Exhibit 2021, or something else?

A. Mostly. If I just simply talk about intellectual property, there is at least one other case I would add to this.

Q. Tell me about that case. What kind of case is it?

A. That was Adcor Defense versus Beretta. That was a state case in Baltimore, Maryland, in which Beretta entered into a manufacturing and design arrangement with Adcor Defense in order to take an existing AR-15-like rifle, the B.E.A.R. rifle, and make it somewhat tuned to Beretta's particular wants and then to jointly produce it.

So Adcor would make some of the

components, Beretta would make some of the components, and it would have the Beretta name on it, which is an existing valuable brand.

Once the rifle was developed, Beretta said, "We will source it all out with someone else. Thank you for your time."

And so Adcor sued for breach of contract, which was not a written contract, but nonetheless, was the -- their assertion was that they had an agreement that they would produce parts for Beretta.

Q. Are there any other matters that you would include in your description of doing IP work and patents?

A. There may be. I don't have my testimony history in front of me, unless it is in this binder.

Q. Did you provide your testimony history in connection with this IPR proceeding?

A. I don't recall. Well, I haven't given anything. I have given only work with my client. So if it is not in there, it is not in there.

Q. I will direct you to Exhibit 1016.

A. 1015?

Q. Sixteen.
A. Okay. Yes.
Q. Do you recognize this document?
A. Yes.
Q. This is the declaration that you submitted under your name in this IPR proceeding; is that correct?
A. Yes, ma'am.
Q. Go ahead and turn to page 96.
A. Yes.
Q. Is that your signature at the bottom of page 96?
A. Yes.
Q. Is your testimony history included anywhere within Exhibit 1016?
A. I don't believe so.
Q. I will direct you to Exhibit 1020.
A. Yes.
Q. Do you recognize this document?
A. Yes.
Q. Is this your CV?
A. Yes. It is not quite up to date, but it is my CV as of April 7th, 2022.
Q. So you have an updated CV?
A. Yes, ma'am.

Q. When did you last update it?

A. Within the last two months. I got another paper that was accepted for public -- that was published.

Q. Are there any other additions that you want to tell us about today?

A. Since that date, I believe it was in May or June, I gave a presentation to Michigan Licensed Professional Engineers regarding interior ballistics, and so that would appear on page 10 at the top of the list, at the Public Presentations and Short Courses. That is not in here either.

I believe those are the only two additions to this, and there have been no deletions.

Q. You referenced that there was a new publication that is not included within your CV. What was the general subject matter of that publication?

A. Yes, ma'am. It was a forensic engineering analysis of a CNC lathe window guard failure.

Q. So that publication doesn't have anything to do with the archery field, does it?

A. It doesn't read directly on, no.

Q. Is your testimony list included somewhere within Exhibit 1020?

A. No, it is not.

Q. You may feel free to review the materials that I have put in front of you to refresh your recollection as to whether your testimony list has been provided. Based on our review, it has not. If you would like to review those materials, feel free.

A. It is not in 1020, that is for sure.

THE REPORTER: I am sorry?

THE WITNESS: It is not in 1020, that is for sure. I am not trying to hide this from you, but it wasn't produced. So during a break, we can get it if you would like.

BY MS. JELENCHICK:

Q. Who drafted your expert declaration?

MR. SKERIOTIS: Objection, relevance. There is a case directly on point as to that issue in the PTAB. Feel free to ask your question.

MS. JELENCHICK: What is the case?

MR. SKERIOTIS: The case is -- let me pull it up. I just had it. I am sorry.

MS. JELENCHICK: I withdraw that question.

BY MS. JELENCHICK:

Q. Are you willing to tell me who drafted your declaration?

A. Unless my client directs me not to answer it, sure.

MR. SKERIOTIS: Objection. I am still making an objection.

The case is Pevarello, P-e-v-a-r-e-l-l-o, versus Lan, L-a-n. The application number was 10\429764.

You can answer. It is irrelevant, but you can answer.

THE WITNESS: If you would like me to answer, I will.

Yes. The law firm which has retained me did the first draft, so they did the lion's share of the work. However, I was involved with that. After I got the first draft, I then reviewed it. I made stylistic things, at least two, as I recall, substantive changes where I had disagreements, and they reviewed that and it was done, ready for signing.

BY MS. JELENCHICK:

Q. When did you first see a copy of the draft of your declaration?

MR. SKERIOTIS: Objection. Same continuing objection to anything regarding preparation of the declaration of Dr. Batzer.

THE WITNESS: I do not recall.

BY MS. JELENCHICK:

Q. Do you recall when you were engaged for this matter?

A. Actually, I do not.

Q. You don't know when TenPoint engaged you for this engagement?

A. I probably have a record of it somewhere. However, I don't recall as I sit here.

Q. How many drafts of your declaration did you review?

A. I think two. I think they sent an initial draft, I made my changes, they looked at it. If I made ten changes, they pushed back on two of them, saying, and I agreed to that, and we are done.

Q. You indicated that you made some stylistic changes --

A. Yes.

Q. -- after your review of the first draft. Can you describe for me those stylistic changes?

A. I wanted to make sure that the document sounds as if I were writing it. And so there are words that I use and don't use, for one thing.

But I would make changes and to make something for descriptive, in my opinion. If there was a disagreement -- you know, so those are stylistic changes that are not going to be persuasive to the Board one way or the other.

Q. Is envisage your word or TenPoint's word?

MR. SKERIOTIS: Objection. Now we are starting to get into content. That is work product and I am going to instruct you not to answer.

BY MS. JELENCHICK:

Q. You identified at least two substantive changes that you made in the first draft of your declaration. Do you recall what those substantive changes were?

A. No, ma'am, I do not.

Q. From your review of the first draft until you signed your declaration, which is dated December 20th of 2022, do you recall how much time elapsed?

A. An estimate would be a week. It was not a rush. It wasn't sent to me, "Read this. We have to get it out tomorrow." There was -- there was no time constraint on it. And so I worked it into my schedule, I read it and sent it back.

Q. So just so we are clear, I understand the timeline. You received a first draft in or around the week of December 12th of 2022, you provided some proposed redlines, and the second draft was sent back to you, which you ultimately executed on December 20th; is that correct in your view?

MR. SKERIOTIS: Objection.

THE WITNESS: If that is what the dates work out to be, that is reasonable. But I don't have an active recollection of when that was done.

BY MS. JELENCHICK:

Q. Approximately how much time did you put into your review and proposed revision of your

declaration?

What do you have there, Dr. Batzer?

A. I have my own copy of the declaration.

Q. Is it annotated in any way?

A. Not at all. But it is in color. Sometimes I am given exhibits that are black and white. I don't like that.

In any event, this is very long. I spent more than a day, certainly more than a day, probably more than two days reading it, thinking about it, rereading it, going through all of the -- going through all of the cited references. I can imagine that I looked in the dictionary or other engineering treatises to make sure that I had a common understanding.

So if I had to estimate, as I sit here, two to three days was spent on it. It was a significant amount of time.

Q. Do you keep billing records for the work that you do in your consulting engagements?

A. Yes.

Q. Did you keep a billing record associated with your work in connection with the preparation of your declaration?

A. Yes.

Q. Have you issued an invoice?

A. I have, yes, ma'am.

Q. What was the date of that invoice?

A. I didn't print out my invoices and bring them with me, so I couldn't tell you as I sit here.

Q. How many invoices have you created and issued in connection with this consulting engagement?

A. As I recall, I sent an initial engagement -- or a terms of engagement. Frequently, for my forensic work, I ask for a retainer amount, 5 or $10,000. I don't believe I did it in this case, because I don't think I have ever received that in a patent case.

So I believe that as there are milestones in the case, I billed. So once with the declaration and one with the supplemental declaration, so that would be two.

And I do not know what the magnitude of either bill was.

Q. Who do you consider your client in connection with this instant consulting work?

A. John Skeriotis.

Q. Is that who all of your communications

have been with on this matter?

A. Nearly. His firm. Only with his firm. I have not spoken to anyone at Hunter's Manufacturing.

Q. Have you ever met any of the Bednar family?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: No, ma'am.

BY MS. JELENCHICK:

Q. Have you received payment for any of the consulting work you have done on the instant case from Mr. Skeriotis?

A. Yes, ma'am. Both of my invoices have been paid.

Q. And as you sit here, you don't know how much you have been paid in connection for your work on this matter?

A. I have a rough idea, but I don't have an exact idea.

Q. What is the rough idea of how much you have been paid?

A. I believe on the order of $20,000. But if I had to estimate it, it would be somewhat less than that.

Q. What is your hourly rate for this consulting work?

A. $380 an hour for substantive work. And I have a lesser rate for travel.

Q. Did you bill for your travel here today?

A. Not yet.

Q. Will you bill for your travel here today?

A. Yes.

Q. At what hourly rate?

A. I don't recall what it is. It is approximately half.

Q. Do you have a different rate for providing oral testimony?

A. I do not. So substantive work means reading, consulting, writing, all of those things, which require intellectual effort at one rate. But if I am traveling, that is of lesser benefit to the client and I just charge a lesser rate.

Q. So you don't know approximately how much time you worked on this matter thus far, other than that you received approximately $20,000 for your work; is that correct?

A. I don't have the magnitude of the time. I think I put an adequate amount of time into it. I feel that I have spent the time to understand the issues.

Q. Did you wish you could have spent more time in preparing your declaration?

A. No. It is my goal as a businessman to spend the appropriate amount of time on each case. If I spend too much time, I am wasting my client's money. If I don't spend enough time, they are not getting a prepared deponent.

Q. Did Mr. Skeriotis tell you how much time to spend on this matter?

MR. SKERIOTIS: Objection, attorney-client privilege. Instruct you not to answer.

Come on, Kadie, you know better than that. That is almost a Rule 11.

MS. JELENCHICK: I disagree with that.

MR. SKERIOTIS: You are asking him what his lawyer told him? Come on.

MS. JELENCHICK: I am entitled to probe the amount of --

MR. SKERIOTIS: I will tell you, we

are not waiving attorney-client privilege. Any further question regarding what his attorney told him, I will view as a Rule 11 sanction. So I am telling you today, as we sit here, we are not waiving attorney-client privilege. Any discussions I had with him are protected and we will object. And again, if you ask questions related to that, I believe it is a rule that is sanctionable.

MS. JELENCHICK: Okay. I will look forward to your Rule 11 safe harbor letter then. Moving on.

MR. SKERIOTIS: Just don't ask questions.

BY MS. JELENCHICK:

Q. Is the approximate $20,000 that has been invoiced include any preparation time for today's deposition?

A. No, ma'am. That is through the second declaration.

Q. Approximately how much of that $20,000 relates to fees associated with the preparation of the referred to second declaration?

A. Less. I don't know. Less than half.

Q. You indicated your rate is $380 per

hour. Is that the same rate that you were charging in connection for the work that you provided in those cases that were identified in paragraph 9 of Exhibit 2021?

A. No, not -- no.

Q. Is the $380 per hour rate higher or lower than the rates that you were charging in the cases that were identified in paragraph 9 of Exhibit 2021?

A. It varies. Some of those were $350 an hour, some were at $500 an hour.

Q. Is it fair to say that your rate is negotiable?

A. Not -- it is not completely flexible, but I do have some flexibility on billing, sure.

Q. Do you bill at the same hourly rate for your forensic engineering consulting work as you do for your intellectual property-related consulting work?

A. Typically, I do. Not always.

Q. I am sorry.

A. I am sorry. There was a long conversational pause there.

Yes, typically, but not always.

Q. Okay. How about with respect to your

accident reconstruction work, how does the rate for your consulting work on accident reconstruction relate to the $380 per hour you are charging in this case?

A. Yeah, typically that is $500 per hour, with $250 an hour for travel.

Q. Did you review your declaration for completeness before you signed it on December 20th, 2022?

A. I am not sure what you mean.

Q. When you signed your declaration on December 20th, did you consider your opinions to be complete?

A. Yes.

Q. When you signed your declaration on December 20th of 2022, did you consider your opinions to be accurate?

A. Yes.

Q. Since that time, are you aware of any errors in your declaration?

A. No. I do -- have reviewed them. I did find one spelling error. But I don't recall what that is. It is hard to write 150-odd pages and not have some clunker in there.

Q. So the only error that you have since

identified is a spelling error?

A. Right. And I didn't highlight that because I didn't want to touch the document.

Q. If you turn to your declaration, which is Exhibit 1016, we can use the one in the notebook or we can use the one that you brought.

A. Let's use the one that I brought.

My declaration of December 20th, yes.

Q. I will direct you to paragraph 3.

A. Paragraph 3?

Q. Which is on page 5.

A. Right. Ready.

Q. Paragraph 3 states, "I have been asked to provide my opinion whether claim 1 of the '015 Patent is unpatentable as being anticipated by, or obvious in light of, the prior art to a person of ordinary skill in the art ('POSA') before the effective filing date of the '015 Patent (December 16, 2013, 'Effective Filing Date')."

Did I state that accurately?

A. Yes, ma'am, that was accurate.

Q. When was the first time you reviewed the '015 patent?

A. I believe the first time I reviewed

that patent, in fact I am sure of it, would be in 2017.

Q. Describe for me the circumstances of that initial review.

A. In 2017, I was hired by Attorney Dan Schmeeckle to -- for the Aaron Cordy versus Ravin case, which is set in Wisconsin. And so in order to better understand the technology of the subject bow, which I believe was an R15 -- yes, which it was -- I downloaded at least that patent and I read it.

Q. You referenced the Aaron Cordy versus Ravin case. How do you spell Aaron Cordy, if you know?

A. A-a-r-o-n C-o-r-d-y.

So, and that is in paragraph 8, Ravin inadvertent discharge cases, on the second page, Roman numeral iv.

Q. Aaron is the gentlemen's first name, Cordy is his last name?

A. Yes, ma'am. Right, Aaron, male, as I recall.

Q. Got it. So Romanette iv of paragraph 8 of Exhibit 10 -- excuse me, Exhibit 2021 is the case that you are referring to?

A. Yes, ma'am.

Q. Is the R15 bow a reverse draw crossbow?

A. That is my recollection.

And I would like to expand on that. Some people think of a reverse draw crossbow as ones which have the limbs going forward such that the cams are nearest the down range end of the crossbow.

In this patent and in others, that means that the bowstring, when in the brace condition, is close to the down range end rather than close to the trigger, the up range end, regardless of the orientation of the limbs.

So the layout of the R9 and R15 crossbows are both conventional, with the limb roots nearest the down range end of the center portion. However, the bowstring is not located near the buttstock, but when it rests is nearest, as it can be on the cams, the down range -- the down range end.

Q. So you say some people think of a reverse draw crossbow, of the ones the limb going forward, such that the cams are at the down range end of the crossbow.

Who are those some people?

A. American citizens.

Q. Is there a standard definition of what constitutes a reverse draw crossbow?

A. I think so.

Q. What is the, quote, "standard definition"?

A. The one that I articulated, where the bowstring is closer to the down range ends when it is mounted on the cams at rest.

Q. Okay. So since 2017 and the Cordy versus Ravin dispute that you referenced, when is the next time you had an occasion to review the '015 patent?

A. I reviewed it multiple times prior to my engagement with this case.

But as far as what those dates were, I couldn't tell you that. I don't recall.

Q. Prior to agreeing to be engaged to offer opinions for Mr. Skeriotis in this matter, you reviewed the '015 patent; is that correct?

A. Yes.

MR. SKERIOTIS: Objection.

Can you read that back for me? I am sorry.

(Thereupon, the Reporter read the

record as requested.)
MR. SKERIOTIS: One more time, right before me. Prior to what, being engaged?
(Thereupon, the Reporter read the record as requested.)
MR. SKERIOTIS: Objection withdrawn.
THE WITNESS: It is the '015, not '051.
Yes.
BY MS. JELENCHICK:
Q. Prior to agreeing to be engaged to offer opinions for Mr. Skeriotis in this matter, you reviewed the '015 patent; is that correct?
A. I did.
Q. What was the goal, if there was one, in your review, at that time?
A. Simply understanding the technology.
Q. Was there something specific you were looking to understand as it relates to the technology disclosed in the '015 patent?
A. The Cordy case was an inadvertent discharge. So while I was more focused on the trigger mechanism -- which isn't discussed in this patent -- I had downloaded multiple Ravin

patents in order to just get a broad understanding of what Ravin was doing with their technology.

Q. The Ravin inadvertent discharge cases that are identified in paragraph 8 of Exhibit 2021, do all those cases relate to allegations surrounding Ravin's trigger mechanism?

A. Principally. Of course, it is the entire crossbow and the arrow. But it is a characteristic of the interaction between the nock and the TTFS, Trac-Trigger Firing System, which causes the bows to discharge unexpectedly.

Q. In those cases -- in the Ravin inadvertent discharge cases, in each of the instances that are identified, you were offering testimony adverse to Ravin; is that correct?

A. Principally, yes.

Q. What do you mean by "principally"?

A. I am there to answer questions honestly. So if Ravin -- Ravin's attorney asked me a question which is favorable to Ravin and disfavorable to my end client, the injured party, I am still going to answer it honestly.

Q. In any of the cases that are identified in paragraph 8 under the Ravin inadvertent

discharge cases, did you conclude that Ravin was not at fault?

A. Yes, yes and no. Principally, no. But there is one case, Roman numeral xi, Neebe versus Ravin, in which it could not -- there was a fact dispute about whether utterances by Mr. Neebe could be accepted if they were hearsay through a third party.

And so I said in that case that Mr. Neebe's R9 crossbow was defective, but because I wasn't an eyewitness and I didn't have a declaration from him, I could not, as a matter of law, link the two things that the defect was causative of the injury.

Q. How, if at all, did the '015 patent support your work in connection with the Ravin inadvertent discharge cases identified in paragraph 8 of Exhibit 2021?

A. I think that reading this was used as background information only, because it does not describe the technology of the Trac -- Trac -- the TTFS trigger system.

Q. In paragraph 3 of your declaration, you identify that you have been asked to provide an opinion regarding claim 1 of the '015 patent.

Were you asked to offer any opinions on any of the other claims in the '015 patent?

A. I was not.

Q. Do you know why not?

A. Only one was being challenged.

Q. Were you involved in the determination as to which claim or claims to challenge of the '015 patent?

MR. SKERIOTIS: Objection, work product. Instruct you not to answer.

MS. JELENCHICK: That is a yes or no question.

THE WITNESS: I did --

MR. SKERIOTIS: No. I instruct you not to answer. That is not -- it is prefaced with a factual determination. So I instruct you not to answer.

BY MS. JELENCHICK:

Q. You are not going to answer whether you were involved in the determination as to which claims to challenge?

A. I will not answer.

Q. In paragraph 4 of your declaration, you provide a chart that describes certain materials.

What is the point of this particular chart, if there was one?

A. This is cataloging all the evidence which is going to be used in support of the analysis.

Q. Who selected the -- I will use your word -- evidence which was going to be used in support of the analysis?

MR. SKERIOTIS: Objection, work product. I instruct you not to answer.

BY MS. JELENCHICK:

Q. Are you going to follow that instruction?

A. Always.

Q. Earlier this morning, you identified, in connection with your review of the initial draft of your declaration, that you consulted dictionaries and treatises.

Do you recall that testimony?

A. Yes.

Q. There are no dictionaries or treatises listed in paragraph 4. Do you know why that is?

MR. SKERIOTIS: Hang on. I am going to object, again, under attorney work product, which I don't think he can waive, by

the way, so he has to follow that.

You are asking about how this document was prepared and what went into it. That is all work product. So I instruct you not to answer.

BY MS. JELENCHICK:

Q. Did you look at any dictionaries in connection with the preparation of your declaration?

A. I typically do.

Q. Which dictionary or dictionaries did you look at?

A. Well, I have a Merriam-Webster dictionary from 1954. Typically that is the one.

Q. What specifically did you look to a Merriam-Webster edition from 1954?

A. I don't recall.

Q. You referenced treatises. Which treatises, if any, did you review in the preparation of your declaration?

A. Typically, in a mechanical device case, I review the Marks' Standard Handbook for Mechanical Engineers for the topic at issue.

I may have done that in this case.

Q. So you don't know if you looked at the Marks' Standard Handbook for Mechanical Engineers, do you?

A. As I sit here, I don't recall. That is my typical activity.

Q. And you don't know whether you consulted the Merriam-Webster edition from 1954 either, do you?

A. I may have looked up "mounted to," or "mounted."

Q. Do you keep notes of your work associated with preparation of your declaration?

A. No. Only billing records. And then the documents get -- are living documents when I am working on them, and then you get the final product.

Q. Did you have any phone calls with Mr. Skeriotis, during the time that you were working on your declaration?

A. Yes.

Q. How many phone calls?

A. I do not recall.

Q. Did you keep notes from any of your conversations with Mr. Skeriotis?

A. No.

Q. If you look four rows down in your chart, or somebody's chart, in paragraph 4, it identifies Exhibit 1004, "Defendant's LPR 1-14 Proposed Constructions."

A. Yes.

Q. If you want to flip to Exhibit 1004 in the notebook.

(Witness complies with the request.)

A. Yes.

Q. Do you recognize this exhibit?

A. Yes.

Q. When was the first time you saw it?

A. I believe in preparation of my declaration, I was given all supporting information as part of the draft.

Q. Were you involved in any way in the preparation of the content of Exhibit 1004?

A. I did not help prepare this.

Q. If you look to the last page of this particular exhibit, second-to-last page, page 60.

A. Sure.

Q. You will see that Mr. Skeriotis signed this document and it is dated August 22nd, 2022.

Do you see that?

A. Yes.

Q. Do you recall whether you were engaged by Mr. Skeriotis in August of 2022?

A. My recollection is that I was not.

Q. Is it fair to say that you were not consulted about the preparation of this document then?

A. That is fair.

Q. Is it also fair to say that you weren't asked to comment on any draft versions of what is in Exhibit 1004?

A. Yes.

Q. Is it fair to say you didn't review a draft of Exhibit 1004 before it was signed by Mr. Skeriotis and shared with Ravin's counsel?

A. That is fair.

Q. And it is correct that you didn't provide any input on any draft of what ultimately became Exhibit 1004; is that right?

A. That's correct.

Q. If you will look at the -- if I use the word "caption," do you know what I mean by caption, if you look at the caption of this document?

A. Are you talking at the top, the style?

Q. Yes. So on page 1 of Exhibit 1004, it identifies some lawyers at the top and then it identifies the caption of the case, United States District Court, District of Nevada.

A. Okay. Style is what I am used to hearing it called. But so not being a lawyer, I am sure I don't have all the jargon correct.

Q. Fair enough. We can call it the style.

You see in the style of the case, this is referring to a District Court proceeding in the District of Nevada; is that right?

A. Yes.

Q. Are you aware of any District Court cases between TenPoint and Ravin?

A. I am vaguely aware.

Q. What do you mean by "vaguely aware"?

A. I believe that there are two parallel actions going. I believe -- I know there is this, but I believe that there is litigation regarding infringement.

Q. Have you been involved in any way in the litigation regarding infringement?

A. No.

Q. Do you expect to be involved?

A. Yes.

Q. But you haven't been asked yet; is that right?

MR. SKERIOTIS: Objection, attorney-client privilege. Instruct you not to answer.

If you have been asked by somebody other than a lawyer, you can answer that question. If not, then you have to -- you can't answer that.

BY MS. JELENCHICK:

Q. I will withdraw the question.

Are you familiar with the current posture of the litigation regarding infringement?

A. Not formally.

Q. Do you understand that claim construction briefing has been submitted in the litigation involving infringement?

A. That is my understanding.

Q. To date, have you reviewed any of the claim construction briefing in the litigation involving infringement?

A. No.

Q. Would you have liked to see that briefing before you executed your declaration?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: I am not sure.

BY MS. JELENCHICK:

Q. If you would turn the page to page 6 where paragraph 4 continues.

A. Oh. Are we done with 1004?

Q. Sure. You can set it aside.

A. Good. It is a rather large binder. Page 6, I am there.

Q. Okay. Beginning in the second row, "U.S. Patent App. Pub. No. 2012/0125302." Do you see where I am referring?

A. Yes.

Q. So from there through the end of the chart, can you describe for me what those materials are?

A. I am sorry, I lost you. We are on page 6. And we have a table, which has various patents listed into it.

Q. Right.

A. And these are bases for the opinions listed in the declaration. Does that answer your question? They are not direct bases. I should be

more clear than that. They are prior art, which was relied upon in construction of this declaration.

Q. So the particular references included in the table at page 6, in your review, constitute prior art; is that fair?

A. Yes.

Q. Do you consider U.S. Patent Number 9,494,379 to be prior art?

We need to get you a side table.

A. Well, I would not consider this to be prior art.

Q. So but for the '379 patent, the remainder of the table at page 6, in your view, is prior art; is that right?

A. Yes, ma'am.

Q. Why don't you consider the '379 patent to be prior art?

A. The issue date is after that of the '015 patent.

Q. If I understood one of your previous answers correctly, this prior art was provided to you in connection with the first draft of your declaration; is that correct?

A. Yes.

Q. Prior to its receipt, had you seen any of these other references before?

A. So you are asking me whether I had seen any of the other patents listed on the table of page 6, excepting the '379 patent?

Q. Yes, prior to their receipt in connection with the first draft of your declaration.

A. Not that I recall.

Q. Is it fair to say that you did not select these particular prior art references to review, did you?

A. That's correct.

MR. SKERIOTIS: Objection, attorney work product.

Withdraw that answer, if you can. I move to withdraw that answer and instruct him not to answer.

MS. JELENCHICK: Opposed.

BY MS. JELENCHICK:

Q. Do you know who identified these particular prior art references?

That is a yes or no question.

MR. SKERIOTIS: Hang on. The answer to that question, though, is going to

elicit whether his attorneys or himself did that. And that would be attorney work product, as to the decisions -- who the decision was made by. So I instruct you not to answer.

MS. JELENCHICK: I disagree.

BY MS. JELENCHICK:

Q. Did you search for any other prior art as you were working on your expert declaration?

A. No.

Q. Did you search for any prior art since you executed your declaration through today in connection with your consulting engagement?

A. No.

Q. Did you review any prior art that is not listed in this table in connection with your engagement?

A. No.

Q. Did you review any prior art that you determined was not relevant to your opinions that were offered in your declaration?

A. No.

Q. So we have already talked about the possibility of the Merriam-Webster dictionary and the Standard Handbook. But is there anything else that you reviewed in connection

with the preparation of your declaration that is not listed in this table on pages 5 and 6?

A. At least one thing.

Q. What is that?

A. I have seen a video, which was on YouTube, which I don't think is listed in here, which shows how Stanziale's crossbow works, one of them. He has invented a lot of crossbows. But there was a computer-generated model to show how it cocked and released, which was interesting.

But it didn't read directly onto this, but there it was.

Q. When did you review that video?

A. Prior to executing the document.

Q. Sometime prior to December 20th of 2022, you reviewed this Stanziale YouTube video?

A. Yes.

Q. Is this a video that you found yourself, or were you directed to it in some way?

A. I did not find it myself.

Q. Did you consider the Stanziale YouTube video in forming any of your opinions offered in your declaration?

A. No.

Q. Does that Stanziale video relate in any way to any of the Stanziale references that are cited in the table at page 6?

A. So the second entry on page 6 is the '302 patent. That is the one which was in the video.

As you know, patents are two-dimensional documents, and so you can show some things, but dynamic information is always nice. And so it was interesting to see that video, but I don't think it can be authenticated.

And then other than professional interest and background, there was no value in seeing it.

Q. You understand that Stanziale '302 is not actually an issued patent; is that right?

A. Oh, yes, of course. It is a patent application.

Q. In your view, because there was no value in seeing the Stanziale YouTube video, is that why it wasn't included in the chart on page 6?

MR. SKERIOTIS: Objection.

THE WITNESS: I meant --
MR. SKERIOTIS: Wait.
THE WITNESS: Sorry.
MR. SKERIOTIS: That is okay. Work product. Instruct you not to answer.
THE WITNESS: Okay.
BY MS. JELENCHICK:
Q. Are you going to follow that instruction?
MR. SKERIOTIS: He can't waive it, Kadie. That is a work product objection. To my understanding. It is not an attorney-client objection.
MS. JELENCHICK: Would you like a break?
THE WITNESS: Sure.
THE VIDEOGRAPHER: We are off the record, 10:40.
(Thereupon, a recess was taken.)
THE VIDEOGRAPHER: We are back on the record, 10:53.
MR. SKERIOTIS: As I discussed during the break with Ms. Jelenchick, I would like to make two points of order.
MS. JELENCHICK: Over my objection.

MR. SKERIOTIS: That's correct.

Number one, Mr. -- or Dr. Batzer has a hard stop, as I informed you in an e-mail yesterday, at 4:30 p.m. today. He has a flight out. I asked you if you wanted to move the deposition up earlier, and you declined to take that invitation. So we do have a hard stop at 4:30.

Secondly, I want to know for the record, I don't know if it was characterized this way or not, but Mr. Sutton here is listed as the corporate representative for Ravin. My understanding of Mr. Sutton is he is a product liability defense lawyer for the law firm of Clark Hill, and he is not in any way, other than representing Ravin in certain personal injury or product liability cases, affiliated with Ravin in any other way. How and why he is the corporate representative here today remains a mystery to me. It hasn't been explained to me. And we object to him being here as a corporate representative on behalf of Ravin.

MS. JELENCHICK: Are you finished?

MR. SKERIOTIS: Yes. Thank you.

MS. JELENCHICK: You are welcome.

BY MS. JELENCHICK:

Q. Dr. Batzer, you indicate in paragraph 7 of your declaration that you hold a B.S. degree in mechanical engineering from the Michigan Technological University.

What year did you graduate?

A. 1986.

Q. When did you first enroll at the Michigan Technological University?

A. 1984 as a transfer student.

Q. Where did you transfer from?

A. Northwestern Michigan College in Traverse City, Michigan.

Q. When did you begin your education at Northwestern University College?

A. At NMC, 1981, in the fall.

Q. From 1981 through 1986, were you a full-time student?

A. Yes, ma'am.

Q. Was any of your coursework during your undergraduate education related to archery in any way?

A. Well, sure. The mechanical engineering program teaches basic machines, storage of energy in springs, wheels, flexible elements

like ropes. The elements or components that would make up a vertical or crossbow were typical topics of conversation in the design courses.

Q. Other than the general principles of mechanical engineering, was there anything specific in your curriculum directed to archery?

A. Not that I recall.

Q. When did you receive your M.S. degree in manufacturing systems engineering from the GMI Engineering and Management Institute, the former General Motors Institute, now Kettering?

A. Yes. May or June of 1994.

Q. How long was your program of study for your Master's?

A. That was a night study program for working engineers, because I had a full-time job at the time. I believe three years.

Q. What is a manufacturing systems engineering degree?

A. It is also known as industrial engineering. So it looks at manufacturing plants and optimizes everything within the property.

Q. Was any of your curriculum during your

Master's study related specifically to the archery industry?

A. I do not believe so.

Q. Paragraph 7 identifies that you have a Ph.D. in mechanical engineering from the Michigan Technological University.

When was your Ph.D. conferred?

A. June of 1998.

Q. How long was your course of study as a Ph.D. student?

A. So that would be four years, something less.

Q. What was your thesis?

A. It is listed on my curriculum vitae, but it has to do with chip curl and orthogonal machining.

Q. That doesn't have anything to do with archery, does it?

A. Not directly, no.

Q. Does it indirectly have some connection to archery?

A. Perhaps tangentially, in that it is an engineering -- mechanical engineering topic, and there are transportable skills for analyzing machining and then other mechanisms with force

and energy, kinematics. But certainly not directly.

Q. Did any of your study as a Ph.D. student relate specifically to archery?

A. Not that I recall.

Q. During any of your university education, did you have any internships or externships that were directly connected to the archery industry?

A. No, ma'am.

Q. Are you a hunter?

A. Irregularly, but, yes.

Q. What do you mean by "irregularly"?

A. I don't go out every season.

Q. What do you hunt for?

A. Deer, and I got a bison a few years back with my father-in-law.

Q. Do you hunt with a vertical bow?

A. No.

Q. Do you hunt with a crossbow?

A. I do not.

Q. How do you hunt?

A. Rifle.

Q. Have you ever owned a vertical bow?

A. Yes.

Q. What were the circumstances?

A. The first vertical bow I owned was a B.E.A.R. recurve bow, so completely conventional. That was a 45 pound draw. I had that in high school. And then I have owned many vertical bows as part of my forensic practice. All kind of bows.

Q. Other than in connection with your professional engagements, have you purchased vertical bows, other than the recurve bow that you mentioned owning in high school?

A. Oh, no, ma'am.

Q. Other than crossbows that you may own in connection with your professional engagements, do you own any crossbows?

A. All have been as a result of engagements.

Q. In any of your engagements, have you had occasion to purchase a TenPoint crossbow?

A. No.

Q. Is it fair to say that in at least -- at least the engagements identified in paragraph 8 of Exhibit 2021, you have had occasion to own certain Ravin crossbows?

A. Yes.

Q. Which specific Ravin crossbows have you had occasion to own?

A. R9, R15, multiple, multiple exemplars.

Q. Do you currently have in your possession, not here with you today, but otherwise in your possession, do you have any Ravin crossbows?

A. Yes.

Q. How many?

A. I believe five.

Q. And of those five, are either or both the R9 or the R15?

A. Yes. Right. Because those are whole crossbows. I have numerous never-to-shoot-again crossbows.

Q. And why is that?

A. Well, they could be repaired, but they probably won't be.

Q. Have those crossbows been modified in any way?

A. No, just damaged in use.

I do have one crossbow that is in satisfactory condition that was painted by its owner. And other than that, I don't think there have been any modifications. They could have

added a sling or something like that, but no consequential performance modifications.

Q. So you haven't modified those crossbows in any way, have you?

A. Not that I recall, as I sit here.

Q. In paragraph 8, you identify that you are a licensed engineer in Michigan.

A. Yes.

Q. I see in your corresponding CV, which is Exhibit 1020, you list a Michigan Professional Engineering License number.

When did you become licensed?

A. I believe in 1995. It may have been 1996.

Q. Is your license in good standing today?

A. As far as I know. It did lapse once when they didn't bill me, so I didn't pay, and then they reinstated it, and I asked, "Do I owe back money?" And they said, "No, forget about it."

Q. Have you ever been the subject of any disciplinary proceeding in connection with your licensure in Michigan?

A. Not in Michigan, no, ma'am.

Q. How about with respect to the listed

Iowa Professional Engineering license, have you been subject to any disciplinary proceeding in connection with that license?

A. No. And that license I have let lapse because I don't live in Iowa.

Q. When were you a licensed engineer in Iowa?

A. I believe in 2020 to 2021.

Q. Were you able to secure your Michigan license on your first attempt?

A. Yes.

Q. How about with respect to your Iowa license, were you able to secure that license on your first attempt?

A. Yeah. That is a comity license, where you produce all the documentation from your first license and you pay a fee. There is no investigation, as long as all of your records are in order. So there isn't an attempt, it is just have we done everything we have asked or not.

Q. Is it fair to say you waived into the Iowa licensing by virtue of your credentialing in Michigan?

A. It is pro hac vice.

Q. You identify in paragraph 8 that your licensure in Michigan meets certain requirements, including that you have recommendations of peers.

Do you recall who your peer recommendations --

A. Yes.

Q. -- have been?

A. John Sutherland, one of my professors. I think Harold Evensen was one of my professors, a Vice-President at Ring Screw Works, where I worked. And I can't recall other recommendees. That was a long time ago.

Q. Have you had to offer peer recommendations since your initial application for licensure in Michigan?

A. You are asking me has anyone had to write a letter for me to the Board saying, you know, "You should keep licensing this guy because he is reasonable"? No, they don't do that. Once you are in, that is it.

Q. You indicate that you are regularly engaged in professional development. What do you mean by "professional development"?

A. It is like CLE, like continuing legal

education. Professional engineers in Michigan are required to have either self-study or in-person class work, things of this nature. And so I participate in that. Fifteen hours a year is the requirement.

Q. Is it 15 hours each year?

A. Yes, but it is done -- it is either biannually or biennially, whichever, the two of those. Every two years, they say you need 30 hours. And if you got 29 in one year and 1 in the other, they don't care.

Q. What type of professional development activities have you done in the past year?

A. Ma'am, can you help me out and tell me where my CV is in here?

Q. Exhibit 1020.

A. Thank you. Affiliation with numerous professional organizations counts, not to the State of Michigan, but to the National Society of Professional Engineers and their organization, the National Academy of Forensic Engineers.

I had a patent issue within the past year. That is a countable activity.

I was a MATHCOUNTS volunteer at

Northwestern Michigan College, which that isn't up to date in the April 7th, 2022, because I did it this year.

I went recent -- let's see.

I taught other engineers at the National -- or at the Michigan Society of Professional Engineers' annual meeting, Bellaire, Michigan, on ballistics this year.

And I have done self-study.

And between that, I made the 15 hours.

Q. What is the general subject matter of your self-study?

A. Mechanical engineering and forensic engineering.

I also do firearms, which is a mechanical discipline, but it bleeds over into other topics as well.

Q. So your forensic engineering professional work also doubles as professional development?

A. It does in some cases. So as I say, I am -- in order to be a member of the National Academy of Forensic Engineers, I have to do self-study. They have a requirement separate from the State of Michigan. And my forensic

work counts there. It does not count for the State of Michigan.

But for the State of Michigan, I try to align my self-study topics towards what I do for a living, because I think that is the point of it. I could do anything, and they will count it. But that isn't in the spirit of it, in my opinion.

Q. You reference that you have recently had a patent issue. Is that a U.S. patent?

A. Yes, ma'am.

Q. Is that the recently issued U.S. patent one of the three patents that is identified in paragraph 9 of your declaration?

A. Yes. I think it was September of last year.

Q. Is it fair to say that none of the three patents listed in paragraph 9 are directed to innovations in the archery industry?

A. I agree with that.

Q. Do you personally own these three patents?

A. My understanding is they are jointly owned with the other -- oh, we haven't sold them. I think that is what you are asking.

Keith Rogers and I are the three -- the two named inventors on each of the three patents, and I have not sold the rights to these patents.

Q. So you have not assigned these patents to a third-party entity?

A. Thank you. That is what I was attempting to say.

Q. Have any of these three patents been asserted against potential third-party infringers?

A. No.

Q. Has any third party attempted to challenge any of these patents' validity?

A. Not to my knowledge.

Q. You stated in paragraph 9 that you submitted these patents through issue pro se; is that correct?

A. Correct.

Q. Does that mean you were personally involved in the back-and-forth negotiation with the patent office and the patent examiner in connection with the scope of the claims?

A. Yes, ma'am.

Q. Did you find that the patent office

provided a rigorous examination of your patent application before it issued into these patents?

A. For the first two patents, my recollection is they just issued. It would -- you know, I would have to review the prosecution history. But that is my recollection. Mr. Rogers and I sent them in, we sent them checks, it was just done.

The last one, there was a back and forth, or office actions, and I would say that one was more rigorous than the previous two, by my experience. But I don't know, I wasn't there with the examiner at any of the time.

Q. In your view, because there was no back and forth, or no suspected back and forth as it relates to the listed '714 and the '171 patents, does that mean that those two particular patents are less strong?

A. I thought they were both innovative, and I don't think anyone had ever come up with this, so I didn't think there was any prior art reading directly onto it. And we tried to catalog all of the previous art.

So -- but if there is no back and forth with the patent office, I mean, I have no way of

knowing whether the guy was rigorous or not.

Q. Do you believe the patent examiner in each of the instances of your patent applications provided a thorough examination before the claims issued into a patent?

A. I have no reason to dispute that, but I have no personal knowledge.

Q. Did you believe that the examiner that handled your patent applications was qualified?

A. I believe so.

Q. Do you believe that that examiner was competent?

A. On the first two, sure. On the third one, he disallowed a claim which I didn't think that his reasoning was strong, but everybody gets an opinion.

Q. Do you have any opinions regarding the examiner who handled the examination of the '015 patent?

A. No.

Q. In your view, do you believe that there should be deference to the patent office if prior art submitted during prosecution history was evaluated and the patent issued over that art?

A. I think there should be deference if the examiner is correct. And if the examiner has made a mistake, then the mistake should be corrected.

Q. And in your view, the purposes of offering a declaration in connection with TenPoint's IPR is to correct an alleged mistake with the patentability of the '015 patent, claim 1?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: Yes.

BY MS. JELENCHICK:

Q. You understand that your patents are presumptively valid, correct?

A. Correct. Yes, I think there is a rebuttable presumption that they are valid.

Q. And you understand that the '015 patent is presumptively valid, right?

A. I understand that, yes.

Q. And specifically, you understand that claim 1 of the '015 patent is presumptively valid, right?

A. That's correct.

Q. How did that presumption of validity

impact your stated opinions in your declaration?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: I believe that I looked at it, at claim 1, in light of the evidence, the prior art, and concluded that that was not patentable, even -- but I did not do that until I had read the prior art, analyzed it and percolated over it for a while, as it were.

This isn't an endeavor where you read things once and you make a decision. You read them, you think about them, you come back the next day and read it again, and then come to a mature decision about the claims and the previous technology that was presented in prior art.

BY MS. JELENCHICK:

Q. Where in your declaration, if anywhere, does it discuss the presumption of validity and your analysis thereto, if at all?

A. I don't think it does describe that.

Q. Do you consider yourself a professional expert?

A. No. I consider myself a consulting engineer.

Q. How much of your annual income from last year is from expert work?

A. Over 90 percent.

Q. What does that equate to in dollars?

A. Are you asking me my annual income, my annual -- the amount I bill?

Q. We can start with how much you bill.

A. Well, you have my billing rate.

Q. I thought you told me your billing rate fluctuates.

A. That is true.

So I have told you that I have testified 300 times, and probably 50 trials, and I have read thousands of depositions and I have never seen an expert asked what his annual income was, never.

Q. Are you not going to tell me?

A. I think it is an improper question.

Q. In the last five years, what percentage of your annual income comes from professional expert work?

A. Over 90 percent of earned income.

(Thereupon, Patent Owner Exhibit 2022 to the S.A. Batzer, Ph.D., P.E., deposition was marked for purposes of

identification.)

BY MS. JELENCHICK:

Q. I am handing you what we marked as Patent Owner Exhibit 2022.

A. Yes.

Q. And I will represent to you that this was taken from what I believe is your professional website.

A. Yes.

Q. Do you recognize this document?

A. Yes.

Q. Is this content that appears on your professional website?

A. Yes.

Q. There is a listing, it says, "This is a partial list of technologies or subjects for which Dr. Batzer has provided forensic engineering or IP consulting."

A. Correct.

Q. Do you consider yourself an expert in air bags?

A. Aspects of air bags, yes.

Q. Do you consider yourself an expert in ATV rollcages and side netting?

A. Yes.

Q. Do you consider yourself an expert in auger drill control?

A. No, but I have had a case with a control that was attached to an auger drill, yes.

Q. Do you consider yourself an expert in automotive fuel systems?

A. No.

Q. Again, is this just a circumstance where you have had a specific matter in that field?

A. Yes. I was asked where did the flair start, where one allegation was that a fuel line had ripped off, and I provided a photograph showing, well, no, it didn't.

So it is something I consulted on. So that -- this does not say this is a listing of my areas of expertise. I am a mechanical forensic engineer, and so these are some of the things that I can take a look at.

Q. Do you consider yourself an expert in automotive crashworthiness and aggessivity?

A. Oh, man, there is a misspelling there.

Aspects of it, yes.

Q. What is "aggessivity"?

A. "Aggressivity." That "R" makes all the difference.

Q. Do you consider yourself an expert in bearings of the automotive and industrial variety?

A. The failure of, yes.

Q. Do you consider yourself an expert in concrete mixer truck rollovers?

A. I have done accident reconstruction of those, so I have done consulting on it. But as far as concrete mixer truck design, I am not an expert on that.

Q. Do you consider yourself an expert in crossbows?

A. Yes.

Q. Anything specific as it relates to crossbows, or just crossbows generally?

A. I think it is the interface with the user typically. But I know how they work. So the majority of my work has dealt with finger guards and inadvertent discharges.

Q. Simply because you may know how a particular device works doesn't make you an expert, does it?

MR. SKERIOTIS: Objection,

foundation.

THE WITNESS: It may.

BY MS. JELENCHICK:

Q. In what circumstances would knowing how a device works be sufficient to qualify someone as an expert?

A. A person is an expert when the judge says you are an expert. That is the legal standard.

Q. Do you consider yourself an expert in compound bows, including Ravin R9 and R15 inadvertent discharges?

A. Yes.

Q. And your expertise regarding compound bows is based on your evaluation, specifically, of Ravin R9 and R15 discharges; is that right?

A. Not for compound bows. Those are other cases. I have had other compound bow cases, vertical bows.

Q. Which other manufacturers have you worked with?

A. As I recall, Hoyt and PSE.

Q. Are there any others?

A. There may be.

Q. Have you ever offered a professional

opinion adverse to any TenPoint crossbows?

A. I don't believe that I have.

Q. Have you ever been asked?

A. Yes.

Q. What are the circumstances surrounding any decline that you offered in response to a solicitation to advise adverse to TenPoint?

A. I had a case where I had an inquiry and I didn't accept the case and I don't have any circumstances for that.

I don't -- my records are incomplete. I looked and I don't have that. That is more than five years ago.

Relative to this case, I have gotten an inquiry for some aspect of a TenPoint bow from an attorney, and I -- before he finished describing his issue, I stopped him and I said, "I am conflicted out. I will not take your case. I won't -- not that I won't take it, I won't even look at it, I won't even discuss it with you."

Q. What was the nature of the conflict?

A. If I am actively working indirectly on behalf of TenPoint, I won't accept a product liability case against them. I just think that

doesn't look right.

Q. So you were actively working indirectly on behalf of TenPoint more than five years ago?

A. No, no, no. That is the recent case. Five years ago, I don't recall why I got the inquiry and why it didn't go, why it didn't progress. No details.

Q. So since you were engaged in connection with this instant matter, you have been approached about a potential engagement that is adverse to TenPoint and you declined in view of an indirect conflict; is that right?

A. Yes.

Q. Did you view there to be a conflict in taking on this engagement, in view of the other work that you have done adverse to Ravin?

A. No, ma'am.

Q. Why not?

A. I don't -- I don't see an issue there.

Q. You don't see an issue that if you concluded that claim 1 of the '015 patent should be patentable, how that may be in conflict with other work you are doing adverse to Ravin?

A. No, ma'am, I don't see how that affects either inadvertent discharges or cable

fractures. I think they are independent topics.

I think that if Ravin contacted me and said, "We would like you to work for us on this aspect defending the nondefectiveness of our crossbows," that would be surprising to me, and I would probably decline it, just because I think that a jury member could look at this, you worked against them and for them, what is with this? It is just -- I have enough work.

Q. So how would a products liability inquiry regarding a defect with a TenPoint bow be indirectly related in any way to whether claim 1 of the '015 patent owned by Ravin is patentable?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: They are not. It is just appearances, you know, that I am -- as a Professional Engineer, I have a code of ethics, and it says you are to avoid the appearance of impropriety, and I don't want to appear improper.

BY MS. JELENCHICK:

Q. Do you consider yourself an expert in dock leveling failure?

A. In one instance, yes, the one that I investigated.

Q. Do you consider yourself an expert in expert witness standard of care?

A. Depending on the question asked, yes.

Q. What is the nature of your expertise in this area?

A. This, I am documenting that I was involved with one case in which an expert was hired for a products liability case, took money from the client, engaged in no work, had no basis for his opinion, for which he wrote a report, had no basis for it up to the time of his deposition, gave a deposition and in the middle -- under intense questioning, changed his opinion.

And those are ethical violations, not that -- not that he didn't -- you know, answering questions honestly isn't reasonable. But he did an inadequate job for his client who sued him and needed to have someone who does consulting mechanical forensic engineering testify as to what the standard of care is.

Q. Do you consider yourself an expert in firearms?

A. Yes, ma'am.

Q. Do you consider yourself an expert in flare pistols?

A. Yes.

Q. Do you consider yourself an expert in forklift masts?

A. No, but I did have a case.

Q. Do you consider yourself an expert with gas furnaces?

A. No, but I have had multiple cases.

And by that, not an expert, meaning no one would hire me to design a gas furnace. But I can look at a failure and determine why that failure occurred, and that is why this is listed in here. Not that this is saying I am an expert in these, but that I have done work on these in forensic engineering to determine the failure cause.

Q. Do you consider yourself an expert in glass, glazing and windows?

A. Yes.

Q. Do you consider yourself an expert in heavy truck, Class VIII, rollover protection systems?

A. Yes, ma'am.

Q. Do you consider yourself an expert with lawnmowers?

A. No, ma'am.

Q. Do you consider yourself an expert of machine guards?

A. Yes.

Q. Do you consider yourself an expert of motorcoach or bus rollover crashworthiness?

A. Yes.

Q. Do you consider yourself an expert of motorcycle seal oil leaks?

A. I did an analysis on one overturn case that was caused by a leaking seal. So, in general, no, but in that case, I was able to provide failure analysis.

Q. Do you consider yourself an expert in overhead cranes?

A. No. That was a fastener case in which a fastener loosened and it caused a crane to collapse and injure a person.

Q. Do you consider yourself an expert in pressure cooker explosions?

A. As a mechanical engineer, I can analyze those. I wouldn't design a pressure cooker, but when there is an explosion, I can do a decent

failure analysis.

Q. Do you consider yourself an expert in rotary mower blade ductilities?

A. Actually, yes. That was the first case I ever had.

Q. Have you had any cases since then?

A. No. That was a bush hog case where a blade snapped off and sailed through the air and killed somebody. It didn't pass the ASAE standard.

Q. Do you consider yourself an expert in seat belts?

A. No. I have seat belts cases now. I do an analysis of whether it was used and if there are no failure mechanisms with them. But I would not design a seat belt.

Q. Do you consider yourself an expert in sunroof retention capability?

A. Yes.

Q. Do you consider yourself an expert in tractor/trailer side under-ride?

A. Yes. I have three patents for that.

Q. And those are the three patents that are listed in paragraph 9 of your declaration?

A. Yes, ma'am.

Q. Do you consider yourself an expert in warehouse storage rack failure?

A. Failure analysis, yes, and I have looked at warehouse storage rack failures.

Q. Do you consider yourself an expert in warnings and manuals?

A. As a mechanical engineer, yes. I do not do this as a primary line of work.

Q. What would you consider your primary line of work?

A. Mechanical forensic engineering, which has -- which is a broad topic.

Q. Do you consider offering patentability opinions to fall within your primary line of work?

A. Within mechanical engineering, yes. There are -- I get patent inquiries every month that I turn down and tell them that "This isn't my area of expertise, so I can't help you out."

Q. In your view, offering an opinion regarding patentability qualifies as mechanical forensic engineering?

A. Mechanical engineering. Probably not forensic engineering, because there is no failure.

Q. So if your primary line of work is mechanical engineering forensics and a patentability analysis is not mechanical engineering forensics, is it fair to say that a patentability opinion that you offer is outside your primary line?

A. It is not the majority of my work. But everyone who does forensics has a core discipline, right? Everyone who does -- you know, just take your pick. People -- the only people who get forensic education, you know, with a degree that says forensics are forensic science, and those are the people who go to work for the criminal labs.

Everyone else who does forensics has a core discipline like chemical engineering or electrical engineering, and then, because of their broad knowledge of the topic, then they look at failures or disputes, and one of those disputes might be a patent.

Q. Is it fair to say that in your view, because of your mechanical engineering background, you are qualified to offer a patentability opinion regarding the '015 patent?

A. Yes.

Q. Do you consider yourself an expert in warnings and manuals?

A. Oh, we talked about that. It is not my day job, but all mechanical engineers talk about warnings and manuals. That is part of the curriculum. And so I am able to opine regarding manuals that are included with the product, generally. Not primarily on that, but in association with something which has occurred.

Q. Do you consider yourself an expert in water pipe corrosion?

A. Yeah. I have a large material science background. And so corrosion is one of the topics taught in material science at the university. So upon occasion, I have looked at water pipe corrosion, testing the pH of the water and the other constituents, and then determining what happened, why the guy's house just got wasted by a water break.

Q. Does your background in material science have anything to do with the patentability of claim 1 of the '015 patent?

A. Not directly.

Q. Do you consider yourself an expert in window regulators?

A. I have had window regulator cases, but it is not really an area of expertise, per se.

Q. How do you consider your background in material science indirectly related to the patentability in claim 1 of the '015 patent?

A. Just as background information. You have -- I know how flexible springs work. I know how load bearing elements work. I know how bearings work. I know how filament wound bowstrings and cables work. It is good information, but I don't think it is -- if I didn't have that information, I don't think it would be a deleterious position.

Q. Define for me the specific nature of your crossbow expertise.

A. I am a mechanical engineer. I have worked on numerous crossbow cases over the years. I have significant weapons experience, having served four years active duty in the U.S. military, the Army, and 17 years in the Reserves.

I know that -- I am a competitive shooter. I know that firearms are very similar to crossbows. So with a rifle, you have a buttstock, a grip, a forend, a sighting system.

You have stored energy, which is chemical energy in this case. You have a trigger. You have some sort of a sear and hammer or release. You have a barrel.

Crossbows are very similar. Buttstock. Pistol grip. Typically a forend. A center rail, which is also at times called a barrel. You have stored energy in the form of elastically bent limbs. You have a projectile. The launch of an arrow, which is a projectile, is very similar to the launch of a bullet, which is also a projectile, which is the summation of the area under the force-displacement curve which brings about the energy.

Both firearms and crossbows have efficiencies. Once they lose their projectile, the projectile describes a ballistic arc from the end of the discharging unit to the target.

I have taught ballistics multiple times to other professional engineers, and so based upon my mechanical engineering expertise, my firearms expertise, my work with vertical bows and crossbows, I am confident that I am an expert in crossbows, at least for this current matter.

Q. Do you consider yourself an expert in crossbow design?

A. Aspects of it, yes. I am not a historian of crossbows, but I am familiar with the topic. It is not my only area of inquiry throughout my career.

Q. In your view, sitting here today, you could design a successful crossbow?

A. Do I think I could do that? Yes, I think I could do that. I think any degreed mechanical engineer could do that. And I think that if you took the broad cross section of mechanical engineers who are graduating today, that my experience and education level would give me at least an incremental advantage over them in getting that done.

Q. When did you first become interested in offering consulting services relating to crossbows?

A. Around 2010, I believe. That typically my work had been done with failure analysis of components and vehicles, and I realized, I am an Army officer. I have a lifelong interest in firearms. I will get involved with that. And I started actively working for firearms cases.

And then my client said, "You do firearms? Do you do archery equipment as well?" I said yes, and I began working that.

So all around that period of time.

Q. So the first archery-related engagement you took on was in or around 2010?

A. Yes.

Q. Do you recall what type of equipment was at issue in that first engagement?

A. I think my first crossbow cases were just with finger guards, which the industry has changed. It is a great thing. People would have their thumbs or fingertips above the flight rail, and then like a cheese wire, the bowstring would take the tips off.

Q. Does your professional experience with vertical bows relate exclusively to products liability matters?

A. My professional experience, yes.

Q. Do you have personal experience with vertical bows, outside of owning a vertical bow in high school?

A. I don't think so. I don't like to hunt with archery equipment. I just don't trust it, as far as I don't want an animal to suffer. I

would -- I will not use them. Other people are very comfortable with that and are successful, and it is why God made different people.

Q. But for this instant matter, were you offered a declaration, does your professional experience with crossbows relating -- relate exclusively to products liability matters?

A. Yes.

Q. Describe for me, in general terms, the categories of product liability matters you have handled in the crossbow space.

A. Inadvertent discharges and fingertip guards.

I had a case with -- I have had cases with failed bowstring cockers. Which I didn't list in my list, but I have done those. I think that is it.

Q. How do inadvertent discharges, fingertip guards or failed bowstring cockers relate in any way to the patentability of claim 1 of the '015 patent?

A. That my background work can make me a POSA, but it cannot make a claim either patentable or not. They are independent.

Q. So explain to me how your professional

products liability consulting work with crossbows qualifies you to be a POSA.

A. I don't think it is a single thing. I think that that makes me more familiar with crossbow technology than your average engineer; and therefore, in addition to the other work that -- or educational work and work experience that I have had, that makes me a POSA.

But this matter doesn't stand or fall on that, it is on the prior art and the claims.

Q. Does claim 1 of the '015 patent relate in any way to inadvertent discharges, fingertip guards or failed bowstring cockers?

A. I don't think so, no.

Q. Do you have any professional experience in crossbow design?

A. No, I have never worked for any archery manufacturer.

Q. Do you have any professional experience in optimizing crossbow design?

A. No, ma'am.

Q. Do you have any personal experience in crossbow design?

A. No. Though I guess I have to step back a bit and say, you know, in that, I think it was

2021 was the exhibit where I list things that I think are pertinent, I indicate how I have given lectures on archery design.

So that is probably responsive to your question, as a professional activity, regarding crossbow design.

Q. The lecture that you reference in 2021, that is well past the effective filing date of the '015 patent, right?

A. Some are, but one isn't.

The first case where I discussed archery matters that I can document is September 26, 2013, and the '015 patent was filed December 16th, 2013.

Q. So what specifically about archery were you discussing in these case studies?

A. Failure analysis of -- in that case, I think I was talking about a cocking mechanism which fractured and bowstring -- not -- this was a bow where to load it, you put your foot through a strip. You put an aluminum piece on the bowstring and use the string to pull that up in order to lock it.

And as an example of something that does not fail-safe, when the string or rope

fractured, broke, the aluminum part raced down the center portion, the rail, right into the foot of the person that was cocking the crossbow.

And so I said, "Here is a way that it was done, this is the injury that was incurred, and this is a way that you could have made it such that if the rope breaks, it will stop before reaching the person's foot," which is in the stirrup.

Q. It sounds to me like the content of this case study from 2013 has nothing to do with the claim scope of the '015 patent.

Tell me why I am wrong.

A. Because you are biased. And the reason is, because we both know that this is a crossbow. So to say that it has nothing to do with it is a complete overstatement.

Q. Explain to me how the content of your failure analysis of a cocking mechanism in 2013 relates in any way to a patentability determination regarding claim 1 of the '015 patent.

A. It doesn't read onto the claim 1 of the patent. That has to do with the prior art we

find in the patents and patent applications. What that lecture has to do with is whether I am a person of ordinary skill in the art.

Q. Offering a case study in 2013, in your view, is sufficient to qualify you as a person of ordinary skill in the art at the relevant time, vis-a-vis the '015 patent?

THE REPORTER: I am sorry, vis-a-vis?

BY MS. JELENCHICK:

Q. The '015 patent?

A. I have since gained more experience than I had at that time, but at that time, I still had other aspects which make me a POSA, such as a mechanical engineering degree, familiarity with crossbows and archery equipment. I was a licensed Professional Engineer. I had significant firearms experience. And I had done cases with archery.

So I wouldn't say that my -- if I were to come to Mr. Skeriotis and say, "You know, I gave a lecture once, I am a POSA," that would be unconvincing. I need more credentials in my background than that.

Q. You reference your time in the Army and

service in the Reserves. Thank you for your service. At any --

A. Glad to do it.

Q. At any point during your service, were you firing crossbows?

A. No.

Q. You also referenced, a few minutes ago, you tried to explain to me why, in your view, your firearms experience is similar to crossbows.

A. Yes. They are analogous. They are not identical.

Q. Of the various elements that you cited to in trying to draw your analogy, which, if any of those, are pertinent to the claim scope of the '015 patent?

A. I think that whole description was relevant as far as background information.

But in a firearm, you certainly don't have the elements, such as a bowstring or a limb.

Q. You also don't have string guides with a firearm, do you?

A. Not for the purpose of launching a projectile. There is a sling which has sling

swivels.

Q. In your view, do you think it would be appropriate to consider firearm prior art for a patentability determination relating to claim 1 of the '015 patent?

A. That is difficult to imagine. So, no.

Q. Why is that?

A. They are different things. They are analogous. In the same way that someone who has significant experience with motorcycles knows things about bicycles, but they are not the same thing.

Q. Let's go back to your declaration.

In paragraph 11, you identify five bullets. Specifically, you state "I have served as an expert witness in numerous weapons patent/intellectual property cases, to include:"

A. Yes, ma'am.

Q. Why did you list these particular engagements only?

A. Because they meet the description in the initial text of paragraph 11. They are intellectual -- you know, they are patent cases or intellectual property, but they deal with weapons.

So the other case that I had spoke of Avenue versus Mishan, that is for a handle to get outside of a passenger vehicle. That is interesting, it is a patent case, but I didn't think it was relevant for paragraph 11.

Q. So which of the five bullets relate to weapons cases, the first bullet --

A. Both -- all of those are weapons related.

The Adcor is for the development of an AR-15 rifle.

Evolusion versus Juggernaut is for a magazine interrupter device for the AR-15 rifle.

Kyntec versus ITT Enidine is for a hydraulic buffer for a semi-automatic kinetic rifle, which means an AR-15.

TTC Performance versus Mossberg is for a receiver for a box fed pump-action shotgun.

And RTG Parts versus Schmeisser is for a quad stack magazine for a semi-automatic rifle.

Q. So they are both weapons cases and intellectual property cases?

A. Correct, though not all are patent. Adcor is not a patent case, while the other four

are.

Q. Understood.

So within paragraph 11, you identify that you specialize in forensic engineering and failure analysis. And at the bottom of that paragraph, you also identify that you have performed innumerable archery forensic analyses.

How, if at all, do these activities render you qualified to offer any opinion on the patentability of claim 1 of the '015 patent?

A. This shows professional experience with archery equipment.

So if I just had a Ph.D. in mechanical equipment -- I am sorry, mechanical engineering, but no experience whatsoever with archery equipment, that would make me less qualified to do that.

Q. Are you aware of any -- I will withdraw that.

If you only had a degree in mechanical engineering, do you still feel as if you would be qualified to offer an opinion regarding the patentability of the '015 patent?

MR. SKERIOTIS: Objection, calls for speculation.

THE WITNESS: There is a listing of what a POSA should be that the IPR Board has seen, and in it, if a person has just a four-year degree in mechanical engineering, that is certainly insufficient. I think by agreement of all parties, that just an undergraduate mechanical engineering degree would not be enough.

However, significant industry experience would probably be enough. But if a person has an engineering background and some other aspect, such as, you know, more education, work experience, that will qualify a person.

So I think that forensic work on archery cases is a credentialing aspect. But I can't prove that.

BY MS. JELENCHICK:

Q. Do you believe your past forensic work adverse to Ravin was important in the decision to hire you in this case?

MR. SKERIOTIS: Objection.

MS. JELENCHICK: What is the basis for the objection?

MR. SKERIOTIS: Yeah, I am getting ready to tell you. That is asking him for the

basis of why he thinks he was hired, which would have come from me or someone representing him.

So, therefore, that is attorney-client privilege/work product. I instruct you not to answer, unless it came from someone other than me or someone else. But it couldn't have, because we are the ones who hired you. So I take it back. I maintain the objection as I stated it.

MS. JELENCHICK: I think that is a significant stretch.

BY MS. JELENCHICK:

Q. You are not going to testify as to why you believe you were hired?

MR. SKERIOTIS: He can't.

THE WITNESS: I can't --

MR. SKERIOTIS: It came from me and it is work product and he can't waive that.

MS. JELENCHICK: Mr. Skeriotis, I didn't ask him, "What did Mr. Skeriotis tell you as to why he hired you?" I asked him, "Why do you believe you were hired?"

MR. SKERIOTIS: But that is the only place it could have come from. He would have to say, "I believe I was hired..." And

where did that first come from? Mr. Skeriotis. "That is why I believe I was hired, because he would have told me," or something.

So pursuant to that, there is no other person that could have given him the understanding as to why he was hired than myself.

BY MS. JELENCHICK:

Q. Do you have any belief, separate and apart from what Mr. Skeriotis may have told you, as to why you were hired in this case?

A. Yes.

Q. Okay. Tell me about that belief.

A. Separate from what -- any discussions I have had with my client, I am a successful forensic engineer. People hire me. People can hire lots of people. There is more than one engineer that does this kind of work.

And when I am hired, it is an affirmation that of everyone they could have hired, they hired me, thinking that I was the best qualified person to undertake the tasks that they needed.

Q. Is it fair to say that you have competitors for the forensic engineering failure

analysis and forensic analysis archery work that you do?

A. Colleagues, I call them.

Q. Do any of these colleagues offer archery forensic analysis adverse to TenPoint?

A. I couldn't tell you.

Q. Are you aware of any cases where a court has struck any opinions that you have offered?

A. Yes.

Q. Which cases?

A. I had a case in Mississippi, I think it was in 2006, where it was a side glazing case. Vaughn v. Kia.

I had a products liability -- not products liability, a class action lawsuit with Honda in California where the judge did not certify the class and didn't allow me to testify. That was Grodzitsky versus Honda, I believe.

I have had opinions limited, of course.

There may be -- other than those two, those are the two that come to mind.

Q. You say "I have had opinions limited, of course." Why, of course?

A. Because judges will not allow everything into their courts. There are motions in limine, and the judge says, "This may be true, but you can't say that in my court."

I have never been told by a court, "You are not qualified to issue these opinions."

Q. Have you been told by a court that your opinions were unreliable?

A. I may have. That sometimes -- that would be in the order.

Q. Have you been told that your opinions have rested upon little more than your own opinions and speculation?

A. Not that I recall. That may be something that you are quoting from an order.

Q. Have you ever been told by a judge that your opinions are based more on your personal experience and/or speculation than it is based on data and analysis?

A. Not to my face.

Q. Have you ever been told by any court that your opinions need to be excluded because they were not based on any scientific method or principle of engineering?

A. Not that I recall. That may have

happened.

Q. Were you familiar with the Hauck versus Wabash National Corp. case that was pending in the District of New Mexico, or is still pending in the District of New Mexico?

A. I believe so. That is a side under-ride case, if I recall correctly.

Is that the one you are speaking of?

Q. What is a side under-ride?

A. That is where a trailer pulls out in front of a car and a car goes partially under the trailer and the person is decapitated. That is what my patents are about.

Q. Were your patents implicated in that particular lawsuit?

A. No. Those patents resulted from my work in that, where I saw the terrible outcomes of these accidents and looked for a technological solution to it.

Q. Are you aware that your opinions were struck in that particular case?

A. All of my opinions?

Q. Were you aware that your opinions were excluded in any way in that case?

A. I don't think they were excluded

totally. There may have been an opinion or two that was excluded, as I recall.

I don't have the order -- do you -- if you have the order, I can read it.

Q. Do you know the bases for the exclusion?

A. Not without reading the order.

Q. You mentioned the American Honda Motor Company case as being a class action certification case.

A. Yes.

Q. Are you aware that your opinions were excluded in that case?

A. Yes.

Q. Do you know why your opinions were excluded?

A. I don't have the order in front of me.

I discussed that with my client, and I think there is a difference of opinion between what the judge said and what my client said.

Q. So you disagree and believed that contrary to the court's conclusion, your opinions were not merely conclusory or unsupported by fact?

A. Well, I think my -- I think I had a

better grasp of the engineering issues of the case than the judge did. I disagree with that characterization of it.

I think the reason in that case that the judge did not allow that case to proceed was because there were members of the class where the failure rate was just too low. And that my clients told me that there is an unwritten rule in California about the failure rate that is required to get a class certified.

So, that is what I know.

Q. So you weren't aware that the court excluded other portions of your opinion as being outside your area of expertise?

A. Do you have that order so I can read it?

Q. No, I don't have that order. I can get it for you if you would like.

A. Sure, let's do that.

Q. Okay. We will think about doing that.

Are you familiar with the Doyle versus Chrysler Group case?

A. I remember that I was involved in that case, because I remember the name, but I don't remember any of the allegations in the case.

Q. Are you aware that the court in Doyle excluded one of your opinions because they were, quote, "based more on your personal experience and/or speculation than it is based on data and analysis"?

A. Do you remember which opinion that one was?

Q. That is out of the Central District of California, January 21st, 2015.

A. No, I mean which opinion that was that it was excluded.

Q. I don't. Do you?

A. No. You are asking me, so you have researched this, so I would expect you to bring the order with you so that I can review it.

Q. You were a professional expert in the Doyle versus Chrysler Group case, were you not?

A. Yes.

Do you know what the allegations in that case were?

Q. I was not engaged in connection with that case whatsoever.

In fact, this was a case that was omitted from your CV and your testimony list. Why is that?

A. It is more than four years ago. That is a four-year Federal listing. I don't put it on -- I don't put cases on my CV.

If I recall correctly, that was a Jeep Liberty window regulator case. That is why I am asking you. If that is not Doyle versus Chrysler, then I would be giving you data back that is inaccurate.

Q. How about the Bullock versus Daimler Trucks North America case out of the District of Colorado from 2010, are you aware that some of our opinions in that case were excluded --

A. I would be --

Q. -- because you lacked the necessary qualifications to opine on the subject matter and because you lacked the necessary factual basis for your opinion?

A. That sounds like a quote. I would like to read it in context, please.

Q. So you don't know, separate and apart from my question, whether some of your opinions were excluded or the bases for the exclusion?

A. That is not what you asked me.

I know that I had one opinion limited, and I wanted to see the order. So I don't

think, sitting here, either one of us knows.

Q. Are you familiar with the Rayley versus Hyundai Motor Company case out of the Western District of Oklahoma from February of 2010?

A. Vaguely, from 2010, yes, 13 years ago.

Q. Did you offer opinions in the Rayley case?

A. I believe I did.

Q. Are you aware that some of those opinions were excluded because they were not based on any scientific method or principle of engineering?

A. I would have to see the order before I could agree to that.

Q. So you previously offered testimony that you have testified against the Patent Owner Ravin; is that correct?

A. Unfavorable to them, yes.

Q. Approximately how many times have you been retained to give opinions unfavorable to Ravin?

A. At least 18.

Q. And you say at least 18 by focusing on the last two bullets of paragraph 8 of Exhibit 2021; is that right?

A. Yes, ma'am.

Q. In fact, your website actually advertises testing that you have done against Ravin; isn't that right?

A. Testing that I have done of Ravin crossbows.

Q. Why do you use that on your website?

A. Efficiency.

Q. What do you mean by that?

A. It is difficult to catalog all the hours I had to spend in order to fully develop knowledge about the Ravin technology and the problems with their crossbows.

It is unreasonable -- well, not unreasonable. It would be a bad thing if one client had to pay for my time to develop all that. That I have multiple clients has allowed me to do the research, testing and discovery in order to fully document why the problem occurred and the timeline of it by having multiple clients that didn't overburden a single client.

And so it is more efficient for any Plaintiff or attorney to hire me, who is already familiar with the topic, than to hire someone else who has no familiarity with the topic.

Q. Is your business development strategy premised on the idea that "I have provided unfavorable opinions to Ravin in the past, so you, potential Plaintiff, should hire me in the future"?

A. I wouldn't put it that way. I am saying, "I have experience with this. If you think that I am the proper forensic engineer for your case, we can talk."

(Thereupon, Patent Owner Exhibit 2023 to the S.A. Batzer, Ph.D., P.E., deposition was marked for purposes of identification.)

BY MS. JELENCHICK:

Q. I am handing you what has -- I am handing you what has been marked as Exhibit Patent Owner 2023.

A. Yes.

Q. Do you recognize this document?

A. Yes.

Q. Okay. What is it?

A. I think this is the home page of my website where I show a couple of examples of things that I do.

Q. So this is the home page of your

website that you are advertising your services?

A. I am not sure if it is the home page or not. Actually, I never look at my web page. I came up with this years ago.

Q. How come in the graphic depicting shooting event reconstruction you don't identify a particular manufacturer, whereas, you specifically refer to Ravin in identifying what you characterize as the R9 misfire demonstration?

A. Shooting event reconstruction is independent of the model of pistol. So in this case, what I am doing with the Impala there that is about to get shot, is I am using a 40 Smith & Wesson Sig P320 pistol at a very shallow angle to see how the bullet interacts with the sheet metal.

With the Ravin, that is specific. I know there are numerous people who get hurt, and they think that they are the only one who ever got hurt from one of these.

So they -- the attorneys certainly want to contact somebody who has experience and knowledge regarding the technical aspects of these incidents.

Q. In your view, an attorney would be less likely to contact you about a potential products liability case if the specific manufacturer wasn't identified?

MR. SKERIOTIS: Objection, calls for speculation.

THE WITNESS: I think this is the only instance on my web page where I -- where I indicate a manufacturer, and that was deliberate. I wanted people to know that if they had a Ravin case, they could call and talk to me. And I talk to numerous people who haven't hired me, and I have given them the benefit of 15 or 20 minutes of talking about what I know.

So I think this is partially a public service.

BY MS. JELENCHICK:

Q. So your position is that your advertising for your professional endeavors is a public service to the public?

A. No. Talking to people without charging them, that is a public service.

But I know that if a person had a Ravin R15 misfire case where fingers were lost, and

they had to develop all the knowledge of the technology and the history that I did, it is an overwhelming amount of work.

Q. So in paragraph 11 of your declaration, you identify that you have performed innumerable archery forensic analyses in which you have investigated inadvertent discharge or other product failure. And you identify a listing of vertical bow and crossbow manufacturers, including Barnett, Bowtech, Horton Archery, Hoyt, Matthews, PSE and Ravin; is that correct?

A. Yes.

Q. And nowhere on your professional website do you call out any of the other manufacturers where you do product failure investigation, do you?

A. That is correct.

Q. Was that a deliberate decision?

A. Yes, it is. All the --

Q. Why was that the decision you made?

THE REPORTER: I am sorry?

BY MS. JELENCHICK:

Q. Why was that the decision you made?

A. All the rest of these are one-off. The R9, R15 is what is called pattern litigation,

where there is a defect that is unaddressed by the manufacturer which is harming numerous people and won't stop, and so these cases will continue to go up.

Q. And that is your opinion, that is not a determination by any court?

A. That is my experience.

Q. Your characterization of pattern litigation, that is your phrase, correct?

A. Oh, sure, yes.

Q. Let's take a break for lunch.

THE VIDEOGRAPHER: Off the record, 12:23.

(Thereupon, a luncheon recess was taken at 12:23 p.m., with the proceedings to be continued at 1:00 p.m.)

AFTERNOON SESSION

1:17 p.m.

THE VIDEOGRAPHER: We are back on the record, 1:17.

BY MS. JELENCHICK:

Q. Dr. Batzer, did you have any substantive discussion about your testimony with counsel over the lunch break?

A. We talked about the depo a little bit. He told me to keep my voice up. And I told him that I have had many Daubert challenges in the past, probably about a hundred. That is about it. And we talked about sports.

Q. So you have had about a hundred Daubert challenges to your expert testimony in the past?

A. Yes.

Q. Is it your practice to receive copies of the ultimate decision on those challenges?

A. Sometimes I get them, sometimes I don't.

Q. Earlier today I asked you about whether there had been any disciplinary proceedings brought against you. And you qualified your responsible by saying, in some respect, "Not in Michigan."

Let me ask you, have you had any disciplinary proceedings brought against you anywhere --

A. I had --

Q. -- in or outside of Michigan?

A. Yes. I had a complaint filed against me in Indiana, where an engineer there indicated that I was practicing engineering in Indiana without a license.

And so the Board sent me a letter saying that they are looking into this. And I sent them a nice letter back saying, "If you will look at this portion of law, this is already settled." That in Indiana, out-of-state engineers can go and do work in Indiana for the purposes of litigation and do not require a license. They looked that over, they thought about it for like a year, and then sent me a letter saying, "You are right."

So as far as I am concerned, it was a frivolous complaint.

Q. Did the letter actually say, "You are right"?

A. I am sure it didn't say that. It said that there is no actionable item.

Q. Have you ever been sanctioned?
A. No.
Q. Let's turn to page 9 of your declaration.
A. Okay.
Q. Under the heading "Level of Ordinary Skill in the Art." Which I will just point out that the page numbers in your table of contents are inaccurate.
Okay. Is it a fair characterization to say that you did not draft Section III of your declaration?
MR. SKERIOTIS: Objection.
MS. JELENCHICK: What is the basis for the objection?
MR. SKERIOTIS: Foundation.
THE WITNESS: I don't recall if I had input into these four paragraphs or not.
BY MS. JELENCHICK:
Q. So any of the changes that you referenced this morning, as far as you can recall, you don't know if changes were made within this section relating to the level of ordinary skill in the art; is that right?
A. Correct. This is pretty standard. It

is almost boilerplate.

Q. Do you believe that Section III of your declaration is boilerplate?

A. I said it is almost. I mean, I think this is completely unobjectionable and standard in level III.

Q. Were you involved in determining who constitutes the hypothetical person of ordinary skill in the art?

A. I don't recall if I had input into this or not. If I were to write it, it would look like this, but it would probably not use exactly the same verbiage, because I am not an attorney.

But every other one that I have seen looked very much like this.

Q. But you agree with the content of this particular section of who constitutes the hypothetical person of ordinary skill in the art; is that right?

A. Yes.

Q. You understand that Mr. Yehle is the named inventor of the '015 patent, correct?

A. Yes.

Q. Are you familiar with Mr. Yehle?

A. I have never met him, but I have

knowledge of him.

Q. How do you know about Mr. Yehle?

A. Through previous work on inadvertent discharges, I have read depositions of his, and I have seen him give a video deposition.

Q. Are you familiar with Mr. Yehle's level of education?

A. Yes.

Q. How did you develop that familiarity?

A. He was asked about it in his deposition.

Q. Did you review any of those depositions in preparation of offering opinions in this instant matter?

A. No.

Q. Did Mr. Yehle's educational level as the inventor influence the determination of who constitutes the hypothetical person of ordinary skill in the art?

A. No.

Q. What variables, if any, did you consider in determining, in your view, who constitutes a proper hypothetical person of ordinary skill in the art?

MR. SKERIOTIS: Objection,

foundation.

THE WITNESS: Not really -- I considered the technology at hand, other POSA definitions that I read in this past, I looked this over, and I am sure that the first draft of this, at least, was first written -- was provided to me. As I say, it seems unobjectionable, and I am not sure there were any other variables that were needed to be looked at.

BY MS. JELENCHICK:

Q. You referenced that you considered definitions for a POSA that you have read in the past. In what context were these POSA definitions offered?

A. The other patent cases that I have been involved with.

Q. But those other patent cases that we have talked about today, that you have been involved with, they did not relate to crossbows, did they?

A. They did not.

Q. Do you know what the effective date for any of the asserted patents in those prior lawsuits were and how that effective date

related in any way to the effective date of the claim 1 of the '015 patent?

A. I am not sure what you are asking me.

Q. Do you know what the phrase "effective date" is?

A. Yes, I believe so.

Q. Is that relevant in any way to the determination of a hypothetical person of ordinary skill in the art?

A. It can be, yes.

Q. Is the effective date of claim 1 of the '015 patent relevant to the determination of the hypothetical person of ordinary skill in the art in this case?

MR. SKERIOTIS: Objection, calls for a legal conclusion. This whole line of questioning calls for a legal conclusion.

THE WITNESS: I don't know. I am not the determiner on that.

BY MS. JELENCHICK:

Q. In paragraph 16 of your declaration, you state, "I understand that various factors may guide the determination of the ordinary level of skill in the art, including the educational level of the inventor and active

workers in the field, the type of problems encountered in the art, prior art solutions to those problems, the rapidity with which innovations are made, the sophistication of the technology, and the patent's purpose."

Did I state that correctly?

A. Yes, ma'am.

Q. Which, if any, of these factors did you consider in evaluating who constitutes the relevant POSA?

A. Well, the only one I really have to be concerned about is myself. So I looked at what is my education level, what are the types of problems encountered in the art based upon prior art, sophistication of the technology of the patent's purpose.

And I applied -- when I apply them to myself, I think that I have requisite credentials for this. But in the end, there are two people who decide this past me, the client who hires me and then any patent officials who review my credentials.

Q. In determining who constitutes the relevant POSA, was the only issue you were concerned with was whether you qualified as a

POSA?

A. I think so. Not being asked whether anyone else is a POSA, sure.

Q. So it is fair to say that you didn't do any investigation or research into the educational level of Mr. Yehle other than review of his deposition transcript or transcripts from prior litigation; is that right?

A. I thought that was enough. He said what it was. I knew what it was. Done.

Q. Did you do any investigation or research into the educational level of any of the named inventors on the prior art that you are relying on for the purposes of your opinions in this matter?

A. No.

Q. Did you do any investigation or research into the type of problems encountered in the relevant art, at the relevant time, in determining who constitutes the relevant POSA?

A. No.

Q. In your view, what is the problem that Mr. Yehle was trying to solve with claim 1 of the '015 patent?

A. According to his previous testimony, he

and a group of like-minded individuals had various ideas on what they thought was a superior crossbow to anything that was on the market. He had worked for another crossbow manufacturer, as I recall, and they decided to form a venture capital-type firm and he would be the primary designer, but others would have input into it.

I am not sure I answered your question.

Q. You didn't.

A. Okay.

Q. Let's try again.

What is the specific problem that Mr. Yehle was trying to solve with claim 1 of the '015 patent?

A. Well, his patent is trying to teach things and to get a monopoly hold. So what he is teaching is their solution to the problem of cam rotation and power stroke, that by using helical journals for the power take-up cables, instead of rotating the cams 270 degrees, you can rotate them substantially more, in the illustrative figures, approximately 400, maybe 450 degrees.

So that is the technical problem that

is being solved, is we have a certain amount of power we can develop with conventional technology. Here is what we say is new technology.

Then the business problem that is solved by the patent is getting protection on it, so that once they patent it, no one else can make this without a licensing fee.

Q. Is it fair to say that you did not consider the rapidity with which innovations are made in the archery field in evaluating who constitutes the relevant POSA?

A. Yeah, I am not sure how I did that. I am familiar with the technology, but I don't think I formally investigated that.

Q. Did you informally investigate it?

A. I did not.

Q. Sophistication of the technology is another factor that may guide the determination of who constitutes the relevant POSA.

Did you do any evaluation, formally or informally, regarding the sophistication of Mr. Yehle's claimed invention?

A. I think informally.

Q. Describe for me the informal analysis

that you did.

A. I knew that this is a crossbow and it is made out of mechanical items, it is made out of bendable limbs and flexible strings and guide rails and journals and whatnot.

This is -- while this may be sophisticated, it is essentially low tech. I mean, there are no electronics that are involved with this, there is no gene editing technology, no radiation, things of that nature.

I think that the technology that is at hand here is understandable to any mechanical engineer. And in fact, Mr. Yehle is not a mechanical engineer, and the Vice-President of new product development at Ravin I know is not a mechanical engineer.

That suggests to me that as mechanisms, these are fairly straightforward.

Q. Do you consider the invention claimed in claim 1 of the '015 patent to be a sophisticated invention?

A. I don't know how to answer that. I think of sophisticated as something which is outside of the grasp of an uneducated -- you know, unless a person had a specialized

education, I think this is rather straightforward.

If I were asked, is this sophisticated, I might not object to it, but I don't think that is really helpful to me.

Q. The final factor that you identify as being influential to the determination of ordinary level of skill in the art is the particular patent's purpose.

In your view, what is the purpose of the '015 patent?

A. To teach Ravin's particular technique of constructing aspects of a crossbow, that they are teaching a reverse draw crossbow with helical take-up journals for the power cables, two power take-up cables. Okay? Patents teach.

Q. Prior to the '015 patent, do you recall any commercial embodiments of a crossbow that had helical take-up journals for the power cables if the crossbow was configured in the reverse draw arrangement?

A. No.

Q. No, you don't recall; or no, there aren't any such commercial embodiments prior to the '015 patent?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: I have not identified any in my declaration or my supplemental declaration. So these things may exist, but I am not able to point to them.

BY MS. JELENCHICK:

Q. Did you view Ravin's particular technique of constructing a crossbow novel, for the time?

A. Having read the evidence, the previous patents, I don't think anyone manufactured a crossbow exactly like that. I don't think it is a bad design, except for the trigger mechanism.

However, that doesn't mean it is a patentable technology. And even if you were to make a -- for example, a vertical bow that is new that nobody has made before, and is arguably novel, that doesn't mean that it is a patentable design, except perhaps as a design patent to say, you know, you can't make one exactly like this.

Q. You state in paragraph 17, "I believe that a hypothetical POSA in the field of the '015 Patent (archery and particularly bows and

crossbows) as of December 16, 2013, would have been a technical person who has had at least some experience working in the field of archery, reviewing crossbows or engineering related to bows and/or crossbows and is generally familiar with prior art crossbows."

A. Yes.

Q. Did I state that correctly?

A. Yes, ma'am.

Q. Is that who you believe constitutes the relevant POSA in this case?

A. Yes.

Q. You state that this particular hypothetical person will have at least some experience working in the field of archery, et cetera.

How much experience is sufficient?

A. I am not sure.

Q. Can you give me a range?

A. Some is more than zero.

Q. In your view, is there a minimum threshold of experience that someone must have?

A. I am not sure. I think this has to be taken holistically rather than piecemeal. I would not have put myself forward to my client

if I thought that I didn't have sufficient experience on the whole.

But as far as have I ever -- you know, if someone else were to be in my position, how much would they need? It is an incomplete hypothetical, because I don't know what their totality of qualifications are.

Q. You also reference that this particular hypothetical person should be working in the field of archery.

What specific type of work should this person have done at the relevant time?

A. That can either be in the manufacturing or testing or using or teaching or examining. There are many different ways you can be involved with archery equipment, but not, say, focused on being the designer behind the CRT.

Q. So in your view, satisfying any one of those areas would be sufficient to tick the relevant level of experience working in the field of archery; is that right?

A. It may.

Q. Well, what circumstances will it not?

MR. SKERIOTIS: Objection, hypothetical.

THE WITNESS: This is a -- paragraph 17 is a distillation of my experience in working in -- as a forensic engineer, which means a legal engineer, such that the courts are looking for somebody who has something on the ball. They are not looking for somebody who is going to opine as to the tramp mode of a solid rear axle on a vehicle that led to a loss of control and the person is a mechanic. The person is related, but they need to have a level of education that can do the sophisticated analysis for this.

In other areas, what they are looking for -- they are not looking for a nurse to talk about heart surgery standard of care.

I am trying to document here that a person has to have numerous experiences, but speaking of what they are in general, I am not sure is fruitful, because you need to look at what a particular individual has as credentials. Like Mr. Yehle doesn't have a Bachelor's degree in engineering. But I wouldn't say he is not a POSA based on the totality of his experience.

BY MS. JELENCHICK:

Q. So is your goal in paragraph 17 to

describe your qualifications?

A. No. Well, I think in paragraph 17 is -- what is attempting to be articulated there is my understanding of what a reviewing authority is looking for, IPR Board or a judge, whoever.

They want to see, what have you done? Why do you think this?

And if you look at what a person's credentials are, they might be limited in one area, there might be credentials in another area that compensate for that.

Q. What did you mean by stating someone who is generally familiar with prior art crossbows?

A. Someone who knows that the technology has changed over the years.

The original crossbows had recurve limbs, for one thing. The original crossbows didn't have finger guards. The original crossbows didn't have anti-drive fire mechanisms. The original crossbows had wooden stocks and now they are made out of polymers.

So if a person weren't at least generally familiar with the fact that there has

been a march of technology over time to include optics being mounted on crossbows, then that person wouldn't be a POSA.

Q. Why is it important for a POSA to be generally familiar with prior art?

A. Because it is a credential.

Q. In this particular case, why is it important for a POSA to be generally familiar with the prior art to claim 1 of the '015 patent?

A. Because technology changes over time, and a person who realizes that and is generally familiar with that then can get specifically involved for the claims that are disputed in the patent and look at previous patents that have issued or been applied for to see that if there were teachings in the prior art that read directly onto claim 1 in this case.

Q. Prior to your engagement in the instant matter, did you have any general familiarity with prior art in the crossbow space?

A. Yes.

Q. What relevance, if any, did your general familiarity with prior art in the crossbow space have to your work as a forensics

engineer?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: In general or in this case, do you mean?

BY MS. JELENCHICK:

Q. In general.

A. In general, it allowed me to, for example, put on my web page that I have done cases like this, and if you have need for a forensic engineer, I am certainly willing to talk to you about your situation.

Q. Okay. I think we are talking about two different things. What is your definition of prior art?

A. Prior art is documented levels of technology, typically patents, but it is also related to product brochures and items that have been sold which can be documented with a history as to when they were available.

Q. In your view, it is not required for a POSA, for claim 1 of the '015 patent, to have crossbow design expertise; is that right?

A. Experience, I would say. You know, design expertise, yes, but experience, no. It

doesn't -- I do not believe that a POSA has to be an industry insider who has designed crossbows.

Q. Do you consider yourself satisfying the POSA definition in this case?

A. Yes, ma'am.

Q. If you look at Section IV of your declaration, which is entitled "Legal Standards," that begins on page 10.

A. Yes.

Q. Specifically starting in paragraph 19 on page 11, you identify certain legal standards applicable to the IPR; is that right?

A. Yes, my understanding of them.

Q. And in your view, you applied those legal standards to reach the opinions you offered in your declaration; is that right?

A. Yes.

Q. You identify that you are not an attorney, and you have said that multiple times today. But do you have any legal training?

A. Not formal, nope.

Q. Do you have any informal legal training?

A. I think having testified 300 times,

been in 50 trials, I have more legal knowledge than a typical person, but I am not a legal expert whatsoever.

Q. You are not a registered patent agent, are you?

A. I am not.

Q. Have you ever considered applying for a reg number?

A. Fleetingly.

Q. You indicate in paragraph 19 that you have been advised by counsel about the following legal standards applicable in this IPR.

Which counsel advised you?

A. My clients.

Q. Who specifically advised you of the specific legal standards that are detailed in your declaration?

A. Mr. Skeriotis and I have discussed this. And also, in every previous patent case that I have been involved at, which there was the analogous allegation, this type of disclaimer has appeared, saying, "I have an understanding of these things, but I am not an attorney."

Q. Did you copy over from any of your past

opinions in other cases legal standards that were used there that in your view are apropos in this case?

A. No.

Q. When were you first informed about the claim construction legal standard relevant to this case?

A. I believe within this case was with the draft of this declaration. But I was already familiar with it from previous cases.

Q. As part of your work in other cases, are you familiar insofar as that you understand that any testimony that you may offer regarding claim construction is considered extrinsic evidence; is that right?

A. I think so.

MR. SKERIOTIS: Objection, legal conclusion.

THE WITNESS: That is my understanding.

BY MS. JELENCHICK:

Q. When was the first time you discussed the possibility of offering testimony regarding what constitutes proper claim construction of certain terms in this IPR?

A. Oh, this IPR?

MR. SKERIOTIS: Hold it. Could you read that back?

(Thereupon, the Reporter read the record as requested.)

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: I do not recall.

BY MS. JELENCHICK:

Q. Do you believe you offered proposed claim constructions for any terms in this IPR?

A. I don't think independently.

Q. What do you mean by that?

A. I think I was asked if I agreed that "mounted to" means mounted to directly or indirectly, and I said, "Of course, that is what that means."

Q. Why do you say "Of course, that is what it means"?

A. If we had a crossbow on the table here and I were to mount an American flag decal to the stock, to one side of it for decoration, the decal is mounted directly to the stock, but indirectly to all other components.

And I know this, because if I were to

pick up, say, the string guide or cam and transport that string guide out of the room, that American flag would go with it.

So obviously, while the decal is obviously not directly mounted to the cam, it is indirectly mounted to it, because they are now one functional whole.

Q. In your view, so long as one component is part of a functional whole, that would satisfy the plain and ordinary meaning of the phrase "mounted to"?

A. Yes.

Q. And in plain and ordinary parlance using --

A. I am sorry, can I?

Instead of functional whole, I should say one contiguous whole. That would be a better word to use for that.

Q. So long as one component is part of a contiguous whole, that means that the component is mounted to some other component, whether it is directly or indirectly connected, in your view?

A. Yes.

Q. Taking your hypothetical with the

American flag decal affixed to the stock, in your view, someone would conclude that that American flag decal is also mounted to the string guide?

A. If you were to ask a person, "Is it mounted to the string guide," a complete answer would be, "No, it is not directly mounted to the string guide," if that is what you mean.

But is it indirectly mounted to the string guide? The answer is yes.

As I say, if you pick up the string guide and you leave the room with it, the American flag comes with it.

Q. So if you take that crossbow that is sitting on the table in this room, would you say that that crossbow is mounted to this table?

A. No. I can pick up the crossbow and leave the room and the table stays. It is adjacent to the table, resting on the table.

Q. Were you familiar with the legal standard for anticipation prior to your engagement in this matter?

A. Yes, ma'am.

Q. Were you familiar with the legal standard relative to an obviousness

determination prior to your engagement in this matter?

A. Yes, ma'am.

Q. Have you ever offered expert testimony regarding claim construction?

A. Yes.

Q. In what circumstances?

A. In Novatek versus Sollami, which is the fifth bullet point of paragraph 9 of Exhibit 2021, what a road milling bit was the whole case.

Trebro versus Firefly, there was claim construction about what "stopped" meant -- you wouldn't expect, but there it was -- and what "vertical" meant.

TTC Performance Products versus Mossberg, what a receiver is.

There may have been claim construction in Evolusion versus Juggernaut, but I can't recall as I sit here.

Q. My question was whether you specifically offered expert testimony directed to claim construction issues.

So did you offer expert testimony in each of those cases that you just identified?

A. In the ones that I testified, I at least wrote a report, and some of them, I -- I actually testified.

So I consider a report testimony, but there may be a legal difference between them.

Q. In those specific cases that you just identified, you offered testimony as to what particular claim terms should mean; is that fair?

A. Right. I didn't articulate legal standards, I said "a road milling bit means."

Q. Did the Court accept your proffered claim construction testimony in favor of the definitions that were offered?

A. I don't know. I assume so on some of them. I know with Novatek versus Sollami, they did not. The claim construction was what is a road milling bit. The patent said that it had a carbide tip, and by the doctrine of equivalents, a diamond bit would work. And Novatek said, "No, you didn't say that." And the judge sided with Novatek on that. It said that, "You can't tell these apart from a distance. One has carbide and one has diamond, so one is a road milling bit and one is not."

Q. You said you assumed that the Court adopted certain of your proffered claim construction opinions. What is that assumption based on?

A. If they did not, I assume that I would remember. Because I remember in Novatek versus Sollami. That was the entire case.

Q. I will direct you to Exhibit 1001, which is a copy of the '015 patent.

A. I have got that one. Thanks. Yes, ma'am.

Q. Please take a look at claim 1 of the '015 patent.

(Witness complies with the request.)

Q. And in particular, let's look at the top of column 8.

A. Okay.

Q. Which recites, "a first string guide mounted to the first bow limb and rotatable around a first axis."

Reading further, claim 1 provides for "a second string guide mounted to the second bow limb and rotatable around a second axis."

Do you see where I am talking?

A. Yes.

Q. In your opinion, does the inclusion of the phrase "and rotatable about a first or second axis" limit the meaning of "mounted to" in any way?

A. I don't believe so, but I would have to hear what that limitation might be on the -- because I don't know where that would be going with that. If it is mounted to, it can still rotate. So I don't -- I don't believe so. I don't think that "rotatable about a first axis" limits "mounted to."

Q. Why not?

A. If I put a flagpole in a holder, it is mounted to the holder, but it is still rotatable within the holder.

Q. Does that rotatable about a first or second axis have any implications for the physical relationship required for one component to be mounted to another?

A. I am not sure what you mean.

Q. Notwithstanding the phrase "rotatable around a first axis," is it your testimony that the first string guide and the first bow limb are constrained in any way?

A. The -- with respect to each other, when

the bow limb moves, the cam or the first string guide does move. So they are connected.

They are constrained and the bow limb is further constrained at its root, and it is constrained by the bowstring indirectly. So that is a good issue of that.

The movement of the bow limbs are caused by forces which are transmitted through the string guides. But that is all through the -- from the bowstring. The bowstring moves, cams move, the bow limbs move. And yet the bowstring doesn't touch the limbs.

So I think it is rather obvious that the bowstring is indirectly mounted to the limbs because it causes force to be applied to it.

And I am not sure I have answered your question again.

Q. You didn't. I wasn't talking about the bowstring.

A. Okay.

Q. I was asking about the first string guide and its relationship and how it is constrained, if at all, by virtue of being mounted to the first bow limb when it must be rotatable around the first axis.

A. Oh, sure. If you move the bow limb, the first string guide moves. But from the patent -- I just have to say that it is not clear to me that the first string guide is directly mounted to the limbs. Because the way technology works, cams or string guides have axles in the middle of them, which are separate parts. Nobody that I know machines the axle directly into the string guide.

So I am not trying to be clever here. But the string guide typically has a bearing into it that goes to an axle, and that axle is a separate part. And it is called out in the separate part here. And the axle is what is mounted to the bowstring in the illustrative embodiments of Figure 11 and 12.

Q. The "mounted to" phrase is referring to -- well, will you agree with me that the "mounted to" phrase is referring to the type of rotation that is permitted between the first string guide and the first bow limb?

A. No. No. The rotation is an independent property of the string guides. The "mounted to" means that the axle is pushed into, in this case, in the illustrative embodiments,

to drilled holes, one in the top limb and one in the bottom limb, and then the axle is slid between it.

So if that axle suddenly were to become heated such that it expanded and froze the bearing up, the string guide would still be mounted, indirectly, to the limbs and it couldn't turn anymore. That wouldn't affect what it was mounted to or not. When the bow limb end moves, the string guide moves.

Q. Is that hypothetical contemplated in the claim language of claim 1 of the '015 patent?

A. No.

Q. Would a person of ordinary skill in the art understand the phrase "mounted to" to have any functional implications?

A. I would think he would.

Q. Why do you think that?

A. It is mounted to for a reason, for a function.

Q. Okay. What is the specific function in claim 1 of the '015 patent?

A. What is the function of claim 1?

Q. What is the specific function of

mounted to in claim 1 of the '015 patent?

A. I believe that is the way the crossbow works, that the -- at most, the typical archery limb layouts, whether it is vertical or crossbows, the eccentrics or cams or string guides are mounted near the limb tips, and they are what are receiving force from the bowstring and the power cables and cause the limbs to deflect and store elastic energy.

So they are mounted in order that such that when I move the cams, I move the limbs.

Q. Is there any disclosure within the '015 patent of an arrangement between the first string guide and the bow limbs where there isn't a direct connection between the two components?

MR. SKERIOTIS: Objection.

MS. JELENCHICK: What is the basis?

MR. SKERIOTIS: He has already answered that. And so now you are mischaracterizing what he has already said by asking that question.

MS. JELENCHICK: I disagree.

MR. SKERIOTIS: Okay.

THE WITNESS: Yeah, as I said, the string guides have axles. They are not

called out in the prints. But these drawings are illustrative and they are not intended to answer every possible question that a person could ask.

But as a knowledge of how these things work and how it is, in fact, illustrated in Figure 12 and Figure 11, the way that is set up, the string guides are not directly mounted to the limbs, they are mounted through the axles.

I think that a person of ordinary skill in the art would look at that and say, "Yes, the limbs and the string guides are mounted together."

And when you look at it carefully, you would say, "Yes, they are indirectly mounted together, because they don't touch."

BY MS. JELENCHICK:

Q. Where is that discussion in your December 2022 declaration?

MR. SKERIOTIS: Objection, foundation.

THE WITNESS: Wait a minute. Wait a minute.

(Pause.)

THE WITNESS: I do not see it in this declaration. It may -- I believe I did mention this, though, and I would like to look in my supplementary declaration, if you have a moment.

BY MS. JELENCHICK:

Q. No, we are not going there. That supplemental declaration has not been accepted by the Board.

A. Done.

Q. Does your proffered construction of mounted to limit how many intermediate components would form an indirect connection between two components?

A. No.

Q. Is there any constraint on when something is no longer considered mounted to within the context of a crossbow?

A. I am not sure.

Q. Is it your opinion that a component can be mounted to another component if it is indirectly connected to another component, regardless of the number of intermediate parts between them?

A. I believe so. But there may be

exceptions.

Q. Do you have any exceptions you can tell me about?

A. No. I am just saying that the scientific method is tentative, so I don't want to make a blanket declaration. I am leaving room for if there are exceptions you would like to explore, one could look at that.

Q. What do you mean that the scientific method is tentative?

A. We give the best answers that we have, but we are always willing to listen to another point of view.

Q. So under your proffered definition of mounted to, wouldn't it be fair for you to take the position that any component of that crossbow is mounted to another component, regardless of how many intermediate components come between them, because they are one contiguous whole?

A. Yes.

Q. How do you know, as a person of ordinary skill in the art, what the relationship should be between two particular components, if it says one component is mounted to another component?

MR. SKERIOTIS: Objection, speculation.

THE WITNESS: I think it would be within the totality of the patent and the description. I think that when it says mounted to in this case, because of the axle arrangement, I believe it is indirectly mounted. But I know from the drawings, it is at the end of the bow, the bow limb tips, if in somewhere else in the patent it indicated there is a lubricant pocket, meaning a spot where you can open up a little door and there is some wax in the stock, and that is all it said, you wouldn't know where it was located.

So mounted to the bow limbs, I think has a -- is a clear enough meaning, particularly when there are drawings associated with it.

BY MS. JELENCHICK:

Q. And in your view, the drawings associated with this particular patent are clear, that mounted to must include an indirect connection?

A. No.

MR. SKERIOTIS: Objection.

THE WITNESS: No. I think that

in this case, it says mounted to, it doesn't say directly mounted to and it doesn't say indirectly mounted to. I have given reasons why, because of the axle, I think it is indirectly mounted to.

But if there were an obvious bracket, say, that there is on the R9 crossbow, such that the string guide has an axle that then goes into a journal with a bearing, and a pillow block that is then screwed to the end of the tips, that is mounted to also. But it is indirectly mounted to, because the string guide and the bow limbs don't touch.

BY MS. JELENCHICK:

Q. Take a look at Figure 12 of the '015 patent.

(Witness complies with the request.)

Q. You state in your declaration at paragraph 134 that this figure shows the string guides 366A and 366B connected to limbs 362A, 362B; is that right?

A. You say which -- I am sorry, which paragraph of my declaration?

Q. 134.

A. Figure 12. Yes.

Q. Did you mean to state here that Figure 12 shows string guides 366A and 366B mounted to limbs 362A, 362B, because the string guides are connected to, directly or indirectly, to the limbs?

A. Yes.

Q. Based on your proposed construction of mounted to, are the string guides 366A and 366B connected to, directly or indirectly, the riser 360?

A. Yes. They are -- the string guides are indirectly mounted to the riser 360 through an intervening component or more.

Q. Based on your proffered construction of mounted to, are the string guides 366A and 366B connected to, directly or indirectly, the center portion 354?

A. Yes.

Q. They are indirectly connected, aren't they?

A. Oh, did I misspeak? Of course, you know, they are not directly connected. But they are connected indirectly to the center portion.

Q. Based on your proffered construction of mounted to, are the string guides 366A and 366B

connected to, directly or indirectly, the power cable anchors, 378A and 378B?

A. Yes, indirectly mounted to.

Q. Looking at the bottom of column 7, which is the first portion of claim 1 of the '015 patent.

A. Okay. Bottom of column 7 of the '15 patent.

Q. It states, in relevant part, "first and second flexible limbs attached to the central portion."

Do you see that?

A. Yes.

Q. What is your understanding of what constitutes the plain and ordinary meaning of the phrase "attached to" as used in claim 1?

A. They are attached to directly or indirectly. And I believe in this case, they are actually attached to a riser, which is the receiving component that is itself directly connected to the central portion.

Q. In your view, though, "attached to" means the same thing as "mounted to"?

A. Yes.

Q. If you go back to your declaration --

A. Yes, ma'am.

Q. -- specifically page 12, under the Legal Standards, Claim Construction portion of your declaration.

A. Okay.

Q. The second-to-last sentence of paragraph 22 states, "I understand that the intrinsic evidence also includes related patent applications in the same patent family and their prosecution histories, especially if the applications involve common subject matter."

Did I state that correctly?

A. Yes, ma'am.

Q. And you don't offer any further opinions in this declaration as it relates to how any related patents to the '015 patent may bear on claim construction issues in the instant case, do you?

A. I don't think that's correct. I think in page 56 forward, I talk about the '379 patent, which is in the same patent family, and how that is used, "mounted to" is used there. I think you asked me that I don't do that. I do do that.

Q. So you offered an opinion as it relates

to at least one related patent to the '015?

A. Yes.

Q. Are you aware of other related patents to the '015?

A. I know there are other related ones. But I am not an expert on that. I would have to study that in order to give you better answers.

Q. Right. But at least at the time that you prepared your declaration, you were aware that there was at least one related patent, and indeed you offered opinion regarding how that related patent may influence certain aspects of the testimony that you are offering; is that fair?

A. Yes.

Q. And you elected not to opine further or investigate further as it related to other potential related patents, right?

MR. SKERIOTIS: Objection. No, it is getting into work product and what he relied on, what he looked at. I instruct you not to answer.

MS. JELENCHICK: Mr. Skeriotis, I am entitled to understand everything that Dr. Batzer looked at for the purposes of his

opinions being offered.

MR. SKERIOTIS: Yeah, you are asking him -- you can ask him what he relied on, what he reviewed. I didn't have a problem with that. If that is what you are asking him, did he review any other ones, correct. Whether or relied on them and the reasons why he didn't include them or did include them, we are not getting into.

So, but you go ahead and ask him if he reviewed it.

BY MS. JELENCHICK:

Q. At the time that you offered this declaration in December of 2022, did you review any other related patents of the '015 patent?

A. Not for the mounted to issue.

Q. And that was a deliberate decision on your behalf?

A. Yes.

Q. Now, flipping to page 16 of your declaration.

A. Yeah, just a moment.

I am sorry, I am ready for you now.

Q. Page 16 --

A. Yes.

Q. -- of your declaration.

A. Yes, ma'am.

Q. Under the heading "Technology Overview."

A. Okay.

Q. Between paragraphs 35 and 49, what was your goal in inclusion of this information?

A. My goal in these paragraphs is just to orient the reader to the technology at hand and the relevant issues.

Q. Where did this information come from? Because you offer no citation to any reference materials.

A. I did not provide any citations. I believe that this is knowledge that is known by a POSA, but may not be known by a patent examiner.

And so as it is POSA knowledge, there just doesn't seem to be a need for citations.

Q. Did you draft any portion of this technology overview?

MR. SKERIOTIS: Objection, continuing line of objections.

I mean, the case that I provided you is clear, you are not to go into that, absent

compelling reasons. I mean, it is clear. You have been doing it. And I am just telling you that the opinion says it is improper to do so.

So I am going to maintain my line of objections. You continue to ask, but I just want to make sure we are clear on the record.

THE WITNESS: Am I to answer?

MR. SKERIOTIS: Yes.

THE WITNESS: This was a joint effort. And I could not give you a breakdown of which entity, the law firm or myself, which wrote which sentence.

MR. SKERIOTIS: And for the record, I want to say, the case I gave you, the last sentence on page 23, or close to it, says, "In the future, absent compelling reason, the Board, we, counsel against any attempt to inquire on cross-examination into how direct testimony declaration came to be prepared." And you are violating that rule, that case.

So go ahead.

MS. JELENCHICK: We can agree to disagree.

MR. SKERIOTIS: Do you have a case against that? I would be happy to see it.

MS. JELENCHICK: I am entitled to understand what work he did to substantiate the opinions that he is offering.

MR. SKERIOTIS: You are not asking that. You are asking how the declaration came to be prepared, who drafted it, who did this. You are not allowed to seek that information, absent a compelling reason, which you don't have, or have not articulated it, per that case I gave you. And you have known about it since the beginning of this deposition and you violate -- you continue to violate it.

BY MS. JELENCHICK:

Q. You testified this morning that the first draft of the declaration was provided to you.

Do you recall whether any substantive changes you made were from this Technology Overview section?

MR. SKERIOTIS: Once again, continuing objection as to how this declaration came to be prepared. You are skating on some thin ice. Go ahead. I am warning you, so I am telling you that I may move to provide sanctions under 37. whatever CFR that is relevant to this

case, because you don't have a compelling reason to go into this.

And I have given you the case. You have had plenty of time to research it. You have an assistant here and two lawyers here that could research it on your behalf and you haven't done so.

Go ahead and answer.

THE WITNESS: Could you ask me the question again, please?

BY MS. JELENCHICK:

Q. Do you recall whether any substantive changes you made were from this Technology Overview section?

That is a yes or no question.

A. Yes. And I just want to answer it accurately.

Q. I understand. That is a clarification for your counsel.

MR. SKERIOTIS: It doesn't matter if it is a yes or no question. It is asking who prepared -- how the declaration came to be prepared, and you are not allowed -- you should not allowed to be going into that. They counsel against any attempt to inquire on cross-exam how

this direct testimony declaration came to be prepared. This is -- you are too familiar with the Federal Court litigation. This is not what that is. You cannot go into that.

THE WITNESS: I don't know.

BY MS. JELENCHICK:

Q. Did you consult any reference materials in offering the opinions in Section V relating to the Technology Overview?

A. I don't believe so directly, as far as for writing this. This is material known to me, and so I wouldn't need to refer to anything in order to create it.

Q. What is your basis for making these statements? I know you say it is known to you. How is it known to you?

A. Study, experience.

Q. Can you cite something specific?

A. My case work.

Q. So paragraph 35, can you cite anything specific as to how the statements made in paragraph 35 are known to you?

A. I will read 35. "The two most common products in the archery field are vertical bows (so called because a user holds it with the

limbs oriented vertically) and crossbows. Each has been used for hunting and fishing, and for target shooting."

I think this is unobjectionable and does not require a citation. I could not offer you a citation, as I sit here, except the books I have on my shelf about modern archery.

Q. For any of the paragraphs within Section V in the Technology Overview, can you offer me any citation for the statements made therein?

A. I think that this is -- yes. I think that if we look at the majority of the cited patents in my declaration as prior art, they typically have an overview section where they orient the patent examiner or the reader with archery technology and contain many of the same statements or similar statements.

THE VIDEOGRAPHER: Could we take a break to change media?

MS. JELENCHICK: Sure, of course.

THE VIDEOGRAPHER: Thank you. We are going off the record at 2:33.

(Thereupon, a recess was taken.)

THE VIDEOGRAPHER: We are back on the

record, 2:41.
BY MS. JELENCHICK:
Q. In offering the opinions in the Technology Overview section, you are asking the Board to just take your word for it that these statements are true?
A. I don't -- that is not the way I view it. What I view it as is these things should be unobjectionable, just consensus, beliefs or knowledge about the archery industry. I don't think there is anything in dispute in here.
So, but if they think I am wrong, they are free to dispute it.
Q. In your view, because you find it unobjectionable, that eliminates any obligation that you have to provide citation to substantiate the statements that you are making in this section?
MR. SKERIOTIS: Objection, argumentative.
THE WITNESS: Yes, as far as when we make assertions, which are common knowledge, we do not provide peer reviewed support.
BY MS. JELENCHICK:
Q. In paragraph 42 of your declaration,

you state, "One known design incentive in the archery field is to decrease the size of the bow (whether vertical or crossbow), including the distance between the cam axles (axle-to-axle distance) on compound bows."

A. Yes.

Q. What is the basis for that statement?

A. Both the patents in this case, there is discussion of that, and also brochures that I have read over time, YouTube videos where archery manufacturers are discussing their new products. Compactness is typically a desirable aspect of many, many products.

Q. You stated "both the patents in this case." You understand that this IPR is limited to the '015 patent, right?

A. Oh, sure. I am just talking about the prior art that I studied quite at length, which discussed these issues as well.

Q. You don't cite to any of these brochures or YouTube videos that you are referencing --

A. No.

Q. -- in your opinions, do you?

A. No, I do -- I did not. I would think

that the examiners, if they saw me putting citations in here, would find it either tiresome or pedantic.

Q. In paragraph 43, you state, "Another known design incentive in archery field is to increase the arrow speed, which is directly related to the energy stored by the bow while drawn."

How do you know this is another known design incentive?

A. Kinetic energy in the arrow is quadratic in velocity and linear in mass. The only place that the arrow gets that energy is from the drawn bow.

Q. The speed of the arrow is determined by numerous factors, right?

A. It is determined by two factors, the amount of stored energy when drawn and then the efficiency of the shot.

Q. Does the weight of the arrow have any influence on the speed?

A. Yes.

Q. You don't cite to that, do you?

A. No.

Q. So you identify two design

considerations for crossbows; is that a fair statement?

A. At least the two, yes.

Q. Okay. Are there others in your declaration you can point me to?

A. In 46 I talk about "Cams also affect" --

THE REPORTER: I am sorry?

THE WITNESS: I will scratch that. I think you are right. I think it is two are highlighted, yeah.

BY MS. JELENCHICK:

Q. Are there other design considerations in play --

A. Sure.

Q. -- for the crossbow?

A. Absolutely.

Q. Can you describe those for me?

A. Sure. Aesthetics. A lot of people buy products simply because they think they look cool.

There is weight in the crossbow. If it is too heavy to use, that would be unfortunate. Draw weight, you can only have it be so much before people would find it objectionable.

There is cost. There is durability. Safety is another one. Accuracy. Sound is another.

Many -- so those are the aspects of a crossbow that a person might pick up when test-firing a crossbow at its local retailer.

Oh, ergonomics too, that is on there.

Q. Do you have any others?

A. I am sure I could come up with others if I spend long enough, but that is most of it.

Q. Will you agree with me that one design consideration for crossbows may be its ease in operation?

A. Yes. That would be ergonomics.

Q. Will you agree with me that the ease of repair is another design consideration for crossbows?

A. Yes, so durability.

Q. How about manufacturability, is that relevant to design of a crossbow?

A. Yes. That would be subsumed within cost.

Q. How about synchronization, is synchronization relevant to the design of a crossbow?

A. Absolutely. That is part of accuracy.

Q. How about with respect to balance, is balance important when considering a design for a crossbow?

A. I think so. That is part of ergonomics.

Q. In your discussion of any of the prior art in your declaration, do you focus on how the combination of any of the stated art impacts the design of the crossbow and these particular design incentives that you refer to?

A. I think so, yeah.

Q. Where in your declaration do you address the impact on crossbow design when you are discussing Ground 7, the combination of Darlington and Norkus?

A. Ground 7, you said?

Q. Um-hum. Yes.

A. Where did I discuss its impact on design, by combining Darlington and Norkus?

Paragraph 206, beginning on page 81.

Q. In paragraph 206, you don't describe how the resulting combination, though, would touch on the identified design incentives in crossbow design, do you?

A. I think I do.

Q. Where?

A. "Darling-" -- I will read it. "Darlington teaches the desirability of 'a higher level of stored energy,' and increased power stroke (i.e., the distance of travel of the bowstring between the drawn and released configurations)."

So Darlington is indicating he teaches that at increased power stroke, which as we know is limited by string guide rotation, is a -- will lead to a higher stored energy level, which we know is directly related to arrow energy level. So that results in better performance.

It continues, "Norkus likewise teaches the desirability of more energy storage, which is directly impacted by an increased power stroke."

So here we have an increased power stroke twice, both in Darlington and in Norkus.

"Norkus discloses that the longer power stroke is accomplished by allowing the cams (which receive the bowstring) to rotate more than once, which is accomplished by using helical cable journals. Thus a POSA would be

motivated to further increase Darlington's power stroke (and energy storage) and would utilize the design of Norkus's helical cable journals to facilitate the increased power stroke, which result would be reasonably expected from this combination."

So we have them both talking about increased power stroke. And Norkus says, "Here is how you do it. If you combine these, you get an increased power stroke and you get more energy," which is a known desirable output characteristic of a crossbow.

Q. You just say that is going to happen. You don't --

A. Yes.

Q. -- provide any substantiation that the proposed combination will indeed provide the longer power stroke or some of the other professed benefits that each individually may offer; is that right?

A. I don't know how to answer that.

I am quoting from both pieces of prior art, and as a mechanical engineer, I know that energy is the product of force times distance.

The force is in the bowstring. The

distance is in the power stroke. This will -- if you have an increased power stroke, you will have an increased amount of energy at the arrow.

Q. How does your proposed combination bow impact synchronization?

MR. SKERIOTIS: Objection, calls for speculation, outside the scope of direct. Synchronization is not even included in anything. That is irrelevant, so objection is also to relevance.

MS. JELENCHICK: You can avoid the speaking objections, Mr. Skeriotis.

THE WITNESS: I would think it would affect the synchronization no differently than it would affect a Ravin crossbow in the '015 patent.

You have to ensure that all components of the crossbow are working as a team and tuned to each other.

BY MS. JELENCHICK:

Q. My point is, in your declaration, you don't offer any critique of the -- of any of the proposed combination bows and how the cited design incentives, whether that be axle-to-axle distance or faster arrows or any of -- any

number of design considerations that a crossbow designer would consider?

A. That is true. Because I am not designing a crossbow in here. I am saying how the crossbows are conceptually configured.

Q. So is it your position that because something may conceptually be able to be combined, that is a sufficient motivation to combine those prior art references?

A. Yes.

Q. What is your basis for that statement?

A. That is how things work. If horns work on cars, horns work on trucks. If vertical bows can use cams that are synchronized using a particular technique, crossbows can use that as well.

So if Norkus says, "This technique works on my crossbow," then that aspect of the crossbow can be cross-pollinated, as it were, into the Darlington bow.

Q. But you don't explain, particularly for Ground 7, how Norkus is going to be cross-pollinated into Darlington, do you?

A. No, I don't.

Q. For any of the specific grounds

alleging a combination, do you explain specifically how the prior art references are going to cross-pollinate in one another to create the professed combination?

A. I have not drawn a sketch, no.

Q. Well, have you stated in words what that would look like or how it would operate or even whether it is operable?

A. Oh, I am confident that it is operable. But I have not done that, no.

Q. What is the basis for your statement that you are confident that your proposed combination bows in the various grounds are operable?

A. If a technology works for Norkus and it works for Ravin, which it does, it would work moving Norkus over as a new aspect of the Darlington bow. Though, of course, engineering and analysis would have to be done. You can't simply cut and paste from one into the other without having compensatory design changes.

Q. You don't do anything other than cut and paste for the purposes of your opinion, right?

A. I do other analysis to see if there is

any sort of reason that moving the technology from one to the other would be fatal.

Certainly Norkus's technology is not transportable to all crossbows, but it is to Darlington.

Q. Where do you say why it is transportable to Darlington, but not others, in your declaration?

A. I don't think I say that. But I think that is just assumed. We are going -- in a declaration, you provide sufficient amounts of evidence and then you typically stop.

I think it is simply known that no direct -- no declaration is going to be universal and answer every question or catalog all the instances in which a particular technique will not work.

Q. And in your view, your declaration provides sufficient amounts of evidence to demonstrate that a person of ordinary skill in the art would take certain pieces from one bow and combine them with certain pieces of other bows?

A. Yes.

Q. Are there any unique design

considerations if a particular crossbow is configured to be a reverse draw?

A. Unique design.

Every component of every bow has to be so designed to work in combination with the others. That is not unique to reverse draw crossbows.

Q. So it is not the case that you can just take a reverse draw crossbow and its configuration and modify it so it becomes a forward draw crossbow?

A. You would have to redesign components.

For example, if it was a conventional draw crossbow that you are redesigning from a reverse draw, well, then you would probably move the limbs further forward if you wanted to get as much draw energy out of it as you had gotten when it was reverse draw.

You have sacrificed length, but you may not have sacrificed -- and weight, but you may not have sacrificed anything else. But for sure, anytime anything new is introduced, there have to be compensatory changes made to the related components.

Q. Let's go to page 92 of your

declaration.

(Witness complies with the request.)

Q. When did you first have the occasion to review the Islas reference?

A. During my work with this case.

Q. So sometime in December of last year, 2022?

A. I think before December, but I don't know what month that was.

Q. Why do you think it was before December?

A. I wasn't time limited on it. I had time to look over the things and do my analysis.

Q. So earlier this morning, you testified that from receipt of the first draft to execution took one week and you signed your declaration on December 20th.

So was that incorrect testimony?

A. No, it is just that that is the declaration. That doesn't mean that was the first time I had seen the patents and was looking at the issues associated with this.

Q. Prior to your engagement in this matter, had you reviewed the Islas reference?

A. No.

Q. Let's look specifically at paragraph 250.

First sentence, you state, "Islas's bowstring is not secured in a reverse draw configuration (with the string 22 adjacent the down-range side of the string guides 20 in a released configuration, such that the string 22 translates from the down-range side toward the up-range side while being drawn)."

Did I state that correctly?

A. That is correct.

Q. Is this Islas forward draw?

A. Conventional draw I call it.

Q. Is forward draw and conventional draw synonymous --

A. I think so.

Q. -- in your opinion?

A. I think so, yeah.

Q. You go on to state, "But it would be obvious to do so in light of Darlington, which teaches that a reverse-draw configuration provides a bow with a longer power stroke and thus increased speed and better performance."

Did I state that correctly?

A. Yes, ma'am.

Q. If Darlington teaches a reverse draw configuration, and Islas teaches a forward draw or a standard or -- excuse me.

If Darlington teaches a reverse draw configuration, and Islas teaches a conventional or forward draw configuration --

A. Yes.

Q. -- where do you state why a person of ordinary skill in the art would be motivated to combine Islas's crossbow to implement the reverse draw configuration of Darlington to increase the power stroke and resulting speed with the results being as expected?

A. At the bottom of page 94, the last three sentences -- or three lines, "and thus a POSA would be motivated" --

THE REPORTER: I am sorry, you need to read --

THE WITNESS: I will do it better. Bottom of page 94, last three lines, "thus a POSA would be motivated to modify Islas's crossbow to implement the reverse-draw configuration of Darlington to increase the power stroke and resulting speed, with the results being as expected," meaning as has been

repeated over and over within this declaration.
BY MS. JELENCHICK:
Q. What are the differences between a reverse draw configuration and a forward draw configuration?
A. Well, it depends on the crossbow. By definition, the difference is where the string starts. It is going to be perpendicular to the center rail always, but if the cams are behind the string when it is uncocked, that is reverse draw, and if the cams are forward of the bowstring when uncocked, that is conventional draw.
Q. Didn't you tell me you can't just substitute a reverse draw configuration for a forward draw configuration without additional design modifications and vice versa?
A. You typically wouldn't, yes.
Q. So where in your declaration, if not in paragraph 250, where specifically in your declaration do you tell us why you would make such a substitution when it is typical not to do so?
MR. SKERIOTIS: Objection, mischaracterizes testimony.

THE WITNESS: I am not sure I understand the question. When it is typical not to do so?

BY MS. JELENCHICK:

Q. Yes. I asked you whether you would substitute a reverse draw configuration for a forward draw configuration or vice versa. And I understood your testimony to be that you wouldn't typically make such a substitution. Is that correct?

A. You couldn't just take a crossbow that is reverse draw and say, "Well, with all these same parts, I am going to take it apart, put it back together, but now it is going to be conventional draw." You couldn't do that. That is what I meant.

Q. Yes, I meant --

A. You would have to make compensatory design changes, if you say, "I want -- the only change I am going to make," essentially, "is now it is going to be conventional draw, where it used to be reverse draw."

And do I discuss that in here? I don't -- I think that is known to every designer.

Q. Right. So you don't specifically identify how or where or what the compensatory design changes would need to be to make such a substitution, do you?

A. That is correct, that is too specific.

Q. If you go back to your declaration on page 19 --

A. Nineteen, you said?

Q. Nineteen, yes.

A. Okay. Yes, ma'am.

Q. Specifically, paragraph 45.

A. Okay.

Q. You state, "By their design, cams can affect the draw weight along the power stroke distance."

A. Sure.

Q. Okay. Where in your opinions within this declaration do you explain how cams affect the draw weight of a particular crossbow?

A. I think that is beyond the scope of this. This is not a design treatise on manufacturing crossbows. That is done with computers anymore. Nobody does that, does a map, a force draw map to get the cam profile by hand anymore.

Q. At the end of paragraph 45, you are talking about a concept referred to as draw force let-off.

A. Sure.

Q. Would you describe for me what draw force let-off is?

A. Right. The bowstring is what causes the cams to turn. When the cams turn, they take up the power cables. And those are where storing the majority of the energy, because it is those, which, in addition to the bowstring, are pulling in on the limbs of a conventional vertical or crossbow.

And I am sorry, in my explanation, I lost the question. I apologize.

Q. I asked you to describe for me what draw force let-off is.

A. Thank you.

And so you can configure the profile of the cams such that the radius at the end of the draw of the cam expands, such that the torque around the axle is maximized so that the force pulling back on the bowstring is minimized and you have maintained dynamic equilibrium of the system, or static equilibrium.

THE REPORTER: Or static what?
THE WITNESS: Equilibrium. You have -- you have lowered the force that the bowstring needs to pull on the cam in order to keep it from rotating back to its at rest position.
BY MS. JELENCHICK:
Q. Does the crossbow described in claim 1 of the '015 patent have any let-off?
A. I don't remember that as part of this. Oh, wait a minute.
It doesn't discuss that in claim 1.
Q. In paragraph 48 of your declaration, you state, "If a cam were to rotate more than a certain amount, the bowstring or power cable will overlap. In some cases, such overlap is acceptable. In such cases, the cam groove or channel can simply be designed deep enough to accommodate the overlapping string or cable."
Did I state that correctly?
A. Yes. And I think that is true in many cases. I don't think that is true in all cases. That actually, it is the bowstring and power cable that will overlap. I think you can -- you can make designs such as Islas, which that does

not happen.

But in any event, what is going to happen is some cable in the conventional crossbow -- you know, in fact, in all crossbows, you can rotate a certain amount, and then you have exceeded the amount of rotation that is allowable geometrically.

Q. You keep using the phrase "a certain amount." How much?

A. In the '015, it mentions 270 degrees is the conventional prior art.

One of the cited references also mentions 270 degrees. Another one mentions 250 degrees.

Q. So when you are talking about a certain amount, you are talking about in the neighborhood of between 250 to 270 degrees?

A. Yes.

Q. Okay. Why is overlap undesirable?

A. It is interference. You don't want components touching that aren't intended to touch. You develop friction and then there are durability issues.

Q. Are there operability issues as well?

A. Yes. Well, it stops. Right. So that

is undesirable, because, you know, forcing things, and then when you force things, that tends to damage them.

Q. Isn't it also true that a cam's rotation is constrained by the power cable anchor?

A. It can be.

Q. Because certain power cable anchors can interfere --

A. Yes.

Q. -- with the rotation, correct?

A. Sure, sure. Depending on the design.

Q. In paragraph 49, you identify one way of avoiding overlap between the string and the cables.

Are you aware of other ways to avoid overlap beyond the helical or spiral configuration you identify?

A. I can't identify any as I sit here. I wasn't prepared for that question.

Q. So there could be other ways, you just don't know?

A. It would surprise me if there aren't other ways.

THE REPORTER: It would surprise

you what?

THE WITNESS: If there weren't other ways. I mean, human ingenuity is limitless. But I can't identify any as I sit here.

BY MS. JELENCHICK:

Q. So what's --

A. Oh, yes, you can do it in another way. If -- well, a cable can overlap with itself. It can just wind on a circular device that is as a deep groove. That is undesirable, though. Right?

But then the power cable isn't interfering with the bowstring, for example.

Q. Let's turn to page 21 of your declaration.

(Witness complies with the request.)

Q. In paragraph 51, you quote from the '015 patent abstract.

A. Yes.

Q. Specifically, "A string guide for a bow having a reverse draw configuration," et cetera, et cetera.

Do you see that?

A. Yes.

Q. Is claim 1 of the '015 patent limited to a reverse draw configuration?

A. Yes.

Q. What benefits, if any, are there for a reverse draw configuration?

A. A longer power stroke, and all other things being equal, a greater amount of energy imparted into the arrow upon launch.

Q. Any others?

A. I think all other things being equal, no. Though you can make crossbows more compact by using that. So there -- and then lighter weight.

But as I say, if you could just take a conventional draw crossbow and make it a reverse draw, you would get more energy out of it, but that would be the only change.

So typically, reverse draw crossbows are purpose designed from that aspect, and then they are somewhat lighter, somewhat shorter.

Q. Are there limitations to a reverse draw configuration?

A. Well, there are limitations to all crossbow designs.

Q. What would you say are the key

limitations in a reverse draw crossbow?

A. I don't have a list of that.

Q. Do you have any limitations that you can share with me?

A. Well, one of the limitations from the crossbow, it has to -- if it weighs 40 pounds, nobody is going to buy it. That is just common to all crossbows. If the thing is 6 feet long, no one is going to buy it.

So everyone is trying to get inside of an envelope of customer expectations and then to optimize.

Q. In paragraph 52 of your declaration, the third sentence, "The '015 Patent states that cams of existing bows have their rotation limited to about 270 degrees because of the interference of the power cables with the power cable anchors, which limits the power stroke distance."

A. Yes.

Q. And we already talked about that. And you will agree with me that that is a known problem, prior to the '015 patent?

A. Right. That was an industry known problem.

Q. Are you aware of any attempts in the prior art to solve that problem?

MR. SKERIOTIS: Objection, outside the scope of direct.

THE WITNESS: Other than what -- the materials here, no.

BY MS. JELENCHICK:

Q. Would interference between the power cables and other components of the crossbow limit the power stroke distance?

MR. SKERIOTIS: Objection, speculation.

THE WITNESS: Yes, it is incomplete. I can't see the hypothetical crossbow you are talking about. But when something starts to interfere, typically that limits your ability to continue drawing the crossbow.

BY MS. JELENCHICK:

Q. And a person of ordinary skill in the art would be aware of the fact that interference between the power cables and any component would be catastrophic to its design, right?

A. It could be. It could be brushing contact. Suppose the power cable brushed up

against a take-up post. That could be -- could range from trivial to catastrophic. It is not good.

Q. Because of that brushing contact, there is friction, right?

A. Yes.

Q. Any other problems?

A. Diminished durability, probably --

THE REPORTER: I am sorry?

THE WITNESS: Diminished durability because you have brushed up against cables. There is some loss of accuracy.

BY MS. JELENCHICK:

Q. Paragraph 57 of your declaration.

A. Yes, ma'am.

Q. You state, "The '015 Patent then discusses its string guide system (specifically, the embodiment with helical power cable journals) installed on a vertical bow."

Have you seen any commercialization of that arrangement?

A. No, but I have not looked.

Q. In paragraph 61 of your declaration, you identify that claims 2 through 10 depend from claim 1, right?

A. Yes.
Q. You are not offering any opinions regarding the patentability of claims 2 through 10, are you?
A. No.
Q. And paragraph 62 and 63 references other claims from the '015 patent that aren't at issue in your opinions; is that right?
A. Correct.
Q. And you are not offering, in fact, any opinions regarding claims 11 through 20, are you?
A. Correct.
Q. If you turn to page 31 of your declaration, in particular, paragraph 72.
A. I am sorry, 72?
Q. Yes.
A. Beginning on page 30?
Q. Yes. The first full sentence after the citation that states, "The Notice also provided the Examiner's reasons for allowance."
And here you are talking about the examiner's reasons for allowance --
A. Right.
Q. -- as it relates to the '015 patent,

right?

A. Yes.

Q. "The Examiner was persuaded by Ravin's arguments (made January 4th, 2016) that the 'first and second helical power cable take-up journals extending in a direction perpendicular to a rotation of the first and second draw string guides, benefits the pulley mechanism in the manner of displacing the power cables (in relation to the string/main guide) as well as increasing the power of the drawn power cable/s (which inherently increases/adds more 'draw strength/energy/power' to the bow)."

A. You cited that correctly, yes.

Q. Do you agree with the examiner's statement?

A. I think with the information that he had at the time, that he felt that he was making a correct opinion. I think that if this examiner were part of this proceeding, he would say that he made a mistake.

So it is hard to get into somebody's head why they do the things that they do. But I don't think that a complete look at the prior art would convince the examiner that this patent

should have issued.

Q. So in your view, the examiner had an incomplete view of the prior art?

A. Yes.

Q. In your opinion, which art was missing from his analysis?

(Pause.)

Q. May I ask what you are doing?

A. I am reviewing all of the patents listed on Mr. Yehle's '015 patent and comparing it to the ones that I have cited to. It may be that each one of these is cited there, but I don't see them all.

If there are patents in the prior art that I have cited to that he didn't have, then obviously the answer would be, well, those. But some of them he has seen. He has seen certainly Islas '508, he has seen Darlington '666, he has seen Kempf '001. But in any event, if -- my point is that there is prior art that shows that '015 claim 1 is unpatentable because it is either anticipated or obvious.

Q. But I understand that is the opinion you are offering. But I was asking, which specific prior art, in your view, would have

dictated the examiner reaching a different result?

But as you sit here today, if you don't know, that is fine. Let's move on.

A. Well --

MR. SKERIOTIS: Objection. Objection. Mis -- come on. Badgering. He already identified them. He said -- let the record speak for itself. He already identified those. You are trying to change his testimony.

MS. JELENCHICK: No, I think his testimony is what his testimony is.

MR. SKERIOTIS: That's right. So don't try to change it.

BY MS. JELENCHICK:

Q. Let's look at Exhibit 1007.

A. Yes.

Q. When is the first time you saw this exhibit?

A. Likely in October or November of 2022, but I don't have an exact date for you.

Q. Why do you think it was sometime within October or November of 2022?

A. Because that is before my declaration was submitted, and I had been reading these

materials prior to the declaration being signed.

Q. So this is a publication of a certain patent application filed by a Mr. Stanziale. If I refer to this as Stanziale '302, will you understand what I am talking about?

A. Yes.

Q. Do you know Mr. Stanziale?

A. No, ma'am, I do not.

Q. Have you ever met him?

A. I have not.

Q. Have you talked to him?

A. I have not.

Q. Have you met or spoken to any of the named inventors on the prior art that you rely on in your declaration?

A. No, ma'am.

Q. Okay. If you go to paragraph 144 of your declaration.

(Witness complies with the request.)

A. Yes.

Q. You state, "Stanziale '302 discloses first and second flexible limbs 10 attached to the central portion 2 via riser 25 (shown in blue above)."

Did I state that correctly?

A. Yes.

Q. What did you mean when you said that the limbs are attached to the central portion via the riser?

A. Exactly that, that they are not attached directly to the central portion, but they are attached to the riser, which is then itself attached to the central portion.

Q. So you are saying that the limbs are connected indirectly to the central portion?

A. Yes, the riser acts as the limb mount, as it does inside many crossbows.

Q. In the next paragraph, paragraph 145, you state that "Stanziale '302 discloses first and second string guides (called pulley assemblies) 50, each mounted through a lever 40 to a limb 10 on each side of the crossbow."

Did I state that correctly?

A. Yes.

Q. So you will agree with me that this means that the pulley assemblies are not directly connected to the limbs or positioned on the limbs?

A. Correct, they are indirectly attached to the ends of the limbs.

Q. And that the lever 40 is positioned between the pulley assemblies and the limbs, correct?

A. Yes.

Q. Would you say that the pulley assemblies are attached to the limbs?

A. I would say that they are indirectly attached to the limbs.

Q. Let's look at Figures 2 and 4 in Exhibit 1007.

A. Two and four?

Q. Yes.

A. Okay, got it. Cocked and uncocked.

Q. What do those figures show, generally?

A. They show an overhead view of Mr. Stanziale's invention. On the left in Figure 2 -- it is on the left? In Figure 2, it is in the uncocked configuration. And in Figure 4, it is in the cocked configuration with the bowstring back towards the down-range size.

Q. Would you agree with me that Figure 2 shows the Stanziale contraption in its released configuration?

MR. SKERIOTIS: Objection, "contraption."

MS. JELENCHICK: Object to your speaking objection.

MR. SKERIOTIS: It is not a speaking. I have to identify what my grounds are. It is that word.

THE WITNESS: It is in the rest position or released, yes.

BY MS. JELENCHICK:

Q. And in Figure 4, that shows the device in its drawn configuration; was that right?

A. Yes, ma'am, no arrow.

Q. Based on these figures, how do the pulley assemblies 50 move relative to the elastic members 10 when the device is drawn?

A. When the device is drawn, the bowstring moves backwards along the central portion. That pulls on the pulleys 50, and the down-range ends of the flexible elements or the bow limbs move inward in a cantilever beam fashion.

The pulley 50, which is connected via lever 40 to the bow limb, then will move both back towards the down-range side. It will also move modestly inboard. So this is your X and Y coordinates. And the lever 40 will rotate, when viewed from above, clockwise for the right limb,

limbs, and counterclockwise for the bottom limbs.

So the pulleys 50 or string guides do not maintain their absolute position relative to the limbs upon cocking.

Q. Do you think a configuration like the device in Figures 2 and 4 would be operational?

A. Are you asking me do I think if the -- would his invention work?

Q. Sure, yes.

A. I think so, yeah.

Q. Why do you think that?

A. I studied it. I think you have all of the elements of a crossbow. You have pulleys and power cables and limbs and a riser and a central portion. You have a track, trigger. It did require some time looking at this to figure out how this works, I will admit that to you. This is a complex piece of archery equipment.

But when the bowstring is released, that will allow the limbs to move outward and the bowstring's midpoint will move forward with great rapidity, and so there is no reason this shouldn't work, that I can identify.

Q. So you will agree with me that the

pulley assemblies would not solely rotate relative to the elastic members in the Stanziale device, right?

A. It is attached to the lever. The lever would rotate relative to the end of the limbs and the limbs' end would move outwards.

Yeah, this isn't a mounting strategy that was used on the '015 patent.

Q. In your review, are there reasons why a person with ordinary skill in the art wouldn't elect this particular pulley assembly arrangement?

MR. SKERIOTIS: Objection, calls for speculation.

THE WITNESS: Well, in the design field, we have lots of customers, and so we want to provide lots of products for people who have different tastes.

When I understand this patent, I think he is very clever in a lot of ways.

And I think that particularly for target practice, this would be a fine piece of equipment.

But I see why, if I were a hunter, this would not be my preferred methodology for

this, though it might be. Because I have never handled one. And it could be that it could be silently cocked and then I would put a higher emphasis on that than the aspect of it is a lot of parts in this.

Oh, I am sorry. Oh, I am very sorry.

BY MS. JELENCHICK:

Q. Let's turn to paragraph 151.

(Witness complies with the request.)

Q. Paragraph 151 states, "Stanziale '302 discloses that when the crossbow 1 is drawn from the release configuration (Figs. 1 through 2, 7) to the drawn configuration (Figs. 3 through 4, 8), the first and second power cables 32 wrap onto the first and second helical power cable take-up journals 521 and are displaced along the first and second axes away from the first and second planes of rotation of the first and second draw string journals 511."

Did I state that correctly?

A. Yes.

Q. You then go on to state that "Stanziale '302 notes that helical grooves result in turns of the cable being progressively coiled adjacent to each other, with respect to the axis of

rotation 450. And with the helical power cable journals 521 being on opposite sides of the draw string journal 511, a POSA would immediately envisage that the helical configuration of the power cable journals 521 would need to be such that the power cables 32 extend away from (rather than towards) the draw string journal 511 to avoid interference with the draw string 31."

Did I state that correctly?

A. Yes, ma'am.

Q. So which is it, does Stanziale '302 disclose that the first and second power cables are displaced along the first and second axes, away from the first and second planes of rotation, or is this just something that you claim of POSA with envisage based on other factors?

A. I see. I think -- I thought about this a lot since I have written this.

I think that upon rereading this, that Stanziale does not say directly which direction they go. I think that he remains silent.

I think that a POSA would want them to go away from, to prevent interference, but I

don't think that I can claim that he does say that.

When I look at Figure 11, and I look at 32, and I see it at top and bottom along the first draw string journal, yeah, because it is on the left, one appears -- the top one appears like it is very close to the perimeter of the major pulley, that would have to go upwards. And I think that is what I looked at.

But when I look at the other cable at the bottom, 32B, I guess, that looks like it is already down on the journal a bit. Arguably, that would go up towards it, which I think would be a bad practice.

So I don't think he addressed it in his text, and I don't think that he was careful in his drawings. I think a POSA would say, "Yes, you want to move away so that they don't interfere." But to say absolutely, yes, that is what he intended, I don't think you can say that. I think he is just saying it's spiral, so that they are able to be drawn up more than a single turn.

Q. So in your view, Stanziale -- well, withdrawn.

In your view, for the purposes of your opinion, you are of the belief that because Stanziale '302 is silent regarding this away from limitation, that a person of ordinary skill in the art would somehow understand that that is what would need to happen?

A. I think a person of ordinary skill in the art would realize you can't have interference, as we discussed earlier. That, to me, is evidence that they go away, but that is not proof.

I think that anyone who were to actually construct a real crossbow would ensure that there is no interference. And you could do that a multiple -- a multiplicity of ways. In fact, you could make that journal much higher, such that if you started out with the wrapping point sufficiently high, it could actually move towards the center and it would not interfere. You could do that.

I don't think that would be as good as having it down low and then working away from the pulley, just from a vector analysis point of view.

Q. But those ruminations aren't in your

declaration, are they?

A. No. No. I am trying to -- this is your chance to ask me my opinions fully. So I am being completely open with you.

Q. So in your view, a POSA would expect that any other configuration would cause interference, and that is the reason they would recognize that the power cables must be displaced away from?

A. Yes. So if you are asking me, when I look at Figure 11, those cables are very close to the pulley. And so they should displace away. But he doesn't say that, and the drawing is not very clear. So a POSA, just as a fundamental aspect, would say, "Can't have interference."

Q. Why don't you pull up Exhibit 1011.

(Witness complies with the request.)

Q. Do you recognize this exhibit?

A. Pardon?

Q. Do you recognize this exhibit?

A. Yes, I do.

Q. And if I refer to Exhibit 1011 as Stanziale '062, will you understand what I am talking about?

A. Yes, ma'am.

Q. Let's look specifically at paragraph 160 of your declaration.

A. Okay.

Q. In paragraph 160, you state that "First and second flexible limbs (called elastic or bending members) 610 are attached to the central portion."

A. Yes.

Q. What do you mean when you say that the limbs are attached to the central portion?

A. I mean that the limbs in Figures 17 and 18 are cantilever beams, the root of which at the midline of the invention, or the central portion, there is a mount which we would call a riser. So the limbs are indirectly mounted to the central portion.

Q. Do you mean to say that the elastic or bending members 610 are connected directly to the stock?

MR. SKERIOTIS: Objection. He just answered that.

MS. JELENCHICK: Please stop with your speaking objections.

MR. SKERIOTIS: It is a basis for

the objection.

MS. JELENCHICK: A proper basis would be form.

MR. SKERIOTIS: I have never made a form objection in my life.

THE WITNESS: You are the only one.

They are not directly attached. There is an intervening component between the limbs and the central portion, yeah. So they are attached, but there is a mount. They are mounted to the central portion through the mount, which is called the riser, in typical crossbows.

BY MS. JELENCHICK:

Q. How is this Stanziale disclosure, Stanziale '062, different from the disclosure that we saw in Stanziale '302, if at all?

A. The previous one, a large aspect of that was being able to stand on it in order to cock it.

I don't believe you can do that with this one. There are numerous differences. This is just a clean, chic, different design.

Although, Mr. Stanziale uses end of

limb articulated mounts for the first and second string guide, which in my experience is atypical in archery. So you could look at this and look at the previous one and say, "I believe these are from the same inventor."

Q. Is there something in the '062 Stanziale reference that you are relying on that is not otherwise disclosed in the Stanziale '302?

A. I think they are not exactly the same. You know, you can look at them and they are quite different designs.

Mechanistically, they have a lot of the same details. But the difference with this is that he, in this time, just says, "There is a spiral -- you can use a helical take-up journal for the power cable." And, therefore, we know that it has to wind either towards the first plane or away from it.

So this is one in which -- while he is silent about the direction of winding again, there isn't even a figure to look at to say, "And what do I think he means?"

I think that since there is a substantial difference that we see in Figure 22

between the feature which winds up the power cable and then the principal pulley or cam, that the direction of winding was irrelevant to him.

Q. So if you look at paragraph 167 of your declaration, here again, we see that word envisage, "that a person of ordinary skill in the art would at once envisage that the cable 37 wraps on those journals in one of two directions along the axis 150 toward the string planes of rotation or away."

A. Sure.

Q. And we are just supposed to take your word for that?

A. Well, that is the only -- they want it one way or the other.

Q. Because in your view, Stanziale '062 is silent as to in which direction --

A. Yes.

Q. -- the cable would wrap?

A. Right, right.

Q. And you offer no substantiation other than your say-so for that proposition; is that right?

A. I think any POSA would agree with that. So, I don't know how to answer that otherwise.

If there is a third direction it can wrap, I would like to know.

Q. If you would look at Exhibit 1012.

A. Yes, ma'am.

Q. Do you recognize this exhibit?

A. I think so. I think this is another one of Mr. Stanziale's inventions.

Q. And if I refer to Exhibit 1012 as Stanziale '771, will you understand what I am talking about?

A. Yes, ma'am.

Q. When was the first time you saw this reference?

A. Last year, in the fall.

Q. Is it fair to say that you saw the three Stanziale references at approximately the same time?

A. Oh, yes.

Q. What specifically is in Stanziale '771 isn't otherwise disclosed in either Stanziale '302 or Stanziale '062?

A. In Figure 12, we can see the power cable and we can see it wrap. And in the cocked configuration -- I will let you get to Figure 12.

(Pause.)

Q. Okay. I am there.

A. Yeah. So in Figure 12, in the lower right-hand side, where 361 appears to be calling out a bottom detail, I don't recall which one that is, but we can see the power cable and we can see when it has wrapped around its helical journal, it has moved away from the primary plane of rotation of the first and second string guide 145. So this one is clear.

Q. And what reference number is the power cable?

A. Pardon?

Q. Which reference number is the power cable?

A. 37, I think.

Q. So Figure 12 is a Stanziale device in its drawn configuration; is that right?

A. Yes.

Q. And Figure 11 is in its released configuration?

A. I am sorry, can you ask me that again?

Q. Figure 11, it references the Stanziale device in its released configuration?

A. Yes, and 12 is in the drawn

configuration.

Q. How do the pulleys 145 move relative to the elastic members 10 when this particular device is drawn?

A. They move up-range and inboard. Thanks. I am sorry about my cough. I was asking my client for a candy and he was unable to provide one for me.

MR. SKERIOTIS: I ate them all.

THE WITNESS: I just have to tough it out.

BY MS. JELENCHICK:

Q. So what do you mean by the pulleys move up-range and inboard?

A. The up-range side is going to --

Q. Draw for me, please.

A. On Figure 11, I am going to write "DR" in green ink for down-range and "UR" for up-range, also in green ink.

What we can see is that rather than acting as cantilever beams, the flexible members which store the energy act like leaf springs and are pushed in in the center. And it is hard to see because the orientation of this has shifted from left to right between Figure 11 and 12.

But the pulleys were originally, or at first, string guides, were nearly down-range, and now they are amid ships, as it were, in the drawn configuration.

And I am -- I can't -- this isn't a scale drawing for me to take measurements off of because of the perspective. But I believe it has gone inboard as well, so that the axes of the right and left pulleys are now closer together in the drawn configuration than they were in the released configuration.

Q. How do you know that?

A. That is what it looks like to me.

Q. Okay. But you just told me that it is not drawn to perspective, so you don't actually know that that is the case, do you?

MR. SKERIOTIS: Objection, badgering.

THE WITNESS: Nope, I don't know that, but I think that. Because it's hinged and the mounting point has moved inboard. But it might be the same. It might be greater.

BY MS. JELENCHICK:

Q. Would you pull the page out of the notebook, please?

A. Sure.

Q. We are going to mark that as an exhibit.

May I have my pen back, please?

A. Absolutely. It is a nice pen.

Q. That is why I want it back.

(Thereupon, Patent Owner Exhibit 2024 to the S.A. Batzer, Ph.D., P.E., deposition was marked for purposes of identification.)

BY MS. JELENCHICK:

Q. We are going to mark your annotations on Figure 11 of the Stanziale '771 reference, Exhibit 112, as Patent Owner Exhibit 2024.

I will give it back to you.

A. Okay.

Q. Let's take a break.

THE VIDEOGRAPHER: Off the record at 4:05.

(Thereupon, a recess was taken.)

THE VIDEOGRAPHER: We are back on the record, 4:16.

BY MS. JELENCHICK:

Q. Before we broke, you identified that in Figure 12 of --

A. Stanziale '771.

Q. Yes. So what we marked as Patent Owner Exhibit 2024, you identified that you can see the power cable and how it is wrapped around its helical journal and it has moved away from the primary plane of rotation --

A. Yes, during --

Q. -- by the first and second string guide 145.

A. Yes.

Q. So you gave that testimony; is that right?

A. Yes, ma'am.

Q. And in your view, you testified that this particular disclosure is clear from the disclosure of Stanziale, right?

A. Oh, from the drawings. It is clear how he has shown it in the drawings. And as I sit here, I would have to review it and see whether -- well, let me look.

Yes. From my declaration, if you look at Figures 4 and 5, that is another clear indication that it is wrapping away from. Though I don't state in my text where he says the direction of wrapping, and so I don't

believe it is in the -- I am not -- I don't recall if it is in the text. It may be, but I can't identify that as I sit here in the limited time that we have.

MR. SKERIOTIS: Just for the record, Mr. Barry Sutton is leaving us. See you, Barry.

(Thereupon, Mr. Sutton exited the deposition suite.)

BY MS. JELENCHICK:

Q. Do you know if that argument was part of TenPoint's petition for IPR?

A. Regarding Stanziale '771?

Q. Yes.

A. I would have to review it. I am sorry.

Q. In Ground 2 of your opinion, you argue that Stanziale '302 renders claim 1 of the '015 patent obvious, correct?

A. Yes.

Q. What differences, if any, are there between your opinions in Section IX(B) and your earlier opinion in Section IX(A), where you augured that Stanziale '302 anticipates claim 1?

A. I am sorry, I lost the question. IX(B)? Is that a figure number? Okay. Good,

that is a figure number.

Q. That is a section number of your report.

A. Oh, okay.

Q. You offer opinions on two grounds as it relates to Stanziale '302. You contend that Stanziale '302 renders claim 1 of the '015 patent unpatentable as anticipated.

A. Right.

Q. You also argue in a separate ground that Stanziale '302 renders claim 1 of the '015 patent obvious.

A. Yes.

Q. What difference, if any, is there between your opinion that Stanziale '302 renders claim 1 of the '015 patent anticipated or obvious?

A. That is whether -- that is just the winding direction, that it is obvious to try it in one way or the other. So arguably, it is not an anticipation antecedent. But it is so close that if you don't accept that it anticipates, then it makes the '015 patent unpatentable by the doctrine of obviousness.

Q. So the only thing that you offer to

justify your obviousness argument vis-a-vis Stanziale '302, is that it would have been obvious to try?

A. Yes, if there are only two, that -- yep. If I can only use a bolt or a rivet, then I am going to try both of them and see if I get an incremental benefit from the one over the other.

Q. You don't provide any detail as to steps a person of ordinary skill in the art would have taken in attempting to try your two purported options, do you?

A. No. I think that is too -- you would need the physical artifact in order to discuss that. So, of course, this is conceptual.

Q. As it relates to the anticipation and obviousness arguments relating to the other two Stanziale references, is the only difference between your opinion relating to the direction of the cable wrap?

A. Yes.

Q. And in each of those instances, in your view, it would be obvious for a person of ordinary skill in the art to try and nothing else?

A. Yes.

Q. Is it always the case that if you increase the power stroke distance, you improve a crossbow's performance?

A. All other things being equal, that would be true.

But when you do that, you do have to maintain that everything is in balance. You can't simply increase the crossbow draw length without other -- without validating that there is not some unanticipated consequence with the crossbow.

Q. How do you know that is the case?

A. As a mechanical engineer, I know that, that when you make a change, you still have to go through your validation process, that changes are not made without -- there are trivial changes. You can change the paint from blue to yellow and you don't expect there to be any changes.

But when you change fasteners and things, sometimes what you have is, I need a stronger fastener, and then instead of a fastener breaking, an underlying part will break that is more expensive than the fastener.

So you have just, by making a fastener that doesn't break, that you paid when it broke, you have made your overall product worse.

So you could imagine how increasing the power stroke could increase the energy and decrease the accuracy because you didn't make a compensatory change.

Q. When you are referring to the Darlington reference, you identified it as a shoot-through configuration. What does that mean?

A. Shoot-through? One power cable is above it and one power cable is below.

Q. Above and below what?

A. The draw string and the arrow.

Q. With Norkus, in paragraph 101 of your declaration, you referenced the abstract. In particular, you refer to Norkus as being an inverted compound archery bow.

What does that mean?

A. Of the -- let me get Norkus out. I believe -- Norkus shows a bow in which the strings are forward of the grip, and this is -- this is an unusual configuration.

But the patent best speaks for what it

is.

Q. So Norkus is Exhibit 1010, right?

A. Yes, ma'am.

Q. So what about this configuration is unusual?

A. I have never seen one like this, other than this one. I have never seen one commercially manufactured like this. It is -- I mean, I am not sure how else to describe it. They are just not laid out that way.

The string doesn't -- when drawn, goes towards the riser rather than away from it.

That is, I guess, the best description.

And, ma'am, it is 4:30. I have to go now.

MS. JELENCHICK: Based on that, we are agreeing to continue the deposition. I understand from counsel that you will not be produced again, absent a motion and order from the Board to do so, which is disappointing that we have to go to those efforts, given that this deposition has been noticed for several weeks. But thank you for your time.

MR. SKERIOTIS: Binnie, stay on for a minute. Do you need anything from him?

Because he has got to go, because I want to say something on the record. Do you need anything from him? No? Okay.

Go ahead and go, Steve.

THE WITNESS: Yeah, good deal. Thank you.

MR. SKERIOTIS: All right. See you. Good luck on your flight.

(Thereupon, Dr. Batzer exited the deposition suite.)

MR. SKERIOTIS: So far as the record goes, we had a break and came back on 4:15 p.m. Eastern Standard Time. It is now about 4:30. Pursuant to that break, or during that break, before we got back on the record, about 4:17 or so, my time, at least what I had, Ms. Jelenchick raised to me for the first time today and the first time I ever heard that she would like to continue the deposition because she needed more time.

So I just want the record to be clear, on Wednesday, August 23rd, 2023 at 10:10 a.m., which would be 9:10 a.m. her time, I sent her an e-mail and informed her that Dr. Batzer had a hard stop at 4:30 because of a flight. He

has a deposition scheduled tomorrow. His flight leaves today. My understanding is it is at 6:00.

So I gave her notice early morning, her time, 9:10 a.m. She came back with an e-mail that said, "The Notice for Deposition is at 9 a.m. I thought it was at 9:30." And she states, "We will try our best to accommodate the witness's travel schedule."

Pursuant to that, if you take a look at the deposition transcript, I also informed her this morning he had a hard stop. She never made a mention of needing more time. Never said anything about needing more time. Didn't say anything about at lunchtime, "Hey, listen, let's skip lunch because we are going to need more time." She didn't do any of that.

My position is, is that she decided that around 4:15, that she wasn't going to get done. Realized that. And then raised the first -- objection for the first time on the record and to me -- or not -- off the record, I should say. First time to me, and never disclosed that beforehand.

Otherwise, we would have made

arrangements. We would have skipped lunch. We would have decided not to have any breaks if we didn't have to, so that we could get seven hours in. We would have started a half an hour early, 15 minutes early, whatever -- an hour early, whatever it took.

That was the first time, at 4:15 p.m. of this deposition, that she first raised an objection about needing more time and continuing the deposition, which I believe is improper.

There are other objections I have that I will note to the Board, regarding the manner in which she was taking these depositions and the questions she asked.

At the same time, I wanted to note that for the record because that is not in the record. Thank you.

MS. JELENCHICK: I will ask that when you calculate the amount of time I have on the record, it excludes Mr. Skeriotis's comments here at the end.

But for the purposes of completion, we are entitled to seven hours on the record. It is our cross-examination that we can conduct as we see fit. We are not obligated,

particularly in view of the notice that was issued at the location of your choosing, here in Akron, Ohio, when we offered to take this deposition in Michigan, in Dr. Batzer's home forum, that at the last minute, changes needed to be made.

So we will raise the issue with the Board and we will proceed as they see fit.

MR. SKERIOTIS: However, pursuant to the fact that we have a case management conference in the Federal District Court litigation tomorrow at 1:00, this was the most convenient forum to hold this deposition.

So in other words, I saved her a travel day. She would have had to travel to Michigan, come back to Ohio for the case management conference tomorrow morning, tomorrow early afternoon.

And so this was a most convenient forum, and however it worked out, it worked out to her benefit.

Now, let's talk about, on the record, about payment of court reporter fees and ordering of copies. We have decided, Ms. Jelenchick and I, or Ravin and TenPoint,

that we will follow the PTAB rules regarding payment of court reporters for depositions.

I informed her, Ms. Jelenchick, at a break that typically it is done differently in Federal Court litigation, and that in this case, since the deponent is my expert witness in this case, the Petitioners, we typically pay for the court reporter's fees, not a video, but a court reporter's fees, and she has agreed to follow that.

So I will pay for this one. If she wants it expedited, she will have to pay those fees.

And then when we -- which they have -- if Ravin were to have an expert and they offer him for cross-examination, Ravin will pay those fees of the court reporter as well, likewise.

Is that an agreement?

MS. JELENCHICK: That is agreed as it relates to the payment of deposition costs.

Just one final note. That this deposition was scheduled in advance of any CMC being scheduled, and we would have accommodated.

While I appreciate the courtesies

that you are purporting to offer me in my travel, you know, we intended to take this deposition at the convenience of the witness to accommodate issues like this when things come up. And to hear about it the day before, simply because your expert told you the day before, is not satisfactory to us or to Ravin.

So thank you for your time. Off the record.

THE VIDEOGRAPHER: We are off the record, 4:34.

THE REPORTER: Did you want a copy of this then?

MS. JELENCHICK: Yes.

THE REPORTER: And you are getting the original?

MR. SKERIOTIS: Yes. The least expensive way possible, Binnie. I am kidding, of course. But I do want it.

(Thereupon, the S.A. Batzer, Ph.D., P.E., deposition was adjourned at 4:36 o'clock p.m.)

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C E R T I F I C A T E

STATE OF OHIO,)
) SS:
SUMMIT COUNTY,)

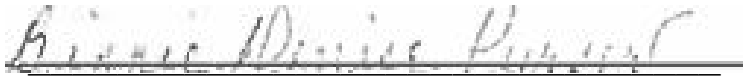
I, Binnie Denise Purser, a Registered Diplomate Reporter, Certified Realtime Reporter and Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named witness, STEPHEN A. BATZER, Ph.D., P.E., was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by him was by me reduced to Stenotypy in the presence of said witness, afterwards prepared and produced by means of Computer-Aided Transcription and that the foregoing is a true and correct transcript of the testimony so given by him as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified, and was adjourned.

I do further certify that I am not a relative, employee of or attorney for any party or counsel, or otherwise financially interested in this action.

I do further certify that I am not, nor is the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office at Akron, Ohio on this 25th day of August, 2023.



Binnie Denise Purser, RDR, CRR

My commission expires June 27, 2024.

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Exhibits

BATZERS-2021
3:6 8:6,16 9:9 17:8 21:11 36:4,9 39:24 43:5,6 44:18 65:23 116:24,25 149:9,10

BATZERS-2022
3:7 78:23 79:4

BATZERS-2023
3:8 118:10

BATZERS-2024
3:9 224:7, 14 225:3

$

$10,000
31:13

$20,000
32:23 33:25 35:16,21

$250 37:6

$350 36:10

$380 33:3 35:25 36:6 37:3

$500 36:11 37:5

0

001 203:19

015 38:15, 18,24 41:13,20 42:8,14,21 44:15,25 45:2,8 54:20 75:18 76:8,18,22 84:21 85:13 91:24 92:22 93:5 97:21 98:11 99:9,13 100:13,22 101:7,11 102:16 103:5 105:10,23 126:22 129:2,12 131:24 132:15 134:20 135:11,17, 25 136:25 141:9 142:22 151:9,13 155:12,23 156:1,12 161:15 163:6 164:16 165:1,4 166:15 174:16 181:16 193:9 194:10 196:19 197:1 198:14,23 200:16 201:7,25 203:10,21 210:8 226:17 227:7,11, 16,23

051 42:9

062 215:24 217:17 218:6 219:16 220:21

1

1 4:4 38:14 44:25 51:1 70:10 76:9,22 77:5 84:21 85:13 92:22 93:5 97:21 98:11 100:22,24 103:4 105:10 129:2,11 131:23 132:14 134:20 141:9,18 142:22 151:12,21 155:12,23, 24 156:1 163:5,16 193:8,12 197:1 200:25 203:21 211:11,12 226:17,23 227:7,11, 16

1-14 49:3

10 24:11 39:24 143:9 200:24 201:4 205:22 206:17 208:14 222:3

1001 151:8

1004 49:3, 6,17 50:11,14, 19 51:1

53:7
1007 204:16 207:10
101 230:16
1010 231:2
1011 215:17,23
1012 220:3, 8
1015 22:25
1016 22:24 23:15 38:5
1020 23:17 25:3,11,13 67:10 70:16
10:10 232:22
10:40 59:18
10:53 59:21
10\429764 26:12
11 34:18 35:3,11 103:14,22 104:5 105:3 121:4 143:12 154:16 157:7 201:11 213:3 215:11 221:20,23 222:17,25 224:13
112 224:14
12 154:16 157:7 161:15,25 162:2 164:2 220:22,25 221:3,17, 25 222:25 224:25
12:23 122:13,15
12th 29:13
13 116:5
134 161:19, 24
144 205:17
145 206:13 221:10 222:2 225:9
15 70:6 71:10 120:14 163:7 234:5
150 219:9
150-odd 37:23
151 211:8, 10
16 38:19 129:21 137:1 166:20,24
160 216:3,5
167 219:4
16th 99:14
17 93:20 136:23 139:2,25 140:2 216:12
171 74:16
18 116:22, 23 216:13
19 143:11 144:10 191:7
1954 47:14, 17 48:7
1981 61:16, 17
1984 61:10
1986 61:7, 17
1994 62:13
1995 67:13
1996 67:14
1998 63:8
1:00 122:16 235:12
1:17 123:2, 4

2

2 200:24 201:3 205:23 207:9,17, 21 209:7 211:12 226:16
20 120:14 187:6 201:11
2006 109:13
2010 95:20 96:6 115:11 116:4,5
2012/0125302 53:12
2013 38:19 99:13,14 100:12,20 101:4 137:1
2015 114:9
2016 202:4
2017 39:2,5 41:10
2020 68:8
2021 8:6,16 9:9 17:8 21:11 36:4,9

39:24 43:6 44:18 65:23 68:8 99:1,7 116:25 149:10

2022 23:23 29:3,13 37:9,16 49:24 50:3 57:17 71:2 78:23 79:4 157:20 166:14 186:7 204:20,23

2023 118:10,17 232:22

2024 224:7, 14 225:3

206 178:21, 22

20th 29:3, 16 37:9, 12,16 38:8 57:16 186:17

21 196:15

21st 114:9

22 164:7 187:5,7 218:25

22nd 49:24

23 168:15

23rd 232:22

24th 4:8

25 205:23

250 187:2 189:20 194:13,17

26 99:13

270 132:21 194:10,13, 17 198:16

29 70:10

2:33 172:23

2:41 173:1

3

3 38:9,10, 13 44:23 211:13

30 70:9 201:18

300 7:9,10 9:5 78:13 143:25

302 58:6,17 205:4,21 206:14 211:10,23 212:12 214:3 217:18 218:9 220:21 226:17,23 227:6,7, 11,15 228:2

31 201:14 212:9

32 211:14 212:6 213:4

32B 213:11

35 167:6 171:20,22, 23

354 162:17

360 162:10, 12

361 221:4

362A 161:20 162:3

362B 161:21 162:3

366A 161:20 162:2,8, 15,25

366B 161:20 162:2,8, 15,25

37 169:25 219:7 221:16

378A 163:2

378B 163:2

379 54:13, 17 55:5 164:20

4

4 45:23 46:22 49:2 53:6 207:9,19 208:9 209:7 211:13 225:22

40 119:14 198:6 206:16 207:1 208:21,24

400 132:23

42 173:25

43 175:4

45 65:4 191:11 192:1

450 132:24 212:1

46 176:6

48 193:13

49 167:6 195:13

4:05 224:19

4:15 232:13 233:19

234:7

4:16 224:22

4:17 232:16

4:30 60:4,8 231:14 232:14,25

4:34 237:11

4:36 237:22

4th 202:4

5

5 19:17 31:13 38:11 57:2 225:22

50 78:13 144:1 206:16 208:13,17, 20 209:3

508 203:18

51 196:18

511 211:19 212:3,8

52 198:13

521 211:16 212:2,5

56 164:20

57 200:14

6

6 53:5,10, 19 54:5,14 55:5 57:2 58:4,5,24 198:8

60 49:21

61 200:23

610 216:7, 19

62 201:6

63 201:6

666 203:18

6:00 233:3

7

7 61:2 63:4 163:4,7 178:15,17 182:22 211:12

714 74:16

72 201:15, 16

771 220:9, 19 224:13 225:1 226:13

7th 23:23 71:2

8

8 39:16,23 43:5,25 44:18 65:23 67:6 69:1 116:24 151:16 211:14

81 178:21

9

9 9:11,22 10:4 17:8 19:15 21:10 36:4,8 72:14,18 73:16 89:24 125:3 149:9 233:7

9,494,379 54:9

90 78:3,22

92 185:25

94 188:14, 20

95 19:19

96 23:9,12

9:04 4:9

9:09 8:3

9:10 232:23 233:5

9:14 8:11

9:30 233:7

A

A-A-R-O-N 39:15

a.m. 4:9 232:23 233:5,7

Aaron 39:6, 12,13,19, 21

ability 199:17

absent 167:25 168:16 169:8 231:19

absolute 209:4

absolutely 176:17 178:1 213:19 224:5

abstract 196:19 230:17

AC-UNITY

10:9 14:4, 10,12,18 15:21 16:4,11,22 17:2

Academy 70:21 71:23

accept 18:17 83:9,24 150:12 227:22

acceptable 193:17

accepted 24:3 44:7 158:8

accident 20:15,18 37:1,2 81:9

accidents 20:19,21 111:18

accommodate 193:19 233:8 237:4

accommodated 236:24

accomplished 179:22,24

accuracy 177:2 178:1 200:12 230:6

accurate 37:17 38:22

accurately 38:21 170:17

act 222:22

acting 222:21

action 109:16 112:9

actionable 124:25

actions 51:18 74:10

active 10:8 29:21 93:19 129:25

actively 83:23 84:2 95:25

activities 70:13 105:8

activity 48:5 70:24 99:5

acts 206:11

Adcor 21:17, 20,25 22:7 104:10,25

add 21:14

added 67:1

addition 98:6 192:11

additional 189:16

additions 24:5,15

address 178:14

addressed 213:15

adequate 34:2

adjacent 15:3 148:19 187:5 211:24

adjourned 237:21

admit 209:18

adopted 151:2

advance 236:23

advantage 95:15

adverse 43:16 83:1,7 84:11,16, 23 106:19 109:5

advertises 117:3

advertising 119:1 120:20

advise 83:7

advised 144:11,13, 15

Aesthetics 176:19

affect 155:8 176:7 181:14,15 191:14,18

affects 84:24

affiliated 60:17

Affiliation 70:17

affirmation 108:20

affixed 148:1

aftermarket 19:3

afternoon
123:1
235:18

age 5:2

agent 144:4

aggessivity
80:22,25

Aggressivity
81:1

agree 72:20
116:14
126:16
154:18
168:22
177:11,15
198:22
202:15
206:20
207:21
209:25
219:24

agreed 27:22
146:14
236:9,20

agreeing
41:18
42:12
231:17

agreement
22:10
106:5
236:19

ahead 8:13
23:9
166:10
168:21
169:23
170:8
232:4

air 79:21,
22 89:8

Akron 235:3

align 72:4

allegation
12:21
17:16
80:13
144:21

allegations
43:6
113:25
114:19

alleged
17:19 76:7

alleging
17:19
183:1

allowable
194:7

allowance
201:21,23

allowed
117:17
142:8
169:7
170:23,24

allowing
179:22

aluminum
99:21
100:1

America
115:10

American
41:1 112:8
146:21
147:3
148:1,3,13

amid 223:3

ammunition
15:7

amount 20:15
30:18
31:13
34:2,8,24
78:6 121:3
133:1
175:18
181:3
193:15
194:5,6,9,
16 197:7
234:19

amounts
184:11,19

analogous
102:11
103:9
144:21

analogy
102:14

analyses
105:7
121:6

analysis
8:24 24:22
46:5,8
77:20
88:12,15
89:1,14
90:3 91:3
95:21
99:17
100:20
105:5
109:1,5
110:19
114:5
133:25
139:12
183:19,25
186:13
203:6
214:23

analyze
88:23

analyzed
77:8

analyzing
63:24

anchor 195:6

anchors
163:2
195:8
198:18

and/or
110:18
114:4
137:5

angle 119:15
animal 96:25
annotated 30:4
annotations 224:12
annual 71:7 78:1,5,6, 15,20
answering 86:19
answers 54:22 159:11 165:7
antecedent 227:21
anti-drive 140:21
anticipated 38:15 203:22 227:8,16
anticipates 226:23 227:22
anticipating 7:20
anticipation 16:2 148:21 227:21 228:16
anymore 155:8 191:23,25
anytime 185:22
apologize 192:15
App 53:12
appearance 4:13 85:20
appearances 85:18
appeared 144:22
appears 79:12 213:6 221:4
applicable 143:13 144:12
application 26:12 58:20 69:15 74:2 205:3
applications 75:4,9 101:1 164:9,11
applied 130:17 141:16 143:15 153:15
applies 20:6
apply 130:17
applying 144:7
approached 84:10
approximate 35:16
approximately 4:9 29:24 33:13,22, 24 35:21 116:19 132:23 220:16
April 23:23 71:2
apropos 145:2
AR-15 104:11,13, 16
AR-15-LIKE 21:21
arc 94:17
archery 8:24 20:17 24:25 61:21 62:7 63:2,18,21 64:4,9 72:19 96:2,24 98:17 99:3,12,15 101:16,19 105:7,12, 15 106:15 109:1,5 121:6,10 133:11 136:25 137:3,15 138:10,16, 21 156:3 171:24 172:7,17 173:10 174:2,11 175:5 209:19 218:3 230:19
archery-related 96:5
area 20:5, 10 86:7 90:19 93:2 94:13 95:5 113:14 140:11
areas 80:18 138:19 139:13
arguably 136:18 213:12 227:20
argue 226:16

227:10

argument
226:11
228:1

argumentative
173:20

arguments
202:4
228:17

Army 93:20
95:23
101:25

arrangement
21:20
135:21
156:13
160:7
200:21
210:12

arrangements
234:1

arrow 43:9
94:10
175:6,11,
13,15,20
179:13
181:3
197:8
208:11
230:15

arrows
181:25

art 14:8
38:16,17
54:1,6,9,
12,15,18,
22 55:11,
22 56:7,
10,14,18
74:21,23
75:23,25
77:6,8,16
98:10
100:25
101:3,6
103:3
125:7,24
126:9,19
127:19,24
129:9,13,
24 130:2,
14,15
131:13,19
135:8
137:6
140:14
141:5,9,
17,21,24
142:15,16
155:16
157:12
159:22
172:14
174:18
178:8,9
180:23
182:9
183:2
184:21
188:9
194:11
199:2,21
202:25
203:3,5,
14,20,25
205:14
210:10
214:5,8
219:7
228:10,24

articulate
150:10

articulated
41:7 140:3
169:9
218:1

artifact
228:14

arts 10:1

ASAE 89:9

aspect 83:15
85:4
106:12,15
174:13
182:18
183:17
197:19
211:4
215:15
217:19

aspects
79:22
80:24 95:3
101:14
119:24
135:13
165:12
177:4

assemblies
206:16,21
207:2,6
208:13
210:1

assembly
210:11

asserted
10:23
14:21
15:24
16:5,13
17:23
19:12
73:10
128:24

assertion
13:15 22:9

assertions
173:22

assigned
73:5

assistant
170:5

association
92:9

assume
150:15
151:5

assumed
19:14
151:1
184:10

assumption

151:3

ate 222:9

attached
80:4
163:10,16,
17,19,22
205:22
206:3,6,7,
8,24
207:6,8
210:4
216:7,11
217:8,11

attachment
13:10

attempt
68:10,14,
19 168:17
170:25

attempted
73:13

attempting
73:8 140:3
228:11

attempts
199:1

attorney
13:22 35:2
39:5 43:20
46:24
55:14 56:2
83:16
117:23
120:1
126:13
143:20
144:24

attorney-client 34:15
35:1,5
52:4 59:12
107:4

attorneys
56:1
119:22

ATV 79:24

atypical
218:2

auger 80:2,4

augured
226:23

August 4:8
49:24 50:3
232:22

authenticated
58:13

authority
140:5

automotive
80:7,22
81:4

Avenue
10:12,15,
24 18:9
104:2

average 98:5

avoid 85:20
181:11
195:16
212:8

avoiding
195:14

aware 37:19
51:13,15,
16 105:18
109:7
111:20,23
112:12
113:12
114:1
115:11
116:9
165:3,9
195:16
199:1,21

axes 211:17
212:14
223:8

axial 15:3

axis
151:20,23
152:3,10,
17,22
153:25
211:25
219:9

axle 139:8
154:8,12,
14,24
155:2,4
160:6
161:4,8
192:22

axle-to-axle
174:4
181:24

axles 154:7
156:25
157:10
174:4

B

B.E.A.R.
21:22 65:3

B.S. 61:3

Bachelor's
139:21

back 8:10
27:21
29:10,15
41:23
59:20
64:17
67:19
74:9,14,
15,24
77:12
98:24
103:13
107:8
115:7
123:3
124:12
146:3
163:25
172:25
190:14
191:6
192:23

193:5
207:20
208:22
224:4,6,
15,21
232:12,15
233:5
235:16

back-and-forth
73:21

background
44:20
58:15
91:23
92:13,20
93:3,6
97:22
101:24
102:18
106:11

backwards
208:16

bad 117:15
136:14
213:14

badgering
204:7
223:18

bags 79:21,
22

balance
178:2,3
229:8

ball 139:6

ballistic
94:17

ballistics
24:10 71:8
94:19

Baltimore
21:18

Barnett
121:10

barrel 94:4,
7

Barry 4:17
226:6,7

based 14:8
19:16 25:8
82:15
94:20
110:17,18,
23 114:3,4
116:11
130:14
139:23
151:4
162:7,14,
24 208:12
212:17
231:16

bases 12:6
53:22,25
112:5
115:22

basic 61:24

basis 11:16
86:12,13
106:22
107:1
115:17
125:14
156:17
171:14
174:7
182:11
183:11
216:25
217:2

Batzer 4:5,
23 5:1,7,9
8:7 27:6
30:2 60:2
61:2 78:24
79:17
118:11
123:6
165:25
224:8
232:9,24
237:20

Batzer's
235:4

beam 208:19

beams 216:13
222:21

bear 164:17

bearing 93:8
154:11
155:6
161:9

bearings
81:4 93:9

Bednar 32:5

began 96:3

begin 61:14

beginning
53:11
169:11
178:21
201:18

begins 143:9

behalf 4:20
6:21 10:16
11:2,12
15:21
16:22
19:9,12
60:22
83:24 84:3
166:18
170:6

belief
108:9,13
214:2

beliefs
173:9

believed
112:21

Bellaire
71:8

belt 89:16

belts 89:12,
13

bendable
134:4

bending
216:7,19

benefit
33:20
120:14
228:7
235:21

benefits
180:19
197:4
202:8

bent 94:9

Beretta
21:17,19
22:1,2,4,
11

Beretta's
21:23

biannually
70:8

biased
100:15

bicycles
103:11

biennially
70:8

bill 31:21
33:5,8
36:16
67:17
78:6,7

billed 31:17

billing
30:19,22
36:15
48:13
78:8,9

binder 22:17
53:9

Binnie
231:24
237:18

bison 64:16

bit 13:10,
13,14,18
98:25
123:9
149:10
150:11,18,
20,25
213:12

bits 13:9

black 30:6

blade 89:3,8

blanket
159:6

bleeds 71:16

block 161:9

blue 205:24
229:18

Board 28:13
69:18
106:2
124:10
140:5
158:9
168:16
173:5
231:20
234:12
235:8

boilerplate
126:1,3

bolt 228:5

books 172:6

bottom 23:11
105:5
155:2
163:4,7
188:14,20
209:1
213:4,11
221:5

bow 39:9
40:2
64:18,24
65:2,3,10
82:18
83:15
85:11
96:21
99:20
121:9
136:17
151:19,22
152:23
153:1,3,7,
11,24
154:1,21
155:9
156:14
160:9,15
161:12
174:2
175:7,14
181:4
182:20
183:18
184:21
185:4
187:22
196:21
200:19
202:13
208:18,21
230:19,22

bows 43:12
65:6,7,10
82:11,15,
17,19
94:22
96:17,21
136:25
137:5
171:24
174:5
181:23
182:13
183:13
184:23
198:15

bowstring
40:10,17
41:8 96:14
97:15,19
98:13
99:19,22
102:20
153:5,10,
12,14,19
154:15
156:7
179:7,23

180:25
187:4
189:12
192:7,11,
23 193:4,
15,23
196:14
207:20
208:15
209:20

bowstring's
209:22

bowstrings
93:10

Bowtech
121:10

box 18:18
104:18

brace 40:10

bracket
161:6

brand 22:3

breach 22:7

break 8:13
9:3 25:16
59:15,23
92:19
122:11
123:8
172:20
224:17
229:24
230:2
232:12,14,
15 236:4

breakdown
168:10

breaking
229:24

breaks 100:8
234:2

briefing
52:17,21,
25

bring 31:5
114:14

brings 94:14

broad 43:1
90:12
91:18
95:12

brochures
142:18
174:9,21

broke 100:1
224:24
230:2

brought 7:19
8:14 38:6,
7 123:23
124:2

brushed
199:25
200:11

brushing
199:24
200:4

buffer 12:17
104:15

bullet 94:11
104:7
119:16
149:9

bullets
103:15
104:6
116:24

Bullock
115:9

bus 88:8

bush 89:7

business
13:8 118:1
133:5

businessman
34:7

buttstock
40:18
93:25 94:5

buy 176:19
198:7,9

C

C-O-R-D-Y
39:15

cable 84:25
163:2
179:25
180:3
193:15,19,
24 194:3
195:5,8
196:9,13
198:18
199:25
200:18
202:5
211:15,24
212:1,5
213:10
218:17
219:2,7,19
220:23
221:6,12,
15 225:4
228:20
230:12,13

cable/s
202:11

cables 93:10
132:20
135:15,16,
20 156:8
192:9
195:15
198:17
199:9,22
200:12
202:9
209:15
211:14
212:6,13
215:8,11

calculate
234:19

California
109:17
113:9
114:9

call 51:8
109:3
120:11
121:14
187:13
216:15

called 51:6
94:7
121:25
154:13
157:1
171:25
206:15
216:6
217:13

calling
221:4

calls 48:17, 21 105:24
120:5
129:15,17
181:6
210:13

cam 132:19
147:1,5
153:1
174:4
191:24
192:21
193:4,14, 17 219:2

cam's 195:4

cams 40:7, 19,23 41:9
132:21
153:11
154:6
156:5,11
176:6
179:22
182:14
189:9,11
191:13,18
192:8,20
198:15

candy 222:7

cantilever
208:19
216:13
222:21

capability
89:18

capital-type
132:6

caption
50:22,23
51:3

car 111:11

carbide
13:14,20
150:19,24

care 70:11
86:4,23
139:15

career 95:6

careful
213:16

carefully
157:15

cars 182:13

case 4:5,7
6:9,11,17
9:15
10:10,15, 18 11:22
12:1,16,19
13:6,10
14:5 16:9, 24 17:1
18:2 20:24
21:4,14, 15,16,18
25:20,23, 24 26:10
31:14,15, 17 32:13
34:9 37:4
39:7,13,25
41:15
42:22
44:4,9
47:22,25
51:3,9
80:3 83:8, 9,14,19,25
84:4 86:9, 10 87:7
88:12,14, 18 89:4,7
94:2 97:14
99:11,16, 17 100:12
101:4
104:1,4,25
106:20
108:11
109:12,13
111:3,7, 21,24
112:9,10, 13 113:2, 4,5,22,24, 25 114:17, 20,22,23
115:5,10, 12 116:3,7
118:9
119:13
120:3,11, 25 129:14
137:11
141:7,18
142:5
143:5
144:19
145:3,7,8
149:11
151:7
154:25
160:6
161:1
163:18
164:18
167:24
168:14,20, 24 169:9
170:1,3
171:19
174:8,15
185:8
186:5
223:16
229:2,13
235:10,16
236:5,7

cases 8:22 9:12,21, 22,25 10:3,4 18:6 19:16,17, 19 36:3,8 39:17 43:4,6,13, 14,24 44:1,17 51:14 60:17 71:21 82:18 87:10 89:6,13 93:1,17 95:25 96:10 97:14 101:19 103:17,23 104:7,22, 23 106:15 109:7,11 115:3 122:3 128:16,18 142:10 145:1,10, 11 149:25 150:6 193:16,17, 22

casing 21:7

catalog 74:23 117:10 184:15

cataloging 46:3

catastrophic 199:23 200:2

categories 97:10

causative 44:14

caused 88:13,19 153:8

center 40:16 94:6 100:2 162:16,23 189:9 214:19 222:23

central 114:8 163:10,21 205:23 206:3,6,8, 10 208:16 209:16 216:7,11, 14,17 217:10,12

certification 112:10

certified 5:3 113:10

certify 109:18

cetera 137:16 196:22,23

CFR 169:25

challenge 15:24 45:7,21 73:14

challenged 45:5

challenges 14:22 123:11,15, 18

challenging 14:20 16:12 19:11

chamber 15:3

chance 215:3

change 172:20 190:20 197:17 204:10,14 229:15,18, 21 230:7

changed 86:15 96:12 140:17

channel 193:18

characteristic 43:10 180:12

characterization 113:3 122:8 125:10

characterize 119:9

characterized 60:10

charge 33:20

charging 36:2,7 37:4 120:22

chart 45:24 46:2 49:2 53:16 58:23

checks 74:8

cheese 96:14

chemical 91:16 94:1

chic 217:24

chip 63:15

choosing 235:2

Chrysler 113:22 114:17 115:7

circular
196:10

circumstance
80:9

circumstances
39:3 65:1
82:4 83:5,
10 138:23
149:7

citation
167:12
172:5,6,10
173:16
201:20

citations
167:14,19
175:2

cite
171:18,20
174:20
175:23

cited 30:12
58:4
102:13
172:13
181:23
194:12
202:14
203:11,12,
15

citizens
41:1

City 61:13

claim 15:16
16:2 38:14
44:25 45:7
52:16,21
75:14
76:8,22
77:5 84:21
85:13
92:22 93:5
97:20,23
98:11
100:13,22,
24 102:15
103:4
105:10
129:2,11
131:23
132:14
134:20
141:9,18
142:22
145:6,14,
24 146:11
149:5,12,
18,23
150:8,13,
17 151:2,
12,21
155:12,23,
24 156:1
163:5,16
164:3,17
193:8,12
197:1
200:25
203:21
212:17
213:1
226:17,23
227:7,11,
16

claimed
133:23
134:19

claims
10:19,23
11:18,19
12:8 45:2,
7,21 73:23
75:5 77:14
98:10
141:14
200:24
201:3,7,11

clarification
170:18

Clark 60:15

class 70:3
87:23
109:16,18
112:9
113:6,10

CLE 69:25

clean 217:24

clear 29:11
54:1 154:4
160:16,21
167:25
168:1,6
215:14
221:10
225:15,17,
22 232:22

clever
154:10
210:20

client 12:25
13:21
14:16
22:22 26:6
31:22
33:20
43:22
86:11,20
96:1
108:15
112:18,20
117:16,21
130:20
137:25
222:7

client's
34:10

clients 16:6
20:16
113:8
117:17,21
144:14

clockwise
208:25

close 40:11,
12 168:15
213:7
215:11
227:21

closer 41:8
223:9

clunker
37:24

CMC 236:23

CNC 24:22

cock 217:21

cocked 57:10 207:13,19 211:3 220:23

cockers 97:15,19 98:13

cocking 99:18 100:3,20 209:5

code 85:19

coiled 211:24

cold 16:10

collapse 88:20

colleague 4:16

colleagues 109:3,4

College 61:12,15 71:1

color 30:5

Colorado 115:11

column 151:16 163:4,7

combination 178:9,15, 23 180:6, 17 181:4, 23 183:1, 4,13 185:5

combine 180:9 182:9 184:22 188:10

combined 182:8

combining 178:20

comfortable 5:11 97:2

comity 68:15

comment 50:10

comments 234:20

commercial 135:18,24

commercialization 200:20

commercially 231:8

common 30:15 164:11 171:23 173:22 198:7

communications 31:25

compact 197:11

Compactness 174:12

companies 18:21

Company 4:6, 21 112:9 116:3

comparing 203:10

compelling 168:1,16 169:8 170:1

compensate 140:12

compensatory 183:21 185:23 190:18 191:2 230:7

competent 75:12

competitive 93:22

competitors 108:25

complaint 124:6,21

complete 10:6 37:13 100:18 148:6 202:24

completely 36:14 65:3 126:5 215:4

completeness 37:8

completion 234:22

complex 209:19

complies 49:8 151:14 161:17 186:2 196:17 205:19 211:9 215:18

component 147:8,19, 20,21 152:18 158:20,21, 22 159:16, 17,24,25 162:13 163:20 185:4 199:22 217:9

components
22:1,2
62:1 95:22
146:24
156:15
158:13,14
159:18,23
181:18
185:12,24
194:21
199:9

compound
82:11,14,
17,18
174:5
230:19

comprehensive
17:5

computer-generated
57:9

computers
191:23

concealed
5:24

concept
192:2

conceptual
228:15

conceptually
182:5,7

concerned
124:20
130:12,25

conclude
44:1 148:2

concluded
77:6 84:21

conclusion
112:22
129:16,17
145:18

conclusory
112:23

concrete
81:8,11

condition
40:11
66:23

conduct
234:24

conference
235:11,17

conferred
63:7

confident
94:23
183:9,12

configuration
185:10
187:5,7,21
188:2,5,6,
11,23
189:4,5,
15,16
190:6,7
195:18
196:22
197:2,5,22
207:18,19,
23 208:10
209:6
211:12,13
212:4
215:6
220:24
221:18,21,
24 222:1
223:4,10,
11 230:10,
24 231:4

configurations
179:8

configure
192:19

configured
135:20
182:5
185:2

conflict
83:22
84:12,14,
22

conflicted
83:18

connected
64:8
147:22
153:2
158:22
161:20
162:4,9,
16,19,22,
23 163:1,
21 206:10,
22 208:20
216:19

connection
7:5,11
11:2 22:19
30:23
31:8,23
32:17 36:2
44:16
46:16 47:8
54:23 55:7
56:12,15,
25 63:20
65:8,14
67:22 68:3
73:23 76:6
84:8
114:21
156:15
158:13
160:22

consensus
173:9

consequence
229:11

consequential
67:2

consideration
177:12,16

considerations
176:1,13
182:1
185:1

considered
128:3,12

144:7
145:14
158:17

constituents
92:17

constitute
54:6

constitutes
41:3
126:8,17
127:18,23
130:9,23
131:20
133:12,20
137:10
145:24
163:15

constrained
152:24
153:3,4,5,
23 195:5

constraint
29:8
158:16

construct
214:13

constructing
135:13
136:9

construction
21:3
52:17,21
54:2
145:6,14,
24 149:5,
13,18,23
150:13,17
151:3
158:11
162:7,14,
24 164:3,
17

constructions
49:4
146:11

consult
171:7

consulted
10:17
46:17 48:7
50:6 80:16

consulting
9:22,25
10:4 11:2
12:14 13:7
17:9 18:15
19:16
21:10
30:20
31:8,23
32:12
33:2,17
36:17,19
37:2 56:12
77:24
79:18
81:10
86:22
95:18 98:1

contact
119:23
120:2
199:25
200:4

contacted
18:16 85:2

contemplated
155:11

contend
227:6

content
28:17
49:17
79:12
100:11,19
126:16

contents
125:8

context
115:19
128:14
158:18

contiguous
147:17,20
159:19

continue
122:4
168:5
169:12
199:17
231:17
232:19

continued
122:16

continues
53:6
179:15

continuing
27:5 69:25
167:23
169:21
234:9

contract
22:8

contraption
207:22,25

contrary
112:22

control
80:2,4
139:9

convenience
237:3

convenient
235:13,19

conventional
40:15 65:4
133:2
185:13
187:13,14
188:5
189:12
190:15,21
192:12
194:3,11
197:15

conversation
62:3

conversational

36:23

conversations 48:24

convince 202:25

cooker 88:22,24

cool 176:21

coordinates 208:24

copied 13:12 15:9

copies 123:17 235:24

copy 7:14, 24 8:14,16 27:2 30:3 144:25 151:9 237:12

Cordy 39:6, 12,13,20 41:10 42:22

core 91:8, 16

Corp 111:3

corporate 60:12,19, 21

correct 6:3 7:6 9:5,6, 23 23:7 29:16 33:25 41:20 42:14 43:16 50:17,20 51:7 54:24 55:13 60:1 73:18,19 76:2,7,15, 16,24 79:19 104:24 116:17 121:11,17 122:9 125:25 126:22 164:19 166:6 187:11 190:10 191:5 195:11 201:9,13 202:19 206:24 207:3 226:18

corrected 76:4

correctly 54:22 111:7 115:4 130:6 137:8 164:12 187:10,24 193:20 202:14 205:25 206:18 211:20 212:10

corrosion 92:11,13, 16

cost 177:1, 22

costs 236:21

cough 222:6

counsel 4:12 50:15 123:8 144:11,13 168:17 170:19,24 231:18

count 72:1,6

countable 70:24

counterclockwise 209:1

counts 70:18 72:1

couple 118:23

courses 24:12 62:4

coursework 61:20

court 16:9 18:3 51:4, 10,13 109:8 110:4,5,7, 21 113:12 114:1 122:6 150:12 151:1 171:3 235:11,23 236:2,5,8, 17

court's 112:22

courtesies 236:25

courts 110:2 139:4

covers 19:2

crane 88:19

cranes 88:17

crashworthiness 80:22 88:8

create 171:13 183:4

created 31:7

credential 141:6

credentialing
68:23
106:15

credentials
7:20
101:23
130:19,22
139:20
140:10,11

criminal
91:14

criterion
8:25

critique
181:22

cross 95:12

cross-exam
170:25

cross-examination
5:5 168:18
234:24
236:16

cross-pollinate
183:3

cross-pollinated
182:19,23

crossbow
40:2,5,8,
22,24 41:3
43:9 44:10
57:7 62:2
64:20
65:19
66:22
93:15,17
95:2,8
96:10
97:11
98:5,16,
20,23 99:6
100:4,17
121:9
132:3,4
134:2
135:13,14,
18,20
136:9,13
141:21,25
142:23
146:20
148:14,16,
17 156:2
158:18
159:16
161:7
174:3
176:16,22
177:5,6,
20,25
178:4,10,
14,25
180:12
181:15,18
182:1,4,
18,19
185:1,9,
11,14
188:10,22
189:6
190:11
191:19
192:13
193:8
194:4
197:15,24
198:1,6
199:9,15,
18 206:17
209:14
211:11
214:13
229:9,12

crossbow's
229:4

crossbows
4:7 5:15,
22 40:15
57:8
65:13,15,
24 66:1,7,
14,15,19
67:3
81:14,17
83:1 85:5
93:24
94:5,15,
23,24
95:4,19
97:6 98:2
101:16
102:5,10
117:6,13
128:20
137:1,4,5,
6 140:15,
18,19,21,
22 141:2
143:3
156:5
172:1
176:1
177:12,17
182:5,15
184:4
185:7
191:22
194:4
197:11,18
198:8
206:12
217:14

CRT 138:17

curl 63:15

current 21:4
52:12
94:24

curriculum
8:21 62:7,
25 63:14
92:6

curve 94:13

customer
198:11

customers
210:16

cut 183:20,
22

cutting
13:19

CV 23:21,
23,24

24:18 67:9 70:15 114:24 115:3

D

Daimler 115:9

damage 195:3

damaged 66:21

Dan 39:5

Darling- 179:3

Darlington 178:16,20 179:4,9,20 182:20,23 183:18 184:5,7 187:20 188:1,4, 11,23 203:18 230:9

Darlington's 180:1

data 110:19 114:4 115:7

date 4:8 6:19 23:22 24:7 31:3 38:18 52:20 54:19 71:2 99:8 128:23,25 129:1,5,11 204:21

Date' 38:20

dated 29:3 49:24

dates 29:20 41:16

Daubert 123:11,14

day 30:9,10 77:13 92:4 235:15 237:5,6

days 30:10, 17

deal 103:24 232:5

dealt 81:20

decal 146:21,23 147:4 148:1,3

decapitated 111:12

december 29:3,13,16 37:8,12,16 38:8,19 57:16 99:13 137:1 157:20 166:14 186:6,8, 11,17

decent 88:25

decide 8:19 130:20

decided 18:20 132:5 233:18 234:2 235:24

decision 56:3 77:11,14 106:19 121:18,20, 23 123:18 166:17

decisions 56:3

declaration 16:21 23:5 25:18 26:5 27:3,6,17 28:23 29:2 30:1,3,24 31:18,19 34:6 35:20,23 37:7,11, 15,20 38:4,8 44:12,23 45:23 46:17 47:9,21 48:12,19 49:14 52:25 53:23 54:3,24 55:8 56:8, 11,20 57:1,25 61:3 72:14 76:6 77:1, 18 89:24 97:5 103:13 121:4 125:4,12 126:3 129:21 136:4,5 143:8,17 144:17 145:9 157:20 158:2,4,8 159:6 161:18,23 163:25 164:4,15 165:9 166:14,21 167:1 168:19 169:5,15, 21 170:22 171:1 172:14

173:25
176:5
178:8,13
181:21
184:8,11,
14,18
186:1,17,
20 189:1,
19,21
191:6,18
193:13
196:16
198:13
200:14,23
201:15
204:24
205:1,15,
18 215:1
216:3
219:5
225:21
230:17

decline 83:6
85:6

declined
60:6 84:11

decoration
146:22

decrease
174:2
230:6

deep 193:18
196:11

Deer 64:16

defect 44:13
85:11
122:1

defective
44:10

Defendant's
49:3

defending
85:4

defense
21:17,20
60:14

deference
75:22 76:1

Define 93:14

definition
41:2,6
142:14
143:5
159:14
189:7

definitions
128:4,13,
15 150:14

deflect
156:9

degree 20:12
61:3 62:9,
20 91:12
101:15
105:20
106:4,7
139:21

degreed 20:5
95:10

degrees
132:21,24
194:10,13,
14,17
198:16

deleterious
93:13

deletions
24:16

deliberate
120:10
121:18
166:17

demonstrate
184:20

demonstration
119:10

depend
200:24

Depending
86:5
195:12

depends
189:6

depicting
119:5

depo 123:9

deponent
34:11
236:6

deposed 5:4
6:2 7:8
9:18,19
12:18
14:15 18:2
19:20

deposition
4:5 6:5
7:5 8:8
9:4 11:8,
10,11,25
16:3,25
19:18
35:18 60:6
78:25
86:14
118:12
127:5,11
131:7
169:11
224:9
226:9
231:17,22
232:10,19
233:1,6,11
234:8,10
235:4,13
236:21,23
237:3,21

depositions
9:8 78:14
127:4,12
234:13
236:2

describe
28:3 39:3
44:21
53:16
77:21 97:9
133:25
140:1

176:18
178:22
192:5,16
231:9

describes
45:24
94:17

describing
83:17

description
22:13
102:17
103:21
160:5
231:13

descriptive
28:10

design 18:22
21:20 62:3
81:11
87:12
88:24
89:16
95:2,8
98:16,20,
23 99:3,6
136:14,20
142:23,25
174:1
175:5,10,
25 176:13
177:11,16,
20,24
178:3,10,
11,14,20,
24,25
180:3
181:24
182:1
183:21
184:25
185:3
189:17
190:19
191:3,13,
21 195:12
199:23
210:15
217:24

designed
143:2
185:5
193:18
197:19

designer
132:7
138:17
182:2
190:25

designing
182:4

designs
193:25
197:24
218:12

desirability
179:4,16

desirable
174:12
180:11

detachable
18:18

detail 221:5
228:9

detailed
144:16

details
12:23 84:7
218:14

determination
45:6,16,20
100:22
103:4
122:6
127:17
129:8,12,
23 133:19
135:7
149:1

determine
87:13,17

determined
56:19
175:15,17

determiner
129:19

determining
20:1 92:18
126:7
127:22
130:23
131:20

develop
117:11,16
121:1
127:9
133:2
194:22

developed
22:4

development
69:23,24
70:12
71:20
104:10
118:1
134:15

device 9:23
47:22
81:23 82:5
104:13
196:10
208:9,14,
15 209:7
210:3
221:17,24
222:4

diamond
13:13,19
150:20,24

dictated
204:1

dictionaries
46:18,21
47:7,11

dictionary
30:14
47:11,14
56:23

difference
13:13 81:2
112:19

150:5
189:7
218:14,25
227:14
228:18

differences
189:3
217:23
226:20

differently
181:14
236:4

difficult
103:6
117:10

Diminished
200:8,10

direct 22:24
23:17 38:9
53:25
151:8
156:15
168:18
171:1
181:7
184:14
199:4

directed
57:20 62:7
72:18
149:22

direction
15:4 202:6
212:22
218:21
219:3,17
220:1
225:25
227:19
228:19

directions
219:8

directly
25:1,20
57:12
63:19
64:2,8
74:22
92:23
141:18
146:15,23
147:5,22
148:7
154:5,9
157:8
161:2
162:4,9,
16,22
163:1,17,
20 171:10
175:6
179:13,17
206:6,22
212:22
216:19
217:8

directs 26:6

disagree
34:19 56:5
112:21
113:2
156:22
168:23

disagreement
28:11

disagreements
26:23

disallowed
75:14

disappointing
231:20

discharge
39:17
42:23
43:4,12,14
44:1,17
121:7

discharged
20:25

discharges
81:21
82:12,16
84:25
97:12,18
98:12
127:4

discharging
94:18

disciplinary
67:22 68:2
123:22
124:2

discipline
71:16
91:9,16

disclaimer
144:22

disclose
212:13

disclosed
42:21
218:8
220:20
233:24

discloses
179:21
205:21
206:14
211:11

disclosure
156:12
217:16,17
225:15,16

discovery
117:18

discuss
77:19
83:20
178:19
190:23
193:12
228:14

discussed
42:24
59:22
99:11
112:18
144:18
145:22
174:19
214:9

discusses
200:17

discussing
99:16
174:11
178:15

discussion
8:4 123:7
157:19
174:9
178:7

discussions
35:6
108:14

disfavorable
43:22

displace
215:12

displaced
211:16
212:14
215:9

displacing
202:9

dispute 7:12
17:13
41:11 44:6
75:6
173:11,13

disputed
141:14

disputes 9:8
20:6
91:19,20

distance
150:23
174:4,5
179:6
180:24
181:1,25
191:15
198:19
199:10
229:3

distillation
139:2

District
51:4,10,
11,13
111:4,5
114:8
115:10
116:4
235:11

dock 85:25

doctrine
13:17
150:19
227:24

document
23:3,19
28:5 38:3
47:3 49:24
50:6,24
57:15
79:10
99:12
117:19
118:19
139:16

documentation
68:16

documented
142:16,19

documenting
86:8

documents
48:14 58:9

dollars 78:4

domain 20:9

door 160:12

doubles
71:19

down-range
187:6,8
207:20
208:17,22
222:18
223:2

downloaded
39:10
42:25

downward
15:4

Doyle 113:21
114:1,17
115:6

draft 26:18,
20 27:3,20
28:3,22
29:1,12,15
46:17
49:15
50:10,14,
18 54:23
55:7
125:11
128:5
145:9
167:20
169:15
186:15

drafted
25:18 26:4
169:6

drafts 27:17

draw 40:2,
5,22 41:3
65:4
102:14
135:14,21
176:24
185:2,6,9,
11,14,15,
17,18
187:4,12,
13,14
188:1,2,4,
6,11
189:4,11,
13,15,16
190:6,7,
12,15,21,
22 191:14,
19,24
192:2,5,
17,21
196:22
197:2,5,
15,16,18,
21 198:1

202:7,12
211:19
212:2,7,8
213:5
222:16
229:9
230:15

drawing
199:17
215:13
223:6

drawings
157:1
160:8,17,
19 213:17
225:17,18

drawn 175:8,
14,18
179:7
183:5
187:9
202:11
208:10,14,
15 211:11,
13 213:22
221:18,25
222:4
223:4,10,
15 231:11

drill 80:2,4

drilled
155:1

drum 13:11

dual 15:1,
4,6

ductilities
89:3

due 16:8

duly 5:3

duplicated
8:14

durability
177:1,18
194:23
200:8,11

duty 93:19

dynamic
58:10
192:24

E

e-mail 60:3
232:24
233:6

earlier
16:18
46:15 60:6
123:21
186:14
214:9
226:22

early 233:4
234:4,5
235:18

earned 78:22

ease
177:12,15

Eastern
232:13

eccentrics
156:5

editing
134:9

edition
47:17 48:7

education
61:14,21
64:7 70:1
91:11
95:14
106:12
127:7
130:13
135:1
139:11

educational
98:7
127:16
129:25
131:6,12

effective
38:18,19
99:8
128:23,25
129:1,4,11

efficiencies
94:16

efficiency
117:8
175:19

efficient
117:22

effort 33:18
168:10

efforts
231:21

elapsed 29:4

elastic
156:9
208:14
210:2
216:6,18
222:3

elastically
94:9

elect 210:11

elected
165:16

electrical
91:17

electronics
134:8

elements
61:25 62:1
93:8
102:13,20
208:18
209:14

elicit 56:1

eliminates
173:15

embodiment
200:18

embodiments
135:18,24

154:16,25

emphasis
211:4

encountered
130:2,14
131:18

end 40:7,
11,12,16,
20,24
43:22
53:15
94:18
130:19
155:10
160:8
161:10
192:1,20
210:5,6
217:25
234:21

endeavor
77:10

endeavors
120:20

ends 41:8
206:25
208:17

energy 61:25
64:1 94:1,
8,14 156:9
175:7,11,
13,18
179:12,13,
16 180:2,
11,24
181:3
185:17
192:10
197:7,16
222:22
230:5

energy,'
179:5

engaged
27:9,12
41:18
42:3,12
50:2 69:23
84:8 86:11
114:21

engagement
27:13
31:9,11
41:15
56:12,16
84:10,15
96:5,9
141:19
148:22
149:1
186:23

engagements
21:10
30:20
65:9,15,
17,18,22
103:20

engineer
19:24
20:3,4,5,
12 67:7
68:6 77:25
80:19
85:19
88:23 90:7
93:16
95:11 98:5
101:18
108:16,18
118:8
124:7
134:13,14,
16 139:3,4
142:1,11
180:23
229:14

engineering
19:25
20:11
24:22
30:14
36:17
61:4,23
62:6,10,
11,20,22
63:5,23
67:11 68:1
71:13,14,
18 79:18
86:22
87:17
90:11,16,
22,23,24
91:2,4,16,
17,22
94:21
101:15
105:4,14,
21 106:4,
7,11
108:25
110:24
113:1
116:12
124:8
137:4
139:22
183:18

engineers
24:9 47:24
48:3 62:17
70:1,20,22
71:5,23
92:4 94:20
95:13
124:15

Engineers'
71:7

English
15:10

Enidine
12:11,13
104:14

enroll 61:8

ensure
181:17
214:13

entered
21:19

entire 43:9
151:7

entitled
34:23
143:8
165:24

169:1
234:23

entity 73:6
168:11

entry 58:5

envelope
9:21
198:11

envisage
28:14
212:4,17
219:6,7

equal 197:7,
10 229:5

equate 78:4

equilibrium
192:24,25
193:2

equipment
96:2,8,24
101:17
105:12,14,
16 138:16
209:19
210:23

equivalents
13:18
150:19

ergonomics
177:7,14
178:6

error 37:22,
25 38:1

errors 37:20

essentially
134:7
190:20

Essentials
9:14 11:21
12:4,5
18:11

estimate
29:5 30:16
32:24

ethical
86:17

ethics 85:19

evaluated
75:24

evaluating
130:9
133:11

evaluation
82:15
133:21

Evensen
69:10

event 30:8
119:6,11
194:2
203:19

events 20:7

evidence
46:3,7
77:6
136:11
145:15
164:8
184:12,19
214:10

Evolusion
9:13 11:5,
13,14
18:10
104:12
149:19

exact 32:20
204:21

examination
74:1 75:4,
18

examine
15:11

examiner
73:22
74:13
75:2,8,11,
18 76:2
167:17
172:16
202:3,20,
25 203:2
204:1

examiner's
201:21,23
202:15

examiners
175:1

examining
138:14

examples
118:23

exceeded
194:6

excepting
55:5

exceptions
159:1,2,7

excluded
110:22
111:24,25
112:2,13,
16 113:13
114:2,11
115:12,22
116:10

excludes
234:20

exclusion
112:6
115:22

exclusively
20:9 96:17
97:7

excuse 10:12
39:24
188:3

executed
29:16
52:25
56:11

executing
57:15

execution
186:16

exemplars

66:3

exhibit 8:6, 16 9:9 17:8 21:11 22:24 23:15,17 25:3 36:4, 9 38:5 39:24 43:5 44:18 49:3,6,10, 17,20 50:11,14, 19 51:1 65:23 67:10 70:16 78:23 79:4 99:1 116:24 118:10,16 149:9 151:8 204:16,19 207:10 215:17,19, 21,23 220:3,5,8 224:3,7,14 225:3 231:2

exhibits 7:15 30:6

exist 136:6

existing 19:3 21:21 22:3 198:15

exited 226:8 232:9

expand 40:4

expanded 155:5

expands 192:21

expect 51:24 114:14 149:14 215:5 229:19

expectations 198:11

expected 180:5 188:13,25

expedited 236:12

expensive 229:25 237:18

experience 74:12 93:18 95:14 96:16,19, 20 97:6 98:7,15, 19,22 101:12,19 102:9 103:10 105:11,15 106:10,13 110:18 114:3 118:7 119:23 122:7 137:3,15, 17,22 138:2,20 139:2,23 142:24,25 171:17 218:2

experiences 139:17

expert 25:18 56:8 77:23 78:2,15,21 79:20,23 80:1,6,21 81:3,7,12, 13,24 82:6,7,8, 10 85:24 86:3,4,9, 24 87:2,5, 8,11,15, 19,22 88:1,4,7, 10,16,21 89:2,11, 17,20 90:1,5 92:1,10,24 94:24 95:1 103:16 114:16 123:15 144:3 149:4,22, 24 165:6 236:6,15 237:6

expertise 20:5,6,11, 13 80:18 82:14 86:6 90:19 93:2,15 94:21,22 113:14 142:23,25

explain 97:25 100:19 102:8 182:21 183:1 191:18

explained 60:20

explanation 192:14

explore 159:8

explosion 88:25

explosions 88:22

extend 212:6

extending

202:6

externships
64:8

extrinsic
145:14

eyewitness
44:11

F

face 110:20

facilitate
180:4

fact 10:22
39:1 44:6
112:24
114:23
117:2
134:13
140:25
157:6
194:4
199:21
201:10
214:16
235:10

factor
133:19
135:6

factors
129:22
130:8
175:16,17
212:18

factual
45:16
115:16

fail-safe
99:25

failed
97:15,19
98:13

failure
24:23 81:6
85:25
87:13,14,
17 88:15
89:1,15
90:2,3,25
95:21
99:17
100:20
105:5
108:25
113:7,9
121:8,15

failures
90:4 91:19

fair 17:18
19:8 36:12
50:5,8,9,
13,16 51:8
54:6 55:10
65:21
68:22
72:17
91:4,21
108:24
125:10
131:4
133:9
150:9
159:15
165:14
176:1
220:15

fairly
134:18

fall 61:16
90:14 98:9
220:14

familiar
52:12 95:4
98:4 111:2
113:21
116:2
117:24
126:24
127:6
133:14
137:5
140:14,25
141:5,8,13
145:10,12
148:20,24
171:2

familiarity
101:16
117:25
127:9
141:20,24

family 32:6
164:9,21

fashion
208:19

fastener
88:18,19
229:23,24,
25 230:1

fasteners
229:21

faster
181:25

fatal 184:2

father-in-law
64:17

fault 44:2

favor 150:13

favorable
43:21

feature
219:1

February
116:4

fed 104:18

Federal
115:2
171:3
235:11
236:5

fee 68:17
133:8

feed 15:1

feel 25:5,
10,21 34:3
105:21

fees 35:22
235:23
236:8,9,
13,17

feet 198:8
felt 202:18
field 24:25 80:11 130:1 133:11 136:24 137:3,15 138:10,21 171:24 174:2 175:5 210:16
Fifteen 70:4
figs 211:12,13
figure 154:16 157:7 161:15,19, 25 162:1 207:17,18, 21 208:9 209:17 213:3 215:11 218:22,25 220:22,24 221:3,17, 20,23 222:17,25 224:13,25 226:25 227:1
figures 132:23 207:9,14 208:12 209:7 216:12 225:22
filament 93:9
file 16:11
filed 7:15 99:13 124:6 205:3
filing 38:18,19 99:8
final 48:15 135:6 236:22
find 37:22 57:22 73:25 101:1 173:14 175:2 176:25
fine 204:4 210:22
finger 81:20 96:11 140:20
fingers 120:25
fingertip 97:12,19 98:12
fingertips 96:13
finished 60:23 83:16
Finland 15:14
fire 140:21
firearm 5:24 19:4 20:24 21:7 102:19,23 103:3
firearms 12:16 20:16,22 71:15 86:25 93:23 94:15,22 95:24,25 96:1 101:18 102:9
Firefly 9:17 17:7,14,16 149:12
Firefly's 17:19
firing 43:11 102:5
firm 26:17 32:2 60:14 132:6 168:11
fishing 172:2
fit 234:25 235:8
flag 146:21 147:3 148:1,3,13
flagpole 152:13
flair 80:12
flare 87:3
Fleetingly 144:9
flexibility 36:15
flexible 36:14 61:25 93:7 134:4 163:10 205:22 208:18 216:6 222:21
flight 60:4 96:13 232:8,25 233:1
flip 49:6
flipping 166:20

fluctuates
78:10

focus 178:8

focused 6:11
20:19
42:23
138:17

focusing
116:23

Foley 4:15

follow 46:12
47:1 59:8
236:1,9

foot 99:20
100:3,9

force 63:25
153:15
156:7
180:24,25
191:24
192:3,6,
17,22
193:3
195:2

force-displacement
94:13

forces 153:8

forcing
195:1

forend 93:25
94:6

forensic
19:23,24
20:3,4,11
21:5 24:21
31:12
36:17 65:6
70:21
71:13,18,
23,25
79:17
80:19
86:22
87:17
90:11,22,
24 91:11,
12 105:4,7
106:14,18
108:16,25
109:1,5
118:8
121:6
139:3
142:11

forensics
91:2,4,8,
12,15
141:25

forget 67:19

forklift
87:6

form 13:19
94:8 132:6
158:13
217:3,5

formal
143:22

formally
52:15
133:15,21

forming
57:24

forum 235:5,
13,20

forward
10:18
35:11
40:6,23
137:25
164:20
185:11,16
187:12,14
188:2,6
189:4,11,
16 190:7
209:22
230:23

found 57:19

foundation
14:24
19:22 32:8
53:2 76:11
77:3 82:1
85:16
125:16
128:1
136:2
142:3
146:7
157:22

four-year
106:4
115:2

fractured
99:19
100:1

fractures
85:1

free 25:5,
10,21
173:13

Frequently
31:12

friction
194:22
200:5

frivolous
124:21

front 6:7
7:13 8:17
22:16 25:6
111:11
112:17

froze 155:5

fruitful
139:19

fuel 80:7,
13

full 201:19

full-time
61:18
62:17

fully
117:11,19
215:3

function
155:21,22,
24,25

functional
147:7,9,16
155:17

fundamental
215:15

furnace
87:12

furnaces
87:9

future 118:5
168:16

G

gained
101:12

gas 87:9,12

gave 11:25
24:8 86:14
101:22
168:14
169:10
225:11
233:4

gene 134:9

general
11:16 12:6
24:19
62:5,12
71:11
88:14 97:9
139:18
141:20,24
142:4,7,8

generally
14:19
81:17 92:8
137:5
140:14,25
141:5,8,12
207:14

gentlemen's
39:19

geometrically
194:7

Germany 15:9

give 6:19
95:15
116:20
127:5
137:19
159:11
165:7
168:10
224:15

giving 18:3
115:7

Glad 102:3

glass 87:20

glazing
87:20
109:13

GMI 62:11

goal 34:7
42:16
139:25
167:7,8

God 97:3

good 5:12
53:9 67:15
93:10
153:6
200:3
214:21
226:25
232:5,8

Gosh 18:4

graduate
61:6

graduating
95:13

graphic
119:5

grasp 113:1
134:24

great 96:12
209:23

greater
197:7
223:22

green
222:18,19

grinds 13:11

grip 93:25
94:6
230:23

Grodzitsky
109:19

groove
193:17
196:11

grooves
211:23

ground
178:15,17
182:22
226:16
227:10

grounds
182:25
183:13
208:4
227:5

group 113:22
114:17
132:1

guard 24:22

guards 81:21
88:5 96:11
97:13,19
98:13
140:20

guess 98:24
213:11
231:13

guide 129:23
133:19
134:4
147:1,2
148:4,6,8,
10,12
151:18,22
152:23
153:2,22
154:2,4,9,
11,21

155:6,10
156:14
161:8,12
179:11
196:21
200:17
202:10
218:2
221:10
225:8

guides
102:22
153:9
154:6,23
156:6,25
157:8,13
161:20
162:2,3,8,
11,15,25
187:6
202:8
206:15
209:3
223:2

gun 15:13,
14

guy 69:19
75:1

guy's 92:18

H

hac 68:25

half 33:13
35:24
234:4

hammer 94:3

hand 128:3
134:12
167:9
191:25

Handbook
47:23 48:2
56:24

handing 7:25
79:3
118:15,16

handle 104:2

handled
75:9,18
97:11
211:2

Hang 46:23
55:24

happen
180:13
194:1,3
214:6

happened
92:18
111:1

happy 168:25

harbor 35:11

hard 37:23
60:3,7
202:22
222:23
232:25
233:12

harming
122:2

Harold 69:10

harvesters
17:14

Hauck 111:2

head 202:23

heading
125:6
167:3

hear 152:6
237:5

heard 232:18

hearing 51:6

hearsay 44:7

heart 139:15

heated 155:5

heavy 87:23
176:23

held 8:4

Helena 6:16

helical
132:20
135:15,19
179:25
180:3
195:17
200:18
202:5
211:15,23
212:1,4
218:16
221:7
225:5

helpful
135:5

hereinafter
5:3

Hey 233:15

hide 25:14

high 65:5,
11 96:22
214:18

higher 36:6
179:5,12
211:3
214:16

highlight
38:2

highlighted
176:11

Hill 60:15

hinged
223:20

hire 87:12
106:20
108:16,17
117:23,24
118:4

hired 39:5
86:10
107:1,7,
14,21,22,
25 108:2,
6,11,19,21
120:13

hires 130:21

historian
95:4

histories
164:10

history 6:6, 18 8:22 22:16,18 23:14 74:6 75:23 121:2 142:19

hog 89:7

hold 61:3 132:17 146:2 235:13

holder
10:19,21, 24 11:3,14 12:5 152:13,14, 15

holds 171:25

holes 155:1

holistically
137:24

home
118:22,25 119:2 235:4

Honda
109:17,19 112:8

honestly
43:20,23 86:19

horns
182:12,13

Horton
121:10

hour 33:3 36:1,6,11 37:3,5,6 234:4,5

hourly 33:1, 11 36:16

hours 70:4, 6,10 71:10 117:11 234:3,23

house 92:18

Hoyt 82:22 121:11

human 196:3

hundred
123:12,14

hunt 64:15, 18,20,22 96:23

hunter 64:11 210:24

Hunter's
4:6,21,22 32:3

hunting
172:2

hurt
119:19,21

hydraulic
12:17 104:15

hypothetical
126:8,18 127:18,23 129:8,13 136:24 137:14 138:6,9,25 147:25 155:11 199:14

Hyundai
116:3

I

i.e 179:6

ice 169:23

idea 32:19, 20,21 118:2

ideas 132:2

identical
102:12

identification
8:9 79:1 118:13 224:10

identified
28:21 36:3,8 38:1 43:5, 15,24 44:17 46:15 55:21 65:22 72:13 120:4 136:4 149:25 150:7 178:24 204:8,9 224:24 225:3 230:9

identifies
9:22 49:3 51:2,3 63:4

identify
44:24 67:6 69:1 103:14 105:3,6 119:6 121:5,8 135:6 143:12,19 175:25 191:2 195:13,18, 19 196:4 200:24 208:4 209:24 226:3

identifying
119:8
III 125:11
126:2,6
Illinois
13:9
illustrated
157:6
illustrative
132:23
154:15,25
157:2
imagine
30:13
103:6
230:4
immediately
212:3
impact 77:1
178:14,19
181:5
impacted
179:17
impacts
178:9
Impala
119:13
imparted
197:8
implement
188:10,22
implicated
111:14
implications
152:17
155:17
important
106:19
141:4,8
178:3
improper
78:18
85:22
168:3
234:10
impropriety
85:21
improve
229:3
in-person
70:3
inaccurate
115:8
125:9
inadequate
86:20
inadvertent
39:17
42:22
43:4,14,25
44:17
81:21
82:12
84:25
97:12,18
98:12
121:7
127:3
inadvertently
20:25
inboard
208:23
222:5,14
223:8,21
incentive
174:1
175:5,10
incentives
178:11,24
181:24
incidents
19:25
119:25
include 8:19
10:10
22:13
35:17
103:17
141:1
160:21
166:8
included
8:24 23:14
24:18 25:2
54:4 58:23
92:7 181:8
includes
164:8
including
7:15 69:3
82:11
121:10
129:24
174:3
inclusion
8:25 152:1
167:7
income 78:1,
5,16,20,22
incomplete
83:11
138:5
199:14
203:3
incorrect
186:18
increase
175:6
180:1
188:12,23
229:3,9
230:5
increased
179:5,10,
17,19
180:4,8,10
181:2,3
187:23
increases/adds
202:12
increasing
202:11
230:4
incremental
95:15
228:7
incurred

100:6

independent
85:1 97:24
119:12
154:23

independently
146:12

Indiana
124:7,8,
14,15

indicating
18:24
179:9

indication
225:23

indirect
84:12
158:13
160:21

indirectly
63:20
83:23 84:2
85:12 93:4
146:16,24
147:6,22
148:9
153:5,14
155:7
157:16
158:22
160:7
161:3,5,11
162:4,9,
12,16,19,
23 163:1,
3,18
206:10,24
207:7
216:16

individual
139:20

individually
180:19

individuals
132:1

industrial
62:21 81:4

industry
63:2 64:9
72:19
96:11
106:9
143:2
173:10
198:24

influence
127:17
165:12
175:21

influential
135:7

informal
133:25
143:23

informally
133:16,22,
24

information
44:20
49:15
58:10
93:6,11,12
102:18
167:7,11
169:7
202:17

informed
60:3 145:5
232:24
233:11
236:3

infringe
10:23
12:25
15:18 19:7

infringed
11:18
17:17

infringement
7:1 12:21
13:16 14:2
17:20
18:1,7
51:20,22
52:14,18,
22

infringers
73:11

infringing
10:20,22
12:9

ingenuity
196:3

inherently
202:12

initial
27:20
31:10 39:4
46:16
69:15
103:22

injure 88:20

injured
43:22

injury 44:14
60:16
100:6

ink 222:18,
19

innovations
72:19
130:4
133:10

innovative
74:19

innumerable
105:7
121:5

input 50:18
125:18
126:10
132:8

inquire
168:17
170:25

inquiries
20:7 90:17

inquiry
83:8,15
84:6 85:11
95:5

inside
198:10
206:12

insider
143:2

installed
200:19

instance
86:1 120:8

instances
43:15 75:3
184:16
228:22

instant
10:10 17:1
31:23
32:12 84:9
97:4
127:14
141:19
164:17

Institute
62:11,12

instruct
28:18
34:15
45:10,14,
16 46:10
47:4 52:4
55:17 56:4
59:5 107:5
165:21

instruction
46:13 59:9

insufficient
106:5

intellectual
12:20
20:14
21:8,13
33:18
36:18
103:23,24
104:23

intended
157:2
194:21
213:20
237:2

intense
86:15

inter 6:13

interaction
43:10

interacts
119:16

interest
11:19
58:15
95:23

interested
95:17

interesting
57:11
58:11
104:4

interface
81:18

interfere
195:9
199:16
213:19
214:19

interference
194:20
198:17
199:8,21
212:8,25
214:9,14
215:7,16

interfering
196:14

interior
24:10

intermediate
158:12,23
159:18

internships
64:7

interrupter
104:13

intervening
162:13
217:9

intrinsic
164:8

introduced
5:13
185:22

invalid
14:13

invalidating
16:4

invalidity
13:3 14:21

invented
57:8

invention
13:12
133:23
134:19,21
207:16
209:9
216:14

inventions
220:7

inventor
126:22
127:17
129:25
218:5

inventors
73:2
131:13
205:14

inverted
230:19

investigate
133:16
165:17

investigated
86:2 121:7
133:15

investigation
68:18
121:16
131:5,11,
17

invitation
60:7

invoice
31:1,3

invoiced
35:17

invoices
31:4,7
32:14

involve
164:11

involved
10:5 16:15
17:3 26:19
45:6,20
49:16
51:21,24
73:21 86:9
95:24
113:23
126:7
128:17,20
134:8
138:16
141:14
144:20

involving
52:18,22

Iowa 68:1,
5,7,12,23

IP 22:13
79:18

IPR 6:25
7:5,14
16:11,15,
19,22 17:2
22:19 23:6
76:7 106:2
140:5
143:13
144:12
145:25
146:1,11
174:15
226:12

IPR2023-00407
4:7

IPRS 17:2

ironically
15:17

irregularly
64:12,13

irrelevant
26:13
181:9
219:3

Islas 186:4,
24 187:12
188:2,5
193:25
203:18

Islas's
187:3
188:10,22

issue 13:11
25:21
47:24
54:19
70:23
72:10
73:17
83:17
84:19,20
96:9 110:6
130:24
153:6
166:16
201:8
235:7

issued 15:9,
10,17 18:1
31:1,8
58:18
72:12
74:2,4
75:5,24
141:16
203:1
235:2

issues 34:4
113:1
149:23
164:17
167:10
174:19
186:22
194:23,24
237:4

item 124:25

items 134:3
142:18

ITT 12:11,
13 104:14

iv 39:18,23
143:7

IX(A) 226:22

IX(B)
226:21,25

J

January
114:9
202:4

jargon 51:7

Jeep 115:4

Jelenchick
4:14 5:6,
14 8:12
15:19 20:2
25:17,23
26:1,3
27:1,8
28:20
29:23
32:10
34:19,23
35:10,15
42:11
45:11,18
46:11 47:6
52:10 53:4
55:19,20
56:5,6
59:7,14,
23,25
60:23,25

61:1 76:13 77:17 79:2 82:3 85:23 101:10 106:17,22 107:10,12, 19 108:8 118:14 120:18 121:22 123:5 125:14,19 128:11 129:20 136:7 139:24 142:6 145:21 146:9 156:17,22 157:18 158:6 160:18 161:14 165:23 166:12 168:22 169:1,13 170:11 171:6 172:21 173:2,24 176:12 181:11,20 189:2 190:4 193:7 196:6 199:7,19 200:13 204:11,15 208:1,8 211:7 216:23 217:2,15 222:12 223:23 224:11,23 226:10 231:16 232:17 234:18 235:25 236:3,20 237:14

Jim 4:10

job 62:17 86:20 92:4

John 4:19, 20 31:24 69:9

joint 168:9

jointly 21:23 72:23

journal 161:9 212:3,7 213:5,12 214:16 218:16 221:8 225:5

journals 132:20 134:5 135:15,19 179:25 180:3 200:19 202:6 211:16,19 212:2,5 219:8

judge 82:7 109:17 110:3,16 112:20 113:2,5 140:5 150:21

judges 110:1

Juggernaut 9:13 11:5, 18 104:12 149:19

June 24:8 62:13 63:8

jury 85:7

justify 228:1

K

Kadie 4:14 5:13 34:17 59:11

Keith 73:1

Kempf 203:19

Kettering 62:12

key 197:25

Kia 109:14

kidding 237:18

killed 89:9

kind 6:9 20:19 21:15 65:7 108:18

kinematics 64:1

kinetic 104:15 175:11

knew 131:10 134:2

knowing 75:1 82:4

knowledge 73:15 75:7 91:18 117:12 119:24 121:1 127:1 144:1 157:5 167:15,18 173:10,22

Kore 9:14 11:20

12:3,5
18:10

Kyntec 12:11
104:14

L

L-A-N 26:11

lab 21:6

labs 91:14

lacked
115:14,16

laid 231:10

Lan 26:11

language
155:12

lapse 67:16
68:4

Lardner 4:15

large 53:9
92:12
217:19

lathe 24:22

launch
94:10,11
197:8

launching
102:24

law 26:17
44:13
60:14
124:13
168:11

lawful 5:2

lawnmowers
88:2

lawsuit
109:16
111:15

lawsuits
128:25

lawyer 34:22
51:6 52:7
60:14

lawyers 51:2
170:5

layout 40:14

layouts
156:4

lead 179:12

leaf 222:22

leaking
88:13

leaks 88:11

leave
148:12,18

leaves 233:2

leaving
159:6
226:6

lecture 99:7
101:2,22

lectures
99:3

led 139:8

left
207:16,17
213:6
222:25
223:9

legal 16:9
20:9 69:25
82:8
129:16,17
139:4
143:8,12,
16,21,23
144:1,2,
12,16
145:1,6,17
148:20,24
150:5,10
164:3

length
174:18
185:19
229:9

lesser 33:4,
19,20

let-off
192:3,6,17
193:9

letter 35:11
69:18
124:10,12,
19,22

level 95:14
125:6,23
126:6
127:6,16
129:24,25
130:13
131:6,12
135:8
138:20
139:10
179:5,12,
14

leveling
85:25

levels
142:16

lever 206:16
207:1
208:21,24
210:4

liability
60:14,17
83:25
85:10
86:10
96:18
97:7,10
98:1
109:15,16
120:3

Liberty
115:5

license
67:11,15
68:1,3,4,
10,13,15,
17 124:9,
17

licensed
24:9 67:7,
12 68:6

101:17

licensing
68:23
69:19
133:8

licensure
67:23
69:2,16

life 217:5

lifelong
95:23

light 15:12
38:16 77:5
187:20

lighter
197:12,20

like-minded
132:1

likewise
179:15
236:18

limb 40:15,
22 102:21
151:19,23
152:23
153:1,3,24
154:1,21
155:1,2,10
156:4,6
160:9
206:11,17
208:21,25
218:1

limbs 40:6,
13 94:9
134:4
140:19
153:7,11,
12,14
154:5
155:7
156:8,11,
14 157:9,
13 160:15
161:13,20
162:3,5
163:10
172:1
185:16
192:12
205:22
206:3,9,
22,23,25
207:2,6,8
208:18
209:1,2,5,
15,21
210:5
216:6,11,
12,16
217:10

limbs' 210:6

limine 110:3

limit 152:3
158:12
199:10

limitation
152:6
214:4

limitations
19:6
197:21,23
198:1,3,5

limited
20:15
109:21,24
115:24
140:10
174:15
179:11
186:12
197:1
198:16
226:3

limitless
196:4

limits
152:11
198:18
199:17

linear
175:12

lines
188:15,20

link 44:13

lion's 26:18

lips 15:2

list 10:6
24:11
25:2,8
67:10
79:16
97:16 99:1
103:19
114:24
198:2

listed 10:3
46:22
53:20,23
55:4 56:15
57:2,6
60:11
63:14
67:25
72:18
74:16
87:14
89:24
203:10

listen
159:12
233:15

listing 17:4
79:15
80:17
106:1
115:2
121:8

litigation
51:19,22
52:13,18,
21 121:25
122:9
124:16
131:8
171:3
235:12
236:5

live 68:5

living 48:14
72:5

LLC 4:7
5:15,22
LLP 4:15
load 93:8
99:20
local 177:6
located
40:17
160:14
location
235:2
lock 99:23
long 5:10
30:8 36:22
62:14 63:9
68:18
69:13
147:8,19
177:10
198:8
longer
158:17
179:21
180:18
187:22
197:6
looked 8:21
27:20
30:13
48:1,9
77:5 83:12
90:4 92:15
111:18
124:17
126:15
128:4,10
130:12
165:21,25
200:22
213:9
loosened
88:19
lose 94:16
loss 139:8
200:12
lost 53:18
120:25
192:15
226:24
lot 57:8
176:19
210:20
211:4
212:20
218:13
lots 108:17
210:16,17
low 113:7
134:7
214:22
lower 36:7
221:3
lowered
193:3
LPR 49:3
lubricant
160:11
luck 232:8
lunch 122:11
123:8
233:16
234:1
luncheon
122:14
lunchtime
233:15

M

M.S. 62:9
machine 88:5
machines
61:24
154:8
machining
63:16,25
made 16:2
26:21
27:20,21,
24 28:22
56:3 71:10
76:3 97:3
100:7
121:20,23
125:22
130:4
133:11
134:3
136:18
140:23
169:18
170:13
171:21
172:10
185:23
202:4,21
217:4
229:17
230:3
233:13,25
235:6
magazine
14:9 15:15
18:18
104:13,20
magazines
14:11
15:1,12
magnitude
31:20 34:1
maintain
107:8
168:4
209:4
229:8
maintained
192:24
major 213:8
majority
81:20 91:7
172:13
192:10
make 18:16
21:22,25
22:1 28:5,
9 30:15
59:24 62:2
77:11
81:23

97:22,23
101:14
105:16
133:8
136:17,21
159:6
168:6
173:22
189:21
190:9,18,
20 191:3
193:25
197:11,15
214:16
229:15
230:6

makes 13:9
17:14 81:1
98:4,8
227:23

making 26:9
171:14
173:17
202:18
230:1

male 39:21

man 80:23

management
62:11
235:10,17

manner 202:9
234:13

manuals 90:6
92:2,5,7

**manufacturabil
ity** 177:19

manufacture
18:22 19:4

manufactured
136:12
231:8

manufacturer
19:5 98:18
119:7
120:3,9
122:2
132:5

manufacturers
82:20
121:9,15
174:11

manufacturing
4:6,21
6:17 21:19
32:4
62:10,19,
22 138:13
191:22

map 191:24

march 141:1

mark 224:2,
12

marked 8:8,
15 78:25
79:3
118:12,16
224:9
225:2

market 132:4

Marks' 47:23
48:2

Maryland
21:18

mass 175:12

Master's
62:15 63:1

masts 87:6

matches 21:7

material
20:13
92:12,14,
20 93:4
171:11

materials
25:6,10
45:25
53:17
167:13
171:7
199:6
205:1

MATHCOUNTS
70:25

matter 5:15
11:6,7,21
12:12,15
13:4,21
17:7 24:19
27:10
32:1,18
33:23
34:13
41:19
42:13
44:12
71:11
80:10 84:9
94:25 97:4
98:9
115:15
127:14
131:15
141:20
148:22
149:2
164:11
170:20
186:24

matters 9:5
10:8 16:9
22:12
96:18
97:7,10
99:12

Matthews
121:11

mature 77:14

maximized
192:22

meaning
87:11
147:10
152:3
160:11,16
163:15
188:25

means 33:16
40:10

104:16
139:4
146:15,17,
19 147:20
150:11
154:24
163:23
206:21
218:23

meant 59:1
149:13,15
190:16,17

measurements
223:6

mechanic
139:9

mechanical
9:23 10:1
20:12
47:22,24
48:2 61:4,
23 62:6
63:5,23
71:13,16
80:18
86:22
88:23
90:7,11,
16,21,23
91:2,3,22
92:4 93:16
94:21
95:11,13
101:15
105:13,14,
20 106:4,7
134:3,12,
14,16
180:23
229:14

mechanism
42:24 43:7
99:18
100:20
136:14
202:8

mechanisms
63:25
89:15
134:17
140:22

Mechanistically 218:13

media 4:4
172:20

meet 19:6
103:21

meeting 71:7

meets 69:2

member 71:22
85:7

members
113:6
208:14
210:2
216:7,19
222:3,21

mention
158:3
233:13

mentioned
65:11
112:8

mentions
194:10,13

Merriam-webster
47:13,17
48:7 56:23

met 32:5
126:25
205:9,13

metal 119:17

method
110:23
116:11
159:5,10

methodology
210:25

Mexico
111:4,5

Michigan
24:8 61:4,
9,12,13
63:6 67:7,
10,23,24
68:9,24
69:2,16
70:1,19
71:1,6,8,
25 72:2,3
123:25
124:5
235:4,16

middle 86:15
154:7

midline
216:14

midpoint
209:22

milestones
31:17

military
93:20

milling
13:9,18
149:10
150:11,18,
25

mind 109:23

minimized
192:23

minimum
137:21

minute
157:23,24
193:11
231:25
235:5

minutes
102:7
120:14
234:5

Mis 204:7

mischaracterizes 189:25

mischaracterizing 156:20

misfire
119:9

120:25
Mishan 10:12,14, 15 104:2
missing 203:5
Mississippi 109:12
misspeak 162:21
misspelling 80:23
mistake 76:3,7 202:21
mixer 81:8, 11
mode 139:7
model 57:9 119:12
modern 172:7
modestly 208:23
modifications 66:25 67:2 189:17
modified 66:19 67:3
modify 19:3 185:10 188:21
moment 158:5 166:22
money 34:10 67:19 86:10
monopoly 132:17
Montana 6:17
month 90:17 186:9
months 24:2
morning 5:12 46:15 125:21 169:14 186:14 233:4,12 235:17
Mossberg 18:14,16, 20 19:1,9, 13 104:17 149:17
motion 231:19
motions 110:2
motivated 180:1 188:9,16, 21
motivation 182:8
Motor 20:21 112:8 116:3
motorcoach 88:8
motorcycle 88:11
motorcycles 103:10
Motors 62:12
mount 146:21 206:11 216:15 217:11,13
mounted 41:9 48:9,10 141:2 146:15,23 147:5,6, 11,21 148:3,6,7, 9,16 151:19,22 152:3,8, 11,14,19 153:14,24 154:5,15, 17,19,24 155:7,9, 16,20 156:1,6,10 157:8,9, 14,16 158:12,17, 21 159:15, 17,24 160:5,7, 15,21 161:1,2,3, 5,11,12 162:2,8, 12,15,25 163:3,23 164:22 166:16 206:16 216:16 217:12
mounting 210:7 223:21
mounts 218:1
move 15:3 55:17 60:5 153:2,11 154:1 156:11 169:24 185:15 204:4 208:13,18, 21,23 209:21,22 210:6 213:18 214:18 222:2,5,13
moved 221:8 223:21 225:5
movement 153:7
moves 153:1, 10 154:2 155:10

208:16

moving 35:12 183:17 184:1

mower 89:3

multiple 41:14 42:25 66:3 87:10 94:19 117:17,20 143:20 214:15

multiplicity 214:15

mystery 60:20

N

named 73:2 126:22 131:13 205:14

National 70:19,21 71:6,22 111:3

nature 12:14 13:7 14:5 17:11 18:14 19:19 70:3 83:22 86:6 93:14 134:10

nearest 40:7,16,19

Neebe 44:4,7

Neebe's 44:10

needed 86:21 108:23 128:9 232:20 235:5

needing 233:13,14 234:9

negotiable 36:13

negotiation 73:21

neighborhood 194:17

netting 79:24

Nevada 51:4, 11

never-to-shoot-again 66:14

Nexbelt 9:14 11:21,24 12:4

nice 58:11 124:12 224:5

night 62:16

Nineteen 191:8,9

NMC 61:16

nock 43:11

non-infringement 19:9

nondefectiveness 85:4

nonetheless 22:9

noninfringement 15:21

Norkus 178:16,20 179:15,20, 21 180:8 182:17,22 183:15,17 230:16,18, 21,22 231:2

Norkus's 180:3 184:3

North 115:10

Northwestern 61:12,15 71:1

note 234:12,15 236:22

notebook 38:6 49:7 223:25

notes 8:14, 16,20 9:1 48:11,23 211:23

notice 201:20 233:4,6 235:1

noticed 231:22

Notwithstanding 152:21

Novatek 9:14 13:6,12,16 149:8 150:16,20, 22 151:6

November 204:20,23

number 4:4,7 26:12 54:8 60:2 67:11 144:8 158:23 182:1 221:11,14 226:25 227:1,2

numbers 19:17 125:8

numeral 39:18 44:4

numerous
66:14
70:17
93:17
103:16
119:19
120:12
122:2
139:17
175:16
217:23

nurse 139:14

O

object 35:7
46:24
60:21
135:4
208:1

objection
14:23
19:21
25:19
26:8,9
27:4,5
28:16
29:18 32:7
34:14
41:22 42:6
45:9 46:9
52:3 53:1
55:14
58:25
59:11,13,
25 76:10
77:2 81:25
85:15
105:24
106:21,23
107:9
120:5
125:13,15
127:25
129:15
136:1
138:24
142:2
145:17
146:6
156:16
157:21
160:1,24
165:19
167:22
169:21
173:19
181:6,9
189:24
199:3,11
204:6,7
207:24
208:2
210:13
216:21
217:1,5
223:17
233:21
234:9

objectionable
176:25

objections
167:23
168:5
181:12
216:24
234:11

obligated
234:25

obligation
173:15

obvious
38:16
153:13
161:6
187:20
203:22
226:18
227:12,17,
19 228:3,
23

obviousness
15:16,23
148:25
227:24
228:1,17

occasion
41:12
65:19,23
66:2 92:15
186:3

occurred
20:1 87:14
92:9
117:19

October
204:20,23

offer 10:16
11:7,11
14:16
15:20
16:21
17:22 18:8
19:11
41:19
42:13 45:1
69:14
91:5,23
105:9,22
109:4
116:6
145:13
149:24
164:14
167:12
172:5,10
180:20
181:22
219:21
227:5,25
236:16
237:1

offered 9:4
11:22 12:7
13:2 14:6
17:18 18:7
19:8,18
56:20
57:24
82:25 83:6
97:5 109:9
116:15
128:15
143:17
146:10
149:4,22
150:7,14

164:25
165:11
166:1,13
235:3

offering
6:21 12:24
13:23
14:19
43:15 76:6
90:13,20
95:18
101:4
127:13
145:23
165:13
169:3
171:8
173:3
201:2,10
203:24

office
73:22,25
74:10,25
75:22

officer
95:23

officials
130:21

Ohio 235:3,
16

oil 88:11

Oklahoma
116:4

omitted
114:24

one-off
121:24

open 160:12
215:4

operability
194:24

operable
183:8,9,14

operate
183:7

operation
177:13

operational
209:7

opine 92:6
115:15
139:7
165:16

opining 21:5

opinion
28:10
38:14
44:25 72:8
75:16 83:1
86:12,16
90:20
91:5,24
105:9,22
112:1,19
113:13
114:6,10
115:17,24
122:5
152:1
158:20
164:25
165:11
168:3
183:23
187:17
202:19
203:5,23
214:2
226:16,22
227:15
228:19

opinions
11:17
12:7,24
13:3,24
14:1,6,17,
20 15:20
17:18
18:8,9
19:9,11
37:12,17
41:19
42:13 45:1
53:22
56:19
57:24
75:17 77:1
90:14
109:8,21,
24 110:6,
8,11,13,
17,22
111:20,22,
23 112:12,
15,23
114:2
115:12,21
116:6,10,
20 118:3
127:13
131:14
143:16
145:1
151:3
164:15
166:1
169:3
171:8
173:3
174:24
191:17
201:2,8,11
215:3
226:21
227:5

Opposed
55:19

opposite
212:2

optics 141:2

optimize
198:12

optimizes
62:23

optimizing
98:20

options
228:12

oral 33:15

order 21:20
32:23 39:8
43:1 59:24
68:19

71:22
99:23
110:10,15
112:3,4,7,
17 113:15,
17 114:15
115:25
116:13
117:11,19
156:10
165:7
171:13
193:4
217:20
228:14
231:19

ordering
235:24

ordinary
38:17
101:3,6
125:6,24
126:8,18
127:18,24
129:9,13,
23 135:8
147:10,13
155:15
157:11
159:22
163:15
184:20
188:9
199:20
210:10
214:4,7
219:6
228:10,24

organization
70:21

organizations
70:18

orient 167:9
172:16

orientation
40:13
222:24

oriented
172:1

original
140:18,19,
20,22
237:16

originally
223:1

orthogonal
63:15

out-of-state
124:14

outcomes
111:17

output
180:11

outward
209:21

outwards
210:6

overburden
117:21

overhead
88:17
207:15

overlap
193:16,24
194:19
195:14,17
196:9

overlapping
193:19

overstatement
100:18

overturn
88:12

overview
167:4,21
169:19
170:14
171:9
172:9,15
173:4

overwhelming
121:3

owe 67:18

owned 64:24
65:2,5
72:24
85:13

owner 4:17
5:14,16,21
6:22 8:6,
15 13:8
66:24
78:23 79:4
116:16
118:10,17
224:7,14
225:2

owning 65:11
96:21

P

P-E-V-A-R-E-L-L-O 26:11

P.E. 5:1
8:7 78:24
118:11
224:8
237:21

p.m. 60:4
122:15,17
123:2
232:13
234:7
237:22

P320 119:15

pages 37:23
57:2

paid 11:1
32:15,17,
22 230:2

paint 229:18

painted
66:23

pairs 15:6

paper 24:3

paragraph
9:11,22

10:3 17:8
19:15
21:10
36:4,8
38:9,10,13
39:16,23
43:5,25
44:18,23
45:23
46:22 49:2
53:6 61:2
63:4 65:22
67:6 69:1
72:14,18
73:16
89:24
103:14,22
104:5
105:3,6
116:24
121:4
129:21
136:23
139:2,25
140:2
143:11
144:10
149:9
161:19,23
164:7
171:20,22
173:25
175:4
178:21,22
187:1
189:20
191:11
192:1
193:13
195:13
196:18
198:13
200:14,23
201:6,15
205:17
206:13
211:8,10
216:2,5
219:4
230:16

paragraphs
125:18
167:6,8
172:8

parallel
51:17

Pardon
215:20
221:13

parlance
147:13

part 49:15
65:6 92:5
100:1
145:11
147:9,19
154:13,14
163:9
178:1,5
193:10
202:20
226:11
229:24

partes 6:13

partial
79:16

partially
111:11
120:16

participate
70:4

parties
106:6

parts 14:5
22:11
104:19
154:8
158:23
190:13
211:5

party 10:16
11:11
12:3,12
13:23 17:8
43:23 44:8
73:13

pass 89:9

passenger
104:3

past 8:22
10:5 12:22
70:13,23
99:8
106:18
118:3
123:12,15
128:4,14
130:20
144:25

paste
183:20,23

patent 4:17
5:14,16,20
6:22 7:12
8:6,15,24
9:8,12,21,
25 10:19,
21,24
11:3,14,19
12:5,25
14:8,9,13,
21 15:8,
18,24
16:5,13
17:13,23
18:10,11,
18,25
19:2,6,12
20:14 21:9
31:15
38:15,19,
24 39:1,11
40:9
41:13,20
42:14,21,
25 44:15,
25 45:2,8
53:12
54:8,13,
17,20 55:5
58:6,18,19
70:23
72:10,12
73:22,25
74:1,25
75:2,3,5,
9,19,22,24

76:8,18,22
78:23 79:4
84:21
85:13
90:17
91:20,24
92:22 93:5
97:21
98:11
99:9,13
100:13,23,
25 101:1,
7,11
102:16
103:5,23
104:4,24,
25 105:10,
23 116:16
118:10,17
126:22
128:16,18
129:2,12
130:21
131:24
132:15,16
133:6,7
134:20
135:11,17,
25 136:20,
25 141:10,
15 142:22
144:4,19
150:18
151:9,13
154:3
155:13,23
156:1,13
160:4,10,
20 161:16
163:6,8
164:8,9,
16,21
165:1,10,
12 166:15
167:16
172:16
174:16
181:16
193:9
196:19
197:1
198:14,23
200:16
201:7,25
202:25
203:10
205:3
210:8,19
224:7,14
225:2
226:18
227:8,12,
16,23
230:25

patent's
130:5,16
135:9

patent-related
19:16

patent/ intellectual
103:17

patentability
16:13 76:8
90:13,21
91:3,5,24
92:22 93:5
97:20
100:21
103:4
105:10,23
201:3

patentable
77:7 84:22
85:14
97:24
136:16,19

patents 9:23
13:4,17
17:17,24
22:14 43:1
53:20 55:4
58:8
72:13,18,
22 73:3,4,
5,9,17
74:2,3,16,
17 76:14
89:22,23
101:1
111:13,14,
16 128:24
135:16
136:12
141:15
142:17
164:16
165:3,18
166:15
172:14
174:8,14
186:21
203:9,14

patents'
73:14

pattern
121:25
122:8

pause 36:23
157:25
203:7
221:1

pay 18:21
67:17
68:17
117:16
236:7,11,
12,16

payment
32:11
235:23
236:2,21

pedantic
175:3

peer 69:5,
14 173:23

peers 69:4

pen 224:4,5

pending
111:3,4

people 40:5,
21,25
91:10,11,
13 96:12
97:1,3
108:16,17

119:19
120:10,12,
22 122:3
130:20
176:19,25
210:17

percent
19:17,19
78:3,22

percentage
7:11 78:19

percolated
77:9

performance
9:18
18:13,19,
24 67:2
104:17
149:16
179:14
187:23
229:4

performed
105:7
121:5

perimeter
213:7

period 96:4

permitted
154:20

perpendicular
189:8
202:6

person 38:17
82:7 88:20
100:3
101:3,5
106:3,11,
13 108:5,
22 111:12
120:24
126:8,18
127:18,23
129:8,13
134:25
137:2,14
138:9,12
139:9,10,
17 140:24
141:3,12
144:2
148:5
155:15
157:3,11
159:21
177:5
184:20
188:8
199:20
210:10
214:4,7
219:6
228:10,23

person's
100:9
140:9

personal
60:16 75:7
96:20
98:22
110:17
114:3

personally
72:21
73:20

perspective
223:7,15

persuaded
202:3

persuasive
28:13

pertinent
12:25 99:2
102:15

petition
7:14
226:12

Petitioner
4:21 6:22

Petitioners
236:7

Pevarello
26:10

ph 92:16

Ph.d 5:1

Ph.d. 4:5
8:7 63:5,
7,10 64:3
78:24
105:13
118:11
224:8
237:20

phone 48:17,
21

photograph
80:14

phrase 122:9
129:4
147:11
152:2,21
154:17,19
155:16
163:16
194:8

physical
152:18
228:14

pick 91:10
147:1
148:11,17
177:5

piece 13:20
99:21
209:19
210:22

piecemeal
137:24

pieces
180:22
184:21,22

pillow 161:9

pipe 92:11,
16

pistol 94:6
119:12,15

pistols 87:3

place 107:24 175:13
plain 147:10,13 163:15
Plaintiff 117:23 118:4
plane 218:19 221:9 225:6
planes 211:18 212:15 219:9
plants 62:23
play 176:14
plenty 170:4
pocket 160:11
point 25:20 46:1 72:5 102:4 125:7 136:6 149:9 159:13 176:5 181:21 203:20 214:18,23 223:21
points 59:24
polymers 140:23
portion 40:17 100:2 124:13 162:17,23 163:5,11, 21 164:3 167:20 205:23 206:3,6,8, 10 208:16 209:16 216:8,11, 15,17 217:10,12
portions 113:13
POSA 97:23 98:2,8 101:14,22 106:2 128:3,13, 14 130:10, 24 131:1, 3,20 133:12,20 136:24 137:11 139:23 141:3,4,8 142:22 143:1,5 167:16,18 179:25 188:16,21 212:3,17, 24 213:17 215:5,14 219:24
POSA' 38:17
position 93:13 120:19 138:4 159:16 182:6 193:6 208:7 209:4 233:18
positioned 206:22 207:1
possession 66:5,6
possibility 56:23 145:23
post 200:1
post-grant 16:12
posture 52:13
potential 14:2 73:10 84:10 118:4 120:2 165:18
pound 65:4
pounds 198:6
power 132:19,20 133:2 135:15,16, 19 156:8 163:1 179:6,10, 17,19,21 180:1,4,8, 10,18 181:1,2 187:22 188:12,24 191:14 192:9 193:15,23 195:5,8 196:13 197:6 198:17,18 199:8,10, 22,25 200:18 202:5,9,11 209:15 211:14,15 212:1,5,6, 13 215:8 218:17 219:1 220:22 221:6,11, 14 225:4 229:3 230:5,12, 13

practice
65:6
123:17
210:22
213:14

practicing
124:8

prefaced
45:15

preference
5:8

preferred
210:25

premised
118:2

preparation
27:6 30:24
35:17,22
47:8,21
48:12
49:13,17
50:6 57:1
127:13

prepare
49:18

prepared
34:11 47:3
165:9
168:19
169:6,22
170:22,23
171:2
195:20

preparing
34:6

presentation
24:8

Presentations
24:12

presented
77:15

pressure
88:22,24

presumption
76:17,25
77:19

presumptively
76:15,19,
22

pretty
125:25

prevent
212:25

previous
6:24 7:2
15:12
54:21
74:11,23
77:15
127:3
131:25
136:11
141:15
144:19
145:10
217:19
218:4

previously
116:15

primarily
92:8

primary
19:4,5
90:8,9,14
91:1,6
132:7
221:8
225:6

principal
219:2

principally
43:8,17,18
44:3

principle
110:24
116:11

principles
62:5

print 31:4

prints 157:1

prior 12:1
14:8 16:3,
19 38:16
41:14,18
42:3,12
54:1,6,9,
12,15,18,
22 55:1,6,
11,22
56:7,10,
14,18
57:15,16
74:21
75:23
77:6,8,15
98:10
100:25
103:3
128:24
130:2,14
131:8,13
135:17,24
137:6
140:14
141:5,9,
17,19,21,
24 142:15,
16 148:21
149:1
172:14
174:18
178:7
180:22
182:9
183:2
186:23
194:11
198:23
199:2
202:24
203:3,14,
20,25
205:1,14

privilege
34:15
35:1,5
52:4

privilege/work
107:4

pro 68:25
73:17

probe 34:24

problem
117:19
131:22
132:13,18,
25 133:5
166:4
198:23,25
199:2

problems
117:13
130:1,3,14
131:18
200:7

proceed
113:5
235:8

proceeding
6:13,23
7:5 22:19
23:7 51:10
67:22 68:2
202:20

proceedings
16:12,16,
19,22
122:16
123:22
124:2

process
229:16

produce
21:24
22:10
68:16

produced
25:15
231:19

produces
14:10

product
10:20,22
12:9 20:8
28:18
45:10
46:10,25
47:4 48:16
55:15 56:2
59:5,11
60:13,17
83:24 92:7
97:10
107:4,18
121:8,15
134:15
142:18
165:20
180:24
230:3

products
9:18 18:13
85:10
86:10
96:17 97:7
98:1
109:15,16
120:2
149:16
171:24
174:12,13
176:20
210:17

professed
180:19
183:4

professional
24:9 58:14
65:9,14
67:11 68:1
69:23,24
70:1,12,
18,20
71:7,19
77:22
78:20
79:8,13
82:25
85:19
94:20
96:16,19
97:5,25
98:15,19
99:5
101:17
105:11
114:16
120:20
121:13

professors
69:9,10

proffered
150:12
151:2
158:11
159:14
162:14,24

profile
191:24
192:19

program
61:24
62:14,16

progress
84:7

progressively
211:24

projectile
94:9,10,
12,16,17
102:25

proof 214:11

proper 118:8
127:23
145:24
217:2

property
12:20
20:14
21:8,13
62:24
103:17,24
104:23
154:23

property-related
36:18

proposed
29:14,25
49:4
146:10
162:7
180:17
181:4,23
183:12

proposition
219:22

prosecution
74:5 75:23
164:10

protected
35:6

protection
87:23
133:6

prove 106:16

provide
22:18
38:14
44:24
45:24
50:18
88:15
167:14
169:24
173:16,23
180:16,17
184:11
210:17
222:8
228:9

provided
6:12 25:8
29:14 36:3
54:22 74:1
75:4 79:17
80:14
118:2
128:7
167:24
169:15
201:20

providing
33:15

PSE 82:22
121:11

PTAB 25:21
236:1

Pub 53:12

public 24:3,
11 120:16,
21,23

publication
24:18,20,
24 205:2

published
24:4

pull 25:25
99:22
193:4
215:17
223:24

pulley 202:8
206:15,21
207:2,5
208:13,20
210:1,11
213:8
214:23
215:12
219:2

pulleys
208:17
209:3,14
222:2,13
223:1,9

pulling
192:12,23

pulls 111:10
208:17

pump-action
18:17
104:18

purchase
65:19

purchased
65:9

purported
228:12

purporting
237:1

purpose
102:24
130:5,16
135:9,10
197:19

purposes 8:8
76:5 78:25
118:12
124:16
131:14
165:25
183:23
214:1
224:9
234:22

pursuant
108:4
232:14
233:10
235:9

pushed 27:21
154:24
222:23

put 25:6
29:24 34:2
99:20,21
115:2,3
118:6
137:25
142:9
152:13
190:13
211:3

putatively
10:20,22
12:9

putting
175:1

Q

quad 14:9,
10 15:1,6
104:20

quadratic
175:12

qualifications
115:15
138:7
140:1

qualified
75:9 91:23
105:9,16,
22 108:22

110:6
123:23
130:25

qualifies
90:21 98:2

qualify 82:5
101:5
106:13

quality 20:8

question 7:2
25:22 26:2
35:2 43:21
45:12
52:8,11
53:24
55:23,25
78:18 86:5
99:5
115:21
132:9
149:21
153:17
156:21
157:3
170:10,15,
21 184:15
190:2
192:15
195:20
226:24

questioning
86:15
129:17

questions
7:20 35:7,
14 43:19
86:19
234:14

quote 41:5
114:3
115:18
196:18

quoting
110:15
180:22

R

R15 39:9
40:2,14
66:3,12
82:11,16
120:25
121:25

R9 40:14
44:10
66:3,12
82:11,16
119:9
121:25
161:7

raced 100:1

rack 90:2,4

radiation
134:10

radius
192:20

rail 94:7
96:14
100:2
189:9

rails 134:5

raise 14:22
235:7

raised
232:17
233:20
234:8

range 40:7,
11,12,16,
20,24 41:8
137:19
200:2

rapidity
130:3
133:10
209:23

rate 33:1,
4,11,14,
19,21
35:25
36:1,6,12,
16 37:1
78:8,9
113:7,9

rates 36:7

Ravin 4:7,17
5:15,17,21
39:7,13,16
41:11
42:25
43:2,4,13,
16,20,21,
25 44:1,5,
16 51:14
60:12,16,
17,22
65:24
66:1,7
82:11,16
84:16,23
85:2,13
106:19
116:17,21
117:4,5,12
118:3
119:8,18
120:11,24
121:11
134:15
181:15
183:16
235:25
236:15,16
237:7

Ravin's
43:7,20
50:15
135:12
136:8
202:3

Rayley
116:2,6

reach 143:16

reaching
100:9
204:1

read 25:1
29:6,9
39:11
41:23,25
42:4 57:12
77:8,10,

11,13
78:14
100:24
112:4
113:15
115:19
127:4
128:4,13
136:11
141:17
146:3,4
171:23
174:10
179:3
188:18

reader 167:9
172:16

reading
30:10
33:17
44:19
74:22
112:7
151:21
204:25

ready 26:24
38:12
106:25
166:23

real 214:13

realize
214:8

realized
95:22
233:20

realizes
141:12

rear 139:8

reason 75:6
100:15
113:4
155:20
168:16
169:8
170:1
184:1
209:23
215:7

reasonable
29:20
69:20
86:19

reasoning
75:15

reasons
161:3
166:7
168:1
201:21,23
210:9

rebuttable
76:17

rebuttal
17:22 18:8

recall 6:10,
15 9:12,16
10:7
12:18,23
13:1,2,5,
22 14:15,
25 17:25
22:20
26:22
27:7,9,15
28:23 29:3
31:10
33:12
37:22
39:22
41:17
46:19
47:18
48:4,22
50:2 55:9
62:8 64:5
67:5 69:5,
12 82:22
84:5 96:8
110:14,25
111:7
112:2
115:4
125:17,22
126:10
132:5
135:17,23
146:8
149:20
169:17
170:12
221:5
226:2

receipt
55:1,6
186:15

receive 62:9
123:17
179:23

received
29:12
31:15
32:11
33:24

receiver
18:25 19:3
104:18
149:17

receivers
19:5

receiving
156:7
163:20

recent 71:4
84:4

recently
72:9,12

recess 59:19
122:14
172:24
224:20

recites
151:18

recognize
23:3,19
49:10
79:10
118:19
215:8,19,
21 220:5

recollection
9:10 25:7

29:21 40:3 50:4 74:4, 6

recommendations 69:4,6,15

recommendees 69:12

reconstruction 20:15,18 37:1,3 81:9 119:6,11

record 4:4, 13 8:1,3, 5,11 27:14 30:22 42:1,5 59:18,21 60:10 122:12 123:4 146:5 168:6,13 172:23 173:1 204:9 224:18,22 226:6 232:2,12, 15,21 233:22 234:16,17, 20,23 235:22 237:9,11

records 10:7 30:19 48:13 68:18 83:11

recurve 65:3,10 140:18

redesign 185:12

redesigning 185:14

redlines 29:14

refer 5:16, 20 119:8 171:12 178:11 205:4 215:23 220:8 230:18

reference 7:16 72:9 99:7 101:25 138:8 167:12 171:7 186:4,24 218:7 220:13 221:11,14 224:13 230:9

referenced 24:17 39:12 41:11 47:19 102:7 125:21 128:12 230:17

references 30:13 54:4 55:2,11,22 58:3 182:9 183:2 194:12 201:6 220:16 221:23 228:18

referencing 174:22

referred 35:23 192:2

referring 21:9 39:25 51:10 53:13 154:17,19 230:8

refresh 9:10 25:7

reg 144:8

regard 13:16

region 15:5, 6

registered 144:4

regularly 69:22

regulator 93:1 115:5

regulators 92:25

reinstated 67:18

relate 37:3 43:6 58:2 64:4 96:17 97:6,20 98:11 104:6 128:20

related 7:11 9:8 35:8 61:21 63:1 85:12 93:4 104:9 129:1 137:4 139:10 142:18 164:8,16 165:1,3,5, 10,12,17, 18 166:15 175:7 179:13 185:24

relates 35:22 42:20

74:16
81:16
100:21
164:15,25
201:25
227:6
228:16
236:21

relating
14:1 95:18
97:6 103:4
125:23
171:8
228:17,19

relation
202:10

relationship
13:7 18:15
152:18
153:22
159:22

relative
83:14
148:25
208:13
209:4
210:2,5
222:2

release 94:3
211:12

released
57:10
179:7
187:7
207:22
208:7
209:20
221:20,24
223:11

relevance
8:23 25:20
141:23
181:10

relevant
56:19
101:6
102:18
104:5
129:7,12
130:10,24
131:19,20
133:12,20
137:11
138:12,20
145:6
163:9
167:10
169:25
177:20,24

relied 54:2
165:20
166:3,7

rely 205:14

relying
131:14
218:7

remainder
54:14

remains
60:19
212:23

remember
18:2
113:23,24,
25 114:6
151:6
193:10

render 105:9

renders
226:17
227:7,11,
15

repair
177:16

repaired
66:17

repeated
189:1

replied 19:1

report 9:16
12:1,18
14:14
16:24
17:22 18:1
86:13
150:2,4
227:3

reporter
25:12
41:25 42:4
101:8
121:21
146:4
176:8
188:17
193:1
195:25
200:9
235:23
236:17
237:12,15

reporter's
236:8,9

reporters
236:2

represent
5:14 79:6

representative
4:17
60:12,19,
22

representing
4:22 60:16
107:2

request 49:8
151:14
161:17
186:2
196:17
205:19
211:9
215:18

requested
42:1,5
146:5

require
33:18
124:16
172:5
209:17

required

70:2
113:10
142:21
152:18

requirement
70:5 71:24

requirements
69:3

requisite
130:18

rereading
30:11
212:21

research
117:18
131:5,12,
18 170:4,6

researched
114:14

Reserves
93:21
102:1

respect
11:20
36:25
67:25
68:12
123:24
152:25
178:2
211:25

response
6:25 83:6

responsible
123:24

responsive
99:4

rest 41:9
121:24
193:5
208:6

rested
110:12

resting
148:19

rests 40:18

result 65:16
180:5
204:2
211:23

resulted
111:16

resulting
178:23
188:12,24

results
179:14
188:13,25

retailer
177:6

retained
26:17
116:20

retainer
31:13

retention
89:18

reverse
40:2,5,22
41:3
135:14,21
185:2,6,9,
15,18
187:4
188:1,4,11
189:4,10,
15 190:6,
12,22
196:22
197:2,5,
15,18,21
198:1

reverse-draw
187:21
188:22

review 6:13
9:9 16:3,
12 25:5,9
27:18 28:2
29:1,25
37:7 39:4
41:12
42:17
46:16
47:20,23
50:13 54:5
55:12
56:14,18
57:14 74:5
114:15
127:12
130:22
131:6
166:6,14
186:4
210:9
225:19
226:15

reviewed
10:19
26:21,23
37:21
38:23,25
41:14,20
42:14
52:20
56:25
57:17
166:4,11
173:23
186:24

reviewing
137:4
140:4
203:9

revise 6:24

revision
29:25

Rieger 4:16

rifle 12:17
14:10
21:21,22
22:4 64:23
93:24
104:11,13,
16,21

rifles 14:11

right-hand
221:4

rights 73:3
rigorous 74:1,11 75:1
Ring 69:11
ripped 80:14
riser 162:9, 12 163:19 205:23 206:4,7,11 209:15 216:16 217:13 231:12
rivet 228:5
road 13:9, 11,18 149:10 150:11,18, 24
Rogers 73:1 74:7
rollcages 79:24
rollover 87:23 88:8
rollovers 81:8
Roman 39:18 44:4
Romanette 39:23
room 147:2 148:12,15, 18 159:7
root 153:4 216:13
roots 40:16
rope 99:25 100:8
ropes 62:1
rotary 89:3
rotatable 151:19,23 152:2,10, 14,16,21 153:25
rotate 132:22 152:9 179:23 193:14 194:5 208:24 210:1,5
rotating 132:21 193:5
rotation 132:19 154:20,22 179:11 194:6 195:5,11 198:15 202:7 211:18 212:1,16 219:10 221:9 225:6
rough 32:19, 21
row 53:11
rows 49:1
RTG 14:5 104:19
rule 34:18 35:3,8,11 113:8 168:20
rules 236:1
ruminations 214:25
rush 29:6

S

S.A. 8:7 78:24 118:11 224:8 237:20
sacrificed 185:19,20, 21
safe 35:11
Safety 177:2
sailed 89:8
sale 12:19
sanction 35:3
sanctionable 35:9
sanctioned 125:1
sanctions 169:24
Sarah 4:16
sat 7:4
satisfactory 66:23 237:7
satisfy 147:10
satisfying 138:18 143:4
saved 235:14
say-so 219:22
scale 223:6
scenery 21:2
schedule 29:9 233:9
scheduled 233:1 236:23,24
Schmeeckle 39:6
Schmeisser 9:15 10:9 14:4,9,12

15:8
104:19

school 5:10
65:5,11
96:22

science
20:13
91:13
92:12,14,
21 93:4

scientific
110:23
116:11
159:5,9

scope 73:23
100:13
102:15
181:7
191:20
199:4

scratch
176:9

Screw 69:11

screwed
161:10

seal 88:11,
13

sear 94:3

search 56:7,
10

season 64:14

seat 89:12,
13,16

second-to-last
49:20
164:6

section
95:12
125:11,23
126:2,17
143:7
169:19
170:14
171:8
172:9,15
173:4,18
226:21,22
227:2

secure 68:9,
13

secured
187:4

seek 169:7

select 55:11

selected
46:6

self-destructed
21:1

self-study
70:2 71:9,
12,24 72:4

sell 18:23

semi-automatic
12:17
14:10,11
104:15,20

sentence
164:6
168:12,15
187:3
198:14
201:19

sentences
188:15

separate
71:24
108:9,14
115:20
154:7,13,
14 227:10

September
72:15
99:12

sequence
20:7

served 93:19
103:15

service
102:1,2,4
120:17,21,
23

services
95:18
119:1

SESSION
123:1

set 39:7
53:8 157:7

settled 12:1
124:14

shallow
119:15

share 26:19
198:4

shared 50:15

sheet 119:16

shelf 172:7

shifted
222:24

ships 223:3

shoot-through
230:10,12

shooter
93:23

shooting
21:2
119:6,11
172:3

Short 24:12

shorter
197:20

shot 119:14
175:19

shotgun
104:18

shotguns
18:17

show 15:15
57:9 58:9
118:23
207:14,15

showing

80:15
shown 205:23
225:18
shows 57:7
105:11
161:19
162:2
203:20
207:22
208:9
230:22
side 54:10
79:24
89:21
109:13
111:6,9
146:22
187:6,8,9
206:17
208:22
221:4
222:15
sided 150:21
sides 212:2
Sig 119:15
sighting
93:25
signature
23:11
signed 29:2
37:8,11,15
49:23
50:14
186:16
205:1
significant
30:18
93:18
101:18
103:10
106:9
107:11
signing
26:24
silent
212:23
214:3
218:21
219:17
silently
211:3
similar
93:23
94:5,11
102:9
172:18
similarly
5:20 18:8
simply 6:25
10:17
11:10
21:12
42:18
81:22
176:20
183:20
184:13
193:18
229:9
237:5
single 98:3
117:21
213:23
sit 27:15
30:16 31:6
32:16 35:4
48:4 67:5
149:20
172:6
195:19
196:4
204:3
225:18
226:3
sitting 8:17
95:7 116:1
148:15
situated
15:2
situation
142:12
Sixteen 23:1
size 174:2
207:20
skating
169:22
Skeriotis
4:19,20
14:23
19:21
25:19,24
26:8 27:4
28:16
29:18
31:24
32:7,13
34:12,14,
21,25
35:13
41:19,22
42:2,6,13
45:9,14
46:9,23
48:18,24
49:23
50:3,15
52:3 53:1
55:14,24
58:25
59:2,4,10,
22 60:1,24
76:10 77:2
81:25
85:15
101:21
105:24
106:21,24
107:15,17,
19,20,23
108:1,10
120:5
125:13,16
127:25
129:15
136:1
138:24
142:2
144:18
145:17
146:2,6
156:16,18,
23 157:21
160:1,24

165:19,23
166:2
167:22
168:8,13,
24 169:4,
20 170:20
173:19
181:6,12
189:24
199:3,11
204:6,13
207:24
208:3
210:13
216:21,25
217:4
222:9
223:17
226:5
231:24
232:7,11
235:9
237:17

Skeriotis's
234:20

sketch 183:5

skill 38:17
101:3,6
125:7,24
126:9,18
127:19,24
129:9,13,
24 135:8
155:15
157:12
159:22
184:20
188:9
199:20
210:10
214:4,7
219:6
228:10,24

skills 63:24

skip 233:16

skipped
234:1

slavishly
13:12

slid 155:2

sling 67:1
102:25

Smith 119:14

snapped 89:8

Society
70:19 71:6

sod 17:14

sold 72:24
73:3
142:19

solely 210:1

solicitation
83:7

solid 139:7

Sollami 9:15
13:6,8,17,
25 15:13
149:8
150:16
151:7

solution
111:19
132:18

solutions
130:2

solve 131:23
132:14
199:2

solved
133:1,6

somebody's
49:2
202:22

sophisticated
134:7,21,
23 135:3
139:11

sophistication
130:4,15
133:18,22

sort 12:21
94:3 184:1

Sound 177:2

sounds 28:6
100:11
115:18

source 22:5

space 10:1
97:11
141:21,25

speak 204:9

speaking
5:21 14:19
111:8
139:18
181:12
208:2,4
216:24

speaks
230:25

specialize
105:4

specialized
134:25

specific
42:19 62:7
66:1 80:10
81:16
93:14
119:18
120:3
132:13
138:11
144:16
150:6
155:22,25
171:18,21
182:25
191:5
203:25

specifically
47:16 63:1
64:4 76:21
82:15
99:15
103:15
119:8
141:13
143:11

144:15
149:22
164:2
183:2
187:1
189:20
191:1,11
196:21
200:17
216:2
220:19

Spectre
15:14

speculation
105:25
110:13,18
114:4
120:6
160:2
181:7
199:12
210:14

speed 175:6, 15,21
187:23
188:12,24

spell 39:13

spelling
37:22 38:1

spend 34:8, 9,10,13
117:11
177:10

spent 30:9, 17 34:3,5

spiral
195:17
213:21
218:16

spirit 72:7

spoke 104:1

spoken 16:6
32:3
205:13

sports
123:13

spot 160:11

springs
61:25 93:7
222:22

stack 14:9, 11 15:1,4, 6 104:20

stand 98:9
217:20

standard
41:2,5
47:23 48:2
56:24 82:9
86:4,23
89:10
125:25
126:5
139:15
145:6
148:21,25
188:3
232:13

standards
143:9,12, 16 144:12, 16 145:1
150:11
164:3

standing
67:15

Stanziale
57:17,23
58:2,3,17, 22 205:3, 4,7,21
206:14
207:22
210:2
211:10,22
212:12,22
213:24
214:3
215:24
217:16,17, 18,25
218:7,8
219:16
220:9,16, 19,20,21
221:17,23
224:13
225:1,16
226:13,17, 23 227:6, 7,11,15
228:2,18

Stanziale's
57:7
207:16
220:7

start 15:1
78:7 80:13

started 5:13
95:25
214:17
234:4

starting
28:17
143:11

starts 189:8
199:16

state 4:12
21:18
38:21
70:19
71:25
72:2,3
103:15
129:22
130:6
136:23
137:8,13
161:18
162:1
164:12
174:1
175:4
187:3,10, 19,24
188:8
191:13
193:14,20
200:16
205:21,25
206:14,18
211:20,22
212:10

216:5
225:24

stated 73:16
77:1 107:9
174:14
178:9
183:6

statement
174:7
176:2
182:11
183:11
202:16

statements
171:15,21
172:10,18
173:6,17

states 15:15
38:13 51:4
163:9
164:7
198:14
201:20
211:10
233:8

static
192:25
193:1

stating
140:13

stay 231:24

stays 148:18

step 98:24

Stephen 4:5
5:1

steps 228:10

Steve 232:4

stirrup
100:10

stock
146:22,23
148:1
160:13
216:20

stocks
140:23

stop 60:3,7
100:8
122:3
184:12
216:23
232:25
233:12

stopped
83:17
149:13

stops 194:25

storage
61:24
90:2,4
179:16
180:2

store 156:9
222:22

stored 94:1,
8 175:7,18
179:5,12

storing
192:10

straightforwar
d 134:18
135:2

strategy
118:1
210:7

strength/
energy/power'
202:13

stretch
107:11

string
99:22,25
102:22
147:1,2
148:4,6,8,
10,11
151:18,22
152:23
153:1,9,21
154:2,4,6,
9,11,21,23
155:6,10
156:5,14,
25 157:8,
13 161:8,
12,19
162:2,3,8,
11,15,25
179:11
187:5,6,7
189:7,10
193:19
195:14
196:21
200:17
202:8
206:15
209:3
211:19
212:3,7,8
213:5
218:2
219:9
221:9
223:2
225:8
230:15
231:11

string/main
202:10

strings
134:4
230:23

strip 99:21

stroke
132:19
179:6,10,
18,20,22
180:2,4,8,
10,18
181:1,2
187:22
188:12,24
191:14
197:6
198:18
199:10
229:3
230:5

strong 74:18 75:15
stronger 229:23
struck 109:8 111:21
student 61:10,18 63:10 64:4
studied 174:18 209:13
studies 99:16
study 62:14, 16 63:1,9 64:3 100:12 101:4 165:7 171:17
style 50:25 51:5,8,9
stylistic 26:21 27:25 28:3,12
subject 24:19 39:9 67:21 68:2 71:11 115:15 164:11
subjects 79:16
submachine 15:13,14
submitted 23:6 52:17 73:17 75:23 204:25
substantial 218:25
substantially 132:22
substantiate 169:2 173:17
substantiating 17:19
substantiation 180:16 219:21
substantive 26:22 28:21,24 33:3,16 123:7 169:17 170:12
substitute 189:15 190:6
substitution 189:22 190:9 191:4
subsumed 177:21
successful 16:4 95:8 97:2 108:15
suddenly 155:4
sued 18:24 22:7 86:21
suffer 96:25
sufficient 82:5 101:5 137:17 138:1,19 182:8 184:11,19
sufficiently 214:18
suggests 134:17
suite 226:9 232:10
sum 19:15
summation 94:12
sunroof 89:18
superior 132:3
supplemental 31:18 136:5 158:8
supplementary 158:4
supplier 18:22
supply 18:19
support 16:21 44:16 46:4,8 173:23
supporting 17:23 18:9 49:14
Suppose 199:25
supposed 219:12
Supreme 16:8
surgery 139:15
surprise 195:23,25
surprising 85:5
surrounding 43:7 83:5
suspected 74:15
Sutherland 69:9
Sutton 4:18 60:11,13

226:6,8
swear 4:24
swivels 103:1
sworn 5:3
synchronization 177:23,24 181:5,8,14
synchronized 182:14
synonymous 187:15
system 43:11 44:22 93:25 192:25 200:17
systems 62:10,19 80:7 87:24

T

table 53:19 54:5,10,14 55:4 56:15 57:2 58:4 125:8 146:20 148:15,16,18,19
take-up 132:20 135:15,16,19 200:1 202:5 211:16 218:16
taking 84:15 147:25 234:13
talk 21:12 92:4 118:9 120:11,12 139:14 142:12 164:20 176:6 235:22
talked 18:7 56:22 92:3 123:9,13 128:19 198:21 205:11
talking 5:17 50:25 99:18 120:14,22 142:13 151:24 153:18 174:17 180:7 192:2 194:15,16 199:15 201:22 205:5 215:25 220:10
tangentially 63:22
target 94:18 172:3 210:22
task 15:11
tasks 108:22
tastes 210:18
taught 71:5 92:14 94:19
teach 132:16 135:12,16
teaches 61:24 179:4,9,15 187:21 188:1,2,4,5
teaching 132:18 135:14 138:14
teachings 141:17
team 181:18
tech 134:7
technical 119:24 132:25 137:2
technician 21:6
technique 135:12 136:9 182:15,17 184:17
technological 61:5,9 63:6 111:19
technologies 79:16
technology 39:8 42:18,21 43:3 44:21 77:15 98:5 117:12 121:2 128:3 130:5,15 133:3,4,14,18 134:9,11 136:16 140:16 141:1,11 142:17 154:6 167:3,9,21 169:18 170:13 171:9 172:9,17 173:4 183:15 184:1,3

telling 35:4
168:2
169:24

ten 27:21

Tenpoint
7:14 27:12
51:14
65:19
83:1,7,15,
24 84:3,11
85:11
109:5
235:25

Tenpoint's
28:14 76:7
226:12

tentative
159:5,10

terms 31:11
97:9
145:25
146:11
150:8

terrible
111:17

test-firing
177:6

testified
6:16 9:17
16:19,24
78:13
116:16
143:25
150:1,3
169:14
186:14
225:14

testify
10:17
86:23
107:13
109:19

testimony
6:6,12,18,
21 7:11
8:22 9:4,
13 10:16
11:7,8,9,
10,12,22
12:2 18:3
21:6
22:16,18
23:14
25:2,8
33:15
43:16
46:19
114:24
116:15
123:7,15
131:25
145:13,23
149:4,22,
24 150:4,
7,13
152:22
165:13
168:18
171:1
186:18
189:25
190:8
204:10,12
225:11

testing
92:16
117:3,5,18
138:14

text 103:22
213:16
225:24
226:2

thereto
77:20

thesis 63:13

thin 169:23

thing 28:8
57:3 96:12
98:3
103:12
117:15
140:19
163:23
198:8
227:25

things 26:21
33:18
44:13
58:10 70:3
77:11
80:20 99:1
103:8,11
118:24
132:17
134:10
136:5
142:14
144:23
157:6
173:8
182:12
186:13
195:2
197:7,10
202:23
229:5,22
237:4

thinking
30:11
108:21

thinks 107:1

third-party
73:6,10

thought 8:23
74:19 78:9
124:17
131:9
132:2
138:1
212:19
233:7

thousands
78:14

threshold
137:22

thumbs 96:13

tick 138:19

time 4:9
11:1 22:6
29:4,8,24
30:18
33:23

34:1,2,3, 6,8,9,10, 13 35:17 37:19 38:23,25 41:12 42:2,17 48:18 49:12 62:18 69:13 74:13 86:13 96:4 101:7,13, 25 117:16 131:19 136:10 138:12 141:1,11 145:22 165:8 166:13 170:4 174:10 186:12,13, 21 202:18 204:18 209:17 218:15 220:12,17 226:4 231:23 232:13,16, 17,18,20, 23 233:5, 13,14,17, 21,23 234:7,9, 15,19 237:8

timeline 29:12 117:20

times 7:7,10 41:14 78:13 94:7,19 116:19 143:20,25 180:24

tip 150:19

tips 96:15 156:6 160:9 161:10

tiresome 175:2

today 4:23 5:25 6:13 7:4 8:15, 20 16:18 24:6 33:6, 9 35:4 56:11 60:4,19 66:5 67:15 95:7,13 123:21 128:19 143:21 204:3 232:18 233:2

today's 4:8 35:18

told 34:22 35:3 78:9, 12 108:3, 10 110:5, 7,11,16,21 113:8 123:10 223:14 237:6

tomorrow 29:7 233:1 235:12,17

tool 13:20

top 24:11 50:25 51:2 151:16 155:1 213:4,6

topic 47:24 63:23 90:12 91:18 95:5 117:24,25

topics 62:3 71:17 72:4 85:1 92:14

Torok 4:10

torque 192:21

total 19:15

totality 138:7 139:23 160:4

totally 112:1

touch 38:3 153:12 157:17 161:13 178:24 194:22

touching 194:21

tough 222:11

Trac 44:21

Trac-trigger 43:11

track 209:16

tractor/ trailer 89:21

trailer 111:10,12

training 143:21,24

tramp 139:7

transcript 131:7 233:11

transcripts 131:7

transfer 61:10,11

transition 15:5
translates 187:8
transmitted 153:8
transport 147:2
transportable 63:24 184:4,7
travel 33:4, 5,8 37:6 179:6 233:9 235:15 237:2
traveling 33:19
Traverse 61:13
treatise 191:21
treatises 30:14 46:18,21 47:19,20
Trebro 6:17 9:17 17:7, 10,12,15, 17 149:12
trial 11:8
trials 78:13 144:1
trigger 40:12 42:24 43:7 44:22 94:2 136:14 209:16
trivial 200:2 229:17
truck 81:8, 11 87:23
trucks 115:10 182:13
true 78:11 110:4 173:6 182:3 193:21,22 195:4 229:6
trust 96:24
TTC 9:18 18:13,19, 24 104:17 149:16
TTFS 43:11 44:22
tuned 21:22 181:19
turn 23:9 38:4 53:5 90:18 125:3 155:8 192:8 196:15 201:14 211:8 213:23
turns 211:23
two-dimensional 58:9
type 18:25 70:12 96:8 130:1 131:18 138:11 144:21 154:19
types 130:13
typical 20:24 48:5 62:3 144:2 156:3 189:22 190:2 217:13
typically 15:4 20:4 36:20,24 37:5 47:10,14, 22 81:19 94:6 95:20 142:17 154:11 172:15 174:12 184:12 189:18 190:9 197:18 199:16 236:4,7

U

U.S. 53:12 54:8 72:10,12 93:19
ultimate 123:18
ultimately 29:15 50:19
Um-hum 178:18
unable 222:7
unaddressed 122:1
unanticipated 229:11
uncocked 189:10,12 207:13,18
unconvincing 101:23
under-ride 89:21 111:7,9
undergraduate 61:21 106:6

underlying
229:24

understand
5:17 6:2
29:11 34:4
39:8 42:20
52:16
58:17
76:14,18,
20,21
126:21
129:22
145:12
155:16
164:7
165:24
169:2
170:18
174:15
190:2
203:23
205:5
210:19
214:5
215:24
220:9
231:18

understandable
134:12

understanding
6:3 16:8
30:15
42:18 43:2
52:19
59:12
60:13
72:23
108:6
140:4
143:14
144:23
145:20
163:14
233:2

understood
54:21
105:2
190:8

undertake
108:22

undesirable
194:19
195:1
196:11

uneducated
134:24

unexpectedly
43:12

unfavorable
116:18,20
118:3

unfortunate
176:23

unique
184:25
185:3,6

unit 94:18

United 15:15
51:3

universal
184:15

university
61:5,9,15
63:6 64:6
92:15

unobjectionable 126:5
128:8
172:4
173:9,15

unpatentable
38:15
203:21
227:8,23

unreasonable
117:14,15

unreliable
110:8

unsupported
112:24

unusual
230:24
231:5

unwritten
113:8

up-range
187:9
222:5,14,
15,19

update 24:1

updated
23:24

upwards
213:8

UR 222:18

user 81:19
171:25

utilize
180:2

utterances
44:6

V

vaguely
51:15,16
116:5

valid 76:15,
17,19,23

validating
229:10

validation
229:16

validity
13:3 14:7,
20 15:24
17:23 18:9
19:12
21:5,6
73:14
76:25
77:19

valuable
22:3

variables
127:21
128:9

varies 36:10

variety 20:7
81:5

Vaughn
109:14

vector
214:23

vehicle
20:21
104:3
139:8

vehicles
95:22

velocity
175:12

venture
132:6

verbatim
15:9

verbiage
126:13

versa 189:17
190:7

versions
50:10

versus 4:6
9:13,14,
15,17
10:9,12,15
11:5,21
12:4,11
13:6 14:4
17:7 18:14
21:17
26:11
39:6,12
41:11 44:5
104:2,12,
14,17,19
109:19
111:2
113:21
114:17
115:6,9
116:2
149:8,12,
16,19
150:16
151:6

vertical
62:2
64:18,24
65:2,6,10
82:19
94:22
96:17,21
121:9
136:17
149:15
156:4
171:24
174:3
182:13
192:13
200:19

vertically
172:1

vice 68:25
189:17
190:7

Vice-president
69:11
134:14

video 57:5,
14,17,19,
24 58:2,7,
12,22
127:5
236:8

videos
174:10,21

view 29:17
35:3 54:14
58:21
74:14
75:21 76:5
84:11,14,
15 90:20
91:21 95:7
101:5
102:8
103:2
120:1
127:22
131:22
135:10
136:8
137:21
138:18
142:21
143:15
145:2
147:8,23
148:2
159:13
160:19
163:22
173:7,8,14
184:18
203:2,3,25
207:15
213:24
214:1,24
215:5
219:16
225:14
228:23
235:1

viewed
208:25

VIII 87:23

violate
169:12

violating
168:20

violations
86:17

virtue 68:23
153:23

vis-a-vis
101:7,9
228:1

vitae 8:21
63:14

voice 123:10

volunteer
70:25

W

Wabash 111:3

wait 59:2
157:23,24
193:11

waive 46:25
59:10
107:18

waived 68:22

waiving
35:1,5

wanted 28:5
60:5
115:25
120:10
185:16
234:15

warehouse
90:2,4

warning
169:23

warnings
90:6 92:2,
5

wasted 92:19

wasting 34:9

water 92:11,
16,17,19

wax 160:12

ways 138:15
195:16,21,
24 196:3
210:20
214:15

weapons
93:18
103:16,25
104:7,8,22

web 119:3
120:8
142:9

website
79:8,13
117:2,7
118:23
119:1
121:14

Wednesday
232:22

week 29:5,
13 186:16

weeks 6:8
231:22

weighs 198:6

weight
175:20
176:22,24
185:20
191:14,19
197:13

Wesson
119:15

Western
116:3

whatnot
134:5

whatsoever
105:15
114:22
144:3

wheels 61:25

whichever
70:8

white 30:7

wind 196:10
218:18

winding
218:21
219:3
227:19

window 24:22
92:25 93:1
115:5

windows
87:20

winds 219:1

wire 96:14

Wisconsin
39:7

withdraw
26:1 52:11
55:16,17
105:18

withdrawn
42:7
213:25

witness's
233:9

wooden
140:22

word 28:14,
15 46:7
50:22
147:18
173:5
208:5
219:5,13

words 28:7
183:6
235:14

work 11:2
12:12
17:11 18:5
19:24
20:14,17,
18,22 21:9
22:14,21
26:19
28:17
29:20
30:20,23
31:12,23
32:12,18
33:2,3,16,
25 36:2,
17,19
37:1,2
44:16 45:9
46:9,24
47:4 48:11
55:15 56:2
59:4,11
70:3 71:19
72:1 78:2,
21 81:19,
20 84:16,
23 85:3,9
86:11
87:16
90:8,10,15
91:1,7,13

93:7,8,9, 10 94:22 95:21 97:22 98:1,6,7 106:13,14, 18 107:18 108:18 109:1 111:17 121:3 124:15 127:3 138:11 141:25 145:11 150:20 157:6 165:20 169:2 171:19 182:12,13 183:16 184:17 185:5 186:5 209:9,24

worked 29:9 33:23 69:12 82:21 85:8 93:17 98:17 132:4 235:20

workers 130:1

working 12:3 48:15,19 56:8 62:17 83:23 84:2 95:25 96:3 137:3,15 138:9,20 139:3 181:18 214:22

works 57:7 69:11 81:23 82:5 154:6 156:3 182:18 183:15,16 209:18

worse 230:3

wound 93:9

wrap 211:14 219:19 220:1,23 228:20

wrapped 221:7 225:4

wrapping 214:17 225:23,25

wraps 219:8

write 37:23 69:18 126:11 222:17

writing 28:6 33:17 171:11

written 14:14 22:8 128:6 212:20

wrong 100:14 173:12

wrote 12:1, 18 16:23 86:12 150:2 168:12

X

xi 44:4

Y

year 16:7 61:6 70:5, 6,10,13,24 71:3,8 72:16 78:2 124:18 186:6 220:14

years 6:20 10:5 18:4 62:18 63:11 64:16 70:9 78:19 83:13 84:3,5 93:18,19, 20 115:1 116:5 119:4 140:17

Yehle 126:21,24 127:2 131:6,23 132:14 134:13 139:21

Yehle's 127:6,16 133:23 203:10

yellow 229:19

yesterday 60:4

Youtube 57:6,17,23 58:22 174:10,21