

EXHIBIT 29

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

NANOBEBE US INC.,

*Plaintiff and
Counterclaim Defendant,*

v.

MAYBORN (UK) LIMITED,
MAYBORN USA, INC.
MAYBORN GROUP LIMITED,

*Defendant and
Counterclaim Plaintiffs.*

Civ. A. No. 1:21-cv-08444-GHW

DECLARATION OF BRIAN SILVER

I. Introduction

1. I have been retained as a technical expert on behalf of Nanobebe US Inc. (“Nanobebe”).
2. I have personal knowledge of the facts set forth in this Declaration, and if called upon to testify, I could and would do so competently.
3. I am being compensated at a flat fee rate of \$10,500 for the claim construction phrase of this case, and my usual rate of \$350.00 per hour for consulting work on this case. My compensation is not dependent on the nature of my opinions or testimony, or on the outcome of this case.

II. Qualifications and Background

4. Exhibit 1 is a copy of my current *curriculum vitae*.
5. In 1981, I received a Bachelor of Science degree in General Engineering, from the University of Illinois at Urbana-Champaign.
6. My work experience includes 27 years of employment at Medela, LLC, where I held the roles of Director of Product Development, Group Director of Innovation & Research, Vice-president of Innovation & Research, and Vice-president of Innovation Scouting. My responsibilities included creating and developing a continuous pipeline of new products, spearheading US-based research and IP portfolio strategy, identifying companies, products, services, and technologies for acquisition, partnership, integration or organizational learning.
7. During that time, I had many different responsibilities regarding infant feeding products including their design, development, and related research.
8. I am a named inventor on over sixty United States patents.

9. I have studied the '930 Patent and its file history and have considered them in forming the opinions contained in this Declaration. This subject matter is well within the realm of my expert training, experience and background.

III. Level of Ordinary Skill in the Art

10. I have been informed by counsel for Nanobebe that claims of a patent have to be interpreted as they would be understood by one of ordinary skill in the relevant field at the time of the invention. I am advised that one of ordinary skill in the art is a hypothetical person having ordinary creativity in the relevant field of endeavor. As it pertains to the '930 Patent, it is my opinion that the relevant field is infant feeding and infant feeding products.
11. I have been further advised by counsel that the law presumes that such person of ordinary skill knows about all of the relevant art that is publically available at the time of the invention.
12. I have also been informed that the relevant time period for interpreting the claims of the '930 Patent is June 29, 2005. I understand that on that date, Mayborn filed an International Patent Application in Great Britain that corresponds to the '930 Patent.
13. It is my opinion that as of that date, a person of ordinary skill in the field relevant to the '930 Patent would have been someone with a bachelor's degree in mechanical engineering, industrial design, or similar technical field, and with 2 or more years of practical experience related to the design of infant feeding products.
14. During my work experience up to that relevant time period, I worked on a regular basis with colleagues who were then persons of ordinary skill in the art.

15. I studied the '930 Patent and its prosecution history from the perspective of such person of ordinary skill in the art.

IV. The “partially inwardly” Limitation of Claim 14 of the '930 Patent

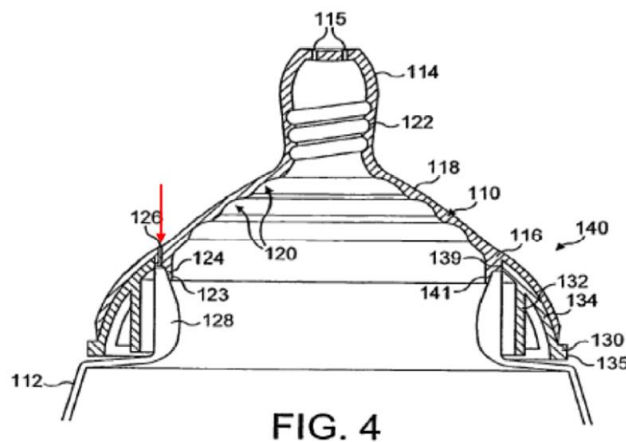
16. I have been advised and understand that the claims of a patent define the invention and the scope of the exclusionary rights that a patent provides.

17. I have been further advised that because the patent claim language defines the scope of an invention, claims are indefinite if they do not distinctly claim the subject matter of the invention. Specifically, I am advised that a claim is indefinite if, when viewed in light of the specification and prosecution history, the claim fails to inform a person of ordinary skill in the art, what the scope of the claimed invention is with reasonable certainty.

18. The '930 Patent discloses a one-way inlet valve (i.e., a vent).

19. With regard to Fig. 1, it states “the base portion can include a one-way inlet valve...,” but its location is “not shown.” (Col. 2, ll. 59-62; Fig 1)

20. The Figure 4 embodiment (reproduced below) shows the location of a one-way inlet valve.



21. As the '930 Patent describes, it “projects down from the flange 141 in a portion of the periphery only in the vicinity of the vent passage 126” (Col. 5, ll. 18-20; Fig. 4), and the

vent passage 126 is disposed “substantially at the periphery” of the teat (Cl. 5, ll. 16-17; Fig. 4).

22. The ‘930 Patent does not use the term “inward from the collar,” “inwardly,” “partially inwardly” or “at least partially inwardly” to describe or show the valve’s location.
23. In Claim 1 of the ‘930 Patent, the term “radially” is used together with “inwardly” to at least indicate a specific direction. (See, e.g., Claim 1 of the ‘930 Patent)
24. Claim 14, by contrast, does not indicate any specific direction from which to discern what is meant by “inwardly.” More specifically, Claim 14 does not indicate a specific direction relative to the upper rim, lower rim, internally threaded surface, or outermost surface of the claimed collar from which “inwardly” is referenced.
25. The term “inwardly” could be understood in multiple ways. For example, it could refer to inwardly in either the axial or radial direction or a valve positioned on an angle towards the center of the collar.
26. Claim 14 also uses imprecise language about the degree of how inward it must be in modifying phrase, “at least partially.” I do not understand what is meant “partially inwardly.” Either a valve is disposed inwardly in a specified direction, or it is not.
27. Because the phrase “at least partially inwardly” does not make sense in the context of the ‘930 Patent and is susceptible to multiple possible meanings, this claim term is indefinite.
28. For all of these reasons, when I read the phrase “at least partially inwardly” of Claim 14 in light of the ‘930 Patent specification, it fails to inform, with reasonable certainty, what the scope and meaning of this claim is.
29. Therefore, in my opinion, this limitation is indefinite.

Dated: November 15, 2022

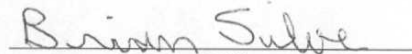

Brian Silver

EXHIBIT 1

BRIAN H. SILVER

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silverbrianh@gmail.com | www.linkedin.com/in/brian-h-silver

SUMMARY

An innovative and visionary RESEARCH AND DEVELOPMENT LEADER with extensive experience in the areas of product development, sourcing, user experience, budget management, opportunity assessments, contract management, intellectual property, technical marketing support, and patent management. Proven aptitude in using strong communication, organizational, and leadership skills to achieve goals and objectives. Creative, experienced product innovator with over 60 issued U.S. patents. Highly accomplished in delivering winning product solutions and strategies that consistently achieve stakeholder needs and contribute to long-term organizational vitality.

- Product/System Design & Development
- Strategic Planning
- Competitive Product & Technology Evaluation
- Budget Management
- Intellectual Property
- Cross-cultural Collaboration
- Research & Clinical Testing
- Contract Development & Negotiation
- Technical Marketing & Education Support
- FDA Design Controls
- Electronic Devices with Mating Disposables
- Stage-gate Product Development

EXPERIENCE

Fluid Technology Solutions, Inc., Albany, Oregon
Chief Technical Officer, Medical, June 2019 – Present
Consultant, March 2019 – June 2019

Start-up medical products venture within an established personal hydration products and industrial water treatment company. Identified, evaluated, and prioritized opportunities in medical device area for company's unique filtration technology. Assessed feasibility and provided recommendations for potential development and potential partnerships.

- Responsibilities include concept generation, product development, establishing business cases, intellectual property, regulatory compliance, securing investment partnerships, and identifying potential partnerships for development, manufacturing, sales and distribution.
- Create and refine proof of concept functional models.

MEDELA, LLC, McHenry, Illinois
Vice President, Innovation Scouting, 2015-2018

Served in global role to identify and evaluate companies, products, services, and technologies with recommended action for acquisition, partnership, integration, or organizational learning. Identified and evaluated numerous opportunities within and beyond traditional markets. Established relationships with potential partners. Led U.S. university-based research efforts. Created process for identification and evaluation of opportunities.

- Prioritized opportunities, organized by key product areas, and published monthly status updates reviewed with EVP Business and EVP Research & Innovation. Actively engaged in 20 potential opportunities.
- Recommended three external opportunities for 2018: a company acquisition, product acquisition, and a partnership for proprietary development. All were very early in their product life cycle, with future potential sales exceeding \$40,000,000.
- Initiated various preliminary evaluations and clinical studies associated with breast feeding-related products and enteral feeding products, including serving as initial builder and custodian of 25-year relationship with world expert at Rush University Medical Center.
- For each product group, reviewed and identified top external opportunities, which were included in the company's strategic planning document.

Vice President, Innovation and Research, 2002-2015

Identified and culled technical and business opportunities. Spearheaded U.S.-based research and intellectual property portfolio strategy and maintenance. Member of senior leadership team that established strategic plan and strategic imperatives needed to defend and grow share, revenue, and profit. Identified mutually beneficial opportunities with outside physicians, inventors, and companies. Recommended patent/asset acquisitions and/or development of specific, new products. Identified patent infringements and teamed with legal counsel to evaluate and provide recommended actions to upper management.

- Established new breast pumping paradigm validated through research with Rush University Medical Center and resulting in significant improvements in pumped milk output (over 50% more) for mothers of premature and/or critically ill infants.
- Identified substantial number of new product opportunities in enteral feeding and other neonatal intensive care unit (NICU) areas. Conceptualized and built over ten unique enteral feeding related products demonstrating to upper management opportunities for differentiated products in what was considered a commodity market.
- Gathered user needs and environment intelligence throughout U.S., as well as in Australia, Germany, Switzerland, and Sweden, to guide new product developments.
- Recommended and acquired assets, including critical intellectual property, from multiple inventors/competitors providing future freedom in design as well as preventing millions of dollars in potential lost business.
- Spearheaded up to ten U.S. patent filings annually.
- Created one-handed manual pump that continues to be best-selling manual pump on market.
- Recognized need and proactively secured upper management approval for early-state development of two-phase Pump In Style and developed functional prototypes.
- Worked at University of Western Australia for five months, collaborating with research partners in various areas including metabolomics, breast pumping patterns, nursing mechanics, and breast shield design.
- Co-authored comprehensive analysis of published and proprietary studies of mom/baby nursing mechanics to produce highly valued internal documents to guide future research and new product development.
- Represented Medela and gave acceptance speech as recipient of March of Dimes Jonas Salk Health Leadership award for 2013 Company of the Year.

ADDITIONAL EXPERIENCE

Group Director Innovation and Research, 1999-2002. Director Product Development, 1991-1999. Built and grew U.S. product development team. Created and developed continuous pipeline of new and differentiated products responsive to identified market needs. Developed and led development of high-value products, systems, and solutions to support user needs, with products continuing to produce majority of sales and profit and to drive brand recognition/equity. Created Pump In Style Breast Pump supported by three U.S. utility patents, which remains the most successful product in company history and continues to provide highest company profit contribution. Directly contributed to development of products with supporting patents, driving over 20-fold U.S. revenue growth since 1991.

HUDSON RESPIRATORY CARE, INC., Arlington Heights, Illinois, **Manager of Research and Development, 1989-1991.** Directed all research and development activities. Led team of ten professionals. Presented 20+ distinct new products/business opportunities in less than one and a half years, with six developed. Implemented 15+ product improvements and line extensions. **Development Engineer, 1987-1989.** Spearheaded extensive, new product design and cost savings activities. Demonstrated hands-on project engineering responsibilities, including design, prototyping, testing, scheduling, cost analysis, vendor identification, documentation, and project coordination.

THE KENDALL COMPANY, Barrington, Illinois, **Project Engineer, 1981-1987.** Designed and developed urological products. Received President's Award for outstanding technical achievement.

EDUCATION

UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN, Champaign, Illinois
B.S., General Engineering, 1981

BRIAN H. SILVER

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silverbrianh@gmail.com | www.linkedin.com/in/brian-h-silver

PRESENT EMPLOYER AND TITLE

Fluid Technology Solutions, Inc., Albany, Oregon
Chief Technical Officer, Medical
June 2019 – Present

PAST EMPLOYMENT

MEDELA, LLC, McHenry, Illinois
Vice President, Innovation Scouting, 2015-2018
Vice President, Innovation and Research, 2002-2015
Group Director Innovation and Research, 1999-2002
Director Product Development, 1991-1999

HUDSON RESPIRATORY CARE, INC., Arlington Heights, Illinois
Manager of Research and Development, 1989-1991
Development Engineer, 1987-1989

THE KENDALL COMPANY, Barrington, Illinois
Project Engineer, 1981-1987

CONSULTING AND NON-EMPLOYEE POSITION

Fluid Technology Solutions, Inc., Albany, Oregon
March 2019 – June 2019

Ameda, Inc., Buffalo Grove, Illinois
September 2020 – October 2020; February 2021 – April 2021; June 2021

Slick Shotz LLC, Las Vegas, Nevada
June 2021 – July 2021

Neopenda, PBC, Chicago, Illinois
Various dates 2018 – 2019

Airlock389, Inc., New Mexico and New Zealand
April 2020 – present

Momtech, Inc. (previously Alto Baby), Charlotte, NC
December 2018 – May 2020

Aloo, Inc., Chicago, IL
May 2019 – March 2020

Home of the Sparrow, Inc., McHenry, Illinois
July 2018 – present (Board of Directors position)

DEPOSITIONS TESTIFIED AT IN PAST 5 YEARS

None

List of Selected Search Result Documents

#	Doc ID	Date Published	Title	Image Pages
1	US-4604092-A	1986-08-05	Liquid drainage system with vertical movable light emitter and detector	4
2	US-4606420-A	1986-08-19	Apparatus with force isolation for measuring weight of collected fluid and method	13
3	US-4691557-A	1987-09-08	Acoustic coupling assembly with retaining connector for noninvasive sensing of sampling chamber fluid	12
4	US-4745929-A	1988-05-24	Liquid drainage system with light emitters and detectors	5
5	US-4910384-A	1990-03-20	Position independent humidifier apparatus	8
6	US-4913161-A	1990-04-03	Bag-tilt indicator on urine bag	4
7	US-4972844-A	1990-11-27	Sampling chamber assembly for in-line measurements of fluid within a collection system	12
8	US-5474193-A	1995-12-12	Breastfeeding assistance device	6
9	US-5476490-A	1995-12-19	Heating pad	7
10	US-D365399-S	1995-12-19	Heating pad	2
11	US-5514166-A	1996-05-07	Device and method for supporting a breast shield and related pump equipment	19
12	US-5575768-A	1996-11-19	Device and kit for supporting a breast shield and related pump equipment	10
13	US-5556008-A	1996-09-17	Soft-cup feeder	8
14	US-D375357-S	1996-11-05	Tubing connector for a breast pump assembly	2

15	US-5601531-A	1997-02-11	Breast pump assembly and method of using same	10
16	US-5797875-A	1998-08-25	Breast pump assembly and method of using same	10
17	US-5776098-A	1998-07-07	Diaphragm pump and pump mounted in a carrying case useful in breast pumping	12
18	US-6110140-A	2000-08-29	Manual breastmilk pump	16
19	US-6299594-B1	2001-10-09	Vacuum regulator for a breastmilk pump	14
20	US-6497677-B2	2002-12-24	Manual breastmilk pump	15
21	US-6257847-B1	2001-07-10	Diaphragm pump and pump for double-breast pumping	25
22	US-6997897-B1	2006-02-14	Diaphragm pump and pump for double-breast pumping	23
23	US-7008400-B2	2006-03-07	Diaphragm pump and pump for double-breast pumping	22
24	US-7255681-B1	2007-08-14	Diaphragm pump and pump for double-breast pumping	23
25	US-6387072-B1	2002-05-14	Breastpump with universal hood base and interchangeable suction hoods	6
26	US-6723066-B2	2004-04-20	Breastpump with universal hood base and interchangeable suction hoods	10
27	US-6423030-B1	2002-07-23	Lubricated breastshield	5
28	US-6481986-B1	2002-11-19	Vacuum adjustment mechanism particularly adapted for a breastpump	9
29	US-6547756-B1	2003-04-15	Programmable breastpump	23
30	US-6652484-B1	2003-11-25	Foot-powered breastmilk pump with removable piston pump	15
31	US-6663587-B2	2003-12-16	Breastshield with multi-pressure and expansible chamber construction, related breastpump and method	39

32	US-7166087-B2	2007-01-23	Breastshield with multi-pressure and expansible chamber construction, related breastpump and method	37
33	US-7662127-B2	2010-02-16	Breastshield with multi-pressure and expansible chamber construction, related breastpump and method	36
34	US-7988661-B2	2011-08-02	Breastshield with multi-pressure and expansible chamber construction, related breastpump and method	36
35	US-6673037-B1	2004-01-06	Breastpump shields having modified shape	7
36	US-6699213-B1	2004-03-02	Diaphragm pump protection device for a breastpump	22
37	US-6974440-B2	2005-12-13	Breastpump with compliant feature	11
38	US-7160273-B2	2007-01-09	Suction pump	5
39	US-7540388-B2	2009-06-02	Artificial feeding nipple tip with variable flow construction	12
40	US-7682334-B2	2010-03-23	Breast cover insert	3
41	US-7712617-B2	2010-05-11	Artificial nipple	17
42	US-7727182-B2	2010-06-01	Manual breastpump with stimulation feature	13
43	US-8430842-B2	2013-04-30	Manual breastpump with stimulation feature	12
44	US-10052417-B2	2018-08-21	Manual breastpump with stimulation feature	13
45	US-D636072-S	2011-04-12	Manual breastpump	9
46	US-8070715-B2	2011-12-06	Method and apparatus for minimum negative pressure control, particularly for breastpump with breastshield pressure control system	22

47	US-8070716-B2	2011-12-06	Method and apparatus for minimum negative pressure control, particularly for a breastpump with breastshield pressure control system	27
48	US-8096970-B2	2012-01-17	Diaphragm pump with prophylactic cover	13
49	US-8152754-B2	2012-04-10	Soft breastshield	8
50	US-8747349-B2	2014-06-10	Soft breastshield	8
51	US-RE47111-E	2018-11-06	Soft breastshield	10
52	US-8262606-B2	2012-09-11	Breastpump with stimulation and method	15
53	US-8282596-B2	2012-10-09	Breastpump with letdown feature	16
54	US-8448796-B2	2013-05-28	Artificial nipple with reinforcement	18
55	US-8568350-B2	2013-10-29	Breast shield for expressing human breast milk	12
56	US-9603982-B2	2017-03-28	Highly efficient breastpump and system for expressing breastmilk	20
57	US-9956331-B2	2018-05-01	Device and method for expressing human breast milk	16
58	US-10493188-B2	2019-12-03	Highly efficient breastpump and system for expressing breastmilk	21
59	US-10493187-B2	2019-12-03	Highly efficient breastpump and system for expressing breastmilk	20
60	US-10639407-B2	2020-05-05	Device and method for expressing human breast milk	17
61	US-8715238-B2	2014-05-06	Pumping device, as for enteral feeding assembly	17
62	US-9050404-B2	2015-06-09	Process for use with breastpump to initiate milk in breastfeeding, particularly for premature infants	13

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63	US-9517294-B2	2016-12-13	Process for use with breastpump to initiate milk in breastfeeding, particularly for premature infants	14
64	US-9296531-B2	2016-03-29	Container with sealed cap and venting system	20
65	US-D812222-S	2018-03-06	Enteral feeding adapter	4
66	US-10004889-B2	2018-06-26	Enteral feeding connector and assembly	15
67	US-10207032-B2	2019-02-19	Small-volume collection for a breastpump system	15
68	US-D852231-S	2019-06-25	Shell for a diaphragm pump and membrane for a diaphragm pump	8
69	US-D934919-S	2021-11-02	Shell for a diaphragm pump and membrane for a diaphragm pump	5
70	US-11331419-B2	2022-05-17	System for optimizing pumping session success	9

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